

The Scottish Historical Review

VOL. XIX., No. 74

JANUARY, 1922

Three Aikenhead and Hagthornhill Deeds, 1508-1545

LANGSIDE BATTLEFIELD

MR. WILLIAM GEMMILL, writer, Glasgow, has an unusually interesting little group of title deeds of lands on the south side of Glasgow, all originally part of the Aikenhead estate in the parish of Cathcart. Many reasons make these documents historical.

1. Charter (on parchment) dated at Akinhed on 23rd March, 1508-[09], by John Maxwel of Akynhed in favour of James Hamiltone of the fourth part of the granter's lands of 'le mekilakynhed,' viz. two and a half merklands of old extent with the pertinents lying on the east side of the toun (*ville*) of Akinhed within the lordship (*dominium*) thereof and county of Lanark in feu and heritage forever for his service repeatedly rendered and to be rendered and to the heirs male of his body lawfully procreated or to be procreated, whom failing to 'my' (*meis*) true lawful and nearest heirs forever by all the right meiths and marches with woods, plains, roads, waters, stanks, meadows, mills, hawkings, huntings, fishings, peateries, turbaries, coals, coalheughs, brewhouses, broom, pigeons and dovescots, rabbits and rabbit warrens, courts and issues of courts, woodfalls, woods, herezelds, bluduitis, and marchet of women (*mulierum merschetis*), also stone, lime and common pasture with free entrance and issue and all other liberties belonging to said lands, as the said

John Maxwell himself or any of his predecessors held the same. Reddendo yearly one penny Scots at Whitsunday in name of blench farm, if asked only, for all service. And the said John Maxwell warrants said lands against all mortals. Sealed before these witnesses Kentigern Maxwel, Robert Maxwel, John Crawford, Rankin Browne, Alexander Robisoune, and Robert Vrecht with divers others.¹

The battle of Langside makes this charter and the subsequent one of 1543-44 part of national history. Here follows the Aikenhead charter :

Omnibus hanc Cartam visuris vel auditoris Iohannes Maxwel dominus de Akynhed salutem in domino sempiternam noveritis me dedisse concessisse ac titulo vendicionis alienasse et hac presenti carta mea confirmasse dilecto meo Iacobo Hamiltoune quartam partem terrarum mearum de le Mekil-akynhed viz duas mercatas cum dimedia antiqui extentus cum pertinentiis Iacentes in orientali parte predictae ville de Akinhed infra dominium eiusdem et vicecomitatum de Lanark pro suo seruiicio michi multipliciter Impenso et Impendendo et heredibus suis masculis de corpore suo legitime procreatis seu procreandis quibus forte deficientibus veris legitimis et propinquieribus heredibus meis quibuscunque Tenend. et habend. omnes et singulas prenominate terras cum pertinentiis predicto Iacobo et heredibus suis masculis vt supra de me et heredibus meis in feodo et hereditate Imperpetuum per omnes rectas metas et diuisas pro vt Iacent in longitudine et latitudine in boscis planis moris marresis viis semitis aquis stangnis riuolis pratis pascuis et pasturis cum molendinis multuris et eorum sequelis cum aucupacionibus venacionibus et piscacionibus petariis turbariis carbonis et carbonariis bruariis brasinis et genestis cum columbis et columbariis cuniculis et cuniculariis cum curiis et curiarum exitibus siluis et siluicediis virgultis et nemoribus cum herezeldis et bluduitis et mulierum merschetis cum lapide et calce et cum communi pastura cum libero introitu et exitu ac cum omnibus aliis et singulis libertatibus commoditatibus asiamentis ac Iustis suis pertinentiis quibuscunque tam non nominatis quam nominatis tam subtus terra quam supra terram tam procul quam prope ad dictas terras cum pertinentiis spectantibus seu Iuste spectare valentibus quolibet in futurum libere quiete plenarie honorifice bene et in pace in omnibus et per omnia vt premittitur sine aliquo retinemento mei vel heredum meorum et adeo cum dimedia de le mekil akinhed cum pertinentiis tenui seu possedi tenuerunt seu possiderunt aliquibus temporibus retroactis Reddendo inde annuatim dictus Iacobus et heredes sui masculi vt supra michi et heredibus meis unum denarium monete regni in festo sancti Iohannis Baptiste super solum dictarum terrarum nomine albe firme tantummodo si petatur pro omni alio seruiicio seculari exactione questione seu demanda que per me vel heredes meos exigi poterunt quomodolibet vel requiri Et ego vero prefatus

¹ There is a 'cauda,' or tag of parchment for the seal, but the seal is entirely gone. As to the lands see Renwick's *Glasgow Protocols* No. 3374, as well as numerous entries in *Reg. Mag. Sig.* and in *Fraser's Cartulary of Pollok*.

Iohannes Maxwel dominus de Akinhed et heredes mei et successores prenomintas terras cum pertinentiis predicto Iacobo et heredibus suis masculis vt supra in omnibus et per omnia modo forma pariter et effectua contra omnes mortales varantizabimus acquietabimus et Imperpetuum defendemus In cuius Rei testimonium sigillum meum huic presenti carte mee est appensum apud Akinhed vicesimo 3^o die mensis Marcii anno domini millesimo quingentesimo octavo coram hiis testibus Kentigerno Maxwel Roberto Maxwel Iohanne Crawford Rankino Browne Alexandro Robisoune et Roberto Vrecht cum diuersis aliis.

2. Notarial Instrument of Requisition dated 3rd December, 1541, recording that, of date above set forth, in presence of David Watsoune notary by apostolic authority, there appeared Walter Maxwell of Akinheid and set forth these words in the vulgar tongue 'the quhilk day ane honorable man Walter Maxwell of Akinheid past wy^t me notar publict and witnessmen underwritin to ye presens of ane honorable¹ man Maister Thomas Stewart of Gawstoune personillie apprehendit and in presens forsaid requirit ye said maister Thomas to contentt and pay to ye said Walter ye Mertymes maill last biepast of ye lands of Hagthornehill wy^t ye pertinentis liand within ye baronie of Renfrew and shereffdome of ye samin as he at wes donatour to our souerane lord ye kingis grace to ye escheit of Patrick Culquhoune of Pemountt or be ony wyer² ryght And ye said Walter protestit geif he wes not ansurit of ye forsaid Mertymes maill of ye saidis landis of Hagthornehill at he mycht do wy^t his awin landis as he thocht best expedientt.' Whereupon the said Walter Maxwell craved instruments one or more. These things done in the burgh of Edinburgh about 10 forenoon: witnesses George Buchquanan of that ilk, Patrick Porterfeilde notary and Thomas zonge.

Notarial certification by Watsoune that these things were so done and said and noted and thereafter reduced into the present public instrument.

Signed with his notarial mark bearing his initials D. W.
N. P. at the top and his full signature 'David Watsoune subscripsit' at the foot.³

3. Charter dated at Edinburgh 16th February, 1543-[44], by Alan Lord of Cathcart and Sundrum in favour of Walter

¹ Honorable, *sic*.

² Wyer (uther), other.

³ Pemount in Carrick, *Reg. Mag. Sig.*, 8 Feb., 1531-32. George Buchanan of that ilk was made Sheriff of Dumbarton on the forfeiture of Matthew Earl of Lennox. *Reg. Mag. Sig.*, 17 July, 1546.

Maxwell of Akinheid and Ewfamia Maxwell his spouse and longer liver in conjunct fee and their heirs, whom failing the heirs of the said Walter, whereby Alan granted, sold, alienated, and confirmed to the said Walter and Ewfamia his five merklands of old extent of Hagthornhill, the superiority and tenandry thereof, occupied by Janet Burnemuit. Also his whole thirty pennylands called 'Padyis maling,' superiority and tenandry thereof, then occupied by William Padyne with all their pertinents lying in the barony of Renfrew and county thereof: this in respect of a certain sum of money paid to the said Alan in his great urgent and well-known necessity by the said Walter. To be held and had away from the said Alan and his heirs and of and from our sovereign lady the Queen as princess and stewardess of Scotland (*tanquam principē et senescalla Scotie*) in fee and heritage forever by all the right meiths, etc. Reddendo to the Queen as princess and stewardess of Scotland the due and customary services of said lands: And the foresaid Alan warranted against all mortals the said five merklands of Hagthornhill, superiority and tenandry thereof, also the said thirty pennylands called 'Padyis maling' and superiority and tenandry thereof: seal and subscription manual appended at Edinburgh: witnesses Robert Vrry, John Gibsoun, Alexander Hamiltoun, Thomas zoung, John Johnnsoun and William Rethe notary public, with others.

ALLAN LORD CATHKART.

The seal, in red wax upon white, is imperfect but still attached to the parchment 'cauda' or tag. It has of the inscription only the 'S.' for Sigillum and the concluding letters of the granter's name, viz. '...art'. The top of the shield only remains, but there is enough to shew in the dexter corner of the shield the historical bearing, the cross and crescent of Cathcart.

From a legal standpoint the interest of this deed is very considerable in its complete contrast with the charter of 1508. In that grant Maxwell of Aitkenhead was, and was to remain, lord of the fief: the 'two and a half merklands of old extent' were to be held by the grantee James Hamilton as Aitkenhead's vassal for a blench feu duty of a penny Scots. But in the present deed Lord Cathcart absolutely sells and wholly parts with the lands of Hagthornhill, both tenandry and superiority, and therefore makes no provision for the lands being held of him (*de me*), but on the contrary expressly provides that they

are to be held *a me* (that is apart from the Lord of Cathcart altogether) as the direct vassal of the Crown and the subject of Queen Mary as Princess and Stewardess of Scotland.

This deed is of such local importance and so valuable as an instance of the carving out of a separate holding from the complex of lands which had formed the patrimony of the lords of Cathcart, that it seems best, as in the case of the deed of 1508, to append the original text in full.

