

## The Ruthven of Freeland Barony

THE validity of the assumption of the Ruthven of Freeland title in the eighteenth century, after the extinction of the male issue of the first lord in 1701, has been so long and so vigorously impugned that one is glad to have at last an elaborate defence of it from one who is described by no less an authority than Mr. Maitland Thomson as the 'best all-round historical antiquary' in Scotland. We may fairly assume that all that can be said in favour of that assumption has been said and ably urged in Mr. J. H. Stevenson's monograph on *The Ruthven of Freeland Peerage*.<sup>1</sup> Welcome also is the article by Mr. Maitland Thomson himself,<sup>2</sup> in which he endeavours to weigh the arguments on both sides, and which shows at least that the critics' case cannot be so lightly disposed of as Mr. Stevenson would persuade his readers.

The fact is that Mr. Stevenson's treatise is essentially that of an advocate, urging his points with all the vigour that one expects in an address to a jury. The effect may seem at first sight convincing, but when his arguments are analysed in cold blood, they will be found to add very little to our existing knowledge of the question. As I had occasion, long ago, to insist in an article on 'The Determination of the Mowbray Abeyance,' published in the *Law Quarterly Review*, such arguments as the official recognition of a title are effective enough in absence of rebutting evidence proving that such recognition has often been accorded in error. My arguments, I am glad to say, have borne practical fruit, for such evidence will, in future peerage cases, be subjected to expert criticism.

The great difficulty I experience in replying to Mr. Stevenson, is that—like those who have preceded him—he persistently ignores my own points which tell against his case, thus compelling me to repeat and even to reprint them once more.

<sup>1</sup> Glasgow: MacLehose, 1905.

<sup>2</sup> *Scottish Historical Review*, vol. ii. p. 104.

A controversy conducted on these lines might last to 'the crack of doom.'

It is well recognised that a wider issue is raised by this question than the validity of one title. No less a writer on the British Constitution than Sir William Anson has deemed the absence of any certain bar to the wrongful assumption of Scottish peerage dignities a flaw in our existing system. This is, I know, a tender subject, and—possibly because I am an Englishman—I have been sharply criticised, north of the Tweed, for venturing to take it up. Even Mr. Maitland Thomson, I am truly sorry to see, speaks of my 'denunciation of the "unaccountable perversity" of those Scotsmen who will not help him to set up a sort of Public Prosecutor of untested peerages.' It is strange that he should not perceive that it is precisely because, in the absence of a counter claimant, it is 'nobody's business' to test assumptions that they may obtain that general recognition which seems to Mr. Stevenson so convincing, but which, as we shall see, proves nothing.

Even as I write we are all reading of the 'Irish Peerage Romance' concerning a gentleman who, in the late reign, assumed a peerage which never existed but for six or seven years under Charles I., and is recognised to have been extinct since 1634. Yet, according to the newspaper report of the case, both the Judge who tried the case and the Irish Solicitor-General spoke of him as 'Lord Carlingford,' while his daughter deposed in the witness-box that she had been presented as a peer's daughter at a Dublin drawing-room. Why not? It is no secret that the right to a certain title, the assumption of which is universally recognised at Court and elsewhere, has never been, and, it is alleged, never could be proved. I may add that to my own knowledge this case causes anxiety in an official quarter. Again, there is at least one English peerage title which is at present persistently assumed, to the occasional bewilderment of the judges in our courts. All students of the subject are, or should be, aware that it is as possible now as it ever was for a Scottish peer to sit in the House of Lords, whether by election or by the bestowal of a United Kingdom peerage synonymous with his own, without having ever proved before the Committee for Privileges that he is a peer at all.

*Verb. sap.*

Again, as an instance of the existing confusion, it is possible for the same individual to be presented at Court as a Scottish

peer on the authority of one Minister and informed by another that he has no official knowledge of the fact that he is a peer. When one is behind the scenes, one learns some strange things. Well might the then Lyon find himself driven to admit, before the Lords' Committee in 1882, that

'in Scotland there are individuals as to whom it may be a matter of dispute as to whether they are peers.'

The admission was a very reluctant one; for, as I have said, the point is a tender one, and Scotsmen appear to be passionately attached to this curious system—or lack of any.<sup>1</sup>

Space obliges me to hurry on, but I have been compelled to say thus much, because Mr. Stevenson endeavours to make a great point of 'an acquiescence so long and so uniform' in the Ruthven assumption, which compels its assailants to 'meet the presumption in its favour.' He cannot be ignorant of the then Lord Clerk Register's reluctant admission, before the same Lords' Committee, that

'As the law now stands, the title may be held for generations by persons who have never taken any steps whatever to establish their claim'

—for this, together with Lyon's admission above, was conspicuously cited in my original paper which he selected for his criticism. Nor can he be ignorant of the evidence I adduced that other Scottish assumptions had been as fully recognised, for this I explained at great length. Yet his treatise certainly conveys the impression that it would have been out of the question for such an assumption to obtain recognition if it had been invalid, and he further endeavours to prejudice the question by insisting on the heinousness of the *mala fides* that its wrongful assumption would have involved. I must really observe that those who are conversant with the history of the Scottish peerage in the eighteenth century cannot look on a wrongful assumption as a rare and dreadful thing or imagine that the conduct of those who so assumed titles was deemed in any way heinous by themselves or by others.

Nothing as yet has been adduced to shake my consistent theory that Ruthven is an accidental survival of the other similar assumptions in the eighteenth century; that the accident of its survival is explicable by its lucky circumstances, which saved it from the usual perils: (1) a challenge at a close election, and (2) the existence of a counter-claim; and

<sup>1</sup> Since writing this I read in a Scottish paper that the Earldom of Dunfermline has been 'assumed' by a Mr. James Seton.

that, if either of these causes had brought its assumption before the House of Lords, the claim of those who assumed the title would have been, and indeed must have been, rejected.

But let us come to grips.

I

Mr. Stevenson concludes his address by a vigorous peroration, in which he claims to have shattered at every point 'the supposed demonstration that this peerage of Ruthven of Freeland is extinct.' Let us see.

My first point in my original article was this :

I need hardly observe that, as Riddell reminds us, in cases where the contents of a patent are unknown the law (as laid down by Lord Mansfield, and as accepted and acted upon by the House of Lords) always presumes a limitation to the heir male of the body (p. 168).

As the contents of the Ruthven patent are admittedly unknown, that title has been extinct in the eyes of the law, as now understood and acted upon, for the last 180 years (p. 169).<sup>1</sup>

What is Mr. Stevenson's answer to this? *He does not even attempt one.*

It is particularly interesting to find that Mr. Maitland Thomson goes even further than I do, holding, I gather, that the presumption of law is also the most probable presumption from the facts.

For the present he (Mr. Stevenson) leaves us still unable to resist the contention that Lord Mansfield's doctrine, the presumption for limitation to heirs male of the patentee's body, is properly applicable to the Ruthven case. And here its application would not, as in the Lindores and Mar cases, bring about any sharp conflict between the legal and the historical presumption.<sup>2</sup>

If it does apply, the peerage is extinct, and there is an end of the question.

II

The barony of Ruthven of Freeland is one of an interesting group created by Charles II. when in Scotland in 1650-1651. The four baronies, so far as I can find, were :

DUFFUS, 8th December, 1650. Limitation: *Unknown.*

COLVILL OF OCHILTREE, 4th January, 1651. Limitation: *Heirs male whatsoever.*

ROLLO OF DUNCRUB, 10th January, 1651. Limitation: *Heirs male whatsoever.*

RUTHVEN OF FREELAND. Date: *Unknown.* Limitation: *Unknown.*

<sup>1</sup>This was written in 1884.

<sup>2</sup>*Scottish Historical Review, ut supra.*

Mr. Stevenson has shown (p. 2) that the creation must be placed somewhere between 30th March and 24th May, a wide enough limit.

It is a singular fact that one other Scottish peerage, created within this limit—the earldom of Ormond, with its baronies—was held, after the Restoration, to have been an ‘inept’ creation, because, as with Ruthven, it had not passed the great seal.<sup>1</sup> I do not insist in any way upon this, but merely invite attention to the fact for what it is worth.

Now, I have always laid stress upon the fact, that, of these four baronies, Ruthven and Duffus were *in pari passu*, inasmuch as the limitation of neither was known. In each case the title was assumed after the death of the peer who was at once heir male and heir of line of the patentee and body, but, of the two assumptions, Duffus was the more justifiable, because Benjamin Dunbar was heir male of the patentee’s body. Yet this assumption has not been recognised. Then on what ground was Ruthven recognised?

The answer is simple: it is that, as I have always urged, in the Duffus case there was a rival claimant (the patentee’s heir of line); *in the Ruthven case there was not*.

Let me now briefly deal with the other two baronies. The Rollo patent, as is well known, was registered in the Great Seal Record in 1764, and the barony has never presented any difficulty whatever. Of the remaining dignity, Colvill of Ochiltree, I need only say that the assumptions of that title are selected by Mr. Maitland Thomson (p. 108) as being of the worst type, and that Riddell dismissed the first as ‘too absurd and preposterous to require comment.’<sup>2</sup> Yet this ‘mere pretender’ was allowed to vote *without protest* in 1783 and 1787, while the vote of a later pretender was accepted in 1847. We shall see the importance of this rebutting evidence, which Mr. Stevenson would like to ignore, when we come to his insistence on the fact that ‘the Ruthven vote had never been disputed,’ an argument to which ‘Riddell had no answer to make’ (p. 73).

I have compared the cases of Ruthven and Duffus, and I will now compare Ruthven with Oxenford, created ten years later (19th April, 1661). I do so because the two present extraordinary parallels. In each case the patentee was succeeded by his son and heir; in each, on the death of that

<sup>1</sup> Riddell, *Peerage and Consistorial Law*, pp. 67-8.

<sup>2</sup> *Op. cit.* p. 777.

son and heir, the title was assumed by his (female) heir of entail (1701 and 1705); in each the first vote tendered in respect of that assumption was in 1733; in each that vote was accepted; in each there had been a coronation summons; in each possession of the title is appealed to; yet that Oxenford assumption was pronounced invalid. Why? Because *there was a counter-claimant*, whose petition brought the matter before the House of Lords. In the Ruthven case there was not.

I must apologise for having to repeat all this once more; but until Mr. Stevenson faces, instead of ignoring, these arguments, there is no alternative.

### III

I have said above that the two 'usual perils' to these assumptions were the existence of a counter-claim and a challenge at a close election. In the Ruthven case there never was and never could be a counter-claim, for, the limitation being unknown, only an heir male of the patentee's body could successfully counter-claim, and there has been no such heir since 1701.

Let us come then to the second point. According to Mr. Stevenson, I 'explain' that, of the eleven elections (out of thirty-three), at which James 'Lord Ruthven' voted till his death in 1783,—

at none of these was there (1) any counter-claimant for the right to vote as Lord Ruthven, or (2) a contested election in which his vote might have turned the scale (*Call. Gen.* 184).

Upon which he thus comments:

with regard to the second assertion, that Lord Ruthven never voted where his vote might have turned the scale, where is the proof of that? (p. 72).

My reply is, I am sorry to say, that I never made the 'assertion' assigned to me by Mr. Stevenson. Here is the passage to which he refers:

Wrongful assumptions were challenged in one of two ways: (1) by a counter-claimant, as in Oxenford and Rutherford. This was the normal and more frequent method, but could not apply to Ruthven, as there was no counter-assumption to raise the question; (2) by the vote happening to turn the scale at a contested election, as in Newark and Lindores. *This was a very exceptional method, and the only important occasion on which it was enforced was the famous election of 1790, at which Lindores and Newark voted, but Ruthven (then a minor) did not.* We thus perceive that it was from special circumstances that the Ruthven assumption escaped challenge, whereas in the above cases these circumstances did not exist (*Call. Gen.* p. 184).

My assertion, it will be seen, is clear, namely, that the Ruthven assumption escaped the stormy election of 1790, which proved fatal to others, through the lucky circumstance of a minority at the time. As for the above 'James, Lord Ruthven,' *he had then been dead for years!*

It is a pity that Mr. Stevenson's indignation does not admit of his quoting me accurately or giving my arguments correctly.

## IV

The question of the weight which ought to be attached to the acceptance, with or without protest, of votes tendered at elections of representative peers is one of wide interest. How far should it be accepted as rebutting the legal presumption of a limitation to the heirs male of the patentee's body?

In the particular case of Ruthven I had, in my original article, to dispose of two allegations in defence of the assumption:<sup>1</sup>

(1) 'the votes given without protest by the third and later lords at Holyrood, at a time when every dubious vote was challenged.'

(2) (James, Lord Ruthven) 'voted at nearly all the elections of representative peers after his succession in 1732 till his death in 1783.'

Of the first of these I disposed by showing that when he first voted (1733) the next name on the lists was that of George Durie of Grange, whose vote was accepted '*without protest*, although his assumption was a notorious imposture.' And Mr. Stevenson admits that this was so. Behold how easy it was at that time to obtain the acceptance of an assumption!

Of the second I disposed by showing that it was wholly contrary to fact, James having only voted at eleven elections out of some thirty! This also Mr. Stevenson admits, though he seems to be much annoyed at my insisting on the fact.

Now, let it be clearly understood what is the point at issue, so far as Ruthven is concerned. Was it, or was it not, possible for the Ruthven assumption to continue obtaining, down to the death of Lord Ruthven in 1783, the recognition so lightly accorded it in 1733? Mr. Stevenson vehemently writes:

The counter-claimant and the closely-contested election, says Mr. Round, were the only<sup>2</sup> contingencies which a voter in an election of Peers in Scotland had to fear. The assertion is preposterous. There was no competition for the Earldoms of Wigton and Stirling; yet in Lord Ruthven's time the claimants to these titles

<sup>1</sup> They were adduced, at that time, in Burke's *Peerage*.

<sup>2</sup> I did not use the word 'only.'

were both ordered by the House of Lords to desist from styling themselves Peers till they had proved their right. There was no competition in 1766 or in 1767 for the right to vote as Earl of Caithness, nor was there any close contest, that we know of, impending; yet in both years the Lord Clerk Register challenged the right of James Sinclair, the sole (*sic*) claimant, to vote as the Earl. On the latter occasion Lord Ruthven was present and voting.

With every wish to be respectful to Mr. Stevenson, I must really call a halt at this amazing statement. The 'best all-round historical antiquary' in Scotland must be perfectly aware that on the death of Alexander, Earl of Caithness, in 1765, his earldom was, in Riddell's words,<sup>1</sup> 'exclusively claimed by *two asserted male heirs*—first, by James Sinclair . . . and, secondly, by a more remote relative, William Sinclair of Ratton.'

'William Sinclair also answered another protest by his opponent, James Sinclair, *as before*, at a Peerage Election in 1768, maintaining his, preferable claim; and that by the laws and practice of this country it is an established rule that where a collateral heir-male claims a peerage, he must first establish his right by a regular service as heir to the person who last enjoyed the dignity,' which, he added, 'James had not done . . . but, with the highest presumption, had assumed the dignity, which, by order of the Court of Session, in the litigation to be immediately noticed, he was obliged to lay aside' (Robertson's *Peerage Proceedings*, p. 319).<sup>2</sup>

Thus we discover, on examining the facts, that James Sinclair, on his own admission, was a poor and destitute man, without any interest in Caithness,<sup>3</sup> who could not even produce a retour to show that he was heir male of the late Earl; that there was notoriously a counter-claimant of higher position, who was eventually adjudged to be the right one; that this counter-claimant's reason for not assuming the title or voting was only, as he tells us himself, that he deemed a service the necessary preliminary; and, finally, that the rival claims were actually *sub judice* (before the Court of the Macers) in 1767!

And now, what are we to say of Mr. Stevenson's argument that the Lord Clerk Register 'challenged the right of James Sinclair, the sole claimant, to vote as the Earl' in 1766 and 1767? Either he was ignorant of the above facts, in which case his authority is *nil*; or he knew of them, in which case I will only say that he must have seen that the case differed from that of Ruthven, and that the challenge of the Lord Clerk Register is abundantly accounted for by the notorious existence of a rival claimant and by James Sinclair's absence of proof that his was the rightful claim.

<sup>1</sup> *Op. cit.* p. 610.

<sup>2</sup> *Op. cit.* p. 611.

<sup>3</sup> *Op. cit.* p. 612.

My answer to the case of Stirling is no less decisive and complete. On p. 74 Mr. Stevenson writes:

Mr. Round points out with truth that the exclusion of doubtful peers was not very strict when the claimant for the title of Lord Rutherford, actually next on the list to Lord Ruthven, was allowed to vote in 1733. But it must be recollected that in 1761 the House of Lords took order with these cases of Rutherford, Borthwick, Kirkcudbright, Stirling and Wigton, and that even in that time of setting all things right, not a whisper of any doubt about Lord Ruthven was ever heard.

Noting, by the way, that this last statement is amazing enough in view of what Mr. Maitland Thomson describes as the doubts 'handed down by Crawford, received by Macfarlane and Hailes,' I come straight to the point. Of these cases Stirling and Kirkcudbright are fully accounted for by the action of the claimants themselves, who, by petitioning for the dignities, had admitted that they had no right, as yet, to vote as holding them.<sup>1</sup> The Rutherford case had long been notoriously a public scandal, owing to the strife of the rival claimants, who had actually both voted at some elections, as the rival Kirkcudbright claimants had also done.

Of the five cases, therefore, there only remain two, Wigton and Borthwick, of which Wigton was a glaring case of baseless assumption. But these two cases will not avail Mr. Stevenson, for what he has to prove is that 'all things' were set right, and if it can be shown that even a single known wrongful assumption ran the gauntlet successfully, Mr. Stevenson's argument breaks down, for Ruthven may have done the same.

Such an instance is found in Newark, to which I have appealed throughout. Here again we have a parallel to Ruthven. Created ten years later, and limited to the heirs male of the patentee's body, the barony became extinct in 1694 on the death of his son. Then, as in the case of Ruthven and Oxenford, it was assumed by a female—Jean, the second lord's daughter, who died 1740, and was succeeded in the assumption by her heirs of line. Although both her sons, in succession vested in respect of the title, the House of Lords raised no question in 1761 with regard to it; and it was only the fateful election of 1790 (which Ruthven, we have seen, escaped) that brought it within their province and led to its condemnation.

<sup>1</sup> The petition of the Stirling claimant had been referred to the House of Lords, 2nd May, 1760. One of the Kirkcudbright claimants had petitioned previously.

