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SIR THOMAS CRAIK OF RICCARTON.

Craik

THE  
LIFE  
OF  
SIR THOMAS CRAIG  
*OF RICCARTON.*

WITH BIOGRAPHICAL SCETCHES OF HIS  
MOST EMINENT

LEGAL CONTEMPORARIES.



W. & C. TAIT.

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PRINTED FOR W & C. TAIT.

MDCCCXIII.

**AN ACCOUNT**  
**OF**  
**THE LIFE AND WRITINGS**  
**OF**  
**SIR THOMAS CRAIG**  
**OF RICCARTON:**

**INCLUDING BIOGRAPHICAL SKETCHES OF THE MOST**  
**EMINENT LEGAL CHARACTERS,**  
**SINCE THE INSTITUTION OF THE COURT OF SESSION**  
**BY JAMES V. TILL THE PERIOD OF THE UNION**  
**OF THE CROWNS.**

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**BY**  
**PATRICK FRASER TYTLER, ESQ.**  
**ADVOCATE, F.R.S. AND F.S.A.**

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**EDINBURGH:**  
**PRINTED FOR W. & C. TAIT.**  
**MDCCCXXIII.**

## ADVERTISEMENT.

THE following Account of the Life and Writings of Sir Thomas Craig, including biographical sketches of his most celebrated legal predecessors and cotemporaries, will not, perhaps, be unacceptable to those who are interested in the history and antiquities of the Scottish Bar. Amongst our early lawyers, Craig seemed entitled to claim pre-eminence, not only from the popularity of his great legal work, but from his extensive learning as a scholar, and a man of letters. Yet Craig, unlike his more ambitious brethren, who were almost all either statesmen or politicians, was contented to pass a life of solitary study, and refused to mingle in

the political transactions of his intriguing age. This was to his honour ; but as it has rendered his life little eventful, I have endeavoured to give variety to the narrative by introducing his legal cotemporaries, whose characters, in their connection with the dark and troubled annals of the times, are in no common degree interesting. Many of these were not only lawyers and statesmen, but, like Craig, authors, poets, or historians ; and in attempting to appreciate their claims upon the memory of posterity, some incidental notices of the history and literature of the age have naturally been introduced. The materials which compose this volume, have been collected not only from the different historical and legal works, which at various periods have been given to the public, but very frequently from manuscripts and other recondite sources not often consulted by the general reader.

EDINBURGH,

*June MDCCCXXIII.*

# L I F E

OF

SIR THOMAS CRAIG OF RICCARTON.

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SIR THOMAS CRAIG, of Riccarton, author of the *Treatise on the Feudal Law*, and of other learned works, was one of those men whose legal and literary eminence entitle them to be remembered with honour. It is certainly more remarkable, that, of so celebrated a person, so little should now be known, than that any one who is interested in the literary history of his country should endeavour to rescue that little from more complete oblivion.

Thomas Craig, according to the biographical sketch prefixed to the latest edition of the work "*De Feudis*," was the son of Mr. Robert Craig, a merchant in Edinburgh, who was descended from the family of the Craigs of Craigston in Buchan.

That the feudalist was of this family there is no doubt, but there exists strong evidence to prove that his biographer is incorrect as to the name and condition of his alleged father. Sir Thomas appears to have been the eldest son, not of Mr. Robert Craig, but of Mr. William Craig, of Craighntray, afterwards Craigston, in the county of Aberdeen. He was the heir of the property, and the representative of that ancient family\*. According to Baillie, Sir Thomas was born in the year 1548†. But this is nearly impossible, for it is certain that he was Justice-depute in the year 1564‡. If Baillie's date is correct, this would make him only sixteen when he was called to the duties of this important office, which is not to be believed. It is much more probable that he was born in the year 1538.

Young Craigenjoyed all the advantages of a learned and liberal education§. He owed this to the care and affection of his father, who appears to have been

\* The strong presumptive evidence, upon the authority of which I have stated this, will be found in the App. No. III.

† De D. Thomæ Cragii Vita Scriptis et Progenie Brevis Narratio. ‡ Reg. Privy Seal, vol. xxxii. fol. 63.

§ Redpath's Preface to Scotland's Sovereignty, p. 28.

affluent, and who sent him at an early age to the University of St. Andrew's.

At the period when Craig received the rudiments of his education, the learned languages were cultivated in this country with uncommon success, and Scotland, although labouring under many disadvantages, had already given birth to some of the ablest scholars, and profoundest mathematicians in Europe. Under the patronage of the royal race of Stewart, the cultivation of letters had been encouraged by the example, and rewarded by the munificence of a line of kings\*.

During the turbulent reign of James the V., the great progress made by our country in the mental struggles occasioned by the first appearance of the doctrines of the Reformation, is well

\* James the First was himself an admirable poet, and a munificent patron of letters. The knowledge of the liberal arts was warmly encouraged at the court of the third James. The introduction of printing into Scotland, by the establishment of the presses of Walter Chapman and Andro Millar, and the foundation of one of the most ancient and eminent of our Scottish universities, are events which form a kind of literary era in the reign of his gallant and unfortunate successors.



known to the student of Scottish history. The collision of opposite and contending opinions, the high interest excited by the questions which were then in the course of daily discussion ; the communication with the continental reformers, and the more general cultivation of the learned languages, united to the progressive facilities in the art of printing, imparted an impulse to the national intellect, which was seen in its effects upon the literature and the liberty of the Scottish nation. The appearance of such minds as Knox, Buchanan, and Napier, confirm the truth of this observation ; whilst the names of Lesly, Bishop of Ross, of Henry Sinclair, third President of the Court of Session, a generous and learned patron of letters, of Andrew Melville, of Rollock, of Adam Blackwood, of Archbishop Adamson, and other eminent scholars, are conspicuous in the history of these momentous times. Nor was the gentler art of poetry, which was afterwards to afford a recreation to Craig amid his severer labours, neglected under the reign of this monarch. Many of the above mentioned scholars were remarkable for their cultivation of

Latin poetry. One of them, Buchanan, is well known to have been the prince of the poets, not only of his own time, but to have attained a perfection, which, in the future history of literature, the muse of Milton was alone destined to emulate. The amorous Ronsard imbibed at the court of James his first taste for poetical composition, and the Scottish verses of Dunbar, Lindsay, Douglas, Bellenden, and Maitland, possess not only in many instances very high poetical beauty, but have become useful in transmitting a curious picture of the manners of the times, and in preserving the characteristic language of the age.

The encouragement of letters did not cease with the Fifth James, for it is well known that the unfortunate Mary inherited from her predecessors the spirit of literary patronage and the cultivation of the learned and liberal arts. The era of the birth and education of Sir Thomas Craig, was a period, as we see from these rapid observations, of uncommon eminence in the literary history of Scotland.

The young Craig entered, at the age of fourteen, in the year 1552, a student of St. Leonard's

College in the University of St. Andrew's\*. The mode of education pursued in the different colleges of the university was at this time very different from that which was followed at a later æra. The period of initiatory study through which the pupils passed previous to attending the higher classes, was limited to four years, and the labours of instruction were divided amongst four professors, denominated the four Regents. Each of these professors taught the same branches, including a course of education in the learned languages, and through the whole course of these four years, every different Regent carried on his respective class from the time of its matriculation, until the students composing it were ready to be laureated, or to receive their degrees as Masters of Arts. Craig, however, did not remain for the whole period of four years, but appears

\* Dean of Faculty's Register, or Book of Entries at the University of St. Andrew's, sub anno 1552.

Baillie does not particularize St. Andrew's as the university at which Craig studied; he only says, "Prima linguarum et philosophiæ in scholis et academiis patriis tyrocinia posuisset."

to have left the university after he had received his degree as Bachelor of Arts in the year 1555. Most of his fellow students, who entered college along with him, were created Masters of Arts in the year 1557. Amongst these we find Mr. John Sharp, probably the same who became a distinguished cotemporary of Craig's at the bar; but the name of Craig himself does not appear.

It was a rule of the university, that until the students had passed through this established course of learning, they were not permitted to attend the lectures of the professors in those studies which were termed the higher faculties, including the laws and theology. As Craig left college in the year 1555, he could not at this early age have profited by the lectures of the Professor of the Laws, who, under the title of Civilist, in the interval between 1538 and 1558, became one of the constituent professors of the university.

It cannot with certainty be affirmed, under which of the regents or professors the education of Craig was conducted; but it is not improbable that his master was James Wilkie, a scholar

whose abilities were not thought unworthy of the same situation which had been filled before him by the great Buchanan. The common course which was followed in that college, although it did not include the studies of theology and law, which might be prosecuted in another department of the university, was sufficiently voluminous; embracing humanity, logic, rhetoric, ethics, and physics. These, accordingly, were the studies to which, at this early age, the labours of the future feudalist were directed\*.

After having in this manner completed his early studies at St. Andrew's, Craig passed over into France, for the purpose of cultivating the higher branches of learning at the celebrated University of Paris †. He had now reached that

\* For these particulars regarding the course of study at St. Andrew's, I am indebted to the kind friendship and researches of the Rev. Dr. John Lee.

† *Deinde in Gallias ad majorem ingenii cultum capessendum, profectus, jurisprudentiæ præcipue animum applicuit.*—*Baillie*.

In the Fifth and Seventh Chapters of the First Book of his Treatise on the Succession, we find his own declaration, that he studied at Paris. Unfortunately, it is very

advanced age in which, although it still belongs to youth, we generally find the promises of future eminence, in which the indications of permanent character begin distinctly to appear, and when the instructions we receive, and the talents of the masters we attend, are calculated to make a lasting impression.

At this period it was a common and almost universal custom for our Scottish youths, who had chosen for themselves any of the learned professions, to complete at the University of Paris, or in some other college of France, the education which had been begun at home. The members of our Scottish bar, in particular, at this early period of its history, and for more than two centuries after, were in the habit of repairing to Paris, Poitiers, or Bruges in the Netherlands, to pursue the higher branches of philosophy, and to receive their education in the civil law. What then was the state of the Parisian uni-

shortly given. In Chapter Fifth, speaking of the right of choosing kings by election, "I remember," says he, "to have heard this question much tossed and disputed at Paris when I was a student there."

versity at this era of its history? and who were these professors under whom Craig and his other legal contemporaries must have studied?

These are interesting questions in the biography of Craig; and they lead us upon interesting and classical ground.

The university of Paris was at this period in a most flourishing situation; it included thirty thousand students within its walls\*. Lectures on the Greek language were delivered by the celebrated Turnebus†, a scholar who had been the colleague of Buchanan in that university; whom Joseph Scaliger has eulogised as the ornament, not of France only, but of Europe; and regarding whose profound classical knowledge, the ablest judges of these times appear to have been

\* Scaligerana. Thesaur., vol. ii. p. 490. M'Crise's Life of Melville, vol. i. p. 18, a highly valuable work in point of literary research. As to the other subjects which it embraces, there still is, and probably will long be, in Scotland, a great diversity of opinion.

† Turnebus's grandfather was a Scotchman, according to Dempster and David Buchanan. Dempster, Hist. Eccles. p. 688. David Buchanan, MS. in Bibl. Coll. Edin. The name was Turnbull.

at a loss for terms to express their admiration \*. Montaigne, indeed, with his usual style of communicative garrulity, complains that the cut of the great Grecian's robe was too simple and uncourtier-like, and Scævola de St. Marthe has rallied him for his habit of blushing, and hanging his head in company †.

The Latin chair was then filled by a scholar of a different character, yet of almost equal excellence. This was the fastidious and hypercritical, but learned Passerat. "Hic est ille Passeratinus," says Scævola de St. Marthe, "qui primus apud Parisios, in schola regia veteræ latinæ opes aliquanto majore cura, et studio pervestigavit, juventutique aperuit, cum Turnebus, Auratus,

\* Montaigne, book i. 24. c. Sammarthani Elogia, b. ii. p. 47.

† Turnebus was appointed Regius Professor of Greek in 1555, the year Craig left St. Andrew's. "Nunquam satis laudatus vir Andreas Turnebus. "unicum Gallie nostræ atque adeo totius Europe ornamentum." *Jos. Scaliger Conjectan. in Varronem*. "Sol ille Gallie Turnebus." *Lipsius*, b. ii. *Elect.* c. 90. "Infinita multiplicis doctrinæ copia in Turnebo fuit." *Moretus*, b. xviii. *Var. Lect.* c. 19.



Lambinus, cæterique, prius in eadem scholâ professi, Græcis potissimum interpretandis operam et industriam impendissent." In other respects Passerat seems to have been of a very different and infinitely less attractive character than the modest and ingenuous Turnebus\*.

The progress of letters was at this period much encouraged by royal patronage in France, and the University of Paris, as the great seat of classical and philosophical education, munificently supported. Three different professorships, one of theology, another of Arabic, and a third of surgery, were created by Henry the III. ; and a former monarch, Henry the II. had added

\* "*Passerat.*

"Homo emunctæ naris, et cui aliena vix placerent."

*Thuanus, ad an. 1602.*

Duo verba Latinè sciebat "*omnes reprehendebat.*"

*Scaligerana.*

"Hoc epitaphium ipse vivens sibi composuit."

"Hic situs in parva Janus Passertius urna,  
Ausonii Doctor regius eloquii.

Discipuli memores, tumulo date sarta magistri,  
Ut vario florum munere vernet humus.

Hoc culta officio ; mea molliter ossa quiescent  
Sint modo carminibus non onerata malis."

to the Royal College a chair of Latin eloquence, and general philosophy, which was filled by the well-known Peter Ramus\*. This singular man, although treated with extreme severity by contemporary authors, is entitled to no common praise. He was among the first philosophers of this age who endeavoured to shake off the fetters of Aristotelian despotism. Having employed himself in instructing youth in philosophy and the mathematics, in one of the schools of the university, he was afterwards promoted to the chair in the royal auditory†, and there delivered his lectures, oppugning the authority and doctrines of Aristotle. One of his most virulent and successful opponents was Joannes

\* De Thou, ad annum 1572, speaking of Ramus, observes, "Tamen ex eo commendatione dignus fuit, quod ingenio, diligentia, assiduitate, et opibus etiam suis (quantum in ipso fuit) rem literariam juvit ac promovit; instituta mathematices professione; cui annum vectigal D librarum e facultatibus suis attribuit."—Scaliger in his amusing Table Talk, tells us, "Ramus magnus fuit vir sed magni nimis fit; ipsius mathematica sola bona, sed ipse non est auctor."

† "In regio" auditorio.

Carpentarius, who at the period when Craign studied at Paris was Professor of Philosophy in the university of that city. Bulaeus speaks of Charpentier as equally eminent in the art of oratory, and in the study of philosophy, "Jacobus Carpentarius, Clementanus, Bellvacensis, orator et philosophus insignis in Burgundiano et Becodiano dudum, philosophiam magna neminis sui fama professus est.\*"

Living as we do under the present peaceable reign of literature, in which, if authors are sometimes rudely handled, still the critical warfare is confined alone to their opinions, we can form no idea of the personal animosity which in these days of turbulent knowledge accompanied any attempt at innovation, nor the dreadful results to which such attempts very frequently conducted †. Ramus was murdered in his study by assassins, who, according to the account of De Thou, were hired by Charpentier, and assisted by the pupils and disciples of this rival. ‡ The

\* Bulaeus, vol. vi. p. 941.

† Freheri Theatrum. Illust. Viror. p. 1467. vol. ii.

‡ The assassination took place during the massacre of St. Bartholomew. See Sammarthani Elogia, b. ii. p. 56.

prevalence of the doctrines of Calvin, and the increase of the ambitious sect of the Jesuits, augmented the divisions produced by the new philosophy of Ramus. Yet still in the different departments of the knowledge of those days, in the cultivation of the Greek and Latin languages, in the philosophy of the schools, in the mathematics, in theology and the study of the eastern languages, there was probably at this time no public seminary in Europe, which presented the same facilities of instruction with the university of Paris\*.

It is well known that the schools of France had long been the favoured seats of the civil law, distinguished by the enthusiasm with which the study of Roman jurisprudence was there cultivated, and the eminent pleaders, professors,

\* *Turbæ Scholasticæ nescio quo malo genio excitatæ in prato Clericorum eandem Academiam amplius decennio ab anno 1548, diverterunt, et eo tempore quo hæresis Calvinistica radices agere incipiebat.*—*Bulæus*, vol. vi.  
 “*At florentem academiam statim quatuor potissimum mala deformarunt, hæresis, turbæ scholares, Jesuitarum propagatio, bella civilia, imprimis quidem hæresis.*”—*Bulæus*, *ibid.*

and commentators which they had produced\*. Cujacius, whom Scaliger somewhat pedantically terms the pearl among jurisconsults, *Margarita Jurisconsultorum* †, had at this time commenced that legal career which created a new era in the history of that great department of jurisprudence. Although, since the thirteenth century, the establishment of a chair of the civil law in the university of Paris had been prohibited by a decree of the Pope, an interdiction which appears to have been enforced throughout the whole period of the fifteenth century, still the canon law was of course not included under the papal ban. It was publicly taught in the university; and at the period when Craig studied at Paris, the celebrated Peter Rebuffy, who had delivered lectures successively at Montpellier, Toulouse, Poitiers, and Leyden‡, was the regular professor of the canon law. He was a man of simple and ingenuous manners, exceedingly religious

\* Life of Andrew Melville, vol. i. p. 27. Appendix, same vol. p. 420.

† Scaligerana, pages 18. 67.

‡ Bulæus, vol. vi. p. 969.

and charitable; and so ardent in the pursuit of knowledge, that, after he had grown old in the exclusive devotion to his legal labours, he determined to commence the study of the Greek and Hebrew languages when he was past sixty\*. His writings in the elucidation of the law extend to five folios; a moderate number, if we consider the Herculean perseverance of the commentators of these days. But although the Roman law was not publicly taught, yet it was a frequent practice of the Parliament to authorize the delivery of extraordinary lectures on this subject, by the most eminent professors who repaired from Poictiers, Toulouse, or other colleges of France to the Parisian university. When Cujacius was obliged, from the convulsions occasioned by the civil war, to abandon, in the year 1576, his chair at Bruges, he was permitted, by a special dispensation of the university, to deliver lectures, and confer degrees in his own faculty, in conjunction with the professors of the canon law. And at the time when Craig studied at Paris, the well known Francis Baldwin, whose reputation as a civilian is of the first rank, deli-

\* Freherus, vol. ii. p. 834.

vered occasional or extraordinary lectures on the civil law \*. It cannot be affirmed with certainty, but it is extremely probable, that, not content with having drank from those occasional springs of canonical and Roman jurisprudence, the future illustrator of the feudal law repaired to Poitiers, Thoulouse, or Bruges, and there, under Duarenus, or Cujacius, or some of the other eminent doctors of the civil law, completed his professional studies. We know that at a future period of his life, he sent his son, Lewis Craig, to receive his legal education at Poitiers.

Not only in the instructions of Rebuffy, and the lectures of Francis Baldwin, but from the examples of the eminent pleaders who, at the same period, adorned the French bar, was Craig likely to derive very high advantage. Nor was he in danger of becoming a mere lawyer ; for in no former age does there appear to have been so much classical learning, so much general knowledge, and so great a degree of erudition, as there was then to be found amongst the scientific, the lite-

\* M'Crie, Life of Melville, vol. i. p. 27, and 420.

rary, and the legal men of France. It was the age of Ronsard and Marot in French poetry—it was the age of Muretus, of St. Marthe, of De Thou; and, at the bar itself, there appears to have been few men of any distinguished eminence, who were not accustomed to beguile their severer labours by the cultivation of literature, and a devotion to poetical composition\*. To this high character of the university where he was educated, and the society which, in the course of his legal studies, he frequented, Craig undoubtedly owed his admirable taste, and his style of pure latinity. It was the same cause that imparted to his works the rich sprinkling of classical quotation, which we find pervading his discussions both on legal and on political subjects.

If we consider also, that at this period, the French universities were the constant schools of

\* In proof of this, I need only refer to that collection of Greek, Latin, and French verses, written on the death of Scævola de St. Marthe, and prefixed to his works, under the title of "Tumulus Scævola de St. Marthe," a great proportion of which appear to have been composed by the gentlemen of the bar.



our Scottish lawyers, at which they were in the custom of remaining for three and four, sometimes for seven or eight years\*, we shall discover one principal cause of their classical erudition, and of that exclusive cultivation of the civil law, which forms a striking feature in the history of the court for nearly a century after the death of Craig.

Indeed the mode of study which was followed at this period by those who had adopted the legal profession, was remarkably calculated to render them not only eminent in their department of jurisprudence, but useful in the service and in the councils of their country. It was, as we have seen in the case of Craig, their first care to complete at the schools and universities of Scotland, their course of languages and philosophy. The

\* Mr. Oliver Colt, younger, is admitted advocatt upon a bill pedanttikally bearing, that after the accomplishing of his studies "in literis humanioribus," et "finito cursu philosophiæ" in the college of Edinburgh, where he was "donatus laurea artium liberalium," and had studyed lawes 7 yeares in France,—and mynds to be a profitable instrument in the commonwealth."—*Pitmedden MS.* sub anno 1606.

student was then sent to commence his continental labours at some foreign university, where, without neglecting his advancement in the higher branches of classical and philosophical learning, he devoted his chief attention to the study of the principles and practice of the civil law. Having attained this knowledge, and taken degrees in the civil and canon law, it was not uncommon for those whose fortunes were affluent, to conclude their legal education by travelling through the different countries of Europe\*. On their return home, it was the custom for them to attend for some time in the courts of law, to acquire a practical acquaintance with the forms of procedure. This, in the quaint but expressive language of that age, was called "haunting the formes and courtis." And after the period of this haunting was expired, they applied by petition to the

\* Sir Robert Spottiswood, one of the ablest presidents of the Court, the friend of the great Marquis of Montrose, and who, like him, for his unshaken loyalty to his sovereign, suffered on the scaffold, had accomplished himself by nine years of foreign travel before he began to practise at the bar.—*Life of President Spottiswood, prefixed to his Practicks.*

lords ; and upon due proof being given that they had completed a regular course of legal study, they were admitted advocates, and enjoyed the privilege of practising before the court.

In the liberal education which he received at home, and in his study of the civil and the canon law in France, at a period when the schools and universities of that kingdom were so justly eminent, the young Craig enjoyed no common advantages. On his return from abroad, an event which probably happened about the year 1561, he found that his near relation, Dr. John Craig, had arrived in his native country from the court of the Emperor Maximilian\*, and Craig continued his studies under the superintendence of this divine, one of the principal coadjutors of Knox in the great work of the Reformation. The lessons which he received from such a man must have had peculiar influence upon the mind of a youthful scholar,—profound learning, a life of vicissitude, which begun with misfortune, and was continued through a series of romantic and

\* Spottiswood's Ch. Hist. p. 461.

perilous adventures—the simplest manners, and a spirit of piety which no personal dangers could shake, such were the attractions to be found in the character of Dr. Joba Craig. The father of this remarkable divine was slain in the battle of Flodden\*, the grave of our Scottish nobility; and he himself, after receiving the rudiments of his education at St. Andrew's, became a tutor in England to the children of the Lord Dacre†. Returning to his native country, when the two kingdoms became involved in war, he entered the Dominican order, and was shortly after imprisoned upon suspicions of heresy. . . . From these imputations, however, he was soon cleared; and upon regaining his liberty, growing weary of a longer residence in Scotland, probably because he found the reformed opinions gaining silently upon his mind, he retreated into England, thence into France, and finally sought the court of Rome. The talents of Craig recommended him to the notice of the Cardinal Pole, and, under the pa-

\* Spottiswood's Ch. Hist. p. 461.

† Ibid. p. 462.

tronage of this eminent man, he again entered the Dominican order at Bologna\*, became entrusted with the education of the novices, and was employed in various ecclesiastic missions throughout Italy and into Greece†. His services were rewarded by the appointment of rector to the school of the Dominicans; and soon after, finding in the library of the Inquisition a copy of the institutes of Calvin, he became a convert to the opinions of this reformer. This could not be long kept secret; he was accused of heresy, sent to Rome, imprisoned for nine months, and finally summoned to stand his trial before the court of the Inquisition. The terrors of this tribunal did not overawe him. He made a bold confession of his faith, was convicted of entertaining heretical opinions, and condemned to the flames.

It happened that on the night preceding the morning on which Craig was to suffer, Paul the IV. died; and the people, rejoicing to be free from the yoke of the tyrannical Pontiff, rose in a

\* Calderwood, p. 37, 38.

† Spottiswood, p. 461.

tumultuous manner, dragged his statue through the streets of Rome, broke open the prisons, and thus gave the Scottish Dominican an opportunity of escape from the death which hourly awaited him. He fled through Italy to the court of Vienna, and had already begun to rise into favour with Maximilian the II., when letters reached the emperor from Pope Pius the III., in which he was required to send Craig back to Rome as a malefactor, who had been convicted of heresy, and sentenced to the flames. Maximilian, afraid of a quarrel with the Pope, and yet anxious to preserve a man of talents and misfortune, dismissed him quietly from his court, with letters of safe conduct, under the protection of which, he passed through Germany into England; and, after twenty-four years' absence, returned to Scotland in the year 1560. Long absence and disuse had rendered Craig unable to speak his native tongue with fluency or correctness, but his learning and experience were highly useful to the reformers; and, until he recovered the language, he preached in Latin to the learned in St. Magdalen's Cha-

pel\*. In the year 1561 he was appointed minister of Holyrood-house, after which he successively became assistant to Knox, and minister at Montrose and Aberdeen. He was the person who, in the year 1580, drew up the celebrated National Covenant, and appears to have been the author of two theological works†, the one an answer to an attack upon the Confession of Faith, the other entitled Craig's Catechism, which was appointed to be read in families, and "learned in lecture schools," by an act of Assembly of May, 1592. He died at Edinburgh at the advanced age of eighty-nine; a man of great learning as a divine, and eloquence as a preacher; sincere and vigorous in his opposition to the government, against every measure which threatened to injure the real interests of religion, but refusing his concurrence in designs which were dictated by a weak and unreasonable jealousy of the throne, and attempted to be car-

\* Spottiswood, p. 462.

† In the year 1579, he was called to be minister for the king.

‡ M'Crie's Life of Melville, p. 156.

ried into effect by an open defiance of its authority\*.

Such was the character and history of the man, under whose care Sir Thomas Craig, upon his return from the French universities, pursued his higher studies. Baillie, in his short Latin life, is evidently in an error when he states that he received the earliest rudiments of his education under John Craig†. A comparison of dates will convince

\* In an autograph MS. volume of unpublished poems, by John Johnstone, which is preserved in the Advocates' Library, page 29, is to be found the first rude sketch of two Latin epitaphs upon Craig. One of these epitaphs is thus inscribed :

Joannes Bupanus sive Cragius,  
Ecclesiastes primum Abredonensis  
Deinde Regius. Cui S. P. Q.  
Abredonensis nomine hunc tumulum  
Inscripsi—qui Doctor quondam meus  
Obiit, 12 Dec. anno Christi, 1590, (1600)  
Ætatis 89.

† “ Postquam vero curâ et diligentia propinqui sui Joannis Craigii Theologi id temporis celeberrimi educatus, prima linguarum et philosophiam in scholis et academiis patriis tyrocinia possuisset.”—*Baillie, Vita*, p. 1.

“ Having been virtuously educated by the care of Mr. John Craig, a great divine, and his near relation, and made



us that the divine went abroad two years before Sir Thomas was born ; and that, at his return to Scotland, he found the future feudalist of the age of twenty-two. This superintendence, therefore, must have taken place after the elder Craig had found a haven from his misfortunes in his native country—when the master, from his knowledge not only of the ancient but of the modern languages, which he had acquired abroad, was well qualified to watch over the education of one destined to a learned profession—and when the pupil had himself reached that age of advanced youth, which rendered him more able to appreciate the talents of his instructor. Craig appears to have amply profited by the advantages which he had received in his education. We are told by Baillie\*, that in the progress he made in every branch of classical literature, he left behind him

more than an ordinary progress in the learned languages and in philosophy, he went to France."—*Redpath, Preface to Scotland's Sovereignty*, p. 28.

\* *Omniq̄ue elegantiore literaturā tantos progressus fecit, ut plerōq̄ue æquales suos facile anteciret.*—*Baillie, Vit. Craigii.*

most of his youthful contemporaries ; and Burnet assures us, that in his acquaintance with the languages of Greece and Rome, he was esteemed superior to every scholar of his age\*. What was his early learning in the laws, we may conjecture from the noble fruits which were produced by his maturer years.

Thus accomplished Craig passed advocate, or, according to the English expression, was called to the bar in the month of February, 1563, at the age of twenty-five. The situation of Scotland, at the period when he commenced his legal career, was such as to excite the compassion of all who loved their country. Abroad it had been harassed and depopulated by constant wars with England ; at home it was weakened by civil dissensions, and its true interests were sacrificed to the craft and the ambition of contending parties in the state. The difficulties and misfortunes of Mary had begun, the chief administration of affairs was in the hands of Murray, the lion-hearted Knox

\* Græcè et Latinè doctus fuit supra omnes sui seculi : totam ætatem exegit in literis et inter libros.—*Burneti Præfatio*, p. 11.

was carrying on with a determined spirit the work of the Reformation, and the people having thrown off the fetters of the Romish superstition, were too ready, in the enjoyment of their fresh and buoyant liberty, to push on to the opposite excesses of a licentious freedom. The intrigues of Elizabeth had already sowed dissension in the kingdom, and the nobles were still too powerful to be controlled by the feeble machinery of the law. Yet the supreme court of the country, which had been instituted thirty years before, continued its regular sittings, the forms of justice were duly preserved, and the decisions of the judges recorded by some of the more learned of their number. But, in the midst of all this, the person of the sovereign was not safe ; judges were assassinated by litigants who believed themselves to be injured, while in the remoter parts of the kingdom every baron became his own lawgiver, " and the best sword made strongest argument."

In these scenes of civil faction and political intrigue, Craig did not personally engage, like some of his more ambitious brethren at the bar, but they presented him with ample materials for re-

flection ; and, indeed, when we compare the state of Scotland at this period with the nature and objects of those learned works which he afterwards published, it is not difficult to discover that the first idea of such works must have been suggested to him by the circumstances of the times in which he began his public life. The licentiousness of the nobles and the people naturally led his mind to dwell on the idea of collecting the scattered laws of the realm into one great treatise ; by which he might impart consistency to the decisions of the judges, and stability to the jurisprudence of the country. The perpetual wars with England, the ambitious rivalry between the two nations, and their mutual impoverishment in wealth and in men, induced him to demonstrate, the undoubted right of succession to the throne of England, which was vested in the person of James the VI., the happy consequences which would result from a union of the two kingdoms as well as of the crowns, and the absurdity of the doctrines then pretty generally circulated regarding the feudal homage due to England by her sister country of Scotland.

His four principal works, therefore, on the Feudal Law—on the Right of Succession—on the Union of the Kingdoms, and on the Supposed Vassalage of Scotland, although written at a much later period, had their origin in the lessons which he extracted out of the civil commotions in which his early life was passed—and these works were all directed to one great end, the good of his country. But of them hereafter.

In the year 1564, Craig, after having been for a very short time at the bar, was promoted to a situation of importance and responsibility. This was the office of justice-depute, appointed by the justice-general of the kingdom, to hold courts for the trial of criminal cases. He is styled “*Justitiarius Deputatus nobilis et potentis Domini Archibaldi Comitis Ergadie Domini Campbell et Lorne, Justitiarum Generalis* \*.” This potent lord, under whom Craig enjoyed a delegated jurisdiction, was Archibald, fifth Earl of Argyle †, an ardent supporter of the Earl of Murray, in his

\* Justice depute of a noble and potent lord, Archibald, Earl of Argyle, Lord Campbell and Lorne, Lord Justice General.

† Douglas's Peerage, vol. i. p. 93.

early efforts for the establishment of the reformed religion, but as warm a friend to his sovereign, when he detected the selfish principles which disclosed themselves in the course of Murray's ambitious career\*.

And now, to address you according to the good old fashion, most courteous and gentle reader, since we have brought the learned Craig through the period of his education, have seen him in difficult and troubled times enrolled among his brethren, and invested with his earliest robes of office, we shall not scruple to leave him for a while, till the new gloss is worn off his judicial trappings. The institution of that court, of which he became so distinguished a member, and the history of some of his eminent predecessors at the bar, must for a few moments occupy our attention.

During the regency of John Duke of Albany, a plan appears to have been in agitation regarding the institution of a permanent court for the decision of civil causes, and we know that the Pope, in furtherance of the scheme, had per-

\* Crawford's Lives of Officers of State, p. 129, 130.

mitted the governor to demand from the clergy of Scotland an annual contribution for the support of the new judges \*. Against this papal decree an appeal was entered by Gawin Dunbar, Bishop of Aberdeen, in his own name, and in that of others of the Scottish prelates, nor was the controversy decided, when James the V., in the year 1532, first instituted the College of Justice †.

It had been discovered, by long experience, the safest and most able guide in the suggestion of legal improvements, that the administration of justice in civil actions, which had been hitherto adopted, was imperfect. The decision of causes had been, in a great degree, entrusted to committees of Parliament chosen from the clergy, the nobility, and the burghs ‡. These committees were ambulatory; they proceeded in annual

\* Buchanani Hist. b. xiv. c. 43. Banck. vol. ii. p. 512.

† Acts of Parliament, vol. i. p. 217, c. 1.

‡ The following passage from Sir G. Mackenzie's observations on the statutes, contains almost every thing which we know for certain on the subject of the judicial administration, which, from the times of the first James, and previous to the institution of the Court of Session by James the Vth., was adopted in Scotland. Speaking of the act 65 of the third Parliament of James the I.

circuits through the principal divisions of the kingdom ; and it not unfrequently happened, that the ignorance or precipitancy of the judges

“ Before this act the king’s council were the supreme judges in civil causes ; but by this act some commissioners of Parliament are to be chosen by turns, who, with the chancellor, are to be the session, and are to be paid out of the unlaws, so that the session was then a committee of Parliament. Their power is farther settled and declared by the acts 61, 62, 63, Parliament 14, James the II. By which, it is clear, that they were to sit but forty days at a time, and that the session was then ambulatory, and their sitting was proclaimed in each shire where they were to sit, three months before, and they were by that 63d act to bear their own expenses. After which, the sessions were, by King James the IV., Parliament 6, act 58, turned into a daily council, which was to be chosen by the king, and to sit at Edinburgh continually, and wherever the king resided. They had the same power that the session had ; and their sitting was to be notified to the people by open proclamation at the king’s pleasure. In place of all which, the College of Justice, and the Lords as they now are, were instituted by King James the V., Parliament 5, act 36, nota. There is power granted by this act to determine causes finally ; which may import an excluding of appeals ; but, thereafter, appeals are discharged expressly. James the II. Parliament 12, act 62.” Upon this subject, the early administration of Justice in Scotland, we shall offer some observations in a subsequent part of the work.



led to an erroneous or an unjust decision\*. In addition to this, the deputies of the commons were annually changed, so that if a suit happened to be prolonged, the alteration of the judges occasioned embarrassment and delay. The new members of the judicial committee were unacquainted with the prior proceedings, and this ignorance led to confused and contradictory decisions. To remove these inconveniences, and for the establishment of "ane permanent ordour of justice," James determined that the judges of his new court, which he named the College of Justice, should hold permanent sessions in the capital of the kingdom at four stated periods of the year. He appointed the court to consist of fifteen "cunning and wise men," of whom seven were to be chosen from the temporal estate, and eight, including a president of the court, from the spiritual order†. It was provided also that,

\* Lesly, Hist. book ix. p. 416. Pinkerton, Hist. of Scotland, vol. ii. p. 313. Maitland, Hist. of Scotland, vol. ii. p. 804.

† Acts of Parliament, Parliament 5, 17th May, 1537, c. 36. Maitland's Hist. vol. ii. p. 805. Leslie's Hist. B. i. p. 75.

whenever the chancellor of the kingdom was present, he should be "principal of this council \*," and that the king should possess the power of adding to the judges originally named, three or four members chosen from his great council, who were to sit and vote like the other judges †.

It was commanded ‡ that the Lords should

\* Acts of Parliament, *ibid.* c. 40.

† "These words, 'and siclike other Lords, as it shall please the king's grace to subjoin to them of his great council, who shall have vote to the number of three or four,' are all the warrant that there is for nominating the extraordinary Lords of Session, who cannot exceed four. They are still named by a letter from the king, as the ordinary Lords are, but they are not examined like them; and these extraordinary Lords are marked in the books of Sederunt after all the ordinary Lords."—*Mackenzie's Observations, Fifth Parliament of James the Fifth, c. xl.* The names of the first Senators of the Court were, the Abbot of Cambus Kenneth, President, Mr. Richard Bothwell, Sir John Dingwell, Mr. Henry White, Mr. Robert Schanwell, Mr. William Gibson, Mr. Thomas Kay, Mr. Arthur Boyce, the Laird of Balwerie, Sir John Campbell, Mr. Adam Otterburn, James Colvin of East Wemyss, the Justice Clerk, Mr. Francis Bothwell, and Mr. James Lawson.

‡ Parliament, 1537, c. 49.

enter the tolbooth and council house at eight o'clock in the morning, and continue sitting till eleven, that their proceedings should be carried on with closed doors, and that the advocates, or forespeakers, after having pleaded the cause of their clients, should remove from the council, "when the Lordes passis to disputation," and be re-admitted "at the giving and pronuntiation of interloquoures \*,"

For the examination of witnesses, we find it enacted, that every week three of the Lords shall be chosen, who are daily to take their seat in the council house, at two in the afternoon, along with the clerk of the council, where they are to remain during four hours; and that of these three judges, two shall be selected during the first week from the spiritual, and one from the temporal estate, and the next week, two from the temporal, and one from the spiritual order†. It was provided that ten advocates of "best name, knowledge, and experience," should be chosen,

\* Parliament, 1537, c. 50. Ibid. c. 66.

† Ibid. c. 53.

who are to be denominated general procurators of the council, and to be "admitted to procure in all actiones;" that these shall be sworn to exercise their office with faithfulness and diligence, and that they shall "procure for everie man for their wages, bot gif they have reasonable excuse\*." The mode in which the judges of this newly instituted court are directed to proceed in the decision of intricate cases, which, to use the expression of Lesly†, were involved in "the obscurity of controversy, or perplexed with the meshes of the law," is described with great minuteness and simplicity. The judges having taken their seat, "silence was to be had among the Lordes, and na man was permitted to commoun or speak of ony mater round or with his marrow; but as he shall be required and speared at be the chancel-lar or president, and when they command ony twa Lordes of the seate to argunne or dispute

\* Parliament, 1537, c. 64. The Advocates appointed, were Mr. Robert Galbraith, Mr. Robert Lesly, Mr. Henry Spittle, Mr. John Letham, Mr. Henry Lauder, Mr. Thomas Marjoribanks, Mr. William Johnston.

† Lesly, Hist. b. ix. p. 417.

ony mater, nane uther shall interrupt them quhill they have done. And then the chancellor or president is to require onie uther to argunne the mater. After which, all argumentes and disputations beand maid, and the Lordes haldand silence, my Lord Chancellor, or President, is to ask or require everie Lordis vote in that mater, as they are in the ordour be the actes and buikes of council ; and nane shall argunne ane uther in the giving thereof\*."

These senators of the College of Justice, as they represented the person of the king, were specially protected and highly privileged.. They were exempted from the payment of taxes†. They were entrusted with authority to punish with instant imprisonment, any person who treated them with contempt or dishonour. Their persons, goods, and estate, were placed under the immediate care and guardianship of the crown. Their decisions were to possess the same authority which belonged to the decrees of the Lords of the

\* Parliament, 1537. c. 55.

† Balfour's Practicks, p. 270.

Session\* under the old establishment of justice ; and, according to the idea first started by the Regent Albany, an annual salary was appropriated to each of the judges, to be collected by a tax levied upon the benefices of the clergy†.

\* The present Lords are ordained to have all the privileges that the Lords of Session had formerly. And therefore it is alleged, that since appeals could not be received from them, that they cannot be received from the Lords of Council and Session. Sir George seems not to have been aware of an important passage in Balfour's Practicks, p. 268. proving the existence of a right of appeal. See p. 39, 35, of the Preface to the Acts of Sederunt, published in 1811, written by a very profound lawyer, the late President of the Court, Sir Ilay Campbell.—*Mackenzie's Observations on Statutes, Parliament 5th, James V. c. 39. See Observations on Parliament 14th James II. act 62.*

It is well known that in the year 1674, upon an appeal having been made by the Lord Almond from the Lords of Session, to the King in Parliament, a decided difference of opinion occurred, with regard to this privilege of appeal, between the first and most eminent advocates and the court. This dispute led to a secession of about fifty gentlemen of the bar, who withdrew from the house, and refused to practise. An account of this singular occurrence will be found in Forbes' Preface to his Journal, p. 17.

‡ The provost of Corstorphin was called Mr. James Scott, and was conjunct collector with Sir John Bellen-den of Auchinoull, Justice Clerk, of the contributione of

By a solemn act of the same Parliament, the king had promised "that he should not by any private writing command the lords to do any thing otherwise in any matter that shall come before them, but as justice requires, or to do any thing that may break the statutes made by them\*," and relying upon this kingly promise, the senators of this new tribunal, at a very early period of its history, evinced that high minded impartiality which is the soul of the judicial character. In a cause which occurred the year after the institution of the court, it was found that "Gif the king give onie privie writing, quhilk is direct contrare the administration of justice, or hinderis and postponis the samin, the lordis of counsall may discharge or suspend the samin †. Not long afterwards, in the year 1537, the court again gave a proof of their firmness and impartiality, by refusing to obey the express command of the

L.1000 per annum, granted by the prelates and spiritual estate to the lordes of the seatt.—*Pitmedden, MS. Abridgment of Acts of Sederunt*, sub anno 1543. Lesly, Hist. book ix. p. 417, also book i. p. 74 and 75.

\* Stair, B. iv. Tit. 1. §. 25. Acts of Sederunt, p. 27.

† June 13, 1533, William Baron, contra the Erle of Morton.—*Balfour, Pract.* p. 267.

king contained in a warrant signed by himself, and directed to the judges. They declared that the injunctions of the sovereign were at variance with the laws regulating the practice of the court, and could not be complied with \*.

Such was the College of Justice in its original form, and as it came out of the hands of its kingly founder. Buchanan has attacked the constitution of the new court with much rancour. "By this measure," he observes, "the properties of the citizens are committed to the arbitrement of fifteen men whose power is perpetual, and whose controul is tyrannical, since their wills form their only laws †." But Buchanan, with his strong Protestant prejudices, can hardly be esteemed an impartial judge regarding the utility of a court which was founded by a Catholic king, and more than one-half of which was composed of Catholic judges. Lesly, the celebrated Bishop of Ross, to balance this censure of Buchanan's, has declared, "that the measure conferred unfading honour upon the king, and

\* Hailes' Cat. of Lords of Session, Note 3.