Omnibus hanc cartam visuris vel audituris Alanus dominus de Cathcart et Sundrum Salutem in domino sempiternam Noveritis me non vi aut metu ductum nec errore lapsum seu dolo circumventum Sed mea mera pura libera et spontanea voluntate vtilitateque mea vndique previsa et pensata Concessisse vendidisse alienasse et hac presenti carta mea confirmasse necnon concedere vendere alienare et hac presenti carta mea confirmare Waltero Maxwell de Akinheid et Ewfamie Maxwell eius conjugii et eorum alteri diutius viuenti in conjuncta infeodatione et heredibus suis subscriptis Meas quinque mercatas terrarum antiqui extentus de Hagthornhill superioritatem et tenandriam earundem per Ionetam Burnemuit occupatas Necnon totas et integras meas triginta denariatas terrarum 'padyis malyng' nuncupatas superioritatem et tenandriam earundem per Wilelmum Padyne nunc occupatas cum omnibus suis pertinentiis Iacentes in baronia de Renfrew infra vicecomitatum eiusdem Pro quadam certa summa pecunie michi in mea magna vrgenti et cognita necessitate pre manibus per dictum Walterum gratanter et integre persoluta et in vsum meum totaliter conversa De quaquidem summa pecunie teneo me bene contentum ac plenarie et integre persolutum dictumque Walterum heredes suos executores et assignatos de eadem quietos clamo et exonero tenore presentis carte mee imperpetuum Tenendas et habendas prefatas quinque mercatas terrarum antiqui extentus de Hagthornhill superioritatem et tenandriam earundem Necnon totas et integras prefatas triginta denariatas terrarum 'padyis maling' nuncupatas superioritatem et tenandriam earundem cum omnibus suis pertinentiis dictis Waltero et Ewfamie eius conjugii et eorum alteri diutius viuenti in conjuncta infeodatione et heredibus inter ipsos legitime procreatis seu procreandis quibus deficientibus legitimis et propinquiorebus heredibus dicti Walteri quibuscunque a me heredibus meis et assignatis de suprema Domina nostra regina tanquam principe et senescalla Scotie et suis successoribus in feodo et hereditate imperpetuum Per omnes rectas metas suas antiquas et divisas prout jacent in longitudine et latitudine In bossis planis moris marresiis viis semitis aquis stagnis riolis pratis pascuis pasturis molendinis multuris et eorum sequelis Aucupationibus venationibus piscationibus petariis turbariis carbonibus carbonariis cuniculis cuniculariis columbis columbariis pomis pomeriis fabrilibus brasinis brueriis generis domibus edificiiis ortis tignis lignis lapicidiis lapide et calce cum curiis et earum exitibus herezeldis et mulierum merchetis cum communi pastura libero introitu et exitu ac cum omnibus aliis et singulis libertatibus commoditatibus proficuis asiamentis ac iustis pertinenciis suis quibuscunque tam non nominatis quam nominatis tam subtus terra quam

supra terram procul et prope ad predictas terras cum pertinentiis spectantibus seu iuste spectare valentibus quomodolibet in futurum libere quiete plenarie integre honorifice bene et in pace Sine aliquo impedimento reuocatione contradictione aut obstaculo aliquo Reddendo inde annuatim dictus Walterus et Ewfamia eius coniunx et eorum alter diutius uiuens et heredes sui prescripti supreme Domine nostre regine antedictae tanquam principi et senescale Scotie et suis successoribus iura et seruitia de dictis terris cum pertinentiis prius debita et consueta tantum pro omni alio onere exactione questione demanda seu seruitio seculari que de predictis terris cum pertinentiis per quoscunque iuste exigi poterunt quomodolibet vel requiri Et ego uero prefatus Alanus Dominus Cathcart et Sundrum et heredes mei prefatas quinque mercatas terrarum antiqui extentus de Hagthornhill superioritatem et tenandriam earundem Necnon totas et integras prefatas triginta denariatas terrarum 'padyis maling' nuncupatas superioritatem et tenandriam earundem cum omnibus suis pertinentiis dictis Waltero et Ewfamie eius coniugi et eorum alteri diutius uiuenti in coniuncta infeodatione et heredibus suis prescriptis in omnibus et per omnia forma pariter et effectu ut premissum est contra omnes mortales warantiabimus acquietabimus et imperpetuum defendemus In cuius rei testimonium sigillum meum unicum mea subscriptione manuali presentibus est appensum Apud Edinburge Decimo Sexto die mensis Februarij Anno domini millesimo quingentesimo quadragesimo Tercio Coram his testibus Roberto Vrry Johanne Gibsounne, Alexandro Hammiltounne, Thoma zounge Johanne Johnnsounne et Willelmo Rethe notario publico cum diuersis alijs

ALLAN LORD CATHKART

Authorities on Renfrewshire history seem unaware of this foundation charter, which must be what the conveyancer calls a 'common title' to a very considerable area of Cathcart parish lying close in to the site of the battle of Langside.

The endorsement of the charter in a hand of a hundred years ago is 'Charter by John¹ Lord Cathcart to Walter Maxwell of Aikenhead of Hagstonhill etc., 16 Feb. 1543.' The name of these lands is very variously spelt, forms being Hagtonhill, Hagstonhill, Haghill. In some cases it is found closely associated with Titwood and in others with coal-mines, so that there can be little doubt that it lay somewhere near Hagg's Castle, which, however, is of later date than the present charter, having been built, it is said, in 1585.²

Where was 'Padyis Malyng'? No doubt it took its name from William Padyne, its occupant in 1543-44. 'Padie' is a name of long settlement in Glasgow.³

¹ sic : of course an error.

² Hagtonhill, otherwise Hagthornhill, was granted by James VI. to Maxwell of Pollok on 23 June, 1615 (Fraser's *Cartulary of Pollok*, p. 342).

³ Renwick's *Protocols*, Nos. 2640, 3459.

The process of breaking up Cathcart Barony was going on actively in 1542-1545, as is shewn by two Crown charters under the great seal, dated 23rd December, 1543, and by another of 7th March, 1544-45,¹ the transaction in each case being a sale. In the second of these (No. 2982) the subjects included Cathcart with its castle lands, castle and mains, as well as Langside with its woods and coalheughs. The problems of locality involved in determining the site of, as well as the lines of approach to, Queen Mary's fatal field admit of more decisive examination now than they did in 1885 when Mr. A. M. Scott in *The Battle of Langside* made his capital investigation. The theme invites some district antiquary worthy to succeed Mr. Scott.

The Meikle Aikenhead lands of the charter of 1508 lay in the county of Lanark: Hagthornhill in the charter of 1543-44, across the county boundary, was in Renfrewshire. Taken together the territory conveyed by these two documents embraced the approaches to Langside close up to the battlefield.

GEO. NEILSON.

¹ R.M.S. Nos. 2981, 2982, 3076.

Documents relating to Coal Mining in the Saltcoats District in the First Quarter of the Eighteenth Century

THESE documents occur in a recently discovered account book. It is a volume of 374 pp. 8vo. There is no title page giving the owner or the property to which it relates, but both of these can be determined from entries in the volume. It was evidently compiled by a member of a well-known Covenanted family, Patrick Warner, who about 1709 bought the property of Dovecot Hall, Piperhaugh and part of the parish of Stevenston from Robert Cunningham of Auchendarvie. The property in the parish of Stevenston included Saltcoats, then a very small village,¹ and the lands of Hayocks. This can be verified from the history of the Cunninghams of Auchendarvie. The two Cunninghams who had dealings with the Warners of the manuscript were Robert Cunningham, the Physician, who succeeded to the property in 1678, and James Cunningham of Auchendarvie, his eldest son, who succeeded in 1715.

'This Sir Robert . . . being endowed with a very active mind, began, soon after his accession to the estates to make improvements on the various subjects of which his property consisted. This was more especially the case with the coal on the lands of Stevenston—the working of which he brought to a degree of perfection never known before; as also the harbour of Saltcoats . . . all at no little expense.'²

His activities were recognised by Parliament in 1686. 'Our Sovereign Lord with consent of the Estates of Parliament Statutes and Ordaines That four pennies Scots monney be

¹ Report by Thomas Tucker, 1654. Tucker declared that Saltcoats consisted of only four houses at that time.

² George Robertson, *A Genealogical Account of the Principal Families in Ayrshire*, 1823. Vol. i.

uplifted be the said Robert Cunningham his aires and successors from brewers and venders of aile or beer within the said parochines of Stevenston and Ardrossan out of each pynt thereof, and that for ye space of 20 years immediately ensueing the date of this act.’¹

The proceeds of this grant were to be devoted to furthering the building of the harbour at Saltcoats to encourage the export of the native commodities of the country, ‘especially coall and salt, wherewith it abounds.’

Sir Robert was, however, more enterprising than prudent: ‘he was obliged at last to alienate a great part of his landed property, and this not merely the more distant possessions, but the greater part of this parish where he fixed his residence.’ Among the properties sold were those of Grange and Ardeer, which changed hands about 1708. The property of Grange was bought by John Hamilton, and Robertson records that his daughter married William Warner of Ardeer. And in the manuscript account book, in an entry dealing with the births and marriages of the writer’s family, we have the following entry:

‘Sept. 8 1709. My son W^m was married to Janet Hammilton daughter to the deceased John Hamilton of Grange to which the lord give his blessing.’²

The account book then was started by Mr. Warner, father of Wm. Warner of Ardeer, about 1696. It begins with a species of ledger accounts containing records of loans and the payment of interest and principal and develops into an Estate account with payments of rents and lists of stock and crop. Later the original writer and his son William (who carried on the business of the estate in his father’s old age and after his death) and their successors used blank leaves and even parts of pages for a variety of miscellaneous entries, including recipes, lists of books bought, inventories of deeds, books lent, genealogies, many pages relating to a dispute with Auchenharvie about the purchase price of the property, the blazon of the arms of the Warners, and so on. The result of this method of compilation is that where an entry is undated it is not safe to accept it as being written at the same time as those immediately before or after it, but some general guidance can be obtained from the handwriting, that of Mr. Warner and of his son William being quite distinct.

¹ *Scottish Acts of Parliament*, 1686, c. 45.

² P. 215. This Janet Hamilton was a great aunt of General Hamilton, the patriot and statesman of United States fame.

At the time of the purchase of the property Warner gave Auchendarvie a tack of the coal pits on it.¹ Later it appears that either this tack was transferred to one Peck or Warner gave a new tack to the latter. Warner had differences of opinion both with Auchendarvie and Peck about the coal pits, and it is through these disputes that the following memoranda were recorded.

The Tack of the Coal Mines (pp. 98-99).

Whereas in ye offer for Peace it is a^d yt Mr. P. ye Tacksman may well pay 6000 lib Scotts tack duty p. ann : he being allowed to putt in 50 hewers. This is clearly demonstrate by ye reckoning following. For 1) It will not be refused y^t ye reckoning is fair and just and as low as can be required when every hewer is reckoned to put forth but 50 loads p. week. Nor 2 can it be refused y^t every load at ye Coalhill gives 5 sh: 8^d Scotts. 3 That this per week to every hewer is 14 lib: 3 sh: Scotts. 4 That this p. an: comes to 735 : 16 : 0 for each hewer, and consequently for 50 hewers y^t comes to 36790 lib: We understand that in his bargain about a coall in ye East he is to pay ye 4th part of ye product as tack duty. Now ye 4th part of 36790 lib: is 9197 lib: 10 sh: Scotts so y^t in y^s bargain he paying but 6000 lib: of tack duty he has 3197 lib 10 sh: of advantage beyond q^t he has there.

Yet because it may be pretended y^t from abundance of water here difficulties in draining may be greater. As we doubt not but y^t ye 3197 lib 10 sh: will be much more yⁿ will suffice to surmount all y^s difficulties y^t are here beyond what they are in other coals. So we reckon y^t he may indeed deserve to have some ease of y^e Coall here beyond q^t he is to have of y^t Coall in y^e East and y^r fore instead of requiring y^e 4th part of y^e product as ye tackduty we think it may suffice to require ye 5th part only. But yⁿ even in y^t case ye 5th part of y^e 36790 lib: will come to 7358 lib:² From hence we hope Mr P will be convinced y^t

¹ Cf. Robertson, p. 277, vol. i. At the time of the sale of the Grange and Ardeer 'the whole of the coal, in both, was reserved for a period of 57 years thereafter, but the works (at this time at a very low ebb) were now conducted with a more cautious spirit and moderate success.'