That the exceptional action of the House of Lords was but a flash in the pan is shown by the Colvill of Ochiltree assumption. Mr. Maitland Thomson, indeed, writes: 'for claimants of the Colville of Ochiltree type there is justice in Scotland as swift and sudden as south of the Tweed,' but as a matter of fact, the claimant of that barony (1651) actually had his vote received in 1784 and 1787.

In short, my 'preposterous' assertion appears to be in absolute harmony with the reluctant admissions of the then Lyon and of Dr. Mackay, on the curious Scottish system before the Lords' Committee in 1882.

LYON.

184. Therefore the only occasion where a peer is liable to protest is, apparently, voting at the peers' election. 'Yes, practically. One would think the question might arise in many other ways whether a person was a peer or not, for in Scotland there are individuals as to whom it may be a matter of dispute as to whether they are peers; but practically it has been only at elections of peers that the question has been raised.'

DR. MACKAY.

471. Is there any form in which such a right can be challenged, except by a competitor or claimant for the same title?

'Practically at present there appears to be none, and *that appears to me to be a great defect in the existing condition of the law on the subject.*'

555. There is nothing whatever to prevent any one calling himself by any title he thinks fit?

'That is so.'

V

Mr. Maitland Thomson, recognising that the presumption of law is against the validity of the Ruthven assumption, raises the question whether 'the favourable evidence' is sufficient to rebut it. The question is, legally, whether the House of Lords would consider the reception of votes, the summons to coronation, etc., sufficient to outweigh the presumption.

Mr. Stevenson thus scornfully dismisses Riddell's argument:

When Douglas pointed to the historical fact that the Ruthven vote had never been disputed, Riddell had no answer to make to the argument. He was probably too well versed in his Robertson's *Proceedings* to attempt the assertion which Mr. Round has ventured, but rode off with the irrelevant remark that 'the legal insignificance of such circumstances must now be self-evident, after what has been premised as to the exemption of Peerages from prescription' (p. 73).

Riddell is a dead man, who cannot defend himself or show that his alleged shuffle was distinctly and dangerously relevant to the Ruthven case. A reference to 'Prescription' in the

index to his chief work will guide us to this notable passage, which I must quote in full:

The counter-pretension, or assumption, by the Glencairn heirs male for the considerable period of 126 years, from 1670 to 1796, that would have been so fatal at common law, in ordinary succession, was not held a legal bar in the way of Sir Adam Ferguson, the heir of line. And this, *although the preceding had voted without protest* at Peerage Elections. Nay, James, Earl of Glencairn, elder brother of John, the last Earl, had even been returned to represent the Scottish peerage in 1780, and had sat and voted accordingly in the House of Lords. The same thing has also been illustrated in the instance of the Earldom of Moray in 1793, where there was alleged adverse *possession* from 1700 until 1784, thus *evinced the existing legal understanding*, to which I do not demur, as it seems not at variance with our law. Further still in the Errol case . . . James, Earl of Errol . . . had been equally returned as one of the representative peers in 1770, in virtue of a title and succession recognised since 1717; but this 'possession' also, as it was maintained, when founded upon by him, was not deemed conclusive by Lord Rosslyn (p. 829).

Thus we see that even if 'Lord Ruthven' had been returned to the House of Lords and had sat and voted therein, his right to the title would not have been homologated thereby. Still less would his votes at elections be accepted as proof, more especially when it was shown that the absence of protest is amply accounted for. For, as I have shown, there was no one who could counter-claim with success, there being no heir-male of the patentee's body. And as to protests from other peers, they were rare, and only based (1) on a claim being at variance with the known limitation, and possibly (2) on a claimant not having proved his pedigree. Now, in the Ruthven case the terms of the limitation were unknown, and the pedigree was not in dispute. Naturally, therefore, there was no protest, because these grounds of a protest were wanting. The absence of a protest is fully accounted for, and the reception of the votes cannot avail against the presumption of law.

## VI

It is admitted that some obscurity surrounds the alleged summonses to the coronations of George I. and George II.<sup>1</sup> But here is Mr. Stevenson's argument:

<sup>1</sup> Mr. Stevenson writes (p. 63): 'Douglas's statement also of the issue of a summons, in 1714, to the peeress of the day (Jean, though he says Isobel was the name) to attend the coronation of George I. has not been disproved or even contradicted.' No attempt, so far as I know, has been made to disprove the statement, but it is hard to believe that it would be accepted as evidence that Jean was summoned, when Douglas says it was Isobel! Mr. Stevenson must not accept the summons as a fact on Douglas's authority, while rejecting Douglas's statement as to the person summoned.

If we accept them as facts, they prove at any-rate that the Lyon King of Arms of 1714—Sir Charles Erskine, and his successor in 1727, probably Brodie of Brodie—reported the peerage to be extant. These are facts of weight in any balance of the evidence for or against any peerage. . . .

But whether the right lady or gentleman received the summons or not, the important fact is that letters were issued in respect of the peerage on reports of the Lyon King of Arms, thirteen and twenty-six years after the extinction of the male; and that they were issued to ladies—Jean and Isobel respectively.<sup>1</sup> So that, even by the official most ignorant of their pedigree, the recipients could not have been mistaken for heirs-male (p. 44).

Impressive, perhaps; but I duly met this argument in my original paper (1884) as follows:

The argument from the coronation summons has been met and disposed of by Riddell (*Scotch Peerage Law*, p. 137). It has, moreover, been shown by me that the evidence of such summons in proof of 'possession' was founded on in vain, in 1733, by the titular 'Viscount Oxenford,' who unsuccessfully appealed to his 'summons to be present at the coronation of his present Majesty, which is superscribed by his Majesty, and signed by the Earl of Sussex, depute Earl Marischal of England' (Robertson's *Proceedings*, p. 137).

This case is conclusive. It may be added, however, in further illustration of the 'legal insignificance'<sup>2</sup> of such summons, that in England there had been summoned as 'Baroness Cromwell' to the two preceding coronations a lady who, as in the case of Ruthven, had assumed the honours without right, on the extinction of the male line. It is important to notice that in the English case the 'salutary check,' as Riddell terms it, of the intervention of a writ of summons operated in bar of the assumption of the title by that lady's son and heir. In the Scottish case there was no such check, and, consequently, the usurpation has been continued to our own day (p. 183).

The Ruthven summons no more proves the validity of the assumption than did the Oxenford summons.

Mr. Stevenson was confronted with this argument, which disposes of his own. What answer does he make to it? *He does not even attempt one.*

## VII

Lord Hailes' story, cited by Riddell, is that 'Lady Ruthven' having been summoned to a coronation,—

In a jesting way she said that this was her patent, and that she would preserve it as such in her charter-chest, and what she said in jest<sup>3</sup> is now seriously insisted upon.

<sup>1</sup> Douglas and Hailes say it was Isobel in both cases. <sup>2</sup> Riddell's phrase.

<sup>3</sup> In my original paper the word 'earnest' is printed by mistake for 'jest.' The context makes the sense clear, though Mr. Stevenson denounces my 'almost incredible carelessness.' By a similar one in Mr. Maitland Thomson's review (p. 106) Jean and Isobel are both distinguished as the 'former,' though this word must in one case be printed for 'latter.' Such slips are difficult to avoid. Nay, Mr. Stevenson himself, on p. 65, when discussing the omission of his title by a 'baronet,' speaks of him as the 'knight'! Yet I should not accuse him for this of 'almost incredible carelessness.'

Mr. Maitland Thomson, I observe, is disposed to accept this story, and to assign it to the coronation of 1714, writing :

The suggestion that the patent ought to be recorded has been ventured by a friend in the hearing of Baroness Jean. Her reply is to point to her coronation summons received two years before, and exclaim, 'Here is my Patent!' A fair repartee; and considering that the lady had borne (*sic*) the title since 1702 (as Mr. Stevenson has proved), Mr. Round's comment that the claim originated in a joke is hardly justified.

Whether my words express the point of Lord Hailes' story fairly or not is matter of opinion; it appears to me that they may be held to do so if the lady seized upon this document as the first official recognition of her assumption, the earliest 'Patent' forthcoming. But, in any case, that is not at all the point raised by Mr. Stevenson.

In the section headed 'A practical joke!' (pp. 51-53) he accuses me, with awful solemnity, not of mistaking the point of a story, but of recklessly inventing a story without any foundation at all. Mr. Stevenson had a perfect right to say that he did not agree with my way of alluding to the above 'jesting' remark; but to say that I have failed to produce any story of a 'joke' at all is—well, rather a strong measure. Yet this is actually what he does :

I desire to call attention to the legal aspects of the assertion. . . . The only proof needed to end the whole controversy and disprove the very existence of the peerage is the proof of the joke . . . prepares us for the discovery that the story is not forthcoming, and persuades us that the story does not exist. . . . such a damaging and prejudicing statement as the one I now allude to made as long ago as in 1884, and since repeated in effect<sup>1</sup> again and again at intervals, and never attempted to be substantiated, cannot be passed over without the observation that by the canons alike of historical investigation and of literary discussion, a disputant is under an imperative obligation to prove the truth of a statement of that kind or to withdraw it (p. 52).

Superb! But we have seen, unfortunately, that Mr. Maitland Thomson, as an independent critic, understood, as a matter of course, that I was referring to the jest in Lord Hailes' story. And as Mr. Stevenson had himself discussed (pp. 44-47) my mention of that story, and had even written 'But suppose that the lady did make the jest! What then?' (p. 46), it seems curious that he should boldly assert that 'the story does not exist,' and that I have never produced any evidence of a 'joke.'

<sup>1</sup>This is a carefully guarded phrase, but I am afraid I must point out that the statement has not been repeated, as a matter of fact, even 'in effect.'

VIII

We have still to seek legal evidence sufficient to rebut the presumption of law that the Ruthven assumption was wrongful. On the general question of the merits of the Union Roll of 1707, I am, Mr. Stevenson admits, at one with Riddell.

Must I again repeat his vigorous and fearless words?

'The Union Roll, if truth and accuracy are to be here respected, and Peerage rights possess a title of that value and importance which they seem anciently to have done, calls loudly for correction and amendment. It has been transmitted to us in no solemn or authentic form owing to the well known hurry and distraction of the moment, when lesser interests were sacrificed to greater, adopting the gross errors in the decret of ranking in 1606, which it is otherwise faulty and exceptionable . . . the pretensions of impostors at elections of the sixteen peers, who have *not* been wanting on such occasions, and reception of undue votes, with the attendant trouble and perplexity,' etc., etc.<sup>1</sup>

But let me quote the actual words of my original argument on the point at issue; for although they move Mr. Stevenson to wrath, it is significant that he does not quote them.

In proof of the true value of the Union Roll, it is, I think, sufficient to observe that this highly vaunted *rex rotulorum* on the one hand retained such titles as Abercrombie, and Newark—the former notoriously extinct for more than twenty years, the latter also extinct, though assumed by the heir-of-line through a fraud which the House of Lords eventually exposed; and on the other omitted such extant titles as Somerville, Dingwall, and Aston of Forfar! (p. 174).

How does Mr. Stevenson demolish this argument? Why he actually has to admit, thus openly, that the Union Roll included not only the above *two*, but *three* extinct titles!

It is not now doubted that three extinct titles were placed on the Roll in 1707, namely Abercrombie, Newark, and Glasford (p. 16).

So that my assertion was even an *under-statement* of the case! And yet we are asked to admit that the appearance of Ruthven on the Union Roll must be deemed evidence that it was not extinct!

To proceed. How does Mr. Stevenson demolish the rest of my above argument? Why, he has to admit that Somerville and Dingwall, were both, as I asserted, wrongly omitted and had to be inserted in the Roll afterwards, and that Aston also

<sup>1</sup> *Op. cit.* p. 171.

was wrongly omitted, though in this case he makes the amazing excuse, that

Surely the officials who kept the Roll of the Parliament could not be charged to send to England to ascertain if the Lords Aston were still extant after they had not been in their place for well-nigh seventy years (p. 15).

How about the barony of Fairfax, created for an Englishman in the same year (1627) as that of Aston for 'Sir William Aston of Tixall,' as Mr. Stevenson terms him? Why is the title of Fairfax on the Roll and that of Aston not? There could not be the slightest difficulty in discovering the 3rd Lord Aston, who was lord of Tixall, like his grandfather the first lord, and who subsequently protested in Scotland against the omission on the Roll. Was not Riddell right, in spite of Mr. Stevenson's protest, when he wrote that the Aston omission was a 'striking corroboration' of his remarks on the 'carelessness and inaccuracy' of the Union Roll.

But let me complete the passage from my original article :

And even had the Roll been free from such error, its retention of a title, it should always be remembered, was merely an admission that its extinction had not been demonstrated, *and was not a 'recognition' that it had been validly assumed by any particular person.* Thus the retention on the Union Roll of the titles of Ochiltree and Spynie did not 'recognise' their assumption by the Aytons and the Fullartons any more than the similar retention of Ruthven 'recognised' its assumption by the so-called 'baroness.' Such is the value of the argument from the Roll, and so little will it avail to 'indicate,' far less to *prove* the point (p. 174).

My argument here, it will be seen, is perfectly clear. How does Mr. Stevenson meet it? He asserts that I impugn the authority of the Roll, because it included 'the extinct titles of Abercrombie and Newark, and the dormant titles of Ochiltree and Spynie.' On which he comments :

'As to the peerages of Ochiltree and Spynie, it need only be answered that the inclusion of dormant peerages in the Roll is nothing to the point. For, by the very statement of the case, they are not extinct peerages' (p. 17).

With 'almost incredible carelessness' (to use his own phrase) my critic first attributes to me an argument I never used, and then completely ignores the argument I did use, as to Ochiltree and Spynie. It thus remains unanswered.

I have now quoted in full my paragraph on the Union Roll and have shown that Mr. Stevenson's reply to it may be thus summed up :

(1) He more than confirms my statement as to the *inclusion* of *extinct* peerages on the Roll ;

- (2) He fully confirms my statement as to the *omission* of *extant* peerages from the Roll;
- (3) He invents for me, on Ochiltree and Spynie, an argument I never used, and does not attempt to answer the argument I did use.

And, having done all this, the 'best all-round historical antiquary' in Scotland hastens to comment thus on his own performance :

It is impossible to pass from this exposure of the inaccuracies of Riddell's and Mr. Round's statements regarding that Roll without observing that the carelessness which made these inaccuracies possible is very seriously to be reprobated, especially in any matter, where what may be other people's rights of inheritance and *status* are involved.

The Union Roll, therefore, remains a document of very material as well as formal importance for the proof of any statement, such as we have seen canvassed, which it contains; its inclusion of any title whose circumstances were those of the Ruthven title raises a strong presumption of the subsistence of that title<sup>1</sup> at its date (p. 20).

May I suggest, in all humility, that it is impossible to pass from this exposure of Mr. Stevenson's arguments and methods without observing that the carelessness which made his inaccuracy possible and the singular audacity with which he claims to have exposed statements he is actually forced to confirm in full, should be sufficient to prove the weakness of his case and to absolve me from further exposure of the methods to which he is reduced.<sup>2</sup>

When Mr. Stevenson asserts (p. 54) that such statements of mine as he has examined 'have crumbled to pieces in the handling,' I would ask to be excused from describing that assertion in the language I might fairly employ.

<sup>1</sup>But, even so, not, as I have shown by Ochiltree and Spynie, of the validity of any one's assumption of it.

<sup>2</sup>Mr. Stevenson concentrates his fire as to the Union Roll, on 'Mr. Round's statement that the Judges had found that twenty-five of the titles on the Union Roll were doubtfully extant when they were placed there' (p. 18). My readers are now, doubtless, prepared to learn that I have nowhere made any such statement. The statement that the Lords of Session found 'the titles of no less than twenty-five Peers of that Roll dubious' is triumphantly cited by Riddell from *Douglas*, who is therefore the person responsible for it. I am in no way responsible for its accuracy, nor did I myself impugn more than *two* titles, besides Ruthven, on the Roll.

J. H. ROUND.

(To be continued.)

# The Early History of the Scots Darien Company

## I. INTRODUCTION

THE Company of Scotland trading to Africa and the Indies owed its origin to the desire of the Scots to enjoy economic advantages similar to those possessed by the other nations of Europe. The remarkable interest in commercial companies which is characteristic of the history of Europe in the seventeenth century was late in reaching Scotland. She was, in fact, the last of the nations to charter such a company. Her people were renowned for bravery rather than business ability. The country was poor.

Efforts to promote trade had been made from time to time. In the first part of the century, while the rulers of Britain were more Scots than English, the northern kingdom had prospered commercially. During the Civil War industry almost died out, and there were scarcely any well-to-do merchants.<sup>1</sup> Under Cromwell, trade revived,<sup>2</sup> but the English navigation acts of the Restoration checked Scottish ambition, although there is evidence of continued interest in mercantile enterprise.<sup>3</sup> For an act was passed in 1661 for the encouragement of navigation and trade, restricting the importation<sup>4</sup> of foreign commodities to Scots vessels, trading directly from the original foreign port. This was directed against the Dutch and the Germans, and encouraged the merchant adventurers of Glasgow<sup>5</sup> to undertake shipbuilding. They sunk a large amount of capital in trying to advance trade, but the Dutch continued their importations, supported by those merchants who profited by the illegal traffic.

<sup>1</sup> Robt. Chambers, *Edinburgh Merchants and Merchandise in Old Times*, p. 17.

<sup>2</sup> J. Hill Burton, *History of Scotland*, vii. 55-60.

<sup>3</sup> *Acts Parl. Scot.*, VI. i. 344, 374, 577, 578; ii. 805, 827, 879. VII. 96.

<sup>4</sup> *Ibid.*, 257.

<sup>5</sup> *Ibid.*, 454.

Accordingly, in 1663 the Act was ratified and approved, and an endeavour made to enforce it. Overtures were made to secure free trade with England. King Charles II., however, was induced to favour his English subjects at the expense of Scotland, and secured the passage of an act on the last day of the Parliament of 1663<sup>6</sup> asserting his prerogative in all matters concerning trade, and his right to put such restraints on trade as seemed best to him. This effectually prevented for the present any entrance into the field of foreign commerce. Feeble efforts were made to encourage home industries<sup>7</sup> in 1681 by the passage of a sumptuary act<sup>8</sup> prohibiting the importation of all finery, 'including all flour'd, strip'd, figur'd, checker'd, paint'd, or print'd silk stuffs or Ribbands.'<sup>9</sup>

After the Glorious Revolution, however, and the overthrow of James the Second, the first Parliament of William III. declared the act of 1663, giving the King power to impose duties at pleasure upon foreign imports,<sup>10</sup> a grievance, prejudicial to the trade of the nation. William, in his anxiety to secure the adherence of Scotland, gave his permission to have the act rescinded, and instructed his commissioners to procure an act for the encouragement of trade.<sup>11</sup> As a result of this,<sup>12</sup> an act was passed in 1693, declaring that companies might be formed for carrying on trade in foreign regions; for their greater encouragement, they were promised letters patent under the great seal.<sup>13</sup>

About this time in England new charters were granted to the English East India Company<sup>14</sup> which proceeded to adopt stringent measures to 'bear down' on interlopers or ships sent out by private traders.<sup>15</sup> A number of interlopers were owned in Scotland. Their owners became aroused at the renewed activity of the English company, and saw in the act of 1693 an opportunity to secure privileges which would put them on a legal basis, equal, if not superior, to that on which the English com-

<sup>6</sup> *Acts Parl. Scot.*, VII. 503.

