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Scottish Home Rule Association  
The Scottish home rule debate  
of 19th and 20th February,  
1890

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1890

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THE SCOTTISH HOME RULE ASSOCIATION.

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# The Scottish Home Rule Debate

Of 19th and 20th February, 1890.

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ANALYSIS OF THE DIVISIONS

AND

REMARKS ON THE DEBATE.

ALSO

ARCHIBALD ALISON'S ARTICLE

ON

*The Old Scottish Parliament.*

&c. &c. &c.

“Stands Scotland where it did?  
Alas! poor country;  
Almost afraid to know itself! It cannot  
Be call'd our mother, but our grave.”

*Macbeth, Act IV., Scene 3.*

OFFICES OF THE ASSOCIATION

25 YORK PLACE, EDINBURGH.

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# CONSTITUTION AND RULES

OF THE

## Scottish Home Rule Association.

.....

### I. OBJECTS.

*A.*—To promote the establishment of a Legislature sitting in Scotland, with full control over all purely Scottish questions, and with an Executive Government responsible to it and the Crown.

*B.*—To secure to the Government of Scotland, in the same degree as is at present possessed by the Imperial Government, the control of her Civil Servants, Judges, and other Officials, with the exception of those engaged in the Military, Naval, and Diplomatic Services, and in Collecting the Imperial Revenue.

*C.*—To maintain the integrity of the Empire, and secure that the voice of Scotland shall be heard in the Imperial Parliament as fully as at present when discussing Imperial Affairs.

### II. MEMBERSHIP AND FINANCE.

All British Subjects or persons of Scottish descent shall be eligible to be Members.

A Minimum Subscription of One Shilling Yearly will constitute Membership, and be payable to the Treasurer of the Association or to the Treasurer of any of its Branches.

### III. HEADQUARTERS AND BRANCHES.

The Headquarters of the Association shall be in Edinburgh. Branches may be formed in the various constituencies in Scotland, and elsewhere.

### IV. ANNUAL CONFERENCE AND OFFICE-BEARERS.

The Association shall meet annually in Conference to consider reports, and each Conference shall elect a President, Vice-Presidents, Chairman of Committee, Vice-Chairman of Committee, Treasurer, Colonial Secretary, and General Secretary,—all of whom will be eligible for re-election at each Conference. A list of General Committee shall be submitted annually to the Conference, which shall have power to add Members, and shall fix the place and time for the next Annual Conference.

No other business shall be submitted to the Conference except that stated in the notice calling the Meeting; and all notices of motions must be given to the Secretary at least fourteen days before the date fixed for the Conference.

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# THE SCOTTISH HOME RULE DEBATE.

*House of Commons, 19th and 20th Feb., 1890.*

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DR CLARK, M.P. for Caithness, and President of the Scottish Home Rule Association, on 19th February, 1890, moved an Amendment on the Address of the House of Commons in answer to the Queen's Speech. Its terms were as follows :—

“But we humbly submit to Your Majesty that the present mode of legislating for the domestic affairs of Scotland is unsatisfactory; that measures affecting the welfare of the Scottish people are not considered, in consequence of the pressure of business of the other portions of the United Kingdom; that when Bills relating to Scotland alone are being dealt with, the decision of the House is often contrary to the wishes of the great majority of the Scottish representatives; and that it is desirable, while retaining the supremacy of the Imperial Parliament, to devolve upon *a Legislature in Scotland the consideration of the domestic affairs of that country.*”

Mr Donald Crawford, M.P. for North-East Lanarkshire, proposed to substitute for the words in italics at the end of Dr Clark's Amendment the following words, viz. :—

“The Members of Parliament for Scotland, sitting in Scotland, the consideration of the domestic affairs of that country, or to adopt some other means whereby Scottish affairs shall be entrusted to the control of the representatives of the Scottish people.”

After a debate, in which, besides the movers of these Amendments, the House was addressed by Mr Seymour Keay (who seconded Dr Clark), Mr Mark Stewart, a Conservative, and Mr Marjoribanks, the Scotch Liberal Whip, who both opposed Dr Clark, Mr Bolton, who seconded Mr Crawford's Amendment, Mr Munro Ferguson, the Junior Scotch Liberal Whip, who opposed Dr Clark, the Lord Advocate (J. P. B. Robertson), who also opposed him, Mr Gladstone, who supported Dr Clark's Amendment, although he intimated his intention to vote against it, and Dr Wallace, who wished to add to Dr Clark's Amendment the words :—

“At such time and under such conditions as may be desired by the Scottish people”;

## The Scottish Home Rule Debate

### ANALYSIS OF THE DIVISION.

A division was taken, in which Dr Clark's Amendment was voted for by the following Scotch Members :—

Birrell, Augustine	Mackintosh, C. Fraser	
Brown, A. L.	M'Donald, Dr Roderick	
Buchanan, T. R.	M'Lagan, Peter	
Clark, Dr	Philipps, J. W.	
Esslemont, P.	Provand, A. D.	
Farquharson, Dr	Sinclair, John (Ayr Burghs)	
Grahame, Cunninghame	Sutherland, A. (Sutherlandshire)	
Hunter, Dr W. A.	Trevelyan, Sir G. Otto	
Keay, J. Seymour	Wilson, John, Lanark	—19
Kinloch, Sir J. G. S.		

While the following Scotch Members voted with the Government :—

Anstruther, H. T.	Leng, John	
Asher, Alexander	Lyell, Leonard	
Asquith, H. H.	M'Ewan, William	
Baird, J. G. A.	Malcolm, Colonel	
Barclay, J. W.	Maxwell, Sir H. E.	
Bolton, J. C.	Parker, C. S.	
Bryce, James	Reid, R. T.	
Caldwell, J.	Robertson, Edmund	
Campbell, J. A.	Robertson, J. P. B.	
Corbett, A. C.	Sinclair, W. P.	
Crawford, Donald	Smith, J. Parker	
Darling, M. T. S.	Stewart, Mark	
Ewing, Sir A. Orr	Sutherland, Thomas (Greenock)	
Ferguson, R. C. Munro	Wallace, Robert	
Gladstone, W. E.	Will, J. Shivess	—32
Haldane, R. B.		—
Hozier, J. H. C.		Adverse Majority, <u>13</u>

The following Scotch Members did not vote :—

Balfour, Gen. Sir Geo.	Elliot, Hon. A. R. D.	
Balfour, Rt. Hon. J. B.	Elliot, Hon. H. F. H.	
Barbour, W. B.	Finlay, R. B.	
Cameron, Charles	Jardine, Sir Robert	
Cameron, J. M.	Marjoribanks, Rt. Hon. E.	
Campbell, Col. Sir A.	Shaw Stewart, M. H.	
Campbell, Sir George	Thorburn, Walter	
Campbell Bannerman, Rt. Hon. H.	Vernon, Hon. G. R.	
Childers, Rt. Hon. H. C. E.	Watt, Hugh	
Currie, Sir Donald	Williamson, Stephen	
Duff, R. W.		Absent, <u>21</u>

This was really the test division on the question of Home Rule for Scotland. Dr Clark and his 18 followers and Mr Leng, who went by mistake into the wrong lobby, may be regarded as true Scottish Home Rulers.

The 32 Scotch Members, or rather (excluding Mr Leng) the 31, who voted with Mr Crawford, may be regarded as either open enemies or false friends; perhaps "pretenders," as Mr Marjoribanks called them.

The 21 Members who did not vote should be asked to account for their absence.

