

Alexander Forbes Irvine of Drum. By **Sheriff Æneas Mackay.**

(Read January 30, 1893.)

Alexander Forbes Irvine of Drum, Advocate, twice a Vice-President of the Royal Society, was born on 18th February 1818 at Schivas, and died at Drum Castle in Aberdeenshire on 4th April 1892. As an example of a country gentleman and lawyer, who had a genuine interest in science and literature, it has been thought that his life merits a fuller notice than the President could afford to give in his account of the many losses the Society suffered during the past year. But I have accepted the invitation of the Council to write it with diffidence, knowing how difficult it is to express in words characteristics which impressed all with whom Mr Irvine came in contact, yet were as delicate as they were rare during the period in which he lived. It might be hard to find in the long list of present Fellows of the Society one who, in the same position, possessed the same qualities. It would be easier to discover a parallel in the seventeenth or eighteenth century amongst the members of the circles of Scott of Scottstarvet, or Gordon of Straloch, of Clerk of Penicuik, Lord Monboddo, or Lord Hailes, than in a time during which, in Scotland, intellectual, other than agrestic or forensic, tastes have too seldom been combined with the ownership of land or the profession of law.

Mr Irvine was the eldest son of Alexander Irvine of Drum, who died in 1861, and of Margaret, daughter of James Hamilton, a descendant of the Hamiltons of Little Earnick. The family he represented originally sprang from the strong Border stock of the Irvines of Bonshaw in Annandale. William de Irvine migrated to Aberdeenshire in the reign of Robert the Bruce. In that county the same family has held for more than five centuries and a half the estate of Drum, which derives its name from the ridge or rising ground on the north side of the Dee, about eleven miles from Aberdeen. The founder of the Aberdeenshire branch, William de Irvine, was, according to a tradition both of Annandale and Deeside, the son of a vassal of the Lords of Annandale, who served as

armour-bearer and secretary of Robert the Bruce. He may have been the clerk who, in Barbour's poem, rode along with his master from the English Court in London to Lochmaben, which they reached on the fifth day. According to another cherished tradition of the family, he guarded Bruce during one of the perilous passages of his life, when he slept under a hollybush in the Forest of Drum. These and other services were rewarded by the charter in 1523 of the estate of Drum in free forestry, followed next year by a Charter converting the Estate into a barony, both of which still exist amongst the muniments of Drum. The arms of the family originally, or at least in the oldest form known, as given in Sir David Lyndsay's Register, three holly leaves vert on a field argent, with holly leaves for the crest, and the motto, "Sub sole sub umbra virens," give some corroboration to the latter tradition. The Chamberlain Rolls of 1329 prove that William de Irvine was Clerk of the Rolls in that year—a man of law and letters as well as of arms.

The subject of this notice was the twentieth in descent from the comrade of Bruce, and is said to have been also the twentieth head of the family who bore the name of Alexander.

Another ancestor, "the strong undoubted Laird of Drum," died fighting with Maclean of Duart for the king against the Highland host at the Battle of the Harlaw :—

"Gude Sir Alexander Irvine,
The much renowned Laird of Drum,
None in his days was better seen
When they were semblit all and sum.

"To praise him we suld not be dumm
For valour, witt, and worthiness,
To end his days he there did come,
Quhois ransom is remeidyles."

—*Ballad of the Battle of Harlaw*, Stanzas xxxix., xl.

His son received a grant about the year 1420 from the Abbot of Arbroath of the lands of Forglinn and the custody of the Breach Bannoch, which entailed the duty of leading the vassals of the Abbey when summoned to the royal host. This venerable relic was a casket or reliquary—perhaps that still preserved at Monymusk by a family whose predecessors at one period held the office of its custodian. It was believed to contain a fragment of the last earthly

garment worn by St Columba, which was thought, long after his death, to be the omen and pledge of victory, by preserving some of the saint's miraculous virtue. [Bishop Reeves gives a notice of the Breach Bannoch in his edition of Bishop Adamnan's *Life of St Columba*, and it is figured in Dr Joseph Anderson's *Scotland in Early Christian Times*.] This Sir Alexander Irvine was one of the hostages for the ransom of James I. It was he who built Drum's Aisle or Chantry in the church of St Nicholas, Aberdeen, where the brass effigies and brief epitaphs of "Honorabilis et famosus miles dominus Alexander de Irwin," and his wife, "Nobilis domina Elizabeth de Keth militis marescalli Scotiæ filia," still remain, though the "Hic sub ista sepultura jacet" has been falsified by their removal from the site of the tomb to the wall of the church.