† Buchanan, b. xiv. c. 43. Pinkerton, vol. ii. p. 314



has been productive of infinite utility to posterity \*." That the character of the judges did not deserve the unqualified opprobrium to which it is held up by Buchanan is very evident, yet the opinions of both these historians are in some degree reconcilable. Buchanan, observing, as was undoubtedly the case, that, in the infancy of the Court, some of the judges were neither very learned in the laws, nor wholly immaculate in their administration, ascribes this mortifying fact to a defect in the institution itself. But the true cause is to be sought in the general profligacy and selfishness of the times. Lesly, on the other hand, in the eulogy which he has pronounced, appears to have considered, not so much the early or individual history of the court, as the theory of its constitution. The most perfect form of judicature, after all, is dependent for its utility upon the soundness of the moral materials out of which it is to be built; and assuredly as years passed on, and the factions and iniquitous age in which this infant court arose, gave place

\* Lesly, Hist. b. ix. p. 417.

to times of a purer and more peaceful character, the censure of Buchanan may be seen losing much of its force, and the encomium of Lesly regarding the excellence of the institution gaining deserved and unlimited authority.

It is a general opinion that they who devote themselves to the services of philosophy, of law, or even to the lighter occupations of literature, must enjoy a life of serenity and retirement. Never was this maxim more completely disproved than in the mental history of Scotland during the sixteenth century. Even at the commencement of this century, in a period of extreme confusion, the progress of letters and philosophy was distinctly visible, and increased in brilliancy with increasing years. Many learned men were to be found both on the bench and at the bar, some of whom had attained not only to high professional eminence, but whose hours of leisure had been devoted to more attractive studies, and who claim a place in the literary history of their country. There were others who, by their works, had attempted to fix the principles of our national jurisprudence; and, among the judges of the

court, we can discover a few remarkable statesmen and busy politicians, who acted a prominent part in the civil broils and religious dissensions which then distracted Scotland.

Among the judges who were nominated by James the V. at the original institution of the court, we find ALEXANDER MYLN, Abbot of Cambuskenneth, Ambassador, in the year 1529, from the queen-mother to Henry the VIII. and first president of the College of Justice. He appears to have been a man equally remarkable for his learning and talents, and for the primitive simplicity of his deportment \*. High in the favour of his sovereign, he would have been promoted to a bishopric had not his humility refused the offer. He introduced a thorough reformation of those abuses which the disorders of the times, and the negligence of his predecessors, had permitted in the constitution of his monastery, and

\* Richardini Exegesis in Hay's MS. Scotia Sacra, p. 513. The title of this book is Exegesis in Regulam Sancti Patris Augustini Fratris Roberti Richardini Canonici Regularis Celebris Ecclesie Cambuskenalis."

anxiously laboured, by his example and by his writings, to restore to the church its original purity of manners. After having been a canon and official in the diocese of Dunkeld, Myln, sometime previous to the year 1522, was promoted to the Abbacy of Cambuskenneth \*. A characteristic instance of his spirit of reformation in the constitution of his monastery is preserved to us in a work written by one of his own canons.

It had been directed by the council of Toledo that, in monasteries following the order of St. Augustine, the Scriptures should be read to the monks during the time of dinner. Our modern prelates, says the indignant canon, whose time is occupied in the society of women and profane persons, had altogether neglected the sacred rule; but my venerable prelate and father in Christ, to whom God grant perseverance and salvation, revived the custom. On the days when fish was eat, the Scripture was read uninterruptedly; on other days, at the commencement and conclu-

\* Epist. Reg. Scot. vol. i. p. 337.

sion of the meal, and when the abbot himself was present, in the refectory, which he ever was upon the Sabbath, and generally on the other days of the week, it was his custom to deliver a discourse, in the middle of dinner, and that he might render the brethren attentive, he would often suddenly, and when they least expected it, command them to exhort or preach extempore, in which number thus exercised, adds the canon, I myself, although unworthy, was often included\*.

At the period when Myln succeeded to his ecclesiastical dignity, nothing could be more unhappy than the condition of Scotland. The disastrous defeat at Flodden, the capricious and insolent administration of the Regent Albany, and the imprudent marriage of the queen-mother, the widow of James the IV. to the Earl of Angus, these circumstances had united to unhinge the government, and plant the seeds of civil faction in the country. The nobility were

\* Richardini Exegesis in Canon. St. Augustini, p. 102 and 103.

rude and uninstructed, the clergy became idle, and the monastic establishments, which had always held out a retreat to letters and to science, had fallen from this high character, and partook of the ignorance and disorder of the times. Alarmed at the progress of the evil, the abbot of Cambuskenneth endeavoured to restore to the monasteries the celebrity which they had lost. The universities of France had at this period attained a high reputation in theological learning, and Myln, aware of the impossibility of re-educating his more aged monks, determined to send a number of Scottish youths who had entered their noviciate at Cambuskenneth, to pursue their studies in sacred letters in France. Anxious, however, that they should continue true to their clerical profession, and fearful lest they might be seduced into secular employments, the future president commenced his scheme of literary reformation by engaging in a correspondence with the abbot of the Augustine monastery of St. Victor at Paris \*. He entreated this ecclesiastic

\* In the work of Richardinus, which has been above quoted, we find that Myln had engaged in a correspond-

to receive and educate, in the strictest rules of his order, a certain number of these novices, to direct their studies in sacred letters, and to render them worthy to be held out as examples of piety and wisdom to the rest; fitting them to become the superintendents of their studies, and the safeguards of their religious profession\*.

This remarkable letter yet remains to us—an eloquent memorial of the decay of ecclesiastical learning in Scotland, and of the ardent wishes of the author for its revival.

Amid these labours for the prosperity of the church, the abbot became himself an author, and one of our earliest Scottish biographers †. He has written in Latin the lives of the bishops of Dunkeld, a curious and useful body of ecclesiastical biography, which yet remains in manuscript, and to which future writers have been much indebted-

ence with this canon, and had entreated him to communicate the rules and observances followed by religious men in France, in the regulation of their monastic discipline. See Preface to the Exegesis in canon. Sti. Augustini.

\* Irving's Lives, vol. i. p. 79. Epist. Reg. Scotorum, vol. i. p. 335.

† Nicolson, Scot. Hist. Library, p. 76. Folio Edit.

ed. It is dedicated to Gavin Douglas, Bishop of Dunkeld, the well known translator of Virgil, and contains an interesting account of this celebrated poet \*. Myln was created president in the year 1532. He held that high situation for eleven years, and died probably about the year 1543 †. Happy in this, that he did not live to witness the destruction of his ancient abbey, which was pulled down, and plundered of its ecclesiastical riches by the misguided fury of the reformers ‡.

Among the men of earliest eminence in the annals of our Scottish law, was ROBERT RAIT, Bishop of Orkney, and second President of the Court of Session. His talents and attachment to the interests of his sovereign, are evinced by the various and important political situations which he held under the government of James the Fifth, his magnificence and generous patronage of letters, by those remains of ecclesiastical magnificence which are still to be seen in

\* Irving's Lives, vol. ii. p. 1.

† Hailes' Cat. p. 3. Note 13.

‡ Spottiswood, Hist. p. 125.



his remote diocese, the Cathedral, the Palace, and the College of Kirkwall \*.

Reid had, indeed, a hereditary claim to loyalty, and to legal talents. His father, John Reid of Aikinhead, was slain with his sovereign in the field of Flodden. His mother was Elizabeth Shanwell, sister to Robert Shanwell, vicar of Kirkcaldy, and one of those learned persons who were selected by James the V. as Lords of the Session, upon the first institution of the College of Justice †.

After having received his education at the College of St. Salvator, in the University of St. Andrew's ‡, under Mr. Hugh Spens, who long filled the office of Principal, and enjoyed the reputation of a profound theologian §, the future ambassador and president repaired to France, resumed his theological studies in the University of Paris, and afterwards, in the same country,

\* Mackenzie, vol. iii. p. 48.

† Hailes's Catal. p. 1.

‡ Reid entered the College in the year 1511, and became master of arts in 1515. Extract from the Album and Faculty Register, communicated by Dr. John Lee.

§ Keith, Catal. p. 132.

commenced and completed his education in the civil and the canon law\*.

On his return to his native country, he became first sub-dean, then official of Murray. In the year 1526, he was elected to the abbacy of Kinloss; and rising into high esteem with his sovereign, was sent on an ecclesiastic mission to Pope Adrian the VI. † In visiting Paris, on his return from Rome, in the year 1528, he appears to have early exerted that ardent patronage of learned men which was so striking a feature in his character. He there met with Ferrerius, a Piedmontese, well known to the student of Scottish history as the continuator of Boece. He invited this foreign scholar to accompany him to Scotland, and induced him, in the solitude of the convent of Kinloss, of which he became a monk, to devote himself to the composition of those ecclesiastical annals, which formed part of the fashionable literature of that age. About this time his talents for ecclesiastical diplomacy ap-

\* Ferrerius, *Historia Monasterii a Kinloss*. Martene and Durand's Coll. vol. vi. p. 326.

† Ferrerius, p. 326.

pear to have given him a monopoly of all papal negotiation; for, after the death of Adrian, he was dispatched on three successive embassies, to Clement the VII. and afterwards to his successor, Pope Paul the III. These remote missions did not prevent him from being employed in equally arduous, though less distant negotiations. He was, in the year 1534, appointed a commissioner, along with Stewart, Bishop of Aberdeen, and Sir Adam Otterburn, to conclude a peace between Henry the VIII. and the kingdom of Scotland\*. France became next the field of his negotiations, and the esteem in which his character was held in that country, appears from his repeated embassies to the splendid court of Francis the I. † Soon after this, he was nominated an ordinary Lord of Session, a situation which, at an earlier period, in the year 1531, he had occupied during

\* Lesly, book ix. p. 418.

† Ferrarius, *Hist. Abb. a Kinloss*, p. 386, A. D. 1541. *Thevet*, in his *Cosmographie*, B. 16. p. 669, says, " Il fut deleguè quatre fois ambassadeur vers les Papes, Hadrien VI. Clement VII. et Paul III. quatre fois aussi au Royaume de France, et par trois fois à celui d'Angleterre."

the absence of his father-in-law, Mr. Robert Schanwell.

In the year 1541, the bishopric of Orkney became vacant, and the public services of the Abbot of Kinloss were rewarded by a nomination to this see \*. On the death of Alexander Myln, Abbot of Cambuskenneth, this distinguished prelate was promoted to the situation of President of the College of Justice †. As the Bishop of Orkney had been an old and faithful servant of her father James, he appears to have lost nothing of his favour and consequence under the subsequent reign of his daughter Mary. Upon the death of James the V. he was appointed one of the curators of the infant queen ‡, and when

\* Keith's Catalogue, p. 133.

† A. D. 1543. Hailes's Catalogue.

‡ Chalmers's Life of Mary, vol. i. p. 14. Reid was appointed Curator on the 1st of March 1553. William Chisholme, Bishop of Dunblane, and John Sinclair, Dean of Restalrig, were his fellow curators.

In the year 1551, Reid, along with another judge, Sir Robert Carnegie of Kinnaird, Lord Maxwell, Thomas, Master of Erskine, and Ludovic de Sancto Gelasio, a French Knight, as his brother commissioners, concluded a peace between England and Scotland. Keith, *Hist.* p. 58.

the impolitic conduct of England rendered the marriage of Mary and Francis the Dauphin the subject of negotiation between Henry the II. and the Scottish Regent, Reid was chosen one of a solemn embassy of the three estates, to which the conduct of this royal union was entrusted \*. The marriage ceremony was performed in the church of Notre Dame at Paris, with every circumstance of splendour and solemnity, in presence of the king and queen of France, the foreign ambassadors, and the assembled nobility of the two kingdoms. This was the last public service of this experienced and now aged ambassador and judge, for, before his return to Scotland, he sickened at Dieppe, and expired on the 15th of September, in the year 1558 †.

The very sudden decease of the Bishop of Ork-

In the year 1556, Reid, along with Henry Sinclair, Dean of Glasgow, his future successor in the Presidency of the Court; and Sir Robert Carnegie and Lord Harris, Warden of the Western Marches, were appointed Commissioners for settling the borders. *Keith's Hist.* p. 71.

\* Lesly, b. x. p. 494, A. D. 1558. Keith, Hist. p. 72.

† Lesly, b. x. p. 497. Thevet, *Cosmographie*, b. 16. p. 669. quoted in Hay's *Scotia Sacra*, p. 610.

ney, which was immediately followed by the deaths of three of his brother commissioners, the Earls of Cassillis, Lord High Treasurer; the Earl of Rothes; the Lord Fleming, and several of their attendants, created a strong suspicion of poison. The commissioners had shewn themselves hostile to the party of the Dukes of Guise; and the ambitious views of these princes with regard to Scotland; and De Thou, who appears to credit the report, informs us, that the Scots openly accused the Grand Prior and his brother of this cowardly crime \*. Thevet seems to have heard nothing of this: "He died," says this author, "of a grievous illness, brought on by the sorrow he endured for the change of the national religion, and the complicated calamities of his native country, to the deep regret of many learned men whom his liberality supported at the universities of France †."

The President Reid appears to have been a man of superior talents, and very various accomplishments. Although his almost constant

\* Thuani, Hist. b. 20. c. 8. Editio Buckleiana.

† Thevet, b. 16. p. 669.

employment in foreign countries must have diminished their practical influence, his profound legal abilities are commemorated by all the cotemporary historians. Educated in France, employed in nine separate embassies to Rome, to France, and to England, he had acquired an enlarged experience in courts; a deep knowledge of human nature, and an intimate acquaintance with the involved politics of the times\*.

Neither his constant employment in the duties of his diocese, and in the administration of justice, nor the important part he acted in the political transactions of Europe, could divert him from bestowing a great portion of his attention upon the cultivation of literature, and employing much of his private fortune in the patronage of men of genius. When abbot of Kinloss, his generosity, in furnishing his monastery with a noble library, and ornamenting it with several beautiful structures, is said to have rivalled the munificence of its royal

\* Lesly, b. x. p. 497. Erat is Collegii Justiciarii ut loquimur Præses, singulari ingenio, vitæ integritate, rerumque usu, quæ ex variis legationibus aliisque regni negotiis compararat, commendatus, *Spotiswood*, p. 112.

† Naudæi, Adami Blacvodæi Elogium, p. 2.

founder \*. His niece, Helen Reid, was married to William Blackwood, a Scottish gentleman, who died in the same field of Flodden which was fatal to his own father. Blackwood left three sons, George, Adam, and Henry, to the care of a widow; and she, broken-hearted with the calamity, soon after followed her husband to the grave †. The children found a munificent patron in their uncle, who sent them to be educated at the university of Paris, under the celebrated scholars, Turnebus and Auratus. His care was rewarded, and the hereditary talents of his family, broke out with uncommon lustre in Henry, who became Dean of Faculty to the College of Physicians at Paris ‡; and Adam, a profound civilian, and

\* Ferrerius, p. 326. Hist. Monast. a Kinloss, in Martene and Durand.

† We learn this circumstance from a pathetic stanza in a poem of Adam Blackwood, composed on his recovery from a dangerous illness.—*Blackwood's Opera*, p. 404.

— ætas vix erat alterum,  
Ingressa lustrum, cum mihi prælio  
Raptus pater, mater dolore,  
Victa, comes sequitur maritum.

‡ Henry Blackwood taught philosophy at the university of Paris in the year 1551. He then devoted himself exclusively to the study and practice of medicine, and rose



eminent scholar, the antagonist of Buchanan, in controverting the political principles of the famous work *de Jure Regni* \*.

Mackenzie has affirmed, that at the request of the King of Denmark, the President Reid wrote a geographical description of the Orkney Islands. That Reid was himself the author of this treatise is very doubtful. It is more probable that he only revised it, and certified its accuracy to the king †.

to high eminence in that profession. His published writings consisting of commentaries upon the *Organon* of Aristotle, and a work on the most celebrated physicians. He left many MSS., amongst which Dempster enumerates animadversions upon Galen, an edition of Hippocrates, collated with some ancient MS. commentaries upon Alexander Trallian, and an explanation of disputed passages in Pliny. Dempster, b. ii. p. 116. These works are very rare. I never had an opportunity of examining them. For the high character for talents and literature which the three Blackwoods sustained on the continent, the reader may consult Naudæi *Elogium Adami Blacvodæi*, p. 3. prefixed to the *Opera Blacvodæi*.

\* He was promoted to a seat in the parliament of Poitiers, and became professor of civil law in the university of that city.

† Nicolson, *Hist lib.* p. 18. Mackenzie's *Lives*, vol. iii. p. 50. Keith, *Cat.* p. 134. It is stated on the same dubious authority, Mackenzie, that Reid wrote a genealogy of the noble family of the Saint Clairs.

Reid was in every respect a remarkable person.

Few men appear to have more ably or more amiably united the characters of a prelate, a judge, a statesman, and a man of letters; and to very few men had fortune given so wide a sphere for the display of talent, or the exertion of benevolence. England, Italy, and France, knew and appreciated his diplomatic powers; and his death, which called forth the regret of those scholars whom his private liberality supported at the universities of France, was felt also in one of the remotest corners of Europe, in that solitary diocese where his exertions had accelerated the progress of knowledge, and imparted additional solemnity to the services of religion, whose civil and ecclesiastical endowments he had either created or supported with an almost kingly liberality\*.

\* A large legacy is said to have been left by Bishop Reid for the purpose of building the College of Edinburgh, which the Earl of Morton, the governor, converted to his own use and profit, by banishing the executors of the Bishop for supposed crimes.—*Johnston's Hist. Scotie.* p. 23; and *History of Sutherland*, quoted in *Hay's MS. Scotia Sacra*, p. 611. Keith, *Cat.* p. 134. Mackenzie, vol. iii. p. 50, has given extracts, from an epistle dedicatory pre-

Another eminent predecessor of Craig was the venerable **SIR RICHARD MAITLAND**, a laborious lawyer, an elegant scholar, and a poet. He was born in the year 1496, and was the son of William Maitland of Lethington, who was killed at Flodden, and Margaret, eldest daughter of George, second Lord Seton \*. Of his early history there is no authentic account. He was educated at St. Andrew's, afterwards pursued his studies abroad, and on his return to his native country, became successively employed by James the IV., James the V., and the Queen Dowager of Lorraine. In the year 1554, he was, at the age of fifty-eight, promoted to the situation of an extraordinary lord of session. At the age of sixty-five, this venerable judge had the misfortune to be deprived of his eye-sight, but his vigorous and cultivated mind supported him under this calamity ; and after this event, on the 12th of November, 1561, he was raised to the

fixed to a work written by Adam Elder, a monk of Kinloss, and tutor to Reid's nephews at the university of Paris. The title of the work is, " *Conciones Capitulares Adami senioris*," and the Epistle contains high compliments to Reid.

\* Genealogical Hist. of the Family of Seton, MS. Ad. Library.

bench as an ordinary Lord of Session, in the place of Sir William Hamilton of Sanquhar. This advancement was followed by higher honours, for he was soon after admitted one of the council, and created Lord Privy Seal \*.

In the year 1583, Sir William, on account of his great age, was allowed by the judges to come or not to come to the session when he pleased, without wanting any thing that belonged to them as one of their number ; and he soon after resigned his situation on the bench in favour of Sir Lewis Bellenden of Auchinoul, at that time Justice Clerk, on condition of his retaining the fees and profits of his place during his lifetime. He died on the 20th of March, 1586, at the age of ninety, having faithfully served his country under five successive sovereigns †. His character, to use the expressive words of an ancient epitaph, composed upon him, was that of " a maist unspotted and blameless judge, ane valiant, grave, and worthy knyght."

\* Forbes's Preface to the Journal of the Session, p. 25. Irving's Lives, vol. ii. p. 149. Pinkerton, Ancient Scot Poems, vol. i. p. 115.

† Pinkerton's Ancient Scot. Poems, p. 115, 116.

Previous to his blindness, he wrote, in the year 1545, the "Cronicle and Historie of the House and Sirname of Seaton, unto the moneth of November, ane thousand five hundred and fifty aucht zeiris \*." This genealogical history Sir Richard composed at the request of George, the fourth Lord Seton, with whose death he concludes his work. It was afterwards continued to the year 1687, by a noble author, Alexander Viscount Kingston.

Sir Richard also collected the decisions of the Court of Session, from the year 1550, down to the year 1565, in continuation of that ancient body of decisions, known by the name of Sinclair's Practicks †, which had been brought to a conclusion by their disputed author in the year 1548.

\* "Collectit, writ, and set furth be Sir Richard de Maitland of Lethingtone, knicht, douchter some of the said hous." This manuscript, which has never been printed, was communicated by the Earl of Winton, in whose library it was then preserved, to Mackenzie, who has given a very full abstract of it in his life of Sir Richard Maitland, vol. iii. p. 208. A copy of it, with the additions of Viscount Kingston, is preserved in the Advocates' Library.

† Forbes, Preface, p. 25, 26.

Milton in his blindness, when all the varied beauties and vicissitudes of Nature,

“ The sweet approach of morn or even,  
The sight of vernal bloom and summer’s rose,”

were to him expunged and razed, composed his wonderful poem, and entitled it *Paradise Lost*. It is a singular coincidence, that more than a hundred years before, another blind poet, Sir Richard Maitland, had chosen the same subject; and, what is still more remarkable, had given to it almost precisely the same name. Maitland’s poem is entitled “*On the Creation and Paradyce Lost*,” but here the similitude ends, and in the abrupt versification and homely narrative of the muse of Maitland, it may be believed there is little that recalls to our recollection the majestic composition of Milton \*. Yet the aged knight need not dread a

\* It was printed by Allan Ramsay in his *Evergreen*, vol. i. p. 161. The stanza is similar to that which became afterwards popular from its being adopted by Burns in some of his finest poems. The description of Adam and “his lusty wife in Paradise,” is as follows :

Now Adam and his lusty wyfe,  
In Paradyce leidand their lyfe

comparison with many of the poets of his own day. A voluminous and interesting collection of his poetical works has been lately given to the public, and the volume presents to us not only a curious picture of the manners of the times, but contains many compositions which are as creditable to the talents as to the private virtues and patriotic feelings of the author. A melancholy consciousness of the unhappy condition of his country, and of the calamities which the constant factions and lawless habits of the nobility were about to entail upon the nation, pervades most of these poetical effusions.

In his satire on the age, a spirited description

With pleasures infneit,  
 Wanting nae thing suld do them ease,  
 The beists obeying them to pleise,  
 As they culd wish in spreit.  
 Behold the serpent sullenlie,  
 Envyand man's estate,  
 With wicked craft and sabbiltie,  
 Eve temptit with decait.  
 Nocht feiring, but speiring,  
 Quhy scho took not hir till,  
 In using and chusing,  
 The fruit of good and ill?

is given of the state of Scotland at that period. The want of the gay and social delights of Christmas, the silence of the song and the dance, the complaint against the "Lords who let their kitchens cool," the changed character of the clergy, their desertion of their pulpits, and appearance in steel, clad like men of war, the exactions of the higher classes from the poor tenantry, who mourn over the decay of ruth and pity, all these striking features are admirably brought into the picture, and given with a strength of poetical colouring which is almost worthy of Dunbar or Douglas.

Quhair is the blythnes that hes bein,  
 Baith in burgh and landwart sein,  
 Amang lordis and ladies schein ;  
 Densing, singing, game and play ?  
 Bot weil I wait nocht quhat they mein ;  
 All merrines is worne away.

The stanza which follows may give us some idea of the causes of the decay of ecclesiastical learning, which we have seen so much deplored by the Abbot of Cambuskenneth.

I see no gysars all this yeir,  
 Bot kirkmen clad like men of weir,



That never cummis in the queir ;  
 Lyk ruffians, is thair array.  
 To preitche and teitche that will not leir,  
 The kirk gudis thai wast& away.

The wisdom of some of the statutes passed at this period, contrasted with the feeble manner in which they were put in execution, when the courts were infested with litigants who came to the bar in their steel jacks, is finely described.

To mak agtis we have sum feil,  
 God kens gif that we keip thame weil !  
 We cum to bar with jak of steel,  
 As we wald boist the judge and fray,  
 Of sik justice I have na skeil,  
 Quhair rewle and order is away.

In another little poem entitled, *Solace in Age*, and composed about his eightieth year, when he was weighed down by what many would have esteemed the unsupportable miseries of old age, blindness, and decay of fortune, there is a vein of playful humour which might have belonged to the greenest years of his youth.

For eild, and my infirmitie,  
 Warm clayths are better far for me,  
 To keip fra cald.  
 Nor in dame Venus chamber be,  
 Now being ald.

My wyf sumtyme wald talis trow,  
 And mony leisings weill allow,  
 War of me jald ;  
 Scho will not eyndill on me now,  
 And I sa ald.

My hors, my harnes, and my speir,  
 And all uther my hoisting geir,  
 Now may be sald.  
 I am not abill for the weir,  
 I am sa ald.

Quhan young men cumis fra the greene,  
 Wha playand at fute ball had bene  
 Wi' brokin spald ;  
 I thank my God I want my eene,  
 And am sa ald\*.

His must indeed have been an enviable temperament of mind, who, at the moment that he felt them, in his own person, could thus find a subject for the humour of his muse in the most painful destinies of our nature.

Far inferior to this excellent old judge in honourable principle and attachment to his country, but as much his superior in political talent, was his famous son, WILLIAM MAITLAND, THE SECRETARY LETHINGTON, and the subject of Buchanan's satire, entitled *The Chamele-*

\* Pinkerton, vol. ii. p. 310.

on. He is not mentioned here, that we may retrace the steps of abler authors in depicting the ravelled story of his life, or dwell upon the humiliating lesson which it offers. But Maitland, in addition to his other preferments, became, in the year 1561, an extraordinary Lord of Session. On the decease of Sir Robert Carnegie, in the year 1565\*, he was admit-

\* Sir Robert Carnegie of Kinnaird, who was raised to the bench in the year 1547. (Hailes's Catal. p. 3. note 14,) was ancestor of the noble family of Southesk, and appears to have been frequently intrusted at this period with diplomatic missions of importance. He seems to have been a steady friend of the Regent Arran; and when, in the year 1550, the Queen Dowager repaired to France, for the purpose of negotiating her succession to the Regency, Carnegie, who was then in France, deputed by the Governor on a mission to the French Court, David Panter, Bishop of Ross, ambassador, and Gavin Hamilton, commendator of Kilwinning, were nominated by the French King to treat with Arran regarding his resignation of the Regency. Keith's Hist. p. 57.

In the year 1551, Carnegie repaired to Scotland, Panter arrived soon after, and their united arguments prevailed with Arran to demit the Regency.

The same year, we find Robert Carnegie of Kinnaird, (he was not then knighted,) Clerk to the Treasurer, and one of the Commissioners who were appointed to make peace with England. Keith, p. 58.

ted to an ordinary seat on the bench; and although his employment as Secretary of State left him little time to devote to his duties as a judge, still he is to be remembered as one of the most illustrious predecessors of Craig. It is almost presumption to attempt to sketch his character.

Again, in the year 1554, Sir Robert Carnegie of Kinnaird is appointed Commissioner, along with Sir John Bellenden of Auchinoul, to treat of a lasting peace with England. Keith, p. 69. In the year 1556, Carnegie was appointed a Commissioner, along with his brother judges, Reid, Bishop of Orkney, and Henry Sinclair, Dean of Glasgow, to settle the borders. (Lesly, Hist. p. 469, b. x.) We do not again meet with him till the year 1565, when we find him one of the Commissaries whom Queen Mary proposed to depute into England for the purpose of consulting with Elizabeth, regarding her intended marriage with Darnley. Keith, p. 284. This year he died. "Sir Robert Carnegie of Kinnaird," says Crawford, in his notes on Buchanan's Hist. p. 151, "who first raised that house, was Chamberlain of Arbroath, thereafter knighted, and Lord of Council and Session; he was grandfather to David, now Earl of Southesk." The Queen's letter, in which she nominates her Secretary Lethington to supply the place of Sir Robert Carnegie of Kinnaird, lately dead, describes this learned judge in terms which apply rather to his abilities as a statesman than to his talents as a lawyer. "He was well inclined to justice; and expert in matters concerning the commonweill of this realm."

Uniting to uncommon talents for negotiation; a ready invention, a courteous command of temper, and a spirit of deep dissimulation, he had imbibed even in the season of youth that contempt for all patriotic feelings, which rendered him willing to employ these various powers of mind, in betraying the best interests of his sovereign. But, this was not all. Endowed with the talents which more properly belong to a civilized, though a corrupted age, he possessed also that boldness of conspiracy and familiarity with blood, which marked his education in feudal times. Yet, his vices rarely led him into danger; for his was that cautious policy, which procured others to perpetrate the treason he had planned; his that fertile foresight in intrigue, which, in the chance of discovery, had already prepared a countermine against the schemes of his enemies. Such, indeed, was his address, that "it often bordered upon excess of subtilty," and betrayed him into measures too refined for these savage times; but here, again, if defeated, he had still one resource left by which he could retrieve his failures, and a power of the most finished and persuasive eloquence.

Are we to wonder that, wielding such abilities, he became, in an age of political talent and political depravity, the soul of every important public measure ; that he commanded the opinion, and compelled the admiration even of those who best knew his guilt, or that such was the dominion of his extraordinary mind, as, in the words of the ecclesiastical historian, to cause " his councils to be held in that time for oracles \*." The Secretary had received his legal education abroad; but whatever were his talents as a lawyer, they appear to have been eclipsed in the eyes of the contemporary historians by the splendour of his political abilities. The state papers which he has left, are models of elegant yet vigorous composition, and very sufficiently prove that these talents have not been overrated †.

In this brief record of the most eminent of our judges and lawyers who preceded Craig, the two celebrated brothers of the house of Sinclair are

\* Spottiswood, p. 272, book v.

† See Randolph's opinion of Lethington, p. 263 of Keith's History.

not to be forgotten. I mean HENRY SINCLAIR, BISHOP OF ROSS, third President of the Court, the reformer of the law, and the patron of the literature of his country; and JOHN SINCLAIR, DEAN OF RESTALBIG, and author of the earliest collection of the Decisions of our Supreme Court, known under the name of Sinclair's Practicks. Of these two, Henry appears to have held the highest place in the favour of his sovereign; and his talents, according to the accounts of contemporary historians, were such as fully entitled him to this distinction.

He was born in the year 1508 \*, and was the younger son of Sir Oliver Sinclair of Roslin, and Isabella Livingston †. His elder brother was the

\* He died at Paris in the year 1566, in the 58th year of his age. Forbes's Preface to his Journal, p. 25.

† Hay's MS. vol. ii. p. 478. Forbes's Preface to Journal, p. 25. Hailes's Catal. Note 7. Douglas, in his Baronage, p. 246, omits to notice Sir Oliver's second marriage to Isabella Livingston, and falls into an error in asserting that Henry Sinclair, the president, and Bishop of Ross, was the son of Sir Oliver's first wife, Margaret Borthwick. That Isabella Livingston was the mother of Henry, is distinctly proved by a charter in Hay's MS. vol. ii. p. 483, in which Sir Oliver grants the lands of Braidle, " dilecto

well known Oliver Sinclair, whose promotion by James the V. to the supreme command in the army which he had levied for the invasion of England, occasioned its disastrous rout at the Solway Moss. His grandfather was William Sinclair, Earl of Orkney, and Chancellor of Scotland, who, by his mother, Aegidia Douglas, was descended from the royal family of Scotland\*. These circumstances were much in his favour, for it was no trivial recommendation in the days of feudal pride, to be able to claim an alli-

*filio meo Henrico inter me et Isabellam Levingston nunc (1512) meam sponsam procreato.*" Indeed, when we compare Hay's account of the Roslin family, which is throughout supported by quotations from the original documents preserved in the charter chest of Roslin, with Douglas's compilation, the errors of the latter are very numerous, and show us how much we must be on our guard in giving unlimited reliance either to the baronage or the peerage.

\* Aegidia, daughter of Robert the II. married Douglas Lord of Liddesdale. And their only daughter was married to Henry Saint Clair, Earl of Orkney, father by her to William, the Great Earl. The nobles affected to despise Oliver Sinclair as an upstart, with what justice may be seen from the above account of his descent. Crawford's *Lives of Officers of State*, p. 34. Dun. Stewart's *Account of the Royal Family of Scotland*, p. 57.



ance with the blood of Douglas, and the house of Stuart. Having early embraced the profession of the church, he became, in the year 1521, a student at St. Andrew's\* ; and, dividing his attention between theology, philosophy, and polite literature, pursued these early studies with an ardour which soon conducted him to distinction †. For his legal education he must, like all his eminent contemporaries, have been indebted to the schools of France. Natural talents, which Bishop Leslie characterizes as of the first order of excellence, a high cultivation of mind, and a descent from an illustrious house, all contributed to recommend him to the notice of the king ; and a ready genius for the direction of affairs of state soon raised him to be one of his most familiar and favoured counsellors ‡. In the year 1538, he was chosen an ordinary Lord of Session, at which pe-

\* University Register, sub anno 1521.

† “Plures annos in philosophicis, theologicis, et humanioribus studiis, cum incredibili omnium admiratione, operam navasset.”—*Hay's MS.* vol.ii. p. 654.

‡ “Cum ob summum ingenium, tum doctrinæ excellentem laudem, Jacobo quinto Regi familiaris maxime.—*Leslie, Hist. b. x. p. 483.*

riod he appears to have held the rectory of Glasgow \*, and to have been a member of the Privy Council. Soon after this he was presented with the Abbacy of Kilwinning ; and the king, in the letter which it was customary to address to the Holy See upon such occasions, requests his holiness to confer this ecclesiastical dignity upon his faithful counsellor, "on account of the ancient and noble house from which he is descended, his high situation as a judge, and his daily usefulness in the management of affairs of state †."

In the year 1559, Henry Sinclair, and the Lord Erskine, were sent ambassadors to the court of London, for the purpose of confirming the peace which had been entered into at Boulogne, in the preceding year, between the countries of France, England, and Scotland. The ambassadors afterwards passed over into Flanders, and succeeded in adjusting some serious differences which had oc-

\* Epist. Reg. Scot. vol. ii. p. 10. I am in possession of the charter of Gawin, Archbishop of Glasgow, gifting to Mr. Henry Sinclair the Rectory of Glasgow, dated 16th December, 1538.

† Epist. Reg. Scotorum, vol. ii. p. 134, 135. He became Abbot of Kilwinning in the year 1541.—*Keith*, p. 114.

curred between the States and the kingdom of Scotland \*. In the year 1550, he exchanged his Abbacy of Kilwinning with Gavin Hamilton for the rich Deanery of Glasgow †. Sinclair, however, was not popular with the Regent Arran, or his party. He was a firm Catholic, which was enough to throw him into the background ; and during the period of Arran's vacillating and ill-conducted administration, he seems to have abstained from any interference in public affairs. When the Queen Regent, in the year 1554, assumed the reins of government, he happened to be in France, but, aware of the change of measures which was promised by such a change of authority, he immediately returned to his native country. The high abilities which had recommended him to the notice of James the V. were of course equally well known to his Queen, Mary of Guise ; and, to use the words of Leslie, " his liberal and learned education, his singular prudence in the management of state affairs, and his profound acquaintance with the history, the antiquities, and the practice of our public law, soon

\* Leslie, Hist. Scot. b. x. p. 482, 483.

† Keith, p. 114.

caused him to be held in esteem and honour by the Queen and the court." During the regency of Arran, owing to the weakness of the governor, and to the divisions and miseries arising out of a state of civil dissension, the fountains of justice had been deeply polluted, and the general administration of the laws rendered tedious and contradictory. To Henry Sinclair was reserved the dangerous honour of cleansing the state from such corruptions. Immediately upon his return from France, he addressed himself to the Bishop of Orkney, President of the Court, and to the other senators, entreating them to afford him their diligent co-operation in procuring certain statutes to be passed for the abridgment of lawsuits, the restoration of the forgotten forms of judicial proceeding, and the abolition of various corrupt customs which had crept into the system of our jurisprudence\*.

Nothing, according to Leslie, could be more striking than the love of justice, and the eminent

\* Leslie, b. x. p. 483. 489. In this edition there are two pages marked 483. It is the last of these to which I refer.

ability, which was evinced by the Dean of Glasgow, in the restoration of many legislative enactments which had fallen into disuse, and in the introduction of such improvements as the circumstances of the country required. It was by the exertions of Sinclair, he distinctly states, aided as they were by the co-operation of the magistrates, advocates, notaries, and others in official situations, that all those superfluous forms which gave an easy inlet to tedious litigations were at once cut off, and the system of our municipal jurisprudence restored to its ancient simplicity and purity. These expressions of the mitred historian convey a high, but unfortunately a very general eulogium. In looking into the Scottish acts of parliament, we find that, in the year 1555, in which Leslie has dated the reformation of our jurisprudence, by Henry Sinclair, there were passed or revived, some of the most important statutes which can be met with in the history of Scottish legislation.

That well known statute regarding the warning of tenants—the subscription and sealing of reversions and procuratories of resignation—the act regulating the mode of nominating curators

to minors—the statute on the subject of the examination and admission of notaries by the Lords of Session, and the regulations concerning the granting of sasines—the pleading of nullities, and the punishment of perjury,—all these additions to our legislative code are to be found in the year 1555. If for all or any of these we are indebted to the wisdom and exertions of the Dean of Glasgow, the name of Henry Sinclair has no common claims upon the memory and gratitude of his country\*.

In the year 1557, Sinclair, along with Bishop Reid, and Sir Robert Carnegie, were nominated commissioners by the Queen Regent, to confer with Tunstal, Bishop of Durham, and the Lords Dacres and Wharton, on that old and well debated subject, the settlement of the borders †. In the meantime, however, war having broke out be-

\* Keith, Hist. p. 70. “The laws relating to the administration of civil justice before the Session, were much improved by the good and prudent advice of Mr. Henry Sinclair, Dean of Glasgow, and Vice-President of the Court.”

† Keith, Hist. p. 71.

tween France and England, the Queen Regent, against the wishes and advice of her nobility, contrived to implicate the Scots in the quarrel. Where nations have long been inflamed with animosity, a pretext to excuse hostilities is seldom difficult to be found. D'Oysel, who commanded the French auxiliaries, was directed to repair the fortifications at Aymouth, which, in obedience to a former treaty, had been demolished \*. The English, incensed at such conduct, attacked the builders, hostilities against England were immediately commenced, and Henry Sinclair, with his brother commissioners, were compelled to leave the conferences unconcluded, and to consult their personal safety by a precipitate flight †.

In those busy and eventful scenes which occupied the two succeeding years, and in which the intrigues of France, the undecided conduct of the Queen Regent, the zeal of the ministers of the church, and the interested ambition of

\* Maitland, Hist. vol. ii. p. 899.

† "Veriti carcerem, equis expeditissimis, ex Anglorum finibus quamprimum se subducunt."—*Leslie*, b. x. p. 490.

the leaders of the reformed party, contributed to expose the kingdom to the miseries of foreign war and of religious persecution, the name of Henry Sinclair does not appear. In the year 1559, however, we again find him employed in a diplomatic capacity; for, on the 31st of May, in that year, along with the Lord Hume, and Mr. James Macgill, he concluded a treaty of peace with England at Upsettlington, a village on the Tweed beside Norham. This treaty was supplementary to a more solemn negotiation between the two kingdoms, which a month before had been entered into at Cambray\*.

At this time a vacancy occurred in the See of Ross, by the death of Bishop David Panter, whose genius and learning have been so highly praised by Ruddiman, and whose public letters, to the Pope and the different princes of Europe, combine the most elegant latinity with a simplicity and brevity which reminds us of the models of Roman or Grecian diplomacy †.

\* Maitland, p. 908, vol. ii. Keith, p. 107, 108.

† These letters, which were written when Panter filled the office of secretary to the Regent As-



To this See was Henry Sinclair promoted, probably in the year 1559.

ran, form the second volume of the *Epistolæ Regum Scotorum*, published by Ruddiman in the year 1724. Their author, says Ruddiman, in the Preface, vol. ii. p. 5, was David Panter, Principal Secretary to the Regent Arran, and Provost of St. Mary's Isle in Galloway. "I have not discovered," he continues, "from what family he was sprung; perhaps he belonged to that ancient house of the Panters, who lived near Montrose. He was in all probability related, perhaps he may have been the nephew of that Patrick Panter to whom we owe the first volume of our royal Epistles. That he was a man of excellent genius, these letters themselves declare, which could only have proceeded from a mind of high cultivation, and replete with the lessons of civil wisdom." David Panter resided as ambassador at the French Court for seven years, (Leslie, b. x. p. 477,) and on his return to his native country, in the year 1552, was at Jedburgh consecrated Bishop of Ross, with great state and solemnity. Keith's Catalogue, p. 113, 114. He died at Stirling, on the 1st of October, 1558.

The letters in the first volume of the *Epistolæ Regum Scotorum* were written, as we have above observed, by Patrick Panter, the Secretary to James the IV. and tutor to his natural son, Alexander Stewart, Archbishop of St. Andrew's, who fell with his gallant father at Flodden, and whose talents and virtues have been so highly eulogised by Erasmus. Under this great scholar the young prelate studied when abroad. *Erasmi Adagia*, p. 1634. "In adag. Spartam nactus es, hanc orna."

This eminent man had, with great industry and research, collected from the most authentic sources materials for a history of Scotland, and had encouraged Ferrerius, the Piedmontese monk, to commence a continuation of Hector Boece's amusing, though inaccurate annals\*. But before those treasures were communicated, which would probably have conferred on Ferrerius's work that authenticity which we desiderate in Boece, he lost his kind and learned patron. Sinclair had been obliged to repair to Paris † to be cut for the stone, by Andreas Laurentius, physician to Henry the IV. and esteemed

Patrick Panter was educated at Paris, at the same college with Hector Boece. (Ruddiman, Preface to vol. 1st Epist. Reg. Scot. p. 5.) He became Rector of Fetteresso, and afterwards Abbot of Cambuskenneth. In the year 1517, he was sent ambassador to Francis the I. He fell into a lingering disease, and died at Paris in the year 1519. (Epist. Reg. Scot. vol. i. p. 323.) Ruddiman, Preface to vol. i. p. 6.

\* Nicolson's Hist. fol. ed. p. 38. Dempster, p. 594. Hailes's Catal. p. 5, Notes.

† The Pitmedden MS. Acts of Sederunt, sub anno 1564, Nov. 14, mentions that the President Henry Sinclair, and the Dean of Restalrig, are then absent in France.

one of the ablest operators of his age\*. The operation was performed, but it was fatal to the patient, who died in January, 1566, at the age of fifty-eight †, after having exhorted his brother, John Sinclair, who had accompanied him on his melancholy journey, to arrange the materials he had amassed, and to continue and patronise the work for which they had been intended. John Sinclair, who was at this time Bishop of Brechin, returned to Scotland, and was promoted to succeed his brother in the presidency of the court. He appears to have been a favourite of the young Queen, and had married her to Darnley. Having been appointed an ordinary Lord of Session, in the year 1540, he employed his leisure in the compilation of the earliest record which we possess of the decisions in our Supreme Court, a work which still remains in manuscript, not frequently consulted by the ordinary student, owing to the antiquity of its written character, but well known to the legal an-

\* Freheri Theatrum, vol. ii. p. 1323.

† Forbes's Preface to his Journal, p. 25.

tiquary, under the title of Sinclair's Practicks \*. The Bishop of Brechin did not long enjoy his honours ; for the very year in which he returned from France, and took his seat as head of the court, he was seized with a fever, and followed his brother to the grave. He died in the month of April, 1566 †.

