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- ART. I.—1. *Memoir of Sir James Dalrymple, First Viscount Stair. A Study in the History of Scotland and Scotch Law during the Seventeenth Century.* By J. G. MACKAY, Advocate. Edinburgh: 1873.
2. *The Stair Annals.* By JOHN MURRAY GRAHAM. Edinburgh: 1875.
3. *William Carstares. A Character and Career of the Revolutionary Epoch.* By ROBERT HERBERT STORY, Minister of Rosneath. London: 1874.

SCOTLAND has not been fertile in great statesmen. During what may be called the kingly period of her history—from the accession of Robert II. to the death of James V.—the one thing essential to the well-being of the people, and to the defence of the country against English invasion, was to curb an overgrown, turbulent, and treacherous nobility; a task to which no man was found equal. At the great uprising of the Reformation a wider field was opened; nobler ends came into view. Knox, though not in the strict sense of the word a statesman, yet did the work of the greatest: he awoke a national life; he called into political existence the middle-classes of his countrymen. From various causes Scotland, in his time, took a place in the politics of Europe out of all proportion to her real power. But her statesmen, with the single exception of Murray, were unworthy of their opportunities. Maitland of Lethington has a great but undeserved reputation. He was a man, as Mr. Burton has shown, rather crafty than wise; he seems to have studied the subtleties of Italian politicians beyond the powers of his own brain; he fought with armour which he had not proved, and the result of all his tortuous devices was hopeless failure.

On the accession of James to the English throne Scotland sank into insignificance and degradation. From this she was, for a brief season, raised, not by any efforts of Scotch statesmanship, but by the wholesome stimulus of the tyranny of the Stuarts, wanton with prosperity; and strong, as they thought, with the strength of England. The Covenant, the abjuration of prelacy by the Assembly of 1638, the invasions of England, were bold and vigorous measures. It is not too much to say that to the conduct of Scotland at this juncture England probably owed her freedom. But the end was unworthy of such beginnings. The fervour of popular feeling which had supported Knox blazed up again for a time, but could not long endure. The national life of the Reformation period had died away. The people had been crushed by civil war, by poverty, by the utter misrule which followed upon the Union of the Crowns. 'The gentry of that nation,' writes one of Cromwell's officers, 'have such influence over the commonalty that they can lead them which way they please.' Unhappily no one was found who could lead them wisely. The needy nobles and mercenary soldiers who led the Scottish army into England were animated by no higher motive than a love of English quarters and English money; the spirit of resistance to ecclesiastical tyranny, which at first stimulated the people, soon degenerated under evil guidance into a fierce intolerance, a determination to impose Presbyterianism upon all men, which found its fitting conclusion in the acceptance of Charles II. as a Covenanted King. During the Usurpation Scotland was preserved from native rule; under the restored authority of her 'native princes,' the wisdom of Ahithophel could have availed nothing to any upright Scottish politician, except in so far as it might have counselled the necessity of a speedy retreat to Holland.

At the Revolution dawned a day bright with a fairer promise for Scotland than for any portion of the British dominions. The oppression from which she was then set free had been greater than the oppression of England; she could look to the future with a better hope than the most sanguine could entertain for Ireland. Unlike the case of England, so utter had been the disregard of law, so entire the overthrow of every cherished institution, that the whole constitutional fabric had to be re-constructed. Unlike the case of Ireland, enmities of race and creed were not so deeply rooted as to render such re-construction hopelessly beyond the reach of wisdom and honest purpose. Again the leaders, by position, of the Scottish people failed in the time of need. If, as Mr.

Arnold thinks, the virtue of an aristocracy lies in openness to ideas, never was a body less worthy of the name than the nobility of Scotland. Happily, influences were now at work which opened a career to 'new men.' It is our purpose, with the aid of the books which are at the head of this article, to give some account of the foremost of these—the two Dalrymples, father and son—founders of a family which, through several generations, produced men eminent in literature, law, arms, and diplomacy.

Mr. Graham's work, with the least pretension, is the most valuable of the three. It embraces the life of the founder of the house, of his son, the first Earl of Stair, and of his grandson, the Field-marshal and diplomatist—the 'magnanimous 'Stair' of Carlyle's Frederick. He has published, for the first time, many letters of importance and interest. He has done his own part with taste and judgment. His narrative is brief but clear; his candour and impartiality beyond praise. Mr. Mackay's book is a more elaborate effort. It is, as he calls it, 'a study in the history of Scotland and Scotch law.' And, as such, it has many merits. But it is confused and without method. Hence it leaves no vivid impression on the reader's mind—a fatal defect in a biography. We shall have occasion, also, in the course of this article, to note instances of bad taste, of over-confidence, of one-sided judgment, in Mr. Mackay's volume. And we are, therefore, the more anxious now to recognise his considerable research, his liberality of thought, and the freshness and vigour which animate his pages. Of Mr. Story's labours we cannot speak so favourably. That the book is a dull book is not altogether the author's fault. Assuredly Carstairs was no common man. Equal in astuteness and sagacity to the Master of Stair himself, he was in honesty and fidelity superior perhaps to all the politicians of his age and nation. There is reason to believe, with some degree of certainty, that he rendered good service to the State, in forwarding, against ignorance and prejudice, the true interests of Scotland. But those services, during the most important part of his career, took the shape of private counsel to William. Circumstances, together with his profession, excluded him from public life. Hence his biography wants interest—a want not supplied by his guarded correspondence. But Mr. Story's book has graver faults than the fault of dulness. It is marked by a tone of loftiness which the reader finds nothing to justify. There is little evidence of research; interest is not awakened by novelty of material or originality of thought. Historical insight is wanting; there are grievous mistakes in judgments

of character—as in a rhapsody about Claverhouse, and the praises of that unscrupulous turn-coat Sir James Stewart. It is difficult not to be offended by the ungenerous spirit which finds pleasure in the repetition of the idle slander that William encouraged Monmouth's adventure in order to rid himself of a rival; it is impossible not to smile at the taste which can find in the position of Carstairs at William's death a parallel to Diocletian at Salona and Charles V. at Yuste. Inaccuracy is shown even in the slipshod way the references are noted; * the style, level enough as a rule, is disfigured by frequent and vain attempts at effect.† Worst of all, there are not a few traces of that bitterness towards any who chance to differ from Mr. Story—especially on matters ecclesiastical—which so painfully characterises the school to which he belongs. But we pass gladly from the duty of criticism to the more pleasing portion of our task.

The greatest of Scottish jurists was born in Ayrshire in the year 1619, of a family by no means so obscure as his enemies in after days were prone to allege. He was educated at the University of Glasgow, where he graduated in 1637; and four years later was appointed, after a competitive examination—as was the wont then—a Professor or Regent in Philosophy. In 1648 he resigned this position for the more stirring profession of the bar, to which he was called in his twenty-ninth year. Almost immediately thereafter he was appointed Secretary to the Commissions which went to Holland seeking a virtuous Covenanter in Charles II. He is known during these visits to have formed the acquaintance of Salmasius, and he may be reasonably supposed to have profited by intercourse with the many eminent Dutch jurists then living. Sagacity, far inferior to that of Dalrymple, would have forbidden any more active support of Charles' fortunes; the future President, for about ten years, pursued in safe insignificance his professional

* As thus: 'Burnet, vol. iii.' 'Fountainhall, Wodrow,' p. 148.

† The following style of writing is the reverse of impressive: 'The chamber of the Privy Council echoed with the howls of the victims of the boot. There, one day, might be seen Dalzell striking the prisoners under examination over the mouth with his sword-hilt till the blood sprang; on another, Lauderdale baring his brawny arms above the elbow, and swearing "by Jehovah" that he would force the gentlemen of Scotland to enter into those bonds' (p. 45). Nor is a distinct idea of a political situation conveyed thus: 'Jacobite stratagems, Episcopal pretensions, Presbyterian jealousies, national prejudices, personal dishonesties, and political corruptions weltered together in illimitable battle and confusion' (p. 275).

avocations. In 1657—not ten years after he had been called to the bar—Monk recommended him to Cromwell for the office of Judge, as being ‘a very honest man and a good lawyer.’ Stair’s acceptance of this office seems to Mr. Mackay a thing requiring excuse. In our judgment it was one of the most justifiable steps in his somewhat shifty public life. Nor do we think it worth while to defend a course of which an example was set by such men as Hale in his own profession, and Blake in another. Far more questionable was his conduct under Charles. He was knighted immediately after the Restoration, and included in the first Commission of Scottish Judges. But in 1662 a Declaration was imposed on all persons in offices of trust. This measure was aimed directly at Presbyterians. The declarant affirmed solemnly the illegality of all leagues, covenants, and gatherings in the late troubles; ‘and particularly, that those oaths, whereof the one was commonly called “The National Covenant” (as it was sworn and explained in the year 1638 and thereafter), and the other entitled “A Solemn League and Covenant,” were and are, in themselves unlawful oaths, and were taken by and imposed upon the subjects of this kingdom against the fundamental laws and liberties of the same.’ Stair hesitated. His family was Presbyterian. He himself had all his life been a Presbyterian. ‘In the late troubles’ he had for two years borne arms ‘for Christ’s Crown and Covenant.’ He had, at one time, resolved to resign; but a slight concession from those in power sufficed to overcome his scruples. Lauderdale, who seems to have had as much liking for Stair as it was in his nature to have for any man, and who doubtless appreciated the value to the administration of Stair’s character and abilities, stood his friend. He was summoned to London, and admitted to an interview with Charles, who possibly may have remembered with favour the secretary of Breda and the Hague. The result was a permission to accompany his signature of the Declaration with the verbal statement, that ‘he was content to declare against whatever was opposite to his Majesty’s just right and prerogative.’ These words are no real qualification of the terms of the Declaration, and it is difficult to believe that any mind can have regarded the utterance of them as other than a farce.* To such paltering with conscience we prefer the frank

* Very different from the qualification with which Burley took the test of drinking the health of the Primate of St. Andrews in Niel Blane’s Change House—‘May each prelate in Scotland soon be as the Right Reverend James Sharpe.’ Well might Bothwell say, ‘I don’t know what the devil the crop-eared Whig means.’

readiness of Lauderdale to 'sign a cartfull of such oaths before he would lose his place.'

