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LIVES
OF
SIMON LORD LOVAT,
AND
DUNCAN FORBES,
OF CULLODEN.

FROM ORIGINAL SOURCES.

BY JOHN HILL BURTON,
ADVOCATE,
•
AUTHOR OF "THE LIFE OF DAVID HUME."



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INTRODUCTORY NOTICE.

It was once suggested to the author, by one whose power of drawing a rapid and picturesque sketch of character and events realised the idea upon the spot, that it would be difficult to find a life presenting so many prominent topics for the biographer's pen as that of Lord Lovat. At one time a mountain brigand, hunted from cave to cave—at another a laced courtier, welcomed by the first circle in Europe. In summer a powerful baron, with nearly half a kingdom at his back—in winter, dragged ignominiously to the block. By turns a soldier, a statesman, a Highland chief, a judge administering the law of the land, and, if tradition speak truth, a Jesuit and a parish priest. Uniting the loyal Presbyterian Whig with the Catholic Jacobite, and supporting both characters with equal success.—It was believed that these strange vicissitudes in fortune, and contrasts in character, if simply told, and offered to the reader along with the means of

estimating his genius, his versatility, and his remarkable influence over other men, might furnish a volume capable both of pleasing and instructing. On further consideration, the author thought he could direct such a record of character and events to a moral purpose of no small moment. Contemporary with Lovat, born and reared near the same spot, and closely entwined with the more memorable incidents of his career, was one whose character and history were as different from his, as the sunshine from the shade. Closely as external circumstances brought them together, the contrast was not entirely innate, but represented differences in the moral soil out of which they respectively grew, and the moral atmosphere which each of them inhaled. If Lovat's history be a type of the old reign of fraud and force, rendered the more conspicuous by protruding into an era of transition, Forbes is a character as strongly marked in its solitary anticipation of an age still further advanced in integrity and humanity. These two characters thus bring into one focus the extremities of distant ages, and show side by side distinct periods in the history of civilisation. Judge Jeffreys and Sir Samuel Romilly, separated from each other by nearly a century and a half, are not a greater contrast in all that seems to mark the moral influence of different ages of society, than these two men, who breathed the same mountain air, fought side by side in the same battles, and sat at the same board. It was believed that the united picture, if correctly drawn, might prove a useful chapter of that

philosophy which history teaches through example; and that biography presents few opportunities of showing so clearly the extent to which man is capable of improvement,—the fruit and flowers that may be reared where weeds and desolation are seen; the wealth of the elements that lie at the disposal of the moral and social reformer. To accomplish this end, it was necessary to let facts convey to the mind their own impression and their own moral. In the life of Forbes, the author may have shown, in the tone of his narrative, a partiality for the character of a good man, which few will be inclined to censure. In the memoir of Lovat, there is a more strict adherence to pure narrative; for indeed it was felt, that in addition to the picture which the bare statement of facts presented, any denunciations, or rhetorical appeals to the moral indignation of the reader, would be but gilding refined gold, or painting the lily. It has been the author's object from the beginning, to place very little faith in previous narratives, whether traditional or contemporary, but to take his materials from authentic documents; and the reader will not probably feel, that this restriction of the medium through which they are seen has divested the character and career of this extraordinary man of any of their marvels.

Of the various biographical accounts of Lovat, by contemporary authors, the least inaccurate is a little book of eighty-eight pages, published in 1746, with the title "*Memoirs of the Life of Lord Lovat.*" This rare tract has been seldom, if ever, cited by late writers; while a

work called “Memoires de la Vie du Lord Lovat,” published at Amsterdam in 1747, which is a mere translation of it, has been referred to as an original authority. During the time of his impeachment, the wonder-loving world of London were supplied three times a week in halfpenny numbers, with “The Life, Adventures, and many and great Vicissitudes of Fortune, of Simon Lord Frazer of Lovat, from his Birth at Beaufort in Scotland, in 1668, to the time of his being taken by Captain Millar, after Three Days’ Search, in a Hollow Tree.” This narrative, now very rare in its original form, was thought worthy of being immediately reprinted in octavo, as the work of “The Rev. Archibald Arbuthnot, Minister of Kiltarlity, in the Presbytery of Inverness.” This book, on which little or no dependence can be placed, is a forgery—that is to say, it was never written by a minister of Kiltarlity, a circumstance proved by many pieces of internal evidence, of which one shall suffice. When describing Simon’s imprisonment of the Dowager Lady Lovat, in the Island of Aigas, the author says, “Having mounted her upon a pad of her own, and himself upon a stout horse, with only one servant to attend ’em, they rode away towards *the sea side*; where, having disposed of his horses, he took boat, which carried him, his lady and servant, to a little obscure Island called Aigis.” Now, not only is Aigas an island in a river, at some distance from the sea, but it is the most conspicuous object in that parish of Kiltarlity, of which the person who thus describes it as an island out at sea, is

called the minister ! The well-known book called "Memoirs of the Life of Simon Lord Lovat, written by himself in the French Language, and now first Translated from the Original Manuscript" (1797), is occasionally referred to in the following pages. It is not, of course, a book to be implicitly relied on; but it is one from which truths may, by a certain process, be extracted. It is a sort of *ignis fatuus*, leading hopelessly astray, if its character is mistaken; but serving to those who knew its real nature to indicate the true character of the spot, and to warn the traveller of the precarious nature of the ground. The language and sentiments at once testify to the authenticity of the book, and there are some expressions, such as the use of the term "Royal University of Aberdeen," to express the King's College there, which indicate that it is a translation. The internal evidence of the genuineness of this book was kindly confirmed to the author by the Reverend Alexander Fraser of Kirkhill, to whose great grandfather, the Rev. David Fraser, the original manuscript was committed.

In the composition of the following pages, a large mass of manuscripts have been consulted, of which the author has printed only such small portions as suited his immediate purpose. He may, perhaps, take an opportunity of printing some of the papers which could not be appropriately woven into his memoir, in a volume of documents under the auspices of one of the book clubs. In the course of some late genealogical inquiries, many docu-

ments of curious and varied character were discovered, to which the author was with great liberality allowed access. They are cited by the term " Lovat Documents." When the printing of the work had made considerable progress, a very curious MS. was kindly communicated to the author by his friend Mr. Richard Gordon, called " The full and Impartiall Account of the whole Transactions of the present Simon Lord Lovat, from the beginning of his Troubles in his own Country, and the most remarkable Steps of his acting Abroad, written by Major James Fraser." It is written in a round, school-boy hand, and from the blunders made in proper names it is evidently a copy; but it is beyond any doubt a transcript of a genuine narrative. The portion relative to Lovat's proceedings abroad, which took place under Major Fraser's own eye, appeared to the author to be so curious as to justify a considerable alteration of the book while in type.

Nearly all the new documents used in the life of Forbes, and a few of those relating to Lovat, were found at Cullo-den House, where the family papers of the time, public and private, were placed before the author in a large heap, without any reserve. In making use of these papers, and in the suggestion of other sources of information, the author has to acknowledge his great obligations to the Rev. John Macnab, whose zeal for the memory of the Lord President prompted him on this occasion to offer the aid of his abilities and knowledge, although he had himself contemplated a larger work on the same subject, which

it is hoped he may yet see reason to pursue to a successful conclusion.

Sir Thomas Dick Lauder being in possession of two letters, addressed to his distinguished relative Dr. Cumming by Lord Lovat, very politely placed them at the disposal of the author, who has also to record his thanks for similar favours to Mr. Cosmo Innes, sheriff of Moray, Mr. Edward Fraser, advocate, Mr. John Clerk Brodie, writer to the signet, Mr. William Fraser, whose extensive knowledge of antiquities is likely to be better known to the world than it has hitherto been, to Mr. Carruthers of Inverness, to Mr. David Laing, and to Mr. Robert Chambers, who communicated to him a curious collection of MS. notices of Lord Lovat, by Mrs. Grant of Laggan.

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SIMON FRASER

LORD LOVAT.

1676—1747.

CHAPTER I.

His Birth—The History and Feuds of his Family—His Education—Compact with a Fencing-master—Enters the Army—Journey to London with his Cousin the Chief, and its Result—Death of the Chief—Disputed Succession—The Heiress—The Seizure of Lord Saltoun.

SIMON FRASER was born about the year 1676.* He was the second son of Thomas Fraser, fourth son of Hugh, ninth Lord Lovat. Simon's mother was Sybilla, a daughter of Macleod of Macleod. His birth placed him in no very close vicinity to the honours and estates which he subsequently acquired. His father had three brothers older than himself. One of these succeeding to their father in 1646, transmitted the succession on to his son.† This grandson, who succeeded as eleventh lord, had two sons and a daughter. The former, like their granduncles, died young and left no issue; the daughter lived and was married, but

* There are discrepancies in the authorities, but his own statement at his trial, and the inscription on his coffin, are relied on as the best.

† Pedigree laid before the House of Lords.—*Lovat Documents*.

she proved to be an obstacle that, as we shall afterwards find, was removeable.

A biographer must always make out a pedigree. He who has the good fortune to commemorate the holder of a hereditary title has less than the ordinary occasion to present his readers with a finished tree, for the peerages will generally be found to give all its authentic branches at least. But established rule demands a brief sketch of the history of the house of Fraser. The family was undoubtedly of Norman origin. It is a circumstance worthy of notice, that when the great families at the head of the Highland tribes have been traced far back, they have generally been found to be of Teutonic race. The chiefs of the Macdonalds, Macleods, and Mackintoshes, were of Norwegian blood. Those of the Frasers, Gordons, Campbells, Cumins, and many others, were Norman. It seems as if the Celtic people—energetic, brave, and enduring as they were, as followers—required, like some oriental races, the leadership of captains issuing from races better fitted for organising and commanding. In some instances the foreign family adopted a purely Celtic patronymic, from the name of the sept of which they were the leaders. In other cases, such as the Gordons and Frasers, the sept, probably absorbing various small tribes, and admitting to its bosom many stray members owning strange varieties of uncouth Celtic denominations, took the name of the leader; hence, we find the purest Erse spoken by people enjoying the Norman names of a Gordon or a Cumin. But whether the chief adopted the name of the tribe, or the tribe that of the chief, the unyielding influence of old national customs and peculiarities prevailed over the higher civilisation of the leaders, and their families gradually adapted themselves in speech and method of life to the people over whom

they held sway. The same phenomenon was exhibited in Ireland, where "the degenerate English," who, living from generation to generation among the native Celtic Irish, had adopted the customs and costume of those they were expected to civilise, elicited the ceaseless denunciations of the English government, and the penal wrath of Parliament. David I. had passed his youth in England; had "rubbed off the rust of Scottish barbarity," as William of Malmesbury complacently says; and had married an English woman. His education and tastes attached him to the gallant race, who, wherever they went, were first in arms and arts, and mingled the sternest powers of man with his finest social enjoyments. He courted the presence of the lordly Normans. They had nearly exhausted England; and the new territory opened to them, if less rich and fertile, was still worth commanding. The charters and other law documents, anterior to the war of independence, are full of high-sounding Norman names, many of which subsequently disappeared from the Scottish nomenclature—Morevilles, De Viponts, D'Umfravilles De Quinceys, D'Angains, &c. It was chiefly in the fertile plains of the south, and in the neighbourhood of the English border, that they were most thickly congregated; but some of them had found their way far north, to the wild districts beyond the Grampians, where the greatness of the estate was some compensation for its barrenness. But wherever their lot was cast—among the Saxons of Mid-Lothian, the Celts of Inverness, or their brother Norsemen of Caithness—these heroes, who united the courage and fierceness of the old sea-king to the polished suavity of the Frank, became the lords of the land, and the old inhabitants of the soil became their subordinates. Leaders of this description, some of them with estates both in Eng-

land and Scotland, could not be expected to feel any deep interest in the independence of the latter country, and of all perversions of the term patriotism, that which applies it to the conduct of the Norman adventurers in the early part of the war between Scotland and the Edwards, is certainly among the most preposterous. It is from that war that we must date the commencement of Scottish nationality. If, anterior to that epoch, there was a feeling of rivalry and jealousy on the part of the Saxon population of Scotland, it would not be against their brother Saxons of the south, but against those haughty Normans who were encroaching on them both. The Normans who had just migrated northwards—Bruce and Balliol were Norman knights—would not participate in this feeling. But the war of twenty years worked a change; and gradually taught those who lived at one end of the island to consider those who belonged to the other as their enemies, without regard to race or origin. Sir Simon Fraser, who died in 1291, had sworn fealty to Edward I., and taken his seat in the Parliament of Birmingham.* His son, “the flower of chivalry,” became one of the martyr heroes of the war of independence, and attested his sincerity on the scaffold. After the battle of Bannock Burn, the severance had been completed; and the two countries hated each other as cordially as “natural enemies” are bound to hate. Many of the adventurers had become naturalised Scotsmen, but others had lost their northern domains, and after the reign of Bruce the tribes of lordly adventurers ceased to flock to the throne of a hospitable monarch. A few intermarriages brought members of the English aristocracy to Scotland, but the occurrence was comparatively rare.

Among those who had established themselves before

* *Anderson's History of the Frasers.* 11.

this revolution were the Friselles or Frasers, whose earliest settlements were in East Lothian and Tweeddale. With many other noble families in Scotland, they looked to some great family of the high noblesse of France, bearing a name nearly akin to their own, as the roof tree of their house; just as the American finds his stock in some British family bearing his name. Friselle has a French sound, and the punning spirit of the heralds gave the Frasers for their achievement a field azure semé, with seven *fraises* or strawberries. We shall have occasion hereafter to speak of the Frezelier family in France. The time at which the Frasers changed their position from Lowland barons to Highland chiefs, is not exactly known. Their territories in the north belonged in the early part of the thirteenth century to the Byssets, whose name also speaks of an origin certainly not Celtic, and more likely to be Norman than Saxon. A strange tragedy, which casts a blot on "the age of chivalry," put an end to the dominion of the Byssets, and made room for the Frasers. At a tournament on the border, the chief of the Byssets encountered Patrick, Earl of Athol, and was overthrown. Soon afterwards the young victor was murdered in the town of Haddington, and the house in which the deed was done was burned by the assassins. Bysset was charged with the murder. The southern nobility rose in arms against the northern chief, and the king, who seems to have thought him innocent, could only preserve him from their vengeance by forfeiting his estates and banishing him from Scotland. He had probably no further concern with the murder than his inability to restrain the fiery spirit of his Celtic followers, burning for vengeance. Of the refinements of chivalry they would form no more appreciation than American Indians, and we shall find that in much later times, abstaining from

avenging the calamities of a chief, was almost the only restraint to which their leaders could not make them submit.

The first of the race of Fraser, who appears to have superseded the Byssets in Invernesshire, was a Simon; and after the practice of the Celts, his descendants were called Mac Shimi, or son of Simon. On the tombstone of his son, who died in 1764, the object of this memoir is called Mac Shimi the XXXVIII; a numerical rank, which would allow an average of only thirteen years for each reign, calculating from the time when the family seems to have actually resided in the north, and which, if thirty years were allowed for each generation, would carry the origin of the house back to the year 620. The rise of the family was gradual and progressive, their territories from year to year becoming broader by intermarriages and other means of aggrandisement. The date when they became lords of parliament, cannot be assigned; their dignity was held by tenure, not by writ, and is found in existence in the middle of the fifteenth century. Their wide estates, including flat, fruitful land, as well as those Highland districts in which the people lived by plunder or the chase, gave them a mixed character;—and the Baron of Lovat was at one time a lord of parliament, partaking in the counsels of the monarch; at another the mountain chief retired within his fastnesses, and more absolute and independent at Stratherick than the king at Holyrood. They had their exaltations and reverses. On the accession of Mary, the Lord Lovat was appointed justiciar north of the Forth, or the king's chief judge, both in matters civil and criminal, throughout that district of Scotland. Such an elevation appears to have been viewed by his Highland

neighbours in some such spirit as that in which a band of poachers look on one of their number who becomes a gamekeeper, and his lands were ravaged by the clan Cameron and the Macdonalds. The Frasers appear to have reached the summit of their greatness before the outbreak of the civil war, called "the great rebellion." The strong-handed rule of Cromwell, whose huge fortress at Inverness frowned over the Lovat territories to the right and to the left, was not favourable to the aggrandisement of Highland chiefs, yet the restoration found them still a great and powerful house. At the funeral of the tenth lord, in 1672, we are told that "The Earl of Murray brought 400 men from Murray, with their drums covered with black. There were 1000 Frasers, and Beaufort their colonel. There were a great number of armed men, Mackenzies, Monros, Rosses, Mackintoshes, Grants, Macdonalds, Camerons. There were 800 horse, of which there were sixty from the town of Inverness. There were eighty churchmen at this interment; among these were twenty-two Frasers, with the bishops of Murray, Ross, and Caithness. In a word, the confluence of people was truly grand." And to this confluence the officiating clergyman preached from the text "Know ye not that there is a prince and a great man fallen this day in Israel."*

The son of this lord, a boy six years old at the time of his death, had a large black spot on his upper lip, whence he was called Mac Shimi Bal dhu; or, the black-spotted son of Simon. All great families had their omens and marks, with portentous legends attached to them. At the time of this child's birth, it is recorded that round

* The history of the most ancient, most noble, and illustrious family of the Frasers.—*MS. Advocates' Library.*

the old mansion, and the still older priory of Beaulieu "a wondrous blaze was seen to gleam;" and a voice called on him who would dare to look into the future fate of the mighty race of Mac Shimi, to enter the sacred roof and take from the altar the scroll on which their weird was inscribed by no mortal hands. The "Tutor of Lovat," who appears to have been the same with our hero's father, was the person who dared to seize the mystic scroll. It was reported to the clansmen to be written in an ancient and obsolete character on a venerable shred of parchment, and to predict a train of evils coming from the rival sept of the Mackenzies, only to be obviated by the Frasers remaining united, and placing trust in each other. The annalist proceeds to say that in his latter years the ninth lord was oppressed with a deep melancholy, and that on his death-bed he would frequently caress his boy, saying, with tender sadness, "Oh, poor Hugh, what art thou by thy black spot and mark marked for?"

"With this great man," says the affectionate annalist, "the hopes of the Frasers died. While he lived they enjoyed tranquillity, peace, and plenty, and feared no attacks from their neighbours, nor intestine divisions among themselves. Never was grief more sincere than upon this occasion. Every eye was full of tears and every heart full of terror."*

Thomas of Beaufort, born in 1631, the father of our hero,† appears to have been a man of too ordinary a nature

* MS. history as above.

† This expression, so useful in any biographical work, and so particularly serviceable where other people are mentioned possessing the same name with that of the man whose life is specially commemorated, was long in universal use, and in the latter end of its services fell under the stigma of vulgarity. It has now been so long disused as to have almost the respectability of antiquity, and it is hoped that its employment on this occasion will not recall the condemnatory epithet. The author engages to use it sparingly.

to afford materials for the family annalists. The chronicler already cited, says he gave much of his time to the ninth lord on his death-bed, and "entertained him with history and divinity."

His title, "Thomas of Beaufort," appears to have rested on a sort of family courtesy. Beaufort, otherwise called Castle Dounie, did not belong to him while his nephew and grand-nephew lived. It was the chief seat of the family; and we are told that Thomas had a small house in Tanich, in the parish of Urray, in Rosshire, where it is likely that Simon was born.*

So illustrious a birth could not occur without its prognostic. We are told that at the propitious moment many swords hanging in the old hall of his ancestors leapt from their scabbards, indicating how mighty a man of war had been added to the race. He was educated at King's College, that one of the two seats of learning in Aberdeen, which has been from time immemorial, and is to this day, the favourite haunt of the Celts. His biographers say he made great and rapid progress in his studies. This is invariably said in the biographical dictionaries of scholars and philosophers; it is not so frequent an attribute of men whose subsequent history is such as we are about to record. Yet one can easily believe that Simon, with his brain ever at work, and his ambition ever on the stretch, would let no one outstrip him. When it suited him to deal in the lofty and magnanimous, he was prompt with scraps from the Latin classics. His subsequent full and free use of the French indicates an aptitude for languages seldom equalled, and his tone of writing and speaking was that of a scholar, always when he thought fit that it should be so.

He was taken from college to hold a company in a

* MS. history of the Frasers.

regiment raised in the service of William and Mary, by Lord Murray, son of the Marquis of Athol. His own account of this transaction may be taken as true, and affords an excellent forecast of his subsequent career. His cousin Lord Lovat had married a daughter of Lord Athol, and her brother naturally desired that the young lord should assist him in recruiting. Simon, who had no toleration for any treachery which was not of his own devising, speaks of this proceeding against the exiled sovereign as "an infamous commission," furthered by one who "not daring to attack the Frasers in an open and decisive manner, endeavoured to tarnish their reputation by ruining that of their chief." "Lord Lovat was soon convinced that every gentleman of his clan was in the highest degree scandalised at the affront he had put upon them in accepting this infamous commission. He therefore wrote to his cousin, Simon of Beaufort, who was at that time at the Royal University of Aberdeen, entreating him to quit his studies, though he had just taken his degree of master of arts, and was entering upon the science of civil law."*

The object of sending for Simon was to inform him that a captain's commission in the regiment was at his service, if he would give his influence to persuade the clan to become recruits. But Simon's virtue was incorruptible—he rejected the bait with lofty scorn. He told the head of his house "that he had for ever lost his honour and his loyalty, and that possibly he would one day lose his estates, in consequence of the infamous steps he had taken—that for himself, he was so far from consenting to accept a commission in the regiment of that traitor Lord Murray, that he would immediately go home to his clan, and prevent any one man from enlisting into it." Accord-

* Own Life, xi. Confirmed so far by the MS. history above cited.

ingly, he used his influence so successfully, "that Lord Lovat could not raise three men for his new company."

Simon, however, at last accepted the commission, and exerted himself with ardour in the service of which it was the reward. We have seen with what virtuous indignation he rejected the proposal of entering openly into the service of the revolution monarch. The reader will be curious to know how his unsuspecting innocence was circumvented. The solution shall be given in his own words,

"Lord Murray observing the inviolable loyalty of the Laird of Beaufort to King James, and knowing at the same time of what consequence it would be to gain him over in the business of recruiting his regiment, intimated that he was desirous of speaking to him in his closet. There he swore to the laird that his design in accepting the regiment from King William, *was that he might have a regiment well trained and accoutred to join King James in a descent he had promised to make during the ensuing summer.*"*

Thus Simon's honour revolted against taking arms in support of King William, but he had no objection to entering his service, with the intention of betraying his trust and doing the work of the enemy. It appears, however, by his own account, that he was in various ways overmatched; and as he was then but a very young man, there is a modest candour in his exposure of the superior craft of the man with whom he had to deal.

"Simon had no sooner engaged in this regiment than he led to it a complete company, almost entirely made up of the young gentlemen of his clan. Murray, however, broke his word with him in the affair of the company, and obliged him to sit down for some time with a commission of lieutenant of grenadiers. In a word, Simon did not obtain a company in the regiment till after having brought to it three hundred recruits, and was then obliged to make a compensation in money to the captain, who made room for him. He did not fail to be extremely disgusted at having suffered himself to be

* Own Life, p. 15.

over-reached by Lord Murray, whose treachery he conceived to be of a very infamous nature.”*

But the most monstrous instance of Murray's treachery remains to be told: he compelled the regiment to take the oath of abjuration “against King James and the pretended Prince of Wales!” If there be any truth in the story of the closeting, and the avowal of devotion to the Jacobite cause, his lordship must have felt that there was a dash of the ludicrous in the reason he assigned for taking this step. It was to prove the utter groundlessness of a report that there were Jacobites among the officers of the regiment!

In connexion with this period of his life, there is extant a legal document, so very unlike others of that class in its purport, that it would be hazardous to make any suggestion as to the circumstances in which it originated, or the motives of the parties to so unusual a solemnity. It is a bond by which a fencing-master engages, during all the days of his life, to teach Simon his art; and the price of this life of slavery is the sum of 8*l*. Far from having been a mimicry of the pomp of legal forms, which the reader might suppose such a thing to be, it seems to have been the ground of litigation, for it was enrolled in the books of a court, for execution, and the copy from which it is here printed is a certified extract:

“At Edinburgh the fifteenth day of July, 1696 years, it is condescended, agreed, and finally ended between the parties following, viz., Captain Simon Fraser, of Beaufort, and William Machry, fencing-master, and indweller in Edinburgh, upon the one and other parts, that is to say, the said William Machry, for the causes underwritten, binds and obliges him all the days of his lifetime, to teach, learn, and instruct the said Captain Simon Fraser, in the whole art of the sword, broad and small, as well on horse as foot, in so far as the said Cap-

* *Own Life*, p. 16.

tain Fraser shall be capable; and that he shall not conceal from him any point or practice of the same, but shall use his utmost endeavours to render him accomplished in the same art. For the which causes, and on the other part, the said Captain Simon Fraser binds and obliges him, his heirs, executors, and successors whatsoever, thankfully to content and pay to the said William Machry, his heirs, executors, or assignees, all and hail the sum of eight pounds sterling money, and that betwixt and the term of Whitsunday next to come, together with the sum of one pound ten shillings sterling of liquidated expenses of faily; together also with the due and ordinar [annual-rent] thereof, after the said term of payment, yearly, termly, and proportionally, during the not payment; and both parties obliges them to perform their parts of the premises, under the pain of two pounds sterling money in name of penalty, attour performance, consenting for the mair security to the registration hereof in the books of Council and Session, or any others competent, that horning on six days, and all other execution needful, may pass hereon in form as effeirs.*

In 1696, the young lord went to London with his brother-in-law, Murray, to be presented at court. It appears that Simon managed to be one of the party, being, probably, led by a disinterested desire to watch over the fortunes of his chief, whom he describes as a youth of "contracted understanding," and facile disposition. We are told that the young chief went with the expectation of being presented as the colonel of the regiment, but that Murray found his own services in that command so highly valued at court, that he must not think of discontinuing them. Simon recommended his chief not to submit to this indignity, but to resign his commission as lieutenant and colonel. We may judge how disinterested was the advice, when the resignation was accompanied by a desire that the vacant commission should be given to Simon. The resignation was graciously received, but not the accompanying suggestion. The commission was given to

another Murray, and thus Simon and the house of Athol were at war.

The young lord, having devoted much of his time and attention to the taverns of London, an occupation in which he would be disinterestedly aided by his cousin, now paid the penalty in a broken constitution, and found his health and strength failing with alarming rapidity. He then turned his face northwards, accompanied by his faithful cousin.

So far as family matters were concerned, this expedition, by Simon's own account, was very successful, for "Lord Lovat declared that he regarded him as his own son. And as Lord Athol had urged him to execute some papers at his marriage, which might, perhaps, be prejudicial to the claims of Simon, as his male heir, he obliged the young laird [that is Simon] to send for an attorney, and made an universal bequest to him of all his estates, in case he died without issue male, leaving the ordinary dowries to his daughters, and annulling and abjuring whatever he might at any time have done, in opposition to the ancient claims of his house in favour of male heirs."

The death of this, the eleventh Lord Lovat, occurred on the 4th of September, 1696, immediately after his return from London. Simon's account of his settlement of the estate is substantially confirmed, though he was charged at the time with showing to one of the judges a settlement in favour of himself, which being pronounced by the legal functionary to be a forgery, he withdrew and destroyed.* In subsequent proceedings two family settlements were produced. The one was the deceased lord's contract of marriage, dated the 18th of May, 1685, in which the estate is destined to the issue male of the mar-

* Account of the Scotch Plot.

riage, in default of whom, "to the heirs whomsoever of the marriage," with a preference to the eldest daughter. By the other, and later deed, he was found to have revoked this settlement, stating that it had been extracted from him, by taking advantage of his easy temper, and ignorance of the affairs of his family. He therefore determines to restore the old male line, and settle his estates on Thomas Fraser, of Beaufort.* The date of this deed, the 26th of March, 1696, corresponds with Simon's visit to London, and the only error in his statement is, that he speaks of the deed being in favour of himself, instead of his father.

It is creditable both to his discretion and his filial duty, that this the first remarkable instance of his influence over other minds, should have taken this direction. At the same time he did not entirely forget himself, for there is extant a bond by Lord Lovat, dated at London, the 26th of March, 1696, by which he binds himself and his representatives to pay 50,000 merks Scots—equal to 2757*l.* 15*s.* sterling—to his cousin, "for the special love and affection I bear to my cousin, Master Simon Fraser, eldest lawful son to Thomas Fraser, of Beaufort, and for certain onerous causes and others moving me." Although this document professes to have been written "by Philip Dyer Scrivener, in St. Martin's parish," it is prepared in the proper Scottish style of the day, and must have been drawn up under the eye of a competent Scottish lawyer.† No one can deny that Simon was an able man of business.

Thomas of Beaufort immediately assumed the title of Lord Lovat, and Simon, his elder brother Alexander having died, took, according to the Scottish custom of a baron's

* "Information for Simon Fraser, of Lovat, against Hugh Mackenzie,"—a law paper.

† Lovat Documents.

eldest son, the title of The Master of Lovat.* This did not, however, pass undisputed. The previous lord had left a daughter who was heiress by the marriage contract, and was supposed to have a title to represent the peerage. Lord Murray, now Earl of Tullibardine, the brother of the widow, and uncle of the heiress, was Lord High Commissioner of Scotland, an officer whose functions resembled those of the Lord Lieutenant of Ireland at the present day. He had the authority of a monarch in right of his office, and sometimes greater power in virtue of his abilities. Such a person was a formidable opponent, as justice was then administered; and he had made up his mind to fight the battle of his relation. Simon tells an improbable story of his own spirit and courage in a personal interview with this formidable person, in the midst of his state and authority. By this account, the potentate had brought to the meeting a barrister and an attorney, to record the resignation, which, overawed and dazzled, Simon was to have assented to. But Simon forgets, in telling the story, how useless his own resignation would be, while his father was yet alive. It may easily be believed that Simon was not a man to be either dazzled or confused; but his account of his magnanimous answer must be held as a specimen rather of what he could pen than of what he could speak. In either view it is sufficiently curious for insertion.

“ I do not know what hinders me, knave and coward as you are, from running my sword through your body. You are well known for a poltroon, and if you had one grain of courage, you would never have chosen your ground in the midst of your

* It has been generally said that Thomas, being a man of peaceable, moderate disposition, never assumed the title of baron, though his son took that of master. But this is not correct. Several documents, some of them quoted in these pages, are extant, to which Thomas appends the signature “ Lovat.”

guards, to insult a gentleman of a better house and of a more honourable birth than your own ; but I shall one day have my revenge. As for the paltry company that I command in your regiment, and which I bought dearer than any company was bought before, it is the greatest disgrace to which I was ever subject, to be for a moment under your command, and now, if you please, you may give it to your footman."*

We shall afterwards find that the legal question about the succession to the peerage was discussed in a protracted litigation. It became one of those "leading cases," as they are termed, where legal principles and practices are torn up by the roots, that every fibre may be anatomised.

In the mean time, a series of stirring incidents prevented this matter from coming under the calm arbitration of the law. In the first instance, if we may believe ordinary biographies of him, the master's sagacity discovered a very simple and effectual method of ending the strife, could he have accomplished it—a matrimonial union with the heiress. His rank in the clan, his talents, and his plausible manners, so far gained over her young heart that she agreed to elope with him. The management of this project was undertaken by a clansman, Fraser of Tenechiel, who conducted the young lady forth one winter night, in such precipitate haste, that she is said to have walked barefooted. The clansman, however, seized with sudden apprehension or remorse, conducted her back to her mother. From that time, it was sagaciously judged that Castle Dounie was no safe asylum for the heiress, and she was removed to the stronghold of the Athols at Dunkeld. Afflictions and misfortunes subsequently attended the steps of this unhappy woman; yet must she, in her moments of deepest distress, have looked back with thankfulness to that misgiving in the conductor of her plot,

* Own Life, 35.

which rescued her from the fate of being the life companion of the man she then loved.

Our hero in his memoirs says, that the heiress was destined for a member of the Athol family, by a "project of that grey-headed tyrant, the Marquis of Athol, and of the Earl of Tullibardine, his eldest son, the true heir to his avarice and his other amiable qualities, to possess themselves of the estates of Lovat, and to enrich their family, which was hitherto rich only in hungry lords."* If such a design was entertained, it was soon abandoned, and a sort of treaty was conducted with Lord Saltoun, the head of a branch of the Fraser family in Aberdeenshire. Such matters were, like royal marriages, conducted on statesmanlike principles regarding the balance of power and the state of clan politics. It was thought a dangerous project to force one who was not a Fraser on the clan, and Saltoun was supposed to be a fitting instrument for counteracting the rising influence of Simon. By what a series of tumults and conflicts this, like many other pieces of diplomacy, was finally baffled, we shall shortly see.

There were factions among the Frasers, as there will be among the best governed nations. Two of the tribe at least were in favour of a union between the heiress and

* The marquis, of course, receives a considerable portion of that holy indignation with which Simon, in his memoirs, visited all his enemies. "For a month before his death, Lord Athol was in the most deplorable condition, blaspheming God and crying that he was already in Hell and surrounded with devils, for having oppressed the Stewarts of Athol and the Frasers, and for having shed the innocent blood of the Campbells. The clergymen of the neighbourhood, all of whom came in their turn, to endeavour to compose him, were terrified from approaching his bed, he crying out that he had nothing to do with them, and that he was already encompassed with devils. And in this infernal kind of madness the marquis died, an exemplary judgment of God, which ought to make those tremble who oppress the just and destroy the innocent [to wit, himself, Simon Fraser], for sooner or later their punishment is certain; and, if they are spared in this world, it is only to aggravate their torments in the world to come." *Own Life*. p. 41.

the house of Saltoun, and made their wishes known to him. This treason, Simon treats with a sort of pious horror, and like an old supporter of Salmasius and divine right. "Robert the prime, author of these misfortunes," he says, "died under the visible judgment of God; and his fellow knave, Thomas Fraser, may yet be overtaken with the just punishment of his crimes." Simon, finding that these elements of strife were in a position to give him employment suitable to his taste, left Edinburgh and his post in the army, and presented himself to the clan. One of his first operations was the preparation of a threatening letter to Lord Saltoun and his son, signed by his father, with the peerage title, and by twenty other gentlemen, certainly the most conspicuous and important men of the clan, but not by himself. Although it does not show the plausibility and diffuse eloquence of many of his other writings—he was then but a young man—this clan state-paper does credit to his diplomatic abilities.* The most emphatic sentence is this: "We have put on a full resolution to defend our lands, possessions, goods, lives, wives, children, liberties, and privileges of free subjects which lie at the stake, against all invading and insulting avarice, ambition, and oppression, *pro aris et focis contra omnes mortales*—the king's majesty, his authority and laws only excepted." Through this letter we can trace a deep plot for getting possession of the person of the heiress. Allusion is made to a rumour that she is to be married to Lord Saltoun's son, in order that the clan may be conciliated by a Fraser being put at its head. They tell him not to have any reliance on the sincerity of the Athol family, unless they will consent to put the heiress or "the child," as she is called, into the hands of Saltoun; and he is re-

* It is printed at length. State Trials XIV., 356.

commended to demand her person. One cannot help believing that this advice was given that the lady might be put into hands where she would be more accessible than she was when in the guardianship of the powerful house of Athol. Indeed, Saltoun is very plainly told that she must, when in his hands, be put at the disposal of the clan, "and when he hath got the child, we advise that nothing be done without the unanimous consent of the friends here, otherways we assure my Lord Saltoun, by these, that it will occasion a rupture that neither this nor the next and perhaps no succeeding age will cement."

Lord Saltoun, though his seat in Aberdeenshire lay rather farther north than Inverness, belonged to a part of the country where the Highlanders and their habits were perhaps less known than in any other part of Scotland, unless it might be the eastern district of Fife, or the English border. The Highlander is as distinct a being from the Lowlander, as the Italian from the German, or the Arab from the Caffre; and there is probably no part of the world where the crossing of a frontier so completely changes the living world in which the traveller moves, as the crossing of the Highland line. The southern extremity of the territory occupied by the Celtic races, is the northern bank of the Firth of Clyde. Thence stretching northwards, they occupy generally the western and more mountainous part of the country; and wherever the coast stretches eastward, it is the farther from the districts occupied by the Celtic race. Lord Saltoun's estates lay far to the east, in Aberdeenshire; and it is likely that he was but little acquainted with the habits of his namesakes beyond the Highland line. He probably did not know that they were a people among whom the wishes of

the clan went much further than the law of property and succession; or, as Simon himself emphatically expresses it, "The Highland clans did not consider themselves as bound by the letter of the law, like the inhabitants of the low country, but to a man would regard it as their honour and their boast, to cut the throat, or to blow out the brains of any one, be he who he would, who should dare to disturb the repose of their laird."

In an evil hour, Saltoun ventured among these people, desiring in the simplicity of his heart to settle all differences regarding the succession, and to show all parties how right and necessary a thing it was that the law should have its course. The dowager lady, the object of his visit, still occupied the family mansion, and probably retained the allegiance of the cultivated district by which it was surrounded; but Thomas and his men reigned supreme in the wilds of Stratherick. Saltoun was about to leave Castle Dounie, when it occurred to our hero to gather together a few armed followers, and meet him on the way. The thought seems to have been a sudden one: he probably had no concerted plan, but was prepared to improve the chances which fortune might cast up. He gives a long history of engagements to hold amicable interviews, made by Saltoun and broken; and of that nobleman having intended to evade a promised meeting on the road, by starting early on his journey. It was, if we may believe Lovat's account, simply with the view of counteracting this manœuvre, and forcing on an interview, wherein he might encounter his intriguing opponent, and abash him with his own honest countenance, that very early on the 6th of October, 1697, our hero set forth from the wilds of Stratherick, at the head of a band of trusty followers. Proceeding northward, he

passed through the town of Inverness, and across the noble bridge which spans the rapid river. "The inhabitants," he tells us, "observing their alert and spirited appearance, lifted up their hands to Heaven, and prayed God to prosper their enterprise." It is not improbable, that the inhabitants, having from long experience a wholesome dread of visits from the Stratherick men, held up their hands in pious thankfulness, on discovering that they themselves, and their goods and effects, were not the immediate object of the expedition.

The young chief and his followers encountered Lord Saltoun and Lord Mungo Murray at the wood of Bunchrew, the ancestral estate of Duncan Forbes, where he was probably then living, a boy ten years old. The rough banks in the neighbourhood, where huge boulders of conglomerate lie like the stones with which a race of giants might have fought, would afford excellent ground for an ambuscade,* Saltoun and his party were all taken prisoners. We have no description of the encounter, but such as Simon himself has been pleased to furnish, in his *Memoirs and Letters*. The latter, written on the impulse of the moment, are more to be relied on than the former. The following pretty clear narrative, appears to have been written just after the first feelings of triumph had subsided, when alarms were shadowing themselves forth, and before the young aggressor had chosen the desperate line of conduct he afterwards adopted.

* Very near the same spot, a savage conflict occurred in the fourteenth century. The Monroes of Rosshire having made a very successful raid in the Lowlands, were returning northwards with the cattle they had seized. It was an old rule of Highland international law, that the plunderer, passing with his acquisitions through the territory of any chief, who by virtue of the mountainous character of his property, was entitled to be considered a brother in trade, should receive a percentage or tax on the booty, which has been elegantly translated as Road Collop. A question arose on this occasion, between the Macpher-

“ Ther hapened ane unlukie accident, that is like, if God and good friends do not prevent it, utterly to extirpat not only my father’s family, but ye whole name of Fraser. What they are and were in this and preceding governments I believe you suficiently know. The thing is this. Notwithstanding that we are all convinced, that my Lord Athole does desire to mary ye pretended aires to one of his grand childeren, yet to divide our name in factions, he did give out y^t he desired to give ye aires to my Lord Fraser of Saltoun his son. This Saltoun being a very worldly man, was very greedy of the thoughts of it, and my father being informed y^t he did design to prosecute ye matter w^tout asking ye consent of ye name, wrote a letter to him, and fifty gentlemen subscribing it with him, to forbid Saltoun to medle in y^t affair w^tout ye consent of ye name, and particularly not to come to this country till he was call’d, otherways y^t he would make a breach y^t he could not make up. Notwithstanding of this fair advertesment, he came and intruded upon us, and made it his whole business to calumniat me to my friends, and to tell that I hade no right, and that I gave over all my pretensions to him. All the people I spoke to cried out against me upon this head. So y^t I found not only my interest but my reputation at the stake, quh made me write a line to my Ld Saltoun to meet me in ye head of ye country, to give answer to all y^t I had to say to him in fair and honorable terms. Insted of keeping ye appointment, he took horse mediately and sixteen horsemen well armed and mounted, and as I came about two miles from Inverness, I was surprised to hear of his coming. I had eight horsemen with me, all without pistolls save one, and myself, and my father with a small partie of foot had crossed Lochness to meet w^h Saltoun. I was

sons and the Monroes, as to the proper amount of the tax, and the opposing parties meeting among the rocks near Bunchrew, a fight took place, remarkable even among Highland conflicts, for the exterminating spirit in which it was conducted on both sides. It is worthy of remark, by the way, that many of the most savage Celtic wars were occasioned by pecuniary matters. It is, perhaps, from an adaptation of this warlike spirit to modern habits and institutions, that the Highlanders have been found, during the last eighty years, to be the most inexhaustible litigants in the country, and a prodigious blessing to the Parliament house. The ferocity of the combat about the Road Collop was evinced by a collection having been made not many years ago of the bones of the slain, which, after the lapse of four centuries and a half were found to be of considerable number.—*Anderson’s History*, p. 54, et seq.

so insenced against Saltoun and his calumnies, and slighting to meet wth me or my fater, that I was resolved to dye or be fit sides w^h him. So I was w^h these eight gentlemen rideing to the meeting—Saltoun apears with his sixteen horse. So I told those was w^h me I desire to fight him, and accordingly we went on, and qⁿ they were w^hin pistoll shot, we desired them to stand and fight. So ther was none of y^m y^t would stir save Saltoun y^t coked one of his pistols. So we cryed out that they behoved to fight or be taken, and accordingly I came and tooke Saltoun's pistoles from him, and all the rest stood stupified w^h y^r armes before y^m. They were so many more in number, y^t we could not venter in among them to disarm them, but stood w^h our armes presented till we sent for some foote, and than made y^m all prisoners, and keeps y^m in a house, every one seperate from another. I know y^t this unhapy accident may ruine not only me but ye whole name who have unanimously joined with me. But I hope y^t your clemency y^t was always ready to preserve ye people y^t you were among, will now be aparent to preserve this poor name and family, and all ye relations y^t will venter w^h y^m. My Lady Lovat and I is upon a treaty, and has written to you to send no forces against us, because I told her y^t my pledges were my security, and y^t they would certainly suffer before me or mine. Upon all my honor this is ye true accompt of ye matter, and I thro myself at your feet, hoping y^t you will give me your advice, and do quhat lyes in your power q^h is much, to preserve ye lives of 1500 y^t are ready to dy w^h me, who am yours whill I live.

“SIM. FRASER.”*

This letter appears to have been intended for Sir John

* This letter is printed literatim from the autograph. It affords a fair specimen of Simon's method of epistolary correspondence, and may stand, in its spelling, as a type of the whole. It is sometimes a difficult point to decide, whether, when documents are quoted, the precise orthography of the original should be given. The author's notion is, that whatever may be said for the propriety of printing very ancient documents, which mark a great difference in orthography and perhaps in the structure of the language, literatim, the same exactness in documents comparatively recent, where there are only slight differences in spelling, only tends to interrupt the reader; while the system is very troublesome to correctors of the press, as the compositors generally look on the old spelling as a mistake which they are bound to correct. In future, then, it is not to be a rule that the letters referred to in these pages shall be given in their original spelling.

Hill, governor of Fort William, to whom, in a contemporary note, he says, "I will keep no body of men at all together, but a few prettie fellows,* to guard myself and the prisoners."†

But if he made this resolution, he did not adhere to it. The successful raid was to him like the first taste of blood to the lion's whelp. New outrages that he had never dreamed of, took shape before his excited appetite. He had committed an aggression for which he would suffer, whenever his opponents had the means of avenging it; so he resolved to strengthen his hands, and drag his followers deeper into lawless violence.

* In the Highlands, "a pretty fellow" means a strong powerful-made man.

† Autograph MS.

CHAPTER II.

The Gathering of the Clan—Seizure and Forced Marriage of the Dowager Lady—The Island of Aigas—The Testimony of the Witnesses—The Indignation of the Athol Family—Arming of the Adverse Clans—War in the Fraser Country—Denunciations of the Privy Council—Journey to St. Germain and to Loo—Interview with William III.—Partial Pardon—Prosecution by the Athol Family—His Bonds the Gentlemen of his Clan—His Flight—His Brother John and the Outrages on his Clan.

BEFORE these outrages, the Frasers seem to have been enjoying a degree of repose and tranquillity, which, in their hot mountain blood must have been felt as an unwholesome stagnation. It would be to the delight of their fierce natures that one morning the war coronach was heard along Stratherick and Strathglass, and the crossterie, or fiery cross, passed on. This mysterious symbol of haste and danger bears the type of a hoary antiquity, which has baffled the research of antiquaries. It seems, indeed, to have arisen from rites older than the days of Christianity. The burning cross of wood, to give it the proper mystical efficacy, had to be dipped in the blood of a slaughtered goat. The form of the symbol was Christian, but the oblation has an ancient pagan character; and it is not unlikely that the priests of the new and purer worship, unable totally to supersede the ancient idolatrous ceremonies, were content to blend them with the gentler ordinances of Christianity. In the insurrection of 1745, when

all other and most urgent methods for raising men had failed, the fiery cross exercised a traditional sway over their feelings, which was responded to, when coercion, threats, and promises had been used in vain.*

From a hundred who appear to have congregated on the first day, five hundred men-at-arms were now at the disposal of the young chief. His next achievement—it is said, indeed, to have been performed on the same day with the capture of Lord Saltoun's party—was the seizure of Castle Dounie, where the dowager lady resided. The lady was kept prisoner in her own castle. The other captives were taken first to the tower of Fanellan, where, when they looked forth from their window in the morning, they beheld a huge gallows erected, in a situation to command their particular notice. They were subsequently taken to the island of Aigas, where they were kept in a "creel house," or a cottage made with poles and wythes, a sort of large wicker-ware cage, such as the fabric of some of the most miserable of the Highland huts still consists of; the natural position of the island rendered further means of protection unnecessary. Lord Saltoun's health sank under this treatment, and he was dismissed; we are not distinctly told in what manner. A few days afterwards Lord Mungo Murray was allowed to follow him; the conspirators were occupied with other projects.

The whole of these wild acts were evidently the results of a series of impulses. They were the unpremeditated

* The indictment says, "Likeas, that they might raise and promote their foresaid manifest insurrection and rebellion, they sent the fiery cross through the country, a sign and symbol used amongst them to gather their complices in armes, for making insurrections and rebellions and other unlawful convocations." St. Tr. xiv. 361. At Lovat's impeachment, the passage of the fiery cross through the country was attested by some of the witnesses.

work of savage nature, let loose, and unexpectedly encountering no opposition. It is useless to apply to them the laws of sedate calculation, or rational cause and effect. Lovat became sedate and calculating in afterlife, but he was then in his wild youth. No rational theory will account for his next step—the forcing the dowager lady into a marriage with him, and committing violence on her person. We have the particulars of this transaction chiefly in the indictment brought against the father and son, and the recorded testimony of the witnesses. In the former it is thus told :

“Not only the said Thomas and Simon Frasers and their said complices refused to lay down arms and desist from their violence when commanded and charged by the Sheriff of Inverness; but going on in their villanous barbarities, they kepted the said lady dowager in the most miserable captivity, and when nothing that she could propose or promise would satisfy them, the said Captain Simon Fraser takes up the most mad and villanous resolution that ever was heard of; for all in a sudden, he and his said complices make the lady close prisoner in her chamber under his armed guards, and then come upon her with the said Mr. Robert Munro, minister at Abertarff,* and three or four ruffians, in the night-time, about two or three in the morning, of the month of October last, or one or other of the days of the said month of October last, and having dragged out her maids, Agnes McBryar and — Fraser, he proposes to the lady that she should marry him, and when she fell in lamenting and crying, the great pipe was blown up to drown her cries, and the wicked villains ordered the minister to proceed. And though she protested with tears and cries, and also offered all promises of any thing else, and declared she would sacrifice her life sooner than consent to their proposal, nevertheless, the said minister proceeds, and declares them married persons, and Hugh Fraser, of Kinmonavic, and the said Hutcheon Oig, both of them thieves and murderers, are appointed for her waiting maids. And though she often swarved [fainted], and again cried out most piteously, yet no

* One of the parties indicted.

relenting. But the bag-pipe is blown up as formerly, and the foresaid ruffians rent off her clothes, cutting her stays with their dirks, and so thrust her into her bed.”*

Amelia Reoch, one of her servants, gave testimony bearing out the whole of these circumstances, with a minuteness that admits not of being repeated. Her picture of the effect on the victim is touching. She says:

“Next morning she went into the lady’s chamber, and saw her head hang over the bed, and nothing upon it except her handkerchief; the deponent did see all the lady’s face swollen, and she spoke nothing, but gave her a broad look; and the deponent thought my lady was not sensible for a day or two thereafter, for she did not know Lord Mungo her brother, the next morning, when he came to see her. And when the servant told her, ‘here is your brother at the bedside,’ the lady asked ‘what brother?’ Albeit, she was looking him in the face with fair daylight. Depones, that when she and the other servants were carried by force the first night out of my lady’s chamber, the lady stood up and held out her arms and cried; and when Dumballoch’s lady came the next morning to the room, and called her madam, my lady answered, ‘call me not madam, but the most miserable wretch alive.’”*

Another witness, Leonard Robertson, of Straloch, evidently not a Highlander, said that he had negotiated articles of stipulation for the dowager and Lord Mungo: that the dowager signed them; but that, instead of her being released in terms of the negotiation, the sentinels were doubled, and he himself imprisoned. “That, complaining to Captain Simon, the deponent was permitted to pay a visit to my lady, whom he saw in a very disconsolate position, and softly spoke in his ear, ‘For Christ’s sake take me out of this place, either dead or alive;’ and that he observed my lady’s face all swollen, and she fell

* St. Tr. xiv. 356.

† Somers’s Tracts, xii. 444-5.

into a swoon the time the deponent was with her. And the lady suspecting that he had not fully heard what she had spoken to him, sent her servant, Mrs. Mac Bryar, with commission to repeat the same words to him, which she did. And the deponent thinks Captain Simon had at least 300 men with him at that time, all well armed, in and about the house of Castle Dounie, and that he heard at the time some person lamenting, and the bagpipe played about the same time, but knows not whether it was to drown the voice or not."

"And further depones, that the next time he saw my lady was, that the Laird of Culloden and the deponent came to the water-side near the Isle of Aigas; and Captain Simon having come over to them by boat, the deponent desired to see my lady, which he shunned, telling him, that my lady did not desire to see him: and the deponent replied, that it was not done like a comrade, seeing that it was reported at Inverness, that my lady was dead, or near expiring. Captain Simon answered that he should be soon cleared of the contrary; and returning into his boat, he caused bring out my lady in their sight, but so weak that she was supported by two, and then carried her back again to a little house upon that island."*

The Island of Aigas, in which Simon successively imprisoned his victims, is an excellent natural gaol. The river Beaul, a powerful and abundant stream, here passes from the level glens of Strathglass where it meanders slowly through marshy meadows, through a succession of torrents to the town of Beaul, where it meets the sea. The water cuts its way through conglomerate rocks, which meet its surface so precipitously, that in very few places could a person struggling at the edge of the torrent find a footing on the shore. At Aigas the waters are divided by a promontory, on either side of which the river rushes deep and furious. Wherever it is not a foaming torrent, it

* Somers's Tracts, xii., 443-4.

eddies into inky, hopeless pools, overtowered by mural precipices. At the upper part of the island the banks are not precipitous, and there, where the waters are wider and less furious, a boat may pass across. The Beaulieu water is subject to great inequalities, and the people in the neighbourhood say, that in dry seasons there are portions of it fordable; but it is difficult for one contemplating its black tumultuous waters at other times to believe how this could be. And here was placed the forlorn woman, to listen to the

“ River roaring to the blast,
Around its dark and desert isle.”*

* The writer of this little book had an opportunity of testing the strength of local tradition in connexion with this circumstance. Loitering one day in the neighbourhood of Aigas and the rapids on the river, called the Falls of Kilmorac and the Dhruim, he asked several of the peasantry if they had any tradition, of the island being the place where the famous Lord Lovat had confined his wife. They all professed ignorance of any such transaction, and the good-humoured landlord of a small public-house, close to the island, in his own simple way, exhibiting the general feeling of attachment to a kind, considerate landlord, volunteered the remark, that at all events the present Lord Lovat was the last man in the world to do any thing of that kind. This confirmed an opinion previously formed, that tradition, unless supported by adventitious aid, rarely keeps together for longer than a century. Probably dynasties of kings or great chiefs, with their succession of professional bards, whose duty it was to commemorate the dynasty and its acts, may have been able to keep up the memory of their actions somewhat exaggerated by continuity for many generations. But the ordinary traditions which are conveniently scattered through all interesting districts for the benefit of tourists, are revived by contemporary literature, if not based on it. Commemorations of Ossian and Fingal are perpetually encountered in all parts of Scotland, but we may be certain that none of them are older than the days of James Macpherson. Rob Roy has become very ubiquitous since the publication of Scott's novel. If he had made the seizure of Lady Lovat the subject either of poetry or prose, it would have assumed a bright place in local tradition. At Loch Catrine one may now behold the interesting phenomenon of a stratum of tradition in the course of formation. The guides point out to unsuspecting citizens the place where Fitzjames's gallant grey fell, the rock on which he blew his horn, the place of the combat, &c., with a precision that does credit to their professional training. They are beginning to believe that all these incidents have passed to them through a long train of tradition; and fifty years hence it will be difficult for the traveller to determine whether the poem is founded on the tradition, or the tradition on the poem.

There is no appearance of exaggeration or conspiracy in the evidence of the witnesses, and although the trial was conducted in a manner utterly at variance with all sound principles of criminal jurisprudence, it is impossible to disbelieve the truth of their statements, and of the general charges against the criminal. In his Memoirs, he denies them all in a very lofty manner. He says, that he never went near the dowager lady himself, and that he had no reason to believe that those employed in the duty of imprisoning her, had committed any act of improper violence.

“ Meanwhile, the whole country knew that the master of Lovat, at the age of about twenty years, well educated, at the head of an ancient house, and of a brave and respectable clan, might have aspired to any match in the kingdom. Indeed he ranked among his ancestors, on the female side, three daughters of the royal house of Stuart, together with the daughters of the most ancient peers, and the first nobility in Scotland. He had no reason therefore to commit the smallest violence upon a widow, who was old enough to be his mother, dwarfish in her person and deformed in her shape, and with no other fortune than a jointure of two hundred and fifty pounds a year, which itself was dependent upon his good pleasure as master of Lovat.”

The accumulation of improbabilities—old age, dwarfishness, and deformity—wound up with the allusion to the dowager’s source of income, is not calculated to give much assistance to the denial. Moreover, while the recorded evidence contradicts the statement that there was no violence, there are other documents which contradict the master’s assertion, or rather insinuation, that he did not consider himself married to the dowager lady. His father wrote to the Duke of Argyle, thus:

“ We have gained a considerable advantage, by my eldest son being married to the dowager of Lovat; and if it please God they live some years together, our circumstances will be

very good. Our enemies are so galled at it, that there is nothing malice and cruelty can invent, but they design and practise against us; so that we are forced to betake us to the hills and keep spies at all arts;* by which among many other difficulties, this is one of the greatest, that my daughter-in-law being a tender creature, fatigue and fear of bloodshed may put an end to her, which would make our condition worse than ever. They'll have us impeached for a convocation and making prisoner of the Lord Saltoun, Lord Mungo Murray, with a half dozen more gentlemen; for which we were charged by the sheriff, compeared before him, were fined, obtained a discharge of our fines, and secured the peace. Also, they'll have my son and his complices guilty of a rape, though his wife was married to him by a minister, and they have lived always since as man and wife. My Lord, if all our enemies had descended to the blackest cell in Hell, and there had studied the most wicked and cruel revenges that malice or that place could invent against us, it need not surprise any, considering that their design of appropriating the estate and following of Lovat to themselves, is made liable to more difficulties by that match."†

Indeed in Simon's own correspondence at the time, the marriage is amply acknowledged. He says to John Forbes, of Culloden, that the

"Lords at Inverness, with the rest of my implacable enemies, does so confound my wife that she is uneasy till she see them. I am afraid that they are so mad with this disappointment, that they will propose something to her that is dangerous, her brother having such power with her:"—and again, "I am very hopeful in my dear wife's constancy if they do not put her to death."‡

If we are to believe some of his biographers, his victim became attached to him, and viewed the restoration to her kindred as a sacrifice. This is not impossible. Simon, if plain, was eloquent and pleasing, even fascinating; and like one who resembled him in personal and moral unloveliness, John Wilkes, he was almost irresist-

* That is, at all points of the compass.

† Carstares' State

Papers. 434.

‡ Culloden Papers, 23, 24.

ible when he laid regular siege to the female heart. He might say with Richard,

“Was ever woman in this humour woo’d,
Was ever woman in this humour won?”

* * * *

“To take her in her heart’s extremest hate,
With curses in her mouth—tears in her eyes.

* * * *

“And I no friends to back my suit withal
But the plain devil, and dissembling looks,
And yet to win her—all the world to nothing!”

This version of the story is not without some support from documents, which show that the lady would not join in the criminal charges against her persecutor. The Earl of Argyle, whose testimony must, however, be taken with caution, as he was a partisan of the Frasers, says, writing to Principal Carstares “I do assure you he [Simon Fraser] is content to sist himself at the bar, and take his fate; and, which is more, he will adduce no witnesses, but refer all to the Lady Lovat’s own oath if she did not voluntarily marry, sent for the minister herself, and, which is more, if what passed betwixt them in consequence of the marriage, was not as much her inclination as his.” *

But whether she were reconciled or not, was afterwards to the master a matter of indifference. He treated the forced ceremony as a youthful frolic; and the victim of it lived to see him twice married, and rising to the pinnacle of fortune, as one who could overstride the laws of both God and man. Her days seem not to have been shortened by her hardships, for she lived till the year 1743, and died just too soon to see the signal downfall of her oppressor.

It will readily be believed that when these things tran-

* Carstares’ State Papers, 432.

spired, justice panted to be avenged. Not only had the law been outraged—that was in itself a secondary matter—but one of the greatest houses in Scotland had been injured, insulted, stabbed in its honour to the very heart. But how was any public spirited magistrate or active officer to penetrate into the country of the Frasers, a duty which, fifty or sixty years later, could not have been accomplished with much safety or satisfaction? Some intrepid individual had made a night journey to Aigas, and left a “citation” in the fork of a cleft stick, on the coast opposite to the island; the king’s messenger, whose ostensible duty was a public denunciation and capture, setting as secretly and apprehensively about his business, as a poacher setting a trap in a well-watched preserve. As this had very little effect, another method was adopted. An old act of Parliament contained provisions curiously indicative of the feebleness of the executive in Scotland, by which Highlanders who had committed offences might be cited to deliver themselves up to justice, by proclamation at the market cross of the nearest Lowland town. The messenger’s trumpet sounded at Elgin, was just as likely to be heard in the Aird, as the paper in the cleft stick to be respected.

But the Marquis of Tullibardine had the whole power of the executive at his disposal, and after these necessary preliminaries of empty threats, he had recourse to military operations. This was always a formidable business in the Highlands, for whatever might be the cause, the violent interference of the law in any province, was felt as an aggression on the Highlands in general, and was resisted with that unanimous impulse which used to animate the inhabitants of the Savoy, the Mint, or any of the other privileged places in large cities, when their precincts were invaded by the officers of the law. A sagacious statesman of

the day, the Earl of Argyle, observed to his friend, Dr. Carstares,

“ If Tullibardine be allowed to go on, and that if he be not stopped as I propose, I protest I believe it may occasion a deal of bloodshed ; for if one begin, all the Highlands will in ten days fly together in arms. And if my advice be took, I shall undertake there shall not be the least disturbance. This I desire you will say to E. Portland, that I may be exonerated in giving my advice, since I am most particularly concerned in Highland affairs.”*

But from old experience in dealing with the Highlanders, government had learned a policy which suited temporary purposes at all events, however little it tended to the general pacification and civilisation of the people. This was, not to trust entirely to a Lowland government force, but to arm one clan against another. It seemed a crafty device for the extermination of these troublesome tribes, and a real practical adaptation of Swift's paradoxical project for abolishing pauperism, by making the poor feed upon each other. But practised as it had been for centuries, down from the celebrated battle of the antagonist clans on the Inch of Perth, yet it never seemed to weaken the strength or abate the ferocity of these war-like vagrants, but rather seemed to nourish their thirst of blood, to make arms and warfare more familiar and indispensable, and to add every year to the terrors of this formidable people, who, in the very bosom of fast civilising Europe, were as little under the control of enlightened social institutions, and as completely savage in their habits, as the Bosgesman of the East, or the Black-foot Indian of the West.

When Highland outrages were too overwhelming for the ordinary ministers of the law to cope with them,

* Carstares' State Papers, 433.

recourse was generally had to that mysterious body the Privy Council. Accordingly from the year 1697 downwards, we find the affairs of the Frasers perpetually recurring, and forming the chief occupation of the advisers of the Crown. The first document discharged against them consists of "Letters of Intercommuning," a species of interdiction, the terms of which sufficiently explain the object. This document bears date the 18th of November, 1697, and the following are its main injunctions:

"We hereby most strictly prohibit and discharge all our lieges and subjects whatsoever, specially those neighbouring with the said Beauforts, elder and younger, and their complices, that they in no ways visit, assist, abet, or aid with meat, drink, or any other provisions, or any other manner of way whatsoever, the said Beauforts, or any of their complices, certifying all such as shall presume to do or act in the contrair, they shall be held and reputed as partakers, art and part, with the said rebels, and punished accordingly, with all rigour. And farther, we do hereby command and charge all our said subjects to withdraw and withhold from and drive out of the way of the said rebels all manner of help, comfort, and relief; as also all their horses, cattle, and other goods, whereby they may be in any ways helped, comforted, or relieved, under all highest pains. Likeas, in furdur detestation of the said crimes, and for the better punishing thereof, we do hereby, with advice foresaid, promise to any of our good subjects, or even to any of the complices of the said Beauforts, who shall bring in the said Beauforts, or any of them, dead or alive, the sum of two thousand merks of reward."*

On the 18th of February, 1698, a commission was issued to Lieutenant-Colonel Dalzell and other military commanders, to "search for, seize, and apprehend the said Thomas and Simon Frasers, and their accomplices, traitors and rebels foresaid, and bring them in dead or

* Records of the Scots' Privy Council MS.

alive." The form in which the neighbouring clans were hounded out upon the Frasers was as follows:

"As also to call and require the sheriffs of the sheriffdoms of Perth, Moray, and Inverness, with such a number of the heritors, fencible men, and their tenants, under such leaders as are in use to command them in such cases, or such a number of the said men, with their leaders, within any of their said respective shires as the said lieutenant-colonel shall find needful, to come forth in arms in feir of weir, and join and assist him in execution of the premises, or to act separately by themselves, by and according to such orders and directions as they or any number of them shall receive from the said lieutenant-colonel, who is hereby sufficiently empowered to grant the same as he sees cause, until the said traitors and rebels be effectually subdued and reduced, and the persons of the said Thomas and Simon Fraser brought in dead or alive."

Authority is further given for garrisoning places of strength, declaring,

"That whatever slaughter, mutilation, blood, fire raising, or other violence, shall happen to be acted, done, and committed by all or any of the foresaid persons, hereby authorised to march against the said rebels, or to join and assist in seizing, reducing, and bringing them in dead or alive, as said is, the same shall be held as laudable good and warrantable service to His Majesty and his government, and the actors and accessories thereto, shall be, and are hereby fully indemnified and secured thereunto to all intents and purposes."*

On the whole, the force brought against him cannot have been very large; but in Simon's own history of his conflicts and escapes, the whole affair assumes the aspect of a very considerable campaign, in which his enemies, spoken of as "the several regiments of cavalry, infantry, and dragoons," are always defeated and baffled in an unaccountable manner by some handful of Frasers. He had individuals among his followers, who, like David's mighty men, performed signal acts of valour against

* Privy Council Records.

great odds, and conspicuous among these was Alister More, a name, which being translated, means "Alexander the Great," a name characteristic of his gigantic stature. His master says he was "the tallest man in Scotland, and not less celebrated for his brave exploits, than for his prodigious height."* After one of the exploits of his band, Simon luxuriates in the following grandiloquent language. "The Frasers, after this enterprise, had some respite from the encounter of large armies; but they were daily harassed with flying parties from Inverness and Inverlochy, *alias* Fort William. These were in small numbers, and the master had always timely notice of their approach, so that he gave himself little trouble

* It is to be feared that this partisan subsequently made a very paltry figure for so great a hero. An "Alexander Macdonald, *alias* Alister More," being to be tried for theft and robbery, the Privy Council were requested to give a safe conduct to certain witnesses, who themselves might be amenable to the law if they ventured out of their fastnesses, to come southwards to give evidence against him. He was tried at Aberdeen and sentenced to be executed on the 23rd of January, 1702, and he petitioned the Council that "they would be pleased to extend that pity and mercy to the petitioner which the said lords have formerly done to others, as great criminals as the petitioner, since the happy revolution." He gives a very impressive account of his state of mind in a manner which does great credit to his acuteness, or to that of the counsel who drew his petition. "The petitioner hath not had those due and serious thoughts of death and eternity which were necessary for the petitioner in his condition, and was then most unfit and unprepared to die, especially seeing there was no minister upon the place to exhort him that could speak his own language. Whereby the petitioner was a singular object of the said lords' clemency and pity. And, therefore, most earnestly entreating the said lords for his Saviour Jesus Christ's sake to take his lamentable condition to their serious consideration." He pleads his blind compliance, in following those on whom he depended, and the misfortunes of his education, "having been brought up in great ignorance." He says that "notwithstanding thereof his greatest enemies had not hitherto, nor could they accuse him of blood murder, or any such barbarity"—an assurance very questionable, considering the master he served. His heroic services for Lovat probably transpired in the meantime, for we find "high treason" added to the previous ignominious charges against him. He must have given the council much trouble, from the multitude of minutes in which he figures. He appears to have been in the end banished to the Plantations by his own desire.

about them. He might if he pleased have cut them in pieces wherever they appeared. But as the regular troops had always displayed a clemency for his country, and a regard for his person, he treated them with as much mildness as was consistent with the safety of his clan."* He gave one of his conflicts a name to adapt it to history—The Battle of Altnigair. According to his own account, it was a complete victory; and the enemy, not only routed, but surrounded, had to sue for mercy in the most abject terms. Strangely enough, he admits that he was not inclined to grant it; that he had resolved to put to death these people who had invaded his territory, and sought his life, having "no other complaint against him, than that he was born the true and legitimate heir to the estate of Lovat;" and that it was, by the advice of the seniors of the clan that they were spared. But he had resolved to gratify a classic fancy on the occasion, and "in conformity to an example he had read in the Roman History," he drew up his men on either side, and made the captives pass beneath the yoke. He did not at the same time neglect a ceremony more purely Celtic. Every people have their own peculiar ceremony of ratification, sometimes characteristic of their habits and temper. The Chinaman's ceremonial of an oath is the breaking of a china saucer: a practice savouring of a brittle, puny race, with little that is formidable in their nature. The Sikh is pledged on a cow's tail. The Highlander's most solemn and abiding oath was that which he took on the point of his drawn dirk. The worthy Simon himself must tell us the terms of the oath which he demanded on this occasion. "They renounced their claims in Jesus Christ, and their hopes of heaven, and devoted themselves to the

* Own Life, 77.

devil and all the torments of Hell, if they ever returned into the territories of Lord Lovat, or occasioned him directly or indirectly the smallest mischief.”*

In the meantime, another branch of the war against the Clan Fraser and their chief, was conducted in the Court of Justiciary in Edinburgh, all the more bitter and exterminating in its verbal announcement, that it had no real effect; as the persons who were nominally tried, condemned, and punished in the Old Tolbooth, in the High-street of Edinburgh, were living at freedom among their own hills, and putting the royal power at defiance. A weak executive makes up in threats where it fails in execution. Its punishments are terrific and exterminating, but they are launched at random, and only a certain per centage of them strike home. During the reign of the British Solomon, probably about three-fourths of the great Highland families were at some time or other under the proscription of the law; but they treated the executive like a fighting enemy—one day they might be in its hands, and then it would fall heavy upon them; but another day they were the victorious party, and able at all events to make good terms. Thus the law made war, instead of administering justice; and compensated by its cruelty when it could act, for its general inefficiency to exercise a wholesome control. The plan of trying and convicting an accused person when he had not been seized was the climax of these feeble and irregular operations. It made arrangements for a rapid execution of the law, whenever it was able to lay hands on the criminal. He might never be caught; but were he in custody but for an instant, all tedious preliminaries had been gone through, the executioner had his warrant, and the rope was ready. In a country where so many of their

* Own Life, 95.

captures were what is commonly called catching tartars, such an arrangement presented great temptations to the executive, who could never feel secure of long possession of the person of a Highland chief or border freebooter. Yet this method of trial in absence was contrary to the genius of the law, and had been condemned by its oracles, especially in cases of treason. So strictly did the old law demand the presence of the body of the accused, that even when the spirit of vitality and consciousness was gone, it summoned before it the deserted clay, and in some instances of posthumous judicial vengeance, the charnel-houses were ransacked, that the mouldering bones of the departed traitor might attest the zeal of the law, for open and even-handed justice, and for giving the accused an opportunity of defending himself. The method of trial in absence was first adopted by the cruel ministry of Charles II., for the purpose of making a general legal war of extermination on the covenanters. Even in those arbitrary times it was not quite safe for a court of justice, on its own sole authority, to make so great an innovation, and by an Act of Parliament in 1669, the proceedings of the Court of Justiciary against the insurgents were ratified, "and in respect it were against reason and justice, that when any person or persons are accused of high treason, for rising in arms against his majesty or his authority, when they are cited to underly the law before the justice, if they do not appear, that their absence and contumacy, which ought to be an aggravation, if any can be, of so high and horrid a crime, should be an advantage to them," it is provided that after the proof and verdict of the jury, "the decree and sentence of forfeiture ought to proceed, and be given and pronounced in the same manner as if the person accused had compeared and were present." At

the revolution, the part of this act which confirmed the sentences against the covenanters was repealed; but the general enactment was allowed to remain. It was an instrument that might be of great service against the multitudes of Jacobites who were prowling among the mountains or wandering abroad. The virtue of the revolution parliament could not resist the temptation, but it is just and right to observe that this is the only instance in which advantage appears to have been taken of this dangerous power after the revolution.

On the 27th of June, 1698, proceedings commenced in the Court of Justiciary against Thomas and Simon Fraser, and several men of their clan, "for high treason, in forming unlawful associations, collecting an armed force, occupying and fortifying houses and garrisons, imprisoning and ravishing persons of distinguished rank, and continuing in arms after being charged by a herald to lay them down." It has been said by an eminent constitutional lawyer, that to call private crimes against individuals, and private warfare between clans, high treason, was a perversion of the law.* But the law, like the sybil, raised its terms the more the party evaded closing with it. Denunciations of high crimes were one of the means of intimidating into submission to the punishment of lower crimes. Whatever the conduct of the Frasers may have been in its earlier stages, when they resisted the officers of the law and the troops, they certainly came under the law of treason, and many were subjected to it for less cause. Indeed, the same method, of an accusation of treason, was a favourite bolt discharged against all contumacious persons. Sir Walter Scott makes Oldenbuck Monkburns enter into a very amusing legal-antiquarian argument to

* See Arnot's Criminal Trials, 94.

prove that there is not and never was such a thing as the unjust and barbarous system of imprisonment for debt in Scotland. True, he who did not pay his just debts when demand was made in the king's name, was "denounced at the horn," and might thereafter be imprisoned; but the imprisonment was for rebellion in resisting the king, not for refusal to pay a paltry private debt. Thus, all sort of transgressions had in Scotland a capacity of swelling into the stately portentous bulk of high treason.