The result of the Division, as a whole, was that, including the Tellers :—

Dr Clark's Amendment in favour of a <i>Scottish Legislature</i> was	Votes.
negatived by - - - - -	279
Against, - - - - -	114
	<hr/>
A majority of - - - - -	<u>165</u>

The next day (20th February) Dr Clark saved discussion by adopting the Amendments of Mr Crawford and Mr Wallace, and the Amendment submitted to the House was in the following terms :—

“But we humbly submit to Your Majesty that the present mode of legislating for the domestic affairs of Scotland is unsatisfactory; that measures affecting the welfare of the Scottish people are not considered, in consequence of the pressure of business of the other portions of the United Kingdom; that when Bills relating to Scotland alone are being dealt with, the decision of the House is often contrary to the wishes of the great majority of the Scottish representatives; and that it is desirable, while retaining the supremacy of the Imperial Parliament, to devolve upon the Members of Parliament for Scotland, sitting in Scotland, the consideration of the domestic affairs of that country, or to adopt some other means whereby Scottish affairs shall be entrusted to the control of the representatives of the Scottish people, at such time and under such conditions as may be desired by the Scottish people.”

As so mutilated and disfigured by Mr Crawford and Mr Wallace, the Amendment was voted for by the following Scotch Members :—

Asher, A.	Leng, John	
Bolton, J. C.	Lyell, Leonard	
Bryce, James	Mackintosh, C. Fraser	
Buchanan, T. R.	M'Ewan, William	
Caldwell, J.	Philipps, J. W.	
Campbell, Sir Geo.	Reid, R. T.	
Clark, Dr G. B.	Sinclair, John	
Crawford, Donald	Sutherland, A.	
Duff, R. W.	Trevelyan, Sir G. Otto	
Esslemont, P.	Wallace, Robert	
Farquharson, Dr R.	Watt, Hugh	
Grahame, R. Cunningham	Will, J. Shiress	
Keay, J. Seymour	Wilson, John	—27
Kinloch, Sir J. G. S.		

The following Scotch Members voted against it :—

Anstruther, H. T.	Ferguson, R. C. Munro	
Baird, J. G. A.	Hozier, J. H. C.	
Barclay, J. W.	Marjoribanks, E.	
Campbell, J. A.	Maxwell, Sir H. E.	
Corbett, A. C.	Parker, C. S.	
Currie, Sir Donald	Robertson, J. P. B.	
Darling, M. T. S.	Stewart, Mark	
Ewing, Sir A. Orr	Thorburn, Walter	—16

Majority in favour of Scottish Home Rule, - - - 11

## The Scottish Home Rule Debate

The following 29 Scotch Members absented themselves from the Second Division :—

Asquith, H. H.	Hunter, W. A.
Balfour, Sir George	Jardine, Sir R.
Balfour, Rt. Hon. J. B.	Macdonald, Dr R.
Barbour, W. B.	Macdonald Cameron, J.
Birrell, Aug.	M'Lagan, Peter
Brown, A. L.	Malcolm, Col.
Cameron, Charles	Provand, A. D.
Campbell, J. A.	Robertson, E.
Campbell Bannerman, Rt. Hon. H.	Sinclair, W. P.
Childers, Ht. Hon. H. C. E.	Stewart, M. J.
Elliot, Hon. A. R. D.	Sutherland, T.
Elliot, Hon. F. H.	Vernon, Hon. G. R.
Finlay, R. B.	Shaw Stewart, M. H.
Gladstone, Rt. Hon. W. E.	Williamson, S.
Haldane, R. B.	

Absent, 29

The result of the division as a whole was that Home Rule	Members.
for Scotland was opposed by - - - - -	183
And supported by - - - - -	143
	<hr style="width: 100%;"/>
The majority against the composite Amendment being only	<u>40</u>
The important fact is that the object of the Association was	Votes.
supported this year by - - - - -	143
Whereas last year it was supported by only - - - - -	81
	<hr style="width: 100%;"/>
Being an addition within a year of - - - - -	<u>62</u>

It is hoped that all Scottish electors favourable to Home Rule for Scotland will preserve this list, and make it at the next General Election a terror to evil-doers and a praise and protection to all M.P.'s who have deserved well of their country.

### REMARKS ON THE DEBATE.

Perhaps the most repulsive feature of the Debate is to be found in the speech of the Lord Advocate, who is reported in the *Scotsman* of 20th February, 1890, to have referred to the Scottish Home Rule movement as being “ a step backwards, if possible, towards the darkness from which the country was withdrawn by the Union,” and who, “ speaking as a Scotsman, and not for the moment as a politician, ventured to say that anything more dismal and bleak than the prospect of life in Scotland under a Scottish Parliament he could not conceive.”

Mr Gladstone, who followed the Lord Advocate, deserves the thanks of our country for protesting against his Lordship's statement, “ that it was by the Act of Union that the Scottish people were brought from darkness into light.”

“ I never have heard,” Mr Gladstone said, “ a more extravagant statement proceed from the lips of a gentleman representing the Government in this House. What were the conspicuous acts of the Scottish Members in the Parliament of the eighteenth century? And why are Scotsmen to prefer the Scottish conduct in the Parliament of the eighteenth century to Scottish conduct in the Scottish Parliament of the seventeenth century? The action of the Scottish Parliament in the sixteenth and seventeenth centuries did much for the liberty, and therefore, for the advancement of Scotland. What was done by the Scottish Members for the advancement of Scotland in the course of the eighteenth century and down to the period of the Reform Bill? One thing I know they did. They introduced the Act of Patronage under Queen Anne. They supported the Act of Patronage under Queen Anne, which disturbed the National Church of Scotland from one end to the other, and laid the foundations, first of all, of division and dissent in the country, and, secondly, of a long controversy that only found its issue in the year 1843. I am bound to say that the right hon. and learned gentleman ought to have his answer ready to an argument that has often been made in the interests of Scotland, and to which I can find no answer, that the passing of the Act was a distinct breach of the conditions of the Act of Union with Scotland, which provided that it should be an article of the Treaty between the two countries that no change should be made in the doctrine or the discipline of the Established Church north of the Tweed. I entirely differ from the right hon. gentleman in that respect, and I am of opinion that the period between the Act of Union and the Reform Act of 1832 is not a very laudable or a very creditable period in the history of Scottish Parliamentary representation. Its condition was wretched, its franchise was a mockery, and its results were unsatisfactory in the highest degree, and stand in disadvantageous, and not in advantageous, contrast with the proceedings of many of the Parliaments of the 16th and 17th centuries.”

It is fortunate that Dr Clark was able to refer the Lord Advocate on the night of the division to an authority representing the same side of politics as himself, which contains a signal refutation of his ignorant and mean-spirited attack upon our Scottish Parliament. The authority referred to is by Sir Archibald Alison, the historian of Europe, who contributed to *Blackwood's Magazine* of November, 1834, the following article on

#### “ THE OLD SCOTS PARLIAMENT.”

“ The Scotch,” says O’Connell, to one of his *well-informed* assemblies, “ boast of having never been subdued by the English, and of having owed all their prosperity to the maintenance of their independence : I will tell

you the reason why they were never conquered—their country was not worth conquering.”—(Loud applause.) These words convey a clear idea of the composition and knowledge of the assemblies which he is desirous of rearing up to supreme dominion in the state. In this way did the Great Agitator flatter the vanity of his Irish followers, by insinuating that they had fallen a victim to England, because their country presented too fair a spoil to its rapacity; while the Scotch had maintained a savage independence only from having possessed nothing which was worth the taking. Many of our own unworthy compatriots have given too great currency to the same idea, by their unfounded and monstrous assertions, that the original institutions of Scotland were the height of human absurdity, a compound of feudal tyranny and savage violence; and that all the prosperity which now distinguishes its surface is to be ascribed to the union with England, and the fortunate tempering of the rigour of its native customs thence arising, by the liberal intermixture of Southern freedom. In this perverted and ignorant abuse of the Scottish institutions, the late Lord Advocate (Jeffrey) took the lead. He declared in his place in Parliament, during the debate on the Reform Bill, that “he would tear to pieces its electoral institutions; he would not leave one shred or patch standing.” And he has kept his word; for certainly not one vestige of the ancient Scottish constitution is now remaining. Now that the thing has been done, and the domestic revolution of Scotland rendered complete, it may not be unprofitable to take a survey of the institutions framed, and the laws passed, by a legislature so much the object of vituperation, and see whether they really deserve the censures at the hands of the friends of freedom which, during the contests of faction, have been so liberally applied to them.

