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DEPARTMENT OF SCOTTISH HISTORY

Professor Hannay.

“
JAMES KENNEDY, BISHOP OF ST. ANDREWS.”

Thesis for the Degree of — Ph. D.

Annie I. Cameron.

Degree conferred 17th July, 1924.



JAMES KENNEDY, BISHOP OF ST. ANDREWS.

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ECCLESIASTICAL POLICY.

JAMES KENNEDY, BISHOP OF ST. ANDREWS.

A complete knowledge of the life, policy and character of James Kennedy would throw valuable light upon all aspects of an important but very obscure period of the national history. His royal descent, his family connections, and his leading position in the church would almost inevitably, in the setting of the times, have drawn him into the whirlpool of politics and faction. As it was, his personal character and patriotism raised him above the rank of a mere politician to a high plane of statesmanship. Even Buchanan, who bore no good-will to the ancient church, "praises him more than his darling the Earle of Murray the regent." (1) Historians of all shades of opinion have handed down to us through the centuries an unbroken tradition of the bishop's excellent virtues and "signal public service." (2) Yet a modern writer has said that "his ideals were greater than his achievements largely because he was so far in advance of his age." (3) This arresting statement at once appeals to our sympathy for a lonely pioneer, and challenges us to investigate the case for ourselves. To do so, we must try to reconstruct the history of his life and of the times in which he lived and played his part.

(1) Martine, Reliquae Divi Andreae, 234.

(2) Major, History, 388.

(3) Prof. Knight, in preface to James Kennedy, Bp. of St. And., his Church, Tomb and Mace. (W. Coutts), p. iii.

ORIGIN OF THE KENNEDIES.

The family of Kennedy was of the ancient British stock and first flourished under the patronage of the earls of Carrick, one of whom had, before 1256, granted a charter to Roland of Carrick confirming to him and his heirs for ever the right of being head of their kindred. This privilege, a relic of primitive society, is taken to be the origin of the name Kennedy signifying "Head of the House or Family."⁽¹⁾ At the beginning of the fifteenth century, the chieftain of the race was Sir Gilbert Kennedy of Dunure whose grandson was James, the last of the bishops of St. Andrews.

DATES OF JAMES KENNEDY.

The bishop was the third and youngest son of Sir James Kennedy of Dunure and his wife Mary, Countess of Angus, daughter of Robert III. The precise date of his birth is not on record, but it must have been later than 1406 as traditionally stated. His parents were married in 1405 when the barony of Dalrymple was assigned to Mary Stewart as her dower;⁽²⁾ his father was slain by his natural brother⁽³⁾ before 8th. November, 1408. We may thus infer that the birth of James Kennedy, the third son of Sir James and the Lady Mary must have been later than the accepted date of

(1) Pitcairn, Hist. of Fam. of Kennedy, 80-1.

(2) R.M.S., I, p. 647.

(3) According to tradition he was slain in mortal combat by his disinherited elder brother (Pitcairn). Although Sir Gilbert may have been the senior of Sir James, he was most probably however, an illegitimate son of the lord of Dunure. (R.M.S., II, 874: Scots Peerage I, 447)

1406 by at least a year. It was possibly in 1408.

Till recently the date of his death was equally indeterminate, but it has now been established with considerable certainty that he died on, or about, 24th. May, 1465. We may therefore conclude that James Kennedy was born in, or around, the year 1408, and died towards the end of May, 1465.

EARLY YEARS.

Very little is known of the early years of Kennedy's life. According to Crawford, "being by the Care of his Mother well-Educate in the study of the Belles-lettres and Philosophy at home, for the further Improvement of his Education, he was sent to foreign parts where he studied specially Canon Law and Theology." This rather vague statement is not without a substratum of truth but it is doubtful how far his early education was fostered by the "Care of his Mother." Mary Stewart was hardly likely to have enjoyed a liberal education, and we know nothing as to the extent of her influence over the upbringing of her fatherless sons. She was married twice at least after the death of Sir James Kennedy. Her third, or fourth, husband was William, lord of Graham, who died in 1424; in the following year she was married to Sir William Edmonstone of Culloden.

(1) The evidence for Kennedy's death is discussed in appendix.

(2) Crawford, Officers of State, 31.

(3) E.R., IV, clxxiii. A dispensation was granted for her marriage to Sir William Cunningham of Kilmaurs after the death of Kennedy. We have no proof that it was acted upon, although this is possible. (Scots Peerage, IV, 230) Mary Stewart was alive in 1457 (Hist. MSS. Commis., V, 614.) On her death, her bones were laid with the Edmonstones in Strathblane. (Edmonstones of Duntreath, 77, 78)

These marriage alliances are of considerable importance in that they created a far-reaching net-work of family bonds at a time when baronial faction ran high and kinship counted for much. They gave the bishop a personal interest in the fortunes of family parties and they offered instruments by which he could work out his own policy in Church and State.

The successive marriages of the Princess Mary, on the other hand, may have withdrawn to a great extent her influence over the early years of her sons. Of Sir John, the eldest born, little that is definite is known. In 1430 he and his cousin Archibald, fifth earl of Douglas, were for some obscure reason cast into prison by order of their uncle, king James I. (I) The earl was set free in the following October but nothing further is known of the fate of Kennedy after 1434 when payment was made for his expenses in Stirling Castle. Sir Gilbert, the second son, who then became Head of his Kin played a part of some importance in the national affairs and outlived his more illustrious, younger brother.

(I) E.R.IV, cvi

According to Sir John Balfour (Annals, I, p.160) Kennedy was imprisoned in Stirling in July, 1429, "for inconsiderate speeches against the king's government." It is doubtful, however, how much weight can be attached to this statement: the historian is certainly wrong in saying that he was released with Douglas on the birth of the prince.

Far from sharing in the good fortune of his cousin, Sir John Kennedy was left to languish in his prison at Stirling Castle. (Scotichr., II, 490) It has been conjectured that his family had been informed of his death prior to 1438, when his brother Gilbert, was recognised, on his marriage, as the oldest surviving son. (Agnew, Hered. Shers. of Galloway, I, 251.) With respect to general history, the historian of the Agnews is liable to inaccuracies, but in the matter of family history his authority has a claim to be considered. Sir Andrew, an ancestor of the Agnews is said

Although we have so little authentic information about the early years of James Kennedy, we may accept the general statement of Crawford that the foundations of his education were laid in Scotland; the superstructure in a foreign university. His uncle, Hugh Kennedy, had been sent for education to the Friars Preachers' monastery at Ayr. This centre of instruction would lie within the territorial influence of the Kennedies, but, on the other hand, his uncle's experience formed but an ill precedent for the boy, James, to follow. Be that as it may, like many another cadet of noble race he was probably from his youth designed for the church. In 1429 he was subdean of Glasgow and there is every reason to believe that his early preferment was due to the good offices of his royal uncle, acting in collaboration with John Cameron, bishop of Glasgow.

to have married a sister, otherwise unknown, of bishop Kennedy. (Ibid, I,244) It is thought that this marriage points to considerable intercourse between the children of Mary Stewart and their aunt, the princess Margaret, Countess of Douglas. (Ibid, I,238) If so, there would be an early friendship between Sir John Kennedy and his cousin, the earl of Douglas.

(1) C.P.R., VIII,353. Kennedy complained that the monks "induced and circumvented him---so that without and against the knowledge and assent of his friends---he received the habit; and that soon afterwards the friars---transferred him to England." This, however, was not a disinterested representation.

(2) Records of St. Andrews University, sub anno 1429, 11.

(3) See Appendix.

EARLY INFLUENCES.

If his boyhood were passed at his father's home that fact may have given a peculiar bent to his attitude towards religion. The allegorical symbolism on the bishop's tomb has suggested the theory that Kennedy was a convert at least in part to the doctrines of the new religion.⁽¹⁾ If there is any truth in this idea, then the seeds of his so-called Lollardy were probably sown during his early years in Ayrshire. Before the end of the century this district was a stronghold of heresy,⁽²⁾ and the new beliefs may have been already scattered during the childhood of James Kennedy. We have yet to investigate the grounds for this theory, but it is note-worthy in passing that there was no persecution of heretics in the day of Kennedy's power.

On the other hand as a student of St. Andrews he was bound to fall under the dominating influence of such zealously orthodox teachers as the founder, bishop Henry Wardlaw, and of Laurence Lindores, Doctor of Theology and Inquisitor of Heretics, first lord rector of the university. Moreover, as he was probably somewhat older than most of his fellow-students he might be the more susceptible of lasting impressions.

(1) "James Kennedy, Bishop of St. Andrews, his Church, Tomb and Mace." Walter Coutts.

(2) John Knox: History, pp6-7

(1)

Kennedy took his master's degree in 1429, about the age of 21. The revenue of the rectory of Cadder, his prebend as subdean of Glasgow, was doubtless used as a bursary to defray the cost of his education. He was further in receipt of a pension from the customs of Cupar in the years 1428 and (2) 1429. Thereafter the pension came to an end; Kennedy may therefore have been only three years at St. Andrews before (3) leaving Scotland to continue the higher studies.

(1) Records of St. Andrews University, 11. The average age of the licentiate was about nineteen years, while outstanding scholars might graduate two years earlier. (Mannay, Statutes of Faculty of Arts, 35)

(2) E.R., IV, 440, 468.

(3) It is clear from the vague statement of Crawford that he did not know where Kennedy actually went. The possibility of Paris may be ruled out in view of the international relations between England, France and Scotland in 1429. No reference to him has been recorded in the chartularies. Neither does his name appear on the graduation rolls of Cologne, then becoming much frequented by Scottish students. Family considerations would attract him to France, where his cousin had been recently married to the dauphin, while his uncle, Hugh Kennedy, priest and man-at-arms, was high in the favour of Charles VII. and fought under the banner of the Maid. It is most likely, then, that James Kennedy was entered a student of Orleans. This was the time of Joan of Arc, when the university, like the town itself, had fallen on evil days. There had been a Scottish nation at Orleans since 1336, but there is a gap in the records between 1421 and 1448. If Kennedy were a student at Orleans, this fact would go far to explain his political outlook in later years. It must have had its influence, for example, in fostering his abhorrence of civil strife, his aim of elevating the crown, his devotion to the auld alliance. Moreover, this university was the most important seat of canon and civil law, north of the Alps, and there is evidence to support the statement of Crawford that Kennedy was well versed in "Canon Law and Theology." (Scottish Nation in the University of Orleans, Miscellany of the Scottish History Society, II)

James Kennedy first came prominently into the light of history in 1436-37; from that time until the date of his death his influence was felt on all aspects of the national life. At the beginning of his public career he was indebted to the patronage of his royal uncle and possibly, also, of Henry Wardlaw, bishop of St. Andrews. In a few years he had risen to the highest position in the Scottish Church; the dignity and powers thus acquired in their turn added weight and authority to his secular position as chief counsellor of two successive kings. He came to be regarded as the saviour of his country, the bulwark of the state. Spiritual and temporal power were thus largely interwoven, and as his ecclesiastical position was in great measure the fulcrum of all his activities, the church policy of bishop Kennedy calls for careful consideration.

ELECTION TO DUNKELD.

His new career was opened up by the death of Robert de Cardeny, bishop of Dunkeld, on 16th. January, 1436-37.^(I) According to Eubel, James Kennedy, canon of that church was elect and provided and offered the common services on 1st. May, 1437. The Papal Registers under the same date made provision to James Kennedy " elect of Dunkeld, a sub-deacon

(I) Grub, Eccles. Hist., I, 368; Myln, Bps. of Dunk., 17. Bower gives 17th January as the date of bishop Robert's death. (Scotichron. II, 502) This is the date given also by the compiler of the Short Latin Chronicle. (Printed in Antiquarian Society Transactions, XXVIII, 317-8)

(I)
of the said see." This was followed, on 4th. July, by a
papal indult for his promotion " to deacon's and to priest's
orders," and for his consecration. His institution, however,
was not effected without trouble. The papal version went
that the pope had reserved to himself the provision of the
see, "in ignorance perhaps of which the chapter elected the
said James, a canon of the said church." On learning that,
by reason of the reservation, his election was invalid, the
bishop-elect had caused his case to be set before the pope
in consistory. As a result, His Holiness had seen good to
grant his confirmation and to issue the usual letters
concurrent.

Further complication arose from the rival election of
Donald Macnaughton, nephew of the late bishop Robert, and a
pluralist. Myln asserts that Macnaughton was elected by
the chapter but died on his way to Rome for confirmation.
"But in the meantime, the king favouring him and resisting
the said election of Donald, dean, there is elected the
illustrious James Kennedy, sister's son to the king." (2)

This version, however, is not in itself inconsistent
with the official account of the Papal Registers. As the
reservation of the see had been made in the lifetime of bishop

(1) Eubel, Hier. Cath. Med. Aev., II, 164; C.P.R., VIII, 653.

(2) Myln, Bps. of Dunk., 17. Eubel, also, has a note
to the effect that between bishops Robert and James, Donald
Macnaughton was elect for a time. (Hier. Cath. Med. Aev.,
II, 163.)

10.

Robert, and as Donald, his nephew, had been procurator and advocate of the church in several lawsuits (presumably at Rome) there had probably been some understanding between the parties. Royal influence, on the other hand, would be brought to bear upon the Chapter of Dunkeld to make a new election in favour of Kennedy, and although the king's death followed, on 21st. February, 1436-37, within five weeks of the vacancy, this does not necessarily preclude the possibility of his effective interference on behalf of his nephew. The relations of James I. with Rome during these last days of his life are veiled in obscurity, but it may well have been that both king and pope were striving to fill an important see by a nominee who might be expected to carry out their policy. It is possible, also, on the other side, although less likely, that Kennedy's election was in the nature of a move towards peace between the parties. Where so much is left to be conjectured it is impossible to tell how far the situation was altered by the death of James. His nephew was installed but he did not set himself to champion the national cause against Rome. This, however, was possibly because changed circumstances seemed to call for a change of policy. If Kennedy put the commonweal before questions of Church government a papalist policy would commend itself as the best means of securing the political and religious welfare of his country in the stormy years that followed the murder of James I.

The date of his consecration is not on record, but it seems from charter evidence to have taken place between 16th.

(1)

May and 7th. July, 1438.

TRANSLATION TO ST. ANDREWS.

James Kennedy was bishop of Dunkeld for two years; then on 20th. April, 1440, he was postulated "by way of the Holy Spirit" to the see of St. Andrews, but before the decree of the Chapter and the royal letters of commendation arrived, the pope had himself made provision to Kennedy, who was then present in the papal court at Florence. (2)

His birth and learning alone would not explain this consensus of opinion, for these would scarcely weight the balance against the mature experience or tried services of such ecclesiastics^{as} John Cameron or William Turnbull. Patronage was undoubtedly exercised.

(1) Dowden, Bps of Scotland, 72.

(2) C.P.R., IX, 129; Scotichr., I, 366

The merits of his character may have inspired the Chapter although one suspects that they did not enjoy very great freedom of choice, while the pope's attitude was clearly diplomatic. (1) It seems probable that after the death of James I, Kennedy enjoyed the support of bishop Wardlaw. We cannot unravel all the intricacies of Church history during this critical period, but the pivot on which things turned may have been the conduct of John Cameron, bishop of Glasgow.

This prelate had been the instrument of James I. in his war against papal centralisation, but he had been won over by Eugenius IV. from the Council of Basle and had thereby incurred the wrath of the king. After the death of James, however, he had returned to Scotland and been reinstated as Chancellor until May, 1439. He must have been speedily involved in fresh difficulties with the papacy for, on 27th December, 1439, faculty was granted to his old antagonist William Croyser, archdeacon of Teviotdale, to absolve him from all sentences of excommunication, from the crime of perjury and other transgressions and to rehabilitate him on giving (2) sacred promise of dutiful obedience to the Roman See.

The disgrace of his early patron had possibly some bearing on the mission of Kennedy to the papal court in 1439. At the same time his visit to the pope had obviously some political significance: the very fall of Cameron had its secular as well as its ecclesiastical implications. In view of the troubles

(1) R. K. Hannay, Letter to Scotland from the Council of Basle - in S. H. R., Oct., 1922.
 (2) C.P.R., VI11,653.

in Scotland, it would be an important asset for any party to secure papal support. The bishop of Dunkeld may, therefore have been sent by Henry Wardlaw, and perhaps also by the earl of Douglas, Lieutenant-general, to make a representation upon the affairs of Scotland in general, and the fortunes of the queen-mother in particular. (1)

It was known also that the bishop of St. Andrews was in failing health, and an ambitious young prelate must have been aware of the advantages of personally pushing his chances of the succession at the Curia.

Whatever the success of his diplomatic missions, he himself must speedily have risen in favour with the papacy for, on 23rd. September, 1439, Eugenius IV on his own initiative conferred on him a life-grant of the commendam of Scone. This event is significant both in the career of Kennedy and in the ecclesiastical history of Scotland.

GENERAL RELIGIOUS SITUATION, 1437-1440.

The Scottish bishop had arrived at the papal court at a critical time. Eugenius IV, seeking to emancipate himself from conciliar control, had in 1437, on the pretext of negotiations with the Greek Church, transferred the General Council from Basle to Ferrara on the Italian side of the Alps. The Council had retaliated by declaring the pope to be contumacious and in 1440 the schism culminated in the election of Amadeus of Savoy as anti-pope, under the style of Felix V. Meanwhile negotiations had been going on in Italy between pope Eugenius (1) See below, 111.

on the one side, and the emperor John Palaeologus and representatives of the Greek Church on the other. As a result, a formal union of the two Churches was effected in the summer of 1439.
(I)

It is true that this union was merely a hollow sham dictated by expediency, and at once repudiated by the common voice of the Greek Christians. But the gain in prestige to the papacy was very great. It led to the virtual extinction of the Council of Basle, while it brought to the successor of St. Peter a vast increase of dignity which Eugenius IV was well skilled to turn to the greatest advantage.

These events were bound to have had a profound influence upon Kennedy. He had come in contact with the culture and wealth of Italy; he had witnessed some of the

(I) The following table gives some leading dates with special reference to Scotland.

1431, July 23.	Council of Basle formally opened.
1434, Feb. 8.	Cameron appeared to tender adherence of Scotland.
1435, May 18.	Safe-conduct for Cameron, papal assistant and referendary to go to Scotland.
1437	Council transferred to Ferrara. Pope declared to be contumacious. Schism imminent. Nuncio despatched to Scotland. Greeks arrive at Venice.
1438-9, Jan. 19.	Council transferred from Ferrara to Florence.
1439.	Greeks accept Union. Emperor left Venice.
1440, July 24.	Coronation of anti-pope, Felix V. Important part played by Thomas Livingstone, abbot of Dundrennan.
1442, Oct. 27.	Letter to Scotland from Council of Basle.
1443	Last meeting of Council of Basle. Transferred to Lausanne. Scots parliament acknowledges Eugenius IV.
1447-1448.	French activities for healing schism.
1449.	Resignation of Felix V.
1450.	Jubilee at Rome.

pomp and pageantry of the victory of Eugenius, and having pondered the significance of these things, he threw in his lot with the papacy.

ATTITUDE OF KENNEDY.

Apart from any personal considerations he sought the welfare of his country, and the crying need of Scotland was for a strong central power. During the long minority the country was being rent by baronial factions while the schism in the church was making confusion worse confounded. Circumstances had entirely changed since the strong hand of James I. had been removed, and the bishop of Dunkeld was statesman enough to see that the best interests of the nation demanded a change of ecclesiastical policy. He took a long view and did not hesitate to trim his sails to prevent the vessel from foundering on the rocks of faction. The interests of Church and State were seen to be interwoven, and so to further the cause of government and order, of religion and holiness, he adhered to the side of Eugenius; then, when he had been released from his mission he returned to Scotland fortified by the strong right arm of the papacy. At the same time he must have been aware that in becoming the instrument of papal policy he was advancing his own interests as well as serving his country.

POLICY OF EUGENIUS.

On his side pope Eugenius was an able judge of men.

He could detect the strength of Kennedy's character and the possibilities that might result from his allegiance. It was obviously to his interest to yield him support, because in the last resort the papal authority depended upon a strong central government. In spite of the resounding glory of his diplomatic success at Florence, moreover, the Council of Basle, instead of giving up the contest, was about to elect a rival pontiff, and a Scottish ecclesiastic, the Abbot of Dundrennan, was among the foremost supporters of this movement. For these reasons, therefore, Eugenius was well-disposed to advance the authority of Kennedy and an occasion for his promotion was soon forthcoming.

Henry Wardlaw, bishop of St. Andrews died on 9th. April, 1440, and on 1st. June the pope translated James, bishop of Dunkeld, to the vacant see, for which he had been also chosen (1) by the unanimous voice of the Chapter. On the eighth he offered the usual sum of 3300 florins, gold of the camera, and five minuta servitia. He had not, at the moment, command of such a large sum of money, but the Florentine bankers were ready to advance a loan, and on 27th. July a "worthy man, (2) Antony de Rabbat" stood his cautioner.

(1) Eubel, Hier. Cath. Med. Aev. II, 99, gives 28 May as the date of translation. Vol 66, Obligationes, f. 22, which he follows has, however, "die Mercurii Kal. Junii." Cf C.P.A. IX, 123n. Scotichr. I p. 366.

(2) Brady, Epis. Succession, I, 123.

GRANT OF PAPAL POWERS.

Meanwhile, on 9th. July the pope had conferred additional powers and privileges upon the new bishop of St Andrews. In the first place, he was endowed with a faculty to collate to twelve benefices within his diocese. A second faculty of the same date was of wider scope, empowering him to proceed against schismatics who adhered to the Council of Basle and "to Amadeus, sometime Duke of Savoy, who calls himself Felix." (1) These grants, besides being rich in emoluments, conferred upon Kennedy the exercise of a considerable patronage and discretionary power. Eugenius was obviously staking upon him to counteract the schismatic activities in Scotland and to win back a united nation to the fold of the true Church. The divided state of the country, in truth, provided ample justification for such a policy.

CONDITION OF ECCLESIASTICAL AFFAIRS IN SCOTLAND.

As late as 1447, Nicholas V, the successor of pope Eugenius saw fit to grant a renewal of the faculty against schismatics. (2) The schism itself was not officially healed until after the resignation of Felix V in 1449 and the celebration of the Jubilee in Rome in 1450. In Scotland the results were felt still longer; thus the general act of restitution of 1447 gave rise to renewed litigation by upsetting Kennedy's provisions. There was, for example, an involved suit concerning the rectory of Conveth and this must have been only one of (3)

(1) C.P.R. VIII, 238.
 (2) Ibid, VIII, 315 n. Theiner, Vet. Mon., 377.
 (3) Thomas Greenlaw, rector of Conveth, had been deprived

6

many such cases. The confusion in the ecclesiastical sphere may, indeed, have been one of the reasons underlying the visit of Kennedy to Rome in 1450. It is at least noteworthy that during his residence at the apostolic see "the pope issued a declaration that the "late general restitution in favour of persons deprived for adherence to the Councils of Basle and Lausanne was not and is not intended to apply to such of them as were exiled from Scotland".^(I) This enactment was to cancel the former letters of general restitution, and papal

by Kennedy as a schismatic in favour of Adam Falconer. He was restored by Nicholas V but found it impossible to obtain possession. On the death of these rivals the situation became still more complicated by the litigation of no less than three claimants to the succession. In the end the pope called up the case to himself, swept aside the claims of all the suitors and awarded the bone of contention to one "John de Balfour, who is by both parents of noble blood." (C.P.R., X, 210, 226, 227, 258, 259, 452, 669.) This ultimate decision in favour of Balfour was probably due to the influence of Kennedy "of whose household he is a continual commensal." (X, 257.)

The Edict of Restitution is printed by Raynaldus, Annales, sub anno 1447.

(I) C.P.R., X, 89. 11 Feb., 1450-51.

mandatories were appointed to uphold the provisions of Kennedy in cases of deprived schismatics. At the same time, moreover, the bishop's power was further strengthened by the grant of other extensive faculties. (1) As law and order came to be restored in Scotland, the hopes of the conciliar party must have dwindled while Kennedy's personal example and his earnest efforts to inculcate order and the spirit of holiness would go far to win devotion instead of mere outward conformity extorted by self-interest.

In this respect the mellowing hand of time was kind to Kennedy. At the beginning of his career he was young and untried. In spite of the general setting of opinion in his favour, (for example, he had initial difficulties over the the temporalities of his see of St. Andrews. He had incurred ecclesiastical pains and censures through having "for certain reasons", perhaps connected with political exigencies, taken possession of the movables "before the letters of translation and appointment were fully drawn up." In the autumn of 1443, when all the formalities had been at last fulfilled, he sought absolution from the pope. On 27th. October his petition was granted, and all doubts as to his status thereby removed. (2)

(1) See below, 21, 45.

(2) C.P.R., VIII, 270-1.

~ Spirituality or Spiritualities?

There is no indication of any trouble so far as the spirituality was concerned. He had returned to Scotland before
(1)
26th. May, 1441, and celebrated his first mass in his Cathedral Church on Sunday, 30th. September, 1442.

Pope Eugenius was soon to reap the benefit of his patronage of Kennedy, for in the General Council held at Stirling on 4th. November, 1443, the Scottish government formally ranked itself on the side of the papacy. It was then enacted that "ferme and fast obedience be kepit til our haly fadir the pape Eugene be actis of generale and provinciall consalys and notifit of before and proclamit be the kingis autorite. And at rigorous process be maid agaynis the favoraris of scissione and the agaynstandaris of the saide obedience. And at na personis spirituale nor temperal change the said obedience quhil the king and the Realme ordane and decrete thair apoun." (2)

The preceding article of this same General Council throws a lurid light on the dismal state into which the Church and religion had fallen. In the hour of its extremity it was seen necessary for the secular arm to come to the support

(1) Scotichron. I, 366. Grub, I, 374. R.M.S., II, 267.

(2) A.F. 11, 33 The declaration was followed by special instructions to nuncios. (C. P.R., VIII, 287, 308 cf. 303. MacEwen, I, 342)

of haly kirk "quhilk is oppressit and hurt," and to decree a general cursing against all "brekaris of the saide fredome" as well as particular censures against individual oppressors.

There is wealth of illumination also in the clause that no notorious plunderers of haly kirk nor excommunicates "be ressauit within the kingis castellis nor placis nor in his presence nor admittyt to consal ne parliament herd nor ansueryt in the law of Jugement of fee or heritage or othir causis."

With chaos thus rampant it is little wonder that the effects of the schism were long felt in Scotland. Reformation of religion was dear to the heart of Kennedy and might well have taken up all his attention, but the matter was not so simple and much of the bishop's energies had perforce to be diverted to the affairs of secular statesmanship. Yet he always kept the things of the Church clearly in view and it will be useful to examine his religious policy so far as it can be detached from secular complications. This will not only shed light on the state of the Church and religion, but it may also furnish a clue to some of the problems of the political history of the time.

FACULTY AGAINST SCHISMATICS.

We may, then, first of all turn to the working out of the bishop's faculty to proceed against schismatics. In this connection the case of the disputed provision to the archdeaconry of Teviotdale gives a typical example of the confused state of ecclesiastical affairs. The litigation arose out of the deprivation as a schismatic of William

(I) A.P., 11, 33

Croyser, the renegade papal acolyte. Kennedy, in the hope of winning a reconciliation, was reluctant to proceed to extremes. Meanwhile the pope had provided a petitioner, one, Walter Blar, clerk of the diocese, to the vacant office. A few days later, Bishop Kennedy at last took steps and made provision to Patrick de Hume who obtained possession and maintained himself therein by the strong arm while litigation dragged on for more than three years. Finally, after agreeing to a compromise Walter Blar fled from the Roman Court and Patrick de Hume obtained papal confirmation of his tenure on 28th. June, 1446.

The case of Culross illustrates other aspects of the confusion caused by the schism. In 1436 the pope had provided Abbot Laurence to the monastery of Culross but his title had been contested by Robert Wedale, a monk of that house. The intruder had been able to maintain himself in possession by adhering to the Council of Basle; and although his expulsion fell within the scope of Kennedy's indult, it was always possible that Wedale might safeguard himself by transferring his allegiance to Pope Eugenius. It was fear of such a contingency that spurred Abbot Laurence to redoubled efforts

(I)

C.P.A. VIII, 306-308. IX, 443-4, 174, 565. It is noteworthy that this was the year of Kennedy's visit to Rome; and although the papal accounts give no indication of the bishop's intervention in the litigation we may suspect that his influence was not unfelt. This Patrick Hume, Archdeacon of Teviotdale, proved to be an unscrupulous Churchman whose ambitious designs on Coldingham made him a fire-brand in the last years of Kennedy.

to establish his position. After dragging on for five years the suit was finally determined in his favour on 30th. May, 1441 (1)

These two examples serve to illustrate the state of chaos which bishop Kennedy sought to reduce to order. (2) To such a lover of propriety, and ceremony and settled government as his works point him out to have been, the confusion must have been peculiarly hateful and he seems to have nerved himself to the utmost in his task of reformation. It would be overlooking other and important factors to accept the old opinion that it was as a simple reformer that he proceeded to Florence in 1439, and to Rome in 1446. Yet the desire of removing abuses was probably beneath the surface while the whole tenour of his life goes to show that it was never far absent from his thoughts.

The delegation of papal powers was, as we have seen, of the highest importance to Kennedy for this work. In those days of bands and factions, personal loyalty was the

(1) C.P.R., VIII, 613.

(2) Dr. MacEwen doubts if Kennedy would have much occasion to exercise his faculty (Church in Scotland, I, 342) but the unvarnished accounts in the Papal Registers and Acts of Parliament show that evils were rampant in Scotland. It is probable, however, that Kennedy was moderate in the exercise of his powers, and that (as in the Douglas rebellion) - he encouraged reconciliation by granting pardon and security of tenure. Capriciously to upset the status quo by a retrospective use of his faculty would have added to the confusion. The Roman Curia would have been enriched by litigation but Scotland stood to suffer in every way. Pecuniary considerations, indeed, were probably an incentive to the pope in issuing the bull of General Restitution.

all-important binding link and it is therefore not surprising that Kennedy should use his influence to promote his own supporters and kindred. He might count on them as agents of his policy. Moreover, Church dignities tended to fall under the jurisdiction of local territorial magnates, and at a time when the Crown was threatened by a turbulent baronage the allocation of ecclesiastical offices might threaten the tranquillity of Church and State alike.

THE NEPOTISM OF KENNEDY.

From this point of view the indulgences to Kennedy had a political significance. He used his power conscientiously for the general welfare, and he cannot be branded as a notorious nepotist. Yet he was not altogether above the morality of his age. Thus about 1443 he provided his nephew, William de Forbes, a lad of some ten years ~~of age~~, to a canonry and prebend of Brechin in the room of a deprived schismatic. (I) In later days Kennedy made use of his influence at Rome to secure the promotion of his three nephews Hugh Douglas, Patrick Graham and William Forbes to reserved dignities. On 10th. March 1449-50, Patrick Graham and Hugh Douglas, then about fourteen years of age, received reservation of canonries and prebends of Glasgow and Aberdeen; Forbes of Dunkeld and Moray. The aim of these and subsequent

(I) C.P.R., IX, 415. He was the son of Elizabeth Douglas, daughter of the Countess of Angus, and of Alexander Forbes. (Scots Peerage, IV, 49-50)

(1)
 similar grants was clearly to meet the expenses of the education of the lads. Thus in 1454 Forbes was a student in Paris and Graham in St. Andrews. (2) In this diversion of ecclesiastical revenues for the support of learning, Kennedy was but following a custom of which he, in his day, had himself enjoyed the benefit. At the same time he had probably a sincere wish of training his nephews to carry on his life's work; and in this hope we can well believe that he did not spare himself to advance their interests. William Forbes became provost of St. Giles and Patrick Graham was provided to Brechin in 1463. (3) As his uncle's successor he became the ill-fated first archbishop of St. Andrews; but the facts do not entitle us to judge what opportunities Kennedy had of gauging his nephew's character, or of foreseeing the tragedy of his career.

(1) C.P.R., X, 65, 26, 172-3.

(2) Ibid., 260; St. Ands. Univ. Grad. Rolls, 33.

(3) Charters of St. Giles, [31]; C.P.R., XI, 474. The elevation of Graham was undoubtedly due to the influence of the bishop of St. Andrews. His rival Richard Wyly, vicar of Dunkeld had been foremost with his solicitations at the Roman court. Although not without tokens of papal favour, Richard Wyly suffered from one serious handicap. Pius II was urgently in need of funds to equip a crusade: Wyly was comparatively poor, while Graham could command the influence and resources of the wealthiest churchman and leading statesman in Scotland. (This subject has been fully discussed by the authors of the Archbishops of St. Andrews. See vol. I, 21-22).

It was inevitable that some of the numerous kindred of the bishop should seek preferment in the Church and even rise to high positions within its ranks, but at the same time Kennedy having set an example in himself, may well have stressed the idea of service, and the fulfilment of the duties inherent in privilege. It is noteworthy that the protestant Buchanan passed no censure, and that family aggrandisement was not one of the two weak points with which Major found fault in his character. In this connection, also, it is perhaps significant that there was no ecclesiastical preferment for lord Kennedy's family. The bishop of St. Andrews supported his brother's authority as Head of his Kin, and in later years they were associated in secular politics but the power of lord Kennedy was limited to temporal channels.⁽¹⁾

On the whole, then, it may be concluded that although he was a child of his age, yet he was not a nepotist in the abuse of his powers for family aggrandisement, at a time when such a policy was still considered a virtue rather than a stigma. Hence the pope could safely confer a vast amount of discretionary power upon the bishop of St. Andrews, with perfect confidence in his personal integrity.

(1) The presentation to the chaplaincies of St. Salvator's College was, however, vested in the first instance in the patronage of Gilbert, lord Kennedy, and his heirs. Theiner, p. 411. In this, however, the bishop was merely following a very general custom: it was usual to vest the patronage to dignities in collegiate churches in private families.

Almost all his important privileges were bestowed upon him during his personal residence at the apostolic see. The first of them was a faculty, granted at Florence on 6th. July, 1440, to James, bishop of St. Andrews, "to reserve to his gift for collation to twelve fit persons, secular or regular, one to each, twelve benefices with or without cure, in the gift of the bishop or any others, in his city and diocese." On the same day he was endowed with the power of proceeding against schismatics. (1)

DOMESTIC SITUATION IN SCOTLAND, 1446.

The next extension of his faculties took place at the time of his visit to Rome in 1446. That visit itself was largely prompted by the situation in Scotland where the tide of political affairs had set against him since the accession of William, eighth earl of Douglas in March, 1443. A coalition, led by Douglas, Livingston and Hamilton had seemed to threaten the state and Kennedy had therefore formed a counter-alliance with Crichton and his own nephew James, earl of Angus. But his diplomacy had not succeeded. His Church domains had been plundered, Angus had been outlawed by parliament at the time when Douglas was besieging Crichton in Edinburgh.

(1) C.P.R., VIII, 238. On 13th. October, 1442, pope Eugenius confirmed the collation made in the exercise of this faculty by James, bishop of St. Andrews, to David de Scras, perpetual chaplain in the church of St. Clement, Dundee.

(C.P.R., IX, 323-4)

(2) Douglas Book, I, 456.

Castle. After a nine weeks' siege Crichton had capitulated on honourable terms and had been restored to the office of chancellor. Kennedy might seem to have been deserted by his ally; on the other hand, according to Drummond, the credit of Crichton's restoration was itself due to "the Bishop of St. Andrews whose Respect and Authority was great with the Churchmen." (I) Although there is no direct evidence to give finality to this view, yet a study of affairs presents a strong case in its favour.

(I) Drummond, History, 25. Among the events of this period it is note-worthy that the bishop of St. Andrews does not figure among the prelates who, in the parliament at Perth in June, 1445, had brought up the question of the right of testament. The king decided in their favour at a conference held in the vicarage of St. Giles on 28th. July. Kennedy was not numbered among the six representatives of the bishops, but his absence may be explained on political grounds.

This agreement was reached at a time of great political confusion. Of the three leading members of the opposition, Angus had just been arraigned before parliament for treason, Crichton had been suddenly restored into favour, Kennedy had been totally eclipsed for a year. We have reason to believe, however, that by means of the clergy, he had been directing the undercurrent which swept his party back to prosperity. He had certainly close associations with most, if not all, of the prelates present at this conference. The ascendancy of Douglas might contrive the exclusion of Kennedy from political power; his pervasive influence could not be so easily suppressed. That influence might be exercised not only through the bishops but also through the official of St. Andrews, who was associated with the Conservator in drawing up the case for the clergy. Although he played no direct part in the proceedings, we can well imagine that Kennedy would support the claims of his estate in this important juncture. Throughout his career he stood firm to his ecclesiastical privileges, and we know that he bequeathed his own valuable, personal property to his cherished foundation of St. Salvator's.

(Robertson, Statuta, I, civ)

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KENNEDY IN ROME, 1446-1448.

The march of events in 1445 must thus have been matter
of deep concern to Kennedy both as regarded his own position (1)
and the fortunes of the country in general. His visit to
Rome in the spring of 1446 was therefore undoubtedly prompted
by the aim of securing for himself the support of the papal
arm. According to Crawford, he had resigned the chancellor-
ship in 1444, and "being not able of himself to stop a
Torrent at Home resolved to try what he could do Abroad in
settling and composing the Schism in the Papacy." (2) Kennedy's
visit to the apostolic see must, indeed, have had, as

(1) Besides the difficulties of his public position he was, for example, in difficulties over Scone.

(2) Crawford, Officers of State, 32. Before his departure in 1448 French ambassadors were active in this matter. Like all his contemporaries Kennedy must have been impressed by their achievements, but he was too clear-headed to entertain any wild ambition on his own account to heal the schism in the papacy. His intervention was scarcely required, and the authority of the bishop of St. Andrews could not have carried much weight in the assemblies of Europe. He did, however, give his entire support to the papacy, and the pope in return strengthened Kennedy's position to deal with schism in Church and State in Scotland.

Crawford infers, an intimate relation with home affairs, but if he had worked for the conciliation of the clergy and the restoration of Crichton, he had done what he could to establish a balance of power in Scotland during his absence. He had certainly not abandoned his colleagues in their hour of extremity.

The bishop's safe-conduct through England on his way to Rome was issued on 24th. March, 1446, to hold good for two years, and he may have availed himself of the whole of the allotted time. ^(I) If so, he must have been in Rome on the death of Eugenius IV. and the election and coronation of the new pope, Nicholas V.

(I) Rot. Scot., II, 322.

It is true that we have no direct reference to his personal presence at the Roman court during these two years, while there is extant a charter of James, bishop of St. Andrews, to Sir John Ogilvie, dated 24th. March, 1446, "in the ninth year of our consecration." [ie. 1446-7] If this date is correct, Kennedy ought to have been present in St. Andrews in the spring of 1447. It is more likely, however, that the scribe has been guilty of error, and that the charter was granted on the eve of his departure. He was certainly absent from Scotland on 21st. November, 1447, when letters were directed by the abbot of Lindores to his vicar in spiritualibus and official general. The proceedings had reference to the promotion of Thomas de Camera to the abbey of Scone in succession to Kennedy. He was himself the bearer of the mandatory letters and among the witnesses to the instrument of induction was William Mudy, precentor of Caithness. This William Mudy had been included in Kennedy's safe-conduct, had been his proctor at the Roman court in the resignation of Scone, and had paid an instalment of the common services as procurator for the new abbot, Thomas de Camera. Both the principals, then, were probably present in the Roman court with Mudy as their agent. Thereafter the prior and the precentor would return together to expedite matters in Scotland leaving the bishop of St. Andrews behind in Rome. It was certainly in Kennedy's interest to make a personal pilgrimage to secure the support of the papacy. He had returned to Scotland and admitted a resignation before 29th. August, 1448. (C.P.R. X, 297, 300; Brady I, 207; Chronicles of Southesk, II, 517 Hist. MSS. Commis. IX, 146)

He may have tendered the obedience of Scotland to the new pope who, on his part, continued the support of his predecessor to the bishop of St. Andrews.' On 28th. July, 1447, he renewed Kennedy's faculty to proceed against schismatics, and after his return to Scotland the pope on his own initiative reserved a canonry and prebend of the Chapel Royal of St. Mary and of two benefices to the collation of the bishop of St. Andrews. (I)

PAPAL POLICY.

Kennedy's sojourn in Rome was marked by two events not without significance in the history of the relations of Scotland with the Papacy. On 27th. October, 1447, William Turnbull, elect of Dunkeld, and possibly then present at Rome, was translated to the see of Glasgow. (2) In age he was the senior of Kennedy; (3) he was keeper of his majesty's privy seal, high in the king's councils, Churchman, statesman, patron of learning; in respect to Rome, a papalist with a long record of service. Kennedy and Turnbull were the two outstanding Scottish bishops of their day and the rivalry between them (4)

(1) C.P.R., X, 47.

(2) Ibid., 299. Rot. Scot., II, 329.

(3) He determined at St. Andrews in 1418. (Records of St. Andrews Univ.)

(4) A notarial instrument in the Home charter chest affords an interesting illustration both of this rivalry, and of the remunerative nature of papal indulgences. "James II. had granted to bishop Turnbull at his instance because of his service, prayers and gifts, the marriage of one of the ladies of Gargunock for his kinsman. --- The bishop of St. Andrews wished to have twenty nobles for the dispensation but the bishop of Glasgow refused to give more than ten merks." (Hist. MSS. Commis., Report XII, part VIII, 11-2 [6])

was to prove a factor of some importance in the history of
(I)
their country.

The other event was the return to Scotland in 1447 of Thomas Livingstone, erstwhile abbot of Dundrennan. Abbot Thomas had been a doughty champion of conciliar authority and had played a foremost part in the election of the anti-pope, Felix V, by whom he had been created bishop of Dunkeld and "Administrator of the monastery of St. Christopher out-with the walls of Turin." As he had, however, made his peace with Rome before 1450, it is probable that he had availed himself of the Bull of General Restitution.
(2)

(I) At this time the rivalry was tacitly recognised in the fact that the bishop of Glasgow was one of the mandatories to whom the pope addressed the letters of restitution which cancelled Kennedy's indult against schismatics. (C.P.R., X, 689)

(2) The publication of the Papal Registers has thrown fresh light upon the history of Thomas Livingstone. Dr. Joseph Robertson (Statuta I, xcvi-xcix) thought that the abbot of Dundrennan had hastened to desert the anti-pope and that by way of reward Eugenius had created him bishop of Dunkeld upon the translation of Kennedy to St. Andrews in 1440. Bishop Dowden, on the other hand, (Bishops of Scotland, 95) pointed out that as in 1447, Livingstone was styled "Administrator of the monastery of St. Christopher," which was hard by Turin, it was more likely that his preferment was due to Felix (in private life Amadeus, duke of Savoy.) He postulated that, on the death of Eugenius, Livingstone returned to Scotland with the intention of "preparing himself for the altered state of affairs". The publication of the Papal Registers has proved his first surmise to be correct: the general indemnity of 1447 might be taken as a bridge for the transference of allegiance without loss of self-respect. Nicholas V granted Kirkinner in commendam to "Thomas bishop of Dunkeld (who, when dwelling in the Council of Basel got provision made to him by the members thereof of the church of Dunkeld, without

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Although the hopes held out to him of obtaining a cathedral church were never realised, he had some compensation in the titular dignity of "bishop in the universal church." (I) He was to become the king's confessor and to enjoy a rich provision in the Scottish church until his death early in 1460, when past his 70th year and weak and blind. (2)

The papal favours shown to Livingstone were typical of the suave, conciliatory policy of Nicholas V; and his tactful diplomacy, his innate love of letters, and the culture of his court must have impressed the mind of Kennedy. He would return to Scotland with a broader outlook, eager to emulate the glories of Rome. In the immediate state of home affairs, however, he was to find more scope for his talents of statesmanship than for the expression of his aesthetic ideals.

having any hope, as is believed, of being able to obtain possession of the rule and administration of the goods thereof, got himself appointed bishop, and in virtue of such provision and appointment got himself consecrated)." (C.P.R. XI, 113)

(1) C.P.R. XI, 379-381.

(2) Ibid, 418, 421, 388. Livingstone's history, after his reconciliation with Rome, can be traced in its outlines in these volumes of the Papal Registers.

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SCOTTISH AFFAIRS.

During 1448 there had been war on the borders notwithstanding the truce between the countries. The victory of Sark had invested the Douglasses with glory as national heroes. Their power was at its zenith and its wane may be said to date from the king's marriage on 3rd. July, 1449. James began to emancipate himself from their control, and to take as his chief advisers Crichton, Kennedy and Turnbull. The struggle between Crown and Barons was about to begin and for this reason it was important for the king to have the support of the clerical estate.

(1). MOVABLES OF PRELATES.

This gives a political significance to the ecclesiastical transactions in the parliament at Edinburgh on 24th. January, 1449-50. When, on that date, the vexed question of the movables of prelates came up for settlement, the bishop of St. Andrews played a foremost part in the picturesque, dramatic and exceedingly important proceedings. In presence of the king, the queen and the three estates of the realm in full parliament assembled, the bishop of St. Andrews with seven of his brother bishops came before the king as suppliants on behalf of the clergy. They rehearsed the ancient grievance that the royal officers were appropriating the personal estate of deceased prelates, so that for the payment of debts, or provision for the health of their souls, or for the bequeathing of legacies, no movable goods remained.

Thereafter they produced and caused to be read aloud the draft of a charter of redress. The queen added her

entreaties to the prayers which the clergy had proffered on bended knees. In consideration of the long record of past services, and moved by the supplications of the bishops and the queen, the king, with the advice of the estates, was graciously pleased to concede all the claims of the Churchmen and a formal charter was accordingly drawn up under the great seal to give effect to this decision. (I)

It is evident that, notwithstanding the pageantry of the setting, this was a well-considered stroke of policy. The terms of the draft charter show that all the interests concerned had been duly consulted, and that if both parties sacrificed certain claims, they both in return secured material advantages. It is thus significant that on 22nd. January the bishops had witnessed the confirmation of the queen's dower lands: two days later she was to plead their cause in full parliament. (2)

The prelates were conciliated by a definitive sentence granting to them and their order for all future time the unrestrained right of personal testament. In return they recognised the claim of the crown to enjoy the temporalities sede vacante and to present to benefices in the episcopal collation. The immunity of the spiritualities was safeguarded by entrusting the administration to the Vicars General who were to render account of their stewardship to the succeeding

(1) Robertson, Statuta, I, CV-CVI. A.P., II, 37, 38.
(2) A.P., II, 61 This ratification of the queen's dower lands was doubtless an important factor in the transactions.
See below, 150.

bishop. It was provided also that the tenants and tillers of church lands should enjoy security of tenure during a vacancy. Thus the Crown stood to gain by the support of the Church and by the recognition of its right to the material profits of a see during a vacancy. (1) The acknowledgement of these claims of advowson, moreover might be turned by a strong king to considerable advantage.

THE ATTITUDE OF KENNEDY.

Although Kennedy's name is not directly mentioned, his influence can be clearly traced in the framing of this charter. So far as it answered the crying necessity for national security and goodwill it was in accordance with his policy. The clause protecting the rights of ecclesiastical tenants, again, must have been inspired by the aim of building up the prosperity of the country upon the stability and contentment of all its classes. (2)

These transactions, on the other hand, were bound to have a bearing on his relations with the papacy. From the papal point of view it was dangerous to grant the right of

(1) A.P., II, 37-8. A translation is printed by Robertson, Statuta, I, cvi-cvii.

(2) This view of Kennedy's political philosophy is in keeping with his efforts to further trade and to provide for the education of commoners. None of the other contracting parties were likely to have incorporated the cause of the peasants in this Charter of Liberties. In thus broadening the scope of the contract the attitude of Kennedy recalls the statesmanship of the English ecclesiastic, Stephen Langton, in drawing up the more famous indenture of Magna Carta.

(Ia)

the crown to the temporalities and advowson sede vacante. Yet Kennedy, himself, in some measure owed his early preferment to the patronage of his royal uncle, and James I, a strong king, had used his power to reform abuses while remaining strictly orthodox in doctrine. The peril to the state from internal factions after his death may well have driven Kennedy back for a time upon a papalist policy, although in happier circumstances he would have advocated a nationalist policy. In making this pact with the king, moreover, the bishops could cite precedents not only in the ancient custom of the realm but also in the concordats drawn up between pope and temporal princes: the Concordat of Vienna, of 1448, for example, must still have been fresh in the minds of men.

In 1449, also, James II had entered upon his personal rule and to grant patronage to the crown might be a means of strengthening the monarchy at the expense of the barons who were making encroachments upon the ecclesiastical preserves. For all these reasons and from the critical exigencies of the moment, James Kennedy must have worked to bring about this agreement between Church and State.

(I) For the political situation at this crisis, see below, 150.

The further study of Kennedy's ecclesiastical career will show that his attitude to Rome was affected also by the necessity of securing papal support for the furtherance of his cherished schemes of education.

(Ia) At this very period, indeed, it must have been

The very pageantry of the setting, indeed, is characteristic of the bishop of St. Andrews who well knew the value of ceremonial ritual.

(2) QUESTION OF ADVOWNSONS.

If, however, the question of movables had been finally and amicably settled, it was otherwise concerning the royal claims to advowsons. These claims were confirmed by the clergy in a provincial council held at Perth in 1457; but in 1459 the king again sent commissioners, Patrick, lord Graham, and Master Archibald Whitelaw, to request a formal restatement of his rights. As a result of an inquisition upon oath it was thereupon unanimously found that in the council of 1457 "our most illustrious king aforesaid possessed

evident to the papacy that the king of Scots meant the assertion of his rights to be no empty claim. It had been brought under the notice of Rome, that "on the voidance of the archdeaconry of Glasgow, a non-major dignity, ---James king of Scots alleging that by ancient custom the presentation during voidance of the see of Glasgow even for a whole year from such voidance, belonged to the king, presented for the said archdeaconry (which had become void within such year) and after provision had been made to William [now] bishop of Glasgow, of that see, then void) the above John to the said bishop William who instituted him." (C.P.R., X, 203) This royal nominee was John Arrous, archdeacon of Glasgow, and sub-delegate of bishop Turnbull during the years 1450-51. (Ibid, 208, 222, 561, 562)

The independent attitude of the Scottish king must have been disconcerting to the papacy, and one can well imagine that the bishop of St. Andrews would have to render account for his attitude in furthering the royal claims.

by ancient and primitive use the right of presenting to all benefices within the realm of Scotland appertaining to ecclesiastical patronage and ordinaries' collation falling void in any manner of way from the time that sees become vacant till bishops are admitted to their temporality, and of presenting to benefices bestowed by election, even though they be the greater benefices next after episcopal sees, and to other benefices generally or specially reserved in any manner whatever." (I)

A conflict had evidently arisen between crown and papacy and the clergy were keeping pact by supporting the royal authority. (2) It is to be noticed that Kennedy was not person-

(1) Robertson, Statuta, I, cv-cvi. Patrick's translation.

(2) The clash of interests may have arisen in the first place from the appointment, on 25th. April, 1456, of two foreign ecclesiastics as apostolic nuncios and collectors of tenths of benefices with faculty to excommunicate and "do certain other acts that may facilitate their execution of duty." (Transcripts from Vatican, III, 285-308)

The restatement of the royal rights in 1459 may have had reference to the confusion in the Scottish hierarchy. There was trouble over the see of Sodor which was being claimed as an English diocese. John Hectoris, provided in October, 1441, seems to have been a Scottish bishop. He was alive in May, 1463, yet on 21st. June, 1458, the pope provided Thomas Kirkham, abbot of St. Mary, Vale Royal, to the bishopric of Sodor "void by the death of Thomas Burton during whose life it was specially reserved by the present pope". He was, moreover, to retain his monastery in commendam "because he" could not decently keep up his estate from the slender fruits etc. of the episcopal mensa of Sodor." This case of Sodor may well have been under consideration in the general council of 1459; the restatement of royal rights may ~~would be~~ a counterblast to papal pretensions. C.P.R., XI, 343-4 of Brady, I, 107. C.P.R., XI, 359.

ally involved in these proceedings. If stress of circumstances had prevented him from being present, then Walter Stewart, archdeacon of St. Andrews, who played a prominent part, may have been reflecting the policy of his diocesan superior. As, moreover, the finding of this council was merely a declaratory confirmation, Kennedy may have been active in the crucial meeting of 1457, as he had been in the parliament of 1449-50. It is true that in the interval between the two councils a certain aloofness had sprung up between the king and the bishop over particular details of the royal policy. A sore point was doubtless the disputed succession to Aberdeen between Thomas Spens, bishop of Galloway, the royal nominee, and his unsuccessful rival, William Forbes, Kennedy's nephew, elect of the chapter. (I) The breach, however, was not fundamental, while a degree of co-operation is indicated by the fact that Kennedy was shortly to be entrusted with plenipotentiary powers on an important diplomatic mission. Thus, although the reiteration

Another nest of troubles about this time centres round the translation of Thomas Spens, bishop of Candida Casa to Aberdeen in November, 1457. Bishop Thomas was a king's man thrust, against their will upon the chapter: as conservator in 1459, he maintained the royal rights in the provincial council. Thomas Vaus was provided as the successor of Spens to Candida Casa, paid his obligations in 1457, but was never instituted. He was associated with Spens in the decretal confirmatory, but Ninian Spot, his successful rival, also enjoyed the royal favour. We cannot unravel all the intricacies of this question, but it had possibly a bearing upon the vexed question of the rights of the crown Sede vacante. (C.P.R., XI, 310; Bps. of Scot., 369-70; Eubel, II, 130)

(I) C.P.R. XI 523.

For the political events of this period, see below, 235.

of the royal rights proceeded from the initiative of the king, quite independent of the bishop of St. Andrews, yet there is no reason to believe that Kennedy was opposed to the claims of the crown to advowsons sede vacante. On the contrary, we find him supporting a nationalist policy on the defensive side, and working for the elevation of the monarchy by all legitimate means. Consistency, then, would lead him to uphold this royal right, founded upon "ancient and primitive use".

After the finding of the Council in 1459 the thorny problem of the relations between Church and State did not come up again till after the death of James II. Then, on 19th. October, 1462, a parliament at Edinburgh formally endorsed the old custom of the realm in presenting to benefices during a vacancy of a see, enacting loss of benefices and inhability for persistent breach of the royal right. (I)

As in this instance again, Kennedy was not personally

(I) A.P., II, 83. It is noteworthy that James II. had not procured parliamentary ratification of the verdict of the Provincial Council in 1459. This favours the view that Kennedy was not hostile to the royal claims. Had his opposition been formidable the king might have stolen a march upon him during his absence by securing from the Estates a confirmation of the ecclesiastical decret.

involved, his attitude must remain open to conjecture. It was no time, however, to stir up fresh points of dispute, and as he concentrated in his own person the chief authority both in Church and State, he would be in a position himself to administer the main stream of patronage. During his life-time he might hope to unite divergent interests, while his efforts to build up a party and to advance his nephew suggest an endeavour in this way to perpetuate his policy.

With regard to his attitude to the nationalist claims of the crown it is interesting to note that after 1451, the goodwill of the bishop of St. Andrews ceased to be assiduously cultivated at Rome, and that he received no further extension of personal faculties. For the explanation of the powers conferred upon him in that year we must look to affairs in Scotland and to his presence at the apostolic see.

- (1) The weakening of the alliance between Kennedy and the papacy was, no doubt, due in part to the altered policy of Rome after the healing of the schism. Instead of supporting a papalist prelate against an anti-papalist, the curia began to play off the different elements in church and state. There was thus no longer any vital need for the services of the bishop of St. Andrews, yet when all is said, it is not without meaning that he ceased to be entrusted with personal powers.

KENNEDY'S VISIT TO ROME, 1450-1451. (1) HIS AIMS.

On 16th. October, 1449, a safe-conduct through England, valid for three years, was issued to James, bishop of St. Andrews, going on pilgrimage to Rome. (1) He was however, still in Scotland in August, 1450; (2) he and the earl of Douglas (3) were both in Rome in the following January. To contemporaries the princely pomp of the temporal lord obscured the lustre of the churchman, but the earl's star was falling while the bishop had still to perform the most enduring part of his life's work.

Probably one of the motives of his pilgrimage was to be present at the Jubilee, when for a second time he must have been impressed by the wealth and culture of Rome, by "the unsullied personal dignity of the Pope, the reinforcement (4) of religion in -- splendid edifices." At the same time, however, he was influenced by other and more important considerations. He did not neglect his pastoral duties, nor fail to work for certain definite objects which he kept in view. Thus on 21st. February, owing to the scarcity of olive oil he obtained licence for the flock of his diocese to "eat butter and other milk-meats without any scruple of (5) conscience" during Lent and other times of fast.

- (1) Bain, C.D.S., IV, [1217]
- (2) R.M.S., II, [317]
- (3) C.P.R., X, 171; Rot. Scot., II, 343, Bain, C.D.S, IV, [1229]
- (4) Milman, Latin Christianity, VI, 339
- (5) C.P.R., X, 174; Register of Priory of St. Ands., 24.

The bishop brought further hardships with good effect to the notice of the pope. He secured an ordinance empowering himself and his successors, bishops of St. Andrews, to confirm all elections of non-exempt houses in his diocese on the ground that poverty, distance and other dangers made it very difficult to have resource to the apostolic see for such confirmation. (1)

We seem here to have a faint echo of the controversy waged by James I. Kennedy's action was in line with that King's policy of preventing the export of money and shows a regard for the real well-being of the country. At the same time it would bring additional emoluments into his own coffers. It was, moreover, a double-edged weapon which might be used by the crown against Rome or by a papalist bishop against the crown. The pope, however, looking to the present, may have felt that Kennedy would make good use of the power: as it was he safeguarded himself by playing off rival interests. It shows the drift of his policy that a month after the licence to St. Andrews the inhabitants of Glasgow also received an indult to eat milk-meats during Lent. (2)

(1) C.P.R., X, 171.

(2) C.P.R., X, 85.

A more important example is afforded by the case of Coldingham. It was alleged that the bishop of St. Andrews sought to sever this priory from Durham in order to bring it under his own direct jurisdiction. (I) It may safely be surmised that his failure was partly due to the papal policy of maintaining a balance in Scotland. Kennedy received other privileges which made him sufficiently powerful from the point of view of Rome.

2. GRANT OF FACULTIES.

He was endowed, for example, with considerable faculties to grant dispensations for marriage and legitimation. More important, however, were his privileges of patronage. (2) On 23th. January he was granted "for life and as long as he is bishop of St. Andrews" the faculty of presenting to all benefices in his diocese falling vacant within two allotted months of the year, "and not comprised in the faculty granted to other collators." (3) At first sight this delegation of authority might seem to be an act of great munificence on the part of the papacy, but in reality it was rather a link in the chain of events.

Prelates situated like Kennedy had stood to lose when they were deprived, in 1447, of their power of proceeding

(1) Priory of Coldin., 163, CLXXXII.

(2) C.P.R., X, 172, 173. Both of date 23 January, 1450-51.

(3) Ibid, 173.

against schismatics. Thus it was some compensation that he had been granted on 28th. January, 1448-9, the faculty of collating for five years to benefices in his gift falling void within six specified months of the year. (1) If we compare these two grants we see that the second was at once an extension and a limitation of the former. Only two instead of six months were to be reserved for the nominees of the bishop after 1451, but his patronage was extended to others than benefices in his own gift, while the faculty was to run for the duration of his life. It is true that the wording was sufficiently vague to leave loopholes of escape for the papacy, but in spite of any general ambiguity the drift of the faculty was perfectly clear and the powers that it conferred extensive. (2)

Still further privileges, moreover, remained to be granted to Kennedy, and these again had reference to earlier indulgences. The pope had, on 11th, March, 1448-9, on his own initiative, reserved a canonry and prebend of the chapel royal of St. Mary and two other benefices in the gift of St. Andrews to the nominees of the bishop. (3) On 28th. January, 1450-51, Nicholas extended this grant to three other benefices with provision that "the six persons shall, in obtaining the said

(1) C.P.R., X, 173.

(2) Show how These grants to Kennedy are straws which the general current of papal reservations was flowing about this time. See appendix.

(3) C.P.R., X, 47.

benefices, have preference over all other persons, including the nominees of James, king of Scots, in virtue of a faculty lately granted to him by the pope, in regard to the reserving the first month of the year to papal expectants, the second to nominees of the said king, the third to nominees of the ordinaries, and so on throughout the year." (1)

These conflicting indults must have caused a clash of interests because on 1st. May Kennedy received a confirmatory declaration safeguarding his position. (2)

3. AIM OF THE PAPACY.

A study of events at this time indicates that the papacy was endeavouring to bestow its benefits so as to play off the crown against the prelates in Scotland, while the king was striving to establish his influence in the Church. (3)

Thus during Kennedy's previous visit to Rome Patrick Yhong, dean of Dunkeld, appeared as the ambassador of James at the papal court in November, 1447. Almost immediately the king was granted extensive rights of patronage; and these, again, were revoked and revised at his own wish in May, 1450. (4)

(1) C.P.R., X, 168-9

(2) Ibid, X, 108.

(3) The maintenance of an equilibrium by balancing rival rival interests may be further illustrated from the powers conferred upon Bishop Turnbull of Glasgow in 1450-51. On 7th. January he was created first "rector called Chancellor" of the new university which he had founded in rivalry with St. Andrews. On 22nd. November, 1450, he was appointed one of the four confessors for granting the Jubilee Indulgence in Scotland. C.P.R., X,

(4) Some understanding may have been reached at this time between king and pope, because the royal envoy was appointed

This, then, may explain the declaratory letter of 1st. May, 1451, in favour of Kennedy. If, however, it were the papal aim to foster divergences in Scotland, the policy on a broad view came to nothing. During the following years political affairs were to swamp other controversies, and the bishop was to be the valued and trustworthy counsellor of his royal cousin. In their co-operation for common ends, differences anent ecclesiastical patronage sank into insignificance. Even at this period their interests were linked together. Thus we find Kennedy petitioning the pope on behalf of Richard Forbes "chamberlain of James, king of Scots, in certain parts of the realm---(and) a continual commensal member of the household of James, bishop of St Andrews." (I)

papal nuncio and collector-general of the apostolic see in Scotland. (C.P.R., X, 270) On the same day, 16th. November, 1447, the bishop of Dunblane was created papal mandatory to provide the king's nominees "to a canonry of each cathedral and collegiate church in the realm--and to forty benefices with or without cure, of any value, of any collation or patronage." At the same time "the bishop is to inform the papal camera, or its collector (Yhong) or sub-collector in those parts, of names of persons and dates of collations." (C.P.R., X, 7)

On 22nd. May. 1450, this faculty was revoked at the wish of the king, and the bishop of Whitherne was instead empowered to make fresh provision to royal nominees of a canonry in all cathedral and collegiate churches and of twenty benefices. (Ibid, 63-4)

(I) C.P.R., X, 176.

The nephews, again, for whom Kennedy secured provision at this time were also the kinsmen of the king. It must indeed have become increasingly evident at Rome that the delegation of papal powers to Kennedy was more likely to be a means of pacifying than of raising discord.

There is thus no reason to believe that in 1451 the bishop of St. Andrews was seeking to assert the principle of clerical immunities. He was doubtless sincerely seeking the welfare of his flock when he tendered his ecclesiastical report. It is true that the case of Coldingham presents an approach to self-aggrandisement, but there were other factors in the situation. We do not know how far Kennedy was really active in this matter, but we are left with the suspicion that he was not untainted by a prevalent vice of the age.
(1)

5. THE EDUCATIONAL QUESTION.

It is obvious, however, that the bishop of St. Andrews was seeking papal support for at least one cherished scheme of his own, the endowment of his new college of St. Salvator's. His first charter of erection had been granted on 27th.

(1) Kennedy did, however, obtain his petition for "the appropriation in perpetuity to the episcopal mensa of St. Andrews of the parish church of Kirklyston in the diocese of St. Andrews, value not exceeding £500 sterling." It was "not more than six miles distant from the most populous town of the realm, at which town the king of Scotland at times resides and has a convenient manse for the bishop's residence." (C.P.R., X, 220) At the same time a former appropriation of lesser value was revoked. One wonders if the pope granted this petition as some compensation for the bishop's disappointment concerning Coldingham.

August, 1450 and it is significant that it was confirmed by
(I)
the pope on 5th. February, 1450-51. As a patron of the
arts, Nicholas must have sympathised with Kennedy's ideals
and aspirations. From this point of view the grant of
indults formed an easy means of providing for the cause of
higher education in Scotland. The pope would only indirect-
ly feel the loss of revenue, while the emoluments accruing
to Kennedy would be a very valuable acquisition for the build-
ing and endowment of St. Salvator's. His see of St. Andrews
was the richest bishopric in Scotland, but its wealth was not
adequate to meet the additional strain of the foundation
and equipment of a new college in the style at which Kennedy
was aiming.

Other transactions of the same period bear out the im-
pression that the educational question was an important
factor with both parties. On 27th. February the pope motu
proprio revoked the union of secular benefices to monastic
houses in the diocese of St. Andrews so that, disunited, they
might provide maintenance for poor clerks in the schools of
theology and other lawful faculties. (2) Kennedy, again,
sought to guard against the impoverishment of the church
through the dilapidation of ecclesiastical lands. (3) There

(1) C.P.R., X, 88; Theiner, Vet. Mon., 383, DCCLIX.

(2) C.P.R., X, 176. Theiner, Vet. Mon., 385, DCCLX.

(3) C.P.R., X, 477-8. On 21st. January the pope, at the
petition of the bishop, annulled alienations of mensal fruits
and limited all such alienations in the future to the life-
time of the granter.

is an economic side to this question but Kennedy's attitude fits in with his general aim of becoming master of all his available resources.

He was doubtless spurred to his utmost efforts by the spirit of emulation. We need not doubt that he was a sincere patron of education, but at the same time his zeal was spurred by the rivalry of bishop Turnbull who, on 7th. January, had secured a bull of erection of a studium generale at Glasgow. During the absence of Kennedy, Turnbull was of the king's inmost council, and the finger of James can be traced in the foundation of the new university. ⁽²⁾ Any friction, however, was forgotten when Kennedy returned to Scotland to be the king's counsellor in his hour of need.

For himself, the bishop of St. Andrews sought no further aggrandisement. He was neither primate nor legate, but it would have been folly to pursue shadows of rank and titles. The nation did not feel the need of a metropolitan, and Kennedy could sense the mind of his age. Like Nicholas V., he saw that it was wiser not to "encroach upon the lawful ^(I) authority of the bishops."

(I) Milman, Latin Christianity, VI, 334. It is interesting to compare this maxim of the pope with the statement of Kennedy in 1457 that "we wish not, nor do we mean, --- to create any claim of right to ourselves, or to our successors, the bishops of St. Andrews; so far from it, that we are acting in the name, and by the authority of your venerable prior, committed to us by himself." (Denmylne Documents [17], printed by Lyon, Hist. of St. Ands., II, 306-7)

(2) C.P.R., X, 73.



Yet although, on the whole, he used his influence as a papalist in a disinterested manner, he was not altogether unspotted by the taints of his age. We have seen that he petitioned on behalf of his nephews and others of his protégés such as John de Balfour, perpetual vicar of Linlithgow and a continual commensal of his table. Again, although not notorious for the accumulation of benefices, yet it was reported that he had tried to secure Coldingham in commendam and the parish church of Kirkliston was appropriated to his table. John Major, moreover, could censure his conduct in holding Pittenweem along with St. Andrews. In this case at least Kennedy was a pluralist.

KENNEDY'S RELATIONS WITH PARTICULAR HOUSES.

I. SCONE.

On 23rd. September, 1439, when as bishop of Dunkeld he was present at the papal court, Eugenius IV on his own initiative bestowed upon him for life the Augustinian monastery of Scone in commendam with Dunkeld, or any other see to which he might be translated. In 1447 Kennedy resigned this commend by way of exchange for Pittenweem or May which he continued to hold until his death.

(1) Major, History, 388.

(2) C.P.R., VIII, 270; X, 297.

(3) Ibid, X, 296-7.

In making the original grant of Scone in 1439 the object of Eugenius was to secure support in his contest with the Council of Basle. He had foresight to see the possibilities that might follow from winning over the young bishop of Dunkeld, the kinsman of the king of Scots.

Although the pope had the will to make the grant, however, he lacked the power to secure peaceful possession to his nominee. Kennedy had to make good his claims against William Stury an Augustinian canon, elected and confirmed by the convent notwithstanding the papal reservation of the monastery. The pope's gift had in fact introduced its recipient into a nest of troubles. Thus Eugenius IV had previously, on 29th. October, 1432, provided John de Inverkethyng, a canon of Holyrood, to the abbey of Scone void by the resignation of abbot Adam: seven years later he had died before obtaining possession, while William Stury was acting as abbot in 1435. In their deaths, however, the two rivals, John and William, can not have been long divided, for Kennedy had soon to contest his rights against a new opponent, "George Gardiner a monk of Scone who was under sentence of excommunication and alleged to be guilty of apostacy."⁽²⁾

The struggle between the two claimants seems to have come to a head about 1445 when the bishop complained of the

(1) C.P.R., VIII, 427.
Liber de Scon, xii

(2) C.P.R., VIII, 303.

intrusion of Gardiner by the support of his enemies.

Eugenius, as in honour bound, took up the cause of his nominee and on 26th. November appointed papal mandatories to enforce restitution from the intruded abbot and his abettors.

From another account it would appear that George had been canonically elected by the convent and confirmed by the ordinary and had laudably ruled for some time before he had been ejected by Kennedy on the strength of the papal provision. Afterwards, however, seizing an opportunity, George "with the support of the royal and otherwise of the secular arm" recovered possession at the cost of excommunication by his rival. More than a year later he and the bishop at the intervention of common friends made an amicable agreement by which the latter was to retain the monastery while George was to draw an annual pension of £17 from the revenues. (1)

These two representations leave the true facts of the matter vague and ambiguous, so that we can reconstruct the situation only by inference. Kennedy had received the abbey in commendam by virtue of a papal reservation; thus local magnates, the bishop's "enemies" may, on the death of Stury have brought pressure to bear upon the monks to elect George Gardiner in opposition. (2) The statement that he had

(1) C.P.R., X, 499-500

(2) George Gardiner may even have been an adherent of the anti-pope, hence "an apostate" unless this is merely ecclesiastical rhetoric. As he was a suppost of St. Andrews in 1450 (C.P.R., X, 500) his doctrine ought to have been orthodox. It might be observed as a point of interest that his name does not appear on the university rolls of graduation; possibly because he was 'religiosus', reading Theology. (Below, 305.)

55

obtained possession and laudably ruled "for some time" may have been largely a vague exaggeration, although it is probable that, being on the spot, he had had himself installed before Kennedy's return from Florence, and that out of hostility to Kennedy he had been re-instated by the Douglas-Crawford influence about 1444 when the vendetta against the bishop was at its fiercest. It may be surmised that he bought this support by the alienation of monastic lands, for on 21st. June, 1447, the abbot of Lindores was appointed papal mandatory to revoke alienations of the patrimony of Scone made by "the late William Scury (Stury) ^(I), and also George Gardénar formerly behaving as abbots." Kennedy was a consistent upholder of the integrity of the ecclesiastical estate, and in supporting his rival "the enemies of the bishop" would be at once gratifying their political opposition and their thirst for church property.

