

## THE MONASTERY.

Next come the monasteries—not those old families of missionaries, the very beginning of Christianity among us—not Iona, nor Deir, nor Mortlich ; not Abernethy, nor *Old Melrose*, nor old pre-episcopal Brechin, nor the Culdees of St. Serf and Monymusk—none of those primeval monasteries, of whom all we know is, that they did their work in bringing the whole land from Paganism to Christianity. Of their manner of life and teaching, and the means of their support, we know little or nothing ; of their discipline and subordination, scarcely enough to found a useless controversy. It is with the monasteries of a later time that we have to do—those foundations of regular religious which mark the brilliant revival of devout feeling that accompanied or just preceded the singular social revolution which took place in Scotland

after the marriage of Malcolm Canmore with the Saxon princess. Along with those later foundations came writing, and recording, and framing of chronicles, and we can to some extent gather from the materials the monks have left us, their own manner of living and thinking.

The following observations regarding Melrose were suggested by a collection of the charters of the Abbacy, printed for the Bannatyne Club by the Duke of Buccleuch, at the suggestion of Sir Walter Scott.

The materials thus brought together, forming as they do the finest collection of ancient writs preserved in Scotland, comprising more than a hundred royal charters from David I. down to Robert the Bruce, must be regarded with interest by every intelligent student of Scotch history. The reader who brings to their perusal the temperate curiosity that seeks only for information regarding the history, laws, and arts of our forefathers, may not sympathize with the enthusiasm felt by the zealous antiquary on the first excavation of such a treasure ; but there is much to repay the patient investigation of the severer student, while the more laborious trifler in the curiosities of antiquity cannot fail to find material of infinite speculation in these records of the administration of monkish property from the days of Saint David.

Upon the interesting subject of our ancient laws and forms of legal procedure, a collection of authentic writs of some antiquity is calculated to throw more light than the law compilations of a later date, which, although soon adopted by Scotch lawyers, can only rank as transcripts or modifications of the writings of English jurists.

We find from these sure authorities that so early at least as the reign of Malcolm IV. the Crown was held to be the origin of all real property. Royal confirmations occur so frequently after that period, that we cannot avoid the conclusion that they were considered necessary for the completeness of titles. It would be more difficult to find a reason for the repeated confirmation of crown charters by successive Sovereigns, to the same individual or to bodies corporate. That practice, however, was not peculiar to the early ages illustrated by the Melrose charters, but extended down to a recent period in the conveyancing of Scotland. In the first reigns we find a more complete and intricate structure of feudal tenures, with all their accompanying services and other peculiarities, than might be expected at so early a period. It was not merely that the lord of a great territory portioned it out among his followers and retainers, though that must have been the rude commencement of the system; but already in the reign of William the Lion, we find persons holding lands of their equals, and even of their inferiors in rank, by the feudal tenure, and subject to the feudal services of vassalage.<sup>1</sup> There are numerous instances too, of repeated sub-infeudations of lands, where each person held of his subject superior, up to the last who held immediately of the Crown.<sup>2</sup> We have, in like manner, all the

<sup>1</sup> Thus Walter the High Steward holds of De Vesci.

<sup>2</sup> Thus Helen de Lindesay held of her father, who again held of Pollock, and he of Mauleverer, who grants a confirmation to the real proprietor, and who probably held immediately of the crown. In like manner, Melros held a plough of

land in Maxton of Thomas de Normanvill, who held it under his brother Guy. Guy's immediate superior was his brother Walran, who held of the eldest brother, John de Normanvill; the *red-dendo* being a pair of gilt spurs payable to the immediate superior, and a *tercel*, *capitali domino feudi*.

nice specifications and distinctions of feudal service that occur in the conveyancing both of England and Scotland of a later period.<sup>1</sup>

The complexity and technical art which mark the law proceedings of so early a period of our history, might be thought to speak a great degree of refinement, if we did not find that the progress of civilisation tends in all countries to simplify the forms of pleading. Many of the legal proceedings recorded by the monks are very curious, and some will be found of important service to the student of the antiquities of our law.<sup>2</sup> It

<sup>1</sup> The Abbey had a grant of land in Clifton "*liberam ab omnibus auxiliis, placitis, interrogatis, geldis, assisis, scutagiis, cornagiis, et ab omni servitio et consuetudine et exactione seculari.*" Alexander II. exempts the possessions of Melrose in Berwick *de omnibus gildis, assisis, auxiliis, collectis, placitis, querelis, murdris, toloneis, passagiis, pontagiis, murgis, fossagiis, stallagiis, lastagiis, de omni them et tala omnique terreno servitio, exactione seculari et servitio servili.* Robert de Kent grants land in Innerwic, and guarantees it free *de forensi servitio et omni terreno servitio versus dominum Regem et omnes alios dominos nostros*—expressions which are, perhaps, translated in the *Tenendas* clause of the charter—*liberam ab omni servitio et de inware et de utware.* The *Reddendo* is a merk of silver *de recognitione.* The same services in a later charter are styled *servitium extrinsecum et intrinsecum.* Alexander II. grants to the monastery the lands of Brunshet and Dergavel, under burden of performing "*forinsecum servitium in auxiliis tantum quantum pertinet ad quartam partem militis,*" while it is freed "*de exercitu et omni alio forinseco servitio.*" William Grenlaw, for certain lands in Halsington held of De Muscamp, who held under the Earl of Dunbar, is bound to pay "*servitium quantum perti-*

*net ad tricesimam partem servitii unius militis in forinseco servitio domini Regis cum illud acciderit,*" and is to be free "*a multura, varda castelli et a sequela omnium placitorum,*" and from all other service, aid, custom, tax, and claim. In a later charter, the monks are bound to pay "*vicesimam partem servitii unius militis quando commune servitium exigitur per totum regnum Scotie.*" It may be conjectured that the *quinque milites* of the great Steward of Scotland, and the *miles Archibaldi de Douglas*, may have acquired that title from discharging the military service due from their lord's land. The Stewards held their lands and hereditary office—" *faciendo servitium quinque militum.*"—*Regist. de Pas.*, Ap. 1. It is more difficult to account for the style of "*Miles Regis,*" which so frequently occurs in old charters.

The elusory duties in the *Reddendo* designed only to mark dependency, are frequently a pound of pepper or cumin, a quantity of wax, a candle, a pair of spurs, a pair of gloves (*cyrothecas albas*), a falcon, or a nest of hawks.