We take for granted, that the proper object of government in every state is *ut cives feliciter vivant*; that the greatest possible facility should be given to the industry and exertions of the people; that they should enjoy all the freedom consistent with their own welfare, or the general stability of society; and that the security of their persons and property should be rendered complete. On these points we cordially agree with our opponents; the only difference betwixt us is as to the means by which these objects are likely to be attained. Let us consider what the Scottish nation and the Scottish legislature have done on these points, as compared with those of England and Ireland, before we join in the sweeping condemnation so plentifully applied to them by the Liberals in our own and the neighbouring countries.

What the Scottish nation has done to maintain its *independence* is well known to every person having the most slender historical information. It is a pleasant interlude in a speech, doubtless, for Mr O’Connell to tell his Irish supporters that the Scotch were never conquered because they were not worth conquering; but if he had read the annals of his own or the neighbouring state, he would have learned, that while Ireland was conquered at once by Henry II. with 1100 knights and 2000 foot-soldiers, and has ever since been retained in subjection by a force inconsiderable, indeed, when compared with the magnitude of its population. Scotland has been invaded, not once, but twenty times, by English armies, sixty, seventy, and eighty thousand strong, and on all these occasions they were,

in the end, baffled and repulsed; that, though never possessing a fifth part of the population of England, nor a tenth part of its wealth, she maintained during three centuries (from 1300 to 1600) an almost uninterrupted struggle with her gigantic neighbour; that the utmost efforts, during this long period, were made by the English monarchs, and made in vain, for her subjugation; that if she suffered during this long period much devastation and injury from the English arms, she inflicted nearly as much as she received; and that, though often reduced to grievous straits from the divisions and treachery of her nobles, the sterility of her soil, and the indiscipline of her armies, she was to the last unsubdued, and finally saw her own monarchs ascend the throne of the three kingdoms. He would have learned that the power which at once beat down the clans of Ireland, which waged a doubtful war of a hundred and twenty years' duration with France, which repeatedly marched across the whole territory of that great nation, crowned its own king within the walls of Paris, and exhibited that of its first-rate opponent a captive within those of London, was never able permanently to subdue a foot of Scottish land; that the splendid chivalry of England ever recoiled in the end from the stubborn spearmen of Scotland; that the greatest defeat recorded in the English annals came from the unconquerable bands of Robert Bruce, and that it required all the glories of Cressy, Poitiers, and Azincour, to blazon over the fell disaster of Bannockburn. It is truly a proof of the march of intellect, of the prodigious spread of information which the diffusion of newspapers and the growth of democracy have produced, to see a popular Irish demagogue venture to hazard the assertion, before a meeting of electors in the British dominions, that Scotland was never conquered because it was not worth the taking; and to hear that sentiment applauded by an assembly in a nation which was conquered by eleven hundred knights, and has never since been able to face five English brigades, in presence of the descendants of those who hurled back *twelve English invasions*, many of them led by English monarchs, at the head of forces twice as numerous as the British who vanquished Napoleon on the field of Waterloo.

It is another proof of that vast diffusion of historical and political information, from the agency of the popular press, to hear the assertion so generally believed which was hazarded by the same learned Lord Advocate in Parliament, that Scotland had never evinced the spirit of genuine freedom, and that a total subversion of all its institutions was essential to the development of that necessary element in social prosperity. Doubtless that learned lord, when he hazarded that assertion in such an assembly, was fully acquainted with the facts, and had many examples in his eye to corroborate the assertion. He probably grounded his allegation as to the total want of a free or independent spirit in Scotland, upon the singularly tame and feeble efforts which Scotland made in behalf of the Reformation; upon the timidity and irresolution displayed by the Covenanters in the mountains of Ayrshire; upon the influence retained by its hierarchy in the formation of the Reformed church, and the entire absence of anything like republican equality in the constitution of its General Assembly. Or did he found it upon the weak and insufficient support which the Scotch gave to the cause of freedom during the Great

Rebellion ; the Scotch who first took up arms against the government of Charles I., who brought the whole array of their nation to the heights of Lauder, when as yet not one sword had been drawn or musket fired to the south of the Tweed ; and alone, by their seasonable support, gave victory to the sinking cause of freedom in England at Marston Moor ? Or had the learned lord in his eye the stubborn and desperate resistance opposed by the Covenanters of Scotland to the cruelties and the severity of Charles II., or the memorable declaration from the Scottish Estates that James II. had *forfeited* his title to the throne in 1688, when the English only ventured to assert that he had *deserted* it ; or the free and independent manner in which the Scottish Parliament tied up the most dangerous powers of government by the Act 1701, the Habeas Corpus Act of Scotland, and a more effectual safeguard of the liberty of the subject than even that celebrated bulwark of English freedom ? The learned lord will not surely deny to the heroes of July, the citizens of the barricades, on whom he pronounced so eloquent a eulogium in August 1830, the praise of being actuated by an independent spirit ; but yet these boasted defenders of freedom have never yet passed any similar law for the security of that first of blessings, the freedom of the subject ; and thousands of political prisoners now languish in the capacious state-prisons of France, without any prospect of being brought to trial, or any means of compelling their liberation ; while the Scottish legislature, who “never had a tincture of the spirit of freedom,” secured that inestimable right for the people of their country above a hundred and thirty years ago.

The wisdom and admirable quality of the old Scottish laws, though less generally known, is still more worthy of consideration, and we know not a subject to which a few pages of this miscellany can more beneficially, or in a more interesting manner, be applied. Our numerous Southern readers need not start, or turn over the pages to some more inviting theme. We are not going to deluge them with that driest of all subjects to a Southern ear, Scotch law ; we propose only to touch on matters interesting to all, from the importance and magnitude of the effects with which they are attended. And if the schoolmaster has been abroad to any good purpose, if the people of this country are at all prepared for the important duties of self-government to which they are called by their rulers, no more useful or attractive subject can be presented to their consideration than the means by which another nation has succeeded in obtaining, without confusion or bloodshed, by the mere wisdom of its legislature, all the great objects which it is the professed aim of the popular party to obtain for the people of England and Ireland at this time.

A proper settlement of the Tithe question, and a distribution of the property of the church, in a fair proportion, among those who discharge ecclesiastical duties, is the great object of the democratic party at this moment, both in England and Ireland ; and, doubtless, the arrangement of their conflicting interests, on a just and durable footing, is one of the greatest objects of a statesman's ambition that can be conceived. The abusers of Scottish institutions, however, will be surprised to learn, that these great and intricate questions were entirely and satisfactorily resolved by the Scottish Parliament, and by the decrees-arbitral of Charles I., two

hundred years ago ; an adequate provision secured for the clergy, and the valuation and sale of tithes settled on so equitable a footing, that since that time their weight has been wholly unfelt by the Scottish cultivators.

