SOME OLD-TIME SCOTCH JUDGES.

The Law Courts of Scotland have been as famous for the personalities of their Judges as for the quality of the law propounded and decreed therein, and few public institutions of ancient lineage have numbered among their members so many persons of marked character and individuality as the Court of Session in Edinburgh. In Scotland individual eccentricity has never been a barrier to merit and ability in the race for fame; on the contrary, it has often been a powerful asset, and the records of her politics and public life teem with the personal eccentricities and outstanding peculiarities of her most distinguished citizens. The Court of Session, by which term the Law Courts of Scotland are described, has held since the date of the Union of the Crowns in 1707 and still holds, a position of peculiar dignity. Members of Parliament and the higher Civil Servants have had by force of circumstances their residence in London, and accordingly for two centuries the Law Courts have been left seised of the highest social position available in the world of Edinburgh, "mine own romantic town," as Sir Walter Scott loved to call it.

As a result a Lord of Session has had a special prominence in Scotland which none save a Peer of the Realm could dispute. They not only moulded the legal traditions of the country and by their decision affected the tone of its administration, but their influence upon its social life has been remarkable. In their roll are to be found some unworthy and commonplace names, but many of them are well worthy of resurrection from the vaults of local history to the daylight of the present generation. The great era of the Court of Session began after the Jacobite Rebellion in 1745 had been suppressed, when, with the advent of peace, there ensued a dawning of a new intellectual and commercial life for Scotland. There then began to adorn the Bench a series of names concerning which story and legend still circulate to this day in the city which was the scene of their activities and triumphs.

Robert MacQueen, Lord Braxfield, was the most celebrated character of his day in Scotland. He is the original of the Judge in Robert Louis Stevenson's "Weir of Hermiston," and if we had no other testimony than this, he must stand out clear as a formidable and interesting personality. Lord Cockburn in his "Memorials" thus describes his appearance: "Strong-built and dark, with rough eyebrows, powerful eyes, threatening lips, and a low, growling voice, he

was like a formidable blacksmith. His accent and dialect were exaggerated Scotch; his language, like his thoughts, short, strong and conclusive." He began life as a solicitor, and afterwards migrated to the Bar, where his mastery of the conveyancing and land laws of Scotland won him an early prominence. In the feudal and civil branches of law he was unrivalled and his knowledge of commercial jurisprudence was not contemptible. But the source of his great success lay in the driving power of his reasoning and the vigorous application of principles, which he knew by heart, to each specific case which was brought before him. In fighting his cases, mastery or extinction was his rule of conduct, and few more formidable advocates have ever worn a gown. But this ardent force of intellect and rugged strength of personality were marred by many flaws of character. He was almost illiterate, and completely lacking in any taste for the finer sides of life. His very strength of character and his passion for dominance bred in him a deep contempt for the advancing culture and growing refinement which characterized his age. He contrived on all occasions to shock the finer sensibilities of his neighbours and the public, but his bucolic mirth, crude humour and force of character saved him from total unpopularity. Endless stories are preserved of him to the present day, but many of them, if repeated, would have to be veiled in the obscurity of a learned language. His butler once gave notice because his Lordship's wife was always scolding him. "Lord," was Braxfield's reply, "ye've little to complain o'; ye may be thankfu' ye're not married to her." He is also recorded to have apologized to a lady whom he swore at for bad play at whist by declaring that he had mistaken her for his wife. He was a staunch Tory, and was in due course elevated to the Bench as Lord Justice Clerk. It was the time of the French Revolution, and a wave of subterranean agitation was passing over Scotland. The Government was in a state of alarm, and there were many trials for sedition and high treason. Over the majority of these it fell to Braxfield's lot to preside, and his conduct as a criminal judge cannot be visited with too severe censure. It still remains a stain in the records of the Scottish Bench, and he has been well described as the Judge Jeffreys of Scotland. Some of the tales of his judicial conduct are not without touches of humour, but the circumstances which surround them make their barbarous coarseness the most prominent feature. A defendant in the Court had made a very eloquent speech in his own defence. When he had concluded Braxfield said, "Ye're a very clever fellow, man, but you would be nane the worse o' a hangin'." One day when the father of Francis Horner, the Whig politician, was entering the jury box as a juror on a political trial, Braxfield, who was acquainted with him,