<sup>7</sup> *Ibid.*, VII. 257.

<sup>8</sup> *Ibid.*, VIII. 662.

<sup>9</sup> *Ibid.*, 478.

<sup>10</sup> *Ibid.*, IX. 45.

<sup>11</sup> Thomas Somerville, *History of Political Transactions*, II.

<sup>12</sup> *Acts Parl. Scot.*, IX. 314.

<sup>13</sup> The act concludes with the significant recommendation from Parliament to the King to order the recovery of the Company's losses by force of arms at the public expense if any such Company were attacked or disturbed by persons not in open war with him. This foreshadows a clause in the Act establishing the Darien Company which was to be the cause of no small anxiety to the English.

<sup>14</sup> Bruce, *Annals of the East India Company*, 39.

<sup>15</sup> *Ibid.*, 135.

pany operated.<sup>16</sup> Furthermore, there were in London a number of Scots merchants who had sent out interlopers. The English company was receiving new charters and making it more and more difficult for them to carry on private trading with the Indies. They saw that their fellow-countrymen were anxious to secure foreign trade on a considerable scale. They too saw in the act of 1693 an opportunity to enlarge their operations on a secure legal basis. About the beginning of May, 1695, one of them, Mr. James Chiesly, conferred with his friend, William Paterson, as to the possibility of establishing an East India Company in Scotland,<sup>17</sup> and asked him what was best to be done about it.<sup>18</sup>

William Paterson, the Scotsman whose name is inextricably bound up with the whole history of the Darien Company, was at this time a fairly well-to-do London merchant about thirty-five years old.<sup>19</sup> He was one of the founders of the Bank of England—in fact, the credit for the plan of the Bank belongs to him perhaps more than to anyone else. Of his early life various stories are told. He had had many experiences, and had been in the West Indies.<sup>20</sup> He claimed to have been on the Isthmus.<sup>21</sup> He was a visionary rather than a practical man of affairs. Some of his ideas were brilliant, and, as in the case of the Bank of England, worked well when carried out by men with more commonsense than he had. His idealistic tendencies and his lack of tact had brought him into conflict with his colleagues of the Bank, and he had left the directorate under somewhat of a cloud.<sup>22</sup> One of his most cherished ideas was the establishment on the Isthmus of America of a free port,<sup>23</sup> which, by reason of its geographical position, might handle the greater part of the commerce between Europe and the far East. As a scheme it was magnificent. It was planned to benefit not only its pro-

<sup>16</sup> It was doubtless from one of these that there came the *Treatise touching the East Indian Trade*, in which it was pointed out that, although Scotland had an abundance of ports and harbours, she had little commerce and no colonies or settlements. It was urged that the opportunity presented by the Act of 1693 be improved.

<sup>17</sup> *Jour. Ho. Com.*, xi. 400. <sup>18</sup> J. Hill Burton, *History of Scotland*, 1897, viii. 20, 21.

<sup>19</sup> William Pagan, *The Birthplace and Parentage of Wm. Paterson, Founder of the Bank of England and Projector of the Darien Scheme*.

<sup>20</sup> Report by William Paterson to the Directors, *Dar. Pap.*, 179.

<sup>21</sup> Letter from Paterson to the Directors, in John Dalrymple's *Memoirs of Gt. Brit. and Irel.*, iv. 154-156.

<sup>22</sup> Francis, *History of the Bank of England*, i. 66.

<sup>23</sup> J. Hill Burton, *History of Scotland*, 1897, viii. 20 and 41; S. Bannister, *The Writings of William Paterson*, i. 109-160.

moters, but humanity; for profits were to be small and prices reduced. He had carried this project to various parts of the north of Europe, and endeavoured to get the Dutch and the Germans to take it up. It had also been offered in London. But in all these places the practical men of affairs saw the insurmountable difficulties that lay in the way of any such undertaking and refused to touch it, although willing enough to profit by it if such a port were ever established. So it was reserved for the Scots, brave in spirit but inexperienced in foreign trade, to attempt the magnificent but impossible scheme. The greatest difficulty in the way was the location of the free port in the very heart of the King of Spain's most treasured possessions, and within a couple of hundred miles of that port from which all the wealth of the Peruvian mines was sent yearly to Spain. It was not to be imagined for a moment that the King of Spain would allow his dominions to be encroached upon at such a vulnerable point. There were other objections, but this was the chief one, and one that was amply sufficient to those who understood the condition of affairs. To Paterson, on the other hand, the advantages of the scheme far outweighed the obstacles, and he kept hoping against hope that some day it might be carried out. When Mr. Chiesly approached him in May, 1695, requesting ideas for a charter which they had good hopes of securing from the Parliament of Scotland, Paterson produced the draft of an act providing for large privileges and extraordinary concessions.<sup>24</sup> But no mention was made of Darien. That secret was too precious to be broached until the Company was actually under way.

This draft with some amendments was finally adopted and became the charter of the Company, known first as the 'African Company,' and later as the 'Darien Company.'

The Company itself was the expression of Scotland's desire to join in seventeenth century appreciation of sixteenth century discovery; the immediate occasion for its establishment was the pressure exerted by the English East India Company on private merchants; the form which it took was due to the imagination of one of the idealistic financiers who flourished during that epoch.

## II. THE ACT OF INCORPORATION

Paterson's draft for the act, being approved by the London merchants, was sent to their friends in Edinburgh, presented to

<sup>24</sup> *State of Mr. Paterson's Claim upon the Equivalent*, 1712, p. 9.

Parliament on the 12th of June, 1695, and referred to the Committee on Trade.<sup>1</sup> Public interest had, in the meantime, been aroused by the publication of a sheet entitled, 'Proposals for a Fond to Cary on a Plantation.'<sup>2</sup> We are informed by it that 'persons of all ranks, yea the body of the nation, are longing to have a plantation in America,' but it is quite possible that this was issued to arouse that very longing. This was followed by a little pamphlet entitled 'Memorial to the Members of Parliament of the Court Party.'<sup>3</sup>

On Saturday, the 15th of June, the bill was read and considered by the committee, who ordered that two of their number, Lord Belhaven and Sir Francis Scott, who were later prominently identified with the Company, should confer with the Lyon King at Arms in regard to a seal for the Company.<sup>4</sup> The names of the patentees had not yet been decided upon, but an understanding that half of them were to be Scots was soon reached. An amendment looking towards the exemption of members of the Company from legal inconveniences was suggested, besides various other amendments. On Monday, the 17th of June, the committee considered such matters as the duties on muslin, an act in favour of manufacturing, and a motion looking toward the establishment of the principle of the 'open shop.' On Tuesday more amendments were made to the Company's act; and on Wednesday, Lord Belhaven being in the chair, it was again considered; as was also an act for the manufacturing of gunpowder. On Friday it was further amended, and the names of the patentees inserted, but they were not finally selected until the following Tuesday, when the act, as amended by the committee, was finally agreed upon, and ordered to be reported.

It may be of interest to note, in this connection, that on this same day the committee consider acts relating to 'skinnners' or furriers; the manufacturing of leather, salt, and combs; the herring fishery, and the post office. Trade was looking up.

On the 26th of June, a fortnight after its first introduction, the act establishing the Company of Scotland Trading to Africa and the Indies was reported back from the Committee, read in

<sup>1</sup> *Acts Parl. Scot.*, II. 367.

<sup>2</sup> The only known copy is in the John Carter Brown Library, Providence, R.I.

<sup>3</sup> John Scott, *Darien Bibliography*, p. 10.

<sup>4</sup> MS. Minutes of the Committee on Trade, preserved in the General Register House in Edinburgh. These were not known to Hill Burton. *Vid.* his *History of Scotland*, viii. 22.

Parliament, passed, and touched with the sceptre in the usual manner.<sup>5</sup>

Reasons for this haste are not far to seek. The Act had powerful supporters, and it was not likely to be palatable to the English. If its passage had been delayed, William's English councillors might have persuaded him to disallow it, or have it amended, so as to render it abortive.

The Act as passed contained first a preamble, or narrative, which based it on the Act of 1693.<sup>6</sup> It then proceeded to constitute ten Scotsmen and ten Englishmen, whose names follow, 'a free incorporation with perpetual succession.' No limit was placed on their capital stock except that at least half was to be set aside for residents of Scotland.<sup>7</sup> No one could hold less than 100 pounds of stock, nor more than 3000 pounds.

Shares subscribed for by residents of Scotland were not 'allowable to any other than Scotsmen living within this kingdom.' It was declared that no part of the capital stock, or of the real or personal property belonging to the Company should be liable to any manner of confiscation or seizure for any reason whatsoever.<sup>8</sup> Creditors of members of the Company were allowed to have a lien upon the profits pertaining to their debtors without having any further right over the debtors' stock. The patentees were given the right to make all such rules and ordinances as they thought needful for the government of the Company. They also had the right to administer and take oaths *de fidei*.

They were empowered for the space of ten years to fit out and navigate their own or hired ships in such manner as they thought fit. Their vessels could thus be fully armed.<sup>9</sup> They were allowed to sail from any port or place in Scotland, or from any place in amity with His Majesty, to any place in Asia, Africa, or America, there to plant colonies in any uninhabited place, or in any other place, by consent of the inhabitants, provided it was not possessed by any European sovereign. Paterson thought this covered the Isthmus of Darien. They were allowed to fortify such places and defend them by force of arms; also to make reprisals. They could conclude treaties of peace and commerce with the governments of any place in Asia, Africa, or America.

Furthermore, they were given a wide monopoly. No subject

<sup>5</sup> *Acts. Parl. Scot.*, IX. 377.

<sup>6</sup> *Full and Exact Collection of All the . . . Papers Relating to the Company*, 1700, p. iii.

<sup>7</sup> *Ibid.*, p. iv.

<sup>8</sup> *Ibid.*, p. v.

<sup>9</sup> *Ibid.*, p. vi.

of Scotland was allowed to trade with any place in Asia or Africa 'in any time hereafter, or in America for and during the space of thirty-one years,' without permission from the Company, under penalty of forfeiting one-sixth of the value of the ships and cargo to His Majesty, and one-sixth to the Company. The Company was allowed to seize any such ships and cargoes in any place of Asia or Africa, or off their coasts.<sup>10</sup> Subjects of Scotland might, however, trade without prejudice in any part of America which the Company had not settled. This was intended to protect those Scots who already had a considerable trade in those parts. At this very time the Scots merchants in London were building ten frigates to secure their trade to the West Indies.<sup>11</sup>

The Patentees were given absolute title to all places of which they should possess themselves, with full rights of government and admiralty, and of delegating to others such rights as they thought fit and convenient. They had power to impose and exact such customs duties as they thought needful. To His Majesty and his successors for the acknowledgment of their allegiance, they were to pay yearly a hogshead of tobacco by way of Blench-duty. The Company was given power to procure privileges from any foreign power at peace with His Majesty, for which the existing treaties of peace gave sufficient security.<sup>12</sup>

One of the most remarkable provisions of the Act, and one which occasioned considerable feeling in England, was that, if any of the persons or effects of the Company should be seized or damaged, the King agreed to have restitution made at the public charge. This seemed to promise that the prestige and arms of England should be used to settle any difficulties which the Company might get into with foreign powers, and was used by the Company as a great point in securing subscriptions. Opponents of the Company also tended to exaggerate the importance of this provision by claiming that it bound the King of England to go to war for the benefit of Scotland, and that as Scotland was poor and weak the war would be paid for by England.

All property of the Company was to be free from taxes for the space of twenty-one years, excepting that tobacco and sugar, not grown in their own plantations, were to pay the regular

<sup>10</sup> *Full and Exact Collection of All the . . . Papers Relating to the Company*, 1700, p. viii.

<sup>11</sup> 'Saturday 29 June.' Narcissus Luttrell, *Brief Historical Relation*, iii. 492. The entry in his diary.

<sup>12</sup> *Full and Exact Collection*, p. viii.

duties; but everything else which their ships might bring in was to come duty free. Here, again, was cause for alarm to the merchants of London, who saw the possibility of large quantities of low-priced merchandise being smuggled into England from Scotland, where it had paid no duty.

No member, officer, or servant of the Company could be arrested or confined; and, in case they were, the Company was authorised to release them; and all magistrates, civil or military, were instructed to assist under pain of being liable for damages.<sup>13</sup>

The Company and its officers and members were to be free 'both in their persons, estates and goods employed in the said stock and trade from all manner of taxes, cesses, supplies, excises, quartering of soldiers, transient or local, or levying of soldiers, or other impositions whatsoever, and that for and during the space of twenty-one years.'

Lastly, all persons concerned in the Company were declared to be free citizens of Scotland, all those which settled or inhabited any of their plantations were to be regarded as natives of Scotland, and to have the privileges thereof.<sup>14</sup>

Such was the Act upon which were to be based the hopes of a large part of the Scottish nation. No wonder it was said that His Majesty had granted 'a large and glorious patent, not to be paralleled by that of any Company or Society in the Universe.'<sup>15</sup> Theoretically, it was almost perfect. With permission to plant colonies in every part of the unclaimed world, with free trade for a long period of years, and freedom from all kinds of embarrassing legal restrictions, with the promise of the King of England to assist them in maintaining their agreements and privileges with other nations, it seemed as though Scotland must soon surpass all other countries in the extent and opulence of her trade. The chartered companies of other countries were hampered by many rules and restrictions, from which hers was to be free. Had the Scottish patentees been experienced in business, with a large knowledge of the world, and the ways of commerce, it is possible that the Clyde might much earlier have become that emporium which it was later destined to be. Scarcely had the Act been passed, however, before the incompetency of the incorporators became apparent, and the troubles and discords which were to ruin the Company began to show themselves.

HIRAM BINGHAM.

<sup>13</sup> *Full and Exact Collection*, p. ix.

<sup>14</sup> *Ibid.*, p. x.; *Acts Parl. Scot.*, IX. 377.

<sup>15</sup> *Defence of the Scots Abdicating Darien*, 1700, p. ii.

(To be continued.)

## The 'Scalacronica' of Sir Thomas Gray

*The Reign of Edward I. as chronicled in 1356 by Sir Thomas Gray in the 'Scalacronica' and now translated by the Right Hon. Sir Herbert Maxwell, Bart., continued.*

MS. o. 199 THE King of Scotland, John de Baliol,<sup>1</sup> sent to crave peace from the King [Edward], submitted to his grace and surrendered to the king,<sup>2</sup> with his son Edward, whom he offered to him as hostage for his good behaviour, and these two were taken and sent to London, and forbidden to pass further than twenty leagues around the city.

King Edward of England occupied all the castles of Scotland, and rode through the country until he came to Stokforthe,<sup>3</sup> and appointed his officials, and, in returning, caused to be carried away from the abbey of Scone the stone whereon the kings of Scotland were wont to be seated at the beginning of a reign, and caused it to be taken to London at Westminster, and made it the seat of the priest at the high altar.

King Edward of England caused summon his Parliament at Berwick, where he took homage from all the magnates of Scotland, to which he had their seals appended in perpetual memory,<sup>4</sup> and thence he repaired to England, where, at the abbey of Westminster,<sup>5</sup> he committed the custody of Scotland to the Earl of Warenne, with a seal of government for the same, and said in jest: 'He does good business who rids himself of dirt!'<sup>6</sup> The

<sup>1</sup> So Sir Thomas Gray styles him; but the Scottish monarchs were never styled Kings of Scotland, but Kings of Scots.

<sup>2</sup> July 2, 1296.

<sup>3</sup> Perhaps Stracathro or Stocket Forest in Aberdeenshire.

<sup>4</sup> The Ragman Roll, 1296.

<sup>5</sup> Westminster, the 'new minster' of Edward the Confessor.

<sup>6</sup> *Bon besoigne fait qy de merde se deliuer*: reminding one of the famous *mot de Cambronne* at Waterloo.

king appointed Hugh de Cressingham his Chamberlain of Scotland, and William de Ormesby Justiciar, and laid commands on them that all persons of Scotland above fifteen years should do homage, and that their names should be inscribed. The clerks took a penny<sup>1</sup> from each, whereby they became wealthy fellows. The King ordained that all lords of Scotland should remain beyond the Trent, so long as his war with France should last. In which year of grace 1297 he levied [a tax of] half a mark sterling upon every sack of wool in England and Scotland, which before paid no more than fourpence; wherefore it was called *la mal tol*. The King went to Gascony.

At which time [1297] in the month of May William Wallace was chosen by the commons of Scotland as leader to raise war against the English, and he at the outset slew William de Hesilrig at Lanark, the King of England's Sheriff of Clydesdale.<sup>2</sup> The said William Wallace came by night upon the said sheriff and surprised him, when Thomas de Gray,<sup>3</sup> who was at that time in the suite of the said sheriff, was left stripped for dead in the mellay when the English were defending themselves. The said Thomas lay all night naked between two burning houses which the Scots had set on fire, whereof the heat kept life in him, until he was recognised at daybreak and carried off by William de Lundy, who caused him to be restored to health.

And the following winter, the said William Wallace burnt all Northumberland. The Earl of Warenne, who was Keeper of Scotland for the King of England, being in the south,<sup>4</sup> turned towards Scotland; where at the bridge of Stirling he was defeated by William Wallace, who, being at hand in order of battle,<sup>5</sup> allowed so many of the English as he pleased to cross over the said bridge, and, at the right moment,<sup>6</sup> attacked them, caused

ms.  
fo. 199<sup>b</sup>

<sup>1</sup> *Vn dener.*

<sup>2</sup> His proper name was Andrew de Livingstone, usually termed de Hesilrig or Hazelrig, as in the death sentence of Wallace, probably on account of his official residence.

<sup>3</sup> Father of the chronicler.

