

## CHAPTER VI.

The Association.—Statute for the surety of the queen's person.—Commissions for trial of Mary.—Proceedings on the trial.—Judgment against Mary.—Conflicting opinions on this judgment.—The parliament urge the execution of the sentence.—The judgment proclaimed.—Conduct of Elizabeth.—Interview with Davison.—Warrant of execution.—Mary beheaded at Fotheringay.—Elizabeth disavows her responsibility in this proceeding.—The disavowal a self-deception.—Note on the statement that Elizabeth desired that the Queen of Scots might be privately assassinated.

To judge correctly of the course of proceedings against the queen of Scots, we must go back to the session of parliament of 1584-5 when the nation was alarmed by well-founded apprehensions of a Spanish invasion, and by decisive indications of plots for the deposition of Elizabeth and the recognition of Mary's claim to the English crown. In that session a law was passed, entitled "An Act for provision to be made for the surety of the queen's majesty's most royal person, and the continuance of the realm in peace." \* Before the passing of this Act, a most extraordinary combination had been entered into, which is thus recognised in the fourth clause of the statute for the surety of the queen's person: "And whereas of late many of her majesty's good and faithful subjects, have, in the name of God, and with the testimony of good consciences, by one uniform manner of writing under their hands and seals, and by their several oaths voluntarily taken, joined themselves together in one Bond and Association, to withstand and revenge to the uttermost all such malicious actions and attempts against her majesty's most royal person." The specific object of the Association was much more explicitly defined in the instrument to which the good and faithful subjects had set their hands and seals. It was to the effect that if any attempt against the queen's person "shall be taken in hand or procured," whereby any should pretend title to come to the crown by the untimely death of the queen so procured, the Associators not only bind themselves never to allow of any such pretended successor, by whom or *for whom* any such act shall be attempted, but engage to prosecute such person or

\* 27 Eliz., c. 1.

persons to death. It is not correct to state that in the statute for the surety of the queen's person, "the terms of this Association were solemnly approved by parliament." \* It provided that the articles of the Association "shall and ought to be, in all things expounded and adjudged according to the true intent and meaning of this Act;" and the Act expressly limited its meaning by the condition "that if any invasion or rebellion should be made by or for any person pretending title to the crown after her majesty's decease, or if any thing be confessed or imagined tending to the hurt of her person," it should be "*with the privity of any such person.*" In that case it was provided that a commission, composed of peers, privy councillors, and judges, should examine and give judgment on such offences; and that, after a proclamation of such judgment under the great seal, all persons against whom such sentence shall be given and proclaimed should be disabled for ever to have any claim to the crown; and all her majesty's subjects, by virtue of this statute, and by the queen's direction, might pursue the said persons to death. In case of the violent death of the queen, the privy council, with others, might proclaim the guilty parties, and use force in pursuing them to death. Mr. Hallam has pointed out that "this statute differs from the associators' engagement, in omitting the outrageous threat of pursuing to death any person, whether privy or not to the design, on whose behalf an attempt against the queen's life should be made." † Such was the law when the Babington conspiracy was discovered; and Mary was put upon her trial under this law, and not under the old Statute of Treasons, to determine whether that conspiracy against the life of Elizabeth was with the privity of any person that shall or may pretend title to the crown of this realm. ‡

On the 5th of October, 1586, a commission was issued to a large number of the most eminent persons of the kingdom, including twenty-nine peers, nine privy councillors, the chancellor, and five judges. In this commission it was recited, that since the first day of June, in the 27th year of the queen, "divers matters have been compassed and imagined tending to the hurt of our royal person, as well by Mary, daughter and heir of James the fifth, king of Scots, and commonly called queen of Scots and dowager of France, pretending title to this realm of England; as by divers other persons, *cum scientia*, in English with the privity of the same Mary, as we are given to understand." To the commissioners was assigned

\* Tyler, vol. viii. † "Constitutional History," § 27 Eliz., c. 1. clause 1.