cried out, "Come awa', Mr. Horner, and help me to hang some o' thae damned scoundrels!" There is one celebrated jest of his whose profanity almost bars its repetition. Gerald, a political prisoner, stated in his defence that "all great men had been reformers beginning with 'our Saviour.'" "Muckle he made o' that," declared Braxfield, "he was hanged." When dealing with political prisoners about whose prosecution there often arose technical difficulties, his doctrine freely disclosed was, "Bring me the prisoners and I'll find them the law." When he died in 1799 in his 78th year Scotland lost one of her most outstanding characters, but the administration of law and order was freed from a most unhappy influence.

David Rae, Lord Eskgrove, succeeded Braxfield as Lord Justice Clerk, or head of the Criminal Court in Scotland. He was a lawyer of considerable talent, and his judicial and legal lore was extensive, but he lacked Braxfield's grasp and logical acumen. Braxfield was a character to be feared; Eskgrove was one to be laughed at. Edinburgh was full of stories of his ludicrous acts and quaint mannerisms. He lent himself to imitations of his voice and manner, and Sir Walter Scott was in those days famous for this gift. Lord Cockburn thus describes him in his old age: "He seemed in his old age to be about the average height, but as he then stooped a great deal, he might have been taller in reality. His face varied, according to circumstances, from a scurfy blue; his nose was prodigious; the under lip enormous, and supported on a huge, clumsy chin, which moved like the jaw of an exaggerated Dutch toy. He walked with a slow, stealthy step—something between a walk and a hirple, and helped himself on by short movements of his elbows, backwards and forwards, like fins. The voice was low and mumbling, and on the Bench was generally inaudible for some time after the movement of the lips showed that he had begun speaking; after which the first word that was let fairly out was generally the loudest of the whole discourse." There are many stories told of him. A counsel who was defending a client on a charge of disrespect to the King, quoted Burke's words, "that kings are naturally lovers of low company." His Lordship broke in with, "Then, sir, that says very little for you or your client, for if kings be lovers of low company, low company ought to be lovers of kings." Once when condemning a tailor to death for murdering a soldier by stabbing him he aggravated the offence thus: "And not only did you murder him, whereby he was bereaved of his life, but you did thrust, or push, or pierce, or project, or propel, the le-thall weapon through the belly-band of his regimental breeches, which were His Majesty's!"

In the trial of Glengarry for murder in a duel, a lady of great beauty was called as a witness. She came into Court veiled. But be-

fore administering the oath Eskgrove gave her this exposition of her duty: "Young woman! you will now consider yourself as in the presence of Almighty God, and of this High Court. Lift up your veil; throw off all modesty, and look me in the face." In pronouncing sentences of death he showed some extraordinary foibles. It was a favourite practice with him to console the prisoner by assuring him that "whatever your religious persua-shons may be or even if, as I suppose, you be of no persua-shon at all, there are plenty of reverend gentlemen who will be most happy to show you the way to eternal life." A whole volume could be filled with his eccentricities, and many of which he was really not the author were credited to him. His exploits were the staple of public conversation, and when he died in 1804 in his 80th year he left a blank which it was hard to fill.

At that period the Lord President or Lord Chief Justice of Scotland was Ilay Campbell, a member of the House of Argyle, long leaders of the Whig nobility in Scotland. As a lawyer he knew no superior in his time, and he was far in advance of his age in a genuine desire for reform of the law. He was the first Judge who thoroughly grasped the comprehension of modern mercantile jurisprudence and his forensic writings were admirable. They were models of clearness and brevity and lucid reasoning. Law Reform was one of his chief hobbies, and any individual or any scheme which had as its aim improvement of the law of Scotland found his ear ready to listen. At this period of the day the Court of Session consisted of 15 Judges, and it was asserted that the Lord President developed an undue skill in intrigue in managing them towards his own opinions. But when the circumstances of the situation were considered, it must have been somewhat of a benefit to a country to have a personality of a managing turn of mind at the head of so unwieldy a body. Ilay Campbell, when he was not on the Bench, passed his time in his library or on his farm, and few houses saw more varied or better company than his. It was his custom as president to give substantial and pleasant evening parties to young barristers, and there they enjoyed good food and copious claret and free talk. He died mourned by all his relatives and friends and regretted even by his opponents.

