

Reviews of Books

DOCUMENTS ILLUSTRATIVE OF THE SOCIAL AND ECONOMIC HISTORY OF THE DANELAW, FROM VARIOUS COLLECTIONS. Edited by F. M. Stenton, M.A., Professor of Modern History, University College, Reading. (The British Academy: *Records of the Social and Economic History of England and Wales*. Vol. V.). Pp. cxliv, 554. Royal 8vo. London: Oxford University Press. 1920. 31s. 6d. net.

THE fifth volume of this great series, published under the patronage of the British Academy, is perhaps more intricate and of more permanent value than any of its predecessors. Its immense importance may be gathered from the bulky nature of its threefold division, an illuminating introduction of 144 pages, a collection of over 550 original charters, all of which belong to the twelfth century and relate to the five boroughs of the Danelaw, covering 400 pages, and an exhaustive index of 150 pages. We know of no volume like it in scope and value for any definite area in the period selected. That such an enterprise should be undertaken and accomplished for such a wide region, embracing the five shires of Lincoln, Nottingham, Derby, Leicester and Rutland, that is, the region between Yorkshire and the Welland, is a notable achievement. As our knowledge of the social conditions of the period between the time of Alfred and the Norman Conquest is largely dependent on our deductions from Domesday, we should be almost in a similar state of darkness for the century after Domesday, except for what can be gleaned from the early charters of the twelfth century. For this reason the importance of a systematic publication of documents of this nature cannot be exaggerated.

It is fortunate that an interpreter with the experience of Professor Stenton should have been chosen to guide the student through the by-paths of this miscellaneous collection. His introduction can be studied with profit by the expert as well as the ordinary student. The expert may go to the charters themselves and form his own conclusions, but he cannot safely overlook the commentary in the introduction, which contains not only new methods for the interpretation of early evidences, but also helps to unravel some difficulties in diplomatic lore. It is no disparagement of the editors of monastic chartularies to say that they will be much assisted in the interpretation of their local charters by the views and conclusions expressed in the introduction.

It is of course true that agrarian economy in the wide region known as the Danelaw has points of difference with other districts, but nevertheless the terminology of institutions and customs rarely changes. It is helpful

to know something of the evolution of the manor as the designation of an estate in any given district, and perhaps in no district is that evolution clearer than in Danelaw, where the unity of the village survived so long. Only two charters in this collection mention the *manerium*, and these were probably written by outside scribes. In subsequent documents about the same estates, which were written locally, there is a reversion to the *villa*, in preference to the newer word introduced by southern clerks.

In the same way numerous charters illustrate the conception of the toft as containing the house and buildings that belong to an arable farm. In the twelfth century it was not customary to alienate a farm without a farmhouse, but the word toft does not always indicate the site of a farmhouse or the homestead of a cottager. There is evidence of the conveyance of tofts without reference to an arable tenement. As Lincolnshire, for instance, had great sheep-runs, it is not surprising that tofts should be found there without arable appendages. After this manner Professor Stenton discourses on many of the elements of agricultural economy from the bovate, the normal unit of tenure in the Danelaw, to the selions in the open fields.

On the ecclesiastical side the foundation and early endowment of village churches receive important illustration in these pages. In the Danelaw, if anywhere, there should be evidence of communal endowment, when the divisions of lordship, characteristic of villages in that area, and the freedom of their inhabitants are considered. But there is not a great deal. One would have expected that the foundation of a chapel and its upkeep should have been a co-operative work in view of the rights of the territorial church. The chapel was built for the convenience of a township or district within a larger area already provided with ecclesiastical ministrations. If a section of the inhabitants within the area, perhaps at some distance from the village church, desired additional privileges, the cost of the provision would naturally fall on the local community. In other instances that might be cited outside the Danelaw, it was the lord of the district who founded the chapel for his dependents who needed it. Despite this, there is evidence that the seignorial divisions of a village were reproduced in the partition of a village church. Fractions of churches are often mentioned in Domesday, and the occurrence appears to go back to King Edward's days. It may be said, therefore, that the later partition of the advowson between co-heiresses and the division of the revenues into moieties are feudal incidents and not survivals of pre-conquest origin.

In the twelfth century Danelaw the rights of the patron had not yet been reduced to the mere power of making an appointment; he could stipulate for a money payment from his nominee. In this collection there is a solitary charter (No. 453) from Welbeck Abbey, dated about 1150, which shows conclusively this stipulation, on which Professor Stenton remarks that the ordinary formulae of enfeoffment were used as if to suggest that no fundamental difference was recognised at that time between a church and other profit-sharing appurtenances of an estate (p. lxxiv). But the stipulation was by no means confined to that area or to a date so early. It was the invariable practice of the abbot and convent of St.

Mary, York, in the thirteenth century and perhaps later, to exact a bond for payment of a portion of the revenues from rectors nominated by them to some of their churches before they were presented to the bishop for institution.

It is notable that the old puzzle in some early charters of the use of *monasterium* in unexpected connexions has been adequately explained; it was the equivalent of *ecclesia*, as in the phrase—'in wood and plain: in minster and mill.' In a charter of the chapter of Lincoln, a tenement in that city is described as situated *inter monasterium Omnium Sanctorum et duas stratas regias*, the employment of the word being a survival of remote usage. It may also be pointed out as of rare occurrence that a village community (*tota parochia*) should be represented as witnessing a charter in its ecclesiastical capacity (No. 270).

There is only one reference remotely relating to Scotland in the collection, in which Stephen son of Herbert, the chamberlain of the King of Scotland (*regis Scotie*), confirmed a grant of some land in Swinethorpe and Snelland to the abbey of Kirkstead on 31st January, 1160 (No. 219). 'David de Scoce,' the first witness of a charter (No. 164), the date of which is ascribed to 1171-1184, has been wrongly identified in the index with David I., King of Scots, an unaccountable slip in a piece of work beyond praise, prepared with such skill and care by Canon Foster, of Timberland, and Miss Thurlby.

JAMES WILSON.

THE COLLECTED WORKS OF SIR FRANCIS PALGRAVE. Edited by his son, Sir R. H. Inglis Palgrave. In ten volumes.

THE HISTORY OF NORMANDY AND ENGLAND. In four volumes. Vol. III., xl, 554. With 4 Maps. Vol. IV., lviii, 798. With 1 Map. La. 8vo. Cambridge: University Press. 1921. 42s each.

THE first two volumes of the edition projected by the late Sir Inglis Palgrave of his father's collected historical works have been reviewed fully, *S.H.R.* xvii. 52, where a short attempt was made to appreciate the part played by Palgrave in British historiography. There is no need, therefore, on the occasion of the appearance of a second instalment of the venture, to do much more than note its publication and wish a good success for the completion of the enterprise. The great-grandson of Sir Francis, Mr. Geoffrey Palgrave Barker, has taken up the work which death prevented his grandfather, Sir Inglis, from completing. In an interesting preface Mr. Barker has told us how he has executed his task, and how he has enlisted the services of many fellow-workers in carrying through his edition. These volumes represent a harder piece of work than was presented by the first two, for they include a large mass of matter, left in manuscript on Sir Francis' death, and left, we gather, in a condition that required a good deal of editing before it could see the light. Even that part of the present volumes, which was published after Palgrave's death, lacked his own final revision, and has therefore, Mr. Barker tells us, been subjected to a laborious editing under the direction of Dr. Joseph Hall. But some seventy pages of Vol. III. contain an introduction on the 'General Relations of Mediaeval History' which was only privately printed in the writer's lifetime. Moreover the posthumous

volumes of *Normandy and England* stopped in 1101, and Vol. IV. of the reissue contains in addition to what the original edition gave us a combination which takes Palgrave's narrative through the reign of Henry I. to the death of Stephen, and that with such minuteness or prolixity that it needs some three hundred pages of print. Of this continuation we need only say that it is very much of the same type as the part of the work already known, and that, while welcome as a contribution to historiography, will not be of much real service to scholars, since, like all Palgrave's work, it is deeply coloured by his personality and is naturally not up to date in its scholarship. Of the discursive, suggestive, provocative introduction it is enough to say that it gives us Palgrave both at his best and his worst.