<sup>4</sup> Warenne, or Surrey, which was his principal title, had been recalled on 18th August for service with King Edward on the Continent, and Sir Brian Fitz Alan was appointed Keeper of Scotland in his place. But Sir Brian having raised a difficulty about his salary (£1128 8s.), the Prince of Wales wrote on 7th Sept., 1298, requiring Surrey to remain at his post. (See Stevenson's *Documents illustrative of the History of Scotland*, ii. 230.)

<sup>5</sup> *En batail*, in force or in order of battle; used in both senses.

<sup>6</sup> *A soun point.*

the bridge to be broken, where many of the English perished, with Hugh de Cressingham, the King's Treasurer; and it was said that the Scots caused him to be flayed, and in token of hatred made girths of his skin. The Earl of Warenne took flight to Berwick. William Wallace, to whom the Scots adhered, immediately after this discomfiture, followed<sup>1</sup> the said Earl of Warren in great force, and skirting Berwick, arrived on Hutton Moor in order of battle; but perceiving the English arrayed to oppose him, he came no nearer to Berwick, but retired and bivouacked in Duns Park.<sup>2</sup>

The said Earl of Warren, on the approach of William Wallace, took his departure from Berwick, leaving the said town waste, and went to the King's son, who was Prince of Wales, because the King was in Gascony.<sup>3</sup>

On account of these tidings the King returned to England. At the first coming of the Earl of Warenne to Scotland, the Bishop of Glasgow<sup>4</sup> and William Lord of Douglas<sup>5</sup> came to give assurance that they were no parties to the rising of William Wallace, albeit they had been adherents of his previously;<sup>6</sup> wherefore the said earl caused them to be imprisoned—the bishop in Roxburgh Castle, William de Douglas in Berwick Castle, where he died of vexation.<sup>7</sup>

William Wallace, perceiving the departure of the Earl of Warenne, sent the chevalier Henry de Haliburton to seize Berwick, and appointed others to besiege Robert de Hastings in Roxburgh Castle with a strong force.

MS.  
fo. 200 Robert the son of Roger, who at that time was lord of Warkworth, with John the son of Marmaduke, with other barons of the counties of Northumberland and Carlisle, mustered quickly and came by night to Roxburgh, and came so stealthily upon the Scots that, before they knew where they were, the English were upon them and killed the engineers who were handling the

<sup>1</sup> *Suyst*, misprinted *fyyst* in Maitland Club Ed.

<sup>2</sup> Not Duns Park on Whitadder, but in a place which then bore that name a little to the north of Berwick.

<sup>3</sup> He was in Flanders.

<sup>4</sup> Robert Wishart, one of the Six Guardians appointed on the death of Alexander III. in 1286.

<sup>5</sup> Sir William de Douglas 'le Hardi,' a crusader: father of 'the Good Sir James.'

<sup>6</sup> They deserted him at the capitulation of Irvine, July, 1297.

<sup>7</sup> *De mischef*. He was transferred to the Tower of London, where he died in 1298.

hooks of the engines<sup>1</sup> to shoot into the castle ; whereby they [the Scots] were thrown into confusion, many being slain. Henry de Haliburton, with others who were in Berwick, hearing of this reverse, drew off without delay, leaving the said town empty.

The said English lords recovered the said town of Berwick, and held it until the arrival of the King, who, returning from Gascony, approached Scotland in great force, entered it by Roxburgh, advanced to Templeliston and Linlithgow, and so towards Stirling, where William Wallace, who had mustered all the power of Scotland, lay in wait and undertook to give battle to the said King of England. They fought on this side of Falkirk<sup>2</sup> on the day of the Magdalene in the year of grace *mille cclxxx et xv*,<sup>3</sup> when the Scots were defeated. Wherefore it was said long after that William Wallace had brought them to the revel if they would have danced.<sup>4</sup>

Walter, brother of the Steward of Scotland, who had dismounted [to fight] on foot among the commons, was slain with more than ten thousand of the commons.<sup>5</sup> William Wallace, who was on horseback, fled with the other Scottish lords who were present. At this battle, Antony de Bek, Bishop of Durham, who was with King Edward of England, had such abundance of retinue that in his column there were thirty-two banners and a trio of earls—the Earl of Warwick,<sup>6</sup> the Earl of Oxford,<sup>7</sup> and the Earl of Angus.<sup>8</sup>

At this time the town of St. Andrews was destroyed. The King reappointed his officials in Scotland, betook himself to England, making pilgrimage to holy tombs,<sup>9</sup> thanking God for his victory, as was his custom after such affairs.

<sup>1</sup> *Lez engines a trier.*

<sup>2</sup> *Ou de sa [deça] le Fawkirk.*

<sup>3</sup> A clerical error. The date was 21st July, 1298.

<sup>4</sup> *Qe Willam Walays lour avoit amene au karole dauncent sils uolount.*

<sup>5</sup> It was Sir John Stewart of Bonkill who was thus slain, at the head of his Selkirk bowmen. Gray's estimate of the slain is more reasonable than that of clerical writers. Walsingham puts the number at 60,000, probably three times as much as Wallace's whole force : Hemingburgh reduces it to 56,000.

<sup>6</sup> Guy de Beauchamp, Lord Ordainer : d. 1315.

<sup>7</sup> Probably de Vere, 6th Earl. The line was extinguished in 1703 in the person of Aubrey de Vere, 20th Earl of Oxford.

<sup>8</sup> Gilbert de Umfraville, Earl of Angus : d. 1307.

<sup>9</sup> Or 'to relics of saints'—*les corps saintz.*

In the following year, the year of grace *mille* cc.lxxx.xix, on the day of the translation of St. Thomas,<sup>1</sup> arrived legates from the Court of Rome to King Edward at Canterbury, praying and admonishing the King that he would leave John de Baliol, lately King of Scotland, in the keeping of the Holy Father, since he had surrendered to his mercy. The King granted this, provided he [John] should not enter Scotland, which was undertaken, and the said John was delivered, who betook himself to the estate of Baillof, his heritage in Picardy, where he resided all [the rest of] his life.

MS.  
fo. 200<sup>b</sup>

In the following year, owing to the diligence of persons in Scotland and the setting forth of all the evidence they could devise, letters came from Pope Boniface to King Edward of England, declaring that the realm of Scotland was held in fief of the Court of Rome, and that he had intruded to the disinheritation of the Roman Church,<sup>2</sup> desiring him and admonishing him to remove his hand. The King caused a general parliament to be summoned to Lincoln, where it was declared by all laws imperial, civil, canonical and royal, and by the custom of the Isle of Britain in all times from the days of Brutus, that the sovereignty of Scotland belonged to the regality of England, which was announced to the Pope.

The said King Edward went to Scotland, invested the castle of Carlaverock<sup>3</sup> and took it, after which siege<sup>4</sup> William Wallace was taken by John de Menteith near Glasgow and brought before the King of England, who caused him to be drawn and hanged in London.<sup>5</sup>

The said King caused the town of Berwick to be surrounded with a stone wall, and, returning to England, left John de Segrave Guardian of Scotland. The Scots began again to rebel against King Edward of England, and elected John de Comyn their Guardian and Chief of their cause. At which time ensued great passages of arms between the Marches, and notably in Teviotdale, before Roxburgh Castle, between Ingram de Umfraville,<sup>6</sup> Robert de Keith, Scotsmen, and Robert de Hastings,

<sup>1</sup> 7th July, 1299.

<sup>2</sup> *Leglis Romayne* in MS. misprinted *legatis Romayne* in *Maitland Club Edition*.

<sup>3</sup> July, 1300.

<sup>4</sup> Five years after: viz. in the summer of 1305.

<sup>5</sup> 23rd August, 1305.

<sup>6</sup> This Earl of Angus, who inherited through Matilda, heiress of the Celtic earls, was a staunch supporter of King Edward, and it seems strange to find him fighting for the Scottish cause.

warden of the said castle. John de Segrave, Guardian of Scotland for King Edward of England, marched in force into Scotland with several magnates of the English Marches, and with Patrick Earl of March, who was an adherent of the English King, came to Rosslyn, encamped about the village, with his column around him. His advanced guard was encamped a league distant in a hamlet. John Comyn with his adherents made a night attack upon the said John de Segrave and discomfited him in the darkness; and his advanced guard, which was encamped at a distant place,<sup>1</sup> were not aware of his defeat, therefore they came in the morning in battle array to the same place where they had left their commander overnight, intending to do their devoir, where they were attacked and routed by the numbers of Scots, and Rafe the Cofferer was there slain.

Because of this news King Edward marched the following year<sup>2</sup> into Scotland, and on his first entry encamped at Dryburgh. Hugh de Audley, with 60 men-at-arms, finding difficulty in encamping beside the King,<sup>3</sup> went [forward] to Melrose and took up quarters in the abbey. John Comyn, at that time Guardian of Scotland, was in the forest of Ettrick with a great force of armed men, perceiving the presence of the said Hugh at Melrose in the village,<sup>4</sup> attacked him by night and broke open the gates, and, while the English in the abbey were formed up and mounted on their horses in the court, they [the Scots?] caused the gates to be thrown open, [when] the Scots entered on horseback in great numbers, bore to the ground the English who were few in number, and captured and slew them all. The chevalier, Thomas Gray,<sup>5</sup> after being beaten down, seized the house outside the gate, and held it in hope of rescue until the house began to burn over his head, when he, with others, was taken prisoner.

King Edward marched forward and kept the feast of Christmas<sup>6</sup> at Linlithgow, then rode<sup>7</sup> throughout the land of Scotland, and marched to Dunfermline, where John Comyn perceiving that he could not withstand the might of the King of England, rendered himself to the King's mercy, on condition that he

<sup>1</sup> Or 'at the distance of a league'—*ge herbisez estoit de ly vn lieu loinz.*

<sup>2</sup> May, 1303. The battle of Rosslyn was fought 24th February, 1302-3. The new year being then reckoned to begin on 25th March. Edward's invasion was correctly dated in the following year.

<sup>3</sup> *Si eisement ne purroient my estre herbisez de lee le roy.*

<sup>4</sup> *A la maner.*

<sup>5</sup> Father of the chronicler.

<sup>6</sup> A.D. 1303.

<sup>7</sup> *Cheuaucha.*

and all his adherents should regain all their rightful possessions, and they became again his [Edward's] lieges; whereupon new instruments were publicly executed.

John de Soulis would not agree to the conditions; he left Scotland and went to France, where he died.<sup>1</sup> William Oliphant, a young Scottish bachelor, caused Stirling Castle to be garrisoned, not deigning to consent to John Comyn's conditions, but claiming to hold from the Lion.<sup>2</sup> The said King Edward, who had nearly all the people of Scotland in his power and possession of their fortresses, came before Stirling Castle, invested it and attacked it with many different engines, and took it by force and by a siege of nineteen weeks.<sup>3</sup> During which siege, the chevalier Thomas Gray was struck through the head below the eyes by the bolt of a springald, and fell to the ground for dead under the barriers of the castle. [This happened] just as he had rescued his master, Henry de Beaumont, who has been caught at the said barriers by a hook thrown from a machine, and was only just outside the barriers when the said Thomas dragged him out of danger. The said Thomas was brought in and a party was paraded to bury him, when at that moment he began to move and look about him, and afterwards recovered.

The King sent the captain of the castle,<sup>4</sup> William Oliphant, to prison in London, and caused the knights of his army to joust before their departure at the close of the siege. Having appointed his officers throughout Scotland, he marched to England, and left Aymer de Valence, Earl of Pembroke, as  
 ms. fo. 201b Guardian of Scotland, to whom he gave the forests of Selkirk and Ettrick, where at Selkirk the said Aymer caused build a pele, and placed therein a strong garrison.

<sup>1</sup> He was joint-Guardian with Comyn; was banished by King Edward in 1304 and d. 1318.

<sup>2</sup> *Se clamoit a tenir du Lioun*: apparently from the Lion as emblem of Scotland.

<sup>3</sup> For the details of this siege, and the names of the siege engines, see Bain's *Calendar of Documents relating to Scotland*, ii. 420.

<sup>4</sup> *Chastelain*.

(To be continued.)

[The collation of the Maitland Club edition of *Scalacronica* with the original MS., part of which was done by Miss Bateson, has been continued and completed by Mr. Alfred Rogers, University Library, Cambridge. I desire to acknowledge, in addition, the valuable assistance I am receiving in the work of translation from Mr. George Neilson, F.S.A.Scot.

HERBERT MAXWELL.]

## Reviews of Books

CAMBRIDGE MODERN HISTORY. Vol. iii. The Wars of Religion.  
Pp. xxviii, 914. Ry. 8vo. Cambridge: University Press, 1904.  
16s. nett.

THIS volume covers, roughly speaking, the last half of the sixteenth and the first quarter of the seventeenth centuries. It is divided into twenty-two chapters, contributed by sixteen different writers. Of these all but two are of British birth. But one of these, Count Ugo Balzani, who discourses of Rome under Sixtus V., has lived so much in England, and is so well known to historical scholars on this side of the Channel, that he is almost as one of ourselves. Yet if this great work planned by Lord Acton is to be, as one presumes it was meant to be, a great monument of British historical scholarship, we cannot but regret the inclusion of foreign scholars. In the interests of the study of European history among ourselves, it would have been advisable to entrust all the articles required to writers in their native language. No doubt to this volume there are an unusual number of contributors whose names are already identified with the subjects entrusted to them: but in previous volumes, new, young writers have had a chance which they have not been slow to seize, and even this present instalment would not have suffered materially by the infusion of a little more fresh blood. Two, certainly not the least distinguished of the company of contributors, had passed away before the volume appeared—Dr. S. R. Gardiner, who of course tells again the story of James VI. and I.; and Mr. T. G. Law, who gives a careful and dispassionate account of Queen Mary Stewart, and the important part which she played in the politics of Europe. He is content shortly to state the difficulties with regard to the acceptance or the rejection of the Casket Letters without expressing an opinion of his own. Indeed, the space at the disposal of the writers forbids any argumentative treatment of even the more important points. What we have to expect in the body of the work is a summary of conclusions drawn from the most authoritative sources, and for the grounds on which these conclusions are based, we must turn to the extensive and somewhat bewildering bibliographies at the end of the volume. In these, although most of the compilers disclaim any attempt at completeness, none but serious students will find much enlightenment. An occasional remark is added on the date or scope of a particular work, but no attempt is made to guide the reader in determining between the respective merits of the long lists of books in many European languages. It is a real cause for regret that some detailed information was not given of a few of the more important

authors, and that the names of any others were not left to professed bibliographical works. Among the chapters of more general interest is one dealing with French Humanism and Montaigne. But it is too short to be effective. Four pages out of nineteen are devoted to Montaigne—none too many to that curiously detached personality. But it is easier to find information about him than about any of the other writers dealt with, and such important people as Joseph Scaliger and Isaac Casaubon do not cover a page between them; while such a string of names as 'Estienne Pasquier, Antoine Loisel, the brothers Pithou, Guy du Faur de Pibrac,' and so on, about most of whom no further word is said, is a mere parade of knowledge. On the other hand, Mr. Neville Figgis contributes an excellent summary of the political thought in the sixteenth century, where we are allowed to appreciate, uninterrupted by biographical or bibliographical details, the formulation of the great principles of political thought which so profoundly influenced action in the two succeeding centuries. It is a chapter in the history of political philosophy which deserves to be known far more widely than is usual, even among those who claim some acquaintance with the leading writers in this branch of speculative science. A fourth part of the volume is devoted to British History—a larger proportion than in any other of the series, and it is entrusted throughout to competent hands. Mr. Sidney Lee has a right to be heard on Elizabethan Literature, and Professor J. K. Laughton's interesting contribution on the naval contest with Spain does not invest with too rosy colours the doings of the English seamen. In his eyes, the 'ignorance, disobedience, and presumption' of Sir Richard Greynville was more noteworthy than the bravery with which he and the crew of the 'Revenge' immortalised their defeat. The stirring tale of the Revolt of the Netherlands is given by the Rev. George Edmundson; the dull but necessary and important history of imperial affairs after the retirement of Charles V. on to the eve of the outbreak of the Thirty Years' War, is told, not for the first time, by the Master of Peterhouse. Mr. Martin Hume, of course, treats of Spain; Mr. Nisbet Bain, equally of course, deals with Poland. The French Wars of Religion go to Professor A. J. Butler, while Mr. Armstrong consoles himself (and us) with what may be called the later history of Tuscany, or the earlier history of Savoy. The Turks fall to Dr. Moritz Brosch, while Mr. Stanley Leathes, one of the working editors of the series, deals with the important period of Henri Quatre. The whole volume is full of attractive subjects, and it maintains the high standard of the series.

DUDLEY J. MEDLEY.

HENRY THE THIRD AND THE CHURCH: A STUDY OF HIS ECCLESIASTICAL POLICY AND OF THE RELATIONS BETWEEN ENGLAND AND ROME.  
By Abbot Gasquet, D.D. London: George Bell & Sons, 1905.  
8vo. 12s. nett.

THOSE who know the temperate judgment which Abbot Gasquet has displayed in his contributions to historical study have no need to be reminded of his fairness of mind in approaching such thorny subjects

as the ecclesiastical policy of Henry III., and the relations between England and Rome during the reign of that monarch. But Dr. Gasquet has thought fit to make his apology at the outset, and declare the principles which guided him throughout his inquiry. It has been his endeavour, he says, to hold an even balance between two extremes—the tendency to minimise and the tendency to exaggerate—and in pursuance of this resolve he has been content to construct his narrative as far as possible from the language of the chroniclers and the documentary records of the period. No exception can be taken to this attitude of mind provided that the requisite self-control is manifested in the interpretation of evidences which appear to contradict the broad conclusions to which the narrative of the author points. One thing at least is admirable in Dr. Gasquet's method: there is no hesitancy about his ecclesiastical views—he has the courage of his convictions. After reviewing the difficulties which beset the student of this unique period in the history of the English Church, his verdict on the relations between England and Rome has been tabulated with commendable precision. The Pope of Rome was the suzerain power in England, or, in other words, the country was a fief of the Holy See. This state of things was not acceptable to either the clergy or the laity of the kingdom. There was widespread discontent on account of the rapacity of the Roman officials in church and state. The discontent, however, was reasonable, inasmuch as it was absolutely confined to opposition to the constant demands made upon the revenues of English churches, and to the introduction of foreigners to English benefices. And, last and most important of all, there was no attack during the reign on 'the spiritual supremacy of the popes': the Catholic theory of papal authority was frequently assumed in unmistakable terms by those most determined in their opposition to local abuses of the papal jurisdiction. These are the propositions which the author sets forth after an impartial study of the evidences of that period.