Some characteristic portions of the evidence adduced have already been laid before the reader. The Lord Advocate abandoned those parts of the charge which related to the private offences against the dowager lady and her relations, probably for the purpose of keeping within the act, which limited trials in absence to charges of high treason. The proceedings ended on the 6th of September, when Simon and his followers were condemned to be executed as traitors, "their name, fame, memory, and honours to be extinct, and their arms to be riven forth and deleted out of the books of arms, so that their posterity may never have place, nor be able hereafter to bruik or enjoy any honours, offices, titles or dignities; and to have forefaulted all their lands, heritages, and possessions whatever." If this sentence have at the present day a somewhat barbarous sound, let us remember that if it had been administered in happy England, the forfeiture would have extended not only to his own descendants, but to the descendants of all collaterals claiming through the convict, and that the sentence would have contained this provision, "you must be hanged by the neck, but not till you are dead, for you must be cut down alive: then your bowels must be taken out and burnt before your face, then your head must be severed from your body,

and your body divided into four quarters, and these must be at the king's disposal."

But we must go back to the seat of war in the Aird and Stratheric.

Soon after the mountain campaign against the Frasers commenced, Simon removed his father, who was nearly seventy years old, to the Isle of Skye, where the old chief sought refuge with his brother-in-law at Dunvegan Castle, a place where he was nearly as secure from the hand of the royal executive, as if he had passed over to the Western side of the continent of America. There he died in the year 1699, and his son pauses to drop some natural and redeeming expressions of regret for the bereavement. There is no man without his virtues: Simon's affection for his parent was sincere, though if we were able to anatomise its elements, we would perhaps find that no small portion was a feudal veneration for the head of his clan; a reflex attachment to the holder of those powers and honours, which he was himself about to inherit. This filial devotion was remembered by his clan and kindred, and an Alexander Chisholm, examined as a witness in the peerage case in 1826, stated that his father, who was page to our hero, "told him that he accompanied Simon Lord Lovat to the Isle of Skye to visit the tomb of Thomas Fraser, of Beaufort, who died at Dunvegan."*

He now, in his intercourse with the world, assumed the title of Lord Lovat. His claims to the honours of the peerage were not very widely acknowledged, nor had he much occasion to bring them before the notice of society at large. Among his clan, this dignity was a trifle—something like a foreign order of knighthood held by a monarch—few of them would know what it was, and

* Lovat Documents.

none of them would think that either its existence or its absence could much affect the importance of Mac Shimi their chief.

After the first hot fury of the chase was over, he seems to have led a harassed and miserable life, never free from danger and hardship, yet never breathing the healthy excitement of warfare. His supplies were probably of a predatory character. Not that the tenants on the Fraser estates would be likely to pay their rent very regularly to the heiress. In much later times, for years after the rebellion of 1745, many of the highland districts transmitted their "mails and duties" pretty regularly to the legitimate chief, while the commissioners of forfeited estates, and others having ostensible possession, found that difficulties of a multifarious and unaccountable, but always insuperable kind prevented them from extracting any pecuniary return from the broad lands at their disposal. Among the fertile meadows of the Aird, and in the neighbourhood of Inverness, the heiress, backed by her powerful connexions, might probably turn a portion of the land to some pecuniary account; but it would be in vain to look for punctual tenants bringing stocking soles filled with coin on rent day, from Glen Strathfarar and Stratheric. But on the other hand, such a tenantry had no rent to give to any one, and their acknowledgments in kind or in services, such as road making and building, however much they might add to the state splendour and hospitality of a settled feudal establishment, were sometimes not conveniently available to one who was hiding himself in the earth, or fleeing from his enemies. There is no doubt that he was at that time at the head of a very accomplished set of villains. One of his followers, Donald Gromogh—a good name for a ruffian! was a distinguished freebooter. He

was included in the indictment against his master, and no doubt appreciated the honour. It has been the cause of much reproach against our hero, that he should have concerted with such a companion, but we must not confound a highland freebooter with a lowland thief. It was a gentleman's profession when exercised on a large scale, or, as a neighbouring and nearly contemporary poet expresses it:

“ We never thought it wrong to ca’ a prey
 Our auld forebears practised it a’ their days,
 And na’er the warse for that did set their claes :
 But never heard that e’er they steeled a cow
 Sic dirty things they wad hae scorned to do,
 But tooming faulds or scouring o’ a glen,
 Was ever deemed the deed o’ proddy men.”*

Few of the Stratheric men would sit down to mutton that had not been the produce of their own industry,—as captors, not as shepherds. All the arts of peaceful industry were held in very small repute beyond the Grampians. To steal even vestments was considerably more creditable than to make them; and the Gaelic language has a form of phraseology which marks the contempt of the people for those who ministered to domestic comfort, by accompanying a reference to them with a sort of apology for the disgusting character of the subject: thus: “ By your leave—a weaver.” “ Saving your presence—a tailor.”

We come now to some events showing the staggering and uneven pace of justice in that age, and its liability to be tugged from side to side by faction and private influence. Lovat, like a sagacious statesman, suggested to a great western power—that of Argyle, that the house of Athol was aggrandising itself to a formidable extent;

* Ross's Fortunate Shepherdess.

that it was necessary for the preservation of the old sway of the house of Argyle, that this rival should be checked and humbled; and finally, that if the Marquis of Tullibardine were to mediatise the secondary power of the Frasers, and bring them under his own subjugation, as he intended to do, the balance of power in the Highlands would be seriously shaken. On this Argyle exerted himself to procure a pardon, a circumstance which is attested by other evidence than Lovat's own.* At Argyle's recommendation he took a journey to London, with the secrecy necessary to one who had sentence of death hanging over his head. King William was then on the continent, whither Lovat passed over, and had address enough to pay two visits with equal encouragement; the one to the exiled court at St. Germain's, the other to King William at Loo. He says he got the latter to append the sign manual to an ample and complete pardon for "every imaginable crime."

He attributed the curtailment of the pardon, as it subsequently passed through the proper offices, to the treachery of a relative, to whom he had intrusted it for that purpose. We shall find it stated, however, in quotations from the privy council records, that the king had refused to extend the pardon to offences against private parties for which the accused person was a fugitive; and this distinction is quite characteristic of the steady, just principles of that monarch. The pardon, though it covered all his offences against the state, for which he had been convicted, left him still responsible for those against the dowager lady and the Athol family, for which he had not yet been put on trial.

Modified as it was, Lovat tells us that the pardon gave

* See Culloden Papers, p. 25.

great offence to his enemy Tullibardine, who immediately resigned his office, and was thus accosted by King William on the occasion: "I always knew you for a fool and a coward—I now see that you are an absolute madman. I not only receive your commission, but I forbid you for ever to enter into my councils, or to concern yourself with any of my affairs."* Such a sentence, put into the mouth of the phlegmatic and sedate William, may be received as one of the many instances in which the writers of dialogues and conversations draw their materials from their own temper and feelings, rather than the characters they desire to represent.

He had thus a prosecution for his violence to the dowager, still hanging over him. He says, that conscious of his innocence, and desirous to be free of this weight, which was literally round his neck, he took steps for bringing on a trial. This was certainly a bold measure, if the statement be true. He found, however, that the court had predetermined his condemnation, and that before "such wicked and abandoned judges," the "innocence of an angel of light would be of no avail." He therefore fled again to his mountains. He was cited before the court on the 17th of February, 1701, and was outlawed for not appearing. On the 19th of February, 1702, a petition was presented by the dowager lady, for letters of intercommuning. It states, that notwithstanding the proceedings against him—

"Such was the insolence and presumption of the said Captain Simon, that he not only converses openly in the country as a free liege, to the contempt of all authority and justice, but likewise keeps in a manner his open residence within the Lordship of Lovat, where, and especially in Stratheric, he farther presumes to keep men and arms attending and guarding his

* Own Life, 111.

person, and for stenting and levying contributions upon the petitioner's vassals and tenants; and proceeding yet to farther degrees of unparalleled boldness, causes to make public proclamation at the Kirks, within the bounds, on the Lord's day, that all the people be in readiness with their best arms, and *de facto*, he hath levied in a threatening, violent, and disorderly manner, upwards of five or six thousand marks within the fore-said bounds, and behaves himself more imperiously than if he were Lord and proprietor thereof; and in effect, the tenants and others are thereby so harassed and disabled, that they could make no payment of their rents."*

The letters of Intercommuning are granted accordingly, nearly in the same form as those already quoted.

Another petition from the lady dowager and her daughter, presented on the 14th of August, 1702, gives us a still more lively picture of his proceedings:

"It being boldly asserted on the captain's behalf that he was able to defend himself against the rapt by due course of law; notwithstanding, whereof, after his majesty's advocate had set him a day of tryal for the rapt, and had given him previously out letters of exculpation; yet being conscious of his horrid guilt, and that the probation was but too clear against him, he fled the town the very morning of the tryal, and was declared fugitive, and went up to London, in hopes that those who procured the first remission would have procured a second, which his late majesty out of his great piety declared he would never remit or indemnify. Whereupon he repaired to the north of Scotland, and skulked up and down, at first in the countries of Aird and Stratheric, which belongs to the petitioners, and endeavoured by fair means to obtain from the petitioners' vassals and tenants a contribution, which many of them out of fear of his ill, and some out of kindness to him granted. And being farther emboldened by this, their compliance he did stent upon each roome in both countries by military execution upon such as were refractory, and in the mean time threatened the petitioners' factors and doers with present death, if they offered to raise any of the petitioners' farms from their tenants."†

* Privy Council Records, MS. † Ibid.

Some documents still extant, show that just before the accession of Queen Anne, Simon had been taking a very peculiar and probably ingenious method of securing his interest with his clan. Selecting some of the more important gentlemen of the tribe, whose position was intermediate between the chief and the common men—the duinhe wassails, anglicised demi vassals—he granted bonds to them, individually obliging himself, with his brother John then his apparent heir as his surety, to pay to them a certain sum of money, with this peculiar clause attached to each, that it was “to stand in force upon condition, the said (naming the person) stand faithful to our interest, and no otherwise.” Two of these bonds—one to Fraser of Struy, the other to Fraser of Kinmonavie, are dated 7th of March 1702, the day before the death of Queen Anne. On the former, a claim which Lovat himself had for some time resisted was brought against the estate of Lovat, after the rebellion of 1745; and in bar of the claim it was pleaded for the crown, that “the Lord Lovat in the seventeen hundred and two, granted many such bonds as this, with the like quality annexed to them—to wit that they should stand in force if the creditors therein stood faithful to his interest and no otherwise, which were all reduced, it appearing they were granted without any onerous cause, and on account of certain unlawful associations entered into with Lord Lovat.” This is confirmed by his own admission, when he was defending the action raised against him by Struy,

“Your petitioner,” he said, “in order to engage them the more into that interest, granted a variety of bonds to a great many Highland gentlemen, such as were supposed to have lead and interest in the Highlands, amounting in the whole to very considerable sums of money, and amongst others he granted sundry of these bonds to these persons who lay under the same

sentence of forfeiture with himself, as imagining that because of their circumstances they would be easier wrought upon to join with him in his designs."*

The bond to Struy is for 4000 marks—that to Kinmonavie, for 1000. Probably the difference marked the respective grades of influence of the two clansmen.† The idea of binding chief and follower to each other by such legal chains, appears to have been imitated from the old Scottish practice of bonds of manrent, by which in older days political leaders associated themselves together, and adopted a legal form to enable them to break the law. Such a bond was entered into for the murder of Darnley. Lovat in his memoirs makes no allusion to this stroke of policy, by which he left during his sojourn abroad a silent representative working on the selfish interests of the chief men of his clan. How he fulfilled his obligations we shall hereafter see.

* Petition for Lord Lovat, February 1745. † Lovat documents.

CHAPTER III.

His escape to France—State of the Jacobites there—The Exiled Court, and its Intrigues—Interviews with Louis XIV., and his Plan of Operations—Colbert and Gualterio—Projects for a Landing—Suggestion of the Plans regarding the Highlands—Lovat's Commission—Sir John Maclean—Journey through England—Rencounter with a Yorkshire Justice.

ON the accession of Queen Anne, the Athol family became all-powerful, and Simon, following the counsels of Argyle, as well as his own sagacious calculations, concluded that Scotland was not a country where it would be safe for him to abide. It would not be easy to divine what complex and conflicting schemes were then unwinding themselves in his busy head. Dynasties and governments were in that precarious position, "with fear of change perplexing monarchs," which gave room for the boldest projects being securely built by far-seeing men, and the wildest schemes opening themselves in a practicable and probable form to the sagacious. Simon had good reason to believe that his great enemy, Tullibardine, was favourable to the exiled house. This suggested several engines to be used against him as circumstances might occur. In the first place, if he could prove that he held any correspondence with the Court of St. Germain, his enemy was in his power. On the other hand, as the accession of Queen Anne opened new prospects for the Stuarts, it was possible that at no distant day that

race might again be in settled possession of the throne. When the tendency of events pointed distinctly in that direction, the time would come for treating Athol as a revolutionist, and an enemy to the legitimate line. In the mean time, as Britain could not be the sphere of his own operations, and he must be doing something, it was clearly his most direct policy to repair to the Court of St. Germain's.

The applications to the privy council state that "he withdrew out of the country with a considerable sum of money, which he had levied in the estates." He left behind a very effective lieutenant in the person of his brother John, about whose conduct a whole torrent of petitions was for some time afterwards poured in upon the privy council. Of these a few specimens may not be without interest. On the 4th of August, 1702, it is stated that though the great leader has fled the country,

"Yet he hath left John Fraser his brother, and several other fugitives lately intercommuned as said is, who with some other loose and broken men, to the number of thirty or thereby, who for these three months by gone have gone up and down the countries of the Aird and Stratherie belonging to the petitioners, threatening the petitioners' chamberlains with death if they should offer to uplift the petitioners' rents from the tenants, and threatening in like manner the tenants if they should pay. And for effectuating thereof, the said John Fraser hath kept a party of men as in garrison in the town of Beaully, the heart of the country of Aird, who exact free quarters from the tenants. Likeas he and his complices have taken up from the tenants and possessors to the number of 200 custom wedders and lambs, and broke up the petitioners' meal gurnels in Beaully, and had taken out thereof about sixty bolls of meal. And further, about the 6th of July last, Fraser younger, of Buchubbin, and two more of the said John Fraser, his complices, came to the house of Moniack, where Mr. Heu Fraser, one of the petitioners' chamberlains dwelt, and having by a false token got him out of his house, did not only reproach him for

serving the petitioners, but beat him with the butts of their guns, and had murdered him if he had not made his escape. And because he complained to the commissioners of justiciary of this their wickedness, they sent him a message that if he persisted in this complaint, they should destroy him and all his relations."

The petition proceeds to state that the Court of Justiciary had ordered a party of the Grants to repair to the spot, but that they were too small a body to be efficacious; and the council are requested to send such a body of troops as may be sufficient to suppress "such flagrant villanies and unaccountable insolencies." The council recommend the commander-in-chief to send two detachments, one to Stratheric and one to the Aird.

Ten days afterwards another petition is presented, stating that

"John Fraser, the captain's brother, to be avenged of the petitioners' factors for the application to the Commissioners of Justiciary, did convocate in the country of Stratheric fifty broken men, and with these came to the country of the Aird, upon the fifth instant, and raised as he went through that country, two or three hundred men and women, and with them assaulted the house of Fanellan, where Captain John Mackenzie, one of the petitioners' baillies, lived, and where the ten men of Captain Grant's company resided, and desired them to surrender themselves prisoners to them. And because they refused so to do, they set fire to the said house, and burned the same to ashes, and whole office-houses thereabout, which forced Captain Mackenzie and the soldiers with him, and Hugh Fraser of Eskadale, another of the petitioners' baillies, and George Mackenzie, a servant of Prestenhall's, to render themselves, who were all detained and made prisoners, with Lieutenant Campbell, who commanded the party. And after some little time, they dismissed Captain Grant's ten men, but carried the Lieutenant, the two baillies, and George Mackenzie, as it were in triumph through the country to the end of Lochness. And having dismissed the next morning the lieutenant, they carried with them the other three prisoners, abusing them in

the most barbarous manner, to the country of Stratherie, and whether they be dead or alive the petitioners know not.”*

To return to Lovat himself. He tells us that before he left Scotland he had conducted a bold and important negotiation.

“ He immediately visited the chiefs of the clans, and a great number of the lords of the Lowlands, with William Earl Marischal, and the Earl of Errol, Lord Constable of Scotland, at their head, and expostulated with them in so spirited a manner, and urged with so much force the interest of the Court of St. Germans, that he engaged them to grant him a general commission on their part and on the part of all the loyal Scots whom they represented, to go into France.” †

It cannot be credited, that with the sentence of outlawry hanging over him, and his enemy at hand, he should have been able to accomplish a combination on the scale which he here describes ; but he doubtless had been able to fathom the views of some of the Jacobites. He proceeded through England to Holland, and by Flanders to France. Marlborough had just commenced his campaigns, and the route taken by the fugitive must have been beset by difficulties and dangers, which it would require no little skill in one of so marked and noticeable an appearance to evade.

He found the little court of St. Germans in a state of disunion and intrigue. His relation, Sir John Maclean, on whose knowledge and influence he relied for guidance and assistance, had just been disappointed about the choice of a gentleman of the privy chamber, and his views were clouded and distorted by virtuous indignation. On the one side Lord Middleton, and on the other the titular Duke of Perth, hated each other with a mortal hatred ; and Lovat

* Privy Council Records.

† Own life, 119.

having from circumstances been thrown into principal connexion with the latter, experienced the cordial antipathy of the other. No great imperial court, with its substantial honours and great offices, probably encircled nearly so much rivalry, irritation, spite, cabal, and intestine dissension, as this poor forlorn court, which had nothing to bestow upon its votaries but hardships and empty titles. The natural first impression of an exiled court is, that those who, follow it are melancholy, devoted, high-minded men, who, in leaving to the successful party at home the partition of honours and emoluments, have abandoned all ambitious aspirations and aggrandising projects, and are content to be the peaceful worshippers of a principle too sacred to be alloyed by sordid thoughts. But this was far from being the case. These partisans had by no means abandoned all the flesh pots of Egypt. True, the rewards they looked to were distant; but the distance enlarged their visionary importance. Viscounts' coronets were developing a growth of shadowy strawberry leaves. The baronet beheld his plain helmet assuming the likeness of a noble diadem. The simple esquire saw the angelic vision of supporters on the panel of his coach. Where there was so much to divide when the king should regain his own again, there was much natural jealousy as to the persons that should partake in the appropriation, and a desire to limit the number. Unfortunately indeed for the grandeur and dignity of human nature, along with much that was disinterested and pure, a substratum of selfishness lay at the bottom of many of the most conspicuous acts of apparent generosity performed by the followers of the Stuarts. Men who are steadily pursuing the line marked out by their conscientious convictions, find no adverse lessons in misfortune. The path before them is clear and straight, though the block be at the end,

and they tread the scaffold with the heroic pride of martyrs. Not such were the deaths of Kilmarnock and of Cromarty, who repented of their exertions as of a crime, and showed in their contrition that they were not the martyrs of conscience and principle, but that they felt the miserable sting of baffled ambition, while an awakening conscience told them that in the chase after their own selfish aims they had opened the floodgates which deluged a peaceful land with blood.

Persons with such views, brought together in a country mansion, and made statesmen without having state business to perform, were necessarily occupied in mischief. Here was a chancellor with no litigation before him but household quarrels; a secretary of state with no state to take charge of; a lord high treasurer with about as much revenue as the annual income of an English gentleman to control. Active, stirring spirits, devoted to such pantomimic statesmanship, must needs find other occupation; and it could be found only in faction and intrigue. The statesmen who are busiest with the affairs of the public are always those who have least time and least inclination for the less creditable occupation of their craft. They are too much concerned with the public to find leisure to undermine each other.

When Lovat reached France, in July, 1702, the exiled King James had been dead for about ten months, and his son James Francis Edward, a boy fourteen years old, was the representative of the misfortunes of his house. The acting regal head of the Jacobites, was his mother, Mary of Modena; and it was with her that Lovat must treat, if he should be successful in obtaining the confidence of the Jacobites. There is little doubt that he managed to obtain some audiences of this princess, and by degrees to

insinuate himself into her confidence. But there was another and a greater royal person in whose hands the destinies of the Stuarts had seemed to be placed. If he could persuade Louis XIV. to fit up one of his grand armaments, for the purpose of fighting the battle of the Stuarts and legitimacy, instead of furthering his own aggrandisement—how illustrious would be the position of the person who accomplished this movement. The time, however, was scarcely propitious for such an attempt. The career of French calamities had begun. The star that had blazed over Europe so fiercely and so brightly was beginning to grow dim, and sink amidst disaster and defeat—the rumble of broken and retreating armies, and the silent misery of an abject, starving, hopeless people.

Notwithstanding the unapproachable state and ceremony with which it had been the policy of Louis to surround the throne, notwithstanding the difficulty of personal access to him by the highest personages of his own realm, there can be no doubt that Lovat obtained some private interviews with him; and the circumstance is alluded to by French writers as a lasting memorial of his consummate skill in intrigue. He subsequently possessed a valuable sword and some other tokens of reminiscence, which, bestowed on him by the greatest monarch of his age, he treasured with a pardonable pride.

It was about the time when fanaticism was beginning to dawn upon the royal mind of France, displacing, by its lurid light, the profligate darkness of his previous life. Several allusions which the reader will find in Lovat's subsequent correspondence, show that he had formally adopted the Catholic faith, and accepted of the ordinances of the church of Rome. He knew how to time such revolutions; and as there could then be no more agreeable

object in the eyes of the new zeal of French royalty, than a bosom freshly lighted up with a sympathetic glow, it is probable that we may date Lovat's adoption of the Romish creed to this juncture.

The principal medium of his intercourse with the French court was Gualterio the Papal legate, subsequently raised to the dignity of Cardinal. Lovat's own account of his influence over this great man, is confirmed by contemporary documents, and the circumstance is an addition to many others, which show how singularly he was in possession of the master key to the affections of great and good men.*

The main and the novel feature in Lovat's plan, was to place reliance on the Highlanders, who, being the only part of the British population accustomed to the independent use of arms, were the only portion which could be immediately put in action against the reigning power. There is no doubt that we owe to his representations at that time, the disposition which the exiled court subsequently showed, to trust to the Highlanders as the chief materials of their strength in Britain. He found among the English and lowland jacobites an idea, "that they were no better than a kind of banditti, fit enough to pillage the lowlands, and to carry off cattle, but incapable of forming a regular corps, or of looking in the face of the enemies of the king." He had himself tested the stuff of which these hardy and inveterate fighters

* Gualterio was no ordinary diplomatist and church dignitary. He passed twenty years in the collection of books, of medals, and other archæological antiquities, and having embarked them, along with his own manuscript researches, at Marseilles, this heap of intellectual riches was lost in a storm. He was in the midst of efforts to replace his loss, when he was plundered by the imperial troops, and thus he was twice driven from the worthy niche he desired to occupy in the temple of fame.—See his *Life in Moreri*.

were made, and could bear effectual witness to their efficiency.

Heretofore the exiled family had trusted little to the arm of flesh. Divine right was to them a sacred principle that would develop itself in good time. James himself had seen a government stronger than that of William, melt away like ice before the thaw, when the right time had come for the heir to return to his vineyard. It was not by secret intrigues, or by military tactics, that he expected to regain his throne; when the objects of destiny were fulfilled, the true heir would come back to be greeted as unanimously and heartily as in 1660. As calmly and assuredly as the astronomer abides the restoration of the sun's rays, when the eclipse is over, did the exile, comfortable in his single-minded bigotry, feel assured that the shadow of usurpation would pass off, and the sun of true legitimate royalty re-illumine the benighted land of Britain; and there is little doubt that he went to his grave believing, that if not in him, yet in his posterity would the gladness be restored, as heartily and sincerely as he believed in the comforting atonements of his creed.

These were not principles adapted to the ideas and motives of Lovat, whose views in all things were essentially practical. In his own expressive language he "affirmed, that while Her Majesty implicitly followed the advice of the people who were at the head of the English parliament, Jesus Christ would come in the clouds before her son would be restored."* Though his operations were not very successful in other respects, we may attribute to them the information and the views which prompted the choice of the north of Scotland as the proper place for a

* Own life, 270.

descent in 1715. In some measure we must date to the same source the whole intercourse of the exiled family with the Highlands, and all the projects suggested and put in execution down to the disastrous climax of 1745, when the great projector was himself the engineer "hoist with his own petard."

In the mean time he declined to treat with any but principals. He was afraid of his secret being stolen, and would confide it to no one till he obtained access to the prince's mother. He then informed her that he had authority from the heads of clans, and particularly from Stuart of Appin, Sir Ewen Cameron, Sir Donald Macdonald, and others, to say that they would raise 10,000 men, if they were assisted from France with money, arms, and reinforcements. He proposed that 5000 French troops should be landed at Dundee, where they would be near the Highlands, and might reach the entrance of the north-eastern passes in a day's march, and at the same time be in a position to divert the British troops for a time sufficient to enable the Highlanders to rise. This invasion was to be speedily followed by the landing of 500 men, who could easily seize on the fortress of Inverlochy or Fortwilliam, commanding one of the arms of the sea on the western coast, which would thus be made a protected gateway leading towards the centre of the Highlands.* We have here the very project which was entertained and attempted upwards of forty years later.

With Middleton and others, who had been accustomed to see every thing managed through the constitutional operations of the great families in England, this plan had a very chimerical appearance. Marlborough, and his brother-in-law Godolphin the treasurer, were said to keep

* Sir John Maclean's Discovery.

up an understanding with St. Germain, which left open the hope that they might lead such a movement ; on which Lovat remarks that it " is so ridiculous a project, that if it's entertained by the Duke of Marlborough or my Lord Treasurer, they can do it, for no other end but to impose, and put a sham upon my Lord Middleton, or any man that could be guilty of so much simplicity."* Mrs. Fox, a celebrated female intriguer, said to Lady Maclean, " we laugh at your Highland projects—my Lord Middleton and I know better things;"† but independently of other considerations it was the project which promised the largest number of chances in favour of Lovat himself, and he pursued it with untiring perseverance.

The ex-queen proposed that Lovat should confer on this momentous subject with the Marquis of Torcy, son of the great Colbert, who was then secretary for foreign affairs. This statesman was subsequently the promoter, on the part of France, of the treaty of Utrecht. He was the Guizot of his day ; partial to peace and broad alliances, and would not be likely to receive any project for the invasion of Britain with very sanguine favour. Through the Duke of Perth, to whom, at the ex-queen's desire, the project was imparted, the promise of an interview was obtained from de Torcy. At the time fixed for the meeting, the French statesman was called to court, but he left as his substitute M. de Callieres, a veteran diplomatist, older than himself, and not less eminent, as the author of some celebrated works on diplomatic science, and the representative of France at the treaty of Ryswick. Lovat set forth his plan to Callieres, and afterwards had a meeting with de Torcy, to whom the substance of it had been communicated. These interviews must have been very

* Papers relating to the plot, ii. 36.

† Ibid ii. 14.

curious scenes. The two French statesmen were men of high personal honour and integrity, whose diplomatic craft was the creature of long experience, and of a sort of professional morality, teaching them that the aggrandisement of their own country sanctified every deceit. The young Highlander met the veterans, armed with his own natural craft and unscrupulousness; and probably, as an ambassador's astuteness might not be expected in a raw mountaineer, he made the most effective dissembler of the three.

Lovat still persisted in keeping his project a secret from the Jacobite ministry in general. Lord Perth, and his own kinsman Sir John Maclean, were the only individuals among them to whom it was communicated; and as it was not easy for a Scotsman to hold repeated interviews with personages so important, without notice being taken of them, it was agreed that the meetings with de Torcy and Callieres should be held at the house of Gualterio. After the matter had been seriously taken up by the French ministry, he was requested by the ex-queen, to allow her to communicate the matter to her council at large, "for they had got an inkling of it." Lovat consented, sagaciously remarking to Maclean, that "he thought it in vain to do otherwise, for he believed she had told them of it before." Lovat was in the mean time directed to draw up a list of the names of those by whom he was commissioned, and a note of the number of men they could bring into the field. There was no difficulty in preparing such a document in a perfectly satisfactory shape. When Sir John Maclean saw it, he expressed his surprise on noticing in it the names of persons with whom Lovat had not long previously told him that he had had no intercourse: to this it was answered, that he knew

their minds, and would answer for their seconding all his proceedings. Sir John then observed that some chiefs were rated at fully double the number of men they could actually command—to which there was the incontrovertible answer, that unless the scheme were made to look well, the French court would not move in it.

There is some reason for believing Lovat's statement, that the French ministers were disposed heartily to adopt his plan, and that the impediments were thrown in its way by the Jacobites themselves. He says,

“He obtained of the court of France to send an army of 5000 men to support the loyal Scots. They were, also, to send officers, money, ammunition, and arms, sufficient for such an enterprise. Every thing had already been prepared. Lord Lovat had even received from the Marshal de Vauban, with whom he had communicated several days for that purpose, his grand secret for the construction of folding ladders, with which it was proposed to scale Fort William.”*

Sir John Maclean speaks still more distinctly and largely:

“The money desired for this expedition was 100,000 crowns, and the arms were for 20,000 men, both which were promised, but the arms were not sent when Sir J. Maclean came away, nor was there any of the money to be sent, till the security of things appeared upon Fraser's return, and then it was to be sent by a French commissary.”†

The Duke of Berwick was seriously spoken of as the commander of the expedition: he had claims to be the second military leader of his day, and might fitly have measured swords with Marlborough—if Marlborough had been on the other side. The other person principally spoken of as likely to command, was the Duke of Hamil-

* Own Life, 141. The promise to raise 5000 men, and the other circumstances here referred to, are in a great measure confirmed by the documents in the “Collection of Original Papers regarding The Scot's Plot.”

† Sir J. Maclean's discovery.

ton. Lovat knew very well that this discontented and dubious nobleman would never occupy any so decided position, and he objected to the Duke of Berwick as a leader in Scotland; "all the Scots' officers in France being discontented with him for favouring the pretensions of the Irish officers." It is pretty clear that he wished to be commander-in-chief himself. He went through the ceremony, however, of consulting maps with the military duke.

While disposed to take advantage of a scheme so well concocted, the French statesmen would not have been wise to divest themselves of all suspicion that there might be rottenness, and perhaps a dangerous rottenness at its heart. The messenger had come in a very questionable shape. His assurances of the adherence of the clans, and of their willingness to rise, were merely verbal. Without throwing any imputation on the purity of his honour, it was just possible that some of the chiefs when called on to fulfil the promise, might deny having ever made it. On the whole, it was judged to be expedient that he should return to Scotland to obtain more distinct information.

It was at first proposed to send along with him a French commissary, but there were obvious difficulties in the way. Such a person could not move a mile from place to place, without being an object of suspicion. The chiefs would be shy of his presence; while on the other hand, as he would be ignorant of the people and their habits, he would never be able to know with certainty whether those he met with were real Highland chiefs, or persons taken from the boards of a theatre to personate the character. At the same time it did not appear safe, so far as the interests of France were concerned, to

put no better check on Lovat's proceedings, than the fellowship of some Scottish Jacobite, who might even be induced by party or personal feeling to aid his schemes whatever they might be.

At length the French ministry adopted the plan of sending, as his companion, a gentleman of Scottish family, who was a naturalised Frenchman, and who would be sufficiently alive to the Jacobite cause, without forgetting the interests of that country which could alone afford him the privileges and protection of a citizen. The person selected was John Murray, brother of the Laird of Abercairney. "The most ancient branch," says Lovat, "and the true head of the family of Murray, though the branch of Athol have falsely arrogated to itself a superiority."

At length he set out by St. Omer for Brussels, having received 400 pistoles to meet the expenses of his journey, a sum scarcely commensurate with the largeness of his projects. He received a paper of instructions, dated 5th May, 1703, ten months after his arrival in France, commencing, "You are with all convenient speed to return to your own country, and to show this paper only to such of the Highlanders as knew of your coming hither, and have sent to us by you, and such others of them as you hope to bring to our interest." It contained no further definitive assurances as to France, than a statement that they should be sufficiently assisted by friends there, "when the conjuncture is favourable and that then they shall be supplied with every thing that may make them appear effectually for us." They are recommended to act with energy, but at the same time with caution and secrecy.* The instructions were accompanied by a colo-

* Macpherson's Papers, i. 630.

nel's commission to Lovat, signed 25th of February, 1703.* Murray also received brief instructions:

"When you arrive in Scotland, you are to repair straight to the Highlands, and there you are to be introduced by Lord Lovat to the several chiefs of clans and gentlemen of interest in that part of the country, of whom you are to inform yourself what they propose, what they are able to do, and at what time they can be in readiness. And if there be diversity of opinions, you are to mark the persons that differ in opinion from the others, &c."†

State etiquette is the last attribute of power and royalty that an exiled court loses,‡ and these documents being duly superscribed "James R." and "given at our court at St. Germain's," are countersigned "Middleton," according to the arrangement by which in Britain some minister must take the responsibility, to Parliament and the people, of every public act of the monarch, and his relation.

Sir John Maclean, made a journey to Scotland, nearly at the same time, and evidently for the purpose of keeping an eye on his motions. Middleton simultaneously despatched

* Papers regarding the plot. † Macpherson's Papers, i. 630.

‡ The retention of court etiquettes by dethroned royal families, after they are put in positions to which such pomps and ceremonies are unsuited, and among people who do not understand them, or have no inducement to be subject to their severe restraints, are sometimes infinitely ludicrous, and even the historical glories attached to Napoleon's character could scarcely dignify them at Loghouse. A royal lady, living in Britain, had lately occasion to converse with an elderly person of her own sex, of eminent respectability, about some matters of very sublunary business. This old lady, who had every reason to believe that she was doing a considerable favour to the personage she waited on, was somewhat surprised to find but one chair in the room, and that occupied by the personage soliciting her attendance, who was considerably her junior. The conference was long, the old lady became very tired, and resolving to remedy the matter, she had recourse to stratagem. Standing at the window, she held up her hands and uttered a loud cry, as if some extraordinary event had taken place outside. The personage rushed to the window. There was nothing wonderful to be seen outside, but when she turned her head there was something wonderful, indeed, to be seen within—the old lady seated in her chair.

James Murray, brother of Sir David Murray of Stanhope, avowedly as a spy on Lovat's motions, for which reason he is called Middleton's "sworn creature, his spy, and a man who had no other means of subsistence."* Maclean landed at Folkstone, in Kent, after a journey of extreme hardship, in which his wife was delivered of a child while crossing the Channel in an open fishing vessel. Such were the perils to which political intriguers, in the days when individuals could put the peace of nations in peril, were liable to. Looking back as we do to the mischiefs they did, we cannot help sympathising in the miseries they endured, and wishing that some better cause had animated them to the exertion.

Dangers encountered, and real physical hardships submitted to, are yet no index of the goodness of a cause. If any man was ever entitled to appeal to his sufferings,—to the dangers which he encountered, and to the success with which he overcame all impediments,—as a test of honesty, that man was Simon Fraser. The reader has the means of judging of the accuracy of the test.

He tells us that he encountered great dangers in passing from Calais through England to Scotland. Whatever may have been his precautions, there is no doubt that his journey must have been a perilous one. While Lovat and Mr. Murray were passing through Northallerton, in Yorkshire, a Frenchman whom they had with them in some servile capacity, had been speaking too freely, within the hearing of a justice of peace, of sound Protestant and revolution principles. At that time, indeed, it only required the sound of a foreign tongue, and the appearance of a traveller, to rouse the most formidable suspicions, and to deprive the inhabitants of larger towns than Northaller-

* Own life, p. 152.

ton of their nightly sleep. The justice headed a body of constables and able-bodied townsmen, and surrounded the inn. Lovat had one of his own clan as an attendant, who warned the plotters of their danger. Murray resolved to stand on his privileges as a naturalised Frenchman. Lovat was determined to fight and die unless his fertile ingenuity should render his heroic purposes unnecessary. His clansman stood with two pistols on the landing of the stair—his duty was with the subordinates; and the justice of peace was to be allowed to pass, that he might be dealt with by the master. When the justice presented himself, Lovat, with all the warm cordiality of the most guileless manner, approached, shook him warmly by the hand, and thanked him for his visit, expressing his great pleasure in seeing an old friend whom he had not seen for two years. He believed the last occasion on which they had met was when he attended a neighbouring horse-race with his brother, the Duke of Argyle. The Yorkshire justice at once succumbed to the bolder genius of one infinitely more Yorkish. He apologised for the abruptness of his intrusion to meet the Duke of Argyle's brother: his hospitable zeal must be his excuse. The two new allies spent a roaring night drinking loyal toasts, and the justice was carried off to bed. We have this anecdote only on Lovat's own authority, but it is characteristic. He is at very unnecessary pains to vindicate his personation of the Duke of Argyle's brother, on the ground that he had *some* claim to the position, being a relation of that family.

CHAPTER IV.

State of Scotland—Causes of National Jealousies—The Succession and Act of Security—Secret Movements of the Jacobites—Opening of the Queensberry Plot—Its Secret History—Lovat's Escape in the midst of it—Queensberry's Situation—Dispute between the Two Houses—Fergusson the Plotter—Lockhart of Carnwath—The intercepted Letters—Perilous Journeys—Reception in France—His long Imprisonment—Inquiry whether he became a Jesuit and a popular Preacher—The Marchioness of Frezeliere.

SCOTLAND was at that time a very formidable neighbour to England. The thistle had grown tall and fiery, shooting forth all its spikes, and was not to be touched on any pretence. Matters had changed since the day when the homely monarch of the Scots, having come to his great kingdom of England, brought with him all his kindly Scots attendants, to share in his fortunes, not liking to be surrounded by strange faces, or to waste all his new wealth on aliens. Succeeding sovereigns looked coldly and repulsively on a country which furnished more swords than subsidies. A feeling was arising that the two countries differing so much in habits and character, and looking back into so long a vista of strife and rivalry, could have no other union than that of inferiority and subjection—of the dominance of the stronger over the weaker. Several outlets for Scottish enterprise—the *præfervidum ingenium Scottorum*, as it was termed by one who witnessed its energies in foreign lands—were blocked up, and new ones

were not opened. The Scottish gentry were invaluable elements in the foreign armies, especially those which were led to war against the English. Wealth they had not, and sometimes, perhaps, little systematic military education, But they were all great men,—princes on a small scale ; and they had those habits of command, that unlearnable self-estimate which insensibly exacts obedience, a quality worth more than military skill and strategy, in the wars anterior to Turenne and Vauban. These resources were now closed, except to those who chose to become aliens and traitors. The universities and ecclesiastical institutions of foreign countries had been filled by learned scholars and able priests of Scottish birth, but this resource to the national enterprise was also dried up by that haughty government which dictated the alliances and the quarrels of its neighbour in making its own. At the time when poor Scotsmen went abroad to gain their bread, rich foreigners came to Scotland to spend their wealth. France, then the richest country of Europe, as Britain is now, kept up an interest in Scotland, something like that which it has been the object of our politicians to preserve in Portugal, and with a similar aim, but supported with greater earnestness and more effect. The benefits derived from fellow-citizenship with England were scarcely a compensation for such losses after the throne ceased to be occupied by a native sovereign. The Scots desired to spread their commerce abroad like England, to nourish colonies—those outward badges which they deemed the essential elements of commercial prosperity; and to partake in the shipping trade. Every attempt, either to participate in the privileges of England; or to set up independent establishment, was baffled; and the Darien scheme into which the people had rushed with the highest en-

thusiasm of national emulation mixed with the wildest frenzy of joint-stock speculation, was crushed without compunction or hesitation, to gratify the interested jealousy of the English merchants. By the English navigation act, the Scots were treated as aliens—they could not trade with the colonies or with England herself, except on the conditions to which foreign vessels were limited; and while trade with the alien enemies of England would be treated as an act of hostility, heavy duties were laid on Scottish goods passing to the English market.

There were not wanting fiery spirits to stir up these elements of strife, nor apt opportunities for their interference. By the English act of settlement, arrangements had been made for securing the succession of the throne to a Protestant family. The offspring of Charles I., both through his sons and daughters,—whose descendants have increased so widely by alliances with the European thrones, that there is scarcely a Catholic crowned head in Europe who is not nearer the British throne by direct descent from the Stuart race, than the present royal family,—were passed over; and the descendants of Elizabeth, the unfortunate Queen of Bohemia, daughter of James I., were found to be the nearest line of collateral relations to Queen Anne, who were unexceptionably Protestant. Her sole descendant was a daughter married to a German elector, and thus the Protestant heir had to be found by going back to an old generation of the British royal family, and passing through two female successions. This was far from being a very obvious quarter to have recourse to, even if it were an understood matter that the descendants of Charles I. were to be excluded. How many people remember that the King of Prussia is a descendant of George I.; that the King of Holland is a descendant of the Guelfic kings

of England by the female side; and that there have twice been intermarriages of the same race with the royal house of Denmark?

Even so, it may be questioned if, in the year 1702, many people who were not statesmen or genealogists knew much of the son of the Princess Sophia—the grandson of a British princess, who had been married ninety years before to a secondary prince in a remote part of Europe. When, therefore, this settlement had been selected by the Parliament of England as the best, without consulting or treating with the Scottish legislature, it was not by any means so obviously the only rational alternative that could be adopted, as to preclude the Scottish legislature from considering the question of the succession to the crown as a very difficult matter, requiring much and deliberate consideration. The dilemma afforded an excellent opportunity for making favourable conditions for Scotland, for no English government could feel that it rested on a very secure basis, while that of Scotland had not made arrangements for the same line of monarchs occupying the two thrones. But the Scottish statesmen could not see that they were bound to choose the descendants of the Electress Sophia, just because those of England had chosen to do so; and to show that they were serious in taking advantage of the opportunity afforded them, they passed the “Act of Security.” It provided for the assembling of Parliament on the queen’s death, and the devolution of the crown on a Protestant successor; with the stipulation that the same person who might succeed to the crown of England, should not succeed to that of Scotland, unless England conceded to Scotland a free intercommunication of trade, the privileges of the Navigation Act, and a participation in the colonial trade. The monarch, fortified

behind the power of the English Parliament, employed a remedy which has almost dropped out of the known list of royal prerogatives in Britain, by refusing assent to the measure.

This raised new and more formidable inquiries. It was said, and on pretty sound constitutional authority, that the ancient Scottish monarchs did not possess the prerogative of rejecting laws which had passed the three estates; that the form of touching each law as it passed, with the sceptre, was not necessary like the royal assent in England, to convert a bill into an Act of Parliament, but was a mere acknowledgment from the throne that the act was law. The patriots began to say, that Protestantism in a monarch; was not so essential as a constitutional limitation of his prerogative; and that it were little matter whether their king came from Hanover or St. Germain's, if the national independence were protected. This stormy parliament was adjourned without granting a supply. When it was re-assembled it brought back the Act of Security, and experience showed the English government the prudence of permitting the queen to comply with it. The spirit of resistance to the domination or interference of England was gradually becoming more fierce, and incidents occurred which showed that it was not confined to the inflammable populace, or to romantic theorists, or to party statesmen raising a cry to serve an end; but that it was becoming part of the creed of grave sagacious politicians, and was entertained on the bench and in the academic chair, as well as in the senate and the marketplace.

It was in the middle of this race of stirring incidents, just when the royal assent had been refused to the Act of Security, that the "Scottish Plot" was opened up, and

exhibited Lovat holding the mainspring of its movements.

An indemnity having been granted to those who had left the country with the exiled court, on condition of their returning within a time limited, and taking the oaths, it was observed with alarm, that many persons were taking advantage of this opportunity to return, who were among the most formidable of the Jacobite leaders, and who could not be supposed to be sincerely disposed to support the Protestant line of succession. Among these ominous apparitions were Lovat himself, the two Murrays mentioned above, Sir John Maclean, Robertson of Struan the poet chieftain,—“a little black man, about thirty years old,” as he was described by those who kept their eyes on him; and David Lindsay, secretary to the Pretender's prime minister, Middleton. The fiery Lord Belhaven had just paid a visit to France. He was an opponent of English ascendancy, and a cadet of the house of Hamilton; and his mission could, of course, have no other object but to offer the allegiance of that house to the young prince. Political intriguers, such as the renowned Ferguson, looked busy and mysterious. Mrs. Fox, whose name was connected with the plot for which Sir John Fenwick suffered, had ventured over to Britain, under a feigned name; and sundry young men of good birth, whose avowed mission to France had been to study medicine, had, either in vanity or carelessness, allowed it to transpire that they had been at the court of St. Germain, and had seen those royal personages who created so dangerous an interest throughout the country. The general movement of these parties was northwards, and was accompanied by incidents such as those which happened to Lovat. Captain Hamilton, an officer stationed at Inverness, wrote to

Brigadier-General Maitland, governor of Fortwilliam, on the 23rd of July, that a great hunting match had been planned for the 2nd of the month, at which many of the Highland chiefs were to assemble their vassals.

“The Duke of Hamilton is to be there, the Marquis of Athol: and our neighbour the Laird of Grant, who has ordered 600 of his men in arms, in good order, with tartane coats, all of one colour and fashion. This is his order to his people in Strathspey. If it be a match of hunting only, I know not, but I think it my duty to acquaint you, whatever may fall out of any such body of men in arms, particularly in our northern parts.”*

It will be remembered that this was exactly the form in which the Earl of Mar raised the standard of rebellion at Braemar, in 1715; and we appear to owe the suggestion to the inventive genius of Lovat. At the same time, the British ambassador at the Hague received some mysterious intimations about large sums forwarded in gold, through a Dutch commercial house, to persons of importance in Scotland.

Lovat appears, on his arrival in Scotland, to have immediately repaired to his own “country,” where his brother John had been a faithful viceroy in his absence, and to have thence passed along the Highlands, visiting and sounding the heads of clans. All that can be ascertained of his machinations is, that he had interviews with his cousin Stuart of Appin, Cameron of Lochiel, the Laird of Macgregor, and Lord Drummond, at whose castle, according to Lovat’s own grand way of speaking, “a general

* Collection of original papers about the Scots Plot, Advocate’s Library, ff. 7, 14. This curious collection of papers, printed in 1704, probably for the vindication of the Duke of Athol, has been amply used on this occasion. The author has no doubt of the authenticity of the papers. He has taken occasion to collate such of them as are in the Scots’ Privy Council records, and finds them accurately given, with the exception of one or two trifling accidental blunders.

council of war" was held, "of all the Scottish leaders most attached to their sovereign." "In this council," he continues, "he proposed to them to take up arms immediately, with an entire confidence of being speedily succoured from the kingdom of France."*

To follow Lovat's own account of his progress and interviews would be a waste of words. Although he tells us that his project was received with the utmost enthusiasm, and that the chiefs were unanimously in its favour; yet somehow, without the least abatement of this enthusiasm, or the least distrust in him, and without any ostensible cause whatever restraining their unanimous zeal, not one of them is found to move. John Murray's chief field of exertion was the Lowland gentry, whom he confesses that he found intractable; and it is very clear that Lovat met with very early discouragement, as he seems, nearly at the commencement of his proceedings, to have courted intercourse with the Duke of Argyle and Lord Leven, with the view of attempting a plot against the Jacobites, to make up to himself for his disappointment about the plot in their favour.†

In the month of August, the Duke of Queensberry, then High Commissioner to the Parliament of Scotland, received information through the Duke of Argyle and Lord Leven, that they knew a man who was deep in the intrigues of the Jacobites, and who might possibly be prevailed on to give some valuable information, but whose name must in the meantime be kept secret. They could only say that he was a man of rank, and that he had been in personal communication with the exiled royal family, and the French ministry. The duke had heard of the

* *Own Life*, 163.

† Examinations before the Committee of Privy Council. Papers regarding the Plot.

proposed hunting in the Highlands, and of the sums of money supposed to be sent from Holland. The Scottish parliament, too, had just passed one of their strongest votes upon the national security question; and, on the whole, the juncture seemed so critical, that even on this imperfect information he wrote to the queen, detailing all that he had heard, and asking,

“ If that person shall apply to me and be willing to own what he has said, how shall I use him? It is strange enough,” he continues, “ that in his circumstances he should have said so much; and it can hardly be expected that he will forfeit what he may expect from France, without getting some terms from your majesty.”*

His grace the commissioner was at length informed that the possessor of so much momentous intelligence was ready for a secret audience. At the appointed hour, the massive person of Lovat stalked into the private chamber, and the statesman, reared and hardened in the war of intrigue and deception, was confronted with the broad good-humoured face of the young Highlander, little dreaming that that uncouth smile and profuse suavity of manner concealed a natural power of dissimulation and intrigue, which the severest education in state craft would fail to impart to ordinary minds. This was late in September, when Lovat had made up his mind that the project of a Highland, rising at that moment at all events, was hopeless; and when, if he wished to execute any thing for his own advantage, or even to secure his safety, he must transact with the other party. Accordingly he told all and more than all, to the infinite wonder of the commissioner, and his grace's high satisfaction with his own ability in hunting out conspiracies. He was able to produce documents,

* Original papers about the Plot, 4, 5.

and to make them do double service. He was asked if he had any letters from the court of St. Germain's to their principal adherents? Yes—he had three at least; but two of them, one to the Duke of Hamilton, and another to the Duke of Gordon, were unfortunately delivered. He still had *one*; but the use made of this one was a master-stroke of policy, and deserves special delineation. It appears that, along with his formal commissions, he had been intensely desirous of obtaining from the ex-queen a letter of private recognition to some one of her principal adherents. By what means he had accomplished his end it were difficult to say, but he did obtain such a document, in these words,

“ You may be sure that when my concerns require the help of my friends, you are one of the first I have in my view. I am satisfied you will not be wanting for any thing that may be in your power according to your promise, and you may be assured of all such returns as you can expect from me and mine. The bearer who is known to you, will tell you more of my friendship to you, and how I rely on yours for me, and those I am concerned for.”*

This letter was signed with the initial “M.” It was not directed to any one; of course this omission was merely to prevent danger to the possessor in case of a seizure. What then could be a better opportunity for a blow at his old enemy Athol, than to direct this letter to him? And so it was done, though not so ingeniously as to prevent the difference of hand and ink being subsequently discovered when the letter was opened. Queensberry, even through the official gravity of his letter to her Majesty, almost chuckles at his dexterity in having “found the way to be master of that letter.” “I have transmitted it,” he con-

* Original papers about the Plot, 8.

tinues, "to your majesty without breaking the seal, which is clear the effigies of the king your majesty's father."

Lovat does not mention this incident so creditable to his genius, in his autobiography. He admits, however, that he charged Athol with a correspondence with St. Germain's, and vindicates his doing so on a ground which affords as singular an instance of his peculiar morality as any other that has been recorded either for or against him. It was because Athol was a bitter enemy of the Court of St. Germain's, and therefore deserved to be punished!

"With respect to Lord Athol, he was notoriously the incorrigible enemy of King James. His accumulated treasons rendered his person odious to all his majesty's faithful servants. Much less, therefore, was Lord Lovat bound to spare this incomparable villain than the duke, his brother-in-law. In a word, he was persuaded that he could not do a better service to his king, than to put the Duke of Hamilton and Lord Athol, the two greatest hypocrites in Scotland, and of whose duplicity and selfish policy no man was ignorant, out of a condition to injure his project, or to prejudice the interest of their sovereign."*

This method of palliation serves to support the plea he sets forth in his autobiography, which he wrote in a fit of adherence to the Jacobite cause; and where, unable to conceal the notorious fact of his revelations to Queensberry, he endeavours to make out that he betrayed no one as a Jacobite, except those whom he knew to be on the opposite side.

The commissioner's letter to the queen, detailing his interview with Lovat, whose name is still kept profoundly secret, is dated 25th of September, 1703. He there says:

"This person is willing to come to London and to give what accounts he knows, provided he do it secretly; and he offers to return to France and discover all the correspondence and designs; but says that if he falls under observation, or that he

be discovered, he runs the risk to be broken on the wheel. He says what money is transmitted yet from France, is only for the use of some particular persons, and that it comes by bills to London, and is brought hither in specie."

"I confess it hard," continues the zealous commissioner, "to think how one should know or be ready to reveal so much. Yet *the delivering of that principal letter*, and the showing his own commission under the hand and seal of the Prince of Wales as King James VIII. and III., which he says was the first paper sealed with his new seal; these do give credit to what else could not have been so well trusted; and he says, that he has a commission as major-general from the French king which lies there, that it might give no offence till once the forces designed were raised. I thought it necessary to entertain him with some money till your majesty do signify your further pleasure about him."*

It was, indeed, a matter of urgent necessity with Lovat that he should obtain a pass, and make his escape abroad. Among his own people he was, as he expressed it, "in greater safety than the privy council in the city of Edinburgh;" but it was otherwise when he passed through the Lowlands. His ill-omened presence was creating a dangerous sensation in Scotland. The sentence of outlawry obtained by the dowager lady and her friends from the Court of Justiciary, still hung over him; and active measures were taken to make him feel its weight.

Among the formidable documents issued against recusants from justice, by the privy council, one received the savage title of "Letters of Fire and Sword." Such a writ was issued against Lovat and his followers, giving authority to those intrusted with its execution.

"To convocate our lieges in arms, to pass and search for, see, follow, take, apprehend, imprison, or present to justice, and in case of resistance, hostility, or opposition, to pursue to the death the said Captain Simon Fraser, outlawed and fugitive, aforesaid, and such persons as shall associate themselves to him, and

* Original Papers, &c. pp. 7—8.

resist the execution of this, our commission, wherever he can be apprehended. And if the said Captain Simon Fraser, and they who shall associate themselves to him, in opposition to this commission, shall, for his or their refuge, happen to flee to houses or strengths, in that case we, with advice foresaid, give full power and commission to our said commissioners, conjointly, and severally, as said is, to pass, pursue, and assiege the said houses or strengths, raise fire, and use all force and warlike engines that can be had for winning and recovering thereof, and apprehending the said Captain Simon Fraser, and such persons as shall associate themselves to him in resisting the execution of this commission as rebels and traitors.”*

This formidable document was dated 27th of September, just two days after Queensberry's letter to the queen. The commissioner appears to have granted him a pass to London immediately afterwards, for he set out before the commencement of October. The commissioner was proceeding to London about the same time, and Lovat agreed to have another secret meeting with him there. Lovat, probably finding his position in Britain more uneasy every day, at that meeting persuaded the commissioner to make considerable exertions to get him sent over to the continent. In Queensberry's own words,

“Fraser appeared most hearty and forward to make further discoveries, and renewed the offer he had made formerly of returning to France, and there to do great service for the government by finding out what returns had been made from Scotland, and said he believed he might be master of the original papers, and that he would return and discover the resolutions that should be taken in France, upon the answers from Scotland; and that he would do such things for her majesty's service, as should deserve her pardon and an establishment for his own subsistence.”†

He seems, indeed, to have had dexterity enough to make

* Simon's Tracts, xii., 447.

† Original Papers, &c. i. 56.

the commissioner adopt a principle which of course that great official does not mention—to consider the revelations made to him too valuable a piece of political property to be communicated to any other statesman. There were, therefore, some more secret interviews in London, at which Lovat convinced the statesman that it would be an essential service to the government to send him back immediately to France. Queensberry at last agreed to obtain for him and three followers, a pass from the English government; and the pass was signed by Lord Nottingham, then secretary of state, for the names Campbell, Munro, Dickenson, and Forbes, without his having any idea of the real person who was to use the document. Lovat lodged with Thomas Clark, an apothecary, near the Monument, who from the reliance placed in him by his lodger, must have known more than he chose to divulge. He would only say that “the captain himself was a pretty tall gentleman, sanguine complexion, fair hair, or a periwig,” who having left Billingsgate and sailed down to Gravesend, on the 13th of October, the pass was brought to Clark to be forwarded to him, “by a pretty tall, thin, black gentleman.” Having thus got clear of the British Isle in circumstances of peril and extreme emergency, we shall cast a glance at the state of matters he left behind him, before following him across the Channel.

Sir John Maclean who had set out from France nearly at the same time as Lovat, did not arrive on the coast of Kent until the 10th of November, and being too late to take advantage of the indemnity, he was immediately apprehended. His conduct was not exactly that of a high minded chief. He agreed that “he would tell the Earl of Nottingham all he knew upon assurance of his pardon,

and being treated like a gentleman, so as not to be required to appear in public as an evidence against any person."* —His notion being, that it was more characteristic of a gentleman to give secret information, than to bear open evidence in a court of justice. Accordingly he made his "Discovery," from which a great part of the foregoing sketch of Lovat's proceedings in France is derived, and he was then pardoned and pensioned. This, of course, being too close an imitation of Lovat's own conduct, calls forth a stroke of his righteous indignation. Sir John is spoken of as having acted "to his shame and eternal confusion as the most contemptible of cowards, and as one who as ever since been universally regarded as the most worthless of the human race."†

The secret was now no longer confined to the bosom of Queensberry. On the 13th of December, the queen went to the House of Lords, and in a speech to both houses, said, "I have had unquestionable informations of very ill practices and designs carried on in Scotland by emissaries from France, which might have proved extremely dangerous to the peace of these kingdoms;" and intimated that investigations were in progress, the result of which should be set before them. On the 28th she wrote to the privy council of Scotland, recommending the examination of Lovat's associates, Macleod, Mackinnon, and Maclean, and the council thought it necessary to say in answer,

"We judge it our part to inform your Majesty that we find there are not sufficient provisions, either of arms or ammunition, for defence of the country; and there are not sufficient funds whereby they may be supplied."‡

So that viewing this state of matters in conjunction with

* Original Papers, i. 57.

† Own Life, 194-5.

‡ Privy Council Records.

the general dissatisfaction, it is clear that a better time for the organisation of a Jacobite revolt in Scotland could not have been seized, had the agent been better trusted.

The emulation excited by her Majesty's visit excited one of the most renowned of all the contentions on matters of privilege between the two houses. After Maclean, a French officer named Boucher, and some inferior partisans, had been seized by the usual executive authorities, the House of Lords appointed a committee of seven members to examine them, and report to the house, ordering at the same time "that no persons should speak with the prisoners till they had appeared at the bar of the house." The Commons represented this as an interference with the royal prerogative of the executive, and passed strong resolutions on the subject, and an equally strong address to the queen. The Lords, on the other hand, declared that an appeal to her Majesty was not a constitutional method of settling questions of privilege between the two houses, holding, it would appear, that such differences should be adjusted in conference. They were no less violent than the Commons in their resolutions and addresses. The Commons passed an address, to the queen,

"That she will be pleased to resume the just exercise of her prerogative, and take to herself the examination of the matters relating to the conspiracy communicated to this house by her Majesty; and to give assurance that they will defend her Majesty's sacred person and government against all persons concerned in the said conspiracy, and all other conspirators whatsoever; and to declare that the appointment of a committee of seven lords for the sole examination of the said conspiracy, is of dangerous consequence, and may tend to the subversion of the government."

They passed, with many eulogiums, a vote of confidence on the Earl of Nottingham, and his ability to sift the

plot, which tempted the members of the House of Lords to show in debate, that he had not made inquiry so satisfactorily as themselves, thus:

"The seven lords went on with their examinations; and after some days they made a report to the house. Maclean's confession was the main thing. It was full and particular. He named the persons that sat in the council of St. Germain's. He said the command was offered to the Duke of Berwick, which he declined to accept till trial was made whether Duke Hamilton would accept of it; who, he thought, was the proper person. He told likewise what directions had been sent to hinder the settling the succession in Scotland—none of which particulars were in the paper that the Earl of Nottingham had brought to the house, of his confession."*

After the exhibition of much constitutional learning, in which Lord Somers took an active part, and many references to precedent, the last step taken in the matter was an address of the Lords at the end of March, containing the following passage, which had the immediate effect of further alarming the independence of Scotland, and carrying the constitutional battle northwards.

"We do humbly take leave to offer to your Majesty, as our concurrent opinion, that nothing has given so much encouragement to your enemies at home and abroad to enter into this detestable conspiracy, as that after your Majesty and the heirs of your body, the immediate succession to the crown of Scotland is not declared to be in the Princess Sophia and the heirs of her body, being Protestant."†

Of course, these very free remarks on the conduct of the independent legislature of a neighbouring country called forth an answer there. A resolution was tabled in the Scottish parliament, charging the House of Lords

* These matters are stated in "Sir John Maclean's larger discovery, February 26, 1704," which appears to contain the statement he made to the Committee of the House of Lords.

† Parl. Hist., vi., 172—224.

with an attempt on their independence, and gently reproaching the House of Commons with unneighbourly conduct. It pronounced that the House of Lords' address "was an undue intermeddling with our concerns, and an encroachment upon the honour, sovereignty, and independency of this nation; and that the proceedings of the House of Commons were not like those of good subjects to the queen and good neighbours to us." The latter part of the resolution was, however, lost on a division. Lovat, when he had set his foot in safety on the other side of the Channel, appears to have looked back with some exultation on the respectable quarrel he had left behind him.

Let us now advert for a moment to Lord Athol. It has already been mentioned that Lovat had some conferences in London with Robert Ferguson, called "Ferguson the Plotter." This curious personage glides in and out of the pages of the history of the time, scarcely presenting himself for so long a period as might enable one to ascertain his character and history. His name is Scottish, but in 1704 we find him speaking of having lived in England since 1655. He had been connected with the Rye-house Plot, and in the general pursuit he was traced within the walls of Edinburgh. The gates were shut, but he found a concealment in a place seldom searched for conspirators at large—in the Tollbooth—the old Heart of Midlothian. He had, immediately after the accession of William, been concerned in the project of Montgomery for uniting the ultra-Presbyterians with the Jacobites, for the restoration of James, and he appears to have done so without any zeal or even partiality either for Jacobitism or Presbyterianism. Such a person could not well be in the same place with Lovat, without something congenial in their

spirits bringing them together. Yet it may be questioned if Ferguson was a very deep or dangerous intriguer. He seems rather to have attached himself, as a matter of taste or vanity, to plots laid by others, than to have been himself an original deviser of formidable conspiracies. He gloried in his sobriquet of "the plotter," and boasted of the many plots he had been concerned with. In his writings there is a certain tone of professional conceit; and in alluding to Lovat and his operations, he speaks as one deeply initiated in all these mysteries of hidden state-craft, who, in the person of Lovat, has come in contact with a young aspirant, of promise certainly, but of very small experience, and much too self-relying. Ferguson, in a "Discovery" which he made to Lord Nottingham, after having explained that he had a suspicion of some one being engaged in a plot to accuse Lord Athol and other loyal persons of treasonable designs, describes an interview with a man of importance living in Clark's house, who turned out to be Lovat. He continues to describe the various suspicions that in the course of some partly convivial interviews, were roused in him, without being satisfied, by the conversation and conduct of Lovat. In the meantime he said and did nothing openly; but soon after Lovat's departure, he went to Clark, and desired to have a letter transmitted to Lovat. This letter was answered by Lovat, who addressed the plotter as his "uncle," out of affectionate respect, probably, for his superior experience as a conspirator. Through this answer, Ferguson obtained a clue to Lovat's arrangements for corresponding with his friends in Britain. He was thus enabled to lay a plan for intercepting letters, and to do posterity the service of preserving a very curious tissue of intriguing correspondence, to which the reader shall be presently intro-

duced. Ferguson found that he had now supplied himself with information sufficiently important for a satisfactory revelation; and so he informed Lord Athol, hitherto only aware of Lovat's presence in Scotland as that of a fugitive from justice, of the trap that had been laid for him. Athol had very good cause to complain. His brother minister, the Duke of Queensberry, had been four months nourishing a charge of high treason against him, and now he for the first time was made aware of the charge, and discovered the sort of person by whom it had been made. He wrote an indignant memorial, which was read to the queen, at a Scottish Council held at St. James's, on the 18th of January, 1704. The Duke of Queensberry does not appear to have acted in this matter with any dishonesty, or with any greater degree of malevolence than consists with the circumstance of a great public officer rather too credulously adopting, and carefully nursing, a secret denunciation which was to burst upon and overwhelm a brother minister. He was, to use a common but clear expression, made a fool of. He was obliged to resign his high office, and to hear the whole history of the intrigues, out of which he hoped to make revelations so important, called "The Queensberry Plot," with the additional consolation that under this title it would form part of the history of his country.

In following our hero in his flight from Gravesend to the coast of Holland, and thence to France, it is unfortunately impossible to derive much trustworthy information from his own account. The object of the present narrative is to embody the truth as nearly as it can be derived from conflicting statements by individuals who mortally hated each other, and from pamphlets and letters drawn up to serve the temporary ends of their writers. In the midst of all this

it must be admitted that Lord Lovat's own memoir has an air of consistency and simplicity, strongly in contrast with the conflicting elements by which it is surrounded; but unfortunately these virtues just appear too strongly for the occasion. His account of his own conduct has too much in common with the good boy books in general, and especially with the "History of Goody Two-shoes." Every one who has taken part, with him the virtuous and magnanimous Lord Lovat, is alike virtuous and magnanimous; is invariably religious, patriotic, honest, courageous, and humane. As for those who in any way oppose him or counteract his projects, their qualities are announced in a shape which does not admit of being described by a feebler pen, and must be allowed to attest itself. Of an author, from whose contemporary account of the Queensberry Plot he had suffered, he said:

"It were pity to treat his book with too much severity, since he hath suppressed his name, for fear of being cudgelled to death by the footmen of the many noblemen he has maltreated, and who are unwilling themselves to soil their hands with shooting him through the head, as a gentleman did the father of this author, if he be the person whom all the world believes him to be."*

The last allusion was probably looked upon by its writer as singularly happy. The author referred to, is George Lockhart, of Carnwath, whose father, the president of the Court of Session, had been shot in the High Street of Edinburgh by Chiesly, of Dalry. Lockhart had written a history of his times, which he intended for posterity, and not for his own age. While he was making complicated arrangements for leaving it sealed-up, with directions which would insure it from being opened, so long as any of the persons affected by it were alive, he

* Own Life, 204.

could not help allowing a friend to peruse it. That friend, desirous of preserving a copy of so curious a document, got it copied by a clerk, who, carrying out the dishonesty of his employer just one degree further, kept an additional copy, not only for his own use, but for that of the public, whenever an opportunity should occur of profitably printing it. The opportunity did occur; and thus many conspicuous people, of whom Lovat was one, had the rare opportunity of seeing set forth, in a printed book, the private and confidential opinion entertained of them by a contemporary; and their fate was the proverbial one of those who overhear estimates of their character, which are intended for the ear of others. Lockhart, being a Jacobite, treated Lovat, "one Simon Fraser," as he ignominiously calls him, as a spy employed to betray the Jacobite cause; and gave a brief account of the plot, as if it had been originally concocted by him, with that sole view.

To return to Lovat's journey; a young Scotsman, son of Mr. Mackenzie, of Scatwell, having studied for a short time at Oxford, was desirous to complete his studies at Leyden. It was his fortune to pass over to Holland in the same vessel with Lovat, and to have some intercourse with him, which he afterwards described in these terms:

"I went on board the 16th of November, and there were some gentlemen who called themselves my countrymen. I was very glad to see them, since I wanted known company. So after we set sail, one of the gentlemen said to me, you that are country gentlemen need pass the sea but once or twice, but soldiers must go almost every year: and I said, I hoped if I got safe back to England, I should scarce cross the seas again. I talking a little after this manner, he showed me his pass, and there I saw some names writ down:—The first, which he took to himself, was John Campbell, the second Munroe, the other two passed as servants, under the names of Dunkinson and Forbes: and so, Mr. Campbell as he called

himself said, he dared not to write down Captain Campbell, for fear of Argyle's getting notice of it, because he had promised to break him if ever he could ; and so, since he staid some time longer than his furlough, he intended to keep private till he should come to his regiment, which he said belonged to Sir David Collier ; but he said, he had no great pleasure in staying there since the king's death, who was to have given him a regiment if he had lived, for the singular service he did that regiment, in getting a great many recruits to it ; but from the queen he needed not expect preferment, since she was a woman that did not respect merit. I said, that I was not much conversant in military affairs, but as to what I heard in England, all people said, that the queen was not in the least inferior to King William in giving every man his due. He answered, that they were mistaken that said so. Then I said, the generality of England are mistaken, for any thing I could ever hear. After this, he began to talk of the Union, and said, Scotland could never be happy if united with England. I begged his pardon in that, and told him I differed from him. He said, he wished they would unite with his old masters, the States of Holland, and the master of the ship agreed with him in that. I said, it may be the Hollanders will fit my humour better than I expect, but for any thing I ever heard of them, they'd never agree with my humour so well as those who were Britains ; and then, after he asked me what I was, and that I told him, he began to ask me if I knew Simon Fraser of Beaufort ? I said I did, little thinking that he was the man I spoke to, and I believe scarce any body could know him then, if they suspected nothing. He asked what my opinion was of him ? I said, I thought him a great fool, since he took advice from those who advised to so illegal and extravagant things. He said, he thought him so too. After speaking on several such little and private things, we at length arrived at Rotterdam, where we were recommended to a private house of one, a potter by trade, so he advised me to go along with him."*

Mr. Mackenzie's further statements as to their restless manner of going from house to house—how it would be unwise to stay in this one, and another was too full to afford them any room, and a third had dangerous com-

pany in it—is rather prolix ; and the details only give one the general idea that Lovat had considerable difficulty in finding a place of safety. He lived for a short time in Holland, corresponding with various people. He had three distinct parties to keep in good humour, and in reliance on his conduct. First, the Jacobites in France, whom he had to entertain with large and mysterious allusions to the services he had been performing in Scotland. Second, the Scottish Jacobites, with whom he corresponded through Ferguson, and Colin Campbell of Glenderule. By both these it may be observed that he was betrayed—the former having commenced the correspondence for the purpose of detecting him—the latter having been tampered with and bribed to give up the letters he received, a circumstance which induces Lovat, in his usual expressive style, to call him: “This unnatural monster—this perfidious traitor—this execrable villain.”*

The third party with whom he had to correspond was the Duke of Queensberry, to whom he professed to sell the secrets of the other two. He had probably a fourth system of correspondence with members of the French government; but if he had, we are not, unfortunately, possessed of the means of partaking in this department of his secrets. In corresponding with Campbell, he adopted the name and address of “Mr. John Smeaton, to the care of Mr. Vincent Nerinx, merchant in Rotterdam.”

On the 4th of December, writing from Rotterdam to this congenial spirit, he says:

“I have sent this to let you know that to my loss and trouble I am here yet, because that little devil, Corbusiere, forgot to give me a letter of advice to answer my bill, and for

* *Own Life*, 195.

want of it I cannot get a farthing, and live here at the rate of twenty guelders a day: and I could not set out my nose but twenty Scots people knew; some of them are going to England. I believe they will give account of me. I made them all believe that I am going on the present expedition to Portugal. I desire you tell the duke this, and send me an answer to my last.”*

Again, writing to Campbell, and referring to Sir John Maclean, who was third in number of the correspondents who betrayed him, by the term “your brother,” he says:

“I am confounded to know that your brother is prisoner. I am afraid they will keep him so; however, his only business is to give them fair words till he is in the Highlands, for I’d rather see him shot and damned than that he should do an ill thing. Since his lady is with him, he and she must be humoured till he be once in Gray Steel’s bounds, and when I return, I hope we will manage him. Our master’s business must carry, for nothing happens every day but melancholy misfortunes to the other party. However, my dear, since he knows nothing but what *she* will know, and then her father, who is a knave, you must not let your brother know what passed in Scotland, but in fair generals as I have done in the enclosed.”

He was without doubt very sincere in his desire that Maclean should suffer all calamities, whether of body or soul, rather than “do an ill thing,” viz., an evil turn to him, Lovat; and in the “enclosed” he repeats the wish in a modified form:

“The making of an ill step now would so ruin your reputation, that though I love you entirely, I had rather see you buried than that you should be guilty of it.” And, “Take care for Christ’s sake that no condition may make you or your friends tell a word of the main business to any body. Many things may be said that are true and probable, that may do you service, without touching the main, which torture should not oblige you to discover.”

Another letter to Campbell, dated the 14th of December,

* Original Papers, i. 39.

shows that he was still in Rotterdam, but expecting soon to leave that town. He concludes with a fit of enthusiasm and cajolery:

"My dearest; if I escape this journey, you will see me in summer, if I am alive in health. I pray God preserve and prosper you, my dearest cousin. I hope to see you enjoy a great reputation and a plentiful estate. Your cousin James, Sir Norman's son, is dead, and buried last Wednesday. Pray let me hear frequently from you, and believe you are the creature in the world I love most."*

Subsequently, when the discoveries about the plot had begun to acquire an unpleasant publicity, we find him writing to Campbell, from Liege, on the 24th of February, 1704.

