

## CHAPTER XVII--THE MEMORIAL

The last word of the blessing was scarce out of the minister's mouth before Stewart had me by the arm. We were the first to be forth of the church, and he made such extraordinary expedition that we were safe within the four walls of a house before the street had begun to be thronged with the home-going congregation.

"Am I yet in time?" I asked.

"Ay and no," said he. "The case is over; the jury is enclosed, and will so kind as let us ken their view of it to-morrow in the morning, the same as I could have told it my own self three days ago before the play began. The thing has been public from the

start. The panel kent it, 'YE MAY DO WHAT YE WILL FOR ME,'

whispers he two days ago. 'YE KEN MY FATE BY WHAT THE DUKE OF

ARGYLE HAS JUST SAID TO MR. MACINTOSH.' O, it's been a scandal!

"The great Agyle he gaed before,

He gart the cannons and guns to roar,"

and the very macer cried 'Cruachan!' But now that I have got you

again I'll never despair. The oak shall go over the myrtle yet;

we'll ding the Campbells yet in their own town. Praise God that I

should see the day!"

He was leaping with excitement, emptied out his mails upon the floor that I might have a change of clothes, and incomed me with his assistance as I changed. What remained to be done, or how I was to do it, was what he never told me nor, I believe, so much as thought of. "We'll ding the Campbells yet!" that was still his overcome. And it was forced home upon my mind how this, that had the externals of a sober process of law, was in its essence a clan battle between savage clans. I thought my friend the Writer none of the least savage. Who that had only seen him at a counsel's back before the Lord Ordinary or following a golf ball and laying down his clubs on Bruntsfield links, could have recognised for the same person this voluble and violent clansman?

James Stewart's counsel were four in number--Sheriffs Brown of

Colstoun and Miller, Mr. Robert Macintosh, and Mr. Stewart younger

of Stewart Hall. These were covenanted to dine with the Writer

after sermon, and I was very obligingly included of the party. No

sooner the cloth lifted, and the first bowl very artfully

compounded by Sheriff Miller, than we fell to the subject in hand.

I made a short narration of my seizure and captivity, and was then

examined and re-examined upon the circumstances of the murder. It

will be remembered this was the first time I had had my say out, or

the matter at all handled, among lawyers; and the consequence was

very dispiriting to the others and (I must own) disappointing to

myself.

"To sum up," said Colstoun, "you prove that Alan was on the spot;

you have heard him proffer menaces against Glenure; and though you

assure us he was not the man who fired, you leave a strong impression that he was in league with him, and consenting, perhaps immediately assisting, in the act. You show him besides, at the risk of his own liberty, actively furthering the criminal's escape.

And the rest of your testimony (so far as the least material) depends on the bare word of Alan or of James, the two accused. In short, you do not at all break, but only lengthen by one personage, the chain that binds our client to the murderer; and I need scarcely say that the introduction of a third accomplice rather aggravates that appearance of a conspiracy which has been our stumbling block from the beginning."

"I am of the same opinion," said Sheriff Miller. "I think we may all be very much obliged to Prestongrange for taking a most

uncomfortable witness out of our way. And chiefly, I think, Mr.

Balfour himself might be obliged. For you talk of a third

accomplice, but Mr. Balfour (in my view) has very much the

appearance of a fourth."

"Allow me, sirs!" interposed Stewart the Writer. "There is another

view. Here we have a witness--never fash whether material or not--

a witness in this cause, kidnapped by that old, lawless, bandit

crew of the Glengyle Macgregors, and sequestered for near upon a

month in a bourock of old ruins on the Bass. Move that and see

what dirt you fling on the proceedings! Sirs, this is a tale to

make the world ring with! It would be strange, with such a grip as

this, if we couldnae squeeze out a pardon for my client."

