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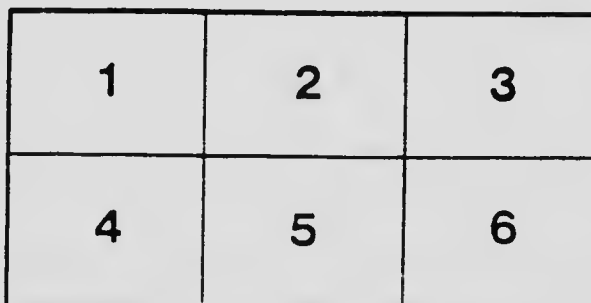
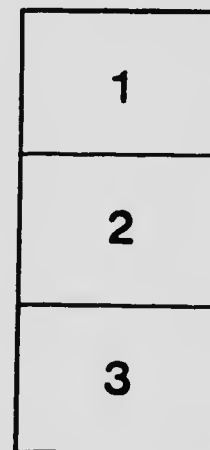
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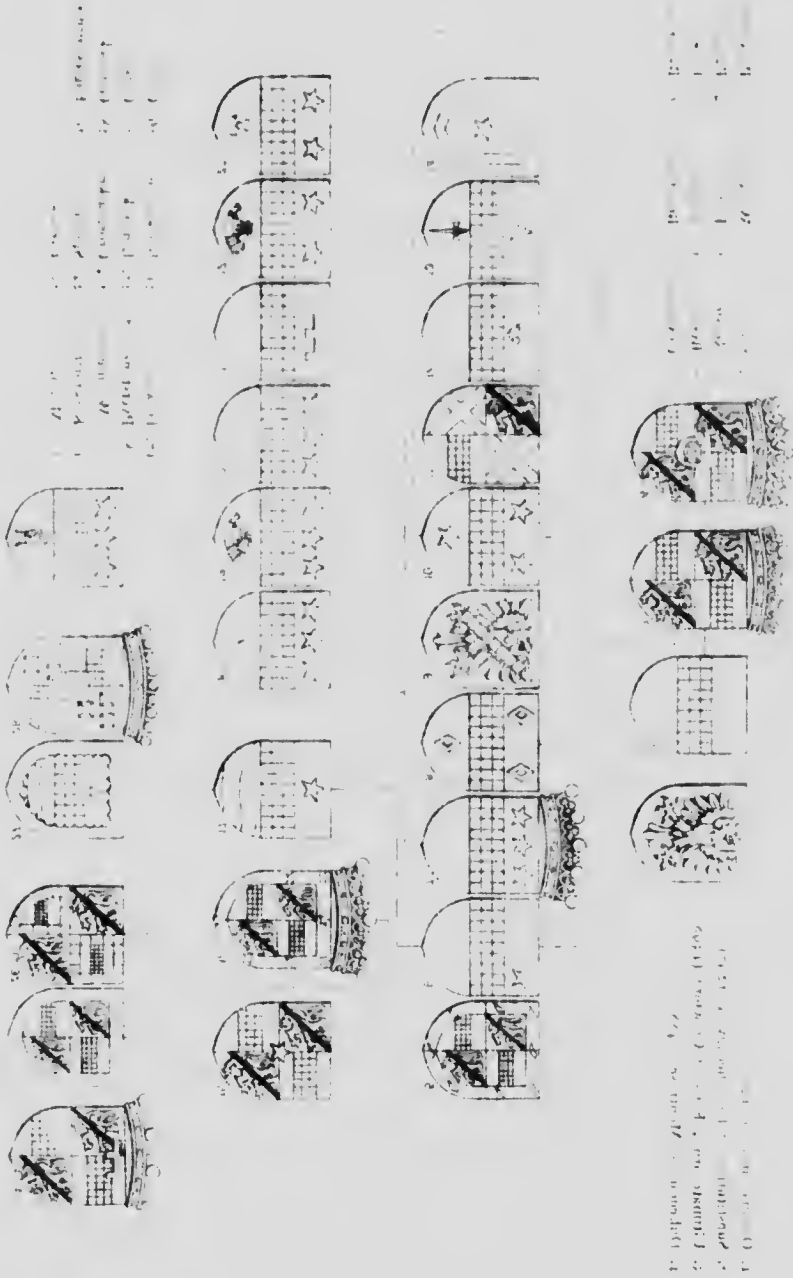


HERALDRY IN SCOTLAND

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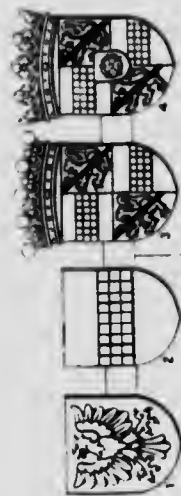
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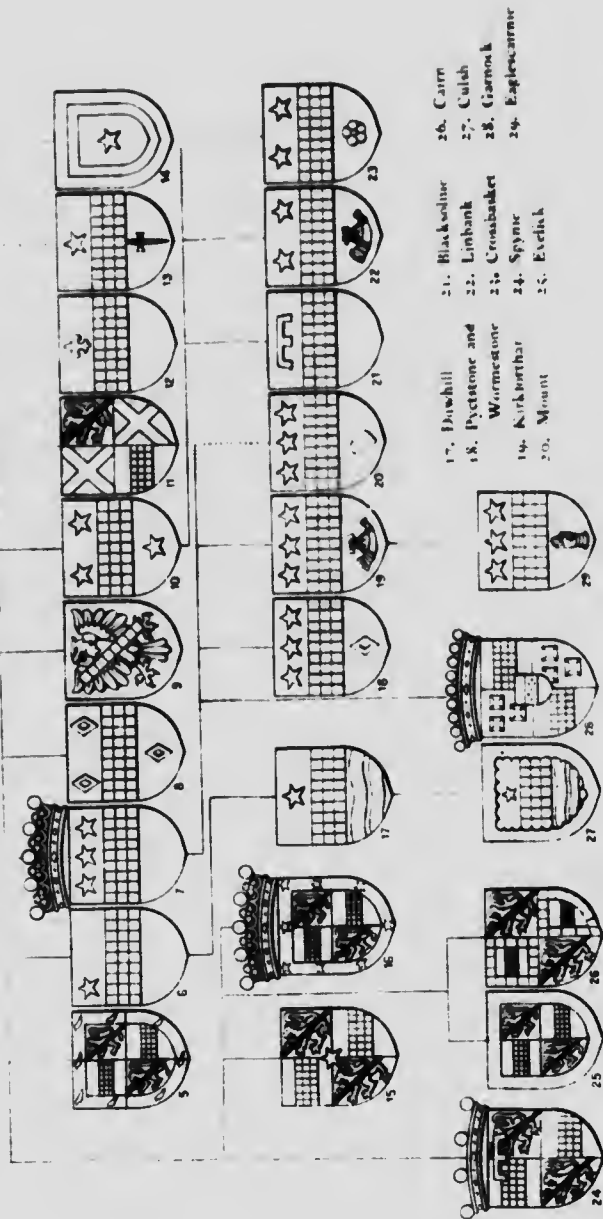
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ARMORIAL BEARINGS OF THE VARIOUS BRANCHES OF THE HOUSE OF LINDSAY.

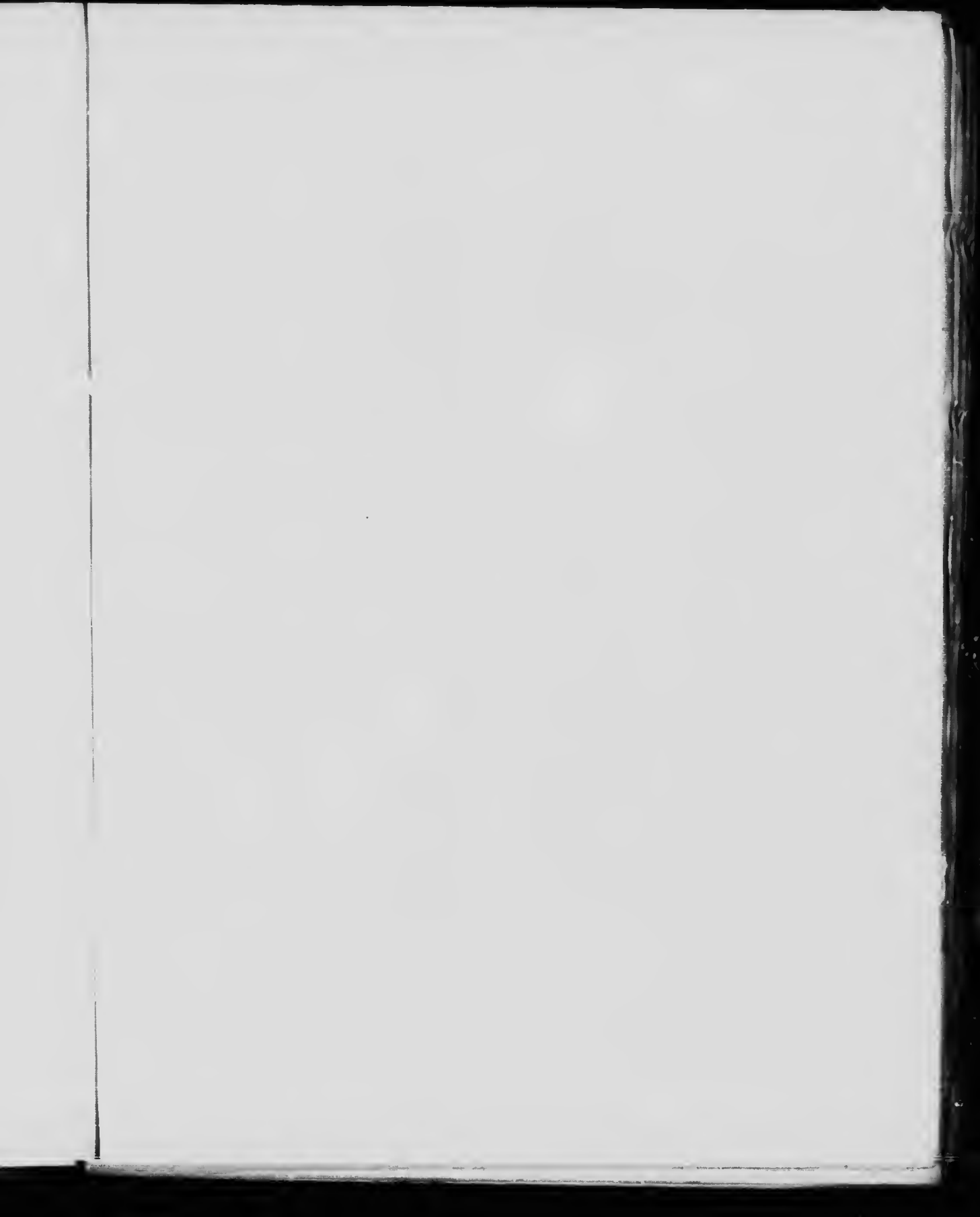
- 5. Cavill
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- 13. Balcarres

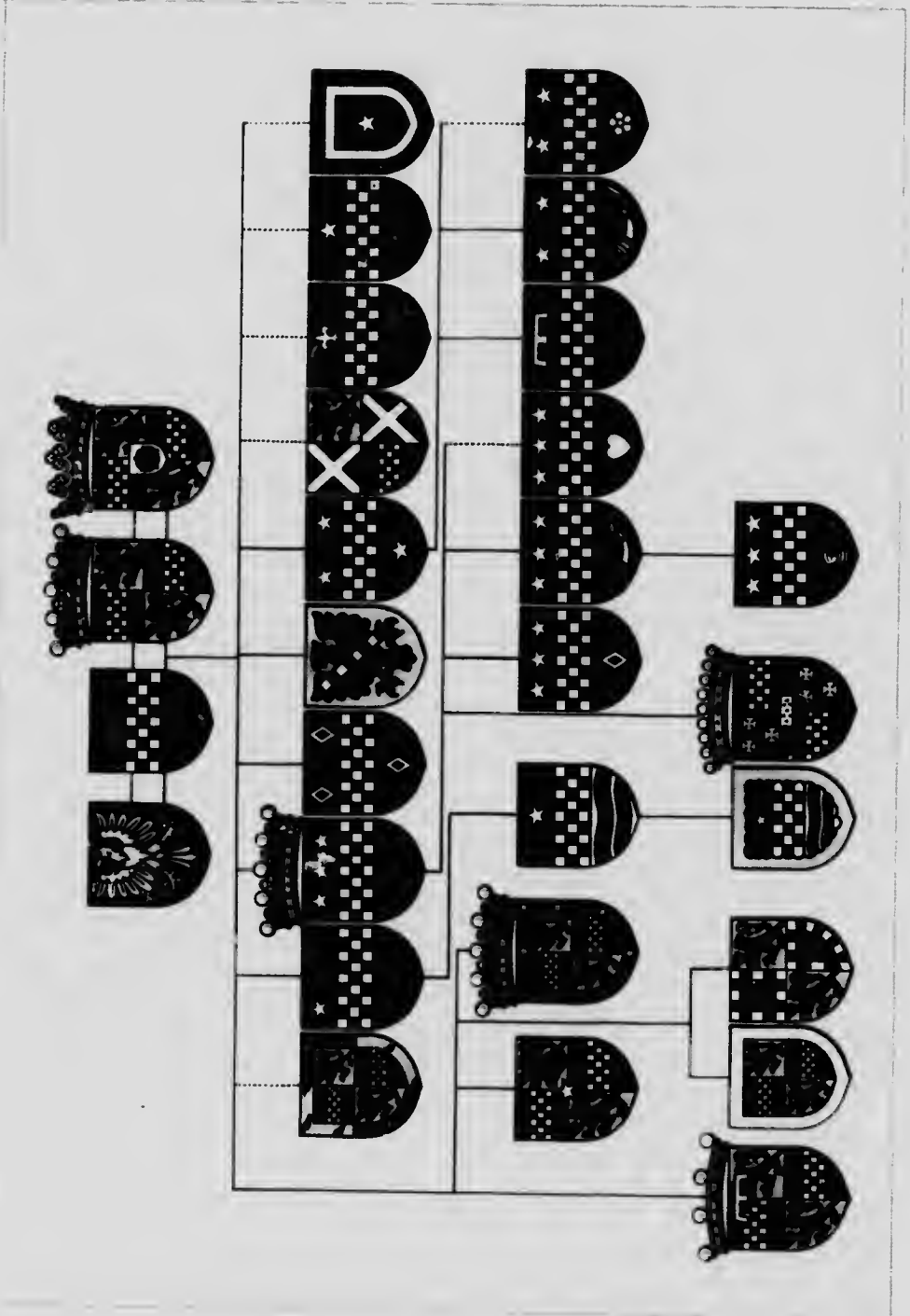


- 1. Original arms (c. 1200)
- 2. Substitution of less chequy (c. 1297)
- 3. Ultimate arms, Earls of Crawford (1350)
- 4. Dukedom of Montrose (1488)



- 17. Duthill
- 18. Pyetstone and Wormestone
- 19. Kirkcorthar
- 20. Mount
- 21. Blackwellie
- 22. Linbank
- 23. Crossbanket
- 24. Spynie
- 25. Evelisk
- 26. Cairn
- 27. Culah
- 28. Garmock
- 29. Eglewarrar





HERALDRY IN SCOTLAND

INCLUDING A RECENSION OF 'THE LAW AND PRACTICE
OF HERALDRY IN SCOTLAND' BY THE LATE
GEORGE SETON, ADVOCATE

BY

J. H. STEVENSON

ADVOCATE

UNICORN PURSUIVANT

VOLUME II

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CHAPTER VIII
THE ACHIEVEMENT—*Continued*

THE HELMET.

As we have already pointed out, only the escutcheon appears on the earliest heraldic seals, unaccompanied by helmet, crest, or other exterior ornament. The seals of the fourteenth century, to which we have particularly referred in noticing the earliest examples of the crest placed on a seal which is not equestrian, afford also the earliest instances of the HELMET appearing so. In these early cases the helmet is a mere accessory of the crest. Devices had previously been placed as ornaments above shields, in the same way as they had appeared at their sides, and below them; but the presence of a helmet supporting a device over a shield, or indeed anywhere, explained that that device was used as a crest. According to L'Oseau, gentlemen did not adorn their shields with helmets before 1372, when the merchants of Paris were prohibited by edict from so doing. The edict itself might have shown him that he must be wrong. But it is not necessary to argue the point. We have the seal of the Earl of Dunbar of 1334, more than thirty years earlier. The documents of 1357 also, relating to the ransom of David II., exhibit seals with shield, helmet, and crest—thus the seals of William de Keith, Marshal of Scotland, and Sir William Muir of Abercorn.¹ There can be no doubt that the heraldic helmet was not originally a distinguishing ensign of rank. No more convenient proof of the fact can be found than that which is afforded by the pages of the *Gelre ms.* which we reproduce.² The five different forms now in use do not appear to have been employed in England, for the purpose of distinction, before the reign of Queen Elizabeth; and on almost all the more ancient seals and tombs (both English and Scotch), pertaining to every rank, the helmet is represented closed and in profile, or nearly so; in fact, practically the helmet confined in later heraldry to the arms of esquires. According to Menestrier, 'all helmets were, of old, close and plain, until their metal, number of bars, and situation came to be taken notice of; and that was not long ago, but since the year 1559, when the French gave over the use of tournaments, upon the accident which happened to King Henry II. of France, who, jousting in disport at a tournament with Gilbert (?), Earl of

¹ Macd. 1448, 2041.

² Plates xii.-xiv.

Montgomery, Captain of the Scots Guards, was wounded in the eye with the splinter of a spear, of which his majesty died.¹

Menestrier's remarks, however, do not apply to Scotland. Confining our observations to the crested helmets placed on shields, and taking the numerous illustrations of seals furnished by Laing and Dr. Birch's *British Museum Catalogue* as our authorities, we find ourselves led to the conclusion that while helmets were in actual use, the seal represented the knight's actual helmet as it represented his shield or his crest, and that thereafter, down till the union of the crowns at least, every man placed on his seal the helm that he or his seal engraver chose. The ninth Earl of Dunbar in 1334 bears a cylindrical barred helm face-front; his successor in 1380 a cylindrical helmet sideways with only a transverse slit in it to see through;² so also Robert, Duke of Albany, in 1410, but he placed his nearly frontways.² The Earl of Bothwell in 1515 had his placed quite frontways. He too had only a slit in it, but his helm is round in the head and shaped somewhat to the neck.³ Alexander, second Earl of Crawford, placed his helm sideways in 1424. It is of the peculiar, almost duck-billed form, which slopes back both above and below the slit, so much used in later times by esquires.³ Sir Robert Keith, eldest son of the Earl Marshal, bears his face-front, and open almost as widely as a modern knight's. And, finally, Alexander Innes of Innes in 1542, and Sir Archibald Napier of Merchiston in 1582, have helmets of the more or less globular pattern common from their day to this placed sideways and barred; and in 1605 David, Earl of Crawford, bears his bars face-front.

The barred helmet appears at Windsor, on the garter-plate of Richard, Duke of Gloucester (1475 A.D.). In profile it appears on that of Henry Radcliffe, Earl of Sussex, who was installed in 1589; and by the year 1615 on that of Lord Knollys, about which time it seems to have been adopted as the characteristic mark of the several Orders of the peerage. The close, sidelong helmet is frequently used in engravings of the armorial insignia of baronets and knights in the seventeenth century. It has been supposed that the full-faced open helmet may have become their peculiar distinction about

¹ See *Les Ecosais en France*, par Francisque Michel, vol. ii. p. 1.

² Plate xxxii.

³ Plate xxxiii.

the time of the restoration of Charles II., but Woodward places the date earlier—about the time of Charles I.¹ Sir George Mackenzie in 1680 considered that 'it were fitter to give kings helmets fully open without guard-visures, as the French do, than to knights, as we do; for knights are in more danger, and have less need to command. And seeing all nations agree that a direct standing is more noble than a sidewise standing, I see not why the helmet of a knight should stand direct, and a duke's only sidewise.'²

According to Nisbet, 'when there are two helmets placed on an escutcheon of arms, they look to one another of whatsoever quality the possessor be; and when there are three helmets, that in the middle is placed fronting, and the other two *contourné*, i.e. turned to it; and if there be four helmets on a shield, two look to two.'³ When a helmet is borne *contourné* the crest, of course, is so too.

The use of more than one helmet, although very frequent in Germany (in accordance with the practice of displaying a multiplicity of crests),⁴ is of very rare occurrence in either Scotland or England. No early example is known of it; and, indeed, the stone at Jedburgh, already referred to, is the only Scottish instance not quite modern that has come under our notice. On some of the stained-glass windows in Glasgow Cathedral, embracing more than one shield of arms, the position of the helmets indicated by Nisbet appears to have been only partially adopted; as on the beautiful three-light window presented by Mr. Stirling of Keir, exhibiting three escutcheons, of which the dexter one (speaking heraldically) is timbred with a helmet *contourné*, i.e. turned to the sinister, while those over the two other shields occupy the usual position.

¹ *Heraldry, British and Foreign*, ii. 231.

² *Science of Heraldry*, chap. xxvi. The equestrian sides of the Great Seals of James VI. and his successors which represented these kings with their visors open must have pleased Sir George, though the armorial sides did not.

³ *System of Heraldry*, vol. ii. part iv. p. 6.

⁴ Many of the German princes and nobility bear as many as eight or ten helmets and crests over their escutcheons, 'according to the principal arms within the shield, and to the number of fiefs by which the bearer is entitled to vote in the circles of the empire.' Brydson's *View of Heraldry*, p. 147.

Instances appear in early continental armorials of the helmet carrying on its side a repetition of the arms of the shield.¹

CAPELINE, LAMBREQUIN, MANTLING.

With the materials now available to the student of heraldry, the evolution of the mantling can be traced from the extension of the lower part of the crest, or, at times, a separate cap, which was attached to the helmet, and came to envelop the back of it and hang down behind it like a curtain ;² too narrow, however, to come far round the sides, and coming to a point before it reached the shield when it appears with it in the achievement. In the earlier stages of its development it has been termed the capeline. Of its progress much can be gathered from the pages which we reproduce from the *Armorial de Gelre*.

Like the crest, and, as we have observed, the helmet, the mantling in its capeline stage was at times decorated with the wearer's armory. The King of Scotland's capeline in the *Gelre Armorial* bears the ensigns of the Bruce. The same appear on the shield of the Bruce as Lord of Annandale ; the azure bend of Sandilands is on his capeline. Only one of Preston's unicorns appears on his ; and in the case of Halyburton the mascles are omitted.

The capeline appears on the armorial seals of the fourteenth century in good condition, with occasionally a fringe or serrated edge. It bears nothing of the slashes received in battle to which subsequent heralds attribute the wonderful developments they themselves and their seal engravers produced on its ornamental edges. So far as the evidence of the equestrian seals of the period takes us, the capeline did not go into battle. In time it came to be of enormous size, and styled a mantle, and when represented as untorn was still at times armorial. But it was not till the sixteenth century that it began to merit the title of lambrequin.³ It was then fitted to take the place on seals of the non-heraldic designs, diapering and foliage, which filled the spaces between the armorial bearings and the annulus with the circumscription—specially in seals where there were no supporters. Patrick, Earl of

¹ See *Heraldry, British and Foreign*, ii. p. 230.

² *Ibid.* p. 244.

³ *Science of Heraldry*, chap. xxvii.

ARMORIAL SHIELDS AND SHIELDS

- 1. a. 1477 : John Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 2. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 3. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 4. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 5. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 6. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 7. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 8. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 9. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 10. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 11. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.
- 12. a. 1477 : Robert Langford, Sheriff of Cleveland, grandson of Sir John Langford.

ARMORIAL SEALS AND SHIELDS.

1. A.D. 1371 ; Sir James Lindsay, Lord of Crawford, grandson of Sir David Lindsay of Crawford.
2. A.D. 1371 ; Sir Alexander Lindsay of Glenesk, third son of Sir David Lindsay of Crawford.
3. A.D. 1371 ; George, tenth Earl of Dunbar, third Earl of March.
4. A.D. 1383 ; John, Earl of Carrick, afterwards King Robert III.
5. Maxwell of Monreith, Baronet.
6. A.D. 1468 ; William Meldrum of Fyvie.
7. A.D. 1587 ; John Innes of Innes.
8. A.D. 1520-42 ; Archibald Douglas, sixth Earl of Angus.
9. A.D. 1587 ; Archibald Douglas, eighth Earl of Angus.
10. A.D. 1370 ; Sir James Douglas of Dalkeith.
11. A.D. 1403 ; Robert Stewart, Duke of Albany, Earl of Fife and Menteith, third son of Robert II. and his wife, Elizabeth Mure.
12. A.D. 1440 ; Alexander (Macdonald) of the Isles, Lord of the Isles, Earl of Ross.



Bothwell's seal in 1515 has a mantling of long pointed leaves. It is doubtful if it ought not to be classed with the foliage which issues from the wreath of James, Lord Hamilton's seal of 1525.¹ It is probably meant to be difficult to say where the mantling ends and the foliage begins on the Buccleuch seal of 1648.² That ornament enjoyed its fullest luxuriance in the hundred years which produced Mackenzie and Nisbet. Heraldic art within the last twenty years has shown a strong inclination to return to the thirteenth and fourteenth century helm, and to attenuate if not restrict the mantlings, but it has not yet returned in any force to the fourteenth century capeline, and it is doubtful how far its present mantlings are not an anachronism when applied to a helm that has another known mantling proper to it.

Sir George Mackenzie observes in 1680 that in Scotland all the mantlings of noblemen are tinctured gules and doubled (*i.e.* lined) ermine, 'because the robes of our earls and above are scarlet doubled with ermine.' He sees no reason for the practice, and advocates a return to our previous practice when 'our mantlings were of the colour of the coats lined or doubled with the metals.'³

Both in England and Scotland, for a considerable length of time, the mantling of commoners has generally been painted *red*, doubled with *white*,⁴ but recently Scotland at least has reverted to the practice referred to by Sir George. The mantlings of the nobility continue to be red doubled with ermine; but it would be unreasonable to hold that anyone else who, like many commoners, is entitled to a coat of ermine, may not have a mantling of ermine too. It is the mantling granted in 1456 to the company of Tallow Chandlers of London. The royal mantling in England, since the days of Queen Elizabeth, has generally been of cloth of gold, lined with either ermine or white. That of the King of Scotland in the *Armorial de Gelre* is of the arms of the Bruce doubled azure. The mantling of the Royal Arms of Scotland of to-day is *or* (cloth of gold) *doubled ermine*.⁵

¹ Plate xxxii. ² Laing, ii. ; Plate vi. 7 ; Macd. 2405. ³ *Science of Heraldry*, chap. xxvii.

⁴ At the date of the former edition of this work Sir Frederick Pollock's mantling of his own colours, blue and gold, was the only modern exception we recollected to have seen in the Register.

⁵ Mackenzie, *Science of Heraldry*, chap. xxxiv.

THE MOTTO.

The Motto (or legend), formerly called in Scotland the *Ditton*, consists, as everybody knows, of a word or sentence upon a ribbon or scroll, which in France and Scotland is generally placed above the crest, while in England, on the other hand, it is almost invariably disposed below the escutcheon. Sir George Mackenzie considers that the position of the motto should vary according to its import—that if it relates to the crest it should be placed above that figure, and if to the arms or supporters, under the achievement, ‘so that it may be near to the armour to which it relates.’¹ Where such relation exists, and not more than one motto referring to either has to be disposed of, the suggested arrangement is, of course, highly appropriate. In the case of the Earl of Winton’s achievement, which exhibits no fewer than three mottoes, one is placed over the crest, another in connection with the shield, and a third on the scroll or compartment bearing the supporters.²

Although considered by many to be a thing of arbitrary usage, the motto has been rarely changed, either in England or Scotland, by families of ancient lineage, and has generally proved to be as hereditary in its character as the charges in the escutcheon. In the case of the Johnstones of Annandale, however, the old motto, ‘Light thieves a’ (i.e. ‘Alight from your horses and surrender’), originally used as a slogan, was relinquished for the more dignified legend which they now carry, ‘*Nunquam non paratus.*’

When treating of property in arms we have said that none is recognized in a motto taken by itself. The truth of the remark will be very evident from what we shall find on a future page of ‘popular’ mottoes. But while it is perhaps impossible to give any family a monopoly of a motto which expresses a sentiment which should be common to all people, there are mottoes which cannot decently be either granted or assumed by anyone while the house identified with it stands. No heraldic

¹ Mackenzie, *Science*, chap. xxxii. In the case of other mottoes to which Mackenzie alludes also, which relate rather to some considerable action of the bearer or to his name, office, or origin, Sir George proposes no amendment on the customs which he finds in use.

² Nisbet’s *Heraldry*, vol. ii. part iv. p. 23.

authority would grant 'Let Curzon hold what Curzon held' to anyone merely of the name Curzon. The motto, or perhaps 'cry,' of the Marquis of Breadalbane, as a chief of a clan, is 'Follow me.' The answering cries of the cadet houses are: Campbell of Mochastir, 'I follow'; Campbell of Lochdochart, 'I follow straight'; Campbell of Barcaldine, 'I am ready'; Campbell of Achalader, 'Without fear'; Campbell of Lawers, 'Do and hope'; and of Aberuchill, 'Victory follows the brave.'¹ This is one of the finest things in clan heraldry, and yet it has been very nearly spoilt. By the laches of a heraldic authority in 1816 another Campbell claiming to be come of Breadalbane is heraldically entitled to cry 'Follow me.' The grantee was an eminent general officer and baronet who, if he thought of anyone he might so command, thought of his own 3rd West India Regiment, and never dreamt that he was arrogating to himself the position of leader of his clan. Still the grant is a solecism in heraldry.

The motto, at the same time, like everything else in heraldry, began by being personal and changeable at pleasure. It remained so, very much longer than the device on the shield, much longer even than the crest. At its rise there is little to distinguish it from the *impresses* of its own and aftertimes, except that in the impress the words alluded to and supplemented the device, whereas the motto might, and did generally, though not always, stand by itself. The adoption of a motto is as old as the first adoption of a rule of conduct, or next in age. But it is singularly late before mottoes appear displayed along with arms. The earliest instance in Scotland of the appearance of words on a seal is that on the seal of Thor Longus, the Saxon settler at Ednam in the Merse, in the reign of Edgar of Scotland (1097-1107). The seal is oval. Thor sits in the middle with his right hand holding a sheathed sword obliquely across his breast, while his left supports it near the point. Round about are the words '*Thor me mittit amico.*'² This is clearly not a motto. Probably the next seal is that of Isabella, wife of William Wallace.³ The seal, which is appended to a deed in favour of Melrose Abbey of about the year 1160, shows an eagle in the act of alighting, whether it is the eagle of St. John bearing a pen is not clear; her husband's seal, which hangs alongside, has an eagle too.

¹ Logan, *Scottish Clans*, 8vo, p. 56. ² Laing, ii. 663. ³ Plate xxxiv. ; Laing, i. 837.

The words, which are the circumscription of the lady's seal, are '*Frangere me docebo te.*' The word *docebo* was probably meant to be interpreted according to circumstances. 'Break me and I will instruct you' was appropriate enough on a letter whose seal was made to be broken, but 'Break me and I will teach you,' in the sense of Judges viii. 16, was more in keeping with the seal on a charter! Similar conceits appear on the signets of the Earls of Dunbar; thus '*Brisez vaez lisez craez*'—in more modern form '*Brisez, voyez, lisez, croyez*'—appears on that of the fifth earl, who flourished between 1182 and 1232.¹ The legend on the same seal of the seventh earl in 1251 was '*Sigillum amoris,*'² and in 1279, with a device of a lion preying on a stag, it was '*Je su sel de amur tell,*'³ a sarcastic assertion which also accompanies the device of a lion attacking a wyvern on the seal of 1292 of William Ireby.⁴ The eighth earl in 1292 suspends his shield from a tree which is flanked by two smaller trees, and adds the legend '*Parmi ceu haut bois condūray m'amie.*'⁵ In the same year the seal of Brian Fitzalan, one of the Guardians of Scotland,⁶ bears '*Tot capita tot sentencie.*'⁶

On the other hand, the '*Esso ferox ut leo,*' used by Robert Bruce, Lord of Annandale,⁶ as early as 1240 or thereby, is a true motto in the heraldic sense. So also is that of King Alexander III. of about the same date (c. 1260)—'*Esto prudens ut serpens et simplex sicut columba.*'⁷ One of the earliest English instances of a motto is afforded by the seal of Sir John de Byron, appended to a deed dated 1293, on which the legend is '*Crede Beronti,*' the motto of the present family of the same surname being '*Crede Biron.*'

To the next century belongs the seal of Archibald the Grim, Lord of Galloway, afterwards third Earl of Douglas, with the motto, in the beak of

¹ Macd. 779a.

² Macd. 783.

³ Macd. 784. Every Dunbar letter, save one, of the kind that were made to seal, is lost hundreds of years ago, but they show us that these letters were sealed, and that they were not all cartels of battle, though the humour was sometimes dry.

⁴ Laing, i. 455; *B.M. Cat.* 17,152.

⁵ Macd. 787; *B.M. Cat.* 16,144.

⁶ Macd. 270.

⁷ *B.M. Cat.* No. 14,853; and cf. *Matt.* x. 16. See also Laing, i. 689; *B.M. Cat.* 16,776.

ARMORIAL SEALS.

- 1. Ann. 1334: Robert, first Earl of Derby, second Earl of March.
- 2. Ann. 1330: William de Warenne, Earl of Artois, second son of King Robert II. and first Earl of Surrey.
- 3. Ann. 1314: James Fitz John, third Earl of Hereford.
- 4. Ann. 1278: James Fitz John, fourth Earl of Hereford, Lord High Chamberlain.
- 5. Ann. 1274: Alexander Fitz John, second Earl of Gloucester.
- 6. Ann. 1273: Sir Archibald Douglas, Lord of Galloway, first Earl of Douglas.
- 7. Ann. 1413: Archibald Douglas, fourth Earl of Douglas.
- 8. Ann. 1304: Elizabeth, Countess of Ross, daughter and co-heiress of William, sixth Earl of Ross, wife of Sir Walter Fitz John.
- 9. Ann. 1400: Joanna Murray, Lady of Bothwell, Countess of Arran, daughter of Sir Archibald, third Earl of Douglas.
- 10. Ann. 1267: Sir Walter Fitz John, Lord of Ross.
- 11. Ann. 1250: Mary, Countess of Hereford, Queen of King James II.
- 12. Ann. 1257: John Fitz John, third Earl of Gloucester.

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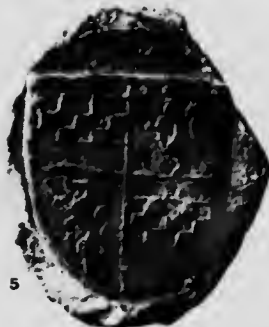
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ARMORIAL SEALS.

1. A.D. 1334 ; Patrick, ninth Earl of Dunbar, second Earl of March.
2. A.D. 1430 ; Walter Stewart, Earl of Atholl, second son of King Robert II. and his wife Euphemia Ross.
3. A.D. 1515 ; Patrick Hepburn, third Earl of Bothwell.
4. A.D. 1558 ; James Hepburn, fourth Earl of Bothwell, Lord High Admiral.
5. A.D. 1424 ; Alexander Lindsay, second Earl of Crawford.
6. A.D. 1373 ; Sir Archibald Douglas, Lord of Galloway, third Earl of Douglas.
7. A.D. 1413 ; Archibald Douglas, fourth Earl of Douglas.
8. A.D. 1394 ; Euphemia, Countess of Ross, daughter and heiress of William, sixth Earl of Ross, wife of Sir Walter de Lesley.
9. A.D. 1400 ; Joanna Murray, Lady of Bothwell, Countess of Sir Archibald, third Earl of Douglas.
10. A.D. 1367 ; Sir Walter de Lesley, Lord of Ross.
11. A.D. 1459 ; Mary of Guelders, Queen of King James II.
12. A.D. 1597 ; John Ruthven, third Earl of Gowrie.





the peacock head, his crest, '*What Tyde*,'¹ which reminds the ear of the rhyme of the Rhymer :

'Tide whate'er betide,
Haig shall be laird of Bemerside.'

To the fifteenth century Riddell, the peerage lawyer, attributes the motto of the Lindsays, '*Endure fort*.' The earliest seal on which it appears belongs to the year 1605, but he points out that the pursuivant of the chief of the house was named 'Endure' in 1460.² The inference seems good that the word was then the earl's motto, or part of it. Montjoye, the first word of the *Cri* of the King of France, was made the name of his King-of-Arms.

It is only in the sixteenth century, however, that the display of the motto with the heraldry of the seal begins as a practice. Even then it does not become prevalent. But there appear, among others,³ the following : The '*Hazard zit fordward*' of Seton (in a seal of Seton first baron of Cariston),⁴ the '*Keip Tryst*' of the Earl of Bothwell,⁵ the '*Through*' of Hamilton,⁶ and '*Deid Schau*' of Ruthven.⁷ The Royal motto, '*In Defens*,' now appears on the Privy Seal and Signet of Queen Mary,⁸ and '*Avand Dervlie*' is on the seal of the Earl of Lennox.⁹ The '*Jamais arriere*,' a proclamation of the right to carry the King's crown in the Royal progress, to give the first vote in Parliament, and to lead the van of the Scottish host into battle, is on the seal of the eighth Earl of Angus.¹⁰

In the seventeenth century more families fell into line, and we find '*Je pense plus*' on the seal of the Earl of Mar, '*Serva jugum*' on the Earl of

¹ Plate xxxiii. ; Macd. 663.

² Riddell, *Peerage Law*, 265.

³ See Laing, i. 405, 711, 308, 59, 64, 464, 741, 815, 822, vol. ii. 494, 869, 938, 642.

⁴ Laing, ii. 896.

⁵ Plate xxxiii. ; Macd. 1312. Mr. Seton notes in the former edition of the present work : The second word of Lord Bothwell's motto (*Tryst*) is expressed in *Monogram*—a species of device very much in fashion in the present day (*i.e.* 1862).

⁶ Macd. 1210.

⁷ Plate xxxiii. ; Macd. 2354.

⁸ *B.M. Cat.* 14,875, 14,876.

⁹ Macd. 2624.

¹⁰ Plate xxxii. ; Macd. 691.

Erroll's, '*Amo*' on the Earl of Buccleuch's, '*Pro Christo et Patria Dulce periculum*' on the Earl of Lothian's. We have also the mottoes of Alexander, Earl of Home, '*Treu to ye end*'; of David Murray, Lord Scone, '*Spero Meliora*'; and of William Graham, Earl of Menteith, '*Right and Reasoun*.'¹ On Lord Scone's seal and on some others the motto is placed at the *sides* of the shield. In seals, both heraldic and others, we find also texts from Holy Writ, and expressions of religious faith, or appeals to the Almighty or to saints, and so on.

The Guardians of Scotland during the Interregnum, which occurred (1286-1292) after the death of Alexander III., placed a representation of St. Andrew, the patron Saint of Scotland, on their Great Seal, with the adjuration—rhyming after the fashion of the times: '*Andrea Scotis Dux esto Compatriotis*.'² John de Langton in 1292 bears a lion rampant on his seal with the words '*Vincit Leo de tribu Juda*.'³

It might be disputed whether these were mottoes in the heraldic sense. But there is no dividing line between them and many later inscriptions on escrols the heraldic character of which has never been doubted. Thus the words '*Miserere mei domine*' are borne by David Cuningham in 1500 A.D. on an escrol above his shield.⁴ Margaret of England in 1526 bears the words '*In God is mi traist*' on a label between her arms and her crown,⁵ and the mottoes '*Grace me Guide*,' which Lord Forbes carries on his crest, and '*Jehovah Jireh*,' which is under the arms of Grant of Monimusk, are enough to establish their admissibility.

The ancient motto of the King of Scotland, which appears shortly on his crest as '*In defens*,' was '*In my defence God me defend*'; that of the King of England was '*God and my right shall me defend*.'⁶ The practice of placing the motto within a *garter* or circle, instead of on a scroll, with the result of producing the appearance of a ribbon of knighthood or the Garter itself, is one of many modern heraldic irregularities, and is only exceeded in absurdity by the custom, now sometimes followed, of putting the crest *within* an escutcheon!

¹ Laing's *Catalogue*, Nos. 437, 162, 617, and 387.

² *B.M. Cat.* 14,790.

³ *B.M. Cat.* 17,160.

⁴ *Macd.* 603.

⁵ *B.M. Cat.* 14,900.

⁶ *Coke on Littleton*, cap. 75.

THE MOTTO

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Like war-cries, mottoes which were never so used are frequently very laconic, being in many instances confined to a single word. Thus, the motto of Scott is '*Amo*'; of Bruce, '*Fuimus*'; of Dundas, '*Essayez*'; of Douglas, '*Forward*'; and of Home of Wedderburn, '*Remember*.' Others consist of only two words, such as of the Hays, '*Spare nought*,' and the Leslies, '*Grip fast*.' Occasionally, however, they are very lengthy, without gaining thereby. Thus, '*Altius ibunt qui ad summa nituntur*' is the motto carried by the surname of Fordyce, and also by Forbes of Newe. '*A wight man never wants a weapon*,' which pertains to the Wightmans, whose crest is a demi-savage with a club, belongs to another class. There is also the '*Touch not the cat but a glove*' (*i.e.* without a glove), the well-known motto of the Mackintoshes. Here there is a reference to the crest—a cat salient—for the Clan-Chattan.¹ Again, '*Furth fortune and fill the fetters*' is the motto of the Duke of Atholl and various branches of the house of Murray, which the author of *A Journey through Scotland*, published in 1732, 'defies all the Heralds of Europe to explain!'² Long mottoes are found in other countries besides Scotland, and some of them afford admirable examples of the poet's *sesquipedalia verba*. Thus, the injunction of the Lamberts is '*Nec mireris homines mirabiliores!*' while the Freelings embody their sentiments in three words—'*Nunquam nisi honorificentissime*'—the last of which, it will be observed, embraces no fewer than *eighteen* letters! As on this side of the Tweed, however, some of the longest English mottoes are both quaint and mysterious; those, for example, of the family of Dakyns of Derbyshire, and the Martins of the county of Dorset—the first being '*Stryke, Dakyns; the devil's in the hempe*'; and the second, '*He who looks at Martin's ape, Martin's ape shall look at him*.'

Most moods have their expression in some motto or other. Lord

¹ In like manner, the motto of the Lindsays of Kirkforthar is '*Live but dread*'—doubtless now somewhat Delphic in its character, but certainly originally intended to enjoin the fulfilment of that life without alarm, which is the necessary accompaniment of a *mens conscia recti*.

² But which has produced several explanations. In a MS. Scottish armorial in the possession of Charles Chambers, Esq., Edinburgh, which is supposed to be written by Sir Patrick Home of Polwarth, Bart., about the year 1600, the motto is given—'*Furth Fortune file off thy fetters*.' See also Pegge, *Curialia Miscel.* p. 250.

Cranstoun's motto was, 'Thou shalt want ere I want.'¹ Crawford of Cartsburn's, on the other hand, is '*Quod tibi hoc alteri.*' And Grant of Monimusk, borrowing from the Faculty of Advocates, expresses an intermediate and strictly equitable sentiment in '*Suum cuique.*'²

While some Scottish mottoes refer to bearings in the escutcheon, a very large number are in allusion to the crest. As an example of the former class we may mention the motto of Baillie of Lamington, '*Quid clarius astris?*'—nine stars being carried in the shield.³ In like manner, the motto of the Cuninghams, Earls of Glencairn, 'Over fork over,' bore reference to the *shake-fork* in the escutcheon, and also, as Mackenzie again points out, disposes if necessary of the theory that the figure on the shield is an *Episcopal Pall*, to commemorate the fact of the first of the family having been concerned in the murder of Thomas à Becket!⁴ Reference to the crest is, however, much more frequent. Thus, while the same crest—a

¹ The report of an address delivered by Mr. Justice Darling, not long ago in Edinburgh, supplies another, perhaps new and even more cynical version, 'Thou shalt want all I want.' Whether a printer's error or not, it is certainly witty!

² Not even theirs alone or originally—or, in the opinion of some unsuccessful clients, equitably. For '*Honeste vivere, alterum non laedere, suum quique tribuere,*' see Justinian, *Inst.* i. 1. 3. and *D. i.* 1. 10. 1.

³ These stars have sometimes been erroneously blazoned mullets, or spur-rowels, but Sir George Mackenzie points out that the motto, which demands 'what is brighter than the stars?' settles the question. Sir George Mackenzie states that the Duke of Buccleuch's motto '*Amo*' relates to his supporters—two ladies in rich and antique apparel—assumed by his ancestor on his marriage with the heiress of Muirdiston. Sir William Dunbar of Mochrum's motto—'*Candoris premium honos,*' and his supporters with which it was granted—two white doves crowned imperially—refer to the same thing. The Earl of Perth's motto, 'Gang warily,' refers to his compartment, which is semé of caltrops. The Earl of Kellie's motto alludes either to the fact that he, a younger brother of an earl, had won an earldom for himself, or to the honourable augmentation with which as a difference he bore his elder brother's arms—'*Decori decus addit avito*'—he adds an honour to his family honours. Many mottoes refer only to some historical event in the family. '*Fuimus,*' over a Bruce shield, signifies '*We were kings once.*' The Gaelic motto of the MacGregors of MacGregor is 'Royal is my line.' Kirkpatrick of Closeburn's '*I mak siccar,*' now used in the form of '*I make sure,*' is in memory of the exclamation of Sir Roger at the door of the Church of Dumfries in 1306. 'Light Thieves All,' the former motto of Lord Johnston when Warden of the Marches, is euphemistically classed by Mackenzie among mottoes belonging 'to the bearer's office.'

⁴ For some strictures on the Shake-fork, see Pegge, *Curialia Miscellanea*, p. 242.

pelican 'in her piety'¹—is carried by the Earls of Galloway and Moray, the motto of the former is '*Virescit vulnere virtus*,'² and of the latter, '*Salus per Christum*.' Lord Gray's motto, in reference to his crest, is, 'Anchor, fast anchor.' John Calvin's (b. 1509) crest was a hand holding out a burning heart. His motto—'I offer to God my heart as if slain for a sacrifice.'³

By far the most numerous class of mottoes are those which are expressive of a sentiment, or a principle, or hope, or resolution, on which account alone they appear to have been chosen. '*Dum spiro spero*' is the motto of nearly fifty British families of different surnames, English, Scottish, and Irish, not one of which, unless the family of Spearman is an exception, can have seen in it any allusion to his surname. '*Esse quam videri*' is the motto of quite a surprising number. '*Nec temere nec timide*,' '*Nil desperandum*,' '*Perseverando*,' '*Pro patria*,' '*Semper fidelis*' or '*paratus*,' are also each of them the precise words which dozens of founders of families, armorially and otherwise, have adopted for the expression of their guiding principle, careless of the fact that others have used them before and scores, perhaps hundreds, of cases exist similarly of a motto, though less extraordinarily popular, being yet used by different families of different surnames though in the same kingdom at one and the same time.⁴ As additional instances, we may mention the following: '*Denique cælum*,' the motto of the Melvilles; '*Dominus providebit*,' of the Boyles; 'I hope to speed,' Cathcart of Carbiston; 'Tyde what may,' Haig of Bemerside; 'Will God I shall,' Menzies of that ilk;⁵ '*Si je puis*,' Colquhoun of Luss; and 'Ready aye ready,' Scott of Thirlstane.

¹ A pelican in her nest feeding her young with her blood is strikingly said to be 'in her piety,' and is thus frequently represented as a symbol on monumental brasses. The figure occurs on the brass of William Prestwick, Dean of Hastings, in Warbleton Church, Sussex, with the explanatory motto, '*Sic Xpus dilexit nos*.'

² See p. 62 note, *supra*.

³ '*Cor meum velut mactatum Deo in sacrificium offero*.' Irwin, *Calvin*, 108.

⁴ Even the '*Amo*' of Scott of Buccleuch; the '*Fuimus*' of the Bruces; and the '*Forward*' of the Douglasses, which these houses use in allusion to incidents in their histories, there is no monopoly in. On the question of right in a motto, see above, p. 62.

⁵ Over the door of the old church of Weem, in Perthshire, this motto is thus rendered: 'Vil · God · I · Sal,' with the date 1600.

CANTING MOTTOES.

Mottoes referring to the surname of the bearer are probably as ancient as canting crests. Although not common they are by no means unknown in Scotland, nor are they entirely a thing of the past. In a comparatively recent volume of the Lyon Register (A.D. 1846) Hope Vere of Craigie Hall and Blackwood has two such mottoes—the Hope motto '*At spes non fracta,*' and for Vere, '*Vero nihil verius.*'

Frequently the motto is, as one might say, the reverse of canting; and, where accompanying a canting crest, points to another meaning of the crest to which it endeavours to draw off the attention of the unwary. Thus the mottoes which accompany the crest of the Caithness Sinclairs, which we have spoken of, if they refer to the crest at all, talk of '*Fidelitas*'—Chanticleer's fidelity in giving the alarm or the reminder.¹ In 1767 Heron of Heron registered arms with herons for his supporters, and for his motto '*Ad ardua tendit,*' which seems a studied ignoring of the play on *ardua* pointed out in the motto of the English family of the name—'*Ardua petit ardea.*'²

On the other hand, the motto at times does the office of proclaiming the 'cant' of the crest. The crest of the Earl of Wemyss for the name Charteris is a hand holding a roll. Other families display the same device with different mottoes, but Lord Wemyss's motto is 'This our charter.'

A large class of mottoes are only canting in special cases. '*Festina lente*' in the mouth of Lord Hindlip is valuable as an advice to those who would be as successful, but it is a canting motto into the bargain over the arms of Lord Onslow.

'*Deus pascit corvos*' was the canting motto of the Corbetts of Cheshire. The Cranes of the same county replied, we learn, by the adoption of a motto '*Qui pascit Corvos non obliviscitur Grues.*'³

¹ Regarding the cock, see Hulme, *Symbolism in Christian Art*, 1892, p. 191.

² *Ardea* = a heron.

³ Pegge, *Curialia Miscellanea*. The Corbie (*corvus*) derivation of the exceedingly early surname of Corbet appears as early in Scotland as 1452. Macd. 501a, p. 377. Grues = Cranes. One Crawford in Scotland (of Cloverhill), 1672-77, has a motto, 'God feeds the Crows.' But he puts three crows on his shield, so perhaps wasn't talking about Crawford at all.

CANTING MOTTOES

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Some mottoes none the less canting affect to be, on the contrary, the origin of the name which they belong to. To some or all of these mottoes attaches a legend which explains that they are not *canting* in their nature. Such a legend exists in the case of Lockhart of Lee. It does not deny the fact that at the dawn of the heraldic day the surname of the family was Locard. But Simon Locard was one of the knights who accompanied Douglas with the heart of the Bruce in its case to the Holy War, and the legend states that he was thereafter known as Lockheart, and placed the King's heart within a lock on his shield. Another legend, as well known as the last, exists in the family, which tells how Sir Simon extorted a talisman which by accident he had seen, as part of the ransom of a Saracen captive whom he had taken in the war—the same mysterious object which for centuries has been preserved at Lee, and is known as the Lee Penny.¹ It is to this legend rather, or to the possession of the talisman that the motto of the house seems to refer—'I lay open locked hearts' (*Corda serrata pando*). Lockhart of Cambusnethan, who of course does not share in the possession of the Penny, alters the motto to 'I bear locked hearts' (*Corda serrata fero*).

The motto of the Fortescues, '*Forte scutum salus Ducum*,' similarly, is explained in the history of the house, to have been the gist of a speech of an admiring commander. The young Norman knight characterized as a strong shield took the surname or the nickname—and recorded the grant in his motto in good rhyming Latin for preservation and explanation.

The circumstances in which Cavendish took its origin in *Cavendo tutus*, Pierreponte out of *Pie repono te* and not from Stonebridge, were, if the truth were known, perhaps similar to those in which Coleridge arose out of *Time Deum cole regem*, and Vernon out of *Ver non semper viret*.²

¹And is the origin of Scott's novel, *The Talisman*.

²See Pegge, *Curialia Miscellanea*, p. 217, for bon mot on *Cavendo tutus*.

THE WAR-CRY, CRI-DE-GUERRE, SLOGAN, ENSENYE.¹

Probably the earliest mottoes to become identified with persons—kings, chiefs, and others—and so to come under the purview of the heralds, were those that they used as their war-cries. 'A cry' is a proverbial necessity for a cause, and it is naturally the name, or some understood reminder, of the connecting link which binds the host together. So in ancient warfare it came to be the name of the leader, or the home of the band, or some sentiment recalling the host to its pride. The leader whose name was proclaimed in cry was perhaps as frequently the heavenly as the earthly captain of the host. The earliest war-cry known to us—the cry of the little army of Israel heard in the valley by the hill of Morah—was 'The sword of the Lord and of Gideon.'² It may be that the earliest cry belonging to Scotland of which any record remains is the 'Thor have us both Thor and Odin,' which is preserved to us in the refrain 'Teribus ye Teri Odin' of the song of the men of Hawick.³ The cry of 'St. Andrew' was long the war-cry of the

¹ 'When the streets of high Dunedin
Saw lances gleam, and falchions redden,
And heard the slogan's deadly yell—
Then the chief of Branksome fell.'

Lay of the Last Minstrel, i. 7.

'The King his men saw in affray,
And his ensenye can he cry.'

Barbour, *The Bruce*, iii. 28.

'The Leader, rolling to the Tweed
Resounds the ensenzie;
They roused the deer from Caddenhead
To distant Torwoodlee.'

'Thomas the Rhymer' (Part Third), *Border Minstrelsy*, iii. 210.

See also the Ballads of 'Kinmont Willie,' *ibid.* i. 206, and the 'Raid of Reidswire,' *ibid.* i. 168.

² Judges vii. 1, 18, 20.

³ 'The music dates from the most ancient times, and expresses more than any other air the wild and defiant strain of the war tramp and the battle shout.' Groome, *Ord. Gaz. Scot.* iv. 252.

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ARMORIAL

- 1. 1473. Prince Alexander, Duke of Württemberg, Earl of Tyrol.
- 2. 1473. Great Admiral, second son of King James II.
- 3. 1473. James, ninth Earl of Douglas.
- 4. 1473. James, ninth Earl of Douglas.
- 5. 1473. James, ninth Earl of Douglas.
- 6. 1473. James, ninth Earl of Douglas.
- 7. 1473. James, ninth Earl of Douglas.
- 8. 1473. James, ninth Earl of Douglas.
- 9. 1473. James, ninth Earl of Douglas.

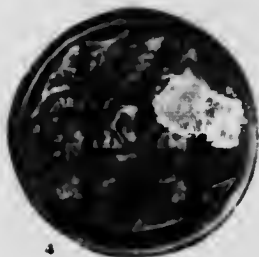
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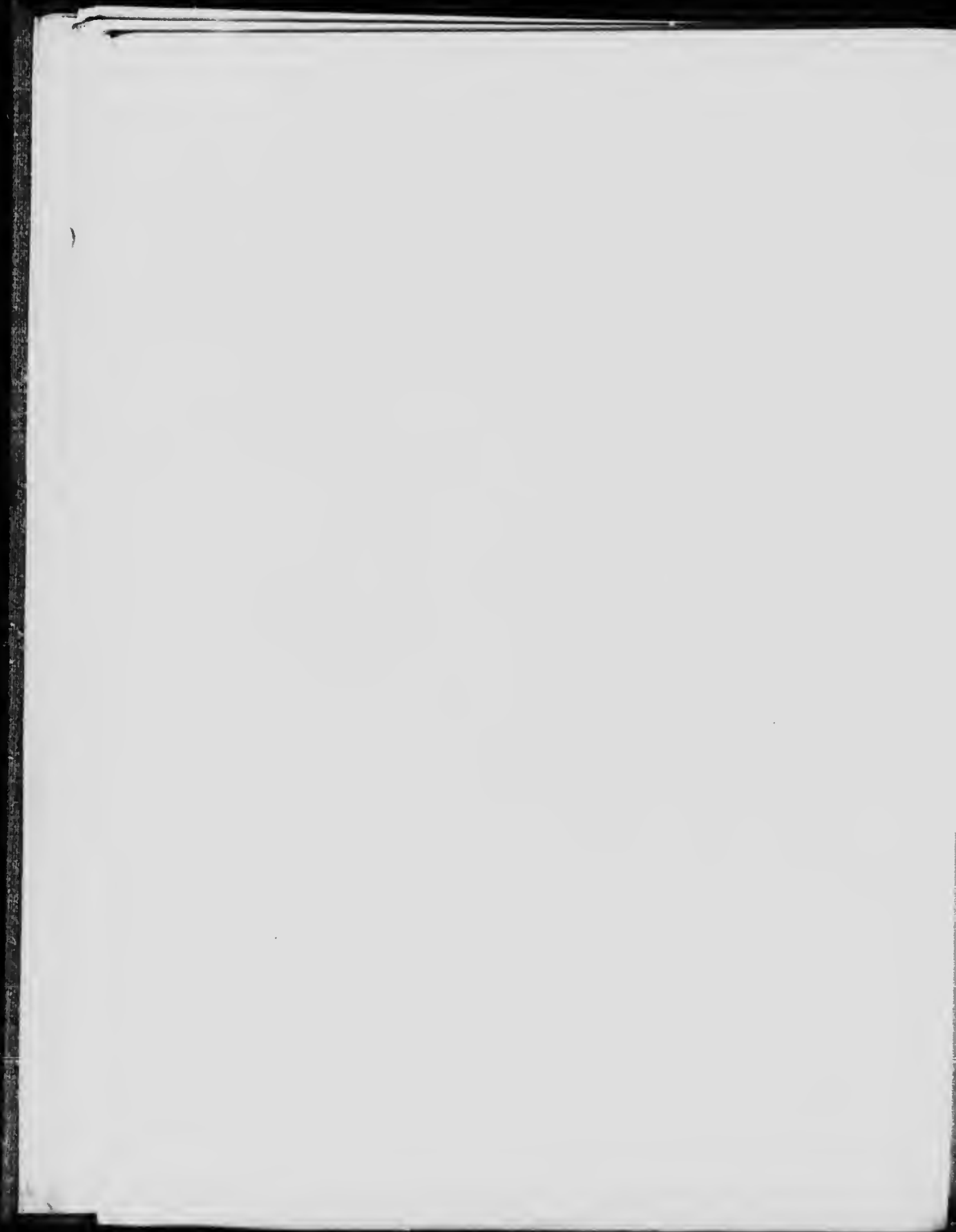
i. 168.

air the
az. Scot.

ARMORIAL SEALS.

1. A.D. 1473; Prince Alexander, Duke of Albany, Earl of March, Lord of Annandale, Great Admiral, second son of King James II.
2. A.D. 1550; Mary Queen of Scots. Counter-seal of first Great Seal.
3. A.D. 1453; James, ninth Earl of Douglas.
4. A.D. 1369-70; Euphemia de Ross, second wife of Robert, Earl of Strathern, afterward King Robert II.
5. A.D. 1292; Patrick Dunbar, eighth Earl of Dunbar, first Earl of March, the Competitor.
6. A.D. 1359; King David II. Privy Seal.
7. A.D. 1369; William, first Earl of Douglas.
8. A.D. 1446; William, eighth Earl of Douglas.
9. A.D. 1400; Adam Forrester of Corstorphine.





Scottish king and his people.¹ 'St. Andrew our Patron be our help'² was believed to have been the cry of King Hungus when he led the combined forces of the Picts and Scots against the English under Athelstane at a date which all authorities fix at somewhere between the years of Grace three hundred and eight hundred odds. The 'cri' of the Dukes of Burgundy was 'Montjoye St. Andrew,' that of the Kings of France 'Montjoye St. Dennis.' 'Ha! St. Edward! Ha! St. George!' was used by Edward III. in 1349. But in 1495 the English king and Parliament held that the proper cries were 'The King,' and 'St. George for England.'³

The ancient cry of Montmorencie, who was styled the First Christian Baron, was 'Dieu ayde au Premier Chrétien'; that of Seton in Scotland was 'St. Bennet and Seton'—the last two words playing in this case the double part of proclaiming the name and exhorting to the attack.⁴

The cry of the ancient Earls of Douglas was 'A Douglas! a Douglas!' that of the Homes, 'A Home! a Home!'⁵ and of the Gordons, 'A Gordon!

¹ 'O for an hour of Wallace wight,
Or Bruce's arm to rule the fight,
And cry St. Andrew and our Right!'

² Bellenden's *Boece*, ii. 140.

³ The first object of this Act, which was passed after the conclusion of the Wars of the Roses, was to abolish the use of war-cries such as tended to foment discord among the factions still in the country.

⁴ See Scott's *Abbot*, i. 259, and *Mary Queen of Scots*, a Drama, act iv. scene 4, Edinburgh, 1825.

Hotspur (*log.*) Now Esperance! Percy! and set on.

Sound all the lofty instruments of war.—*l. Henry IV.* act v. scene 2.

'*Esperance en Dieu*' is the Percy motto.

⁵ 'Nor list I say what hundreds more,
From the rich Merse and Lammermoor,
And Tweed's fair borders, to the war,
Beneath the crest of old Dunbar.
And Hepburn's mingled banners come,
Down the steep mountain glittering far,
And shouting still, "A Home! A Home!"'

—*Lay of the Last Minstrel*, v. 4.

In 1335 the English, led by Thomas of Rosslyne and William Moubray, assaulted Aberdeen. The former was mortally wounded in the onset; and, as his followers were pressing forward shouting 'Rosslyne! Rosslyne!' 'Cry Moubray,' said the expiring chieftain, 'Rosslyne is gone!' *Minstrelsy of the Scottish Border*, i. 176.

a Gordon!' This most elliptical of all such cries was common to all western nations. In the dramatic account of the death at Bannockburn of the heroic Sir Giles de Argentine, Grand Prior of the Hospitallers in England, we learn that his battle cry was 'An Argentine!'

The second type of war-cry is that which we described generally as of the home. 'Scotland for Ever!' was the cry with which the Heavy Brigade made its miraculous charge at Balaclava. 'Albyn! Albyn!' was the earliest war-cry of the Scots of Christian times. Two-thirds of the slogans of the clans are the names of their gathering places. Thus Mackenzie, 'Tulach-Ard', Grant, 'Craig-Elachie'; MacGregor, 'Ard Choille.' One of the Campbell slogans is 'Cruachan,' Buchanan's is 'Clare Innis,' Macfarlane's is 'Loch Sloy.'² In the lowlands 'Bellendean' was the war-cry of the Scotts of Buccleuch.

The certain meaning of the word 'Aloreburn,' the ancient war-cry of the burgesses of Dumfries,³ is lost in antiquity. If it is derived, as some suppose, from the cry often raised within the town—'To the lower-burn!'—the place where the natural defences of the town were weakest, and where the burgesses therefore gathered on alarms, it must have lost its meaning before it became a war-cry. 'To the Boulevards' never became a cry in wars against France's foreign enemies.

The last group we mentioned of these cries is composed of those which recall the clan to its pride. 'Remember the death of Alpine!' is the slogan of MacAlpine and MacKinnon. The Munros' 'Castle Foulis Ablaze!' may be a reminder of an injury to be avenged, a northern parallel to the burning of the 'Bonny Hoose o' Airlie.' 'Victory or Death!' is the cry of MacDougal and MacNeill. The Mackays' cry of 'The White Banner of Mackay!' the Gordons' 'A Gordon!' and the Campbell cry 'The Clan of Diarmaid of the Boar!' referred to in the Duke of Argyll's crest of a boar's

¹ Tytler, ii. 297 and reference; and see Skene's note on Fordoun.