(I) C.P.R., X, 350-351. It was complained that they had "granted to its great hurt tithes, lands, houses, vineyards, possessions, fruits, rents, cesses, emoluments, meadows, pastures, woods, mills, rights jurisdictions and other goods of the monastery, to a number of clerks and laymen, to some for life and to certain of them for a long time, on lease, to others by divers titles and to some in perpetuity, or under yearly cess or freely, or otherwise distracted them by the title of alleged donation, obligation or sale, some of whom have obtained papal confirmation thereof."

26

If, then, Gardiner had the support of the confederates of Douglas this would explain why his so-called second tenure of office lasted for little more than a year. In 1445-6 Crawford, Ogilvie of Inverquharty and their colleagues were solemnly excommunicated for a year for the spoliation of the bishop's lands. A twelvemonths later to the day, on 23rd. January, 1445-6, the Tiger Earl was slain in a feud between his son and his erstwhile accomplice of Inverquharty. To a credulous age divine judgment had been pronounced in singular wise against the enemies of haly kirk. Gardiner, lying under the cloud of excommunication would be left defenceless by the break-up of the coalition. The bishop, on his part, was acting according to his wont in pursuing a conciliatory policy, and the compromise effected between the claimants is characteristic of the traffic in church patrimony. All parties were

(1) Auch. Chron, 8, 38-9

(2) "The bishop with consent of the convent assigned to George for life a yearly pension of £17 sterling or thereabouts--- to be paid by the bishop and his successors, abbots of the said monastery, at the same time ordering and causing George to be absolved from the said sentence of excommunication and other sentences and censures." (C.P.R., X, 499-500) Gardiner would probably lie under the general excommunication pronounced against the bishop's political enemies and also under a particular excommunication as intruded abbot of Scone.

The sources from which the pension was drawn are enumerated in the records of the abbey. In 1454 Thomas de Camera, Kennedy's successor, sought (and presumably obtained) the revocation of this pension. The grounds of his petition are interesting as typical of the way in which the Churchmen from the pope downwards, were wont to find loopholes of escape from their obligations

satisfied at the expense of the monastery: in theory Kennedy had made good his possession; the claims of George, supposed abbot, were bought off by a yearly pension from the fruits; the Camera was doubtless enriched by the costs of the litigation.

THE EXCHANGE OF SCONE FOR PITTENWEEM; OR MAY.

The bishop, however, did not long retain the administration of Scone as we have seen that Thomas de Camera, prior of May, was provided in his stead on 9th. May, 1447⁽¹⁾ - more than three years before Gardiner received papal absolution. It seems strange that he should have made this exchange after having reached a settlement with his rival. The value of

"---Petitio subiungebat prefatus Georgius tempore reservationis pensionis huiusmodi excommunicatus et publice denunciatus fuerit ac pensio ipsa que post promotionem eiusdem Abbatis ad dictum monasterium ac preter eius consensum qui in hoc merito intervenisse debuit taliter qualiter processit in maximum preiudicium Abbatis et monasterij praedictorum cedat atque damnum dictusque Georgius de sua portione canonice sicut aliis dicti monasterij Canonicis exhibetur merito debeat contineri." (Liber de Scon, No. 214, p 179-180)

After this date no further mention is made of George Gardiner. We do not know whether the bishop of St. Andrews strove to preserve inviolate the pact to which he himself had been a party.

Thomas de Camera continued to enjoy the patronage of the great. On 4th. August, 1455, he received a charter of lands in his favour from George of Dunbar, lord of Kilconquhar. (Notes on Various Collections of Charters and seals. Fraser Charters. In Gen. Reg. House.)

(1) Supra, p, 52.
The mandate to absolve Gardiner was dated 14th. November, 1450 (C.P.R., X, 499-500).

34

Scone was given as £250 of old sterling while May was assessed
(1)
at only £40.

Some compensations might, of course, be found. The port
(2)
of Pittenweem must have been of some importance for Kennedy
embarked there for Flanders in 1459. His right of possession
would be more secure while from its geographical position
it would round off and consolidate his regality. Yet it is
scarcely conceivable that these advantages would compensate
for the loss of the wealthier commend. One suspects that
there was an element of compulsion in the matter. The
resourcefulness of "the enemies of the bishop" had encompassed
him with many toils; they may even have obtained legislation
to invalidate his tenure of Scone. The very fact that he held
this monastery as a gift from the pope in virtue of a papal
reservation might bring him under the charge of having done
barratry at Rome, or of having otherwise transgressed the
statutes of king James I. Kennedy's presence at the papal
court at the time of the exchange supports the view that his
tenure of Scone having been in some way rendered unprofitable,
he had made a virtue of necessity by resigning his commend

(1) C.P.R., X, 297; Brady, I, 207. Cf. C.P.R., X, 500f
where the value of Scone is estimated at not more than £200
sterling.

(2) In 1578 Pittenweem was ranked with Orail in the twelfth
place among the Scottish burghs, being assessed at 13/4 in £100.
(Convention Records, I, 74.)

to the pope.

Whether or not he set out with the definite purpose of effecting this exchange, the actual transaction was accomplished while he and the prior of May were both personally present

(1)

at the Roman court. The intermediary agent was William Mudy, precentor of Caithness, who, as proctor of Kennedy, made the formal resignation of Scone, and again, as procurator in the name of Thomas de Camera, abbot of Scone, paid the first

(2)

instalment of the common services. The gold was probably the purchase money for the acquiescence of Thomas de Camera in the schemes of Kennedy. On his side the prior who, judging from the record of his activities, was always fully alive to his particular interests, would be not unwilling to lay the bishop of St. Andrews under an obligation to him, while at the same time bettering his own worldly position.

Kennedy, for his part, had extricated himself from a thorny situation. In holding Pittenweem he may have been clear of the law so that the grant of this priory would in reality be a mark of papal favour. The fact would remain, however,

(3)

(1) See above,

(2) C.P.R., X, 297; Brady, I, 207.

(3) It is possible that on the subject of commendations there had been national legislation of which we have now lost trace. On 16th. April, 1456, the pope annulled a commendation on the ground that "it has been ordained by royal authority in favour of Churches in Scotland that the obtaining of such commende [of parish churches united in perpetuity to monasteries] in prejudice of the said churches ought not to be granted." In this case a hundred miles were said to separate

that the resignation of Scone was a mark of defeat, although his connection with the abbey was not entirely severed.

As bishop of St. Andrews, he continued to have an interest in the fortunes of the house. Thus in 1452 he witnessed a charter of king James confirming the donations of his ancestors to Scone. In a similar fashion the exercise of his office brought him into relations with other particular houses, especially with the monastery of Arbroath and the priory of Coldingham.

RELATIONS WITH PARTICULAR HOUSES. II. ARBROATH.

Kennedy's episcopal functions included the lucrative right of confirming presentations made by the abbot of Arbroath, but apart from this, he had other relations with the monastery. Thus, on 26th. March, 1462, he was present with his brother bishops of Glasgow, Dunkeld and Brechin in the castle of Perth at a protestation of privileges of lands and rents in Berwick. If, in this case the Registers of Arbroath reveal the bishop as an upholder of the ecclesiastical estate, they provide

the two benefices. (C.P.R., XI, 113)

This edict was more likely to have been inspired by lay counsellors than by ecclesiastics like Kennedy, who was himself not blameless. It is possible that the Douglas faction had aimed a shaft at Kennedy by legislation directed against his tenure of Scone. Among other results this would strengthen their position as the champions of Gardiner against the nominee of the pope. When James Kennedy had regained ascendancy such statutes might conveniently fall into oblivion.

(I) Liber S. Thome de Aberbrothoc, II, 124-5.

elsewhere an example of his conciliatory influence. This was when on 21st. May, 1463, his nephew Patrick, bishop of Brechin, and Malcolm, abbot of Arbroath, met before witnesses at Dundee and made a formal agreement concerning a subsidy which "the said lord bischop allegit and askyt---and the said abbot denyt." The settlement effected was a compromise whereby the abbot "for my lord of Sanctandros sak that was his promotour and at the said byschop of Brechin was say der to hym hys brothir son---of his avn fre will has promittit thank and gratitud to the said byschop." (I)

The respect and authority of Kennedy's name had thus been the means of accomplishing a peaceable settlement whereby the virtual fruits went to the bishop, his nephew, while at the same time a saving clause had preserved the dignity and vaunted independence of the house of Arbroath. Perhaps the extent of his salutary influence may be gauged by the fact that after his death quarrels broke out again and led to the imprisonment and deprivation of Malcolm Brydy. (2)

(I) Liber S. Thome de Aberbrothoc, II, 131-2.

(2) The appeal of the abbot to Rome on 17th. October, 1470, contained that "vos (i.e. Graham) fecistis nos vestris artis carceribus stricte detineri nec---exire permisistis donec---nos in diversis pecuniarum summis---obligari fecistis in---nostri corporis lesionem nostrique monasterii damnum." (Ibid, II, 164) His successor, Richard Guthrie, was elected to the vacancy created "per priuacionem---Malcomi Brydy vltimi abbatis" on 3rd. November, 1470.

Kennedy's connection with the monastery of Arbroath was, however, closer and more continuous than these episodes alone might lead us to believe. Although the abbots of Arbroath prided themselves that they held their lands in free regality,⁽¹⁾ yet in practice the wealth and exposed position of their house constrained them to seek a powerful protector in times of stress and hazard. In the stormy days towards the middle of the fifteenth century they found in James Kennedy, bishop of St. Andrews such a patron and rock of refuge. An interesting light is thrown on this state of affairs by a representation made by Kennedy at Rome in 1450-51 to the effect that "in time of wars and commotion of the people in Scotland he received the monks and their servants in his castle of St. Andrews from the hands of their enemies, and furnished them with food and raiment----that on account of his power he had been and was a helper and defender of the said monastery and its rights and liberties."⁽²⁾

This doubtless refers to the troubled period about 1444-46 when the bailiary of Arbroath formed a rich bone of contention for its turbulent neighbours, the Lindsay's and the Ogilvies.⁽³⁾ Tradition has it that the abbey church

(1) C.P.R., VIII, 672.

(2) Ibid, X, 168.

(3) The picturesque and forcible language of the Auchinleck chronicler tells us that "the yer of God M.CCCC.XLV the XXIIIday of Januar, the erll of Huntlie and the Ogilbais

(1)
 was burned at this time and Kennedy's report indicates that
 the monastery suffered considerable loss. His support
 would be the more necessary because the house was unfortunate
 in its abbots. Walter Panter was "so old and feeble that
 (2)
 he could not usefully govern," while Richard Guthrie, his
 successor, "was nocht active nor gair intencens for remeid
 (3)
 of wrangis dwne to the holy place."

If, however, Kennedy had proved himself a strong champion
 of Arbroath he was not entirely disinterested in his motives.
 The Lindsays were also his enemies lying under sentence of
 his excommunication in 1445. Moreover, he sought "com-
 pensation ---proportionate to such great benefits," to be
 provided from the fruits of Abernethy and Monyfuth in the
 patrimony of St. Thomas. The tenure of these sinecures
 for his life is an illustration of how the bishop of St.
 Andrews like other prelates could demand a price for his
 (4)
 services.

with him on the tapart, and the Erll of Craufurd on the tother
 part, met at the yettes of Arbroath on ane Sunday laite, and
 faucht.----And efter that, a gret tyme (the Craufurds) held
 the Ogilbys at gret subjeccion and tuke their gudis and
 destroyit thair placis." (p.38)

(1) Hay, Hist. of Arbroath, 87. There is, however, no
 evidence to support the tradition.

(2) C.P.R., X, 208. Walter Panter flourished about the
 time of the Council of Basle, and may have taken part in the
 persecution of Lollards. (Hay, Annals of Arbroath, p 72.)
 On 10th May, 1434, he had a safe-conduct to go to Basle via
 Calais. (Bain, Calen., No.1074)

(3) Lib. Niger de Aberbrothoc II, pl08, No 123; A.P., XII,
 Index, 27.

(4) On the death of Kennedy a controversy arose concerning
 the fruits of Abernethy. Per hoc--pateat--quod anno incar-

42

RELATIONS WITH PARTICULAR HOUSES: III, COLDINGHAM.

More involved and perplexing is the problem of Kennedy's attitude to the priory of Coldingham. The difficulty is intensified by the fact that although institution was vested in the bishops of St. Andrews, Coldingham was a cell of the priory of St. Cuthbert, Durham, in enjoyment of charters from Edgar, David and other succeeding kings of Scotland besides "divers earls of Dwnbare." Robert III had sought in vain to annex the house to the monastery of St. Margaret, Dunfermline. The rights of Durham had been confirmed by a charter under the great seal in 1391-2, and by an act of parliament of James I in 1424 and by litigation at the apostolic see. (I)

In reality, however, the cell of Coldingham found itself in an impossible position. The house of St. Margaret clung to its shadowy claims; the wealth and divided allegiance of the priory exposed it to risks in time of war, or to the mercy of unscrupulous neighbours when the hand of authority

nacionis dominice millesimo cccc^o sexagesimo quinto indictione decima tertia mensis uero Julii die decima octaua---in concilio cleri ex antiqua consuetudine annuatim tento apud Perth in festo Kynnelini martiris 16th. July coram--Roberto--episcopo Dunblanensi Malcolmus abbas--de--Abirbrothoc dixit quod cum decime garbales ecclesie de Abirnethy---Dunblanensis diocesis sibi et suo conuentui spectant et fuerunt in manibus dudum --Jacobi episcopi Sanctiandree ex certis contractibus et per certos annos nuper elapsos---."(Lib. Nig. Aberb., 144)
Incidentally also this document is important because of its unimpeachable evidence on the point of Kennedy's death. Again, from the reference in the text one would gather that provincial councils were held regularly at this period, although no record§ of their proceedings has come down to us.

(I) Raine, North Durham, App. 20; A.P., II, 25; Priory of Coldin., p. 132, CXLVII.

was removed. The position of Coldingham was, in fact, a survival from the time before the historic boundaries between the kingdoms had been fixed; its history therefore shows all the characteristics of border politics and factions in an aggravated form.

There were no fewer than four priors during the episcopate of Kennedy. On the death of William Drax, John Oll, a monk of Durham, succeeded in 1441-2.⁽¹⁾ When in 1446 Oll resigned, his place was taken by Thomas Nisbet, another brother of St. Cuthbert. Ten years later Nisbet in his turn resigned, and on 12th. September, 1456, "dan John Pencher" was instituted by bishop Kennedy on the presentation of the prior of Durham. Pencher was still in office in 1466.

These changes and resignations suggest that the priors of Coldingham were overwhelmed by the burdens of their position. Their difficulties arose, as we shall find, from

(1) There is some confusion regarding the date of Oll's induction. According to a document printed by Raine (North Durham, App. 91) Kennedy's mandate to induct Oll was given at St. Andrews on 18th. January, 1440-1. Other evidence, however, gives January, 1441-2, as the date of his election. On 12th. August, 1441, he is styled "dan John Oll, monk". (Ibid 177) Drax died on 6th. December, 1441, and on his death Oll was elected (Priory of Coldin., 123, CXLV). The expectation of the vacancy, on the other hand, had been contemplated at least as early as 28th. July, 1440, when Drax would have resigned had not the situation been complicated by the vacancy in the see of St. Andrews.

It should be noted that the year is often not indicated in Coldingham correspondence, but on the whole, the weight of evidence seems to favour 18th. January, 1441-2, as the true date of Oll's induction. This agrees with the statement in the Papal Registers that on 18th. January, having sat in judgment on the case, Kennedy ordered a public instrument to be drawn up in favour of Durham. (C.P.R. LX, 457)

two interwoven threads of interest, one dealing with the disputed office of the bailliary, the other with the question of the allegiance of the priors themselves.

(A) DURHAM versus DUNFERMLINE.

The exercise of his episcopal functions was bound to draw the bishop of St. Andrews into the vortex of Coldingham affairs. Throughout his career the fortunes of the priory continued to engage the attention of Kennedy: the first phase of the problem, indeed, was developing at the very moment of his translation to the see. This crisis was concerned with the succession to the aged prior, William Drax. When John Oll, a monk of Durham, was presented to the bishop of St. Andrews his election was disputed as a matter of course by Dunfermline. The monastery of St. Margaret, "perhaps ignorant of the general reservation of conventual priories" exercised its alleged patronage in favour of William de Boyis, a monk of the same. His petition to the Curia in June, 1442, contained that the king, bishop James, the baronage and the university desired the papal confirmation of the rights of Dunfermline and the alienation of Coldingham from Durham. (1)

This, however, was obviously a misrepresentation for if he had enjoyed such solid support, the current of Coldingham

(1) C.P.R., IX, 298-9

history would have been different. The question of the
succession first became acute during the vacancy at St. Andrews (I)
and on Kennedy's return from Florence this was only one of
many problems which confronted him in church and state: in
his difficult and untried situation he was scarcely, perhaps,
a free agent.

Durham, nevertheless, could muster powerful friends
including John Methven, the king's secretary, (2)
while Dunfermline was crippled by a vacancy in its own abbacy. (3)
Legally, also, the house of St. Cuthbert could present a
strong case and it was inexpedient to complicate the matter
by a possible quarrel with England. (4)

Kennedy, then, moved by these or other considerations,
adjudicated in favour of the English priory. A public
instrument confirming the charters of Durham was accordingly
drawn up under his seal at St. Andrews on 18th. January, 1441-2, (5)
and received papal ratification on 16th. December, 1443.

(1). Priory of Coldin., 114-5, CXXIX.

(2). Ibid, 114, 125.

(3). C.P.R., IX, 271.

(4). Priory of Coldin., 142, CLVI. The rejection of the
claims of Oll might conceivably have caused a breach with
England as he had been able to produce letters of recommend-
ation from the powerful cardinal Beaufort and from the earls
of Northumberland and Salisbury.

(5). C.P.R., IX, 456-7.

(B) DURHAM versus ST. ANDREWS, first phase.

It would appear therefore that Dunfermline had pursued a hopeless task from the first, but the harmonious relations between Oll and Kennedy were not of long duration. The rupture was caused by the "labour made in the courte of Rome for reduccion of patronage of our churchez within the diocesse of seynt Andrew in Scotlande by my brother dan John Oll."⁽¹⁾

A quarrel having arisen over patronage, Durham in the autumn of 1444 sent John Fencher, one of the brothers, on urgent business to Rome.⁽²⁾ In 1445 the pope appointed delegates to adjudicate in the matter, whereupon both sides nominated procurators to appear for them. The suit, however, was probably never concluded.⁽³⁾ In 1446 Kennedy visited Rome. John Wessington, prior of Durham, retired in June, soon to be followed by Oll himself leaving a legacy of debts as a result of his litigation.⁽⁴⁾ It is clear therefore that Oll had been forced to resign through his failure in litigation but it is not so easy to determine how far he was a free agent;⁽⁵⁾ nor how far the situation was complicated by other

(1) Priory of Coldin., 160, cf. North Durham, App. 99, DLXX.

(2) Priory of Coldin., 152, CLXIII; N. Dur., App., 92.

(3) N. Dur., App., 92 DIV (procurators for St. Ands.)
Ibid, 99, DLXX (procurators for Durham.)

(4) Priory of Coldin., 159, 160. Hist. Dunelm. Scrip. Tres., No CCXXVII, p cclxvi

(5) Behind Oll were the bishop and the prior of Durham and "my moste wyrshypfull lorde cardinall of Yowrke, by whom I and my brether are rewleydd and governanced in thys cause." (P. Coldin., 153, CLXIV) John Wessington had compiled

considerations. One other contributing cause of his fall was undoubtedly his participation in the family feuds that were distracting Scotland: he had failed to ride the storm (I) which he had helped to raise. The tenure of his successor was destined to be also brief, ignominious and perplexing.

(C) DURHAM versus ST. ANDREWS, second phase.

Thomas Nisbet, a brother of St. Cuthbert, owed his elevation in the first instance to the patronage of Oll, (2) and of William Ebchester, the new prior of Durham. He had a long record of service on behalf of his house and had been a fellow-prisoner with Oll in the course of local (3) faction. His nomination could scarcely, in the circumstances, (4) be construed as a move towards peace with St. Andrews. It is, indeed, highly improbable that the new prior was ever formally instuted, and at first it seems strange that no rival candidate was put forward by Dunfermline.

several treatises "in defence of the rights liberties and possessions of the Church of Durham." (Hist. Dunelm. Scrip. Tres, CCXXVIII, p.cclxviii-lxx).

(I) See appendix. Oll seems to have had difficulties in Durham as well as in Coldingham. He had been slandered as a "bondman" and in September, 1446, a public instrument was drawn up to testify that he was free born and of honourable station. (Hist. Dunelm. Scrip. Tres, CCXXXI)

(2) Priory of Coldin., 157, CLXIX.

(3) Ibid, 156-7. Nisbet was associated with Oll and Wessington in the suit of Durham against Coldingham in 1442. (Ibid, 94)

(4) On the contrary, Ebchester wrote to Sir Alexander Home "that it please yow to send me your goode avice how yhow semys that the said dan Thomas Nessbitt sall be governde and rewlid

(1)

Although still alive, William de Boyis did not seek to reassert his claims at this juncture. Possibly, as in the previous crisis, the house of St. Margaret was again disabled by the weakness of its own autonomy; thus, after a gap of nearly five years in the monastic records a new name, that of Richard de Bothuel, appears as abbot on 16th. December, 1446. (2) If, then, as is likely, Boyis was not strong enough to prosecute his own cause, he could look for no support from the bishop of St. Andrews.

KENNEDY'S DESIGNS ON COLDINGHAM.

Kennedy had seen the evil fruits of the divided allegiance of Coldingham, but he did not seek to reverse his verdict of 1442 for the advantage of Dunfermline. He was suspected of entertaining a more personal interest in the questions at stake - of aiming, in fact, to bring the cell under his own authority. As he seems, moreover, to have had the consistent support of the king in this matter, Nisbet would be placed at the outset in a hazardous position.

The first point of conflict between the bishop and the prior was probably connected with the church of Aldcambus. (3)

towchannde his admysyon by the kyng and the bisshopp of seynt Andrews." (Ibid, 158, CLXIX.)

(1) William de Boyis became abbot of Pluscardine in 1457 (C.P.R., XI, 330)

(2) Reg. de Dunfer., p XV; No. 423. In other respects Dunfermline enjoyed royal patronage during this stage of the Coldingham controversy. On 4th. May, 1450, the king granted in general council at Perth a charter of lands to the monastery. (A.P., II, 65) See also, Henderson, Annals of Dunfer., 154.

(3) According to Chalmers, the question had arisen "1446 whether this vicarage had been inalienably annexed to Coldingham, and the abbot of Melrose, as papal mandatory had confirmed the union. (Caledonia, III, 393) He quotes as his authority "MS. abstract of the Chart. 77-92." It was perhaps with reference to this incident that Ebchester wrote

This would in turn intensify the other subjects of dispute and it is abundantly clear that feeling on the ^{matter} subject ran high. On 7th. January, 1447-8, Ebchester instructed Nisbet not to buy off hostility by an annual pension to the bishop of St. Andrews, nor to give up to him the free possession of the church of Aldcambus, but rather if you cannot find better means of a settlement by which your rights and liberties are observed unimpaired to have recourse to the single expedient of appeal." [ad refugium appellacionis singulare] ⁽¹⁾

Things came to a crisis about 1450 when alarm was aroused at Durham by the common report that the bishop of St. Andrews had set out for Rome with the aim of securing "our cell of Coldingham in Scotland with all its pertinents in Commendam from the Apostolic See or at least to erect it into an episcopal see for his suffragan." ⁽²⁾ It was to obviate such a chance that Ebchester sent hasty instructions urging John Lax, the procurator of his house at the Roman court, to spare no expense in the cause of St. Cuthbert.

in 1452 to thank the said abbot for his valuable services on behalf of the cell of Coldingham. (Priory of Coldin., 175, CXC.)

(1) Priory of Coldin., 162, CLXXV.

(2) Ibid, 168.-----"Agatis, ne---quod maxime timemus, dictam cellam obtinuerit in commendam, vel in quamcumque aliam minus justam possessionem, pronunc possessam, aut imposterum, cum vacaverit, per resignationem vel mortem Prioris ibidem moderni possidendam." Was Kennedy, ignoring the resignation of Oll, endeavouring to secure the commendam on his death? Oll was probably known to be in failing health, as he had died before June, 1452. (Ibid, 176, CXC)

The prior of Durham laid great stress on the efficacy of gold; his procurator was a secretary of the pope and, as we have seen, Nicholas V may have been afraid so greatly to aggrandise the power of Kennedy. John Lax, in any case, won the thanks of Ebechester for his success in procuring an impetration of a bull confirming the rights of Durham. (1) It would appear, however, that the bull was not expedited until 1st. February, 1453-4, when the bishops of York, Durham and Glasgow were appointed the guardians of St. Cuthbert in all causes and against all adversaries. (2)

(1) Ibid, 173, CLXXXVII. If the conduct of Lax commended itself to the prior of Durham, it was otherwise in the case of Nisbet. He was dilatory in the payment of the funds necessary for his suit, and for three months, despite urgent summons, he failed to appear at a personal interview in Durham. His behaviour was so inexplicable that in October, 1450, Ebechester commissioned the prior of Holy Isle to hasten to the spot and endeavour to ascertain all the facts of the situation. His report is not recorded but Nisbet continued to be remiss in the exercise of his office and in the payment of assessments to the mother-house. (Priory of Coldin., 166-7, 169-170, 174 etc.)

(2) The text of the bull is printed in Hist. Dunelm. Scrip. Tres, No. CCXLVI, pp. cccxxvi-xxix. On 1st. December, 1461, Durham required the bishop of Glasgow to execute his office by taking proceedings against "Patrick Home, pretended archdeacon of Teviotdale." (Priory of Coldin., 188, CCIV.)

(E) DURHAM versus ST. ANDREWS, third phase.

In 1454 Ebchester again wrote in alarm to his procurator at Rome touching the affairs of Coldingham. The purport was that the king of Scots, at the instigation of certain of his nobles and prelates, was reported to have garrisoned Coldingham with the aim of alienating it from Durham. To this end he had despatched a messenger to the Roman see. (1) The envoy referred to may have been John Methven to whom a safe-conduct was issued on 21st. May, 1454. (2) It is possible, also, that an act of the Scottish parliament in August, 1455, had a further bearing upon this question. An embassy was to be sent to the pope for "obedience to be maide and certane privilegis to be purchest for the common gude of the Realme And as anent the personis that sall pass thar expenss and Instruccionis is referryt to our souerane lordis secret consale." (3)

We can only guess at the circumstances which led to this new development in the history of Coldingham. Action may have been precipitated by the expedition of the papal (4) bull, while relations between the two countries were unfriendly

(1) Priory of Coldin., 130-1, CXCv1.

(2) Rot. Scot., II, 373.

(3) A.P., 11, 43

(4) The papal bull was expedited on 1st. February, 1453-4; The letter to John Lax announcing the departure of the Scottish envoy to Rome is defective in date; the year seems to be 1454, and if the reference is to John Methven the month cannot have been earlier than the end of May. Ebchester, believing in the efficacy of gold, was anxious to stress the fact that St. Cuthbert had contributed more to the Indulgence than any other three religious houses in England. Doubtless the financial aspect was always important but in this case money procured at the best, only negative results. (P. Cold. 181, CXCv1)

at this time. Nisbet's succession, again, had probably never been recognised by the Scottish government. The records are silent as to the progress of the suit at the Curia but it would seem that the English brothers had been expelled from Coldingham. (1) King James did not succeed in alienating the priory but he probably did impress Durham by the weight of his authority. In July, 1456, Nisbet resigned ostensibly on the plea of "grete agee and nown power"; (2) more probably on the hard score of necessity.

John Pencher, an active brother of St. Cuthbert, was then presented by his house and instituted on the mandate of the bishop of St. Andrews on 13th. September, 1456. (3) This was in appearance a restoration of the conditions of 1442, but the supplicatory tone of the letters to Sir Alexander, ~~now lord~~ Home, and to king James himself shows that the prior of Durham had been worsted in the contest (4)

We have no precise indication as to the part played by Kennedy in these proceedings but the functions of his office and the past history of his relations with Coldingham must

(1) Priory of Coldin., 182-3.

(2) Ibid, 183.

(3) North Durham, App. 92. We have seen that Pencher was the monk sent to Rome in 1444 on "urgent business" of his house.

(4) Priory of Coldin., 181-4. The prior of Durham himself did not remain long in office under the altered circumstances. On 13th. October provision was made for him on his resignation because of bodily infirmities. (Hist. Dunelm. Scrip Tres, CCCXXXVII)

have given him a personal interest in the matter. Moreover, as James was said to be supported by many of his lords spiritual and temporal, and as Kennedy was of his inmost council, it is likely that, in this policy, king and bishop were working hand in glove.

It must have been evident that the verdict of 1456 had left open the points in dispute, but if it were not a lasting settlement, it at least brought the substantial blessing of peace during the remainder of the king's reign. Although, indeed, Kennedy was still restive,⁽¹⁾ yet there was no open eruption until after the death of James. Thereafter, dissensions in England and Scotland providing an excellent opportunity of private aggrandisement, a new phase in the history of Coldingham was accordingly inaugurated in 1461.

(F) THE FALL OF DURHAM.

The prime mover in this act of the drama was Patrick Home, archdeacon of Teviotdale, the "ner kynnesman" of lord Home.⁽²⁾ He had enjoyed the patronage of Kennedy,⁽³⁾ was a member of the royal household and was appointed a papal notary on 13th. August, 1461.⁽⁴⁾ These would be weighty credentials when he and his brother John, canon of Dunbar,

(1) In 1457 the vicar of Stichel appealed to the pope that the bishop of St. Andrews had refused to admit him. (North Durham, App., p 92) There is, however, no reason to believe that Kennedy's refusal was influenced by personal considerations.

(2) Priory of Coldin., 187, CCIII.

(3) C.P.R., XI, 426.

(4) Ibid, 683.

began to push their fortunes at the expense of Coldingham. The priory found itself entangled in the troubles of both kingdoms, and according to the interested account of the Homes, the rule of prior Pencher himself did not serve to mend matters.

He was declared to be a traitor to the king of Scots, to have depopulated the house and dilapidated its goods. (1)

A mandate was accordingly issued to the bishops of St. Andrews and Lismore and to the archdeacon of Glasgow to investigate the case; as a result of their finding John Pencher was deprived, the priory alienated in perpetuity from Durham and granted in commendam to the archdeacon of Teviotdale. (1)

Pencher on his part, refused to acknowledge the authority of the mandatories and appealed to Rome. (2) The Homes, however, setting all law at defiance, drove out the prior and intruded

(1) CP.R., XI, 425-6.

(2) ^{mandate had} Priory of Coldin., 193-6, CCX. Pencher protested that the ^{mandate had} been obtained by guile and fraud, was based upon misrepresentations and was therefore null and of no effect. It is interesting to note his self-vindication on the charge of having reduced the number of the monks. ---"tempore quo ipse dominus Johannes ad dictum prioratum deputatus fuit, non erat major numerus monachorum in eo; et quod non sui culpa, sed temporum malitia provenerit." This suggestive reference is doubtless to the rupture between Durham and the king of Scots in 1454.

themselves by force. This was the death-knell of the rule of Durham over Coldingham. The protracted strife and litigation extended after all the original actors had passed away; in Kennedy's life-time the situation had not developed beyond its earliest stages. We need then only glance at the general characteristics of this period.

Perhaps its chief interest lies in the close interweaving of political and ecclesiastical affairs. For example, when in 1461, Edward IV took the convent of Durham under his protection for seven years he thereby complicated matters by adding political opposition to ecclesiastical differences. As long as the bishop of St. Andrews was maintaining the Franco-Lancastrian cause the alienation of Coldingham wore, in fact, a peculiar international significance. Politics, indeed, were an important factor throughout the situation. Durham was manifestly crippled in the prosecution of the suit by the ravages of war, while the Homes, on their side, did not fail to turn the general anarchy to their own particular advantage.

(1) Hist. Dunelm. Scrip. Tres, cccxlv.

(2) Grievous complaints are to be found in the correspondence of the prior of Durham; thus,—"I beseke you to consier the grete infortunez & hurts that hath happynd us now late in brynyng of our kirke, and lone of CCCC marcs unto the quene Margaret, lesyng of our bell metall by the see, stailyng of our cattall---with our grete lossez in plee for Coldyngham." (Priory of Coldin., 191, CCVII) In 1464, Durham claimed "restitution of Coldyngham, w^t CCCCXXIIII. in verry valew of certayn goods and cattals takyn from y^e same place by S^r Patrik home and his felyshipp." (North Durham, IV)

When the pope delegated his legate in England to hear the cause it was judged unsafe for the papal nuncio to enter Scotland to execute the instrument of citation. (Priory of Coldin., 196-201)

It would appear that the intruders had the connivance
(1)
of lord Home and others of their powerful kindred. The
bishop of St. Andrews, also, as a papal mandatory, played
a part in the initial stages of the drama, although affairs
of state probably prevented him from giving sustained
attention to the fortunes of Coldingham. On 30th. April, 1465,
he and other officials of his diocese were inhibited from
taking further action pending the verdict of the papal
(2)
legate. But his death was a more effectual silencer,
and when he passed from the turmoil the end was not in
sight.

(G) CONCLUSION: REVIEW OF KENNEDY'S ATTITUDE.

Throughout Kennedy's episcopal career we have thus
traced his hand in the various phases of Coldingham history
but it has not been always easy to estimate his motives.
Launched as he was into a difficult situation, he may not
at the beginning have grasped its full significance, while
in the matter of the bailiary he was largely influenced by
political and family considerations.

In the later stages of the question he was doubtless
actuated by a complexity of reasons. It was obvious that
the anomalous situation of the priory could not long continue

(1) Priory of Coldin., 198-9.

(2) Ibid, 204.

and, from a national point of view, Kennedy must have come to see the necessity of snapping the connection with an English house. He hated disorder; by bringing Coldingham under his own jurisdiction the weight and resources of his position would be available for the establishment of law and the peaceful practice of religion. One suspects, also, that in working for the general good the bishop was at the same time alive to his own interests.

(I)

He had lost Scone in 1447, but if he had secured Coldingham it would have been a rich compensation. This priory, valued at £200 sterling, would have added materially to his revenues for educational and other purposes, and would have vastly enhanced his authority in Scotland. While it is true that we have no direct evidence that Kennedy actually sought the commend of Coldingham, yet, at the same time, it is highly improbable that the alarm of Durham was wholly groundless. There is room to fear that in this matter he was the child of his age, and that he had no rooted moral objection to the holding of commends. That he escaped so lightly from the lash of Major was possibly due, at least in part, to circumstances, rather than to a lofty ethical standard in advance of his time.

Wisdom, perhaps, or principle, or both together, led him to abandon any idea of obtaining the commend, but he did

(I) See above, 52.

not sink hostility to Durham. It is not unlikely that he had been shrewdly watching his chance and that he was behind the king in prosecuting the matter of alienation about 1454 when trouble was on foot between the kingdoms.

In 1461, again, it is worthy of notice that Patrick Hume, archdeacon of Teviotdale, held that office in virtue of Kennedy's faculty against schismatics. There is no reason to believe that he was other than a free-lance in a time of chaos, but he must have felt that he would not easily alienate the support of Kennedy. In these last years of his life, however, preoccupations of state would leave the bishop little time to devote to the comparatively minor disturbances of Coldingham.

THE RELIGIOUS OUTLOOK OF KENNEDY.

We have thus seen from the history of the religious houses with which the bishop of St. Andrews came into special contact that his attitude was always determined by complex considerations. The interplay of rival interests has afforded some insight into the conditions of the time and into the manifold activities of Kennedy himself. He has appeared as an ecclesiastic dealing with certain concrete questions in which little reference has been made to the things of the spirit. It is precarious to dogmatise on his spiritual ideals; in the absence of any personal revelation we are bound to build our theories upon facts

which are often isolated and inconclusive.

The older historians give us little help in this connection. Their statements are apt to be vague and unsubstantiated; their appreciation to be mere unrelieved eulogy in which his "meritorious public services" tend to overshadow his distinctive work as a prelate. This may be in part because the results of his statesmanship were obvious and striking, whereas the workings of papal policy were mysterious and inscrutable.

THE POWER OF THE BISHOP'S CURSE.

Contemporaries, however, seem to have regarded Kennedy with mingled feelings of veneration and of awe. The Auchinleck chronicler bears witness that they were impressed by the power of his curse. In 1445 "herschipe was maid on Sanctandrois land---. And incontinent efter, bischope James Kennedy cursit solempnitlie with myter and staf buke and candill contynually a yer, and interdytit all the placis quhar thir personis war." (I) Exactly a year later tragedy overtook the enemies of haly kirk at the battle of Arbroath. "And the--erll of Craufurd lay four days abone the yerd, and thar durst no man erd hi,m, quhill the forsaid bischop send the prior of Sanctandrois." (I)

(I) Auch. Chron., §, 38-9

Lord Lindsay has pointed out how all the details of the catastrophe must have evoked a sense of the super-^(I)natural and vastly enhanced the prestige of the bishop. To the modern Scottish mind there may be a good deal of pageantry and ostentation in the whole procedure of the excommunication, but Kennedy, as a true son of the fifteenth century, could justly gauge the impression that ritual and outward ceremonial would make upon the religious temperament of his fellow-countrymen. He may have used spiritual weapons for secular ends, but ecclesiastical and political affairs were interwoven. Excommunication, also, had already lost much of its force from frequent and indiscriminate use; thus, by contrast, the potency of Kennedy's curse has the greater significance. On the whole, therefore, this incident indicates that the bishop of St. Andrews united astute diplomacy with the characteristic mediaeval aptitude for ceremonial religion. At the same time it illustrates how the felicity of the Church went hand in hand with a strong government, so that Kennedy as an earnest prelate, could have done none other than play

(I) Lindsay, Lives of Lindsays, I, 131.

his part as a statesman. This was to do "the work of the church in her mediaeval character as conservatrix of equity and peace on earth."⁽¹⁾

CHURCH AND POLITICS.

We have seen that it was in this capacity that he influenced the parliament of 1443 to tender obedience to pope Eugenius and to ordain a general cursing against all who violated the freedom of haly kirk.⁽²⁾

As parliament was the highest expression of national policy it was natural that Kennedy should seek to set the seal of its approval upon his projects. Thus, in 1449-50 the arm of the state was called in to enforce the peace of the church till "the next parliament."⁽³⁾ This legislation was designed to meet all possible contingencies and was almost undoubtedly introduced by Kennedy, the leading prelate in the negotiations of the period. If, as Pinkerton thought, the necessity for calling in the secular power reveals the weakness

(1) Lindsay, Lives of the Lindsays, I, 126.

(2) See above, 20.

(3) A.P., II, 35. "It is ordanit that fra the censuris of halykirk be lede and vsit apoun ony persoune & it be maid knawin be the ordinare the kingis lettres of Capcioune salbe gevin and the aulde law vsit as efferis. And at the sherref and utheris officiaris execute the kingis lettres and put the persounis at the censuris of haly kirk is lede apoun in the kingis warde. And gif the persounis be fugitive and may not be oure taune be the sherref or the officiaris and thai haf landis or gudis thar landis salbe recognist and thar gudis arrestit and prisit to the party like as for othir dett at certaine merkate dais as efferis. And gif the forsaide persounis may not be oure taune be the said officiaris and thai haf nother landis na gudis thai sal be put to the kingis horne. And this act to endure til the next parliament."

(I)
of the church, it also shows that the bishop of St. Andrews had a mind to restore order out of chaos.

In the statute of the General Council of 19th. October, 1456, we can again trace his influence at work, this time bringing the church to the aid of the state. There had been an outbreak of the plague, and the clergy submitted to the Council a detailed scheme for dealing with the situation. In conclusion they ordained that "the prelatis mak generale processiounis throu out there dyoceis twyss in the wolk for stanching of the pestilence and grant pardone to the priestis that gangis in the said processiounis."⁽²⁾ To modern eyes this also may bear the semblance of pageantry and stage-craft, but it was at least preceded by a list of practical proposals put forward by the clergy. We are left with the impression that Kennedy was animated by a sincere desire for the welfare of the church but that his temperament was coloured by a love of the picturesque and the dramatic. This, however, is not necessarily incompatible with the practice and inculcation of austerity and purity of worship.

(I) Pinkerton, I, 415; with reference to the legislation of 1443, when secular penalties enforced ecclesiastical censures.

(2) A.P., II, 46.

AUSTERITY OF KENNEDY.

Although evils and abuses were steadily growing in the hierarchy, yet there was not wanting in the fifteenth century a strain of puritanism and revival. (I) During his visits to the papal court, Kennedy must have seen at the very fountain-head of the church an example of simplicity in private life amid external magnificence and pomp. In his own lesser sphere it is common fame that the bishop of St. Andrews strove to echo the key-note of Eugenius IV and Nicholas V. This verdict of the historians may rest upon tradition, but it is significant that it has been pronounced by writers of all opinions. It is surely a tribute that the strongly protestant Buchanan could find in him, besides his other virtues, "an high Degree of Frugality and Continen- (2) ce at home; yet great Splendour and Magnificence abroad." His tomb, his college and his barge all attest the grandeur of his public undertakings, while the tenour of his life indicates his personal austerity.

(I) PATRON OF THE CARTHUSIANS.

We have evidence, for example, that like his royal uncle, he was actively interested in the reformation of

(I) See, for example, Camb. Mod. Hist., I, 647-8.

(2) Buchanan, History, II, 65.

morals and manners. He was a patron of the Carthusian house at Perth which James I had established to serve as a model for the stricter observance of religion. This order rejected the belief in miraculous gifts and never took deep root in Scotland. But they seem to have been pious and earnest-minded men enjoying the friendship of bishop Kennedy and grateful for his support. In the General Council at Perth on 12th. May, 1450, he witnessed a royal charter granting lands to the Carthusians; while he himself "not only confirmed but added much by his good will." Therefore as a tribute to his memory the whole order celebrated thirty masses for the welfare of his
(1)
soul.

(2) SUPPORT OF THE FRIARS OBSERVANT.

In the encouragement of the Observant Order of Franciscans we have another instance of the bishop's interest in the reformation of religion. Some obscurity surrounds the introduction of these friars into Scotland but their historian, Moir Bryce, is "quite certain that the establishment of the strict Observance in this country was due to external influences," rather than to any impulse of piety on the part of the Scottish friars.
(2) If Father

(1) A.P., II, 66; R.M.S., 12 May, 1450;
"Extract from vol. VII Annales Ordinis Cartusienis, auctore Dom. Carlo Le Conteulx, Cartusiano. Jacobus Kennedy S. Andreae episcopus in cuius diocesi posita erat Cartusia--- non solum confirmavit, sed sua libertate multum auxit, quamobrem tricenario per totum Ordinem post mortem donatus est per Chartam anni 1466." (Printed by Knight, Preface to "James Kennedy, Bp. of St. Ands.)
MacEwen, Ch. in Scot., I, 365
(2) Moir Bryce, I, 50.

Hay's statement can be trusted, this "external influence" was originally due to James I who, in 1436, invited Dutch Observants to settle in Scotland "to restore the fallen Religion to a pure Observance."⁽¹⁾ Whatever may have been the actual facts, no further developments took place until the first band of missionaries arrived under Cornelius of Zeir-⁽²⁾ ikzee about the middle of the century.

The Chronicle of Father Hay is eulogistic and inaccurate in details, yet we may accept his view that the advent of the friars was a step towards reformation in the Scottish Church. In this task they had the support of influential patrons, among them the king and queen and bishop Kennedy; while they speedily won converts by their zeal in preaching and education. As a manifestation of esteem a rich convent in Edinburgh was almost immediately offered to them but his vow of poverty compelled Father Cornelius to reject the gift.

(1) Moir Bryce, II, 184, Trans, of Chron. Father Hay's statements are criticised by Moir Bryce in I, 50-55. The Chronicle of the Observantine Province in Scotland was written by Father John Hay in 1586-7.

(2) Moir Bryce thinks that the Observants came in 1447 either at the request of the Vicar General or on the renewed invitation of the crown. The bull of Pius II in 1460, on the other hand, attributes the mission to the patronage of Mary of Guelders and, according to bishop Dowden, facts justify the opinion that the Dutch friars were introduced about the time of the marriage of James and Mary in 1449. (E.H.R., XXIV, 776)

This difficulty is said to have been obviated by the tact of bishop Kennedy: as diocesan superior he induced the papacy in 1455 to incorporate the convent which was then bestowed upon the friars "to be occupied by them as pilgrims according to the Rule of their profession." ⁽¹⁾ In their hands it developed into a noted school of philosophy and theology.

Perhaps Kennedy was most interested in this aspect of their work, for in 1458, when he was introducing reforms into the college of St. Salvator, he established a convent of Observants in his own episcopal city of St. Andrews. This house, at any rate, developed a close connection with the university: it became a seminary for novices from Edinburgh as well as a residence for "twenty four priestly fathers, preachers and confessors, delegated by the Archbishop to hear the confessions of the young students who attended the University." ⁽²⁾ Father Robert Keith, the warden, is said to have been a learned scholar, yet withal of such profound humility that his example caused many of the students to forsake the world. The picture is over-drawn, but it is not unlikely that Kennedy's ideal was to foster ⁽³⁾ such a fusion of quickened intellectual and spiritual life.

(1) Chron. of Father Hay, Moir Bryce, II, 185.

(2) Ibid II, 186. The title "archbishop" here applied to Kennedy is obviously an error of fact on the part of the chronicler. The details of Father Hay's narrative require to be submitted to the test of criticism.

(3) A third friary was founded at Perth in 1460 by lord Oliphant, under the wardenship of Father Jerome Lindsay of the house of Crawford. (Ibid cf I, 297) In spite of inaccuracies of the chronicler, Moir Bryce concludes that "the year

It would seem, then, that although the numbers of the Observants may not have been great, their influence was pervasive. (I)
 Much of this success must have been due to the protection (2)
 of powerful patrons, the bishop of St. Andrews not least among them.

The endowment of the friary at St. Andrews was itself

1460 as selected by Father Hay, and his statement may be accepted as approximately correct." Again, the result seems to have been a spiritual revival due more particularly, in this case, to the eloquence of their preaching.

The foundation of these two friaries at St. Andrews and Perth was, however uncanonical, in that they had failed to obtain the necessary papal bull of erection. (Ibid, I, 57) This technical impediment was eventually removed in 1463 by a bull of Pius II, granting authority, at the petition of Queen Mary, to erect three or four houses of Observance in Scotland. (Ibid, I, 58; II, 275-6)

(I) Dr. MacEwen thought that their numbers were at no time greater than fifty or sixty. (Church in Scot., I, 365) They were, however, wide-spread; before the death of Kennedy they had penetrated as far north as Aberdeen, and had been established in three permanent centres.

(2) James II showed an active interest in the Edinburgh friary, while on 26th. November, 1464, the bishop of St. Andrews, as diocesan superior, confirmed a grant of his nephew, William Forbes, vicar of St. Giles, bestowing on the Observants the church of St. John the Baptist outwith the city of Edinburgh, with its commodities and easements. (Moir Bryce, II, 200; Charters of St. Giles, 81, translated by Moir Bryce, I, 272.)

It is worthy of observation that this patronage of the religious orders was not so much an isolated movement as the reflection of a tendency of the age. In Italy, for example, the Observantine friars were associated with a movement of religious revival. It has been said, moreover, of Eugenius IV that his "master passion--was his love for the Minorites." (Gregorovius, Rome in Mid. Ages, VII, 99) This pope's letter to the Duke of Brittany in 1431, reveals his earnest and life-long desire to reform the lives of the clergy: he hoped to begin by revitalising the Religious Orders. (Pastor, Hist. of Popes, I, 356 and note.)

(1)

the gift of Kennedy, and, despite its comparative poverty it was a tangible indication of his interest at a time when the equipment of St. Salvator's was already a serious drain on his resources. The typically Franciscan virtues of Friar Keith ⁽²⁾ seem to have commended him to the bishop who must have felt the need of inculcating the spirit of obedience into the university life. Their co-operation, again, in the interest of the students tended to break down the barriers of caste within the church.

In Scotland, indeed, we have no indication that the coming of the Observants raised any bitterness of feeling. According to Moir Bryce, "there was a salient compromise between the old and the new Franciscans; while the hierarchy accurately gauged the sympathies of the people and welcomed the Observants in the diocese or invited them to settle there." ⁽³⁾ "Doubtless apathy, worldliness and schism had sapped men's religious susceptibilities; this would at once facilitate the introduction of innovations and make a constructive policy the more imperative. We may well believe that James Kennedy, with his finger upon the national pulse, understood the situation and sincerely

(1) Moir Bryce, I, 287. Their patrimony was extended under Patrick Graham (R.M.S., II, 1434) but it was still comparatively small. After the Reformation it was valued in 1573, at a rent of eighteen merks. (Moir Bryce, I, 287n)

(2) Ibid, I, 288-9.

(3) Ibid, I, 55.

strove to satisfy the hungerers and thirsters after righteousness. It was also in accordance with his character to work for a "salient compromise." That he cooperated with the Observants and was a friend of the Carthusians suggests that he was broadminded with regard to doctrine, that he sought to achieve a reformation by inculcating a spirit of greater purity and austerity of worship.

With all his moderation the bishop of St. Andrews was at the same time a strict disciplinarian, who spared not himself nor others. Thus in 1457, he bound himself and his successors, the prior of St. Andrews, the chancellor of the diocese and the archdeacons of Lothian and Teviotdale, each in an annual sum of money "towards the more becoming celebration of divine worship."⁽¹⁾ We do not know whether the ecclesiastics were acting spontaneously; possibly their diocesan superior left them little option. Again, in 1457, Kennedy added to the monks of St. Andrews a few brothers competent "for the improvement of divine worship and the benefit of our church."⁽²⁾

The same insistence upon rigorous discipline is seen in the rules laid down in the charter of re-foundation of St. Salvator's College. The original foundation in 1450 was in itself an effort to reduce the chaotic state of the university to a degree of systematic order. Time, however, had revealed

(1) Priory of St. Ands., 424; Lyon, Hist. of St. Ands., 1, 229

(2) Lyon, 1, 229, quoting Denmylne papers.

in the constitution certain inherent weaknesses which the second charter was designed to rectify. Possibly the students considered the bishop a stern task-master; they had been carrying knives, and when Kennedy's eye was removed in 1460 they broke out into open riot.⁽¹⁾

STANDARD OF PASTORAL DUTIES.

If the bishop of St. Andrews was an exacting chancellor, as a diocesan superior he was equally severe in his conception of the duties of the pastoral office.

"He caussit all persouns and wickaris to remaine at thair parochie kirkis for instruction and edifieing of their flock; and caussit them to preiche the word of god into the pepill and to wessie them quhen they war seik. And allis the said Bischope went to wissit everie kirk withtin his diosie foure tymes in the zeir and preichit to the said parochin him self the word of god trewlie and requirit of the said parochin gif they war dewlie instructit in the word of god be thair persone and wickar and gif the sacramentis war dewlie ministrat into them be the persone and wickar forsaid, and gif the poore war sustenid and the zouth brocht wpe and leirnitt conforme to the order that was taine in the kirk of god. And quhar he fand nocht the samin order keipit he maid great provissment to the effect that godis glorie might shyne throw the contrie in his diocie, gevin goode exampillis to all archebischopis and kirkmen to cause the patrimoney of gods word to be wssit to the glorie of god

(1) Hannay, Stats. of Faculty of Arts, 29.

93

and to the commone weill of the puire."⁽¹⁾

We cannot substantiate these statements of Pitscottie, and it has been justly remarked that Kennedy's public services and the extent of his diocese must have rendered impossible a diocesan circuit four times in a year.⁽²⁾ Nevertheless, the general view is consistent with what facts we do know. The evidence of the Great Seal, again, makes it abundantly clear that even in his failing years the bishop was not sparing of long and arduous journeys. If, therefore, Pitscottie advanced as a fact what must have been no more than an ideal, yet that ideal may have been more nearly realised than has sometimes been supposed. Kennedy's diocese was undoubtedly extensive, and affairs of state exacting; yet, on the other hand, these secular activities in themselves entailed much travelling, and he may well have seized the opportunity to perform at the same time the preaching and inquisitorial duties of his holy calling. These would be recorded in tradition rather than in any public document.

An inference, moreover, may be drawn from the Records of Arbroath that yearly Provincial Councils were held in

(1) Pitscottie, History, 1, 160

(2) C. J. Lyon, Hist. of St. And's, 1, 220n.

(I)
 Kennedy's time. No records have survived, but we can well imagine that the bishop of St. Andrews would use his influence to promote such annual synods. Provincial Councils provided the official medium of ecclesiastical policy and a hundred years later the tottering Church tried desperately to achieve a reformation in morals through this medium. It was then too late, but we do not know that the task would have been impossible in the middle of the fifteenth century.

KENNEDY'S REFORMATIVE IDEALS: AN ESTIMATE.

The statutes and proceedings against Lollards are witness to a vague unrest behind the orthodoxy of ecclesiastics; on the other hand, the mass of Scotsmen accepted unhesitatingly the rites and dogmas of the church. Resby and Crawar, the only martyrs, had been foreigners whose fate can be explained by other, besides purely religious, grounds. The view has been held that the reformation was primarily a revolt against abuses in the church; although not the whole truth, this is an aspect that can not be overlooked. In 1549 the old church stood self-condemned by its own finding that "there appear to have been mainly two causes and roots of evils which have stirred up among

(1) Liber S. Thome de Aberbr. II, 144, No 162. See We have specific references to the councils of 1457 and 1459 when the king's rights sede vacante were discussed. Cf. Grub, I, 374

(2) Patrick, Statutes, Introd., section ix

us so great dissensions and occasions of heresies, to wit the corruption of morals and profane lewdness of life in churchmen of almost all ranks, together with crass ignorance of literature and of all the liberal arts." (1)

Judged by this standard Kennedy had accurately diagnosed the disease and prescribed a treatment along sound lines. His attempt to stay the course of moral degeneration in the church was, in the abstract, a negative ideal: on the constructive side he threw open the doors of learning alike to youths of high degree and to the sons of the poor.

We need not believe that Kennedy was in any way a "convert to the new religion." He may have been influenced in his early years by the incipient Lollardy of Kyle; this, however, must be always doubtful, and it has been pointed out that this was a lay, rather than a church movement. (2) A receptive mind, long experience and a knowledge of human nature would ground him in the conviction that it is not what men think, but what they do, that matters: faith would manifest itself in action with which alone authority should take cognizance. This theory would explain the absence of persecution, his insistence upon discipline, the stress laid

(1) Patrick, Statutes, 84; Robertson, Statuta, II, 81.

(2) MacEwen, Church in Scot., I, 383.

upon service and the efficacy of a good life.

CONCLUSION.

The bishop of St. Andrews would, then, appear to be at once a reformer and a loyal son of the church, a forerunner of Savonarola or Erasmus, rather than of Luther. The spirit of the early renaissance was upon him: his ambitious ideals of education and of culture were a reflex from the papacy and could be satisfied only within the fold of the church. All his aspirations and achievements were in fact bound up with orthodoxy. We have seen that on the death of James I. the interests of his country threw him on the side of St. Peter as against the schismatic, revolutionary tendencies of the Council. He was, however, no uncompromising papalist: When the interests of Church and State clashed, he took his stand upon the side of the monarchy, and it is significant that as his authority waxed in the State, his favour ceased to be cultivated at Rome. Kennedy himself was consistent to his ideals, but he had to adapt their application to suit changed circumstances.

His attitude offers striking comparisons to that of king James, his uncle and early patron;- intolerance of abuses, devotion to the doctrines of the Catholic Church, resistance to papal claims when these would undermine the authority of a strong monarchy. It is noteworthy, also, that the nationalist period of Kennedy's career was the period when he was personally identified with the cause of the crown. The bishop, however, was more conciliatory

than the king. He ensured peace in his day, but after his death, the old opposition between Church and State broke out again in aggravated form. The flagrant increase of abuses and corruption also dates from about the same time. These facts, then, are the justification of the bishop's policy of a tacit, working compromise between the national hierarchy, the crown and the curia. He was shrewd enough to see that harmonious relations were necessary for any lasting regeneration of religious life and practice.

Yet he must have known that the peace was at best only an ill-defined truce resting upon a precarious foundation. In view of this he might be charged with having hedged his difficulties instead of striking at the root of the problem. On the other hand, it may be pled in his favour that his career was short and beset with difficulties, his powers limited, the vexed problem of Church and State perennial and universal. He struggled manfully against the odds; perhaps he achieved all that was humanly possible in the circumstances.

To have raised the issues would have been to arouse a storm of passions and conflicting interests which would have destroyed all hope of reformation based on order, decorum and the purging of abuses. We have seen that it was probably the hope of perpetuating his own policy and ideals that caused him to seek preferment for his nephews. Contemporaries saw no dishonour in such a practice and Kennedy was a child of his times. Yet it is unlikely that he was blind to the evils of nepotism. His comparative integrity, his insistence upon service and duty, suggest that he was driven to adopt this expedient in the hope that the end would justify the means.

The same may be said of his own tenure of pluralities and sinecures. His ordinary income was quite inadequate to defray his own episcopal and political expenses, and in addition fulfil his magnificent ideas as a patron of learning, architecture and commerce. The full expression of his individuality could therefore be realised only by tapping the resources of the church. Furthermore, this personal side of the

question was interwoven with wider issues: in striving to satisfy his own aspirations the bishop was also aiming to raise the level of life in Scotland.

Judged by contemporary standards, Kennedy's activities were meritorious, his reputation pure. Perhaps he himself blindly accepted these standards; more probably he sought self-justification on the plea of necessity. He was on the horns of a dilemma; his aims were directed for the public good, but they could not be realised without trading in the resources of the church. In thus accom^modating the means to suit the end, he was, however, playing a dangerous game. It would be interesting to know how far he realised all the implications in his policy.

The case of the bishop of St. Andrews thus serves to illustrate the extent and limitations of the power of the Old Church. It had wealth and organisation, it was the patron of education and the arts: its prelates were the counsellors of kings, the link between church and state. James Kennedy was an illustrious churchman of the mediaeval type and for that reason he is also a witness to the radical weakness of that church. He had climbed on a ladder of privilege and influence: he could not cast aside the support by which he had risen. His very integrity,

indeed, had a pernicious influence in so far as its lustre lent sanction to a system of abuse. The evil was cumulative: with lesser men the means became the end, and the church was doomed. In a broad view the bishop of St. Andrews was as a straw swept on by the current. The stream was poisoned at the source, and he was not strong enough to stem or purify the tide.

When all had been said, however, he must still emerge a prelate with high and definite aspirations, although his was no unswerving devotion to abstract principles. He was not a remote recluse, nor a prophet crying in the wilderness, but shrewd and worldly-wise, a man moving in the world of men. Against the wolves of anarchy and discord that were ravaging in his time, the wisdom of serpents had to be added to the guilelessness of doves: it was the function of Kennedy to unite diplomacy with probity. Reverence, ideals of service and of holiness joined hands with constructive statesmanship and noble ambitions to make of the bishop of St. Andrews a worthy representative of a type that was rapidly passing. Judged alike by his aspirations and his achievements, James Kennedy must be ranked high among the honourable band of mediaeval churchmen who, in their day and generation, wrought signal services for Scotland.

SECULAR POLICY.

SECULAR POLICY.

As a statesman, James Kennedy, bishop of St. Andrews, has been described as a "Prelate, venerable for his Wisdom, singular for his Justice and for the Tranquillity following his Government." By his death "the Glory of the---Country
(I)
suffered a great Eclipse."

Drummond here paints a glowing picture of Kennedy's statesmanship: his policy is peace and the enforcement of justice; the result to raise the prestige of the nation to an unusual degree during the period of his rule. We have seen that the crying need of the country was for stability and the rigid enforcement of even justice. It will be profitable for us, therefore, to apply this test of statesmanship to the career of Kennedy with the intent to discover how far facts bear out the verdict of Drummond.

KENNEDY'S INTRODUCTION TO POLITICS.

Circumstances brought the bishop of St. Andrews into the vortex of political affairs; his character fitted him to utilise his opportunities and to leave his mark upon the national destiny.

(I) Drummond, History, 43.

We have seen that in his early years he was indebted to the patronage of his royal uncle, King James I. In spite of the captivity of Sir John Kennedy, the king's policy is not strange nor are his motives far to seek. Sir John may have brought his fate upon his own head: at any rate James either made a clear distinction between the two brothers, or at least restored the younger to favour before the year 1437, when he interfered to secure the see of Dunkeld for his nephew. He must have felt that here was a man after his own heart, one who might embody and perpetuate his policy and ideals.

It was the cherished aim of James I. to crush the power of the feudal nobility. Hence he had cut off the crown from the chief source of hereditary counsellors. In their stead he promoted smaller men, prominent among them John Cameron, bishop of Glasgow. This masterful prelate, however, had proved an apostate from the king to the pope in 1435. James was left in the lurch and his need was great. In such case it might well seem to him that his nephew was peculiarly suited to fill the place of the bishop of Glasgow in the execution of the royal policy.

Kennedy was in holy orders, had profited by a good education and had possibly begun to reveal the potentialities that were in him. Moreover, he was "the king's sister's son", of ancient lineage, of a house strong in the west but resting on a Celtic rather than on a

feudal basis. All these considerations would have their weight with James when he took his nephew under his protection.

We cannot be certain at what date this patronage began, His prebend of Cadder and the pension from the revenues of Cupar betoken the king's interest in his student career at St. Andrews; the reason for the withdrawal of the pension remains obscure. (1) It is likely, however, that James continued to follow his nephew's progress in the higher studies, and welcomed his return to Scotland some time before 1437. (2) One of the latest acts of his life was to work for Kennedy's promotion to the see of Dunkeld; but he did not live to see the fruition of his schemes, and with his death the whole order of things underwent transformation.

(1) As this was the year of Sir John Kennedy's imprisonment, the cloud of the royal displeasure may have fallen on his youngest brother also: on the other hand, the loss of his pension may be merely an example of the king's policy of cutting down such grants from the customs. The dissipation of the revenue under the Albany administration was one of the abuses which James was resolutely determined to bring to an end. With the completion of his nephew's career at St. Andrews the moment may have seemed opportune to stop the payment of this particular annuity. Sir John Kennedy's disgrace would supply an incentive and a pretext for such an action.

(2) When the see of Dunkeld fell vacant James Kennedy was a sub-dean and a canon of the same, whereas in 1429 he had been designated only as sub-dean of Glasgow.

The general upheaval was bound to react upon the young bishop of Dunkeld. In his personal history, as in the national destinies, it was a searching time which was bound to leave its impress upon his character and aims. Where there had been a masterful sovereign bent on reducing all his subjects to obedience under the king's law, faction again raised its head, bringing in its wake anarchy and desolation. Rank individualism and the disintegrating forces of feudalism once more came into their own in the hapless land whose king was a child.

At first the full extent of the evil was perhaps not manifest. Within a month of the tragedy of Perth, the wise measures of the first parliament of the new reign ~~reign~~ made for order and stability: it is not improbable that the finger of the experienced bishop of St. Andrews can be traced in this work. James II. was crowned in the Abbey of Holyrood in solemn state amid universal (I) joy. The consecration of the monarch was itself an initial step towards the enforcement of the king's peace. It was followed by other statesmanlike activities.

The widowed queen was appointed guardian of the boy king (I)

A.P., II 31. James II was crowned by Michael, bishop of Dunblane. (Extracta, Rosslin Additions, 237)

and his sisters. Archibald, fifth earl of Douglas, second duke of Touraine, nephew of James I. and the most powerful subject in the realm, was created lieutenant-general. All alienations of lands and moveables "in prejudice or hindering of the crowne" were utterly prohibited during the royal minority. (1) About the same time, papal envoys were received for "the good of religion." (2)

Theoretically, therefore, due steps had been taken to secure the welfare of the country; practically, they were of little effect. Bishop Wardlaw's may have been the guiding spirit, but by reason of years and failing health, he was unfitted to shoulder new and onerous responsibilities of state. In appearance the election of the earl of Douglas as lieutenant-general was an excellent choice in the interests of the country. He had wealth, pride of birth, domains both in Scotland and in France, while the very

'I(A.P., II, 31. This act "ordanyt be maner of statute that na landis nor possessiounes pertenyng to the king be gewyn nor grantyt till ony man without the avyss and consent of the thre estatis of the Realme on to the tyme of his aige of xxj zers."

Although passed in accordance with ancient custom, in one respect this legislation was peculiarly timely. It would have been inexpedient to add to the general insecurity by allowing the families dispossessed by James I. to reassert their claims at this crisis. The fact that some of the Scots lords were still hostages in England would make it easier to give effect to the law in this respect; in its other object- that of safeguarding the crown from the ambition of unscrupulous adventurers- it was not so successful.

(2) Rot. Scot., II, 311.

existence of his office implied a certain control over the centrifugal tendencies of feudalism. We may believe, in spite of Boece, that earl Archibald took the duties of his high office seriously. It was, for example, a stroke of statesmanship to solicit the aid of the papal arm for the strengthening of his position. Again, in so far as he was instrumental in drawing up a nine years' truce with England, in 1438⁽¹⁾, he showed a true appreciation of the needs of Scotland. On the other hand, these negotiations may have distracted his attention from affairs at home, where it is certain that he was not successful in maintaining the rule of law. The acts of parliament, indeed, show some attempt to overtake the administration of justice, but even in so doing, they unconsciously reveal a chaotic state of misery and crime.⁽²⁾

If, however, the lieutenant-general had failed to justify the fair hopes built upon him, we have yet no proof that he deliberately shirked his duties, and many⁽³⁾

(1) Boed., X, 688-95. Possibly Crichton's was the master-mind in this stroke of policy. The initiative at least came from the side of the Scots when ambassadors were dispatched to England with letters given under the great seal at Edinburgh on 30th. November, 1437. (Ibid, 679-30). With respect to the traditional view that the interests of Scotland were utterly neglected by self-seeking adventurers, it is note-worthy that this treaty consists largely of regulations for trade and commerce.

(2)
A.P. II 32.

(3) The historian of the Livingstons has surmised that the apparent inactivity of the lieutenant-general was due, at least in part, to ill-health. (Livingstons of Callander, 37). The fact that he succumbed to a fever in the year of pestilence lends colour to such a view.

of the old romances of the age have been discountenanced in the light of documentary evidence. There is thus reason to believe that at first the young king and his mother enjoyed comparative freedom; while, far from being the "common enemy" against whom Crichton and Livingston, the "Two unhappie tyrants" had to unite, Douglas was on working terms, at least as early as 30th. May, 1438.

The attitude of Sir Alexander Livingston of Callendar, keeper of Stirling Castle, was however a vital factor, and one not easy, at this distance of time, to determine. In March, 1438-9, the king, whether by stratagem or otherwise, was in his custody, and a Council General held in the tolbooth of Stirling seems to have levelled its attacks against Crichton as a rebel resett within a castle. Livingston may have added point to this legislation by laying siege to the fortress of his rival.

(1) Douglas Bk., I, 419; III, 423; E.R., V, 1. The editor of the Exchequer Rolls charges the earl of Douglas with neglect of his duties and "unconcern" for the common weal. He wrote, however, three years before the appearance of Sir William Fraser's "Douglas Book" (1835). The new light shed upon events by the publication of the Douglas records has made necessary a reconsideration of the whole history of these years.

(2) Pitscottie, I, 21-22.

(3) Douglas Bk., III, 423.

(4) A.P., II, 32.

The events which followed in rapid and mysterious succession suggest that Livingston's menace had been strong enough to achieve a compromise with division of the spoils. Early in May, chancellor ^{Cameron} was dispossessed of office in favour of (I) Crichton, while Livingston retained the custody of the young king. Whether this arrangement could have established a lasting basis of strong government it is useless to surmise. On 26th. June, fever suddenly carried off the earl of Douglas at Restalrig and whatever authority he had exercised, perished with him. (2)

KENNEDY'S DIPLOMATIC MISSION TO THE PAPACY, 1439.

It was into this troubled sea of politics and faction that the young bishop of Dunkeld found himself launched with heavy responsibilities to discharge. We find him first, in 1439, on a mission to the papal court on business unspecified, but probably touching the fortunes of the fallen chancellor, the bishop of Glasgow. (3) If bishop Cameron had been the patron of his boyhood, the bishop of St. Andrews would seem to have been equally the patron of his early episcopal career. Kennedy may therefore have been engaged on the affairs of both of these churchmen: he doubtless bore a commission also from his cousin, the lieutenant-general.

(1) On 4th. May, 1439, Crichton as chancellor witnessed a charter of Douglas at Newark. (Douglas Bk., III, 424).
 (2) Douglas Bk., I, 420.
 (3) S.H.R., Oct., 1922, p.56. Valuable light would be shed upon the obscurities of this period if we could trace with certainty the fortunes of the bishop of Glasgow after the death of James I.

The earl of Douglas had been recently co-operating with Sir William Crichton, the new chancellor, whereas he had been the early patron of the fallen minister, and possibly, also, the author of his reinstatement as Chancellor in 1437. If, however, Crichton and Douglas were too weak to stand out against the energy and determination of Livingston, then Cameron who had already fallen into disgrace with the papacy, would be the unfortunate scapegoat to be sacrificed on the altar of political necessity. As some compensation for his secular degradation, Kennedy might well be commissioned to work for the restoration of Cameron to the fold of the church.

At the same time, as the accredited agent of the lieutenant-general, he would endeavour to enlist the support of the papacy in the interests of the government party. The sequel seems to indicate that this was the party not only of Douglas, but also of bishop Wardlaw and the queen-mother. Thus, while at Florence in September, 1439, he was charged with the papal dispensation for the marriage of the widowed queen with her second husband, Sir James Stewart of Invermeath, "The Black Knight of Lorne." A clandestine marriage had previously been contracted "before sure witnesses", while bishop Wardlaw, the Ordinary of the contracting

(1) In 1422, John Cameron, official of Lothian, was the secretary of Douglas. (Douglas Bk., III, 53)

(2) See above, 12.

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parties was himself declared to be "suspectus" in the
(I)
matter. The bishop of St. Andrews, possibly in co-operation
with Douglas and Crichton, seems to have come to the
assistance of the queen in this attempt to secure protection
for herself and her children during these troubled times.
It was a hazardous step, which in view of the inevitable
opposition of jealous barons, would require to be accomplished
with secrecy and despatch. In such circumstances James
Kennedy, the queen's nephew, cousin of the lieutenant-
general and protégé of bishop Wardlaw, would be a suitable
envoy to obtain the papal dispensation necessary to
legalise the irregular union.

Whatever Kennedy's attitude to Scottish affairs on
the eve of his departure, it is certain that, when he
returned as bishop of St. Andrews in 1441, he came in the
(2)
strength of his papal powers, prepared to pursue a definite
policy in church and state. A strong man, disinterested,
resolute, powerful, was the crying need of the time: it
was fortunate for his country that such a man was to be
found in James Kennedy, bishop of St. Andrews.

^y
(I) Antiquarian Soc. Proceedings, XVI, 169-74. The
papal dispensation is printed by Stewart. (History of the
Stewarts, 443, 444)

(2) Kennedy had returned to Scotland and witnessed a
royal charter on 26th. May, 1441. (R.M.S., II, 267)

AFFAIRS IN SCOTLAND DURING KENNEDY'S ABSENCE.