There is no need to take sides in a controversy of this kind. Men differ, and will continue to differ about the subtleties which underlie such a thesis as 'the spiritual supremacy of the popes' in England, whatever that phrase may mean. Dr. Gasquet has set himself the task of telling his story in the documentary language of the period of which he writes, but we cannot recall a single document of the thirteenth century where the papal supremacy is mentioned. As a matter of fact it was some centuries later that the phrase arose and became the subject of acute discussion. That the pope had power in England nobody can gainsay, and that power may be said to have reached its highest limit during the reign of Henry III. In an excellent chapter Dr. Gasquet has told us how it was attained. At one time King John said that with the common consent of his barons he had resigned his crown into the hands of the papal legate, and at another that it was by divine inspiration he had done so. Dr. Gasquet takes leave to doubt the truth of the King's first assertion, and an old historian like Jeremy Collier was obliged to remark on the second

that it was an odd stretch of the supremacy to make John 'a vassal and a hypocrite at the same time.' But perhaps on one proposition all shades of opinion may agree. If one King with or without the consent of his subjects could place the kingdom under the suzerainty or overlordship of a foreign authority, there can be no serious opposition to the subsequent occurrence in English history when that surrender was definitely annulled, and the kingdom withdrawn by future sovereigns. It is no fault of Dr. Gasquet's work that he has confined himself to a single reign, though one would have wished to see the larger issue discussed with more comprehension. The treatment of great questions piecemeal has evident drawbacks, and it makes little matter how independent and conscientious a writer may be, he is apt to leave behind him a wrong impression. There is nothing in these pages to warn the reader that the relations between England and Rome were not always so close during the medieval period. One lays aside the book with the feeling that the author had selected the reign of Henry III. as characteristic of 'the spiritual supremacy of the popes' in England before the ecclesiastical revolution in the sixteenth century. It is true that such did not come within the scope of the work, but when such prominence is given to the argument about papal supremacy, and every shred of conventional or euphemistic phraseology in official or complimentary letters is reproduced without abridgment, a word might have been said to indicate that the ecclesiastical policy of Henry III. was exceptional, and that succeeding kings were obliged to modify, limit, or reverse it as the requirements of church or state demanded.

It is a matter of taste whether Dr. Gasquet has adopted the best method of presenting us with an ecclesiastical history of the reign. Some readers might not be inclined to regard 'the spiritual supremacy of the popes' as a *vexata quaestio*, and in consequence they might not care to hear so many arguments in its support. On the other hand they might desire to know more of the results of the new policy on the religious condition of the people—the high spiritual advantages accruing to the English nation from its august vassalage to the Holy See. In vain will they look through these pages for any such presentation. Nobody with the documents before him can deny the almost unlimited power of Rome in England in the thirteenth century, and few students will be bold enough to say that the English Church had reached its highest level while the papal power was practically supreme. It is probable many will be found to agree with Matthew Paris that the devotion of the English clergy and people to their mother, the Church of Rome, and to their father and pastor, the Pope, was fast expiring after some experience of the actualities of subjection. But taking the book as a whole, and remembering the concessions that the author has made to those not likely to agree with him, one cannot withhold a word of praise for the diligent research manifest in every chapter, and the studied fairness with which one of the hottest of modern problems has been handled.

JAMES WILSON.

MAGNA CARTA : COMMENTARY ON THE GREAT CHARTER OF KING JOHN, WITH AN HISTORICAL INTRODUCTION. By W. S. McKechnie, M.A., LL.B., D.Phil. Pp. xix, 607. Demy 8vo. Glasgow : MacLehose, 1905. 14s. nett.

ALTHOUGH those who are least familiar with the contents of Magna Carta are among the most devout believers in its supreme importance as a bulwark of British liberties, it is not possible to scoff at an ignorance which has had the good sense to single out for imaginative notice just this particular document ; for it is a document which is an inexhaustible receiver of all the learning historians can provide, and still leaves room for ignorant imaginings. Truly to know Magna Carta, in all its forms, to know the Great Charters of the thirteenth century, and the Stewart idea of Magna Carta, and to-day's idea of Magna Carta, is to know as much constitutional history as this country can afford. It is the real Magna Carta and the Magna Carta as seen through the centuries that Dr. McKechnie has commented upon in over 600 pages, yet deeply as he has studied his subject we doubt not that he would be the first to admit that it is not exhausted. To commentary on Magna Carta there is no end, but we question whether another commentary will venture to attempt to displace this one until some generations of historical students have been at work on new material. Dr. McKechnie has searched far and wide, especially among all manner of English sources, in pursuit of his laborious enquiry ; and if in variety of legal opinion there is wisdom, the means to wisdom are provided. The arrangement of the book entails some repetition, and some matter which can hardly be regarded as essential to the main purpose of the book has been included, but the commentary is unfailingly suggestive, and contains much that will be new even to specialists. Papers which have appeared since the publication of the work have already carried historical knowledge a stage further in one or two directions ; for instance, on the subject of the Council of St. Albans or the history of the persons proscribed by the charter, but to point this out is only to prove that most additions to our knowledge of the thirteenth century are additions to our knowledge of the charter. Point after point of the detailed commentary will have to be weighed by those who are engaged in teaching constitutional history by means of 'Select Documents.' A single instance must here suffice : in the very elaborate discussion of the difficult chapter which treats of the 'judicium parium' the author rejects the explanation offered by Mr. Pike, which seemed likely to find adherents, namely, that the 'judicium parium' is the judgment of the feudal court, and is contrasted, not coupled, with the 'lex terrae.' Dr. McKechnie, on the contrary, takes *vel* as a subdisjunctive, and translates *and*, a translation for which a passage in the *Dialogus de Scaccario* will give warrant. He illustrates in a particularly successful way, from statements closely contemporary, what he believes to be the true drift of the clause, that judgment must precede execution. The judgment is not to be the judgment of inferiors, and the accused shall have the customary means of proof, battle, ordeal, compurgation, inquest. Careful attention is given to the important question who was the *liber homo* whom Magna

Carta was intended to benefit. The commentator, whose open-mindedness never fails him, weighs with equal respect Stubbs' singular remark that the villeins obtain little notice in the charter because 'they were free from the more pressing grievances,' and Mr. Jenks' equally remarkable utterances on the purely selfish purpose of the baronial drafters of the document. When the use of the word *liber homo* in documents closely contemporary is considered, there seems to be less cause for hesitation over the question of his position than Dr. McKechnie is prepared to admit.

Little opportunity indeed for rhetoric does the real Magna Carta allow, and Dr. McKechnie deprives us of a last chance even over the concluding clauses, which he pronounces 'unpractical.' On this and a few other matters of opinion, as well as on a few matters of fact, the reader may be inclined to differ from the author, but anyone who turns to these pages for help in particular difficulties will find enough to persuade him that he had better read every section. There is a very serviceable index and appendix of illustrative materials.

MARY BATESON.

A HISTORY OF ACCOUNTING AND ACCOUNTANTS. Edited and partly written by Richard Brown, C.A., for the Chartered Accountants of Scotland. Pp. xvi, 459. 8vo. Edinburgh: T. C. & E. Jack, 1905.

THE art of setting out accounts and of examining them when presented as a record of transactions must have been in existence from the time that accounts began to be kept, but apparently no history of Accounting and Accountants has hitherto appeared. The present work is intended to fill the gap, and contains much interesting and well-ordered information. It commences with a chapter on numeration, excellent so far as it goes; but it might perhaps have been usefully extended so as to give some account of early arithmetic, and to explain how the ordinary operations of that art were performed with the cumbrous notation of the Greeks and Romans and to trace the development of the existing rules after the introduction of the Arabic notation. The ancient systems of accounting are well and adequately explained in so far as concerns public revenues. Something further might have been said as to the manner of keeping private and partnership accounts amongst the Romans. The next chapter on the early forms of accounts is particularly good. Without being too recondite or technical the method of stating accounts in use in this country from the earliest times is lucidly detailed, and the various improvements from time to time introduced are noted. From the forms of accounts the same author proceeds to auditing. This chapter, however, deals with the fact that accounts were audited, rather than with the manner in which the audit was conducted, and is limited to public accounts.

A history of Accounting must necessarily include that of Book-keeping. Two chapters are devoted to it, and they give the best and fullest account of the subject that has appeared in the English language. They have the advantage of being written by one who is practically conversant with all the details of Book-keeping, and who is consequently able to

grasp the salient points in each of the works he deals with and to compress a great deal of matter into comparatively short compass. The chapter on Early Italian Accountants is interesting and very much to the point, and the reader will wish that it had been longer.

From medieval Italy to modern Scotland is a long leap, but we are asked to make it. The next portion of the volume is devoted pretty much to the recent history of accounting or rather of accountants in Scotland, as well as in England, Ireland, the British colonies, and foreign countries. In reality it is pretty much a history of the chartered societies.

The Appendix contains a chronological list of printed books on Book-keeping up to the year 1800. This is founded principally upon the *Elenco Cronologico delle opere di computisteria e Ragioneria venute alla luce in Italia*, prepared by Giuseppe Cerboni and issued by the Italian Government; and the list given in the late Mr. Benjamin Franklin Foster's *Origin and Progress of Book-keeping*. This list contained only the books which Mr. Foster had in his possession or had passed through his hands, and was necessarily therefore imperfect. Some additions have been made, but the list is still far from being complete even as regards English works. Why it should stop at the year 1800 is not explained, and that it does so detracts greatly from its value. Seeing that the professed object of the work is accounting, this bibliography should surely have been supplemented by a bibliography of accounting. Even if nothing further had been done than to bring together the titles of the works referred to in the foot-notes this would have formed a serviceable list, and it could have been enlarged without trouble.

The lists of deceased Scottish Accountants are useful, but necessarily imperfect, as until within the last few years there was no official register. They have evidently been prepared with much care; but we need scarcely add that with the greatest care and trouble mistakes will creep in. For instance, Ludovic Grant is said to have died at Smithfield, September 3, 1793. It is true that a gentleman of this name died there on the date stated, but it was not the Edinburgh accountant. The latter died at Edinburgh, 17th September, 1792. The former was a well-known writer in Edinburgh and solicitor to the window-lights.

The chartered societies are to be congratulated upon the appearance of this work, which goes far towards accomplishing the object aimed at.

DAVID MURRAY.

NORTH AMERICA. By Israel C. Russell. Pp. viii, 435. Oxford: Henry Frowde, 1904. 7s. 6d. nett.

THE 'Regions of the World' series of volumes issued by the Oxford University Press is already well known as expounding the new Geography—applied Geography, Biology, and Ethnography—which is very different from the dry-as-dust subject that has been wont to masquerade in our schools under the title of Geography. Professor Israel Russell's volume on North America is well fitted to rank alongside Mr. Mackinder's interesting

work upon the Geography of Britain, though perhaps less complete and comprehensive, owing no doubt to the fact that limitation of space compelled the author to excise several entire chapters of the work as originally planned. The book as published is divided into eight chapters dealing in turn with (1) The Physiography of the marginal zone of the Continent, with its projecting submarine shelf; (2) The general topography of the Continent; (3) Climate; (4) Plant Life; (5) Animal Life; (6) Geology; (7) Aboriginal inhabitants; and (8) Political Geography. All of these are to be commended for their interest; and in many passages the graphic descriptions bear witness to the author's intimate personal knowledge, gained doubtless in great part during his work as a field Geologist. It is perhaps the last two chapters which call most for special remark in this review. In that dealing with the aboriginal inhabitants, the author first considers the general problem of the antiquity of Man on the North American continent. He shows that there is not as yet any trustworthy evidence of the existence of Man on that continent until after the close of the Glacial Period. But while the evidence of the existence of Man is confined to times which are Geologically recent, it yet extends to periods historically very remote. Taking the highly reliable evidence afforded by language, looking to the wonderful diversity amongst native tongues of America, and the absence of any signs of affinity with the oldest known linguistic stocks of the Old World, the conclusion is unavoidable that Man 'set foot on American soil before the sprouting of the linguistic twig, which, after millenniums, produced the cuneiform inscriptions of ancient Persia and Assyria.' General Ethnographical evidence entirely supports this view—the evidence of beliefs, arts, customs, the presence of domesticated animals and plants evolved independently of those of the Old World. Perhaps the author goes too far in saying that the domesticated animals are 'with not even a single exception' peculiar to the Continent, for the existence of a purely native name for 'dog' in various American languages seems to point to that animal having been domesticated by the Aborigines of America long before the advent of Europeans.

In passing, the author takes occasion to draw attention to the misleading use of the too persistent terms 'Stone Age'—with its subdivisions paleolithic and neolithic, 'Bronze Age,' and 'Iron Age,'—pointing out that classification of this artificial character would bracket together as of equal stages in development the lowest American savage and the highly civilized Aztec or Maya.

After treating of such general topics, the author proceeds to more particular descriptions, and makes a survey of the two main groups of aboriginal inhabitants—Eskimo and Indian—and of their chief subdivisions, giving in concise and interesting form an account of their more prominent physical and ethnological characteristics.

The concluding chapter on Political Geography is disappointingly short, most of it being taken up with a discussion of ideal and other methods of forming political boundaries. Finally, the conclusion—for which much is to be said and which is certainly pardonable in a citizen of the United States—is reached that 'the Continent, as shown by its geology

and geography, is a unit,' and that 'the one boundary in North America should be the Shore boundary, except at the thirty-mile-wide Isthmus of Panama.'

In the other chapters of Professor Russell's work much valuable information will be found set forth in thoroughly readable form. There are powerful appeals to the imagination in some of the physiographical facts described, such as the submerged valley of the Hudson, passing far out under the Atlantic in a great cañon over 2500 feet deep and three miles wide, or that of the St. Lawrence extending right out to the brink of the continental shelf some 200 miles to the eastward of Nova Scotia. And in the chapter on Animal Life, after an interesting account of the more prominent wild mammals, we find a charming passage describing with the touch of an enthusiast the Spring time music of the Bird inhabitants—how in the New England woods the twittering of the birds at the first flush of dawn gradually swells up with the songs of hosts of warblers and thrushes till the air pulsates with music, and how, as the dawn speeds westward over the continent, it is preceded by the wave of song induced by its coming, which ceases only when the sea-birds of the Pacific take up the note that was dropped on the distant Atlantic coast.

J. GRAHAM KERR.

A STUDENT'S HISTORY OF SCOTLAND. By David W. Rannie, M.A.  
Pp. x, 300. With 4 maps. Cr. 8vo. London: Methuen & Co.,  
1904. 3s. 6d.

SCOTTISH students of history probably will not approve of this any more than of most previous attempts to sketch the history of their country. But, for the practical purposes of the schoolmaster Mr. Rannie's work is the most likely book that has yet appeared. The drawback of Scottish history for young students is the amount of mere antiquarianism that it necessarily contains, which, however inspiring for purposes of patriotism, is deterrent from the educational point of view. Mr. Rannie has striven to overcome this difficulty by writing from the standpoint of the relations between Scotland and England. If the study of English history is hampered by too insular a view, the intelligent appreciation of Scottish history has from the same cause become almost impossible. Mr. Rannie pleads for the study of two kindred developments, one on either side of the Tweed, and his little book of 300 pages should help to make this possible. It is clearly conceived and readably expressed, and the maps are sufficient. A map of ecclesiastical Scotland might have been added with advantage. Scotland was not so isolated before the Reformation as she became afterwards, until the Union drew her once more into commercial connection with outside lands. The story closes necessarily, from the writer's point of view, at 1746. If there ever is to be a school of historical study in the Scottish Universities, the foundation for it must be laid in the secondary schools by the inculcation of a suspension of moral judgments. With such judgments the historian has nothing to do. Mr. Rannie knows this and strives to remember it.

DUDLEY J. MEDLEY.

LOGIE: A PARISH HISTORY. By R. Menzies-Fergusson, M.A., Minister of Logie. Vol. ii. pp. 319. With 23 illustrations. Crown 4to. Paisley: Alexander Gardner, 1905. 15s. nett.

THIS handsome volume worthily concludes Mr. Fergusson's account of the parish in which he is happily settled. The first volume, which was noticed in the *Scottish Historical Review* for July last, dealt very fully with the ecclesiastical annals of the parish, and the present volume may be regarded as giving its civil history, although the method adopted by the author necessarily omits some of the phases of parochial life. He takes up in the order followed in the Commissioners' 'Report on the Kirk and Parish of Logie,' prepared in 1627, the various estates within the parish bounds, and gives an exhaustive account of the lands and their owners, derived from historical sources, the charters and other writs in the possession of the present proprietors, and public and private records. This plan has the advantage of affording easy reference to the families which have been connected with Logie from an early period, and genealogists will find information about pedigrees which has not hitherto been available, although there is still room for additional labour to fill up the blanks in several of the charts here published for the first time. Among the holders of land in the parish, as Mr. Fergusson mentions in his preface, will be found the Stuart Sovereigns, some of the ancient religious houses (to wit, the Abbey of Cambuskenneth and Cistercian Nunnery of North Berwick), and many of the noblest and oldest families connected with the Scottish nobility. The Grahams of Montrose, the Shaws of Sauchie, the Stirlings of Ardoch and Keir, the Erskines of Mar, the Drummonds of Perth, the Setons of Touch, the Murrays of Tullibardine and Polmaise, the Hopes of Hopetoun, the Campbells of Argyll, the family of Dundas, the Earls of Stirling and Strathearn, and others, appear in close relation with the civil history of Logie. A wider interest therefore attaches to Mr. Fergusson's work than its title would indicate. It is remarkable how many eminent Scotsmen come within the author's purview, and their achievements are noted with a proper pride. No one who peruses these pages can fail to be impressed with the industry of which they are the product, while evidence is not wanting of Mr. Fergusson's carefulness and anxiety to be accurate. Some of the smaller details, indeed, might have been omitted without injury to the volume. Taken as a whole, the value of the work as a parish history on modern scientific lines can hardly be too highly estimated. A popular account of the geology of the parish is supplied by Mr. D. B. Morris, Town Clerk of Stirling, and there is a list of place-names, with interpretations of their Gaelic origins which may provoke criticism. The illustrations include reproductions of portraits of the famous Abercrombys of Airthrey, and two interesting old maps. The index is deserving of praise.

W. B. COOK.

COMPANION TO ENGLISH HISTORY (MIDDLE AGES). Edited by Francis Pierrepont Barnard, M.A., F.S.A. Pp. xv, 352. Crown 8vo. With 97 illustrations. Oxford : Clarendon Press, 1902. 8s. 6d. nett.