full power to examine all such matters, and to give sentence and judgment, under the Act for the surety of the royal person. Thirty-six commissioners repaired to the castle of Fotheringay; and letters from Elizabeth were delivered to Mary, apprising her of the proceedings that were to be taken against her. At some preliminary interviews with a deputation from the commissioners, Mary maintained that she was an absolute queen; that she was no subject; and rather would die a thousand deaths than acknowledge herself a subject. She especially objected to the recent law,—upon which the authority of the commissioners wholly depended, as unjust, as devised of purpose against her. But Hatton, the vice-chamberlain of Elizabeth, urged her to lay aside the bootless privilege of regal dignity, and by appearing before the commissioners have the means of showing her innocence. She ultimately yielded. The court was opened on Friday, the 14th of October, in the great hall at Fotheringay castle. Amongst the Cottonian MSS. there is a rough plan, in the hand-writing of lord Burleigh, for the arrangement of the hall. The "Great Chamber" was to be divided by "a rail as is in the Parliament Chamber." Within the bar was to be a cloth of state, with a chair for the queen of England; and opposite, nearer the rail, a chair for the queen of Scots. On the right of the queen of England's chair, a form for four justices, and a form for fourteen earls. On the left a form for the queen's counsel; a form for seven counsellors; and a form for thirteen barons. The space below the bar was "for all persons not being in commission, nor of the queen's learned counsel." \* It is scarcely possible, within reasonable limits, to furnish an adequate relation of this so-called trial. Like all other trials for high-treason at that period, the witnesses were not examined in open court; the accused was not allowed counsel. There sat, facing the empty chair of royal state, this acute and courageous woman, with those before her whom she regarded as her enemies ready to overwhelm her by their accusations or their arguments. She repeated her declaration; that whatever answers she gave were made under protest against the authority of the commission to try a princess who was no subject of the queen of England. Gawdy, the queen's serjeant, went through the history of the Babington conspiracy, and brought forward arguments that she knew of it, approved it, and showed the means of its execution. She maintained that she knew not Babington; had never received any letters

\* See plan in Ellis, First Series, vol. iii.

from him, nor written any to him; that she never plotted the destruction of the queen; and that to prove the same her subscription under her own hand ought to be produced. Copies of Babington's letters to her were read. "Let it be proved," she answered, "that I received them." The confessions of Babington and others were then recited, to prove that she had written letters which showed knowledge of the conspiracy. She said this was second-hand evidence. A copy of a letter was read, as of one written by her to Babington. She demanded that the original, said to be in cypher, should be produced. She hinted that Walsingham, who had placed spies about her, might have caused her cypher to be counterfeited. Walsingham protested that as a private person he had done nothing unbeseeming an honest man, nor as he bore the place of a public person had he done anything unworthy his place. Burleigh took part in the charges against the undaunted queen; who thus fought a battle single-handed against the most adroit statesmen of that age. It was not a trial, but a most unequal debate; and it is painful to see how Burleigh, in many points so worthy of respect, could describe the keen encounter between himself and an inexperienced woman. "This queen of the castle was content to appear before us again in public, to be heard, but, in truth, not to be heard for her defence, for she could say nothing but negatively, that the points of the letters that concerned the practice against the queen-majesty's person were never by her written, nor of her knowledge. The rest, for invasion, for escaping by force, she said, she would neither deny nor affirm. But her intention was, by long artificial speeches, to move pity, to lay all blame upon the queen's majesty, or rather upon the Council, that all the troubles past did ensue, avowing her reasonable offers and our refusals; and in this her speeches I did so encounter her with reasons out of my knowledge and experience, as she had not that advantage she looked for; as I am assured the auditory did find her case not pitiable, her allegations untrue; by which means great debate fell yesternight very long, and this day renewed with great stomaching." \*

This letter of Burleigh refers to the proceedings of the second day. Mary then acknowledged that notes had been written to Babington by her secretaries; but said that they wholly referred to plans for her escape. She did not deny that she sought this deliverance, even through an invasion of the realm. Letters were pro-

\* Letter to Davison, October 15, Ellis, First Series, vol. iii. p. 121.



duced, of which the genuineness is now scarcely disputed,\* in which she minutely expounded plans for the king of Spain "to set on the queen of England;" which invasion she would aid by inducing the Catholic lords of Scotland to join the enterprise; and, seizing the young king James, deliver him into the hands of the king of Spain, or of the pope, to make him to be instructed and reduced to the Catholic religion. Another letter was read, in which Mary expressed her intention of bequeathing to the Spanish king her right of succession to the English throne. The plots for invasion and the overthrow of Elizabeth's government were almost necessarily connected with the assassination of the queen. Whether Mary was cognisant of one part of these plots, and wholly ignorant of the other, may be reasonably questioned.

At the close of the proceedings at Fotheringay, on the second day, the court was adjourned to the 25th at Westminster. Naou and Curle, Mary's two secretaries, were then examined, in the absence of their mistress. Camden says that they voluntarily confirmed all and every the letters and copies of letters, before produced, to be most true. But this historian adds, "I have seen Naou's apology to king James, written in the year 1605, wherein, laboriously protesting, he excuseth himself, that he was neither author, nor persuader, nor the first revealer of the plot that was undertaken, nor failed of his duty through negligence or want of foresight; yea, that this day [the 25th of October] he stoutly impugned the chief points of accusation against his lady and mistress; which, notwithstanding, appeareth not by records." The commission unanimously delivered as their sentence "that the Babington conspiracy was with the privity of Mary, pretending title to the crown of England; and that she hath compassed and imagined within this realm, divers matters tending to the hurt, death, and destruction of our sovereign lady the queen." The commissioners added that this sentence did not derogate from James, king of Scots, in title or honour, but that he was in the same place, degree, and right, as if the sentence had never been pronounced.