During his absence and after the death of the lieutenant-general, his cousin, things had gone from bad to worse in Scotland. Rank individualism flourished unchecked, and in the wake of faction stalked famine and (1) pestilence.

The first crisis in the political sphere must have had a peculiar interest for the Scottish envoy at the papal court: the worst fears of the queen's friends were realised. Her marriage to Sir James Stewart was a formidable obstacle in the path of the Livingston ambitions: if it were in addition a victory for Crichton, his rival in the duel for political power, we can well believe that the knight of Callander would seek no further pretext of self-justification for his high-handed course of action. (2)

(1) Auch. Chron., 4, 34. "The derth was sa gret that thar deit a passinge peple for hunger." "Thar deit ma that yer than ever thar deit ouder in pestilens or yit in ony uthir seiknes in Scotland And that samyn yer the pestilens come in Scotland and began at Drumfres, and it was callit the pestilence but mercy, for thar take it nain that ever recoverit bot thai deit within XXI[III] houris."

(2) Their historian credits the Livingstons with shaping their policy at this time for the public good. He has suggested that the action of the knight of Callander was in line with the policy of the king of France who was then aiming at the elevation of the crown by the suppression of the turbulent nobility. He has also postulated that, if the Livingstons had been mere selfish adventurers their deeds would not have been formally ratified by the Council General. (Livins. of Callen., 39)

On the other hand, as he himself has shown, the Estates were convoked so hurriedly that four out of the ten witnesses to the indenture between the queen and the Livingstons had come unprovided with the seals necessary for the despatch of official transactions. Two of these four were the earl of Douglas and Sir William Crichton.

On 3rd. August, 1439, the queen was arrested in her own royal castle of Stirling where she was held a prisoner with her husband and her brother-in-law until released a month later, on the terms of an instrument highly favourable to Livingston, and ratified by a Council General at Stirling. (I) In these transactions Crichton had rallied with Douglas and Sir Alexander Seton to the support of the prisoners.

One would like to know what significance to attach to this interesting fact, and how far Crichton, as chancellor, was able to parry the arbitrary actions of his rival.

In conclusion, the tenour of Livingston's career suggests that he was chiefly actuated by self-interest at this juncture. It was not the first time in his experience that the strong man, willing to take risks, had carried off the prize at which he aimed.

(I) A.P., II, 54-5; Auch. Chron., 3, 33-4; R.M.S., II, 324. Sir Archibald Dunbar gives the date of the meeting of the Council as 31 August. (Scot. Kgs., 196)

As William, earl of Douglas, Sir Alexander Seton, lord of Gordon, and Sir William Crichton, chancellor, appear among the signatories to this instrument they might seem at first sight to have connived in the vaulting schemes of the Livingstons. It is, however, rather to be concluded that their action represented the utmost that they could for the time achieve in succour of the queen and her party.

It is worthy of note that this is the only public action recorded of the earl of Douglas who is said to have been the patron and abettor of the Black Knight of Lorne. (Drummond, 20). This, however, is extremely unlikely as it was less than three months since he, a mere youth, had entered upon his inheritance. Drummond has possibly attributed to the son the policy of the father.

The Auchinleck Chronicle bears that lord Gordon, the Lord of the Isles and Sir William Crichton stood surety for the queen's husband "undir the pane of thre thousand". (3, 34) The fact that Sir Alexander Seton was brother-in-law to both the other cautioners suggests either of two possibilities. The Estates may have been a packed assembly convened by the opposition to bring Livingston to terms: more probably the governor had hoped to summon a subservient council to legalise his actions, and had been forestalled by the energy and promptitude of Crichton in securing a strong representation of his own following. There must have been some concerted action on his side, for the chancellor appended the seal of Sir Alexander Seton in the absence of his own. His influence would be partly due to the power of the purse in the matter of the ransom money

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If he had hoped to consolidate his position by this move, he must have been disappointed in the result. The increase of power that fell to Livingston brought no corresponding benefits to him. To readjust the balance in his favour, he is reputed to have kidnapped the young king, the unfortunate (I) pawn in the long game of self-interest.

However that may be, the need for an understanding between the rivals was rendered urgent by their common fear of the earl of Douglas; the result of their alliance was the judicial murder in November, 1440, of earl William, David, his only brother, and his "speciall Counsellor" Sir (2) Malcolm Fleming of Biggar. The stigma of the crime attached

matter of the ransom money. This tried servant of James I. must have been in command of a considerable fortune which he seems to have augmented by uplifting part of the royal revenues in the years immediately succeeding that king's death. (E.R., V, lxiii).

(1) Pitscottie, I, 31-2; Boece, 360; Leslie, 15.

(2) Auch. Chron., 24, 34-5; Godscroft, 154-5; Leslie, 16; Pitscottie, I, 45; Boece, 363.

As far as concerned the death of Fleming of Cumbernauld and Biggar, Livingston sought to exonerate himself from complicity. On 7th. January, 1440-1, he made a formal protest against the death and forfeiture of Sir Malcolm Fleming. A year later, on 13th. February, 1441-2, in presence of the earl of Douglas he was party to an instrument against the said sentence of death. On 16th. August, 1443, Sir Alexander Livingston in the presence of Robert Fleming and four bishops solemnly purged himself of the guilt of this crime. (Hay, Hist. of Arbroath, Fleming of Biggar)

The delay in the execution of Sir Malcolm Fleming may, therefore, have been due to the intervention of Livingston. In such case, Crichton must have been the more masterful of the two confederates.

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to Crichton,; the justification offered by the conduct of Douglas remains matter of dispute. He had undoubtedly been haughty and domineering but it is not certain that he had sinned more greatly in this respect than many of his
(1)
brother barons.

Whether or not James, earl of Avondale, connived at the death of his grand-nephews, he at least gained by the result. As the nearest male heir he succeeded to the
(2)
entailed estates, and for the three remaining years of his life remained on friendly footing with the government. It seems, on the whole, to have been a time of comparative quiet in the annals of the country, but on the accession
(3)
of his son, William, eighth earl, on 25th. March, 1443,

(1) Lord Lindsay has given us a picture of the feudal power of the Lindsays. (Lives, I, 114-6) The accumulation of territories, offices, jurisdictions, and privileges in the house of Crawford suggests that the Black Douglasses were, at most, simply first among equals.

(2) Although technical disabilities stood in the way of a forfeiture, yet the Douglas patrimony was, for the time, broken up. The French connection was cut; Annandale lapsed to the crown; the bulk of the estates passed to James, earl of Avondale, heir by entail; Galloway, Balveny and the other domains of the Bothwell inheritance went to Margaret, the Fair Maid of Galloway, sister of the murdered boys and heir of line. (E.R., V, lvii; Douglas Bk., I, 429)

(3) Douglas Bk., I, 442-3; Auch. Chron., 35, cf. p4 where the date is given as 10th. March.

The period of the seventh earl of Douglas offered no striking events to the Auchinleck chronicler. It was, however, marked by disturbances at Coldingham in which earl James, as Justiciar, played his part. (See appendix) The troubles at Dalkeith may also have begun during these years. (See below

† If there is any truth in the description of Earl James,

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the menace of the Douglas power became a matter of serious import for the king and kingdom of Scotland. It was in the time of earl James, on the eve of this situation, that bishop Kennedy returned to Scotland to play his part in the drama.

THE IMPORTANCE OF THE DOUGLAS PROBLEM.

The chief importance of the reign of James II. was to lie in the suppression of the Douglas power. It was not simply a record of personal jealousies, or family feud: rather, it crystallised the struggle for sovereignty between the crown, standing for centralised government, on the one hand, and the centrifugal forces of feudalism on the other. With the cause of the monarchy was bound up the national prosperity, the very existence, indeed, of Scotland as a nation.

Under Robert Bruce the country had vindicated its independence against external aggression. That independence had then to be maintained by the elevation of the crown above all its feudal rivals. The triumph of individualism would jeopardise, if not utterly overthrow, the hard-won sovereignty of the realm. James I., realising the situation, had begun the onslaught and had paid the penalty

lord Abercorn, as "a peccable man", it must refer to his later years, not to his early life. (Ane Cronickill of the Kingis of Scotland).

with his life. It remained for his son to carry on the struggle: to identify the crown with the life and wellbeing of the nation, and to crush the forces of anarchy. The family of Douglas concentrated the cause of the baronage. Scotland was not big enough to hold both James Stewart and the Douglasses of the Black; and, although both sides were loth to acknowledge the fact by coming to death-grips, yet the situation was tense from the beginning.

James Kennedy must have realised the desperate plight of the country, and without loss of time he ranged himself on the side of authority. A heavy load of responsibility was to fall upon his shoulders, for in 1443¹ the king was still a minor, the new star of William, eighth earl of Douglas had swum into the ken, the land was plunged in misery and faction.

Earl William had appeared at the royal court in Stirling soon after his succession and had immediately ingratiated himself with the king. (I) He is said to have been appointed

(1) Boece, 364; Pitscottie, I, 50; Leslie, 17; Godscroft, 304; Drummond, 23; Pinkerton, I, 197-8.

Boece and his followers impute the lawless acts of the time to the machinations of the earl of Douglas. In particular, they represent that he connived at the disturbances in Perth on Midsummer Day, 1443, and the capture of Dumbarton Castle by a certain Sir Patrick Galbraith. The Auchinleck Chronicle, the earliest authority, however, carries no such inference, while the taking of Dumbarton was primarily an episode in a long controversy between the Burskines and the crown. The editor of the Douglas Book has postulated that the young earl had come to do homage upon entering into his estates. (Douglas Bk., I, 456)

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by James to the lapsed office of lieutenant-general. He certainly levied war in the authority of the king's name upon Chancellor Crichton, the reputed murderer of his cousin, and upon Sir George Crichton, whose castle of Barnton (1) he rased to the ground..

The web of the Douglasses was being flung far and wide over the country. By a marriage with his kinswoman, the Fair Maid of Galloway, the earl was soon to reunite the family estates. The same stroke of policy which secured him an heiress bride also gave him as a father-in-law, his powerful ally and accomplice, Sir James Hamilton of Cadzow, while Hamilton himself was the grandson of the knight of Callander. (2) It is therefore not unlikely that Livingston, far from being hostile, was instrumental in establishing

(1) Auch. Chron., 5, 36.

(2) Through his mother, Janet Livingston, Sir James Hamilton was the grandson of Sir Alexander Livingston of Callander. Sir James Hamilton married, as his first wife, Euphemia Graham, sister of the first earl of Menteith and widow of the lieutenant-general Archibald, fifth earl of Douglas. (Scots Peerage, IV, 352; Douglas Bk., I, 420-1). The papal dispensation for the marriage was obtained on 25th. February, 1440-1. (printed by Stewart, Hist. of the Stewarts, 464).

The alliance between Livingston and Douglas was in the nature of a league for mutual support. Douglas could further the interests of Livingston in opposition to Crichton; Livingston could use his influence in the government to promote the marriage of Douglas with his child-cousin.

the good relations between the king and the first subject of his realm. Another family alliance helps to explain, and must have intensified, the feud between Douglasses and Crichtons by pitting the two families in opposition over the earldom of Moray.⁽¹⁾

Thus earl William's hostility to the chancellor's faction may be explained on private and family considerations apart from any desire to avenge the murder of two youths by whose death the earl's own fortunes had been established.⁽²⁾

KENNEDY'S ATTITUDE TO THE DOUGLAS QUESTION.

This ominous power of the Douglasses, together with the general misrule, may well have given alarm to Kennedy. If he had personally experienced the hapless plight of France after the siege of Orleans, the memory must have nerved him to his utmost endeavour to save Scotland from such a fate. As a churchman, we have seen that he was able to make a preliminary effort to this end by restoring

(1) The earldom of Moray had fallen under the power of the Douglasses by the marriage of Archibald Douglas, before 26th. April, 1442, to Elizabeth Dunbar, younger daughter and co-heiress of the last earl of the line of Dunbar. They were obviously seeking to consolidate their position in the north by incorporating the entire inheritance of Moray, to the exclusion of Janet Dunbar, the elder co-heiress. (Douglas Bk., I, 447; Antiquities of Aberd. and Banff, I, 231) Some time before the spring of 1446 this sister had been married to James Crichton, son and apparent heir of the chancellor. (The Lennox, II, 70).

(2) It is a suggestive fact that, when, in presence of the earl of Douglas, James the Gross, Livingston formally dissociated himself from connivance in the doom of Sir Malcolm Fleming, no reference was made to the fate of the earl's hapless kinsmen. (Hunter, Biggar and House of Fleming, 489-90)

(I)
order in the ecclesiastical sphere. The result was bound to react upon secular affairs, for by denouncing the anarchic tendencies of conciliar doctrine, Scotland had by inference thrown down the gauntlet to the disruptive forces of its own baronage.

The struggle was to be long and fluctuating. There were times, indeed, when the very monarchy itself seemed to tremble in the balance, but the fall of the Black Douglases rendered possible the ultimate victory of the centralised power. It was by the support that he gave to the crown in this conflict that the bishop of St. Andrews greatly endeared himself to his countrymen as the saviour of his country. It behoves us, therefore, as far as may be, to discover on what real ground of facts this reputation rests.

There can be no doubt that in the years immediately succeeding the accession of earl William, Douglas and Kennedy were pitted in direct antagonism; that the rise of the star of the earl in the political sky marked the eclipse of that of the bishop. The beginning of the conflict may be detected in that very Council General which tendered the nation's obedience to the Roman pope. If the ecclesiastical decision was a master-stroke of Kennedy, the secular proceedings were a victory for the faction of Douglas. The

(I) See above, 20.

victim of their triumph was Crichton who had failed to
 answer summons before the king in council. They accordingly
 "blewe out on schir William of Crechtoun and schir
 George of Crechtoun, and thar advertence". The execution
 of their forfeiture was apparently entrusted to Sir John
 Forrester of Corstorphine, the former associate of Douglas
 in the destruction of Barnton.

Sir George Crichton, on his side, retaliated by carry-
 ing the war into the enemy's camp. He harried the domains
 of Forrester and the Douglas lands of Strabrok and Abercorn,
 while Douglas, in revenge, burned Crichton's castle of
 Blackness. The vacant chancellorship, which is reputed to
 have been first bestowed on Kennedy, was soon filled by
 bishop Bruce of Dunkeld. Crichton's pension was called

(1) According to Hume of Godscroft, the chancellor was twice summoned and did not compear. (History, 166-7) The Exchequer accounts for 1444 record payment "pro tribus instrumentis per compotantes, ex parte regis, super citatione domini de Creichtoun." (E.R., V, 147) Drummond details the heads of the charge but his authority has not been substantiated while he is certainly wrong in representing Livingston as a fellow-victim. (History, 43)

(2) Auch. Chron., 5, 36.

(3) Auch. Chron., 5-6, 36-7; Douglas Bk., II, 39, III, 427. Strathbrok is the modern parish of Uphall. (Chalmers, Caledonia, II, 385)

(4) Crawford Officers of State, 29, 32; Dowden, Bps. of Scot., 73-4, and note. Bruce first appears as chancellor on 7th. September, 1444. (R.M.S., II, 273)

(1)
in question, his party reduced to total eclipse, while the power of Douglas seemed to be daily waxing greater.

The necessary papal bull of dispensation for his marriage was issued on 22nd. July, 1444, and although doubts have been cast upon the validity of the union, for all practical purposes it was an accomplished fact. Earl William became lord of Galloway and of all the other broad estates of his young countess.

Such a marriage may well have raised jealousy and fear among the cadet branches of the house of Douglas, but, on the other hand, it afforded the earl an excellent groundwork for his ambitious schemes of family aggrandisement. His power was consolidated not only on the borders but also in the north of Scotland. Archibald Douglas, the

(1) In July, 1443, Crichton was credited with an annuity of 700 merks during the royal minority, while a year later the auditors of Exchequer referred to this as an "alleged" pension. He seems, however, to have received, or uplifted, a quota of the money to which he asserted his claim. (E.R., V, lxiv, note, 125, 146, 148)

(2) There is no reason, however, to believe with Godscroft that they had coveted this marriage for themselves. (History, 162) Angus was betrothed to the king's sister, while Sir James Douglas of Dalkeith had married Elizabeth Giffard.

For the question of the validity of the Douglas marriage, see appendix.

husband of Elizabeth Dunbar, had already ousted his wife's elder sister from her lawful share of the inheritance: he himself appeared in the parliament of 1445 under the style of earl of Moray. At the same time his younger brother, Hugh, was designated earl of Ormond in respect of an earldom carved out for him from the lady Margaret's estates in (1) Aberdeen and Inverness. John Douglas, the youngest brother, was infeft in Balveny, his father's lordship in (2) Banff. Thus, by husbanding their several regalities and by co-operating to advance their common interests the sons of earl James, the Gross, could encompass their enemies within a strangling girdle. This was the easier to be done when they could rank other powerful magnates among their allies.

FEUDS AND FACTION, 1444-1446.

When, in the autumn of 1443, the earl of Douglas contrived the fall of Crichton, the process of family consolidation could not have been complete, but he had the advantage of strong confederates and of a growing influence

(1) Doug. Bk., I, 451; E.R., VI, 162, 212, VII, 360; Antiqs. of Aberd. and Banff, IV, 77, 119; A.P., If, 49. Pinkerton draws attention to the fact that the title of Ormond was derived from the name of a hill, probably an ancient moot-hill, in the estate of Ardmanach. (History, I, 198n).

(2) Douglas Bk., I, 453. John Douglas, who was probably a mere boy at this time, plays no active part in history before 1450.

over the young king. The balance of power had been completely overturned and it was inevitable that a counter-party should be formed in opposition to the Douglas faction. Its secret machinations were thought to be traceable in the spirited defiance of the Crichtons after their downfall. Historians insinuate, Godscroft tells us, that Crichton "was assisted and aided under-hand by Bishop Kennedie, and the Earle of Angus and Morton. Angus was the Kings Cousin germain, sonne to his fathers sister, and by her, brother to the Bishop: Morton had married the Kings own sister. But----it is hard to conceive, either now they could suddenly assemble to their folks, or that they could conveene many---to make assistance against the Earle of Douglas." ⁽¹⁾ Here, then, was another family coalition; the two barons were those members of the Douglas family who were said to resent the marriage of the head of their house; the bishop was the kinsman of Angus.

Some alliance such as this might well be suggested by the ascendancy of Douglas, but the historians whom Godscroft follows were undoubtedly wrong in the presentation of particulars. He himself was dimly conscious of

(1) Godscroft, History, 167. The earl of Angus in 1443 was James, third earl of the Douglas line; the nephew, not the brother, of bishop Kennedy. The earldom of Morton, moreover, had not then been created: the head of the house was James Douglas, third laird of Dalkeith. It was his son who was to become the first earl of Morton and to marry the princess Jean. In 1443, while still a minor, this sister of the king was the betrothed bride of the earl of Angus.

the difficulty when he observed that the lands of the opposition lords were distant to raise a sudden force. On the other hand, the actual theatre of hostilities was a more or less compact locality. It would be comparatively easy for Sir George Crichton to strike out at his enemies from his fortress of Blackness. He could cite precedent enough for his high-handed defiance of the law, and he must have foreseen that a party would rally to his support.

The evidence would thus indicate that the aggression came from the side of Douglas and that the opposition coalesced as a defensive alliance. We need not, therefore, believe that the bishop of St. Andrews was the prime instigator of sedition. He was not apt to tilt against authority, and as he was a leading figure in the very parliament that forfeited the Crichtons, it is more likely that he actually did become chancellor for a short time, than that his influence in the king's councils terminated immediately and abruptly thereafter. Yet he must have been alarmed by the arrogance and growing ascendancy of the Douglas party, which was steadily eclipsing his own prestige and overthrowing all balance of power and stability in Scotland. Thus circumstances would drive him into the arms of Crichton and the ranks of the opposition. If his deprivation of office was not an incentive to this course of action, it would follow swiftly and inevitably as a result of it.

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These events were immediately followed by a period of obscure and sanguinary party strife which calls for investigation if we are to reach an understanding of the political state of the country, and a just estimate of the character and statesmanship of Kennedy.

FIRST PHASE: DOUGLAS ASCENDANCY.

(A) BLACK DOUGLAS AND RED DOUGLAS.

If the coalition of the Crichtons with the Douglasses of Angus and Dalkeith and with the bishop of St. Andrews took shape as a defensive alliance, we must then seek the reason of its formation in the proceedings of the aggressive party.

As far as concerned the earl of Angus, there can be little doubt that jealous rivalry had led to a bitter family feud at this time. When earl William came to court in 1443 he found his kinsman of Angus high in the favour of the king, but as the power of the Black Douglas increased (I) that of the Red Douglas decreased. Angus may therefore have owed his position, at least in part, to the influence of

(I) James, third earl of Angus, succeeded to his father about October, 1437 (Douglas Bk., III, 372-3); in 1438, he was in enjoyment of a revenue from the customs of North Berwick and Haddington (E.R., V, 98); on 18th. October, 1440, he was betrothed to the princess Jean, sister of the young king (Douglas Bk., 42 and note). In February, 1442-3, he was with the king at Stirling (R.M.S., II, 270) A month later, the death of James, seventh earl of Douglas, opened the path of ambition to earl William, his son.

Crichton; they certainly fell together. Earl James was speedily deprived of his pension from the customs, which he thereafter continued forcibly to uplift on his own authority. (I) Early in 1445, his barony of North Berwick was plundered by Sir Robert Fleming of Cumbernauld, of the following of (2) Douglas, while about the same time his betrothed bride was sent to the court of France, possibly to frustrate the consummation of the marriage. (3) On 1st. July, 1445, he was himself arraigned before parliament "for cryme committed til his maieste & rebelloun." For contempt of summons, he was condemned in his absence to forfeiture unless "he cum (4) within zere & day & vndirgang the law." At this hour, then, the fortunes had apparently sunk to hopeless depths.

(I) E.R., V, 127, 177, 182, 276.

(2) Sir Robert Fleming of Cumbernauld, son of the victim of the "Black Dinner" of 1440, is said to have married Janet Douglas, the sister of earl William. The inscription on the tomb of her father, the seventh earl, designates her as "Joneta uxor Domini de Bygar et de Cumbernauld." Douglas Bk., I, 446 and note, II, 624, III, 427.

(3) The Exchequer accounts rendered in July, 1446, record payment to James Livingston sailing to France with the lady sisters [Jean and Annabella] of our lord king. (E.R., V, 225) According to Pinkerton, they were sent beyond seas because "there was reason for apprehension, that Douglas would convert the princely bridals into a further accession of power to his family." (History, I, 199) This theory, however, will not stand investigation, inasmuch as Douglas himself was in a position of preponderating influence at this time.

(4) A.P., II, 60.

(B) THE STRUGGLE ROUND DALKEITH.

During the eclipse of his fortunes, the earl of Angus had a fellow-sufferer in adversity in his kinsman, Sir James Douglas of Dalkeith, another victim of family jealousies. In a heraldic sense Sir James had a better claim than earl William himself to be head of the House, inasmuch as his escutcheon carried no bar-sinister. He was cousin to the bishop of St. Andrews through his mother; he was sister's son to Sir Alexander Livingston of Callander. His step-mother married Sir George Crichton; Henry, his younger brother, by his marriage to Margaret Douglas, became the brother-in-law of earl William. These matrimonial entanglements would almost inevitably have drawn Sir James into the vortex of family feuds even had the situation not been further complicated by the fact that on 22nd, May, 1441, he himself was declared by the three estates of the realm to be of unsound mind. His custody was delegated by the crown to his wife's brothers; the Giffards of Sheriffhall, who were accordingly invested with very considerable powers of administration and jurisdiction.

In these days, then, when personal ambition ran unbridled, the unique circumstances prevailing in the house of Dalkeith laid it peculiarly open to the inroads

(1) Scots Peerage, VI, Douglas, Earl of Morton, and authorities there cited. For genealogical table, see appendix .

(2) Reg. Honour of Morton, II, 207-9.

of unscrupulous potentates. It would seem that Henry Douglas, younger of Dalkeith, had tried in some way to intrude himself into the estates with the result that the king's council, on 6th. September, 1443, took over the direct administration of the castle and lordship of Dalkeith. (1)

If the original intention had been to safeguard the interests of Sir James, when William, earl of Douglas, came to monopolise the ear of the king, the tables would be turned. Henry Douglas, as the earl's brother-in-law, could use powerful influence in the pursuit of his ends. (2)

It is significant that the salary of the Giffards ceased in 1444 while the custody of the castle passed to (3)

(1) Calendar of Charters in General Register House, vol. II, No. 307. "For quhy that we have vnderstaude the greit and perowlus strywys betwix owr wele belouide cosingis James of Douglas of Dalketh and Henry of Douglas hys brother for ye lordship of Dalketh and at gret slawchter, spolzeis, reffys, wasting of our liegis and commons and uthir mony evyllis ar lyk til folow thereupon and for mesing and stanching of ye peralis and ewyllis beforseide: We be ye avys of owr councel hes takyn ye Castele and ye lordschip of Dalketh wyth the pertinence in owr handis---Gevyn vnder our prive sele at Streveling, the sext day off September and of our regne the sext yher."

(2) Sir Henry seems to have been an active associate of the earl of Douglas. His estates of Borg in Galloway were forfeited during the Douglas proscription in 1445. That he had vindicated some claims to Dalkeith seems to be indicated by the formal resignation made by his sons in 1474, of all right to the said barony. (Reg. Hon. Morton, II, 221-4; E.R., VI, cxiii) Possibly the burning of Dalkeith charged against the Douglasses in 1455 was not unconnected with this domestic feud. (A.P., II, 76)

(3) E.R., V, 147. The Giffards are not again mentioned in the Exchequer Rolls until 1453 when they paid a composition in return for a grant from the king. (Ibid, 604) In 1445, William de Livingston received payment for repairs, while Patrick Cockburn was paid a salary of £13-6-8 for the custody of the castle of Dalkeith. (Ibid, 12) At the same audit

Patrick Cockburn, an adherent of the Douglas faction. Henry of Dalkeith, as the brother-in-law of earl William, may well have shared in the spoils of victory. (I) On the other hand, the relationship of the unfortunate Sir James to the Crichtons and to the bishop of St. Andrews lends an air of probability to the general statement of Godscroft that the house of Morton, anachronistically so-called, was ranked among the opposition to the earl of Douglas. The lord of Dalkeith personally, however, played an obscure and subordinate part in the proceedings of these years.

(C). THE REVOLT OF THE CRICHTONS.

A more active confederate was Sir William Crichton, the fallen chancellor. To his cousin, Sir George Crichton of Carnis, is imputed the more immediate retaliation on his hostile neighbours. Possibly he was the arm, and Sir

he was granted £10 for his expenses and labours in the service of the king. (Ibid, 182) The accounts show that this official directed his energies to the restoration and upkeep of the castle and that in other matters also he was an active and trusted servant of the crown. As he enjoyed positions of trust in the dark years between 1443 and 1446, the inference is that he was an adherent of the Douglas faction during that period.

(1) Henry Douglas seems to have associated himself with his brother in the administration of the estates. (R.M.S., II, 515)

(2) That there was a close connection between Sir James Douglas and the Crichtons is indicated not only by the marriage of his step-mother to Sir George Crichton but also by the grant, in favour of Sir William Crichton, of Douglas lands in the barony of Kirkmichael, in February, 1439-40. If, as has been surmised, the lord of Dalkeith was weak-willed, rather than insane, (Scots Peerage, VI, 353) it is easy to conceive how the Crichtons were in a position to secure supremacy over his plastic character.

William the brain, of their joint resistance. Their strongest asset would be the possession of Edinburgh Castle which would naturally receive the first attention of the governor. Here, in 1445, he suffered a nine weeks' siege, (I) and then "gaf it to the king throu trefy." (2) Crichton's resistance was evidently matter of serious import, requiring the government to take prompt steps to cope with the (3) situation. The first attack was apparently directed against (4) Methven: not till the summer of 1445 was the crown strong enough to come to a definite issue with Crichton himself. The parliament which met at Perth in June of that year "remanit thar bot III dayis, and wass continewit till

(I) The siege of Edinburgh Castle lasted for nine months according to Leslie (History, 19) and Godscroft. (History of Douglas, 169) The account given by Godscroft, however, is obviously inaccurate in details, as, for example, respecting the date of the parliament of Perth. Possibly Crichton had held out in his fortress for a considerable period although the final stage of hostilities was of short duration.

(2) Auch. Chron., 6, 36.

(3) The Exchequer accounts of 1444 have reference to expenses connected with artillery and bombards. (E.R., V, 147)

(4) Methven Castle had reverted to the crown on the forfeiture of Walter, earl of Athol, in 1437, and seems at this juncture to have been held in the Crichton interest. The Livingstons and the king himself were present in person at the siege. On its fall, the castle was entrusted to the keeping of Alexander Ogilvie of Inverquharity after whose death, in 1445, it passed into the hands of Alexander Livingston. (E.R., V, lxvi-lxvii, 186, 187, 201, 219, 230).

(I)
 Edinburgh because of the siege." It would seem that negotiations, whether official or private, had been in process for some time and that the Estates were prorogued to Edinburgh to allow the king and his council to be present at the formal termination of hostilities.
 (2)

Crichton could flatter himself that, in this case, might was right. He was restored to high favour, collaborated in affairs of state with his erstwhile enemy of Douglas, and on the death of bishop Bruce, was reinstated as chancellor of Scotland.
 (3)
 According to Drummond, this diplomatic revolution was contrived by "James Kennedy, Bishop of St. Andrews, whose Respect and Authority was great with the Churchmen."
 (4)

(I) Auch. Chron, 6, 37.

(2) In the accounts rendered on 9th. July, payment of twenty shillings was made to David Hervey going out from the Castle of Edinburgh and coming to the king. (E.R., V, 181) We do not know on what authority he acted - whether as ambassador or deserter - but the prosperous sequel to the Governor's fortunes suggests that Hervey was his accredited agent. The capitulation must have followed hard upon the arrival of the government upon the scene. On 3rd. July, Crichton witnessed a Great Seal charter along with Douglas, late the captain of the besieging forces; on the 7th., he was a member of the king's council. (Calen. of Charters in Gen. Reg. House, II

In the Exchequer accounts rendered a week later, Crichton's salary as guardian of Edinburgh Castle had been increased to £700, while he also received payment for expenses towards repairs (E.R., V, 180)

The long protracted hostilities were bound to interfere with the prosperity and peaceful pursuits of the burgesses: the hope of peace must have been a powerful factor inducing them to advance a loan of £100 to the king for the prosecution of the siege. (E.R., V, 276, 310)

(3) Scotichr., II, 502; Crawford, Officers of State, 30

(4) Drummond, History, 25.

If this statement can be substantiated, then Kennedy had played a notable part in a time of crisis: in order to discover the truth of the assertion we must trace, as far as may be, the part that he played during these years.

(D). THE YEARS OF THE ECLIPSE OF KENNEDY.

"At this tyme," Pitscottie tells us, "James Kennedie, bischope of Sanctandrois, ane man of singular wertew and prudncie held him self werie quyit awaitand wpoun ane better fortoune thinkand it was follie to stryue against the stryme." (I) The vagueness of this general statement suggests that the writer, being at a loss to explain the movements of Kennedy, has here fallen back upon conjecture. We may safely accept his conclusion that the bishop played no active part in the government of the country during these years, but we can hardly agree that it was the part of a virtuous and prudent character to shirk responsibilities and passively await the revolution of fortune's wheel, what time the fabric of the state and the position of his kinsmen were being alike undermined. Pitscottie's generalisation obviously ^{challenges} further investigation into the tangled state of affairs.

On the fall of Crichton, Kennedy is said to have been made chancellor in 1444 "no Man in the Nation being

(I) Pitscottie, I, 66.

esteemed so fit for the Office. But it seems he was not able to do all the Good he had in his View---. And (I) therefore, in a few Weeks at most, he resigned the Place." If he did succeed Crichton in office, he is likely to have parried the influence of the earl of Douglas at the council table, but he must soon have found himself in an impossible position.

As Kennedy himself came to lose the ear of the king he would watch with growing misgiving the aggrandisement of the rival confederation. Besides the consolidated resources of his own house, Douglas had the powerful support of Sir James Hamilton of Cadzow and of David, third earl of Crawford. We can only guess at the motives underlying the chain of events which followed. In the summer of 1444 Kennedy had retired, or fallen, from office. If he had not definitely thrown in his lot with Crichton, he was at least classed, justly or unjustly, among the rebels, while the bitterness of the vendetta against him suggests that he had been singled out as the most formidable obstacle in the path of Douglas ambition. In virtue of his royal descent, his powerful position in the church and his distinguished record of services for the state, he might well be regarded with peculiar jealousy by the arrogant young earl.

We have seen how the "enemies of the bishop" intruded his rival in ⁽²⁾ *Scone*. These enemies doubtless included such

(1) Crawford, *Officers of State*, 32.

(2) See above, 52-5.

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neighbouring magnates as might be spurred into the con-
federation by reason of a personal grudge against the
bishop of St. Andrews. ⁽¹⁾ The narrative of the Auchinleck
Chronicler vividly describes the result of the fusion of all
the forces hostile to the unfortunate prelate.

"Item, thar was ane gret herschipe maid in Fyff be
thir personis, the erll of Crawford, James of Livingstoun
that tyme kepar to the king and capitane of Strivling, the
Ogilbeis all, Robert Reach, the lard of Kadyoch, and uthir
syndry. And this herschipe was maid on Sanctandrois
land, be the maist force. And incontinent efter, bischope
James Kennedy cursit solempnitlie with myter and staf
buke and candill contynually a yer, and interdytit all the
placis quhar thir personis war." ⁽²⁾

Pitscottie's version makes the earl of Douglas the
instigator of this plundering expedition: ⁽³⁾ the presence
of Sir James Hamilton renders plausible the view that he
had been despatched to organise a concerted attack against
the bishop. If, however, the aim had been to deprive
Kennedy of his personal liberty, then the plot failed of

(1) The case of Robert Reach provides an instance in
point. (See below, 138)

(2) Auch. Chron., 7-8, 38-9.

(3) Pitscottie, I, 53; Godscroft, 168.
Sir James Hamilton was created a lord of parliament in
July, 1445, during the bountiful shower of honours upon
the Douglas connection. (A.P., II, 59)

its chief purpose. Possibly Douglas would feel most keenly the sting of failure; his highland confederates, little respecting a churchman's curse, would be more than compensated by the rich plunder of the bishop's lands. (1)

It is unlikely, however, that in the stress of the times Kennedy "committet himself in saifgaird" putting his sole trust in his spiritual weapons. His movements are undoubtedly obscure, but he can hardly have been inactive. In the summer of 1444, for example, we find him, very significantly, on the ancestral estates at Cassillis. Here he was deliberately associating himself with efforts to strengthen his brother's position as Head of his Kin: (2) he was doubtless on a campaign to consolidate a party in those parts where he could count upon family allegiance. (3)

(1) Godscroft takes this view when he hints that perhaps they "had a greater minde to the bootie, then to the quarrell." (Hist. of Douglas, 168)

(2) Pitscottie, History, I, 54.

(3) Hist. MSS. Report, V, 614 [Ailsa]. On 2nd. July, 1444, the bishop was party to an instrument whereby Sir John Kennedy of Blaucharne and his heir "became men for the term of ten years to Gilbert Kennedy, Lord of Dunure." An interesting stipulation follows, - "The said Gilbert was to pay yearly to the said Sir John twenty merks besides other ten merks for his homage and service, and, because the said sum of ten merks seemed for the time to be too small, the bishop of St. Andrews bound himself to pay to him two merks in addition."

Here the bishop's influence ostensibly made for equity; at the same time, the additional increment to his fee would further cement the bond by appealing to the self-interest of the grantee.

Two months earlier, as lord of regality, he had settled a dispute between the townsmen and the university of St. Andrews in such a way as to ensure stability while retaining for himself a considerable discretionary power. (I) He has been credited, moreover, with the happy settlement of a commercial dispute between the Scots and the Hanseatic towns during this period. (2)

In the winter of 1445-6, Kennedy was engaged, as we have seen, in a suit of patronage against the priory of

(I) Univ. Report Evidence, III, 172. The concordat was drawn up on 6th. May, 1444, and received the royal ratification at Stirling on 5th. February following, the eighth year of the king's reign. This date, if authentic, suggests that, in spite of the contrivances of Douglas, Kennedy had not altogether fallen from favour.

(2) Tytler, History, II, 141. In the latter part of 1445, John Jefferson, Stephen Hunter, provost of Edinburgh, and Andrew Ireland, bailie of Perth, were commissioned to demand reparations for piracy from the men of Bremen and to conclude a treaty with the Hansa. It is true that we can point to no definite proof that Kennedy was instrumental in bringing about their successful mission, but inferentially much can be advanced in favour of such a view. All through his career he was actively interested in the affairs of commerce, while the energies of all the other outstanding public figures at this time must have been absorbed in the prosecution of their own immediate, private ends. Moreover, one at least of the commissioners, Andrew Ireland, was an adherent of the earl of Angus. (Douglas Bk., III, 426; Notes on Various Charters and Seals: Kinfauns Charters: in Gen. Reg. House). He may easily have been active also in the interests of his patron's kinsman and confederate.

One wonders what part Kennedy played in negotiating the marriage, in 1444, of the princess Mary with the heir of the Lord of Veere. This union, which was said to have opened up important commercial prospects to the Scots, might easily have been arranged before the fall of Kennedy from political power.

(I)
 Durham and its cell of Coldingham. John Oll, prior of Coldingham, as the confederate of Sir Alexander Home, had linked his fortunes with those of the Douglas faction. The litigation over Gesildon therefore resolved itself into a trial of strength between the bishop of St. Andrews and his (2) "enemies". In the event this may have prompted Kennedy's visit to Rome. in 1446, but it is note-worthy that he did not make his pilgrimage of supplication until the blackest of the cloud had passed over the heads of his party in Scotland.

The authentic actions recorded of him therefore indicate a man staunch of purpose and unflinching in adversity. It is quite in keeping with these characteristics that he should, as traditional history has it, fuse the different elements of opposition and direct their activities to a common end. Such a course, natural in itself, would be facilitated by Kennedy's kinship with the distressed Douglasses of Angus and Dalkeith. Family ties, and the stern necessity for unity of action, would sweep the Crichtons into the scope of the confederation, although it is doubtful how far Kennedy would approve of their policy of armed resistance to authority.

(2) Possibly also the question of the superiority of Aldcambus to which Chalmers refers has a bearing upon this subject. (Caledonia, III, 393; above,)

(I) Above, 68.

Lack of evidence makes it impossible to trace the details of any concerted plan of action, but the restoration of Crichton and the oblivion that blotted out the so-called treason of Angus can scarcely be attributed to the whims of blind caprice. When we remember that the authority of Douglas was still paramount, we must agree with Drummond that this change of fortune was "very strange".^(I) Facts seem to support his view that the revolution was accomplished by James Kennedy, working through his brother-prelates.

FEUDS AND FACTIONS: SECOND PHASE.

THE ADJUSTMENT OF THE BALANCE.

The depredations of a common enemy, Robert Reach Duncanson, may have supplied a cementing link between the bishops of St. Andrews and Dunkeld:^(I) the latter in his capacity as

(I) This Robert Duncanson was one of the captors of Robert Robert Graham, the murderer of king James I. In return for his services on this occasion he had a charter of the lands of Struan in Perthshire from James II. (Confirmed, 15th. August, 1451; R.M.S., II, 491) He was a kinsman of Donald Macnaughton, dean of Dunkeld, the rival whom Kennedy ousted from the bishopric in 1437. (Above) The animosity springing from this source might be all too easily fanned by the neighbours of Duncanson till it culminated in the raid of 1445.

Robert Reach, however, had also a dispute with bishop Bruce, Kennedy's successor in Dunkeld. Myln tells us that Robert Reach Makdonoghuy [i.e., son of Duncan] devastated the church lands of Little Dunkeld which he had on lease for a time; while Bruce, on his side, was a strenuous suppressor of highland caterans. (Myln, Lives, 707 (33))

Some of the details of Myln's story are obviously inaccurate but the fact that Duncanson had a vested interest in the lands of Little Dunkeld seems to guarantee the substantial truth of the narrative.

Robert Duncanson, the ancestor of the Robertsons of Struan, was bailie of the earldom of Athol in 1450 (E.R., V, 415) and was alive and in enjoyment of royal favour in August, 1451. (R.M.S., II, 491.)

chancellor of Scotland would be well able to advance the interests of Kennedy in influential quarters. He could possibly also count upon the support of the veteran bishop of Glasgow, and of Michael, bishop of Dunblane. (1) Again, there is reason to surmise that although his opponents had been able to strip Kennedy of political power, they had failed to oust him from the personal affections of the young king: (2) he may even have been present in the parliament at Perth. (3)

Good fortune, moreover, seconded the efforts of the opposition. What co-ordinating influence there was among the adherents of Douglas seems to have been supplied by Sir James, lord Hamilton; at the best, their co-operation must have been spasmodic and uncertain. To the highland lairds, the raid on Fife was a mere plundering expedition, or an episode in a private feud, like many another through

(1) About 1444 Michael, bishop of Dunblane, had been mandatory of the bishops of St. Andrews and Dunkeld. (C.P.R., IX, 441): a fact which indicates a certain co-operation between these three prelates. The bishop of Dunblane was present in the parliament of 1445. (A.P., II, 59)

(2) On 5th. February, 1445-6, the eighth year of his reign James II. confirmed the privileges of St. Andrews University. (Univ. Report, Evidence, III, 179.) If the date is correct, Kennedy must have had the support of the king in his university policy at this period.

(3) In quoting the prelates' oath of allegiance, Martine states that "My document bears this inscription 'Of the oath of forma fidelitatis prelatorum in parliament 1445, Juni 13.'" (Reliquiae Divi Andreae, 132). He does not, however, indicate the nature of the document.: and Kennedy was not present when the question of the movables of churchmen was discussed at Edinburgh at the end of the month.

the length and breadth of Scotland. Once they had filled their stalls with the bishop's cattle, their ranks were speedily split up by dissensions among themselves. The result was dire disaster.

RETRIBUTION VISITED UPON THE "ENEMIES OF THE BISHOP."

"The yer of God M. CCCC. XLV the XXIII day of Januar, the erll of Huntlie and the Ogilbeis with him on the tapart, and the erll of Craufurd on the tother part, met at the yettis of Arbroth, on ane sonday laite, and faucht.---- The erll of Craufurd him self was hurt in the feild, and deit within VIII dayis. Bot he and his son wan the feild and held it, and efter that a gret tyme, held the Ogilbys at gret subjeccion, and tuke thair gudis, and distroyit thair placis,⁽¹⁾ &c."

What vividly impressed contemporaries was that the scorers of haly kirk had been caught in their own toils. To a credulous age the retribution of heaven had been revealed in wondrous wise: the authority of the bishops shone with reflected lustre from the supernatural. When, therefore, James Kennedy set out for Rome, some two months⁽²⁾ later, the worst of the crisis had already passed. It

(1) Auch, Chron., 7, 38.

(2) Kennedy's passport was dated 28th. March, 1446. Rot. Scot., II, 328.

is true, indeed, that although the far-reaching schemes of the earl of Douglas had been circumvented, yet his ascendancy was still the chief force in the country. Kennedy, however, had probably won the greatest measure of success that he could hope to achieve in the circumstances. A certain equipoise had been established in the state before he proceeded on his mission to enlist the powerful support of the papal arm.

Whether or not as a result of his particular endeavours, the country enjoyed a period of comparative tranquillity during his absence at Rome. On his return in the summer of 1448 a new situation had developed. Foreign affairs had, in the interval, engrossed the attention of the state, giving prominence to fresh problems which, in their turn, reacted upon the position of the Douglasses and on the whole domestic history of the country.

THE SITUATION ON THE RETURN OF KENNEDY, 1448.

(A) THE LAURELS OF THE DOUGLAS.

In 1444, the existing truce with England had been prolonged till 1st. May, 1454, seven years beyond the date of its stipulated span. For some unascertained

(I) Foed., X¹, 58.

reason, however, the terms of this agreement were not observed. In the spring of 1447, Robert Livingston, the comptroller, had been despatched on a diplomatic mission to Cardinal Beaufort and the marquis of Dorset. (I) Whatever its purpose, it did not avail to prevent the outbreak of hostilities in the summer of 1448.

Between May and July two English inroads were countered by two Scots invasions: for the burning of Dunbar, Alnwick was fired, for the burning of Dumfries, Warkworth was (2) consumed. The aggression was laid to the charge of the (3) Scots: whether or not the Douglasses were the fomenters of

(I) E.R.,V, 304-5. The envoy must have been despatched early in 1447, for Cardinal Beaufort died on 11th. April of that year (Ramsay, Lanc. and York, II, 78) On 31st. March, 1448, the marquis of Dorset was raised to the dukedom of Somerset. (Ibid, 85)

(2) Auch. Chron., 27, 39.

(3) It is an old view that the war was stirred up by the English government to distract attention from internal troubles. Abercromby has held that the truce was broken by the English in an endeavour "to deprive Scotland which was in it self too much divided, of the Benefit of their old League with France." There is a certain element of truth in this theory, inasmuch as the action of the Scots reflected the strained relations then prevailing between England and France. Evidence, however, supports the opinion that the initiative came from the side of Scotland rather than of England. On 19th. March, 1447, the Privy Council of Henry VI. authorised letters to be written to the king of Scots rehearsing attempts against the truce and requiring him to submit his grievances to a joint commission of both sides for arbitration. (Proceedings of P.C., VI, 60) The mission of Robert Livingston may have had some bearing upon this matter.

(Abercromby, Martial Achievements, II, 338)

the war, they at least bore the chief responsibility for its undertaking, while the laurels of victory crowned them as national heroes. Had a campaign been contemplated by the English government, it is highly improbable that facilities would have been granted a month previously to a Scottish embassy on its way to France on a matrimonial mission. (2)

The envoys included Sir George Seton, chancellor Crichton, and John Ralston, bishop of Dunkeld, the king's chief secretary: their business concerned negotiations for the marriage of the princess Alianora with the Duke of Austria, an ally of Charles VII, besides the more important question of a bride for the king himself. James having reached his eighteenth year, it was decided that a matrimonial union should forge a new link between Scotland and France. This policy may have emanated from Crichton with a possible design of parrying the authority of the earl of Douglas: the sequel was to show that its success was an

(1) In the expedition against Alnwick the earls of Orkney and Angus were associated with the earls of Douglas and Ormond. Although this seems to indicate a national war the narrative implies that the Douglasses figured most prominently in the military operations as a whole.

(2) Rot. Scot., II, 332; Foed., XI, 179. Negotiations had been in progress for some time; in July, 1447, envoys had been sent from Charles VII. and Alianora, then at the French court, "on matters touching her marriage." (Bain, Calendar, 1200)

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important factor in the downfall of the earl. Other counsels, hostile to his interests, were brought to bear upon the king, while James, himself, perhaps under the influence of his (I) wife, began to take a more independent line of action.

On the reappearance of bishop Kennedy on the scene of Scottish politics he was therefore confronted by a new and complex situation. A few months after his return the martial achievements of the Douglasses were crowned on 23rd. October, 1448, by the victory of Sark, or Lochmaben Stone, over the (2) English forces of the younger Percy.

(I) Pinkerton, History, I, 209. It is true that from this time the king began to develop a masterful character, which would ill brook the domination of others: how far this was due to the influence of his spirited wife, how far, natural evolution, it is difficult to say.

(2) Auch. Chron., 18, 40. This battle, which impressed contemporaries by the completeness of the victory, seems to have been on a scale of national importance. The Scots forces were, however, drawn entirely from the house of Douglas and its adherents in the west. Sir John Wallace of Craigy, their only man of note who lost his life, was a brother-in-law of earl William. The fame of this feat of arms was not bounded by the shores of Britain; carried overseas by Scottish priests, it was blazoned abroad in the annals of France. (J. Chartier, in Hist. de Chas, VII, 148) It must, then, have vastly enhanced the prestige of the Douglasses at home, and strengthened their influence as territorial magnates. In this connection it is interesting to recall the verdict of Major on the Douglas menace. (History, 383) "For Scotland, as I see, the earl of Douglas was too powerful: he had thirty or forty thousand fighting men ever ready to answer to his call. The kings of Scotland found their occupation in the chase and in the administration of justice; and earl Douglas had time for the things of war; and for this reason a swarm of men ever ready for a fray attached themselves to him. Whence there was every reason why James II. should fear him."

p 147 follows this. It has been misplaced.

(B) THE KING'S MARRIAGE.

On the other hand, the ambassadors had been prevented by the outbreak of war from proceeding immediately to France. As Crichton did not deliver his letter till (I) 29th. September, Kennedy may have returned in time to share in the final deliberations. There can be little doubt but that the bishop would support the policy of a French marriage. His sympathies were always with the auld alliance, while at the papal court he must have been impressed by the activities of the French envoys whose labours in healing the schism were heaping glory and (2) renown upon the name of the king, their master.

In such case he must have been gratified by the result of the negotiations. On 22nd. October, 1448, ~~a~~

(1) Stevenson, English in France, I, 221-3. Crichton was the bearer of a personal letter from the king of Scots to Charles VII. The date of delivery has been recorded but not the date of writing. The editor, however, is of opinion that "the document is without doubt an original."

(2) Chartier tells us (Histoire, 130) that since the month of July, 1447, negotiations had been in progress under the auspices of the French king for the healing of the schism. The French envoys did not actually enter Rome until 19th. July, but the air must have been ringing earlier with the glory of their fame. Kennedy can scarcely have met them at the Roman court but his susceptible nature would be impressed by the trend of events, while he may have encountered them on his homeward journey.

many prelates are said to have been present at the marriage ceremony. Kennedy enjoyed the king's confidence at this period, and upon him by reason of birth and precedence would naturally fall the duties of officiating priest.

These events of June, 1449, impressed foreigners by their spectacular effect: more important, if less obvious to the wedding guests, were the political implications of the marriage. With the advent of the queen a new actor was introduced upon the stage of affairs; the Stewart dynasty was strengthened by the birth of an heir on 10th. July, 1451; the government had definitely shown its hand in foreign policy.

The full significance of these events, however, was still in the lap of time: the immediate result of the French alliance did not involve a warlike foreign policy. On the contrary, after assiduous negotiations, a truce with England was concluded on 15th. November, 1449, to last during the pleasure of the contracting parties,

(I) M. de Coucy, 575-8. The chronicler gives a circumstantial account of events, but unfortunately his narrative, although shedding an interesting light upon the social customs of the time, affords very little information as to the part played by particular individuals. Perhaps in his estimation, Scottish names were as uncouth and barbarous as Scottish dress and manners. It might be observed that no mention is made of the Douglasses, who had been extolled in France as puissant knights and national heroes. From the fact that the earl and countess of Orkney were singled out for special mention, one might infer that William St. Clair had played an important part in the proceedings. The annalist refers also to "la Damoiselle de la Marche, & vne Comtesse tante du Roy, avec grand nombre d'autres." (576)

treaty was made with the king's brother-in-law Francis, Duke
 of Brittany; on 20th. December, the old bonds between Scot-
 land and France were again confirmed, while under the auspices
 of Charles VII, a contract of marriage was concluded between
 the king of Scots and Mary of Guelders, niece of Philip the
 Good, Duke of Burgundy.

The princess sailed for Scotland under the protection of
 the Lord of Veere, and in the company of chancellor Crichton
 and bishop Ralston, besides lords and ladies of Burgundy
 and France. We are told that she disembarked at the Isle of
 May to make her orisons at the chapel of St. Andrew, held in
 superstitious veneration for its special sanctity. Here was
 the island priory of Kennedy: one wonders if the bishop-prior
 had had cognisance of the pilgrimage. A "Patriarche" and

(1) Inventory of Treaties, Treaties with France [13], in
 Gen. Reg. House. This treaty deals with the right of success-
 ion of the duke and duchess of Brittany to the crown of
 Scotland; thus affording another example of the prominence
 given to the succession question at this period. The treaty
 was ratified at Edinburgh on 22nd. December, 1449. (R.M.S., II, 296)

(2) E.R., V, lxxii. Ratification under the great seal was
 obtained on 20th. December, 1449. (R.M.S., II, 294)

(3) Ibid, V, quoting Harl. MSS. 4637, iiif. v.; Auch.
 Chron., 25, 41.

(4) M. de Coucy in Hist. de Chas. VII., 575-6. The Lord
 of Veere was the father-in-law of princess Mary Stewart, the
 king's sister. This relationship to the king of Scots, to-
 gether with his maritime power and experience, were the
 qualifications which secured for him this post of respon-
 sibility and honour.

(5) Ibid, 576.

and not to be broken save on warning given of a hundred
 (1)
 and eighty days.

THE FALL OF THE LIVINGSTONS.

On the peace commission appointed in August, 1449, appeared the name of Alexander Livingston of Callander, Justiciar of Scotland; three months later, on the final conclusion of the truce, his name is wanting. In the interval, the power of his house had fallen by a sudden, mysterious turn of fortune. On Monday, 23rd. September, the Auchimleck Chronicle tells us, "James of Levingstoun was arrestit be the king, and Robyn Kalendar capitane of Doune, and David Levingstoun of the Greneyardis, wyth syndry uthiris. And sone efter this, schir Alexander Levingstoun was arrestit, and Robyn of Levingstoun of Lithqw that tyme comptrollar.----And all officeris that war put in be thaim war clerlie put out of all officis, and all put down that thai put up. And this was a gret ferlie."
 (2)

(1) Foed., XI, 231-3, 238-40, 247-55. Confirmed by Henry VI. on 29th. April, 1450 (Ibid, 269) and by James II. on 9th. June, (Ibid, 271) Inventory of Charters in Gen. Reg. House gives 14th. November, 1449, as the date of indenture of the truce at Durham. (Inventory of Treaties with England, 18)

(2) Auch. Chron., 25, 42.

This swift and sudden overthrow of the Livingston family has been credited to the carefully premeditated statecraft of the king and bishop Kennedy, with intent to try their strength before swooping down upon the house of Douglas. (1) Facts, however, controvert this theory, while the subtle callousness and sustained duplicity inherent in such a scheme were foreign to the nature of the two reputed arch-plotters. Further, we have no evidence that Kennedy was in any way implicated in the arrest of the Livingstons. The same obscurity that makes it impossible to ascertain the precise part played by the bishop of St. Andrews in the matter of the royal marriage, continues to overhang his movements during the negotiations with England and all the public events of this year. On his reappearance on the political stage, it is as spokesman of the clergy in the parliament of January, 1449-50.

We have seen that the transactions of this parliament represented a bargain between the crown and the church: (2) probably herein we have a clue to the mysterious downfall of the Livingstons.

(1) Tytler, History, IV, 59-60. The historian is admittedly perplexed and baffled by the mystery of the fall of the Livingstons. A mass of new evidence which, however, has become accessible since his day, throws fresh light upon this obscure problem.

(2) Above, 37.

THE LIVINGSTONS AND THE DOWRY OF THE QUEEN.

On 22nd. January, the bishops witnessed the confirmation of the queen's dower lands; two days later, the crown granted to the bishops the right of testament. (1) The king was obviously ready to make some sacrifice in order to enlist the support of the clergy; probably his immediate anxiety was to terminate conclusively the settlement of his wife's stipulated endowment.

The suspicion is that the breach with the Livingstons had arisen over this question. (2) It is at least worthy of note that the two members of the family who were executed, suffered death on the Castle Hill of Edinburgh "the thrid day of parliament", the very day of the confirmation of the queen's marriage portion. These two men, moreover, were Sir Alexander Livingston, younger, of Callander, Captain of Methven Castle, and his cousin, Robert Livingston (3) the comptroller, a rich merchant of Linlithgow: the

(1) A.P., II, 61, 37-8.

(2) In reference to this matter, Godscroft has an interesting statement. "Some conjecture," he writes, "that it was for keeping of some castles, and strong houses, and not rendring them to the King, being summoned"---but we know nos ground for that opinion." (Hist. of Douglas, 170). Probably these conjectures hit nearer the truth than Godscroft imagined.

(3) Auch. Chron., 26, 42. The chronicler is mistaken, however, in the statement that Sir James Livingston, eldest son and heir of the Knight of Callander, was put to death; the victim was his younger brother, Alexander. Sir James was soon restored to royal favour, raised to the peerage under the title of Lord Livingston of Callander, and died, after the vicissitudes of a chequered career, before 7th. November, 1467.

castle of Methven, the palace and great customs of the burgh of Linlithgow were included in the queen's portion. To the comptroller, moreover, the king had pledged, on 22nd. August, 1449, the tocher of his bride, as security for a debt; by his death and forfeiture the twenty thousand crowns, money of France, were automatically redeemed. (1)

The king at the same time became more fully master of the royal income: the signs are ominous that there had been serious malversation of the revenues under the administration of Robert of Linlithgow. He and Sir Alexander the younger, of the itching fingers, had to answer with their lives for their unjust stewardship. (2)

These two men were doubtless implicated in the obscure plot which the editor of the Exchequer Rolls has imputed to the agency of the Livingstons. The web seems to have been far-flung, entailing some measure of complicity on the part

(1) Stirlings of Keir, 224-5; R.M.S., II, 345; Livin. Bk., 49, 392.

(2) Sir James Ramsay has pointed out "the execution (January, 1450) of Robert Livingston, Comptroller of Accounts, was followed by a notable increase in the Revenue, especially in the Landed Revenues of the Crown. The Earldoms of March, Athole, Strathearn, Menteith, Fife, and Mar had been apparently in hand; but the proceeds till then had hardly figured in the Accounts." (Lancaster and York, II, 195) Reference to the Exchequer Rolls amply bears out this indictment of the comptroller. From the financial aspect of the Livingston conspiracy it is interesting to note accounts of Methven, the sphere of Sir Alexander's influence, do not appear until 1451, the year following his execution.

of the youthful Lord of the Isles, son-in-law of Sir James
 (1)
 Livingston of Callander.

This theory of a Livingston conspiracy is borne out by the third statute of the parliament on 19th. January, where the rebels against the king's majesty are by inference associated with the the traitors "against his derrest moder of gud
 (2) (3)
 mynde." By reviving the old score of 1439, the Livingstons could be struck down root and branch, although it should be noted that the aged knight of Callander, his eldest son, and Sir John Livingston, the arch-conspirators of old against the queen's liberty, escaped with temporary imprisonment and confiscation, while two cadets of the house suffered the penalty of death.

(1) Auch. Chron., 25-6, 42; Breve Cron. of Earles of Ross, 25; E.R., V, xci.

John, earl of Ross and Lord of the Isles, a youth of about fifteen years of age, had succeeded to his father in May, 1449. Elizabeth Livingston was the bride bestowed upon him by the king in virtue of the casualty of marriage. (Auch. Chron., 16, 44; E.R., V, xcii) When we read that the young countess came "sodanlie with few personis with hir" to meet her father at Dunbarton, we infer that conspiracy was hatching on the castle rock, and that, through his daughter, Sir James hoped to bring the Lord of the Isles into the meshes of the plot. The geographical position of Dunbarton made it a place eminently suitable for maturing such designs. The intriguers, however, were unearthed. "And it is to wit, that the first arresting was maid at the brig of Inchbelle on Kylwyne, betuix Glasgw and Kirkyntulloch;" but Sir Duncan Pearson carried off into safety the bride of his patron's son. That Pearson was a friend or retainer of the late Lord of the Isles may be gathered from the circumstance that their names were associated in a payment made from the Exchequer receipts. (E.R., V, 34) It would be instructive to know what part Sir Duncan played in the plot of the Livingstons.

(2) A.P., II, 35.

(3) That the act of oblivion had been tacitly abrogated at least in so far as suited the convenience of the king, may be inferred from the terms of the legislation against the

ATTITUDE OF DOUGLAS TOWARDS THE PLOT.

The trust reposed by the crown in Sir Alexander Livingston and the comptroller until the very eve of their downfall suggests either of two possibilities. The plot may have been skilfully woven in profound secrecy, or it may have been hurriedly and clumsily contrived. We do not know by what means it was revealed, nor how long the crown had had cognisance of it. Among the gainers by the discovery were the queen, on whom were bestowed the estates of Callander and Kilsyth, and the earl of Douglas who shared largely in the spoils forfeited by the comptroller and the brothers Dundas. (I)

This may have been a sop to placate the mighty earl on the downfall of his confederates; it is more likely that his haughty pride would not thus have brooked the defamation of his allies. The understanding between them had been broken; not only did earl William not lift a finger to

Livingstons in 1449-50, as also from the fact that on the 7th. of the following March, the estate of Philde, forfeited by Sir Alexander Livingston, younger of Callander, was bestowed upon Alexander Naper, the new comptroller, in recognition for his services to the queen at the time of her treasonable incarceration. (R.M.S., II, 324)

(I) R.M.S., II, 508, 357, 316, 317; Auch. Chron., 26, 43.

The Laird of Dundas was the father-in-law of Sir Alexander Livingston. One wonders what significance to attach to the chequered and somewhat mysterious career of this family. Their attainder was reversed; they recovered their estates from Douglas; Sir Archibald acted sheriff of Linlithgow; Duncan Dundas became Lyon king of arms. Perhaps they aided in the resoration of Livingston. (Dundas of that Ilk, xi, xv-xvi)

save his old associates , on their ruin he rose to the highest point of his already overgrown power. There is room, indeed, to suspect that he had been a traitor to his friends, falsely true to his king.^(I)

ESTIMATE OF THE CONDUCT OF THE KING.

It would seem, then, that James was the intended victim, rather than the weaver, of the plot. His own action, however, may have supplied an incentive, while the fate that the Livingstons had drawn upon themselves was manifestly turned, somewhat unscrupulously, to the royal advantage. The king's attitude, indeed, was a curious medley of conflicting emotions. Clemency and

(I) The rupture between Douglas and Livingston may have been caused over a disputed question of jurisdiction. In 1447, Sir Alexander Livingston, as Justiciar, superintended the surrender of the castle of Lochdoon from the Mc.Lellans, vassals of the earl of Douglas. (E.R., V, 261, 266) As earl William, on his side, apparently acted as his own Justiciar in the Douglas country, (Bk. of Caerlaverock, II, 431) he doubtless chafed under this infringement upon his sovereignty and the subjugation of his follower.

According to the testimony of "Ane Cronickill of the Kingis of Scotland" and of bishop Leslie, the Livingston conspirators "be the persuatione of the Erle of Douglas war forfaitit." (Ane Cron., 76; Leslie, History, 20) This unverified deposition may be a hit in the dark; on the other hand, tradition may have handed down the truth of the matter.

affection towards his guardian of former years may explain the lenient punishment meted out to the arch-plotter, Sir James Livingston: ^(I) self-interest must have seen the advantage of exacting the full penalty of the law from Robert of Linlithgow, the king's creditor. James, moreover, was at this time evincing a determination to become his own master, and to this end it was essential to control all the resources of his revenue. Possibly a keener edge was given to this resolution by the promptings of his bride, who had her own vested interests at stake in these proceedings.

With regard to Douglas, the king's feelings must have been again of a complex character. If the earl held the master-hand, he was in a position to extort his own price

(I) Livingstons of Callander, 46-7.

When the knight of Callander was made Justiciar in 1444, his heir became in his stead Keeper of Stirling and Guardian of the King. Sir Alexander Livingston was Justiciar in 1444 (E.R., V, 249); among the raiders of Kennedy's lands in 1445-6 was "James of Livingstoun that tyme kepar to the king and capitane of Strivling."

The historian of the Livingstons has also pointed out as "a rather remarkable fact" that the lives of the chief conspirators against the queen-mother were spared; to this extent the crown had respect to its plighted word in 1439. (Livins. of Callan., 49) In point of strict justice, the indemnity for the acts of 1439 could not be held to exonerate from treason committed ten years later, yet in actual fact such was the fortunate lot of two of these conspirators. Along with Sir James Livingston was captured his twice-told fellow-plotter, Sir John, Captain of Doune, another of the castles allocated to the queen.

from the king. Fear, then, mingled to a greater or less degree, with the kindlier feelings of gratitude and friendship, would inspire the rewards heaped upon the Douglas.

If the clash of masterful natures had caused a breach between the earl and the knight of Callander, the former had much to gain from remaining loyal to his obedience. Not only did he add to his material possessions by the forfeiture of the families of Livingston and Dundas, his influence, also, in the state became still more powerful, his position apparently further consolidated.
(I)

(I) On 9th. January, 1449-50, Douglas secured a ratification under the great seal of a family settlement of 28th. April, 1447. As earl William was without a lawful heir of his body, and as James and Archibald, his next succeeding brothers, were twins, it was found expedient formally to settle the question of seniority. (R.M.S., II, 301). The finding that James was the elder twin had more than a domestic importance; by defining the succession it stabilised the position of the family.

A few weeks later, on 2nd. February, the king in parliament granted to earl William the marriage of his cousin, the lady Margaret. (R.M.S., II, 315; A.P., II, 64-5) This royal recognition of a union several years after the event made for the further strengthening of the Douglas position. It is not unlikely that the earl, seizing the opportuneness of the moment, had brought pressure to bear upon the king to secure this end.

Another indication of the understanding between the two parties is afforded by a loan of £100 made by Douglas to the crown, and a royal gift to him of £27-9-4. (E.R., V, 384, 394, 383)

On 23rd. April, 1450, the earl received another token of the king's favour when his town of Strathaven was erected into a free burgh of barony. (R.M.S., II, 340)

By the legislation of 1449-50 he was probably entrusted with judicial powers for the maintainance of order, law and justice. There was need for "sic officiaris that can wele & may wele punysss--- tresp^(I)assours"; Douglas certainly had the power if he had the will.

THE ATTITUDE OF KENNEDY.

In so far as he was active in the economic and social legislation of this parliament, he was the fellow-worker of the bishop of St. Andrews. Kennedy's was obviously the master mind in this matter. To one who earnestly sought the maintainance of order, justice and stability, the clamant needs of the country must have called for a serious effort to promote peace and prosperity. Herein, it may be, we have the clue to his attitude to the different parties concerned in the negotiations of this period.

The necessity for a strong national monarchy, together with his spirit of patriotism and the ties of kinship, would cause Kennedy to support the policy of his royal cousin in secular politics. By advocating the cause of his brother prelates, he secured the whole-hearted co-operation of an influential force in public affairs, while at the same time he was true to his general attitude of preserving inviolate all the claims and powers of haly kirk.

He had not created the crisis; when it had ~~all~~ already arisen, his was the harmonising influence which fused conflicting interests and directed their activities to the welfare of the state. This in itself was a very substantial
(I) A.P., II, 35.

achievement, although it is true that its chances of permanence were somewhat precarious. All compromise is dictated by expedience; and for the sake of the general good Kennedy must have winked at particular injustices. (1) It must have been difficult to harness Crichton and Douglas to a common policy, while the augmented power of the earl hid conflicting potentialities. In the hands of the loyal subject it was the greater force enlisted on the side of order; in the hands of the traitor it was proportionally great for the destruction of the country. (2)

At first, however, things augured well for the dawn of better days. On 15th. November, Douglas was nominated among the conservators of the peace then signed with England. (3) In virtue of his predominating influence upon the borders, his name, perhaps, could not well have been omitted, but

(1) Besides the ethics of the king's proceedings against the Livingstons, there was also the case of the earldom of Mar. (Appendix.)

(2) Major cites the story of the last earls of Douglas to drive home a moral. "I often say to my own countrymen that there is nought more perilous than unduly to exalt great houses, and most of all if their territory happen to lie in the extremities of the kingdom, and the men themselves are high-spirited." (History, 364)

(3) Foed., XI, 253; Rot. Scot., II, 340-1.

the bishop of St. Andrews, at least, seems to have reposed complete confidence in his good faith. It is true that the fact of their co-operation as fellow-counsellors of the king does not in itself prove that they were working together in (I) harmony. There must have been many cross purposes among those who held the ear of the king, but it is unlikely that if Kennedy had scented danger, he would so soon have abandoned his position at the helm of affairs to pay a protracted visit to Rome.

Kennedy's safe-conduct, valid for three years, was issued by the English government on 19th. October, 1449, but he did not set out before the following August. About the same time the earl of Douglas with a princely retinue also departed for the holy city, ostensibly on a pilgrimage during the (2) (3)

(1) Boece and the historians who follow him imply that Kennedy stirred up the mind of the king against Douglas, to whom, moreover, they impute crimes of oppression and contempt of the law. This view, however far it may fit the case of the earl, is extremely improbable with regard to the bishop.

(2) Bain, C.D.S., IV, 1217.

(3) On 12th. May, 1450, Kennedy witnessed a royal charter in the General Council at Perth. (R.M.S., II, 347; A.P., II, 65-6) He had probably remained in Scotland in order to be present at the deliberations of this assembly. The Edinourgh parliament had insisted on the importance of attendance, and on the due issue of proper summons. Business was to include the submission of a report by a select commission of the three estates upon "al actis of parliamentis & general consalls haldyn in our souerane lordis tym & in his faderis tym." (A.P., II, 39, 36) After the rising of the Council, Kennedy is not again found at court until 22nd. August, when he witnessed a royal charter at Falkland. (R.M.S., II, 389) According to the testimony of the great seal, Douglas was in frequent attendance at court during the interval.

The bishop may have set out from St. Andrews shortly after

special indulgence of the Jubilee. On the 12th. November, he had secured a safe-conduct granting right of passage through England for three years. (1) He availed himself of this licence on his homeward journey, but he set out with his brother, the Master of Douglas, and with lord Hamilton, by way of Flanders, "in the ship of a certain Hugh Brok --- (2) without a cocket."

EVENTS IN SCOTLAND AFTER THE DEPARTURE OF DOUGLAS.

A fresh Douglas crisis was fast approaching when the crown, standing for national integrity, was to come to an issue with the sinister genius of the Black Douglas. It is therefore necessary to discover, as far as possible, the facts of the matter in all its aspects and ramifications. This, in turn, will involve a consideration of the statesmanship of bishop Kennedy.

27th. August. On that date he granted a charter of foundation to his college of St. Salvator: he proceeded to the papal court to secure the confirmation of his act. (Anderson, City and Univ. of St. And's., 4; C.P.R., X, 28); He was "present in person at the apostolic see" on the 21st. February following. (C.P.R., X, 174)

(1) Rot. Scot., II, 343; Bain, C.D.S., IV, 1229.

(2) E.R., V, 439. The owner of the vessel was the lord of Cathcart, mentioned in the safe-conduct as a member of the earl's party of pilgrimage. If Douglas proceeded to Rome in the lordly state described by historians, it is evident that the whole company could not have set sail together in the ship of Hugh Brok.

Lack of positive evidence makes it impossible to determine the motives underlying the earl's pilgrimage in 1450. Possibly he was moved by many considerations. He may have been drawn, as historians tell, by the fame of the Jubilee, by ambition, or a restless thirst for travel, or to escape the resentment of a justly incensed sovereign: there may have been also deeper motives. According to the chronicle of John Law he went with the sanction and good understanding of the king, while Boece and his school credit him with entertaining dangerous schemes of ambition.