² Tullich-ard is a hill in Kintail; Craig-ellachie, a wooded rock near Aviemore, in Strathspay; Clare Innis, an island in Loch Lomond; and Bellendean, a place near the head of Borthwick Water, in Roxburghshire. For the subject of the slogans of the Scottish clans see Logan's *Scottish Gael* (ed. 1876), vol. i. 303.

³ This cry is perhaps unique in having furnished a Lord Chancellor with a title of peerage.

head, are all used as references to the chief or the clan itself. The slogan of the Camerons stands alone in referring to the enemy—'Sons of the hounds come here and get flesh !'

Only some of these slogans have been displayed on the arms of their owners. 'Avant Derneley !' we have noticed on a seal already. 'A Home ! A Home ! A Home !' is the Earl of Home's first motto. The Duke of Argyll, as we have seen, refers to his slogan in his boar-head crest. Loch Sloy, with the word on its surface, is the compartment of MacArlane's arms. Craig Elachie is the crest of the Grant, and the word is his motto. The crest of Seaforth, the chief of the Mackenzies, is blazoned as 'a mountain in flames proper.' But the motto indicates that it is not a 'burning mountain'—*Luceo non uro*. It is a mountain with a beacon—Tulach-Ard. 'Ard choille' appears under the arms of the chief of MacGregor, and 'Dhandeon co Heiragha' (Gainsay who dare) the cry of Clanranald, appears under his.

The English royal motto, '*Dieu et mon droit*,' was probably in its origin a war-cry of the English king in his contests for the possession of France. '*Dieu aye !*' was the cry of the Dukes of Normandy. The war-cries of the Scottish Covenanters as displayed on their banners are well known. The legend, 'For Religion Covenants King and Kingdoms,' which appears on one of these,¹ is too long a declaration to have been used by mouth in battle. '*Jehovah nissi*' (the Lord is my banner), however, was shorter.

IMPRESSES, DEVICES, EMBLEMS.

About the middle of the fifteenth century, the use of coat-armour was to a great extent relinquished by the Italian leaders, who caused certain emblems to be painted on their shields, illustrated by short classical quotations, descriptive either of some particular enterprise, or of the general character of the bearer.² These emblems, termed impresses (from the Italian word *impresa*) are referred to by Milton :

¹ Museum of Antiquities, Edinburgh.

² See *Heraldic Inquiries*, p. 391. Mr. Dallaway considers that an impress properly defined is 'a painted metaphor or rather an enigma inverted.' 'Enigmas,' he says, 'represent nature or art by the events of history or the adventures of fables. An impress is a representation of human qualities by natural or artificial bodies.'

‘Races and games,
Or tilting furniture, emblazoned shields,
Impresses quaint, caparisons and steeds,
Bases and tinsel trappings, gorgeous knights
At jousts and tournaments.’¹

Being only of personal import and changeable at pleasure, these *impresses* were entirely distinct from hereditary bearings.²

¹ *Paradise Lost*, book ix.

² According to Anstis (*Ord. Gart.* p. 184), the age of Edward III. ‘did exceedingly abound with *impresses*, mottoes, and devices’; and that monarch himself, ‘upon almost every occasion, was much inclined thereto, so far as that his apparel, plate, beds, household furniture, shields, and even the very harness of his horses, and the like, were not without them.’ Henry VIII.’s pavilion and caparisons, semé of the devices respectively of a pomegranate and a heart, seen in the representation of his progress to the tournament (Dallaway, p. 178), are an illustration of the fancy of his time. Mary Queen of Scots is related by William Drummond of Hawthornden, in a letter of 1st July, 1619, a little more than thirty years after her death, to have embroidered a bed of State with ‘*impresses* and emblems.’ He gives a list of twenty-seven of them, all in gold and silk, and adds that besides these the arms of Scotland, England, and France were ‘all quartered in many places of this Bed.’ See Drummond’s *History*, 2nd ed. 395. Maxims and pithy sayings appear to have been in great favour in Scotland, in connection with architectural embellishment, particularly during the sixteenth and seventeenth centuries. Many existing edifices furnish examples, both outside and in the interior. Thus, over a doorway at Glenbucket Castle, in Aberdeenshire, with the date 1590, we have ‘No · thing · on · earth · remanis · bot · fame’ (*i.e.* good repute); and round a shield of arms in the staircase of Craigievar Castle, in the same county, ‘Doe · not · vaken · sleiping · dogs,’ the date being 1668. Many of the houses in the old town of Edinburgh supply interesting examples, of which several will be found in Dr. Daniel Wilson’s *Memorials*, and Mr. Robert Chambers’ paper on the ‘Ancient Domestic Architecture of Edinburgh.’ A curious motto occurs over an ancient doorway, at the foot of the Horse Wynd: ‘Gif · ve · deid · as · ve · sovid · ve · myght · haif · as · ve · vald’; and another formerly surmounting an old lintel of one of the Templar Lands, in the West Bow: ‘He · yt · tholis · overcymmis,’ which has lately been reproduced on a modern mansion-house in the southern suburbs of Edinburgh. Scriptural texts are of frequent occurrence; as over the principal doorway of Northfield House, in the village of Preston, East Lothian: ‘Excep · the · Lord · bvld · in · wane · bvlds · man.’

At Earlshall, in Fife, and Pinkie House, near Musselburgh, we find numerous instances of *interior* inscriptions. Towards the end of the sixteenth century, Pinkie belonged to the accomplished Chancellor Seton, who appears to have had a passion for *Latin* inscriptions, chiefly moral apophthegms, such as the following, which occurs over one of the fireplaces:

‘Non cede adversis rebus,
Nec crede secundis.’

The Device is a term which is, no doubt, very vaguely used. Meyrick pronounces a device to be 'a motto, emblem, or other mark by which the nobility and gentry were distinguished at tournaments'; differing from a badge 'only inasmuch as it was an arbitrary and often temporary distinction, whereas the badge was frequently borne successively by many of the same House.'¹ Montagu similarly considers the device to be almost identical with the impress, to which we have already referred, being a 'painted metaphor,'² and intended to represent some temporary sentiment of its possessor (to whom it is merely personal), while the badge was 'a sort of subsidiary arms, used to commemorate family alliances, or some territorial rights or pretensions.'³

But the device which was not a badge was not always different in itself from the device which was a badge. The device mentioned above which Mary Queen of Scots embroidered for the Duke of Norfolk was identical with the badge—the crest of the Burnetts.⁴

It would perhaps then be more accurate to say that the badge was also a device, but a device which had become a cognizance. Many devices truly represent nothing permanently identified with the family or even the person. But a device which represented something identified with the family was apt to become itself identified with it—a badge of it.

Mackenzie takes great pains to lay down the rules which he had learned

The taste for these mottoes appears to have greatly revived during the last twenty years, and in some of our principal mansion-houses the visitor meets with legends at every turn. Dr. Johnson suggests *Νῆξ γὰρ ἔρχεται* (John ix. 4), as a very suitable motto for a clock; and for a *paper-cutter*, we have somewhere seen the following, from Lucretius, recommended:

'*Avia Pieridum peragro loca nullius ante Trita solo.*'

Probably one of the most appropriate inscriptions that could possibly be adopted is embraced in the following words of Seneca, which are equally suitable for the rich man's *silver-plate* and the poor man's *earthenware*: '*Magnus qui fictilibus utitur tanquam argento, nec ille minor qui argento tanquam fictilibus.*'

¹ *Glossary of Heraldry*, p. 113.

² This definition is erroneously attributed by several writers to Dallaway, instead of Sir George Mackenzie, who intimates that he borrows it from the Italian *metaphora in fatto*. See *Science of Heraldry*, chap. xxxiv.

³ Montagu's *Study of Heraldry*, p. 48.

⁴ Page 62.

from the Italians for the construction of the device. The object represented was the body; it must be well known, so as to be recognizable for what it is. And the words accompanying it, which were the soul, must be so elliptical as to be 'mysteriously imperfect.' They must be neither clenching nor equivocal, for the device is neither an emblem on the one hand, nor an enigma on the other. The thistle with '*Nemo me impune lacessit*' he gives as a specimen of a device (following Petra Sancta he takes it to be the earliest device known). The motto '*Una hirundo non facit ver*' (with a picture presumably) he calls an emblem.

BADGES.

The term *BADGE* in the sixteenth and seventeenth centuries was freely applied to the crest. Gerard Leigh,¹ when showing an esquire's crest with a motto, but no wreath under it, calls it his badge, and explains that none under the rank of a knight was entitled to place his badge on a wreath. Shakespeare similarly makes the Earl of Warwick exclaim:

'Now by my father's badge, old Nevil's crest,
The rampant bear chained to the ragged staff.'²

Fairfax, of the same period, another master of the English language, also describing a crest, calls it a badge:

'A savage tigress on her helmet lies,
The famous badge Clarinda used to wear';³

and we have the testimony of Sir George Mackenzie (A.D. 1680) that *badge* was the proper name for a crest in Scotland.⁴ Nisbet, following him, says also that it was so in England too.⁵ At the Riding of the Parliaments and at other solemnities our noblemen, says Mackenzie, 'do bear their crest wrought out in a plate of gold or silver upon their lacquey's coats, which are of velvet.'⁵

¹ *Accidens of Armory*, 1562; see 3rd ed. 1576, p. 112.

² *I. Henry VI.* act v. scene 1. The bear and ragged staff, a badge of great antiquity, has been used by all the families which have been successively Earls of Warwick.

³ *Science of Heraldry*, chap. xxix.

⁴ *System*, ii. pt. 4, chap. 5, pp. 11 and 17.

⁵ *Science of Heraldry*, *ibid.*

In both countries the term was used also for the heraldic crosses of the national patrons even when used as banners or the charges of coats of arms and shields. In the first sense Mackenzie calls the banner, azure, a cross of St. Andrew argent, the national badge of Scotland; and for the rest, the opening stanzas of the *Faerie Queen*, which describe the real St. George—the red cross knight,

'ycladd in mightie armes and silver shield,'

are almost too well known to need to be repeated :

'And on his hrest a bloodie Crosse he bore,
The deare remembrance of his dying Lord,
For whose sweete sake that glorious badge he wore :
And dead, as living, ever him ador'd :
Upon his shield the like was also scored.'

Under these or similar badges the English and Scottish footmen fought side by side in the Crusades, and against each other for generations after.

In this general sense of the term, arms and crests are still badges when used on doorways and walls, and windows, furniture and plate, coaches, harness, and liveries. The full-dress buttons of the highest officers of His Majesty's Household, and officers like British Ambassadors and Privy Councillors, have the whole Royal Arms and supporters on them. Other Court buttons have only the arms and crown; others again a crowned rose, a crowned thistle, and so on.¹

These last, however, are badges which have never been either Royal crests or bearings of the Royal shields. They are thus known in a special sense of the word as the *Royal Badges* for England and Scotland. Two Irish badges are used by the king, a crowned harp and a crowned trefoil; and he has also a united badge of the rose, thistle, and shamrock, with one crown over it. The Prince of Wales's badge, known as the Prince of Wales's Feathers, is, however, probably the badge most universally known, and associated with Royalty. The older English Royal badges are best known now in the titles of the English Pursuivants, Portcullis, Bluemantle, etc.; the Unicorn was probably only a badge of the king in Scotland when it first gave the title to Unicorn Pursuivant. Similarly, a number of ancient

¹ H. A. P. Trendell, *Dress Worn at Court*, 1908 : Plates of Buttons, p. 140.

English houses and some Scottish have had special badges which they used, and some of them use still, to distinguish their liveries.¹ These may be charges borrowed from their arms, but they are not their crests, and therefore, like the Royal thistle, rose, and shamrock, are not represented on wreaths, coronets, or chapeaux. Among the best known of these are the bear and ragged staff of Beauchamp, Earl of Warwick, the hemp-brake of Lord Braye, and Lord Sudeley's tiger chained to a beacon inflamed. According to their nature they were embroidered on the livery, probably on the sleeve, or affixed to it so as to be a part of it. Thus the white liveries of the Earl of Loudoun have the black maunch of Hastings forming, as it were, their right sleeve.²

Planché gives an interesting list of badges borne by some of the principal nobility in the reign of Edward IV. from a contemporary ms. in the English College of Arms, in which only two Scottish surnames make their appearance, to wit, the Earl of Douglas and Sir Thomas Montgomery, who bear, as badges, a human heart and a fleur-de-lis respectively, being, in both instances, portions of the family arms. It is somewhat strange that the buckle of the Pelhams does not occupy a place in the list, as it is generally supposed to have been assumed by Sir John de Pelham, in commemoration of his concern in the capture of the King of France at the battle of Poitiers.³

¹ At the battle of Barnet, in 1471, 'a strange misfortune happened to the Earl of Oxford (John Vere) and his men, for they having a star with streams (a mullet) on their liveries, as King Edward's men had the sun; and the Earl of Warwick's men, by reason of the mist, not well discerning the badges so like, shot at the Earl of Oxford's men that were on their part.' Sir Rd. Baker, *Chronicle*, p. 211.

² The Earl of Loudoun is Baron of Botreaux De Moleyns and of Hastings, and quarters the Hastings arms, *argent a maunch sable*.

³ 'Throughout the whole of that part of Eastern Sussex over which the Pelham influence extends, there is no "household word" more familiar than the *Pelham buckle*.' It occurs as an appendage to the family arms; on the ecclesiastical buildings of which they were founders or benefactors; on the ornaments of their various mansion-houses; on ancient seals; as the sign of an inn; on the chimney-backs of the farm-houses, on the mile-stones, on the turnpikes, and even on the backs of the sheep. See Lower's *Curiosities of Heraldry*, p. 146. In like manner, the flying spur of the Johnstones is to be met with, under various circumstances, in different parts of Dumfriesshire—at one time surmounting the steeple of a parish church, and at another adorning the paper wrapper of the gingerbread for which the town of Moffat is so justly celebrated.

The Great Seals of the first four Jameses of Scotland, once incorrectly regarded as precisely similar, bear certain distinctive marks—an annulet, a fleur-de-lis, and a trefoil having been added by James II., III., and IV. respectively.¹ Perhaps these figures may be regarded as something of the same character as the badges or devices associated with the armorial insignia of the English sovereigns, but most probably they are more or less arbitrary marks made for the purpose of providing a distinction between the one monarch's seal and another. On the privy seal of James IV. (1506), whose Great Seal bears a trefoil and no other difference, we find a mullet above the shield, a mascle or lozenge at the dexter side of the crown, and a crescent behind the dexter supporter, which is charged with a saltire on the loins, but no trefoil.² On the first Great Seal of Queen Mary, a crowned thistle is placed behind each of the supporters, and the shield surrounded by the collar of that Order; while on that of her son, James VI. (1583), a part of the caparisons of the monarch's charger are embroidered with the same figure.³ In these the differences are not arbitrary and the badge, the device of the thistle, is included.

On the counter-seal of Walter Stewart, Earl of Atholl (1429), is a device resembling a stag 'couchant,' which, as Mr. Laing conjectures, may have been a family badge;⁴ and we may mention that a somewhat similar figure was carried as a badge by Richard II. of England,⁵ who inherited it from his mother, 'The Fair Maid of Kent,' the daughter and ultimately sole heiress of Edmund Plantagenet. In alluding to certain devices used as badges, of which the signification was not well known unless from the explanatory legends which were applied to them, Nisbet specifies 'the caltraps' (cheval-traps) of the Earls of Perth, and the salamander of Dundas of that ilk. The thistle and rose in the Royal achievement issuing out of the compartment, the well-known device of Scotland and England united under the Crown of King James VI. is more easily read.⁶

¹ Laing's *Catalogue*, Nos. 45, 46, 50, and 51.

² *Ibid.* No. 53.

³ Plate xxiv.; Laing, i. Nos. 59 and 67.

⁴ Laing, i. No. 795.

⁵ Its appearance on the inner side of the wall of Westminster Hall is the most direct clue to the date of the stonework of that fabric.

⁶ *System of Heraldry*, vol. ii. part iv. p. 25.

Among the Highlanders, however, another species of badge is used as a mark of clanship, in the shape of a leaf or sprig of a particular tree or shrub (usually an evergreen), which is carried in the bonnet or on the coat.¹ Thus, the badge of the Gordons is ivy; of the Campbells, wild myrtle;² of the Buchanans, bilberry; of the Camerons, crow-berry; of the Grahams, laurel; of the Murrays, butcher's broom; of the Robertsons, heath; of the Macdonalds, common heath; of the Mackenzies and Macmillans, holly; of the MacGregors, pine formerly, now oak; of the Sinclairs, whin or gorse.

Tradition says that while the thistle was the badge of the Celtic kings, that of the Pictish kings was rue; hence, it explains, the joining of the two plants in the collar of the Order of the Thistle. Sir Walter Scott mentions that 'the downfall of the Stuarts was supposed to be omened by their having chosen the oak [which was not an evergreen] for their badge of distinction.'³

As examples of devices,⁴ we may mention the blazing star of Captain Robert Seton of the family of Meldrum, with the legend, '*Luceo boreale*;' the fixed star of the Montmorencies with the word '*απλανος*' (without change or shadow of turning), which appears on the seal of Hervé de Montmorency as early as the year 1186; the human heart with the inscription, '*Dieu et ma fiancée*,' used by Lord Latimer in the reign of Henry VIII.; and the stalk of liquorice with the legend, '*Dulce meum terra tegit*,' adopted by Mary, Queen of Scotland, after the death of her first husband, Francis II. of France. Henry VII. of England placed a rose 'parted per pale *gules* and *argent*' below his escutcheon, in allusion to the union of the Houses of Lancaster and York, by his marriage to the heiress of the latter; and also a portcullis with the legend, '*Altera securitas*,' at the side of the shield, to show his maternal descent from the family of Beaufort, and to indicate that as the portcullis, the device of the Duke of

¹ Apart from the badge of his clan, a chief in Highland dress wears three eagle's pinion feathers in his bonnet. A chief's son, or the head of a sept, wears two, while every clansman is entitled to wear one.

² Or fir-club moss.

³ Lockhart's *Life of Scott*, Letter to Lord Montagu, 24th May, 1822. Logan, *Scottish Gael*, 1876 ed. i. 302, note w.

⁴ On this subject see Mackenzie, *Science of Heraldry*, chap. xxxiv.; Nisbet, *System of Heraldry*, ii. pt. iv. chap. vi. p. 24; Montagu, *Study of Heraldry*, p. 48; Planché, *Pursuivant of Arms*, p. 180.

⁵ Nisbet, i. plate xv. fig. 5; ii. part iv. p. 135.

Somerset (the eldest son of John of Gaunt by his third wife), is an additional security to the gates or porch of a fortress, so his descent through his mother strengthened his title to the Crown.¹ Both the parti-coloured rose and the portcullis of the House of Tudor,² as well as many of the other cognizances adopted by the Kings and Queens of England, which would, in one sense at least, be accurately described as devices, are frequently spoken of as badges, for they certainly performed the office of badges. But, as we have seen, they were true devices in character. In short, a device does not change its nature on being adopted as a badge.³ In the case of several English families (including the Harringtons, the Heneages, the Staffords, the Lacys, and the Dacres), the badge consisted of a fret or knot; and the well-known badge of the Hungerfords was made up of a garb (derived from the Peverels) and a sickle, united by a golden cord. A *mulberry* tree was embroidered as a badge on the housings of Thomas Mowbray, Duke of Norfolk, in allusion to his surname; and, in like manner, a *daisy* was assumed by Margaret of Anjou, Queen of Henry VI.

‘The daise a floure white and rede
In French called la belle Margarete.’⁴

SUPPORTERS OR BEARERS AND COMPARTMENTS.

Various opinions are entertained by heraldic writers respecting the origin of SUPPORTERS, which in Scotland were formerly termed *Bearers*.^b

¹ The portcullis has been used as a device by the Kings of Scotland since the marriage of James I. to Joan Beaufort, to indicate, it has been supposed, their maternal descent from the same house. Nisbet's *Heraldry*, vol. ii. part iv. p. 25. See also seal of Charles I. (1626), Laing's *Catalogue*, No. 72.

² The red and white roses are sometimes borne *quarterly*, gules and argent, but generally *one within the other*.

³ For an interesting notice of the Royal badges of England, see Montagu's *Study of Heraldry*, p. 59.

⁴ Chaucer.

^b In a heraldic MS. in the possession of the Earl of Darnley, at Brechin Castle, the crests, mottoes, and supporters of some of the Scottish nobility are given thus: ‘The Earle of Mortoun's badge, an boar, under an holin tree, Bearers on every side, an wyld man saying, “Lock Sicker.”’

While some consider that at first they were merely a device of the engraver to fill the void spaces between the triangular shield and the circular border of the seal, others (including Menestrier and Nisbet) trace their adoption to certain ceremonies performed at tournaments, where a knight, on hanging up his shield before his tent by way of challenge, placed his pages or armour-bearers on guard, grotesquely dressed as wild men, lions, dragons, etc., to report to him the name of any knight who might touch the escutcheon in token of his acceptance of the challenge, and they conclude that these figures, of which we have numerous examples in both English and Scottish heraldry, were afterwards adopted as armorial supporters. All must admit that there is a body of testimony to this practice at tournaments, but we agree with Woodward that supporters had been invented before it is alleged to have come into use.¹ Sir George Mackenzie is of opinion that supporters took their rise from the solemnities attendant upon the creation of the nobility in the olden time when the person about to be invested with any honour was led before the sovereign 'between two of the quality,' in remembrance of which occurrence his escutcheon was afterwards supported by 'any two creatures' he might feel disposed to select.² According to this view a number of personages found the sight of a savage on each side of their arms reminded them of the occasion of their ennoblement; others found a couple of bears, apes, rabbits or parrots more appropriate to their cases! On the whole we are inclined to give a preference to another, namely, the first of the conjectures, and to agree with Anstis, in his *Antiquities* when he says: 'As to supporters they were (I take it) the invention of the engraver, who in cutting on seals shields of arms, which were in a triangular form and placed on a circle, finding a vacant place at each side and also at the top of the shield, thought it an ornament to fill these spaces with lineaments, garbs, trees, flowers, plants, ears of corn, towers, castles, lions, vultures, or some other animals, according to their fancy.'

On account of the position to which supporters were first introduced in heraldry, we propose, in the first place, to devote some attention to their rise and to the practice of the past in their treatment.

¹ *Heraldry, British and Foreign*, ii. 272.

² Mackenzie, *Science of Heraldry*, chap. xxvi.

consideration of the law which is understood to govern their use to-day till a subsequent chapter. Whatever our theories of the origin of employing supporters are, it is to seals that we must turn for the earliest records of the custom. But there we find, at the very outset, a number of seals in which the shield is only supported in a popular and non-heraldic sense, namely, by the owner himself or herself; and a number in which the shield is represented with a single supporter or support, which is at least not always certainly heraldic. Apart from the fact that they include some of the most interesting and, for other purposes, most important seals which we have, it is necessary to refer to them before passing on to the consideration of the supporters which occur in pairs. The first of them is the seal of the knight, which is seen in full panoply of armour almost invariably on a gentleman with his shield at his breast. Be he a mere knight, or a knight of the realm, or even a King, it is he himself who is represented as standing and no servant, creature, or instrument set there to guard his arms show them off. As instances of these shields we need only mention the war side of the Great Seals of our Kings, from Alexander II.,¹ when the Royal heraldry first appears, to James V.,² the equestrian seal of Bruce the Competitor, in 1291,³ of Walter the High Steward, in 1314-18,⁴ or of Sir Hugh de Eglinton in 1358, with his shield and in addition his armorial banner on his head.⁵ To the same class, so far as the support of the shield goes, belongs the seal of 1273 of Roger de Quinc, the Great Constable, in which he is shown on foot in combat with a lance;⁶ also the seal of 1511 of Sir Robert Menzies of that ilk, in which in full armour with his shield, and his crest on his head, the knight kneels on one knee.⁷ The class of seal to which we allude comprehends the seal of the lady, where she who is represented on it, stands with a shield in her hand, as in the seal of Margaret de Brelesin (A.D. 1296), where she holds in her right hand a shield bearing a lion debruised by a ribbon;⁸ or in that of Margaret Bruce, Lady of Kendal, in 1280, who holds her

¹ Plate ii.² B.M. 14,777 *et seq.*³ Plate xxv.; Macd. 270.⁴ Macd. 2543.⁵ Plate xxxiv.; Macd. 843.⁶ Plate viii.; Macd. 2227.⁷ Macd. 1956. With this we may perhaps take the Menzies seal of 1522—Macd. 1957.⁸ Macd. 242.

own paternal shield in her left hand and that of her husband, Robert de Ros of Wark, in her right.¹

The seal of Margaret Stewart, Countess of Mar (1378), represents her holding up a shield in each hand (Mar and Stewart of Bonkil) with the assistance of two eagles, each of which holds one of the shields by the upper edge in its talons, and has the guige of the shield in its beak.² The seal of Euphemia Ross, widow of Randolph, Earl of Moray, and wife of Robert, Earl of Strathearn, afterwards Robert II., shows her holding her own shield of Ross over the battlements of her castle, while a lion sejant guardant on the top of a turret on her right bears the shield of Stewart, and another similarly on her left, the shield of Moray.³ The seal of Devorgilla of Galloway, wife of John Balliol, is to be seen attached to her charter of 1282 A.D. to Balliol College, Oxford, which her husband had founded. His shield, bearing an orle, is in her right hand, and her own with the lion of Galloway is in her left. It may be added that beneath each of these shields is a tree. On the dexter tree hangs the shield of Chester, three garbs, and on the tree on the sinister, that of Huntingdon, two piles in point.⁴ One more seal should be mentioned here—the seal of 1266 A.D. of Sir Adam of Kilconquhar, which belongs to both of these classes, for it represents both an armed and mounted knight and a lady with a shield in her hand. The lady is in the act of giving the shield to the knight. It bears three cinquefoils, which are to be his cognizance, as he has already put caparisons on his horse on which they appear.⁵

Instead of these seals, each of which is of the nature somewhat of a device somewhat of a portrait, or along with them as a counter-seal, another seal was used of which an achievement of arms was the principal part, occupying the centre of the seal without any representation of the person whose seal it was. In pre-heraldic times this kind of seal bore the badge of its owner alone, in heraldic times the shield appeared on it, and the badge was on the shield; the badge had become heraldic. This is the seal on which in time the crest appears, and the supporters, with which we are mainly concerned at present.

¹ Macd. 267.

² Plate xxx. ; Macd. 2560.

³ Plate xxxiv. ; Macd. 2332.

⁴ Plate xxx. ; Macd. 1028.

⁵ Plate xxx. ; Macd. 1497.

THE SINGLE SUPPORTER.

In the meantime, from the year 1280 or so, before the introduction of the crest as a cognizance permanent enough to be carved on a seal, an undoubted supporter of the shield had been employed singly, in the form of a tree from which the shield hung, or an animal or angel standing behind the shield and holding it on or off the ground. A tree was a favourite supporter in the thirteenth century, and was sometimes alluded to in words, as in the seal of Patrick, first Earl of March, in 1292, on which the shield hangs from the middle tree of three. Round the seal are the words '*Parmi ceu haut bois condūray m'amie.*'¹ This form of supporter gradually sank into disuse in the fifteenth century. The two most remarkable supporters which took its place form a class by themselves—the first is an eagle displayed, bearing the shield in front of it, or, it may be, two or three shields on its breast and wings; the second is an angel with his wings similarly extended, and bearing a shield or shields in the same way. The eagle appears thus in the thirteenth century, as on the seals of Sir Alexander de Abernethy (A.D. 1296) and Alexander Cumin, Lord of Buchan (1297). The seal which Alexander Stewart or Menteith, Earl of Menteith, used about the year 1300 exhibits another instance of this supporter; so does the seal of Alan, next earl, who died about 1308 A.D., save that in his seal the eagle is two-headed.² We may call attention also to the seal of Walter Leslie (1367), already referred to as one of the earliest Scottish examples of quartering (plate xxxiii.).

English heraldry supplies similar examples, of which we may mention the armorial insignia of Richard, Earl of Cromwell, brother of Henry III., and of the ancient family of Latham, in the fourteenth century.³ Sometimes the

¹ Plate xxxiv. ; Macd. 787.

² Laing's *Catalogue*, Nos. 80, 223, 785 and 509; Macd. 3, 587, 2554, 1632, 2556; also 2057. See also the later seal of Maurice Drummond (1465), and of John Butler, Edinburgh (1470). *Catalogue*, Nos. 496, 278, 147; Macd. 1611, 756, 298.

³ A curious instance of a shield placed on the breast of a hawk is noticed by Hone in his *Table Book*, viz. the arms of the Lord of the Manor of Stoke-Lyne, in the county of Oxford. It appears that when Charles I. held his parliament at Oxford, the offer of knighthood was

eagle is charged with more than one shield, as in the first seal of Margaret Stewart, Countess of Angus (1366), and that of Euphemia, Countess of Ross, in her own right, and widow of Walter Leslie just mentioned (A.D. 1394) (plate xxxiii.), on both of which one escutcheon appears on the breast and one on each wing.¹

The most famous cases of the shield supported by an eagle are, of course, the armorial achievements of the Emperors of Germany, Russia, and Austria, and the Republic of the United States of America, the eagles of the last two empires being two-headed, and that of the Republic being as natural in colour and drawing as those of the Empires are conventional.

Full descriptions and illustrations of these arms will be found in Woodward's *Heraldry, British and Foreign*. The German eagle bears the arms of Prussia, which again are an eagle with the emblems of sovereignty in its claws, and charged with the escutcheon of Hohenzollern. The Russian and Austrian eagles have the symbols of sovereignty in their claws, and in addition the eagle of Russia bears the arms of Moscow on its breast and four shields of Poland and Siberia, etc., on each wing; while that of Austria has three on each wing and five on the feathers of the tail, besides a shield of Hapsburg Austria and Lorraine on its breast.

Much of the eagle heraldry of the Continent is traceable to the adoption of the eagle of Rome by the Emperors of the Holy Roman Empire as their ensign. Among their subjects it came to rank as a thing of Imperial concession. But in Scotland, which was not within the Empire, the eagle was used to a considerable extent, and without any apparent restriction of class, by knights and ladies, burgesses and churchmen, and by one town at least—Perth, as early as 1357.² The device of the eagle bearing

gratefully declined by the then Lord of Stoke-Lyne, who merely requested, and obtained, the royal permission to place the arms of his family upon the breast of a hawk, which has ever since been employed in the capacity of supporter.

¹ In 1300 or thereabouts John Comyn's seal bore an eagle displayed, on whose breast and wings he placed his ensigns, three garbs, without the intervention of a shield. Macd. 583.

² B.M. 15,590. The name of the town for a long time was St. Johnstone. But it is doubtful if the eagle which bears its arms—the Agnus Dei with a banner of St. Andrew—is the eagle of St. John. Lanark has borne a double-headed eagle as its principal device from 1500 or so.

the arms with his wings displayed, that is, in the act of flying, is an apparent allusion to the text, 'I bare you on eagles' wings and brought you unto myself' (Exodus xix. 4). The Emperors, though they derived their eagle from pagan Rome, deduced it from the two great eagles of Ezekiel xvii. 3 and 7.

In the successive shields of several Scottish houses the eagle appears now as a charge and now as a supporter displayed. Thus, as we have seen, Euphemia, Countess of Ross, and her husband, Walter Leslie, had the eagle displayed as their supporter. Their daughter and heiress Margaret married Donald, Lord of the Isles, who then placed an eagle displayed in front of his lymphad, and the royal tressure, which Margaret also brought with her, round the whole. Their son and heir Alexander made the lymphad, thus surmounted, his first quarter in his seal of 1440,¹ but in another seal he removed the eagle and placed it—again a supporter—behind his shield. Four seals of his turbulent successor John are known (A. D. 1449-1476). On the first two the eagle remains as a supporter. On the third he reverts to his ancestor Donald's supporters, two lions, and places the eagle on his shield, on the third quarter. On the last he, now Lord of the Isles only, omits the quarterings for Ross, places the lymphad on his shield, surmounts it with the eagle as Donald did, preserves the royal tressure to signify his royal blood, and places all again on an eagle displayed.²

Among the Scottish seals catalogued by Mr. Macdonald we have noted four cases of the eagle supporter belonging to the thirteenth century, six more appear in the fourteenth, and eleven in the fifteenth, among which is the two-headed eagle which, in 1438, supports the arms—three eagles' heads erased—of Master John Methven, King's Secretary, and Provost of the Church of Lincluden.³

We have not noticed the angel supporter in use till we find it, as we think, at least, in the seal of 1390 of Marjory, daughter of Robert II.,⁴ but the idea, or one even higher, is to be found in the Privy Seal of David II. in 1359. There the King's shield is borne up by two encircling arms which issue above it from a cloud (plate xxxiv.). Dr. Birch sees in them an allusion to Deuteronomy xxxiii. 27, 'Underneath are the

¹ Plate xxxii.

² Macd. 1976.

³ Macd. 2333, 1611, 1614, 1794-1801.

⁴ Macd. 2569.

everlasting arms.'¹ On the seal of Joanna of Moray, Countess of Archibald the Grim, Earl of Douglas, in 1401, is an angel supporting two shields.² Archibald, fourth Earl of Douglas, used a counter-seal on which was an angel supporting a monogram, the principal part of which was the Gothic letter *M*: it may be seen repeated in his main seal (see plate xxxiii.). The monogram thus piously recommended to heaven may represent Margaret, the Earl's Royal Countess, daughter of Robert III., and it may include *A* for his own Christian name.

The seal used in 1459 by Mary of Gueldres, Queen of James II., affords one of the best known examples of arms borne by an angel (plate xxxiii.).³ The other supporters which appear singly are of a different order.

The seal of Muriel of Stratherne (1284) (*supra*, p. 135) furnishes an early and curious example of something approaching at least to a single heraldic supporter. The seal, which is pointed oval in shape, contains a hand and arm *vested* issuing from the sinister side. The hand holds a falcon *contourné* by the jesses, and on the arm rests a shield (bearing the two chevrons of Stratherne), the dexter chief of which touches the bird's breast.

Some of these single supporters are, like the falcon just noticed, placed at one side of the shield and clear of it, others are behind it or nearly so. Of the last position the lion in the seal of 1369 of William, first Earl of Douglas, is perhaps the earliest, and in more than one way one of the most interesting. Here the lion is represented sejant guardant, with the earl's crested helm on his head and the earl's shield slung over his left shoulder (plate xxxiv.).⁴ The two most interesting series of single supporters which we know of may be said to descend from this curious achievement—the one in the arms of the succeeding earls, the other in those of the heirs of line of the original house. Alternately or along with achievements with two supporters, the earls bore a single supporter as follows: James, second Earl, a lion; Archibald, fourth Earl, and Duke of Touraine in France, a hairy savage holding a club and the shield in his right hand and the crested helm

¹ B.M. 14,857.

² Plate xxxiii.; Macd. 2057.

³ Laing's *Catalogue*, 48.

⁴ Laing, i. 237; Macd. 655. A similar Flemish example (1359) is mentioned by Nisbet, *System of Heraldry*, vol. ii. part iv. p. 31.

in his left (1413), (plate xxxiii.);¹ Archibald, fifth Earl, in 1431, the same; ² William, eighth Earl, in 1446, a savage kneeling on his right knee, with a club in his right and the shield in his left hand (plate xxxiv.); ³ James, afterwards, in 1451-2, ninth Earl, the same. By the death of the second Earl of Douglas, at Otterburn, 1388, and by that of his sister Isabel, Countess of Mar, Sandilands of Calder became heir of line of the Douglases. Sir John of Calder, whose seal is the earliest of that house which is known, carried his arms in 1466 and 1471 with a single supporter, a lady, on the dexter side holding the helm and crest.⁴ In 1566 his descendant and representative, James Sandilands, first Lord Torphichen, had similarly a lion sejant as James, the second Lord had also, in two seals, 1583, 1616.⁵

The shield of Andrew Roxburgh (1367) is supported on the shoulder of a lion, while that of Nicolas Douglas, brother of Sir James Douglas, Lord of Dalkeith (1392), similarly to the shield of Adam Forrester of Corstorphine (1400) (plate xxxiv.) is supported by a lion sejant guardant in part behind the shield, and holding it in his fore paws.⁶ A griffin with wings expanded is the supporter of the shield of George Faulo, Provost of Edinburgh, 1451-2,⁷ and a unicorn, as is well known, appears supporting the Royal shield, in much the same way as the last-mentioned, on the gold coins of James III., 1460-1488, and reappears in stone, sejant, supporting the arms of James V. on the wall of one of the round towers of Holyrood Palace.⁸ As early as the year 1341 or thereabout the unicorn is found supporting the shield of Hugh of Douglas, brother of the good Sir James. The animal may be described as at a canter; the shield, which

¹ Macd. 668.² Macd. 672.³ Macd. 676.⁴ Macd. 2361.⁵ Macd. 2367, 2368, 2369.⁶ Macd. 741, 964.⁷ Macd. 908. It now appears that the single supporter of the shield of Sir Thomas Erskine of Brechin is but another case of the *eagle displayed*. B.M. 16,176; Macd. 879.⁸ The ancient stone seen by Nisbet in this place (*System of Heraldry*, ii. pt. iv. p. 30) is now in the chapel. Its former niche is filled by a copy. A supporter frequently appears singly in architectural cases. Thus the unicorn which so often ensigns the shaft of a market cross, as at Edinburgh and Inverkeithing; the lion similarly at Longforgan and Doune, and the winged horse of Queensberry, now minus his shield, however, at Thornhill. So too, the bears on the pillars of the old gateway at Traquair.

is on his back, slightly couché.¹ Nisbet records that he had seen the unicorn, carved on the steeple of the Nether Bow of Edinburgh, similarly bearing on his back the arms of the King.² The armorial shield of Sir James Edmonstone of Duntreath, dated probably about 1600 A.D., is represented on a sculptured stone at Duntreath Castle, with its base resting on the hump of a camel.³



Duntreath Arms.

Along with the last-named unicorn and camel must be classed two supporters which are sometimes spoken of as compartments. These are the salamander in flames of Dundas of that ilk,⁴ and the 'monstrous man,' as Mackenzie calls him, manacled, fettered, and chained, under the arms of Robertson of Struan.⁵ Sir George Mackenzie rightly describes them as 'creatures upon which these achievements stand.'⁶ Nisbet, who agrees that they are not compartments, contents himself regarding the salamander with remarking that 'it is of the nature of a device'; but designates the chained man of the Robertsons 'an honourable supporter.'⁷

Another form of supporter is the stag's head affrontée, on which the shield is placed so as to stand between the horns. The device reminds one of the cross in the same way between the horns of the stag in the arms of the ancient burgh of Canongate, or Holyrood, and the legend of the stag which in Scotland is attached to Holyrood. But the device with the shield is very old. John de Laundel, in or about 1224 A.D., has it. Freskin de Laundeles, Malcolm, Earl of Lennox,⁸ and Walter Logan all have it about

¹ Macd. 653; *Douglas Book*, i. 192, 199; ii. 549, fig. 6.

² *System of Heraldry*, ii. 135. It supports similarly the arms of Queen Mary (1561) at Rosyth Castle, and those of Hay at Craignethan.

³ The present supporters of the Duntreath family are two rampant lions; but according to Workman's MS., quoted by Nisbet (i. 241), the supporters of Edmonstone of that ilk, afterwards designed of Ednam, were two camels proper, and the crest a camel's head and neck. The lions appear as supporters on the seal of Sir William Edmonstone of Duntreath, Justice-General of Scotland (1470), the crest, however, being, we think, a camel's head, and not a horse's head, as stated in Laing's *Catalogue*, No. 305, and Macd. 839.

⁴ Plate xxxvi.

⁵ Plate xxxvi.

⁶ *Science of Heraldry*, chap. xxvi.

⁷ *System of Heraldry*, ii. 135.

⁸ Plate xxxvi.

1296.¹ Sir George Mackenzie gives a representation of it in the arms of Denham of old.

The only other species of single supporter to which we have to allude is noticed by Mr. Lower as being peculiar to the fifteenth and sixteenth centuries, viz. where the arms are represented on a banner, the staff of which is supported by an animal either in a 'rampant' or 'sejant' posture. As an example, he refers to the armorial insignia of Roger Fynes, Treasurer of the Household to Henry VI., which are thus represented over the great gate of Hurstmonceaux Castle, in Sussex, the supporter being an alaunt or wolf-dog.² The best known Scottish cases are probably those of the supporters of the Royal Arms, which, when the arms are emblazoned in the Scottish style, bear lances with banners of St. Andrew and St. George, in addition to supporting the arms (plate xxii.). Before the Union (1707) the banners bore respectively the Royal Lion and St. Andrew's Cross. The stag-hounds, supporters of the arms of Scrymgeour-Wedderburn, the Hereditary Royal Standardbearer, still bear these banners. On the carved panel already mentioned, belonging to the older part of Holyrood built by James V., the unicorn supports both a shield and a banner of the King's arms. In 1453 the supporters of the shield of James, ninth Earl of Douglas, did the same double duty, enabling the earl to show arms which are not those placed on his shield.³ The heraldry of France, Belgium, and Holland furnish examples similar to these. England has further illustrations in achievements of Henry of Lancaster, afterwards Henry IV., Sir Ludovick Robsart, K.G. (tomb, 1431), Henry Percy (seal, 1445), and others.

¹ Macd. 1545, 1596a, 1738.

² *Curiosities of Heraldry*, p. 142.

³ Macd. 677. The Earl's shield bore, *quarterly*, 1 (Douglas) a heart, on a chief three stars; 2 (Lauderdale) fretty; 3 (Murray of Bothwell) three stars within a Royal tressure; 4 (Etrick) six piles; *surtout* (Galloway) a lion rampant. The dexter banner, *quarterly*, 1 and 4, three square cushions; 2 and 3, three bars. The sinister, *quarterly*, 1 and 4, three stars; 2 and 3, a fess ermine. A fourteenth century seal, English in its style, in H.M. Register House, Edinburgh, shows a galley in full sail, with a pennon at the mast-head charged with a cross, a banner at the prow also charged with a cross, and a larger banner at the stern bearing *quarterly*: one and four a lion rampant within a bordure; two and three, a fess chequy. It is the seal of one Richard Stewart. Macd. 2652.

DOUBLE SUPPORTERS.

About the end of the thirteenth and the beginning of the fourteenth century we have numerous instances of the seal from which the best authorities, as we consider them, deduce the idea of supporting the shield from its sides. It is found exhibiting a shield placed between two animals—in the earliest cases, probably meant for dragons, which usually resemble lizards, winged or not winged, according to the space available or the seal engraver's fancy. In some cases there are three of these or other small animals round the shield, and at times as many as four, none pretending to have anything to do with the shield, unless to get round it, and all too small to support it. Thus in each of the narrow spaces between the sides of the shield and the annulus for the legend on the seal (A.D. 1285) of Robert Bruce, Earl of Carrick, we find a lizard or wyvern, head upwards (plate xxx.).¹ In the seal of Reginald Crawford (A.D. 1296) we find along each side of the shield a dog courant, and along the top a fox passant (plate xxxv.).² In the seal of John of Strathbogie, ninth Earl of Atholl (1270-1306), there is a lion passant guardant above the shield, and another below it, while at either side is a gryphon segreant.³ Malcolm, Earl of Wigton, in 1344, used a seal which similarly has a hawk on the sinister flank of the shield pursuing a heron, which flies along the top, while a stag on the dexter flank is pursued by a dog at the base.⁴ But this is merely the byplay of the artist of the age, among whose commonplaces even in the tracery in the stonework, iron, and woodwork of churches, and the illuminations of books of devotion, such things were. Admittedly heraldic supporters, if indeed they are not a mere development of these fancies, arose in the same way.⁵ There is not much to be

¹ Macd. 277. These animals beset the shield rather than supported it.

² Macd. 525.

³ Macd. 2729.

⁴ Macd. 931.

⁵ Nisbet refers to the lozenge on the seal of Margaret, Duchess of Burgundy (1384) as being supported by *four* animals, her husband's two supporters (eagles) being placed on the two upper sides of the shield, and those of her father (two lions 'sejant') on the lower sides. *System of Heraldry*, vol. ii. part iv. p. 31. See also another curious example engraved by Mr. Lower at p. 144 of his *Curiosities of Heraldry*.

made of the test of actual support by supporters; there are unquestioned supporters in aftertimes that do not touch the shield. No real line, also, of distinction can be drawn between the idea conveyed by the lions—admittedly small—in the seal of William Stirling, of 1296 or thereby,¹ and some of the undoubted supporters of later date, which we shall meet with presently as we proceed to consider the history of supporters which occur in pairs, a history which may be said to begin for Scotland with the appearance of the seal of Patrick, ninth Earl of Dunbar and second Earl of March in 1334.

Thus we have found the idea of a support for the shield in the thirteenth century—the single supporter from behind the shield fully recognized in 1266, and at least the beginnings of the alternative method visible in 1296 or thereby. In 1334, or shortly before it, the addition of the crest, and with it the helm, to the heraldic achievement was followed by the advancement of the ornamental and perhaps symbolical animals placed at the sides of these arms to a position of great importance on the seal in the matter of size, a position owing to which they came in time to be of heraldic consequence as well.

We have already directed attention to the form of the earliest heraldic seal with the shield in the middle and alone, that seal which remained, as long as documentary seals were used, the seal of the majority of persons; and we have noticed also the seal in which the shield is removed to the lower edge of the seal or towards it, to make room for the helmet and crest which then came to tower above it. A glance at the illustrations of these latter seals shows that in all, though the achievement may pierce the legend at top and bottom, larger spaces than theretofore were left by it at the sides, and that three principal methods were adopted to fill them. The one was to extend and enrich the tracery at these parts inwards from the annulus till it left for the arms only a panel to fit them. The seal of 1371 of Sir Robert Erskine (plate viii.)² and those of several of the other Lords of

¹ Plate xiv.; Laing's *Catalogue*, No. 755; Macd. 2688. See also p. 14 of Sir W. Fraser's *Stirlings of Keir and their Family Papers*. The lions passant guardant on the seal of David, eleventh Earl of Atholl, of 1332, if the seal is admitted to be genuine, may be noted also. Macd. 2731.

² Laing, i. 320; Macd. 860.

Parliament which are attached to the documents connected with the settlement of the crown in 1371, 1373,¹ illustrate this method. The second method was to introduce an independent diapering, of foliage perhaps, as in the seal of John of Hamilton in 1388 (plate xxx.). The third method, illustrated, it is true, by the earliest of those seals with helmets, etc., now extant, the seal of 1334 of Patrick, ninth Earl of Dunbar (plate xxxiii.),² was to place there two animals, or to enlarge those there already, and form a group of them with the arms—the shield, helm, and crest. By this method the achievement appeared to extend outward laterally to fill again the space once filled, as we have already said, by the shield alone.

It is not our business here to discuss the artistic merits of these methods; but it has to be stated that the first variety fell first into disuse. The second variety for long was retained when there were no supporters, and ultimately was dropped in favour of a style in which the mantling of the helm by a marvellous development and elaboration was enabled to occupy as much of the background as art desiderated. So in all cases the heraldry came to occupy the area of the seal.

The use of double supporters spread only slowly, and by no means steadily. The ninth Earl of Dunbar, as we see, adopted them. His predecessor, Patrick, eighth Earl, had represented his shield suspended from a tree.³ Sir David Lindsay of Crawford's seal in 1345-6 bore his shield supported by an eagle displayed.⁴ His successor, Sir James, added his helm and crest to his shield, and for supports substituted for the eagle two lions sejant guardant.⁵ It is clear that the helm and crest put the displayed eagle out of the question as a supporter unless the eagle's head, like the Douglas lion's, was put into the helmet—an expedient of which we know no instance. Sir Robert Erskine, as we have seen, filled the spaces which flanked his arms with carved tracery of an architectural kind. He adhered to that style as late

¹ Facsimiles in folded pages in *Act. Parl. Scot.* Record ed. i. pp. 546, 549. ² Macd. 789.

³ Plate xxxiv.; Macd. 787, also 786. It is interesting to observe that though the ninth Earl placed supporters on either side of his shield, he placed a wyvern underneath. The shield of Thomas Stewart, Archdeacon of St. Andrews (natural son of Robert II.), who died in 1411, though supported by two wyverns below, is supported by an angel above. Macd. 2589.

⁴ Macd. 1632.

⁵ Macd. 1633.

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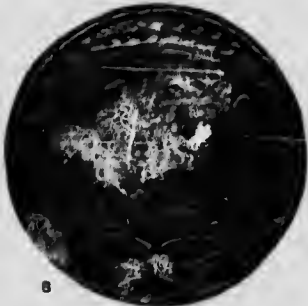
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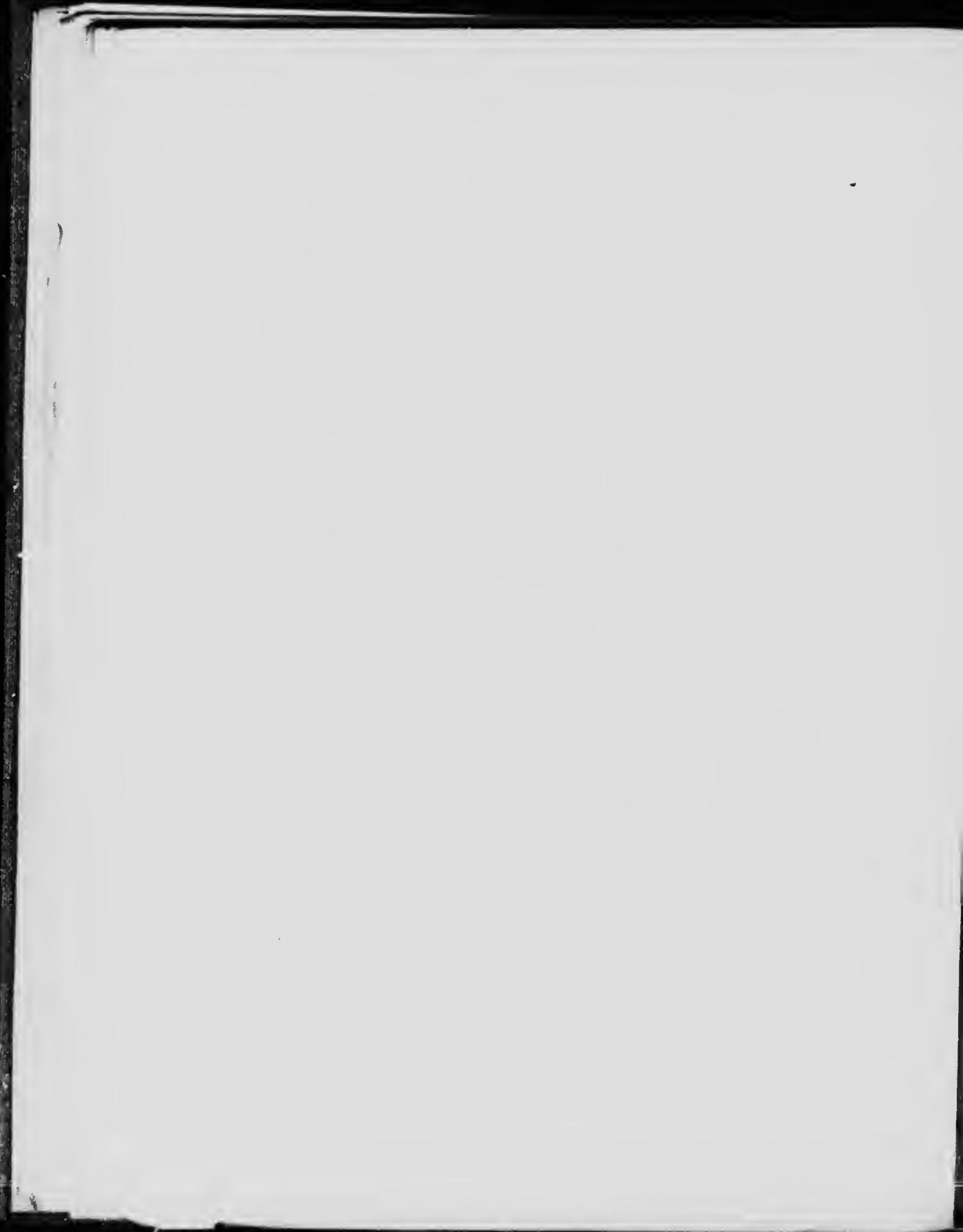
1. An. 1300; John I. Earl of Lennox.
2. An. 1300; Richard of Cornwall.
3. An. 1300; William Stirling.
4. An. 1300-10; James I. King of Scotland.
5. An. 1313; Colin Campbell, third Earl of Argyll.
6. An. 1321; William de Stronach.
7. An. 1300; William de Ruthven.
8. An. 1300; Margaret Don, wife of James I. King of Scotland.
9. An. 1300; James I. King of Scotland.
10. An. 1300; James I. King of Scotland.

ARMORIAL SEALS.

1. A.D. 1296 ; Malcolm, Earl of Lennox.
2. A.D. 1296 ; Reginald of Crauford.
3. A.D. 1296 ; William Stirling.
4. A.D. 1406-36 ; James I. Privy Seal.
5. A.D. 1513 ; Colin Campbell, third Earl of Argyll.
6. A.D. 1384 ; William de Seton.
7. A.D. 1396 ; William de Ruthven.
8. A.D. 1560 ; Margaret Douglas, wife of James Hamilton, second Earl of Arran and Duke of Chatelherault.
9. A.D. 1651 ; Henrietta Maria, Queen (widow) of Charles I., daughter of Henry IV. of France.

PLATE XXXV





as 1374,¹ but his sons adopted supporters. Sir Thomas, the elder, took two griffins;² the younger, Sir Nicolas, took on the dexter a half-length man, and on the sinister a half-length woman.³ Of the thirteen barons of Parliament whose seals remain affixed to the Declaration of 1371 of the right of John, Earl of Carrick (afterwards Robert III.), to succeed to the throne,⁴ five adhere to the old form, and show their shields alone on their seals;⁵ eight add their crested helm, and of these only three add supporters also.⁶

While the lords of Parliament did not all exhibit supporters even on their seals which, as lords, they exhibited to Parliamentary documents of the greatest solemnity, other people of no particular degree assumed them. In 1360 the shield of John of Gamry, a canon of Caithness, is supported by two mermaids.⁷ Among other priests who have supporters, William of Cairns, vicar of Glamis in 1455, has two lions sejant guardant.⁸ Gilbert Brown, bailie of Perth, has two lions in 1465,⁹ and in 1499 William Crab, burghess of Aberdeen, has two swans (or herons) with expanded wings.¹⁰

Nor were supporters always used continuously when once assumed. Though the Earls of March used them pretty consistently, the second and third Lords Erskine, descendants of Sir Thomas Erskine who, as we have seen, used supporters, omitted them.¹¹ The eleven seals of the Grahams, Earls of Stratherne, and Earls and Marquises of Montrose and Menteith,

¹ Macd. 859-860.

² Plate viii. : Macd. 861.

³ Macd. 862.

⁴ *Act. Parl. Scot.* i. p. 546, plate 30.

⁵ Sir Walter de Leslie; Sir David Fitz-Walter, Lord of Cadzow, ancestor of the house of Hamilton; Walter de Haliburton; Patrick de Hepburn, and another, whose name on his seal is illegible.

⁶ The three who add supporters are George, tenth Earl of March, Sir James Douglas of Dalkeith, and Sir Alexander Lindsay of Gienesk. The other five are Sir James Lindsay of Crawford, Sir James Fraser of Frenndraught, William of Keith, the Great Marshal of Scotland, Robert de Erskine, and William of Dishington.

⁷ Macd. 1065.

⁸ Macd. 305. It was the habit of the priests to style themselves by their Christian name and the name of their place of origin instead of a family surname, if they had one. John of Fordun is a familiar instance in Scotland. The names Matthew Paris, Geoffrey of Monmouth, etc., etc., recur to everyone.

⁹ Macd. 252.

¹⁰ Macd. 507.

¹¹ Macd. 861, 863-6. We have no information as to the seal of the first Lord. The griffins reappear on the seal of the fourth Lord, who was slain at Flodden.

which Mr. Macdonald's catalogue includes, and which range in date from 1400 or so to 1675, include only two with supporters, namely a seal, 1636, of the ill-treated seventh Earl of Menteith, and one of 1675 of the third Marquis of Montrose.¹ Mr. Macdonald describes five seals of the Hays of Errol, beginning in 1240 and ending with the 1424 seal of Sir William, the Great Constable, who died in 1436. This last seal alone has supporters—two lions.² Then follow seven seals of the earls of the house, the first, second, third, fourth, seventh (two seals), and the ninth, also Andrew, Master of Errol, afterwards eighth Earl. They range from 1443 or thereby till 1625. All the earls have helmets and crests, but none of them has supporters.³

A great diversity of supporters appears at the very beginning of their period, leading to the belief that they were not chosen at random. Savages in 1334, followed—if not indeed preceded in the case of Stirling's seal in 1296—by lions, lead the way. Griffins and trees also appear in the fourteenth century. Bears, wyverns, angels, papingoes (parrots), squirrels, greyhounds (staghounds), horses, antelopes, and swans are added in the fifteenth century, while in the sixteenth come wolves, stags, deer, conies (rabbits), and eagles. It is remarkable that wyverns and eagles should come so late in this class of supporters. We have not observed cases of foxes till those of Seton in 1608. Storks were known in Scotland in 1416, when a pair built a nest in the belfry of St. Giles's, Edinburgh,⁴ but we only meet them, as the supporters of the house of Montrose, on a seal in 1675, and then they are called herons.⁵ As early as 1389 Monsters appear—there are lions with women's heads on the seal of Sir David Lindsay of Glenesk.⁶ The prototype of all these supporters was the fabled dragon. We have already noticed the occurrence also of the gryphon. Winged lions support the arms of Stewart, Earl of Angus, in 1357,⁷ Campbell of Glenurchy has unicorn with lions' bodies in 1511,⁸ and Elphinston, Lord Couper, winged stags in 1620.⁹

The house, and indeed the individual, who adopted one of these kinds

¹ Macd. 1110 and 1116.

² Macd. 1266-1270.

³ Macd. 1271-79.

⁴ *Extracta e Cronica*, 218.

⁵ Charter, 26th February, 1675, Macd. 1116.

⁶ Macd. 1636.

⁷ Macd. 2558.

⁸ Macd. 340.

⁹ Macd. 857.

of animals as his supporters did not always adhere to it. The Earls of Dunbar, who began in 1334 with 'two hairy savages,' as they are always described,¹ altered them in 1357 into two civilized men, clothed in doublets, each with a pointed cap and feather.² Even these they did not continue long, for in 1369 they changed again, this time to two lions sejant guardant coué.³ The noble house of Douglas, on the other hand, began with lions;⁴ but between 1369 and 1373, as it happens, Archibald the Grim, afterwards third Earl of Douglas, abandoned them and adopted savages.⁵ Whether this exchange of supporters between these great houses was merely a coincidence or not there is no record, but the Earls of Douglas thereafter bore savages, while the Earls of Dunbar bore lions.

That lions as supporters should be popular in Scotland is easily understood. Before the middle of the sixteenth century they appear as such in the seals of Borthwick (1398) and Campbell of Argyll (1445-53), on the seals of Cunningham of Kilmaurs (1398) and Douglas of Douglas (1380), on the ultimate seals of the Dunbars (1369), and on the seals of Edmonstone of Duntreath (1470), Fleming of Biggar (1392), Fraser of Lovat (1431), Graham of Kilpont (1433), Gray (1424), Hay of Errol (1424), Hume (1450), Kilpatrick (1498), Lauder of Bass (1425), Leslie of Rothes (1542), Lindsay of Crawford (1357), Lyon (1423), the Lord of the Isles (1410), Maxwell of Pollok (1400), Murray (1442), Ogilvie (1439), Preston (1513), Seton (1384), the High Steward (1370), and the Stewarts of Fife (1389), Atholl (1389), Ochiltree (1377), and Rosythe (1495).

Savages come next in estimation. Nisbet, following to some extent Drummond of Hawthornden, conjectures that they had come into favour partly on account of the tournament in 1503 during the marriage festivities of King James IV., in which he assumed the character of the Savage Knight, and many of his nobles who tilted on his side had Highlanders in savage dresses as the guardians of their arms, or that their adoption was due to the

¹ Plate xxxiii. ; Macd. 789 and refs.

² Macd. 790 and references there to the supporters of A.D. 1358 of the Earl of Mar. Macd. 1863.

³ Plate xxxii. ; Macd. 797.

⁴ Plate xxxiv. ; Macd. 655, 656.

⁵ Plate xxxiii. ; Macd. 662-663.

choice of savages as supporters by John, Earl of Carrick, on whose seal, used in 1369, they appear.¹ It would be interesting to know how far these circumstances affected the nobles in their adoption or abandonment of their supporters; but it is evident that savages had a certain vogue before the earliest of these dates. Dunbar's seal of 1334 we have just mentioned. The seal of 1344-5 attributed to the Knight of Liddesdale is another evidence of the fact.²

But whatever their attraction was they were borne by Cathcart (savage women; A.D. 1450), Douglas of Dalkeith and Morton (1344), Drummond (1491), Elphinstone (1497), Hay of Yester (1542), Herries (1567), (see plate ii.), Livingston of Livingston (1499), and the Stewarts of Atholl (1587). Muir of Abercorn's shield was supported in 1357 by two savages on lions.³

Staghounds, of the Scottish type of course, appeared at the same time as the supporters of Colquhoun, Gordon of Huntley, Stewart of Moray, Sempill, Seton of Touch, and Carnegie of Southesk. These hounds are usually designated 'greyhounds,' which has resulted too often in their being mistaken in recent times for the modern slighter hound, suitable only for coursing hares, but commoner in the South. The Colquhouns altered their staghounds before 1523 to talbots, supporters which Hamilton, Earl of Haddington, has borne since 1619. Stags were the supporters of Campbell of Glenurchay in 1556 (succeeding their former unicorns with lions' bodies), Scott of Branksome in 1568, and Keith, the Earl Marshal, in 1608. Deer are those of Lord Maxwell in 1581. Griffins are the supporters of Arbuthnot (1493), Erskine (1364), Leslie after 1558.

Sometimes the supporters are a repetition of the animals within the escutcheon, as in the case of the Earl of Home, Lord Gray, and Dundas of that ilk, who will bear lions in their shields; but there is no rule nor general custom of making them so, or of relating them to the crest either. In 1370, Robert the High Steward, afterwards Robert II. of Scotland, had two lions for supporters, and for crest the head of a talbot.⁴ At the same time, or in 1369, his son John, afterwards King Robert III., used a lion's

¹ Nisbet, *System of Heraldry*, ii. pt. iv. pp. 28 and 33.

² Macd. 724.

³ Macd. 2041.

⁴ Macd. 2548.

head for crest, but for supporters two savages.¹ In a few instances the supporters are allusive to the bearer's surname, as in the case of Cuninghame, Earl of Glencairn, and Oliphant, Lord Oliphant, who respectively carried *conies* and *elephants*. The Dukes of Atholl have chained and fettered their savage, their dexter supporter, which thus constitutes an allusion to their motto, 'Furth Fortune and Fill the Fetters.' The Duke of Sutherland's sinister supporter holds in his left hand a shield of the ancient earls of that name, showing his Grace's right as their representative.