<sup>2</sup> In 1208 we find a minute record, on papal authority, of a keenly contested law-suit between the Earl of Dunbar and the monks of Melrose, regarding the pasturage of Wedale. The Earl had formerly declined the jurisdiction of the

appears that almost from the earliest period of these records, the Roman or Civil Law was considered the common law of Scotland, while from time to time we find a native or imported customary law gaining ground, which claims a different parentage.<sup>1</sup> The English form of proceeding by brieves of inquisition seems to have been established before the reign of James I.; but in the two previous reigns, there occur records of proceedings that it is difficult to ascribe to any settled form of practice.<sup>2</sup>

That a definite and fixed jurisprudence prevailed over the rest of Scotland in the reign of William, is in some degree established by the frequent allusion to the peculiar customary laws of one province. The province of

papal commissioners, his exception being fenced with three pleas in law—“*vallata triplici ratione, scilicet obtentu persone, quia laicus; respectu rei, quia erat laicum tenementum; juris communis beneficio, eo quod actor sequi debeat forum rei.*” He afterwards objected to the judges on personal grounds, and having three times carried his suit to Rome, it is at last settled in the court of the King, “*in plena curia domini Regis.*”

<sup>1</sup> In the reign of William, it appears to have been still competent to bequeath heritage by testament. Elena de Morevil, the widow of Roland of Galloway, gives certain property to Melrose, in exchange for lands which her brother William de Morevil had bequeathed to the monastery in his last will, “*divisit eis in ultima sua voluntate.*” In the next reign, again, the King charges his sheriffs to prosecute the causes of the monks of Melrose like the sovereign's own causes, “*appellationes et responsiones secundum genus causæ facientes, et pugnatorem si forte opus fuerit ex parte nostra eisdem invenientes.*” During the reign of Alexander III., we find the Steward

granting the convent power to hold courts in their Ayrshire domains, with all the privileges of his own court of Prestwick; to take a venue—*visnetum capere*, for trial of causes; and abandoning to them all right to the chattels of the condemned, and of the party slain in duel, where duel has been adjudged in any cause.

<sup>2</sup> For example, on the petition of the Convent, Archibald of Douglas, Lord of Galloway, sitting in judgment “*in pleno itinere*” at Dumfries, demands of the Barons of the country there standing by, whether they had anything to allege against the privileges granted to Melrose in a royal charter there produced: “*Quorum baronum pro majori parte totius patrie audientium una pars dictam libertatem eis concessam approbavit, et reliqua pars circumstantium non negavit;*” upon which the Lord of Galloway declares, “*ex quo vos nichil habetis in contrarium proponendum nec ego quicquid dicere in contrarium aut proponere volo de presenti. Volo insuper quod mei ministri quicquid de cetero minus juste in premissis facere non presumant.*”

Galloway, of much greater extent than the district now so called, comprehending a part of Dumfriesshire and all the Earldom of Carrick, which extended much farther northward than the modern Bailiary of that name,<sup>1</sup> had but recently been reduced to an imperfect subjection to the crown of Scotland, and was still in a state of comparative barbarism.<sup>2</sup> A series of charters ascertains the genealogy of the great lords of Galloway from son to father up to Fergus, never, however, passing beyond that ancestor.<sup>3</sup> From these, and from the names of places and of witnesses occurring in charters of other persons in that province, it appears that the body of the people, most of the proprietors of the soil, and even the lords of the country, were of Gaelic race and language. The original population must have been more strenuous or more successful in vindicating their rights than the inhabitants of the other districts of Scotland. The Norman settlers seem to have obtained a more insecure footing there than elsewhere, and after two or three generations they disappear, while in the rude patronymic designations of the native inhabitants may be traced the original of families that afterwards rose to power and distinction.<sup>4</sup>

<sup>1</sup> Thus Keresban on the river Doon was in Galloway, and the lands of Largs were in the earldom of Carrick.

<sup>2</sup> Even so late as in 1223, the monks of Vallis Dei (*Vaudey* in Lincolnshire) made over to Melrose the lands of Keresban, the possession of which was useless, and even dangerous to them, "*tum propter defectum disciplinae, tum propter barbaricæ gentis insidias.*"

<sup>3</sup> The names are Fergus, Gillebrid, Duncan, Malcolm, etc. Some of the wit-

nesses are still more incontrovertibly Celtic. The following personages attest one charter: Gillenem Accoueltan, Gilledoueng his brother, Gillecris Mac Makin, Murdac Mac Gillemartin, Gilleisald Mac Gilleandris, Gillemernoch his brother, &c.

<sup>4</sup> The family of De Scalebroc and its descendants illustrate the former remark; the occurrence of M'Kenedy or Kenedy, S nescal of Carrick, with many others, serve to prove the latter.

Of the peculiar laws of Galloway, we have unfortunately only a reference to certain arrangements for facilitating the arrest of criminals, rendered necessary by the disturbed state of the province. Nor does any other source furnish us with much information on this subject. We find in our ancient statutes allusions to the reservation of the Galwegian customary laws; but nearly all we can gather of their peculiar nature is drawn from a passage in the treatise of *Quoniam attachiamenta*,<sup>1</sup> from which it appears they were considered inexpedient or prejudicial to society, and that trial by jury was not one of the rights of the inhabitants, since it was declared that any Galwegian claiming that privilege should, in the first place, renounce his right to the customary laws of Galloway.

