

A

BIOGRAPHICAL DICTIONARY

OF

EMINENT SCOTSMEN.

BY ROBERT CHAMBERS,

AUTHOR OF "TRADITIONS OF EDINBURGH," "HISTORIES OF THE REBELLIONS IN SCOTLAND," &c.

Embellished with splendid and authentic Portraits.

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is no mode of publication a minister can adopt so likely to be useful as this. It gives a most pleasing idea of a clergyman when he thus takes, as it were, a last farewell of his people, who cannot fail to peruse a work bequeathed to them under such circumstances, with peculiar interest. These lectures, we doubt not, were regarded among his parishioners more than all his other works. Of Dr Hill's character the reader has been furnished with materials for forming a judgment for himself. His precocious abilities, his talents for adapting himself to the uses of the world, his diligence in all his offices, and his powers of managing public business and popular assemblies, conspire to mark him out as a very extraordinary man. It may only be remarked that, for the most of tastes, his conduct will in general appear too much that of a courtier.

HOG, (SIR) ROGER, lord Harcarse, a judge and statesman, was born in Berwickshire about the year 1635. He was the son of William Hog of Bogend, an advocate of respectable reputation, to whom is attributed the merit of having prepared some useful legal works, which have unfortunately not been given to the public. The subject of this memoir passed as an advocate in June 1661, and continued in the enjoyment of a lucrative and successful practice, till a breach between Nisbet of Dirleton, and the powerful and vindictive Hatton, opened for him a situation on the bench on the resignation of that judge in 1677; being marked out by the government as a useful instrument, the appointment was accompanied with the honours of knighthood from Charles the second. At this period the judges of the Scottish courts, like ministerial officers, held their situations by the frail tenure of court favour, and were the servants, not of the laws, but of the king. It was the good fortune of Harcarse to be, in the earlier part of his career, particularly favoured by the ruling powers; and on the 18th November, 1678, we accordingly find Sir John Lockhart of Castlehill summarily dismissed from the bench of the court of justiciary, and Harcarse appointed to fill his place. At this period he represented the county of Berwick in the Scottish parliament, an election which, from the journals of the house, we find to have been disputed, and finally decided in his favour. A supreme judge of the civil and criminal tribunals, and a member of the legislative body, Harcarse must have had difficult and dangerous duties to perform. The times were a labyrinth full of snares in which the most wary went astray: few of those who experienced the sunshine of royal favour, passed with credit before the public eye, and none were blameless. Among the many deeds of that bloody reign, which mankind might well wish to cover with a veil of eternal oblivion, was one daring and unsuccessful attempt, with regard to which, the conduct of Harcarse, in such an age and in such a situation, had he been known for nothing else, is worthy of being commemorated. In 1681, the privy council had called on Sir George M'Kenzie, as lord advocate, to commence a prosecution for treason and perjury against the earl of Argyle, for his celebrated explanation of his understanding of the contradictions of the test. To the eternal disgrace of that eminent man, he brought with him to the prosecution those high powers of argument and eloquence with which he had so frequently dignified many a better cause. The relevancy of the indictment was the ground on which the unfortunate earl and his counsel, Sir George Lockhart, placed their whole reliance, but they leaned on a broken reed. In a midnight conclave, held it would appear after the minds of most of the judges were sufficiently fatigued by the effect of a long day of labour, the full depth of iniquity was allowed to the crime "of interpreting the king's statutes other than the statute bears, and to the intent and effect that they were made for, and as the makers of them understood." Queensberry, who presided as justice general, having himself been obliged to accompany the oath with a qualification, remained neuter, and to oppose the insult on sense and justice,

