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## A Scottish Charter-Chest<sup>1</sup>

SIR JAMES RAMSAY has laid historical students under another and an unexpected obligation by publishing to the world the large series of deeds and other documents connected with his own estates in Forfarshire and Perthshire, from the early part of the thirteenth to the beginning of the eighteenth century. Apart from their value to the family in possession, the contents of a charter-chest have always more or less of general interest. They often throw curious light on the domestic life of bygone generations, and thus supply fresh data to the historian. In the present instance, the documents, so carefully preserved and so well presented in this handsome volume, relate to property that lies close to the border of the Scottish Highlands. It might perhaps have been expected to furnish traces of the raids and robberies often supposed to have been part of the daily experience of the population that lived so near to the fastnesses of the unsettled and marauding Celtic clans. But varied as are the contents of the book, they include no allusion to any disturbances of the kind. The editor indeed calls attention to the evidence that, as far back as his documents go, the inhabitants on both sides of the so-called Highland-line were in the main not Celtic, but were in large measure of Scandinavian origin. Yet that the population over all that territory had at an

<sup>1</sup> *Bamff Charters*, A.D. 1232-1703. With Introduction, Biographical Summary, and Notes. Edited by Sir James H. Ramsay, Bart. of Bamff, Litt.D., LL.D. Oxford University Press. 1915.

earlier time been essentially Celtic is manifest from the abundant Gaelic topographical names which have survived there down to our own day. In this north-eastern part of Scotland the demarcation between Highland and Lowland scenery is much less marked than elsewhere. There can be little doubt that the northern invaders were here able to spread over much of the land, absorbing or driving away the earlier Celtic people, who, in the counties further to the south-west, where the mountains descend abruptly to the plains, were able down to recent times to maintain their ground close up to the very edge of the Highlands.

The documents preserved at Bamff, dealing mainly with the transfer and lease of land, show to what a singular degree the subdivision of ownership was carried in this part of Scotland. A small proprietor would parcel out his ground among tenants and cottars, even into sixth parts, each of which necessitated the preparation of at least one imposing legal document. A constant trafficking in such petty holdings went on for successive generations. By degrees the family of Bamff acquired many of the surrounding properties, and the deeds recording their acquisition form a considerable proportion of the papers in the Charter-chest. Together with these come marriage-contracts, decreets concerning the boundaries of lands, inventories of personal effects, and many other writings, the whole collection affording some welcome glimpses into social life of Scotland during a period of not far short of five centuries.

According to Gray's *Scala-chronica*, when King William the Lion brought back with him into Scotland the younger sons of families that had shown him kindness during his captivity in England, the family of the Ramesays was included. Eighteen years after the death of that monarch, his successor on the Scottish throne, Alexander II., granted to his court-physician, Neis Ramsay, certain lands, including those of Bamff, near Alyth, in Forfarshire. The Latin Charter by which this gift was made, being the oldest document in the whole collection and the earliest certain trace of the family, very properly comes first in the volume, and is represented by an excellent facsimile. It is a parchment remarkable for its brevity. It measures no more than  $8\frac{1}{4}$  inches in length by  $5\frac{1}{4}$  in width, and is in good preservation, retaining even a portion of the attached Great Seal. The writing is exceptionally clear and legible. Neis, the founder of the Bamff branch of the Ramsay gens, must have been a man

of considerable distinction. He is called in the charter 'Magister Nessus, medicus noster.' He seems to have taken a Master's degree, which in Scotland was doubtless a rare accomplishment in his days, for in that country there was then, and for nearly 200 years later, no university. He may have studied at Oxford, perhaps more probably at Paris. The terse phraseology of this document forms a striking contrast to the prolix verbosity of the legal language of later centuries. In early times the documents were composed by ecclesiastics of various grades, and their purport was expressed with commendable succinctness. The day of the professional notary and writer, with their interminable multiplication of sasines, confirmations, and the rest, was still to come.

Much information may be gathered from the volume concerning the names of the lands and of the proprietors and tenants in this part of Scotland. Moreover, the editor has been at pains to prepare a full and well-arranged Index to these names, which must have formed by no means the smallest part of his labour. The marches of different farms and estates, carefully defined from time to time and duly recorded in various 'Decreets' and 'Instruments,' afford valuable material for comparison with the maps of our Ordnance Survey, and the names as spelt some centuries ago supply here and there the true meaning of their modern corruptions. Two of the most curious documents here brought together are inventories of the personal effects of one of the lairds of Bamff and of his great-grandson. As the editor points out, the list of the 'goods and gear' of the head of the family, in the first half of the sixteenth century, exhibits a lamentable picture of the poverty even of the gentry of Scotland at that time, bare food and clothing being all that they could show. The laird had indeed 'the attire and equipment of his station as an esquire and minor baron,' but 'there is not a married labourer's cottage on the estate at the present day but can show more comfort than the manor-house of 1535.' A striking contrast to this penury is supplied by the inventory of the effects of the great-grandson, who became the minister of Arbroath and died in 1632. The standard of living in Scotland had evidently risen considerably in the course of a hundred years, for the pitiful meagreness of the earlier time, even in the house of the laird himself, was now succeeded by 'the substantial comfort, not to say luxury' of a clergyman of the Presbyterian Church.

Occasional references to the connection of the Ramsays of Bamff with important national events are to be found in the

volume. The earliest of these is a copy of the Ragman or Bond of Allegiance to Edward I., which was sworn by Adam de Ramesey at Berwick on 28th August, 1296. The original document in Norman French and with the signatory's seal attached is still extant in the Public Record Office. The seal is in excellent preservation, as shown by the photographic reproduction of it given at p. 12. At the time of the Reformation the family at once accepted the new order of things. The head of the house attended the Convention Parliament, which in a single day (25th August, 1560) rejected the jurisdiction of the Pope, forbade the celebration of the Mass, and established the Protestant form of religion. A century later an interesting incident in the family history took place. The young heir to the Bamff estates, who had recently been a student at St. Leonard's College, St. Andrews, married in October, 1666, Christian Ogilvie, niece of the Earl of Airlie. The Earl of Athol was at this time raising a troop of horse to be added to the regular army in Scotland for the purpose of putting down the insurrection of the Westland Whigs. The bridegroom, having obtained a captain's commission in the Earl's troop, took part a few weeks after his marriage in the Rout of Rullion Green, where a body of the rebels was dispersed. In recognition of his services in this action a baronetcy was straight-way (December, 1666) conferred by Charles II. not on the son but on his father, for 'it was found that to promote a son, and so young a man, over his father's head would shock the sense of the age.' In the course of time, however, the son came into possession of the estates and title, which have descended through the centuries to the present baronet.

Among the various documents in the volume, indications are supplied that the landed estates of the Roman Catholic Church continued in many cases to be administered by the officials of that church for some years after the general 'forfaulture' had been decreed. Before the storm finally burst, it could be seen to be rapidly approaching. Hence the more provident of the bishops and other dignitaries of the older faith took steps to sell or lease their lands and teinds before these could be seized by the triumphant heretics. The Bishop of Moray and Perpetual Commendator of the Abbey of Scone was particularly active in these efforts. He is said to have 'found his bishopric in good condition but feued out all the lands belonging to it.' Thus we learn from the present volume that, with consent of his Chapter, he granted in August, 1559, feu-charters of lands in the neigh-

bourhood of Bamff, and that as late as September, 1570, he gave a charter of the fishings in the Water of Ericht 'to be held of the Abbots and Convent of Scone for the yearly payment to them of 8 marks 6s. 8d.' Though deprived of his ecclesiastical position, he was allowed to retain possession of his episcopal palace of Spynie Castle until his death in 1573. Again, Robert Crichton, the last Catholic Bishop of Dunkeld, was still able in 1584, that is, fourteen years after the establishment of Calvinism in Scotland, to grant, with consent of his Dean and Chapter, to the laird of Bamff a nineteen years' lease of the teind sheaves of the lands and barony of Bamff and of other lands. Disputes would inevitably arise over the validity of these conveyances made by the ousted prelates, with consequent appeals to the Courts or to the Crown. Thus formal deeds of confirmation were issued by King James at Holyrood House on 12th May, 1587, to some of the holders of the charters granted in 1559 by the Commendator and Convent of Scone.

Considerable interest attaches to the attestations of the various deeds in the Bamff Charter-chest. Thus we gather from the royal charters the names of the personages immediately surrounding the monarch at the time when the writs were granted. The names of the witnesses in such cases are often those of the chief dignitaries of the kingdom. For instance, the Charter of Alexander II. to the founder of the family of Bamff was attested by the Bishop of Aberdeen, the Chancellor, the Justiciar of Scotland, the Earl of Mar, Malcolm, son of the Earl of Lennox, and others. A charter by King Robert II. was witnessed at Stirling on 12th January, 1382-3, by the Bishop of St. Andrews, the Bishop of Dunkeld, Chancellor, the King's eldest son, who was Earl of Carrick and High Steward of Scotland, the Earl of Buchan (famous as the 'Wolf of Badenoch'), the Earl of Douglas and Marr, Sir Archibald de Douglas and Sir Robert de Erskine. A Latin parchment of date 24th April, 1510, wherein King James IV. confirms a charter granted the previous year, was witnessed at Edinburgh by the Archbishop of St. Andrews, Chancellor, the Bishop of Aberdeen, Keeper of the Privy Seal, the Bishop of Caithness, Treasurer, the Earl of Argyle, Lord Campbell and Lorne, Master of the Household, the Earl of Lennox, Lord Hume, Chamberlain, Lord Gray, Justiciar, the Archdeacon of St. Andrews, Clerk Register, the King's Secretary and the Director of Chancery. A charter granted by Mary, Queen of Scots, at Perth on 14th May, 1564, bears the attestations

of the Archbishop of St. Andrews, the Earl of Morton, Chancellor, the Lord Keith, Earl Marischal, Sir Richard Maitland of Lethington, Keeper of the Privy Seal, M'Gill of Rankelour Nethir, Clerk Register, and Sir John Bellenden, Justice Clerk.

In the earlier documents the witnesses did not sign their attestations. But deeds in which the witnesses sign their names 'with my own hand' begin to appear in the Bamff charter-chest among the documents belonging to the later half of the sixteenth century.

The backward state of education in the country is shown by the inability of some of the witnesses to write. Thus in the early half of the seventeenth century even the wife of the laird of Bamff could not write her name, and her daughter was unable to sign her marriage contract. In each case the signature was given 'by the aid' of two notaries. For a man who could not write, the help of a single notary appears to have been considered sufficient.

Many additional features of more or less general interest might be cited from the *Bamff Charters*. But from the examples here given it will be seen how valuable is the service which Sir James Ramsay has rendered to Scottish domestic history by the preparation and publication of this entertaining volume, wherein more than 300 original documents extending back to the reign of Alexander II. are now for the first time given to the world.

ARCHIBALD GEIKIE.

# Municipal Elections in the Royal Burghs of Scotland

## I. PRIOR TO THE UNION

WHEN, towards the end of the eighteenth century, Scotland began to be influenced by the movement for reform one of the first abuses to be attacked was the system of municipal government. No one who has read the 'Provost' and other contemporary writings can be surprised that the town councils, 'sinks of political and municipal iniquity,' as Lord Cockburn called them, were singled out as the first objective of the reformers. Lord Cockburn declared that in Scotland 'as a body to be deferred to, no public existed.' Nor did it exist as a body that was represented. Scottish parliamentary representation was notoriously corrupt, Dundas was the 'Manager of Scotland,' and his management entailed and depended upon the existence of smaller managers, of municipal as well as of national venality. Scottish burgh representatives were elected by delegates chosen by the town councils, and, as these were practically self-elected, only a comparatively small number of persons required to be guided in the exercise of their vote. Except for those who had a very material interest in affairs, therefore, the inhabitants of the burghs had no motive for being interested either in municipal or in national politics. The desire to possess a vote in the election of a delegate was not, however, the only motive which made a Mr. Pawkie anxious to be chosen by the councillors to join them at the board. The management of the common property and of the revenues of the burgh was another function of the council, and as this was exercised practically without any public supervision or control it often brought some profit to the magistrates and councillors of the burgh. The history of Scottish burghal institutions shows various attempts to control the council's exercise of this power, but they were unsuccessful, and much property and revenue were lost to the burghs by the dishonesty

and carelessness of their councillors and officials. The prevalence of abuses was largely due to the vicious system of self-election of magistrates and council, which was common to all the royal burghs in the later centuries of their history.

In the earliest Scottish burgh charters the references to the government of the towns are fewer than in the contemporary English charters, and there is no mention of the method of election. But there existed in Scotland a code of municipal law, the burgh laws, and this provided for the election of alderman and bailies 'thruch the consaile of the gud men of the toune.'<sup>1</sup> The guild statutes of Berwick, too, ordained that the mayor and bailies should be chosen 'at the sight and by the consideration of the whole community.'<sup>2</sup>

The only early burgh records which survive, those of Aberdeen, bear out the evidence of the laws as to popular election. But in 1469 it was ordained that because of great trouble and contention yearly in choosing burgh officers, 'throw multitud and clamour of common sympil personis,' the elections should take place yearly, and that the old council should choose the new, and that both together should choose the magistrates. Each craft was to choose one of their number to have a voice in this election.<sup>3</sup> Acts of the Scottish parliament were not, however, immediately and invariably put into execution, and this statute of 1469 cannot have been universal in its application. The Aberdeen records show that from the end of the fourteenth to the end of the sixteenth century the provost, four bailies and four common sergeants were elected, generally in the head court, by the votes of the burgesses or of the community, even after the Act of 1469 had been passed. For a hundred years, however, before 1590 the office of provost had been held by one of the Menzies family. The council appears to have been elected in 1399, 1435, and 1481 in the head court, and in 1439 and 1474 in the guild court, but the electors are not specified. The councillors seem to have held office for life. In 1591 there had been no change for thirty years or more. Towards the end of the sixteenth century the quarrel between the merchants and the craftsmen of Aberdeen became acute and appeal was made to outside authorities to settle the matter. The magistrates and council were accused of 'having amassit themselves into a faction to procure

<sup>1</sup> *Ancient Laws and Customs of the Burghs of Scotland* (Burgh Records Society), p. 34.

<sup>2</sup> *Ibid.* p. 81.

<sup>3</sup> *Acts of the Parliament of Scotland*, ii. 95.



lordship,' and of having sat without lawful election for thirty years. After the case had been brought before the Court of Session a decret arbitral of James VI. declared that acts of parliament should be observed in the burgh elections,<sup>1</sup> and the convention of the burghs laid down the details of the election in accordance with the Act of 1469.<sup>2</sup>

A number of charters granted to other burghs after 1469 specified who should elect the magistrates and council, and these provisions were often quite at variance with the act. Those of twenty-three burghs, granted in the sixteenth and seventeenth centuries, had clauses granting rights of election of magistrates and council to burgesses or to inhabitants, sometimes together with magistrates or with consent of certain persons. Eleven charters gave the privilege to provost, bailies, council and community, six to magistrates and council.<sup>3</sup> There were also occasional references in complaints about elections to the share of the community in choosing magistrates. But the act abolishing popular election was in existence, it provided an excellent opportunity for those who wished to continue themselves in office, and the constitutions of the burghs seem gradually to have come more and more into conformity with its regulations.

The supervision of the administration of the common good of the royal burghs was one of the duties of the chamberlain, who inquired at his ayre if 'the commone purs be weil kept' and if 'there be a just assedation and uptaking of the common gude of the burgh.'<sup>4</sup> This jurisdiction was confirmed by an act passed in 1491, which at the same time ordained that none of the yearly revenues of the burghs were to be set for a longer period than three years.<sup>5</sup> But the chamberlain cannot have long continued to discharge his functions after the end of the fifteenth century, consequently there was no oversight of the disposition of the common good, and that process of alienation and dilapidation of the common property of burghs began by which a great part of it was lost to its corporate owners, and the towns, deprived of their sources of income, became by the eighteenth century, if not

<sup>1</sup> *Report from the Committee to whom the several Petitions presented to the House of Commons from the Royal Burghs of Scotland were referred (1793)*, pp. 5-11.

<sup>2</sup> *Records of the Convention of the Royal Burghs of Scotland*, i. 385-6.

<sup>3</sup> *Report, 1793*, Appendix A.

<sup>4</sup> *Ancient Laws and Customs of the Burghs of Scotland*, i. 120, 153.

<sup>5</sup> *Acts, Scotland*, ii. 227.

earlier, burdened with debt. Of the opportunity given by the decay of burghal supervision advantage was speedily taken both by outland men, lairds and noblemen, getting themselves made provost or bailie 'for thare awine particular wele In consumyng of the common gudis of burrowis,' and by burgesses whose greed of gain was greater than their loyalty to their town. Difficulties seem to have arisen as early as 1487, when an act was passed declaring that the 'eleccioun of the officiaris micht be of the best and worthiest Induellaris of the town, and nocht be parcialite nor masterschip quhilk Is vndoing of the borowis.'<sup>1</sup> The qualifications for the magistracy were made more definite in 1503 when an act providing for yearly elections also laid down that none should have office in a burgh but those who used merchandise there.<sup>2</sup>

These acts did not suffice to protect the interests of the burghs. People like Oliver Maxtoun, who got himself made provost of Perth and then declared 'planelie he suld haue his handis full of our commoun gudis,'<sup>3</sup> obtained office in burghs, and by 1535 it was said that the burghs were 'waistit and distroyit in thair gudis and polecy and almaist Ruynous,' partly because 'outland men' had become magistrates and appropriated the common good. Therefore it was ordained that only indwelling burgesses and merchants were to be chosen as provost, bailies, etc., and also that all burgh officers were to bring the account books of their common good yearly to the exchequer for the lords to see if it was spent for the common weal of the burgh. To give some popular control the magistrates were ordered to give notice fifteen days before they came to the exchequer that anyone who liked might come to examine the accounts.<sup>4</sup> The accounts were apparently laid open for inspection in the town, and then burgesses who wished to make any complaint had to journey to the exchequer, obviously difficult in many cases and almost impossible in some, and enter their objections there. Another defect in this statute was that only the account books and no rental of the common good were produced, and so it was difficult to found a charge against the magistrates.

There are records of some burghs making account before the exchequer between the years 1575 and 1581, but there are also

<sup>1</sup> *Acts, Scotland*, ii. 178.

<sup>2</sup> *Ibid.* ii. 244.

<sup>3</sup> *Proceedings of the Lords of the Council*, vii. (Nov. 13, 1532).

<sup>4</sup> *Acts, Scotland*, ii. 349.

many instances of complaints to the privy council of peculation of the common good. The community of Aberdeen complained in 1590 that the 'race of Menzeissis' had usurped the magistracy for eighty years, and had spent and wasted the common good, suffering the common works to decay and become ruinous.<sup>1</sup> In St. Andrews Sir Patrick Learmonth of Dairsie had himself continued as provost, appropriated the common lands and their yearly profits, and disposed to one of his sons the customs of the corn market.<sup>2</sup>

The private acts which began to be granted to burghs after 1581, authorising the magistrates to levy new tolls and customs for revenue, probably show that in many cases the income from the common good was declining. Action by parliament seemed to be necessary, and in 1587 burghs were forbidden to sell or dispoine their freedoms without consent of the estates in parliament.<sup>3</sup> In 1593 complaint was made that the patrimony of the burghs had been converted to particular uses, and that thereby the burghs had become 'vnhabable ather for his hienes service Or to sustene the estait of the burgh.' To remedy this state of poverty it was again enacted that the common good should be bestowed yearly upon the common affairs of the burghs, and that it should not be alienated to any other purpose.<sup>4</sup>

But some years before this act was passed the regular sittings of the convention of the burghs had begun, and this body was devoting considerable attention to the internal affairs of the burghs, to the constitution and election of the magistracy, and to the administration of the common property of the towns. The dealings of the convention with the latter question may be divided into two periods. During the first, lasting until the Civil War, the convention endeavoured to force all burghs to bring their accounts of the setting and of the rental of the common good for the inspection of the commissioners. This, although the friends of reform in the eighteenth century would have objected that it was on the principle of setting a thief to catch a thief, did seem to exercise a wholesome check upon that system of granting long leases of burghal property, often at very low rates, which has proved so disastrous to the common weal of Scottish burghs. But during the later period the convention seemed to confine its interference to licensing, on the application of individual burghs,

<sup>1</sup> *Privy Council Register, First Series*, iv. 533-4.

<sup>2</sup> *Ibid.* iv. 42-4.

<sup>3</sup> *Acts, Scotland*, iii. 506.

<sup>4</sup> *Ibid.* iv. 30.

long tacks of their property, without seeking to reduce the length of the leases in conformity with the law.