A very slight study of the seals of the 14th, 15th, and 16th centuries is enough to show that while a family might adhere generally to its selection of supporters for generations there was nothing hereditary or even personal in the precise attitude or position in which these supporters were placed. Differencing one person's arms therefore from another's by an alteration in the attitude of his supporters was not thought of, when the other might himself make a change any day. In England the supporters of even the Royal arms were frequently altered. Edward IV. changed his at least three times; and till the reign of James I., when the lion and the unicorn were adopted and the supporters of the King's arms became a matter of international interest, they do not seem to have been regarded as hereditary. Thomas, thirteenth Earl of Mar, used a seal in 1358 in which his supporters were two half-length figures of bearded men with flowing gowns, and a tall feather in their caps.² Ten years later (1368) he used a seal with two demi-lions rampant instead.³ In another ten years or so—if the date 1379 is right—he returned to his former seal.⁴

The Earls of Douglas not only changed their supporters from lions to savages, but altered the attitudes and numbers of each at pleasure while they used them. Thus on 4th April, 1373, while William, first Earl of Douglas, used a seal with a single supporter—a lion sejant affronté with its head in his crested helm—his son, Sir James, used a seal with two supporters, lions sejant guardant.⁵ In 1380, the earl added another lion to his single supporter, and put both the heads into the helmet.⁶ His son, Sir James, whose seal had had two supporters in his father's lifetime, altered to one on his succession.⁷

¹ Plate xxxii.; Macd. 2550.

² Macd. 1863.

³ Macd. 1862.

⁴ Macd. 1863.

⁵ Macd. 655-658.

⁶ Macd. 656.

⁷ Macd. 659.

The first three Earls of Huntly had staghounds as supporters. The fourth Earl altered them to staghounds sejant and gave them collars. The sixth Earl in 1610 reverted to the former style.¹ One further instance of this practice will be sufficient. Robert, first Earl of Roxburghe's supporters in 1635 were two savages, the dexter savage holding a club on his shoulder, while the other rested his club on the ground.² In the arms of the second Earl the sinister supporter's club is rested behind his knee.³ In the fourth Earl's arms it is placed on the ground again,⁴ while, if the *Scots Peerage* and *Burke* are right, his present Grace of Roxburghe's supporters both rest their clubs against their shoulders almost perpendicularly.⁵

The house of Gordon of Haddo at a later date supplies an instance of repeated changes of supporters. The first which we have noticed were as given by Crawford: *two Doctors in their Doctoral Habits*.⁶ These may be attributed to Sir George, the second baronet, while as yet his principal distinction was his learning. Sir George in 1680 became a Judge of the Court of Session, and in 1681 its President. In 1682 he became Lord High Chancellor of Scotland. The next supporters we meet which are attributed to him, now created Earl of Aberdeen, are *a Senator of the College of Justice and a Minister of State, both in their robes*.⁷ Subsequently, out of regard probably to the house of Hamilton, the Earls of Aberdeen bore for a considerable time *two antelopes*. But in 1900, the present Earl, who is, among other things, a Doctor of Laws of a number of Universities, has reverted to the former style of his house in so far as to bear *dexter an Earl, and sinister a Doctor of Laws, both in their robes, proper*.⁸

The position of supporters in relation to the rest of the achievement is very much varied in seals of the 14th, 15th, and 16th centuries, indeed the utmost licence seems to have been exercised, both as to their position and relative size. In the case of couché shields, they are frequently so placed as to appear to be supporting the helmet and crest, as in the seal of 1373 of Archibald the Grim, Lord of Galloway (plate xxxiii.).⁹ They

¹ Macd. 1065-1077.

² Macd. 1486.

³ Macd. 1488.

⁴ Macd. 1489.

⁵ *Scots Peerage*.

⁶ *Peerage*, 1716, p. 3.

⁷ Nisbet, *Heraldry*, i. 309.

⁸ *Lyon Register*, 1900. We assume that the dexter supporter at least represents the Earl of Aberdeen himself.

⁹ Macd. 663.

sit with their feet on the shield in the seal of William de Seton of 1384 (plate xxxv.).¹ In the seal of 1513 of Colin, third Earl of Argyll, they actually stand on the helm and attend exclusively to the crest, which on account of their diminutive size is all that they ought, though lions rampant, to be called upon to do.² On the seals—similar to each other—of Walter Earl of Atholl (c. 1430), and the third and fourth Earls of Angus (1437-59), they pose in a sylvan landscape, the dexter supporter, a stag, gorged and chained, kneeling on the upper edge of the shield, and the sinister a lady seated under a tree holding the tail of the mantling of the helm.³

When the escutcheon is carried erect, its supporters have been almost always disposed by the sides of it, in accordance with our present practice. When only one supporter is introduced, it is, at least usually, placed on the dexter, though Nisbet records that he had seen a Torphichen supporter on the sinister side of the shield.⁴ Sometimes, again, as we have seen, the single supporter is disposed behind the escutcheon, which is made to rest against it, or, as it were, affixed to it; and in a few rare instances it is placed at the bottom of the achievement, the shield resting upon it. The same figures are carried, as we see, by different families, 'without any ground of offence, or concluding them to be of one descent or kin';⁵ and this in Scottish heraldry is especially evident in the case of lions and savages among double supporters, and with eagles and angels among single supporters.

Apart from the methods of the Douglasses there was no way, in the earlier days of heraldry, of differencing arms by the treatment of their supporters other than by the choice of different animals, and by this means the arms of many families were made more distinctive than those whose choice was for lions or savages, or even hounds. Thus there were the wolves of the Stewarts of Lennox, the antelopes of the ducal house of Hamilton, the wyverns of Montgomerie of Eglinton, the conies of Cunyningham of Glencairn, the squirrels of Boyd of Kilmarnock, the storks of the Grahams, Dukes and Marquises of Montrose, and the Dalrymples, Earls of Stair; the parrots (papingoes) of Home of Wedderburn. The eagle which, *displayed*, had been in such constant use as a single supporter in the thirteenth, four-

¹ Macd. 2427.

² Plate xxxv.; Macd. 326.

³ Plate xxxiii.; Macd. 682, 683, 2573.

⁴ *System of Heraldry*, i. 92, 93.

⁵ *Ibid.* vol. ii. iv. 33.

teenth, and fifteenth centuries, does not appear, so far as we have seen, as one of a pair of supporters till late in the sixteenth, on the seal of 1582 of Sir Archibald Napier of Merchiston,¹ the father of John Napier, the inventor of logarithms. Angels appear earlier as the supporters of the arms of Archibald, Earl of Douglas, Duke of Touraine in France, in 1423;² but in this case they may be held to have been borne by special grant from the King of the French along with the fleur-de-lis which appears on his shield. The next occurrence which we have met with in Scotland of the angel as a supporter is in the arms of Kerr, second Earl of Lothian, whose dexter supporter, in 1614, was an angel, while his sinister supporter was a unicorn.³ The supporters of the Lords Borthwick, which in 1522 were lions sejant guardant coué,⁴ were altered afterwards to angels. They are also borne by the Lords Saltoun and Carmichael of Skirling. Nisbet says that before the advent of the house of Seton to the honours of Eglinton the Earls (of the house of Montgomerie) had borne for supporters 'two women or angels in dalmatic robes.' For how long he does not say.

In churches of Gothic architecture shields of arms are frequently supported by angels—sometimes by one, sometimes by two. These, however, are not necessarily to be regarded as the usual heraldic supporters of the arms they bear, or, indeed, as evidence that these arms had usually supporters of any kind. Shields which are found carved in churches, if they are not merely on tombs, are supposed to indicate that the owners have contributed to the erection of the part of the fabric on which they are placed. But in any case, whether they occur on a wall or pillar, or on a tomb, the intervention of angels to support them is always indicative of the same pious idea that the donor's or deceased's good deeds had gone up for a memorial of him before Heaven.⁵ Examples of angels thus employed will be found on various ecclesiastical edifices in Scotland, and among others at Melrose Abbey, St. Giles, Edinburgh, and the church of Seton, in East Lothian. The accompanying woodcut of a shield, which we refer to on page 193, for the rebus

¹ Macd. 2099.

² Macd. 671.

³ Macd. 1482.

⁴ Macd. 210.

⁵ Mrs. Stowe mentions a curious monument of the Bedford family at Chenies, in Buckinghamshire, on which, with the same idea, the armorial bearings of that noble house are represented supported by cherubim. *Godiaete*, p. 182 note.

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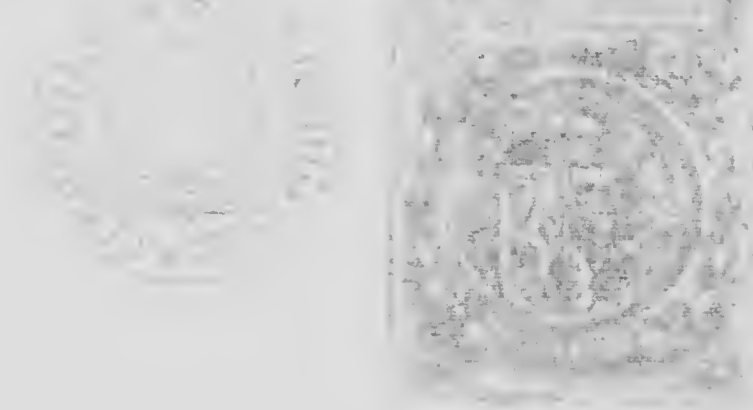
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FRANCIS FRANKS

- 1 The Arms of the Duke of Devon
- 2 The Arms of the Duke of Cornwall
- 3 The Arms of the Duke of Lancaster
- 4 The Arms of the Duke of York
- 5 The Arms of the Duke of Gloucester
- 6 The Arms of the Duke of Exeter



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ARMORIAL BEARINGS.

1. The Arms of Dundas of Dundas.
2. The Arms of Robertson of Strowan.
3. The Arms of Drummond, Earl of Perth.
4. The Arms of Scott, Lord Napier.
5. A.D. 1528 ; Seal of Dugal Campbell of Creagginch, *per* Nisbet.
6. A.D. 1560 ; Sculptured Panel of the Arms of Mary of Lorraine, Leith.



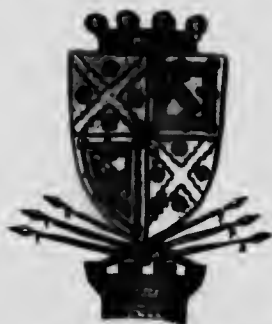
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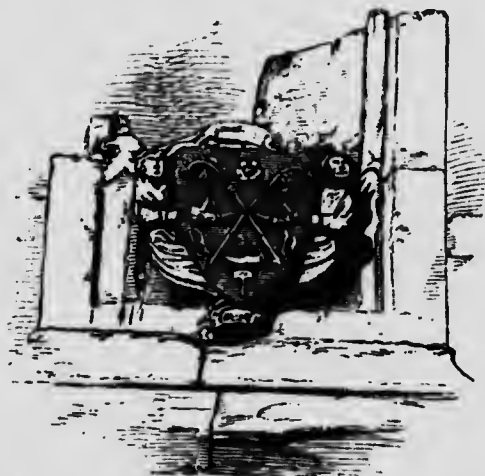




of the *mele* and *rose*, which, with the Abbot's crooks and horns of Hunter on the shield which it exhibits, shows the arms of Abbot Hunter as they appear on a buttress at Melrose, borne as we indicate.

According to the French heralds, only sovereign princes can use angels as heraldic supporters. This is understood by Mackenzie to allude only to France, where angels were the Royal supporters.

The earliest double supporters are all pairs of the same animal or object. We have already noticed the very slight innovation on the



Arms of Abbot Hunter, c. 1500, Melrose Abbey.

After the woodcut in the 'Proceedings of the Society of Antiquaries of Scotland,' vol. ii. 1859.

custom by the occurrence in half length of a man and woman in the seal of Sir Nicolas Erskine in 1370; and that about the year 1430 Walter Stewart, Earl of Atholl, who was beheaded in 1437, had for his supporters a stag gorged and chained and a lady reclining against a tree; the same were used by James Douglas, third Earl of Angus.¹ In 1511 Archibald, the fifth Earl of Angus, used a seal with a savage and stag for supporters, thus conforming in some degree to the style of the house which bore the

¹ These achievements, which we have mentioned already, will be referred to again in the section on the Compartment.

older title of Earl of Douglas. In 1560 Lord Ruthven's supporters are a ram and a goat, Stewart of Rosyth's (1589) a lady and a lion.

A large number of our leading houses have altered one or both of their supporters from those borne first by their predecessors. Marriage with heiresses and consequent union of different houses in one representative has been the reason for most of these changes, but not of all. A perhaps exceptional number of the families whose original supporters were lions have altered them in part or in whole. The Duke of Athol now bears a savage for Stewart and a lion for Murray. The Earl of Rothes changed his lions for griffins; the Earl of Erroll for countrymen with yokes on their shoulders, or, for a time indeed, between 1591 and 1621, for yokes alone, according to Sir David Lindsay II. (see plate xviii.). In the same way Lord Sinclair's staghounds have given place to griffins, the Earl of Wemyss's storks to swans.

SUPPORTERS, in the language of British heraldry, are any objects animate or inanimate which are introduced into the formal achievement of arms for the apparent purpose of bearing up, steadying, or guarding the shield, or the helm and crest.¹ When they are inanimate the shield is sometimes said to be *cotised*—a term derived from the French *côté* (a side)—instead of supported. A curious example of inanimate supporters occurs on the English seal of William, Lord Botreaux (1426), where, on each side of a couché shield exhibiting a griffin 'segreant' and surmounted by a helmet and crest, a *buttress* is introduced, in evident allusion to the owner's name.² A somewhat similar arrangement appears on the Scottish seal of William

¹ The French draw a distinction between supporters and *tenans*, of which Woodward says that the latter are supporters in human, or even partly human form, such as mermaids. An older authority says of them that the former hold the upper portion of the shield, while the latter support it from below.

² *Archæological Journal*, x. 335.

In his notice of 'Reptilia, or creeping things,' Nisbet remarks that 'the arms of Botreaux in England are *argent*, three toads erect, *sable*. Nicolas Upton (he adds), an English writer about the year 1428, speaking of the Lord Botreaux's arms, says, "Quæ quidem arma olim portaverunt reges Francorum"; but Menestrier, in his chapter on the rise and antiquity of the fleur-de-lis of France, has sufficiently refuted that story of the toads.' *System of Heraldry*, i. 335.

de Ruthven (1396), where a tree growing from a mount is placed on each side of the escutcheon.¹

THE COMPARTMENT.

The COMPARTMENT—a term peculiar to Scottish heraldry—is, as Sir George Mackenzie defines it, 'that part of the achievement whereon the supporters stand' (chap. xxxi.). Nisbet denies that it is heraldic (*System Her.* part iv. 135). The term perhaps imports no more than that it is the place set apart for the achievement to stand upon. Its presence is not expressed in a patent unless supporters are included; but when they are, it is an invariable provision. The compartment may be represented in an emblazonment of arms as a piece of ground in a natural state, with rocks, grass, and flowers, according to the artist's fancy, or as a carved panel of any design. Reason may interfere to prevent anything being chosen which is impossible, but the terms of the patent have for a considerable period been held to be sufficiently satisfied even though the 'compartment' has been represented by a ribbon long enough to pass under both supporters, and deep enough to accommodate a motto if required, or by a scroll of the order which Woodward aptly likens to a gas bracket.² A compartment no doubt might be said to have been implied in all cases where the shield is not on an eagle displayed, or supported by flying angels or by arms stretching down from the clouds, and therefore in the air. A compartment which is made to be of any special heraldic significance, however, does not appear to be one of the most ancient institutions of heraldry: the earliest instance of it which is known in Scotland belongs to a date somewhere about the year 1430.

Sir George Mackenzie conjectures that the compartment 'represents the bearer's land and territories, though sometimes (he adds) it is bestowed in recompense of some honourable action.'³ Thus, the Earls of Douglas, he

¹ Plate xxxv.; Macd. 2345. See also the seals of Thomas Sinclair, Keeper of Orkney, 1435, and Andrew Shearer, Provost of Aberdeen in 1478, Nos. 2475 and 2459.

² *British and Foreign Heraldry*, i. 420; ii. 288.

³ *Science of Heraldry*, chap. xxxi. The arms of Guillaume de Bavière, Comte d'Ostrevant, are supported in his seal of A.D. 1412 by a lion sejant on a mound enclosed by wattled pales with a gate. These are said to represent the palisade with which he blockaded the citadel of

relates, obtained the privilege of placing their supporters within a pale of wood wreathed, because the doughty lord, in the reign of King Robert the Bruce, defeated the English in Jedburgh Forest, and caused 'wreathe and impale,' during the night, that part of the wood by which he conjectured they might make their escape.¹ Trees are certainly to be seen behind the supporters of the arms on the seals of the first and second Earls in 1380, and between 1384 and 1388,² and reappear in 1453 behind those of the ninth Earl.³ Some of the intervening seals bear foliage, but none of the earls' seals exhibit the wreathed pale. It may be that Mackenzie had made his statements on other grounds. It may be, too, that he for the moment confused the Earls of Douglas with the Douglas Earls of Angus. The illustration of the pale which he gives is certainly from an Angus seal—that of the eleventh Earl of Angus, first Marquis of Douglas, or of his grandson and successor.⁴ But it is interesting to note that on the seal of Archibald, fourth Earl of Douglas, in 1401, the place of the crest and helm is occupied by three stakes wreathed,⁵ and on James, the ninth Earl's seal, the legend of which describes him as, among other things, Lord of Forest, the fourth quarter of his shield is *six piles*, recognized as borne for Ettrick Forest.

A fenced compartment appears on the shield of James of Douglas, third Earl of Angus, 'Dominus de Ledalisdail et Gedwort Forest' (1437-1446),⁶ and also on those of his successors in that earldom (1511-1695).⁷

Hagenstein and the chateau of Everstein. Woodward and Burnett, *Heraldry*, ii. 642. The wattled fence appears in front of the castle on the seal of 1494 of Clomen, or Clonmines, Co. Wexford. B.M. 17,390.

¹ Mackenzie, xxxi. followed by Nisbet's *Heraldry*, vol. ii. part iv. p. 134.

² Macd. 656, 658.

³ Macd. 677.

⁴ Mackenzie, chap. xxxi. He has omitted the supporters. Macd. 697-699. ⁵ Macd. 666.

⁶ Macd. 682. Nisbet refers to a seal of William, first Earl of Douglas (1377), exhibiting a single supporter (a lion with his head in the helmet), 'sitting on a compartment like to a rising ground, with a tree growing out of it, and semé of hearts, mullets, and cross-crosslets,' these being the charges of Douglas and Mar in the escutcheon. *System of Heraldry*, vol. ii. part iv. p. 134. This is perhaps meant for the same seal as No. 238 in Mr. Laing's *Catalogue*, Macd. 656, or the seal of James, second Earl, No. 659; but it corresponds accurately with no seal that we know of.

⁷ Namely, the 4th, 5th, 6th, 8th (Plate xxxii.), 9th, 10th, 11th, and 12th (the last two being the 1st and 2nd Marquises of Douglas). Macd. 683, 686, 690, 691, 693, 694, 696 to 699.

Mr. Macdonald describes the supporters and compartment of the first mentioned seal as follows: 'Supporters: At top of the shield, on the dexter a stag kneeling gorged and chained, on the sinister a lady reclining with wreath on head and holding a flower in right hand, a tree behind each supporter, and the whole set in a compartment representing a park enclosed by a fence of wicker-work with trees at intervals, the shield being set in the entrance, and at each side a rabbit.' Such, with a change of the supporters to a savage and a stag and other non-essential alterations, was the compartment of the Earls of Angus, lords of the Jed Forest for generations. Here we call attention to the arms which, in 1515, while this compartment was in use, they added to their escutcheon. In that year the seal of George, Master of Angus, eldest son of Archibald Bell the Cat, the fifth Earl, placed *five piles in point* on his shield as his third quarter. These are held to be there as the arms of Jedworth Forest. They were continued by the sixth Earl, and as *five piles* by the eighth, ninth, and tenth Earls; as *four piles* by the eleventh Earl and first Marquis, and as *three piles* by his successor, the twelfth Earl and second Marquis, in 1695 A.D.

An earlier seal exists, however, which at first sight shakes the theory that this Douglas compartment represents the Forest of Jedworth. It is the seal of 1430 A.D. of Walter Stewart, Earl of Atholl (plate xxxii.)¹ which is almost identical with the seal which we have just described—the earliest Angus seal of the kind. But we have to call attention to some of the other contents of the seal. The legend describes Stewart as the son of the King of Scotland,² Earl of Athol, Lord of Methven and Brechin. And the second quarter of the Earl's shield is *three piles*, which are the bearings of David de Brechin in the thirteenth century.³ The question suggests itself whether the piles of Brechin were not the official arms of the keeper of a forest.

According to Sir George Mackenzie, these compartments were usually allowed only to sovereign princes; and he further informs us that, besides the Douglasses, he knows of no other subject in Britain, except the Earl of Perth, whose arms stand upon a compartment. In this last mentioned case

¹ Macd. 2573.

² *Scocie*, not *Scotorum*.

³ Macd. 240; see also 238-9, 241.

the compartment consists of a green hill or mount, semé of caltraps, or cheval-traps¹ (plate xxxvi.), with the relative motto, 'Gang Warily,' above the achievement. Mackenzie does not leave the subject, however, without adding that 'of late compartments are become more common.'

Nisbet represents the crest and motto of the Scotts of Thirlstane, 'by way of compartment,' below the escutcheon of Lord Napier,² and is followed by the Register of Arms, 22nd November, 1810. He places those of Campbell of Finab similarly on a sun rising in his splendour from clouds.³

Another device occurs on the seal of Dugal [Campbell] of Craignish, appended to a charter dated 1528—his escutcheon being suspended from the mast or resting on the deck of a galley.⁴ It is difficult to say whether the galley in such a case should be classed with compartments, or with supporters such as trees and heads of stags.

Two other instances of regular compartments are mentioned by Nisbet, viz. those carried by the Macfarlanes of that ilk⁵ and the Ogilvies of Innerquharly. The latter was a 'green hill or rising terrace,' on which were placed two serpents, 'nowed,' spouting fire, which with the motto, '*Terrena pericula sperno*,' adds Nisbet, is 'a very good device.'⁶

The seal used by John, second Lord Maitland and first Earl of Lauderdale, in 1644, shows his supporters, two eagles with wings endorsed standing in a landscape with grass and flowers;⁷ and that of David, third Earl of

¹ The caltrap was an instrument of war placed on the ground to injure the feet of the enemy's horses, and consisted of four iron spikes so that, whichever way it lay, one spike always pointed upwards. This compartment does not appear on any Drummond seal which we have seen.

² Plate xxxvi. ; *System of Heraldry*, vol. i. p. 138, and plate of achievements 3, fig. 9.

³ *Ibid.* plate 6, fig. 3.

⁴ Plate xxxvi. ; Macd. 343. From Mr. Macdonald's cast, which we reproduce, we think that the legend is S. dugal [de] cregginch. Cf. *System of Heraldry*, vol. i. p. 33, and plate 6, fig. 4.

⁵ Confirmation by Sir James Balfour, *per* Register of Arms, 1672-7. See also above, p. 219.

⁶ *Ibid.* vol. ii. part iv. p. 134, and vol. i. plate 8, fig. 12. Now altered, Register of Arms, 30th November, 1906.

⁷ Macd. 1850.

Weinyss (1707-20) has his storks standing in a field with grass and clover, and a number of rabbits feeding.¹

English heraldry furnishes no examples of these special compartments; but they appear to have been occasionally used in the achievements of the sovereigns and a few of the more distinguished families of France.²

THE CORDELIÈRE OR LACS D'AMOUR

is a cord, or series of cords, looped and interlaced as in one of the patterns shown on plates xxviii. and xxxv., and very frequently encircles the lozenge, or, in former times, the shield of the arms of a lady. The cordelière, according to some heralds, who are followed by Nisbet, was appropriated to the arms of widows, the thing being a rebus for *corps délié*, 'a body free and untied.'³ The lacs d'amour, which he shows as of a slightly different figure, was, he says, the mark of unmarried gentlewomen; but it must be acknowledged that some writers on heraldry, including Sir George Mackenzie and M. Woodward, use the two terms without any apparent distinction; and that the shield of Henrietta Maria, widow of Charles I., is surrounded by what Nisbet calls the lacs d'amour (plate xxxv.).

The favour in which the cordelière was held has been attributed by others to the affection borne for it by Anne of Bretagne, widow of Charles VIII. of France, 'who, instead of the military belt or collar, bestowed a cordon on several ladies, admonishing them to live chastely and devoutly, always mindful of the cords and bonds of our Saviour Jesus Christ; and to engage them to a greater esteem thereof, she surrounded her escutcheon of arms with the like cordon.'⁴ According to others, again, it was first adopted in veneration of St. Francis, patron of the Cordeliers (or Grey Friars).⁵ But Woodward points out that lacs d'amour, by which he means the same thing, were a badge of the House of Savoy, and, citing Cibrario, he mentions that they appear on the seal of Beatrice of Savoy

¹ Macd. 2872.

² *L'Art Héraldique*, par M. Baron.

³ *System of Heraldry*, vol. ii. part iv. p. 130; see also p. 145.

⁴ Ashmole's *Order of the Garter*, p. 126.

⁵ Nisbet, *System of Heraldry*, vol. ii. part iv. pp. 60 and 130. The cordelière will be seen hanging from the waist of the Princess Isobel, plate xxvi. (See page 139.)

in 1279.¹ The cordelière appears to have been rarely used in England, where, however, it is still occasionally painted upon funeral achievements. In Scotland it was scarcely known before the seventeenth century.

It occurs once in the previous century, A.D. 1560; in that case it surrounds the arms of a married lady whose highest title was French—Margaret, Countess of Arran, Duchess of Chatelherault (plate xxxv.);² it does not reappear on any Scottish seal till 1651, when it is found on the signet of Henrietta Maria, widow of Charles I.,³ already mentioned, again a seal which may be deemed to have taken the ornament from French heraldry rather than Scottish. Mackenzie says in 1680 that it was in use in his time; and an example occurs in connection with the lozenge exhibiting the arms of Anne, Duchess of Buccleuch, widow of the Duke of Monmouth, on one of the curious set of playing cards (1691) already referred to.⁴ It must be noted that the Duchess of Chatelherault used her cordelière during the lifetime of her husband the Duke. In like manner, in a recent volume of the Lyon Register,⁵ the arms of Mrs. Mary Chisholm, *spouse* of James Gooden, Esquire, and 'the only issue of the late Alexander Chisholm of Chisholm, in the shires of Inverness and Ross,' consisting of a boar's head 'couped,' are illuminated on a fusil or lozenge, which is suspended from a sort of cordelière. The cordelière recurs more than once in the more recent volumes of the Register.

Prior to the adoption of these devices, the armorial coats of both sexes were frequently surrounded by garlands of leaves and flowers, called 'Stemmata,' of which many examples, according to Nisbet, are to be found on old paintings and in illuminated books of arms. He refers to an instance of this arrangement at Redhouse, in East Lothian, the bearings in the relative escutcheon being those of the surname of Laing.⁶ Another example occurs on the sculptured tablet, exhibiting the arms of Mary of Lorraine (1560), which formerly occupied a place on the front of her residence at the corner of Quality Wynd, Leith.⁷

¹ *British and Foreign Heraldry*, ii. 272.

² Macd. 731.

³ Laing, i. 76.

⁴ Plate xxviii.

⁵ Vol. iii. p. 54 (1827).

⁶ *System of Heraldry*, vol. ii. part iv. p. 130.

⁷ Robertson's *Antiquities of Leith*, p. 31, and plate i.; see also plate xxxvi. in this volume.

CHAPTER IX.

THE CLASSIFICATION OF COATS OF ARMS.

THE principal classification of coats of arms is according to the meaning with which they have been acquired by the person who bears them rather than according to the kinds of beasts, birds, flowers, etc., which are their bearings. To take an instance, the arms consisting of the lion rampant chosen by Alexander II., or his predecessor William the Lion, presumably because the lion was considered to be the king of beasts, and was the emblem of courage and magnanimity, are not to be classed along with those of the same lion rampant, borne by his royal successors as a matter of course, as the arms of their descent or dominion, or as they were borne somewhat differenced by the Earl of Middleton, as a most signal mark of the royal favour. In the first case the lion is to be classed with arms of sentiment, in the second with arms of inheritance, and in the third case with arms of special concession.¹

¹ Nisbet, in his *Armories*, makes a classification of arms somewhat though not altogether, of this kind, and adds to it a wealth of illustration for which all subsequent students have been, it is hoped, as grateful as they have been indebted. His divisions, 13 in number, are: (1) of Composed arms and collateral ones, (2) of Marriage, (3) of Offices ecclesiastical and civil, (4) of Arms of alliance, (5) of Adoption and substitution, (6) of Patronage, (7) of Gratitude and affection, (8) of Religion, (9) of General concession, (10) of Special concession, (11) of Dominion, (12) of Feudal Arms and Arms of Dignities, (13) of Arms of Pretension.

The classification of arms according to their bearings, which is made in *Fawcett's British Armorial*, and which is done for the Scottish Register of All Arms, from the beginning under the Act of 1672 down till 1903, in the *Ordinary of Scottish Arms* by the present James Balfour Paul, is the arrangement of arms appropriate primarily for ascertaining to whom arms have been granted and to whom. The latter volume, by the aid of its Index of Pedigrees, practically furnishes for its Register what has been done on a larger field by Rietstap's *Armorial Général*, and Burke's *General Armory*, an index for ascertaining Who have been granted arms, and what?

For our present purpose, arms may be divided at the outset into five classes: I. Personal Arms; II. Arms of Alliance; III. Arms of Vassalage; IV. Arms of Dominion and Office; V. Arms of Dignities; some of the classes being subject in their turn, however, to subdivision.

I. PERSONAL ARMS.

Personal arms may be separated into two subdivisions: (a) Arms of Assumption and Ordinary Concession, (b) Arms of Special Concession.

(a) *Arms of Assumption and Arms of Ordinary Concession* may be considered together. For our present purpose they are practically the same. It is true that the first were arms of personal choice, and the second are arms assigned by an official. But the personal choice in the first case was always fettered in that it was restricted to arms which no one else had a right to already; and the practice of the official charged with assigning personal arms, who technically has the choice in the second case, is to give all the consideration to the desires of his petitioners which it would have been safe and proper for them to indulge in if left to themselves.

According to the apparent motives of their choice, the Arms of Assumption may be grouped as Arms of Accident, Moral Sentiment, Piety and Affection, Allusion to the fief, to the person himself, or to his surname (*i.e.* 'Canting Arms'), Arms of Descent, and of Entail and Adoption.

By *Arms of Accident* we mean the arms whose figures were not chosen as conveying in themselves any meaning, but were retained by persons merely because they had been on the shields which they were already using when heraldry dawned; marks, perhaps, of the constructional design of the shield, which, by the peculiarity of their shapes and arrangement, their bands and metal bolts and binding, and possibly their colours, fulfilled the main object of heraldic figures—namely, distinctiveness, along with the possibility of being fully described in language. This origin of armorial bearings has been considered of greater importance by some writers than perhaps by ourselves; but it is undoubted that the preheraldic shields of the Bayeux tapestry, the effigies on the tombs of, for example, the Knights Templars in their church in London, those on some ivory chessmen,¹ and so on,

¹ Which we show on plate xxxi.

occasionally exhibit figures which afterwards came to be devices of heraldry. We find thus a shield that might be termed in heraldry *bendy*, another as having a *bordure*, and another with an *escarbuncle*. The view that the Scottish Royal tressure was originally a constructional device may perhaps be maintained with some reason.¹

Arms of Moral Sentiments are probably the earliest class of devices to appear as heraldic. The motives of sentiment are seen in the choice of the emblems of the virtues,—lion rampant chosen by the King of Scots, the lions passant chosen by the Kings of the English, the eagle chosen by the Emperor of the Holy Roman Empire, the lilies chosen by the King of the French. To claim that the lions of the ancient Celtic Earls of Angus, of Fife, and of Ross, the lions of Dunbar and March, Galloway, Gray, Dundas, etc., were all the direct choice of the emblem of courage, etc., uninfluenced by its being already the royal beast of Scotland, might lead to discussion; but the lions rampant on the banners and shields of the English knights who appeared before the walls of Caerlaverock in the year 1300—de Lacy, de Percy, de Ware, de Seagrave, de Monthall, de Welles, de Cromwell, the Earl of Arundel, and others—are not open to that objection.² The eagle of Ramsay was not granted him by the Emperor, nor the fleur-de-lis of Montgomery by King Louis. Most of the beasts and birds, fish and flowers which were introduced into heraldry were undoubtedly brought in as the emblems of favourite virtues—strength, forcefulness, vigilance, loyalty, purity etc.

Arms of Piety and Affection seem to differ from those just mentioned in that the emblems they exhibit are chosen on account of their associations with persons with whom they have been connected rather than for their own sakes. Among Christians the established emblem of our Redemption, as well as the great symbol of our Redeemer's suffering, was the Cross, long before heraldic symbols came to be used, and its use in the Crusades as a badge of religion—or perhaps, more truthfully, the badge of member-

¹ See below, chapter on Royal Arms.

² Along with the dozen English coats of lions rampant, only three of the English King's subjects other than his kinsmen appear with lions passant—le Fitz Payne, le Carew, and le Strange.

ship of an army—did not deprive it of its position in Christian countries as a symbol of piety.¹ For the sake of distinctiveness, or of grafting additional sentiments on to it, the cross appears in armory in more than fifty different varieties. Thus of crosses *throughout* the shield, there is the cross argent on gules of Corsbie of that ilk, the azure cross cantoned with four stars of the same, and charged with a golden crescent, on the silver shield of Bannatyne of Corhouse; the engrailed cross of Sinclair, the similar embattled cross of Balmanno, afterwards Auchinleck; and of other crosses, the cross flory of Fletcher, the cross moline of Mylne and Millar, the cross patty of Barclay, etc., etc. Sir George Mackenzie relates that Forbes of Corse, whose paternal arms were azure, three bears' heads argent, muzzled gules, added in the centre of his shield a cross coupé, or (recorded 1672-7), because so many of his house had been distinguished ecclesiastics. But perhaps it might have been truer to have said that the action of putting the cross in his arms arose from the same impulse that had made those members of his family become ministers of the Cross.

The cross of St. George, now at least, and since a date which was long before the time when Spenser wrote the *Legend of the Red Cross Knight*, argent, a cross throughout gules, has been the badge of the English Patron. It is the cross in its simplest form; the tinctures with which it is the banner of England constitute it the arms of St. George.²

The saltire cross, whatever it was originally, has been adopted as the symbol of the martyrdom of St. Andrew. Azure, a saltire argent—a shining cross that once appeared, it is said, on a blue sky; it is the banner of the Patron of Scotland; in other tinctures it appears in the arms of

¹The cross was by no means the prevailing heraldry of the crusading knight. It has been observed by more than one writer that among the shields of known Crusaders in the *Salle des Croisades* at Versailles not one in ten contains any crusading symbol. Ellis, *Antiquities of Heraldry*, 237; Woodward, *Heraldry*, i. 36. For reasons of leadership, the knight required to go in the coat he was already known by. As regards his badge, a matter which specially concerned the rank and file, it was otherwise; and in the preparation for the third crusade, in 1180, it was agreed that the crosses of the French should be red, those of the English (and that probably included the Scots and Irish) should be white, and those of the Flemings green. Dunbar, *Scottish Kings*, p. 80 and references.

²The Templars, who had worn it in the same way, had been abolished in England, as in most countries, in or about 1309. Spenser wrote in 1590.

Annandale, as in the shields of Bruce, Johnstone, etc. It appears also in the arms of Maxwell, and engrailed, in the arms of Lennox, and of Colquhoun.

Among other Christian emblems which appear in heraldry besides the cross is the Pelican in her piety. As early as 1296 it is found in the arms of Richard of Huliston and John of Ormiston,¹ and was afterwards the bearing of the Patersons of Dunmore, Bannockburn, etc. It is in the arms of Corpus Christi College, Oxford. Three piles in point, distilling drops of blood, as in the shield of Wisheart of Logie Wisheart, or piercing a heart, as on that of Logan of that ilk, represent the nails of the Crucifixion.

Arms of Affection, a smaller class of arms, are illustrated by the arms of Boyle, Earl of Burlington, per bend embattled, gules and argent, as quartered by Boyle, Earl of Glasgow, whose paternal ensigns, borne surtout, are or, three harts' horns gules. The Prime Minister, Earl of Aberdeen, added to his arms, on a similar account, the arms of Hamilton, as well as the supporters, all of which were continued by his family for a time.

Arms of Allusion are of various kinds. There are those which allude to the fief. The arms of Drummond—or, three bars wavy gules—were believed by the late Sir William Fraser to represent the three rivers of the ancient Earldom of Menteith—the Forth, Teith, and Allan.² The arms assigned for the earldom of Melrose, an earldom afterwards changed in title to that of Haddington, are a fess wavy [the river Tweed] between three roses gules. The Castle of Castile and the Lion of Leon may be cited as arms of a parallel kind, alluding to these kingdoms.

The galleys of Arran, Lorne, and the Isles, the dragon ships of Orkney and Caithness, are symbols of the sea-power of these dominions, or, as in some cases, the feudal service at sea due for them as fiefs.³

¹ Crests also in the achievements of the Earl of Galloway and Lord Carmichael of Skirling.

² See *Red Book of Menteith*, I. lii.

³ The ancient service for the lordship of Lorne, for example, cited by Nisbet, was to furnish the King with a galley of twenty oars in time of war if it was demanded (*Armories*, 203). In 1429 the Parliament enacted that all lords and barons in the North and West should have galleys, to the extent of one oar for every four merks of land. And we find that the Earls of Angus, Arran, and Huntly accompanied King James V. in their own armed ships when he sailed round Scotland in 1540.

reason, if not affection, selected for differences on the father's arms bearings which connoted the line of the mother.

Among arms of descent are found arms of nearly all manners of origins, arms of sentiment, allusion, concession, and the rest ; all borne, not on account of their origins, or original signification, but because they, from whatever reason, were the arms of the ancestor. It is here also that *Arms of Composition* are mostly found ; in which the heir of two coats has combined them, or parts of them, and not merely marshalled them together.

Arms of Entail and Adoption are in a similar category, taken not for their own sakes but for the sake of the inheritance, or of pious regard for the wishes of entailer. Arms of entail differ from feudalized arms in that the right to, for example, the lands does not give a right to the arms, and that the obligation is not enforceable nor the right complete without the intervention, previous or subsequent, of the Heraldic Authority.¹

Arms of Special Concession are those which have been granted by the King or feudal overlord personally. Such arms, as Bartolus the civilian lays it down in his treatise on *Insignia* already mentioned, take precedence of other arms when they come to be marshalled with them.²

Many of these grants are related in histories to have been made, some at very early periods. If not always well authenticated, they at any rate establish the fact that such grants were made upon occasions both in the council chamber and on the field, especially on the latter. The red pales on the golden chief of the Keiths, the Scottish Earls Marischals' silver shield, share the dignity, with at least one continental coat, of having been originally traced in blood by a king's finger on the shield of the hero of a battle. The three red scutcheons on the silver shield of Hay, the ancestor of the Earls of Errol, the Scottish Great Constables, are recorded to have been assigned to him to represent himself and his two sons,—the three who turned a Scottish defeat into a victory. These Arms of Honour, when granted to one who has arms already, are styled Arms of Honourable Augmentation.

¹ The extent of the right to prescribe the bearing of arms and the nature of the obligation, created by a Clause of Name and Arms, are dealt with in a later chapter on Arms of Adoption, etc.

² See above, page 25.

Heraldically the most honourable coat of special concession of this class is that in which the arms which are conceded contain some part or allusion, as in the case of Bartolus, already mentioned,¹ to the Royal Arms or Regalia—the symbols of sovereignty, a grant which the Sovereign alone can make.² The earliest of these of the account of which there is any independent corroboration, is that already noticed, made by Alexander III., or one of his immediate predecessors, to Sir Alexander Carron.³

Continuing for the moment to notice only concessions of complete shields of arms, we may instance the grant made by Mary Queen of Scots to Sir James Sandilands, Preceptor of Torphichen, on granting his preceptory lands, and the dignity of a Lord to him and his heirs male, the arms in this case were, parted per fess azure and argent, on the first an Imperial crown proper, and on the second a thistle vert. The grants of arms made by her son, King James VI., to his noble attendants after the affair of Gowrie in 1600 are well known. Sir Thomas Erskine, whom he afterwards created Earl of Kellie and a Knight of the Garter, received, gules, an Imperial crown, with a double tressure flory counter-flory, or. Sir John Ramsay, afterwards Viscount Haddington, and in England Earl of Holderness, received, azure, a dexter hand holding a sword in pale argent, hilted and pommelled or, piercing a heart gules, and with its point supporting an Imperial crown proper; and Sir Hugh Herries of Causland was granted, azure, a hand in armour issuing from the dexter side, also holding a sword supporting an Imperial crown, proper.

Charles I. granted to Hay, first Earl of Kinnoul, azure a unicorn salient, argent, horned, maned and hooped or, within a bordure of the last charged with eight thistles vert impaled and dimidiated with as many roses gules. To Leslie, Earl of Leven, he granted azure a thistle ensigned with an Imperial crown or.

Charles II. similarly conferred arms of augmentation upon two persons who received credit for the preservation of the Scottish regalia during the

¹ The arms which Bartolus received from the Emperor Charles IX King of Bohemia, before 1356, were, or, a double-tailed lion rampant gules. The Royal Arms of Bohemia were, gules a double-tailed lion argent, crowned or.

² See page 35.

³ See page 21.

Cromwellian period.¹ To the Earl of Kintore he gave gules, a sceptre and sword in saltier, and in chief an Imperial crown or, all within an orle of eight thistles of the last; to Ogilvie of Barras, argent a lion passant guardant holding in his paw a sword in pale gules, and therewith defending a thistle placed in the dexter chief vert, crowned or.

The most liberal grant of the Royal Arms ever made by a Scottish King, in Scotland at least, to one who was a stranger to the blood royal, was made by the same monarch to his minister and general in the field, the Earl of Middleton, namely, the Scottish Royal coat counterchanged per fess.²

King William III. conferred on Sir Patrick Home, Lord Polwarth, afterwards Earl of Marchmont, a shield to be borne surtout; argent, an Orange proper slipped vert and crowned proper. Livingstone, Viscount Teviot, received from the same King, for his first and fourth quarters azure, three oranges slipped, proper, within an orle of thistles, or.

Arms of composition are also granted as Honourable Augmentations. King Robert I. is related to have granted his adherent, Sir Alexander Seton of Seton, the barony of Barns, and an honourable augmentation to be carried on his paternal arms of Seton, namely, a sword erect gules, supporting on its point an Imperial crown proper, the earliest grant of the kind, says Nisbet. According to Sir George Mackenzie, who was a lawyer, the King united the right to the arms with the succession to the lands.³

The Grant of the Royal Tressure. The mark of the Sovereign's favour, which under the Emperors was ordinarily 'a chief of the Empire' (or, an eagle displayed sable), in France 'a chief of France' (azure semé de

¹ The romantic tale how Christian Fletcher, Mrs. Granger, wife of the minister of Kinneff, carried the Honours of the country out of the beleagured Castle of Dunnottar, and how she and her husband buried them in the night under various stones of the floor of Kinneff Church, and how the minister visited them from time to time and wrapped them in new cloths, appears to be established. See *The Preservation of the Honours of Scotland*, Scot. Hist. Soc., vol. 26, edited by C. R. A. Howden, advocate.

² Charles II., however, when at Brussels in 1658, granted Colonel William Marshal, whom he had created a baronet, a coat consisting of the Scottish Royal coat, differenced only by the addition that the lion was royally crowned. Stodart, *Scottish Arms*, ii. 384.

³ *Science of Heraldry*, pp. 3 and 66. Compare the Scrymgeour and Campbell agreement, above, page 21.

lis), and in Spain, at least frequently, a bordure of Castile and Leon (compony, gules charged with a castle or, and argent charged with a lion rampant gules), was in Scotland a grant of the Royal Tressure, which in consequence has been termed 'the bordure of Scotland,' either in its own or some other tincture or metal. Nisbet views the grant of this bearing—a bearing the more interesting that it is almost unknown save in the heraldry of Scotland, as in some cases 'a tessera of noble [royal] maternal descent,' and in others 'a special additament of honour' for service done to King and country.¹ To which of these categories the Tressure² belongs in some of the earlier cases is not always possible now to say, but in all cases, perhaps not excepting even the earliest, we may conclude that it was a matter of Royal grant. It is now recognized to be strictly *inter regalia*.

It is certain that it first appears in the arms of the King—Alexander II. (1214-1249).³ It appears thereafter on the shield of John, Earl of Caithness, who flourished in and about 1289,⁴ in which year it is also found on the shield of Sir Alexander Dunbar,⁵ third son of Patrick, the seventh Earl of Dunbar. It is possible that Sir Alexander was granted the bearing as one of the great grandsons of Ada, daughter of William the Lion. But the Tressure was clearly not a necessary mark of a Royal descent. It had not been borne by any of the other members of his house, all of whom had been equally entitled to it for generations, not even by his elder brother Patrick, the eighth Earl, the Competitor for the Crown in 1292. It is indeed observable that the Tressure is not borne by any of the Competitors, though all were anxious to marshal the evidences of their royal descent.

The majority of the noble families in Scotland whose arms display the Tressure are descended from a Royal Princess. They, also, did not bear the Tressure till that marriage with Royalty, and bore it immediately after.

¹ *System of Heraldry*, i. 180.

² For the sake of brevity we propose to use the word Tressure in this notice for the Royal or Double tressure flory counter-flory, and also for that double tressure when its tincture is not gules.

³ Although on his great seal it may not be discernible on his shield, it is clear on the saddle cloth. It is amply visible on the shield of his successor, Alexander III.

⁴ Macd. 308.

⁵ Macd. 795.

Thus we have the cases of the Earls of Ross, one of whom, Earl Hugh, married Matilda or Maud, sister of Robert I. A better known case is that of Sir Thomas Randolph, who married Isobel, another of King Robert's sisters, and whose son was Thomas, Earl of Moray, so well known in Scottish history as Bruce's nephew and lieutenant. The Tressure then added to the arms of Randolph was subsequently borne by all the Earls of that earldom, and is borne by the Earl of Moray to-day. Similarly, the Tressure on the arms of the Lord of the Isles began with the arms of Donald, who was the son of John of the Isles and his wife Margaret, daughter of Robert II. The Tressure borne by the Sinclair Earls of Orkney was derived from the maternal grandmother of Henry, the second Earl, namely Egidia, Margaret's sister, who married Sir William Douglas of Nithisdale, and had an only daughter and heiress.

At the same time, when we scan the arms of the houses of the nobles which are come of such Royal marriages we find that a number of them do not bear the Tressure, and have not done so. The Princess Mary, daughter of Robert III., was married four times, as is well known. The arms of the Douglasses, Earls of Angus, the descendants of her first marriage, never exhibit the Tressure. It appears on the arms of Gilbert Kennedy, Lord of Cassillis, and his brother James, Bishop of St. Andrews, sons of her second marriage. The arms of Sir Robert Graham of Fintry and his brothers, the sons of her third marriage, and their descendants, all save Patrick, Sir Robert's younger son, first Archbishop of St. Andrews, are without it till the beginning of the seventeenth century. Patrick's seal bears the undifferenced arms of Graham, and the arms of Graham of Fintry, with the chief engrailed, and the Royal Tressure, in 1469. It appears in 1470 on the arms of Sir William Edmonstone of Duntreath, the eldest son of her fourth marriage.

No Tressure is found on the arms of the Frasers of Philorth (now Saltoun), descended from Mary, sister of Robert I., nor on those of the Earls of Mar, descended from her sister Christina. Elizabeth, daughter of Robert II., married Thomas Hay, the Great Constable, ancestor of the Earls of Errol; Isabella, her sister, married, first, James, Earl of Douglas, and, second, Sir John Edmonstone, ancestor of Edmonstone of Duntreath; Jean or Joanna, another sister, married, first, Sir John Keith, eldest son of

the Earl Marshal,¹ and, thirdly, Sir James Sandelands of Calder; another sister, variously baptized by historians, married Sir David Lindsay of Glenesk, first Earl of Crawford; Elizabeth, daughter of Robert III., and Joan, 'the dumb lady,' daughter of James I., married successive Douglases of Dalkeith, the latter the first Earl of Morton; and Mary, daughter of James II., married, first, Thomas, Lord Boyd (cr. Earl of Arran), and, secondly, James, Lord Hamilton (cr. Earl of Arran). The son of her second marriage was James, second Hamilton Earl of Arran, Duke of Chatelherault, Governor of Scotland, and heir presumptive to the throne. The arms of the heirs of these Royal marriages do not bear the Tressure.²

While the Tressure in some arms thus indicates a Royal grant made on a marriage with a daughter of the Royal house, in others it is a grant out of the Royal favour on account of services, in Nisbet's phrase, 'to King and country.' The city of Aberdeen, which has had the honour of the Tressure for very long, dates its right from a grant on account of its loyalty by Robert I. The Tressure borne by Lord Napier in virtue of a sign-manual of King William III., dated 18th December, 1700, has given rise to some controversy into which it would be improper here to enter. King William's warrant, addressed to Lyon King-of-Arms, narrates that Lyon had stated to his Majesty, on behalf of Sir Francis Scott of Thirlestane, that he was convinced of the sufficiency of the evidence of a grant of the Tressure in favour of Sir Francis's great-grandfather, John Scott of Thirlestane, by King James V. in 1542, for his assistance to that King at the battle of Soutray Edge (otherwise Fala Road); but that, the principal writ being wanting, he, Lyon, was 'not at freedom to assign to the said Francis the double tressure as borne in our arms of Scotland.' The warrant continues that King William, 'being willing to gratify and honour the heirs and representatives of all loyal and valorous progenitors, and to bestow a mark on the said Sir Francis Scott for faithful services done and to be done by him to Us, therefore We hereby authorise and order our Lyon King of Arms, in our

¹ Her second marriage was with Sir John Lyon in 1376, the son and heir of which marriage omitted the ribbon by which his paternal arms had been debruised, and added the Tressure.

² The enumeration, though long, is not exhaustive.

said ancient kingdom of Scotland to add to the paternall coat of Arms of the said Sir Francis Scott a double tressure flowered and counter-flowered with flower-de-lis as in our Royal Arms of Scotland, and to give him crest supporters and other exterior ornaments as is above exprest, and as to him shall seem most proper.¹

The original special concession of James V. in the year 1542, a copy of which alone existed, refers to John Scott's loyalty and ready services 'at Sautra edge, with three score and ten launcieres on horsback,' and directs the Lyon Herald and his deputies 'to give and to graunt to the said John Scott ane border of fleure-de-lises, about his coatte of armor, sic as is on our royal banner, and alsua ane bun'ell of launces above his helmet, with thir words, *Readdy, ay Readdy*.'²

Douglas, Earl of Queensberry, who was created a Marquis, 11th February, 1682, received a warrant for a grant of the Tressure dated 20th April of the same year. John, fifteenth Earl of Sutherland, received a somewhat similar grant in 1718. In each case, as it was designed to grant the Tressure in its original tincture gules, and as the fields of these noblemen's shields did not make a red Tressure appropriate, a bordure or, on which the Tressure should be charged, was added at the same time. The same device was adopted in the case of the quartered coat of the Earl of Eglinton.

The red tincture of the Tressure is not always preserved, nor has its retention always been prized beyond suitability. The first Tressure granted to the house of Primrose was red. It was afterwards changed to gold. The Tressure is azure on the arms of the Earls of Strathmore and Lauderdale, and on those of Lord Napier. That of the Livingstones (Earls of Linlithgow, Callander, and Newburgh, and Viscounts Teviot) was vert. On the coats of the Murrays, Earls of Atholl, Annandale, and Dunmore, and on that of the Earl of Rosebery, as already said, the Tressure, metal on colour, is of gold. It was made silver on those of Murray, Earl of Annandale; Fleming, Earl of Wigton, and Lord Elibank.

¹ Riddell's *Tracts*, pp. 143-4. See also Nisbet, *Cadency*, p. 197; *Armories*, 140. The tressure may still be seen on the shield of his descendant and representative, Lord Napier (*Register of Arms*, 1810). For observations on this grant, see Napier's *History of the Partition of the Lennox*, p. 217, and Riddell's *Answer*, p. 79.

² Plate xxxvi., and see the *Lay of the Last Minstrel*, iv. 8.

Two branches of the house of Gordon, those of Aboyne and Aberdeen, have had grants of the Tressure with a difference in the flowering. That of the Earls of Aboyne, recorded in 1672-6, was 'flowered with fleur-de-lis within and contra crescents without,' while in 1683 the Earl of Aberdeen received the augmentation 'flowered and counterflowered interchangeably with thistles, roses, and fleur-de-lis.'

Modifications for the mere purpose of diminishing the honour of the grant have been made occasionally. Sir James Hamilton of Finnart received a single Tressure from King James V. The grant bears that the King, actuated by various motives, dispensed with the baton which till then had surmounted Sir James's arms, and granted him 'another mark of difference,' namely, a single Tressure argent to be drawn forthwith near by the circumference of his shield, powdered (*consitum*) with silver lilies placed contrariways (*contrapositis*) such as the King bears double, but of a different colour, in the Royal Arms, in the manner in which he ordains the same to be painted in this charter.¹

Another modification, namely, of a double Tressure without any embellishment, was granted by the same King, on 8th January, 1539-40, 'as a difference,' to William Hamilton of Sanquhar and his heirs of entail.²

The Register which provides us with the last-mentioned examples records a special augmentation consisting of a different part of the Royal Arms made just ten years earlier to William Hamilton of M^cNaristoun,³ apparently the same Hamilton who afterwards obtained the plain double Tressure, for he possessed Sanquhar. He then received 'one point and part' of the King's Arms, namely, on a chevron or, two lion's gambes, gules. The Royal colours were thus preserved, but not much else. A humbler dole recognizably from

¹ *Great Seal Register*, 13th January, 1530-31, No. 983 (xxiv. 21 and 106). We have not seen the charter.

On 24th October, 1529, King James had granted a similar single Tressure or, and letters conferring the rank of a gentleman in Scotland, to Nicholas Canivet of Dieppe, Secretary to the Duke of Albany. *Great Seal Register*, No. 858 (xxiv. 263).

² *Great Seal Register*, No. 206 (xxix. 47). The case was somewhat similar to Hamilton of Finnart's: the charter at the same time dispensed the grantee and his natural son and brother from carrying any longer 'the bar' on their arms.

³ *Great Seal Register*, 11th January, 1529-30, No. 893 (xxiii. 138).

the Royal Arms could scarcely have been devised. An augmentation of the lion's head is of a very different order. It was borne during the lifetime of David II. by his grandson Robert Stewart, afterwards Robert II.¹

Stirling of Glorat received two augmentations to his paternal arms, namely, a Tressure vert, and a chief gules charged with a naked arm issuing from a cloud from the sinister side, grasping a sword in pale, and guarding therewith an Imperial crown placed on the dexter point proper.²

In England, Richard II., after assuming the mythical coat of Edward the Confessor, namely, azure, a cross patonce between five martlets or,³ granted it as a mark of Royal favour to several of his great nobles—to Thomas Mowbray, Duke of Norfolk; Thomas Holland, Earl of Kent and Duke of Surrey. Henry VIII. similarly granted honourable augmentations containing parts of the Royal Arms to his several wives. That granted to Jane Seymour is still borne by the Dukes of Somerset as their first and fourth quarters, namely, or, on a pile gules between six fleurs-de-lis azure, three lions of England; their second and third quarters, for Seymour, are gules a lure, otherwise two wings conjoined in lure tips downward, or. The Dukes of Rutland, descended from Anna Plantagenet, sister of Edward IV., bear on their field, which is or, two bars azure, a quartered chief, namely, first and fourth, azure, two fleurs-de-lis of France, second and third, gules, a lion of England. The arms of the principal heraldic offices of England and Scotland participate in such marks of distinction. In those of Garter the Royal Crown and Garter is placed in chief between a lion of England and a fleur-de-lis of France. We have already referred to the Royal Crest of Scotland on the shield of Lyon.⁴

II. ARMS OF ALLIANCE.

Strictly speaking, arms of mere alliance may only be impaled, as those of a husband and wife. There is no such thing as inheritance of arms of

¹ Or at least till 1370.

² *Register of Arms*, 1672-7.

³ This heraldic fraud, not so venerable then as it has since become, he impaled with the Royal Arms, placing it on the dexter side.

⁴ Page 44.

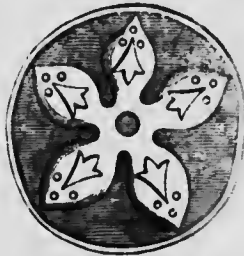
alliance,¹ nor of quartering them with the paternal arms, unless they may infer representation of the family they belong to. Originally even representation of the family was not made a ground of quartering its arms unless that representation was accompanied by a material inheritance or a claim to one.

In later times, when wealth and honour have ceased to be measured by extent of territories, and an actual heiress is not necessarily the possessor of a fief, the quartering of her arms has come to depend only on whether she is potentially an heiress or co-heiress of the succession of the person whose arms she may bear. Quartering of her arms now implies, indeed, not more than a blood representation of her family.

III. ARMS OF VASSALAGE.

Arms of vassalage are those received by vassals by special concession of their feudal overlords; and their origin is proved by their contents, namely, that with differences, these consist of their overlord's arms, to authorize the use of which was the prerogative of the overlord himself alone. Their object also was to announce the existence of the feudal bond between vassal and overlord, of service on the one hand, and the correlative protection on the other.²

As examples of this ancient custom, Camden refers to the fact of many Cheshire and Leicestershire families bearing the garbs (or wheat-sheaves) of the Earls of Chester, and the cinquefoils of the old Earls of Leicester. The same practice has largely prevailed in Scotland. Thus, in Annandale, the chief and saltire of the Laces



From the Seal of the Earl of Leicester ().

¹ One apparent exception—what is called the genealogical achievement of probative quarterings, in which, up to the desired limit, all the arms of all the maternal ancestors, whether they are represented or not, are marshalled, with those of the paternal line, on the same shield, is not an exception, because it is not meant for the armorial bearings of the person whose achievement purely genealogical it is. His late Majesty King Edward's probative quarterings, set forth by General Wrothesley, numbered, if we are right, considerably over 6000.

² Sir George Mackenzie *contra*: *Heraldry*, chap. i. p. 3.

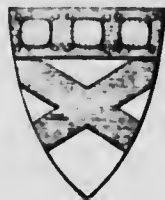
are carried (of different tinctures, and with additional figures) by the Jardines, Kirkpatricks, Johnstons, and other families. Macfarlane of that ilk and Colquhoun of Luss are perhaps come of the ancient Celtic Earls of Lennox, but at so early a date that the saltires in their arms were more probably assumed or granted afterwards as arms of vassalage than brought with them as arms of descent. In Renfrew, Ayr, and other counties where the possessions of the Stewarts were situated, a fess, a bend, or a chevron, *chequy*, forms a common bearing; such figures being carried by the Lords Sempill,¹ the



Bruce.



Jardine.



Kirkpatrick.



Johnston.

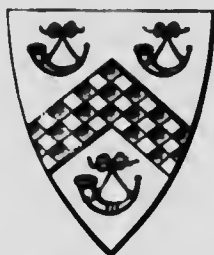
Houstons of that ilk, the Brisbanes of Bishoptown, the Halls of Fulbar, the Flemings of Barrochan, the Shaws of Bargarran, the Freelands of Freeland, and other families.² The lions of the old territorial Earls of Fife and Angus are frequently to be found in the armorial ensigns of families connected with the counties of the same names; while in Teviotdale and other parts of Scotland formerly possessed by the great House of Douglas, the star, or mullet, constitutes a pretty common bearing. Now and then, as in the arms of

¹ Argent, a chevron chequy gules and of the first, between three hunting-horns sable garnished of the second. (Register, 1672-7.) We advert to the fess chequy of Lindsay and Boyd on page 305.

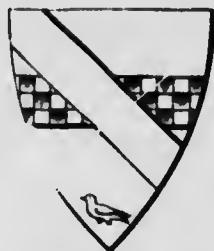
² According to Nisbet, Shaw of Bargarran carried, azure, a fess chequy, argent and gules, between three covered cups, or. The fess, however, does not appear in the coat of arms on the papers enclosing the thread manufactured by Lady Bargarran and her daughter, in the year 1725 (see Chambers' *Domestic Annals of Scotland*, iii. 511). Of the other families here specified, the Semples, Houstons, and Brisbanes carried a *chevron chequy* (varying in its tinctures) between three bugle-horns, three martlets, and three cushions respectively; the Freelands a *bend chequy* between two bears' heads (*Proc. of the Soc. of Scot. Antiq.* ii. 319); and the Halls a *fess chequy* (or and gules) between three cranes' heads. The Flemings of Barrochan, unlike the Flemings of Cumbernauld who bore a chevron, also bore a fess chequy surmounted by a bend, with a martlet in base, but the colours are unknown (Nisbet's *Heraldry*, i. 153).

Stevenson of Hermischiel and his cadets, real or supposed, the Douglas chief appears complete, save at times in its tinctures.¹

Nisbet styles these 'Arms of Patronage,' and classes with them some arms of which we have but a few examples in Scottish practice : these are the arms of the patron of a benefice, borne by the presentee, or those of, say, the founder of a college, borne by the college. Of these last arms the shield of Marischal College, Aberdeen, for example, quartered the arms of Keith, Earl Marischal, with a tower for the city of Aberdeen. The shield



Lord Sempill.



Fleming of Barrochan.

of the present united University of Aberdeen impales these arms dimidiated with the symbolical quarter of King's College and the arms of Bishop Elphinstone. The shields of the Colleges of the Universities of Oxford and Cambridge also afford illustrations. Thus Balliol College bears gules an orle argent, the arms of Balliol.

IV. ARMS OF DOMINION AND OFFICE.

Arms of sovereign dominions have, some of them, been of the same nature, *i.e.* arms of dominion, in their origin ; thus the Royal Harp of Ireland, azure, a harp or, stringed argent ; the arms of the British Dominions beyond Seas ; and of the United States of America. Others have begun

¹ There is some ground for the theory that Stevenson of Hermischiel, in Midlothian, was an early cadet of Stevenson of Stevenson, a place, 'albeit not great,' near Hamilton ; but more than one undoubted west-country family of the name has been treated armorially as if it was a cadet of Hermischiel, whereas it was more probably descended from the parent house through cadets who have remained in the west. The arms of the original line, as given by Sir James Balfour at 1630, were or, three falcons' heads proper.

as the personal arms of a King. The Royal Arms of Scotland began, in this way, as the personal arms of a King of Scots, namely, the arms which suited the sentiment of King Alexander II., or perhaps his predecessor, William the Lion. When the year 1292 arrived they were so far identified with the office of King of Scots that John Balliol, on succeeding to that position, placed them on the reverse side of his seal. Robert the Bruce, on reaching the throne, placed them alone on his seal, and abandoned his paternal arms of Bruce altogether.¹ The houses of Stewart and Stewart of Lennox and the house of Orange followed the same course,² and the houses which since have reached the throne of Great Britain have recognized Alexander II.'s arms as the settled Royal Arms of Scotland. Similar abandonments of arms and the adoption of the arms of former Kings have been seen in England and elsewhere.