² Cf. Dunn, *View of the Coal Trade of the North of England*, 1844. 'Mode of Letting Mines in Scotland. The general custom of Scotland provides for yielding to the landlord a royalty proportioned upon the net amount of sales at the colliery, in conjunction with a certain or sleeping rent payable half yearly. This royalty

we are not uneasy to him qⁿ instead of proposing 7350 lib as ye tack duty we propose only 6000 lib y^r by passing from 1358 lib: for his greater incouragement ; untill he gett his fire engines¹ to bear some better yⁿ hitherto they have done. Tho in ye meantime we incline to think y^t ye sale here is so much better qⁿ q^t can be expected in ye East y^t this of itself may

proportion is sometimes as high as $\frac{1}{4}$ the amount of sales, but, generally speaking $\frac{1}{8}$; of late years, many collieries have been let at $\frac{1}{12}$, or even so far as $\frac{1}{14}$ the amount of sales.²

¹ Cf. Robertson, vol. i, p. 278. 'One thing however is worthy of remark, that about this time the steam engine was invented, and, in 1719, the second one in Scotland was erected here (in Stevenston) with a cylinder, brought from London, of 18 inches diameter ; not much larger than the present pump.'

This conflicts with the statement of Bald, *A General View of the Coal Trade of Scotland*, 1808, that 'Although in this instant the Glasgow collieries are very numerous and extensive, yet it appears, that the steam engine was not introduced there until the year 1763.' The evidence of the manuscript account book certainly disproves the latter statement for, though the entry may not be as early as 1719, it is certainly not later than 1730. The entry belongs to the period between 1716 and 1730, when William Warner was managing the estate for his father, who was very old. Therefore he uses the plural 'we.' The old man seems to have died between 1725 and 1730. So that the probability seems to be that Robertson was right and a steam engine was introduced in this district as early as 1719.

The engine must have been a Savery engine for raising water by fire, or, more accurately, a Newcomen engine installed under Savery's patent. Captain Savery had been granted a patent in 1698 for a new invention for raising water 'by the impellent force of fire, which will be of great use in draining mines etc.' This patent was extended for a total term of 35 years, so that it would be still operative at the time of the introduction of these engines in Ayrshire. 'In Savery's machine the water was raised to the engine by suction obtained by the condensation of steam, and forced above it by means of high pressure steam acting directly on the water' (Galloway, *Annals of Coal Mining*). But this engine did not fulfil its creator's high hopes for it was found to be effective only when the whole lift did not exceed 30 or 35 feet.

Newcomen's engine was invented almost simultaneously with Savery's, and, although the two had nothing in common, they were brought into close relationship owing to the accident of Savery's patent. Newcomen was admitted into partnership by Savery, and the Newcomen engine was brought out under the same patent, and both were commonly spoken of as fire engines.

Savery's patent does not, however, hold pride of place as the first patent applicable to Scotland for a draining engine. In 1693 an inventor, named Marmaduke Hudson, obtained a patent and also an Act from the Scottish Parliament, the latter giving him the exclusive right for 19 years of using and manufacturing in Scotland the draining engine he had invented. He claimed that this draining engine could raise more water from a coal pit in an hour than any other engine in a week, and he further stated that its success had been proved in Cornwall (Scott, *Joint Stock Companies*, vol. iii, p. 186). However, there is no record of the application of this plant in Scotland, and in any case his patent had lapsed before 1719.

counterballance q^t ever ye difficultie in draining ye water here is beyond what it is there. And y^s appears more reasonable y^t as is shewed elsewhere ye least y^t is paid in tack duty q^r ye Coall is of any worth is reckoned 100 lib: for every hewer. And q^r y^s is paid where ye Coall gives but 3 p. load at ye Coalhill It will be found in a due proportion y^t q^r each load gives 5 sh: and 8^d at ye hill y^t ye tack duty for 50 [hewers] will be att or very near about 9197 lib: 10 sh: So y^t it will be found y^t by y^s proposal Mr. P. will have about 3197 lib of ease beyond q^t any round about have and this for each year of ye tack will certainly be enough to counterballance all ye difficulties he can have beyond what others have in draining ye water.

Note on a Draining Engine at Kirkcaldy (p. 364).

The Engine att Kirkcaldy is 6½ Inches wide in ye bore draws about 30 Tun an hour, twenty fathom of Elm pump and Rods.

Wages of Coal Workers and Cost of Transport (p. 326).

Five days of ye week is ye Coallhewers due and in ye Crosscraig coall 1 sh: Scotts to ye hewers ¹ and 8^d to ye heaver for each load and 20 load each day, two men being in ye room.

And in ye Bogue Coall 1 sh: 10^d Scotts to hewer and heaver each load and twenty loads a day for two men in ye room. And now in ye muir 2 sh: 6^d Scotts to ye hewer and heaver 20 loads a day for ordinary two men being in ye room.

And in ye dry Quarrie coall 1 sh: 6^d Scotts to hewer and bearer and 26 loads each day two men in ye room.

¹ *I.e.* in English money hewers of Crosscraig coal received 1s. 8d. a day and heavers 1s. 1d. a day roughly (£1 Scots = 1s. 8d. st.). Compare this with Bald, *A General View of the Coal Trade of Scotland*, 1808, '... about that period, particularly in the year 1715, great coal was put free on board in the river Forth, at 4s. 8d. per ton, when the labourer's wages were at 6d. per day, and all the materials used at collieries cheap in proportion; the wages of a collier or sinker were 10d. per day; and as colliers' wages are generally rather more than double that of a common labourer, we may estimate their winnings at 14d. per day.'

Either Bald made too low an estimation of colliers' earnings or wages in the West of Scotland were higher. It seems clear in any case that these Ayrshire colliers were highly paid, for the most skilled English shearmen and drawers at the New Mills Cloth Manufactory only received from 1s. to 1s. 8d. a day between 1701-1703 (*Minutes of the New Mills Cloth Manufactory*, 1681-1703, Scottish History Society, 1905). However, the colliers were probably unique in having a five day week.

For carrying to ye shore 1 sh. 4^d from Cross Craig : 12^d from ye Muir : 1 sh: from ye Bogues.

Ground adjoining Coal pits (p. 326).

In Mr W's obligation to give to Auch: a tack of the Coall there is no mention of ground to lay the Coall upon, a proof that it was never design'd that he should putt in many Coal hewers.

Papers relating to the differences betwixt A: and Mr. Wr.
(p. 346).

No. 1. That given to My Lo: Eglinton Jan^r 9th 1723 shewing what Mr W^{rs} require of A: before they can give him a disposition to y^e Lands or tack of y^e coall and what A: demands should be contained in y^e disposition to be given. Shewing likewise what A: is indebted to Mr W^{rs}. And of ye Lochend and Meadow.

2. Shewing y^t A: has no right to any arth of ye Decreit founded upon ye minute of agreement betwixt A: elder and Mr W^r elder. Designed to be sent to Glasg:

3. Containing y^e state of y^e Coall in y^e Parish of Stevenson.

4. Shewing y^t the E: of Egl: is not obliged in law to warrand y^e tack of y^e coall given by his Lo: to M^r Peck.

*5. That Mr. W^{rs} are not obliged in law to stand to ye tack.

*6. A double of ye 3rd sent to Edinburgh with some additions.

5. The state of y^e Plea betwixt A and Mr W^{rs}. Particularly w^t respect to ye Coall in generall.

6. A particular account of y^e Tack of y^e Coall given by Egl: and A:

7. An offer of peace.

8. Short abbreviate of Mr. W^{rs} claim against A: with a short touch at y^e State of y^e Coall.

9. Information for Mr. W^{rs} about several things marked in the first pag: y^t of consisting of pagg: 38.

10. Another Information consisting of 32 pagg: y^e contents q^t of are to be seen in y^e last blank page.

11. Anoth^r Information about y^e Coall sent to Auckinlk: but this is since altered to y^e better only some thing may be observed from thence as is note pag: 12.

* These two entries crossed out.

In English thus :

Great honour you acquire. No doubt
Your praise will sound the Earth throughout.
Two potent earls have overcome
One poor Old Man. O great Renown !

And yet it is not altogether impossible but y^t you may fail in your design. The Battell is not always to the Strong. Even Kings of great Armies have been foiled by a contemptible party. *Magna est vis veritatis & prevalebit.* One Holy Just and Almighty God is more able to protect the Innocent, than many Earls are to annoy them. I have no great men to betake to for my defence. This oblidgeth me to betake to y^t God who is the help of them who have no help of man at all. If he please He can avert whatever hurt may be designed against me. If, for holy ends, he see it fitt that I meet with new tryals this way ; It becomes me well to submitt, yet not despairing but y^t he will support me under y^m, and make them turn to my good. But withall if he please he can change your heart so as not to espouse any unfair plea against me. Of this I have some confidence ; because you know y^t I never wronged A.; but on the contrare ventured both my whole stock and credite to serve him and to save him and his family from Imminent and impending outward ruine. And I hope I have never given to your Lo: any just cause or provocation to seek my hurt or ruine. I have always been and resolve to continue (saving the priveledge of lawful self defence) to ye outmost of my ability.

My Lord

Your Lo: very ready and very Humb^{le} Serv^{tt}.

But *Usque ad Aras* and no further

Redentem dicere verum, quid vetat ?

Yet sometimes It is convenient that there be some *Seria mixta Iocis.*

N. M. SCOTT.

Robert Owen and the Congress of Aix-la-Chapelle, 1818

OWEN tells us that his mission at Aix-la-Chapelle was to bring forward 'the most important truths for man to know,' in order that the nations might be peacefully and gradually freed from thralldom.¹ These 'truths' he expressed in two *Memorials On Behalf of the Working Classes*. One was addressed to 'The Governments of Europe and America,' and dated at Frankfort, September 20, 1818; the other was addressed to 'The Allied Powers at Aix-la-Chapelle,' and dated at Aix-la-Chapelle, October 22, 1818. These memorials, which are much alike as to content, give a temperate statement of the essence of Owen's theories. There is no reference to communal rectangular villages, though he himself seems to have thought that the memorials would open an opportunity to present their advantages, and contemporaries inferred that such villages were being advocated.² Neither does he here attack religion, private property, the sanction of priesthood for marriage, or lawyers. The fact that the memorials during the period 1818 to 1858 were printed in five places and in five different forms in London itself, testifies to the importance ascribed to them, both by the author himself and by his contemporaries.³

¹ *The Life of Robert Owen*, by Himself, i, 186, cf. *ibid.* 243, 255, 349, and 353; vol. ia. Intro. vi. xii. and xxiv.

² *Tübingen Allgemeine Zeitung*, Oct. 23, 1818; *London Times*, Oct. 9, 1818.