Between the trial of Mary and the execution of the sentence there was an interval of four months. They were four months of intense anxiety, not only to the unhappy queen of Scots, but to Elizabeth, to her ministers, to the parliament, to the people. There

\* "These, if they were genuine, and of that there can be little doubt, showed that she had not only approved of the invasion devised at Paris, but had offered to aid its execution."—Lingard.

are many doubtful points in the recorded transactions of this period, and historians have too often cut the knot instead of attempting to unloose it. Starting upon the hypothesis that if Mary were not wholly innocent, the judgment against her was illegal, she is usually represented as the victim of remorseless statesmen, of a fanatical parliament, of a ferocious people, and of a cruel and dissembling rival queen. In the natural sympathy of mankind for a woman who had so long been acquainted with misery, the fact seems to have been overlooked that she was thrust from her legitimate throne by her own subjects, under charges of the most atrocious nature, and with the conviction that she would never cease to plot with foreign powers for the overthrow of the reformed religion. It is equally clear that her detention in this country was upon the ground that she was a public enemy; that she had never given up her claim to the actual possession of the crown; that her efforts to induce the Catholic powers to support her claims were unceasing; and that for years she was the centre around which all the intrigues for destroying the heretical governments of England and Scotland revolved. During her life, however strictly Mary was watched, the government of the Protestant Elizabeth was in perpetual danger. It was no popular delusion which ascribed to the bigoted popes who held the queen of England accursed, the doctrine that—

"blessed shall he be that doth revolt  
From his allegiance to a heretic;"

that the hand which took away Elizabeth's "hateful life" should be deemed "meritorious." When Mary was pronounced guilty of privity to the Babington conspiracy, the most extensive preparations for the overthrow of Elizabeth were rapidly maturing. Invasion from without, treason from within, were to work together to place upon the throne one who would call in foreign aid to destroy the religion which had been generally adopted by a whole generation of English, and which no differences of opinion were otherwise likely essentially to disturb. Assuming Mary to have been privy to the various plots that had ripened during the last two years of her detention,—and one of the soberest of historians says, "in Murden's State Papers we have abundant evidence of Mary's acquaintance with the plots going forward in 1585 and 1586 against Elizabeth's government, if not with those for her assassination" \*—the ques-

\* Hallam, Note to chap. iii.



tion arises whether the deposed queen of Scots was amenable to any English tribunal? Camden says, that amongst contemporaries, "divers speeches were raised about the matter according to the divers dispositions of men." Some held that "she was a free and absolute princess, under the superior command of God alone,—that she could not commit treason because she was no subject." Others maintained that she was "only a titular queen, because she had resigned her kingdom, and when she first came into England had subjected herself under the protection of the queen of England." These abstract differences were no doubt settled, for the most part, by the doctrine, with which Camden concludes his statement of the opinions of those who defended the sentence against Mary,—“that the safety of the people is the highest law.” What- ever violent historical partisans may maintain, we concur in the opinion of Mr. Hallam, that those who held Mary to be only a titular queen were in the right. “Though we must admit that Mary’s resignation of her crown was compulsory, and retracted on the first occasion; yet, after a twenty years’ loss of possession, when not one of her former subjects avowed allegiance to her, when the king of Scotland had been so long acknowledged by England, and by all Europe, is it possible to consider her as more than a titular queen, divested of every substantial right to which a sovereign tribunal could have regard?”\* If we accept of the doctrine that “the safety of the people is the highest law,” we must further agree that the sentence against Mary, “if not capable of complete vindication, has at least encountered a disproportioned censure.”† But there must be censure more or less. The contending feelings excited by the fate of Mary have been as correctly analysed by the great contemporary poet as by any historian. There can be no doubt that Spencer’s “False Duessa” was the type of Mary, the “untitled queen.” Following out the poet’s brief enumeration of the crimes of Duessa, Authority opposed her; the Law of Nations rose against her; Religion imputed God’s behest to condemn her; the People’s cry and Commons’ suit importuned for care of the Public Cause: Justice charged her with breach of law:—

“But then, for her, on the contrary part,  
Rose many advocates for her to plead;  
First there came Pity with full tender heart,  
And with her joined Regard of Womanhead;

\* “Constitutional History,” chap. iii.

† *Ibid.*

And then came Danger, threatening hidden dread  
And high alliance unto foreign power;  
Then came Nobility of Birth, that bred  
Great ruth through her misfortune’s tragic stour,  
And lastly Grief did plead, and many tears forth pour.”