Another celebrated predecessor of our author was HENRY BALNEVIS of HALLHILL, whose talents had raised him from a low rank of life to a conspicuous station in the government and councils of his country. Educated first at St. Andrew's, and afterwards abroad at Cologne, he had there imbibed the principles of the Protestant re-

\* This collection is preserved in the Advocates' Library, in a volume marked A. 3. 3. The decisions commence in June, 1540, and conclude in May 17, 1550. The same volume contains Sir Richard Maitland's Decisions, commencing 15th Dec. 1550, and concluding 16th March, 1569 ; and Lord Culross's Decisions, commencing 24th March, 1570, and concluding April 15, 1589.

† Knox, in his History, b. i. p. 94, mentions, in his usual tone of personal slander, Sinclair, Dean of Restalrig, and Bishop of Brechin, blind of one eye in the body, but of both of his soul, " upon whom God afterwards took vengeance."

ligion\*. On his return to his native country, he embraced the study of the law, and had the good fortune to recommend himself by his talents for public business, to his sovereign, James the V. This procured him a seat in parliament, and such was the high character which he acquired by his political abilities, that he was promoted to the office of Secretary of State under the Regency of the Earl of Arran †. He became an ordinary Lord of Session in the year 1538.

An early associate of Knox, the zeal of Balnevis in propagating the doctrines of the reformed church, and extirpating the Catholic tenets, became soon the master passion of his mind; and, like others of his enthusiastic brethren, he appears to have entertained the opinion that the sacred nature of the end sufficiently sanctified the adoption of all methods for its accomplishment: There is strong ground for believing that he was concerned in the conspiracy for the assassination of

\* Hailes, Catal. Note 8. Mackenzie's Lives, vol. iii. p. 147. Irving's Lives, vol. ii. p. 137.

† Keith's Hist. p. 27.

the Cardinal Beaton, which was fostered at the court of Henry the VIII. and in which a person of the name of Wishart, whom some have supposed the future martyr, appears to have been implicated \*. It is certain, at least, that, after the murder, Balnevis joined the party of the conspirators, became their agent with England, and received a pension from the English court as a reward for his services in promoting the interests of Elizabeth. On the surrender of the Castle of St. Andrew's to the French forces in the year 1547, he was carried a prisoner to France along with his fellow sufferers in this war of religion; and, to beguile the tedium of confinement, composed in the Castle of Rouen, "a comfortable treatise of justification," to use the words of Knox †. "It was printed at Edinburgh in the year 1584, and bears to be written in the old palace of Roane, in the year of our Lord 1548 ‡.

\* Haines' State Papers, p. 32. Letter from the Lords of Council to the Earl of Hertford. The authors who have brought the charge against Wishart, are, Mackenzie in his Life of Beaton, vol. iii. p. 23. ; and Dempster in his article Sophocardius in the Hist. Eccles. p. 598. 666. On this dark subject a short disquisition will be found in Appen. No. I.

† Knox's Hist. p. 91.

‡ Irving's Lives, vol. ii. p. 137.

On his return to his native country, Balnevis, as might have been expected from his sufferings in the cause of the Reformation, became one of its most zealous adherents. He laboured for the party of the church, revised the Book of Discipline, busied himself in supporting upon every occasion the political interest of his great patron the Regent Murray, and was chosen as one of the commissioners to accompany him into England, and assist with his experience and learning in the trial of the Queen. In the prejudiced and intemperate accounts of party writers, it is difficult to arrive at the real character of any man like Balnevis, whose actions were so deeply involved in the political history of the times. He is highly eulogised by Knox\*—he is as severely censured by Mackenzie. He is pronounced by Sir James Melvil to have been a godly, learned, wise, and long experimented counsellor †." He certainly appears to have possessed a determined and vigorous spirit; and, in his political and religious conduct, to have been invariably consistent; a species of praise which cannot be given to very

\* Knox's History, p. 91.

† Melvil's Memoirs, p. 27. Ed. I.

many of his brethren on the bench. He died at Edinburgh, in the year 1579\*. He has left nothing to posterity except a short ballad, entitled "Advice to a headstrong Zouth," containing many sensible precepts expressed in homely and unpoetical numbers †.

Of the same party as Balnevis, but of a darker and more intriguing spirit, was SIR JAMES BALFOUR, the reputed author of the well-known and amusing work, entitled *Balfour's Practicks*, Prior of Pittenweem, and sixth President of the Court of Session ‡. His life was busy and eventful, full of imprisonment and escape, of conspiracy and detection, of civil intrigue and military peril. He was educated for the church, and gave early symptoms of superior capacity in the study of the civil and the canon law §. But he appears soon to have deserted the more secluded labours of legal

\* Mackenzie, vol. iii. p. 147.

† Ramsay's *Evergreen*, vol. ii. p. 197.

‡ The important parts which he acted in the history of the times appear to justify a more detailed account of him than of others of his contemporaries.

§ Goodal's Preface to *Balfour's Practicks*, p. 1.



study for those scenes of busy politics which were more congenial to his nature.

After the murder of the Cardinal Beaton, it is well known that the Castle of St. Andrew's, in which the principal conspirators had taken refuge, was besieged by the French auxiliaries, commanded by Lewis Strozzi, Prior of Capua, and finally compelled to surrender. Balfour, who had joined the party of the conspirators, was taken, and, along with Knox, Balnevis, Norman Lesly, and others of his associates, carried prisoner to France. Upon the conclusion of the treaty of peace in the year 1549, he returned to his native country, and became official of Lothian. But at this time he seems to have worn his religious faith somewhat loosely about him, to be retained or cast off according to the varying aspect of the times. Knox, who stigmatizes him under the appellation of "blasphemous Balfour\*," was fully aware of this part of his character, and accuses him of being only an apparent friend, while he was a real enemy to the reformed opinions, representing him as a principal agent in

\* Knox's Hist. p. 94.

promoting the designs of the Queen Regent, and opposing the party of the congregation \*. To the world, however, and to the generality of the reformers, he was a sincere protestant, and joined, though with a less virulent spirit than many of his brethren, in the tumults which accompanied the Reformation. He was rewarded by the parsonage of Flisk †. On the arrival of the young Queen in her hereditary dominions, Sir James, although avowedly of a party opposite to that of his sovereign, did not fail to reap advantage from his services to the Queen Regent, for he was soon received into favour at court, and promoted to the situation of an ordinary Lord of Session in the year 1563 ‡. On the first institution of the Commissary Court of Edinburgh, in the year 1564, the parson of Flisk was nominated one of the four Ecclesiastical Judges §, with an annual salary of 400 merks.

These favours conferred upon him by the

\* Knox's History, p. 200. 232.

† Flisk is situated in the shire of Fife and diocese of St. Andrew's.

‡ Hailes's Catal. p. 4.

§ Balfour's Practicks, p. 670.

Queen, his former behaviour in espousing the interests of the Queen Regent, and the successful talents with which he still traversed the designs of the party who had taken arms to oppose the marriage with Darnley, occasioned the leaders of this faction to resolve upon his ruin. It was determined, accordingly, that, on the night in which Rizio was murdered, the parson of Flisk, who was known to be then in the palace, should be dispatched along with him. But the very circumstance which threatened his destruction became the cause of his rising to higher honour. Macgill, the Clerk Register, had joined the conspiracy. Balfour, during the confusion and horror which accompanied the murder of the Italian Secretary, contrived to escape from those who sought for him in the Palace; and upon the immediate forfeiture of the Clerk Register, Macgill, was promoted to the vacant office, and knighted by his royal mistress\*.

Finding, however, that the reformed opinions gained ground, and that, in the tumults and intrigues of their abettors, the cause of the Protest-

\* Keith's Hist. p. 332. Goodal's Preface to Practicks, p. 3.

ant Church began to wear a successful aspect, the pliant conscience of the Clerk Register became alarmed for the support which he had given to the Catholics, and he joined with the stronger party.

When Darnley was assassinated, a placard was pasted, during the night, upon the door of the Tolbooth of Edinburgh, which publicly denounced Sir James Balfour as one of the persons concerned in the murder \*. "I have made inquisition," said this unknown accuser, "for the slaughter of the King, and do find the Earl Bothwell, Mr. James Beafour, Parson of Flisk, Mr. David Chambers, and black Mr. John Spens, the principal devysers thereof. And if this be not true, spear at Gilbert Beafour." This anonymous challenge presents us with a melancholy picture of the profligacy of the times. Three of the individuals thus criminated, as guilty of the King's murder, were Judges of the Supreme Court. Chalmers of Ormond, who was a scholar and an author, took guilt to himself by a precipitate flight to France ;

\* Keith's History, p. 368. Cabala, p. 126.

Spence and Balfour\* remained, and united themselves to the party of Murray and Morton, which, under the semblance of supporting the aggrandizement of the Earl of Bothwell, finally succeeded in ruining both the Earl and the Queen. Bothwell, impatient to become, by his marriage with the Queen, the ruler of the nation, was not aware of the complicated snares which were laid for him ; and, trusting to the fidelity of Balfour, promoted this crafty politician to the important trust of Governor of the Castle of Edinburgh †.

This high situation now stood him in good part ; and Balfour, whom we have seen uniting

\* Keith's History, p. 351.

† Darnley, after the murder of Rizio, becoming an enemy to the Secretary Leithington, the Justice Clerk Bellenden, and Sir James Balfour, wished the Queen to dismiss them from their offices, and accuse them of being the authors of Rizio's slaughter. Keith, p. 351. Letter of Sir Robert Melvil to Archbishop Bethune. Sir James Balfour himself, in a letter to Killegrew, the English Ambassador, replies to the accusation of his being privy to the King's murder in a manner which persuades us it was but too well founded. Goodal's Preface to the Practicks, p. 4.

in himself the various and anomalous characters of Parson of Flisk, Judge of the Supreme Court, and Governor of the first fortress of the country, during the confusions which succeeded the Queen's marriage with Bothwell, entered into a correspondence with the Regent Murray, who appears to have been desirous to prevail upon Sir James to resign the command of the castle. The Regent had probably sufficient acquaintance with the versatile character of this legal governor, and wished so important a place to be possessed by some of his more tried dependants.

Murray effected his purpose ; but the speedy promotions which soon after swelled the list of Sir James's honours, convince us that his old talent of turning every contingency to his own advantage had not deserted him. In the year 1567, he was admitted a member of the Privy Council, and promoted to the Priory of Pittenweem. Soon after this he demitted his situation as Clerk Register in favour of its former possessor Macgill, whose concern in Rizio's murder was now rewarded by his restoration to office ; but in return for this obsequious conduct, he received a yearly

pension of five hundred pounds, and was raised to the office of President of the Court of Session upon the 6th of December, 1567\*.

In this busy year, in which Mary saw herself married, betrayed, and imprisoned, Balfour thus contrived, amidst commotions which brought ruin to many of the first families of the country, not only to preserve his own vessel from being destroyed in the storm, but to collect riches and honours from the shattered wrecks around him.

Sir James, who was in no respect deficient in spirit and courage, appeared on the Regent's side at the battle of Langside, and did good service upon that occasion; but his maxim seems to have been, that in times of such extreme confusion, he should never engage so far with one party as in case of accidents to prevent his reconciliation with the other. Accordingly, when Murray, along with his commissioners, repaired to England, and

\* Sir James succeeded to the place of Mr. William Bailie, Lord Provand, who, upon the pretext that the president ought to be a dignified clergyman or prelate, and not a layman, was deprived of his office. Goodal's Preface to the Practicks, p. 4.

conferences were opened for the purpose of ascertaining the guilt or innocence of the Scottish Queen, who was then a prisoner, the president remained in Scotland, and there is great reason to believe had entered into a secret correspondence with his unfortunate sovereign, in the design of restoring her to the crown \*. The Earl of Lennox, incensed at this conduct, publicly accused the Secretary Lethington and Sir James Balfour of being the authors of his son the king's murder. Both were immediately imprisoned, but neither were brought to trial ; for Lethington was forcibly rescued and carried off by Grange †, and Sir James, by a high bribe, seasonably administered to Wood, the secretary of the Regent ‡, effected his peace with Murray, regained his liberty, and, although he lost his situation as President of the Session, appears to have retained his Priory of Pittenweem §.

\* Bannatyne's Journal, p. 448.

† Crawford's Memoirs, p. 120. Ed. 1767.

‡ Crawford, Ibid. Melvil's Memoirs, p. 204.

§ Fourth Annual Report of Dep. Clerk-Reg. p. 20.



The year 1570 commenced with the murder of the Regent Murray, by Hamilton of Bothwellhaugh, and Balfour now found means to make himself useful to the Earl of Morton; who, although he did not succeed to the office of Regent, which was filled by Lennox, became in reality the most able and powerful individual of that party. So great appears to have been his influence and talent for dissimulation, that he persuaded Morton to receive again into confidence the Secretary Lethington\*, intending, the moment this was effected, to form a counterplot for the restoration of the banished Queen, and the destruction of the new Regent †.

During the civil war, which entirely occupied the regencies of Lennox and Mar ‡, Sir James continued his intrigues in favour of the Queen's restoration, uniting himself to the party of Lethington and Grange, in opposition to that of Morton, who

\* Crawford's Memoirs, p. 133.

† Scrinia Cecilia, p. 180. Bannatyne's Journal, p. 448.

‡ From 1570 to 1572.

succeeded the Earl of Mar in the government of affairs. For this conduct his estates, like those of many others of the most powerful of that party, were forfeited in a parliament held by the Lords of the King's faction \*. The star of Mary's fortunes had long been on the wane. Hamilton and Huntly, who had hitherto supported her authority, consented to an accommodation. An English army was daily expected for the reduction of the Castle of Edinburgh, the destruction of Lethington and Kirkaldy appeared inevitable, and Sir James, according to his old fashion, again deserted the sinking fortunes of his friends, left the Castle of Edinburgh, where he had taken refuge, and endeavoured to recommend himself to Morton, by promoting an accommodation with Huntly and Hamilton †. The expected vengeance of the crafty Regent soon overtook his victims, but this last intrigue of the President's, although it saved his life, did not, as might be expected, restore him

\* Acts of Parliament, vol. iii. p. 319.

† Goodal's Preface, p. 4. Crawford's Memoirs, p. 246.

to confidence with Morton. He escaped indeed a public trial, which was threatened for his concern in the King's murder, and he appears to have retained his official rank and his estate, a very rare occurrence with any of the Regent's unfriends; but he dreaded the ground on which he stood, and cautiously retired to France, where he remained for several years\*. When the young King assumed the government, in the year 1577, and Morton, after a life of various and successful crime, began to tremble upon the height to which his ambition had raised him, Balfour, who eagerly watched his opportunity, returned to his native country, and joined the party of the nobles who opposed the power of the late Regent. In the year 1577, we find that an unsuccessful attempt was made to reconcile the Earls of Argyle and Athole, and the deposed but still formidable Morton, by a nomination of five noblemen, to whom their mutual differences were to be submitted. Of these arbiters Sir James Balfour was one chosen by Argyle

\* Goodal's Preface, p. 5.

and Athole \* ; and after an apparent reconciliation had been accomplished, he united himself to the party of the rising favourite Esme Stewart, Lord Aubigny, soon after created Duke of Lennox. In the year 1579, Sir James appears to have been absent from the kingdom † ; and so powerful was still the influence of Morton, so strong the conviction of the guilt of the prior and president, that in the parliament of that year was passed a renewal of the act of forfeiture which had been pronounced against him in the year 1571, confiscating his estates on the ground of his participation in the King's murder. Balfour, on his return, protested against this proceeding, and asserted with truth that the former sentence of forfeiture, in the year 1571, had been solemnly annulled, and himself restored to his estates and his honours, by a decree of the parliament in the year 1573 ‡ ; and his plea, although not immediately, was ultimately successful.

The ruin of Morton became now the first ob-

\* Moise's Memoirs, p. 29.

† Acts of Parliament, vol. iii. p. 320. Moise, p. 48.

‡ Acts of Parliament, vol. iii. p. 320, 321.

ject of this indefatigable intriguer. His own wrongs, the encouragement of the imprisoned Queen, with whom he corresponded, the desires of the nobility, who dreaded and hated the late powerful Earl, all impelled him to the attempt, Morton had grown grey in crime. Balfour had served under him as a favourite pupil in the school of conspiracy, and the master at last fell into the meshes which were woven for him by his disciple. A plot for the accusation of Morton was ably organized by the President Balfour, in conjunction with the Earl of Arran and the Duke of Lennox, and completely succeeded\*. Balfour had taken care to preserve evidence in his own hands, which connected the late regent with Bothwell; and by the production of written documents, he established the guilt of Morton in being privy to the murder of the King, and brought him to the scaffold †.

This was the last public act of the president, and it sufficiently proves that age had, in no respect, diminished his ability and ardour in poli-

\* Goodal's Preface, p. 6.

† Moise's Memoirs, p. 59.

tical intrigue, or his feudal notions of the necessity of private revenge. He died soon after, in the year 1583\*, leaving to the world a character in which we can fix on few casual virtues to relieve or brighten its dark and general profligacy. He had served with all parties, had deserted all, yet had profited by all. He had been the partizan of every leader who rose into distinction amid the troubled elements of these times. Almost every one of these eminent statesmen or soldiers he had seen perish by a violent death. Murray assassinated—Lethington's fall by his own hand; Grange, by that of the common executioner—Lennox, in the field; Morton, on the scaffold. Many of these atoned by their death for a life of acknowledged guilt; but their's was, upon the whole, consistent guilt. Balfour, on the other hand, acquired, amid the commotions in which he was bred, an acuteness in anticipating the changes of party, and the probable event of political conspiracy, which enabled him rarely to adventure too far, which

\* Goodal's Preface, p. 6.

taught him to avoid alike the determined boldness that brings ruin in the case of failure, and that lukewarm inactivity which ought not to share in the rewards of success.

Such was the character of the President Balfour as a statesman ; let us regard him for a few moments as a lawyer and an author.

It appears that, in the year 1566, although the country was already in possession of two separate printed collections of the Acts of Parliament, the utility of a more perfect compilation of the laws and the statutes of the realm began to be very generally experienced. For the attainment of this important national object, it was proposed by John Leslie, the famous Bishop of Ross, that a commission should be issued under the great seal, setting forth the necessity, to use the words of the act, " that certain learnit wise and expert men quilk best knows the laws sould be chosen to see and examine the bukis of the law, and set them furth to the knowlege of the Queen's subjects.

The commission was accordingly issued, and

the chancellor \*, and other officers of state, along with certain of the most learned Lords of Session, amongst whom we find Sir James Balfour of Pittendreich, Lord Clerk Register, and the ablest advocates, were appointed commissioners, with full power to see, examine, and correct the laws of the realm, made by the Queen and her most noble progenitors, so that none others but the laws so examined and corrected should hereafter have authority throughout the country, or be permitted to be quoted before the judges of the land.

An interesting and instructive account of the labours of this commission is to be found in the Fourth Annual Report of the Deputy Clerk Register. We learn from this Report, that the Commissioners appear to have proceeded to their allotted task with zeal and readiness, but that they accomplished it with a dispatch which was inconsistent with the painful and protracted duties of collation and correction. The character of the work which was the result of these precipitate labours is given in the following passage

\* At this period George, Earl of Huntly.



from the Report: " A volume of the acts of Parliament, from 1424 to 1564, was printed within six months after the date of the commission; and although the subsequent loss of some parts of the original record then extant, has unfortunately imparted to this edition an adventitious degree of value and authority, it is impossible to deny that it bears abundant marks of that precipitation with which it was thrown upon the public \*."

Of these commissioners, the two most active in accomplishing this reformation of the statutes and the laws, were, the Bishop of Ross, and Sir James Balfour, at that time the Clerk Register—to whom very high encomiums are paid in the preface to this early edition, which was written by Maister Edward Henryson, Doctor in the laws, a Lord of the Session, and one of the Commissioners. " It is there stated that, albeit none of the Lords Commissioners can be praised enough, and proportionally to their worthiness, for the travel and diligence taken by them in this

\* Fourth Annual Report of Deputy Clerk Register, p. 19.

present edition ; yet, in speciall with all men's favours, two of the said Lords are to be remembered and commended. That is to say, a reverend father in God, John, Bishop of Ross, Lord of our sovereign's secret council, and of her college of justice, for his suggestion to our sovereign of this notable purpose ; earnestful performing of the said commission, care in convening the Lords commissioners, and liberality in forthsetting of this imprinting ; and Sir James Balfour of Pittendreich, Knight, Clerk of the Register, for his sincere and glad concurrence to perfect this work and exhibition of the originalls out of the register, and making of them patent at all times, notwithstanding his own particular glory or profit, but only the common weal of the realm\*."

It is pleasing, after having witnessed so many instances of the faithlessness of the President Balfour as a politician, to discover this one bright aspect of his character—where he appears to have performed his duty, if not with great care and learning, at least with disinterested sincerity.

\* Fourth Annual Report, p. 18.

With some of his fellow commissioners, who were Lords of Session, we have been already acquainted: among them we find Sir Richard Maitland, the blind but cheerful old baron of Lethington; Black Mr. John Spens of Condie, whom we have seen accused as an accomplice in the king's murder; David Chalmers of Ormond, who fled to France under the same imputation; Robert Crichton of Blicock, then advocate to the King, and the father of the Admirable Crichton. These, along with Lesly the Bishop of Ross, Balfour, and Henryson, appear to have been the principal persons to whom was entrusted the task of this well meant but precipitate emendation of the laws.

The work entitled Balfour's Practicks, an amusing and curious compilation, well known to the student of Scottish law, and familiar to our antiquaries, is commonly ascribed to the President Balfour; and Goodal has asserted\* that, to the composition of it he appears to have devoted the latter years of his life. These years,

\* Preface to the Practicks, p. 7.

however, as has been seen, partook little of that peaceful character which suited with so laborious a task; and many reasons concur to render it very probable that the president was not the author of the whole, but only of a part of the work.

We know that a project for a general digest of the laws was suggested in a convention of estates held in the year 1574, under the Regency of the Earl of Morton, whose character, although stained by frequent crime, possessed some great qualities. The design is thus particularly mentioned by David Hume of Godscroft, the historian of the house of Douglas. "He set on foot a great good work, and would no question have seen it perfected, if he had brooked his Regencie a while longer; which was, the reducing of our laws into a more easy form and method than now they are. The care of this was committed to Sir James Balfoure, and Master John Skene, Clerk Register and Master of the Rolls. The work, I am informed, was well advanced, but when he quit his authority they left off any far-

ther proceeding in it \*." Upon this fact, the digest planned by Morton, who entrusted the execution of it to Balfour and Skene, an ingenious theory with regard to the composition of the work entitled Balfour's Practicks, has been stated in the Fourth Annual Report of the Deputy Clerk Register.

" If I might be allowed to indulge in conjecture," says this author, " I should be inclined to suppose that the conception or project of this digest of the laws may have originated with Balfour, that his exile afterwards precluded him from continuing to take any part in its execution ; that the active drudgery of the proposed investigation was devolved upon younger men, and that the unfinished result of their labours is perhaps no other than the volume of Practicks to which the name of Sir James Balfour has been traditionally annexed †."

That this work was interpolated, and that it made mention of certain acts of parliament, and recounted the names of certain Peers who did

\* Vol. ii. p. 284. Second Edition, 1743.

† Fourth Annual Report, p. 21.

not exist until after the death of its reputed author, had been early observed by Lord Hailes \*. The oldest manuscript of it which exists, appears to be written in the year 1600, and the name of Balfour is there added in a comparatively recent hand. These are strong circumstances of suspicion ; and the work itself, when narrowly examined, in some measure betrays the history of its composition. The author, or compiler, is frequently accustomed to quote the books from which many of his decisions, statutes, and acts of privy council are transcribed †. To take an example, in a homely enactment regarding baxters and brewsters, which declares that the baxter who bakes ill bread is to be put in the pillory, and that the offending brewster is to suffer upon the tumbrel or cuikstool, the author subjoins his authority in this manner : *Ex libro Carnegie, et meo albo libro* ‡. In another part of the work, which relates to the trespasses committed

\* Catalogue of Lords of Session. Note 26.

† Practicks, p. 70. 72, 73.

‡ Taken from the Book of Carnegie, one of the Lords of the Session, and my own White Book

within the forest of a baron, and their mode of punishment, the Book of Galbraith, another Lord of Session, is particularly quoted and referred to by name in many other places. And, lastly, the author, who marks his own collections by the title of *Liber Mens Albus*, in that portion of the Digest which embraces an account of the Chamberlayne Air \*, expressly quotes the "Book of Balfour" as the authority for the laws there laid down. May we not infer from this mode of quotation, that the conjecture of the Clerk Register, as to the history and composition of this voluminous compilation is correct; that, upon the suggestion of Sir James, the Earl of Morton, committed to him and to some other learned author, the task of forming a Digest of the whole laws; that for this purpose the private collections, which had been formed by the individual industry of Galbraith, Carnegie, Balfour himself, and others of the most eminent of the judges and lawyers of that period, were placed in the hands of either Sir John

\* Practicks, p. 589.

Skene, or of some other learned person, on whom the more active duties of correction and collation were devolved, and that to Sir James Balfour has accidentally been ascribed a compilation of which he perhaps only sketched out the plan, and in common with his brother judges communicated the materials to the undiscovered author.

Such were a few of the eminent predecessors of Craig, who flourished in the interval between the years 1532 and 1560, at which time the feudalist began his career at the bar. Other characters of inferior notoriety, who were well known in these troubled times, although they did not dazzle by the brilliancy of their powers, or alarm by the boldness of their vices, may be mentioned.

Sir ADAM OTTERBURN \* was raised to the bench in the year 1532, and although an

\* In the year 1532, we find Otterburn an Ordinary Lord of Session. In the succeeding year he was sent ambassador from James the Fifth to Henry the Eighth; and, after a short interval, we again meet with him in a diplo-



ambassador, and a judge \*, he is perhaps more certain of remembrance from the circumstance of his name being embalmed in an epigram of Buchanan's, than from his forgotten labours in the service of the State †.

matic character in England <sup>1</sup>. Two years after this he sits as Justice Depute, but his next appearance is less happy—in prison, on account of a correspondencé with the banished Douglasses <sup>2</sup>. Released from durance, he is found, in the year 1542, a fellow Commissioner with the Cardinal Beaton, in a negociation with the French Ambassadors De la Brosse and Menage <sup>3</sup>. From an instrument, without date, quoted in Father Hay's MS. Collections <sup>4</sup>, it is certain that Sir Adam was twice married; that Janet Rhynd was his first wife, and Euphan Mowbray his second, or sponsa moderna, to use the singular words of the original, and that for the safety of the souls of the two Lady Otterburns, Sir Adam gave forty solidi to the altar of the blessed Virgin in Saint Giles in Edinburgh.

\* Hailes' Catal. p. 2.

† Epigram. Lib. ii.

<sup>1</sup> Keith's Eccles. Hist. p. 17, 18.

<sup>2</sup> Pinkerton's Hist. Scot. vol. ii. p. 350.

<sup>3</sup> Keith, p. 34.

<sup>4</sup> Hay's MS. Collect. vol. ii. p. 174. Advoc. Lib. W. 2. 3.

Sir JOHN BELLENDEN of Auchinoul succeeded, in the year 1597, to Henry Balnevis of Hall-hill, in the office of Justice Clerk \*. His father, Sir Thomas Bellenden, was Director of the Chancery. His son, Sir John, appears to have been an early and consistent adherent of the Re-

\* Sir John Bellenden acted no inconsiderable part in the transactions of the times. In the year 1554 he appears a fellow Commissioner with Sir Robert Carnegie, to treat of a lasting peace with England. During the course of the same year he was entrusted with the management of the same impracticable task, the composition of all differences between the sister nations. Four years after this, when the struggle for pre-eminence became violent between the party of the Queen Regent and the Lords of the Congregation, Bellenden appears to have been a firm adherent of Mary of Guise. He was deputed, along with the Earls of Arran and Huntly, to compose the differences between the rival factions, and to treat with the leaders of the reformed party, Argyle and the Prior of St. Andrew's. Upon the death of the Queen Regent, the confidence with which Sir John Bellenden was regarded by the party of the Guises is strikingly shown. Mary, the young Queen, and her husband, the Dauphin, appointed certain French Commissioners to adjust the disputes, and enter into a pacification with England; and these foreign diplomatists are directed to receive information and instructions from Bellenden and the Archbishop of St. Andrew's. When Mary afterwards arrived in her

formation; but, although an enemy to the religion, he was a friend to the measures and government of his sovereign Mary, and to these principles he continued faithful until her un-

hereditary dominions, and in the year 1561 constituted her Privy Council, the Justice Clerk was included in the nomination <sup>1</sup>; and in the delicate transactions with England regarding the Queen's intended marriage to Darnley, the same counsellor bore a principal share <sup>2</sup>. How the Justice Clerk Bellenden had displeased the Lord Darnley, it is difficult to discover; but in the year 1566, that weak prince applied to the Queen to have Balfour, Bellenden, and Lethington, dismissed from their offices <sup>3</sup>. From this time, till the Queen's marriage with Bothwell, Bellenden appears to have been sincerely attached to her interests; but after the fatal day at Carberry-Hill, we find his name in the bond which was subscribed by the rebel lords <sup>4</sup>. In the year 1567, when Mary was imprisoned in Lochleven, when Murray arrived from France, and was intreated and *provoked* on by Morton and the faction who had imprisoned the Queen, to accept of the regency, a conference took place between De Lignerol, who had been sent from the French king, and the Earls of Glencairn and Morton, along with Mr. James Macgill, one of the conspirators against Rizo, and the Justice Clerk Bellenden. At this meeting Mr. James Macgill, as Sir

<sup>1</sup> Keith's Hist. p. 187. 222.

<sup>2</sup> Ibid. p. 437.

<sup>3</sup> Ibid. p. 284.

<sup>4</sup> Ibid. p. 351.

fortunate marriage with Bothwell. Like many others of his legal brethren, he combined the characters of a lawyer, a statesman, and a diplomatist. As such, he rose to the bench; he was created a privy counsellor, and many important political negotiations were entrusted to his management. When the Earl of Murray became Regent of the kingdom, Sir John appears to have joined the successful party, and, owing to the powerful interest which he thus secured, he probably preserved the valuable and numerous estates

Nicholas Throgmorton informs us, pronounced the premises in the Scottish tongue, which, at the said De Lignerol's desire, was interpreted into French by the Justice Clerk Bellenden<sup>1</sup>. From this fact it is probable that Bellenden, like many of his legal brethren, had received his education in France. Mackenzie, in his *Lives of the Scottish Writers*, and Ruddiman, in his *Notes on Scottarvet's Staggering State*, have fallen into an error in supposing Sir John Bellenden, the Justice Clerk, and Bellenden, the translator of Hector Boece's *History*, to have been one and the same person. Sir John Bellenden, on the 20th April, 1577, is mentioned as lately deceased in the Pitmedden MS. under that year.

<sup>1</sup> Keith's Hist. p. 444.

which his industry had acquired \*, and transmitted to his son, Sir Lewis Bellenden, not only his honours, but his office. A strange story is told of this Sir Lewis †. It is well known that, at this period of our history, witchcraft was a common crime. The two most noted adepts in this forbidden art were a certain Richard Grahame and Agnes Samson, commonly called the Wise Wife of Keith ‡. Sir Lewis Bellenden, either impressed with a belief which was then very general, or perhaps intending to throw ridicule on the pretensions of the adept, applied to Grahame, and commanded him to raise the devil. Grahame consented to show his power over the unseen world, and began his conjurations. The apparition rose within the court where the sorcerer performed his incantations, and such was the force of the deception, that the terror of the scene wholly unmanned the Judge, and threw him into an illness of which

\* Scot's Stagg. State, p. 130.

† It ought to be mentioned, that the anecdote occurs in a work of no very high authority, Scot's Staggering State.

‡ Arnot's Criminal Trials, p. 349.

he died \*. The names of three other Judges I only mention, because they are connected with events which illustrate the dark and ferocious manners of the times. ROBERT GALBRAITH, Parson of Spot, was promoted, in the year 1537, to the place of an Ordinary Lord of Session ; and on the 13th February, 1543, was murdered by John Carkeitill and his accomplices, on account of some favour shown to Sir William Sinclair of Hermandston †. SIR JAMES COLVILL, of Easter Weems, became a judge as early as the year 1532, in which the court was instituted, and was afterwards promoted to be Director of the Chancery ‡. Sir James imprudently espoused the cause of the Douglasses, and had left the kingdom with Archibald, Earl of Angus, and George Douglas his brother. In consequence of this conduct, sentence of forfeiture was pronounced against him in the year 1540, after his death §. The widow ||, and

\* Scot's Staggering State, p. 131.

† Arnot's Criminal Trials, p. 155. Hailes's Cat. p. 2, Note 6.

‡ Hay's MS. vol. ii. p. 67, 68.

§ Hailes's Catalogue, Note 4.

|| The widow of Sir James Colvill was Isobel, daughter to Patrick, third Lord Ruthven, who was concerned in the murder of Rizzio.—*Arnot's Crim. Trials*, p. 14.

heirs of the deceased traitor were summoned to hear the sentence pronounced, and his lands and castle of Easter Weems were presented by the crown to the Lealies. The severity of this sentence induced the Cardinal Beaton to restore their hereditary estate to the family of Colvil; and this act of justice and generosity, by inflaming the passions of Norman Lealy against the Cardinal, became one of the causes which led to the assassination of that ambitious prelate\*.

THOMAS MACALZEAN, a zealous friend to the Reformation, who had filled the office of Provost of Edinburgh†, and who appears in the year 1563, as advocate for the Kirk ‡, was afterwards raised to the bench, and adopted the title of Lord Cliftonhall.

Lord Cliftonhall had a daughter named Euphan Macalzean, who inherited from him a considerable landed estate, and married a gentleman of the

\* Hay's MS. vol. ii. p. 68.

† Knox's Hist. p. 316.

‡ Keith's Eccles. Hist. p. 535.

same name. Her history is striking. It was her misfortune to live at a period when superior knowledge was construed into crime, and when an intercourse with the unknown world was imputed to many whose acuteness of intellect or gravity of deportment made them the objects of wonder to the weak and the ignorant. In most of those prosecutions for witchcraft which disgrace our criminal records, the unhappy victims appear to have been persons of inferior condition. But the case of Eaphan Macalzean forms an exception to this observation. This lady was accused of treasonably conspiring the King's death by enchantments, of raising storms to obstruct his return from Denmark, of forming a waxen image of his Majesty, and of various other articles of witchcraft. The trial was held with great solemnity at Edinburgh; the jury was composed of landed gentlemen, of family and education. From her fortune and condition, she must have commanded the highest legal advice, yet she was found guilty, and, under a sentence more cruel than that commonly pronounced upon such offenders, this unfortunate daughter of a supreme



judge was literally burnt alive \*, and her estate confiscated to the crown.

From the above biographical sketches, some idea may be formed of the state of the Scottish bar during the period of thirty-two years which elapsed between the institution of the court by James the V. and the appointment of Craig to the office of Justice Depute, in the year 1564. The singular manners of the times are more strikingly depicted by the facts which have been brought forward than by any general inferences or loose and less authentic observations. Our bench and our bar at this period presented, we have seen, a very different appearance from the more grave and consistent spectacle of the College of Justice in our modern days. The classical education of our judges and lawyers, their residence at the foreign schools of jurisprudence, their enlarged experience from the sight of different nations and various governments, the combination of the legal and the diplomatic professions, and the ample sphere which was thus opened to their ambition in the

\* Arnot's Criminal Trials, p. 350. Acts of Parl. vol. iii. p. 609.

management of affairs of state, all these circumstances united to exalt the character of many of our supreme judges ; to render them men of great powers and very various endowments. On the other hand, we may observe the ferocity of feudal manners, the prevalence of superstition, the flame of religious reformation, and the bigotry of the Church of Rome, too successfully counteracting the effects of increasing information. We see judges assassinated for alleged partiality, women of family condemned and executed as practisers of sorcery, priests preparing the stake for the enemies of their faith, and the Protestant reformers not only applauding but putting in practice the creed of retaliation and murder. But we must now return to Sir Thomas, whom we find in a situation which, according to the rigid prejudices of the present day, is befitting neither his character as a justice depute nor a feudal writer—engaged in an illicit intercourse with the Muses.

In the year 1565, Mary accomplished her ill-fated union with Henry Darnley ; and the bards who surrounded her court proclaimed the happiness of the royal couple and of the kingdom, in

strains which unfortunately were not prophetic. Amongst these poets we find Thomas Craig, who came forward on this occasion with an Epithalamium, his earliest production as an author. Upon the first marriage of the young Queen to Francis the Dauphin, Buchanan had written that splendid Epithalamium, included in his "Sylvæ," which is familiar to all who appreciate his genius \*. It is difficult when we read the poem of Craig to divest our minds of the recollection of this noble precursor. Like many first works, Craig's Epithalamium is in its general tone too full of effort, too ambitious in the display of classical allusions, too richly and laboriously coloured. But in other places where the author allows himself to be more simple, where he is less determined to make a figure, he falls into beautiful passages. The following description of the sweet and serene aspect assumed by the God of Love, when he conceives the first idea of accomplishing this regal union, is not unworthy of Craig's future eminence:—

" Ille triumphati victor sævissimus orbis ;  
Ille Deum magnique Jovis contemptor inultus,

\* Francisci Valesii et Mariæ Stuartæ Regum Franciæ  
et Scotiæ Epithalamium. Buchananani Sylvæ.

*Jam tandem posito erumpens velamine, lætus  
 Sidereis aperit flammantia lumina telis.  
 Non prior in vultu furor est ; non cornua flectit ;  
 Non armata manus facibus metuenda tremendis ;  
 Sed placidus stat fronte decor ; sed plurimus illi  
 Purpurat ora pudor sanctus ; ridetque verendum.  
 Læteaque Ambrosii ludunt per colla capilli."*

The poet proceeds to paint the indomitable courage and love of freedom which characterize the Scottish nation, and the vain attempts for their subjugation successively made by the Romans and the Danes. Coming nearer his own times, he next describes the divided state of the kingdom during the infancy of Mary ; the rude efforts of Henry the VIII. to compel a marriage between his son and the Scottish Princess by force of arms, and by endeavouring to bribe the Scottish nobility to second his views.

*" Instat enim, atque artes intentat lubricus omnes  
 Anglus, et huc fulvi numerosa licentia nummi  
 Mittitar, atque animos mittentis ludit inanes  
 Hinc rursus patrios tumidus consurgit in arcus,  
 Et regnum dotale infesto Marte reposcit."*

The arguments which induced the people to resist the wishes of the English Monarch, the

cruel war which followed, the melancholy state of the country, torn by civil faction, and drooping under the desertion of its Princess, who had given her hand in marriage to the Dauphin ; these subjects are next introduced in some vigorous passages. The Scottish nation are at length repaid for their long suffering, by the arrival of their Queen, to assume her hereditary sceptre ; the people are full of delight and of gratitude ; and, in the midst of the general joy, Cupid appears with that serene and benevolent expression, which proclaims that he has none of his mischievous pranks in hand, but that for once the course of true love is destined to belie Shakspeare, and to run smooth. After Cupid come Hymen and Henry Darnley, and the handsome and manly figure of the bridegroom, contrasted with the peerless beauty of the royal bride, is warmly described. The poet now assumes a graver strain, and seizes the occasion to remind Darnley that his youthful pursuits and pleasures as a prince must give place to his severer duties as a sovereign. An indolent carelessness to all the affairs of state, and a total devotion to country sports were

among the many weaknesses of Darnley ; and Craig seems distantly to hint at this, and to dread it, when he endeavours to rouse him to a taste for higher exertions, by a picture of the exploits of the long line of Scottish kings who had preceded Mary in the throne.

“ Nullus erit procerum, qui non virtute paravit  
 Hoc quodcunque tenet, paritur si sanguine virtus.  
 Hunc magnum indomiti fecit victoria Daci ;  
 Hunc Pictis virtus profugis, huic belliger Anglus,  
 Mansuras fusus dederat cum nomine terras.  
 Nullus erit cui stemma suis non nobile gestis  
 Purpureo fecit virtus tepefacta cruore.”

After this grave yet spirited incitement to pursuits worthy of a king, the poet concludes his marriage song in a lighter strain. He describes the rich train of the nobility who attend the ceremony—the smiling aspect of the season—and the prospect of peace to the nation, and joy and plenty to the husbandman, which such a union holds out to the hopes of the country. He anticipates a long line of illustrious descendants, who are to protect the rights, and transmit

the honours, of the Scottish sceptre to the latest posterity. Images of peaceful and rural happiness—"fields of golden grain"—orchards loaded with unwonted profusion—the sun walking through his ethereal dominions in unclouded splendour—and the gentle murmur of the honied bees that sing at their flowery work:—such are the subjects which fill up and finish the picture\*.

When we compare these brilliant anticipations of ideal felicity with the dark realities which followed the marriage of Darnley, the wreck of the happiness of the Queen, and the miserable catas-

\* This Epithalamium is not to be found amongst the poems of Sir Thomas Craig, published in the *Delitiæ Poetarum Scotorum*. Apparently it was unknown to Sir John Scott and Arthur Johnston, to whom we owe this valuable publication. It was not then destined to be rescued from "the teeth of the moth and the clutches of the sellers of salt." "*Salsamentariorum manibus, vel tinearum dentibus,*" to use the words of Johnston's elegant Dedication of the *Delitiæ*. But it was lately discovered and reprinted by Mr. David Laing, whose exertions in the republication of the *Early Popular Poetry of Scotland* deserve the encouragement of all who are interested in the history of their national literature.

troupe which so soon overtook her weak and profligate consort, it is difficult to prevent a reflection on the utter vanity of all human anticipations.

The circumstances of the country at the period when Craig was promoted to the office of Justice Depute, were such as rendered his situation one of constant employment and arduous responsibility. Several curious journals relative to the history of this period have been preserved \*, and they present, in homely but expressive language, a revolting picture of the manners and the morals of the times. In many instances, the Lord James, afterwards the Regent Murray, a nobleman very determined in his measures, and often not over-scrupulous as to the means adopted for carrying them into execution, inflicted on offenders that summary justice which neglects the forms for the sake of increasing the terrors of the law. At other times, he procured from the Queen a particular commission to hold courts in the North, for the trial

\* Birrel's Diary. Davidson's Journal. Melvil's Memoirs.



of crimes; amongst which trials, there occur some of those prosecutions for witchcraft, that continued for so long a period a stain upon the history of our criminal law. The causes of the moral depravity of the kingdom were in no degree removed by these violent but intermitted examples of severity, and the frequent condemnations for crimes of the most flagrant nature, bear testimony as well to the severity of the law as to the failure in the purpose for which it was intended\*.

But these were all minor offences in comparison with that act of murder which was soon after committed in the royal presence, by some

\* In Birrel's Diary we find an entry of most of the executions for crimes in the year 1579.

"31st, the last day of Decr. Robert Jacke, merchant and burgess of Dundee, was hangit and quartred for false cunzie, called hard heids, whilk he had brought out of Flanders.

"18th Feby. Wm. Lockhart and Alex. Andersons, men of Kyll, were brunt one the Castell-hill, for burning of cornes pertaining to Wm. Cathcart.