Stair was created President of the Court of Session, and made a member of the Privy Council in 1671. He held these offices for ten years—years during which, in the calm judgment of Hallam, the wickedness of the administration can find no parallel in modern history. For this Mr. Mackay proposes no defence; Mr. Graham adopts the defence stated by Stair himself in his 'Apology,' which is simply that he did not approve of 'severity against those who suffered for serving God in the way they were persuaded;' that he 'did what he durst to save them.' The defence is not very successful—especially when we consider the small result of his exertions. The distinction between commissions granted for the performance of necessary public duties and those which 'relate to councils for establishing usurped power or burdening the people,' by which Stair justified his holding office under Cromwell, cannot avail him in this matter. Lauderdale was then carrying out his scheme of subverting the Constitution and governing Scotland by the Privy Council, without a Parliament; and everyone who sat with him in the Privy Council must be held responsible for the guilt of that scheme. No one would impute to Stair the malignity of the apostate Sharpe, or the pleasure in human suffering which showed itself in the dark nature of James; but a dislike to witness the infliction of torture was a merit which he shared with the majority of his colleagues, and his preference for moderate counsels was only evinced by absence or silence. By the practice of such prudential arts no man can obtain exoneration from whatever blame may attach to the government of which, from motives of ambition or interest, he consents to be a member.

But the time had now come when caution and moderation could no longer avail. The Duke of York came to Scotland as Commissioner in 1679, animated, even then, by that determination to raise up Popery which in the end cost him his crown. It was soon apparent that any such design would be opposed by all but the most subservient of Scottish statesmen. Stair, at his first interview with the Duke, gave offence by welcoming him to an 'entirely Protestant country.' He filled up the measure of his iniquity by carrying in Parliament an addition to the Test Act of 1681, defining the Protestant religion as 'the religion contained in the Confession of Faith recorded in the first Parliament of James VI.' He tells us that his object was 'to provide the safest hedge against Popery;' and this object was perfectly apprehended by

James. Accordingly, Stair on going to London, either to obtain permission to take the test with a qualification, as he had done the Declaration of 1662; or, as some have said, with the view of securing for his more complaisant son the place which he foresaw he himself would have to resign, was, at the instance of the Duke of York, refused an audience of the King; and a new Commission was issued in which his name did not appear. Stair assures us he would not have signed the test. Why a man who had signed the Declaration of 1662, and had been for ten years a member of the Privy Council, should have stickled at this test we are wholly unable to understand. But it is unsafe to pronounce judgment on matters of conscience—especially when the consciences are those of Scottish statesmen of the seventeenth century. The main fact is, that Government never offered him the chance of signing. To have done so would have been a farce. His ruin was determined on. Moderation, not unlike his own, had brought destruction on Argyle. The President's declared hostility to Popery was worse than moderation. His dismissal came from the same cause which, a few years later, raised Perth and Melfort over Queensberry: and which in England led to the downfall of the Hydes—the resolve of James to have in his service no minister who would not do his bidding even in the matter of religious profession.

Stair retired to the country, but was not allowed to enjoy his retirement. The eye of the tyrant was upon him. In 1662 Claverhouse was sent to urge on the persecution in Wigton and Galloway. Of course, he found cause of offence in everything done by the fallen President. It is half melancholy, half ludicrous, to read Stair's appeals to Queensberry, imploring favour, protesting loyalty, and remonstrating against being 'disquieted' because his wife won't attend the parish church, which, he plaintively adds, 'I cannot help'—an inability easy of credence if the lady had any likeness to the mother of the Bride of Lammermoor.* At last, acting on a friendly hint from Sir George Mackenzie, he fled to Holland.

At Leyden—fit refuge for an exiled scholar—Stair found a

* Mr. Mackay's biographical enthusiasm prompts him to stand up for Lady Stair. But he might have remembered that she is thus described by one of her descendants: 'In Lady Ashton the character of our great-great-grandmother seems in many respects more faithfully delineated, or at least, less misrepresented. She was an ambitious and interested woman, of a masculine character and understanding.' Letter from Mr. Dalrymple Elphinstone in the Introduction to the 'Bride of Lammermoor.'

society, composed of the most eminent and learned men in Europe, ready to soothe his six years of banishment. Of his life there little is known. He gave himself to literary pursuits; he supported, in a languid way, the enterprise of Argyle; while resting his hopes, we can readily believe, on a very different deliverer. He, least of all men, was likely to have been led away by the proverbial credulity of exiles. He was recommended by Fagel to the notice of William, who soon saw and valued his cool sagacity. He entered eagerly into William's great design, professing himself willing to venture his head, his own and his children's fortunes, in such an undertaking—a declaration the magnanimity of which is somewhat impaired by the fact that the family estates were perfectly safe in any event, being at that very time enjoyed by his eldest son, serving James as Lord Advocate and Lord Justice Clerk. But William could not afford to look closely into such matters. He knew Stair was able; he had reason to believe him willing to serve the good cause. He, therefore, honoured him with much confidence, and took him over to England in the 'Brill.'

Here Stair's work as a statesman begins. He is said, indeed, to have shared the counsels of Monk before the march into England which restored the monarchy. But, with this exception, he had hitherto lived the life of a mere lawyer, avoiding, even to the disregard of duty, any part in state affairs. To such a course he had been led partly by timidity, partly because he disliked the governments he continued to serve. Both causes were now removed. His political views were in accord with the new order of things; there was no longer room for timidity: the only hope of safety to him or his lay in the stability of William's throne. Even now, however, the part which he took was not a public one. He lived in a beautiful villa on the banks of the Thames belonging to the widow of his old patron Lauderdale, and guided the deliberations of William on Scotch affairs by his experience and sagacity. He was, in the crisis of the Revolution, the confidential adviser Carstairs afterwards became. And, in truth, the sagacity which directed William in these things must have been sagacity of no common order. If, as there is every reason to believe, Stair suggested the mode in which the Convention which was to meet at Edinburgh should be summoned—in righteous disregard of existing laws; if, by his advice, nobles who had been deprived of their honours by the tyranny of the Stuarts were invited to resume their seats in Parliament; if, by his advice, the franchise was so extended that none but Papists were excluded from the vote; if he had any share in William's letter

to the Convention when it did assemble, and in the private instructions sent to the friends of the Government, in which we see not only a statesmanlike view of the position, but an intimate and accurate knowledge of Scotch parties and of the Scotch character; then few advisers have ever given wiser counsel to a prince. Ecclesiastical matters presented, perhaps, the most serious and the most lasting difficulty. William was undoubtedly desirous that the Scotch should be induced to accept a moderate form of Episcopacy. The establishment of Presbytery in Scotland made every Scotch Episcopalian a Jacobite, and was, moreover, in the highest degree distasteful to English churchmen, high and low alike. Nor is it uncharitable to suppose that a prince as greedy of power as any who have ever governed England may have had some preference for a form of Church government which, to say the least, has always been associated with the ascendancy of the Crown. Stair, knowing Scotland, knew the maintenance of Episcopacy to be impracticable. Aided probably by Carstairs, he had little difficulty in bringing William to this opinion. But a further and most important object was that William should be saved from the unpopularity sure to be incurred by him in England were he to countenance the overthrow of Episcopacy in the North. The matter must be decided before he could have any say in it, or any title to interfere. Stair effected this by prevailing upon the managers of the Convention to insert a clause in the Claim of Right declaring Episcopacy an insupportable institution, odious to the nation, which must be abolished. William, therefore, if he accepted the Crown of Scotland at all, had no choice but to accept it on a contract of which this was the first condition.

It seems to have been undetermined whether Stair should be restored to his place as President, then held by Sir George Lockhart. In his 'Apology' he says he would not have taken the place while Sir George lived; adding, frankly enough, 'nor had I any doubt but that the King would have provided me as well as by it.' The murder of Lockhart in March 1689 removed all difficulty; and Stair thus writes, with a certain half-sincerity, as to his own feelings at the time: 'That shameful murder of Sir George Lockhart touched the King much, and made him say to me he saw it was necessary that I should resume my place again, which I was willing, though it was my right, he should continue to enjoy, being younger and abler to endure the toil than I.'