"And suppose we took up Mr. Balfour's cause to-morrow?" said Stewart Hall. "I am much deceived or we should find so many impediments thrown in our path, as that James should have been hanged before we had found a court to hear us. This is a great scandal, but I suppose we have none of us forgot a greater still, I mean the matter of the Lady Grange. The woman was still in durance; my friend Mr. Hope of Rankeillor did what was humanly possible; and how did he speed? He never got a warrant! Well, it'll be the same now; the same weapons will be used. This is a scene, gentleman, of clan animosity. The hatred of the name which I have the honour to bear, rages in high quarters. There is nothing here to be viewed but naked Campbell spite and scurvy Campbell intrigue."

You may be sure this was to touch a welcome topic, and I sat for some time in the midst of my learned counsel, almost deaved with their talk but extremely little the wiser for its purport. The Writer was led into some hot expressions; Colstoun must take him up and set him right; the rest joined in on different sides, but all pretty noisy; the Duke of Argyle was beaten like a blanket; King George came in for a few digs in the by-going and a great deal of rather elaborate defence; and there was only one person that seemed to be forgotten, and that was James of the Glens.

Through all this Mr. Miller sat quiet. He was a slip of an oldish gentleman, ruddy and twinkling; he spoke in a smooth rich voice, with an infinite effect of pawkiness, dealing out each word the way an actor does, to give the most expression possible; and even now,



when he was silent, and sat there with his wig laid aside, his glass in both hands, his mouth funnily pursed, and his chin out, he seemed the mere picture of a merry slyness. It was plain he had a word to say, and waited for the fit occasion.

It came presently. Colstoun had wound up one of his speeches with some expression of their duty to their client. His brother sheriff was pleased, I suppose, with the transition. He took the table in his confidence with a gesture and a look.

"That suggests to me a consideration which seems overlooked," said he. "The interest of our client goes certainly before all, but the world does not come to an end with James Stewart." Whereat he cocked his eye. "I might condescend, *exempli gratia*, upon a Mr.

George Brown, a Mr. Thomas Miller, and a Mr. David Balfour. Mr.

David Balfour has a very good ground of complaint, and I think,

gentlemen--if his story was properly redd out--I think there would

be a number of wigs on the green."

The whole table turned to him with a common movement.

"Properly handled and carefully redd out, his is a story that could

scarcely fail to have some consequence," he continued. "The whole

administration of justice, from its highest officer downward, would

be totally discredited; and it looks to me as if they would need to

be replaced." He seemed to shine with cunning as he said it. "And

I need not point out to ye that this of Mr. Balfour's would be a

remarkable bonny cause to appear in," he added.

Well, there they all were started on another hare; Mr. Balfour's cause, and what kind of speeches could be there delivered, and what officials could be thus turned out, and who would succeed to their positions. I shall give but the two specimens. It was proposed to approach Simon Fraser, whose testimony, if it could be obtained, would prove certainly fatal to Argyle and to Prestongrange. Miller highly approved of the attempt. "We have here before us a dreeping roast," said he, "here is cut-and-come-again for all." And methought all licked their lips. The other was already near the end. Stewart the Writer was out of the body with delight, smelling vengeance on his chief enemy, the Duke.

"Gentlemen," cried he, charging his glass, "here is to Sheriff

Miller. His legal abilities are known to all. His culinary, this bowl in front of us is here to speak for. But when it comes to the poleetical!"--cries he, and drains the glass.

"Ay, but it will hardly prove politics in your meaning, my friend,"

said the gratified Miller. "A revolution, if you like, and I think

I can promise you that historical writers shall date from Mr.

Balfour's cause. But properly guided, Mr. Stewart, tenderly

guided, it shall prove a peaceful revolution."

"And if the damned Campbells get their ears rubbed, what care I?"

cries Stewart, smiting down his fist.

It will be thought I was not very well pleased with all this,

though I could scarce forbear smiling at a kind of innocency in these old intriguers. But it was not my view to have undergone so many sorrows for the advancement of Sheriff Miller or to make a revolution in the Parliament House: and I interposed accordingly with as much simplicity of manner as I could assume.