Arms of Inferior Dominions. The earliest of these also began as the personal arms of the possessor of dominions, arms, in most or all cases, of assumption, and some of them, in addition, being arms of allusion to the fiefs themselves. Instances of these have thus been noticed already. But one or two may be added. The arms which the Comyn brought with him from England, in the twelfth century, and his descendant bore as Earl of Buchan, were azure, three garbs or.³ On the forfeiture of the Comyns, the earldom returned to the Crown. Robert II. granted it out, both lands and title, to his kinsman Alexander Stewart, 'the Wolf of Badenoch.' But no line of earls had any continuance till the earldom came into the house of Erskine, in whose possession the title now is. It returned to Robert III., James I. and James II., and by each of them was granted out again. None of their grantees derived their rights from the Comyns, yet all in their turns have borne the Comyn arms as the feudal arms or arms of dominion of the Earldom of Buchan. Alongside of them, since the grant of the

¹ The *Gelre Armorial* shows that the arms of Bruce were retained on the capeline of Robert II. Plate xii.

² William of Orange, as an elected monarch, placed his own arms of Nassau on them, on an inescutcheon.

³ Macd. 578, 582.

earldom by James II.,¹ the house of Seton has quartered the same as arms of pretence, an assertion of a right of blood which had been ignored by that King.

Similarly, the feudal arms of the Earldom of Atholl, paly of six or and sable, borne by the Duke, are the arms of the former Celtic Earls; and there are the saltire and chief of Annandale, the galley of Lorne, and others.

Of feudal arms, created originally as such, we have the coat, argent three roses gules, borne by the Duke of Montrose; the arms of the Earldom of Winton, azure, a star of eight points within a Tressure or; the sun in his splendour, the arms of the Earldom of Lothian, which the Marquis quarters with those of his Earldom of Jedburgh, etc. These arms may be said to be usually arms of concession, general or special, according to circumstances.

Arms of Pretension are classed by Nisbet apart from those of possession. We have just noticed that the arms of Buchan were assumed as arms of pretension by the house of Seton. The Lord Erskine who was killed at Flodden, and his son and successor, bore the arms of the Earldom of Mar as arms of pretension. The most famous instance of arms of pretension, in at least British heraldry, is, of course, the arms of France borne quarterly by the Kings of England, and even by the Kings of Great Britain till 1801.

Arms of hereditary personal office have a famous exemplification in the heraldry of Scotland in the case of the High Stewards, who left their paternal arms and adopted, or were assigned, arms allusive to their office of Steward; the fess chequy being understood to symbolize the Steward's chequered table—the table used for *checking* the amounts of his moneys. As another instance, we may cite the anchor in the shield of the Earls of Bothwell, High Admirals, and in a minor rank, the hunting horns of Forrester and Hunter are arms of the same class.

The arms of offices held for a life or less bulk little in Scotland, few offices besides that of Lyon, mentioned on an earlier page, having arms. Before the Reformation there were no arms of ecclesiastical houses or benefices. Between the Restoration and the Revolution arms were assigned

¹To his half-brother James Stewart, son of his mother, Queen Joan, and her second husband, the Black Knight of Lorne.

to several of the bishoprics which then existed by law. Who, if anyone, since the Revolution Settlement have right to those arms has, so far as we know, never been decided. Such arms, when worn, are usually worn impaled with the official's personal arms, those of the office being in the dexter side of the shield. An official does not impale his wife's arms and his arms of office on the same shield. Official badges of office in Scotland are usually only of the nature of external ornaments, as the sword and mace of the Justice General, the sword of the Justiciar of Argyll, and the wand of the Great Master of the Household, the batons of the Great Constable, and Lyon.

V. ARMS OF DIGNITY.

The badges of the Baronets are of the nature of arms of dignity. They are borne as complete and separate arms, on an escutcheon or a canton, save when a Baronet of Scotland places his in a badge pendant on his 'orange tawny' ribbon below his shield.¹

The cross of St. John, gules, a cross argent, which was the arms of the Hospitallers, the Order of St. John of Jerusalem, and which was placed as a chief on the knight's shield, is to be seen in the arms of at least one of the Preceptors of Torphichen. It is seen thus on the seals of Sir Walter Lindsay² and Sir James Sandlands,³ and in the arms of the former in Sir David Lindsay's *Armorial*.⁴ By the statutes of the Order of St. John of Jerusalem in England, the Knights of Justice of the Order are entitled to place on their shields a chief of St. John as it is now prescribed to be worn, namely, gules a cross argent embellished in the angles with alternate lions and unicorns or.

¹ These arms are on the Arms of Scotland counterchanged, and thereon, the Royal Arms of Scotland, the first shield being ensigned with the Crown of Scotland. In the case of the canton, however, the crown is placed on the Royal shield. The arms of the other Order of Baronets are argent, the sinister hand, gules of Ulster.

² Macd. 1681.

³ Macd. 2364-6.

⁴ Lindsay MS., fol. 75a.

CHAPTER X.

METHODS OF DIFFERENCING THE ARMS OF CADETS.

ONE of the principal heraldic duties of the Lyon King-of-Arms is to assign suitable marks of difference to the Cadets, or younger branches, of families having a right to armorial bearings. Like the rescinded Act of 1662, the later statute of 1672 makes special reference to the fact of many of the lieges who were entitled to bear arms having unlawfully assumed, 'without distinctions,' the ensigns of the heads of their families; and for the purpose of enabling the Lyon to distinguish the bearings of such persons with 'congruent differences,' makes special provision for the transmission of authenticated certificates of their descent.

The first work of the laborious Nisbet to see the light was a separate treatise on the subject under consideration, entitled *An Essay on Additional Figures and Marks of Cadency, showing the ancient and modern practice of differencing Descendants, in this and other Nations*,¹ a subject to which he returned in an elaborate chapter in his larger work. 'Tis the most intricate part of the science,' he declares to the reader of his *Essay*. Towards the commencement of the volume, he introduces the following advice of the learned Camden, Clarenceux King-of-Arms in England: ² 'No Gentleman ought to bear the differences in Armories otherwise than the office of Armorie requireth, and when younger brethren do marry, erect and establish new Houses, and accordingly do bear their Arms with such a distinction and difference that they might be known from the families from which they are descended, the King-of-Arms ought to be consulted withal, and such differences of Houses are to be assigned and established by his

¹ Edinburgh, 1702.

² Camden's MS., per Dugdale, *Ancient Usage*, p. 50.

privity and consent, that so he may advise them best and keep record thereof; otherwise Gentlemen, by taking unfit Brisures,¹ may either pre-judge themselves or the principal Houses they are come of.' 'This advice,' adds Nisbet, 'is congruous to our law, and consonant to the principles of prudence and reason; and I wish from my heart that our gentry may take more heed to this than hitherto they have done, and may apply to the Lyon Office for suitable differences, and not assume them at their own hand, or by the advice of some presumptuous sciolist, whereby oftentimes their posterity suffer prejudice.'²

Of the numerous modes which have been adopted for distinguishing cadets, when they 'erect and establish new Houses,' the most common, and generally the most satisfactory, is the alteration of the boundary lines of an ordinary if one is present, or the assumption of conspicuous and *permanens* additional figures. These must not be confounded with the minute marks of cadency—label, crescent, mullet, etc.—termed *differentia consanguineorum*, which were invented for the purpose of being assumed by a man's sons, at their own hand, during his lifetime, in order to indicate their respective degrees of birth, and thereafter to be retained as their permanent marks of difference.³ The use of the latter, as perpetual and hereditary figures, although occasional among some of the most eminent families both in England and Scotland, has been very justly censured by

¹The French term for marks of cadency, from their *breaking* the principal arms of the family.

²*Essay on Marks of Cadency*, p. 15.

³Most of the old writers on heraldry have assigned a figurative import to these differences of consanguinity. According to them the *eldest* son carries a *Label* of three points, in the lifetime of his father, 'to signify that he is but the third person, his father being one, his mother another, and himself the third.' This cannot cover the case of a label with more than three points. So it was said that, in his grandfather's lifetime, his label had five points. Saer de Quincy's label on one side of his seal had seven points, and on the other eight (see plate viii.). The *Boke of St. Albans* (A.D. 1486) details a system of differences observed, it says, by 'diverse noblemen.' The eldest son has some small difference, as a little mullet or cross crosslet, or more probably 'a moon encresyng,' as he is in hopes of increasing his patrimony; the second son has a label of three points to show that he is the 'thrid that baris thos armys,' the third son has a four-pointed label, and so on, and these labels descend to their respective sons, their younger sons enclosing their arms thus differenced within bordures plain and partitioned. From the *Roll of*

various heraldic authorities, including Dugdale, Spelman, Mackenzie, and Nisbet. Dugdale observes that these minute differences do not show the time of the descent; 'neither can it be known,' he says, 'which of the crescent-bearers was the uncle or nephew. And further it is a very usual

Caerlaverock we learn that at the siege of that place (1300 A.D.) Maurice de Berkeley bore a banner gules crusilly charged wit' a chevron argent,—

'Ou un label de asur avoit,
Por ce que ses peres vivoit.'

Among others similarly noticed in the Roll was Patrick of Dunbar, afterwards ninth earl of that title, who was present with his father, the eighth earl, and bore his father's arms (gules a white lion within a brodure of the second charged with roses of the field) differenced by a label of blue.

According to the same writers whom we have alluded to, the *second* son has a *Crescent*, to show that he should increase the family, by adding to its estate and repute; the crescent being, in the words of Camden, 'the double blessing, which giveth future hope of increase.' The *third* son carries a *Mullet*, or spur-rowel, 'to incite him to chivalry.' The *fourth*, a *Martlet*, a bird represented without feet. The martlet, now known as the swift, was said to have no feet, which was the explanation of its difficulty in starting on the wing from the ground. It was chosen 'to signify that as that bird seldom lights on the land, so younger brothers have little land to rest upon, but the wings of their own endeavours.' The *fifth*, an *Annulet*, or ring, to encourage him 'to achieve great actions, the badge whereof was, in old times, *jus aureorum annulorum*.' The *sixth*, a *Fleur-de-lis*, 'to put him in mind of his Country and Prince.' The *seventh*, a *Rose*, to make him 'endeavour to flourish like that excellent flower.' The *eighth*, a *Cross-Moline*, or anchoring cross, to remind him 'to grip when he can fasten, seeing he has nothing else to which he may trust.' The *ninth*, a *double Quatrefoil*, 'to express that he is removed from the succession by eight degrees.'



Modern heralds generally agree in the opinion that, except in the case of the Royal family, *daughters* should not carry any marks of difference, the reason being, according to Sir George Mackenzie, that as they succeed equally, and are heirs-portioners, such marks are not required (*Science of Heraldry*, chap. xxi. p. 75). But to carry the paternal coat without a mark of difference is a privilege, and cannot be turned into a disability in any case in which it may be heraldically convenient to a coheires or to any unmarried daughter to bear her

matter for every new riser at this day, if he can find that there is any of the like surname that beareth mark, presently to usurp the same with a crescent or some such difference, so that (for my own part) I do seldom credit such kind of differings or their bearers, unless it be by some other testimony, or proof made manifest, which cannot be counterfeited so well in the other device, except the riser should be thoroughly acquainted with the descent of him whose line he seeketh to intrude himself into.¹ In like manner, Mackenzie, who in 1680 traces the system from a French origin, but says it has been abandoned in France,² urges various objections against the use of the figures in question as permanent marks of difference, particularly in the case of certain arms in which crescents and fleurs-de-lis constitute the proper charges; and he condemns the practice as having confounded all the ancient coats and filled our escutcheons 'with more crescents and mullets than are in the Arms of all Europe besides.' Though English arms, referred to here by Mackenzie as if one with those of Scotland, have been the more deeply marked of the two by the practice in question, it has been more or less in use in Scotland for a considerable time. In 1672-7 the Harden coat was recorded in favour of Scot of Haychester with the difference of a crescent, Thirlestane with a martlet, Wall with an annulet. Lyon himself (Sir Charles Erskine of Cambo) took the Erskine arms with a crescent. But

arms with a difference. In 1558 the shield of Elizabeth Hay, sister to John, fourth Lord Hay of Yester, bore the three escutcheons of Hay with a star at the fess point (Macd. 1302). In any case, the arms which a woman is thus entitled to are those of her father, including, of course, any difference which pertains to them.

Only the label is used as a mark of distinction by the members of the Royal family, being carried by both sons and daughters, and itself charged for difference, except in the case of the Prince of Wales, who bears the label plain. *White* is the ancient tincture of the Prince's label. John, Earl of Carrick, afterwards Robert III., bore a label of the Stewart chequers (plate xii.). If we may judge by the *Rolls of Caerlaverock* and the *Herald Gelre*, the general custom was to choose a label of a tincture which would contrast strongly with those of the shield it was to be placed upon.

¹ *Usage of Arms*: Banks' edition, p. 75.

² The French system, detailed by Sir John Ferne (*Glory of Generosity*, A.O. 1586, p. 151), is that the second brother has a 'file with lambeaux' (i.e. has a label): the third 'hemmeth in his coat armour with the bordure of one colour': the fourth has a 'brodure chequie of two colours': the fifth 'useth the brodure indented': the sixth 'must have his bend in devise (as they call it)' (i.e. must have a bendlet): and the seventh must wear 'a fesse.'

crescents and mullets used for differences are not all of this category; the mullet or star in the dexter chief of the Regent Albany's shield (1374 A.D.) is probably one of the stars of Muir of Rowallan, the house of his mother.¹

The system of larger and permanent differences, once the universal rule, has continued, however, to be the general rule in Scotland. Both in England,² on the occasion of a new grant to a cadet, and in Scotland, on a cadet matriculating, some substantial alteration is almost invariably made upon the escutcheon carried by the head of the family; but the principles upon which heralds have acted have been very various. Sir



Dundas of Dundas.



Dundas of Arniston.

George Mackenzie comes to the conclusion that, with the sanction of the proper authorities, every person ought to be allowed 'to take what mark of distinction can best suit with the Coat which his Chief bears.'³ When armorial bearings first became hereditary, the differences adopted were more definite and distinct than at a later period; and if some more adequate system had been followed in the differencing of arms during

¹ *Science of Heraldry*, chap. xxi. p. 72.

² For some curious examples of English differences, see Dallaway's *Heraldry in England*, pp. 129 and 379; also Lower's *Curiosities of Heraldry*, Appendix A. See also 'Ancient Modes of Differencing' in *The Herald and Genealogist*, ii. 31.

³ The rule is generally admitted. The late Mr. R. R. Stodart, Lyon Clerk, devised a system of differencing which could be carried out through a number of generations of a widely ramified family, by means of bordures which vary in tinctures, boundary and partition lines and charges; but it is not applicable to coats originally bordurless.

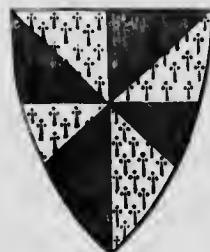
the development of the science, heraldry would unquestionably have proved a proportionately more valuable handmaid in the pursuit of genealogical and historical investigations. Even as it is, however, armorial ensigns have been of no little service in such researches) and we have already referred in the introductory chapter to some striking examples of their utility in matters of pedigree.

(The following modes of distinguishing cadets are adopted in Scottish heraldry, though some of them, it must be acknowledged, have not met with the approbation of either Nisbet or Mackenzie :

1. By changing the tinctures of the field or of the principal charges.
2. By giving accidental forms to the principal figures.
3. By altering their position.
4. By altering their number.
5. By change of part of the charges.
6. By altering the character of the boundary lines of ordinaries and subordinaries.
7. By addition of new charges.



Campbell of Argyll.



Campbell of Loudoun.

1. By *changing the tinctures* of the field or of the principal charges. Thus, the Earl of Loudoun converts the *or* and *sable* gyrons of his chief, the Duke of Argyll, into *ermine* and *gules*¹—the first of his family, in the reign

¹ After blazoning these arms as in the text, in the first edition of this work, Mr. Seton was persuaded that he ought to have begun with the gyron on the dexter side, bounded by the line in bend and the fess line. See first edition, pp. 96 and 453. His original blazon, however, was, as we think, correct, and we adhere to it.

of Robert the Bruce, having married Suzanna Crawford, heiress of Loudoun, whose bearings were *gules* a fess *ermine*. In like manner, the family of Home place the white lion rampant of the old Earls of March, from whom they are descended, on a *green* instead of a *red* field. As examples of change of tincture in the case of the principal charges, two instances may be cited. The paternal arms of the House of Hamilton are *gules*, three cinquefoils *ermine*, while several branches of the family make the cinquefoils *argent*. Again, the original bearings of the surname of Shaw are *azure*, three covered cups *or*, which Shaw of Sornbeg alters to *argent*, besides placing three mullets in fess. The case of the black and the red maunches of the two branches of the English house of Hastings must occur to the mind here.¹ The simplest mode of altering the tinctures is that termed *counterchanging*. It is naturally more applicable to coats of two tinctures than to others, as it consists in taking the tincture of the charge for the field and that of the field for the charge. The method was adopted as early as the end of the twelfth or beginning of the thirteenth century, when the Knights Templars hived off from the parent Order of the Hospitallers, and instead of the red surcoat of the Hospital with its white cross, assumed a white surcoat with a red cross. The ancient arms of Hay of Erroll, chief of his house, *argent* three escutcheons *gules*, were borne counterchanged by Hay of Bourne—*gules* three escutcheons *argent*.² A partial measure of counterchanging is adopted at times, usually where the branch is far removed from the main stem, as in the case of a cadet of a cadet. It consists in dividing the shield of the principal family into, for example, two, by one of the recognized lines of partition, and counterchanging the tinctures of the field and bearings of the half so divided off, so that the rule is adhered to, that metal should not rest upon metal, nor colour upon colour.³ Accordingly,

¹ The black maunch, *sable* on *argent*, is the paternal cognizance of the present Earl of Loudoun.

² Lindsay's *Register*, f. 110.

³ The most famous case of the intentional violation of this general rule occurs in the insignia of the kingdom of Jerusalem, established by the Crusaders, which are *argent*, a cross potent between four plain crosslets, *or*. The crosses are supposed to symbolize the five wounds of our Saviour, and the peculiarity of the blazon is said to bear allusion to Ps. lxxviii. 13. The arms of the Spanish Inquisition—*sable*, a cross, *vert*—afford another example. Such

Laurence Oliphant, Writer to the Signet, descended from a second son of Oliphant of Gask (a cadet of Lord Oliphant),¹ carried party per fess, gules



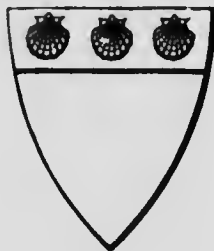
Laurence Oliphant, W.S.

and argent, three crescents counterchanged—the two crescents in the upper half of the shield being silver on a red field, and the single crescent in the lower half being red on a silver field, while the principal arms of the surname, as already mentioned, are three silver crescents on a field entirely red.

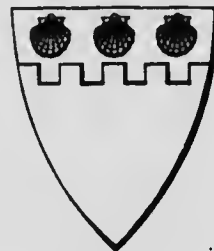


The Earl of Panmure.

Like chevrons and bordures, however, counterchanged bearings do not necessarily indicate cadency. Thus, the Earl of Panmure, Chief of the family of Maule, carried party per pale, argent and gules, on a bordure eight escallops, all counterchanged; and, in like manner, the arms of Lord



The Graham.



Graham of Meiklewood.

Nairne were party per pale, sable and argent, a chaplet charged with four quatrefoils, similarly counterchanged.²

2. A second mode of distinguishing cadets is by giving *accidental forms*

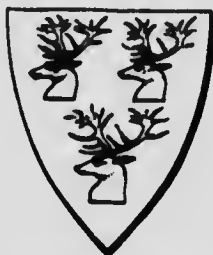
been termed 'armes pour enquérir,' as being intended to excite inquiry into the cause which prompted a deviation from ordinary practice. It is more probable that it was thought that the cases were too exceptional to be satisfied under ordinary rules. The rule, however, was not thought so sacred in early times as now. Dugdale cites honourable cases of its disregard. *Antient Usage* (1682 ed.), p. 44.

¹ For Lord Oliphant's coat see below, p. 294.

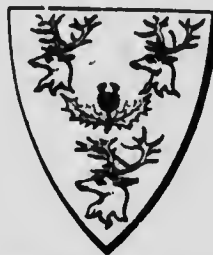
² The bearings of the poet Chaucer were party per pale, argent and gules, a bend counterchanged.

DIFFERENCE IN FORMS OF BEARINGS 287

to the principal charges. Where natural figures—such as the heads or limbs of animals—are carried as armorial ensigns, their forms are sometimes altered and modified by the cadets, by means of coupling or erasing, *i.e.* cutting off in a straight line, or tearing away so as to leave a jagged edge. Accordingly, while the boars' heads, or, which are the cognizances, on an azure field, of the house of Gordon, are borne coupé by the chief, and therefore now by the Marquis of Huntly and most of the branches of the family, they are borne erased by the Gordons of Lochinvar (Viscount Kenmure) and most of their cadets, such as Earlston and Carlton; also by Gordon of Lesmore and his cadets, Birkenburn, Terpersy, etc.; by Edinglassie Knockaspack and others.¹ It appears from Pont's MS. that Porteous of



Porteous of Halkshaw.



Porteous of Craiglockhart.

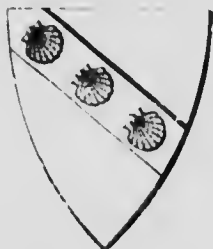
Halkshaw carried azure, three stags' heads, *coupé*, argent, attired with ten tynes, or; while the arms of George Porteous of Craiglockhart, 'one of his Majesty's Herald Painters,' are thus blazoned in the Lyon Register: On the same field (azure), a thistle between three bucks' heads, *erased*, or. It is very doubtful if the change from the coupé to the erased heads would have been sufficient as a difference without the addition of the thistle.

3. Cadets are also distinguished by *altering the position of the charges* borne in the paternal arms. Thus, as early as the time of the historian, Andrew of Wyntoun, the stars of Moray and Douglas, albeit differently placed, were thought to indicate a common origin.² Menteith (*i.e.* Stewart) of

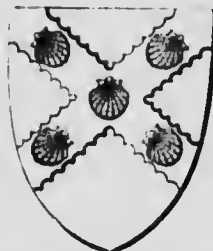
¹ Nisbet, *System*, i. pp. 315-7; Paul, *Ordinary*, pp. 236-239.

² Off Murrave and of the Dowglas
How that thare begynnyng wes,
Sen sindry men spekis syndrely,

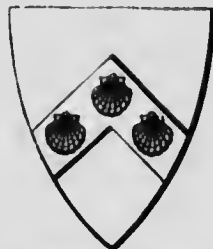
Rusky altered his paternal fess chequy into a bend chequy, and changed the chequers from azure and argent.¹ Lindsay of Rossie bore a star in his dexter chief, which his cadet, Lindsay of Dowhill, removed to the middle of his chief.² The rose gules barbed vert, which Scott of Galashiels places for difference in chief, the Scotts of Harden, Thirlestane, and Wall place in the sinister chief point, the two last surmounting it with a martlet and an annulet respectively. The escallops, or shells, which constitute the bearings of the House of Pringle, are carried



Pringle of Burnhouse.



Pringle of Whytbank.



Pringle of Clifton.

by the earliest recorded members of the family on a *bend*.³ They are registered for the Pringles of Galashiels (afterwards of Whytbank) and Torwoodlee as carried on a *saltire*, and by the families of Clifton and Haining as on a *chevron*.⁴ Again, the Scotts of Bevelaw and the Leslies of

I can put it in na story.

Bot in thare armes baith thai beire

The sternis nocht set in lik manere ;

Till mony (ony : MS. Cott.) men at yit is senne

Apperand like as thai had bene

Off a kyne be decens lynyall,

Or be branchis collateral.

Wyntoun *Chronicle* (A.D. 1395-1413). Wemyss text, chap. cxi., ll. 1417-1426. Cott. MS. Bk. viii. chap. vii.

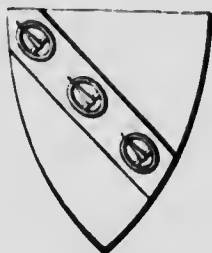
¹ See the bend chequy on plate ix.

² See plate xxxvii.

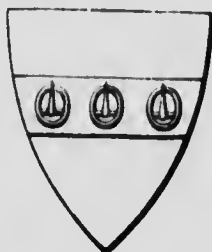
³ Macd. 2214-18. The only difference which they indulged in was the bend sinister. Macd. 2219, 2220. It conveyed no suggestion of bastardy.

⁴ Sir David Lindsay, p. 91, gives the arms of Pringle of Burnhouse—argent on a bend sable three escallops of the field. While the Pringles of Whytbank bear five *gold* escallops on a *black* saltire, the family of Torwoodlee carry the same number of *silver* escallops on a *blue* saltire

Balquhain converted the bend carried by their respective chiefs into a *fess*, without any other addition or alteration, charging the fess with the figures which occupy the bend in the principal arms. Numerous systematic illustrations of this mode of differencing, afforded by the cases of the families of Clifford and Cobham, for example, are furnished by writers on the heraldry of England.



Leslie.



Leslie of Balquhain.

The practice of *transposing* quarters, as a way of differencing cadets, prevails to a considerable extent in Germany, but is of comparatively rare occurrence either in France or the United Kingdom. It is strongly objected to by Nisbet, on the ground of its 'prejudging [prejudicing] principal families,' and disturbing the 'precedency due to arms.' The reason, however, is not so good as the practice is bad, for the principal family may at any time desire to transpose its quarters itself, as families have occasionally done.

—the latter charge being engrailed in both cases. The Pringles of Stichel, on the other hand, do not use any of the ordinaries—their bearings being simply azure, three escallops, or. Clifton's arms registered in 1693 were azure, on a chevron argent, three escallops of the first. Haining's difference from Clifton, assigned him in 1731, was that his chevron was made ermine.

The escallop shell is the well-known badge of a pilgrim, from which word (*Peregrinus*, *Pellegrino*) the surname of Pringle has been traditionally derived.

'Give me my scallop-shell of quiet ;
My staff of faith to walk upon ;
My scrip of joy, immortal diet ;
My bottle of salvation ;
My gown of glory (hope's true gage) ;
And thus I'll make my pilgrimage.'

—Sir Walter Raleigh.

Towards the middle of the thirteenth century, Pope Alexander IV. prohibited, it is said, all but pilgrims who were truly noble from assuming escallop shells as armorial ensigns.

In the case of a cadet who inherits a quartered coat, and uses it with a difference, the difference must be one which in character or place affects the whole coat. Thus, if a bordure, it must surround the whole arms; if a charge such as a crescent, it must be placed so as to surmount actually or constructively the whole quarters. Walter Lindsay of Edzell, second son of David, third Earl of Crawford, used, A.D. 1457, his father's quartered coat with a star added at the fess point.¹ From the position chosen for the difference it affects all the quarters. The bordure, quarterly, gules and sable, registered in 1672-7 for Colonel Henry Gordon, has the same office: it surrounds the whole coat.² But the grants of coats to cadets of the noble house of Graham of Montrose and their descendants have not always observed the rule so successfully. The Grahams of Braco, Orchill, and Killearn, for example, have severally been granted the quartered coat of their chief (one and four: or, on a chief sable, three scallops of the first for Graham; two and three: argent, three roses gules, for the title of Montrose), with additions of various kinds on one or another quarter only. In the case of Braco, the difference affects the Graham quarters only—the Graham chief is engrailed.³ The Orchill shield is in the same case, save that the difference on Graham is effected by the addition of a boar's head on the field, instead of a variance in the line of the chief. Each of these coats reads as if the honours of Montrose belonged to a cadet house, assertions which it is unnecessary to combat, when Orchill and Braco, each heraldically claiming the honour, contradict each other!⁴

¹ Plate xxxvii.; Macd. 1672, 1673.

² Paul, *Ordinary*, 1325, 4815.

³ Lyon Register, 1672-7; Paul, *Ordinary*, 1323, 4813.

⁴ Even more indefensible is the shield assigned in 1714 to Graham of Killearn, the same who was Commissioner to his chief, the Duke, in the troublous time of Rob Roy. The house of Killearn represented, it may be observed, a fourth son born to the second Marquis of Montrose and his Marchioness, Lady Janet Keith, daughter of the third Earl Marshal. In the coat in question the first and fourth quarters are Graham undifferenced; the second and third, are argent, three roses gules, barbed, vert, on a chief of the second, three pallets or. Paul *Ord. of Arms*, 1327, 4816. As to his first and fourth quarters, Killearn had no right to them, save, at most, only when he marshalled them with arms of alliance, which he did not. His second and third quarters, taken alone, are the ensigns of a cadet of Keith, which he was not. If they are recognized as the arms of the title of Montrose with a difference, one can only say that the ensigns of an indivisible honour cannot be so treated.

The composed coat, constructed out of the quartered coat of the chief, is occasionally adopted by a cadet who otherwise might perpetuate his chief's arms with a difference. James Graeme, Solicitor-General, registered, in 1688, the coat which, with a bordure, was registered about the same time by Graham of Gorthy as descended from a cadet of Inchbrakie, who in his turn was a cadet of Montrose, namely,—or, three roses gules, on a chief sable, as many scallops of the field. The roses are here a mere allusion to Montrose: in the same way as the difference used by Inchbrakie was an allusion to the dike.

4. For the purpose of distinguishing cadets the practice of altering the *number* of the charges, either by way of diminution or increase, prevails to some extent among the French and other continental nations, but is of rarer occurrence in Scottish heraldry. In his *Jurisprudentia Heroica*, Christyn mentions the bearings of the House of Clermont Tallart, in



Turnbull.



Turnbull of Bedrule.

Dauphiny, viz. two silver keys, in saltire, on a red field, adding that the family of Chatto, as a cadet, carried only *a single key*, in bend. The principal house of Douglas bears three stars on its *chief*. Douglas of Dalkeith and Morton bears for difference two stars, changing at the same time the tincture of the chief from blue to red. On the other hand, according to Pont, the Scottish family of Sydserf, originally from France, carried argent, a fleur-de-lis, azure; while Sydserf of Ruchlaw appears, on the Lyon Register, bearing *three* of these charges on a similar field. In like manner, the ancient arms of the Turnbulls of Bedrule, and also of Minto, consisted of a single bull's head, erased, sable; but 'of late,' to use the language of

Nisbet, 'those of this name multiply the heads to *three*.'¹ There is an early seal of Guthrie of Kincaldrum, A.D. 1450, with four garbs on a shield which is parted per cross. Now Guthrie of Guthrie bears a single garb; the Guthries of Craigie and Kinblethmont, etc., three. James Guthrie, minister of Stirling, who was executed at Edinburgh in 1661, bore two.

5. A cadet's arms are sometimes differenced by the change of a charge in the paternal coat. Thus the bugle-horn which Lindsay of Kirkforthar took for his difference was abandoned by his cadet, Lindsay of Eaglescairnie, who substituted a gauntlet for it. The star borne by Lindsay of Dunrod in the base of his shield was changed for a bugle-horn by his cadet of Linbank and for a cinquefoil by the laird of Crossbasket.² The three buckles which were Lord Balmerino's difference from his father, Lord Elphinstone,³ were altered to three hearts by his son, Lord Coupar.

The method of altering a bend to a bend sinister or replacing an animal or animal's head by the same contourné was not infrequent in the heraldry of earlier times. The shield of George Abernethy (A.D. 1482), third son of Lawrence, the first Lord Abernethy, exhibits two of these expedients; not satisfied with adding a star at the fess point of his paternal shield, he replaces the lion and ribbon with a lion contourné and a ribbon sinister.⁴ Similarly, David Balfour, brother of Balfour of Bello, while adding a cinquefoil in the base of his shield, made the otter head of Balfour contourné.⁵

6. Another method of differencing is by altering the character of the boundary lines of ordinaries and sub-ordinaries. Thus, while the head of the house of Graham, the Duke of Montrose, bears for Graham or, three escallops of the same on a sable chief, the chief was borne invecked by Graham of Fintry;⁶ embattled by Graham of Micklewood already

¹ Sir George Mackenzie gives: 'Turnbull: Argent, a bull's head erased sable; Turnbull of Bedrule: Argent, three bulls' heads sable armed vert.'

² Plate xxxvii. The conspectus of arms contained in this plate, which, like a number of the other illustrations, appeared in the first edition, was prepared for Mr. Seton under the supervision of the late Earl of Crawford.

³ See below, p. 297. ⁴ Macd. 7. For Abernethy arms, see plate viii. ⁵ Macd. 78.

⁶ A.D. 1478. Plate xxix.; Macd. 1136. On some of the later seals of this family are present three piles, understood to be those of Lovell of Ballumby, and the invecking of the chief is not apparent. See page 287, note 1.

mentioned (1672-7), and engrailed by Graham of Braco (1672-7). While Oliphant of Bachilton received the arms of his chief with a chevron added,¹ Oliphant of Clasbainey, who was a cadet of Bachilton, was granted the arms of Bachilton with its chevron crenelated. He was thus clearly distinguished as a cadet of a cadet of the chief of Oliphant.

7. But perhaps the most usual method of differencing the arms of cadets is by addition, the method where practicable having the advantages of preserving the bearings of the paternal coat and introducing into it, if desired, a new element of meaning of special significance to the line of the cadet himself.

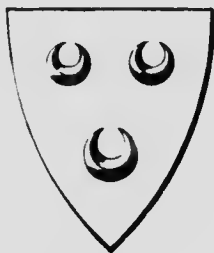
Heraldic charges are conveniently divided by some writers into two grand classes, viz. *proper* and *natural*—the former including what are termed 'Ordinaries' (pale, fess, bend, chief, chevron, etc.), and also 'Sub-ordinaries' (bordure, tressure, canton, etc.); while the latter comprehends all animate and inanimate objects, which are described by appropriate terms expressive of the manner in which they are represented, as well as of the position which they occupy in the shield. 'All these figures,' says Nisbet, 'whether proper or natural, are sometimes carried as *principal*, and sometimes as *additional*. By principal figures, we understand those hereditary fixed marks carried by the chiefs of families (which serve to distinguish chief families from one another), and are transmitted to all the descendants. By additional figures, we understand those, whether proper or natural, which cadets add, as marks of cadency and differences, to the principal, hereditary, fixed figures of the family, that they may be distinguished from the chief and from one another, which are called *differentiæ extraneorum*.'² Besides being marks of distinction these differences frequently accomplish a secondary object, by commemorating some honourable action, employment, or alliance, of which many instances occur in Scottish heraldry.

A very common mode of differencing cadets is by adding to the paternal arms of the family *one of the Ordinaries or Sub-ordinaries* already referred to, particularly the chevron or the bordure—of which numerous examples will

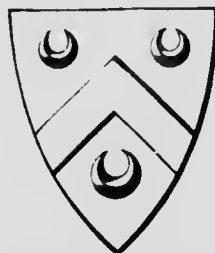
¹ See below, p. 294.

² *System of Heraldry*, vol. II. part iii. p. 17.

be found in the Lyon Register.¹ Thus, Oliphant of Bachilton placed a silver *chevron* between the three crescents of the same metal carried on his red shield by Lord Oliphant as head of the family, while Dundas of Arniston surrounds the red lion rampant on the silver shield of his chief, Dundas of that ilk, with an ermine *bordure*. In like manner the Earl of Aboyne, a younger son of George, second Marquis of Huntly, carried a chevron in addition to the paternal arms of Gordon (three boars' heads)—his motto being '*Stant cetera tigno*,' in allusion to the chevron, or *tignum* (which most heralds regard as representing the couplings or rafters of a building), and 'to show his descent from an established house.' Again, the Lundins of



Lord Oliphant.



Oliphant of Bachilton.

Auchtermairnie, descended from the Lundins of that ilk, bear the old arms of Lundin, viz. paly of six, argent and gules, on a bend, azure, three cushions, or, all within a bordure, indented, of the third.²

When the additional figures of this class are formed by *plain* lines, and are also of the *tincture of the principal figure* in the field and *uncharged* with other devices, they are supposed to indicate that the bearer either is, or

¹ Both the bordure and the chevron are occasionally carried as *principal* figures by the chiefs of families, as in the case of the old Earls of Dunbar and March, and the noble heads of the houses of Maule, Kennedy, and Elphinstone.

² The same arms, with the exception of the bordure, were carried by the Lundins of that ilk till the year 1679, when the following coat was specially granted to them by King Charles II. in commemoration of their descent from William the Lion: Or, a lion rampant gules, within the royal tressure, flory and counter flory of the last, all within a bordure, gobonated, azure and argent. For the Royal Grant authorizing the change in question, see Nisbet's *System of Heraldry*, i. 64.

represents, an immediate younger son of the principal family ; but if these charges are formed by *crooked* lines (engrailed, invected, indented or embattled), or are themselves charged with devices, descent from the third or fourth son is presumed to be implied. Here again such coats as those of Elphinstone are an exception. Lord Balmerino, whose chevron was charged with buckles (see below, p. 297), was an immediate cadet of the chief. In other words, the greater the variation of the additional figure from the simplest form in which it can appear, by means of these accidental forms, by being charged with other figures, or by being gobeated (*componé*), or divided by the partition lines (*parted per pale, fess, bend, etc.*), the further are the bearers usually supposed to be removed from the principal house.¹ A case in point is that of Oliphant of Clabainey just mentioned.

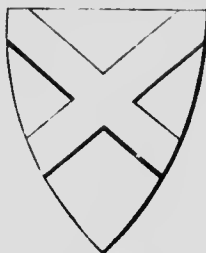
According to Dallaway, the *Ribbon* is a difference of very high antiquity. The Baston, now called a bendlet, was similarly used and of equal standing. The modern Baton, with which it is sometimes confounded, is of much later introduction. The former extends diagonally across the entire shield, from the dexter chief to the sinister base, while the latter is coupé at both extremities, and is generally, although not invariably, borne *sinister* ways—*i.e.* extending from the sinister chief to the dexter base, and is a mark of 'incomplete agnation.' The well-known example of the ribbon found in the old arms of Abernethy, as quartered by several distinguished Scottish families, where it surmounts or bruises a rampant lion, is certainly a difference, but whether a mark of cadency we do not know. The Bendlet appears to have been similarly used by Henry of Lancaster, second son of Edmund, Earl of Lancaster, second son of Henry III., on whose seal the three lions of England are debruised by that figure.²

Where one of the ordinaries is carried by the principal family, the younger branches not infrequently charge it with stars, animals' heads, leaves, and other figures. Thus Maxwell of Teyling bore 'a man's heart,'

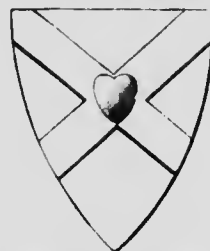
¹ Nisbet, *Essay on Additional Figures*, p. 81.

² It is called a baston in the *Roll of Caerlaverock*. His elder brother's arms at the siege were the three lions of England, with a 'label of France,' *i.e.* azure semé of fleurs-de-lis. Mr. Montagu engraves an interesting example (a fleur-de-lis surmounted by a bendlet) from one of the ancient tiles in the Abbaye aux Hommes at Caen.

or, on the paternal saltire, sable on argent, of his family.¹ Ker of Chatto's arms, now the 1st and 4th quarters of Scott Kerr, recorded 1672: gules, on a chevron between a crescent in chief argent, and a stag's head erased in base or, three mullets of the first, differs from those of Ker of Greenhead, recorded at the same time by having all within a bordure azure. The difference may also be placed on the field whether the shield contains one of the ordinaries or not.² Thus Maxwell of Lochrutton bore a saltire with a trefoil in base. While Dennistoun of that ilk bore argent a bend sable, Dennistoun of Colgrain is recorded in 1672-7 as having argent a bend



Maxwell.



Maxwell of Teyling.

sable between a unicorn's head erased in chief of the second, and a cross crosslet fitchée in base azure. On the other hand the engrailed bend gules which surmounts the Stewart fess of the house of Garlies (Earls of Galloway) is understood to be a part of the arms of the present house of Stewart of Bonkil, whose bend of the same tincture, but plain, was charged with the Bonkil buckles.³

In addition to the three bears' heads argent muzzled gules on an azure field of his noble chieftain, a *cross patty fitchée* or, is carried by Forbes of Craigievar; and, in like manner, Borthwick of Crookston formerly bore a

¹ Macd. 1914, and *Register of Arms*. The saltire is also the bearing of the Irish Fitzgeralds and of the English Nevilles. That of Fitzgerald is red upon a silver shield; but—

‘Upon his surcoat valiant Neville bore

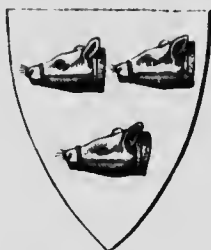
A silver Saltire upon martial red.’—Drayton's *Barons' War*, i. 22.

² A mode of differencing, termed ‘Gerattyng,’ was anciently in use in England, and to some extent in Scotland also. It consisted in *powdering* the field of the escutcheon with stars, crosses, and other small charges, of which nine different kinds are enumerated in the *Boke of St. Albans* (sig. b. iii.). See Planché's *Pursuivant of Arms*, p. 145.

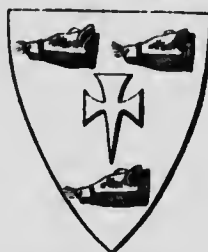
³ Nisbet, *System*, 1722, pp. 49, 50.

raven's head in the centre of the three cinquefoils which constitute the paternal ensigns of the name.¹

As already stated, in the adoption of heraldic differences, a second object is frequently attained at the same time by selecting as the difference a charge which is commemorative of some honourable alliance, action, or

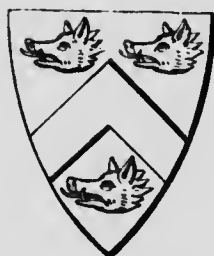


Lord Forbes.

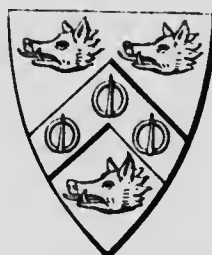


Forbes of Craigievar.

employment, or other special circumstance. 'Thus,' in the words of Sir George Mackenzie, 'the Lord Balmerino charges the chevron, which the Elphinstone carries, with *three buckles*, because his mother was Monteith and daughter to the Laird of Carse, whose charge these are ; and the Lord Coupar, brother to Balmerino, did charge the chevron with *three hearts*,



Lord Elphinstone.



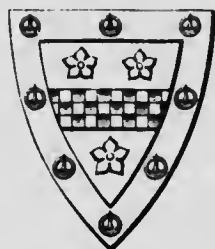
Lord Balmerino.

because his mother was daughter to Maxwell of Newark.'² Sir William Hope of Hopetoun, sixth son of the famous Lord Advocate, Sir Thomas

¹ The raven's head is on the authority of Pont and Workman, and forms a much more satisfactory difference than the crescent which is given in the Lyon Register.

² *Science of Heraldry*, chap. xxi. The arms of Elphinstone are argent a chevron sable between three boars' heads gules. The Balmerino buckles were or. Lord Coupar was the second son of the first Lord Balmerino, and brother to the second.

Hope of Craighall, married first, Anne, daughter and heiress of Robert Foulis of Leadhills, and second, Lady Mary Keith, daughter and co-heiress of William, seventh Earl Marischal. Thereafter John of Hopetoun, his eldest surviving son of his first marriage, bore the paternal arms of Craighall, azure, a chevron or bet ween three bezants, with a bay leaf slipped vert from the Foulis coat, on the chevron, while Sir William Hope of Balcomie, Baronet, the heir of the second marriage, charged his chevron with three pallets gules from the arms of Keith. Sir David Lindsay of the Mount,



Hamilton of Innerwick.
(According to Nisbet.)

the Lyon King, who had married a Douglas, differenced his shield with a heart in its base.¹ Nisbet informs us that when Hamilton, the earliest cadet of his house, married the daughter and heiress of Stewart of Cruxton, he placed a *fess chequy* between his three paternal cinquefoils, the whole of which was afterwards surrounded by a *bordure charged with eight buckles* for Diglay of Innerwick, with whose heiress came the lands by which this branch of the Hamiltons was thenceforth known.² In the same manner, the first of the Cockburns of Ormiston added the *chequered fess* of Lindsay to the family arms (argent, three cocks, gules), on account of his marriage to the daughter and heiress of 'Alexander de Lindsay, dominus de Ormistoun.'³

As an instance of a difference assumed by a cadet to perpetuate a noble action, we may mention the waggon placed by the Binnings of Easter-Binning on the engrailed bend carried by the chief of the name (Binning of that ilk), because in the time of King Robert the Bruce, William Binnock, their ancestor, assisted by seven or eight others whom he had concealed in a waggon of hay, surprised and took the Castle of Linlithgow from the English.⁴ The armorial ensigns of the Grahams of Inchbrakie,⁵ descended

¹ See plate xxxvii.

² Nisbet, *Essay on Marks of Cadency*, 216. The coat here described is probably later than that discussed above (page 164) in which he placed quarters for Hamilton and Diglay on the Stewart coat.

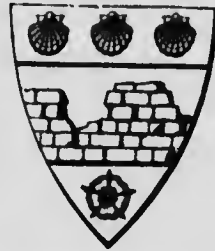
³ *Ibid.* 217.

⁴ Nisbet's account, *Essay*, p. 195, differs in details from that accepted by Lord Hailes (*Annals*). See Tytler's *History*, 3rd ed. i. 265.

⁵ 'Or, a wall fess-ways azure, broken down in some parts, in base a rose gules, on a chief sable, three escalops of the first' (*Register of Arms*).

from the house of Montrose, consist of a *broken dike*, or wall, fesswise (with a rose in base, in allusion to his descent from the main stem of the family), and three escallops on a chief (the family cognizance).

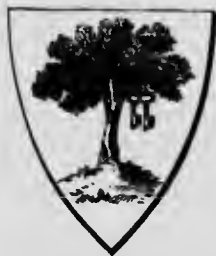
The dike has been adopted to commemorate the valour of a remote and probably mythical ancestor of all the Grahams, in making a breach in the wall erected by the Romans between the Forth and Clyde, which for ages bore the name of 'Graham's Dike.'¹ A fancied connection between the name of the place Inchbrakie and the break in the wall may have existed; but unlike the Easter-Binning waggon, the



Graham of Inchbrakie.

charge alluded to no valour of the laird of Inchbrakie in particular.

Allusions to honourable offices and employments occur in the escutcheon of the Bruces of Balcaskie, and in those of at least two branches of the family of Wood. Sir William Bruce of Balcaskie made the chief in his paternal coat *wavy*, 'to show his kindness to and his skill in the art of Navigation.'² In like manner, Wood of Balbegno added, for difference, *two keys* tied with strings to a bough of the paternal oak-tree, in reference



Wood of Balbegno.

to his office as Thane of Fettercairn; while Wood of Largo placed the tree between *two ships*, under sail, as Admiral to Kings James III. and IV.³ Patrick Hepburn, third Earl of Bothwell (suc. 1513), when created High Admiral of Scotland placed an anchor in the base of his shield.⁴

Sometimes the same family considerably varied the mode of differencing, of which a curious example is given by Nisbet in the case of the Setons of Cariston. 'The first of this family,' he says, 'was John, second son of George Lord Seton and his lady, Elizabeth Hay, daughter to John Lord

¹ See 'The Myth of Graem's Dike,' *Scottish Antiquary*, vol. xvi. p. 109.

² Mackenzie, *Science of Heraldry*, chap. xxi.

³ Nisbet, *Essay*, 202. The original arms of Wood of Boningtoun are azure, an oak or, on a mount proper between two cross crosslets of the second.

⁴ Macd. 1310, 1311.

Yester. He carried first, or, three crescents, within a double tressure counterflowered, gules; and for his difference, as a younger son of the House of Seton, charged one of the crescents with a *bezant*, as on the roof of Samson's Hall in the House of Seton: he married Isabel Balfour, heiress of Cariston, and their son George Seton of Cariston, laid aside the *bezant*, and placed in the centre of his paternal arms, between the three crescents, an *otter's head*, for Balfour, as in Thomas Crawford's MS. of blazons; and afterwards the family carried *quarterly*, first and fourth, Seton; second and third, gules, on a chevron, or, between two otters' heads, erased, in chief, and a fleur-de-lis in base, of the second, an otter's head, erased, of the first.¹

The *Label* (or *Lambel*), already referred to as a temporary mark of an eldest son, was the hereditary difference of some houses. On the arms of



The successive Coats of Seton of Cariston.

France, it was to be seen on the escutcheons of all the members of the house of Orleans, while the distinctive mark of the family of Anjou was a plain red bordure, which the Alençon branch charged with eight bezants argent by way of further difference. Nisbet mentions three examples of the label carried as a hereditary difference in Scotland, viz. Hamilton, Earl (now Duke) of Abercorn, Arbuthnot of Findowrie, and the house of a younger brother of Maxwell of Nithsdale, who married the heiress of Lord Herries.² The label is the charge appropriate to be borne by the heir male

¹ *Essay on Armories*, p. 108. For some time past, the representatives of this family have carried arms in accordance with the *second* of the above blazons, viz. an otter's head in the centre of the paternal arms of Seton.

² Nisbet, *Additional Figures*, pp. 36, 67-8, and see plate vi.

who is not the heir of line of his house, when the principal, *i.e.* undifferenced, arms have gone to the heir of line.¹ While the charge thus belongs to the Duke of Abercorn, who is heir male of the house of Hamilton, although the premier honours of the house are now in the house of Douglas with the heir of line, it does not appear in the exemplifications of his Grace's arms which are found in modern Peerages.

One case remains in which the paternal bearings are preserved and the arms of the cadet are yet distinguished. It is where the cadet marshals other arms with his own. Hay, Earl of Kinnoull, as we have seen, quarters the undifferenced coat of Hay of Erroll, and Hay, Marquis of Tweeddale, places it on an escutcheon surtout. These courses are questioned by some heraldic writers on the ground that the principal coat is not marked, but repeated entire as borne by the head of the family. The practice, however, is admitted by both Mackenzie and Nisbet, though on perhaps different grounds. 'Those cadets,' says the former, 'who have their arms quartered with other arms need no difference, for the quartering or impaling is a sufficient difference.'² Nisbet, on the other hand, declares that quartering is 'looked upon as a sufficient and regular brisure in the best of our families, and especially by second sons.' Mackenzie's view is probably the more correct. A more serious divergence of opinion exists between them on the question whether a second brother, when he differences himself by quartering another coat with his paternal arms, must always continue his father's brisure, he [the father] being a younger son of a principal family. Mackenzie thinks that he need not; Nisbet, on the other hand, is of opinion that he must, and that 'the clearest way to make known the descents of families by arms, is for them to retain the congruent differences of their progenitors, although they quarter with the coats of other families as their own particular difference.'³ It is to be regretted, on the whole, that Nisbet's rule in this matter has not been admitted, for the practice has been varied. The lion rampant of the ancient Earls of Fife,

¹ Nisbet, *System of Heraldry*, II. iii. 7, citing Dugdale, *Ancient Use of Arms* (second ed. 1682), 28. These authorities we shall quote at length when discussing the question of heraldic succession.

² *Science of Heraldry*, chap. xxi. 75.

³ *System of Heraldry*, vol. ii. part iii. pp. 21, 22.

and the gyrons of the house of Argyll, are borne quarterly undifferenced in the arms of numbers of persons who, at the best, represent only cadets of cadets of those great families. But as a rule, when the reason has appeared sufficient, the distinctive arms of more immediate ancestors have been preserved. Scott Kerr of Chatto and Sunlaws bears arms of Kerr and Scott quarterly, not, as by the doctrine of Mackenzie he might, the arms of the chiefs of Scott and Kerr; but, first and fourth, the arms which were registered as those of his ancestor Kerr of Chatto in 1672-7, when he bore a coat of a cadet of a cadet of Kerr alone, namely;—gules, on a chevron between a crescent in chief argent, and a stag's head erased in base, or, three mullets of the first (the arms of Kerr of Greenhead), within a bordure azure; second and third, or, on a bend azure, a mullet of six points between two crescents of the field and in the sinister chief point a rose gules stalked and barbed proper (the arms of Scott of Harden), the rose surmounted of a martlet argent (the difference of Scott of Thirlestane). Graham-Murray of Murrayshall, who was paternally a Graham, a cadet of Balgowan, who was a cadet of Garvock, naturally retained the differences belonging to his Graham arms, although he quartered them with those of Murray, and did the same with the difference of Balvaird in his arms of Murray.¹ His coat is quarterly; first and fourth, for Graham, or, three piles sable within the royal tressure, on a chief of the second, a crescent between two scallops of the first; second and third, for Murray, azure a cross patty or, between three mullets arg. within a double tressure flory counter flory or. Thus to the most casual observer it is the coat of a Graham who is descended from the Royal marriage of Sir William of Kincardine with the Princess Mary, and also from a Murray of the house of Balvaird, and Stormont, a cadet of Murray of Tullibardine.

The occasional practice of assuming an entirely different coat of arms from that pertaining to the bearer's chief is challenged by Sir George Mackenzie, who refers to the Scotts of Balwearie carrying different arms from the house of Buccleuch, and also to the family of Auchinleck of Balmanno bearing an *embattled cr.* (the arms of Balmanno), while *three bars* were carried by Auchinleck *ca.* that ilk; 'but this,' he adds, 'was

¹ Lyon Register, 1791.

occasioned by cadets marrying heiresses, whose arms they assumed without using their own, seeing they got no patrimony from their predecessors.¹ As to the first of these cases, the observation should not be omitted that no blood affinity between the Scotts of the Branxholm and the Scotts of Balwearie has ever been shown; no reason, therefore, is known to exist why either house should have deferred to the other in a matter of arms; nor any presumption as to which was the parent house, if either was. The family of Balwearie had certainly borne three lions' heads erased,² with or without a chevron, since about 1380, and probably since the appearance of Sir Michael Scot about 1296, while in the same 1296 or thereby a Walter



Scott of Buccleuch.



Scott of Balwearie.

Scott, who appears in no pedigree, used a seal which is described as bearing 'a hawk on wrist, crescent and star in field.'³ There is a tradition that the ancestor of the great border clan altered his arms on his marriage to the daughter and heiress of Murdiston of that ilk. If he did, he did so before the September of the year last mentioned.⁴ One story is that he then laid aside the lions' heads, and assumed the arms of his wife—or, on a bend azure, a star betwixt two crescents of the first—the same cognizances which are now carried, with various suitable differences, by most of the existing branches of the house.

¹ *Science of Heraldry*, chap. xxi.

² A chevron is placed between the three lions' head, on the Seals of Sir Michael (c. 1296) and Sir Walter (1412) Scott of Balwearie. Laing's *Catalogue*, Nos. 720 and 721; Macdonald, 2373, 2375. Sir William Scott of Balwearie in 1516 bore three lions' heads erased. Macdonald, 2378.

³ Macdonald, 2384.

⁴ *Homage Roll* of that year.

Another version of the legend is that the *bend* alone came from the Murdiston alliance, and that the Scotts had borne the star and crescents previously.¹ All that we have found in support of this view is the occurrence, already mentioned, of the shield of the Walter Scott of about 1296. There is no record of the arms of Murdiston of that ilk. The earliest known seal belonging to the line of Buccleuch is that of Robert Scott of Rankilburn in 1415—on a bend, a star followed by two crescents,² a sequence of the charges which was changed by Francis the second Earl between 1635 and 1646 to two crescents with a star between them,³ as exhibited in the woodcut on page 303.

A permanent association of certain charges with particular blood would enhance the genealogical value of heraldry, but it has never existed. The abandonment, on the contrary, of paternal arms for those of some other family or for official or territorial arms has been a thing of frequent occurrence from a very early date in the era in which men of position had to be known by the arms which they wore. For the man who succeeded to the position of a feudal lord, whether by inheritance from his father or his mother, or in right of his wife, or a direct grant from the King on the failure or forfeiture of the previous lord, had a strong reason for assuming the arms which his vassals were already accustomed to follow, arms which very probably they themselves already bore with differences, and looked upon as an index as well as a symbol of their allegiance.

Armorial bearings themselves, indeed, are sometimes a more certain indication of consanguinity than surnames.⁴ At other times, in other circumstances, they do not infer so much; but still indicate an alliance of

¹ This view is adopted by the poet, who describes how the aged Scott of Harden

‘With many a moss-trooper came on,
And azure, in a golden field,
The stars and crescent graced his shield,
Without the bend of Murdieston.’

—*Lay of the Last Minstrel*, canto iv. stanza 9.

² Macdonald, 2385.

³ Macdonald, 2404, 2405.

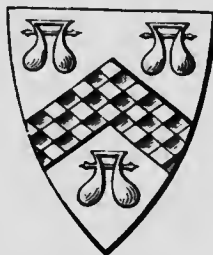
⁴ The consanguinity of the Murrays and Douglasses, surmised in consequence of the similarity of their arms, referred to in Wytoun's *Cronykil*, has been already noticed, page 288. The curious case of Seton and Edmonstone is mentioned below, page 306.

some sort, which may be of blood, or, it may be, feudal. Both of these indications by arms we have already touched upon. But the common characteristic may denote at times even a merely political alliance, as in the case of the famous factions of a bygone day in Italy, when, among other heraldic distinctions from each other, a chief argent bearing an eagle displayed gules, crowned or, was a mark of a Ghibellin, while a chief azure, charged with three golden fleurs-de-lis between the four points of a red label throughout indicated a Guelph.

The fess chequy argent and azure on the red shield of Lindsay, and argent and gules on the blue shield of Boyd, seem to be found first



Ross, Earl of Ross.



Ross, Lord Ross.

within the sphere of influence of the Stewarts. The Boyds, indeed, have been supposed to be cadets of Stewart.

On the other hand, the totally different bearings of the family of Ross of Balnagowan and of the Lords Ross is a warning against any hasty identification of these two houses. Those of the former are *three lions rampant*, and the latter a chequered *chevron between three water-bougets*,¹

¹ The title of Lord Ross—which must not be confounded with the old *Earldom* of the same name—became extinct in the person of William, 14th Baron, in the year 1754. The supposed English descent of the family is confirmed by their armorial ensigns, or, a chevron chequy sable and argent, between three water-bougets of the second, the water-bouget being a very common heraldic charge on the other side of the Border. It consisted of a yoke with two pouches of leather attached, for the conveyance of water to an army, and has been very differently drawn at different periods. (See *Glossary of Heraldry*, p. 323.) The chequered chevrons of the Lords Ross and Sempill are indications of vassalage to the house of Stewart. (Nisbet's *System of Heraldry*, i. 407.) The arms of the Earls, gules, three lions rampant argent, are now, since 1746-54, registered in favour of Ross of Balnagowan.

quartered with the coat of Melville; and the genealogies of the two houses ascertain them to be entirely distinct. In like manner, in the escutcheons of the Blairs of that ilk and the Blairs of Balthayock, while the tinctures are, no doubt, similar, the charges are entirely different—the one family bearing *nine mascles on a saltire*, and the other a *chevron between three torteaux*. These two families long contended for the chieftainship,¹ and the controversy is said to have been adjusted by King James VI. ordering that the elder male representative, for the time being, should precede the younger.²

In the shields of the Lindsays the tincture of the field differs from that of Stewart, and in the case of the Boyds, the tinctures of the field as well as of the fess chequy are different, thus constituting marked differences; but it occasionally happens that two families, bearing different surnames, carry coats-armorial which are *precisely similar*, as in the anomalous case of the Setons and the Edmonstones of Duntreath, whose common descent has been conjectured from the identity of their arms, both originally or, three crescents gules; both now, or, three crescents, within a double tressure, flowered and counterflowered, gules. In blazoning the bearings of the different families of Edmonstone, in the first volume of his *System of Heraldry*, Nisbet does not, in any instance, surround the three crescents with the Royal tressure, and, in the case of Duntreath, he places an *annulet* in the centre of the shield. This circumstance is referred to by

¹ Nisbet, *Essay*, 103.

² Mackenzie, *Precedency*, Q. 9, p. 68. A keen dispute of a similar kind, between the Burnets of Barns, in Peeblesshire, and the family of Leys in the north, is said to have been decided, about the middle of last century, in favour of the former, by Sir Robert Douglas (author of the *Peerage and Baronage of Scotland*), to whom the charters of the two families were submitted for examination. While the Barns coat-armorial is blazoned argent, three holly leaves, vert, and a chief, azure, the Baronets of Leys carry three similar leaves in chief, and a hunting-horn, in base, sable, garnished gules; the horn, and also the supporters (a highlander and a greyhound), having reference, according to Sir George Mackenzie, to the fact of the family being the 'King's Foresters' in the north. Both families, however, use the same crest and motto, viz. a hand with a knife, pruning a vine-tree, proper, surmounted by the words, '*Virescit vulnere virtus.*' See above, page 62.

About the year 1835 Kennedy of Bennane and Kennedy of Dunure referred the question of their relative precedence to Thomas Thomson, advocate, who decided in favour of the former (communicated to Mr. George Seton in 1866 by the late Lord Ardmillan).

the writer of the account of the Duntreath family in the Appendix to the second volume of Nisbet (p. 158), where mention is made of the seal of Sir William Edmonstone of Culloden and Duntreath (who died in 1473), as exhibiting the tressure, to indicate his Royal descent, through his mother and grandmother, who were both 'daughters of the Crown.' Sir William was, in fact, a son of the fourth marriage of the Princess Mary, daughter of Robert III. In addition to the tressure, Sir William's seal exhibits the annulet in the fess point which is included in the arms of the family of Nisbet, although it had ceased to be borne in the Duntreath escutcheon before the time of Sir David Lindsay.¹ The Edmonstones began thus to wear the tressure in or before 1470; it appears in the arms of Seton as early as 1384 for certain.² The use, by two different families, both of importance, in the same kingdom, and that not a large one, of a paternal coat-armorial in which both the tinctures and the charges are identical, is remarkable, and can only be explained on the assumption that the tressured arms of the chiefs of Seton were invariably borne quarterly with other famous arms before the tressure was added to the arms of Edmonstone, and in that way effectively differenced. It would be interesting to know the dates and other circumstances which marked first the assumption of the annulet by Duntreath and secondly its later omission. The well-known arms of the English Veres, Earls of Oxford, were quarterly, gules and or, with a silver mullet in the first quarter. The author of the Introduction to the sixth edition of Guillim's *Heraldry*, after noticing the legendary origin of the star, as detailed by more imaginative writers, says that 'it was only a distinction in the arms of that family from the arms of the Lord Say's family (a flourishing house at that time in the same service), which, excepting the star, did bear quarterly, gules and or,³ the same with Vere, who was obliged to difference from the Lord Say; for two different families in one nation could not bear one coat without some addition.'



Vere, Earl of Oxford.

¹ A.D. 1470. See Laing's *Catalogue*, No. 305; Macdonald, 839. ² Macdonald, 2427.

³ The bearings of Lord Say appear to have been generally if not always quarterly, *or and gules*, not gules and or; in other words, the converse of those of the Veres.

Of other modes of distinguishing cadets, we may mention the *adoption of different crests*, without any alteration being made on the charges in the escutcheon. Speaking of the Germans, among whom this practice largely prevails, Christyn says,—‘interdum arma solo cimero discrepant’; he also illustrates his statement by a notice of the various families descended from the House of Burgundy. Siebmacher’s *Wappenbuch* (A.D. 1605) has no less than thirty-one branches of the family of Zorn (Alsace) bearing the same arms, and differenced only by their crests.¹ This mode of differencing is not recognized in the heraldry of Scotland. Doubtless, its heraldic practice has allowed a considerable amount of freedom in the changing of the crest, an object which Nisbet considers to be ‘but an ornament of coats of arms, and so more of the nature of a device than a fixed piece of hereditary armorial bearings.’² But for that very reason a change in the shield, the most permanent part of the arms of the head of the family, forms a much more satisfactory mode of distinguishing a cadet than a change of the crest.