was left to Harcarse, and Collington, a veteran cavalier. In order to do the business with certainty, and prevent his majesty's interest from being sacrificed to opposition so unusual and captious, Nairn, an infirm and superannuated judge, was dragged from his bed at dead of night, and the feeble frame of the old man yielding to the desire of sleep while the clerk read to him a summary of the proceedings, he was roused from his slumber, and by his vote the relevancy of the indictment was carried by a majority of one. The course pursued by lord Harcarse in this trial escaped the vengeance of government at the time, but his conduct was held in remembrance for a future opportunity. In the year 1688, a question came before the court of session, in which the matter at issue was, whether a tutory, named by the late marquis of Montrose, should subsist after the death of one of the tutors, who had been named, in the language of the Scottish law, as a "sine qua non." In a matter generally left to the friends of the pupil, the unusual measure of the *instance* of the lord advocate was adopted by government, for the purpose of having the pupil educated in the Roman catholic faith. Wauchope lord Edmonstone and Harcarse voted for the continuance of the trust in the remaining tutors, and on a letter from the king, intimating to the court that, "for reasons best known to himself," it was his royal will and pleasure that they should cease to act as judges, both were removed from the bench, "notwithstanding," says Fountainhall, with some apparent astonishment, "that Edmonston was brother to Wauchop of Nidrie, a papist." The doctrine of the law, previously vacillating, has since this decision been considered as properly fixed, according to the votes of the majority; but an opposition to the will of government in such a matter can be attributed to no other motives but such as are purely conscientious. Other opinions on government and prerogative, maintained in a private conference with some of the leaders of the ministry, are alleged to have contributed to this measure; but these were never divulged. At the period of his downfall, a public attack was made on the character of lord Harcarse, on the ground of improper judicial interference in favour of his son-in-law, Aytoun of Inchdarnie, by an unsuccessful litigant. These animadversions are contained in a very curious pamphlet, entitled "Oppression under colour of Law; or, my Lord Harcarse his new Practicks: as a way-marke for peaceable subjects to beware of playing with a hot-spirited lord of Session, so far as is possible when Arbitrary Government is in the Dominion," by Robert Pittilloch, advocate, London, 1689.¹ The injured party is loud in accusation; and certainly if all the facts in his long confused legal narrative be true, he had reason to be discontented. He mentions one rather striking circumstance, that while the case was being debated at the side bar of the lord ordinary, previous to its coming before the other judges, "my lord Harcarse compeared in his purple gown, and debated the case as Inchdarnie's advocate;" a rather startling fact to those who are acquainted with the comparatively pure course of modern justice, and which serves with many others to show the fatal influence of private feeling on our earlier judges, by whom an opportunity of turning judicial influence towards family aggrandizement, seems always to have been considered a gift from providence not to be rashly despised. After the Revolution, the path of honour and wealth was again opened to lord Harcarse, but he declined the high stations proffered to him; and the death of a favourite and accomplished daughter, joined to a disgust at the machinations of the court, prompted by his misfortunes, seems to have worked on a feeble frame, and disposed him to spend the remainder of his days in retirement. He died in the year 1700, in the 65th year of his age, leaving behind him a collection of decisions from 1681 to 1692, published in 1757, in the form of a dictionary, a useful and well arranged compilation. The pamphlet of

¹ Re-edited by Mr Maidment, Advocate, in 1827.

the unsuccessful litigant, previously alluded to, though dictated by personal and party spleen, has certainly been sufficient somewhat to tinge the judicial integrity of lord Harcarse ; but those who had good reason to know his qualities have maintained, that " both in his public and private capacity, he was spoken of by all parties with honour, as a person of great knowledge and probity ;"² it would indeed be hard to decide how far the boasted virtues of any age might stand the test of the opinion of some more advanced and pure stage of society, did we not admit that in a corrupt period, the person who is less vicious than his contemporaries is a man of virtue and probity ; hence one who was a profound observer of human nature, an accurate calculator of historical evidence, and intimately acquainted with the state of the times, has pronounced Harcarse to have been " a learned and upright judge."³ Some unknown poet has penned a tribute to his memory, of which, as it displays more elegance of versification and propriety of sentiment than are generally to be discovered in such productions, we beg to extract a portion.

" The good, the godly, generous, and kind.
 The best companion, father, husband, friend ;
 The stoutest patron to maintain a cause,
 The justest judge to square it by the laws ;
 Whom neither force nor flattery could incline
 To swerve from equity's eternal line ;
 Who, in the face of tyranny could own,
 He would his conscience keep, though lose his gown ;
 Who, in his private and retired state
 As useful was, as formerly when great ;
 Because his square and firmly tempered soul,
 Round whirling fortune's axis could not roll ;
 Nor, by the force of prejudice or pride,
 Be bent his kindness to forego or bide,
 But still in equal temper, still the same,
 Esteeming good men, and esteemed by them ;
 A rare example and encouragement
 Of virtue with an aged life, all spent
 Without a stain, still flourishing and green,
 In pious acts, more to be felt than seen."

HOLYBUSH, JOHN, a celebrated mathematician and astronomer, better known by the Latin terms, de Sacrobosco, or de Sacrobusto, occasionally also receiving the vernacular appellations of Holywood and Hallifax, and by one writer barbarously named *Sacerbuschius*. The period when this eminent man flourished is not known with any thing approaching even to the usual certainty in such cases, and it is matter of doubt whether he existed in the 13th or 14th century. Nor is his birth-place less dubious ; as in many other instances during the same period, England, Scotland, and Ireland have contended for the honour—the two former with almost equal success, the last with apparently no more claim than the absence of certain evidence of his belonging to any other particular nation. When a man has acquired a fame apart from his own country, and in any pursuit not particularly characteristic of, or connected with his native land, the establishment of a certainty of the exact spot of his birth is of little consequence, and when easily ascertained, the fact is only useful for the purpose of pointing out the particular branch of biography (as that subject is generally divided) to which the individual belongs, and thus preventing omission and confusion. Entertain-

² Memoir prefixed to his Decisions.

³ Laing's Hist. of Scot. iv. 123.