A still more interesting object of inquiry is to collect from such materials as the present collection affords some knowledge of the state of the country and the condition of its population, at a period of which we have so few authentic sources of information. The district in which the Abbey of Melrose is situated, and in which its early possessions chiefly lay, being so near the English border, was, after the accession of Malcolm III., quickly occupied in great measure by Saxon or Norman settlers. The subdivision of property, when these documents first afford light on the subject, was much greater than is consistent

<sup>1</sup> Cap. 73. The uncertain date of this treatise makes it difficult to decide whether the ordinance here quoted preceded the statutes attributed to Robert I., by one of which it is ordained that the men of Galloway "*habeant bonam et fidelem*

*assisam patriæ, et quod non teneantur ad purgationem seu acquietanciam faciendam secundum antiquas leges Galwidie.*"  
—*Statuta secunda, Rob. I., cap. 36, apud Skene.*

with the idea commonly entertained of the overgrown power of the leading nobles and the degraded situation of the other classes ; and the minute portions in which gifts to the abbey were frequently bestowed, seem to show the value, and advancing cultivation, of that now fertile valley. The original inhabitants had either removed to districts not yet coveted by the southern colonists, or were reduced to the condition of serfs, then appropriately styled *Nativi*, who were transferred by sale or gift along the soil which they cultivated.<sup>1</sup> Great attention was undoubtedly bestowed on agriculture, with whatever skill or success. We find everywhere strict rules for the protection of growing corn and hay meadows. Wheat was cultivated, and wheaten bread used on holidays. Roads appear to have been frequent,<sup>2</sup> and wheel carriages of different sorts in general use.<sup>3</sup> A right of way through an adjoining territory was purchased at a considerable price, or made the subject of formal contract or donation. Mills driven by water, as well as wind-mills, were used for grinding corn, although it is well known that the rude and laborious process of the hand-mill kept its ground in some districts of Scotland

<sup>1</sup> A singular designation sometimes occurs where a lord grants lands to a person whom he styles "*meus homo*," and "*meus liber homo*."

Some of these details, taken from the records of Melrose, and peculiarly illustrating its domains, have been used for illustrating the state of rural cultivation generally, in the fourth chapter of *Scotland in the Middle Ages*.

<sup>2</sup> They are constantly mentioned as

"*via viridis*," "*alta via*," "*via Regia*," "*via Regalis*."

<sup>3</sup> *Charete, quadrige, plaustra, carecte*. That these terms were not used indiscriminately for all agricultural carriages, is shown by a charter of Horneden, which stipulates that a penalty called *parcagium* should be paid for trespassing, and fixes the rate of a penny for each waggon, and a halfpenny for a two-horsed (or two-wheeled) cart—*pro quolibet plauastro unum denarium et et pro biga unum obolum ad parcagium*.



until comparatively a recent period. In the reign of Alexander II., Melrose acquired the right of turning a stream that bounded their lands of Beleside in East Lothian, on account of the frequent injury done by it to the hay meadows and the growing corn of the Abbey. One circumstance serves to mark still more the progress of agriculture. We find that, so early as the reign of Alexander II., the attention of some of the great proprietors had been directed to rearing and improving the breed of horses. Roger Avenel, the lord of Eskdale, had a stud in that valley, and Patrick, Earl of Dunbar, in preparation, as it would appear, for his departure for the Holy Land, in 1247 sold to the Abbey his stud in Lauderdale for the considerable sum of a hundred merks sterling. The monks of May had a grant of land from John fitz Michael (the ancestor, it is said, of the family of Wemyss), with pasture for a certain number of sheep and cows, and for twenty brood mares with their followers.

From the nature of the country, and perhaps from the imperfect state of agriculture in a great part of its territory, the revenues of the Abbey were chiefly derived from the pasturage of cattle and sheep. Of the latter there appears to have been a much greater number than has been hitherto believed;<sup>1</sup> and the minute and careful arrangements for their folds, their

<sup>1</sup> From the Earls of Dunbar the monks had a grant of pasturage for three flocks of widders, "*arietum*" of 500 each flock, near to Hartishead in Haddington. Elena de Morevil, and her son Roland of Galloway, gave to the Abbey pasturage for 700 ewes with their followers of two years, or as many widders; for 49 cows

with their followers of two years, a bull, 40 oxen, 8 horses, and 4 swine, with their followers of three years; to be fed along with their own cattle of the territory of Kilbeccokestun (now Kilbucho). In Wedale the Abbey had pasturage for 500 sheep and seven score cattle, and in Primside pasturage for 400 sheep.

attendants, and the separation of their pastures, show how early the attention to this kind of stock commenced in the district, which is now distinguished by the perfection to which it has arrived. The high value set upon pasturage, whether for sheep or cattle, is shown by its frequent clashing with the rights of game and the forest, and by the strict prohibitions against tillage within the bounds of forests and pasture ranges,<sup>1</sup> although this arose in a great measure from anxiety to preserve the solitude and quiet necessary for the encouragement of all game, and especially the red deer. It may be gathered also from the high penalties for allowing cattle or sheep to trespass on neighbouring pastures.

A remarkable custom which received the royal sanction in the reign of Alexander III., appears somewhat at variance with this jealous care of the rights of pasture. That monarch declared it was of use by ancient custom and the common law throughout Scotland, that travellers passing through the country might quarter for one night in any estate (*feudum*), and there pasture their beasts—saving only growing corns and hay.

The use of the word *forest*, in charter language, to express a range having certain legal privileges for the preservation of game, has contributed to the common belief

<sup>1</sup> Thus, in a very early grant by Earl Waldev, of pasturage in Lammermuir, it is expressly provided that moveable folds and lodges for the shepherds shall accompany the flocks of the Abbey, so as to avoid any permanent building or settlement within the forest—" *sine manuali opere.*" In like manner Richard de Morevil the Great Constable, and his son William, grant to the monks a site

in Wedale for a cow-house or sheep-fold—*vaccaria seu bercharia*—for one house in which they may light a fire for the brethren and their shepherds, and for a hay-shed, all within the verge of the forest; but on condition that they shall make no other lodges within it, but their shepherds to have wattled cots (*claias wiscatas*) for shelter while tending their cattle.

that all Scotland was anciently thickly covered with wood. If it ever were so, it must have been at a time before all record; and in a country where tradition has been so much based on the fables of historians, the proof of such an assertion must be looked for in the observations of the geologist, which have not hitherto tended to confirm this opinion. At the earliest period illustrated by the Melrose charters, there is sufficient evidence that the southern division of Scotland was not a well wooded country. On the contrary, the right of cutting wood was carefully reserved when pasturage or arable land was granted; and when that right was conceded for some particular purpose, such as for fuel for a salt work, or for building, the use was limited in express terms.<sup>1</sup> The high grounds of Ayrshire may be an exception, where there seems to have existed an extensive forest; but elsewhere, wood was a scarce and valuable commodity. Peats formed the common fuel of the country, and a right to a peatary was of great importance. Even at Preston, now so surrounded by coal mines, wood was used as fuel for the salt pans. Coal is not mentioned in the collection of the transactions of Melrose till the reign of Robert II. It was undoubtedly worked

<sup>1</sup> Anselm de Whittun, along with certain lands and a peat moss, gives to the Abbey as much brushwood from his wood of Mollope as one horse could carry to the grange of Hunum between Easter and Christmas. The heavy penalties of transgressing the forest laws had reference chiefly to the preservation of game, but much attention was also bestowed, so far as penal statutes could secure the object, on the preservation of wood, and

the punishment of its destroyers. In the solemn convention between Melrose and Richard de Morevil, while the latter reserves the game of Threppwood, and is to have a forester for its protection, the Abbey is allowed to have its forester for preserving the wood and pasture; and it is carefully stipulated, that for injury done to them, the Abbey shall have damages—"emendationem scilicet treegild," and De Morevil the customary forfeit.

at an early period in Scotland, but probably only in the easiest levels and in small quantities, from the imperfection of machinery and engineering; and its use must have been confined to a narrow circle, from the difficulty of carriage.