"I believe all the devils are got loose to torment me. With you I am abused, ruined, and my reputation torne. Here I suffer by those whom I served, and am treated like a traitor and a villain, and if I had not had good friends here of strangers, I had perished like a dog. I do not yet know what my fate will be, but I have dear bought my conversation with those you call my real friends. You tell me that K [Keith?] betrayed me to A [Athol] and now we hear of his sufferings for me, but none in England could wrong me but he or you, and if either of you has wronged me, I cannot trust myself or any flesh and blood : my comfort is, that I neither betrayed my trust nor my friends, nor would not for the universe! * * * For my part, I believe the day of judgment is at hand, for I see a great many of the symptoms of it."[†]

Taking up another thread of the correspondence, we find him writing to Queensberry in terms suitable to the position in which he stood with that minister, but not in the same enthusiastic spirit in which he addressed his Jacobite friends. He writes from Rotterdam on the 29th of November,

"I give you the trouble of these lines to let you know that we are come safe here, and that your goods are safe. I will

* Original Papers, i. 45.

† Ibid. i. 34.

have a most dangerous journey before I come to my garrison, for all the roads are full of parties and partisans, and the French insult now because of their last victory at Spiers. It is certain that we are routed there."

But his hardest task was in corresponding with the court of St. Germain, where he had to report the progress of his mission. He prepared "a memorial to the queen of all that my Lord Lovat did in his voyage to England and Scotland by her Majesty's orders."* It contains very flattering but vague statements of success. Wherever he had presented himself, the utmost enthusiasm was shown for the royal cause; but throughout the whole there was a most unsatisfactory indefiniteness. Partisans came in multitudes, but no individuals were identified. He anticipated the motions of James Murray, whom the Jacobites had sent as a spy over his actions, by charging that gentleman with betraying him to the Duke of Queensberry; and thus he very ingeniously introduced the subject of those conferences with the duke which of course could not have been concealed, stating with a tone of great magnanimity that his Grace had made him the most advantageous and brilliant offers if he would desert the Jacobite interest, but that he had resisted all temptations and stood fast by his integrity. Of course, instead of stating that he was sent over by Queensberry to obtain further secret information about the projects of the exiled court, he represented himself as accredited from the Highland clans, because "he was the only man that the Highlanders would trust to make conditions for them." When he came to the history of obtaining the pass from Queensberry, he was obliged to admit, that to enable him to return to France, he had thrown out certain hopes; he

* Macpherson's Papers, i. 641.

said he only did so that he might nominally fulfil his mission and return to Britain to be restored to his estates.

This explanation, as shall presently be seen, was not satisfactory.

At the time when he conducted the greater part of his protean correspondence, he was in extreme danger, subject to provoking detentions, which made him furious with impatience, and compelled to undertake perilous enterprises. He remained fourteen days at Rotterdam endeavouring to procure a passport. There, in the midst of his extensive diplomatic correspondence, he wrote one manifesto which had amidst its policy, at least some touches of sincerity. It was addressed, "To the honourable—all the gentlemen of the name of Fraser of the Lord Lovat's family." He exhorts them to unity, and says,

"I hope you will reflect on your foolish divisions and abhor them; and as I never did revenge myself against the particular persons that appeared against me, because I hated mortally to dip my hand in my own blood, so I do heartily and sincerely forgive all, and every one of them, by this, since I believe they did not see their error, till they see their next door neighbours like to take their bread from them. And as I do pass by and forgive all bygone injuries, so I hope they will join and concur with me to keep out our enemies, and to preserve my family and their own name and kindred; which, if they do not, when I come to my country, I declare solemnly, that I will treat them as my worst enemies, and cut them off as monstrous members, who are like to destroy the body whence they have their birth: and I can assure you I shall have power to do it, and be fit sides with all my enemies, if I live a few months."*

He did not then know what was prepared for him on his return to Paris. When he was able to leave Rotterdam, he went to the Hague, where he had not been many

hours ere he felt symptoms of his presence, as a suspicious person, being known. He took the conveyance, which the tourist may still employ, the Tracshwit, and went to Delft, whence he proceeded to Hertogen Bosch, or, as it is generally marked in the maps, Bois le Duc, where he was near the Dutch frontiers, and in a good position to take advantage of any opportunity for escape. Here he found several of his countrymen in the garrison; and as they were curious to see and converse with so eminent a character, a report very naturally arose, that he had gone there to attempt to seduce them to the French interest. He tells us that he found many of his own clan there, and that he met Major General Ferguson, a brother of the plotter, to whom he presented a letter from that worthy, desiring the major-general to communicate with Lovat in the hopes and prospects of the Jacobites. All these matters of course made his journey the more perilous. He was passing through "the classic land of fortified defence," where every village was a fortress, during one of the hottest European wars, when spies were swarming, and stray people of suspicious appearance were hung from the nearest tree or bartizan, ere time could be afforded for inquiring into their history. He adopted a disguise which none but an able man could support—that of an officer in the service of Holland, the country through which he had to travel; changing it as occasion required, for the costume of a peasant. When he found his position at Bois le Duc becoming unpleasant, he made arrangements for fleeing to Antwerp, a distance of fifty miles, at one dash. In passing Breda, he and his companions took a circuit through the heaths. On approaching a fortified bridge over the Merk, the precaution was adopted of hiring a peasant to reconnoitre; a favourable moment being found when the vigilance

of those in guard was relaxed, Lovat and his little knot of followers, including his brother John, and his cousin Major Fraser, galloped across. When he reached Antwerp, exhausted with toil and excitement, he found it in possession of Marshal Villeroi, who of course could send him in safety to Paris. When he arrived there, he found that he was exposed, the incompatible elements which he had endeavoured to unite in his intrigues having created a general explosion. Secretary Middleton wrote to De Torcy on the 16th of January, and after some reference to the other evidence against Lovat, made the following sagacious criticism on his memorial to the ex-queen, described above.

“He told me that Queensberry, Argyle, and Leven, were the greatest enemies of the king my master in that country; yet he communicated to them the whole of his commission, which is a crime that deserves hanging in every country. He rejects extraordinary offers; but obtains a pass to go to London, and from thence the same Queensberry obtains another pass for him, under a borrowed name, to secure his safe return to France. This is very true, for he has produced them. It is therefore clear as daylight, that these noblemen wanted to employ him here as a spy, and for signing letters and commissions, which might serve as proofs against men of honour in that country. You will be pleased to observe, sir, that in his own report he makes every one ask commissions, in order that he might obtain now what was refused to him last year. He accuses none but James Murray, who is a man of such known probity, that my Lord Arran called for him as a man in whom he could place the greatest confidence; but foreseeing that Mr. Murray’s account would not be favourable to him, he chose to be beforehand with him.

“If the king thinks proper to apprehend him, it should be done without noise. His name should not be mentioned any more, and, at the same time, all his papers should be seized. He has a companion called Fraser, who has attended him everywhere. I know nothing more about him.”*

* Macpherson’s Papers, i. 652-3.

When he discovered how he stood with the court of St Germain's, he wrote several letters to Middleton and others, enlarging with his usual eloquence on his own services and sacrifices, and those which his family had made for unknown periods of years; but concluding in the following strain:

"I am daily informed that the queen has but a scurvy opinion of me, and that I rather did her Majesty bad than good service by my journey. My lord, I find by that, that my enemies have greater power with the queen than I can have; and to please them, and ease her Majesty, I am resolved to meddle no more with any affairs till the king is of age. This is leaving the field with a fair victory to my enemies. But I am sure the king's service will suffer by it, and perhaps my enemies will not reap the advantage they hope and expect, by this victory, which they have so long wrought for."*

If the King of France could not do more substantial services to the exiled house, he could at least favour them with the occasional use of his power of secret and arbitrary imprisonment. This was a privilege of the utmost importance to the court of St. Germain's, and the Jacobite correspondence of the period shows that it was very frequently used. It was of the highest moment, especially that those who were acquainted with the correspondence of the English statesmen, and other inhabitants of Britain who corresponded with the exiled court, should not be allowed to return home, if they were people liable to the slightest suspicion of treachery. The safety of those who were already in the correspondence—and they were many and great people—as well as the hopes which the exiled court might have, of adding to the number, depended on the preservation of secrecy. Accordingly, when any Jacobite showed an uneasy or suspicious desire to return

to Britain, a *lettre de cachet* was obtained, and he was quietly kept out of sight and hearing in the Bastille, or any other state prison. Lovat before leaving France on his great expedition, had been plausible enough to get some individuals, probably people who knew too much about himself and his designs, imprisoned; and now the time was come when he was to be done to, as he had done by others.

In much that has been written, both by himself and others, about his residence in France from this time down to the year 1714, there is unfortunately very little that can be taken as authentic. By his own account, which is probably the least erroneous, he was committed to the Castle of Angoulême. The first short memoir of his life, published in 1746, states that he was imprisoned in the Bastille; and in the book bearing the name of Arbuthnot, there is a minute detail of his imprisonment there, and a narrative of the lives and adventures of his fellow-prisoners, so precise and so characteristic of French memoir writing, that it is probably a translation from some French book containing the adventures of a prisoner in the Bastille.

Both the memoirs above referred to say that he took orders, and became a renowned popular preacher, and a shining ornament of the church; as a curé in St. Omers. They state that he was admitted a Jesuit, a circumstance improbable for many reasons, and among others on account of the perseverance with which that illustrious body inquired into the history of all candidates for admission to their order, and their strict rule to admit none who had been convicted of offences. It is remarkable, however, that in a long memoir of Lovat, in the "*Biographie Universelle*," written by no less a person than Lally Tolendal, this statement is believed. A very different

authority, Major Fraser, in his narrative, gives this story in his own way. "Lord Simon knowing that the speat was great against him, made his interest with the Jesuites and professed Louis's religion, and entered into that sect, which was strongly backed by the great Mun-si Cullbarr, and Marchi de Fraselier." That he became a priest is not improbable. We shall come across some not very reverend allusions to his position in the Roman Catholic Church in the course of his correspondence; and he is reported to have said that, if he had remained in orders, he would at least have been an archbishop, if he did not fill the chair of St. Peter.

In "A Free Examination of a Modern Romance entitled *Memoirs of the Life of Lord Lovat*," the statement of his having taken orders is contradicted; and it is said that he lived at Saumur, where "he occupied a genteel house, kept a handsome equipage, and saw and was seen by the best company in that polite and populous neighbourhood." This corresponds with his own statement in his memoirs; and is in some respects confirmed by his subsequent correspondence, in which we shall find him speaking as if he had been comfortably settled in France, and had drawn round him some of the elements of retired enjoyment.

Major Fraser, whose narrative is cited in the next chapter, speaks of him as having abundance of money, furniture, and plate; and confirms an assertion in his life, that he held a pension from the king of France. It is clear that during the whole period he was either in prison or under espionage. The author has seen a letter, of no particular interest in itself, written to him on the 29th of June, 1709, addressed to him as a close prisoner, and when Major Fraser visited him in 1714, he says, he went to "Somoir, where my Lord Lovat resided as prisoner."

During his residence in France, he had much intercourse with the head of the House of Frezeliere, who received him as a kinsman. He speaks of this family as the most illustrious in France; yet Anselm in his genealogical history of the great houses of that country, though he occasionally mentions the alliances of the Frezelieres, does not give their history. Lovat alludes to the marquis as an illustrious soldier, second only to Villars; yet history has neglected to record his achievements, and his name even does not appear in the "Biographie Universelle." There is still extant, however, a letter by the marchioness to Lovat, dated the 31st of June, 1720, a very curious document. For the sake of her "tendre amitié" for him, and the proximity of their races, she offers her congratulations on his marriage, and her prayers for his future prosperity and happiness. She says that though he disclaims ambition she is certain it will never die within him for "elle est l'âme des Frezels." The letter contains this curious sentence, in reference to a pledge left by Lovat in France, which the reader may invest with whatever romantic history he chuses.

"Revenons au Sieur Bernierd, à qui j'ai remis en main votre lettre, mon cher Mylord. Je lui ai reproché ses graves fautes à votre égard; d'ailleurs il a eu soin, à ce qu'il m'assure, et aura à l'avenir, de l'enfant baptisé sous votre illustre nom. Il m'assure qu'il est très blond et a de votre air. Souvent ces enfants de l'amour sont aimables et ont du mérite. J'avoue que je ne l'attendais pas pour fruit de votre sagesse. Mais l'homme est foible, malgré le directeur de l'oratoire."*

* Lovat Documents.

CHAPTER V.

Causes of the Return in 1715—Legal Schemes of the Mackenzies for obtaining the Estate and Title—Meetings of the Clan—A Messenger sent to Lovat—The Messenger's Adventures—Negotiations with the Court of St. Germain's—They escape together—Adventures in London—Lovat's Pardon—His Achievements in the Rebellion—His Rewards—Receives the Title and Estates—His various Litigations—The Dangers of the Litigants—The Outrages of the Clan.

LOVAT's prepossessions were certainly with the Jacobites; and in discussing the train of circumstances which induced him to join the Hanoverian party, he speaks of himself as driven to desperation, by the unreasonable and unjust severity of his king, the Chevalier, the foul ingratitude with which his services were met, and the malice of his fellow Jacobites; seeming to say with Coriolanus—

“ Thus I turn my back,
There is a world elsewhere.”

The court of St. Germain's, indeed, had evidence that in his retirement, whether lay or clerical, he had not totally abandoned his intercourse with Britain. At the breaking up of the conference at the Hague in 1709, the Jacobites thought that the juncture would be suitable for an invasion. Lovat hearing of the proposal, about which we may be assured he was not consulted, sent an oracular letter of warning to Lord Melville, who had been the means of introducing him and his revelations about the plot to the Duke of Queensberry. He says,

“ I am informed, by several persons, that there is a design of going to see you towards the latter end of the campaign ; but I believe that depends upon the peace. If it is done you will see nobody ; but if the war continues, you will most surely have the visit that you missed last year. If that happens, be fully persuaded that you will see me soon after, to live and die with you, at the head of some brave fellows, that will follow me in spite of all mankind.”

This letter was a signal illustration of the folly of trusting in any man's consistency in those times. At the period of the plot, Leven was a partisan of the Hanover succession, but the lapse of six years had taught him reasons for being a Jacobite, and he sent Lovat's letter to St. Germain's. An action, which makes Lovat call him “ one of the vilest hypocrites upon the face of the earth, for betraying in so base a manner the most sacred confidence.” He seems however to have kept it for some time in his possession. It is dated the 20th of August, 1709, and it is on the 8th of March, 1711, that Middleton, greatly triumphing in this confirmation of his suspicions, sends it to De Torcy, saying “ Here, sir, is a spy of consequence unmasked, and we know very well the means of preventing this correspondence for the future.”*

As an introduction to the account of an embassy sent by the Frasers to their chief, we must here go back and take up a small thread of collateral clan history. It appears that the operations of our hero, detailed at the commencement of this narrative, had effectually marred the project of uniting the heiress of Lovat to Lord Saltoun, and the Athol family seeking another alliance for her, she was married to Alexander Mackenzie, son of Roderick Mackenzie of Prestonhall, who thenceforth took the title of Lord Lovat, and endeavoured to take possession of the

* Macpherson's Papers, ii. 132, 133.

estates, with what success we have already seen. It was, perhaps, an inducement in the peculiar circumstances to court this alliance, that Mackenzie's father was a judge of the Court of Session. The old lawyer prowling about among the intricacies of the family titles, found that they were not in the best possible condition, and that his skill would be taxed in their repair. There was no doubt that by the original investitures, the Barony of Lovat was a male fief. Supposing the exile to be the nearest male heir, his rebellion forfeited his liferent interest in the estate, but did not affect the right of his successor. There was nothing, however, that might not then be made effectual in law by those who had power on their side. Some creditor of a former Lord Lovat, had in the year 1669 endeavoured to obtain payment of his debt by means of an execution against the estate, called an "apprising." Preston-hall purchased the right to this process, and commenced proceedings for seizing the estate for non-payment of the debt. As the peerage could not be seized by this species of process, the less secure method was necessarily had recourse to, of the young lady commencing proceedings on her right of succession, such as it was. Thus these two carried on their process of "Reduction, Improbation, and Declarator." There was no one of course to resist this action, and on the 2nd of December, 1702, they obtained decree before the Court of Session, he for the estate, and she for the title.* The old judge being thus the nominal owner of his daughter-in-law's estate, this ingenious family compact was concluded by the execution of an entail in favour of the issue of the marriage. In the further history of this project, we have

* Anderson, 137.

a signal instance of the blind rashness of family pride, and the extravagant presumption of clan ambition. The policy of the Mackenzies would have been to link their name and origin in those of the Frasers, and endeavour to obliterate all marks of the ingrafting of the new branch. On the other hand, they formed the wild project of converting the Frasers into Mackenzies. By the first entail, the heirs who might succeed were bound to take the name and arms of Fraser. By a subsequent deed, executed on the 23rd of February, 1706, the heirs were allowed, "if they shall think fit, in place of the surname of Fraser, to carry the surname of Mackenzie, and to alter the said coat of arms, by carrying the deer's head in the first quarter, and the three fresas or strawberry leaves only in the second quarter;" and then there is this remarkable provision, the whole showing the extreme caution which was necessary in carrying such a design to its accomplishment.

"With provision and condition also, that the said surname and arms being once altered, and recorded so in the books of heraldry, and the Lord Lyon's Office, that *"it shall not be in the power of the said heir of entail* who alters the same, or assumes the surname of Mackenzie, ever after to return to the surname of Fraser and their former bearing, under the hazard of the irritancies and penalties contained in the foresaid disposition of entail."*†

The clan appear to have been informed of these proceedings, and to have treated them as a sort of treason against their state, which tended only the more to exasperate them against the new dynasty.

In 1713, several meetings were held by the gentlemen

* This word is here substituted for the Scottish technicality *Tailzie*, to make the passage intellible to the general reader.

† Anderson, 137, 139, Lovat Documents.

of the clan Fraser, who, after having for some time believed that their chief "had rotted in the Bastille," had heard a rumour that he was still alive. A vote was taken to accredit one of their number to discover his place of retreat, and learn his intentions, "as they were persuaded upon King George's accession, there would arise some disturbance in Britain, and if Simon could be stolen out of France, he might come to fish in dormly waters. The vote," continues the narrator, "fell upon the poor major, who had then eleven small children, and he not being bred a scholar, and having no language but his mother's tongues, the English and Irish, thought it a hardship to go to a foreign country, where he understood none of their language;" but the demands of public duty were imperative.

The messenger's courage and natural sagacity more than made up for his ignorance of languages. His first step was to get himself accredited to the court of St. Germain's and the Jacobites, under the plea that he was to serve their cause. He then tells us:

"Upon the first day of May [1714], by four o'clock of the morning, the major took his journey from his dwelling-house, with his haversack, and left his wife and children sprawling on the ground, in tears, and proceeded on his journey, till he came to Newcastle. From that he went down to Shiels, and took occasion of a collier's vessel going for London. When he came there, he discovered his design to my Lord Islay, Sir James Campbell of Arkinglass, and John Forbes of Culloden. I cannot say that my Lord Islay seemed heartily in the design in hand; but Sir James and Culloden were very sanguine, and gave Major Fraser a good bowl of punch the night before they parted, and wished him good success at parting."

"The mayor went off for Gravesend, and there found a little smuggler of a vessel, belonging to a Frenchman, with whom he engaged to go abroad with him to Callais. The major not having time to bring in any provisions on board, only a little bread and cheese, thought of no drink. The winds being contrary [he] was very sore put to it by the rascals. The mayor,

not having their language, was like to fall foul of them ; and in end their cruelty came to such a height, that they would not give him drink. The bread and cheese drying him up, he was necessitate to draw his sword, and was resolved to kill the three, being no more aboard, and to run the vessel to land ; which, when they saw that he turned so desperate, gave him some small beer."

A man who could adopt such decided measures was independent of languages, and he soon found his way to his chief at Saumour, where he says:

"Lord Simon could not express himself for joy, that he had seen in that part of the world, the only man that he loved best of his name. Lord Simon was then but very low in his person. The major encouraged him as much as he could, and asked him if he had any thoughts of ever returning home. He answered that he believed not, nor was it possible, without getting leave from the court of St. Germain's, and that he knew that was impossible, by reason that the Duke of Athol and the family of Hamilton had prevailed with the Pretender never to let him home, and that Queen Mary was his mortal and declared enemy."

When the chief had made up his mind to an effort for his release, he entrusted to the major a considerable bundle of letters ; one of them, to the exiled prince, filling "a whole sheet of paper written back and fore." The messenger set off on foot, with directions to find an Irish cordelier, who was to act as his interpreter. He first applied to the court of France, whence he received "a satisfying answer," that his chief would be released whenever the court of St. Germain's agreed to the measure. This was indeed a highly favorable opportunity for Lovat showing his power in Scotland. Here was a gentleman, nominally a man of property, coming to him, not to offer terms from his clan, but to know his wishes, and the part he desired to take in the ensuing crisis, in order that the clan might know how to fulfil their duty of allegiance.

At St. Germain's, Major Fraser found the Duke of Perth, who favoured his efforts to release his chief, and sent him accredited to the prince and his mother. His first interview was with the latter, who "desired the major to draw near, and told him, by way of Jesuite, that she was glad to see a Scotsman, and a man so resolute to travel the country of France without the language, and that she was sure nothing obliged him to it, but his honour of serving the king." The major knowing that they were not on very good terms with his chief, appears to have approached the exiled royalties with very little prepossession in their favour. He tells us that Mary of Modena, having just heard of the death of Queen Anne, had sent an express for her son to leave Bar le Duc; yet had duplicity enough to send the major thither to wait on him, offering her hand to kiss, and saying, "that she wished him all success, when, at the same time, she was sending him an *Aprile crand*, and 300 miles to travel, which she might have spared if she had not been a real Jesuite, and, according to her belief, yet in purgatory, till she make atonement to the poor major for the sweat he lost." Not easily baffled, he succeeded pretty speedily in getting access to the chevalier. The interview did not commence auspiciously. His Highland pride was immediately wounded by an exposure of his deficiency in languages. "He asked the major if he had any French at all. The major answered that he had only three words—the first, to ask the road—the second, to ask a bottle of wine—the third, a bed at night." They insisted in extracting from him his French version of these requisites, and received it with shouts of laughter. Few people can bear such mirth worse than the Highlander, and so "the major stood grave, and told

his Majesty that he was glad to come twelve or thirteen hundred miles to make his Majesty laugh so heartily."

The manner in which the chevalier carried on the negotiation, shewed an utter ignorance of the character of the Highland clans. He firmly refused to sanction Lovat's release, remarking that nevertheless he would secure the aid of the Frasers; forgetting that Mackenzie of Prestonhall was to them what the elector was to the Jacobites—"an usurper." The intercepted letter was shown to the ambassador, who said it was probably forged, while he by no means indignantly repudiated the charge inferred from it, but spoke as if it were not for him to question the negotiations his chief might carry on, either with Hanover or St. Germain. "The major told that his commission from the name of Fraser was to declare their minds, which was, that if he would give them their natural head and chief, they would venture their lives and fortunes in his cause, and if not, that they had declared that if they should die to a man, they would never draw a sword for him or any of his. Whereupon, with a smile, he took the major by the button of his clothes, and told him that he was sure *he* would fight. The major replied, that his fighting was of no great use to any man, and he behaved to do as the rest of the clan did." He was offered commissions for the gentlemen of the clan, but says he declined them, as he had no authority to treat on any other matter than the release of his chief.

He did not find, however, that the injunctions laid on him, prohibited him from accepting a fine horse from the Duc de Lorraine, with some other tokens, which made Lovat on his return suspect him of being bribed. This matter having been explained, the chief and the follower

concerted an escape. The method in which it was accomplished was characteristic. They had been for some time lurking at Mons, when—

“Lord Simon and the major came off under silence of night, back from Mons to Saumour. When Lord Simon came there, he called for his father confessor, and other Jesuites of that college, and told them that his cousin the major had been with the pretender, pleading for his liberation, which he attained, and that he was to go off by the permission of the pretender and the king of France, hence for Scotland, in order to raise his men for the pretender’s service, while these men—I mean the Jesuites,—prayed for his success, and kissed him heartily, and also kissed the major, who was then as great a Jesuite as them.”

They proceeded by Rouen to Dieppe, where they could find no vessel for England. At Boulogne they heard that they were pursued. There, hiring a boat, they sailed on the 14th of November, 1714, and after a storm—the danger of which was increased by the major insisting on his horse, the gift of royalty, being conveyed in the boat—they reached Dover next afternoon. Their journey to London was, by the major’s account, an alternation of storm and sunshine of distrust and confidence; Lovat at one moment attempting to shoot him as a traitor, at another, saying “he would not part with him, and if he did, he would go back to the country he came from, and go into a cloister where he would end his days.”

He found immediately a supporter in John Forbes of Culloden, but the Duke of Argyle and Lord Islay declined to intercede for him. Meanwhile, his enemy, Athol, hearing of his return, a warrant was issued against him; and though he had for some time effectually concealed himself in the capital, on the 11th of June his lodgings in Soho Square were entered by a party of armed constables. The major kept them in parley for a

time; having resort to his usual remedy in such difficulties, a plentiful supply of brandy to all parties; while he removed from the pockets of his chief, who was in bed, "some pater nosters and ave marias he had got about him." The captives were kept for some time in a sponging house, where they formed a plan for a rescue by bribing some clansmen who were then among the military stationed in London. The necessity of attempting this enterprise was obviated by Lord Sutherland, Forbes of Culloden, and some other gentlemen, becoming bail for him to the extent of 5000*l*.*

Before detailing, in Lovat's own words, his journeys to the north and his achievements, it may be mentioned that while he was there, an address in his favour was signed by about seventy individuals, including the Earl of Sutherland, Lord Strathnaver, the Members of Parliament, and the Sheriffs of the northern counties, along with several burgh magistrates, clergymen, and landed proprietors. It implored the royal clemency "for one who has now lately, when the greatest dangers did seem to surround us, by the influence he has over a numerous clan, supported with us that cause which, in defence of your majesty's undoubted title to the crown, we have to the utmost of our power endeavoured to maintain." The memorialists continue to say that they are "so sensible not only of his power, but of his sincere intention to serve the cause, that they are ready to give security for his loyal, faithful, and dutiful behaviour" to any amount that may be desired.†

His pardon was not signed until the 10th of March, 1716. The person who drew the document appears to

* The above statement is taken from Major Fraser's "Full and Impartial Account." MS.

† Culloden Papers, 386,

have thought that his employer could not be safe, if there were any of the most hidden cracks or flaws in human nature which it did not cover. It is an astounding and horrible enumeration of all the crimes and abominations to which the human animal is liable; and, as if there might be doubts whether one language would, in all cases, be sufficiently explicit and definite, the document being itself in Latin, some of the more offensive parts of the criminal nomenclature are translated into English.

Of the chief events connected with this period of his history, Lovat has given an account in a hitherto unpublished document, which, being intended to recall to the person to whom it was addressed circumstances with which he had been acquainted, is probably in its general features true. The rest of this paper, which is a vindication of his conduct, addressed to Lord Islay, will appear further on.

“When my Lord Elchies was at my house in time of his circuit, I told him, as my friend, that I was represented above as a man disaffected and plotting against the government. I thought his answer to me was very just and right. He said, that persons that would believe that of me, must believe that I am stark mad. I therefore would wish your lordship would appoint any man of your good friends to converse with me, to know whether or not my head is turned, or if I have left the ordinary use of my reason and judgment; for, if I was guilty of what I am accused, I deserve to be put in Bedlam as a madman, as much as any that was put in it these twenty years past. To convince your lordship of this, I humbly beg you may reflect on the situation that your lordship saw me in at London, in the year 1715, and compare it with that in which, I bless God, I am in now. Immediately before your lordship took journey to Scotland, I had then the laws against me for capital crimes, put in close prison with naked bayonets at my breast all night, threatened with Tower-hill, violently persecuted by the Dukes of Montrose and Roxburgh, and the other enemies of your family; and though your lordship thought then I might be of use to you in Scotland, yet you could not obtain a sist of the laws that

were against me, nor a safe passport for me to go to Scotland, but desired that I should make the best of my way that I could, and meet your lordship with all the men I could make at the head of Badenoch, where your lordship was to be on the head of the Argyleshire men, being thus left to shift for myself, I gave 100 guineas to my friend Dr. Willwood, who by the means of Mr. Stanion, of the Secretary of State's office, got a passport to my brother John to go to Scotland, with four of his friends. So I came as one of my brother's attendants; and after being taken prisoner at Newcastle, Longtown, near Carlisle, Dumfries, and Lanark, I came to Stirling, where I thought to have been received with open arms by the Duke of Argyle; but instead of that, he only sent me Brigadier Grant to give me his kind service, and to tell me that he could not see me for fear of the Duke of Roxburgh, who was there as a spy over him, but desired I should go immediately north by sea with Culloden, and that he depended much on my assistance in his present dangerous situation.

"I went immediately to Edinburgh, in order to embark at Leith with Culloden. I was not two hours at Edinburgh, when I was made prisoner by order of the Justice Clerk, and was designed to be sent to the Castle that night, and I believe to be scaffolded the next day, if I had not been delivered and relieved from that danger by Provost John Campbell, whose zeal for the government, and for his chief, the Duke of Argyle, was very singular at that time. When in a few days after I embarked with Culloden, about ten of the clock at night, at Leith, we were pursued by several large Fife-boats that were in the rebels' possession, and very well manned by them. They chased us for eight or ten miles, and fired on us, and we on them, for above two hours; and after several other imminent dangers arrived at last with Culloden at his house, near Inverness, where the present advocate* kept a garrison, the rebels being then entirely masters of Inverness, and all the countries about it.

"I went immediately to join 200 of my kindred, who were waiting for me under arms in Stratherrick; and being informed that Colonel Macdonald of Cappoch was going into Inverness, to reinforce Sir John Mackenzie, governor for the Pretender, I marched up to him and chased him. He then sent me a message, that since I was come home to my country,

* Viz., Duncan Forbes then Lord Advocate.

that he would not disturb it, but would go straight to Perth, which he did. I then marched down to Inverness, and finding the situation of it, I resolved to do some signal action for the government, or die on the spot. Accordingly, by my own project, and with a handful of my own kindred, I invested, and in three days, by taking the governor's provisions, by chasing the parties that were coming to his relief, and a little skirmish that happened, in which Kilravock's brother killed, and by my continual threats that I would put Sir John and all his rebellious garrison to the edge of the sword, the poor cowardly governor ran off at night, and his garrison, and left the town at my discretion. I marched in, and took possession of the town the next day, with 800 Grants and 400 Monroes, who came up immediately to concur in taking of the town from the rebels. Duncan Forbes, who was eye-witness of all this, dares not refuse a syllable of it. This was the greatest piece of service that was done in this country to any king, at several ages; for as I took possession of Inverness the Saturday before Sheriff Muir was fought. If it had been delayed three days, there had been about 2000 of the rebels of my Lord Mar's army in the town of Inverness, so that it would have been impracticable for the king's friends to have attempted the reducing of it. Then the Pretender would have come there, and against the next spring would have had a greater army than ever appeared for him in Scotland; and having all the Highlands and isles behind his back, to retire to if he was beat, it would at least have cost several thousand men, and some millions to the government before he would be chased out of Scotland. So that the taking Inverness from the rebels at such a critical juncture, was a service should never be forgot. It would be tedious and perhaps selfish in me to tell the other singular services I did to suppress the rebellion in the North. However, they were such as procured me three letters of thanks from my great and worthy master, the late king, in which he said he was so satisfied with my singular services, that he would give me such marks of his favour, as would put me at my ease, and be an encouragement to his other subjects in this country to be faithful to his service. In this situation I was much caressed by my Lord Cadogan, who offered me vast preferments and encouragements if I would renounce the Duke of Argyle and the Earl of Islay, and join the Duke of Marlborough and him, who had then the king in

their hands. I refused his offer with disdain, and told him I would not take the Hanoverian dominions, and renounce the children of the late Duke of Argyle, to whom I owed my life, and all that was dear to me. This declaration made Cadogan hate me all my life ; and his party prevailing, it was with much ado that your lordship got me, by the assistance of my Lord Stanhope, the independant company that was commanded by Colonel Monro, before he was made commissioner of inquiry, and the government of the Castle of Inverness, without salary or pension. I did not enjoy this independent company but eight months ; when, by the total disgrace of the Duke of Argyle, Colonel Grant, Fannal, and I, were broke ; and I continued nine years without a sixpence benefit by the government, but my half-pay, and 400*l.* pension ; that I got by the late king's personal friendship, and by the intercession of Berinstaff, Bothmar, and Mahomet, who were my friends ; and I got the pension at a time that Roxburgh was at the height of his favour, notwithstanding of his continual opposition to me ; and that the Duke of Argyle and my Lord Stanhope told me that I would eat Hampton Court as soon as get it."*

So commenced the history of our hero's rise in the world. His services were very important, and he knew their value. In what Lord George Murray accomplished with his little band in 1745, we have a type of what might have been done in 1715, if the Jacobites had had among them a head like Lovat's. Ten thousand men—a very considerable army at that time—were at once assembled, and Scotland; from Inverness to the Lothians, was as completely in the hands of the Jacobites as a country could be in the possession of an armed force. If Lovat had joined them, the face of history would at least have been so far changed, that instead of the mere crushing of a revolt, the Hanover dynasty would have been only established as the fruit of a tedious war. The main reward to which he turned his eye, was the undisturbed possession of his ancestral domains and

* Lovat Documents.

honours, which the misfortunes of Mackenzie—or Fraserdale, as he was generally called—in taking the losing side, seemed to have placed within his grasp. But he was not so fortunate as he might have expected to be. Mackenzie made his escape, and was not tried for high treason. His property could not consequently be forfeited, unless by act of Parliament, and such an act, intended to put Lovat in possession, might have created disagreeable discussion. By fleeing, and being outlawed, however, Mackenzie had come under certain forfeitures to the crown—he lost all his moveable property, by what was called the single escheat, and he forfeited his own life-rent in his landed property, by the life-rent escheat. About this and other like matters, we now find him conducting an earnest and friendly correspondence with Duncan Forbes. Of the commencement of their intercourse no trace has been found. With his father, we have seen that Lovat was intimate at the time of the outrages on the Island Aigas. Immediately on his return from exile, we find him on terms of intercourse with the two sons of his friend, so intimate as to indicate a previous intercourse by letter. John Forbes had the honour of enjoying this intimacy till his death, with Duncan. After lasting long, it came to a tragical conclusion. If it be difficult to account for such an intercourse on the part of Forbes, it is easy to perceive the motives that Lovat had for continuing it. He felt that it was much to his interest, in various shapes, to retain the good opinion and the services of such a man as Forbes. People of loose principles are much addicted to laying hold of the skirts of some respectable neighbour, whose steady position may serve, in some measure, to keep them in their balance before the eye of the world. Forbes was then a young man, and comparatively ob-

scure, but he had the ear of Lovat's great patron, Argyle, and a shrewd observer like our hero could not fail to see that he had stuff for greatness in him. Hence all his letters, from 1715 downwards, addressed to his "dearest general," as he calls the young lawyer, are eminently kind, flattering, and respectful. Having so frequently been placed in abject positions, where he dared not speak to his equals in birth openly face to face, he had acquired a certain sycophancy of style, which seems to have tinged all his efforts to be courtly and complimentary; and, placed as he was, a peer, and the head of a powerful clan, his letters to the young advocate, struggling up towards a much inferior rank, are like those of an inferior to a superior.

Lovat was fortunate in getting access to crowned heads. Writing to his "dearest general," on the 23rd of June, 1716, he says:—

"I had a private audience with his majesty this day; and I can tell you, dear general, that no man ever spoke freer language to his majesty and the prince than I did of our two great friends, in letting them know that they did them more service, and were capable to do them more service than all those of their rank in Scotland; and that is true."

The "two great friends" are evidently the Duke of Argyle, and his brother Lord Islay, to whom Lovat would feel pretty sure that his statement would be communicated; a few days later he refers to the same topic,

"Our friends gain ground every day, and I hope that what I said to the king in my private audience Saturday last, did a little contribute to make him believe that the two brothers are necessary persons to him. It would be too long to tell you all I said, but in a word, my general could not speak with more force in favour of the two brothers. I told but truth when I said that their father was the founder of the Protestant succession in Scotland, and that they were themselves the support of it, and the only capable to be so."

But his main object at this time, was his gift of Fraserdale's escheat.

"I want," he says, "but a gift of the escheat to make me easy; but if it does not do, you must find some pretence or other that will give me a title to keep possession, either by the Taillie [entail] my Lord Provost has, or by buying off some creditors; in short, you must make a man of it one way or other."*

At length on the 23rd of August, 1716, a royal warrant was issued for the grant putting him in possession of—

"All goods, gear debts, and sums of money, jewels, gold, silver coined and uncoined, utensils and domicils, horse, nolt, sheep, corns, cattle, bonds, obligations, contracts, decreets, sentences, compromitts, and all other goods, gear, escheatable whatsoever, as well not named as named, which pertained of before to Alexander Mackenzie of Fraserdale."

The law of Scotland, which would be ashamed to be very far behind that of England in the quaintness of its nomenclature, called this the "single escheat," and in addition to it, the loyal chief was invested with:—

"The said Alexander Mackenzie his *life-rent* escheat, of all lands, heritages, tenements, annual-rents, tacks, steadings, roomes, possessions and others whatsoever, pertaining and belonging to him, with the whole mails, fermes, kaines, customs, casualties, profits, and duties of the same."†

The circumference of his expectations enlarged as they were realised, and we find him looking to other escheats besides Fraserdale's. "I hope, my dear general," he says to Forbes, "you will take start to London to serve his grace, and do something for your poor old corporal; and if you suffer *Glengarry* Fraserdale or *The Chisholm* to be pardoned, I will never carry a musket any more under your command though I should be obliged to go to *Afric*." *Glengarry* and *Chisholm* were the owners of the

* *Culloden Papers*, 55.

† *Culloden Papers*, 339.

immediately adjoining estates—the inference is but too obvious. The gift of the estate had one very disagreeable qualification, that it was only to belong to Lord Lovat so long as his adversary Fraserdale lived. It was ingeniously tantalising to put such a man in the position of being compelled sincerely to desire his enemy's longevity, and such a brief tenure of wealth was by no means consistent with his early dreams about strengthening the foundations of a great dynasty. He very early stated his complaints on this subject, to his "dearest general," writing on the 20th of February, 1717, in a tone which indicates that he was not at first quite aware of the limited nature of his acquisition.

"I am afraid it's ominous when you write long letters and I short ones. I have nothing to say as to the law part but a blind submission to your will, only that I am sorry my adversaries have secured the best lawyers, except my general whom I look on as the best of all; if you can secure Sir Walter Pringle I beg you do it."

In another letter, in proof of his submission he says, with his old savage recollections of lawless violence gleaming through his prudential arrangements about legal advice.

"I most humbly beg of my dear general, to employ Sir Walter Pringle and whom else you please, and consult together of some legal way of my keeping possession of this estate, besides the gift, which I look upon as the most precarious thing on earth. And I must tell my general, that either I must keep violent possession, which will return me my old misfortunes, or I must abandon the kingdom, and a young lady whom my friends have engaged me to marry. So, dear General, I beg you may give me some prospect of not being again forced to leave the kingdom, or to fight against the king's forces. The one or the other must be, if I do not find any legal pretence of possessing the estate but by this gift, which I now reckon as nothing. The thoughts of all this confuse my brain, so excuse

my writ and style—and believe me eternally, without reserve, the most faithful and affectionate of all your slaves.”*

The torrent of litigation with which Lovat now sought to overwhelm his enemies, resolved itself into three main streams. The one was for his right to the honours of the peerage, another was a struggle to defeat Fraserdale's heir, who, as his father only forfeited his life-rent, would succeed on his death, and the third consisted of a series of actions for defeating the operations of individuals who held securities over the estate as creditors of Fraserdale. There was still another system of litigation, but here Lovat was in the defensive, resisting payment of those bonds which we have seen that he granted on his retreat to France, to the gentlemen of his clan, on the condition of their remaining faithful to him.

We have seen that in 1702, when he was a fugitive, the Court of Session decreed the barony of Lovat to be vested in the daughter of the former lord, to whom Fraserdale had just been married. In 1721, when Lovat's proxy was produced at the election of the Earl of Aberdeen to serve as one of the sixteen peers of Scotland in the British Parliament, in place of Lord Annandale, a protest was taken by Lord Rothes, on the ground that this peerage was not limited to heirs male, and that of right it was vested in the person of Emilia, Baroness Lovat, and was declared to be so by a decision of the Court of Session.† Fraserdale's forfeiture, of course, did not affect his wife. On the death of the lady, who thus claimed the title, her son assumed it; and Lovat commenced an action in the Court of Session, for “reducing,” as it is technically called, the previous decree of the court against him, which

* Culloden Papers, 70.

† Robertson's Proceedings relating to the Peerage, p. 92.

was still liable to be opened up in this shape, as he had not been a party to the action in which it was decided. He had the able assistance of his friend Charles Erskine, afterwards Lord Tinwald, whose papers in the case of "The Lovat Peerage," containing an examination of the foundations of nearly all the early peerages in Scotland, are a mine of information on Scottish heraldic and feudal lore;* but on an occasion such as the present, the reader would not perhaps be duly grateful for a participation in the learning of these laborious criticisms.

It was not till the 3rd of July, 1730, that the court decided in his favour, and

"Decerned and declared the title, dignity, and honours of Lord Fraser of Lovat, to pertain and belong to the said Simon Lord Fraser of Lovat, pursuer, as eldest lawful son of Thomas, Lord Fraser of Lovat, his father, who was grand-uncle to Hugh, Lord Fraser of Lovat, deceased."†

Counsel learned in modern peerage law will look with contemptuous pity on the statement that the Court of Session decided a question, thus involving the honour and dignity of a peer of the realm; but it is true that such a decision was given, the court and those who pleaded before it not knowing that the jurisdiction of a court of law is totally incompetent to so great a matter. At so early a period after the Union, many important questions of official and judicial arrangement, which had not been absolutely provided for by that treaty, remained to be developed in practice; and it came finally to be the rule, that questions as to Scottish, as well as English peerages, must be discussed in the House of Lords.

Lovat had for his solicitor, or "doer," as he is termed in Scotland, a certain John Macfarlane, a writer to her Majesty's Signet, of unexceptionable reputation. The client

* Session Papers in the Lovat Cause.

† Anderson, 142.

was far too wise a man to act the lord to his worthy agent, and his letters to him, of which a few are quoted in this book, are written in the most affable and condescending strain. If we may judge from internal evidence, he had subjected Mr. Macfarlane's virtue to some severe tests, and he occasionally called forth admonitions or remonstrances, to one of which he pays the compliment of saying, that it is a very creditable specimen of that style, in which the ablest master that he knows is Mr. Pope. On another occasion, he answers one of his doer's remonstrances, probably against some very villanous proposal, in the following strain, which affords a very fair key to his ethical system. It shows how eminently "practical" all his notions were, and might not inaptly proceed at the present day from one of those who despise general systems, and are "men of action not of theory."

"April 29, 1729.

"DEAR SIR,—I had the honour of your fine moral and philosophicall letter by this post, and tho' it is writ in a very pathetick, smooth way, yet I have read so many good authors on the subject, without being able to reduce their advice to practise, that an epistle from a Scotch lawyer can have but very little influence on me, that now by a long experience knows that those fine moral reflections are no more but a play of our intellectualls, by which the author carresses his own genius by false ideas that can never be put in practice. You may give me as many bony words as you please, but words will never gain me the estate of Lovat, nor my peerage, without assiduously acting that part I ought, to get that effectuat; and though some people charged me with liking some of the Roman Catholic principles, yet I do assure you that I do not expect new miracles in my favours, and that I am fully resolved to use all the ordinary meanes in my power to save my family. I told you so plainly in my last letter, that I had no satisfactory answer to any of my essentiall queries, that I will not trouble you with repeating what I have said, only I must tell you that I alwise observed since I came to know any thing in the world, that an actif man

with a small understanding will finish business and succeed better in his affairs, than an indolent, lazy man of the brightest sense, and of the most solid judgment. So since I cannot flatter myself to have a title to the last character, I ought to thank God that I am of a very active temper, and I'll be so far from relenting, that I'll double my activity if possible."

His legal conflict about the estates was more serious and more complicated than his action for the title, and it took far too many shapes to be here recapitulated. He must have been very unpleasantly awakened to a sense of the precariousness of his tenure, by a decision of the Court of Session, in 1722, finding him liable to "aliment" or support Fraserdale's son,* according to the old rule of Scottish law, that the person who has the life-rent use of an estate is bound to support the heir. At that time, an action in the Court of Session, especially if it concerned landed property, was a sort of hereditary war transmitted from generation to generation. It was a method of controversy which was gradually superseding the old deadly feuds, and the conflicts between the clans were transferred from the mountain passes to the Parliament House of Edinburgh. A good array of active law-pleas came to be considered a badge of power and importance, nearly as effective as a strong body of clansmen. The various fortunes of the protracted war were watched with eager eyes, and as at each crisis their chief was triumphant or unfortunate, the pulse of exultation or despondency was felt by the lowest follower of the clan. The peculiar character of the bench, as we shall afterwards have to describe it, and the method of procedure, fostered these fires. To Lovat the various fortunes of the judicial war appear to have been a sort of substitute for the bold intrigues and perilous en-

* Morison's Dictionary of Decisions, p. 396.

terprises to which his previous life was devoted, and in his correspondence we find vivid impressions of the progress of the conflict. On the 2nd of July, 1730, he writes to John Forbes recording a triumph.

“ I cannot tell you how much I owe to Duncan ; but I can freely tell you that he was fully as sanguine in it as if it had been your cause ; so that since he was his majesty’s advocate, he never took so much pains in any cause, any manner of way. I hope he has now established a family that will be for ever faithful to the roof-tree of Culloden ; and I beg that you may believe there is not a Forbes come out of your family that loves and respects you more than I do.”*

He soon found, however, that one great victory in the Court of Session did not end the war. On the 18th of December we find him saying to John Forbes, that he had desired the Laird of Macleod, of whose family he is a grandchild, to tell him,

“ Whether or not his cousin Fraserdale’s son had really a design to agree in a friendly manner, and take such a sum as he and his friends shall think proper for all his pretensions to the estate of Lovat. I desired John Macleod, at Inverness, to go to Newhall with this message, and bid him tell Macleod that I have put the thorn in my enemy’s side, by putting a *carte blanche* in my Lord Advocate’s hands, and that every body knows his generous temper, so that if they refuse his offer, no man will pity them if they want bread ; and that after this season I never will hear of any agreement, since, in two years, the law will make me entirely master of the estate of Lovat, without being obliged to give them a sixpence.”†

And a few days later he says,

“ Your brother, my Lord Advocate, who takes full burden on himself for me, says, that they are such mad fools that he can make nothing of them ; however, he will put the thorn in their sides, and leave them excuseless before God and man.”‡

* MS. at Culloden House.

† Culloden Papers, 113.

‡ Culloden Papers, 117.

On the 5th of January, 1731, he writes to the same correspondent to say,

"Your brother who has been working all he could for me this winter, has at last come to a final resolution. He offers Fraserdale's family 600*l.* sterling from me, and 2000*l.* more from himself if they come into his measures; upon condition that if they accept that offer in a month's time, he will oblige me to adhere to it; and if they do not accept, he has declared to them that they never will have it again; but that he will do all that in him lays to overturn all the rights that ever they had to the estate of Lovat from the foundation. And my Lord Advocate will find no great difficulty in that, for I have consulted it fully, and am going on with all vigour to put it in full execution."*

Two years later, in February, 1733, we find allusion made to another judicial triumph.

"My gaining the decret of the expiration of the legal, makes my enemies think that it is time to agree. Their great counsel who is a pretty fellow, Mr. Craigy,† has spoke to the solicitor who is one of my counsel. But Fraserdale and his son are such weak, wavering, and unconstant creatures, that I believe nothing can fix them to an agreement but your friend and mine, his holding his assistance from them—which would be a very good service done them, as well as to me."‡

This last is a doctrine in which, probably, the other party would not have concurred.

It was not till the 8th of March, 1733, eighteen years after his restoration that he was able thus to write to his friend.

"I hope to return with thanks your visit to Culloden in less than a month with the olive branch in my pocket, for now I can tell you the agreeable news that you long wished for—a final submission is signed by Fraserdale and his sons and me, and put into the hands of my Lord Dunn and my Lord Grange as arbiters, and they are to determine and decide what sums of

* Culloden Papers, 118.
afterwards Lord President of the Court of Session.
Papers, 131.

† Robert Craigie of Glendoick,
‡ Culloden

money I am to pay to Fraserdale and his family for all the right and pretensions they have, or pretend to have had to the honours and estate of Lovat, which they are to give up to me as the arbiters shall determine.”*

The following letter to his agent, John Macfarlane, curious on its own account, has significant reference to the manner in which this matter was finally settled by the arbiters.

“DEAR SIR—I had the honour of your kind and obliging letter to me with Balhady’s, but I received it when I was lying very sick at Inverness, and I am not yet recovered, so that I have neither strength nor spirits to answer that letter as I ought, but will do it as soon as I am able to write or dictate right ; all I can say now is, and I say it from the bottom of my heart and soul, that I never had an unjust or unkind thought of you, but that I always did and do believe you one of the honestest men that ever entered the Parliament House : and I likewise always believed, and do believe you to be my most faithful friend and comrade, and I always gave you as much proof of this as lay in my power ; so I beg of you once for all, to believe that no man of the race of Adam, is capable to make me think an ill thought of you ; I owe this justice to myself, as well as to you, at the same time I must tell you, with the same freedom that you speak to me, that I am convinced to a demonstration, that I have been cheated, abused, sold, my papers embezzled, robbed, and given up to my enemies ; and in short, treacherously, villainously, and ungratefully betrayed and sold, by one whom you and I entirely trusted, and used rather like a brother than a doer, for which treachery I am persuaded God will punish him some day or another, and for my part I will never forgive nor forget it ; you may be sure I will not suffer it with a close mouth, nor will I ever forgive any that had a hand in that villainous decreet arbitral, but will expose them in public and in private as much as I am able, without a premunire upon myself, for there was never such villainy committed since there was a lawyer or writer in Scotland, which will make me never have such confidence in a lawyer or writer except in you alone, as I have had heretofore, and your trustee and mine was the great traitor, and contriver of all ; I wish I may not

* MS. at Culloden House.

feel it in some other part, and that I am not robbed of other papers as well as those, that occasioned the villainous decreet arbitrall, for I know no reason why that greedy gentleman was privately for five or six weeks, without any person with him, searching and rummaging my charter chest in my own house, when I was last at Edinburgh, if it was not to rob me of any paper that might be of benefit to himself, or to his villainous friends; and as to all the papers that were at your house, they were at his discretion, and God knows what he has done with them, for I think nothing safe that was in his hands, and I think him the most pernicious man that ever I had to do with of his kind, however, if I suffer in one shape, and though he gained money in betraying of me, his character, for which I believe he has no great regard, shall be exposed to mankind, and put in its true colours, and there I leave him.

"I have caused execute the summons of reduction and improprietation against the Chisholm, which I beg you cause carry on with vigour, I likewise beg you may not fail to make three or four Barons for me this session, and such Barons as cannot be rejected, I am fully determined on't, and nothing will put me by that resolution; I long much to know what is become of my entail, and when that will be finished.

"I offer you and good Mrs. Macfarlane, my most sincere and affectionate respects, and I am, without reserve, and unalterable friendship, attachment, and respect,

"Dear sir,

"Your most obedient, most affectionate,

"Beaufort, "and most obliged humble Servant,

"27th Oct. 1739.

LOVAT.*"

We perceive from this that having secured his paternal estate, he had still an eye on the possessions of his neighbours, the Chisholms; against whom, if one may judge from the mass of papers connected with it, in an old charter chest, he conducted a pretty tedious litigation. He seems, like conquering monarchs, to have fostered a notion that every neighbouring estate naturally formed a part of his own; but the method in which he ultimately endea-

voured to realise the idea, was the ignoble one of buying up securities, and endeavouring to attach the property for the debts which they secured. Thus he writes to his faithful doer, John Macfarlane, about Glengarry :

“ I may as well ask his liver or his lungs, as ask him to give me the lands of Abertarf for money, though they really and originally belong to my family ; so that the law must assist me with my money to get me possession of those lands that have been so long and so unjustly kept from my family by the great weakness of my predecessors. And till Prestonhall’s Tailzies made void, I can have no thought of reducing the rights that he has given.

“ If I must pay up that adjudication of Mr. Robert Fraser’s to blow up Prestonhall’s right, it is high time I should begin. I therefore earnestly entreat that you will instruct my cousin, Tom Brodie, and William Fraser that they may find out all the sums contained in that adjudication ; and that you may send me an exact list of them, that I may fall upon all the methods I can to clear them off in the easiest manner.”

The other great branch of litigation, conducted for the purpose of preventing Fraserdale’s creditors from attaching any part of the estate, was brought more briefly to a conclusion. The matter at issue was thus recorded by the lawyer who reported the decision, as a precedent ; and the general reader will find in the statement farther evidence that the law of Scotland is not far behind that of England in the complexity of its nomenclature :

“ The creditors raised a process of constitution of several debts, calling the officers of state and likewise Fraserdale ; and upon the dependence of that process they did arrest in the hands of the tenants, who, having suspended upon double distress, the question of preference came to be debated ; whether the donator had the benefit of the escheat, without the burden of any debt, or if the rents of the land were subject to the debts and diligence of the creditors, and preferable to the donator.”*

* Dalrymple’s Decisions, 248.

The decision in the Court of Session in 1718, was in favour of the creditors. The rule of treason law in Scotland has always been to spare as much as possible the rights and interests of those who are not guilty. The rule in England was that those whose interests were attached to him by domestic, social, or patrimonial relations, should be overwhelmed in the fall of the convicted traitor. This principle had its influence in the House of Lords, where the decision of the Court of Session was reversed, and Lovat triumphed over the creditors.

A person was appointed to act as factor for the creditors, after the decision in their favour in the Court of Session. This was a duty as perilous as it was obnoxious, and Lovat's biographers narrate that in 1719, the factor's granaries were burned down. A document still extant contains a sort of affidavit, or signed narrative, by certain persons of respectability, who were present:—the minister of the parish and his predecessor's son, the master of the charity school, a writer, a messenger-at-arms, an officer of Excise, and some neighbouring tacksmen. Their statement imports little more than that they were summoned to the spot between twelve and one o'clock of the morning of the 30th of December, 1719, and found that the premises had been effectually fired, and were inextinguishable; and that the factor's servants said they were ignited in the middle, and at the four corners at once.* This has been frequently alluded to as one of Lovat's acts of vengeance; and the preservation of a document apparently so unimportant, seems to augur that it was a charge against which he might have to defend himself.

Another document, amusing from its own nature, shows

* Lovat Documents.

how difficult it was to restrain the clansmen from avenging their chief's legal quarrel, if his opponent happened to be within their reach. It appears that the factor did not find himself safe without the presence of a military force, which of course was looked upon as a warlike aggression on a neutral territory, that ought to be repelled. Lovat himself being absent, his wife, acting as viceroy, had to issue a proclamation in the name of the two friendly powers—King George, the Chief of the Military ; and Lord Lovat, the Chief of the Frasers ; a “ full double ” of which, and of the warrant to the proper officer, is still in existence. Although it is preserved in the following English version, the minister would of course have the discretion to translate the proclamation into Gaelic.

“ To Mr. Thomas Chisholm, Minister of the Gospel at Kilmorac.

“ Beaufort, the 9th July, 1720.

“ REVEREND SIR,—I intreat you will be so kind as to read the enclosed intimation after Divine Worship, in order to prevent any disturbance by ignorant people in the country, and give my service to your bedfellow, willing you both a good new year.

“ I am, Reverend Sir,

“ Your affectionate humble servant,

“ MA. LOVAT.”

“ Intimation therein enclosed.

“ Whereas some ill-designing men, who are equally enemies to his Majesty King George and to my Lord Lovat, have by malicious insinuations and false representations, procured a party of the king's troops to come and keep garrison in this country, with intention to create mistakes, jealousies, and if possible quarrel betwixt the soldiers and my Lord Lovat's men, as if the said party had come to assist the Jacobite Factor, who pretends to uplift the rents of the estate of Lovat, in opposition to his Majesty's gift to my Lord Lovat, which is confirmed by the highest court in Great Britain. These are therefore to desire and order all my Lord Lovat's kinsmen and followers, not to be imposed on in that affair, but to use all discretion and civility

towards the said party, as believing they would rather, if required, assist my Lord Lovat, in the support of his said gifts. This, by my Lady Lovat's special orders, I am desired to intimate to the congregation."

Among his sublunary legal conflicts, there was a law-suit with Mr. Phraser of Phopachy, one of the gentlemen of his clan. Phopachy had acted for him as his agent, during his absence, making several journeys to France with moneys recovered from the tenants. In a few years after his chief's return, he had an account to present of 683*l.* 18*s.* 8*d.* His claims were submitted to four arbiters, John Cuthbert and Hugh Fraser, on the part of Lovat, and Alexander Fraser, of Culduthel, and John Jackson, Commissary Clerk of Inverness, on the part of Phopachy. In 1719, they unanimously decided in favour of Phopachy, and Lovat granted him a bond for the money. But Phopachy, not making a discreet use of his experience, allowed his chief to run further in his debt. An arbitration was again proposed, but Lovat would not agree to it, unless the decision of the previous arbiters were opened up, and all the claims were submitted to one general arbitration. Phopachy submitted, and again a decision was pronounced in his favour, on the 22nd of April, 1724, by Monro of Foulis, the oversman. Lovat then commenced legal proceedings to set aside the decision, on technical grounds, and we find him carrying on the litigation with Phopachy's children down to the year 1736.*

Phopachy lived in the Aird, within ten miles of Castle Dounie, and he must have been a man of nerve, who in such a situation could prosecute his chief. However willing he might be, a chief could hardly in such circumstances prevent his immediate followers from doing ven-

* Papers in the case, Elchies' Papers, Advocates' Library, vol. xi.

geance on the rebel, and therefore, it is only rather less than was to be expected, to find that Phopachy's house was but once attacked. This attack has been frequently referred to as an instance of the vindictive spirit of Lovat, but the incident as detailed by Duncan Forbes's faithful agent, Provost Hossack, in a letter of the 12th of February, 1725, has a rather petty appearance.

“Last night five or six men armed attacked Phopachy's house, went directly to the place where he used to lie, and when they missed of him threatened his children and servants to discovery, told they wanted his life, and lay the head of one of his daughters on a block, that she might discover where her father was, and if any money was in the house. Meantime, some people in the neighbourhood assembled, and two of them were apprehended, and are now in prison. One of them, Archibald Campbell, was shot with small greath by a servant of Phopachie's in the face. Probably these two may be the means of discovering the accomplices in other matters.”*

Before leaving the subject of the law-suits, it may be well to mention the fate of the bonds which he had given to the gentlemen of his clan before his departure for France. Among the many holders of these securities, all resigned their pretensions except Fraser of Struie, with whom he conducted a litigation which lasted down to the time of his execution. His defence was very like that of the young gambler, who has given his note of hand in a moment of excitement and intoxication, and wishes to recall it in the hour of depression and sobriety. He admitted that he had signed the bonds, but pleaded that he was under an insane and criminal hallucination, tempting him to commit treason against his lawful sovereign, and support the cause of the Pretender. He urged, that it was impossible that a set of bonds all granted on the same day, and to the same class of persons, could have

* MS. at Culloden House.

had any other object but a treasonable combination; and as it is the policy of the law not to enforce obligations for the commission of a crime, so he should not be compelled to fulfil any of these contracts, undertaken by him when he was in the gall of iniquity. This defence was adopted at the time when he was in the middle of his great exertions for the exiled house, and immediately before the rebellion of 1745.*

* Petition of the Rt. Hon. the Lord Lovat, 6th Feb. 1745, in possession of James Maidment, Esq.

CHAPTER VI.

The Lovat Territories—Stratheric—The Aird—The Mountain Districts—The Produce—The Fortalices—The Chief and his People—Their mutual Rights and Privileges—Lovat's peculiar Character as a Chief—Origin of the Coercive Power—The Hereditary Jurisdictions—His Regality—His Sheriffship—Lovat on the Bench—His Use of his Judicial Powers—Kidnapping.

THE district of which he was now the lord, was a goodly heritage, so far as acres of land and men able to bear arms were concerned, though its rental would have cut a meagre figure beside that of a Sussex squire. Nothing in the Highlands condescends to be spoken of as provincial, and so each chief's estate was then, and is sometimes still, called his "country;" nor was there any thing very preposterous in the term, when their territories were sometimes larger than those of many a sovereign house of Germany, and their authority over their people as great. The country of the Frasers lies north and south of Lochness, the town of Inverness, and its small circle of neighbouring proprietories forming, as it were, a sort of common or thoroughfare between the two main districts of the lordship, and breaking their compact unity. The southern district, called Stratheric, was the more peculiarly Highland part of the domain. It was the centre whence he issued at the head of his predatory excursions, and the place where he found shelter from pursuit, after his defeats. It was there that he organised his clan for his first

great raid on Lord Saltoun and the dowager, and there that he ended his catalogue of enterprises and intrigues when he received Prince Charles and his routed followers. He had something of a patriarch's love for these people. "I would truly," he says, writing to his law agent, "rather lose all I have than Stratheric. It's the country that loves me most, and is most effectual to me, both as to their rents and following."* The tourist in the steamboat passing along Loch Ness, will observe the long straight line of abrupt banks which bound the south-eastern side of the lake. They are not mural precipices, but they are masses of rock, declining at a very abrupt angle, and rising sheer up from the lake's surface to the extent of 1500 or 2000 feet. Here and there they are seamed and broken into fantastic clustering rocks, but generally

"Abrupt and sheer the mountains sink
At once upon the level brink"—

—so abrupt, that it has been deemed impossible to construct a road along the edge of the lake; and these wild towering banks, seen by so many thousands who pass them, are seldom trodden by the foot of man. From the summit of this long mountain, on the one hand, is seen the loch, narrow and straight as a canal; with its ships and steamboats dotting its surface like so many playthings; on the other, the basin of Stratheric, of which these banks are the north-western wall, lies between them and the nearly parallel line of the Monaliagh mountains. It is a high and sterile district, full of lakes and morasses, and in many places affording but little of the sublime. At its eastern extremity it is entered by the pass of Inverfarikaig, cleft through the rocky wall that edges the lake, and wild and

* Autograph Letter, 7th of December, 1721.

precipitous, as a cleft through such a mass of rock might be expected to be. At the opposite extremity, the only entrance from the south is over the shoulder of the huge hill of Corryarick, where the pedestrian (few vehicles, one would suppose, could pass that way, though it is a military road) goes nine miles corkscrewing up, and comes nine miles down on the other side, through a mountain tract of which wind and fog have the reputation of being as indigenous and permanent elements, as the heather and the peat bog, in which each succeeding mile shows scarce the shade of variation. So was Stratheric naturally fortified; but there was then just one other entrance path, which it would be a simple matter to protect in time of danger, and which was subsequently deemed so important, in giving those who could occupy it the command of the district, that Fort Augustus was built on it in 1715. This must have been a serious diminution of the value of the new inheritance, and a sad eyesore. The fort can never have been of much value against regular military operations; it is commanded on all sides, and when one has gone half-way up Corryarick, he feels as if he could roll down a stone and crush it. But the fierce children of the wilderness, all dreadful in hand-to-hand battle, had a wholesome dread of the mother of the musket, as they called the cannon, and were glad to keep as far as possible from fortified places. Such was Lovat's faithful country of Stratheric; but its description would be incomplete, were it not to be stated that here and there it is seamed by deep black gashes, at the foot of which rush impetuous streams, struggling from the mountains towards the loch. These, sometimes swollen by the melting of the snow, or the bursting of the springs within the mountains in rainy weather, rising at once from the rank of petty chafing brooks, fill each deep gorge

great raid on Lord Saltoun and the dowager, and there that he ended his catalogue of enterprises and intrigues when he received Prince Charles and his routed followers. He had something of a patriarch's love for these people. "I would truly," he says, writing to his law agent, "rather lose all I have than Stratheric. It's the country that loves me most, and is most effectual to me, both as to their rents and following."* The tourist in the steamboat passing along Loch Ness, will observe the long straight line of abrupt banks which bound the south-eastern side of the lake. They are not mural precipices, but they are masses of rock, declining at a very abrupt angle, and rising sheer up from the lake's surface to the extent of 1500 or 2000 feet. Here and there they are seamed and broken into fantastic clustering rocks, but generally

"Abrupt and sheer the mountains sink
At once upon the level brink"—

—so abrupt, that it has been deemed impossible to construct a road along the edge of the lake; and these wild towering banks, seen by so many thousands who pass them, are seldom trodden by the foot of man. From the summit of this long mountain, on the one hand, is seen the loch, narrow and straight as a canal, with its ships and steamboats dotting its surface like so many playthings; on the other, the basin of Stratheric, of which these banks are the north-western wall, lies between them and the nearly parallel line of the Monaliagh mountains. It is a high and sterile district, full of lakes and morasses, and in many places affording but little of the sublime. At its eastern extremity it is entered by the pass of Inverfarikaig, cleft through the rocky wall that edges the lake, and wild and

* Autograph Letter, 7th of December, 1721.

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with a frightful furious river, which carries bridges and all other obstacles before it, and cuts off all communication between one end of the strath and another.* In one of these clefts are to be seen the far-famed Falls of Foyers; and the wanderer in the days we are commemorating, who came upon them unawares, would doubtless be far more entranced in awe and admiration at the descent of the wild cataract into its dark stony basin, than the tourist of the present day, who approaches it with his mind strung by the magniloquent description of the guide books to the highest pitch of expectant excitement.

The other main branch of the Fraser country, called The Aird, is of a very different character. It commences nearly where the travellers' road proceeding northward from Inverness and crossing the Caledonian Canal, turns westward and keeps near the border of the Beaully Firth. The firth runs inland like a quiet sequestered lake, with wide stretches of fertile land along the edges, and all is so peaceful, and has so much the aspect of inland

* The writer of this remembers that, in 1829, just after the great floods of that year, when taking a solitary walk from the Fall of Foyers, through Stratheric, to Fort Augustus, he was told by some wayfarers that his progress would be stopped, as a bridge had just fallen. There seemed, however, to be something contradictory and confused in their statements; and as they themselves had all passed the stream, he believed he might do so too. When he came to it, the bridge had a very strange appearance. The gangway and the solid arch were gone, but the parapet of the bridge, in two wide slender arches, still spanned the stream, and as they were made of tough masonry, and the stream had subsided, he felt there was little danger in trusting his weight to one of them, and crossing over. The builders of the old Highland bridges had more of the peculiar skill suited to the district than, perhaps, some modern engineers might give them credit for. They made no parapeted approach to the arch, and the traveller had to descend to the edge of the stream, and then mount by a curve nearly concentric with the inner arch of the bridge. This method of building, though not very convenient to the traveller, had this advantage, that when a great flood filled the whole fissure, it encountered only a narrow rib instead of a broad surface. In the instance just narrated, though the flood had been so strong as to carry off the arch, the parapet, which in modern bridges is generally the first part swept away, still remained.

landscape scenery, that the vessels with which, especially when there is a storm along the eastern coast, the sequestered firth is occasionally filled, have a strange incongruous appearance on these narrow and quiet waters. In the distance are ranges of high hills, presided over by the broad shoulders of Ben Wyvis. But near the edge of the firth the land is, for some distance, a flat well cultivated plain, many parts of which seem to be alluvial soil redeemed from the water; and further on the banks rise gently, covered with dense forests of pine and birch, interspersed with occasional patches of arable land. This fair territory is divided by the noble river Beaully, which after passing the rocky barrier, commencing with the Island of Aigas, and ending with the lower Fall of Kilmorac, comes sweeping down to the firth, a broad, pellucid, deep, and rapid stream. On its edge, as it joins the firth, are ranged the houses of the village of Beaully, now consisting of neat rows of modern stone buildings, but which, from any thing that can be learned of it, must have been fully as extensive a century ago as it is at present. Over the tops of the houses rise no common sight in a Scottish village—the grey walls of a priory founded by the Byssets in 1230. The lofty edifice, associated with religion and peace, and the great old forest trees in which it is embosomed, are, as well as the rich alluvial land by which they are surrounded, a strange feature of a Highland landscape; and there are few places in Scotland where a traveller, who does not cast his eyes on the distant horizon, might more aptly believe himself in the rural scenery of England. Lifting the eyes, however, from more immediate objects, it crosses the rugged outlines of the mountains which cluster round Strath Glass, Strath Affric, and Strath Farrar. Mounting up as it were by the rocky

stair down which the river Beaully tumbles, we reach the first of these glens, a long trench with a level bottom—probably the bed of an ancient lake, through which the river winds sluggishly among grass and sedge. Here, too, but for the immediate vicinity of the mountains, the scene might be English. Above this the various streams which supply the river come from distant rugged glens, up which, in the various directions of Strath Farrar, Strath Cannich, and Strath Affric, the Fraser country pushed itself, till its extremities nearly approached the western coast.

The staple production of the country would, of course, be fighting men: there would be little in the form of rent. The smallness of the actual money rental of Highland estates in that age has been the subject of much remark; but it must be remembered that the object on which a Highland chief, if he received a money rent, would most heartily employ it, would be the support of a sort of stipendiary army; and as they supported themselves, the pay on which they could have lived may be considered part of the value of the estate—at least to their chief, though it must be admitted that it would not have told for much in the London market. The Aird, now a fine agricultural district, must even then have afforded a considerable quantity of grain and pasture. In Lovat's letters, especially those to his men of business, the salmon fishings on the Beaully are frequently mentioned. The greatest of all individual discoveries in the art of providing for the table, the preservation of the fish in ice, had not then been made; yet he must have derived a considerable revenue from exporting it in the old boiled shape, as he often talks with exultation or disappointment, as the case may be, of his year's contract for the sale of his salmon. Their capture was generally accomplished by men watching on the rocks, and spearing them as they attempted to leap the waterfall—a perilous occupation,

since it added the shock and struggle with a nimble and strong animal, to the natural hazard of clambering among precipices.* Red deer would be abundant in the upper glens; but, unless when on great occasions several hundreds of sportsmen collected together into a hunting army and scoured the country as if they were pursuing a fugitive enemy, they would not be looked on as objects of amusement and recreation, but as the food of the people, to be acquired by the laborious duties of stalking. The refinement of killing, for the sake of killing, had not yet in the Highlands superseded the primitive notion, that the subsistence of man was the only legitimate reason for killing the Creator's creatures. Accordingly, there would be no attempts, by coercive restraints on locomotion, to create artificial solitude for the purpose of enhancing the enjoyment of the individual sportsman. Grouse, ptarmigan, and probably the capercailzie, would be abundant; but the Highlanders of those days cared little for slaying them save to provide for the demands of hunger. Lovat himself seems to have been no sportsman, or rather to have sported with higher game; but he could condescend on occasion to notice such trifling creatures, and talks in one of his letters, not inexpressively, of becoming "as free of debt as a muircock."