Every cadet who is not excluded from the destination of his ancestor’s arms by its terms or by his own personal disability to claim, is entitled to have these arms matriculated in his favour by the Heraldic Authority with a congruent difference. The selection and assigning of the particular difference, once as free to the cadet himself as the original assumption of the arms had been to his ancestor, is now the prerogative of the Heraldic Authority; but any desires on the subject expressed by the cadet himself are in practice given every possible consideration. The selection of the mark is not, however, on that account deprived of all its difficulty or delicacy. The respecting of armorial interests already created increases in difficulty as the rights already constituted increase in number, and though such rights may not be so frequently or instantly vindicated they are as clear as ever. In the year 1346, Nicholas Lord Burnell and Sir Robert de Morley appeared in the same arms at the siege of Calais, which led to a suit in the Court of Chivalry, held upon the spot.³ About forty years later, during the reign of Richard II., a famous heraldic controversy took place, before the High Constable and Earl

¹ Woodward, *Heraldry*, ii. 229.

² *System of Heraldry*, vol. ii. part iv. p. 19.

³ See *Archæological Journal*, ii. 330, 396.

Marshal of England, between Richard, Lord Scrope of Bolton, and Sir Robert Grosvenor, a knight of the county of Chester ; the question at issue being the right to bear, as a coat-armorial, 'azure, a bend or.' The Constable pronounced sentence in favour of Scrope, but inasmuch as his opponent had adduced good presumptive evidence in support of his claim, he was allowed to carry the same coat 'within a bordure, argent.' Not being satisfied with this judgment, Grosvenor appealed to the King, who decided that the arms in question belonged exclusively to Scrope, and annulled the ordinance of the Constable with respect to Grosvenor, considering that 'a bordure is not a sufficient difference between two strangers in the same kingdom, but only between cousin and cousin related by blood.'¹ In the next reign, about the year 1408, was decided the case of Grey de Ruthyn against Hastings, in which Hastings was compelled, among other things, to desist from bearing the arms of his house without a difference ;² and the modern Scottish cases, Dundas *v.* Dundas, 1762 (above, p. 70), and Cuninghame *v.* Cunyngham, 1849, to be noticed in a future chapter, demonstrate that the presence or absence of a valid difference will be looked into by the Courts. In the last-named case the Court of Session entertained the question whether the object placed on the defender's shield, namely, a badge of a baronet, was a heraldic difference, and held that it was not.



Scrope of Bolton.

'In these latter times,' says Sir William Dugdale, Garter King-of-Arms in his day, 'those marks and badges in shields, surcotes, etc., have been for divers ages past, as to any such military purpose, totally layed aside ; and since meerly retained as honourary Ensigns by the *Nobility* and *Gentry* ;

¹The original record of this celebrated contest, with the rival pleadings and depositions, is still preserved in the Tower of London. In the year 1832, a literal copy, accompanied by illustrative documents, was published by Sir Harris Nicolas. The evidence is possessed of peculiar interest from the circumstance of its embracing the depositions of illustrious men of the age, including John of Gaunt, Sir Walter Blunt, Owen Glendower, and the poet Chaucer.

² See below, p. 338.

especially to difference themselves and their families from the vulgar, and one from another ; as also to distinguish the collaterals from those of the principal stock. For if they do not so what do they signifie ; or of what use are they ?¹

¹ *The Antient Usage in Bearing of Arms*, second edition, 1682, p. 2.

CHAPTER XI.

THE RIGHT TO BEAR SUPPORTERS.

PROBABLY one of the most delicate points in Scottish heraldry is the question of the right to bear supporters. The theory of the law that all armorial rights flow from the King applies to the matter of supporters equally with the rest. It is also understood that Lyon's general commission to grant supporters is not now so wide as his commission to grant arms, crests, and mottoes; and that to demand supporters is now the exclusive right of the members of certain exalted ranks, and of persons who have received special grants or warrants for grants of such honours from the King.

It is not necessary on that account to maintain with some writers that supporters were originally the invention of princes, and that the right to them was from the beginning a matter of Royal favour. Such an assumption would lend to supporters in earlier ages and to their bearers also in many cases an importance quite out of accordance with the facts of history. The practice of using supporters is found established at a date earlier by centuries than the invention of the theory that Royal concession, or indeed any concession, was required to legalize the assumption of anything armorial. At first they were assumed, as we have indeed already seen, by any one who chose, whether he was of the rank now usually associated with the right or not. It was of course an honour to have a grant of supporters specially assigned by the King; and such grants, in England at least, began to be known in the reign of King Henry VIII. But even in England supporters were held as late as the time of Leigh's *Accidence of Armory* (A.D. 1562-97) to be only a part of the heraldic achievement which was within the right of every gentleman: an achievement he

defines as 'The armes of every gentleman, well marshalled, with the supporters, helme, wreathe and creast, with mantelles, and the woorde' (motto).¹ And the right was very generally exercised. Wingfield, who was York Herald in the reign of Charles II., records that in his time every shire in England afforded instances of gentry who were neither peers nor knights of high degree, but who nevertheless used supporters with their arms in ordinary.²

We have already pointed out that the Heraldic authority in Scotland in 1566-7, in the cases of the patents of arms granted to Balfour of Pittendreich and Lord Maxwell, scarcely treats these adjuncts as cognizances, certainly not necessarily hereditary cognizances, nor necessarily to be assigned or even registered by the heralds, for he stops short of the supporters in his verbal blazon, and contents himself by referring for them to the picture on the margin.³ Anyone with a paint brush could alter them in the picture completely in a few minutes, and yet the reference in the patent to the margin as containing the patentee's supporters would remain. Such a risk was naturally of no importance to the Heraldic authority, since whoever had a right to bear supporters might alter them at his pleasure, a freedom the existence of which Sir George Mackenzie, writing in 1680, recognizes and approves of.⁴

In Scotland, in spite of the original freedom to all gentlemen to assume supporters or not, the use of them was in the main indulged in only on occasions of great heraldic display, hence, generally only by persons of importance. The theory, therefore, that the right extended to such persons alone was easily accepted, if indeed it may not be said in a way to have come as a natural consequence.

The process by which the present state of the law regarding supporters was arrived at was a process of restriction. Its steps in England, at least, can be roughly traced; and as it is clear that after the union of the crowns the existence of the English law in England had an influence on the practice

¹ *Armory*, ed. 1576, fol. 42.

² Wingfield MSS., College of Arms, *per* Dallaway.

³ See plate vi. and pages 85, 121. He even stops short of the crest and motto.

⁴ 'Supporters are not hereditary, but they may be altered at pleasure . . . but if cadets keep their chief's supporters they use to adject some difference' (*Science*, chap. xxxi. p. 94).

in Scotland, the process of the development of the law in England is of importance to the student of the heraldry of the other kingdom.

To continue, therefore, Guillim, in the first half of the seventeenth century, speaking of the law as it existed in England in his day, opines that the general words of Leigh are to be restrained; and that supporters 'either by law or custom are properly due' to knights-banneret and persons who rank above them, in fact to the *nobiles majores*.

In Guillim, then, we meet the modern theory that supporters are a mark of a member of an honoured class. He is very far, however, from admitting supporters to the first rank of heraldic importance, or even from saying that the right is heraldic in any strict sense. While the bearings of the shield are the essentials, supporters are 'merely accidental.' They are 'only additions to achievements added not many hundred years ago to the coats of gentry.' They are not even included in his 'blazon': that stops with the shield; external ornaments are merely 'described' afterwards.¹

The statements of Wingfield, York Herald in the second half of the same century, exhibits the law still in a state of transition. 'The modern use of supporters,' he says, 'is now chiefly in the greater nobility, and Knights of the Garter, or persons that are of the Privy Council, or had some command whereby they had the title of Lord prefixed to their style, as Lord Deputy of Ireland, Lord Warden of the Cinque Ports. . . . I suppose, since custom and practice hath reduced the use of bearing supporters to the major nobility, no inferior degree may now assume them, nor may Garter assign them to the lesser nobility.'²

In the year 1672 a step was taken in England by the Earl Marshal which resulted in a further development in the law. He procured a judgment of the Privy Council that grants of supporters were not within the powers of Garter, but required, even in the case of the *nobiles majores*, the intervention of the Earl Marshal himself. The result of this restriction on the powers of the heralds appears to have been that the doctrine has arisen among them that supporters might not be granted to persons *below* the rank of peers even by the Earl Marshal save with the special permission of the King.

¹ Guillim, *ut sup.* cap. 6.

² Wingfield MS. A.D. 1665; Col. of Arms, *per* Dallaway, *Heraldic Inquiries*, pp. 96-7.

There is nothing in the history of Scottish heraldry to suggest that the use of supporters was restricted in Scotland by any defined rule before the dates of the Acts of 1592, 1662, and 1672; and these Acts, when they came to be passed, did not mention supporters, at least expressly. In or about the year of the decision of the English Privy Council just mentioned, the year also of the Scots Act, 1672, cap. 21, regarding heraldic matters, King Charles addressed an express letter to Lyon which contained the first effort at restriction. It ordained—according, at least, to Lyon's version of it—that none should use supporters 'who were under the dignity of a Lord.' Our sole information of this letter is derived from Lord Fountainhall's report of an action against Lyon brought in the Court of Session in 1673 by certain of the lesser or minor barons, *i.e.* possessors of lands which they held by a barony title. These barons, better known as lairds, although not themselves Lords of Parliament, were the descendants and representatives of ancestors who had been as much Lords of Parliament as any others until the Act of Parliament of 1587, cap. 120, absolved them from personal attendance, and allowed them instead to send commissioners there to represent them. The barons who raised the action were Dundas of Dundas, Maitland of Halton, Murray of Polmaise, etc. Their complaint was that Lyon had refused to acknowledge their right to supporters. Lyon pleaded the letter. The barons did not deny its existence or Lyon's account of it, but argued that the Act of 1587 was an Act purely of relief, and not deprivation, and that they were before and after it as good heraldically as Lords of Parliament, and that past all memory they had been in possession of supporters without dispute. The report does not record if a decision was given in the case; but the barons gained their object in part at least, for Fountainhall notes on the margin that Lyon grants 'supporters now to some who were in possession of them of old.'¹

Sir George Mackenzie does not mention the case by name, but he probably had it in his mind when, in 1680, he wrote: 'I crave liberty to assert,' he says, 'that all our Chiefs of families and old Barons in Scotland may use supporters; for besides that to be a chief was of old, and is still reputed an honour, though it be adorned with no mark of

¹ Fountainhall, see above, p. 58.

nobility; yet these chiefs have prescribed a right to use supporters, and that such a right may be prescribed, I have proved formerly; and what warrant is for most of our rules in Heraldry, but in aged custom? and that they have constantly used supporters past all memory of man, even when they were knights, is clear from many hundred instances. Thus the [Halyburtons] Lairds of Pitcur did, and do use two wild cats for their supporters; Fotheringham of Powry, two naked men; Irvine, of Drum, two savages wreathed about head and loins with holly, and bearing batons in their hands; Moncrieff of that ilk, two men armed at all points, bearing pikes on their shoulders: And many of our noblemen have only retained the supporters which they formerly had; and that, of old, Barons might use supporters *de jure*, seems most certain, for they were Members of Parliament with us, as such, and never lost that privilege, though, for their conveniency, they were allowed to be represented by two of their number [in each shire], and therefore such as were Barons before that time [*i.e.* 1587] may have supporters as well as Lord Barons; nor should we be governed in this by the custom of England, seeing there is *dispar ratio*, and this is now allowed by the Lyon to such.¹

Besides the four families specified by Sir George Mackenzie, Nisbet² mentions the following as bearing supporters, in the capacity of representatives of ancient Barons, or chiefs of families, their use of these appendages being 'instructed' by seals, old books of blazons, and sculptures on edifices and tombs: The Homes of Wedderburn, the Kirkpatrick's of Closeburn, the Murrays of Touchadam and Polmaise, the Maxwells of Polloc, the Dunbars of Westfield, the Farquharsons of Invercauld, the Edgars of Wedderly, [the Nisbets of Dean,³] the Haigs of Bemerside, the Barclays

¹ *Science of Heraldry*, chap. xxxi. p. 94.

² *System of Heraldry*, vol. ii. part iv. p. 32.

³ In the print of the second volume of Nisbet's *System*, which appeared in 1742, after the author's death, Nisbet is made to include the family of Nisbet of Dean in this list, and to justify their discontinuance of the chevron as a mark of cadency on account of their being the only family of the name in Scotland 'that has right, by consent, to represent the old original family of the name of Nisbet; since the only lineal male representer (the author of this *System*) is like to go on off the world, being an old man, and without issue male or female.' Ed. 1742, vol. ii. p. 134; ed. 1804, vol. ii. pt. iv. 32. The passage was sufficiently like Nisbet in style, and was naturally accepted on all hands as his without question (see, for example, the former

of Towie, the Douglasses of Redhouse, the Montgomeries of Lainshaw, the Woods of Craigie, the Grahams of Netherness, the Bruces of Burth and the principal houses of Dundas, Bellerton, Innes, Poillock, Dalnahoy, and Skene: the list might be very largely augmented. The same author also points to the fact of several noble families—including the Earls of Home, and the Lords Cranstoun and Somerville—having used the supporters which they at present bear long before they were raised to the peerage.

There is no doubt that in 1672 or 1673 King Charles II designed to restrict the right of supporters. It is clear that, as we have seen his instructions to Lyon were not allowed to alter rights already possessed by individuals among the lesser barons, and it is clear that if they were ever carried into effect in restricting the creation of supporters it rather appears that they were soon forgotten, and that the barons acquiesced in at an early date. It is believed now, in 1680, 'that none under Knight Barons could have supporters.'

Nisbet was clearly of the opinion that barons and lords of families were entitled to supporters. That many noble gentlemen who had had supporters added to their arms since the Interregnum between 1672 and his own day had obtained their rights otherwise he concludes, namely, by 'concession,' which seems to infer grace rather than right, 'or pre-

edition of the present work, page 29, note 1, to Mr. Andrew Ross, Marchmont Herald—now Ross Herald, discovered on a perusal of Nisbet's original manuscript, which reposes in Lyon Office Library, and both conclusions. Nisbet's original justification of it, which have produced so many expressions of pity and indignation, are completely and entirely erroneous. No passage corresponding to that which contains them in the present work is to be found in Nisbet's manuscript. The interpolation was apparently a sordid fraud perpetrated by the printer and publisher in the purpose of imposing upon his patrons the name of a distinguished and respectable family of Dean, and interesting them in his publication. The heraldic shields and other heraldic devices which appear in that volume is to be found in 'A Genealogical History of the Royal Houses of Great Britain,' by Andrew Ross, Marchmont Herald, and Francis Ross, Edinburgh Herald (Edinburgh), 1892, Introduction, pp. xxix-xlv, where he produces the original shields as they appear in both print and manuscript. Several of the sculptured shields of arms which are to be seen in the old mansion-house of Dean, in the neighbourhood of Edinburgh, and which were destroyed in the year 1845, are now built into one of the terrace walls of the common garden which occupies the site of the old mansion. None of them has supporters.

¹ *Science*, c. lxxvi, p. 94.

scription.¹ We may therefore conclude that in Nisbet's time no definite restriction on the law of the time of Mackenzie had been arrived at.

In 1795, Thomas Brydson in his *Summary View*,² called by Lowndes 'The Philosophy of Heraldry,' says: 'By a special grant, or by prescription, many particular families are entitled to bear supporters, besides peers; and some of the higher orders of chivalry, to whose dignity they are a concomitant. They do not, with the coat of arms, and its ordinary exterior ornaments, descend to the cadets, or younger branches of the family.'

After describing the powers and limitations of the heralds of England regarding grants of supporters, and stating that the baronets of England are not entitled to obtain them save by Royal Warrant, he proceeds: 'The Lord Lyon, by his own authority, grants supporters to such as by the custom of the realm are entitled to obtain them. Particularly to baronets of Scotland, and to the chief branches of ancient and distinguished families.'

The law as it was understood in 1821 is to be found in the parole evidence, and a written Note, both given in by Mr. George Tait, then Interim Lyon Depute, to the Commission of the House of Commons of that year which enquired into the working of the Lyon Court.³ His opinion was that Lyon had power to assign supporters to Peers, Lesser Barons, Chiefs of Clans, persons who had right of ancient usage, and those in whose favour special grants or royal warrants for grants had been made; and his classification it is convenient to follow in the main in the present of the law as it is understood at present, relegating the difficult question of the rights of the baronets, which are denied by him, to a later section.

THE PRESENT LAW OF SUPPORTERS.

The right to demand and bear supporters resides, according to the rules of Scottish heraldry, as they are understood now, in the following classes and persons:

1. Peers of the realm.⁴ This class includes, of course, ladies who are

¹ *System of Heraldry*, ii. part iv. 33.

² *A Summary View of Heraldry in reference to the usages of Chivalry, and the General Economy of the Feudal System*, Edinburgh and London, 1795, pp. 136, 139.

³ See Appendix vii.

⁴ For Life Peers

peeresses in their own right. Occasions of such grants arise when, for example, a peerage is conferred on a commoner who is under the jurisdiction of the Scottish heraldic authority, and who has not an already existing right of supporters, or who may demand a grant of new supporters on his elevation. Thus Lord Dunedin of Stenton, created a Baron of the United Kingdom in 1905, matriculated his arms in January, 1907, as a cadet of Murray of Murrayshall, namely, Quarterly first and fourth, or three piles sable within a double tressure flory counter-flory gules, on a chief of the second a crescent between two escallops of the first for Graham; second and third, azure a cross patée between three mullets argent, within a tressure as before, or, for Murray: in the centre of the quarters a crescent gules¹ for difference; and in December of the same year obtained from Lyon in addition a grant of supporters, namely—Two doves proper.

There is also the case of a peer who, for any reason, desires to alter his supporters. Thus, in 1900, the Earl of Aberdeen, whose supporters have already been noticed,² registered 'dexter an Earl, sinister a Doctor of Laws, both in their robes, proper.'

A case might arise of a person inheriting a peerage as collateral heir male while the supporters which had been used by his predecessor went to the heir female. If no supporters had been granted to go with the peerage he would have a right to have supporters assigned to him as a peer. A grant made to a peer as such descends with the peerage, and dies with it.

From the right of peers flow several other courtesy rights. Thus the wife of a peer, who is entitled to his rank as a peeress, is entitled by courtesy to wear his supporters, and to continue to do so after his death so long as she retains her rank as his widow.

The son or grandson and heir of a peer has a right to use the peer's supporters, like his other arms, with the appropriate difference.³ It is natural that it should be so, when he has the rank and title of a peer, who has by law a right to supporters. Even though his title is not strictly a title of peerage, but only one of those styled by Nisbet 'the lower titles of the peerage,' his heraldic right is settled by custom to be the same. Nisbet, indeed, considers it strange that the younger sons of at least the

¹ In allusion, presumably, to Edmonstone of Duntreath. ² Page 246. ³ Namely, a label.

greater nobility should not have a similar privilege 'since the younger sons of Dukes and Marquises have the title of Lord prefixed to their names, and take precedency of hereditary Lords of Parliament.'¹ Although these titles 'be only temporary, and do not descend to their posterity, yet I am of opinion,' he says, that 'they may use supporters by the same right that Knights-bannerets did, whose dignity was also temporary, and that with their marks of cadency upon them, if agreable, and if not, with other additional figures: for the same reason that they now of late place the coronets of the respective dignities of their fathers on their helmets to show the eminency of their birth.'²

This cannot be taken as Nisbet's statement of the law. It was law in England, perhaps, in the time of Wingfield; but among Nisbet's numerous plates of achievements, while we find the shield of the Master of Cathcart supported by two parrots, each charged like the escutcheon, with a label, as a mark of difference,³ no supporters appear in any of his engravings of the arms of younger sons of noblemen, which include the bearings of Lords Alexander and William Hay, and Lord Charles Ker.⁴

In 1807 a question arose which exemplifies the difference between the Scottish and English law of arms. Lord Montgomerie, son of Hugh, twelfth Earl of Eglinton, married Mary, elder daughter and co-heiress of the eleventh Earl and heir of line of first Earl of that title. Lady Montgomerie was also her father's heiress in considerable estates in land.

Lord Montgomerie desired to bear the supporters of the Earls of Eglinton either as heir-apparent of the earldom or in right of his wife, the heir of line.

It is clear that if the supporters used by the eleventh Earl, the lady's father, were not entailed on heirs male or on the earldom they descended to her by the common law of arms. If, on the other hand, they were entailed in either of the ways above suggested, Lord Montgomerie might

¹ Nisbet, *ut sup.*

² *Ibid.* Nisbet's argument from the privilege of the Bannerets is doubtfully good. The assumption of coronets which he notices was a questionable practice which we think is no longer in existence.

³ *Ibid.* i. plate 14.

⁴ *Ibid.* i. plates 11, 15, 16.

by courtesy bear them with the difference denoting an eldest son. The first question was, then, whether the supporters of the earl who was the lady's father were entailed away from her. These appear to have been two wyverns.

There is no patent nor anything of the date at which the family supporters began to be used which indicates that originally they had any special destination of heirs attached to them. The Lordship of Montgomerie dates from 1445, and the earldom from 1506-7. Supporters first appear in a seal attributed to the third Earl, who succeeded in 1546.¹ These are wyverns, and they reappear on the seal of Hugh the fifth and last Earl of the house of Montgomerie.² The next Earl, Sir Alexander Seton, through his mother, a first cousin of his predecessor, also bore two wyverns.³ Nisbet attributes them to the Seton side of the house, a wyvern spouting fire being the crest of the house of Winton. It might be supposed that the Earl had, if possible, substituted Winton for Montgomerie wyverns, but Nisbet shows that he was unaware of the fact that the Montgomeries had themselves borne wyverns. He states, on the contrary, that their supporters had previously been 'two women or angels in Dalmatic habits.' Sir Alexander, the sixth Earl, and his successors held the Eglinton territories under an entail, created in 1611 by Hugh, the fifth Earl, which provided that the heirs of entail on succeeding should assume and bear the name and arms of Montgomerie.⁵ The supporters borne by Earl Alexander were thus presumably the Montgomerie supporters, borne by him in obedience to the entail. He and his heirs male were paternally Setons, and the Montgomerie wyverns were theirs only so far as to follow the male line—that of the entail. In this view the supporters of the Earls did not descend to Lady Montgomerie, but went with the earldom. This took them, however, to Lord Montgomerie's father, and, according to the Scots law, Lord Montgomerie, and therefore Lady Montgomerie also, as his wife, were entitled to use them with a label for the difference of an eldest son.

¹ Macdonald, *Seals*, 1997.

³ *Ibid.* 2000.

⁵ *Great Seal Register*, 28th November 1611, xlvi. 8 (No. 592).

² *Ibid.* 1998.

⁴ Nisbet, *Heraldry*, i. 376.

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We are fortunate in having an authoritative statement of the operation of the heraldic law of England in a case of this kind; for, while we are not aware whether Lord Montgomery's father, the Earl, took a Scottish opinion on the case, we have the terms of an opinion which he obtained from the Garter King of the day, Sir Isaac Heard.

COLLEGE OF ARMS, LONDON,
15th April, 1807.

'MY LORD,—I had yesterday the honour of receiving your Lordship's letter of the 11th inst., in which you desire my opinion whether Lord Montgomerie may properly bear the supporters of the Earls of Eglinton, either as heir-apparent to the earldom, or in right of Lady Montgomerie, his wife, the eldest daughter and co-heir of Archibald, late Earl of Eglinton; and your Lordship adverts to the circumstance, that the said late Earl's father had acquired, by purchase, a considerable real estate, which having been entailed upon his heirs-female, devolved, upon the death of the late Earl, to the present Lady Montgomerie. I have the honour to observe, in reply, that according to the law and usage in England in that respect, Lady Montgomerie cannot properly bear the supporters of her late noble father, the same being annexed to the earldom; nor could I, as Garter King of Arms, exemplify those supporters to Lord Montgomerie during your Lordship's life. In all patents of supporters, the grant is to the person bearing the title, and to those to whom the honour shall descend, according to the letters-patent of creation. Supporters are, therefore, a personal distinction, and I should presume that the same rule must obtain in Scotland.

'The circumstance of the inheritance of real estates by Lady Montgomerie, to which your Lordship alludes, does not constitute any exception to the above general rule. I should mention, however, that in cases of dignities in fee, descendible to heirs-general, the lady on whom such a dignity devolves may bear the supporters annexed to the same.

'Your Lordship having included the arms in your question, I beg to add, that the family arms of the late Earl of Eglinton should be borne on an escutcheon of pretence in the armorial achievement of Lord and Lady Montgomerie.

'I shall always have a pleasure in rendering the best attention in my power to any of your Lordship's demands. I have the honour to be, etc. etc.

'THE EARL OF EGLINTON, ETC. ETC.'

'ISAAC HEARD, Garter.'¹

¹ Fraser's *Memorials of the Montgomeries* (privately printed), vol. i. p. 377. Garter's argument from the terms of patents of supporters had even in England only a limited application. There were cases of English peers who used supporters which had been theirs before they were made peers. (See Dallaway's *Inquiries*, 97-98.) It had no application to the Eglinton case; and the assumption of a similarity between the Scots law on the point and the English law which he laid down was unwarranted, as we have already seen.

Lord Eglinton appears eventually to have given way to the urgent prayers of his son ; the full Eglinton arms were even allowed to be used by Lord Montgomerie's widow after his death, which occurred before that of his father. On Lady Montgomerie's second marriage, however, Lord Eglinton considered it to be his duty again to interfere in the matter, and in the year 1815, we find him in communication with his London solicitor, firmly, but most delicately, insisting on her discontinuance of the use of his complete achievement. If our view, which we have already expressed, is correct, her only heraldic *right* after her second marriage was to use her father the eleventh Earl's *coat*, marshalled with the arms of her then husband—Sir Charles Lamb.

2. The representatives of the lesser barons who before the Act of 1587 were liable to be called upon to sit in Parliament.¹ Mr. Tait in his Note already mentioned defines them as 'Lawful heirs-male of the bodies of the smaller barons who had the full right of free barony (not mere freeholders) prior to 1587. . . . Persons,' he adds, 'having right on this ground will almost always have established it by ancient usage, and the want of usage is a strong presumption against the right.' The question whether the right is in the heirs-male or not has not been tried ; but it would be difficult to suppose that the right of supporters would go to the male line if the representation of the baron in 1587 was to heirs-general, and more difficult to imagine it confined to heirs-male of the body if all the other rights were capable of going to a collateral.

In 1838 the arms of Sir Thomas Burnet of Leys was enrolled on the Register with supporters—a Highlander and a greyhound (staghound)—in consequence of his being 'the male representative of one of the minor Barons of Scotland prior to the year 1587.'² Sir John Forbes of Craigievar had a similar grant in 1843.³

3. Chiefs of Clans. Mr. Tait's classification of the chiefs and their representatives who are entitled to supporters is more restricted than Mackenzie's. He admits only 'chiefs of tribes or clans which [*a*] had attained power and [*b*] extensive territories, and [*c*] numerous members at a distant period, or at least of tribes consisting of numerous families of some

¹ Mackenzie, *Heraldry*, chap. xxxi.

² Lyon Reg. iv. 33.

³ Lyon Reg. iv. 63

degree of rank and consideration.' He thought that any new claim on the ground of chiefship 'may be viewed with suspicion'; and that from the present state of society in which the traces of clanship or the patriarchal state are, in most parts of the country, almost obliterated, it was very difficult to conceive of a case in which a new claim of the kind could be admitted.¹ The meaning in which Mackenzie used the term 'chiefs' is seen by his classing chiefs with heads of families. Such a class could not have been composed only of those who had tribes or 'numerous families' under them. Mr. Tait had had some such claims, and had rejected them; which is not surprising in view of his interpretation of the qualifications for admission. If a numerous 'following' is an essential requisite, we fear that several escutcheons on the Register are accompanied by supporters on a very questionable title, but it rather appears that the view of the Lyon Court has been that of Sir George Mackenzie rather than the later view of Mr. Tait. Thus, Mr. Ramsay L'Amy of Dunkenny received supporters in 1813, as 'Chief of the surname of L'Amy'; and in the year 1819, Mr. Alexander Maconochie, then Lord Advocate, was granted two Highlanders attired *proper*.² In the view taken by Scottish practice, it is possible to be entitled to supporters as head of a family which is not a Celtic clan, and has been feudal rather than patriarchal in its day of power; and it is not necessary to be styled by any Celtic title real or supposed.³

In 1909, a petition was presented to the Lyon for a matriculation of arms, and a grant of supporters, all as for the Chief of Clan Macrae. The petition was refused on the ground that the petitioner had not made out his case, thus leaving it open to the petitioner to apply again should he come to be possessed of more evidence. The petitioner did not appeal.⁴

4. Persons entitled by ancient usage, prior to the Act of 1672, it being presumed that they received them from lawful authority.

In the action brought by the Procurator-Fiscal of the Lyon Court in that Court, under the statute of 1672, against William Murray of Touch-

¹ Appendix vi. ² *Proper* here presumably prescribes the tartan of the Clan Maconochie.

³ The prefix 'The' in 'The Macnab,' 'The Bruce,' 'The Douglas,' 'The Graeme,' and so on, is not Celtic.

⁴ Appendix viii.

adam, who used arms which were not registered, the Court of Session, on appeal, found that supporters had been borne publicly and continuously by the defender and his ancestors since 1660, and that 'such long possession infers an antecedent right, or excludes all challenge on account of defect of such antecedent right.'¹ Non-compliance with the Act of 1672, therefore, does not deprive any person of armorial ensigns which he had previously, nor entitle Lyon to grant them to anyone else.²

The legal inference from ancient possession is the same in England, 'that those families who anciently used such supporters, either on their seals, banners, or monuments, and carved them in stone or wood, or depicted them on the glass windows of their mansions, and in the churches, chapels, and religious houses, of their foundation, endowment, or patronage, as perspicuous evidences and memorials of their having a possessory right to such supporters, are fully and absolutely well entitled to bear them; and that no one of the descendants of such families ever ought to alienate such supporters, or bear his arms without them, because such possessory right is by far more honourable than any modern grant of supporters that can be obtained from an Office of Arms.'³

5. Persons in possession of a Royal grant of supporters or a Royal warrant empowering Lyon to make a grant. In any case, the grant falls to be entered on the Register of All Arms.

The rights of supporters hitherto considered are hereditary. But there are cases in which there are rights which are personal and not hereditary, such as those demandable by

¹ Procurator-Fiscal of the Lyon Court *v.* Murray of Touchadam, 24th June, 1778. *Mor. Dictionary*, 7656, *Brown's Supp.* v. 490. The defender's ancient right did not, however, in the mind of the Court, render it the less requisite for him to matriculate his arms under the Act of 1672, on being summoned under the Act to do so. In this case the Court appointed the defender to lodge for its information the ancient seals and impressions of seals used by his family; and held that the colours of both the shield and its charges used at the present day would be assumed, in absence of evidence to the contrary, to be their colours anciently also. See also Wingfield, *York Herald*, *per* Dallaway, 96, 97; Edmondson, 295; Mackenzie, *Heraldry*, chap. xxxi.

² See also Dundas *v.* Dundas, 1762, *Brown's Supp.* v. 493, in which Lindsay's MS. (A.D. 1542) was recognised as a part of the Register of Arms.

³ Edmondson, *Complete Body of Heraldry*, i. 192.

6. Life Peers. Their wives and widows are, however, entitled to their husband's supporters, as other peeresses are.

7. Knights of Orders the statutes of which entitle them to demand supporters. The Knights Grand Cross of the Orders of the Bath and of SS. Michael and George, and the Victorian Order, and the Knights Grand Commander of the Star of India and Indian Empire, are entitled by the statutes of these Orders to have supporters assigned to them.

The statutes of the Orders of the Garter and Thistle make no provision for grants of supporters, these additions not having been viewed at the date at which these statutes were drafted in the same light as that in which they are viewed now.¹ The statutes of the Order of St. Patrick, which are later, provide that supporters where required shall be assigned to members of that Order by Ulster King-of-Arms.

8. Corporations, such as the cities of Edinburgh and Glasgow, have grants of supporters. These are generally of a later date than the other parts of their achievements. The Company of Tallowchandlers of London is in possession of a patent of arms of the year 1456. Its patent of supporters was obtained in 1602.² In the case of the Company of Ironmongers they were granted in 1560, which is supposed to be the earliest instance of a grant of supporters to a corporate body.

THE QUESTION OF THE RIGHTS OF BARONETS.

Controversy has raged around the question of the right of supporters conferred by the rank and dignity of baronetcy; and in the first edition of the present work it was possible to devote considerable space to the subject.³ It is admitted on all hands that no such right is conferred explicitly either by the statutes of the orders of baronets or by the individual patents of their members, unless there be exceptions, of which we know only one.⁴ But it is argued that the rank of the orders entitles their members to such honours as supporters, or ought to. Guillim in 1638⁵ lays it down as

¹ Lyon would probably consider a Knight of the Thistle entitled to demand supporters.

² *Memorial Catalogue, Scottish Heraldic Exhibition*, Nos. 34, 35, and plates v., vi. there.

³ Pp. 287-312.

⁴ The patent to Dunbar of Mochrum, see page 327.

⁵ P. 404, third edition, 1638, considered by Lowndes to be the most correct.

the law of his time that supporters are allowed to the *nobiles majores* only, and therefore to none below the rank of knight banneret. Of knights banneret it is recognized that there were two classes, one of bannerets created on the field in presence of the King, the other created there in his absence. Guillim's dictum includes both among the *nobiles majores*; and the decrees of the tenth and fourteenth years of King James VI. postpone the baronets of England to the bannerets of the first class only, those created in presence of the King; by the statutes of the Order of Scotland the same precedence is appointed. When we turn to the Order of Precedence, published by Sir Charles George Young, Garter Principal King-of-Arms,¹ we find the baronets of all the five orders (England, Scotland, Great Britain, Ireland, United Kingdom) placed before knights bannerets not made in the King's presence. There is also no doubt that Knights Grand Cross and Knights Grand Commanders who are below the baronets in precedence have a right to supporters. This at least is to be said in favour of the claim; and it may be added to it with some truth that at the time in which the baronets were added to the scale of precedence all laymen at least of the ranks above knights banneret might have assumed supporters without cavil. It must be observed, however, on the other hand, that many persons above both baronets and bannerets in their order are, according at least to the present reading of the law, though perhaps not that of the time of Wingfield, quite destitute of any title to these 'external ornaments.'

Mr. George Tait, in his Note, which has been already referred to,² reported that during the fifty or sixty years before his time (1820) a practice had arisen of assigning supporters to Scottish baronets as such, a practice which appeared to be erroneous, and which he would not be warranted in following. A practice, then also recent, of assigning supporters to baronets of the British Order in virtue of their baronetcies he considered to be also unwarranted.

Regarding the Scots baronets, it is to be recollected that Mackenzie admits their right. Nisbet does not deny it expressly; but he omits to

¹ Order of Precedence, with Authorities and Remarks, M.DCCC.LI.

² Appendix vi.

enumerate baronets when he mentions barons and heads of families. Brydson, as we have seen, asserts that the right exists. We are inclined to Mr. Tait's view, which is also very much the view which is entertained by the more recent of his successors in office. But the grounds of an opinion that the dignity of baronety does not now entitle its holder to supporters do not by any means show that Mackenzie was not right regarding the law of his time, or that even the grants of the eighteenth century, and some in the nineteenth, to which exception has been taken, were not warranted. The consideration of these is complicated by the terms of the patents of the baronets, which must be looked at, as well as the statutes of the order, before coming to any conclusion either as to the grounds, or the general right itself, or the propriety of the grants of arms which have been made in respect of them. A clause in a patent either directly conferring supporters or ordaining the heraldic authority to assign them is of course sufficient at once to take the case out of the category which we have under consideration. The only case of such a clause, of which we are aware, is that in the patent of baronety conferred upon Sir James Dunbar of Mochrum, which includes a grant of *two white doves Imperially crowned*, with '*Candoris praeium honos*'—for a motto.¹ The earlier patents of baronety, those which were created before the Restoration, contained no clause dealing with anything approaching heraldry except the baronet's badge. But in the later patents of Scottish baronets, we find frequently a clause respecting their armorial bearings, which is usually of the following tenor: 'By these presents we ordain Lyon our King of Arms, and his brother heralds, that they give and prescribe such an armorial addition to the present insignia of the aforementioned A. B. as is usual in such cases.'

¹ Patent, 29th March, 1694. The late Mr. Stodart, Lyon Clerk, thought this the only known instance of the kind in a patent of baronety. *Scottish Arms*, ii. 17.

² 'Mandamus per praesentes Leoni nostro Regi armorum suisque fratribus fecialibus ut tale additamentum armorum praesentibus insigniis praenominati A. B. sicuti talibus casibus usitatum est dent et praescribant.' See Patent of Baronety in favour of Mr. John Cunyngham of Lambroughton, 21st September, 1699. (Papers in Case, *Cunynghame v. Cunyngham*, 1849, already mentioned.) The mandate in the case of Hay of Park runs: 'Ut tale additamentum insignium presentibus armis prefati domini Thomae Hay de Park prout in talibus casibus usitatum est dent et praescribant.' *Great Seal Register*, lx. 383, 2nd June, 1664.

In other Nova Scotia patents a mandate ran thus: 'We command that forthwith Lyon and his brother heralds do give and prescribe such additions [observe the phrase] to the present armorial insignia of the said C. D. which shall seem fit and proper to this occasion.'¹ The phraseology of the mandate was that of mandates to Lyon and his brethren which had been for some time familiar in patents of peerage.² In the patent of 1690 raising Sir Patrick Hume to the peerage as Lord Polwarth, he is granted an inescutcheon, *azure, an orange (aurantium) proper, royally crowned*, as an addition (*additamentum*) to his arms, 'Cum omnibus additamentis extremis usitatis et necessariis.'³ These last-named additions obviously include supporters. And with this view of the term *additamenta* accords the opinion expressed in the former edition of the present work, that the phrase in the rescinded Act of 1662, cap. 52, 'additions to their coats of arms,' in all probability refers to supporters and other exterior decorations (pp. 283-4). If the term 'addition' was capable of including supporters in the patent of a peer, it must have been similarly capable in that of a baronet. For that supporters were generally classed at that period and after as 'additions to achievements' we know from Guillim, to say nothing of Nisbet.

We are not aware of any positive evidence that, at the dates at which most of the baronetcies involved were created, supporters were usually granted to them, or considered appropriate. On the other hand, the slight estimation in which supporters were held, and the form of the entries of arms in the *Armorials* and early pages of the *Register of All Arms*, renders their absence from these records a thing of little if any significance.

¹ 'Leoni porro Armorum Regi ejusque fratribus facialibus additamenta praesentibus insigniis armoris dicti C. D. quae huic occasioni congrua et idonea videbuntur dare et praescribere imperamus.' See Patent of Baronetcy to Sir James Dick of Prestonfield, 22nd March, 1707. (Papers in Cunninghame case as above.) 'Insignia et armorum additionem (prout congruit)' is the phrase in the patent of Carnegie of Pittarrow, 20th February, 1663.

² E.g. Patent, 10th November, 1620, creating Sir Henry Cary Viscount Falkland; the patent, 14th March, 1624, creating Viscount Lauderdale an Earl; the patent, 12th May, 1633, of the Earldom of Loudoun, all in the *Great Seal Register*.

³ *Acts Parl. Scot.* ix. 244. Sir Patrick's former registration was ordered on his forfeiture to be deleted, and the deletion has taken the unfortunate form of erasure. But his matriculation after 1690 includes supporters, two lions regardant argent. (*Register*, i. fol. 104.)

It must be recollected also that a grant of them probably meant fees, and that the original patentees of the Nova Scotia baronetcies were not over-anxious to be baronets at all. At a later date a certain number of baronets obtained supporters, either on the score of their rank, or in virtue of the as yet unexecuted precepts in their individual patents.¹ What the additions of honour originally contemplated were, if they did not include supporters, it is difficult to say. The shields of the Nova Scotia baronets, at least, do not bear them,² nor do their crests or mottoes. The heralds on the whole seem to have been left very much to their discretion in the inter-

¹ Thus Sir James Dick of Prestonfield, who had recorded arms without supporters on 1st August, 1687, was created a baronet in March, 1707, with a Precept to Lyon. (See p. 328 n. 1.) His successor, Sir Alexander, an eminent physician, obtained supporters, 21st December, 1771.

² In the former edition of the present work (pp. 305-6) the opinion was expressed that the clause referred to the 'additionment of honour,' the badge of Nova Scotia, to be worn on the shield in a canton or an inescutcheon. But the badge was not a thing which was left to the heralds to grant, or to determine the general use of, or the propriety of in individual cases, but was a mark of a baronet of the order, and nothing else (*Cunningham v. Cunningham*, see page 346).

A passage in Edmondson's 'Account of the Scottish Baronets,' in his *Complete Body of Heraldry*, sig. eeee, quoted at length in the former edition of the present work (p. 307), probably led it, and perhaps Tait also, at an earlier date, to take the view of the case which they did. But Edmondson founds his remarks on a careless reading of Sir George Mackenzie's *Precedency*, p. 53, and an equally careless reading of Nisbet's *System*, ii. 127, both of which passages he cites. He learns that 'some of the baronets of Scotland had supposed that, by virtue of their patents, they were entitled to add supporters.' He then finds the statutes granting the baronets a canton or inescutcheon 'in their option' of the arms and supporters of Nova Scotia, and construes it to be a clause of a patent instead of a statute. He then concludes that it is a 'misconstruction of this clause' that had led the baronets astray. But the baronets, even according to Edmondson himself, were talking of their patents, into which this clause did not enter. At page 193 of the *Complete Body* he makes a statement to the opposite effect, that the Scottish Baronets 'are by their patents of creation allowed to carry supporters,' and that Lyon 'may by virtue of his office grant supporters without . . . Royal warrant, and hath frequently put that power into practice.'

Nisbet saw clearly that clauses, such as those quoted above, could not refer to the badge of Nova Scotia granted in the statutes. Apparently it did not occur to him that they were similar to that which appears in some peerage patents, and referred to honourable augmentations in or outside the shield. So as they did not affect the badge already granted by the statutes, he thought them unnecessary, and argues that the clause was inserted in ignorance, 'by a mistake of the formalists.' But such a reading is only to be adopted as a last resort in the interpretation of documents.

pretation of the warrant, and though we may think that they determined too frequently that the cases before them were appropriate for grants of supporters, we cannot suggest that they did wrong in exercising the judgement reposed in them.

THE RIGHT CONSTITUTED BY A GRANT OF SUPPORTERS.

A grant of supporters does not infer any exclusive right in the particular animals or figures assigned, nor in anything in the grant which is not necessarily personal to the patentee, or which would in any case have been capable of being granted to another at Lyon's discretion. Supporters in this respect rank with the figures used as bearings. Golden lilies are to be found in the arms of Eglinton and Lennox, scallops in those of Graham, Maul, and Pringle. So, among supporters, red lions guardant are common to the noble houses of Argyll, Crawford, and Gray, and golden lions to the Earl of Rosebery and Lord Torphichen. But, on the other hand, while a savage, such as the Duke of Sutherland's sinister supporter, may be granted to any one who has a right to supporters, a savage holding in his outer hand the shield of the ancient Earls of Sutherland, which the Duke's supporter does,¹ is proper to the Duke alone. Lions sejant, to take another example, may be made the matter of a grant on a new occasion, though they are already in use; but in the interesting fourteenth century seal of William de Cockburn, they have ornaments, taken with which they are not liable to be treated as common properties, namely, the mantles which he wears round his neck charged with three round buckles.² The collars charged with three stars, which appear on the greyhounds, supporters of Innes of Innes, mentioned by Mackenzie, are another instance of the same.³ The buckles on the collars of the greyhounds of the Marquis of Huntly are similar in the matter of property.

Where, however, a cadet of a house which is already in possession of supporters obtains a right of his own to these honours, it is not now proper nor the practice for him to receive the supporters of the head of his house without a difference. The case of the Earl of Kelly, whose supporters are

¹ See modern Peerages.

² Macdonald, 442.

³ Mackenzie, *Heraldry*, chap. xxxi.

the gryphons of the Earl of Mar, differenced with a crescent on the shoulder of each, is cited by Mackenzie in illustration of the practice. The collars of the Marquis of Huntly's supporters, just mentioned, are another case of a difference added to the supporters of a parent house. The Earl of Aboyne, who was a son of the second Marquis, took entirely different supporters—two men in armour.

When nothing exists to alter the rule, hereditary supporters descend with the principal arms. The line of that descent will be discussed on a later page.

The assumption is that supporters which are granted on a person's elevation to a dignity entitling him to supporters go with the dignity with which they came. But a peerage granted to a person who has already a right to supporters does not 'attract' the right of supporters so as to alter their line of descent to its line.

The addition of supporters to the arms of a cadet does not dispense with the necessity of his bearing his arms with a difference.

When a gentleman with a right of supporters marries an heiress whose arms he may quarter with his own, he may continue to use his supporters with these quartered arms. If she has also a right of supporters, he may adopt one of them, and use it with one of his own. He then places his own supporter at the side of the shield at which is the principal quarter of his own arms; her supporter is placed at the other side.

Supporters granted originally of grace, not of the grantee's right, may be subsequently altered by the permission of the grantor. In the case of supporters specified in a Royal patent, like those of Dunbar of Mochrum, it is thought that no alteration could be made on them without the direct permission of the King.

The right to hereditary supporters is always indivisible, save that the heir who has the right may use one only of them if he chooses. The right confers no title on any cadet to demand them even with a difference.

ADMISSIBLE SUPPORTERS.

The theory of supporters, whether they represent mythical or real beasts or persons, is that they are the subjects, servants, or retainers or followers of the owner of the shield which they support, or his actual supporters in

other senses. If they are trees or inanimate objects, they represent in theory things that are his property.

When beasts such as the lion and the unicorn were taken to represent the virtues, every true knight had 'his beast.' Lions as his supporters, as anywhere else in arms, meant that he put his trust in courage and magnanimity, and so on. This idea is no longer active when an heir wears lions merely because his ancestors wore them; but the idea is still latent; it cannot be ignored with propriety, and, on the other hand, it can be observed to good purpose in all ways.

'Lord Reay, when he went to Germany with his Regiment, did take his arms supported on the dexter side by a Pikeman armed at all parts proper, and on the sinister by a Musquetier proper.'¹ General Sir John Moore, as a Knight of the Bath (K.B.), chose two soldiers—the one a light infantryman, the other a Highlander—the latter in gratitude to and in commemoration of two men of the 92nd Highlanders who found him wounded in the course of a battle, and helped him out of the field.² Field Marshal Earl Roberts has, in a similar way, chosen a Highlander of the same regiment and a Goorkha as his supporters, in acknowledgment of the support the Highlanders and Goorkhas had been to him in his campaigns.

The King's military services afford other examples as good of supporters chosen with such consideration and propriety. The cases of Earl Nelson and the Earl of Camperdown, and Lord Napier of Magdala, and Campbell of Ava, may be cited. The arms of Lord Wimborne are as appropriately supported by two sons of Vulcan.³

¹ Mackenzie, *Heraldry*, chap. xxxi. This was probably in 1626, though he was not then ennobled. These supporters are again used by this house, though for some time the pikeman had been supplanted by a second musketeer.

² See his letter, Appendix ix.

³ Or, as the blazon has it, 'On each side a figure habited as Vulcan, resting his exterior hand on an anvil and holding in front thereof a sledge hammer, all proper.'

CHAPTER XII.

SUCCESSION TO ARMS.

A GRANT¹ of armorial bearings, when it is not expressly restricted to the grantee himself, is held to be of a hereditary nature in one line of heirs or another; and creates also rights of several minor degrees in other descendants of the grantee.

1. It is unnecessary to say that the grant confers on the grantee a right to the full and undifferenced arms of the grant, and to the supporters, if the grant includes supporters, and that it confers a similar right to bear the crest, if there is one in the grant,² unless the grantee is a lady. If a crest in that case is included in a grant of arms, it is there for the use of her male heirs.

2. The grant creates an equal right for ever in the person who is the heir of the grantee according to the terms of the grant.³

3. It confers a right on each daughter of the grantee, and of his heirs just mentioned, both during her father's life and afterwards, to bear the undifferenced arms of the grant, during her unmarried life; and to bear them during her married life and widowhood impaled with those of her husband, if he has arms to impale them with; and also, if she chooses, to bear them again alone during her widowhood. But it confers on her no right to the crest, and, unless she is the heiress under the grant, no right to the supporters, nor to transmit any of the rights under the grant to her heirs.

¹ In law, though not in history, every right of arms is held to flow from a grant.

² A grant of a crest alone by Lyon, on 19th December, 1631, to Sir James Galloway, Master of Requests, who was already in possession by inheritance of 'ancient coat armour,' is quoted by Sir George Mackenzie, *Heraldry*, 1680, chap. ii. p. 8.

³ Mackenzie, *Heraldry*, chap. ii. p. 13.

4. It creates a right in the eldest son of the heir in possession to bear the arms of the grant during his father's life, subject to this, that he must bear them surmounted of a label of some distinctive colour or metal, according to his choice ;¹ and this right is understood in courtesy to include the supporters, if any, and the crest, each similarly differenced by a label.

5. In practice a similar right is conceded to younger sons to bear the father's arms with temporary differences during his lifetime, or until they marry and become themselves the heads of families. These differences are the crescent, mullet, martlet, etc., mentioned on a former page, and they may bear them in any distinctive colour or metal they choose. In this allowance and the limitation of the term of its endurance the practice of Scotland is in accord with the general law of arms laid down by the great English authorities, Glover, Camden, and Dugdale.²

6. A right to each cadet within the limitation of the grant, and each male or representative of his line to have the arms of the grant matriculated anew in the Register as his arms, hereditary in the same way ; subject only to this : he is entitled to demand them only as they were borne by his nearest ancestor, and with a further difference if he is not that nearest ancestor's representative.

Thus, for example, B., a second son of the grantee or of the heir of the grant, is entitled to the principal arms of the grant, with a simple difference. If B.'s eldest son matriculates for any reason, he is entitled as representing B. to have the arms with the difference which B. had or might have had, but B.'s younger son is entitled to them only with an additional difference. Any simplification of a coat too crowded with differences is at the discretion of the heraldic authority.

The rights of cadets to ancestral crests and mottoes are the same ; but they do not extend at all to supporters. Nor indeed may a cadet, who obtains an independent right to supporters, demand the supporters of the head of his house even with a difference.

The line in which the principal right of arms descends is by no means

¹ Except white, which in English, and now in British heraldry is associated with Royalty, though it was not so anciently in Scotland.

² See *Antient Usage of Arms*, 1682, by Sir William Dugdale, pp. 47, 48, 50.

always the same, nor easy at all times to be determined. It is sometimes laid down in the grant; sometimes it is not, or, at least, not in the entry of the right in the Register. Sometimes the terms of the grant are unknown.

When the terms are in the grant they are to be interpreted according to their apparent meaning.

A grant to a person and his 'descendants,' or, in earlier phrase, 'posterity,' is a grant to heirs of his body in contradistinction to heirs-*male* of his body. A grant, or, failing the grant, the entry of it in the Register of Arms, declaring the existence and nature of the arms of A. B., without restricting the right in them to A. B. alone, is equivalent to a grant to A. B. and his heirs, a term which includes collateral heirs.¹

When the terms of the grant are unknown, they are to be ascertained either from the facts of the past enjoyment of the right which has been constituted by it, or by the aid of a presumption. Different views regarding the presumption to be admitted have been stated: (1) that the presumption should be that the destination is to heirs-*male*; (2) that it is to heirs-general; (3) that it is to the heirs of the 'more substantial rights and dignities' of the family.² This last opinion, though obviously providing a rule of convenience for some cases, has no application where there are no substantial rights and dignities, or they are divided in their own destinations.

HEIR-MALE V. HEIR OF LINE.

The abstract question of heraldic succession, as involved in a competition between the heir-*male* and the heir of line through a female, has not been settled by any pure and unqualified case which has presented itself for the decision of the Supreme Court, and our principal writers on heraldry, Sir George Mackenzie and Alexander Nisbet, have perhaps not treated of the subject as they might have done had they foreseen the discussions of later days; the practice also of the Lyon Court has not supplied any very

¹ It is quite possible that a modern A. B. should obtain a grant of arms for himself alone. But the heraldic authority could not be bound to abstain from granting the same arms to A. B.'s son after his death.

² *Obiter dictum*, per Lord Jeffrey, in the case of Cuninghame, below, p. 350.

clear or consistent interpretation of the rules by which it at least has been guided.

While there is no doubt that, where no special limitations of rights exist as by statute, patent, or entail, the right of the heir to his ancestors' arms descends *jure sanguinis*, and vests in him like an honour without service or any legal formality,¹ the prevailing opinion, in which we share, is that in other respects the law of heraldic succession is analogous if not identical with the common law which regulates succession in heritable rights,² which vest similarly, *jure sanguinis*, and without service or sasine. Like that law it gives a limited preference to males, and prefers descendants to collaterals or ascendants. A son succeeds in preference to a daughter; but a man's descendants of either sex and of any degree succeed before his brothers. This rule of succession was held to be established by the Scottish authorities who were consulted by King Edward I. in nothing less than the great arbitration of 1291-2 concerning the succession to the Scottish Crown.

As the question, who was last infest? cannot arise, there is no place for the rule that the sister of the whole blood may succeed before the brother of the half blood. The test of the heir is not who is heir of the last heir but who is heir of the first man, the grantee.

To say, however, that this doctrine has been clearly admitted ever since would be difficult. It is probable that much lawless assumption of arms has taken place in all armorial ages, and the governing principle that arms represent families has been thought to be satisfied without the necessity of any very strict definition of the idea of representation. At one time it was through the female line, at another the male line, and at times perhaps neither, but on the theory that the once personal insignia had become feudal and that any purchaser, admitted by the Crown, might adopt them.

The questions in which difficulty arises as to the application of the rules of succession to armorial bearings relate in most cases to the succession of the female line.

Daughters, without doubt, are entitled, as we have already said, to use their father's coat of arms in a lozenge both before and after his death, as after his death an eldest son may, without matriculation and without

¹ Macdonald, *Heraldry*, chap. xii.

² In English legal phrase, *real rights*.

difference. They have that right as long as they are unmarried, and after marriage they may bear them similarly along with their husband's arms. If they become heirs-portioners they in turn transmit their right, whatever it is, to their heirs.

The armorial right which a lady inherits has been viewed by some authorities to be a right which ceases on her marriage to be independent. After marriage she, according to that view, is unable to bear her arms except marshalled with her husband's, and so long as he has no arms she is deprived of her capacity to exercise her armorial rights; the right also which, if she becomes an heiress, she transmits to her heirs is only a right to bear her arms marshalled with their paternal arms. If they have no paternal arms with which to marshal hers they cannot bear hers at all. An heir may bear his father's arms unquartered, but he is not entitled by the common law of arms to bear his mother's so.

This is apparently what Sir George Mackenzie means when he says 'No man can bear his mother's arms.'

The law which incapacitates the heir from bearing his mother's arms save quarterly does not, however, imply that the sole right to these arms has not passed to him.¹ At any time the incapacity may be removed, if, as Mackenzie says, 'the Prince consent.'

That the consent of authority is necessary for such an assumption is evident if only in consideration of the fact that the arms of co-heiresses are identical—undifferenced arms of their father. If more than one of them might transmit these arms to be borne by her heir, as his only arms, an indefinite number of people might be found bearing arms which did not distinguish one of them from the other.²

That the heirs shall take the name and arms of the ancestor is a frequent provision in entails of landed estates. As Mackenzie, in the passage already cited, says, 'the mother may by paction or testament provide that they [her heirs] shall not succeed except they bear her arms.' To this he adds—'in which case they may be forced to carry them if

¹ It is not necessary to exercise the right, nor to bear the arms unquartered, in order to retain the right to them.

² 'Pluribus idem insignie deferre absque debita differentia sua fas non est.' Spelman.

the Prince consent,' etc. It is clearly Mackenzie's mind that if the Prince consent not, the stipulation is inoperative. The heirs must endeavour to obtain the consent; they do not forfeit their inheritance if the consent is refused, but if it is forthcoming they may be forced to carry the arms or lose the inheritance which is at stake.¹

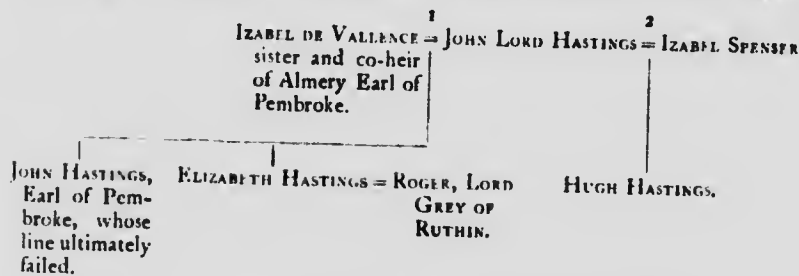
Nisbet throughout his works appears to take the settlement of the right of the heir of line for granted. His observations relate only to its consequences; and he does not advert to the armorial right of the heir female in the case where the 'more substantial rights' perhaps of more recent acquisition have gone elsewhere. Thus, he says: 'When the heirs-male of the eldest brother fail, and the inheritance falls to their daughters, and their heirs, the younger brother and his issue may use the plain label as heir of expectance.'² In illustration of the practice he cites the case of the Earl of Abercorn, who became heir-male of the House of Hamilton when the elder ducal line came to be represented by the Duchess Anne, to whom, however, the territorial duchy went also. The Earl, he says, then bore the arms of Hamilton, but differenced by just such a label. The language chosen by Nisbet in the passage we have cited is that of the celebrated English record-scholar, Dugdale (Garter King-of-Arms, 1677-1681), whom in continuance he quotes: 'A label being much in use for the heir apparent (to wear as his difference during his father's life) was seldom removed to the second brother, but when the inheritance went unto the daughters of the elder brother; and then the second was permitted to bear the same for his difference, as being the heir-male of his family and as one that remained in expectancy; yet might not the second brother use to intrude himself into the absolute signs of his house (the inheritance being in his nieces or kinswomen) as appeared in the case between Gray of Ruthin and Hastings.'

This celebrated litigation, protracted from the reign of Richard II.,

¹ Mackenzie's rule, that the consent of the Prince is requisite, may be satisfied in various ways, as by Act of Parliament, Great Seal Charter on a Royal warrant, or Act of the ordinary heraldic authority. As to the last, see *Hunter v. Weston*, 1882, page 74 above; *Moir v. Graham*, 1794, page 128 above; *Joicey Cecil v. Joicey Cecil*, 10th June, 1898, H.C. of J. Chancery; *Crofton v. Ferrers*, L.R., Ch. I. 1904, p. 252; Phillimore, *Herald's College and Coats of Arms* (3rd ed. 1904), Appendix of Statutes and Cases.

² *System of Heraldry*, ed. 1722, i. 449 (1742, i. 439)

1377, to that of Henry VI., 1422, was a case of the same kind. To continue in Dugdale's words quoted by Nisbet: 'John Lord Hastings married to his first wife Izabel one of the sisters and heirs of Almetry de Vallence, Earl of Pembroke, by whom he had issue John Hastings (after Earl of Pembroke), Elizabeth (married to Roger Lord Gray of Ruthin), and some other children which needs not be spoken of; for that, as I take it, all the lines of them failed before the extinguishing of the line of the said John Earl of Pembroke. After (such issue being had) the said Izabel Vallence died, and the said John Lord Hastings took to a second wife Izabel, the daughter of Hugh Spenser, by whom he had issue Hugh Hastings and Thomas, and then died, and left as heir John his son by his first wife (who was Earl of Pembroke, as I have said, erected by reason of his mother's inheritance) which John Earl of Pembroke married and had issue another Earl of Pembroke, who also married and had issue a third Earl of Pembroke; but in the end all the line of the said John Hastings (first Earl of Pembroke of that family) failing, there arose a question betwixt the heirs of Roger Gray and Elizabeth his wife, being sister (of the whole blood) and the heirs of Hugh Hastings brother (of the half blood) to the said John Earl of Pembroke, for the inheritance of the Hastings.'



REINOLD, LORD GREY OF RUTHIN, *Plaintiff.*
 SIR EDWARD HASTINGS, *Defendant.*

But Gray recovering the same (by the law that saith *Possessio fratris de feodo simplici facit sororem esse heredem*)¹ called the said Hastings also (having

¹ The sister of the whole blood is preferred in descents before the brother of the half blood, because more strictly joynd to the brother of the whole blood (viz. by the father and mother) than the brother, though otherwise more worthy, of the half-blood.' Sir M. Hale, *De Successionibus apud Anglos*, 1700.

removed the difference of his mark for that he was then heir-male of that house) into the Court of Chivalry, and there having a judgement against him (c. 1408), the said Hastings was compelled to use a difference (which was a label of silver) upon his mark,¹ a fair *red sleeve* of his lady's upon his *golden vesture*; ² since which the heirs of that younger family have used the said label even until this our age. So that you may see by this, that the law was then taken to be such, that such an heir-male as had not the inheritance of his ancestors should not be suffered to bear his mark without distinction; for it should seem (by this) that the issue of them that had married the heir-general of any family (being by reason thereof possessed of the lands) had not only an interest in the arms, but might also forbid any man the bearing thereof.³

Here then it must be observed that the competition was not between a female heir of line and a collateral heir-male, but between the representative of a sister of the full, and the representative of a brother of the half blood, of the last person in possession; that the former was preferred to the other as to the lands, and that thereafter, being in possession of the lands, was preferred to the arms as well. The first judgement, that he was heir of the lands, may have been thought needful before he asked the second judgement, as a mere finding of his propinquity; or it may have been necessary on the theory that he had no title to the arms unless he was in possession of the 'more substantial' inheritance. Dugdale, and even Nisbet, may have thought that the latter was the accepted view. But in any case the judgement does not seem to settle what would have happened had the heir-general not been in possession of the ancestral acres; or that the heir-male could or could not have claimed the arms without showing positively that the acres had, on the other hand, come to him.

The arms were certainly treated as only feudalized arms could be treated now. Into the question of hereditary (*i.e.* unfeudalized) arms the doctrine

¹ Nisbet's version adds: '(that is the Paternal figure).'

² In heraldic language, *or*, a maunch *gules*.

'A lady's sleeve high sprigted Hastyngs bore.'

Drayton's *Barons' Wars*, i. 22.

³ *Antient Usage of Arms*, p. 28, Bank's ed. 1812, fol. 16.

of the whole as against the half blood does not enter. To such arms Sir Edward Hastings, the unsuccessful party, but still heir of the common ancestor in honours, would, according to the present law of arms, have had the better right, whether they were capable of going to the heir-female of line in preference to an heir-male collateral of the last possessor or not. It is interesting to recollect that Sir Edward's line, though only after generations, was held to have been entitled all along to the greater honours of the house—the Hastings peerage, which went to heirs-female, and is in fact now enjoyed by an heir-female, his eldest co-heir.¹

The seals appended to the charter of foundation of the Collegiate Church of St. Bathans, in the year 1421, afford an interesting illustration of the use of the heraldic ensigns of a family being used at that time only by the heir-female who had the more substantial representation in her, namely, by the eldest of the four co-heiresses of Gifford and Yester. Sir William Hay, ancestor of the Tweeddale family, married the eldest of these co-heiresses, and his seal of arms (already referred to), attached to the charter in question, exhibits his wife's ensigns quarterly, with his paternal arms 'surtout'; while on the seals of the three other Barons who married the younger daughters—viz. Thomas Boyd of Kilmarnock, Eustace Maxwell of Teyling, and Dougal Macdougall of Mackerston—we find 'nothing but their single paternal coats.'² Two hundred years later, as mentioned by Nisbet, we have an example of the preference of the heir of line in the case of a well-known northern family. William Seton of Meldrum, having no issue by his wife, Anne, daughter of Crichton of Frendraught, entailed his estate, failing heirs of his own body, to his grand-nephew, Patrick Urquhart of Lethinty, eldest son of the 'Tutor of Cromarty' by Elizabeth

¹ Hereditary arms of families must not be confounded with *feudal ensigns*, which are annexed to certain lordships and estates, and carried by their possessors. Thus the Earls of Derby, and afterwards the Dukes of Athol, quartered the arms of Man (three conjoined *legs* in armour) as lords of that island, while the Duke of Hamilton quarters the ensigns of the earldoms of Arran, and the Duke of Argyll, those of the lordship of Lorn, being in both instances a lymphad or ancient galley. In like manner, the three garbs (or wheat-sheaves) of the earldom of Buchan have been carried by the families of Cumin, Stewart, Seton, Douglas, and Erskine, either as holding, or pretending to, that ancient dignity.