"8th day of March, the Regent vent to Glasgow, and there held an justice ayre, wher ther ver executē about the number of twenty-eight persones, for divers crymes."

of the highest noblemen in the kingdom. This was the assassination of David Rizzio, or, to use the homely phraseology of the period, "the slaughter of Seignor Davie\*", which was per-

\* March, 1556. Queen Mary was then very near the time of her confinement, and was sitting at supper in her chamber in the palace of Holyroodhouse with the Countess of Argyle<sup>1</sup>. Her secretary Rizzio, who had been promoted to this situation on account of his skill in those accomplishments of music and poetry, of which the Queen was fond, sat at a separate cupboard, "as the servauntes of the privie chamber uses to doe," and tasted the meat coming from the Queen's table. Darnley first entered the apartment, and was immediately followed by Lord Ruthven, Andrew Ker of Faldounside, and George Douglas, the Master of Ruthven. The Queen, alarmed at this unmannerly intrusion, and terrified by the pale and haggard looks of Lord Ruthven, who was in armour, complained of the outrage. She asked "what the matter was?" Some standing by, said, "he was raving, by means of the vehemencie of his feaver," (Ruthven had been long confined by sickness;) "but he commanded Davie to arise, and telleth him that place was not for him." The murder was then committed, with every circumstance of barbarity; "they assaulted the fellow," Birrel, p. 5, "with their naked swords, before her face, being great with

<sup>1</sup> See Keith's History, p. 330; and the Appendix to Book II. of the same, No. XI.

petrated with every aggravation of barbarity and insult in the presence of the Queen, and within the sanctuary of her own chamber in the palace. Nothing can present us with a more mortifying picture of the manners of the times, than the circumstances which accompanied this cruel transaction. It was suggested by William Maitland of Lethington, the Secretary of State\*—it was executed by the first noblemen in the land, assisted by their sovereign

chylde, trembling with fear, and setting a pistol to her breast, so she was in danger of present abortion; and pulling the wretch out of her hands, (who gript fast unto her,) violentlie out into the utter chamber, he all the tyme crying most pitifully to the Queen, ‘justitia, justitia; Madame, save ma vie, save ma vie;’ & ther they most cruelly, without pitie, killed him, shooting the queen in ane upper parlour.”

\* “Sir Wm. Maitland, secretary, partly feeling himself prejudged by this Savoyard in handling the affairs of his office, partly for favour he bare to the Earl of Murray, now banished, laboured to persuade the Earl of Morton and the Lord Herries to cut off that base stranger, who presumed to degrade the nobility—to disturb the country—to abuse the Queen’s favour, and set all in combustion.” Sir Wm. Maitland was at this time a Lord of Session.

—it was aggravated by expressions of extreme insolence used to the Queen—it was most feebly punished by the laws, as far as the principal conspirators were concerned—and it is spoken of with indifference, and almost with applause, by the historians of the age. The principal actors in this conspiracy were banished\*. A more

\* “The 9th day of March,” says Birrel, p. 67, “Seigneur David, surnamed Rizius, ane Italiene, quha wes the queene’s secretary, a man very skillful in music and poetry, wes slaine in her majestie’s presence be the Lord Ruthven, & uthers his complices, qha were all banished therefor in anno 1566.”—*Melvil’s Memoirs*, p. 127-8. That honest and laborious historian Keith, to whom Scottish history is under high obligations, in speaking of the manner in which Knox and Buchanan mention this subject, has these quaint but judicious remarks :

“ ’Tis pity Mr. Knox should give the adversaries so much ground for hatred and contempt ; and speaking of Riccio’s first rise and favour at court, he (Knox) says : ‘ But of his beginning and progress we delay now farther to speak, because that his end will require the description of the whole,’ and refers it into such as God shall raise up to do the same. This is exactly in conformity with what the same writer speaks concerning the barbarous murder of Cardinal Bethune. Such men must have strange notions of God Almighty : They shape and dress him up according to their own

severe fate awaited those who kept the gates of the palace on the night in which Rizzio was slain, and who probably were but in a minor degree accessory to this cruel deed. A court for their trial was held by Craig, as Justice Depute; and Thomas Scott, Sheriff-députe of Perth, along with Henry Zaire, a priest and servant of Lord Ruthven, were condemned and hanged, under the suspicion of having been accomplices in the murder\*.

lusts and imaginations, and so fancy themselves alone his friends and favourites; and every the greatest barbarity and most heinous crime, if it serves for their worldly purposes, is all projected in heaven, and the perpetrators of it are the immediate instruments and ministers of the Most High. What else is this, but to hound out people to do mischief!"—*Keith*, p. 330.

\* *Keith's Hist.* p. 334. *Birrel's Diary*, p. 5. "Thomas Scott, Sheriff-depute of Perth, and Mr. Henry Zaire, a priest, servant to the Lord Ruthven, were hanged and quartered, and their heads set, the one on the toure of the abbey and the other on the house, because they were suspectit guilty of the murder."—See *Arnot's Criminal Trials*, Appendix, No. III. for an account of the trial. Curia tent. April, 1566, per Magistrum Thomam Craig, Justiciarium Deputatum, &c.

James the VI. was born on the 19th of June, 1566, and Craig, relaxing from his severer studies at the bar, hailed the birth of the royal infant, and predicted the happiness which such an event promised to his unsettled country, in his *Genethliacon Jacobi Principis Scotorum*\*. The *Genethliacon* is a poem of considerable length, written in hexameters, and possessing many passages not only highly descriptive of the state of Scotland at this period, but in themselves eminently poetical. There is not often to be found in modern Latin poetry a more beautiful picture of infancy than that which is contained in the close of the following passage :

“ *Ergo age chore puer Stewarti nominis hæres.  
 Magna patris, major matris, sed maxima regni.  
 Gloria spesque tui, veniet cum fortior ætas  
 Nescio quid magnum tibi jam presagia spondent.  
 Si quid habent veri, tibi se frenanda reservat  
 Qua patet armipotens, tanta sibi conscia partus.  
 Qua latera extendit sinuante Britannia ponto  
 Interea teneris his accrescentibus annis  
 Ille sua tanquam clypeo te protegat umbra.  
 Ignea qui vasti stabilivit mœnia mundi,*

\* *Delitiæ Poët. Scotor.* vol. i. p. 221.

Fulciat et vivo te robore, membra sopore  
 Seu blando laxas, vigilans seu pondere dulci  
 Pensilis innectis materno brachia collo  
 Incipiens tremulæ blandiri murmure linguae  
 Pensabisque pia longos mercede labores."

This was the second avowed poetical production of Craig, and the perusal of the above passage, to which many others of equal excellence might be added, will sufficiently show that he was no unworthy disciple of that academy which could boast of such names as Turnebus and Passerat, in the list of its professors.

The Earl of Morton, who filled the situation of Chancellor, had disgraced that dignity, by being personally present, and a chief actor, in the murder of Rizzio\*. This was a foul offence, and the Queen resented it with the spirit which became her, by the degradation of Morton from that high office, and the appointment of George, Earl of Huntley, in his stead†.

The history of our country at this period presents a melancholy picture of the effects of party

\* Keith, p. 331.

† Pitmedden MS. It states, George, Earl of Huntley, by a letter from the king and queen, is admitted to

animosity amongst a savage nobility, and under a disunited government. The conspiracy of the last year against Rizzio was succeeded by another which aimed a higher blow, and he who had sanctioned the murder of the defenceless foreigner was himself the next victim of the ferocity and cunning which he had encouraged. Henry Darnley, on the morning of the 9th of February, had left the court at Edinburgh, and taken up his residence in the lodging of the Kirk-of-Field, in the vicinity of the city\*. About midnight, the house in which he slept was blown up with gunpowder, and the king and his chamberlain were found dead in an adjoining field†.

This conspiracy against the king had been the office of Chancellor, in absence of James, Earl of Morton. "For as mukle as James, Earl of Morton, our late Chancellor, with his complices, having, in our presence, the 9th of March, most cruellie murdered one of our domesticalls, (this was Seigneur David Rizzio,) and treasonably holden our own person in captivity; wherefore, thinking him unworthy of the said office, we have deprived him thereof." This bears date, 25th March, 1565.

\* A. D. 1566. Anderson's Coll. vol. ii. p. 273.

† Birrel, p. 7. "On the 9th day of the moneth, being Sonneday befor Fasteryns even, the king was murdered in his lodgeing in the Kirke of Field, about midnight, or



planned with great art by those able and profligate men who then filled some of the highest offices of the state. Maitland of Lethington, at this time Secretary of State, and one of the Judges of the Session, appears to have been the first agitator of the plot. That the Earl of Murray, afterwards Regent, was privy to the transaction, is proved by very strong circumstantial evidence\*.

thereby ; the said lodging pertaining to Sir James Balfour, Provost of the said kirke. The hous wes raisit up from the ground with powder ; and the kingis chamberman, named Johnne Tailzeour, wes found with him lyand in ane zaird, deid under ane tree ; and the king, if he had not been creuelly vyrriet, after he fell out of the air, with his awen garters, he had leived."

\* Keith's History, page 365 and 366. See Tytler's Vindication of Queen Mary, 2d edition, p. 225. The protestation of the Earls of Huntley and Argyll, quoted in the above work, and the arguments founded upon it by the author, form as strong a proof of the assertions made in the text, as the nature of the subject will allow. See also in Anderson's Collections, vol. ii. p. 111, the letters sent to Queen Mary by the Earl of Lennox. One of the first conditions made by Sir James Balfour before delivering up the castle of Edinburgh to the Regent, was, " That he should have a full remission of all treasons, particularly for being art and part, (as the phrase is,) in the murder of the king."—*Crawford's Memoirs*, p. 43.

The Earl of Morton, in his dying confession, acknowledged that he was aware of the barbarous design. Sir James Balfour, at that time Lord Clerk Register, was, as we have already seen, very deeply implicated. And James, Earl of Bothwell, along with some associates of less power and note, is well known to have personally superintended its execution.

These associates were the only persons brought to punishment, while their more guilty confederates, although justice was loudly demanded against them \*, were protected by the numerous

\* Some of these public accusations of the conspirators against Darnley which were privately posted on the toll-booth door of Edinburgh, are to be found in Anderson's Collections, vol. ii. p. 156. In one of these proclamations, the persons accused are, "the Erle Bothwell, Mr. James Balfoure, the parson of Flisk, Mr. David Chalmeris<sup>1</sup>, blak Mr. Johne Spens, quha was principal devyser of the murder; and the Queene, assenting thairto, throw the persuasion of the Erle Bothwell, and the witchcraft of the LadyBuckcleugh."— See *Keith's Hist.* p. 368.

<sup>1</sup> This Mr. David Chalmeris, who was, in the year 1564, raised to the Bench by the title of Lord Ormond, afterwards left Scotland, on account of his being strongly

train of their dependants, or screened by the official dignities which they had abused. A mock trial of the Earl of Bothwell was indeed held at Edinburgh, not by Craig, who was spared the mortification of seeing the law insulted in the Court where he often presided, but his superior, the Earl of Argyle, hereditary justiciary

suspected of being privy to the king's murder, and retired into Spain. He afterwards resided in France, where he devoted his time to literature, and published:

1. *Histoire abrégée de tous les Rois de France, Angleterre, et Ecosse.*

2. *La Recherche des singularitez les plus remarquables concernant l'Estait d'Ecosse.*

3. *Discours de la legitime succession des femmes aux possessions de leurs parens, et du gouvernement des Princesses aux empires et royaumes."*

In the year 1586 he was restored to his seat on the bench. See Lord Hailes's Catalogue of the Lords of Session, p. 6. also Dempster, *Hist. Ecclesiast.* p. 194. See Vitus, *Hist. Britannica*, Book i. note 33. Book iv. note 1. Book vi. note 27, a work quoted by Dempster which I have never seen. Chalmers died, November, 1592. (Pitmedden MS. sub eo anno,) and was succeeded in his place of ordinary Lord of Session, by the well known Thomas Hamilton, then styled Mr. Thomas Hamilton of Drumcarny, and afterword of Priestfield, afterwards secretary of state, and Earl of Haddington—a man of great abilities as a lawyer, a statesman, and a scholar.

of Scotland, with the assistance of Mr. John Spence of Condie, himself publicly accused of being a contriver of the murder, and Mr. Robert Crichton of Eliock, father of the Admirable Crichton. These two persons at that period jointly held the office of King's Advocate\*.

Bothwell, as might have been easily foreseen, was acquitted of all participation in the murder of the king; but a different fate befel his less illustrious associates in the conspiracy. Hepburn, Dalgleish, Hay, and Powrie. For the trial of these persons, Craig, on the 3d of January, in the year 1568, held a court at Edinburgh. The prisoners, in their judicial declarations, which contain a minute and interesting account of the

\* Curia Justiciæ S. D. N. Reginae tenta et inchoata in prætorio de Edinburgh, duodecimo die mensis Aprilis, anno 1567, per nobilem et potentem dominum Archibaldum Comitem Ergadiæ, dominum Campbell et Lorne, justiciarium Generalem ejusdem S. D. N. Reginae totius Regni sui ubi ubet constitutum sen. vocatam et curia legitime affirmata."—*Anderson's Coll.* vol. ii. p. 97.

"In the quhilk court, compeirit personally in judgement Masteris John Spens of Condie, and Robert Creighton of Eliock, advocates to our Sovereign Lady," &c.

murder, made an ample confession of their crimes. They were not screened from justice, like their more exalted associate, by the power of the Earl of Murray and the Secretary Lethington, nor was the law corrupted by the interpretation of such partial administrators as Macgill and Balnaves \*, who sat as assessors upon the trial of Bothwell. They were accordingly found guilty

\* Anderson's Collect. vol. ii. p. 158 and 159. Keith, 375. Macgill, Lord Clerk Register, was deposed from his place in the year 1556, on account of being one of the conspirators with the Chancellor Morton, against Rizzio. Sir James Balfour, who narrowly escaped being murdered the same night as Rizzio, succeeded him.—*Goedal's Life of Sir James Balfour*, prefixed to his Practiques.—*Keith's History*, p. 335.<sup>1</sup> James Macgill was raised to the bench in the year 1554. He was created Lord Clerk Register by the Queen Regent the same year. In the year 1556 he was, by the same authority, appointed one of three Commissioners to treat with Tunstal, bishop of Durham, concerning a settlement of the disputes which embroiled the sister kingdoms.—(*Lesly*, book x. p. 486.) When Leith was besieged by the English, in the year 1560, we find Macgill of the Queen Regent's party in the castle of Edinburgh.—(*Lesly*, book x. p. 523.) In 1561 he was created a privy coun-

<sup>1</sup> Pitmedden MS. sub anno 1554. He is designed in the Queen's letter, "burgess of our burgh of Edinburgh."

of the "cruel, treasonable, and abominable slaughter and murder of umquhill, the King's Grace, fader to our Sovereane Lord, in his awin lodging for the time, within the burgh of Edinburgh,

sellor. (*Keith's Hist.* p. 187.) In the year 1565 Macgill continued to espouse the faction which favoured the Queen and Darnley, and which was opposed by the rebel lords led by the Earls of Murray, Argyle, and Glencairn. (*Keith*, p. 314.) In the same year, when the conspiracy for the murder of Rizzio, and the return of Murray and the banished lords, was hatched by Lord Ruthven and the Chancellor Morton, Macgill, as we have seen, was deeply implicated, and lost his office of Clerk Register<sup>1</sup>.

In the year 1567, December 5, he was restored by the Regent Murray's interest to this office, and sat as assessor assisting the Earl of Argyle in the trial of Bothwell. (*Keith*, p. 375.) And the same year he appears a principal person amongst the associated lords, who imprisoned their Queen, and intimidated her into a resignation of the government. (*Keith*, p. 427.) Macgill received the reward of his fidelity to the most powerful party in the state, by the high favour which he enjoyed with the Regent Murray. He was sent along with the Justice Clerk Bellenden, to treat upon the part of the lords of Murray's faction with Mr. de Lignerol, envoy from the king of France, at which conference Macgill

<sup>1</sup> Goodal's *Life of Sir J. Balfour*. Pitmedden MS. sub anno 1567.

“ beside the Kirk of Field, quhair he was lyand in  
 “ his bed, taking the night’s rest, treasonably rais-  
 “ and fire within the same, with ane grit quan-  
 “ tity of powder.” Condemnation followed, and  
 sentence was executed upon them on the very day  
 in which they were condemned\*.

Craig appears to have been a man of a modest

spoke in the Scottish tongue, and the Justice Clerk interpreted into French. (*Kelch*, p. 444.<sup>1</sup>) Macgill was an early favourer of the doctrines of the Reformation. (*Kelch*, p. 308.) He appears to have been educated at St. Andrews, like many others of his contemporaries at the bar; for, in the year 1532, we find Jac. Macgill incorp. but the college is not mentioned. James Macgill, the Clerk Register, had a brother at the bar, David Macgill, who was made King’s Advocate, and an ordinary Lord of Session, on the death of Crichton of Ellock, in 1562. (*Pitmedden MS. sub eo anno.*) David died in 1595, in consequence, as is said in the *Pitmedden MS.* of the chagrin he felt on being superseded in the office of King’s Advocate, by a very eminent man, Sir Thomas Hamilton of Priestfield, afterwards Secretary of State, and first Earl of Haddington; but the story is not a probable one.

\* Anderson’s Col. vol. ii. p. 169.

<sup>1</sup> He was, in 1568, along with Henry Balnaves and George Buchanan, appointed by the Regent Murray one of the commissioners on the Queen’s trial.

and retired disposition, averse to any interference in the political intrigues of the times, devoted to his profession, and fond of that relaxation from the severer labours of the bar, which is to be found in a taste for classical literature. While his contemporaries, the Lord Clerk Register Macgill, the President Sir James Balfour, the Lord Advocate Spence, and the Secretary Maitland, are to be found perpetually implicated in the conspiracies against their mistress the Queen, and their names have come down to us contaminated by crime, the character of this good and upright man shines doubly pure amid the guilt with which it is surrounded. Although a convert to the reformed opinions, and from this circumstance naturally connected with the party which opposed the Queen, his sense of religion did not confound or extinguish his principles of loyalty. His name appears only in the journal books of the court in the discharge of the labours of his profession, or it is found in the judiciary records under his official designation of Justice Depute, or it is honourably associated with the history of the literature of his



country, but it is never connected with the political commotions which the money and intrigues of England had kindled in the heart of our nation.

Some time previous to this, Craig had married Helen Heriot, a daughter of Heriot, Laird of Trabrown, in the county of Mid-Lothian\*; and in the year 1569, was born his eldest son Lewis, afterwards Sir Lewis Craig. This young man pursued his earliest studies in philosophy under his father's eye in the University of Edinburgh. He became there a pupil of Mr. Charles Ferme, whose talents had entitled him to succeed to the situation of professor or regent, which

\* I find this date of Sir Lewis Craig's birth, from the fact mentioned in Craig's Life, prefixed to his work *De Feudis*, "that his son Lewis was raised to the bench when only thirty-four years of age. Sir Lewis Craig, we know, became an ordinary Lord of Session in February 1604, (see Hailes's Catalogue, p. 7,) consequently he must have been born in the year 1569. The author of Craig's Life, prefixed to the treatise *De Feudis*, calls Helen Heriot "fœmina lectissima Helena Heriota, Comarchi de Trabrown in præfectura Hadintoniæ filia." The mother of the great Buchanan was Agnes Heriot, of the family of Trabrown. Irving's *Memoirs of Buchanan*, p. 1.

had been resigned by the eminently pious and learned Rollock\*. Sir Lewis Craig took his degree of Master of Arts, on the 30th July, 1597 † ; and having afterwards studied the civil law at Poitiers for two years, he returned to his native country, and was admitted an advocate in the year 1600 ‡.

At this period Lewis Craig had just completed his thirtieth year, and enjoying the advantage of his father's instructions, and inheriting some portion of his eminent talents, after having been only four years at the bar, he was knighted by the favour of his sovereign, and promoted to the bench, in the year 1604, by the title of Lord Wrightshouses §.

\* Bower, Hist. Univ. vol. i. p. 105.

† MS. Regist. of Laureat. in Univer. of Edinburgh.

‡ 11th June 1600.—Compeared Mr. Lewis Craige, and produced a supplicationne, bearing how he had been brought up at the schooles in this burgh, till he perfected his course of philosophy, and then he went to France, where, in Poitiers, he studied the lawes be the space of 2 yeares and a halfe, whereof I have given some evidence to their Lordships ; therefore desired to be admitted an advocat, to the effect he might be able to attend on their Lordships service, and other affaires of the country.—*Pitmedden MS.*

§ Hailes's Catal. p. 6.

It is scarcely to be doubted that the King, who appears to have been fully aware of the talents of Sir Thomas Craig, before this high situation was presented to the son, must have made the same offer to the father, then in the vigour of his years, and certainly one of the first lawyers of his time. The offer, if made, was declined either on account of the modesty of this learned man, which afterwards induced him to refuse the honour of knighthood, or because his emoluments at the bar were greater than those which he would have enjoyed upon the bench.

A pleasing tradition regarding the filial respect shewn by Sir Lewis Craig, is preserved in the short Life prefixed to the treatise *De Feudis*. The supreme judges in those days sat covered, and heard the counsel who pleaded before them uncovered. Whenever, says his biographer, his father appeared before him, Sir Lewis, as became a pious son, uncovered, and listened to his parent with the utmost reverence\*.

After the miserable death of the Earl of Both-

\* Ballie Vita, p. 18.

well in Denmark, it was necessary to appoint curators to his young sons who remained in Scotland. In the year 1589\*, the Court of Session nominated "Mr. Thomas Craig and Mr. John Sharp to be curators *ad lites* to my Lord Bothwell's two sons, Francis and John Stewart, because they had sundry actions to pursue on their father's decease."

The professional celebrity of Craig had now become so great, that we find him employed in the most important causes which came into court. In the year 1592, the king brought a redaction of some deeds and alienations of his property, which had probably been made under the influence of fear and the facility incident to his early age. Craig, along with the King's Advocate and Mr. John Skene, appears as counsel for his youthful sovereign†.

Engaged in these severer labours, the muses seem for a time to have been neglected, as, with the exception of a short poem on the death of

\* Pitmedden MS. Nov. 24, 1589.

† Haddington's Decisions, MS. vol. i. p. 25, No. 126.

the celebrated Robert Rollock, upon whose monument every poet in the nation seems to have thought it a duty to hang up his "tuneful sorrows," Craig appears to have written nothing since the publication of the *Genethliacon* \*.

At this period his time seems to have been divided between the practice of his profession and the task of collecting materials for his first great work, the treatise *De Jure Feudali*, which he afterwards completed in the year 1603. In the Prefatory Epistle he explains the motives which had induced him to commence so laborious an undertaking. After alluding, in eloquent terms, to the misery arising from the unmitigable contentions between the two kingdoms—to the desire for the accomplishment of a union, with which the sovereign himself was animated—and to the nomination of a committee of lawyers of both countries, who were directed to examine and compare the laws of each, to mark their points of agreement and dissimilarity, and to pronounce

\* *Vitae et Mortis Roberti Rolloci Scoti Narratio, per Georgium Robertsonum.*

upon the practicability of reducing both kingdoms under the same system of laws, he thus continues \* : “ Since, therefore, there are many persons who have been misled by error, and have endeavoured to persuade the unlearned, that the legal institutions and manners of the two countries are diametrically different from, and opposed to each other, or, according to the Greek proverb, *δις διὰ παρῶν*, I determined to exert myself to remove this erroneous opinion from the minds of the unskilful, and to commence a careful investigation into the roots and foundations of the law in these two countries. I may be accused of presumptuous boldness, perhaps of temerity, but my consolation is to be found in these words of the poet, ‘ In magnis et voluisse sat est.’ For after,” continues he, “ I had for the last forty years devoted myself to the labours of the Scottish bar, and in these labours gained some reputation ; and after I persuaded myself that I had become sufficiently acquainted with our own customs, our laws, and

\* *Epistola Nuncupatoria Auctoris*, p. 6.

forms of judicial procedure, I began to inquire into the manners and legal institutions of our neighbours of England, as far as I found the English law explained and illustrated by the commentaries of learned authors. At length I conceived, that from these commentaries I had come to the discovery, that, at the present day, the foundations of our English and Scottish law are truly the same in both countries; and, on a comparison of these two systems with each other, that the most manifest affinity was to be found both in the manner of discussion and in the mode of deciding causes." We are thus clearly informed of the object with which this celebrated work on the Feudal Law was written. The king was anxious to promote a union between the two kingdoms; and Craig, who grieved over the commotions and troubles arising out of their separation, and the national animosity which it engendered, was willing to use every means to farther this salutary project. The party who opposed the union, had urged the dissimilarity of the laws of the two countries as one of the strongest objections against the measure; and,

to remove this objection, to prove that the leading principles of the feudal law were the same in both kingdoms, although the forms of judicial procedure were different, was one chief purpose for which the *Jus Feudale* of Sir Thomas Craig was written. In addition, however, to this, a still higher motive, that of imparting a systematic form to those doctrines of the feudal law, which had been erroneously considered of vague and uncertain application, appears to have entered into the design of the author. "There may be some," says he towards the end of the Prefatory Epistle\*, which is written with that classical elegance for which his style is so remarkable, "who are pleased with nothing but what is of their own invention, and who may undervalue this work of mine, insisting on the well-known quotation of Terence, *Nihil a me hic dici quod non sit dictum prius*. To these I have this one observation to make, that if there is any thing in this treatise for which I can claim

\* Epistola Nuncupatoria Auctoris, p. 8.



merit, it is, that I have added nothing of my own, no new doctrine. I have compared the practice of our courts with the written feudal law, in order that I might reduce the system of our law, which by many is considered vague and unsettled, into something of the form of a science."

The method in which the author proceeded in the composition of his treatise on the Feudal Law, as well as the motive with which he wrote it, is thus, from the information he has given in his Prefatory Epistle, rendered very apparent; and it is easy to discover both the causes of the excellence of this work, in some particulars, and the reasons for its acknowledged deficiency in others. The object of the author was not to investigate the antiquities of our Scottish law, or, by an examination of its most ancient and authentic sources, the oldest charters, and the different writs and feudal tenures which then existed, to illustrate the progress of the feudal law in Scotland, and describe its distinguishing and characteristic features. That this was not the object of Craig is to be deeply

regretted. At this period there existed many documents, long since the prey of neglect and of time, which must have thrown the most important light upon the legal history of the kingdom ; light which, from the destruction of those only sources whence it could have been elicited, is now extinguished for ever. In the investigation of such a subject, what would not the united industry and genius of such a mind as that of Craig have accomplished ? But this was not the object of the author on the Feudal Law ; nay, in some measure the avowed motives under which he wrote were inimical to such a design. He wished to establish the fact of a similarity between the laws of Scotland and of the sister country England ; and the remote customs, the jurisprudence, and the antiquities of Scotland as a separate kingdom became thus a subject rather to be avoided than minutely investigated.

To describe the law of our country as he found it established by the practice of the courts in his own age—to compare it with the written books on the feudal law—and to impart to it somewhat of the form and arrangement of a science, de-

monstrating, at the same time, its congruity in its fundamental principles with the feudal law of England, such was the object of Sir Thomas Craig—an object which he has accomplished with great ability. We are not to look in it for the history of the ancient feudal law of Scotland. If he has accomplished all that he intended, it is no impeachment against his labours, that all that he intended was not all that we could have wished.

Although it may be easily believed that the collection of materials for so laborious a work as the treatise *De Jure Feudali* must have employed many previous years of the author's life, it appears from some expressions which he uses in the epistle dedicatory to the king, that these materials were not formed into a continuous and concluded dissertation, until the year 1608\*.

\* The author intimates, that he was induced to undertake this work from the conviction that an experience derived from forty years practice at the Scottish bar, had conferred upon him a considerable knowledge of the principles and the forms of our Scottish law. Now, we know

Forty-seven years after the death of Craig, Robert Burnet, afterwards raised to the bench by the title of Lord Crimond, published the first edition of the *Jus Feudale*. The desire of supplying what had till then been a desideratum, a text book by which the student of Scottish law might direct his studies amid the difficulties and uncertainties which every where surrounded him, is stated by this learned person to have been the main object which led to this publication. "Prior to this period," says he \*, "our whole municipal law was to be extracted out of the acts of parliament, or the decisions of the supreme court; for that body of laws which is entitled the *Regiam Majestatem*, to say nothing upon the disputed question whether it is really our Scottish law written at the time of David the First, or merely a copy of Glanville, is not entitled to public authority, and has long gone into desue-

that Craig commenced his career at the bar in the year 1563. The work on the Feudal Law was therefore written, at least it was certainly not concluded, till the year 1603.

\* *Magistri Rob. Burneti Præfatio*, p. x. edit. Baillie.

tude." The editor of Craig proceeds to remark, that the acts of parliament, alluding, as he says, to the Black Acts printed by Lekpreveck, to the collection of the Statutes of James the First and his successors, which we owe to Sir John Skene, and to the acts passed by James the Sixth and Charles the First and Second, cannot confer upon the student much knowledge of the law, because they contain few of the decisions of our courts, and relate more to the polity of the realm than to the administration of justice. "As to the decisions of our supreme court," he remarks, "they would indeed be of infinite utility were there a collection of them which could be procured and studied by every one; but at present these decisions are various and fluctuating, liable to change according to the will of our judges. We have, indeed," says he, "several collections of practicks, by Balfour, Lethington, Wemyss, Hamilton, and other authors; and amongst these a highly useful tractate, written by an illustrious lawyer of great experience and knowledge, Sir Thomas Hope of Craighall, Lord Advocate; but these practicks are rarely to be met with; and, when

attained, we find them so inaccurately transcribed, that frequently little sense can be made of them. The civil or Roman law, when our own municipal law has failed in deciding any question, has ever been held in high esteem by us, and resorted to in unravelling the difficulty, but the cautious and proper application of this resource is what few understand." "Such, then," he observes, "was the miserable condition of our Scottish law, such were the difficulties which surrounded its students, as I know from personal experience, when this our author rose, like another Justinian, and extracted light out of this legal darkness; and, under the title of a treatise on the Feudal Law, embraced the whole body of our Scottish jurisprudence, discussing every important matter therein in a lucid and learned order, and reducing all to their original fountains of the civil and feudal law." "Allow me to add to what I have above said," continues Burnet, "the testimony of an illustrious and respected friend of mine, Sir Lewis Stewart of Kirkhill, who himself informed me, that on his return from France, where he had spent three or four years in the diligent

study of the civil law, he found himself so enveloped with difficulties, as to have been on the point of leaving our bar, and renouncing in despair all hopes of acquiring a competent knowledge of the Scottish law, unless he had accidentally met with this treatise of Craig. With it as his guide, he recovered his courage, began to attend the court, and became one of the most accomplished lawyers of his time."

The conclusion of the preface of Lord Crimond, which is addressed to the younger students of the Scottish law, as it illustrates the pure and excellent principles which this good man carried into the practice of his profession, I shall give in his own words: "*Cogitatis quæso, juvenes, quis debeat esse propositus finis advocato et jurisperito Christiano; non turpe lucram (quia quod advocatis datur non luerum, non merces, non pretium, non salariam, sed honorarium in jure dicitur) non congestio auræ et argenti, non conjunctio domus domui, agri agro, donec nihil amplius sit loci; quibus vix pronuntiat Deus per Esaiam—sed cum scientia justi et injusti, praxis et prosecutio justi, fuga injusti; ut de jure con-*

sultus sincere et fideliter et sine dissimulatione respondeat; ut nullius jus tueatur aut foveat, etiam ditissimi vel conjunctissimi, nisi justitia et equitate nitatur; ut paratus sit viduis, orphanis, pauperibus et aliis miserabilibus personis gratis patrocinari in justa causa, et contra potentiores tueri, nisi justa impediatur causa. Cogitate quæso, juvenes, ultimum illud et severum judicium justitiae, ubi nulla fraus, nullus dolus, nullæ morsæ, nullæ tergiversationes locum invenient; ubi omnia nuda et aperta, nihil occultum et absconditum; ubi omnibus nudis, omnium gestorum in carne ratio reddenda est. Quales vos hic in judicium gesseritis, tale ibi expectate judicium."

In this earliest publication of the treatise on the Feudal Law, Burnet informs us that he had employed, besides the manuscript which was in the hands of the printer, two others, one of superior value and authority, belonging to his learned friend Mr. John Nisbet, advocate, and another manuscript, which he stigmatises as "mendosum valde," and which could have been of little utility in assisting his editorial labours. It does not



appear that there had been in the possession of Lord Grimond either the autograph manuscript of Craig, or indeed any copy which had received the last corrections of the author. But although, owing to this circumstance, a great many errors have crept into the text, still we are under high obligations to the enthusiasm of this learned descendant, who, appreciating its excellence, has given to the world the first edition of the work of his famous ancestor.

The second edition of this treatise on the Feudal Law we owe to Menckenius, a well-known and learned foreign jurisconsult; and the praises which he has bestowed upon it prove the high celebrity which the work of Craig had already obtained in the continental schools of law. Menckenius published his edition in the year 1716, and added a short index; yet although, in this foreign edition, the true reading of many passages which were imperfect in Burnet's edition has been restored, still, owing to the carelessness and inaccuracy of the printer, their place has been supplied by a new crop of foreign er-

rors, which have risen up in passages where Burnet had given the true text of his author \*.

At last, in the year 1732, a hundred and twenty-three years after the death of its author, there issued from the learned and accurate press of Thomas and Walter Ruddiman the latest and best edition of the treatise *De Jure Feudali*. Its editor was Mr. James Baillie, advocate. It was enriched by a full and excellent index ; a short Latin life of Craig was added ; the glossary which had been given by Menckenius was revised and republished, and a scrupulous care was exerted to render the text more pure, by a collation of the printed editions with a manuscript which its editor informs us was preserved in the library of the Faculty of Advocates. This manuscript, he declares, bears convincing marks that it was either written by an amanuensis of the author, or at least corrected by him before his death †. To the Latin life was added an elegiac poem, and an epitaph upon the death of Craig written by the

\* Jac. Baillie Præfatio, p. 14.

† Ibid. p. 15.

well-known Thomas Dempster, professor of the civil law in the University of Pisa \*.

\* There are preserved in the Advocates Library two manuscripts of the *Jus Feudale*; the one marked A. 2. 17; the other W. 3. 34. This last appears to be the oldest MS. of Craig. It bears upon its first leaf, "Ex Libris Magistri Joannis Nisbet."

It has no dedication to the king; and, indeed, this proves its age and genuineness; for we learn from Baillie's edition, that the "epistola nuncupatoria auctoris" was not originally prefixed to the work, but published from a copy found amongst his papers, "inter ejus adversaria inventa."

We are told by Burnet, that in publishing the first edition, he had taken great pains to purge it from every error; that he had never added or taken away any word of his author, unless compelled by absolute necessity, and the impossibility of making sense out of the amended passage. He tells us "he had no manuscript except the one which had been given to the printer, and another very inferior and imperfect; and that sometimes, when he had found himself greatly at a loss, he had betaken himself to his aged, old, and learned friend, Mr. John Nisbet, advocate; and had consulted a MS. of Craig belonging to that gentleman, far more correct and accurate than the others; "ejusque exemplar aliis correctius et emendatius." This sentence proves that the above MS. of Craig, marked W. 3. 34, and subscribed with the autograph of Magr. Joannes Nisbet, is the MS. which,

On the 1st of January, 1603, before he had rested from his labours in the composition of his

in all his difficulties, Burnet had consulted, and which he considered the most accurate of all. The reader will observe, from the following comparison between Baillie's edition and these two manuscripts, the different alterations which have been made by Baillie in the division of the chapters.

*MS. W. 3. 24. of  
Mr. John Nisbet,  
alluded to by Burnet as the most  
correct.*

*Baillie's Edition.* *MS. A. 2. 17.*

<i>Diagesis Prima.</i> De origine juris in genere.	<i>Diag. Prima.</i> De origine juris, et præcipue civilis, et quæ apud nos ejus sit usus.	<i>Diag. Prima.</i> De juris tam civilis quam pontificii origine, et quæ utriusque apud nos usus sit.
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<i>Diag. 2da.</i> De ju- ris civilis aive Romani origine et progressu, et quis ejus apud nos usus.	The same title.	De feudorum ori- gine et incre- mento.
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work upon the feudal law, Craig dedicated to his sovereign, King James, a treatise on the

*Baillie's Edition.*      *Nisbet's MS.*      *MS. A. 2. 17.*

*Diag. 3ta.* De juris canonici origine, progressu, et quis apud nos ejus sit usus.

*Diag. Tertia.* De feudorum origine et progressu. (This is a very long chapter in this MS. and Baillie has divided it into three, viz. his 4th, 5th, and 6th.)

*Diag. Tertia.* De etymologia feudi, ejusque definitione.

*Diag. 4ta.* De feudorum origine et progressu.

*Diag. 4ta.* Quo tempore jus feudale in Britanniam peruenit, quoque jure Angli hodie utuntur.

*Diag. 4ta.* De feudorum divisione.

*Diag. 5ta.* Refutatur eorum opinio qui juris feud. orig. a veteri Rom. jure deducunt.

*Diag. 5ta.* De etymologia feudi, ejusque definitione.

*Diag. 5ta.* De divisionibus feudorum quæ apud Gallos et Anglos in usu sunt.

Succession to the Kingdom of England, written in confutation of the arguments of the Jesuit Parsons, who, under the counterfeit name of Doleman, had given to the world his Conference upon the disputed succession to the crown of England. Parsons' work was published as early as the year 1594; and we are informed by a passage in the Dedication of Craig, that soon after the "Conference had become known in Scotland, he had employed himself in drawing up some reasons by which the objections concerning foreign birth, and the last will of the most potent prince Henry VIII. together with other pretences of the like nature, might be fully answered." These, however, he informs us, with his characteristic modesty, it was not his intention to have made public, but that his only object "was to prepare some materials which might be serviceable, and afford some encouragement to others who were better qualified for it to labour upon this argument. But since," continues he, "I find such persons so backward to engage in an undertaking of this importance, I am forced, though against my own

natural inclination, to make these observations public." This circumstance will account for the appearance of the work against Parsons so immediately after the publication of his Treatise upon the Feudal Law. It is probable that his book upon the succession had been already for some years finished; and we see it was only made public because no other antagonist seemed likely to enter the arena; and when the anxiety to provide an antidote against the poison of the Jesuit's performance overcame the natural diffidence in the character of the author.

The object of this work of Parsons, which is written in a style superior to that of most of the prose writers in the time of Queen Elizabeth, was to support the claim of the Infant of Spain to the succession of the kingdom of England, the throne of which was soon likely to be vacant, in opposition to the title of king James VI. or, as Parsons insolently calls him, "Lord James the Sixth of that name, presently king of Scotland."

The subject matter of Parsons' work is thus succinctly given in his own words:

“ The first part,” says he, “ declareth by many proofs and arguments, that the next propinquity, or ancestry by blood alone, though it were certainly known, yet that it is not sufficient to be admitted to a crowne, without other conditions and circumstances requisit be found also in the persone precedent.”

Such is the intention of the first division of this Treatise or Conference. The conclusions which he comes to in his second part are expressed in that happy style of jesuitical doubt and uncertainty which marks the school of Loyola.

“ The second examineth the titles and pretensions of all such as may have claim or action to the crown of England at this day ; what may be said for them, and what against them ; and, in the end, *though he leave the matter extreme doubtful*, as touching the best right, yet he giveth certayne conjectures about some persons that are lykest to prevaile.”

The arguments of the pretended Doleman, which maintained, with great boldness of reasoning the right of the people to elect their king as



well as to depose, and put to death, any sovereigns whom they conceived unworthy of the crown, were such as ill suited with the honest and steady loyalty of Craig. He loved his country, and the work of Parsons was a libel upon the Scottish nation—he was devoted to his king, and the right and title of that sovereign to his hereditary kingdom had been traduced and held up to suspicion—he was a friend to order, quietness, and good government, and the arguments of this intemperate disputant had a direct tendency to introduce disorder and rebellion. He undertook, therefore, a reply to the mischievous work of Doleman, and he was in all respects fitted for such a task. He was master of a style which was a happy combination of perspicuity, vigour, and elegance—a style equally remote from the intemperance and personality so disgraceful to the controversial writings of this and the succeeding century, and from that manner of cold indifference, or affected moderation, which is perhaps equally distasteful. In the conduct of his argument, he possesses an earnestness which proceeds from a strong conviction of the

truth of the principles which he elucidates, and which, by securing our confidence, most powerfully arrests our attention. He introduces, in reply to Doleman, and in illustration of his own train of argument, an uncommon variety of historical examples, which are brought to bear on the point in dispute. The spirit of the poet and the scholar breaks out in many classical quotations, which he happily employs to relieve the more arid details of the argument. That the work on the succession has its blemishes, it would be vain to deny, but these are of a minor kind. The author is sometimes humorously ingenious and *recherchée* in his illustrations of the principles he lays down; and when he exemplifies the universality of monarchy by the kingly government of "the cranes and wild geese \*," or gravely informs us, "that there is a king of the salmon, who leads the shoal, and has but one eye," we may be allowed not only to question the fact, but to hesitate as to its applicability to the subject in discussion. In many of the chap-

\* Cap. iii. p. 13.

ters, the ideas as to the pre-eminent right of kings are pushed somewhat too far, and the very frequent examples from Sacred Scripture, and the history of the Jewish people, are too constantly introduced, and too positively relied on. Yet, even here, he may be vindicated by the example of Doleman himself, and the perpetual recurrence of Scriptural authorities in the controversial writings of the day. One thing is particularly worthy of praise in the work on the succession. This is the temperance and self-possession with which the most false and mischievous arguments of his opponent are confuted. We find nothing in Craig of that spirit of gross and vulgar scurrility with which other authors have attacked the inflammatory publications of Parsons\*. Even

\* The scurrility of the controversial writings of this age, may be estimated from the following passage of a work written against Parsons by Dr. Matthew Sutcliffe, published in 1604, and entitled "A Full and Round Answer to N. D. alias Robert Parsons, the Noddie—his Foolish and Rude Warnworde. Containing a list of his lies, falsities, fooleries, and other enormous faults."

"Of his (Parsons') cruell disposition, he hath given us many arguments. While he was yet in Baliol College,

when he is compelled to expose the artifice and disingenuity of his antagonist, he is powerful without insolence, and severe without personality. On the whole, as Craig's was the first, it will probably be found to be the best, amongst those numerous replies, which, in his own and a later age, were called forth, by the publication of the *Conference of Doleman* \*.

he prosecuted seven young men of farre better parentage than himself, and gladly would have had them hanged, for taking certaine puddings from a pupil of his called Flimmes; but see God's wrath against this prosecutor of takers of puddings—he is now so swollen like a black pudding, that the memory of Parsons' puddings will not lightly be forgotten. A man shall hardly find a fitter fellow to play *Ballio the bawd* than Parsons; being a bawdy, burley, pudding growne fellow, and very like the bawd in *Plautus*, "*cum collativo ventre et oculis herbeis*"—that is, with his bombasted and barrellike bellie, and eyes greenish like the *grasse*."

\* Sir John Hayward, in the year 1683, wrote a reply to the first part of *Doleman*.