From his territories and their produce, let us glance at the authority he exercised over them. It is a popular mistake to speak of the Highland institutions as of the same character as the feudal: there was an external resemblance, but they rested on perfectly distinct principles. The feudal

* There is a particular rock on the edge of the fall on which the salmon sometimes alight in their vain efforts to surmount it. A Lord Lovat once placed a faggot-fire and a kettle of water on this rock, and it had not remained long ere a salmon leaped in, and in a quarter of an hour was fit for the table. Thus his lordship was able, when people boasted of their preserves and fisheries to say that he had a salmon leap where the fish, when wanted, jumped into a cauldron to be boiled.

lord by being invested with the land, claimed the services of those who lived on it, as he himself rendered services to his sovereign. The system was linked throughout by the tenure of land. The baron held of the sovereign, and the vassals held of the baron. The system issued out of the right of conquest, the victorious leader partitioning the conquered territories among his followers, who made the inhabitants their tributaries. It was exemplified in its most perfect scale by the partition of England among the followers of the Norman conqueror. But among the Celts, both of Ireland and Scotland, the principal man of a district held his primary authority as the leader or patriarch of the people, and his rights over the land proceeded from his supremacy over those who lived on it. In both systems the principle of hereditary succession was predominant, but in neither was it the absolute rule; and the nature of the divergencies mark the characteristic difference of the two social institutions. When a feudal lord died, his sovereign was entitled to see him succeeded by one who was capable of defending the fief, and performing to him the services of a warlike leader; and if the nearest in blood were a minor, an imbecile, or a woman, he might refuse to renew the investiture. If a like circumstance occurred in the death of a Highland chief, it was not the sovereign but the clan who took up the matter, and they, as entitled to an able leader, looked from the nearest heir by blood, to some collateral relative of higher promise. It thus very frequently happened that, when the last chief's son was a minor, an uncle succeeded; and, indeed, it appears to have been almost a fixed rule among the earlier Celtic tribes, that the brother should succeed in preference to the son.* In

* The peculiarities of Highland tenure are very ably examined in "Skene on the Highlands." Some curious instances are scattered through "Chalmer's Caledonian," and "Gregory on the Highlands and Isles."

feudal fiefs'-primogeniture and hereditary descent came to be established as fixed rules at an early period, the rights of the sovereign or other superior becoming valued as all such claims are when industry displaces war, by a pecuniary estimate. In the Highlands, however, the divergencies from hereditary succession, and the peculiar relation of the chief to his clan, survived to a comparatively late period. The Scottish monarch professed to deal with the Highlands as with the rest of the kingdom, and gave the chiefs charters, renewing the investitures from time to time, and treating them on all occasions as feudatories of the crown. The courts of law attempted to enforce the same rules; but local customs and ideas of right, which ought indeed to be the sources of consuetudinary laws, were too strong for slips of parchment, and even for the decrees of the Lords of Council and Session. We have already seen an instance of the operation of this principle in the hero of our history, who, because he was the nearest male collateral relative, and a person very capable of leading a clan, was able to bid defiance to the efforts of his predecessor's heiress, backed by the authority of the law.

The clansmen always felt that they had their own share in the benefits of this principle, and that their chief was not the absolute proprietor of the district occupied by the clan, according to modern notions of property, and entitled to drive out the hereditary dwellers of the soil like a pack of sheep admitted to graze for a term or at will. They believed that they held their huts and paddocks, with the right of killing wild animals on the waste, by fully as good a title as that by which the chief enjoyed his castle and his authority as leader. When a revolution had taken place in property and habits, and men were not deemed

the most profitable produce of the land, the Highlanders were overwhelmed with astonishment to behold their chiefs change their nature, and become absolute proprietors, entitled, like the owner of a city street, to eject the occupants in such proportions, and at such times as they might deem fit. Probably no instance can be found, of rights on which the holders believed that they had a clearer proprietary claim than these Highlanders understood that they possessed in their hereditary occupancy; and never was any act more completely *felt* to be a tyrannical and illegal plunder, than that by which the people were arbitrarily dispossessed for the enrichment of their chief. That old consuetudinary rights should not have been better respected by our law, was a circumstance which appeared worthy of sharp comment by an illustrious foreign jurist and historian M. Simonde de Sismondi, who declared that Europe was full of rights held by the same sort of tenure as these Highland hereditary occupancies; and that they were at least so far respected in Germany, that when public policy rendered it expedient to alter them, the state took care that all the benefits should not accrue to one side, and all the burdens fall on the other.

Thus chiefship in the Highlands was not a system of pure aristocracy. Birth went far; but ability and popularity were necessary for the consolidation and increase of power, and often for the preservation of the rank of a chief. We have already seen some of the shapes in which Lovat endeavoured to bind to his person the gentry of his clan. Of these, who would all be able to trace their connexion with the main branch,—who were all, in genealogical phrase, cadets of the family—some would have considerable tracts of land, which they held of

the chief, nominally according to the principles of feudal tenure, while their real position in the clan would be that of the staff of officers under the commander-in-chief. Many of them would probably be tacksmen—mere tenants at will by feudal notions, but possessed of as strong a title as the feudatories according to Highland customs. The chief would occasionally place one of his vassals or tacksmen in the nominal position of a freeholder or “baron,” that he might have the elective franchise at his disposal, whenever the chief thought it worth his while to exercise so vulgar an instrument of power as to carry an election.*

All these people were to be propitiated; but even the herd of vagabonds, who were all Frasers indeed by name, but who could no more trace their actual pedigrees than the inmates of a union workhouse, had also to be conciliated, and what would be a higher bribe than the admission of their family claims? This is a species of flattery in which no great man but a Highland chief can deal. The use of the family name by the whole clan, established among them a general claim to descent from the same stock as the chief. If the chief acknowledged the connexion, and fixed the degree, there was nothing incredible in the relationship—it was but individualising a general truth. If the Earl of Nor-

*On the 30th of January, 1733, we find him saying, “The Lairds of Macleod and Grant going on to make a great number of Barons, forced me to be at the expense to try the records to see what I could do. I found two retours in chancery, by which it appears that I can make by the Barony of Lovat, about 120 Barons. I consulted the affair with the best lawyers in town, and they are positive that I can make about 120 Barons out of the barony of Lovat without objection; besides several other baronries on the lordship; so that I am resolved to make as many as will make some sort of balance in my family in case of a disputed election, and as my ancestors made always a good figure in the shire, it is but natural I should wish to preserve it.” Culloden Papers, 131. Many other instances of his manufacture of barons will be found in his correspondence in these pages.

thumberland informed a tenant's son that he was a relation of his own, the stolid Northumbrian would only gape a degree wider than usual, in decorous mirth at the undignified joke of the great lord; but if Mac Shimi, meeting a sinewy Fraser glaring at the chief from the top of a rock in Stratheric, beckoned the bare legged savage down and informed him that he was the great grandson of his grandfather's sixth cousin, the youth would go to his father's hovel with proud and hasty strides to tell that the question of his lineage had been solved by an authority which, as Johnson said of George III., was not to be disputed. According to tradition, he was highly accomplished in the many arts by which the weaknesses and follies of the uneducated can be turned to use, and was in all respects a great popular favourite,—if it be not profanity to apply this vulgar quality to so transcendent a person as a Highland chief.

Of the strongholds in which Lovat displayed his power or his hospitality, none now remain. His principal fortalice was Castle Dounie or Beaufort, standing on the gentle slopes which rise gradually from the banks of the Beauly firth, where a white-walled modern mansion now looks cheerfully forth from rich forests of planted trees. Further down, and on a slight eminence projecting into the frith, stood the fortress of Lovat. Both these strongholds were rased to the ground after the battle of Culloden. The other fortress of Fanellan his own followers had destroyed when it was in the possession of the Mackenzies, and the Island of Aigas does not appear to have been fortified, having been considered sufficiently strong in its natural inaccessibility. We may form a notion of Castle Dounie as correctly as if its rough brown

walls, like those of many another Highland or border fortress, were standing bare before us at this hour. While the gentry of England, alike secure and powerless in the strength of the law and the executive, encouraged the open spreading Tudor architecture with its wide hospitable doors, its broad easy flights of steps, and its expansive bow windows, the Scottish chief or laird had to make his house at once a castle and a prison. He was not rich enough to raise a great baronial pile like those of the princely Norman barons of England; but such as were his materials, they were mainly laid out for defence, and few of them were devoted to comfort. A rocky eminence of inconsiderable height was generally chosen. A few dungeons were hollowed out in the living rock. Sometimes they were approached by winding stairs, but not unfrequently they were oubliettes accessible only by an orifice above, like the Mamertine caverns at Rome or the stone chambers at Baden Baden. Over them a simple square tower was built, of considerable size outside, but with walls from ten to fifteen feet thick, so that each floor contained no more internal space than would make a very moderately-sized modern room. Within a narrow well a circular stair pierced the tower from top to bottom, giving access by diminutive doors to the several stories. Every thing that gave communication with light or air was diminutive. There can have been very few studies carried on in these old towers. The owner had always this best of reasons for objecting to his windows being large, that if they were so, he might chance to be shot by his neighbour when sitting at his ease in his chamber; accordingly the openings through which all the light admitted into these square masses of stone passed, resembled drains communicating between the interior and the exterior.

The castle would be looked on by the clansmen with deep and awful veneration, as the symbol of the absolute authority of the chief; and in its grim battlements and frowning strength when contrasted with their own defenceless hovels, they would be substantially reminded of their mutual relation—absolute command on the one part, submissive obedience on the other. The most absolute monarch or chief is, however, only absolute to individuals. He cannot put to death or transport his whole people; for, after all, such is the limit of individual human power, that the despot can only act through his slaves, and can only strike a minority at any given moment, employing the power of the majority to execute the stroke. Thus the position of partial dependance in which the chief stood to his clan at large, did not prevent his exercising a fearful despotism over individuals, and inflicting hardships and cruelties, which, believing they had come from the just source of authority, they bore with a patient magnanimity truly Turkish, and far more than Spartan. The power of the chiefs over their clans was the true source of the two rebellions. The clansmen cared no more about the legitimate race of the Stuarts, than they did about the war of the Spanish succession. If they had founded their conduct on old historical recollections, they would have remembered that their race had no bitterer enemies than the legatees of Robert Bruce, who had crushed a Celtic throne in the West, as justly formed as their own, and inferior only in the fortune of war. The Jacobite Highland chiefs ranged their followers on the Jacobite side—the Hanoverians ranged theirs on the side of government. Lovat's conduct was a sort of *experimentum crucis*; he made his clan Hanoverian in one rebellion, and Jacobite in another. In the former he kept the force of his clan on the

side of government, though he had been absent from them for twelve years, and another person whom the law declared to be their true chief, had held possession of the estates in the interval, and that legal owner had espoused the Jacobite cause. Such was the strength of the tie of chiefship, and the nothingness of any other political bond among these wild races.

There is no doubt that the power of the chiefs over their followers was frequently exercised with great tyranny and cruelty, on occasions in which the wily, ambitious chief, and the servile, ill-used clan, have mutually shared in the praises of generous devotion and enthusiastic loyalty. A perusal of the rather uninteresting extant specimens of the correspondence of the chiefs of the two rebellions, would speedily undeceive those who imagine that the Jacobite cause spread in one fire of devotion and loyalty, from "High-minded Moray, the exiled, the dear," to the meanest gilly who followed the army. In the "Jacobite correspondence of the Athol Family" there are some vivid specimens of the practical intimidation necessary to raise the men of the Athol district, who, in the period between the two rebellions, had somewhat changed their character, and become less warlike in their habits. The following instances are selected at random out of many. After many complaints about their supineness, one of Tullibardine's emissaries writes to him:

"In obedience to your lordship's commands, I went to Dunkeld, but to no purpose, for I plainly see that the whole inhabitants are quite degenerate from their ancestors, and not one spark of loyalty among them; and, as the bearer can inform your grace, not one man of them will stir *without force*, and even then there is neither gun nor sword to be had. The

Laighwood men are on the same footing, and have neither arms nor willingness."*

From another quarter there is the statement:

"We flatter ourselves that the humour and refractory temper of the Dunkeld people is not unknown to your grace, that nothing but *force, with your grace's presence*, or the presence of your officers with a party, can or will pull them from their houses."†

"Nobody," says Steuart of Ballechin, in the same correspondence, "knows what it is to raise men, but he that tries it. Not so much as one of the gentlemen‡ brought their men, but obliged me to go myself to raise them."§

"God knows," says Tullibardine, writing to his brother, Lord George Murray, "what dilatory imposing evasions one has to struggle with among a multitude of refractory people in these parts. But now hopes,|| though with unspeakable

* Jacobite Correspondence, 16.

† Ib. 71

‡ Meaning his own domestic wassals.

§ Jacobite Correspondence, 156.

|| *Sic* in original. Tullibardine, or, as he then called himself, the Duke of Athol, was not a very pure writer of English, and his long absence abroad may be his excuse. As appropriate to this subject of forcible levies, the following letter in the same collection, may be considered curious. It is from the pen of a lady who cut a very conspicuous figure in the affair of 1745. Lady Macintosh of Moy, the heroine of the Route of Moy, whom General Stuart of Garth informs us:—"Of all the fine ladies few were more *accomplished*, more beautiful, and more enthusiastic." Are we to take in her ladyship's orthography the measure of the accomplishments which adorned the celebrated balls at Holyrood, while Charles Edward held his short court? An Englishman will scarcely comprehend the theory of the spelling, which is given *literatim*. Any one accustomed to speak with Highlanders, will perceive how completely "the accents of the mountain tongue" overcame the principles of English spelling:—

"MY LORD DOUKE,—The Beraer of this is a veray Pretay fellow, Brother to M'enzee of Killcoway. He had a Compannay resed for the Prince's Servace, but was handred by Lord Siforth to keray them of, which meks me geve this trobal to beg of your Grace to geve him an ordar for rasing his men, and thene he can wous a lettel forse. My God preasearf your Grace, and all that will searve ther Prince and Countray, which is the earnest woush of

"Your Grace Most

"Affnett and Obd. Sarvant,

"A. M^c INTOSH."

difficulty, Fascally and Ballechin will at last be able to bring up a considerable recruit of men.”*

Here a landed proprietor returns, after an absence of nearly thirty years. His estates have in the meantime been held by another scion of the house, who holds different political opinions from his own. A firm government, under a new dynasty of things, has thrown the cause of the exiled chief into the shade, as the half-forgotten politics of a former generation. He returns, and he finds his people reluctant to join him in a dangerous outbreak, in which there is little hope of success. All this is natural; but then comes the next phenomenon, which requires peculiar explanation. He has recourse to coercion, and they obey. He, an attainted criminal by the laws of the land, with a price upon his head, safe from capture only while he is among these people, uses force towards them, and instead of appealing to the law and the power of the state, they yield at last an unwilling obedience! It is here that, pure and unadulterated, we see the power of chiefship, and the strength of the ties of that patriarchal system. To obey the chief was the creed in which these mountaineers were brought up. Though the ship be drifting to destruction, and the mutiny laws are the thought furthest from the mariner's mind, the captain is still his master. The Irish Catholic has been accustomed to see his priest scorned and hunted from society, if not subjected to penal laws; yet few earthly dominions are more absolute than the sway of that spiritual counsellor over the mind and actions of his votary. The Turkish governor in his province, and at the head of his troops, receives the fatal order to die for

* Jacobite Correspondence, p. 161.

his crimes, and folding the sultan's mandate reverently on his brow, drinks his cup of poisoned coffee without a murmur. Even so the Highlanders' main rule of ethics, the predominating principle around which all his notions of honour, integrity, and duty were formed, was obedience to his chief. The creed would have more or less efficacy, according to circumstances or character. Some would come forward with alacrity whenever it was known that they were wanted; others rather averse to the project, and perhaps, from the progress of knowledge, entertaining misgivings about the creed of passive obedience to chiefs, might exhibit an unusually intense obtuseness in comprehending that their services were required, or might manage so to adjust their comings and goings, that the officials who went to intimate their leader's commands might be peculiarly unfortunate in their visits. One who, however, directly refused to obey orders issued by his rightful chief, would be deemed a deeply degenerate child of the sept; and for him, who, to escape from the just vengeance of the hand of the clan, sought that camp of the enemy—the protection of the law—the Celtic vocabulary of epithets, would scarcely contain words sufficient to express the abhorrence with which all well-thinking people brought up in sound clannish principles would look on so unnatural a monster. Hence the “force” which Tullibardine employed; and which Lovat found it sometimes all the more necessary to employ that he was a hunted criminal, who out of his own clan dared not confront the meanest officer of the law.

Among the powerful expressions in which he so profusely indulged, the choice vials of his wrath were poured forth on those persons, who bearing his name, in any

way counteracted his projects. Some Frasers were clergymen, and did not find that the chief's injunctions were always in accordance with those of their spiritual master. Others were perhaps barristers, and might be retained by the opposite party. To such persons, the expressions "unnatural villain," "unparalleled traitor," "horrible parricide," were devoted. He was very fond of comparing their conduct to that of Judas; and on at least one occasion, where he had met with more than usual provocation, he expressed in terms, not very fit for publication, a belief that the case was one of deeper treachery; for while the arch-traitor might have had some doubts about the spiritual headship, the clansman could have no doubt that he, Lord Lovat, was his temporal lord and master.

There are many incidents from which it may be inferred, that Lovat was a rigorous if not a cruel chief; but this would in no wise diminish the influence of his enterprising spirit and popular manners. Nothing was more likely to light up a flame of uncontrollable fury in a clansman's mind, than any insult offered to his chief; and in his presence, an avowed difference of opinion was a sufficient insult. On one occasion, in 1744, when the freeholders of Inverness-shire were assembled in the courthouse for the election of a collector of the land-tax, a dispute arose between Lovat and Lord Fortrose. It was carried pretty far, for Lovat gave the other the lie, and he retaliated by a blow on the face. Fraser of Foyers, a gentleman of the clan, and not one of the inferior herd of followers, was in the gallery, and leaping down, presented a pistol to Lord Fortrose, whose life was saved by a gentleman throwing his plaid over the pistol. The rumour having reached the street that high words had passed

between the chief and Fortrose, the latter was assaulted by Lovat's followers as he left the hall, and it required the able intervention of Duncan Forbes to preserve the peace, and suppress a clan feud.* The following incident is likely enough to have related to Lovat; it is, at all events, eminently characteristic of his position with his clan.

“An English officer being in company with a certain chieftain and several other Highland gentlemen, near Killichumen, had an argument with the great man; and both being well armed with usky, at last the dispute grew very hot. A youth who was hanchman, not understanding one word of English imagined his chief was insulted, and thereupon drew a pistol from his side, and snapped it at the officer's head, but the pistol missed fire; otherwise it is more than probable he might have suffered death from the hand of that little vermin.”†

Here and there in Lovat's correspondence, where his natural feelings break out, we see that the love and obedience of his clan were truly the chief objects of his most ardent longings. In this we find the genuine passion of his life. In all other matters his words are hollow and insincere, but here his heart was really concerned, and in the most trying moments of adversity, the future coronach of the old women over his grave cheered his spirit. While his title to the lordship and lands of Lovat was under dispute, he wrote from London the following address to the Frasers, in which he alludes in a spirit of edifying Christian forgiveness, to those gentlemen of his clan, the Lairds of Struy and Phopachy, with whom he had con-

* Anderson, 158-9. This anecdote seems to rest on no better authority than Arbuthnot, but in such matters, the book bearing his name is generally substantially correct.

† Burt's *Letters from the North*, ii. 157. The reader will remember how effectively such an incident is used in “*Waverley*.”

ducted acrimonious disputes. The skill displayed in this, and in the other parts of the document ; the success with which it supports the character of the devoted and affectionate chief ; are worthy of all admiration.

“ To the Honourable the Gentlemen of the name of Fraser.

“ MY DEAR FRIENDS,—Since by all appearances, this is the last time of my life I shall have occasion to write to you, I being now very ill of a dangerous fever ; I do declare to you before God, before whom I must appear, and all of us at the great day of Judgment, that I loved you all ; I mean you and all the rest of my kindred and family, who are for the standing of their chief and name ; and as I loved you, so I loved all my faithful commons in general, more than I did my own life, or health, or comfort, or satisfaction : and God, to whom I must answer, knows that my greatest desire, and the greatest happiness I proposed to myself under Heaven, was to make you all live happy, and make my poor commons flourish ; and that it was my constant principle to think myself much happier with a hundred pounds, and see you all live well at your ease about me, than have ten thousand pounds a-year, and see you in want or misery. I did faithfully design, and resolve to make up and put at their ease, Alexander Fraser, of Phopachy, and James Fraser, of Castle Ladders, and their families ; and whatever disputes might ever be betwixt them and me, which our mutual hot temper occasioned, joined with the malice and calumny of both our enemies, I take God to witness, I loved those two brave men as I did my own life, for their great zeal and fidelity they showed for their chief and kindred. I did likewise resolve to support the families of Struy, Foyers, and Culduthel's families ; and to the lasting praise of Culduthel and his familie, I never knew himself to swerve from his faithful zeal for his chief and kindred, nor none of his familie, for which I hope God will bless him and them, and their posterity. I did likewise design to make my poor commons live at their ease, and have them always well clothed, and well armed after the Highland manner, and not to suffer them to wear low country clothes, but make them live like their forefathers, with the use of their arms, that they might always be in condition to

defend themselves against their enemies, and to do service to their friends, especially to the Great Duke of Argyle and to his worthy brother the Earl of Islay, and to that glorious and noble family, who were always our constant and faithful friends; and I conjure you, and all honest Frasers, to be zealous and faithful friends and servants to the family of Argyle and their friends, whilst a Campbell and a Fraser subsists. If it be God's will, that for the punishment of my great and many sins, and the sins of my kindred, I should now depart this life, before I put these just and good resolutions in execution; yet I hope that God in his mercy will inspire you and all honest Frasers, to stand by, and be faithful to my Cousin Inverlahie, and the other heirs male of my family, and to venture your lives and fortunes, to put him, or my nearest heirs male, named in my testament, written by John Jacks, in the full possession of the estate and honours of my forefathers, which is the only way to preserve you from the wicked designs of the family of Tarbat and Glengarry, joined to the family of Athol. And you may depend upon it, and you and your posterity will see it and find it, that if you do not keep steadfast to your chief, I mean the heir male of my family; but weakly or falsely for little private interest and views, abandon your duty to your name, and suffer a pretended heiress and her Mackenzie children to possess your country and the true right of the heirs male, they will certainly in less than an age chase you all by slight and might, as well gentlemen as commons, out of your native country, which will be possessed by the Mackenzies and the Macdonalds; and you will be like the miserable unnatural Jews, scattered and vagabonds throughout the unhappy kingdom of Scotland, and the poor wives and children that remains of the name, without a head or protection, when they are told the traditions of their family, will be cursing from their hearts the persons and memory of those unnatural, cowardly, knavish men, who sold and abandoned their chief, their name, their birthright, and their country, for a false and foolish present gain, even as the most of Scots people curse this day, those who sold them, and their country to the English, by the fatal Union, which I hope will not last long.

“I make my earnest and dying prayers to God Almighty, that he may in his mercy, through the merits of Christ Jesus, save you and all my poor people, whom I always found honest and zealous to me and their duty, from that blindness of heart,

that will inevitably bring those ruins and disgraces upon you and your posterity; and I pray that Almighty and merciful God, who has often miraculously saved my family and name from utter ruin, may give you the spirit of courage, of zeal, and of fidelity that you owe to your chief, to your name, to yourselves, to your children, and to your country; and may the most merciful and adorable Trinity, Father, Son, and Holy Spirit, three persons, one God, save all your souls eternally, through the blood of Christ Jesus, our blessed Lord Saviour, to whom I heartily recommend you,

"I desire that this letter may be kept in a box, at Beaufort, or Maniack, and read once a year by the heir male, or a principal gentleman of the name, to all honest Frasers that will continue faithful to the duty I have enjoined in this above-written letter, to whom, with you and all honest Frasers, and my other friends, I leave my tender and affectionate blessing, and bid you my kind and last farewell.

"LOVAT.

"London, the 5th of April, 1718.

"Not being able to write myself, I did dictate the above letter the little French boy that's my servant. It contains the most sincere sentiments of my heart; and if it touch my kindred in reading of it, as it did me while I dictate it, I am sure it will have a good effect, which are my earnest prayers to God."*

As appropriate to his policy towards his clan, it is necessary, though it may not be new to the reader, to repeat the inscription regarding his father and himself, which, in 1736, he inscribed on a monument in the church of Kirkhill:

* Lovat Documents. This paper is printed in the Appendix of Vol. III. of "Memoirs of the Jacobites of 1715 and 1745, by Mrs. Thomson, author of *Memoirs of the Court of Henry VIII.*" Of several collections of Jacobite memoirs which have appeared within the last three years, this is certainly the most creditable.

TO THE
MEMORY
OF

LORD THOMAS FRASER OF LOVAT,
WHO CHOSE RATHER TO UNDERGO THE GREATEST HARDSHIPS OF
FORTUNE, THAN
TO PART WITH THE ANCIENT HONOURS OF HIS HOUSE,
AND BORE THESE HARDSHIPS WITH AN UNDAUNTED FORTITUDE
OF MIND:
THIS MONUMENT WAS ERECTED BY SIMON LORD FRASER OF LOVAT,
HIS SON,
WHO LIKEWISE HAVING UNDERGONE MANY AND GREAT VICISSITUDES
OF GOOD AND BAD FORTUNE,
THROUGH THE MALICE OF HIS ENEMIES,
HE IN THE END, AT THE HEAD OF HIS CLAN,
FORCED HIS WAY TO HIS PATERNAL INHERITANCE,
WITH HIS SWORD IN HIS HAND,
AND RELIEVED HIS KINDRED AND FOLLOWERS
FROM OPPRESSION AND SLAVERY ;
AND BOTH AT HOME AND IN FOREIGN COUNTRIES,
BY HIS EMINENT ACTIONS IN THE WAR AND THE STATE,
HE HAS ACQUIRED GREAT HONOURS AND REPUTATION.

HIC TEGIT OSSA LAPIS, SIMONIS FORTIS IN ARMIS,
RESTITUIT PRESSUM NAM GENUS ILLE SUUM.
HOC MARMOR POSUIT CARI GENITORIS HONORI;
IN GENUS AFFLICTUM PAR ERAT EJUS AMOR.

This inscription was dictated by the same policy which made Duplex raise his pillar of triumph at Pondicherry. When Sir Robert Monro said: "Simon, how the devil came you to put up such boasting romantic stuff?" Lovat answered: "The monument and inscription are chiefly for the Frasers, who must believe whatever I their chief require of them, and their posterity will think it as true as the gospel."

A person who travelled through the Highlands immediately after the rebellion, gave the following account of Lovat's policy towards his clan, which is confirmed by the observations of Burt.

"The late Lord Lovat was a singular man in many respects, but in two things he distinguished himself; first, he not only discouraged all the schools that were erected in his country, and

declared himself an enemy to all those who educated their children at home, but also was at great pains to convince the chiefs and principal gentlemen in the Highlands, far and near, how much their interest would suffer by them; secondly, he did more towards reviving a clannish spirit (which had greatly declined since the revolution) than any man in the whole country, and used all popular arts to impress upon the minds of the present and rising generation, how sacred a character that of chief or chieftain was. His practice was agreeable to his doctrine in this matter, for he married his eldest daughter to Macpherson of Cluny, who had nothing to recommend him but his being a considerable chieftain, his estate being so encumbered with debt, that he had not a hundred pounds a year free.”*

So much for the power held by the chief from the customs and consent of his clan—let us now look at the authority he possessed by virtue of the law of the land, and the sanction of the crown as a feudal lord. We here pass from the substantial power awarded to him by popular consent to that high authority conferred on him by the constitution of Scotland, and the power of the monarch, which, truly formidable in name, would still have been of little effect in the Highlands without the other for its support. At an early period there had been several inferior heritable jurisdictions in the person of the lords of Lovat, but in the year 1704 the territory was by royal charter erected into a “regality.” This was probably done for the purpose of putting an authority into the hands of the heiress and her husband, to enable them to counteract the power of Simon over the clan; and, like many other ingenious engines of war, it fell into the possession of the person whom it was destined to crush. A lord of regality had, at least, as many of the privileges of an independent prince, as a Margrave or Pfalzgrave. His courts were competent to try all questions, civil or cri-

* “The Highlands of Scotland described; with some Observations concerning the late Rebellion.”—MS. Royal Library, British Museum.

minal, that of high treason against the empire or sovereignty alone excepted. He appointed judges and executive officers who had no responsibility to the imperial authority. He had within his territory a series of municipal systems—corporations with their municipal officers, privileged markets, harbours and mills; with internally administered regulations of police, applicable to weights and measures, fishing privileges, and other like useful institutions. He could build prisons and coin money. When any of his subjects were put on trial before the King's courts, he could "repledge" the accused to his own court, only finding recognizances to execute justice in the matter—a nominal check, which would seldom divert the lord and his "baillie," or judge, from acting according to their own particular views.* With the shortsightedness for which man is proverbial, the lord of the regality of Lovat bequeathed his powers in his entail, little dreaming that the document would not be opened till a juncture when, as the very fruit of his own conduct, all regalities and other hereditary jurisdictions were swept away. The carefully elaborated clauses, which were to perpetuate the consolidated power of the petty monarch to long following generations, are thus left to no better purpose than "to point a moral or adorn a tale." And it is for the former of these purposes,—to exhibit in the cold and measured terms of a legal document, the great powers possessed by some of these northern chiefs before the rebellion, that a portion of this part of the entail is here offered for the reader's perusal.

* An analogy will be seen between regalities, and the palatinates created in England. The jealousy with which any dispersal of the privileges of the crown among the great barons was watched in England, brought back two of the three palatinates to the king at a very early period, while the third being in the possession of a bishop, could not be the means of throwing any dangerous power into the hands of a particular house, and remained in existence down to the year 1836.

“ With power also of creating, nominating, constituting, and ordaining baillies, and deputes, clerks, officers, dempsters, and other members of court, necessary for administering justice within the bounds of the said regality, for whom they shall be answerable; and with power to the baillies, and deputes to be so constituted and appointed, to hold regality courts within the said head burgh, or upon any other part of the said regality, and to continue their courts, and administer justice within the said regality, to all persons, seeking, complaining, or pretending to have interest; and all malefactors and transgressors of the law, to apprehend, prosecute, incarcerate, put to the knowledge of an assize, and bring to condigned punishment, for whatever crimes, faults, and delicts of whatever nature or quality, that are competent to be judged and punished by the laws of Scotland, and that by hanging, heading, whipping, drowning, burning, dismembering, fining, imprisoning, and banishing, out of the said regality, or by escheat of their moveable goods, or by any other method and means used and wont, and competent to be followed by the laws of Scotland in such cases, and the escheats, fines, and amercements of the said courts, and likewise the tolls, customs, profits, fees, and emoluments, of the said prison, Mercat Crosses and Weigh House, to collect, receive, exact, and apply the same to their own proper uses. And likewise with power to them always, and in all time hereafter, to repledge the inhabitants within the bounds of the said regality of Lovat from all and sundrie other courts, judges, and jurisdictions, before which they shall happen to be convocate, convened, or prosecuted; and that to the privilege and jurisdiction of the said regality of Lovat, in which only they ought to be convened and judged; and for that effect to find caution of culreoch for administering justice to the parties having interest within term of law. And moreover of exeeming, absolving, and liberating the tenants and possessions of the said lordship and regality of Lovat, comprehending as said is in all time hereafter, from all judgments and jurisdictions, of all sheriffs, justices general, and their deputes and commissioners of justiciary, and from all other judges and their jurisdictions within Scotland, as well in criminal as in civil actions.

Lovat was appointed sheriff of the county of Inverness. This gave him in the portions of that great county which

were not within his own domain, an authority second only to that which he exercised as a lord of regality. He had, it is true, none of the regal and municipal powers above alluded to, by virtue of his sheriffship. He was a judge only, not a governor. Murder was the only one of the four pleas of the crown in which he had jurisdiction; but in this and other crimes he possessed the power of life and death. True, recourse lay from his authority to the king's supreme court; but the man might be hanged or released as the case might be, before the writ was sued out. Finding that a person, such as Lovat, could be made a judge in the days of Lord Hardwicke and President Forbes; that a patent for such an appointment must have passed under the great seal of Britain; presents us with the most remarkable type of the state of Highland society in that age. The reader naturally exclaims with Juvenal—

“ — Sed quis custodiet ipsos
Custodes ?”

Yet there is much to be said in vindication of these appointments in the Highlands, and of the practice of considering power a superior qualification to either legal ability or integrity of character. The crown had no real authority there, except close to the spots where military stations were established. If one were made a sheriff, because he was a conscientious man and a good lawyer, where would the benefit lie, when not one of his decrees could be enforced? Whoever could most effectually bring all under him and keep the peace, was the best sheriff, that such a state of things admitted of being chosen. True, a Macdonald or a Mackenzie would have small chance of justice from Lovat or his substitute in a dispute with a Fraser; but would matters be mended by a nominal appointment, which

would be little better than a mere invitation to the nominee to wage war with the actual holder of power? Then, in questions between man and man, when neither the chief nor his clan were on one side, differences would be decided and decrees enforced with energy and rapidity. It would be a misnomer perhaps to call this quick justice, but it was probably the nearest approach to it of which circumstances admitted. When he was stripped of his sheriffship, we shall find that Lovat both plausibly and truly showed that this was disarming the only man who had power to keep the peace of the Highlands. Such was the value of a judicious administration of the law as it stood, in comparison with a fundamental reform! To meet the instances of particular tyranny and partiality, of which not a few will be found in these pages, it was a great fact that the Lord Advocate, writing to an English minister in 1726, could say—

“ Whilst I was in the north country, I made several small progresses into the Highlands, and what, at my first arrival at Inverness, I wrote to you concerning the tranquillity of those parts, I can now confirm from my own observation. In the whole of my journey I did not see one Highlander carry the least bit of arms, neither did I hear of any theft or robbery.”

When any of the Sheriff's friends had to complain of injuries from those under his authority, his affable earnestness, his friendly zeal and anxiety to act in a gentlemanly and liberal spirit, by giving his friend more than compensation in an ample vengeance,—has something in it truly ludicrous, when we reflect that the service he so liberally offered was to administer the law for the gratification of his friend. His professions were probably a considerable distance beyond the actual amount of his zeal; and somehow or other it generally happened that when it was to

serve others, the vengeance of the law did not alight so swiftly and surely as when it was to serve himself. Of the particular uses to which he applied his judicial power, we shall find a very fair illustration in the following passages from letters to John Forbes of Culloden, when his brother Duncan was Lord Advocate. It is only necessary to observe that the Chisholms and the Camerons were neighbouring clans to the Frasers, and not always on peaceful terms with them. The power of the sheriff gave of course a great preponderance to the latter. Some "Strathglass rogues" had been caught, and the sheriff, desirous to make the best use of the capture—which, since they were "tall handsome fellows," was by making a present of them to a friend recruiting for the Dutch service—seems to have been nervously apprehensive lest his friend the Lord Advocate might think it necessary for the sake of public justice to interfere with his arrangements.

"As to those Strathglass rogues, if you knew the malicious and insolent affronts they put upon me, you would not ask any favor for them. My Lord Advocate knows it, and was very warm for transporting them if they did not voluntarily list for your cousin Arthur, and if it had cost me 500*l*. I had got them transported; but if they have voluntarily enlisted themselves for Mr. Forbes, I am very well pleased; I shall send them to him without any expense in keeping of them; for I will send immediately orders to carry them South with a guard. There is a Captain there of Arthur's Regiment who will receive them and deliver them to Arthur, and I'll send him other two Camerons that are in your prison, tall fellows; and five such good men will do him more service now that the Dutch expect a war, than thirty men next season. I have written to my friend Mr. Bailey, the town clerk, about this, who will manage that affair for me; and for the service of your cousin, I truly rather give a crown a day out of my pocket, to maintain them a twelvemonth at Inverness, than to admit them to bail. It is but a new trick of my enemies to insult me; for if they were once at liberty no bail would ever get them back; but they would offer you for your

cousin's use, some nasty little thieves, that they would be rid of, and would be of no service to Arthur; but those are handsome fellows, and they are too happy if they come off for going to Holland. I therefore beg you may order them to be well secured till I send for them; and be so just as to believe, that I am while there is blood in my body, with great affection and respect, &c. * * * *

"I am very much surprised to hear from several of my friends, that there is a design to affront me and hurt my reputation and interest, by letting those Strathglass villains at liberty, who did insult me in the most atrocious manner; but I will not believe an angel from heaven, that my worthy and constant friend John Forbes, of Culloden, would, for any consideration, directly or indirectly, assist any Chisholm on earth, to insult or affront me in the persons of those villains; especially since the only thing that kept me from sending them to America, was my eagerness to serve your cousin-German Arthur Forbes; so I beg of you, dear Cullodin, to give strict orders that those fellows do not make their escapes, till I order a party to bring them up here at my own expense, that they may be sent to Arthur with other two Camerons, that are in your Tolbooth, by a captain of his regiment, who is in this town.

* * * * *

After what I have said, I take the freedom to tell you, that I am convinced if you know really the unworthy manner in which I have been insulted by the Chisholms, after doing the most essential services to the Chisholm and to his family, you would as soon offer to throw me from the bridge in the river of Ness, as you would desire me to consent to put those villains at liberty, who beat and insulted some of my men and relations. I do assure you, dear Culloden, the whole design is to affront me in setting those villains at liberty, and hope that you will never go into that; for it is but highly just that they should willingly make a campaign or two in Holland, since I save them on that account from transportation; and those fellows with the two Camerons that I have in your prison will be such a good compliment for honest Arthur, that I hope it may contribute to get him a company now that the Dutch are going to raise ten thousand men of additional troops; and I shall take care that they will not be expensive to Arthur till they are in Holland, and then they will be worth themselves."*

* Culloden Papers, page 118, 119.

These views correspond very accurately with the following extract from Burt's letters, which concludes with a personal incident of a highly curious nature, showing how little efficacy the Scottish substitute for the Habeas Corpus Act had beyond the Highland line.

"When any ship in these parts is bound for the West Indies, to be sure a neighbouring chief, of whom none dares openly to complain, has several thieves to send prisoners to town.

"It has been whispered their crimes were only asking their dues and such like offences; and I have been well assured they have been threatened with hanging, or at least perpetual imprisonment, to intimidate and force them to sign a contract for their banishment, which they seldom refused to do, as knowing there would be no want of witnesses against them, however innocent they were; and then they were put on board the ship, the master paying so much a head for them.

"Thus two purposes were served at once, viz., the getting rid of troublesome fellows, and making money of them at the same time. But these poor wretches never escaped out of prison.

"All these I am apt to believe, because I met with an example at his own house, which leaves me no room to doubt it.

"As this chief was walking alone in his garden, with his dirk and pistol by his side, and a gun in his hand (as if he feared to be assassinated), and as I was reading in his parlour, there came to me by stealth (as I soon perceived), a young fellow, who accosted me with such an accent as made me conclude he was a native of Middlesex; and every now and then he turned about, as if he feared to be observed by any of the family.

"He told me that when his master was in London, he had made him promises of great advantage, if he would serve him as his gentleman; but though he had been there two years, he could not obtain either his wages or discharge.

"And, says he, 'when I ask for either of them, he tells me I know I have robbed him, and nothing is more easy for him than to find, among these Highlanders, abundant evidence against me (innocent as I am). And then my fate must be a perpetual gaol or transportation: and there is no means for me to make my escape, being here in the midst of his clan, and never suffered to go far from home.'

"You will believe I was much affected with the melancholy circumstance of the poor young man, but told him that my speaking for him would discover his complaint to me, which might ~~outrage~~ ^{outrage} his master; and in that case I did not know what might be the consequence to him.

"Then with a sorrowful look he left me, and (as it happened), in very good time."*

That this poor bondsman had very accurately anticipated the fate awaiting him, we may infer from the following warrant issued for the capture of a black musician, who had made his escape from Beaufort or Castle Dounie, "in order to go and play at the assemblies at Aberdeen."

"These are empowering you to cause seize one John Fraser, my domestic servant, that plays on the violin and hautbois, a black fellow, about 5 feet and 8 inches high, who run away out of my house with his liveries, and with several other things that he stole from me and my servants, both gold and silver and clothes. I therefore entreat that you cause seize him, and put him in prison till I send for him, to be tried according to law, for which this shall be your sufficient mandate. At Beaufort, the 12th of August, 1728. "LOVAT."†

The nature of the trial "according to law" that the "black fellow" would receive within the regality, may easily be imagined. As the man had escaped beyond the jurisdiction, this warrant is accompanied by a request to John Macfarlane, to "find some shadow of law for getting him apprehended."

* Letters from a gentleman in the North, i. 55—57.

† Lovat Documents.

CHAPTER VII.

His Pomp—The Coach, and a Journey in it—Social Life at Castle Dounie—The Guests—Lovat at Table—His Letters—His Character as an Author—Family Matters—Black John of the Dirk—The two Marriages—Legends—His Children, and his Conduct to them—The Brigadier—Character of Lovat in the Female World—The Story of Lady Grange—Elucidations of Lady Grange's Character—Convivialities with her Lord.

WHEN his affairs were firmly settled, he attempted to add some of the common-place aids of civilised luxury, to the savage pomp of the chief. He kept a coach, and became very partial in his letters to occasional allusions to his "chariot." With what additional greatness this wonderful engine invested him, we may gather from Burt, who, on the first appearance of a coach in that district, represents the people as bowing to the powdered coachman, in deep reverence to one who held in his hands the means of guiding so wonderful a machine. Of the adaptation of his coach to Highland roads, we have a very full statement in a letter from himself, describing his journey to Edinburgh in 1740, to make arrangements as to his entail.

"For two days before I came away, one of my coach mares, as she was stepping into the park dropped down dead, as if she had been shot with a cannon-ball. The next day, when I went to bid farewell to Dunballoch's family and Achnagairns, one of the hind wheels of my chariot broke in pieces,—that

kept me two days to get new wheels

I brought my wheelwright with me the length of Aviemore in case of accidents, and there I parted with him because he declared that my charriot would go safe enough to London ; but I was not eight miles from the place, when, on the plain road, the axletree of the hind-wheels broke in two, so that my girls were forced to go on bare horses behind footmen, and I was obliged to ride myself, though I was very tender, and the day very cold. I came with that equipage to Ruthven late at night, and my chariot was pulled there by force of men, where I got an English wheelwright and a smith, who wrought two days in mending my chariot ; and after paying very dear for their work and for my quarters two nights, I was not gone four miles from Ruthven when it broke again, so that I was in a miserable condition till I came to Dalnakeardach, where my honest landlord, Charles M'Glassian, told me, that the Duke of Atholl had two as good workmen at Blair, as were in the kingdom, and that I would get my chariot as well mended there as at London ; accordingly I went there and staid a night, and got my chariot very well mended by a good wright and good smith. I thought then I was pretty secure till I came to this place. I was storm-staid two days at Castle Drummond, by the most tempestuous weather of wind and rain that I ever remember to see. The Dutchess of Perth and Lady Mary Drummond were excessively kind and civil to my daughters and to me, and sent their Chamberlane to conduct me to Dunblane, who happened to be very useful to us that day ; for I was not three miles gone from Castle Drummond, when the axletree of my fore wheels broke in two, in the midst of the hill, betwixt Drummond and the Bridge of Erdoch, and we were forced to sit on the hill with a boisterous day, till Chamberlain Drummond was so kind as to go down to the Strath and bring wrights, and carts, and smiths, to our assistance, who dragged us to the plain, where we were forced to stay five or six hours till there was a new axletree made, so that it was dark night before we came to Dumblaine, which is but eight miles from Castle Drummond, and we were all much fatigued. The next day we came to Lithgow, and the day after that we arrived here ; so that we were twelve days on our journey by our misfortunes, which was seven days more than ordinary ; and I bless God we are all in pretty good health, and I found my son in good health, and much improvén.*

* Miscellany of the Spalding Club, i. 4—6.

He lived chiefly at Castle Dounie, where he was surrounded by all the main elements of his pride and enjoyment; but he did not entirely separate himself from the world. He frequently visited Edinburgh, in considerable pomp, and went occasionally to London, where, on one occasion, it is said, by his traditional biographers, that he was disarmed in a duel with the Duke of Wharton, occasioned by their conflicting addresses to a foreign beauty.

Tradition has thrown the inner recesses of the social life of Castle Dounie into the darkest shadows, "*Haud intret Cato nec si intraverit spectet.*" Where nothing but shadowy and uncertain outlines are to be seen, let us not too curiously try to give bulk and substance to their visionary forms. It will be a more satisfactory task to put together such notices of the ordinary social habits of the chief and his people, as contemporaries may have left.

King, in his "*Munimenta Antiqua*," after tells us that the birth-place of Lord Mansfield was

"A great square tower, with walls of near thirteen feet in thickness, having small apartments even within the substance of the wall itself. At the bottom of one of which is a noisome dungeon, without light, or even air holes, except in the trap-door in the floor, contrived for lowering down the captives, * * * and to speak the truth, even the residence of the well-known Lord Lovat in the Highlands, at Castle Dounie, so late as the year 1740, was much of this kind."

The antiquary then gives us the reminiscences of "that worthy, sincere man, Mr. James Ferguson, the astronomer, who, in the early part of his life, was constrained to dwell several months in the castle." That he should have retained the mental purity and uprightness that adorned his character, in the midst of such an atmosphere, is not

the least remarkable feature of Ferguson's extraordinary career. King continues to tell us,

"Here he kept a sort of court, and several public tables, and had a very numerous body of retainers always attending. His own constant residence, and the place where he received company, and even dined constantly with them, was in just one room only, and that the very room wherein he lodged. And his lady's sole apartment was also her own bed-chamber; and the only provision made for lodging either of the domestic servants, or of the numerous herd of retainers, was a quantity of straw, which was spread over night on the floors of the four lower rooms of this sort of tower-like structure; where the whole inferior part of the family, consisting of a very great number of persons, took up their abode. Sometimes about 400 persons, attending this petty court, were kennelled here, and I have heard the same worthy man, from whose lips the exact account of what is here related has been taken, declare, that of those wretched dependants he has seen, in consequence of the then existing right of heritable jurisdiction, three or four, and sometimes half-a-dozen, hung up by the heels for hours, on the few trees round the mansion."*

At the long table at Castle Dounie the guests and the viands had a corresponding progression downwards. At the head of the table where there were neighbouring chiefs or distinguished strangers, claret and French cookery graced the board. The next department was occupied by the Duihne wassels, who enjoyed beef and mutton, with a glass of some humbler wine. The sturdy commoners of the clan would occupy the next range, feeding on sheep heads, and drinking whiskey or ale. In further progress the fare degenerated with the feeders, and clustering on the castle green in sunshine, or cowering in the outhouses in foul weather, were congregated the ragamuffins of the clan to gnaw the bones and devour the other offal. It was

* King's "Munimenta Antiqua," iii. 176.

a rule of the house that the day's provender, whatever it might be, should be consumed; and if the deer stalker or the salmon spearer had been more fortunate than usual, the rumour would spread fast enough to bring an immediate demand for the supply. This practice gave much temptation to the troop of servants who attended the table, to snatch away unfinished dishes; and many amusing instances have been recorded, of the necessity of the guest at Castle Dounie preserving a ceaseless watch over his plate, and of the certainty of its instantaneously disappearing during any moment of negligence. When the chief's distinguished clerical relative, Dr. Cumming of Relugas, arrived at Castle Dounie one night, tired and hungry, after crossing the mountains, there was not a morsel of food to be found, not an egg or a crust of bread; but a plentiful provision for the day's consumption was brought in next morning.*

Lovat studied the courtesies of the table, which in his hands were a political engine of no small consequence. The simultaneous gradations of rank and provender at his board in some degree resembled a public dinner of the present day, where the "distinguished guests" on the platform enjoy turtle and burgundy, and the fare degenerates downwards till luxury revives within the horizon of the croupier. Like the political leader who graces such an occasion, Lovat had to remember the claims and position of every one present; to bring them out, to pledge them, and to attend to their tastes and foibles. He had great skill in salving over any wounded feelings which might occasionally be caused by the application of the system of

* Anecdote communicated by Sir Thomas Lander.

gradations. "Cousin, I told my lads to give you claret," he would say to some kinsman who looked demurely on his assigned portion of the feast, "but I see you like ale better; here's to your roof tree."*

Burt attended a feast, which by the geographical description of the place was evidently at Castle Dounie, where the officers of the regiments stationed in the vicinity were frequently entertained. The honest Englishman was not, perhaps, capable of appreciating the French cookery, and his statement is slightly tinged with John Bullish prejudices.

"Our entertainment consisted of a great number of dishes, at a long table, all brought in under covers, but almost cold. What the greatest part of them were, I could not tell, nor did I inquire, for they were disguised after the French manner; but there was placed next to me a dish which I guessed to be boiled beef. I say that was my conjecture, for it was covered all over with stewed cabbage, like a smothered rabbit, and over all a deluge of bad butter.

"When I had removed some of the incumbrance, helped myself, and tasted, I found the pot it was boiled in had given it too high a gout for my palate, which is always inclined to plain eating.

"I then desired one of the company to help me to some roasted mutton, which was indeed delicious, and therefore served very well for my share of all this inelegant and ostentatious plenty.

"We had very good wine, but did not drink much of it; but one thing, I should have told you, was intolerable, viz., the number of Highlanders that attended at table, whose feet and foul linen, or woollen, I don't know which, were more than a match for the odour of the dishes.

"The conversation was greatly engrossed by the chief before, at, and after dinner; but I do not recollect any thing was said that is worth repeating.

* See Mrs. Grant's MS., &c.

“ There were as we went home several descants upon our feast ; but I remember one of our company said he had tasted a pie, and that many a peruke had been baked in a better crust.

“ When we were returned hither in the evening, we supped upon beef steaks, which some who complained they had not made a dinner, rejoiced over, and called them a luxury.”*

It may not be inappropriate in this place to introduce the reader to some of Lovat's epistolary courtesies. Here is a letter of condolence to his relation, Drummond of Bohaldie, on the death of that gentleman's brother. The reader will observe how very well the document would be adapted to a collection of religious letters by serious people.

“ Beaufort, 20th September, 1737.

“ MY DEAREST COUSIN,—I received the honour of your two letters at the same time by the last post, the one dated the 29th of August, and the other the 12th of September. It was with tears in my eyes that I read your last letter, that gives me an account of your brave worthy brother's death ; and my heart is so full of grief for the loss of that gallant gentleman, that I am hardly able to dictate a sensible letter. If you lost a kind, affectionate, brave, worthy brother, that might have raised your family to a greater pitch of honour and riches than it has been for some generations, so I have lost a valuable relative that some time or other might have been of great use to my family and posterity. I therefore, by the right of blood and nature, share with you in your just sorrow and grief for the irreparable loss of a brother in the flower of his age, of so much merit and valour. However, my dearest cousin, it is contrary to religion and common sense to repine at the acts of divine Providence. It is God that has done it, and therefore we ought to submit ; and your family, and your relatives and friends, ought to thank God that you are spared for the support of your worthy father and mother, and of your brothers and sisters, for the preservation of your family and the comfort of your

* Letters from the North, i. 158.

friends. For my part, my dearest cousin, I do assure you without compliment, that I have more comfort and satisfaction in the honour of your personal friendship, than in any relations I have on earth ; and if my only brother that is dead, were in life, I do not know which I would dispense with, you or him ; and if it is any comfort to you, my dearest cousin, I humbly beg that you may look upon me as a brother in the place of him that you have now lost : and though I have not his merit or his valour, I am very sure I have as much affection for you as ever he had in his life. After what I have now said, I hope you will forgive me to give you my sincere advice.

“In the first place, I earnestly beg of you not to hurt your health by too excessive grief for that worthy brother that you have lost, for your family’s sake, and for your friends. In the second place, I conjure you, by the duty you owe to your honest father and mother, and to your affectionate brothers and sisters, and to the friends and relations that love and honour you, that you may not think, at any rate, of going to the West Indies. Your family has made too great a loss already in that country. I wish they never had been adventurers, or ambitious to gather the dross of the earth in foreign parts. If they had stayed in their country, though in low circumstances, they might have some day or other so signalised themselves by their great valour, that they would be an honour to their family and kindred. You are now the only person left, that really can support and maintain the dignity of your family and kindred, if your king and country had to do. How cruel, then, and barbarous it would be in you to leave your family comfortless, and to deprive your king and country of one of the best subjects that now our country is possessed of. For God’s sake reflect on all this, and let real religion, natural affection to your parents and relations, and, what I think is above all, the love of your country, banish out of your heart all thought of leaving Scotland. If your brother has left money, the authority of the government and the laws will recover it for you. You do not want friends ; and for my own part, I’ll not only use all the interest I have in the world for you, but I’ll divide a sixpence with you as long as I have any. So I earnestly beg of you to fix your heart upon your home affairs, and wait patiently some happy occasion in which you can show your merit and valour for the honour and glory of your country, and how heroic and glorious it is to venture your person for your dear country, rather than for the sordid

dross of the earth, which is as difficult and uncertain to preserve, as it is painful and tormenting to acquire. I speak to you, my dearest cousin, from my heart and soul, so I hope it will have some influence on you; and if your business would allow you, I wish to God you would come and stay some weeks with me, that we might converse thoroughly upon that subject.

"I earnestly entreat you, offer my most affectionate humble duty to your worthy father and mother, to your brother John, and to your sisters, Mrs. Margaret, and Mrs. Jacobina; I heartily condole with them the loss of their worthy brother. I entreat you give my most humble service to my cousin Kipendavie, and to my old friend, Captain Taylor; and believe that I am, while there is breath in me, with uncommon zeal and respect, my dearest cousin,

"Your most faithful, most obliged,

"And most affectionate slave,

"LOVAT.

"P. S. The bearer is my cousin, Mr. Fraser of Boblairnie, whom I have sent to take care of a few cows and oxen, that I have sent to be sold at the market of Crief. I hope, if your affairs will allow you to go to Crief, you will assist him to dispose of the cattle, and I entirely leave the management of that little affair to you, and to my cousin Mr. Drummond the chamberlain, your brother-in-law, to whom I have writ with the bearer."*

It is evident that he knew by nature as much as Chesterfield could have taught him, and that he embodied the full spirit of that candid moralist's counsel, when he advises us to approach the friend who has suffered a family affliction "with a countenance adapted to the occasion," and to say "with a grave composure," "I hope you do me the justice to be convinced that I feel whatever you feel, and shall ever be afflicted where you are concerned."

We may next give a specimen of the exuberant courtesy with which he could adorn an act of kindness. This letter is addressed to his agent, John Macfarlane:

"I am very angry that you should be so nice with me, as to use any compliment to ask the use of two hundred pounds to do you an essential service; I do solemnly protest to you that I have not a hundred pounds in the world but what I would as freely lend to you to do you good, as I would to my brother John, if he was in life, and without any compliment. I have not a relation or friend on earth I love and respect more, or would go a greater length to serve; so I beg you henceforth make no ceremony or compliments with me, and command any thing I am master of, as you do your own. I here send you a bill enclosed for the two hundred pounds on Andrew Drummond, payable at sight, with a letter of advice, &c."*

Among the various features of this versatile man's character, we must not omit his rank among "noble authors." The authenticity of his memoirs is discussed in the Introductory Notice. Several specimens of the book have appeared in these pages. His epistolary style does not require to be characterised; it speaks loudly for itself. In 1724 he addressed to the king a "Memorial concerning the State of the Highlands."† It is not a document of much interest, as the writer's primary object is to keep out of view the effective remedies for the turbulent state of the country, and his secondary object is to prevent their being suggested to the reader, by a too distinct account of the evils to be remedied. He admits that "that part of Scotland is very barren and unimproved, has little or no trade, and not much intercourse with the low country," and that the people "are very ignorant, illiterate, and in constant use of wearing arms." His remedies all tend to the increase of the power of the chiefs. The sheriffs "should be persons having credit and interest in the shire they are to govern," meaning that they should be powerful chiefs like himself. He recommends the re-establishment of inde-

* Lovat Documents.

† Printed in the "Appendix to Burt's Letters," 5th Edition, ii. 254.

pendent companies commanded by the chiefs, and shows that Lowland forces are utterly incapable of preserving peace among the mountains.* This paper was founded on in "General Wade's Report on the State of the Highlands," and thus was a main instrument in the restoration of the independent companies in 1725, much to Lovat's satisfaction. The paper having been thus far effective, it would be unjust to suppose that it was not skilfully executed.

The brother John, who is so often commemorated with expressions of strong attachment, died about the year 1715; from a course of dissipation, perhaps brought on by the restoration of his brother, and the exciting events of that year. Lovat in his letters makes frequent allusion to this loss, as sincere as words can be. At a subsequent time the Highlanders commemorated him by the descriptive name of Black John of the Dirk, and told a story of an incident between him and a piper at a feast at Beaully. In the words of a witness examined in the late genealogical inquiry: "The tune he was playing was

* Another document, of a totally different character, containing an "Account of the State of the Highlands in 1716, with Suggestions for their Improvement," has been attributed to Lovat. It is in the Appendix to the "Memoirs of Sir Ewen Cameron," printed for the Abbotsford Club. It affords a very forcible account of the mischievous power of the chiefs, and declaims against adding to their natural authority by investing them with regalities and sheriffdoms. It suggests the disarming of the men, the abolition of the seigniorial powers, restraints on the assemblages of great bodies of men on hunting expeditions, and a general system of education. In short, it is a method of drawing the teeth and paring the claws of the Highland chiefs, and the only supposition on which one could admit, even on strong evidence, that it was written by Lovat, is, that feeling at the moment uncertain about the recovery of his own right of chiefship, he was resolved to ruin that of his brethren. The only actual evidence of this alleged authorship appears to be, that the only extant MS. of the document, in possession of Mr. Laing of the Signet Library, is titled "Copy of Fraser's Scheme for Civilising Scotland." He would not give it this name, as he never forgot his title.

Bittack er Mac Thomas," and several lines of the song repeated, are thus interpreted: "There is a dirk upon Thomas's son, rattling and glancing above the band of his breeches, when a knife might very well satisfy him; he has a sword and a shoulder-belt, when a straw rope might answer him," &c. It seems that these allusions were in some way personal to John, who drew his dirk, and, intending to drive it into the bag, and let out the wind of the pipe, or, as some witnesses said, not precisely caring where he drove it, sent it to the piper's heart. For this he had to fly and hide himself; a circumstance which shows the origin of the legend to be in some event of later date, in which some inferior member of the family was concerned; for that the brother of Mac Shimi should be put to any inconvenience by the death of a piper in the early part of the eighteenth century, is quite incredible.

While the Dowager Lady Lovat was still alive Lovat was twice married. The first object of his choice was Margaret, fourth daughter of Ludovic Grant, of Grant. "I spoke," says the lover, in the midst of his courtship, "to the duke and my Lord Islay about my marriage, and told them that one of my greatest motifs to that design, was to secure them the joint interest of the north."

The matter seems to have been taken up by these great men as an important negotiation.

"I trouble you," says the duke to a cadet of the Grant family, "with this, to let you know that some time since I learnt that Lord Lovat had proposed a match with Grant's sister, which for many reasons I wished so weel to, as to interest myself with Grant in favour of it. You know Lord Lovat is one for whom I have with good reason the greatest esteem and respect; and as I confide entirely in him and the brigadier, I am most earnest that this match should take effect. I am informed that

the young lady is at present with you, and that some other body is making court to her. I must, therefore, as a faithful friend to us all, entreat your interest to bring this matter about, which will, I think, unite all friends in the North; a union which will be very serviceable to his Majesty, and his royal family; and no less to all of us who have ventured our lives and fortunes in defence of it.”*

There was a dark shadow from his previous history, which must surely have impended over this marriage in the eyes of the young lady or her friends, however little it might interrupt his own thoughts. It at all events crossed the mind of his powerful friends.

“Islay desired me,” he says to Duncan Forbes, “to write to you to know if there would be any fear of a pursuit of adherence from *that other person*, which is a chimerical business, and tender fear for me in my dear Islay. But when I told him that the lady denied before the Justice Court that I had any thing to do with her, and that the pretended marriage was declared null—which Islay says should be done by the commissaries only—yet when I told him that the minister and witnesses were all dead who were at the pretended marriage, he was satisfied they could make nothing of it, though they would endeavour it. However, I intreat you write to me or to Mr. Stewart a line on this head to satisfy my Lord Islay’s scruple.”†

So were the transactions with the dowager lady at Castle Dounie, and Eilan Aigas thrust aside. How inviting must have seemed the pathway so opened up to the new comer! The marriage was celebrated in 1717.

This lady died in 1732, and in the following year her lord married his second wife, Primrose Campbell, daughter of John Campbell of Mamore. It was of course a union of policy, and of very sound policy; for Mamore was brother to the deceased Archibald Duke of Argyle. An anecdote has been repeatedly told of the suitor having

* Culloden Papers, 59.

† Culloden Papers, 56.

overcome her objections to the match by the following stratagem. The lady received a letter purporting to be from her mother, in a dangerous state of health, desiring her presence in a particular house in Edinburgh. She flew to the spot, and found there—Lovat. On her reiterating her abhorrence of his addresses, he informed her that the house was devoted to purposes which stamped infamy on any female who was known to have crossed its threshold. Such is the traditional account of his wooing.

The reader will judge how far it may militate against this story, that the marriage contract was very formally executed by the parties and their relations, the subscriptions being attached at different dates from the 3rd of April, when the bride and bridegroom signed, to the 9th of July. The band of connexions who appear on the occasion, is very formidable; but however much this may indicate their cordiality to the match, it is of course no evidence that the bride herself went willingly to the sacrifice. There were the bride's mother and her brother; her uncle, Lord Elphinstone; her aunt, the Countess of Mar; the Duke of Argyle, and the Earl of Islay. Duncan Forbes was one of the witnesses. The contract provided the lady with a yearly jointure of 3000 merks, Scots—about 170*l*.*

Tradition states that the married life of this lady was a train of miseries caused by the tyranny and brutal violence of her husband. To be mistress of Castle Dounie was probably no enviable dignity, to a woman brought up with even moderate notions of female delicacy; but it may be questioned if one connected as Primrose Campbell was,

* The marriage contract was lately used for legal purposes. A copy is in possession of James Maidment, Esq.

was likely to be exposed to palpable injury and insult, by so sagacious a politician as her husband.

Of Lovat's children, five; three sons and two daughters reached maturity. Of Simon the heir, who was born on the 19th of October, 1726, there will be found several notices in these pages. After the rebellion he became a distinguished officer, and by a special Act of Parliament was restored to his paternal estates in 1774. He maintained a high character in public life, but Mrs. Grant states, that in him a pleasing exterior covered a large share of the paternal character, and that "no heart was ever harder—no hands more rapacious than his." He had raised a regiment in the Fraser country destined to embark at Greenock for America. The people had formed expectations which he did not realise, and the women pursued him to the place of embarkation with Celtic curses. Colonel Fraser gave a dinner to the officers of the 42nd regiment. He conducted the wife of one of them to the inn where the entertainment was held. She said she nearly fainted with horror at the scene she encountered. Knowing Gaelic, she was able to understand the horrible curses of a troop of old women who followed them, while her companion, not conscious of her skill, talked on with the quiet unconcern of a well-bred gentleman.*

The second son, Alexander, who was born in 1729, after serving abroad returned and spent his days in the Highlands; he was called the brigadier, but does not appear to have held that rank. Mrs. Grant says, he "acquired rather too great a relish for the convivial mode of living," and his habits were much more emphatically attested by a witness in the late genealogical inquiries, who said, that

* Mrs. Grant's MS.

"On some occasions the said Brigadier Alexander Fraser passed the night in the deponent's father's house, and on such occasions the deponent, then a boy, used to leave a bottle of whiskey at the brigadier's bed-side, to be drunk by him during the night, and which he generally finished before morning."*

Of the two daughters, Janet was married to Macpherson of Clunie, the other Sybilla, died unmarried. Of his conduct to these young ladies, tradition gives a favourable description.

"When his daughters," says Mrs. Grant, "showed a disgust to the profligacy of Castle Dounie, and preferred residing generally with the only aunt they had then living, Lady Mackenzie of Scatwell, he did not resent their leaving him, but rather seemed pleased with the delicacy and good principles which always governed their conduct."†

The same authority says, that in deference to their feminine delicacy, he sometimes restrained the prurient luxuriance of his wit; if he did so, it was an abstinence which his contemporary Sir Robert Walpole was, at least by his son's account, unable to practise.

He seems to have been far too much of a politician to let his character go forth through the female world as that of a brute and a tyrant; he had made himself popular among the accomplished females of France, and was not likely to be utterly repulsive to those of his own country when he thought fit to be agreeable. Indeed, we have evidence that he did not disdain to bring his intrigues to bear upon small ball-room politics; and that, petty as must have been the influence of the salon in his immediate neighbourhood, he condescended to employ it. The following letter is a curious instance.

* Lovat Documents.

† Mrs. Grant's MS.

“ Lord Lovat to Miss Ann Stewart.

“ Beaufort, 20th Dec. 1741.

“ *Past 12 at Night.*

“ MY DEAR COUSIN,—I was very sorry to understand that you had a bad cold since you went into Inverness ; if you had staid in my little house where the air is very good and wholesome, and where you was as welcome as in your father's house, it would have saved you from the bad air and dirty streets of Inverness, which has brought that cold upon you ; however, I am exceeding glad to know that it is almost over, and I hope this letter will find you perfectly recovered, and in entire good health, which I wish with all my soul ; and I sincerely assure you, and your worthy father and mother, and all the family, of my most affectionate humble duty, best respects, and best wishes.

“ As you promised to honour Miss Fraser with your good company at Christmas, I have sent this express to know what time you would have the horse and chaise go in for you.

“ I know that you will be much solicited and importuned to be at the ball that the Gentlemen Masons give on Monday next. If a friend of yours was king at the ball, I think it would be a right thing in you to honour it with your presence, but as Major Caulfield is to be king of the ball, I know no call you have to do him honour.

“ Ewen Baillie told me that Caulfield and Collector Colvill were to come here in a day or two to see me ; I own Caulfield is not blate, and if he makes me a visit after cutting my throat, and doing me all the injury in his power, and was the great instrument of breaking of my company, it plainly proves he was born and bred an Irishman ; but I have had several proofs of the same many years ago. But my dear miss, as it would be very impolitic in me to wish that you should deprive yourself of the pleasures of that ball, since you have a great many friends that will be at that ball that are masons, you should go to please them, without taking any great notice of Major Caulfield, and when the ball is over I shall send in my chaise for you ; and my friend, and your cousin, the Laird of Abriachen, will have the honour to convoy you here, and you may freely command your time to go and to come here, without the least constraint, according as it suits your pleasure and convenience.

“ Since I wrote what is above, Major Caulfield and Collector Colvill are come here to dinner ; Mr. Colvill is my relation,

and is always very welcome to me, but I own that all the good manners and politeness that ever I learned and practised was put to a trial how to behave with the other gentleman. However, good nature got the better, and I let him see that I could be as complaisant, and polite and civil in my own house, as if he had never done me the least injury. He was telling me, that it is not sure that he was to be king of the ball, but whether he is or not, my kindly advice to you, my dear cousin is, that you should have that complaisance for your friends as to go to that ball, which they cannot but take well, and they would have reason to take it amiss if you did otherwise. But I earnestly beg you may take care of your health, for the ball-room is a cursed cold room. I wish you had my chair to take you in and out; Duncan Fraser can get it to you, and it will do me vast pleasure that you should take it, and I only propose it for your health, which I do wish as well as I do my own daughter's, for I am with a singular esteem, and a very sincere attachment, and respect,

“ My dear miss,

“ Your most obedient and most faithful humble servant,
“ and most affectionate cousin,

“ LOVAT.”*

Lord Lovat has been accused of being the main instrument in the celebrated abduction of Mrs. Erskine, commonly called Lady Grange. The Honourable James Erskine, called by his title of courtesy as a Judge of the Court of Session, Lord Grange, was the second son of the Earl of Mar. He was raised to the bench on the 18th of October, 1706. He was anxious to enter Parliament as an opponent of Sir Robert Walpole, a circumstance which made that minister carry through the very excellent act of 1734, prohibiting the Scottish judges from being members of Parliament. Having some ambition to distinguish himself as a politician, he resigned his seat on the bench and became member for Stirlingshire. His ambitious dreams, whatever they were, do not

* From a Transcript in possession of the Society of Antiquaries, Edinburgh.

appear to have been realised, for he soon afterwards retired from public life. His wife, whose history has made so wild a romance of real life, was the daughter of that Chiesly of Dalry who shot Lord President Lockhart in the High Street of Edinburgh, for deciding that he was bound to support his wife; and it is said that the lady frequently appealed to this symptom of the blood from which she had sprung, as a significant intimation of what she might be able to accomplish, if driven to extremities.

An amusing little tradition which the author obtained on excellent authority, proves the intimacy between Lovat and Grange. Dr. Carlyle, who afterwards became minister of Inveresk, and the friend of Hume, Smith, Robertson, and Blair, was one day, in his youth, striding contemplatively through a field near Prestonpans, when he was addressed by Erskine of Grange, who was in search of some one to dine with him that day to meet a friend. He invited the young divine, with whom he had some acquaintance. The friend was Lovat, and the social union was of such a character as a young divine can seldom have an opportunity of witnessing. The two old lords of course got fiercely drunk; the most innocent part, on the whole, of their proceedings. They then insisted on having the society of the landlady of the tavern and her female assistants, with whom they danced a series of boisterous reels, interspersed with those roystering personal compliments which are said to be the peculiar attendant of the national dance in its pure state. On the whole, it was such an evening as a young divine was not likely to forget. Lovat employed this convivial friend as one of his legal advisers, and he speaks of the entail of his estate, "which my Lord Grange has laboured these three

years past; and he says now that he believes it one of the best entails in Scotland."* Lord Grange was the great lay head of the Ultra-Presbyterian party, and has been respectfully commemorated by its historian, Robert Wodrow, who notes on one occasion, that "he complains much of preaching up of mere morality, and very little of Christ and Grace."† On another occasion, he is represented, as complaining that "he was extremely abused by not a few at Edinburgh, and represented as a hypocrite!"‡ There can be little doubt of the charges being made; but if they were well founded, he was certainly as much a hypocrite to himself as to others, for he left behind him a diary,§ very full of earnest piety, exhibiting at the same time a feature not so likely to be anticipated, many manifestations of domestic tranquillity and enjoyment.||

Wodrow affords us the following very emphatic picture of the judge's domestic condition, in July, 1730, just before the celebrated abduction of the lady.

"This month I have the very melancholy account of the open breach in my Lord Grange his family. Things have been very dark there for some time, since his lady took up a

* Miscellany of the Spalding Club, ii. 4.

† Wodrow *Analecta*, ii. 207.

‡ *Ib.*, 306.

§ Extracts from the Diary of a Member of the College of Justice, privately printed, 1843.

|| According to his friend Wodrow, his wife was not the only woman whose conduct perplexed the judge. The following passage may not be unacceptable to the dealers in some modern mysteries :

"He tells me an account, which by the circumstances, I conjecture, relates to himself, that there was a woman in Edinburgh under deep distress and melancholy ; in short, her circumstances looked as like a possession as any thing of that nature well could. She spoke of things at distance and secret things. One day a gentleman came to visit her, and seeing her distress, and strange things said and done by her, he was really much frightened and terrified, and when he went he set down some hints of what he had seen, and his own terror in his day-book, and never communicat this to any one. Next day he came to see her, and she grinned fearfully at him, and said to him, 'Feared beast—write no books of me.'"—Wodrow's *Analecta*, iii. 307. Lord Grange mentions in his Diary, a female who beheld visions scarcely less real and effective than that of St. Francis, who may be the person here alluded to.

jealousy of him, charged him with guilt with another, and had spies about him in England, when last there about his son's process of murder. She intercepted his letters in the post-office, and would have palmed treason upon them, and took them to the Justice Clerk, as is said, and alleged that some phrases in some of her lord's letters to Lord Dun, related to the Pretender, without the least shadow for the inference. Last month it seems his lady, being for her drunkenness palpable and open, and her violent unhappy temper and mismanagement, inhibited by my lord, left the family. This was pleasing to her lord, and he did not use any endeavours to have her back, since sometimes she attempted to murder him, and was innumerable ways uneasy. Upon this, my lady gave in a bill to the Lords for a maintenance, and containing the grounds of her separation. But the matter was taken up, and my lord entered into a concert with her friends, allowed her one hundred pounds a-year, and she declared she would be satisfied with that : and so they live separately. This man is owned, by his greatest enemies, to have had the greatest provocations possible, and his family distresses have even drawn pity from them that (I hope) groundlessly have loaded him with the greatest calumnies and reproaches."*

This description of Lady Grange's character and habits connects itself too well with the other circumstances of the story, where we find her, as one of the comforts of her banishment, receiving an anchor of whiskey annually, and liberally partaking of it.† However shocking it must be to modern female ears to say so, it is evident that this unfortunate woman was a confirmed drunkard. She had sworn vengeance on her husband, and her pedigree indicated her as one from whom such menaces were not to be despised. It was recorded of her father, that when he had made a like threat, and was asked how he could entertain designs so horrible under the all-seeing Eye, he answered, that God and he had many things to settle

* Wodrow *Analecta*, iv. 166. Maitland Club.

† Mr. Chambers found this stated in the papers connected with a judicial investigation as to the abduction, from which he made an interesting narrative in his *Journal*, No. 114.

with each other, and they would settle *this* too. Lady Grange was in possession of a dangerous, if not a treasonable, letter by her husband, and she had taken her place in the conveyance to London, to present it at court. On the whole, it is necessary to cast on the times the reproach of saying, that Lord Grange's conduct admits of some palliation. "These were things," he said, "that could not be redressed in a court of justice, and we had not then a madhouse to lock such unhappy people up in." It has justly been remarked, that if she had been the wife of Lovat or Charteris, things would have been more effectually managed, and the world would never have been astonished with the tale of her abduction.