Buchanan tell us that from Flanders Douglas proceeded to Italy by way of Paris: that "in France --- he was highly caressed --- and the Fame of this filled all Rome with the Expectation of his coming." His return, however, was less

(1) Godscroft, History, 181; Boece, 371; Buchanan, II, 29; Drummond, 26

(2) These two seemingly contradictory views may each contain an element of the truth. King James, misled by his affections, may have been relying blindly upon the fidelity of one who was too subtle for his penetration. Again, even were the earl of Douglas dissimulating, his treasonable schemes may not have matured until after he had sailed from the shores of Scotland. Another probability is that James welcomed the departure of the earl as a means of escape from what was becoming an irksome domination. There is at least no doubt that, after the personal influence of Douglas was withdrawn, the king began to strike out on an independent policy.

(3) Buchanan, II, 29.

dignified; his glory had been tarnished, his power threatened by events in Scotland. (1) Although romance is undoubtedly spun with fact in the weaving of the traditional story, yet at the same time it is clear that, during his absence, Scottish politics were dominated by hostility to the earl. The chronicle of John Law represents that the bishop of Glasgow, Sir William and Sir George Crichton inflamed the mind of the king against his over-powerful subject. If the chancellor's co-operation with Douglas had been merely a mask to cover unabated enmity, then the efforts of bishop Kennedy would seem to have been in vain, his penetration of human character at fault. On the other hand, the animosity may have sprung up afresh after the departure of the two noble pilgrims.

The circumstances of the earl's leavetaking are in themselves somewhat mysterious. A journey planned on such a princely scale must have been subject of popular fame, lengthy preparations would be required to bring together all his fellow-travellers, and to see to the ordering of his estates during his absence. (2) The formal procedure of securing

(1) Boece, 372; Pitscottie, I, 83; Godscroft, 181-3; Buchanan, II, 29-31; Drummond, 26-7. For a consideration of the events of this period, see appendix.

(2) Douglas left one of his brothers as steward of his domains. Opinions differ; but probably this deputy was the earl of Ormond rather than his youngest brother, John, of Balveny. (Douglas Bk., I, 467; Godscroft, 183; Leslie, 22.)

a passport from the English government, moreover, must have involved a degree of publicity. Yet in the end he did not use the safe-conduct, but departed unceremoniously by sea. (I) If he transacted any business in Flanders, no record of it has been handed down by our historians, who are more concerned with his regal welcome at Paris and at Rome.

It is possible that he had hoped that a personal suit would prove successful to recover the lapsed French duchies of the house of Douglas: if so, he was doomed to disappointment. We may believe that he journeyed towards Rome in great magnificence and pomp, but his stay in the Holy City was short and unfruitful in results. If he had harboured any dark designs, the very brevity of his visit would prevent his plans from maturing. His enemies in Scotland had been quick to act.

The events of this crisis are involved in much obscurity but probably we can rely on the statement of John Law, that the Crichtons and the bishop of Glasgow used their influence with the king to the detriment of the Douglas. Crichton had long been his notorious enemy; the bishop's zeal for abstract justice may easily have been fanned by a collision^{with} the great territorial magnate of his diocese.

(I) E.R., V, 439.

Possibly it was not difficult to inflame the mind of the king against his overbearing subject. James, long under the dominance of the imperious earl, would sense a new freedom after his departure. From this time onward his masterful nature came more and more to assert itself, but for the moment his interests were identified with those of the enemies of Douglas. The hostile manifestations which resulted necessitated the return of the earl. His conduct on the homeward journey was not such as to allay suspicion: he was entertained for some two months by the English government before venturing to return to Scotland.⁽¹⁾

If he had hesitated to present himself before the king, the issue was to prove that his immediate fears were groundless. The queen and the estates of parliament pled for the reversal of his forfeiture;⁽²⁾ it is certain that he speedily regained the favour of the king. On 1st. July, he, having cast himself "body landis and gudis, in the kingis grace",⁽³⁾ received charters of new erection in full parliament. Among the witnesses

(1) Bain, C.D.S., IV, 1231, 1232. According to Godscroft, (History, 184) Douglas pledged himself at this time to support Henry and Margaret against Yorkist conspiracies. The visit had undoubtedly a political significance, but the Yorkists, not the Lancastrians, had the upper hand, and the Douglasses ranged themselves on the side of the White Rose. We do not know whether these transactions prompted, or were as a result of, the king's attack upon the earl's estates; they may have been long maturing, or suddenly formed.

(2) Law's MS.: Auch. Chron., 8-9, 44-5.

(3) Auch. Chron., 8-9, 44-5; A.P., II, 67-73; R.M.S., II, 463, 464, 466-472, 474-482, 503, 504.

figured his two alleged enemies, the chancellor and the bishop of Glasgow; their monopoly of power had been undermined by the personal charm, or by the powerful influence, of the earl, or by a combination of both. Douglas was probably invested with the powers of Lieutenant-general: commissions of national importance were undoubtedly entrusted to him.

THE SITUATION ON THE RETURN OF DOUGLAS.

The hatchet seemed to be buried, and all good Scotsmen, doubtless weary of the turmoil, "war rycht blyth of that accordance." Nevertheless, it is evident that bygones had not been obliterated. The prestige of the Douglas had been tarnished; his power circumscribed. At the council table Crichton and Turnbull were dominating personalities who would not easily own defeat; the king was not likely to fall back into a state of tutelage. Further, an equipoise had been established to balance the territorial influence of the earl. On 17th. May, 1450, Gilbert Kennedy had been appointed Guardian of the royal castle of Lochdoon; on 25th. May, 1451, on the eve of the restoration of the Douglas, he was confirmed in his position as bailie of Carrick; his brother-in-law,

(I)

Andrew Agnew, was created hereditary sheriff of Galloway. Sir Robert Crichton, no friend to Douglas, became sheriff of Dumfries on 6th. November, 1452.⁽²⁾

(I) Hist. MSS. Commis., V, 614. (Ailsa): R.M.S., II, 446. It is remarkable that Agnew and Kennedy, magnates of the south west country, should have been personally present at court and their power consolidated at the time when the future position of Douglas must have been under consideration.

(2) R.M.S., II, 690.

By advancing the power of the Red Douglas the king found a further means of weakening the position of the senior branch of the house. George, fourth earl of Angus, who had succeeded to his brother in 1446, enjoyed the confidence of the crown, had been in frequent attendance at court, and played an important part in politics. Possibly the remembrance of the old feud in his brother's time barbed, with a spirit of vengeance, the natural jealousy of the Red Douglas towards the Black. It would seem, at least, that he was privy to the proceedings against the earl during his absence in Rome. (I) His experience of border warfare, his local territorial influence and his personal grudge against the head of his house, would commend him as a likely leader of the royal forces. However that may be, the earl of Angus, hereditary warden of the East Marches, Conservator of the truce, was bound to be a thorn in the side of the lord of Galloway, his fellow-warden.

(I) He witnessed a royal charter at Melrose on 4th. December, 1450. (Douglas Bk., II, 48; R.M.S., II, 404) If charter evidence is to be relied upon, the king had left Edinburgh on a visit to the south between 21st. November and 13th. December. (R.M.S., II, 403, 404, 405). His next itinerary was to Ayr and Lanark in the following February. (R.M.S., II, 412-416, 417, 418) In view of the king's continued residence in Edinburgh except for these two flying visits to the south, it is clear that he could not have led any expedition in person into the Douglas territory. Moreover, although he was to earn a reputation for personal bravery, yet at this period he had had no experience of military campaigns. Both Angus and Orkney had served in the English invasions of 1448.

If the past had not been forgotten by the king, we have convincing proof that it was bitterly remembered also by the earl of Douglas. Whatever suspicion may have attached to his actions before this time, there can be little doubt that after his humiliation, his allegiance sat lightly upon him.

Mystery enshrouds the doings of the Master of Douglas in England at this time, while an equally perplexing obscurity surrounds the designs and actions of the earl himself. If Sir James were suspected to be plotting against the safety of the crown, it becomes doubly difficult to account for the restoration of the head of the family to his estates with the full consent of parliament. Personal charm may have gone far to win back the affection of the king, who may have hoped to bind his powerful subject to him by a policy of oblivion and indemnity. The wisdom of such a course might be questioned, but the crown was perhaps not strong enough to proceed to extreme measures. In this case, forcible representations from the friends of Douglas might well turn the balance in his favour. Besides possible support from English sources, an advocate may have been at hand in his fellow-countryman, the earl of Crawford.

It is true that Crawford had not, to our knowledge, made any demonstration in favour of Douglas during the attack upon his lands, but neither is he to be found among the counsellors of the king. On the other hand, besides a longstanding friendship between the two houses, there had been past co-operation between Alexander the Tiger earl, and William of

(I)

Douglas. After the incidents of July, 1451, they are again found in confederation. It seems, then, not unlikely that the earl of Crawford, on his appearance at court in April, the month of Douglas's return, had taken up the cause of his kinsman.

Whether or not the bond between them was at this time an ill-defined understanding, or a formal indenture against all men and in all causes, it is certain that within a few months their actions had engendered a lively suspicion that they were harnessed together for the scaith of the realm. On 22nd. February, 1451-2, the outcome of it all was the Douglas slain after the friendly feast, by the hand of his royal host: the attendant circumstances remain matter of conjecture. James

(I) In August, 1447, for example, Crawford had been a witness to the family indenture respecting the seniority of James and Archibald Douglas. Again, on 18th. June, 1449, the Tiger earl had granted a charter to the brother of lord Hamilton, "for his most grateful help, counsel and service." (Hist. MSS. Commis., XV, Buccleugh, 63, [128]).

(2) Auch. Chron., 9-^{4b-7}10, Drummond, 29; Buchanan, II, 34-5; Leslie, 34-5; Pitscottie, I, 94 (gives 20th. February as date); Boece, 373 Douglas Bk., I, 473-4.

Lord Lindsay, grounding his opinion upon Tytler, thinks that "before the close of 1451 the League had assumed the character of a conspiracy in conjunction with the Yorkists in England, to dethrone the king and usurp the government." (Lives of Lindsays, I, 135: Tytler, II, 152).

The editor of the Douglas Book has postulated that, the earl of Crawford having broken out into open rebellion, Douglas was hastily summoned to court with the hope of dissuading him from making common cause with the king's enemies. This view has also been adopted by the historian of the Macdonalds. (Hist. of the Macdonalds, 90). Yet should this be so, the necessity for the summons, and the formality observed, offer sufficient proof that the conduct of Douglas had, even in the best interpretation, laid him open to suspicion. The very fact that the conference was held in Stirling Castle, whereof Sir George Crichton was guardian, adds a sinister touch to the gloomy

himself is said to have been carried away by a storm of overpowering fury, aroused by the earl's contemptuous refusal to break his treasonable alliance at the instant command of the king. This, however, was but the flaming of the fuse; the powder train of suspicion had long been laid. It is significant that within a month from Douglas's presence at court, it had been found necessary to guarantee his personal safety when summoned to an interview with the king, and that the king was surrounded by the dubious friends of the earl. Political considerations of some sort must have suggested the conference, although the practical upshot was the unpremeditated result of sudden passion.

James must have been staggered by the consequences of his own deed. Not only did the sensible loss of moral prestige require him to seek justification in the eyes of the world in general, and of the king of France in particular, but he himself was speedily entrammelled in the toils of his criminal blunder. (I) Although, indeed, the rising of Ross in the following month may have been an independent movement

picture. Finally, it is hazardous to buttress any opinion by the facts vaguely recited in the formal exculpation of the king by his subservient parliament. (A.P., II, 73)

(I) It was deemed wise to have a formal exculpation from parliament, and to send an autograph letter of credence to the king of France to announce the death of Douglas. (A.P., II, 73; Stephenson, Letters, I, 315-6)

yet the youthful insurgent was undoubtedly aided, the crown proportionally weakened, by the king's precipitate act of crime. (I)
The government, in its impotence, had to legalise rebellion.

Apart from this, the dagger of James had cut away the chance of a peaceful solution of the Douglas problem. Perhaps the question could not have been solved otherwise than by the arbitrament of the sword, but the sequel was to show that the monarchy was not then strong enough to come to a final issue.

THE CRISIS OF 1452. (I) THE MILITARY CAMPAIGN.

The immediate result of the earl's murder was to plunge the state into much confusion. James himself made a hasty visit to the south, while the rebel Crawford ravaged in the (2)

(1) The motives of John of the Isles, earl of Ross, are not easy to determine. If we are to believe his own assertion, he was actuated solely by a personal grievance against the king. (Auch. Chron., 16, 44) On the other hand, James is said to have charged Douglas with a treasonable band, both with the Lord of the Isles and the earl of Crawford. If such an alliance did exist, the rising of Macdonald may have been a preconcerted movement; and the editor of the Douglas Book thinks that Crawford had previously raised the standard of rebellion.

The report of the interview between the king and Douglas, however, would naturally become distorted in the telling. In this confused and perplexing crisis it must have been all but impossible for rumour to ascertain the truth of things. (See F.R., V, xci-xciii)

Sir James Livingston, who speedily joined his son-in-law, was quite as likely to be working for his own hand, as for the cause of Douglas. Whatever the origin of the rising, however, in the circumstances it was almost bound to coalesce, sooner or later, with the other contemporary rebellion. For this reason, the king would not be strong enough to proceed against Livingston and his associates.

(2) R.M.S., II, 529, 530.

x will get more than Lord of Hamilton

north. On 27th. March, the new earl of Douglas, Hugh of Ormond, his brother, and lord Hamilton, repairing with an armed force to the scene of the crime, bade feudal defiance to their liege lord, dragged the broken safe-conduct in the mud, and looted the town.

(1)

Happily for James, in his hour of extremity, loyal barons and astute counsellors were at hand for the support of the monarchy. In the field, Huntly was pitted against Crawford; in the cabinet, the chancellor and the bishop of Glasgow were ready with their counsels against the following of Douglas.

From this time, too, the influence of the queen becomes a factor to be taken into account, while greatest asset of all, perhaps, was the homecoming of the bishop of St. Andrews.

(2)

James Kennedy had come back from the cultured world of Rome with lofty hopes for the encouragement of the arts among his countrymen, but before his fondly cherished schemes could be fulfilled, the ground had to be prepared by the restoration of order and tranquillity in the realm.

(1) Auch. Chron., 10, 47; Buchanan, I⁺, 35-6; Drummond, 29-30; Leslie, 22.

(2) He was witness to a great seal charter at Edinburgh on 18th. April. (R.M.S., II, 544)

If the bishop were sadly disillusionised, nevertheless he immediately rose to meet the situation. His energy and prudence, his ripe experience and knowledge of men, were to prove of the utmost value in time of need. In the first, or military, stage of the crisis, he played but a subordinate part; his special sphere was in the councils of the king where his comprehensive mind and moderating influence were to be invaluable.

The most imminent danger to the monarchy was removed when at Brechin, on 13th. May, the earl of Huntly, the king's lieutenant, routed the forces of Crawford, his old antagonist (1) of Arbroath. Although a devastating warfare still dragged on in the north, yet it sank thereafter to the level of a three-cornered baronial feud between the earls of Huntly, Moray and Crawford. The campaign of Brechin, on the other hand, had been a concerted action on a national scale. A guiding mind must have been behind the manoeuvres of the camp. This work of diplomacy has been imputed to the bishop of St. Andrews; more probably it was chiefly due to the agency of the chancellor. (2)

(1) Auch. Chron., 27-8, 47-8; Buchanan, II, 36; Drummond, 31; Leslie, 23; Pitscottie, 97-9; Boece, 374.

(2) Buchanan, II, 37. Sir George Seton, lord of Gordon, first earl of Huntly, was the son-in-law of the chancellor, and we have seen that they worked together in 1439 for the release of the queen. (A.P., II, 67, 69) Whatever truth there may be in the old story that the wily governor of Edinburgh Castle had forcibly possessed himself of the custody of the young lord Seton, (Book of Seton, I, 100) it is at least certain that there had long been co-operation between them. Huntly appeared at court about the time of the royal marriage, a period when his father-in-law was a powerful force in politics. The earl himself must soon have risen to a position of influence, for during the financial year, 1450-1, he became the creditor of

We know, however, that at a later date, Kennedy not only negotiated a campaign, but in the hour of emergency donned the buckler himself: (1) so, in this case, also, we may well believe that he actively seconded the measures of war, although he did not take the field.

It would be clear to his sagacity that this was no time for half-measures. The crown must make a decided stand by striking at traitors and rewarding the loyal. (2) To his (3) influence, then, was due the policy of the parliament which sat at Edinburgh in the summer of 1452.

the king. (E.R., V, 462, 464) In 1449, the estate of Abergeldie passed into the possession of the Gordons. This had originally belonged to the earldom of Mar which was at that date in the hands of the crown. (House of Gordon, 6) On 28th. April, 1451, Huntly had charters of the lordship of Badenoch and the castle of Ruthven. (Records of Aboyne, 337) Thus documentary evidence discountenances the statement of Leslie that Badenoch and Lochaber were granted to the earl after the battle of Brechin, in recompense for the lands which he had bestowed as an incentive upon the "principals of the surnames quha wes with him" on the eve of the struggle. Huntly's high position in the king's favour, and the ancient rivalry between his house and the Lindsays, were excellent qualifications for his appointment as commander of the royal forces at this juncture.

(1) See below.

(2) Among the supporters of the monarchy to be strengthened at this time were Sir Gilbert Kennedy and the earl of Angus, the brother and the nephew of the bishop of St. Andrews. Kennedy had a charter of lands in Stewarton, where his territorial influence was already strong. (R.M.S., II, 583) In favour of Angus, the castle of Tantallon and its pertinents were erected into a free barony. (R.M.S., II, 584; Douglas Bk., III, 79-30) He also enjoyed a pension from the customs of North Berwick and Haddington, (E.R., V, 300 *etc.*) and in January, 1453-4, he had licence to build the castle of Broughty of Tay, as the chief messuage of his earldom of Angus. (Douglas Bk., III, 81)

(3) An indirect testimony to his influence is afforded by the confirmatory charter granted by the king, with the advice and consent of the three Estates to his "dearest kinsman" James Kennedy

THE CRISIS OF 1452. (2) DIPLOMACY AND STATECRAFT.

When, as a preliminary, the king had been formally acquitted of the guilt of murder, the way was cleared for the affairs of practical statesmanship.

"Thar was forfeitit Alexander Lyndesaye the erll of Craufurd and lord Lyndesay, baith land lyf and gudis.--- Item, thar was maid in the forsaid parliament, thre erllis, viz. schir James Crechtoun son and air to schir William of Crehton, that spousit the eldest sister of Murray, was beltit erll of Murray. Item, the lord Hay and constable of Scotland was beltit erll of Eroll. Item, schir George of Crehton was beltit erll of Caithnes. Item, thar was maid VI or VII lordis of the parliament and banrentis.

In the first, the lord Darnelie, the lord Halis, the lord Boyd of Kilmernok, the lord Flemyng of Cummyrnald, the lord Borthuik of that ilk. --- Item, thar was syndry landis gevin to syndry men, in this parliament, be the kingis secret (I) counsall."

It is evident that this was no capricious distribution of honours, but a well-considered scheme to strengthen the crown. Crawford and Douglas of Moray, the two rebels in

bishop of St. Andrews, on account of many services rendered, and for the birth of the prince within his castle of St. Andrews. (A.P., II, 73) It is remarkable that the bisnop's castle should have been appropriated for the residence of the queen during the absence in Rome of the owner. The prince of Scotland was born, probably on 10th. July, 1451. (E.R., V, lxxxviii-ix and note)

(I) Auch. Chron., 10-11, 48-9.

arms, were stripped of their positions for the advantage of trusted adherents of the monarchy. A further balance was established by raising the constable to the dignity of an earldom: the rebellious Crawford would be surrounded by a girdle of loyal magnates, Crichton of Moray, Gordon of Huntly, Hay of Errol.

The same principles are to be seen at work in the creation of the new lords of parliament. (1) The families of Hailes, Cumbernauld and Cathcart had been among the foremost adherents of the Douglas; the king was now bidding for their allegiance. In the case of the lords of Darnley and Duchal, the crown was offering some compensation for its arbitrary actions (2) in the past. If this were the doing of Kennedy, he stands forth as the advocate of equity. It must have been clear to his sagacity that, even apart from moral considerations, such a policy was a far-sighted piece of statesmanship. The king might be officially exculpated from the guilt of

(1) In Godscroft's view, (History of Douglas, 198) the new lordships were created, and endowed with the goods and lands of the dispossessed, in order to replenish the ranks of the baronage. This is another aspect of the same policy. The history of both Scotland and England proved that the concentration of power in the hands of a small band of allied potentates, was highly dangerous to the crown. Godscroft's theory, however, does not meet all the complexities of the situation.

(2) Stewart of Darnley and Lyle of Duchal had both suffered through the high-handed policy of the crown towards the earldoms of Lennox and Mar. As Sir Robert Lyle had married the daughter of lord Gray, (H.M.S., II, 327) he possibly owed his elevation at this time, to the good offices of his influential father-in-law. This, however, does not affect the general attitude of Kennedy. Circumstances would make his task the easier in this particular case.

murder, but men must have looked askance at the record of the dealings of the crown with the barons since the return of James I. from his captivity. Something more convincing than the declaration of parliament was required to reassure the nobility. Thus the bishop of St. Andrews, working through the natural generosity of the king's disposition, was able to fuse the principles of honour and justice with the dictates of expediency and statesmanship. These acts, and the other rewards given to "syndry men, in this parliament" reveal a policy of conciliation, an effort to win the wavering and to build up a new party in the state. (I)

This was work of extreme value for the preservation of the monarchy but it was not in itself sufficient. The crown had to show that although it was bountiful towards the submissive, it was not weak with the contumacious. The

(I) It is interesting to trace the inter-relations of many of these new lords of parliament. Lord Borthwick, for example, was the brother-in-law of the Crichton earl of Caithness. (Scots Peerage, I, 96) The marriage of his daughter about 1450, to sir John Maxwell of Calderwood brought him into relation with the family of Kennedy. Sir Gilbert Kennedy of Dunure, the grandfather of the bishop, had married Agnes Maxwell, while Sir Gilbert, the bishop's brother, had married, about 1440, Catherine, daughter of Herbert, first lord Maxwell. (Maxwells of Pollok, I, 15; Scots Peerage, I, 454)

The first lord Boyd, again, was brother-in-law of a certain Janet Kennedy while he was doubly the brother-in-law of Sir John Maxwell of Calderwood. These facts seem to indicate that the king, on the advice of the bishop of St. Andrews, was striving to attach to his interest a new party of the smaller nobility to counteract the overgrown influence of the older feudal magnates.

actual conduct of military operations was specially suited to the character of James and his temporal war lords. Yet we know that the civil government accompanied the military, and although Kennedy himself was not under canvass, his leading position in the parliament where the first warlike measures were taken, indicates that he counselled and approved the energetic campaign in the disaffected districts.

(1)

There was need for strong measures against the active rebels. Whether or not they had been actually summoned to parliament, Douglas and Hamilton repaired to the scene of the Assembly, but in defiance, not in obedience. "Thar was put on the nycht on the parliament hous dur, ane letter undir schir James of Douglas sele, and the sele of the erll of Ormond, and schir James Hammiltonnis, declynand fra the king, seynd that thair held nocht of him nor wald hald nocht with him, with mony uthir sclanderous wordis, calland tham tratouris that war his secret counsall."

(2)

(3)

This demonstration, if rather futile in itself, was at least a gauge of the discredit of the monarchy: more serious was the treasonable correspondence of the Douglasses with the Yorkist party in England, and with the disaffected Lord of

(1) Laing Charters, [134] On 18th. July, 1452, the chancellor was encamped at Corhead with the army, then in the field against the Douglasses. The fruits of the parliament's policy are to be seen in the presence of the new earls of Moray and Caithness, and of the lords Cathcart and Lyle, on this expedition.

(2) Auch. Chron., 10, 48; Godscroft, 198; Boece, 375; Buchanan, I⁴, 37; Leslie, 24; Pitscottie, I, 100.

(3) Auch. Chron., 10, 48

the Isles in the west. On 2nd. June, 1452, a safe-conduct for a year had been issued to the mother and the widow of the murdered earl. (1) The warrant bore that the noble ladies were faring on pilgrimage to the shrine of St. Thomas; but the things of the world crowded out the spirit of forgiveness from the heart of at least one of the so-called penitents. Her subsequent career leaves little room to doubt that the dowager countess of Douglas was bent upon a diplomatic mission with the hope to retrieve the fallen fortunes of her surviving sons and to avenge the murder of the dead.

(2)
The earl himself sent his 'ambassador' to England, while he personally remained behind to hatch trouble for the government with the restive Lord of the Isles. In the conference at Knapdale in May, any old scores would be wiped out by the practical advantages of co-operation against a common enemy: the result was seen not only in the ostentatious act of feudal defiance of Douglas and Hamilton, but also in the more serious matter of the devastation of Inverkip, Arran and the Cumbraes by Donald Balloch in the following July. (3)

(1) Foed., XI, 310; Scot., II, 357.

(2) Bain, C.D.S., IV, 1245.

(3) Auch. Chron., 13-14, 55. The date of the visit of Douglas to Knapdale has been subject of dispute, but the editor of the Douglas Book, (I, 436, and note) after sifting the conflicting evidence of authorities, has come to the conclusion that the conference between the earls of Douglas and Ross took place in May, 1452, while the king and the Douglases were still openly at feud, rather than in 1455, as given in the revised chronology of the Auchinleck chronicle.

Possibly Douglas intended to follow the two countesses into
(1)
England, but by striking swiftly and decisively the government
cut away the ground from under the feet of the conspirators.

At the head of a large army the king ravaged the south west
(2)
country, reducing the rebel earl to terms at Douglas Castle on
28th. August, 1452. This agreement, something of a bond of

manrent between the king and his dangerous subject, is in many
(3)
ways remarkable. It is not without significance that before

The raid of Donald Balloch was probably a direct result of the
negotiations of Knapdale: that it followed soon after, probably
in July, as stated in the Auchinleck Chronicle, is evident
from the definite reference in the Exchequer Rolls of 1453
to the devastation of Arran and the capture of Brodick. (E.R.,
V, 577, 578) It would appear that Rothesay Castle was also
besieged, (A.P., II, 109; History of Macdonalds, 91), while
the attack on the bishop of Argyle in August, 1452, was possibly
another incident in the same vendetta. (Auch. Chron., 14-5, 50-1)

(1) Rot. Scot., II, 359. On 22nd. September, Douglas had a
safe-conduct for free travel through the English dominions for
two years. Application was probably made before the earl's
submission to the king.

(2) Auch. Chron., 11, 49; E.R., V, xcvi-xcix, 538, 607.
The chronicler states that the army of 30, 000 men "did na
gud, bot distroyit the cuntre richt fellonly" at the expense of
friends as well as of foes. Although undoubtedly hard upon
individuals, the grievous 'herschip' seems to have achieved
the political results hoped for. The evidence of the Exchequer
Rolls shows that operations were carried out on an extensive
scale, involving the use of artillery.

(3) This 'Appoyntement' of 28th. August is printed by Tytler,
History, IV, 343; Godscroft's MSS. History of James, last
earl of Douglas, 6-8.

the earl tendered his submission and allegiance, he promised first of all to abstain from designs to recover the domains of Wigton and Stewarton. Wigton was in the hands of the queen; Stewarton had fallen to the king, who, on 30th. June, had bestowed part of the lands upon Sir Gilbert Kennedy of
 (1)
 Dunure.

Mary of Guelders, who had received the lion's share of the Livingston estates, and the confiscated lands of William
 (2)
 Lauder of Haltoun, must also have come into possession, whether legal or arbitrary, of the earldom of Wigton. The spirited Queen of Scots can therefore have borne no goodwill towards Douglas when, in a a supplementary bond, signed at Lanark on 16th. January, 1452-3, the king promised to restore
 (3)
 this earldom.

The indenture at Lanark, taken in conjunction with its forerunner at Douglas, shows that James had not only become officially reconciled to the earl but in the reaction from his previous hostility had foregone the advantage so dearly bought for the crown. It is more than likely that the king had found himself unable to fulfil his promise in respect

(1) R.M.S., II, 583

(2) Ibid, 544. It is one of the sinister incidents connected with the death of earl William that the bearer of the safe-conduct which summoned him to the fateful interview was this William Lauder, then lying under a forfeiture.

(3) Godscroft, MSS. History, James, last earl, p9.

(I)

to the coveted domains of Wigton and Stewarton. If the queen were determined to make good her possession of the former; if the alienated lands of the latter had been irrevocably lost, then it was some compensation that the king consented to the marriage of earl James with his brother's widow and kinswoman, Margaret of Galloway. The seemingly short-sighted and inexplicable policy of thus allowing the still vast Douglas estates to be once more reunited in the hands of a powerful subject of very dubious loyalty would be explained by reasons of dire necessity. Unable to keep his own promises and fearful of the earl's machinations both in England and with the discontented elements at home, he was forced to acquiesce in, if he did not actually facilitate

(I) That Douglas was reinstated in Wigton is not recorded on charter evidence, but the editor of the Douglas Book thinks that his re-entry may be gathered from the references in Rotuli Scotiae. (Douglas Bk.I, 485) In a safe-conduct granted on 22nd. May, 1453, he is styled Earl of Douglas, Wigton and Annandale, Lord of Galloway, (Rot. Scot., II, 362) whereas a month previously in a royal commission to treat of peace, he was designated merely Earl of Douglas and Annandale, Lord of Galloway. (Ibid, 367) On this evidence it has been concluded that between 18th. April and 22nd. May, the king had reinstated Douglas in Wigton. It is doubtful, however, if we are justified in coming to such a conclusion. When the truce was drawn up on 30th. May, it is significant that in the enumeration of the Douglas titles, no reference is made to the earldom of Wigton. The safe-conduct of 22nd. May was issued to earl James, his brothers and their party not in any official capacity, but purely as private individuals "wishing to visit the apostolic thresholds". Douglas may therefore have assumed the title of earl of Wigton either in self-assertion or in anticipation of the fulfilment of the king's promise.

This question apart, it is rather hazardous to rely upon the unconfirmed evidence of the Rotuli Scotiae. James Douglas, for example, is constantly referred to as earl of Annandale, whereas that fief had been in the hands of the crown since the Black Dinner of 1440. It has been suggested

(1)
 the marriage of earl James with the lady Margaret. He also,
 as a token of trust, nominated Douglas among the commissioners
 (2)
 of the truce with England, and drew a veil of oblivion over
 (3)
 the forfeiture of his brother of Moray.

James might feel, moreover, that with the outcast earl of
 Crawford still at large, it was wise to take some risks to
 conciliate the Douglas. He was soon, however, to be relieved
 from the menace of Crawford, for, following hard upon the
 Lanark conference, he received the submission of the Tiger Earl.
 According to our older historians, the reconciliation took
 place in Angus, through the mediation of Huntly and the bishop
 of St. Andrews. The dramatic nature of the scene is quite
 in keeping with the part assigned to Kennedy as stage-manager;
 the statesmanship prompting the pageantry of the barefooted
 (4)
 penitent is in harmony with the general trend of his policy.

that this title is due to a clerical error; if so, the error
 is very persistent. Using the same argument, it could be
 maintained that the designation of Douglas as earl of Wigton is
 likewise due to a clerical error.

(1) Stewart, Hist. of Stewarts, 444; C.P.R., X, 130-1.
 The dispensation issued on 26th. February, 1452-3, bore that it
 it was granted "in the interests of peace and certain other
 reasons, and at the supplication of James, king of Scots." If
 this is true, then the king's petition must have been despatched
 in the interval between the two indentures with Douglas. It is
 strange that in neither case should there be any reference to
 such a step; but if the king did not actually promote the
 marriage, neither did he, as Pinkerton has asserted, put ob-
 stacles in the way, although it may be true that the marriage
 was never formally consummated. (Pinkerton, History, I, 222)
 (2) Rot. Scot., II, 367.
 (3) For the history of the Crichton earls of Moray and Caithness,
 see appendix.
 (4) Buchanan, II, 38; Drummond, 32; Leslie, 27; Pitscottie,
 I, 103-111. Lord Lindsay tells us that "it was customary in
 those days of almost childlike susceptibility, for culprits thus
 to present themselves before their judges." (Lives of Lindsays, I, 141, n)

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As the bishop, himself, had old scores against the house of Crawford to forgive, the part that he played during this crisis is the more significant.

Whether or not the earl's penitence was as sincere as it was ostentatious, he did not live to prove. (I) In view of his character and antecedents, his free pardon was doubtless a hazardous step, but it was not unjustified by circumstances. The restoration of the Douglasses to favour presented a precedent to be followed towards their confederate of Crawford, while the underlying unrest in the country made it politic to attempt at least to win over the allegiance of the powerful house of Lindsay. (2) The example might be productive of happy

(2) Huntly and Crawford are said first to have become reconciled. That they did forego their differences is shown by the exchange made between them of the lands of Brechin and Badenoch, while the precedence in parliament and the office of hereditary sheriff of Aberdeen were restored to Crawford. (Lindsay, Lives of Lindsays, I, 139, note; Gordon, Earldom of Sutherland, 72-3) We do not know whether the bishop of St. Andrews played a part in the composure of their quarrel, or whether it preceded Kennedy's reconciliation with Crawford. An interesting fact emerges in this connection. Lord Lindsay has pointed out that the Tiger Earl had married into the house of Dunbar - "an alliance not calculated to foster his loyalty." On the other side, this marriage might be a lever to win the goodwill of the earl. In the general forfeiture of the lands of Dunbar under James I. the estate of Kilconquhar, held of the bishops of St. Andrews, had been saved. (Chalmers, Caledonia, III, 264 ^{meredit} _{Douglas Perage, 144}) This should have engendered a friendly spirit: perhaps also, we can trace the episcopal influence in the renewed favour which James II. began to show to this unfortunate family. (E.R., V, 383, 435, etc.)

(I) Auch. Chron., 51. According to the original MS., he is said to have died in September, 1454 (p. 17) cf. Boece, 375. The month is probably correct, but the Exchequer Rolls prove that the year was 1453. (E.R., V, c, with evidence there cited).

results when the inevitable struggle for mastery between the crown and the Douglasses should break out again. (I) As the year advanced it must have become more and more evident that the final issue could not be long delayed.

RE-EMERGENCE OF THE DOUGLAS PROBLEM.

(I) THE GATHERING OF THE CLOUDS.

If the king's reconciliation were sincere, he was to find that he had been nourishing a viper. In the interval, indeed, between the two indentures of Douglas and Lanark, the earl's party had been continuing negotiations in England. On 3rd. January, 1452-3, the very eve of the Lanark agreement, a safe-conduct for nine months was issued to the friends of Douglas, lord Hamilton, Sir James Livingston, Archibald and Duncan Dundas: (2) the earl himself was soon to follow them into England. There, as the king's commissioner,

(I) Buchanan has taken this view of the statesmanship of Kennedy, who, he tells us, "foresaw, as it after happen'd, That by this Accession, the King's Party would be strengthened, and his Enemies weakened daily for the future." (History, II, 39)

The value of the Lindsay alliance was enhanced by the geographical situation of their sphere of influence. Their historian has pointed out that in the fifteenth century this clan formed a great barrier between the fertile eastern lowlands and the lawless area of the highlands. (Lives of Lindsays, I, 113)

(2) Foed., XI, 319; Rot. Scot., II, 359-60. On the same day the bishop of Glasgow had a six months' passport for himself and a train of fifty followers, to go through England to Calais. (Rot. Scot., II, 360) It would appear, however, that Turnbull was bent, not on any political business to the English court, but on a mission to Rome as the steward of the Jubilee offerings. (Primrose, Mediaeval Glasgow, 103) At the same time, it was politically advantageous to lay the case of the king of Scots before the pope.

(1)
he signed the truce at Westminster on 23rd. May; there, in his private capacity, he entered into negotiations which boded no good for the king whose commission he bore.

He may, at this time, have consummated his marriage with his brother's widow; he and lord Hamilton wrought the deliverance

(2)
of the hostage Malise of Menteith who, besides a possible claim to the Scottish crown, had a long and bitter personal grievance against the monarchy;; the Douglas brethern joined

with the party of Hamilton, Livingston and Dundas in obtaining safe-conducts on 22nd. May, to repair to Rome.

(3)
From all points of view there was much to be gained by a visit to the papacy, yet, on second thoughts, the idea of a personal representation in force was abandoned, for reasons that are not evident.

For the next succeeding year, a curtain falls over the affairs of Scotland. Except for comparatively minor local disturbances, the land had rest from wars.

(1) Foed., XI, 336; Rot. Scot., II, 368.

(2) Rot. Scot., II, 368; Foed., XI, 326-7. Malise Graham represented the family of the second marriage of Robert II; hence he derived a dynastic claim which might be turned to account by the disaffected in Scotland. He was the brother-in-law of lord Hamilton, who would ostensibly be acting in a private capacity, but at the same time the hour and the circumstances bore a sinister appearance. If, however, his deliverers meant to use him as a tool, nothing came of their designs.

(3) Rot. Scot., II, 362; Foed., XI, 326-7. As the safe-conduct was granted to Douglas for four years, to the party of Hamilton for three years, a protracted visit must at one time have been contemplated.

(4) In August, 1454, "the lard of Jhonstonis two sonnys tuk the castall of Lochmabane apoun the lard of Mouswald. ---

Those in humble walks of life had a breathing space of peace, but to those who had eyes to see, the signs were ominous for the coming storm. Before the tempest broke, however, several of the men of destiny of former days had passed away. Sir William Crichton, well stricken in years, died in the interval between the Exchequer audits of 1453 and 1454. He was not long survived, either by his heir, or by his cousin, the Admiral: they both died, we are told, in August, 1454. (1)

Bishop Turnbull, late the confederate of the Crichtons, and the king's trusted minister, left Scotland for Rome in the latter part of 1453; he was dead before 7th. May, 1455, when Andrew of Durisdeer, persona grata both with king and pope, (2) was provided in his room. Huntly, Angus, Orkney, of the friends of the king, still remained; the earl of Crawford was a minor; the Lord of the Isles, of doubtful faith; Douglas and his partisans, traffickers in treason.

And syne the king gaf thaim the keping of the hous to his prophet, and how that was men ferleit." (Auch. Chron., 18, 52) This breach of the peace, and its condonation, have remained matter of perplexity to historians. Sir William Fraser has suggested that it was countenanced by the king as a preliminary attack upon the Douglasses. (Annandale Bk., I, xiv) As, however, the Laird of Mouswald was the king's lieutenant, it is more likely that the exploit of the Johnstons was a repetition, on a smaller scale, of the insurrection of Ross and Livingston. The Johnstons had a friend at court in the person of their kinsman, the earl of Huntly. (Annandale Bk., I, xv-xvi; Scots Peerage, I, 236)

(1) E.R., V, cvii, 611, 616. Orkney was chancellor on 27th. October, 1454. (R.M.S., II, 600)

(2) Auch. Chron., 17, 52.

(3) Rot. Scot., II, 371; Foed., XI, 338; Theiner, 395-6; Bps. of Scotland, 324-5.

It is perhaps impossible, at this date, to unravel the tangled web of the earl's proceedings. The last account, as sheriff of Lanark and Wigton, was rendered, in his name, at Stirling in June, 1453; ⁽¹⁾ probably he was represented by a proxy while himself still resident in England. During 1454, lord Hamilton paid a protracted visit to London and conferences were held upon the marches with James of ⁽²⁾ Douglas. On 23th. March, 1454, he granted a charter from Douglas Castle; on 9th. February, 1454-5, he was with ⁽³⁾ Hamilton at Peebles.

(2) THE PERIOD OF HOSTILITIES.

When, in the following month, the sword was drawn at last, the initiative may have come from the crown; the pretext was supplied by the discovery "of the most impious ⁽⁴⁾ plots and conspiracies against our majesty:" the conflict

(1) E.R., VI, 101, 139.

(2) Bain, C.D.S., IV, 1266.

(3) Hist. MSS. Commis., V (Ailsa), 64; Ibid, report XI, part VI, p. 17; Douglas Bk., IV, 432.

(4) Letter of James II. to Charles VII, printed in Spicelegium, III, 801; Pinkerton, I, 436-7. The account of the Douglas rebellions as recorded by Leslie, Boece, Pitscottie, and Godscroft is too confused and incoherent to be trusted as an authority. Probably the king's despatch, although itself an interested and scanty representation, comes nearest to the truth. At all events, both sides must have been girding themselves for the final issue. The story of the sheaf of arrows, and the attitude of the king and Kennedy in this crisis, are discussed in appendix.

was, in fact, in the nature of things. The crown hoped that, again as in 1452, a swift and decisive blow would bring the rebels to their knees.

Accordingly, "in the begynning of Merche, James the secund kest doune the castell of Inveravyne, and syne incontinent past till Glasqw, and gaderit the westland men, with part of the Areschery, and passit to Lanerik and to Douglas, and syne brynt all Douglasdale, and all Avendale, and all the lord Hammiltonnis landis, and heriit them clerlye, and syne passit till Edinburgh, and fra thin till the forest, with ane ost of lawland men. And all that wald nocht cum till him furthwith, he take thair gudis and brynt thair placis, and take faith of all the gentillis clerlie. --- And incontinent efter, the king passit in proper persoun, and put ane sege till Abercorn."^(I)

Such a rapid and thorough campaign in the heart of the disaffected country had evidently proceeded according to council aforethought. The hour had passed for wavering and hesitation; men must be openly for the king, or incur the pains of rebellion. Suffering and desolation were visited upon the people, but the crown had imposed the awe of its authority: its enemies had been sifted from its friends, and the way was cleared for a return to order and prosperity.

The sudden descent of the king in force upset the schemes and calculations of the Douglas. Taken at unawares,

(I) Auch. Chron., 12, 53.

he was, fortunately for Scotland, found wanting in decision in the hour of emergency. He did, however, take steps to meet the situation. Lord Hamilton, his right hand man and fellow-sufferer in the raid, was hastily despatched to solicit help from England, while the earl himself is reputed to have advanced to the relief of Abercorn.

This castle, which had been closely beleaguered since the first week of April, held out for a month before it was taken and cast to the ground. On its fall the rank and file were received to mercy, but the "principal rebels" suffered the last penalty for their loyalty to the leaders who had been false to them. Their hopes of succour had been sadly disappointed. Lord Hamilton, the chief bulwark of their party, had come in to the king's peace under their very eyes,

(1) Auch. Chron., 12, 53. This must have been a flying visit, undertaken without the security of any safe-conduct. We have seen that Hamilton was at Peebles on 9th. February; hostilities broke out in March, Hamilton was again in the camp of Douglas in April. He probably undertook the mission to England as the agent of Douglas; his refusal to forswear his natural allegiance, which was the price demanded for English support, may have led to a rupture between himself and his patron. At the same time, a man of his shrewd sagacity must have seen that for him the road to self-advancement was the path of loyalty.

(2) Auch. Chron., 12, 53-4; Letter of James II.; E.R., VI, xxxi, 4, 12, 92.

(3) The desertion of Hamilton, the ablest and most vigorous of the king's "rebels", marked the turning point of the war. According to the Auchinleck Chronicle, our oldest authority, he had thrown himself upon the royal mercy through the means of his uncle, Sir James Livingston. He was then warded for a time in Roslyn, whence he was released, Godscroft tells us, (History, 202) by the mediation of Angus. Balfour's account represents the bishop of St. Andrews as the mediator: as, however, he is wrong with regard to the year, it is more than likely that he is equally at fault in the matter of the agent. (Annals, I, 134)

while the Douglas, "seeing himself destitute of the help and assistance of our faithful subjects, not daring to remain within the bounds of our kingdom, fled into English parts with four or five associates."⁽¹⁾

It is true that the earl's brothers of Moray, Ormond and Balveny continued to vex the land of Ewisdale until on 1st. May, they were routed at Arkinholm by a determined muster "of our lords and lieges of these parts."⁽²⁾ The head of Moray was brought to the king at Abercorn; Ormond was captured and put to death; Balveny, the youngest of the brethren, joined earl James in exile. Thus cut off from all

At the same time there can be no doubt that the restoration of Hamilton was the fruit of the policy advocated by Kennedy. As to Sir James Livingston, we do not know to what influences this rebel of 1452 owed his own reinstatement in the office of chamberlain.

(1) Letter of James II.

(2) Letter of James II. The chronicle of John Law implies that the dowager countess of Douglas was instigating, or at least, privy to, the rebellion of her sons. They were "thinking to carry the spoils to their mother in Carlisle" when their raid met with its fateful termination at Arkinholm. We have already had indication that countess Beatrix was a woman of strong and determined character; that she presented an active menace at this juncture is suggested by the terms of her forfeiture. How long she had been resident in England, it is difficult to say. On 16th. June, 1454, a safe-conduct had been issued to lord Balveny, his mother and his sister-in-law, to go on pilgrimage. (Foed. XI, 349; Rot. Scot. II, 374, giving the year, erroneously as would appear, as 1455) Facts thus discredit the old tradition that the countess Margaret was residing in Threave, ^{and} wounded by a bombard during the siege of the castle.

Godscroft tells us that, according to tradition, Angus was the leader of the king's "lieges". (History, 203) ~~Although he would not vouch for the truth of this tradition, yet, since his day, the supposition has been strengthened by the publication of a royal charter of 1456, granting lands in Ewisdale to the earl of Angus. (Douglas Bk. III, 84-5)~~ The Maxwells, Johnstons and Scotts had all rallied to the royalist cause. Sir Walter Scott of Kirkurd had a charter of

hope of active support, Douglas, Strathaven and other castles, capitulated and were destroyed; siege was laid to the island stronghold of Threave, the last strength of the rebel cause, and a parliament was called at Edinburgh in June to proceed with the formal forfeiture of Beatrix, countess of Douglas, James earl of Douglas, Archibald earl of Moray, John of Balveny along with others, their accomplices.

(1)

After this interlude attention was again riveted on the siege of Threave. Sorely pressed for many weeks by all the ingenuities of war under the eye of the king, the chancellor, and probably of the earl of Angus, all hope of relief was at last abandoned, and the garrison surrendered: the famous castle passed into the hands of the crown.

(2)

lands in Crawfordjohn in reward for his services at Arkinholm. (R.H.S. II, 772; see also, Chalmers, Caledonia, III, 90)

(1) A.P., II, 42, 75-7. The extant acts do not record the forfeiture of Ormond, but the Exchequer Rolls leave no doubt that the lands of this brother, who had already suffered a traitor's death, were included in the confiscation. (E.R., VI, xxxvii, 212, 265, 504, etc.)

(2) Bain, IV, 1272; Stevenson, Letters, II, 502-3; E.R., VI, with evidence there given. Although we have no proof that Angus took part in the proceedings, yet it is not unreasonable to suppose that, after the prorogation of the parliament in June, this active warlord accompanied the king to the scene of the siege. As Orkney was not present in parliament during the forfeiture of the Douglasses, he was probably commander-in-chief at that time. Threave was soon committed into the keeping of Kennedy's half-brother, William Edmonstone of Culloden. (E.R., VI xxxv, 208, etc.)

As in the case of Abercorn, so again a futile endeavour had been made to save Threave. Even if he had had the will to fight, Douglas was no longer master of an army that could meet the king's on equal terms. But to one so far gone in treason, despair would prompt the step which followed. The earl transferred the burden of responsibility by making over the castle to the king of England, who accordingly, on 15th. July, disbursed £1000 "with advice of his Council for succour, victualling, relief and rescue of the castle of (I) Freve." Whatever the ultimate destination of the money, no one could have been deceived by the fiction that it was seriously intended for the purpose specified. If they were cut off from all other source of aid, the garrison of Threave might well surrender to their own liege lord.

At the same time, the possibilities were ominous for the king and kinrik of the Scots. Not only had James Douglas proved an apostate from his natural allegiance, but he was openly cherished in England with the intent to stir up trouble for the Scottish crown. The drift of things is indicated by the grant to Douglas, in August, of an annual pension "till he is restored to his heritage, or the greater substance there, taken from him by him who

(I) Bain, C.D.S., IV, 1272.

(1)
calls himself K. of Scots."

(3) THE INTERNATIONAL ASPECT.

From this time it is obvious that the Douglas problem could no longer be looked upon as purely a domestic question. During the ten remaining years of Kennedy's lifetime home affairs of necessity involved the country in international complications.

If the bishop of St. Andrews had hoped that the downfall of the Douglases would secure tranquility for Scotland; for himself, leisure to devote to the things of peace and to the higher arts, then there is pathos in the actual throwing of fortune's dice. It is to his credit, and to the indebtedness of posterity, that he manfully accepted the inevitable, and by shouldering new cares and responsibilities of state, wrought further "public services" for Scotland. By nature a leader of men, in the country's necessity he found his opportunity. As it was, although his energies and attention were often much distracted, his dreams were by no means entirely unfulfilled.

(1) Bain, C.D.S., IV, 1272; Foed. XI, 367.
The pension was originally fixed at £500, but it was open to frequent revision, and seems to have been often in arrears. (Foed., XI, 381-2, 421

A token of peculiar favour was bestowed upon the earl about 1461, when he was elected a Knight of the Garter. (Nicholas, Hist. of Orders of British Knighthood, II, App., lvii) Although political considerations doubtless predominated in the grant of this honour, yet, at the same time, the private character of Douglas as a chivalrous gentleman seems to have been held in considerable esteem. (Godscroft, History, 205) He was one of the Scottish knights whose fame had been spread in France and Scotland by his prowess in the lists at Stirling against the chivalry of Burgundy. (Auch. Chron., 18, 40; de

In the very year of the suppression of the Douglases the Wars of the Roses at last broke out in England. The conflict between Crown and Barons was to be fought out on a greater scale and with a bitter vindictiveness from which, at least, Scotland had been saved. The civil wars in England affected her relations towards both Scotland and France. The Yorkists, rebels, were the friends of Douglas and the fomenters of disaffection in Scotland: the king of Scots was doubly bound to the house of Lancaster. It was politic for two consecrated monarchs to form a counter-alliance against the united rebels of both. James, again, was the ally of the king of France, and Charles VII. was the patron of the Lancastrian queen. But although the Scottish king was staunch, on the whole, to the Red Rose, he was playing also for his own hand.

Not only was the new Douglas spectre to be laid, but Scottish soil was still to be redeemed out of the hands of England: more than this, a successful war would enhance the prestige of the monarchy; James was by nature

He would appear, then, to have been personally brave, although lacking in resolution in the hour of emergency. This vacillation is more likely to have been an inherent trait of character than the result of a clerical education. According to one account, the Master of Douglas had been designed for the church. (Douglas Bk., I, 477) Godscroft, on the other hand, tells us that George, the youngest brother (of whom we have no other notice) was a clerk in the schools of Paris in 1450, but died on his way to Rome in the company of earl William. (History, 181)

12/6

(1)
a soldiers' king. In 1455, however, he was not in a position to carry the sword into the enemies' country. An attack upon Berwick had to be rather ignominiously abandoned until
(2)
a more fitting season. Before the crown could pursue a successful foreign policy, it had first to set its own house in order; and this was the work of the Estates at Edinburgh in August, 1455.

CONSOLIDATION OF THE MONARCHY, 1455.

This important parliament sat in the tolbooth of Edinburgh ~~of~~ while the bishop of St. Andrews was at that time
(3) of the castle.
governor. ^ In this co-incidence we have an interesting indication of the influence of James Kennedy, a man "the maist abill of ony lord into Scotland spretuall or temporall to

(1) It is interesting to have the opinion of Major, who was born within a decade of the death of James. "For vigorous kingship, most writers give the first place to this monarch, seeing that he gave himself with all zeal to the things of war, and to naught else; and in time of war he was fellow to every private soldier. --- In time of war the second James would ride among his soldiers as one of themselves; and in food or drink the soldiers would offer him of their own provisions. He called on no man to taste before him what he would eat and drink, for he had that trust in his soldiers that no one would try to poison him. And his confidence was justified." (History, 386)

James could, and did, apply himself to other things than war. Yet, although in the prosecution of his schemes of ambition he could be high-handed and unscrupulous, he was certainly energetic and warlike, and seems to have a popularity and personal charm that endeared him to gentle and commoner alike.

(2) Letter of James II; Bain, C.W.D.S., IV, 1272. The legislation of the Scots parliament in the autumn indicates a lively fear of invasion at that time.

(3) E.R., VI, 53, 235.

gif ane wyse counsall or ane ansuer quhen tyme occurit befoir
 his prince or the counsall and spetiallie in the tyme of
 (1)
 parliament."

In the opening legislation, touching the poverty of the crown, his finger can clearly be traced. The welfare of the country was bound up with the existence of a strong monarchy; the crown, to be strong, must be master of adequate resources. The experience of James I. had shown that it was inexpedient to levy systematic taxation upon the people; the yield in revenue would not compensate for the resulting unpopularity. Since, then, the crown must "live of its own", it was thought speedful to ensure against the dissipation of its patrimony. To meet the increased expenses of government there was more
 (2)
 need than ever to husband all the royal resources. These considerations, commending themselves to the sagacity of Kennedy, would prompt the measures which followed to consolidate the position of the monarchy.

The first clause of the act had a financial importance by ordaining that all the customs vested in the crown at the death of James I. should remain irrevocably with his successors. It was then enacted that, in divers parts of the realm, certain specified lands and castles should be

(1) Pitscottie, I, 160.

(2) The wars, the exchequer audits and the legislation of the reign all testify to a serious burden upon the royal resources. Witness, for example, the question of the artillery; its frequent use in military operations, the expenses of the crown in connection with its upkeep, and the call upon the barons for co-operation.

inalienably annexed to the crown, save when expressly determined otherwise by "the haill parliament ande for gret (I) seande and reasonable caus of the Realme". Many of these possessions had fallen in through the forfeiture of the Douglasses: all of them were places of wealth or of strategical importance.

From Ettrick and Galloway the king could keep his eye upon the borders. The previous history of the reign had afforded abundant proof of the importance of the three key fortresses of Edinburgh, Stirling and Dunbarton, while the lands in Lothian and Fife would provide a new establishment in the heart of the most populous and prosperous district in the realm. Finally, the earldom of Strathearn and the lands in Brechin, Inverness, Ross and other northern parts, were so many outposts of authority in a more or less unsubjugated country.

When these regalities of new annexation have been added to the previously existing patrimony of the crown it can be seen that much had been done to exalt the monarchy above the level of the feudal magnates: that this was no

(I) A.P., II, 42. From a practical point of view, the measures anent the lands to be inalienably annexed to the crown had a greater chance of being realised than had the formal abolition of heritable jurisdictions and other acts of this same parliament. As the crown was actually in possession of the estates specified, it was in a position to give effect to the law.

hap-hazard policy appears from the exhaustive conditions designed to secure its permanence. For the good of the crown the parliament passed measures which might have imperilled the very existence of the Estates, if that existence had depended upon the power of the purse. A competent inheritance would strengthen the monarchy, but precautions had to be taken lest the crown should throw away its advantages.

For the sake of the common weal, it was therefore enacted that "albeit it happyn our souerane lorde that now is or ony of his successouris kingis of scotlande till analy or dispone apou the lordschippis and castellys annex to the crowne as is befor saide thai alienacionis salbe of nana auale Sa that it salbe lefull to the king beyng for the tyme to resaif thai landis quhen euer him likis till his awne vse but ony process of law." And to sanctify with religious solemnity the policy of the state, it was ordained in conclusion that James and his successors, kings of Scotland, "be suorne --- in to thar coronacione to the
(I)
keping of this statute and all the poyntis therof."

(I) A.P., II, 42. This legislation has a peculiar interest as the king was on the eve of his majority of twenty five years. On his birthday, on 16th. October, an instrument was drawn up at Stirling "setting forth the revocation by the King of all grants, investitures and alienations to whomsoever made while he was in minority, viz:- under 25, with exception of grants made to the Queen propter nuptias or otherwise, the gifts and investitures made in favour of his second son Alexander Stewart, Earl of March of the Earldom of March and lordships of Annandale and Mann, to William, Earl of Orkney and of Cathnes, his chancellor, of the Earldom of Cathnes and to the Bishop of Moray and his successors, of

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That such precautions were wise and politic could be abundantly proved not only from precedent, but also by the danger of excessive generosity, at that very time, to the supporters of the monarchy. (I) This act seems to breathe with the spirit of the bishop of St. Andrews. Although his name is nowhere expressly mentioned, it is not difficult to detect his handiwork. To begin with, his knowledge of the national history not of Scotland only, but of France and England besides must have brought home to him the need to sacrifice particular interests for the sake of a strong central government. At that time also, there was no rival in the council chamber to dispute the pre-eminence of bishop Kennedy.

the lands which were gifted to him by Hugh, Earl of Ormonde and John Douglas of Balveny." (Calendar of Charters, II, 342) Political considerations explain these exceptions to the general revocation. The important lands forming the endowment of the queen and the young prince were still in the hands of the royal family. Bishop Winchester was the king's trusty ally in the north; the earldom of Caithness had just been granted to the chancellor expressly in compensation for his renunciation of a claim in Nithsdale (through his mother, Egidia Douglas) and of the offices of Sheriff of Dumfries, and justiciar and chamberlain. (Douglas Bk. III, 81-2; Scots Peerage, II, 332; VI, 510)

(I) Even after the passing of this act, the king bestowed lands and other favours on his supporters against the Douglasses, as witness the charters to the earl of Angus and Scott of Strathurd. Lord Hamilton also rose to new heights of power upon the ruins of his former patron. (Hist. MSS. Commis., XI 17; Scots Peerage, IV, 351)

An interesting piece of inferential evidence, moreover, clinches the question of his responsibility for this legislation. It is expressly stated by James IV. that this act was founded upon the canon law, and the bishop of St. Andrews, the leading prelate and statesman of the moment had been "well Educate --- especially in the Canon Law and Theology." To James Kennedy, then, must be attributed the chief share in the far-seeing policy which not only strengthened the monarchy for the time, but took wise precautions designed to secure the permanence of these measures.

Besides this direct elevation of the crown, its power was further promoted by circumscribing the competence of rival authorities. Thus all hereditary offices, including the wardenship of the marches, were swept away; the warden courts deprived of such jurisdiction as was competent to the royal judiciary. All regalities then in the crown

(I) A.P., II, 236. In 1493, James IV. put into execution his right of revoking alienations "be wertew of the act and statute maid of the annexationis and eftir the forme of the samin" - to wit, the statute of 1455. Professor Hannay has pointed out that from our point of view, the importance of the act of 1493 lies in its illuminating preamble. It runs that "We James be the grace of God king of Scottis cleirlie vnderstandin that part of alienatiounis donatiounis & giftis of oure heritages of oure Realme was maid be our progenitouris of gude mynd quhome God assolze and parte in likewisse be vs in our zouthaide vnperfite age in hurt and preiudice of the croune of Scotland and in lyfweyse that in the tyme of our coronatioun and taking of the Sceptoure of our Realme we promittit and swore vpon the holy evangell of our Lord Jesus our saluour that we sould observe and keipe the rycht honour preeminence and priulegis in landis rentis possessiounis dewteis and vther thingis thairto pertening as is mair expressly schawin in the Law of haly kirk --- We reuok" etc.

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were merged in the sheriffdoms; while no new regalities were to be erected "without deliuerance of the parliament."

If, however, the powers of the feudal nobility were in some ways restricted by these enactments, yet, at the same time, compensation was to be granted to individuals for the loss of vested interests, as, for example, in the customs.

All this legislation throws an important light upon the constructive statesmanship of Kennedy. Although in many of its details the law remained a dead letter, (I) it was still of much practical use in equipping the monarchy for the tasks immediately ahead of it. The sitting of the parliament was an incident in the midst of wars and rumours of wars, and its proceedings were influenced by that preponderating circumstance. In this respect the last act of the estates before their prorogation is not without significance. It was an ordinance prohibiting all and sundry, the king's lieges, from yielding any manner of support to the forfeited house of Douglas.

(I) Hereditary offices and jurisdictions, for example, continued long after this date. It is interesting to note that Kennedy was himself smirched with particular breaches of this act. In the accounts of 1456 he had remission of custom for his sheep pastured at Wedale, while in 1457, he was in receipt of the fermes of Ballincrief. (E.R., VI, 119, 359) These, however, were merely temporary arrangements, which may represent satisfaction for a debt outstanding to the bishop from the king. (Ibid, 117) The fact that these were merely passing incidents leads one to believe that Kennedy's respect for the law was stronger than his cupidity. The whole matter of compensation for the loss of vested interests would inevitably, even in the most favourable circumstances, require a considerable time for adjustment.

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WAR WITH ENGLAND, 1455-1457. (I) OUTBREAK.

These proscribed traitors were over the border under the protection of the Yorkist faction, then in the ascendant in England. They may have been peculiarly welcome as a cloak to cover imperialistic designs for the overlordship of (I) Scotland: at any rate it suited the immediate purpose of York to champion the cause of the disinherited. The stringent measures of the Scottish parliament in October show that the country was then in hourly apprehension of invasion. Energetic measures were accordingly taken to meet all contingencies, while about the same date Rothesay Herald was despatched to seek support from Charles VII and to propose a joint and simultaneous attack, the French upon the coveted outpost of (2) Calais, the Scots upon Berwick. Charles VII, however, was

(I) English claims to the overlordship of Scotland are clearly expressed in the official transactions of this period. On the conclusion of the truce in 1449, for example, and again in 1451, a certain master Richard Andrew drew up an instrument of protestation for the homage of Scotland. (Foed., XI, 238, 288) The epistola rixosa et minabunda again asserted that the king of Scots was the vassal of England. (Rot. Scot., II, 375) Master Richard Andrew was presumably the mouthpiece of the Duke of York; the pretensions of the epistola rixosa of 1456 were certainly advanced by the Duke and were expressly disclaimed by king Henry. (Foed., XI, 383) Under Edward IV. these imperialistic designs were continued until they culminated in the secret treaty of Westminster, 1463-4, whereby Scotland was to be subjugated and partitioned; the earl of Douglas and the Lord of the Isles were to rule as vassal princes under the suzerainty of England. (Rot. Scot., II, 405-7; Foed., XI, 499)

(2) Stevenson, Letters, I 319. The king's letter is imperfect in date. It does not name the month of the year, but from internal evidence - the allusions to invasion, and the mustering of the royal forces - it must have been written about this time.

more than loth to co-operate; he long maintained a stony
silence; in 1457 he definitely refused to afford any manner
(1)
of assistance.

On 10th. May, 1456, the Scots, being thus left to their
own devices, sent Lyon king at arms to England with a letter
stating the grievances of Scotland and renouncing the truce. (2)
This letter, dignified and restrained in tone, bears evident
traces of the handiwork of James Kennedy. Ten days later
a safe-conduct was issued to the bishop himself and a party

(1) In June, 1456, James wrote that in the previous year
he had, "to please your most Christian majesty" laboured,
but in vain, for peace. In October, he complained that a
former embassy had been delayed for two years at the court
of France, but without result: the length of time may, how-
ever, be exaggerated. (Stevenson, Letters, I, 323, 328)
Ramsay thus sums up the situation. "Charles turned a deaf
ear to the prayers of King James and his subjects; he would
send no money; he would not even express an opinion as to
the expediency of a Scottish invasion of England. Clearly
he had no wish to create difficulties for Margaret."
(Lancaster and York, II, 197-8)

(2) Official Correspondence of Thomas Bekynton, II, 139-141.
This letter was written from Perth on 10th. May, 1456.
Although couched in the name of the king, internal evidence
presents a strong case for the prompting and responsibility
of Kennedy. The scriptural vein of the communication places
it in a class apart from the other extant correspondence of
James II. It was more in keeping with the character of the
bishop than of the king to remember at this juncture the
admonitions of the apostle "nos exhortantes ut quantum in
nobis est cum omnibus hominibus pacem habeamus." Another
biblical allusion is animated with the spirit of Kennedy.
"Et quamvis in arcu nostro aut gladio temporali principalem
fiduciam non ponentes (sed magis sceptrum nostrum at gladium
dirigat dextera Ejus et brachium Qui mandat salutes catholicis
principibus bonae voluntatis) ex intimis visceribus cum
omnibus catholicis pacem habere desideramus." The points
stressed in the letter:- the long forbearance under slights,
the harbouring of the Douglas, the duty of the "protecting
prince" to safeguard the lives and property of "the Christian
people subject to our sway"- are, as we shall see, salient
characteristics of the policy of the bishop of St. Andrews.

(1)
with him, to go to England on business unspecified, but doubtless relating to the "intolerable iniquities and enormities" of the English.

We have no evidence that Kennedy actually availed himself of this safe-conduct, but the Exchequer accounts of the following September are charged with the expenses of Nicholas Otterburn and Patrick Cockburn, two of the members of his

(2)
party. The embassy seems to have met with no kind fate, and on 26th. July, the Duke of York issued, in the king's name, the astonishing epistola rixosa et minabunda. (3) The taunts and arrogant claims to overlordship therein flouted might well have roused the indignation of a less spirited ruler than the king with the fire mark in his face. James certainly required no such stimulus to urge him to war.

(1) Rot. Scot., II, 375. The editor of the Exchequer Rolls has inadvertently stated that this safe-conduct was issued in January. The January passport was a previous warrant for the bishop of Brechin alone: in May he was named as a companion of Kennedy. In Foedera, the document of 20th. May is given under the year 1455. This, however, must be a mistake as Bain gives 12th. May, 1456, as the date of the warrant for the issue of the safe-conduct. (Bain, C.D.S., IV, 1276) As, moreover, lord Hamilton was included among the party, the year cannot have been 1455: Hamilton could scarcely have been admitted so hastily to such an intimate degree of confidence.

The editor of the Exchequer Rolls points out that reasonable grounds for the complaints of the Scots are indicated by references in the audits of 1456 to raids upon the eastern border. (E.R., VI, xli-xlii, and note, with evidence there cited)

(2) E.R., VI, 123. Public opinion in London seems to have been very bitter against the Scots, for the Privy Council had to appoint a special convoy "Tesdaie messenger of the K's chamber" to ensure the safety of the ambassadors on their return to Scotland. At the same time 'Lancaster' herald was paid expenses for his mission "to see to the custody of the K. of Scots' herald." (Bain, C.D.S., IV, 1277) This ambiguous statement leaves room for suspicion that things had not gone smoothly with Lyon king at arms.

(3) Rot. Scot., II, 375; Foed., XI, 383. The epistola

Even before the fulminations of the arrogant manifesto had been launched, he had sent an embassy to France with instructions which show that he hoped to turn the extremity of England to his own advantage. He represented himself as ready even to espouse the cause of York, if in so doing he could promote his own interests. (I) These interests he probably considered would be best served by an energetic campaign without waiting for the uncertain support of France. (2) A victory might be more persuasive than many embassies.

In the summer James marched in force to the border; on 16th. August, he made a lightning raid into Northumberland, and, having wrought much destruction, returned "with gret worschip", while the English host, torn by dissensions, rixosa, although it found its way into the national archives, was officially disowned by Henry VI. The government at this time was dominated by the Duke of York.

(1) Stevenson, Letters, II, 324-5. According to the account of James, the Duke of York had been cultivating his friendship, while James, on his side, was willing to promise his support, and to recognise the alleged claim of York to the English throne. If there had been a temporary understanding between the king of Scots and the author of the epistola rixosa, it must have been hollow and short-lived. But, in the absence of direct proof, it is risky to attach much credence to political representations such as this. It is illuminating, in this connection, to note that the letter sent to England by Lyon King on 10th. May was docketed in the English archives as "Suberba nimis et insensata" and that it occasioned the outburst of the epistola rixosa.

(2) John Kennedy, provost of St. Andrews, one of the envoys commissioned on 23th. June, was still in Scotland in October. (Stevenson, Letters, II, 326)

(1)
 was powerless to retaliate. James, indeed, was free to go
 hunting on Tayside at the end of September; on 9th. October,
 he was corresponding with Charles VII. from Edinburgh; on
 the 13th. another embassy was sent to urge a combined
 attack on England.

(2) THE WAR POLICY OF THE ESTATES.

Measures of war engrossed much attention also in the
 General Council which was convened at Edinburgh on the

(1) Auch. Chron., 20, 56-7; Scotichr., II, 516; Major, 355;
 Boece, 380-1. In the pages of Pitscottie and Leslie the
 campaigns of this period are inextricably confused. According
 to Scotichronicon and Major, James was dissuaded from a proposed
 invasion by the persuasions of an English embassy. Boece
 embellishes the narrative with dramatic details. In the
 absence of authentic evidence it is impossible to ascertain
 the true facts of the matter. A hitch of some kind may have
 interrupted the original line of Scottish action, although even
 of this we cannot be sure. The Auchinleck Chronicle, which
 has pitched these events in the year 1459, seems in other
 respects to present a trustworthy authority. Here we have
 no mention of Scottish schemes foiled by English duplicity.
 We know from a charter dated at Peebles on 12th. July, that
 the Scots' army had been 'lately' at the Water of Calne. (Cal.
 of Charters, II, 344; cf. E.R., VI, 226, 227, 258) On 10th.
 and 12th. July, the English government was taking steps "to
 resist the king of Scotland and others invading England."
 (Bain, C.D.S., IV, 1277) On 24th. August, the Duke of
 York was at Durham. His despatch to the king of Scots
 testifies to the accuracy of the account of the Auchinleck
 Chronicle: he complained that James, avoiding pitched battles,
 had confined himself in most unprincely fashion, to forays
 and the capture of defenceless houses. (Beckynton, I, 142-4)

(2) At Loch Fruchy, from 26th. September to 1st. October,
 (E.R., VI, 243)

(3) Stevenson, Letters, II, 328.

(1) It is significant that on 13th. August, 1456, the
 convent of Hexham granted spiritual benefits to Angus because
 of his "sincere devotion" to that monastery. (Douglas Bk., III,
 82-3) Presumably he had saved it from the plundering hands
 of Scottish raiders.

(I)

following week. The outlook on the borders was hopeful. A breathing space had been secured over the winter season on the eastern and middle marches: the clergy were confident that the same respite might be obtained, if desired, on the western march. This was probably an informal working agreement reached between the combatants by means of the Church. The reference to the clergy is significant. It points to the work of a churchman with a fellow-feeling for the sufferings of the borderers, and of authority potent enough to secure immunity from the horrors of a winter's war. James Kennedy, bishop of St. Andrews, was the spokesman for the spiritual estate in the councils of war; his, then, we may safely guess to be the broad-minded humanity that sought to mitigate the miseries of the commons. It was deeds like these, with their appeal to the hearts of men, that would earn for him the honoured title of "the Good Bishop Kennedy."

But if the bishop of St. Andrews sought to obtain an interlude of peace, it was from no false sense of security.

(I) A.P., II, 45. "All thingis considerit thai [the English] haif had mekill mair travell and chargis of weyr in this somer bigane than our bordouraris hade. Tharfor thaj think the bordouraris sulde be content at this tyme." It is interesting to compare with this account, the gloomy representations of the despatches requesting the help of France, because the Scots were reduced to "dire necessity" through incessant and devastating invasions. The militant party with which the king had identified himself, controlled the situation, and the coloured rhetoric of their correspondence was clearly dictated by diplomacy.

In the interval thus obtained the Scots were to gird themselves in preparation for the next campaign. The military services of "all maner of man betuix sextj and sextene" were requisitioned. (1) Help was again most earnestly besought from the king of France. On the 13th. James had written a personal letter to this end; at the same time a new embassy was sent to add force to the written word. (2) The Estates, besides giving their formal sanction to these proceedings, themselves drew up a letter of supplication under the seals of James, bishop of St. Andrews, for the spiritual estate, of William, earl of Orkney, chancellor, for the temporal lords, and the common seal of the burgh of Edinburgh for the community of (3) the realm.