It is the boast, and the deserved boast, of the present Administration, that they alone have had courage to face the enormous abuses of the English Poor Laws ; and that, whether the recent act do or do not provide improvement in practice, they have first ventured to approach the subject, and collect a mass of information from which its evils may in future be rectified. Granting them, as we are anxious to do, every credit for the attempts they have made on this subject, we must at the same time remark, that they are only following (*sed heu quanto intervallo !*) the footsteps of the Scottish Legislature ; and that, two hundred and fifty years ago, the whole of that great subject was settled by them on a footing to which subsequent wisdom has been able to add nothing in the way of improvement, while subsequent experience has taught nothing in the way of rectification. The Scottish Poor Laws have now stood the test, not only of ages in point of time, but of every possible change in point of society ; they have been found equally efficacious in the relief of real suffering, and equally effective in checking the growth of fictitious pauperism, in the Highlands of Perthshire as in the plains of the Lothians, among the weavers of Lanarkshire and the shepherds of Selkirk.

Illegal or arbitrary imprisonment has in every age been the greatest and most formidable engine of despotic power, and the one against which all the efforts of the friends of freedom should, in an especial manner, be directed. The French democrats have never yet attained to this, the very first step in the advance of real freedom ; and it is the glory of England that the Habeas Corpus Act, passed in the reign of Charles II., first established an effectual barrier against the evils of arbitrary imprisonment in the southern part of the island. Admirable, however, as the provisions of that justly celebrated statute are, they must yield the palm to the Scottish act which, a hundred and thirty years ago, provided an absolute security against the continuance of imprisonment, by any possible contrivance, beyond 140 days ; whereas, the English act only gives the prisoner a right to insist that his trial shall be brought on at the next assizes, an event which may often be five or six months from the period of committal, and even then allows the prisoners to be remanded to the next assizes, if the prosecutors' witnesses are not ready to attend.

The instruction of the poor is the grand object of the patriots of the present day, and Lord Chancellor Brougham has repeatedly declared, that he desired no other epitaph on his monument than that he was the founder of Universal English Education. Serious doubts may be entertained whether the instruction which it was his object to promote, apart from moral discipline or religious knowledge, would be really a blessing or a curse ; but whatever opinion may be formed on that point, upon which the greatest and wisest men are at variance, and which experience has not enabled us to decide with certainty, one thing is perfectly clear, that the difficulty was solved one hundred and forty years ago by the prophetic wisdom of the Scottish Parliament, which established a system of parochial instruction, universal in its operation, perfect in its kind, and so admirably connected with the religious institutions of the nation,

that while the partisans of freedom have ascribed to it all the subsequent prosperity of the nation, the friends of religion and morality have been equally loud in its commendation. And experience has traced to it none of those unhappy consequences which the warmest supporters of universal knowledge admit have too often attended, at least in great cities, the mere concession to the people of the means of information in these times.

It is the glory of the present age, that more humane ideas have come to prevail generally on the administration of criminal law; and the names of Romilly, Mackintosh, and Peel, have been made illustrious by their efforts in this benevolent career, not less than by their ability and eloquence in the general field of politics. The great work, however, is yet unfinished; the Augean stable is but imperfectly cleared out; many hundred capital crimes still disfigure the English statute-book; and the returns of the very last year showed, that out of 1400 persons condemned to death, only forty-nine were deemed worthy of execution. When this deplorable inequality may be corrected, or the letter of the law be brought to a level with the humane spirit of the age, it is impossible to foresee; but this much is certain, that this enormous evil never was experienced in Scottish legislation, which never recognised more than forty capital crimes—nearly one-half of which are of English introduction since the Union,—and has been familiar from the earliest period with a mitigating power in the hands of the public prosecutor, which has always kept the practice of the criminal courts on a level with the feelings of the times, and has now practically reduced even this comparatively inconsiderable array of capital crimes to five or six.

Judge Blackstone states it with reason as the boast of the English law, that in cases of treason the accused can be convicted only on the concurring testimony of two witnesses, and that he is entitled to receive, fifteen days before his trial, a copy of his indictment, with the names, residence, and professions of the witnesses who are to be adduced, and the assizers who are to serve against him. Every one acquainted with the practice of criminal law must admire the wisdom and humanity of these regulations, and the more so that they are established in those cases where the Crown appears in good earnest as a prosecutor, and there was the greatest reason to dread an undue preponderance against the prisoner. But, in our admiration of the English law in this particular, we must not overlook the humane and independent spirit of the Scottish Legislature, which, a hundred and sixty-two years ago, conferred these important privileges upon *all criminals in all cases*, and fixed them so indelibly in the practice of that country, that they have ever since that time formed the deep foundations, *non tangenda non movenda*, of the Scottish criminal jurisprudence.

The humanity of the present times has long and energetically contended with the natural apprehensions of the English lawyers and judges, to give the right of being defended by counsel to prisoners charged with felony. It is singular that this privilege, often of vital importance in doubtful cases, has been established for nearly three centuries in the Scottish law; and that by special statute, not only is the accused in all cases entitled to be heard at full length by counsel on the evidence, and to have the last word in the debate, but in the event of his being unable,

or having neglected to fee counsel for himself, the judge is enjoined to assign him counsel, and it is illegal to proceed to the trial of a prisoner unless he is so protected. Great apprehensions are expressed in England lest the introduction of a similar privilege should protract, to an unreasonable and intolerable length, the already burdensome sittings of their assizes; but no such inconvenience has been experienced in Scotland, where, in consequence of the efforts made by counsel to abridge the proceedings in cases where the evidence is clear, criminal justice is, upon the whole, administered just as rapidly as in England; while, at the same time, in those cases where the guilt of the accused is really doubtful, the pleading of his counsel is often of decisive weight in establishing his innocence.

The oppression of the poor, by the litigious efforts of the rich, has in every age been the favourite subject of fervent, and too often just declamation, by the friends of freedom. Much has been done, and still more attempted, in England, to obviate this evil; but nothing more effectual than has for two centuries been established in every court in Scotland, where the poorest suitors, by being placed on what is called the poor's-roll, are enabled to maintain even a protracted suit with the most powerful and wealthy opponent. As matters at present stand, the only doubt is, whether this favour to the poor is not carried too far, and whether those who appear in courts *in formâ pauperum*, having nothing to lose, do not possess an undue, and often oppressive advantage, in a question with those who are not exempted from that liability.

The Scotch system of banking, the security of which was completely proved in the great commercial panic of 1825, and the important effects of which are apparent in the unexampled strides which North Britain has made in wealth and prosperity during the last century, has now become the general object of interest and attention in the southern part of the island; and various attempts have been made to establish joint-stock companies, on similar principles, for the wider extension of the benefits of banking among the vast commercial classes of England. It was by an act of the Scottish Parliament that the foundation of this admirable system was laid; and it was before the Union that two of the most opulent and prosperous of our banking establishments, the Bank of Scotland and the firm now called Sir William Forbes and Company, were set on foot; while it is by the steady adherence of the Scottish courts to the principle of their common law that the private funds of the partners, including their landed estates, are liable universally for the debts of the firm, that the whole stability and security of that important but perilous branch of national commerce has been established.