³ Owen had at least the first, and perhaps both memorials, printed at his own expense in English, French and German in September, 1818, at Frankfort (*Autobiography*, i. 182; *London Times*, Oct. 9 and Oct. 23, 1818); he had them similarly printed at Aix-la-Chapelle in October; in November he had them printed, probably in French, at Paris (*Le Moniteur Universel*, Oct. 27, 1818); the *London Times* printed them in instalments on October 9, 23, and 27, 1818; but one other document similarly submitted was printed by the *Times*—an address praying for the abolition of the slave trade; the memorials were also printed in pamphlet form in London in 1818 and sold by leading booksellers; they were incorporated in Owen's book, *A New View of Society*, published in 1818; on July 19 and July 26, 1826, they were printed in the *New Harmony Gazette*, at New

In them he advanced the following ideas : the overwhelming effects of the new mechanical power, as shown by statistics, would soon be the creation of riches in such abundance that the wants and desires of every human being might be more than satisfied. But under the existing system of distribution the increased production would benefit only one person out of a thousand. This would generate evil passions and a premature social upheaval. Such a system could not long exist and a better one would have to be introduced in its place. Because character is formed for man and not by him, society can banish social ills through proper education amid favourable environment. Such training ought to be provided by governments which should be empowered to use a portion of the increased wealth of society for this purpose. To be convinced of the practicability of this proposal and to have it explained in detail, Owen invited the Congress to appoint a Commission to examine its workings in his factories at New Lanark and to hear him explain how the condition of the working classes might be ameliorated.¹

The desire to present his memorials in person appears to have been one of the principal motives which caused Owen to visit the Continent in 1818. At Paris he met the highest dignitaries and savants, who had already heard of his work at New Lanark ; in Switzerland he visited Pestalozzi and Fellenberg. He then journeyed to Frankfort-on-the-Main, accompanied by his partner and interpreter, John Walker, who was a man of considerable wealth. It was his intention to present his memorials to the German Diet which was in session at Frankfort at that time and which was attended by the diplomats of Prussia, Austria, and other German states. The presence of certain English noblemen and bankers in Frankfort at the time, as well as the Prussian delegation on its way to the Congress, gives this meeting of the Diet a peculiar significance. In fact it may be said that the first meetings of the Congress of

Harmony, Indiana ; on July 28, 1832, one memorial was printed in *The Crisis*, London ; finally both memorials were reprinted in Owen's *Autobiography*, vol. ia. in 1858. Their chief ideas are also found in his memorial to the Mexican Republic, 1828, and in the Address to the Governments of Europe and America, issued by the Co-operative Congress in 1832 (*The Crisis*, i. 10). The titles of the memorials doubtless aided their publicity.

¹ London *Times*, Oct. 9, 23, and 26, 1818 ; Owen's *Autobiography*, i. 126-128 ; *Gent. Mag.* vol. 89, 61 ; *The Crisis*, April 14, 1832. Many of the basic ideas of Karl Marx's philosophy were expressed by Owen, though in an entirely different spirit. Cf. Spargo, John, *Karl Marx, His Life and Work*, 72, 184 and 190.

Aix-la-Chapelle were held at Frankfort. A succession of dinners, receptions, and conferences offered numerous opportunities to the delegates to become acquainted with one another and to discuss informally the subjects which were to be considered. Metternich, Hardenberg, Capo d'Istria, Emperor Alexander, Gentz, and the great Jewish bankers, the Rothschilds, Parish, and Bethman participated in these conferences.¹ So important were they considered that some were held in Metternich's room when he was ill and confined to his bed. Gentz, the Secretary of the Congress and author of its protocols, was so busy that, although he arrived on September 3, it was not till September 20 that he found it feasible to walk for a half hour, solely for pleasure, along the streets of Frankfort.²

It was but natural, then, that persons who had business to transact with the Congress should appear in Frankfort early in September, 1818. Owen, as well as others, was not to find it easy to secure consideration of a subject which was not pressing for solution, though he did not seem to have realized this situation. His early environment, later experience, and character had not fitted him for diplomacy. Because statesmen and nobles had visited New Lanark and praised his ideas he seems to have come to Frankfort with enthusiasm, expecting to be granted a hearing and to achieve great results. He did not seem to realize that those persons who as his guests politely listened to his new views of society and superficially examined his factory, would entirely change their attitude when they were delegates to an international Congress.

Among other letters of introduction, Owen brought one from Nathan Rothschild to Bethman at Frankfort. Bethman entertained the highest dignitaries, and on September 7 gave a sumptuous dinner where Owen met Gentz, a satellite of Metternich. Owen and Gentz held diametrically opposing ideas of society, and it is not surprising that neither enjoyed the other's

¹ The diplomats needed the aid of the great Jewish international bankers at the Congress in order that they might finance the French indemnity. The first news that reached London of the formal decision to evacuate France came by two private expresses to the Rothschild bankers. A contemporary speaks of 'the Jews, who in all cases in which the money market is likely to be affected, are constantly in their intelligence beforehand with the Government.' It will be recalled that Rothschild made upwards of £2,000,000 by having fast news service from the Battle of Waterloo, *The Morning Chronicle*, Oct. 8 and Oct. 15, 1818; *London Times*, Oct. 2, 1818; *Le Moniteur Universel*, Oct. 3, 1818.

² Gentz, Friedrich von, *Tagebücher*, ii. 258-266; *London Times*, Oct. 2, 1818.

conversation, even though Gentz spoke English. To Owen's arguments, Gentz is said to have replied: 'Yes, we know that very well; but we do not want the mass to become wealthy and independent of us. How could we govern them if they were?' His frank statements convinced Owen even more completely that the existing system of society was incompatible with the system he advocated. A few days later at a dinner at Beckheim's the two met again and Gentz wrote in his diary: '*Diskussion mit dem langweiligen Owen.*'¹

It was at Frankfort that Owen wrote his memorials. He had them printed in English, French, and German under one cover. He states that he discussed them with the Russian ambassador, and adds that one day after the Emperor Alexander arrived, having provided himself with a copy of the memorials, he waited for the Emperor in the hallway of the latter's hotel. Upon attempting to present it he was coldly rebuffed. Owen probably never had a real interview with Alexander either at Frankfort or at Aix-la-Chapelle.² He presented his memorials to the Diet, but received no answer to his proposals, nor was he called upon to explain their details. When he left for Aix-la-Chapelle near the end of September, after a month's sojourn in Frankfort, he seems to have realized, though without embitterment, the futility of expecting results from existing governments.

Though all Europe took its problems and dissatisfactions to Aix-la-Chapelle the diplomats felt that the formal discussions should be limited to the evacuation of France, lest acrimonious debates should arise which would hinder the return to normal conditions. There was small likelihood that any serious consideration would be given to the condition of the labouring classes when urged by a single individual unsupported by any government or organization. Although the Duc de Richelieu had met Owen in Paris and had heard of his practical measures

¹ Gentz, *Tagebücher*, ii. 260-261; Owen's *Autobiography*, i. 183. Owen states that the dinner at Bethman's was given to all the members of the Diet and others, with the express purpose of allowing them to hear him debate with Gentz, though Owen was not informed thereof beforehand. Owen wrote his *Autobiography* forty years after this event, and probably exaggerates its official importance and the part he played. Gentz's diary only reads: *Bei Bethman im Garten gegessen; mit Graf Theodore Bathyanny, Parish, Worontzoff, dem Englischen Philantropen Owen*, 2c.

² *Autobiography*, i. 184-185; London *Times*, Nov. 6, 1818. Joyneville, however, in his *Life and Times of Alexander I.* (1875), iii. 275, states that Alexander met Owen.

at New Lanark, he was not in a position to initiate discussion even had he so desired. Owen's plans created an invincible repugnance in Prussia with her military system. The Prussian censors at Aix-la-Chapelle hesitated a long time before they even granted Owen permission to print his memorials.¹ Even less was to be expected from Metternich and his satellites. Castlereagh, the English delegate, was too thorough a diplomat to waste time on subjects not coldly practical; it was difficult to arouse his interest even in the abolition of the slave trade. Owen's personal relations with Lord Liverpool and other English statesmen probably led him to expect some support from the English delegation.

Russia was more encouraging to the reformers than any other nation. Her influence was felt to be paramount; everyone was impressed by the great size of her delegation and by the presence of all her European ambassadors at Aix-la-Chapelle. The idealism of Alexander himself made all reformers feel that Russia was their friend. What neither the reformers nor the reactionary diplomats realized was that at this very period Alexander was losing his enthusiasm for liberalism. Gentz wrote on December 15, 1818, after the Congress had adjourned: '*Das die Revolutionärs aber am Kaiser Alexander keine Stütze finden werden, das ist jetzt zum Trost der Bessern, und zum Heil der Welt vollständig erwiesen.*'² The reformers who came to Aix-la-Chapelle, however, thought only of the Alexander of 1815-1818.

Ever since the announcement of the meeting of the Congress persons from all parts of Europe had begun to journey to Aix-la-Chapelle. Sovereigns, diplomats, artists, merchants, bankers, women, and reformers came.³ 'Every plan or project for the amelioration of society that requires the aid or support of governments for its execution—every suggestion for the removal of oppression or for the recovery of right, however distant its origin' found its way to Aix-la-Chapelle.⁴ The mediatised prince and bourgeois reformer alike looked especially to Alexander to champion their cause. It was even reported that the Tsar would not announce his route in order that he might not be

¹ London *Times*, Oct. 23, 1818.

² *Briefwechsel zwischen F. Gentz und Adam Müller*, 270.

³ Daudet, Ernest, *Autours du Congrès d'Aix-la-Chapelle* in *Le Correspondant*, vol. 228, 40.

⁴ London *Times*, Nov. 19, 1818.

harassed on the way by petitions from the petty princes.¹ In less than two months Alexander was reported to have received nearly 8,000 petitions from all parts of Europe.² Other representatives had similar experiences on a smaller scale. Consequently, it was proposed to announce officially that only petitions or solicitations connected with subjects to be discussed would be received.³

Of all the memorials advocating reform, those offered by three Englishmen secured the most prominence.⁴ Each championed the cause of an oppressed class: Thomas Clarkson pleaded for the negro slaves, Lewis Way for the Jews in Europe, and Robert Owen for the working classes in the rising factories. Each pinned his hopes of success on Alexander. The first two were partially successful. Wilberforce recommended that Clarkson, the champion of negro slaves, should 'apply his lever to the great Alexander.'⁵ Clarkson prepared an address which was printed in English and in French. Alexander read the address and Clarkson's letter and granted him an interview for an hour and a half on October 9, in which he pledged his support for the latter's programme to declare the slave trade piracy, to provide for a mutual right of search, and to persuade Portugal to join in its abolition. Moreover, he also agreed to give, personally, a copy of the Address to the Emperor of Austria, the King of Prussia, and even to Castlereagh.⁶ Rev. Lewis Way, of the London Society for Promoting Christianity among the Jews, had worked among the Jews in Russia and while there had come to the notice of the Emperor. It was at Alexander's suggestion that Way came to Aix-la-Chapelle. He drew up a petition and a memorial asking Christian governments to extend equal civil, social, and especially educational rights to the Jews,

¹ London *Morning Chronicle*, Sept. 22, 1818.

² London *Morning Chronicle*, Nov. 21, 1818.

³ London *Times*, Oct. 3, 1818.

⁴ Stern, Alfred, *Geschichte Europas*, i. 475; Capefigue, M., *Histoire de la Restauration*, 2nd edition, ii. ch. xii.

⁵ This letter to J. Stephen is given in the *Life of William Wilberforce*, by his sons, v. 2-3.