Accordingly he was re-appointed President of the Court of Session, and held that office till his death in 1695. These

years were certainly the most useful, and probably the happiest, of his life. He enjoyed the position which he preferred to any other ; he could, without scruple, take what part became him in public affairs. And the part from which he as a judge was debarred, he saw taken, with rare ability and energy, by his son. The attacks of numerous and bitter enemies had no effect on his fortunes, and were not, therefore, likely to disturb his cold and equable temper. Yet these attacks, both on the President and his son, were unexampled in persistency and malignancy. Politicians of every rank and every party were never weary of denouncing the Dalrymples as the cause of everything that was amiss in Scotland. Acts of Parliament were passed for the express purpose of driving them from office. But all was of no avail. William refused his assent to the Acts, and showed the value he put upon the denunciations by raising the President to the peerage. One pamphlet, however, probably the joint work of the plotter Ferguson and the traitor Montgomery, could not, it was thought, even in the interest of Government, be left unnoticed. Accordingly Stair published a short reply, entitled 'An Apology for Sir James Dalrymple, President of the Session, by himself.' The document may be read with interest, but does not materially affect our estimate of Stair. Some charges, mainly connected with legal matters, to which weight was no doubt attached at the time, but which are now utterly unimportant, he successfully refutes. To the graver charges of having supported the tyranny of Lauderdale, and of having been in public life 'a Proteus and a changeling,' no defence was possible ; and the endeavour to maintain one discovers more ingenuity than candour or truthfulness.

The career of Sir John Dalrymple, the President's eldest son, shorter than that of his father, is marked by bolder features, and presents a more varied interest. Born in 1648, he was called to the Scotch bar soon after his father became Lord President in 1670. The first ten years after his call afforded little to vary the monotony of professional life ; but in 1682 there came a change. In the autumn of that year the father fled to Holland ; ere the close of it the son was denounced by Claverhouse before the Privy Council. He was accused of 'leasing-making, sedition, perjury ;' of having laughed at a Proclamation ; and of having offered Claverhouse a bribe of 150*l.* 'to connive at the irregularities of his mother the 'Lady Stair.'* Dalrymple retorted with charges against Claverhouse of oppression in Galloway, and of interference with

* Irregularities, of course, in matters ecclesiastical.

the rights of heritable jurisdiction belonging to the Stair family. Fountainhall tells us there was 'much transport, flame, and humour in this cause; and the cloud on the late President's family was taken advantage of now, which shows the world's instability.*' The issue, of course, was never doubtful. Sir John (he had been knighted early in life) was committed to the Castle of Edinburgh 'during pleasure' and fined 500*l.* He was soon afterwards liberated on payment of the fine, and acknowledgment of his errors.

But the Council was bent on his ruin. Perhaps they discerned that the astute Dalrymples had devised, and were following out, a dexterous policy for preserving family estates in troublous times. The father took one side of politics, the eldest son the other; so that, in any event, forfeiture was avoided. This policy, less in the spirit of chivalry than in the spirit of old Milnwood's dying injunction to 'keep the gear together,' was, not to mention politicians of lesser rank, subsequently adopted by the noble houses of Hamilton, Queensberry, and Athole. But the Dalrymples are entitled to the credit of having invented it. So far back as Lord Stair's journey to London in 1681 he is said to have laid schemes for the succession of his son to the dignities which he saw he himself would be compelled to lay down—which of course implied the son's readiness to desert the politics of his father. Fountainhall distinctly says that this feeling was at the bottom of the proceedings now taken against Sir John: 'The High Treasurer was incensed that Sir John would give them no discoveries against the Earl of Aberdeen; and that, by his father's retreat, he had secured the estate from their gripe.†' In September 1664 he was seized in his own house at midnight, 'without any shadow of ground,' says Forbes, and brought before the Council sitting at Holyrood. No charge appears to have been preferred against him; but notwithstanding, 'they caused bring him between a great guard of soldiers in open daylight, from the Abbey, on foot to the prison, like a malefactor.‡' They kept him there three months; then liberated him on bail for 500*l.*, confining him, however, to Edinburgh, and eventually to a circuit of ten miles round the city.

For three years this 'cloud' hung over the House of Stair. But a change was at hand. Sir George Mackenzie, who had stuck at nothing else, could not brook the relaxation of the

* 'Decisions,' i. p. 201.

† Fountainhall, 'Decisions,' i. p. 303.

‡ Ibid.

penal laws against the Catholics. In February 1687 Sir John Dalrymple succeeded him as Lord Advocate, receiving 1,200*l.* from the king—500*l.* being the fine enacted from him some years before, and 700*l.* for the charges of the journey to London which had resulted in these happy arrangements—and a free pardon for all past offences of his father, mother, and his whole family, including, oddly enough, ‘a pardon to his ‘little son, who had accidentally shot his brother.’* Wodrow leaves ‘the springs of this change to the civil historian of the ‘period;’ and the civil historian of the period has not made much of the bequest. The following explanation, offered by one of the Master’s kinsmen, is curious:—

‘To these (Perth and Melfort) was joined Sir John Dalrymple, son of Lord Stair. This last minister had seen his father ruined by the king when Duke of York; and had himself, on account of his lenity to Nonconformists, been confined for many months in a common jail by the same prince. Yet he was now appointed Lord Advocate and Lord Justice Clerk, offices at that time of great political power, and a Privy Councillor. These preferences were bestowed upon him by the advice of Sunderland, who suggested that by his means an union between the Presbyterian and Popish parties in Scotland might be effectuated. Capricious favours, after capricious punishments, are insults. Sir John Dalrymple came into the king’s service resolved to take vengeance if ever it should offer. Impenetrable in his designs, but open, prompt, and daring in execution, he acted in perfect confidence with Sunderland, to whom he was inferior in nothing and superior in eloquence.’†

In alluding to this matter, Mr. Story states, as a thing beyond doubt, that the Master’s purpose in taking office ‘embraced revenge for the past injuries inflicted on himself and ‘his family, and the overthrow of the despotism under which ‘his country was ground down.’ We cannot feel constrained to adopt such a view. That Sir John Dalrymple may have been offered office at the instance of Sunderland is very likely. His temperament was not that of a persecutor; and for differences in religious persuasions he probably cared as little as Sunderland himself. To carry out the Government policy in relaxing the penal laws was in no way disagreeable to him; and Sunderland must have known that in the accomplished

* Fountainhall, ‘Decisions,’ i. 447.

† ‘Dalrymple Memoirs,’ pt. i. bk. 4, p. 72. In a note by the editor of the Oxford edition of ‘Burnet’ (vol. iv. p. 42), it is stated that Sir John used subsequently to boast that he had advised James to repeal the Test Act in order to ruin him. No authority is given for the statement—in itself highly improbable.

Scotsman he had a supporter on whom he could rely. Sir John could, with more propriety than most statesmen of the time, profess the motive averred by President Lockhart for the same line of conduct—that he had all his days fought against intolerance, and would not now resist a policy of tolerance because of dark designs suspected to be concealed under the offer of such a blessing. Nothing, therefore, forces on us the belief that he took office with the treacherous purpose imputed to him. Evidence in support of the charge there is none. All the probabilities are against its truth. The mildness with which he discharged the duties of his office may in fairness be ascribed to good-nature rather than to slackness; and was indeed the wisest policy that could have been pursued in the interests of James. He had no part in the counsels of the Whigs who invited William over; and we may believe with certainty that the ‘perfect confidence’ between him and Sunderland did not include a knowledge of the Treasurer’s intrigues, through his wife’s gallant, with the Hague.

Strangely enough, the author of the Dalrymple Memoirs seems quite unconscious of the infamy which his theory, if accepted, would attach to the memory of his kinsman. A statesman who, seeing a prince whom he has long served bent on courses fraught with ruin to himself and his adherents, blind to the plainest consequences, deaf to all advice, stoops to treason in order to secure his own fortune or his neck, is bad enough. But to the baseness of seeking office with the set purpose of playing the traitor’s part, and making destruction sure, and that from no deeper motive than a desire of revenge for a three months’ imprisonment, few, even of the English or Scottish politicians of that time, would have been equal. Unscrupulous as Dalrymple was, nothing in his character justifies us, without the clearest evidence, in holding him capable of such pre-eminence in treachery, surpassing even the treachery of Sunderland.

In truth, Dalrymple’s reasons are not hard to find. They were not lofty, though they fell far short of the iniquity ascribed to him. The Government desired the services of the ablest man in Scotland. To gain this end they were prepared to take any means, fair or foul. Both were at their disposal. Dalrymple had, indeed, committed no legal offence; but he had done worse—he had endeavoured to uphold the law against a prince determined to govern in defiance of all law. For this he had suffered already: he might expect suffering yet more severe. He was in the gripe of Perth and Melfort; and in them was no mercy. On the other hand, honours, wealth, a

pardon for all the offences of his House, were within his reach. His case was not singular. Government were at this very time in quest of a lawyer equal to the duties of Solicitor-General for England. Sir William Williams was constrained to accept that office by the same combination of influences which triumphed over the integrity of Dalrymple.

The Revolution came; and Sir John Dalrymple, although he had not stooped to be a traitor, had little hesitation in being a turn-coat. He displayed all the energy of the class. He prepared and carried the resolution which declared that James had 'forfeited' his throne; he was one of the three commissioners appointed by the Estates to offer the crown to William and Mary; and he was immediately thereafter restored to his former post of Lord Advocate. It is not, therefore, matter for surprise that, in 1690, he had the honour of being one of the six Scotchmen exempted from the Act of Indemnity then proposed to be granted by James. On the other hand, it is as little matter for surprise that his appointment was received by the Presbyterian leaders with even greater indignation than the appointment of his father to the office of President some months later. They resented it not less bitterly than the English Whigs resented the accession to office of Halifax and Danby, and, at a later date, of Sunderland, and much for the same reasons. Sir Patrick Hume wrote to Melville stating that 'there was great disgust against Sir John Dalrymple because he is brought in office.' The disgust was very natural. Men who had been outlawed and proscribed; who had groaned under the boot and thumbscrew; who had been driven to hide in caves and vaults, and been half-starved in the garrets of Amsterdam or Leyden, could hardly, with equanimity, see the prosperity and advancement of men who had suffered nothing for the good cause, nay, who had held office during the 'killing days,' and had themselves taken part in those persecutions which cried aloud for vengeance. There can, however, be no doubt that William acted wisely. He took as ministers those who could serve him best—careless whether they had been Malignants in Scotland or Tories in England. His single aim was how the Government might be steered most skilfully through the difficulties which surrounded it; and, certainly, no man in Scotland was so fit to take the helm as Sir John Dalrymple.