In 1682, Dr. Pelling published his *Apostate Protestant*, in which *Doleman's* principles are confuted. In the *Advocates' Library*, a MS. is preserved, entitled "*Of the Right to the Crown of England after Queen Elizabeth, against Doleman, in Three Books, by — Dickson*;" and Sir G. Mackenzie published his *Jus Regium*, against

The leaven of Doleman's doctrines remained for some time latent, and silently fermenting in the kingdom ; but, during the reign of Charles I. and at the period when the popular discontents against this monarch began to convulse the country, it was soon apparent that the pernicious principles of the Jesuit had made a deep impression. The utmost care was taken to revive and to strengthen their influence. A republication of the Conference appeared immediately previous to the murder of Charles I. \* and in the words of Gatherer, " Doleman was said, not without reason, to be the gospel of Cromwell and Bradshaw †."

the doctrines of Buchanan, Milton, Naphali, and Doleman, in 1684. The earlier writers against the principles of Doleman were Father Watson, in his *Decacoron or Quodlibets* ; William and John Barclay ; Blackwood ; and Arnisaeus.—*Gatherer's Preface to " the Right of Succession,"* p. 5, 6, 7.

\* Its title is " *Several Speeches delivered at a Conference concerning the Power of Parliaments to proceed against their king for misgovernment, by Robert Ibbotson, in Smithfield.*"

† *Preface to the Treatise on the Succession.*

After a sleep of several years, Doleman was again reprinted, immediately previous to the Rye-House plot; and indeed nothing can more effectually prove the mischievous aptitude of his principles for the encouragement of those who are "given to change," than the avidity with which they have at all times employed the "Conference concerning the Succession" as their shelter from the attacks of their opponents, and their storehouse from which to draw their weapons of political warfare.

Craig's work was not published during his lifetime, and has never since appeared in the original. Indeed, the quiet and undisputed succession of James to the English throne, an event which followed almost immediately after its composition, as it furnished at once the most triumphant and practical confutation to all the calumnies of Parsons, is probably the best reason why the *Treatise on the Succession* was never sent to the press.\*

\* There is a MS. of the work on the Succession preserved in the Advocates' Library. It is a large folio volume, marked A. 3. 6. and contains 456 pages. It is, of

In the year 1703, an excellent English translation of the Treatise on the Succession was published by Dr. Gatherer. It was accompanied by a learned preface, in which a full account is given of the various works which have been written in support as well as in confutation of the principles of Doleman. The reverend author informs us, that he had employed in his translation a manuscript taken from the original, by the order and care of the late learned Principal of the College of Edinburgh, Dr. Alexander Monro, which had been likewise carefully collated with a copy preserved in the library of the Faculty of Advocates, and with another which was to be found amongst the manuscripts in the library of the University of Edinburgh. In the following passage from Gatherer's preface, the division of Craig's work, and the principal heads of argument upon which he has replied to Doleman, are very fully and accurately explained.

course, the same with that referred to by Dr. Gatherer. See p. 178. On one of the inside boards is marked the date, May, 1698.

“ Perhaps,” says this reverend translator, “ no author before him has treated so learnedly or judiciously on monarchy. He gives, indeed, to the hereditary, the preference before elective monarchies, but he carefully weighs all the conveniences and encomiums wherewith either the one or other of them are attended. He is so full on that subject, that I doubt whether Momus himself can find any defect there. He sets forth to the best advantage, not only all the arguments which the advocates for elective monarchies had brought; but he tells us several others which were not then employed, and it may be doubted, if, at this day, they are to be met with in any treatises on that subject. Yet, he is full in displaying the vast mischiefs and inconveniences which proceed, accompany, and ensue upon such elections of the people, and answers all arguments brought in favour of elective monarchies. He grounds his assertions on the laws of God and men, and brings his arguments from thence; confirms them with the strengths of reason, the custom of nations, and the authority of lawyers and other learned men. The civil law, which,



as our author says, for its exceeding great equity, became the law of civilized nations, is cited most appositely throughout this whole book, which, with the great variety of history where-with it is stored, renders the work both very instructing and delightful. In the last chapter of his book, he detects Doleman's impieties, and fully confirms the just right of succession, which, by the laws of God, nature, nations, and the civil law, did undoubtedly belong to his royal master, making clearly appear that all the qualifications which Doleman, or Momus himself, could require in an heir apparent, were eminently in him.

“ In his second book, he considers the municipal laws of England, in so far as they relate to the succession of the crown, premising the differences between the succession to that and to private estates. He takes off clearly the objection from the statute of Edward the III. an. regni xxv. which he demonstrates touches not the heirs of the crown, nor any but such as were born beyond the sea. He proves, that the Scots were never reputed foreigners in England ; but

that, on the contrary, they had a right to the same privileges with the English, ever since the reign of King Inas; for proof of which, he brings the famous statute of Edward the Confessor, which was confirmed by William the Conqueror and his successor, and was never repealed by any of them, by any particular statute. He shows what an inviolable friendship obtained between the two nations during the bloody wars against their common enemies and aggressors, the Danes. And how that homage which King Edward the I. claimed for the kingdom of Scotland, was the true cause of those bloody and destructive wars between those two kingdoms. He clearly demonstrates the right of the House of York, in opposition to that of Lancaster, which last, Doleman, on purpose to make way for the king, or the Infanta of Spain, according to his wonted candour, has left no stone unturned, nor omitted any of his artifices to give a colour of right to, and preferable to that of the former.

He examines fairly the pretences which his adversary made for the lines of Portugal and Castile; and of all the rest of his titlers, as he calls

them, which he brought upon the stage, vindicates the legitimation of the Duke of Lancaster's children, by the Lady Catherine Swinford, and demonstrates the king of Scotland to be the true heir and chief prince of both these most illustrious families, who soon after united both kingdoms under one monarch, as his predecessor Henry VII. by marrying the heiress of York, united the Roses. He treats also here of the union of the kingdoms, making it evidently appear to be greatly for the interest and security of Britain. Doleman, by his great zeal and efforts to get the king of Spain preferred to the succession of England, gave our author occasion to treat fully of that question, "whether the government of a natural prince be more expedient, or that of a foreigner;" cap. xvi. in which he demonstrates the vast advantages to a kingdom from the former, and the unspeakable miseries which accompany the administration of the latter. He concludes all with an address to England, to embrace the benefit of the opportunity which the divine providence had offered them, and to agree to the concord of all Britain. He gives a most

lively representation of the miseries of this noble island under its ancient multitude of monarchs, the inconveniences which attended the Heptarchy in England ; the monstrous condition of Great Britain under two heads, and that nothing was wanting to complete its happiness, but its being united into one nation under one monarch ; concluding his good wishes for that happy union with a most apposite sentence of Virgil :

“ paribus se legibus ambæ  
Invitæ gentes æterna in fœdera mittant. ”

Craig, we have already seen, was a man of retired and studious habits. Devoting, as he must have done, the greatest part of his time to the practice of his profession, and to the composition of those valuable works in which he laboured to promote the best interests of his country, he yet found leisure for the pursuit of his poetical studies. In the year 1603, upon the departure of King James, along with his son, Prince Henry, and the Princess Elizabeth, from Edinburgh, to take possession of his new kingdom of England, he published a poem addressed to his sovereign,

and containing his congratulations on his accession to the united crowns. It is entitled "Ad Serenissimum et Potentissimum Principem Jacobum VI. e sua Scotia discedentem, Paranæticon \*."

This poem is highly characteristic of the simple and upright character of its author. While other and more venal bards exhausted their imagination in the composition of those encomiastic addresses, the incense commonly offered up to kings, the Paranæticon of Craig is grave, dignified, and even admonitory. He is loyal, indeed, but his loyalty has the stamp of truth and sincerity; his praises are neither abject nor excessive; and, in the advices which he has not scrupled to give to his sovereign, it is difficult which most to admire, the excellent sense of the precepts, or the energetic latinity in which they are conveyed.

Adverting to the circumstances of disunion and enmity which had so long subsisted between the two kingdoms, he paints, in strong terms,

\* *Delitiæ Poetarum Scotorum*, tom. i. p. 230.

the peaceable and bloodless succession of James, the calm yet total alteration of sentiments in both nations, which followed this event, and he ascribes it to that only source which could account for a change so singular and unexpected.

“ Non hæc humanæ malè firma potentia dextræ  
 Fecerat, authoresve homines hæc fata loquuntur  
 Consiliis nihil hic certum est, mortalibus actum.  
 Ille supercilio totum qui concutit orbem  
 Omnipotens, quem terra tremit, cui pontus et æther  
 Militat, et quicquid vasti ambit machina mundi  
 Hæc dedit, illius præsentis hæc numine facta,  
 Illius hoc opus est, illius et arte magistra,  
 Depositis odiis tandem civilibus, ultro  
 Infensæ gentes, æterno fœdere junctæ  
 In domini unius conspiravere favorem.”

After a description of the strength and riches of his united kingdoms, and the pride with which he may now assert his dominion over the seas that surround our island, he implores him not to show himself unworthy of so noble a destiny, to avoid every harsh or violent stretch of his prerogative, and to adopt that temperate exercise of authority which, while it gives full effect to the laws, secures the affections of the people, by the

calmness, the tenderness, and the impartiality with which they are administered.

“ Jam nullum aspecies quod non tibi serviat æquor  
 Parte alia, tanto tu respondere favori  
 Officiis, meritisque piis, contende vicissim.  
 Indue mente patrem patriæ, tranquilla potestas :  
 Non raro effeciet, quod non violentia præceps.  
 Justitia scelus, errorem pietate repurga.  
 Nec tibi quid liceat, sed quid decet aspice, debet.  
 Fortuna in magna minima esse licentia, ne te  
 Dissimilem dominæ dicant nova regna priori.”

Happy had it been for James, and still happier for his successor, if, instead of those high ideas of the unlimited extent and foolish disquisitions on the absolute powers of his prerogative, which he so constantly and injudiciously maintained, he had attended to the admirable maxim of Craig,

Nec tibi quid liceat, sed quid decet aspice, debet  
 Fortuna in magna minima esse licentia.

If there is any part of the poem which is to be censured, it is that which relates to Queen Elizabeth. To no sovereign, surely, could the praise of never overstretching her prerogative be less due than to this able but despotic princess ; and

when Craig directs her successor to venerate her memory, and presumes that the royal mourner is to weep and strew flowers upon her tomb, he forgets surely that such conduct, had it been followed, must have been either deeply hypocritical or unnatural—that, in the fervour of his poetical license, he is calling on a son to honour the memory of the queen who brought his mother to the scaffold—and that, if any tears were shed by James, they ought to have been tears of bitter regret—that, while Elizabeth was yet alive, he had not the power to traverse her schemes, and defeat the cruel success with which they were attended.

The address which follows to the English nation "*Saxonidæ fortes et magni Martis alumni,*" is uncommonly spirited. The congratulations that the free and ancient kingdom of Scotland, which had withstood alike the attacks of the Romans and the inroads of the northern nations, which neither the arms of the first Edward, nor the power of the victor of Cressy had been able to subdue, had at last been united to her sister kingdom, and that all the wars and calamities



which long attended their division had come to a happy termination, possesses great poetical vigour. Craig here writes from the heart, and the language of nature is rarely deficient, either in power or in beauty.

After having for so many years devoted his undivided attention to the more dry details of his profession, and the laborious composition of his works on the Feudal Law, and on the "Right of Succession," Sir Thomas seems to have returned with delight to the muses, and to have been unwilling again to renounce their seductive society. Prince Henry, James's eldest son, then a boy of ten years of age, who had already given promise of those eminent talents and noble dispositions which rendered his early death a great public calamity, at this time accompanied his father into England. To him Craig likewise presented a farewell poem. It is entitled "Ad Serenissimum Britanniarum Principem Henricum e Scotia discedentem, Propempticon\*." Addressed to a boy, the *Propempticon*

\* *Delitiæ Poetarum Scotorum*, p. 241.

does not partake of the grave and sustained character which distinguishes the former poem. The author, with that fine taste which is so conspicuous in all his works, selects the lighter subjects more suited to the years and the intellect of the young prince ; and these are wrought up with that rich colouring, and graced with those figures of poetical embellishment, which are fitted to captivate a youthful imagination. In the opening, he expresses his surprise that amid that full tide of song which had risen amid Apollo's family in England, the Scottish muses should alone be silent.

*“ Ecquæ nostrates tam segnis inertia cepit,  
Ut neque Pieridum sacros tentare recessus,  
Artificesve manus plectro componere curent.  
An gelidus torpet circum præcordia sanguis ?  
At non virginibus sacris gens gratior ulla.  
Ante fuit, nec quæ Phæbo mage digna canebat.”*

An allusion is then made to the departure of King James, the patron of the muses. This monarch, it appears, amid his other literary pursuits, had spent the time which he could spare from the cares of government, in composing a

poem on the battle of Lepanto—the muses hence considered him as their favourite disciple, and are obstinately silent upon his relinquishment of his paternal dominions. Craig then returns to Henry, the subject of the poem, and conjures him by every variety of argument to delay his departure, and continue to reside in the country of his nativity.

“ Nosne fugis? Patriæ ferunt te tædia sedis?  
 Per lachrymas nostras, per qui genuere parentes  
 Si precibus locus est, nec adhuc deus obstruit aures.  
 Parce fugæ, et dulces patriæ ne sperne recessus.  
 Hic etiam juvenes, qui cursu, atque alite planta  
 Qui jaculo et lucta tecum contendere possunt  
 Aut si delectent animosa pericula, sunt hic  
 Qui tecum sylvas cane multo, et lustra feraram  
 Insidiis, cursuque et longa indagine cingent  
 Qui te per montes, quaque est via nulla, sequentur  
 Venando, et valles tecum saltusque fatigent  
 Denique qui musis tecum communibus uti,  
 Et socios soliti discendo jungere curas.”

The poet, then, jealous lest the influence of the English nation should weaken the early prepossessions of the young prince for the land of his fathers, anticipates and replies to the attacks which are likely to be made by the gay attend-

ants of the court upon the uncultivated country, and rude and simple manners of the Scottish people. After an animated description of the noble destiny which awaits him as the future sovereign of two powerful nations, he incites the prince to the cultivation of such virtues and accomplishments as will prepare him for so lofty a situation.

“Sed tu, qua virtus tua te vocat, alite penna  
Carpe iter, et magnis enitere in ardua pennis  
Dumque ætas tenera est virtutis templa tenella  
Incipias pulsare manu.—————

Interea duro nervos assuesce labori,  
Et tenerum pectus tolerando præstue marti  
Utque tibi crudo solidæ stent robore vires ;  
Sub gelido incipias vigiles Jove ducere noctes,  
Ferre famem docilis, faciliq̄ue avertere victu  
Venando montes, fluvios superare natando,  
Delibasse cibos raptis contentus in armis,  
Fama etenim nulli multo sine pulvere venit.”

The effects of the voluptuous luxury of courts are next described, and the tendency of severe study, and the endurance of early hardships illustrated in some lines of great vigour and beauty, by the examples of the youth of Hercules, and the ambitious boyhood of Achilles.

" Ille Agamemnonio bello metuendus Achilles,  
 Dum puer, Aemonii fertur Chironis in antro  
 Quid deceat, quid non, quid fas didicisse, quid sequum.  
 Semiferique sequi facilis præcepta docentis,  
 Sive lyræ cantus, medicas seu traderet artes,  
 Sæpe etiam tetrici correptus voce magistri  
 Horrebat, nubem frontis veneratus, et illam  
 Invictam dextram, qua maximus occidit Hector.  
 Subduxit nuncquam ferulæ submittere jussus  
 At postquam virtus annis adoleverat, idem  
 Mæonio in laudes solus suffecit Homero."

The picture of the infant hero's education in the cave of Chiron, as he listened to the precepts, and became familiar with the rugged features of the Satyr, of the courageous hardihood with which he submitted to punishment, and held out to the rod that little right hand by which the Trojan Hector was one day to fall; all this is highly poetical and worthy of a master. The characters of Alexander the Great, of Scipio Africanus, of Julius Cæsar, and of the brave and virtuous Trajan, are next held up to the imitation of the youthful Prince, and in some succeeding lines, the labours and watchings, the pain, travel, and perils, to be submitted to by him who dares to emulate their example, are finely described.

The poem concludes by a recommendation to the young prince, of those virtues which, as a sovereign, he ought chiefly to cultivate. A high respect for the laws in his own person, a firm and equal administration of them towards all classes of his subjects; a desire to soften the unnecessary rigours of justice by the kinder constructions of mercy; an aversion to the contemptible intrigues, and the petty slanders of a court; and an ambition to insure the stability of his government, by a possession of the hearts, rather than by a command over the fears of his people.

Craig had now reached the summit of his profession. He had realized an ample fortune; his society was courted by the ablest statesmen, the most learned lawyers and accomplished scholars of his time, and, as we have already given some account of the more eminent of his predecessors at the bar, it may not be improper to leave him for a few moments to the quiet enjoyment of the society of the daughters of Mnemosyne, and to present to the reader some slight sketches of his celebrated legal contemporaries. Amongst these the names of Maitland, Lord

Thirlestane, Seton, Earl of Dunfermline, Hamilton, first Earl of Haddington ; Pont, Skene, Culross, and Henryson, are entitled to hold the most conspicuous place.

The talents of Sir Richard Maitland, that venerable judge and poet, of whom a short biographical account has already been given, were not confined to his eldest son, the celebrated Secretary. He was the father of another illustrious lawyer, who rose from the bar to the highest situations in the government and councils of his country\*. This was JOHN MAITLAND, afterwards Lord Chancellor Thirlestane, who appears to have been born about the year 1537, and was second son to Sir Richard, by Mary Cranston, daughter of Sir Thomas Cranston of Crosby. After having studied the laws in France according to the invariable custom of that age, he returned from the Continent, and soon became celebrated for great knowledge and acuteness in his profession†. To these endowments he added a fine classical taste, and his talents for Latin poetry were of

\* Crawford's Lives of Officers of State, p. 142.

† Pinkerton, Maitland Poems, vol. i. p. 117.

substantial use to him in attracting the notice and procuring the favour of the king, some of whose regal rhapsodies he translated into Latin verse.

On his return from the Continent, Maitland appears to have lived for a considerable period in a private station at court, till at length, by the favour of the young queen, he received a grant of the Abbey of Kelso *in commendam*. This he soon after, in the year 1566, exchanged for the Priory of Coldingham, which had been possessed by Francis Stewart, a nephew of the Queen's\*. His father, Sir Richard Maitland, who was now weighed down by age and blindness, and eagerly wished for a retreat from the complicated troubles of the times, on the 26th August, 1567, resigned to his son, the prior, the office of Lord Privy Seal. This preferment he owed to the patronage of the Earl of Murray, who, aware of the high talents and brave spirit possessed by John Maitland, endeavoured with so rich a gift to secure him to his own party. But the misfortunes

\* Crawford's Lives, p. 142.



and wrongs of his youthful mistress the Queen, more powerfully appealed to his feelings of loyalty, and the young Lord Privy Seal, although aware of the consequences which would follow, joined the friends of the Queen, and to the last remained faithful to her interest \*. For this conduct, as might have been expected, his priory was forfeited, his office of Lord Privy Seal conferred upon the celebrated Buchanan, and himself ultimately compelled to take refuge with his famous brother, the Secretary Lethington, and Sir William Kirkaldy of Grange, in the Castle of Edinburgh, the last hold of the friends of the Queen.

On the surrender of the Castle, in the year 1573 †, the late Prior, although he escaped the severe fate of his brother the Secretary, and Grange, was imprisoned by Morton in the Castle of Tantallon. The severity of his confinement was, however, soon relaxed, and he was permitted to exchange the strong and gloomy retreat of Tantallon for the Castle of the Lord Somervell ;

\* Crawford's Lives, p. 142.

† Chalmers' Queen Mary, p. 498.

his friends, according to a frequent custom in these times, having bound themselves by a solemn obligation, that he should not break ward, and "that they shall present John Maitland before the Regent and Privy Council, when they shall be required, upon fifteen days warning, under a penalty of ten thousand pounds \*."

During this melancholy period of confinement, so galling to an ambitious spirit, the hopes and courage of Maitland appear never to have deserted him. His love of reading, the many sources of solitary pleasure which he enjoyed in the severer studies of his profession, as well as in the lighter and more elegant pursuits of poetry and classical literature, enabled him to retain, under all these misfortunes, a buoyant and cheerful temper. A consciousness of his own probity, and

\* The original deed is in Crawford's *Lives of Officers of State*, p. 142. See that curious family history of the noble house of Somerville, entitled the "*Memorie of the Somervills*," p. 429. vol. i. where it appears that the acuteness and legal talents of the Chancellor Maitland during his residence at Cowthally Castle were highly useful to the Lord Somerville. See also, for a singular anecdote relating to the Regent Morton, p. 450, 451.

a contempt for his enemies, are strongly evinced in a little poem which was written at this period. It is entitled, "Against Sklanderous Toungis;" and in it the author, after moralizing on the folly of allowing the invidious aspersions of the lower minions of party to give annoyance to an upright mind, describes, in some animated lines, the contempt with which such petty hostilities are sooner or later visited, and the ultimate triumph of honour and of merit.

Maitland continued in ward for five years, till Morton, in 1578, was deprived of the power which he had abused, and the young king, in his own person, assumed the government. He was then liberated by an act of the Privy Council, which is dated February 15, 1578.

It might have been imagined that the experience which the Prior had acquired, of the danger and mutability of a political life; the sad changes which had befallen his father's fortunes, the melancholy end of his brother the Secretary, and his own long imprisonment, would have damped his ardour for again returning to public life; but, with all his higher qualities, ambition was his domineering passion, and the desire of rising into

those commanding stations which might enable him to reward his friends, and requite his enemies, seems never to have left him, even in the saddest period of his imprisonment. In the concluding stanza of his poem against slanderous tongues, this spirit is very apparent :

Rek not, thairfor, how rasehelie ravars rail ;  
 For never wes vertue yet without invy.  
 Sua promptlie sall your patience prevaill,  
 Quhene they, perhape, sic demyng *sall deir buy.*

Maitland accordingly returned to court, with courage which had been unsubdued, and talents which had been improved by misfortune. In the year 1581, he was promoted to the place of an ordinary Lord of Session \*, by the title of Lord Thirlestane ; and three years after this, upon the removal of Pitcairn, Abbot of Dunfermline, he became Secretary of State †, the same situation which had been filled by his brother during the reign of Mary. And never did the

\* Crawford's Lives of Officers of State, p. 443.

† The letters patent appointing Sir John Maitland Secretary, are dated May 18, 1584. Crawford's Lives of Officers of State, p. 143.

circumstances of the kingdom render this an office of more deep responsibility, or greater personal peril, than at the period when the Lord Thirlestane assumed its complicated duties. The troubles of the kingdom during the reign of Mary, and under the regencies of Murray and Morton, had left the country in a state of anarchy and disorder of which it is difficult to form a conception. The power of the nobility was grown to a strength which defied all the restraints of the laws ; the authority of the crown was not secretly despised, but openly defied ; the prevalence of family feuds among the nobles daily augmented the catalogue of unpunished crimes ; private revenge had become the judge and executioner in its own quarrel ; and the lower classes, imitating the manners of the great, preferred a career of rapine and danger to a life of even successful industry. In addition to these causes of disorganization, the country was infested with numbers of busy intriguing priests, who, arriving from France and Spain, endeavoured to raise a rebellion, for the purpose of restoring the Catholic religion. Many of the Scottish Lords, who

were still addicted to the errors of popery, gave their countenance to these designs; and perpetual conspiracies were formed, with the object of getting possession of the person of the sovereign, and destroying his counsellors. Such was the state of Scotland at the period when the king entrusted the important office of Secretary to John Maitland of Thirlestane.

At this period, Arran \*, who had been for some time in disgrace, contrived to conciliate the favour of the king; and, on his return to court, soon rose into greater power than before. His extreme insolence and rapacity soon caused him to be universally unpopular †; and although the Secretary Thirlestane, the Justice-Clerk, Sir Lewis Bellendene, the Master of Gray, and others, his former friends, were compelled, from a regard for their personal safety, still to appear among his adherents, they were in reality neither unprepared or unwilling to give their counten-

\* Captain James Stewart, created Earl of Arran, the accuser of the Regent Morton.

† Maitland's History, vol. ii. p. 1183.

ance to any design which might abridge the power of this unprincipled statesman \*.

To effect this, the Earls of Mar, Angus, and Morton, with the Master of Glamis, and a large body of their followers, to the number of four thousand, advanced to Stirling, where the king then held his court, and seized the town, which was feebly defended by Arran and the Earl of Crawford †. Arran escaped, and the king, who had shut himself up in the castle, immediately deputed the Secretary Thirlestane, and the Master of Gray, to open a negotiation with the associated Earls. This affair was very ably conducted by Thirlestane; a reconciliation between the sovereign and his nobility soon took place; the Earl of Arran was deprived of that unlimited authority which he had so shamelessly abused, and the character of Maitland, as a patriot and a peacemaker, rose high in the opinion both of his sovereign and his country ‡.

\* Maitland's History, p. 1179.

† Maitland's History, vol. ii. p. 1182. Moyes's Memoirs, p. 100.

‡ Crawford's Lives of Officers of State, p. 143.

Arran had now deservedly fallen into disgrace ; and although he was not yet deprived of the great-seal, the office of Vice-Chancellor, which included its most responsible and lucrative duties, was, on the 30th of April, 1586, conferred upon the Secretary Thirlestane. In the royal commission or charter, investing him with this office, the sovereign declares, that " he is induced to promote to the situation of Vice-Chancellor, John Maitland of Thirlestane, Knight, and Secretary of State, on account of his great judgment and experience, of his knowledge, both in the theory and the practice of the laws, and of his eminent abilities as a scholar \*.

At this period, it is well known, the clergy of Scotland, actuated by a mistaken zeal, believed it to be part of their sacred duty to discuss, in the pulpit, the measures of government, and to attack, when they judged it necessary, the character of the king and his ministers. This species of spiritual railing, which was begun by Knox himself, had been not unsparingly prac-

\* Crawford's Lives of Officers of State, p. 144.



tised under the reign of James, who too frequently encouraged it by his undignified familiarity, in condescending to angry expostulation where neglect would have more effectually checked the evil\*. "Leave them to themselves," said the Secretary Maitland, when the king consulted him on an occasion of this kind, in which he had been attacked with extreme insolence †; "Leave them to themselves: Such scurrilous attacks will soon render them ridiculous in the eyes of the people. But if your Majesty imprisons them, they become objects of popular compassion." A prudent counsel, which, had it been followed by the king, might have produced consequences highly salutary, both to himself and to the country.

After the execution of Mary, her son, the king of Scotland, in the first burst of his sorrow and indignation, prepared for immediate war ‡. Elizabeth's ambassador was refused admittance into

\* Crawford's Lives of Officers of State, p. 145.

† Spottiswoode's History of the Church of Scotland, p. 343. Moyes's Memoirs, p. 105.

‡ Hume, vol. v. p. 323.

the royal presence, and the states of the kingdom professed themselves ready to support, by their supplies, the vengeance which was to be inflicted upon England. This was natural and manly, and had the king, instead of his own too pacific disposition, inherited the courage and spirit of the first or the fifth James, a sanguinary war with England must have ensued. But although, to every appearance, sincere in his professions of anger and desire of vengeance, many considerations soon presented themselves to the king, and to the Secretary Maitland, who was then his prime minister, which prompted to more judicious, though less warlike counsels. They naturally paused before they began a war, which too certainly promised to be unpopular with the greater part of the kingdom, and threatened again to revive all the well-known miseries attending the divisions between the Papists and the Protestants. The folly of reviving his mother's claim to the English crown, the necessity of renouncing his religion if he placed himself at the head of the Catholic party in England, the rashness of exchanging the uncertainties of an unequal war

for the certainty of his future succession to the united crowns,—these were some of the reasons which contributed to appease the wrath of the king. They were urged with much ability, in a letter which Sir Francis Walsingham addressed at this time to the Secretary Thirlestane \* ; and although all will unite to censure the cruel policy and consummate dissimulation of Elizabeth, yet few will not feel, that James was thrown into a situation of a most difficult description ; where in some measure his private feelings as a son ran counter to his paramount obligations as a sovereign. These last, however, prevailed ; and, in pursuance of the advice of Thirlestane, the king consented to fall again into a good correspondence with England.

Captain Stewart, commonly called Earl of Arran, although fallen from the height of his power, still held the situation of Chancellor ; and, anxious to get rid of his rival the Secretary, preferred a grievous charge against him, insist-

\* Spottiswoode's History of the Church of Scotland, p. 359.

ing that he was guilty of accelerating the execution of Mary, that he had betrayed the royal councils to the Queen of England, and had actually formed a plot for delivering his sovereign into the hands of Elizabeth \*. This secret information his Majesty communicated to his council; and an order was passed, ordaining the accuser to enter his person within the palace of Linlithgow, there to remain till the truth of the alleged conspiracy was ascertained; and declaring that, in case of disobedience to the charge, the late Earl of Arran should be denounced as "a sower of sedition between the king and his nobility." Arran refused to obey this order, and the malice of the accusation becoming apparent, he was forever deprived of his office, and the place of Chancellor conferred upon the Secretary Thirlestane †.

Amidst these flattering promotions, the responsibility and difficulty which attended such high

\* Moyes's Memoirs, p. 121.

† Crawford's Lives of Officers of State, p. 147. Maitland's History, vol. ii. p. 1210. Spottiswoode's History of the Church of Scotland, p. 364.

employments were daily increased. The melancholy divisions among the nobility still continued. The Popish Lords intrigued with the Catholic powers on the Continent for the restoration of the ancient religion, and formed perpetual conspiracies to get possession of the person of the king, and to rid themselves of the Chancellor. The Protestant nobility, on the other hand, although they continued faithful to the king, yet feared and envied the genius of Maitland, whose principle it undoubtedly was, to abridge the individual authority of the greater feudal barons, and to vest the power of the government in the king and the laws.

The king had now attained majority ; and, aware of the weakness of a government thus divided against itself, made it his first object to compose the feuds amongst his nobility. This, to use the words of a humble yet accurate chronicler of these times, “ was at length accomplished by his Majesty’s great care and travail, and the endeavours of Sir John Maitland of Thirlestane; Knight, and Secretary, in whose lodging, within the Palace of Holyroodhouse, the nobility all

supped together, upon the 14th of this month, May, and in presence of his Majesty, the whole council and estates, the Earl of Crawford, and the Master of Glamis, shook hands together in the council-house, in token of their reconciliation \*."

This reconciliation at the council board was followed, the day after, by a public and more solemn ceremony, which is strongly characteristic of the manners of the times. After a banquet given to the disunited nobility by the king, in the palace, in which there was much merriment and carousing, the Earls of Angus, Montrose, Crawford, Mar, and Glencairn, with the Master of Glamis, at the earnest entreaty of the king, joined hands together ; and, accompanied by the other noblemen and gentlemen of the court, walked in this friendly fashion, two and two, in procession, from the Abbey to the Cross †. Beside this ancient palladium of the city, the Provost and Bailies had provided a covered table, with a sumptuous desert, and here, in the open

\* Moyes's Memoirs, p. 124.

† May, 1587.

air, in the presence of their king and their fellow-citizens, and to the great joy of an immense multitude of spectators, these feudal barons, who had long been enemies, appeared for a time to forget all differences, and again sat down at the board of peace and reconciliation \*.

These well-intended measures were, however, too feeble to remove so deep-seated a calamity. The Lord Yester absolutely refused to stanch the feud which subsisted between him and Sir John Stewart of Traquair †. In the parliament which immediately followed, a single combat between the Lords Fleming and Hume, on a quarrel as to the priority of voting, was with difficulty prevented; and Francis, Earl of Bothwell, having met Sir William Stewart in the streets of the capital, attacked and slew him, in open day, in revenge of some high words which had passed between them at Court ‡.

\* Spottiswoode's History of the Church of Scotland, p. 364. Moyes's Memoirs, p. 125.

† Moyes's Memoirs, p. 127. 129.

‡ Spottiswoode's History of the Church of Scotland, p. 369. Maitland's History, p. 1213.

These feudal quarrels, which disturbed the internal peace of the country, were soon followed by threatenings of danger from abroad. The king of Spain had prepared for the invasion of England that immense naval force known by the name of the Armada; and the Lord Maxwell, who was warmly, though secretly, supported by the Earls of Huntley and Bothwell\*, and the Popish faction, contrived, by his own talents for intrigue, and the assistance of many priests and Jesuits, who were scattered through the country, to raise a very powerful diversion in Scotland in favour of this scheme of Spanish conquest and invasion †. Parliament was now suddenly assembled; and the king, in a spirited speech, declared his intention to oppose Spain to the utmost of his resources; and his conviction that the true interests of England, and her sister country of Scotland, were in the present instance one and the same. This oration from the throne was

\* Printed Calderwood, p. 225.

† Maitland's History, vol. ii. p. 1213.



seconded by an eloquent address of the Chancellor Thirlestane \*, who, out of his great reading, adduced many historical examples to corroborate the king's speech, to warn the council of the national danger, and stimulate them to make a general muster for the defence of the country. It was by his advice that watches were appointed at all the sea-ports, beacons raised on the most commanding heights, communicating from the coast with the interior, so that immediate information of the appearance of a fleet at sea might be transmitted from one end of the kingdom to the other ; and certain brave and well-trying noblemen appointed to collect and command the musters upon the first appearance of alarm.

The entire destruction of the naval armament of Spain is well known ; but although this great event removed, for the time, all immediate danger, the intrigues and associations between the Popish Earls and the king of Spain were carried on as

\* Spottiswoode's History of the Church of Scotland, p. 369.

vigorously as before\*. The Chancellor Maitland they justly regarded as the prime author of the good understanding between Elizabeth and James, and the great support of the national religion. Against him, therefore, was every enterprize directed †, and nothing but that rare union which he appears to have possessed, of a solid judgment, with a power of speedy determination, and great personal courage, could have saved him from the many dangers with which he was hourly surrounded. Foiled in two successive conspiracies, in which they attempted to assassinate Maitland, and to get possession of the king's person, the Popish Earls broke out at last into open rebellion, and assembled a force of three thousand men, in the neighbourhood of Aberdeen. To free the king from the state of servitude in which he was kept by his prime minister, and the nobility of

\* Moyes's Memoirs, p. 146. Spottiswoode's History of the Church of Scotland, p. 373. Printed Calderwood, p. 231 to 244.

† Crawford's Lives of Officers of State, p. 146, 147.

Scotland from the rigorous treatment of the crown,—such were the objects which they declared had compelled them to take arms. But the rebels were disappointed. The people, convinced of the prudence of the measures adopted for overturning the exorbitant power of the nobles, did not hasten, as was expected, to join the ranks of the disaffected, and this ill-concerted rebellion was overpowered as soon as raised, while its authors were treated with generous but ill-judged lenity.

King James was at this time intent upon accomplishing his marriage with the Princess Anne of Denmark, and the courtiers who hated Maitland insinuated to the credulous monarch that the chief opposition to the match arose from the intrigues of his prime minister. These surmises took deep root in the mind of James, and to destroy their influence the Chancellor adopted a most extraordinary measure. He fitted out a vessel at his own expense, in a sumptuous manner, and with great dispatch; he then informed the king, that, so far from opposing, he earnestly desired the match, and, were he honoured with

the commiseion, would himself instantly embark, and bring over the princess ; and he described his preparations for the voyage in such enthusiastic terms, that the king determined to be his own messenger, and with much rashness insisted on sailing himself for Norway. It was now winter ; a storm arose upon the passage ; and the vessel, containing the king, the Chancellor, and a small retinue, was in imminent danger. It however weathered the gale, and on arriving at Upslo, the marriage was concluded \*. It was during this expedition to Denmark that the Chancellor became acquainted with his famous contemporary, Tycho Brahe, of whom, as his Latin Epigrams inform us, he was an ardent admirer. On returning to his dominions with his consort, the

\* The King's arrival is quaintly and humorously described by Moyes, p. 164 : " Immediately after his (the king's) arrival, he went in at the first, boots and all, to the queen's lodging there. \* \* \* His Majesty minded to have given the queen a kiss after the Scots fashion at meeting ; which, indeed, she at first refused, in respect of the fashion of the country ; but, after a few words privately spoken betwixt them, there followed a farther familiarity, and some kisses."

king caused the princess to be solemnly crowned. And upon this occasion Maitland was created a baron, by the title of Lord Maitland of Thirlestane\*.

But, with all his success in life, and his accumulation of honours, Maitland found his attendance at court a thorny and thankless service. The changeable and credulous temper of the king; the constant misrepresentation which intrigue and jealousy were ever applying to his actions; the accusations brought against him of supporting the party of the Queen in opposition to that of his royal master, and of accumulating in his own person the two most powerful offices in the kingdom; all these various subjects of vexation continued to embitter his public life, and to prey upon his private happiness. He resigned his office of secretary, which was conferred by the king upon Sir Richard Cockburn of Clerkington †; and after continuing for some time to struggle against the repeated attacks of his enemies; finding that he had wholly lost the

\* Crawford's Lives, p. 149.

† Ib p. 150.

favour of his master, he retired to Lauder with a disappointed heart and a broken constitution, and there died on the 3d of October, 1595, when he had just completed his fiftieth year\*.

The Chancellor Maitland has been denominated "a great and learned man" by an author who was not accustomed heedlessly to lavish his praise †; and, judging from his political conduct in times of peculiar difficulty, from the high character given of him by the Scottish historians, and from the few animated little poems which he has left ‡, it is evident that he deserved the eulogium. "He was a man," says Archbishop Spottiswoode, "of rare parts, and of a deep wit, learned, full of courage, and most faithful to his king and master. No man did ever carry himself in his place more wisely, or sustain it more courageously against his enemies. Pinkerton has termed him the Burleigh of Scotland; but

\* Mackenzie, vol. iii. p. 419.

† Lord Hailes' Catal. of Sess. p. 9. Note 32.

‡ See Pinkerton's Maitland Poems, vol. i. p. 156. *Delitise Poet. Scot.* vol. ii. p. 138. Another very spirited Epigram, which is not there printed, will be found in *Johnstoni Hist. Rer. Britt.* Book iv. p. 422.

if we consider that rare union which he exhibited of political sagacity and extensive learning, with a humorous and satirical vein \*, and an extraordinary fondness for his joke, even when engaged in serious public business, his character will approach nearer to that of the Chancellor More than the Secretary Cecil.

It is rarely that we find three such eminent men in one family as Sir Richard Maitland, and his two sons the Chancellor and the Secretary. Yet there was still another brother of the same house who was an excellent Latin poet, and whose works form a part of that collection of Latin poetry, the *Delitiæ Poetarum Scotorum*, which Dr. Samuel Johnson has declared would do honour to any nation. This was Thomas Maitland, who died at an early age †; yet not before he had linked his youthful name to the history of the literature of his country.

It is well known that, at this period of the history of our court, clergymen were elected Judges. Of these ecclesiastical senators, one of

\* Johnston, *Rer. Britt. Hist.* B. vii. p. 204, gives a fine character of him.

† M'Crie's *Life of Melville*, vol. i. p. 123.

the most learned was ROBERT PONT, father to the celebrated Timothy Pont \*, the chorographer of Scotland. Pont was born in the year 1529 at Culross, of parents † who, though neither titled nor affluent, were able to bestow upon him an excellent education, first in his native village school, and afterwards at the university of St. Andrew's ‡. He soon became distinguished among the studious youth who were his competitors, and passing with

\* Timothy Pont was the first man who, with uncommon abilities, and indefatigable industry, under the patronage of Sir John Scott of Scotstarvat, began a survey of Scotland, and died before it was completed.

Pont's papers were preserved by the exertions of Sir John Scott of Scotstarvat. The survey was continued by the learned Sir Robert Gordon of Straloch, and his son James Gordon: and these maps, with many able accompanying memoirs, formed the magnificent *Theatrum Scotiæ* of Blaew's Atlas, published at Amsterdam, in 1662.—*Nicolson's Scottish Historical Library*, pages 7 and 8. Pont and Gordon's MS. Maps are still preserved in the Library of the Faculty of Advocates.

† "Honestis parentibus ortus." MS. David Buchanan, Advocates' Library.

‡ He was incorporated a student in the College of St. Leonards, in the year 1554. His laureation is not mentioned.



applause through the various gradations of collegiate honours, he at length took the degree of Master in Theology \*. It is probable that his studies in jurisprudence were pursued at some of the eminent foreign universities. In the year 1571, the Assembly of the Church, on the express request of the Regent Mar, then governor of the kingdom, permitted him, "on account of his great knowledge of the laws, to accept the situation of an ordinary Lord of Session †." He

\* "Per gradus paulatim ascendens Theologici magisterii supremam adeptus fuerit lauream."—*David Buchanan*.

† Pitmedden, in his MS. abridgment (sub anno 1575, Oct. 20,) says that King James's tutors nominated him a Lord to humour that faction. He was ambitious enough, adds this author, of the honour, yet made a sermon in embracing it till he should obtain the General Assembly's assent. This they grant, (though they reproached the Bishops with their sitting in civil judicatures as incompatible, and *mañi exempli*) thinking their affairs could not go the worse that they had a friend in the session. Pont, therefore, according to this authority, which Lord Hailes has followed, was appointed in the year 1575. Yet, the accurate biographer of Knox says, that, at the request of the Regent Mar, the Assembly or convention which met at Leith in January, 1571-2, allowed Mr. Robert Pont, on account of his great knowledge of the laws, to act as a Lord of Ses-

was accordingly raised to the bench, and continued to hold the office till the year 1584, when he resigned, and was succeeded by a man of a dark and intriguing character, Mr. John Graham of Hallyairds. Graham was afterwards assassinated, on account of a private quarrel, by Sir James Sandilands of Calder \*.

Pont commenced author in obedience to a mandate of the General Assembly, who, in the year 1591, commanded him to write against sacrilege. It would appear, however, that he was either unwilling to obey the order which sent

sion, for which he quotes the Buik of the Universal Kirk, page 54. It would appear from this, that Pont must have been appointed at least three years sooner than is commonly supposed.

\* This Mr. John Graham was lineally descended of Robert Grahame, who was the most barbarous and cruel murderer of King James I. with the Earl of Atholl; and, by the character given of him by Bishop Spottiswoode, p. 384 and 391, seems to have been no very honest man. He was also one of the Justice-Deputes, and was brought in by Captain James Stewart, alias the Earl of Arran.—*Pitmedden MS. Abridgment of Acts of Sederunt*, vol. i. sub anno 1584, May 23. See Lord Hailes's Catalogue, Notes, p. 10.

him into the field of ecclesiastic warfare, or that his mind was slow in the labour of composition, for eight years elapsed before he published his sermons against sacrilege. They at length appeared, in the year 1599.

Pont appears to have been a man of high and various attainments. He was a pious and learned divine. He had received a complete classical education, and was especially devoted to Grecian literature. He was addicted to astronomical and mathematical studies, and an intimate friend of the great Napier. Although deeply engaged in the religious contentions of the times, his character partook nothing of that spirit of personal rancour and unforgiving hostility to his opponents which was remarkable in some of the most eminent of his brethren. He was, on the contrary, distinguished by a primitive simplicity of manners, an amiable benevolence of heart, and an extreme diffidence of his own superior attainments.