Another Sir Alexander, in the reign of James IV. and James V., held the office of Sheriff of Aberdeenshire, and appears in the Exchequer Rolls as Crown Receiver for Kintore, Coul, and O'Neil. His son took part in the defence of Scotland against Henry VIII., and lost his eldest son at the Battle of Pinkie.

Three other Lairds of Drum deserve a passing notice even in the brief genealogical reference which such a notice as the present permits. Sir Alexander Irvine of the time of James I.'s English reign and the commencement of that of Charles I. is described by Sir Samuel Forbes, writing in 1715, as "that Laird of Drum, who lived in our grandfathers' times, for his benignity and ample bounty to the poor, deserves to be remembered and praised. He lived decently, was a plain man, nicknamed Little Breeches, increased in wealth, bequeathed lands for maintenance of poor widows, poor maids, and for the education of several children at school, and of young men to be taught philosophy and theology." Neither the pious founder nor his panegyrist probably contemplated how ample this bounty was to become. Let us hope the bursars of Aberdeen bless the memory of "Little Breeches."

His son and successor was appointed Sheriff of Aberdeenshire by Charles I. and suffered much in the troubles of the civil war and ecclesiastical revolution. Drum Castle was taken in his absence by General Monro, who granted to the Lady Drum, its defender, that the garrison might retire with the honours of war. The forces of the Covenant for a considerable time garrisoned Drum, lived on the

estate, and plundered the castle. The laird himself was more than once fined and imprisoned on account of his loyalty and refusal to swear to the Covenant. For his contumacy and his appeal to the civil power in the person of Overton, one of Cromwell's colonels, he was excommunicated by the Presbytery of Aberdeen. In his protest against their sentence, he declared "that he separated himself from the discipline of Presbytery—in particular that of Aberdeen—as a human invention, destructive to the civil peace of Christians, and that he intended, by the aid of God, to walk and live in such a Christian way as is conform to the Divine will in the sacred Word." Whitelock in his Memorials reports "that letters had come from Scotland that the ministers of Scotland inflame the people against England, and damn all their brethren and people who are not of their opinion, and that the Laird of Drum had bid them defiance."

The first wife of this laird was Lady Mary Gordon, daughter of Lord Huntly; his second was Mary Coutts, the "shepherd's daughter" of the ballad of "The Laird of Drum," who, when his kinsmen would not bid her welcome, and the laird gave her the somewhat halting consolation—

" Ye shall be cook in my kitchen,
Butler in my ha', O,
Ye shall be lady to my command
When I ride far away, O."

replied with the spirit and plain speech of a Scottish wife—

" But I told ye afore we were wed
I was ower low for thee, O."

" But
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" An I were deid and ye were deid,
And baith in a grave laid, O,
And ye and I were tane up again,
Wha could ken your moulds fra mine, O."

Something in the name of Irvine, as in that of Yarrow, seems to have attracted the ballad writer, and the heroine of the far finer song of "Helen of Kirkconnel Lea" was of the race of the Irvines of the Border. It was, indeed, a name which, in one or other of its forms of Irvine, Irwin, and Irving, spread wide as well as took

deep root ; and this may have helped to its welcome by the popular voice. Besides the original stem of Bonshaw and the branch of Drum, the name is found in Dumbartonshire, Forfarshire, and other Scottish counties. The Irwins of Roscommon, Cromwellian settlers, claim descent from the family of Drum ; and the first great writer of the United States, proud that he united the name of Washington with that of Irvine, sent an engraving of his portrait to the Laird of Drum, in token of his belief that his Scottish blood was derived from the same source.

The son of Charles I.'s sheriff, as faithful a royalist and strenuous an anti-Covenanter as his father, was sentenced to death for his principles, but escaped execution by the victory of Montrose at Kilsyth. After the Restoration he declined a patent of nobility as Earl of Aberdeen, which had been offered to his father by Charles I., because the patent could not be made at the date of the offer.