The preservation of game, and the whole economy of the forest, were necessarily of prominent importance in an age when the time of the free-born was divided between war and the chase. The lands of Melrose, both on the eastern Border and in Ayrshire, were bounded on all sides by the territories of great lords, jealous of all encroachment on their rights of forest, and sometimes, it would seem, attempting to counteract the former munificence of themselves or their ancestors, which had lavished on the favourite religious house rights of game as well as all other property. Hence originated many of the disputes and subsequent reconciliations recorded in the register of Melrose. At first, perhaps, only the occasional trespassing of the cattle and sheep of the Abbey interfered with the pasture or the necessary quiet of the forest game; but in process of time the monks, escaping from the strictness of the Cistercian rule, asserted and exercised in their turn rights of game and forest, which they defended against encroachment with all the machinery which the law then put in their power.

When the Abbey acquired that wide territory in Eskdale which was the gift of King David I. to the family of Avenel, the game was carefully reserved by the successive granters in such express terms, that even the names of the valued animals are specified. The lords of

Avenel reserved hart and hind, boar and roe, the aeries of falcons and tercels, and their right to the penalties of trespasses within the forest, and the amercements of those convicted of theft. The monks were expressly excluded from hunting with hounds or nets, from setting traps, except only for wolves, and from taking the aeries of hawks. Even the trees in which the hawks usually built were to be held sacred, and those in which they had built one year were on no account to be felled *donec in anno proximo perpendatur si in illis arboribus velint aeriare vel non.*<sup>1</sup>

The early grants to Melrose of their great territories in Ayrshire by the successive Stewards, expressed the same reservation in fewer terms: "Except only that neither the monks nor lay brethren nor any by their authority shall hunt nor take hawks in that forest—for that suiteth not their order, and we think it not expedient for them;"—"*salva eadem foresta mea tantum in bestiis et avibus.*" But notwithstanding these reservations, grounded on the rigid rule of the Cistercians, we find the monks soon after in full possession of the rights of game and the forest, in the territory of Machlyn, which their munificent benefactors had at first withheld; and a few generations later, the family of Graham, who inherited the possessions of Avenel, gave up in like manner to Melrose the whole privileges of hunting, fishing, and hawking in Eskdale, which had been originally so

<sup>1</sup> Several of the terms of venerie in this interesting series of charters are of doubtful meaning. Hunting "*cum moctis*" undoubtedly means, with a

*meute* or cry of hounds, but it is less clear that "*cum cordis*" signifies "with nets." It may indeed stand for any manner of snaring game.

jealously guarded. Even the cognizance of offences committed within the forest bounds was devolved on the monks ; and it was only provided that malefactors condemned to death in the court of the Abbey should be executed at the place of doom,<sup>1</sup> and by the bailie, of the temporal lords of the manor.

The ancient names and boundaries of lands are chiefly interesting to those locally connected with the district, but many of the meres so minutely described are of general curiosity, and if still to be traced in the names or in the features of the country, may throw light on the early language and other interesting antiquities, as well as on the ancient condition and extent of property. So early as the reign of William the Lion, boundaries are found marked by such objects as “the old elm,”<sup>2</sup> “the oak on which a cross was made,”<sup>3</sup> “the well beside the white thorn,”<sup>4</sup> “the cross beside the green ditch,”<sup>5</sup> “the ozier bed,”<sup>6</sup> “the crosses and trenches made on the hill-top by King David.”<sup>7</sup> It is not to be expected that many of these marks and memorials should have escaped the ravages of time and the plough. Some however may still remain even of this more perishable description ; and fortunately a more enduring sort of boundary-marks will serve in many districts to illustrate the state of property

<sup>1</sup> “*Ad furcas de Wadstirker.*” The Grahams were of the English faction, and the first recorded concession of these privileges is given by the king in their default. To confirm this may have been afterwards one of the means of making their peace with Robert.

<sup>2</sup> *Ad occidentalem partem veteris ulmi.*

<sup>3</sup> *Ad quercum in qua crux facta est.*

<sup>4</sup> *Ad fontem juxta albam spinam.*

<sup>5</sup> *Ad crucem juxta viride fossatum.*

<sup>6</sup> *Juncaria.*

<sup>7</sup> *Cruces et fossas que facte sunt in medio monte, usque ad summitatem ejusdem montis in cujus summitate fecit Rex David fossas fieri.*

as it existed six centuries ago. The rivers and lakes forming the natural divisions of the country, can be recognised without difficulty in the slight variation from their modern names. Fountains and springs, the summits of the hills, and the water-shed of the moorlands,<sup>1</sup> "*sicut descensus aquarum dividunt*" are in most cases not to be mistaken, although the present names of the hills on the Southern Border are mostly of unaccountably modern origin, while their older appellations in the charters have, it is believed, disappeared.<sup>2</sup> Another class of meres occurring in these charters cannot escape notice. They point to monuments of antiquity far beyond the records or the foundation of the Abbey, but no expression of the parties shows the slightest knowledge or interest concerning their origin. A charter of Elena de Moreuil, in the reign of William, gives for one of its bounding marks "the ancient castle,"<sup>3</sup> probably one of those mountain forts of unknown history, antiquity, and use, which are thickly scattered over the pastoral hills of the Borders. Anselm of Molle gives land in that territory, bounded at one point "*per quosdam magnos lapides veteris edificii quod est super unum parvum cundos.*" The great Roman ways which intersect the district are frequent boundaries in the more ancient charters; at least these seem to be the roads described under the various names of "Derestrete," "Herdstrete," "*Magna strata*," "the way towards Lauder by the causeways called Malcolmsrode," "*Cal-*

<sup>1</sup> "*Per medium cundos montium.*"  
 "*Per condosum.*" "*Ex transverso con-*  
*doso de Rederburne.*"

<sup>2</sup> As "*Mons qui dicitur Unhende.*"

<sup>3</sup> *Vetus castellarium.*

*ceia*” or “*Calceia*,” or the great causeway. It appears that the roads mentioned by the terms “*viridis via*,” “*via alta*,” “*via magna*,” “*via regia*,” or “*regalis*” are always to be distinguished from them.