² See Nisbet's *Essay on Armories*, p. 98.

Seton, the entailer's niece; 'esteeming it just and reasonable that, as the estate of Meldrum came to the name of Seton by a marriage with the heir-female of Meldrum of that Ilk, and that the course of succession continued settled in the heirs of line for a long time, it should in like manner descend to his eldest brother's daughter and her heirs, rather than go to an heir-male at a greater distance.'¹

The facts regarding the descents and titles of our present families whose heirs-male some theorists would consider their only true representatives in the future are scarcely sufficiently regarded. In the well-known Sutherland Peerage case (1771) it was clearly proved by the learned Lord Hailes, the constructor of the Additional Case for the Countess, that the Salic law of France and other kingdoms has not been the rule in this country. But it is not commonly realized how many of our leading honours besides that of the Crown itself are inheritable by heirs-female. 'At present,' says Riddell, in 1859, 'there are in virtue of our various Peerage grants, a far larger class of heirs-female to dignities, than of heirs-male, independently, as has been instructed, of the *constant* devolution of *all* our older (Peerages) to heirs-general, besides the later female descents, is at best but *rusticum* *judicium numero, non pondere*, the prior of which tests has been contemned, nay reprobated by lawyers, and cannot in the *abstract*, that is, as regards the mere quantity, be confided in; while the latter, the proper relevant test, evidently in this alternative, decisively applies in behalf of the heirs-female.' Again, he remarks, 'Patents, I need hardly observe, arbitrarily fixing the descent of an honour, though in numerous instances likewise in favour of heirs-female, are not a proper criterion. It is our succession that must here weigh, when left to common law. . . . With respect to our Dukedoms alone (he, however, remarks) innumerable existing heirs-female take under the Ducal patents of Hamilton, Buccleuch, Queensberry, and *Montrose* (as was there at least intended), *far more* than male; and the Duke of Roxburgh likewise is an heir-female.'²

Even in the case of the Salic law, to which we have incidentally referred,

¹ *System of Heraldry*, vol. ii. Appendix, p. 125.

² *Law and Practice in Scottish Peerages*, ii. 944. See also his Appendix there, No. vii. pp. 1006 *et seq.*

the precise principle of succession was at one time very keenly debated—its strictly masculine character being boldly challenged by one section of rival disputants. We particularly refer to the competition for the crown of France, in the fourteenth century, between Philip of Valois (afterwards Philip VI.) and Edward III. of England, the former being cousin-german by the male line to the deceased monarch Charles IV., while the latter was his sister's son. Philip pleaded that the Salic law excluded from the throne, not only daughters themselves but also their descendants, *whesher male or female* and, that his opponent could not pretend to the crown, as representing only a female. Edward, on the other hand, did not pround his claim on the right of representation, but insisted on his nearness of blood, as the next male heir capable of succeeding. The decision, however, as is well known, was unfavourable to the English monarch, the subsequent prosecution of whose claims was the cause of long-continued warfare between the two kingdoms.

In his reply¹ to the famous pamphlet entitled *Leicester's Commonwealth*, in which the descent of the Dudleys was attacked, Sir Philip Sydney, as a 'sister's son' of that distinguished house, indignantly repels the allegations, and quaintly vindicates the rights and interests of heirs-female. Speaking of his maternal grandfather, the Duke of Northumberland, he says, 'His mother was a right Grai, and a sole inheritor of that Grai of the Hows of Warwick, which ever strove with the great Hows of Arundel, which should be the first Earl of England: he was lykewise so descended as that justily the Honour of the Hows remained chiefly upon him, *being the only heir to the eldest daughter*; and one of the heirs to the famous Beauchamp, Earl of Warwick, that was Regent of France; and although Richard Nevel, who married the youngest sister, becaws she was of the hole blood to him that was called Duke of Warwick, by a point in our Law carried away the Enheritance, and so also, I know not by what right, the Tyle; yet *in Law of Heraldri and Descentes*, which doth not consider those Quiddities of our Law, *it is most certain that the Honour of the blood remained upon him chiefly who came of the eldest Daughter*. And more undoubtedly it is to be said of the Hows of Barklei, which is affirmed to be descended

¹ Printed in *Letters . . . of State . . . Arthur Collins*, 1746, vol. i.



lineally of a King of Denmark, but hath ever been one of the best Howses in England; and this Duke was the oneli Heir-general to that Hows, which the Hows of Barklei doth not deny, howsoever, as sometymes it fals out between Brothers, there be question for Land between them. Many other Howses might herein be mentioned, but I name these becaws England can boast of no nobler, and becaws all these Bloods so remained in him, that he, as Heir, might (if he had listed) have used their Armes and Name, as in old tyme they used in England, and do daili both in Spain, France, and Itali:— So that I think it would seeme as great News as if thei came from the Indies, that he who, by Right of Blood, and so accepted, was the awncientest Viscount of England; Heir in Blood and Armes to the first or second Earl of England; in Blood of Inheritance, a Grai, a Talbot, a Beauchamp, a Barklei, a Lislai (Lisle), should be doubted to be a Gentleman. But he will say these great Honors came to him by his Mother. For these, I do not deny they came so; and that *the Mother being an Heir hath been in all ages and contreis sufficient to nobilitat* is so manifest, that, even from the Roman Tyme to modern Tymes, *in such case, they might, if they listed, and so often did, use their Mother's Name*; and that Augustus Cæsar had both Name and Empyre of Cæsar only by his Mother's Ryght, and so both¹ Moderns.'

Arms, the destination of which is unknown, and those which are destined to the patentee and his heirs, go to the collateral heir on the extinction of the patentee's descendants, in the same way that those destined to his heirs-male go on the extinction of his male descendants to his heir-male collateral. 'Whether *agnati transversales*, such as nephews, etc.,' says Mackenzie, 'have right to carry the arms that are given by the Prince to their uncle and those of his family, may be doubted; and that they may, is concluded by the doctors, *nam agnati intelliguntur esse de familia*; but if the arms be granted to a man and those descending of his body, they [his collaterals] will thereby, or by any such express concession, be secluded.'²

The order of succession at common law to supporters is naturally the same as the order for arms proper. 'The right of using supporters,' says

¹ Collins notes here: '*i.e.* both name and arms.'

² *Science of Heraldry*, chap. xxi. p. 70.

Nisbet,¹ 'is hereditary with us in the lineal heirs and representatives of families; but not to the younger sons or² collaterals, unless they become representatives of the family.'

In all respects this is an indivisible right: it goes as a precipuum to the senior heir of line alone. 'Heirs-portioners,' says Lord Stair, 'are amongst heirs of line; for when more women or their issue succeed, failing males of that degree, it is by the course of law that they succeed; and because they succeed not *in solidum*, but in equal portions, they are called heirs-portioners; and though they succeed equally, yet rights indivisible fall to the eldest alone, without anything in lieu thereof to the rest: as 1. The dignity of Lord, Earl, etc.; 2. The principal mansion, being tower, fortalice, etc.; 3. Superiorities, etc.'

The question of the Common Law right of succession both to arms and

¹ *System of Heraldry*, ii. part iv. 33. It must be recollected that Nisbet was bred a lawyer, *Essay on Marks of Cadency*, p. v; he must therefore have been aware of the legal signification of the terms he here uses.

² The passage as printed has *of*, but *or* is clearly meant.

³ *Institutions of the Law of Scotland*, book iii. tit. 5, § 11.

At one time the heir of line who, on taking the heritable estate, did not participate in the succession to the moveable estate generally, had yet a right to certain moveables more intimately related to the heritable estate, namely, some at least of the furnishings of the mansion house, the cushion of the family seat in the church, etc., etc., and with them in an old enumeration was classed the family seal of arms. While the law subsisted, authorities differed as to whether these heirship moveables went to the eldest heir-portioner or were divided; but the whole law of heirship moveables is now abolished, by the Titles to Land Act of 1868, 31-32 Vict. c. 101, § 160. See Bell's *Dictionary*, and authorities there.

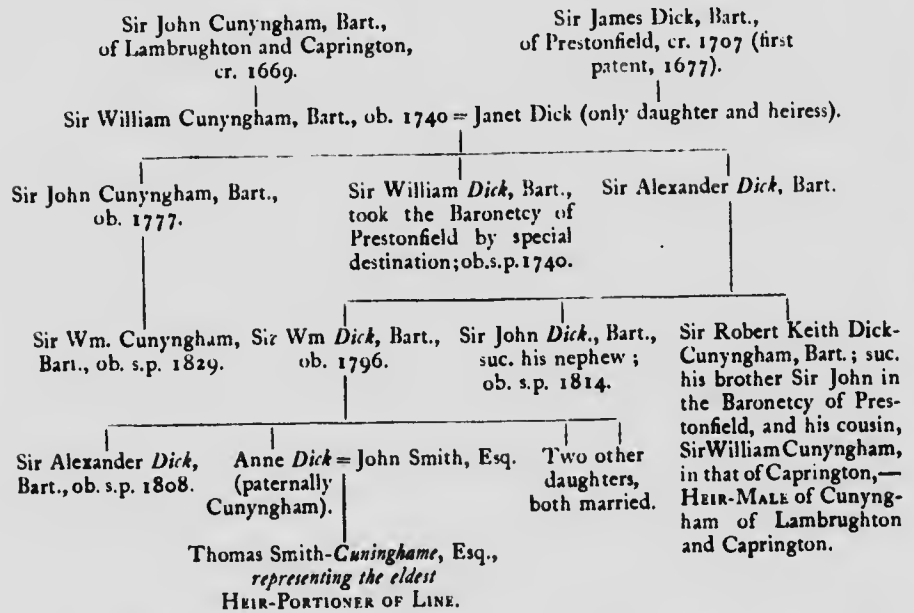
Corresponding to our former law of heirship moveables, there are certain personal chattels which, by the law of England, descend to the *heir*, and among these Blackstone enumerates 'ancient family pictures, or a monument or tombstone in a church, or the coat-armour of his ancestor there hung up, with the pennons and other ensigns of honour suited to his degree.'

In the year 1643, the General Assembly of the Church of Scotland passed an Act which 'inhibites and discharges all persons, of whatsoever qualitie, to bury any deceased person within the body of the Kirk, where the people meet for hearing of the Word and administration of the Sacraments. And als inhibites them to hing *Pensils or Brods*, to affixe *Honours or Arms*, or to make any suchlike Monuments, to the honour or remembrance of any deceased person, upon walls or other places within the Kirk, where the publick worship of God is exercised, as said is.'

It is well known that in England a different rule from the Scottish rule prevails with regard to titles of honour descendible to females. These do not go of right to the eldest daughter, where there are more than one, but remain in abeyance, subject to the determination of the sovereign, who may thereafter call them out in favour of any one of the co-heiresses as he chooses.

supporters was much discussed in the years 1848-49 in the case of Cuninghame *v.* Cunyngham, although, owing to a special circumstance, no judgement on it was pronounced by the Court to which the case was appealed, and the judgement on it by the Lyon Court, bearing to be based on the Common Law, from which the appeal was taken was found to have been incompetent. In noticing that case it will perhaps be convenient to give a general account of it.

The parties in the action¹ were Sir Robert Dick Cunyngham of Prestonfield, Baronet, and his grandnephew, Mr. Smith Cuninghame, younger of Caprington; the former being the *heir-male* of the body of the first Cunyngham, baronet of Lambroughton and Caprington, and heir-male of the body also of Alexander the third Dick baronet of Prestonfield, who paternally was a Cunyngham too of the same stock, while the latter, Mr. Smith Cuninghame, paternally Smith, was *heir of line* of both these ancestors, through his mother, who was the eldest of three sisters, heirs-portioners, as shown in the pedigree subjoined:



¹ Cuninghame *v.* Cunyngham, 13th June, 1849. 11 Dunlop (*Court of Session Reports*, 2nd Series), 1139; *Session Papers*, 1849, No. 187.

From Sir James Dick, the first baronet of Prestonfield, who has not been mentioned yet, both Mr. Cuninghame and Sir Robert were descended, as the pedigree shows, only through the female line; and of that line also Mr. Cuninghame was the senior heir.

In 1845 the armorial rights of the family stood thus: The arms of Sir John Cunyngham just mentioned and those of Sir James Dick, had been recorded in Lyon Register on 2nd August, 1673, and 1st August, 1687, respectively; and the arms of Sir James had been matriculated in 1771 with the addition of supporters in favour of his grandson, Sir Alexander. The first two registrations mentioned only the respective grantees,—in a Registration of Arms in their day no destination of heirs or descendants was mentioned. The last, in 1771, was a grant to Sir Alexander 'and his heirs.' According to the ordinary interpretation of a Scottish grant the first two as well as the last were made to the grantees and their 'heirs' in contradistinction to their 'heirs-male.' This interpretation of them is also in accordance with the law of heraldry as laid down by the authorities above mentioned.¹ It was also apparently the view of the family in 1845, to say nothing of the officials of Parliament responsible for the drawing of private Acts of Parliament, for in that year it had been expressly declared, in a clause of such an Act, to which both Sir Robert and Mr. Cuninghame were parties, for the settlement of their rival interests relating to the family inheritance, that 'whereas the senior heir of line of Sir John Cunyngham, Baronet, of Lambrughton, and of Sir James Dick, Baronet, of Prestonfield' (the common roots and chiefs of the two families), 'has succession to all their indivisible heritable rights, not carried from him by entail or settle-

¹ If successors be not secluded, then arms descend to his heirs though they be not express. . . . But when they are given by the Prince to a man, or to his posterity, then his successors who are descended of him do carry the arms, and have right thereto, and that though they renounce to be heirs. Because these are marks of their Prince's favour, and no lucrative parts of succession. And therefore possible it is that our nobility bear the titles and enjoy the honours of their predecessors though they renounce to be heirs, and though these honours and titles were given at first to their predecessors and their heirs' (Mackenzie, *Heraldry*, 1680, chap. xxi. pp. 69-70). These observations were made at a time when for the heir to perform any act of possession regarding his ancestors' lucrative estate rendered him liable to all the ancestors' debts though they might exceed it in value, and when for that reason the heir sometimes found it wise to renounce the inheritance.

ment, and specially, has right to use and bear the arms and supporters of his said ancestors; be it therefore enacted that the said rights and arms are hereby reserved entire to such senior heir of line; and that the said Sir Robert Keith Dick, being a younger branch of the said families, he and his heirs-male, in taking the name of Cunyngham, and arms of Cunyngham of Lambroughton, shall do so with the difference, or mark of cadence, in the arms applicable to such junior branch.¹

Mr. Tytler, Lyon Depute, at the time, however, like his predecessor, Mr. Tait (Interim Lyon Depute, 1819-1823),² held the view that by the law of heraldry the principal arms and supporters went to the heir-male. In 1829 Mr. John Smith Cuninghame had applied to him for authority to bear in right of his wife the arms of Cuninghame and Dick quarterly with the supporters granted to her grandfather, Sir Alexander. The Lyon Depute had granted authority to bear the arms, but had refused the application for the supporters, on the ground that 'the right to such distinctions passes not to the heir of line but to the nearest heir-male of the family even though a distant collateral.' In 1846 Sir Robert, notwithstanding the private Act which in the meantime he had obtained, as already mentioned, petitioned the Lyon King for authority to bear the arms of Cuninghame of Lambroughton and the arms and supporters of Dick of Prestonfield according to the law of arms, Mr. Thomas Cuninghame opposed; he insisted that Sir Robert was entitled *only* to the family arms with a difference, and was not entitled to the supporters, and relied on the terms of the statute, and on the law of arms laid down by Nisbet. He then presented a petition to Lyon in the same terms as those used by Sir Robert. The Lyon Depute conjoined the consideration of the two petitions, and eventually pronounced judgement refusing the petition of Mr. Cuninghame and granting that of Sir Robert.

The Lyon Depute's judgement found that 'by the heraldic usage of Scotland and the practice of the Lyon Court' Sir Robert 'as head and

¹ 8 and 9 Victoria, cap. 23. See *Report and Session Papers in Cuninghame v. Cunyngham* *ut sup.*

² Mr. George Tait's evidence before the Commission on the Lyon Court, 1821. See Appendix.

chief in the male line of the families of Cuningham of Lambroughton and Dick of Prestonfield' would have been entitled to have carried the arms of these families quarterly without brisure or mark of cadency, but that in respect of the statute mentioned in the pleadings, 'and of consent of the Petitioner' appointed him to bear them with a difference—the 'difference' appointed for him will be mentioned anon. The judgement also found that the supporters granted to Sir Alexander 'and his heirs' and used by him 'and after his decease by Sir William Dick . . . the maternal grandfather of the respondent (Mr. Cuninghame) have now by failure of male descendants of the said Sir William Dick, devolved upon the Petitioner as heir male of the family.' The Lyon Depute accordingly authorized the Lyon Clerk to add the supporters to the differenced arms—'the destination of the said supporters being to the petitioner and his heirs male.' This introduction of the word *male* was unnecessary if the judge was right that the word *heirs* in the patent to Sir Alexander in 1771 was sufficient to give the supporters to heirs-male. And it is remarkable that in face of his own judgement of 1829 in favour of the heir-female he should have declared that but for the Act of 1845 the undifferenced arms should have gone to the heir-male also.

It has now to be noticed that the 'brisure or mark of cadency' which he appointed to the baronet as his difference was nothing else but the canton of Nova Scotia which the baronet was entitled to place on his shield without authority, which does not infer cadency, and would have been impossible for his younger sons or his daughters to have borne differenced or undifferenced! But the judgement was advocated to the Court of Session, where firstly the Lord Ordinary, and afterwards the Judges of the First Division, affirming the interlocutor of the Lord Ordinary, unanimously *held*—1st, That it was not competent in that case for the Lord Lyon to inquire whether the heir of line or the heir-male was entitled to the heraldic honours of the family, that question having been decided by the Act of Parliament. 2nd, That under the Act of Parliament, the heir of line alone was entitled to supporters, and it was incompetent in the Lord Lyon to grant them to the heir-male. 3rd, That 'the badge of Nova Scotia on a canton' was not a mark of cadence, and to assign it as

the only difference in the coat of arms, was not a sufficient compliance with the statute.

The Court, therefore, altered the interlocutors complained of, and remitted to the Lyon Court, with instructions, to award the arms and supporters of the families in dispute to Mr. Cuninghame, the heir-female, 'as head or senior heir of these houses,' and instructed it in matriculating the arms of Sir Robert 'to deny to him the supporters of the said families, and also to recal the award of arms to him, with the difference of the badge of Nova Scotia in a canton only, and to award the said arms, with such difference as may suitably and properly, according to the usage of heraldry, denote the difference or mark of cadence in the arms applicable to a junior branch.'¹

The Court grounded its judgement of the right of the heir-general entirely on the terms of the Act of Parliament to which the competitors had been parties.

On the general law of heraldry the Lord President and Lord Mackenzie expressly declined to state any opinion. The Lord Ordinary (Robertson) observed that he was 'inclined to go along with the argument for the heir-general.' Lord Fullerton was by no means prepared to assent to the proposition that in every case such honours went to the heir-general. He would have been, 'as at present advised, not disposed to decide' that apart from the statute the arms and supporters of Dick of Prestonfield belonged to the heir of line while the territorial possession of Prestonfield had gone to the heir-male. Lord Jeffrey observed that if he might be permitted to take a commonsense view, he should have said that there was no inflexible rule, nor a uniform practice in the matter; and that the chief armorial dignities should follow the more outstanding rights and dignities of the family.

On the interpretation of the statute the judges were unanimously of opinion that the meaning of the Act was to reserve to the heir-general, not only the supporters of the most distant ancestors mentioned, but of all intermediate links, of which he was also heir-general.

¹ The Court also found Mr. Cuninghame, the successful party, entitled to expenses, both in the Court of Session and the Lyon Court.

On the supremacy of Parliament in a matter of heraldic right and on the binding force of the particular statute in question, both of which positions had been disputed on behalf of Sir Alexander's heir-male, the Court had no shadow of doubt. 'I will not go a step beyond the statute,' said the Lord President. '*Esto*, then,' said Lord Jeffrey, 'that the common law of arms would favour the view of the respondent [the heir-male] this statute must stand in his way. But I do not assent to the argument that Parliament cannot grant arms; that is hardly a correct expression. It may be indecent to suppose that Parliament would go so far out of its way as to make a grant of arms¹ or to make a bishop; but we cannot enter upon that consideration in giving judgement on an Act which was passed on the consent of parties, first, because of that consent, and second, because this is a statute of the realm, to which as a Court we must give effect.'

On the so-called *difference* added to the arms of the heir-male the Court was equally unanimous. The Lord Ordinary observed that the badge which had been used by Sir James Dick could not be used as a *difference* from his arms, and that also, an honourable augmentation cannot be used as a *brisure*. 'The badge of Nova Scotia is not a mark of cadence,' said the Lord President. 'It is a mark of honour,' said Lord Mackenzie; 'its introduction into the coat of arms merely indicates that the bearer is a baronet of Nova Scotia. It does not show that the bearer is a cadet and not head of the house. I agree with the advocator's Counsel in the impropriety of introducing anything that contains the royal arms as a mark of cadence. But what more can be said that this is truly no *difference* at all.' 'Even setting aside the Act of Parliament,' added Lord Jeffrey, 'there is here such a manifest infringement of the ordinary rules of heraldry as would entitle us to take up the case.'

Instances have occurred in all ages of heraldry in which the arms of houses which have ended in heiresses have not only been transmitted^d by them, but have come to be the sole arms of their descendants. The case of the Royal Arms of the heiresses of Alexander II. is the most famous. The

¹ The Act of the Scottish Parliament of 20th February, 1471-72, ordaining the omission of the double tressure from the Royal Arms was possibly not in his Lordship's memory at the moment.

crescents and stars of Scott of Buccleuch came, it is supposed, with the heiress of Murdiston. The heiress of Mowbray of Barnbougall conferred her arms as well as her name on her descendants, although Mowbray of Cockairney the heir-male, a near collateral, was in existence. The heiress, of 1514 A.D., of the earldom of Sutherland held and transmitted the arms and supporters of her house. Sutherland of Forss, the heir-male, bears the arms of Sutherland with a difference of an eldest cadet, namely a bordure of the tincture of the principal charge—Gules, three mullets within a bordure or.¹ The Earl of Erroll, paternally Boyd, bears the arms and supporters of Hay only. The Duke of Atholl, who has inherited through the female line the supporters of the Stewart Earls of Atholl as well as those of the Earls of the house of Murray, his paternal line, and quarters their arms with those of Murray of the Isle of Man, Stanley, etc., uses one supporter for Murray and one for Stewart. The practice of using a supporter inherited from an heiress along with one belonging to the paternal line is adopted by the Duke of Sutherland, the Marquis of Bute, and the Earl of Cawdor, and many others.²

Numerous cases, on the other hand, can be cited in which the principal arms were adopted by the collateral heir-male in the lifetime of the heir-female and of line.³ To say that the doctrine of Mackenzie and Nisbet has been clearly admitted at all times, either before or since their time, would be difficult. It is probable that much lawless assumption of arms has taken place in almost all the ages in which arms have been in use.⁴ There is no necessity to suppose any denial at any time of the principle that the

¹ Lyon Register, 1738 A.D.; Paul's *Ordinary*, No. 4447.

² The earlier instances cited for the heir-female in the Cuninghame case were those of the Earl of Buchan, 1604; Countess of Sutherland, 1514; Baroness Sempill, 1685; Baroness Gray de Ruthyn, already referred to in the text; Napier of Merchiston, 1699; Mowbray of Barnbougall, 1527. The later cases were taken from the Lyon Register;—L'Amey of Dunkenny, 1813; Farquharson of Invercauld, 1815; Rattray of Craighall, 1817; Gibson of Pentland, 1810; Gibson-Craig of Riccarton, 1823; Heriot of Ramornie, 1814.

³ The earlier instances cited in the Cuninghame case for the theory of the heir-male were: MacLeod of MacLeod, about 1570; Munro of Foulis, 1633; and Anstruther of that ilk. His later cases—Macpherson of Cluny, 1721; and the Marquis of Queensberry, 1873.

⁴ When Mary Queen of Scots quartered the arms of England, and the Kings of England quartered those of France, they consulted their pretensions, not the heralds.

hereditary arms of the family should go undifferenced to the chief representative of the family. The apparent or real want of adherence to any fixed heraldic rule arose more probably from an elasticity allowed to the term 'representative,' which enabled it to comprehend the successor of the family in its principal fief, whether he was its heir-male or heir-female, or even in blood a total stranger.

In many cases, however, where we are only imperfectly acquainted with the facts, the arms so transferred may have been entailed, or may by that time have ceased to be thought personal, and come to be considered, on the contrary, feudal—merely arms of dominion.

It is clear, therefore, from what has been stated, that the subject under discussion is attended with considerable difficulty, and affords abundant scope for argument and inference on both sides. If the accidental possession of a title or an estate, or any other special circumstance, is to be taken into account, it is manifest that almost every case of competition must be decided on its own peculiar grounds, and such, indeed, appears to have been the usual mode of settlement. If, again, we should be able to discover some principle of universal application, altogether independent of titles and estate, and which would not necessarily be affected by the destination of the one or the entail of the other, it is obvious that anomalies would frequently occur, whether it be determined to give the preference to the heir-male or to the female heir of line. Although we originally entertained a pretty strong opinion in favour of the heir-male, we must candidly acknowledge an increasing tendency to the opposite conclusion, as has already been indicated in the course of the preceding observations.¹ The representation of an ancient family is regularly transmitted from father to son for many generations, but at length, through failure of direct male issue, a female becomes the heiress of line, while a remote collateral succeeds to the position of heir-male. Is it contrary to reason and common sense to prefer the former in the succession to the principal heraldic honours? If she remains unmarried, she of course retains her paternal surname and arms, and repre-

¹ This statement was originally made by Mr. Seton in the former edition of the present work, while speaking only for himself. I concur entirely in Mr. Seton's final opinion that the succession law in matters armorial is as stated in the text.

sents the family. If, however, she should become *vestita viro*, the retention of her surname and arms, with or without his, as is frequently practised by husbands and wives, ought to be indispensable as an assertion that though entering his family she has not deserted her own. Such a provision, as we shall afterwards have occasion to observe, is frequently introduced into entails and other deeds of settlement; but it is necessary to advert to those cases where the possession of an estate is not dependent upon any special condition, or where the heiress of line inherits the armorial ensigns of her family unaccompanied by any substantial rights. Should her husband be a younger son, or should he belong to a widespread clan bearing an inconveniently common name, even when there is no estate in question, he will probably not hesitate to abandon his paternal arms and surname. If, on the other hand, he should happen to represent some family of distinction, his own surname and arms may be both retained and transmitted to his posterity along with those of his wife, in accordance with common heraldic practice. No doubt it would be easy to adduce an instance much less favourable to the claim of the heir of line. Instead of the heir-male being a remote collateral, he might, for example, be the paternal uncle of the heir of line; but few rules of universal application are free of the objection that they are less suited to the peculiar circumstances of certain cases than of others. One of the learned Lords in his opinion on the case of Cuninghame was inclined to think that 'the chief armorial dignities should follow the more substantial rights and dignities of the family.' The obvious difficulty in the application of the rule is the want of data for the decision as to what are the more substantial rights of a family. At the present day they are certainly by no means always the right of succession to its landed estates

CHAPTER XIII.

THE SUCCESSION OF HEIRS OF ENTAIL TO THE ARMORIAL HONOURS OF A FAMILY.

ENTAILS of arms to the grantee and a specified series of heirs and successors are not found in the earliest ages of arms, save in the realms of romance. The fabulous grants of ensigns to mythical personages long before heraldry was invented are also generally, grants to the hero merely and his heirs.

But in charters as early as the fourteenth century we find restrictions in the descent of lands which thenceforth are to go to heirs or heirs-male of the ancestor who shall bear his name and arms.

We have already noticed the case of the entail of the lands of Keith Marischal and the office of Marshal of Scotland on the house of Keith, in 1324.¹

Where the entail provides that on the failure of the entailer's heirs male his eldest heir-female shall succeed it is common for him to provide that she shall marry a gentleman of the entailer's surname, or one who will take his surname and arms.

Sir George Mackenzie remarks that 'it is most ordinary in Scotland to tailye [entail] estates to the eldest heir-female, she marrying one who shall bear the name and arms of the disponent's family; but whether the person who marries that *heretrix* or heiress, as the English speak, may lawfully carry the disponent's arms, according to the laws of Heraldry, wants not its scruple, seeing *arma gentilitia*, which are presumed still to be granted to a man and his heirs, *non transeunt ad extraneos*; else any man might give arms, as well as the Prince or heralds: Yet lawyers are very positive that their pactions

¹ *Ante*, p. 27.

are lawful, *et qui liberos non habet, potest in alium transferre suum feudum ea conditione, ut adoptatus nomen et arma et insignia ferat*; and that because arms are given, not only to reward the receiver's virtue, but to distinguish families, *et quia adoptatus transit in familiam et agnationem adoptantis*. Some lawyers do here distinguish betwixt him who is so assumed or adopted by one of his own predecessors or family (for these surely may bear the arms of the adopter), and those who were strangers before the adoption; and they conclude that these cannot have a right to the arms: And this is asserted by Hoppingius to be the common opinion of the best lawyers; but I think it may be more justly distinguisht, whether the disposition be made to a daughter, she marrying one who shall bear the name and arms, for in that case certainly the children may bear the arms, for she was heiress herself; but if lands were disposed to a mere stranger, not upon condition that he should marry a daughter, but that he should bear the name and arms, it may be in that case asserted, that the receiver of the disposition cannot bear the arms, for that was not in the disposer's power to bestow, except the Prince consent.¹

A case is reported which occurred towards the end of the seventeenth century, in which an entail of certain lands was made by a father to his three daughters *successivè* (on the narrative that 'his estate of Stevenson had been very ancient in that name, albeit not great'), upon condition that, if the eldest did not marry one who should assume the name and arms of the family, the next should succeed. The eldest daughter having failed to do so, it was found that the next might serve herself heiress of entail, even although there was no irritant clause.²

A simple provision by a testator requiring the assumption of his name and arms by his adopted heir was thought by Sir John Ferne to operate according to the comparative nobility of blood of the heir and the testator; 'if the heir, a stranger, be of more noble blood and family than the adopter, he is then not obliged by the testament to disuse his own name

¹ *Science of Heraldry*, chap. xxi. pp. 70-1.

² *Stevenson v. Stevenson*, 26th July, 1677; *Mor. Dict.* 15,475. See a somewhat similar provision, of a still more stringent character, in the marriage-contract of Hugh, fifth Earl of Eglinton, dated 1604. *Fraser's Memorials of the Montgomeries*, i. 55.

and arms, but may quarter the arms of the disponent, if he pleases, after his own'; and, 'if the heir be of inferior blood and dignity, he is obliged to leave his own name altogether, as also his proper arms, except he marshal them after the adopter or disponent's arms.'¹ But Sir George Mackenzie lays down the correct rule, that the conduct of the heir must be governed entirely by the conditions which are contained in the deed: 'When a person leaves his estate to another, upon condition that he should bear the disponent's name and arms, he who is to succeed is not by condition obliged to lay aside his own name and arms, but may quarter his own arms with those of the disponent, except the disponent do, in the institution, prohibit the bearing of any arms beside his own. And the heir, in marshalling his own and the disponent's arms, may use what order he pleases, by giving the first quarter either to his own or to the disponent's, except the contrary be expressed in the institution.'²

And there is no doubt that in practice the heir is sometimes required to bear the surname and arms of the entailer *exclusive of any other*; and that if fenced by irritant and resolute clauses, such condition will be effectual; and failure to comply with the injunction would render the heir in possession liable to challenge by the next person in the order of succession. In one of the earliest recorded entails—Craufurd of Auchinames, 1695³—we find an example of the exclusive condition in question. The deed provides 'that the said haill airs male and of tailzie and provision *respectivé* above written, alsweel male as female, who shall succeed in the foresaid lands and estate, be vertue of the tailzie and substitution above mentioned, shall be holden, astricted, and oblidge, and be the acceptation hereof binds and obliges them, to bear, use, and carrie the name and arms of Craufurd of Auchinames, and *no other name or arms*, in all time coming. . . . Q'in if they failzie, the partie failzieor or contravenor, whether male or female, shall forfault, amitt, and tyne their right and succession of ye foresaid lands and estate.' The possibility that the heir in possession, under such a condition, may succeed to another estate similarly entailed is expressly provided for in the Craighall entail, 1718,⁴ which contains the following provision: 'Likeas

¹ *Glory of Generosité*, p. 302.

³ *Register of Entails*, vol. i. f. 173.

² *Science of Heraldry*, chap. xxiv.

⁴ *Ibid.* vol. v. f. 248.

it is hereby provided that in case any of my heirs of tailzie shall happen to succeed to such ane other estate *as shall oblige them to use and carry any other name and armes* than the said name and armes of Hope of Craighall, and that therefore they will not accept of the said name and armes of Hope of Craighall, in manner foresaid, within the space of one year and day after the decease of the next and immediat preceding heir of tailzie to whom they may succeed; that then and in that case, the said heirs so not accepting of the benefit of the present tailzie shall also forfeitt and amitt their right of succession.'

The Lyon Register furnishes in the case of Lord Oranmore an example of the fulfilment of a condition such as that under consideration. In the year 1857 armorial ensigns were assigned to Miss Christina Guthrie of Mount, in the county of Ayr, only child and heir of tailzie of the late Alexander Guthrie of Mount, namely, in a lozenge: *Quarterly, first and fourth, or, a lion rampant, gules, armed and langued, azure, surmounted by a fess, argent, charged with a mount, between two edock leaves, vert: second and third, azure, three garbs, or, the usual provision being made for a crest and motto in the event of heirs-male.* In terms of the entail executed by the father of the patentee, the heirs of tailzie and the husbands of heirs-female are required 'to assume and thereafter to use, bear, and constantly retain the surname, arms, and designation of Guthrie of Mount as their proper and *only* surname, arms, and designation.' Three years afterwards, the Hon. Geoffrey Dominick Augustus Frederick *Guthrie* (formerly Browne) of Mount, afterwards Lord Oranmore, is entered on the Register as bearing the same arms, in consequence of his marriage to the heiress of Mount—the crest and motto provided for his wife's heirs-male being embraced in the relative blazon, viz. a dexter hand, erect, holding a sword in bend, all proper, with the legend, '*Sto pro veritate.*'¹

When the heir is not required to bear the name and arms of the entailer exclusive of any other, he may, unless otherwise enjoined, either add or prefix the assumed surname to his own, and marshal the relative arms on his escutcheon along with his other insignia. The various modes of procedure adopted in such cases will be mentioned in the following chapter relative to

¹ Lyon Register, v. 99, and vi. 24.

the assumption of names and arms. Sometimes, however, the deed contains a provision respecting the *position* of the new surname and relative arms. Thus, in the Blackhall entail, recorded in 1790,¹ it is 'provided and declared that the said John Shaw Stewart and the whole other heirs above mentioned, and the husbands of the daughters or heirs-female, who shall happen to succeed to the lands, baronies, and others as aforesaid, shall always be obliged to assume, use, and bear the surname of Stewart, and the arms and designation of Stewart of Blackhall, as the *last* surname and arms they carry.' Occasionally, express permission is granted to the heirs called to the succession to use more than one surname, with the relative coat-armorial, as in the entail of Monro of Allan, recorded in 1862, which, after enjoining the use and retention of the surname of Monro, and the arms and designation of Monro of Allan, contains the following proviso: 'Without prejudice to the using and retaining along therewith *any other surname, arms, and designation.*'

In the Duke of Argyll's entail, recorded in the year 1704,² the female heir, in terms of one of the conditions of her succession, is 'holden and obliged' to marry 'a *gentleman of quality* of the surname of Campbell, or any other surname suitable to her rank and degree; and the heirs of tailie above mentioned, as well male as female, and the said heirs-female their husbands succeeding to the rights of the said lands and estates of Argyll shall be holden, obliged, and restricted to assume, take, and retain the surname of Campbell, and to bear, carry, and use the name and arms of the house and family of Argyll.'

Everyone must admit the propriety of recognizing a very marked distinction between the two cases to which Sir George Mackenzie refers. In the one instance, the name and designation, as well as the arms of the disposer, are borne by a stranger, as the inevitable consequence of his marriage to the heiress of line; while in the other, the succession is altogether independent of such matrimonial alliance, and various opinions have accordingly been expressed upon the subject.

In England, before the establishment of the English College of Heralds, arms were, no doubt, frequently transferred, not only by testamentary

¹ *Register of Entails*, vol. xxv. f. 334.

² *Ibid.* vol. ix. f. 345.

bequest, but also by voluntary cession during life.¹ Edmondson remarks that 'a doctrine prevailed that the rightful possessor or proprietor being deemed to have, as it were, an absolute freehold in his coat-armour, as well as in his lands, had an undoubted right to alienate or transfer the property and inheritance of both the one and the other; and, in consequence of this doctrine, the proprietors of coat-armour did frequently, to the exclusion of their own heirs, by grants, and that with a covenant of warranty, convey, assign, and transfer not only such coat-armour of other families as happened to descend to them by right of inheritance as next heir, but the original and paternal coat-armour of their own family.'² These arms were, in other words, feudalized, the arms of the fief. Whoever sealed the charters of the lord of the fief with them, or raised them as his banner, the Courts and the vassals recognized them, for they never changed. Again according to Dallaway, 'they might be assigned by a female, who was an heir-general, to her own husband, or to the husband of her daughter, who inherited her lands';³ and Camden gives us a specimen of one of these grants executed in the year 1436.⁴ Such concessions, however, appear to have been sometimes disputed in the court of the Earl Marshal, as in the case between Sir Thomas Cowyn and Sir John Norwich, and that between John, Lord Lovel, and Thomas, Lord Morley.⁵

According to the present Law of Arms such an alienation cannot become effectual without the consent of the Crown, and the Crown could not give a valid consent were the alienation to affect the rights of any third parties who were not consenters to the transaction. Saving, however, the rights of these persons, the Crown still retains the power of making direct grants of arms (and supporters), and also of permitting persons to use the heraldic

¹ Several curious examples of these grants, during the fourteenth century, will be found in Edmondson's *Complete Body of Heraldry*, i. 156. About the middle of the same century, Sir John Woodford purchased, from Sir John Nevil, the lands of Brentingly along with the arms belonging to the said manor—*sable*, three fleurs-de-lis *argent*, returned into three leopards' heads *gules*—and in the same coat-armour he appeared at 'the getting of Caleys' (A.D. 1347). *Woodford Chartulary*. (*Gentleman's Magazine*, 1795, vol. lxx. p. 184.)

² *Complete Body of Heraldry*, vol. i. p. 155.

³ *Heraldic Inquiries*, p. 83.

⁴ *Remaines*, p. 223.

⁵ Anstis' *Register of the Garter*, vol. ii. pp. 260, 370.

ensigns of other families, whose property they may inherit, or whose memory they may wish to preserve.

As in the case of the question between the heir-male and the heir of line, no distinct and unqualified judgement has ever been pronounced respecting the power of disposing family arms to a stranger. In the case of Moir of Leckie, which occupied the attention of the Court of Session in the year 1794, there were no already existing arms, so no existing armorial rights to preserve.¹ A few years previously, the laird of Leckie had executed an entail of his estate, in which it was declared 'that the heirs of tailzie foresaid, succeeding in virtue hereof, shall be bound to use the name and title of Moir of Leckie, and that alone, exclusive of every other name and title; and to carry the arms of Moir of Leckie, without any addition, diminution, or alteration of any kind.' After the action came into Court, it was discovered that no such arms were matriculated in the Lyon Office, and indeed it is extremely probable that the entailer only assumed them to exist. The pursuer, who was the heir of entail, was the heir, *alioqui successurus*, only in one-fourth of the estate, as representing one of four heirs-portioners. He appears to have been advised that, even when there were arms in a family, it was extremely doubtful whether they might be lawfully assigned to heirs of entail, or whether they necessarily descended, *jure sanguinis*, to the entailer's heir of line; and he accordingly suggested that the condition respecting the armorial bearings 'should be so modified by the Court as to make it consistent with the law of the land.' On the other hand, it was contended by the defenders, who were the nearest substitutes in the deed, that it was a perfectly lawful condition in an entail to a stranger that he should bear the granter's arms; and in support of their allegation they pointed to the statement of Sir George Mackenzie, which we have already quoted.² The same passage was also adduced by the pursuer, in the course of his pleadings, and there can be very little doubt that the doctrine which it inculcates is far more favourable to his view of the case than to that of the defenders. The Court 'found it incumbent on the pursuer, and the other heirs of entail, to follow out the tailzier's appointment, in carrying the name and arms of Moir of Leckie; and for that purpose to obtain from the Lyon

¹ Moir v. Graham, 5th Feb. 1794, Mor. 15537.

² *Supra*, p. 355

Office arms of that description, descendible to the heirs of entail of Leckie.' It is to be observed, however, that this case was characterized by the remarkable peculiarity of the entailer solemnly disposing arms which did not happen to exist; and it is not very easy to see how any injury could thus be sustained by his heir of line. Moreover, the coat-armorial which was called into being by the authorities of the Lyon Office, in conformity with the judgement of the Supreme Court, was specially intended for the heirs of entail, whose right to use the same could surely not be challenged by the heir of line. But it is by no means certain that the same decision would have been pronounced had the entailer regularly inherited a coat of arms from his ancestors, the use of which by a stranger might perhaps be lawfully challenged as an invasion of the hereditary right and privilege of the representative of the family.

Although there appears to be no recorded armorial competition between an heir of line and an heir of entail, there can be no doubt that many instances have occurred where the legal heir has been passed over by an entail, in which the use of the relative surname and arms formed an essential condition in the succession to an estate. In all such cases, it necessarily follows that, if the heir of the entail takes upon him to implement the provisions of the deed at his own hand, the identical coat of arms may be borne by two different families; and indeed even in a comparatively recent page in the Register we find an instance of this 'heraldic anomaly.' In the year 1847 there is an entry relative to the arms of Robert Scott Wellwood (formerly Robert Scott Moncrieff) of Garvock, from which it appears that, in terms of a deed of entail, he abandoned his paternal surname and arms, and assumed those of Wellwood—the bearings of Wellwood of Garvock being duly blazoned in the Register, viz. *argent*, an oak tree, acorned, growing out of a well in base, proper. *Crest*—the trunk of an oak, sprouting out branches, with the *motto*, 'Reviresco.' The entry immediately following relates to Andrew Clarke Wellwood (formerly Andrew Clarke) of Comrie Castle, eldest co-heir and representative of the family of Garvock, who was authorized by royal license, dated 20th May, 1847, to take and thenceforth use the surname of Wellwood in addition to and after that of Clarke, 'in order to testify his grateful regard

to the memory of his mother's family.' To him also the principal Garvock arms, including crest and motto, are 'assigned and confirmed by the Lord Lyon, the male issue of Robert Wellwood, his mother's paternal grandfather, having become extinct.'¹ Though both families, as it happens, have ceased to bear the arms in question unquartered, we had here for a time two families bearing arms, in all respects identical; the one in virtue of a deed of entail, and the other in the capacity of heir-general, and both with all the authority possible.

When a man thinks proper to assign his armorial ensigns to a stranger, or a collateral relation, or even a younger son, and thus pass by his legal representative, the latter has a title to insist that the grantee shall not use the arms without a clear and palpable mark of difference, so as to distinguish them from the principal bearings of the family, whatever the provisions of the entail may be. It is also *pars judicis* to see, even though he makes no move for his own protection, that no act should be perpetrated infringing on his property. It might be that to bear the arms with a difference would not be in accordance with the conditions of the entail, but that is no affair of the natural heir who has been passed over! The heir of the arms can undoubtedly protect himself; even if the heraldic authority had already matriculated the arms in the name of the heir of entail, he has a right to have them expunged. It is very doubtful if the Supreme Court would (as suggested by the pursuer in the case of Moir) modify the terms of a deed of entail so as to make it consistent with 'the common law of heraldry.' If it finds that any provision of a deed infringes the rights of third parties, either the provision or the deed must go.

¹ Lyon Register, iv. 102-3.

CHAPTER XIV.

THE ASSUMPTION AND CHANGE OF SURNAMES.

THE ORIGIN OF SURNAMES.

THE origin of surnames, like that of armorial bearings, has been variously accounted for. While some writers consider that traces of them are to be found among our Saxon ancestors, their first introduction into this country is generally assigned to a much later period. According to Mr. Lower, 'The practice of making the second name stationary, and transmitting it to descendants, came gradually into *common* use during the eleventh and three following centuries.'¹ The same author, however, agrees with other writers in thinking that surnames were not established on anything like their present footing till the time of the Reformation; and suggests that the introduction of parish registers may have materially contributed to their settlement. In some parts of the country, however, hereditary surnames were not in general use till a much later date.²

Names and arms have been said to have been invented for the same purpose—of distinguishing individuals. Roughly speaking, the surname of to-day is taken as the index of the family, and the Christian name the *difference*, to use the heraldic expression, which distinguishes one member of the family from another. To a great extent names and arms are so

¹ *Essays on English Surnames*, i. 31.

² Even at the present day they are said to be still unsettled amongst the peasantry in some districts of Wales, and among some seaboard communities in the north of Scotland in which John, the son of, say William Johnson, is apt to be known as John Williamson, and his son, in turn, baptized William, is William Johnson, while his daughter is not Elizabeth Johnson, but Elizabeth Johnsdochter.

linked that a herald who is expert in those things may know the probable surname of the wearer of a shield from its bearings, though he has never seen the particular shield before. But as arms, as we have seen, fall short of *proving* blood, so surnames may, for several reasons, fall far shorter.¹ The most primitive form of surname is probably to be found in that numerous class which is applicable to the child before he has done anything to merit a nickname or has any lands or trade to be known by, namely, the name that indicates that he is the son of his father. It comes to us from the patriarchal time of the nation, though it becomes fixed and hereditary no earlier than any other. If the surname of John was Johnson, that originally asserted nothing, save the genealogical fact that the John so surnamed was the John who was the son of a father of the same Christian name of John, and so distinguished him from at least many other Johns. From the date and the numbers of the population existing when surnames came to be fixed and descend from one generation to another, families of Johnson, Williamson, and so on, must have originated in different parts of the country, without any likelihood, to say the least of it, that those who bore them were all sons of the same John or William. Genealogically, therefore, these surnames, apart from the locality in which they are found, suggest nothing, for such baptism or Christian names at the date of which we speak were in general and independent use all over the country.² A surname taken from an unusual Christian name may, however, suggest the locality from which its bearer comes, and in its own locality may point specifically to his ancestry. Surnames arising from an ancestor's nickname or sobriquet are in this last respect similar. The surnames Black, White, Reid, Brown, Long, Strong, etc., if they imply something distinguishing in the eponym, may arise almost anywhere. By search, of course, it may be ascertained that a surname which seems to have arisen in this way is found in early times only in one place. Scrymgeour (Skirmischar,

¹ It is remarkable how many people require to be told that possession of a surname does not infer possession or title to any particular arms or any arms at all, and *a fortiori* infers no possession of a crest.

² Some surnames, confusable at times with this class, are mentioned below among territorial names.

Scrimseor, etc.) is believed to be a surname derived from a single source.¹ What has been said of these surnames applies with, if possible, greater force to surnames derived from employment, as the surnames Stewart,² Constable, Marshal, Durward, Smith, Wright, Carpenter, Fuller, Ferrier, Porter, Brewster, Baker, Glover, and so on.

The advisability which existed over great parts of Scotland during very many generations of belonging to a powerful clan resulted in the assumption of the clan surname Campbell in Argyll, Macdonald in the Isles, Kennedy³ in the south-west, and so on, by persons who merely lived in these districts, and were, in fact, of no kindred to the chief whose clan they attached themselves to, whose protection they claimed, and under whose banner they fought.⁴

A large and most important class of surnames is territorial. The Saxon and Norman houses of Graham, Douglas, Lindsay, are of this class. Here again the name may be borne for other reasons than that of blood descent from the chief of the name. The ducal house of Gordon derives its surname from the lands of the name in Berwickshire. But it is quite conceivable that a subsequent stranger owner of the same territory, now no longer in the original hands, might come to be known as de Gordon. Cases of territorial names as marks of mere local derivation are also common, such as Glasgow, Aberdeen, Loudoun. Surnames which, like Johnston, end in 'ton,' are occasionally of this class, and are so sometimes even when the 't' has come to be omitted.⁵

¹ The extraordinary surnames, of which England produces so many, such, for example, as Allbones, Baby, Coffin, Churchyard, Deadman, Fudge, Gotobed, Littleproud, Puddle, Scamp, Slaughter, Startup, Swindler, Twentyman, and Wildblood, are probably many of them only local corruptions, innocent or playful at times, on names of entirely different imports.

² Hence the old popular saying, 'A' Stewarts are no sib [related] to the King.'

³ 'Twixt Wigtowne and the town o' Aire,
And laigh down by the cruive of Cree;
You shall not get a lodging there,
Except ye court wi' Kennedy.'

⁴ There is also the saying, 'A' Cam'ells are no sib to the Duke.'

⁵ Names identical in spelling may belong to different classes. Thus, one person of the name Stevenson may be descended, as his name seems to imply, from an ancestor called Steven, as the Robertsons of the Clan Donachie are descended of a noted Robert. Another may owe his surname to the fact that his ancestors acquired and possessed the lands and place

STATUTORY IMPOSITION OF SURNAMES.

Parliament has occasionally stepped in either to prescribe or proscribe a surname. On 10th May, 1527, it made a statute of the former kind. Berton, son of Robert Berton, of Overberntoun, was affianced to the daughter and heiress of Mowbray of Bernbowgall. Robert Berton the younger was territorially nearly a *novus homo*. Berton the elder had been an officer of the Royal Household, *familiaris servitor* to the King, and had received Overberton from him in 1507-8 on the recognition of these lands from Sir William Dundas. The Mowbrays of Barnbougall were an 'auld honourable house and [had] done our sovereign lord's predecessors gude service in wars and otherwise.' By the appointment (appunctuament) between the seniors by which young Berton was to marry the heiress, her house was not to pass from its surname; he was therefore to take the surname of Mowbray. So far as the minutes of Parliament inform us the agreement might have been an ordinary case of a provision in a marriage contract, but in this preamble the King and Parliament were asked to 'create and name Robert Berton younger to be of the surname of Mowbrayis,' and to 'will that he bruke [hold] the said surname in time to come, and he to be callit Mowbray commonly amongst all his [the King's] lieges.' And Parliament agreed and did so.¹ In the same way, in 1581, after Edward Maxwell, younger son of John Lord Herries, had married Margaret, the daughter and heiress of Baillie of Lamington, Parliament decerned and ordained in implement of the spirit, at least, of their marriage contract, that William Maxwell, their son, should be called William Baillie, 'and all his posteritie thaireftir to be callit Baillies of their surname. And nevir to rewoke the samyn nor to retaine any other surname heirefter' (1581, cap. 40).

of Stevenson, doubtless once Steven's town, in Lanarkshire, Haddingtonshire, or Peeblesshire; while a third may derive it from the mere fact that his ancestor came from one of these places, or from Stevenston in Ayrshire, so named from Stephen Locard. In this last case the surname is of the same class as the surnames Aberdeen, Annandale, Angus, Peebles.

¹ *Act. Parl. Scot.* ii. 320, 321. Mr. John Riddell holds this case for an evidence that an Act of Parliament was necessary to enable Berton to assume the name. But to us it appears that the Act was an Act to impose a name, and was passed at the instance of Mowbray or his heirs rather than of Berton.

TWO STATUTORY PROSCRIPTIONS OF SURNAMES.

After the Gowrie Conspiracy, and treason trial and conviction of the dead earl and his brother Alexander Ruthven, Parliament passed an Act—1600, cap. 2¹—abolishing the surname of Ruthven for ever, and even changing the name of Ruthven Castle to Huntingtower. Clearly Parliament remembered the previous 'Raid of Ruthven,' 23rd August, 1582. It declared that 'the surname of Ruthven has been so naturally bent these many years bygone to attempt most high and horrible treasons that his Majesty is thereby brought into vehement suspicion of their whole race.' The Act then continues that the King extinguishes and abolishes the surname for ever, from two motives, the one of which is to extinguish the memory of the guilty, and the other of which is to 'remove the blott that with the surname might follow such of his highness's lieges as' are innocent.

The most extended and important instance in Scottish history of the proscription of a surname is the famous case of the attempted suppression of Clan Gregor. The Macgregors had crowned a long record of turbulence by slaughtering the forces of Sir Humphrey Colquhoun of Luss, which had been raised for their punishment. The battle was fought on 7th February, 1603, in the glen, now known as Glenfruin—the Vale of Lamentation—in the neighbourhood of Loch Lomond. Of the Colquhouns 140 were slain. On 3rd April the Privy Council passed an ordinance abolishing the name of Macgregor, and enacting that none of the clan nor their posterity should call themselves *Macgregor* it on pain of death. The Council passed several further Acts, and all were ratified by Parliament in 1617, cap. 26. Parliament declared that 'the bare and simple name of M'Gregoure made that whole clan to presume of their power force and strength and did encourage them without reverence of the law or fear of punishment to go forward in their iniquities.' To the Acts of Privy Council the Act of Parliament added that if any person who had abandoned the surname ventured to

¹ Vol. iv. p. 213. The proscription of the name, which was never entirely successful, was formally rescinded by the Act of 1641, cap. 210, on the occasion of the restoration of the Ballindean branch of the family, which during the subsistence of the Act had called itself Rowane.

resume it, or if his posterity returned to it they should incur the pain of death.

The Macgregors assumed various surnames. Some of them that of Campbell, some Drummond, Graham, Murray, and Stewart, and numbers assumed names which were not distinctive of any particular clan. The proscription of the name was rescinded by Parliament in 1661, cap. 176, but revived by 1693, cap. 62, and not finally abolished until the year 1784, after it had been for some years in practical desuetude.

The consequences of these Acts of proscription are not at all a matter of ancient history to the herald. It is impossible to know the day on which some real Macgregor may appear claiming his membership of the clan, nor under what incognito he may have been all this time living.¹

Early in the year of the union of the kingdoms of Scotland and England 'William Pyet and his Kinsmen and Relations' applied to Parliament to allow them to 'assume and use our ancient Sir name of Graham; and to discharge [prohibit] the Ignominious Nickname of Pyet in all time coming.' They stated that in the unhappy differences which in the previous age 'did frequently fall out betwixt the clans,' they had been driven out from their home by their neighbours, and had been obliged to 'cover themselves under the surname' which they now prayed to be relieved of. Pyet is the Scots name for the magpie, so named because it is piebald. But the 'ignominy' of the sobriquet lay in no suggestion merely of patchiness in colouring. The magpie was a bird of ill-omen. Wodrow records as one of the prophecies of Archbishop Sharpe's unhappy ending, that long previously the Duke of Lauderdale had predicted of him that he would not die a natural death, because when he walked he had a 'hopping like a pyet.'

¹ Jan. 27, 1866. At Rome, of paralysis, aged 75, John Gibson, Esq., R.A., the eminent sculptor. 'The deceased—whose ancestors were of Scottish extraction, being descended from the clan Macgregor, and whose grandfather was forced by the strife of the time to assume the surname of Gibson, in lieu of his patronymic—was the son of a market gardener at Conway, in North Wales, where he was born in 1790.' *Gent. Mag.* for March 1866, p. 428.

Robert Louis Stevenson amused himself from time to time with the speculation that 'James Stevenson in Glasgow, my first authentic ancestor, may have had a Highland [videlicet MacGregor] *alias* upon his conscience and a claymore in his back parlour.' *Records of a Family of Engineers*, included in vol. xviii. of the Edinburgh edition of his works.

The deliverance of the Parliament was naturally indulgent ; it not only 'allowes' the petitioners to resume the name Graham, but 'discharges the nickname of Pyet.' The Pyets, however, do not appear for very certain to have gone to Parliament so much for authority to make the change as for publication that they had made it. To cease to be Pyets and begin to be Grahams 'We cannot do,' they said, 'having Trade both at Home and Abroad, without a Publick Act whereby the Traders with us may be certiorat.'¹

At a somewhat earlier date a family of Souter (Anglicé, Shoemaker), belonging to Scone, obtained an Act of the Scots Parliament, 1663, cap. 26, allowing them to change their name to Johnstone, which surname, they stated, their ancestor had had to abandon in the year 1460, when leaving Annandale 'upon some discontent.' Isaac Nathan, the author of *Jewish Melodies*, was one of two brothers, revolutionary Polish Jews, of the surname of Mona, who in their flight from that country changed their names, and so lost sight of each other for ever.

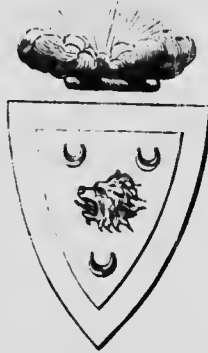
A change of name has frequently been resorted to for the purpose of concealment in consequence of the commission of political or criminal offences. Family estrangement has sometimes been the reason. The practice was not unusual during the English civil wars, when the Blounts of Buckinghamshire assumed the surname of Croke, and the Carringtons of Warwickshire that of Smith.² In like manner, during the contentions of the Houses of York and Lancaster, different branches of the same family were frequently attached to opposite parties, and were sometimes induced to adopt new arms, and occasionally new surnames, in lieu of their paternal ensigns and relative patronymics.³ The ancestor of the Fraser-Tytlers of

¹ *Act. Parl. Scot.* 7th March, 1707, xi. 437, and App. 111.

² Fuller's *Worthies*, p. 51.

³ See Dallaway's *Heraldic Inquiries*, p. 127. 'Sir Wm. Dugdale states that Robert Wright, the illegitimate (?) son of Lady Purbeck, who was afterwards called "Villiers *alias* Wright," having married Elizabeth, daughter and heiress of Sir John Danvers, one of the regicides, obtained a patent from Oliver Cromwell to abandon the name of Villiers, & to assume that of Danvers, upon his allegation of hatred to the name of Villiers, in consequence of the injuries which that family had done to the Commonwealth.' Nicolas' *Law of Adulterine Bastardy*, p. 96.

Belnain is said to have been George, third Lord Seton's chaplain, himself an offshoot of the Seton family. The chaplain having slain a gentleman of the name of Gray, in a quarrel at a hunting-match during the reign of James IV., fled to France. Having committed the ecclesiastical irregularity of shedding blood, and indeed, perhaps, of being in the hunting field at all, he added thereto the third irregularity—perhaps then not so unusual, of having posterity. In ordinary cases his sons would have been surnamed Seton. He had, however, now assumed the surname of Tytler, which his posterity retained. The armorial bearings of the family are considered to bear reference to the derivation of the house, and the cloud under which for a time it remained—the first and fourth quarters of the escutcheon being *gules*, between three crescents *or* (the ensigns of the Setons), a lion's head, erased, *argent*, within a bordure of the second. *Crest*—the rays of the sun issuing from behind a cloud, with the *motto*, 'Occultus non extinctus.'¹ Again, according to Nisbet, 'they of the surname of Dickson, as descended of one Richard Keith, said to be a son of the family of Keith Marischal, took their name from Richard (called in the south country *Dick*), and to show themselves to be descended from Keith, Earl Marischal, they carry the Chief of Keith.'²



¹ Tytler quarter in the Arms of Fraser-Tytler.

A number of surnames have been explained as having been conferred or assumed to commemorate remarkable exploits. The first of the surname of Turnbull is said to have been a powerful man named Ruel, or Rule,

¹ Burke's *Landed Gentry*, p. 1451. In his review of Burgon's *Memoir of Patrick Fraser Tytler*, Mr. Hannay questions the origin of the historian's family as stated in the text. 'We feel sure that, whatever was the origin of the tradition in question, it is not true in the form in which the Tytlers accept it.' *Essays from the Quarterly*, p. 369.

He, however, did not observe that the Tytlers claim descent, not from 'George, third Lord Seton,' as he infers, but from his *chaplain*. Though the tradition is, as Mr. Hannay points out, not recorded in *The History of the House of Seytoun*, and is vouched for so far as we are aware by no writing earlier in date than 1788, it may therefore, so far as the review goes, be true.

² *System of Heraldry*, i. 74; see also Mackenzie's *Heraldry*, chap. x.

who *turned* a wild *bull* by the head as it was about to gore King Robert Bruce in Stirling Park ; for that loyal service he obtained from the monarch the lands of *bedrule* in Roxburghshire, along with the surname of Turnbull. In further commemoration of the event, the family of that name have ever since carried one or more bulls' heads in their armorial shield.¹ The surname of Stark has been derived from a similar achievement performed at a later period of Scottish history. It appears that a member of the family of Muirhead was the means of saving King James IV. from an attack by a bull in the forest of Cumbernauld, when, on account of his strength and prowess, he received the surname of Stark.² In order to indicate their descent from the Muirheads, his posterity bear, as arms, a chevron between three acorns in chief, for Muirhead, and a bull's head, erased, in base.³ The case of Scrymgeour has been mentioned already.⁴

Whatever provisions may exist in private Acts of Parliament which might be construed, as in the Berton-Mowbray case, to impose a surname on any of the parties to them, no public statute now subsists which interferes with the freedom of the lieges to make their surnames the matter of choice and change ; and great freedom in the matter at least of change has been exercised.

The motives and causes by which persons have been influenced in the change of surnames are very numerous. During the middle ages, it was a common practice for younger sons, instead of retaining their patronymic, to adopt the names of their estates or places of residence. Thus, a member of the English family of Botteville, from whom the Marquis of Bath is descended, adopted the name of John of the Inne, or *Thynne*, from the circumstance of his having resided at one of the Inns of Court. Camden, in his *Remaines*, illustrates the extent of this custom by an instance of a Cheshire family, in which no fewer than nine changes of surname took

¹ There is no doubt that King Robert granted a charter of lands on the west of Fulhop-halche (Philiphauch ?) to William called Turnebule (Willielmo dicto turnebule). But the name is frequently spelt Trumbul, and at times Trombel and Trimble, and the earliest arms we have seen—those of Agnes Trombel, A.D. 1497, are : Ermine, three bars, the centre bar being charged with a star flanked by two ermine spots. (Macdonald, 2792.) William Trumbul in Dalkeith in 1603, bears, however, a bull's head erased. (Macd. 2793.)

² Strong, athletic.

³ Nisbet's *Heraldry*, i. 332-3.