To meet the heavy expenses entailed by these measures, an impost was levied upon the burghs, and loans raised from private burgesses. The national character and the scope of the military preparations would offer a justification

(1) A.P., II, 45. It is interesting that the nobles were asked to co-operate with the king in equipping the artillery. The crown did not, or could not, insist upon his ^{his} monopoly over this new engine of warfare. Perhaps the king was compelled by necessity; it may have been partly a case of that "trust" in which Major said "his confidence was justified" in the result.

(2) Stevenson, Letters, II, 328-9.

(3) Ibid, 330-i. In a foot note to this despatch a French scribe has jotted that it was accompanied "cum parvis litteris scriptis manu propria ejusdem regis Scotiae." The letters were delivered about 15th. December.

for this measure, but we have no indication that it was authorised by statute, nor that the lords spiritual and temporal were called upon to furnish a quota. (1)

It was well for the country to be prepared for all emergencies, although in point of fact, a new turn of events dispelled immediate danger. At the very time of these deliberations of war, the Yorkist government fell from power in England. (2) As Charles VII. would not come to their assistance, and as the Scots had no quarrel with Lancaster, (3) the way was open to negotiate for peace. A truce for two years was accordingly signed at Westminster on 11th. June, 1457. (4)

(1) E.R., VI, xlv-xlviii. The editor, thinks "that the barons and clergy, or the barons at least, must have contributed their share to this impost." On the other hand, their support may have been confined to the furnishing of a feudal force, together with the carriage of artillery. The silence of the Rolls on this score is impressive. In the accounts of 1458, a loan was refunded by the crown to the bishop of Galloway (E.R., VI, 455), but he seems to have been the only man of rank to whom the king owed debts at this time. Some manner of compulsion was, however, brought to bear upon the burghs. (Ibid, xlvi, 310).

(2) Ramsay, Lancaster and York, II, 199.

(3) Stevenson, Letters, I, 338-46. A war policy was not, at that time, in the interests of France. The newly acquired provinces, especially Guienne, were disaffected, and involved a serious drain upon the resources of the crown. In January, 1457, the Scots ambassadors were informed that the Guiennois were "tous enclins au parti d'Angleterre." (Avisse, Histoire de France, IV, 111)

(4) Foed., XI, 389-400; Rot. Scot., II, 379-383. The truce was confirmed by the king of Scots at Stirling in August: Kennedy does not figure among the witnesses. (Foed., XI, 403-4)

In the following March, when the Estates again convened in Edinburgh, their attention was turned to the administration of justice and the things of peace. An active session was concluded by a very significant declaration. "Ande that attoure sene gode of his he grace has send oure souerane lord sik progress and prosperite that all his rebellys and brekaris of his Justice ar removit out of Realme and na maisterfull party remanande that may cause ony breking in his Realm sa that his hieness be inclinyt in himself and his ministerys to the quiet & commoune profett of the Realm and Justice to be kepit amangis his liegis his thre estatis w^t all humilite exhortis and requiris his hieness to be inclynit w^t sik diligence to the executioun of ther statutis actis and decretis abone writtyne that god may be complesit of him and all his liegis spirituale and temperale may pray for him to gode and gif thankyng to him that sende thame sik a prince to
(I)
ther governour and defendour."

The framers of this article were evidently grateful for the restoration of tranquillity at home and abroad. In their eyes the war had been a righteous war in its aim to establish the king's peace against "all his rebellys and brekaris of his Justice" For the rest, however, fighting

(I) A.P., II, 52.

for fighting's sake was to be condemned as subversive of the "commoune profett of the Realme and Justice to be kept." Arbitrary action in things military, as in things civil, ill became the "gouvernour and defendour" of a Christian people: wherefore, in all humility, the three Estates besought their king to direct his steps in the paths of equity. The mind that inspired this curious medley of supplication and outspoken remonstrance was clearly somewhat mistrustful of the drift of the royal policy. That mind we may well believe to be the mind of James Kennedy, and under the written word we may sense his attitude towards the events of this period.

THE ATTITUDE OF KENNEDY TO THE EVENTS OF 1456-1457.

His name, it is true, is nowhere definitely mentioned in connection with the parliament of 1458, but the indirect evidence leaves little room to doubt that the influence of the bishop was a driving force behind the counsels of the Estates. The importance attached to judicial matters strongly suggests his handiwork, while the valedictory prayer is characteristically the utterance of one of the king's "liegis spirituale." No other churchman had the same weight and authority to blend the dictation of a tutor with the deference of a subject. We may, then, safely take it that we have here an expression of the bishop's outlook upon the affairs of Scotland.

James Kennedy was a counsellor of war in so far as

military operations were necessary to establish the monarchy upon a secure basis. We have seen that the consolidation of the monarchy was the keynote of his constructive statesmanship. It led him to support the active campaign of the crown against the Douglasses: in so far as the war with England was the corollary of the Douglas question, he was of necessity an advocate of war. But in the affairs of the camp, Kennedy never lost sight of the things of peace.

In his eyes, the sword was a necessary, if an unfortunate, instrument for the establishment of security and prosperity. So long as England gave serious support to the rebels of Scotland and threatened the national sovereignty; so long as the country was being plundered and devastated by hostile inroads; for such time the bishop of St. Andrews would throw his weight into the scales for war. He would welcome the provisions for the national defence as the surest means of securing peace. Scotland strong would be Scotland respected, and when her enemies had ceased to vex her, she could set her own house in order.

English provocations and the ominous cultivation of the Douglas, then, would make Kennedy concur in the offensive defensive in the early summer of 1456. If his influence inspired the note sent by Lyon Herald, then he countenanced the official rejection of the truce. At the same time the tone was reasonable, the complaints were well founded, while the safe-conduct of 20th. May suggests that even at the eleventh hour he strove to reach a peaceful

settlement. The uncompromising attitude of England, however, and the insolent claims to overlordship must have stung his patriotism, and would induce him to join in the appeal for the help of France in the following October. Up to this time, therefore, we may suppose that the king had the wholehearted support of the bishop in the general aim of his war policy: after this date their interests began more and more to diverge.

The seeds of difference had been inherent from the first, for with James military operations were designed for more than a war of security. It is to be noticed that the correspondence of Kennedy has one important omission when compared with the letters of the king. Both lay stress upon the necessity and scaith of the realm; James alone urges the excellent opportunity offered by the internal dissensions of England for a policy of aggression. Although it is extremely doubtful if he actually made serious overtures to York, it is at least clear that he would not have hesitated to do so. The king was bent on aggrandisement, the bishop sought to hew a path to peace, for the establishment of domestic prosperity and equity, and for the cultivation of the liberal arts. His quarrel was only with the house of York; hence after the restoration of Lancastrian power in October, 1456, and the official disavowal of the actions of York, the chief motive for war had disappeared. With both king and bishop, moreover, the attitude of France must have carried weight: the outcome,

as we have seen, was the two years' truce with England in July, 1457. Although both parties doubtless welcomed it, they were not necessarily seeing eye to eye.

THE AGGRANDISEMENT OF THE CROWN.

(I) INCEPTION OF A NEW ROYAL POLICY.

As in foreign policy, so in home affairs, a coolness began to manifest itself between the crown and the bishop of St Andrews. Kennedy had been the staff of the monarchy during the crisis of the struggle with the Douglasses, but when the imminence of the danger had passed, James grew restive under the guidance of his cousin. His fiery nature and his resolve to be every inch a king were not likely to harmonise with the quiet determination and pertinacity of his authoritative kinsman. The power of Kennedy accordingly began to wane when there was no longer need to cultivate his support; when his voice began to be raised in actual remonstrance with the king.

Up till October, 1456, he has been found to occupy a predominant position in the royal councils; thereafter, although his influence could never be completely discounted, James began more and more to follow an independent policy.

(I) The impression that had come down to Holinshead was that "after the Douglasses were once despatched, and tryngs quieted, King James the seconde began then to raigne and rule really, not doubting the controlment of any other person." (Historie of Scotlande, I, 395)

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It is significant that on 25th. October, 1456, Kennedy
witnessed a royal charter at Edinburgh; ⁽¹⁾ six weeks later, he
had disappeared from court, while the earl of Orkney had
been displaced as chancellor by George de Schoriswod,
bishop of Brechin, persona grata both with king and ⁽²⁾ queen.
There had evidently been a change of ministry in the interests
of the personal power of the crown.

During the two next succeeding years the king spent
much of his time in an itinerary of his dominions, partly
in the west country, more particularly in the north. ⁽³⁾ It
is obvious that he was ordering his affairs to suit his
own ends. In principle, the bishop of St Andrews must
have been in agreement with the royal policy of strength-
ening the position of the monarchy: the difference between
them lay, not in the theory itself, but in some of its
manifestations in practice. They would thus be of one
mind as to the necessity of reducing the northern parts to
a degree of order and security, but the king's action
proceeded along an independent line. He had, it is true,

(1) R.M.S., II, 603.

(2) Ibid, 604; Crawford, Officers of State, 38; Bps of
Scot., 185-6. There is a wealth of meaning in the interesting
fact noted by bishop Dowden that Schoriswod's episcopal
seal bore, besides his own personal arms, the royal arms
of Scotland, and those of Mary of Guelders.

(3) E.R., VI, xlvii-1; R.M.S., II, 134.

his advisers, but that they were ministers to do his bidding can be clearly seen from the history of events north of Spey.

The island fortress of Lochindorb, reared by the Douglas earl of Moray, was levelled with the ground by order of the king, while about the same time, the royal castle of Inverness, a strong key position, was strengthened as an outpost of authority under the supervision of the bishop of Moray as the agent of the crown. The royal activities, however, were chiefly concerned with the affairs of the great earldoms of Ross, Moray and Mar.

With regard to the first of these earldoms, we have seen that the rebellion, in 1452, of the young earl of Ross with the connivance of his father-in-law, had been condoned, largely, no doubt, because of the impotence of the crown. After the danger had passed, however, the king continued, on principle, to pursue a policy of conciliation,

(1) In 1455, the Thane of Cawdor had a warrant for the demolition of Lochindorb. (Hist. MSS. Commis. Report, I-II, 193) In 1458, the bishop of Moray attested the payment of £24 to the Thane for the demolition of the castle. (E.R., VI, 486)

(2) E.R., VI, 469, 521, 656.

(3) Livingston was reinstated as chamberlain in 1454. About 1456 the earl of Ross was granted a life-rent of Urquhart and Glenmoriston together with the custody of the castle of Urquhart, while his half-brother, Celestine of the Isles, and his allies of Macintosh, shared also in the bestowal of royal benefits. (E.R., VI, li-lij)

and during the remainder of his reign, reaped the harvest of his clemency in the apparent good-will and co-operation of his powerful subject.

In this instance, the policy of converting enemies into friends, if not originally prompted by the bishop of St. Andrews, was at least in accordance with his well-known principle. Up to this point, then, Kennedy could scarcely cavil at the relations of the king with the earl of Ross. James, however, in working for the public good, had not lost sight of his own particular interests. The friendship of the MacDonald chief would be a valuable asset, not only for the establishment of law and order, but also for the personal security of his neighbours; among these was the crown.

(2) THE ENDOWMENT OF THE PRINCES OF THE BLOOD.

The earldom of Moray had been claimed by the king, after the forfeiture of the Douglas earl. He found a rival, however, in the Master of Huntly who, only nineteen days after the stricken field of Arkinholm, had entered into an indenture to marry the widowed countess, Elizabeth Dunbar. In the ensuing duel of rival interests, the victory went to the crown; Gordon was bought over by the hand of the king's sister, the lady Annabella. (I) The rich lands of Moray were thus an important acquisition when James definitely launched upon the policy of raising the territorial position of the royal house above the level of its most powerful subjects.

This aim was, in one aspect, an outcome of the legislation of 1455 anent the lands to be annexed to the crown. We

(I) R.M.S., II, 745; Records of Aboyne, 3-4; Spalding Club Miscell., IV, 128-30.

can trace its development when, two months later, on the revocation of alienated lands exception was made in favour of the king's second son, Alexander, earl of March, of the earldom of March and lordships of Annandale and Man; in 1457 it was being pursued in full vigour. The possession of March and Annandale planted the family influence of the crown upon the borders: Moray would provide a corresponding hold upon the highlands. It was doubtless with this end in view that on 12th. February, 1455-6, David, "third lawful son of James II." had a charter of the earldom of Moray: the child's early death before 16th. July, 1457, would make little difference in the actual administration of the estates as crown domains.

During the king's frequent sojourns in the north in the years 1457 and 1458 he combined the pleasures of the hunt with the successful prosecution of serious business. In order to exploit all the resources of the new earldom four commissioners were appointed to revise the leasing and 'rentaling' of the lands, under the supervision, it may be, of the king himself. James was acting with thoroughgoing

(1) That James meant the lordship of Man to be no mere titular dignity is clear from the evidence of the Exchequer Rolls. The Galloway accounts of 1456 make mention of a ship sent to explore when the king's army was there; in the following year, damages were paid for the wreck of a vessel while on the king's service in Man. (E.R., VI, 204, 349) It was at this time, too, that the controversy began to grow acute about the payment of the Norway Annual for this, among the other western islands. The whole tenour of his actions is convincing proof that James had no mind to submit to any prejudicial demands. See below, 234.

(2) E.R., VI, cxxvi, note

((3) ~~There~~ ^{There} of Cawdor, 19. Lord Glamis was a son-in-law

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purpose. The commissioners were men carefully chosen: two were the king's chamberlains beyond Spey, the third was Alexander, lord Glammis, fourth and most influential, the aged bishop of Moray. In his early days John Winchester had been the devoted servant of James I.: in his old age (I) he was equally the servant of James's son. On the king's side it was politic to cultivate the goodwill of the prelates beyond Spey, for he had designs not only on Moray, but also upon the earldom of Mar.

This earldom had also been long coveted by the crown. Robert, lord Erskine, heir of line to the joint earldoms of of the late chancellor Crichton. (R.M.S., II, 318) See also the accounts of Moray in E.R., VI eg. 459, 476, 477etc.

(I) John Winchester was an Englishman, a bachelor of canon law, who had come to Scotland in the train of James I. in 1425. (Keith, Lives of Bps., 143) He was secretary to the king in 1426. (C.P.R., VII, 467)

From about the time of his marriage, when James II. began to chafe under the control of the Douglasses, he had obviously much to gain by balancing their influence in the north by that of the great ecclesiastical ruler of these parts. In 1449, and again in 1452, bishop Winchester was commissioned on embassies to England in the latter of which he was associated with the earl of Douglas and sir James, his brother. (Rot. Scot., II, 334; Foed., XI, 235, 306) His vil of Spynie was first erected into a burgh of barony in 1451, and then into a regality in 1452. (Reg. of Moray, 221-6) More significant is the fact that the grants made to the bishop by Archibald Douglas, earl of Moray, were exempted from from the general revocation of crown lands in 1455. (Cal. of Charters, I¹, 342; Reg. of Moray, 226-30) From 1455 to 1458 he was an auditor of Exchequer. For the first two years he was associated in the office with the bishop of St. Andrews; thereafter Kennedy's appointment ceased. (E.R., VI, 1, 113, 382, 488)

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(1)
Mar and Garioch was held in popular esteem as earl of Mar,
although the king and his advisers had illegally withheld
his inheritance. Garioch passed into the hands of Elizabeth
Douglas, countess of Orkney, and after her death, about 1451,
it was bestowed upon Mary of Guelders on 26th. August, 1452. (2)

In 1455, the earldom of Mar, although not enumerated
among the crown lands, was in actual possession of the king
pending a long-delayed settlement by the Estates of parlia-
ment. The case was at last determined, and Mar disposed of,
in the interests of the crown in 1457. On 15th. May of
that year, James himself presided over a Justice Aire in
the Tolbooth of Aberdeen, where it was found that the lands
of Mar were of right vested in the king. (3) A study of pro-
ceedings shows that a verdict resting on "palpably untenable
(4)
ground" had been secured by a policy of intimidation and

(1) Documentary evidence is not wanting to show that in
popular opinion Robert, lord Erskine, was recognised as earl
of Mar. He himself, on being retoured to half of the earl-
dom in 1438, assumed the title, although the crown invariably
addressed him by the inferior dignity alone. The history of
the relations of the crown to the earldom of Mar is traced in
appendix.

(2) Elizabeth Douglas was a niece of James I. and widow of
Sir Thomas Stewart, natural son of Alexander, earl of Mar.
(E.R., V, 55; VI, cxxi, cxxv; R.M.S., II, 592)

(3) Crawford, Earldom of Mar, I, 293; Antiquities of Aberd.
and Banff, IV, 206)

(4) E.R., VI, cxxvi.

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bribery. The intimidation was practised upon the Grand Inquest of Jurors; the bribery was useful in buying the support of at least one influential magnate. George Leslie, lord Rothes, an interested party in the fortunes of Mar, supported the king in his suit: ⁽¹⁾ three months later he had been raised to the earldom of Rothes, his lands of Ballinbreich were erected into a barony, his town of Leslie ⁽²⁾ Green into a burgh of barony.

By devious means, such as these, the crown extorted "ane simple and nakit possessioun, without all richt of ⁽³⁾ propertie."

Remembering his dealings with the Livingstons, we need not, perhaps, be surprised that James seized this opportunity to swell his substance by the legal robbery of a subject's inheritance. The ill-gotten gains were settled upon the king's hapless youngest son who was

(1) The nucleus of the Leslie domains was around Ballinbreich in north Fife, but other possessions of the family were held of the earl of Mar. Thus in 1442, George Leslie granted a charter of "the lands of Foullis Mowat in the earldom of Mar, to be held of the earls of Mar." (Hist. Records of Leslie, II, 19-20) When the earldom was annexed to the crown all such vassals holding of Mar would become tenants in chief: the action of the king thus raised their status.

(2) At the Justice Aire in Aberdeen in November, 1457, he appears as lord Leslie; in the charters of Ballinbreich and Leslie Green, dated 20th. and 21st. March, 1457-8, he is styled earl of Rothes. (Hist. MSS. Commis., IV, 495 [25], 503 [96]).

(3) This was the finding of the Court of Session in 1562, when the earldom of Mar was restored to the Erskines. (Crawford, Earldom of Mar, I, 442)

infected during the financial year ending in June, 1459, while in the previous year the dukedom of Albany had been revived in favour of his elder brother Alexander, earl of March. (1)

While thus endowing his sons, James provided also for his half-brother, Sir John Stewart, who, on 20th. June, 1457, appears as earl of Athol, - in prejudice to the asserted claims of Maule. (2) Before July, 1459, Lady Margaret Douglas had left her husband in England and thrown herself upon the king's grace; within a year she was wedded to the new-made earl of Athol, with Balveny as her dower. (3)

The royal policy was undoubtedly to make the princes of the blood the greatest landowners in the realm so that the crown in its own strength would outweigh the territorial power of the feudal baronage. James had learned his lesson from the hostile combinations of the nobility in the days of the Douglas menace. At the same time, his chivalrous

(1) E.R., VI, cxxvi, 516, 441.

(2) Rot. Scot., II, 383. After the execution of Walter Stewart, earl of Athol for the murder of James I., Sir Thomas Maule, as heir of line, had claimed the succession, on the ground that Stewart's forfeiture did not stand, since he had owed his title simply to the courtesy of Scotland, as the widower of the heiress, Margaret de Berklay. (Reg. de Panmure, 228-9)

(3) E.R., VI, lxi, 498, 646. The castle of Balveny passed into the possession of Athol about 1460. (Ibid, 651) After the death of James II., the earl and countess are said to have been seized and carried off by the Lord of the Isles. (Leslie, 34, Buchanan, II, 62-3). If the statement is true, one would infer that the abduction took place at the instigation of Douglas when he was leagued with the MacDonald against the crown. The grounds of his resentment are left to be surmised. Lady Margaret had returned to Scotland with credentials from the English king; Douglas himself was married, after 1461, to an English wife, Anne Holland, daughter of the duke of Exeter, and widow of Sir John Neville, slain in 1461. (Douglas Bk., I, 496)

treatment of the distressed ladies of Douglas and Moray witnesses to the strange inconsistency of a character where clemency struggled with tyranny, justice with (I) caprice. In the ill-assorted team, however, self-interest remained the whip horse: the driver never dropped the reins in skilfully straining towards his goal.

(3) FORMATION OF A KING'S PARTY.

Other avenues he explored with the same end in view. We have seen that he conciliated the Lord of the Isles, and bought the support of Leslie. These two cases are interesting illustrations of the general trend of his policy towards the barons. Following the principle of Kennedy, partly at the bishop's prompting, partly at his own instance, he sought to mitigate opposition by his bounty. At the same time he was building up a court party of new nobility,

(I) The strangely complex character of the king is marked by the contrast between the grant of a pension to the widow of the traitor earl of Moray on the one side, and the suppression of the claims of a loyal subject on the other. Perhaps by acts of bounty to noble gentlewomen like the countesses of Ross and Moray, (E.R. VI, li, 467, 221, etc.) James sought to silence awkward scruples of conscience in a manner which reminds us of his more famous grandson, James IV. These two Stewart sovereigns had, indeed, many traits of character in common. The warring elements in the nature of the second James are again illustrated by the contrast between his careful stewardship of the lands of Moray, and the arbitrary expulsion of whole families for the sake of clearing hunting forests for the royal pastime. (E.R., VI, 242, 368, etc.; Thanos of Cawdor, 19, where an abatement was allowed to the tenants dispossessed). His high-handed actions at this time might well inspire the admonition of Kennedy in the parliament of March, 1457-8.

dependent upon himself, to counteract the influence of the old. Although there was nothing inherently novel in such a policy, yet its working shows considerable mastery of statecraft. The new nobility, alike of the sword and of the pen, would emanate from, and find its first link of unity in, service to the crown. Its members were chosen with well-considered care.

Thus, by erecting the new earldom of Argyle in 1457 in favour of Colin, lord Campbell, the king was creating a semi-royal baronage as an equipoise to the power of the MacDonald in the west, just as the elevation of lord Leslie was an offset to the authority of Kennedy in Fife. Between 1458 and 1460, James married his two unwedded sisters to the newly created Douglas earl of Morton, and to the heir of Huntly. For the rest, he promoted

(1) Hist. MSS. Commis., IV, 470; Scots Peerage, I, 332. Through his wife, Isabella Stewart of Lorn, Colin Campbell was, or became, the kinsman by marriage of the king.

(2) The king's sisters, Joanna and Annabella, who had been sent to France in 1445, returned to Scotland in 1458, after having been long detained through stress of weather. (See below,) Before 15th. May, 1459, Joanna, the betrothed of the late James Douglas, earl of Angus, was wedded to another James Douglas, to wit, the third lord Dalkeith, for whom a new earldom of Morton had just been created. (A.P., II, 78; Reg. Hon. of Morton, I, xlii; E.R., VI, lviii; R.M.S., II, 699) The lady Annabella was married, before 11th. March, 1459-60, to the Master of Huntly, who had divorced the countess of Moray in her sinking fortunes. His marriage with the sister of king James may have been arranged some time previously, as a pawn in the game for the earldom of Moray. (See above, 217)

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among the nobility of service several lairds of the second rank, among them Lindsay of the Byres, and the Thane of Cawdor. Equally important among his agents were the ecclesiastics. The king was obviously seeking to assert his control over the national church. We have seen that in 1457, and again in 1459, he reasserted his claims to the right of advowson sede vacante; (I) in the same period he contrived to fill vacant benefices with his own ministers.

George, bishop of Brechin, for example, was the chancellor who wrested the law in the king's favour in respect of Mar: from 1455 onwards, he appears as lord auditor of the exchequer, (2) while the rolls witness to his judicial and economic activities in the lands of recent annexation. Thomas Spens, translated to Aberdeen in 1458, was another king's man, who had been forced upon the see in prejudice to the claims of William Forbes, the kinsman (3) of James and nephew of Kennedy, elect of the chapter.

(I) See above, 37-40.

(2) His name appears among the auditors from 1455 to 1459; the list is wanting for the year 1460. The bishop of Brechin fell from power on the death of his royal master.

(3) C.P.R., XI, 528. Spens had been chamberlain of Galloway (E.R., V, 548) and keeper of the privy seal. (R.M.S.; II, 606, 3rd April, 1458). On 20th. November, 1455, Thomas, bishop of Galloway and Privy Seal, had been sent to France to bring home the sisters of the king. (Stevenson, Letters, I, 317)

Ninian Spot, who succeeded Spens in Galloway was at the time
 of his promotion comptroller and auditor. (1)

As the reverse side of this policy of building up his own party, it is not surprising to find that the old counsellors cease to predominate in the changed circumstances. A strange silence falls upon the history of the earl of Orkney; the services of Angus, the warlord, were not required for the furtherance of the king's political designs; the bishop of St. Andrews stood aloof. We need not conclude that there was any fundamental breach between James and his cousins, the earl and the bishop. When the wars broke out again Angus returned to his sphere of influence: the flying splinter that killed the king, struck the Red Douglas at his side. During these years of a nominal truce, which, however, did not save Kirkcudbright from the flames, the earl was probably active upon the marches, or busied with his own concerns. (3)

(1) E.R. VI, 382 The Exchequer Rolls for this period show that he was an active servant in the administration of the king's affairs. (See also, Bps. of Scot., 369-70)

(2) He did, however, witness a royal charter at Holyrood, on 15th. May, 1459. (R.M.S., II, 699) The earl was at court at the same time as the bishop of St. Andrews, who, on the following day, witnessed a charter of lands to his brother, lord Kennedy. (Ibid, 700). Although William St. Clair outlived the bishop, his colleague of former days, he ceases to play an active personal part in public affairs.

(3) If we can believe the rather inconsistent accounts of Law, Godscroft (204), Boece, (378), and Pitscottie (I, 127-8), there had been warfare on the border notwithstanding the truce. Godscroft relates that in 1457, Douglas and Percy plundered the Merse and were defeated by the earl of Angus. According to Law, the Douglases made a raid in Annandale, and were defeated at Lochmaben on 23rd. October, 1458, with

THE RELATIONS OF THE KING AND KENNEDY.

What is true of Angus holds also of his uncle, the bishop of St. Andrews. When the king ceased to feel the need of Kennedy's support, he went his own way. It is significant that after 1456 the bishop was no longer appointed among the auditors of exchequer. The same year marked the termination of his activities in assessing and letting the king's new-gotten lands in Galloway, while in 1458 he drew his last recorded salary as Keeper of Edinburgh Castle. If these facts show a coolness on the part of the king, we have, on the other side, the admonition of the prelate in the parliament of the previous March.

Yet the very fact that Kennedy inspired the legislation of this parliament, is in itself an indication that there *was*

the loss of 600 Englishmen. Law has been questioned as to chronology, (E.R., VI, lx) but weight is given to his statement by the fact that an indenture was drawn up at Ripenburn on 29th. September, 1458, respecting the entertainment of the Douglasses in England, and the burning of Kirkcudbright by an English host. (Inventory of Treaties, 20).

During the respite from wars, Angus would be free to pursue his own domestic policy. The evidence of the Douglas Book makes it clear that earl George followed a consistent aim of consolidating his power and influence. (Douglas Book, II, 56-60) For his services during the Douglas rebellion he was rewarded with the lordship of Douglas. (Ibid, III, 36-7) He also asserted claims to the fermes of Dunblane in Eskdale, on the alleged ground of a royal gift. In 1456 and in 1459, it was complained that he had seized the customs and imprisoned the customars. (E.R., VI, 557, 125, 494)

(1) E.R., VI, 196, 197, 198, 203.

(2) Ibid, 441.

no insuperable gulf between them. Love and pride were joined with censure in the exhortation of the bishop. The strengthening of the crown and the conciliation of the disaffected were principles which he had long inculcated; but the royal pupil, having thoroughly learned his lesson, began to turn it to unscrupulous account. Hence Kennedy must have deprecated the arbitrary and palpably unjust proceedings of the king, - the ousting of peasants for the sport of nobles, the wresting of the law by the chief custodians of the law. Much as he valued his own untrammelled independence, however, James could not afford to leave the bishop's opinion altogether out of account. Long years of faithful and distinguished service, pride of birth and personal ascendancy of character, had endowed Kennedy with a prestige which could not, with impunity, be ignored. The ultimate identification of their aims, moreover, and their common interests, prevented their differences from cutting them quite asunder.

Thus, although Kennedy's absence from the councils of the king during this period is both marked and significant, yet it is not unrelieved. He appears, for example, as witness to a great seal charter at Edinburgh in August, 1458.^(I)

(I) R.M.S., II, 610, and note, 611. The date of the month may be doubtful, but the year was 1458.

Again, the very political considerations that drove the bishop out of public life, at the same time gave him much-needed leisure to devote to the things of education and religion: to this extent he could rejoice in his new freedom. His charter of new erection of the college of St. Salvator was given at St. Andrews on 4th. April, 1458; ⁽¹⁾ on 6th. November following, the king, on the resignation of William Monypenny, granted a charter of lands "to his clerks and orators, the provost and canons of the Collegiate Church" ⁽²⁾ of Kennedy's foundation.

The name of William Monypenny affords another link between James the king and James the bishop. We have seen that in 1450-1 the pope failed to profit by a clash of interests in the ecclesiastical sphere, because the tide of national events swamped other differences, while even at the most acute stage of their rivalry, the two cousins found themselves agreed in the support of common friends. ⁽³⁾ In this period we find a somewhat similar situation in the political sphere. William Monypenny, Andrew, lord Avandale, John Kennedy, provost of St. Andrews, lord Graham and Gilbert, lord Kennedy of Dunure, were among the party that ⁽⁴⁾ fused divergent interests.

(1) J.M. Anderson, City and Univ. of St. Ands., 4

(2) R.M.S., II, 639.

(3) See above, 51.

(4) Whatever the feeling between king and bishop, Gilbert Kennedy had tokens of royal favour during this period. He was created a lord of parliament between 27th. May, 1457,

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On the very day on which Monypenny endowed the bishop's foundation of St. Salvator's, he and John Kennedy were commissioned in full parliament on diplomatic business overseas. (1) Monypenny himself had just accomplished a mission touching the return of the two Scottish princesses who had been sent to France in 1445. (2) On their homecoming, early in 1458, we have seen that they were both married in Scotland. For old association's sake, Kennedy ought to have looked kindly upon their marriage: Morton, the husband of the lady Joanna, was the son of his fellow-sufferer during the black years, 1444-1446; Gordon, the husband of Annabella, the son of his old colleague, the hero of Brechin.

and 20th. March following. (Scots Peerage, II, 453; Maxwells of Pollok, I, 430)

(1) R.M.S., II, 641, 642, 647, 653; A.P., II, 79.

(2) Stevenson, Letters, I, 354. Negotiations of rather an obscure nature had been going on for some years concerning the fortunes of the widowed duchess of Brittany and her sisters, Joanna and Annabella. Money considerations seem to have been not without their weight in this, as in so many other episodes of the reign. (E.R., VI, liii-lv: *Antiq. Socy*, III, 99-100) At the same time James doubtless welcomed the return of his sisters as an additional means of furthering his own political designs. If there were any grounds for the French report of a contemplated marriage between the lady Joanna, and the Lancastrian duke of Somerset, no such scheme ever materialised. (De Coucy, 709)

THE DIPLOMATIC MISSIONS OF 1458-1460.

In other points of the policy of this period the influence of the bishop of St. Andrews must have made itself felt. Thus he had doubtless an interest in the fourfold mission entrusted in November, 1458, to Monypenny, the provost of St. Andrews, and their fellow envoys, by the king and the three estates. (1) As the foremost churchman in Scotland, for example, he could not but be concerned in the matter of tendering the obedience of Scotland to the new pope. (2)

The proposed embassy to Castile stands out as an unprecedented event in our annals, but there can be little doubt that it was prompted by the international situation. If the English had broken the truce on the marches of Scotland, the privateers of Warwick had also captured ships of Castile in the Channel in May, 1458. "Of any special casus belli between England and Castile no word is said; but --- in all recent treaties Castile had been reckoned an ally of France." (3) Looked at from this point

(1) R.M.S., II, 641, 642, 647, 653; A.P., II, 79

(2) We have no evidence that the embassy ever reached Rome, although Hugh Douglas, brother of the earl of Angus, and one of the ambassadors, may have been at the papal court when he had a grant of the commend of Kirkinner. (C.P.R. XI, 421-3)

(3) Ramsay, Lancaster and York, II, 210.

of view, therefore, the mission of the Scottish envoys indicates a drawing closer of the bonds of the auld alliance. At the same time, it suggests the growth of national pretensions to recognition as a European state. An alliance with Castile would also be beneficial for trade and perhaps for intercourse through pilgrimages to the famous shrine of Compostella. (I) We may shrewdly guess that the bishop of St. Andrews, ambitious patriot and friend of France, merchant prince and father of the Church, had identified himself with all of these aims. His high hopes of concluding "friendships, leagues and treaties" with the king of Castile were, however, probably fated to be never more than fanciful day dreams.

It is most likely that the ambassadors proceeded first to execute their missions in France, and that, before their business had been accomplished there, the whole diplomatic situation was transformed by the untoward death of the king. This business was itself of a two-fold nature.

Lord Monypenny and the provost of St. Andrews were instructed to seek from Charles VII. the county of Saintonge,

(I) The shrine of St. James of Compostella was a popular place of pilgrimage at this period. In this connection it is interesting that when commissioners were appointed in 1456 for the restitution ~~for the restitution~~ of Kennedy's ship, arrested in England, the captors of the vessel "to impede execution of the said commission, on 18th. February last used other letters of licence to take the ship with thirty pilgrims to Santiago in Galicia." (Cal. of Patent Rolls, 1452-1461)

"belonging of right to the king their master, to take corporal seisin of the same, let the lands, and lift the rents." Perhaps James hoped to fill his coffers with the revenues of this fief that had been promised to his father on the marriage of Margaret and the dauphin. Whatever the response of the Most Christian King, it is certain that no tangible results accrued to the brother of the late dauphiness.

Much more important, although also inconclusive, was the other mission of the Scottish envoys. On 6th. November they were empowered to conclude a peace which Charles VII. was to negotiate between the king of Scots and Christiern, king of Denmark. It was not by accident, but in terms of a definite alliance with Denmark, that Charles, the common ally of both, found himself adjudicator in a cause between these two monarchs. King Christiern, who had just succeeded in establishing his rule in the triple kingdom of Scandinavia, was anxious to secure the arrears of the

(1) R.M.S., II 647.

(2) According to Duclos, Louis XI. rejected the claims of the Scottish monarchy on the ground that neither James I. nor James II. had fulfilled his part of the contract by providing an army for the expulsion of the English. (Histoire de Louis XI, II, 268) The Scottish crown, however, did not drop its claim to Saintonge. It was renewed in 1473, when James III. sent a similar embassy "to put him in possessione of his counte of xanctone efter the forme of his charter of his maist noble progenitour quham god assolze."

(3) Torp^Ahaeus, Orcades, 184; de Viriville, Histoire de Charles VII, III, 378.

Annual of Norway, while another point of dispute concerned the imprisonment and plunder of the governor of Iceland, who, in 1456, had been driven by stress of weather into a port of Orkney.⁽¹⁾

These points, particularly on the financial side, were found difficult of settlement. The impoverished king of Denmark hoped to tap a vein of gold; the Scots had not the means, even if they had the will, to meet such a large demand. Doubtless they felt, moreover, that the national honour was involved.⁽²⁾ Payment, never regular, had entirely lapsed since 1424; the Scots claimed that time had given them a prescriptive right to the sovereignty of the Western Isles and Man. In such case, it is not surprising that negotiations dragged.⁽³⁾ The original envoys were to be

(1) Letter of Christiern to Charles VII, printed in D'Achery, Spicegelium, IX, 302; Torfaeus, Orcades, 184-5. The only authority for these proceedings of Scandinavian origin. Torfaeus has, as he tells us, drawn largely from official sources, and his *narrative* appears to be trustworthy and in accordance with known facts. Several inaccuracies, especially with regard to dates, are probably due to careless printing. The account given by Abercrombie in *The Martial Achievements* is practically a translation of Torfaeus.

(2) The settlement of Man upon the earl of March in 1455, the demonstration of the royal forces there, the king's neglect to make apology, or afford restitution, for the capture of Beorn with the revenues of Iceland which he carried, are sufficient comment upon the attitude of James.

(3) One, at least, of the Scottish ambassadors, did not set out immediately. On 14th. November, Monypenny had a safe-conduct through England, in company with the abbot of Melrose. In the end he departed by sea, apparently from a port of Galloway. Delays were also imposed from the side of the Danes. The capture of the governor of Iceland, and a campaign of king Christiern, had caused a postponement,

reinforced a year later by the addition of the bishop of St. Andrews himself. On 1st. September, 1459, James Kennedy set sail from his port of Pittenweem in Fife "for the sake of a pilgrimage to St. John of Ameas."⁽¹⁾

This clearly was a pilgrimage political, rather than devotional, although in the bishop's mind the two aspects may have been reconciled. He was back with the king in Edinburgh on 1st. March, 1459-60;⁽²⁾ in the summer he lay sick at Bruges, what time the negotiations with the Danes were at a deadlock pending his arrival. As the ambassadors of Christiern had only a copy of the indenture of the crucial treaty of 1424, everything depended upon the compearance of Kennedy with the original chirograph from the Scottish archives.⁽³⁾ Meanwhile, in the conference of Bourges, king Charles brought forward for consideration a proposal, previously thrown out in a letter, to settle the dispute by way of a marriage alliance. The Scots had been empowered to negotiate upon this basis, but the Danes imposed delays, and before a decision could be reached, the sudden death of James II. quashed proceedings.

while in 1460, the Danish envoys protested that they lacked plenipotentiary powers to conclude and determine the negotiations with the Scots. (Letter of King Christiern; Torfaeus, 184-5.)

(1) Priory of St. Ands.,xx.

(2) R.M.S., II, 745.

(3) Torfaeus, Orcades, 185

One wonders from what source Charles, "the well advised", had derived the happy idea of a matrimonial union as a peaceful solution of all the difficulties. Although we cannot prove, yet it is not overbold to guess, that the bishop of St. Andrews had set the scheme on foot. The pilgrimage to Amiens might well provide the opportunity to moot the plan; the letter of king Charles in which the proposal was embodied, would be a natural outcome of the interview. Kennedy's return to Scotland would be necessary to secure plenipotentiary powers and the necessary official documents from the national archives.

It is significant that a year after the despatch of the original embassy no progress had been made; that not till after the departure of Kennedy with the Scottish chirograph, did the French king begin to treat on the basis of a marriage alliance. The sickness that laid the bishop low far from the conference table, need not have prevented him from priming his agents in the part they were to play. They had obviously come prepared with well considered and (I) highly advantageous proposals which betray the working of

(I) It was proposed that the Norway Annual and the money arrears of the king of Scots should be remitted for ever; that Shetland and Orkney should be ceded in full sovereignty to the Scottish crown; that the bride should furnish 100,000 crowns for her suitable equipment. On his side, the king of Scots would settle ^{on the bride} a jointure which would satisfy the king of Denmark. (Torfaeus, Orcades, 185)

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a master mind. The scheme was a statesmanlike idea which, although not immediately fulfilled, provided the historical solution of the problem.

The position of Orkney, Shetland and the Hebrides had long been an anomaly, while settlement by way of the Danish demands was clearly an impossibility. Even had national pride permitted, the national exchequer would have forbidden compliance. These considerations must have drawn king and bishop together in pursuit of a common policy. Again, if Kennedy deprecated the aggressive attitude of James in respect to Danish claims, this very fact would make him the more eager to achieve an honourable settlement acceptable to both sides. From the king's point of view, the despatch of Kennedy had another advantage. So long as the bishop's energies were diverted overseas, their spheres would lie apart: the king himself could pursue an untrammelled policy at home.

JAMES II, LANCASTER AND YORK, 1459-1460.

The royal interest was more immediately concerned with events in England. James was about to launch on the aggressive policy which, ending in his untimely death, was profoundly to affect the course of history. The two years' truce negotiated in 1457 was but a feverish and uneasy peace, broken by raids on the marches and piracy upon the seas. Early in 1459, Andrew, abbot of Melrose, and Rothesay Herald were despatched to England "with messages from the K. of

Scots: the errand of the latter, at least, was for the recovery of Scottish merchandise, captured at sea. (1)

(2) Complaints of broken faith on both sides led to negotiations,

on 20th. February, 1459-60, the truce was extended for a term of seven years: (3)

yet on 2nd. June, a new embassy had a safe-conduct to treat for the conservation of the peace. (4)

In spite, therefore, of the imposing list of conservators, the truce was obviously more specious than real. An investigation of proceedings leaves a sinister impression as to the good faith of the king.

In 1459 James, having accomplished his designs of family aggrandisement, was prepared again to push his fortunes at the expense of England. The selection of

(1) Bain, C.D.S., IV, 1300Q; E.R., VI, 498.

(2) Bain, C.D.S., IV, 1288, 1293.

(3) Rot. Scot., II, 393-8; Foed., XI, 426-436, 443; Bain, C.D.S., IV, 1304. The commercial aspect of the question will account for the active part played by burgesses, such as William Carribris of Edinburgh. (E.R., VI, 495; Foed., XI, 421) Bishop Kennedy would also be interested in this aspect, both in his public character as a patron of commerce, and in his private capacity as a suitor for the reparation of his ship, the 'Marie' of St. Andrews, piratically seized ^{some} seventeen years before. (See below, 325-6) For an account of the piracy and reprisals, see E.R., VI, lxii.

(4) Rot. Scot., II, 399-400; Foed., XI, 453-4.

the envoys on the different missions in itself reveals the interest of the king of Scots in their proceedings. A further scrutiny suggests that he was pursuing a double policy: in the eyes of the world, negotiations were on foot for peace: privily, "secret matters" were under discussion.
 (1)

It is significant that on the same day a safe-conduct should be issued to the bishop of Glasgow and his colleagues on a peace commission, and a separate warrant to the king's chancellor, the bishop of Brechin, "about to go on pilgrimage to Durham".
 (2) This mysterious "pilgrimage", together with the contemporary secret mission of the abbot of Melrose, gives one pause to weigh the statement of Leslie that James was in negotiation to assist Henry VI. in return for "Northumberland, Cumberland, Durame and uther shireffdomes quhilk the King of Scotland had of before, and bene withaldin fra thame diverse yeires past."
 (3) The historian

(1) Rot. Scot., II, 391. The abbot of Melrose and Rothesay Herald were in London in May. The 10th. of that month was the date fixed for a Lancastrian rally at Leicester: both sides, in fact, were preparing for an appeal to the sword. For the political situation in England at this time, see Ramsay, Lancaster and York, II, 212-3.

(2) Rot. Scot., II, 390; Foed., XI, 423; Bain, C.D.S., IV, 1301.

(3) Leslie, History, 29-30. Leslie represents the initiative as coming from the side of king Henry, whose promises were acceptit be the King of Scotland, and confirmit by treaties and contractis, maid, sealed and interchangit betwix the twa princes, in the yeire of God, 1458." Boece, Pitscottie, Buchanan and Drummond all make reference to negotiations between the king of Scots and political parties in England. They are, however, too confused and inaccurate to be relied on.

may be inaccurate as to chronology and details, but the record of diplomatic proceedings leaves grave reason to believe that the king of Scots actually was plotting with Lancaster against York, perhaps even counterplotting with York against Lancaster, what time he was officially treating of peace.

Seen in this light, a new significance is thrown upon the royal solicitude for the defences of the country, and for the adequate provision of artillery. (1) If the king's interest in bombards were partly engendered by the novelty of these new instruments of war, yet at the same time, his hobby could obviously be turned to account in event of renewed hostilities.

(2)

Whatever his schemes, things were doubtless precipitated by the overthrow of the Lancastrian dynasty at the battle of Northampton on 10th. July, 1460. James, on the dictates of self-interest, if not actually in the terms of some secret stipulation, lost no time in attacking the outposts of England on Scottish soil. Within ten days of the Yorkist victory, "the K. of Scots with all

(1) Bombards were imported from Burgundy, while the artillery of the country in general was overhauled. (E.R., VI, lxxiii, 383, 456).

(2) Although obscure, the king's schemes were undoubtedly thoroughgoing and of far-reaching scope. He seems to have contemplated an Irish invasion on the west coast of England, in conjunction with his own attack upon the eastern borders. The Galloway accounts in March, 1460-1, are charged with the expenses of the sheriff of Wigton, while on a mission to Ireland to 'Regulus Onele', at command of the late king. (E.R., VII, 9; Agnews of Lochnew, I, 276-7)

his power is expected to lay siege 'eftsoons' to the town
 and castle of Berwick-on-Tweed." The anticipation was
 well grounded; but the object of attack was the strong
 castle of Roxburgh. Here, on Sunday, 3rd. August, "king
 James the second --- unhappely was slane with ane gun the
 quhilk brak in the fyryng."
 (1)
 (2)

Well might there be "gret dolour throu all Scotland"
 for, when everything is said, James was a strong and
 dominating personality, vigorous and popular. The "gret
 oist" that he led to Roxburgh was drawn from all the ends of
 Scotland; the Lord of the Isles rallied under the same
 standard as the earl of Angus. Had he lived, years and
 experience might have moulded and mellowed his character
 and policy. He had the making of a great king for
 Scotland; by his death, the country was again plunged into
 the vicissitudes of a long minority, with faction at home
 and chaos abroad.

Everything depended upon the advent of a strong and
 skilful pilot to guide the barque of state through the
 trough of the waters which threatened to engulf her. It
 was in this hour of extremity that the bishop of St. Andrews
 returned from Flanders to take up the helm.

(1) Bain, C.D.S., IV, 1307.
 (2) Auch. Chron., 20, 57.

The death of James, following hard upon the captivity of Henry VI., made the international situation of immediate moment to the king of France. Hence he sent an urgent message to Bruges charging the bishop of St. Andrews to return without loss of time to Scotland, to hold out a helping hand to king Henry; "which exhortation and charge I was ready to obey." ^(I) This, then, is the keynote to much of the history of the three next succeeding years; the auld alliance was once more to have an influence upon the domestic fortunes of Scotland.

GENERAL SITUATION OF AFFAIRS, 1460-1461.

There is pathos in the part that James Kennedy was thus called upon to play in the closing of his days. He who had strained and toiled for the establishment of peace, was to see his life's work jeopardised, was himself to take the field, and to bring obloquy upon his name by keeping troth with a faithless ally. He was to struggle against bodily infirmity, to die at last with a mind not free from care. His work for the arts and crafts, for justice and the social order, was impeded. Yet his name was not writ in water. The blasting of his hopes is not the last

(I) Despatch of Bishop Kennedy, printed in Wavrin, Cronicques d'Engleterre, III, 164 etc. (Dupont, Société de l'Histoire de France.)

word on the subject. He piloted the country through a time of storm into a peaceful haven; the later destinies of his ill-fated nephew it was not his to shape.

A peculiar interest, moreover, attaches to this last period of Kennedy's career, because here we find him, as never before, in a position to work out a policy of his own. In the regency of earl Archibald he had been a young subordinate, serving his apprenticeship to high politics. Although James II. had used the counsels of his prelate-cousin, yet at best, Kennedy was but the minister of the king. In the minority of the third James, the bishop of St. Andrews had for a second time to encounter bitter political opposition; then, however, his years and experience, his relationship to the king and his powerful position, all united to invest him with a peculiar authority in the state.

We do not know definitely when he returned to Scotland, but he cannot have landed till after the capture of Berwick and the coronation of the young king. The death of James II. did not mean the abandonment of his enterprise. Angus, the war-lord, inspired energy and determination
(I)
into the Scottish camp. Roxburgh Castle was taken within

(I) Douglas Bk., II, 254; Godscroft, MSS. History, II, 42. Godscroft relates that, an altercation having arisen between the lords spiritual and temporal as to the manner of the coronation, the earl of Angus settled the dispute by himself placing the crown upon the king's head with the challenge, "Let me see who dare be soe bold as to presume to tack it off againe."

three days; the boy king, his mother and the lords of the court were summoned from Edinburgh; on Sunday, 10th.

August, a week after the death of his father, James was consecrated king of Scots, in Kelso Abbey. (1) The late king was laid to rest in Holyrood Chapel: (2) his war policy was carried on by an invasion of England in which the castle of Wark was cast to the ground. (3)

This victory had probably been achieved, and attention turned to the thorny question of the government when the bishop of St. Andrews reappeared upon the scene of politics. We have his own testimony that he found "a great division" (4) in the country, stirred up by the queen. Mary of Guelders, gathering around her a party of 'Young Lords', laid claim to the regency. Opposed to her was the party of the 'Old Lords' under Kennedy and Angus. These two factions came near to plunging the country in civil war; happily, the

(1) Auch. Chron., 21, 57-8; Extracta, 244; Scotichr., Scot. Kgs., 200. The active part attributed to the queen by our early historians has been discountenanced in the light of later evidence.

(2) Extracta, 244; Scotichr., II, 516.

(3) Auch. Chron., 21, 58; Leslie, 32-3; Major, 387; Boece, 383; Pitscottie, I, 153; Buchanan, II, 47-8.

(4) Kennedy's Despatch; cf., the brief notice of the "Short Latin Chronicle" under the year 1460:- "Aug. 3. Obitus Jac' II. Tumulatus in Dunedino." (Antiquarian Soc. Transactions, XXVIII)

(1)

danger was averted by the moderation of the bishop.

The Auchinleck Chronicle tells us that the first parliament of the reign, on 23rd. February, 1460-1, "left the king in keeping with his moder the quene, and governyng of all the kinrik;" and that immediately thereafter she put adherents

(2)

of her own into positions of trust. The action of the parliament may have been the contrivance of Kennedy, while if he did not actually advise, he at least acquiesced in

(1) Kennedy's Despatch. He wrote that the "grant discencion" between the queen and himself led almost to bloodshed: "et ce non obstant, je me gouvernay bien parciennement pour luy complaire, en entencion de tirer son couraige à l'aide du dit roi Henry."

It is perhaps impossible, at this distant date, to sift the true sequence of events from the conflicting accounts of historians. Buchanan gives a very circumstantial report of stormy scenes. He represents that the queen's action was highly unpopular, and that only with great difficulty did the bishop of St. Andrews and three brother prelates restrain the earl of Angus from an appeal to the sword. His version of the political crisis probably contains a solid substratum of truth, but in some of his details, as for example, the enumeration of the Guardians, he is obviously in error, while his narrative is coloured by his own political views. As to the question of the Council of Regency, the discrepancy in the different accounts makes it impossible to come to a final conclusion on the subject. The Exchequer Rolls bear out the statement of the Auchinleck Chronicle that at first the government was vested in the queen. When, however, she was denuded of political power a Board of Regency may have been erected in the hope of avoiding a repetition of the individualistic struggles of Livingston and Crichton for the chief power. Only a master hand could drive such a team, "Quha", Leslie tells us, "during the time the B. James Kennedy leivit, aggreit weill on the governement of the realme but not so weill eftir his deceis." (History, 34)

(2) Auch. Chron., 22, 59.

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the "various changes in the officers of State, and keepers
(I)
of the principal fortresses." In return, the bishop was
rewarded by the adherence of the queen to the cause of
Lancaster.

SCOTLAND AND THE WARS OF THE ROSES.

(I). "A HELPING HAND TO HENRY."

The question of Scottish foreign policy had to be dealt with even earlier than the settlement of home affairs. In January, Margaret of Anjou and her son, having thrown themselves as suppliants upon the Scots, were hospitably entertained at Lincluden by Mary of Guelders and the young
(2)
king. In a political conference held there, a proposal of Kennedy was brought forward for the marriage of Mary, sister of James III., with Edward, Prince of Wales, while as the price of immediate, practical support, the Scots

(I) E.R., VI, xlvii. So long as the bishop could place his confidence in the queen, there were obvious advantages in carrying on the government under her regency. It is significant that "the lordis said that thai war littil gud worth, bath spirituale and temporall, that gaf the keping of the kinrik till a woman." As Kennedy had formerly opposed schismatic tendencies in the church by supporting the papacy, so now he may well have opposed disruptive forces in the state by upholding the authority of the queen. Even after Mary of Guelders was deprived of political power, she was left with the guardianship of her son's person. (Auch. Chron., 23, 60)

(2) Auch. Chron., 21, 58; E.R., VII, 8.

(1)

were promised the cession of Berwick, but the "great army"
of Scots, Welsh and other foreigners and North men" brought
no good to the cause of Lancaster.

Within little more than two months, Margaret found herself again on Scottish soil, this time with her husband, her son and several lords of the Red Rose. Henry of Winchester, a homeless fugitive, had fled from Newcastle to Berwick, which, in terms of his agreement, he surrendered to the Scots on 25th. April, 1461. The acquisition

(1) Kennedy's Despatch; Wavrin-Dupont, II, 302; Ramsay, Lanc. and York, II, 243. Kennedy declared that the idea of a marriage alliance was distasteful to the Scottish nobles who accused him of jeopardising the kingdom of Scotland to please the king of France. On the other side it is well to remember that Margaret's action was highly unpopular in England. "To surrender England's chief bulwark against Scottish inroads as the price of liberty to import Scottish hordes to overrun England was enough to stamp her party as national enemies," As her case became more desperate, Margaret was driven to gamble still more recklessly for support; things moved in a vicious circle.

According to Wavrin, the cession of Berwick was proposed by Margaret, not by the Scots. It is interesting that the provost of Lincluden, where the conference was held, was James Lindsay, whose appointment as Privy Seal was so unpopular with the party whose views are voiced in the Auchinleck Chronicle.

(2) Three Fifteenth Cen. Chrons., 152 A victory at Wakefield on 30th. December (Before the meeting at Lincluden) was rapidly followed by defeats at St. Albans, 17th. February, and at Towton on 29th. March. The Duke of York became Edward IV., king of England, as a result of these victories. (Ramsay, Lanc. and York, II, 248-9)

(3) E.R., VII, xxxvi, xxxvii; Leland, Collectanea, II, 499; Hardyng, Chronicle, 406, shows the unpopularity in England of the rendition of Berwick. Rolls of Parliament, V, 478, state that the surrender was made "in the seid Fest of Seint Marc Evangelist." [25th. April] According to Major, (History, 387) Henry sought and obtained a safe-conduct for a train of a thousand horsemen.

(1)

of this long coveted town, and the promise of Carlisle, must have added prestige to the party and to the personal authority of the bishop of St. Andrews. Henry, on his side, may have paid a heavy price, but in return the Old Lords of Scotland rendered substantial services, bishop Kennedy made personal sacrifices, for, the cause of Lancaster.

The first act of aggression took place in the early summer when Margaret and Exeter attacked Carlisle, while in June, king Henry himself led an expedition into Durham. (2) Although their arms were unsuccessful, yet the Scots harboured the royal fugitives hospitably within their borders, first at Linlithgow, then in the Convent of the Dominican Friars in Edinburgh. (3)

From the Exchequer audits it is clear that at this period Kennedy and Mary of Guelders were still at one in the support of the Red Rose. The queen's visit to St. Andrews during Lent, 1461, and the co-operation of the bishop in her building activities, are witness to their good understanding. (4) This harmony, however, was destined to be fleeting.

(1) Rolls of Parl., V, 478.

(2) Ibid, 478; E.R., VII, xxxviii; Paston Letters, III, 276. The writer reported the current news that the siege of Carlisle had led the king to postpone his coronation: it had, however, been raised by lord Montagu, with a loss of 6000 Scots.

(3) Major, History, 387, cf. M. Bryce, Scot. Grey Friars, I, 72-3.

(4) E.R., VII, 79. The queen spent large sums of money in building a royal castle at Ravenscrag on Forth, and on the Collegiate Church of Trinity outwith Edinburgh. In the

(2) YORKIST INTRIGUES WITH THE QUEEN.

The hand of friendship which the Scots held out to Lancaster had been strong enough to cause disquietude to the White Rose. Edward IV, however, and more particularly Warwick the Kingmaker, his able and dominating minister, were soon to teach their neighbours that it was dangerous to thwart the House of York.

Unfortunately for Scotland, the state of the country offered only too good a field for the intrigues of her enemies. Warwick could play upon two out of the three parties in the sister kingdom. Kennedy was invulnerable to his shafts: the queen, the niece of the Yorkist Duke of Burgundy and, moreover, a woman of susceptible character, was to prove more amenable: the exiled Douglas and the Lord of the Isles were prepared once more to yoke themselves together in treason to the state. In such a condition of affairs we are not surprised that the result was political chaos.

ecclesiastical foundation, bishop Kennedy and his church were specially interested, inasmuch as the hospital of Soltre which was annexed by bull of Pius II. to Trinity College was a commend of the Cathedral of St. Andrews. (Theiner, Vet. Mon., 439-441; C.P.R., X, 447)

Queen Mary, it is thought, was carrying out the unfulfilled intentions of her dead husband. At the same time the scheme, a combination of a collegiate church with a foundation for thirteen poor persons, bears sufficient resemblance to Kennedy's own activities at St. Salvator's to suggest the influence of his mind. The transference of Soltre from his cathedral to the queen's college betokens his benevolent and active interest, while the Exchequer Rolls show that the bishop's ship brought a cargo of building material for the queen's workmen. (E.R., VII, 79) Thus, whether or not Mary of Guelders contributed to the erection of St. Salvator's, she was certainly on working terms with its founder. (Ibid, 1-liv)

Bishop Kennedy had obviously a difficult course to steer, and it is not ^{strange} surprising that in April, 1462, Margaret of Anjou, despairing of appreciable assistance north of Tweed, set sail to try her fortunes in her native France. (I) Her going removed an obstacle in the path of Yorkist schemes.

As a countermove to the conference of Lincluden, the earl of Warwick had promptly opened a double fire upon the queen of Scots. In the first place he appealed to her uncle, the Duke of Burgundy, who accordingly sent the Lord of Gruthuyse to Scotland on what was, from the Yorkist point of view, a very successful diplomatic mission. (2) On the ^{other} side, no sooner had queen Margaret departed than Warwick himself

(1) Wyrcester, 779. In July, 1461, the Lancastrian lords, Somerset and Hungerford, had been despatched as suppliants to France. Burgundian influences, however, counteracted the personal inclinations of the new king, and Somerset did not return to Scotland till the following March. (Duclerq, 478; Ramsay, Lanc. and York, II, 288-9)

(2) Auch. Chron., 23, 60. Wavrin-Dupont, II, 303-4; Buchanan, II, 49; Ramsay, Lanc. and York, II, 287. Ramsay points out that the date of the Burgundian mission is matter of doubt. If the fragmentary authority of the Auchinleck Chronicle is any guide, the visit of the "lord of Curthus" seems to have connected itself with the queen's loss of political power. In such case it should be cast about the summer of 1462. If we are to believe Wyrcester, (p. 779) the political cleavage must have been intensified by the personal enmity of the queen against the Lancastrian duke of Somerset.

held a personal interview with Mary of Guelders at Dumfries in April, 1462. The business discussed was "a long truce, double alliances and friendship"; the special bait for Mary, the proposal for her own marriage with king Edward IV. Bishop Kennedy, however, had sufficient influence to frustrate these designs. The negotiations were to be ratified in a parliament at Stirling: Kennedy absented himself, and the proposals came to naught.

Nothing daunted, however, the government of Edward IV. almost immediately returned to the attack. Before the end of July, Windsor Herald and other ambassadors were in Edinburgh, while it was matter of gossip in England that Warwick had held a conference on Scottish soil with the queen and "other Lords of her contré." But, by repeating his former tactics, Kennedy for a second time frustrated

(1) Kennedy's Despatch; Worcester, 779. (Chronicle printed in Stevenson, Letters, volume III)

(2) Kennedy's Despatch. The bishop's account is rather vague and meagre, but his accuracy is vouched for by the fact that a parliament was called at Stirling as he affirms. The accounts of the queen, audited on 22nd. February, 1461-2, attest payment to Huntly at the mandate of the queen, for expenses "at the time of the parliament in Stirling." (E.R., VII, 82, 83).

(3) E.R., VII, 147; Paston Letters, IV, 44; Kennedy's Despatch. The "subtle persuasions" may have included a demand for the extradition of king Henry and the other Lancastrian fugitives. (Records of York, 32; Halliwell, Letters, I, 125-6) If this were one of the conditions of the truce which Warwick was said to be negotiating, it is easy to see why Kennedy strained every nerve to prevent the ratification of any such treaty.

the "subtle persuasions" of the English emissaries. It was probably about this date that the queen was divested of political authority; forbearance having had little effect upon the headstrong princess, the bishop would have to try other means to prevent her from giving "Ear to the Flatteries of any" and from "running upon unsafe and craggy Precipices."

He did not succeed, however, in putting an end to traffickings with England. These went on, first in a personal interview between Warwick and queen Mary at Carlisle, and then, during the autumn, in official negotiations for a truce. The country was thus openly cleft into

(1) Auch. Chron., 23, 60. The Exchequer Rolls show that the queen's establishment was separated from that of the king between the audits of March, 1460-1 and July, 1462. The English envoys were in Edinburgh in the summer of 1462, Kennedy claimed to have frustrated their negotiations by absenting himself from parliament: a parliament sat at Edinburgh in October and Kennedy was not present. His influence, although indirect, need not have been the less penetrating. If it were this parliament that effected the change in the government, then the working of the bishop's finger can unquestionably be traced.

(2) Buchanan, II, 58.

(3) Paston Letters, IV, 50-1. The earl of Douglas was evidently a pawn in the negotiations. "uppon this appoyntement, Erle Duglas is commanded to come thens --- and schall not be reputed, nor taken, but as an Englyssheeman, and if he come in the daunger of Scotts, they to sle hym." If this rumour were true, then the subsequent history of Douglas makes it plain that Warwick was merely temporising with the "yong Lords of Scotland."

(4) Rot. Scot., II, 402-4; Foed. XI, 475, 476, 477.

two great political parties; while the queen and her "Young Lords" were eagerly working in the interests of York, Kennedy and the "Old Lords" were, with equal energy and determination, serving the cause of France and Lancaster.

(3) SEDITION AND THE "CELTIC DIRK."

This division, serious as it was, existed at least in the light of day. But the crafty Warwick was playing an even more subtle game than was at sight apparent. He was only half serious in his overtures to the queen of Scots: perhaps his chief motive was to gain time until his secret schemes matured. Thus, while casting dust in the eyes of the government, efforts were being made to "stab Scotland
(1)
in the back with the Celtic dirk."

After the death of James II, John of the Isles, earl of Ross, had lapsed again into the paths of disloyalty. "The first slaughter after the deid of king James the
(2)
secund" was made in his dominions: whether or not he were the accomplice of his kinsman in this breach of the peace, it is certain that he laid hands upon the royal revenues, that he was summoned, and came, to the first parliament of the reign as one upon whom the cloud of
(3)
suspicion rested. If he were not already in correspondence

(1) A. Lang, History of Scot., I, 336.

(2) Auch. Chron., 21-2, 58-9.

(3) ~~Bain, C.D.S., IV, 1317. This was the beginning of a series of negotiations (Rot. Scot., II, 407; Feod. XI, 474), culminating in the secret Treaty of Westminster.~~

³
(4) Auch. Chron., 22, 59; E.R., VII, xxxviii-xl. The evidence of the Rolls throws much valuable light upon the

with England, before the 9th. of June, James of Douglas had been despatched as the agent of York "on certain affairs to the Earl of Ross lord of 'owteryles' and Donald Balagh." (1)

On 19th. October, 1462, in the midst of the official negotiations for a truce, the English government pledged itself to protect all Scotsmen who, foreswearing their allegiance, should join the standard of the apostate Douglas in a war against their country. (2) On the same day, the Lord of the Isles, assuming sovereign style, commissioned envoys to conclude a treaty "on certain matters and negotiations" with agents of king Edward. (3)

The outcome was the signing of the secret Treaty of Westminster, whereby, on 17th. March, 1462-3, the earl of Ross and Donald Balloch became the pensioners and liege men of the king of England, pledged to co-operate with the earl of Douglas and the armies of Edward in the subjugation of Scotland. "And if it so be that hereafter the seid reaume of Scotlande or the more part thereof be conquered subdued and brough to the obeissaunce of the seid most high and Xren prince --- be th'assistance helpe

actions and attitude of the Lord of the Isles about this time. "e have seen that it is probably to this period that we should assign the alleged abduction of the earl and countess of Athol. (Above, 222,)

(1) Bain, C.D.S. IV, 1317. This was the beginning of the series of negotiations (Rot. Scot., II, 407; Foed., XI, 474), which culminated in the secret Treaty of Westminster.

(2) Rot. Scot., II, 404.

(3) Ibid, 407.

and aide of the seid John erle of Rosse and Donald and of James erle of Douglas --- the same erles and Donald shall have by the graunte of the same most Xr̃en prince all the possessions of the seid reaume beyonde Scottyshe See they to be departed egally betwix them eche of them his heires and successours to hold his part of the seid most Cristen prince his heires and successours for evermore in right of his crowne of Englonde by homage and feaute to be done
 (I)
 therefore."

In terms of this bond, the Lord of the Isles immediately proceeded to assert his claims to sovereignty beyond
 (2)
 Forth, and although the government of Kennedy was able to bridle his licence, the leopard had not changed his spots. His lapse into quiescence can be accounted for by the failure of the diversion of Douglas in the south, and by the later treaty of truce which officially restored peaceful relations between England and Scotland.

While the envoys of Kennedy, and the Lords of Council,
 (3)
 dealt with the earl of Ross in northern parts, the position

(1) Rot. Scot., II, 407. On 20th. March, a procurator was sent to receive the oath of fealty of the Island chiefs. (Foed ,XI, 499)

(2) Auch. Chron., 23, 60.

(3) The details of the insurrection of Ross are discussed in the preface to the Exchequer Rolls. (E.R., VII, xliii-xlvi) The editor's account of proceedings in the north is based upon unimpeachable evidence: but he is obviously in ignorance of the true course of events in the south. Thus, although the rolls contain "no trace of any active participation" on the side of Douglas, yet such a diversion not only took place, but involved the government in very serious straits. The editor of the Douglas Book also has it that Douglas "failed to contribute assistance" to the Lord of the Isles. (Douglas Bk., I, 491)

in the south was serious. Warwick was in Northumberland, Douglas ravaging in Galloway; some of the Young Lords were said to be in league with him. (1) While the main army of the Scots was occupied in England, the bishop of St. Andrews himself, sick in body and anxious in mind, led the boy king into the field against the Douglas: "and in the end, thus has it pleased God, the enterprize of the said king Edward was broken, and the said traitor repulsed, and justice taken on his brother and several others, his accomplices." (2)

(1) Wavrin-Dupont, III, 162-3. An English messenger had brought tidings to France that Mary of Guelders had married lord Hailes who had carried off the king from the custody of Kennedy and the Estates. Hailes and other lords of Scotland were said to have promised to support Douglas. Kennedy is silent as to these events, and the king was in his keeping when they marched against the invaders.

(2) Despatch of Kennedy; Three Fifteenth Cen. Chrons., 159. The rumour was current in England that in March, 1462-3, the earl of Douglas had, in an invasion of Scotland, captured the earl of 'Creyforth', 'Maxon' warden of the West Merchen', and other fifteen lords, but was afterwards defeated with 4000 casualties "at the Esthyl in Scotland."

An interesting sidelight upon the veracity of this account is afforded by a charter of David, earl of Crawford, on 26th. February, 1463-4, to Herbert Johnston of Dalebank and his heirs, "for his faithful service to the said earl when he was held captive by James, formerly earl of Douglas, etc., and especially for the liberation and abduction of the person of the said earl David from captivity in the hands of the said James." (R.M.S., II, 786)

According to Kennedy's account, "tout ce mal et peril fut imputé sur moy, par quoy j'estoye bien taillé d'estre finalement destruit par les gens du pays. --- Et, non obstant ce que n'estoye bien disposé en ma personne, ne accoustumé d'aler en guerre, encores me preparay y aller en personne, avecques mon souverain seigneur."

(4) THE LAST CAMPAIGNS OF LANCASTER.

This deliverance relieved Scotland from the danger of the "Celtic dirk", but the wars of the Roses still dragged on: there had never been a respite from official hostilities. Louis XI, the new king of France, the cousin of both Margaret and Henry, having declared for Lancaster in the summer of 1462, sent letters to James III. and the bishop of St. Andrews, urging the adoption of common measures. Not only did Kennedy lend a listening ear to this appeal, but he was to show more singleness of heart than the king of France himself. Whatever the original intentions of Louis, his hand was stayed by the intervention of the Yorkist Duke of Burgundy.

Margaret had perforce to return about the end of the year with no more substantial support than a mere handful of men-at-arms, under the disgraced veteran, Pierre de Brézé.⁽³⁾ It was an inauspicious beginning to a hopeless campaign. The little fleet made its way to Scotland to pick up the

(1) Kennedy's Despatch; Commines, I, 248; Duclos, Histoire de Louis XI, I, 169; Wavrin-Dupont, II, 316, III, 176-7, 181. Ramsay, Lanc. and York, II, 291. Louis XI. succeeded to the throne of France

(2) Chastellain, IV, 225-7, 274.

(3) According to Wyrcester, (p. 730) she landed in England in October with 2000 armed men. Chastellain quotes the authority of de Brézé that her force was only some 800 strong. Frenchmen realised that the reinforcements were absurdly inadequate: they staked upon "le confort qu'on espéroit ès Escossois et aucun au royaume d'Angleterre de la part du roy Henry." (Chronique, IV, 230).

king: once again, the presence of Henry of Winchester was of ill omen to his cause.

An invasion of Northumberland was crowned with shipwreck and disaster; the royal fugitives, having left garrisons in the three castles of Alnwick, Bamborough and Dunstanburgh, had soon thrown themselves back upon the (1) hospitality of the Scots.

The party of Kennedy, indeed, continued staunch to the House of Lancaster in this hour of its misfortunes, while Margaret and Henry, driven to extremity, were ready to bribe recklessly as the price of immediate, tangible support. In November, 1462, an English dukedom between Trent and Humber was promised to George, earl of Angus, the strong right arm of the Old Lords; in January, ~~he~~ joining forces with de Brézé, (2) secured a safe retreat to Scotland for the beleaguered garrison of Alnwick, the only (3) stronghold then holding out for Lancaster in England. This, however, was destined to be the last of the military exploits of the Red Douglas: his untimely death, on 12th. (4) March, 1462-3, deprived his party in its greatest need,

(1) Ramsay, Lanc. and York, II, 292; Fabyan, 653.

(2) Douglas Bk., III, 92-3.

(3) Worcester, 780-1; Three Fifteenth Cen. Chrons., 176; Hardyng, 407-8; Buchanan, II, 50-1; Major, 344; Ramsay, Lanc. and York, II, 293-4.

Bamborough and Dunstanburgh surrendered to Edward soon after the departure of Margaret and de Brézé.

(4) Douglas Bk., III, 94.

of an experienced general, an adherent of influence and power, who could ill be spared.

When the bishop of St. Andrews stepped into the shoes of his dead captain, his mind must have been tossed by many emotions; among them there could scarcely be any expectation of carving a way for himself to the archbishopric of Canterbury. (I) This prospective grant of the primacy was only one among other impossible pledges bartered by the reckless Margaret for continued support. Kennedy himself must have been shrewd enough to see the futility

(I) Halliwell, Letters of the Kings of England, I, 123-4. The editor has dated this letter to the year 1461, but it is evident from the context that it must have been written at this juncture.