The practice which we find to have prevailed in the earliest periods of this record, of setting up great stones, and sometimes stone crosses, to mark the boundaries of adjoining territories, may account for some of those monuments which have long exercised the ingenuity of antiquaries.<sup>1</sup> In other instances, such monuments of past ages as were conveniently situated, were adopted as boundary marks, instead of constructing new marks.<sup>2</sup> These are frequently designated by the name which is still the popular term in Scotland for such monuments of unknown or conjectural use—“the standing stones.”

The occurrence of early examples of the spoken language, which must interest the philologist in all countries, is more than usually interesting in Scotland, whose original inhabitants and successive invaders have afforded such abundant matter of controversy. It has already been noticed, that there are in the Melrose charters indications of the language and people of Galloway. With the exception of that province, there is no reason to believe that a Celtic language was in use in any district with which the Abbey of Melrose was connected during

<sup>1</sup> Thus, on occasion of a grant of lands in Maxton by Robert de Berkeley, the monks set up a great stone as one of their boundaries,—“*magnam petram in testimonium erexerunt.*” “*Per petras quæ positæ sunt ad divisas.*” “*Lapides grandes quos tunc perambulando posui.*” “*Per lapides qui positi sunt ad divisas*

*inter nos et ipsos monachos usque ad magnum lapidem subtus quercum.*”

<sup>2</sup> Thus one of the boundaries described in the royal charter fixing the marches between the Constable and Melrose in the forest of Wedale, is “*de pot usque ad standande stan.*”



the period embraced by this Chartulary. It will be found that the great benefactors of the Abbey, with the exception of the Lords of Galloway, and the great Earls of Dunbar, were of Norman descent and name. Several persons occur of Saxon families, and others whom we may conjecture to be of Danish or Norse origin ; but, with the exceptions above stated, no charters are granted by persons whom there is any reason to believe of Celtic race. Most of the Norman settlers had either previously fixed seignorial surnames,<sup>1</sup> or soon assumed local designations from the territories acquired by them in Scotland.<sup>2</sup> The Saxon and Norse colonists, being perhaps usually of inferior rank and power, remained longer without that which soon became a badge of gentility. From them were named most of the places which bear the Saxon termination of *town*, and these, by a curious alternation, in a short time afforded surnames to their proprietors,<sup>3</sup> when the fashion of territorial surnames became almost universal.

The names of places occurring in the charters of the Abbey, excepting those of Galloway, are for the most part purely Saxon. It may be, that the great features of the country, its mountains, valleys, and rivers, bore Celtic

<sup>1</sup> As De Vesci, De Morevil, De Valoniis, De Brus, etc.

<sup>2</sup> As de Wittun, de Ridale, de Molle, etc.

<sup>3</sup> Thus, Orm gave name to Ormistun, Leving, and Doding to Levingston and Duddingstone ; Elfin, Edulf, and Edmund to Elphingston, Edilston, and Edmonston ; and most of these in turn were assumed as the territorial surnames of well-known families. A personage

who figures in the early charters, Maccus, chose to call his *town* by its Norman term, and "Maccus-vil" (which is merely another shape of Maccustun or Maxton) in time passed into the familiar surname of Maxwell. The name of this family has of late undergone the same combination which was applied some centuries ago to its founder's own name, and by this triple process we arrive at the name of Maxwelltown.

names. Very few of these occur. The names of estates, however, and their boundaries, coeval with the dawn of civilisation, wherever indicating any meaning, were all Saxon ;<sup>1</sup> and the few words of early vernacular language, thinly scattered over the older documents of this chartulary, all show the same origin,<sup>2</sup> and leave no doubt that a Teutonic dialect was the universal spoken language of Lothian, Merse, and Teviotdale, from the time of David I.

The Court French afterwards imported by the English Edwards, and which continued so long to be the

<sup>1</sup> Thus Hartshead, Hellesden, Mossyburnrig, Brownrig. Thus also all names ending in *town*. So Milkeside, Threepwood, Bireburn, Cuckowburn, Brownknoll, Elwaldscalesloning, Holemed, Ravensfen, Herehowden, Fuleford, Kingstrete, and many others.

<sup>2</sup> The small number of vernacular common words preserved in the more ancient charters, are sometimes disguised by a Latin termination. Some of the Latin words occurring in them are peculiar to Scotland, and not to be found in the dictionaries of the Latin of the middle ages. Of both these classes, specimens are collected below, along with examples of the spoken language occurring previous to the middle of the fourteenth century.

*Aeriare*, to build aeries as hawks.

*Bog*.

*Brueria*, a thicket of broom.

*Burna*, a burn or brook.

*Calceia-æ*, a causeway.

*Claiā wiscata*, a wattled hut.

*Cnoll*, a knoll.

*Cobella*, a coble, or flat fishing boat.

*Corda*, an instrument of hunting.

*Cundos*, *Cundosum*, the ridge of a hill.

*Falda*, a fold.

*Forisveia*, *Forsveia*, a penalty for trespassing ; perhaps for turning *out of a road*.

*Gile*, a Gill, still used in the north of England for the cleft of a hill or the channel of a brook.

*Halghes*, *Halkahs*, *Halechs*, *Halues*, *Hauhwes*, haughs or meadows.

*Hogaster*, perhaps a hog or young sheep.

*Hogus*, *Hogh*, English, a hill or mount.

*Inwere*, perhaps war within the country.

*Landæ*, arable lands ?

*Lecche*, a ditch. *Ful-leche*, a foul ditch ?

*Logiæ*, lodges.

*Mereburne*, a bounding rivulet.

*Moeta*, a meute or cry of hounds.

*Mussa*, a moss or peat bog.

*Nysus sororum*, French *Niez*, an aerie of young hawks.