On the evening of the 22nd of January, 1732, Lady Grange, living in lodgings next door to those of her husband, was seized and gagged by several Highlanders, who had been secretly admitted to the house. She declared that they wore Lovat's livery: probably meaning his Tartan. She came afterwards in contact with members of the Fraser clan, and she mentions that Lovat had an interview with her principal gaoler, near Stirling, to arrange as to her journey; but she does not say that she was present. The project was undoubtedly one in which the Jacobite chiefs participated, for the safety of an accomplice, and the security of their cause in general; but there is no further evidence but that just mentioned, to connect it with Lovat; unless his own denial, which is certainly very much in the tone of the man who denied with an oath the charge of swearing, be considered as evidence against him.

"As to that story about my Lord Grange, it is a much less surprise to me, because they said ten times worse of me, when that damned woman went from Edinburgh, than they can say

now ; for they said that it was all my contrivance, and that it was my servants that took her away ; but I defyed them then, as I do now, and do declare to you upon honour, that I do not know what has become of that woman, where she is or who takes care of her ; but if I had contrived, and assisted, and saved my Lord Grange from that devil, who threatened every day to murder him and his children, I would not think shame of it before God or man ; and wherever she is, I wish and hope she may never be seen again, to torment my worthy friend."—*Genealogy of the Hayes of Tweedale*, p. 109.

CHAPTER VIII.

His political Career—Battle of Glenshiel—A successful Negotiation—Loyalty—A Favourite at Court—His Loyalty questioned—A Scene—A Vindication—Its Sincerity tested—His Intrigues with the Jacobites—His Dukedom—His simultaneous Zeal for St. James's and St. Germain's—Deprived of his Independent Company and his Sheriffship—Lord Tinwald—Dr. Patrick Cumming.

LET us now cast a glance at Lovat's political career, or so much of it as has found its way above ground, during the interval between the two rebellions. His first impulses were towards an active partisanship of the house of Hanover. In the following letter to Duncan Forbes, we find him residing in London, and taking a vivid interest in the bill for vesting the forfeited estates in trustees, to be sold for the use of the public. He had already secured Fraserdale's escheat, but, probably as the gift had been much attacked in Parliament, he had some misgivings that it was not beyond all risk. The "two brothers," Argyle and Islay, are still his idols; and the business-like manner in which he speaks of English politics after a life spent between small despotisms in the Highlands, and a great one in France, does credit to his capacity.

"6th of March, 1718.

"MY DR. GEN.—It's now ten at night, and I have not yet had the tyme to eat a bit. The debate in the House of Lords lasted from two to eight, and the two brothers should

have statues erected for them by your Session and countrey, for they spoke to the admiration of all the hearers. The Duc of Mon[trose] and his friend Rothes, who has said such strange things against the Lords of Session, that I leave to others to give you account of. But I only tell you that the Duke and he battled it a long time, in which battle there was good sport to the hearers who laughed heartily. In short the bill was committed by the majority of seven votes. If all Scots had been of a side, that bill had been thrown out. But in short the court will carry any thing.

"My Lord Athol has given a printed petition in his niece's name against my title. I am to do the like against the lady's. Both is irregular and will be rejected. But it's only a point of malice in his grace, which will not avail much to him.

"There are, as they say, great changes this day in the ministry. Stanhope again Secretary of State. Sund[erland] at the head of the Tresery. The D. of Somerset master of horse, and Carlisle President of the Council. They say there is a reconciliation, and that the pr[ince] will drop ye D[uke] and his. A little tyme will show this. I only tell you what's whispered, and I believe not w^out grounds. I'll send you ye petition by ye mail.

"I am, for ever, L."*

Notwithstanding the zeal with which he started, we find his faith wavering so early as 1719. Having obtained but a portion of the family estates by turning Hanoverian, he perhaps expected to gain the remainder by becoming a Jacobite. In that year a Spanish invasion was expected, and it is attested, at Lovat's trial, that he wrote to the exiled Lord Seaforth "to encourage and desire him to come down with his men; and that he, Lord Lovat, would join him with all his, in favour of the pretender."† He happened to show this letter to his neighbour Chisholm of Knockford; an act not in keeping with his usual discretion, for Chisholm sent information of its contents to

* Autograph, original.

† State Trials, xviii. 586.

the government On this, Lovat immediately proceeded to London to clear himself. In the meantime, he appears to have given instructions to his clan to rise on the side of the government, and to make themselves peculiarly officious against Lord Seaforth; for in a contemporary newspaper account of the battle of Glenshiel, in which the Spaniards were encountered on the west coast of Invernesshire, there is this statement.

"'Tis said, the gentlemen of the name of Frazer with their followers, who are well effected to the government, have taken possession of the Castle of Brahan, the late Earl of Seaforth's seat."*

Another news-letter a few days later, says,

"I hear the body of Monroes and Frazers, as also the Sutherland men who were with the King's troops in the action, behaved themselves very valiantly, and did considerable service on the occasion."

In the midst of these statements, stands the following announcement in the "Scots' Courant."

"His majesty has done the Lord Lovat the honour to be godfather to his child; and has appointed Colonel William Grant, of Balandaloch, to be his proxy. The ceremony is to be performed at his lordship's seat in Scotland, for which place he set out on Monday last, together with Colonel Robert Monro, Junr. of Fowlis."

This is a full attestation of the success with which he had re-established his character. But his good fortune did not end here. He being now a potent man at court, and the Seaforth family in tribulation, Lady Seaforth besought him "to do something for her son." He agreed, upon one condition: that the ominous letter—a sword hanging by a hair over his head—might be restored to him. He got possession of the document, and put it in

* "Scots' Courant," 18th of May, 1719.

the fire. "There was enough to condemn thirty Lords there," said a friend, who was with him at the time.* But all traces of the perilous communication were now obliterated, and he would be a bold man who should call in question the loyalty of the king's favourite.

Having, probably, been taught caution by the narrowness of his escape, on this occasion, we find no more overt acts; and any intrigues he may have entered into, must have been managed with extreme caution. He undoubtedly established himself as a favourite with George I.; and in his apologetical speech at his trial, he enlarges on his fortune at court, with his usual luxuriance of description. He says, he received three several letters of thanks from his Majesty and continues,—

"I believe there are Lords in this house—I am sure there are a great many yet alive, that know I was a particular favourite of the late King's: I believe more than any one of my own rank in Scotland. I remember my Lord Townshend told me one day, who was my particular friend, that I was certainly a great favourite of the King, and if all the ministry should join together to hurt me, that it was not in their power to do it—and that he would do me all the service he could: and said, the King would not refuse any thing he should ask for me."

On the same occasion, he tells the following curious little romance, from which it appears, that he narrowly escaped filling the next niche to that of Marlborough, in the temple of heroic fame. The vision of greatness was opened up to him in an interview with Lord Cadogan.

"He called me into his closet with him and told me, "we are now fully convinced, Lord Lovat, that it was you, and a few of the king's friends who were joined to you, that subdued and suppressed the rebellion and extinguished it; and that all that was wrote in the Gazette about Lord Sutherland, was all romance. Now I am so sensible of those services that you have done the go-

* State Trials, xviii. 588.

vernment, that, if you will join yourself to the Duke of Marlborough, to the Earl of Sunderland, and to me, that are thought the favourites of the king, we will, in the first place immediately make you a major-general—you shall have a regiment of foot or dragoons, and 3000*l.* a year pension during your life. My Lords, if I had accepted of that offer, I had now had the best estate in Scotland, and would have been fair for being one of the Field Marshalls of England, being the oldest officer.”*

His reason for rejecting this brilliant offer was that it involved a desertion of his adopted patron the Duke of Argyle, who had been a father to him and had treated him as his own child; and as he says on another occasion, to John Forbes, “I have one good principle—think of me what you will—I never did nor will forget a good service.”*

Five years after the battle of Glenshiel we find him addressing the young Prince of Wales, the son of George I.—who two years afterwards was to be George II.—in terms of high loyalty, enlarging on his own devotion, and hinting that the peace of the country was likely soon to be disturbed; an expectation which he had perhaps his own peculiar reasons for indulging. An extract from this letter, directed from Beaufort, the 24th of July, 1724, may be taken as a specimen of his composition and orthography in French, a language with which he frequently flavoured his ordinary correspondence, as many scraps addressed to Duncan Forbes, not possessed of any further intrinsic interest, attest:

“J’esperois avant le temps cy, avoir l’honneur de rendre mes devoirs, tres humbles, à votre altesse Royale à Londres; mais j’ay eu une fort terrible chute de mon cheval, qui attira une gross maladie sur moy, dont je ne suis pas encore bien retabli. Quand je serai en etat de faire le voyage, Je suis resolu d’aller rendre mes devoirs au Roy et a votre altesse royale, et leur rendre

* State Trials, xviii., 830.

† MS. at Culloden House.

*compte de la situation de ce pays ci, qui est le plus dangereux des trois royaumes."**

He seems, during the current of his law suits, to have really desired to establish the character of a respectable worshipful member of society, looking discreetly after this world, without totally forgetting the next. In a highly curious passage of a letter to John Forbes, of the 10th of April, 1731, he says:

"I am much indisposed since I saw you at your house. Many marks appear that show the tabernacle is failing. The teeth are gone, and now the cold has so seized my head, that I am almost deaf with a pain in my ears. Those are so many sounds of the trumpet that call me to another world, for which you and I are hardly well prepared. But I have a sort of advantage of you, for if I can but die with a little of my old French belief, I'll get the legions of saints to pray for me; while you will only get a number of drunken fellows, and the innkeepers and tapster lasses of Inverness; and Mr. Mc Bean that holy man, &c."†

From the year 1729 downwards, we find him struggling hard with various rumours about disaffection, arising probably out of intrigues which have alike baffled the government of the day, and the biographical investigator. Mr. Fraser of Phopachy, a gentleman of his clan who has already figured in these pages, appears, if we may judge from these mystical expressions in a letter of his lord's, to have got an insight into some of his transactions. The letter is dated the 7th of April, 1729.

"As to Phopachy, I believe he is quite mad or really possessed with the devil, for as I came home last night from the King's advocate's house, I got a letter from Castle Ladder, of which the enclosed is a copy, by which you will see what a situation I am in with that villain."

He proceeds to say, that this undutiful clansman is pre-

* Autograph in possession of Mr. Watson, Princes Street, Edinburgh.

† Culloden Papers, 122.

paring a memorial to be presented by "a Lord in the south" to the government, "that is full of all the crimes that ever was invented, and capable to hang all England if it were proven." But exulting in conscious innocence, he assumes his high moral style, and says:

"I bless God I never was in my life guilty of a base or villainous action, so I do not fear this wicked calumny. But I think much shame that a monster called Fraser should endeavour to give a scandalous impression of me to the world.

"I cannot," he continues, "think but the law does furnish redress of such a barbarous villany as this. I believe that the wicked man does all he can to provoke me to use violence against him, but he is much mistaken, I hope the laws will do me justice."*

The following curious narrative, in an unsigned letter to Duncan Forbes, seems to point at further suspicions of disaffection. It is dated the 25th of January, 1733. The person who, for some small reason unknown, is called the Squire, is Mr. Brodie, who, on other occasions, is called "The Beast," or "The King of Beasts," in reference to his office of Lord Lyon, King at Arms, which is also the occasion of some witticisms in this narrative:

"I am obliged to give you an account of a political war that had very nearly ended in a bloody one. When the squire was indisposed, as I wrote you in my last, but on the recovery, Lovat made him a visit of civility, when I happened to be present, as were also Louis Colquhoun, Judge Elchies, and Brodie of Whitehill. While I was there, nothing happened but common civilities, but upon my retiring it seemed good to the squire to fall upon the peer as if he had really been a Lyon. He upbraided him with ingratitude for deserting his friends the Grants, railed at him for disobeying Lord Islay's orders, which he said he had for directing affairs in the north, and which orders he could produce, and threatened to glow him up with Islay. Lovat kept his temper pretty well, though he really got very

abusive language, with which all the company chimed in. He said he could vindicate his conduct very easily, and defied him to do him any harm above, with any man of note whatsoever. Thus the visit passed; but next day happening to meet at the cross, the squire began again in the same string, which so provoked the peer, that putting [on a] stern face, he told him he had suffered too much of that already, and at the same time by his posture threatened his majesty with a return which would have obliged him to draw, if some people had not interposed and parted them. Lovat in the height of his passion has writt a long letter to the Earl of Islay in his defence, where he gives the squire very rough language. I hope he will mend the letter a little before he sends it, for he was in such a passion when he read it to me, that I could get nothing said to him. He assures me, that though you and all his friends make up matters with the squire, yet he never can after the rude manner he has treated him with.*

Perhaps these fears that Lovat would expose himself by the indiscreet indignation of his outcries, were thrown away. He had long been in possession of the savage virtue of controlling the passions when there was nothing to be gained by letting them loose. In the above scene he appears to have exhibited an excellent command of temper, in which an Indian of North America could scarcely have excelled him; and his bursts of rage, which were not few, and very loud and formidable, usually came forth, either when he was disposed, as he probably was in writing to the Earl of Islay, to act the part of the honest indignant who cannot control his feelings, or when he desired to intimidate an opponent, as he seems to have chosen to do with the Lyon, when he found that by keeping his temper he only exposed himself to more attacks. There appears to be no means of discovering whether he then sent a letter to Lord Islay: four years afterwards he sent to that powerful nobleman, who, under Walpole's administra-

* MS. at Culloden House.

tion, was called the King of Scotland, a memorial of his services and sufferings under unjust suspicion. The former department of this circumstantial paper has already been quoted,* because it affords an autobiographical account of Lovat's conduct in 1715: the remainder follows.

"In this poor situation was I for nine years, fighting for the possession of the estate of Lovat, till such time as your lordship thought it for the interest of the government, to re-establish the Highland independent companies, then your lordship was so good as to procure me my old company again, and when your lordship came into the administration you were pleased to procure me two marks of distinction, a commission as Lord Lieutenant of the shire of Inverness, and a commission as Sheriff principal; and by the providence of God and your lordship's protection, I got the better of my enemies, and at a vast expense got possession of the honours and estate of Lovat, with all the rights that the laws of Scotland can give me, so that I had no difficulty further in life but to live frugally, in order to pay the great debt I owe for that natural and beloved acquisition of mine, which has cost me above thirty years' purchase, without the least consideration as heir male of the family, for an Arabian would have got it cheaper than I. [What] I did was by your lordship's particular advice, and I bless God I am clearing off my great debt very well, and if God spare me five years in health, I will not be owing any debt on my estate, which I bless God is in better condition than it has been in these hundred years past, and that only by the extraordinary providence of God and the protection of the family of Argyle.

"Now, my good lord, I humbly refer it to your serious reflection, whether or not it is possible that I, in my senses and ~~reason~~, could have the least thought, or imagination, or wish, to see another government, or any disturbance in this. Surely, I must be a madman if I would wish the Pretender to prevail, who used me like a scoundrel, and put me in a dungeon, upon the mere suspicion of my being a partisan of the family of Hanover. And if the Pretender did prevail, of which there is no manner of probability, and which I pray God may never happen, would I not be an idiot and a madman to imagine that any service I could do to the Pretender could balance the interest of the fami-

* See Chap. V.

lies of Hamilton, Gordon, Athol, Seaforth, who have been my professed enemies these forty years past, and who were always believed to be friends to the Pretender, and must naturally be his favourites if ever he prevail. Now, my lord, I have no say, or chance, for the standing of my family but by this government, and except the family of Argyle, I know no family in Scotland that can less expect mercy from the Pretender than my family; for as Duncan Forbes told me once, I might expect a gallows ten feet higher than ordinary if the Pretender prevailed, so that I must think that no man upon serious reflection can believe, that upon any consideration whatever, I could ever act or contrive any thing against this government, if twenty villanous Knights of the Post should assert it. I will tell your lordship some facts, which I hope will convince you or any man that thinks, that I believe there is a God and a future state, that I am entirely and absolutely innocent of the false and villanous aspersion laid to my door. For, in the first place, since the year 1715 that I engaged myself in his Majesty's service, more for the love and attachment I had to the Duke of Argyle and your lordship, than for any favour I then received from the government, I solemnly declare before God, and as I must answer to Him at the great day of judgment, I did not write one single letter beyond seas, or to any man in the Pretender's service or interest, and if the contrary is proven by any of the race of Adam, I will voluntarily sign the severest sentence that can be pronounced against me. For I was so far from keeping any correspondence with any man abroad, that I was so foolish as to lose several considerable things I left in France for my not writing or sending for them; I left some money in the hands of Monsieur Rogeault, who was Intendant of Rouen when I came from France; I likewise left my coach and chaise, my pictures and my library of books, which were of value, at Somaur, and as I must answer to my God, I never sent a single letter to recover them since I came from France. So your lordship will see how basely I am abused, and as to the second aspersion, of my design to send my son to France to be educated, I am persuaded that Divine Providence, to protect my innocence, has allowed an impudent villain to advance such a manifest lie against me, that can be refuted by several honest gentlemen to whom I have communicated the project of the education of my children these several years past. Your lordship knows that Dr. John Clark of Edinburgh is a man of honour and veracity; he can

declare upon soul and conscience that I agreed and concerted with him, about two years ago, that he should have the direction of the education of my children, for which I promised him 100 guineas for his pains; and the doctor can tell your lordship, or to any man that will ask him the question, that his scheme was, and is, that my two boys should stay at the school of Dalkeith till they were masters of their Latin, that then they should come in to Edinburgh, to stay two or three years at the College in that University, and at the same time learn what they could of the Scots' law, and that then they should go over to Holland, and stay two or three years there to learn the civil laws, and the other parts of learning that they would be capable of. By this time my eldest boy would be past twenty, and fit to travel through Germany, France, or Italy, or any other part of Europe that he had a mind to see. This is the true scheme that Dr. Clark and I had a mind to follow, and in pursuance of it, since my eldest boy was so tender and so much threatened with a decay that I durst not venture to send him south this year, Dr. Clark sent me one of the ushers or doctors of the school of Dalkeith to be his tutor, and to teach him and his brother their Latin in the same way that it is taught at Dalkeith, that they might be the fitter to go to that school the next year. He is one Mr. Hacket, a very careful, prudent, young gentleman, and he is here since the month of October last. This is the sincere, real fact, for I wish I may never see God in mercy, and that none of my children may be alive before this letter comes to your lordship's hands, if ever I had a single thought or intention to send my boys to France till first they had got all the Scots and Dutch education that I now have described to your lordship, and I hope you will entirely believe that I would not make such an imprecation to myself and children, but for truth's sake, for all the king's dominions and estate upon earth.

"I therefore earnestly entreat and hope, that if there remains with your lordship any part of the friendship that you have so long honoured me with, and which has been my greatest support, that you will now be so good as to show your resentment against my calumniators and false accusers. I cannot but be persuaded that the wild, unnatural, and ungrateful wretch, James Fraser, of Castle Leathers, commonly called Major Cracks, for his lies, has been one of the Knights of the Post that has belied me; because, since he came home, he was so insolent as to send me a threatening message, by the Sheriff Depute of Inverness, and by

the Commissary, that if I would put him out of my lands that he now possesses, of which I gave a tack, or lease, to one of my lieutenants, that he would go immediately and be an informer against me, though he was it not before ; and he was so impudent as to tell these gentlemen, and Major Caulfield, that he would send me a challenge to fight me, if he could get any man to carry it, notwithstanding that he is known to be the greatest coward, as well as the greatest liar in the whole country, for several different persons have affronted him publicly, and he never had the soul to fight them or resent it. But since this letter is too much swelled already, I will refer to another paper to give your lordship a true and faithful account of that ungrateful and unnatural monster, that I relieved from mere beggary, which will prove to demonstration that he is, and always has been, one of the greatest rogues that this country has produced. The only reason that I countenanced him for, was his brother Culduthal's sake, who was my lieutenant, and one of the honestest men in the world, as all his brothers were, who always condemned and quarrelled him for his lying, rhodomontade, knavish ways of life.

“As to my zeal and attachment to this administration, I humbly think I need not appeal to any other voucher than your lordship. I always loved Sir Robert Walpole, more than all the ministers that ever I knew in England, since the first time that my brother, Brigadier Grant, procured me his friendship ; and Sir Robert cannot but remember, that I was always his faithful partisan, whether he was out, or whether he was in the administration ; and though he did neglect to give me the 200*l.* that I received every year by his mere goodness and friendship till the late king's death, yet he did not in the least diminish my zeal for him, which your lordship was witness to, for at the last general election of the peers, when the patriots were at the height of their malice against the administration, I was as faithful a partisan as your lordship and Sir Robert had in Scotland ; and it was not then bairn's play, for I thought to lose my life in the borough-room, as, indeed, I thought that the Duke of Argyle and your lordship would lose yours in the midst of the king's friends ; and my Lord Cathcart, who sat by me, knows that I was resolved to fight to the last gasp in defence of the administration, and especially in defence of your lordship and the Duke of Argyle, whose lives I thought then in great danger. And when the election was over, and that we came out of the house, I was pelted with showers of stones and clods, and my chariot almost broke by

the mob of the patriots. I humbly think that should not be so soon forgot; nor can I imagine that your lordship has forgot what you told me at the Duchess of Argyle's at Duddingstone, when I had the honour to take leave of your lordship. You were so good as to ask me what commands I had for you. I told your lordship that all I asked was, if you was pleased with my behaviour during your campaign in Scotland, and your lordship was so good as answer me, that ye was so very well pleased with my conduct and zeal, that you would let the king and first minister know of it, which would turn to my advantage. For God's sake, my good lord, what have I done, as yet, to disoblige you or the administration? I punctually obeyed all your commands, and I never refused any thing that was proposed to me for the king's service, and to be suspected by the administration or government, is what I never would imagine.

"Durum. Sed levius sit patientia,
Quidquid corrigere est nefas.

"I hope your lordship will easily believe, that no disaster in life will ever diminish my zeal and attachment to the family of Argyle, and to your lordship, who has always been my constant protector. And whatever effect this hellish storm may have against me, your lordship will find while there is breath in me, that I am, and will be, with unalterable zeal, love, and respect,

"My dear lord,

"Your lordship's most affectionate cousin,

"And most sincere and faithful slave.

"LOVAT.

"Beaufort, 27th of May, 1737.

"P. S.—I had the honour to write to your lordship, to my brother Coll. Campbell, and to Sir James Grant, some time ago, that if your lordship was so good as to take any concern in the education of my eldest boy, that you would have the disposal of him before any man on earth. It is strange to think, that after that I would have an intention to send him to France, if I was not downright mad and bereaved of my senses."*

To all the lovers of the earnest, the robust, the manful, the healthy in style, Lovat's letters must be eminently

* Lovat Documents.

satisfactory. There is no petty sophistry, no equivocation, no mincing morality,—all is as wide-hearted, as broadly announced, as the sternest worshipper of the earnest can desire; and if clear, broad, powerful diction were accepted as the sole and conclusive testimony of inward sincerity, he might have gone down to posterity as one of the most honest-hearted men that ever breathed. Unfortunately the conclusion that must be reached on a broader induction, is, that the superlative strength of his imprecations denotes that he is telling unusually flagrant falsehoods. His argument throughout is, that to suppose him to have acted as he is accused of having done, he must be indeed a great rascal. This he considers a *reductio ad absurdum*; and it would indeed be very conclusive, if it had not the defect too characteristic of the application of that argument to ethics, that the *absurdum* only exists in imagination, not in nature.

Let us see how far this general conclusion is justified by any facts of which we are in possession. In 1736, the year before this letter was written, appears on the stage John Roy Stuart, a celebrated Jacobite, as having broken out of Inverness gaol. “Who was sheriff at that time?” is a question put to a witness at Lovat’s impeachment; and the answer, given in the manner of cause for effect, was, “My Lord Lovat.” Chevis, the witness, continuing to give a narrative of Roy Stuart’s proceedings, says, that when he had broken out of gaol he went to live for six weeks at Lovat’s house.

“He was going abroad then, and the ship was prepared for him before he left Lord Lovat’s house; and he went in my Lord Lovat’s chaise or chariot.”

Question—“I desire you will inform their lordships whether any message was sent by the noble lord at the bar by Roy Stuart and to whom?”

Answer—"I heard the noble lord at the bar charge him with a message to the Pretender."

"What do you mean by charging him with a message?"

"To assure the Pretender, whom he called his king, of his fidelity; and that he was determined to live and die in that cause."

"I beg that he may inform your lordships whether there was any thing said at that time in relation to any commission or patent?"

"He charged him to expedite his sending his commission of Lieutenant-General of the Highlands, and his patent of a Duke."

It would appear that these honours had been matter of previous negotiation, and that Roy Stuart was to urge them forward. The commission and patent were granted in 1742. During Roy Stuart's sojourn at Castle Dounie, the noble host and his guest had many convivial celebrations of their devotion to the exiled house, and at least on one occasion, their enthusiasm rose too high to be expressed in any meaner language than the sublime grandeur of Celtic poetry. It is always the fate of that language to suffer in translation; and so the House of Lords had no better test of its merit, than the following couplet translated by Chevis—

"When young Charley does come o'er,
There will be blows and blood good store."*

All these, and many other manifestations, would doubtless take place in the public hall of Castle Dounie, in the presence of the clan, in whose faithful ears it would be as safely deposited as if it had been whispered to the icebergs of Spitzbergen. From 1737, indeed, it is clear that Lovat was at the head of an association of the Highland chiefs, for the restoration of the exiles, with which many of their clansmen must have been well acquainted.

* State Trials, xviii. 588-9.

They had much communication with France, and more than once gave the government of that country notice of favourable movements for an invasion.* His zeal, indeed, in the cause, which he so ably represented to Lord Islay as involving infamy and insanity, is so well established, that even his own profuse asseverations of it to Charles Edward and his followers do not discredit it. There is evidently considerable truth in the following very solemn appeal to Murray of Broughton.

“I am like to make my exit very soon out of this troublesome world, and I thank God! I have served my king [that is King James] faithfully from my infancy till now; and that it is well known by all the gentlemen in the king's interest in the north, that for many years past I was the life and spirit of the king's affairs in these countries, and as I made it my only business to encourage and keep up the hearts of the king's friends, it was very fatiguing and troublesome to me, and vastly expensive, by my extravagant housekeeping, and giving away often a little money to the king's friends that wanted it much, and from whom I never expect any payment.”†

The formation of independent companies in the Highlands was a very difficult edge-tool for a British minister to handle; for while on the one side it tied the chiefs to the crown, and made them, in some respects, participators in government measures, and keepers of the peace in their countries,—on the other, it enabled them more effectually to arm and discipline troops which might be turned to purposes very different from those contemplated by the government. It was, in every respect, highly advantageous to Lovat's policy to have the sanction of an authorised command added to his authority as a chief; and to be able to discipline and arm his clan, all devoted as they were to himself, in the light of day, and

* State Trials, xviii, 589-590.

† State Trials, xviii. 749.

under the eye of those against whom he might probably have an opportunity of leading them. He was not a man likely to neglect his duty as colonel of his clan, and he boasted to the House of Lords that General Wade and two military friends had said that they "never did see such a fine company in any country." After holding his command for fifteen years, he was deprived of it. He was not long afterwards removed from his office of sheriff. Walpole, whose policy it was, in later life, not to make treason conspicuous, had probably obtained from time to time notice of his proceedings, and silently despoiled him one by one of his elements of power. The old man seems to have been maddened and mortified by these humiliations. After his capture he said, speaking to Sir Everard Fawkener about the removal of his commission, "that if Kouli Khan had landed in Britain, he thought *that* would have justified him to have joined him with his clan, and he would have done it." To his friend Erskine, of Tinwald, he breathed forth the following notes of high-minded and decorous indignation. He was a master of the grave and dignified in rhetoric, when he chose, as well as of the fiercely indignant or the pathetic.

"I told you, my dear lord, before you went to London, that I was persuaded that my disgrace would augment, because it began without any just reason or foundation. I find that I guessed right; for the sheriffship of Inverness is taken from me, in the same manner that my company was taken from me, and that is, without attributing any fault to me, and the country is surprised with the one as they were with the other, and really strongly offended and affected. All I shall say of this part of my disgrace is, that the king's service will suffer a great deal more from it than I will; for I can freely say, in face of the sun, that I was fitter to be sheriff of that great and troublesome shire, to keep it in peace and good order, than any one man beyond the Grampians; nay, I may say than any man in Scotland, for, be-

sides my own interest in the shire, all the principal gentlemen who have estates in it are my near relations, and upon my account were more diligent than ordinary to keep their country and people in peace, so that except private theft, which can never be curbed and extinguished without a particular act of Parliament for that purpose, during the many years that I was sheriff there were neither riots nor public quarrels, and there were few shires in the north that could say the same. I can likewise say that I was more than one hundred pounds a year out of pocket by the sheriffship; and all those that know my family, know that it was no feather in my cap, for my ancestors were sheriff of Inverness and Murray, *simul and semul*,* above three hundred years ago, which appears by the charters of several gentlemen in both these shires, so that I should now borrow the motto of Baron Kennedy and his family, '*Fuimus.*' And what advantage the administration has by taking it from me, is more than I can comprehend.

"I remember I begged your lordship, when you was going to London, if you found a proper occasion to tell the Earl of Islay, who was for many years my patron and warm friend, that whatever wrong impressions his lordship got of me, they were only the product of lies and calumnies; for I defy the devil and all the men on earth to prove that ever I spoke a disrespectful word of his lordship, but, on the contrary, as I really was his faithful and zealous partisan, and not an useless one, I professed it openly wherever I was, even in presence of his greatest enemies; and what I have done to fall into his displeasure, I declare faithfully I do not know it, nor can it have any other foundation than an unhappy prejudice founded upon calumnies and lies."

After reiterating his grievances in a somewhat tedious manner, he thus bravely concludes:

"However, I bless God, that whatever I suffer, or may suffer, no power can take away the comfort that I have of a clean conscience and upright heart, that never betrayed a private man nor a public cause; and I believe those two great men have had several partisans, whom they heaped with riches and honours, that even abandoned themselves, and sometimes betrayed them. I could name several of them, that they cannot have forgot; and while I was their partisan for many years, I defy them to have the least ground of suspicion of my fidelity and zeal for

* So in the MS. but it should have been "*semel.*"

their persons and interest, and now the world sees my reward ; but no disappointment of whatever kind can alter my upright way of thinking." *

Dr. Patrick Cumming of Relugas, a very eminent Presbyterian clergyman, was connected with Lovat by marriage. In those days, when political events were guided less by popular impulses than by the skill of statesmen, every department had its manager; and in the Presbyterian church there was always some chosen instrument of the existing powers. Patrick Cumming, minister of St. Giles', and professor of church history in the University, of Edinburgh, appears to have been to the government of Walpole that guide in ecclesiastical politics, and distributor of patronage, which Carstares was under William III. Such a person was well worth courting, and of the sacrifices which Lovat made in the cause, he gives us the following picture in a letter of the 11th of September, 1740:

" Having gone on Sunday, the 7th of this month, without a big coat† to the old kirk (which is one of the coldest kirks in Edinburgh), to hear Mr. Patrick Cumming's sermon, I caught such a violent cold, that has almost already cost me my life, for Monday and Tuesday thereafter I had such a violent cough without a minute's intermission that rent my head and bowels to pieces, and I am persuaded no man ever had such a violent cough without half a minute's intermission, as I had on Monday from morning till eight o'clock at night, and if it had continued all that night I am persuaded I had died of it." ‡

The reader shall now be put in possession of more tangible evidence of his desire to secure the favour of this important personage. The following letters addressed to him, are worthy of being compared with the others from the pen of the same author. They are calm, grave, undorned with imprecations or declamatory periods, and in all

* Jacobite Correspondence of the Atholl family.

† *I. e.* a great coat.

‡ Miscellany of the Spalding Club, ii. 9.

respects written in a style and spirit adapted to the profession and character of the person to whom they were addressed.

“REVEREND AND DEAR COUSIN,—I hope this will find you and your worthy lady, and your lovely children in perfect health, and I beg leave to assure you and them of my most affectionate respects, and that of this family’s. The last year, when by the lies and calumnies of some of my own kinsmen, my Lord Islay was made to believe that I was resolved to send my son to France, to breed him after the manner of that country, which I no more thought of than to drown him in the river of Beaulie; yet this false information made my Lord Islay write to me as my friend, and as a minister, that he thought it proper I should send my son to be bred in England, to take off the bad impressions that Sir Robert Walpole had got of me as to my affection to the government. I told my Lord Islay that the bad impressions that Sir Robert had got of me, were only founded upon lies and calumnies. That I was as faithful a subject as he was, and that in my own capacity I had done as good service to the king and government as any of my own rank in the island, and that therefore I would not send my son to England as a hostage of my fidelity, which I defied the world to attack with justice and equity, but that if my son was stronger and a few years older, I would send him to his lordship to be bred in the manner that he pleased. In the meantime I asked leave to send him for a twelvemonth to Glasgow, to Principal Campbell, where I believed he would be very happy; but I was strangely mistaken, for they have turned the child’s head, and filled him with pride, vanity, and luxury. I suppose they tell him that he is the chief of a numerous clan, and heir to a great estate. Poor man, he little considers what pains and trouble it cost me to get my estate, for it is by the miraculous providence of God that I possess what I have. After a vast fatigue, labour, and industry, I truly yet owe 7 or 8000*l.* sterling. It is true that is no insurmountable debt on such a great estate as mine is at present, with good management; but if I should die, and that my son should come into the estate with a young head turned to vanity and luxury, he would soon make himself miserable, his estate would be in his creditors’ hands, and his kindred would become despicable, whereas if he is rightly educated, without pride and the ordinary vices that follow it, he may make the best of figures absolutely of any man this side

of the Grampians, for if I live four or five years, I'll leave him an estate of betwixt 40 and 50,000 merks a year free rent, and the most improvable of any estate in the north of Scotland, and the best situate. All this makes me resolve positively to have my son educated after my own manner, that is a true Scotchman and a Highlander, for I had as rather see him buried as see him bred a thorough Englishman. For this reason I intend to bring him immediately from Glasgow to Edinburgh. I have acquainted my Lord Islay and my friends at London of it; Sir James Grant, Sir Robert Monro, and Col. John Campbell, my brother-in-law; and I wrote to them all that I was to bring him to Edinburgh, and if I could prevail with you as my relation to accept of him, that I would settle him with you; and if you refused to receive him, I would endeavour to settle him with Mr. Kerr, Professor of Humanity, who is my friend; and I wrote that you were both good Whigs, and friends to my Lord Islay. Now, my dear cousin, I come to the point; I beg you may consider that your mother and great grand-mother were daughters of the family of Lovat, and by consequence that my blood runs doubly in your veins. Besides, I hope you believe that I have a very sincere esteem and respect for your person and merit. After what I have said, I hope you cannot take it amiss that I should most earnestly beg of you to receive my eldest son into your family, which would be an inexpressible comfort to me, and a great ease of mind, since I am fully convinced that no man in Scotland can direct or instruct him better, as to every thing that a man of quality should know, that is the head of a good family, and the chief of a brave people, than you can do; so that I would be entirely easy and settled in my mind if he was with you, as if he was with myself every day; and I know your worthy lady is so good a woman, that she would take as great care of him as she would of a family of her own children; so I beg of you, my dear cousin, not to refuse my earnest request, which is so essential for the welfare of the family of Lovat, and of the name of Fraser, to whom you are more than once related. And as to his board, &c., you shall have *carte blanche*, and regulate every thing according as you please; and my cousin, William Fraser, who is my doer, and gives you this letter, will pay you punctually.

"I shall be mighty impatient till I have the honour to hear from you, for upon your answer my future satisfaction very

much depends; and I hope you believe that I am, with the utmost esteem, attachment, and respect,

“ Reverend and dear sir, your

“ Most affectionate Cousin, and most

“ Obedient faithful, humble servant,

“ LOVAT:

“ Beaufort, the 6th of April, 1739.”

He must have made himself very sure that Dr. Cumming would not accept of the proposed charge, ere he committed himself to so very persuasive a letter. The answer was no doubt according to his expectations and calculations, and drew from him a rejoinder, in which, after repeating his views of the expediency of the arrangements, and expressing his regret that it cannot be followed out, he says,

“ I had a letter from the Laird of Mackintosh, of which I send you a copy, recommending one Mr. Menzies to be governor to my son; he says that he speaks and understands the Irish language, and I do assure you, dear cousin, that that is a qualification that I love much, and that I'll prefer any man that has it, to a man that wants it, *cæteris paribus*, as to other necessary qualifications.

“ After what I have said, dear cousin, I refer entirely to you and to Dr. Clerk to fix a governor with my son; I shall most willingly give him 25*l.* a-year as you propose, and go into any other condition that you shall think proper. But I beg again to put you in mind, that I had rather have the man that speaks Irish, than another, providing you know him equally deserving. I am sorry my child should want a governor so long, though he has one Mr. Finlayson that confers with him every night; so I shall long, dear cousin, to hear from you on this subject, with your full and free opinion and advice in this affair, that is of the greatest consequence to me, and to my family, of any in life.

“ I earnestly beg pardon for this freedom and trouble, and believe that I am with unalterable attachment and respect,

“ Reverend and dear sir,

“ Your most affectionate cousin,

“ Most obedient and most obliged humble servant,

“ LOVAT.*

“ Beaufort, April 11, 1740.”

* Originals in possession of Sir Thomas Dick Lauder.

In 1740, when he was in Edinburgh, he had interviews with the "illustrious brothers," Argyle and Islay respectively, and conducted himself with his usual ability. At the duke's levee, he met a Dr. Charles Stuart. "The duke out of joke would fain have put us by the ears, because he said we were both Jacobites, and that he would learn something from our quarrel." A person of inferior genius who had just despatched a letter full of fidelity to the exiled house, which was probably Lovat's last occupation, might have been confused, and at all events have denied the accusation; but he was too great an artist,—he chimed in with the tone of jocularly. "I told him that the doctor and I knew one another too well to be bit that way." Then resuming his grave tone he continued, "I told the duke that the doctor was the happiest man in the world; that he always was a Jacobite; that he is a Jacobite; and that he always will be a Jacobite while he lives; and yet that he is a favourite with all the great men of the court, and of the government, and if a lying scoundrel said that my Lord Lovat was a Jacobite, he was persecuted for it without any more inquiry."*

In his interview with Islay, he was severely tried. "I was several days there, and saw him take in a great many people to his closet, one after another, but he never called me, so when the levy began to grow thin, I went off without saying any thing. At last, about a fortnight ago, he took me by the sleeve, and bade me go and speak to him in his closet." At this interview he was flatly accused of Jacobitism.

"He said that my house was a Jacobite house; that the discourse of those in my house was Jacobitism, and that I con-

* Miscellany of the Spalding Club, ii. 6.

versed with nobody but with Jacobites. He owned to me that the villain Castleleaders told him the strangest things upon this subject ; I answered his lordship, that Castleleaders was such a known liar and rogue in the country, that no honest man would drink with him ; his lordship told me that the Jacobites themselves said openly that I was a Jacobite ; I answered him, that the Jacobites had reason to call every man a Jacobite, that they might endeavour to draw him to their party. He then told me, that the first minister had intelligence from abroad of my correspondence with the Pretender. I answered his lordship with a little warmth, that these stories were but damned calumnies and lies, and that I did not for many years write a letter to any person beyond sea, which indeed is true."

We may divide his politics at this period into esoteric and exoteric. The former was for his brethren the Jacobites, and expressed in secret fraternal communion. The latter was the principle of practical politics, which he might avow to the world. After the indignity offered to Scotland, at the period of the Porteus mob, a patriot or opposition party, separate from the Jacobite, had made great progress. Argyle was at its head, while his brother Islay remained with the court. It was a very serious question with Lovat, to which of these branches he should adhere. The interview with Islay decided the question. It gave no hope of the restoration of his sheriffship or independent company ; and he says to his correspondent—

" I must now tell you that when I came here, I was not determined to dispose absolutely of myself for some time ; but when I found the Duke of Argyle at the head of the greatest families, the richest families, and the most powerful families in the kingdom, openly proclaiming and owning in the face of the sun, that he and they were resolved in any event, to stand for and endeavour to recover the liberty of their country, which is enslaved by the tyranny and oppression of a wicked minister, I own my heart and inclination warmed very much to that side ; and on the other hand, when I found that the minister for the court, the Earl of Islay, said nothing to me that regarded my person or family, but that the first minister accused

me of being a Jacobite, and that James Fraser, of Castleleaders that infamous liar and informer, had told to himself the strongest things of me upon that subject, which I answered very cavalierly, both as to the first minister, and as to his lordship, and when I found that he asked nothing of me, nor promised me any equivalent for my company, or any other particular favour, I then plainly concluded that he left me to myself to do what I thought fit."

He had some impediments to overcome, ere he was received into companionship with such men as the Dukes of Hamilton, Montrose, Buccleugh, Queensberry, and Roxburgh, with Lords Tweeddale, Anandale, Aberdeen, and Marchmont; but he was finally successful, and thus triumphantly records his enrollment.

"I am now, my dear cousin, at the end of my project. You see me embanked over head and ears with the noble party of the Patriots, and you see me received with open arms, even with the great families that were my enemies, who will not only be my steadfast friends, but will continue for their own sakes friends to my son, and to my family; so that I humbly think, that by God's help, I have done the greatest service to my son and family that was possible for me to do, which I hope will redound to the interest, honour, and glory of my kindred. After I found that those great men received me with open arms, I thought I would not in honour go into their party with bare brix. I told them that I would not only give them my vote, but that I hoped to gain them the Shire of Inverness, by choosing my cousin, the Laird of Macloed, as member; you see now, my dear cousin, that the election of Inverness-shire is mine more than the Laird of Macleod's, and that every man that wishes me well, and my family and kindred, should support me in carrying that election for the Laird of Macleod."

The opposite candidate was Sir James Grant, of Grant, the representative of the family to which Loyat's previous wife belonged. Lovat was not one who carried on trifling wars, and the strong measures he proposed to adopt, give us an additional insight, if any were necessary, to his system of practical ethics. "Glenbucket,"

he says, "did me the honour to make me two visits, and we spoke seriously on this subject, and Glenbucket is afraid that neither Sir Alexander Macdonald nor Glengarry will qualify. In that case, we will lose our election; but I entreat that you speak seriously to my lord, that he may engage Glenbucket to write strongly to Glengarry, to persuade him to take the oaths. I know he has no regard for them, *so he should not stand to take a cart-load of them, as I would do to serve my friends.*"*

Let us exhibit on the best of all authority—Lovat's own confidential letters—the dangers incurred by any gentleman of his clan who might differ with him in election politics. In this struggle for the Laird of Macleod, in opposition to Sir James Grant, in 1740, Mr. Fraser of Fairfield, the owner of a small estate near Inverness, who should of course have taken the party of his chief,

"took his journey by Castle Grant, and for a promise that the Laird made him of an ensigncy to his son, the poor covetous, narrow, greedy wretch, has renounced his chief and his kindred. * * * He then discovered himself to be an unnatural traitor, an infamous deserter, and an ungrateful wretch to me, his chief, who had done him such signal services. * * * He should be hanged for deserting of me to serve any Grant that ever was born, or any other Scotsman. William Fraser, my doer, having told me that the Laird of Grant had promised him an ensign's commission for his son, providing that he would vote for his father, and that he believed, that if I would secure an ensign's commission for his son, that he never would vote for the Laird of Grant, this made me resolve to speak to him before his cousin Mr. Cumming, and my doer, William Fraser. I told Fairfield that I was far from desiring his loss, or any hurt to his family; that since the Laird of Grant promised him an ensign's commission for his son, that I would do better. Grant's promise was precarious, but, that that moment, before his cousin Mr. Cumming, I would give him my bond for 500*l.* sterling, obliging myself

* Miscellany of the Spalding Club, 4—18.

to get his son, an ensign's commission in two months, or to give him the full value of it in money, to buy it for his son. He then most insolently and villanously told me that he could not accept of it, that he was under previous engagements to the Laird of Grant, and that he must keep them."

The insolence and villany of refusing the proffered bribe, did, Lovat admits, put him "in some passion." His first glance is towards the law, and he hints that he may be able to wrest Fairfield's estate out of his hand. He alludes to the recusant having once proposed to sell it, when he interposed, "I would not allow him to sell it to a stranger, because I had a strong claim upon it, that I believe will reduce the rights of it when I please, and that, whoever bought it, I would spend a thousand pounds to make my claim good;" and he says, chuckling, that new documents have been put into his hands, tending to strengthen his claim, "so that Fairfield is as mad as he is unnatural and ungrateful." But more frightful terrors hanging over poor Fairfield's head, are intimated in the following ominous passage.

"All my fear at present is, that my cousin Gortuleg, who certainly is the prettiest fellow of my kindred in the Highlands, will fall foul of Fairfield, who I believe is stout, which is the only good quality that I can imagine he has, and in all events if they fight, Fairfield is undone, for if Gortuleg kills him there is an end of him; or if he kills Gortuleg, the universe cannot save his life if he stays in this island; for Gortuleg has four cousin-Germans, the most bold and desperate fellows of the whole name, who would take off Fairfield's head at the cross of Inverness, if they were to be hanged for it next morning; I know them well, for they have been very troublesome to me with their blood duels. I beg you ten thousand pardons, my dear cousin, for this very long letter; but I entreat you, seriously, consider of all that is in it, and after mature deliberation, I beg you may send an express to your sister, and write to her and to Fairfield, what you think proper upon the subject of this letter."

In a letter dated a few days later, he details a brief dialogue, that makes one shudder. "Duke Hamilton and several other lords asked me, in a joking way, whether that fellow that has deserted his chief and his clan is still alive or not. I answered that he was, by my precise and express orders—and I said but what was true."*

* Miscellany of the Spalding Club, ii. 10—27.

CHAPTER IX.

Beginning of the Rebellion—Misgivings about the Prince's poor Landing—The Lord Advocate and Duncan Forbes—Preston Pans—The Determination of Lovat—The Gathering of the Clan—Attack on Culloden House—Correspondence with Duncan Forbes—Duncan's Advice and Threats—Lovat's Conduct to his Son—Imprisonment—Escape—Doubts and Dissatisfaction—A Cold Collation for the Prince—Their First Meeting after the Battle of Culloden—The Flight—The Seizure—The Sorrows of the Clan—The Journey—Anecdotes—Hogarth—The Tower—The Impeachment—The Closing Scene.

IN reference to the breaking out of the insurrection of 1745, Lord Stair wrote to Lord Loudon, "I own to you my opinion would always have been, preferable to everything, to have disarmed the Frasers, and to have secured my friend Lord Lovat, which I should have imagined would not have been disagreeable to him."* If the government had confined him in the gaol of Inverness, they would have done a great service to him; for he might then have referred to his imprisonment as a sufficient excuse for not joining the chevalier, and he could have escaped whenever he desired to make an open demonstration. Left as he was to his own guidance, he felt himself in a most painful state of equilibrium, between his choice and his interest. The plan for the restoration of the house of Stuart, of which he had more than forty years previously been the inventor, was a rising in the Highlands, co-operating with a French invasion, and supported by abundance of French money. In the meagre landing of the prince, he

* MS. at Culloden House.

missed two of the elements of his plan, and thought the third also would be deficient. A witness at his trial said, "Sometime after the 25th of July, 1745, I heard a gentleman came to my Lord Lovat's house, to tell him, that the Pretender's son was landed somewhere about Lochaber. I heard my Lord Lovat say he did not land like a prince; that he had no army with him, and only a few servants."* This corresponds with the tone of the following letter to Lochiel.†

"September, 1745.

"DEAR LOCHIEL,—I fear you have been ower rash in going ere affairs were ripe. You are in a dangerous state. The Elector's General, Cope, is in your rear, hanging at y^r tail, w^t 3000 men, such as have not been seen heir since Dundee's affair, and we have no force to meet him. If ye Macpherson's w^d take y^e field, I w^d bring out my lads to help y^e wark, and twixt y^e twa we might cause Cope to keep his Xmas here. But only Cluny is earnest in y^e cause, and my Lord Advocat plays at cat and mouse w^t me; but times may change, and I may bring him to y^e St. Johnstone's tippet. Meantime, look to yourselves, for ye may expect many a sour face and sharp weapon in y^e south. I'll aid when I can, but my prayers are all I can give at present. My service to y^e prince, but I wish he had not come heir soe empty-handed. Siller would go far in the Highlands. I send this be Ewan Fraser, w^m I have charged to give it to yourself; for were Duncan to find it, it w^d be my head to an onion. Farewell.

"Your faithful friend,

"LOVAT."‡

The Lord Advocate mentioned in this letter, Mr.

* State Trials, xviii. 598.

† Anderson, p.150.

‡ This letter, which Sir Walter Scott considered very characteristic of Lovat, was first published in 1825, in Mr. Anderson's history. It appeared to the present author to be just too characteristic, and to be a sort of concentration of the most usual expressions, which Lovat would be likely to have dispersed over a larger space. On application to the gentleman to whom it had belonged, it was found that the MS. had unfortunately been lost, and there was thus no opportunity of testing its genuineness by its appearance.

Craigie, of Glendoick, wrote to Lovat on the 15th of August, hoping that his old zeal for the government would prompt him to exert his well-known influence in the Highlands in this emergency. The Lord Advocate's letter is hesitating and diffident. He speaks of his correspondent having "ground of complaint" "against particular persons," which may happily be dropped during the general emergency. Lovat's answer is open, manly, and unreserved. "Your lordship," he says, "judges right when you believe that no hardship or ill-usage that I meet with, can alter or diminish my zeal and attachment for his majesty's person and government." Yet, like an honest man who has been subjected to unworthy suspicions, he is bound to say:

"My clan and I have been so neglected these many years past, that I have not twelve stand of arms in my country, though I thank God I could bring 1200 good men to the field for the king's service, if I had arms and other accoutrements for them. Therefore, my good lord, I earnestly entreat, that as you wish that I would do good service to the government on this critical occasion, you may order immediately a thousand stand of arms to be delivered to me and my clan at Inverness, and then your lordship shall see that I will exert myself for the king's service."*

Perhaps there is no other instance on record, of a government being so ingeniously asked for weapons to be turned against itself. Hogarth would have travelled to Castle Dounie to see the expression of the old man's face when he penned the equivocation of "The *King's* service."

In August, we find him commencing very actively a correspondence with Duncan Forbes. A long letter of the 24th consists of several elements. First, he is at great pains, out of his zeal for the government, to make secret

* Culloden Papers, 210.

.nquiries about the resources and prospects of the rebels, and he finds them very formidable. "After writing my letter yesterday, I conversed very seriously with the man I mentioned in my letter, who is a very sagacious, sly, cunning, intelligent man. * * * He says that he does not believe that there are three clans in the Highlands but will send their men to them, whether the chiefs go or not. * * * He says that they expect succour from Spain and France every day." In the next place he is in great dread of persecution for his fidelity to the government, for he hears that "these mad people," and "their pretended prince," "were resolved to burn and destroy all the country, where the men would not join them, with fire and sword; which truly frights me much." Lastly, he finds symptoms of insubordination among his own people. "I have but melancholy news to tell you, my dear lord, of my own country, for I have a strong report that mad Foyers is either gone, or preparing to go, to the west; and I have the same report of poor Kilbokie, but I don't believe it."* In answer, his sagacious correspondent reminds him how effectually he was able to lead his clan in the right direction, in 1715, against stronger influences; and suggests, that if he and they have resolved to do their duty, they need not fear any hostile interference by others. A few days afterwards, Forbes wrote to recommend that his friend should be in readiness to join Sir John Cope in his march southwards, and received an answer with this very amusing exordium :

"I was so very bad all day yesterday and last night, that I did not expect to see the light of this day; so that it was this morning before I had the honour of your letter put into my hand; and am glad to find, that though I be tormented to death with boils on my body, which makes me feverish and most

* Culloden Papers, 211.

uneasy, yet that your lordship is in perfect health, which I wish the continuance of ; as should all those that love their country do, being more useful and valuable to the commonwealth than a thousand like mine.

“ Since Sir John Cope has such a powerful army, I hope our desperate countrymen will avoid to see him ; but if they are so mad as to fight, that unfortunate prince must fall with the bravest of his adherents most foolishly. I own I must regret my dear cousin Lochiel, who, contrary to his promise to me, engaged in this mad enterprise ; but if Sir John Cope is beat (which I think next to impossible) this desperate prince will be the occasion of much bloodshed, which I pray God may avert ; for to have bloodshed in our bowels is a horrible thing, to any man that loves Scotland, or has a good stake in it, as your lordship and I have. Therefore, I pray God that we may not have a civil war in Scotland ; this has been my constant wish ever since I had the use of my reason, and it shall be the same while there is breath in me ; so that they must be damnably ignorant of the principles of my heart and soul, who can imagine that I would endeavour to promote a civil war in my country.”*

Again we find him amusing himself with ingenious equivocations. “ Now, my dear lord, as to what you desire me, of acquainting all my people to be in readiness, I do assure you that I did so immediately after coming from Inverness ; but, to obey your commands, I have sent my officers this day with orders to them to be ready when I should call for them ; and I ordered them to make short coats and hose, and to put aside their long coats, and to get as many swords and dirks as they could find out.”* This was, no doubt, quite true ; but the writer reserved for his own bosom the purpose to which the preparations were directed.

There is now a pause in the correspondence, for the prospects of the Chevalier were appearing rather less miserable. On the 19th of September, Forbes wrote to say that, having just received a power to dispose of indepen-

* Culloden Papers, 214, 215.

† Culloden Papers, 215.

dent companies, one of them was at his friend's disposal, and he was anxious to hear his views, and if he was to accept, to have the names of the persons for whom he desired commissions as captains and subaltern officers. He mentions, at the same time, certain curious rumours—not of course to be credited, but indicating how cautious people should be, in these difficult times, to avoid actions which may admit of evil interpretations. The report was, that Lovat's Stratherick men were immediately to join the rebels, and that, as his health was bad, and the master of Fraser but a youth, they were to be commanded by Fraser of Inveralochie.* The answer, at variance with the writer's usually decisive tone, evades either an acceptance, or rejection of the company. He says, that his cousin Macleod knows his resolution on the subject, and can give his views twenty times more fully than he himself could do in a letter; and he therefore refers to Macleod for an answer—an excellent plan for gaining time, as he might afterwards, if he chose, maintain that Macleod was not authorised to decline the proposal. On the other matter, he is more emphatic. "If I did not know that my friend the Lyon takes pleasure sometimes in telling and retailing clatters and stories, I would be very angry at him for writing to your lordship such a ridiculous, silly, foolish lie of me, which has no more foundation than if he had said that I was going to join Kouli Khan;" and he concludes with his reasons for lately having had intercourse with his cousin Inveralochie, "being determined, as soon as I can, as I have been all this season, to go south, and from that to England, and from that to France (if I get leave), for the benefit of my health; I sent for Inveralochie to be witness to Evan Baillie's drawing up the papers concerning my estate, because it's ten to

* Culloden Papers, 222.

one if I ever come back to this country after going out of it.”*

The battle of Preston Pans, fought on the 21st of September, was the turning point of Lovat's policy. The unwilling witnesses examined about his conduct within the walls of Castle Dounie, said he called it the greatest victory that had ever been gained, and said the prince would undoubtedly prevail. Bumpers were drunk to the triumph of the enterprise, and to the confusion of the White Horse of Hanover. A gentleman present observed, that the prince's success depended much on the chief “throwing off the mask.” On this the witness continues, “My Lord Lovat I saw take off his hat, and put it upon the ground, and heard him say—there it is then.”† All was now activity at Castle Dounie. Certain “bell tents” were prepared, and colours painted, with the blazon of the Lovat arms. The fiery cross was sent round, and the usual threats employed against those who were obstinate or indolent. In a short time 700 men were drilled on the green of Castle Dounie, with white cockades and sprigs of yew‡ in their bonnets.§

He had now a truly hazardous game to play; for whereas he had formerly but to conceal his intentions, an easy task, he had now to conceal his actions. He attempted the formidable task of sending his clan to join the Chevalier, without compromising himself in the rebellion, should it prove unsuccessful. In some stages of

* Culloden Papers, 410.

† State Trials, xviii., 676-7.

‡ It is in allusion to this clan badge, that Scott makes Flora Mac Ivor say, in her gathering song—

“How Mac-Shimei will joy when their chief shall display,
The yew-crested bonnet o'er tresses of grey!”

The use of the patronymic title is a piece of poetical skill—an allusion to the name of Lovat, might have broken the spell of high-toned devotion which pervades this powerful lyric.

§ State Trials, xviii. 676, 683, 685.

society, it has been deemed the perfection of virtue to sacrifice, for the propitiation of higher powers, whatever object a man held most dear to him. In conformity with this principle, Lovat resolved to make a sacrifice of his son, a fine young man of nineteen, to save himself. The project was, that the young man should "go out" with the clan. If the Jacobites were successful, who could claim greater merit than an old infirm man sending his son and heir to fight his battles? if they were unsuccessful, he might declare that the youth had rebelled against him. Fully able to describe, however he may have felt, the value of the sacrifice, he wrote both to the prince, and to his secretary, Murray of Broughton, in the same tone; but as the letter to his secretary is the more unreserved and expressive, we make our extract from it.

"I solemnly protest, dear sir, that it was the greatest grief of my life, that my indisposition and severe sickness kept me from going south to my dear brave prince, and never parting with him while I was able to stand, but venture my old bones with pleasure in his service, and before his eyes, while I had the least breath within me; but when I found that by pains and weakness in my knees, I lost the use of my limbs, I resolved to give a proof of my singular zeal for my dear master the king, and for my brave glorious prince, that I truly believe few or none in Scotland would do but myself. I send my eldest son, the hopes of my family, and the darling of my life, a youth about nineteen years old, who was just going abroad to finish his studies and education, after having learned with applause what is taught in our Scots' Universities, and was graduate Master of Arts. But instead of sending him abroad to complete his education, I have sent him to venture the last drop of his blood in the glorious prince's service; and as he is extremely beloved, and the darling of the clan, all the gentlemen of my name and clan (which I thank God! are numerous and look well, and always believed to be as stout as their neighbours) are gone with him.

"There is not the head of an old family or tribe of my

name and clan in this country that have stayed at home ; only a few old gentlemen, infirm like myself, that were not able to travel ; and as my son is adored by the common people of my clan, he has brought along with him a considerable number of the best of them, in two handsome battalions ; and if they were as well armed and equipped as I could wish, they would look as well as any clan that went south this year ; for as I possess the largest and best estate in the shire, I have a great number of commons on my property, about 1500 good and bad ; and that which is very singular, is, that in that 1500, there are not 30 but what are Frasers, which no chief in the Highlands can say of his clan but myself ; for most of them are mixed with men of all the other clans.”*

While these matters were in progress, he wrote in these terms to Duncan Forbes, concerning some rumours that he was preparing to join the rebels :

“There has been several villanous, malicious, and ridiculous reports that vexed me very much ; but as there was no thing ever out of hell more false, I despise them, and the scoundrels that invented them—and since the whole business, trade, and conversation of many in Inverness is to invent and tell lies, I hope your lordship will believe no ill or mean thing of me till you have a real and infallible proof of it, as I am resolved that this shall be my conduct towards your lordship—and if your lordship pleases, let us live together, as we did since you came north, communicating to one another what news we hear, and inquiring for one another’s health.”†

To this Forbes answers that the tales had made no further impression “than to induce me to take that sort of care of myself, without which I should have been laughed at.” He fortified and garrisoned his castle at Culloden, and found that he had taken his precautions just in time. A few days later, a midnight attack was made on him by the Frasers, who, not carrying their purpose by the first fierce onset, after the usual practice of Highland warfare, abandoned the main enterprise, and

* State Trials, xviii., 748-9.

† Culloden Papers, p. 228.

contented themselves with minor depredations. The attempt elicited this quiet and dignified remonstrance:

“Culloden, 18th of October, 1745.

“MY LORD,—I would have acquainted your lordship sooner of the idle attempt that was made on this house in the night between Tuesday and Wednesday last, by my relation, Foyers, and some others, whom your lordship acquainted me some time ago you could hardly govern; but that I very well know it would give your lordship more pain than it did me—though no man of common equity, who knows that they carried off my sheep, robbed my gardener, and the poor weaver, who is a common benefit to the country, and carried off some of my tenants’ cattle, will imagine that there was the least countenance from any one about your lordship to this transaction; nor should I now give you any trouble on a subject so disagreeable, but that I am teased every hour with reports that the gentlemen who failed of their principal aim, give it now out that they are to pillage, burn, and destroy my innocent tenants. These reports I confess I give no credit to, knowing that I never deserved any such usage at the hands of those who are said to intend it; but as things very unforeseen now-a-days happen, I have judged it proper to acquaint your lordship with what I hear, in full confidence that you will take as much pains to prevent such hurt to me and my tenants as I most undoubtedly should to prevent damage to your lordship, or to any one that belongs to you. I have no news supported by such authority as is fit to convince you, whose faith is on one side stronger, and on another weaker than mine, else I should give you them. But I hear enough to satisfy me that our unhappy contentions will soon be at an end. God grant they may end with as little harm to our poor country as possible. I need not repeat what I am so often assured that I am, to your lordship and your family, a real well-wisher, &c.”*

It may be questioned if Lovat himself instigated this outrage. His clan, knowing that now he was on the opposite side from that of his old friend, would conceive it their duty to act immediately in the quarrel. His relative, Norman Macleod, who must have known him well, and

would not be easily deceived, wrote thus to Forbes, with whom he was on confidential terms:

“ Lord Lovat, my friend, seems to be in vast anxiety about it, and with great reason, as he is apprehensive his Stratherick men were the actors. If that is so, I persuade myself he will do all in his power to bring them to justice. His letter to me on that head is very strong, and had I not lent it, with the other pieces of news I got last night, to Sir Alexander, would in justice to him have sent a copy of it.”*

And at the trial a witness, William Walker, said, “ my Lord Lovat knew nothing of it. It was Fraser of Byerfield who took as many of the men as he could get to the Castle of Culloden, in order to take the Lord President prisoner; but my Lord Lovat knew nothing of that; for when he heard of it he was like to go mad; he cursed for a matter of two hours, and we had no peace with him.”† In fact, it was a false move, and one of which so great a tactitian as Lovat would have been ashamed. To such a view, of course, his own protestations add no strength, though they are worth quoting, especially for their emphatic conclusion.

“ Truly the generous and moderate way that your lordship writes of that base, barbarous, inhuman, and distracted attempt and behaviour of the Stratherick men at Culloden, rather augments my trouble of mind and vexation than diminishes it; for I could never imagine that any man that had the honour to know of your lordship, or to hear of you, should be so villanous and unnatural as to hurt your lordship, or the meanest person belonging to your lordship; since your goodness and liberality to mankind in distress is as well known as your name and employment; so that those that acted this villanous attempt and plunder has been ruffians without the fear of God or man, and they will have what they deserve some day or other.”

After offering to divide a hundred fat wedders with the

* MS. at Culloden House.

† State Trials, xviii., 691.

president, and otherwise to replace the loss he has sustained, he gives a very shrewd and able essay on cattle-rieving in general, and concludes with an observation which, at the present day, would sound very strangely in a communication to the head of the law.

“I beg, my lord, that you may not be in the least apprehensive that any of those rogues, or any in my country, go and disturb your tenants; for I solemnly swear to Gortuleg, that if any villain or rascal of my country durst presume to hurt or disturb any of your lordship’s tenants, I would go personally, though carried in a litter, and see them seized and hanged.”*

In the meantime, Forbes had, under the shape of communicating the news of the war to his old friend, given him a very formidable view of the preparations made for crushing the rebellion, and of the probabilities of their success—all good-naturedly intended to divert him out of the neighbourhood of the precipice which he was evidently approaching. Lovat, with consummate assurance, retaliated; and as he was not hampered by any regard for truth, he was able to present a far more formidable array: The landing of 10,000 French, the rising of the great English Jacobite families, the universality of the Jacobite feeling in Scotland, &c., “so that he is much wiser than I, nay, I think he must be a real prophet that can tell which of the sides will carry.”†

He had soon afterwards to inform the president of the news, that his son was resolved, in spite of every effort that he could make, to carry the clan into the rebellion. The president wrote a kind, friendly, considerate answer, in which it is clear that while he thinks it necessary in courtesy to speak of the son as the delinquent, he cannot help representing the consequences as if it lay in Lovat’s own power to obviate them.‡

* Culloden Papers, 232.

† Culloden Papers, 230.

‡ Culloden Papers, 231.

Still professing to be grievously oppressed by the reasonable designs of his son, Lovat sent a rejoinder in the following pathetic strain :

“ I do solemnly declare to your lordship that nothing ever vexed my soul so much as my son’s resolution to go and join the prince, and venture his person with him ; and this mad resolution struck him in the head as soon as he heard of the prince’s landing ; and after what Macleod said to him, and what Gortuleg said to him, and what myself said to him, I know by his answers to Macleod, Gortuleg, and me, that all the creation will not keep him from going to live and die with that prince. I refer it to your lordship, who has a true sense of the danger of my family by his going out, what a load and weight of grief must be upon my soul, to see my son, myself, and my family, in such danger and jeopardy. But I cannot help it. I must submit to the will of God, and there I must leave it. I sent your lordship’s last letter with a clever man to travel all night, that he might deliver it to Gortuleg as soon as possible ; to whom I wrote the strongest exhortations, to entreat him to use all his credit and good sense with my son to dissuade him from his very rash and inconsiderate resolutions ; and for my part as my son only smiles, and laughs at me when I make strong remonstrances to him against his resolutions, I am resolved never to write or open my mouth to him on that subject. And as God Almighty has, at many times, wonderfully delivered me out of many dangers and difficulties by land and sea, I throw myself on his divine providence and trust entirely to it ; for if God in his providence save my estate, I do not give three-halfpence for my life, for it is but wearisome to me, and full of troubles.”*

And in a subsequent letter he resumes this tone :

“ For my part, my lord, I solemnly protest to your lordship, that since my son was determined on that mad foolish project, I never spoke to him about it, but he always flew in my face like a wild cat when I spoke to him against any of his distracted opinions.”†

Turning to the evidence on the trial, for such notes and illustrations as it may afford of this correspondence, we

* Culloden Papers, p. 234.

† Culloden Papers, p. 236.

find a witness attesting the circumstance of Lovat writing to the president that his son had obstinately determined to rebel, when the following examination ensues:

Sol. Gen.—"Was that fact true? was the son so obstinate?"

R. Fraser.—"No; I am sure it was not true."

Sol. Gen.—"Why are you sure it was not true?"

R. Fraser.—"Because whilst I was preparing a letter to the Lord President, which my Lord Lovat dictated, wherein he acquainted them of his son's obstinacy in going into the rebellion (which letter my lord directed me not to let any body see), his son, the master, came in and asked me for the letter; and I refusing to give it him, the son took the letter out of my hand."

Sol. Gen.—"Who took it out of your hand?"

R. Fraser.—"The master of Lovat took it out of my hand; and after reading it said, 'Good God, how is this!—accuse me behind my back! to call me stiff-necked and disobedient! I will set the saddle upon the right horse.'"

Sol. Gen.—"Pray repeat the answer you made last."

R. Fraser.—"The master of Lovat said, 'If this letter goes, I will go, and put the saddle on the right horse, and will go and discover all to my Lord President.'"

Sol. Gen.—"What did he mean by putting the saddle on the right horse?"

R. Fraser.—"That he would go and discover to my Lord President, that his father, my Lord Lovat, had forced him to do what he had done."*

Resuming the tenor of the correspondence,—the next letter from Forbes assumes a more distinct tone. He does not contradict all Lovat's assurances about the mad obstinacy of the son; but he proves to him that he has a most serious interest in turning the youth from his project, for he may be well assured that he will not be able to convince people in authority that he is not himself the prime criminal; and assures him that his friends will be quite unable to save him from the consequences.

"Should the unlucky youth persist in his purpose, and

should his authority with that kindred for whom you have done so much, and who with reason were so passionately fond of you, prevail over your lordship, and induce them to march, without regard to your commands, or even to the safety of your person, the case would stand in a very odd light, and in this age of jealousy and suspicion, it is impossible to say what construction might not be put upon it, even if a man had no enemy to improve such suspicions by hints; on the other hand, should the young man yield to your lordship's representations, or should your authority prevail on your kindred, to desert his rash undertaking, and to save you and your family from ruin, as they very remarkably did 30 years ago, when they were much more deeply engaged than they are at present, it is to be hoped that conduct would wipe off every circumstance of suspicion, and atone for any act of temerity the master may have fallen into; at the same time that the joint force of those who in this country are disposed to stand by the government, will be sufficient to protect your country against the resentments of those who may have flattered themselves with the hopes of assistance from it. In those circumstances what is left for me to advise, or rather to wish, but that your lordship may prevail, either by argument, or by authority, over the master, or over your kindred, to forsake the dangerous course to which they are disposed, and to join with the gross of the north in defence of the government; in which case nothing within my power for your service shall be left undone. But, should what I presume to advise, and most earnestly wish, not take place, whatever my inclinations may be, I greatly fear my power will not be able to answer them.”*

On the same day, with this letter, the president appears to have written another, under different and more positive information: they are both dated on the 29th of October. The latter is so solemn, so emphatic, so severe in the simple majesty of reproof, and so kind in its earnest tone of regret, and of desire to see an amendment, that it would be injustice not to quote a considerable portion of it, though it is a long document:

“As I have now the honour of being charged with the

* Culloden Papers, 237.

public affairs in this part of the kingdom, I can no longer remain a spectator of your lordship's conduct, and see the double game you have played for some time past, without betraying the trust reposed in me, and at once risking my reputation, and the fidelity I owe to his majesty as a good subject. Your lordship's actions now discover evidently your inclinations, and leave us no further in the dark about what side you are to choose in the present unhappy insurrection. You have now so far pulled off the mask, that we can see the mark you aim at, though on former occasions you have had the skill and address to disguise your intentions in matters of far less importance, and, indeed, methinks a little more of your lordship's wonted artifice would not have been amiss. Whatever had been your private sentiments with respect to this unnatural rebellion, you should, my lord, have duly considered and estimated the advantages that would arise to your lordship from its success, and balance them with the risks you run if it should happen to miscarry ; and, above all things, you ought to have consulted your own safety, and allowed that the chief place in your system of politics, which I persuade myself would have induced your lordship to have played the game after quite a different manner, and with a much greater degree of caution and policy. But so far has your lordship been from acting with your ordinary finesse and circumspection on this occasion, that you sent away your son and the best part of your clan to join the Pretender, with as little concern as if no danger had attended such a step. I say *sent* them away, for we are not to imagine they went of themselves, or would have ventured to take arms without your lordship's concurrence and approbation. This, however, you are pretty sure can't be easily proved, which I believe, indeed, may be true; but I cannot think it will be a difficult matter to make it appear that the whole strain of your lordship's conversation in every company where you have appeared, since the Pretender's arrival, has tended to pervert the minds of his majesty's subjects, and seduce them from their allegiance. And give me leave to tell you, my lord, even this falls under the construction of treason, and is no less liable to punishment than open rebellion, as I am afraid your lordship will find when once this insurrection is crushed, and the government at leisure to examine into the affair. And I am sorry to tell you, my lord, that I could sooner undertake to plead the cause of any one of those unhappy gentlemen who are just now actually in arms

against his majesty, and I could say more in defence of their conduct, than I could in defence of your lordship's. The Duke of Perth and Lord Ogilvy never qualified—nor did they ever receive the smallest favour from the present government—but, on the contrary, were both stripped of their titles and honours, and from men of the first quality, reduced to the state of private gentlemen, since the revolution, and may both be supposed to act from a principle of resentment; and only took up arms to recover what they thought themselves unjustly deprived of. Lord George Murray never had any place or pension from the public, and was no doubt drawn in by the influence of the Marquis of Tullibardine; perhaps touched with pity and commiseration for his eldest brother, who has spent the best part of his life in exile, and undoubtedly upon an allowance much inferior to his dignity. These, and such like apologies may be offered in defence of most of the leading men in the present rebellion; but what shall I say in favour of you, my lord? You who have flourished under the present happy establishment?—you, who in the beginning of your days forfeited both your life and fortune, and yet by the benignity of the government was not only indulged the liberty of living at home, but even restored to all you could lay claim to. Nay, his majesty's goodness went so far as to employ your lordship in his service, and was pleased to honour you with the command of one of the independent companies that were raised some years ago in the Highlands, which you enjoyed for a very long time: so that both duty and gratitude ought to have influenced your lordship's conduct at this critical juncture, and disposed you to have acted a part quite different from what you have done: but there are some men whom no duty can bind, nor no favour can oblige; and I am afraid if a timely repentance do not prevent it, your lordship will not unjustly be ranked among that number.”*

In the continuation of the letter, there are still offers of intercession if the offender should repent, and do services to government equivalent to the mischiefs he is contemplating to effect against it.