He had directed his mathematical knowledge to the study of sacred chronology ; and, previous to the year 1599, had been engaged in arranging materials for an extensive work, which he medi-

tated writing upon the subject of general chronology, or, as he terms it, "the controllment and examination of times."

It happened that an opinion had been formed, not only in Scotland, but in other continental countries, that the year 1600 was the great year of jubilee; and many individuals in this country prepared to visit Rome, and to witness the religious rejoicings and solemn festivities which were usual on such occasions. So profane and scandalous an emigration had roused the indignation of the zealous Pont, and he composed what he calls his "little Treatise\*," although it is in fact a sufficiently elaborate and voluminous work to prove the fallacy of those calculations which dignified the year 1600 as the year of jubilee, and to expose to just ridicule "the vanitie of divers men of this isle, and of other far cuntries, who minde to visite that idol the Pope, and to be present in Rome only to see this yeare of jubilee."

\* It is entitled "A New Treatise of the Right Reckoning of Yeares and Ages of the World."—Printed in the year 1599, by Robert Waldegrave.

The work of this venerable lawyer and pastor is composed in a style which is remarkable for a prose writer of this early period. It possesses the two great excellencies of perspicuity and vigour ; and although, in his arguments, there is to be found, especially in his mathematical reasonings, some mixture of what he esteems the most rational part of the doctrine of judicial astrology, there is yet great practical soundness in many parts of the treatise. He has, indeed, carried his calculations a little too far, when, in his observations on the prophecies and signs of the latter day, he declares his conviction that this awful catastrophe of all sublunary things is "now shortly to approche;" but although the conclusion was premature, the admonition which he has appended to it, exhorting all men "to redeem the time, because the days were evil," is excellent both in matter and style. The work is dedicated to Alexander Seyton, Lord Urquhart of Fyvie, at this time President of the Court of Session.

In the year 1604, another work was published by Pont, on the union of the two kingdoms, at that time a most popular subject, which, as we

shall soon see, was to be afterwards ably discussed by Craig, and destined to be further elucidated by the historian of the house of Douglas, David Hume of Godscroft \*.

This political treatise, which is written in Latin in the form of a dialogue between three fictitious speakers, Irenæus, Polyhistor, and Hospes, is chiefly valuable from its furnishing us with some curious pictures of the political state of the country, and the rude manners of the times. We have already noticed the poetical philippic of the venerable Lord Lethington against the Scottish barons, who, clothed in their steel armour, beset the seat of justice, and endeavoured to intimidate its administrators. The more sober prose of Pont, in describing the same grievance; the picture he presents of the intolerable tyranny of the nobles in their strong and remote fortresses; of the impotency of the arm of the law; and the personal terrors of the judges, who trembled before these petty princes, very completely proves that there was no poetical exaggeration in the verses of Sir

\* Nicolson's Historical Library, p. 107.

Richard Maitland \*. In the epistolary address which is prefixed to his English treatise on the "Right Reckoning of years," Pont had promised "a more ample discourse, to be set out in Latine," on the same subject; and accordingly, in the year 1619, he gave to the world this Latin work, under the title "De Sabbaticorum Annorum periodis."

\* The passage to which I allude is as follows: "Superest tertium illorum hominum genus, qui hanc detrectare videntur regnorum unionem, nempe Impotentes dominatores et reguli quidam ampla possidentes prædia, in remotis maxime a justitia sedibus; qui tyrannidem in subditos, et alios qui illis resistere non valent violenter exercent, eosque spoliant, possessiones diripiunt, et miseris modis affligunt: qui nisi vi majore in ordinem cogi non possunt. Nam si in jus ob eorum malefacta vocarentur, ita judicii loca et tribunalia suis clientibus, stipulatoribus et amicis infestare consueverunt, ut plerumque terrori essent ipsis etiam judicibus: usque adeo ut raro visum fuerit (præsertim apud Scotos,) si non Rex ipse suæ propriæ actionis foret persecutor, ut adversus aliquem insignem aut magnæ auctoritatis virum justitia locum aliquem potuisset obtinere; maxime si actor vel offensus accusator minoris potentie consanguineisque et amicis assistentibus esset inferior. Atque ita fiebat ut multorum scelerum et cædium auctores, si magni alicujus essent nominis, quantumvis principe nolente et contra nitente evaderent impune."

Various ecclesiastical and academical situations were held by this learned author. He was commissioner for the plantation of churches in Caithness, Orkney, and the Shetland Islands: senior minister of St. Cuthbert's, and principal of Trinity College\*. At length, after a life divided between his labours as a minister, his duties as a judge, and his exertions as an author, this pious and amiable old man, without pain or suffering, but by a gentle decay of nature, was gathered to his fathers, in the eighty-second year of his age. He died on the 8th May, 1606 †.

In addition to the published writings of Pont, which have been already described, it seems certain that he was the author of several other learned works, which David Buchanan, in an unpublished biographical account of him, positively affirms that he had seen, but of which he has unfortu-

\* David Buchanan, vita MS.

† Tandem anno gratiæ 1606, placide et pie, senio confectus in Domino obdormivit ætatis suæ anno 82 et Die 8. Maii. David Buchanan, vita MS. See *Maitland's History of Edinburgh*, B. ii. p. 179, where he is erroneously called Sir Robert Pont.



nately given no analysis. These were, a treatise entitled, *Aureum Seculum*, in seven books; a Translation of Pindar's Olympic Odes; a Dissertation on the Metres of Pindar and the other lyric poets, especially the Grecian; a Lexicon of three languages; and a Collection of Homilies. These are all unfortunately lost.

At as early a period as the fourteenth century, the name of Seton is to be found in the literary history of Scotland. In the year 1310, John Seton was professor of Mathematics and Philosophy at Oxford; and to these studies had united, in the singular spirit of the times, the pursuits of judicial astrology and magic\*.

\* John Seton was the author of a work on *Dialectics*, which is extolled to the clouds by Thomas Newton, in his *Encomia Illustrium Aliquot Anglorum*, and who, from Seton's being a professor at Oxford, probably believed that he was an Englishman. See *Lelandi Collectanea*, vol. v. p. 182.

In a MS. history of the house of Seton, written originally by Sir Richard Maitland, and continued by Viscount Kingston, we find a short notice of Alexander Seton, the Dominican priest. His works are there specified, "a Commentar upon the 1st and 2d Epistles of Peter, Epistle

At a still later period lived Alexander Seton, a learned priest of the Dominican order, who filled the office of confessor to James V. ; but became afterwards a convert to the reformed religion\*.

But the most celebrated of this name, and the person in whom we are naturally the most interested, was ALEXANDER SETON, sixth President of the Session, and afterwards Lord High Chancellor. It was to him, as we have already seen, that Pont inscribed his chronological work. He was a cotemporary of Craig's; he became afterwards a brother commissioner with him in the conferences on the Union, and was equally celebrated as

of St. James, and upon the 18th chapter of the Actes, etiam processum suæ Examinationis, and Sermones ad utrumque statum." Vixit anno 1541. Vide Epist. Bibliothecæ Gesneri, at the name Alexander.

\* He fled to England, and was chosen chaplain by the Duke of Suffolk, in whose service he died. He is the author of various theological works; one of these, in which he describes his examination before Bishop Gardner and Bonner, is bitterly characterised by Dempster as an impious performance, because it has been praised by Bale. It is entitled "Processus suæ Examinationis."

a lawyer, a statesman, and a scholar. He was born in the year 1555, and was the fourth son of George Lord Seton, and Isabel Hamilton, daughter of Sir William Hamilton of Sanquhar, one of the Senators of the College of Justice. From his earliest years, the young Seton seemed marked as the favourite of fortune. His royal mistress Queen Mary stood godmother to him at the font, on which occasion she presented to him as "ane godbairne gift the lands of Pluscarty, in Moray." His father, George, the fifth Lord Seton, a man whose diplomatic talents, and unshaken loyalty\*, had recommended him, in the first instance, to Mary, and afterwards to James VI. was employed during the greater part of his life in important embassies

\* Hay, in his MS. Collections, has preserved a curious anecdote of George fifth Lord Seton, father to the president Seton. "After the battle of Langsyde," says he, "the said George Lord Seton was forced to fly to Flanders, and was there in exile two years, and drove a waggon of four horses for his livelihood. His picture, in that condition, I have seen vividly painted upon the north end of the long gallery at Seton, now overlaid with timber."—*Hay's Coll.* vol. iii. p. 261.

to the different courts of Europe\*. He had himself been educated abroad, and his son Alexander, who, at an early age, gave indications of superior talents, and whom he intended for the profession of the church, was sent, after acquiring the rudiments of his education in his native country, to pursue his studies in Italy.

Young Seton had fixed his residence at Rome, and was admitted a student in the Roman College of the Jesuits; where, in the words of the noble biographer of the family, "he became a great humanist in prose and poesie, Greek and Latin, well versed in the mathematicks, and had great skill in architecture and heraldry." During his abode in that classic capital, he gave a remarkable proof of early rhetorical talent by the delivery of a Latin oration of his own composition before Pope Gregory the XIII. † and the conclave of cardinals and prelates assembled in the Pope's

\* Mackenzie, vol. iii. p. 215.

† Hay's Collection, vol. iii. p. 272. MS. History of the House of Seton. De Ascensione Domini was the subject of Seton's oration.

chapel in the Vatican, on the day of one of the great festivals of the church. Seton had not then completed his sixteenth year\*.

His ardour for the profession of a churchman was checked, however, by the event of the Reformation, which induced him, soon after having entirely relinquished his clerical pursuits, to travel into France, and there devote his undivided attention to the study of the law †.

At length, after several years had been consumed in mastering the difficulties of the civil and the canon law, he returned to his native country, and commenced his public life with all the advantages which his own eminent talents, joined to the high situation and powerful influence of his father, could bestow. His trials as an advocate were passed with great solemnity, not according to the mode which was at this

\* "I was told at Rome," says Viscount Kingston, "that if he had stayed there, it was not doubted but he had been a cardinal.—*MS. Account of the Family of Seton.*

† Dempster, b. xvii. p. 592. *MS. History of House of Seton.*

time generally followed by legal candidates, but with an observance of the more grave and pompous ceremonial of the foreign universities. King James VI., the senators of the College of Justice, and the members of the faculty of advocates, were assembled in the chapel royal of Holyrood, and there the young Seton, "in his lawyer's gown and four nooked cap, made his publicke lesson of the law" to the great applause of the king and all present.

The glittering road of promotion soon opened to him. In the year 1583 he accompanied his father, Lord Seton, in an embassy to Henry the III. of France, and in 1585 he was created an extraordinary Lord of Session \*. This was the commencement of a public career, which, embracing in its course many honourable situations, conducted him at last to the highest official dignity under the government of his country.

His appointment to an extraordinary seat in the Session, entitled him to attend the debates

\* Crawford's Lives of Officers of State, p. 155.

before the judges, and to be present at their private deliberations. His knowledge of the civil and canon laws was in this manner matured and perfected by an acquaintance with the municipal institutions of his own country. In 1587 he was created an ordinary Lord of Session\*. Four years after this preferment the king bestowed on him the title of Lord Fyvie, and upon the death of Mr. William Baillie, Lord Provand, he rose to the situation of President of the Court †.

Soon after this, the king, who was called to England by the death of Elizabeth, manifested the high opinion he entertained of the talents and virtues of the Lord Fyvie, by entrusting to his individual care and management the young Prince Charles, then an infant of three years old,

\* On the 16th February, 1587. See Hailes' Catalogue, by which it would appear, contrary to the authority of Crawford, that Seton had previously been created Lord Urquhart.—See *Crawford's Lives of Officers of State*, p. 155.

† Pitmedden MS. *sub anno* May 28, 1593. Crawford's *Lives*, p. 155. MS. History of House of Seton.

and afterwards Charles the I<sup>st</sup>. We are already acquainted with the conferences on the union of the two kingdoms which took place in the year 1604. This public measure brought in its train of consequences new and more honourable preferment to Seton. By a double promotion he became not only one of the commissioners on the Union, but in order that he might preside in the deliberations, and direct the whole by his superior political sagacity, he was raised to the office of Lord High Chancellor of Scotland, then vacant by the resignation of the Earl of Montrose †.

After having thus ably and honourably served his country in these arduous situations, this

\* " Alexander, Earl of Dunfermline, had left to his custody and keeping by King James and Queen Anne, when their Majesties went to England, their second son Charles, then not three years of age, whom he kept in his house some years, and carried him into England himselfe to the king and queen's majestie, well and in health, for which faithful service the king's majestie was thankful to him."—*MS. History of House of Seton.*

† Crawford's Lives, p. 156. Spotiswoode, p. 486.



eminent person died at his house of Pinkie, in the year 1622, at the age of sixty-seven \*.

The Chancellor Seton, although obnoxious to the presbyterian party in Scotland, on account of his early education in the Romish faith, appears even from the testimony of those who were coldly affected towards him, to have been an eminent and distinguished character †. He was an upright and learned judge, an indefatigable and conscientious statesman, an accomplished scholar, and a patron of men of letters. Dempster, with pedantic enthusiasm, pronounces him to have been "caput senatus, bonorum corculum, Zelucus alter ‡."

Three Latin epigrams of his composition are prefixed to Bishop Lesly's History of Scotland,

\* MS. History of the House of Seton. In 1605 he was created Earl of Dunfermline, in 1609 appointed a member of the Privy Council, and in 1612 Lord High Commissioner.—*Crawford*, p. 156.

† Spottiswood, p. 543. *Crawford*, p. 157. Scot's Stagg. State, p. 18.

‡ Hist. Eccles. b. xvii. p. 592.

one of which is very elegantly written. It alludes to this work having been composed when the patriotic prelate was an exile from his native country.

“ Dum patrias habitare domos, dum regna tenere  
 Scotica, cum licuit res agitare graves,  
 Non caput innumeris dubitasti opponere telis,  
 Aut ferre hostiles proprietate minas:  
 Nunc tibi proh dolor ! est horum sublata potestas,  
 In patriam pietas attamen usque viget.  
 Præsentis jam sæpe tuo defensa periculo  
 Regna, exul scriptis vis celebrare pius ;  
 Quam felix tanto dicenda est Scotia patre,  
 Tam patriâ dignus tu meliore fores \*.”

\* Attached to Lesly's History, and at the end of the epistle dedicatory to Pope Gregory the XII. is to be found a beautiful Latin poem by Muretus, which is not included in the works of that eminent scholar, and was unknown to Runcken.

No less than six authors of the name of Seton are commemorated by Dempster. Three of them are spoken of in the text. Another was William Seton, a disciple of Justus Lipsius, and Regius Professor of Jurisprudence at Angiers. According to Dempster he was one of the greatest lawyers of his age. He was alive, and resided at Rome when Dempster wrote his history. A fifth was William Seton, a physician and writer on surgery, who

Another eminent contemporary of Craig's was Sir JOHN SKENE of Curriehill, Clerk Register, to whose labours, it is well known, we are indebted for the publication of one of the earliest collections of the laws of the realm which appeared in this country. He was educated at the University of St. Andrew's, where he was incorporated in the year 1556; and, after the usual course of study, received his degree of Master of Arts. It was the custom of the university for those who, in the academical phrase, had been laureated, to be immediately promoted to the situation of regents or public teachers; but Skene was not created a regent till the year 1565, and it is not improbable that those youthful years which Dempster \* affirms he spent in Denmark and Norway are to be referred to this interval,

lived in the year 1495; and the sixth was James Seton, chaplain to the Scotch guard of the French King, a man of blameless morals, sincere piety, and profound erudition, of whose unedited works Dempster gives a full list. He died at Antwerp in the year 1620, "hoc ipso anno," says the Ecclesiastical Historian, "quo hæc scribebam."

\* Dempster, Hist. Eccl. b. xvii. p. 600.

which existed between his laureation and his becoming a regent.

His residence in these remote countries was of advantage to him, as he there acquired that knowledge of the northern languages of Europe, which at a future period facilitated his labours in the restoration of the ancient jurisprudence of his country. His studies in the laws were pursued in the schools of the Continent \*, probably at the universities of Bruges and Poitiers, then the common resort of our Scottish students of law. Upon his return to his native country, it would seem that he was undetermined for some time to what profession he should direct his talents. His brother, Alexander Skene, was an advocate and an author, and in these times, when reformation and intolerance went hand in hand, appears to have suffered persecution for his adherence to the religion of his forefathers †. Another brother, William Skene, at this period filled the situation of Canonist in St. Mary's College at St.

\* Fourth Annual Rep. of Dep. Clerk Reg. p. 21.

† Books containing the Acts of the Town Council from 1561 to 1571. p. 46. F. 9.

Andrew's \*; and, in the year 1564, Sir John himself delivered lectures as a regent in the same college.

What part he acted during the disastrous interval between the years 1564 and 1574, is not known. At a period when many of those who belonged to his profession, many too who sat on the bench, so far forgot the purity and dignity of their station, as to bear an active and prosperous part in the complicated villanies of the times, Skene appears to have lived obscurely and virtuously. He was admitted an advocate upon the 9th of March, 1574 †, and rose in a short time to notice and distinction at the bar.

Morton was at this time Regent of the kingdom; a man of unbounded ambition, and unexampled treachery, but in whose character there are yet discernible some of those great qualities which had long distinguished the house of Douglas. To such higher qualities belonged a design for the compiling a general digest of the whole body of

\* M'Crie's *Life of Melville*, vol. i. p. 113.

† Pitmedden MS. *sub eo anno*.

Scottish law, which, as we have already seen \*, was planned by Morton in the year 1574, and committed to the superintendence of Sir James Balfour and Sir John Skene †.

\* *Supra*, p. 111.

† Previous to the year 1574, there had been made two very interesting though unsuccessful attempts “to rescue from the injuries of time and of accident the more ancient laws of the realm, to restore them to a state of purity and of authenticity, and ultimately to reduce the whole into a more systematic form.” As early as the reign of James the First, six wise and discreet men, appointed from each of the three estates, were appointed to see and examine “the buikis of law, that is to say, *Regiam Majestatem* and *Quoniam Attachiamenta*,” and in the brief and simple legislative language of the times, “to mend the lawis that nedis mendment <sup>1</sup>.”

This attempt failed, and the errors, contradictions, and discrepancies of the various books of the laws must have continued long to impede and pervert the regular administration of justice. It was not till the reign of James the Third, that a new, an arduous, and, had it been carried into execution, a most destructive scheme, was devised for the revision of the ancient laws of the kingdom.

In the parliament 1469, a committee had been appointed to deliberate upon various matters of state, and

<sup>1</sup> Scots Acts, vol. i. p. 14. c. 54.

To the execution of this great undertaking, which appears to have been suggested by the

report to the succeeding parliament. One of the subjects submitted to their consideration is "the reductione of the kingis lawis <sup>1</sup>, Regiam Majestatem, actis, statutes, and uthir bukis to be put in a volum, and to be authorizit, and the laif to be destroyit <sup>2</sup>." It may be regarded as fortunate, to use the words of the Deputy Clerk Register, that this rude project, like the former, proved abortive.

But although the means adopted savoured somewhat of the barbarous and unlettered manners of the times, the desire for the preservation and the revision of the laws of the realm, was in the succeeding reigns as strongly evinced as it had been under the government of the First and Second James.

Although sixty-seven years had elapsed since the invention of printing on the Continent, that invaluable art which was destined to create so many revolutions, both in the moral and material world, had not yet penetrated into Scotland. In the year 1507, we find it at length introduced into this country, under the countenance and encouragement of the sovereign, and for the "avowed purpose of imprenting the bukis of our lawis, actis of parliament, cronicles, and mess-bukis. In recording an event of this magnitude, even individual names acquire

<sup>1</sup> Acta Parliament. Jac. III. Nov. 20, A. D. 1469.

<sup>2</sup> Fourth Report Dep. Clerk Register, p. 16.

compilations of Justinian \*, Skene for several years devoted his undivided attention, to the neglect of his more immediate professional duties ;

an interest, and ought not to be forgotten. Our first Scottish printers were Walter Chepman and Andro Millar, citizens of Edinburgh, upon whom the king conferred exclusive privileges. This enlightened public measure, which forms an era of no common interest in the literary history of Scotland, is recorded by an act still preserved in the books of the Privy Seal. The words of the curious document declare that Walter Chepman and Andro Millar, burgesses of the burgh of Edinburgh, had, at the instance and request of the king, " taken on thame to furnis and bring hame ane prent, with al stuf belangand thereto, and expert men to use the samyne, for imprenting within our realme of the bukis of our lawis, actis of parliament, cronicles, mess-bukis, and portuus, efter the use of our realme, with addicions and legendis of Scottis sanctis now gaderit to be ekit tharto."

Yet this splendid project, " for giving publicity, not only to the laws of the kingdom, but to its historical monuments and ecclesiastical rituals," was not attended with any better success than the former, and Millar and Chapman, although favoured and defended in their labours by the royal authority, did not venture upon so arduous a task as the publication of the Acts of Parliament.

\* Fourth Rep. of Dep. Clerk Reg. p. 22.



and although no vestiges of his labours have reached our times, we know that he was rewarded by an annual pension granted to him for life out of the revenues of the Abbey of Aberbrothock\*.

John Lord Glamis, Chancellor of the kingdom, a man of ability, and a correspondent of the celebrated Theodore Beza †, along with William Baillie, Lord Provand, President of the Session, and the unfortunate William Lord Ruthven, who was executed for high treason during the minority of James †, were the principal coadjutors of Skene in this unsuccessful enterprise.

When Sir James Melvil was appointed by the king as his ambassador to the States of Denmark, for the purpose of concluding a marriage with one of the daughters of his Danish Majesty, Sir John Skene was chosen to accompany him. "I told his majesty," says Melvil, in his amusing

\* The pension granted to Skene was ten chalders of meal annually. The grant is dated at Dalkeith, June 10, 1577. Fourth Rep. of Dep. Clerk Reg. p. 22.

† Crawford's Lives, p. 133.

‡ Ib. p. 389.

Memoirs, "that I would chuse to take with me for a lawyer, Mr. John Skene. His majesty," said he, "judged there were many better lawyers. I said he was best acquainted with the German customs, and could make them long harangues in Latin, and that he was a good, true, stout man, like a Dutchman \*." The intrigues of the council, however, at this time, defeated the king's intentions, and Melvil was prevented from going to Denmark; but immediately afterwards another embassy was dispatched, which consisted of the Earl Marischal and the Lord Dingwall. These nobleman were accompanied by Skene, Thomas Nicolson, who afterwards rose to high eminence at the bar, and William Fowler, a poet and a scholar, who became secretary to the Queen. In a little work, published at Brunswick, and entitled, "*Commercium Literarium Clarorum Virorum*," we find a curious letter addressed by John Craig, physician to James the VI. † to Tycho

\* Melvil's Memoirs, 8vo. edit. 1735, p. 356.

† Maitland's History, vol. ii. p. 1216. John Craig was the third son of Sir Thomas Craig. Thomæ Craigii,

Brahé, in which he introduces to the acquaintance of the great Danish astronomer, his friends Skene, Nicolson, Fowler, and Swinton. " *Illustrem Dominum legatum comitantur ex amicis nostris aliqui, Dominus Skyneus, jurisprudentia et dignitate, apud nos præstant, et doctissimis in Germania viris olim clarissimus. Nobilis juvenis Marcus Swuntanius affinitate mihi junctus ; adolescens egregiæ indolis et expectationis ; Thomas Nicolsonus, philosophiæ magister. Hos tua benevolentia complectaris, et amicitia etiam digneris peto. \* \* Jam audio plures adhuc ex amicis nostris una proficisci et inter alios M. Gubielmum Fullorum. Juvenis est egregius, nec amicitia indignus.*"

Although many attempts had been already made for the preservation of our statutory law, and selections from the public acts of our successive parliaments had been occasionally printed, it appears to have been very generally felt that a

vita, p. 18. He became successively physician to James the VI. and Charles the I. He appears to have been a man of great learning, and especially addicted to mathematical studies.

more full and accurate collection of the enactments of preceding parliaments was still a desideratum. Accordingly, in a parliament held at Edinburgh in the month of June, 1592, an act was passed, " ordaining the chancellor, with the assistance of the most distinguished lawyers of the time, to examine the acts passed in this and all other preceding parliaments, to judge, and select from these, what laws were necessary to be known and obeyed by the subjects, and to cause the same to be transcribed, and authentic copies to be delivered to his highness's printer. The execution of this important, and, if we consider the discretionary power conferred, very hazardous scheme, was committed to Sir John Skene. Unfortunately for his posthumous reputation, a comparison of the volume of acts which he presented to his country with the original records, has now rendered it apparent, that he too servilely followed the edition of the statutes which was published in the year 1566; and that he appears very rarely to have consulted those original registers and authentic monuments, which

ought to have been his principal guides in the performance of so difficult and laborious an undertaking. But these were not the days of antiquarian research and accurate critical inquiry. The publication of Skene was highly approved by his contemporaries, and their applause emboldened him to proceed to the second and "more arduous part of his undertaking, that of giving to his countrymen, for the first time, a collection of the more ancient laws of the realm \*." He commenced his labours, if we may judge from a passage in his dedication to the king, with no inadequate idea of the many and complicated difficulties with which he had to contend. "When," says he, "I began a careful inquiry into our more remote and ancient laws, I found myself fallen into an Augean stable, which scarce the labour of a Hercules could suffice to cleanse or purify. Many books presented themselves of ancient date and authority, but which had become a feast to the worms and the moths.

\* Fourth Ann. Rep. Dep. Clerk Reg. p. 23.

In these books I descried many passages which related to a period of antiquity unknown to us in the present times, and where reference was made to forms of judicial procedure then familiar, but now fallen into disuse. The words, too, were foreign and obsolete, which it was easier to admire for their antiquity than to explain. In the same books I found, through the carelessness and unskilfulness of the transcribers, many parts so blurred, confused, and ill-digested, that no meaning, or at best a most imperfect sense, could be made of them. Still I did not desist from the work which I had undertaken; but as the bear reduces its offspring to some degree of shape by a process of continual licking, so have I, by assiduous labour, endeavoured to render this publication, which I dare not yet pronounce sufficiently finished or matured, of some benefit to my country. If, on the one hand, the difficulty of the undertaking brought along with it a degree of fear; on the other, its utility and its novelty, with the conviction that I was a traveller upon a path where no foot had preceded me,

were sufficient, in some degree, to alleviate this apprehension \*."

After having been engaged in these difficult and recondite researches for nearly fifteen years, Skene, in 1607, presented to the Parliament of Scotland the offspring of his labours in a MS. volume, containing the treatises of the *Regiam Majestatem*, and the *Quoniam Attachiamenta*. It was received with great approbation †, and ordered to be printed, in consequence of which high sanction, Skene, in the year 1609, published the volume, both in the Latin original and in a translation into the Scottish language. The fame of Skene, as an editor of the ancient laws of his country, remained firm and unsullied during his lifetime. Sir Thomas Craig, in his work on the Feudal Law, had, indeed, decidedly affirmed, that the books of the Majesty, and the other treatises annexed to them, were not to be included

\* Dedication to the Latin edition of the *Regiam Majestatem*.

† Fourth Ann. Report of Deputy Clerk Register, p. 24.

in the body of our Scottish law, being nothing more than a plagiary from Glanville \*, yet the merits of Skene, as a faithful editor, appear not to have been questioned till the time of Lord Hailes †. His work was at length subjected, by that celebrated historian and antiquary to a comparison with the original manuscripts, and was found to be in no common degree defective in the requisites of fidelity and accuracy. "It may, indeed, be fairly doubted," to use the words of a very learned man, to whom Scotland is indebted for the splendid restoration of her ancient parliamentary law, if any of his contemporaries were at pains, by a critical examination of the ancient manuscripts, to form a just estimate of the merit of these publications. Nor was it till a period comparatively very recent, that the labours of Skene were subjected to that severity of reprehension which he anxiously deprecates, and which, in the general opinion, has ultimately

\* De Jure Feudali, Diag. viii. c. 11, Book i.

† Hailes' Examination of some of the Arguments for the High Antiquity of the Regiam Majestatem, p. 4.



reduced them to a very low level in point of accuracy and fidelity \*."

When engaged in this public work, Skene was, in the year 1594, promoted to the office of Clerk Register. He held this situation till the year 1612, when, feeling the approach of age and infirmity, he resigned it in favour of his son, Sir James Skene, who became afterwards President of the Session.

One useful work of this author, which he appended to his edition of the acts of parliament, is especially worthy of notice. I mean the *Treatise de Verborum Significatione*, or an "Exposition of the Termes and Difficil Wordes contained in the Foure Buikes of Regiam Majestatem, and Uthers." This, although perhaps not to be entirely or exclusively relied upon in matters connected with the most ancient laws of the realm, is a work of frequent reference, and respectable authority.

The character of Skene may be understood from the short account which has been given of

\* Fourth Annual Report of the Deputy Clerk Register, p. 25.

his life and writings. He was a man whose erudition, and acquaintance with the antiquities of our law, were considerably superior to the age in which he lived, whose exertions in the restoration of our ancient jurisprudence were received with applause, chiefly because he was the first who laboured in that field. He is one of those whose names have stood highest during their lifetime, whose celebrity, as it has been founded more upon the ignorance of his contemporaries than upon his own learning, is now gradually waning, with increasing knowledge; and who, for a brilliant but ephemeral living reputation, has been content to forfeit all very lasting claims upon the gratitude of his country.

THOMAS HAMILTON of Priestfield, first Earl of Haddington, President of the Court of Session, and for a long period Secretary of State and prime minister to James VI. was another eminent contemporary of Craig. He commenced his career at the Scottish bar in the year 1587. His father was Sir Thomas Hamilton of Priestfield, who was sprung from the ancient and honourable family of

Innerwick \*. His mother was Elizabeth Heriot, daughter of James Heriot of Trabrown. The name of Heriot is not to be forgotten in the history of Scottish literature. Agnes Heriot, of the family of Trabrown, was the mother of our great Buchanan. Hamilton received his legal education in France †, where he studied the laws for

\* Hailes' Life of John Hamilton, a secular priest, p. 1.

† In Calderwood's MS. History, there is a curious letter from the minister of Kilconquhar to James VI. remonstrating on the grievances of the kirk, from his Majesty's "listhening to evil counsellors, among the rest that Romanist President, a shaveling and a priest, more meet to say mass in Salamanca nor to bear office in Christian and reformed commonweals." This is Alex. Seton, Earl of Dunfermline, of whom some account has above been given<sup>1</sup>. "Also," continues the letter, "Mr. James Elphinstone<sup>2</sup>,

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<sup>1</sup> It is pleasing to contrast this picture, drawn by the hand of slander, with the true character of Seton, as given by the aged and amiable Pont, in the Dedication of his "Treatise of the Right Reckoning of Yeares."

<sup>2</sup> Mr. JAMES ELPHINSTONE, who was afterwards created Lord Balmerinloch, and became President in the year 1605, upon the death of Seton, was the third son of Robert, third Lord Elphinstone<sup>3</sup>, and Margaret Drummond,

<sup>3</sup> Douglas's Peerage, vol. i. p. 182. 538.

six years, and in the petition which it was then customary for the youthful candidate to deliver to the court, it is stated, "that since his hame

another Lord of Session, a greedy and covetous man, a priest without God, religion, or conscience, as his godless doings can testify; and Mr. Thomas Hamilton, brought up in Paris with that apostate Mr. John Hamilton; and men say, the dregges of his stinking Roman profession stick fast in his ribbes." This letter was probably written when a faction of the courtiers had persuaded the ministers that the Octavians, amongst whom Seton, the President Elphinstone, and Hamilton, held the chief authority, were plotting the restoration of popery<sup>1</sup>.

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daughter of Sir John Drummond of Inner Peffrey. His brother, George Elphinstone, was Rector of the Scotch College at Rome: and by his mother he was nearly related to Drummond, Bishop of Vaizon. These Popish connections were the ruin of the President Elphinstone. Anxious to procure a cardinal's hat for the Bishop of Vaizon, he forged a letter, purporting to be addressed by the king to Pope Clement VIII. and requesting his Holiness to promote the Scottish prelate. The royal signature was procured by throwing it in amongst some papers which the President knew James would sign without reading. The letter was sent to Rome, Queen Elizabeth discovered the correspondence by her agents in Italy, and upbraided the Scottish monarch for so extraordinary a

<sup>1</sup> Calderwood's History, p. 369.

coming, he had attended and been an expectant before the Lordes, where throw according to the order used before their Lordships, he merits the office of an advocate \*." Hamilton, although then a young man, soon discovered an innate vigour of intellect, an influence over other minds, and an aptitude for the dispatch of business, which convinced his contemporaries that he would not long remain an expectant. He was accordingly promoted to the place of an ordinary Lord of Session, upon the death of Mr. David Chalmers of Ormond, Chancellor of Ross. Ormond had shared deeply in the intrigues of the Regent Murray's time. On suspicion of having been concerned in the king's murder, he had been compelled to take refuge in Spain; and he amused his years of

step. The letter itself was afterwards quoted by the Cardinal Bellarmine, in a reply to a theological work of James, and an investigation took place, in which the guilt of Balmerinoch was fully made out. He was tried for treason, and condemned, but afterwards pardoned, and suffered to retire to his estate, where he died in the year 1612.

\* Pitmedden MS. *sub eo anno.*

banishment in composing *Memoirs in French upon the history and constitution of Scotland*. He afterwards returned to his native country, in more peaceful times, and was permitted to resume his seat upon the bench, which he held till his death, in the year 1592. Before any advocate could be chosen a judge, it was necessary for him to go through a trial of six days. The trial is thus particularly and quaintly described in the manuscript, to which we are indebted for much curious information upon the state of the bar at this period. "He," that is, the candidate for this high office, "shall pass and sit three days together with the Ordinar Lord, reporter of the interlocutors in the outer Tolbooth, and all that space shall make report to their lordships of all the alledgances, answers, duplyes, heard and proponed by the parties and their procurators in the outer house. And he shall give his opinion first upon every such question or interlocutor; and these three days being expired, ordains him to sitt other three days in the inner house. And all that space to be heard to reason on ilk action and cause that shall happen to be called during

that time. The which six days being finished, their lordships shall then pass to voting and consultation among themselves, and give answer to the king's letter above written anent his qualifications \*."

Having been subjected to this legal ordeal, Hamilton, on the 9th of November, 1592, took his seat upon the bench by the title of Lord Drumcairn. At this time Macgill of Cranston-Riddell was king's advocate; but age and infirmity incapacitated him from the execution of his official duties. Lord Drumcairn, who was not only an able lawyer, but a courtier and a favourite of the Queen, procured himself to be conjoined in the office with Macgill, and upon the death of the old man, which happened almost immediately after, succeeded to the situation. In the king's letter he is nominated his majesty's sole advocate during his lifetime. The ambition and policy of this able man are here very apparent. Previous to this time the patronage and emolument of this high office had been not unfrequently

\* Pitmedden MS. *sub anno* 1590.

divided by the custom of appointing two persons to be joint advocates to the king. The royal epistle which contains Lord Drumcairn's appointment, reprobates and abolishes this practice. It states that the king "understanding that the said office may be better handled, and with less cost to the subjects, when an intelligent discreet man gives himself haily thereto, then when the charge of it is remitted to two or mae, ilk ane of them, without due care and attendance referand to others; and having experience of Drumcairn's abilities, he constitutes him his advocat during his lifetime." This appointment took place upon the 14th February, 1595.

The tide of his fortunes continued to flow full and steadily. He became, in the year 1604, along with Craig, one of the commissioners on the union. Not many years after this, he succeeded, upon the resignation of Sir John Skene, to the office of clerk register\*; and he had only held

\* Sir John Skene, the clerk register, was now an old man, and desirous of resigning his office, under the condition that his son James, afterwards president of the



this situation for a few months, when the death of Sir Alexander Hay opened to his ambition the powerful and lucrative office of secretary of state to the king. Upon the death of the Lord President Preston \*, the secretary, who had lately been raised to the peerage by the title of Lord

session, should be appointed to the vacancy. James Skene repaired accordingly to court, bearing with him his father's resignation; and being unsuspecting, of tender years, and unaccustomed to intrigue, was persuaded to deliver the resignation, and to accept an ordinary place among the Lords of Session. The place of clerk register was immediately conferred upon the Lord Advocate.

\* PRESTON became president of the court, in the year 1608, upon the dismissal of Lord Balmerinoch. He had raised himself entirely by his talents. His father was a baxter in Edinburgh. In the year 1680, he was made a commissary<sup>1</sup>. Upon the 12th of March, 1694, he was raised to the bench by the title of Fentonbarns. The Scottish poet Montgomery, who, it appears, had a law plea regarding a pension which had been settled upon him, attacks his "adversars lawyers" in some bitter sonnets. Amongst the names of those he vilifies, we find Preston, Stirling<sup>2</sup>, and Craig. The whole judges of the court in another sonnet are severely handled by this enraged sonneteer.

<sup>1</sup> Hailes' Catal. Note 40.

<sup>2</sup> Montgomery's Poems, p. 75.

Binning of the Byres, was, upon the 15th of June, 1616, appointed President of the Court of Session. Three years after this he was created Earl of Melrose \*, which title he afterwards procured to be changed to that of Haddington †; esteeming it, says Douglas, more honourable to take his style from a county than an abbey. He now conjoined in his own person three of the highest offices in Scotland; but conceiving probably that such a monopoly of power was dangerous, and might create him enemies, he endeavoured to silence envy, and yet preserve his influence, by resigning the situation of Lord Clerk Register to his brother Sir John Hamilton of Magdalens ‡, retaining to himself the presidency and the secretaryship. These offices he held till the 15th of February, 1626. He then resigned them upon being appointed lord privy seal. He died at the age of seventy-four, on the 29th of May, 1637.

\* By letters patent, dated at Newmarket, the 20th March, 1619.

† Dated at Bagshot, 27th August, 1627. Douglas's Peerage, vol. i. p. 678.

‡ In the year 1622. Douglas's Peerage, vol. i. p. 678.

The President Haddington is well entitled to the characters of a learned lawyer, and an able and fortunate statesman. To talents, which were originally of a high order, and which had been improved by an excellent classical education, he united indefatigable industry, with an extreme acuteness in the understanding and management of matters of state. To these qualities were added a dauntless temper, and a soul of great ambition; so that having been early introduced into public life, it was almost impossible that he should not have speedily risen into notice. If we look to his conduct as president of the court, and to the voluminous collection of manuscript decisions which he has left us\*, it would seem

\* Haddington's Decisions are contained in three MS. volumes, preserved in the Library of the Faculty of Advocates, and marked A. 4. 1. The first page of the first volume is a little soiled and illegible. It commences with a decision, *Lady Saltoun ver. her Tenants*, Nov. 1592, and contains 1635 cases, the last of which is dated 25th July, 1609. The second volume commences, No. 1636, on 4th Nov. 1609, and ends with a case, No. 3119, dated March, 1624. The third volume embraces an index, and some legal notices and adversaria.

that this high office must have been amply sufficient to have engrossed every hour of his time. If again we consider his character as secretary of state, and prime minister for Scotland, the multifarious duties and anxious responsibility of such a situation, must appear enough, or rather more than enough, for the employment even of a very superior mind.

Yet, for many years, the Earl of Haddington, with apparent ease to himself, and with acknowledged advantage to the country, conjoined the occupations of these high offices. Nor was this all; he was a friend and patron of learned men; he was deeply read, not only in the civil law, but in matters of state policy, in general history, and in the annals and antiquities of his country.

To those who, ignorant of its proper distribution, complain of a want of time, it may form a useful lesson to regard the multitudinous labours of this remarkable man. According to our modern notions of intellectual labour, the various notes and observations collected by him in the course of his studies, and the marginal adversaria yet seen upon his books, would rather

“ On another occasion, in an action of impropriation of a writ,” says Forbes, “ which the Lords were convinced was forged, but puzzled for want of clear proof, the Lord Binning, taking up the writ in his hand, and holding it betwixt him and the light, discovered the forgery by the stamp of the paper, the first paper of such a stamp being posterior to the date of the writ quarrelled \*.”

To ALEXANDER COLVIL, commendator of Culross, who was promoted to the bench upon the 26th of October, 1575, during the regency of Morton, we owe a manuscript Collection of Decisions of the Supreme Court, during a period of fourteen years, from 1570 to 1584 †. The Lord Culross was descended from the Colvils of

dramatic detail than Forbes, but the subject-matter of the story is accurately preserved.

\* Forbes's preface to his Journal, p. 27.

† These Decisions of the Lord Culross are contained in a volume in the Advocates' Library, marked A. 3. 3. It embraces Sinclair's Practicks, Lethington's Practicks, Culross' Practicks, and a Collection of Practicks by an uncertain hand.

Ochiltree, an ancient family, according to Dugdale, originally English \*, but which, since the days of Malcolm the IV., had given warriors and statesmen to the kings who came after him †. He was the second son of Sir James Colvil, and Janet Douglas of Lochleven, sister of William, Earl of Morton. His grandfather was that Sir James Colvil of Easter Wemyss, appointed a Lord of Session at the original institution of the Court, whose unfortunate story has been already mentioned ‡. His elder brother James, created afterwards Lord Colvil of Culross, was a brave and distinguished soldier, who served long in the wars of Henry the IV. of France §.

\* Hay's MS. vol. ii. p. 66, says the family of Colvil of Ochiltree was of French extraction, this probably means Norman, and so does not contradict Dugdale.

† Douglas's Peerage, vol. i. p. 350. Hay's MS. vol. ii. p. 66.

‡ Supra, p. 121.

§ Lord Colvil retired, in his old age, to Tillicoultry, where, according to the tradition of the neighbourhood, he led something of the life of another uncle Toby. He had, on his property, a favourite green terrace, and near it a fine thorn, the decayed trunk of which still re-

Living, as the commendator of Culross did, in a period when Scotland was divided by civil disorders, when the loyalist party, supporting the title of the imprisoned Queen, and the more powerful faction of the Regent Morton, were animated by the most bitter hostility against each other, we need not wonder that his fortunes suffered in the confusions of the times. Mr. John Colvil, chanter of Glasgow, a partizan of the turbulent Bothwell, who appears to have been more at home when debating against his

mains. On this terrace he used to walk about, describing his battles, and pointing out the disposition of the troops by the thorn, and the other objects in the neighbourhood. It is a singular circumstance that the death which, in many real fields he had often escaped, overtook this old and enthusiastic officer in one of those mimic battles of his retirement. In describing some manœuvre, he forgot, in the enthusiasm of the moment, that he stood on the brink of a high terrace, and, losing his balance, he fell backwards, and received an injury of which he died <sup>1</sup>.

<sup>1</sup> Statistic Account, vol. xv. p. 212.

enemies, in his steel coat and sword in hand \*, than when engaged in the more peaceable conflicts of the bar, upon the 2d of June, 1587, superseded his namesake, the commendator of Culross. The chanter of Glasgow, however, whose turbulent spirit probably ill-brooked the decorous restraint of his new situation, sat upon the bench only for nineteen days, when Lord Culross, his more legal and laborious predecessor, resumed the place he had lost, and retained it until his death in the year 1597 †.