As has been said, the act of 1469 set up the system of municipal government which gradually came to be in vogue in almost all the burghs, and which survived until the Reform Act of 1833. Later acts of parliament and of privy council were concerned principally with making regulations about the qualifications for the magistracy, endeavouring to keep the government of the burghs in the hands of the townspeople, and to prevent encroachments of outsiders. The acts of 1503 and 1535 declared that only burgesses, merchants and indwellers should be eligible as magistrates. But neither the efforts of the convention of the burghs nor appeals to the privy council could keep the burghs free from the intrusions of the neighbouring lairds and gentry, and in 1609 it was again declared that only merchants should be elected, the contrary practice 'being of the selff very unfitt and undecent as making a confusioun of Esteatie of Parliament, and being muche prejudiciall to the burrowis in haveing for their cheif magistrate ane of that qualitie, who rather maid use of thame for his awne privat eirand then onyway intendit thair publict goode.'<sup>1</sup> At the same time the privy council made a special charge to provosts and bailies, because several burghs 'intendis this present yeir and heirefter to mak choise of strangeairis to beir office and reull amangis thame,' according to the old custom.<sup>2</sup> Charles I., soon after his accession, wrote to the council to order it to see how these acts were observed.<sup>3</sup> The result of the inquiries does not seem to have been satisfactory, and the privy council declared in August, and again in December, of 1626 that former acts must be kept, and that because 'the hoip of impunitie and the connivence formarlle gevin to personis offending of this kynd hes bene ane grite occasioun' of their disregard, the king had resolved to punish rigorously all who offended.<sup>4</sup>

A good many cases connected with burgh elections came before the council. Sometimes, as in Renfrew, it was complained that outland men got themselves made provost, 'perverting thairby thair liberteis and privilegis, and doand that in thame lvis to put the said toun and haill inhabitantis thairof under thraldome and

<sup>1</sup> *Acts, Scotland*, iv. 435. *Privy Council Register*, 1st Series, viii. 597.

<sup>2</sup> *Ibid.* viii. 356.

<sup>3</sup> *Royal Letters*, i. 70.

<sup>4</sup> *Privy Council Register*, 2nd Series, i. 393-4, 476-8.

subjectioun.’<sup>1</sup> James Henderson, who was heritable provost of Inverkeithing, declared that the inhabitants refused to obey him ‘alluterlie.’<sup>2</sup> Mary, her son, and their advisers occasionally recommended that one of their supporters should be elected provost in some particular burgh, and made sure that he was given office. James interfered in Edinburgh, and in 1582 sent directions about the councillors whom he wished to be appointed. The people remonstrated, with the result that he gave them the name of the provost whom they were to choose as well.<sup>3</sup> The St. Andrews electors in 1611 ‘most prouddie, stubbornlie, disdainfullie, and contempnandlie’ proceeded to choose their own magistrates instead of those nominated by the king, and the council committed them to ward, specifying that the provost, Knox, should be put in the ‘thevis hole, or some suche vile presone.’<sup>4</sup> At the beginning of James VI.’s reign it was declared that no one should hold office except ‘sic as professis the puritie of religioun and doctrine now presentlie establishit,’ and in 1574 it was again ordained that only ‘zealous professouris of the trew and Christiane religioun’ and ‘affectionat weilwillaris to the avancement and furthsetting of our Soverane Lordis autorite and service’ should be elected as provost, magistrates, etc.<sup>5</sup> Again it was ordained that all officers in burghs must conform to the Articles of Perth.<sup>6</sup> Those who resisted or neglected these orders were removed from office and punished.

The convention of burghs, which was already striving to prevent the waste of burghal property, also endeavoured to make the burghs keep the acts of parliament and council about the election of magistrates. It made statutes reaffirming them. It also insisted in many cases and at various times that report should be made to the commissioners about the form of election in burghs, fining those where the prescribed method was neglected or the magistrates or council had not the required qualifications. Then, too, in a few cases, appeal was made to the commissioners to settle disputes in burghs and new sets were given to the towns. The privy council sometimes interfered when the acts about the qualifications of magistrates were disregarded, sometimes in cases in which the convention was not making any move, at others

<sup>1</sup> *Privy Council Register*, 1st Series, ii. 573-4 (1576).

<sup>2</sup> *Ibid.* ii. 15-16 (1569).

<sup>3</sup> Maitland, *History of Edinburgh*, pp. 40-2.

<sup>4</sup> *Privy Council Register*, 1st Series, ix. 635, 277-8.

<sup>5</sup> *Ibid.* ii. 401-2.

<sup>6</sup> *Ibid.* xiii. 603-4.

enforcing the law when the convention was unable to do so. The convention in 1593 declared that the provost, bailies, etc., and council must be chosen according to the acts of parliament and the burgh laws,<sup>1</sup> and this was reaffirmed in 1614, with the addition that all burghs were to report their proceedings at election time to the convention under pain of a fine of £20.<sup>2</sup> In 1636 a more specific declaration was made, that the elections must be made conform to the acts of parliament and of the burghs, that no one should be on the council but merchants and craftsmen, dwellers in the burgh, and that no one but the old and new councils were to have votes in the election.<sup>3</sup>

In order to enforce these acts and ordinances the convention ordered in some cases a report of the form of election to be made to it; as in 1607, when the commissioners ordered Dumbarton to produce at the next meeting 'the maner and forme of thair electioun of the magistrates and counsall presentle vsit be thame' to be examined to see if it was in conformity with the acts. Dumbarton produced a satisfactory act of court of their Michaelmas election at the next meeting.<sup>4</sup> Occasionally a general order was given to all the burghs to produce their form of election. This was done in 1617, when, at the same time, Perth, Stirling, Linlithgow, etc., where the commissioners knew of special abuses that had been committed, were specially ordered to obey this act.<sup>5</sup>

Fines imposed for elections of unqualified persons were frequent, though not always effectual. Perth often transgressed in this manner, and was fined, in 1613, £100 for electing first a craftsman to the office of provost and then allowing Lord Scone to occupy the post. He was re-elected in 1616 and the town was fined £500, but he continued in office in spite of the efforts of the convention to have him removed,<sup>6</sup> and of the summons of the privy council to answer for his breach of the law.<sup>7</sup> More trouble was given by Perth later, for in 1628 Viscount Stormonth had held the provostship for some years and the commissioners of the burghs 'recenting this proud and high contempt of the burgh of Perth in the unlaughfull electioun of the said Viscount to be their proveist, and being sorie that suche ane imputatioun of ane wilfull and willing breake of the law should reflect upoun

<sup>1</sup> *Convention Records*, i. 413.

<sup>2</sup> *Ibid.* ii. 448.

<sup>3</sup> *Ibid.* iv. 542-3.

<sup>4</sup> *Ibid.* iii. 243-4, 255.

<sup>5</sup> *Ibid.* iii. 38.

<sup>6</sup> *Ibid.* ii. 411-2; iii. 19, 36, 57, 79, 103, 113, 129.

<sup>7</sup> *Privy Council Register*, 1st Series, xii. 120-1.

a member of thair bodie,' had in several meetings admonished the commissioners of Perth, but to no purpose. The council had then ordered the election to be made according to the act of 1609, but the electors 'most maliciouslie and contemptuouslie' again chose Stormonth. He was himself a member of the council, but on being summoned sent a testimonial by the minister of Scone that he was 'heavilie diseased' and unable to travel without hazard of his life. His election was declared null and the council was ordered to hold a new election.<sup>1</sup>

Linlithgow was fined in July, 1619, for electing Andrew Milne, surgeon, as provost. They showed at the next convention that he had been removed from office,<sup>2</sup> but, in the meantime, at the Michaelmas election of the same year, Lord Livingstone had been chosen. He withdrew at the command of the privy council.<sup>3</sup>

Appeal was occasionally made to the convention during this period to give new constitutions to burghs. Dunfermline transgressed the prescribed form for election of magistrates by electing a craftsman to be a bailie, and was therefore fined. But the merchants and craftsmen submitted themselves to the convention, and asked that a new form of election should be given them. The commissioners decreed that the council should be composed of sixteen, nine merchants and seven craftsmen, but no craftsmen were to be eligible as magistrates unless they chose to give up their crafts.<sup>4</sup> Stirling was also fined for electing a craftsman as bailie, and received a new constitution in which seven out of twenty-one councillors were to be craftsmen, none of whom were to be eligible for the magistracy.<sup>5</sup>

The troublous times of the Civil War left confusion in many of the burghs, and early in 1652 the deputies of several of the most important towns asked the English parliament that new elections might be held throughout the burghs,<sup>6</sup> and next year the commissioners of the burghs desired their clerk, then in London, to find out 'in ane moderat way' why an order for staying the election of magistrates had been issued by the council of state, and what may 'be the sequele thair of.'<sup>7</sup> In 1654 the

<sup>1</sup> *Ibid.* 2nd Series, ii. 233-5.

<sup>2</sup> *Convention Records*, iii. 79, 103.

<sup>3</sup> *Privy Council Register*, 1st Series, xii. 120-1, 130-1.

<sup>4</sup> *Convention Records*, iii. 61-5 (1618).

<sup>5</sup> *Ibid.* iii. 110-111 (1620).

<sup>6</sup> *Historical Manuscripts Commission Report, Portland Papers*, i. 628-9.

<sup>7</sup> *Convention Records*, iii. 368.

English rulers seem to have taken the matter into their own hands, for an ordinance empowering commissioners to appoint magistrates and councils in the Scottish burghs was agreed to.<sup>1</sup> Next year the Protector authorised the council in Scotland to remove any disaffected or scandalous magistrates from office.<sup>2</sup> Shortly after this a declaration was issued removing all prohibitions and allowing all cities, burghs and towns corporate in Scotland to choose their own magistrates and council as long as the persons elected were not dangerous to the commonwealth or scandalous in life and conversation.<sup>3</sup> There was some question in 1657 of an interference in the elections in Glasgow, but Monk opposed any such act very strongly, because the nation, 'after long and many tumblings,' was entering into a settlement on parliamentary principles, and the privileges of the burghs had been ratified to them by their kings, parliaments, and by the English commissioners, and therefore any interruption of the right of free election would be contrary to law.<sup>4</sup>

The Restoration naturally caused further disturbances in the burghs. The commissioners of the burghs, in September of 1660, received a letter from Glencairn urging the election of magistrates of known loyalty, and their reply was to ordain that no one who had subscribed the Remonstrance, or who had had anything to do with it, or who was in any way disaffected to his majesty's government, should be allowed to hold any office in burghs.<sup>5</sup> Next year the privy council issued a proclamation to the same effect, which also set forth the necessity of keeping out of office those of 'fanatick principalls and enemies to monarchicall government' who 'did screw into their oune hands the sole administration' of most of the burghs.<sup>6</sup> This was followed by the act requiring all in office to sign the Declaration.<sup>7</sup> Each burgh had to send in a report to the council that the newly elected magistrates had accepted it, and those who refused to take it were declared incapable of holding office. This occasioned considerable difficulties in some towns where people were elected and then refused to take the Declaration, or refused to take office because they would not sign it. The privy council then intervened, generally ordering a new election or requiring the last

<sup>1</sup> *Calendar, S.P. Dom.* 1654, p. 296.

<sup>3</sup> *Thurloe S.P.* iv. 52.

<sup>5</sup> *Convention Records*, iii. 522-3.

<sup>6</sup> *Privy Council Register*, 3rd Series, i. 45-6.

<sup>2</sup> *Ibid.* 1655, pp. 108-9.

<sup>4</sup> *Ibid.* iv. 529.

<sup>7</sup> *Acts, Scotland*, vii. 405-6.



magistrates to remain in office. When all magistrates and office-bearers were required to take the Test in 1681<sup>1</sup> the interference of the council increased, for many refused to sign it. In many burghs the result was that no magistrates were elected, and then some members of the council were sent thither to make the appointments, as the election fell into his majesty's hands. The king and council thus got opportunities of filling burgh offices with their own nominees, and the privy council was brought into close touch with burghal government. In 1682 all magistrates were ordered to send to the council particular accounts of the constitutions of their burghs, showing the numbers of the electors.<sup>2</sup>

One of the principal reasons for all this interference was that parliament should be so constituted that it would carry out the king's policy as regarded Roman Catholics. The court in 1686 thought that another parliament might pass the act anent the private toleration of papacy 'if the King should assume the nomination of all the Provests of Scotland (for the Burrows were the brazen wall the Papists found hardest).'<sup>3</sup> Accordingly parliament was dissolved, 'For, by a new one, the Popish party hoped to get the Burrows more rightly constitut, by assuming to the King the nomination of the Magistrats.'<sup>4</sup> In 1686-1687 James VII., by stopping burgh elections, kept those magistrates who were favourable to him in office, while others were supplanted by his nominees.<sup>5</sup> This arbitrary conduct was spoken of as 'the common Course of the time taken by the Government, throw the whole Kingdom, and which no Western Burgh or person durst have offered to Decline to accept else they would have been over Reacht by some of the Streaches, which were ordinarily made use of against these of that Country.'<sup>6</sup>

The Revolution restored the right of self-government. William instructed Hamilton, his commissioner, to pass an act securing the rights of the burghs in electing their own magistrates for the future,<sup>7</sup> and in 1689, on the representation of the

<sup>1</sup> *Privy Council Register*, 3rd Series, vii. 203-4.

<sup>2</sup> *Ibid. MS. Acta*, 1678-82, 322 a.

<sup>3</sup> Fountainhall, *Historical Notices*, ii. 727.

<sup>4</sup> *Ibid.* ii. 736-7.

<sup>5</sup> *Ibid.* ii. 752, 755, 818.

<sup>6</sup> *Parliamentary Papers*, xiii. 83. *Answers for the late Magistrates and Council of the Burgh of Irvine* (General Register House).

<sup>7</sup> *S.P. Scotland, Warrant Book*, 14, p. 185. *Convention Records*, iv. 103.

commissioners of the burghs in parliament, an act was passed declaring that there should be new elections in all burghs by a poll of all the burgesses, as the 'hail royall burrowes have suffered encroachments on their liberties and priveledges by letters and Recommendationes from the King his Counsell and others.'<sup>1</sup>

The convention during this time did not make any remonstrance to the government about the infringement of these liberties, and did little to enforce the new regulations of the government about the qualifications of the magistrates, nor did it seem to make any effort to see that those older laws about provosts and magistrates being merchants and burgesses were put into effect. After the Restoration and the declaration by the commissioners that the newly elected magistrates were to be persons of known loyalty, Renfrew was ordered to make a new election, as some of their magistrates were not qualified conform to the act.<sup>2</sup> Then as Lanark, generally a covenanting stronghold, had sent a commissioner who had gone to the association in the west after Dunbar, and had committed several neglects in the thanksgiving days for Charles' restoration, some burghs were ordered to send commissioners there to inquire if their magistrates conformed to the recent act. The convention in April of the next year enjoined all the burghs to report to the next meeting that their magistrates had taken the oath of allegiance.<sup>3</sup> Very few other references were made to the character of the magistracy or to the manner of election in the burghs as a whole.

Greater activity was shown by the convention in giving constitutions to the burghs on application being made by the community or by a section of the inhabitants. Especially in the years following the disturbances of the civil war there were demands for establishing the custom for elections of magistrates, often connected with a request that a guildry should be erected. The merchants of Haddington complained in 1654 that unfreemen were usurping their liberties, and were not punished by the magistrates. They therefore asked that a dean of guild might be appointed. The magistrates and council and some of the other inhabitants also made representations to the convention, and both agreed to submit the settlement of their controversies to the commissioners. Representatives of some burghs went to

<sup>1</sup> *Acts, Scotland*, ix. 49.

<sup>2</sup> *Convention Records*, iii. 525.

<sup>3</sup> *Ibid.* iii. 525-6, 540-3, 544-5.

Haddington and inquired into matters there, and the convention, on their recommendation, decided that the council, instead of consisting of thirty persons, seven merchants, eleven 'labouris of ground' and maltmen, and twelve craftsmen, should be made up of twenty-five, sixteen merchants and nine craftsmen. The provost and two bailies were to be trafficking merchants, and one bailie was to be a craftsman.<sup>1</sup> New constitutions were given both to Perth and to Culross, and in both the number of merchants on the council was increased and the number of craftsmen decreased.<sup>2</sup> Elgin petitioned the convention in 1705 to give the town a rightful constitution, as there had been quarrels in the burgh, chiefly occasioned by the continuance of the same people as magistrates and councillors. These disputes had been brought before the privy council and the lords of treasury and exchequer, and had cost the burgh much. Commissioners were sent to visit the town, and drew up a set arranging for frequent change of officers in the burgh.<sup>3</sup>

In these cases submission was made by the burgh, or by both parties in the burgh, to the decision of the convention. Occasionally questions were referred to the commissioners by other authorities. The council of state in 1659 remitted to the convention, as 'onlie competent judgis in such caices,' a question about the election of the town clerk of Cupar.<sup>4</sup> But the convention did not claim to be the only authority in questions of burghal administration. In 1662, as the commissioners sent to Dunfermline could not agree on a settlement, the convention made a temporary agreement until the court of session should determine the point of right.<sup>5</sup> In cases where the question was not only between the burgesses of the burgh but concerned some outside interest, the convention had no jurisdiction, and could only assist the town with money, or with the concurrence of the burghs' agent when there was a law-suit, as in 1675, when the agent was ordered to assist Arbroath in an action brought against the Earl of Panmure, who claimed the right to elect a bailie. The case was decided in his favour by the court of session.<sup>6</sup>

<sup>1</sup> *Ibid.* iii. 389-90, 412-3, 422-4 (1654-6).

<sup>2</sup> *Ibid.* iii. 457, 466-8 (1658); iii. 460, 463-4, 484-6 (1658-9).

<sup>3</sup> *Ibid.* iv. 369-70, 396-7. *Elgin Records*, i. 369-70.

<sup>4</sup> *Convention Records*, iii. 477.

<sup>5</sup> *Ibid.* iii. 562.

<sup>6</sup> *Ibid.* iii. 653-4. Morison, *Dictionary of Decisions of the Court of Session*, iii. 1870-1.

The convention was anxious to be recognised by the burghs as a court of appeal, and in 1706 passed an act 'for composing differences and debates' which declared that it would be convenient that those quarrels about the management of the common good and the election of magistrates which often occurred in burghs should be brought before the convention or a committee of its members, 'in order to be composed and agreed by their mediation.'<sup>1</sup> Two years later, in the hopes that controversies about elections might become less common, the convention ordered all the burghs to send copies of their sets to be entered in a book to which reference could be made.<sup>2</sup>

The greater number of disputes in the burghs originated in quarrels about the management of the burghal property, which was being either 'profusely dilapidated, or privately peculated,' although for a short time between 1660 and 1680 some burgh accounts were audited in the exchequer. In 1683 a process was instituted in that court by a merchant in Edinburgh to compel two late provosts and others to produce their books and accounts that the High Treasurer might see if they had appropriated the patrimony of the burgh to proper uses. But the exchequer refused to sustain a process at the instance of private burgesses, 'it looking too popular and democratic.'<sup>3</sup> Next year a royal commission was issued to the Marquis of Queensberry, Lord High Treasurer, and others, authorising them to cite the magistrates of burghs to appear and to produce their accounts in the exchequer, because of the abuses which were rife in burghal administration. The commission declared that those 'who prefer their private advantage to the common interest of the Burgh, have excited factions and divisions, in order to procure themselves to be elected to the office of Magistracy, and in order that they, their relations, and dependents might be continued in that office, from whence they might take occasion to squander the properties and revenues of the borough in rewarding their friends, and supporting their factions in the Burgh.'<sup>4</sup> But this attempt to control the burgh finances was not successful, and in 1693 an act was passed ordering all magistrates to present an exact account of the revenues of the town before the lords of treasury and

<sup>1</sup> *Convention Records*, iv. 394-5.

<sup>2</sup> *Ibid.* iv. 464.

<sup>3</sup> Fountainhall, *Decisions of the Court of Session*, i. 231.

<sup>4</sup> A. Fletcher, *Memoir concerning the Origin and Progress of the Reform proposed in the internal government of the Royal Burghs of Scotland*, pp. 7-9.

exchequer. It was also declared that commissions would be given to certain people to inquire into the state of the common good, etc., and to call those who had misapplied it to account.<sup>1</sup> This act, however, does not seem to have effected any improvement in burghal administration.

THEODORA KEITH.

<sup>1</sup> *Acts, Scotland*, ix. 309.

(*To be continued.*)

## Glasgow and the Jacobite Rebellion of 1715

THE recent bi-centennial of the battle of Sheriffmuir (13th of November) reminds us that two centuries have elapsed since the rising of 1715. For various reasons this has never attracted as much attention on the part of the general public as the importance of the event seems to have warranted. In the first place, it was thoroughly mismanaged and conspicuously unsuccessful, while in some respects it verged on the ridiculous, circumstances sufficient in themselves to cause many to suppose that it was a matter of no moment. The chief reason, however, would seem to be that it was overshadowed by the later attempt of 1745. This, in its initial stages at least, was extraordinarily successful, while over the whole undertaking there has been thrown the glamour of romance. The landing of Prince Charlie with only seven followers—the rallying of the clans—the swift march to the south—the total defeat of Cope's army—and the mimic court at Holyrood, all appealed to the imagination. Then the facts that the Prince's army penetrated into the heart of England, and that by many it is still thought that if he had pressed on to London he might have seized the throne, have given the whole attempt an importance lacking in the earlier adventure of 1715. In addition, the sad ending of an enterprise that had at one time promised so well—the tragic events that followed on Culloden—and the romantic story of Prince Charlie and his wanderings in the Hebrides and the west of Scotland, have combined to make the whole episode a favourite subject for the novelist and painter as well as the historian.