The mask is not yet thrown off in presence of the old benefactor and adviser. The admonition is thus acknowledged:

* Culloden Papers, p. 436, *et seq.*

“ I received the honour of your lordship's letter, late last night, of yesterday's date, and I own that I never received one like it since I was born; and I give your lordship ten thousand thanks for the kind freedom you use with me in it; for I see by it, that for my misfortune in having an obstinate stubborn son, and an ungrateful kindred, my family must go to destruction, and I must lose my life in my old age. Such usage looks rather like a Turkish or Persian government, than like a British. Am I, my lord, the first father that has had an undutiful and unnatural son? or am I the first man that has made a good estate, and saw it destroyed in his own time by the mad foolish actings of an unnatural son, who prefers his own extravagant fancies to the solid advice of an affectionate old father? I have seen instances of this in my own time; but I never heard till now, that the foolishness of a son would take away the liberty and life of a father, that lived peaceably, that was an honest man, and well inclined to the rest of mankind. But I find the longer a man lives, the more wonders and extraordinary things he sees.

“ Now, my dear lord, I beg leave to tell you my mind freely in my turn. I thank God I was born with very little fear. In my greatest difficulties and dangers by sea and land, and by God's assistance, I often saved my life by the firmness and steadfastness of my resolutions; and though I have now but a little remains of a life that is clogged with infirmities and pains, yet by God's help I am resolved to preserve it as long as I can; and though my son should go away with the young people of his clan, yet I'll have six hundred brave Frazers at home, many of them about my own age, that will lose the last drop of their blood to preserve my person. Since I am as peaceable a subject as any in the kingdom, and as ready to pay the king's taxes, and do every thing else that a faithful subject ought to do, I know no law or reason why my person should not be in safety.”*

Much in the same tone the correspondence continues through several letters. Forbes—never, while there is hope, relinquishing his friendly efforts—affords his correspondent the following hints of what is known, and what will be inferred, of the proceedings at Castle Dounie.

* Culloden Papers, p. 238.

“ The affection of your clan and their attachment to you, in the year 1715 and downward, will be remembered ; it will not be easily believed, that your lordship’s authority is less with them now, than it was at that time ; it will not be credited, that their engagements or inclinations were stronger against the government when the present commotions began, than they were thirty years ago, when the clan was at Perth. It will be alleged that the people were not universally forward to enter upon the present spot of work ; that many of them were reluctant, and some actually threatened, and others forced into the service ; and I do not know whether, if jealousy were to promote an inquiry, many circumstances might not come out, which I choose not to think of, and hope never to hear of. These considerations I must confess, fill me with great uneasiness, which I must ever feel when any danger threatens your lordship or your family, which my abilities or interest cannot avert.”*

The next letter from Lovat, on the 14th of November, 1745, is in the following melancholy strain :

“ MY DEAR LORD,—I received your lordship’s most kind letter, of the 11th of this month, by the bearer, and my heart is as full of thanks and gratitude as any man’s can be ; I beg your lordship a thousand pardons for not despatching the bearer sooner, but the truth is, that I had almost died the night before I received your lordship’s letter. I had taken, the night of the 10th, my vomit as usual ; but I no sooner was in bed than I was seized with a most terrible stitch in my left side. I could not speak nor draw my breath, but upon the least movement I was tormented most horribly ; I continued so all the night, and am very little better ever since, so that I am in a very bad way. I caused rub some warm brandy to my side before daylight this morning, which has given me some ease ; or then I would not be able to dictate this letter ; but my stitch still continues, and if it does not go off, it will soon make an end of me, and then I’ll be no further troublesome to my dear Lord President, or to any other of my friends ; and the mad youth will be then Lord Lovat, as well as colonel of his rebellious regiment. I do assure you, my dear lord, that I will not regret dying at this time, that I may not see the evils that threaten my family,

which was always regarded as an honest brave family in this country.”*

There is a term in the law of Scotland called “double distress,” applicable to one who is pursued for the same debt by rival claimants, which would much more appropriately describe the position of our hero at this moment. We have just found him describing the pangs occasioned by an undutiful son taking up the cause of the Jacobites—let us now see the mental and corporal miseries which he suffered because a more distant relation would *not* adopt the same course. It is to the faithful bosom of Lochiel that he now imparts his sorrows, in a letter otherwise full of admiration of his gallant son, “the great hope of his family and the darling of his life and soul.”

“The base and treacherous behaviour of our wretched cousin, the Laird of Macleod, has almost cost me my life already. The night before he took his journey to the Isle of Skye, from this house, sitting by me, he looked up seriously, and swore to me, that as he should answer to God, and wished that God might never have mercy on him, and that he might never enter into the kingdom of heaven, but that his bones might rot on earth, be burnt, and his ashes blown up in the air, if he did not come with all speed imaginable, and with all his men that was already prepared, and come and join my son, and the clan Fraser, and march south with them to the prince’s service, wherever he was. He swore the same terrible oaths and imprecations next day to my son, and to your faithful servant, Gortuleg; and if he had kept his oaths and word, I had so managed this part of the north, that about 6000 men had marched south to the prince’s assistance; which I thought would much encourage his own loyal party, and frighten the English to his obedience. But when I got Macleod’s letter, about twelve days after, in which he told me that after deliberating fully with his neighbour, Sir Alexander, and weighing the arguments on both sides, he and his neighbour had resolved to stay at home, and not to trouble the government. In reading this line, I

* Culloden Papers, p. 251.

had almost fainted, and my body swelled with anger and vexation, so that I could not sleep nor eat for several days; and I am yet far from being recovered, for I have a severe stitch and pain in my left side, which keeps me from my night's rest, and has entirely taken away my appetite, so that I believe the treachery of that unnatural, ungrateful, and wicked man, will be the occasion of my death very soon; but before I die, I resolved, if possible, to give such a mark of my zeal for my good master the king, and for the glorious, brave, royal prince his son, that I believe few in Scotland would do but myself.*

It is not until the 1st of December that he announces the departure of his son, saying, "the consequences of his doing so are terrible beyond expression; though I declare I could not have done more to save my own life, and the lives of my clan, as well as the estate of Lovat, than I have done by smooth and rough usage to detain him at home."† His actual departure appears to have occurred a day or two earlier; for before the expiry of the month of November, the indefatigable Lord President, referring to the men having commenced their march, and not being many miles off, says:

"Now as my duty absolutely requires my endeavouring, by all means possible, to prevent the junction of these men with the rebels, and as my wishes are strong to prevent the destruction of these men, by bringing them back to their duty before it is too late, I find myself obliged to march into your lordship's country, with a body of his majesty's troops, to lay hold of such as have been accessory to the stirring up the rest, to endeavour by the same means that have been used to force them into the rebellion, to draw them off from it; and to take an account of the names of such of them as I shall not find at their homes; to the end their return to live again in quiet, after they have given all the disturbance they can to his majesty's government, may be for ever prevented. And as no man is more deeply concerned to have those inconveniences obviated than your lordship, or better qualified to obviate them, by letting the unhappy men timeously know their danger, if they do not immediately

* State Trials, xviii., 754-5.

† Culloden Papers, 259.

return to their homes ; I have presumed to give your lordship this notice of my resolutions, previous to the putting them in execution, that as little harm may happen to your lordship or to your people as is possible. And I shall look for a precise answer from your lordship to what I now have the honour to acquaint you with, by to-morrow, because I cannot be answerable to defer using the means that are in my hands any longer. It will give me great satisfaction, if the step I now take shall be the means of preserving your lordship and your people ; and this pleasure I shall have, even if it miscarry, that your lordship must be satisfied I have done all in my power to avoid extremities ; and that I am, &c.”*

On the 11th of December, Lord Loudon marched with 800 men to Castle Dounie ; and next day he brought Lovat to Inverness, as a sort of hostage for the fidelity of the portion of the clan which had not marched with his son. It was soon found necessary to keep him a prisoner, but he did not remain long in that position, for on the 2nd of January we find him receiving congratulations on his escape. He then writes to his son that as nothing ever made him speak “a fair word” to Lord Loudon or the president, but to save his person from prison, that embargo on his tongue is now removed, for he is obliged to seek shelter “in hills and woods and inaccessible places,” and if he did not find a refuge in Stratherick, “he might, perhaps, be hunted like a fox by Loudon up and down the country, which, perhaps, would cost him his life by cold and fatigue.” In the same letter he intimates that he is making a lair for himself in the far-off recesses of his dominions, in an island on the Lake of Muily, deep among the mountains of Glen Strathfarar. “I am making up with all the haste possible, a habitation for myself in the house of Muily ; for that country is the strongest hold in Scotland ; for I will make one hundred good men defend it

* Culloden Papers, 257.

against all forces that King George can have in Scotland. Besides, I ordered a boat to be made to carry me out and in to the Isle of Muily when I please, so that it is morally impossible to attack me in this country.”* He had just then received a letter from Charles Edward, accompanied by a proposal approved of by him, and signed by Lochiel, Macpherson of Cluny, and Secretary Murray, containing the following powerful testimony to his talent and sagacity, and to the bold spirit that still burned within his old diseased body.

“ Now, my lord, the only proper means that appears to us, in common with all the prince’s well-wishers, to bring this to the wished-for issue, is your lordship’s openly appearing in arms and joining the royal standard ; in which case we are certain that there is not a man beyond the Forth, however timorous or cautious (except some few who have already destined themselves to perdition) but will appear with the greatest alacrity and cheerfulness. But not to take up too much of your lordship’s time, what his royal highness above all things wishes and desires is, to have your lordship with him, to take upon you the command of the army ; for though the prince knows that your lordship’s age makes it impossible for you to undergo the drudgery part of a general, yet he is sensible that your advice and counsel will be of greater value than the addition of several thousand men. Though your lordship has your own equipage, yet we are apt to believe the prince’s coach and six (of which he himself makes no use) will be as convenient a voiture for your lordship ; and the French ambassador with Lord Pitsligo, who have been in it all along, won’t prove disagreeable company.”†

But he had views of his own to follow out, and a few days after receiving this flattering appeal, he bade his son endeavour to obtain the patent of the dukedom, or a confirmation of it by the prince, “ which if he refuse I must keep to the oath that I gave before the Duke of Perth, the Earl of Traquair, Lochiel, and other gentlemen, that

* State Trials, xviii., 760, 761.

† State Trials, xviii., 772.

first engaged in the present project with me, that I would never draw my sword till that was done.”*

But the aspect of his adopted cause was now becoming clouded. In vain Lochiel told him about the native strength of Jacobite feeling in Scotland—of France having now adopted their cause—of Spain being prepared with men and money; the retreat from Derby told its own story too broadly, and the nearer the prince approached him the cooler became Lovat’s zeal. He sent a message to his son, desiring him to come north, under the pretext of raising more men, but undoubtedly that if matters continued to be unprosperous, he might claim the merit of recalling his son, and might attempt to open a negotiation with the government. The high-spirited youth, however, having been induced to take his course, was resolved not to abandon it in defeat and danger; and his answer was a dignified rebuke of the project, which he saw lurking beneath his father’s suggestion. “That I should at such a critical time,” he says, “run home, would look ill: and the pretext, as it would be called, of raising men, would not screen me from an imputation your lordship, I am sure, would always wish me to shun;” and he sagaciously observes, “as to my going north, I know your lordship’s influence over your clan too well to think that where your orders fail, my presence will have any weight. I am certain your commands, though only intimated by your officers, will do in a day, more than my presence would in a week; and I am persuaded your people will come up to a man if you order them; and if you do not, that they will stay at home; so that their coming or not entirely depends on your lordship.”†

The son advises him “not to lose on both sides.”

* State Trials, xviii., 762.

† State Trials, xviii., 764.

He affectionately says that he will be content with a thin regiment if his father's person were safe, but recommends that if he cannot get terms from Loudon and the Lord President, he should not mar the chances of success to the other party by his neutrality. But the prince, driven north before Cumberland's bayonets, was a vision every day becoming more frightful; and as it came near his own domains, we find his enthusiastic protestations of loyalty sinking into the following dubious suggestions about a cold collation. They are addressed to his son on the 20th of March.

"My cousin, Mr. William Fraser, tells me that the prince sent notice to Sir Alexander Bannerman, by Sir John McDonell, that he would go some of these days and view my country of the Aird, and fish salmon upon my river of Beaul; I do not much covet that great honour at this time, as my house is quite out of order, and that I am not at home myself, nor you; however, if the prince takes the fancy to go, you must offer to go along with him, and offer him a glass of wine, and any cold meat you can get there. I shall send Sandy Dean over immediately if you think that the prince is to go; so I ordered the glyd post to be here precisely this night."*

This visit was never paid. With Cumberland on his track, the poor prince had other matters to occupy him than catching salmon in the Beaul; and they never met, until, on the eve of Culloden's fatal morning, the fugitive prince, at the head of his flying clans, rushed for refuge into the grim solitudes where the chief was waiting the chances of war—an unwelcome and calamitous vision! which at once scattered the last shred of his ambitious dreams. Lovat was then living at Gortuleg,† the

* State Trials, xviii., 764.

† Sir Walter Scott supposes the meeting to have taken place at Castle Donnie; but the evidence at the trial, and many other incidental matters not worth detailing, show it to have been at Gortuleg, where the room in which the prince is said to have slept, may still be seen.

house of one of the gentlemen of his clan, near the Fall of Foyers. Sir Walter Scott has preserved a very picturesque account of the effect produced in this solitary region, by the sudden influx of the fugitives, in the reminiscences of a lady, who said, "The wild and desolate vale on which she was gazing with indolent composure, was at once so suddenly filled with horsemen riding furiously towards the castle, that, impressed with the belief that they were fairies, who, according to Highland tradition, are visible to men only from one twinkle of the eyelid to another, she strove to refrain from the vibration which she believed would occasion the strange and magnificent apparition to become invisible."*

Mrs. Grant of Laggan, preserved an account of the meeting, which is perhaps another version of the same narrative.

"For two or three days before, preparations were making for the reception of the prince and his train, to regale whom a very ample cold collation was preparing. All the women in the vicinity were called in to bake cakes, and roast meat, poultry, and venison for the occasion. Such was the urgency of the time and the quantity of food dressed, that every room in the house, even that which Lovat occupied, was used for culinary purposes, and filled with bread and joints of roasted meat. On the fatal day of Culloden, the Highlanders at first gained some partial advantage, and some one came up express to say that the fortune of the day was in favour of the prince; the house soon filled with people breathless with anxiety for tidings of their friends who were engaged. The little girl was considered as an encumbrance, and ordered into a closet, where she continued a little while an unwilling prisoner. Below the house was a large marshy plain, in the centre of which was a small lake, that in winter overflowed it, but was now nearly dry. This spot the superstitious believed to be a rendezvous of the fairies; all of a sudden the tumultuous noise that filled the house was

*Prose Works, iv., 63.

succeeded by a deep silence; the little prisoner, alarmed at this sudden stillness, ventured out, and saw no one creature in the house but Lovat sitting in deep thought, then she ventured to the door, and looking down saw above a thousand people in one ghastly crowd in the plain below. Struck with the sudden shifting of the scene and the appearance of this multitude, she thought it was a visionary show of fairies which would immediately disappear. She was soon however undeceived by the mournful cries of women who were tearing off their handkerchiefs for bandages to the wounded. In an instant quantities of linen were carried down for the same purpose, and the intended feast was distributed in morsels among the fugitives, who were instantly forced to disperse for safety to the caves and mountains of that rugged district. The prince and a few of his followers came to the house; Lovat expressed attachment to him, but at the same time reproached him with great asperity for declaring his intention to abandon the enterprise entirely. 'Remember,' said he, fiercely, 'your great ancestor, Robert Bruce, who lost eleven battles and won Scotland by the twelfth.'"

At early dawn the prince fled westward towards the Glengarry country. Lovat, according to the usual accounts, sought refuge in the gloomy recesses of Castle Caudor, where a small low chamber, near the roof, was long shown as his place of concealment. But it must be observed that to reach this place, he would have had to leave his Highland fastnesses, and to proceed along the district occupied by the king's troops; almost through the very field of Culloden. If he ever sought this spot, he must have speedily left it for the refuge, which, with so much foresight, he had prepared in the Lake of Muily. From the top of a hill on the way to that distant retreat, he is said to have beheld the centre of all his power and ambition, Castle Dounie, burned by Cumberland's soldiers, and illuminating the darkness with its blaze.

Yet the old man soon rallied. He had something of the savage heroic in his nature which prompted him to stand at bay, when every door was closed beyond hope against supplication or finesse. In that confused group of fugitives, though many had shown themselves both brave and wise, his was the only head that framed a consistent policy for their adoption, and the only tongue that still gave utterance to defiance.

“ What though the field be lost!
All is not lost—the unconquerable will
And study of revenge : immortal hate,
And courage never to submit or yield.”

In a hut in the neighbourhood of his retreat, he had a conference with Lochiel, Barisdale, Clanranold, Secretary Murray, and other Jacobite leaders. There he proposed that they should raise 3000 men, “ a compact body,” who might defend the mountains against Cumberland’s troops, and, without any concert with the exiled house, make themselves so formidable, and their country so impregnable, that they would force the government to give advantageous terms. The respective quota to be supplied by the various chieftains were fixed, and an engagement was signed by them. True to the last to his tortuous policy, Lovat alone refused to put his hand to the bold and sagacious project he had devised.* The reader does not require to be informed that the project was not put in practice. Each hunted fugitive sought but a place of refuge, and a temporary rest for his own wearied head; and when no presiding mind like Lovat’s was present among them, they had no superfluous thoughts to spare for comprehensive measures.

With a frame exhausted by age and disease, unable to

* *State Trials*, xviii., 664, 735.

move his limbs, the hardships he encountered, hiding in bogs and hollow trees, and caverns, with the whole fabric of his ambition lying in dust at his feet, and no brilliant hopes as in the days of his early hardships beckoning him through endurance to greatness,—the miseries of the old man's wanderings must have been such as the pen need not attempt to describe. He was finally apprehended in the district of Morar, on the western coast, by a party from the *Furnace* sloop, which had been sent to search the isles and the coast.* From his retreat in Loch Muily, he must have travelled upwards of seventy miles over the wildest country of Scotland to reach this spot, and for all this exertion he must have been indebted to the faithful labours of his clansmen, for he could not walk a step unsupported. In the Lake of Morar he had hidden himself in an island which, as he had the command of the only boat on the lake, he considered impregnable. As, however, the western extremity of the lake was very close to the sea, a boat was towed by the man-of-war's men over the peninsula, and launched on the lake. The contemporary narratives state that he was discovered within a hollow tree, in which he was able to stand upright after having entered by an orifice below, through which the sailors were astonished to see what appeared to be two human legs muffled in flannel like those of a gouty alderman.

He was conveyed in a litter to Fort William, and there, on the 12th of June, he wrote a letter to the Duke of Cumberland, saying: "I can do more service to the king and government, than the destroying a hundred such like old and very infirm men like me, past seventy, without the least use of my hands, legs, and knees, can be advantage in any shape to the government." Nor did he fail in

* *State Trials*, xviii., 739, 740.

efforts to touch other feelings. He spoke of his favourable reception at the court of George I., much in the same strain, with several other letters already quoted. "And I often," he continues, "carried your royal highness in my arms in the parks at Kensington and Hampton Court, to hold you up to your royal grandfather, that he might embrace you, for he was very fond of you and the young princesses.*" But this was addressed to a heart harder than the nether millstone. It procured him nothing but a visit from Sir Everard Fawkener, the duke's secretary, who saw him at Fort Augustus. The secretary did not conceal the nature of his office, and as he was in the presence of one who had been a main instrument in the rebellion, the visit "was designed to see whether he would discover any thing that might tend to bring those mischiefs to a more speedy end." But as he candidly explained that he had no hopes of mercy to hold out, he was only told in Lovat's usual manner of the power he himself possessed, and the uses he might make of it, with the assurance that he was

——— In utrumque paratus,
Seu versare dolos, seu certæ occumbere morti.

In his way southwards, he passed the western extremity of his own favourite country of Stratherick, to the grief and dismay of his people, whose feelings would be in a great measure similar to those of the royalists, when they saw Charles I. passing through St. James's Park to the scaffold at Whitehall. One of his clansmen retained till a venerable old age the name of "Bairdie," because, from that memorable epoch of calamity, he had never allowed his beard to be cut, preserving it as a token of

* State Trials, xviii., 715.

attachment to his chief. He had said in a letter to Duncan Forbes, "If I am killed here, it is not far from my burial place; and I will have after I am dead, what I always wished, the cronach of all the women in my country to convey my body to the grave: and that has been my ambition, when I was in my happiest situation in the world."* His adverse fortune gave him the opportunity of experiencing these melodious obsequies, by anticipation, for the wail of the old women followed his litter, and the *senachie*, or family bard, was loud in his lamentations.†

He was conveyed in a litter by easy stages through Stirling and Edinburgh, and thence by Berwick to London. An anecdote of his journey is preserved, which shows that he could carry his ruling spirit into trifles, in the midst of disaster. A young officer was desirous of contemplating the actual features of this strange monster, of whom such wild rumours had reached the civilised world; and the acute inmate of the litter, discerning his object, snored loudly, and pretended to be fast asleep. The young man gently drew the curtains and looked in, when "the monster," starting up, seized him by the nose, and gave it a twinge not easily to be forgotten.‡

This is quite in conformity with an incident which amused Gray, the poet.

"I have been diverted with an account of Lord Lovat in his confinement at Edinburgh. There was a Captain Maggett, that is obliged to lie in the room every night with him. When first he was introduced to him, he made him come to his bed-

* This passage occurs in Lovat's letter to President Forbes, of the 30th of October, as above (p. 238), in an edition which was published on a large sheet of paper, and circulated at the time. There can be little doubt of its genuineness as written, but it was not inserted in the letter as it was sent to Forbes. See Culloden Papers, p. 239.

† Mrs. Grant's MS.

‡ Mrs. Grant's MS.

side, where he lay in a hundred flannel waistcoats, and a furred night gown, took him in his arms, and gave him a long embrace that absolutely suffocated him. He will speak nothing but French; insists upon it that Maggett is a Frenchman, and calls him *Mon cher Capitaine Magot* (you know *magot* is a monkey); at his head lie two Highland women—at his feet two Highland men.”*

It was at the White Hart Inn in St. Alban's, that he met with Hogarth. He had a mind fully capable of appreciating that great artist's works; they had made each other's acquaintance before; and we learn that, though under the hands of the barber, he “received his old friend with a salute which left much of the lather on his face.” The great master of the Real in art, beheld here a face and figure to immortalise. The well-known portrait to which this meeting gave rise, represents the massive form of the old captive leaning forward in a high-backed chair, the forefinger of his right hand placed on the thumb of his left. He is supposed to be enumerating the various detachments of the rebel forces; but his thoughts are evidently occupied with things of deeper import than mere numbers. His broad forehead is knit into large knots by the working of thick coming fancies, as if he were luxuriating in one of his great schemes; his eyes shoot forth from beneath them a twinkling light, half fierce, half sarcastic; while his broad mouth expanding in a smile of cajolery and good-humour, seems to laugh at the eloquent earnestness of the other features. Around them all, gather a multitude of little wrinkles, which, in the hands of one accustomed to stamp a passion or a cast of character by a single line, did each their service in recording an epitome of the strange and varied history of the subject of the sketch.

The artist said, "that the muscles of Lovat's neck appeared of unusual strength—more so than he had ever seen." This etching was one of the most popular of Hogarth's works.* The impressions could not be taken so fast as the public demanded them, though the rolling press was at work all night for a week. For several weeks the proceeds are said to have realised twelve pounds a-day.†

As he approached the Tower, he saw the scaffold erected for the execution of Kilmarnock and Balmerino, and, reading there his own fate, treated his attendants with a train of reflections on the strange vicissitudes of his life—his hardships among the mountains in his youth—his adventures abroad—his intimacy with distinguished foreigners—his imprisonment—his greatness, and now his fall. He was an eloquent moraliser, and is said to have deeply impressed those who heard him.‡

Before his trial he wrote the following letter to his old legal adviser, Erskine of Tinwald, who had been made Lord Justice Clerk of Scotland. Its air of mild dignity, the quiet contempt of mean things, and the tone of judicious flattery, bring it near to perfection.

"MY VERY DEAR LORD,—The only design of this letter is to give your lordship my most humble and sincere thanks for your goodness towards me, for William Fraser, writer to the Signet, has informed me, that your lordship has been so very kind, as to write to the glorious young fellow your son, who is an honour to his country, in as pressing terms in my

* Hogarth did another representation of Lovat, not so well known, but very curious. It is called "Lovat's Ghost on a Pilgrimage." The portly body is in the costume of a bare-footed friar. The head carried under the arm, grins forth a mixed expression of fire and horror. The adjuncts are a church-yard, and the tone of light and shadow is taken from Rembrandt—all dusky and obscure around, but a lurid light illuminating the face. Perhaps the horrible and the ludicrous were never brought in closer contact.

† Nichol's Anecdotes of Hogarth, 282.

‡ Contemporary account of Lord Lovat, "his behaviour during his confinement in the Tower," &c. London, 4to.

favour, as you could do for a brother; this is an instance of generosity very uncommon, and rare to be found in this age.

"It is true that your lordship and I lived for many years in as intimate friendship as if we were brothers, and communicated freely our sentiments to one another, yet I thank God there is never a word that passed between us, that ever was heard of without your lordship's apartment. You have now, my dear lord, given proof that you are what I always believed (you) to be, that is a man of the best sense and judgment of your country, a man full of goodness and affection for your relations, and a man of real friendship for those that you profess friendship to; I have the honour to have a claim to your lordship's goodness and affection as a relation, and you know, my dear lord, that I have some claim to your friendship—but what would all that signify, if your lordship's generous soul did not oblige you to put it in execution. I have, my lord, done great and essential services to those of the first rank in Scotland, who now abandon me, as if I had come from Turkey with the plague upon me; but as the Scripture says, that ingratitude is next to the sin of murder, let them answer for it. I bless God I am fitter to appear before the Judge of all the earth than they are; and though my family seems to be now in a very low and desperate condition, yet I hope, by God's mercy, before this age is at an end, that it will be more flourishing than theirs, and then they will see their shame as well as ingratitude. Your uprightness, my dear lord, has put you above this, for you neither abandon nor forsake your friend because he is unfortunate and in distress. May the God of Heaven reward you, my dear lord, may you live many years in perfect health, and may your posterity flourish with honour and wealth, more than any that wore the gown in Scotland.

"I most humbly beg of your lordship to recommend me once more to your lovely son, whom I expect to be the hero of my cause, and who, perhaps, may save my grey head from the block; but whatever come of me, I am sure he will gain great honour to himself, since he has a large field to walk upon. I have the honour to be, with the utmost gratitude, attachment, and respect,

"My very dear lord,

"Your lordship's most obedient and

"Most obliged humble servant,

"LOVAT.*

"Tower of London, 20th of January, 1747."

* Jacobite Correspondence of "The Athol Family," 241.

It may not be uninteresting to compare this with a letter written at the same time in a lower key, and in a more confidential tone, to a humbler instrument :

“MY DEAR COUSIN WILLIAM,—I am sorry that you are not with me, and yet your presence in Scotland is absolutely necessary, so that I know not what to say. Your presence here is necessary, and your presence there is necessary ; but I am so unlucky, that I cannot have you in two places at the same time ; but I think your being here soon is absolutely necessary. As to Thomas More G——, he must absolutely keep out of the way, and not appear at all. You are to take notice, my dear William, that according to the laws of England, by which I am to be tried, women are sufficient and as credible witnesses, to all intents and purposes, as men are ; and, therefore, as during my close confinement, by reason of my weakness and infirmities, women attended my person, and must have been witnesses of my conduct, correspondence, and transactions, they will be very proper to give evidence in my defence. You will give particular instructions to John Fraser, and my other friends in the north, as to this matter, and let them inquire after and find out proper persons of both, or either sexes, according to their discretion.

* * * * *

“I am very sure that you can get both men and women that can witness what you think necessary for me ; and John Fraser, my steadfast friend and chamberlain, is the only person who can assist you in this effectually. This is all that your friend, at this distance, can say, leaving all the rest to yourself, as the only faithful friend that he can depend upon to save himself and his family. I hope God will reward you for it, for I cannot*.”

The other rebel lords had been tried on a bill of indictment, by a grand jury of Surrey, moved by *certiorari* into the House of Lords. There was more than one reason against adopting the same plan with Lovat. As he had not been in arms, he did not come within the special rules of the temporary act, which authorised the presentment of

traitors by grand juries in other countries than those in which the treason was committed.* As no part of the treason charged against him had occurred in England, he could not be presented there at common law; and as presentment by a grand jury in Scotland was a novelty introduced from England, its working could not be trusted to. Moreover, as the decision in favour of his right to the peerage had only been given by the Court of Session, there was room for doubting if he were a peer; and an objection to his trial by his peers on a *certiorari*, might be taken at some critical moment. The old constitutional form of impeachment had no local restrictions, and commoners as well as peers were amenable to it. On the 11th of December, 1746, the articles were moved and carried without a division. On the 17th of December, they were brought by the managers appointed by the Commons, to the House of Lords. The "glorious young fellow" mentioned in the last letter does not appear among the counsel assigned to him, four of whom were, apparently, Englishmen, and one a Scotsman, Mr. Hamilton Gordon. The examination of the witnesses commenced on the 9th of March, 1747, and occupied five days. Lovat's conduct, throughout, was that of a dignified old man persecuted by fate, and borne to the ground by the oppressive strength of his enemies. Sometimes he was pathetic, occasionally impressively indignant, but never querulous or captious. He showed no disposition to catch hold of mere points of form; but was always ready to waive his right to their strict fulfilment, and to let the real business proceed uninterrupted. In general he was grave and decorous, and but one pleasantry escaped him;—when he was asked if he had any questions to put to Sir Eve-

* 19 George II. c. 9, § 2.

rard Fawkeney, when examined as a witness, he said, "No, only that I am Sir Everard's humble servant, and wish him joy of his young lady."

He made several appeals calculated to move commiseration for his grey hairs. "My lords," he said, at the commencement, "I have not had the use of my limbs these three years; I cannot see, I cannot hear; and I beg, if your lordships have a mind I should have any chance of my life, that you will allow either my counsel or solicitors to examine my witnesses, and to cross-examine those produced on behalf of the crown, and to take notes."* If he had been tried, on the charges brought against him, in Scotland forty-six years earlier, he would have been allowed this privilege; but the rules of English law confined the assistance of counsel, in cases of treason, to purely legal questions. At the conclusion of the second day he complained of the hardships of the early daily attendance to one of his infirm constitution, and said, "I must therefore beg that your lordships will indulge me with a later hour and some respite; otherwise I shall die at your bar,"† but the request seems to have been unheeded. Another appeal of the same description, in which he said, "I fainted away thrice this morning before I came up to your lordships' bar; but yet was determined to show my respect to your lordships, or die upon the spot,"‡ produced a respite of a day.

Impeachment, undoubtedly, partakes of the nature of popular proscription mixed with that of judicial trial. In its original nature, it was a method of crushing enemies of the state too powerful to be subjected to the ordinary legal tribunals, and was, in some respects, understood to

* State Trials, xviii., 578.

† Ibid., 549.

‡ Ibid., 694.

substitute the *salus populi suprema lex*, for the strict rules of the courts of law. Although much of this character had disappeared before the middle of last century, yet in the trial of Lovat, a portion of it clearly survived. There were too many persons active in such a form of proceeding for proper individual responsibility to operate, or judicial calmness to reign supreme. Hence, the evidence was, in a great measure, such as would not, at least at the present day, be tolerated in any court of justice in this country. Effect was given to excited relations of rumours, and to the still more excited opinions of individuals. A Highland witness, Hugh Fraser, showed a juster appreciation of the rules of evidence than the Attorney-general or the Lord High Steward. Being asked, "I desire to know whether in your opinion that news had any influence to determine my Lord Lovat's conduct at that time?" he answered, "I cannot take upon me to say what it was that determined my Lord Lovat's conduct."*. Of his guilt, there cannot at this day be a doubt, but from the precautions which he had taken, and the fidelity of his clan, it was not easy at that time to find unexceptionable evidence of it, and some testimony of a very questionable kind was admitted. Even Horace Walpole remarked, that "It hurt every body at old Lovat's trial, all guilty as he was, to see an old wretch worried by the first lawyers in England, without any assistance but his own unpractised defence."

The interest of the drama was increased by the production of a witness of no common kind, John Murray of Broughton, the Chevalier's secretary, who, after advising him to undertake the enterprise, becoming one of the main agents in its execution, and consenting to fill that office

* State Trials, xviii., 719.

which implied the greatest amount of trust and reliance on his integrity and secrecy, had bought his worthless life by agreeing to be a witness. The appearance of such an accuser must have made the old man's heart leap with inward satisfaction. On the whole he occupied a far more dignified position during his trial, than a biographer can give him in any of the ordinary transactions of his life; for his prosecutors were careful to found only on his services to the Jacobite cause, and did not dwell on his counter-operations in favour of government—in their hands, therefore, he was consistent. Looking through the whole vista of his own duplicity, he could contemplate his accuser with lofty scorn. He had never been pilloried in the witness-box. His oscillations between party and party, not to give them any stronger term, had something in them of the nature of diplomatic policy. In his defence, put in writing and read by the clerk, he denounced the traitor in terms which form no despicable specimen of denunciatory oratory.

“Murray the most abandoned of mankind, who, forgetting his allegiance to his king and country, has, according to his own confession, endeavoured to destroy both, like another Cataline, to patch up a broken fortune upon the ruin and distress of his native country; to-day stealing into France to enter into engagements upon, your lordship may believe, the most sacred oaths of fidelity; soon after, like a sanguinary monster, putting his hand and seal to a bloody proclamation, full of rewards for the apprehending the sacred person of his majesty; and, lest the cup of his iniquity had not been filled, to sum up all in one, he imprudently appears at your lordships' bar, to betray those very secrets, which he confessed he had drawn from the person he called his lord, his prince, and master, under the greatest confidence.”*

Lovat could discriminate, and make a graceful application of his discrimination. Another Murray had ap-

* State Trials, xviii., 799.

peared against him at the trial, but in a different shape. After having allowed the evidence for the managers of the Commons to be finished, he called for a postponement of a very inexplicable character, on account of his own witnesses being tampered with, and William Murray, afterwards Lord Mansfield, but then Solicitor-general, showed that this was done to palliate the circumstance of his not attempting to lead exculpatory evidence. On this the prisoner said,

“ I thought myself very much loaded by one Murray, who, your lordships know, was the bitterest enemy I had against me. I have since suffered by another Mr. Murray, who, I must say with pleasure, is an honour to his country, and whose elegance and learning is much beyond what is to be expressed by an ignorant man like me. I heard him with pleasure, though it was against me. I have the honour to be his relation, though, perhaps, he neither knows it nor values it. I wish that his being born in the north may not hinder him from the preferment that his merit and learning deserve.”*

The author has had an opportunity of perusing a large bundle of papers containing the memorandums, correspondence, and suggestions of the solicitors employed in the defence, and others who took an interest in it. Any efforts that were made for him appear to have been of a very vague and unsatisfactory character, and the whole resemble much the proceedings of men who are engaged in a hopeless task. The following is a specimen of the character of these suggestions.

“ To find out what evidence can be brought of expressions of loyalty in the time of the late troubles, and for some time before, or what letters were written to any person in that strain, and who these persons were, and as another part of this article to find out, what expressions of regret and concern in conversation and letters writ by him, on account of the late troubles, were said or wrote; under this particular comes a letter that

* State Trials, xviii., 827.

was wrote to Commissary Monro, after the battle of Falkirk, on the death of Sir Robert Monro, his brother, regretting the occasion of it. This letter might be got, and if the Commissary saw him when at Inverness, or before or after, and that any thing of loyalty and regrets for the misfortunes of the times passed, he must be examined upon it, and what he says taken down.”*

The response which this meets with in another of the memorandums, can have been by no means hopeful. “Commissary Monro was spoken to fully this day, he made search for the letter but couldn’t find it, and he says, if he had, it contained some things very improper to be exposed—such as a strong advice to Sir H. M. to quit the army—said nothing loyal, only wished the troubles of our country were at an end.”†

The verdict of guilty was found unanimously, on the 18th of March; and on the 19th sentence of death was pronounced in the ordinary brutal form peculiar to England.‡

It was a melancholy instance of the inefficacy of harsh laws, that the system which could not prevent a citizen from sporting with the interests of the community for sixty years, after the manner which fills up the events of this narrative, should make such mighty exertions to cut off a few years of his paralysed existence. It could furnish but a poor warning to ardent, young, political adventurers, to behold the axe of the avenger so long in falling on the victim; and would scarcely frighten them from compromising their lot in chances so long deferred. The old man’s grey hairs excited a sympathy, which he knew the art of cultivating; and if he had been left powerless and poor, to wither in unpitied solitude, seeing all his schemes baffled, and the policy he had so skilfully cultivated re-

* Lovat Documents.

† Ibid.

‡ See its terms, page 44.

versed, he would have afforded a more solemn example to those whose projects of ambition are not founded on the honest wish to serve their fellow-creatures.

After receiving his sentence, he made a short appeal, earnest but not servile, to both Houses to intercede for the mercy of the crown. His last words to the House were in the full spirit of his life and character, a solemnity tinged by a lurking equivocation.

Lord High Steward.—"Would you offer any thing further?"

Lord Lovat.—"Nothing, but to thank your lordships for your goodness to me. God bless you all, and I bid you an everlasting farewell: we shall not meet all in the same place again—I am sure of that."*

The public were ravenous with curiosity about the great Leviathan that had been at last so effectually hooked, and it was necessary to fill the ear of London with details of his previous history, as well as anecdotes of his conduct since his capture. Many of them are fabulous, and many not worth preserving, but a few are too characteristic to be passed over.† They may be announced by an incident not mentioned in the contemporary accounts, but preserved by tradition. On his return from the House of Lords to the Tower, an old woman not very well favoured, had pressed through the crowd and screamed in at the window of the coach, "You'll get that nasty head of yours chopped off, you ugly old Scotch dog," to which he answered, "I believe I shall, you ugly old English b——," paying her back with the feminine of the masculine epithet she had applied to him. The major of the Tower coming to visit

* State Trials, xviii., 841.

† Taken chiefly from the "State Trials," the "Gentleman's Magazine," the "London Magazine," the "Scots' Magazine," and some contemporary Tracts.

him and ask how he did, he answered, "Why, I am about doing pretty well, for I am preparing myself, sir, for a place where hardly any majors, and very few lieutenant-generals go;" this was a more distinct hint than that given to the House of Lords. Any matter engrossing the public mind so much as this trial and execution, naturally invited the vagaries of persons wholly or partially insane, to the centre of attraction. In this shape an individual of the name of Paynter rendered himself conspicuous by a petition to his Majesty, and a letter to Mr. Secretary Pelham, stating that his application was very different from those with which statesmen are generally overwhelmed, and was for a boon for which there would be few competitors. "Do then," he said to Pelham "be persuaded—let me persuade you, sir, to intercede with the king on my behalf, that Lovat may be pardoned, and that I may have the honour of being beheaded on the scaffold in his lordship's stead." When he heard of this magnanimous offer, Lovat said it exceeded the text of Scripture, which says, "Greater love than this hath no man, that a man lay down his life for his friend." "However," he continued, "this man offers to suffer for a stranger, nay, for one that he stigmatises with the name of a vile traitor. In short, sir, I am afraid the poor gentleman is weary of living in this wicked world, and, if that be the case, the obligation is altered, because a part of the benefit is intended for himself." Occasionally his thoughts were far off among his mountains, and his heart swelled with the thought of the greatness that there still hallowed his name. He said he would have his body entombed in the church of Kirkhill, which had been the family place of burial for centuries, and that he had at one time left, in a codicil to his will, a sum to pay all the pipers from John O'Groat's house to

Edinburgh to play before his body, and if this were not permitted by the government, yet the old women would cry the coronach, "And then," he said, "there will be old crying and clapping of hands, for I am one of the greatest chiefs in the Highlands." He made himself a favourite with the warders. On the evening before his execution he took a cordial pipe and a glass of wine with them, and on their drinking to him "a good journey," he said "Amen," and then knocking the ashes out of his pipe, thus moralised: "Now, gentlemen, the end of all human grandeur is like this snuff of tobacco." There was more than one striking instance, while he was in the Tower, of his power of securing the affection and attachment of those by whom he was surrounded. When General Williamson, the lieutenant-colonel of the fortress, visited him on the same evening, he desired to bid farewell to that gentleman's daughter, but was told that she was so much overcome by sorrow for his fate, as to be unfit to support an interview. "God bless the dear child," he said, "and make her eternally happy, for she is a kind-hearted, good lass." He desired the attendance of Mr. Baker, the chaplain of the Sardinian ambassador, and declared that he died in the faith of the Roman Catholic Church, "that he adhered to the rock upon which Christ built his church; to St. Peter, and the succession of pastors from him down to the present time; and that he rejected and renounced all sects and communities that were rejected by the Church." But even on this solemn question he showed his old propensities: when asked if he was a Jesuit, he said no—a Jansenist: evidently out of a spirit of mystification. There is in the "State Trials" a copy of a letter to his son, which bears none of the characteristic marks of Lovat's composition, none

of his vivacity or power. It is, in fact, precisely in the usual style of a criminal's penitentiary letter, where a well-meaning clergyman supplies those decent references to religious consolation which the ignorant and brutal minds of ordinary criminals are unable to suggest or appreciate.

The tragedy was finished on Thursday, the 9th of April. The last time he had stood in the open air before an assemblage, was on his own hills, and in the presence of his own people—here he was in the midst of the London mob, for whose hundreds of thousands his death was a holiday. From the dense eagerness of the crowd, a scaffold fell, and several people were killed. But so intensely was the interest of all centred in the one solemn and deliberate extinction of life, which had brought them together, that the incident was scarcely noticed, save to record Lovat's remark on it, "The more mischief the better sport." When he reached the scaffold he looked round and said, "God save us—why should there be such a bustle about taking off an old grey head that cannot get up three steps without two men to support it." He embraced one of his clansmen, James Fraser, and said, "My dear James, I am going to Heaven, but you must continue to crawl a little longer in this evil world." To another of his followers he gave his gold-headed cane, and it is still in the possession of the receiver's descendants in Inverness. He examined the edge of the axe, and said he believed it would do. It was then that he uttered the sentiment from Horace, ever connected with his name by the association of contrariety,

"*Dulce et decorum est pro Patriâ mori.*"

He read the inscription on his coffin, which was simply "Simon Dominus Fraser de Lovat, decollat; April 9,

1747. *Ætat. suæ 80.*" It appears to have been the meagerness of this inscription that, leading him to reflections on the vanity of all his hoarded hive of grand ancestral associations, prompted him to say with Ovid,

" *Nam genus et proavos, et quæ non fecimus ipsi,
Vix ea nostra voco.*"

His head was severed from his body at one blow.

It may be a question whether a public career of any kind can be so conducted as not to find defenders and vindicators—not merely among eccentric writers seeking for paradoxes, but in the thoughts of sincere, honest, able men. Of such vindicators, Lovat's life and character, such as we have seen them, had a few. By them his actions were viewed through a peculiar medium. They were the Machiavellianism of a prince, not simple transactions between man and man. He was endowed with the privileges of a monarch, who is not to be tried by the ordinary rules applicable to a subject; and with whom deeds that amongst mankind at large are called treachery and falsehood, take rank as kingcraft and state policy. Let us part with him in peace, by concluding our memoir in the words of one of these panegyrists:

"*Drummond of Bochaldy to Mr. Edgar.*

"Paris, 31st. of May, 1747.

"Our good friend Lord Lovat is indeed no more! His majesty has lost in him an able and zealous asserter of his just rights; one of the best heads and hearts that was in his dominions; his country has lost one of the greatest and best patriots it had at any time, and his relations and intimate acquaintances a most faithful friend in all their necessities and wants. There have been many exceptions made against his character, which the necessities of the times, and the particular unhappy situation of his family at his setting out in the world,

can only account for. But to consider his whole life in gross, we must allow him to have been one of the ablest men, of the soundest head, firmest mind, and best heart, that our country has at any time produced ; one who never lost the point he had in view; whose surprising presence of mind, in all events, gave occasion to his seizing opportunities for succeeding in things by the ablest thought impracticable, and quite out of the sight of the common-rate of mankind. His equality and rather cheerfulness, than dejection of mind, in the last days of life, and the easy, civil behaviour, with resignation, with which he became a sacrifice to his duty and the royal cause, have reconciled the world to him. Every mortal is now satisfied that his sentiments were always the same—equally just and honourable—and that the innumerable difficulties he had to conquer in the settlement of his clan and private family, made it necessary to cover them by means that often rendered his character equivocal in the eyes of the world.”*

*Memoirs of Sir Ewen Cameron, printed for the Abbotsford Club.
—Appendix.

LIFE OF DUNCAN FORBES, OF CULLODEN.

CHAPTER I.

Birth—Origin and History of his Family—Grey Duncan—Maternal Training—Education—College Life in Edinburgh—Trial of Captain Greene for Piracy—Studies in Holland—His Marriage—His Wife—Her early Death—Profession of the Law—Defence of Culloden Castle—Capture of Inverness—Appointed the Lord Advocate's Assistant—Opposition to the Government in their Conduct to the Rebels—Letter to Sir Robert Walpole—Convivial Habits—Enters Parliament—His Friends—Drummond, Walpole, Lyttleton, Mansfield, Dr. Clark, Colonel Charteris, &c.

IT is a relief to the writer, as it may probably be to the reader, to turn from the intricacies of a mind twisting itself to suit the turns of fortune and to profit by every recurring change in the course of events, to an honest simple character, shaping itself according to principles, which if they be not abstractly right, are yet illumined by the light of a conscience within. The relief is something like that which the anatomist of society experiences, when, after threading the gloomy noisy streets of a city, and inhaling its tainted atmosphere, he reaches the open fields, and breathes the pure air of heaven beneath the light of day. His city travels may have developed many wonders. Close beside the indications of squalor

and vice are the monuments of the accumulated labour of great intellects; old historical associations strew the path; modern wonders of science compete with them for admiration; the great world of man has been laid open for examination into the sources both of its greatness and its misery. The pursuit is not without its interest and its dignity; but the sunshine and the fresh green, the pure breeze and the clear water, have double charms by contrast when the task is finished.

Of Duncan Forbes, many circumstances which may be likely to give the reader an interest in his character, have been necessarily connected with the preceding narrative. It now remains to give a general sketch of the events of his life, and of his nature, moral and intellectual. He was born near the town of Inverness, on the 10th of November, 1685. His family possessed two estates in Inverness-shire, the one bearing the historical name of Culloden, near the banks of the Moray Firth, east of Inverness, the other called Bunchrew, on the edge of the same estuary, where it turns in a south-eastern direction, on the other side of the Highland capital. It is not known at which of the family seats Duncan was born. Both Culloden and Bunchrew, though not among the mountains, are within the Highland line, where the people are of Celtic race, and still speak the Gaelic language, the use of which, even in these populous and cultivated border districts, seems to diminish but by inches. The Forbeses, however, did not belong to any of those races, which, whether indigenous or imported, having taken root in the country in the early ages, when clans were little independent kingdoms, founded each a line of petty monarchs—like the Frasers of the Aird, or the Macleods of Skye. Though owners of the lands inhabited by Highlanders,

they were no more Highland chiefs, entitled to a "following," or court of officers and attendants, than the English gentleman who now buys a Highland estate. They had migrated from the Lowlands in the seventeenth century, a time when the law was too strong to let a new clan dynasty grow up under its eyes, though it might not be powerful enough to destroy those combinations of chief and people, which had been the sturdy growth of many centuries. The first Forbes who settled in Inverness-shire, was a cadet of the family of Tolquhon, in Aberdeenshire, itself descended from a cadet of the Lords of Forbes. The power and wealth of the family is attested by the massive ruins of the Castle of Tolquhon, where an ample court-yard is surrounded by a quadrangle of towers and curtains, richly moulded and covered with rude sculpture, now all roofless and fast hastening to decay.

Duncan was the name of the first member of the family who possessed Culloden. He was provost of Inverness, and died on the 14th of October, 1654, aged 82. He enjoyed the name of Grey Duncan, and his title to be so called is fully attested by his portrait, where a large grisly beard conceals the lower part of his bold, broad, honest face. Round the room, where this portrait occupies the highest station, are ranged those of his descendants, and it at once strikes the stranger, that seldom, in the ancestral representations of Scottish families, does one see so fine a clustre of open, handsome, ingenuous countenances. Perhaps this may partly arise from a usual characteristic of such portraits—the sinister-looking moustache of the seventeenth century being absent from this group, in which there is no medium between the rich, full, uncultivated beard of Grey Duncan, and the clean-shaven faces of the next generation.

The family were of Presbyterian principles, and we find

John, the son and heir of Grey Duncan, disqualified to sit as member of Parliament, apparently for the shire of Elgin, because the test being tendered to him, on the 10th of February, 1685, he refused to take it.* With such principles, he naturally was a sufferer under the intolerant government of Charles II.; but his sufferings had a very unusual effect, for, according to the family historian, "the frowning aspect of government, by introducing the habits of economical and private living, instead of hospitality and expense, into his family, must have conduced to the accumulation of his fortune; and about the year 1670, his landed estate was doubled by the purchase of the barony of Ferintosh, and the estate of Bunchrew."† Ferintosh, on account of the privileges granted to its owner, became, at a subsequent period, illustrious as the headquarters of the distillery of whisky; and thus, so short-sighted is man, the efforts of "the Merry Monarch" to subdue the spirit of the stubborn Presbyterian, became the source of conviviality for generations after he and his roystering companions were in their graves. In the Highland campaign which succeeded the revolution, the estates of the Forbes's were ravaged by the troops of Cannon and Buchan; and as this had arisen, not from the mere accident of war, but from the zeal of the family for revolution principles, Duncan Forbes, the son and successor of the frugal John, received as a compensation, the privilege which has just been alluded to, of distilling into spirits the grain of the barony of Ferintosh, at a nominal composition of the duty, which remained at the fixed sum of 400 merks, Scots, or 22*l.* 4*s.* 5*d.*, after the spirits distilled in other parts of the country were subjected to a compara-

* Innes, *Origines parochiales*.
Papers, v.

† Introduction to the Culloden Papers, v.

tively heavy excise.* The loss to be compensated was estimated at 54,000*l.* Scots, or 4,500*l.* sterling—a very considerable sum in that age. The Scottish Parliament had little pecuniary means at its command, and probably gave the best reward it could afford; but this was certainly a method of requiting public sacrifices, but one degree less mischievous than the old method of allowing the favoured individual to ravage in his turn the territory of some rebel chief, and obtain from it whatever he might be able to extract.

The person who immediately profited by these incidents, Duncan Forbes, the father of the subject of our memoir, was member of the Scottish Parliament for the County of Nairn, and like his father, an active friend of revolution principles. He was married to Mary Innes, a daughter of the laird of Innes, a baronet in Morayshire; and they had besides Duncan, a son John, who succeeded to the family estates, and several daughters. The earliest lessons that Duncan received were imbued with an earnest piety, which has been a leading characteristic of the Culloden family through several generations. A writer who seems to have spoken in a great measure from personal observation, says of the father:

“This old gentleman was a real good man. He kept the worship of God statedly and fixedly in his house; and when a chaplain, or minister, was wanting, he performed the office himself. He read the sacred Scriptures with concern and regard—he sang the praises of his Creator with a truly thankful heart, and poured out his soul in prayer before him. I can remember, with pleasure, having been once at a gentleman’s house near Inverness, where the conversation turned upon Culloden, and there a matron said, ‘It is no wonder that Mr. Forbes’s chil-

* Burke’s History of the Commoners, iv. 622.

dren have arrived at so great honours, for sure I am, they are children of many a prayer.' ”*

His mother, a woman mild, kind, and affectionate in nature, but imbued with the religious principles of presbyterianism almost to sternness, appears to have written to her children many long, earnest, serious letters; the continuation, it may be presumed, while they were absent, of the counsel they received verbally when in her presence. Some of them are still preserved, written in a hard angular rather masculine hand, which would be very distinct if the lines were not too closely crowded together. One will readily expect from the object they generally have in view, that, however important they may have been, and however much revered by the receivers, they would afford little interest to a general reader, who, if he have access to a theological library, may find the same topics discussed by more expert hands. But as a specimen of the principles which presided over the cradle and childhood of Duncan Forbes, and had their share in the subsequent formation of his mind and habits, the following characteristic specimen is given from a letter written by this lady to her son when he was twenty-six years old, and too much entangled with the practical business of life to be so observant of early precepts as she desired him to be.

“ November 16, 1711.

“ I had yours of the 8th, Tuesday night, and was somewhat eased by knowing that your brother and you had got safe, tho’ my health was none of the best when you left me, and my sinful God-provoking anxiety, both for your souls and bodies, neither is nor has been very helpful to me for that part of it. And I out of my heart wish that you took a little better heed to both. I was much surprised as well as grieved to find that you journeyed from Innes upon the Sabbath. Its now a con-

* Memoirs of Duncan Forbes, 1748, p. 9.

siderable time since I observed you put not that value upon that day you yourself sometimes did, as well as you know that those whose footsteps ought to be your pattern in well-doing did. This is and has been a wounding to me, and a very sensible one.”*

After he obtained the rudiments of education in Inverness, Duncan was sent to Edinburgh. The earliest extant production of his pen is the following scrap, probably the result of some inquiries which he had engaged to make in the fashionable world of Edinburgh, to enable his brother's wife to outshine the provincial equestrians of the north. The information may not be uninteresting to those whose inquiries as to costume go farther than the existing fashion.

“Edinburgh, June 2, 1702.

“I employed the lady Bargeny as you desired me, to inquire what was most used for ryding clothes and under petticoat. The sum of her report was, that one of two must be done. Either scarlet coat and skirt, or camlet coat and skirt of a grave colour with a silver button. She says that the coat is sometimes used of cloath, but not so frequently as of camlet. A Killamanca of 3 or 3-6 ane ell is used for under petticoats.”†

From the following letter, dated November 17, 1704, we find that he had then commenced his professional studies, and that he contemplated, though not apparently with perfect cordiality, going through some practical training. It shows us that he attended the Scottish law class taught by John Spottiswood, whose name was long venerated by the steady practical members of the profession as it was abhorred by the more indolent and careless portion of their pupils, from his authorship of “An Introduction to the Knowledge of the Stile of Writs, simple and compound, made use of in Scotland.”

“Edinburgh, November 17, 1704.

“DEAR BROTHER—I was yesterday with Mr. David, who says that according to the desire of your letters, he has provided

* MS. at Culloden House.

† MS. at Culloden House.

a writing chambre for me, and is very positive anent my going to one, as also for going to Mr. Spotswood's Colleges of Law, and you know that he having once taken it in his head, and asserting it to be necessarie, I cannot contend, so that if you do not resolve to countermand it in plain terms I must submit. And you must remit here five guineas for Spotswood, and a hunder merks for the Latin. In the meantime, I think it duty to advertise you that one Someville is expecting money which you promised him at the Tearn. There is no news this post, else you should have your share of them.

“ I am your most affectionate and dutiful brother,

“ DUN. FORBES.”*

The dangerous and excited state of Scotland at the commencement of the eighteenth century has been mentioned in a previous part of this volume. The trial of Captain Thomas Greene and his crew for piracy, in 1705, was an incident, which has marked in the darkest colours the spirit that then actuated all classes of Scotsmen. A ship belonging to the Scottish Darien Company, had been seized in the Downs, and confiscated for a breach of the privileges of the English East India Company. By way of reprisal, as if the act had been done by an alien state, an English vessel, called the *Worcester*, lying in the Frith of Forth, was seized and detained by the order of the Scottish Court of Admiralty. While the crew of this vessel were enjoying idleness and dissipation among the people of Burntisland harbour where she lay to, they were heard to throw out some mysterious hints about crimes that the distant seas had closed over, in such words as— “ It is a wonder that since we did not sink at sea, that God does not make the ground open and swallow us up when we are come ashore, for the wickedness that has been committed during this last voyage on board that old hulk.” Dark rumours began to circulate and gather

an articulate shape. A vessel was said to have been attacked in the Indian seas, and the crew murdered with hatchets and thrown overboard. That national enthusiasm might contribute to increase the indignation thus excited, it was discovered that the ship was a Scottish vessel, belonging to that unfortunate Darien Company, which then lay at the root of all Scotland's woes and wrongs. Of the horrors of which the populace of Scotland supped full—and not only the populace, but the lawyers, clergy, and statesmen—we have a fair representation, in two letters by Duncan to his brother; the first is dated 2nd of April, 1704, a mistake apparently for 1705.

“A week or two ago I took a hundred merks from Andrew Skeen, to pay for my writing chamber, what penny-worth I have, I'll tell you when, God willing, we meet. I was, when I came here, resolved to follow the advice you gave me, viz., to spend as little as I can here, in order to spare something till I come to a place where spending will be more necessary, and I continue so still; but you may think it otherwise, when you hear that I have bought six or seven pounds' worth of books here, and am resolved to buy more, yet this is soon reconciled, when you know that I have them here by the half cheaper than they are bought in Holland.

“I gave you last an account of Green's tryael and doom, which makes such a stir in this place. Since the sentence, one Geo. Haines made a declaration, in which he says, there was a ship taken upon that coast, at that time, &c., but that he was not aboard himself. Afterwards, seeing that this confession did not procure him a remission, he made a second one, upon some assurances of life, in which he confesses that he was aboard the time of the action, but did not know what men they were that were taken, or what was done with them. But this not being full enough, he, upon the sight of a remission, made a third one, in which he tells of the men's being murdered, some being cut in pieces by hatchets, and others tied back to back and thrown overboard. He adds, that he heard Captain Mather in the meantime say, that that was Captain Drummond. [This] would tell well enough if he had told it all at first, or if he had done it without hope of remission; but now he has got his remission

for this fine story, another of the men called Bruce, seeing his neighbour freed from death by such a notable tale, has made an ample confession also, and is in a fair way to a remission too. On Tuesday last, came a letter from Argyle, by the Queen's order to the Privy Council, desiring them to delay execution till the queen should see the process. Upon which the counsell took him up roundly, telling him he took too much on him to order them; that they would do what they would without regard for his letter, but there is since then an express come, with orders from the queen herself, as is said, to reprove them till her further pleasure be known."*

"April 20, 1705.

"The news of the town is a discovery of the oath of piracy taken as is alledged by Captain Green and his men, which, George Haines, one of the men that has confessed, says to have been thus: That Captain Green and the rest of the crew, were let blood of (by Samuel Wilcocks, surgeon, mate of the ship) in one bowl, that their several bloods together with a little claret wyne were mixed, and they made to sitt on their knees; that they were made to eat a little bread with the liquor, and in this fashion take a sacramental oath of secrecy in the horriddest tearmes that could be devised. Upon this discovery, Haines and Wilcocks were confronted before the Advocate, where the one alledged and the other denied most pointedly. Its alledged, also, that there is a watch found which Captain Green had given to a Miss of his in Town with T. D. the two first letters of Captain Drummond's name engraved on it. What truth is in this I know not.†

"DUN. FORBES."

The Admiralty Court found the accused guilty, more it is to be feared in token of their strength, and to show England what they could do, than in the impartial administration of justice. Forbes carefully watched the proceedings, and soon had reason to believe that the whole nation, from the bench to the lowest populace, hurried on by the blind fury of national prejudice, were committing an atrocious crime. Subsequently, when stand-

* MS. at Culloden House.

† MS. at Culloden House.

ing up in the House of Commons for the independence of Scotland in the inquiry about the murder of Captain Porteous, he gave an account of his own impression and conduct on the occasion in this remarkable statement.

“ One Greene, a master of an English vessel, having been forced by stress of weather into the harbour of Leith, a report was spread that he was a pirate; upon which he and his officers were taken up and tried, and upon the evidence of some of his crew, no two of whom concurred in their evidence, condemned for murdering one Drummond and seizing his ship. I was present at the whole trial, and was sensible with what partiality and injustice it was carried on: the unfortunate men seemed to me to have no other crime, than that of being Englishmen, and of being obliged to put into Scotland at a time when great animosities were subsisting in that kingdom, on account of some proceedings against the natives of Scotland, which were judged there to be unjust and harsh. For these, and no other crimes, this poor unfortunate gentleman, and the officers of his ship, were to suffer an ignominious death. The populace, in the meantime, began to have a surmise that the privy council, which sat at that time in Edinburgh, intended to reprieve the criminals. As every surmise to an enraged mob, is a proof, they attacked the Lord Chancellor, beat his chair in pieces, and obliged him to fly for his life; and had it not been for the city guard, who rescued him with their bayonets upon the muzzles of their guns, they had torne him to pieces. They afterwards went and knocked at the door of the house where the privy council was sitting, bawling out for the blood of these persons; and the privy council in a mean and scandalous manner gratified them, by signing an order for their execution that very day. I was so struck with the horror of the fact, that I put myself in deep mourning, and with the danger of my life, attended the innocent but unfortunate men to the scaffold, where they died with the most affecting protestations of their innocence. I did not stop here, for I carried the head of Captain Greene to the grave: and in a few months after, letters came from the captain for whose murder, and from the very ship for whose capture, the unfortunate persons suffered, informing their friends that they were all safe. These letters,

sir, were of a date, much later than the time when the crimes for which Greene was condemned, were pretended to be perpetrated."

The resistance thus offered by the young student of jurisprudence to the torrent of national prejudice and fury—a torrent which swept with it alike the sedate and the exciteable—the wisdom of grey hairs and the enthusiasm of youth, presaged a character as remarkable for its love of justice, as for its firmness; and was the more admirable, that it was no fruit of callousness or calculating indifference, but was exhibited by one in whose bosom the love of country burned steadily, and no less warmly than the devouring flames of patriotism by which it was surrounded.

A lawyer's education in Scotland was considered very incomplete in that age, without some aid from a foreign university. While the devotees of the common law of England scorned the system of the civilians as something that partook both of the un-English and the slavish, and nursed themselves into an almost devout veneration for the rude but majestic system which separated them as much from the European mind as the channel isolated them from the continent; the Scottish lawyers sought instruction from the learned civilians of Holland and France, as from persons who had filled their cisterns from the old undefiled fountains of the Roman Law. If it be admitted, that the English common law was calculated to guarantee more valuable privileges, the Scottish system at least infused into the profession a tone of scholarship and liberal feeling, which long continued to characterise the Parliament House of Edinburgh. The protestant university of Leyden, was the uniform resort of the sons

of those gentlemen who were imbued with sound revolution principles, and thither Forbes went soon after the affair of Captain Greene. On the 15th of December, 1706, we find his brother John writing to his wife. "Pray fail not to give my love to my mother, and tell her my brother is well, for I heard from him last week, and answered his bill for 300 guilders. He is still at Leyden, but I think he will be shortly at the Hague. I have from several, that have come over with the last fleet, who left him in very good health, and gives him as ample a commendation as my heart can desyre, for which I desyre to bless God."*

His foreign studies seem not to have been of long duration, for on the 16th of September, 1707, we find him writing to his brother, that owing to the bad state of the weather, the Duke of Marlborough may probably return to Britain within a month, and that he would prefer going by that great commander's convoy, as both the safest and the cheapest method of travelling homewards. "Notwithstanding," he continues, "of the great expense I have made hitherto, I shall want to clear me of Holland, about four hundred guilders, for living, some books, and petty debts."†

He appears to have been married soon after his return to Scotland. He had fixed his affections on Mary, the daughter of Hugh Rose, twelfth Baron of Kilravock, the proprietor of an estate close to Culloden.‡ Accord-

* MS. at Culloden House.

† MS. at Culloden House.

‡ This Baron of Kilravock was a political man of considerable eminence. He opposed the incorporating union, and was in favour of federalism. His biographer says, he was brought up with "notions of licentiousness and arbitrary government," but that he subsequently imbibed the principles of the Revolution. He partook in the capture of Inverness from the Rebels, in 1715, when his brother was killed. (*MS. History of the family at Kilravock.*) On his death, Lovat wrote a letter of condolence to his son, which would make no bad model for such an occasion, for "The Universal letter writer." "I own, I was

ing to tradition, she was beautiful in her person, and possessed of all the qualities, moral and intellectual, which might make her a suitable partner for one so highly endowed.

Between the old Fortalice of Kilravock, and the mansion of the Forbes's, lies Culloden Moor; and amidst the associations of defeat and misery which haunt the spot, one memorial of an earlier date and a gentler character is still pointed out to the wayfarer. Beneath a spreading oak tree, an unusual feature of the surrounding scenery, there is a huge stone; and there the affectionate traditions of the country people record, that Duncan Forbes, who still lives among them as a name for the place to be proud of, used to meet with Mary Innes, when their affections had been plighted. Not yet had this peaceful solitude been associated with historical tragedies—with disaster, and blood, and cruelty. And in the old widowhood of Duncan Forbes, when he heard, with a throbbing heart, of those butcheries of which his own honoured domain had, by a strange coincidence, been the stage; one can suppose that the far different scenes which, through the vista of long years, he could remember, on the same spot, must have deepened, by contrast, the darkness of the tragedy.

Their union appears to have taken place in 1708.* The period of her death has not been ascertained; but it is known that unhappily for the otherwise fortunate career

both surprised and heartily grieved at the loss of my most constant and brave friend, who for his uncommon valour and integrity, was an honour to mankind; and the comfort I have in losing such a heroic friend, is, that God be thanked, without any flattery, I can say that no father has been so happily succeeded in our days in the part of the kingdom where we live, as he is; for you possess all his good qualities without the defects that advanced age brought upon him."—(*Original at Kilravock.*)

*A discharge granted by John Forbes, Duncan's son, to Hugh Rose, preserved at Kilravock, bears reference to their contract of marriage as bearing date the 21st of October, 1708.

of her husband, she lived but a very short period, leaving a son, John, of whom we shall hereafter have to speak. Though still in early youth, Forbes seems to have cherished her memory according to the spirit of an unknown author,

"Heu! quanto minus cum reliquis versari, quam tui meminisse."

In 1717, his brother, thanking him for "the kindly way of living he proposed," says,

"I like it extremely well, but I should like it much better if you could think of providing yourself with an honest lass that would be a comfort to you, and also take care a little of me. This would determine me to keep home, and with pleasure, which in any other event cannot but be pretty melancholy to me when alone; and I assure you that your coming to some speedy and solid resolution in this thing, which perhaps you may take as a joke, is the greatest obligation you can do your affectionate brother."*

But he seems to have considered that his course of matrimonial happiness had been run, and we find no symptoms of his ever having contemplated a second alliance.

On the 26th of July, 1709, he became a member of the Faculty of Advocates.† It is said that he was soon afterwards made Sheriff of Midlothian, but the contemporary authority on which it is believed that at so early a period he received this high appointment, is not stated.‡ He had undoubtedly at an early period attracted the notice of the powerful family of Argyle. The story that accompanies every eminent lawyer, about the senior counsel taken suddenly ill, and the junior performing his functions better than he could have executed them himself, and to the marvel of the bystanders carrying the

* Culloden Papers, 72.

† Books of Sedement, referred to in Brunton and Haig's "History of the College of Justice."

‡ Brunton and Haig's, "History of the College of Justice," 509.

cause triumphantly, has not deserted Forbes. It was by such an incident that he is said to have gained the good opinion of the great leader in the camp and cabinet. Whatever may have been their introduction to each other, their esteem was mutual. There seems to have been nothing in young Duncan's character of the fawning or crouching, and no over anxiety to lift up the face so as to catch the eye of those above, with the certainty of losing notice of equals or inferiors. The duke seems to have had much respect for the firm, honest character of his young friend; and feeling probably that the obligations passing between them were mutual, he generally addressed him in the tone of warm and liberal friendship.

Lord Mar's rebellion, which found Forbes a promising but obscure man of business, left him a person of considerable political note. Amidst other correspondence foreshadowing an outbreak, we find his brother writing to him from London, on the 30th of April, 1715:

"As for your Highland neighbours, your trysts and meetings, I know not what to say. I wish we be not too secure. I can assure you the Tories here were never higher in their looks or hopes, which they found upon a speedy invasion. Whatever be in the matter, let things be so ordered that my house be not surprised."*

His "house," the Castle of Culloden, was, if we may judge of it from some old pictures of the battle of Culloden, where it is represented in the distance, a huge, tall, strong pile of buildings, with little ornament. It was partly built in the days of the Macintoshes, and was probably completed by the first Forbes. Old houses and old furniture have, before they reach the dignity of being ancient to go through the ordeal of being old-fashioned,

a state of transition in which they have no friends, and where the hand of every man who can afford to dispense with them, is turned against them. To this perilous juncture the old Castle of Culloden, after surviving all its sieges, fell a victim. The strong stone vaults alone remain, and over them is raised a modern mansion in the English style of the last century. Had it existed to this day, the old Fortalice would have been looked on with veneration, and it is at least to be regretted that its owner did not content himself with building his new mansion apart, and leaving the old grey walls to keep company with the ancestral trees by which they were surrounded. Such was the house for the safety of which its owner, attending his parliamentary duties, expressed his anxiety. It was considered a fortification of considerable political importance, and, being attacked by the rebels, was held out by Duncan, until the return of his brother with a very important ally had the effect of raising the siege.

Both Duncan and his brother were actively engaged in the civil war in Inverness-shire. We have already seen Lovat's detail of their operations, in which he, of course, naturally cuts the principal figure. We may now add a few notices from the memoranda of a more impartial spectator.* John Forbes met Lovat at Stirling, on the arrival of the latter, from France, and they concerted together a plan for passing to Inverness—a project of great difficulty, as the whole intervening country was overrun by the rebel forces. They obtained a small merchant vessel at Leith, belonging to Portsoy, and commanded by a man named Clark. They received twenty-eight firelocks, with ammunition, from the castle of Edinburgh, and were fortunate enough to find several north Highland

* Major Fraser's full and impartial account, MS.

drovers on their way from England after the sale of their cattle, who were glad to embrace this means of conveying their money in safety. Lovat mentions their encounters on the voyage through the Frith of Forth with some of Mar's armed boats.

Finding that the captain of the vessel was a Jacobite, they threatened to pistol him, and were contented to part company with him by being landed at Aberdeen, instead of continuing the voyage to Inverness under so dangerous a guide. At Aberdeen they found Lord Saltoun in command of the Jacobite forces—a very serious discovery for Lovat, who, sixteen years previously, caused a gibbet to be erected before his window,* and might be too practically reminded of the threat conveyed in that exhibition. The acuteness of Major Fraser, by his own account, saved the whole party. Being suddenly summoned before Lord Saltoun, with true Highland sagacity “the major told his lordship that he had tasted nothing since he came in, and that he would be the better of a dram before he told his lordship who they were. My lord called for a double stoup of brandy and a large glass, and gave a bumper to the major. Then the conversation began.” Having thus gained time, and fortified his assurance, the major said they were drovers who had been in England selling cattle for Lord Seaforth, and were returning with the money, which was much needed for the service of King James. So effectually was the story told, that to expedite a journey which seemed to be essential to the Jacobite cause, Saltoun provided them with horses from his own troop. They had a dangerous and difficult

* So Major Fraser says; but the Lord Saltoun mentioned in the “Life of Lovat,” had died a few months before this meeting. Perhaps his son had been a partaker in the gibbet scene.

journey through a wild country, much frequented by the forces of the rebels. On the second day they reached Kilravock, the seat of Duncan's father-in-law, which was garrisoned, and holding out against the insurgents. There Lovat remained, instructing Major Fraser to raise the Stratherick men, and bring them to Culloden House. Continuing his narrative he says—"Culloden and the major marched off, and came to the house of Culloden by eight o'clock at night, where Mr. Duncan Forbes was keeping a strong garrison of men, who were better paid than the king's regulars, though they were all his own tenants. Culloden and the major having entered that house, you may believe they were both well received. The major told Mr. Duncan what command was laid upon him by his chief to be that night in Stratherick, in order to march down the men. Mr. Forbes answered, 'You fool, you'll starve by the way—a wilder night never blew.' However the major was positive to get to Stratherick that night. He having taken leave of that gentleman with the consent of a good bottle of wine in his skin, he made out that twenty miles of rugged country by daylight. He arrived cold and hungry. He soon recruited with a dram of good aqua vitæ, and with seeing his friends so resolute in the cause of their king and chief." He brought the men next day to Culloden Castle, where, when they were united with 200 men under the Forbes's, and 300 under Kilravock, the whole force amounted to 1300. It was arranged that Lovat should attack Inverness from the north, and the Forbes's with their friends should support him on the south. Before the attack was made the governor surrendered; the most serious casualty in the affair being the death of Arthur Rose, the brother of Kilravock, who being, as the chronicler states, "a bold, resolute man, and long a slave in Turkia,

thought nothing was difficult for him there." The importance of this capture was much enhanced, by its being contemporary with the battle of Sheriff Muir, fought on the 13th of November.