James Burnet, Lord Monboddo, was endowed with great learning and a most amiable disposition, and was also possessed of many eccentricities of opinion and habits. He was a pioneer of many theories which Darwin subsequently proved, and his speculations concerning the origin of the human race were a source of much interest and amusement to his contemporaries. His theory was that man developed from a totally wild, barbarous condition, practically similar to

that of apes. Up to that man had had a tail like other animals which in the progress of civilization and through the constant habit of sitting had become obsolete. There is a story told of Lord Kames, a brother judge, yielding place to him with the jibe, "You must walk first that I may see your tail." He was an enthusiast for the Greek and Latin authors, not merely to extend his classic scholarship, but because he was a firm believer in their philosophical opinions, and would have revived the Greek manners and customs. He was wont to give suppers in the style of the ancient Greeks and to set before his guests examples of ancient cookery such as Spartan soup, mulsum, etc. He was an enthusiastic Platonist, and, when he visited Oxford, was received with great acclaim by the leading scholars of the University, but subsequently shocked their most scholarly instincts by a series of false quantities in a Latin address which he there delivered. Despite this deficiency, he acquired a high place in the literary society of England as well as in Edinburgh, and made frequent journeys to the capital. There is a famous account, admirably told by Boswell, of a meeting between Dr. Johnson and Monboddo when the latter visited Scotland. The two savants, it is needless to say, had a perfect feast of acrimonious but affectionate argument. Lord Monboddo was esteemed an able lawyer, and on many occasions proved his judicial ability in the conduct of his cases, but one of his peculiarities was that he always declined to sit on the bench with his brother judges, preferring to remain in the body of the Court at the Clerks' table. This strange proceeding may have been due to his deafness, but it has also been alleged that he bore a grudge against his brethren for a decision given against him in some private suit of his own at the instigation of Lord President Dundas. Sometimes when the Bench above had become tired of a case and was showing signs of a desire that counsel should abate his eloquence, there would be heard from the depths of the Court a voice saying, "Gang on, I'll hear you." In his numerous journeys to London and elsewhere he always rode on horseback. He despised carriages on the ground of its being unmanly "to sit on a box drawn by brutes." At the same time a well-known Scotch M.P., Mr. Barclay, of Urie, always walked to London for the opening of Parliament. George the Third on hearing of his feats and Monboddo's riding exploits, said: "I ought to be proud of my Scottish subjects when my judges ride and my members of Parliament walk to the capital." Lord Monboddo died in 1709 at an advanced age.

Francis Garden, Lord Gardenstone, was a man of a practical turn of mind. He was not particularly noted for his legal lore, his chief energies being concentrated upon the development of agriculture and

the promotion of improvements in the district in which he lived. He was the overlord of a village called Laurencekirk, which he spared no expense or pain to improve. He was fond of encouraging manufacturers there, and on one occasion imported a hatter to reconnoitre the possibilities for the exercise of his profession. But the hatter attended church the day after his arrival, and on finding that the congregation only possessed three hats among them, his own, his patron's and the minister's, he took a speedy departure, convinced that there was a scanty field for his operations. Lord Gardenstone had two favourite tastes—a love of pigs and a love of snuff. He brought up a young pig as a pet till it became quite tame and followed him about like a terrier. In its youth it shared his bed, but as it advanced in age and size such companionship was impossible. However, it was still allowed to sleep in his Lordship's room, where he made a comfortable bed for it out of his own clothes. An ordinary snuff-box was quite insufficient to hold the amount necessary for his comfort, and he had constructed a special leathern waist-pocket for the purpose. He took it in enormous quantities, and used to say that if he had a dozen noses, he would feed them all. Lord Gardenstone died in 1793.