The memories of such a name and ancestry clustering round the old tower, the ruined chapel, and the ancient Forest of Drum, could scarcely fail to transmit a taste for Scottish history, music, and song, and an attachment to Conservative principles and Episcopal and anti-Covenanting tenets. Nor will other traits in the character of his forebears, which with this view have been glanced at in the foregoing sketch, be found wanting in the subject of the present notice, as in a gallery of family pictures we are sometimes struck by the recurrence of the same features in a feudal baron, a cavalier, and a modern gentleman.

Mr Irvine was educated at home under a tutor, and afterwards at Marischal College, Aberdeen. During or shortly after completing his collegiate course, he came into contact with a group of men almost contemporaries, but most of them a little older than himself, who were destined to extend the credit of the town and county of Barbour, Boece, and Spalding, as the most fertile seed-plot in Scotland for historical talent ; Hill Burton, the critical, yet vigorous, historian of Scotland ; Dr Grub, the exact annalist of the Episcopal Church ; John Stuart and Joseph Robertson, the two most thorough students of Scottish records in their time. With three other Aberdonians, who acquired honourable fame in the same field, he had early opportunities of intercourse—Mr Cosmo Innes, son of the neighbouring Laird of Durris, who became the Professor of History

in the University of Edinburgh, and editor of the Acts of Parliament, commenced by Thomas Thomson, and of more chartularies than any man of his time; Mr William Forbes Skene, the historian of Celtic Scotland, son of the Laird of Rubbislaw, near Aberdeen; and Mr George Burnet, a younger son of the Laird of Kemnay, one of the worthiest successors of Sir David Lindsay in the office of Lyon. Though he did not become, like these scholars, an historical author, Mr Irvine shared their taste for antiquities, especially ecclesiastical and architectural, for books, especially those on history and law, and for literature, as one of the pleasures and ornaments of life. With Stuart, his connection by marriage, and Robertson, his associate by affinity of opinions and tastes, he was on terms of intimate friendship. When a happy selection transferred Robertson from the editor's desk to the table of the Historical Curator in the Register House in Edinburgh, his friendship with Mr Irvine was cemented by more frequent intercourse. For many years, until shortly before Robertson's death, they were companions in a Sunday walk to the chapel of Roslin or of Dalkeith, refreshing their bodies by exercise after the week's work, their minds by congenial conversation, and their spirits by common worship. To the end of his life Mr Irvine was a great walker, and, following a Scottish habit, took when alone a book as his companion, generally a volume of the classics. Although not an editor, through innate modesty, he was an early member of the Spalding Club of Aberdeen, which, unlike the Bannatyne, Maitland, and Abbotsford Clubs, did not merely print rare and valuable materials for history, but advanced that branch of knowledge by such works as the prefaces to Stewart's edition of the *Book of Deer* and *The Sculptured Stones of Scotland*, Robertson's admirably arranged *Collection of the Records of the County of Aberdeen*, Innes's *Memorials of King's College and Register of the Bishops of Aberdeen*, and Grub's edition of the *Early Ecclesiastical History of Father Innes*. He took part at a later period in the foundation of the New Spalding Club, which is now diligently gathering the fragments left by an older and more historical generation.

When Mr Irvine came to Edinburgh he devoted himself chiefly to Mathematics and Physics, and was urged by Professor James Forbes to continue them at the University of Cambridge. He had

thought of the profession of Civil Engineering, but, yielding to his father's wish, entered on the study of Law, attended the lectures of that Faculty, and wrote in the chambers of a Writer to the Signet. He passed as an Advocate in 1843, and while he never enjoyed much practice at the bar, took a lively interest and possessed a sound knowledge in several departments of the Law. He was proud of and devoted to his profession, and supported by a modest estimate of his own talents, he did not, like so many, quit its ranks, but continued the study of the law in those branches which interested him most. He acquired what was then becoming rare, and has since become rarer, a considerable knowledge of Roman Law, and his ecclesiastical sympathies encouraged him to study its rival and successor, the Canon Law, whose remoteness from modern practice has led to its almost total neglect by Scottish lawyers, although some knowledge of it is necessary to an accurate acquaintance with the history and meaning of several parts of their own jurisprudence. The criminal law had always an attraction for him, and he edited several volumes of the *Justiciary Reports*, as well as a separate report of the trial of Madeline Smith; but after the apprenticeship of circuit, he did not practise in the Criminal Courts.