The Pity, the Regard of Womanhead, the ruth for fallen Nobility of Birth, the Grief that speaks in tears, will always prevail over political considerations when we peruse the sad story of Mary Stuart. But it is not to read the past aright if we wholly shut our eyes to Justice and the Public Cause. It would be worse than mere tenderness to impute to Elizabeth and her advisers, to the parliament and to the people, a blind hostility to a suffering and harmless captive. Mary was for years the terror of England. Her destruction was “the Great Cause” to which the highest and the humblest in the land looked as a relief. If her death were a crime it was a national crime. To regard it at the present day as an outrage upon Scotland, and to talk of it, as some do, in this spirit, appears to us one of those hallucinations of a distempered patriotism, with which men vainly endeavour to call up the shadows of long-buried rivalries and forgotten discontents.

The parliament was opened by Commission, an unusual course, on the 29th of October. The chief business was to bring before the houses the proceedings against the queen of Scots; and the principal discussions were upon what was commonly termed “the Great Cause.” The members of the Council appear to have been firmly persuaded of the duty of urging Elizabeth to the most extreme course. Davison, one of her secretaries, writes to Leicester on the 4th of November, “Your lordship’s presence here were more than needful for the great cause now in hand, which is feared will receive a colder proceeding than may stand with the surety of her majesty, and necessity of our shaken estates.”‡ On the 10th of November, a committee of both houses declared the sentence against Mary to be just; and the houses agreed in a petition to Elizabeth, that proclamation of the judgment might be made, and that further proceedings might be taken against the Scottish queen; “because upon advised and great consultation, we cannot find that there is any possible means to provide for your majesty’s safety but by the just and speedy execution of the said queen.”§ The answer of Elizabeth is generally considered hypocritical: “If my

\* “Faery Queen,” book v. canto ix.

† “Leicester Correspondence.” p. 453.

‡ “Parliamentary History.”



life alone depended hereupon, and not the safety and welfare of all my people, I would, I protest unfeignedly, willingly and readily pardon her. Nay, if England might by my death obtain a more flourishing condition and a better prince, I would most gladly lay down my life. For, for your sakes it is, and for my people's, that I desire to live." This is egotism; but egotism which has not only the "princely dignity," but the "motherly tenderness," with which Elizabeth always spoke of her people. On this occasion she requested time to consider. The houses again resolved that no safety can in any wise be had as long as the queen of Scots doth live. Again Elizabeth hesitated: "If I should say unto you," she replied, "that I mean not to grant your petition, by my faith I should say unto you more than perhaps I mean. And if I should say unto you I mean to grant your petition, I should then tell you more than is fit for you to know. And thus I must deliver you an answerless." But the government acceded to one part of the petition of parliament to the queen. At the beginning of December the judgment of the Commissioners against Mary was solemnly proclaimed in London and other places. Our historians record the joy of the citizens of the capital; the ringing of bells and the bonfires. They pass over the statutory effect of this proclamation: "After such sentence or judgment given, and declaration thereof made and published, by her majesty's proclamation, under the great seal of England, all persons against whom such sentence or judgment shall be so given and published, shall be excluded and disabled for ever to have or claim or to pretend to have or claim, the crown of this realm."\* The dread of the great body of Protestants had been that, in the event of Elizabeth's death, a Romanist successor would come, in the person of Mary, the next heir. The proclamation under the statute put an end to that chance; and hence the joy. For two months a more fatal termination of the "great cause" had been suspended. When Elizabeth was threatened by the French ambassador, she wrote a letter of defiance to his master Henry III. When James sent commissioners to England upon a mission of intercession, she delayed and protested her desire to save Mary, although in a letter to James she called her "the serpent that poisons me." As these efforts became more strenuous Elizabeth became more determined; and wrote to James, "though like a most natural good son you charged them [the ambassadors] to seek all means they could devise with wit or

\* 27 Eliz.

judgment to save her life, yet I cannot, nor do not, allege any fault to you of their persuasions; for I take it that you will remember that advice or desires ought ever agree with the surety of the party sent to and honour of the sender."\* Camden has described the state of Elizabeth's mind at this period. "She gave herself over to solitariness, sat many times melancholy and mute; and often sighing muttered to herself, *aut fer, aut feri*,—that is, either bear strokes or strike: and, out of I know not what emblem, *ne feriare, feri*,—that is, strike, lest thou be stricken." At last the struggle, or the simulated struggle, seemed over. On the 1st of February, the queen sent for Davison, one of the secretaries, at ten in the morning. After various talk, she asked if he had brought the warrant for the execution of the Scottish queen. He had been desired by the lord admiral Howard to bring it, and he delivered it to Elizabeth. That warrant had been in his hands five or six weeks; but now, as he was told, the queen had resolved to sign it, in consequence of rumours of invasions and rebellions spread abroad. The queen signed the warrant, and ordered Davison to carry it to the great seal, and then dispatch it with all expedition. She told him to show the warrant to Mr. Secretary Walsingham, who was sick; saying, merrily, that she thought the sight thereof would kill him outright. This might be cruel indifference, or forced levity to hide a conflict within. He showed the warrant to Burleigh and Leicester, and then went to the chancellor, and afterwards to Walsingham. The next morning the queen sent him a message, that if he had not been already to the chancellor he should forbear till he knew her further pleasure. He went therefore to the queen, and told her that the warrant was sealed; and she said, "what needeth that haste?" She objected that this course threw the whole burthen upon herself. Davison, fearing to take the responsibility of dispatching the warrant, went to Burleigh, who assembled a Council, and gave his advice that they should join in sending the warrant to the commissioners "without troubling her majesty any further in that behalf, she having done all that in law or reason could be required of her." Burleigh undertook to prepare letters to accompany the warrant; and the next day, the 3rd, the warrant and despatches were delivered by Burleigh to Mr. Beale, who was thought the fittest messenger. Two or three days after, the queen spoke to Davison about another course "that had been propounded to her underhand by one of great place," against which Davison gave rea-