*Petæ*, *Petaria*, peats, a peatary or peat moss.

*Scalinga*, a shealing or summer hut used by hill shepherds.

*Sicus*, a syke or ditch.

*Stagnum*, a yare or wear in a river. (In this sense it had occurred to Du Cange, who seems unwilling to admit it as a genuine term.)

*Staincros*, crux lapidea.

*Standande Stane*, a stone placed upright.

*Trigild*, the penalty for destroying trees.

*Turbæ*, *Turbaria*, turfs, a place from which turf for fuel is cut.

*Utwere*, foreign war ?

*Warnatium* ?

law language of England, never gained much ground in Scotland; and although doubtless used exclusively by the English settlers of that disturbed period, it seems not to have long survived their departure, when Latin again became the universal language of business, as it continued to be down to the end of the fourteenth century. About that period, the vernacular Saxon, the spoken language of the Lowlands of Scotland, began to be used in deeds, and instances of it occur in the Abbey register of the reign of Robert II. One of these is dated in 1389, and although much of its interest is destroyed by the closeness of its translation from a Latin style, yet it is of some value as a genuine specimen of early Scotch.<sup>1</sup>

The transactions serving to show the relative value of money and other commodities in Scotland, and the interest taken for money, at an early period, are unfortunately very rare.

In 1236, the Earl of Carrick sells an annual rent from land of three merks, for the sum of 40 merks, or thirteen years' purchase.

In the same century and reign, the Abbey purchases up a rent charge of thirty shillings, by a payment of 30 merks and 40 pence, or a little more than thirteen years' purchase.

We find a charter of King Alexander II., confirming the sale of a half plough of land in Edenham, with two *burgagia* (probably the portions of land necessary to qualify burgesses) in Berwick, at the price of £33, 6s. 8d. sterling.

<sup>1</sup> See Appendix.

Peter de Haga of Bemersyd had covenanted to pay ten salmon yearly to the Abbey, as the penalty of certain transgressions committed against it. In a curious deed, Haig sets forth that the convent, taking pity on him, and considering such a payment ruinous, has consented to receive, in lieu of it, a half stone of wax yearly for the chapel of Auld Melros, or thirty pence in case of failure.

In the middle of the thirteenth century, Richard Burnard, lord of Faringdun, sold his East Meadow of Faringdun of eight acres for thirty-five merks. In 1342, Gilbert de Maxwell disposed to Melrose his half of the Barony of Wilton, with the patronage of the church, redeemable by him or the heirs of his body, for £40 sterling. The Abbey was to have the first offer of the lands, if Maxwell or his heirs chose to sell them outright. In consequence of a grant by Robert I. of £2000, out of the casualties of Roxburghshire to Melrose for rebuilding the church of the Abbey, Sir Archibald M'Dowell, in 1398, grants a bond for the sum of "foure skore and ten ponde of gude mone and lele of Scotlande in silver or in golde, because of his releife of his place of Malkarstoun," to be paid within two years, or within three years, "in cas—as God forbede—comoun were with raisinge of baneris be betwix the kyngrikis of Scotlande and Inglande." A right of way through the lands of Mospennoc, now Mosfennan in Tweeddale, cost the Abbey the sum of twenty shillings sterling in the reign of Alexander II. An oxgang of arable land and an acre of meadow in Ilivestun, now Ellieston, in Rox-

burghshire, were in the same reign acquired for four merks sterling.<sup>1</sup>

The occurrence of individuals, either as parties or witnesses in the mass of charters here collected, will, it is feared, be found to illustrate but few of the existing families of the district. The great families who were the earliest benefactors of the Abbey, the Lords of Galloway, Carrick, and March, the De Morevils and the Avenels, have been long extinct, and even those who came in their room, the Fitz Ranulphs, the De Sulises, the Grahams, and the Douglasses have left but a romantic tradition of the mighty power which they wielded on the Borders. The proverbial instability of Scotch affairs for three centuries preceding the union of the Crowns, was generally unfavourable to the continued descent of hereditary possessions; but on the Borders, wars, feuds, and forfeitures followed each other so fast, that no families proved sufficiently vigorous to take root and grow to grandeur.

The alliances, descents, and transactions of many of those extinct families, and still more those of the illustrious house of Stewart, are, however, essential to the

<sup>1</sup> Though here and elsewhere the term *sterling* is used, it must not be understood in the modern sense. It occurs in Scotch writs of the highest antiquity, *marce, libræ, solidi* and *denarii Sterlingorum* or *Esterlingorum bonorum et legalium*, and was the most common description of money mentioned in old covenants. The term, which originally had reference to the eastern country of the early English moneyers, was afterwards applied to all money of a certain weight and fineness wherever coined.

This was the *denarius*, the well-known penny of silver, still so common in the cabinet of the collector, and which was for several centuries the common currency of the North of Europe. When a covenant therefore expressed a payment in good *Sterlings*, it adopted a standard somewhat less fluctuating than the bare expressing of the sum, which was liable to be affected by the arbitrary and often unjust alteration of the value of the currency by the government.

history of a country where they played so important a part ; and some of the existing families of Scotland can still boast a connexion with even the most ancient of those illustrious and historical names.<sup>1</sup>

The numerous seals preserved are not only interesting to the herald, but often furnish important information of the owner's real style and title, when the charter happens to set forth only his familiar or patronymic appellation,<sup>2</sup> and enable us to distinguish between several persons of the same patronymic name. It is scarcely necessary to notice, that they at the same time serve to mark the state of the arts of the country, and are in Scotland almost our only guides in tracing the arms and dress of a remote period.

The use of seals is almost coeval in this country with the use of writing. Only two or three genuine ancient writs are known, which exhibit a different mode of authentication,<sup>3</sup> and we have little reason to believe, that there were any writings connected with land in Scotland, of an earlier date than some of those which are still extant.

Before the universal adoption of arms, a star, a flower, a wheel, or such other common device, rudely graved on the middle of the seal, served to give room round the edge for the owner's name. In some instances,

<sup>1</sup> Thus Home, Dundas, and Corbet, with the old Earls of Dunbar, M'Dowal, with the Lords of Galloway, etc.