"I have to thank you, gentlemen, for your advice," said I. "And now I would like, by your leave, to set you two or three questions.

There is one thing that has fallen rather on one aide, for instance: Will this cause do any good to our friend James of the Glens?"

They seemed all a hair set back, and gave various answers, but concurring practically in one point, that James had now no hope but

in the King's mercy.

"To proceed, then," said I, "will it do any good to Scotland? We have a saying that it is an ill bird that fouls his own nest. I remember hearing we had a riot in Edinburgh when I was an infant child, which gave occasion to the late Queen to call this country barbarous; and I always understood that we had rather lost than gained by that. Then came the year 'Forty-five, which made Scotland to be talked of everywhere; but I never heard it said we had anyway gained by the 'Forty-five. And now we come to this cause of Mr. Balfour's, as you call it. Sheriff Miller tells us historical writers are to date from it, and I would not wonder. It is only my fear they would date from it as a period of calamity and public reproach."

The nimble-witted Miller had already smelt where I was travelling to, and made haste to get on the same road. "Forcibly put, Mr. Balfour," says he. "A weighty observe, sir."

"We have next to ask ourselves if it will be good for King George," I pursued. "Sheriff Miller appears pretty easy upon this; but I doubt you will scarce be able to pull down the house from under him, without his Majesty coming by a knock or two, one of which might easily prove fatal."

I have them a chance to answer, but none volunteered.

"Of those for whom the case was to be profitable," I went on,

"Sheriff Miller gave us the names of several, among the which he was good enough to mention mine. I hope he will pardon me if I think otherwise. I believe I hung not the least back in this affair while there was life to be saved; but I own I thought myself extremely hazarded, and I own I think it would be a pity for a young man, with some idea of coming to the Bar, to ingrain upon himself the character of a turbulent, factious fellow before he was yet twenty. As for James, it seems--at this date of the proceedings, with the sentence as good as pronounced--he has no hope but in the King's mercy. May not his Majesty, then, be more pointedly addressed, the characters of these high officers sheltered from the public, and myself kept out of a position which I think spells ruin for me?"



They all sat and gazed into their glasses, and I could see they found my attitude on the affair unpalatable. But Miller was ready at all events.

"If I may be allowed to put my young friend's notion in more formal shape," says he, "I understand him to propose that we should embody the fact of his sequestration, and perhaps some heads of the testimony he was prepared to offer, in a memorial to the Crown.

This plan has elements of success. It is as likely as any other (and perhaps likelier) to help our client. Perhaps his Majesty would have the goodness to feel a certain gratitude to all concerned in such a memorial, which might be construed into an expression of a very delicate loyalty; and I think, in the drafting of the same, this view might be brought forward."

They all nodded to each other, not without sighs, for the former alternative was doubtless more after their inclination.

"Paper, then, Mr. Stewart, if you please," pursued Miller; "and I think it might very fittingly be signed by the five of us here present, as procurators for the condemned man."

"It can do none of us any harm, at least," says Colstoun, heaving another sigh, for he had seen himself Lord Advocate the last ten minutes.

Thereupon they set themselves, not very enthusiastically, to draft the memorial--a process in the course of which they soon caught

fire; and I had no more ado but to sit looking on and answer an occasional question. The paper was very well expressed; beginning with a recitation of the facts about myself, the reward offered for my apprehension, my surrender, the pressure brought to bear upon me; my sequestration; and my arrival at Inverary in time to be too late; going on to explain the reasons of loyalty and public interest for which it was agreed to waive any right of action; and winding up with a forcible appeal to the King's mercy on behalf of James.

Methought I was a good deal sacrificed, and rather represented in the light of a firebrand of a fellow whom my cloud of lawyers had restrained with difficulty from extremes. But I let it pass, and made but the one suggestion, that I should be described as ready to

deliver my own evidence and adduce that of others before any  
commission of inquiry--and the one demand, that I should be  
immediately furnished with a copy.