The great mass of illustrations and annotations shew much labour, but much of it, one is bound to say, is labour in vain. Sometimes, and that not seldom, the editor's notes are really valuable, as when Palgrave's emphatic statement that such palimpsests as the Verona Gaius, written over by St. Jerome's letters, represent the triumph of an intolerant and anti-literary church over heathen civilisation is rightly corrected by Traube's clear demonstration that palimpsests were simply due to the scarcity and excessive cost of parchment. But many of the notes are statements of the obvious. Other errors of Palgrave, such as his acceptance of the story that Ranulf Flambard threw the King's 'privy seal' into the sea, provoke no editorial comment whatsoever. The genealogical tables and maps have more value than the notes and deserve a word of recognition. Each volume has also a useful index.

T. F. TOUR.

BURKE AND HARE. Edited by William Roughead. Notable British Trials Series. Pp. xi, 280. Demy 8vo. With 13 illustrations. Edinburgh and London: William Hodge & Company, Ltd. 1921. 10s. 6d. (Also a limited edition, containing the whole proceedings against Hare, and several additional appendices, 250 copies on large paper, numbered and signed by the Editor. 25s.)

THE association of Burke and Hare in their career of murder has been described by the late Mr. H. B. Irving as a typical example of dual crime, but it is evident from a study of Mr. Roughead's most painstaking and interesting book that Dr. Knox, the Edinburgh anatomist, is entitled to claim almost an equal share with these two miscreants in their notoriety. At the end of the year 1827 Burke and Hare were both in a state of dire poverty, and their disinclination for decent work of any kind was so deeply rooted that it was unlikely either would ever be able to earn sufficient money to keep them supplied with the quantity of drink they so greatly desired. At this period a lodger in Hare's house died of natural causes, owing his landlord the sum of £4. To recover this bad debt Hare decided to dispose of the man's body to the surgeons, and, as a confederate was required, he communicated his plan to his friend Burke. The sale of the corpse was duly carried out, the purchaser being Dr. Knox, and the price £7 10s. After the sale the doctor's assistants said 'that they would be glad to see them again when they had another to dispose of.'

A vista of unlimited wealth opened before the greedy eyes of Burke and

Hare, and thus began what the editor calls the 'unholy alliance' of the twain. As lodgers did not die naturally in sufficient numbers to provide a steady income the partners decided to assist nature, and between them they accounted for at least sixteen persons all foully murdered within a space of nine months. Each body was sold to Dr. Knox at prices varying from £8 to £10 apiece. However reprehensible as a man Dr. Knox may have been, there is no question of his capability as a physician, and it is plain therefore that the cause of death in practically every case must have been evident to his professional mind. No questions were ever put to Burke and Hare by the purchasers as to how they had obtained possession of the bodies, and a constant demand was made on them for more. It is also a significant point that the murders were scientifically carried out in such a manner as to prevent disfigurement or external marks of violence on the victim, and it would be interesting to learn how such ignorant and unscientific persons as those two Irish labourers came by the knowledge that enabled them to commit murders with a skill which was later on a matter of wonder and dismay to the leading doctors of Edinburgh.

Burke and Hare were ably and actively assisted in their search for suitable victims by Helen M'Dougall, Burke's paramour, and Hare's wife, and when the disclosures regarding the murderous gang were first made public it was fervently hoped that all four would meet with the fate each so richly deserved at the hands of justice. Unfortunately, however, owing to the difficulty of securing a conviction, the Crown was forced to accept Hare and his wife as King's Evidence. M'Dougall was tried with Burke but got off on a verdict of not proven; Burke, of course, was well and duly hanged.

Mr. Roughead has marshalled his facts cleverly, and presents a series of incidents in the career of Burke and Hare in a manner which makes the story compact and thrilling. To a legal knowledge and ability which has enabled him to do this Mr. Roughead adds a charm of literary style and a vein of ironic humour particularly pleasing. The disclosure of Burke's crimes was directly responsible for the passing of the Anatomy Act, which put an end for all time to the horrors of the Resurrectionists. Further to his renown lies the fact that, as the editor points out, 'he has enriched our language by a new metonymy,' and now he has inspired this volume which entitles him to the thanks of all who enjoy the tale of a thorough paced villain and a full account of his ultimate trial and doom. D. A. MAXWELL.

THE ENCLOSURE AND REDISTRIBUTION OF OUR LAND. By W. H. R. Curtler. Pp. viii, 334. 8vo. Oxford: Clarendon Press. 1920. 16s.

THIS book is a monument of industry. Going back to the agricultural policy of the Germanic tribes as it appeared to Tacitus and carrying on the story of English agricultural policy to the passing of the Small Holdings Act of 1908, the author certainly covers a great deal of ground. It is difficult to think of the people at the time of Pliny as being skilful agriculturists, but Mr. Curtler quotes Pliny to say that the Britons marled their fields, and Professor Elton to say that 'they appear to have been excellent farmers, skilled as well in producing cereals as in stock-grazing and the

management of the dairy.' If all this is to be taken in the modern sense of the words, the Germanic tribes in invading England submerged a civilisation much higher than their own.

The author does not devote a great deal of space to this period of English agricultural history. He sets to work in earnest with the Domesday Book of 1086, where the statistical takes the place of the more or less conjectural. The importance of land tenure to the early Norman rulers of England seems to have centred on its capacity to furnish a powerful body of retainers and fighting men, and apparently in this originated the system of common ownership, where the Lord of the Manor protected and encouraged the commoner in exchange for the military service he was capable of rendering. Mr. Curtler's narrative brings this out clearly and shows how, as the need for military support diminished, the commoner became more and more a cumberer of the ground in the view of the titular owner. Gradually the old friendly relations of overlord and vassal disappeared, and it may almost be said that as land holding became commercialised, it became dehumanised.

The story of the gradual enclosure of the common lands is familiar. In essentials it does not differ greatly from the story of the Highland clearances, and the maxim, which probably describes both, may be bluntly put in the words of Tennyson's *Northern Farmer*, 'the poor in a loomp is bad.' Even Mr. Curtler, who sets out to prove that the landowners were the first to try to remedy the hardships undoubtedly brought on many of the poor through the loss of their commons, has to admit that much injustice was perpetrated, and many hardships inflicted on the dispossessed common holders, particularly during the enclosure period of the nineteenth century.

Throughout the whole period, in Mr. Curtler's own words, 'the politician can see two conflicting views of the basis of wealth : one, the old one, measuring it by the number of tenants able to do service ; the other, testing it by the maximum pecuniary returns to be obtained from each estate.' That is really, put tersely, what was happening. Granted that the enclosing and skilful cultivation of the land produced more food for the people of the entire country, the effect of the policy was to clear the people from the land and drive them into the cities, where they became wage-earners, with no stake in the country beyond what their precarious wages gave them. Thus many of our social evils are the direct result of the policy of land enclosure. Thus we come back to the old question—what is to happen to a land 'where wealth accumulates and men decay' ? It may be answered in the language of Goldsmith. The country is now seeking painfully and by slow degrees to retrace its steps and get the people back to the land, but while there was a selfish, and therefore powerful, motive in getting them cleared off the land, only the higher statesmanship animates the contrary policy, so the process may be expected to be slow and hampered.

Mr. Curtler's book is a mine of curious and detailed information, and if his defence of the landowners is not altogether successful, that does not detract from the interest of the book as a narrative of facts.

ANDREW LAW.

CALENDAR OF STATE PAPERS, FOREIGN SERIES, OF THE REIGN OF ELIZABETH, PRESERVED IN THE PUBLIC RECORD OFFICE. Vol. XX., September 1585-May 1586. Edited by Sophie Crawford Lomas. Pp. lxxv, 888. Imp. 8vo. London, and Edinburgh, 23 Forth Street : His Majesty's Stationery Office. 1921. 22s. 6d.