<sup>2</sup> In the charter granted by the five *milites* of the Steward, two of these, styled William and Richard de *Hawkerston*, are proved by their seals to have already adopted the analogous but fixed surname of *Falconar*; and a third, named in the charter Nicholas fitz Roland, is

more formally styled in the legend of his seal Nicolaus de Merns. In other instances, the more formal designation appears in the charter, as where the granter, there styled Robertus de Staintun, is found from his seal to have been the son of Foubert, and one of the family of Perthec.

<sup>3</sup> Among the Coldingham charters at Durham.

seals bear what seems to have been a badge or cognizance of an individual, a family, or a district. Family and personal badges were not unfrequently assumed in allusion to the names of those who bore them,<sup>1</sup> but whether adopted on this or other grounds, they either became part of the heraldic blazon, or continued to ornament the arms after the introduction of a more systematic heraldry; and in many cases suggested the crest and supporters, when these long afterwards came into fashion. The introduction of heraldry was in all countries quickly followed by the adoption of shields of arms, as the appropriate distinction of seals. This cannot be said to have commenced in Scotland earlier than the reign of William the Lion. Even during that reign the practice was by no means general. William himself, and some persons of great distinction, both Saxon and Norman, though evidently following the knightly customs of the age, had not yet adopted fixed family arms.<sup>2</sup> The introduction and perfecting of that simple and pure heraldry which has hitherto distinguished Scotland can be traced with tolerable accuracy. It will occur, even on a slight examination, that several of the most ancient seals are of a design and workmanship which cannot be ascribed to a rude age. These are undoubtedly antique intaglios on gems, which were adopted as an ornament

<sup>1</sup> One of the name of Harang or Herring had three fishes. Several of the Corbets bore a raven or *corbeau*. The Burnards had a *burnet* leaf. The Muscamps, a *field* covered with *flies*. The De Vescis, *vesce*, vetches, &c.

<sup>2</sup> Thus the first Walter fitz Alan, Stewart of Scotland, Philip de Valoines, Great

Chamberlain, the Constables de Morevil, and many others, while they displayed on their seals the figure of a mounted and armed knight, gave no charge on the shield, nor coat armour on the housing. The first appearance of the Royal Arms of Scotland is on the seal of Alexander II.

for the centre of the seal before heraldic bearings were introduced ; and after the introduction of a shield with a charge as the mark of the principal seal, were frequently used as a signet and counterseal.<sup>1</sup>

The Teviotdale abbeys were the great land-holders of the valley. The abbots of Melrose, Dryburgh, Jedburgh, and Kelso, each administered greater estates than the greatest lay lords. The property of these religious houses lay much intermixed, and the transactions between them were so numerous that their records throw light on the whole management and occupation of land at a time which is generally thought to be beyond the reach of domestic history. If patiently explored they will furnish in abundance that sort of information which we find in English county histories, and will go far to supply the local antiquities which lend such a charming interest to every county and almost every parish of England—and which are hitherto unknown and unstudied in Scotland.

Let me mention a custom that seems worthy of imitation even in our enlightened times. Mixed property and frequently clashing interests furnished the occasion of numerous disputes between the four abbeys, nor were the other elements of war wanting. The monks had leisure in abundance to brood over their wrongs, and they had means to defray the expense of legal remedies. They had as much as most men, the high estimation of their own property and its rights—the jealousy of encroachment, the minute attention to marches, even the

<sup>1</sup> These observations are made intelligible by plates of seals appended to the collection of the charters of Melrose,

which give the earliest authentic Scotch heraldry.



game passion—which have always distinguished the lords of the soil. But they had not the rashness of the inexperienced heir just succeeding to his inheritance. On the contrary, they had accumulated the wisdom of many generations, and all experience warned them of the mischiefs of litigation that must end in Rome, if it ever came to end. The teaching was not lost upon those monks. They actually forbore the excitement of lawsuits, and established a rule that any difference occurring between any two of the monasteries should be settled by the arbitration of the other two.

But, although it is as the great landowner that we now regard Melrose as of so much importance to the statistics and the history of its district, there was another relation in which it perhaps affected the happiness of the people as much, and which was the source of a large part of its revenue. Like other monasteries, the Abbey of Melrose soon acquired property in parochial churches with their lands and tithes, which the lay Lords who could not retain them in their own hands, granted to the Monks, sometimes simply *in proprios usus*, and sometimes *ad susceptionem pauperum et peregrinorum ad domum de Melros venientium*; and among these charters are to be found many curious particulars illustrating the twofold capacity of the Monks as landowners and as rectors, and throwing light upon the circumstances of the secular as well as of the regular clergy. As landowners, the Monks were always desirous of evading the delivery of tithes in kind, which was peculiarly odious to a body of ecclesiastics capable of per-

forming divine offices, and fortified with various papal immunities. In one instance we find them yielding only to superior force ; and in other parishes in which they had large estates, they were at length successful in establishing, under the sanction of the bishop, the king, and the Pope, a fixed composition, instead of a demand for tithes varying according to the crop, the value of the currency, and perhaps the temper and disposition of the Rector. When they were about to demise to tenants the lands of Kyle given to them by the Steward, and thereby to give up their immunity from the payment of tithe, they had the lands erected into a distinct parish of Machline, of which the rectory vested in themselves ; cautiously providing, that if at any future time they should think fit to take the lands into their own hands, they should be freed from the burden of maintaining the church and pensioning the vicar.

The amount of the vicar's pension seems to have depended on circumstances which we cannot now perhaps ascertain. It appears to have been paid unwillingly, and in some cases was, with the permission of the bishop, entirely withheld. But if the vicars of the richly-endowed Regulars were only scantily and grudgingly maintained by their wealthy patrons, it is evident that from the earliest times the secular rectors were often men of wealth and family. Some of them were the younger sons of great houses,<sup>1</sup> and we find in more than one instance, clergymen possessed of considerable landed property ; and one instance occurs in the early part of

<sup>1</sup> As several of the De Normanvils in the reign of Alexander II.

our records, of the parson of a parish transmitting his estate to his daughter, as if of a legitimate marriage.

Without underrating the effects of the reformation of religion, it may be safely said, that no revolution in politics or opinions can have produced such a change in the structure of society as the emancipation of the clergy from celibacy, and the sudden destruction of the monastic societies. It is now difficult, perhaps impossible, to separate in our minds the overthrow of these institutions from the change of creed and opinion that incidentally, not necessarily, produced it ; and it is even yet rare to find the freedom from passion and prejudice necessary for forming a correct estimate of the good and evil arising from that part of the great change of the Reformation.