It must also be kept in mind that although only thirty years later than Mar's rebellion it really seems much nearer to our own time. This is no doubt due partly to the fact that the chief actors in the drama are more familiar to us than the leaders in 1715, and partly because men born as late as the middle of last century, and still living, may have known those who had seen and

had spoken with survivors of those who were out in 'the Forty-Five.' In spite, however, of the superior attractions, in a popular sense, of the later rebellion, that of 1715 was really started under better auspices, and with a much greater chance of success. The time was distinctly more favourable for such an enterprise. The Hanoverian dynasty, though seated on the throne, had hardly established themselves there. They were comparatively unknown, and though supported by a strong party in the State, they were popular with none, while by the great bulk of the people they were regarded, if not with dislike, at least with indifference. In England the Jacobite party was stronger and better organized than in 1745, while Scotland was in a mood that lent itself to any attempt against the Government. The treatment received at the hands of English statesmen over the Darien scheme was freshly remembered, and bitterly resented. The Union was not only unpopular, but was by many sections of the people absolutely detested. The benefits that had been promised, and which ultimately followed from that measure, were little understood, and indeed had not yet had time to mature. There was, besides, a very general feeling that the country had been 'exploited,' and an idea that they had got the worst of the deal was particularly exasperating to a nation like the Scots. Scotland, therefore, was ripe for any attempt of the kind that might be started, for, although a large proportion may not have been very enthusiastic for the Stewarts, they were in any case 'agin the Government.' There was also a much better chance of help from abroad, Louis XIV. being still alive, and favourably disposed to the cause of the exiled Stewarts. His death in the autumn of the year was no doubt a serious blow to the rising, but the Pretender and his followers hoped that the policy of the French Court would remain unchanged.

The failure of the attempt was not therefore due, as so often happens in such undertakings, to any mistake as to time and place, but must be attributed to the manner in which it was conducted. It may be granted that it was a year too late, but the time chosen was nevertheless more favourable than that selected thirty years later. From the start, however, it was badly managed. The Earl of Mar, whatever genius he may have had for intrigue, proved himself a very incompetent leader, and showed a sad lack of energy and decision in all his operations. He laboured besides under another disqualification, for it has been pointed out that his failure was perhaps less due to blunders than to the fact that

those whose cause he had so suddenly embraced did not trust their leader.<sup>1</sup>

On the other side, the Government had a capable officer in General Wightman, while Argyll, if not a great general, was at least a man of character and decision, and, besides being the chief of one of the most powerful of the clans, possessed great influence and authority in both countries. All his proceedings were marked by a vigour and determination that were altogether wanting in the vacillating tactics of Mar. He saw clearly that Stirling was the key of the campaign, and concentrated all his available forces there in order to maintain his hold on that strategic position. The result was, that although a small force managed to cross the Forth under General Macintosh, and, after being foiled in an attempt on Edinburgh, succeeded in joining the north of England Jacobites, the bulk of Mar's troops were penned up north of the Forth, and, when they did try to force a passage, were effectually checked at Sheriffmuir. This engagement may perhaps be best described as an indecisive battle with decisive results. Fought on the same day as that on which the Jacobites at Preston surrendered, it practically ended the rebellion. Mar maintained the appearance of a struggle for two or three months longer, but he did not again take the field, and the issue was never really in doubt.

The arrival of the Pretender in Scotland did not improve matters for the Jacobites. The Chevalier of St. George, as he was known, was one of those unfortunate men who, with the best intentions, always do the wrong thing at the wrong time. In 1708, on the eve of the departure of the French expedition from Dunkirk, he took measles, and the consequent delay was just what was needed to enable Byng to reach the Forth before the arrival there of the French fleet. In 1715 he did not arrive in Scotland till December, and was only accompanied by some thirty followers. After landing he had an attack of ague, and when recovered, instead of taking active measures, and inspiring his followers, he seems to have acted as a sort of wet blanket. One of his supporters writes: 'We saw nothing in him that looked like Spirit: he never appeared with Chearfulness and Vigour to animate us . . . some say the circumstances he found us in dejected him. I am sure the Figure he made dejected us, and had he sent us 5000 men of good Troops and never came among us, we had

<sup>1</sup> *The Chevalier de St. George and the Jacobite Movements in his Favour, 1701-1720*, by C. S. Terry, p. 362 (London, 1901).



done other things than we have now done.’<sup>1</sup> After a few weeks mock royalty at Scone he accompanied the retreat to the north, but left his army at Montrose, where he took ship to France, accompanied by Mar. No doubt he had what were deemed sufficiently good reasons for doing so; but it is unfortunate for his reputation that he should have left to their fate those who had risked everything for his cause, just as thirty years later his son abandoned the remnant of his followers after Culloden.

Glasgow was no abettor of the Rebellion. Always Whiggish in their views, the citizens were no great lovers of the Stewarts, and lived too close to the Highland line to be admirers of the clans, or to appreciate their methods of warfare. The battle of Kilsyth and the descent of the ‘Highland Host’ in the Killing Times were besides still fresh in their memory. We find, therefore, that on the 26th of August, 1715 (the day fixed for the great meeting at Braemar), it was reported at a meeting of the Town Council that an address had been presented to the King by the Duke of Montrose in the following terms :

‘The City of Glasgow, being deeply affected with the certain evidences of a designed invasion from abroad in favour of a Papish Pretender, and of the preparations of a restless Papist and Jacobite faction at home, we the magistrates of the said city, for ourselves and in name of our burgesses and inhabitants, humbly present to offer to your majesty a regiment to consist of five hundred sentinels, with ten captains and other subalterns needful for such a regiment, to be payed by us for the space of sixty days.’<sup>2</sup>

This was acknowledged by Lord Secretary Townshend, who stated that he was directed to return them his Majesty’s thanks for this ‘cheerfull offer,’ but that his Majesty hoped that such measures had been taken as would be effectual, without putting his subjects in Glasgow to any ‘further expense and trouble.’ Notwithstanding this the regiment was raised, and was despatched to Stirling by the middle of September, as appears from a letter of the Duke of Argyll, dated the 18th of that month, thanking the Magistrates and Council for informing him that 500 men were on the march to join him there.<sup>3</sup> The regiment, which was commanded by Mr. John Aird, late Provost of Glasgow, remained

<sup>1</sup> *A true account of the Proceedings at Perth : The Debates in the secret Council there ; with the Reasons and Causes of the suddain breaking up of the Rebellion — written by a Rebel* (London, 1716).

<sup>2</sup> *Burgh Records of Glasgow, 1691-1717*, p. 539.

<sup>3</sup> *Burgh Records of Glasgow, 1691-1717*, p. 545.

there until after the battle of Sheriffmuir, in which, however, it was not engaged, being employed on that day in guarding the town, including the defence of the bridge and castle. The following letter from Colonel Aird to the provost gives an interesting account of the battle :

‘ Stirling Bridge, November 13th,  
At Nine at Night.

‘ My Lord,—

We are still confirmed that the Duke of Argyle is master of the field, and for a proof of it, he hath sent in sixty prisoners, whereof eight or nine are gentlemen. About an hour ago, I am informed by one of the guard that Barrowfield is one of them, and that he spake with him. We hear also that there are several other prisoners that are not yet come in ; and that the Earl of Panmuir and the Lord Strathmore are mortally wounded, and since, we hear that Strathmore is dead. This is the best information we can give you as yet, being waiting on the guard at the bridge. Any parties that have come in with the prisoners here, bring with them a number of Highland plaids, swords, targets, and scarlet cloaks ; and some of the broadswords have silver hilts, and assures us that the loss on our side is very inconsiderable, not above one hundred men, but that the general officers are all safe ; that they hear of no inferiour officers killed, but one or two ensigns. Isla has gotten a slight wound on the arm, and Colonel Hally has gotten two wounds on the left arm. One of the Scots Greys has taken the rebels’ royal standard. The duke, with the generals and all the officers, keep together, and expect another heat with them to-morrow, if they stand ; and the duke was once master of the rebels’ artillery and magazine, but, wanting horses, could not get them off to the place he designed to encamp in.

‘ I and all our officers are very well and hearty, only we have been under arms since Friday. I desire you not to believe every report ; for you may assure yourself that I, or our officers, will write to you true matters of fact. All the nobility, and particularly Rothes, Haddingtoun, and Binning are safe, and behaved themselves very bravely in the action.’<sup>1</sup>

The exertions of the magistrates in this crisis were not confined to raising the regiment. On 29th of October it was agreed to borrow money for the purpose of ‘ drawing lynes of entrenchment

<sup>1</sup> *Sketches of the History of Glasgow*, by James Pagan, p. 60 (Glasgow, 1847).

about the town.’<sup>1</sup> On the 12th of December the magistrates represented that the town had been at great charges and expenses in ‘making of barracads, drawing and making of lynes and tranches about the city, mounting of the cannon, and making of other fortifications,’ as well as for other matters in connection with the rebellion. On the same day it was resolved to petition the Duke of Argyll, the Commander-in-Chief in Scotland, that the 353 rebel prisoners lying in Glasgow might be removed, in respect that the militia who formerly guarded them had gone home, which caused a heavy burden on the city in providing guards.<sup>2</sup>

The expenses in connection with the regiment, and in carrying out the measures adopted for the defence of the city, came to a considerable sum. On the 16th of February, 1716, there was submitted to the Council an ‘Accompt of the extraordinary charge and expenses the town of Glasgow was put to upon account of the present troubles and rebellion, from the latter end of July 1715 to the 1st of January 1716.’<sup>3</sup> These amounted in all to £10,245 7s. 4d. *Scots*, as follows :

Money depursed on account of expenses -	£300	4	6
do. for carting of soldiers baggage -	271	17	0
For leading of stones for the barracads -	203	3	2
Payed out upon the tranches - -	690	14	8
Payed to gardners, and for drink to them	447	1	0
Payed out for Kirkentulloch Bridge -	191	18	4
Do. on the great guns - -	116	0	0
Do. upon accompt of the Castle prisoners - - - - -	362	3	0
For carting of Arms, and to drummers, and coall to the guards - - -	1027	3	8
For powder and arms, and for bread to the rebell prisoners in the Castle -	3444	2	10
For sundry expenses and accompts -	3190	19	2
Total - -	<hr/>		
	£10,245	7	4

Subsequent to this date we find payment of further sums authorised by the Council, including charges paid by the Treasurer down to 25th June, 1716. The latter sums amounted to £1833 1s. 6d. *Scots*, and were of a very varied description.

<sup>1</sup> *Burgh Records of Glasgow, 1691-1717*, p. 547.

<sup>2</sup> *Ibid.* p. 549.

<sup>3</sup> *Ibid.* p. 554.

Among other items £58 1s. was paid for 'Kaill plants and leiks quhich were destroyed by the trenches.'<sup>1</sup>

Besides defraying all the expenses incurred in the manner detailed above, the Council showed their liberality by paying James Luke, Goldsmith, £35 1s. 9d. 'starline money' for a silver tankard, a set of 'suggar boxes,' and a server, presented to Col. William Maxwell of Cardoness 'as a mark of the toun's favour and respect towards him for his good service in taking upon him the regulation and management of all the Guards that were kept in this city . . . from the 2nd of October to the nynt of February last.'

The Magistrates and Council seem to have shown both energy and decision in the steps they took in aid of the Government and for the defence of their own city. Their whole conduct, in fact, during the rebellion of 1715 forms a very creditable episode in the history of Glasgow.

T. F. DONALD.

<sup>1</sup> *Burgh Records of Glasgow*, 1691-1717, p. 585.

## Whitekirk and 'The Burnt Candlemas'

**I**N 1356 the fifth invasion of Scotland by Edward III. took place. It was certainly no policy of half measures that the English King had adopted. 'Now his aim and purpose had been, if his ships had held their course prosperously, to demolish and destroy the kingdom of Scotland far and near—yea, to waste it utterly.'<sup>1</sup> Berwickshire and East Lothian were a desolation after Edward had passed by. The Scots themselves had contributed to this. They had deserted these districts, driving their cattle before them and giving to the flames whatever could not be taken with them and might be of service to the enemy. Edward's response was the destruction by fire of every habitation that he came across. He vented his fury even on churches and religious houses, including the stately and beautiful 'Lamp of Lothian,' the abbey-church of Haddington. This invasion, with its dire results for the eastern lowlands, took place in the beginning of February; hence the name commonly applied to it, 'The Burnt Candlemas.'

The English King advanced as far as Edinburgh, but an immediate retreat became imperative. In the districts through which he had passed, wasted, as we have seen, by the Scots, the invader could secure no supplies. He had taken the precaution of ordering a victualling fleet to support him, but, with its sorely needed supplies, it met its doom in North Berwick bay. At anchorage there, the fury of a north wind struck it, and soon the greater part of it was on the rocks or at the bottom of the Forth. Fordun's account of this dire disaster is as follows:

'For, while that King was still at Haddington, and was, without respite, thirsting for the blood of the Scots, the Blessed Virgin, the spring and source of goodness, by her pious prayers obtained from her Son—One who said: 'Without Me ye can do nothing'—that boisterous wind and rough weather; so the ships parted from one another, and could not move a step beyond

<sup>1</sup> Fordun, ii. 363.

the Firth of Forth, but were unceasingly tossed among the waves of the sea and the storms of the deep, so that a great many of them have never, to this day, met the gaze of living man.<sup>1</sup>

As a result of this great storm, the English army, deprived of supplies, was threatened with destruction. In the belief of the Scottish chroniclers, who voiced the feeling of the Lothian folk, this was due to the Virgin's intercession.

The church of Whitekirk, which, even at that early period was in the enjoyment of a very wide fame, had been dedicated to St. Mary, and it was the insult offered to the Virgin in her sanctuary that formed the link between the church and the tempest that shattered Edward's hopes of conquering Scotland.

'He came as far as Edinburgh,' says the author of the *Book of Pluscarden*, 'but seeing that he profited nothing by his said march, he returned thence ingloriously to his own country, for he had lost many of his men both by land and by sea, and gained nothing. It was said of this in Lothian that all these troubles came upon him in revenge for the plunder of the White Church of Our Lady.'

The story of the sacrilege is briefly related by Fordun, and additional particulars are supplied by Bower.

'For some men-of-war's men, sons of Belial, had shortly before disembarked, and fallen upon the White Kirk of the Virgin, which stands by the seaside. There, not having God before their eyes, and being unmindful of their own salvation, they banished fear, and stripped the image of the Virgin, which no man had, with impunity, touched with evil intent, and which was decked with gold rings, necklaces, and armlets and other ornaments wherewith the oblations of the faithful had becomingly loaded it; and two canons of the house of Holyrood, who had lately been commissioned as keepers of that chapel, they bound and dragged with them to their craft, after having carried off all the property they found in the chapel. This turned out unluckily for them, however. For, not long after, the uproar and storms above spoken of followed, in revenge for this thing; and the ship which had wrought the heinous robbery, and its crew, who had dared to lay hands on the Lady of the World, were whelmed in the gulf of the deep in the sight of many. But the said canons had, by God's will, been shortly before shifted to other ships, and they were thus, by Our Lady's succour, snatched from the maw of the awful gulf, and allowed to cross over freely to their

<sup>1</sup> Fordun, ii. 364.

dwelling place. Such was the miracle that Almighty God, through His Mother's prayers, deigned to show forth at that time for the salvation of the Scottish nation.'<sup>1</sup>

Fordun's continuator, Abbot Walter Bower, had a personal interest in the matter which the earlier chronicler lacked. He was a native of Haddington, and, doubtless, had often visited the famous little church, scarce three leagues from his home. His narrative is of peculiar value, being derived from an eye-witness. The abbot's story is not accessible to the English reader. We offer the following translation :

'But the robbing of the Virgin's image was in this manner, as he who saw it bore witness, and I believe, because his witness is true : for he was very worthy of trust, and also in the hearing of many honourable men and of me, who helped to write this book, he related it thus, saying ; Well, at that time I was a boy of twelve years at Quhytkirk, when, suddenly, English pirates came thither, at whose sudden, unexpected coming many terrified mothers, for fear of the English, hid, with several utensils, their little sons, amongst whom, he said, I then was one, in a certain old oven in the ancient walls, where they did not think they were willing to come. But, at last, one of them, of a barbarous nature, observing the oven, with a sharp stake savagely stabbed and drove out the boys, tender of age. But they, crying out with shrill wailings, heard the villain uttering words like this : 'For one bubbling fish sauce, I would not scruple to kill as many of you as I could eat of white peas.'

'So, at the pitiful cry of the children, a certain Englishman, a person of manifest honour, coming on the scene and checking the rudeness of him who was hurting the little boys, struck him on the head with a certain stick, which he was carrying in his hand, as he was pursuing the little ones. Then, drawing out the boys with his hand and kindly encouraging them, he led them to the church and set them in front of the altar of the image, enjoining that none should presume any longer to hurt them. At last, the little boys, who had been sent before, looking round and having knowledge of him who was attacking them, immediately noticed the same man entering the church and, with fear, began to cry. But he, threatening them and bridling them with silence, kicking the greater altar with his feet, and snatching a ring from a finger of the image which was above, violently broke one of its fingers ; and afterwards, planting his feet irreverently on the head of the

<sup>1</sup> *Ibid.* ii. 364.

image, he went up to the gallery above and stole the personal possessions which the ministers of the altar and servants of the chapel, for fear of thieves and robbers, put in guard under the protection of Our Lady, and flung them down to certain accomplices of his, who were waiting in the choir, to keep. And, as they retired from the church, this ill-fated wretch followed them.

‘But a wonderful thing happened! For, as the sacrilegious man was leaving the chancel with them and leaping out thence as if he had won precious booty; suddenly, from above, there fell a certain image of the Crucified, scarcely two feet high, avenger of His despoiled Mother, and struck the unhappy man a mortal blow, knocking out his brains, together with his life, in a moment. A shout, then, is raised when the unfortunate man dies and Mary is marvellously glorified by her Son.

‘A little before, the marauding sailors drag in chains to the ships two canons of the Holy Cross, who had been appointed to serve the Blessed Virgin in that place. On the second day, therefore, after their departure, exercising tyranny over the servants of the Virgin, plundering them even to their bare bodies, they parted them from one another, very often threatening them with drowning unless they paid a great sum of money. But the canons, wonderfully comforted by the sweetness of the remembrance of Mary, amidst threats and punishments, nakedness and cold, stood unterrified. They, as afterwards they both swore, were as greatly strengthened by the Blessed Virgin as if they had then seen her present.

‘While these things, therefore, were going on, and they were settling finally on drowning the canons, suddenly there was a crash, and the storm already mentioned followed for the punishment of those sent before, and the ship that perpetrated the accursed act of plunder, which contained the robbers and the personal property of the servants of the Virgin that had been carried off, near the harbour of Tynmouth, while many were looking on, was lost and went down into the depths. But a little before, by God’s disposal, the said canons were transferred to another ship, and were rescued from the gulf of the fell Charybdis, and were freely permitted to return from England to the place of their profession to the praise of the Virgin to whom be glory for ever.’<sup>1</sup>

From the point of view of human interest, Bower’s account of the Whitekirk outrage forms a valuable addition to Fordun’s recital.

<sup>1</sup> *Scotichronicon*, book xiv. chap. xiii.



Let us now return for a moment to King Edward. His homeward march was a hazardous and trying experience. 'His retreat,' says Mr. Andrew Lang, 'on a small scale, resembled that of Napoleon from Moscow.'

The inglorious result of the invasion was due to the storm that robbed the English of the supplies on which they had counted. And the storm, in the view of the Scots of that time, was a punishment for the outrageous conduct of English sailors at Whitekirk—the Virgin, incensed at an intolerable insult, had her revenge in the destruction of the English fleet, in the serious reduction of Edward's army, and in the consequent salvation of the Scottish nation.

EDWARD B. RANKIN.

## Sir George MacKenzie of Rosehaugh

‘The Bluidy Advocate MacKenye, who, for his worldly wit and wisdom, had been to the rest as a god.’ *Wandering Willie’s Tale*.