WITHIN the compass of 350 pages the historical student will find essays on such subjects as architecture, costume, army and navy, town and country life, monasticism, trade, learning, art, to which, in the ordinary narrative histories allusions are so tantalisingly scanty. Each section is the work of a separate writer, and, where there is so much ground to cover, great restraint has been necessary. Twenty-four pages is a short allowance for a description of the ecclesiastical architecture of the Middle Ages, but by the aid of careful arrangement and well-chosen illustrations, the salient features are impressed upon the reader's mind. The names of most of the writers are a guarantee of the quality of the work—Professor Oman on Military Architecture, Mr. Townshend Warner on Country Life, Dr. Jessopp on Monasticism. The bibliography at the end of each article is within the compass of anyone who has access to a good library.

DUDLEY J. MEDLEY.

It is a pleasure to find such excellent Readers available for use in schools as the Scottish Edition of *Macmillan's New History Readers*. The appearance of the four books : Primary, Junior, Intermediate, Senior, is itself a recommendation ; they are beautifully printed and illustrated, and tastefully bound, while the subject matter has been well chosen and skilfully graded. A common and fatal error in such books is to pack them too full of facts, with the result that they are distinctly dull ; here, while a sufficient amount of information is given, mere knowledge has not been allowed to interfere with the more important end of making the subject really interesting. The concentric method has been adopted with very happy results, and the history lessons have been correlated with geography. Geographical details are best learned in their associations, and one would fain hope that few teachers now condemn their pupils to commit to memory barren lists of names. In deference to the feelings of those that object to the constant use of the words England, and English, when the British Islands and their inhabitants and interests are being spoken of, the words Britain, Britons, and British, are used. These terms are not free from objection, for the population of these islands consists of Britons, Gaels, Jutes, Angles, Saxons, Danes, Norsemen, etc., and a common name is not easily found. Useful summaries are provided of the Junior, Intermediate, and Senior Readers.

A. M. WILLIAMS.

From the Proceedings of the British Academy comes *Ernst Curtius* (Oxford University Press, pp. 24, 1s. nett), being Dr. Thomas Hodgkin's sympathetic memoir of the great historian of Greece (born 1814, died 1896), who, although an idealist in his writings, did so much on the severely practical modern line of classical research by excavations.

Our contributor M. Étienne Dupont has compiled a *Bibliographie Générale du Mont Saint-Michel* (8vo, pp 62; Avranches, Jules Durand, 1905), being a hand-list of (1) special works, (2) journal articles, and (3) early MSS. relative to the famous rock fortress and abbey. He begins by claiming that in literature the Mont is a cycle. This he proves amply, although his list needs large addition of romance works, French and English; for the place had a poetic renown on both sides of the Channel wider than this useful preliminary bibliography evinces. One interesting Scots item occurs regarding Scottish prisoners in the Mont in 1547, being a reference to the *Revue de l'Avranchin* (tome xi. No. 1, p. 40).

We have received new editions of *Life of Mansie Wauch*, with the Cruikshank illustrations (Blackwood & Sons, 2s. 6d. nett), and the translation of Goethe's *Faust* by Anna Swanwick, with an introduction by Dr. Karl Breul (George Bell & Sons, 2s. nett). These are both pretty volumes and handy in size. We have also to acknowledge *Notes and Queries for Somerset and Dorset* (Sherborne, J. C. & A. T. Sawtell), and *Berks, Bucks, and Oxon Archaeological Journal* (October), with good accounts of castles and churches. Among pamphlets received is *The Hungarian Diet of 1905*, compiled by A. B. Yolland (Budapest, Franklin Society, 1905), a curious manifesto containing the Hungarian protest and constitutional claim in the present difficulty with his 'apostolic majesty' the king. Also a social science monthly, *Kritische Blätter für die gesamten Sozialwissenschaften* (Dresden, Boehmert), bibliographical and critical in its scope. To the Hawick Archaeological Society Mr. J. B. Brown recently communicated a detailed article on the French troops in the Borders in 1548, containing extensive translations from Jan de Beaugué's *L'Histoire de la Guerre d'Escoffe*, first published at Paris in 1556. He has favoured us with a reprint. Mr. Brown's rendering of the French is free and vigorous, although far from exact. The general events of the Scottish campaign are well traced.

In *The English Historical Review* (Oct.) Mr. W. T. Waugh traces to its close the Lollard career of Sir John Oldcastle, and Professor E. P. Cheyney tackles a difficult theme—to determine the state of international law under Elizabeth, especially in sea causes. The results are more on the side of light than the deeds of the sea-dogs on the Spanish Main and elsewhere might have led us to anticipate. Mr. R. W. Ramsey finds in the church records of Houghton le Spring in Durham much curious information on rural life, prices, taxation, the parish share in the civil wars, the Solemn League and Covenant, the church collections and doles, the library and the epitaphs of the place from 1531 until 1771. The list of bellringings is oddly instructive: the bells followed the politics of the Vicar of Bray. On the subject of the alleged Norman origin of 'Castles' in England, an important discussion appears, presenting both sides, with an editorial footnote containing the gist of the original contributor's rejoinder. Dr. T. Davies Pryce, while agreeing with Mrs. Armitage that the Normans erected *mottes* during and after the Conquest, dissents

from the assumption that they were then novelties in England, and assails her position as regards several specific places in England, Wales, and Ireland. Mrs. Armitage's answer upholds her previous statements in the instances impugned, although she does not pretend to offer conclusive evidence that there were no private castles in England before the Conquest. On the other hand, Dr. Pryce's counter-argument scarcely appears to go so far as to challenge the proposition that the *motte* type is Norman and to be interpreted as such in British history. Mr. H. W. C. Davis debates the 'unknown charter of liberties' which Mr. Round first edited and which has since been discussed by Mr. Prothero, Mr. Hall, and Mr. McKechnie as relative to Magna Carta. He concludes, a little differently from Mr. McKechnie, that the unknown charter is intermediate between the Articles of the Barons and the final Great Charter.

We congratulate and heartily welcome the *Modern Language Review* (Cambridge University Press) on its fresh start as a specialist journal of research and investigation, largely on themes of English language and literature. In the first number we note as on historical lines Mr. Paget Toynbee's paper tracing Dante's English translators of the eighteenth century, Mr W. W. Greig's discussion of the authorship of songs in Lyly's plays, and Miss Crosland's editing of a fifteenth century German version of the widespread legend regarding a thief on the gallows who is miraculously kept alive by the Virgin for three days, when he confesses, receives the host, and goes to heaven.

*The Reliquary* has a budget of capital pictures with letterpress equally informative. There are glimpses of old ploughs, yokes, ox-shoes, and flails; there are fine examples of renaissance medals of Christ; and the sculpturings of the caves at East Wemyss are presented with cognate ornaments from Norries Law. A Norman font from Thorpe-Salvin, Yorkshire, is shown, representing the Four Seasons of the year,—a subject which, as Mr. Romilly Allen says, is rare in Norman sculpture in England.

In *Scottish Notes and Queries* (Aberdeen, Rosemount Press) for October, Mr. J. M. Bulloch traverses in some detail the points alleged against his views by Mr. A. H. Millar in our columns (*S.H.R.* ii. 192), and advances examples of confusion between 'Bulloch' and 'Balloch.'

*The Celtic Review* has from time to time notable Gaelic matter, such as Professor Mackinnon's editing of an old Irish tale from the Glenmasan MS. and Mr. Macbain's study of Highland personal names.

In the *American Historical Review* for October Mr. James F. Baldwin shows that current views of the history of the king's council in fourteenth-century England require to be modified, and that its organised development dates considerably earlier than the time assigned by Sir Harris Nicolas. Professor E. P. Cheyney brings out a curious feudal connection between the United States and the county of Kent in the fact that charters by James VI. and I., Charles I. and Charles II., of Virginia, Massachusetts

Bay, the Carolinas, and other lands in America, were granted, to be held of the King of England 'as of the Manor of East Greenwich in the County of Kent in free and common soccage.' This tenure derives from the residence of the Tudor sovereigns at Greenwich, whence it passed into common form in the grants of crown lands, and continued when James and his successors had ceased to favour Greenwich as their home. Mr. Paul van Dyke discusses Maximilian I. as author. Mr. Goldwin Smith sets forth Burke's views of party, and Cap. Mahan examines, with special reference to their American aspects, the negotiations for the Treaty of Ghent in 1814. There is a notable review of M. Henry Vignaud's *Études Critiques sur la Vie de Colomb avant ses Découvertes*, which appears to make clear some places darkened by diplomatic inaccuracies, for which Columbus himself is made to answer. The explorer, however, was neither the first nor the last to coin or countenance genealogical fiction.

The *Revue Historique* (Sept.-Oct.) is chiefly concerned with Rousseau in Geneva and Napoleon in Italy. A critical survey of medieval studies in French history lays stress on the pagan origins of the Ordeal among European institutions. The Nov.-Dec. issue has a full and careful paper on Marie de Médicis.

In a critique in the *Revue des Études Historiques* (July-August) M. Louis Madelin examines from an opposite angle M. Coquelle's *Napoléon et l'Angleterre, 1803-1813*, especially as regards the rupture of the Peace of Amiens.

The *Analecta Bollandiana*, published quarterly at Brussels by the Société des Bollandistes, carries on a noble tradition in all that concerns hagiology. Issues of July and October, 1905, contain, besides minor texts of the lives of saints, an important series of catalogues of hagiographic manuscripts in various libraries, viz., those of the chapters of St. Peter in the Vatican, of St. John in the Lateran, and of St. Mary Major, as well as those of the Bollandist Library itself. These are accompanied by a valuable bulletin of hagiographic publications containing a useful survey of historical and critical studies all over that special field. Among British subjects of discussion we note, p. 393, a commendation of Harnack's 'ingenious exegesis' relative to the letter of King Lucius to Pope Eleutherius referred to by the Venerable Bede (*Hist. Eccl.* i. cap. 4). By the new reading of Bede's supposed source, the words *epistulam a Lucio Britannio rege* are interpreted as referring, not to a British king at all, but to a historical potentate of Bithra in Edessa—a Mesopotamian realm, whose actual sovereign was Lucius Aelius Septimius Megas Abgarus IX. Authorities have for a while regarded Lucius, the so-called first Christian king of Britain, as a merely fabulous monarch: the merit of Harnack's explanation is that it so reasonably accounts for the misconception which gave him birth. Geoffrey of Monmouth, it may be remembered, declared him the son of King Coilus, to whom Boece and Buchanan and Burns have given local habitation and poetic name and fame in Kyle. A less

complete process of disillusion is seen in progress in pp. 397-99, where St. Alban, the proto-martyr of England, threatens to fade into a shadow-picture of Saints Irenaeus and Symphorian. A few pages further on (pp. 510-12) it comes to a Scottish saint's turn, and there are debated the rival claims of the Breton St. Servais and our St. Serf or Servanus. The latter appears to get short shrift from Monsieur l'Abbé L. Campion: 'quant à Servanus' (says the abbé's critic in the *Analecta* setting forth the abbé's conclusions), 'très probablement il n'aurait jamais existé.' But the critic is far from satisfied with the abbé's argument, and our saint of Loch Leven still lives. However, he is challenged by his namesake of the town of St. Servan in the department of Ille-et-Vilaine (see *Annales de Bretagne*, tome xix. pp. 321-63, 565-600, 629-30, *Revue de Bretagne*, tome xxxi. (1904) 491-97). It is a sign of our emancipated time that the Society of Bollandists can with the most cheerful historic impartiality contemplate such sacrifices as these would imply on the altar of the higher criticism.

*Englische Studien* (Leipzig, O. R. Reisland) in its August issue has a long and important article, 'A History of Pastoral Drama in England until 1700; by Josephine Laidler.' Retracing the origins of Italian pastoral drama to the classical bucolic eclogue, Miss Laidler shows its evolution through the *Orfeo* of Poliziano (1474) in the pastoral romance, the *Arcadia*, of Sannazzaro (1504), and the subsequent experiments of Sidney Peele and Lyly with the definitive work of Sidney, the *Arcadia* of 1590, which so powerfully influenced English literature. During the seventeenth century numerous plays attested the pastoral fashion, and one and twenty of them, by authors from Daniel (1606), and Fletcher (1610), and Jonson (1637)—when this type of play was at its best—down through Heywood and Cowley (1638) to Flecknoe (1664) and Oldmixon (1697) are analysed by Miss Laidler. She perceives the increasing sophistication of the age as the cause of progressive decay, although she rightly maintains that the great charm of the finest pastoral plays being poetic, not dramatic, the human element vital for the stage was necessarily absent, and the fates were contrary. Miss Laidler's well-documented study calls for hearty praise were it only for its helps to the criticism of Allan Ramsay's *Gentle Shepherd* (1725) and its contribution to the illustrious pedigree of the rustic figures of Patie and Roger. The November issue has a good note on the *Brut* and the Havelok saga. A Scottish question of interest is asked by Dr. W. Bang, who seeks to know the whereabouts of the MS. dating circa 1513 of the *Priests of Peebles* alluded to in Laing's preface to that poem. The immediate point involved is the relationship between the moral interlude *Everyman* and the third tale of the *Priests of Peebles* in view of the marked allusion in the line:

'And summond this riche man we of reid.'

Perhaps it may be well for our German friends to look at Mr. Renwick's *Peebles: Burgh and Parish*, pp. 55-57, regarding the possible identification of the three priests as helping to fix some dubious dates.

## Queries

**ADDER'S HEAD AND PEACOCK'S TAIL.** Ought not the last line of Ian Lom's poem (to which Mr. Millar, in his interesting 'Killiecrankie described by an Eye-witness,' in last number of the *S.H.R.* p. 10, refers as an 'obscure metaphor') to be rendered, 'With an *adder's* head it will have a peacock's tail'? I presume the word in the original is *nathair* 'adder,' which is also, of course, the general word for 'serpent' or 'snake,' the adder being perhaps the only representative of the serpent or snake family known to the Gael; but in English the harmless 'snake' is usually differentiated from the venomous 'adder' or viper. In Macleod and Dewar's *Dictionary*, English-Gaelic part, I find 'adder' rendered 'nathair,' but 'snake' explained as *gné nathrach gun phuinnsein*, 'a kind of adder without poison.' The rhetorical antithesis between the stinging and venomous adder's head, and the harmless and brilliant peacock's tail is well known to me, as I suppose it is to most Scotchmen, in the weather adage which I used to hear annually when a youth in Teviotdale, 'March comes in with an adder's head, and goes out with a peacock's tail.' I remember how surprised I was to find this supplanted in the south of England by the much less picturesque 'March comes in with the lion and goes out with the lamb.' One would like to know the historical relation between the Gaelic and Lowland Scotch versions of the expression: is the Lowland Scotch a translation from the Gaelic, or is the latter taken over from the Lowland speech? How old is the peacock in Scotland? When is it likely to have been first known in the Highlands? It was no doubt introduced from the south, and known in the Lowlands earlier than in the *tir nam beann 'us nan gleann*. So that the antithesis of peacock's tail with adder's head may have arisen first in the Lowland tongue. But can any example of the Lowland use be found older than, or as old as the Gaelic of Ian Lom?

Oxford.

JAMES A. H. MURRAY.

**CAMPBELLS OF ARDEONAIG.** According to Miss M. O. Campbell's *Memorial History of the Campbells of Melfort* Alexander Campbell of Ardeonaig married, 1666, Elizabeth, daughter of Robert Campbell of Glenlyon, by whom he had two sons: Colin, who succeeded him, and John, baptised 1677; but the Perthshire Sasines show that Alexander Campbell married, first, Jean, daughter of Colin Campbell of Mochaster, contract dated October, 1665, secondly, Elizabeth, eldest daughter of Robert Campbell of Glenlyon, contract dated 8th September,

1686. Which was the mother of his two sons? There is some reason for believing that the above date 1677 may be a mistake for 1697.

A. W. G. B.

ABBOTS OF THE HOUSE OF DUNDRENNAN. I should be glad of any additions to the following list. The numbers in front of the names indicate the order in which Mr. Æneas B. Hutchison has placed the abbots in his work on the Abbey:

1. Silvanus, 1142-1167. Translated to Rievaulx.  
Galfrid, c. 1617-1214. (Chancery Misc. Portfolios, 41/125.)
2. Geoffry, 1222. Died at Alba-ripa (*Mel. Chron.*).
3. Robert Macussal, 1223. Created abbot 5th Jan. (*Mel. Chron.*).
4. Jordan, 1236. Deposed (*Mel. Chron.*).
5. Leonas, 1236. Elected 7th May. 1239 Translated to Rievaulx.
6. Richard, 1239. (*Mel. Chron.*)
7. Adam, 1250. Died (*Mel. Chron.*).
8. Bryan, 1250. (*Mel. Chron.*)  
Walter, 1296. (Ragman Roll.)  
John, 1305. (Charter 33, Edw. I. m. 3.)  
Giles, 1347. (*Papal Registers* of Clement VI.)  
Patrick McMEn, 1426. (Olim Abbate. *Reg. Mag. Sig.* 185.)
9. Henry, 1437. (*Statistical Account of Scotland.*)
10. Thomas was abbot fifteenth century.
11. John Maxwell, 1525. (*Monastic Annals of Teviotdale.*)  
Adam Blackadder, 1559.
12. Edward Maxwell, 1584-1595.  
John Murray, 1598.

The Hayes, Bakewell, Derbyshire.

HENRY A. RYE.

[Undernoted are four additions to our correspondent's list:

- William, 1180. (*Acts Parl. Scot.* i. 388 (red ink).)  
 William, 1456, 1460. (*Exchequer Rolls*, vi. 191, 641.) 1473.  
 (*Exchequer Rolls*, viii. 164.)  
 James Hay (postulate), 1516, 1517. (*Reg. Mag. Sig.* iii. 145,  
 163.) (abbot) 1517. (*Exchequer Rolls*, xiv. 279.) 1524.  
 (*Exchequer Rolls*, xv. 84.)  
 Adam (commendator), 1543. (*Reg. Mag. Sig.* iii. 3106.)]

JOHN BUCHANAN, LAST LAIRD OF THAT ILK. Buchanan of Auchmar states that he died in December, 1682. Mr. Guthrie Smith in his *History of Strathendrick* says that he was dead before 6th September, 1681, but does not give his authority. It is certain that the Laird was alive in January, 1681, but was dead before January, 1683. Where and when did he die?

A. W. G. B.

## Communications and Replies

‘GRETNA GREEN AND ITS TRADITIONS.’ I desire to offer a few remarks upon the notice of this book which appeared in the *Scottish Historical Review* for October (Vol. iii. p. 125). Two excellent illustrations are reproduced, one of which is of a comparatively modern sculpture professing to represent the whole achievement of Johnstone of Gretna—the escutcheon displaying the paternal arms without difference, an esquire’s helmet with mantling, surmounted by a wreath on which is set the crest, and over all a scroll with the motto of that branch of the Johnstones—*Cave paratus*.