The Friars were the chief objects of serious attack and lighter satire at the commencement of the Reformation. They have left fewer monuments by which we may judge of the justice of the odium ; but as regards the Monks, we have abundant information from the records and relics they have left behind them. We may not be disposed to apply to Melrose the exaggerated eulogiums bestowed by writers of their own order ; but on a fair estimate of the materials now collected, we shall find the monks, freed as they were from domestic ties, always zealous for their order, and for the welfare of their territories and tenants as conducing to its prosperity ; encouraging agriculture and every improvement of the soil ; leading the way in an adventurous foreign trade, and in all arts and manufactures ; cultivating the

learning of the time,<sup>1</sup> and latterly enjoying and teaching to others the enjoyment of the luxuries of civilized life, while they exercised extensive hospitality and charity, and preserved a decorum which is akin to virtue. Posterity owes them a debt, were it but for bequeathing us those remains of their edifices which are only more interesting from their decay, and for their simple and faithful chronicles. When we consider the extent of the possessions of a house like Melrose, the affluence, and the amount of power and influence it brought to bear on such objects as these, during ages of lawlessness and rapine; recollecting too the peculiar interest of its peaceful and perhaps indolent inhabitants in maintaining the quiet of the country and the security of property, we cannot doubt that their administration of their great territory and revenue, notwithstanding all abuses incident to the system, was more for the happiness of the people than if the possessions of the Abbey had fallen at an early period into the hands of some great temporal proprietor.

It only remains to point out one or two particulars

<sup>1</sup> The Cistercians were peculiarly addicted to agriculture. It was even enjoined by the rule of the Order. Their great founder also attempted to discourage pompous building, and the expensive windows, and church ornaments of the precious metals and jewels, which were the favourite embellishments of the other Orders. The refinement of classical learning was also discouraged among them, as well as the practice of the beautiful art of illuminating manuscripts. How much these distinctive

marks of humility were disregarded in later times, the sumptuous piles yet remaining of Melrose and Sweet-heart sufficiently testify. It is to be feared the followers of St. Bernard were more dutiful in their neglect of classical learning, although among the interesting ordinances prescribed for the dependent house of Holmcultram, the Abbot parades what must have been a trite conventual proverb—“*claustrum sine literatura viri hominis est sepultura.*”

where the records of Melrose throw light upon the public history of the country.

Eustace de Vesci confirms to the Abbey all the lands in his fee of Wittun, which it held on the year after Alexander Prince of Scotland rendered homage to King John of England, on the morrow of the invention of the Holy Cross (4th May). This homage was not known to our historians. It may be conjectured to have taken place on the occasion of the Prince receiving knighthood at the hands of John in 1212 ; but if this be the case, the date generally assigned to that event must be erroneous.<sup>1</sup>

There are few more interesting state papers than the letter of Robert the Bruce addressed to his son and his successors. Not contented with the proofs of his piety and regard for Melrose which he had already given in the munificent grants for the restoration of the building, ruined by continual wars, and for the personal comfort of the monks, the dying monarch bequeaths to his son the care and protection of that favoured house where he destined his heart to be buried. It is remarkable that this document bears date<sup>2</sup> within a month of the king's death, and it follows that his request to Douglas to convey his heart to the Holy Land was made still nearer his end.

We look now with scarcely less interest to a notice which occurs among these charters, of the first erection of

<sup>1</sup> The chronicle of Melrose gives 8 *idus Martii* as the date of Alexander's knighthood, but destroys its authority by adding *ad letare Jerusalem*, which Sunday

happened on the 4th, not the 8th March of that year.

<sup>2</sup> 11th May 1329.

the city of Glasgow. The charter of Bishop Jocelin, as lord superior, confirming to Melrose the property of a toft *quod Ranulfus de Hadintun edificavit in prima edificatione burghi*, indicates very clearly the erection of the episcopal burgh, in virtue of a charter granted by King William the Lion to Bishop Jocelin himself.<sup>1</sup> It is well known that Glasgow, straitened on one hand by the more important royal burgh of Rutherglen, and on the other side by Dumbarton and the Clyde burghs claiming a monopoly of the river trade, for a long time derived its only importance from the Bishop's see. Somewhat more than a century afterwards, we find the "*communitas civitatis Glasguensis*" exercising the office of a court of inquest for the service of heirs, and authenticating its writ with the seal of the community, which would seem to mark a certain degree of independent power. It was not however for more than four centuries and a half<sup>2</sup> after the first charter and erection of the episcopal burgh, that the city of Glasgow obtained complete emancipation. The rapidity of its subsequent rise in wealth and splendour, and in the extent of trade and manufactures, is probably without any parallel.

The incidental mention of the condition of the Abbey itself at different times, strongly illustrates the history of the district and the age. At one time powerful and prosperous, accumulating property, procuring privileges, commanding the support of the most powerful, and proudly contending against the slightest encroachment ;

<sup>1</sup> *Ut burgum habeant (episcopi) apud Glasgu cum foro die Jovis, &c.—Chartul.* of Glasgow. The time is between A. D. 1175-99. <sup>2</sup> 1636.

at another, impoverished and ruined by continual wars, obliged to seek protection from the foreign invader ; in either situation it reflects back faithfully the political condition of the country.

## SCONE.

THE monastery of Scone, a foundation of Culdees of unknown antiquity, was re-formed by King Alexander I., who, with his queen Sibilla, wishing to adorn the house of God and to exalt His habitation, established in it a colony of canons regular of the Order of St. Augustine, brought from the church of St. Oswald at Nastlay near Pontefract in Yorkshire. The church, previously dedicated to the Trinity, was placed under the patronage of the Virgin, St. Michael, St. John, St. Lawrence, and St. Augustine. The era of the new constitution was the year 1114 or 1115. At first the Superiors of Scone, as well as of the mother house of St. Oswald, appear to have been priors, though the new foundation was, from the beginning, declared independent of the English house.

Scone has a mysterious importance in the mythical period of Scotch history. Whether the fatal stone, the *Kaiser-stuhl* of Scotland, was brought thither by Kenneth MacAlpin or not, it was certainly placed there at a very remote period, and before the light of charter record or authentic history. Malcolm MacKenneth, that "most victorious king over all the nations of England, Wales, Ireland, and Norway," when he distributed the territory