

## Thistledown Frae

Scotland.

(Contributed.)

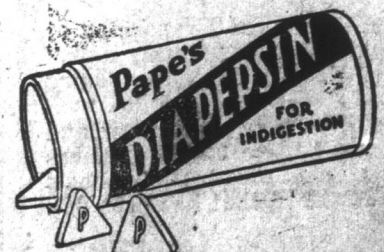
**TWEEN BENCH AND BAR.**  
The Scottish Law Courts, Edinburgh have been long and justly celebrated as an arena of wit and humour of the richest sort. But the facetious Council and the witty and eccentric Judge, like the humorous and quaint divine, no longer prevail; and the current collector of the native legal facetiae who would present brilliant specimens and illustrations must riddle the records of past generations to find them, or else adopt the simpler method, which has been most frequently followed, or riddling the riddings of those who have successfully riddled the records before them. Deploring neither of the courses indicated, I shall partially here peruse both; and first of all, will turn to the Memorials of the late Lord Henry Cockburn, the most extraordinary passages of which perhaps are the writer's memories of the law lords. Of Lords Braxfield, Eskgrove, Eldon, Hermand and Meadowbank and others, most of whom he knew personally. Cockburn tells some "unco" stories. And, surely, if we may express regret that the wit and humour of some of those are not inherited by the present occupiers of the Judicial bench, we may be thankful that the brutal severity which was practised by the first named is no longer possible. Braxfield's maxim seems to have been, "Hang a thief when he's young and he'll no steal when he's auld." It may be doubted, says Cockburn, if he was ever so much in his element as when tauntingly repelling the last despairing claim of a wretched culprit, and sending him to Botany Bay or the gallows with an insulting jest, over which he would chuckle the more from observing that correct people were shocked. To an eloquent culprit at the bar he once said: "Ye're a very clever chield, my man, but ye wad be nane the waur o' a hanging," and perhaps he got it. "Let them bring me prisoners and I'll find them law," used to be openly stated as his suggestion when an intended political prosecution was marred by anticipated difficulties. And Mr. Horner, the father of Francis, who was one of the juniors in one Mair's case, told that when him, "passing the bench to get into the box," Lord Braxfield, who knew him, whispered, "Come awa," Mr. Herne, come awa, and help us to hang an o' these damned dirty tongued political scoundrels," "they are a curse and damnation to any country and not satisfied with himself's unless ruining the reputation of decent men." In another political case it was pleaded in defence that "Christianity was an innovation, and that all great men had been reformers, even our Saviour himself." "Muck! He made o' that," chuckled Braxfield, in an under voice. "He was hangt, and hangt is the guid for most of political scoundrels."

Lord Eskgrove succeeded Braxfield as the head of the Criminal Court, and a more ludicrous personage surely never existed. "His face," says Cockburn, "varied according to circumstances, from a scurvy red to a scurvy blue; the nose was prodigious; the underlip enormous, and supported by a huge, clumsy chin which moved like the jaw of an exaggerated Dutch toy."

When addressing a jury, if a name could be pronounced in more ways than one he gave them all. Syllable he invariably called syllable, and wherever a word ended with the letter "s" the letter was pronounced and strongly so. And he was very fond of meaningless successions of adjectives. The article "a" was generally made into "one" and a good man he would describe as "one excellent, and worthy, and amiable, and agreeable, and very good man"; but if it suited his purpose and personal spite or political party he would be a d—scoundrel or a purse prod—fool; and at the same time, winking now—long a man of this kind could live without brains. It was Lord Eskgrove, condemning a tailor to death for murdering a soldier by stabbing

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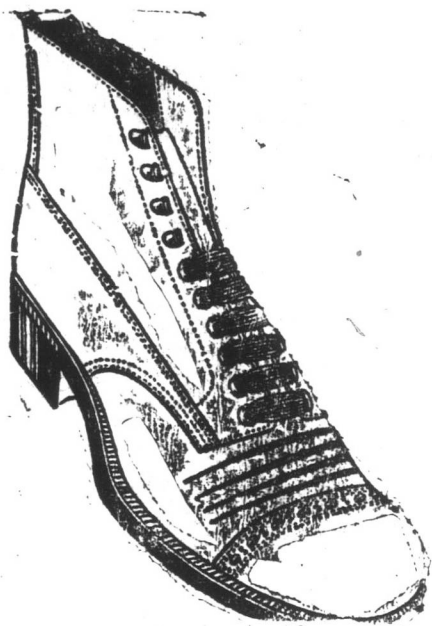
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him, he addressed him thus:—"And not only did you murder him where-by he was bereaved of his life, but you did thrust, or push, or pierce or project, or propel, the lethal weapon through the belly-band of his regimental breeches, which were his Ma-jes-ty's."

In the trial of Glangary, for the murder of Sir Alexander Boswell in a duel, a lady of great beauty was called as a witness. She came into court veiled. But before administering the oath, Eskgrove gave her this exposition of her duty in the situation: "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." Having to condemn two or three persons to death who had broken into a house at Luss, and assaulted Sir James Colquhoun and others and robbed them of a large sum of money, he first, as was his almost constant practice, explained the nature of the various crimes—assault, robbery, and hame-stucken—of which last he gave them the etymology. He then reminded them that they had attacked the house and the persons within it, and robbed them, and then came this climax: "All this you did, and God preserve us, joost when they were settan doon to their dinner!" A common arrangement of his logic, when addressing juries was: "And so, gentlemen, having shown you that the panell's argument is utterly impossible, I shall now proceed to show you that it is extremely improbable."