Johnstone of Gretna or Graitney appears never to have obtained a separate grant of arms, for although Nisbet says the arms of that branch of the clan were matriculated in the Lyon Register as *argent*, a saltire *sable*, on a chief gules three cushions *or* (*Heraldry*, i. 144), which are the arms of the head of the family, Johnstone of that ilk, they are not to be found there now. But Nisbet, writing before 1722, says he had seen another stone ‘in front of the house of Gratney,’ in which the saltire is given between two mullets or stars in chief and in base, doubtless for difference. Mr. G. Harvey Johnstone has discovered this stone lately, built into the wall of a barn at Old Graitnay farm, with the initials J. J. beside the shield (*Heraldry of the Johnstones*, p. 36). The puzzling circumstance is that, while the present Gretna Hall dates from 1710, the Johnstones had parted with the property before that date.

The other illustration reproduced from *Gretna Green and its Traditions* represents the famous Clochmabenstone, rightly so described under the print, but referred to in the text of the review as ‘the Lochmaben stane,’ by which name it is commonly called in the neighbourhood. I have not seen the book itself, and do not know whether the author explains the meaning of the name, which I was at pains to elucidate some years ago. It may be worth while to repeat very briefly the result.

Constantly as it is mentioned in early writings both as a trysting place for the muster of troops to undertake or repel invasion, and also for meetings between the English and Scottish Wardens to settle matters in their jurisdiction or to arrange the terms of truce, these were but episodes in the old age of the Clochmabenstone. In the *New Statistical Account* (1845) it is stated that this boulder was formerly the centre of a ring of large stones, enclosing about half an acre, removed in the operations

of agriculture. Thus this boulder was part of a prehistoric monument of the kind usually, though unwarrantably, called Druidic; probably sepulchral, marking the grave of a fallen chief. It may be observed in reference to its popular modern name, Lochmabenstane, that it is at least seventeen miles from Lochmaben, that there is no 'loch' near it, and that the true form of the name may be found in *Fœdera* (Vol. iii. part 4, p. 152) in connection with a meeting of commissioners in 1398 at Clockmabanstane. Here the prefix is the Gaelic *cloch* (in modern Gaelic *clach*), a stone, and the suffix is pleonastic, added, no doubt, when the English-speaking people of Dumfriesshire had forgotten the meaning of the prefix. Cloch Mabon, then, appears to be the stone or burial place of Mabon, just as Cloridrich, near Lochwinnoch, probably marks the burial place of Rydderch Hael, the Christian conqueror of Strathclyde.

Who was Mabon? Was he an individual, or is the name to be interpreted in the modern Welsh sense in which it has been affectionately conferred by the Welsh miners on Mr. Abraham Thomas, M.P., meaning a young hero?

Two individuals at least, named Mabon, are mentioned in the Welsh Bruts. The 31st poem in the *Black Book of Carmarthen* contains the following:

Line 11. 'If Wythnaint were to go,  
The three would be unlucky:  
Mabon the son of Mydron,  
The servant of Uthir Pendragon;  
Cysgaint the son of Banon,  
And Gwyn Godibrion

Line 21. Did not Manawydd bring  
Shattered shields from Trywruidd?  
And Mabon the son of Mellt  
Spotted the grass with his blood.'

The late Dr. Skene identified Trywruidd with Trathen Werid, the scene of King Arthur's tenth battle, fought in 516, taking it to be the same as the Treuruit of Nennius. He gave good reasons for supposing it to have been on the estuary of the Forth near Stirling.

One or other of these Mabons receives much more explicit mention in the eleventh and eighteenth poems of Taliessin, a bard who is known to have written in the sixth or early seventh century.

xi. line 26. 'A battle in a wood of Beit at close of day,  
Thou didst not think of thy foes:  
A battle in the presence of Mabon.'

This poem celebrates the deeds of Gwallawg ap Lleenag, who, it has been supposed, was that Galgacus whom Tacitus describes as fighting against Agricola in A.D. 80, the same as the shadowy King Galdus, whose name is still attached to the fine stone circle at Torhouse, near Wigtown—King Galdus's tomb. Dr. Skene identified the wood of Beit with Beith in Ayrshire, but it is just as likely to have been one of the

many places named after the birch in Galloway—Beoch, Dalbeattie, etc. Moreover in this poem two places in Galloway are specified as scenes of Gwallawg's battles, viz. 'the marsh of Terra,' now Glenterra or Glentirrow in Wigtownshire, and *pencoet cledyfein*—the woodhead of Cluden, near Lincluden.

xviii. line 17. 'A battle, when Owen defends the cattle of his country,  
Will meet Mabon from another country,  
A battle at the ford of Alclud.'

Alclud, of course, is Dunbarton; the topography of the next battle may be recognised pretty confidently as that of Mabon's own district on the Solway, which Owen invaded in revenge for the other's raid.

Line 23. 'A battle on this side of Llachar.  
The trembling camp saw Mabon  
A shield in hand, on the fair portion of Reidol.  
Against the kine of Reged they engaged,  
If they had wings they would have flown,  
Against Mabon without corpses they could not go.  
Meeting, they descend and begin a battle;  
The country of Mabon is pierced with destructive slaughter.'

Here Reidol seems to be Ruthwell on the east side of the Lochar (Llachar). The 'kine of Reged' are Owen's people from the district between Dunbarton and Loch Lomond, which was known as Reged. The poem goes on to tell of the total defeat of Mabon, 'about the ford of the boundary,' which may well have been on the Kirtle or the Sark.

Line 43. 'The resting place of the corpses of some was in Run.  
There was joy, there will be, for ravens.  
Loud the talk of men after the battle.'

Here, then, we may suppose that Mabon, the chief man of all that district, fell and was buried under the great stone close to 'the ford of the boundary'; a circle of smaller stones being set round for perpetual memorial. It may well be that Mabon dwelt beside the lake called after his name Lochmaben, and that 'loch' having remained in the lowland Scottish vernacular, while 'cloth' has disappeared from it, the similarity of sound in the two vocables has caused confusion between the residence and the burial place of Mabon.

HERBERT MAXWELL.

[Our Reviewer of this book (*S.H.R.* vol. iii. p. 125) writes:  
'Lochmabenstane' has been the standard form since the middle of the fifteenth century. (*Rotuli Scotiae*, ii. p. 413, 510; Bain's *Calendar*, iv. 1409, 1513.) The battle of Sark, fought in 1449, was by contemporaries styled 'the battell of Lochmabane stane.' (Asloan MS. (print) p. 18.) As to the etymology given above, the *cloth* is an old-established certainty, and the *maben* a suggestion to be considered with the others. (See Neilson's *Annals of the Solway*, p. 19.) As to Reidol I am obdurate.]

THE ANDREAS AND ST. ANDREW. Among the too scanty remains of Anglo-Saxon poetry is an interesting work, the *Andreas*, which treats of certain marvellous incidents in the legendary history of the Apostles St. Andrew and St. Matthew. It forms part of the great find made in 1822 by Dr. Blume at Vercelli, near Milan, of a manuscript volume, the Vercelli Book, or Codex Vercellensis, in eleventh century handwriting, of Anglo-Saxon homilies and poems. The poems are six in number and of supreme interest; they are *Andreas*, *Fates of the Apostles*, *Address of the Soul to the Body*, *Falseness of Men*, *Dream of the Rood*, *Elene*. Of *Andreas* sufficient will be said presently; here a word or two may be said about the others. *Fates of the Apostles*, in itself a somewhat dull collection of versified notes, has, if certain critics be right, an important bearing on the authorship of *Andreas*. Professor Gollancz regards it not as an independent composition but as an epilogue to *Andreas*, and at Vercelli, Professor Napier came upon a set of lines containing the runes of the name Cynewulf, a somewhat shadowy Anglo-Saxon poet, whom we know as the author of three poems—*Elene*, *Crist*, *Juliana*, from the fact that he has woven into each of them the runic spelling of his name. 'In the Vercelli book,' says Professor Earle, 'it occurs in the *Elene*, the last of the poems in the manuscript, and Mr. Kemble remarked that it was "apparently intended as a tail-piece to the whole book."' This naturally suggests the inference, which indeed is generally accepted, that all the poems in the Vercelli book are by Cynewulf. This poet's runic device affects us somewhat as when, at the end of a volume of Coleridge's poems, we come upon his epitaph, written by himself:

'Stop, Christian passer by!—Stop, child of God!  
And read with gentle breast. Beneath this sod  
A poet lies, or that which once seem'd he—  
Oh! lift one thought in prayer for S. T. C.'

But all critics are not prepared to allow the *Fates* to be tacked on to the *Andreas* (Professor Saintsbury is wicked enough to call it 'a process slightly suggestive of what is said to be occasionally practised on violins'), or to accept the incorporation in the *Fates* of the runic lines discovered by Professor Napier. If the two positions were accepted, the authorship of *Andreas* might be assigned to Cynewulf, and a hotly-contested point would be settled. *The Address of the Soul to the Body* in the Vercelli Book is in two parts, the first, the address of a sinful Soul, the second (a fragment) the address of a virtuous Soul. Another text of the first part is preserved in a noble volume of Old English verse, the Exeter Book, or Codex Exoniensis, one of the books gifted to Exeter Cathedral in the eleventh century by Leofric, tenth bishop of Crediton and first bishop of Exeter, and one is glad to have two texts of a deeply impressive poem. The main idea of the poem is exactly defined by Milton:

'when lust

Lets in defilement to the inward parts,  
The soul grows clotted by contagion';

while the grim realism with which here as everywhere our old poets treated war, storm and death, is faithfully reproduced by Tennyson :

‘Hark! death is calling  
While I speak to ye,  
The jaw is falling,  
The red cheek paling,  
The strong limbs failing :  
Ice with the warm blood mixing :  
The eyeballs fixing.’

The same stern, unrelenting treatment appears in *Andreas*. *Falseness of Men* is a fragment of a versified sermon on the 28th Psalm. For example, lines 15-18, ‘Mischief is in his heart, stained is his soul with sin, steeped in treachery, full of guile, although his outward speech is fair,’ expand the Scriptural passage—‘which speak peace to their neighbours, but mischief is in their hearts.’ This paraphrasing of Holy Writ is a leading feature of Anglo-Saxon Christian literature : it is prominent, for example, in *Andreas*. The *Dream of the Rood* deals with a subject that had been treated in an earlier poem, part of which is cut in runes on the Ruthwell Cross, and is regarded by some as an introduction to the *Elene*, whose subject is the finding of the true Cross, and which gives an account of Constantine’s dream in which he saw the Cross and was told ‘vinces in hoc.’

It will have been seen that the Vercelli Book contains an interesting body of Christian Poetry, and it may be convenient to deal here with a feature of the *Andreas* which is common in the Christian poetry of the Anglo-Saxons, the appearance, namely, of words and phrases reminiscent of the primary heathen poems. Conversely in the existing (revised) texts of the primary poems occur interpolations by Christian scribes designed to modernise the old-world paganism of these ancient compositions. In the *Dream of the Rood* Christ is spoken of as ‘a young hero,’ and on the other hand the old mythology crops out in the words spoken by the Cross. ‘I have endured many a cruel fate,’ where the word for fate is *wyrd* (weird), an ancient heathen term. *Widsith*, the tale of a wandering bard, is wholly pagan, but a Christian scribe had lodged this in his text :

‘This have I found on every hand  
Who empire holds from God above  
And lives a prince, is dear in love  
To those that dwell throughout the land.’

The magnificent story of *Beowulf*, one of the finest examples of heathen epic, has many interpolations. When mention is made of the birth of a son to the heathen King Scyld, it is said that God had sent him for a comfort to the people, that the glory which came to him was the gift of the Lord of Life, the Prince of Glory. And the heathen gleeman says :

‘God made the earth with beauty rife  
Which water clasps ; for beaming light  
The sun and moon, and earth made bright  
With trees and swiftly moving life.’

The fierce monster of the story, a terrible being named Grendel, is described as a descendant of Cain, and when an appeal is made to the heathen gods for protection against his ravages, the poet is made to say :

‘They knew not God to magnify :  
 The praise of God, of Glory King  
 And Judge of Deeds, they could not sing ;  
 They knew not Him who rules on high.’

It is rather interesting to collect from *Beowulf* instances of the expression of the same thought both in Christian and in pagan terms. Thus we find, ‘He that death takes must accept the Lord’s decree,’ and also ‘Fate goes ever as it must’; further on a king is urged to enjoy life’s pleasures till leaving to his sons folk and realm, he goes forth to see the Godhead, and just after this we read of a man that ‘Fate removed him.’ Scattered over the poem are such phrases as Holy God, Wise Lord, Eternal Lord, Ruler of the Skies, Almighty Creator, Ruler of Men, Ruler of Glory. *Deor’s Lament* is the complaint of a minstrel supplanted in his lord’s favour by a rival, the case of Cadwallon and Caradoc in Scott’s *Betrothed*. Otherwise heathen in sentiment and expression it contains this :

‘Then may he think that here below  
 God in His wisdom separates  
 The man on whom high honour waits  
 From him that bears a load of woe.’

In the *Wanderer*, a fine specimen of the Anglo-Saxon lyric, there is a curious blending of Christian feeling with laments for the destruction of human happiness by *wyrd*, and the poem closes thus :

‘’Tis well with him whose trust is sure  
 In Him who lives and reigns above ;  
 Who rests upon our Father’s love,  
 The rock on which we build secure.’

As might be expected, the *Charms*, going back as they do to the beginning of the English race, show in their present form abundant evidence of the priestly transcriber’s hand. Instead of attempting what would probably have been beyond their power, to banish charms altogether, the priests (who themselves perhaps were not wholly incredulous) sanctioned them in a more or less altered form. A *Charm for Bewitched Land* is a good illustration. Here is a passage, for instance, where new and old are curiously intermixed. ‘Take by night before dawn from four parts of the land four pieces of turf, and note how they were placed. Now take oil, honey, yeast, milk of every beast that is in the land, a bit of every tree that grows on the land, except hard beams, and a bit of every common plant, except only burdock ; pour holy water on them and three times on the place where the turfs were, and say, “Grow, multiply, and fill the earth. In the name of the Father, Son, and Holy Ghost be ye blessed.” Then say a *pater noster*. Now carry the turf

to the church, and let the priest sing four masses over it. Then turn the green part next the altar, and afterwards before sunset carry the turf where it was cut. Now make of aspen four crucifixes and write on them Matthew, Mark, Luke, and John. Lay a crucifix in each hole and say, "Cross of Matthew, Cross of Mark, Cross of Luke, Cross of John." Then above each crucifix place a turf and say nine times "Grow," and *pater noster* as often, etc.' Now compare with this another part of the charm, where the old heathenism is left almost untouched; I give Stopford Brooke's translation :

'Erce, Erce, Erce! O Earth, our Mother!  
May the All-Wielder, Ever Lord, grant thee  
Acres awaxing, upwards a-growing,  
Pregnant with corn, and plenteous in strength:  
Hosts of grain-shafts and of glittering plants!  
Of broad barley the blossoms,  
And of white wheat ears waxing,  
Of the whole land the harvest.'

To come now directly to *Andreas*. This is a poem of 1718 double lines, yet the poet is not satisfied that he has done justice to his subject. 'I now a while,' he says, 'have been setting forth in words the teaching of the holy one, the praise of the songs of him that wrought them, a task manifestly beyond my power,' and he deprecates the idea that he has knowledge to enable him to deal with more than a portion of St. Andrew's life. However, he must finish what he has begun, 'Yet will I still in little fragments words of song further relate.' And a wondrous tale he has to tell, opening it in the language of the old war-poetry. 'Lo! in days of old have we heard of twelve glorious heroes beneath the stars, thanes of God; their courage failed not in battle when helms crashed. Famed they were throughout the earth, leaders keen and bold, mighty men when shield and hand guarded the helm on the field of battle.' The Lord's decree sends St. Matthew to Mermedonia (Ethiopia), a land of cannibals, where he is thrown into prison, after being blinded and forced to swallow a drink

'whereof who drinks,  
Forthwith his former state and being forgets,  
Forgets both joy and grief, pleasure and pain,'

and is made 'to eat grass as oxen.' But in answer to his earnest cry and supplication, the apostle is protected against the evil influence of the potion, and a voice from heaven promises that St. Andrew will come to his aid. The scene now changes to Achaia, where a heavenly voice summons St. Andrew to set forth to rescue his fellow apostle, and rebukes him when he shrinks from the undertaking. After his first hesitation St. Andrew faces his duty manfully, and with his chosen companions makes his way to the shore of the loud-sounding ocean. There he finds a boat manned by three sailors of Mermedonia, and bargains for a passage.

Though the apostle does not know it, these sailors are God and two angels, and it is with curious feelings that one follows the conversation between St. Andrew and God, who is described as sitting on the bulwark above the tossing waters. Some difficulty seems to be caused at first by the poverty of the apostolic company, but on avowing themselves servants of Jesus Christ they receive a free passage. The voyage begins, and with that intense feeling for the sea which marks our oldest poetry, the poet introduces a splendid description of a storm.

‘The ocean tossed and boiled ; and through the waves  
The sword-fish glanced, and grey gulls wheeled in air  
Greedy of prey. The sun was lost in gloom,  
The gale swept roaring o’er the groaning ship,  
And there upon the hurtling billows rode  
In pomp of arms the Terror of the Deep.’

St. Andrew’s companions are terrified, but with the spirit of trusty warriors they refuse to be landed and separated from their leader. ‘Whither shall we wander lord-less, sad at heart, bereft of good, sin-stained, if we desert thee?’ The voyage is continued, and offers occasion for a long conversation, in the course of which St. Andrew is led to give an account of certain incidents in the life of Christ. Much of what the apostle says is mere paraphrase of the Gospel narrative, but there is matter whose origin must be sought elsewhere than in the canonical books. The following is, somewhat striking. To confound the unbelieving Jews, Christ causes two images of angels to descend from the wall of the temple and to testify to His divinity, and thereafter sends them to Canaan to summon from their graves Abraham, Isaac, and Jacob, who likewise bear witness to Christ. By and by a deep sleep falls on St. Andrew and his company, and in this state they are left on the shores of Mermedonia, where they slumbered ‘till God permitted the bright candle of Day to shine, and the dark shadows vanished among the clouds. Then came the Torch of the Sky, and its gleaming light flashed upon the house-tops.’ St. Andrew awakens first, and, rousing his companions, tells them his conviction that God himself had been their guide. These have had a wonderful dream. ‘Sleep fell upon us, sea-weary ones, then over the heaving waves proudly-plumaged eagles came flying, and on joyful wings the glorious, gracious birds bore our souls into the air, to where they lived ’mid tender love and hymns of praise, and ever-flowing streams of music.’ There they had a glimpse of the Paradise above, of God amid the countless thousands of His angels and the hosts of the redeemed in Heaven. Christ now appears to St. Andrew and bids him set himself to the rescue of St. Matthew, warning him of the perils he will encounter, but cheering him with the assurance that he will turn many souls to repentance.