\* "Letters of Elizabeth and James VI.," p. 441.



sons "wherewith she seemed to rest satisfied without any show of following the new course, or altering her former resolution in any point." At this interview Elizabeth complained that the warrant was not already executed. Such is the straightforward account contained in a Manuscript which is amongst the papers in the Harleian Collection. This is, in substance, the same account as that given by Camden. But there are other statements by this unfortunate secretary, who was prosecuted in the Star Chamber for not obeying Elizabeth's commands in the matter of the warrant, which are familiar to the most cursory reader of history, and which are usually accepted as evidence of a desire of the queen that Mary should be privately murdered. Camden refers to these statements of how Davison "excused himself in private," which he gives "compendiously," with this addition to what we have related as found in the other narrative: "Moreover she blamed Paulet and Drury that they had not eased her of this care, and wished that Walsingham would feel their minds in this matter." On a subsequent day, "she asked me whether I had received any answer from Paulet, whose letter, when I had showed her, wherein he flatly refused to undertake that which stood not with honour and justice, she waxing angry, accused him and others, which had bound themselves by the Association, of perjury and breach of their vow." We forbear to enter here upon this remarkable story, of which, holding the evidence to be very doubtful as regards assassination, we have thrown the minuter details into the form of a note, so as not to interrupt the main narrative. \*

The last hours of Mary Stuart have been described with an exactness which is far more interesting than the highest efforts of imaginative art. Indeed, the art of Schiller has borrowed its most effective touches from an official narrative whose authenticity is established by an indorsement in Lord Burleigh's hand. † The scenes immediately preceding the fatal morning of the 8th of February have been derived from various sources, and some of the incidents are conflicting. The relations, however, agree in the most essential particulars. The earls of Shrewsbury and Kent, to whom the Lords of the Council had specially sent Mr. Beale, arrived at Fotheringay on the 7th of February, after dinner. They communicated to Mary the purpose for which they had arrived; and Beale

\* See page 128.

† Feb. 1536. The manner of the Q. of Scots's death at Fotheringay, wr. by R. Wy. This is amongst the Lansdowne MS. Ellis, Second Series, vol. iii. p. 102.

read the queen's commission for her execution. She bowed her head, made the sign of the cross, and thanked her God that the summons so long expected had come at last. She asked at what time she should die, and was informed at eight the following morning. Having desired the presence of her priest and almoner, she was refused; and was told that in the place of her confessor she might have the spiritual assistance of the dean of Peterborough. She necessarily declined this. This ferocious bigotry would be incomprehensible, if we did not bear in mind that the severe Protestant and the rigid Catholic were equally convinced that it was their duty to urge their own doctrines, even whilst the axe or the fagot were ready for those who were about to perish for their opinions. The "bachelor of Divinity, named Elye, of Brazennose College," who pressed Cranmer to recant when he was chained to the stake; and the earl of Kent, who attempted to convert Mary, on the evening before her death, were misjudging zealots, but they meant not cruelty. Camden has it, that the earl of Kent said to Mary, "Your life will be the death of our religion, as, contrariwise, your death will be the life thereof." The doomed one saw her advantage in this speech; and afterwards said to her physician, "They say that I must die because I have plotted against the queen's life; yet the earl of Kent signifieth unto me that there is no other cause of my death but that they doubt their religion because of me." Mary then looked over her will; distributed money to her attendants; wrote letters; prayed long and fervently; and went quietly to sleep.