Edward wrote after having had certain knowledge, "that on Thursday last past it was fully determined, concluded and assented, in the council of our great enemy, the King of Scots in Edinburgh, between him and Margaret, late called Queen, under the form following: The same Margaret, in the name of Henry, late called King, our great traitor and rebel, hath granted unto the same King of Scots, to his heirs and successors, seven Sherifwicks of our realm of England; his son Edward in marriage to the sister of the same king, and to be, for the same intent, under the keeping and governance of the Bisnop of St. Andrews, to whom she hath granted the Archbishopric of Canteroury, to divers clerks of Scotland, divers bishoprics in this our realm and the livelihood lands of the lords, gentles, and nobles thereof, to divers Scots and Frenchmen, having thereof petitions of the said King Henry signed; and by the consequence and sequel, the obeisance of our said realm and of our subjects thereof, as much as she may, under the domination and power of the same Scots and Frenchmen. --- Over this, the said Margaret hath, inasmuch as she may, in the name of the said Henry, bounden the realm to be adjoined to the league, of ancient time made and renovelled betwixt France and Scotland. And to the observing and performing of all the promises for the party of the said Henry, Margaret hath made solemn oath, openly in the said council, upon the four evangelists, for the which the said Scots

of it all, but with the party of the Young Lords waxing daily stronger, he, as well as Margaret, had to put forth every effort to maintain the loyalty of adherents. Whatever the ulterior motive, the Scots did fulfil their part of the bargain by an invasion of England. Kennedy is said to have sanctioned the attack upon Norham: he himself took the field against the counter-invasion of the Douglas.

But the weary period of hostilities was at last wearing to a close. The Old Lords of Scotland, single-handed, were no match for the resources of Edward: the end was matter of time. In England, their arms were not unsuccessful, (1) but they would not, or could not, risk a pitched battle. At home, for safety's sake, Kennedy had to convoy king Henry in the spring of 1463 to the sea-girt castle of St. Andrews, thence "to another of my places on the sea." (2)

there also bodily made like oath to the said Henry and Margaret, to take whole and full party with them against us and our subjects to put them in devoire, to the execution of the said malice; and to the same intent, to enter our land on Friday next coming; arreadying their great ordnance to besiege our castle of Northam, authorised by the said Bishop with the clergy of Scotland; the lords, gentlemen and commonalty thereof intending to accompany and bring the said Henry and Margaret into our said realm."

(1) Bamborough was retaken by the Scots, (Three Fifteenth Cen. Chrons., 176) but Chastellain has it that they made a shameful retreat beyond 'Rel'. (Chroniques, IV, 278) The war was possibly intermittent; parleyings for peace not unlikely. Thus, on 1st. June, 1463, lord Montagu, Warden of the East March, was empowered to make short, temporary truces with the Scots. (Foed., XI, 501)

(2) Kennedy's Despatch.

In August, 1463, Margaret, constrained by necessity,
(1)
set sail for Flanders, never to return to Scotland. On
1st. December, death deprived the Yorkists of the support
(2)
of Mary of Guelders: with her passing an obstacle was
removed from the path to peace. All parties were weary
of war, and few Scots can have regretted when Henry was
conveyed to Bamborough on the invitation of the Lancastrian
(3)
lords then under arms in Northumberland.

(1) Chastellain, IV, 279: Wyrcester, 781 (under month of April)

(2) E.R., VII, liv-lv. After sifting the evidence, the editor has come to the conclusion that the true date of the queen's death is 1st. December, not 16th. November, as given by Leslie, and long accepted on tradition.

The fair fame of the widow of James II. has been object of attack. William of Wyrcester charges her with having, in a fit of revulsion, instigated Sir Adam Hepburn of Hailes to murder the duke of Somerset, with whom she had had a love affair. (p 779). In the early summer of 1463, report had it that the queen had married Hepburn, who, Major adds, was already a married man. (Wavrin-Dupont, II, 163; Major, 438) Pinkerton has accepted the adverse verdict: (History, I, 252 Lord Hailes has sought to vindicate the queen, Remarks, I, 141-6)

It is perhaps impossible now to ascertain the truth of this matter; but if the caprice of a fickle and headstrong princess intensified existing political schism, it is little wonder that the country was brought to the verge of destruction. Whatever her faults of character, we have good reason to believe with Leslie that Mary of Guelders was "ane princess of heich corage." (History, 32) Laing's opinion that she was of "weak or deficient intellect" rests on questionable grounds. History definitely refutes one of his theories, to wit, that "during the eleven years that intervened between --- the marriage of Mary of Gueldres -- and her husband's death, her name is not so much as once mentioned in connexion with any public event." (Proceedings of Soc. of Antiq., IV, 574)

(3) Ramsay, Lanc. and York, II, 302; Kennedy's Despatch.

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Kennedy had fought a losing fight. He had remained true to his troth, resolute and pertinacious. He had spent freely of his substance; he had risked his popularity, if not his safety: he had jeopardised the kingdom. Circumstances were changed, however, when the ground had been cut from beneath his feet by the desertion of his ally, and when king Henry had departed of his own free will, on the summons of his friends. No motive then remained to continue the unequal contest.

As in former junctures, so again, Kennedy showed himself a trimmer, ready to sacrifice theoretical consistency upon the altar of the state. His attitude is revealed in his own declaration that he would willingly put the service of France before all things else, saving the interests of his sovereign lord and the good of the realm. (I) The dictates of honour had been fulfilled; the crying need of the country was for peace; the example of France itself pointed the way. Kennedy was thus no time-serving opportunist when he entered into negotiations with York.

(I) Kennedy's Despatch.

Immediately on the conclusion of the Anglo-French
 (I)
 truce in October, 1463, unofficial overtures were opened
 from the side of Kennedy; on 9th. December a truce till
 the following October was confirmed at York; on 3rd. June,
 (2)
 1464, it was extended for the term of fifteen years.

Although the actual course of negotiations is hopelessly
 obscure, yet it is clear from Kennedy's despatch that he had
 come to work for peace with as much persistency as he had
 (3)
 previously shown in resisting all the advances of York.

(1) Foed., XI, 508-9,

(2) Rot. Scot., II, 411, 412; Bain, C.D.S., IV, 1337.

(3) Kennedy's Despatch bears that by the advice of his party he sent "ung chevalier et ung escuier" - his "gens especiaulx" - on his own initiative with advances to the earl of "arwick. They succeeded in obtaining "certaines abstinances pour aucuns temps et jour mis pour faire assembler --au Neufchastel --le VI^e jour de Mars." The English commissioners failed to appear, but Kennedy succeeded in having a new conference called for 19th. April, again at Newcastle. It was during this interval that he sent his despatch to Monypenny, his agent at the French court.

The English archives show that on 5th. December, a safe-conduct was issued to the bishop of St. Andrews and others, lords spiritual and laymen, among them one knight, Sir Alexander Boyd. (Rot. Scot., II, 409; Foed., XI, 510) Kennedy's "gens especiaulx" may have been chosen from the members of this party, although dates present a difficulty. His agents, however, may have been upon the border, ready to pass into England upon a moment's notice. Be that as it may, it is evident that Kennedy was earnestly striving for peace. The minutes of a parliament of 1464 (month unknown) include the bishop of St. Andrews among the lords who should be with the king at Berwick and Newcastle on 5th. March "next to cum." (A.P., Index, 30) It is interesting that, at the same time, an answer was to be drawn up to give to the French ambassadors, "gif ony happinnys tocum."

If, however, in straining for the "good and tranquillity" of the realm, he was willing to overlook personal slights, he would brook no slur upon the national honour. When the ambassadors of Warwick failed to keep tryst with the "special people" of the bishop's nomination, "this notwithstanding", he persisted in negotiations; when, however, the English captured the young Duke of Albany at sea under a safe-conduct, Kennedy is said to have threatened war unless honourable reparations were made. (1) Other causes of friction besides the capture of the prince doubtless existed, for on the very morrow of the truce, commissioners (2) were assigned to treat of its violation. The war weariness of both sides made their task the easier, and Kennedy

(1) Pitscottie, I, 153 Major, 338 ; Boece, Bps. of Aberd., 40-51. It has been held, as by Hume Brown, (History, I, 256) that the Duke of Albany was captured on his return journey from the court of Guelders: more possibly his ship was taken on the outward voyage. His safe-conduct was issued on 20th. April, 1464; on 8th. July, a commission was appointed "to enquire into the capture of a certain carvel of Scotland by certain of the king's subjects at sea as variances have arisen between Alexander, Duke of Albany and Thomas, bishop of Aberdeen, who were on board at the time of the capture, and the Master of la Katerine Duras and others of the king's subjects." (Foed. XI, 520; Calen. of Patent Rolls, 1461-1467, 348-9) The exchequer accounts of the earldom of March for the year June, 1465 to 1466, are charged with the victualling of Dunbar in view of the arrival of the Duke of Albany from England "with certain foreigners." (E.R., VII, 401)

(2) Rot. Scot., II, 413.

might die in the hope that the tree of peace would grow and flourish.^(A) He might not live to reap the fruit, but even amid the stress and strain of his latter years, he had not ceased to prepare the soil.

THE GOVERNMENT OF KENNEDY, 1464-1465.

The Auchinleck Chronicle has the illuminating statement that the first parliament of James III. "did litill gud ---
(I)
bot that thai ordanit sessionis to sit." Here we may detect the finger of Kennedy, and no sooner was peace restored than he threw himself again into the administration of the country. In May and June, 1464, he was a lord
(2)
auditor of exchequer; from July till October he accompanied the king on an itinerary of the parts beyond Forth. The Christmas season was spent at Stirling; on 14th. March,
(3)
the court was at St. Andrews, where, two months later, the bishop died.

This royal progress, marked at each of its stages by the granting of charters was, we may take it, a pilgrimage

(A) The large number of safe-conducts granted in the interests of commerce is illustrative of the trend of events. Again, on 9th. October, 1464, English envoys were commissioned to treat with the Scots concerning a final peace, while in the following June, an embassy was appointed to negotiate marriage alliances, including a marriage between the king of Scots and "one of our lieges". (Rot. Scot., II, 417; Foed., XI, 546, 547) This was on the morrow of Kennedy's death: in his last days he may have striven for the furthering of this end.

(1) Auch. Chron., 22, 59.

(2) E.R., VII, 229.

(3) The itinerary can be traced by the evidence of the Great Seal. (R.M.S., II, 796-832)

in the interests of order and justice. It is not without meaning that the Estates during this same period again turned their attention to the administration of justice by decreeing that three sessions should be held in the year. (1)

On the other side, Hume Brown considers it "the best testimony to the wisdom" of Kennedy's personal rule "that no sensational events are recorded of it." (2) Although tranquillity may not have reigned undisturbed, there were, at any rate, no serious breaches of the peace, while, on the positive side, efforts were not lacking to right particular wrongs. Parliament directed its attention, for example, to the punishment of one, Alan Mc.Coule, for the slaughter of lord Lorne. (3)

In similar wise, the appointment of lord Dernely as governor of Rothesay Castle was some compensation for the withholding of his briefs of service to the earldom of Lennox. (4) This matter of the Lennox succession, although

(1) A.P., Index, 31.

(2) Hume Brown, History, I, 256.

(3) A.P. Index, 31. There must have been continuous turbulence in the west. The king was to march in person against Dunstaffnage; new letters were to be written to the earl of Ross "baith be autorite of the king and of the parliament chargeing hym that he nother supple support nor resett the saide Alane." The "Short Latin Chronicle" records the death of John Stewart, lord Lorn, at Dunstaffnage, on 20th. December, 1463, but is silent concerning the manner of his decease. (Antiquarian Soc. Transactions, XXVIII, 318)

Coldingham was another nest of troubles at this time. See below

(4) Fraser, The Lennox, II, 78. The question of the Lennox Succession is discussed by the editor of The Lennox (Book I, 276-291), and in The Lanox of Auld, (p. 29) Napier's review of Fraser's book. See also, The Lennox, II, 75; A.P., Index, 28-9.

a side issue in a stirring time, is interesting as a mirror reflecting the situation of the bishop of St. Andrews.

Kennedy himself strove after justice and righteousness, but he was wrestling against heavy odds, beset by limitations and forced to compromise. Thus, in the case of Lennox, where the chancellor of Scotland was utilising his position for his own ends, the hands of the bishop were holden.

(I)

The silence of Kennedy we may take to be the mark of his weakness: the grants to Dernely, the tacit acknowledgement of that weakness.

With Andrew, lord Avandale, his chancellor, he would not, or could not, quarrel. Lord Avandale was, indeed, a foremost member of the government during the last years of Kennedy. Among other men who surrounded the bishop of St. Andrews at the same time were the earl of Argyle and lord Boyd, Crawford and the laird of Luss, the laird of Edmonstone and lord Kennedy; among the prelates, the

(2)

(1) Andrew, lord Avandale, was the natural grandson of Isabella, duchess of Albany and countess of Lennox, who died about 1460. James II. had had him educated in England; after the fall of the Black Douglases, he had a grant of Avandale in 1456. (Crawford, Officers of State, 36; The Lennox, I, 276; Scots Peerage, VI, 509)

John, lord Dernely, was the son of Elizabeth, youngest sister of Isabella, and co-heiress with her in the earldom of Lennox. See genealogical table, in appendix.

(2) In 1462, Argyle and Boyd were Justiciars south of Forth. (Scots Peerage, I, 332-3) In 1464, Argyle became Master of the king's household. (Crawford, Officers of State, 44; Foed., XI, 577; R.M.S., II, 788) Both were active on the peace commissions; Sir Alexander Boyd may have been one of the "gens especuix" sent by Kennedy to treat with Warwick. In 1464, Colquhoun of Luss was comptroller and privy seal. (R.M.S., II, 814, 828 etc.; A.P., Index, 31) He probably owed his introduction to

bishop of Glasgow, the abbot of Holyrood, and the provost of Lincluden.

Some of these, like Argyle and Avandale, had been of the personal party of the late king; others, like Lincluden, had been high in the councils of the Young Lords. Crawford had fought for the Old Lords against the Douglas; Colquhoun of Luss was launching out on his political career; Edmonstone and Kennedy were the bishop's kinsmen; the Boyds, west country magnates of the second rank, likely to be amenable to the Kennedy influence.

Only a coalition government would have satisfied the two evenly balanced and hostile parties in the state; hence the bishop's freedom was restricted in the selection of his ministers. His statesmanship lay in the spirit of compromise and conciliation which succeeded in establishing a working balance of power in the state.

AN ESTIMATE OF THE STATESMANSHIP OF KENNEDY.

Shortly after the death of Kennedy, however, this coalition government broke down: the crown, during a minority again became the sport of ambitious nobles.

(I) This "broad-bottomed administration" of king's men, queen's men and a smattering of new men, may have given rise to the story of a Board of Regents under the presidency of the bishop of St. Andrews. (See above., 245)

political life to the influence of the Boyds: his first wife was of this family. (Colquhoun of Luss, I, 45)
Boyd was Keeper of Edinburgh Castle in 1464. (E.R., VII, 284)

Chief among the gamblers were the Boyds, with the connivance of lord Kennedy. This at sight might be charged against the statesmanship of the bishop. As in church affairs his nephew was to prove unequal to his high calling, so, in like manner, Kennedy's hopes were to be blasted in the secular sphere.

It would be hazardous, however, to lay the blame to his short-sightedness; at most, his action could be only one of many contributing factors. On the other side, it should be noted that while Kennedy lived the Boyds were not of the first importance in the state: (I) their influence was balanced by the power of Argyle and chancellor Avandale. If it is a gauge of the bishop's personal ascendancy that he was able, in his day, to control the divergent interests, it is not necessarily to be imputed to him as a fault that, on his death, these forces of disunion fell asunder.

His policy was sound in principle; the weakness lay largely in the material to his hand. To have unduly elevated one party would have been again to sow discord (2) and to overshadow the throne by a dominant feudal aristocracy.

(I) Lord Boyd, however, was governor of Edinburgh Castle. (E.R., VII, 284) This was an office which Crichton, in somewhat similar circumstances, had been able to turn to his personal profit.

(2) As it was, that danger was latent. The earls of Ross, Crawford and Angus, for example, still retained a dangerous feudal ascendancy: the good faith of Ross was questionable, Crawford was loyal, the minor earl of Angus, an unknown force.

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Kennedy was not strong enough to storm the citadel: he did what he could to sap its foundation by a policy of balance. (I) That way he saw his only chance of safety; it might fail; none other could succeed. We cannot lift the veil of silence that hides his secret hopes and fears, but, if he read truly the signs of the times, the character of the king, of the nobles and courtiers, a gnawing anxiety may well have brought him more quickly to the grave. His power of prescience and his interpretation of human character, at this juncture, as in the somewhat similar circumstances of 1450, it is beyond our wit to fathom.

In the earlier case, the wish may have been father to the trust: his great desire to visit Rome may have led him to hope for the best from the balance of parties that he had seen established before his departure. Here, again, however, his statesmanship possibly effected the most that could be achieved. The coalition had a chance of working, while if his own visit to Rome were the satisfaction of a personal longing, yet, at the same time, he sought to strengthen his position and to serve the varied interests of his country.

Throughout his career, indeed, he never lost sight of the national welfare, - not even when he was visited with the curses of his countrymen for having subjected the country to the policy of France. It is true that his personal sympathies had always been on the side of the auld alliance. Early associations, the growing triumph (I) The idea of a balance underlies his social and economic policy.

and prestige of the crown, the wealth and activities of the third estate, all made a strong appeal to his individual character and temperament. Apart from personal considerations, however, much was to be gained by following in the wake of France. Contact with Latin culture was of the first importance to prevent Scottish civilisation from being stranded in a backwater in the tide of social progress. Intercourse with Rome widened the outlook more particularly of the clergy: the influence of France could be more direct and more pervasive to ~~leaven~~ the general life of the people.

Theoretically, therefore, much can be said in favour of Kennedy's adherence to the auld alliance; neither can it be sweepingly condemned as a matter of practical politics. He said truly that he had served king Charles to the utmost of his power; but he identified the service of Charles with the service of Scotland. The "evil and peril" of the dark days of 1463 were due, not so much to the pursuit of a Franco-Lancastrian policy, as to "the great division that was between us." Yorkist machinations would not have brought a united people "within sight of perdition."^(I)

It might be advanced by the adherents of the White Rose that it would have been nothing short of national folly for even an undivided Scotland to espouse the lost cause of Lancaster. Granted, however, that the Lancastrian

(I) Kennedy's Despatch.

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dynasty was doomed, yet that was no foregone conclusion in 1460. In the light of previous history, the Scottish government was not likely to declare for York while, even apart from the promptings of France, strict neutrality was perhaps impossible. Not only had James II. committed the country to war, but Scotland was forced to show her hand when the Lancastrian queen set foot on Scottish soil. Had France co-operated with the Scots, the result might have been different. Foreign interference might be resented by English patriots of both parties, but England herself had long been meddling in the home affairs of the sister kingdom.

This was the sore point with Kennedy. Yorkist pretensions and trafficking with Scottish malcontents explain his attitude to the war policy of James II: signs are not wanting to show that the same considerations carried weight throughout the whole period of the struggle of the Roses. Thus it was made a condition of the initial truce of December, 1463, that if the Scots gave up the cause of Henry and Margaret and "other English rebels and traitors", king Edward, on his part, should cease to support Douglas and the other rebels of Scotland. It was

(1) This, as we have seen, is the view of Sir James Ramsay. (Lancaster and York, II, 243; above, 247)

(2) It is significant that this condition appears only in the Scottish copy of the indenture. There is no mention of terms in the document as printed by Rymer. (Inventory of Treaties, 21; Foedera, XI, 510)

not without meaning that on the eve of the truce, James, erstwhile earl of Douglas, was, ostensibly on his own request, appointed Keeper of Cragfergus Castle in Ireland. (I)

This national aspect would exonerate the bishop of St Andrews from the charge of servility in following the dictates of France. The authoritative patriot who hesitated not to upbraid the waywardness of his own sovereign lord, was not likely to bend the knee to the king of France. We can well believe that his own inclination seconded the request of Charles VII. for his immediate return to Scotland upon the death of James II, while his despatch, it must be remembered, was an official communication designed for the ear of Louis. Stress would naturally be laid upon the particular aspect under consideration.

A study of the document leaves the final impression that the bishop's aim was consistent throughout; and that he sought the welfare of Scotland, as he conceived it, before all things else. He showed himself to be not only patriotic, but staunch and loyal, persevering and a master of statecraft. When he had put his hand to the plough, he did not look back. He spent and was spent in the cause of Lancaster, and at the last he could do no more: even then, however, he did not make overtures to York at the sacrifice of his honour. Although his path was undoubtedly

(I) Foed., XI, 510; Bain, C.D.S., IV, 1339. This grant was made on 8th. December; the truce with Scotland was signed on the following day.

cleared by the departure of Henry and Margaret, yet at the same time, they both departed of their own will. As long as the fugitive king was his guest, the bishop of St. Andrews could scarcely have made peace with Edward. Yet the country's vital need was for the restoration of tranquillity. Much, then, as Kennedy sympathised with Henry the man, the patron of learning and the friend of the church; steadfast as he had been to Henry the king, he was doubtless glad when the wars were ended.

It is true that, in making peace with Edward, he became the pensioner of York, but in the fifteenth century no stigma attached to such a conduct. Not only was it accepted in the general course of things; in Kennedy's case it was in the nature of reparations. Affairs of state and the long hospitality afforded to Henry must have entailed a serious drain upon his private resources. As he could look for no compensation from his patrons of France and Lancaster, he might easily regard the pension from York as a war indemnity. To modern minds his conduct may not commend itself, but in this, as in other things, the bishop of St. Andrews was a child of his age.

(I) Bain, C.D.S., IV, 1360.

Carping criticism may say that in his foreign policy Kennedy was found wanting in his great virtue of consistency: that he who had discountenanced the aggressions of James II., himself accomplished the recovery of Berwick, and came to accept prospective dignities in England for himself and his supporters. It is true that Berwick was surrendered, but the cession seems to have proceeded on the initiative of Lancaster. (I) In the eyes of good Scotsmen, moreover, this was the recovery of the long-lost "crown of Scotland;" (2) and Kennedy had never quarrelled with a purely national policy. The negotiations concerning Carlisle we have still less reason to impute to the bishop of St. Andrews, while the wild schemes of Margaret in 1463, can scarcely have deluded the worldly-wise prelate. There must have been some basis for the tidings that came to the ear of Edward; the grain of fact, however, (3) may have been buried in the chaff of fable. To us, the

(1) This, for example, is the impression left by Wavrin. (Wavrin-Dupont, II, 301-2) When king Henry fled to Scotland in 1461 he had nothing else to offer in return for the assistance of the Scots. At the time of the Lincluden conference, moreover, Kennedy was a leader of a coalition. Other influences were at play, and it is noteworthy that, although he attributed to himself the proposal of a marriage alliance between Stewart and York, neither he, nor any of his contemporaries, attributed to the bishop of St. Andrews the cession of the town of Berwick.

(2) Wavrin-Dupont, II, 302.

(3) Rumour could build, for example, upon the earlier proposals of a marriage alliance, and upon the grant of a prospective duchy in England to the earl of Angus. Godscroft had seen the original licence under the Privy Seal of James III., giving sanction to the indenture with

chief interest in the report lies in the indication afforded of the extremity, rather than of the ambition, of bishop Kennedy. His real aim was the consolidation, not the expansion, of Scotland: as the two ends were incompatible, we may reject the latter as outwith the scope of his practical politics. In so far as it was entertained, to that extent Kennedy was being swept away on the tide of the extremists, and was in danger of losing grip of the forces which he had set in motion.

He must, then, have welcomed the restoration of peace with a peculiar thanksgiving. It is clear, in short, that, although the bishop had shouldered the responsibilities of war, he was, alike by temperament and training, a statesman rather than a soldier. Although he approved the campaign, he does not seem to have accompanied the court on the military expedition of 1455. We have seen that his most valuable contribution to the cause of the monarchy was the assistance of his diplomacy, comfort and advice. His aim was the elevation of the monarchy as the custodian of the common weal: his policy was conciliation, but if at times he seemed to temporise when the hour had already struck for action,

(I)

yet when once the Angus. (MSS. History, II, 43) This seems to indicate the acquiescence, if not the approval, of Kennedy in the transaction.

(I) His attitude towards the Douglas questions suggests that the bishop was loth to come to the arbitrament of war.

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sword was drawn, he advocated the adoption of prompt and decisive measures.

In later times, he would have upheld the Divine Right of Kings: he would have interpreted Right in terms of Duty. Privilege, in his eyes, entailed obligation: the king was the "protecting prince" of the "Christian (I) people subject to our sway." Once again, then, it is driven home upon us that the key of his policy was the advancement of the whole social order under a strong king using his power in the fear of God, and to the common weal of his country.

In pursuing his high aims, Kennedy had undoubted assets in his commanding position in the Church, his pride of birth and extensive family connections. But these in themselves were not enough. His cousin, earl Archibald, the Lieutenant-General, had the prestige and the power, yet he did not become a saviour of his country. James Kennedy's pearl of great price was his sterling worth of character. His insight and knowledge of men, his practical common sense, his loyalty and integrity, his pertinacity and patriotism, were the priceless gifts that he laid upon the altar of the state.

(I) Letter of James II, in Beckynton, I, 139-41; see above,

If tranquillity did not always follow his government, it was at least an object which he ever kept in view. History therefore endorses the essential truth of Drummond's verdict that "By the Death of this Prelate, venerable for his Wisdom, singular for his Justice, and the tranquillity following his government --- the Glory of the Court and Country suffered a great Eclipse."

ST. SALVATOR'S: UNIVERSITY AFFAIRS.

ST. SALVATOR'S

The Collegiate Church of St. Salvator was the darling creation of the founder. He died within a bow-shot; his bones were laid to rest in a costly sepulchre within the walls. If we would read the meaning of his interest, we must study the whole educational policy of the bishop of St. Andrews.

It has already been foreshadowed that one of Kennedy's most cherished ideals was to fan the fire of learning into a bright and steady flame. (1) We have seen that his visit to Rome in 1450-51 was in one aspect a pilgrimage to secure papal support for the new college of St. Salvator. As the bull of foundation bore to be granted by pope Nicholas expressly on the representations of his "venerable brother James, bishop of St. Andrews", (2) it is evident that this marked, not the inception, but the development, of a well-considered scheme. The erection of St. Salvator's was, in fact, "an important, but not the only element in a policy of extension, consolidation and reform adopted by the bishop." (3) Before we can understand

(1) See above,

(2) Theiner, Vet. Mon., DCCLIX, 383-5.

(3) Hannay, Statutes of Faculty of Arts, 22.

~~understand~~, or estimate the value of, Kennedy's work, we must, then, first know something of the earlier fabric which he saw fit thus to extend, consolidate and reform. It is well to remember, also, that Kennedy, as a student of St. Andrews, had had personal experience of the working and defects of the educational system in its early days.

THE FOUNDATION AND EARLY HISTORY OF ST. ANDREWS UNIVERSITY.

The foundation of St. Andrews university was a national movement arising out of the schism in the church. When France deserted the anti-pope, Scots students found themselves ostracised in all the old and famous seats of learning.

Religious reasons, then, joined hands with political con-

(1)
siderations to suggest the foundation of a studium generale within the bounds of Scotland. St. Andrews was the ecclesiastical centre of the national life; its bishop, Henry Wardlaw, a man of ideals of culture and reform; teachers
(2)
were already congregated there.

(1) The petition for the bull of foundation was proffered in the name of James, king of Scots, of the bishop, prior, archdeacon and chapter of St. Andrews, with the advice and consent of the three estates. It pointed out the many risks and dangers to which Scots students were exposed on account of dangers by land and sea, wars and captures and other obstacles to travelling, besides the expense of foreign residence. (Evidence, III, 171)

(2) S.H.R., VIII, 223-246; Coissac, Les Institutions Scolaires de l'Écosse, 23-4, 44.

23

On 27th. February, 1411-12, Wardlaw, on his own initiative granted a charter of erection⁽¹⁾; on 28th. August, 1413, the pope, in confirmation of the bishop's work, conferred academic privileges, and issued a papal bull of foundation of a studium generale⁽²⁾. In theory, the position of the university was then established; in reality, the solid work of building was still to do.

Although, according to charter, the new school was instituted to teach Theology, Law, both civil and canon, also "Arts and Medecine and other lawful Faculties whatsoever," yet in practice it was unable to support its high pretensions. It was small in numbers, weak in organisation, lacking in resources. Its chief source of strength was the preponderating influence of the founder, who was at once papal legate, bishop-chancellor and lord of the regality⁽³⁾. As lord of regality, he granted the original charter of extensive privileges⁽⁴⁾; he and his small band of capable and experienced assistants moulded the constitution of the infant university, largely upon the model of

(1) Anderson, City and Univ. of St. And's., 28; Evidence, III, 173-4.

(2) Ibid, 28; Univ. Report, Evidence, III, 171-2.
Lyon, Hist. of St. And's, II, 225

The pope issued five accompanying bulls on the same day as the bull of foundation.

(3) Although the title of chancellor is not actually specified in the bull, yet it was clearly understood that the pope meant the bishop to enjoy, unfettered, all the rights and privileges of this high office.

(4) Evidence, III, 173.

(1)

the French system, both of Paris and the smaller universities. Since, however, several points, such as the election of the rector, were left vague or unspecified, it was inevitable that questions of definition would demand the attention, not of Wardlaw^{only}, but of bishop Kennedy and others, his successors.

Again, the close ecclesiastical control exercised over the young university did not commend itself to the king, who would have preferred to set up a national institution at Perth in the royal sphere of jurisdiction. (2)

(1) The work of the founders of St. Andrews university is dealt with in the Scottish Historical Review, vol. VIII. (Beginnings of St. Andrews University.)

There may have been some modification due to the influence of the universities of north west Europe and the Low Countries, but the ultimate model of Wardlaw's foundation was the French educational system, where the basis was "the control of the Chancellor on the one hand, and the right of the competent teacher to a gratuitous license on the other." (Rashdall, Univs. of Europe, II, 296; I, 284).

In terms of the foundation charter of St. Andrews, the bishop or his deputy was constituted the licensing authority: license was to be gratuitous, conferred as a matter of right upon all fit candidates. The test (which was soon modified) was to be the successful passing of an examination before all the masters and doctors teaching in the faculty of the student. It was stipulated, also, that the rector should be a graduate in holy orders. If these articles show that the influence of Paris moulded the original constitution of St. Andrews, the same influence likewise inspired the earlier statutes of the university, dating from 1416. (See Hannay, Statutes, 3-6)

(2) Hannay, Statutes, 18; S.H.R., III, 308-9, where Mr. Maitland Anderson has pointed out that facts seem to indicate the intention of the king "to make Perth the principal city of his Kingdom - the centre of education, religion and learning."

It is impossible to trace all the workings of the royal mind, yet "it cannot be without significance that Wardlaw's charter of privilege lacked confirmation till 1431-2, and that the king's charter was couched in language which strongly emphasised the interest of the state in the University." (I) When the pope shelved the schemes for a new university at Perth, king James interested himself in Wardlaw's foundation with the same zeal for reform and discipline which he showed in other things of the church. (2)

Unity and organisation were, indeed, problems demanding urgent attention from the beginning. As at first the office and powers of the Dean were not clearly defined, there was no satisfactory medium of composing the disputes which inevitably broke out between the rival schools and regents.

It was to meet the need for unification that, when bishop Wardlaw endowed the university with a tenement in

(1) Hannay, Statutes, 19. This interest of the crown in the sphere of education was not peculiar to the first James: it manifested itself again in the time of his son when it joined hands with the ambition of a brother prelate, jealous of the power of the bishop of St. Andrews. (See below, 291.)

(2) S.H.R., III, 312. The authoritative nature of the royal interference is illustrated by the fact that "in 1432, James I. transmitted through the Keeper of the Privy Seal, a --- document containing regulations intended to improve the discipline of the University, and to preserve peace and concord within its own borders." (Anderson, City and Univ. of St. And's., 38)

1430, the dean proposed that "one pedagogy" should supersede the various independent halls. In practice, however, the scheme failed of its object: the pedagogy was inadequately endowed; the rival houses maintained their open door, and two years later the university had to recognise a "second pedagogy." (I) Since the system of comprehension had thus broken down, a new co-ordinating force was devised by conferring inquisitorial and other magisterial powers upon the dean of the Faculty of Arts. (2)

JURISDICTION OF "TOWN AND GOWN": KENNEDY'S AWARD OF 1444.

These statutes for the promotion of order and discipline were largely inspired by the influence of king James I. (3) The mantle of the king in this, as in so many

(1) Hannay, Statutes, 16. The tenement of St. John's, "in vico australi", granted by bishop Wardlaw on 9th. April, 1430, provided the official school for the university. (Evidence, III, 350; Hannay, Statutes, 26; Anderson, City and Univ. of St. Andrews, 28. St. John's College, or the Pedagogy, led, however, but a precarious existence. Although Wardlaw's charter gave the site for a school, yet it made no endowment for masters or students, while the stipulation that the Faculty of Arts should contribute to its upkeep did not prove a happy expedient for overcoming the difficulty. (Rashdall, Univs. of Eur., III, 300; Anderson, Ob Supra)

(2) Hannay, Statutes, 16. To the dean, for example, masters and scholars alike had to take the oath of obedience, whilst once a week he, and three assistants were to make an inquisitorial visitation of the different schools. Before a student could change his school, he had first to obtain a license from the dean and four masters associated with him.

(3) S.H.R., III, 312.

other respects, fell upon his nephew, the second bishop-chancellor of the university. Kennedy, as we have seen, was in all things an enemy to disorder, while, even apart from his personal inclinations, his official position would have necessitated the adoption of a definite attitude towards the problem of the university.

The first question that demanded his attention was more than a matter of internal economy: it was a dispute between "town and gown" over rival jurisdictions. Such a quarrel between two jealous corporations was bound to affect St. Andrews, like other mediaeval universities, at an early date. Not only did the University enjoy immunities which trenched upon the rights of the citizens in things economic and judicial: humiliation was added to injury

(1) The first extant charter of privileges to Paris, for example, was the outcome of a quarrel between "town and gown." (Rashdall, *Univs. of Eur.*, I, 296-7).

(2) The obnoxious nature of Wardlaw's charter of privileges in the eyes of a townsman is clear from the following summary of its terms. "Members of the University were free to buy and sell necessaries throughout the regality without license or custom. In St. Andrews the burgh laws with regard to the price of victuals were to be observed in their favour, and if, on notice from the Rector, the town authorities did not correct a delinquent within a day, it devolved on him to judge the case, under condition of an appeal to the Bishop, and even to punish those who were ultimately found culpable. He also exercised jurisdiction in all cases of injury inflicted on members or clients of the University, with the exception of atrox injuria, which was reserved for the Bishop: and in civil actions no supposit need compear before any other judge." (*Votiva Tabella*, 57-8)

by requiring the civil magistrates to take a yearly oath before the rector to respect the obnoxious statutes.

The disputes between the two authorities reached a climax about 1443, when bishop Kennedy authorised a municipal deputation to ascertain the ruling that obtained at Cologne, - a university at once "the most prominent and central of the educational and ecclesiastical centres of Germany", and a seat of learning of increasing repute among Scottish students. As a result it was found, in favour of the town, that at Cologne "the rector has no right over the citizens, either in civil or criminal matters; but if any member of the university had aught to allege against any of the citizens, he must prosecute before a civil judge."

It was at this juncture that the bishop-chancellor availed, "with great cares and pains", to celebrate "a contract of peace" between the disputants. He showed unmistakable tact in issuing an award which conciliated the aggrieved party while preserving the essential elements of the privileges and powers of the university.

(1) Rashdall, Univs. of Eur., II, 351.

(2) Lyon, Hist. of St. Ands., II, 231, quoting MSS. catalogue of charters; Votiva Tabella, 58.

(3) Evidence, III, 234 [24]

(4) Doubtful points were defined: a longer interval was granted to the citizens for making redress; certain concessions were made in the matter of jurisdiction, but the ultimate appeal lay before the bishop-chancellor or his

This, then, is another example of Kennedy's love of equity and justice, combined with a resolution to maintain the privilege and authority of his order. The popularity of the award is sufficient proof of his disinterestedness: the immunities and powers retained for the university are not inconsistent with altruism. Apart altogether from the position of the studium as a scholastic corporation, scarcity of students made it wise to hold out inducements to prospective supports.

THE FOUNDATION OF ST. SALVATOR'S.

Inadequate resources, indeed, went hand in hand with lack of unity. Hence it was to meet the double necessity of the case that bishop Kennedy suggested a unio pedagogiorum (I) to be tried as an experiment for five years; that he, further, founded and endowed the college of St. Salvator.

deputy. The yearly oath was abolished in favour of the citizens: on the other side, it was stipulated that the "Bishop should have the power to interpret the rules and to provide for extraordinary cases." (Votiva Tabella, 58; Evidence, III, 176-8; Lyon, Hist. of St. And's., II, 231-3).

(I) Hannay, Statutes, 22. The history of the unio pedagogiorum is somewhat obscure. Kennedy was probably trying to resuscitate the scheme of a "single pedagogy" first adopted, as we have seen, in 1430. According to Rashdall the "single pedagogy" was restored in 1453, but did not establish its position until 1460. (Rashdall, Univs. of Eur., II, 301; see below, 314)

He had probably devoted serious attention to the university problem during the time of his political eclipse, although not till 1450 were his schemes mature. On 27th. August of that year he granted a charter to the college of St. Salvator: on the same day, "with his own hand the founder placed in position four square stones for the four corners and as a sign and token of the purpose of his foundation he set up an altar upon its site and sprinkled it with holy water in the name of the Father and of the Son and of the Holy Ghost." Finally, he put his own ring on the finger of Master John Almare and so inducted him into the office of first Provost of the College." (I)

This imposing ceremony took place, it will be noticed, on the very eve of the bishop's departure for the apostolic thresholds, where he went to secure for his foundation rich benefits from the fountain head of Roman culture. (2) On 5th. February following, the pope issued a bull, approving and confirming Kennedy's erection of a college dedicated to the Holy Saviour, for thirteen theologians and artists, "like to the number of the apostles." (3) Of these, the provost was to be a master of theology; one was to be a licentiate, a third a bachelor in theology; four were to be masters

- (1) J.M. Anderson, City and Univ. of St. Andrews, 43.
- (2) See above , 49-51.
- (3) Theiner, Vet. Mon., 383-5; C.P.R.,X, 88.

in arts, the remaining six "poor clerks", desirous and fit for the pursuit of speculative knowledge.

The Provost, Licentiate and Bachelor were to read Theology on certain days in the week, the Masters of Arts to read philosophy and metaphysics, each and all of the other foundationers to chant matins and other canonical hours on Sundays and all feast days, and to celebrate a mass. Kennedy endowed his foundation with the revenues of four
(1) rectories; pope Nicholas granted the customary privileges and appointed mandatories to protect the college. A few days later, on his own initiative, he revoked all unions of secular benefices to monastic houses in the diocese of St. Andrews, where they had not yet taken effect, so that these secular livings might be free for bestowal upon "poor
(2) clerks incumbents for the study of letters."

This endowment of a college for teachers and students was Kennedy's distinctive contribution to the solution of the university problem. The charter in itself, however, is a mere skeleton, obviously requiring amplification before

(1) The allocation of the rectories was as follows:-
Kilmany [Kylmany] for the College, Cults [quylt] for the Provost, Kembach [Kombak] for the Licentiate, Denino [Duncuagh] for the Bachelor.

(2) Theiner, Vet. Mon, 385-6, DCCLX; C.P.R., X, 176. Although the papal grant bore to have proceeded motu proprio, yet the incentive was clearly supplied by the representations of Kennedy. (quod sicut nobis nuper innotuit).

it could serve as a constitution for an organised polity. Apart, moreover, from any inherent defects in its own regulations, the newly endowed college failed to fulfil, to immediately the hopes built upon it. It is, therefore, not surprising that seven years later the bishop saw fit "to supply what was wanting, and to correct what was wrong and to remove all ambiguity." Kennedy's charter of reformation and refoundation was given at St. Andrews on 4th. April and confirmed by Pius II. on 13th. September, 1458. In comparison with the original, this second charter is, very conspicuously, "a document of detailed particulars." Herein lies a peculiar interest, for a study of these particulars will illumine the aims and policy of the bishop-founder.

THE FOUNDATION OF GLASGOW UNIVERSITY.

One consideration of paramount importance must not be overlooked. Kennedy, it is true, sought after unity and reform; but a spur was given to his energies by competition with the new university in the west. On 7th. January, 1450-1, a month before the papal confirmation of St. Salvator's, Nicholas V., on the petition of the king of Scots, erected

(1) Theiner, Vet. Mon., 407; trans., Lyon, Hist. of St. Ands, II, 239.

(2) Anderson, City and Univ. of St. Ands.

(3) Theiner, Vet. Mon., 406-11, DCCLXXXIV; C.P.R., XI, 376; Evidence, III,

(4) Anderson, Univ. of St. Ands, 9.

in Glasgow a studium generale under bishop Turnbull as first "Rector, called Chancellor"⁽¹⁾ To understand the full significance of Kennedy's policy we must, then, first consider the history and implications of the activities at Glasgow.

Turnbull was, no doubt, pitted in this, as in other things, in rivalry with his brother prelate of St. Andrews; at the same time, however, he stood high in the king's councils, and James had an interest of state in the new foundation. As St. Andrews had proved, in practice, to be chiefly a seat of theology, it was hoped that Glasgow would develop a strong school of law. The "rod of equity and justice" would become a power in the land: the crown could draw upon a source of skilled and experienced civil servants.⁽²⁾

In one respect the Bull of foundation of Glasgow university resembled the papal bull of erection of St. Andrews: neither made any pretension to lay down a rigid constitution. Bishop Wardlaw, however, had sought confirmation for a university already in working existence: bishop Turnbull was invested with the powers of Chancellor.

(1) C.P.R., X, 73; Innes, Munimenta, I, 3-5.
(2) S.H.R., XI, 274.

over a studium that had yet to be constituted. The bull of erection, it is true, bore to have conferred upon the infant university all "the privileges, liberties, honours, exemptions and immunities" of Bologna, the special daughter of the pope's affections. As, however, none of the recipients were familiar with the conditions obtaining at Bologna, the result of the papal bull was, in effect, to give the bishop of Glasgow a free hand in drawing up a constitution.

But if Turnbull and his assistants were ignorant of the structure of the organisation of the great Italian school of law, they had, on the other hand, a working knowledge of academic life in centres nearer home. The bishop of Glasgow, himself, had been a suppost of St. Andrews; William Elphinstone, first Dean of the Faculty of Arts was likewise an old St. Andrews man: two of the other constitution-builders were apparently graduates of Paris. Most active and important of all the pioneers was Duncan Bunch, a Master of Arts of Cologne, received in 1448 as an artist in St. Andrews. (1)

Drawing upon such wide experience the founders of Glasgow university were enabled to avoid some of the pitfalls of St. Andrews, while at the same time utilising the more successful features of the rival studium. The abuses (2)

(1) S.H.R., XI, 278; Records of St. Andrews University.

(2) This is seen, for example, by comparing the competence of the rector in the two universities. We have seen that in 1444 Kennedy found it necessary to curtail the powers conferred upon the rector by the charter of bishop Wardlaw. Turnbull, a graduate of St. Andrews, was able to understand and benefit from the experiences of his alma mater. Thus "a comparison of Wardlaw's original provisions, Kennedy's rearrangement of 1444 and Turnbull's grant of 1453, shows

arising from the multiplication of rival schools was, for example, obviated by establishing a common hall of residence and a school-room in the monastery of the Dominican Friars. (1) This feature of Glasgow academic life which differentiated it in one very important respect from the college system of St. Andrews, was due in the first place to the preponderating influence of the bishop. Turnbull, like Wardlaw, as lord of regality, occupied a unique and powerful position. Both meant their foundations to be under strict ecclesiastical control: a difference lay, however, in the nature of their own academic office. No counterpoise was established against the power of Turnbull who, as "Rector, called Chancellor", was probably intended to be the source of all derivative jurisdiction. (2) Although in practice the systems in the two universities tended to approximate, yet in the early days, Turnbull's untrammelled position was an undoubted source of strength.

In the exercise of his functions, he, in 1453, caused to be drawn up for the university a series of statutes

that the Bishop of Glasgow first of all adopted what may be called the non-controvertial portions of Wardlaw's document verbatim, and then incorporated certain features of Kennedy's enactment evidently derived from the practice at Cologne." (S.H.R., XI, 272-3)

(1) Innes, *Munimenta Univ. Glas.*, II, 17.

(2) Although the bishop-chancellor of St. Andrews was the guardian and protector of the university, yet his powers were more limited than those of his brother of Glasgow. Again, if he should tend to abuse his influence, the conservator of the privileges of the university was at hand as a check

based upon those of his own alma mater, with such modifications as expedience suggested. Where divergence occurred the model of Glasgow was chiefly Cologne: Paris, and perhaps Louvain, were also copied.

It is true that, like St. Andrews, Glasgow was poor in endowments: nor did it fulfil the hope that it would grow into a famous school of law. In the early days, however, before the blight of the Douglas wars, it enjoyed a vigorous lease of life. Signs are not wanting, moreover,

upon his authority: no conservator was appointed in the interests of Glasgow. It is interesting that "in connection with occasions of ceremony the Rector is mentioned first at St. Andrews: at Glasgow the Chancellor's name has priority" (S.H.R., XI, 274). It has been said of Turnbull's foundation that "if the Chancellor had retained the powers committed to him by the Bull, the Rector elected by the University would have been a Rector only in name." (Notes on Constitutions of Universities, 50).

(1) S.H.R., XI, 278; Rasndall, Univs. of Eur., II, 306, note. In 1452, William Elphinstone, Dean of the Faculty of Arts, ordered Master Duncan Bunch to write out on parchment certain approved statutes. (Innes, Munimenta, II, 179)

(2) The king took the university under his protection on 20th. April, 1453, (Innes, Monumenta, I, 6-7) while his half-brother, Andrew Stewart was incorporated as a student there in 1456. (Ibid, II, 64) In 1453, also, the bishop issued his charter of privileges; the Congregation of the university caused to be made a common seal, a signet for the rector, and a charter chest for the muniments of the university: a deputation was sent to the chancellor for the sealing of their privileges. (Ibid, I, 7-9, 63) In 1455 a seal was ordered for the Faculty of Arts. (Ibid, I, 186) From this time, however, evils followed in the wake of the Douglas wars. In 1455, Glasgow was visited by the plague, while in 1457, the Faculty of Arts made a grant from the common purse to "Master Duncan Bunch and Master William Arthurle, Regents, because burdened with debts for the rent of the

that it sought to enhance its prosperity and to augment its numbers by luring scholars from the older studium.⁽¹⁾

Even had Scottish students ceased to wander abroad in the quest of education, the country was not able adequately to support two vigorous universities. Quite apart, then, from questions of internal reform, the educational activities both of the Chancellor and of the Faculty of Arts of St. Andrews must have been spurred by the spirit of emulation. The university, it is clear, was not slow to answer the challenge of Glasgow.

Pedagogium, and also on account of the famine, war and pestilence of preceding years and the paucity of members." (Ibid, II, 187, 191, xxxi)

(1) This was not without importance in the development of university institutions. Thus, "it would appear that, with the pardonable desire to secure some of the discontented St. Andrews licentiates and attract students, they [the Glasgow authorities] actually reduced the fine for non-compliance with the Statute De Lectura, and accelerated the tendency of" licentiates to decline graduation. (S.H.R., XI, 281) In 1453, St. Andrews, on its side, evidently uneasy over the attitude of Glasgow, passed an act forbidding licentiates "from taking the insignia magistralia elsewhere". (Hannay, Statutes, 21).

Glasgow did succeed to some extent in drawing supports from the eastern diocese. William Elphinstone and Duncan Bunch themselves hailed from St. Andrews. Master Adam Cockburn, of the diocese of St. Andrews, was incorporated in the rival university in 1453. (Innes, Munimenta, II, 61)

310.

It is typical of this spirit of rivalry that two years after the Glasgow artists caused their seal to be made, a new seal was ordered for the Faculty of Arts at St.

(I)
Andrews. Again, Glasgow, "after the fashion of the studium of Bologna or Cologne", introduced the system of Quodlibeta (2) or annual "disputations of the masters in the public schools." These public debates, probably inspired by Bunch, an old student of Cologne, were an innovation in Scotland: in (3) 1452, steps were taken to inaugurate the system at St. Andrews.

REFORMATION AND REFOUNDATION OF ST. SALVATOR'S.

Kennedy's charter of reformation and refoundation of St. Salvator's is itself a lasting testimony to the rivalry with Glasgow. Its significance, however, goes deeper than this: it embodies many of the aims and ideals of the founder.

(I) Anderson, City and Univ. of St. Ands., 28; Hannay, Statutes, 23.

(2) S.H.R. XI, 281; Innes, Munimenta, II, 24. Lectures were to begin "in crastino Lucie virginis" [14th. December]. After they were over, the masters were to hold festivities "in festo Sanci Thome Apostoli" [21st. December].

Apart from the influence of Glasgow, St. Andrews was probably affected by the example of Paris where the system of Quodlibeta had been restored in 1445. (Hannay, Statutes, 23) About this period, indeed, there was a general movement for university reform. Paris was a notable example. Orleans, also, received a royal charter of reformation on 31st. July, 1447. (Fournier, Statuts et Privileges des Univs. Francaises, I, 215-222)

(3) According to a minute of 1455, the election of the Quodlibetarius was made early in October. "To judge by a few references, the interest of the masters in this exercise was never very strong, and it was difficult to persuade anyone to accept the office of Quodlibetarius for the remuneration which the Faculty offered." In 1460 the office seemed about to lapse; but the Faculty promised to find responsales." (Hannay, Statutes, 44-5)

This consideration, then, makes it well worth while to study the "detailed particulars" of the bishop's second charter. The document itself is of a two-fold character, providing alike for the reinforcement of education and the fitting performance of religion. In the first place, the former endowment of the College for thirteen Theologians and artists was more precisely defined: the conditions of tenure, the rules and obligations to be observed, were put beyond cavil or question: machinery was devised for giving effect to the provisions.

The Provost, Licentiate and Bachelor were to be fellows during good behaviour, the four masters of arts and the six poor scholars during a period adequate for their graduation in Theology and Arts. Vacancies among the masters and scholars were to be filled as the result of free election by the three permanent masters: the ranks of the Provost, Licentiate and Bachelor themselves were to be replenished by promotion according to a carefully regulated succession. Neither the Licentiate nor

(1) The board of appointment consisted of the Provost, Licentiate and Bachelor; failing one of them, the third member was to be the Rector of the university, provided he were not a Collegian; failing him, the archdeacon; failing him, another deputy to be nominated by the university.

the Bachelor might hold any other benefice along with his endowment; nor might the Provost hold a benefice entailing residence. Like all the collegians, they enjoyed the usual exemption from ordinary jurisdiction, taxation and exactions.

Benefits, however, implied obligations. It was accordingly stipulated that the Provost should read Theology once a week, the Licentiate, thrice, and the Bachelor every lawful day. Four times a year the Provost was to preach the word of God to the people: the Licentiate six times. Two of the masters of arts were to be chosen annually by the graduates to read Logic and Philosophy at a salary over and above their portion of the collegiate endowment⁽¹⁾ The necessity for residence was made binding upon Collegians from the Provost down to the least of the poor students.

Another section of the bishop's charter touches matters of discipline and morals. Collegiate life was strictly insisted upon; the masters and clerks must be men of unspotted character and good repute. To ensure the maintenance of an adequate standard of morality, the college was to be submitted, "as well in head as in members" to an inquisitorial visitation once a year, when the Rector or

)1) For remuneration, the reader in Logic was to have an annual fee of two merks, the reader in Philosophy, three merks, besides their share of the college endowment.

other competent deputy, with the advice of four more representatives of the university, ^(I) was empowered to correct "all faults, as well in persons as in things." As the Provost himself was subject to this external scrutiny, a check was imposed to safeguard against the abuse of his powers of ordinary jurisdiction alike over bursars, and the private students, commoners or pensioners, to whom the doors of the College were thrown open. Finally, it was made binding upon all members, on their bodily oath, to observe all the regulations, and to further the good of the College as far as in them lay.

His liberal endowment of St. Salvator's together with the exhaustive precautions to secure the permanence of the provisions, makes it abundantly clear that the founder meant the system of endowed colleges to become a permanent feature of university life at St. Andrews. This aspect of his work is therefore of peculiar interest for the light that it sheds upon his character.

(I) The important point was that this was to be an impartial board of outside examiners, representing the university. "Item we wish and ordain the Rector of the University aforesaid, provided he be not a member of the College aforesaid, in such case the Archdeacon aforementioned, in his absence a deputy from the said University once a year to visit the said College as well in head as in members, and with the advice of four deputies specially appointed ad hoc by the University aforementioned, or two of them at least to correct and duly reform the defects of whomsoever, as well in persons as in things, as well as alienations, impignurations or consumption of goods of any kind" (Theiner, Vet. Mon., 410)

THE MODELS OF ST. SALVATOR'S.

In the first place, it reveals him as a munificent patron of learning, reproducing in miniature a general current of continental culture. "It was in the course of the fifteenth century and especially towards the middle of the century," Rashdall tell us, " that the pensioner system and new educational methods which accompanied it , attained their fullest development." (I) A comparative study puts it beyond doubt that in this widespread movement, Paris was the main source of Kennedy's inspiration for St. Salvator's.

The petition of Paris university to the king in 1445 declared that "almost the whole University resides in Colleges." (2) As, however, the external authority contrived to secure control over the individual colleges, (3) the university was saved from the disintegration which was threatened at St. Andrews by the competition of independent, rival schools. In 1452, moreover, Cardinal Estouteville effected a sweeping measure of reform (4) which has left a direct mark upon bishop Kennedy's second charter to St. Salvator's.

Witness, for example, the Parisian statute for the annual visitation of the Colleges and Pedagogies by a

- (1) Rashdall, Univs. of Eur., I, 499.
- (2) Ibid, 499-500.
- (3) Ibid, 502-3, where the author cites examples.
- (4) Ibid, 504; Auct. Univ. Paris., IV, 713-34.

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permanent board of four Censors, "senior Masters of Arts
(1)
and also graduates in the superior Faculties." It is sig-
nificant, moreover, that the exhaustive French reforms fell
in the period between Kennedy's original foundation and
his charter of refoundation of St. Salvator's. Whether or
not Kennedy himself had visited Paris on his pilgrimage to
Rome, his nephew was a student there in 1454; and the first
(2)
provost of his college had taught at Paris.

John Athilmere, the right hand of the bishop-founder,
had associations not with Paris only, but also with St. Andrews
(3)
and Cologne. His appointment as Provost was thus an indic-
ation of certain divergencies from the Paris system. In
Paris the colleges were primarily endowments for students:

(1) Rashdall, *Univs. of Eur.*, I, 504.

(2) This nephew was William Forbes, afterwards vicar of
St. Giles. (C.P.R., X, 260) We have seen that Forbes was
indebted to the patronage of his uncle. As he seems to
have been in Scotland about this date, (C.P.R., XI, 516) it
is therefore not unlikely that his experiences would make
his assistance useful for the drawing up of the amended chart-
er. In 1450, John Kennedy, provost of Maybole, was also
a suppost of Paris. This is probably the same person as
John Kennedy, clerk, kinsman of the bishop of St. Andrews,
and member of his household in 1460. (C.P.R., X, 167, XI, 420-1)

(3) Mr. John Athilmere was a licentiate of St. Andrews
in 1426. (Records of St. And's Univ., 9) Boece tells us that
he had studied at Paris: in this statement he is to be trusted.
(History, 382; cf. Coissac, *Les Universités d'Écosse*, 85;
Martine, *Hist. of St. And's.*, 234)

It is a sign of the trust reposed in him by the bishop
that he was a subcommissioner of Kennedy in 1453. (C.P.R., XI,
378)

in Germany for teachers: in St. Andrews there was an assimilation of both aspects. It is the authoritative opinion of Rashdall that the "addition of a few undergraduates differentiates this foundation from most of the German Colleges, but as they had no share in the government of the College, the difference is not important." The Scottish Colleges resemble the German in being primarily endowments for University teachers".⁽¹⁾

The fusion of the two systems is characteristic of Kennedy's shrewd grasp of realities. Experience taught that in the interests of order and discipline, it was essential to ensure an independent competence for teachers.⁽²⁾ Moreover, the case of Paris indicated that the enforcement of discipline within the college would in time leaven the whole life of the university.⁽³⁾ In catering for the wants of teachers, however, the bishop did not forget the needs of the taught. He sought to satisfy poor clerks who thirsted after knowledge, so that they, in their turn, might go to the help of others. This was the reason for "the addition of a few undergraduates", as bursars on the foundation.

(1) Rashdall, *Univs. of Eur.*, II, 296.

(2) This provision was further designed to solve the "burning question" of lectura. (See below

(3) That there was a close analogy between St. Andrews and Paris becomes clear in the light of Rashdall's evidence that in Paris "the stricter discipline of the Colleges

It is note-worthy, as Rashdall has pointed out, that the students were excluded from the government of the college. This, however, marked no new departure; the founder of St. Salvator's was merely reproducing the only system with which he himself had been acquainted in his personal experience. (I) Moreover, he possibly held self-determination to be incompatible with rigid discipline and the inculcation of the duty of obedience. The regulations for St. Salvator's and the framer's co-operation with the Grey Friars, (2) are mute witnesses to Kennedy's social ideals.

His own ~~personal~~ experience must have gone far to ground him in the belief that an apprenticeship of submission to the higher powers was for the soul's good, and a necessary stage in the evolution of the individual. It

reacted upon the discipline of the University generally. The University was in its origin a voluntary Association of individual Masters, rather than a single educational institution conducted by an organised staff. The University prescribed the studies which were to lead to the Master's chair; but it did not attempt to interfere with the discipline of the scholars." (Rashdall, Univs. of Eur., I, 501)

(1) At St. Andrews the students, who at first had a voice in the government of the university, were deprived of all effective power at an early date. (Rashdall, Univs. of Eur., II, 299; Hannay, Statutes, 23, has a criticism of Rashdall's theory.) Of Orleans, where Kennedy himself probably read Theology it has been said that "from the terms of the Bull of 1305, no one can infer that the Graduates at large - those not teaching at the University, and not residing at it - had any voice in its government." (Notes of Constitutions of Universities, 24). In Kennedy's student days the life of the university was at a very low ebb. (Scot. Hist. Soc., Miscel., II)

(2) See above, 90-1.

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was a natural corollary to this theory that those in authority should, on their side, acquit themselves worthily of their trust. To secure this end the constitution of St. Salvator's sought to obviate caprice, tyranny and neglect of duty on the part of all in the enjoyment of privileges. One remarkable instance of a preventive safeguard is the provision for an annual visitation of the college by a representative of the university.

PROMOTION OF UNITY AND EFFICIENCY.

Apart entirely from its interest as an indication of Kennedy's personal views, however, the appointment of an inquisitorial board was designed to meet a definite practical purpose. It provided a link between the college and the university. We have seen that the question of unity had, from the earliest years, been a burning academic problem. As the experiment of a unio pedagogiorum had apparently not worked well in practice, the bishop built his chief hope upon the firm establishment of the college system. But this by no means implied that he had forsaken the hope of achieving unity. James Kennedy was not apt to acknowledge defeat: he was merely seeking the old goal by a different path. From this point of view the supervision of the university, as implied by the annual visitation, takes on a new meaning.

Other considerations go to strengthen the belief that

the founder of St. Salvator's sought to promote both unity and greater efficiency. As a school of theology, for example, the college was devised in the interests of amalgamation. The University was practically identified with the Faculty of Arts, yet many supposts might read theology without owing any allegiance to the predominant faculty. (I) As St. Salvator's was endowed for Theologians as well as for Artists; as moreover, it was subject to the scrutiny of the University, a connecting link was forged to bring the two faculties into line in the interests of discipline. At the same time, it provided another bond of cohesion by bring Arts and Theology together in the matter of teaching.

In terms of the endowment, the three permanent masters were not only to be themselves teachers, but were each year to appoint two of the masters of arts as professional readers and regents, at once lecturers in the public school, and (2) tutors within the college.

(1) *Votiva Tabella*, 59-60; Hannay, *Statutes*, 67-8. At the foundation of the University, the Faculty of Arts met in the scolae Theologie. The Theologians were largely under the control of the monastery: Haddenston, its prior, was dean of Faculty in 1428-9. Bishop Wardlaw, the chancellor, however, and the king of Scots, sought to curtail the powers of the dean. The first step was taken in 1428-9, when the Faculty obtained a definite constitution. (Hannay, *Statutes*, 66, 112) James Kennedy was a student of the University at this time. Possibly George Gardiner, his rival at Scone, was a theologian who owed no allegiance to the faculty of Arts.

(2) Hannay, *Statutes*, 23; Theiner, *Vet. Mon.*, 408.

Here, as in so many other aspects, the model was Paris; the idea to graft a system of private tuition upon the parent tree of public lectures in vico, to wit, in the Pedagogy, or public school. The adoption of this scheme, including, as it did, foundationers and commoners, would mean "the recognition of the university, or the Faculty of Arts, as the "centre of organisation:"^(I) it would leave no room for the old rival, independent houses under private masters. Instead, then, of disintegration, Kennedy's project, in its essence "an importation rather than a growth", was designed to promote amalgamation and greater efficiency.

Efficiency, indeed, was the crucial test. St. Salvator's, it was hoped, would flourish as an honourable school of learning; but the leaves of the tree were not for the delight of the individual so much as for the healing of the people by the inculcation of true religion. If the bishop-founder were a visionary, his feet at least were planted on the solid rock of reality. This two-fold nature of his character is typified in the constitution of the college that lay so dear to his heart. On one side, the gates of learning were thrown open alike to gentle and simple; on the other, the lamp of knowledge was to be a guide

(I) Hannay, Statutes, 31.

to the feet of those that stumpled in darkness.

As only two of the masters of arts were appointed to
(I)
be regent teachers, the others had the greater leisure for
individual study; as, moreover, the regents were elected
annually, each of the masters in turn might enjoy the respite
from responsibilities. If, however, this were a concession
to the individual, it might not be abused. There was no
room on Kennedy's foundation, whether for master or for
student, who should dally in the pursuit of knowledge, or
prove incapable of taking his degree within reasonable time.

(I) The regents exercised "disciplinary and tutorial
functions." Non-regent masters, however, also delivered
lectures in vico; many of them were teachers in the superior
faculties. (S.H.R., XI, 280)

Kennedy's scheme was, in one aspect, an attempt to
solve the problem of Lectura. Bishop Wardlaw had tried to
insist upon the observance of the statute obliging all
masters in arts to lecture for two years after graduation.
Had the regulation been operative, the University was not
large enough to support a great number of teachers, many of
them inexperienced youths; but the two years allocated to
lectura might be devoted to the dictation of texts, with a
view to keeping up the supply of books. In practice,
however, the statute was very generally evaded, while it was
equally difficult to collect the fines from defaulters. St.
Andrews was not the only university to be confronted with
this question. Thus there are signs that Glasgow reduced the
fine for non-observance of this irksome regulation, which,
at any rate, it was unable to enforce. The hope was that,
by making a virtue of necessity, cheaper education would
attract scholars from the eastern diocese. In Paris, where
the problem had also been acute, the oath de Lectura was
abolished in 1452. At St. Andrews, Kennedy's system of
endowment, by providing an adequate sustenance for teachers,
was devised to solve the problem of lectura.

In this connection, also, it is to be noticed that the
two regent masters were appointed by the year, and were
obviously not intended to conduct an entire course for
graduation. This was a later development, not contemplated
by Kennedy. (The treatment of the question of Lectura
can be well studied in the introduction to Hannay, Statutes.)

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THE RELIGIOUS ASPECT OF ST. SALVATOR'S.

Primarily, in fact, St. Salvator's was not so much a garden for the scholarly recluse, as a seminary for the training of priests. (1) The pious wishes expressed in the preamble were meant to be no mere rhetoric. Kennedy designed his college to be truly a bulwark of the orthodox faith and the christian religion, (2) - a school for clerks who should point out the way to eternal life, and prevent the schisms of heresy. The fruits of knowledge and the cult of the divine were to flourish together. (3) Thus, besides being permanent teachers of theology, the Provost was to set forth the word of God to the people four times in the year, the Licentiate six times. This double nature of their functions brings us to consider the second aspect of Kennedy's foundation.

St. Salvator's was not merely a college of the university; it was also a collegiate church for the service of religion. "On the one hand its members were masters and students, on the other they were canons and prebendaries, chaplains and

(1) It is significant that "St. Salvator's was endowed to attract capable men to the study of Theology rather than to the more marketable commodity of the law." (Hannay, Statutes, S.H.R., XI, 273).

(2) Theiner, Vet. Mon., 407

(3) Ibid. "Ut non solum scientiae fructus, sed cultus etiam augeatur, divinus."

choristers. It was the religious aspect that most interested Kennedy."
(1)

Although the bishop undoubtedly lavished his bounty and care upon the church of his foundation, yet it would be misleading to think that he meant to create a separation between the educational and religious spheres. They were designed to be complements the one of the other: their common end and purpose, "to preserve and fortify the catholic faith, to strengthen the Christian religion, to sow the word of God more abundantly in the hearts of the Faithful."
(2) In both cases there is the same insistence on reverence and decorum; the same care to safeguard against abuses; the same minuteness of regulation.
(3)

(1) Anderson, City and Univ. of St. Ands., 44.

(2) Theiner, Vet. Mon., 384, preamble to Kennedy's charter of 1450. It is true that the pious expressions voiced in charters are apt to be conventional platitudes. But the whole tenour of his life and works bears witness to the sincerity of the bishop of St. Andrews, when he declared the hope of sending forth labourers into the vineyard to bring to light the precious treasure of divine knowledge therein hidden, and of revealing to the simple the precious truths hidden from the prudent. The charters to St. Salvator's breathe the same spirit as the bishop's political documents and despatches.

(3) The insistence on decorum is seen, for example, in the regulations for the conduct of religious services; the erection of safeguards is illustrated by the conditions attached to the patronage of the perpetual chaplaincies, "ne successu temporis, aut cupiditate vel negligentia quorumcunque aliquid in fraudem, seu preiudicium nostre intentionis circa dictas capellanias fieri contingat."
(Theiner, Vet. Mon., 411) Similarly, Conservators were to be appointed to protect the College from the plundering of "ravenous wolves".

The priests that went out into the world to disseminate higher ideals of religion and morality, service and duty, were to be the torch-bearers of a reformation abroad, while the priests that served in the Church were for a pattern to the Regulars. No doubt Kennedy's inherent love of ceremonial and the beautiful sought self-expression in the magnificence of the conception and endowment of his collegiate church. The fact that he bequeathed to it his personal treasures, and was buried within its walls in a "sumptuous tomb" shows that the splendour of his erection (I) lay near to his heart.

(I) Martine, Reliquiae Divi Andreae, 234-5; Law's MSS: Boece, Bps. Maitland Club Miscellany, III, 195-205. The relics included 36. "In the fyrst ane gryit ymage of syluyr of our Sauour with ane gret louse diadem set with pretious stanis. Item a litle cors of gold with pretious stanis and perlys contenand tua pecis of the haly cross set in a fute of silver ourgylt. Item ane gret monstir of siluer with ane burrell in the myddis contenand diuers relikis. Item ane wther les monster with ane burrell with other relikis diuerse."

The church was endowed with equal magnificence in all its fittings, by the bounty of the founder, various dignitaries and other patrons.

Kennedy's donation consisted of "silver utensils and other movables together with sums of money." (Herkless and Hannay, Archbps. of St. Ands., I, 35). In thus endowing his college with his personal property, the bishop of St. Andrews was exercising the right of testament which, as we have seen, had been confirmed to the prelates, largely through the instance of Kennedy himself, in the pact of 1449-50. In spite of this, however, the will was disputed by his nephew and successor, Patrick Graham. Not till 1470 was the case terminated by the finding that "Kennedy had acted within his rights, and that Graham must pay the costs, and hand over to the executors £942, 4s, 10d. Scots, the value evidently of the disputed property, or the amount of the money gifted by Kennedy to his college". (Ibid, 36, quoting Instrument among University MSS.)

At the same time a consideration of his charters of erection makes it clear that although beauty and ceremony might be the adornment of religion, austerity and purity were of its vital essence. The preponderating attention given to the educational side of his foundation is in itself sufficient proof that Kennedy was specially exercised by the practical necessities of the time.

One of the problems that obviously demanded consideration was the means of defraying the cost of building and equipping the College of St. Salvator. The bishop's own resources, princely as they might be, were not adequate to the demand thus made upon them, while the University was in no position, had it had the will, to render assistance. It was natural, therefore, that Kennedy should apply to the fountain head of benefits educational and ecclesiastical. (1) The outcome was the grant, on 4th.

December, 1460, of a ten years' indulgence towards completing the building and fortification of the college. (2)

(1) Pope Pius II, himself a scholar, was Aeneas Sylvius who had found himself in Scotland on a diplomatic mission when James I. was murdered. We do not know, however, whether he had come personally in contact with James Kennedy either at that or at any subsequent time. "Aeneas Sylvius was not least among the Humanists and in choice Latin he recorded incidents of his visit to that country, which he could not forget when as Pius II, but still a man of letters, he confirmed the foundation of a college by a generous Scottish prelate." (Votiva Tabella, 38)

(2) Theiner, Vet. Mon., 428-9, DCCCIV; C.P.R., XI, 417-8. This indulgence was a contribution in aid of the secular buildings. The Collegiate Church had been consecrated in the beginning of October, 1460. (Anderson, City and Univ. of St. And's, 43)

Whether or not the papal bull served its purpose, we do not know: before the end of the span bishop Kennedy was dead, his college had passed through new vicissitudes of fortune.

LATER STAGES OF KENNEDY'S POLICY OF CONSOLIDATION.

In 1469 the "excellent and noble College of St. Salvator", on its own petition, obtained a papal bull conferring upon it the faculty of granting degrees. This formal recognition as an independent school in which "Theology is continually being taught" seems at sight to testify to the failure of Kennedy's scheme. His sagacity would appear to be at fault: instead of achieving unification he would seem to have accelerated the forces of disintegration.

A deeper view, however, justifies Kennedy. If the movement which culminated in the bull of 1469, threatened the dismemberment of the university, then the failure of that movement shows that the founder of St. Salvator's had not wrought in vain. The establishment of an endowed college was not so much the origin, as the result, of the tendency to schism.

In considering this question, moreover, it should not be forgotten that the erection of St. Salvator's was

(I) Theiner, Vet. Mon., 460, DCCCXLII.

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"not the only element in a policy of extension, consolidation
(1)
and reform adopted by the bishop!" The constitution of the
college clearly shows, as we have seen, that Kennedy intended
to maintain the central authority of the University, while at
the same time, by setting up a model for emulation, he
(2)
indicated a line of future development.

Although, however, the existence of St. Salvator's was
not, inherently, a force of disruption, yet the relations of
the College and the University were often strained. The very
fact that St. Salvator's was founded and endowed by the bishop-
chancellor was in itself conducive to jealousy on the part of
the straitened private masters. Nor had things gone well
within the Pedagogy. Through the obscurity enshrouding the
history of the single school that was to be built upon the
site of the tenement of St. John, it is clear that this "offic-
ial centre for public lectures and acts" found it difficult
(3)
in practice to maintain its position.