THIS volume covers a period of exceptional interest and throws considerable light on the details of English intervention in the Netherlands in 1585-6. The Dutch papers, which are calendared with admirable fulness, deal in turn with the surrender of the cautionary towns, the military exploits of Norryes, the arrival of Leicester and his eventual acceptance of the governancy of the United Provinces. Elizabeth's anger at this action, the despatch of Sir Thomas Heneage, and the later attempts at compromise, which resulted in such contradictory orders that the ambassador was more than once driven to expostulation, are also vividly illustrated, but the chief interest of the second portion of the volume centres round the numerous informal peace negotiations, about which many new details are forthcoming.

Mrs. Lomas in her very interesting preface describes clearly these attempts to bring about an 'accord' between Elizabeth and the Prince of Parma. The agents were usually Italian merchants who frequently began the negotiations on their own initiative. Burghley, Sir James Croft, Cobham and even Walsingham were concerned in one or other of these attempts, but in spite of the suggestion, which Mrs. Lomas is inclined to support, that the differences as to Spanish policy between Burghley and Walsingham may have been more simulated than real, it is perhaps significant that while in Andrea de Loo's negotiation, which Burghley supported, religious matters were carefully kept in the background, in the later abortive attempt by Dr. Hector Nunez, of which Walsingham was cognisant, the secretary stated in his memorial that religious toleration in some sort was essential.

The affairs of the United Provinces are naturally chiefly to the fore, and incidentally one may mention the strong impression one receives of the industry and ability displayed by the unfortunate Davison while ambassador to the States. The interest of the calendar is however by no means confined to these matters. Stafford's despatches to Burghley and Walsingham from Paris are very fully calendared, and throw much light on the political state of France during the League's struggle for ascendancy. Unfortunately the despatches to Walsingham are missing until January 1585-6. There are many papers relating to the negotiations with Denmark and in Germany to obtain help for the King of Navarre, the Protestant princes being described as 'very cool so far and very difficult to warm.' There are newsletters from such distant parts as Persia and the West Indies, and the strength of the trading interest and the importance of economic matters are illustrated not only by the large share taken by the foreign merchants in the peace negotiations, but by the numerous papers dealing with the enforcement of the blockade and with the lengthy dispute between Elizabeth and the Hanse towns.

The volume proves an invaluable supplement to Motley's *United Netherlands* and Bruce's *Leicester Correspondence* (Camden Society). Motley

quoted freely from the State Papers, but the Calendar gives full abstracts of documents only partly printed by Motley, and certain errors in transcribing have also been corrected. The care and completeness with which the calendaring has been done adds immensely to the value and interest of the volume.

F. M. GREIR EVANS.

CHETHAM MISCELLANIES. New Series. Vol. iv. Containing (i.) Dunkenhalgh Deeds, c. 1200-1600, edited by G. A. Stocks, M.A., and James Tait, Litt.D.; (ii) Extracts from the Manchester Churchwardens' Accounts, 1664-1710, edited by Ernest Broxap, M.A.; (iii) The New Court Book of the Manor of Bramhall, 1632-1657, edited by H. W. Clemesha, M.A.; (iv) Latin Verses and Speeches by Scholars of the Manchester Grammar School, 1640 and 1750-1800, edited by Alfred A. Mumford, M.D.; (v) Records of some Salford Portmoots in the Sixteenth Century, edited by James Tait, Litt.D. Printed for the Chetham Society by the Manchester University Press. 4to. 1921.

THE title-page of the latest volume of the Chetham Society is a sufficient indication of its miscellaneous contents, all of which are worthy of print, though it cannot be said that there is anything specially remarkable in the compilation. The deeds preserved at Dunkenhalgh Hall, in the parish of Whalley, are of the formal type often found in the charter chests of old families, from which can be gleaned the fortunes of the house, in addition to sidelights on the social and agricultural arrangements of the medieval period. To the local historian the 223 deeds here included are invaluable for the purposes of genealogy and topography.

The duties of the churchwardens of the parish of Manchester, as illustrated in their accounts for the period indicated, were not more onerous or more exciting than those of smaller parishes of less pretensions. If they did not employ 'the stool of repentance' for punishing the sinner, they forced him to stand in a white sheet in full view of the congregation. The 'bobber,' an officer of the churchwardens, had a stipend 'for keeping ye boys quiat in servis time.' In a neighbouring county this church functionary survived till recent years.

The new court book of the manor of Bramhall, though of too late a date to be very interesting, is useful for the illustration of manorial customs.

Seldom do we meet so full a set of Latin verses and speeches as those given from the records of Manchester Grammar School, though fragments of such exercises are often found in connexion with most of our ancient schools.

The portmoot records of Salford are supplementary to former volumes issued by the Society: these here given were either omitted or overlooked by the former editor. Special attention may be directed to Professor Tait's introduction.

The frontispiece of the volume is the reproduction of an old map of the manor of Clayton-le-Moors, from a coloured plan (c. 1680) in possession of Captain C. B. Petre. On this old plan the sites of obsolete institutions

like the cucking stool, stocks, pinfold, butts, village cross are marked. The map itself is a quaint bit of history.

We greatly dislike the separate pagination and separate index for each of the component parts of the volume. It will vex people who use the book for reference, and unnecessarily swell their footnotes.

JAMES WILSON.

SOMERSETSHIRE ARCHAEOLOGICAL AND NATURAL HISTORY SOCIETY PROCEEDINGS DURING THE YEAR 1920. Pp. xcvi, 192. 8vo. Taunton: Printed for the Society.

THIS solid annual contains more than the ordinary quantum of antiquary lore, and well deserves more extended notice than space here allows. First of all the President, Mr. A. Hamilton Thompson, contributes a paper on Medieval Building Documents, which puts together cumulative proofs for four important and still controverted positions regarding what is called architectural tradition, and which connects certain noted churchmen such as Lanfranc, William of Wykeham and Hugh de Puiset, with the direct charge and execution of building operations. The propositions which are Mr. Thompson's thesis are: (1) that loose assertion in chronicles about the marvellous edifices put up by bishops and abbots must, unless in very exceptional cases, be taken to mean no more than that they caused or contracted for the erection, which was practically in every case the work of professional craftsmen, viz. masters (*magistri*), workmen (*operarii*), and masons (*cementarii* or *lathomi*), of whom the master mason (*magister cementariorum*) was not merely in charge of the stone work, but in the standard sense was the architect of the structure; (2) that the *comacini*, whilom interpreted as a guild of Como in Italy, were only co-masons who might belong to any locality; (3) that 'freemason' did not imply membership of a guild, but meant a worker in freestone, as opposed to the less skilled 'rough mason'; and (4) that documentary evidence coming from sources not officially concerned with the structures affected, and especially the casual notes of enthusiasm by church annalists are to be narrowly and indeed sceptically interpreted. These contentions are temperately stated and clearly documented, and the spirit of them ought to be borne in mind in the difficult process of reading the dates of historical stone and lime. Mr. Thompson does good service along his entire line of discussion by his firm doctrine that a tradition of skilled operatives, masters as well as men, is the indispensable foundation.

Dr. A. C. Fryer gives his sixth admirably and copiously illustrated instalment of a list and description of the monumental effigies in Somerset. The present section covers those of ecclesiastics of the thirteenth and fourteenth centuries. It offers many instances of the value of these stately figures for the determination of questions of clerical costume as regards such garments as the alb, stole, maniple, chasuble, dalmatic, tunicle and mitre, as well as the gloves, ring and sandals.

A series of papers on Bridgewater by Messrs. Albany F. Major, W. H. P. Greswell and T. B. Dilks form good comment on a delightful little sketch of the place in a Cottonian manuscript of the time of Henry VIII., showing

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the bridge which *longo intervallo* followed the original *Pons Walteri* of Walter de Douai, a Domesday magnate.