He held office as Lord Advocate for about a year and a half. He had to encounter no feeble opposition. The enmity of the Jacobites was a thing of course; the sullen discontent of extreme Covenanters might have been expected. But there

was added the malignancy of disappointed place-seekers; and the persistent hostility of a small but influential body who dignified their narrowness and national prejudices with the name of patriotism. Balcarras made common cause with Montgomery; Fletcher of Saltoun degraded himself to the level of that perverse prater Sir Patrick Hume. On the greater nobles the Government could not rely. Alone of his name Argyle stooped to treason; Hamilton was a greedy time-server; Athole a cowardly knave. Nor was the Secretary, Melville, a man who could give much aid. But supported by the King, and counselled no doubt by his father, Sir John Dalrymple was more than a match for all opponents. During one stormy session the many-headed Opposition was triumphant. Firmness, judicious concessions, and a little judicious expenditure gave the Government a majority in the next. The unnatural alliance between Presbyterians and Jacobites was dissolved; 'the Club' was broken up; the ecclesiastical polity of the realm was settled, on the basis of 1592, in such a manner as to command the acquiescence, if not the approval, of reasonable men. Balcarras expressly attributes the victory of the Government to 'the great abilities of Sir John Dalrymple.' According to the same authority, these abilities displayed themselves in vehemence, not less than in dexterity of management. The oratorical treat enjoyed in the Scottish Parliament during these sessions he describes as hearing 'Duke Hamilton bawl and bluster after his usual manner, and Sir James Montgomery and Sir John Dalrymple scold like watermen.' Sir John afterwards thought it necessary to address a letter to the Commissioner apologising for the heat he had shown in debate.

In 1691, Dalrymple became joint-secretary for Scotland along with Melville. Towards the close of the year Melville resigned; and Johnston of Warriston succeeded him. To one of these joint-secretaries was entrusted the conduct of business in Edinburgh; the other was in attendance at Court, and had the chief direction of affairs. The latter sphere of duty was assigned to the Master of Stair, as Dalrymple must now be called, his father having been raised to the peerage. He held office till the summer of 1695. During this time his attention was mainly occupied with ecclesiastical affairs and the pacification of the Highlands.

William, as is well known, was not satisfied with the treatment the Episcopalians had received. His first wish was to continue Episcopacy in Scotland; short of this, he desired to obtain for Episcopalians the same toleration as was enjoyed by the Nonconformists in England; but that measure of justice the Presbyterian clergy refused to grant. During 1691-2, the King

used all his influence to extort from the intolerant Church the concession that Episcopalians willing to take the oath of allegiance, and to subscribe the 'Confession of Faith and the shorter 'and longer catechisms,' should be admitted to communion. Many Episcopalians were heartily desirous to come in on those terms. But the Assembly of 1692 opposed a dogged resistance; and was in consequence dissolved, not without reproaches, by the Royal Commissioner. In this enlightened policy the King was cordially supported by his latitudinarian Secretary. Mr. Graham has published some interesting letters from the Master to the Earl of Lothian—the Commissioner—in which he expresses a very frank disapproval of the Presbyterian leaders :—

'I do agree with your Lordship those people are neither tractable nor grateful, but yet they have something that one would not do well to destroy them, though he can neither manage nor oblige them. Something must be done to hinder them to come themselves to confound the civil government, but I shall never be accessory either to subvert their constitution or to bring them to scaffolds, though really they do some things so intolerable that they must be used as mad bodies and put up in a Bedlam if they continue their rabbling and protestations.'

The English politicians of the time were not very zealous or very faithful; yet they struck the Master as presenting a favourable contrast to his countrymen :—

'They (the English Parliament) are full of overtures and displeasure for the success of affairs this season, and the allies lying by; but after some time spent in stuff they will come to give competent supplies, I hope, for really the bulk of this nation are affectioned to the Government, and sensible of the security they enjoy both of their religion and property. *I wish it were as well with us (in Scotland), who talk more of religion and consider it less.*

Matters came to a crisis in 1693. The Parliament of that year passed two Acts—one imposing on all persons in positions of public trust, and among these, on all the clergy, Presbyterian and Episcopal, an oath acknowledging William as King *de jure* and *de facto*; another, requiring that all Episcopalian clergy who should take this oath, subscribe the Confession and recognise the Presbyterian form of Church government, should be entitled to be members of the Church Courts. The Presbyterian clergy, in pretence at least, objected to the Oath of Assurance, as it was called, more vehemently than to the admission of their Episcopalian brethren. They loudly professed that to take such an oath, especially at the dictation of Parliament, was Erastianism, a bowing down to 'Cæsar,' a recognition of the supremacy of the civil power in matters

ecclesiastical. Yet it may well be doubted whether even the small indulgence extended to Episcopalians was not, in reality, the cause of their noisy opposition. The King at first was firm; members of the Assembly of 1695 must take the oath, or the Assembly would be dissolved. Readers of Scottish history are familiar with the story how Carstairs returned suddenly to Court—learned the position of affairs—detained the despatches—woke the King at midnight to seek his pardon and obtain a reversal of his policy, and succeeded in both objects. The romantic touches in this story are doubted by the best historians, but that the orders were recalled, and a serious collision between the Church and the Crown averted, was no doubt in great measure owing to the influence of Carstairs.

The part taken by the Secretary in this matter cannot be ascertained with certainty. Mr. Story implies that the King was influenced against the clergy by his 'cool and selfish judgment.' With greater accuracy Mr. Graham points out that the name of the Secretary does not appear in any letters, despatches, or records in connexion with the question. Without doubt his father, the Lord President, and Tarbat, then leading men in the Privy Council, urged the King to persevere in enforcing the Acts of the Parliament; but the Secretary may well be believed to have paused. His letters to Lord Lothian show that, though he had no love for the extreme Presbyterians, he both respected and feared them; and personal feeling may have aided prudence in leading him to the conviction that the wisest course would be to leave the ecclesiastical polity of the country undisturbed as it had been settled by his exertions in 1690; and such was, in fact, the result of the struggle.

Whoever may have counselled the King to yield, there is room to doubt whether they rendered a real service to the Church or the Crown. The question was of importance to William, for every Episcopalian parson who signed the Declaration required by Parliament was a rebel the less. Maintaining, as he was, the authority of the Estates, he had nothing to fear from the discontents of an intolerant priesthood; even had the Presbyterian laity been alienated, there would have been no danger to his throne in such a quarrel. For any disaffection of the laity would have been temporary. They never, as was shown again and again, could have made common cause with the Jacobites. The King would have had his way at last; and if at the cost of an enforced silence of some duration on the Assembly, the country would probably have been resigned. On the other hand, the Church would have gained by the admission into her brotherhood of moderate Episcopalians; and

had she been then forced to face the difficulties of the relations of the civil power to the Church, she would have been saved from the fictitious position she has always maintained on this point ; and which, like all fictitious positions, has been to her a constant source of weakness. In truth, neither intellectually nor morally, were the clerical leaders at this time worthy of their opportunities. They are thus described, with great severity, by Burnet :—

‘The truth was the Presbyterians, by their violence and other foolish practices, were rendering themselves both odious and contemptible ; they had formed a General Assembly, in the end of the former year, in which they did very much expose themselves by the weakness and peevishness of their conduct ; little learning or prudence appeared among them ; poor preaching and wretched haranguing, partialities to one another, and injustice to those who differed from them, showed themselves in all their meetings.’ (P. 75.)

No doubt, while we condemn the treatment of the Episcopalians by the Kirk, we must remember what Presbyterians had been made to suffer. ‘It is not,’ as has been well said, ‘under rulers like Lauderdale and Dundee that men learn lessons of toleration.’ The Episcopalians reaped far less than they had sown. History, we think, records no other instance where so much had been endured, where the retaliation was so gentle. But no credit for this can, with truth, be given to the Scottish clergy, or the ordinary run of Scottish statesmen. The temper of the party who then held the ascendancy in Church and State may be gathered from the persecutions of witches, the murder of Aitkenhead, the opposition even to the measure of indulgence extended to Episcopalians by the Toleration Act of Anne—an opposition which, it is melancholy to think, was headed by Carstairs.* Had not that temper been restrained by William and his latitudinarian ministers, and especially the Dalrymples, the triumph of freedom in Scotland would have been stained by many a dark deed of revenge and intolerance.

To the Dalrymples then, supported no doubt in the closet by Carstairs, we mainly owe it that Presbyterianism was established at the Revolution, and established in justice and moderation. It is not a debt to be estimated lightly. Lord Macaulay has shown, in a striking passage, that the whole

* It is among Mr. Story’s many misconceptions of historical truth, that he defends this opposition as dictated by the same spirit as the resistance of Liberals in 1687 to the dispensing power claimed by James.