Another eminent contemporary of Craig was EDWARD HENRYSON, the antagonist of the great jurisconsult, Antony Govea ‡, and the translator of Plutarch and Epictetus. Henryson was for several years Professor of the Civil Law at Bruges, and became afterwards one of the judges of the Commissary Court of Edinburgh §. He had probably received his classical education in his own country ; but he afterwards travelled

\* Melvil's Memoirs, p. 391. 393.

† Hailes's Catalogue, p. 7.

‡ Irving's Life of Buchanan, p. 82.

§ Life of Melville, vol. i. p. 444.



abroad, and, at the university of Bruges, studied the laws under Eguinar Baro, where he received his degree of doctor of laws. When on the Continent, his high talents as a scholar attracted the attention of Ulrich Fugger, a Tyrolese nobleman, who, with an enthusiastic love of literature, devoted a great part of his fortune to the collection of ancient Greek manuscripts, and the encouragement of learned men \*. Henryson received a pension from Fugger, and lived in his castle, where he had the advantage of a noble library, which had been enriched by the collections of rare manuscripts made by Henry Scrimger during his travels in Italy †. It was here that, in the year 1551, he translated

\* Life of Melville, vol. i. p. 113.

† A biographical sketch of this great Scottish philologer, Scrimger, whose talents have called forth the eulogia of Henry Stephens, of Casaubon, and Cujacius, is to be found amongst the MS. Latin Lives of David Buchanan. See also Maittaire Vitæ Stephanorum, p. 223. 226. 249. and Casaubon's Letters, p. 306. Ep. DLXXX. "Pro notis in Strabonem *τῶ μαλακίῳ* longæque prestantissimi Scrimgeri ago tibi et habeo grates gratissimas," p. 364. Ep. DC.XCIV Petro Junio.

the *Feast of the Seven Sages* from Plutarch, which he afterwards published, with a dedication to Ulrich Fugger. In the following year he returned to Scotland, and was fortunate in meeting a second Mæcenas in Henry Sinclair, Bishop of Ross, and President of the Court of Session, with whose munificent patronage of letters we are already acquainted. Sinclair, then Dean of Glasgow, received Henryson into his family, and it was under his hospitable roof that he was induced to undertake and complete the translation of the *Enchiridion* of Epictetus, and the commentaries of Arrian, a work which was never printed, and of which the manuscript appears to be lost\*.

Henryson did not, however, remain long in his native country. He returned to Fugger, who continued his pension, and to whom the Scottish scholar gratefully dedicated the fruits of his studies. Antony Govea, to whom Cujacius has allotted the first rank amongst the commentators upon Justinian, had attack-

\* *Life of Melvil*, vol. i. p. 444.

ed the civilian Baro upon some particular heterodox notions which he had published on the doctrine of jurisdiction. Henryson entered the lists in defence of his old master, and in the literary retirement of Fagger's chateau, sketched out his work against Govea \*, which he afterwards completed in the year 1554, and inscribed to his patron. About this time he was chosen professor of the civil law at Bruges, and, in the following year, 1555, he again addressed to the learned world a Commentary upon the Title of the Institutes, which treats of testaments, and which he dedicated to the celebrated Chancellor of France, Michael d'Hopital †. For how long a period he remained professor at Bruges is not certain, but he had returned to Scotland some time before 1563 ; for

\* Melvil's Life, vol. i. p. 443.

† This work was published at Paris in the year 1556. The dedication is dated at Bruges, July 7, 1555. It, as well as Henryson's work against Govea, is reprinted in the third volume of his Thesaurus. The first edition of the Dissertation against Govea was printed at Paris in the year 1555.

in this year, in which the Commissary Court was instituted, he was chosen one of the new judges \*. In the year 1565 he was appointed an extraordinary Lord of Session, and soon after this we find him engaged in superintending the publication of that edition of the laws and statutes of the realm, which, in the year 1566, was undertaken at the suggestion of Lesly, Bishop of Ross †. The preface to this work, which embraces the statutes from 1424 to 1564, was written by Henryson, who is there simply styled "Doctour in the Lawis." At what time he died is uncertain ‡; but he left behind him the reputation of an able civilian, who had followed the footsteps of Cujac, Baro, Duaren, Alciat, and other great jurisconsults, in uniting the study of the laws to a critical know-

\* Balfour's Practicks, p. 670.

† Fourth Annual Report of the Dep. Clerk Register, p. 17, 18.

‡ He was one of the procurators for the Church in the year 1573, and he was dead before the 10th of March, 1591. M'Crie's Life of Melvil, vol. i. p. 443. 445.

ledge of the language and a refined taste for the beauties of the classics of Greece and Rome \*.

Before returning to our author, there remains still one celebrated character amongst the cotemporaries of Craig, to whom, within the limits of these biographical sketches, it is difficult to do justice, and yet whom it is impossible to pass over, I mean John Lealie, the famous Bishop of Ross. To give a sketch of his varied and laborious life, would be to enter into the history of the most important political transactions in Scotland, from the accession of his Queen and mistress to the crown, to the period of her execution in England; and it would perhaps be difficult to find any person who has made himself acquainted with this portion of Scottish history, upon whose mind the able and consistent conduct of this prelate and statesman have not made a lasting impression. His life indeed presents us with that picture which never fails to be interesting—the spectacle of courage and ta-

\* Irving's *Life of Buchanan*, p. 388. Dempster, *Hist. Eccles.* p. 350. B. 8. No. 664.

lent, and virtue, struggling against reiterated calamity, and superior power. Sinking at length indeed, but under the decay of a broken constitution, with a mind fresh and unsubdued by the obstinate reverses of fortune, and which enabled him to the very last to employ the years of banishment, of imprisonment, and sickness, in the most unwearied efforts to interest the different princes of Europe in the fate of his sovereign, Lesly died at Brussels in May 1596, at the age of sixty-nine, leaving to the world a character which combined all that was pious and amiable in the prelate, sagacious, firm, and upright in the statesman, learned and elegant in the scholar and man of letters. That this is not exaggerated praise, his works remain to testify. His religious exercises and meditations \*, composed

\* " *Pisæ afflicti animi Consolationes et divina remedia.*" The Epistle to Queen Mary is dated " *Ex ergastulo nostro in Turri Londonensi, Octavo, Maii 1572.* Published at Paris 1574. This little work contains some poems of Mary, in French, with a translation of them by herself into Latin. They are preceded by an affectionate letter from the Queen to the Bishop of Ross, dated *E Castro Shefeldis. prid. Id. Aug. 1572.* The other re-

for the consolation and support of his royal mistress during her rigorous imprisonment, and when he himself was confined in the tower, is a work full of the noblest lessons of faith and resignation under calamity. It is easy, when all is bright about us, when we are philosophising in the lap of ease upon ideal affliction, to inculcate and practice the duties of gratitude and contentment; but these admirable lessons of this good prelate proceeded from a spirit assailed on every side by actual misfortune, wasted at the moment in which he was writing, by imprisonment, and yet affording under this present and accumulated sorrow, an example of hope, of forgiveness, and even of exultation. It was during this confinement \* in the Tower that he drew up the rough sketch of his history of Scotland, which he afterwards finished in Italy, and published at Rome in the year 1578. In the first part he has too closely follow-

religious work of the Bishop of Ross, entitled "*Animi Tranquilli Munimentum et Præservatio*," contains two Latin Poems of Lesly's which are not generally known.

\* *Epistola ad Gregorum XII. Pont. Max. p. 8.*

ed the fables and absurdities of Boece, but the three last books are excellent, both in matter and style \*. Lesly was sprung from a younger branch of the ancient and honourable family of Lesly of Balquhain, and was born in the year 1527 †. He was promoted to the office of an ordinary Lord of Session in 1563 ‡, and, upon the death of Henry Sinclair, became Bishop of Ross, on the 21st January, 1566 §. His various works are correctly enumerated by Mackenzie ||.

To return to our author, after this biographical excursion amongst his cotemporaries. On the departure of James in the month of July 1603, to take possession of his new kingdom, Sir Thomas Craig appears to have been one of those who accompanied him into England. Whether he was chosen by the king to attend upon him in his suite along with others of his Scottish nobility and gentry, cannot be easily discovered. King

\* They were originally written in English seven years before their publication in Latin.

† Keith's Catalogue of Bishops, p. 117.

‡ Hailes's Catalogue, p. 4. Note 21.

§ Keith's Catalogue of Bishops, p. 118.

|| Mackenzie's Lives, vol. ii. p. 618.



James, it is well known, by his first speech in Parliament, was at this time exceedingly anxious to effect a union between the two kingdoms. Craig, in his *Treatise on the Feudal Law*, and in his work on the *Succession*, had already come forward as an ardent advocate for this political scheme; and the most probable opinion undoubtedly is, that he was commanded by his sovereign to accompany him as an able adviser in the accomplishment of this great public measure. If we may judge from his poem, which was soon after published upon the coronation, he certainly was present at this great spectacle, for he describes the king's triumphal entry into London, the richness and splendour of the cavalcade—the profusion of flowers and garlands which were scattered over the highways and meadows, and the most trivial circumstances attending the solemnity, with the minute fidelity of an eye witness\*.

- \* *Arte laboratæ vestes, auroque decora.*  
*Lydia Sidonio quas ars intexerat ostro.*  
*Undique pendebant, prohibet me plura referre*  
*Qui mihi tum attonitos fulgor perstrinxit ocellos."*

This poem, the ΣΤΕΦΑΝΟΦΟΡΙΑ, composed in honour of James's coronation, is the longest and the most laboured of his poetical productions. It was published in the year 1608, and must have been written in England. He had now been, for several years, a devoted follower in the suite of the muses, and he was, at this time, surrounded by objects which were well calculated to give an impulse to the imagination. It is indeed true, that, in many respects, nature and a familiarity with her works and wonders must be all in all to the poet; yet we have it on high authority, that there are other situations of regal splendour, and religious solemnity, and romantic and chivalrous display, which are well calculated to stimulate the poetical temperament; situations

“ Where throngs of knights, and barons bold  
In weeds of peace high triumphs hold,  
With pomp, and feast, and revelry,  
And mask, and antique pageantry.  
Such sights as youthful poets dream,  
On summer eves by haunted stream.”

Sir Thomas was, indeed, no youthful poet, for he had now passed his grand climateric ; but his residence in a court gave him the realities instead of the dreams of splendour ; and, in the annals of courtly pageants, no period could well be more splendid than that which brought the coronation of a new monarch, and the union in his person of two ancient and hostile crowns.

The poem of the ΣΤΕΦΑΝΟΦΟΡΙΑ is strongly illustrative of this observation. It is, in point of taste, neither the chastest nor the most pleasing of Craig's poetical productions, yet it is the richest in metaphorical ornament and florid description.

The grief of Scotland at the departure of the sovereign ; the prospect of returning peace and lasting tranquillity to the two countries, so long the mortal enemies of each other ; the universal rejoicing which attended the progress of the monarch to the vacant throne ; the glittering cavalcade of the nobility, and the various civil authorities who met him before his entry into the capital ; the sudden appearance of the fury Alecto, who, envious of the general joy, came to

scatter the pestilence through the city ; the paternal tenderness of the sovereign, who, to prevent contagion, commands a cessation of the public shows and triumphs ; and, lastly, the splendid and solemn ceremonial of the coronation,—these are the subjects upon which the poet has exhausted his powers, and, in illustration of which, he has given some noble and spirited pictures. The following passage is introduced upon the subject of the plague, which then depopulated the city.

“ *Exierat furvis Alecto infausta tenebris,  
 Bella sinu, pestemque ferens. Dum circinat orbem,  
 Hectoreæ tandem ad sedem pervenerat urbis,  
 Aspicit egregias operosis molibus ædes,  
 Quæque Semiramis certabant tecta theatris,  
 Nec cohibet luctus, quia nil lugubre videbat :  
 Mox ubi cuncta novis vidit fervere triumphis,  
 Obliqua invidia, et stimulis flammata doloris,  
 Erigit infernos capitis pro crinibus angues,  
 Et quassans caput obscura ferrugine tectum :  
 Hôs ego mox tristi mutabo dolore triumphos,  
 Et nostri (ajebat) faciam monumenta trophæi.  
 Tum sævæ è gremio diffudit semina pestis.  
 Principio sensim, nec quam cognoscere possis,  
 Irrepens cives depascitur arida febris,  
 Igneæque in venis agitur sitis, atraque tabes  
 Membra minutatim morbo collapsa trahebat :*

Ingressusque oculos comit stupor albus inertes,  
 Et cadit in terram depresso pondere cervix.  
 Et jam letiferas vires cumularat eundo,  
 Atque una involvens vulgus grassante ruina,  
 Lurida per cunctos serpit contagio cives :  
 Funus ubique frequens, et plurima mortis imago.  
 Sed metuens Domini nunquam improvida virtus,  
 Ne populi attactu crudesceret arida tabes,  
 Imperat, ut cepti aileant ubicunque triumphi.  
 Ac veluti cautus sublimæ in puppe magister  
 Surgentes longe spectans in nubibus Euros,  
 Humida venturæ subducit vella procellæ."

Towards the conclusion of the poem, the sincere and virtuous character of the author breaks out in an admonitory address to the king and his nobility, of which the grave and moral tone forms a fine contrast with the florid descriptions which have preceded it. He reminds the monarch of the sacred oath which he has sworn to his people, the nobility of those solemn vows which they have taken to the crown ; and, aware of those high and dangerous ideas of kingly authority which had planted themselves in the mind of James, he earnestly and boldly cautions him against any attempts to overstretch his preroga-

tive, and points out that the best and firmest foundation on which he must rest the power of the crown must ever be the fear of God and the love of the people.

“ Vivite felices, et vincite vota precantum,  
 Tu proceresque tui, memorique recondite mente,  
 Quæ sacras (si quid sanctum est) jurastis ad aras.  
 Tuque prior, cujus justa ditione tenetur  
 Insula dives agris, opibusque, armisque, virisque,  
 Et cui cum incumbat rerum nunc publica moles,  
 Dividis ingentes de te, pulcherrime, curas ;  
 Quid populo debes, quid dudum testibus aris,  
 Pollicitus sanctè es, tibi nulla oblitteret ætas,  
 Irrita nec subitæ rapiant jurata procellæ.  
 Nec pete, quas homini divini pagina verbi  
 Præscripsit, leges transcendere, maxima rerum  
 Et meritò, pietas homini est tutissima virtus.  
 Quippe timor Domini, populi conjunctus amori  
 Imperium fundat, gemino velut anchora morsu  
 In dubia firmat puppes statione relictas.”

Before he left England, Craig addressed to the king a short poem, in which he takes a solemn farewell of his sovereign and of the muses. There is a deep and affectionate tone in this little Elegy, which shows that the feelings he describes were natural, and that Craig's were not here

merely the common sighs of poetic grief. He was an old man ; there was little chance that he should ever again see the sovereign whom he had long and faithfully served ; and although the charms of classical literature had been a favourite relaxation, his mind was naturally occupied with greater objects, and his thoughts stretching forward through the shadows of age into that undiscovered country, which, even to the eye of religion, is overhung by an awful veil of mystery. When read with these feelings, there is much interest and beauty in this little poem.

“ Ast ego per dubios vitæ viæque labores  
 Jam repeto patrii tristia tecta soli  
 Triste solum sine sole, suo sine Principe, cernam  
 Nunc verum a Græco nomine nomen habes  
 Æternum Domini vultu cariturus amæno,  
 Hoc peperit vitæ sors mihi dura meæ.  
 Hic itaque et steriles Musas, et carmina pono.  
 Carmina post calamo non repetenda meo.  
 Vive, vale interea et magni per mœnia mundi  
 Fortuna, virtus te, famulante vehat  
 Vive, vale, et nuncquam meritorum fama senescat.  
 Ah oculis posthac nunquam adeunde meis !”

The poem was prophetic. Craig never again saw his sovereign ; and these were the last verses which he wrote.

In his first Parliament, which was opened on the 19th day of March, 1609, King James, in a speech, in which there is a singular union of ability and pedantry, explained to the Lords and Commons his views on the subject of a union of the two kingdoms. The scheme itself, which was accompanied with no inconsiderable difficulties, was worthy the attention and labours of a king ; but James, in the arguments by which he endeavoured to recommend it to the attention of his parliaments, exhibited more ingenuity than either dignity or prudence. Indeed, in general, King James's speeches to his parliament, although they do credit to his talents as a scholar, are a striking proof of the trifling, and even mischievous nature, of a too violent devotion to those studies in a sovereign which are accompanied with praise and distinction in a subject. The monarch is perpetually forgetting himself in the man of letters ; and, to use the words of our great historian, " there is nothing of that majestic bre-



vity and reserve which becomes a king in his addresses to the great council of the nation \*."

At this period the Scottish people do not appear to have been averse to the measure of a union of the two kingdoms, but the feelings of jealousy and national hostility were still fresh in the bosoms of their southern neighbours, and the favourite plan of the sovereign seems to have been peculiarly unacceptable to his English subjects. "The king," says Craig, in his fourth chapter of the work on the Union, "used every effort that this union might be sanctioned by the statutory consent of the assembled estates of each kingdom; and as he was already secure of his Scottish subjects, whom he knew to be favourable to the project, he procured the measure to be debated in the parliament held at Westminster in the month of July, 1604." Here, however, all that he could obtain, was the nomination, on each "side, of able and learned persons, who should consult amongst themselves regarding the different articles of this union, and by

\* Hume, vol. vi. p. 15.

what legal enactments it might be rendered sure and lasting \*."

A nomination of Commissioners, to the number of forty-four, was accordingly made by the Parliament of England; amongst whom we find the eminent names of Cecil, the principal secretary, and Lord Bacon, then Sir Francis Bacon; who were endowed with powers to assemble and meet any time before the next session of parliament, "for treating and consulting with certain selected Commissioners, to be nominated by authority of the realm of Scotland, of and concerning such a union of the said realms of England and Scotland."

These Commissioners are directed to reduce their proceedings into "writings, or instruments tripartite," each part to be subscribed and sealed by them; the one part intended for the king's perusal—the other to be presented to the English parliament—and the third part destined for the consideration of the next parliament for the realm of Scotland.

\* De Unione, p. 56.

A parliament was accordingly summoned in Scotland, for the purpose of nominating the Commissioners to treat of the Union, on the 11th July, 1609; and thirty Commissioners were appointed, "to confer with certain selected Commissioners nominated and authorised by the parliament of England, upon a perfect union of the realms of Scotland and England."

The king had not, at this time, in his addresses to parliament upon the projected union, employed, in speaking of the kingdom and people of Scotland, those imprudent and degrading expressions which were fitted to excite the disgust and jealousy of his ancient subjects\*. It was

\* "Consider," said he, in addressing his English parliament, "therefore well, if the mindes of Scotland had not need to be well prepared to persuade their mutual consent, seeing you here have all the great advantage by the union. Is not here the personal residence of the king? his whole court and family? Is not here the seat of justice, and the fountain of government? *Must they not be subjected to the lawes of England, and so with time become but as Cumberland and Northumberland, and those other remote and northern shires?*" His Majesty's Speech at Whitehall, 31st March, 1607.

declared, in the English act, " That it was not his majesty's mind to alter or innovate the fundamental laws, privileges, and good customs of the people of England ; and as nothing had been added to the same effect with regard to the ancient laws and usages of his country of Scotland, the parliament, with a patriotic jealousy for their liberties, in the act appointing the Commissioners, subjoined a concluding clause, which declared, that the said union must be so settled as not to derogate " from any fundamental laws, ancient privileges, and rights, offices, dignities, and liberties of that kingdom."

Sir Thomas Craig, whose eminent talents, and calm and sagacious judgment, peculiarly fitted him for the office, was appointed one of those Commissioners \*, to whom the most important

\* " Anno MDCIV. Cum Jacobus, apud nos ejus nominis sextus, duorum magnæ Britanniæ regnorum, quæ anno superiore sub ejus unius ditionem concesserant, coalitionem, sive unionem quam dicimus, obnixo animo moliretur, ille ab ordinibus Scotiæ, unus interque præcipuos ad rem tam arduam tractandum promovendamque sit delegatus."—De Vita, scriptis et progenie D. Thomæ Cragii brevis narratio.

matters of the conference were entrusted; and soon after, in the summer of the year 1605, composed his Treatise on the Union of the two Kingdoms\*.

Mr. John Sharp, the fellow student of Craig at college, and who had ever since been his brother at the bar, where he had risen to great celebrity, and Sir John Skene, the publisher of the *Regiam Majestatem*, were included in the nomination of commissioners. The list embraced the highest dignitaries, civil and ecclesiastical, and some of the chief nobility of Scotland.

On the 20th of October, 1604, the commissioners of both nations, in obedience to letters from the King, assembled at Westminster, and the conferences were opened.

\* “*Interea licet nostratibus in sua patria artes et industriam veram exercere, nam pauci sunt, et mox pauciores erant quorum commerciis destituimur, aulici enim omnes sunt, quorum ut presentia sæpe gravis, sic absentia erit onerosa, et in urbibus eadem erit frequentia, si modo consilium sit gentis aliquod publicum, ad quod absente rege recurri possit, quod et ipsi videmus hac sæstate 1605.*”—*De Unione*, cap. ii. p. 242. MS.

It would be foreign to the purpose of this biographical account, to enter into any very detailed exposition of these mutual conferences upon the Union, more especially as they were followed by no active measures on the part of either nation. The deliberations lasted from the 20th of October to the 6th of December, on which day a variety of articles, which were deemed necessary for the accomplishment and stability of this great political measure, were agreed upon, subscribed by the Commissioners, and delivered to the King, who expressed himself particularly gratified with that article, which reserved to him his prerogative in the preferment of men to offices and honour in either kingdom. "Capacity of offices, he observed, ought to be equal to both people; but the moderation of that equality must be left to me. Neither would I have you to suspect that I will offer any manner of grievance to either of the countries, or do any thing that may kindle emulation among them, considering the design I have to see you united in a fast and undissolvable amity."

A very keen and animated debate took place between the Commissioners of the two nations upon the question, whether Scottish subjects should be eligible to offices of dignity and responsibility in England, and English subjects promoted to the same situations in Scotland. "I omit here," says Craig, in his fourth chapter, "to reply to those who are indignant at us for having passed over, or at least too lightly considered that particular provision by which the subjects of Scotland are prohibited from aspiring to judicial situations and dignities in England. \* \* Who assert that this question ought either to have been passed over altogether, or that the road to official dignities ought to have been left equally open to the subjects of both nations ; yet I assure them, had they who are of this opinion been present at our conference, and listened to that most keen and animated debate, or, let me rather call it, dispute, which occurred upon this very point, in which the question occurred, whether this condition of inequality should be agreed to, or the conference broke up ; they would, upon this subject, cease to wonder themselves, or to crimi-

nate the conduct of others \*." The truth is, that an immediate and mutual communication of offices and dignities amongst the subjects of the two nations would have been a measure premature in a high degree, subversive in either country of its peculiar system of law, and betraying a carelessness for the best interests of both. Upon this subject, the Commissioners therefore came to the resolutions, that Scottish judicial situations should not be open to English, nor English judicial dignities to Scottish subjects, until a sufficient interval of time had elapsed, in which the individuals of the two countries might become acquainted with the laws of both realms. That this disqualification should be felt by those only who had been born previous to the death of Queen Elizabeth, and that all persons, in either country, who had been born, or are to be born, after the succession of King James, should be eligible to judicial situations and other official dignities equally in Scotland and in England, reserving the nomination to

\* De Unione, p. 65. MS. in Advocates' Library.



these as an integral part of the King's prerogative\*.

This Treatise of Craig, upon the Union of the kingdoms, written, like all his other works, in Latin, has never been published; although, in point of matter and style, in the importance of the subject to which it relates, the variety of historical illustrations, the sagacity of the political remarks, and the insight into the mutual interests of the two countries which it exhibits, it perhaps deserves to rank the highest of all his works †. In his first chapter, the author undertakes to prove, that, in the history of Britain, the source of our greatest national calamities is to be found in the

\* De Unione, cap. iv. p. 67.

† A beautiful MS. of the Treatise on the Union, written in January, 1690, is preserved in the Library of the Faculty of Advocates. It is marked A. 2. 12. is a small folio, consisting of 264 pages. On the last page is the following inscription:

“ Hunc libellum propria manu corraxit et multis in locis supplevit ex Autographo et exemplari MS. Christofori Irvini, M.D. cujus autor est D. Thomas Craig, Advocatus, qui ipse Unioni interfuit, quod mihi legenti patet, p. 138. W.A.I.C.

divisions of the kingdom under a variety of different rulers. He proceeds to show, that of all forms of government the monarchical is the best adapted to the circumstances and situation of Great Britain, and that the most able and popular sovereigns who have reigned in England, have most anxiously desired and earnestly attempted to accomplish a union of the kingdoms. This forms a proper introduction to a more full detail of the proposal of his sovereign, James the VI., for a union of his two kingdoms, and a narrative of the proceedings of the Commissioners in the convention held at Westminster in the year 1604. The author then enters upon the more difficult and interesting part of his subject; the discussion of the question as to the political requisites for a union between two kingdoms. “*Ex duorum gravissimorum scriptorum auctoritatibus, (says he) ad perfectam et consummatam unionem, hæc octo requiruntur, idem in religione consensus, legum, morum, et linguæ consonantia, æqualitas in omnibus, iidem magistratus et unum perpetuum consilium, eadem*

etiam disciplina, iidem nummi, eadem pondera et mensuræ, et super omnia idem nomen \*.”

The consideration of these different subjects, as illustrative of the political situation of the two countries, and the state of public opinion, is highly interesting. Upon the head of religion, the author describes, in strong language, the determined spirit of disunion and hostility which subsisted between the two kingdoms during that period in which they professed a different religious faith, contrasting it with the peace which followed the adoption of the same religion by the people of both countries. “ Immo ipse cum juvenis in Gallia essem, proverbii loco usurpatum audivi, cum quid nunquam futurum vellent innuere, eventurum illud dicerent, cum pax inter Scotos et Anglos convenerit, nempe ad Græcas (ut aiunt) calendas. Invaluit enim hæc apud omnes gentes opinio, fieri quidem posse ut induciæ inter eas gentes convenirent, sed pax certa nunquam; at postquam a quinquaginta annis uterque populus in veram pietatem consenserat,

\* MS. De Unione, cap. v. p. 72.

et eam publice profiteri cæperat, in nulla ulla hominum memoria, tam longa, tam continua pax sine interruptione lecta est, adeo hominum animos, relligionis et pietatis consensus, ad se trahit et astringit \*.

Craig proceeds to remark, that, in the form of religious worship pursued in the two countries, there existed some slight differences; and, in his observations, appears to consider them as too trivial to affect, in any serious degree, the peace and unity of the church, or the permanent tranquillity of the kingdoms. Observations which would have been given in a more cautious style, could he have even faintly conceived the violent commotions which this apparently trivial discrepancy was eventually to create within the kingdom, or have anticipated the bloody struggles which power, stretched till it became inquisitorial, and zeal inflamed till it burned into fanaticism, were at no distant period to occasion in his own country. But Craig, we have already seen, from the principles he had laid

\* MS. de Unione, p. 297.

down in the Treatise on the Succession, was an advocate for the doctrine of passive obedience, and inclined to support, to a high extent, the authority of the crown. The idea that the sovereign might so abuse his prerogative as to render resistance imperative, he appears wisely to have dismissed from his mind as an extreme and unimaginable case. Perhaps, too, his quiet and benevolent mind could hardly conceive, that there lurked within the hearts of some of the higher classes in the nation, that determined spirit of persecution, which, for a time, may intimidate, but will never subdue, the courage of a free people, or that there slept within the bosoms of the rude peasantry whom they despised, a resolute courage which, although often exasperated into rash and ill-directed measures, and stained with cruelty and crime, finally proved equal to the preservation of the national church.

Sir Thomas Craig, in his learned work upon the feudal law, and the subsequent treatises which he has written on the succession to the throne, and on the Union, may perhaps be thought not sufficiently national. In his eagerness to pro-

mote this union of the kingdoms, he has certainly delivered opinions as to the similarity of the laws of the rival countries, and expressed ideas on the subject of their amalgamation and incorporation into one code, which, to strictly orthodox Scotsmen, may not be altogether agreeable. The best excuse for this is to be found in that miserable state of anarchy, and political disorder to which their ancient rivalry had reduced both countries, and the earnest wish of the author to pave the way by his writings for the re-establishment of peace and good order in the land. But Craig was a Scotsman at his heart, and as ardent in resistance to any attack upon the true honour and the real independence of his country, as the hardiest and most national of her children\*. Such an attack had been made in the English Chronicles published in 1577, under the name of Ralph Holinshed, in which it was asserted that the superiority of the whole kingdom of Scotland was vested in the monarchs of England. This was an aspersion not easily to be forgiven.

\* Nicolson's English History Library, p. 71.

It was a blow at the ancient independence of his national throne, and it regarded that subject of feudal homage which Craig, from his long practice and able writings, might without arrogance conceive himself peculiarly called upon to repel. Although therefore scarcely breathed from his Dissertation upon the Union, he did not delay the contest, but, drawing amply upon his antiquarian and historical knowledge, and sharpening his legal weapons, he came forward with his confutation of Holinshed and the other English Chroniclers, in his "Treatise de Hominio; the last work which he presented to his country. Craig, according to the account given in the first chapter of this work, had been induced by his researches into the feudal customs of his country, and his ideas regarding the common origin of the laws of both nations, to institute some inquiries into the history and jurisprudence of England. This led to the perusal of Holinshed's Chronicle, in which he met with that passage\* regarding the homage of Scotland to the English

\* Book I. c. 22.

crowns, which roused his patriotic bile. "Id cum a capite ad calcem solícite perlegissem, tacite meum jecur urere bilis, ut ait Horatius, vereque mihi accidit, quod Holinshedus futurum divinabit. Nihil enim, ait ille, acerbius objici posse, aut quod iniquiore animo ferat, quam si quis asserat Scotiam feudum esse clientelare sive ligium Angliæ; Regem Scotorum eo nomine Hominium Anglo ceu domino suo superiori debere. Et hactenus recte Holinshedius. Quid enim viris bonis odiosius esse debet, aut ob quod magis stomachentur, quam si immerentibus servitii nota innotantur \*?"

The author, after remarking the negligence of his countrymen, in silently suffering such a calumny to be sent abroad, or carelessly despising it as the natural infirmity of the historian in his desire to eulogise his own country, and to under-rate a rival nation, declares that he himself would probably have imitated their conduct, had he not found that Bodinus, in his "Book de Republica," and Bernard Gerard, in his history of France, had

\* MS. De Hominio.



copied the error, and actually represented Scotland as the fief of England. This calumnious representation of Holinshed was therefore gaining ground upon the Continent, and it was time to show to the world the truth, and with a firm hand to arrest the future career of error. "Itaque," says Craig, "ne ex hac taciturnitate latius malum serperet, statui crescenti huic morbo, salutari aliquo antidoto occurrere, remque omnem controversam, diligenter et per singula excutere \*." In this work of Craig's, to use the words of the learned Bishop of Carlyle †, "The author proves, that homage and liege fees were not known in this part of the world before the days of Charles the Great. Nor was there a king of England big enough to demand any such thing before Egbert. The testimonies which our historians give of the matter ought (he thinks) to be rejected, as being monkish, domestic, and partial. Having abundantly shown that the realm of Scotland could not possibly be a fee held in vas-

\* MS. De Hominio, p. 3.

† Nicolson's Scottish Historical Library, p. 104. Folio Edit.

salage under England, because of the constant enmity of the two nations, the rest of his pains (in convincing us that neither the ancient Britons, Saxons, or Normans, were ever such superior Lords of that kingdom,) might have been spared: But it must be acknowledged that he is learned even in his arguments against Brutus and Clotenius, and that his weapons are solid and substantial where he fights only with shadows and hobgoblins. He is every where much too hard for his adversary the English historian, whom he treats a little scurvily for daring to meddle with the nature of tenures and the feudal law, things so very much out of his road, and so far above his reach. He should, however, have taken notice, that the first book of the description of Britain; to the 23d chapter, whereof his book is intended as an answer; was written by W. Harrison, Chaplain to my Lord Gobham, and not by Ralph Holinshed; and therefore the latter ought not to have been chastised at such an unmerciful rate for the blunders of his friend."

If this treatise was written, which seems very probable, immediately after Craig's return from

his mission to England on the affairs of the Union, it would seem that his intercourse with the English Commissioners, and that illiberal contempt for the rights of the Scottish people which had been betrayed in some of their discussions, had roused the national spirit of the author. In the concluding sentence of the last chapter \*, after remarking in strong and energetic latinity, the frequent errors of the English historian, and the conceited spirit in which the whole work is written, he finishes with an argument to prove, that if the English affected to despise the people of Scotland, they must necessarily entertain a very low opinion of their own prowess and glory. "Since," says he, "despicable, vile, needy, and even barbarous, as you foolishly may call us; your utmost efforts have failed either to expel us from our country, or to reduce us to your subjection. To you we are ready to allow wealth, honour, and national resources—but if you speak of the antiquity of your kingdom or people, in these we will yield neither to you nor to any na-

\* MS. De Hominio, p. 290.

tion in Europe. On your side there are riches, which you employ to collect a regular soldiery, who serve for pay ; you are formidable in fleets, in engines of war, above all, in your attention to military discipline. Upon our part, there are either few or no resources to raise soldiers—there is no public armoury—we have no engines of war,—and are far inferior in numbers. We possess no fleet, no fortified towns, and scarce a castle that is safe from the assault of the enemy. Last of all, and it is this which has chiefly weakened us, we are totally defective in military discipline. Ill indeed had it been for this our nation, if unless such and so great defects had been compensated by some powerful substitute. What this is I will leave you to judge from the following anecdote : “ Eumenes, that brave king, when his affairs were reduced to so desperate a condition that he possessed nothing which he dared to call his own but the castle in which he was besieged, was reduced at last to treat of peace with Antigonus, who might then certainly have conceived himself his superior both in power and in dignity. But what was the sentiment of Eu-

menes?—"Never," said he, "will I acknowledge any man for my superior, while I have strength to hold this drawn sword in my hand."

This work of Craig's was never printed in the original, for which probably no better reason can be given than that assigned by his biographer Baillie: "*Quod autem hec scriptum in apricam non prodierit, vix alia ratio reddi potest, quam quod quorundam animos metus teneret, ne vetusta inter duas gentes odia, quae placida jam unius Principis dominatione consopita videbantur, hoc pacto recrudescerent, et in novos forsan motus erumperent* \*."

After many years, however, Mr. Rymer, the learned compiler of the *Fœdera*, in an unlucky moment, revived the controversy, by the publication of what he unadvisedly called a Form of Homage for the kingdom of Scotland, and the adjacent isles, performed by Malcolm the III. to Edward the Confessor. This occasioned a trans-

\* *Craigii vita*, p. 17. The MS. of this work of Craig's is preserved in the Advocates' Library. It is a large folio volume, marked A 3. 5. and contains 297 pages. The treatise is divided into thirty-four chapters.

lation of the work of Craig, which had now remained in manuscript for nearly a century, by Mr. George Ridpath, who, in his preface, has exposed this pretended ancient instrument, and pointed out in its style, form, and dates, many convincing marks of forgery. Ridpath published his work in London in the year 1695, under the title of *Scotland's Sovereignty Asserted, or a Dispute Concerning Homage* \*.

The controversy, which originated in the work of Holinshed, and which had been, as far as learning and sound argument could settle the truth, satisfactorily concluded by the original Latin work of Craig, was revived, as we have seen, by Rymer; to him replied Ridpath, who, wielding the same weapons which had been so successfully employed by Craig, confuted the historiographer of England, by his translation of the *Treatise on homage*; and to Ridpath, after an interval of nine years, W. Atwood, in 1704, published an elaborate, confident, and tedious reply.

\* Ridpath, *Scotland's Sovereignty Asserted*, Preface, p. 24, 25, 26.

We shall pursue the history of the controversy no farther. The very title of Atwood's work, and enunciation of the various matters to be proved, are sufficient to convince every one, who is even in a slight degree acquainted with the history and antiquities of Scotland, that ignorance and misconception were at the bottom of all the English works on the subject. "Our antiquarians, (says an eminent author,) in speaking of the works of our Scottish antiquaries on this disputed point, wrote at a time when some authors in England, with most preposterous policy, endeavoured to depreciate the Scottish nation, by disputing its ancient independancy." At the beginning of this century, an Englishman who embraced that opinion, might have passed for a learned and public-spirited person, for easy is the fame of public spirit and learning amid the tumults of party ignorance; but now his lucubrations would hardly be admitted into the worst corner of a newspaper\*.

\* Hailes' Annals, Appendix, vol. i. No. 1. p. 383. Edin. 1819.

The Treatise on Homage appears to have been written in the end of the year 1604, and an event happened about the same time, which marks the high professional rank to which his acknowledged legal talents had raised its author.

An inconvenience had arisen in those early times which is still experienced in our courts. The lieges, although then equally distinguished by that spirit of litigation which they have transmitted to their descendants, were, from their poverty, less able to retain, as is now generally done, both a senior and a junior counsel. They were accustomed, in most cases, to employ only a single advocate; and the consequence of this must have been a frequent and vexatious interference of the Outer-House causes with the business of the Inner Division of the Court. A partial remedy was provided by an act of sederunt of the 11th of January, 1604, in which it is appointed by the Lords that “y<sup>r</sup> sall be 15 advocats nominat who sall be for the Inner-House.” The names then follow of those who



are thus appointed lawyers for the Inner-House\*. The two first in this nomination are Mr. John Sharp and Mr. Thomas Craig; and it may be fairly conjectured, from the precedency thus given to them, that these two eminent persons were, at this time, considered to be at the head of their profession. It is added to this nomination, that "whatever client shall have occasion to employ any of these in any cause to be decided in the Utter-hous, the same client is hereby will-ed and advysed to provide himself of (with) any other advocats not being of the number. That in case the time of the calling of his matter, the

\* The names of quhilk 15 advocats appointed for the Innerhous follows:—

Mr. John Sharp	Mr. Robert Lintoun
Mr. Thomas Craig	Mr. Richard Spence
Mr. William Oliphant	Mr. Henry Balfour
Mr. John Nicolson	Mr. John Dempster
Mr. Alexander King	Mr. Oliver Colt
Mr. John Russel	Mr. Robert Lermount
Mr. Thomas Henderson	Mr. Laurence M <sup>c</sup> Gill
Mr. James Dodson	

principal be in the Inner-hows, yet nevertheless the other may be ready to dispute the samin before the ordinar in the Outer-hows \*."

In the course of the next year, another honour was paid by the Judges who then formed the Court to Craig's abilities and experience. In that year, a letter was presented from the king, containing directions regarding the mode to be followed in future in supplying vacancies amongst the Lords of Session. It is declared, that no person is to be admitted to this high office unless he be of the quality and condition following:—  
“ That he be one of the auncient, wise, and learned advocats, who hes given best proof of their wisdom, learning, honesty, and good behaviour in exercise of their office of procuration ; for whilk causes, the letter continues to state, the Lordes of Session sall have enacted by their own election, and inrolled in their books the number of six of the advocats who sall be thought qua-

† Pitmedden MS. Adv. Library, sub anno 1604. 11th January.

lified most expedient and worthy to supply any place which may happen to vaick \*."

In consequence of this letter, the Lords proceeded to pass an act, instituting a certain form of trial to be undergone previous to election, and also nominating the six lawyers, who, in the event of any seat being vacated, were, in their opinion, the best fitted to fill that situation. Of these, the two first are, as in the former case, Mr. John Sharp, and Mr. Thomas Craig. The remaining four are, William Oliphant, Mr. Alexander King, Mr. John Arthur, and Mr. Thomas Henderson. They are declared, in the homely but expressive language of the act, to be "persons whose erudition, good conversation, and sufficiency of good qualifications, being worthy of the said calling, renders every one of them capable of the samin."

The Treatise on Homage was the last work of this laborious and learned man, and these the last honours which were paid to him by his country and his profession.

\* Pitmedden MS. sub anno 1605. Ult. Maii.

In the year 1607, the plague visited Edinburgh, and caused a temporary interruption of the sittings of the session\*. Whether Craig had fallen a victim to its ravages, or was carried off by some more ordinary complaint, we have no certain information; but it is certain that he died on the 26th of February, 1608, in his 70th year, if we have rightly fixed the date of his birth †.

The character of Sir Thomas Craig, is, I trust, already sufficiently understood, from the full account which has been given of his various writings, both legal, political, and poetical. His life, in a period full of change, and peculiarly distinguished by faction and intrigue, was not eventful, chiefly because it was virtuous and consistent—virtuous, in his piety to God

\* Pitmedden MS. November, 1607. "The session stopt throw the pest."

† Pitmedden MS. 26th Feb. 1608. "The famous Mr. Thomas Craige dyed. This is he who is the author of the learned Book *Dé Feudis*, publisht since his deceas, in 1655, and of a MS. in the College of Edinburgh, written against Doleman the Jesuit, concerning King James's title to the crown of England, which is so full of learning, that its a pity it should not see light."

and zealous attachment to the reformed religion—consistent in his unchanging loyalty to the throne. We cannot deny that he has, in some places of his writings, pushed his political doctrines too far ; but he is at least conscientiously wrong, nor is he ever compelled to retract his principles, because, like some of his more ambitious and less scrupulous brethren of that day, he had found it convenient to change his party. Of studious and retired habits, and little known at Court, he was yet esteemed and distinguished by his sovereign ; and although he repeatedly declined the honour of knighthood, which he probably considered had been at this period made too common a distinction, yet James, unable to persuade him into a formal acceptance, commanded, that hereafter every one should give him the title\*.

The father of this eminent man had been educated in the Roman Catholic religion. His son, whose studies, after his return from France, were, as we have seen, superintended by Mr.

\* Ridpath, preface, p. 32.

**John Craig, one of the most eminent of the reformists, appears early and zealously to have embraced the reformed opinions. The old man continued in the faith of the church of Rome till a late period of his life; but, as we are informed by his biographer Baillie \*, being at length converted by the unanswerable reasons, which were incessantly, though reverentially, urged by his son; he became, to his great joy, a convert to the true religion †.**

\* Baillie, p. 17. "Verum cum vir modestissimus, utpote qui non splendor istos et inanes sæpe titulos, sed verum illud quod in sola virtute positum est decus appeteret, nunquam ut eum honorem agnosceret adduci posset; Rex, quod proximum erat, omnibus præcepit, ut Cragium Equitis nomine ubique salutarent."

† Baillie, p. 17. Craig's last will and testament, which, unfortunately, cannot now be discovered, had evidently been seen and perused by Baillie †. It was dated

<sup>1</sup> Ridpath, p. 33. "Quanto autem studio et affectu Religionem Reformatam amplecteretur, tabulis suis testamentariis, anno MDXCI. septemdecim ante ipsius mortem annis confectis, insigniter declaravit. In iis enim sancte protestatur, se ut in ea religione hactenus vixerit, ita in eadem, tanquam unica vera et incorrupta a Christo servatore nobis tradita doctrina, ad extremum vitæ halitum perseveraturum."—*Baillie*, p. 17.