Sir H. C. Maxwell Lyte gives the fruits of much search on the Curci family, who, in descent from a certain Baldric in Normandy, came to England at the Conquest, gave name to Stoke as Stoke Curci (Stogursey), and numbered the conqueror of Ulster, John de Curci, among its most celebrated scions. The head of the Record Office has gathered much new matter, both topographically and genealogically, into his singularly compact essay.

GEO. NEILSON.

THE INTIMATE LIFE OF SIR WALTER SCOTT. By Archibald Stalker. Pp. viii, 207. 8vo. London : A. & C. Black, Ltd. 1921.

ONE can imagine the shade of the great Sir Walter saying to the author of this curious book, 'perhaps you were right to dissemble your love but why did you kick me downstairs?' for it contains every instruction to the reader of the way in which a biographical study ought not to be written. Every little foible Sir Walter had, everything disagreeable or unpleasant that occurred in his wonderful, noble and romantic life is put forward and magnified, and everything good in him is belittled. His first love is exalted into a tragedy, while, under the account of his wife, we are given the surprising information, 'There was nothing romantic about Scott, except his iron will, his passion for planting, and his healthy story-telling life. In matters of marriage he had not an atom of romance.' This is a sample of the writer's curious method, yet even he cannot take away the beauty of Scott's career, his talent for intimate friendships with all sorts and conditions of men, his love for every kind of animal, his great sympathy, bravery in distress, and his wonderful literary work—though he detracts from the latter when he can. He forgets that the subject of his biography lived in a different age from now, and was also a living *raconteur* of the past. He sneers at him for change of creed, adoration of rank, illiberalism and servility, and yet one cannot help seeing that, in spite of all this detraction, he has to admire his hero. His book is therefore a fine warning of the danger of writing a life of one with whom one has, in Lamb's phrase, 'imperfect sympathies.'

A. FRANCIS STEUART.

JAMES THE FIRST OF SCOTLAND. By Robert Bain. Pp. vi, 99. Cr. 8vo. Glasgow : MacLehose, Jackson & Co. 1921. 5s.

GREATLY daring, Mr. Bain chose the subject already made famous by another poet, for a play for the Glasgow Repertory Company. He admits a debt to the Book of Pluscarden and a phrase from Shakespeare, but the rest is his own idea, and it can be read with instruction and interest. Most of the characters are historic, and Catherine Douglas speaks pretty lines before she became Kate Bar-lass. But we have to criticise the language of the different ranks of players. The king, queen and nobles speak good English (it would be natural only in the case of the king and queen), while the ploughmen, packmen and minor characters speak Scots,

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and not the Scots of Sir David Lindsay, but of a more modern dialect. It is an addition, however, to the plays—none too many—founded on Scottish history.

A. F. S.

THE FALL OF FEUDALISM IN FRANCE. By Sydney Herbert. Pp. xviii, 230. Crown 8vo. London : Methuen & Co. 1921. 7s. 6d.

IN 1789 feudal tenures and their burdens existed all over France, though the administration of justice had been, after a long struggle, mainly wrested from the hands of the *seigneurs* and placed in the power of the state. The retrograde policy of Louis XVI. in regard to the nobles, probably increased the feudal demands of the latter against the peasants, and wide disaffection was rife when the Revolution broke out. The peasants at once seized the opportunity, abolished the oppressive tenures, and withheld the rights of the *noblesse*, in many cases harrying their domains, castles and churches with fire and sword, and often did this 'in the name of the King.'

The author gives a very interesting study of the landlords' claims and peasants' burdens as they stood at this critical time up to July 1793, when feudalism, which as he says 'had a long and not inglorious history,' was entirely dead in France. After this date there was no serious attempt to restore the *seigneurs*, and that period of moribund feudalism came to an end.

THE HISTORY OF THE WOOLLEN AND WORSTED INDUSTRIES. By E. Lepson, M.A. Pp. x, 273. With 2 Illustrations. London : A. & C. Black, Ltd. 1921. 10s. 6d.

ONE is apt to forget and therefore underrate the early importance of the woollen industry in England, but it was the source of most of the great riches until supplanted last century by that of cotton. From the fifteenth century it was a pillar of the state, 'the chief wealth of the nation' and 'the basis of all commerce.' It is right therefore that we should have this careful study to remind us of its past importance.

Gilds of weavers were established after the Norman conquest, and we are given a very interesting account of their growth and power. Edward III. brought Flemings in to teach, and thereafter the English cloth workers were paramount until Tudor times. This caused the wool-culture to encroach on corn growing, and sheep to be styled 'devourers of men.' Walloons came later to assist in the reign of Elizabeth, and French exiles after their persecution by Louis XVI. Women were found in every branch of the woollen industry, and a day was dedicated to St. Distaff (January 7th). The tangled web of state control is recounted, and then we have an instructive chapter on processes and improvements, and it is sad to see that Crompton, the inventor of 'the mule,' received, not the £20,000 promised him, but only £5000. The author has done his work well, and has given us a pretty complete history of the subject down to the introduction of machinery, and ends with a useful chapter on the geographical distribution of two cognate industries.

FREEDOM OF SPEECH. By Zechariah Chafee, Jr., Professor of Law in Harvard University. Pp. vii, 431. 8vo. New York : Harcourt, Brace & Howe. 1920.

THE Professor of Law at Harvard is to be congratulated on giving to the world this courageous, racy, and learned work on freedom of speech in America, which was for long an ideal ; and the limitations imposed on it both by the necessities of war time and the panic that followed thereon. Owing to the increase of legislation on the subject this book has become a necessity, and will be a useful corrective to those who take, or wish for, extreme and often illegal measures through timidity. The author's object is 'an inquiry into the proper limitations upon freedom of speech,' written by one who is neither an atheist nor a pacifist, an anarchist, socialist or bolshevik. He shows how the objects of the war changed in America, and the ideas of free speech with it ; the results were the Espionage Acts of 1917-18, with their savage sentences, and the legislation against sedition, which seems to have gone very far for a 'free country.' The 'Deportations' and their hardships are also considered, and the writer sums up the administrative machinery in the words :

I'll be judge, I'll be jury,
Said cunning old Fury,

as 'the power to tear a man up by the roots is now conferred upon officials . . . the same officials who prefer charges against him.' There are two interesting chapters on 'Wilkes and his successors,' showing how suppression of free speech sometimes reacts upon the Government ; and 'Freedom and Initiative in Schools,' which is always rather a thorny subject. Important appendices are given, and the whole work is valuable both for what it records and what it suggests. A. F. S.

AMERICAN HISTORY AND GOVERNMENT. By Matthew Page Andrews, M.A. Pp. xii, 528. With 163 Illustrations. Post 8vo. London : J. B. Lippincott Co. 1921. 7s. 6d.

THIS is a pleasantly-written history which attempts to avoid prejudice in the 'mooted matters,' and is well illustrated. It brings the story down to the present day, and the chronology of the war, from the American point of view, will be specially useful. The early history of the first settlers is well told, and also the struggle for independence, and the latter is so given as to offend neither of the nations most interested. On page 168 'Lord Germaine' ought however to read 'Lord George Germaine.' We hardly know exactly what to say about the statement : 'Although a young nation among the Great Powers of the Earth, the United States of America has the oldest form of government, or more accurately, the one which has lasted longest without destructive change.'

JOHN SIBERCH, THE FIRST CAMBRIDGE PRINTER, 1521-1522. By George J. Gray. Pp. 28. 4to. Cambridge : Bowes & Bowes. 1921. 2s. 6d. net.

ISSUED to commemorate the four-hundredth anniversary of printing in Cambridge, this little sketch gathers the few particulars of the life of

the pioneer printer and of the books he printed. His name was 'Joannes Lair,' and the location of presumably his native or home village of Siborch in Germany, or Holland or elsewhere, seems to be the sole question not examined in this tractate, which has its chief value in its careful raking together of the bibliographical information about the nine books which Siborch printed.