It is within these few years only that the humanity of the Legislature has interposed in England in favour of that unfortunate class of persons, *insolvent debtors*; but the Scottish Legislature, a hundred and forty years ago, gave them, by the right of applying for a *cessio bonorum*, or transference of their goods without reserve to their creditors, a complete protection against the hardship of imprisonment, except in those cases where the fraudulent concealment of funds called for the application of that severity. The effect of this happy measure, originally devised by the wisdom, or sympathy with insolvents, of Julius Cæsar, has been such,

that the dreadful evils of prolonged incarceration, so well known and so much the object of dread in England, have been for a century and a half unknown in the northern part of the island; and few debtors are confined above six weeks, excepting in those cases where their fraudulent conduct obviously calls for the application of that severe remedy.

Not content with this great concession to unfortunate debtors, the Scottish Parliament, by a statute in the same year, established what is called the *Act of Grace*, whereby a debtor, who is unable to aliment himself in jail, is entitled to apply to the magistrates, keepers of the prison, to have a certain weekly allowance, adequate to his maintenance, assigned to him, at the expense of the creditor who lodged him in prison. The effect of this humane regulation has been not only to hinder the starvation of prisoners for civil debts in jail, but in a great degree to prevent that ruinous accumulation of claims against them in the name of *jail fees*, which have long been the cause of the confinement of above half the debtors in England; and by the burdensome payment to the creditors with which it is attended, to diminish very much, indeed, the duration of imprisonment in those cases where the debtor was unable or unwilling to obtain the benefit of liberation by a *cessio bonorum*.

The introduction of the retrospective period in bankruptcy, which England owes to the enlightened experience of Sir Samuel Romilly, is justly regarded as one of the greatest improvements in her bankrupt law, and has done more to check the frauds of insolvent traders than any other enactment since the first introduction of that system. But the provisions of his act are nothing but a copy of the act passed by the Scottish Parliament above a century before; which, with a prophetic wisdom most remarkable, adopted, in 1696, those very provisions against the fraudulent alienations of property on the eve of bankruptcy, which the wider commerce and more extensive commercial experience of England only suggested for adoption a century afterwards.

Protection to the cultivator against the oppression of his landlord, or the prejudicial effects of a change of proprietors, is one of the great objects of civil government; and it is justly remarked by Mr Hume, as a decisive proof of the slow progress of general freedom even in England, its favoured abode, that a few provisions for the protection of their plough-goods are all that is to be found in Magna Charta itself in favour of that important body of men, the rural cultivators. But in Scotland, full and absolute protection was secured to this most important class four hundred years ago, by a statute passed, as its preamble bears, for the protection "of the pair folk that labour the ground." This act was so important in its operation, and so effectual in its protection, that Adam Smith remarks that it is of itself sufficient, by having laid the foundation of *leases*, to account for all the subsequent agricultural prosperity of Scotland.

The agricultural industry of Ireland, till within these few years, has been perpetually blighted by the ruinous privilege which the landlords of that country enjoyed of distraining any of the numerous subtenants on their land, not merely for the rent due by that subtenant to the superior from whom he held, but for the arrears of rent, how great soever, interposed between them and the owner of the soil. This right, in its applica-

tion to a country where subtenants were universal, and four or five hands were frequently interposed between the landlord and the cultivator of the soil, was obviously utterly destructive of agricultural capital, and a complete bar to its growth; and it may be doubted whether the legislation of late years has provided an adequate remedy for this enormous evil. But that which the British Parliament, in the nineteenth century, has hardly been able to accomplish, was completely effected in the sixteenth, in regard to feu-holdings, or rights of property, by the Scottish Legislature, by a statute which enacted that, when the vassal has paid his dues to his immediate superior, he shall be free of all claim at the instance of the overlord: an enactment which speedily led to a similar rule being adopted by the courts of law, in the case of subtenants brought on the land with the consent of the landlord; and has completely freed Scotland from all the evils arising from the distraining of a subtenant for the arrears of rent due by a tenant-in-chief, which have so long and so justly been complained of in the sister island.

The corruptiou of the blood of a person attainted for high treason, that last and most unjust consequence of a conviction for that offence by the English law, which extends the consequence of crime to distunt generations, by "damming up and rendering utterly impervious," in the quaint language of their lawyers, the channels by which inheritable blood is transmitted by a traitor to his descendants, never was kuown in Scotland; and, in the worst times, a son might, by the law of that country, succeed to the estate of a father who had been convicted and suffered death for high treason. The consequences of such an attainder were only the forfeiture of what they called the movable estate—in other words, the goods and chattels of the traitor, and the liferent of his heritage; but no forfeiture of the land itself, either to the injured sovereign or the overlord of the fee.

It is a *questio vexata* in England, whether the registration acts recently brought forward in Parliament by Government are, or are not, calculated to benefit the country; but no one entertains a doubt that, if a proper system of registering titles and deeds in local courts could be devised, without the great evils of centralising everything in London, which Lord Brougham's bills were obviously calculated to produce, it would be a very great public benefit. This problem, the difficulty of which has occasioned the stoppage of the measure at present in Parliament, was completely solved two hundred and twenty years ago by the enactments of the Scottish Legislature, which established a system of registration, partly in the Sheriff and Burgh Courts in the provinces, partly in the records of the Supreme Court at Edinburgh, which has so happily combined the great object of security and publicity to the titles and burdens of estates, with a due regard to local interests, and the convenience of persons having a right in the deeds to be registered, that for the two centuries it has been in operation no complaint whatever has been heard, either against its efficiency and utility as a system of registration, or its undue tendency to monopolise in the capital the business of the provinces.

A commission has long been sitting in England to introduce a thorough simplification and amendment in their law of real property—a department of jurisprudence which, with them, has grown into so complicated a form

that it has become the herculean labour of a separate branch of the profession to master it; and more than one Lord Chancellor of England has declared that it is next to impossible to frame a title to an estate to which an astute attorney will not be able to state a valid objection. In Scotland, a variety of statutory enactments, too numerous to be quoted, have introduced, between two and three hundred years ago, a system of conveyancing which, without being perfect, is yet so comparatively simple and secure, that no similar complaints have in the lapse of time been brought against it; and vast sums are daily transmitted from London for the sake of the safer investment which the Scottish heritable bonds and titles afford to the English mortgages or conveyances to landed property.

It was the boast of Alfred that he had brought justice to every man's door, by the establishment of a circuit perambulating the kingdom, and holding courts in every county which it contains. The progress of time, however, and the immense accumulation of business in the principal counties, have contributed to render abortive the benevolent designs of that immortal sovereign; and bills have repeatedly been introduced into Parliament by the present Government with a view to obviate the evil, and afford, by the aid of local courts, that practical facility to the trying of questions of man and man, which in England has long existed only in the eloquent periods of Blackstone and Delolme. That which England, however, has not yet attained, Scotland, under the institution of its old Parliament, has enjoyed for four centuries. Its Sheriff-courts have, from the earliest period, afforded a practical proof of the possibility of bringing justice expeditiously and cheaply to every man's door; and of the economical and yet effective manner in which this duty has been discharged by those valuable local courts, which exercise jurisdiction in all cases of personal contract, or disputes about movable funds or debts to any amount, no better proof can be desired than was furnished by the late Parliamentary returns, which showed that *twenty thousand* causes were annually determined in these inferior tribunals, at an average cost to the suitors of ten or twelve pounds each in litigated cases, and two or three in those which are undefended; while such was the confidence in the judgments given, that one only out of *one hundred and thirteen* is carried by appeal to a superior tribunal.

