

III. *Letter from Sir FRANCIS PALGRAVE, K.H., F.R.S., to HUDSON GURNEY, Esq. V.P. upon Three Documents of the Reign of Edward I. preserved among the Exchequer Records at Westminster, relating to Scottish Prisoners.*

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Read 14th April, 1836.

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MY DEAR SIR,

AMONGST the documents relating to Scotland of the reign of Edward I. Rymer has printed one (new edition, vol. i. p. 994) to which he gives the following title: "*Instrumentum continens nomina plurimorum nobilium Scotiæ fautorum Roberti de Brus qui missi sunt ad diversa castra in Angliam,*" including, amongst the mandates for the custody of other prisoners, the well-known order directing the confinement of the Countess of Buchan in a cage at Berwick, and which instrument is quoted by Rymer as being in this repository. I do not, however, find amongst the muniments any *one* such instrument; but, instead thereof, there are *three* distinct documents, apparently Orders made by the King in Council, and in which, the several directions for the modes of disposing of these captives were from time to time varied and altered, and in a manner highly deserving of attention. The document given by Rymer, is in fact an instrument framed by him by a consolidation of these orders, not distinguishing where one begins and another ends; and in this process, he has concealed the most remarkable features, namely, the modifications which the orders sustained in their different stages. The documents are all intended for publication by his Majesty's Commissioners on the Public Records, in the volume which is to contain the inedited Scottish documents; but, in the mean while, I trust that a summary of some of the particulars which they disclose, will not be unacceptable to this Society.

"Alain, who was Earl of Menteith," was first committed to the custody of Sir Johan de Hastings, who was to put him in safe keeping in England. This

direction was subsequently varied, by giving Sir John the power to confine the "late Earl" at Bergaveny or elsewhere.

The Earl of Strathern, "when he shall have surrendered to the King," is to be placed in custody in the Keep of Rochester Castle; but he does not appear to have surrendered.

The name of John Earl of Athol was first entered upon the order as a memorandum, without any directions; the course to be adopted with respect to him was probably not settled. Some time afterwards, as appears by the variations both in the colour of the ink and the character of the handwriting, he was conducted to London by Sir Hugh le Despenser. With respect to David, "the son and heir of him who *was* Earl of Athol," the order first made did not sustain any further variations; he was to be kept in safe custody in England by the Earl of Gloucester.

The orders respecting "Donald the *son* of the Earl of Mar," sustained several modifications before the plan of his captivity was finally settled. By the first order, he was to be delivered to the Bishop of Chester, and by him conveyed to the Castle of Bristol, and the Bishop was to provide a valet, wary and trusty, "*avisez et seur*," who was to wait upon Donald as his master and companion, "*que entende au dit Dovenald come a son maistre et compaignon.*" By a second order, the Bishop of Chester is exonerated from his trust, and Donald, who on this second order is styled "the child who is *heir* of Mar," is placed under the immediate custody and charge of the Constable of the Castle of Bristol, with liberty to go freely about the castle. A further extension of liberty is then granted by a third order, permitting the young prisoner to walk on the garden and elsewhere within the close of the castle, and that he shall not be put in irons, an alteration which evidently implies that, under the first or original order he would, as a matter of course, have been thus restrained; but upon further consideration it appeared advisable, to prevent this extraordinary indulgence of personal freedom from being abused, or becoming a precedent: and to the words, "*mais qil soit hors de fers*," they added, at a subsequent period, as appears by the variation in the colour of the ink, "*tant come il soit de si tendre age*," so long as he shall be of such tender age; virtually directing that the permission, by which he was relieved from gyves and fetters,

was not to be continued if he should be detained in custody after he came to man's estate.

With respect to Margaret, the daughter of Robert Bruce, the first order directed her to be treated with great severity. She was to be sent to the Tower of London, and there kept in close confinement in a cage; "*Margerie la fille Robert de Brus soit enuee a la Tour de Londres pour estre mise ilueques en kage, et que ele ne parle a nul homme ne nul homme a luy, fors ceux que le Conestable de la Tour assignera pour luy garder.*" But this extreme rigour excited some compunction, and, the order being cancelled, another order was made that she should be kept in England, under the safe custody of Sir Henry Percy.

It is in some respects satisfactory to observe that all the alterations which the orders sustained, are in diminution of the rigour attending the incarceration of these illustrious captives.

Whilst I am on the subject of Rymer, it may not be unimportant to notice a singular error in his transcript of the document dated 9 July, 1297, by which Robert Bruce the Stewart of Scotland, and his brother Sir Alexander Lindsey, and Sir William Douglas, submitted to Edward, and promised to make amends for their resistance to his authority. As printed by Rymer (*Fœdera*, new edit. vol. i. p. 808), it ends with this clause, "escrit a Sire Williame," and from which Lord Hailes and others have drawn the very plausible inference that the instrument was transmitted to Sir William Wallace for the purpose of enabling him to avail himself of the same terms. But, as in other cases, the carelessness or ignorance of a transcriber has furnished the foundation for an historical theory. The reading of the original is "escrit a Irewin," *i. e.* at Irwin; but a blur before the *I* having been mistaken for an *S*, and the parallel strokes of the *i* and the *n*, in the concluding syllable, having been mistaken for an *m*, Rymer, or his transcriber, read the word as *Sire Wm*, which *Wm* having been extended by Rymer into the word William, produced the reading of the printed *Fœdera*, and the opinions of the historians who have followed a text which they were fully justified in considering as correct and authentic.

I remain, dear Sir, yours ever faithfully,

FRANCIS PALGRAVE.

HUDSON GURNEY, Esq. V.P.

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