In 1521 probably he was printing Greek, the first to do so, he claimed, in England. Erasmus was not only his contemporary but his friend.

Siborch's trade mark, bold and effective, is well reproduced from the 'contio' or sermon of 1521. G. N.

Dr. James T. Shotwell's *Report on the Economic and Social History of the World War* (pp. 33, 4to, 1921), produced and published by the Carnegie Endowment for International Peace, outlines a plan for an ambitious and comprehensive economic and social history, collecting the facts for nearly every country and nearly every phase of civil life. The range rather staggers a critic not enthused over the results of co-operation in less extended works on modern, medieval and literary history. Nor does the general editor's phrase about the matter in its present stage, that it is 'only picking cotton,' give precisely the best assurance that the bales will be of first-class selection. That they will be good 'in parts' is perhaps the utmost to be anticipated. It is a scheme that will be modified by the execution, and we trust Dr. Shotwell's grasp of the objective will enable him to control, if not to direct, the lines of the vastest enterprise in history to which mankind has yet aspired. G. N.

Two *Bulletins* from Queen's University, Kingston, Canada, shew the singular conjunctions which the war has made in places remotely apart. Watson Kirkconnell writes *Kapusking—An Historical Sketch*, telling the story of a railway crossing settlement 706 miles east of Winnipeg. During the war, turned into a prisoners' camp for Slovaks, Ruthenians and Poles it was not evacuated of its captives until fifteen months after the Armistice. The process of settling 101 pioneers on it has cost about a million dollars but the climate has proved so trying that only 20 have elected to remain. Prisoners 'slashed and stumped' roads and made a broad clearing. At one time there were 1259 aliens and 256 troops in the settlement. Reduced to the tiny population of a rail-side village the community will carry into its history a tradition of the war, and the essay assembles the interesting facts of the foundation. Asst. Professor A. E. Prince's theme is *Palestine in Transition from War to Peace*. The author served under General Allenby, sharing the admiration which the followers of that gallant soldier and wise administrator hold as their common creed. The essay chiefly concerns the process of resettlement and its note is the combination of difficulties which confront the settlement when so many races and religions are at feud and economic interests are equally unaccommodating. Numerous touches of unusual interest occur in this rapid survey such as the effect of the so-called prophecy of the fall of the Turk 'when the Nile flowed into Palestine' with its realisation in the pipe-line from Egypt to Beersheba, or the allusion to the fitful recovery of activity by Caesarea, once the capital of Herod, or the

fierce problems aroused by Zionism and the deadly possibility of fanatic civil war. The matter is well grouped but the author should be more careful of his literary form.

The *English Historical Review* for July opens with Dr. J. H. Round's examination of the dating of the early pipe rolls, the net result of which is to confirm the doctrine of Joseph Hunter and Dr. R. L. Poole that the accounts in Exchequer were made up to Michaelmas. Dr. Round catalogues the instances of error caused by the failure to realise this fact.

Dr. C. H. Haskins has found a lively subject in a treatise of which only some seven or eight MSS. exist, the *De Arte Venandi cum Avibus* of which the Emperor Frederick II. was the author circa 1244-1250, and which was continued by his son Manfred, king of Sicily. Some of the copies are beautifully illuminated, especially the Vatican codex with more than 900 figures of birds, among which of course the falcon has its place of unique eminence. Based on Aristotle, current works on falconry, and personal observations the book is credited by Dr. Haskins with so much accuracy and acuteness on the personal side as to suggest that the Renaissance itself had its source in the imperial court. Numerous extracts fully support the high estimate thus formed. Falconry has a great literature, and a systematic dissertation like this while doubtless adding more to the piquancy of early literature than to the severity of ornithological science will call for the early production of an adequate text, while an ultimate necessity must be the reproduction of the illuminations. Dr. Haskins gives a very attractive impression of the work as an unusually original product of the Middle Ages.

Mr. H. Idris Bell contributes an instalment of 236 items of a 'List of Original Papal Bulls and Briefs in the Department of Manuscripts, British Museum.' The importance of this list needs no emphasis and its execution bears every evidence of care. Only one Scottish document occurs: it is the confirmation of Haddington Church to St. Andrews Priory in 1185. Among famous instruments in the list there may be mentioned the annulment by Innocent III. of King John's bargain with the barons: it is dated 24th August, 1215, ten weeks after Runnymede. Also in the list is the analogous annulment in December 1305 of Edward I.'s concessions to his baronage. Much high history is carried in these papal writings and the continuation of the list will be watched with attention.

An American contributor of note, Dr. Preserved Smith, gives a fine little paper drawn out of the matriculation book of Wittenberg University between 1524 and 1601. This interesting record of Wittenberg (where Shakespeare, evidently well informed about contemporary education however out of joint with the archaic time of buried Denmark, sent Hamlet and Horatio 'to school,') brings us into relation with a number of capitally interesting enrolments beginning perhaps (for *Dalticus* or *Daltinus* is doubtful) with William Tyndale and including Fynes Moryson. Our countryman Alesius receives passing mention in 1533 and Edward More, afterwards warden of Winchester College, matriculated in 1539. Dr. Smith lays to his door two sayings 'contrasting the valour and sincerity of the English with the arrogance of the Scots,' which warped the ear of Luther. What

prejudice our pious and modest nation had in those dark ages to sustain! A point of secondary importance is made concerning Moryson whose story that in Wittenberg there was shown 'an aspersion of ink cast by the Divell when he tempted Luther' is believed to be the more authentic version of an incident familiar in a different form.

History for April has important new definitions. The Master of Jesus, Cambridge, Mr. Arthur Gray, describes 'the beginnings of Colleges,' showing the distinction between the *collegium*, which was the scholars, and the *domus* or *aula*, where they lived. The connection with the Roman law corporate concept is well made out. Mr. G. P. Gooch exhibits the vicious network of Europe and its diplomacies before the war, making the 'stumble' into the war a better explanation of many things than is offered by the hypothesis of steadily planned iniquity. Professor Pollard entertainingly sets out the historical contradictions of the Barbellion Diaries, proving much unjustifiable tampering with a probably genuine text. The 'historical revision' in this number is Mr. Seton Watson's scrutiny of 'Serbia and the Jugo-Slav Movement.' It dwells on the blunders of Austria and the nemesis that overtook her ruthless ambitions. How intricate the theme is can be gathered from the page-and-a-half bibliography. A review of Prof. J. L. Morison on Canadian Self-Government commends its colonial spirit and its scholarship; and another of Prof. Pollard's recent book on Parliament, albeit a little fantastic about the 'glacial curse,' pays tribute to the freshness and boldness of a work of challenge upsetting or assailing so many orthodoxies.

History for July begins with Mr. G. G. Coulton's bold proposal to read the well known decretal (*Naviganti*) of Gregory as if the pope had at first said that a share of profits in a ship-venture was not usurious and then deleted the *non*. The question is discussed in an early M.S. *Summa* (belonging to the present reviewer) with the answer *Respondetur sine dubio est usura*. Mr. Coulton is seldom so unpersuasive.

Mr. C. R. Fay illustrates the social problems of the nineteenth century by noting the changes in agriculture, transport and industry, touching specially on railways, woollen and cotton spinning, steel, and mines. Prof. A. F. Pollard shews the recent rapid expansion of diplomatic function exercised by the Dominions in foreign policy and points out the delicate situations, 'the gravity of the perils' which must emerge. Miss I. D. Thornley proves that Edward III.'s Act of Treasons in 1352 was not the whole law of treason until the judges in 1628 declared it so.

In the *Juridical Review* for June, Mr. William Roughead devotes his customary wit to the 'Twenty-Seven Gods of Linlithgow,' a rather dull episode of litigation in 1690-1692 when the famous educationist James Kirkwood sought ineffectually for redress against the town council of Linlithgow. The next paper completes the Rev. Thomas Miller's reply to the strictures of Dr. Baird Smith who no doubt will re-examine his reading of the *Concordia* before David I. to defend himself from his critic's seven categorical charges of historical misinterpretation. Mr. Henry H. Brown discusses without much visible novelty the vague definitions of justice and Jurisprudence which, however imperfect, have served the civilians since the

days of Ulpian and Justinian. The obscurities are probably an inheritance of concepts prevalent long before Ulpian.