Colstoun hummed and hawed. "This is a very confidential document,"  
said he.

"And my position towards Prestongrange is highly peculiar," I  
replied. "No question but I must have touched his heart at our  
first interview, so that he has since stood my friend consistently.  
But for him, gentlemen, I must now be lying dead or awaiting my  
sentence alongside poor James. For which reason I choose to  
communicate to him the fact of this memorial as soon as it is  
copied. You are to consider also that this step will make for my

protection. I have enemies here accustomed to drive hard; his

Grace is in his own country, Lovat by his side; and if there should

hang any ambiguity over our proceedings I think I might very well

awake in gaol."

Not finding any very ready answer to these considerations, my

company of advisers were at the last persuaded to consent, and made

only this condition that I was to lay the paper before

Prestongrange with the express compliments of all concerned.

The Advocate was at the castle dining with his Grace. By the hand

of one of Colstoun's servants I sent him a billet asking for an

interview, and received a summons to meet him at once in a private

house of the town. Here I found him alone in a chamber; from his

face there was nothing to be gleaned; yet I was not so unobservant  
but what I spied some halberts in the hall, and not so stupid but  
what I could gather he was prepared to arrest me there and then,  
should it appear advisable.

"So, Mr. David, this is you?" said he.

"Where I fear I am not overly welcome, my lord," said I. "And I  
would like before I go further to express my sense of your  
lordship's good offices, even should they now cease."

"I have heard of your gratitude before," he replied drily, "and I  
think this can scarce be the matter you called me from my wine to  
listen to. I would remember also, if I were you, that you still

stand on a very boggy foundation."

"Not now, my lord, I think," said I; "and if your lordship will but

glance an eye along this, you will perhaps think as I do."

He read it sedulously through, frowning heavily; then turned back

to one part and another which he seemed to weigh and compare the

effect of. His face a little lightened.

"This is not so bad but what it might be worse," said he; "though I

am still likely to pay dear for my acquaintance with Mr. David

Balfour."

"Rather for your indulgence to that unlucky young man, my lord,"

said I.

He still skimmed the paper, and all the while his spirits seemed to mend.

"And to whom am I indebted for this?" he asked presently. "Other counsels must have been discussed, I think. Who was it proposed this private method? Was it Miller?"

"My lord, it was myself," said I. "These gentlemen have shown me no such consideration, as that I should deny myself any credit I can fairly claim, or spare them any responsibility they should properly bear. And the mere truth is, that they were all in favour of a process which should have remarkable consequences in the



Parliament House, and prove for them (in one of their own

expressions) a dripping roast. Before I intervened, I think they

were on the point of sharing out the different law appointments.

Our friend Mr. Simon was to be taken in upon some composition."

Prestongrange smiled. "These are our friends," said he. "And what

were your reasons for dissenting, Mr. David?"

I told them without concealment, expressing, however, with more

force and volume those which regarded Prestongrange himself.

"You do me no more than justice," said he. "I have fought as hard

in your interest as you have fought against mine. And how came you

here to-day?" he asked. "As the case drew out, I began to grow

uneasy that I had clipped the period so fine, and I was even  
expecting you to-morrow. But to-day--I never dreamed of it."

I was not of course, going to betray Andie.

"I suspect there is some very weary cattle by the road," said I

"If I had known you were such a mosstrooper you should have tasted  
longer of the Bass," says he.

"Speaking of which, my lord, I return your letter." And I gave him  
the enclosure in the counterfeit hand.

"There was the cover also with the seal," said he.

"I have it not," said I. "It bore not even an address, and could not compromise a cat. The second enclosure I have, and with your permission, I desire to keep it."

I thought he winced a little, but he said nothing to the point.

"To-morrow," he resumed, "our business here is to be finished, and

I proceed by Glasgow. I would be very glad to have you of my party, Mr David."

"My lord . . ." I began.