Of the same epoch was George Ferguson, Lord Hermand, a cadet of the ancient family of Ferguson of Kilkerran, in Ayrshire, which has given to Great Britain so many good soldiers and administrators. Ferguson enjoyed a long career at the Bar, and when he was elevated to the Bench with the title of Lord Hermand, he made a successful Judge and played an important part in all the public life of his time. But his abilities and performances would not have entitled him to any great distinction in either the sphere of law or politics independently of the strong individuality of his personal character. He was one of the most ingenuous and most incredible of the many original types which Scotland at this epoch produced. After Eskgrove's death no man in Edinburgh was so great a public character as Hermand. Lord Cockburn thus describes him: "His external appearance was as striking as everything else about him. Tall and thin, with grey lively eyes, and a long face, strongly expressive of whatever emotion he was under, his air and manner were distinctly those of a well-born and well-bred gentleman. His dress for society, the style of which he stuck to almost as firmly as he did to his principles, reminded us of the olden time when trousers would have insulted any company, and braces were deemed an impeachment of nature. Neither the disclosure of the long neck by the narrow bit of muslin stock, nor the outbreak of the linen between the upper and nether garments, nor the short coat sleeves, with the consequent length of bare wrist, could

hide his being one of the aristocracy. And if they had, the thin, powdered grey hair, flowing down into a long, thin, gentleman-like pigtail, would have attested it. His morning raiment in the country was delightful. The articles, rough and strange, would of themselves attract notice in a museum. But set upon George Ferguson, at his paradise of Hermand, during his vacation, on going forth for a long day's work—often manual—at his farm with his grey felt hat and tall weeding hoe—what could be more agrestic or picturesque?" He was a keen student and reader and had acquired a varied assortment of superficial knowledge. In private friendship he was devoted and loyal and his high character was universally esteemed; his mental gifts were decided, acuteness of penetration being perhaps the most noticeable. But apparently the quality which was the dominant note in his composition was a certain intensity of temperament which could not fail to strike anyone who met him. It was impossible for him to be indifferent and repose was unnatural and contemptible in his eyes. There was in him a sort of divine ferment which carried him a flight beyond the ordinary human beings. It was said if Hermand had made the heavens, he would have permitted no fixed star. His ardour was not reserved for special occasions. It would blaze out in a legal argument; at the card table or over the wine cups; in consultation with a ploughman or in talking to a child. Lord Hermand was fond of the pleasures of the table and was one of the last of the great drinkers. With Hermand, drinking was not a pleasure but a virtue. Lord Cockburn says "it inspired the excitement by which he was elevated and the discursive jollity which he loved to promote." The worship of Bacchus was to him a sacred duty, but in its performance there was never a sign of violence, coarseness, impropriety or excessive noise. He held that the cordiality engendered by claret and punch was conducive to right thinking and used to aver that he could convert the Pope to Calvinism if he could only get him to sup with him. There are many stories told of his conduct and actions at the Bar. At one time he was counsel before the House of Lords with Sir John Scott, afterwards the famous Lord Eldon. Eldon had written out a speech which he handed to Hermand for approbation and asked if he thought it would do. "Do, sir?" was the reply. "It is delightful—absolutely delightful; I could listen to it for ever; It is so beautifully written: And so beautifully read; But, sir, it is the greatest nonsense! It may do very well for an English Chancellor; but it would disgrace a clerk with us." He carried his belief in drinking into his legal work. Two young gentlemen, great friends, went together to the theatre in Glasgow, supped at the lodgings of one of them, and passed a whole summer night

over their punch. In the morning a wrangle broke out about their separating or not separating, when by some rashness, if not accident, one of them was stabbed, not violently, but in so vital a part that he died on the spot. The survivor was tried at Edinburgh, and was convicted of culpable homicide. It was one of the sad cases where the legal guilt was greater than the moral; and, very properly, he was sentenced to only a short imprisonment. Hermand, who felt that discredit had been brought on the cause of drinking, had no sympathy with the tenderness of his brethren, and was vehement for transportation. "We are told that there was no malice, and that the prisoner must have been in liquor. In liquor! Why, he was drunk! And yet he murdered the very man who had been drinking with him! They had been carousing the whole night, and yet he stabbed him, after drinking a whole bottle of rum with him; Good God, my Laards, if he will do this when he's drunk, what will he not do when he's sober?"