The *Revue Historique* for March-April contains a long and important study by Joseph Reinach on the responsibility for the war of 1870, and a notice of the death of the talented author on the 18th April. M. Marc Bloch contributes an interesting paper on the history of the term, *Serf de la Glèbe*. The *Bulletin Historique* is devoted to publications on the history of France in the nineteenth century, and on contemporary political questions.

The *Revue Historique* for May-June contains the second and concluding instalment of M. Ch. Bost's account of the Camisard movement in 1701-2, and an account of the activities of Charles Desmarets, a Dieppe corsaire, during the latter part of the Hundred Years' War by M. Boudier. In *Un Précédent de l'affaire Mortara* Commandant Weil deals at length with the pretensions of the Church of Rome to the education of Jewish children who had received Christian baptism in infancy, with special reference to a case of the year 1840. M. Alfred Stern throws light on the role played by the Empress Eugénie in the course of the negotiations between France and Austria which followed the Polish insurrection of 1863 and proved abortive.

The *Bulletin Historique* deals with Syrian historical literature (Chabot), and with the History of Modern France to 1660 (Hauser).

The *Revue d'Histoire Ecclésiastique* for April-July contains the concluding portion of M. Paul Fournier's *Étude sur la collectio xii Partium*, in which the learned canonist assigns the collection to Southern Germany, and dates it between 1020 and 1050. He emphasises its reforming character, and takes the view that its length prevented its taking the place of the Decretum of Burchard, which retained its popularity until Gregory VII. and his school supplanted it. M. Viller deals with the question of the union of the Greek and Latin churches in the period 1272-1438. Father Pinard continues his 'Theory of Religious Experience from Luther to William James,' bringing it down to Schleiermacher. The following English books are reviewed: M'Neile, *St. Paul; Property, its duties and rights*; Thorndike, *Medieval Europe* (highly favourable); and the number contains notices of numerous foreign publications on church history, and an elaborate and invaluable bibliography.

In the March number of *The French Quarterly* M. G. Roth deals with the influence of Crabbe on the muse of Sainte-Beuve in a most interesting manner. In the June number M. E. Gibson draws attention to the important studies which M. Albert Thibaudet is contributing to the history of contemporary French ideas and sensations in his books on Barres and Maurras. This admirable periodical offers an interesting combination of scholarship and actuality which seems to mark a new and fruitful development in the relations between France and Great Britain.

Notes and Communications

'CONCORDIA' AS ALLEGED PRECEDENT (*S.H.R.* xviii. 36). In the *Juridical Review* for March and June the Reverend Thomas Miller has replied to the criticisms of his interpretation of the *Eccles Concordia* which I contributed to this *Review* in October, 1920 (xviii. 36). The following observations deal with his leading contentions:

Mr. Miller's first argument is based on the fact that the *Concordia* was pled by way of exception. He assumes that the exception was that of *res judicata*, and draws the conclusion that Innocent regarded the *Concordia* as a judicial decision or legislative enactment. The words used by the Pope are: '*Monachi supradicti excipientes contra canonicos supradictos asseruerent controversiam super praefatis decimis tempore inclytae recordationis regis David fuisse per concordiam terminatum.*' This is not the manner in which the plea of *res judicata* was stated. In a letter of 1206 Innocent wrote '*Contra petitionem autem hujusmodi, exceptionem rei judicatae Salseburgensis Ecclesiae procurator objecit, proferens authenticum instrumentum sententiae. . .*'¹ The exception used by the monks was the *exceptio transactionis*, i.e. a plea that the matter in dispute had been settled by a compromise. A statement of the nature of this exception and of its use to set up a *concordia* is given in the twenty-seventh chapter of the First Book of the *Regiam Magistatem*. Mr. Miller's assumption is unwarranted, and his conclusion is erroneous.

In the second place Mr. Miller contends that the *Eccles Concordia* is certainly the *Assisa Regis David*, and that I have misquoted Sir John Connell on this point. I am satisfied that the *Concordia* is not the *Assisa*. In the Register of the Bishopric of Moray (p. 5) there is a mandate by William the Lion for the payment of tithes, which provides that if anyone detains tithes or church dues, he shall be compelled to make payment '*secundum quod assisa fuit Regis David avi mei et sicut mos fuit in ejus tempore et adhuc est consuetudo in episcopatu Sancti Andrei, scilicet (i.e. videlicet) . . .*' Then follows a series of disciplinary regulations. This mandate narrates the provisions of the Assize of King David, and they have no resemblance to the terms of the *Eccles Concordia*. Connell prints this mandate after the *Concordia*, and his pointed juxtaposition of the two documents with their diverse provisions and character is sufficient indication of his judgment. Mr. Miller quotes the Moray mandate in an emasculated form.²

Mr. Miller's third argument is based on Innocent's Letter of 5th April, 1207, to the Abbot and Convent of Cambuskenneth (*Opera*, ii. 1134). On 28th March he had granted a privilege to the Monastery of Dunfermline,

¹ *Opera*, ed. Migne, ii. 856.

² *Juridical Review*, xxxii. 69.

renewing a similar privilege granted by Lucius III. in 1184. The representatives of Cambuskenneth apparently protested against this move on the part of their opponents, and represented to the Pope that the privilege had been improperly obtained. It was the rule of the Papal Chancery that if any Papal letters were obtained without express mention that the matters with which they dealt were the subject of litigation or dispute, the letters could be reduced. ‘*Si supra re litigiosa fuerit impetratum, de hoc non facerit mentionem non valet rescriptum.*’ In these circumstances Innocent granted the Letter of 5th April, which narrates that, although he had renewed the privilege of Lucius which contained certain subjects regarding which it was known that a question had arisen between the two religious houses, the renewal was not to be held as more than a renewal of the right of Dunfermline, whatever it might be. ‘*Vobis,*’ he assured Cambuskenneth, ‘*in jure vestro nullum valeat praejudicium generari, quia non intendimus jus novum conferre, sed collatum servare, contra quod nondum potuit a tempore praefati praedecessoris nostri praescribi.*’ Innocent assured Cambuskenneth that the privilege was granted without prejudice to any right which that House could successfully vindicate.¹ The reservation is a general one, and will not bear the precise interpretation which Mr. Miller seeks to give it. Innocent’s Letter has reference to his Privilege to Dunfermline, and not to his answers to the arbiters.

Mr. Miller had placed a remarkable interpretation on the last clause of Innocent’s Letter quoted above, ‘*contra quod, etc.*’ He cuts down the phrase to three words and argues that by ‘*nondum potuit praescribi*’ Innocent intimated ‘the possibility in the near future of a legislative measure by himself which would be unfavourable to Dunfermline’s rights.’² He adds in a footnote that the term *praescribi* is used in the sense common to Cicero and Quintilian. The term is used in the legal sense of prescription, and refers to the forty years’ prescription applicable to churches and religious houses.

Mr. Miller’s fourth argument is based on the fact that the preliminary narrative of Innocent’s Letter is omitted from the statement of his opinions, as these are incorporated in the *Decretals* of Gregory IX. He contends that this course was followed by the compiler of the *Decretals* to remove evidence of the fact that Innocent had, in violation of his own expressed principles, accepted a layman’s judgment on a question of tithes. He contends that in placing Innocent’s opinion on an *Eccles Concordia* in the title ‘*De fide instrumentorum*’ Raymond distorted its meaning, and that he was quite justified in doing so, as his compilation was professedly an attempt to produce a consistent body of law. This argument is based on very imperfect knowledge. In the preparation of his *Decretals* Raymond did not go to the original Registers, and depended for the most part on what are known as the *Quinque Compilationes*. Of these compilations the third and the fifth were officially promulgated. The excerpt from the Letter of Innocent III., which is the subject of discussion, appears only in the *Compilatio Tertia*, of which it forms Chapter IV. of the title ‘*De fide instrumentorum et decretalium.*’ Now the *Compilatio Tertia* was prepared by Peter of Beneventum, and was sent by Innocent III. to the University of Bologna in 1212

¹ *Cambuskenneth Register*, pp. 38, 40, 42, 48.