At the upper end of the great hall of Fotheringay had been erected a scaffold, two feet in height and twelve in breadth, railed round, and covered with black cloth. On that scaffold were a low stool, a long cushion, and a block; all covered also with black. There were many persons assembled in that hall. The queen had dressed herself "gorgeously and curiously," says Camden, "as she was wont to do on festival days." She came forth from her chamber, at the bidding of Thomas Andrews, sheriff of Northamptonshire; and was met in the entry next the hall, by Shrewsbury and Kent, "with divers knights and gentlemen." Melvin, one of her old servants, fell on his knees before her; and said that it would be the most sorrowful message he ever carried when he should report in Scotland that his queen and mistress was dead. The official narrative thus continues: "Then the queen of Scots, shedding tears, answered him, 'You ought to rejoice rather than weep for



that the end of Mary Stuart's troubles is now come. Thou knowest, Melvin, that all this world is but vanity, and full of troubles and sorrows; carry this message from me, and tell my friends that I die a true woman to my religion, and like a true Scottish woman and a true French woman. But God forgive them that have long desired my end; and he that is the true Judge of all secret thoughts knoweth my mind, how that ever it hath been my desire to have Scotland and England united together. Commend me to my son, and tell him that I have not done anything that may prejudice his kingdom of Scotland; and so, good Melvin, farewell; and kissing him, she bade him pray for her."

We have again a scene characteristic of an age in which to be tender was too often accounted to be weak, and to be tolerant was held to be impious. Mary requested that her servants might be present at her death. The earl of Kent refused, lest they should trouble her grace, and disquiet the company by their speeches. She replied that she would give her word that they should do nothing of the kind. After some consultation two of her female servants and Melvin, with two medical attendants and an old man, were allowed to enter the hall. Melvin carrying her train, she stepped up the scaffold with a cheerful countenance, and sat down on the stool; and there stood by her side the two earls, and the sheriff, and two executioners. The commission was read; Mary "listening unto it with as small regard as if it had not concerned her at all." The dean of Peterborough, Dr. Fletcher, standing outside the rail, directly before her, began an exhortation; but she stopped him, saying, "Mr. Dean, I am settled in the ancient Catholic Roman religion, and mind to spend my blood in defence of it." The pertinacious dignitary replied, with more zeal than charity, "Madam, change your opinion, and repent of your former wickedness, and settle your faith only in Jesus Christ, by him to be saved." Mary told him to trouble himself no further; and Shrewsbury and Kent said they would pray for her. She thanked them, "but to join with you in prayer I will not, for that you and I are not of one religion." The dean then prayed aloud from the English liturgy; and Mary with steadfast voice, having in her hand a crucifix, began to pray in Latin; and she finally prayed in English for Christ's afflicted church, for her son, and for the queen of England. The callous earl of Kent was not moved even by this solemn earnestness, but told her to "leave those trumperies." Such is fanaticism, from whatever perverted view of the religion of love it may spring.

The last dread trial was sustained with equal fortitude and steadfastness by Mary, in whom, whatever were her faults, were many of the elements of true heroism. As her two women wept, she besought them to be calm: "I have promised for you." A Corpus-Christi cloth being pinned over her face, she knelt down upon the cushion "most resolutely," reciting aloud the Latin psalm, *In te confido*, "In thee, O Lord, do I trust." Groping for the block, she laid down her head, and cried, *In manus tuas, Domine*, "Into thy hands, O Lord, I commend my spirit." Her head was severed in two strokes. One poor servant there was who went upon that scaffold without permission. Her little dog was taken from beneath her robes; and "afterwards would not depart from the dead corpse."

Fifteen months after this tragedy, Elizabeth wrote to James, "God, the searcher of all hearts, ever so have misericorde of my soul as my innocency in that matter deserveth, and no otherwise; which invocation were too dangerous for a guilty conscience." Opposed as the narratives of Davison are to each other, in many essential particulars, we cannot wholly reject them. We must believe, with one of these, that Elizabeth only desired the non-performance of the warrant for execution, that her prompting of some form that would shift the burthen from herself might be adopted—for which purpose she caused letters to be written to Paulet and Drury: or, with the other, that she was always resolved upon the execution; and accept the statement of both "apologies" of Davison, that the very day before that of the Scottish queen's death, "she fell of herself into some earnest expostulation with me about the execution of her said warrant, complaining greatly of myself and the rest of her Council, as men careless of her safety and our own duties, commanding me to write a sharp letter to sir Amias Paulet to that effect." And yet the Council, when the news of the execution arrived, says Davison, "did not think fit to break suddenly to her majesty, who nevertheless, by other means, understood thereof that night." The next morning he met the other members of the Council, who told him that "her majesty seemed greatly offended against them all about this action, disavowing that she had either commanded or intended any such proceeding therein." Davison was sent to the Tower, and tried in the Star Chamber. Burleigh was forbidden to appear in court. The assertions of Elizabeth have been attributed to "the earnestness of a dreadful self-deception."\* Her conduct during the four

\* Bruce, in Introduction to "Letters of Elizabeth," &c.