Lord Hermand died at the ripe age of 84, to the sorrow of a vast circle of friends, without ever having known, despite his potations, what a headache was and without the slightest decay of his mental powers.

Allan Maconochie, Lord Meadowbank, was a man of a different type. His researches touched every subject, legal, historical, literary and scientific, and as a result their variety was in excess of their accuracy. The exercise of the mind was his sole pleasure and many of his views were wondrously singular. He was fond of clothing his arguments in the greatest amount of metaphysical phraseology possible. It is related of him that he was married at seven in the evening and was found at a later hour to have disappeared. On being sought for he was discovered absorbed in the composition of a philosophical essay on "Pains and Penalties."

Robert, Lord Cullen, adorned the Bench at the same epoch. He was the son of a great physician of the same name and the abilities which would have entitled him to a vast practice were marred by his irregular indolence. He managed to acquire a certain amount of unpopularity by reason of his power of mimicry. Dugald Stewart, the philosopher, described him as "the most perfect of all mimics." His skill was not restricted to imitations of voice, looks, manners, and external peculiarities. He was able to copy the very words and thoughts of his victims. Robertson, the historian, was at that time Principal of the University and a great friend of Cullen's. He was renowned for his piety and sobriety. In a certain tavern, Cullen once gave such a successful imitation of the Principal indulging in indecorous toasts, songs and speeches that a scandal-loving party on

the other side of the partition went gaily home in the belief that they had caught the devout historian unawares. Of the successors of these worthies at a later date, the two most famous are Lord Cockburn and Lord Jeffrey. Francis Jeffrey had a distinguished career at the Bar and adorned the Bench with success and distinction for many years, but he is more fully known to fame by reason of his connection with the *Edinburgh Review*. The *Edinburgh Review* was founded in 1802 by one of the most distinguished circles of men that ever dwelt in the same city. They were Liberals of an advanced type in that age, and they came to the conclusion that the best method of attack upon the unbending Toryism which dominated Scotland under the reign of Lord Melville, was through the foundation of a first class Review which would serve to spread Liberal ideas in politics, economics and theology. The first editor was Sydney Smith, the celebrated wit, and he was shortly afterwards succeeded by Francis Jeffrey. The other members of the group were John Allen, Francis Horner, who was afterwards in Parliament, and whose death at an early age was a great loss to his country, and Henry Brougham, afterwards Lord Chancellor of England, one of the most extraordinary mortals who have ever adorned public life. The average age of the founders was not more than 27, and in the circumstances of their time their audacity is little short of wonderful. But Jeffrey and his colleagues at their early ages were better prepared by intellectual capacity and training to instruct the public opinion of the age than any men of their time. The *Review* speedily attained a pre-eminent position in the literary world, and its attacks upon the existing financial and political system did more than anything else to bring about the famous Reform Act of 1832, which opened a new chapter in British politics. Jeffrey retained the editorship for many years, and his literary reviews still rank as masterpieces. When he rose to be Solicitor-General and came on to the Bench he had to abandon his literary work, but his fame as the first writer and journalist who made a mark upon the political opinion of his time, still remains undimmed. Some of Jeffrey's relatives emigrated to Canada and one of the most distinguished members of the Manitoba Bar can claim kinship.

Posterity has been indebted for a clear picture of many of these amazing characters to the fertile pen of one who sat in the same high places — the celebrated Lord Cockburn, whose "Memorials of his Time" constitutes one of the most pleasing and illuminating reminiscences ever penned by mortal man. Henry Cockburn was born in 1779 of an ancient Scottish stock, and was allied by birth and marriage to the Dundases and other leading families. He was

called to the Bar in 1800, and from that year till his death in 1854 no man played a more important part in the life of Scotland. Like many of the young Whig members of the Bar, he had at first a hard struggle in face of political prejudice and official hostility, but as he himself philosophically remarked, this comparative idleness has its advantages as it gave himself and his friends of like sympathies, leisure to cultivate their intellects and prepare themselves more adequately for the great task that lay before them of reforming the political and legal system of their country. His legal talents and gifts of address and eloquence gradually won him an excellent practice, and he speedily became recognized as one of the leading champions of popular rights against official despotism. He took a prominent part in all the political agitations of the day; the attack upon the slave trade; the demand for Catholic emancipation and the campaign for Parliamentary reform. The leadership of the Scottish Bar was divided between himself and Francis Jeffrey, and in December, 1830, when the Whigs came into power, he became Solicitor-General of Scotland and was allocated the task of drawing up the Scottish side of the great Reform Bill of 1832.