Empire has cause for thankfulness that Episcopacy was not forced upon an unwilling nation, and the ecclesiastical future of Scotland made as that of Ireland. The high intelligence which has long distinguished, and still distinguishes, the lower classes of Scotland must be mainly ascribed to her system of education—also, it is to be remembered, the work of the Revolution era. But we are persuaded that much may, with justice, be attributed to the Presbyterian form of Church government, especially taken in connexion with the Calvinistic creed. The apprehension of that creed cannot fail to stimulate the mind; the working of that form of government has accustomed Scotsmen of every rank to look upon it as a duty and a right to exercise their judgments on questions involving, directly or indirectly, the most important subjects of human thought. The Presbyterian polity has also tended to foster that liberality of opinion in secular politics which prevails among the middle and lower classes in Scotland. Such must of necessity be the influence of a Church strictly democratic in its constitution, recognising within itself no distinction of persons, no grades of rank or office. This liberalising tendency of Presbyterianism has been increased by an indirect yet powerful cause. When the stormy times passed away, the bulk of the Scottish nobility and gentry revealed themselves Episcopalians. The people, hating Episcopacy, became alienated from their superiors. This was, in Scotland, a great change. Poverty, the slow development of trade, partly, too, the national disposition, long kept the commonalty of Scotland under the influence of the higher classes of society to an unseemly and unhealthy extreme. This has now, in great measure, passed away. That the severance which has taken place has been widened by religious differences no careful observer can doubt; it is to this day most discernible in those parts of Scotland where Presbyterianism has firmest hold. The present state of things is less consistent with sentimental theories of society than the former; but a change is not to be regretted which has, beyond doubt, fostered manliness of character and independence of thought among the body of the people.

This settlement had another consequence—which would have been deplored by its authors—the early rise and great influence of Dissent in Scotland as compared with England. Presbyterianism, in the day of its power, was no whit more tolerant than Episcopacy. Rather, indeed, less so. The freedom of speculation, now alleged to be enjoyed by the clergy of the Kirk, is, if it does really exist, a thing of yesterday.

But the system, as has been said, is more favourable to independence of thought; and this being so, the greater the intolerance the more certain the schism. This inherent tendency of Presbyterianism was increased by the peculiar character of the settlement carried through by William's ministers. That settlement was essentially a compromise, embracing on the one hand many who cherished Episcopacy in their hearts, and on the other, zealots prepared to enforce the Covenant upon all, and who joined the communion with that very purpose. On the Scotch temperament, hardened as it was by years of strife and suffering, such a compromise could have no permanent hold. Mr. Burton, than whom there is no higher authority on such a point, seems to think that the repeated dissents which have marked the history of the Scottish Church had their origin rather in doctrinal differences, vainly thought by the comprehensiveness of the Revolution Settlement to have been laid at rest, than in the Patronage Act of Anne. And the practical effect of those disruptions has been that, at the present day, dissenters in Scotland are comparatively more numerous, wield more political power, and stand higher in social regard, than their English brethren.

But even more than ecclesiastical difficulties the state of the Highlands was a cause of anxiety to the Secretary. His correspondence is full of the subject; the importance and difficulty of which he alone, among the statesmen of the time, would seem to have fully apprehended. His earlier views were worthy of his far-sighted sagacity, and pointed to nothing less than the abortive crime which was the actual issue. The theme of Glencoe is something worn; but Mr. Graham's publication invites a brief consideration of the part taken in the business by the Master of Stair.

Mr. Graham maintains that the Master was 'unconscious of the unjustifiable severity and atrocity of the act he authorised;' and that he would not have sanctioned the manner of the massacre. He quotes as evidence of this two letters from the Secretary to Colonel Hill, which will hardly serve his purpose. One of these refers only, and refers not very honestly, to the charge that the Macdonalds had been murdered *after* they had taken the oath of allegiance: the other is a letter intended to set at rest Hill's feelings of remorse, fully approving all that had been done, and ending with the remarkable words, 'When you do right, you need fear nobody.' These very letters plainly show the Secretary to have been an accessory after the fact. But we must take with them the tenor of his whole

correspondence; his directions for securing the passes; his cautions against allowing the least alarm to be excited; his expressions of satisfaction in the thought that the inclemency of the weather would complete what of the bloody work might be left undone. It does not indeed, appear that the plan of murder determined on was communicated to the Secretary; personally he would have shrunk from the base treachery of which his subordinates were not ashamed; but it is impossible to dispute that his instructions entitled those subordinates to adopt any means, however base and treacherous, which they thought best adapted to secure the 'suddenness and secrecy' so carefully enjoined.

Patriotic Scotch writers have endeavoured to shift the blame from the Secretary to the King. Thus, Mr. Mackay will have it that the terms of William's order justified all that took place. He rejects, in one confident sentence, Lord Macaulay's argument, that the order might have been signed by William in a perfectly legitimate meaning, and with a perfectly legitimate purpose. We wish he had given his reasons; for we find it hard to understand how an order to 'extirpate a gang of thieves' is in itself a wrong order; or how it can, fairly construed, be held to authorise that even thieves are to be deluded by feigned friendship, by acceptance of hospitality, by lying protestations and false conviviality, and then assassinated in their beds. That William was prepared to visit with severity such marauding clans as should not have taken the oath within the required time is probable enough; but the order which he signed at its worst meant no more than the original proclamation. It meant far less than the letters of fire and sword which had for centuries been, in the times of Scotland's beloved native princes, a species of legal process, repeatedly used against Highland Septs—especially against the clan MacGregor, in 1563, in 1589, and in 1603. The Commission of 1695 reported, as is well known, 'that there was nothing in the King's instructions to warrant the committing of the foresaid slaughter, even as to the thing itself, and far less as to the manner of it.' But this does not at all embarrass Mr. Mackay, who gets over it by the easy assertion, that 'the efforts of the Commission were directed to whitewash the King and incriminate the Master of Stair.' Such an assertion is wholly unwarranted. Few public documents have been subjected to a severer scrutiny than the report in question; and it has stood that scrutiny well. The tone of the document is calm and passionless. The evidence is ably digested, and stated, as is allowed by the most

violent partisans, with perfect fairness. Mr. Mackay himself admits, that the Commissioners have given, fully and fairly, the grounds of the opinion which they formed; and he is not entitled, because that opinion does not commend itself to his views, to accuse the authors of a state paper, conceived in such a spirit, of unjust efforts to arrive at a foregone conclusion.

The Secretary is best defended, not by imputing to others blame which truly rests with him, but by considering his motives, and the circumstances with which he was called upon to deal. There are many who, on Celtic matters, will give no heed to Lord Macaulay or Mr. Burton, but few will dispute the authority of Bailie Nichol Jarvie, who thus describes the state of the Highlands in 1715:—

“In the name of God,” said I, “what *do* they do, Mr. Jarvie? It makes me shudder to think of the situation.”

“Sir,” replied the Bailie, “ye wad maybe shudder mair if ye were living near hand them. For admitting that the *tæ* half of them may make some little thing for themsells honestly in the Lowlands by shearing in harst, droving, hay-making and the like; ye hae still mony hundreds and thousands o’ lang-legged Hieland gillies that will neither work nor want, and maun gang thigging and sorning about on their acquaintance, or live by doing the laird’s bidding, be’t right or be’t wrang. And mair especially, mony hundreds o’ them come down to the borders of the low country, where there’s gear to grip, and live by stealing, reiving, lifting cows, and the like depredations—a thing deplorable in ony Christian country—the mair especially that they take a pride in it, and reckon driving a spreagh (whilk is, in plain Scotch, stealing a herd of nowte) a gallant, manly action, and mair befitting of pretty men (as sic reivers will ca’ themsells) than to win a day’s wage by ony honest thrift. And the lairds are as bad as the loons; for if they dinna bid them gae reive and harry, the deil a bit they forbid them; and they shelter them, or let them shelter themsells, in their woods, and mountains, and strongholds, whenever the thing’s dune. And every ane o’ them will maintain as mony o’ his ane name, or his clan, as we say, as he can rap and rend means for; or, whilk is the same thing, as mony as can, in any fashion, fair or foul, maintain themsells; and there they are wi’ gun and pistol, dirk and dourlach, ready to disturb the peace o’ the country whenever the laird likes; and that’s the grievance of the Hielands, whilk are, and hae been for this thousand years by-past, a bike o’ the maist lawless unchristian limmers that ever disturbed a douce, quiet, God-fearing neighbourhood like this o’ ours in the West here.”