⁴ Page 21.

place in only three generations of male descendants, soon after the Conquest. The practice in question, as well as the adoption of new arms, is severely criticized in the following passage from the Rawlinson MSS., in the Bodleian Library, Oxford: 'This book is collected and made onely to shewe the alteracion and differences of armes in former tyme borne and used of the nobilitie of this realme: for prooffe it was usuall that if a Baron or Peare of this realme had maryed with an enheretrix of a greater house than his owne, he or his sonne would leave their owne armes, and beare their wyfe or mother's as his cheefe coate; likewise a younger brother, havng maryed with an enheretrix by whom he was advanced to greater dignytie than his elder brother, dyd use his wyfe's coate armour rather than to beare his owne, with a difference; by which examples it is mannyfeste that the erreure of these bearings of signes did not growe of ignorance of the officers of armes, by whom it was to be reformed, but only by choyse and selfewill of the nobyllitie themselves, in pleasing their fantasies and obscuring the true signe of their progenitours; this abuse and ignorance being joyned with another as common and as ill as the former, which was, if a man had three sonns, the one dwelling at the town's end, the other at the woode, and the thyrde at the park, they all tooke theyr surnames of their dwellinge, and left their aunciente surnames; which error hath overthrowen and brought into oblivion many auncient houses in this realme of England, that are neither knowen by their name or armes.'¹

It has sometimes happened that a great matrimonial alliance did not necessarily imply the change of both name and arms on the part of the husband. Thus, as it is related, the heiress of the Percys, in the reign of Henry II. (1154-89), married Josceline de Louvaine, a son of the reigning monarch of Brabant, on condition of his changing *either* his name or arms. Relinquishing his surname, he retained his paternal ensigns, which have ever since been carried by the noble house of Percy. An early Scottish instance of a provision relative to the change of both name and arms occurs in the indenture, dated 1388, between Sir James Douglas, Lord of Dalketh, and Sir John of Hamyltoun, Lord of Cadyow, relative to the contemplated marriage of Sir John to Jacoba of Douglas, Sir James's second daughter.

¹ Quoted in Dallaway's *Heraldic Inquiries*, p. 128.

The deed declares, *inter alia*, that, 'if, by any unfortunate chance, it happen the said Jacoba, by the death of her brothers or otherwise, to come in future times to the inheritance and lordship of the said Sir James her father, which God forbid, both the parties foresaid will and grant that a son, whether elder or younger, who may survive between the said Sir John and the said Jacoba, procreate or to be procreate lawfully, shall receive and enjoy that inheritance, assuming the surname of Douglas and the arms which the foresaid Sir James bears of hereditary right.'¹ Two hundred years later (1584), we meet with a curious case of adoption, involving a change of surname, in a deed by John Charteris in favour of Henry Lindsay, in which the former thus expresses himself: 'Seeing, by the will of God, I have na heir of mi bodie, I adopt ane noble youth, Henry Lindsay, brother-german of a powerful lord, David Earl of Crawford, as my adopted heir, and he taking the name of Chartris, I have given him the barony of Kengnore and mansion called Chartris House, in the county of Stirling.'²

Prior to the Reformation, ordination was a regular occasion of change of surname, it being then the fashion, according to Holinshed, 'to take awaie the father's surname (were it never so much worshipped or ancient) and give the son for it the name of the towne he was born in.' Thus, in the case of William of Wykeham and William Waynflete, the patronymics of Longe and Barbour were entirely displaced by the clerical names under which they have always been known. The paternal names of our Scottish historians, John of Fordoun and Andrew of Wyntoun, are unknown.

Attention to detail in the spelling of a surname is entirely modern. The herald and genealogist must often wish it had been introduced much earlier in cases of names that are of common occurrence. It is true that the varieties of the name Smith, Brown, Tailor, Cunningham, Mackintosh, and so on, which have been found possible, and are now adhered to punctiliously by their owners, to the adding of care and sometimes sorrow to their friends and correspondents, are inadequate to distinguish all the

¹ Innes' *Sketches of Early Scotch History*, p. 554.

² Kilsyth Charters, 29th November, 1584, quoted in Laing's *Catalogue of Scottish Seals*, No. 174. The charter of the same date, confirmed under the Great Seal, 18th November, 1598, does not mention the 'barony of Kengnore.'

bearers of these names. But so far as they go, if they are adhered to so as to become fixed types—and all the Smiths don't change into Smythes nor all the Tailors to Tayleures,¹ the differences they create will be a help, and the herald and genealogist as such will not look too narrowly into the motives of these changes of spelling so long as they are not the causes of confusion or create a false impression.² What he thinks of some of them he may say at another time.

Alterations of names, however, are at times the causes of great difficulty to both the genealogist and the herald; and we may take for examples of the changes we refer to now, the substitution of Belcombe, De Winton, and M'Alpine, for Bullock, Wilkins, and Halfpenny.

To desert a surname which has no known ancestry connected with it, and which is itself ridiculous, is an act which cannot well be criticized, but to take a similar surname belonging to some one else and implying a derivation which does not exist is not commendable. The gradual change, attrition, and corruption to which surnames are liable is exemplified by the surnames Veitch and Weir, the modern forms of the much more stately De Vesce and De Vere. De Montealto and De Montefixo have become Mowat and Muschet; while De Vaux (or De Vaus) and De Belassize have become Vans and Belshes. It was thus only a partial return to an older spelling when Mr. Hope Weir changed his name to Hope Vere. A change from Brown to Broun, from Tailor to Taylor, and Cuddy to Cuthbert are all equally defensible.

Mr. Hubback mentions several examples of the partial variation of names in consequence of unsettled orthography;³ but among the most

¹ Camden ascribes the motive of such changes of surname to a desire 'to mollify them ridiculously, lest their bearers should seem villified by them.'

'D'autres anoblissent leur surnom de quelque particule lorsqu'ils deviennent riches, à l'exemple du pauvre Simon dont parle Lucian, qui étant devenu riche, voulut qu'on le nommast Simonides pour amplifier son nom.' *Traité de l'Origine des Noms*, par De la Roque, p. 87.

² Cosmo Innes mentions the case of an Irish gentleman of the name of Morris, living in Paris, who assumed the surname of De Montmorenci, and persuaded his relatives to follow his example; 'but the descendants of the *premier baron Chrétien* called a council of the family, and published an Act enumerating all those whom they recognized as genuine, in which the Irish cousins were not included.'

³ *Evidence of Succession*, p. 458.

remarkable instances of such a practice are the various spellings of the surnames of Lindsay, Stirling, and Montgomerie, which appear to have respectively presented themselves in no fewer than 88, 64, and 44 different forms.¹ Even at the present day, the same person has occasionally been known, from time to time, to alter the spelling of his name, through ignorance, indifference, or caprice: a practice, we need scarcely add, which is not only very silly and unmeaning, but one which, at some future period, may perhaps involve his descendants in considerable difficulty with regard to the proof of identity in cases of disputed succession. In the case of the Berkeley Peerage, it appeared that the Countess of Berkeley and her brother had adopted the name of Tudor in lieu of Cole, and the date of this change constituted a very important question in the proceedings before the House of Lords.²

In the United States of America, the changing of surnames has taken place on a scale unprecedented probably in any country, and is still going on. Many causes contributed to it, but the result to the genealogist and herald is one—confusion. One of the present writers when recently in America ascertained of a family of the surname of Jones, in Amsterdam, State of New York, that they are full-blooded Russian Poles who had never been on British soil. When, at the end of his first week's work on a railway track, in America, the father came to the gaffer for his pay he was asked what his name was. He replied — — —tsky. 'No,' said the gaffer, 'that's no use here—your name is Edward Jones.' In a generation or two it is inevitable that, with the help of 'knowing' or rather imaginative friends, the family with its new British surname is tempted to 'reconstitute' its family tree. Then comes the trouble and disappointment at the hands of the genealogist at 'home,' videlicet in Great Britain.³

Change of surname in America is at times accompanied by a change of

¹ See *Lives of the Lindsays*, i. 413; *The Stirlings of Keir and their family papers*, p. 548; and *Memorials of the Montgomeries, Earls of Eglinton*, ii. 366.

² See *Minutes of Evidence*, 1811.

³ See *Scottish Antiquary*, vol. xiv. p. 189, art: 'Modern Legends of Ancient Pedigrees.'

Christian name—which in the mother-country is regarded as immutable.¹ For a man to cut himself off entirely from his past there may be in cases a good and sufficient reason; but 'the forwardness with which the commonest persons thrust themselves (by implication) into known and well-considered families, and endeavour to identify themselves with eminent individuals, is equally remarkable.'² Thus, Allan Smith becomes Allan Izzard; Timothy Leary, Theodore Lyman; Sarah Robbins, Adelaide Austin; and Nancy Tarbox, Almeda Taber. Again, James Colbert is transformed into Colbert Mortimer; Curtis Squires into Pomeroy Montague; and Clara Frinck into Clarissa Wilson—while Horace Fish and his beloved partner Rnhemah adopt the more euphonious name of Tremont. Hogg is converted into Howard; Death into Dickenson; Grunsel into Crowinshields; and Tinker into Buckingham! Mr. Wormwood asks permission to change his name for something more agreeable; 'certain,' as he quaintly says, 'that no member of taste will oppose his request.' Alexander Hamilton petitions for leave to change on the double ground of the inconvenient length of seven syllables, and of his inability 'to support the dignity of a name so famous in history'!³ This last case has sound reason in it besides humility.

Change of name may become advisable from mere change of residence. The surname Funck may suggest something bright and sparkling in German, and something merely the opposite of courage and assurance in English. It is manifestly ridiculous for anyone with no hereditary rights to assume some of the names that are assumed; but it would be as unreasonable to object to anyone abandoning any one of some of the names which we find discarded. If a name has become a drawback it ought to be dropped.

Probably the most frequent occasion of change of name in modern

¹ See Hubback's *Evidence of Succession*, p. 450. It is of course impossible for a man to alter baptism name after he has been baptised. When he takes a new *first name* it can only be a *baptism name* if it is given to him in a ceremony of baptism.

² *Household Words*, xiv. 433.

³ The Alexander Hamilton of history was the man of Scottish descent who is generally acclaimed as the real framer of the American Constitution in which so great parallels with the Scots system of Church government are discerned.

Britain, at least, is in obedience to testamentary injunctions and the provisions of deeds of entail, to which we have already referred,¹ in which, with the view of perpetuating his name and family, the testator or entailer has provided, for example, that the several persons called to the succession, including the husbands of heirs-female, shall be bound to assume his surname and the relative armorial ensigns. In some cases, as previously stated, the terms of the condition are such that the surname of the entailer must be borne to the exclusion of every other, while in others, it merely requires to be assumed, the heir having thus the option of either adding or prefixing it to his own name, unless the precise position is expressly provided for.

In the substitution or addition of surnames, particularly under the provisions of an entail, it frequently happens that only the heir assumes the new name, and in the case of a married heir-female, her husband also, who thus becomes, in the words of Sir George Mackenzie, 'a child of the family'; while the children—excepting, perhaps, the heir-apparent—retain their patronymic without any alteration. The same author, however, remarks, that 'though it be ordinary to make the eldest son only to bear the name, yet it seems very reasonable that even all the younger children should bear the name, if they get any patrimony out of the family, unless they can prove they were provided *aliunde*.'² It is certainly somewhat anomalous to find two different surnames in the same family, and in some cases the arrangement must be attended with certain practical inconveniences. But, on the other hand, as the change is not compulsory, no one can complain it

¹ The herald, before matriculating arms on the strength of an entail, is obliged to see that the petitioner is really the heir of the entail. In the English case of Barlow the House of Lords, reversing the Master of the Rolls, found that the provision of a will that required the heiress to marry a husband of the name of Barlow restricted her to a husband who had inherited that name or had had it conferred on him by Act of Parliament, and that the provision was not satisfied by her marrying a man (Bateman) who voluntarily changed his name to Barlow. —*Barlow*, 4 Brown, *Par. Cases*, 194. In the case of *Leigh* it was found that the deviser in restricting the heirs of his inheritance meant only those of the name who were his agnates—relatives through males—and did not include even the nearest cognate, though he had formally altered his name to Leigh by royal licence.

² Mackenzie, *Treatise of Tailies; Works*, ii. 490. The members of the house of Balfour of Pilrig, who, as well as the immediate heir of entail, recently added the surname Melville to that of Balfour, acted in accordance with this dictum.

it is not made; and thus the obscuration of pedigree is minimized, while, at times, the fame of an ancient house may be rescued from oblivion. This is particularly the case where the patronymic is entirely abandoned; but, of course, where it is retained along with the new surname, the objection is materially modified. Independently of the provisions in entails and other settlements, surnames are frequently assumed by persons succeeding to property, in compliance with the known wishes of the former possessor, or out of respect or regard to a relative or benefactor; and in the case of a marriage, the husband sometimes voluntarily assumes his wife's surname and arms, especially when the latter happens to be an heiress and the former a cadet. Instances sometimes occur which illustrate a combination of reverential and matrimonial motives. Thus, a certain landed gentleman in South Wales, the 'only son of the late Rev. David Harries,' assumed his *maternal* name (Davys) on his succession in 1832; and, fifteen years later, he made another change by the addition of his *wife's*, viz. Campbell—the assumption having been, apparently, quite voluntary on both occasions. Accordingly, by means of two separate processes, Mr. William Harries was transformed into Mr. William Campbell-Davys.¹ We have another example of the adoption of the maternal surname—one of the two just mentioned—in the case of the gallant Lord Clyde, better known as Sir Colin Campbell. At the of his installation in the House of Lords, public attention was called to the remarkable coincidence of so many distinguished individuals concerned in the ceremony bearing the name of Campbell, viz. the hero himself, the Bishop of Bangor, who read prayers, the Lord Chancellor, and the Duke of Argyll, by whom Lord Clyde was introduced. No doubt, in his original commission, which was procured for him by his maternal uncle, Major Campbell, he was described as 'Colin Campbell,' which surname he is said to have adopted with the consent of both of his parents; but in point of fact, as the Birth Register of Glasgow clearly proves, he was the 'lawful son' of John *M'Liver* and Agnes Campbell.²

¹ See Walford's *County Families*, p. 102.

² The usual tale is that his uncle, Major Campbell, took occasion to present him one day as his nephew, about to enter the army, to the Duke of York, who, jumping to a conclusion, said he was always glad to receive another Campbell. After the interview the Major advised the boy that the Duke must not be shown to have made a mistake!

In Scotland, down to the eighteenth century, married women are found signing legal documents and private letters addressed even to their own husbands, with their maiden surnames. The practice is entirely altered in favour of the signature of the Christian name, or initials, and the husband's surname, even in legal documents;¹ but in Scottish deeds, it is correct that a party who is a married woman should be *described* by both her maiden and her marital surname.

RELATION OF DOUBLE SURNAMES TO QUARTERED ARMS.

In the same way that there are different ways of marshalling the arms which fall to be assumed with a surname, there are different modes of assuming the new surname, viz. :—(1) as sole surname, (2) principal surname, or (3) secondary or subordinate surname, and as a general rule, the resulting name and arms do and ought to correspond. It seems somewhat paradoxical to say that the most important name goes naturally last, and the most important arms, which are generally those which accompany it, go therefore first. But it is merely a statement of the fact that in each case the most important is generally given the principal place. In some cases the places of honour are given to both the added surname and arms. Thus, the Earl of Seafield, who is a Grant and whose surname is Grant *Ogilvie*, follows the rule, and places *Ogilvie* in the first quarter. The same course is followed by the Gibson-*Craigs* of Riccarton, Baronets, and the Maxtone-*Grahams* of Cultoquhey and Redgorton. On the other hand, the Earls of Kinnoull, who are Hays, and who call themselves *Hay-Drummonds*, retain the arms of Hay in the principal place. In other cases the paternal name and arms

¹ In England, as well as in France and other continental nations, down to the seventeenth century, married women and widows not unfrequently retained their maiden names, generally, however, with an *alias*.

According to Mr. Lower, the wife does not change her name at marriage in Spain. The son uses the paternal or maternal surname, as he thinks proper; the choice generally falling upon that of the best family, in accordance with the proverb:

‘El hijo de ruyn Padre
Toma el apellido de la Madre.’

Essays on English Surnames, ii. 56 note.

In Austria she may add her maiden surname to her husband's.

are retained in the places of honour. The Marquises of Bute, who are Stuarts, but whose surname is *Crichton-Stuart*, preserve their Stuart arms in the first position, and place Crichton in the second. The Earl of Leven and Melville may be said to observe the same order if his arms, with Leslie in the principal places, are understood to follow the order of his titles, in which Leven comes first. But he might be thought to deviate from it if his arms were compared only with his surname. Leslie-Melville seems, however, more euphonious than Melville-Leslie. Lord Dunedin, who is a Graham, but whose surname is Graham-Murray, places his Graham arms in the principal place.

Instances exist of the use of surnames without any corresponding additions to arms. Thus, while Sir Basil Graham Montgomery's surname consists partly of Graham, which he bears in right of his father's grandmother, his arms consist of Montgomery alone. On the other hand, Sir William Ferguson Davie bears the arms of Davie, his assumed surname, alone.¹

But at the present day the majority of cases of doubled surnames are cases which have arisen through no necessity of taking a name or losing an inheritance, but from the convenience or necessity of having a distinctive name.² This is specially to be noticed in those professions the members of

¹ As an example of a *resumed* surname, we may mention the Macdonald-Lockharts of Lee and Carnwath. The first Baronet of that family was Alexander—third and eldest surviving son of George Lockhart of Carnwath, and great-grandson of the celebrated Lord President of the Court of Session—who succeeded to the estates of Lee and Carnwath, in 1802, on the death of his cousin Charles, Count Lockhart-Wishart, when he resumed his paternal surname of Lockhart, which he had exchanged for that of Macdonald, on his marriage to Elizabeth, daughter and heiress of John Macdonald of Largie, in 1762. The present Baronet carries the arms of Lockhart in the first and fourth, and those of Macdonald in the second and third quarters of his escutcheon.

In like manner, the present Earl of Haddington resumed his patronymic of Hamilton with the relative ensigns, which he now bears along with the surname and arms of Baillie, these having been exclusively assumed by his grandfather on inheriting Jerviswoode and Mellerstain, the extensive estates of *his* maternal grandfather.

² The Registrar-General of England some time ago recorded that 'the name of *John Jones* is a perpetual incognito in Wales, and being proclaimed at the cross of a market-town would indicate no one in particular.' *Sixteenth Annual Report*, p. xix.

The Registrar-General suggested that 'a partial remedy for this state of things would

which do not work in firms with firm names, and it is perhaps most noticeable among physicians. Surnames are much more numerous than Christian names, if we don't take into account Christian names which have been made out of surnames. They are thus more capable of assuring distinctiveness if carefully selected. But the technical character of the name is immaterial, and the object is often attained by calling out of its secondary position a middle Christian name, when that, as frequently, is the mother's or some other relative's surname.

THE RIGHT TO CHOOSE AND TO CHANGE A SURNAME.

As already indicated, it is the established law of both England and Scotland that surnames may be assumed or changed at pleasure, independently of any royal, parliamentary, or judicial authority. In the case of *Barlow v. Bateman*, in 1730, the Master of the Rolls observed: 'I am satisfied the usage of passing Acts of Parliament for the taking upon one a surname is but modern: and that any one may take upon him what surname, and as many surnames, as he pleases, without an Act of Parliament.'¹ Again, according to Lord Chancellor Eldon, 'an Act of Parliament giving a new name, does not take away the former one. . . . In most Acts of Parliament for this purpose, there is a special proviso to prevent the loss of the former name. The King's license is nothing more than permission to take the name, and does not give it. A name, therefore, taken in that way, is a voluntary assumption.'² In like manner, in delivering judgement in the case of *Luscombe v. Yates*, in the year 1822, Chief-Justice Abbott observed, that 'a name assumed by the voluntary act of a young man, at his outset into life, adopted by all who know him, and by which he is constantly called, becomes, for all purposes that occur to my mind, as much and effectually *his* name, as if he had obtained an Act of Parliament to confer it

perhaps be found in the adoption of a more extended range of Christian names.' There is little left to desire in this respect in some parts of the country and in some circles! But what is contemptuously called the 'double-barrelled surname' has operated also to relieve the situation in Great Britain.

¹ Williams' *Reports*, iii. 64.

² *Leigh v. Leigh*, 1808; Vesey's *Reports*, xv. 92.

upon him.'¹ In a still more recent case, Chief Justice Tindal is reported to have said, that 'there is no necessity for any application for a royal sign-manual to change the name. It is a mode which persons often have recourse to, because it gives a greater sanction to it, and makes it more notorious; but a man may, if he pleases, and if it is not for a fraudulent purpose, take a name, and work his way in the world with his new name as well as he can.'²

The same principles have been announced in all the cases which have occurred in Scotland. When the party changing his name was a Notary Public, authority has been given to him to sign notarial instruments with his new name. But this has always been given on the narrative that he had already validly assumed it. Thus, in the case of Alexander Kettle, a Writer to the Signet, who, in the year 1835, presented a petition to the Court of Session for permission to assume the surname of Young, the Lord President (Hope) said, 'In the case of a Notary Public I have seen such applications, but not in any other. There is no need of the authority of this Court to enable a man in Scotland to change his name'; and the application was accordingly withdrawn as unnecessary. The decision made no reference to the fact that the petitioner had previously obtained a royal license to change his surname, but proceeded on the general ground that he was entitled, *ex proprio motu*, to assume any name he chose.³ In the later case of Harry Inglis, another Writer to the Signet, to whom authority was granted, in the year 1837, to assume the additional name of Maxwell, the petition concluded for authority to use the proposed name in subscribing, among other things, 'instruments.' By these are generally understood Notarial Instruments.⁴ In the subsequent case of Kinloch v. Lowrie,⁵ the principle enunciated in Kettle's case was adopted by the Lord Ordinary (Cowan) and acquiesced in, to the effect that 'a person may sue under a new name assumed by himself, even though assumed without any royal or judicial authority.' 'Even as regards the Christian or baptismal name this

¹ Barnewall and Alderson's *Reports*, v. 344.

² *Davies v. Lowndes*, 1835; Bingham's *New Cases*, i. 618.

³ 13 Shaw (*Session Cases*, 1st series, viii.), 262.

⁴ *Ibid.* xvi. 111.

⁵ Dec. 13, 1853, 16 Dunlop (*Session Cases*, 2nd series, xvi.), 197.

rule would hold.' It appears from the judgement that the advocator was born in Paisley in 1810, that he was married there in 1832, and that while resident in that quarter he was known and designed by the name of Callaghan, Kellachan, or Killochan; that he afterwards carried on business in Kilmarnock as John *Kelloch* or *Killoch*; and that after the year 1842 he was generally known in Glasgow by the name of John *Kinloch*, under which name he obtained a license as a tavern-keeper. In the note to his interlocutor, the Lord Ordinary refers to the judgement of the Court, delivered by Baron Parke, in the English case of *Williams v. Bryant*, 1839,¹ observing that 'by that name by which a party has been for years exclusively known to the public, and has transacted with them, he is entitled to sue, and is liable to be sued, in judicial proceedings; and no inconvenience to third parties, or departure from legal principle, can be seriously alleged to attend its recognition.'

When the bearing of a particular surname is a condition attached to the enjoyment of things of patrimonial value, relief from the obligation can only be had with safety by means of an Act of Parliament. In 1859 an Act was passed (22 Vict. c. 1) 'to enable Charles Frederick Clifton, Esquire, and the Lady Edith Maud, daughter of the fourth Marquis of Hastings, and afterwards, in her own right, Countess of Loudoun, to assume and bear the surnames of "Abney Hastings" in lieu of the surname of "Clifton," and to bear the arms of Abney Hastings.'²

The practice of effecting a change of surname by royal license appears to be of considerable antiquity,³ and there can be no doubt that, failing the

¹ Meeson and Welsby's *Reports*, v. 447.

² In 1856 an Act, 19 and 20 Vict. c. 5 (23rd June, 1856), was passed 'to authorize Sir Lionel Milborne Swinnerton, Baronet, and his issue, to assume and bear the surname of Pilkington jointly with the surnames of Milborne and Swinnerton, and to be called by the surnames of Milborne Swinnerton Pilkington.' It appears from the preamble that a few months previously the said Sir Lionel, then Pilkington, in compliance with a proviso in a certain indenture of settlement, had obtained the royal license to take the names of Milborne and Swinnerton only, and to bear the relative ensigns quarterly with his family arms; and further, that in terms of the said indenture, having succeeded to a title of honour, namely a Baronetcy, he could only resume the relative surname (Pilkington) with the authority of Parliament.

³ See *Archæologia*, xviii. 110.

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more formidable machinery of an Act of Parliament, many important advantages may be derived from such a course of procedure. Thus, in the case of the Rokeby Barony, the record of royal licenses for the change of surnames and arms was produced from the Heralds' office and admitted in evidence, in order to account for the change of the claimant's name from Robinson to Montagu.¹ It is obvious that without some such record the difficulty of proving identity might be materially increased, and common sense appears to dictate the propriety of some formal procedure being adopted on the occasion of a change of surname, with the view of establishing a fact of so much importance.² The ordinary course of procedure in connection with a change of name under royal license may be described as follows: The person desirous to make the change presents a petition to the Secretary of State for the Home Department, who refers the same for consideration to the King-of-Arms under whose jurisdiction the petitioner is, as the fittest authority to examine into the truth of its allegations. That officer reports upon the facts of the case, and the matter then rests with the Secretary of State. If it has been found that the party is a representative in blood of the family whose name he wishes to assume, or if he has married the heiress of such family, or if he has been desired to take the name by the will of one to whose estate he has succeeded, his request is granted, and the royal license is issued. Its publication in the *Gazettes* is optional, but it is generally inserted there, in accordance with a special form. But the royal sign-manual is not permitted to be affixed to an act which would either sanction a falsehood, encourage a mere caprice, or cause annoyance to families whose historic or distinguished names might thus become the sport of all who are bold and unscrupulous enough to assume them.³

¹ *Minutes of Evidence*, 1830, p. 14.

² The concluding clause of an Act of Parliament authorizing a change of surname and arms is usually in the following terms: 'This Act shall not be a public Act, but shall be printed by the several printers to the Queen's most excellent Majesty duly authorized to print the Statutes of the United Kingdom, and a copy thereof so printed by any of them shall be admitted as evidence thereof by all judges, justices, and others.'

³ The practice in petitions from persons domiciled in England is similar; see *The Herald and Genealogist*, i. 11, whose expressions on the subject are largely adopted in the text.

There is nothing to prevent the Home Secretary taking the advice of as many authorities as he thinks it his duty to consult. But his natural and proper course is to take, in the first place, the report of the heraldic authority under whose general jurisdiction the petitioner is, Garter, Lyon, or Ulster as the case may be.

The royal license is comparatively little known in practice in Scotland, being, fortunately, seldom required by Scottish deeds, thanks to the conveyancers, who have to such an extent the dictation of their terms.

Another method, available to any person, of recording his change of name to the effect of preserving his identification is by recording his pedigree, so far as is requisite for his purpose, in the appropriate Register of Pedigrees. For any person under Lyon's general jurisdiction that register is 'The Public Register of Genealogies and Birth Brieves' of the Lyon Court.

'The Lord Lyon will not, as is popularly believed, grant authority to an individual to change his name; but, on the narrative that he has already changed it, he will grant him arms under his new name; and in the patent, or, if desired, in an extract from the record, he will certify the fact of the change.¹ This certificate (he continues) has been recognised both by the War Office and by the Admiralty, as identifying the bearer of the new name with the bearer of the old name, which is the only object of the Queen's letters-patent; and officers of the army and navy have been permitted to change their names on the lists, and to draw their pay under their new denominations.'²

It appears from the printed Acts of Sederunt, that applications to the Court of Session in connection with the change or assumption of surnames have been frequently made during the last hundred years. Most of the petitioners appear as Justices of the Peace, Advocates, Writers to the Signet, or Notaries-Public. Thus, in the year 1757, John Sempill, Solicitor, but not Notary-Public, who had already changed his name from Semple, was declared to have been free to do so. In 1789 William Molle, Writer to

¹This course was followed in the case of Mr. Maxtone-Graham of Cultoquhey and Redgorton.

²*Hand-Book of the Law of Scotland*, by the late Professor James Lorimer, 2nd edition, p. 445.

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the Signet and Notary-Public, was authorized to change his name from Mow. These were cases of mere reversion to older forms of these names. Again, John Muir, Writer to the Signet and Notary-Public (1764), William Mitchell, formerly Writer and Notary-Public, 'now holding an important office in the Forth and Clyde Navigation Company' (1774), and David Mathie, Writer in Glasgow and Notary-Public (1830), are allowed to change their respective patronymics to *Chalmer*, *Livingston*, and *Fogo*, in consequence of relative conditions in the dispositions of certain lands. For similar reasons, William-Charles Little of Libberton, Advocate and Justice of the Peace (1793), David Anderson, Advocate (1814), James Gibson of Ingliston, Writer to the Signet (1823), and David Maitland, Advocate (1825), obtain permission to assume the surnames (and arms) of *Gilmour*, *Blair*, *Craig*, and *Mackgill* respectively, in addition to their paternal names and bearings.¹ The application of William Stirling, Advocate, in 1823, presents the peculiarity of not being consequent upon any documentary condition, having been merely prompted by his desire to assume the name, arms, and designation of *Graham* of Duntroon, as heir-general of that ancient family.

A few cases of a similar kind are reported to have recently occurred in the English Law Courts, the parties all being Attorneys (influenced by various motives), of which we may mention the following: William Duggett *Ingledeu*, 1849; Thomas James *Moses*, 1850; Josiah *Heaton* Dearden, 1850; John Matthews *Chamberlain*, 1852; and Edward Bryan Jones, 1853.² In the first two cases, the paternal names of *Ingledeu* and *Moses* were dropped by the applicants; while in the other three cases, *Heaton*,

¹ See also the cases of *Small-Keir* (1810), *Bell-Maclachlan* (1813), *Young-Herries* (1823), and *Scales-Cleland* (1831). 'The First Division of the Court of Session, on Saturday last, granted authority to William Peacock, of the firm of Skene, Webster & Peacock, W.S., 21 Hill Street, to assume the additional surname of Edwards, and to use the same in exercising the offices of Notary-Public and Law Agent practising before the Court of Session.'—*Adv. Scotsman*, 6th February, 1875. Mr. Shand refers to four *unprinted* cases between 1841 and 1845, in one of which the party did not hold any public office or official situation.—*Practice of the Court of Session*, i. 44. A record of these alterations more accessible and convenient of reference than the *Acts of Parliament* and *Acts of Sederunt* is a desideratum of the genealogist.

² 1 *Lowndes, Maxwell, and Pollock's Reports*, 1; 19 *Law Journal*, Q. B. 345; 20 *Law Journal*, 80, Exchequer; 22 *Law Journal*, Chancery, 22; 22 *Law Times*, 123.

Chamberlain, and Bryan were respectively assumed, the first two being the maternal surnames of the parties. In the case of Moses, Mr. Justice Coleridge that, in future applications of the same nature, the affidavits ought to state very clearly that the party is not apprehensive of any proceedings being instituted against him by the name he bears on the roll.

Above two hundred years ago, the practice of changing names appears to have been regarded in France as highly objectionable. 'Il est manifeste,' says De la Roque, 'que le changement de noms semble éteindre des races avant qu'elles le soient, et il en est arrivé des inconveniens tres-préjudiciables.'¹ During the fourteenth and fifteenth centuries, such changes seem to have been effected in that country without any form or solemnity; but, owing to the consequent abuses, an ordinance was promulgated by King Henry II., in the year 1555, to the following effect: 'Que pour éviter la supposition des noms et des armes, d'offences sont faites à toutes personnes de changer leur noms et leurs armes, sans avoir obtenu des Lettres de dispense et permission, à peine de mil livres d'amande, d'estre punis comme faussaires, et estre exauthorisez et privez de tout degré et privilege de Noblesse.' Camden thus refers to the same subject: 'The inconvenience of change of names hath been discovered to be such in France, that it hath been propounded in the parliament at Dijon, that it should not be permitted but in these two respects: either when one should be made heire to any, with any especiall words to assume the name of the testator; or when any one should have donation surmounting a thousand crownes, upon the same condition.'² Speaking of the ancient practice in France of changing name and arms in consequence of prescribed conditions in deeds of settlement and marriage-contracts, De la Roque remarks: 'Il faut néanmoins que ces changemens, quoy que legitimes, soient fondez en Lettres enregistrées à la Chambre des Comptes, et publiées au Parlement pour rendre la chose solennelle et publique.'³

¹ *Traité de l'Origine des Noms* (1681), p. 98.

² *Remaines concerning Britain—Surnames* (1657), p. 145.

³ *Traité*, par De la Roque, p. 186.

CHAPTER XV.

THE ROYAL ARMS IN SCOTLAND.

WITH the constituent portions of the heraldic insignia of the sovereign of the United Kingdom—the three golden lions of England, passant gardant in pale; the red rampant lion of Scotland, with the double tressure flory-counterflory;¹ and the golden harp of Ireland—even the staunchest connoisseur of heraldry in general would be ashamed to be unfamiliar.² Fordoun, writing about A.D. 1385, cites a Metrical Chronicle which was even then 'old,' which recorded that Fergus, son of Ferchard, the first King of the Scottish line, bore a red lion on a golden field.³ Such a tale, deducing the lion from the time of a king who was supposed to have flourished some three hundred and thirty years before Christ, was not out of keeping with the general ideas of Fordoun's time. And, in the matter of the heraldry of the Kings, international politics—Scotland *versus* England—as well as patriotic pride called upon the historian to draw out the claim of antiquity to the uttermost. Fordoun does not make out so high an antiquity for the royal tressure; that was added only by the Emperor Charlemagne. The comparatively modest assertion that the tressure was thus no older than somewhere between 800 and 814 A.D. was probably not made however in ignorance of the inference to be derived from the story—that Scotland was under the Emperor, not under the King of England.⁴

¹ In the language of the dates at which these arms were assumed they would have been styled the arms of the Kings of the English and the Scots, not the Royal Arms of England or Scotland.

² Plate xxii.

³ *Scotichronicon*, A.D. c. 1384-7, ii. 12.

⁴ In common with earlier writers, Nisbet adopts the tradition which assigns the assumption of the rampant lion to Fergus I., who is alleged to have flourished, as King of Scotland, about

Later writers, with more probability, relate that the lion was assumed by William 'the Lion,' who reigned from 1165 to 1214, and was surnamed because of his cognizance.¹ There is no proof of this. He was a personal friend of Richard the 'lion-hearted,'² and may equally have received his surname on account of his personal qualities. Armorial ensigns, as we have seen, were in use in his reign, and though his only known Great Seal, cut we may presume immediately after his accession, represents him without them, he probably was not behind his nobles in adopting them before his reign ended. Still, lions as heraldic bearings were too common in the early days of Scottish heraldry to be distinctive, apart from their tinctures or accessory bearings, of any one.

The arms consisting of the lion within a double tressure flory-counter-flory were then probably the personal arms of King William and certainly the arms of his son Alexander II., and afterwards of their successors on the Scottish throne till the Union of the Crowns of Scotland and England in

430 years before Christ. He also refers to the celebrated league which Charlemagne is said to have entered into, in the beginning of the ninth century, with Achaius, King of Scotland, on account of his assistance in war; 'for which special service performed by the Scots, the French King encompassed the Scots lion, which was famous all over Europe, with a double tressure flowered and counterflowered with flower-deluces (the armorial figures of France) of the colour of the lion, to show that it had formerly defended the French lilies, and that these thereafter shall continue a defence for the Scots lion, and as a badge of friendship.' *System of Heraldry*, vol. ii. part iii. p. 98. On the other hand, Chalmers observes that these two monarchs were probably not even aware of each other's existence, and suggests that the lion (which, as we have seen, first appears on the seal of Alexander II.) may have been derived from the arms of the old Earls of Northumberland and Huntingdon, from whom some of the Scottish Kings were descended. He adds, however, that the lion was the cognizance of Galloway, and perhaps of all the Celtic nations. Chalmers also mentions an 'ould roll of armes,' preserved by Leland, said to be of the age of Henry III. (1216), and which the context evinces to be as old as the reign of Edward I. (1272), in which the arms of Scotland are thus described: 'Le roy de Scosce dor a un lion de goules a un bordure dor furette de goules.' He somewhat unaccountably remarks that 'in this description, we see nothing of the double tressure.' *Caledonia*, i. 762, note (i). In 1471, the Parliament of James III. 'ordanit that in tyme to cum thar suld be na double tresor about his armys, bot that he suld be hale armys of the lyoun without ony mare.' If this alteration of the blazon was ever actually made, it did not long continue.

¹ Aeneas Mackay, art. 'Scotland: History'; *Encyc. Brit.* 9th ed. 484.

² Richard 'Cœur de Lion,' 1189-1199: see Tytler, *History*, ii. 291.

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1602-3.¹ They appear first on the equestrian side of the Great Seal of Alexander II., who began to reign in 1214. The lion is clear there on the king's shield, and both the lion and the double tressure flory-counterflory are clear on his saddle-cloth.² They reappear on the shield and the long sweeping housings of the horse on the Great Seal of the next King, Alexander III. (1249-1285-6).³ The same arms were placed on the Great Seal of the Guardians of the kingdom, who were appointed by Parliament in 1286 to govern in the absence of the infant Queen Margaret. With Margaret ended her house. The throne then went, so far as the arms of William or the Alexanders were concerned, into collateral lines. Both the Balliols and the Bruces, however, adopted them on their respective accessions. Each of the Kings of these families, and the Stewarts after them, used them alone on the reverse or equestrian side of his seal. And from Robert I. down to James V. each King is represented with the arms of his shield repeated on his surcoat as well as on his horse housings. The Balliols preserved small shields of their paternal arms, gules, an orle argent; and their maternal arms, the lion rampant of Galloway, argent crowned or, upon azure, on the obverse of their Great Seals, *i.e.* the side on which the King appears seated on his throne. Robert the Bruce before his accession had borne: quarterly, a silver lion rampant on a blue field, for his family arms, and a red chief and saltire on a golden field, for his lordship of Annandale.⁴ These, on his accession, he ceased altogether to use; the Stewarts, on succeeding the Bruces, followed the same example. They had already dropped the Fitzalan lion—red upon gold, if they had ever used it—in favour of the fess chequy azure and argent—the chequer board of the Steward. Thereafter, the royal head of the Stewarts used the lion and royal tressure only.

The motive of the choice of a lion as a royal bearing is not far to seek. The lion was understood to be in very truth what he is still called, the king of beasts; he was the symbol of courage, strength and magnanimity. The

¹ With the doubtful exception of a few years in the reign of James III.

² Plate ii. But it is doubtful if it can be made as clear in a reproduction of the seal.

³ Plate ii.

⁴ The appearance of the latter arms on the royal capeline in 1386 or thereby is interesting. See plate xii.

Kings of Scotland, England, Denmark, Léon, and many other sovereign princes adopted him as their cognizance, as the Emperor of the Holy Roman Empire, and following him the Emperors of Germany, Austria, Russia and France, and the United States of America adopted the king of birds.

The double tressure flory-counterflory is more difficult to interpret. It was possibly in its origin a structural arrangement like the original escarbuncle for the strengthening of the shield. The flower forms of the broader pieces of the two bands of which it is composed are not against that theory; and, it is to be noted, the flowers do not fasten the tressures together; the tressures are separate each with a half flower fastened on to its edge at intervals as it would be if the tressure were a strengthening band, and required a broader piece at intervals, through which the nail or bolt might go. It was in accordance with the mind of the time to make things that were useful ornamental too, and with forms that were symbolical or allusive to ideas. The tradition, on the other hand, is clearly very old that the whole bearing, the tressure as well as its floriations, was symbolical of the guardianship of Scotland by France. Though the story of the grant of Charlemagne must be dismissed, because, among other things, arms did not exist in Charlemagne's time, William the Lion had certainly entered into negotiations with Louis VII. of France after the period of heraldic ensigns had opened and before the tressure with its *fleurs-de-lis* appears in the Scottish shield. The *fleur-de-lis* was already Louis's badge,¹ though it was not placed, we believe, on the Royal Seal of France until the reign of Louis VIII. (1223-26).²

A curious evidence of the acceptance of the Charlemagne legend, and of the inference drawn from it, is to be found in the advice tendered by the Scots Parliament to King James III. in February, 1471-72. It is to be observed that at the time James was meditating a visit to the French Court.

¹ Plate i. Woodward, ii. plate ii. fig. 5.

² The seal of Alexander II. may be dated from 1215 or thereby. An impression of it is still appended to a charter of 26th January, 1222 (Dunbar, *Scottish Kings*, 89), a year before the accession of Louis VIII., and it may, indeed, be that the *fleur-de-lis*, in fact, is found in the arms of the King of Scotland before it had become the undoubted heraldic emblem of the Kings of France.

'The King, with the advice of the Three Estates,' says the record, 'ordained that in time to come there should be no double tressure about his arms, but that he should bear whole arms of the lyoun without any more.'¹ We are not aware of any evidence that the ordinance was ever observed. But the compromising bearing is subjected to a material modification in several examples of the Royal Arms which were constructed about this time. These are attributed upon various suppositions to various dates, but the tressure which is common to them all suggests that they were executed shortly after the date of the Act. They exhibit the tressure with the omission of the upper part of it,—in other words, the part which would have been *above the lion*. The arms of the King (James II.) and Queen, Mary of Guelders, his wife, which occupy two of the four shields on the 'King's Pillar' in the choir of St. Giles's, Edinburgh, are instances of this, though the tressure on the Prince's arms appears to be complete.² The arms of the King (James III.) in the Trinity College Church paintings, attributed to the date 1484 or so, furnishes another case of the same.³ The painting is of a King, Queen, and Prince kneeling before an altar, and to face the altar the lion is painted contourné. The tressure is modified in the same way in the Royal Arms in the great hall of Cumlongan Castle, Dumfriesshire,⁴ and in a panel in the Berwickshire Church of Cranshaws.⁵ In these last two cases the unicorn supporters are sejant, and the carvings are generally similar. This variant of the tressure does not appear, however, on any of the royal seals, so far as we are aware.

The contract of marriage in 1557 between Mary Queen of Scots and the Dauphin provided that while he was Dauphin he should quarter her arms with his, and if he became King of France he should bear his own

¹ *Act. Parl. Scot.* Rec. ed. ii. 102 b.

² M^cGibbon and Ross, *Ecclesiastical Architecture*, ii. 429; Chambers, *Story of St. Giles*, p. 9; Woodward, *Heraldry*, ii. 96.

³ Dr. David Laing, *Proceedings Soc. of Scot. Antiq.* vol. iii. p. 8. The Trinity College paintings, now the property of the King, and usually at Holyrood Palace, are at present in the Scottish National Gallery by His Majesty's gracious permission.

⁴ M^cGibbon and Ross, *Castellated and Domestic Architecture*, vol. i. p. 241.

⁵ *Ibid.* iii. p. 429.

and hers conjoined (*liées*) under one crown.¹ Queen Mary, after his death, and till her next marriage, impaled her Royal Arms, on the dexter, with those of Francis, in the sinister, preserving her own arms entire even to the royal tressure, but dimidiating his.² On the nuptial medal cast in France his arms as well as hers were preserved entire. The arms of her second husband Darnley were not introduced into her seal, even though he was proclaimed King. Whether her third husband Bothwell would have placed his arms on the seal if that marriage had been tolerated by the nation we can only conjecture. Another and sadly ill-advised alteration she made on her arms even as early as the date of her first marriage. On her plate and ceremonial trappings she assumed a shield of the arms of the crown of England as well as those of Scotland. These she bore marshalled together quarterly, the arms of England being actually placed first, and over all a scutcheon of pretence charged with the arms of England, the sinister half being partially obscured in order to intimate that she was being kept out of her rights.³ No such quartering was ever placed on the Great or Privy Seals of the kingdom, but the meaning of the English Queen herself in quartering the arms of the crown of France precluded any possibility that she would look upon Mary's act as anything but a serious claim to the throne of England.

On the accession of James VI. of Scotland to the throne of England in 1602-3,⁴ the arms of the two crowns fell naturally to be borne marshalled together by a king who possessed both. James found the arms of the crown of Scotland as we have described them—the lion within the royal

¹ *Acta Parl. Scot.* 29th November, 1558, vol. ii. 511; and see p. 506.

² Plate xxv.

³ Strype's *Annals*, vol. i. p. 8. The English State Papers of the day contain abundant evidence of the facts. 'Every one will recollect,' says Hallam, 'that Mary Stuart's retention of the arms and style of England gave the first, and, as it proved, inexpiable provocation to Elizabeth. It is indeed true that she was Queen Consort of France, a state lately at war with England, and that if the sovereigns of the latter country, even in peace, would persist in claiming the French throne, they could hardly complain of this retaliation.' *Constitutional History of England*, 4th ed. i. 127.

⁴ Commonly called the Union of the Crowns, though it was only the crowned head that became one.

treasure, and the arms of the crown of England, quarterly, France, azure, three fleurs-de-lis or, in the first and fourth, and England, gules, three lions passant guardant or, in the second and third. The shield which he adopted contained quarterly the quartered coat of England,¹ the coat of Scotland, and a coat consisting of a blue field bearing a golden harp with silver strings, for Ireland, which then appeared on the Royal Arms for the first time.

The order in which the quarters of the Royal Arms since the Union have been marshalled we shall refer to presently.

The arms adopted by King James VI. and I. were borne by the rest of the house of Stuart, including Mary II. and Anne, down to the 'Union of the Kingdoms' of 1707.² William III., her husband, being an elected monarch, bore them with, over all, an inescutcheon of his paternal arms of Nassau, namely, azure, billety, a lion rampant or. On the Union just mentioned, Queen Anne, exercising the judgement left to her, by the Treaty of Union, Article 24, as to the quartering of the Royal Arms 'as may best suit the Union,' directed in Privy Council that the united arms should be used according to the form in a 'draft marked A.' Unfortunately neither draft A, nor any of the drafts referred to in the Order in Council appear in the Council Register, but there can be no doubt that in the marshalling adopted the first and fourth quarters of the escutcheon were occupied by the arms of England and Scotland impaled, the second by the arms of France, and the third by the arms of Ireland. Her Majesty's principal Secretaries of State were directed to signify the royal decree 'within the United Kingdom of Great Britain, Ireland, Her Majesty's

¹ In describing the Royal Arms it is usual to speak of their quarters as 'Scotland,' 'England,' etc.; this is done for the sake of brevity, the full phrase being 'The arms of the royal house of Scotland,' and so on. No one at all acquainted with the subject is misled by the ellipsis, though some others in newspaper correspondence and even in pamphlets have misunderstood it.

² During the interregnum of 1651-61 the Royal Arms were considered as abolished with the royal house. Oliver Cromwell's Great Seal for the United Commonwealth which he created bore: Quarterly, 1 and 4, the Cross of St. George, argent a cross guies, for England; 2, the Cross of St. Andrew, azure a saltire argent, for Scotland; and 3, the Irish Harp, introduced by James VI., which he rightly treated as purely arms of dominion. Over all he placed on an inescutcheon his own paternal shield, as William of Orange did after him.

plantations in America, the Islands of Jersey and Guernsey, and other Her Majesty's dominions.'

King George I. continued to use the first three quarters of this coat, but the fourth quarter of his shield consisted of his arms as Elector of Hanover, namely tierced in pairle reversed: 1. Brunswick (gules, two lions passant guardant in pale or); 2. Lüneburg (or, semé of hearts gules, a lion rampant azure); 3. Westphalia (gules, a horse courant argent); over all for the Electoral Office, gules, the crown of Charlemagne or. This coat of arms continued in use from 1714 till 1801, when, on the Union with Ireland, the arms of France were taken out, the impaled arms of England and Scotland were separated, and the arms of Hanover, ensigned with an Electoral bonnet, were placed on an inescutcheon. The arms then stood thus: Quarterly, 1 and 4, England; 2, Scotland; 3, Ireland; over all, on an inescutcheon, the arms of the Elector of Hanover ensigned with the Electoral bonnet. These arms remained till 1816, when King George III., who had assumed the title of King of Hanover, removed the bonnet and ensigned his inescutcheon of Hanover with an imperial crown of eight arches.

On the death of King William IV. the crowns of Britain and Hanover separated; the latter succession, being confined to males, devolved upon his younger brother, Ernest Augustus, Duke of Cumberland and Teviotdale, while the British crown descended to his niece and heir-female, Queen Victoria. The inescutcheon of Hanover, therefore, did not appear on her Majesty's shield, which consisted of her arms for England, Scotland and Ireland only. With Queen Victoria the house of Guelph ended. King Edward VII., however, following the rule with our monarchs, used only those of his hereditary arms, which are also arms of dominion. His Royal Arms, therefore, were the same as those of his royal mother, as again are the arms of his present Majesty King George.

The royal crest of the Scottish Kings from the date of its first appearance on the helmet of King Robert II., 1370-1, has been a lion. On his Great Seal it appears statant guardant,¹ but in the *Armorial de Gelre* (c. 1386) it is a lion sejant,² crowned and with a sword in its right paw. Down to the death of James V., the kings are represented on the equestrian sides of

¹ Plate ii.

² Plate xii.

their Great Seals bearing a crest of a lion statant, or statant guardant. But in the royal achievement the crest has always been a lion sejant, affronté gules, imperially crowned, holding in his dexter paw a sword, and in his sinister paw a sceptre or. The royal motto which accompanies the crest was and is 'In Defens.' At the time of the Union, 1602-3, the royal crest of England, which had been repeatedly changed, was a lion passant guardant or, and the royal motto was '*Dieu et mon droit.*' These are still the crests and mottoes of the Royal Arms as used in the respective kingdoms.

The Royal Arms of the King of Scots do not appear with even a single supporter till the reign of James I. In that reign one supporter, a unicorn sejant, is placed with the King's shield on a coin, and two lions support his arms in his Privy Seal, and remain on the Privy Seals almost continuously till the Union. The unicorn, as a single supporter, was meanwhile never abandoned. At times it supports the arms of James IV. and James V. Two unicorns, it may be noted, support the arms of James III. in the hall at Cullinstown Castle already referred to, and if we are right elsewhere; and those of James IV. in the boss in Blacader aisle of Glasgow Cathedral; and on the buttress of Melrose Abbey Church, and over the gateway at Whitehorn Priory. They also, it may be noticed in passing, support the arms of James Duke of Ross and Archbishop of St. Andrews, younger brother of James IV., and also the arms of the next Archbishop, Alexander Stewart, that King's natural son. James V. took unicorns as his supporters on his Privy Seal; and his successor, Queen Mary, while retaining the lions on her Privy Seal, adopted unicorns for her Great Seal. She was the first Scottish monarch to do so. These monarchs' practice of having two distinct sets of supporters at one time is an illustration of the freedom exercisable in that matter before the advent of our modern notions, a freedom, however, more excellently illustrated in the royal heraldry of England, whose Kings changed their supporters at least twenty times in twelve reigns. James VI. continued the unicorns as his principal supporters till his accession to the English throne, and his adoption of a quartered coat of arms. He then took one supporter of each kingdom on the same principle as that on which he had taken their arms into his shield. The supporter he took for England was the golden lion rampant guardant

imperially crowned and armed and langued azure, the Scottish unicorn being rampant argent, langued armed, mained and unguled or, and gorged with an open crown and chained, also or.

The question of the order in which the Royal Arms should be marshalled, whether England or Scotland should have precedence, has been the subject of considerable discussion ever since the Union under King James. 'Upon his accession to the throne of England,' says Nisbet, 'there were several considerations and consultations taken by his Majesty and Privy Council of England, about the honours and precedency of his kingdoms of Scotland and England, and especially in marshalling their armorial ensigns; the difficulty arising from the armorial figures of England, being originally those of the dukedoms of Normandy and Aquitaine, being three leopards, which, as such, gave place to the flower-de-luces of France, as belonging to a kingdom. Upon the same reasons, the Scots claimed also precedency for their royal armorial figure, the lion rampant within a double tressure, the paternal arms of the King and his progenitors, used by them before the English used the leopards, and that the paternal ought to precede the maternal ones, as I mentioned before, the King of Castile's arms were preferred to those of Léon, the wife's arms.'¹

Nisbet is not alone in his statement of the reason why the ensigns of France were placed before those of England on the arms of the English Kings; but the greater antiquity and heraldic dignity of the arms of France, which are more than doubtful, cannot be imagined to have been paraded before the eyes of the English people. On the contrary, we may take it that the golden lilies were placed in the most important part of the King's shield to indicate nothing less than that his claim to the French Crown was a matter of the first importance to him. Mary Queen of Scots placed the arms of her claim, the Crown of England, similarly in the first place. Her action does not in any way support Nisbet's argument on the theory.

¹ *System of Heraldry*, vol. ii. part iii. p. 99. It is to be recollected that this part of Nisbet's writings was not published by him, but only after his death, and not by his legal representatives. Sir George Mackenzie claims precedency of the Kings of France and Spain for the King of Great Britain, on the ground of his being King of Scotland, which kingdom he considers ought to be preferred to England, as well as to France and Spain, on account of the greater antiquity of our royal race. *Treatise on Precedency*, chap. ii.

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He has, however, a limited support from the practice in Scotland after 1603.

In Scotland, 'after the Union of the Crowns,' says Nisbet, 'the Scots arms were preferred to the English, as in all his Majesty's seals, ensigns, and coins; though the English preferred England to Scotland, yet their seals, ensigns, and coins bear no authority further than the dominion of England; and though the legend round both seals was *Rex Magnae Britanniae, Franciae, et Hiberniae*.'¹ He then blazons the achievements of his Majesty, as King of Scotland and England respectively, and informs us that the latter mode of marshalling 'had no authority in Scotland'; and that 'no coins were current there but those that had the arms of Scotland placed in the first quarter before those of France, England, and Ireland, and ensigned with the imperial crown of Scotland.'² Such precedence is given to the arms of Scotland (which are also repeated in the fourth quarter), in the achievement of Charles II. for Scotland, engraved in Sir George Mackenzie's *Science of Heraldry*, where the unicorn, as dexter supporter, is crowned with an imperial, as well as gorged with an open crown. The same arrangement occurs on the Scottish Great Seals of James VI., Charles I., Charles II., James VII., William and Mary, and Anne, in Anderson's *Diplomata Scotiae*.³ Nisbet further remarks, however, that 'since the incorporate union betwixt England and Scotland in the reign of Queen Anne, the arms of the two nations have been otherwise marshalled together, where the lion of Scotland has lost his precedency.'⁴ This was not the case, the blazon being, first and fourth, Scotland and England impaled; second, France; third, Ireland; with a lion as the dexter, and a unicorn as the sinister supporter. The impaling of the arms in the first quarter did not mean any loss of position; the impalement was arranged with Scotland in the dexter half.

When the impalement of Scotland and England in the arms came to an end, Scotland in these seals was replaced in the first quarter alone, and after the omission of the arms of Hanover, in the fourth quarter also.⁵

The armorial achievements of the Scottish Great Seal of his late

¹ *System of Heraldry*, vol. ii. part iii. p. 100.

² *Ibid.* p. 101.

³ *Diplomata*, plates xciv.-xcix.

⁴ *System of Heraldry*, vol. ii. part iii. p. 101.

⁵ Plates xxiii., vii., xxii.

Majesty King Edward VII. (plate xxii.) and that of his present Majesty are from the excellent design of Mr. J. R. Sutherland, then assistant in the department of the Scottish Heraldic Painter, and engraved by Messrs. Kirkwood of Edinburgh. Two small shields have been introduced into the arcading in the front of the present Great Seal which represents His Majesty seated on the Throne. These shields contain the Royal Arms marshalled in the English order, and constitute a breach of a rule for the Scottish Seal which has been inviolate since the seal existed. We are informed, however, that the change was quite unintentional. The designer and engraver, a London firm,¹ was unaware that there was a Scottish order either to be broken or adhered to, and the official responsible for the commission and its execution was unaware that anything was wrong, or that in such a matter it was either usual or advisable to consult the heraldic authority or any expert. We believe, indeed, that the seal was actually introduced into use before, on its accidentally meeting the eye of an unofficial expert, the blunder on the face of it was detected.

By the general practice also in Scotland, since Queen Anne's Union, the precedence has usually been given to the arms of Scotland on official seals and government buildings.² The same precedence is distinctly referred to by

¹ In the year 1749, a royal warrant was issued authorizing payment of the sum of £509 8s. 9d. to John Rollo, 'chief engraver of our seals,' for the making and engraving of several seals and signets—including the Great Seal, Privy Seal, Justiciary Seal, etc.—for 'that part of our United Kingdom called Scotland'; and thirty-seven years later (2nd May, 1766), the sum of £532 15s. 1d. was paid to Christopher Seaton, then 'chief engraver,' under a similar warrant, in accordance with the particulars expressed in a bill annexed to the warrant, of which the following is an excerpt: 'The Great Seal of North Britain engraven on one side with his Majesty's whole achievement, being, within an escutcheon, his Majesty's royal coat of arms surrounded with the two Orders of St. Andrew and St. George, . . . supported on the *right* side by a unicorn *with an imperial crown over the head*, holding a banner, with the union crosses of St. Andrew and St. George, gorged about the neck with an ancient crown, with a chain fixed to it, the left supporter, a lyon guardant, crowned with an imperial crown, holding also a banner with the union crosses of St. George and St. Andrew; . . . on the other side, his Majesty's effigies on horseback, with a sword drawn in his hand, and, *for a distinction* from the Great Seal of Great Britain, a thistle and rose joined together for the Union, and in a prospect the City of Edinburgh,' etc.

² It was so in a great armorial panel of the Royal Arms painted above the Lord High Commissioner's seat in St. Giles's, Edinburgh, before Dr. Chambers's restorations of that building. The Scottish royal crest surmounted the crown, and the unicorn was the dexter supporter.

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several English writers on heraldry. Thus, in noticing the removal of the arms of France from the national escutcheon in the year 1801, Millington, in his *Heraldry in History, Poetry, and Romance*, p. 330, remarks that 'the English shield became I. and IV. England, II. Scotland, III. Ireland; it being, at the same time, agreed that Scotland's lion should in Scotland be allowed to take precedence of our English leopards.' Again, the late Mr. Thomas W. King, York Herald, in his able article on heraldry in the *Encyclopaedia Britannica*, observes that 'in Scotland the preference has been given to the Royal Arms of that kingdom, by placing them in the principal place on many of the official seals in use for that part of the United Kingdom.'

There is no doubt that, as the writer infers, practice has not been uniform. The arms as used by several government departments have at times, at least, been marshalled with Scotland in the second place. The royal standard, as flown on royal palaces and castles, is invariably so,¹ as also the tabards of Lyon King-of-Arms, and the Scottish Heralds and Pursuivants since 1820, when tabards were issued to them from London in preparation for the coronation of King George IV.

It was possible, when the *Law and Practice of Heraldry* first appeared, to devote considerable space to the relation of some of the agitations of the question which have taken place from time to time, and to express an opinion which was more decided on the point of convenience than of law. But here it need only be said that the legality and propriety of marshalling the Royal Arms in Scotland with Scotland in the first and fourth quarters cannot be questioned, seeing that they are so marshalled on the seal which is used in Scotland under section 24 of the Treaty of Union, in place of the former Great Seal of Scotland. His Majesty's Secretary for Scotland, and the Lord Advocate's office, observe the same order. His late Majesty King Edward used the same marshalling when at an early date in his reign he caused his arms to be placed on a part of the castle of Balmoral.

It will probably be acknowledged that, were the question open, there is a good deal to be said on both sides. The terms of the Treaty of Union

¹ Scotland was in the first and fourth quarter in the standard hoisted by the Royal Scottish Academy in 1911, on the occasion of the royal visit to its galleries.

are certainly not so explicit as they might have been ; and whatever may have been intended, it is certain that, in the relative Order of Council, no provision is made with reference to a special mode of marshalling in Scotland. It might be argued from the relegation of the matter by framers of the Treaty to the judgement of the sovereign that the matter was one in which difference of sentiment was foreseen. In another view the reference was technically the only correct course, as the arms concerned were the sovereign's own personal cognizances. As it is manifestly desirable that the sovereign should have armorial bearings sufficiently fixed to be recognized as his indubitably on all occasions both at home and abroad, it may be argued that his achievement should be the same in every corner of the kingdom, and that while we justly cherish the recollections of our bygone nationality, we should be thankful for our thorough incorporation with the mightiest empire in the world, and acknowledge that even north of the Tweed heraldic precedence ought to be granted to England.¹ But the argument that the arms of the greater possession ought to be the King's principal bearings everywhere is very far reaching. If England is greater than Scotland, the empire beyond the seas is in its turn greater than England.

The difficulty in coming to a right conclusion on the *quid oportet* is often a confusion of mind as to the *quid est*. The arms in question are not the arms of the countries or the nations, they are the arms of the King. His paternal arms, at the date of the Union of 1602-3, were Scottish. He succeeded to the English arms as an heir female. It would have been perfectly correct for him, and as correct for Queen Anne in 1707, to have taken one and the same coat of arms for all times, places, and purposes, and to have given the precedence on that coat to his paternal or any other arms. The rule in heraldry is that the paternal arms come first, unless, for some reason or fancy appealing to their particular heir, another coat is placed in front of them. There is no heraldic law which intervenes to oblige any one to supersede his paternal arms ; and the framers of the Treaty of 1707 expressly left the matter of the sovereign's arms when they passed it—in the

¹ *The Law and Practice of Heraldry* expresses this view, p. 446. But Mr. Seton subsequently, in conversation with Mr. Stevenson, expressed himself as of opinion on the whole in favour of a precedence for the Scottish arms in Scotland.

sovereign's own hands. If, again, the sovereign resolves for any reason to place the arms of England first in the shield he uses in England, and the arms of Scotland first in the shield he uses in Scotland, where is the inconvenience? He invades no public sentiment nor private right, he involves himself in no self-contradiction, and the identity of his cognizance is unaffected. Heraldically he is free when in Ireland to promote the harp to the first place; and to use a seal different from all of these for his acts in the Duchy of Lancaster.

There is nothing in heraldry to prevent any lord of several lordships from using a distinct armorial coat or banner in each if the heraldic authority permit it, in the same way that he may design himself differently when he grants deeds relating to their lands.¹ The fact that they are not united does not affect the analogy. The Union of 1707 was not a fusion of two kingdoms into one, but a union by a treaty which contained reservations of various kinds. It guarded against the extension into Scotland of the jurisdiction of the English courts; it provided that the regalia should remain in the kingdom, and that the Scottish heraldic authority should be retained; it is difficult, therefore, to insist that the quartering of the Royal Arms in Scotland should give precedence to the arms of the other contracting party.

When the Scottish arms are placed in the first quarter the Scottish supporter is placed on the dexter side of the shield. The lion sejant affronté, and 'In Defens' are the crest and motto, and the shield is surrounded immediately by the collar of the Order of the Thistle. At other times it is surrounded in the first place by the Garter. In the Scottish mode each supporter supports also a tilting lance, from which flies a banner; the banner supported by the unicorn bearing the cross of St. Andrew, azure a saltire argent, that supported by the lion, the cross of St. George, a cross gules.²

¹ After King James's accession to the English throne, all Scots deeds bearing the style and titles of his eldest son designed him 'Prince of Scotland, Wallis, and Yreland, Dolphene and Veyennes.' Records of the Privy Seal, per Riddell, *Peerages*, 264. By the Act of Parliament of 1st April, 1708, peers of Scotland who are also peers of England sign their proxies and lists relative to the election of Scottish Representative peers by the title of their peerages in Scotland.

² Plate xxii.

THE NATIONAL ARMS.

The national arms of Scotland from an early date have been a white saltire on a blue field, the reputed cross of its patron, St. Andrew, in the same way as those of England are the cross of St. George, red on a white field. St. Andrew's cross is understood to be tintured, in allusion to the mythical apparition of his cross shining in the sky to encourage the Christian Hungus, King of the Picts, in his advance to battle with the heathen Athelstane, King of the Saxons, some time in or before the seventh century.