In addition to his political and legal attainments, his literary merits were not inconsiderable and he was an intimate member of the *Edinburgh Review* coterie. His reputation in this sphere brought him in 1831 the honour of Lord Rector of Glasgow University. In 1834 he was made a Judge of the Court of Session, and he adorned the Bench with dignity and success till his death at an advanced age, in 1854. The writer has, within the last decade, listened in Canada to a personal account of a trial at Inverness, presided over by Lord Cockburn about 1847, from a witness who, as a boy, was called upon to testify therein. There could be no better portrait of Lord Cockburn than the following account of him given in the *Edinburgh Review* of 1857:

"Henry Cockburn was rather below the middle height, firm, wiry and muscular, inured to active exercise of all kinds, a good swimmer, an accomplished skater, and an intense lover of the breezes of heaven. His face was handsome and intellectual; a capacious brow, which his baldness made still more remarkable; large lustrous, and, in repose, rather melancholy eyes, which, however, when roused by energy or wit, sparkled like a hawk's, and a well-formed nose were the principal characteristics of a very striking physiognomy. His manner and address was, among his friends and intimates, singularly winning and attractive. He was the model of a high-bred Scotch gentleman of the last distinctive school which his country possessed. He spoke with a Doric breadth of accent, such as was used by the higher classes

in Scotland towards the end of the last (eighteenth) century, untinged alike by mere provincialism or vulgar affection of the language of the south. In temperament, while he could assume any mood, and sympathies with all, and was master alike of the stern and the pathetic, he was naturally of an easy and careless hilarity. His flow of good humour was never failing, and neither care, nor anxiety, nor time could quench it. He had high thoughts, noble ambition, deep reflections on men and things, but they never weighed heavily enough upon him to repress the elasticity of a spirit which bore him through all the vicissitudes of an active life, and burned as brightly at the age of threescore and ten as it did during the period of his vigorous manhood.

"Cockburn was one of the most popular men north of the Tweed. His was not the popularity of a great name like that of Scott, or Jeffrey or Wilson, or Chalmers. It was good, honest, personal liking. From the Highland chairman who stood at the corner of the streets of Edinburgh to the Moderator of the General Assembly, from the smallest "laddie" at the Edinburgh Academy to the old lady of ninety in Trinity Hospital, all knew and delighted in the sunshine of his smile and the cheerful, kindly humour of his address. He had a word and good deed for all; a skating holiday for the schoolboy, a half-hour's gossip, spiced perhaps with ancient scandal, for the nonogenarian, old-school flirtation for the girls, and exhaustless stores of unrivalled wit and anecdote for his younger associates, all as ready, genial and heart-springing as his daily intercourse with his contemporaries. Nor was this popularity confined to Edinburgh. He was known to all over Scotland. From Aberdeen to Wigtown no assembly of Scotland, young or old, could gather, in which his lineaments were not known and recognized, or in which his approach was not the signal for a vociferous welcome.

"A dash of eccentricity mingled with the originality of his character. Attired with the scrupulous precision of a well-bred man, he set the grace of fashionable dress at defiance. His hat was always the worst, and his shoes, constructed after a cherished pattern of his own—the clumsiest in Edinburgh—so uniformly and characteristically that they became identified with the springing step and picturesque figure of the man. He despised great-coats and umbrellas, and down to the last year of his life constantly wandered forth at midnight, in defiance of rheumatism or lumbago, to enjoy a solitary hour's meditation, or a chatting stroll with any companion of any age who might be fortunate and weatherproof enough to accompany him. His junior friends of the schoolboy class always had the impression that he was on their side against despotic authority—an im-

pression not diminished by seeing the eminent barrister, and even the grave Judge, careering along the street slides in defiance of policemen, and giving as much sly countenance to a snowball "bicker" as a well-disposed citizen might decently do. In fact he loved freedom and nature; he detested all that was finical and prudish, and it did one's heart good to witness the energy with which, on breaking up for the holidays, he would incite the liberated urchins to shouts which might wake the seven sleepers.