Craig's religion was truly practical. To those who were in distress or in poverty, he communicated generously out of the fortune which his talents had acquired\*. He was easy of access. Even where he was not able to relieve he could yet always listen, and, by the benevolence and gentleness of his manner, evince that sympathy which lightens the load of dependence. He kept, we are told, a public table, which was frequented, not only by those amongst his friends most distinguished for their learning and virtue,

in the year 1591, seventeen years before his death, and it contains, says that author, the strongest protestations of his belief in the reformed religion, as the only true faith, most consonant to the purity of the worship delivered to us by our Saviour, and that in which he was resolved to die. In the same deed, says Ridpath<sup>1</sup>, the translator of his book on Homage, "After a very serious strain of practical devotion, and provision made for his lady, Helen Heriot, a daughter of Trabrown in East Lothian, he gave strict injunctions to his eldest son, Lewis, that as he would inherit the blessing of God and his father, he would take a fatherly care of the rest of his brethren."—*Baillie*, p. 18.

\* *Baillie*, p. 18.

<sup>1</sup> Preface, p. 33.

but which, in a spirit of more disinterested hospitality, was open to all those who had fallen undeservedly from better fortunes.

One remarkable feature in his character has not yet been noticed; I mean his uncommon power of application, and rapidity of composition. An attention to the dates of his various works, as they have been formerly noticed, will place this observation in the clearest light. The Treatise on the Feudal Law was finished in the year 1603. The Dissertation, *De Hominio*, commences in the following manner: "*Aggressus sum ante biennium, Tractatum de Usibus feudorum* \*." The intermediate works, therefore, that on the Succession, and the Treatise on the Union, were probably both written in this interval. If we recollect the abstruse nature of these compositions, and consider that their author possessed the character of one of the ablest practising lawyers of his time; that he found leisure also to court the muses, and to keep up a literary correspondence with the most learned

\* MS. Treatise *De Hominio* in Advocates' Library, p. 1.



men of his age\*, we shall be enabled to form some idea of his powers of intellectual exertion. Of the facility with which he could draw upon the rich and varied stores of his understanding, either for the most recondite speculations, or the most polished productions of the fancy.

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It remains only to say a few words regarding the descendants of this eminent man. The information contained in the short Latin life by Baillie, and in a pedigree of the family, politely communicated to me by one of these descendants, James Gibson Craig, Esq. of Ingliston and Riccarton, enables me to be pretty accurate upon this subject.

\* Baillie, *vita*, p. 1. Amongst these one of the most illustrious was Camden, the author of the *Britannia*. Unfortunately none of these letters have been preserved, and indeed none of the legal or literary manuscripts or papers of Craig are to be found in the hands of his descendants. This was the more to be regretted, as I received the obliging assurance that, had any such materials existed, they would have been readily communicated.

Sir Thomas Craig, as we have seen, married Helen Heriot, daughter of the Laird of Tra-brown in Haddingtonshire \*. By this lady he had four sons and three daughters.

The eldest son, Sir Lewis, was, as we have already mentioned, raised to the Bench, in the lifetime of his father, at the age of thirty-four, by the title of Lord Wrightshouses †.

Sir Lewis, according to Baillie, had an only son, Thomas, and three daughters ‡. This Thomas, the grandson of Sir Thomas Craig, married Margaret Cranstoun, grand-daughter of William the first, and sister of William the third Lord Cranstoun §, by whom he had one son, Lewis, and six daughters ¶.

\* See Appendix, No IV.

† Baillie, vita, p. 18. See supra, p. 148.

‡ Anna, Janet, and Elizabeth. The first married James Murray, younger of Philiphaugh; the second married James Pringle, Esq. of Torwoodlee, the marriage contract being dated December 12, 1628; the third, Elizabeth, married Alexander Brodie, Esq. of Lethen, Brodie's contract being dated May 8, and June 9, 1653.

§ Baillie, vita, p. 19.

¶ Helen, Janet, Margaret, Anne, Maria, and Sarah. The first, Helen, married 7th January, 1671, Thomas

His son Lewis, the great grandson of our Sir Thomas, married Margaret Dalgleish, daughter of Robert Dalgleish of Lauriston, by whom he had five sons and four daughters\*. The eldest son Thomas died in the month of January, 1681, leaving an only daughter, who married the Honourable William Carmichael of Skirling, advocate, son of the first Earl of Hyndford, to whom she bore two sons and two daughters. The second son Robert, also an advocate, suc-

Lermont, advocate; the second, Janet, married 6th March, 1666, William Borthwick of Crookston; the third, Margaret, married 2d November, 1660, William Calderwood, minister of Dalkeith; the fourth, Anne, married 18th August, 1680, George Monteith, merchant in Edinburgh; the fifth, Mary, married 15th August, 1689, James Don of Smailholm; and the sixth, Sarah, became, on 15th April, 1681, the wife of James Chancellor of Shieldhill.

\* Joanna, Elizabeth, Helen, and Margaret. In the family tree, however, I find another daughter Anne not mentioned by Baillie, who was born 14th April, 1676, and died at the age of four, in the year 1680. Of these ladies, Joanna married George Denniston, merchant in Dublin. Elizabeth, on the 3d of December, 1687, became the wife of Sir John Gibson of Addiston. Helen married Alexander Brand of Redhall, and Margaret John Falconer, advocate.

ceeded his brother Thomas in the estate of Riccarton, but died unmarried †. So also died the third son John, an officer in the army. The fourth son, James Craig, having embraced his hereditary profession of the law, became an advocate in the year 1692, and was afterwards chosen professor of the civil law in the University of Edinburgh, a situation which he filled in a manner not unworthy of his celebrated ancestor. He died on the 14th of August 1732. Professor James Craig was twice married. By his first wife, Marion Fraser, daughter of Alexander Fraser of Strichen, he had an only daughter, Elizabeth, who died in infancy. His second wife was Christian Dundas, daughter of Robert Dundas of Arniston, one of the senators of the College of Justice, by whom he had two sons, Thomas Craig of Riccarton, who died unmarried on the 22d of January 1814; and Robert Craig, advocate, one of the judges of the Commissary Court, who died

† Robert Craig passed advocate in the year 1692, and died on the 27th January 1748.

unmarried on the 13th March, 1823, at the advanced age of ninety-three; one hundred and forty-two years having elapsed between the time of his full uncle Thomas having succeeded to the estate and his death.

By the same lady, Professor James Craig had two daughters, who died in infancy. The fifth son of Lewis Craig, William Craig, became a merchant in London, and died without issue.

Such is the account of the direct line of the family of Craig of Riccarton, descending from the oldest son of the feudalist. To return to the other children of Sir Thomas. His second son, James Craig of Castle-Craig and Craigston, was killed in making a gallant resistance to the rebels during the civil wars in Ireland, in the year 1641, and died unmarried, leaving his property to his younger brother, John Craig, third son of Sir Thomas, physician in ordinary to James the VI., and principal physician to Charles the I., whom I have already mentioned as a man of distinguished talents in his profession, a profound mathematician, and a correspondent and oppon-

ent of the famous Tycho Brahe\*. Of the daughters of Sir Thomas Craig, the eldest, Margaret, was married to that eminent lawyer, Sir Alexander Gibson of Durie, Senator of the College of Justice†. Of the Lord Durie, the following character is given by Forbes in the preface to his Journal of the Session.

“ He was a man of a penetrating wit and clear judgment, polished and improved by much study and exercise: For the prefacer to his father-in-law’s book *de Feudis*, says, That he having for many years often occasion to wait upon the Lord Durie, he found him always diligently turning

\* Supra, p. 245, 246. Gassendi Vita Tych. Brahei, p. 154. 240.

† The marriage contract is in the possession of the descendant of this marriage, James Gibson Craig, Esq. of Riccarton. It appears to have been signed on the 17th December, 1595, and contains the signature of Sir Thomas Craig, and Alexander Gibson, Lord Durie. It is a curious fact, that this date is only ascertained by the signature of a notary, who guided the hand of Elizabeth Airth, the mother of Lord Durie, she not being able to write. The date is blank *in gremio* of the deed—a strange omission to be made under the eyes of Sir Thomas Craig and Lord Durie.

over the books and doctors of the civil law, and probably running the parallel betwixt that and the Laws of Scotland, which he perfectly understood. We may frame a rational conjecture of his great learning and parts, not only from his Collection of the Decisions of the Session from July 1621 till July 1642; but also from the following circumstances: 1. In a tract of more than twenty years, he was frequently chosen vice-president, and no other lord in that time. 2. 'Tis commonly reported, that some party in a considerable action before the session, finding that the Lord Durie could not be persuaded to think his plea good, fell upon a stratagem to prevent the influence and weight that his lordship might have to his prejudice; By causing some strong masked men kidnap him in the Links of Leith at his diversion on a Saturday afternoon, and transport him to some blind and obscure room in the country, where he was detained captive, without the benefit of day-light, a matter of three months, (though otherways civilly and well entertained;) during which time his lady and children went in mourning for him as dead. But

after the cause aforesaid was decided, the Lord Durie was carried back by incognitos, and dropt in the same place where he had been taken up \*."

\* "Alexander Gibson, afterwards Sir Alexander Gibson, Lord Durie, was only son to George Gibson, one of the two clerks of Session at the institution of the College of Justice, and Elizabeth Airth, daughter to Airth of that ilk, whose son's great grandchild, Alexander Gibson of Durie, enjoys the office at this day. He studied law at home. December 14, 1594, he was assumed a third clerk of the session, and July 10, 1621, advanced to the station of an ordinary Lord thereof, vacant by the death of Sir Gideon Murray of Elibank. Alexander Gibson, his eldest son, was preferred to the office of Clerk Register, November 1, 1641; and to that of an ordinary Lord of Session, July 2, 1646. Both which characters he bore till June 1, 1649. Sir John Gibson of Pentland, one of the clerks of session, was the Lord Durie's second son, and Mr. George Gibson of Balhousie, clerk of the bills, his third son. Elizabeth Gibson, his eldest daughter, was bestowed in marriage upon Murray of Polmais, and Margaret, the second, given to Fotheringham of Powrie. Sir Alexander Gibson, Lord Durie, died at his own house of Durie, in July, 1646. Forbes's Preface to his Journal of the Session, p. 28. In the Appendix to this work, No. II. I have inserted a passage from the books of Adjournal, which throws some additional light on the carrying off of the Lord Durie.



The second daughter of Sir Thomas, Elizabeth Craig, married James Johnston of Warriston\*, by whom she had a son, the celebrated Sir James Johnston of Warriston, one of the senators of the College of Justice; and for a long time the leader of the Presbyterian party in Scotland. His character is thus given by his nephew, Bishop Burnet.

“ Warriston was my own uncle. He was a man of great application, could seldom sleep above three hours in the twenty-four. He had studied the law carefully, and had a great quickness of thought, with an extraordinary memory. He went into very high notions of lengthened devotions, in which he continued many hours a-day. He would often pray in his family two hours at a time, and had an unexhausted copiousness that way. What thought soever struck his fancy during those effusions, he looked on it as an answer of prayer, and was wholly determined by it. He looked on the covenant as the setting Christ on his throne, and so was out of measure zealous

\* Hailes's Catalogue, p. 19.

in it. He had no regard to the raising himself or his family, though he had thirteen children. But Presbytery was to him more than all the world. He had a readiness and vehemence of speaking that made him very considerable in public assemblies. And he had a fruitful invention; so that he was at all times furnished with expedients."

Rachel Johnston, a daughter of Elizabeth Craig, by the same marriage, espoused Robert Burnet, then an advocate, an intimate friend of the famous Grotius, and afterwards raised to a seat in the session by the title of Lord Crimond\*. It is to the care of the Lord Crimond that we are indebted for the first edition of Craig's work upon the Feudal Law, to which he subjoined an excellent Latin Preface †. The

\* Hailes's Catalogue, p. 22.

† Supra, p. 159. The character of Lord Crimond is thus drawn by Thomas Burnet, son of the Bishop of Salisbury, in the Life which he has written of his Father, prefixed to his "History of his own Times." "He was bred to the civil law, which he studied for seven years in France. His excessive modesty so far depressed his

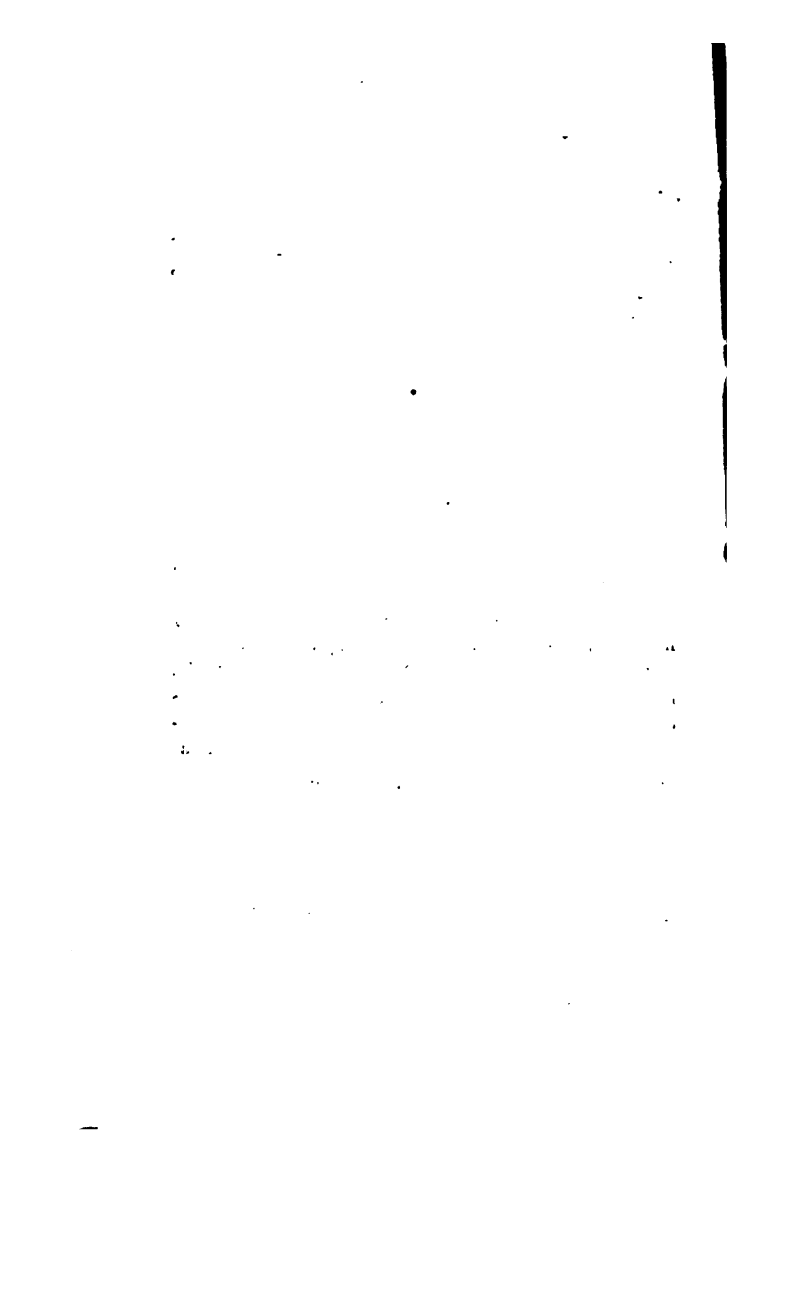
well known and celebrated Dr. Gilbert Burnet, Bishop of Salisbury, the historian of the Reform-

abilities, that he never made a shining figure at the bar, though he was universally esteemed to be a man of judgment and knowledge in his profession. He was remarkably generous in his practice, never taking a fee from the poor, nor from a clergyman, when he sued in the right of his church ; and bestowing great part of his profits in acts of charity and friendship. In the year 1637, when the troubles in Scotland were breaking out, he was so disgusted at the conduct of the governing bishops there, whom he censured with great freedom, and was, at the same time, so remarkable for his strict and exemplary life, that he was generally called a puritan. But when he saw, that, instead of reforming abuses in the Episcopal order, the order itself was struck at, he adhered to it with great zeal and constancy ; as he did to the rights of the crown, not once complying with that party which afterwards prevailed in both nations. For though he agreed with Barclay and Grotius (with the latter of whom he had been intimately acquainted) as to their notions of resistance where the laws are broken through by a limited sovereign, yet did he not think that was then the case in Scotland. He married the sister of the famous Sir Archibald Johnston, called Lord Warriston, who, during the civil wars, was at the head of the Presbyterian party, and so zealously attached to that interest, that neither friendship nor alliance could dispose him to show favour to those who refused the solemn league and

ation, and the amusing annalist of his own times, was the son of Lord Crimond, by Rachel Johnston, the grand-daughter of Sir Thomas Craig \*.

covenant. Our author's father, persisting in this refusal, was obliged, at three several times, to quit the kingdom; and, when his return was afterwards connived at, as his principles would not permit him to renew the practice of the law, much less to accept the preferments in it offered him by Oliver Cromwell, he retired to his own estate in the country, where he lived till the Restoration, when he was made one of the Lords of the Session. His wife, our author's mother, was very eminent for her piety and virtue, and a warm zealot for the Presbyterian discipline, in which way she had been very strictly educated."

\* The third daughter of Sir Thomas, Janet Craig, married John Belches of Tofts, the ancestor of Belches of Invermay, and by him became the mother of Sir Alexander Belches, advocate, who was promoted to the situation of a Lord of session in the year 1646.



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**APPENDIX.**

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## APPENDIX.

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### No. I.

#### WISHART AND CARDINAL BEATON.

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**I**n a former part of this work, *supra*, p. 89, I alluded to a subject over which there appears to hang a considerable degree of mystery—the part which was borne by a person of the name of Wishart in the conspiracy against the Cardinal Beaton. This person is affirmed by Mackenzie \* and Dempster, to have been George Wishart the martyr; Dempster has added no authorities in support of his opinion, and Mackenzie, although he has quoted, as the ground of his accusation, a letter which, as I shall immediately show, is genuine, has been very brief in the remarks which he has added. The accurate Keith, in his history of Scottish affairs during this period, was unable to discover this document in the repositories alluded to by Mackenzie, and declines to pronounce any

\* Mackenzie's *Life of Beaton*, vol. III. p. 23. Dempster's *Hist. Eccles.* p. 599. 666.



opinion. Dr. Cook, in his History of the Reformation, has examined the subject, but this author does not appear to have been aware of the existence of other documents, which throw important light upon this dark transaction; and has hazarded some assertions in support of the opinion he has pronounced, which are not historically correct. I shall content myself with presenting to the reader the original documents, and stating some new facts upon the subject.

The document first quoted by Mackenzie is a letter from the Earl of Hertford, at this time Lieutenant-General of the north of England, and then resident at Newcastle, to his royal master Henry VIII." It is dated April 17, 1544; and, according to Mackenzie, is to be found, and was seen by him in the Advocates' Library, amongst the state papers of Sir Ralph Saddler. It is as follows:

"This day arrived from Scotland, Mr. Wisheart, who brought me a letter from my Lord Brimston (Brunston) which I send your Highness herewith; and according to his requests, I have taken order of the repair of the said Mr. Wisheart to your Majesty, for the delivery of such letters as he hath to your Majesty from the Lord Brimston, and also for the said declaration of his credence, which, as I can perceive by him, consisteth of two points; one in the Laird of Grange, late treasurer of Scotland, and the Master of Rothes, the Earl of Rothes' eldest son, and John Charters, who would attempt either to apprehend or slay the Cardinal at some time when he should pass through the Fife land, as he doth sundry times to St. Andrew's; and in case they can so apprehend him, will deliver him up to your Majesty; which attempt he, says they, would enterprise, if they knew your Majesty's plea-

sure therein : and what supportation and maintenance your Majesty will minister unto them after the execution of the same, in case they should be pursued afterwards by other enemies."

Dr. Cook, in his *History of the Reformation*, Vol. I. p. 296, expresses great doubts whether such a letter as this ever was written, or such a person as Wishart, mentioned as the agent of the conspiracy, ever came to the Earl of Hertford, or was by him sent to the English court. "The letter, says this historian, which has been considered as establishing the charge against Wishart, is *entitled to no credit*. It was not found by one of our most accurate inquirers into points of history, where the writer who quotes it asserts that it may be seen \* ; and what is completely decisive, it was said to have been written two years before the Cardinal's death, and could therefore have no relation to a conspiracy, which, it is apparent, was not in existence till within a very short time of its being carried into execution."

These observations might have appeared sufficiently satisfactory, had the existence and accuracy of this letter rested solely on the assertion of Mackenzie. But, in the first volume of that valuable collection of State Papers, published by Dr. Samuel Haynes, we find, (p. 32.) the following letter, dated the 26th of April, 1544. It is a direct reply to the above communication from the Earl of Hertford to the king.

\* This is a mistake, as Mackenzie positively says he had seen the letter "in the Lawyers' Library at Edinburgh." Mackenzie's *Lives*, vol. iii. p. 18.

*The Lords of the Council to the Earl of Hertford.*

“ After our moost hartly commendations unto your good Lordship. These shall be to signifye unto youe, that *this bearer, Wishert, which cam from Brounston, hath bene with the King's Majestie, and for his credence declared even the same matiers in substance, whereof your Lordship hath written hither: and hath received for answer touching the state against the Cardinall,* that in case the Lords and gentlemen which he named shall enterprise the same earnestly, and do the best they can to thuttermost of their powers to bring the same to passe indede, and theruppon not being able to contynue longer in Scotlande, shall be enforced to flye into this realme for refuge, his Highness will be contented to accepte them, and relief them as shall apperteyn. And as to their second desyre, to have thentreteynement of a certain nombre of men at his Highness chargs, promysing therefore to covenaut with his Majestie in writing under their seales, to burn and destroy the abbots, bishops, and other kirkmien's lands; his Majestie hath answered that (forasmuch his Highness armye\*, shalbe by the grace of God, entred into Scotlande, and redy to return agayne before his Highnes can sende down to them, and they send agayn and have answer for a conclusion in this matyer) his Highnes thinks the time too short to commune any further in it after this sort: But if they mynde effectually

\* This was the army which embarked in the year 1594, under the command of the Earl of Hertford and the Lord Lisle, with which Sir Ralph Evers co-operated by land.

to burn and destroy, as they have offered, at his Majesties army being in Scotland; and for their true and upright dealings with his Majesty therein, will lay into your Lordship my Lord Lieutenant such hostages as you shall think convenient; his Highness will take order that you my Lord, shall deliver unto them one thousand pounds Sterling for their furnitures in that behalf, which his Majesties pleasure is you shall cause to be paid unto them in case they shall break with you in this matter, and deliver you such hostages as aforesayde. Thus fare your good Lordship right hartely well. From Greenwich, the 26th of April, 1544.

Your good Lordship's assured loving friends,

CHA. SUFFOLK. THO. WESTM.  
STE. WINTON. JOHN GAGE.  
T. CHENE. ANTONY WINGFELD.  
WILLIAM PAGET."

This letter, it will be observed, is marked by Haynes to have been printed from the original, and it is evident that it completely establishes the authenticity of the prior document quoted by Mackenzie. Thus far, therefore, we may consider the fact as proved, that a person of the name of Wishart on the 17th April, 1544, came from the Lord Brimston, or, as it is more accurately written in the letter of the Lords of Council, from Lord Brunstoun, by which, I conjecture, he means the Laird of Brunston, to the Earl of Hertford\*. That he imparted

\* The English diplomatists made sad havoc amongst the Scotch names. In Sadler's State Papers, vol. ii. p. 48. we find Wishart of

to this nobleman the plan of a conspiracy, in which the Laird of Grange, late treasurer, by which he means Sir William Kirkaldy of Grange, and the Master of Rothes, the noted Norman Lealy \*, were principally implicated; and that the conspirators proposed to apprehend or slay the Cardinal in his passing through Fife.

The letter from the Lords of Council to Hertford is equally decisive. It proves that Wishart had been admitted to an interview with the king, in the interval between the 17th April and the 26th; that his Majesty had courteously received him, and had encouraged the conspiracy "touching the feate against the Cardinal;" that he had engaged them by the promises of rewards and protection, "to enterprise the same earnestly, and do the best they can to thuttermost of their powers to bring the same to passe indede;" and that the same Wishart was made the bearer of the answer of the Lords of Council to the Earl of Hertford.

The assertion, therefore, of Dr. Cook, that this letter deserves no credit, because it is said to have been written two years, (it was little more than one year †,) before the death of the Cardinal, at which time, as he erroneously assumes, there was no conspiracy on foot against Beaton, is destroyed by the fact proved in the letter from the Lords of Council to the Earl of Hertford, that, in the month of April, 1544, a conspiracy

Pittarrow styled "Lorde of Patarrow;" and in the present case we find Crichton, Laird of Brunston, transmuted into my Lord Brimston, a very appropriate and ominous name for a conspirator.

\* Maitland's History of Scotland, vol. ii. p. 861. Spottiswoode, p. 82.

† Beaton's death took place on the 29th of May, 1545.

against that Primate actually existed \*, and that a person of the name of Wishart was the secret agent of the conspirators.

This fact being proved—it remains to be discovered who Wishart was. I apprehend the internal evidence is very strong that he must either have been Wishart of Pitarrow, or his brother, George Wishart the Martyr. We know that Wishart came into England from his travels abroad, in the year 1543; that, after remaining for some time a student at the University of Cambridge, he returned to Scotland, his native country, in the year 1544, in company with the Scottish Commissioners, Sir James Lermont, Mr. Henry Balnevis, the Earl of Glencairn, and Sir George Douglas †; that he was a sincere and determined enemy to the then established religion; and that the design which he boldly avowed, was to “promote the truth in his own country,”—a design which, with great talents, courage, and diligence, he continued to prosecute till his death. Hence arose a decided enmity between him and the Cardinal Beaton—and a strict league, connected by mutual faith and mutual danger, between the future martyr and that part of the noblemen and gentry of Scotland who supported the Reformation, and were enemies to Beaton. We know, for certain, that one of Wishart’s great friends and protectors was Crichton, the Laird of Brunston ‡. And, in addition to this coincidence, there is a circumstance to be mentioned regard-

\* See Sir R. Sadler’s State Papers, vol. I. p. 104, 350, for further evidence of the conspiracies against the Cardinal, set on foot by Henry VIII.

† Spottiswoode’s History, p. 76. Knox’s History, p. 38, 47.

‡ Spottiswoode, p. 78. Knox, p. 54, 55.

ing the sacking and burning of the town of Haddington, in the year 1544, which appears to me to be of very material importance. It is established by an original letter, published in Haynes's State Papers \*, written by Sir Ralph Evre to the Earl of Hertford, and dated the 14th of April, 1544; that Evre was to co-operate with the Earl of Hertford's invasion of Scotland †, to advance with an army and burn the town of Haddington at the time that Hertford landed with his forces at Leith. Hertford accordingly landed at Leith on the 3d of May, 1544, and Sir Ralph Evre co-operating with him, according to the design, destroyed and burnt Haddington. Now, neither Spottiswoode ‡ nor Knox § mention the exact date of Wishart's celebrated sermon, which he delivered at Haddington; but they both agree, that in his address to the people there, he foretold, "that strangers should possess their houses, and chase them from their habitations," which, adds Spottiswoode, "came shortly to passe."

Knox is still more particular than Spottiswoode. He gives Wishart's own words: "Yea, thou Hadington in special. Straungers shal possesse thee; and you, the present inhabitants, shall either in bondage serve your enemies, or else ye shall be chased from your own habitations ¶."

\* Vol. i. p. 26.

† Keith's History, p. 46.

‡ Spottiswoode, p. 78.

§ History, p. 53.

¶ This passage is taken from the most ancient edition of Knox's History in 8vo. On the margin opposite the passage is written in an old hand—"Wichartes prophecy—ainst Hading— for contempt— ye gospel."—Part of the words of the sentence has been shorn away by the binder. I have also compared the same sentence with an ancient and valuable M.S. of Knox's History in the library of Dr. Irving, the erudite biographer of Buchanan, and find it exactly the same as in the first printed edition.

In the year 1544, we know of no other invasion and burning of Haddington than this of Sir Ralph Evre's; and it may, I think, be fairly gathered from these facts, that Wishart's sermon was preached some little time before Sir Ralph Evre's inroad; and that the Martyr appears to have been acquainted with the designs of Evre's and Hertford. When we come to combine these circumstances, and to weigh them attentively—the coincidence of dates—the similarity of name and of principles—the exact tallying of mutual friendship and party interests—and the striking fact, that a secret enterprise, which must have been familiar to this messenger Wishart, was known to George Wishart the Martyr, published by him to the multitude in his sermon at Haddington, and regarded by them and by Knox as a proof that he possessed prophetic powers, it is difficult, I think, to resist the conviction, that this secret agent of the conspiracy against the Cardinal; which was hatched by the Laird of Brunston, Sir William Kircaldy of Grange, Norman Lealy, and John Charters\*, as early as the 17th of April 1544, was either George Wishart the Martyr, or Wishart of Pitarrow, his brother. The conspiracy failed at this time, and I have discovered no direct evidence to prove that the plot of 1544, in which this person of the name of Wishart was concerned, was continued or immediately connected with that which ended fatally for the Cardinal, but it will be recollected, that when Beaton was assassinated at St. Andrew's, on the 29th of May,

\* Probably John Charteris, Laird of Kinfauns, who was a follower and relation of Lord Gray. Gray was, as Buchanan informs us, (Book xv. esp. 29, 30.) no friend to the Cardinal.



1545, Norman Lealy and Sir William Kirkaldy, two of the original conspirators of 1544, were both privy to the plot, and the first a principal actor in the murder.

It will be observed, that the conspirators propose either to slay or *apprehend* the Cardinal; and it does not appear from the answer of the Lords of Council, whether Henry VIII. had countenanced the first or the last part of the plot. The encouragement held out is quite general, and the words "the feats against the Cardinal," and "enterprise the same earnestly," may evidently apply to the latter part of the plot, the taking the Cardinal prisoner, as well as to the former and more atrocious alternative, the taking away his life. Every feeling of our nature, and assuredly every idea which we are entitled to form of the pious, amiable, and courageous character of Wishart, compel us to believe that he would have discouraged the first, whilst it is equally clear, that he may not have conceived it a part of his Christian duty to have refused his concurrence to any scheme for the imprisonment of the Cardinal—for removing from the scene of his active and cruel opposition, the most bitter enemy of the truth; nay, he may have believed that his great influence with his own party would enable him to prevail on the conspirators to abandon the former, and to "enterprise"

\* In Sadler's State Papers, vol. i. p. 104. is a letter of Sir Ralph Sadler to the Privy Council of England, dated March 31, 1543, which shows, that Sir George Douglas was, at this time, privy to a design which Henry the VIII. had set on foot for imprisoning the Cardinal, or carrying him into England. Sir George Douglas, as we have seen, was one of the Parliamentary Commissioners with whom Wishart returned from England in 1544; and we know from Knox, p. 52. that he was a hearer and supporter of the martyr.

only the latter part of the conspiracy, the apprehending the Cardinal.

This appears to me to be the most fair and reasonable theory which can be adopted on this subject. It is consistent with our preconceived ideas of the piety and integrity of the Scottish martyr; it is reconcileable with the established authenticity of the documents which have been quoted, and it accounts for the prophetic powers which the multitude ascribed to Wishart, and which there is no evidence that he had any intention of arrogating to himself. I have examined this subject with some anxiety, because the opinion of all our former writers, Dempster, Mackenzie, and Keith, appeared very unsatisfactory. And, last of all, the modern historian of the reformation, Dr. Cook, had indeed undertaken the defence of Wishart, but appeared to have founded his opinion upon grounds which were superficial and erroneous.

I am not aware that there exists any MS. Life of Wishart. If it can be shown by any authentic document that the martyr was in Scotland on the 15th of April, or on the 26th of April, 1544, the accusation of Mackenzie and Dempster would at once fall to the ground. The passage which contains Wishart's prophecy regarding Beaton's death, is, as Keith (p. 92) has observed, evidently an interpolation. It is not to be found in the original 8vo. edition, nor in the MS. of Dr. Irving, which I before alluded to.

## No. II.

## KIDNAPPING OF THE LORD DURIE.

IN the abstract from the Books of Adjournal, preserved in the Advocates' Library, a MS. volume, marked M. 514. we find the following passage, which throws light upon this strange transaction. It proves that Durie was kidnapped by George Meldrum of Dumbreck; that he was "carried captive" into England, where he was kept prisoner for several days; and that, instead of being well treated, he was plundered of his purse and gold. It insinuates also that Meldrum was only an agent in the hands of a more powerful person, the Earl of Roxburgh.

January 12, 1604. George Meldrum, younger of Dumbreck, delatit of taking and keeping his brother Andro, captive in his house of Dumbreck: *Item*, His taking Mr. Alexander Gibson, one of the clerks of Session, and carrying him captive into England, where he kept him several days: *Item*, His robbing the said Mr. Gibson's purse and gold to the value of            marks: *Item*, His treasonable keeping out his house of Dumbreck against the king's guards, who were sent by order of Privie Council to demand entrance thereintill, and he being convict of the haill points of dittay, by ane assize, he had sentence pronounced against him to have his head stricken frae his body, and his estate, heretable and moveable, to be forfault to his majestie's use.

This appears to be altogether another and different incident from that which is described by Forbes, and which has given the foundation to the graphic ballad of "Christie's Will," in the 3d vol. of that delightful work "The

*Minstrelsy of the Scottish Border*," vol. iii. p. 154. It is not at all improbable that Meldrum, having succeeded in carrying off "Young Durie," when a clerk, Christie's Will should have been encouraged to kidnap "Auld Durie" when a Judge.

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No. III.

The following particulars corroborative of the opinion stated in the text, that Thomas Craig was the son of William Craig of Craigintray, were communicated to me by Mr. Gibson Craig of Riccarton.

It appears from the records of the Great Seal, that Alexander Craig of Craigintray executed a procuratory of resignation of that estate in favour of John Craig of Craigintray, who, on the 20th of May, 1546, obtained a crown charter.

William Craig of Craigintray afterwards was proprietor, and executed a procuratory for resigning the estate in favour of Mr. Thomas Craig, advocate, who, on the 16th April, 1576, got a crown charter of it to himself and his heirs male, whom failing, to his brothers John, James, Robert, and Oliver, and their heirs male, whom failing, to the heirs male whatsoever of the said William Craig, bearing his name and arms. This charter does not bear the relationship between Master Thomas and William Craig, but from the destination, particularly the final part of it, there is little or no doubt that Thomas was William's eldest son. The estate of Craigintray, after having been successively in the possession of the fa-

milies of Gordon, and Barclay de Tolly; was acquired by Mr. Urquhart of Culbo towards the end of the sixteenth century, in the possession of which ancient family it has ever since remained. The present house of Craigston, according to a curious inscription remaining upon the wall was—" Foundit the fourtene of March, ane thousand sex hounder four zeiris, and endit y. 8 of Decemb. 1607 \*. The stone carved work composing the ornamental parts of its architecture is singularly perfect and beautiful, and the fine old pile presents altogether a most interesting specimen of the mansion of a Scottish baron of this period. It is now the property of William Urquhart, Esq. of Craigston. Mr. Thomas Craig afterwards got a crown charter of the lands of St. Lawrence Houses in East Lothian; 6th April, 1688; to him, and Helen Heriot, his wife. The estate of Riccarton he acquired only a short time before his death.

The following short notices regarding Craig's perquisites and salary as Justice-depute, were communicated to me by the very learned author of "Caledonia," Mr. George Chalmers.

1564.—May 1. Grant to *Mr. Thomas Craig* of the escheat of Alexander Innes of Cromarty. See Privy Seal Regr. v. xxxii. fo. 63.

1564-5.—January 15. Grant to *Mr. Thomas Craig*, Justice-depute of the unlaws or compositions of any six or fewer persons he shall chuse, among those who may be unlawed, or convicted in the Justice-Courts: and this so long as he shall enjoy the office of Justice-depute. See Id. v. xxxii. fo. 138.

\* It was built by the tutor of Cromarty.

- 1565.—October 24. Grant to Mr. Thomas Craig, Justice-depute of the unlaws, &c. as above, *during his life*.  
—See *Id.* v. xxxiii. fo. 119.
- December 18. Grant to Mr. Thomas Craig, advocate of the escheat of Alexander Dunyng of Wester Crief.—See *Id.* v. xxxiv. fo. 23.
- December 27. Grant to same, of the escheat of James Johnstone in Middilgill, James Blaklok, and others his servants.—See *Id.* in *Ib.*
- 1574.—Mr. Thomas Craig, Justice-depute, received from the king's treasurer L.120, being his fee of L.40 a-year for three years, from Whitsunday 1571 to Whitsunday 1574.—(Treasurer's accounts.)
- 1608.—July 5. Sir Lewis \* Craig of Wrightlands, knight, one of the senators of the College of Justice, was served heir to *Mr. Thomas Craig of Wrightlands, advocate*, in some lands, tenements, and annual-rents in Edinburgh, the lands called Wrightlands, in the regality and barony of Brochtown; the fourth part of the lands of Bonyngton, and the mill in the same regality; and in the lands called Mains of Richartoun in the barony of Ratho. (Inquisit. Special. Edinburgh, 259.) Also in the lands of Saint Laurence near the burgh of Hadington; and in the lands of Plewlands, alias Fressells-land, in the constabulary of Hadington.—(Inquisit. Special. Hadington, 48.)

\* He was made a Lord of Session 25th February, 1604, and died in 1622.

## No IV.

I have discovered, since the printing of the text, a few additional facts regarding Craig. We have already seen, that in the year 1563, he was appointed Justice-depute. I find, on consulting the MS. abstract of the Books of Adjournal, which is preserved in the Advocates' Library, and marked M. 5. 14. that Craig never sits as Justice-depute after November 18, 1573. No good reason for this appeared, until I discovered, in a charter, preserved in Hay's M.S. p. 529. that Thomas Craig was Vice comes Deputatus de Edinburgh in the year 1574. It would appear, therefore, that upon being promoted to be Sheriff of Edinburgh, he resigned the office of Justice-depute. In November 18, 1573, the Justice-deputes are, Mr. Alexander Bannantyne, and Mr. Robert Craig; this last being probably the younger brother of the feudalist.

In the year 1561, on consulting the Pitmedden MS. under that date, Thomas Craig is ordered to enter his person in ward in the Castle of Dumbarton; but the ground of accusation or suspicion does not appear.

In the printed Calderwood, pp. 228, 229. we find some notices regarding Sir Thomas Craig, to which I ought to refer the reader. When the Protestant ascendancy in Scotland was, in the year 1589, threatened by the intrigues of Philip of Spain, and notwithstanding the defeat of his invincible Armada in the preceding year, this monarch continued to keep up a secret correspondence with the Scottish Catholic nobility, a certain number of commissioners, consisting of the most eminent of

the clergy, assisted by several of the Protestant nobility and gentry, were appointed by the Church to watch over the national religion, and to take the proper steps for its safety and defence. Amongst these Commissioners we find Mr. Thomas Craig, along with two of his most learned brethren at the bar, Mr. John Skene, and Mr. John Nicolson.

From a communication of my learned friend, Dr. M'Crie \*, I find that Sir Thomas Craig was, in the year 1606, Advocate for the Church. This fact is established by the following extract from an account of the trial of the six ministers (Messrs. John Forbes, John Welsh, Andrew Duncan, Alex. Strachan, Robert Dury, and John Sharp) at Linlithgow, on a charge of treason, for keeping the General Assembly at Aberdeen." But however cross the design was kept, the ministers had notice given them that they were to be accused and tryed criminally for treason, Jan. 10. [1606]; and wrote in [from Blackness, where they were confined] to Mr. Thomas Craig, *Advocate for the Church*, Mr. William Oliphant, Mr. Thomas Hope, and Mr. Thomas Gray, advocates, acquainting them with what they heard, desiring them to try the certainty of it, and come about the 8th to them, that they might confer together, and send them a copie of their declinature, upon which they guessed their tryall would run, to advise upon. The Advocates advised it accordingly among themselves, promised to be in readiness at Linlithgow,

\* The able biographer of Knox and Melvil, from whose researches I have frequently experienced great assistance, although I am very far from admitting that these works present a just or unprejudiced picture of the times.



and see them a day or two before, if they could find any certainty in the report. But as yet no warning was given to the Lord Justice to be present, so secret was the affair kept. On the 8th, these four advocates came to Blackness, without any certainty as to the tryall, being sent by the Earl of Dunbar to prevail with the ministers to own an offence and come in the king's will, which the ministers satisfied them they could not do, without hurting the kirk. They left the ministers to advise till to-morrow, renewing their promise to appear in their cause, if the process went on. On the 9th, the ministers sent their resolution to their Advocates, to witt, they could not acknowledge any fault."

[Jan. 10. 1606.] "The six ministers were then sisted before the Justice-deput Sir William Hart, and his assessors, the Lords of Privy Council, Earls of Montrose, &c. &c. The ministers being brought to the barr, the Justice-deput told them they were accused of treason, in declining the authority of the Privy Council, and desired to know whom they would name for their Advocates. They named the four last spoken of—Mr. Thomas Craig, though the Church's Advocate, and Mr. William Oliphant, were discharged by the Chancellor to appear, and saw pleading was needless, the sentence being already agreed to. Mr. Thomas Hope [afterwards King's Advocate,] and Mr. Thomas Gray, offered to plead, if they had allowance, which the Court gave them." —Wodrow's MS. Life of Mr. John Forbes, pp. 36. 39.

Comp. printed Calderwood, pp. 508, 509. where, although Mr. Thomas Craig is not called *the Church's Ad-*

vocate, he is said to have "had a yearly rent to plead for the Kirk," which amounts to the same thing. Spottiswoode, (p. 489.) says, that "the two principals refused to plead because of their obstinacy, "meaning the obstinacy of the ministers."

In Chalmers' *Life of Ruddiman*, page 23. we find it stated, "That in imitation of Henry VIII., who exerted his power to introduce uniformity of teaching, the parliament of Scotland, authorized in 1607, as Henry had done in 1545, proper commissioners for settling "the most approved grammar, which being prentit, suld in all time coming, be universallie teachit in all the pairtis of this realme, by the haill teacheares of grammar." Amongst the parliamentary commissioners was "Mr. Thomas Craig, along with Mr. John Skeen, the Lord Chancellor Seton, Earl of Dunfermling, and Sir Thomas Hamilton of Bynie \*."

This appointment took place on the 11th of August, 1607, about seven months before the death of Craig. With regard to the measures adopted by the commission, Mr. Chalmers observes, "the Parliamentary Commissioners appointed the new grammar of Alexander Hume to be taught in the schools of Scotland, without establishing at last uniformity of teaching, so difficult it is to settle what depends on the changes of caprice, by legislative enactment."—*Chalmers' Life of Ruddiman*, pages 23. and 377.

\* Afterwards Earl of Haddington, of whom an account is given in the text. A great part of the MS. collections and charters of this learned man were transmitted by the present noble inheritor of the title to the Deputy Clerk Register, for the purpose of being deposited in the Register-House amongst the general records of the kingdom.

*Above the Door of the House of Riccarton, is the following  
ancient inscription :—*

BY GODLINESE THE AIR IS ESTABLISSEIT. BOT CRYING

SINNES.SPEWIS HIM OUT OF POSSESSION

VIVE DEO ET VIVES

S L C

D D

B C. ANNO 1621.

SIT DEUS INTRANTIBUS SOLAMEN, PRÆSIDIUM

EXEUNTIBUS.

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