Since the attention of the English has been strongly turned to the amendment of their criminal jurisprudence, the importance of a public officer to conduct prosecutions for crimes, at the national expense, has been strongly felt; and it is understood that Sir Robert Peel, among other salutary practical improvements which he had in view in the Home Office, was preparing a plan for the gradual transference of the right of prosecution from individuals to a public officer, who might at once relieve injured parties of that vexatious and often oppressive burden, and introduce greater certainty and equity into this important branch of government than it could possibly attain while still subject to the passions or the caprice of private individuals. That great and really useful reform, however, is still unaccomplished, and England as yet labours under the uncertainty and the expense of private prosecutions. Whereas Scotland, from the very infancy of her jurisprudence, has been familiar with the institution of a public prosecutor, under the name of Lord Advocate, who,

without legally excluding private prosecutions, if the injured party prefers proceeding at his own instance, has practically superseded them, from the superior skill and success with which the proceedings are conducted at the public expense, than they possibly could in the hands and with the funds of private individuals. Of the good effect of this great institution, decisive evidence is preserved in the facts which the Parliamentary returns of 1832 have brought to light, that, while the convictions are to the acquittals, by the grand or petit jury, on an average of all England, as two to one, they are in Scotland as eight to one.

In England the principle has long prevailed, that a creditor who proceeds against the person of his debtor has made his election to abandon his estate; and landed property, till the time of Sir Samuel Romilly, was not liable to execution for civil debts, unless judgment had been recovered, and the debt rendered special on the land during the lifetime of the debtor; so that a bankrupt who got the start of his creditors might cut his throat, and leave £20,000 a-year secure and unburdened to his heirs. In Scotland, notwithstanding the severity of the feudal institutions, of which we have heard so much, the execution against land for civil debts has, from the earliest times, been comparatively unfettered. Originally, and down to the end of the thirteenth century, the same summary process lay open to a creditor for attaching the land as the movable goods of his debtor; and although the influence of the nobles struggled hard, in later times, to throw obstacles in the way of the seizure of their estates for civil debts, yet they did so with so little success, and the wisdom of the Scottish Parliament interposed so effectually to preserve open the access of creditors to the estates of their debtors, that the balance was turned the other way; and the injustice done for centuries was the undue power afforded to creditors of carrying off great landed estates for inconsiderable money debts—a power to the use and abuse of which many of the greatest estates now existing in Scotland owe their origin. Repeated statutes have been passed to check this abuse, and at length the principles of a just accounting between debtor and creditor were established, and as much land allowed to be attached only as was equivalent to the amount of the debt; but no fetters upon the execution against real estates ever existed similar to those so much complained of in the neighbouring part of the island, and land lay always as much exposed to the process of creditors in the person of the heir as it was in that of his predecessor; nay, in some cases, by special statute, a preference was given, a hundred and seventy years ago, to the creditors of the ancestor over those of the heir.

We could easily extend this enumeration to double its present length, without exhausting the evidence which the Scottish Parliaments have left, in their legislative measures, of the admirable political wisdom and truly independent spirit by which they were actuated. Enough—and, perhaps, our Southern readers may think more than enough—has already been done to establish their just claim to the character of free, just, and upright legislators. We shall only therefore add, what is perhaps the most surprising matter of all, and what the English lawyers, accustomed to the *multorum camelorum onus* of their statutory law, will fully appreciate, that such was the laudable brevity of those ancient times, that the whole Scottish Acts of Parliament, down to the Union, are contained in

*three duodecimo volumes.* And yet, in these little volumes, we hesitate not to say, is to be found more of the spirit of real freedom, more wise resolution and practically beneficial legislation, better provisions for the liberty of the subject, and a more equitable settlement of all the objects of the popular party at this time, than is to be found in the whole thirty quarto volumes of the statutes at large, and all the efforts of English freedom, from Magna Charta to the Reform Bill.

From the preceding enumeration, imperfect as it will appear to all persons acquainted with Scottish jurisprudence, it is evident that the wisdom and public spirit of the Scottish Parliament, anterior to the Union, had not only procured for the people of Scotland all the elements of real freedom, but had effected a settlement on the most secure and equitable basis of all the great questions which it is the professed object of the Liberal party to resolve in a satisfactory manner at this time. It appears that, above two hundred years ago, the Scottish Parliament had not only effected a settlement, on the most equitable footing, of the difficult and complicated tithe question, so as to relieve entirely the cultivators of that burden, but established an admirable system of poor laws, the efficacy and security of which have been proved by the experience of two centuries, till they were obliterated by the decisions of the Court of Session; provided an effectual remedy against the evils of arbitrary or illegal imprisonment; established a complete and universal system of public instruction; introduced a humane but effective system of criminal law; given to the meanest prisoner, charged with an ordinary offence, the same privileges which the English law concedes only to State offenders accused of high treason; awarded to all prisoners the right of being defended by counsel, and heard by them upon the evidence; provided for the protection of the poor in litigation against the rich; laid the foundations of an admirable system of banking, the security and benefits of which subsequent experience has abundantly verified; afforded a humane relief to insolvent debtors, so as to check completely the evils of prolonged imprisonment; extended their care even to the aliment of poor prisoners in jail unable to provide for themselves; established that retrospective period in bankruptcy which English wisdom did not adopt for a century afterwards; given absolute security to the cultivators of the soil in the enjoyment of their leasehold rights; effectually prevented the oppression of the husbandman by the exactions of middlemen, or the distraining for more than their own rents by the owner of the soil; never admitted the hideous injustice arising from the corruption of the blood in cases of high treason, but limited the punishment to the person and movable estate of the transgressor; established an admirable and universal system of registration for all titles and mortgages relating to real property; introduced a lucid and intelligible system for the conveyance of landed estates, and the burdens created thereon; brought cheap justice home to every man's door by an unexceptionable system of local courts; provided for the just and effectual prosecution of crimes by the establishment of a public officer intrusted with the discharge of that important function; given a comparatively ready access to creditors against the real estates of their debtors, and allowed execution to proceed at once against the person and estate of the debtor. Whether these were important objects to have been

gained, great and glorious attempts to have been made by the Parliament of a remote, inconsiderable, and distracted kingdom, during the fifteenth, sixteenth, and seventeenth centuries, we leave it to our readers to judge ; but this we will affirm, that if they were not, then is the whole Liberal party of Great Britain at fault, and wandering in the dark at the present time ; for almost the whole objects, for the acquisition of which they profess such anxiety in England in the middle of the nineteenth century, were secured for Scotland by her native legislature before the end of the seventeenth. If the English legislators shall continue a course of wise and practical legal improvement, they will perhaps obtain, by the year 1900, most of those advantages which the old Scottish Parliament had secured for their country two centuries before.

And it is a people who have done SUCH THINGS for the cause of national independence and civil liberty who are styled, by the modern legislators of Scotland, as having been “ destitute in every age of the spirit of Freedom ! ” It is a constitution which has produced a legislature that has done so MUCH for the cause of real freedom, that it is the boast of our modern reformers “ to have torn to threads and patches ; not to have left a rag or a vestige remaining ! ” We have only to hope that the reformed legislature of Scotland may do one-tenth as much for the cause of real liberty as the unreformed one has done ; and that our descendants, a hundred years hereafter, may find themselves in possession of all the rights and privileges, and as secure in their enjoyment, as we were when the mighty change was effected.