"I do not deny it will be of service to me," he interrupted. "I desire even that, when we shall come to Edinburgh, you should

alight at my house. You have very warm friends in the Miss Grants, who will be overjoyed to have you to themselves. If you think I have been of use to you, you can thus easily repay me, and so far from losing, may reap some advantage by the way. It is not every strange young man who is presented in society by the King's Advocate."

Often enough already (in our brief relations) this gentleman had caused my head to spin; no doubt but what for a moment he did so again now. Here was the old fiction still maintained of my particular favour with his daughters, one of whom had been so good as to laugh at me, while the other two had scarce deigned to remark the fact of my existence. And now I was to ride with my lord to Glasgow; I was to dwell with him in Edinburgh; I was to be brought

into society under his protection! That he should have so much good-nature as to forgive me was surprising enough; that he could wish to take me up and serve me seemed impossible; and I began to seek some ulterior meaning. One was plain. If I became his guest, repentance was excluded; I could never think better of my present design and bring any action. And besides, would not my presence in his house draw out the whole pungency of the memorial? For that complaint could not be very seriously regarded, if the person chiefly injured was the guest of the official most incriminated. As I thought upon this I could not quite refrain from smiling.

"This is in the nature of a countercheck to the memorial?" said I.

"You are cunning, Mr. David," said he, "and you do not wholly guess

wrong the fact will be of use to me in my defence. Perhaps,  
however, you underrate friendly sentiments, which are perfectly  
genuine. I have a respect for you, David, mingled with awe," says  
he, smiling.

"I am more than willing, I am earnestly desirous to meet your  
wishes," said I. "It is my design to be called to the Bar, where  
your lordship's countenance would be invaluable; and I am besides  
sincerely grateful to yourself and family for different marks of  
interest and of indulgence. The difficulty is here. There is one  
point in which we pull two ways. You are trying to hang James  
Stewart, I am trying to save him. In so far as my riding with you  
would better your lordship's defence, I am at your lordships  
orders; but in so far as it would help to hang James Stewart, you

see me at a stick."

I thought he swore to himself. "You should certainly be called; the Bar is the true scene for your talents," says he, bitterly, and then fell a while silent. "I will tell you," he presently resumed, "there is no question of James Stewart, for or against, James is a dead man; his life is given and taken--bought (if you like it better) and sold; no memorial can help--no defalcation of a faithful Mr. David hurt him. Blow high, blow low, there will be no pardon for James Stewart: and take that for said! The question is now of myself: am I to stand or fall? and I do not deny to you that I am in some danger. But will Mr. David Balfour consider why? It is not because I pushed the case unduly against James; for that, I am sure of condonation. And it is not because I have sequestered

Mr. David on a rock, though it will pass under that colour; but because I did not take the ready and plain path, to which I was pressed repeatedly, and send Mr. David to his grave or to the gallows. Hence the scandal--hence this damned memorial," striking the paper on his leg. "My tenderness for you has brought me in this difficulty. I wish to know if your tenderness to your own conscience is too great to let you help me out of it."

No doubt but there was much of the truth in what he said; if James was past helping, whom was it more natural that I should turn to help than just the man before me, who had helped myself so often, and was even now setting me a pattern of patience? I was besides not only weary, but beginning to be ashamed, of my perpetual attitude of suspicion and refusal



"If you will name the time and place, I will be punctually ready to attend your lordship," said I.

He shook hands with me. "And I think my misses have some news for you," says he, dismissing me.

I came away, vastly pleased to have my peace made, yet a little concerned in conscience; nor could I help wondering, as I went back, whether, perhaps, I had not been a scruple too good-natured.

But there was the fact, that this was a man that might have been my father, an able man, a great dignitary, and one that, in the hour of my need, had reached a hand to my assistance. I was in the better humour to enjoy the remainder of that evening, which I

passed with the advocates, in excellent company no doubt, but

perhaps with rather more than a sufficiency of punch: for though I

went early to bed I have no clear mind of how I got there.