months from the trial to the last act of this terrible drama, has been designated as "hollow affectation." But nevertheless we believe that she was not one of those whose "feet are swift to shed blood;"\* that there was a real contest in her mind between her private and her public feelings; and that in her violent declarations of innocency she deceived herself into throwing the whole blame upon parliament and her ministers. Six days after the execution she wrote to James to express "the extreme dolor that overwhelms my mind, for that miserable accident which, far contrary to my meaning, hath befallen." She further says, "As I know this was deserved, yet if I had meant it I would never lay it on other shoulders." She persisted in this assertion, without any variation. There can be little doubt that she shielded herself by some technical objection to the mode in which her Council had proceeded, upon the representations of Davison. At Davison's trial in the Star Chamber, on the 28th March, sir Roger Manwood, lord chief baron, said, "This thing, then, being so high a point of justice, was not in any respect to be done otherwise than her majesty's express commandment would bear. . . . The instrument was not so peremptory and irrevocable as he [Davison] took it; nor a sufficient warrant for any kind of proceeding against the Scottish queen, neither for his associates, nor for any other; for the last statute, besides the condition and proclamation, doth require the queen's direction; and that must be either general, that all men may do it, which is not here granted, or particular, who or by what means; neither is there here any such, especially her majesty having no knowledge of the thing done."† The statute of the 27th Elizabeth certainly says, that after sentence and judgment, and proclamation of the same, "all her highness's subjects shall and may lawfully, by virtue of this Act, and *her majesty's direction in that behalf*, by all forcible and possible means pursue to death every such wicked person." Elizabeth had signed a general instrument of this nature; which the chief baron says was "not a sufficient warrant for any kind of proceeding against the Scottish queen." The Council, upon the representations of Davison, chose, honestly interpreting the queen's wishes, to supply what was deficient in that instrument. Burleigh told the Council, having read the instrument to them, that they were met to advise of "such means as might be most honourable and expedient for the dispatch thereof; seeing her majesty had for her part performed as much as

\* Hallam. † Report of the Trial, by an eye-witness. Nicolas, p. 343.

in any honour, law, or reason, was to be required at her hands." They took upon themselves the responsibility, fully understanding "her doubted inclination to drive this burthen, if it might be, from herself;" and they determined to apply no more to the queen, lest she, "upon such a needless motion, should have fallen into any new conceit of interrupting and staying the course of justice."\* There was some slight foundation for a "dreadful self-deception."

\* Davison's "Discourse," Nicolas, p. 241.

The popular opinion of the guilt of Elizabeth which was the result of the trial, has been considerably exaggerated in modern times. The most liberal history writers of England were most anxious for the execution of the queen. Her execution was not only sanctioned by her Council and Parliament, but she herself was present at the execution, and she made a full and free confession of her guilt. The only objection which was raised against her execution was the technical objection that she was not a subject of England. This objection was raised by a lawyer, and it was not until the trial of Davison that it was raised again. Davison's trial was a full and free confession of his guilt, and it was not until the trial of Elizabeth that it was raised again. Elizabeth's trial was a full and free confession of her guilt, and it was not until the trial of Elizabeth that it was raised again. Elizabeth's trial was a full and free confession of her guilt, and it was not until the trial of Elizabeth that it was raised again. Elizabeth's trial was a full and free confession of her guilt, and it was not until the trial of Elizabeth that it was raised again.

\* Printed by Nicolas, "Life of Davison," Appendix I. † Printed by Nicolas, "Life of Davison," Appendix I.



NOTE ON THE STATEMENTS THAT ELIZABETH DESIRED THAT THE QUEEN OF SCOTS MIGHT BE PRIVATELY ASSASSINATED.

THE popular impression of the guilt of Elizabeth with regard to the death of Mary Stuart has been considerably aggravated in modern times. The worst belief formerly was, that the queen of England was most anxious for the execution of the queen of Scots, but long dissembled; was exhorted by her council and by parliament to issue the fatal warrant; resisted only that she might cast the odium of the act upon others; and meanly persecuted Davison the secretary for really obeying her commands. Hume and Robertson briefly notice a far more odious charge against Elizabeth. Robertson says, "She often hinted to Paulet and Drury, as well as to some other courtiers, that now was the time to discover the sincerity of their concern for her safety, and that she expected their zeal would extricate her out of her present perplexity. But they were wise enough to seem not to understand her meaning." It is now the almost uniform practice of historical writers perfectly to understand that the meaning was, private assassination. This accusation against Elizabeth is now generally related in the most circumstantial manner, and as generally accepted as resting upon unquestionable testimony. It appears to us, at the risk of being tedious, a duty to examine the evidence upon which this accusation is founded.