⁶ Wellington's *Supplementary Despatches*, xii. 760; Castlereagh's *Memoirs, Correspondence, etc.* xii. 3; London *Morning Chronicle*, Oct. 14, 1818; *Le Moniteur Universel*, Oct. 16, 1818; *Tübingen Allgemeine Zeitung*, Oct. 23, 1818; London *Times*, Oct. 16, 1818. Clarkson's letter describing the interview is given in Taylor, Thomas, *A Biog. Sketch of Thos. Clarkson*, etc. 116-119.

to encourage them in the arts, trades, and especially in agriculture, and to extend to them charity and tolerance; the Jews were to modify some of their objectionable practices and habits. The great Jewish bankers supported the movement. Alexander granted Way an interview and through Nesselrode referred the matter to the Congress.¹ Like Clarkson and Way, Owen also had good reason to expect support from Alexander. The latter's sister, the Grand Duchess of Oldenburg, on her visit to London had listened for two hours while Owen explained his new view of society, and had promised him that she would explain it to her brother, Tsar Alexander. The Tsar, she said, was very desirous of promoting liberal views throughout society as far as he could, considering his position and the difficulty of carrying the nobles with him. Moreover, Alexander's brother, the Grand Duke Nicholas, later Tsar Nicholas I., had visited New Lanark. While there he had been Owen's guest, and had offered to take the latter's sons under his patronage and also to organize communities in Russia according to Owen's ideas if Owen would come to Russia to supervise the work. Owen therefore hoped that the influence of the Emperor might be used in bringing his proposals before the Congress.²

He arrived at Aix-la-Chapelle about October 4, intending to present his memorials in person.³ These he amplified, had reprinted, whereupon they were entrusted to Lord Castlereagh, who, according to Owen's statement, presented them to the Congress.⁴ If this was done, it was probably in a cursory way. Owen was disappointed in not being accorded an opportunity to explain his memorials and by the failure of the Congress to

¹ *London Times*, Nov. 19, 1818; Kohler, M. J., *Jewish Rights at the Congresses of Vienna and Aix-la-Chapelle*, 59, 55, 61 and 86. The question of Jewish rights also came up at the Peace Conference in 1919, and had an interesting bearing on the ratification of the treaty by the United States Senate. Some of the cablegrams which passed between Taft and Wilson on this subject are printed in Marburg and Flack, *Taft Papers on the League of Nations*, 330-334.

² Owen's *Autobiography*, i. 145-147; *London Times*, Oct. 32, 1818.

³ *London Times*, Oct. 9, 1818. It was the custom to draw up a formal 'Memorial' or 'Address' on a subject to be presented to the Congress. Clarkson and Way did so. A memorial was also drawn up by the Purchasers of Westphalian Domains (*Le Moniteur Universel*, Nov. 19, 1818; *London Times*, Nov. 23, 1818), and Sir Joseph Banks drew up a memorial providing for the freeing of Europe from the Barbary pirates and the civilising of northern Africa (*Tübingen Allgemeine Zeitung*, Oct. 27, 1818; *London Times*, Oct. 12, 1818).

⁴ Owen's *Autobiography*, i. 186-188; *London Times*, Oct. 12, 1818.

appoint a Commission to investigate his factories; even Alexander, who had given Clarkson and Way an interview, did not grant him a hearing, though he did read the memorials.¹ Those who accepted the existing order of society appear to have regarded the memorials as merely a curious visionary scheme. A French diplomat characterized them as being similar to the Jesuit establishments in Paraguay.² The *Times* correspondent at Aix-la-Chapelle wrote that it was Owen's intention to ask the Sovereigns and Ministers 'to go down to Scotland, to examine their justice, in the experiment of his cotton-spinning establishment at New Lanark' and that 'Mr. Owen will not succeed better at Aix in proselytising their Majesties, than the Quaker did who went to Rome to convert the Pope.' In an editorial, the same newspaper remarked: 'If Mr. Owen is a single man (and if married, perhaps he might be allowed two wives), why can he not marry Madame Krudener? they seem to be birds of a feather: the ex-King of Sweden might give away the bride, and the Abbé de Pradt perform the ceremony.' As to the disposition of the memorial, it was predicted that while the German questions would probably be referred to the Diet for settlement, Owen's plan for the regeneration of the world would be referred 'to . . . a more convenient opportunity.' Owen, however, was respected as a celebrated and benevolent reformer who had done a great deal of good at New Lanark.³

Owen probably sensed the situation, for he remained at Aix-la-Chapelle but about twenty days. About October 21, 1818, he left for Paris where, as did Way, he had his memorials again reprinted.⁴ Each of the three English reformers felt that they had failed to secure results. Clarkson's cause was recognized in a half dozen pages of protocols, but these did not declare the slave trade piracy, nor concede a mutual right of search.⁵ Way succeeded in getting a general clause in the protocol of November 21, 1818, which at least formally recognized the justice of his plea. In the treaties which were drawn up and

¹ London *Times*, Oct. 23, and Nov. 6, 1818.

² Stern, Alfred, *Geschichte Europas*, i. 475.

³ London *Times*, Oct. 26, Oct. 23, Oct. 9, Nov. 6, 1818.

⁴ *Le Moniteur Universel*, Oct. 27, 1818.

⁵ Letter of Clarkson to Wilberforce, Oct. 11, 1818, *Life of William Wilberforce*, by his sons, v. 4; *British and Foreign State Papers*, vi. 57-66; Martens, G. F., *Nouveau supplément au Recueil de traités*, iii. 87-127. It is well to bear in mind that Martens does not print all the protocols that were drawn up by the Congress.

which have been printed, there is, however, not a single phrase or word which would indicate that Owen's memorials or the interests of the working classes were even considered by the Congress. Yet Owen states that a French minister told him in Paris that his memorials were considered by the members of the Congress to be the most important documents presented.¹ Owen in this instance may be pleasing his vanity, or his memory of what happened forty years before may have been in error, or the statement may have been that of a flattering courtier. That this statement is contrary to fact is shown by the entire absence of any mention of the consideration of his memorials in the official and unofficial correspondence, diaries, and reports of the leading statesmen at Aix-la-Chapelle.² With them, evidently, his ideas had practically no influence whatever. With his fellow reformers and other persons present at Aix-la-Chapelle they may have been influential in some degree. In all probability the numerous places where the memorials were printed at different times enabled the ideas expressed therein to reach and have some influence upon liberal and radical reformers in Europe and America.

The reactionaries, with their static point of view of society and their outlook towards the past, left Aix-la-Chapelle well satisfied. Metternich said that he never had seen 'un plus petit joli Congrès,'³ and Gentz, on December 15, 1818, wrote to his friend, Adam Müller, that the last two months had been the most interesting, the most peaceful, and the most glorious of his life.⁴ Owen, with his dynamic point of view of society and his outlook towards the future, realizing that his ideas were far ahead of his time, left Aix-la-Chapelle less well satisfied, but with his determination as strong as ever to assist the progress of the human race. It is probably this attitude towards life,

¹ *Autobiography*, 186-188.

² This statement is based upon an examination of the following sources: Wellington's *Supplementary Despatches*, vol. xii.; Castlereagh's *Memoirs and Correspondence*, vol. xii.; Metternich's *Memoirs*, vol. i. 314-334, and vol. iii. 111-176; *Les Conférences d'Aix-la-Chapelle d'après la Correspondance inédite du Duc de Richelieu*, edited by M. de Cisterne and published in *Cosmopolis*, v. 762-780, and vi. 150-165; Gentz, F., *Tagebücher*, ii. 258-288; *Dépêches inédites du chevalier de Gentz aux Hospodars de Valachie*, i. 397-415.

³ Lavisse et Rambaud, *Histoire Générale*, x. 73.

⁴ *Briefwechsel zwischen Friedrich Gentz und Adam Müller*, 266; cf. Gentz, F., *Tagebücher*, ii. 286.

illustrated so well in his business career, and permeating all his writings, however faulty their reasoning may be, that is responsible more than any other factor for the increasing interest to-day in all that concerns Robert Owen.¹

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¹ The universality of this interest is shown by the following list of books which appeared almost simultaneously in four different countries: G. B. Lockwood, *The New Harmony Movement*, New York, 1905; F. Podmore, *Robert Owen, A Biography*, 2 vols., London, 1906; Helene Simon, *Robert Owen, sein Leben und seine Bedeutung für die Gegenwart*, Jena, 1905; and Edouard Dolleane, *Robert Owen*, Paris, 1905.

Minutes of the Diocesan Synod of Lothian held on the 19th and 20th of March 1611

THE minutes of this meeting of Synod do not appear to have been previously printed. Of contemporary church historians Calderwood alone gives an account of it. Recent writers such as Grub, Parker Lawson, and W. Stephen do not refer to it. I have copied its minutes from a seventeenth century MS. belonging to Colonel H. Scrymgeour-Wedderburn of Birkhill, Fife, who has kindly given me permission to publish them. It will be noticed that *exercise* is used instead of *presbytery*. The spelling is erratic and irregular, and the writer rarely dots an *i*.

D. HAY FLEMING.

The Diocesan Assemblie haldin at Edinburgh, the nyntene day of March i m. vi^c and elevin zeiris, be George¹ Airschbischope of St. Androis, Primat and Metropolitane of Scotland, in the New Kirk² of Edinburgh.

Sessione prima.

The quhilk day exortatioun being made to (*sic*) the said George Airschbischope of St. Androis, and, efter prayer and thankis geving to God, the roll and names of the bretherin foirsaidis being callit, thair was electit and chossin the bretherin following to be upone the privie conference, thay ar to say Mr. David Lyindsay, Bischope of Ros, Mr. Johne Hall, Mr. Piter Hewart, Mr. Henry Blyith, Mr. George Ramsay, Mr. Archibald Symson, Mr. Robert Cornwall, Mr. Johne Gibbieson, Mr. Robert Muire, Mr. Eduard Hepburne, Mr. James Home, Mr. William Methven, Mr. James Carmichall, Mr. George Greir, Mr. Thomas Storie, Mr. James Dais.

¹ George Gladstones, who had been consecrated in the preceding December.

² Or eastmost church of St. Giles (*Cf. Laing's Baillie*, ii. 102, and Hope's *Diary*, Ban. Club, p. 197).

Sessione secunda.

Anent the materis referit fra the last diocesian assemblee to this assemblee :

And first, anent the provisioun of the kirk of Calder Comittis, orde[ns]¹ (*blank*) comissioneris, appointit of befoir in the last synodoll, to deall of new againe with my Lord of Torpichen, patron of the said kirk, and with my Lord Bischop of Glasgow,² quha standis presentlie provydit, for his demission of the said benefice, that ane minister may be provydit to the said kirk and benefice simple but onie conditioun.

And nixt, anent the comissioun grantit of befoir to (*blank*) for provisioun of the Kirk of Ellem. Becaus thair was na thing done thairin, ordaines new comissioun to be grantit to the saidis comissionaris for provisioun of the said kirk upone suit of the minister serving at the said kirk, and to repoirt thair diligence at the nixt synodoll assemblee.

The forme of tryell of persounes to be admittit to the ministrie heirefter quha hes not exerseisit publictlic.

It is concludit that quhatsumevir persoun quha hes not exerseisit publictlic of befoir, and disyris to be admittit to the ministrie, that befoir his admissioun he be tryit efter this forme : First that he teiche in Latyine privatly. Nixt that he teich in Inglis privatlie. Thridlie that he ad to the exerceis, and exerceis publictlic, teich in pulpit popullarlie. Last of all that he be tryit be depositiones and questiones upone the contravertit heidis and places of theologie.³ And all thir tryellis to proceid (*sic*) his admissioun.

Anent the supplicatioun gevin in be Mr. Adame Bannatyne of Kilconquhar, persoun and actuall minister of Falkirk, craving ane helper and follow lawborar to be grantit to him upone his awin chairgis for serving of the said kirk of Falkirk, in respect betuix the far distance of the said kirk of Falkirk and the landis of Kilconquhar,⁴ quhairwith he hes succedit and hes his necessar adois thair, as the said supplicatioun gevin in be him at lenth

¹ The margin is frayed.

² John Spottiswood.

³ See M'Crie's *Melville*, 1824, i. 339-341, 475-478 ; Ross' *Glimpses of Pastoral Work in Covenanting Times*, 1877, pp. 78-80.