We now reach the second part of the poem and return to St. Matthew. As invisible to mortal eye, St. Andrew approaches the prison where his fellow apostle is confined, the seven guards of the dungeon fall dead ; swift destruction seized these bloody men. At the touch of the Holy

Spirit the prison doors fly open, and St. Andrew entering in is joyfully received by St. Matthew, to whom sight has been restored, and who with his company departs praising Him who rules the destinies of men. St. Andrew is now to undergo sore tribulation. The day has come on which the cannibals were to feast on their captives, and wrath and consternation fall upon them at the death of the guards, and the escape of St. Matthew. They cast lots for a victim, and the doom falls on an old man, who gives up his son to be eaten; but St. Andrew uses his power to make the knife wax, and the lad is saved. The devil appears and denounces St. Andrew as the cause of all their trouble, and the apostle is seized and cruelly used. 'The body of the holy man was bruised, torn by many wounds, lapped in hot blood, which poured out in waves.' He is thrown into prison, and to enhance the horrors of the situation, the poet pictures a dreary winter scene. 'Snow wrapped the earth in winter weeds; fierce cold hail, rime and frost, subdued the land; chilling ice stilled the voice of the waters and mantled the sea.' For days St. Andrew was grievously tormented till 'his body weary with wounds recked not of the work' (a fine expression), and the saint cried to heaven, 'Look, O Lord, on mine affliction.' Fiends assail him, mocking and reviling him, but his faith and courage put them to flight. Yet the long agony has at last broken his patience, and in a bold outburst he makes his complaint to God and petitions for death. 'Thou thyself, O Saviour, after a day of pain didst cry on the Cross to thy Father, "Why hast Thou forsaken me?" and for three days I have endured deadly torments. I beseech Thee, O Lord of Hosts! that I may yield my spirit into Thy hand.' A heavenly voice proclaims that his warfare is accomplished, and as he looks on the track where he had shed his blood, he sees it thick with blooming groves. God visits the apostle in prison and comforts him, and he waxes well of his deep wounds. On the plain beside the city wall are two columns standing storm driven, and at the apostle's command they send a flood over the land. 'The foaming waters covered the earth, bitter was the mead after the day of feasting,' and as the poet remarks with savage irony, 'Soon there was drink for all.' The terror-stricken people implore help, and St. Andrew stills the storm. A mountain opened and swallowed the flood, along with the most malicious of the apostle's foes, while the rest of the people recognised St. Andrew as the servant of the King of all living creatures. At the apostle's prayer the drowned are restored to life and are baptised, a church is built, and Plato is appointed first bishop.

His work accomplished, St. Andrew returned to Achaia. His new converts accompanied him to the shore, and stood weeping as they watched him take his way across the path of the seal. There they praised God and sang:

'One Eternal God is Lord of all,  
In every land His might and power are known;  
His glory lives for aye in heaven above  
'Mong angel hosts. He is Lord and King.'

For more than sixty years the authorship of this interesting poem

has been matter of discussion, and at one stage it was assigned with some certainty to Cynewulf, for whom at the same time the critics constructed a biography extracted with much ingenuity from poems ascribed to him. Thus Grein identifies the poet with a Bishop Cynewulf, who from 737 to 780 was Bishop of Lindisfarne, resigned his office in 780, and died in 782 in retirement. He was expelled from his see in 750 by King Eadberht, and must have spent some years in exile. Born of an eminent and opulent family at the beginning of the eighth century, Cynewulf while a boy seems, agreeably to the practice of his time, to have attended one of the external secular Cloister Schools. The glad time of his ripe youth and early manhood he himself depicts in the first part of his Rhyming Poem, and to this time of keen pleasure belong, without doubt, the Riddles. But the day of joy and the brightness of youth passed away. Cynewulf entered upon the clerical life, and henceforth devoted himself to spiritual poetry. But after he became Bishop this high office seems to have brought him, in a highly-disturbed and fighting time, nothing but trouble and sorrow, and in this time of care and grief his poetic work may well have been for him a source of comfort and refreshment until he was afflicted by age, and weary of a troublesome life, resigned office, and retired to his native Ruthwell. Hammerich thought Cynewulf, in his younger days, was a wandering minstrel, and afterwards abandoned the secular life, and probably even became a monk. At all events, he was intimate with Holy Writ and several Church Fathers.

In the light of the assertions of Grein and Hammerich, it is interesting to note the undoubted source of *Andreas*. The *Andreas* is practically a rather close rendering of the πράξεις Ἀνδρέου καὶ Μαθαία εἰς τὴν πόλιν τῶν ἀθροποφάγων, one of the apocryphal acts of the Apostles, although the poet takes a free hand occasionally, as when he introduces the fine description of the storm at sea. The language of the original is far less impressive, but it is exceedingly naïve. Thus when St. Andrew pressed his followers on board the ship to take food that they might be able to bear the voyage, they could not answer him a word because they were troubled by the sea. This curious work, which would be known in a Latin translation to the author of the *Andreas*, is an illustration of the wild legends that grew up in response to a craving to know more of the holy men of old than the Scriptures tell. Another motive is indicated in Professor Earle's remark that 'the Greek romances of love and marvellous adventure were probably discountenanced in Christian families, and we may regard the secondary Apocrypha as a kind of pious substitute for such entertaining works of fiction.' In Alban Butler's *Lives of the Fathers, Martyrs, and other Principal Saints*, and in Baring-Gould's *Lives of the Saints*, are found many references to, and summaries of, these apocryphal narratives, and translations are given in Clark's 'Ante-Nicene Library'; the source of the *Andreas* is given in a handy volume, *Acta apostolorum apocrypha*, by Tischendorf. From the brief notices of St. Andrew found in the Bible, it is easy to infer that he was a fine type of man, alert, keen-witted, eager to bring men to Christ, and impressing himself on others as a leader. A native of Bethsaida,

he was a disciple of the Baptist, and heard his witness to Christ. 'One of the two that heard John speak and followed him was Andrew, Simon Peter's brother. He findeth first his own brother Simon, and saith unto him, "We have found the Messiah." He brought him unto Jesus.' At the feeding of the five thousand, it is St. Andrew who tells Christ of the presence of the lad 'with five barley loaves and two small fishes'; he is one of the four that make up the inner circle of Christ's disciples, 'Peter and James and John and Andrew,' and question the Master as to the significance of His prophecy of the ruin of the Temple; and again, it is to him Philip goes when certain Greeks came to Philip saying, 'Sir, we would see Jesus.' 'Philip cometh and telleth Andrew: and again Andrew and Philip tell Jesus.' By the Greeks St. Andrew is called the Protoclet, or first called: Bede calls him the Introducer to Christ. There was a persistent tradition that St. Andrew laboured in Scythia, and was martyred at Patræ in Achaia.

His connection with Scotland has, of course, a special interest for Scotsmen. The late Marquis of Bute's learned paper on 'The last resting-place of St. Andrew,' namely, the Cathedral of Amalfi, on the beautiful Bay of Salerno, contains an interesting treatment of the apostle's relation to Scotland. In 584 Gregory the Great brought to Rome from Constantinople and placed in the monastery of St. Andrew, an arm of St. Andrew presented to him by the Emperor Tiberius II.: the bones of St. Andrew had been transferred from Patræ to Constantinople by Constantine the Great. Part of this arm, it is conjectured, was brought to England by Augustine, and of this again three finger bones and a part of the arm were placed in the Church of Hexham, whence they were removed by Bishop Acca, when he was expelled from his see in 731. The Bishop presented the precious bones to Angus, King of the Picts, who, to honour them, changed the name Kilrighmonaigh to St. Andrew, and proclaimed the apostle the Patron Saint of his kingdom. There is, however, another saint connected with St. Andrews. The Palmer says to Lord Marmion:

'But I have solemn vows to pay,  
And may not linger by the way,  
To fair St. Andrews bound;  
Within the ocean-cave to pray,  
Where good St. Rule his holy lay,  
From midnight to the dawn of day,  
Sung to the billows' sound.'

The Aberdeen Breviary contains the well-known story of the bringing to Scotland by St. Rule of the relics of St. Andrew. According to the narrative there given, St. Rule was a native of Patræ in Achaia, and when after 'the drums and tramlings of the centuries' had passed over the martyr's grave, Constantius marched against the town to punish it for the murder of the apostle, the saint was warned in a vision of the night to carry off the relics of St. Andrew, and these are carefully inventoried as three fingers of the right hand, one arm bone, one tooth, and one knee-cap. St. Rule found his way to St. Andrews, and deposited

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PRIORY CHURCH OF ST. MARY, COLDINGHAM



SEAL OF PRIORY  
OF COLDINGHAM

the bones there. In his *History of Scotland*, Bishop Leslie refers to this legend, and in Book V. he states that on the eve of a victory over the Saxons, Hung, King of the Picts, saw the cross of St. Andrew in the air, a visible sign of his patron saint's protecting presence. This is a variant of a familiar legend: we read of Constantine's Cross, of the cross that appeared to Waldemar II. of Denmark before he defeated the Esthonians, and of the cross that Alonzo saw before he triumphed over the Moors. Whatever the origin of the sentiment, every patriotic Scotsman has a special feeling of veneration for St. Andrew, and for the badge of his order, with its proud motto, 'Nemo me impune lacessit.' Our friends across the Border speak of the canny Scot, but Europe knows another Scot who answers better to his national motto. 'Fier comme un Ecossois,' laughs Louis XI. in *Quentin Durward*, and to the Continent the errant Scot of the Middle Ages was exactly

' A fiery ettercap,  
A fractious chiel,  
As het as ginger,  
And as stieve as steel.'

A. M. WILLIAMS.

CAMPBELL OF ARDKINGGLASS. There is a slight error in the notes to the very interesting account of 'The First Highland Regiment' (*S.H.R.* iii. p. 29). James Campbell, younger of Ardkinglass, was son, not brother, of Sir Colin Campbell, Bart., and eventually succeeded as second Baronet.

A. W. G. B.

THE SCOTS DARIEN COMPANY. We print in this issue the first portion of Mr. Hiram Bingham's paper on 'The Early History of the Scots Darien Company,' the remaining portion of which will appear in the April number of the *Scottish Historical Review*.

Mr. Bingham's position as Curator of South American History and Literature at the library of Harvard University has afforded him special opportunities of making a study of this subject. He has also made independent search among the archives of the Advocates' Library, the General Register House, the British Museum, and the Public Record Office in London, and in the Archives of the Indies in Seville, but he is very desirous of securing additional documentary evidence as to various points in the history of the Darien Company. He would be very glad to hear of any letters or journals in either public or private collections which throw light on this subject.

## Notes and Comments

THE Scottish History Society has been fortunate in securing the services of Mr. Hay Fleming as Secretary. Bringing to the office a very different experience and a very different standpoint from those of the late Mr. T. G. Law, he has the same eager spirit of research, and the same recognition as a central principle of real history, that it is mainly the new data which count as the merit of current studies. Discovery ranks before criticism. Men who have toiled at the roots, although, perhaps, less thanked, are ultimately more valued. Mr. Hay Fleming, with his St. Andrews local and diocesan knowledge, and his keen Puritan sympathy, will, in his new position, editorially and otherwise, render the better service to Scotland, because his labours have been directed as much to the archæological as to the documentary side of the national record. It is an occasion of public satisfaction when for such a scholar such a task is found.

A CONGRESS on Facsimiles was held at Liège in August last, under the auspices of the Belgian Government, for the purpose of discussing the best practical methods of reproducing manuscripts, coins, and seals, as well as for preserving the originals and ensuring access to and international exchange of the reproductions. Fifteen nations were represented, and important propositions were formulated, which we hope to consider when the complete record of the Congress appears. M. Henri Omont, of Paris, Keeper of manuscripts in the Bibliothèque Nationale, was president of the Congress, which, among its resolutions, included the formation of a permanent international committee for the promotion of the interests involved. In evident line with the direction of this Congress is the announcement by MM. Misch and Thron, Brussels, of an enterprising series of phototypic facsimile volumes of manuscript works in Belgian libraries, under the general title of *Codices Selecti Belgici*. The MSS. to be reproduced embrace homilies, etc., an eleventh century text of Cicero, and the chronicles of Siegbert, of Gembloux (sæc. xi.), and of Gilles li Muisis (sæc. xiv.).

THE Society of Antiquaries of Newcastle-upon-Tyne has put upon record in its *Proceedings* a suitable memorial of the raid across the Border which the Society made in August last. The party first visited Coldingham, of which an interesting general history has been compiled from the published works on the subject. An ecclesiastical foundation from Saxon days before the Danish inroads, the

2549



FAST CASTLE, BERWICKSHIRE, FROM THE WEST



COAST LINE LOOKING NORTH FROM FAST CASTLE

*From photographs by Mr. Joseph Oswald*

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reconstitution of Coldingham as a religious house dependent on the Benedictine monastery of Durham at the end of the eleventh century—its secular geography relating it to Scotland, while ecclesiastically its connection was English—gave it almost an international character of peculiar interest. The early charters still preserved in the chapter library of Durham, once under the care of James Raine, the historian of North Durham—now under the charge of Canon Greenwell, still more famous among the antiquaries of North England—have supplied an abundance of material, not merely for territorial chronicle, but also for the questions concerning the tenure of Lothian by Scottish kings. The existing remains of the priory contain much fine Transitional work. We are permitted to reproduce the Society's illustration of the church, which was dedicated to St. Mary, whose effigy appeared on the seal, also reproduced from the Society's *Proceedings*. After examining the priory church, the Tynedale antiquaries visited Fast Castle, which was the 'Wolf's Craig' of the *Bride of Lammermoor*. Mr. Robert Blair, the Secretary of the Society, favours us with two illustrations, which well convey the impressively solitary and wild aspect of this sea-beat strong-hold. It was once the home of the ill-fated Logan of Restalrig, whose after-death trial, condemnation and forfeiture in 1609 constitute a gruesome memory of old Scots law in treason cases. He was one of the mystery-men of James VI.'s time, whose careers have attracted the attention if not the favour of Mr. Lang. 'A friend of thieves, a vain loose man, but of a good clan and a good fellow'—so he is described in a despatch quoted in Mr. Lang's Roxburgh Club book, *The Gowrie Conspiracy*. Mr. Blair's pictures and Mr. Lang's description of the place are in emphatic coincidence. 'Unapproachable from the sea except by a fortified staircase in the perpendicular rock, Fastcastle was almost as hard of access from the desolate stretch of links on the land side.' It was a fit home for a friend of thieves who might any day find himself with the king at his throat.

MR. J. MAITLAND ANDERSON, to whom students of the history of St. Andrews are already much indebted, has made a very interesting discovery with regard to a scheme for the removal of the University of St. Andrews to Perth within a few years of its foundation. He has obtained documentary evidence of this scheme from the Vatican archives, and a paper giving the full text of the documents as well as some hitherto unpublished matter relating to the early history of St. Andrews will, we hope, appear in the next number of the *Scottish Historical Review*.

Saint  
Andrews  
University.

CONTRIBUTIONS to the historical and philological section of the Royal Philosophical Society of Glasgow last session, now printed in the *Transactions*, include a paper by Mr. David Murray, LL.D., on early Grammars and other School Books in use in Scotland. It traces the works serving as standards from the *Ars Grammatica* of Donatus in the fifteenth century down to Riddiman's *Rudiments*, published in 1714, and its sequels till near the close

Early  
used in  
Scotland.

of the eighteenth century—varying the bibliographic task with many biographical side-touches regarding such grammarians of note as George Buchanan, James Kirkwood, and Andrew Simson. The human side of the matter comes quaintly out in Kirkwood's substituting in a specimen verse illustrative of metre,

Ut Regina Soror Pallas Catharina Leæna,

the name 'Gelecina' for 'Catharina,' on the ground that Gelecina being his wife's name, 'her's as well as his Name may survive when they are dead.' The President of the Society has among these grammars hit upon a very attractive by-way of research, which we trust he will continue to explore. Mr. John L. Morison discusses Reginald Peacock, the heretic bishop of the fifteenth century, and cites from MS. telling bits of the condemned prelate's vigorous reasoning and expressive English. Perhaps the most striking and dangerous doctrine is that 'all goddis creatures musten nedis obeie to doom of resoun.' Mr. Macgregor Chalmers reconstructs from existing remains and indications a tomb which, he gives reasons for concluding, was probably erected about the middle of the thirteenth century in the crypt of Glasgow cathedral. Plans, sections, and elevation make the proposition clear and intelligible in detail. Somewhat different in scope is the subject taken by Mr. John Edwards—'Duns Scotus, his life and times.' Examining all the authorities and traditions, Mr. Edwards balances against the to-name of 'Scotus' and the claim of John Major that the philosopher belonged to Duns in Berwickshire, the anonymous allegations in one MS. of 1381 that he was an Irishman, and in another MS. of 1455 that he came from Embleton in Northumberland. Mr. Edwards stoutly guards himself from being thought to decide by national sympathy, although he concludes that it is 'historically safe' to reckon him a Scot. It is to be observed, however, that Mr. Edwards's survey of the authorities is incomplete. Bale under the heading 'Ioannes Scotus cognomento Dons' has the following:

Hic Ioannes natus erat in Duns oppido tribus ab Alnewico milliarijs distante minorita de custodia Novi castri. (*Index Britanniae Scriptorum*, ed. Poole cum Bateson, 1902, p. 249.)

Comparing this with the references to 'Ioannes Dumbylton doctor Oxoniensis sophista' in the last cited volume (pp. 197-8, 516) one wonders whether there are not still some confusions left to be explained about the life as well as the works of Duns Scotus. His biography, so far as the meagre data go, Mr. Edwards sketches: the philosophical life he modestly refrains from attempting: the reputation of the 'Subtle Doctor' down the ages, however, is interestingly shown, including the curious chapter told by Antony Wood of the New College quadrangle at Oxford littered with 'the leaves of Duncce, the wind blowing them into every corner'—a final symbol of rejection by the seventeenth century.