It was in allusion to his conduct on this occasion, that Lovat used to address Duncan by the title, "My dear General." He had some prepossession for a military life, and seems to have embraced it heartily when circumstances threw it in his way. He had many of the qualities, great and little, which are found united in distinguished military leaders—steadiness of purpose, verging on pertinacity—much reliance on the efficacy of pre-arranged plans and individual skill—and great confidence in his own resources, mingled with contempt for the influence of aggregate opinions. Early in 1716, we find that Forbes was appointed by the Public Prosecutor one of his assistants; and the following passages occur in a letter which he wrote to Sir David Dalrymple, the Lord Advocate dated the 20th of March, 1716.

"Yesterday I was qualified, the Lord knows how, as your depute. The Justice Clerk shews a grim sort of civility towards me, because he finds me plaguey stubborn. I waited upon him, however, and on the other lords, to the end that they might fix a diet for the tryal of the Episcopal Clergy. The Justice Clerk does not seem to smile on their prosecution, because it is not his own contrivance."*

The Justice Clerk was the same Lord Grange with whom the reader has been made acquainted in the preceding memoir. The prosecution of the Episcopal Clergy was one of those acts of sectarian tyranny, of which too many religious bodies have been alternately the perpetrators and the victims. That Lord Grange should have stood in its way, can only be accounted for by some such

* Culloden Papers, 42.

peculiar reason as Duncan himself suggests. To find a man like Forbes dipping his hands in such matters, is a thing to be lamented, along with the other follies of the wise.

The conduct of English statesmen when the rebellion was at an end, was somewhat mortifying to Duncan's national feeling. The law which enjoined that indictments against persons charged with treason should be found in the counties where the treason was said to have been committed, was suspended by a special act, applicable to persons taken in arms. The act meant more than it expressed, and the trials and executions at Carlisle showed that its object was to bring the Scottish rebels within the cognisance of English juries. Forbes seems not to have desired to fill the office of a prosecutor, from an alarm lest his services might be required in carrying out this project. On the 7th of July he wrote to Lord Islay, saying:

"I have, since my Lord Advocate's leaving this country, officiated for him, faithfully I hope; and by this night's post I have a kind of intimation made me, as if there were some design of appointing me one of his deputies for the ensuing prosecutions; but as I am an utter stranger to the English forms of procedure,* and for several other reasons which your lordship will easily apprehend, I am determined to refuse that employment; nor can any motive whatsoever induce me to accept that place as things now stand, unless your lordship commands me."†

Lord Islay said in answer:

"I had yours about your deputation of advocate. I am very sensible of the disagreeable part of that office at present, and yet I would advise you to struggle through it as well as you can."‡

* It does not necessarily follow, however, from this that he was to be employed in England, as the English form of prosecution, in cases of treason, was extended to Scotland immediately after the Union.

† Culloden Papers, 58.

‡ MS. at Culloden House.

That he acted in any way in these prosecutions is extremely improbable, as we find him occupied in a manner very inconsistent with the usual functions of a crown counsel, in collecting money to provide his countrymen, prosecuted in England, with the means of defending themselves. On this subject he wrote the following letter to his brother, which is creditable both to his humanity and his independence:

“Edinburgh, November 16, 1716.

“DEAR BROTHER,—I have written once to-day already; the design of this is to acquaint you, that a contribution is a carrying on for the relief of the poor prisoners at Carlisle from their necessitous condition. It is certainly Christian and by no means disloyal to sustain them in their indigent estate, until they are found guilty. The law has brought them to England to be tried by foreign juries; so far it is well. But no law can hinder a Scotsman to wish that his countrymen, not hitherto condemned, should not be a derision to strangers, or perish for want of necessary defence or sustenance out of their own country. Therefore, if any contribution is carried on for the above purpose with you, it is fit you should give it all the countenance you can, by exhortation and example. The king’s best friends do not scruple it here.”*

It is traditionally stated, that in after life, when high official position brought him into the presence of illustrious persons, he excited some astonishment by vindicating his conduct on this occasion in the presence of royalty; the statement is fully as likely to be true as the greater part of those which have no better than traditional authority.

At this crisis, Forbes wrote a very remarkable “anonymous letter” to Sir Robert Walpole. In this act he must not, by an indiscriminate use of words, be confounded with the cowardly calumniator, who conceals himself to

stab a reputation or promote a sinister end. It has sometimes been set down as a rule of ethics, that no one should write an anonymous paper, however beneficent be his objects; and the rule is a good one, to the extent, that no one should write about persons or measures under a shield intended to be so impenetrable, that the author can never be discovered and made responsible for what he has said, whatever may be its effects. On this ground, hardly any one will be found bold enough to justify the author of the "Letters of Junius." But that sort of anonymousness which consists in desiring that the name of the writer should not be associated with the writing—that his opinions should be left to their own simple influence, without their weight being affected either by the eminence or the insignificance of the writer's name, which at the same time may be discovered, if there should be *dignus vindice nodus*—such anonymous writing is the staple of our fugitive literature, of our reviews, magazines, and newspapers, and of our anonymous books. The "Letter to Sir Robert Walpole," was of the class of writings which, at the present day, might appear in the "Times," or the "Morning Chronicle," embodying the observations upon state affairs, of a man who did not wish to diminish the power and weight of his truths, by exposing the youth and inexperience of the person who utters them. For ultimate responsibility, if there should be any, he had made full preparation. He says that he is resolved "to assert no fact, and to give the character of no person, that he will not answer at the peril of his head." He uses, at the same time, some remarkable expressions, which show that he had not completely concealed his authorship of the letter, but had put friends, apparently in high places, in possession of the secret; and which indicate to the reader,

that as he had written his exposition with serious deliberation, he was resolved to follow up its object with firmness. "I have," he says, "but one thing more to acquaint you with, before I enter on the subject; and that is, that it will not be in your power to suppress this representation. My respect to the king will hinder me from publishing it, but I will convey it into hands that will take care of it: if you do not perceive, you will guess at my meaning, and act as you will be answerable."

This document teaches the political doctrine alike simple and sound, that a people can never be brought into the ways of their neighbours by force; and that a scorn of their deep-rooted prejudices, a perpetual irritation of their sensibilities, disregard of the objects of their pride or reverence, and persecution of the persons they venerate, will not induce a nation so far to love the ways of those who so treat them, that they will adopt the religion, the ethics, and the laws, of which these actions are the visible fruit. An insurrection having been overcome, he pleaded that it was not the way to make the Scottish Jacobites who joined it peaceable and contented subjects, to slaughter until the hangman was exhausted, and proscribe for ever, as outcasts upon the earth, those who were spared from death. He showed with solemn earnestness that extirpation, if it be a sharper and more horrible, is a more effective remedy than proscription, and in the end not so cruel. "If," he says, "all the rebels with their wives, children, and immediate dependants, could be at once rooted out of the earth, the shock would be astonishing; but time would commit it to oblivion, and the danger would be less to the constitution, than when thousands of innocents, punished with misery and want for the offences of their friends, are suffered to wander about the country,

sighing out their complaints to Heaven, and drawing at once the compassion and moving the indignation of every human creature."

The former picture, all save its "oblivion"—for history has no Lethé for such acts—has been exemplified in Ireland. In the north, where extirpation had gone as far as such things can, the remedy was sharp and horrible; but over the graves and ploughed up hearths of the old Celtic Catholics, for whom the law contained only penalties, were planted a new race to be rendered happy in the enjoyment of its privileges; and the district was rightly treated by its powerful neighbour, with but one great blot on the act of justice—the bloody oblation that preceded it.

The observations on the effects of the wide-extended forfeitures of the estates of the rebels, are thus effectively set forth:

"It will be agreed on all hands, that the proper rule in this case would have been, to have punished only as many as was necessary for terror, and for weakening the strength of the rebels for the future, and to extend mercy to as many as it could conveniently be indulged to with the security of the government; and this maxim every thinking Whig had then in his mouth, however offended at the insolences of the rebels. In place of a course of this kind, the method followed was; 1st. to try all the criminals in England; 2nd. to detain in prison all those in custody in Scotland, except some who had interest with certain great men to obtain a previous pardon, to the manifest dishonour of the government; 3rd. to attain a vast number of Scots noblemen and gentlemen; 4th. to put it out of his Majesty's power to grant any part of estates forfeited; and 5th. to appoint a commission for inquiry, and levying the rebels' goods and chattels. The necessary consequences of this procedure in general are two. First, it makes all those who had the misfortune to be seduced into the rebellion, with their children, relatives, and such as depend on them for ever desperate, and it's hard to tell what occasions may offer, for venting their

rage. We see that want and hard circumstances, lead men daily into follies, without any other temptation ; but when those circumstances are brought on by adherence to any principle, or opinion, it's certain the sufferers will not quit their attempts to better their condition, but with their lives. Second, as there are none of the rebels who have not friends among the king's faithful subjects, it is not easy to guess how far a severity of this kind, unnecessarily pushed, may alienate the affections even of those from the government. But in particular as this case relates to Scotland, the difficulty will be insurmountable, I may venture to say there are not 200 gentlemen in the whole kingdom who are not very nearly related to some one or other of the rebels. Is it possible that a man can see his daughter, his grandchildren, his nephews, or cousins, reduced to beggary, and starving unnecessarily, by a government, without thinking very ill of it ? And where this is the case of a whole nation, I tremble to think what dissatisfactions it will produce against a settlement so necessary for the happiness of Britain.”*

The conclusion is peculiar, and not in conformity with the style in which ministers of state are accustomed to be addressed.

“ By what I have said in the onset, sir, you may guess I will not rest satisfied singly with having transmitted this to you. I must know something of your sentiments about it. I'm resolved to wait till the 20th September;† and if, in the London Gazette, before that date, I see nothing advertised concerning a letter dated and signed as this is ; you may trust to it, I shall complain of it in such a manner, as you shall have no reason to be satisfied.”‡

Let us now take a general glance at the social habits of Duncan Forbes in early life. Among them, conviviality occupied a far more prominent place than social moralists of the present day would consider compatible with the decorum of a high official person, professing serious religious opinions. Not few are the indications throughout his correspondence of the influence of wine; indeed, he seems,

* Culloden Papers, p. 62. † The scroll of the letter is not dated.

‡ Culloden Papers, pp. 61—65.

in his novitiate, before he became a crown lawyer, to have been a prime ringleader among jolly fellows. His friend, John Macfarlane, apparently the same gentleman who was Lovat's law agent, writing to him on the 21st of April, 1715, complains in moving terms of the decay of hilarity since his departure, and says, "a tappit hen, a bird as peculiar to you, as the eagle to Jove, has not been seen among us since that event."* Apparently, much about the same time, his friend Dr. Clark addresses him with the following mystical reference to his convivial powers:

"RINGLEADER OF RACCABITES,—We have enjoyed such a physical peace of mind since we were delivered from thy usurped tyrannical government, that it's the constant prayer of the body, 'may the month of May last for ever.' We have been at no little pains to point out the reason of your appearance, as astronomers do of a comet, and after long and diligent inquiries we have agreed that as the church militant was to be pestered with an Antichrist, so the body physical was to suffer under some such scourge, for the sin of dullness. I have a great many arguments which induce me to believe you are the man (the beast I mean), and I intend to write a dissertation which shall evince it to demonstration."†

The following little statement in a letter to his brother, tells its own story in a very few words: "I am so uneasy that I cannot write much, though to make you easy, Clarky, who is with me says, 'Deel care, if ye had drunk less at denner, you would not complain.' His *causa scientiæ* that my disease is, that he who dined with me is as sick as I"‡

The demands, indeed, which society then made, on a man who had a head capable both of standing claret and entertaining company, were very formidable; and if he was rising in the world, gaining golden opinions among men,

* MS. at Culloden House. † MS. at Culloden House. The repeated use of the word "physical" seems to have reference to a society so called.
‡ Ibid.

and showing his aptitude for high stations, he had to drink all the larger draughts of wine, to show that he was not deficient in that main element of public greatness. Drinking through a session with his lawyer brethren, in Edinburgh would be no light task. When he went north, he would have to recommence convivialities to keep up the family influence among the Highland chiefs, and the Barons of Moray; and as the northern air has the reputation of counteracting the effects of intoxicating draughts, the potations of Edinburgh would have to be balanced by wider and deeper libations at Inverness. That his constitution sometimes felt the pressure of these laborious enjoyments, we find from such occasional passages as the following, from a letter dated Inverness, 26th of September, 1716, and addressed apparently to one of his jovial friends in Edinburgh. "For my own part I am almost wearied of this wicked world; one wish, and but one I had when I left you concerning myself, that I might enjoy eight days free of company and claret. How I have succeeded, you may guess by this, that though to-day it be just a month since I saw you, I have not yet buckled a shoe, that is, I have not been one day out of my boots."

When in the north he would have to do duty side by side with his brother the Laird, whose feats in this department of human exertion were so distinguished even in that age, that he was honoured with the name of Bumper John, to distinguish him from all other Lairds of Culloden. Of the method of life at the Old Castle, we shall let Burt, brought up under the somewhat milder conviviality of English military life, speak:

"There lives in our neighbourhood, at a house (or Castle) called Culloden, a gentleman whose hospitality is almost without bounds. It is the custom of that house, at the first visit

or introduction, to take up your freedom, by cracking his nut (as he terms it,) that is a cocoa-shell, which holds a pint, filled with champagne, or such other sort of wine as you shall choose, you may guess by the introduction at the contents of the volume. Few go away sober at any time; and for the greatest part of his guests, in the conclusion they cannot go at all.

"This he partly brings about by artfully proposing, after the public healths (which always imply bumpers) such private ones, as he knows will pique the interest or inclinations of each particular person in the company, whose turn it is to take the lead, to begin it in a brimmer; and he himself being always cheerful, and sometimes saying good things, his guests soon lose their guard, and then—I need say no more.

"For my own part I stipulated with him, upon the first acquaintance, for the liberty of retiring when I thought convenient; and as perseverance was made a point of honour, that I might do it without reproach.

"As the company are disabled one after another, two servants, who are all the while in waiting, take up the invalids with short poles in their chairs, as they sit (if not fallen down) and carry them to their beds, and still the hero holds out.

"I remember one evening, an English officer, who has a good deal of humour, feigned himself drunk, and acted his part so naturally that it was difficult to distinguish it from reality; upon which, the servants were preparing to take him up, and carry him off. He let them alone till they had fixed the machine, and then raising himself up on his feet made them a sneering bow, and told them he believed there was no occasion for their assistance; whereupon one of them with a sang froid and a serious air, said, 'No matter, sir, we shall have you by and by.'—This Laird keeps a plentiful table and excellent wines of various sorts, and in great quantities, as indeed he ought, for I have often said, I thought there was as much wine spilt in his hall as would content a moderate family."*

The types of true hospitality in a Scottish farmer's house of old, were said to be an anker of whiskey always on the spiggot, a boiler with perpetual hot water, and a cask of sugar with a spade in it. Culloden's hospitalities

* Letters from the North, i, 135—136.

were of a more aristocratic order, and the custom of the house was to prize off the top of each successive cask of claret, and place it in the corner of the hall to be emptied in pailfulls. The massive hall table which bore so many carouses, is still preserved as a venerated relic, and the deep saturation it has received from old libations of claret, prevent one from distinguishing the description of wood of which it was constructed. When Duncan was in the north, he appears generally to have lived at Bunchrew, and besides his participation in the jovialities of Culloden, he had occasional hospitalities to distribute in a peculiar circle of his own. Examining an old account, one of many which lie among more valuable papers, the items of several charges for claret bought in individual dozens, some at 16*s.* and some at 18*s.*, show a sum of 40*l.* spent in this manner in the course of a month.*

In estimating the character of any man, we must measure it by the habits of his age. Temperance was not one of the virtues of that period. It was not associated with particular moral or religious opinions; and the younger John Forbes, who inherited the serious principles of his family, we find not ashamed, in writing to Sir Andrew Mitchell, to make in all seriousness such an association of ideas as the following: "God Almighty bless the King of Prussia, and you. We pray for you, and drink for you both every day."† A man who eschewed claret was looked upon as merely exceptional; the victim of some peculiarity, mental or physical; and the idea of investing his conduct with any merit, would have been considered transcendentally ludicrous. Temperance was not a quality to which Forbes aspired, and in this respect he was neither before nor behind the principles of his age. From the

* MS. at Culloden House.

† Mitchell Papers, British Museum.

Scottish convivialities of the last century, even the female sex was not entirely exempt; and though, perhaps, there is no part of the world where women of the educated classes are now more completely exempt from a practice which modern ideas have stamped as degrading,* there are not wanting reasons for believing that ladies of good birth and rearing, in the earlier part of last century, quaffed potations which would make their fair descendants shudder, without either losing caste or character, or exposing themselves to the contumely that overtook poor Lady Grange. It was particularly remembered not many years ago, by old people in Edinburgh, that a band of damsels connected with a great northern house, walking clamorously up the High-street, in a beautiful moonlight night, stopped suddenly where the shadow of the Tron Church steeple crossed the street, and, under the hallucination that they had reached the edge of one of their mountain streams, were observed to divest themselves of their shoes and stockings to wade across.

The many traditions we have of the joviality of our forefathers, are accompanied by statements of the wonderful feats of intellect performed by public men, lay and clerical, when to all ordinary observation the faculties were irretrievably steeped in claret; and these lead to the remark that we will not get a right appreciation of the character of previous generations, by passing a sweeping

* It seems strange that though this vice is now so little known among educated females in any part of Britain, as to be a phenomenon when it occurs, yet a very worthy individual of that sex has written some ingenious tales, especially directed against it as a prevalent vice, and representing, not only men, who are lawful game on such occasions, but women of high rank and fine accomplishments, whose failing is downright hard drinking. This reminds one of the story of an ordinary of Newgate, who, having to do duty for an old fellow-student, the curate of a retired and primitive parish, packed up one of his penitential sermons, and treated the simple parishioners with an exhortation to repent of a long list of the most horrible crimes, of which they had never dreamed of the existence.

condemnation on them, for practices so much at variance with those of the same class at this day. In some way or other nature, ever wonderful in the adjustment of things apparently incompatible, seems to have adapted the men and their hereditary constitutions to the life they led. They performed their part on the world's stage, and left vestiges in which the unsteady pace of intoxication is seldom to be traced. Without the fruit of their labours, the present generation would not be such as it is ; and in the statesman or lawyer of a century ago, who after his deep potations carried a frame and intellect as fresh and vigorous as ever to his important labours, we find no prototype of the attenuated and trembling dram-drinker of the present day, whose unstrung nerves require a violent forestallment of their wasting stamina, for each act of ordinary exertion, and for every occasion on which he has to hold intercourse with his fellow-men as a member of society.

Yet, however it may have stood with country gentlemen, breathing the fresh air all day, with no anxieties except about their mortgages, the system was sometimes considered oppressive, even by these herculean men of business. "I haven't yet seen Culloden; but he and I will mind your honour in a glass, deep proportioned to your wealth, and sprightly as your wisdom," is the convivial wish that in a moment of easy gaiety arises in Duncan's official superior the Lord Advocate; but, after a toilsome convivial journey, we find the great law officer of the crown thus hazily giving utterance to his oppressive reminiscences.

"The good people of Inverness and Murray were so exceedingly kind (if it can be called kindness to make a man run the gauntlet,) that neither shame nor remorse had any effect upon

me ; and seriously, though I thought myself happy that neither your brother John nor the Squire were in the country, yet every body, I don't know how, took upon them to be Johns and Squires to me ; and for ought I know, I might have been cracking nuts till now, if I had been able. The fire about Aberdeen was not so intense ; but, comparatively speaking, it was pretty smart. The Perth people are good enough for a brush and away ; but the pleasures of the enchanted island, the ball, the Lucy Barbers, and the strange and surprising adventures of Emperor Gausy, must be left to another tune.*

Duncan himself, in the full tide of his onerous labours, feeling his health precarious, sacrificed as we shall hereafter find, his conviviality to his duties ; no small stake of character in that age.

As to his brother John, it is to be feared that he illustrated the rule of eminence having always its drawbacks, and that the notable extent of his convivialities broke his constitution and accelerated his death. "Your friend O'Bryan," he says, writing to his brother in 1717, "was with me Tuesday night last, who, by the help of some good wine, made me slip that post: and to the consequence of that night's drinking you may impute my making use of a borrowed hand; for yesterday and last night I was so very ill, that this day I was obliged to take a good quantity of blood."† Alas! too frequent were such occurrences with one of the kindest, worthiest, and most honest of men.

Among convivial customs, one of the most barbarous—perhaps horrible is the applicable term—is one that still lingers in Scotland and Ireland; a bacchanalian festival at every funeral. The deeper, the more irretrievable was the loss, the more recklessly must the breaking heart indulge in the outward manifestations of revelry. Despotic custom had ordered it so, as it had commanded the im-

* Culloden Papers, 102.

† Culloden Papers, 72.

molation of the Hindoo widow, and the gladiatorial slaughters at the festivals and funerals of old Rome. On these occasions the convivial house of Culloden was bound by the most sacred ties of hospitality not to forget its character, and even in such a solemnity as that of conveying a venerated parent to her grave, it burst forth in a form so marked and emphatic, as to give rise to a memorable occurrence still holding a place in the traditional anecdotes of conviviality in the north. Although we might have desired that no such anecdote had existed, truth requires that, having gained currency, it should be here repeated; and accordingly it is copied from the memoir of Forbes, published immediately after his death.

“The Lady of Culloden, the mother of the deceased lord, being dead, a very grand entertainment was prepared, and her funeral obsequies were intended to be performed with the utmost solemnity. On the day appointed a prodigious multitude appeared, consisting perhaps of 10,000 people.* The noblemen and gentlemen present drank most plentifully, and the care of the entertainment was devolved upon him, her youngest son, who played his part so well, that, forgetting his grief, he made the company drink to such an immoderate excess, as even to forget what they were doing; at last it was moved to proceed to the place of interment; they quickly rose up, and rode from the house to the church-yard; but unluckily for them, they had neglected to give orders for the lifting of the corpse, that is the phrase used in Scotland for carrying them off. When at the grave, the main thing is wanting; and while all the friends are

* This is a manifest exaggeration. So late as the census of 1791, there were not so many human beings within an area of ten miles round Culloden House, including the town of Inverness.

crowding to perform the last duties to the deceased, behold the subject is no nearer than the place in which she died. A messenger is instantly sent off to hasten up the corpse, which was done with all imaginable speed, and the lady was laid in the grave with all the decorum and decency that could be expected from gentlemen who had fared so sumptuously, and drank so plenteously at her house."*

The death of this lady must have occurred in 1716. On the 29th of September of that year we find Lovat writing to her son John, saying he has just heard of her death. "I sincerely partake," he says, "of your grief, for she was one of the best of women, always doing good to her grandchildren and the poor. I had a very great respect for her, and I always found her my passionate friend."†

In 1722, Duncan Forbes was chosen member of Parliament for the Inverness district of Burghs, where, as the list of election returns for that Parliament show, he was unsuccessfully opposed by an Alexander Gordon.

He had henceforth to be frequently in London in attendance on his parliamentary duties, and much of his time must have been spent in travelling. It was no light journey in that day to travel from London to Edinburgh; and crossing the Grampians to Inverness was, for its length, a still more formidable enterprize. He did not distinguish himself greatly in debate, restricting himself to matters of pure business; and the only occasion on which he made a very marked address, was the Porteous affair, to be speedily noticed. He perhaps felt that his strength lay rather in forensic than in senatorial eloquence. His figure was fine, his voice sonorous, and

* *Memoirs of the Right Hon. Duncan Forbes*, p. 12.

† *Culloden Papers*, 66,

his face expressive of a happy mixture of benignity and firmness. These external advantages, added to great capacity in business, an oratory that without being flowery was clear, strong, and impressive, and the faculty of seizing the prominent parts of a question and sinking the irrelevant details, gave his pleading at the bar great influence. When he came to the bench, this union of qualities, physical and moral, imparted strength to the law, while it inspired confidence in the person who administered it. Immediately before he entered Parliament, we find that he had begun to be employed in appeals from the Court of Session to the House of Lords. The first reported case in which his name is mentioned, was decided on the 19th of February, 1720. Thence of eleven cases decided during the remainder of that year, there are only three in which his name does not appear. There is then a hiatus in his practice from the 21st of May, 1720, to the 21st of December, 1722. From the latter date, to the end of "Robertson's Reports of Appeal Cases," on the 17th of April, 1727, of forty-two cases reported, there are only seven in which he was not counsel.

This period of his life, in which he divided his time between London and Scotland, affords a suitable occasion for casting a glance around the circle of his friends. The harmony of his intercourse with his patron, the Duke of Argyle, seems to have been once broken in a manner not dishonourable to his good feeling. In the Culloden Papers there is a correspondence, somewhat acrimonious, in which Forbes defends his friend George Drummond, against some charges made against him by the duke, while he appears to have made a considerable pecuniary sacrifice in his cause. The friend he so vindicated was worthy of his esteem. Though George Drummond has not left an

European reputation, yet within the not unimportant circle of his local exertions it shines brightly. In the public hall of the Infirmary of Edinburgh, which in the deficiency of such institutions in other parts of Scotland, has been rather a national than a merely local blessing, there is a bust of Drummond, by Nollekins, under which is an inscription, composed by his friend Robertson the historian: "George Drummond, to whom this country is indebted for all the benefits which it derives from the Royal Infirmary." He was for several years Lord Provost of Edinburgh. The patronage of the University of Edinburgh is among the functions of that important officer, and Drummond holds a worthy place in the annals of literature and science, by having accomplished the institution of five professorships; viz., those of Chemistry, the theory of Physic, the practice of Physic, Midwifery, and Rhetoric. Such a man could not well live in the same circle with Duncan Forbes, without the common excellence of their natures bringing them into close fellowship; and the head as well as the heart was justified, in the stand that Forbes made against the unworthy prejudices of his noble patron.

Forbes was on terms of intimacy with Sir Robert Walpole, and with Lyttleton, Mansfield, and Hardwicke; names which require only to be enumerated. In magazine notices of his life, he is said to have been a welcome guest in the literary circles of London, and to have been frequently in the society of Pope, Swift, Arbuthnot, and Gay;* but we do not possess the same evidence of these intimacies, which his correspondence affords us of his intercourse with official men. In his attendance on Parliament as a member of the government, he was brought

* See Scots' Magazine, vol. lxiv., p. 539.

frequently in contact with Walpole's brother Horatio, the Pelhams, Lord Stair, Onslow, and the whole tribe of minor statesmen. He seems to have entertained a friendship, arising out of official intercourse, with Scrope, the Secretary of the Treasury; the same who refused to take the oath of discovery in the Inquiry into the conduct of Walpole, and said "that he had consulted the ablest lawyers and divines, and that they had made his scruples stronger." He had much intercourse with General Wade, when that celebrated engineer was conducting his operations in Scotland, for fortification and internal transit. Among his Scottish literary friends, the most distinguished was Thomson the poet, who owed much to his patronage and friendship, and thus repaid him, in the immortal shape in which poets show their affection and esteem:

" Thee Forbes too, whom every worth attends,
As truth sincere, as weeping friendship kind;
Thee truly generous and in silence great,
Thy country feels through her reviving arts,
Plann'd by thy wisdom, by thy soul inform'd,
And seldom has she known a friend like thee."

Henry Home, afterwards Lord Kames, was encouraged by his kindness, and he patronised the modest and profound scholar Ruddiman, the Librarian of the Advocate's Library. His relation, Mr. Forbes of Newhall, was the owner of that small estate near Edinburgh, the picturesque beauties of which, are so widely known by the descriptions in Ramsay's "Gentle Shepherd." Here the tired lawyer frequently sought a retreat, and spent many a pleasant hour with the accomplished landlord, and his frequent guest, the pastoral poet. Forbes appears to have been on terms of friendship with a man of whom too little is known—Cunningham, the annotator of Horace,

of whom the following notice, dated the 30th of January, 1731, was sent to him by a correspondent.

“ I wrote to Mr. Logan of Dunbar, as I told you I would do, both in your name and mine, about his uncle, Mr. Cunningham’s papers; and I have since had an evening’s conversation with him, the sum of which was, that his uncle has not left one single scrap of any thing ready for the press, or even in any tolerable order. His notes on Horace are written on the margin of six volumes, whereof three are the text of Horace as he published it, and the other three are his animadversions on Bentley—the use of all these I am promised against next week : the Lord have mercy on the patients till I have done with them! His notes on Phædrus are likewise only on the margins of two editions of Phædrus ; but he thinks them fuller than the others, and is talking of giving them to Mr. Ruddiman, if he will be at pains to put them in order and publish them. He has marginal notes upon several other authors, as Virgil, Statius, Quintilian, Cicero, any of which he offers to send me after I have done with Horace. His notes on the Corpus are larger than any of the rest, and not writ on the margin as the rest. His copy of the Corpus is interleaved with clean paper, so that there is a leaf of written notes for every printed leaf. He told me the Advocates’ Library has applied to him to have it, but he has given the curators no answer as yet, nor did he seem determined when he spoke to me.

“ What will surprise you most is, that he has left nothing of his scheme of the Christian religion ; Mr. Logan told me he had inquired at him about it when he was in his perfect senses; but that he declared to him that he had never put it in writing, and that he would dictate it to him any day, for he had it all in his head, and that it could be contained in four or five sheets of paper; however, every day that Logan pressed him to do it he always found some reason for shifting it till he was incapable of doing any thing.”*

The writer of this letter, Dr. Clark, is himself among the meritoricus obscure.† His letters are lively and ex-

* Culloden Papers, 120, 121.

† He signed his letters with the initials J. C., written, however, with such a peculiar flourish, that the innocent editor of the Culloden Papers

pressive, and written in the tone of one conversant with literature and literary men. He appears to have been one of the best employed practitioners of his day, and in this capacity to have been a privileged member of all political circles. His professional services are often thankfully alluded to by Forbes, and also by Lovat, who irreverently styles him "Little Clarky."*

It was said of Lord Mansfield, that he expressed a nervous dislike to meeting out of court with persons interested in the litigations before him, lest he might chance to be influenced in his views. When this was repeated to his rival, Camden, he said: "I care not what I hear, or how much I hear; be it what it may, I never can be influenced by it." Somewhat similar appears to have been the firmness of Forbes's mind, in his intercourse with the baser spirits of his day. He seems to have felt that he could live in close contact with all the profligacy, political and social, of that age, yet "keep the whiteness of his soul." He who could remain so long attached by the outward bonds of friendship to such a person as Lovat, and be the man he was, could have little assimilation or impressibility in his nature. Yet Lovat, strange as it may sound, was not altogether the least reputable of his associates. So much as the devotion of the whole energies of a life to the mere animal vices,

read them T. P., and attributes them to Sir Thomas Pringle. The letter above cited commences with "Dear Duncan," and is written in the tone of intimate and equal friendship. Pringle was born in 1707, and was, in 1731, an obscure youth, who had just commenced to practise as a physician, while Forbes was Lord Advocate.

* In the account of the family of Rattray of Craighall, in "Douglas's Baronage," he is mentioned as having married the daughter of Dr. Rattray, and being "one of the most celebrated physicians of his time." His library, which was sold in 1769, was very rich in classics, many of which contained his own manuscript notes. Such are the petty facts now known about a man of great local celebrity in his day.

and the dishonest gathering of money, is more despicable than a life spent in bold machinations and political schemes, was Francis Charteris, of Amisfield, a more degraded name than that of Simon Fraser. There is good reason to believe that there was at least an exchange of courtesies between Forbes and this man, whose monstrous character has obtained epigrammatic immortality, in the epitaph by Arbuthnot, beginning, "Here continueth to rot the body of Francis Charteris, who, with an inflexible constancy, and inimitable uniformity of life, persisted, in spite of age and infirmities, in the practice of every human vice, except prodigality and hypocrisy: his insatiable avarice exempted him from the first, his matchless impudence from the second."

There does not appear to have been much intimacy, however, between them; and no correspondence on either side exists among Forbes's papers. Charteris was the occupant of a very old manor-house near Musselburgh, and about nine miles distance from Edinburgh, called Stoney Hill. It has now been removed; but the buttressed wall of an outhouse projecting on the public road, still attests the antiquity of the mansion. The gardens around Stoney Hill were long celebrated for the superiority of their horticulture and the excellent fruit and vegetables they produced.* The old mansion had received occupants of a very varied description. Archbishop Sharpe had been residing in it with his son, and was returning to St. Andrews when he was slain on Magus Moor. It was the scene of many of the atrocities of Charteris, and thence his body was carried forth amidst the execrations of the people. To complete the variety,

* Statistical Account of Scotland, i., 82.

it was hired by Duncan Forbes, and occupied by him as a country residence, when the labours of business admitted of temporary absence from Edinburgh, too brief to be spent in Inverness-shire.

Charteris left Forbes a legacy and the liferent of his mansion. This circumstance, with the other incidents attending the profligate's last moments, are thus told to Forbes, in a letter from Dr. Clark, dated the 22nd of February, 1732.

"But the terriblest patient I ever had in my life, is your monster of a landlord. I was obliged to go sixteen miles out of town to meet him on the road from Hornby, where they thought [he] would have expired. I lived two days in hell upon earth, and [conveyed] him with much difficulty, on Wednesday last, to Stoney Hill []* dying exactly as he lived, only I think, since he was [made aware that he w]as dying, he swears little or none at all. He can [neither] sleep nor eat, and has no other complaint either of pain or sickness, so that he seems to be dying of a decay of nature, his blood being exhausted. I understand he has remembered you in his testament, he having left you the lif[erent] of Stoney Hill, with some acres about it, and 1000*l.* sterling [] son. I should think his legacy is not a dishonest purchase; but what you will think of it, since it comes out of [] heap, is more than I can tell, for he told me that your honesty was so whimsical, that it was 45 per cent. above Don Quixote. As for his own, the only sign he has shown of it, was one day when he thought he was going off, he ordered with a great roar that all his just debts should be paid."†

* These blanks are caused by a part of the letter being decayed.

† MS. at Culloden House. This account of his death corresponds with that given by the Hon. John Crawford, in "Private Letters now first printed." Edinburgh, 1829, p. 79.

CHAPTER II.

Political Events—The Disarming Act—State of Parties—Forbes made Lord Advocate—The Malt Tax—The Shawfield's Mob in Glasgow—The Lord Advocate's Proceedings—Robert Wodrow—Remarkable Exercise of Power by the Lord Advocate—War with the Brewers of Edinburgh—Sir Robert Walpole—Illness—A Journey to the Highlands—Abolition of the Scottish Secretaryship—The Lord Advocate and the Origin of his Multifarious Duties—Proposals as to the Revenue Laws.

WE have seen that Lovat taught the Jacobites the value of the Highlanders as a ready-made army, which could be put in motion on the shortest notice, when the favourable moment for an attempt to regain the British throne was to be made by the exiled house. Forbes saw the same fact very clearly from his own point of view, and was a great advocate of disarming projects. He held them to be the precautionary measures that should be adopted by a government in its hour of tranquillity, as the means of superseding the forfeitures and executions of the hour of triumphant war. He was quite aware that the generation which had possessed the arms, would not be deprived of their skill by merely losing their tools; and that a mere disarming would not, of itself, be sufficient to civilise the Highlands. But he held that the next generation, ignorant of the use of weapons, would have little taste for the warlike propensities of their parents, and would form the materials out of which wholesome and humane laws might make peaceful and useful citizens. His own intimate prac-

tical knowledge of the state of the Highlands, taught him that the Disarming Act, which followed the rebellion of 1715, had not been effective. It subjected Highlanders, who appeared armed in the fields, or when attending "any church, markets, fairs, burials, huntings, meetings, &c.," or, who went armed into the Lowlands, to a penalty; but it did not contain measures for seizing the arms in possession of individuals, or establish any sufficient machinery for investigation and enforcement. Forbes is stated to have been the author of the Disarming Act which was passed early in the year 1725, and before he took office.* The main objects of this act were, to fix a day on which all the clans should give up the arms in their possession, and to institute a system of searching for hidden arms, and of punishing those who failed to give them up.†

The bill met with little opposition in the Commons, and five peers, none of them Scotsmen, entered a protest against it in the House of Lords. This measure was contemporary with a sort of military survey by General Wade, and the project of the system of roads and garrisons with which his name is associated. Those proceedings created much exasperation among the Highlanders, but it was not the nature of that people to express their feelings in the boisterous constitutional manner adopted by the other inhabitants of the island, and amid the turmoil which we shall find attending on the contemporary Malt Tax, the Disarming Act passed over in comparative quiet. That it did not accomplish the effects expected of it, was too distinctly told in the events of twenty years later; and even before these occurred, we shall find that Forbes was devising methods for saving the country from the military

* Lockhart Papers, ii., 159.

† 2 Geo. I. c., 26.

propensities of the Highlanders, which did not begin with coercion.

In the earlier part of the eighteenth century the variations in political parties in Scotland and in England were not precisely parallel to each other, and in the year 1725 a revolution took place among the Scottish officials, scarcely noticed in the general history of the country. We have seen that at the conclusion of the insurrection of 1715, Forbes was the advocate of conciliatory measures. He held these opinions in common with his patron, Argyle, the victorious general of the civil war, who looked with a right-hearted soldier's feelings on the fallen enemy. The party called the Squadrone, however, who had a stronger appetite for blood, met more sympathy in the English court, and were for a time intrusted with the management of Scotland. It was next to universally the case at that period, that a disappointed statesman looked towards the exiled court, and there is some reason to presume that even Argyle, deep as seemed his stake in the Hanover cause, and irretrievably as he had identified himself with it, did not scornfully repel the insinuation conveyed in certain beckonings and signals from St. Germain's.*

After continuing for a short time in opposition, the duke took office as Lord Steward of the Household, in 1718.† In this capacity he had to divide the government of Scotland with the Squadrone—a position too insignificant for his ambition. When Walpole had consolidated his own power by allaying the South Sea panic, and had got rid of Carteret by sending him to subdue the excitement he had been fostering in Ireland, it seemed a

* See Lockhart Papers, ii., 12, *et seq.*

† Lockhart (ii. 34) says he was made lord-chamberlain—but see “Beatson's Political Index.”

good arrangement to consolidate the ministerial authority in the north, by deputing its whole powers there to some one man, provided he were strong enough in local influence to give a sufficient equivalent, in support to the minister. The Duke of Argyle's party thus triumphed. Robert Dundas, afterwards Lord Arniston, who became the successor of Forbes as the head of the Court, was the Squadrone Lord Advocate. He had been Solicitor-general when Forbes was made a Depute-advocate; and in the usual course of promotion, if the latter had not been considered a political opponent, he would have succeeded him in the office of Solicitor-general. When Dundas resigned as Lord Advocate, Forbes was appointed his successor, on the 29th of May. 1725.*

Among the chief difficulties with which the statesmen of last century had to contend, in Scotland, was the preservation of a just equilibrium in taxation between that country and England. At the period of the Union, the possibility of Scotland being ever subjected to the heavy taxation of England was carefully kept out of view by the friends of that measure; and though some Scottish statesmen predicted that the country would suffer under the pressure of the English fiscal system, the danger was indignantly denied, because such a prospect would have raised inseparable popular obstacles to the Treaty. The predictions of the alarmists were fulfilled in a shape which contradicted the spirit of both anticipations. The country grew rich and able to bear increased burdens; and so long as this stringent method of taxation was to be followed at all, it was a question of justice for the statesmen of both nations, whether the Scotsman, whose wealth was increasing by the alliance in a far greater ratio than that

* Brunton v. Haigs, College of Justice, 51Q.

of the Englishman, should be exempt from a proportional contribution to the fund, by which industry and property were protected. Every approach to equalisation, however, created a ferment in the north, about the breaking of solemn treaties, and the oppression of the weaker nation by the stronger.

With one of the most serious of these national outbreaks, Duncan Forbes had to contend in his first year of office. The Malt Tax had just been extended to Scotland,* and Daniel Campbell, of Shawfield, the member for Glasgow, as a supporter of the measure, became the object of the indignation of the citizens. On the 23rd of June, 1725, the day on which the measure came into operation, a crowd formed in the street, and interrupted the excisemen in the performance of their functions. On the two succeeding days the crowd re-assembled in a more formidable shape, and on the 24th, the magistrates sent to Dunbarton Castle, whence two companies of foot, commanded by Captain Bushell, proceeded to the city. The city officers were directed to clear out the guard-house to receive the troops, but the mob took this matter into their own hands, driving out the officials and locking the guard-house. The provost of the city, whose conduct exposed him to much censure, but whose chief defect appears to have been want of energy and a desire to be relieved of the trouble, responsibility, and danger of any sort of action, declined to direct the guard-room to be forced, and quartered the military among the citizens. Late at night, when the provost and the other city officials were consoling themselves in a tavern for the anxieties of the day, a rumour reached them that the mob were attacking the house of Mr. Campbell, of Shawfield,

who formed one of their convivial party. Captain Bushell sent to the provost desiring to know if he should beat to arms and parade his men. The provost declined giving any order on the subject, and gave two reasons against the proposal; that the troops must be tired with their day's march and it were a pity to disturb them, and that the beating to arms would alarm the peaceful citizens. Next morning, the mob led by a man in woman's clothes, armed themselves with bludgeons and weapons, and completed the gutting of Shawfield's House.

In the meantime the military were put in possession of the guard-house, but they had received no instructions for their conduct, and speedily there happened some of those calamitous incidents, which are almost invariably the consequence, when the civil magistrate evades the responsibility attached to his constitutional privilege of sanctioning the proceedings of the military for the protection of the public peace. The sentinels were attacked by the mob. The companies were then ordered out of the guard-house, and forming in a hollow square, they fired on the mob from the four sides. Two men were killed on the spot and several wounded. The mob roused to fury, rushed to the town-house magazine where some old arms were preserved, with which they speedily armed themselves. The provost at last acted. He sent to Captain Bushell, to request that he would leave the town! The captain marched his men back to Dunbarton, but it was in the fashion of a military retreat, and being harassed in the rear, the men turned and fired. The whole casualties in the affair amounted to nine persons killed and seventeen wounded.

When this calamitous event became known to the government, General Wade was despatched to Glasgow,

on the 9th of July, 1725, with a force, consisting of Deloraine's regiment of foot, six troops of the Royal Scottish dragoons, one of the Earl of Stair's dragoons, and an independent company of Highlanders. The Lord Advocate accompanied the expedition, for the purpose of making the preliminary inquiry, or "precognition," which precedes a criminal trial in Scotland, and to consider, as an adviser of the crown, what methods should be adopted to secure the peace of the district.*

The Lord Advocate's proceedings on this occasion were noticed by a minute and not very charitable observer, the Reverend Robert Wodrow, the historian of the "Troubles of the Church of Scotland." That reverend gentleman, to great industry and many good qualities, united the unfortunate peculiarity, that in those who differed from him in his opinions, religious or political, he could find nothing but the most revolting intellectual and moral deformities. It was not, properly speaking, a spirit of malicious misrepresentation that caused this propensity. He was perfectly honest and sincere in recording his impressions, but they were the fruit of a confirmed obliquity in the perceptive organs. If he observed a person belonging to a different persuasion muttering or whispering, the murmurs that reached his ears resolved themselves into blasphemy and profane swearing; if the midnight lamp were seen to illumine an episcopal divine's study late of a Saturday night, it roused in his imaginative senses, sights and sounds of unholy revelry. When these horrors were recorded, the next act of the tragedy was probably some fearful judgment which had fallen from

* For an account of the Shawfield mob, see "Clelland's Annals of Glasgow," i., 25, *et seq.* The "Lockhart Papers," ii., 162, *et seq.* Coxe's Walpole, ii., 438, *et seq.*

Heaven on the profane head of the obnoxious thinker. Wodrow's writings are full of preternatural events, which always favour his own way of thinking; and on the whole, it requires a very considerable amount of faith in his simplicity and sincerity, for any one whose opinions correspond with those of the people he denounces, to read his curious narratives in the spirit of good-will. Wodrow's dislike of Forbes and his proceedings, must have been only temporary, for they were on the same side both in the political and polemical disputes, in which they were contemporaries. As we shall see in the extracts to be presently cited, a person named Wodrow was concerned in the tumults. He was probably a relation of the historian, and this circumstance may account for his temporary wrath. Had Wodrow recorded the events in a history destined for publication, he might have given them a different tone. The medium through which we read them, happens to be, however, his "Analecta," or private note-book.

"After informations had been got, then suddenly and towards night, on the 12th of July, with much severity, about forty of the mobbers were taken up, many of them out of their beds; women and children were carried naked out of their beds to the guard and tolbooth, and harshly enough treated. All this on private information.

"The Advocate turned extremely surley and acted in a very sovereign arbitrary way. He taunted and abused the magistrates in examining them, and scoffingly asked, 'And are you a Bailey? John Wodrow, in his examination, surprised him a little when he asked if he had heard of a design to rabble Shawfield's house before it happened? He said he had, and that from some burn-bearers,* and the like, some weeks before; that he had told Shawfield's servants of it, and desired them to tell him, and they brought him for an answer, Shawfield's thanks, and that he knew of it. In examining James Cleeland, after

* Burden-bearers, or porters.

some other queries, he asked him what he thought of that rabble? Mr. Cleeland asked him pardon, and said, matters were not come to that pass as to be obliged to tell people's thoughts. The Advocate gave great offence by his open, profane cursing and swearing at Glasgow, and his taking the right hand of the general, and talking in time of sermon, when in the afternoon in the church, and mocking Major Gardiner for his strictness.

"But the last part of the scene surprises every body. On the 15th of July, the advocate a second time examined the magistrates, and put many cross questions to them. And on the 16th, about an hour before he and the general left the town, he sent a mittimus to the gaoler, to receive the provost, three baillies, dean of guild, and deacon convener, to prison as abettors in the mob, or negligent in their office.

"I am well informed that the general was peremptorily against this, and said to the Advocate it was a bold stroke, that he desired convener Spottswood to deal with the advocate against this motion, for he had been dealing half-an-hour in vain; and went back again with Spottswood and dealt with him but in vain. The magistrates offered bail, but he would not hear of it. When the Advocate was asked how the town should be governed when the magistrates were incarcerated, he said there was no fear of dispeace, when the heads of the mob were imprisoned. Accordingly, on Friday the 16th, 'twixt twelve and one, the magistrates went up the broad stairs and were imprisoned."*

The magistrates were taken in a sort of triumphal captive procession to Edinburgh. They were not, however, without powerful friends. The Duke of Roxburgh, the Secretary of State for Scotland, discouraged the proceeding, and was for that reason dismissed from his office as we shall presently see. Dundas, the Lord Advocate of the party previously in power, took up the cause of the imprisoned magistrates, in the performance of his duties as the legal leader of the opposition, and denounced the conduct of his successor as illegal and unconstitutional.

* "*Analecta; or, Materials, for a History of remarkable Providences mostly relating to Scotch Ministers and Christians,*" by the Rev. Robert Wodrow. Printed for the Maitland Club, iv. 215—217.

Forbes had applied for no magistrate's warrant, but had acted on his own authority as Lord Advocate, appealing also, probably to meet any constitutional argument against his possessing the power of imprisonment, to his being a qualified justice of peace for the county of Lanark. He had, however, committed the magistrates to prison beyond that county; and to authorise this imprisonment, he sought no better sanction than his official power as Lord Advocate.

On this occasion he certainly undertook a very serious responsibility. Although the Lord Advocate is generally in the commission of the peace, he has long ceased to act as a committing magistrate, and there is no doubt that a union of judicial authority with the other wide powers of this important officer, would be a dangerous accumulation of functions. The Lord Advocate was before the Union always a member of the Scots privy council, and after this event there seems to have been for some time an understanding that he succeeded in his individual person to the power of imprisonment exercised by that body. The present was certainly a very bold and flagrant exercise of this supposed power. Accompanied by a military force, he appears to have made his committals with the cool rapidity and precision of military operations, and to have brought the magistrates and the rioters in a body to Edinburgh, like so many prisoners of war. In his despatches to the government in London, he says, the magistrates "sent off an express to the Lords of Justiciary, complaining in very harsh terms of the injustice which they had met with, excepting to the power of his Majesty's Advocate as such to commit, and therefore praying that they might be dismissed from custody, or at least that they might be admitted to bail. But as this petition

was not accompanied by a copy duly attested of the warrant of commitment, the court could not proceed upon it." They then demanded an "attested copy" from their gaoler, but "he having refused to grant their request as not being thereto obliged by law, they took a protest against him, and upon that protest renewed their application to the Lords of Justiciary yesterday. But the regular copy of the warrant not being in court, after some debate the petition was rejected."* Thus, if a person were imprisoned, he could only obtain redress if he were able to produce a certified copy of the warrant for his imprisonment; and if that were refused, he had no means of exacting it. There was certainly little to admire in the system; but much to wonder at in finding one who having such machinery in his hands, appears not to have turned it to sinister purposes. If every public office were so filled, perhaps some truth might be found in the pernicious maxim:

"For forms of government let fools contest
Whate'er is best administer'd is best."

This exercise of power did not go unquestioned. Wodrow gives the following passage from the pleadings of Dundas before the Court of Justiciary, on July the 19th:

"Before the Union, indeed, the Advocate as Privy Councillor, had much power of imprisonment, but there was no room for that now; that he was merely a servant, and as to his being a justice of peace in the shire of Lanark, that gave him no power over other the justices of peace, and that the Provost of Glasgow had better right to imprison the Advocate, till convicted of a crime, in his own jurisdiction, than he, as a justice of peace, had to imprison *him*."

On the 20th of July they were liberated on bail, "and the whole town of Edinburgh," says Wodrow, "that were

* MS. at Culloden House.

in multitudes on the street, received them with welcome.”*

The conflict with the Malt Tax in Edinburgh was conducted in the shape generally called “passive resistance.” The Court of Session, which in its original constitution was a committee of Parliament for judicial and remedial purposes, had not entirely shaken off its legislative propensities; and arrogated to itself the right of finding a remedy for any evil that might make its appearance in the body social. On the passing of the Malt Tax Act, the court prepared the way for its enforcement, in the true spirit of the old sumptuary laws, by passing an order with the very attractive title of, “An Act for preventing the Sale of bad Ale.” It began with the narrative, that “The Lords of Council and Session, taking into their consideration the frequent abuses in vending and retailing bad two-penny ale: and that, from the present duties and burdens wherewith the brewers of ale in and about the city of Edinburgh are charged, occasion may be taken by ill-designing persons, to impose on the lieges, and undersell fair dealers, unless the prices for brewers and retailers be certain and fixed.” It then enacted, “That the brewers shall sell to retailers and private families the aforesaid ale at the rate of one merk Scots per gallon, and are not to give any allowance by way of drink money or otherwise, above the rate of one barrel to the score; and that the detailers shall sell the said ale at the rate of two-pence the rint.”

For the purpose of counteracting this order, and embarrassing the government in the enforcement of the Malt Tax, the brewers adopted a resolution to cease brewing when the tax should come in force. On this, the

* *Analecta*, iv., 222.

Lord Advocate presented a solemn memorial to the court, showing:

“ That should this wicked project, through any neglect in those that have the oversight of this city, or through any other accident, be put in execution, the immediate and unavoidable effect would be, in a course of five or six days, to reduce the city to a state of utter want of beer and ale, and also of bread, to the working whereof barm or yeast from new ale is necessary.

“ That the necessary consequence of a famine and absolute want, so suddenly produced, would be a total and universal distress upon the good people of this populous city, and that general calamity must, almost to a certainty, produce the greatest tumults and confusions, the overthrow of all right and government in the city, and irreparable misfortunes to the most innocent of his Majesty’s subjects.”

He proceeds to argue with an air of plausibility, “ That in all cases it is much more expedient for the public welfare and utility, to prevent than to punish offences of so dangerous a nature.” A just conclusion, were it admitted that men ought to be punished for declining to brew beer on the terms dictated to them by a body of lawyers.

The court agreed to administer the remedy demanded. They declared:

“ That it is illegal and inconsistent with the public welfare, for common brewers or others, whose employment is to provide necessary sustenance for the people, all at once to quit or forbear the exercise of their occupation, when they are in the sole possession of the materials, houses, and instruments, for to carry on the trade; so that the people may be deprived of, or much straightened in their meat or drink, and that so to do in defiance and contempt of the laws, is highly criminal and severely punishable.”

Issuing their order on the 29th of July, they commanded the brewers to continue their trade, “ In the way and manner, that for the space of one month, they did exercise and carry on the same,” until the 1st of

November; and for three months after that date, not individually to give up business without a formal notice intimated by a notary public. The act required the brewers to appear on the following day, and find security for their obedience to its injunctions. Only one of the brewers appeared; and immediately another act was passed, declaring that if they did not attend and find their recognisances, before the 10th of August, they would be committed to prison.

The king was then at Hanover, and the Lords Justices had frequently before them the state of affairs in Edinburgh and Glasgow. Forbes, after his first proceedings against the brewers, applied for instructions from government, but was told by Mr. Delafaye, on the 5th of August, "I am commanded to acquaint your lordship with their excellencies' entire approbation of your conduct upon this occasion; of whose vigilance, care, and wisdom, they have such signal proofs, that their excellencies judged the best direction they could give for your further proceedings in this matter was to leave them entirely to your own discretion;"* and on the 25th of August, while the affair was in progress, Mr. Delafaye wrote saying, "The Lords Justices have commanded me to signify to you, to be communicated to the rest of the Lords of Council and Session, their highest approbation of so wise and so seasonable a proceeding; and to return their excellencies' thanks to your lordship for this instance of your zeal for his Majesty's service and the good of your country, and of your great care for the preservation of peace and good order."†

Ludicrously as these proceedings are at variance with modern views, both of political economy and constitutional right, there is something to be admired in the

* Culloden Papers, 353.

† MS. at Culloden House.

firm courage and the honest industry with which Forbes enforced the principle he had conscientiously adopted. It was with him no ostentatious or tyrannical exercise of authority, but an earnest desire, pursued with intense anxiety and the hardest labour, to accomplish an object which he considered essential to the public peace and safety. His correspondence at this period bears deep traces of a nervous anxiety about the result of his operations, not unmixed with apprehension. Writing to Mr. Delafaye, he says: "I have had divers meetings, personally, with deputies from their number, in which I used all the skill I was master of to flatter them into their duty, and to frighten them out of a design, which could not fail to be pernicious to themselves and their families should it be put in execution. However, the public should by prudent precautions be rendered safe."* He was much distressed and perplexed by a rumour that the brewers were to allow themselves to be committed to prison in a body, in order that the clamours, occasioned by the failure of ale and the scarcity of bread, might procure them their release on their own terms. Hearing of this design, Forbes proposed that they should be criminally prosecuted for a conspiracy. At length the "plaguey obstinacy," for which the Justice clerk characterised him, prevailed; and saved the law and the executive from what probably, in other hands, would have been a ludicrous defeat. One of the brewers had been induced to give way, and the others presently followed.

The manner in which Forbes had conducted this war, elicited the highest commendations from the ministry, or rather from Walpole, who was then supreme at Whitehall both in name and in effect. Mr. Scrope, on the 2nd of

* MS. at Culloden House.

September, 1725, says: "The news which came yesterday by an express from my Lord Islay, of your having put an end to the confederacy of the brewers, gave great pleasure to every body here; and Sir R. W. told me this morning, that he would very soon write to you himself, to return you thanks for the part you have taken in it, and the zeal you have shown in this whole affair." The letter written by Sir Robert was as follows:

" London, September 4, 1725.

" DEAR SIR,—I have not hitherto troubled you since you left this place, because you gave me leave to make use of Mr. Scrope's correspondence with you, both to inform myself of what was transacting among you, and likewise from time to time express the great satisfaction I had in your vigilance and ability in struggling with the greatest difficulties that a man could possibly be engaged in; but the great prospect that there now is of success in all your endeavours, calls upon me, not only to congratulate with you, but to return you my thanks for the zeal you have shown for his Majesty's service, and the indefatigable pains you have taken to extricate the government out of the greatest difficulties; and it is hard to determine whether your zeal, abilities, or resolution, is most to be commended. But I hope now you will find the work easier, and if the alteration his Majesty has been pleased to make, will tend at all towards facilitating your future proceedings, it will be an additional satisfaction to me that I have been able to contribute to your convenience, in advising what I thought absolutely necessary for his Majesty's service. You will go on, sir, to co-operate with the Justice-General, and I doubt not but, by your joint endeavours, we shall soon see all those black clouds dissipated that so lately threatened storms and confusion.

" I am very truly,

" Dear sir, your most faithful, humble servant."*

Forbes acknowledged the minister's letter on the 21st of September, in the following terms:

" SIR,—I deferred returning you an answer to the kind letter you did me the honour to write me the 4th instant, in hopes of

getting rid of the indisposition under which I laboured, when I flattered myself I should be able to express in a better manner my gratitude for your goodness to me. But as I continue as ill as ever, and as my physicians can give me no certain hopes when or whether I shall at all get free of this distemper, I choose rather to trouble you with a few confused lines more than to be thought forgetful. When you commend my industry and conduct in the late confused scene here, you see through the eyes of a friend, and magnify circumstances which had no other merit in them but that they flowed from a moderate degree of honesty and attention. The part you take in looking into and so warmly approving my behaviour is, I own to you, a strong inducement to me in my present circumstances to wish that I may get the better of this illness and live, that I may have an opportunity to show you how strong, in my opinion, the bonds are by which you have knit me to you. I never courted office or promotion. I ever dreaded dependence on the great. But as your friendship found me out and marked me for your service, and as your conduct towards me flows still in the same channel of friendship, I feel the same familiar sentiments of love and good-will grow upon me when I think of Mr. Walpole, as if Mr. Walpole and I were in every respect equal.

"If I recover, sir, I hope to give constant and undoubted proof that what I say to you now is true; if otherways you'll accept of my hearty thanks for all your favours in this manner, together with the most sincere wishes that all your endeavours for your country's service, and for your own honour, may be crowned with success.

"I am, sir, your most faithful and most obedient, humble servant."*

About the year 1725, he appears to have been subjected to a tedious illness, in some measure occasioned by the toilsome and responsible duties he had to perform. He saw that his constitution was not capable of continuing his serious duties to his country, on the one hand, and his convivial duties to society on the other; and, like a conscientious man, he sacrificed the latter. The author of the "Letters from the North," states, that the Lord Advocate, "Were

it not for a valetudinary state of health, and the avocations of his office, would be as highly pleased to see his friends about him at table, and over a bottle, as his hospitable brother."* But, however much his illness may have interfered with the hilarities of Midlothian or Inverness, it appears never to have stood in the way of the public business. In a letter from his medical friend, Dr. Clark, on the 6th of April, 1725, there is reference apparently to the commencement of this illness. The reader will observe that the jovial doctor does not enforce a very rigorous or abstemious regimen.

"DEAR DUNCAN,—I am sorry for the return of your misfortune, because I think you become the hypo as ill as any man I know, the Peer of Lovat not excepted. The method you are put under is very good, and what your great doctor must know to be so, by real experience. All that I have to add is that you use exercise with it, that is riding out when you can, and when that is not practicable, driving through the roughest streets in a hack. Shun long sitting. Therefore, when in the house imitate the squire in making many bows to the chair. If you do this you ought to eat and drink heartily, especially at dinner. Taste no malt liquor nor tea, nor greens of any kind, nor broth. Drink pyment to your meat, dashed with strong wine."†

On the 21st of September, 1725, we find him writing rather despondingly to some friend whose name is not mentioned in the scroll.

"I have yours of the 16th, testifying a much greater concern for my recovery than I could desire any otherwise than by my wishes for your service. I am sorry I cannot tell you that I am any better, because I own to you I have strong desires to recover health, that, if possible, I may be able to convince you that by truth and sincerity I wish to testify my gratitude for the many favours you have so disinterestedly done me. But as my physicians talk but dubiously about my case, I must recommend myself to your good will in this manner, and beg

that you would believe that the sense of your friendship will not leave me but with my life.'

During his illness, Forbes took a ramble in the Highlands, uniting the pursuit of health with those inquiries into the political state of the country, which he never lost an opportunity of carrying on. He pursued neither of the objects that now carry multitudes into the bosom of the mountains—the scenery and the game. He has left nothing behind him to show that he had much love of scenery of any description. If he had been an admirer of the mountains of his native north, he would have been a remarkable exception to his contemporaries, both Scottish and English; for no writer of the age ever thinks that he ought, in ordinary courtesy, to speak of “the mountain and the flood,” except to abuse both; and even those who have afforded the most lively accounts of the scenery—such as Burt, the engineer officer—have given their pictures the animation of bitterness and contempt. Among all the changes of opinion which a century has produced, few would probably give more astonishment to the writers of the age of which we speak, than the admiration with which, since the “Lady of the Lake” entered the fashionable circles, it has become the etiquette to characterise Highland scenery. We find then no traces of the picturesque in Forbes’s correspondence in his wanderings; and it was a matter of much deeper interest than the scenery or the weather, to be able to tell his friend Scrope, on the 2nd of September, 1726:

“The Highlands are at present in full rest. There is not the least complaint of robberies or depredations, and a great stick is become as fashionable an instrument in

MS. at Culloden House. The letter to Sir Robert Walpole already cited, in which he also complains of the state of his health, was forwarded through the person to whom this is addressed.

a Highlander's hand, as broad-sword or pistol by his side used formerly to be.

We have but few accounts of the out-door avocations of such men; and in the absence of others, perhaps this little notice of his practising the Scottish game of golf with his son, on the links of Musselburgh, may not be uninteresting. It is dated the 1st of November, 1728.

"A run of feast days and fast days has kept me out of town this week. This birthday, and the preparation for the Sacrament, has employed all the gay and all the serious people so much, that there is not the least whisper of that sort of private intelligence, which is as entertaining to our street newsmongers as it is commonly false.

"This day, after a very hard pull, I got the better of my son at the gouf in Musselburgh links. If he was as good at any other thing as he is at that, there might be some hopes of him."†

Towards the end of this year we find tokens of convalescence, in the old conviviality resuming its sway, instead of golf and Highland tours. On the 29th of November he writes to his brother:—

"Francy Farquhar is not yet come this length, nor do they hear any thing of the squire, which makes us dread that they may be lying together somewhere in a wreath of snow—the storm is very deep here, and the frost very keen.

"Peter Stewart is here from Ireland. He drinks very near as well as ever. I see him and some other of our friends now and then salute you in a bumper."‡

On the 19th of December, the Lord Lyon gives Mr. John Forbes the following significant information:

"Last Saturday, eight of us attended Duncan, to intro-

MS. at Calloden House.

† Ibid.

‡ Ibid.

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duce Justice Vaughan to John Steeles, where we drank so late, that the J. C., Peter Stewart, Vaughan, and I were overturned on the high plain road. Meantime, I have the satisfaction to tell you that Duncan and all your friends are very well."*

At length, on the 18th of December, 1730, Lovat, whose authority may be safely taken on such a subject, says to John Forbes, in his usual emphatic manner:

"I conscientiously assure you that your brother, the Lord Advocate, has not been so strong, and vigorous, and healthy these several years past, as he has been since the middle of November; and Clarkey swears, if he keeps to his directions, that in two years he will be as strong, and as heal, and as fit for drinking as he was twenty years ago."†

The manner in which the business of Scotland was conducted by Duncan Forbes, was productive, for a time, of an important constitutional alteration, which subsequently became permanent. On the 24th of August, 1725, the Duke of Newcastle wrote to him, saying:

"His Majesty not intending, for the future, to have any particular Secretary of State for Scotland, has been pleased to remove the Duke of Roxburgh from that employment, and ordered his other Secretaries of State to take care of the department that his Grace had. As, in my Lord Townshend's absence, that must lie singly upon me, I must beg your lordship will be pleased to send me, from time to time, such accounts as you shall judge to be for his Majesty's service. It is a very great pleasure to me, that in the execution of the king's commands, I shall have the honour of your lordship's correspondence, and the happiness of your assistance; which will be the more necessary to me, who must be unacquainted with the laws and methods of proceeding in your country."‡

It is worthy of notice that this office, with its great amount of patronage and official power, was not one of those conferred on Argyle. While the great offices of England, or the empire in general, were plentifully bestowed on him, the minister was probably too cautious to invest him with one which would add the authority of the prerogative and the influence of government patronage, to the vast local power exercised by the great house of M^cCallum Mhor. But in whatever hands the office was placed, the minister very probably felt that it was likely to be abused. It must be given to a Scotsman, to prevent a national outcry, which would rest with apparent justice on the argument that no man could so aptly deal with the institutions of the country as a native. The reasons why a Scotsman should *not* have the office, were not such as it would be prudent in any minister to express. It must be confessed that if in England party spirit prevailed in the conduct of official persons, in Scotland they were subject to the still more objectionable influence of family predilections; and a man like Walpole, accustomed to make every consideration yield to the aggrandisement of his political ascendancy, must have felt the clannish disposition of the Scottish officials to hold kinship more important than sound Whig principles, to be a provoking counteraction of his system. He therefore came to the conclusion, not unwisely, that there should be no official person having the power and patronage of a Secretary of State in Scotland; but that the principal Secretary for the Home Department should enjoy the power and the responsibility of a secretary for Scotland, while he might be able to obtain the proper information from the Lord Advocate, or any other trustworthy source. In a letter, of which the scroll is preserved, Forbes, in

allusion to a communication which he had received from Mr. Under-secretary Delafaye about the new arrangements, makes some remarks of a very emphatic character on the manner in which the Scottish secretaryship had been used. The letter is dated the 7th of September.

“I am perfectly well pleased with what Mr. Delafaye writes me about the method into which Scots’ business is to be flung, because it yields a prospect, that for some time at least, we shall not be troubled with that nuisance, which we so long have complained of, a Scots’ Secretary, either at full length, or in miniature. If any one Scotsman has absolute power, we are in the same slavery as ever, whether that person be a fair man or a black man, a peer or commoner, six-foot or five-foot high; and the dependence of his country will be on that man, and not on those that made him.”*

The Scottish secretaryship was only discontinued for a short period. It was revived in 1731, in the person of the Earl of Selkirk. He was succeeded by the Marquis of Tweeddale, in 1742, and the office was finally abolished on this nobleman’s resignation in 1746.

In the mean time, Duncan Forbes had a considerable addition to the multifarious duties of his professional office, and he seems to have set the precedent, by which the Lord Advocate, if he be an able man, is generally burdened with a certain proportion of every department of ministerial duty in Scotland. The Lord Advocate’s proper official functions are those of legal adviser of the crown, and acting counsel in all questions in the courts of law in which the crown is a party. In a great portion of the latter department of his business, he is the mere lawyer, who differs from other practising barristers in the nature of his employer. But even as an acting lawyer, he has duties to perform of vast importance to

* MS. at Culloden.

the public, and extending widely beyond the verge of those of the Attorney-general in England. The advocate of the crown became, by a series of not unfortunate accidents which it would be tedious to enumerate, the advocate of the public in the prosecution of crimes; and thus he came to hold the reins by which that system of public prosecution, which distinguishes the Scottish from the English administration of the criminal law, is regulated. In his other functions of legal adviser for the crown, he is the responsible officer who points out the course to be adopted by the government in doubtful cases, and especially in state offences, when it is a question whether a prosecution should be instituted or not. It is true, that the cabinet frequently direct state prosecutions to be instituted; but a Lord Advocate conducting a prosecution so originating, even if he personally disapproved of it, would still, undoubtedly, be considered for all purposes of political responsibility to have given it the sanction of his official advice. Then this function of legal adviser to the crown, when the Lord Advocate comes in contact with statesmen unacquainted with the peculiar institutions of Scotland, possesses the quality of indefinitely expanding in bulk, and ramifying itself into a multitude of matters, which are all, more or less, distinct from the simple administration of the law. He is generally looked on as the reviser of all the ministerial bills regarding Scotland, and thus, as the author, or perhaps more properly the editor, of the whole legislature for that part of the empire, during his tenure of office. In ecclesiastical affairs, in the administration of the revenue, in projects relating to the means of transit, the ports and harbours, and other matters of public engineering, the Lord Advocate has been always looked to, at least

by the people of Scotland, as the person who can forward or impede the public service. If there are riots or disturbances in any part of the country, the assigned duties of his office naturally throw on him the responsibility of making the necessary arrangements for the preservation of the public peace. But if a portion of the community is afflicted with scarcity, or an epidemic disease has broken out with unusual violence, it is always expected that the Lord Advocate is to devise the proper arrangements for the protection of the public.

These multifarious functions, and indeed a still wider range of duties, which the increase made by Scotland in wealth, population, and business transactions, would render it impossible for any one man satisfactorily to perform at the present day, appear to have been cheerfully and zealously undertaken by Forbes. It has been already said, that we may date the precedent of so many duties falling on the Lord Advocate to the circumstance of one so willing and able to fulfil them, holding the office when the secretaryship of State for Scotland was for a time discontinued. It is an additional reason for holding this opinion, that Forbes seems to have continued the performance of his adopted functions after he became Lord President of the Court of Session; and probably the inconvenience and general impropriety of uniting these heterogeneous functions with the office of a judge, may be the reason why they fell upon the Lord Advocates instead of the Lord Presidents of subsequent times. Subdivision of functions, and perfection in their performance, are the characteristics of modern times. The further back we go, the more valuable do men of varied capacities appear to have been; and before the middle of last century Forbes exercised, to the advantage of the public and the admiration of his

contemporaries, many functions which a lawyer, however capable of performing them, could not in the present day adopt without ridicule.

It was not in any spirit of persiflage that Lovat addressed him as his general. In those days, the gentlemen who acted the temporary soldier, had too many opportunities for mingling in actual warfare, and Forbes gathered no contemptible laurels in the field. But it is a circumstance more remarkable at the present day, that seeming to feel the incapacity of Cope and other military commanders, he gave them occasional directions for the disposal of their troops, and the general conduct of their operations, which seem to have been deferentially followed. Among his papers there are many such instructions expressed in the brief and imperative form of military orders, and in a tone, which military men of the present day, brought up with different notions of professional distinctions and responsibilities, would never tolerate in a civilian. The ports, and harbours, and the state of navigation occasionally occupied his attention. Thus there is extant in his handwriting a scroll of a memorial to the Lords of the Admiralty, relating to the dangerous navigation between the west coast of Scotland and the Isles, very scientific in its tenor and nautically technical in its details. The manufactures of the country he considered the peculiar children of his adoption, and he nursed them with only too much fostering tenderness. The commerce of Scotland was in the same manner taken under his protection, as something that had not vitality enough for its own support, and required his organising directions. His exertions in adjusting the revenue system to his own views, we have already seen in part; and future incidents will bring it again under our notice. He did not as we

shall see, neglect the progress of agriculture. He looked from the mere administration of the law, which was the regular sphere of his duties, to the means of its reform; and as we shall presently find, his exertions for the re-organisation of the Scottish records were arduous and extensive.

Some of his proposals for the enforcement of the revenue laws were adopted at a later period, and became a prominent feature of our revenue code. It is the curse of all restrictive systems that every statesman feels it necessary to widen the circle of coercion and interference, finding that his predecessors have not made it large enough. It was in vain that the coasts were guarded, if vessels with smuggled goods were allowed to keep the sea, waiting for the proper place and the proper moment for a landing. "A ship," says Forbes, "chock-full of brandy in small casks, and of tea, being met with anywhere on the coast, produces clearances from Holland, suppose, or Dunkirk, for Norway, or any other foreign port; pretends she came on the coast by stress of weather, or some other accident, and must be permitted to proceed on her feigned voyage; while the use she makes of these indulgences is to put on land her prohibited goods on some less guarded corner of the coast, and if she have any bulky entrable goods on board, she comes boldly into port, enters those fairly at the Custom House, and reports her prohibited goods for some foreign port. Whilst she is unloading the entrable goods, the runners are settling their correspondence privately with the boats on that side of the coast where they intend to run their tea or brandy." He finds a test of the intention to smuggle, in the division of commodities into small lots during transit. Of brandy he says, "When it is carried in the fair way in the course of trade, no man in

his senses puts it in small casks—the expense of the cask, the freightage, the leakage, are so much greater in the one way than in the other, that no honest trader ever did, or ever will, make use of small casks.” He proposes that the importation of tea and sugar in small bulks should be prohibited; and he thinks a further remedy might be obtained by “a total prohibition of carrying tea in any British ship in any part of the seas, within fifty or any other number of leagues of the coast, upon any pretence whatsoever, on pain of forfeiting the tea, and a further penalty to the master,” unless where there is a proper clearance.