⁴ Mr. Adam Bannatyne (or Bellenden), a son of Sir John Bellenden of Auchnoule, was minister of Falkirk from 1593 to 1616 (Scott's *Fasti*, i. 186) ; from which he was promoted to the see of Dunblane, and in 1635 to the see of Aberdeen (Keith's *Catalogue*, 1824, pp. 132, 133). In July 1609, he appears as 'de Kilconquhar' (*Register of the Great Seal*, 1609-1620, No. 153).

beiris; quhilk beand red and at lenth considerit, the said airschebischoep and hail bretherin of the synodoll convenit, all in ane voice, ordains the said Mr. Adam Bannatyne, supplicant, ather to transport himself fra the said kirk of Falkirk conforme to the act of transportatioun grantit till him in the last synodell, that the kirk may be declairit to vaik, or ellis to demit the said benefice, or ellis to serve in persoun and mak residence in his awin persoun, to teich and minister the sacramentis in his awin persoun, all substituitis and follow laboraris being secludit, under the pane of depositioun; and, failzeing of the premissis betuix and the nixt synodoll, that he be deposit of all functioun of the ministrie at the nixt synodoll.¹

Anent the supplicatioun gevin in be Andro Hairt cravand the executioun of ane act of the synodoll assemble, haldin at Hadingtoun the first of November i m. vi^c ten, be the quhilk act it wes ordanit that all the bretherin of the synodoll and ilk ane of thame, sould deill with thair parochinaris for bying of ane Bybill to be ane commoun Bybill to the kirk, and the minister that sall be fund remis and slaw in doing of this to be cencurit as the said supplicatioun and act of synodell in the self at lenth beiris; quhilk being red and desyir voitit in assemble, ordains this act till be put to executioun, with this aditioun that quhatsumever minister caussis not his parochinaris to by ane of the saidis Bybillis² betuix and the nixt synodoll he sall pay sex pund but [*i.e.* without] prejudice of the executioun of the act; and ordaines this act to be intimat to ilk conventioun of the bretherin of the exerceis, as lykwayes ordains the ministeris of Edinburgh to caus the Provest and bailleis of Edinburgh to buy four of the saidis Bybellis for thair kirkis under the pane of the censu[r] foirsaid.

Anent the supplicatioun gevin be my Lord of Cranstoun, Mr. Dauid M^cGill of Cranstoun-Riddell, Adame Wauchope of Caikinnize, for thame selffis and the remanent parochinaris of Cranstoun, cravand libertie to be grantit to Mr. Johne Nymbill,

¹ According to Calderwood, 'there was just caus to deale thus' with him, 'becaus his parochie was destitute of the preaching of the Word the halfe of the Sabboths of the year' (*History of the Kirk*, vii. 155).

² 'This edition [of 1610 in folio] was much admired, and it continued long to be accounted a high recommendation, to be "conform to the edition printed by Andrew Hart"' (Lee's *Memorial for the Bible Societies*, 1824, p. 56). A similar act was passed at the synod of Fife on 4th April 1611 (Lee, *ut supra*, and *Selections from the Minutes of the Synod of Fife*, Abbotsford Club, p. 10).

present minister¹ and titular of the personage and vicarage of Cranstoun, to mak and renew takis of the said personage of the said personage (*sic*) and vicarage, that ane sufficient provisioun may be maid for establischin[g] of the said kirk and for ane steipand to ane minister to serve thairat, as the said supplicatioun at lenth beiris; quhilk being red and considerit, the said airschbischop and hail bretherin of the said synodoll grantis liecence to the said Mr. Johne Nymbill to set takis of the personage and vicarage of Cranstoun, with consent of Mrs. Johne Hall, Piter Hewart, George Ramsay, Archibald Symsoun, Henrie Blyith, David Lyndsay, zoungar, Mr. Johne Hall beand ane of the consenteris, and ordains ane act of synodoll to be maid heirupone.

Anent the resolutioun cravit in name of Mr. Patrik Symsoun, minister at Striuling, gif the celebratioun of the Lordis Supper within the kirk of Striuling sould be continwit quhill the eylistis and jaris newlie arrysin betuix the nytboras and indwellaris in Striuling war satlit and removit, it wes voitit be the said synodoll that the celebratioun of the continwatioun² sould be continwit till all neichboris war reconceillit and thair reconciliatiou[n] to be repositit to the nixt synodoll.

At Edinburgh the twentie day of March i m. vi^o and elevin ze[r]is].

Sessione prima.

Anent ordor taking with the sclander and ryet comitit in the kirk of Dunc³, the airschbischop and bretherin of the synodell gevis comissioun to the bretherin of the exerceis of Edinburgh, and to Mrs. Archibald Symsoun, Alexander Cas, Johne Weymes, Tobias Ramsay, Williame Hog, Patrik Gaitis or onie thrie of thame jointit to the bretherin of the exerceis of Edinburgh, to direct out sumondis to sumond the comitar[is] of the sclander and ryat to compeir befor thame at Edinburgh quhat day thay sall think expedient to determyne anent the sclander and to censur thairfoir, provyding that na proces of excumunicatioun be deducit or sentence pronuncit bot according to the act of Generall Assemblie haldin at Glasgow, and in the meinetyme ordains the brether[in] of the exerceis of Duns not to sit within

¹ Cf. Scott's *Fasti*, i. 274.

² *Continwatioun* is obviously a clerical error for *communioun*. 'Should be continwit,' i.e. should be postponed.

³ There is an account of this riot in the *Register of Privy Council*, ix. 100-102.

the kirk of Duns quhill ordour be taine thairanent and that the commissioneris foirsaidis ordaine thame to sit thair agane.

Item it was ordanit that thir comissionaris abonewrittin, and with thame Mr. Daid Home and Mr. William Methven, to deill with Mr. Patrik Gaittis, minister at Duns, for adjoyning with ane follow laboroir to him to the kirk of Duns in respect of his aige and to [give]¹ his answer to the nixt synodoll.

At Edinburgh the xx day of March i m. vi^c elevin zeiris. Anent the supplicatioun gevin in be² George Airschbischof of St. Androis and the bretherin of the diocesan synodoll assemblee be Mr. Henrie Monnypenny and Fransiscus Apparitus, Italian, bursur and student in the New College of St. Androis, the said Mr. Henrie cravand sum supplie and support for releif of his grit and havie seiknes quhairwith he is presentlie and hes beine thir mony zeiris bypast vexit and diseasit, and the uther craving sum cheretabill meins to be fund out quhairby sum support may be grantit to him for furnesing of claythis and buikis and uthairis necessaris for furtherance of his cours in the studie of theologie, as the said supplicationes at lenth beiris: quhilkis being red, and the said airschbischof and the remanent bretherin of the said diocesan synode being at well thairwith advyssit, thay all in ane voice ordanes everie minister at ilk kirk within the boundis of the diocie convenit at this synodell to caus thair parochinaris and sessiones help and supplie thir supplicantis with sum collectioun and contrabutioun, and to collect and ingadder the money that sall happin to be gevin betuix and midsomer nixtocum, and to delyver the money collectit to the bretherin of the exerceis of Edinburgh, to the effect the samyn may be distribuit to thir twa supplicantis at the sicht of Mr. Johne Hall and Mr. Piter Hewart, and the said Mr. Henrie to have the maist pairt of the soumes collectit extractit.

At Edinburgh the xx day of Marche i m. vi^c elevin zeiris. Anent the supplicatioun gevin in to my Lord Airschbischof of St. Androis, Primat of Scotland, and to the remanent bretherin presentlie convenit at the diocesan and synodell assemblee, be Johne Elphingstoun of Schank, makand mentioun that quhair he and his predicesoris heritoris of thrie pendicles of the Mans of Arnistoun callit the Schank Bullioun and Cokhill, lyand in the parochin of Borthuik and scheref dome of Edinburgh, hes beine kyndlie takisman of the personage and vicarage teyindis thair of, pertening of auld to the prebendarie of Arnistoun as

¹ Omitted.

² *Be* is a clerical error for *to*.

ane pairt of the patromonie thairof; and albeit the said prebendarie be unitit and annexit to the personage of Borthuik, and that Mr. Patrik Turnour be persoun of the said personage and sua prebendar of the said prebendarie, nevertheles he will on na wayes set the said Johne Elphinstoun of Schank ane tak of the personage and vicarage teyindis of his landis without liecence be grantit to him; and thairfoir maist humblie beseikand my Lord Airschbischof of St. Androis and remanent bretherin of the senute to grant liecence to the said Mr. Patrik Turnat to set takis of the personage and vicarage of the saidis landis to sic persounes as he sould appoint with consent of the patron, for sic space as he sall be thocht (*sic*) expedient, as the said supplicatioun at lenth beiris. Quhilk being publictly red in presence of the said airschbischof and the haill bretherin of the senute, and voitit gif the desyir of the samyn was ressonabill or not, thay all in ane voice gaif liecence to the said Mr. Patrik Turnat to set takis of the said personage and vicaragè teyindis of the landis abonewrittin with advys of Mr. Johne Hall, Mr. Piter Hewart, ministeris at Edinburgh, Mr. Daud Lyindsay, zoungar, minister at Leyth, Mr. Henrie Blyith, minister at the Cannogait, Mr. George Ramsay, minister at Leswaid, Mr. Archibald Symson, minister at Dalkeyth, or onie thrie of thame, to the said supplicant or onie uther persoun he sould appoint, and that for sic space and conditiones as sould be thocht expedient be thame, and ordanit ane act of synodell to be maid thairupone.

Anent the supplicatioun gevin in be me Lord Saltoun and remanent parochinaris of the parochin of Saltoun, craving ane provisioun to be grantit to ane minister out of the reddiest fruitis and teyindis of thair awin parochin, thair kirk of Saltoun beand ane of the kirkis of the prelacie of Dryburgh, and thair teyind scheavis extending [to]¹ the quantitie of threttie chalder victuall and rigourosly led of thair grund, as the supplicatioun at lenth beiris; quhilk being red it is ordanit be the synodell that my Lord Airschbischof of St. Androis sould writ maist earnestly to the Kingis Majestie, to my Lord of Mar, and to the Laird of Ruthvenis for ane provisioun to the said kirk.

Anent the supplicatioun gevin in be George Abernethi[e] and the parochinaris of the parochie kirk of Glencros, craveand ane ordinar pasture to be gevin to thame, quha may teich the Word and minister the sacramentis at the kirk of Glencros, in respect that Mr. George Ramsay, minister at Leswaid, pretendis

¹Omitted.

rycht to the said parochie kirk as ane pendicle of his kirk of Leswaid, upliftis and leidis [and]¹ exactis the teyindis thair of extending to fourtene chalder victuall zeirlic, as the said supplicatioun at lenth beiris; quhilk beand red the said Mr. George Ramsay beand present, and George Abernethie beand present and takand the burding upone him for the said hail parochinaris of Glencros, thay baith submitti[t] to my Lord Airschbischop of St. Androis the desyir of the said supp[li]catioun and his Lordschip [to]² give his sentence and determinatioun betuixt and the nixt synodoll.

Anent the supplicatioun gevin in be George Abernethie, procurator (*sic*) fischall of the commissariat of Edinburgh, desyiring ane ordinance to be maid that evirie minister sould inroll and give up the names of his awin defunct parochinaris, with thair wyffis or successoris names, intrometoris with thair geir, be designatioun of name, surname and dwelling-place to the effect that the defunctis testament may be confermit; quhilk beand red it was voit (*sic*) and concludit be the hail bretherin of the synodell that evirie minister sould give up ane roll of the names of pairteis deceisand with (*sic*) thair parochinaris, with thair wyffis or successoris names, intrometoris with thair geir, be designatioun of thair name, surname and dwelling-place, and to report it betuix and the nixt synodoll quhat diligence thay have done thairanent.