Though not naturally inclined to authorship, he wrote a book on the Game Laws with an elegance not common in legal literature. He also wrote several reviews for Mr Joseph Robertson, when editor of the *Courant*, on Art, Painting, Music, and Italian Literature, a language he knew well and enjoyed. He was appointed to the principal clerkship of the *Justiciary Court* in 1867, and to the sheriffship of Argyle in 1871, and he discharged the duties of both offices with assiduity and conscientiousness, resigning the latter when the advance of age warned him that it was time to restrict his work.

As sheriff he was called upon to act in one of the varied (but fortunately rare) functions of that office, and led with discretion and success the naval and military force in the expedition to Tyree, where the law had been defied, and required to apply its ultimate sanction. In another ordinary, and more agreeable, portion of a sheriff's duties—the business of the Board of Northern Lights—he took great interest. He was constant in attendance at the meetings of that Board, as well as of the Board of Fisheries, and was rarely

absent from the annual tour of the Committee for the Inspection of the Scottish Lighthouses. On the death of Mr James Crichton, Sheriff of the Lothians, he was unanimously chosen by his brethren Vice-Dean of the Faculty of Advocates. He never restricted himself jealously to his profession, as is now deemed by some lawyers indispensable to success in the profession of an advocate. He preferred the example of those who have thought that a profession calling itself liberal and learned, warrants, and even requires, the continuance in manhood of the liberal studies of youth. He was distinguished by the variety of his tastes, and the catholic spirit with which he cultivated them. If this variety prevented the attainment of excellence in any single subject, it at least saved him from the prejudices and bigotry sometimes associated with more concentrated intellects. An amateur in astronomy and physical science, he used to recall with pleasure that, through his acquaintance with Mrs Somerville, he had the good fortune to be present at the memorable dinner given to Sir John Herschell in 1836, when that philosopher returned after his splendid observations at the Cape of Good Hope. In later years he was a frequent visitor at the observatory at Dunecht, where his friends and neighbours, the late and present Earls of Crawford, aided by Professor Copeland and other astronomers, were advancing a science too much neglected in Scotland since the days when George Buchanan celebrated the triumphs, and James VI. visited the observatory of Tycho Brahé. He was one of the professional gentlemen of Edinburgh who invited Professor Tait to give lectures to them and their friends on the latest wonders of physical science. But he did not, like some students of physics, despise mental philosophy, or, like some lawyers, the philosophy of law, of which his friend, Professor Lorimer, was almost the solitary representative at this period in Great Britain.

Mr Irvine was by conviction, as well as by hereditary prepossession, a Scottish High Churchman, and he took a deep interest in the theological and liturgical studies of Bishop Forbes of Brechin, one of the most valued of an unusually large circle of friends. But this did not prevent him from sympathising with the valiant stand made by Mr Robertson Smith for freedom in linguistic and historical science as applied to biblical criticism, when that scholar was opposed by the conservative forces of all the churches, and deprived of the

professorship of Hebrew at the Free Church College, Aberdeen, by the policy then followed, but since modified or abandoned by the leaders of the Free Church.

He had a warm appreciation of the Fine Arts, of which one of his grand-uncles had been an early connoisseur, and of classical as well as Scottish music, and also of the old and too often forgotten classics of the Scottish language. Along with the late Lord Justice-General Inglis, he was one of the few lawyers who promoted the Scottish Text Society, founded by Dr Gregor of Pitsligo, and supported by Professor Masson, both Aberdonians, and he served as a Vice-President of that Society. He had a curious memory for rare quotations, epigrams, and quaint and old stories, both of and outside of his profession. It was pleasant to see him preparing to tell one, and silently enjoying the smiles or laughter of the listener. He never lost the Aberdonian accent, but his voice had a mild intonation of its own; he had less of the ordinary Aberdonian temper and manner. By nature and habit he was reserved, and even shy, but always courteous, never combative or demonstrative, though firm in his convictions, and ready, when necessary, to maintain them. While his character was thoroughly Scotch, his culture was of a kind perhaps more common south than north of the Tweed. He was the only lawyer of his time who, following a fashion which lingers a little longer in the Houses of Parliament than in the Parliament House, appeared with a flower—by choice, violets—in his button-hole, bringing a breath of fresh air into the dusty purlieus of the law, and casting a gleam of sunshine over the musty books and keen visages of the daily labourers in the Courts. He was naturally fond of the garden, and its flowers were the only ones he cultivated, for he never indulged in rhetoric. He held the common opinion that most speeches are too long; and, what was less common, he acted on it, and when he spoke in public did so with grace and terseness.