**G**EORGE MACKENZIE, descended on the spear-side from Lord MacKenzie of Kintail, and on the distaff-side from Sir Alexander Wedderburn of Kingennie, town-clerk of Dundee, was born in Dundee, probably in 1638. There are circumstances that cast doubt on the commonly accepted birth-year, 1636. In chapter eighteen of *The Religious Stoic*, MacKenzie says, ‘Albeit the glass of my years hath not yet turned five and twenty,’ and Andrew Lang<sup>1</sup> argues that the references in *The Religious Stoic* to the ‘outing’ of preachers and to conventicles ‘prove that it was written in the year of its publication,’ 1663. Again, MacKenzie was admitted to the Scottish Bar in 1659, and according to the *Life* (assigned to Ruddiman) prefixed to the folio edition of his *Works* (1716-1722), p. i., this took place ‘in the twentieth year of his age.’

His university studies were pursued in Aberdeen, St. Andrews, where his maternal grandfather, the Rev. Peter Bruce, had been Principal of St. Leonard’s College, and Bourges, where he occupied himself with Roman Law and Jurisprudence. There is abundant evidence in his writings that he was a diligent student.

In 1660, the year between his admission to the Bar by ‘the usurpers’ and his re-admission in 1661, he published *Aretina*, a novel of a type familiar to such *heluones librorum* as have explored *les romans de longue haleine*, stories like *Polexander* and *Cassandra*, where the author *erigitur in digitos*, reaches on tiptoe after exalted and ‘conceited’ language, and utters such a wealth of words that he shares the fate of the man in Poe’s tale who lost his breath, and has to come to a sudden stop. In these voluminous tales, running into thousands of pages, ‘Sous des noms turcs, grecs ou romains, c’est la galanterie, la recherche, la

<sup>1</sup> Lang’s *Sir George MacKenzie*, p. 22.

ridicule sentimentalité de la société contemporaine,'<sup>1</sup> and Andrew Lang finds in *Aretina*, in an episode, the Wars of Lacedæmon, an historical allegory, in which Argyll appears as Phanosebus, 'a man of more wit than virtue, and of more cunning than either,' Charles II. as Theopemptus, 'a gentleman of noble spirit, and well-minded eloquence,' Cromwell as 'the most hateful tyrant who ever lived.'<sup>2</sup> *Aretina* is a very rare book, but the Edinburgh Public Library possesses a copy.

In 1661 Phanosebus was fighting for his life on a charge of treason, at the Bar of Parliament. The important part played by Argyll during the troubled times of the Civil War is familiar history and need not be recounted. He had many enemies and they were determined to have his life. It says much for MacKenzie's repute as an advocate and his courage that he should have appeared to defend Argyll, and no reader of the trial can fail to marvel at MacKenzie's boldness. The story is fully told in MacKenzie's *Memoirs of the Affairs of Scotland*, and his pleading in the case is given in his *Works*.<sup>3</sup> Argyll was charged with compliance with the Cromwellian Government after 1651, the year of the Indemnity, and although MacKenzie justly urged that the judges had been guilty of similar compliance, he was unaware how deeply Argyll had committed himself in letters to Monk. These were brought by a messenger who 'knocked most rudely at the Parliament door,' after the case had closed and the Parliament was ready to consider the whole matter, and their contents sent Argyll to the scaffold.

MacKenzie had defended his client with a freedom of expression that provoked reproof, which he turned aside with the remark that it was impossible to plead for a traitor without speaking treason, but apparently his boldness was no bar to professional advancement, for from 1661 to 1663 he was a Justice Depute, at a time when witchcraft trials were common. In *Demonology and Witchcraft*, Sir Walter Scott gives an account of the rise and progress of a cruel superstition, and in Letter IX. refers to MacKenzie's denunciation<sup>4</sup> of the pricker's trade as 'a horrid cheat.' The expression occurs in the chapter on Witchcraft in *The Laws and Customs of Scotland in Matters Criminal*, where MacKenzie is not so far in advance of his age as to show himself

<sup>1</sup> Demogeot: *Littérature Française*, p. 363.

<sup>2</sup> Lang's *Sir George MacKenzie*, p. 28.

<sup>3</sup> i. p. 80.

<sup>4</sup> *Works*, ii. p. 88.

a disbeliever, but where he does call for specific proof and for careful judicial investigation. There is also a note of sympathy with the unfortunate victims and, as often as possible, in cases of trial for witchcraft where he sat as a judge, he saved the accused. MacKenzie had a genuine sympathy with the distressed. In his *Essay on Reason*<sup>1</sup> he says, 'It is very strange to hear men value themselves upon their honour and their being men of their word in trifles, when yet that same honour cannot tie them to pay the debts they have contracted upon solemn promise of secure and speedy repayment; starving poor widows and orphans to feed their lusts; and adding thus robbery and oppression to the dishonourable breach of trust.' Had Scott this passage in mind when he wrote Christie Steele's outburst against Chrystal Croftangry?

In 1662 MacKenzie married Elizabeth Dickson and thus became the ancestor of the Marquis of Bute and the Earl of Wharnclyffe; in 1666 he defended the prisoners taken at Rullion Green; in 1669 he entered Parliament as representative for Ross-shire; in 1670 he married a second time. In Parliament he became conspicuous for ability, readiness and courage, and exasperated Lauderdale by the resolution with which he opposed him. It is clear from MacKenzie's doings and writings, especially on the subject of Union,<sup>2</sup> that he was a patriotic Scot, jealous of English influence and interference, and that, had he lived to see the negotiations for the Union of England and Scotland, he would have been in opposition. As a legist he led the attempt to defeat Lord Advocate Nisbet's proposal to authorise trial and conviction of accused persons in their absence. When at length he became reconciled to Lauderdale he seems to have been moved mainly by the reflection that stern and repressive measures were needed to protect the public peace and the royal prerogative against the violent Presbyterians. The charges against MacKenzie that have marked him with the epithet 'bluidy' rest upon what he did, after he became Lord Advocate in 1677, to provide this protection, but it must not be forgotten that, by statute, the Lord Advocate was bound to prosecute all those against whom the Privy Council resolved to take proceedings. It is also to be kept in mind that MacKenzie was responsible for important reforms, both in criminal law and in criminal procedure, that tended to secure a fair trial.

In 1686 MacKenzie gave proof of the staunchness of his Protestantism when King James was pressing for Catholic

<sup>1</sup> *Moral Essays*, p. 177; *Works*, i.

<sup>2</sup> *Works*, ii. pp. 659-670.

Emancipation, and the office of Lord Advocate was taken from him. He resumed it again in 1688, but when the Revolution came, he withdrew to Oxford, where he enjoyed a brief period of congenial society and literary work. He died in London in 1691. His death was preceded by violent hæmorrhage; Cargill had said MacKenzie should die no ordinary death, and so we read, 'bloody Sir George Mackenzie died at London, with all the passages of his body running blood.'<sup>1</sup> MacKenzie's *Works* were published in two folio volumes, 1716-1722. An Advertisement to the second volume refers to a difficulty of getting access to the manuscript of the *Memoirs of the Affairs of Scotland*, and holds out a hope, not fulfilled, of giving it in an appendix. The story of its romantic discovery and a full discussion of its nature are to be found in Lang's *Sir George MacKenzie*.<sup>2</sup>

His legal writings are esteemed by lawyers;<sup>3</sup> his *Observations on Precedence, On the Science of Heraldry, Defence of the Antiquity of the Royal Line of Scotland, Discourse concerning the three Unions 'twixt England and Scotland*, may be read with interest, while his *Memoirs* are valuable as a record of his opinions of men and affairs that he knew intimately.

His purely literary works have great merit. In 1663, he published *The Religious Stoic*, a work distinguished by a daintiness of classical allusion, a profusion of scriptural references with an ingenuity of allegorical interpretation equal to the Covenanters', 'conceited' similitudes, and an ornateness of style. His definition of a religious Stoic may be quoted: 'Nothing can strengthen so much man's frailty, nothing check so soon his despair, nothing feed so much his hope, nor animate so much his courage, as to believe that there is a God, who beareth the heaviest end of all our crosses upon the shoulders of His *Love*; who is able to turn or arrest the giddy wheel of fortune by the strong hand of His Omnipotency; and who twisteth the laurels of unimaginable joys for the heads of those who fight under His banners.' The general tone of the composition, an impatience with schism, is expressed in the following passage: 'If I were worthy to be consulted in these spiritual securities, I should advise every private Christian rather to stay still in the barge of the Church with the other Disciples than by an ill-bridled zeal to hazard

<sup>1</sup> *Biographia Presbyteriana*, ii. p. 9.

<sup>2</sup> pp. 60 et seq.

<sup>3</sup> See e.g. *Studies in the History and Development of the University of Aberdeen*, pp. 254, 255.

drowning alone with Peter by offering to walk upon the unstable surface of his own fleeting and water-weak fancies, though with a pious resolution to meet our Saviour.' Again: 'Most of all Christians do, like coy maids, lace their bodies so straight that they bring on them a consumption; and will have the gates of heaven to have been made only for themselves.'

As an example of MacKenzie's elaborate, balanced sentence, take this: 'As the boundless ocean keeps and shows its well-drawn images, whilst it stands quiet with a face polished like a crystal cake, but loses them immediately how soon its proud waves begin to swell and enrage, to spit its frothy foam in the face of the angry heavens, so whilst a stoical indolency and Christian repose smooths our restless spirits, it is only then that the soul of man can be said to retain that glorious image of God Almighty with which it was impressed at its nativity.'

He is a believer bigoted enough to disbelieve in the peaceful end of an atheist; 'Ye shall know,' he says, 'by the urinal of his eyes and the water standing therein, what convulsion-fits his soul suffers'; but he has a distaste for discussions about doctrine and forms of church government and ritual: 'Speculations in religion are not so necessary and are more dangerous than sincere practice.' About the excellence of his own practice there is no doubt. 'There is,' he wrote, 'something of meanness in the gallantest and most alluring of sins,' and in his *Memoirs* he shows his distaste for Lauderdale's 'bawdy discourses and passionate oaths.' He had, too, a genuine sympathy for the oppressed condition of artisans.

MacKenzie's resolved opinion was that all are bound to accept that religion which is settled law, and that we are not entitled to separate ourselves from the church because of her errors. Thus he himself was once a Presbyterian, then an Episcopalian, and although strongly Anti-Papist would no doubt, prior to the Reformation, have been a loyal Catholic. The toleration he would approve is this: 'As every Christian should be tolerated by his fellow-subjects to worship God inwardly according to his conscience; so all should conspire in that exterior uniformity of worship which the laws of his country enjoin.' He is of opinion also that laws and law-givers provoke heretics to activity:<sup>1</sup> 'It fares with them as with tops, which, how long they are scourged, keep foot and run pleasantly, but fall how soon they

<sup>1</sup> Compare the arguments for moderation of another famous Royalist, Drummond of Hawthornden, in his *An Apologetical Letter, Irene*, and Σκιαμαχία.

are neglected and left alone.' There are, however, limits to toleration: 'When these not only recede from the canonised creed of the Church, but likewise encroach upon the law of the State, then, as of all others, they are the most dangerous, so, of all others, they should be most severely punished.' MacKenzie's teaching is very like Bacon's in the essay *Of Unity in Religion*: 'Concerning the means of procuring unity, men must beware that, in the procuring or muniting of religious unity, they do not dissolve and deface the laws of charity and of human society,' and when religious disputes lead 'to the cruel and execrable actions of murdering princes, butchery of people, and subversion of states and governments,' Bacon would 'damn and send to hell for ever those facts and opinions tending to the support of the same.' Here is the germ of the opposition that, under MacKenzie's Advocateship, was to issue in blood. He was Erastian, denying to the Church any of the prerogatives of government, and utterly opposed to the Presbyterianism that would set up *imperium in imperio*; an out-and-out supporter of the royal prerogative, who believed the King to be 'Supreme Governor of his Kingdom over all persons and in all causes.'

The essay, *Moral Gallantry*, reveals a nature much at variance with that of some of the author's associates, Rothes, for example, to whom, oddly enough, is dedicated a composition whose note is, 'there is nothing so mean as vice or so unworthy of a gentleman.' Other *Moral Essays* deal with Happiness, Solitude, Frugality, Reason. In all of them we see something of the qualities that led Dryden, in his *Discourse on Satire*, to call MacKenzie 'that noble wit of Scotland.' The essay on Solitude (1666) has some neat turns of expression, e.g. 'I know that there are some great persons who, like great fishes, never come to shore till they be wounded, disasters, affronts, and necessities driving them there for shelter, rather than choice.' His preference for solitude to active life may have been the hopeless aspiration of an ambitious man, but one remembers Johnson's remark to Mrs. Aston, 'Solitude excludes pleasure and does not always secure peace.' Solitude was often in the thoughts of the 'wits.' Cowley wrote on it, and his *Wish* is a charming sigh for cultured retirement: Locke's retreat at Oates was no doubt as delightful as it was fruitful. Evelyn, it may be noted, wrote, in answer to MacKenzie, in praise of active life.

The student interested in literary parallels will find in MacKenzie's *Essays* echoes of Bacon, Temple, and Cowley.

The *Works* include poems. *Cælia's Country-House and Closet* is written in heroic couplets, with some halting lines, and a display of 'conceits.' The poem is tinged with a genuine religious feeling. It gives us a clue to MacKenzie's favourite authors, Tasso, Cowley, Denham, Waller, Jonson, Fletcher and Donne. The paraphrase on Psalm 104 reminds one of Landor's gibe at Milton. 'He was never more of a regicide than when he lifted up his hand and smote King David.'

Outside political life MacKenzie ranks as a scholar and a noble gentleman, the founder of the Advocates' Library, a generous admirer of professional rivals, the friend of 'wits,' a distinguished writer, an eminent lawyer, and a genuine patriot. A man might be such, no doubt, and withal a cruel foe, and it remains to examine the circumstances that have tainted his memory with the epithet 'bluidy.' 'What, Sir,' says Davie Deans, 'wad ye speak to me about a man that has the blood of the saints at his fingers' ends? Didna his eme die and gang to his place wi' the name of the Bluidy MacKenzie? and winna he be kend by that name sae lang as there's a Scots tongue to speak the word?'

One does well to remember Macaulay's remark, that a man must be judged by the standard of his own time. Now MacKenzie had an unshakable belief in the sacrosanctitude of the royal prerogative. He would have accepted the maxim of Crassus, quoted in More's *Utopia*, that a king, even though he would, can do nothing unjustly. That is a hard saying, but one has to remember that in 1660 there were multitudes for whom it was axiomatic. Much later Rousseau could write<sup>1</sup> 'C'est une convention vaine et contradictoire de stipuler d'une part, une autorité absolu; de l'autre, une obeissance sans bornes,' but for MacKenzie and those likeminded such a 'convention' was the only tolerable relationship between ruler and people. Moreover, they had seen, as they thought, in the events from 1642 to 1660, terrible proof of the consequences of a divided authority in the State. It is hardly to be wondered at that they were unable to discern that the days of absolute monarchy were numbered. Very few in that age saw the new day coming. Montrose and Leighton had their dreams of compromise, but neither Royalists nor Covenanters saw the beauties of tolerance. For them De Quincey's words in his essay on Protestantism would have had little meaning: 'The twin maxims were originally but two aspects of one law; to deny the Papal control over men's conscience being to affirm man's self-

<sup>1</sup> *Du Contrat Sociale*, i. c. 4.



control was, therefore, to affirm man's right to toleration, which again implied a corresponding *duty* of toleration.' In *The Religious Stoic*, MacKenzie asks, 'Do not even those who persecuted others for their opinions admire why they should be, upon that score, persecuted themselves?' and it took a quarter of a century of fierce and bloody conflict to bring Great Britain to the toleration of William III.'s settlement.

Under the Covenant, Scotland, as Kirkton saw it, 'was a heap of wheat set about with lilies, uniform, or a palace of silver beautifully proportioned,' but the Royalists had no such vision: the memory of the Covenanting domination was a nightmare. Their greatest admirers must admit the unloveliness of the Covenanters' creed and practice. 'God forbid,' said Leighton in his *Sermon on Present Duty*, 'any should think that except all be according to our mind, we must break the bond of peace.' But no such moderation appealed to the Covenanters, who applied to their own case the words of Jeremiah<sup>1</sup> 'Cursed be the man that obeyeth not the words of this covenant,' and aimed at nothing less than imposing Presbyterianism on the whole nation. Conscience forbade 'a hoof or so much as a hair of the Scottish model to be altered.' What opposed it was idolatry and therefore came under the doom pronounced in the Scriptures against the heathen. Phinehas, and Samuel in his treatment of Agag, were exemplars of conduct, and congenial texts were found in such passages as<sup>2</sup> 'Pull them out like sheep for the slaughter, and prepare them for the day of slaughter.' The Covenanters were no respecters of persons. *The Book of Discipline* enjoins strict and minute examination of all and sundry 'in the principles of the Christian religion,' and that 'the rulers as well as they that are ruled' shall be subject to discipline.

An evangelical sermon roused Lord Melbourne to exclaim, 'Things have come to a pretty pass when religion is allowed to invade the sphere of private life!' but in the days of the Covenanting triumph what passed for religion invaded every sphere of life, and all the actions of man, from waging war to gathering gooseberries, were supervised and controlled by the Kirk. It is at least noteworthy that under this government both immorality and witchbaiting were rampant. It has to be remembered also that the Reformers did not eschew the more violent means. 'Knox,' says Matheson,<sup>3</sup> 'certainly approved of the

<sup>1</sup> 11. 3.

<sup>2</sup> *Jeremiah* 12. 3.

<sup>3</sup> *Politics and Religion in Scotland*, i. p. 110.

assassination both of Cardinal Beaton and of David Riccio,' and in his discussion with Lethington Knox maintained the duty of 'the people of God' to put idolaters to death. Men of this temper were not to be harried without provoking desperate resistance, and when it came to a trial of strength and endurance between them and the extremists for the royal supremacy, there was the problem of the familiar question, 'What is to happen when an irresistible force encounters an immovable mass?'

The impartial mind finds it hard to sympathise with either side, with the narrow, meddlesome, domineering Covenanters or with the brutal oppressors of the Killing Time. Yet the main blame lies with the Government. In view of the temper of the nation, a fair trial might have been given to Presbyterianism,<sup>1</sup> but the statesmen of the day were not big enough men to try the experiment, and the king himself hated Presbyterianism. Uniformity on the basis of Episcopacy was deemed essential to the safety of the country, and it was always contended that Presbyterians were persecuted for reasons of state, not of religion: in his examination John Ogilvie, the Catholic martyr, who suffered at Glasgow in 1615, so explained the burning of heretics. Leighton remonstrated with Charles himself on the policy of persecution, but both this and his attempt to reconcile Episcopacy and Presbyterianism, on the basis of mutual concessions, came to nought. 'Where,' wrote De Quincey in his essay on Cicero, 'has been the man, much less the party of men, that did not in a first essay upon so difficult an adjustment as that of an equilibrium between the limits of political forces, travel into some excesses?' but the dangers of excesses had been vividly exhibited in the troublous times that preceded 1660, and Charles would have done well to bear in mind the truth, afterwards impressed by Temple, 'In running on counsels contrary to the general humour and spirit of the people, the King indeed may make his ministers great subjects, but they can never make him a great prince.'

The fairest estimate of the whole question is Sir Walter Scott's in his review of Kirkton's *History*, 1818. The Covenanting leaders, he says, 'possessed a competent share of learning and no small quantity of natural parts: their lives were, generally speaking, regular, even to ascetic severity: and they rejected and condemned even innocent pleasures and elegant pursuits, as unworthy of men dedicated to the explanation and maintenance

<sup>1</sup> Lang's *Sir George MacKenzie*, p. 19.

of true religion. But in the imperfect state of humanity, even virtues carried to extremity run into error and indeed into vice. Conscious rectitude of intention hurried these eminent men (for many of them deserve that name) into the extremes of spiritual pride and intolerance; and what they esteemed the indubitable truth of their cause made them too anxious to enforce their tenets to hesitate about the means of accomplishing an event so desirable. . . . The theocracy which the clergy asserted in behalf of the Kirk was not in those days so distinctly understood or so prudently regulated, but that its administrators too often interfered with the civic rule of the Kingdom.'

Whatever the shortcomings of the Covenanters, they made a real contribution to the cause of political progress. In their time an invasion of the royal prerogative was inevitable, and if, in attacking one prerogative, they aimed at establishing another; if, in seeking for freedom, they searched as blindly as Polyphemus in his cave, they undoubtedly helped to pave the way for 1688, and to exhibit the truth of Gourville's saying: 'A King of England who will be the man of his people is the greatest King in the world; but, if he will be something more, by God he is nothing at all.'

In such times of oppression and exasperation opponents are not likely to be fair judges of actions and motives, and, at this distance, the impartial will not accept the Covenanters' estimate of the King's Lord Advocate responsible for taking proceedings against them. When the fullest account has been taken of the cases where MacKenzie pushed matters too hard, or seemed to take an unfair advantage, as in the trials of Sir Hugh Campbell, Baillie of Jerviswoode, Isobel Semple and Marion Harvey, it is to be kept in mind that he was an official charged with official duty, and that before and after him there were law officers, including judges, whose record is very much more discreditable.