² *Juridical Review*, xxxiii. 43.

with a special Bull in which the Pope states that Peter had arranged the material under the proper titles. It will be observed accordingly that the author of the Letter took the view that his Letter dealt with a question of probation. Mr. Miller's elaborate fabric accordingly falls to the ground.¹

Is there any essential difference between the Papal Opinion in its original form and the form in which it is incorporated in the third *Compilatio* and in the *Decretals* of Gregory IX.? The answer is clearly a negative one. In his Letter to the arbiters, Innocent states that a dispute had arisen between the two religious houses concerned, *super quibusdam decimis ad ecclesiam de Egles spectantibus et damnis et injuriis irrogatis.* He then narrates the third question and his reply as already twice printed in the pages of this *Review*.² These passages contain the only mention of tithes in the whole Letter. The question was whether the instrument the witnesses to which were dead '*per se sufficere valeat ad probandum propositum,*' i.e. that a dispute regarding certain tithes had been compromised. The reply of the Pope was: '*Vos secure poteritis praefatum admittere instrumentum.*' When the Opinion was incorporated in the collections of Peter of Beneventum and Raymond the *species facti* was omitted and the proposition of Innocent generalised and made of universal application. There was no alteration of the sense of the Opinion.³

In his first article Mr. Miller laid stress on the importance to be attached to the provision of the *Concordia* regarding the *alii homines parochiales*.⁴ He argued that a provision in the *Concordia* for the payment of tithes outside the original grant gave the transaction the character of a legislative act. My reply was: 'If we treat the *Concordia* as an arrangement between the parties representing the Parish Church and the Royal Chapel, it is clear that no other body had any claim to payment of tithes within the parish, and that they were not exercising any legislative function in apportioning between themselves the whole of the tithe.' Mr. Miller retorts that the Bishop could not act canonically without the consent of his Chapter, and that therefore the Parish Church was not properly represented. The answer to this objection is two-fold: (1) The provision that the tithes of the *alii homines* should be paid to the Parish Church was not an alienation, but simply an affirmation of the rights of the Bishop and Chapter, and the consent of the latter was not necessary; (2) as regards the tithes embraced in King Alexander's grant, the transaction was connected with tithes which had been restored to a religious house by a lay holder (or rather with-holder). This process was going steadily on throughout the twelfth century, and everything was done by the ecclesiastical authorities to facilitate the restoration, though it often resulted in regulars obtaining what ought to have gone

¹ Phillips, *Du Droit Ecclesiastique dans ses sources*, ed. Crouzet (Paris, 1852), 160: Tardif, *Histoire des sources du droit canonique* (Paris, 1887), 187: v. Schulte, *Geschichte des Quellen und Literatur des Canonischen Rechts* (Stuttgart, 1875), i. 82: *Corpus Juris Canonici* (ed. Friedberg), ii. p. xxii: Friedberg, *Quinque Compilationes* (1882), 114.

² S.H.R. xv. 266 and xviii. 37.

³ Reference may be made to a letter of Innocent in *Opera*, ii. 123.

⁴ The tithes of *alii homines* played an important part in the Cistercian revival of 1100.

to the secular clergy.¹ In these cases the Bishop consented willingly. The famous fourteenth canon of the Lateran Council of 1179 provided only for episcopal consent, thus confirming an established practice, and the opinion of Gratian (*Decretum*, P. ii. xvi. c. 16, q. 1, c. 55). In 1198 the question of the consent of the Chapter in a case of the restoration of tithes by a lay holder came before Innocent III., when he decided that the consent of the Bishop alone was sufficient.²

Mr. Miller gives an erroneous account of the legislation of Charlemagne on tithes. He writes: ‘The arbitrary appropriation of tithes which Charlemagne’s legislation permitted had no respect whatever to territorial considerations, but allowed a grant to be made to any priest or chapter or church or monastery, at the will of the tithe payer.’³ The following instances of Charlemagne’s legislation offer sufficient proof to the contrary: ‘*Quicumque voluerit in sua proprietate ecclesiam aedificare, una cum consensu et voluntate episcopi, in cujus parochia fuerit, licentiam habeat. Verumtamen omnino praevidendum est, ut alias ecclesias antiquiores propter hanc occasionem nullatenus earum justitiam aut decimam perdant, sed semper ad antiquiores ecclesias persolvantur.*’⁴ ‘*Ut terminum habeat unaquaeque ecclesia, de quibus villis decimas recipiat.*’⁵

The function which King David and his notables exercised in dealing with the Eccles *Concordia* was that of a royal chancery. In the words of Giry, it was ‘Le système qui consistait à conférer l’authenticité aux actes privés en leur donnant la garantie du sceau d’une juridiction’ (*Diplomatique* 855). This development is treated by M. J. Laurent in his Introduction to the *Cartulaires de l’Abbaye de Molesme* (Paris, 1907, i. 42 et seq.).

The essential error of Mr. Miller’s theory is the assumption that the Papal legislation of the twelfth and thirteenth centuries was a novelty. The fact is that it was an effort to recall a condition of things which had existed centuries earlier and which had been gradually affected in the first instance by feudal influences, and later by monastic encroachment. The first stage can be studied in M. Imbart de la Tour’s *Les Paroisses Rurales du IV^{me} au IX^{me} Siècle* (1900), which appeared originally in the *Revue Historique*, 1896, 8.⁶

¹ Joannis Monachus Cistersiensis ordinis, *De defensorum juris* (Zilettus, iii. P. ii. p. 128), *Contra praescriptionem et usurpationem*. He cites 30 cases, ‘in quibus non currit praescriptio,’ of which, ‘tertius, si laicus possideat decimas, quas de jure detinere non potest: eas nulla valet praescribere ratione. Ista casus est gravissimus punctus contra nos, qui est in tota theologia: cum nullus dat decimas, cui debet dare.’

² *Opera*, i. 272, and *Dec. Greg.* ix. Bk. iii. Tit. x. cap. 7.

³ *Juridical Review*, xxxii. 62; xxxiii. 42. ⁴ *Capitulare ad Salz.* (803), c. 3.

⁵ *Capitulare de Presbyteris* (811-13), c. 10. (Pertz, *M.H.G. Leges*, i. 123 and 161).

⁶ e.g. ‘L’évolution dont est sortie la paroisse était donc terminée à la fin du vi^e siècle... Mais, dans ses traits généraux, la paroisse est constituée. Elle a ses fidèles, son clergé et son culte, ses terres, ses ressources, ses institutions de bienfaisance et de prières. L’autel, le baptistère, le patrimoine: voilà ses éléments auxquels s’ajouteraient un peu plus tard les dîmes.’ (*Revue Historique*, lxi. 24.)

‘A ce domaine foncier s’ajoutaient les produits de la dime. Rendue obligatoire par les capitulaires et les canons, elle devait être payée à chaque église paroissiale par les habitants de la paroisse. Chaque district ecclésiastique devint ainsi un district financier qui dut être délimité avec précision et qui le fut en effet dans les *libelli dotis*

For an examination of the struggle for tithes between the regular and secular clergy, reference may be made to M. Viard's *Histoire de la Dime Ecclesiastique aux XII^e et XIII^e Siècles* (1912). DAVID BAIRD SMITH.