Things were certainly no better in 1692. Alone of the statesmen of his time the Secretary appreciated the enormity of this evil. He saw that such a population would never be at peace; that its existence was in truth ‘a thing deplorable in any Christian country.’ He opposed, from the first,

Tarbat's scheme of pacifying the Highlands by grants of money. He rightly judged that such a remedy could have a temporary effect only. So long as money was forthcoming the country would enjoy quiet; so soon as the payments should cease Highland Jacobitism would become an active passion. He saw that the only adequate remedy was to enforce, with a high hand, order and obedience to law; and to draft off a large portion of a population more than double what could be maintained in the country by the arts of industry and peace, and kept up by rival chiefs from pride and for purposes of rapine. In other words, there should have been done then what was long afterwards accomplished by the severities of Cumberland and the happy conception of Chatham. That the Master of Stair, had the means been at his disposal, would have pacified the Highlands with all the vigour of Cumberland is certain, and that he would not have shrunk from any of the severities of Cumberland is more than probable. And if in 1692 the Highlands had been occupied by troops and subjected to military law; if forts had then been built and roads made; had the leading freebooters been shipped off to America, after the fashion in which Henry Cromwell dealt with Irishmen certainly not more guilty of offences against law and order; had the active youth been sent to serve in the Low Countries; and the whole clan system broken up; how rapid would have been the advance of the country in prosperity and happiness, how many miseries would have been spared, how much of noble and innocent blood had never flowed. To have adopted such a course, without bribing the rebel chiefs into a simulated submission, and receiving from them an oath of allegiance which everybody knew to be worthless, would have been wise and salutary, if severe, statesmanship. And a consideration of the whole evidence would seem to show that some such scheme had been originally present to the mind of the Secretary. That in his letters he often uses language evincing a preference for harsh modes of coercion is true; but there can, we think, be little doubt that, had a comprehensive scheme of this character been adopted, its very completeness would have gone far to induce a man of large views and kindly disposition to forego unnecessary cruelty. Unquestionably to carry out this policy would not have been work for a squeamish statesman. One essential part of it, the diminution of more than a half of the existing Highland population, could hardly have been accomplished by gentle means. Yet, on the whole, the human suffering would have been little compared with the miseries of two rebellions; and these would never have occurred

had the Master of Stair 'pacified' the Highlands according to his own views in 1692.

Foiled in his statesmanlike purpose, the Secretary turned savagely on the victims who had been brought into his grasp by foolish pride on their own part and wicked chicanery on his. His hatred of the Highland race was now inflamed by disappointment at losing such an opportunity of rendering a permanent service to his country. These feelings, of mixed good and evil, led him not only to forget humanity, but, as we think, to commit an error in statecraft. Failing a comprehensive policy applicable to the whole Highlands, the proceedings taken against the Macdonalds were, in the lowest point of view, not worth while. Had every man of them been shot down, no lasting good would have been effected, no real advance made towards the pacification of the Highlands; and the idea of striking terror by the example was, as the result showed, an utter delusion.

The comparative impunity of the actors in this great crime has been made ground of heavy reproach against William. The Estates of Scotland, in their address to the Crown, urged, absurdly enough, that the officers in command should be prosecuted criminally, but left Stair to be dealt with as the King might think fit. Making every allowance for the subserviency of a Scottish Parliament to rank and place, and for their indifference to the lives of a few Highlanders, the fact that a man, hated by so many enemies, and who had given such occasion to that hatred, should have escaped so lightly, affords striking evidence of the high estimation in which the capacity and services of the Secretary must have been held. To have prosecuted soldiers who merely obeyed orders would have been inconsistent with all public policy; but how to deal with the Master was matter of difficulty. William was content to dismiss him from office—a lenity condemned by Lord Macaulay as 'a fault amounting to a crime.' And, three years later, when, on the death of his father, he had become Viscount Stair, special letters of remission passed the Great Seal in his favour. The letters ran:—

'His Majesty, considering that John Viscount of Stair hath been employed on his service for many years, and in several capacities—first, as his Majesty's Advocate, and thereafter as Secretary of State—in which eminent employments persons are in danger, either by exceeding or coming short of their duty, to fall under the severity of law, and become obnoxious to prosecutions or troubles therefor; and his Majesty being well satisfied that the said John Viscount Stair hath rendered him many painful services, and being well assured of his

affections and good intentions, and being graciously pleased to pardon, cover, and secure him, now, after the demission of his office and that he is divested of public employment, from all questions, prosecutions, and trouble whatsoever; and particularly his Majesty, considering that the manner of execution of the men of Glenco was contrary to the laws of humanity and hospitality—being done by those soldiers who, for some days before, had been quartered amongst them, and entertained by them, which was a fault in the actors or those who gave the immediate orders on the place—but that the said Viscount of Stair being at London, many hundred miles distant, he could have no knowledge of nor accession to the method of that execution; and his Majesty being willing to pardon, forgive, and remit any excess of zeal, as going beyond his instructions, by the said John Viscount Stair, and that he had no hand in the barbarous manner of execution: his Majesty therefore ordains a letter of remission to be made and passed the Great Seal of his Majesty's ancient kingdom, &c.'

The paper is a curious one, and it would be interesting to know by whom it was drawn up; the more so, as the tenor of the argument suggests the idea that it may have been intended, under cover of exculpating the Secretary, to state reasons why no complicity in the guilt of the massacre should attach to the King. But whatever we think of William's position in the matter, the attempted defence of the Secretary is a hopeless failure. The reasons given for the royal clemency are inconsistent even with lenient censure of the Estates; are in defiance of the just condemnation of the Commission; and, as William must have known, if he read the documents transmitted to him from Edinburgh, are altogether at variance with the truth.

At the same time, we cannot concur with Lord Macaulay's view that the Secretary should have been brought to trial, as a common murderer, before the criminal court; and should, if found guilty, have 'died the death of a felon.' Such a course may, perhaps, have been demanded by the strictness of criminal justice. But men in high places, caring for great interests, tried by the severest of all temptations to comprehensive intellects—the temptation to seize any means towards the attainment of important and beneficial ends, have a claim to be judged on broader principles. The great historian, on this occasion, allows no place to the doctrine of 'set-off,' the application of which, in political causes, no one has enforced more strongly than himself. Services rendered to the State may be justly pleaded in such causes; and, what is even a more important principle, the motive which dictated the act for which a politician is called in question is entitled to the greatest weight in determining the true measure of his guilt. The Master of

Stair rendered many and great services to the State; and the motive which prompted his Highland policy was no vulgar one. It was not cupidity. It was not love of power. The crime which has blackened his name added not a shilling to his fortune; it could by no possibility have advanced him in the path of ambition. And of this he seems to have been thoroughly aware. There is no room for the insinuation, made by a reviewer in the 'Times' of September last, that he acted his part with a view to his own advancement; that he was merely playing a card in the political game. His sagacity was never so deluded. He knew he had many and vindictive enemies, and he knew the handle he was giving them. It is not too much to say that the tone of his letters to Colonel Hill is that of a man conscious of his own rectitude, yet fully aware that he had much to fear from the prejudices or weakness of mankind. He was animated, so far as we can now judge, simply by misdirected public spirit. He was fully persuaded, nor was his persuasion wrong, that peace and prosperity would never be known to his country until the supremacy of law was established among those freebooting mountaineers. In his comprehension of the magnitude of the existing evil he was superior to any statesman of his time. Unhappily, this feeling had obtained such power over his mind that he became utterly reckless as to means if only a cure could be effected. Nay, it may be said, we fear, with truth, that long brooding over the lawlessness of the Highlands had brought him to such a state that he would have shrunk from no extreme of severity. Still, though his heart was hardened, his conscience silenced, even his acute judgment warped, it is no exaggeration to say that he was throughout it all animated by a sincere desire for the permanent good of his country. To have sent this man to a felon's death because he might with legal truth have been held guilty of the crime of murder, would have been to violate the principles by which such cases should be determined, not less than if Warren Hastings had been hanged because of the horrors inflicted on Rohilcund.

That William, on this occasion, extended an undue indulgence to crimes committed in his service, may have left a stain upon his fame, but was certainly fortunate for Scotland. Stair's subsequent public life was short but eventful. He did not take his seat in Parliament till the year 1700. He was sworn a Privy Councillor on the accession of Anne in 1702. He rendered important services in the last session of the old Parliament of William, facilitating the passing of Acts recognising the title of Anne, confirming the Presbyterian form of Church

government, and empowering the Crown to appoint Commissioners to treat for a union of the kingdoms. By his exertions in support of that measure the Earl of Stair, for to that rank he was elevated by the Godolphin Ministry, earned an enduring title to the gratitude of his countrymen. He was, says De Foe, 'an eminent instrument in carrying on the Union.' To that end he devoted all his astuteness in counsel, all his unrivalled powers of debate. His was the device which baffled the Opposition by appointing a majority of the Commissioners from their ranks; his were the arguments which secured the rejection of the limitations which a party of pestilent oligarchs, led by Fletcher, sought to impose on the prerogatives of the Crown. So far as we can now judge, to him more than to any other man Scotland owes the blessings which have flowed from that great measure. On the 7th of January, 1707, after a stormy and exhausting debate, the last important article of the Treaty was carried. In that debate Stair took a leading part, and then, worn out by the long struggle now at last brought to a successful issue, he went home to die. He died at the post of duty not less surely than the soldier struck down on the field; and the man who thus spent himself for the good of the commonwealth, whatever may have been his errors or his crimes, deserves the lenient judgment of history.

The characters of these men present features of dissimilarity and likeness curiously interwoven. That of the father is the more difficult to estimate aright. Every reader is familiar with Lord Macaulay's brilliant sketch. That sketch by no means satisfies Mr. Mackay, who, we regret to see, has taken up a line, popular with clever young men at present, that of pecking at the reputation of Lord Macaulay. In one place he accuses the historian of 'selecting from every quarter the 'blackest colours to paint the character of Stair, the father of 'the man destined to be the scapegoat for the massacre of 'Glencoe.' (P. 81.) A graver charge could hardly be made; and the only justification for it is that Macaulay, in alluding to the 'heart-rending tales' which the calamities of the house of Stair had furnished to novelists and poets, has adopted Sir Walter Scott's version of the tragedy of 'The Bride of Lammermoor'! Nor is Mr. Mackay at all correct in his assertion that the traditions of this tragic event have come down to us 'chiefly from the fierce antagonists of the Dalrymples.' The general truth of the story as told by Scott is acknowledged in the Introduction to 'The Bride of Lammermoor,' by the great-grandson of Stair; and the version of the final catastrophe adopted by the novelist is the most probable, and by no means

the most malicious, of the many traditions which have been current.