In September, 1680, Donald Cargill, speaking at the Torwood, near Stirling, excommunicated MacKenzie and delivered him over to Satan 'for his constant pleading against and prosecuting to death the people of God,' and one can understand and sympathise with the Covenanters' feelings against this able and subtle instrument of the oppressors. Yet we must keep before us the fact that MacKenzie was there to prosecute, under the law as it stood, those whom he conscientiously regarded as rebels against the King's authority and dangerous to the peace of Scotland. We must also recall that he lived in an age when opponents were not prone to show

mercy. In his official capacity he could not give heed to his own maxim, 'Severity increases the number and zeal of bigots,' but one may well wish that a man with so many excellent qualities had been spared the tasks laid to his hand. The employment of torture was charged against him, but this horrible means of securing conviction was a part of criminal procedure in Scotland that outlived the Revolution. On this subject MacKenzie wrote,<sup>1</sup> 'Torture is seldom used with us, because some obstinate persons do oftentimes deny truth, whilst others who are frail and timorous, confess, for fear, what is not true.'

In spite of the worst that can be set down against MacKenzie, he compares favourably with his contemporaries on both sides, and his memory does not deserve to be loaded with so heavy a burden of bloodguiltiness.

A. M. WILLIAMS.

<sup>1</sup>*Works*, ii. p. 261.

## John Major and Humanism

THE career of John Major as a student and a man of letters is typical of the wandering scholar of the days of the Renaissance.

On the completion of his initial studies in Scotland he took up his residence in Cambridge for a brief period prior to proceeding to Paris University, where his lot was cast during the closing decade of the fifteenth and the opening years of the sixteenth centuries—years that were marked by abnormal intellectual ferment throughout Western Europe. In Paris Major made his mark as a scholar and lecturer, and became one of the most conspicuous theologians in the circle of orthodox upholders of the essential tenets of the Papacy. In 1518 he returned to Scotland, a mature scholar with an established reputation, to take up at the University of Glasgow, the patriotic task, urged on him by his friend Gavin Douglas, of doing something for the educational advancement of his native-land, and he had the gratification to find that his presence attracted students to Glasgow in numbers—small though they were—much larger than usual.<sup>1</sup> In 1525 he transferred his services to St. Andrews, where he remained till the following year, when he once more crossed over to Paris, staying there for several years. About 1533 he returned to Scotland to take up an appointment in St. Salvator's College, St. Andrews, where he seems to have spent the remainder of his long life.<sup>2</sup>

The friends of Major regarded him as a man of extraordinary talents, capable of grasping with ease the erudition of his times. His opponents despised him as an obscurantist, as one who in his devotion to obsolete or obsolescent standards was quite content to idolise authority and strangle reason in the web of scholastic subtlety.

<sup>1</sup> See Mackay's edition of Major's *History* (Scot. Hist. Soc.); *Munimenta Alm. Univ. Glas.* vol. ii. p. 134 (under year 1518); Major's *In Primum Sententiarum*, Paris 1519, introductory dialogue.

<sup>2</sup> Grub's *Ecclesiastical History of Scotland*, 1861, vol. ii. p. 3.

John Eck, the antagonist of Martin Luther, writing in 1517, described Major as the first or almost the first among theologians at that time.<sup>1</sup> Hector Boece, the first principal of Aberdeen University, a fellow-Scot who was heartily in sympathy with Major's theological views, wrote of him as a most learned theologian, whose writings, like very bright torches, had shed great light on the Christian religion.<sup>2</sup> Among Continental Reformers, Philip Melanchthon helped to pillory Major by referring to him as the reputed king of Parisian theologians and the author of 'waggon-loads of trifles.'<sup>3</sup>

George Buchanan, who studied under Major at St. Andrews, spoke in a mood of frank dislike when he referred to Major as lecturing on 'dialectic or, more correctly, sophistry,'<sup>4</sup> besides remarking, in a barbed epigram on one of Major's writings, that the author had seen to it that there should not be 'a sane page in the huge book;'<sup>5</sup> and it is probably due to Buchanan's influence most of all that Major has been commonly regarded as a hopeless pedant wasting his time in wholly barren pursuits.

The disparagement or eulogy of Major depended entirely on the school of thought to which the critic owed allegiance, and really represented the intellectual conflict between Humanism and Scholasticism, accentuated also by the religious struggle between the Reformers and the adherents of the Papal régime. The attitude of the Humanist, in general, towards the supporter of Scholasticism was one of impatience mingled with contempt. Here were two systems, one old the other new: one that was rapidly becoming effete and tottering under a deadweight of absurdities, one that had indeed been a useful instrument of education, but had outlived its day; the other stimulating to the individual mind, advising a man to make the full use of his powers, to employ his own unfettered intelligence, to live his own life. Scholasticism was a stagnant pool; Humanism clear running water. Of which would a wise man drink? The Humanist felt towards the Scholastic as an impetuous young man feels towards an elderly man who seems over-cautious,

<sup>1</sup> *Epistolicae Quaestiones et Responsiones Varias*, Frankfort, 1614, ep. xxxiv. p. 145.

<sup>2</sup> *Lives of Bishops of Aberdeen* (New Spald. Club), p. 89.

<sup>3</sup> *Corpus Reformatorum* (edit. Bretschneider, 1834), vol. i. p. 399.

<sup>4</sup> *Buchanani Opera Omnia*, Ruddiman, 1715, vol. i.: '... ad Joannem Majorem audiendum, qui tum ibi Dialecticem, aut verius Sophisticem ... docebat.'

<sup>5</sup> *Buchanani Opera Omnia* (Ruddiman), vol. ii. p. 78, No. li.

over-reluctant, to cut himself adrift from his early experiences and convictions, and accept the newest ideas. To the young man the case admits of no argument. Of this the elderly man is not so sure.

Of Major's personal ability, estimates, when free from partisanship, have varied. Dr. McCrie declared that 'his talents were moderate,'<sup>1</sup> but this criticism seems hardly fair and certainly not generous. Spottiswood, who was in living touch with men of Major's day, expressed his opinion that 'according to these times he was not unlearned.'<sup>2</sup>

Personal investigation of several of Major's works has led me to the conclusion that he was a man of prodigious energy, equipped with a store of learning, multifarious and encyclopaedic, though much of it was, beyond question, erudite scholastic lumber.

It is well to keep in mind that Major gained his reputation in a University that commanded a larger number of adherents than any other University of that period, and, to achieve the eminence he did, Major must have demonstrated his intellectual superiority over a large band of able men in their own field of learning; and, further, the vehement onslaughts of his opponents would have been altogether pointless had Major been an insignificant representative of the Parisian theologian.

Paris University at this time was the meeting-place of the nations, and exhibited as much diversity of thought and opinion as of nationality. The University in its official capacity was the stronghold of Scholasticism, but unofficially Humanism was being rapidly propagated, owing in part to the proselytising efforts of men like Erasmus, partly owing to the direct contact of France with Italian influences, due to the foreign policy of the French kings. Many of Major's contemporaries in Paris were led to an acceptance of literary Humanism, and Major himself, although on the whole a keen supporter of Scholastic methods, clearly shows he did not escape the influences that surrounded him, and his literary works made it abundantly ascertainable that he was fully conscious of the strength of the Humanist position and was rather a transitionist between the old and the new than an uncompromising Scholastic die-hard.

The subjects of his literary productions were almost wholly the theology and philosophy of the later medieval type, and such

<sup>1</sup> *Life of John Knox*, 1855, p. 4.

<sup>2</sup> Spottiswood's *History of Church and State in Scotland*, 1677, p. 68.

themes naturally involved the use of the rather tedious Scholastic terminology. He shows wide knowledge of the early writings of the Church ; he had a close familiarity with the works of Schoolmen such as Aquinas and Anselm ; he refers constantly to Aristotle, the Schoolmen's philosophical oracle, and evinces on page after page a remarkable acquaintance with the minutiae of medieval thought.<sup>1</sup>

While his knowledge of Scholastic philosophy and theology—apart from the advantages or disadvantages of such knowledge—has gone unchallenged, his Classical acquirements have not been generally conceded. Speaking in this connection, Dr. McCrie remarks that 'with the writings of the ancients he appears to have been acquainted through the medium of the collectors of the middle ages.'<sup>2</sup> This view seems to be at variance with the facts. Major had undoubtedly a wide knowledge of Latin literature, and his general attitude exhibits more of the sympathy characteristic of the Humanist who was so largely interested in Classical literature as literature than of the Medievalist who tended to regard Classical study as a mere prelude to the more important pursuits of philosophy and theology. In his *History of Britain*, which is practically the only work of Major that any save the curious dip into, a work which hardly lent itself to Classical quotation, he has introduced references to such Latin writers as Cicero, Sallust, Livy, Pliny the Younger, Vergil, Horace, Ovid, Lucan, and Juvenal.<sup>3</sup> In his *Commentary on the Fourth Book of the Sentences of Peter Lombard*, he has quoted frequently from Classical authors. Besides making use of the same writers as he did in his *History*, he refers to Terence, Pliny the Elder, Seneca, and Homer.<sup>4</sup> In his *Expositions on the Four Gospels*, he quotes from Cato, Plato, and Demosthenes, as well as from the commoner authors.<sup>5</sup>

With the various works of the different authors his acquaintance was close. In the case of Cicero, he draws his illustrations from

<sup>1</sup> This is seen on nearly every page of the works of Major mentioned later.

<sup>2</sup> *Life of John Knox*, p. 4.

<sup>3</sup> I noted one reference to Cicero, Livy, Pliny, Juvenal, Horace, Ovid, Lucan ; two to Sallust ; six to Vergil.

<sup>4</sup> One reference to Sallust and Juvenal, four to Pliny Elder and Terence, nine to Horace, ten to Ovid, fourteen to Lucan, fifteen to Cicero, forty-one to Vergil, seven to Homer.

<sup>5</sup> One reference to Cato, Tacitus, Pliny Younger, Lucan, Juvenal ; three to Sallust ; four to Ovid ; seven to Horace ; eleven to Pliny Elder ; thirteen to Cicero ; fifteen to Vergil ; one to Plato ; one to Homer ; six to Demosthenes.



his *Offices*, his *Paradoxes*, his *Letters*, his *Pro Milone*, and his *De Amicitia*,<sup>1</sup> and this first-hand knowledge of several of the well-known works of Cicero is of importance in view of the emphasis laid on the value of a Ciceronian style at this period by Humanists of the Italian School. With the works of Vergil he was especially familiar, drawing as he did, from the *Eclogues*, *Georgics*, *Aeneid*, with an ease and an aptness that betokened careful study. He was also versed in the works of Horace, as we find from his quotations drawn from the *Odes*, the *Epistles*, and the *Ars Poetica*.

Besides quoting, as we noted, from Plato and Demosthenes, Major lays Homer under contribution on several occasions,<sup>2</sup> and remarks that 'all men in their senses'<sup>3</sup> feel admiration for the great poet. Probably Major made use of Latin translations of the Greek authors. In his *Expositions*, he gives the Latin text although the Greek was by this time accessible in print, but the common attitude of opposition to Greek by the theological doctors of Paris would tend to check any incipient admiration for Greek in the case of so great a loyalist to his caste as Major usually was. Still, Major had at least some slight knowledge of Greek, as we may judge from the presence of several words of Greek characters in one of his writings.<sup>4</sup>

What may be regarded as another link with Humanism is to be found in his acquaintance with the works of several Italian Humanists. He quotes from a letter by Petrarch, in which a disparaging comparison is made between Britain and Sicily.<sup>5</sup> He mentions Laurentius Valla as one who advocated elegance in style, as a man devoted to 'more chaste diction'<sup>6</sup> in Latin, and as a critic of the Papal claims to temporal sovereignty based on the Donation of Constantine. Valla demonstrated by textual and linguistic criticism that the Donation was a forgery, and thus demolished the claims of the Papacy, but Major, as a sincere Catholic, did not adopt Valla's dangerous views, and held firmly that Constantine did gift the temporal sovereignty to Pope Sylvester.<sup>7</sup>

<sup>1</sup> In *Quatuor Evangelia Expositiones*, fol. xxix. ; xiv. ; cxxx. ; cxlix. ; ccxxxii.

<sup>2</sup> E.g. In *Quart. Sententiarum*, fol. cviii. ; fol. cxvi. ; fol. cxxiii. ; fol. ccxix.

<sup>3</sup> In *Quatuor Evangelia Expositiones*, fol. xliv.

<sup>4</sup> In *Quart. Sent.* fol. cxxiii. ; fol. cccxx.

<sup>5</sup> In *Quart. Sent.* (1516), fol. ii. : ' . . . deflet Siciliam esse Britanniae similem.'

<sup>6</sup> In *Quatuor Evangelia Expositiones* (Address to the reader).

<sup>7</sup> In *Quart. Sent.* fol. ciii. ; cf. *Quat. Evang.* fol. lxxv.

Major had also studied the works of Aeneas Sylvius, afterwards Pope Pius II., who is interesting to Scotsmen on account of his visit to the Court of James the First in 1435. Sylvius gave expression to a variety of views on Scotland, more entertaining than accurate, and Major felt himself bound, though in all humility, to contradict the opinions of Sylvius on several points that were obviously erroneous.<sup>1</sup>

In Major's *History* there also occur references to Sabellicus (Marco Antonio Coccio), an early Humanistic historian of the brilliant circle of Julius Pomponius Laetus. Major, who speaks of Sabellicus as 'no unimportant historian,' cites a remark made by Sabellicus about the jealous nature of Scotsmen, and censures in a dignified fashion the uncritical opinion of the Italian that the Scots found pleasure in falsehood.<sup>2</sup> Francesco Filelfo, one of the greatest among the pioneers of Humanism, was not unknown to Major, who directs attention to one of his writings in a way which indicates that he had perused the work.<sup>3</sup>

It is with peculiar pleasure that Major invokes the authority of John Picus Mirandola, who had received a Scholastic training in Paris before devoting himself to Humanism; and, unlike most Humanists, he found that valuable lessons could be derived from Scholasticism. Major quotes him as an instance of one who felt no shame in reading and re-reading the Schoolmen whom the modern innovators called barbarians.<sup>4</sup> He recalls the defence of the Scholastic system which Picus offered against Hermolaus Barbarus, a contemporary Humanist, in terms which show his acquaintance with the letter of Picus, a letter, it is to be noted, written in true Humanistic vein, and not at all in imitation of the literary style of the Schoolmen whose system of thought Picus was defending.

The evidence adduced so far may be claimed as sufficient to justify the plea for a reconsideration of the verdict passed on Major, who may not unfairly be regarded as a mild form of the eclectic who chose, from the conflicting standards of his age, what appealed most to his individuality. But perhaps no single characteristic of Major has contributed more to the current

<sup>1</sup> *History*, book i. ch. vi. ; bk. i. ch. ix. ; cf. *Quat. Evang.* fol. cc.

<sup>2</sup> *History*, book i. ch. vii.

<sup>3</sup> *Quat. Evang.* fol. cccxvii. : '. . . apud Philelphum hoc invenies.'

<sup>4</sup> *In Quart. Sent.* Dedication to Alexander Stewart. Cf. *In Quart. Sent.* fol. iii. ; fol. v. ; fol. cxci.

opinion of his intellectual calibre and mental outlook than his literary style, which has been closely observed and frequently criticised. We need not wonder at this, for Classical study had passed through several stages, each stage, with the spread of knowledge, being an improvement on its predecessor, and, in the early part of the sixteenth century, the great task of Humanists in general, but especially of the Italians, was the cultivation of an accurate and artistic style based on the model of Cicero, most of all, although other important writers were not ignored. Habitual imitation of models, though ape-like and hampering to originality, effected a great improvement in Latin style, and the literary productions of the later Humanists certainly surpass in tasteful elegance the works of the pioneer Humanists, whose energies were so largely spent on the restoration to the world of the contents of Classical literature in a correct form.

The period of Major's literary activity, then, was a time when style was of the first importance; by it a man stood or fell, and consequently Major met with much criticism for his obvious disregard of the graces of style. In our country the criticism of Major as a stylist seems to be based on his *History*. We may take as typical of the prevalent opinion the criticism of John Leslie, Bishop of Ross, and of Spottiswood, representatives of opposing schools of religious thought. Leslie declared the *History* was 'written correctly though inelegantly,'<sup>1</sup> while Spottiswood bluntly says that Major's style was 'Sorbonick and barbarous.'<sup>2</sup>

Little objection can be found with these opinions, because the style of the *History* is indeed unusual. The *History* is the work of one who was part diarist, part chronicler, part historian. Major cannot forget that he is a theologian, and consequently entitled to moralise on occasion. He cannot ignore his training in Logic, and is quite unable to resist the temptation to state the pros and cons of an interesting argument even in the middle of his narrative. The *History* would appear to have been written hurriedly, and parts of it towards the close seem to be 'in the rough' and to have been left without revision before publication. The style is that of one who cannot let himself go, of one who is essentially humdrum. It is a sort of staccato

<sup>1</sup> *Hist. of Scotland* (Scot. Text Soc.), p. xx.

<sup>2</sup> *History of Church and State*, p. 68.

style, jerky too, and at times almost laconic. Occasionally we get hints that Major could have produced more artistic work had he bent himself to the task. When he is describing battles or warlike operations, for which his materials were abundant, he can write interestingly and vividly. He is seen at his best perhaps when dealing with Bruce and his achievements, which, he holds, are on a level with those of Alexander of Macedon. A subject like the struggle of the Scots and the English was sufficient to rouse even the most uninspired of writers. For Major, in common with other Scottish writers, this struggle had an epic significance, and he does rise in some measure to the importance of his theme. The events leading up to the battle of Bannockburn, the speeches of Bruce and of Edward to their armies, the battle itself and its issues are described in glowing language, which, with the addition of a little more care in grammatical structure and expression, and with the introduction of a few purple patches, would have been not at all unworthy of a professed Humanist.

In his dedications of various works on philosophy and theology to eminent personages in Church and State, we have additional examples of the narrative style of Major, and these examples, written in fair Latin, indicate that their author had command of an extensive Latin vocabulary, and of the art of expressing himself in clear and unmistakable language; but while he shuns glaring barbarisms, he pays little heed to the 'swing' of his sentences, or to the choice of purely Classical words, never sacrifices—and rightly—accuracy of fact to embellishment of language, and is not greatly concerned, as a contemporary Humanist would have been, about having the most appropriate word in the proper place.

He was perfectly well aware that his literary style was far from being beyond reproach, and has referred more than once in an apologetic tone to his stylistic mannerisms. In the dedication of the *Fourth Book of Sentences* (1508) to Alexander Stewart, Archbishop of St. Andrews, the pupil of Erasmus in Latin and in Greek, he defends plainness of style as the proper garb for theological arguments, and declares that it was the plan of theologians to jot down thoughts as they occurred, without considerations of style or of the use of ornate words unsuited to theology.<sup>1</sup>

In his *History* (1521), by way of anticipating possible criticism

<sup>1</sup> See the dedicatory epistle prefixed to *In Quartum Sententiarum*.

of his style, he voluntarily concedes that he might certainly have written in a more graceful and attractive manner, but affirms that he considered his historical subject-matter much more important than the mere form of expression.<sup>1</sup>

In his *Expositions on the Four Gospels* (1529) he has a further reference to this question of style, and it would seem that the criticism to which he had been subjected was having a remedial effect on him, and that he was approximating more to the standard of those who demanded elegance as well as accuracy of composition. He explains the principles he follows in the meaning of specific words, and remarks, in passing, on those who, in common with Valla, prefer ornate diction. His own care has been, he asserts, to pay more attention to the ideas expressed than to beauty of language. Others exhibit in their works a stream of eloquence; his anxiety is to avoid barbarisms as far as he can.<sup>2</sup>

This recognition that considerations of style cannot be wholly ignored must be regarded as an advance in Major's position, and the advance is seen in the language he makes use of. He speaks, for instance, like a Humanist, of Cicero as a 'flood of eloquence,'<sup>3</sup> or as the 'parent of Latin eloquence,'<sup>4</sup> of Demosthenes as being famed for his 'Attic charm,'<sup>5</sup> as being 'the lightning (*fulgur*) of Attic speech,'<sup>6</sup> as remarkable for his 'vigour of speech,'<sup>7</sup> as 'the most eloquent of the Greeks.'<sup>8</sup>

Such facts as these are important as helping to define Major's position and serve to show that he had sufficient appreciation of what was involved in literary Humanism to have become a thorough-going Humanist had he so chosen, but by the time Humanism had become popular north of the Alps, his habit of thought and style had become stereotyped, and he could not unlive the past. Had he been born two decades later than the actual date of his birth, he would probably have absorbed more of the Humanistic creed than he did, but, as matters stood, the appeal of complete Humanism was too startling an innovation for him, too pronounced a break with the past, and so he kept

<sup>1</sup> Introductory epistle to his *History*.

<sup>2</sup> Introductory epistle to *In Quatuor Evangelia Expositiones*.