We may believe that it was the restraining influence of
the bishop-chancellor that tided over a crisis in 1457;
three years later, when his presence was withdrawn, the
students broke out into open rebellion. From the result we

(1) See above, 279.

(2) St. Salvator's did succeed in spurring the activities of
the university. Thus in 1456, after forty years of apathy a
"beginning was made in the formation of a library, and it may
have been that the masters of the Pedagogy were incited thereto
by hearing that bishop Kennedy contemplated equipping with a
library the College he was then erecting." (Votiva Tabella, 94)

(3) "The school was being used by the Masters for their private
purposes." (Hannay, Statutes, 31) The difficulties of the Ped-
agogy may have occasioned the confirmation of the statutes in
1457. (See Statutes, the authority followed for this subject)

gather that the issues had been serious. "The Faculty decided that the Pedagogy should continue on trial for two years more, and a master, who threatened to secede with his scholars, had to be propitiated with a share in the government. It was enacted that only lectures given in the Pedagogy should count pro forma, though it is not quite clear whether this was directed against internal schism or was an answer to the masters of St. Salvator's, who desired to conduct their teaching within their own walls." (I)

It was natural that the independent masters should put up a hard fight in the struggle for survival: but their days were numbered. If St. Salvator's, with all its resources, could not maintain an independent position, much less could the small, poverty-stricken schools. With the passing of time the Faculty of Arts established its position as the ultimate, unifying source of authority in a university served by a number of endowed accessory Colleges. Kennedy's policy is thus seen to have established the line of historical development: had he not arisen in the hour of need we do not know that the University of St. Andrews would have weathered the storms that beset it.

(I) Hannay, Statutes, 29-30.

Rashdall, building upon documentary evidence, is of opinion that the "single pedagogy" had not really secured its position until 1460. (Univs. of Eur., 301)

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CONCLUSION: AN ESTIMATE.

The foundation of St. Salvator's must, therefore, rank high among Kennedy's acts of constructive statesmanship. It is true that the ideas were not original: the greatness lay in selecting, and moulding to his purpose, materials to hand. In promoting the interests of the university, moreover, he was also serving the welfare of his country. We have seen that in both its aspects St. Salvator's was designed for the furtherance of true religion. The didactic element was strong in Kennedy. The priests that went out into the world were to be missionaries of a moral and spiritual reformation: the Collegiate Church of St. Salvator to be a model for the reverent and seemly performance of divine worship.

On the religious side, Kennedy's foundation was no more original than was the educational aspect. St. Salvator's is merely one example of a very popular tendency of the time. We may believe that the bishop, while encouraging the erection of collegiate churches as a factor in (1) "the reinstatement of religion in splendid edifices", insisted, in the case of his own foundation, upon the strict and punctilious performance of religious rites and ceremonies. (2)

The value attached to a high moral standard is further evidenced by the stipulation that the Licentiate and Bachelor of Theology might hold no other benefices along with the

(1) See below, 332.

(2) Milman, Latin Christianity, VI, 339.

parish churches of their endowment, while due precautions were taken to ensure the adequate service of religion in the annexed rectories. If the whole principle of this method of endowment seems to us to be inherently vicious, it is well to remember that in the fifteenth century "custom was not violated and honesty not injured when money, diverted from parochial channels, was used on behalf of the poor." Non-residence, indeed, was a universal privilege of the mediaeval scholar.

Education was, in those days, primarily a department of the church: the end was to train good clerks for the benefit of the christian flock entrusted to their care. This was the justification for absenteeism: on this ground Kennedy accepted the practice. Yet signs are not wanting that he was uneasy about the moral justification of the usage. We cannot be certain, but we may surmise,

(1) Votiva Tabella, 39.

(2) It is difficult to determine how far Kennedy was, in this respect, a child of his age, blindly following custom. He and his nephews had reaped the fruits of non-residence in their own student career; he petitioned the pope for the revocation of certain annexed benefices for the endowment of poor scholars; he annexed four parish churches to the College of St. Salvator. On the other side, he took pains to safeguard the interests of the parishoners of the annexed rectories; he stipulated that the Licentiate and Bachelor might hold no other benefice along with their endowment, the Provost, no benefice requiring personal residence. Whether the commoners, or non-foundationers, might be beneficed clerks is not stipulated. They were, however, to live at their own expense, and in subjection to the full rigour of all the college laws.

that the bishop's eyes were not holden to the weaknesses in the system of endowment. To foster education was dear to his heart, and of vital importance for the well-being of the country: in the means to his end he was hedged in by the limitations of his time. If he sought to silence any scruples, he was not without grounds of self-justification for the adoption of the methods of the age. He erected safeguards against abuse, he inculcated lofty principles, he broke down the barriers of caste in the sphere of education. Under his system the test and standard was not social status, but the capacity of the student to profit by the study of letters.

Finally, it should be remembered that Kennedy did not create the university problem: rather, he inherited its difficulties in virtue of his office. It was necessary to tackle the situation wholeheartedly, if the university of St. Andrews were to survive schism and troubles within itself, and competition from without. The bishop-chancellor seized the opportunity to bring it into line with the main current of reform and educational methods on the continent.

Sincere lover of education and the arts as Kennedy showed himself to be, it is clear that with all his visions he did not lose sight of the practical. If in many things he shared the aesthetic ideals, and fell under the influence, of pope Nicholas V., in one respect a gulf was fixed between them. The humanistic pope represented the revived

interest in classics , and the love of letters for their own sake. It is doubtful how far Kennedy was touched by the dawn of the classical renaissance: in formulating his educational policy, at least, his chief end was didactic: Learning was to be the hand-maid of a moral reformation.

His personal devotion to the arts joined hands with
(I)
ideals of public service, ordered discipline and the maintenance of authority. Magnificence of setting was to be no cloak for personal indulgence, or for a self-centred life. The founder of St. Salvator's himself set the example of "a high degree of frugality and continence at home: yet great splendour and magnificence abroad". These were the ideals that he meant to disseminate through the medium of his college. It is significant, then, that the secular buildings were not designed with an eye to comfort: that the episcopal castle, where he died, overlooked the buildings of St. Salvator's: that he chose to be laid to rest in a stately tomb in the church which his munificence had endowed.

(I) This trait in the bishop's character is brought out in the character sketch by David Buchanan.

"Pietas et eruditionis cultor sedulus, utpote qui omnes horas a precibus et negotiis publicis liberis in optimarum literarum studiis, sibi laudabiliter, aliis utiliter, toti ecclesiæ et reipublicæ literarie feliciter, collocavit." (De Scriptoribus Scotis, 87)

GENERAL POLICY: TRADE, JUSTICE AND ECONOMICS.

CONCLUSION.

GENERAL POLICY:

TRADE, JUSTICE AND ECONOMICS.

The admiration of contemporaries has handed down to posterity the fame of the bishop's college, tomb and barge; all were equally sumptuous, so that "it was commonly repute and haldin that every ane of thay thre was of a like coist."⁽¹⁾ To us, these things speak in parables of the many-sidedness of the character of their creator.

His College, we have seen, played a living part in the history of his country; his costly sepulchre, whether or not it was "sacred to the idle pride of his times", stands today, in its decayed grandeur, a mute witness to the splendour of Kennedy's conceptions. Of the Bishop's Barge, only the renown survives of a "Ship the biggest that had been seen to sail upon the Ocean."⁽²⁾ But although the vessel itself was wrecked off Bamborough in 1472,⁽³⁾ its significance is enduring as a symbol of its founder's interest in the

(1) Leslie, History, 37. The common price is open to question cf. Major, History, 389.

(2) Buchanan, II, 76; Major, 389; Martine, Reliquiae Divi Andreae, 234

(3) Leslie, History, 39, gives the date as 12th. March, 1472. The chronicle printed by Pinkerton (History, I, 503) reads "1471. Drownyt the bischoipis of Sanct Androis barge."

sphere of commerce. In Pinkerton's opinion Kennedy designed his barge to "reproach his nation with inattention to commerce, and maritime affairs, and to hold out an example for their imitation." (I) According to this theory, then, the bishop of St. Andrews, prelate, statesman and patron of education, was no less a prince of commerce, interested in economics. It becomes us, therefore, to investigate these aspects of Kennedy's work and character.

If the bishop had a natural bent for the things of trade, his double position as prior of May and lord of the regality of St. Andrews afforded ample scope for the exercise of this faculty. He must have controlled almost all the coast of Fife, then the richest part of the kingdom of Scotland. St. Andrews, Crail, Pittenweem and Anstruther were all considerable ports with a European trade. (2) From these, as from all his ports, the lord of the regality enjoyed the

(1) Pinkerton, History, I, 255.

(2) When the tax roll of the burghs north of Forth was modified in 1483, Coupar was assessed at £6-13-4 out of £100, Crail at £2, St. Andrews at £10. For purposes of comparison, it is interesting to note that Dundee and Aberdeen were rated at £26-13-4; Inverness, like St. Andrews, at £10. (Records of Convention of Royal Burghs, I, 543.) This stent roll represents the distribution of the assessment as modified twenty years after Kennedy's death. If we are to judge from the decay of the Fife burghs in the course of the following century (Compare tax roll of 1578, Ibid, 574) the regality of St. Andrews would have a higher valuation in the original allocation of quotas.

Lyon, working on the basis of Bagimont's Roll, has computed that the revenue of the see would equal £37,800 in modern money. He states further, that "in the fifteenth century, especially in the time of bishop Kennedy, it seems to have risen above this sum." (Hist. of St. Ands., I, 125; II, 144) Besides his own regality, the "baronies held by

right of trading customs free: shipwrecked goods, flotsam and jetsam washed upon his coasts were appropriated to his possession: he was infest with the power of arresting vessels "within and without the sea-mark to gather and
(1)
carrie away ware."

Added to these advantages, Kennedy was master of all the resources of the wealthiest of Scottish bishoprics, besides the powers and emoluments accruing to him from the exercise of his papal faculties and indults. He had, then, the means of developing commerce: it will be seen that he did not lack the will. His trading activities would naturally fall into two categories according as he participated personally in trade or exercised himself as a public patron of commerce. These two spheres, however, as Pinkerton's theory suggests, are not necessarily antagonistic: it is often difficult, indeed, to distinguish between them.

TRADE WITH THE LOW COUNTRIES.

The chief commercial intercourse of the regality we would expect to be with the Low Countries, and western
(2)
Europe generally. From Pittenweem and his other ports

the Prior and Archdeacon were regarded as immediately subject to" the bishop. (Votiva Tabella, 57)

(1) Martine, Reliquiae Divi Andreae, 110.

(2) Bishop Kennedy embarked from Pittenweem for the continent in 1459. (See above, 235)

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the bishop enjoyed direct communication by sea with Bruges, then the great emporium of the west. This natural advantage was further augmented when, about 1445-7, the renewal of a profitable commercial treaty of 1427 established trade upon a secure basis. (I)

After the resoration of the bishop's political fortunes he would be in a position to encourage the development of all the facilities thus opened up. It is significant that in 1450, a debt outstanding to Kennedy by the king was to be repaid at Bruges in money of Flanders. (2)

(I) Rooseboom, Scot. Staple in Neths., 18-19. The author tells us that in 1447 Sir Alexander Livingston sent an embassy to Flanders to secure help in view of a war with England. "To add lustre to this embassy a sister of James II. was sent with it, and in her honour splendid receptions were held at Bruges, the expenses of which are to be found recorded in the archives of Bruges. One of the results of this embassy was that the treaty of 1427 was renewed." The treaty may, indeed, have been renewed in 1447, but from other evidence it would appear that the embassy was despatched earlier than 1st. July, 1446. In the Exchequer accounts, rendered on that date, expenses were paid to a certain James of Livingston, "sailing to France with the lady sisters of our lord king." (E.R., V, 225) Additional evidence in favour of the earlier date is supplied by a manuscript preserved in the General Register House. It is a letter, written on 20th. April, 1445, by Elizabeth of Portugal, Duchess of Burgundy, to the king of Scots, "requesting him to allow his sister Eleanor to proceed to France with the commissioners appointed for that purpose promising if she should pass through the writer's dominions to receive her honourably and provide for her safe-conduct." (Inventory of Treaties, 42)

The Scottish original of the treaty of 1427 is also preserved in the Register House.

(2) E.R., V, 393. Scots coinage at this time was in an unsatisfactory state. If the proposals to strike a new currency of the value of England, and to stabilise the ^{existing} currency had matured, the result would have been for the benefit of trade. (A.P., II, 39, 40, 46) A steady depreciation, however, was destined to continue as a serious problem under James III.

In 1465, a sum of £144 was expended upon various woollen goods, damask, satin, and other stuffs "all of the measure of Flanders," besides two pairs of 'trunsheoure knyffis'. These goods were bought by the accountants in Flanders by order of the king (then under the tutelage of Kennedy) for the royal use, and delivered by command of the lord bishop of St. Andrews into the hands of Cuthbert,
(I)
his servant.

Here we have an interesting glimpse of the kind of trade carried on with the Low Countries, and a hint that Kennedy, besides being a patron , was also, through his agents, a partaker in it. His example, we may well believe, was very generally followed. In spite of wars and turbulence, pestilence and dearth, the middle classes had been able to grow rich and prosper. Thus in 1457, in the wake of civil strife and English devastations, the parliament nevertheless saw fit to pass a rigid sumptuary law, "sen the Realme in ilk estate is gretunly puryt throu

(I) E.R., VII, 363. It would be interesting to know something of the functions and status of this 'Cuthbert'. If his designation suggests that he was of humble rank, his duties indicate that he held a position of trust. One wonders if he were in any way a precursor of Andrew Halyburton who, half a century later, transacted business for the archbishop of St. Andrews among other magnates of Scotland.

sumptuous clothing both of men and women and in speciall
 (1)
 within burghs and commons to landward." If people had
 money to spend in furs, cloth of silk and scarlet and
 other fineries unbecoming their walk in life, it is evident
 that there must have been a brisk trade in the commodities
 (2)
 of Flanders.

Kennedy personally would be able to benefit from the
 export trade in wool to the marts of the Netherlands. In
 1456, for example, he exported, customs free, "thirteen
 sacks and eight stones" of wool from his own sheep, pastured
 (3)
 at Weddale. If he made merchandise in wool, he would
 likewise trade in hides and fish, the other staple goods of
 Scotland: in return his ships would bring spices, silks,
 costly cloths and the other wares of Flanders.

(1) A.P., II, 49. The head-dress of women was to be
 such as is "vsyt in flanderis Inglande and uther cuntreis."

(2) The Exchequer Rolls and other records show that
 commerce was carried on, not by the burghs only, but also
 by the king and queen, the lords spiritual and temporal.
 Innes, in his preface to Halyburton's Ledger, has pointed out
 that the Scots, unlike the French and Germans, attached no
 social stigma to the pursuit of trade. (p. xxvii) Long
 after Kennedy's time, "the Scotch laird estimated his income
 in bolls of meal and malt: and the surplus was turned to
 account in Leith and Aberdeen --- and returned in the
 comforts and luxuries that come next in importance to food."
 (Ibid, lxix) This statement may be illustrated for our
 period by the inventories of Coldingham, and from the will
 of Sir Alexander Home, in 1423. (Hist. MSS. Commis., Report
 XII, Part IX, p. 87)

(3) E.R., VI, 119.

We know, however, that bishop Kennedy, or his agents, did traffic with countries other than the Netherlands. The mace of St. Andrews university, for example, was executed in Paris, in 1461, by order of the bishop-chancellor. (1) His ill-fated ship, the 'Marie' of St. Andrews, was probably bringing wines from Gascony when she fell into the hands of "William Kydde and other pirates" of Devon. The fortunes of this vessel, obscure though they be, yet serve to throw an interesting sidelight upon the state of commerce about the middle of the fifteenth century.

THE 'MARIE' OF ST. ANDREWS: ENGLISH TRADE.

It would appear that, early in 1454, the 'Marie' of St. Andrews, "whereof John Vagh, alias Flemmyng was master, laden with 125 tons of wine and other goods and merchandise" was sailing towards Scotland under the king's safe-conduct, when it was captured by English pirates. (2) On 14th. March, 1453-4, king James under letters patent intervened to request restitution of the ship; the bishop's proctors sued in chancery: but, although after devious fortunes, the vessel was at length arrested in Dartmouth, the law was again to be outwitted. (3)

(1) Lyon, Hist of St. Andrs., II, 197.

(2) Calendar of Patent Rolls, 1452-1461, 301.

(3) Ibid, 170, 301. It would seem that a certain "William Kanete of Scots, knight" deceitfully brought a suit ~~a suit~~ for the restitution of the same vessel which he alleged to be "his ship, the Marie of St. Andrews" (Ibid, 178, cp. 301) On 5th. January, 1454-5, the magistrates of Sandwich were ordered to detain the ship till further notice. (Ibid, 224)

The commissioners appointed to effect the restitution found that "Philip Alare, possessor of a ship called of late le Marie of Dartmouth--of the porterage of 100 tons or within, whereof Thomas Bronde is Master which is the same ship specified above, to impede execution of the said commission, on 18th February last used other letters of licence to take the ship with thirty pilgrims to Santiago in Galicia." (1)

This episode serves to show the unsatisfactory nature of trading upon the high seas even in time of peace and under a safe-conduct. Political considerations, apart from economic causes, obviously shackled freedom of trade at any time: the history of the 'Marie' was further complicated by reason of the disturbed relations then obtaining between the kingdoms. We do not know the outcome of the suit in Chancery: possibly it was swallowed up in the vicissitudes of the Wars of the Roses. (2)

Piracy is seen to be a real menace to trade; proceedings for restitution dilatory and formal; the hope of recompense of the scantiest. It would be interesting to know how

(1) Calen. of Patent Rolls, 1452-1461, 303.

(2) The last that we hear on the subject was when the bishop's proctors complained, about 1459, that the "cause had depended before 'my Lord Fortescue', chief judge of the King's Bench, but though they had laboured in it, the defendant constantly absented himself, - and they pray the Council to grant a 'writte subpoena' for their costs, amounting to 240*l.*, sustained in the case"; and that the defendant should "be charged to appear at an early date". (Bain, C.D.S., IV, 1303).

far this was an exceptional case. The fact that the king's safe-conduct was necessary, yet ineffectual to protect a merchantman during peace, presents no favourable picture. Yet, notwithstanding all the obstacles presented by piracy and reprisals, storms and casualty of shipwreck, there are signs that trade grew and flourished.

Throughout our period, safe-conducts to merchants are not wanting: towards the end, burgesses, like Carriberis of Edinburgh, are found to play an active part in promoting treaties of truce. Trade with England, lawful or illicit, must have flourished much more vigorously than the grants of safe-conducts would lead us to believe.

(1) In the case of the 'Marie', either the government was remarkably inefficient, or there were political reasons for not forwarding the cause of the bishop of St. Andrews and the king of Scots: perhaps both factors came into play. The gloomy picture is not relieved when we recall the capture of the Duke of Albany at sea under a safe-conduct, nor when we examine the testimony of the Exchequer Rolls as to piracy and breaches of the truce.

(2) Even when the political situation was at the darkest Kennedy's government was identified with mercantile interests. On 2nd. January, 1462-3, Henry VI. granted commercial concessions to Edinburgh merchants trading to England. (Marwick, Charters and Documents relating to City of Edin., XLI). Although circumstances rendered this charter of little practical value, yet it seems to indicate that the party of Kennedy and his "Old Lords" enjoyed the support of the commercial classes.

BALTIC TRADE: SCOPE OF KENNEDY'S ACTIVITIES.

If we have little definite information as to commercial intercourse with the Low Countries or with England, we have still less evidence as to the amount of trade with the Baltic at this period. We do know, however, that Scots merchants were commonly held in ill repute, and that for some time relations were extremely strained. James I. and Crichton had had dealings with the Hanseatic towns: when James II. declined to pay his father's debts, the town of Dantzic addressed a letter on 8th. July, 1444, to the king of Scots, threatening reprisals. These were the days of Kennedy's disappearance from the political stage; one wonders if, in his retirement, he tried what he could do to compose schism in the commercial sphere, as in the things of state and church.

(1) Fischer tells us that "in these days Frisians and Scots seem to have enjoyed the worst reputation for piracy." (Scots in Germany, 5) In illustration of this statement we may recall the complaints of king Christiern anent the capture of the governor of Iceland with the whole ship's company and the revenues of Iceland. (See above, 234).

(2) Fischer, Scots in Germany, 10; Hanserecesse, III, 72.

His good offices may have tended towards the reconcil-
 (1)
 iation of 1445, while, in 1453, his influence may have
 inspired the king to issue his letter of protection to
 (2)
 "the merchants of Bremen with their servants and ships."

Kennedy, himself, stood to gain by the development of
 intercourse with the Baltic towns. Perhaps the cargo of
 slates brought in his ship for the use of the queen's
 (3)
 craftsmen in 1461, had been imported from this region:
 in the execution of his own building schemes he must have
 tapped the resources of many parts.

The history of the origin and of the argosies of the
 "Bishop's Barge" would, if known, throw light, as well
 upon the scope of the founder's ambition, as upon the
 extent and nature of his trading ventures. Although
 little is clearly known, yet we may partly read the
 riddle of the ship, St. Salvator's. We may believe, with
 Pinkerton, that the bishop hoped to set up a model for
 the emulation of his countrymen: it reveals the grandeur
 and magnificence of his conceptions. It would be interest-

(1) This is the view of Tytler. (History, II, 141; the documents are printed, Ibid, 3846) See above, 136.

(2) Fischer, Scots in Germany, 7, 239.
 An outlet may also have been given to Baltic trade by the act of 1449-50, granting freedom of buying and selling victuals on either shore of the Firth of Forth. (A.P., II, 41) Consignments of wood, beer and timber were sent to Edinburgh Castle between the years 1449 and 1456. (Fischer, Scots in Germany, 10; E.R., V, 311-26) The cessation of the trade is probably witness to the friction that arose about 1456 between the Scots and Danes. Fischer's account shows that at best trade was intermittent: yet it was not killed in spite of all impediments.

(3) E R. VII, 79.

ing to know to what extent he personally participated in commerce, and how far he was merely the patron of merchants. This may be a moot point; we may surmise, however, that the secular aspect of the bishop's character found self-expression in the activities of trade. It is obvious that his mind was not oblivious to mundane things; yet the very name of the Barge reminds us that Kennedy breathed the dictates of religion into the things of daily life.

THE BISHOP'S TOMB.

Thus the common name, like the equal magnificence, of his ship and tomb and college, bears unconscious witness to the blending of diverse traits of character into a harmonious whole. Major, it is true, would not agree that the bishop's standard of values was well-balanced. He cannot approve the costliness of his tomb.^(I)

The magnificence of his sepulchre should, not, however, be summarily imputed to Kennedy as a fault of conduct. Even if it be an expression of his love of the ornate, yet to posterity it has a unique interest for that very reason. If it indicates that Latin culture and magnificence had struck an answering chord in an impressionable nature, on the other hand, his tomb has not petrified merely personal vanity and ambition. It is also in a worthier sense a very real sermon in stone.

(I) Major, History, 389.

Whether or not it was consciously designed to serve a
 (I)
 didactic purpose, yet its unwitting effect would be to
 rouse the bishop's countrymen to dissatisfaction with their
 own backward material civilisation, by comparison with a
 more exalted standard.

PATRONAGE OF COLLEGIATE CHURCHES.

If this is true of his tomb, it is equally true of the
 Collegiate Church of St. Salvator's. Not only has he been
 seen to lavish bountifully of his own resources upon the
 church of his foundation: he stimulated the activities of
 others in a similar direction.

(I) A theory has been advanced with careful elaboration
 to prove that the bishop's tomb was meant to convey a symbolic
 meaning, showing the "Journey of the Human Soul to the
 Realms of Bliss." (W. Coutts, James Kennedy, Bp. of St.
 Andrews His Church, Tomb and Mace, 1926) It is doubtful,
 however, how far we can accept this opinion.

Another view holds that Kennedy's tomb became a shrine
 for the resort of pilgrims in pre-reformation days. The
 entrance to the vault from the church has been thought to
 suggest that "the body of the bishop was presented as an
 object of veneration in Catholic times. Perhaps some force
 is added to this conjecture by two large crosses (nearly two
 feet each way) cut in outline into the slabs forming the ends
 of the vault as if designed for show, the one at the head,
 the other at the feet, of the body. The presumption seems,
 therefore, not unwarrantable, that the place was originally
 kept open for at least the occasional gratification of the
 devout." (Antiquarian Society Transactions, IV, 382)
 An objection may be advanced in criticism of this theory:
 if the bishop's tomb became a shrine for the faithful, it is
 strange that no reference has been made to the fact by Major
 or the catholic bishop Leslie who have dwelt upon the costly
 splendour of the sepulchre. The grounds of the proposition
 are too flimsy to be relied upon without corroborative
 evidence. (For a further description of the bishop's tomb,
 see Lyon, Hist. of St. And's., II, 200)

The period of the episcopate of Kennedy was the golden age of the foundation of collegiate churches; it is worthy of remark that he himself and others, his associates, as Mary of Guelders, Orkney, Crichton, Home, were closely identified with the movement. In this way he hoped to set the lamp of religion and beauty alight in the land. He must in particular have welcomed the opportunity to disseminate the "dignified and stately rendering of the services of divine worship" in parishes remote from cathedral centres.

(1) "The years between 1440 and 1460 were particularly prolific in foundations of this kind, some thirteen or fourteen collegiate churches being erected in various parts of the country during those twenty years." (Dowden, Mediaeval Church in Scotland.)

(2) We have seen that the queen enjoyed the co-operation of the bishop in the erection of Trinity College. (Above, According to the confirmation charter he, along with the members of the royal family, was to enjoy the spiritual benefits of the church. (Marwick, Charters and Documents, 96-110)

Rosslyn was founded in 1446. (Scots Peerage, II, 333; St. Clairs of the Isles, 120) Kennedy, as diocesan superior and political associate of the founder, may have encouraged the erection, while he must have watched with interest the progress of this ambitious piece of ornate architecture.

The foundation of Dunglass proceeded "after mature deliberation held with the authority" of the bishop of St. Andrews. (Hist. MSS. Commis., XII, Part VIII, [Home] 124)

Crichton's erection was made in 1449, when he was intimately associated with Kennedy, the diocesan superior. (Colleg. Churches of Midlothian, 305-12)

Kennedy's nephew, William Forbes, perpetual vicar, became first provost when St. Giles was elevated from a parish to a collegiate church in 1466. The Kennedy arms are carved among those of the patrons of the church at the time of its extension in more ornate style. (Charters of St. Giles, xiii-xiv, xxix, xxx, 110 [81])

(3) Dowden, Mediaeval Church, 109.

In considering Kennedy's activities as a patron of architecture we are, therefore, again thrown back upon the didactic element in his character. By "the reinforcement of religion in splendid edifices" he sought to teach the value of deeper reverence and well-ordered lives; higher moral standards were to keep pace with the advance in material prosperity. That he, personally, bent his energies to promote the secular, besides the spiritual, well-being of his countrymen, is evident from his work as a lord of parliament.

KENNEDY AND THE CONSTITUTION.

The national legislation bears witness to the bishop's earnest efforts to establish justice and to advance prosperity. A glance at the statutes of James II. shows that those bearing most intimately, both upon the daily life of the people, and upon the working of the constitution itself, are associated with definite periods in the career of
(I)
Kennedy. With due allowance, then, for modifications

(I) Three parliaments have a particular importance in this reign. The first is that which met after the Livingston conspiracy: we have already seen that Kennedy was influential in drawing up the pact between church and crown at this time. The second was in session during the time of Kennedy's political ascendancy in 1455-6. Finally, the remarkable "exhortacione be the thre estatis to our souerane lord tuiching the diligent executione of thir actis and statutis", had reference to the miscellaneous and important work of the parliament of March, 1457-8.

arising from the interplay of other forces, it is clear that the written word must embody something of the mind and policy of the bishop of St. Andrews.

It was his ideal that "iuste men be maid Justicis that kennys the Law & that will minister evinly Justice alsweill of the grete als of the smal --- Ande gif thai be negligent to minister thare office that thai be punyst be the king." (1) Whatever the result in practice, efforts were undoubtedly made to secure the greater efficiency of the law. As far as possible, the king's writ was to run through the length and breadth of the land; exceptions and anomalies to be (2) smoothed away.

(1) A.P. II, 35

(2) Regalities that had fallen into the king's hands, for example were to be merged in the Royalty, thus becoming subject to the king's justice. No new regalities were to be erected without consent of parliament. In 1457, it was enacted under pain of punishment, that existing regalities were to be confined strictly to the terms of the original charter. (A.P., II, 36, 43, 49)

Kennedy in his own case, as lord of the Regality of St. Andrews, presented an example of privilege and anomaly. Patrick Graham, his successor, granted a free pardon to one, John Martine, for offences "conterar to the tenor of the acts of parliament, laws and constitutions of this realme." (Martine, Reliquiae Divi Andreae, 95). The privileges of the Regality included the right of holding Justice and Chamberlain Ayres, and of minting money. Martine tells us that he had seen "copper coins bearing the same mond, chapletted about, and adorned with a croce on the top, just in all things like the mond set by Bishop Kennedy in sundry places of St. Salvator's College and the same way adorned." The superscriptions, however, were illegible. (Ibid, 105)

Although Kennedy was wont to insist upon his privileges, it is extremely unlikely that one who strove, in parliament, to secure a sound and uniform currency, should in his own case add to the confusion by circulating private coin for purposes of commerce. Small copper coins found at Crossraguel are thought to have been minted in the time of James III. to meet locally, the essential need for "free circulation of a convenient medium of exchange." (Proceedings of Soc. of Antiqs., LIV, 21: Mint of Crossraguel Abbey.) During this time of serious currency trouble, the see of St. Andrews may likewise have exercised its privilege of "Moneta Fabrica."

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Steps were taken for the adequate administration of justice: in particular, attention was turned to the question (I) of the Session. The reign of James II. marks a development in the history of the Lords of Session: the name itself derives from this time. In this important work of evolution we may trace the finger of the bishop of St. Andrews, carrying on the scheme projected by his royal uncle.

Following hard upon his death, however, his system suffered eclipse, as the Privy Council came to swallow up (2) the jurisdiction of the Session. It is difficult to estimate the significance of the fact that a period of transition in the history of the constitution coincided roughly with the episcopate of Kennedy: that after his death

(I) The questions concerned with parliament, general council and the court of session are considered in appendix.

While devoting attention to the matter of the Session, parliament also enacted statutes to secure the efficiency of the Ordinaries. Punishment, for example, was to be visited upon "ony officiar willfully trespassing" in the ministrations of his office. Again, regulations were passed to restrict the retinue and ensure the peaceful demeanour of all who owed suit at justice ayres or sheriff courts. (A.P. II, 35, 50). The functions and powers of the Justice Clerk were also defined under pain of punishment for disobedience. Thus, he "shall not reveal who raises summons etc. in case Malefactors or Defenders escape, before they be cited or apprehended." But if an "Informer ignorantly Inform of a great Cryme, as if it were a small Cryme, as if he should Inform only that to be a Ryot, which is Treason, the Justice Clerk may raise the Pursuit as for Treason." (A.P. II, 37; Mackenzie, Observations, 42)

(2) The last Session on the model of James I. was to meet at Edinburgh, 15th. November, 1468. This parliament reverted to the plan of only two Sessions. (A.P., II, 93)

new developments become patent, new forms crystallised. Be that as it may, there can be little doubt that the bishop of St. Andrews had the welfare of his countrymen at heart.

In this, as in ^many another case, he read the mind of his age and sought to supply the wants of those "hungering and thirsting after justice." ⁽¹⁾ His scheme of education was devised equally with his policy in parliament to secure councillors "to gif a richtwes judgement" and "to govern justice." He believed, like the "legal moraliser" of the Liber Pluscardensis, that Justice was "the first duty of kings, especially to the 'pore commonis' of the ⁽²⁾ realm."

ECONOMIC POLICY.

Kennedy's work for the amelioration of the social lot of the people, besides being another manifestation of his love of equity, throws a kindly light upon his personal character. One likes to think that his compassionate humanity was fused with economic motives to inspire the

(1) Acta Dominorum Concilii, II, xxii, note; Liber Pluscardensis, I, 391.

(2) A.D.C., xxiii, xxv. Kennedy's work was directed to fulfil the poet's aspiration that "Justice wald haif a general president, Ane auditor of complayntis of the pure Quhilk daily suld minister judgement To pure folk that cryis 'Justice' at the dure." (Lib. Plus., I, 39)
It is interesting to note that the 'maker' concludes by holding up the example of the 'parliament' in France as a model for his countrymen. One would like to know how far Kennedy, with his Gallican sympathies, was influenced, consciously or unconsciously, by the example of France in his attitude to the constitution.

important ordinance of March, 1457-8, anent the setting of lands in feu-farm. The lords councilled all landlords, beginning from the king as an "exempill to the laif", to set their lands in feu-farm with the ratification of the crown, "sa that gif the tenandry happynnis to be in warde in the kingis handis the said tenande sall remane with his (I) feufferme vnremovyt."

This strongly urged recommendation did not contemplate an innovation: rather, it sought to give general application to a practice that had already manifested itself in particular instances. (2) Earlier in this reign, indeed, the principle of security of tenure had been introduced

(1) A.P., II, 49, c. 15.

(2) E.R., VI, lxvii-lxvii; Ibid, XIII, cxii-cxvii.

"The statute of 1457 --- was passed to encourage the tenure of feu-farm which already existed, by saving the feu-farmers of the King's ward vassals when the casualty of ward fell. Immediately before and subsequently to this statute there are many instances of charters of feu-farm in the Great Seal Register." It was doubted if this act covered the case of lands annexed to the crown; accordingly, to remove the ambiguity, an act of 1503 ordained that "it sall be leifful to his hienesse to set all his proper landis, baith annexed and unannexed in few-ferme." The setting of lands in feu-farm, recommended in 1457-8, was somewhat intermittent until the reign of James IV., when the practice began to take firm root.

not only into the solemn pact between crown and prelates in 1449-50, but also into other ordinances of the same parliament. Thus it was enacted that, even if the land should change ownership, tacks were to run inviolate during the stipulated term. In the case of mortgage, again, an attempt was made at the same time to set down regulations for redemption; it was ordained, to quote Mackenzie's commentary, that "Wodset Lands shall be Redeem'd for payment of ordinary Money of Scotland, and then it must be pai'd according to the rate (1) the Money gives at the time when the Wodset was granted."

When we remember attendant circumstances we can hardly doubt but that the bishop of St. Andrews was the unnamed (2) advocate of security of tenure. Equity obviously demanded that the rights of the tenants should be respected; utility vigorously seconded the dictates of humanity. If the country were to be strong, all classes of the community must be contented and progressive. Short leases and insecurity of tenure were subversive of prosperity in that they destroyed the inducement to individual initiative and enterprise. The independence and enterprise of the under-

(1) A.P., II, 39, 35; Mackenzie, Observations, 44; this act had an economic importance in view of the depreciation of coinage.

(2) It is interesting that in the Exchequer accounts of 1456 part payment was disbursed to Kennedy for his expenses in going into Galloway to let out the king's lands there. (E.R., VI, 203). In the interval between this audit and the legislation of March, 1457-8, Kennedy, as we have seen, had fallen from favour, while king James, himself, was perhaps apt to set the love of the chase before consideration for his tenants.

tenants, moreover, would sap the despotic power of the feudal baronage, as the ploughshare gradually became more important than the sword.

At the same time, these measures contemplated no social revolution. The country would be cultivated to the greater profit, alike of tenant and of landlord: the social status of the landlord was not necessarily affected. On the political side, however, the ultimate effect would be to
(I)
undermine the citadel of feudalism.

(I) In considering the legislation anent feu-farms, it is instructive to recall Major's dissertation upon this subject. "In Scotland, the houses of the country people are small as it were cottages, and the reason is this: they have no permanent holdings, but hired only, or on lease for four or five years, at the pleasure of the lord of the soil; therefore they do not dare to build good houses, though stone abound, neither do they plant trees or hedges for their orchards, nor do they dung the land; and this is no small loss and damage to the whole realm. If the landlords would let their lands in perpetuity, they might have double and treble of the profit that now comes to them - and for this reason: the country folk would then cultivate their land beyond all comparison better, would grow richer, and would build fair dwellings that should be an ornament to the country; nor would those murders take place which follow the eviction of a holder." He goes on to meet the objection that the introduction of a general system of long leases would loosen ^{the bond between} landlord and vassal. We can concur in his conclusion that if it did, "Far better for the king and the commonweal that the vassal should not so rise at the mere nod of his superior; but that with justice and in tranquillity all cases should be duly treated." (History, 30-31)

This may have been the aim that inspired the agrarian legislation under James II., but the acts of mediaeval Scottish parliaments were not wont to come into immediate operation. That Kennedy, himself, had no mind to submit to the ~~the~~ impoverishment of the patrimony of his see is evident from his petition to the pope that restraint should be imposed upon the alienation of Church lands "by the indiscreet and useless leases, rentings and grants, even on lease, and sales of their possessions." (C.P.R., X, 477-8) The interests of equity demanded that feu-farm should be to the advantage of both the contracting parties.

Although this may have been an unformulated, or vaguely defined intention, yet its influence can be traced at work under the social and economic legislation of the reign. All the miscellaneous enactments, originated or revived, for the betterment of society, tended to promote the same end of a contented and well-ordered people, living in security under the strong and efficient government of the crown.

POSITION OF THE BURGHS.

The policy pursued with regard to the burghs points to a like purpose. They presented an equipoise to the power of the territorial lords: steps were taken to reduce them to a more regular system of order and control. Thus in 1454 the king renewed under the Great Seal an ordinance of James I. appointing the Court of the Parliament of the Four (I) Burghs to be held yearly at Edinburgh for all time coming. As the Court, under its extended constitution of 1405, had a considerable competence"of a general character affecting (2) the rights, privileges and duties of burgesses", the effect of the charter of 1454 was to emphasise the need for unification and cohesion.

Other important political bearings are also apparent.

(I) Records of Convention of Royal Burghs, I, vii, 542; A.P., XII, Among the witnesses appear the bishops of St. Andrews, Dunkeld, Brechin, Galloway; the earls of Orkney, Chancellor, and of Angus.

(2) Ibid, vi.

Thus, as the presence of the burgh commissaries in General Council tended to dwindle, it was well for the crown to be able to tap public opinion through the Court of the
(1)
Burghs.

The positions of these municipal corporations was, however, important also on the judicial side. Not only was the Court of the Four Burghs a court of appeal from the chamberlain ayre; each individual burgh enjoyed, in its own court, a certain judicial competence over the indwellers within its gates. It was in line, then, with the general reforming activities of the epoch that an attempt should be made to secure the adequate administration of justice within the burghs, while at the same time forging a further link to bind them to the crown.

This was done when, in 1455, it was "statute and ordanyt for the common profet of all the burowis of the Realme at thar be viij or xij personis efter the quantite of the towne chosin of the secret consale and suorne thereto the quhilkis sall decreet all materis of wrang and vnlawe within the burghe to the auale of v ii or within apone
(2)
viij dais warnyng."

(1) From this point of view, Edinburgh which was not only the most important of the Scottish towns, but was coming more and more to be associated with the seat of government, was a convenient centre for the contemplated annual convention of the burghs. This legislation, however, was largely inoperative.

(2) A.P., II, 43, c. 9.

Obscurities there may be in the interpretation of
 (1)
 certain clauses of this enactment, but the general drift of
 the meaning need not be doubted. In still another direction
 an effort was being made to speed up justice: the crown,
 through the privy council, was establishing a new lever of
 control, to be used in the furtherance of equity and order.
 It was to promote the same end that in 1457 it was "sene
 speidfull to the lordis" to pass ordinances against bands
 and leagues and disturbances within burghs.
 (2)

KENNEDY'S POLITICAL PHILOSOPHY: AN ESTIMATE.

It is clear that Kennedy's conception of the social order did not foreshadow any theory of democracy. Not only was this an unconsidered force in the Scotland of the fifteenth century: the bishop's own experiences and his reading of contemporary events had inspired within him a belief in the efficacy of paternal government.

(1) We have, for example, no indication as to the process of selection of the "viij or xij personis", nor as to the means by which the privy council hoped to make good its authority in the distant burghs.

(2) The "secret consale" and the king's chamberlain, were not the only authorities that interfered in burghal affairs. Parliament, was wont to legislate on these, as on all aspects of the national life. Thus, a ruling was laid down for the goldsmith's craft, and an act passed in 1457-8, restricting the pursuit of merchandise to "fre men of burrowis and Induellaris within the burghe." (A.P., II, 48, c.8; 49, c.10) The influence of the burgh commissaries may, however, have been at work; or, at least, the opinion of the burgesses sounded. Actseof parliament were a reflex, not a cause, of the growing tendency towards a narrow oligarchy in the towns. It was a general theory of the political philosophy of the age that it was the province of government to regulate in the economic sphere.

From "lack of governance", England was being thrown into confusion worse than Scotland suffered. France was being rescued from woful chaos by the evolution of a despotic monarchy; (I) the same principle was at work in the republican cities of northern Italy. In his contact with the outside world, Kennedy had been not insensible to the setting of the tide; his perceptive powers were doubtless quickened by a wholehearted desire to further the welfare and prosperity of his native land.

The times were not ripe, nor was there any desire in Scotland for a constitutional government in the modern sense. What bishop Kennedy tried to drive home was the necessity for discipline, self-restraint, a broadened outlook which would put the national welfare before the gratification of the individual. The self-centred interests of feudalism he sought to supplant by a devotion to the higher unit of the state. His political ideal seems to have been a well-regulated society in which every class, and all ranks

(I) We have seen that the influence of France played an important part in moulding the character and policy of the bishop of St. Andrews. It is of special interest, therefore, to note that in France in the fifteenth century, the crown definitely launched upon a policy of centralisation, gradually imposing its "sovereign will" as "the common law of the country." (Histoire Générale, Lavissee et Rambaud, III, 197) At first Charles VII. co-operated with the Estates-General; after 1439, when the English menace had ceased to be pressing, he emancipated himself from association with them. "En définitive ils aidaient la royauté à vaincre l'étranger, et la royauté, se sentant maîtresse au milieu d'un peuple plus soucieux de repos que de liberté, devait gouverner seule après la victoire. --- Le Conseil devint alors le véritable, le seul pouvoir législatif et administratif, en fait de guerre, finances et justice. --- Sous Louis XI., la polyarchie cesse: le roi porte tout son gouvernement dans sa tête." (Ibid, 197-8)

~~His political ideal seems to have been a well-regulated society in which every class, and all ranks and conditions of the people should follow, each its own vocation, and contribute its share to the general prosperity and well-being of the whole.~~

(I)

This however, does not necessarily mean that he would have shackled progress by imposing a rigid caste system upon his countrymen. The prelate who co-operated with the Grey Friars, raised no artificial barriers in the church. If he exacted strict obedience to the higher powers from the supposts of St. Andrews, at the same time a career was thrown open to talent: an outlet was found in the church for the democratic spirit. Perhaps herein we have the clue to Kennedy's political theories.

Reverence and the duty of obedience, self-discipline and self-control, were necessary alike for the individual as for the state. The bishop of St. Andrews was thoroughly in tune with the mind of the age. In Scotland, as in

(I) It is indicative of this theory that in the General Council of October, 1456, the statute anent the taking of prisoners "is referryt to the baronys for the decision thereof pertenis to thame for thaj haif experience thareof." (A.P., II, 45) Similarly, if the burgess element tended to be negligible in parliament and General Council, an effort was made to give them greater power of self-expression in their own assembly.

France, the body of the people sought "repose" more than "liberty". Men would welcome a strong, centralised government, able and willing to dispense even justice and to protect property.

We have already seen indication that the country continued to thrive and prosper despite the vicissitudes of its political fortunes. Scots traders were venturous and enterprising. The merchant princes played their part in national affairs; men of lesser substance sent their goods to sea to an extent alarming to the framers of the act anent the "restriccion of the multitude of sailaris." All these things tend to show that Scottish society was not static but a vital, living organism.

The bishop of St. Andrews, with his ambitious dreams for the country's greatness and its recognition among the states of Europe, must have been in all things a friend to progress. He saw, however, that true progress would depend upon order and stability in the body politic. Parliament, as a legislative body, was a mere machine to register the will of the predominant power; hence a paternal despotism fused with his ideals of service and stewardship could be an all-important force for good in the hour and in the circumstances. His work to establish a strong, centralised government, and the reign of equity and discipline must have answered the felt needs of the time, for "the death of James Kennedy was lamented by all good Men, as if in him they had lost a public Father."^(I)

(I) Buchanan, II, 65.

CONCLUSION.

"Cares, grief and age" Drummond considered to have brought the bishop of St. Andrews untimely to the grave. (I)
 We may truly believe that James Kennedy had worn himself out in the service of the state. Alike in opposition as in power, circumstances had thrown heavy responsibilities upon him: he had touched the national life in all its aspects, and where he went he left his impress.

In his policy itself there is nothing inherently novel. Thus the miscellaneous legislation with which we can associate his name is very largely a re-enactment of the statutes of James I. This fact is significant of many things. James Kennedy was not great in the sense of being a pioneer, or of adding an original contribution to the sum of human knowledge. On the other hand, his open mind and impressionable nature made him peculiarly susceptible to the forward currents of the age.

At the same time his was no servile imitation; he breathed the living spirit of his personality into the dead materials which he adapted to his purpose. St. Salvator's is not a replica of any single model; the

(I) Drummond, 42.

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Lords of Session are more than a resuscitation of the device of James I. If the bishop's foundations were laid upon the past, he built with his eye upon the future. His work marks alike the continuity and advance which are characteristic of a conservative reformer.

James Kennedy would have set the match to no great social upheaval or political revolution. His more cautious, tentative policy would have effected a gradual metamorphosis. It is notable that he proposed a unio pedagogiorum as an experiment for five years, and that in 1455 he suggested no sweeping reduction of regalities. ⁽¹⁾ The bishop of St. Andrews would have whittled at exception and anomaly until in the end the goal of his reformation had been peaceably attained. Although he sought to break the political power of feudalism as subversive of the common weal, yet in other respects he had a certain sympathy with the baronial order whence he himself was sprung. ⁽²⁾ He set his face, not so much against privilege, as against ⁽³⁾ abuse of privilege.

(1) The regulations anent Regalities fell into three divisions. Those then in the crown were to be merged in the Royalty; no new Regalities were to be created; lords of existing Regalities were strictly to observe the letter of the charter of erection. (A.P., II, 449-457) This piecemeal attack was more statesmanlike than to attempt a general abolition, which could not have been carried out.

(2) Sympathy may have seconded diplomacy in suggesting a policy of conciliation to rebels, such as Crawford.

(3) Kennedy himself, as we have seen, was tenacious of his rights, and of clerical immunities. He added to the privileges of his Regality, caused the pope to revoke the "useless alienation" of church lands, maintained the essential privileges of the university as against the town.

In his scheme, then, there was room for diversity; but unity underlay diversity. The monarchy was the pivot on which all things turned; the king, himself, was God's steward upon earth to safeguard and protect the lives and property of the 'Christian people entrusted to his (I) sway'. Thus the common weal was the ultimate object of the allegiance of all men, from the 'protecting prince' to the humblest artisan or peasant under his protection.

This fidelity to the state is the golden thread of unity that gives consistency to the manifold aspects of Kennedy's own career. It explains his attitude towards the papacy; his statecraft, alike in opposition as in power; his policy with regard to the constitution and the university; his censorship of lives and morals. Opinions may differ as to the wisdom of particular details of his policy; as to his earnestness and singleness of heart, there can be no doubt.

It is true that at sight much of his work seems to have been built upon sand. He did not avail to achieve a

(I) The appointment of the Lords of Session by the Estates, and Kennedy's admonition to the king, indicate that the bishop of St. Andrews meant to enforce upon the crown the faithful discharge of its trust.

lasting reformation of heart and conduct; the auld kirk swept onward to its ruin. His legislation was largely inoperative; crown patrimony continued to be alienated; powerful nobles contrived to retain their hereditary offices.

Fuller knowledge, however, alters our perspective. Kennedy's reforming activities in the church were in line with the needs of the age. If his work did not endure, possibly none other could have had so much success. That he arose in his due season may be inferred from the universal reverence in which his memory was held, and the regret with which his death was mourned as a national misfortune. We may read meaning in the fact that his college and his tomb were spared when the devastating fury of the reformation laid low the glory of the auld kirk in St. Andrews.

As in the church, so in the state, he had not spent himself in vain. The downfall of the Black Douglas, the central fact of James II's reign, was contrived "by the wise measures of his devising, and the skill with which he put them in practice." (I) Although an insurrection of the nobles brought king James III. to an ignoble death,

(I) Major, History, 388.

yet their grievance was against the king, rather than
(1)
against the monarchy. They went to arms in the name of
the Prince of Scotland as their leader: when their victory
had placed young James IV. upon the throne, they found that
they had crowned a master. The king that brought a
golden age to Scotland was able to build upon the ground
(2)
prepared by his great-uncle, the bishop of St. Andrews.

These things, then, are the justification of Kennedy
as a "public Father". The personality of the man is more
elusive. Of his physique and personal appearance, we

(1) "The revolt was rather against the person of the King
than against the monarchy, a circumstance which cannot
but be connected with the ruin of the Black Douglases.
'The last of the barons' had passed away, leaving as their
successors men neither more unselfish nor more honourable,
but from the point of view of a centralised monarchy,
somewhat less dangerous. Baronial rebellion in Scotland
required, for the first time, some apology; it was no
longer recognized as in itself natural and inevitable.---
Thus, though the murdered King's life ended in defeat and
failure, we can yet trace a definite advance in the position
and influence of the Crown." (Rait, History of Scotland, 60-1)

(2) In many ways the reign of James IV. marks the con-
tinuation and development of the political aims and ideas
of the bishop of St. Andrews. An effort to strengthen
the monarchy and establish justice, a fervent desire to
see Scotland take its place in the comity of European
nations, an active interest in the affairs of commerce and
education are links that bind the statesman-ecclesiastic
and the statesman-king. We have seen that it was James IV.
who expressly stated that the act of revocation of crown
lands was based upon canon law: this act of 1455 was itself
of the first importance to succeeding kings in the work
of consolidating the monarchy.

The educational policy of the reign of James IV. was
probably due to William Elphinstone, bishop of Aberdeen, and
founder of the northern university. It has been thought
likely that in his early days he had fallen under the
personal influence of the bishop of St. Andrews. "Certainly

have no certain information, but it may be gathered that
 an unquenchable spirit burned in a frame none too robust. (1)
 As to his character, the universal testimony of historians
 bespeaks his sterling worth: documentary evidence
 reinforces their glowing estimate. For his soul the
 reforming Carthusians gave thirty masses and the customar
 of St. Andrews founded a chaplainry when the bishop had been
 dead for twenty years. (2)
 This, then, must have been a man
 loved and esteemed in his lifetime; whose memory was
 fragrant for his own sake long after he had passed from
 the living. (3)

Elphinstone followed in the path of Kennedy. He did for
 the later years of James the Third what Kennedy had done
 for the earlier, and he followed the same line of action
 with regard to James the Fourth which had been pursued by
 Kennedy for James the Second." (Votiva Tabella, 11).

(1) We know that he was ill at Bruges in 1460. Again,
 from his official dispatch we learn that he took the field
 in 1463 "non obstant ce que n'estoye pas bien disposé en
 ma personne." As in the case of his cousin, the lieutenant-
 general, ill-health might afford the key, if the truth
 were known, to some of the unexplained silences in his
 career.

(2) Extract from vol. VII, Annales Ordinis Cartusiensis.
 quoted by professor Knight in preface to - Coutts, James
 Kennedy, Bishop of St. And.

(3) On 24th. March, 1487-8, John Leirmonth, citizen of
 St. Andrews, established a perpetual chaplainry in the
 parish church of St. Duthac "for the salvation of the souls
 of William, Archbishop of St. Andrews, and James late
 bishop there, also for the souls of the granter" and others.
 It is reminiscent of Kennedy that "the chaplain serving
 in divine things" was to be "continuously and personally
 resident, not obtaining or holding any other benefice,
 service, cure or duty." (Calendar of Charters, III, 535)
 Leirmonth was probably inspired by gratitude for bene-

(I)

James Kennedy's was clearly a many-sided character.

He combined vision and ideals with shrewd sagacity and worldly wisdom; a dogged pertinacity with tact and conciliation; a stern moral standard with tolerance of doctrine; the scholar's love of letters with the practical aim of the propagandist; loving affection with the dictation of a school-master; magnificence and splendour with sobriety and self-restraint.

If on the one hand he pointed to higher things and led the way, on the other he was firmly wedded to the mind of his time. It was, indeed to this dual personality

fits long since conferred. On 2nd. May, 1461, he had been created customar of St. Andrews for life, by charter of the bishop. (Martine, Reliquiae Divi Andreae, 135)

(I) In 1842, when Kennedy's tomb was opened, his skull was found entire and submitted to phrenologists. According to the report "this was a head which, if containing a healthy brain, of good temperament, would denote a man of capacity, and of vigorous character. The perceptive organs were, however, better than the reflective; so that in point of high intellect, the head was somewhat disappointing. Firmness was very large, and Cautiousness, Destructiveness, Adhesiveness and Benevolence were all of super-average magnitude, pointing to a man of determined character, but generous disposition towards his fellow-creatures." (Transactions of Antiquarian Soc., IV, 384)

(2) Besides encouraging education, Kennedy is said to have been himself an author. Something of his character can be gleaned from the titles that have come down to us. According to Dempster, Kennedy "scripsit Monita Politica, lib. I, quae Justus Lipsius viderat. Historia sui Temporis, lib. I. (Historia Ecclesiastica Gentis Scotorum, II, p. 418) David Buchanan tells us that, among other literary works, the bishop of St. Andrews left "Epistolas varias ad diversos Viros doctos in Gallia et Italia, lib. I. Orationem pro Cura publica Mulieribus non mandanda. De boni Episcopi Officio, lib. I." (De Scriptoribus Scotis, 38)

that he owed his peculiar influence and power among his countrymen. He could lead his fellows because he was of themselves. The outlook of the age was his outlook; its hopes and fears and highest aspirations were akin to his; in some things at least he accommodated himself, perhaps against his better judgement, to its questionable moral standards. But where he fell short, we have found that he could seek self-justification in the disinterestedness of his aims and ideals.

According to the standards of the time he bore the white flower of a blameless life: his genuine piety and constant striving after the highest that he knew, would have marked him out in any age. Had there been a spot on his escutcheon the ill-wishers of the auld kirk would almost certainly have come to know of it. Yet he had, no doubt, his foibles: he was proud of his high birth and powerful station, he loved magnificence and pageantry. Possibly he was a master hard to please, but well worth pleasing, - one who exacted a high standard of service, and was served with a faithful devotion in which love was tempered with awe.

(I) Probably pride as well as policy prompted him to stress in papal petitions that he was a kinsman of the king of Scots, and to remind the king of France, through his agent, that he was 'of the royal House descended.'

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This, however, must be surmise. We do not know how his public qualities displayed themselves in the circle of his friends; whether in their company he could throw off public cares and relax in leisure, or whether his was a lonely soul that dwelt apart with its own secret hopes and dark forbodings.

His father was come of a high-spirited and warlike race; his mother, the often-married princess Mary, had possibly her full endowment of the personal charm and fascination of the Stewarts. Their son, we may well believe, inherited traits from both his parents, and added something of his own. He was cradled to the roar of the breakers on the western cliffs: the surge of the "long sea-rollers" of the "Northern Sea" knelled his funeral dirge: something of the spirit of the ocean was of the woof and tissue of the man. There was the same multitudinous variety, the same restlessness and unfathomed depths of silence, the same driving force of constancy to a great fixed principle. With James Kennedy this was, as Pitscottie tells, the dedication of his life's work "baitht to the glorie of god and to the common weill and advancement of his contrie. So we will lat him rest with god."⁽²⁾

(1) Lang, "Almae Matres," in *Votiva Tabella*, 417.

(2) Pitscottie, I, 161.

APPENDICES.

APPENDIX I

THE DATE OF KENNEDY'S DEATH.

The best extant authority for the date of Kennedy's death is that of James Gray, secretary and notary to archbishop Schevez and the Duke of Ross. Gray seems at first to have written May 30 and then to have altered the entry to what is apparently May 24. "At all events it is certain that the day falls between May 20 and May 30, 1465." (Prof. Hannay, note. See also, "Archbps. of St. Andrs., I, appendix

The date, May 10, 1466, recorded by Leslie and long accepted on tradition is obviously inaccurate. Thus on 17 and 18 July, 1465 the abbot of Arbroath laid claim to certain possessions of the monastery which by contract had been in "the hands of the late James, bishop of St. Andrews." (Liber S. Thome de Aberbrothoc, II, 144) The "Chronicle of John Smyth" also reads (1) that Kennedy died in 1465.

Difficulties are raised, however by an entry in the Michaelmas accounts of the Tellers' Account Roll, V. Edward IV attesting the payment of £24-3-4 to the bishops of Aberdeen and St. Andrews of Scotland as their annuity for the year begun at the term of Easter, 1465. (Bain, Calendar, Addenda, 1360.) The accounts of the Exchequer Rolls rendered at Edinburgh on 28th. and 29th. July likewise give no indication of Kennedy's death; on the other hand, he does not appear as auditor, as he had been in the previous year. (2)

(1) Records of Monastery of Kinloss, Appendix to Introduction, 7.

(2) E.R., VII, 229, cf. 308.

On the other hand the evidence of the Register of the Great Seal is quite in keeping with the date given by Gray. The last royal charter witnessed by the bishop was from St. Andrews on 30th. April, 1465. On 31st. May the king, again from St. Andrews, granted a Charter in favour of the earl of Moray, of lands resigned by the Collegiate Church of St. Salvator. This was a transaction in which we would expect the bishop of St. Andrews to have been personally interested and the absence of his name is specially note-worthy because all the other previous witnesses, except the earl of Crawford, were again present. On 5th. June, the king granted a charter of lands resigned by Robert Graham of Fintry, the half-brother of Kennedy, in favour of the bishop's foundation, the Collegiate Church of St. Salvator, but again his name is absent and the king had returned to Edinburgh on or before the 22nd. of the same month.^(I)

The drift of the evidence would therefore seem to indicate that James Kennedy was born about the year 1408 and that he died not later than 17th. July, and most probably on 24th. May, 1465.

(I) R.M.S., II, 231, 232, 233, 234.

KENNEDY'S PREBEND AS SUB-DEAN OF GLASGOW.

From the Diocesan Registers of Glasgow (11, 69, 137) we gather that as subdean of Glasgow, Kennedy's prebend would be the rectory of Cadder.⁽¹⁾ This prebend was apparently in the patronage of the bishop of Glasgow: it would seem at least to have been due to the patronage of archbishop Blackadder that a scion of the same family was subdean in 1504.

With regard to Kennedy, the inference therefore is that king James, through the instrumentality of his chancellor, had secured for his nephew this benefice in the episcopal collation. In such case the prebend cannot have been bestowed upon Kennedy earlier than 1426, the year of Cameron's election to the see of Glasgow.⁽²⁾ That this was one of the points over which the king and his chancellor found themselves at an issue with the papacy seems not improbable in consideration of the charge against Cameron "that he collated and caused to be collated benefices simoniacally."⁽³⁾

If Kennedy had been installed into Cadder at the time of his entrance to the university, the transaction may have taken place before the pope had recognised the position of

(1) As Professor Hannay has pointed out, the prebend could not have been the vicarage of Cadder as is stated by the editor of *Fasti Ecclesiae Scoticae*, 111,372.

(2) C.P.R., VI, 425

(3) Ibid, 18.

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the new bishop of Glasgow, who had been elected by the chapter, ostensibly in ignorance of the papal reservation of the see, more possibly through the vigorous representations of the king. By the same stroke of policy, James may well have been serving the interests both of his chancellor and of his nephew. If so, then Kennedy was not unconcerned in the perpetration of the crimes which, in the estimation of the papacy, were sufficient to have forfeited all right of the bishop to promotion.

We do not know how long Kennedy retained this prebend but it is interesting that his own kinsman, Andrew Stewart, the half-brother of king James II. was subdean of Glasgow in 1456, when he was incorporated a student in the rival university of the western diocese.

(1) C.P.R., VII, 473.

(2) Ibid, 13.

(3) Innes, Munimenta, II, 64.

THE PAPAL RESERVATION OF MONTHS.

The question of papal reservations during this epoch is one of the obscurities that challenge investigation. If we could clear away the mists enshrouding the general principle of the papacy, if we could resolve the chaos to which the system led in practice, valuable light would be cast upon the page of church and national history.

During the course of the middle ages a great network of reservations had been woven by degrees, until in the fourteenth century the practice had become an execrated abuse. Tentative experiments began to be made under Adrian IV. (1154-59) about the middle of the twelfth century. It was Innocent III. (1198-1216) who, at the zenith of the temporal power of the papacy, first arrogated the right "of disposing of all benefices." Some fifty years later, Clement V. (1265-8) introduced the system of special reservations in the case of benefices void by the death of the incumbent at the Roman court. The policy thus definitely inaugurated grew to much greater magnitude during the Captivity (1305-77) and the Great Schism (1378-1417); from this time "the prerogative

(1) Milman, *Latin Christianity*, VI., 225, note. The author gives a valuable summary of the origin and development of the system of reservations up to the time of the Council of Constance and the accession of Martin V., 1417.

of reservations became a wanton and arbitrary authority exercised for the aggrandisement of the pope's power and wealth." (1) Bound in the same sheaf with reservations were many attendant abuses, such as expectatives, creation of vacancies, annates and dispensations.

The ramifications of this intricate system had, at the dawn of the fifteenth century, put the papacy in command of a rich source of emoluments, besides a powerful lever of interference and control in the several national hierarchies. But these very considerations, which made reservations so valuable to the curia, were matter of serious import to the temporal monarchs whose sovereignty was being infringed thereby. (2) As a result, between papal centralisation on the one side, and the claims of national kings on the other, the local churches found themselves shorn of all real autonomy.

As it was evidently hopeless to look for a spontaneous reform of the abuse of reservations on the part of the papacy, the cry arose for a General Council. The Council of Constance (1414-18), however, let slip its opportunity, with the result that the whole elaborate system was "wrested by the dexterous hand of Martin V. out of the hands of the spoiler." (1)

(1) Milman, Latin Christianity, VI, 225n.

(2) The English Statute of Provisors was a direct counterblast to the papal claim of reservations. This act of 1351 provided severe penalties for all ecclesiastics who, contrary to the interests of the realm, accepted papal letters of provision. In Scotland there was no national opposition to papal claims until the advent of a strong king in the person of James I.

From this time, indeed, the abuse, instead of being laid, became more deeply imbedded. The system of the reservation of months came into play. According to an ordinance of the Council of Constance, six months were to belong to papal expectants, the other six to the ordinaries. Martin V. declared for four months to be free from expectatives or mandates, while Eugenius IV. is said to have confirmed the rule of his predecessor.

The Council of Basle, in its opening session, (1431) swept away all general reservations, unless "from weighty, reasonable and evident Cause to be specifically expressed in the papal letters." In the twenty third session all reservations, both general and special, were swept away. But as at Constance, so once more, the Conciliar Fathers let slip their opportunity. The schismatical tendencies of the Council played into the hands of the pope and temporal rulers: separate concordats could be struck, whereby the old evils were suffered not only to remain, but to flourish according to the measure of the power of the papacy.

(1) C.P.R., X, 183.

(2) Van Espen, I, 722.

RESERVATIONS IN FRANCE AND GERMANY.

The most notable example of this on a national scale is provided in the case of France, where, about the time of the Council of Basle, the pope had been "accustomed to give expectatives and mandates of provision in eight months of the year." Hence the conciliar decree abolishing reservations had been gladly welcomed by the Gallic church, while Eugenius, anxious to win over the adherence of France, had perforce to incorporate the substance of these reforms in the Pragmatic Sanction of Bourges, (7th. July, 1438)

From our immediate point of view, the terms of this Concordat are interesting as a commentary upon the results of the working of the system of reservations and all its concomitants. The Pragmatic Sanction provided for freedom of capitular election. Reservations and expectatives were swept away, while the pope was also debarred from creating new canonates in churches where the number of canons was fixed. Annates were abolished in principle, while the papal powers of consecration and jurisdiction were defined and circumscribed.

At first sight it might seem that the French Church had thrown off the shackles of old abuses, but there is a reverse side to the picture. The pact was a hard bargain between crown and papacy, made at the expense of the national church. (I) Provisions were inserted for the benefit of the

(I) "The King, or rather the King's advisers, the Legists and the Counsellors in the Parliament, saw that it was an inestimable occasion for the extension or confirmation of the royal prerogative." (Milman, Latin Christianity, VI, 282)

temporal power, concessions were granted to the pope. It was stipulated in favour of Eugenius that during his life he should enjoy one fifth of the taxes previously accruing to Rome as well as habitual reservations, while, contrary to the decrees of Basle, it was admitted that the king and the princes of the realm might make friendly solicitations to the pope during a vacancy. ⁽¹⁾

The liberty of the Gallican Church was from the first more specious than real. Within about seven years, the voice of complaint was raised again, that the king was allowing the pope to abuse the system of reservations and expectatives. Although, as the Church commentator points out, the reservation of months ought to have been abolished according to the terms of the Sanction, yet reservations continued to be so frequent that the four months reserved to the Ordinaries' collation seemed to be enjoyed on sufferance, rather than as matter of right. ⁽²⁾

(1) For the terms and criticism of the Pragmatic Sanction, see Lavissee, *Histoire de France*, I, 267-8. Among the authorities cited, we find Pinsson, *Caroli Septimi Pragmatica Sanctio* [1666] and Denifle et Chatelain, *Chartularium Universitatis Parisensis*, t. IV.

(2) Van Espen, I, 733, [3] Van Espen has been the authority followed unless where otherwise specified.

In a later Concordat between Sixtus IV. and Louis XI., it was stipulated that the Ordinaries should enjoy alternate months with the pope: February, April, June, August, October and December were to be free for the collation of the Ordinaries. Although technically invalid as contrary to the common law and conciliar decrees, yet in point of fact the reservation of months was a practical reality. Finally, the decree of Basle abolishing reservations was itself abrogated in the Concordat between Leo X. and Francis I.

If such was the success of the papacy in dealing with a strong national monarchy like France, it is not surprising that other countries not so fortunately situated, had even less immunity from papal interference. Germany is the most notable example of a country where, notwithstanding the decrees of Basle, the system of papal reservations continued to flourish without serious challenge. The result was evident in the Concordat of Vienna, 1448. This agreement recognised in principle the reservation of ecclesiastical benefices, although bishoprics were to be filled by free election, subject always to papal confirmation. The system of alternate months was to rule with regard to all canonries and other benefices. At the same time annates were restored.^(I)

(I) For the terms of the Concordat of Vienna, see Pastor, History of the Popes, II, 38.

It will be noticed that this Concordat, the outcome of protracted and difficult negotiations, was finally achieved early in the pontificate of Nicholas V., a time of much interest in the ecclesiastical career of the bishop of St. Andrews. On his succession this pope re-enacted all the reservations of his predecessors, at the same time "undertaking to use such moderation in future that there shall be no ground for complaint etc. (eg. about annates etc.) (I) " A study of his policy, however, leaves grave doubts as to the sincerity of these benevolent expressions: in his hands reservations were clearly an instrument to further the ends of the papacy.

By rule of Chancery, he bestowed on ecclesiastics for five years, counting from 10th. June, 1447, the faculty of collating to benefices falling vacant within the four specified months of March, June, September and December, provided that they had not been otherwise specially reserved for apostolic disposal. (2) Although providing a standard, this rule was, however, subject to continual adaptation according to the hour and the circumstances.

(1) C.P.R., X, 134.

(2) Ottenthal, Reg. Chan. Apos., 266, Rules of chancery of Nicholas V., [39] The Papal Registers of Nicholas V. enumerate instances in Britain of general reservations, due to the death of papal notaries, of conventual priories, of principal dignities in collegiate churches, of benefices of persons required to resign. Other general reservations, made by his predecessors, and continued by pope Nicholas, include benefices void by death at the apostolic see or within two days journey of the Roman court, void by death of members of the papal court, or by reason of plurality of benefices (Bull Execrabilis), void by lapse of the canonical time for consecration, or by resignation to the pope. (See list in Index, C.P.R., X, 967)

Thus on 28th. January, 1448-9, in compensation for the loss of the faculty of proceeding against schismatics, Kennedy was granted the right of of collation, for five years, to all benefices in his gift, falling void in the six specified months of February, April, June, August, October and December. This faculty, however, did not run its stipulated span; on 28th. January, 1450-1, at the end of the second year, it was superseded by a new faculty granting to Kennedy "for life and as long as he is bishop of St. Andrews" the right of presenting to all benefices in his diocese becoming vacant in two allotted months of the year (I) "and not comprised in the faculty granted to other collators."

The last clause is an interesting illustration of the papal policy of utilising the system of reserved months to play off individual interests: the litigation of disputing rivals would bring traffic to the Roman market, and a pretext for papal interference. Kennedy's faculty of 1450-51, for example, must have trenched upon the rights of private patrons, inasmuch as it covered collation to all benefices in his diocese falling void in the reserved months; at the same time exception was made in the case of similar indults to other collators. Here was a twofold risk of clashing interests.

(I) C.P.R., X, 172, 173. He was empowered to make provision of all benefices in his own gift "and of all other benefices in the gift etc. of all other collators and collatrices in his city and diocese, of any orders, which shall become void in two of the said six months granted to him and not comprised in the faculty granted to the said other collators."

The same tendency is seen on a wider sphere if we compare the faculties granted to the bishop of St. Andrews and the king. On 28th. January, 1450-51 the pope reserved to the gift of Kennedy six benefices "which should first become void in the months belonging to papal expectants." It was stipulated that "the six persons shall, in obtaining the said benefices, have preference over all other persons, including the nominees of James, king of Scots, in virtue of a faculty lately granted to him by the pope, in regard to the reserving the first month of the year to papal expectants, the second to nominees of the said king, the third to (1) nominees of the ordinaries, and so on throughout the year." Confusion was bound to arise from these conflicting indults, hence on the first of the following May, Kennedy consolidated his position by obtaining a confirmatory declaration in his (2) favour.

Another clear example of the flexibility of the general system of the reservation of months, and the confusion likely to be engendered therefrom, may be seen in the case of the faculty granted to Ingram, bishop of Aberdeen. (3) On 10th. September, 1454, the pope reserved to the episcopal collation

(1) C.P.R., X, 168-9. This is the only reference in the Papal Registers to the faculty here referred to.

(2) Ibid, 108.

(3) Ibid, 716-7.

"all benefices with or without cure even if canonries and prebends, dignities etc. in the cathedral church of Aberdeen and in any collegiate churches in his own sole collation, or in the joint collation etc. of him and any others, which shall, while he lives and is bishop of the said church, become void in the months of February, April, June, August, October and December, provided that they be not generally reserved to the apostolic see; notwithstanding the faculty granted to James, king of Scots to nominate a certain number of persons etc., and provided that he do not make use of the general faculty granted by the pope on 18 Kal. July anno 1 [1447] to prelates and other persons about making collation of benefices void in certain months."