In another place Mr. Mackay has permitted himself to write thus : ' Macaulay has drawn chiefly from these satirists all the ' charges his enemies made against Stair, and without examin- ' ing their truth has insinuated others for which even satire ' gave no foundation.' And then he quotes the powerful sketch we have referred to from the third volume of the history. Now such an accusation should have been carefully substantiated. There is hardly an attempt to do so on any point deserving of the smallest consideration. There are a few critical notes which we must take leave to characterise as exceedingly silly. For example. Lord Macaulay ascribes to Stair ' a wonderful power of giving to any proposition which ' it suited him to maintain a plausible aspect of legality and ' even of justice; and this power he frequently abused.' Instead of attempting to controvert this, Mr. Mackay demolishes the historian by the profound query—' How could such a ' power—if he really possessed it—be only frequently abused?' No single charge contained in the whole passage is shown to be without foundation. Two efforts are made in this direction, from the frivolous character of which the critic's inability to bring forward any serious instances may be fairly inferred. The historian writes : ' He protested, and perhaps with truth, ' that his hands were pure from the blood of the persecuted ' Covenanters.' The note here is : ' No ground for this ' "perhaps" has been discovered.' Surely it is no very harsh measure thus to qualify such an asseveration on the part of a man who was a member of the Privy Council during the administration of Lauderdale. Indeed there is a sense, and that not of a highly strained morality, in which any man who then held such office may be deemed altogether guilty of the innocent blood which was shed. In his next point Mr. Mackay is yet more unfortunate. He challenges Lord Macaulay's statement that Stair's fellow-exiles regarded him with suspicion. Now it is quite certain that by a large section of the Presbyterian party Stair was never trusted. Not to multiply authorities, this is distinctly stated by Balcarras, and indicated, not obscurely, by Forbes of Culloden, the one a Jacobite, the other a Presbyterian; and, though we fear Mr. Mackay will despise such an authority, Sir Walter Scott, in the ' Tales of a Grand- ' father,' describes Stair and his son as ' men of high talent but ' of doubtful integrity; and odious to the Presbyterians for ' compliances with the late Government.' We make these remarks in no unfriendly spirit. But if Mr. Mackay is ever to

fulfil, as there is reason to hope he may, the promise which this book, with all its faults, affords, he must study the principles of historical evidence; he must keep present to his mind the difference between facts and opinions; he must be less hasty in his conclusions, and more sparing in imputations; and, we are constrained to add, he must be careful to observe modesty and moderation of tone when he chances to differ from writers of established fame.*

It will be found, we suspect, that in this, as in most of his judgments on character, Lord Macaulay, making due allowance for habitual force of expression, is not far from the truth. We quite concur with Mr. Mackay in thinking that our estimate of Stair should be little affected by the malignant attacks of which he was so long the object. And we would record our dissent from a condemnation of both father and son which has received publicity and authority from the 'Times.'†

'Even in an age when ideas of political morality were singularly loose, and when the most shameless time-serving was the habit of the most eminent statesmen, the versatile Dalrymples had to support an exceptional weight of obloquy. If their enemies attacked them with unusual bitterness, gloating with exultant malignity over a painful succession of domestic misfortunes, we may take it that there was some exceptional reason for it. . . . They had most exceptional opportunities of being false alike to their friends and their principles; and the result was that in the end they were neither loved nor even trusted, except by those who, for the moment, had common interests with them.'

That both Dalrymples were false to their principles so far as to hold office under administrations of which they disapproved is true enough. But was there anything 'exceptional' in this? What was such a measure of falsity, for example, compared with the falsity of Lauderdale, or the apostasy of Perth? That they were false to their friends, in any prac-

* Mr. Mackay is not more fortunate in lighter matters. Readers of 'Old Mortality' will remember the retort of Lady Elphinstoun, a matron of one hundred years of age, to Claverhouse, on his remarking that during her long life she must have seen many changes: 'Hout na, Sir; the world is just to end wi' me as it began. When I was entering life, there was ane Knox deaving us a' wi' his *clavers* [idle talk], and now I am ganging out, there is ane Claver'se deaving us a' wi' his *knocks*.' Mr. Mackay, seemingly quite unconscious of Scott's authority, ascribes this *mot* to Lady Stair, and in so doing spoils it. In matters of Scottish history and tradition a greater familiarity with, and an increased respect for, even Sir Walter's novels, would do Mr. Mackay no harm.

† 'Times,' September 3, 1875.

tical way, is unsupported by evidence. We should not like to dogmatise about 'love' among Scottish politicians of that time; but so far from not having been trusted, it was the trust so often and so long reposed in the Dalrymples which excited the enmity against them. To infer extreme depravity on the part of the Dalrymples because of the hatred they inspired shows utter ignorance of the period. The only 'exceptional' reason for that hatred was their 'growing greatness,' and their zeal for the true interests of the country. They were hated by a proud, poor, greedy aristocracy; despising them as new men, unable to estimate their services, envious of the knowledge and capacity which had raised them to the level of Hamilton and Athole. They were the first in Scotland who had so raised themselves; and the whole body of the secondary nobility, who regarded the conduct of political affairs as their exclusive right, and in such a rise not only felt their own immediate defeat in the race for place and power, but foresaw the permanent weakening of their order, hated them accordingly. Supple politicians as they were, treachery was never brought home to them. Of the father it may especially be said that, while he served many masters, he was faithful to them all. We do not ascribe to him the lofty integrity of Nottingham or Somers; but fidelity even such as his was then rare in England, and unknown among the false, shameless leaders of Scottish political parties in an age when, for the first and last time, treason to the cause of Protestantism and freedom stained the honoured name of Argyle.

On the other hand, it is impossible to accept Mr. Mackay's estimate of his hero. The praises of Wodrow, and a few clerical admirers of Stair's 'shining piety,' cannot outweigh the all but unanimous verdict of contemporaries; the deliberate judgments of Burnet, Scott, and Woodhouseslee.* The actions of his life, indeed, describe him best—even as stated and defended by himself. A cruel or vindictive man he was not. But he was subtle and crafty; greedy of place—though there were lengths to which, even for the sake of place, he would not go. It is difficult to acquit him of servility to Lauderdale; and when he describes his patron as 'most zealous for 'his country,' and as having come to be in difficulties 'on account of his favouring the phanatics,' he wrote what he must have known to be untrue. In his 'Apology' he boasts

* Burnet calls him 'a cunning man;' Scott doubts his integrity; Woodhouseslee imputes 'turbulent ambition and crafty policy' both to father and son.

that he never took a bribe—a height of judicial rectitude to which there is reason to believe he really attained. In his reports of two cases, Fountainhall insinuates that the President was thought to have been actuated by improper influences. The authority of Fountainhall is deservedly high; but he does not state the charge as matter of his own belief, still less of his own knowledge; and, on the whole, not in such a way as to force a conviction of the guilt of Stair. He did much to reform procedure, especially during his first tenure of the Presidency; but towards the end of his life, there arose on all sides violent outcries against his conduct of the business of the Court; and it has been made matter of reproach against him that Acts of Parliament were required to set right abuses—such as altering judgments, hearing cases with closed doors, &c.—which should have been put an end to by the Court itself. It is very probable that Stair had not sufficient strength of character to effect, by his own influence, the required changes. Down to the present day the Court of Session has been too chary about reforming itself; too prone to wait for the interference of the Legislature. Whether this strange timidity has arisen from ignorance of the evils, or from that contentment with things as they are which naturally steals over the judicial mind, we cannot say; but it has often brought the Court into great unpopularity with the country, and then some reckless Government forces on hasty, ill-considered changes in obedience to popular clamour. There are many who allege that such is the state of matters at this very time. But for Stair's weakness there was much excuse. The root of the evils with which he had to deal was judicial corruption; and that was, in his day, so widespread that he may reasonably have believed it incapable of cure otherwise than by legislative enactment. And the fact that, even after Parliamentary interference, the taint of corruption clung to the Scottish Bench for upwards of a century, goes far to establish the correctness of such a belief. As a law-maker Stair did little. The one important measure connected with his name is the Act regulating the mode of executing deeds—an Act which, at least as interpreted by subsequent decisions, grievously needs amendment. The legal achievement which principally marks his epoch was the Entail Act of 1685. From any share in the discredit of having imposed entails on Scotland exactly 400 years after the English nobles had inflicted this evil on their country, and more than 200 years after the boldness of the English judges had found out a remedy, Stair must be acquitted. He was in Holland when the Act was passed; and he has left on record his strong dis-

approval of its policy. That responsibility must be borne by Sir George Mackenzie; who, had he also realised his endeavours to abolish juries in criminal cases, would have left behind him a work of mischief, worthy, in its completeness and far-reaching power for evil, even of his reputation.