It wes voitit be the hail bretherin of thir present diocesan synode that the exerceis of the bretherin sould be continwit in the ordinar places quhair thay ar presentlie, and that thay be not removit out of ordinar places betuix synodell assembleis.

Item, it was ordanit that the act of Generall Assemblie, haldin at Glasgow the aucht of Junii 1610 zeiris, aganes the absent ministeris fra diocesan assembleis and ordinar visitatioun of kirkis without just caus or lauffull excuis, sould be put to executioun aganes the absent ministeris fra the nixt synodell assemblie, viz. the minister that sall be absent without just caus or lauffull excuis sould be suspendit fra his office and benefice, and [gif]³ he mend not sould be depryvit; and this act to be intimat in the hail conventiones of the bretherin within this present diocesan synode.

Item, ordaines my Lord Airschbischop of St. Androis to direct ane missive for himself and in name of this diocesan

¹ Omitted.² Omitted.³ Omitted.

synode to (*blank*) for ane provisioun to be haid to the kirk of Chirinesyde.

It wes declairit and complenit upone be Mr. Daud Forrest that Mr. Thomas Ambrois, minister,¹ sellis the sacrament of baptye and takis money thairfoir, thairfoir this present synode gives comissioun to the bretherin of the exerceis of Lynlythgow and to Mr. Adame Bannatyne to tak tryell of the said complaint and to repoirt [to]² the nixt synode gif the said be trew or not.

Anent the supplicatioun gevin in be Mr. Thomas Bannatyne,³ minister at North Berwik, aganes the bretherin of the exerceis of Hadingtoun, in respect thay refusit to inroll him as ane actuall minister and as ane of the bretherin of the said exerceis, and wald not suffer him till exerceis with thame, as the complaint in the self at lenth beiris; the quhilk being red the said airschbischop and bretherin of the synodoll ordanes Mr. Eduard Hepburne and Mr. James Home to pas to the bretherin of the exerceis of Hadingtoun to sie the said Mr. Thomas Bannatyne inrollit as ane actuall minister and ane of thair ordiner bretherin of thair exerceis; and, gif thay refusit, to repoirt thair refusall to the nixt synodoll.

Ordains the bretherin of the exerceis of Dwmbar to pas to the Erlle of Home⁴ and to chairage him to subscrivve the Articles of Fayth conforme to the Act of Parliament and actis of Generall Assemblie; and, gif he refusit, to repoirt his refusall to the nixt synode.

Ordains Mr. Eduard Hepburne to produce the sentence of excumunicatioun pronuncit aganes Buttardaine, and to dilyver the samyn to Mr. Johne Hall, Mr. Piter Hewart, Mr. Henrie Blyth.

It wes voitit and concludit be the said airschbischop and hail bretherin of this diocesian synode that the present moderatoris of everie exerceis sould continw moderator to the nixt synodell assemblie.

My Lord Airschbischop of St. Androis caussit reid and intimat to the hail bretherin of this diocesian synodell his

¹ Ambrose was minister of Slamannan.

² Omitted.

³ At the diocesian synod of Lothian, held at Haddington on the 1st of November 1610, 'Mr. Thomas Bannatyne was appointed minister of Northberuick by pluralitie of eight votes, fourteene or moe votes of laicks of the number of the voters for him' (Calderwood's *History*, vii. 129).

⁴ The Earl of Hume was 'suspected of Papistrie' (*Booke of the Universall Kirk*, iii. 1025).

ma[jes]teis will and declaratioun anent the dischipline that ministers hes over thair parochinaris and anent the ellectioun of the sessiounes of kirkis as at mair lenth is contenit quhais¹ Ma[jes]teis will and declaratioun red and intimat be the said airschebischoep to the said bretherin.

It wes voittit and concludit that the nixt diocesan synode sould hald at Edinburgh the secund day of November nixtocum.

And thankis being gevin to God the assembleie dissolvit.

[In a different hand :—] Produced the 9 of October.

[Indorsation, also in a different hand :—] Diocesan Synode holden at Hadingtoun.²

¹ *Quhais* is obviously a clerical error for *in his*.

² This error may perhaps be explained by supposing that the minutes of the synod held at Haddington were written on a separate sheet, and that that sheet was at one time folded up with the minutes of this synod.

A Note on a Moray Charter

THE Register of the Bishopric of Moray contains a *Compositio*, of the year 1232, which offers material for annotation.¹ The parties to the compact were Andrew de Moravia, Bishop of Moray, and David de Strathbolgyn, son of Duncan, Earl of Fife, and the subject was the claim of the respective parties to the lands of certain mensal churches and to another piece of land. In terms of the arrangement the church lands were granted by the Bishop to David in feu, and the former received the other piece of land. The Bishop retained the *advocationes* and the *jus patronatus* of the churches, and certain rights which two secular priests had obtained from the Bishop to some of the church lands were reserved. Further there were reserved to each of the churches from the lands so feued a modest area and rights of common pasture.

The clause regarding pasturage is as follows: *Quilibet vero sacerdos ministrans alicui ecclesiarum predictarum habebat sibi et suis communem pasturam per totam parochiam suam secundum quod est provisum et constitutum ab Episcopis regni Scotici concilio eorundem.* The reference is possibly to No. 92 of the *Statuta Ecclesiastica* of the thirteenth century contained in a Lambeth MS. Robertson expressed a doubt as to whether the section of these *statuta*, to which this Canon belongs, were provincial or synodal. If the identification of the canon referred to in the Moray charter with Canon 92 is correct, it is clear that the body of canons to which it belongs was treated as provincial in 1232 and that it may be assigned to the period between 1225 and that date. If the *Compositio* in the Moray Register had referred to a Council presided over by a Legate, it would probably have mentioned the fact of his presence. It will be remembered that the Bull of Honorius III. authorising the Scottish Bishops to hold a Provincial Council is dated 1225.²

¹ *Registrum Moraviense* (Edinburgh, 1837), 29.

² Robertson, *Statuta* (Edinburgh, 1866) i. p. clxxxiv n. i. and ii. p. 45. ³ Patrick, *Statutes* (Edinburgh, 1907), p. 50 n.

A further question raised by the *Compositio* is found in the following clause of renunciation which it contains 'Et renunciavit pro se et heredibus suis omni exceptioni appellationi occasione et contradictioni et omni juris remedio tam civilis quam ecclesiastici et constitutioni de duabus dietis et remedio episcopali divi Adriani.' This clause is followed by a renunciation in more summary form by the Bishop: 'et renunciacione consimili per omnia.'

At first sight it appears clear that the *constitutio de duabus dietis* is the thirty-seventh canon of the Lateran Council of 1215, which provided: 'ne quis ultra duas dietas extra suam dioecesim per litteras apostolicas ad iudicium trahi possit, nisi de assensu partium fuerint impetratae, vel expressam de hac constitutione fecerint mentionem.' This identification is supported by a *Compositio* of 1223 regarding tithes which appears in the Register of Melrose, and contains the following clause of a Mandate by Honorius III. which it incorporates 'Quia prefati Abbas et conventus ultra duas dietas extra suam dioecesim ad iudicium trahebantur contra statuta concilii generalis, du quo in litteris mencio non fiebat, predicti iudices in causa ipsa minime processerunt.'¹ It is interesting to note that the monks of Melrose were pleading the canon of 1215 within eight years of its enactment.²

Assuming that the foregoing identification is correct, we ask, What was the *remedium episcopale divi Adriani*? It is submitted that the scribe or transcriber has made a mistake and that the words ought to read *redemium epistoli divi Adriani*. The reference is to the legislation of the Emperor Hadrian on the *beneficium divisionis* granted to several co-sureties.³

¹ Liber de Melros, i. 270.

² Reference may also be made to the letter of Innocent IV. of 1251, *De gravaminibus ecclesie Scotice emendandis*; Robertson, *op. cit.* ii. 246; and Patrick, *op. cit.* 212 n. and 217. Scotland was represented at the Council of 1215 by four Bishops, not by three and the Abbot of Kelso as has been generally stated on the authority of the Melrose Chronicle. Robertson, *op. cit.* i. xlii. The Zurich list of the bishops who attended substitutes the name of the Bishop of Caithness for that of the Abbot of Kelso. The list was published by M. Luchaire in the *Journal des Savants* of October 1905, from a Zurich MS., and is reprinted in Hefele and Leclercq, *Histoire des Conciles* (Paris 1913), v. p. ii. 1730; cf. Luchaire, *Innocent III.: le Concile de Lateran* (Paris 1908) 11 n. It may be noted that the Lateran Canon did not introduce a novelty in legislating regarding *dietae*. The question is raised in two letters of Innocent III. of 1207 in the narrative of pleadings. *Opera* (ed. Migne) II., 1177 and 1184. The use of the word *dieta* in the sense of a day's journey is exemplified in the devotional tract of Robert de Sorbon, *De tribus dietis* (ed. Chambon: Paris, 1902).

³ *Institutes*, iii. 20, 4. Gaius, iii. 121.

This slight emendation seems to make the reference clear, but a difficulty suggests itself in the collocation of references to the Civil Law of the classical period and to the canon of a Church Council of 1215 regarding quite distinct subjects. A reference to continental practice suggests that the collocation of the two references may be a typical example of scribal half-knowledge. The scribe had probably at the back of his mind the legislation of Diocletian and Justinian, *De duobus reis stipulandi et duobus reis promittendi*.¹ This emendation would make the references bear on cognate subjects and would give the form which is found in some of the French *coutumes*. Thus in a series of *Règles Coutumières*, which are based on the *Coutume de Touraine-Anjou* and appear to have been collected in the fifteenth century, we find in *La declaracion des renunciacions que les notaires doivent mettre en contrats et obligations* a careful exposition of the importance of the renunciation of the benefits of the Epistle of Hadrian and the legislation *De duobus reis*. The passage is as follows: 'Quant deux ou plusieurs s'obligent l'un pour l'autre, et chacun pour le tout, sans division de personne ne de biens, il convient qu'ils renuncent à l'epistolle de div. Adrien, et à l'authentique *De duobus reis stipulandi et promittendi*; car autrement ils ne sont tenus chacun que pour sa porcion. . . .'² Again, a notarial instrument of Marseilles of 1234 contains an elaborate series of renunciations which includes, *epistole divi Adriani et nove constitutionis beneficio De duobus reis*.³ Pertile notes that this *beneficium* is explained in the Formulary of Irnerius.⁴

DAVID BAIRD SMITH.

¹ Code viii. 39 (40) and Novellae 99.

² Viollet, *Etablissements de S. Louis*, iii. 215.

³ Giry, *Diplomatique*, 562.

⁴ Pertile, *Storia del diritto Italiano*, iv. 510 et sqq. Reference may also be made to *Archaeologia*, xxviii. 227. The recently published *Ars Notariae* of Rainerius Perusinus (ed. Wahrmund, Innsbruck, 1917), a thirteenth century work, contains the form of a *carta plurium vendentium*, which gives the clause, 'Renuntiantes non numerati et non soluti eis pretii exceptioni, beneficii novarum constitutionum de pluribus reis et de fidejussoribus, auxilio epistole divi Adriani et omni legum auxilio' (p. 33).