He became a Fellow of the Royal Society of Edinburgh in 1874, and served as Vice-President from November 1883 to October 1886 and from November 1890 to April 1892. In 1887 he was made a Doctor of Laws by the University of Edinburgh, and he was one of the few who know something of both the laws of which he was an honorary graduate.

The ownership of a fine estate, bounded by one of the beautiful rivers of Scotland, and an old castle with historical associations, besides influencing his character, imposed on him the duties of a country gentleman, which have seldom been better fulfilled. The loss of a portion of his estate through an unfortunate law-suit he was bound, by honour as well as by interest, to defend, in which the House of Lords reversed the judgment of the Court of Session, and perhaps a share of the proverbial prudence of his fellow-countrymen, led him to practise economy in matters personal.

But his economy was the reverse of selfish. Its purpose was to enable him to be more hospitable and charitable on what he deemed the proper occasions for the exercise of these virtues. His estate was one of the best managed in the district where it lay, and best provided with houses for farmers and labourers. He left it free from debt, and it was estimated that he expended £40,000 on its improvement. He made a convenient and appropriate addition to the Castle of Drum, which will carry down its history in the nineteenth—as the strong Great Tower marks its origin in the days of the War of Independence and the larger addition by one of his ancestors records its history after the troubles of the seventeenth—century. During a period when many of the nobility and gentry were selling the books they inherited to pay the bets or stakes they had lost, he was extending his library, in which he had the interest of a reader, and not merely a collector. He restored with taste the decayed chapel, and practised in it a natural piety, after the manner of his forefathers and the rites of the branch of the Church Catholic of which he was a member. His unobtrusive talents and independent and honourable character received the recognition due to them from those amongst whom he lived, as well as in the profession to which he belonged. He acted for about thirty years as Chairman of the Committee of Publications of the Highland and Agricultural Society, and more than once as Director of the Philosophical Institution of Edinburgh. He served for several years after 1860 as Captain-Commandant of the 20th Aberdeenshire Rifle Corps. In 1862 he was chosen Convener of the Commissioners of Supply of the county of Aberdeen, and presided over their meetings with invariable courtesy and tact. On retiring from office, when the Local Government Act came into operation, he was presented with his portrait, painted by

Sir George Reid, *P.R.S.A.*, whose brush has represented, with the fidelity of an Aberdonian and the insight of a master, his outward appearance—the sidelong glance of the shy and modest eyes which at times in later years seemed to look within, the gentle smile, and the gentlemanly bearing. He also acted as chancellor or legal adviser to his friend, Bishop Forbes of Brechin, and to his successor, the present Bishop and Primus of the Episcopal Church of Scotland.

He was not spared the trials which those who live long usually meet. He lost his first-born son, Alexander, when young; his next (also Alexander) in the prime of life, a scholar of New College, Oxford; and he bore these, as he did less serious misfortunes, with a brave spirit.

He was survived by two brothers, James Hamilton Irvine who early in his life went to Australia and settled in North Gippsland, and General Charles Irvine of the Indian army, and a sister, whose gift of Scottish song often charmed him and his friends. His wife, who shared his tastes and aided all his endeavours, also survived him. Her father, Colonel Forbes Leslie of Rothienorman, a learned archæologist, to whose manuscript history of the family of Drum this notice is indebted for several facts in its earlier annals, afforded another example of the pursuit of intellectual and artistic studies amongst the gentlemen of Aberdeenshire which, under fortunate conditions, may stimulate a generation and enlighten a neighbourhood. An only remaining son, Francis Irvine, has inherited an historic name, which Mr Irvine handed down, not dignified by any title or illustrated by any remarkable genius, but distinguished by a quality more useful than genius, which cannot be imitated and is rarely transmitted,—the faithful discharge of the duties of a scholar, a lawyer, and a gentleman in the station and offices which fell to his lot.