Stair was a considerable author. His speculations on physics were behind his age. 'The Lord Chancellor,' said Harvey of Bacon, 'writes on science like a Lord Chancellor;' and the sarcasm may be applied, with greater force, to the writings of Stair. His religious meditations will hardly now be read save from curiosity. But, as a jurist, he has left an illustrious name. His 'Institutions of the Law of Scotland' is a remarkable work. The historical part is weak, especially as regards the old Common Law of Scotland, and the introduction of the civil jurisprudence; points full of interest, and in Stair's day possibly within reach of zealous inquiry. But the value of the historical method was not, in that age, understood. Again, he lends his authority to those extreme views of the royal prerogative, or more strictly, of the royal power, which were insisted on by the Scotch lawyers after the union of the crowns, at variance with the free spirit of Scottish Constitutional Law. His style has received an admiration which we cannot but think excessive. In his preface he warns his readers not to expect a 'quaint and gliding style,' still less 'flourishes of 'eloquence.' But he avoids, only too successfully, the error of that lucidity of diction, the charm of which, in some writers, lays such hold on the reader's mind, and so carries him along, as under a spell, that he sometimes fails to grasp the true reach of the thought. Stair's style has, no doubt, a force and dignity befitting his subject; but it is cumbrous, and often complicated, even to obscurity. The frequency of his allusions to the law of Moses, and to the Bible generally, are not edifying, and certainly not instructive; indeed his fondness for sacred sanctions has led him into a serious error of classification. Yet the scope and execution of the work entitle him to a high place among jurists. Scott expresses regret that 'his powerful mind was unhappily exercised 'on so limited a subject as Scottish jurisprudence.' The limits of a subject, however, depend not a little on the mode of treatment. Stair's work is not a mere compendium of Scotch law. As such, indeed, it stands high, even after the lapse of nearly two centuries; but a large portion of the work may be truly described as a Treatise on Jurisprudence generally, illustrated by reference to the law of Scotland and other systems. It has been compared, and not un-

reasonably, by one of his editors to 'a Treatise of Universal Grammar, where the author, keeping in view chiefly one language, and drawing most of his illustrations from it, enables the student not only more thoroughly to understand all the rules and principles upon which the grammar of this language depends, but also to apply this knowledge, with advantage and facility, to every other language to which he may turn his attention.' He himself claims that 'a great part of what is here offered is common to most civil nations, and is not like to be displeasing to the judicious and sober anywhere, who doat not so much upon their own customs as to think that none else are worthy of their notice.' This comprehensive survey of legal relations common to all systems, the constant search after principle, the philosophical analysis, and the thorough technical knowledge, have given to a large part of his treatise a vitality and width of application unexampled, we think, among works of the same class. To this day 'Stair' is constantly quoted in the every-day work of the Scotch Courts; and we have been assured by an eminent politician and lawyer that in his chapter on Reprisals was found the strongest authority for the position taken up by Great Britain in the affair of the 'Trent.' Mr. Mackay seems to us to institute not a flattering or even a reasonable comparison when he compares Lord Stair's Institutions with the practical labours of Coke, or the easy commentaries of Blackstone. They are all law books certainly; but they have no other point of resemblance. Stair's comprehensive and philosophic treatise differs in its conception from the former, and stands altogether on a higher level than the latter. 'I did write,' he says with a not ungraceful consciousness of desert, 'the Institutions of the Law of Scotland, and did derive it from that common law that rules the world, and compared it with the laws civil and canon, and with the customs of the neighbouring nations, which hath been so acceptable that few considerable families in the nation wanted the same, and I have seen them avending both in England and Holland.'

Inferior to his father in legal acquirement, Sir John Dalrymple was, in many respects, a more remarkable man. Macaulay estimates him as one of the first men of his time. His knowledge was great, and in him it was not the knowledge of a pedant, but of a thorough man of the world. As a statesman he was profound and far-seeing; as a debater he had no equal. His letters show a love of reality, an impatience of pretence, an insight into character, a contempt for national prejudices, rare among Scotchmen of any time, hardly known

among Scotchmen in his day. His character was altogether a stronger one than his father's. Quite as unscrupulous, even more impenetrable, he was yet simpler and bolder. Hence, while hated with especial hatred by his rivals in the Parliament House,* he does not seem to have incurred the general unpopularity of his father. Nor is this surprising. The never-failing caution of the President; his astute devices, on occasions of difficulty, to save his reputation—such as the verbal qualification with which he took the Declaration; his intense respectability; his profuse piety; his forgiveness of enemies, almost Pecksniffian;† and his general success in life; were more calculated to arouse animosity than the franker tergiversations and bolder courses of the son, who, if he did some wrong, at least never made profession of exceeding virtue. 'He was,' says De Foe, 'justly reputed the greatest man of counsel in the kingdom of Scotland;' and we are told by the same authority that 'he died to the general grief of the whole island, being universally lamented.' This grief was not without good cause. Those who hated Sir John Dalrymple most hated him because of services which constitute an enduring title to the gratitude of his countrymen, and which must have been widely appreciated even in his lifetime. For some years after the Revolution Scotland was exposed to a danger the character and extent of which has hardly been appreciated by historians. A band of politicians, powerful from social position, strong in persistency of purpose, were bent upon establishing a narrow oligarchy. They sought to deprive the Crown of all authority; they were prepared to reduce the people to serfdom; the country was to be delivered over to a poor, greedy, unprincipled aristocracy. Had they prevailed, the future of Scotland would have been little better than the long misery of Ireland from the Revolution to the Union. Religious hatreds might not have flamed so high; but in Scotland, not less than in Ireland, the domination of a small privileged class would have brought with it poverty, backwardness, and national degradation. To frustrate these pernicious designs was the

* Thus Lockhart: 'The Master (of Stair) is among the worst men in this age; and what has been said of him may serve for a character of his two brothers, yea, the whole name; only with this difference, that, tho' they were all equally willing, yet not equally capable of doing so much evil as his Lordship.'

† 'Most men thought this equality of spirit a mere hypocrisy in him,' says Sir George Mackenzie.

leading purpose of the Secretary's public life. The danger by no means passed away with the breaking-up of the notorious 'Club.' The country was not safe, Dalrymple's triumph was not secured, until the Treaty of Union was signed. To the very last these 'patriots' struggled to curtail the royal power,* trusting that the reversion would come to them. Seeing early that they could not hope to defeat the Union altogether, they sought thus indirectly to make it ineffectual for good; and doubtless the provisions which they sought to introduce would have had the effect they desired. Stair clearly apprehended the scope of these designs, and devoted himself to frustrate them. His success was complete, and happy for his country. On the union of Scotland with a constitution which had been the nurse of freedom, with the deeply-rooted public spirit, and, above all, with the increasing prosperity of England, that danger finally passed away.

Such were the lives, and such the services, of these remarkable men. That their lives were marred by shortcomings, by errors, even by crimes, we have not attempted to disguise. That their services were such as have rarely been rendered by a father and son to their country, it would, we think, be idle to deny. In character both rose above the low standard of political morality which prevailed in their time. Throughout all their changes they were faithful to the cause which for the time they served; and they appear to have been ever animated by a sincere desire for the welfare of their country. In intellect, culture, and sagacity they were superior to all their contemporaries. To their counsels and exertions Scotland mainly owes the easy accession of William to her throne, the settlement of her ecclesiastical difficulties, and (to the son) the Union. Few nations have owed more to two statesmen: yet much as they accomplished, much of necessity remained to be done. Materials for religious discord were still rife. The Highlands were left, unruly and discontented, to be the source of future trouble and danger. The commercial prosperity—the expectation of which was, on the Scotch side, the real inducing cause of the Union—did not come speedily. What did come, and at once, was increase of taxation, severities of

* An attempt, in the debates on the articles of Union, to take away the royal prerogative of mercy was, of course, opposed by Dalrymple, which brought on him the taunt from Lockhart that his defence of this prerogative was very natural, since but for its exercise he would have been hanged long ago! Rather too hard hitting for our degenerate days.

revenue officers, alterations of ancient laws, enforcement of new prerogatives, These grievances—some of them not imaginary—fell upon the fertile soil of national animosity. The Union was hated by the bulk of the Scottish aristocracy, because under the Government of Great Britain their importance could not fail to be diminished, their selfish views frustrated; it was hated by the bulk of the Scottish people with a hatred which had its origin in a nobler source—the feelings and traditions bequeathed by their long and cruel struggle for independence. But the work of healing was only a question of time. The foundations of well-being and mutual good-will had been laid strong and deep; and, happily for Scotland, there were not wanting men, both among her nobles and her lawyers, worthy and able to carry on the policy, and complete the purposes, of William and his wise advisers.

ART. II.—1. *Army Facts from Official Data.* Lord Elcho's *Speeches*, April 20, May 19, June 5, 1875.

2. No. LXXX. Vol. XIX. 'Journal of the Royal United Service Institution.'

WHEN we approach the questions of military organisation which are annually discussed in Parliament, we are met by considerable difficulties. In the first place, owing to their very importance the subjects are hackneyed and stale, while the details necessary for their comprehension are dry and forbidding almost to repulsiveness. The civilian mind is further encountered by facts and conditions not a little likely to add to distrust and to increase complication. The Army comprehends many elements. There is the governing one in Pall Mall, partly civil and partly military, of which it may be said that, like other representatives of rule and authority in a constitutional system admitting of free and popular criticism, it loves darkness rather than the light, prefers a bureaucratic closeness to open discussion, an official inquiry on details to the free ventilation of principles; prudence and reticence, caution and non-committal of self, being thus the characteristics of that close residence in Pall Mall, which, if its inmates may be credited, calls for currents of fresh air on account of their health in a manner not dissimilar to that believed by Parliament to be required for the solution of the difficult questions which have so long perplexed us. That there is truth in this view of the officialism of the War Office, whichever party may