And let not our Southern readers be carried away by the sophism, so frequently employed by persons ignorant or desirous to conceal the truth on the subject, that Scotland has thriven, not from any efforts of its native legislature, but from the influence of British freedom. We wish to be just ; we acknowledge with gratitude the great benefits which Scotland has derived from the Union ; we are thankful for the cessation of internal British war, and feel the full advantages which have resulted from the opening of the English market, the stimulating influence of British capital, and the generous gift of British treasures.\* We are proud of our connection with the great and glorious realm of England, and trust we have not disgraced it either in the field of battle or the walks of literature. But when we turn to the Statute-book, and examine what improvement the *laws of Scotland* have received from the Union, we are constrained to admit that Scotland hardly received any legislative amelioration during the whole of the eighteenth century, with the exception of the act abolishing ward holdings and heritable jurisdictions, in 1746 ; and that was not conferred by the benevolence of English wisdom, but extorted by the

\* The learned author was less conversant with the figures of finance than the facts of history. An article on “ The Union of 1707, viewed financially,” reprinted by the S. H. R. Association from *The Scottish Review* of October, 1887, shews :—“ That Scotland contributes to the Imperial Exchequer a sum not far short of £1,000,000 in excess of the proportion which corresponds to its population, but say .. .. . £900,000  
That of the expenditure of the general taxation of the United Kingdom there is applied to Scottish purposes a sum less than that to which it is fairly entitled in proportion to its population by .. .. . £2,150,000

‘ The generous gift of British treasures ’ thus resulting in an annual loss to Scotland of .. £2,150,000”  
The Marquess of Bute, in his article in the same *Review* on “ Parliament in Scotland,” estimates “ the annual dead loss in money which is entailed upon Scotland by the Union of 1707 at a sum of eight or ten millions.”

terrors of the Highland broadsword. The vast improvements in our criminal practice which have taken place within the last twenty years, were not owing to any admixture of English legislation, but to the admirable wisdom and experienced sagacity of Sir William Rae, the Scotch Lord Advocate, who followed out solely and exclusively the principles of Scotch jurisprudence. Four great *changes* only of late years, we admit, are of English origin. The Reform Bill, the Burgh Reform, the Introduction of Trial by Jury in *civil* cases—for it had existed from the earliest period in this country in criminal—and the immense change in legal forms introduced by the Judicature Act. Whether they are *improvements* or not, time alone can show, and a half century will not enable the nation to determine with accuracy. But so far as experience has hitherto gone, we believe there are few Scotchmen, even of the Reform party, capable of judging on the subjects, who do not already secretly regret our ancient institutions, and the hands in which political influence was placed by our original constitution.

And if Scotland has prospered solely in consequence of the external influence of England, and in spite of the tyranny and selfishness of its native legislature, how, we would ask, has the same influence proved so destructive to Ireland? When we turn to that country, we hear nothing from the Liberal party but vituperation and abuse of the cruelty, injustice, and tyranny of England; the whole wretchedness, crimes, and suffering of its unhappy people are, without hesitation, ascribed by the whole Whigs and Radicals to the blasting influence of English ascendancy; but yet that same ascendancy, we are told by the same party, was the sole cause of the prosperity of Scotland, and, despite the tyranny of its native rulers, overspread the land with plenteousness. Will they be so good as to tell us how the same foreign ascendancy, which to Ireland was the simoom of the desert, has proved to Scotland only the zephyr of spring? Will they explain how it happened that the English statesmen lavished their wisdom on Scotland, during the seventeenth century, to the exclusion of their *native country*: and that no traces in the English Statute-book were to be found of those admirable principles of legislation which for two centuries have been established in Scotland, till the days of Sir Samuel Romilly and Mr Brougham? Will the numerous foreign and domestic vituperators of the old Scottish institutions be kind enough to point out the English model from which any of the admirable ancient Scottish statutes we have mentioned were taken, or specify the name of the English monarch, minister, or legislator, whose influence or authority procured the enacting in its native Parliaments of any one of these truly wonderful laws? They cannot—we defy them to point out the slightest trace of English influence or example in any of these monuments of native wisdom; and, in fact, before the union of the crowns, the Scottish Parliament were so thoroughly exasperated against their southern neighbours, that it would have been sufficient to insure the rejection of any measure, that it had been supposed to have emanated from English influence; and after that event, till the union of the kingdoms, the inhabitants of South Britain were too much occupied by their intestine quarrels to have any time to bestow a thought on their savage neighbours to the north of the Tweed, except as to sowing the seeds of dissension or corruption among

their nobles—a mode of government in which they were for long but too successful.

In truth, the early precocity of Scotland in legislative wisdom, and the extraordinary provisions made by its native Parliaments in remote periods, not only for the wellbeing of the people, but the coercion alike of regal tyranny and aristocratic oppression, and the *instruction, relief, and security of the poorer classes*, is one of the most remarkable facts in the whole history of modern Europe, and one well deserving of the special attention of historians and statesmen, both in that and the neighbouring country. When we recollect what was the state of that remote and sterile kingdom in the four centuries preceding the Union, during which these extraordinary monuments of legislative wisdom were erected; when we remember that for the first two centuries of that period it was lacerated by an almost incessant warfare for its national independence, invaded twenty times by immense foreign armies, repeatedly pierced to the heart by foreign power, and plundered and devastated everywhere by foreign bands; when we call to mind that during this constant and grinding military exertion its fields were perpetually laid waste, its cities burned, its merchant vessels captured, and the seeds equally of agricultural, manufacturing, and commercial prosperity, nipped in the bud; when we observe that during the two next centuries, when the English had abandoned their attempts to conquer the kingdom by main force, they had constant recourse to the still more disastrous method of management which consisted in the corruption and division of the nobles, and that, by the continual application of that potent engine, the integrity of a great portion of the aristocracy was totally destroyed, and the nation kept in a perpetual state of feudal disorder—from which no one derived benefit but the arch-fiends who put their base and selfish passions in motion—we are lost in astonishment at the laws which were framed during such periods of anarchy, and the noble principles of legislation adopted by a people too often, to appearance, occupied only with the wretched and distracting objects of individual ambition.

The ordinary attempts to account for the wonder by the influence of France, the authority of the civil law, and the institution of the “Lords of the Articles,” as they were termed, or committee of Parliament, intrusted with the preparation of all legislative measures, though not destitute of influence, are obviously inadequate to explain its occurrence. For who poured wisdom into the minds of the Lords of the Articles? Who filled the barons of a remote, poor, and half-savage state with ideas of legislative protection to the labouring classes, and political wisdom, which did not appear even in the favoured soil of South Britain for centuries after? Who taught that rude and illiterate people what to adopt, and what reject, out of the immense mass of the civil law? And where shall we find in the institutions of the old French monarchy anything like the benevolent wisdom, regard for the poor and destitute, and bulwarks of freedom, which are the glorious characteristics of the old Scottish statutes? It belongs to the historian of Scotland to point out the causes to which this extraordinary fact has been owing; but we cannot refrain from hinting at our own opinions on the subject. The solution of the phenomenon, we conceive, is to be found—1. In the long, heroic, and

persevering struggle which the Scotch made for their national independence—an effort which, like the successful combat with adversity in an individual, developed many of the most valuable qualities of national character. 2. In the strong and deep hold which the Reformation took of the people, and the boundless extrication of thought, and dispelling of prejudice, which in consequence ensued, during the last half of the sixteenth and the whole of the seventeenth century. 3. In the fortunate constitution of the national Parliament, which gave a full and fair representation to the whole property of the nation, and entirely excluded that selfish and partial legislation which never fails to follow the ascendancy of mere numbers. Already we see the Liberal party holding up their hands in derision; but before we are done with this subject, or the nation is fully enlightened by experience on the subject, we are much mistaken if we do not advance much which will shake the opinions of all candid men, even on the Reform side.