He complains that individuals may have in their possession large quantities of brandy without being liable to account for the manner in which it has been obtained; and he proposes as a remedy that the possessor and all those through whose possession it had previously passed, should be bound to produce certificates until the pedigree of possession is traced to the importer. He fears this arrangement might be evaded by linking into the chain some obscure person unable to pay penalties, and his remedy for this is characteristic:

“This I think may be obviated by giving a power to punish by whipping at the cart’s tail such offenders as could not answer the penalty—a punishment which I wish also were inflicted on boatmen, seamen, carters, and others, who knowingly assist in smuggling, and cannot answer the penalties. And to prevent unwary persons falling under the penalties, I would have the law read over from the pulpit immediately after divine service four times every year, in all churches that are within five miles of the coast.”*

* MS. at Culloden House.

CHAPTER III.

Domestic Matters—His Brother John—His Succession to the Estates—His Son—His Son's Tutor, Murdoch—Forbes as an Author—The Porteous Mob—The Lord Advocate's Inquiries—The Proceedings in the House of Lords—The Scottish Judges—The Opposition in the Commons to the Measures against Edinburgh—The Dangerous Aspect of the Discussion—The Part taken by Forbes, and its Effect—Made Lord President of the Court of Session—State of the Bench—Influence of his Character and Exertions—Paper on the Scottish Peerage—The State of the Records—War against the Consumption of Tea.

WE here give a brief notice of some domestic events in which Duncan Forbes and his family were concerned. His brother John had been member for the county of Inverness from 1715 to 1722, when he was successfully opposed by the Laird of Grant. He attributed this defeat to the treachery of Lovat, with whom the Culloden family were subsequently on bad terms, until he found it expedient to be restored to their favour. He says to John Forbes on the 29th of December, 1732: "Duncan and I are now as we were in 1715, that is, without reserve to each other."* At that time some effort seems to have been made by John Forbes to regain his seat through Lovat's aid, for we find him saying to his brother, on the 2nd of December:

"I gave you by last post the best journal I could of the Lyon; his business to this corner was to solicit for Grant against me. He says that all the Frasers will be for Grant, except Robert, but I know the contrary, if I can trust Lovat and the gentle-

Culloden Papers, 129.

men themselves. The beast stayed here two nights, but not one word of politics. From hence he went to G. Macintosh's, where he stayed a night, but got no favour of the laird—which vexed him very much—and from thence he went to Castle Grant, but I have not yet learned what was concerted there. But one thing is certain, that they, the Lyon and Grant, are in concert against me.”*

The trust in Lovat had been probably as fallaciously bestowed as on the previous occasion, for Forbes was not re-elected. Very soon afterwards his constitution gavey, and we find Duncan, in a letter to Mr. Scrope of the Treasury, dated 23rd of November, 1734, desiring to be excused for absenting himself from Parliament, on account of the state of his brother's health.

“ You can recollect, that since first I had the honour to serve the crown, I never was one day absent from Parliament. I attended the first and the last and every intermediate day of every session, whatever calls I had from my private affairs to be here ; while at the same time my friend the Solicitor-General was permitted to stay out the whole term in this place, the attendance of one of us upon the courts in term time being thought necessary for his Majesty's service.

“ You know the friendship I bear my brother, and can easily guess how painful it must be to me to part with him in the extremity of his distress.”†

This letter must have been written a very short time before John's death, which occurred before the end of the year ; and as he left no children, Duncan succeeded to all the family property. He had commenced a series of agricultural improvements on his small appanage of Bunchrew, and he now continued the system on the larger field thus opened to him. His memory still lives as that of a kind landlord in the traditional recollections of a peasantry, who could have little opportunity of appreciating his merits as a statesman or a lawyer. Probably his military exploits

may have swelled his reputation; for it is rare that the Celtic races show a lasting appreciation for merits which do not partake of the character of chiefship. Of the high legal office which he held, they would not easily understand the nature. A president of a deliberative body was probably a character with which it would be as difficult for them to identify a powerful judge, as it was to Hajji Baba to recognise the types of the Emperors of Hindustan in a chairman and deputy-chairman of a Company. The name, indeed, by which his title is generally expressed by these worthy people in English is that of the Lord Presenter. Of his intercourse with his tenantry, the following extracts from a letter addressed by him to his factor, Thomas Stewart, on the 28th of November, 1735, partly relating to the establishment of a spinning-school, and partly about arrears of rent, may be considered a fair specimen.

“ As to the spinning mistress, a hut must be put up for her in the place which you and the tenants shall judge the most central for the service of all of them, the design being for the benefit of all. The expense not only of putting up the house but of supporting the woman, must, I believe, be supported by me for some time, because, though it is for their good, they are not yet sensible of it, and therefore would without reason grumble if they were charged with it. You will, therefore, consult with Provost Hossack, and make the establishment as prudently and frugally as possible, yet not so as to starve the child.

* * * * *

“ As to what you say of the tenants' capacity to pay their arrears, and the proposition of exacting from them payment of one-half, though I should perhaps be satisfied with receiving the half at this time, yet I should think it very imprudent to let them think that I did not look for the whole—at least as much as they respectively are able to pay. I do not by this mean that I would have them really distressed, but as their circumstances may vary, and some may be able to pay the whole,

whereas others may not be able to answer the half, I would have each believe, that, acting on to his ability, he would be entitled to my favour as to the acceptance of boll for boll.”*

Forbes had, as a relic of his brief married life, an only son, John, whom he must have seen pretty far advanced in life before his own death. This son was a cause for some time of much anxiety, but afterwards of comfort and satisfaction. He showed in early life the convivial spirit of his race, without their energy and perseverance. He was the boon companion of Thomson, Armstrong, and a wide circle of choice spirits, who seem to have loved and appreciated him after the fashion expressed in the following short but eloquent epistle by the author of the “Seasons.”

Richmond, Aprill the 25th, 1736.

“DEAR JOCK,—I am willing to inform you, before you leave France, that your salmon are very salt, and that we often drink your health with more than devotion—with love. Had I time, I have many things to say to you, but must defer them till another opportunity. Here are some, and Peter among the rest, who are, heartily, heartily yours.

“J. THOMSON.”†

The following picture from the “Castle of Indolence,” has been held on very good grounds to represent young Forbes.

“One day there chanced into these halls to rove,
A joyous youth, who took you at first sight.
Him, the wild wave of pleasure hither drove
Before the sprightly tempest tossing light.

* MS. at Culloden House.

† MS. at Culloden House. This has already been printed in the “Highland Note-book” of Mr. Carruthers of Inverness, to whom the public are indebted for many curious literary and critical discoveries. Among these are the types of the two characters in the “Castle of Indolence,” to be presently mentioned. Mr. Carruthers has adduced critical reasons for believing in the coincidence of which the scope of the present narrative will not admit of a repetition.

Certes, he was a most engaging wight,
 Of social glee and wit humane though keen,
 Turning the night to day, and day to night:
 For him the merry bells had rung, I ween,
 If in this nook of quiet, bells had ever been.

“But not even pleasure to excess is good,
 What most elates, then sinks the soul as low.
 When spring-tide joy pours in with copious flood,
 The higher still the exulting billows flow,
 The further back again they flagging go,
 And leave us grovelling on the dreary shore.*
 Taught by this son of joy, we found it so,
 Who, whilst he stay’d, kept in a gay uproar
 Our madden’d Castle all, th’ abode of sleep no more.”

An inhabitant, for however brief a period, of this enchanted castle, was not likely to prove a very satisfactory son to Duncan Forbes, and many are the anxious inquiries and admonitions which his early conduct elicited. But he assumed by degrees many of the solid virtues of his parentage. He chose the profession of a soldier, and before going abroad to the Flemish war, left the following characteristic note addressed to Thomas Stewart, the factor or steward at Culloden.

“DEAR HONEST THOMAS,—I am going to carry your son Sandy to Flanders with me to fight the French. When I am a general, Sandy and Duncan St. Clair shall be captains—as I am on haste, dr honest Thom, I wish you well while—John Forbes.*

“London, 27th of May, 1742.”

He behaved gallantly, had a horse shot under him at Fontenoy, and partook in the dangers of other conflicts. We find his father thus writing about him to Sir Andrew Mitchell.

* MS. at Culloden House.

“Edinburgh, 5th July, 1743.

“DEAR SIR,—The concern which you show for John, and the care you have lately taken to prevent my being affected with the reports that prevailed of the sufferings of the Blue Regiment in the action on the Maine, are fresh proofs of what I never doubted, your good-will for me, and claim, at least, this return, to let you know that by a letter which the last Saturday's post brought me from the young gentleman himself, it appears he has had no harm, and that he has been well diverted with the scene which to him was undoubtedly a novelty.—I am, as every honest Briton must be, greatly pleased with the success of this first encounter, and entertain strong hopes that as it has happened at a very critical conjuncture, it may be so managed as to put an end to the troubles which have lately afflicted Germany and threatened Europe, without much more expense of blood or treasure.”

He afterwards lived a life of retirement at Stradishall, in Suffolk, endeavouring, as we shall find, to retrieve the losses which his father had incurred in the public service.

The tutor to whom John Forbes was intrusted, was the Reverend Patrick Murdoch, who, though his name is not to be found in the biographical dictionaries, was a writer of considerable eminence both in science and literature. He was a friend and pupil of Colin Maclaurin, and probably derived from his example a desire to teach and propagate the Newtonian philosophy. He edited the illustrations of *Perspective from Conic sections; Genesis curvarum per umbras*, in 8vo, 1746.† To his friend's ac-

* Mitchell Papers, British Museum.

† It appears from the following passages of letters addressed by him to Sir Andrew Mitchell, (Mitchell Papers, British Museum) that he had contemplated and afterwards abandoned a complete edition of Sir Isaac's Works.

“Stradishall, 12th July, 1766.

“I should be quite happy, my dearest friend, to embrace you at Berlin, to be witness of the favour you enjoy, and of the universal respect that will ever be paid you in that country, but an object has risen upon which I wish to have your advice. On my way down, I passed, as usual, two days with Mr. Smith (quite lame with the gout, otherwise cheerful, and who kindly remembers you), Mr. Shepherd, the Plu-

count of Sir Isaac Newton's philosophical discoveries, he prefixed an "Account of the Life and Writings of Mr. Colin Maclaurin, Professor of Mathematics in the University of Edinburgh." He wrote a book called "Mercator's Sailing applied to the true Theory of the Earth," and several papers in the "Transactions of the Royal Society." A work more widely circulated, is his short but clear and lively memoir of James Thomson, prefixed to nearly all the later editions of this poet's work. The commemoration of Thomson was, in some measure, an acknowledgement of a corresponding favour, for the poet had given Murdoch, like his pupil, a place in the "Castle of Indolence," and one that a clergyman cannot have felt to be a perfectly dignified one:

"A little fat round oily man of God
 Was one I chiefly mark'd among the fry;
 He had a rogueish twinkle in his eye,
 And shone all glittering with ungodly dew,
 If a tight damsel chanced to trippen by;
 Which when observed he shrunk into his mew,
 And strait would recollect his piety of new."

mean professor, joined us one evening, and I was afresh importuned to give a complete edition of Sir Isaac, towards which Shepherd [offered] the use of all the manuscripts that came into Lord Portsmouth's possession, through Mr. Conduitt; and their arguments were such, that I could not help promising to set the edition agoing, though I might be obliged to leave the finishing it to some other. My time of life is rather too late, indeed, for such undertakings, yet my health and spirits are never better than when I am least idle; provided the subject is useful, suited to my taste, and within my reach. Here I shall have to give little more than a close attention to the press, and to the scheme, and to add to what M. Castiglione has done, those pieces that may have hitherto remained in manuscript. I have not yet told Millar, and I shall be glad to have your opinion, as you commonly judge better for me than I can for myself."

"Hampstead, 21 April, 1767.

— "As to Newton, Millar, I find, has not given over all thoughts of his edition, but I have of being concerned in it. I feel the weight of years in weakness and loss of appetite, and cannot now bear the intense and long application which that undertaking would require."

A partiality for literary ease, and a dislike of the business of life, so far qualified the worthy tutor to sojourn in the castle; but the less creditable attributes of the picture are probably the fulfilment of some wicked jest of the poet. Murdoch was happily married in 1742. His orders were from the Episcopal church, and he obtained the rectory of Stradishall in Suffolk, where he often kindly entertained his old pupil.

It is necessary to say something of Duncan Forbes himself as an author, though his claims to notice are here on a much smaller scale than his other merits. In 1732, he published "A Letter to a Bishop, concerning some Important Discoveries in Philosophy and Theology," which passed through at least three editions. Forbes was one of those who were charmed with the series of curious analogies, by which the Rev. John Hutchinson showed that the Old Testament, in the original Hebrew, presented not only the truths of the Christian religion, but the elements of all natural science. This small quarto brochure professes to do no more than to give an account, exegetical and analytical, of "Moses's Principia," and the other works of Hutchinson. In his admiration of this singular author, he was in good intellectual company, for he was joined by many of the ablest scholars of the day; and some works of no small pretension show us that the Hutchinsonian doctrines are still prevalent in a great seat of learning, though they are not associated with their founder's name. It is remarkable, that these quaint analogies seem to have had a peculiar charm for men very learned in the language from which they were extracted. Parkhurst, the lexicographer, was numbered among the Hutchinsonians. Forbes himself had the character of being a ripe Hebrew scholar, and he handles that lan-

guage with a freedom which he could not have ventured to use without a full practical acquaintance with its structure. He seems to have been on terms of intimacy with the singular man whose doctrines he thus promulgated; for among his papers there is a letter from a W. Gardner, at Walton-upon-Thames, dated the 16th of September, 1837, stating that his wife was a relation of Hutchinson, who died about three weeks before the date of the letter. The writer says:—"If he left no will with your lordship, I am afraid there is none at all. He told me when he lay ill, that if you lived, as you had a general idea of what was to come, we should have it." He expresses a hope that a complete edition of the works may be forthcoming. "If your lordship has no formal commission about his papers, I most humbly entreat you to interpose, and to use your endeavours that they may be preserved and published."*

A complete edition of Hutchinson's works was published in 1748, but there is no reason to presume that Forbes assisted in preparing it for the press.

In 1735 he published another work bearing on the same class of subjects as that already mentioned, but more original and ambitious in its character, called "Some Thoughts concerning Religion, natural and revealed, and the Manner of Understanding Revelation: tending to show that Christianity is, indeed, *very near* as old as the Creation." The concluding words are an allusion to Matthew Tindal's "Christianity as old as the Creation; or, the Gospel a Re-publication of the Religion of Nature." Among many propositions maintained in the "Thoughts," with something like the close logic of a lawyer, this appears to be the most important:—That it being the mark of an over-ruling power to predict what

shall be done by it in future ages, and to fulfil that prediction,—we have, in the Old Testament, and the present history of the Jews, full evidence of the existence of that power; because it can be conclusively shown, both historically and critically, that the predictions regarding the coming and the reception of the Messiah, were promulgated among the Jews, and believed by them; while we have equally conclusive evidence of these predictions being fulfilled; and that evidence, in one material part at least—the rejection of the new dispensation by the Jews, and their continuance as a peculiar people—is independent of the existence of the New Testament.*

The editor of the “Culloden Papers” attributes to Forbes the pretty song which commences,

“ Ah Cloris! That I now could sit
As unconcern'd as when
Your infant beauty could beget
No pleasure nor no pain.

“ When I the dawn used to admire
And praised the coming day,
I little thought the growing fire
Must take my rest away.”

But unfortunately for the poetical reputation of one who has reaped worthy laurels in other departments of intellectual labour, this song may be found in “The Mulberry Garden,” of Sir Charles Sedley, printed in 1675, where it is presented by Wildish to Olivia, justifying her prognostication, “Ever since I saw you last I have been in most terrible apprehension of a whining copy of verses.” There are some small attempts at versification—chiefly translations—in the early hand-writing of Forbes; but undoubtedly he never made any serious efforts to acquire a poet’s

These Tracts were re-published as “The Works of the Right Hon. Duncan Forbes, 8vo., 1816.

fame, and left nothing that would justify a biographer in starting such a claim.

The last momentous piece of official business with which Forbes was engaged in his capacity of Lord Advocate, was the inquiries into the Porteous Mob: an incident nearly as renowned at the period when it occurred for the remarkable audacity and skill with which it was conducted, as it has been at a later day for the picturesque eloquence with which its tragic history has been narrated. In this inquiry all the skill and industry of the Lord Advocate, all his natural sagacity as a man, and his experience as a crown lawyer, were hopelessly baffled.* In the House of Commons, General Cope paid the conspirators the compliment of saying, "If we take a view of the whole proceedings in that barbarous murder, we find nothing in it that looks like the precipitate measures of a giddy mob; no, they went coolly and regularly to work, and for my share, I never was witness to or ever heard of any military disposition better laid down or more regularly executed than their murderous plan was." This feature, adduced as a reason for supposing that the authorities should have been aware of the design, rather indicated those causes of profound secrecy which alike evaded the

* A case actually brought to trial, for the purpose, probably, of showing that some inquiry had been made, was a ludicrous antithesis to the tragic horrors of the murder. William Maclauchlan was indicted by the Lord Advocate "for mobbing, murder, and other crimes." He was a footman, and it turned out that wandering deviously about on the evening of the trial, in a state of advanced intoxication, some of the mob, to humour a wild freak, had put a Lochaber axe in his hand, and kept him in a rather conspicuous place during their proceedings. As he had on his livery, some casual spectators belonging to the upper ranks recognised this singular apparition as having figured behind their chairs on festive occasions, and thus he was the only person in the mob whose identity was attested. The poor man was not aware until next morning that he had cut so conspicuous a figure, in a great historical tragedy. See his case in the *State Trials*, xvii., 994.

provident care of the magistrates, and baffled the skill of the public prosecutor. It was very clearly the work of no ordinary rabble, subject to the momentary impulses of ferocity and of regret, which actuate such a body: ready to perpetrate an atrocity at one moment, disposed to conciliate and secure their personal safety from the consequences at another. It is difficult to believe that Forbes could have failed to see, how much his own favourite exclusive trade system and formidable revenue laws, had their influence on the national feelings of which this act, and the mystery in which it was shrouded, were the types. The suppression, by the adoption of the English system of customs' duties, of the old national commerce with France—so wide an interference in general with old notions, by a legislature of which so small a portion was supposed to represent the people of Scotland—had raised a national feeling against the revenue system, through which the people viewed the smuggler, not as a paltry adventurer for gain, but as one who risked his life in the holy cause of national independence. Wilson the convict, at whose execution Porteous fired on the people, had robbed the Custom House; and deeming he had done a good deed, met his death with the approving conscience of a suffering patriot. The reprieve of Porteous, following the pardon of the officer who had fired on the Glasgow mob in the Malt Tax riots, made the people say to each other, that the alien government of England had come to the resolution, that no person should be punished for violence done on the side of the revenue. Acting on none of the minor motives which influence violent mobs, but following the dictates of a sort of political fanaticism, the rioters supported each other with all the firmness and faith of state conspi-

rators; and they were successful in leaving to posterity one of the most profound mysteries, which history carries in its bosom.

The temper in which the affair was discussed in both Houses of Parliament, spread the national feeling upwards, and made all classes of Scotsmen, with the characteristic unanimity of their country, resist the spirit of national oppression exhibited by the English statesmen. The spirit of the Scots was first roused in a matter of etiquette, arising in the preliminary inquiries. As the presence of some of the Scottish judges was required in the House of Lords, the Duke of Argyle and their other countrymen in that august assembly, maintained that they should take their seats, like the English judges, on the woolsacks, or come forward to the table. There was no exact precedent for such a step, and analogy was allowed to have no influence; for in adducing precedents after the Union, England and English practice were alone looked to, and as the Scottish judges, though they had been originally a committee of the supreme Court of Parliament in Scotland, had never been in use actually to sit on those woolsacks, or to stand at that table, they could not be in any way distinguished from other citizens who are heard at the bar. The arguments employed on the occasion, are reported in the Johnsonian system, without the names of the speakers, and among them it is said:

“ I am sure no Judge of Scotland was ever yet admitted to be present, nor have any of them now a right to come within this House; for no man can come within our bar but by patent, by writ, or by custom. The Judges of England have their places upon the woolsacks by the king's writ, and till the Judges of Scotland get writs of the same nature, they have no right to come within our bar, nor have we, I think, a power to bring them within the bar; because it would, in my opinion,

be an encroachment upon the king's prerogative. Nay, I must go further, I do not think the king himself, even with the consent of this House, can issue out any such writ; for even the king's power of issuing such writs is limited by custom."

Trifles of less weight will be sufficient, in moments of public excitement, to rouse suspicions of intended national indignities; and this was an unfortunate prelude to the measure which subsequently passed through the House of Lords, "To disable Alexander Wilson, Esq., from taking, holding, and enjoying any office or place of magistracy in the city of Edinburgh or elsewhere in Great Britain: and for imprisoning the said Alexander Wilson: and for abolishing the guard kept up in the said city, commonly called the Town Guard: and for taking away the Nether-bow port of the said city, and keeping open the same." The measure was not intended for the purpose of facilitating the punishment of guilty persons, or of remedying the injury, but was in a modified shape the treatment which an exasperated military commander bestows on a capitulating city. It was the threat of angry enemies, not the wise legislation of a national parliament. The gate was to be removed as a humiliation to the city, and to the nation of which it was the capital. The city guard was to be abolished with a like view; and in this part of the measure, its insulting object was rendered peculiarly conspicuous, because that body was the police force of the city; and thus, in consequence of a successful riot, it was proposed that the means, however small, which the citizens had of protecting themselves from violence, should be removed, without any substitute being established. The city guard had been established at the revolution, when it superseded the old feudal system by which the burghers "watched and warded" the city from foes both external

and internal in their turn. Nearly fifty years having elapsed since this system was abolished, none of the existing generation capable of performing the duty could have ever been subject to it. Yet, in the debate in the House of Commons, the Solicitor-general for England said, "Great complaints have been made of the hardships imposed upon the citizens of Edinburgh by the present bill, as it takes away their guard, and consequently deprives them of their watch. But I cannot see any hardship in this at all, because the citizens have only enjoyed that guard since the revolution, when it was granted them in place of watching and warding, and I know not what should hinder them from returning to the same custom again."

In the House of Lords, the measure was denounced by the Duke of Argyle. Not one Scotsman is reported to have spoken in its favour in either house.* Its character as an intentional act of hostility was attested by the Attorney and Solicitor-general of England supporting it, while Duncan Forbes, the principal law officer of the crown for Scotland, opposed it, and was joined by the Solicitor-general of Scotland, and his old opponent James Erskine, of Grange. Two speeches by Forbes, mild and rational, but very decided, are reported in the Parliamentary History. A portion of his speech against the commitment of the bill has already been cited.† It concludes in these words:

"Thus, sir, I have given my opinion with respect to the insufficiency of the evidence for passing the present bill into a

*The bill does not appear to have had the assistance of a person acquainted with Scottish Institutions in its preparation. The Baillies of Edinburgh—a highly worshipful body—figure in it under the equivocal title of "Bailiffs."

† See Chap. I.

law, and I have done it in the sincerity of heart ; for what motive can I have, sir, for what I have spoken, but the discharge of my duty as a member of this house ? It is more than probable, sir, that I shall never trouble you again with my sentiments upon this or any other subject, but my conscience would ever afterwards have accused me, if I had quitted my seat here, before I had given my reason why I think the present bill should not be committed."

That such a man considered himself to have an allegiance to his country which was stronger than allegiance to party—that men of character could not be found to be the instruments of accomplishing what they viewed as a slight on their country, was a state of matters calculated to make a minister like Walpole hesitate. Then he could not fail to notice that this grave resistance was followed up by men, whose tone was sterner and fiercer, and a more direct echo of the spirit of defiance that filled Scotland. Lindsay, the member for Edinburgh, significantly alluded to the tone taken up by people of rank in England:

"That the legislature may be unconcerned and indifferent as to any public measure as to Scotland; that it is a matter of no moment how or in what manner any public law affects that country ; whether these people are dissatisfied or not—should they be ever so much displeased, ever so much angry, it is of no consequence ; should they even take it into their heads to mutiny and to rise in rebellion it signifies nothing, for we have always as many troops quartered amongst them as are sufficient to conquer them. This is easily said, sir, and I admit it might be as easily done too ; but because such a thing might be done, would such a measure be just?—would it be a wise measure ? Sir, so foolish and so foul a deed as this would be falsely called conquest—it would be an act of treachery—it would be treason, sir—treason of the blackest kind—treason against the people. * * * But would the conquest be so easily maintained as made ? No, sir, it is a common saying, that oppression makes all men of one mind. In that event, ten times the number of forces that made this conquest, and per-

haps made it with ease too, would prove too few to maintain it."

Ominously for the peace of the empire and the stability of the Union, as this affair had dawned, it brightened as it advanced. It was a strong test of the soundness of the principles on which the two countries were amalgamated. Had the Scottish statesmen been left to fight the battle alone, they must have been overpowered, and there would have been an instance too clearly in point presented to those who had prophesied that whenever the feelings or the interest of the two countries came into collision, Scotland would be beaten down, and the English parliamentary majority would trample her in the dust. It soon appeared, however, that Scotland could not be injured without touching common sympathies and interests among the English parties in the House. Wyndham and others, jealous about the old privileges of the Commons, took umbrage at the haughty and unscrupulous manner in which the bill had been passed by the Lords. Sir John Barnard, the representative of the city of London, became alarmed for the effect of such a precedent on the privileges and franchises of the corporations; while "Honest Shippen" saw, in the removal of a city gate to give more ready access to troops, the first step of the minister towards a deep-laid scheme for establishing a military government. Walpole, to whom all these symptoms were a matter of valuable instruction, had reserved himself for the end of the debate on the committal; and then, with some compliments to the opponents of the measure, and censures of the violence of its advocates, he concluded a very moderate speech in favour of the committal, with the remark, "If after it is committed, gentlemen should think fit to make such amendments upon it

as may leave the privileges of the incorporation of Edinburgh untouched, and remit the most penal part of the punishment of the Lord-provost; and if these amendments should be founded upon reason and equity, I shall by no means be against them." The motion for going into committee was carried by a majority of six, in a house of 242. "The preamble, and every clause of the bill," says the Parliamentary History, "was opposed, and upon each there was a distinct debate, several of which were pushed so vigorously, and with so much success by the opposing party, that the bill not only changed its name, but in some manner its form." The portions of the bill chiefly obnoxious to the Scots,—those abolishing the city gate and the town guard, were lost in committee; and the measure, much abbreviated, was simply called "An Act to disable Alexander Wilson, Esq. from taking, holding, or enjoying any office or place of Magistracy in the City of Edinburgh, or elsewhere in Great Britain; and for imposing a Fine upon the Corporation of the said City."* The fine, amounting to 2000*l.*, was destined "for the use and benefit" of the widow of Captain Porteous. Even as thus modified the Bill made a narrow escape. On the motion for reporting it to the House, the division was 130 on each side, and the reporting was carried by the chairman's casting vote. It is said that there would have been a majority of two against the reporting, had not Erskine of Grange and the Solicitor-general for Scotland been designedly detained in the House of Peers, where they were engaged in an appeal case. On the question of the passing of the Bill, the majority was 128 to 101.†

When Forbes spoke of the probability of his not again troubling the Commons with his sentiments, he appears

* 10 Geo. II., c. 35.

† Parliamentary History, x., 187—319.

to have alluded to the arrangements for raising him to the head of the principal Civil Tribunal in Scotland. The speech was delivered on the 9th of June, and on the 21st he took his seat as Lord-president of the Court of Session, succeeding Sir Hugh Dalrymple, who had died on the preceding February.* The elevation to the head of his profession, of a law officer of the Crown, who had just carried on a successful opposition to the Ministry, is not a common occurrence; and it illustrates by deeds the sentiment too often expressed only in words, that the desire either of retaining his office, or of mounting to a higher one, did not, in his instance, hold out inducements sufficient to make him part with his independence.

One who now worthily occupies a seat in the court in which Forbes presided, has briefly but eloquently described him as displaying "one of those characters which are sometimes to be found in what Hume calls 'The corners of History,' but which deserve to be blazoned at large on its broadest page. He is in every situation so full of honour, of gentleness, of true wisdom, of kindness and intrepidity, that we doubt if there be any one public man of this part of the empire, or of the age that is gone, whose qualities ought to be so strongly recommended to the contemplation of all those who wish truly to serve their country."†

To understand the influence which such a mind was likely to exercise over the administration of the law in Scotland, let us take a sweeping glance of the prominent characteristics of the Court of Session at the time when Forbes began to preside over it. There was no jury, and the fifteen judges assembled together discussed

* Brunton and Haig's History.

† Article on the Culloden Papers, "Edinburgh Review," XXVI., 108. This celebrated article, generally attributed to Sir James Macintosh, was written by Lord Cockburn.

both the fact and the law. They were thus a jury not chosen by chance for the occasion, but a perpetual jury, in whose minds all the influences which are supposed to be evaded by a sudden and fortuitous selection of individuals from the public at large, had hardened, and moulded themselves into fixed principles. Until the high example of legal and political impartiality was set by President Forbes, those who had no meaner motives, were the avowed partisans of political sects or great families, and would have considered that they did their friends injustice by a vote against them, just as a member of Parliament of the present day commits the unpardonable offence against his political friends by a "wrong-headed" vote. To continue the comparison with a jury, they were not a set of men, silently, and in the solitary calmness of their own breasts, making up their mind, or adjusting their opinions in the privacy of a chamber. They made public speeches, disputatious, acrimonious, and declamatory—full of grave reasoning, or sarcasm, or violent invective, as the natures of the men might be. They caballed among each other for votes and majorities; were influenced by "pressure from without;" and after each conflict, carried the impulse to improve a victory, or to remedy a defeat, into the next campaign. A conflict in such an arena seems to have almost compensated Lovat for the wild intrigues and perilous enterprises to which his previous life had been devoted, and in his correspondence we find such instances as the following, of the excitement attending on an animated debate. The letter from which the passage is taken, was addressed to John Forbes, on the 2nd of July, 1730.

"I am persuaded that you will be very well pleased to know, that I bless God, I have this afternoon gained my cause two to

one. There was but four votes upon the bench against me, Dunn, Roiston, Newhall, and the justice clerk, who showed his spite to the last, but to little purpose. The eight for me are the president, Grange, Coupar, Milton, Drumore, Minto, Muny [viz. Monzie], and Haining. * * * The speakers on my side were Grange, Drumore, Milton, and the president; and I am told that they beat to pieces all the arguments that Royston, Dunn, and Newhall advanced. In short I have gained it with honour and advantage.”*

Here the influence of a strong and well-regulated mind was likely to be powerfully effective. The men were seldom actuated by direct personal motives, or by palpable dishonesty; but the circumstances in which they performed their functions, left their prejudices and passions so free of any permanent effective check, that a pilot capable of keeping them in the direction of their strict duty, and the honest fulfilment of their services to the public, was all the more valuable a member of society. It may not, perhaps, be in good keeping with the tenour of the present work, to test the extent of the services of the Lord President Forbes as a lawyer, by an inquiry into the various cases which came under his observation, and a critical examination of the manner in which he treated them. There is, however, fortunately, 'a general and well-known fact in the critical history of Scottish jurisprudence, the mere statement of which will probably supply more than such an inquiry could develop. The practitioner and the student of Scots law are acquainted with Kilkerran's decisions, as a volume of reports, quite distinct alike from those which precede and those which immediately follow them, in the large proportion of leading cases which they contain, in the connexion of these cases with each other throughout, and in the importance of their influence on

the existing practice of the law of Scotland. They fill, apparently, a proportionably more important period in the decisions of the Court of Session, than the Chief-justiceship of Lord Mansfield does in those of the King's Bench in England. Sir James Ferguson, of Kilkerran, commenced his reports of the decisions of the Court of Session in 1738, the second year of the presidency of Duncan Forbes, and carried them down to the year 1752. Of the fourteen years covered by this series of cases, nine were during the presidency of Forbes. The clearness of expression, the systematic arrangement, and many other valuable qualities of this collection, are certainly due to the reporter; but no true reporter can make good precedents out of cases improperly decided; and though happily, in this instance, a competent interpreter was found, it is very clear that a large individual share of the merit, of providing this body of valuable precedents, must rest with the man who was the leader of the court at the commencement, and during so great a proportion of the period embraced by them. So early as the 5th of April, 1740, we find Lord Hardwick writing to the new president: "I am just got to this place, quite fatigued and worn down by the attendance of two causes from your court. But though I sensibly feel the labour of going through them, yet I conceive great pleasure in the different degree of weight and credit with which your decrees come now before the house, from what they did a few years ago; an alteration which I presaged would happen, and do most sincerely congratulate your lordship upon the event.

The first act or rule of the court, under the presidency of Forbes, was characteristic of the career he was to pursue. It was called "An Act for the more speedy dis-

cussing of processes the next winter session." It was followed by a rule, "to the end, that the court may be satisfied of the necessity of the occasional absence of any of the judges, they will, for the future, admit of no excuse for the absence of any of their number, but upon notification being made to the court, of the special cause of avocation, in writing."* It was his nature, not only to be a conscientious performer of his own functions, but a rigid disciplinarian of others. This general control over the conduct of his colleagues, and of any other official person, with whom he came in contact, was of that peremptory and vigilant description, which, in a man of less commanding character, would have been called presumptuous interference. The result of his exertions was, that the business of the court was conducted with unprecedented precision and despatch, and he was able to say, when transmitting a laborious report on the Scottish Peerage to Lord Hardwick, on the 29th of February, 1740, "One thing, however, I think of with some satisfaction, that, though it has cost me several hundred hours extraordinary labour this winter, the business of the court has suffered no discontinuance. When the term ended this day, no cause ripe for judgment remained undetermined; none that, within the rules of the court, could possibly have been decided, was laid over to the next term; a circumstance which has not happened in any man's memory, and of which the mob are very fond"†

He became a terror to evil-doers of every grade; and the rising manufacturing and trading interests of the country, looked down upon and discouraged by the feudal aristocracy, could trust to his strong arm for legal protec-

tion—a far greater service than the fostering encouragement which he sought to extend to them in other shapes. Thus the middle classes were taught to rely on the supreme court, as a protection from the evils of the hereditary jurisdictions. The Lord President was peculiarly severe in his visitation of official delinquency; and the records of his court while he presided, exhibit many instances, where petty officers are brought before them and punished for neglect of duty or abuse of power. He was very jealous of the dignity of his court, and the supreme majesty of the law; resenting it as a disrespect, when any great man aspired to services or courtesies from the administrators of justice, to which the public at large were not entitled. Thus, the Earl of Breadalbane, apparently believing that some of the judges likely to be absent, would have favoured him in a cause before the court, had requested that his case might be taken out of its proper order, to await their return; and we find an entry in the books of the court, that “They did reject the same, as disrespectful to the court, and indiscreet to the judges who were absent.”

About the year 1739, several cases of difficulty had occurred to the officers of the English courts of law in dealing with persons who claimed the privilege of Scottish peers. A bailiff who had arrested the Lord Mordington, pleaded that he would not be expected to concede the privilege of peerage to a man, who had “a worn-out suit of clothes, and a dirty shirt on, and but sixpence in his pocket.”* At the desire of the House of Lords, for the purpose of preserving a permanent record of those entitled to the privileges of peerage, an inquiry, involving the most arduous antiquarian and genealogical

* Fortescue's Reports, 165.

investigations, was instituted and conducted entirely by the President, to supply as far as was practicable the want indicated by the House of Lords. On the 29th of February, he transmitted to the Lord Chancellor, as the fruit of his research, a full critical report on the origin and history of the several Scottish peerages.* This investigation rendered Forbes painfully alive to the state of miserable disorder in which the Scottish records had been allowed to lie, and he commenced with his usual zeal and energy a struggle for their redemption and application to useful purposes, which appears to have been unfortunately single-handed, as the officer whose immediate function it was to attend to this department of the public service, was too high in rank to think of musty parchments and unintelligible records.

In his onerous duties as the head of the Supreme Court, he was not too fully occupied to abandon his old favourite projects of taxation, and he rendered himself amusingly conspicuous by a crusade against the use of tea. An allusion to his views on this matter can do no more either of good or harm than the resuscitation of Galileo's notions on the exhaustion of the air in pumps. It may be thought therefore, that as it conveys no instruction on political economy, and is calculated to depreciate our notions of a good and wise man, it should be passed over in silence. If there be any who come to this conclusion, the author cannot agree with them, as he considers the Lord President's crusade against tea a very curious specimen of individual character, and also an instructive illustration of the nature of the old prohibitory legislation, because it gives us the ultimate views of an honest and earnest man who was a believer in the beneficial effect of this kind of

interference, and endeavoured to drive it to the extreme point of coercion and effectiveness. In a memorial addressed to the Marquis of Tweeddale, in 1742, he commences with this attractive picture of the state of trade, "That our linen manufacture is in a very thriving way; that we have hopes of succeeding in our endeavours of propagating the manufactures of coarse linen, the fine being already very well understood; that we have expectations of discovering a method of bleaching or whitening such coarse cloth under one penny per yard; that a commendable spirit of launching out into new branches of the linen manufacture, such as thread, stockings, tapes, inlecoloured thread, figured work for table linen, &c. is raised, and would certainly be encouraged if our funds had answered our expectation." The worm at the root of all these promising prognostics, is the drain of money from the country to buy articles of foreign produce, particularly tea, and the evasion of the excise duties, occasioned by a taste for that luxury being propagated among classes who cannot pay a duty on it.

"The cause of the mischief we complain of is, evidently, the excessive use of tea, which is now become so common, that the meanest families even of labouring people make their morning's meal of it, and thereby wholly disuse the ale, which heretofore was their accustomed drink; and the same drug supplies all the labouring women with their afternoon's entertainment, to the exclusion of the two-penny."*

It was not customary with Forbes to start a suggestion, make some eloquent remarks on it, and leave it to be put in practice by other people, when they had leisure and inclination to adopt it. On the contrary, when he had de-

vised any such project as that under our notice, he gave those persons capable of furthering his opinions to whom he had access, very little peace till they had either acted on his views, or allowed him to put them in force in his own way. Accordingly, we find him writing in all directions on this text. As a specimen merely of the character of the contents of a large mass of letters on the subject, the following passages are extracted from a letter to Sir Andrew Mitchell, in August, 1743, which Forbes commences by stating that there is a deficiency of a quarter of a million in the revenue.

“ This deficiency of the revenue is certainly and obviously occasioned by the expensive and universal use of run tea, and foreign spirits, which being purchased at very low prices, are become the entertainment of the very lowest class of people, even of the fish-carriers of Musselburgh and the blewgown-men beggars, and thereby supplant the consumption of malt liquor and home-brewed spirits, which has effectually reduced the excise and malt duty to the miserable plight wherein they now are and must continue to depress them.”

He then opens up a project, with the details of which many of his letters are at this period filled, for prohibiting the use of tea to persons under 50*l.* a year of income; stating that he had actually prepared a measure on the subject, and had urged the Lord Advocate to take it under his charge.

“ I pressed him with great earnestness to prepare out of hand drafts of such clause or clauses as might answer the purpose, to be transmitted now this summer to London, to be considered and examined by the men of business there at leisure, assuring him that if a scheme relating to Scotland, contrived with the utmost perfection by an angel, came to be layed before an English minister or member, sitting the Parliament, or even just before it, when their heads are usually full of business more interesting, they could not so much as afford it attentive consideration.”

In another letter, he begins with the preamble, "As I have this matter mightily at heart, I had resolved to baulk myself of the pleasure of the country, and of the necessary attendance on my private business at home, for some weeks, that I might be able to give him some assistance here;" and then he expresses himself much mortified by hearing that the Lord Advocate had gone off in pursuance of his own affairs, but he adds with much simplicity, "I am confident it arises from my Lord Advocate not having the same impression of the danger that I have."*

On this subject Forbes wrote letters, or more properly speaking memorials, to Scrope of the Treasury, to Sir Andrew Mitchell, to William Murray, who had just been appointed Solicitor-general of England,—to every one, in short, from whom he believed or hoped that his earnest appeal in favour of a project, which he honestly believed was the only method of rescuing Scotland from destruction, would receive a sympathetic response. All his friends answered him politely; but none of them were prepared to attempt so formidable and so laborious an interference with private habits, as to attempt a legislative extirpation of the use of tea. He had written to the Lord Advocate in a tone somewhat like reproof, as one who having once occupied the same office found his successor somewhat negligent of his duties. Mr. Craigie complained that the sharp rebuke he received, deprived him of all the pleasure of a temporary sojourn in the country, in which he was indulging himself after a long period of official labour. The discussion was dropped on the appearance of other dangers more real and immediate.

CHAPTER IV.

Anticipation of a Rising¹ in the Highlands—His Scheme for raising Highland Regiments—Outbreak of the Rebellion—The President proceeds to the North—His Interposition with the Clans—Sir John Cope—Lord Loudon—The President's solitary Exertions—Want of Support from Government—Retreat to the Isle of Skye—Return—Despondency—Intercession for the Rebels—Disappointment—Death.

WE must now turn to other scenes where the abilities and energies of Forbes were better fitted to shine. We have seen that, at an early period, he believed that the main danger of disturbance to the public peace would be found among the mountains of the North. Like Lovat, he was well aware of the capacity of the Highlanders to conduct any desperate enterprise, but he turned his knowledge to a different end. Dissimilar as were their natures, he had a warm sympathy with the Celtic patriarchs. He had spent his early days, and many of the years of his later life, among their mountains; he had enjoyed the rude magnificence of their hospitality; he respected the pristine simplicity of their lives; and, regretting that they were so ignorant and so indolent, he yet bitterly grieved to reflect, that a thoughtless and unsympathising government had left them exposed in the defencelessness of their simplicity, to be sacrificed to the selfish ambition of political intriguers. He had devised a remedy for this danger worthy of his sagacious and benevolent mind: it was

afterwards adopted by one with whom he had some points of similarity, and many of contrast—the great Lord Chatham.

Andrew Fletcher, Lord Milton, one of the judges of the Court of Session, was spending his autumn leisure in the year 1738, at the old house of Brunston, which stands in the middle of an ancient deer-park, four miles from Edinburgh. One morning at an untimely hour, he was startled, on being told that the Lord President had arrived, and desired instantly to see him. In the year after the Porteous mob, such a visit betokened something alarming; but it was the eagerness of the President to impart a scheme he had just devised, not any immediate emergency that had occasioned it. He plunged at once into the middle of his scheme, saying:

“A war with Spain seems near at hand, which, it is probable, will soon be followed by a war with France and there will be occasion for more troops than the present standing army. In that event, I propose that government should raise four or five regiments of Highlanders, appointing an English or Scotch officer of undoubted loyalty to be colonel of each regiment; and naming the lieutenant-colonels, majors, captains, and subalterns, from this list in my hand, which comprehends all the chiefs and chieftains of the disaffected clans, who are the very persons whom France and Spain will call upon, in case of a war, to take arms for the Pretender. If government pre-engages the Highlanders in the manner I propose, they will not only serve well against the enemy abroad, but will be hostages for the good behaviour of their relations at home; and I am persuaded that it will be absolutely impossible to raise a rebellion in the Highlands. I have come *here* to show you this plan and to entreat, if you approve it, that you will recommend it to your friend Lord Islay, who I am told is to be here to-day or to-morrow on his way to London.”*

Forbes carried his plan to Fletcher, because he believed him to have the ear of Lord Islay, who was at that mo-

ment dictator of Scotland. It is said to have been well received by Fletcher and Lord Islay, and to have secured the assent of Sir Robert Walpole. If this be so, it is one of the few instances in which he allowed himself to be out-voted; and not long after his death, some of those who opposed him at the council-table must have had bitter reasons for wishing that their votes had been different.

We find from passages scattered through the Lord President's correspondence between 1742 and 1745, that he repeatedly and earnestly pressed upon the government the policy and the justice of preventive arrangements which might protect the Highlanders from being led into temptation. But the policy of the ministry was unfortunately not preventive but retributive, and no one would move, except to put down actual rebellion. More than once there were alarms before the actual outbreak, and Forbes was then always appealed to as the person whose activity and energy must remedy the evils likely to be caused by the neglect of his advice. On these occasions we find him making his inquiries, after the manner of the following letter addressed to his respectable friend and follower John Hossack, Provost of Inverness.

“Edinburgh, February 5, 1744.

“MY DEAR JOHN,—What brings you the trouble of this message, is a letter which I have lately had by express from London, communicating an apprehension the government has, that there is some correspondence carrying on in the Highlands in favour of the Pretender, and those that are, or may be, the declared enemies of his Majesty's person and government; and desiring that I may contribute, what may be in my power, for the detection and prevention of such designs. It is, I confess, my present opinion, and I am very glad that I can think so, that there is little probability of danger from that quarter; at the same time, supine neglect is always blameable. I, at this distance, can do little, and can possibly know nothing; and it's

very probable that though designs of this nature were on foot, you having no word at all of the matter, might not pay sufficient attention to circumstances, which, were you on your guard, you might mind. It is for this reason I send you this word by express, to desire, that without communicating what I write, or the cause of it, to any body living, you will, in a prudent manner, listen to what you hear, and inquire where you may think it proper; and particularly, that without losing one moment, you may send to our friend Mr. Nicholson, and know from him, what he may lately have observed, and direct him to observe closely for the future. You will return this express immediately, with notice whether you have observed any thing or not, to Mr. Wm. Forbes who forwards it; and if, after conversing with Nicholson, or any other whom you think fit in your own discretion to converse with, concealing the cause of your inquiry, you may discover any thing worthy to be known, you may send it by a fresh express to Mr. Forbes; if not, you may reserve the further correspondence to the course of the post. I am, my dear John Hossack, &c.”*

The first alarm which took him from his legal duties in Edinburgh to the seat of war, was thus announced by him in a letter to Mr. Pelham.

“August 2, 1745.

“DEAR SIR,—In a state of profound tranquillity, we have been alarmed with advices, which are said to have been received at London, of intended invasions; and particularly of a visit which the Pretender’s eldest son is about to make to us, if he has not already made it. These informations, particularly as to the visit just mentioned, I must confess have not hitherto gained my belief. This young gentleman’s game seems at present to be very desperate in this country; and so far as I can learn, there is not the least apparatus for his reception, even amongst the few Highlanders who are suspected to be in his interest. However, as, when so much is at stake, no advice, how improbable soever, is to be neglected, I have (our session being now over) resolved to make my accustomed journey northwards, a little earlier than usual; to the end that, though my fighting days are over, I may give some countenance to the

friends of the government, and prevent the seduction of the unwary, if there should be any truth in what is reported."*

In a letter from Lord Loudon to the commanding officer of Inverness, the 9th of August, 1745, there is this statement—"The President has set off this morning for Inverness. He is a civil magistrate, and a man of great consequence in this country. It will be right for you to attend him, as you will certainly be justified for what you do in consequence of his directions."†

His first labour was one of mercy and prevention. He felt assured—we may attribute the assurance either to his sagacity or his political prejudice—that the rebellion would be crushed, and he desired to stand in the gap and stop those who were rushing to destruction. He wrote many letters to the heads of clans; calling on them to support the government, if they had not already offered their adherence to the Jacobite cause; reasoning with them, and beseeching them to pause, if their designs were evidently hostile. Of this correspondence, a full and fair specimen has already been before the reader, in the diplomatic controversy with Lovat; and we may here turn our attention more exclusively to the military operations in which the President became engaged.

Soon after proceeding northward, he was joined by Sir John Cope, who triumphantly wrote to him: "I am marching with a body of troops, too formidable for the enemy to dare to attack; and we only wish they may give us an opportunity of attacking them."‡ But Forbes seems to have very early seen that this martinet commander, brought up among campaigns where the rules of war were religiously observed on both sides, might make

* Culloden Papers, 203.

† MS. at Culloden House, 203.

‡ MS. at Culloden House.

some fatal blunder, if he judged that his troops were as far above the Highlanders in actual warfare, as they were more correct in the performance of the legitimate manœuvres of the modern discipline. He seems to have been tremulously alive to the danger incurred by such a commander, if he should meet the Highlanders on their own mountains.

"I was astonished," he said, in a letter to Lord Harrington, of the 3rd of September, "to hear, that after the rebels had got together to a head, Sir John Cope, with a handful of troops, had been ordered into the mountains to attack and disperse them; and that he had actually engaged himself so far as to reach the Spey, and to be within a few hours' march of them. My concern grew, as I was perfectly well acquainted with the Passes of Corryaric, over which he must pass, if he would go the direct road to Fort Augustus, and which, by a very small body of clever Highlanders, who should mar the roads, and break down the bridges, could be easily defended against a much greater force than he commanded; and I was relieved from my apprehensions only upon finding that he turned to the right, and by forced marches reached this place Thursday last at night."*

It was owing to his full knowledge of these difficulties and dangers, that he refused to swell the cry of vulgar opprobrium with which the defeat of Cope was hailed, and wrote thus to the unfortunate and unpopular commander, on the 21st of June, 1746:

"What impressions may have been given of your conduct in the north, I who was at a distance cannot guess at; but it is to be hoped that the duke, who has had experience of the nature of marches through the Highlands, and whose eyes must show him what sort of ground the Corryaric is, must have a more perfect knowledge of the difficulties you had to grapple with, than he had when he left London; and I should think that his officers who were present at Falkirk, would hardly venture to make observations on what happened at Preston."†

The march of Cope towards the south appears to have

relieved him of much anxiety. If the troops marched to a defeat at Preston Pans, they left extermination at Corryarric; and on their departure he seems to have breathed freely, like one on a perilous path, relieved of the presence of a companion imbecile and heedless of danger, whose presence added to his responsibility and increased his risk. Cope passed through Inverness towards the south, at the commencement of September. From that time till the 10th of October, Forbes concentrated in his own person the whole elements of government, civil and military, deliberative, judicial, and executive, in the north. At the latter end of this period, he could find no means of communication with the south, either by land or water, and had just failed in an abortive attempt to send a vessel to Berwick with despatches, when on the 10th of October he was joined by a companion in some respects worthy to share in his labours and responsibilities—the Earl of Loudon. In the meantime, an express had reached him, dated the 4th of September, enclosing a quantity of blank commissions, to be distributed among the well affected clans; it was a high trust, but worthily reposed. His correspondence at this juncture is pregnant with his earnest and conscientious endeavours to make the distribution subservient to its proper end; and we have already met with some specimens of his negotiations, in the controversy with Lovat. He had a negotiation of an almost similar character with Cromarty, and both these lords lost their heads by defeating his vigilant efforts for their preservation. In the letter from the Lord Tweeddale accompanying the commissions, and in other communications from the government, he was informed that whatever sums he advanced in the aid of the cause should certainly be repaid. This method of treating the matter

showed a thoughtlessness that stung him sharply. The sums that a private individual could advance or raise, were totally inadequate to the emergency. He complained bitterly of the want of available funds:

"Such," he says to Lord Tweeddale, on the 20th of September, "is the state of this country from the confusion of the times, and the stop of communication, that all coin is locked up, and none can be commanded. I cannot command a shilling that is owing to me, and even bank bills are of no currency. I do as well as I can in respect to small expenses, but sums of any value cannot be compassed; and, therefore, once for all, unless some vessel is sent with a proportion of cash and credit, which by the open communication which will thereby be preserved, may be effectual, the new companies cannot speedily be of half the use they otherwise might be of."*

A fortnight afterwards he had still to complain that he received no supplies and no assistance:

"Give me leave to express my very great concern that so fine a game as has been in our hands, should be in danger of being lost for lack of the supply I have so often mentioned, which might have been very easily sent, and which may still be of very great service if it come before it is too late. To me it seemed to be of vast consequence to keep out of the rebellion a greater body of men than those who are hitherto engaged in it; and that I think would certainly have happened, had the supply expected come in due time * * * The necessity of sending us arms, I have mentioned often, because without them the well-affected, who have none, can make no figure. I am hopeful they will be speedily sent us; but the vessel with money and credit, if any such is to be sent, ought not to wait one hour for that which may carry the arms, because if we had the money, we could bring our troops together to receive arms, which might arrive some days later."†

Thus left to the task, proverbially arduous, of going a warfare on his own charges,—solitary, firm, and self-relying in the midst of open foes and questionable friends,—

he formed, in his own character and his own exertions, a barrier against the progress of the rebellion, such as no treasure could have purchased, and no armament ensured. "Upon a strict review," he says, "I am satisfied with my own conduct—I neither know nor care what critics who have enjoyed ease with safety may think,"* approval, all-sufficient, to him who could say, "I value not the opinion of any man but of him of whom I have a good one myself."† The battle of Preston Pans increased his difficulties: but that which raised the hopes of his adversaries never sunk his own in the scale; and whether the young adventurer were gathering his scanty followers before the door of a hut in Barra, or stepping in princely pride through the halls of Holyrood, he saw that it was but a vision and a hallucination that must disperse, and he prayed only that it might disperse without leaving a deadly mark behind it. "In a very little time," he says, in the midst of his greatest difficulties, "we shall be able to speak to the unhappy people who would disturb us in another style; but, I hope we shall do it gently."‡ Through his multifarious correspondence the tone is always steady: it never exhibits the flutter of sanguine excitement or the tremor of apprehension—better still, it never sinks to abject apprehension in defeat, or rises to ungenerous exultation with victory. Ever equal and ever firm, he saw in the final triumph of his own principles the destiny that the commencement of the drama shadowed forth, and he had no sympathy with those who shrunk from its commencement in frantic apprehension, and who aided in concluding it with heartless cruelty. Let us take his own history of the troubles he had to contend with, and the manner in which he encountered them, written

in a simple and very familiar letter to his friend Sir Andrew Mitchell.

“Though I was not just treading in the path of a chief justice, the prospect was very flattering, and the errand I came on had no appearance of difficulty. But the Rebels’ successes at Edinburgh and Preston Pans soon changed the scene. All Jacobites, how prudent soever, became mad, all doubtful people became Jacobites, and all bankrupts became heroes, and talked nothing but hereditary rights and victory; and what was more grievous to men of gallantry, and if you will believe me, much more mischievous to the public, all the fine ladies, if you will except one or two, became passionately fond of the young adventurer, and used all their arts and industry for him in the most intemperate manner. Under these circumstances, I found myself almost alone, without troops, without arms, without money or credit; provided with no means to prevent extreme folly, except pen and ink, a tongue, and some reputation; and, if you will except Macleod, whom I sent for from the Isle of Skye, supported by nobody of common sense or courage. Had arms and money come when they were first called for, before these unexpected successes blew up folly to madness, I could have answered it with my head, that no man from the north should have joined the original flock of rebels that passed the Forth; and even as it has happened, it is no small consolation to me, that, except Macpherson of Clunie, whose force does not exceed 300, none from the north have reached them in time to march alongst with them southwards from Edinburgh, that no more than 200 of the clan Chattan have marched, who had got, as last Saturday, no further than Perth, and that notwithstanding the restless endeavours of the Earl of Cromartie, the Master of Lovat and others, no more than 150 or 100 of the Mackenzies have been debauched, and that even those have not as yet passed the Corryarie; no more than the Frasers, who to the number of 5 or 600 have flocked to arms, and who possibly may think better, if the weather permit the force, which we hourly expect from the Isle of Sky, to join us quickly, before they leave the country exposed.’

The testimonies to the efficacy of his exertions, made by

friends and partisans, need hardly be referred to; and perhaps we can take the most accurate measure of the extent of his services, in the notices with which his adversaries occasionally favoured them. The amiable Jacobite, Maxwell of Kirkconnell, says:

“The President was soon joined by the Earl of Loudon, who had a commission to raise a regiment in that country. In a short time they got together about 2000 men, of which the McLeods made part, with their chief at their head. It is certain that body was of vast service to the established government. While it was at Inverness, it was impossible for those that lived beyond that town to rise; they must be crushed before they could assemble and be in a position for defence. I cannot help taking notice, by the bye, that the Earl of Loudon and the President, who were more useful to government than any two men in that island, behaved all along like men of honour, and their attachment to their cause never made them forget the duty of humanity,

A friend who, at the commencement of 1746, warns him of his danger, says: “We form many schemes for your safety, and are very anxious; as, by their discourse here, you was the chief object of their resentment, especially when they came back from England; for it was their fixed opinion, that, with the Macdonalds and Macleods of Sky, the Mackenzies and Frasers, they might have been masters of London had all these joined them soon enough, the failing of which they place to your lordship’s account. However, we hope for the best.”†

This is responded to by a letter from Lochiel to Lovat, whom he praises for his constancy, and his acuteness in baffling the designs of the President, “who has rendered himself,” says the jacobite chief, “a scandal to all Scotsmen, and a nuisance to all society.”‡

Narrative, p. 92.

† Culloden Papers, 272.

‡ State Trials, xviii., 771.

Between the departure of Sir John Cope, in September, 1745, and the retreat of the insurgents before Cumberland, in April, 1746, every public officer, civil or military, beyond the Grampians, who could get his difficulties brought before the Lord President, felt that a weight of responsibility had been removed from him. Even in the circumstance of no election of a chief magistrate having been made for the city of Aberdeen, we find him applied to, to state how the citizens should proceed; and he tells them, with much discretion, that "the good people must, therefore, at present live in the most neighbourly way they can."*

The tone of his military instructions has been noticed in an early part of this memoir. The following passage, from a letter to the laird of Macleod, may stand as an instance of their systematic professional precision.

"If, by your information, the rebels under Lord Lewis Gordon can be dealt with by the force you now have, you will march for Strathbogie Monday's morning, whether the second company I have mentioned come to you before that time or not. If you want the assistance of those companies, which I imagine will not be the case, you will wait for them; and if, after their arrival, more force should still be wanted, you must expect my Lord Loudon; but if, what I presume is most likely shall be found to be the case, that the force now with you is more than sufficient to deal with Lord Lewis's recruits, you will then march, Monday morning, in your way to Strathbogie; and unless Spey prove too great a hindrance to you, you may reach Keith that night; where, and in the neighbouring villages, you will meet with tolerable quarters for one night, and the next day by noon you may reach Strathbogie, where, and in the neighbourhood, you may rest till further orders, sending out parties to dissipate any assembly of rebels you may be informed of, if any such should be."†

We have already had to record the attack made by the Frasers on Culloden House, in October: it may be taken as a specimen of the dangers which the President had made up his mind to encounter as the natural consequence of the duties he had undertaken. In February, the march of the Highland army northwards rendered it necessary that Forbes and Loudon should retreat to a district where the small body of men under their charge would not be liable to encounter an enemy of overwhelming numbers. On the 18th of February they crossed the ferry of Kessock, on the Moray Frith, and entered Rosshire. Here they believed themselves to be safe, as a ship-of-war watched the Frith. A portion of the Highland army, however, under the conduct of Moir of Stonywood, crossed the ferry in small boats, with the protection of a fog, and compelled Forbes and his friend to make a second retreat on the 20th of March.* As the Earl of Cromarty—one of the slippery correspondents with whom Forbes had been in treaty about the independent companies—was approaching from the north to join the rebels, the retreat was chiefly westward. There is a MS. not very important in the nature of its contents, which is yet curious, as it enables one to trace the steps of the journey made by Forbes. It is called, “Account of money laid out by John Hay for the President, 1745-6.”† Many of the entries in this account are for the items of expenditure in providing for the President and his guard. Thus on March the 3rd there is charge “to a cow bought for the table at Overskibo, 1*l.* 13*s.* 4*d.*” On the 11th there is “to a cow that the guard killed without orders, 2*l.* 1*s.*”

Letter to the Duke of Newcastle—MS. at Culloden House.
MS. at Culloden House.

There are entries for *aqua-vitæ* to the guard, and for wine to their superiors. On the 22nd of March they appear to have reached Loch Broom, a long, wild arm of the sea, on the west coast of Rosshire. On the 23rd they reached Loch Carron, farther south, in reference to which there is the entry "to the minister's daughter at Loch Carron, 1*l.* 1*s.*" On the 26th there is an entry "two hired horses from Loch Carron to Loch Alsh, 2*s.* 6*d.*" Loch Alsh is the isthmus between the main land and the Isle of Skye, and they appear to have crossed over to the island, the greater part of which belonged to the friendly Chief of Macleod, on that or the following day. Few of the payments appear to have been made for entertainment at inns, of which there were not perhaps above three or four on the whole route. Yet the fugitives seem to have lived well, if we may judge from some of the charges—thus, "April the 11th, to a man that brought butter, a large cheese, and a black cock, 2*s.*" "To the Laird of Macleod's servant, that brought wine, &c., 2*s.* 6*d.*" "April the 19th, to the Baillic of Glenelg's servant for a roebuck, 2*s.* 6*d.*" One item in their viands was "four creels of oysters," a luxury not much known to this day in the Isle of Skye. On the 18th of April there is an entry "to Lord Seaforth's servant that brought a letter, 2*s.*" We can easily imagine what must have been the momentous purport of the letter. The battle of Culloden had been fought two days previously. From this time the fugitives turned their steps eastward, and on the 26th of April we find an entry "to the ferry-boat at Kessock, and a yaule that came to the pier at Inverness, 4*s.* 6*d.*"

The triumphant return was not a joyous one. He had not infused his own humane and manly spirit into the people

who were the mechanical instruments of that triumph in which he was the chief agent ; and it was followed by cruelties, that to his beneficent and patriotic spirit must have made victory but a small degree better than defeat. He returned to find the home of his fathers—of old the abode of honest hospitality, of studious seclusion, and of the higher studies of statesmanship—converted into the shambles of the great butcher of the age. There was scarce an old grey stone on the moor, or a venerable tree, or a solitary stream hallowed by the sweetest of early recollections, that was not stained with blood, and doomed to be for ages associated with some legend of cruelty. He, who had been the advocate of strong preventives, but of a mild retaliation, was destined, as if it were to throw the greater contempt on his mediation, to have the bleeding trophies of the exterminating sword laid down at his own door. To few did these memorable cruelties bring a more bitter heart-ache than to the strong-hearted kind old man, who had borne so much of the burden and heat of the struggle, that gave others the power of so bitterly employing the victory.

He made few complaints of the manner in which his counsels were received, but we have many indications in the observations of others, that he in vain recommended merciful measures. Among the Jacobites, who may probably be viewed as the best judges of the comparative merits of men who had been great enemies of their cause, this anecdote was preserved.

“ What do you think of the return the Lord President of the Court of Session, the gracious Duncan met with for all his remarkable services ? Remarkable indeed they were, and yet the utmost scorn and contempt he had in return for them. When his lordship was paying his levee to the Duke of Cum-

berland at Inverness, he thought fit (as it well became his character and station) to make mention of 'The laws of the country, &c.' To which the Duke of Cumberland was pleased to say, 'The laws of the country! my lord, I'll make a brigade give laws, by God.'"*

Forbes's friend already mentioned, Dr. Clark, told a tea party in the house of Lady Bruce, in Leith, in 1751, "That the duke had a very odd unlucky expression when in Inverness, which made him very low in the opinion of many; and it was this, that when the duke spoke of the President, he used to say, 'That old woman who talked to me about humanity.'"[†]

In truth, the rebellion was taken in that old spirit of national domination, which has but lately been disappearing from the policy of England, in regard to another and a larger part of the empire. The whole Scottish nation was branded with a common charge of disaffection; and every one who spoke of justice or compassion, was believed to be exhibiting that latent discontent common to all his countrymen, which could only be kept down by the strength of England, employed as a victorious government uses its power against a conquered people. Sir Andrew Mitchell, writing to the President, on the 23rd of October, said:

"I am really in the deepest distress. The ruin of my country, and the disgrace and shame to which it is, and will continue to be exposed, have affected me to that degree that I am hardly master of myself. Already every man of our country is looked on as a traitor—as one secretly inclined to the Pretender, and waiting but an opportunity to declare. The guilty and the innocent are confounded together, and the crimes of a few imputed to the whole nation. But I hope your lordship

Chambers's Jacobite Memoirs, 333.

† The Lyon in Mourning. MS. belonging to Mr. Chambers.

will soon do something to assist your principles, to save your country, and to recover, if possible, its honour.”*

In relation to one among his many acts of intercession, too often vain, the Reverend Henry Etough is found saying:

“Greater advantages and encouragements cannot be imagined for rebels than in Scotland. The late President Forbes, notwithstanding his applauded letters to Lovat, was as bad as the worst. His private character as a man of notice and good temper enabled him to protect the vilest of his countrymen. In captain Hamilton’s and other instances he was a true Highlander.”†

It was owing to the prevalence of such unworthy sentiments as these, that Forbes was not only unrewarded for his great exertions, but allowed to be a loser by them. He had expended all the money which he could make available, and had borrowed considerable sums on his own personal security, to make up for the culpable negligence of the government.

“I doubt not,” he said in a letter to Lord Stair. “I shall meet with several [severe ?] critics of my conduct ; but the censures of such as durst have put themselves in my place will be few, and the faults flowing from my heart will be none. For such as may have been owing to my head, I have no other excuse, but that I acted according to the best of my understanding ; and as to who shall have the thanks, or the merit of what may have been done in support of the government, I am very indifferent. I have done what I think every honest man ought to have done, and upon this single principle, that I thought it was my duty.”†

Yet he was probably scarcely prepared for the ingratitude he encountered, or to find that the successful termination of his great services was to leave his family impoverished. For the repayment of those from whom

Culloden Papers, 426.

† Dr. Birch’s MSS., British Museum, 4326, B.

† Culloden Papers, 465.

he had obtained loans, we find him requiring, in such letters as the following addressed to Mr. Scrope, on the 13th of May, 1746, to appeal to his friends of the English government as if for a boon he had not earned.

“ About nine months ago my zeal led me into this country, to quench a very furious rebellion, without arms, without money, without credit; and if the king’s enemies are to be credited, my endeavours were attended with some success. His Majesty was pleased to entrust me with the disposition of commissions for raising some independent companies, which I accordingly raised, and employed I hope usefully. The Marquis of Tweedal, then Secretary of State for Scotland, acquainted me by order, that for supplying any extraordinary expense, I was to draw on Mr. Pelham; but the total interruption of correspondence made my receiving money on such draughts impossible, and I was forced to supply the necessary expense, after employing what money of my own I could come at in this country, by borrowing upon my proper notes such small sums as I could hear of. The rebellion is now happily over, and the persons who lent me this money at a pinch, are now justly demanding payment; and I who cannot coin, and who never hitherto was dunned, find myself uneasy. The whole of the small sums does not exceed 1500*l*. Now if Mr. Pelham would either impress that money into the hands of George Ross, or any other person, to be remitted to me to account, or if he would authorise me to draw upon him or upon any other person whom he may direct for that sum, in like manner to account, it would tend much to the quiet of my mind.”*

Fifteen hundred pounds was a very considerable sum in Scotland at that period. It constituted “ the whole of the *small* sums borrowed,” but it did not include the money, undoubtedly a far greater sum, which he was able to advance from his own peculiar resources, equal, we are told, to three years’ rent of his estate. Whether he was repaid any portion of his advances is doubtful; he certainly did not receive the whole, or a sufficiency to prevent his estate

from passing to his son much attenuated; and the application of the savings of the many years which John Forbes spent in obscure retirement in England, are attested by the title of a huge heap of documents at Culloden House, which the worthy heir of the old man's high spirit, as well as of his fortunes, had marked "bonds of my father's retired." "My boy," he says in a letter to Sir Andrew Mitchell, while he was thus occupied, "is doing extremely well at school, and is every way as promising as any thing of that age can be. I hope to see *him* at least free and happy."*

We have now but few events to record before the closing scene. Parliament was for some time occupied with the celebrated measure for abolishing the old hereditary jurisdictions in Scotland, and for remodelling the judicial institutions of the country. Forbes watched this measure, now known as the "Jurisdiction Act," with a jealous eye; and his letters on the subject, few of which would be interesting beyond the circle of the Scottish legal profession, yet deserve notice from one circumstance, that they contain several complaints, very mild and decorous, but for this characteristic not the less striking, that he was not sufficiently consulted about this measure. He seemed to feel that there was a want of some one who, when the interests of Scotland were so much at stake, might, as he himself did on the occasion of the Porteous mob, sacrifice all other considerations to what he felt as the demands of national justice.

At the time when he stood nearly alone as the champion of order and law, and the established government, the fatigues and anxieties he was able to endure, show that he must have enjoyed unimpaired health and the full pos-

* Dated 26th of February, 1759. Mitchell MSS., British Museum.

session of his faculties. We have no distinct account of his state of health immediately before his death, but there is much reason to believe that mortification of spirit, more than hardship or any specific disease, hastened his end. A contemporary said of him, "He was one of a very high spirit, and the usage he met with for all his services, joined with the miseries of his country, bore so hard upon him, that it is, indeed, a prevailing opinion among us in Scotland that he died of heartbreak."*

Among the family papers, the following short letter, addressed to his son, without date, but certainly written in November, 1747, was a few years ago discovered.

"DEAR JOHN,—I am very sorry for you. The great charges and expenses I have been at in supporting his Majesty in the Rebellion, have far exceeded the sum I thought it would have cost when I saw you last. I would advise you to go to London, where I believe I may have some friends yet. Mr. Scroop, Mr. Littleton, and Mitchell are kind-hearted, affectionate men, and they will tell the king that his faithful servant, Duncan Forbes, has left you a very poor man. Farewell—may the God of Heaven and earth bless you.

"DUN. FORBES."†

John Forbes preserved the following memorandum of his last interview with his father.

"Edinburgh, 10th December, 1747.

"My father entered into the everlasting life of God, trusting, hoping, and believing through the blood of Christ, eternal life and happiness. When I first saw my father upon the bed of death, his blessing and prayer to me was, 'My dear John, you have just come in time to see your poor father die. May the great God of Heaven and earth ever bless and preserve you! You have come to a very poor fortune, partly by my own extravagance and the oppression of power. I am sure you will forgive me, because what I did was with a good intention. I know you to be an honest-hearted lad. Andrew Mitchell loves you affectionately; he will advise you and do what he can for

you. I depend upon Scroop too, which you may let him know. I will advise you never to think of coming into Parliament. I left some notes with the two William Forbes's, in case I had not seen you ; they are two affectionate lads, and will be able to help you in some affairs better than you would have done yourself. John Hossack will help you in your affairs in the North.

“ My heart bleeds for poor John Steel ; I recommend him to you. When I was in the North I paid some considerably large sums, that I never dreamt of before, towards the defraying the charges occasioned by the rebellion. There is but one thing I repent me of in my whole life, not to have taken better care of you. May the great God of Heaven and earth bless and preserve you ! I trust in the blood of Christ. Be always religious ; fear and love God. You may go, you can be of no service to me here.’ ”*

His life closed on the 10th of December, 1747. So died a man both great and good, who, like all the erring human race, mingled some defects with his virtues ; yet they were with him so open and natural, that they enable us the better to feel the reality of his excellences, as part of a character that is set before us in all its merely human proportions, and claims no ideal perfection. Five years after his death, his fellow lawyers erected a statue to his memory, worthily placed in that noble old hall, where the memory of his services and his character still lives, as of one, who altered and elevated the tone of professional and judicial morality in his day, and left even to the present generation a greater legacy of sound and honest principles, than they might have been able to achieve without his aid. There is something in this statue of the florid drapery and excited manner of its French artist, Roubiliac ; but the accuracy with which the features are portrayed, is sufficient to impart a solemn dignity to the marble face, whence a slightly profuse tone in the adjuncts of the statue,

makes a scarcely perceptible deduction. In this and in the other representations of President Forbes,—for his portrait holds a respected place in many a household and many a public institution of his native country,—we can see that nature, by a harmony of mental and corporeal qualities, not often exemplified, represented the excellences of his mind with singular precision, in a countenance which has scarcely been excelled for the united expression of open honesty, firmness, intellect, and gentleness.

THE END.

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