Glasgow in the Pre-Reformation Period¹

THE first volume has just been issued of a work which will in all likelihood take the place of the authoritative history of Glasgow. It is notable by reason both of its qualities and the circumstances of its production, being the last work of its author, whose busy life closed ere it saw the light. Glasgow, it has been said, has never lacked pious sons, from McUre downwards, to celebrate her progress, nor spade workers to investigate her origins. Robert Renwick combined in a remarkable degree the qualities of both. Although not a native of the city, the spell of its wonderful and inspiring history had fascinated him. He was a student whose *école des chartes* was the manuscripts themselves, who by life-long investigation of original documents had first-hand knowledge, and possessed both the will and the ability to impart his knowledge.

As is fitting, to this first volume is prefixed a short memoir accompanied by a portrait. The sketch records adequately and sympathetically the life and work of the Depute Town Clerk, under whose care were the muniments of the city, and whose labour of love it was to arrange, classify, transcribe and edit them for the benefit of future generations. Sir James Marwick discovered Renwick, and notable results ensued in the conjoint editing and publication, over a long series of years, of Scottish Burghal Records.

The author's preface is characteristically accompanied by facsimiles of four pages of the ancient register, and gives an account of the work done by former historians. The debt we owe to Father Thomas Innes, through his transcribing and sending from France in the early eighteenth century copies of original documents, is rightly emphasised.

¹ *History of Glasgow*. By Robert Renwick, LL.D., late Depute Town Clerk, author of 'Glasgow Memorials,' 'Abstracts of Glasgow Protocols,' etc., and Sir John Lindsay, D.L., Town Clerk of Glasgow. With 59 illustrations and 2 maps. Vol. I., Pre-Reformation Period. Pp. lii, 434. 8vo. Glasgow: MacLehose, Jackson & Co., Publishers to the University. 1921. 25s.

The book consists of fifty-four chapters dealing with the history of the city from pre-historic times up to the Reformation. The first six chapters are devoted to the traces of man's occupation of the Clyde valley at Glasgow and to the early history of the religious foundation by St. Kentigern on the banks of the Molendinar. The diocese of Glasgow, its extent and the early bishops come next into view, the reconstitution of the Bishopric by King David receiving due weight.

When the Burgh of Glasgow is treated of in Chapter XIII., the author's command of his subject is abundantly evident. The energetic Bishop Joceline obtains recognition as the procurer of the Charter of erection granted by King William the Lion in or shortly after the year 1175. Later, in all probability, the Market-cross was set up 'at the convergence of what long formed the four chief streets of the older part of the city,—High Street and Walkergait or Saltmarket, Gallowgait and Trongait.' The Tolbooth was naturally placed alongside. The development of the booth for the collection of toll or custom into the combined jail, council hall and court house is pointed out.

The Roman road from the south, which passed through Glasgow by Drygait (so called because of the Bridge over the Molendinar), Rottenrow, and then on to *Partwich* (Partick), had probably more to do with the early settlement here than is generally supposed. Our oldest street—Rottenrow—is a survival of the Roman occupation.

The main thoroughfares of the little fishing village on the lower ground are enumerated, and we learn that there were three ports or gates in the upper town—Rottenrow port, North or Stablegreen port and Drygait port. The other ports were placed in the Walkergait, Trongait and Gallowgait.

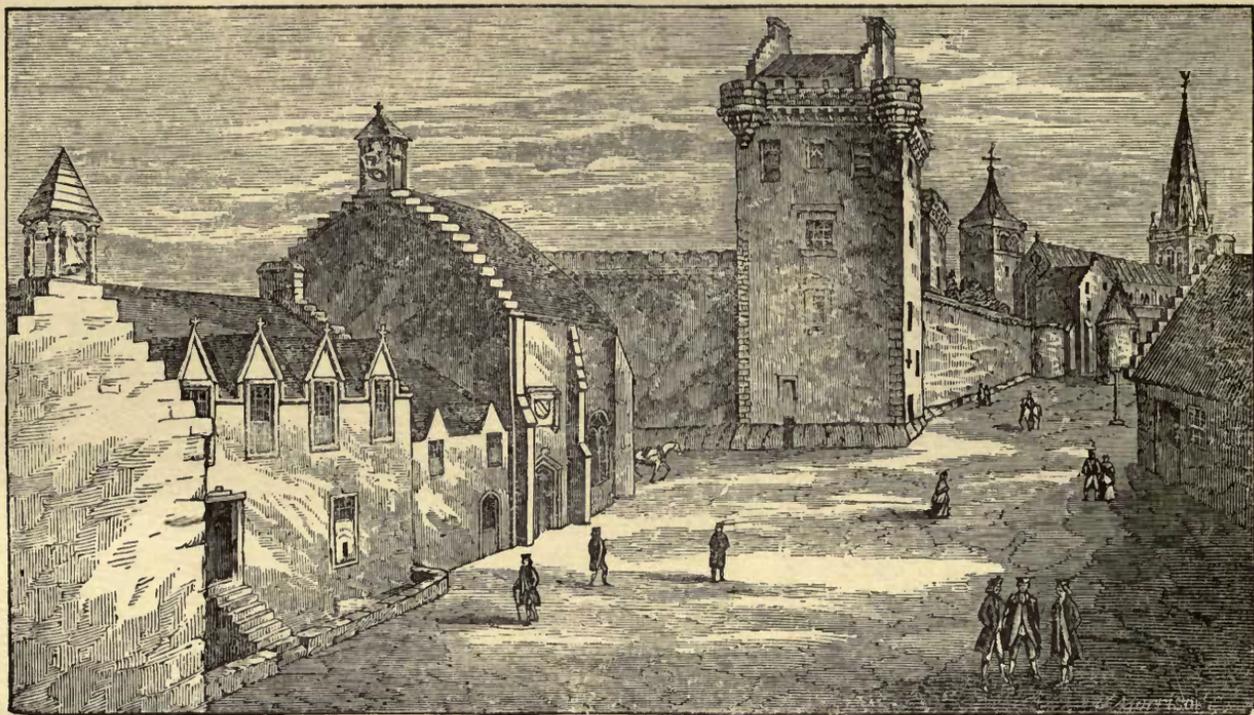
The fact that the original bridge over the Clyde was a wooden structure is well known. McUre, writing in the eighteenth century, gives Bishop Rae (1338-67) the credit of erecting a bridge of stone of eight arches. Dr. Renwick points out the difficulty of accepting this purely traditional statement. Lady Lochow, daughter of Robert, first Duke of Albany, whom McUre names as associated with the bishop in the work, belongs to the following century. The absence of original authorities makes it impossible to fix the date of the stone bridge. It appears to have been earlier than 1488, for Blind Harry, the manuscript of whose poem is of that date, says that in Wallace's time it 'was of tre.'

The inferior position of Glasgow as a bishop's burgh of barony and regality has been unduly emphasised by some of its former historians. Thus MacGeorge, while admitting the advantage of a clerical as compared with a lay lord-superior, does not recognise that Glasgow, by virtue of its earliest charters, had, as our author says, 'trading rights, home and foreign, as full as any enjoyed by a royal burgh.' It is true that it had not full freedom in the election of its magistrates, but even here the burgesses possessed a certain liberty of choice. The bishops were zealous upholders



The Auld Pedagogy.

of the rights of the community against attempted infringement by neighbouring burghs, and from their influence were successful. Thus in 1450 the King—no doubt at the instigation of Bishop Turnbull, Founder of Glasgow University—charged the bailies, burgesses and communities of the Royal Burghs of Renfrew and Rutherglen to make no disturbance or impediment to any of his lieges coming or going to the market of Glasgow with merchandise, granting these absolute freedom of buying and selling. The barony of Glasgow and the lands pertaining to St. Mungo's freedom are not to be entered for the purpose of taking toll or custom by water or land from persons going to or coming from the market. Bishop Turnbull thus promoted learning on the one hand, and on the other commercial prosperity. From a review of the early history of the city the conclusion may



Saint Nicholas' Chapel.

be drawn that the protection and fostering care of a succession of powerful ecclesiastics, many of them statesmen in high office, were of greater value than even the status of a royal burgh would have been.

As early as the reign of Alexander II. or III. coins were struck, almost certainly in Glasgow, and reproductions of these form one of the many excellent illustrations. The royal mint in those days moved from place to place, the moneyer accompanying the king and court, but the places, as indicated along with the moneyer's name on the reverse of the coins, are always important localities, such as Edinburgh, Berwick, Perth, Lanark or Roxburgh, so that from the early Scottish coinage may be inferred the rising influence of the burgh of Glasgow. So far as we are aware no coins were minted at any other burgh of barony or regality.

A chapter is assigned to the 'Arrival of the Friars.' The Black Friars were located on the east side of High Street in or before 1246. The founding and building of their convent is traditionally attributed to the Bishop (William de Bondington). They seem to have been welcomed by the secular clergy. A cordial reception from the secular and regular clergy was not a common experience of the friars. We are told that some years later, when the Bishop was in poor health, the Prior of the Friars-preachers was empowered by the Pope to absolve him from his vow not to eat flesh in his own house. This betokens friendly relations still subsisting.

It was not until the latter half of the fifteenth century that the other outstanding Order of Friars—the Greyfriars or Franciscans—settled in Glasgow. About 1476 the Observantine branch of the Order was housed upon the west side of High Street. Their convent, however, did not front the street. True to their principles of humility and poverty, they elected to be placed behind the houses and gardens of the burgesses.

Bishop Joceline favoured the great military religious Order of the Knights Templars, and he gave them a toft with the fishing of one net in the river Clyde. This toft upon the west side of the Fishergait, afterwards Stockwell Street, was held in the twelfth century by '*their man*' William Gley. The property, upon the suppression of the Templars, devolved upon the Knights of St. John of Jerusalem, and various tenants or rentallers are mentioned. In 1295, ere it had passed to the Hospitallers, a sale of the tenant right discloses the interesting fact that St. Tenu, the

mother of St. Kentigern, was already known as 'St. Enock.' The Latin indicates a *female* saint of this name, with her chapel in the neighbourhood.

James II. and James IV. were honorary canons of the Cathedral. The commanding role filled by Bishop Turnbull and his successors during the fifteenth century, in promoting the interests of the Church, the burgh and the university, is well brought out. The friendship of these statesmen-prelates with the Stewart kings was most advantageous to the little Cathedral City.

The book gives a clear and connected history, so far as the very fragmentary records allow, of the varied events and aspects of the life of the little burgh, with its two-fold characteristics, those of the wealthy ecclesiastical community located upon the hill near the Cathedral, and those of the burgher and trading classes dwelling for the most part upon the lower ground near the river. We have selected for comment only a few of these aspects and events, but enough to justify the conclusion that for comprehensive accuracy Dr. Renwick's work is a great advance upon previous publications. While never hesitating to give his view, he is always eminently cautious, and amid scanty records, where the tendency to assume surmises to be facts is powerful, it is well to have guidance upon which dependence can safely be placed.

The illustrations add to the interest of the volume, and the two sketch plans—one of the city about 1560, the other, from *Glasgow Protocols*, of the sites and buildings in the neighbourhood of the Cathedral—are of permanent value. Altogether this first volume augurs well for the success of the history, setting as it does a high standard of accuracy and scholarship. It is furnished with a full index.

JOHN EDWARDS.