"Cockburn was the very life of the world around him. He made amusement himself, and was the cause of it in others; bantered the grave and more pretentious members of the fraternity, and launched his humorous shafts at the great Jupiter of Criticism himself, dispelling with well-pointed pleasantry the slightest pedantic cloud which might threaten to overshadow them. A professed talker he abhorred, nor had he the least idea of allowing one man to usurp conversation which was the privilege of all. Even Jeffrey's volubility, if it broke bounds or occupied more than its due share, would be effectually cut short by a timely jest or the sudden intrusion of a grotesque illustration. He came to be happy, and anything which palled or fatigued, even if it were learning or intellect in excess, found him a formidable and merciless foe. His own powers of conversation, however, were of a high and rare order, and the succeeding pages convey a very just impression of them. So he was wont to talk by his Christmas fireside, in his tower by the Pentlands, and to tell his younger friends how their grandfathers lived. He was a most acute observer of men and manners, gifted by a lively fancy, a refined taste and a flow of native wit of singular quaintness and pungency. Under a certain affectation of contempt for book-worms and big-wigs, he concealed various varied readings and considerable acquaintances with many branches of literature. He was, despite the woes of his High School life, a fair classic; and had studied the contents as well as the condition of a library, which he had collected with the judgment of a scholar and the skill of a bibliographer.

"In his profession he deserved, as an orator, to be classed at the very head. Nature and art combined to bestow graces on his eloquence. He had a finely-modulated voice of happy and concise expression, and a command of the human passions in all the phases altogether peculiar to himself. He could touch with a strong and certain hand any chord, from uproarious merriment to the deepest pathos or terrible invective; and, the sure type of an orator, he seemed to feel himself all the emotions which he was anxious to inspire. His practice was considerable, his apprehension quick and his strong grasp of reason and common-sense often supplied the place and got the better of the profounder erudition of his great contemporaries."

From the point of view of the present generation perhaps the most valuable of all his excellent qualities was his happy capacity for being able to describe the scenes and incidents which surrounded his life in a vivacious and humorous manner, and to hand down to us a vivid and accurate picture of the times in which he lived. His home at Bonaly was a unique centre of social and intellectual activity. He was known to and acquainted with all the leading personages of his day, and he kept open house even for his political foes. If there is any desire for an acquaintance with the social and political life of Scotland in the early half of the last century, the picture can best be acquired by a study of the memorials of this gifted Judge.

J. A. STEVENSON.

Ottawa.

WHAT IS WRONG WITH THE JURY SYSTEM?[1]

America, no doubt, is more given to criticizing her institutions than any other country on the face of the globe. I presume every American thinks the freedom of speech which the Constitution guarantees is a duty thrust upon him to stir things up occasionally. Very few of us neglect this duty or deny ourselves this privilege. Everything comes in for it occasionally, but, when all else fails, the jury system is always a fruitful source for soulful reflection and destructive logic.

What is wrong with the jury system? Do you know? Has it ever occurred to you that you might be in some measure to blame for the miscarriage of justice for which our courts are daily blamed?

How many men do you know who are willing and, possibly, anxious to serve on juries, whom you consider qualified to be there? How many of these men would you be willing to trust with the settlement of your business affairs or with the determination of your personal guilt or innocence?

I had a case which attracted a good deal of local interest, because of the parties concerned. Both were Jews and both inclined to air their troubles to anyone who would listen to them. It became known as the case of Potash v. Perlmutter.

For three days we submitted evidence of the contract between this merchant and his manager. There was a certain fixed salary and a graduated scale of commissions on sales. Because of careful

[1] EDITOR'S NOTE.—Although Mr. McConnell's comments relate strictly to the jury system prevailing in the United States, their interest is not a remote one to Canadian readers at the present time.