<sup>3</sup> *Quat. Evang.* fol. xix.; cf. fol. cxlix.

<sup>4</sup> *Quat. Evang.* fol. xlviij.; cf. fol. lix., fol. cxii.

<sup>5</sup> *Quat. Evang.* fol. xix.

<sup>6</sup> *Quat. Evang.* fol. cxii.

<sup>7</sup> *Quat. Evang.* fol. cclxxxii.

<sup>8</sup> *Quat. Evang.* fol. cccxxx.

to the old paths of belief in Scholastic dialectic, of fidelity to the Papal theology, of adherence to medieval tradition, but not wholly so, for his extensive Latin knowledge, his acquaintance with Greek, merest smattering though it may have been, his reading in Humanistic literature, indicate that he did not escape modernising influences, but was compelled to advance with the times and modify his original position. His life was spent during a period of transition from a long-accepted intellectual standard to a new one that seemed to offer greater possibilities for development. Before Major left France—about 1533—the advocates of Humanism on the literary side had seen to it that their culture should possess the immediate future, while in Scotland the work and influence of Hector Boece and his colleagues had been so effective that all Scottish scholars, even those trained in the ideas of Major, and faithful to his teachings, came to accept as a matter of course the demand of the Humanists that literary form should have adequate recognition.

COLIN M. MACDONALD.

## Thomas Fyshe Palmer, a Political Exile, 1793

READERS of Scottish political history are familiar with the story of the Edinburgh trials for sedition that took place in 1793-4, when Lord Justice Clerk Braxfield sentenced Muir, Palmer, Skirving, Margarot and Gerrald to be transported across the seas. Part of the tale of what happened to these victims of Henry Dundas while living in Botany Bay<sup>1</sup> may be read in the early records of Australian history and in letters written by Palmer. He, it will be remembered, was a Cambridge graduate who had left the Church of England to spread the gospel of the Unitarians in Scotland and who was condemned on a charge of writing and publishing an Address to the People on the subject of reform.

The transport *Surprize*, with Palmer, Muir, Skirving, and Margarot on board, left England on May 2nd, 1794. Lord Swinton, one of Muir's judges, had remarked that there was no punishment adequate to the crime of sedition, now that torture was abolished;<sup>2</sup> but the sentence of transportation was in itself a form of torture, entailing as it did five or six months in unsavoury quarters on a convict ship in the company of heart-rending specimens of humanity. True, the captain of the transport was instructed to keep Palmer and his friends 'as separate from the other convicts, and in other respects to attend as much to the situation of those Persons, as circumstances will permit of,'<sup>3</sup> and the Admiralty was informed in reply that separate accommodation was already provided for them;<sup>4</sup> but, though they were kept

<sup>1</sup>The convict settlement in New South Wales was long spoken of as Botany Bay. It had been intended to establish it on that harbour, found and named by Captain Cook, but the first governor determined on a site a few miles to the north, where Sydney now is.

<sup>2</sup>Howell's *State Trials*, v. 23, 234.

<sup>3</sup>Under-Secretary King to Commissioners of the Navy, *Historical Records of New South Wales*, ii. 854.

<sup>4</sup>*H.R.* ii. 852.

separate from the common felons, they were put to live with the soldiers going out to join the New South Wales Corps, several of whom were riff-raff from the Savoy and at least one of whom was a convicted criminal. Though the captain had accepted £40 from each of the reformers for their mess and separate cabins,<sup>1</sup> he kept them in a place that Palmer describes as 'constantly wet and cold in the day-time, and in the night . . . hot almost to suffocation, by twenty-four persons being shut in a small place under close wooden hatchways unperforated by a single hole.'<sup>2</sup>

Besides the convicts and the soldiers, there were five people on board who were emigrating of their own accord.<sup>3</sup> One of these was a young cotton-spinner named James Ellis, who had been given permission to accompany Palmer in the capacity of 'domestick,' provided that on his arrival he became a free settler in the colony.<sup>4</sup> Ellis had been a protégé of Palmer's in Dundee,<sup>5</sup> and his devotion and the friendship of Mr. and Mrs. Boston, two of the other free settlers, were to be Palmer's chief comfort through the long days of his exile.

Very soon an unexpected misery was to be added to the ordinary hardships of the voyage. A month after leaving England, Palmer and Skirving were accused by Captain Campbell of conspiring to mutiny and murder, with the object of obtaining command of the ship and carrying her to France or America. It would be hard to find a less convincing tale than that told in the various accounts of the conspiracy.<sup>6</sup> A convict named John Grant, an attorney who had committed forgery while Sheriff-Depute of Inverness-shire,<sup>7</sup> was the first informer, and the chief supporter of the charge was a soldier called Joseph Draper, who had attempted the life of Prince Edward, the King's son, during a mutiny at Quebec, and obtained a pardon conditional on his joining the regiment enlisted for service in Australia known as the New South Wales Corps.<sup>8</sup> It is quite plain from the evidence

<sup>1</sup> *Narrative of the Sufferings of T. F. Palmer and W. Skirving during a voyage to New South Wales*, by Palmer, p. 18.

<sup>2</sup> *Ibid.* 17.

<sup>3</sup> *H.R.* ii. 120.

<sup>4</sup> *Ibid.* 838.

<sup>5</sup> *Ibid.* 836. Ellis was a member of the Society of the Friends of the People, and one of the chief witnesses in Palmer's trial.

<sup>6</sup> A manuscript account in the archives of the Sydney Supreme Court, prepared by Campbell for the information of the Governor of New South Wales, gives more information than the extracts published in the *Historical Records*, ii.

<sup>7</sup> *H.R.* ii. 205.

<sup>8</sup> *Ibid.* ii. 863 n. and *Narrative of the Sufferings*, etc. 16.



that the Scottish agriculturist and the English divine had no share in the 'diabolical plot.'

On the discovery of the pretended mutiny, Palmer was summoned to the deck, where he found Campbell 'accoutred like a perfect Robinson Crusoe. He had a belt of pistols in his breast, in his waistcoat and breeches pocket, a sword and a dagger.'<sup>1</sup> Grant pointed out six soldiers as chiefly concerned in the scheme, and Draper, who was one of them, tried to prove the complicity of Palmer and Skirving, some fellow-soldiers, and two convicts. These convicts 'confessed,' one of them after having received twelve lashes, and those who would not confirm Draper's accusations were flogged, loaded with irons and chained to the poop. Palmer and Skirving were put in close confinement under an armed guard in a small cabin where the brawls of their 'Newgate neighbours' rang through the partition. Muir was exonerated from any share in the conspiracy, while Margarot supported Campbell's accusations against his colleagues, who bitterly resented his treachery. Possibly Campbell was simply the victim of suggestion and French Revolutionary panic, but the evidence, which is almost entirely hearsay and full of irrelevant information, leaves an unpleasant impression of witnesses impelled by fear or cunning to make statements which the captain was unscrupulously quick to believe. Accounts of the affair were sent home from Rio de Janeiro and both sides prepared for an official investigation in Sydney.

The *Surprize* dropped anchor in Sydney harbour after dark on October 25th and delayed her salute of respect till sunrise next morning.<sup>2</sup> Palmer wrote that on the night of the arrival the Captain went to the Governor's house with 'a monstrous bag of papers,' among them those dealing with the conspiracy.<sup>3</sup> The next day Palmer and Skirving drew up a long letter to the Governor demanding that their names should be cleared of the dishonourable imputations made by Campbell,<sup>4</sup> and they also sent to him and to other officials various letters of introduction brought out from friends in England.<sup>5</sup> Lieut.-Governor Grose<sup>6</sup> replied

<sup>1</sup> *Narrative of the Sufferings*, etc. 25.

<sup>2</sup> Collins, *Account of the English Colony of New South Wales*, 1798, i. 396.

<sup>3</sup> *Narrative of the Sufferings*, etc. 47.

<sup>4</sup> *H.R.* ii. 866.

<sup>5</sup> *Narrative of the Sufferings*, etc. 47.

<sup>6</sup> Son of 'Antiquary' Grose, of Edinburgh fame. *Kay's Original Portraits* (1885), vol. i. p. 46.

that the letters would secure them every reasonable indulgence, but that their petition was a very inauspicious beginning to their life in the colony. He warned them to avoid 'a recital of those politicks' that had been the cause of their miseries, and advised them to ensure their future comfort by behaving well.<sup>1</sup> He told Palmer that 'Yourself and your services are assigned to my care, with the other convicts sent out for the purpose of cultivating the colony,' which shows that he had not yet read his official instructions informing him that he was not at liberty to compel their services.<sup>2</sup> To Campbell's misdemeanours he did not allude, nor was there ever any investigation into the conspiracy charges.

The wretched experiences of the voyage over, life seemed to promise at least tranquillity to Palmer and his friends. Three brick huts were allotted by Grose to Muir, Skirving, and Palmer.<sup>3</sup> They bought neighbouring farms in the country and each was allowed the services of a convict labourer.<sup>4</sup> So, between their huts in the six-year-old settlement of Sydney and their shanties in a clearing in the scrub, they prepared to pass the long years of their sentences. There is little to show how Muir lived until his escape in an American vessel in February 1796 brought him once more into the pages of romantic narrative; Skirving died of dysentery a month afterwards, and Gerrald, transported a year after his co-reformers, died of consumption a few days later than Skirving; Margarot had been sent to coventry by the others since the *Surprize* conspiracy, and the references to him are mainly of an official, and usually disciplinary, character: so that it is Palmer whom we can most definitely see going about his life 'on the island' of New South Wales.

From the first he evinced a healthy desire to get through the term of his banishment as comfortably and profitably as he could. Muir seems to have lived in retired mood, and his letters are written in a tone of high melancholy, with a tinge of the grandiloquent, a hint of the martyr's crown. Palmer, on the other hand, writes vigorously, praising and abusing in very human fashion the management of the colony, showing a keen interest in the future and dwelling not at all on the past. 'I am not quixote enough,' he wrote while still in England, 'to attempt reformation in religion or politicks under a military government with a halter

<sup>1</sup> *H.R.* ii. 868.

<sup>2</sup> *Ibid.* ii. 856.

<sup>3</sup> Collins, i. 399.

<sup>4</sup> *Gentleman's Magazine*, March, 1797.

round my neck.’<sup>1</sup> In the midst of the squalor of the transport he had planned to amuse himself in his exile with the pursuit of chemistry and natural history,<sup>2</sup> and a few weeks after landing in Sydney, when his eyes were so inflamed that he could hardly see to write, he described in a letter brimming with enthusiasm the fauna and flora of this little-known land. ‘To a philosophic mind it is a land of wonder and delight. To him it is a new creation: the beasts, the fish, the birds, the reptiles, the plants, the trees, the flowers, are all so new—so beautiful and grotesque, that no naturalist would believe the most faithful drawing, and it requires uncommon skill to class them.’<sup>3</sup> Of his misfortunes he spoke only to praise a new-found friend who mitigated them, and he wound up with a postscript request for the ‘seed of the York cabbage, onions, and the everlasting pea.’ The settlers’ knowledge of this ‘land of wonder and delight’ was at that time limited to a very small area, an imperfectly-known patch half the size of Perthshire on a continent not very much smaller than Europe. Palmer was able to claim acquaintance with a man who was to play a leading part in Australian discovery, the famous explorer George Bass. He wrote to tell a correspondent of ‘my most worthy friend’ Mr. Bass’s discovery of coal. ‘He has brought home three bags, it burns capitally, some of which the governor sends by this ship to Sir Joseph Banks.’<sup>4</sup>

But pure scientist and philosopher Palmer was not. He was much attracted by the possibilities of making money, and when he touched on the difficulties in the way of achievement his philosophic mind became splenetic. When he was still new to the country, he wrote ‘I never saw a place where a man could so soon make a fortune, and that by the fairest means—agriculture. The officers have already done it, and this (I can scarcely expect to be believed) in eighteen months.’<sup>5</sup> Palmer was alluding to members of the New South Wales Corps, and their success, quoted by him as an example of what he himself might be able to do, was in fact to block his own fortunes at every turn; this he was not slow to realise. The officers’ profitable farming was due to the easy

<sup>1</sup> Palmer to J. T. Rutt, 12 March, 1794, *Monthly Repository*, xii. (Extract in Mitchell Library, Sydney).

<sup>2</sup> *Ibid.*

<sup>3</sup> *H.R.* ii. 871.

<sup>4</sup> Palmer to Dr. Disney, 14 Aug. 1797, *Monthly Repository*, xii.

<sup>5</sup> *H.R.* ii. 870.

conditions under which it was arranged that they should work and to the Government's system of buying the crops at an exorbitant price instead of growing its own. Indeed, the officers of the New South Wales Corps may be said to have shared the control of the colony with the Governor, for trade of all kinds lay almost entirely in their hands. 'My history,' wrote Palmer, 'is little else than a register of vexations and persecutions. The officers have monopolized all the trade of the colony. They suffer no one but themselves to board any ship that may arrive. They alone buy the cargo, and sell it at 1, 2, 3, 400, and even 1000 per cent. profit. Mr. Ellis and Boston'—his two friends, who lived with him—'were ordered into confinement for entering into a ship and endeavoring to purchase things not prohibited, for their use. With great respect, but firmness, they remonstrated against this invasion of the common rights of British subjects. This was construed into an audacious attack upon the privileges and interests of these military monopolists. And from that time (now many months ago) they have set their faces against them and me. They have had no grants and no servants . . . My men, which I bought at a monstrous rate, with a farm, have been taken from me. A message has been sent to me to pull off my hat to the officers, or I should be confined to the cells and punished. Public orders have been given twice for no soldier to speak to me, under the penalty of 100 lashes. Now I never had omitted the ceremony of capping the officers, and never conversed with the soldiers. The most impudent claims on my property from the most unprincipled thieves were listened to, and enforced, without listening to a single word I had to say.'<sup>1</sup> Palmer was a convict, and it did not help matters that he was also a rather stiffnecked middle-aged gentleman with an eye to business.

Captain John Hunter was at this time on his way out to take over the governorship of the colony, and to him Palmer looked for a juster administration of affairs. Had he but known it, Hunter was armed with prejudice against him and Skirving, thanks to the libellous accounts of the conspiracy sent home by Captain Campbell. Hunter spent part of the long voyage in planning how to deal with 'such infamous characters'—'characters over whom I will watch in the strictest manner,' he wrote. 'I cannot possibly forget the language held in their various conversations. No recommendation whatever can in the smallest degree weigh with me after such language—such infamous

<sup>1</sup> Palmer to Dr. Disney, 13 June, 1795, *Monthly Repository*, xii.

conduct.’<sup>1</sup> Fortunately Hunter was impressionable rather than unjust, and he was entirely disarmed by his own experience of these reformers of ruffianly reputation. A month after his arrival he wrote that he had interviewed separately ‘the four gentlemen whom the activity of the magistrates of Edinburgh provided for our colony . . . they seem all of them gifted in the powers of conversation . . . Palmer is said to be a turbulent, restless kind of a man ; it may be so, but I have seen nothing of that disposition in him since my arrival . . . on the whole, I have to say that their general conduct is quiet, decent, and orderly ; if it continues so, they will not find me disposed to be harsh or distressing to them.’<sup>2</sup>

Under Hunter’s rule, Palmer seems to have gained a measure of liberty for his energy, though he still wrote fiercely of the monopolists and the general state of the settlement. He and his friend Ellis, with the help of the *Scottish Encyclopedia*, had managed to build a small vessel which they sent with merchandise to Norfolk Island, twelve hundred miles away.<sup>3</sup> One of the commodities in which this elderly Unitarian minister traded was rum. It was not that the example of the officers had carried him away, for on the outward voyage he had wished to buy rum at Rio for eighteen pence a gallon so that he might sell it at the New South Wales price of twenty four shillings.<sup>4</sup> Their trade was on a precarious footing, for ‘to be sure we are obliged to sell without a licence or certificate (which the governor, poor man, positively refuses) and are liable to be hanged as pirates by any body who chuses to give himself the trouble.’<sup>5</sup> Those ‘avaricious hucksters,’ the military, were still in the ascendancy ; the government was weak ; his own health was bad ; yet he could add, ‘My fellow-sufferers laugh at me, but I have no scruple in saying it is the finest country I ever saw.’<sup>6</sup>

The Norfolk Island venture, very profitable while it lasted, came to an end in 1799. Palmer had succeeded in getting a licence from Governor Hunter, but the then commandant of Norfolk Island, a soldier and of course a trader, objected to this threatening of his own profits and refused permission to Palmer’s crew to

<sup>1</sup> H.R. ii. 873.

<sup>2</sup> *Ibid.* ii. 882.

<sup>3</sup> Palmer to Dr. Disney, 14 Aug. 1797, *Monthly Repository*, xii.

<sup>4</sup> *Narrative of the Sufferings*, etc. 41.

<sup>5</sup> Palmer to Dr. Disney, 14 Aug. 1797, *Monthly Repository*, xii.

<sup>6</sup> *Ibid.*

land. 'We suppose,' wrote Palmer, 'the crew on this rose and seized the spirits, for we never more heard of captain or ship.'<sup>1</sup> The indomitable Palmer and his friend built another vessel, loaded her with a promising cargo and prepared to salt down the pork that she would bring back from Norfolk Island. Five months passed, there was no word of the ship, and the owners were forced to conclude that she had gone down in a storm. 'So that we have nearly the world to begin again,' says the pathetic Palmer.

The *Scottish Encyclopedia*, on whose perhaps doubtful recipe the ill-starred boats were built, was given to Palmer before he left England, and in his exile was 'of infinite use and entertainment.' 'We have read over and over again our little stock of books, therefore any celebrated pamphlets that our friends have done with, it would be a charity to send.'<sup>2</sup> 'I was very much pleased with Wakefield's pamphlet,' he wrote again in 1799. 'I sent a servant with it to a friend some miles distant, who unfortunately was robbed of it because it was tied in a silk handkerchief<sup>3</sup>. . . I have not seen a Review since 1796, nor an Annual Register since 1793, and only four numbers of that excellent work the London [Monthly] Magazine. I cannot speak enough in praise of the C.—I.—. Tell Mr. F.— to be careful. I am going to fit up a room for the editor, well-knowing that he will come out here. If I deserve to be sent to Botany Bay, he ought to be sent to Georgium Sidus.'<sup>4</sup>

Palmer's sentence of seven years expired in September, 1800, and on the 5th of January, 1801, he and his faithful friends, Boston and Ellis, left Sydney. They sailed in a Spanish prize, *El Plumier*, a vessel of 250 tons, armed with two guns, and apparently in a woeful state of disrepair.<sup>5</sup> This venture was even more unfortunate than the others: it took Palmer from captivity in a British colony, not to freedom in England, but to imprisonment in the territory of an enemy. They arrived safely in New Zealand, where they meant to load timber for the market of Cape Colony, but after remaining some months they found

<sup>1</sup> Palmer to J. T. Rutt, 10 Sept. 1799, *Monthly Repository*, xii.

<sup>2</sup> Palmer to Dr. Disney, 14 Aug. 1797, *Monthly Repository*, xii.

<sup>3</sup> Palmer to J. T. Rutt, 10 Sept. 1799, *Monthly Repository*, xii.

<sup>4</sup> Palmer refers to the *Cambridge Intelligencer*, edited by Benjamin Flower. Georgium Sidus is the planet Uranus, discovered by William Herschel.

<sup>5</sup> H.R. iv. 471, and *Howe's Almanac*. The account of Palmer in Howell's *State Trials*, v. 23, 377-382, reprinted from the *Monthly Magazine*, is wrong in stating that Palmer left in January, 1800, eight months before his sentence expired.

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their food supplies nearly exhausted. In their leaking and badly-stocked ship they made their way to Fiji, and thence their Spanish prize—like a homing pigeon—took them to the Spanish island of Guam, in the Ladrone group. Here the governor detained the ship's company of thirteen as prisoners of war, and before they could be set free<sup>1</sup> Palmer fell ill of dysentery and died on the 2nd of June, 1802. The graves of Gerrald and Skirving lay behind him in New South Wales; Muir was already buried in France; only Margarot, the least worthy of the five Scottish reformers, was destined to see his native land again.

MARJORIE MASSON.

Melbourne.

<sup>1</sup> John Harris, who sailed in *El Plumier* with Palmer, reached England in November (?), 1803. *H.R.* v. 274-276.

## Differences of Economic Development in England and Scotland

### I. BURGH LIFE

THE late Mr. Adolphus Ballard contributed to the last number of this *Review*<sup>1</sup> a remarkable article in which he established, from a careful examination of charters, that there was deep-seated difference between English and Scottish burghs. While the one was essentially a military institution, the other was fundamentally commercial in character; the Scottish burgh had exclusive rights for public buying and selling in the whole district over which it had jurisdiction, while the English burghs had no such trading privileges over extended areas. Scotland in the thirteenth century may be thought of as divided into districts, in each of which a burgh exercised an exclusive monopoly of trade. It is perhaps worth while to follow out this thesis in greater detail, and to show how on the one hand this distinction affected the facilities for trading in the country as a whole, and on the other, that the public buildings, with the functions which they were intended to discharge, are monuments of the difference between life in an English and in a Scottish burgh.