A DRYGATE CHARTER, GLASGOW, 1567. Mr. Charles R. Stewart, of 46 Gordon Street, Glasgow, owns a charter (in Latin on parchment) dated 23rd September, 1567, by Thomas Knox, chaplain of the perpetual chaplainry of St. James the Apostle in the metropolitan church of Glasgow, with consent of the Dean and Chapter, in favour of Alexander Steuard, tutor of Castlemilk, and Margaret his spouse, and the longer liver, conveying to them All and Singular the tenements fore and back, partly ruinous, with yards and pertinents in the City of Glasgow, in the street called 'ye drigait,' on the north side of the public street of the same, between the tenements or manse of the rector of Askirk on the west and the tenement of Peter Clerk on the east, the public way on the south, and the torrent of Malyndonar on the north, in conjunct fee and to the heir lawfully procreated or to be procreated between them, whom failing, to the heirs of Alexander in feu farm fee and heritage: Reddendo yearly twenty marks Scots at half-yearly terms Whitsunday and Martinmas: the infestment to be null if the duty (*canon sive census*) is left unpaid for an entire term.

Whereupon Knox grants precept of sasine to be given by Robert Kalendar to the said Alexander and Margaret.

Executed at Glasgow: witnesses Mr. Archibald Crawford, Rector of Eglisname; John Stewart of Bouhous; Sir Robert Watson, vicar of Clau-schant, and George Campbell, layman, and others.

Thomas Knox capellanus capellanie Sancti Jacobi
suprascriptus manu propria subscripsi.

Ja. Balfour decanus Glasguensis.

Jacobus Hammiltone Subdecanus, Presidens.

Johannes robyson rector de fale subscripsi.

Johannes Hammyltoun Succentor.

Johannes Miltone de Askirk.

David Gibsone ab Aire.

M^r Andro Hay Renfrew subscripsi.

M^r Williame Hammyltoune de Cambuslayng
subscripsi.

Robertus Herbetsoune a Glasgow secundo.

Johës Layng Rector de Lus.

M^r James Kennedy persone of Carstaris.

Archibaldus Crauffurd ab Egilshem rector.

The seal is red wax on white, attached, bearing apparently a saltire, which seems to be chequy. Most of the inscription has been worn away

des églises. Dans ce district, toutes les terres, quel que fût le maître qui les possédât, furent soumises au même tribut. Cette règle était absolue.' (*Ibid.* lxiii. 27.)

Reference may be made to E. Lesne, *La dime des biens ecclésiastiques; Revue d'histoire ecclésiastique* (1913), xiv. p. 489, and to the following typical French chartularies: Molesme (Paris 1907, etc.), Tiron (Chartres 1883), Lerins (Paris 1883), Cluny (Paris *v.d.*).

and what remains is indistinct. The letters CUT * * M only are legible. The word 'tutori,' which is faded but legible, although in a fold of the document, is made certain by the contemporary endorsement on which the words 'Tutor of Castlemilk' are quite distinct.

By this deed the property of the Dean and Chapter of Glasgow passed into lay hands at a time when the fates of the old creed were at their lowest ebb and the estates of the Church were in various ways being detached and divided among lay impropiators, *i.e.* were being everywhere secularised.

Bouhous, residence of one of the witnesses, appears in the map of the Clyde district in Blaeu's Atlas, 1662, where it lies immediately to the northwest of Hags Castle, Pollokshaws. Another of the witnesses is vicar of 'Clauschant.' This was the ancient parish of Clachshant now embraced in Stoneykirk, Wigtownshire.

GEO. NEILSON.

AN INVERKEITHING SASINE, 1667. Mr. William Gemmill, Writer, Glasgow, has an Instrument of Sasine, dated 28th September, 1667 ('Jaj vi^c and sixtie sevin zeris'), recording that 'ane honest man Williame Roxbur[gh]t,' burgess of Innerkeithing, came with Thomas Thomsone, a bailie of said burgh, to 'ane tenement of land heich laich bak and foir lyand vpon the wast syde of the streit thereoff betuixt the landis of the airis of the deceist Robert Drysdail on the south and wast, the landis of the airis of the deceist John Davidstone on the north, and the Hie streit or commone gait on the other pairtis': And there the said William Roxbur[gh]t resigned said tenement in said bailie's hands as in the hands of the King's Majesty, immediate lawful superior thereof, for new infestments to be given to John Andersone, 'skiper burgis' of said burgh, for the said Jannet Roxbur[gh]t in liferent and to the heirs of their bodies in fee, whom failing, to the said William Roxbur[gh]t's heirs; Sasine duly given 'with all solemnities requisite,' 'betwixt twa and thrie houris in the efternoone'; witnesses James Douglas, John Andersone Younger, burgisses of the said burgh, Robert Dewie, toune offishar, with others.

Notarial docquet and mark by Robert Cant, notary public by the King's authority. The mark includes the signature and motto

Ro : Cant

Virtus lawdata cresscit

R · C · N · P ·

AN ANGLO-AMERICAN CONFERENCE OF PROFESSORS OF HISTORY was held in London, July 11-15, with relation partly to the objects of the recently inaugurated Institute of Historical Research and partly to the preliminaries, or at least the atmosphere, for some joint organization or federated system whereby students and teachers of history in the British Empire may co-operate with their colleagues in the United States in the publishing of studies, editing of texts and otherwise. Special addresses included Ecclesiastical and Colonial History, Legal, Diplomatic and Naval Records, and the methods of conducting Seminars in History. Functions included a welcome at University College, hospitality at King's College and a reception by Lady Astor, besides visits to the British Museum, the Public Records Office and the Guildhall, a conversazione

by the Royal Historical Society, tea at Lambeth Palace after an inspection of the Library, and finally a dinner by H.M. Government. The business done sums itself up in the appointment of a Provisional Committee to sketch out a sort of Constitution for a permanent Committee. Between two and three hundred delegates attended, adequately representative of all the great aspects of historical instruction.

QUEEN MARY'S PEARLS (*S.H.R.* xvii. 291, xviii. 83). The intimate knowledge of these pearls shown by Catherine de Médicis and her anxiety to secure them may be explained by a passage from Brantôme.

In his life of Catherine de Médicis, Brantôme¹ contradicts the detractors who asserted that this 'illustrious lady' was a Florentine of low estate. He explains that she brought to France lands worth 120,000 livres a year, which had come to her from her mother (Madeleine de la Tour d'Auvergne) and that, besides other lands and titles in Italy, she brought also 200,000 crowns 'avecques grande quantité de meubles richesses et précieuses pierreries et joyaux, comme les plus belles et plus grosses perles qu'on ait veu jamais pour si grande quantité, que depuis elle donna à la reyne d'Escosse sa nore,² que lui ay veu porter.'

J. D. MACKIE.

CLASSICAL EDUCATION. Persuasion, evidence, earnest but tolerant diversity of thought, and an elaborate discussion of scholastic history and tradition, as well as of current method and principle, are remarkably combined in *The Classics in Education* (H.M. Stationery Office). It is the report of the Committee appointed by the Prime Minister to inquire into the position of classics in the educational system of the United Kingdom.

First there is a statement of the general place of the classics, with an admirable summing up of their educational value and a glance in passing at translations; then comes a luminous historical sketch of classical instruction, beginning with medieval education and brought down to date with a brief but pregnant page of inferences on the whole subject. After this we have detailed discussions of practical problems, especially examinations and curricula, and finally the conditions, etc., of the University in England, Scotland, Ireland and Wales set forth from the evidence of the highest authorities. The whole matter is focussed in a conclusion and recommendations signed by nineteen commissioners of the first standing.

It is a noble plea for the classics as indispensable, but under limitations due to the varying educational objectives of the students. One can hardly say less than that on the one hand the aims of education in classics have never been stated with more spirit, cogency and moderation, and on the other that the historical presentment is probably the most interesting, vigorous and concise narrative of the course of European, and particularly British, education that has been written for many a day.

Not only is Lord Crewe's Committee's Report a monument of learning, it has emphatically style, and its general chapters, brilliantly phrased, lift a great and pressing problem to its true plane.

¹ Brantôme, *Œuvres complètes* (Soc. de l'Histoire de France, 1874), vii. 338-339.

² Nore = 'bru' cf. Latin *nurus*.