There are four narratives, or "apologies" attributed to Davison. The one with which the general reader is best acquainted is given in Robertson's "History of Scotland," Appendix xix. vol. ii. It contains no word respecting any suggestion for the removal of Mary, except by public execution. The original is amongst the Cottonian MSS.\* The second "apology," with which Hume, Robertson, and other historians of the last century were acquainted, is printed in Kippis' "Biographia Britannica," Art. "Davyson," as "transcribed by Mr. John Urry, of Christchurch, from the papers of Sir Amias Paulet."† But it was first printed in the third volume of Dr. George Mackenzie's "Lives and Characters of Scottish Worthies," in 1722; and he derived his knowledge of it from Mr. John Urry. In this "apology," the command of Elizabeth to Davison, that he and Walsingham should write to Paulet and Drury "to sound their dispositions, aiming still at this, that it might be so done as the blame might be removed from herself," is detailed at some length. These are the materials which, with two letters which we shall have especially to notice, were known before the close of the last century. These letters, according to the ordinary belief, have converted the doubtful into the positive. Robertson says, "Even after the warrant was signed, she commanded a letter to be written to Paulet, in less ambiguous terms, complaining of his remissness in sparing so long the life of her capital enemy, and begging him to remember at last what was incumbent on him as an affectionate subject, and to deliver his sovereign from continual fear and danger, by shortening the days of his prisoner." Paulet, adds this historian, "rejected the proposal with disdain." Conversations might have been misunderstood; rash expressions exagger-

\* Printed by Nicolas, "Life of Davison," Appendix D.

† Printed by Nicolas, Appendix C.

ated. But letters of this import could not be capable of any other interpretation than that Elizabeth desired Mary to be removed by secret murder.

In 1823, Sir N. H. Nicolas published his "Life of William Davison," in which he gave two other apologies, which he describes as "the fullest and most satisfactory" of these papers, and which he believes have "never before been cited or published." The first of these is taken from the Cottonian MS., Titus, C. vii. f. 48, and the Cottonian MS. Caligula, C. ix. f. 149, and these "appear to be in Davison's hand."\* The second is the Harleian MS., 299, f. 213, and, says Nicolas, "the manuscript is very similar to Davison's."† The one from the Harleian MS. is headed "A true relation of what passed between her majesty and me," &c. The other from the Cottonian MS. is headed "A Discourse sent by and from Mr. Secretary Davison, being then prisoner in the Tower of London, unto Secretary Walsingham," &c. There is another copy of the "Discourse" in the Harleian Collection, of which the Catalogue says, "written by the hand of Mr. Rafe Starkey." Nicolas points out that it varies very slightly from that in the Cottonian Collection. Three examinations of Davison, whilst he was a prisoner in the Tower, and reports of his trial in the Star-chamber, are the principal documents which further bear on the question.

The offence for which Davison was prosecuted in the Star-chamber was,—as related in a letter written about three months after Mary's death—"for not proceeding with the queen of Scots according to his mistress' commandment at the delivery of the warrant, which was, not to put it in execution before the realm shall be actually invaded by some foreign power."‡ The examinations of Davison in the Star-chamber are recorded in several papers, in which there are allusions to some other mode of proceeding than that contemplated in the warrant. Thus, amongst questions put to Davison on the 12th of March, he is asked, "whether six or seven days after it [the warrant] was passed the great seal, and in your custody, her majesty told you not in the gallery that she had a better way to proceed therein than that which was before advised?" Would the courtly examiners have ventured to ask such a question if they had expected that Davison would have blurted out that the other way was assassination? The answer of Davison was this: "He remembereth that upon some letters received from Mr. Paulet, her majesty falling into some complaint of him upon such cause as she best knoweth, she uttered such a speech that she would have matters otherwise done."§ Did this speech, that she would have matters otherwise done, contemplate assassination?

The two Reports purporting to be from Davison, which are preserved in the Harleian and Cottonian MSS., and have been reprinted by Sir N. H. Nicolas have most important variations. The narrative of Sir N. H. Nicolas is mainly founded upon the Cottonian MS., which varies very slightly from that first published by Mackenzie. The Harleian Catalogue says of the two narratives, though they "differ in many circumstances, each containing several which the other wants, they are not repugnant one to the other, and therefore both may be true." They are so repugnant, however, that the most material aversion of the "discourse" is not found in the "relation." The "discourse" purports to be sent by Davison to Walsingham when he was "a prisoner in the Tower," and bears the date as having been so sent, February 20, 1586 [1587.] It is an extraordinary circumstance that of this confidential communication there should be many copies; for it contains allegations against the queen which the writer, "a prisoner in the Tower," would scarcely entrust to any person but his co-secretary, Walsingham, who, according to this statement, was art and part with him in an unscrupulous act. Of the "relation" only one copy is known. This fact is certainly insufficient to impugn the authenticity of the paper bearing the date of February 20. But as there were evident pains taken to publish it, by a multiplication of copies, it is not impossible that it might be

\* Printed by Nicolas, Appendix A.

† Ellis, Second Series, vol. iii. p. 126.

‡ Sir N. H. Nicolas, "Life of Davison," p. 96.

§ *Ibid.*, Appendix B.