The oldest trade of which we read in northern Europe was not conducted in cities, for they had not yet been built, but was carried on at periodical fairs. The ancient Celtic fairs are described as they existed in Ireland.<sup>2</sup> They were a widespread, primitive institution, and appear to have been fixed for dates marked by the change of seasons.<sup>3</sup> They were often held at the boundary of two districts, and the place of the gathering was marked by a boundary stone. We also find that there were similar fairs at

<sup>1</sup> *S.H.R.* xiii. 16.

<sup>2</sup> O'Currey, *Manners of Ancient Irish*, iii. 529.

<sup>3</sup> D'Arbois de Jubanville in *Nouvelle Revue historique*, 1881, p. 195.



Elsinore<sup>1</sup> and elsewhere on the sea-shore; and that the Norsemen who had taken captives, made use of these occasions to dispose of them as slaves. The fair was an institution which was highly organised by Charlemagne in his dominions,<sup>2</sup> and his memory is preserved by the Rolandsäule which stand in the market-places of many German towns.<sup>3</sup>

Throughout the Middle Ages the fair was the most important of all the commercial institutions in England, and seems, in such cases as S. Ives and Yarmouth, to have been the original from which the town derived its existence. It was frequented by merchants from abroad, and offered the best opportunity for the steward to buy the cloth and equipment that was required for the retainers in the household, during the thirteenth century.<sup>4</sup> The trade of London seems to have been practically transferred to St. Botolph's Fair at Boston during the month of September, as the Court of Hustings was not held,<sup>5</sup> but this fair had decayed in 1416; on the other hand, Stourbridge Fair continued to be a great trading resort when Defoe went on his tour. The fairs in Flanders, Burgundy, and England were regulated in the interest of the sellers; pains were taken to encourage them to come by giving them a temporary monopoly of wholesale trade.<sup>6</sup> Fairs attained a new importance when they came to be used as places of hiring<sup>7</sup> under the Statute of Elizabeth; and Wisbech mart, as well as some fairs in the northern counties, are still frequented for this purpose.

Scotland seems particularly adapted for the establishment of fairs, and we should expect to find traces of them on the coast from primitive times. The islands and northern coasts were populated by men of Norse descent, who might have been expected to be traders; the coasts offered many harbours where trading might conveniently occur: the commodities which Scotland had to export<sup>8</sup> were bulky goods—hides, wool, fish, and furs—which could be stored till an opportunity for shipment. There are

<sup>1</sup> Worsaae, *Danes and Northmen*, 100.

<sup>2</sup> Huvelin, *Essai historique sur le droit des marchés et des foires*, 153.

<sup>3</sup> Shroeder, *Die Rolande Deutschlands*.

<sup>4</sup> Rules of Robert Grossteste XXVIII., in Walter of Henley's *Husbandry*, ed. Lamont, p. 144.

<sup>5</sup> Cunningham, *Growth of English Industry*, i. 452.

<sup>6</sup> Huvelin, *op. cit.* 251. Giry, *Hist. S. Omer*, 289.

<sup>7</sup> H. Best, *Rural Economy in Yorkshire in 1641* (Surtees Society), p. 134.

<sup>8</sup> P. Fraser Tytler, *History of Scotland* (1864), i. 272.

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numerous modern fairs both in the highlands and the lowlands, and the position of the market crosses at Inverary and Anstruther is suggestive of a seaside trade; but there seems to be no reliable evidence of periodical assemblies for purposes of trade in primitive times.<sup>1</sup>

Medieval fairs in Scotland were not so ancient as those in England, nor did they enjoy a similar status. Several of the most celebrated fairs in England were outside burghal jurisdiction, and the profits belonged to religious houses. Lenton Fair near Nottingham, the fair of S. Ives, which was founded by the Abbot of Ramsay, Stourbridge Fair, granted to the Master of the Lepers' Hospital, and Midsummer Fair at Cambridge, which belonged to the Prior of Barnwell, are cases in point;<sup>2</sup> they had little relation to the burghs near which they were held. But this seems never to have been the case in Scotland; the various fairs in Scotland were under burghal jurisdiction and were part of the burgh life. The tradition of Anster Fair<sup>3</sup> suggests that medieval fairs in Scotland were frequented by all sorts and conditions of men from all parts of the country for purposes of business or pleasure; but for commercial purposes the medieval fairs in Scotland were relatively unimportant as compared with those in England, and they were so completely under burghal jurisdiction that aliens had no status in them at all.<sup>4</sup> In England it was the policy of the kings and magnates to encourage aliens to visit England with foreign commodities and to give them a status for dealing in them; there was constant trouble with native merchants as to the encroachments made by aliens, especially in regard to retail trade. The chief anxiety of English townsmen was to obtain effective control over all the residents in the burgh and to thwart the royal policy in regard to aliens. But no such problems seem to have arisen north of the Tweed. The kings supported the burghal policy in Scotland, and the towns were successful in preventing the Jew and the Lombard from getting permanent footing in the country.<sup>5</sup>

<sup>1</sup> The sort of carnival which preceded the opening of the fishing season at Bressay Sound (Tudor, *Orkney and Shetland*, p. 125) may have had a long tradition behind it, but the islands were not subject to the law which was enforced on the 'Continent of Scotland.'

<sup>2</sup> Cunningham, *Growth of English Industry*, i. 181.

<sup>3</sup> Compare *Anster Fair*, by W. Tennant.

<sup>4</sup> *Report on Fairs and Markets, Parl. Papers*, 1888, liii. 26, 27.

<sup>5</sup> P. Fraser Tytler, *op. cit.* i. 268.

The success of the nascent Scottish burghs in getting control of the periodic trade at fairs as well as the regular trade at weekly markets seems to have had another effect. As aliens were not encouraged to come to Scottish fairs, Scots had to go abroad to buy and sell, and the shipping of Scotland was, relatively to the value of her trade abroad, much larger than that of England.<sup>1</sup> Wealthy men and corporations who were not merchants by profession were shipowners ;<sup>2</sup> instead of sending his steward to a fair to make purchases, the Scottish magnate had to send his factor to conduct trade on his own behalf in his own ship.<sup>3</sup> The Scottish burghs on the one hand were strong enough to prevent the incursion of alien traders—the alien from Flanders or Brabant who came to conduct industry and to settle was under no such disabilities—and thus to prevent the development of fairs, as they existed in England, and on the other, to diffuse the habit of venturing abroad among those who were not merchants.

Monuments which survive give us the means of picturing town life as it existed in England in the thirteenth and following centuries, and of noting the various institutions which existed and for which provision is made. We have not the same means of tracing the internal history of town life in Scotland before the sixteenth century ; and though the development was, in all probability, analogous, there were also striking differences which it is worth while to note.

The centre of the economic life of the town was the regular weekly market ; it was organised to give residents in a place a regular supply of articles of common consumption, and the consumers were those who were primarily considered. What markets there might be in any particular place would depend on the supplies which people could secure from their own resources. The residents in many English towns had lands of their own in which they grew their corn ; the great monasteries had their own granaries, and, as a consequence, corn markets are a

<sup>1</sup> P. Fraser Tytler, *op. cit.* 275.

<sup>2</sup> The monks of the Isle of May had a considerable trade. Chalmers, *Caledonia*, i. 782 ; ii. 51.

<sup>3</sup> Fraser Tytler (i. 276) quotes the instance of William of Douglas, *Rotuli Scotiae*, i. 758, 823. Such private shipping would give facilities for the pedlars who became so numerous in Baltic lands in the fifteenth century (Davidson, *Scottish Staple*, p. 108) despite official efforts to control those who sailed abroad (*ib.* p. 27).

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comparatively late development,—though they were very common in Tudor times; but regular supplies of fresh meat, butter and eggs were requisites in many places, and they were the ordinary articles of sale in the markets of many towns. The history of the market-place gives important evidence as to the trade of the town. In consequence of the impulse at the Crusading period, greatly enlarged markets with stalls were laid out, while additional markets were appointed in other parts of the town,<sup>1</sup> and in not a few towns permanent buildings were allowed to encroach where rows of stalls had formerly been. The market-place was in many ways the centre of the civil life of the town; but the original nucleus which had led to its growth generally was a body of religious or of military consumers, in a monastery or castle, for whose wants the market people catered. At Carlisle there is a typical market-place, on the triangular space where the road to the abbey and the castle branches off from the main road between England and Scotland. Towns naturally grew up round one or other of these centres of population; and market crosses still survive near Tattershall Castle and Binham Abbey to remind us that they were once the centres of a considerable demand for weekly supplies.

The civil population, for whose wants the market catered, or who were engaged in trade, were, in Norman times, completely controlled by the magnates on whose land they were settled, and their advance in self-government is a matter of great constitutional interest: the steps of progress are found in charters which show how one stage after another was attained, but the buildings which remain are interesting illustrations. Religious discipline enforced in the monasteries and military discipline in the castles embraced the towns at first. Castle Acre is an admirable example of the military settlement, with the faubourg for artisans round the motte on which the castle stood; while Glastonbury, with its great barn and tribunal, is an admirable example of the town which had a market and a water supply but no rights of self-government. The townsmen at Norwich and Reading and Bury and St. Albans were constantly in difficulties with the monasteries, and abbey walls show that the monks felt the need of physical defence; but at length the townsmen grew free from the sheltering care of the abbey and attained such status that buildings were erected to meet their needs, both for trade and for police.

A very interesting example is to be seen at Much Wenlock in Shropshire. The town hall there, which was built in the fifteenth

<sup>1</sup> Maitland, *History of Edinburgh*, 9.

century and reconstructed in 1577, comprises a court-house, a prison, and an open arcade which is used as a butter market. One of the supports of the hall serves as a whipping post, and the movable stocks are preserved in the upper room. It met all the requirements of the town both for commercial and police purposes; it is the reproduction in wood of municipal buildings with an open loggia, which were familiar in Italian towns<sup>1</sup> and in the south of France.<sup>2</sup> A similar building, but without a prison, was erected at Bridgnorth about 1652, after the destruction of the old town hall by the parliamentary forces. In Scotland, where the unsettled conditions of life favoured the building of the fortified private houses in the country, town houses of a similar type continued to be put up in towns.<sup>3</sup> The Canongate Tolbooth (1591) suggests that it was erected to discharge the function of taking tolls, and also to be a court-house and a prison. But generally speaking there was in England more differentiation of function. The town halls at Totnes, at Ipswich, at Yarmouth, and Lavenham contained courts and prisons, but made no provision for trade, while in many cases the prison was an independent building; or a gatehouse, like that on the bridge at Bedford, was used for the detention of prisoners.

Much older than any of the buildings intended for the government and police of the town are the market crosses which were erected at the centres of trade. They probably have a long history which takes them back to primitive fairs and boundary stones, but in England they sometimes underwent curious development in connection with the growth of trading. Ancient market crosses, as simple shafts, are found at Lavenham (1414) and Carlisle (1682); but they were often extended, so as to give shelter to the women who sat round them with their baskets of eggs and butter. Beautiful buildings in stone survive at Salisbury (1365) and at Chichester (1504); there was formerly a fine example at Glastonbury, while simpler structures survive at Cheddar and Sherborne. It seems to have been very common to surround the cross by a wooden roof, such as we see at Mildenhall, and at North Walsham (c. 1552) a chamber was erected over the shelter, which was sometimes approached by a spiral staircase as at Wymondham (1617). During

<sup>1</sup> Compare the Palace of the Podesta at Orvieto. Verdien et Cattois, *Architecture civile et domestique*, i. 57.

<sup>2</sup> Compare the Market Hall at Montpazier as figured on plan given by T. Hudson Turner, *Domestic Architecture*, i. 154.

<sup>3</sup> MacGibbon and Ross, *Castellated and Domestic Architecture*, v. 98.

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the seventeenth and eighteenth centuries these wooden shelters with upper chambers were superseded by elaborate buildings such as formerly existed at Wakefield<sup>1</sup> and at York,<sup>2</sup> or by the humbler hexagonal buttercrosses at Barnard Castle (1747), Burwell, and High Wycombe. Among the most picturesque of all is that at Dunster, which was not, however, erected with a view to supplying the needs of the residents for country produce, but was built when the art of spinning was widely diffused in Somerset villages, so that the women might have a comfortable shelter in which they could meet and dispose of their yarn. These developments of the market crosses as shelters for buyers and sellers did not, so far as I know, occur in Scottish towns. Crosses never seem to have been adapted in the north to serve the convenience of people engaged in trading, but they were consciously retained by royal burghs and burghs of regality and burghs of barony as an outward and visible sign of their status and authority in matters of trade.<sup>3</sup> They are for the most part simple columns, but the symbolism of the banneret, or the glove, shows their affinity with the *perrons* of Belgium, while the fir-cone as a finial seems to be the survival of a tradition from classical times. In so far as they underwent considerable change in Scotland it was through the elaboration of the base<sup>4</sup> into a substantial structure, as we may see at Preston in Haddingtonshire, and in the pictures of the old cross at Perth.<sup>5</sup> These buildings were designed with a view to the reading of proclamations and other magisterial duties. The nearest analogue to this type of cross in England is not municipal at all, but is the preaching cross, such as we find at the Black Friars' House at Hereford.

Provision was also made for another public requirement in many towns both in England and Scotland: the market-place was a convenient centre to which residents might go for their supply of water. The conduit stood close beside the cross at Cambridge and at Glastonbury; at Downham Market and possibly at Sherborne the market cross has become the conduit; at Shrewsbury the cross itself was utilised for the erection of a large cistern which

<sup>1</sup> Allen, *County of York*, iii. 278.

<sup>2</sup> Drake, *Eboracum*, p. 324.

<sup>3</sup> W. G. Black, *Glasgow Cross, with a suggestion as to the origin of Scottish Market Crosses*, p. 6.

<sup>4</sup> E. Goblet, Comte d'Alviela on 'Les Perrons de la Wallonia et les Market Crosses de l'Ecosse,' in *Memoirs de l'Académie Royale de Belgique*, 1914.

<sup>5</sup> J. W. Small, *Scottish Market Crosses*, plates 8, 109.

afforded a supply to the town.<sup>1</sup> Similar illustrations of this association may be found in Scotland, at Falkirk, at Linlithgow, and at Athelstaneford;<sup>2</sup> on the other hand, the practice of connecting the market cross with a sun-dial<sup>3</sup> seems to have been especially Scottish.

The English expansion of the market cross was after all an inadequate means of sheltering the dealers in a market, and we find in many places market halls or chepynges as well or in addition. The cross at Lynn had two wings which served this purpose, but in other places separate rectangular buildings were erected. There is a beautiful chepyng at Chipping Camden, and another at Kingsbridge; the most interesting, in some ways, is the open wooden loggia of the late fifteenth century at Ledbury; and the handsomest is the magnificent hall which was built for the cloth trade and the corn trade at Shrewsbury (1596). I know of no building in Scotland of this type, but it is interesting to find an eighteenth century survival in the Old State House which still bears the royal arms at Boston in Massachusetts.

Buildings which survive are monuments of other differences between English and Scottish town life. In the northern kingdoms there were no trading companies like the Livery Companies of London, and we should look in vain for similar halls north of the Tweed. On the other hand, the craft guilds—or trade incorporations—have left little trace of their existence in English cities; there is a joiners' hall at Shrewsbury and a house for the trades of Carlisle close by the market-place. But the trade corporations, which were of late development in Scotland, were not swept away at the Reformation, and showed their persistence by their buildings. The Magdalene Chapel in the Cowgate at Edinburgh was appropriated to them, and a handsome hall has been recently erected for their use in Aberdeen.

It is also interesting to observe that the trading affinities, which have been noticed in connection with the early buildings, appear once more in the architectural revival of the seventeenth and eighteenth centuries. Scottish towns had taken the Flemish *perron* as the type of their market crosses; and the renascence town halls at Glasgow and Dumfries had campaniles corresponding to those of Flemish towns; there are few, if any, such municipal towers in England. On the other hand, the renascence and

<sup>1</sup> T. Phillips, *Shrewsbury*, p. 134.

<sup>2</sup> Small, *op. cit.* plates 66, 43 and 77.

<sup>3</sup> MacGibbon and Ross, *Castellated and Domestic Architecture*, v. 395, 410.

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eighteenth century architects south of the Tweed were particularly fond of an open loggia, such as had formed part of the town hall at Much Wenlock, and of many market houses in England. This is found in the porch of the Guildhall at Exeter, and is a structural feature at Ross in Hereford and at Peterborough; it may be recognised, too, in the little square buildings at Fen Stanton and Brackley, or the timbered town hall which stands in the market place at Thaxted. The Italian models which exercised a recurring influence in England appear to have been altogether disregarded in Scotland, where the loggia seems to be unknown.

### II. TILLAGE

A characteristic feature of primitive agriculture which impressed Caesar<sup>1</sup> is noticeable among many peoples; tillage is merely a by-occupation with tribes which subsist on hunting, or fishing, or are pastoral and nomadic: they take an occasional crop and may move on. Even those who have settled down permanently may maintain similar habits of life: they are unable to prosecute agriculture with such success as to obtain their main sustenance from their crops, and they eke out a living by means of two or three by-occupations. It seems highly probable that agriculture remained in this primitive condition all over Scotland even after the influx of Norman settlers in the twelfth century.<sup>2</sup> Their cattle were a principal means of support throughout the country, and there were different possibilities in different districts. On the coasts where the Norse had settled there was a possibility of fishing: there were martens whose fur was an article of trade; sheep could be fed in many districts, both on the grass of the Lammermoor hills and the young heather in the Highlands.<sup>3</sup> Thus it was possible to make a living out of natural resources, though the art of tillage was little understood and the yield was scarcely more than three times the seed.

Primitive tillage, when pursued as a by-occupation, does not necessarily give rise to any social organisation: the tribesmen,

<sup>1</sup> *De Bello Gallico*, vi. 21, 22.

<sup>2</sup> The tillage was subsidiary to sheep-farming, even on the Kelso estates. Chalmers, *Caledonia*, 39 n.

<sup>3</sup> Wight, *Husbandry*, i. 391.



who occupy a hilly country, may have to make the most of a bit of ground here and there, that can be used for tillage, or to take their herds to summer quarters<sup>1</sup> away from the village altogether. Where there is no regular residence there can be no high prosecution of tillage which demands regular labour all the year round, and the practice of migration for the summer was common in the Highlands till it was put down in 1617.<sup>2</sup> There is no type of village organisation that will suit all alike; but primitive tillage fits in with patriarchal organisation, when the chief is in personal relation with each of the clansmen, and directs the affairs of his followers both in peace and war.<sup>3</sup>

A detailed account of the tribal organisation of society has been reconstructed for Wales from the codes and charters, and there is every reason to believe that the Scottish system was similar. The right to hold land depended on kinship, and was defined not by the boundaries of the area, but by a pedigree.<sup>4</sup> On the other hand, the laird did not exact menial service, though he obtained 'kain,' which was part of the produce of the land;<sup>5</sup> the food rents which he enjoyed were a tax, rather than a payment, which varied according to the qualities of the soil. This economic relationship was a sort of family arrangement. 'Of old the chieftain<sup>6</sup> was not so much considered the master as the father of his numerous clan. Every individual of these followers loved him with a degree of enthusiasm which made them cheerfully undergo any fatigue or danger. Upon the other hand, it was his interest, it was his pride and his chief glory to requite such animated friendship to the utmost of his power. The rent paid him was chiefly consumed at feasts given at the habitations of his tenants.' What he was to spend, and the time of his residence at each village, was known and provided for accordingly. The men who provided these entertainments partook of them; they all lived friends together, 'but what was friendship at first became very oppressive in modern times.'<sup>7</sup> The tenants had not the protection against arbitrary exactions which manorial

<sup>1</sup> Marshall, *Central Highlands*, 31, 45. The discontinuance of this practice is attributed to the introduction of flax and potatoes, which required attention all the year round.

<sup>2</sup> *Scots Acts*, iv. 547.

<sup>3</sup> Seebohm, *Tribal System in Wales*, 66.

<sup>4</sup> *Ibid.* 33.

<sup>5</sup> Skene, *Celtic Scotland*, iii. 231.

<sup>6</sup> Sinclair, *Statistical Account*, vi. 229.

<sup>7</sup> A Scots Act of 1469 protected the property of tenants from being sold to defray debts of Lord.