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Although even the present Lord Advocate will scarcely venture to dispute the authority of a great Conservative historian, the fact that he was a Scotsman may provoke from his Lordship an unpatriotic sneer. A word or two may therefore be quoted from *Lecky's History of England in the 18th Century*, testifying, as he does, to the causes which, prior to the Union, had retarded the prosperity of a country inhabited by a people so intelligent and energetic:—"A hard climate, a sterile soil, and a long continuance of singularly adverse circumstances had," Mr Lecky says (vol. II., p. 38), "formed among the people a character of indomitable energy, which promised well for the future; but as yet the condition of the Lowlands was extremely wretched." . . . "To the south lay a much more powerful and wealthy nation, whose dealings towards them were usually inspired by implacable hatred, or by the narrowest selfishness. Repeated English invasions had desolated the weaker land, and a chronic war subsisted for centuries along the border. The accession of a Scottish king to the English throne diminished these dangers, but it brought with it new evils scarcely less grave. In the interests of the English Church a long attempt was made to force Episcopacy by savage persecution upon a Presbyterian people." . . . "Besides this, the natural poverty and the unhappy position of Scotland could not save it from the commercial jealousy of its neighbour. Though part of the same empire, it was excluded from all trade with the English colonies; no goods could be landed in Scotland from the plantations unless they had been first landed in England, and paid duty there, and even then they might not be brought in a Scotch vessel. The trade with England itself was at the same time severely hampered." . . . "The importance of a sound system of national education was at that time hardly recognized out of Scotland,

and it was peculiarly necessary for a people who, in the competition of life, were depressed by the weight of great natural disadvantages.”

As regards education, both in its common schools and in its four ancient Universities, the condition of Scotland before the Union was one of light as compared with the darkness of England. “The effect,” says Macaulay, when referring to the Scotch Education Act of 1696, “could not be immediately felt. But before one generation had passed away, it began to be evident that the common people of Scotland were superior in intelligence to the common people of any other country in Europe.” It is to this mainly that Macaulay ascribes the material prosperity of our country.

But the common people of Scotland are now awakening to the fact that the unequal yoke imposed upon them by the Union is undermining this great source of the national prosperity. Dr Macdonald, the able Rector of the Kelvinside Academy of Glasgow, addressing the Educational Congress there on 29th December, 1875, upon “*Our Secondary Schools, and how to improve them,*” asked—“If, then, the education furnished by our schools and universities may be favourably compared with that of England, why have the upper classes left us? The true reason is no secret, and may be frankly stated. Education has little or nothing to do with the movement, except as a means to an end. Ever since the beginning of the last century, when the Union of the two Parliaments reduced Scotland virtually to the condition of a province, the process of assimilation to our more powerful neighbour has been going on rapidly, and among the upper and a portion of the middle classes it may be said to be almost complete. Various influences have led to this result, several of which must at once occur to you. London, as the residence of the Court, and the seat of imperial legislation, has attracted to it our nobility, who, by forming alliances with the great English families, have gradually come to identify themselves, in all their social habits and customs, with their English compeers. Their example is imitated by many of those of the upper middle classes that come in contact with them. Now, in the carrying out of this process, education, employed in its literal rather than its technical sense, is found to be the most potent and surest agent. Those that so act I neither blame nor praise. It is my business at present merely to call attention to an undeniable fact, and to point out the absurdity of making the higher education of Scotland responsible for what springs from a cause utterly beyond its control.”

One remarkable feature of the Scottish Home Rule Debate was the egotistical ideas which seemed to pervade the “pretenders.” That the legislative interests of Scotland should be continued in the hands of its

present representatives, sitting either in Scotland or preferably, perhaps, in London, was the burden of Mr Donald Crawford's speech. The fact is, the legislative difficulties form the least part of Scotland's complaint. Its social and financial grievances are infinitely more serious, and these can only be remedied by the concession of Home Rule in the largest sense of the word. But the feeble and conceited attempt of the Lord Advocate at Inverness to ascribe to the verbosity of his fellow M.P.'s for Scotland the absence of English and Irish Members from Debates on Scottish questions, in which Scottish opinion was expressed only to be disregarded, was well exposed by Mr Marjoribanks and Mr Gladstone. How unfounded his Lordship's idea was cannot be better shown than by quoting the following paragraph from a leading article which appeared in the *Echo*, a London Conservative newspaper, on 17th June last. The Scotch Local Government Bill was going soon into the Committee in which majorities of 3, 4, and 5 to one of the Scottish Members were turned into Parliamentary minorities by the ignorant vote of Tory English Members in twelve divisions. After congratulating the Ministry on their progress, the editor wrote:—

“There are other Scotch Bills which still await second reading, but they ought not to occupy an unreasonable amount of time if English and Irish Members will follow *the customary practice* of leaving the Scotsmen to carry on the discussions, while, in lobbies and smoking-rooms, they themselves wait the call of the Division Bell!”

“In a word,” as Dr Begg wrote nearly twenty years ago, “it may be said that the state of the matter is nearly this—Ireland receives all benefits and few burdens; Scotland all burdens and few benefits; England burdens and benefits alike. These things it may be convenient for Mr Gladstone to forget, but the more intelligent people of Scotland have marked them; and now that they have more political power than they have ever possessed since the days of John Knox, they will deserve to be trampled upon if they submit longer to unworthy treatment.”

OFFICE OF THE SCOTTISH HOME RULE ASSOCIATION,  
25 YORK PLACE, EDINBURGH, *March*, 1890.





## *Constitution and Rules—Continued*

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### V. THE GENERAL COMMITTEE.

The General Committee shall consist of at least one Member of the Association from each Parliamentary Constituency in Scotland; and in addition each Branch may appoint a Member of the Association, resident in Edinburgh, Glasgow, or elsewhere, to represent it on the General Committee. All Officials of Branches will, in virtue of their Office, be Members of the General Committee. This Committee shall meet Quarterly, or oftener if deemed expedient, and at each Quarterly Meeting the Secretary shall report the proceedings of the Executive Committee, and the Treasurer shall submit a statement of his accounts.

### VI. THE EXECUTIVE COMMITTEE.

The Executive Committee shall consist of twenty Members, elected by the General Committee at the first Quarterly Meeting after the Annual Conference, in addition to the Office-Bearers of the Association—five to form a Quorum. The Executive Committee shall conduct the business and superintend the expenditure of the Association, subject to the directions of the General Committee and Annual Conference.

### VII. EXTRAORDINARY MEETINGS.

The Secretary shall call a Meeting of the General Committee in Edinburgh, Glasgow, or other convenient centre, on receiving a requisition signed by ten Members of Committee stating the business which they wish considered.

### VIII. ALTERATION OF RULES.

No alterations shall be made on the foregoing Rules except at the Annual Conference, or at a Meeting of the Association specially called for the purpose; and any proposed alterations must be inserted in the notice calling the Meeting.

### IX. BYE-LAWS.

Bye-Laws may be passed by the Executive Committee after notice at its Meeting prior to their enactment; but such Bye-laws must be submitted to the next Annual Conference and confirmed, in order to keep the same in force thereafter.



# The Scottish Home Rule Association

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JOHN FERGUSON, Benburn Lenzie.

DAVID MUNRO, Merchant, Glasgow

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### Chairman General Committee.

JOHN S. BLACKIE, F.R.S.E., 9 Douglas Crescent, Edinburgh.

### Vice-Chairman.

JOHN ROMANS, J.P., Newton Grange, Newbattle.

### General Treasurer.

WILLIAM MITCHELL, S.S.C., 11 South Charlotte Street, Edinburgh.

### Secretaries.

CHARLES WADDIE, Gleniffer House, Trinity Road, Edinburgh.

W. C. ANGUS, 124 Pitt Street, Glasgow.

### Colonial Secretary.

THOMAS M'NAUGHT, S.S.C., 25 York Place, Edinburgh.



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