Brougham delighted to torment him. Retaliating, Eskgrove sneered at Brougham's eloquence by calling it, or him, the Harangue. In his summing up he would say: "Well, gentlemen, and what did the Harangue say next? Why it said this—" Candidly, however, he had to declare that "that man Broom, or Brougham, was the torment of his life." Lord Eskgrove, of course, was an unconscious humourist. So also in great measure was Lord Hermand. When Guy Mannering was first published, Hermand was so much delighted with the picture of the old Scottish lawyers in the novel that he could talk of nothing else but Pleydell and Dandie Dinmont and High Jinks for many weeks. He usually carried a volume of the work about with him, and one morning on the bench his love for it so completely got the better of him that he tagged in the subject—head and shoulders—into the midst of a speech about a dry point of law. Getting warmer every moment he spoke of it, he at last plucked the volume

from his pocket and in spite of the remonstrances of his brethren, insisted upon reading aloud the whole passage for their edification. He went through the task with his wonted vivacity, gave great effect to every speech and most appropriate expression to every joke; and when it was done, the court had no difficulty in confession that they had very seldom seen so well entertained. During the whole scene, Mr. Walter Scott, (now Sir Walker) was present in his official capacity as clerk of the Court of Session, and was seated close under the Judge.

Before Lord Hermand was elevated to the bench, and was known among men as Mr. George Ferguson, his addresses were delivered with such animation and intense earnestness that when it was known he was to speak the court was sure to be filled. His eagerness made froth and splutter, and there is a story to the effect that when he was pleading in the House of Lords, the Duke of Gloucester, who was about fifty feet from the bar, and always attended when "Mr. George Ferguson, the Scotch Council," was to speak, rose and said, with pretended gravity: "I shall be much obliged to the learned gentleman if he will be so good as to refrain from spitting in my face." Hermand was very intimate at one time with Sir John Scott, afterwards Lord Eldon. They were council together, says Cockburn, in Eldon's first important Scotch entail case in the House of Lords. Eldon was so much alarmed that he wrote his intended speech, and begged Hermand to dine with him at a tavern, where he read the paper and asked him if it would do. "Do, Sir?" It is delightful, absolutely delightful. I could listen to it for ever. It is so beautifully written and 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." Judges in the old days had a hard time with the public, and came in for a good deal of severe criticism if their judgments did not receive public approval.

A Perthshire tradesman, who was not generally weak-minded but whose intellect had been partially ruined by dissipation, was confined for several months, a number of years ago, to Murtle Asylum. On his liberation, he received, in accordance with the custom of such institutions, the written assurance of two doctors that he was a person perfectly sane, and safe to be at large. Some time subsequently, when he was engaged on a job along with a number of his fellow craftsmen at a country farm, a wordy war arose which waxed so hot and furious that one of the combatants turned savagely on our hero, and told him he was "daft." The result of the battle ended in court, and was tried before one of the Lords of the Scottish Bench. "Judge," what is the charge against the prisoner?" Prisoner—"I am charged with being that man's nose for casing me 'daft,' echoed he, plunging his hands into the outer pocket of his jacket. "Daft," blase ye, Look here," Judge—"And awe as ye are, I hae mare sense than yer'sel, I can show you twa certificates that I'm wise, and there's not anither man on the job that can produce ans, not even yer'sel." Judge—"He was 'right.' Bacon's advice to judges is to 'draw your law out of your books, not out of your brains.' Hermand generally did neither. He occasionally showed great contempt for Statute law, and would exclaim, "A Statute! What's a Statute! Words—mere words. And am I to be tied down by words? No, my Laards, I go by the law of right reason, my Laards. I feel my law—here—my Laards," striking his heart. Drinking in this old fellow's estimation, was a virtue rather than a vice, and when speaking to a case where one Glasgow man was charged with stabbing another to the death in the course of a night's carousal. "They had been carousing the whole night," exclaimed Hermand, "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?"

William Macdonochie (Lord Meadowbank) was an able but curious man. Before he spoke, Cockburn says, it would often have been a fair wager whether what he said would be reasonable or extravagant. All that was

certain was, that even his extravagance would be vigorous and original, and he had more pleasure in inventing ingenious reasons for being wrong than in being quietly right. Sir Harry Moncrieff, who was present at his marriage, told that the knot was tied about seven in the evening, and that at a later hour the bridegroom disappeared, and on being sought for, was found absorbed in the composition of a metaphysical essay on 'pains and penalties,' (or the science and matrimonial end of a Jude.)

(To be continued.)

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She will be moored in Falmouth Harbor, and will be open for inspection, and in the words of Capt. Downman, will be allowed to die a graceful death. Of late years the Cutty

Sark has been engaged between Rio de Janeiro, New Orleans, and Lisbon with a general cargo.

Capt. Downman is a retired mercantile marine captain of the Dale Line, Liverpool. He saw 27 years' service and was an apprentice on the sailing boat Hawkestone when she attempted to race to Cutty Sark on the Sydney to London voyage, in 1894. The purchase was effected after some difficulty at Santander, Spain, whither the Cutty Sark came on her last voyage, with a scrap iron cargo. The Falmouth tug Triton has gone to Santander for the ship, which will arrive at Falmouth next week, flying her old house flag of John Willis & Co., at her masthead. On being berthed she will be re-rigged, restored as far as possible, and repainted in her original colours of black and gold.

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