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organisation affords, nor were they under the disability of being astricted to the soil. This primitive tillage, with the simple condition of society which was appropriate to it, seems to have held its own in the Highlands till the eighteenth century, and has left traces over a good deal of the Lowlands as well: something similar existed in Wales till Tudor times, and traces of it were observed by Marshall in the south-western counties of England at the beginning of the nineteenth century.<sup>1</sup>

With this primitive land management may be contrasted the organised tillage which seems to have prevailed over the greater part of England in historic times. However complete the English conquest of Britain may have been, it does not seem to have wiped out all knowledge of the arts of life as practised in Roman Britain, and there was abundant opportunity for the re-introduction of these arts by S. Augustine and the Benedictine missionaries. The three-field (or two-field) system was an extraordinary improvement on primitive tillage; for an organised husbandry gave scope for the recuperative power of nature, and allowed land, which was regularly used for tillage, to lie fallow for one year out of three, while it spread the work of ploughing over the whole year and made tillage an occupation in which a man could spend his whole time. The three-field system involved the permanent separation of arable fields from the common waste; while the waste was chiefly used in subordination to the requirements of tillage, and not as providing independent resources, though these of course were not neglected. Domesday Book makes frequent mention of pannage for swine, and in some districts, as in parts of Cambridgeshire, dairy farming was developed to a large extent, and tillage was not the main occupation; but throughout England generally, under the three-field system, the waste was regarded as the place for keeping stock to plough the land, and sheep which could be folded on the fallow and manure it. The aim of the lord of the manor was to develop the village as a self-sufficing community which had constantly corn enough for its own consumption and something to spare as well; this was the object of medieval husbandry in England, and marks it out from primitive husbandry, which never aspired at such success.

The essential feature of this system was the practice of fallowing one of the arable fields; and this rendered it possible to

<sup>1</sup> Prothero, *English Farming*, 2.

continue cropping the same fields with comparatively little exhaustion, though of course exhaustion occurred at last, and was probably observable in many places in the fifteenth century. Still there was relatively little exhaustion of the soil, and the system appears to have continued uninterrupted for centuries. But such an organised system of tillage required the existence of definite personal relations and a definite social organism. An arrangement was necessary by which the common fields were treated in the same way in each year, and this gave rise to a definite course of cultivation on the common fields, while there was also a definite system of regulation of the stock and sheep pastured in the common waste. The common custom and regulation implied the existence of an authority by which it could be enforced; this authority might either be, in its origin, seignorial, or be built up by association of free individuals, and thus communal. It is probable that some instances can be mentioned which originated from above, and others from below; but in the ordinary manor both elements were combined, the lord of the manor on the one hand, and the homage on the other. New tenants were admitted in court, and the position of the villeins was recognised, especially in the regulation of the common waste. The lord of the manor, whose domain formed the largest part of the common fields, was in a position to require that the villeins should cultivate that domain, by lending their ploughs for the purpose and by doing week-work, as well as other incidental services, on his strips in the common fields. The lord of the manor had a direct personal interest in seeing that the land he owned was effectively tilled, and a full description of the approved system of management in the thirteenth century is given us by Walter of Henley. The steward was not, in the twelfth and thirteenth centuries, a mere receiver of rents, but an official whose business it was to see that the husbandry was effectively organised; it was only in the fourteenth century that with changed circumstances more remunerative methods of land management were discovered, so that the landlords found it profitable to let their domain on lease, and that tenants were ambitious of withdrawing from the customary system of tillage and working independently. The medieval system appears to have been highly approved in England, and adopted more and more in the thirteenth century. Waste ground was occupied by the planting of new townships which were units of cultivation; and this method of tillage, with the adherence to custom

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which it implied, became the normal condition of England as a whole.

The twelfth and thirteenth centuries were a period when great improvements of every kind were made in Scottish economic conditions. Norman influences were brought to bear under David, and also under William the Lion ; there was remarkable economic progress till it was checked by the War of Independence and the political consequences which followed from it. Great abbeys like Kelso and Melrose were planted, and the settlers, who flocked to the country, would bring with them the views of land-management which were current south of the Tweed. We are inclined to regard it as a matter of course that the manorial system of land-management was introduced generally into Scotland ; but closer examination renders this extremely doubtful. There is indeed no reason to regard Scotland as presenting a uniform system throughout, and it is quite possible that exceptional traces may be found of the organised husbandry of the manor ; we should especially expect to find them in Galloway,<sup>1</sup> where the influence of the southern invaders was strong. But there is grave reason to doubt whether the manorial land-management as described by Walter of Henley was ever introduced into Scotland at all generally.

There is one striking difference between the two countries : in England arable farming was the main thing, and the management of stock was subsidiary ; there were of course cases—like parts of Cambridgeshire—where this was reversed, and tillage was merely subsidiary to pasture farming. But what was exceptional in England was normal in Scotland. Cattle and sheep were the main resources of an estate : tillage was relatively unimportant, and the Scottish monasteries and lairds were not concerned to organise tillage as the permanent source of revenue. They received food rents paid from their tenants, and did not always find it worth while to exercise direct supervision over the method of working.

There is more direct evidence : the manorial farm in England depended on fallowing ; one of the arable fields lay fallow every second or third year. But in Scotland generally in the eighteenth

<sup>1</sup> Baillie-works were common in Galloway in the eighteenth century, and the enclosure of common waste there gave rise to active opposition in 1724 by levellers, who appear to have stood for a communal right. Chalmers, *op. cit.* iii. 286.

century fallowing seems to have been unknown.<sup>1</sup> This may be gathered from the agricultural writers of the seventeenth and eighteenth centuries, like Johnson and Donaldson; but may also be inferred from the Act of 1617, which was designed to introduce new and improved husbandry into the Highlands. There was a definite effort on the part of King James to introduce the English model of local government—the township and the constable; but the agricultural system which was assumed, *e.g.* in the levying of tithes, was quite different from the arable system of England. Land in Scotland was not laid out in three open fields, permanently assigned to tillage and kept in heart by regular fallowing, but in an in-field and an out-field.<sup>2</sup> The in-field was well manured and constantly cropped, but never allowed to lie fallow; portions of the out-field were uncropped, but not worked so as to eradicate the weeds. On neither was there any habitual fallowing as it had been practised from time immemorial in England.

When we turn from the practice of agriculture to the relation of the laird and his tenants, it is also difficult to find the characteristic features of the English manor. That was an institution which depended on the organisation of labour, and the rendering of personal services on the lord's domain: the obligation to render week-work, and to place his time at the service of the lord, was the characteristic of villein tenure,<sup>3</sup> but the predial services, which are mentioned in the often quoted Kelso Rental,<sup>4</sup> are of the nature of *boon-work* or *precariae*. The Scottish lairds were in the habit of granting leases from very early times,<sup>5</sup> and the steel-bow tenancy, or stock-and-land lease, was a familiar means by which the slave might obtain economic freedom, and have land of his own to work. The last-known case of an action to recover a slave dates from 1364, and it seems very doubtful whether the domain farm cultivated by the personal services of labourers was ever a widely diffused institution in Scotland.

The English manor was territorial in character, and had nothing to do with blood or descent; but tenure based on the blood-tie had been in possession in Scotland, and would not be easily

<sup>1</sup> The tillage of the 'Highlands is intolerable: no fallow.' Marshall, *Central Highlands*, 39.

<sup>2</sup> Marshall, *op. cit.* 30.

<sup>3</sup> Pollock and Maitland, *English Law*, i. 353.

<sup>4</sup> *Kelso Chartulary* (Bannatyne Club), ii. 461.

<sup>5</sup> Chalmers, *Caledonia*, i. 794.

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superseded. The Welsh analogy shows what difficulty there was in displacing the tribal system and introducing English husbandry into Wales,<sup>1</sup> and it seems probable that the twelfth-century settlers in Scotland were content to allow the main features of the tribal system to remain, and tried to describe it in feudal terminology. In all parts of Scotland we hear much of kindly tenants. They occupied church lands on the Borders, in Galloway,<sup>2</sup> and in Perthshire,<sup>3</sup> on the East Coast as far north as Aberdeenshire,<sup>4</sup> while the Duke of Argyll<sup>5</sup> speaks of this tenure as familiar in the Highlands. These tenants were 'rentallers' who had fixity of tenure, and occupied a privileged position; the services they had to render were analogous to those of the freemen in a Welsh tribe,<sup>6</sup> and on the Borders they long retained their sense of dignity. 'To be a kindly tenant was the highest pride of a husbandman in the old times. It was the Border yeoman's coat of arms, the evidence of his pedigree and respectability. He bore the designation proudly through life, and after his death it was placed upon the stone above his grave, as any Border kirkyard may still testify. To be called a kindly tenant implied that one was of the kith, kin or sept of the landlord, or was the descendant of those who had held and farmed the same lands in succession, father and son, from generation to generation. It formed the feudal relation between the husbandman and the baron, just as the charter of the latter expressed his feudal relation to the crowned head of the kingdom. The term had nothing to do with payment in money or kind. The cottars and small cultivators, for instance, paid their rents chiefly in kind, but this did not constitute them kindly tenants, nor are they ever so called. The kindly tenants formed, to borrow the language of Highland Clanship, the gentlemen of the Border Clans... The tie expressed in the word was one not of money or other payment, but of blood and kinship and personal devotion, a tie which may appear strange amid the customs of later times, but which must have been invaluable in old days when mutual support was indispensable.'<sup>7</sup> The kindly tenant is a relic of a tribal system, whose

<sup>1</sup> Seebohm, *op. cit.* 43.

<sup>2</sup> J. A. Brown, 'The Kindly Tenants of the Archbishopric of Glasgow,' in *Transactions of Glasgow Archaeological Society*, N.S. v. 105.

<sup>3</sup> *Scots Acts*, 1563, c. 13.

<sup>4</sup> Brown, *op. cit.* 114.

<sup>5</sup> *Scotland as it was and as it is*.

<sup>6</sup> Seebohm, *Tribal System*, 9.

<sup>7</sup> *Edinburgh Review*, July, 1887, p. 12.

economic rights to security of tenure on payment of a low rental were recognised under a territorial system. The Lochmaben tenants secured a judgment in their favour; their advantageous rights of tenure could be disposed of as they could sell their kindliness, and as proprietors their position was analogous to the owners of tenant's right in Westmorland.<sup>1</sup> The introduction of a similar system into Ulster is a further proof of the long continuance of this tenure, which did not lend itself readily to the carrying on of agriculture in a domain farm; it is a confirmation of the view that the tribal system of tillage could not have been superseded in Scotland in the thirteenth century by the organisation of manorial farms.

The fundamental difference in character between the position of the tenants of a Scottish laird and the organisation of an English manorial farm in the Middle Ages is often obscured by the superficial resemblances. Co-operation in ploughing, with the run-rig which it involved, is common to both; so are payments in service and in kind, but it is easy to account for these resemblances.

The run-rig system, which seems to have been practically universal in Scotland, is good evidence that there was co-operation in ploughing, but co-operation by the tenants in ploughing is not a necessary sign of the existence of manorial organisation. When the tenants were each too poor to own a whole plough team, they were compelled by their poverty to arrange among themselves to co-operate in ploughing.<sup>2</sup> The ordinary Scots plough was dragged by four oxen yoked abreast, with a man, who walked backwards, leading them, while another held the plough: two tacksmen who each owned a yoke of oxen were almost compelled to combine for the purpose of ploughing, and we need not assume that the obligation to co-operate was enforced by manorial authority. Instances of this co-operation by men who were free to make their own bargains are found at Galston,<sup>3</sup> at Eaglesham<sup>4</sup> and at Little Dunkeld.<sup>5</sup> That numerous servitudes existed in Scotland is true enough, but it is by no means clear that they were the survival of a manorial organisation. Scottish lawyers regard them as attaching to the

<sup>1</sup> R. S. Ferguson, *History of Westmorland*, 128 f.

<sup>2</sup> Sinclair, *Statistical Account*, ii. 123.

<sup>3</sup> *Ibid.* ii. 74.

<sup>4</sup> *Ibid.* ii. 123.

<sup>5</sup> *Ibid.* vi. 363.

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land, and not to persons, and are clear that personal servitude of all sorts was extinct in Scotland in the seventeenth century. Some of the servitudes were public burdens<sup>1</sup> which fell on the occupiers. It was natural enough that a lord who was at the trouble and expense of building a mill should insist that it should be used by his tenantry, but to be thirled to a mill is not a proof of villeinage. There were also services such as wainage, which may have been very onerous, but were not obligations of a servile character. The predial services of which we hear most in the eighteenth century were rendered by cottars to tacksmen, but these were of the nature of a bargain between a leaseholder and his labourers; it is not at all clear that they were a traditional obligation.<sup>2</sup> The servitudes indicate a state of society when it was convenient that payments should be made in kind and services and not in money, but they do not in themselves prove that manorial organisation existed. Still less do they give any basis for the assumption that the manorial farm was ever a common institution in Scotland. Moreover, on this assumption the silence of the burgh records themselves is perplexing. In England we read of the commutation of predial services as one of the steps in the series by which Leicester attained its status as a burgh;<sup>3</sup> we hear also of the difficulty in collecting *rep-selver* from the Abbey tenants at Bury;<sup>4</sup> and if similar obligations were recognised in the Scottish burghs which obtained charters in the fifteenth century,<sup>5</sup> we might expect to have specific mention of the commutation or of the exaction of such dues.

The Scottish land tenure and land management in the sixteenth and seventeenth centuries had a flexibility which was hardly compatible with a rigid territorial system, and ascription to the soil of particular manors. It lent itself readily to considerable migrations and to the planting of land that was practically uninhabited. It was thus that the gentlemen of Fife were encouraged to go to the Lewes, to plant the lands of the Macleods,<sup>6</sup> and

<sup>1</sup> In these might be included the repair of roads, harbours and mill-leads. (Duke of Argyll, *Scotland as it was and as it is*, ii. 326.) Tenants in the Lothians defrayed half the schoolmaster's salary and the poor rate. *East Lothian*, 106.

<sup>2</sup> See the case of Tongue. Sinclair, *op. cit.* iii. 529.

<sup>3</sup> Cunningham, *Growth of English Industry*, i. 226.

<sup>4</sup> *Chronica Jocelini de Brakelonda*, 73.

<sup>5</sup> *Report on Scottish Municipal Corporations* (1835), i. 167.

<sup>6</sup> Sinclair, *op. cit.* vi. 293.



that the Grahams were transported to Connaught. There was similar detachment in the migration of Ayrshire people to Cantyre during 'the killing time,' and in the stream of emigration to the colonies which we find beginning in Sir W. Alexander's attempt to settle Nova Scotia, and in the transference of many families from Appin<sup>1</sup> to North Carolina and Georgia.<sup>2</sup>

The eighteenth century was a great period of enclosing both in England and in Scotland, and there were superficial resemblances between the changes in the two countries. Hedgerows were planted and dykes and walls run up; run-rig was abolished, and holdings were thrown together into large farms, so that those who had hitherto worked on their own account were reduced to the condition of labourers and cottars. There were in both countries vigorous landlords who pushed on improvement, both by the covenants they introduced in leases and by their personal examples. Andrew Wight has left us a record of the husbandry practised on the best managed estates. But, despite these resemblances, we may see that the agriculture of the two countries was very different, both in the conditions which the pioneers found, in the aims they cherished and the results they achieved.

The English improver, whether landlord or tenant, desired to secure greater economic freedom in the management of land, and to get rid of the custom which rendered traditional methods of tillage obligatory. It does not appear that there was any similar tyranny of local custom in Scotland; the individual was only bound by his own agreements with the laird or his neighbours. Hence the legal process of enclosing was much simpler in Scotland than in England, where the position of each individual in the community had to be taken into account. The terms of the General Act of Enclosure, which was passed in 1695, show that only the heritors or landed proprietors were recognised as having any right to be considered; the tacksmen and cottars had no *locus standi*, and consequently the Act could be applied to his own estate by any landlord who chose, and there were no surveyors or legal expenses in the matter. In the burghs there were numerous freeholders, but as the Act did not apply to them, there are interesting survivals of the common waste, and even of communal management of common fields in Scottish burghs.

<sup>1</sup> *Ibid.* i. 488.

<sup>2</sup> Raynall, *Voyages*, v. 281.

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The agricultural improvement in England consisted in the introduction of an improved rotation of crops, both in the fields and on the waste. It was built upon the customary rotation; and the Norfolk four-course husbandry, in particular, was an adaptation of the two-field system with half fields. The chief change in England in the seventeenth and eighteenth centuries was the introduction of turnips and other green crops; but in Scotland there was a much more thorough alteration. The in-field and out-field were combined in a system of convertible husbandry: the farm was divided into two portions, one of which was laid down in grass for five or six years, while the other was utilised for a rotation of crops, and the chief improvement lay in the introduction of grasses,<sup>1</sup> which were sown on the portion of the farm that was at rest, so that better grass could be obtained and a larger stock maintained. When the time came for breaking up the pasture, it was greatly improved. Donaldson, who, like Arthur Young, had been unsuccessful personally, set up as a critic of Scottish husbandry just after the passing of the General Act for Enclosing; he has a good deal to say about sowing grasses.<sup>2</sup> This method of convertible husbandry often involved a course of five or six years on each half of the farm, and the course of cultivation introduced is similar to that which has survived in some parts of Germany,<sup>3</sup> but has little relation to the rotation of crops which was favoured by English improvers.

Much is made by Scottish writers of the importance of security of tenure if the tenants are to be encouraged to improve, and they seem to regard the English farmer as sufficiently protected by the length of his lease. It looks as if the landlord and tenant had been long associated together in the management of English land, and that there was more confidence between them than existed in Scotland—apart from kinship. The territorial proprietor had no interest in encouraging kindly tenants to improve; their security of tenure and fixed rents were an obstacle to the introduction of more profitable management,<sup>4</sup> and there can be little surprise at the efforts which seem to have been made in the seventeenth century to substitute some other arrangement for this tenure. On the other hand, the tacksman, or leaseholder,

<sup>1</sup> Lord Haddington at Tynninghame in the early eighteenth century. Chalmers, ii. 490. Sinclair, *op. cit.* xvii. 576.

<sup>2</sup> *Husbandry* (1697).

<sup>3</sup> Meyers, *Conversations-lexicon*, s.v. *Betrieb*.

<sup>4</sup> Marshall, *op. cit.* 24.

had no security of tenure, and was liable to have his rent raised if he exerted himself to improve his holding; and this is at all events a more common complaint in Scotland than in England.

There is another and more instructive difference in the activities of the English and of the Scotch improver in the eighteenth century. The English improver concentrated his attention on the staple employments of rural life—tillage and stock breeding, and sought to do away with hindrances to improvement, and to bring pressure to bear in favour of improved agriculture. He was accustomed to a state of society in which spinning and weaving were diffused in rural counties, and did not trouble about this; there was a steady market for corn and victuals, and he tried to secure that advantage should be taken of this market. In Scotland conditions were different: there were many parishes which could not supply their inhabitants with corn, and agriculture did not always afford the means of subsistence. It was this problem not only to improve agriculture, but to supplement it by the introduction of new industries. It was a matter of difficulty for the tenantry in Scotland to live by tillage only, and improving proprietors were constantly on the look-out for branches of industry which they could successfully introduce. Much pains was taken in the development of the linen industry, and of fisheries at places on the coast. These industries often resulted in the laying out of new villages, where the weavers<sup>1</sup> or fishers<sup>2</sup> had little crofts of land, as a second string to their bow, but chiefly maintained themselves by manufactures. There had been a parallel movement in England two centuries before, and Broadway in Worcestershire remains as a manufacturing hamlet which was laid out in Tudor times; but there are numbers of Scottish villages, like Springfield in Greta, which were deliberately planted for the prosecution of some domestic industry in the eighteenth century. As the Industrial Revolution advanced, as well as from other causes, the population were no longer able to support themselves; and the maintenance of crofters, who were one of the improvements of the eighteenth century, became a terribly difficult problem in the nineteenth. The fortunes of the rural population in England in the nineteenth century have been chiefly affected by agricultural changes, while in Scotland they have been much more directly dependent on the rise and

<sup>1</sup> Little Dunkeld, Sinclair, *op. cit.* vi. 379.

<sup>2</sup> Strachur, Sinclair, *op. cit.* iv. 577.

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decay of hand-loom weaving and the other industries by which they had supplemented the resources derived from the products of the soil.

There seems to be a temptation to Scottish historians, where they are dealing with economic progress, to lay stress on English analogies, and to supplement local materials by drawing on other sources ; perhaps the foregoing paragraphs may serve as a caution against relying too readily on such information. The history of Scottish development, both in town and country, especially of local development, must be based on Scottish evidence ; and though English analogies may be useful illustrations, they may also prove misleading. That there was an original difference between the English and Scottish burgh is generally recognised, but the ramifications of this essential difference and its far-reaching effects on foreign trade, and industrial life in Scotland, are easily overlooked. It is certainly plausible to assume that the medieval organisation of agriculture was similar in both countries ; but, if the view put forward in these pages can be substantiated, it appears that the differences between rural life in England and in Scotland were far greater than is generally recognised, and that descriptions of the English manor, and the story of its breaking up, do not give us any real help in appreciating the difficulties that had to be overcome in the course of agricultural progress as it actually occurred in Scotland.

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