The exercise of these overlapping faculties bestowed on all sides by the pope was bound to lead to endless confusion in practice: as witness the petition of William Turnbull, perpetual vicar of Cadzow. This petitioner had been provided to a canonry and*prebend of Glasgow, "in virtue of a faculty lately granted by the present pope to James king king of Scots," while a rival, one, William de Turribus, "had likewise accepted and got provision of the same canonry and prebend-- in virtue of other and previously granted letters of the present pope." The latter had evidently appealed to Rome for he "died at the apostolic see, without having had possession, yet in spite of this William Turnbull saw good to establish his position by securing a papal confirmation in his favour.

(I)
(I) C.P.R.,X, 553-4.

Cases such as these clearly show that the system of reservations had become an abuse, disastrous to the national hierarchy, and correspondingly a source of power and profit to the papacy. To the curia, indeed, it offered so many advantages that it was by no means likely to be terminated by the death of Nicholas V. His successor, Calixtus III., in the first year of his pontificate, granted to Andrew Durisdeer, bishop of Glasgow, the faculty "to make, as long as he was bishop of Glasgow, collation and provision of all benefices belonging to his collation etc. which should become void in the months of February, April, June, August, October and December regardless of papal reservations, even special, and expectative graces and letters, past and future."⁽¹⁾

REGULA OCTAVA DE RESERVATIONE MENSIVM.

Through time the practice of the reservation of months became reduced to a system by rule of chancery., but it is evident, as well from the terms of the Regula octava De reservatione mensium, as from the commentaries upon it, that loopholes were still left for papal interference and aggrandisement,⁽²⁾ nor were all anomalies swept away.

(1) C.P.R., XI, 593.

(2) See Van Espen, Opera, I, 733-739. The classical work on this subject is the commentary of the Spaniard, Hieronymus Gonzalez, published at Frankfort in 1610, the year after his death. It bears the title "Glossema seu commentatio ad regulam octavam cancellariae de reservatione mensium et alternativa episcoporum." A copy of this book is to be found in the Bodleian library.

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The pope reserved to his own gift all ecclesiastical benefices, with cure and without cure, secular and regular, becoming void otherwise than by resignation in eight specified months of the year, to wit, January, February, April, May, July, August, October and November. Saving clauses were, however, inserted in favour of the College of Cardinals, and particular concordats made of before. These vested interests of the powerful "it is not intended to injure"; the rights of those in humbler sphere were not so carefully cherished.

There was, of course, a certain justification for the papal policy. The preamble bore that the pope's desire was to provide for "poor clerks and other well deserving persons", and within limits, the Regula de mensibus provided a disinterested pontiff with a means of promoting his worthy aim. In the case of Nicholas V. we find an interesting illustration of this aspect of things. This pope, on his succession, re-enacted the decree of the Council of Constance "namely that six months shall belong to [papal] expectants and six months to the ordinaries, with the addition that one of the months of the expectants and a month of the Ordinaries shall be reserved to universities lest students whose increase the pope very greatly desires, be deprived of the hope of the reward of their studies and abandon them." It is significantly added in favour of the university of Caen that "the pope will also take care that they shall not be burdened with costs."^(I)

(I) C.P.R., X, 133-4.

It is doubtful, however, how far Nicholas remained staunch to the aim herein outlined, of making the reservation of months the handmaid of higher education. On the other side, it is clear that, where the papacy was seeking temporal power and aggrandisement, the system easily lent itself to abuse: at the best, it was subversive of local autonomy.

A second part, known as Insuper Sanctitas Sua was added later to the Regula de Mensibus. In favour of resident bishops the papacy would forego two of the reserved months, so that the bishops might enjoy alternate months with the pope. This grace of alternatives was, however, hedged around with limitations and restrictions. For example, absence, even for a reasonable cause and for a short time, deprived the bishop of all its benefits during such period of absence. Again, having once accepted Alternatives, the recipient had no further option. Should the benefits prove disappointing, he could not, save by the express sanction of the apostolic see, revert to the earlier arrangement of the reservation of four months.

COLDINGHAM: PRIOR OLL, BISHOP KENNEDY AND LOCAL MAGNATES.

The fortunes of the priors of Coldingham were linked not only with the house of St. Cuthbert at Durham but also with the affairs of local magnates. So intricately are the different threads interwoven, that if we are fully to understand the situation we must trace the history of these powerful neighbours in so far as it affected the patrimony of St. Cuthbert.

In a letter to Sir Alexander Home in November, 1446, the prior of Durham hinted at the complexity of the situation. "It is nott unknowen to yowe;" he wrote, "how my said brother John Oll is purposete for certyn causez-, movvyng both me and hym, to leefe the prioury of Coldyngham." (I) There can have been little need for the writer to specify details, inasmuch as his correspondent had himself played an important part in the development of the crisis. As far as concerned Sir Alexander Home of that ilk and his uncle, Sir David Home of Wedderburn, the apples of discord were the coveted lands of Aldcambus and the lucrative tenure of the bailliary of Coldingham.

(I) Priory of Coldin., 157, CLXIX.

From an ecclesiastical point of view the tangled tale of violence and intrigue provides an interesting illustration of the way in which church dignities tended to fall into the hereditary possession of neighbouring secular lords. That Durham realised the danger is evident from its long struggle
(1)
to avert the inevitable.

Sir David Home of Wedderburn had enjoyed a lease of the bailiary under prior William Drax. About 1440 he was endeavouring to secure his position by obtaining a life-grant, but it was pointed out that* the late lord of Durham had passed
(2)
an ordinance against grants for life or a long period. This difficulty, however, might not have proved insuperable had not a rival arisen in the person of his nephew, Sir Alexander Home.

On 16th. September, 1441, shortly before the death of Drax, the bailiary was bestowed on Wedderburn for a period

(1) The situation is made clear in a letter written to Sir David Home on 20th. August, 1441. "Yhe desire---to haff your office for the terme of your lief, undre our common seall---. Wevere we fynnd wretyn thatt ony man thatt occupied the office, as yhe doo, hadd hitt for terme of lieffe, ne be the common seall, bod the erle of Douglas, and att his request, whatt tyme he relesshid his gret fee of 6 marcs, Alexander your brothere; and if yhe suld have it in that wiesse hitt wald be till all other thatt come eftre yowe till have the same wiesse." (Priory of Coldin., 119 cf. 137-8)

(2) Priory of Coldin., 114, CXXVIII.

(I)
of forty years. A month previously Sir David and Lord Hailes, his feudal superior, had taken up the candidature of one, John Barley, a monk of Durham, for the succession to the priorship of Coldingham. The question of the tenure of both offices was obviously interwoven, and as the claims of Barley are heard of no more, this was probably a move in a game of self-interest. It is significant that on 12th. August, Wessington should write that if Sir David Home would "shewe his sadd wysdome and favour---the prior will see thatt whatt monke of Doresme occupiez the prioury of Coldyngham he sall reward hym sufficiently wyth favour in othere maters." (2) The reward was the above-mentioned grant together with the promise of Aldcambus in excambion for "othir lands of my sonnys & myne." (3)

In the disturbed state of the country, however, it was not so simple to reach a final settlement. The contest between Durham and Dunfermline and the political disorders in Scotland offered ambitious men too good an opportunity for aggrandisement. (4)

(1) Priory of Coldin., 120

(2) Ibid, 116-8, CCXXII, CCXXIII.

(3) Ibid, 147, CLX. North Durham, App., 99.

(4) Sir David Home seized Coldingham on the ostensible plea that he "knew wile that S^r Alexander wald haf takyne it, and throwe it wald have suppleit thaim of Downfirmylling, or any other that wald best applie to hys gowernance." (Priory of Coldin., 141.)

Scarcely, then, had the apparent accomodation been reached before it was upset by Sir Alexander Home on the ground that it was invalidated by an earlier agreement between the kinsmen. (1) Sir Alexander proved to be the stronger man, counting among his supporters the king, the bishop of St. Andrews and the earls of Angus, Mar and Crawford, while he successfully ingratiated himself with prior Ull. (2) Attempts at compromise were unavailing and in May, 1442, chancellor Crichton called up the case before the king's council. (3)

A chaotic state of affairs thereupon ensued. Sir Alexander Home, proceeding to the court at Stirling with an escort from Coldingham, won his suit before "that partiale consale", while Douglas, as Justiciar, upheld the cause of Wedderburn. (4) According to his own account, Sir David

(1) Priory of Coldin., 123, 124, 132; Scots Peerage, IV, 446.

(2) Priory of Coldin., 137; North Durham, App., 99, DLXVII.

(3) Priory of Coldin., 138-9, CLIII; Douglas Bk., II, 40. Hailes and Angus seem to have made an effort about this time to settle the dispute by arbitration on a basis of a division of the spoils between the claimants. The highly coloured representations of the rival parties, however, makes it difficult to follow the true sequence of events, while the difficulty is further intensified by the frequent looseness of the dating of documents. The development of events can be traced in the correspondence of the priory of Coldingham and in the material published by Raine in his appendix to the History of North Durham. Hume of Godscroft also refers to this subject in his History of the Wedderburn Family. In spite of obvious inaccuracies, his account serves to show the essential turbulence and the bitter state of feeling engendered by this dispute.

(4) Priory of Coldin., 147-8, CLX.

had put his "familiaris in the strentht of the kyrk" but had later agreed to bring the points of dispute before the arbitration of a "cowrt of Coldingham". Law, or the contortion of law, was in this case on the side of the strong.

On 4th. January, 1442-3, Sir Alexander Home received a grant of the bailiary for a term of sixty years with an annual fee of twenty marks, while in May, 1444, he had a tack of Aldcambus for forty years. If we can accept the account of the discomfited knight in the spring of 1442-3. all semblance of law and order must have disappeared. Sir

(1) Priory of Coldin., 148. It was probably on account of this invasion that the prior of Durham requested bishop Kennedy to excommunicate Sir David Home for his sacrilegious devastation of the monastery. (Ibid, 139) As, however, this petition was made in May, 1442, it may refer to an earlier intrusion of Wedderburn.

(2) Ibid, 145. Cf. North Durham, App., 99, DLXVIII, where the fee is given as five marks of English money.

(3) Ibid, 150-1, CLXI.

(4) According to Sir David's account, "the said dan John has gert opin the strentat of the kyrk, the qwilk he had gert oppyle of befor, & delyverit frely the kyrk to the said S^r Alx. to hald as hous of weer, to gidder with all the guds thar being.---And thar the said Alx. halds a garyson of refars the qwilk has takin my lorde of Halis guds, my sonnys, & myne ---hafand the guds to Inglish men, & made thar opin markate of thaim---agayn the vertw of the trewis.----And if weer hapin heirthrw, as is rychtlyke to be, the said dan John is principale cause tharof---the qwhilk, God willing, sal be made knawin to ovr souveraine lorde in his worthy parliament; and this is opin occasion to mak subtraction fra the said dan John & yw of the said priory for evermar." (Ibid, 149) Allowing for bias and exaggeration, this letter to the prior of Durham is interesting as showing the disturbed state into which the affairs of Coldingham had undoubtedly fallen. The threat contained in the communication was not, however, fulfilled according to the purpose of the writer.

Alexander, however, was strong enough to make the settlement in his favour effective, although in 1449, after the death of Sir David, it was found necessary again to define the situation. On 16th. March, 1449-50, letters testimonial were drawn up under the common seal of the chapter of Durham to the effect that the office of the bailiary of Coldingham, conferred upon Sir David, had been freely resigned by him and afterwards granted to Sir Alexander; that, moreover, the said Sir David had been "dewly paide and asseithide" (1) for the full term of his tenure.

It was probably about 1443, in the flush of his victory, that Sir Alexander Home granted in the chapter house of St. Andrews, his first charter of foundation to the collegiate church of Dunglass, "after mature deliberation held with the authority of the Reverend father in Christ and lord, the lord James, bishop of St. Andrews." (2)

This spirit of co-operation between them, however, was soon broken. On 7th. May, 1444, "Alexander Home of Dunglas, knight, and Alexander, his son and heir" received from the prior of Durham a forty years' lease of the lands of Aldcambus. (3) In 1445 both the rival kinsmen were nominated among the procurators of Durham in the suit of patronage pending with St. Andrews. (4)

(1) Priory of Coldin. 164-5, CLXXVIII
 (2) Hist. MSS. Commis., XII, VIII, 124, No. 123.
 (3) See p., 70: *bold, 100-1.* (4) See p., 62.

These were the years when Douglas was at the heart of his coalition against Kennedy, and the old tradition of friendship between their houses ^(I) would make it the easier for the earl to win over Sir Alexander Home. Self-interest likewise prompted an alliance with the dominant faction, while the tenure of Aldcambus possibly stood in the way of a good understanding with the bishop of St. Andrews, who had himself an interest in this question. Whatever obscurity may enshroud details, it is at least clear that the situation as a whole was largely dominated by political considerations. Thus Kennedy's alliance with Crichton against the party of Douglas loosened the tie which had bound him to the cause of Durham. The years that followed were the darkest period of the bishop's life and in the anarchy of the time the unique position of Coldingham left it peculiarly exposed to all the elements of disorder. Among these must be reckoned the Hepburns of Hailes.

We have seen that in August, 1441, Sir Adam Hepburn had made common cause with Sir David Home in pressing

(I) Sir Alexander Home, the first, had been the "loved squire and ally" of Archibald, fourth earl of Douglas. He had been captured with his patron at the battle of Homildon, and during their captivity in London had been appointed by the earl to the office of deputy keeper of the priory of Coldingham. Douglas and Home fell together on the same fatal field of Verneuill, 17th. August, 1424. (Scots Peerage, IV, 444-5, and authorities there given.) See also, Douglas Book, II, 40.

the claims of John Barley in view of the approaching vacancy
 at Coldingham. ⁽¹⁾ Three months later he had commended himself
 to Wessington for "graciouse supportacion doon to our celle
 of Coldingham and to my brother John ⁽²⁾ Ull", while he had
 associated himself with bishop Kennedy and the earl of
 Angus in advocating the cause of Sir Alexander for the bail-
 iary. He seems to have striven about this time to promote
 a settlement between the two kinsmen, his "cosyns", ⁽³⁾ but it
 is evident that self-interest provides the main clue to his
 policy.

During these years he and Patrick, his son, gave consid-
 erable trouble alike to the government and to the priory of
 Coldingham. Possibly Sir Patrick Hepburn had taken the law
 into his own hands, and before the death, in 1446, of his
 father, the Steward of March, had possessed himself of the
 castle of Dunbar, whence he might push his fortunes as a
 free-lance. Thus it was probably under duress that the
 queen-mother died in Dunbar on 15th. July, 1445, ⁽⁴⁾ and although
 Hailes was forced thereafter to surrender the castle, it is
 doubtful if the crown was able to achieve more than a nominal

(1) See p., 374.

(2) Priory of Coldin., 124, CXL.

(3) Ibid, 136-8

(4) Auch. Chron., 37, 7.

victory.

Such a state of affairs seems to be indicated by three extant letters of James II given under the privy seal at Stirling on 28th. April, 1446. The first is a royal mandate forbidding the king's lieges to assist covertly or overtly or in any degree, the said Patrick and his accomplices in their treasonable taking and holding of the castle of (I) Dunbar.

The second letter bears directly on the case of Coldingham. It is a mandate to Patrick Hepburn to release the prior and his companions from custody and to restore their goods and money. The third missive is in the nature of a (I) letter concurrent addressed to the prisoners.

From these documents it is evident that for some unascertained reason there had been a serious rupture between the son and the erstwhile confederate of Sir Adam Hepburn. The magnitude of the trouble may be estimated

(I) North Durham, App., 22, XCVI. The Hepburn faction were charged with the seizure of Dunbar, with arson, plunder, slaughter, the imprisonment and oppression of the inhabitants, devastation of the land "&mony oythir detestable Enormyteis." The Council accordingly "proclamys yat giff ony off our legis may ourget or tak ye said patrik or ony of his complecis beand in our sayd castell & bring him or yaim tyl ws & our consel yai sal hafe grete thank & raward."

from the fact that in November, 1446, John Oll was driven in his extremity to petition the bishop of St. Andrews to fulminate the sentence of excommunication against "the said Patrick and all and singular his aiders and abettors in the (I) crime".

Allowing for exaggeration in the lurid recital of his grievances, the document still throws an interesting light on this perplexed subject. The prior and his retinue had been riding from Edinburgh towards Coldingham when the atrocity had been perpetrated. "Under all the skies of the whole of Britain it is common story and public gossip in the mouths of all men, high and low alike. For the said Patrick by means of his abettors in iniquity of whom he himself is the chief instigator, lay in ambush---and made a rude assault on me and my companions in the king's highway, and drawing and brandishing their swords, they threatened us with formidable terrors, laid rough hands on us, pillaged our goods, and carried us to the castle of Dunbar where the said Patrick lords it as a violent intruder, and by the utmost force and fear---and unwarrantably compelled me to pay a ransom heavy beyond my resources." (I)

Record is silent concerning Kennedy's response to this appeal, but as he was in Rome it is possible that no steps had been taken before the resignation of Oll. If his desire to resign had been

(I) Friory of Coldin., 146-7., CLXVIII.

previously bruited the extremity of Coldingham must have emboldened Sir Patrick Hepburn to push his schemes with impunity. The record of his subsequent career seems to show that he had not been mistaken in his calculations. As he rose in the king's favour, and came to play an active part in the affairs of the nation, he ceased to interfere as an adventurer in the local concerns of Coldingham. He had, however, left his impress upon one crisis, at least, of its history.

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THE MARRIAGE OF EARL WILLIAM AND "THE FAIR MAID OF GALLOWAY."

Considerable obscurity surrounds the matrimonial history of Margaret, "The Fair Maid of Galloway." According to Drummond, her marriage to earl William, her kinsman, was the work of James, the Gross. (1) The seventh earl of Douglas was likely to have desired such an advantageous union; but negotiations could not, in his life-time, have gone beyond an elementary stage, while Drummond is notoriously inaccurate in the statement of particulars. (2) Hume of Godscroft agrees with Drummond that the marriage was contracted before the arrival of the papal dispensation, whereas Sir William Fraser thinks that the terms of the bull "forbid" such a (3) "supposition!"

On the other hand, although the historian of the Stewarts has printed the dispensation of the marriage from (4) the archives of the Vatican, yet it has not found its way into the official volumes of the Papal Registers.

(1) Drummond, History, 23.

(2) The Maid of Galloway, for example, was not Beatrice, but Margaret, Douglas; nor was she the first, but the second, cousin of earl William.

(3) Godscroft, History, 159: Douglas Bk., I, 458, note.

(4) Stewart, History of Stewarts, 467.

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In this connection it is significant that the petition of James, the ninth earl, contained that "the late William, earl of Douglas, James's brother-german, contracted marriage per verba de presenti with the above Margaret(who was related to him in the second and third degrees of kindred, was below the marriageable age and her twelvth year, and was not ignorant of the said relationship), and the said William (who cohabited with Margaret for some time) perhaps attempted to consummate the marriage, which was impossible, because he had not obtained a papal dispensation, although he had duly taken steps to do so." ^(I) Perhaps the cadet branches of the house in their opposition to the marriage, used their influence to prevent the expedition of the bull; more likely, earl William, confident in the strength of his own position, had not "duly taken steps" to secure the consummation of the marriage, although the bull had been applied for, and drawn up. The fact at least remains that the union of the earl and lady Margaret was recognised for all practical purposes. Douglas administered the Galloway domains, while we have charter evidence that he assumed the style of Lord of Galloway. Yet it is significant that popular superstition deemed these to be hapless nuptials" celebrated on Good Friday, in time of Lent, a day and period esteemed as unlawful as the marriage." ⁽²⁾

(I) C.P.R.,X, 130.

(2) Pinkerton, History,I,195. Cf. Boece,363-4; Pitscottie, II, 47-8.

SOME DOUGLAS PROBLEMS, 1450-1451.

The mystery which attaches to the circumstances of the departure of earl William to Rome hangs thickly over all the subsequent events of his career. We can probably, however, trust the statement of John Law that the Crichtons and the bishop of Glasgow used their influence over the king to the detriment of the Douglas. The chancellor was his life-long enemy; the bishop may have had a score of his own to settle with the mighty lord of his diocese: both were in constant attendance upon the king during the
(I)
absence of the earl.

(I) The traditional story that Douglas, on his return, instigated an attempt upon the life of the chancellor would, if true, be an attempt to avenge this latest manifestation of Crichton's enmity. (Godscroft, 125; Pitscottie, I, 86; Boece, 132)

That the bishop of Glasgow stood high in the king's favour at this juncture is evident from the petitions of James to the pope for the erection of the university of Glasgow, and for licence to the inhabitants of the diocese to eat milkmeats during Lent. (C.P.R., X, 73, 85)

The testimony of the Great Seal shows that Turnbull and Chancellor Crichton were at court throughout the whole of the crisis of the earl's absence. The other regular witnesses to royal charters were two clerks, Master John Arous, archdeacon of Glasgow and a subdelegate for bishop Turnbull, and George de Schoriswod, rector of Culter, a former secretary of the earl of Douglas. (C.P.R., X, 208, 376) Schoriswod may have deserted Douglas for the service of the king owing to a rupture over the appropriation of the church of Culter to the collegiate church of Douglas. (Ibid, 429) Be this as it may, Schoriswod, as bishop of Brechin and chancellor was to serve the king faithfully, if not too honourably.

There are obvious inaccuracies, however, in the long-accepted narrative that, to punish contumacy, the king sent his chancellor, the earl of Orkney to intronet with Douglas's goods: that, as the royal authority was openly flouted, an expedition was lead into the disaffected country, where the castle of Douglas was destroyed, Lochmaben taken and
(1)
garrisoned for the crown.

The earl of Orkney, himself doubly related by marriage
(2)
to the house of Douglas, was not at that time chancellor, while, whatever may have been the case in later years, we have no evidence that, in 1450, family ill-feeling
(3)
had driven him into active hostility to his powerful kindred.
(4)
Douglas castle was still the residence of the earl in 1454:

(1) This is the substance of the history of Godscroft and of the authorities whom he has followed: there are, however, inconsistencies in details between the separate accounts.

(2) His first wife, who died about this time, was Elizabeth, or Egidia Douglas, daughter of the first duke of Touraine. His sister was the spirited Beatrix, widow of James, the Gross. He himself was thus the uncle of the two last earls of Douglas.

(3) Godscroft, History of Douglas, 183. It is remarkable that Crawford's biography of the earl of Orkney in The Officers of State makes no mention of this alleged enterprise of 1450.

(4) Hist. MSS. Commis., Report XI, part VI, 17.

Lochmaben and the lands of Annandale had been in the hands of the crown since the Black Dinner of 1440. The Exchequer audits prove that Carruthers of Mouswald was captain of Lochmaben during the whole period of this crisis.

In view of these mis-statements, then, the narrative of John Law appears to offer the most reliable account of events. His annals baldly state that James, instigated by the Crichtons and bishop Turnbull, besieged the strongholds of the earl, killed many of his vassals, and received the rest, upon oath, into the king's peace. (1) The report of these proceedings led to the hasty return of the earl to Scotland, on 7th. April, 1451. After this date, the king captured and destroyed the fortress of Crag Douglas, on Yarrow.

If the proceedings on the part of the crown are thus veiled in obscurity, the movements of earl William and his brother likewise open up a nest of difficulties.

On 27th. February, 1450-1, payment was made for the expenses incurred by Garter King of Arms on a mission to await the disembarking of Douglas, to escort him to court, and to attend upon him during his stay in England. (2)

(1) Law's account of the king's campaign, however, raises a difficulty. As far as the evidence of the Great Seal goes, it would appear that James was resident in Edinburgh from the end of February until the middle of August. He could scarcely, therefore, have conducted in person a protracted campaign in the Douglas country.

(2) Bain, C.D.S., IV, 1231..

It is generally stated that he sent his brother James as a forerunner to prepare the way for his own appearance before the king of Scots. He himself probably did return at the beginning of April, as Law has it: he was at Jedburgh on the 27th.

Ten days earlier he had been nominated on a commission to treat with the English on the conservation of the truce. An imperfect passage of the Auchinleck Chronicle states that the earl of Douglas was created lieutenant-general, and that although he did not personally execute this mission, yet he sent his seal to be appended. As we have no evidence that this commission was ever operative, its duties may have been transferred to Snowdon Herald, who was sent to London at this time.

On 12th. May, a safe-conduct for a year was issued to the earl of Douglas and others to go to England. It does not appear that earl William himself made use of this licence: he had thrown himself upon the king's grace and on 1st. July

(1) Drummond, 27; Buchanan, II, 31; Godscroft, 133.

(2) Hist. MSS. Commis., Report XII, part VIII, 127.

(3) Rot. Scot., II, 345; Foed., XI, 283.

(4) E.R., V, 332-3.

(5) Rot. Scot., II, 346; warrant to the chancellor, 23rd. April, Bain, C.D.S., IV, 1232.

(1)
 was restored in full parliament. James, his brother and confederate, however, availed himself of the passport to further certain negotiations at the court of England. (2)

It is hazardous to guess what these schemes might be; whether the Master of Douglas was the accredited agent of king James, or a malcontent intriguing with malcontents. On the one side, it is true, as the editor of the Douglas Book has pointed out, that Garter King of Arms, who escorted Douglas to the English court, had been engaged on protracted missions, both to the Duchess of Burgundy and to James II; that Garter conducted Sir James back to Scotland and at the same time carried letters to the king of Scots. (3) (4) On this basis Sir William Fraser has concluded that Douglas was himself an ambassador from the court of Scotland.

On the other hand, the persons comprised under the protection were of the family and following of Douglas:- his three eldest brothers, lord Hamilton, Humes, Kerrs

(1) See above,

(2) Bain, C.D.S., IV, 1242; Auch. Chron., 8, 44.

(3) Douglas Bk., I, 430.

(4) Bain, C.D.S., IV, 1242. It would appear that some of the members of the suite that had accompanied Mary of Guelders to Scotland had suffered at the hands of English pirates on the homeward journey to Burgundy. (Ibid, 1242; Proceedings of Privy Council, VI, 100) This circumstance probably explains the missions of the English Garter and the Artois King of Arms.

and other border magnates. This fact suggests that their business was of a private, rather than of an official, character. The words of the Auchinleck Chronicle, moreover, carry a sinister implication. "Als fast as schir James of Douglas gat wit [of Snowdon's mission to England] he past til Londone incontinent, and quharfor men wist nocht redelye, bot he was thar with the king of Yngland lang tyme and was mekle maid of." (1)

The Yorkist, or Opposition, party dominated the political situation at this time and tension was strained to the uttermost; the country was rapidly heading towards civil war. (2) Such a state of affairs obviously offered an excellent opportunity for restless spirits to fish in troubled waters. Where all parties were working at cross purposes, on the dictates of self-interest, it is perhaps impossible to fathom the designs of the Master of Douglas, if, indeed, he were true to any fixed policy at this time.

(1) Auch. Chron., 8, 44.

(2) About 11th. June, the dissolution of the English parliament was precipitated by the startling petition that the Duke of York should be recognised as Henry's heir. During the next six months the king was actively engaged in a futile endeavour to reconcile the leaders of the opposing parties. York's conduct, indeed, had excited so much suspicion that in January, 1451-2, wisdom prompted him to make formal protestation of his loyalty. (The political situation in England during this critical period is discussed by Sir James Ramsay, Lancaster and York, II, chapters IX and X.)

From a letter of 24th. December from the king of Scots to the king of England, it would appear that the Scottish government had been in negotiations with England's "adversary of France." (Foed. XI, 306; cf. Bain, C.D.S., IV, 1242)

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THE CRICHTON EARLDOM OF MORAY AND CAITHNESS.

The fortunes of the Crichton earls of Moray and Caithness are shrouded in considerable obscurity. We have the testimony of the Auchinleck Chronicle that Sir James Crichton, the chancellor's son, was "beltit erll of Murray" in the Edinburgh parliament of 1452, but there is no evidence that the earldom was ever formally conveyed to him by charter. (1) This would make it the easier for the crown to slip out of its obligations. For some time Crichton certainly deputed himself as earl of Moray. (2) In the course of 1454, however, his title ceased to be recognised: either he had been officially displaced to make way for the restoration of the Douglas earl, or more probably, his investiture, never

(1) It has been pointed out by the editor of the Exchequer Rolls that "belting was an inaugural ceremony which presupposed a written charter". (E.R., V, xcvi) In the absence of any extant charter, or definite reference to any such charter, in favour of Crichton, it seems reasonable to conclude that there had been some technical hitch in the proceedings.

(2) On 28th. July, 1452, James, earl of Moray, was witness to the resignation of Alexander Cunningham of Kilmaurs. (Laing Charters [34]). In the Exchequer accounts of the earldom of March, rendered in July, 1454, he is styled "James, earl of Moray and Lord Crichton": in the accounts of Mar of same date, he is designated "James, now lord Crichton." (E.R., V, 653) As late as 1458 his widow took the style of Countess of Moray. (R.M.S., II, 1205) His rival of Douglas, on the other side, appeared as earl of Moray, Conservator of the truce in May, 1453. (Rot. Scot., II, 367) Three months later we find him at Elgin, transacting feudal business in his capacity of earl. (Chiefs of Grant, III, 23)

having been formally ratified, was tacitly subverted after the reconciliation of the king with the Douglasses. That Crichton resented the treatment meted out to him may be gathered from the sequel. At the time of his death in August, 1454, he was a rebel within the castle of Dunbar, which "was haldin fra the king a little quhile and syne given
(I)
til him."

Baffling perplexities meet us again in the case of the Crichton earldom of Caithness. In this instance, also, there is no extant charter of erection of the earldom, nor did the new dignity remain long in the possession of the family. On 8th. July, 1452, Sir George Crichton had, in parliament, a charter annexing, on his resignation, all his lands in southern parts to the earldom of Caithness in
(2)
favour of himself and his assignees. For the twotnext succeeding years he acted and was officially recognised as
(3)
earl, but on his death in August, 1454, this dignity, together with the bulk of his estates, fell into the hands of the crown.

There had evidently been some transaction in virtue of which the king had supplanted the heir of Crichton in
(4)
the succession to the earldom. If the crown had had an

(I) Auch. Chron., 13, 54 Sir James Crichton was keeper of Dunbar in 1453-4. (E.R., V, 645)

(2) A.P., II, 75; Auch. Chron., 13, 54-5.

(3) Bk. of Buccleugh, II, 49; Bk. of Carlaverock, II, 433; A.P., XII, 23.

(4) According to the Auchinleck Chronicle, (13, 54) the resignation of Crichton took place only six days before he fell into the hands of his son in the castle of Blackness.

eye to his estates, it possibly secured this Naboth's vineyard the more easily because the earl was on bad terms with his family. (1) In pursuance of the domestic feud Sir James Crichton, the disinherited son of the Admiral, whether with the connivance of Douglas or on his own initiative, seized and imprisoned his father in his castle of Blackness in May, 1453. (2) After a close siege by land and sea the rebel was forced to capitulate on terms fairly advantageous for himself. He was guaranteed the succession to the ancestral

(1) Sir George Crichton was probably of a grasping and dictatorial nature. He built up a considerable property by various means, while we have an interesting commentary upon his personal character in the fact that, only eight days after his death, his widow formally revoked an alienation on the ground that it had been granted under compulsion from her husband. (Reg. Hon. of Morton, II, 333) As the lady seems on her part to have been also unyielding and litigious in character, (Hist. MSS, Commis., XV, Buccleugh, 36, 37; Reg. Hon. Morton,) we can scarcely be surprised if there was considerable domestic friction in the admiral's family. He must have fallen at variance, also, with the relations of his first wife, the Douglasses of Strathbrok, whose estates he burned in 1445.

(2) Auch. Chron., 13, 54-5. The Exchequer accounts prove that, if the month was May, the year was 1453.

estate of Cairns, while the crown made over to him the lands
 (1)
 endowed upon the queen in Strathurd: in return he formally
 renounced all claim to his father's possessions in Lothian.
 As the queen was present in person along with the king
 during the siege of Blackness, as part, moreover, of her
 marriage portion was sacrificed as the price of peace, it
 seems not unlikely that Mary of Guelders had a vested interest
 in the proceedings. She possibly found compensation for
 the loss of Strathurd out of the estates that reverted
 to the crown on the death of the admiral. Her general
 attitude in the matter of her jointure makes it impossible
 to believe that she would willingly consent to her own
 impoverishment.

If, however, the crown had been anxious to obtain
 possession of the earldom of Caithness, it did not long
 retain its acquisition. This fief was bestowed within a
 year upon William St. Clair, earl of Orkney. (2) At about
 the same time, as if to balance the alienation of Caithness,
 (1)
 the king entered upon a tortuous policy to secure the
 lands of Moray, the other earldom which, for a short space
 had been enjoyed by the house of Crichton. (3)

(1) A.P. XII, 23.

(2) Calendar of Charters, II, 342.

(3) See above, 217-9.

THE APOLOGUE OF THE SHEAF OF ARROWS.

The campaign of 1455 was the central fact of the reign of James II. On the downfall of the Black Douglases, the way was cleared for the elevation of the crown: the hand of the king was strengthened for a policy of aggrandisement. It becomes us, therefore, to weigh the estimate of historians upon his conduct during the crisis of the Douglas struggle.

His promptitude and energy belie the tradition that "from the beginning of his reign James the Second felt the burden of the Douglas power so strongly that he had it in mind to desert his kingdom of Scotland." (Major, History, 383). According to one version of Pitscottie's narrative, the contemplated flight of the king was a mere ruse to lull his intended victim into a false feeling of security. (History, I, 115). But possibly no more faith can be pinned to this statement than to the doubtful anecdote of bishop Kennedy and the sheaf of arrows.

The despairing king is represented as deserting the post of duty to throw himself upon the comfort and advice of the bishop of St. Andrews, who supplied him with refreshment

(I) Pitscottie, History, I, 116-118. The chronicle which records this incident is, it is interesting to observe, "the most modern of the MSS." (Ibid, II, 354)

both of body and of soul. By the apologue of the arrows Kennedy revealed to the king how "ze man conques and brek by lord and lord be himsellff for ze may nocht deill with thame all at anis and fordar mak ane proclatioun out throoch zour realme to all theif and tratour and all thame that hes offendit aganis zow. Grant tham frie remissioun to be guid men in tyme cumning and now to serve zour graice at this instant tyme in zour necessitie the quhilkis beand done I traist your graice sall get mair favouris nor sall zour counterpartie."

Acting upon this advice, king James raised the royal standard in St. Andrews and, accompanied by the bishop and the whole nobility of Fyfe, Angus and Strathearn, passed by way of Falkirk to Stirling, where the northern lords came in with their following. Thereafter, at the head of 30,000 men the king passed to Abercorn to encounter Douglas and his forty thousand⁽¹⁾. The policy of Kennedy was carried out with entirely successful results.

This old story, as retold by romantic chroniclers, is clearly the child of a fanciful imagination: at the

(1) Pitscottie, I, 118.

same time the myth may have grown out of a germ of truth. Although James II. can scarcely have had a predetermined resolve to seek refuge in flight, yet his mercurial temperament may have plunged him into a passing despondency which was dissipated by the stimulus of the bishop, his cousin. Kennedy himself had encountered the buffets of fortune; his character fitted him to be a shield and buckler in times of trouble; his experience and resources; his sagacity and patriotism were factors of the utmost value in the councils of the king.

Facts prove that the policy of the bishop was in effect that of the apologue of the arrows. For the rest, the episode is not altogether alien from the character of Kennedy, but if it took place at all, it must have been in a different setting.

With regard to the idea of flight, a germ of truth may lie hidden behind the inconsistent accounts of historians. James may have been shrewd enough to have taken the precaution of securing a place of retreat in case of emergency. When, some years earlier, his ally, Charles VII. of France, had found himself in somewhat similar circumstances, he is said to have contemplated flight to Spain, Brittany or Scotland.

(I) Lavisse, IV,47.

The troubles of the era throughout Europe may have given rise, in later ages, to this tradition of the meditated flight of kings.

In the absence of all reference to such a scheme in (I) the extant correspondence of James with the court of France, it is hazardous to conclude that he harboured a design of leaving Scotland. The idea might have been entertained in a moment of depression, or as a prudent precaution in counting the cost of a Douglas war; in either view, the statements of Major and Pitscottie can not stand, unchallenged, the test of scrutiny.

(I) Leslie states that it had been the king's intention to retire to France. Perhaps this historian hits nearest the mark when he hints that the mood of hope abandoned was engendered by the passing exigencies of the moment. "The King," he tells us, "wes put to sic a sharp point, that he wes determinit to haif left the realme, and to haif passit in Fraunce by sey, were not that bischop James Kennedy of St. Androis caussit him to tarrye, upoun the hoip he had of the assistance of the Erle of Huntlye principallie." (Leslie, History, 23).

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THE CROWN AND THE EARLDOM OF MAR.

If James I. began the onslaught of the crown upon the feudal baronage, the attack was continued to good purpose under James II. The royal claims to the earldom of Mar were a legacy bequeathed by his father to James II., and successfully pushed by him to the detriment of the heir of line.

The origin of the trouble was a question of disputed succession to the childless Isabel, countess of Mar and Garioch. In 1404 Sir Alexander Stewart, later the hero of Harlaw, with an eye to the rich estates of the heiress, compelled her to become his wife, and to entail the joint earldoms upon himself and his heirs, should Isabel die childless. This charter, of date 12th. August, 1404, was, however, invalidated, in that the king withheld his confirmation.

On 9th. December following, a second charter was drawn up granting Stewart a life-rent, with remainder to the heirs of Isabel. By this transaction, which duly received the royal confirmation, the succession should have passed to Sir Robert Erskine, while Sir Robert Lyle of Duchal claimed a moiety of the inheritance, as descended from a younger co-heiress.

(I) The question of the Mar succession has been dealt with in exhaustive manner by Lord Crawford, Earldom of Mar, vol. I; especially pages 173-76, 194-217, 237-98. See also E.R., VI, cxviii-cxxviii; Miscel of Spalding Club, V.

Sir Thomas Stewart, however, made various efforts to convert his life-rent into a heritable possession. On 28th. May, 1426, he had, on his resignation, a regrant of the earldom to himself, to Thomas, his natural son and his heirs male, with reversion to the crown. As the son died without issue in the lifetime of his father, James I. saw his opening to claim the earldoms on the death of earl Thomas, on 1st. August, 1435. In the pursuit of the royal policy it was of little moment that his pretensions were palpably illegal, whether based upon the unratified charter of 12th. August, 1404, or upon the charter, itself invalid, of 1426. The earldom of Mar was added to the royal domains; Garrioch bestowed upon the countess of Buchan, widow of the younger Stewart, afterwards the wife of William St. Clair, earl of Orkney.

Although Sir Robert Erskine, on his side, had not been idle, he was prudent enough to let might pass for right during the lifetime of the masterful king. No sooner was the situation changed, however, by the death of James, than Sir Robert seized his chance. He obtained two briefs of service in 1438, was served heir to countess Isabel, and infeft in half the earldom. Thereafter, he

(1) R.M.S., II, 53.

(2) E.R. VI, cxxi.

(3) Antiquities of Aberd. and Banff, IV, 275.

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assumed the style, and was held in popular opinion to be
(I)
earl of Mar, although from the accession of chancellor
Crichton, the crown consistently ignored his pretensions
to the title.

This was the beginning of a long struggle which brought
the earldom to the crown in 1457. The storm itself
centred round Kildrummie, the chief messuage of Mar, and
the castles of Dunbarton and Alloa.

During the royal minority, the government took its
stand upon the act of 1438 prohibiting^{during such time} the alienation of
lands of which the late king had died possessed. This
statute, then, was made the basis of an attempt to shelve
the question of the succession to the earldom of Mar.
In presence of the Estates, on 10th. August, 1440, the crown
entered into an indenture to deliver Kildrummie to the
Erskine earl, and receive Dunbarton in return. Erskine was,
moreover, to enjoy the fruits of half of the earldom,
pending arbitration by the Estates on the matter of right,
(2)
on the attainment of the royal majority.

(I) On 23th. December, 1439, the burgh of Aberdeen created
Robert of Erskine, earl of Mar, a burgess and member of
guild. (A.A.B., IV, 191)
The crown virtually recognised his title when in the audits
of 1446, his heir was designated as master of Mar. (E.R., V, 235)
While prosecuting his suit before the council at Stirling
in 1442, he is designated earl of Mar, on the appointment of
Sir Alexander Home as bailie of Coldingham on 20th. May.
(Raine, North Durham, App., 99)

(2) A.P., II, 55-6; A.A.B., IV, 192.

As, however, the government failed to fulfil its obligations, earl Robert appeared before the king in council at Stirling in 1442, with the grievance that the Chancellor had detained his return, and refused to give him entrance to Kildrummie. He followed up his complaint by capturing the disputed castle, while the government retaliated by taking Alloa. In 1443, Patrick Galbraith wrested Dunbarton from Sir Robert Semple, sheriff-deputy to lord Erskine. (1)

The fall of Crichton in 1444 did not affect the fortunes of the earldom of Mar. Although the Erskines were quiescent during the troubles of this period, Sir Robert Lyle showed signs of asserting his claims to a part of the inheritance. (2)

(1) The facts concerning the capture of Dunbarton are involved in mystery. Lord Crawford thought that this castle must have been previously surrendered, or it would have been seized in preference to Alloa. (Earldom of Mar, I, 271) The chronology of the Auchinleck Chronicle, however, if correct, discountenances this opinion. (Auch. Chron., 4-5, 35-6) According to this chronicler, Dunbarton was taken on 15th. July, 1443, by Patrick Galbraith, apparently through treachery. If the captor was not acting with the connivance of the crown, he was at least "commendit for his takin", as the Exchequer Rolls bear witness. (E.R., V, 145) About 1439, Galbraith had been one of "certain friends" appointed to arbitrate between Sir Robert Erskine, lord of Mar, and Sir Alexander Forbes (A.A.B., IV, 194) Dunbarton passed into the custody of Robert of Callander; in 1448, expenses were allowed to the constable of Edinburgh for his "labours and expenses made at the siege of the Castle of Dunbarton and by order of the king." (Ibid, 145,) In 1449, this fortress on the rock became the hatching ground of treason; on the fall of the Livingstons, it was committed to the custody of Patrick, lord Graham. (Ibid, 411 etc.)

(2) The recovery of half the earldom was contemplated in an indenture of 1444 between Sir Robert Lyle and Sir Alexander Forbes. (A.A.B., IV, 194) According to Crawford, Lyle "added the coat of Mar to his ancestral arms." (Peerage, 291). He seems to have revived his claim to Garioch on the death of the countess of Orkney. (Register of Paisley, 250-2) We have seen, however, that he was created a lord of parlia-

67

The parliament at Perth in June, 1445, on its side repeated the act of 1437-8 in emphatic form.

Robert, lord Erskine and Sir Thomas, his son, were, however, still masters of Kildrummie, which they were commanded under letters patent, of date 22nd. May, 1448, to deliver to the king's commissioners, under pain of forfeiture. (1) On 20th. June, the king in council entered into an indenture with Erskine: Kildrummie was to be delivered to the crown, Alloa to be restored to earl Thomas, pending the settlement of the question of right by the Estates upon the attainment of the royal majority. (2) Erskine fulfilled his part of the obligation, but the agents of the crown, having acquired possession of Kildrummie, refused to give up Alloa.

Earl Robert, now apparently an aged man, accordingly deputed his son to make a formal protestation before the Estates, in April, 1449, against the crown's breach of faith, and appropriation of the fruits of Mar. (3) On a

ment in 1452, probably owing to the good offices of his father-in-law, lord Gray. After this, no more is heard of his claims on Mar: probably the fate of Erskine was a sufficient deterrent.

(1) E.R., VI, cxxiii (for the year); A.A.B., iv, 196

(2) Douglas, Peerage, 442.

(3) A.P., II, 60, 61; A.A.B., IV, 199.

repetition of the protest in the fateful parliament of January, 1449-50, chancellor Crichton pledged the crown to refer the matter to the privy Council when the king should come of age. (1) In the interval the royal officers administered the estates of Mar, and drew the revenues; on the attainment of the royal majority, the question of a reckoning with Erskine was passed over in silence. (2)

Accordingly, on 21st. March, 1452-3, Sir Thomas Erskine, now claimant in his own right, once more appeared to lay his case before the parliament. Again the chancellor not only postponed the date of arbitration, but departed further from the terms of the original indenture. The king would submit his case to judgement upon summons of fifteen days, on the occasion of his forthcoming visit to the north. (3) The hope of an impartial arbitration was becoming more remote: the formality of any settlement was itself deferred till 1457.

(1) A.P., II, 63.

(2) On 26th. August, 1452, after the death of the countess of Orkney, the life-renter, the king felt himself at liberty to bestow the earldom of Garioch upon the queen. (R.M.S., II, 592)

(3) A.P., II, 75. According to the indenture of 1440, the question of the succession was to be decided by the three estates in parliament; in 1449-50, privy council was substituted for parliament; in 1452-3, a justice ayre in presence of the king was laid down as the medium of arbitration.

Although the lands were not annexed to the crown in 1455, yet the king treated them "as his own in the matter of the excambion of Muchal and Corntoun in 1456." (E.R., VI, cxxv)

205'

In that year the king presided in his own cause in a Justice Ayre held in the Tolbooth of Aberdeen, where, as we have seen, he succeeded in extorting a verdict in his favour. (1) Although the crown had undoubtedly wrested the law to suit its purpose, yet it is obvious that in the long and tangled tale, many diverse interests must have been at work.

During the royal minority, for example, chancellor Crichton had shown an invincible determination to postpone the settlement: he may have been the faithful, if not over-scrupulous, steward of his royal master. (2) However that may be, it is certain that the rival faction of the Livingstons had their own purposes to serve in maintaining the status quo. So long as Robert Livingston was comptroller, the full revenues of Mar did not appear in the audits of exchequer. (3) In 1448 Archibald Dundas, of the same following, became first keeper of Kildrummie for the king. Under Robert of Callander

(1) See above, 220.

(2) In the Athol peerage case, the house of Maule, in circumstances somewhat similar to those of Mar, were forced to drop their claims as they found "Chancellour Crichtoun and the Kingis Councill partys too hard for them to deal with." (Reg. de Panmure, II, 226-9)

(3) Ramsay, Lanc. and York, II, 195.

Dunbarton was the centre of conspiracy in 1449. These facts give point to the "conjecture" that the Livingstons met their fate "for keeping of some castles, and strong houses, and not rendring them to the King." (I)

In 1451, Sir James Crichton, the chancellor's son, succeeded his rival as Keeper of Kildrummie, with the enjoyment of a salary. (2) Crichton "beltit erll. of Murray" in the summer of 1452, was succeeded at Martinmas by the earl of Huntly in the castle of Kildrummie. (3) In 1456, Huntly in his turn was superseded by lord Glamis, doubtless on grounds of policy. The former had been awkwardly assertive with regard to the earldom of Moray; the latter was a royal commissioner for the renting of the lands of that earldom for the king. (4)

(I) Godscroft, History of Douglas, 170; see above,

(2) E.R., VI, cxxvii, V, 463, 518.

(3) E.R., VI, cxxvii, V, 518 etc.

(4) That the transference of the custody of Kildrummie was not matter of amicable agreement may be inferred from the fact that on 7th. March, 1455-6, Huntly was granted remission by James II. for devastation of the lands of Mar. (E.R., VI, 476 etc., Thanet of Cawdor, 19).

CONSTITUTIONAL DEVELOPMENT OF PARLIAMENT, GENERAL COUNCIL,
AND THE LORDS OF SESSION IN THE TIME OF KENNEDY.

The years of Kennedy's episcopate are an epoch in which the "Estates assemble almost as often in 'general council' as they do in 'parliament', while General Council itself tended "to diverge from 'parliament' and approximate to an enlarged privy council."^(I)

Thirteen General Councils are recorded in the reign of James II: eleven of these fell in the minority of the king: of the fifteen parliaments, only two met during this period.⁽²⁾ The parliamentary history of the reign is, therefore, seen to fall into two clearly marked divisions. Probably the preponderance of General Councils in the years before 1449-50 may be attributed to motives of convenience during the disturbances of the royal minority. The second period, the time of evolution and of growth,- bears the impress of the master-mind of the bishop of St. Andrews.

During these years of the king's personal rule, the development of the history of parliament is closely associated with its functions upon the judicial side. Parliament was

(I) S.H.R., XVIII, 164, 166. (On 'parliament' and 'general Council', R.K. Hannay)

(2) Parliament met in 1437 probably to arrange the question of the government during the regency; the parliament of 1445 proceeded against the opposition party to the dominating faction of Douglas.

a high court with special competence, summoned upon forty days; in particular it was a court of first instance in cases of treason: Suit was owing upon lords temporal and spiritual, and freeholders of the crown, the burghs being represented by their commissaries. For ordinary affairs, however, the machinery of parliament showed itself to be irksome and unwieldy. This, doubtless, affords part explanation of the transition of the period under review.

An important landmark is indicated by certain statutes of the parliament of January, 1449-50, in which we have found the bishop of St. Andrews to play a leading part. A General Council was to be called at Perth in the following May to discuss, among other things, a report which was to be submitted by a committee of four representatives of each of the Estates. (I) The following commentary, based upon a study of the acts, indicates the importance of these ordinances. "The obligation to compear was to be incumbent upon those receiving 'the precept of the kingis lettres' a hint that all who owed attendance would not necessarily be summoned. (2) An act had just been passed indicating that

(1) A.P., II, 38-9.

(2) This was an active period in the creation of lords of parliament, but the issue of a special precept was evidently not intended to establish a claim of right on the side of the recipient to a hereditary seat in parliament. In the matter of divergence of parliament and General Council "it is interesting, also, to see in the 'precept of the kingis lettres' a trace of the differentiation which afterwards became established - 'precept' for parliament, 'lettre' for council. We happen to know that the royal secretary, as an officer independent of the privy seal, appears in 1444; and it was

summons in causes 'befor the king and his consal' was competent on fifteen days. It appears also that the summons must be 'undir the quhite wax', and that in the case of this 'general council' summons by a pursuer, also under the white wax, must be served on forty five days.--- The ordinance treats 'general council' as a court - and we know that it appointed an auditorial committee in civil causes - but a court of narrower competence than 'parliament', and subject in some measure to the selective power of the crown.^(I)"

This "auditorial committee" consisted of four representatives of each of the estates with the bishop of Brechin,⁽²⁾ presumably president. It is a significant fact that three of the four deputies for the barons were lords of parliament. The practice of creating lords of parliament, introduced by James I., became much more fully developed under his son, - a fact that had probably an important, though an obscure, connection with the transformation in the personel and

he who in later times had charge of the signet, under which 'council', as distinct from 'parliament', came to be summoned." (S.H.R.,XX, 283)

With respect to summons, it is interesting to compare the statute of 1457. "Item the lordis thinkis speidfull that na freholders that halds of the king vnder the sovme of XX xi be constrenzeit to cum to parliament or generale consale as for presens bot gif he be a barone or ellis specaly of the kingis commandement be warnyt other be officiaris or be wryte." (A.P.,II, 50, c. 21)

(I) S.H.R. XVIII, 166.

(2) The lords auditors were the bishop of Brechin, the prior of St. Andrews, abbot of Paisley, archdeacons of St. Andrews and Aberdeen, for the clergy; lords Somerville, Abernethy, Maxwell of Calderwood, and Abercromby of that ilk, for the barons; James Parkle of that ilk, William of Liberton, Strathachon and Gilbert Menzies, for the commissaries of the burghs. (A.P.,XII, 22).

functions of the General Council." (1) In such case, bishop Kennedy must have played his part in this aspect, also, of the national history. He occupied an influential position, for example, in 1452, when "thar was maid VI or VII lordis of the parliament and banrentis". In the same parliament, "thare was syndry landis gevin to syndry men, be the kingis secret counsall." (2)

Whatever the ground for the reflections upon the permanence of these acts, (3) the privy council undoubtedly (4) played an important part at certain junctures of this reign; throughout the whole period it seems to have been steadily, if unobtrusively, asserting a more crucial position in the machinery of state.

As far as the bishop of St. Andrews was influential in this evolution, we may surmise that his aim was to secure greater efficiency; that he sought to establish General Council as a speedier and more elastic tribunal than parliament, - a body, moreover, to a greater or less degree

(1) S.H.R., XVIII, 166.

(2) Auch. Chron., 10-11; 48-9.

(3) "the quhilk men demyt wald nocht stand."

(4) On 4th. August, 1455, for example, parliament referred the matter of an embassy to the pope to the "secret consale" (A.P., II, 43) In the following year, a General Council was included among the records of parliament for the last time.

under the influence of the crown. Although there was a
(I)
general assimilation between the two assemblies, yet the
competence of the Council was limited; parliament, with its
higher powers, might act as a check upon its authority.
If, however, General Council were smaller and more secretive,
approximating to an enlarged privy council, on the other hand
its members, including, no doubt, the lords of parliament,
would experience a professional training and develop a technical
knowledge of procedure.

The lords of parliament were probably an important link
between parliament and the councils; their influential
position may have been also owing to the judicial work of
parliament. In the parliament of 1455, for example, amid the
pressure of business arising out of the Douglas rebellions,
the crown nominated representatives to 'continue' the
(2)
parliament, so that a court might be always sitting to obviate
any plea of desertion.

This nomination of a royal commission to hold parliament
is a new feature in the history of the constitution. It

(I) S.H.R., XX, 282.

(2) A.P. II, 43, c. 13; On 4th. August, 1455, parliament
was prorogued till 12th. October. "And ordanyt daly to be
continuyt be certane personis ordanyt therto."
The question of a desertion of court might easily arise
amid the vicissitudes of a protracted process of treason.

was doubtless suggested by, although it is differentiated from, the older customs, alike of the delegation of authority by the Estates to a commission of their number during pro-
(I)
rogation, as of the appointment of committees to prepare business and report to the house.

These older commissions were both in working existence in the reign of James II. Thus we have examples of the delegation of authority when the General Council in 1440 deputed commissioners with authority, and when, in the parliament of 1452, ordinances were made "by our souerane lorde the king and be the awyss of the lords now beande
(2)
present with him." The second kind of committee was operative in 1451 when twelve persons, representing the three estates, were commissioned to report upon the laws of the realm to the next General Council, to be held at Perth. The same house appointed a committee to report upon the coinage; their "advisement" was submitted to the parliament
(3)
at Stirling in October, 1451.

(I) At first prorogation had been to a certain specified date, but by the time of James I. it was found more advantageous to continue the parliament upon notice of fifteen or twenty days during a certain stipulated time. (A.P., II, 19, 23)

(2) A.P., II, 56, 41.

(3) Ibid, 36, c. 10; 37, c. 17; 39-40.

The device of holding parliament by commission became less frequent from the time of James I: but the practice of nominating delegates to prepare the business of the house became rooted from reasons of convenience. This was the origin of the Lords of the Articles,- a title which first definitely appears within two years of Kennedy's death, in the parliament of October, 1467⁽¹⁾. The evolution went hand in hand with the growth of the power of the Privy Council.

"In proportion as members were expected to await the end of the sitting, to approve and accept the acts as finally pronounced', the question of despatch was bound to arise. A preparatory committee to consider and formulate proposals coming from the privy council, or handed in from various sources⁽²⁾ would be the obvious expedient."

DEVELOPMENT OF THE SESSION.

Connected with the metamorphosis of parliament is the evolution of the Session during the same period.

The idea of Sessions first appears in our annals after the return of James I. from his captivity. On the one side there was a growing tendency to seek the king's justice; on the other, the development of a uniform system of justice dispensed by the crown would be an important factor in a policy of unification under a strong, national monarchy.

(1) A.P., II, 88.

(2) S.H.R., XX, 282.

In 1425 the king projected the idea of a special court comprising the chancellor and "certane discreet persounis of the thre estatis" on the royal nomination to hold three sessions in the year "quhare the king likis to commande thaim." They were to have competence to "examyn conclude and finally determyn all and sindry complayntis causis and querrellis that may be determynit before the kingis consale."⁽¹⁾

The success of this court is not on record; it did, however, pave the way for future development. Thus, in 1438, it was ordained that two sessions were to be held yearly "as aulde vse & custum is", while in the important parliament of 1449-50, the act of James I. was revived.⁽²⁾

(1) A.P., II, 11 c. 19. The sessions were to begin on 30th. September, the first Monday in Lent, and 23rd. June, and to sit "with continiacion of dais folowande as beis speedfull."

This court was based upon the practice of parliament and General Council to depute a committee upon civil causes. The newly appointed lords, however, proceeded upon the royal nomination and were invested with plenary powers; the older committee had to report. The king's idea was, probably, to ease the burden entailed upon parliament by the increase in judicial business. It was for the same reason that he had tried to insist upon the competence of the ordinaries. (See Hannay, Antecedents of the College of Justice, Book of the Old Edinburgh Club, XI, 90) The difficulty was the greater in that there was no distinct line of demarcation as to civil cases that could be brought before parliament in the first instance.

(2) A.P. II, 32-3, 34 c. 5. The act of 1438 supplied a technical name for the new court. (A.D.C II, xxi) A meeting of the session sat at Perth in February, in accordance with the provisions of the January, 1449-50. (Bk. of Old Edin. Club, XI, 92)

If the influence of bishop Kennedy was strong at this important juncture, it was equally marked when the parliament of 1456 took the initiative out of the hands of the crown. Three delegates from each of the estates were presented to the king to be sworn in to administer justice during the interval before the next parliament. (1)

Further important developments took place in the parliament of March, 1457-8, when we can again trace the finger of the bishop of St. Andrews. It was ordained that until the next parliament the lords of session should sit three times a year, for forty days, at Edinburgh, Perth and Aberdeen. The judges were to be three nominated representatives from each of the estates, with the clerk of the register; their jurisdiction to cover actions of spulzie, (2) besides "all obligacionis, contractis, and all maner of dettis and uther civile actionis." No obligation was imposed upon a suitor to bring his case before the lords of session in the first instance; if he did do so, he had committed his suit to a court of ultimate decision. (3)

(1) A.P., II, 46. It is suggestive of Kennedy's leadership that "as to the last artikill belangande Justice the clergy thinkis the artikill is weill made of the self and beseikis our souerane lorde to ger it be continuyt and execute."

(2) Professor Hannay has drawn attention to the fact that the "development of the sessions was connected closely with the growth of the action of spulzie." (Bk. of Old Edin. Club, XI, 93)

(3) A.P., II, 47-8. We have evidence that sessions were held and a register kept. (A.P., II, 77; S.H.R., XX, 281, 283; A D.C., II, xv).

At this point an important and interesting point first came explicitly under consideration, although it had doubtless long been a matter of serious import. This related to the tax upon the time and purse of the Lords of Session. As they received no remuneration except their quota of the forty shillings! 'unlaw', it was difficult to induce capable men to undertake the office. Kennedy's hands must have been tied from want of funds. He did his best to ~~to~~ meet the difficulty by causing the appointment of the judges to proceed upon grounds of territorial vicinity rather than on any specialised knowledge of the law. (I)

At the same time, an appeal was made to their "benevolence" to "beir ther awne costis considering the schortness of the tyme of their sitting, the quibilk is bot xl dais, and perauentour in vii zeir not to cum agane to thame."

Although lack of endowment was, it is true, an inherent weakness which had an important effect upon the subsequent career of the Session, yet in Kennedy's day a vigorous attempt was made to set up a regular and systematic machinery to deal with civil causes. (2)

(1) In Kennedy's time law had not yet come to be the province of specially trained, professional laymen. The lords chosen from each of the estates represented, rather, three different types of practical experience. In such circumstances the Church, with its knowledge of the canon law, was able to exercise a profound influence upon the Session.

(2) A further step was taken in this direction in 1464, when the bounds of the Session were defined. (A.P., XII, 31)

To his efforts, then, we should ascribe the development of the scheme projected by king James I. From being a court of his nominees and ambulatory at the will of the king, to supplement the jurisdiction of the ordinaries and of the auditorial committees of the Estates, an attempt had been made to systematise the procedure as an independent court of law, emancipated from the dictates of the crown.

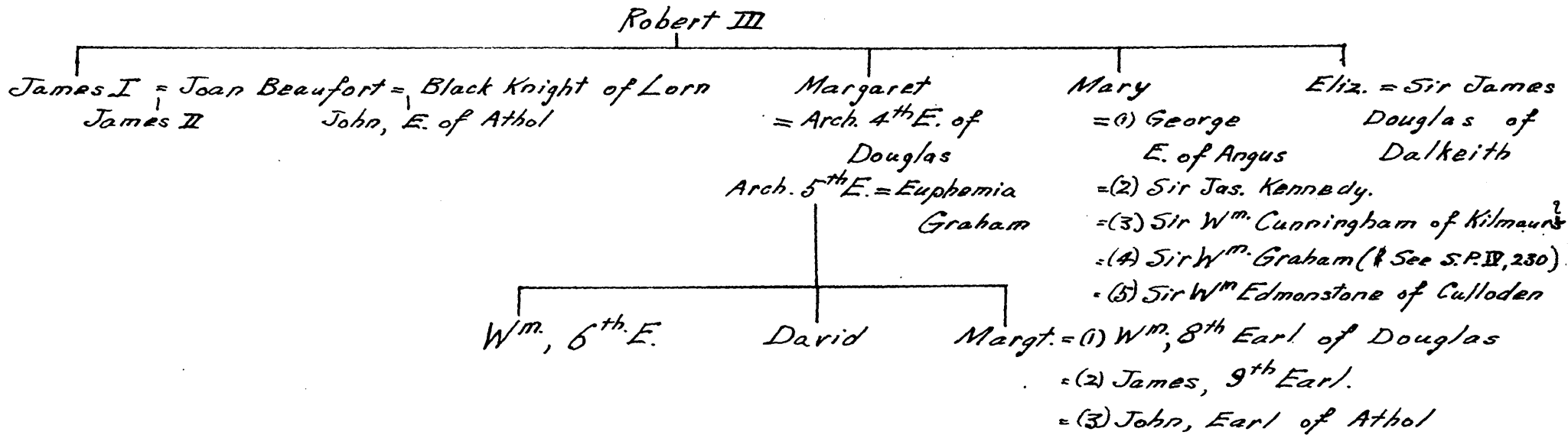
Although the idea was not immediately realised, yet it bore important fruits in later times.

If Kennedy's work was thus a noteworthy contribution to the development of the court of session, it was also, in another respect, an important constitutional landmark. As General Council came in this way to be stripped of its judicial functions, another point of divergence differentiated it from parliament. "No doubt 'general council' survived. It is contemplated and even used under James III. But its judicial purposes were being served; and when it emerges again into light it seems to have departed from its older formality and degree of publicity."

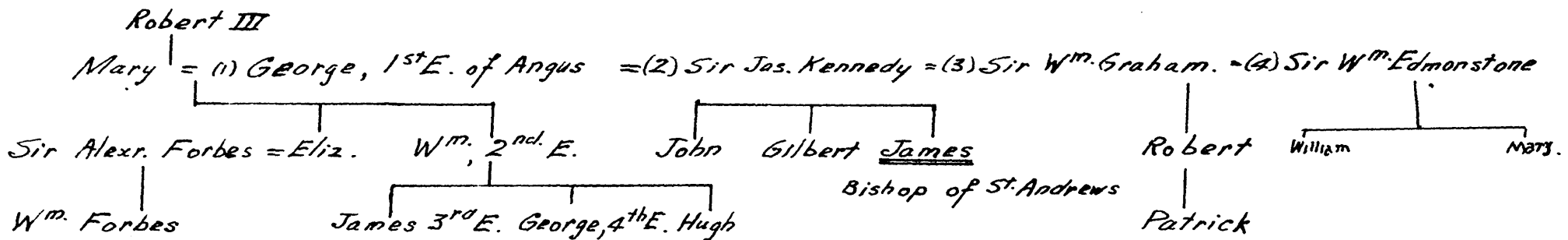
(1) Although still of a temporary character, the sessions "were on the way to become a necessary institution, and were now, under James II., expressly invested with supreme powers." It is worthy of note that, according to the Auchinleck Chronicle, the parliament of 1460, which otherwise did little good, nevertheless ordained sessions to be held. (Hannay, Bk. of Old Edin. Club, XI., 94)

(2) S.H.R., XX, 283.

THE ROYAL HOUSE OF STEWART, THE KENNEDIES, AND THEIR FAMILY CONNECTIONS

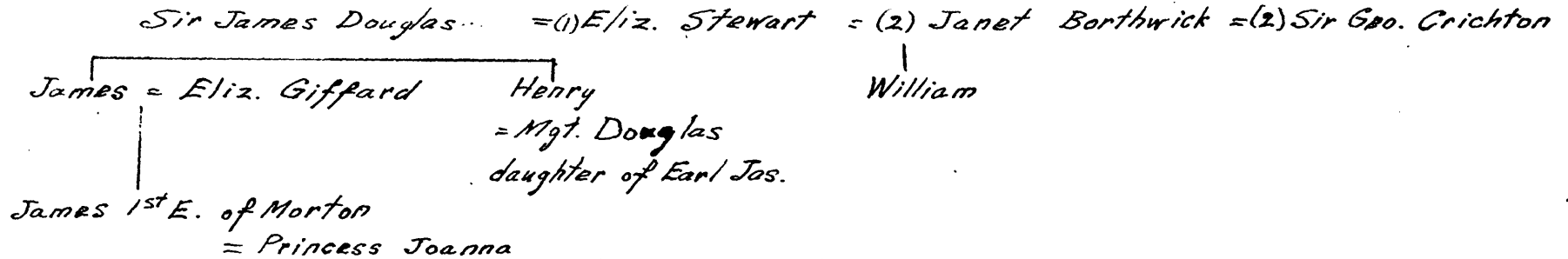


THE NEPHEWS OF BISHOP KENNEDY, ANGUS, FORBES, GRAHAM



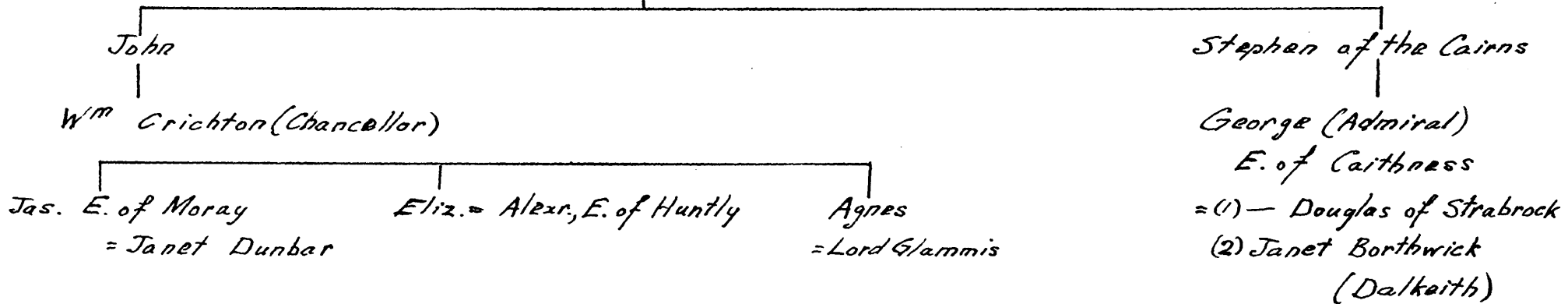
THE DOUGLASES OF DALKEITH.

Robert III



THE FAMILY OF CRICHTON

Wm. de Crichton



THE LAST OF THE BLACK DOUGLASES.

James, 7th Earl of Douglas married Beatrice St. Clair

1. William 8th Earl, married Margaret Douglas "The Fair Maid."

2. James, 9th Earl, married (1) Margaret Douglas

(2) Anne Holland

3. Archibald, Earl of Moray, married Elizabeth Dunbar.

4. Hugh, Earl of Ormond

5. John, Lord of Balveny

6. Henry (? George)

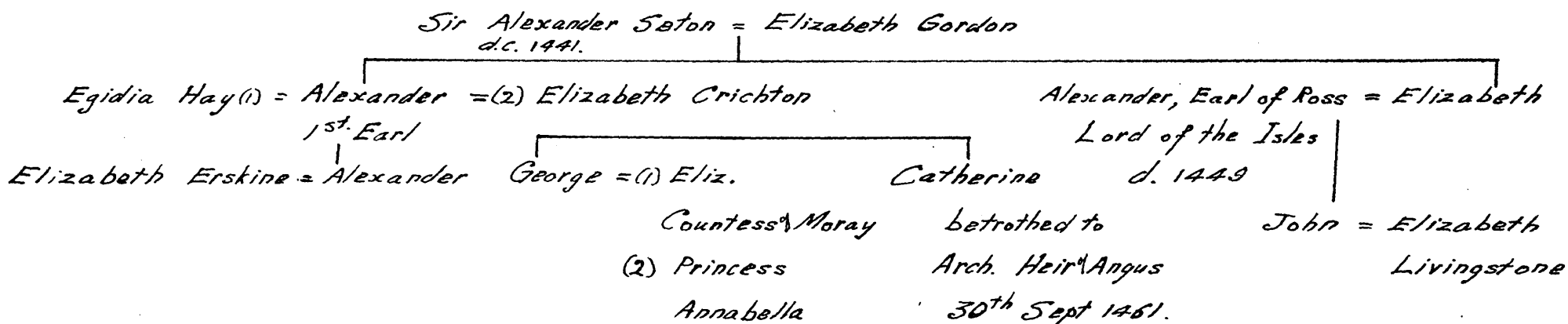
7. Margaret, married Henry Douglas of Dalkeith.

8. Beatrice, married Earl of Errol

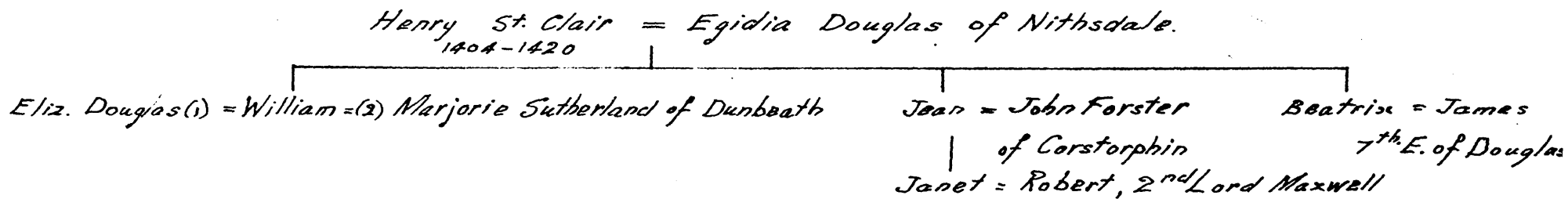
9. Janet, married Lord Fleming of Cumbernauld.

10. Elizabeth, married Wallace of Craigie.

THE HOUSE OF HUNTLY



THE HOUSE OF ST. CLAIR.



Elizabeth Douglas was daughter of Princess Margaret Stewart and the 4th. Earl of Douglas (thus a Cousin of James Kennedy). She was the widow of

- (1) John Stewart, Earl of Buchan
- (2) Sir Thomas Stewart, natural son of Alexander Stewart, Earl of Mar.

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