In later times a St. Andrew's cross was ordered by the Scottish Parliament to be worn by everyone, Scot and Frenchman alike, in the Scottish host on an invasion of England.¹ And the same cross composed the Scottish flag at sea. 'In consequence of certain differences between his subjects of North and South Britain anent the bearing of their flags,' King James issued a proclamation on the 12th of April, 1606, ordaining the ships of both nations to carry, on their maintops, the crosses of St. Andrew and St. George joined together according to a form made by our Heralds, and sent by us to our admiral to be published to our said subjects'; Scottish vessels being at the same time authorized to display the flag of St. Andrew, and English vessels the flag of St. George, at their sterns, each according to the former custom.²

At that Union a composed coat of the arms of the two nations was adopted as the arms of the nations united under one King. When used as a banner it has come to be called the Union Flag, or more frequently, in common parlance, the Union Jack.³ St. Andrew's cross was taken as the groundwork, so to speak, and on it was laid the cross of St. George with the white field of the cross removed, all save a narrow strip at the edge of the red. This coat remained the national arms until the advent of the interregnum, when Cromwell separated the crosses and marshalled them quarterly along with the harp for Ireland. At the Restoration, in 1660, the composed coat was resumed, and was directed to be azure a saltire argent

¹ *Act. Parl. Scot.* 1st July, 1385, vol. i. 554-555.

² Sir James Balfour's *Historical Works*, ii. 13.

³ The Jack has a special meaning at sea, as a small Union flag flown on the jack staff on the bowsprit or bows of a ship. Whether it is properly used for a flag on land or is not there used in an older meaning akin to jacket—a coat—in this case, of arms, is a question.

surmounted by a cross gules fimbriated of the second. It continued thereafter to be the national coat till the year 1806, when, on the Union with Ireland, a cross was invented as the cross of St. Patrick, namely a red saltire on a field of silver, and the second and present Union arms fell to be composed, an operation of less simplicity than the first. The beginning was made, as before, with the cross of St. Andrew; on its field, below the saltire, but counterchanged in position per pale, was placed the saltire of St. Patrick; that is to say, the red limbs of the St. Patrick saltire were laid on the blue field alongside of those of the St. Andrew saltire, so that on the dexter half of the coat¹ they lay along the lower edges of the silver, and on the sinister side along the upper edges; and along the edge of the red, on its side which was not next the silver of the St. Andrew, was left, as in the case of the cross of St. George, a fimbriation, *i.e.* a narrow strip of its own silver field. Over all was placed the cross of St. George treated in the same way as in the former shield. Such is the present coat of arms of the United Kingdom of Great Britain and Ireland. It at any rate violates no heraldic rule, though it is as difficult to blazon in heraldic terms as to describe popularly. The fimbriations of the St. George's and St. Patrick's crosses serve, as Dr. Woodward says, the double purpose of providing a reminiscence of their former silver fields and avoiding the heraldic anomaly of imposing colour upon colour—in the case in question, red upon blue.

The arms are seldom seen on a shield, except that they appear incorrectly drawn on the oval shield which stands beside the seated figure of Britannia on the British copper coinage. They are familiar, however, on the national flag.² From the construction of the flag it is obvious that it has an

¹ The dexter side of the coat is, in a flag, the part next the flag-staff. This holds in whatever position the flag is seen. See the banner on plate xv. Sir George Mackenzie's plate of the 'Royal Achievement of Scotland,' in his *System of Heraldry*, gives the lion facing the other way. Owing to it, many heraldic draughtsmen have gone astray, not knowing that in his page of Errata Sir George had himself called attention to it as an error, saying, 'the Lyon on the Banner ought to look to the Staff.'

² It is to be noted that the official patterns for the flag for use in the army and navy are none of them, so far as we know, entirely in accordance with the royal ordinance and proclamation under which they are issued. Copies of them are therefore unsuitable for use by private persons desirous of flying the flag on land. See Laughton, *Heraldry of the Sea*; MacGeorge, *Flags*.

up-side and a down-side. Heraldically, to represent a shield head down is to disgrace its owner; but in the language of flags, the flag flown upside down is a signal of distress. On land, however, the Union flag is frequently flown upside down on entirely joyful occasions, owing to ignorance.

The use of the Union flag by shipping at sea, and by the army, are matters of regulation, the details of which do not come within the scope of the present work. It is perhaps sufficient to say that the general flag of the Royal Navy is the white ensign, viz. the St. George's cross, a red cross on white field, with a *union* canton next the hoist. The Royal Yacht Club has the special honour of being permitted to fly this flag. Similarly the flag of the mercantile marine is the red ensign—a red flag with the same union canton next the hoist. Certain vessels connected with the Royal Naval Reserve and some yacht clubs fly a blue ensign similarly constructed. Vessels connected with special services, such as those of the Commissioners of Northern Lights, fly special flags.

CHAPTER XVI.

NEW GRANTS OF ARMS AND THEIR CONTENTS.

THE proper exercise of the function of assigning arms to persons who have produced no proof that their ancestors bore arms is frequently an affair which requires much more than the imagination requisite to devise a coat of arms which does not belong to anyone else already. The task may be comparatively simple in the case of a person whose surname is unknown in heraldry, and whose ascertained lineage leads to no probability that he is descended of a stock which bore arms. If, again, a person of the name of Douglas, for example, should make an application for a coat-armorial, and be able to prove his descent from the great house whose name he bears, he obtains a grant of the family ensigns, in the form of a matriculation, with certain suitable marks of difference, the peculiar nature of which must, of course, depend on the nearness of his kinship and other circumstances; and it is in the determination of these marks of difference that the only heraldic difficulty in these cases occurs. But if the pedigree of this Douglas and his title to his surname are, on the contrary, involved in obscurity, the question arises whether he ought to be granted anything of the arms of the ancient house; and, if anything, then how much? If he does not desire to have any allusion to them, the fact that he bears the same surname constitutes no reason why an allusion to them should be thrust upon him. In no case can one,—to adopt the language of the late Baron Bramwell in the English case of *Stubbs*,—‘inflict’ arms on a man without his consent, and in any case they belong, not to surnames, but to blood.

On account of this very fact, however, an applicant whose surname is

Douglas would probably be pleased to find in his arms some characteristic of those of the Douglasses of history.

In the satisfying of such quite laudable desires, every case must be judged according to its own circumstances, that is, the probabilities present that the applicant is or is not a Douglas in blood. It is clear that the possession of a common surname may in one case raise a strong presumption of relationship, and in another none at all. Of the presumptions it appears that in Scotland Lyon alone is the judge. It truly may be questioned whether, apart from other circumstances, the authorities are justified in granting any portion of an existing coat-armorial merely because the applicant happens to bear a particular surname. It may be questioned also whether, on the other hand, it is right to insist that a person who is possibly a real descendant of a noble house shall have arms that suggest that he is not, merely because he cannot prove that he is. By the positive denial of any part of the armorial bearings which are connected with the name, a *bona fide* Gordon or Hamilton might appear to be excluded from the clan or gens, or actually deprived of his paternal ensigns; still, by following the opposite course, the privileges of ancient blood might be unjustly invaded, while the capricious assumption of surnames would assuredly be indirectly encouraged. It is clearly a matter rather of the amount of presumption of common race which the common surname raises, than of the convenience of having a generic style of coat for all of a surname. There is no heraldic sign for 'probably' or 'possibly'; but it is possible in a case of doubt to grant a coat which, by the canons of heraldic interpretation, says that its owner is a member of the family, but is, or is content to be thought to be, at a very considerable, and perhaps quite an indeterminate distance from the head of the family. This course, all the same, has been adopted by all heraldic authorities to such an extent that modern heraldry seems to be in some danger of becoming a kind of clan or surname totemism.

In no case, of course, ought the grantee to receive a coat of arms which may be mistaken for that of a cadet within tellable degrees of a family with which he can show no connection beyond a common surname, and that his ancestors have come from a neighbouring district. Grants of Arms of

Affection, as they are called, are liable to come into collision with the principle here laid down.

In the pages of the Lyon Register we find instances of armorial grants in which that principle has been to a great extent if not entirely overlooked. Thus, in the year 1810, the Record bears that a gentleman of the name of Carstairs, by the special consent of James Carstairs Bruce, Esquire, now of Balchrystie, the representative of the ancient family of Carstairs of Kilconquhar, in the County of Fife, is allowed to carry arms as a cadet of that family, from which he appears to be descended—viz., azure, on a chevron, argent, betwixt three sunflowers slipped, proper, for Carstairs, as many buckles of the first for Leslie, *by the express desire of his cousin-german*, John Leslie, Esquire, Professor of Mathematics in the University of Edinburgh.¹ There is the well-known case of Boyle of Kelbourne, Earl of Glasgow, who, on account of his personal friendship for Boyle, Earl of Cork and Burlington, quartered his arms (per bend, embattled argent, and gules), with those of his earldom of Glasgow (or, an eagle with two heads, displayed). The Prime Minister Earl of Aberdeen, similarly quartered the arms of Hamilton.¹

In a good many entries, matrimonial alliance is set forth as the ground for conferring certain charges, but except in the case of a marriage to an heiress (in the heraldic sense) the propriety of such a grant generally depends on its extent. It is inadmissible to adopt the whole bearings of a shield to signify the alliance. A quite anomalous extension of the 'matrimonial' allusion occurs in the escutcheon granted, in the year 1824, to Mr. Hagart of Bantaskine, in the second and third quarters of which we find the bearings of the family of M'Caul, 'as a mark of regard and affection for the memory of the patentee's wife's maternal uncle of that name!' Again, in 1849, a case also beyond the rule occurred, when, in addition to a displayed eagle charged with a cinque-foil as a mark of difference, the coat-armorial devised for Mr. Ramsay of Barnton was made to embrace the time-honoured ensigns of Sandilands and Douglas, 'in respect of his connexion by marriage' with the family of Lord Torphichen!

It is also inadmissible to allude to armorial bearings which are not

¹ A quartering which has since been dropped.

legally borne by having been entered in a Register of Arms. The rule was stated in the year 1813. In that year the following arms had been assigned to a Glasgow merchant named Gordon—Azure, three hoars' heads, erased, or, langued gules, within a bordure, engrailed, argent; and for mark of cadency, in the centre of the field, a lion rampant, argent, 'to denote his respect for and alliance by marriage with the family of Gray of Cairntyne and Dalmarnock in Lanarkshire.' Before the expiration of the year, however, a fresh grant is entered in the Register, in which the lion does not appear—the original patent being declared irregular in two particulars, viz. 1st, in assigning as a mark of cadency the complete bearings of Lord Gray, to denote alliance with the Grays of Cairntyne; 2ndly, in making reference in the record to the titles and arms of the Cairntyne family, before their armorial privileges had been duly ascertained and recognized in the Lyon Office.¹

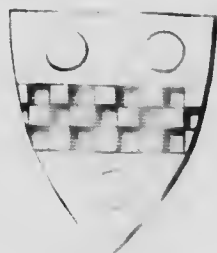
At times petitioners for arms express a wish to have bearings assigned to them which will convey an allusion to some fact or deed on account of which they or their families are distinguished. But according to the rules of the earlier and purer heraldry from which Scottish heraldry now again allows no deviation, such allusions, most proper and laudable to desire, will only be made by the use of symbols, embodying, as it were, the essential characters of the things or deeds, not pictures of the outward aspects of them. Heraldry demands that this distinction should be kept in view, though it is not to be asserted that its servants have always been successful in satisfying its requirements. Another behest of the science is that the insignia shall not attempt to express over much, and shall say its say as simply as is possible.

Anyone who has paid attention to the subject of heraldry must be familiar with many undoubted perversions of the 'noble science' which have been perpetrated in comparatively modern times. Instead of adhering to the principles and the style of the chaste and simple devices which distinguished our ancestors 'in the brave days of old,' our heralds have too often lent themselves to the invention of achievements which are compli-

¹ A grant of arms to the Grays of Cairntyne subsequently appears in the Lyon Register in the year 1819.

cated, and either unmeaning or incongruous—the elements that compound them, and at times have granted charges which are contained in no grammar or glossary of heraldry—efforts of the landscape or seascape painter rather than the armourist.

Many of the numerous coats of arms granted by the English heralds as far back as the time of Queen Elizabeth, afford striking examples of unheraldic innovations, and examples multiplied till the days of George III.; the theory of heraldry seemed sometimes to have been almost forgotten. Exceptions are, no doubt, to be found. Thus there are armorial ensigns granted by the most learned Camden, King-of-Arms, 1597-1623, which are unexceptionable. One coat of arms is ever original in its design.



The Arms of Pitt



Sir Cloudesley Shovel.

which he granted to the father of Pitt, refers to their employment in Flanders, and is blazoned thus: Sable, a fess chequy, argent and azure between three bezants (gold coins). Again, the two crescents and the fleur-de-lis which were granted to Sir Cloudesley Shovel, on a special warrant of King William III., in the year 1692, form a most suitable memorial of his victories over the Turks and one over the French.

Along with every suitable escutcheon, however—a fess wavy (for the waves of the sea) or two star stars—the following quaint and somewhat questionable coat of arms of the family of Stuart (or Stewart) bore a fess chequy, azure and argent, in allusion to the chequered flag which they derived from their ancient office—the chequered fess representing the flag. The fess chequy is still sometimes to be seen at the sides of tavern doors and a similar origin. As the fess chequy had already been placed on both metals by the Stewarts (Stewart) on gules by the Percys and azure by the Boyds, Camden's selection of sable may have been more nearly the choice of necessity than any dark allusion to the colour of the pit.

able crest was granted by Queen Elizabeth to Sir Francis Drake : A ship under reef, drawn round a globe, by a cable-rope, by a hand issuing out of the clouds. It is superfluous to point out that the crest dates itself as the fancy of a herald who did not require to limit his design to a crest which by any possibility might adorn a real helmet, either in battle or tournament ! The arms devised, in 1785, for the family of another illustrious navigator, cannot be regarded as even an approach to a heraldic coat, being neither more nor less than a geographical chart—viz., azure, two polar stars, or ; a sphere on the plane of meridian ; north pole elevated, circles of latitude for every ten degrees, and of longitude for every fifteen ; showing the Pacific Ocean between 60° and 240° west ; bounded on one side by America, and



Tetlow of Haughton.

on the other by Asia and New Holland, in memory of the discoveries made in that ocean by Captain Cook, so very far beyond all former navigators—his track being marked by red lines !¹ The following arms granted, in 1760, to the family of Tetlow, seated at Haughton in Lancashire, are assuredly even more remarkable : Azure, on a fess argent, *five musical lines*, sable, *thereon* a rose, gules, between two escallops of the third ; in chief, a nag's head, erased, of the second, between two cross-crosslets, or ; in base, a harp of the last. Crest—on a wreath a book erect gules, clasped and ornamented, or, *thereon a silver penny, on which is written the Lord's Prayer* ; on the top of the book a dove proper, in its beak a *crow-quill* pen, sable. This crest was invented to commemorate an achievement performed by one of the family, namely, writing the Lord's Prayer within the compass of a silver penny with a crow-quill ! Motto—**PRÆMIUM VIRTUTIS HONOR.**

It is easy to mention other equally wrongly devised insignia, as for instance, the bearings granted by the College of Arms to Sir John Herschel, which are meant to be most properly commemorative of

¹ Captain Cook, the circumnavigator, and Colonel Cameron, of Waterloo fame, were dead before their arms, of 1785 and 1815 respectively, were issued.

notable scientific discovery. Between an appropriate crest and motto the escutcheon of that eminent philosopher is thus blazoned: 'Argent, on a mount, vert, a representation of the forty foot reflecting telescope, with its apparatus, proper; a chief, azure, thereon the astronomical symbol of Uranus, or the Georgium Sidus, irradiated, or.'¹ The character which this achievement shares with the honourable augmentations in certain military shields which we class with it is the abandonment of symbolism, or the representation of ideas, and the substitution of the representation of things. Instead of a typical castle we have the fortress of Tarifa, instead of an ordinary telescope we have the particular instrument devised by Herschel. Surely the ingenuity, if it had been taxed, might have selected something indicative of a great astronomer, from the numerous 'celestial figures,' of heraldry—they occupy no fewer than thirty folio pages in the principal work of Alexander Nisbet. There was no need for parsimony; John de Fontibus, Bishop of Ely, in the year 1220, bore Azure, the sun, moon, and stars, or, the two first in chief and the stars in base!²



Sir John Herschel.

The brain reels at the thought that the principles of the Herschel grant were as applicable to the case of the grant made by Lyon in 1892 in favour of that versatile inventor, the late Sir William Thomson, Lord Kelvin. What Lord Kelvin did get was the almost generic arms of

¹ The father of the grantee was, of course, the discoverer of the planet. The arms, however, granted in 1788 to the family of Thoyts, in Essex, were: 'Azure upon a fess between three mullets of six points or, two chemical characters of the planet Venus sable.'

² Another of the objections to this heraldry is that it requires the representation of things as charges, which no herald is professionally acquainted with. The emblazonment, therefore, of a shield of the class from a 'verbal blazon' alone, which should always be possible, is not to be reasonably expected. The forty foot telescope of Herschel is not a *nomen juris* in a court of heraldry. Heralds, with all their exemptions, are supposed to know common things by sight, but this telescope is inserted in the astronomer's shield, just because it is not a common thing, but, indeed, perhaps unique. And as an illustration of its inconvenience as an emblem, it need only be pointed out how very different our wood-cut of the telescope is from the drawing of it in Burke's *Peerage*.

Thomson in Scotland, with a winged thunderbolt, instead of the original spur-rowel in the centre of the chief.

The honourable augmentations added to the arms of our more modern admirals and generals have not always been devised with any great success. In the language of Mr. Newton, writing in 1846, 'if we examine the armorial devices latterly appropriated to indicate the achievements of a long series of British worthies, whose martial exploits have shed peculiar lustre upon our age and nation, we find a new species of insignia adopted, of a character totally at variance with the art of heraldry, and altogether unknown to the science in its palmy days. Instead of those significant symbols and conspicuous figures employed by ancient heralds, calculated to strike the beholder at a distance, we now see minute landscapes, or marine views, depicted upon shields, whereon the details are scarcely discernible upon the most minute inspection, and which it is utterly impossible, by the language of heraldry, to describe. To indicate the achievements performed during the late war, a practice of the Heralds' College has prevailed, not of displaying, as of old, in poetic figures, the particular acts of the several heroes, but of exhibiting matter-of-fact representations of the scenes of action in which they have been engaged. Hence we find, mostly in the chief part of the shield, not an emblazoned heraldic device, but an extensive landscape depicted after nature; a field of battle covered with killed and wounded; an island taken by assault; an engagement at sea, with ships sinking or blown up; a fortress stormed, or a castle shattered in ruin: and so perfectly unintelligible are these exhibitions acknowledged to be by the ingenious designers themselves, that we usually have in some part of the arms an explanatory scroll, with the word Acre, Gibraltar, Seringapatam, Algiers, etc., reminding us of the country sign-post dauber, who, to make his artistical efforts understood, accompanies the device with a description, as "The White Horse," "The Blue Lion," or "The Dun Cow."¹

Among the instances of this kind of heraldry, the same writer enumerates the armorial augmentations of Lords Nelson (or his successor the Earl), Exmouth, and Harris. Lieutenant-General Sir Alexander Campbell, of Peninsular fame, and others not a few, also received augmentations

¹ *Display of Heraldry*, p. 408.

either wholly or partly in this style. Their unprecedented deeds by land and sea seem to have nerved the heralds, both English and Scottish, to invent certainly an unprecedented heraldry to record them.¹

The honourable augmentation added to the paternal ensigns of Sir Archibald Campbell, commander-in-chief in our first Burmese war is : On a chief argent, a mount vert, inscribed 'Ava' in letters of gold, thereon a Burmese stockade *proper*, between a representation of the gold cross and clasp conferred for distinguished services during the Peninsular war, on the dexter, pendent from a ribbon gules, fimbriated argent, and on the sinister, pendent from a ribbon azure, the badge of the Portuguese Order of the Tower and Sword. The escutcheon contrived by the College of Arms for the gallant Lord Gough affords a still later example of the same style, being quarterly, 1st and 4th gules, on a mount vert, a lion passant gardant, or, supporting with its dexter paw the Union Flag proper, and over the same, in chief, the words 'China,' 'India,' in letters of gold. Second and third azure, on a fess argent, between three boars' heads, coupé, or, a lion gules (being the family arms); in the centre chief point, pendent from a ribbon, argent, fimbriated azure, a representation of the badge of the Spanish Order of Charles III. proper; and on a chief, a representation of the east wall of the fortress of Tarifa, with a breach between two turrets, and on the dexter turret, the British flag flying, also proper.

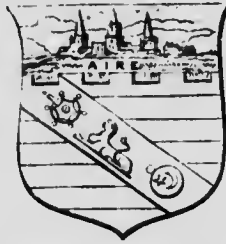
We are glad to be able to think it unnecessary to say as much on this topic now as it seemed right to say in the former edition of *The Law and Practice*; heraldic practice in these islands appears to be, on the whole, firmly re-established on the older and better lines.² All that need now be added is that the brilliance of the exploits which these shields com-

¹ Lower in his *Curiosties of Heraldry*, p. 177, gives an illustration of 'the Arms of Sir Sidney Smith,' but declines to attempt to blazon them! He suggests that 'the wretched taste' of such so-called heraldry is not so much the fault of the herald as of 'the personages who dictated to the heralds what ensigns would be most agreeable to themselves.' But it won't do. The heraldic authority is not dictated to by petitioners. And there is a family resemblance among these augmentations which betokens a common paternity. Some of the admirals and generals in whose honour these augmentations were granted cannot be supposed ever to have seen them.

² The writer, from a more intimate acquaintance with the practice in Scotland, can vouch that in that country at least, the older and better heraldry is strictly adhered to.

memorated, and the national enthusiasm which demanded that they should be represented in their heroes' ensigns as the names of battles are placed on the banners of regiments, should protect the heraldry of that day even from the hand of the sternest reformer.

The shield granted in 1815 by the Lyon to the gallant Colonel John Cameron of Fassifern, who fell in that same year at Quatre Bras, with an augmentation consisting of an embattled chief containing 'a representation of the town of Aire in France, all proper,' an allusion to his glorious



Cameron of Fassifern, to commemorate his son the Colonel.



Sir William Fairfax.

services on the 2nd of March, 1814, which are fully detailed in the Register, and no less the shield granted in 1836 by Garter, with a picture of H.M.S. 'Venerable' engaging the Dutch Admiral's ship 'Vryheid,' to Sir William Fairfax, are at the least historical documents.

It is not of course to be suggested that these inharmonious combinations which have just been adverted to ever even generally supplanted the traditional heraldry of either nation which we have mentioned, or were ever more than a sport. The simpler shields of older fashion, after all, appear continuously alongside of them in the Registers, though they are by no means always equal in merit to those escutcheons of the days of yore, plain but beautiful in design, and plain and often beautiful in meaning. The arms of the Red Cross Knight were no mere flight of Spenser's fancy :

' And on his brest a bloodie crosse he bore,
The deare remembrance of his dying Lord,
For whose sweete sake that glorious badge he wore,
And dead, as living ever, him adored :
Upon his shield the like was also scored.'¹

¹ *Fairie Queen*, B. 1. c. 1. st. 2.

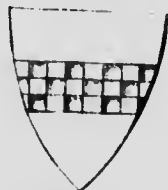
THE EARLIER STYLE

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Many an ancient shield, now an enigma, or the plaything of spurious tradition, had, we make bold to assert, a proud or reverent meaning to the valiant knight who first chose it for his cognizance in war and peace. Consider, for example, the stags' heads of Cavendish, the fusils of Percy,



Stewart.



Lindsay.



Douglas.

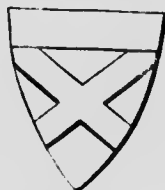


Hay.

the chief and lion rampant of Russell, the bends of Stanley and Curzon, the fret of Harrington, and the plain quartered shield and silver mullet of De Vere; the chequered fess of the Stewarts and Lindsays, the heart and mullets of the Douglases,¹ the inescutcheons of the Hays, the cinquefoils of the Hamiltons, the saltire and chief of the Bruces, the crescents of



Hamilton.



Bruce.



Seton.



Montgomery.

the Setons, the fleurs-de-lis of the Montgomeries, the garbs of the Cumins, the pale of the Erskines, the engrailed cross of the Sinclairs and the boars heads of the Gordons.

Although vast changes have undoubtedly occurred in the habits and

¹ The blodye harte in the Dowglas armes
Hys standere stode on hye,
That every man myght full well knowe :
Byside stode starres three.

The Battle of Otterbourne (a poem written about the time of Henry VI, 1422-61).

The heart appears on Sir Archibald Douglas's seal about the year 1330. The crown does not appear to have been added till about 1600.

occupations of our countrymen since those distant days which witnessed the purest and the proudest age of blazon, the noble science of heraldry still affords ample materials, in its almost endless devices and combinations, not



Cumiu.



Erskine.



Sinclair.



Gordon.

only for the distinction of different families and their cadets, but also for the emblematical representation of almost every achievement of modern times. The mere circumstance of its original connection with the field of battle is no reason why its symbols should be confined to the warrior's escutcheon; its figurative language is capable of commemorating the benevolence of a Howard in the eighteenth century, as well as the achievement which distinguished the same illustrious name on the bloody field in the sixteenth.

In 1863, on the publication of the former edition of the present work, Mr. Seton ventured to hope that, along with a most gratifying return to a purer and better taste on the part of the professors of architecture,¹ we may also witness a revival of those simple rules and principles which regulated, in an earlier age, the blazon of armorial ensigns. That hope has been very largely realized.

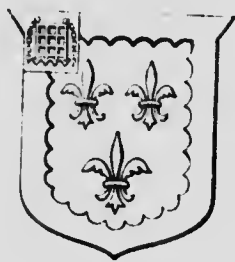
¹ 'The Styles of blazonry admit of classification like those of Gothic Architecture. The bare deviceless ordinaries agree with the sturdy pier and flat buttress of the *Norman* age; the progress of ornament uniting still with chasteness of design may be called *Early English*; the fourteenth century exhibits the perfection of both sciences, as displayed in the highest degree of *Decoration* consistent with purity; and the mannerism of Henry VIII.'s time, with its crowded field and accumulated charges, is as essentially *Florid* and flamboyant as any panelling or tracery in the kingdom.' *Cambridge Antiq. Soc. Publications*, No. iv. p. 11, by H. A. Woodham, Esq.

We do not necessarily agree that the earliest bearings of shields were the ordinaries. They were, however, simple.

See Dallaway's *Heraldry in England*, pp. 175, 321; also an interesting essay 'On Heraldry and its connexion with Gothic Architecture,' read before the Institute of British Architects, in 1836, by Mr. W. I. Donaldson.

The continuance of the practice of the older and better style of heraldry was illustrated by Mr. Seton in 1863 by the following out of very many possible examples :

Sir Frederick Pollock, Lord Chief Baron of Her Majesty's Court of Exchequer in England, son of Mr. David Pollock of Kelso, in the County of Roxburgh : Azure, three fleurs-de-lis within a bordure engrailed, or, and as an honourable augmentation commemorative of his Lordship's official rank, in the dexter chief point, on a canton, ermine, a portcullis (the badge of Westminster) of the second.¹



Chief Baron Pollock.



Lorimer of Kellyfield.

James Lorimer of Kellyfield (father of the late Lyon-Clerk) : Parted per chevron gules and or, two spurs paleways, rowels downwards, buckled and strapped, in chief, of the second, and in base a horse courant at liberty, sable—the charges being relative to the name.²

James Henry Lawrence-Archer, Esquire, Captain in the Army : Parted per fess azure and argent, in chief, three broad arrows in pale with the points downwards, or, and in base a cross raguly, gules, charged in the centre with a saltire, of the third.³

Sir George Brown, Knight Grand Cross of the Bath, General and Commander-in-Chief of Her Majesty's forces in Ireland, etc. : Gules, on a

¹ Lyon Register, 1847.

² Lyon Register, 1859. Mr. Lorimer's crest consists of two eagles' wings surmounted by a cross-crosslet with the motto 'Upward,' while the word 'Onward' forms a second motto, under the escutcheon—the two mottoes bearing appropriate reference to the spiritual and mundane elements symbolized by the crest and the shield respectively.

³ Lyon Register, 1858.

chevron betwixt three fleurs-de-lis, or, a mural crown of the first, all within a bordure embattled, of the second.

The arms—Or, a galley, oars in saltire sable; and in base undy vert a salmon naiant argent—in the shield of Macdonald of Moidart, 1672-7 A.D., is properly heraldic. It is difficult to say so much for the arms registered in 1813 as part at least of the ensigns of Macdonald of Boisdale—Or, a galley sable 'moored in front of Fingal's Cave, off the cliff of the Isle of Staffa, issuing from the dexter side proper, and in the sea undy vert in base a salmon naiant argent.' A herald is not required to know how to emblazon Fingal's or any other individual cave, nor to recognize it on a shield when he sees it. The arms granted, 1841, to Raeburn of St. Bernards, near Edinburgh, son of the famous portrait painter, Sir Henry Raeburn—'Argent, on a piece of ground in base, vert, or roebuck [rae] statant, proper, drinking out of a burn or brook running bend-ways, azure, and on a canton ermine, a knight's helmet proper'—are of the *rebus* order. Little alteration would make them into passable heraldry, but that little they lack.

Instead of ordinary heraldic charges, so arranged on the shield as to distinguish it from another with the like charges, some of the escutcheons borne by ancient families in Wales exhibit devices which, taken as they are grouped on the shield, are commemorative of some real or legendary occurrence, such as a wolf issuing from a cave, a cradle and child under a tree guarded by a goat.

CHAPTER XVII.

THE NON-ARMORIAL FUNCTIONS OF THE HERALDS.

THE HERALDS AS THE BEARERS OF ROYAL MESSAGES, SPECIAL AND GENERAL; SUMMONSES AND PROCLAMATIONS, DIRECTORS OF CEREMONIES, AND SYMBOLS OF ROYAL STATE.

PROBABLY the earliest duty of the Herald was that of King's messenger. He is found carrying the King's letters both on small occasions and great, both to the King's own subjects and to foreign states. He was on embassies to arrange treaties and royal marriages. He was the nuncio of one King to another to declare war. After the outbreak of hostilities he was the bearer of the offer of battle, and the courteous suggestion of days which might be suitable to the enemy to arrange for. He was professionally the master of the etiquette demanded in such missions; and so long as he succeeded in observing the rules of the formal ages in which he was employed, his person was considered inviolable, and from the most unfriendly mission he might expect to return the recipient of gifts. The most important of these embassies were naturally confided to the principal Herald—a King of Heralds—but, failing him, the ordinary Herald was considered of sufficient rank for their execution, and Pursuivants were frequently sent on minor employments alone.

It was the same in Scotland as in other kingdoms. 'Prominent as was Lyon's position when we first meet with him, his "brethir Herauldis,"' says the late Lyon, Mr. Burnett, 'were more nearly on a footing of equality with him than in later times. Along with Lyon, they attended the King on all state occasions, and had the arrangement of public ceremonials. We meet with Snowdown Herald and Marchmont Herald as well as Lyon sent abroad

on missions to foreign courts. Both Heralds, Pursuivants, Macers and Trumpeters were obliged to attend on the Parliament. For the first instance of neglect of their duty they were liable to forfeit a year's fee, and to be deprived of their office for the second.¹ By the Act of 1592,² charges of treason were ordained 'to be execut be the ordinar Herauldes and Purse-vantes, beairand coattes of Armes, or Masers to be used be thame as of before'; otherwise the execution of the charge was to be null and void.³

The Messenger-at-Arms, when executing his duty, carries as the insignia of his office: (1) a medal which, as it bears on its front a representation of the Royal Arms, is called his 'blazon.' In the time of Lord Stair, the author of the *Institutions of the Law of Scotland*,⁴ he wore it displayed on his breast. (2) He carries in his hand a staff or baton, on which is a movable collar or ring. When he proceeds to execute his duty he exhibits his blazon, and if he has to effect an arrest he touches the person to be arrested with his baton. In the event of his being deforced, *i.e.* successfully obstructed, his protest that he desists from further attempts to execute his duty on account of the conduct of the obstructors was formerly made by reversing his blazon in their presence so that the King's arms are no longer displayed, and sliding the ring from one end of his baton to the other. Now, and perhaps for the last hundred years, the blazon, made reduced in size, is worn no longer on the breast, but attached to the ring on the baton.⁵

¹ Burnett, *Account of the Lyon Office*, MS. Lyon Office.

² Act of Parl. 1592, cap. 127.

³ Formerly, it should be explained, the Macers of Parliament, Privy Council, Exchequer, Justiciary, and Session were reckoned among the officers of arms for purposes of proclamations of various sorts; but the Macers of Court of the present day are on a different footing. They have no longer any connection with the Lyon's department. Such messages addressed to individuals as fall to be delivered by officers of arms are entrusted usually to the Messengers-at-Arms, who are the third class of officers under Lyon (see page 58). They are a separate body of officers, whose sole duty under Lyon consists in the executing of summonses and letters of diligence in civil and criminal matters. At the date of the former edition of the present work they numbered about a hundred, and were distributed over nearly every shire in Scotland. Owing mainly to the effect of recent legislation in making it competent to execute summonses by registered letter, and the abolition of imprisonment for debt, their numbers have fallen to about thirty. They are now to be found in only ten of the shires, and are mostly in Edinburgh and Glasgow.

⁴ Stair, *Institutions*, bk. iv. i. 47, § 14.

⁵ Plate vii.

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The 'ordinar Herauldes and Pursevantes' were indeed called upon to perform many duties. A complaint to the Privy Council in 1579 by Ross and Islay Heralds of the amount of them testifies at least to their variety. The Heralds say that they are required to 'await continually upoun his Hienes' service at all Parliaments, Conventiounis of the nobilitie, entress of Ambassadouris, makand of Knychtis, Lordis and Erllis, and otheris ordouris.' They were also liable 'to be send he his hienes to forayin cuntries.' At the time of their complaint 'all the dayis of the yeir ar occupiet in his hienes continuall service about the inbringing of the superplus of the thriddis¹ to his Majesty, under his Collectour Generall, sua that in a quarter of a yeir they haive nocht leisure to live sex dayes in thair houssis with thair wiffis and bairnis, except it be at the making of thair comptis, and then, God knawis, thai are continuallie occupiet.'² A few years before the date of the complaint, we find a Pursuivant and a Messenger sent to Burntisland to search a ship for stolen goods;³ and, in 1578, a Herald appointed to taste the wines imported at Leith to give the King, says the record, an opportunity of acquiring the best.⁴

Without going back to very early times for further illustrations of the variety of the errands on which the Heralds were in use to be despatched, we may recall the Order of Parliament of 1482 already mentioned, that a King of Arms or a Herald of wisdom should be sent to England to treat of the King's marriage, and add to it the case of the Herald sent by the same King on the eve of the Battle of Flodden with a challenge to the enemy's commander, the Earl of Surrey, to single combat. The tale of Islay Herald carousing with York Herald in the midst of the pourparlers which passed before the same fight is well known. In home affairs the Herald was frequently employed in measures which were scarcely distinguishable in form from war. In 1565 a Herald was sent to summon the Douglasses to surrender and evacuate the Castle of Loch Leven.⁵ In 1573 a Pursuivant was dispatched to charge the

¹ The thirds of the revenues of the Church benefices.

² *Privy Council Register*, 14th November, 1579.

³ *Ibid.* 17th Feb., 1572-3.

⁴ *Ibid.* 3rd May, 1578. As his Majesty was not 12 years old, he was probably not immediately interested in the Herald's success in this important household duty.

⁵ *Ibid.* 7th November, 1565.

turbulent Lord Robert Stewart to deliver up a fortalice in Shetland¹ In 1579 a Herald was directed to take possession of and hold the house and fortalice of Arbroath, which he did, and held it for a month.² Jerome Spence, Rothesay Herald, was sent in 1668, armed with a Lyon King's warrant and order, to cite the Castle of Burgie to surrender.³ Anon were stronger measures needed to bring that garrison to its senses, and John Basillie, Isla Herald, was sent to it, accompanied by troops. The record bears that the Herald displayed his tabard, and summoned the castle to surrender, on pain of assault: it surrendered.⁴ So late as 1688, the summons to Captain Wallace to surrender the Palace of Holyrood was delivered by the mouth of a Herald.⁵

The ceremony, once common, when the King in his progress through the country came to a fortified place, of announcing his arrival and summoning the governor to open the gates to him, is still performed at the Castle of Edinburgh when the King arrives in state or semi-state: it has been done on all the three occasions which have occurred since the Union. Heralds delivered the summons on the occasion of the visit of King George IV., on 22nd August, 1822.⁶

On the occasions of the entries of his late Majesty, King Edward VII. and Queen Alexandra on 12th May, 1903, and of their present Majesties, King George and Queen Mary, on 18th July, 1911, all the officers of arms were present, attended by the State Trumpeters, and the summons was made by Lyon. A note of the forms used on these last occasions will be found below.⁷

To the same class of duties of the officers of arms belongs the publishing of royal and national proclamations. According to ancient law and custom all announcements of importance to the people, which are required to be made anywhere, are made at the market cross of the head burgh of the district. All proclamations addressed to the nation at large are

¹ *Privy Council Register*, 17th March, 1572-3.

² *Ibid.* 23rd June, 1579.

³ *Ibid.* 23rd June, 1668.

⁴ *Lord Brodie: his Life and Times*, 1904, p. 146.

⁵ Arnot, *Hist. of Edin.* p. 181.

⁶ *Historical Account of His Majesty's Visit to Scotland*, Edinburgh, 1822, chap. ix.

⁷ Appendix No. xi.

made at the Market Cross of Edinburgh, the capital, the place of that Cross being, by a fiction of law, the *communis patria* of all Scotsmen within the realm.¹ For Scotsmen abroad the place of proclamation was 'the pier and shore' of Leith. Before the Union of 1707, when the Acts of the Scots Parliament were promulgated by proclamation,² and when numerous other proclamations of inferior importance were required to be made, inferior officers of arms were occasionally called in to officiate. In the more important matters the order for proclamation was addressed to the Lyon, Heralds, and Pursuivants.

Though the Acts of Parliament no longer require proclamation for their publication, the subject-matters of the royal proclamations still heard are various.

There is, for example, the proclamation calling on the Scottish peers to meet and elect a representative to the House of Lords to fill a vacancy; the proclamation of the dissolution of a Parliament and the general summons to the lieges to elect a new House of Commons; and the similar summons to the Scottish peers to elect new representatives to serve in the House of Lords; the proclamation of an alteration in the currency, etc. Once in a reign is heard the proclamation of the appointment under the Great Seal of a Court of Claims in respect of an impending royal coronation. The proclamation announcing the Imperial Darbar about to be held at Delhi by the Emperor King in person, which was made on 25th March, 1911, was unprecedented.

The ordinary procedure before and at a royal proclamation in Scotland when the Court and Government is in London is that the text of the proclamation is transmitted by the Secretary for Scotland to the King's Lieutenant or Sheriff at the place where the proclamation is to be published. It is the duty of that officer to see the proclamation duly published and to make a return to the Secretary that it has been done. A proclamation such as those which we have enumerated above, and which is to be published to the people of Scotland from the Market Cross of Edinburgh, is transmitted to the Sheriff of Edinburgh and the Lothians. He intimates its arrival to the

¹ Act of Parliament, 1581, cap. 128; Stair, *Institutes*, i. 18. 4; iv. 38. 10; iv. 47. 3.

² Erskine, *Institutes*, i. 1. 37.

Lyon Clerk. On the day arranged for the ceremony of making the proclamation, the officers of arms, or as many of them as can attend, assemble, and in their levee dress and tabards of the Royal Arms, and accompanied by the State Trumpeters at the Sheriff Court buildings, receive there the text of the proclamation. The form of the ensuing ceremony is worthy of notice. The officers of arms on emerging from the building are received by a captain's escort and the regimental band of the garrison. In further respect for the King's message, which is the occasion of the function, the escort comes to the salute, and the national anthem is played. Led by the band (playing) and preceded by the Trumpeters—the escort flanking the procession—the officers of arms proceed to the Cross. They are accompanied there by the Sheriff or his Deputy and an attendant witness, who are afterwards to certify the performance.¹ After a fanfare of the trumpets from the Cross, one of the officers of arms, in a loud voice, makes there the proclamation. The proclamation always ends with the words: 'God save the King.' The officer of the escort again orders the royal salute, and the band plays the national anthem. The procession reforms and returns in the same order to the Sheriff Court buildings. On arriving there, the escort again comes to the salute and the anthem is again played. The officers re-enter the building and the ceremony is at an end.²

The most notable proclamation that falls from time to time in the ordinary course of events to be made is not a royal proclamation except in its subject-matter: it is the national proclamation of the accession of a new King.

In the circumstances of the case—which are more properly detailed in an Appendix,³—it is easier to say what ought to be done than what, in Scotland at least, is done on such an occasion.

¹ When the Sheriff attends, as he does, at a proclamation of an accession, he does so in the full dress of his office or his rank at the bar. No special dress is prescribed for the Sheriff's Deputy or his attendant on the occasion of an ordinary proclamation. Respect for the occasion, however, and an ordinary sense of decency prescribes for them *the full dress* of gentlemen or the robes of the legal profession.

² If more than one proclamation has to be made on one occasion, each is preceded by a fanfare of trumpets, and succeeded by the salute and anthem.

³ Appendix x.

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On the demise of a sovereign it is the duty as well as the interest of the loyal subjects of the Crown to proclaim the accession of his heir as soon as that proclamation can be made with fitting solemnity. In London it has usually been done on the next day, and from 1714 till 1837 the first news of the sovereign's demise that reached the capital of Scotland was accompanied with a copy of the proclamation of his successor, which had been already made, and an order from the Privy Council to repeat it.

On the last two occasions of the demise of a sovereign, in 1901 and 1910, the telegraph and railways, both of which had been introduced between London and Edinburgh since 1837, had communicated the news to the officials in Edinburgh before the proclamation of the new King's succession had been made. On both occasions it was possible to make the proclamation in Edinburgh as soon as it was possible in London; the same may be said of Dublin; but in neither Dublin nor Edinburgh was action taken until an official intimation of the demise arrived from the Privy Council in London with a copy of the proclamation, already made in London, and an order to publish *it*.

Except in circumstances in which the Scottish capital is in possession of official knowledge of the demise and of time during which it would naturally make a spontaneous proclamation of its own, the precedence observed in 1901 and 1910 will probably be adhered to.

The proclamation which is made in London is of such a spontaneous character, that the customary form in which the personages who, chancing to be within call, are assembled, entitle themselves, is (We) 'the Lords Spiritual and Temporal of this Realm, being here . . . assisted with those of his late Majesty's Privy Council, with numbers of other principal gentlemen of quality, with the Lord Mayor, Aldermen, and Citizens of London.'¹ In

¹The theory underlying the inclusion of the Lord Mayor of London at royal coronations in the prominent place then assigned to him was argued on his behalf at the Court of Claims in 1900 to be that he, as first magistrate of the first city of England, represents in a manner the English people. But the theory of his presence as an actor at both royal coronations and royal accessions is of quite another kind, namely that he is the head of a separate state, which London was at the time from which his inclusion at these ceremonies dates. See Sir Francis Palgrave, *Rotuli curiae regis; Rolls and Records*, i. introd. xcvii; Nys, *History of Economics* (Dryhursts), 48.

so far as the promoters and signatories of the proclamation are members of the Upper House of Parliament, and of the late Privy Council, and the proclamation is made at the capital of the United Kingdom, the proclamation may be said to have been made by the national leaders and representatives of the Scottish nation as much as by those of England, in which London geographically is.

When the proclamation has been there framed and signed, it is given directly to the officers of arms, with orders to publish it according to custom. The Earl Marshal of England and Garter King-of-Arms then appear outside St. James's Palace and Garter makes the proclamation. The other officers of arms then proceed to the City of London, obtain entrance, and repeat the proclamation at various points within its boundaries.

The Privy Council then sends throughout the three kingdoms official intimations of the late sovereign's demise, and copies of the proclamation, along with orders to repeat it. In the case of sheriffdoms and provincial cities and towns the proclamation is sent to the Sheriff or Chief Magistrate. In the case of the capital of Ireland it is sent to the Lord Lieutenant, at whose orders it is published by the officers of arms of that kingdom. In the case of the capital of Scotland it ought to be sent, as it is sent in England, direct to the officers of arms, the chief of which, Lyon King-of-Arms, holds his office immediately from the King under the Great Seal. In the event of the Privy Council considering that the proclamation should be sent instead to any other Scottish officer or official person, that person must be the holder of a general commission extending to the whole kingdom, proceeding from the Crown, and thus answerable to the Crown.¹

The proclamation of the accession of a sovereign, being in its nature more important than any proclamation made after he is safely settled on the throne, is attended in every respect with more pomp and circumstance. The procession, which at ordinary royal proclamations consists of the

¹ Such as the Keeper of the Great Seal of Scotland, or of the Privy Seal of Scotland, the Lord Justice General, Lord Clerk Register, Lord Advocate, or Lord Justice Clerk. An officer of local rank like a Sheriff, or like a Chief Magistrate of a city, who in addition is appointed by the Magistrates and Town Council and not officially answerable to the Crown except for his conduct as a Chief Magistrate, is incapable of making a proclamation to the nation at large. The voice does not reach beyond the jurisdiction.

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officers of arms, with the Sheriff's depute as returning officer, and with their guard of honour, is attended by the principal personages and corporate bodies who are able, by the length of notice which they have, to be present.

The procession forms and starts from the Old Scottish Parliament Hall, and defiles through Parliament Square to a space railed off for its accommodation round the City Cross. No permanent or general order of this ceremonial procession has been laid down, and from the haste in which it has from time to time been arranged, it is inevitable that the component parts of it have differed on occasions. The principles that govern processions in general apply of course to it. Leaving out of consideration the items of mounted police, regimental band of the garrison, guards of honour, etc., the magistrates, etc., of Edinburgh, who also are the custodiers in ordinary of the City Cross, should lead the way.¹ They should be followed by the King's officers of arms, who are to make the proclamation, and these again by the officer to whom the proclamation has been entrusted by the 'Lords Spiritual and Temporal, etc.,' with orders to see it made to the nation. If there is any other officer, such as the Sheriff of the Lothians, who is ordered to see the proclamation made from the same place, he will naturally be present with the first-named officer. If any returning officer is appointed, he will naturally accompany them. With him ends the list of the actors. After these come the great personages and corporations, who are present as loyal approvers of the proclamation. They proceed in the order of their precedence. But the order of precedence of the component parts of such a procession is a matter of surprising difficulty. Among public bodies the College of Justice ranks as one body. At its head is the Lord Justice-General and Lord President, both offices being vested in one person. Then come the Lord Advocate, the Lord Justice-Clerk, and then other Senators of the College, *i.e.* the other Judges of the Court of Session. After them comes practically the whole of the rest of the legal profession, beginning with the members of the Bar, the members of the Societies of Writers to the Signet, and Solicitors before the Supreme Courts. The College of Justice takes precedence of all

¹ It is to be hoped that the ceremony of 1649, of the formal demand and cession of the use of the Cross will be revived, when, in the fulness of time, our successors come to make another proclamation as formal and important as those of which we are speaking.

Universities and Colleges. The Universities take precedence of the Royal College of Physicians of Edinburgh, and that in turn takes place before the Royal College of Surgeons of Edinburgh.¹ Neither the city clergy as a body nor the Presbytery of Edinburgh have any easily assignable place, yet the Moderator of the Church of Scotland, though entitled to take precedence of all personages who are likely to be present in the procession which follows the actors in the function, usually prefers to class himself with the rest of his own cloth. Besides the ordinary military guard of honour and a mounted escort, the King's bodyguard for Scotland attends in force,² and, as is its right, walks and stands nearest of the guards to the officers in charge of making the proclamation.

The form in which the proclamation is made from the Cross, we have already mentioned. After it is made, and the salute and national anthem are over, and the cheers of the people are asked for, the garrison of the Castle fires a royal salute of twenty-one guns. The officers of arms, with their trumpeters, guard of honour, escort and the band proceed on foot to the gate of the Castle,³ and repeat the proclamation as for the information of the King's subjects within the Castle. If it is proper for the Provost to dictate the proclamation at the Cross, it is proper for the Sheriff of the Lothians to dictate it here. They then re-form as before, and proceed, still on foot, to the yard in front of the Royal Palace of Holyrood House, where the proclamation is again repeated for the information of the keepers of that Palace and of the citizens of the ancient burghs of Holyrood and Canongate. After this, the band and guard of honour being withdrawn, they proceed in carriages, still accompanied by the mounted escort, to 'the Pier and

¹This rests on an intimation by the Secretary of State that priority at Court will be accorded to the former College until its right to that place is upset. The Royal College of Surgeons raised an action of declarator of its preferable right, in the Court of the Lyon, but the action was held by the Court of Session to be incompetent. *Session Cases*, 23rd June, 1911.

²For some reason which does not affect the principle that it is a point of loyalty and honour for the King's bodyguard to see to the peaceable settlement of his royal successor, the bodyguard was not present on the occasion of the Proclamation of his present Majesty in 1910.

³If the Lord Provost and Magistrates accompany the procession they do so merely as a part of the suite of approving personages, public bodies, etc. Neither the Castle nor its esplanade is any part of the burgh, or within their jurisdiction.

Shore of Leith,' where the proclamation for the benefit of all Scotsmen who are 'furth of Scotland' is made, the last of the functions on such an occasion. All these proclamations are preceded and followed as ordinary royal proclamations by fanfares of the trumpets, the royal salute and national anthem. The details and accompaniments of the ceremonies, as they have been observed for at least the last hundred and fifty years, will be found in the official gazettes.

The officers of arms are a proper part of all processions in which royalty is in full state, and they are frequently called upon for similar duty when the King is in semi-state. Of this, the royal procession, on the entry of King George IV. into Edinburgh and his progress to the Castle when Marchmont Herald rode, preceded by the Trumpeters, is a case. The procession of their present Majesties, King George and Queen Mary, into Edinburgh in July, 1911, is a more recent illustration. On that occasion five officers of arms rode.¹

Among the ceremonial duties of the officers of arms is that of marshalling of royal and other public processions. Chief of these, out of doors, was the procession or Riding of Parliament, position in which was the test of precedence, from competitions for which even Lyon himself was not exempt. In the words of Sir George Mackenzie, writing in 1680, the Lyon and the Usher of the Parliaments do debate which hath precedence, the Usher maintaining that as he behoved to precede the Heralds he ought to precede Lyon also, it being unknown that Lyon should be separated from his inferior officers, an argument which Mackenzie, however, does not admit, and modern practice does not support.

At royal coronations in Scotland Lyon and his brethren took a very prominent part. These ceremonies taking place in England since the Union are conducted according to the forms and usages of England. The Scottish and Irish officers of arms have no other duties in them save to walk in their tabards in their allotted places in the royal procession.²

¹ Lyon, Ross Herald, Rothesay Herald, Albany Herald (by substitute, Mr. A. D. M. Napier) and Unicorn Pursuivant.

² These processions have been restricted since the coronation of King William IV., when the procession through the streets was dispensed with. The procession now starts in the

In connection with the ceremonies relating to the opening, in 1911, of the new Chapel of the Order of the Thistle erected at St. Giles's Cathedral, Edinburgh, by the munificence of the late Earl of Leven and Melville, the admission into the Order on that occasion of two knights, and the knight-
ing of one of them,—which were done after the Chapel was opened,—the officers of arms had duties of various kinds. They proceeded to the Castle with a warrant; and, with a guard of honour brought down the Scottish sword of state to the Cathedral. After the ceremonies were over they in the same way took the sword back to the Castle. And besides leading the processions within the Church, they had the duty of conducting the knights-elect from their places in the Church to the Thistle Chapel.

In former times the Heralds had the duties of watching over the formalities on occasions of single combats and tournaments, and of funerals of the nobles as well as of royal persons, in which the heraldic ensigns and genealogical achievements (hatchments) of the defuncts required to be displayed.

The duty of the Heralds to be present during the sitting of the Parliament, a duty enforceable by fine or deprivation, has been noticed. Their functions there, besides those connected with the Riding of the Parliament, were those of executive offices.

The General Assembly of the Church, a legislature and a court which for long was scarcely less potent, was in a different category; and if the officers of arms appeared there, as they do now, marshalling in the King's Commissioner on his first arrival, they did so merely as state servants of the King. The Assembly may have seen them in force in the reign of King James VI., who was present at the sittings of six separate Assemblies himself.¹ But we are aware of no actual record of these having been there till within quite recent times. They discharge no official functions under the Lord High Commissioner, save to appear in the Throne Room at Holyrood at his opening levee, lead his procession, preceded by the State

Annexe or temporary vestibule erected at the west end of the Abbey, and proceeds into the Abbey, when the persons who formed the various parts of it take the respective places allotted to them to remain in during the service. After the service the procession re-forms and returns to the Annexe.

¹ In the years 1589, 1597, 1597 (a Second Assembly), 1600, 1601, 1602. See *Church of Scotland Year Book*, 1912, p. 149.

Trumpeters, from Holyrood to St. Giles's Cathedral in the opening service, and from thence to the Assembly Hall for the presentation by the Commissioner of his Royal Commission and the King's Letter, and for the other formalities of the opening of the Assembly. The procession through the streets is performed in carriages. The Heralds also lead the processions within the Cathedral and the building which contains the hall.

In cases of Trial by Combat the Heralds in Scotland, as in other countries, played a part, more or less, under the Constable and Marshal. It was an officer styled the Herald Marshal who cited the defender by open proclamation at the end of the lists if he did not appear timeously. When both combatants had appeared and taken the oaths, and the Herald had made a proclamation at the four corners of the lists warning the spectators to keep silence, etc., during the combat, on pain of death, then the Constable, according to 'the Order of Combats,' assigned a convenient place within the lists for the King-of-Arms, Heralds, and other officers, for henceforth all things were under their charge, and any wants of the combatants that could be supplied 'were supplied by the Heralds and none other.'¹

THE REGISTER OF GENEALOGIES.

Birth Brieves, which are official certificates of pedigree, are found in various records as early as the beginning of the sixteenth century; and illuminated certificates of probative quarterings are extant which belong to the seventeenth century. Of a number of these the Lyon Office retains separate records; but the Register of Genealogies, properly so called, is somewhat meagre. It contains a number of pedigrees and birth-brieves, one volume extending from 1727 to 1796, and another from 1827 to the present day. There are also several collections of birth-brieves and funeral escutcheons.² It is certainly very much to be deplored that the Register of Genealogies is not of a more comprehensive character, as the

¹ 'The Order of Combats,' a copy in the charter chest of the Earls of Errol, Hereditary Great Constables of Scotland, of a fifteenth century document. See *Trial by Combat*, by Dr. George Neilson, pp. 260, 268.

² An Index to these has been printed by the *Scottish Record Society*.

importance of a well-authenticated record of pedigree cannot be questioned. In referring to this Record, Professor Lorimer remarks: 'To what extent the Register of Genealogies in the Lyon Office may be admitted as a probative document conclusive of the facts which it sets forth, has not been ascertained by actual decision; but there can be no doubt that, in questions both as to property and honours, it would be regarded as a most important adminicle of proof. The genealogical department of the Heralds' College in London is a very important one, and it is to be regretted that the uses of the corresponding department of the Lyon Office are so little understood and appreciated by the public.'¹ The statutory fee, however, of ten guineas to begin with, and five shillings besides for every member of the pedigree recorded, places the Register, it must be admitted, beyond the reach or inclination of most people.²

For a time, in terms of a standing order of the House of Lords, dated 11th May, 1767, the pedigrees of the English nobility required to be recorded in the Books of the English College of Arms, after having been proved at the Bar of the House. This order, which had its objections, was rescinded by Lord Thurlow in 1802. There was an intention of substituting a new order, which, however, was never accomplished; and accordingly, many noblemen are unable to exhibit any pedigrees except those which are published in the entirely unofficial 'Peerages' of the day.

ENGLISH PEDIGREES.

For a long period the Officers of Arms have been in the habit of registering pedigrees; and where these pedigrees lead up to an ancestor in the male line who had a right of arms, they have come to be recognized as equivalent to certificates of armorial right, according to the law of arms, in all the members of the pedigree. According to the older law, each cadet, however remote, who could point to his name in the recorded pedigree was held to be entitled to take his ancestor's arms and use them, with the difference which practice had prescribed for whoever occupied

¹ *Handbook of the Law of Scotland*, 2nd edition, p. 446.

² See Schedule B. of the Act of 1867, Appendix i.

his precise place in the pedigree, e.g. a crescent or a martlet, or perhaps a crescent charged with a martlet, and so on. But now even though the College would not issue a new patent or grant of the arms of the ancestor without a difference, the issue of a certified pedigree with the ancestor's arms emblazoned on it is taken to confer the higher right—of the ancestor's arms undifferenced! It is thus very doubtful if the English system and custom of issuing pedigrees at easier rates regarding fees than are imposed by the Act of 1867 on Scotsmen have been of an unalloyed advantage to that country heraldically. Apart from that consideration, the formalities necessary before the issue of a pedigree of the English College are calculated to give the document very considerable weight as a record of English matters of fact. According to Dallaway, 'the indispensable practice of the College of Arms enjoins, that whenever a pedigree, hitherto unentered or to be compiled, is offered for their sanction, the Herald retained for that purpose is obliged to submit it to the whole society in chapter, and all objections must be resolved before it is inserted in the public register, and duly confirmed.'¹ In Scotland, as we have already said, Lyon alone has to be satisfied. That officer, however, it is remembered, is now, according to the recommendation of the Commission of 1821, an Advocate of some years' standing.

¹ *Inquiries into the Origin and Progress of the Science of Heraldry in England*, p. 361.

APPENDIX I.

ACTS OF PARLIAMENT RELATING TO THE HERALDIC AUTHORITY IN SCOTLAND.

1.—1592, c. 125 ; fol. edit. c. 29 (Jac. VI.).

CONCERNING the Office of Lyon King-of-Armes and his brether Heraldis.

OUR SOVERANE LORD and Estaitis of this present parliament, Considering the greit abuse that hes bene amongis the leigis of this realme in thair bearing of armes, vsurpand to thame selffis sic armes as belangis nocht vnto thame, sua that it can nocht be distinguischit be thair armes quha ar gentlemen of blude be thair antecessouris, Nor zit may it be decernit quhat gentlemen ar descendit of noble stok and linage, ffor remeid quhair of his hienes, with aduise of the saidis estaitis, hes geuin and grantit, and be this present act gevis and grantis full power and commissioun, to lyoun king-of-arms and his brether herauldis, To visite the haille armes of noblemen, baronis, and gentlemen borne and vsit within this realme, and to distinguische and discerne thame with congruent differences, and thairefter to matriculat thame in thair buikis and Registeris, And to put inhibitioun to all the commoun sort of people nocht worthie be the law of armes to heir ony sig. es armorialis, That nane of thame presume or tak vpoun hand to beare or vse ony armes, in tyme cuming, vpoun ony thair insicht or houshald geir, vnder the pane of the escheating of the guidis and geir, sa oft as thay salbe fund contravenand this present act, quhaireuir the same armes salbe found grawin and paintit, to our souerane lordis vse ; And lykwayis vnder the pane of ane hundreth pundis to the vse of the said lyoun and his brether herauldis. And failzeing of payment thair of, That thay be incarcerat in the narrest prissone, Thairin to remane, vpoun thair awin chargis, during the plesour of the said Lyon.

Item, Because charges of treason hes not bene execute and used, with sik solemnity and Officiaries of Armes, as the weichtiness thereof requires : It is statute and ordained that Our Soueraine Lordis Thesaurer, and utheris directers of sik letters, deliver them in tyme cumming, to be execut be the ordinar Heraldes and Pursevantes, be arand coattes of armes, or Masers, to be used be thame, as of before ; and gif ony execution, under the paine of treason sall be execut utherwaies, declaris the execution to be null, and of nane avails.

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Item, In consideration of the great abuse of Messengers and of Officiars of Armes within this Realme, quhilis for the maist part ar not qualified for using of the said office, being admitted be extraordinar and importune suites, be quhais abuse the Liegis of this Realme ar heavily troubled and oppressed : Therefore it is statute and ordained, that the said King of Armes, be advise of the Lordis of Councell and Session, deprive and discharge all sik Officiars and Messengres of Armes, as he sall finde unworthy of the office, And take sicker soverty of the remanent, for observation of their Injunctiones in time cumming : With power to the said King of Armes, with advise of the saids Lords, to enjoine further necessar injunctiones to the saids messengers, for keeping of gude ordour in their offices : discharging him in the meantime to admit ony maa officiares hereafter, quhil the hail messengers, presently bearing armes, be reduced be death or deprivation, to the number contained in the Acte of Parliament, maid anent the confused number of officiares of armes.

Item, Because the jurisdiction of the Lyon King-of-Armes is not able to execute dew punishment upon all persones that sall happen to offend in the office of Armes : Therefore our Sovereine Lord, with advise of his three Estaites in Parliament, ordainis and commandis all civil Magistrats, as they sall be required be the King of Armes, or ony uthers in his name, to concur with him, to see the acts maid in his favours of his office put to dew execution in their jurisdictions : As alswa to concur with him, to the punishment and incarceration of all sik persons as sall usurp the bearing of his Majestie's Armes, after dew deprivation, under the pain of rebellion, and putting of the disobeyers to his Hienesse horne ; with certification to them, and they failzie, being required, letters sall be direct simpliciter to put them to the horne.

2.—1662, c. 53 (Car. II.).

ACT in favours of the LORD LYON KING-AT-ARMES.

FORASMUCH as King James the Sext of blessed memorie and his Estates of Parliament, Considering the great abuses have been committed in the bearing of Armes, Many vsurpeing to themselves such armes as belongs not to them, So as it cannot be distinguished who are Gentlemen of blood, or descendit of noble lineadge, Thairfor did, be the 125 Act of Parliament, holden in Junii 1592, Give Commission to the Lyon King-at-Armes To visite the hail armes of Noblemen, Barrones, and Gentlemen, And to distinguish them with congruent differences, Which wer thereafter to be insert in their books and registers ; And that none of his Maiesties subjects, save such as be the law of Armes are allowed, Should presume to bear or vse any armes, in tyme comeing, vpon any of thair goods, vnder the paine of esheat of thair goods on which these armes are caried, And one hundreth pund Scots to the Lyon : Lykeas, his Maiesties Royale father of happie memorie, Considering how much the honour and credite of the Nobility and Gentry of this Kingdome consisted in preserveing the noble office of Armes in carefull registrating of the Geneologies, to be patent to all posterity, or whom els it may concerne, And to that effect, vnderstanding that the



casualties, fines, and dewties vnderwritten, Doth in all reason, law, and equity belong to the Lyon King-of-Armes, be vertew of his office, viz., at the funeralls and interments of each Duke, Dutches, or Dukes relict, Sex hundreth pund Scots; each Marques, Marchiones, or Marques relict, Four hundreth and fourscore punds; every Archbishop, Four hundreth punds; everie Earle or Countes, or Earles relict, Three hundreth and threescore punds; everie Viscount or Viscountesse, or Viscounts relict, Three hundreth and fourty punds; each Bishop, Three hundreth and fourty punds; each Lord of Parliament whatsumever, thair Ladies or relicts, Three hundreth punds: Which casualities and dewties abovewritten are to be paid, in all tyme comeing, by the saids Noblemen and Ladies, thair airs and executors, imediatly after the decease or funeralls of the defuncts, ffor entering in his booke the Certificats of thair matches and issues, with the propper Armes perteaneing to their familie, to remaine therein *ad futuram rei memoriam*, Did, be his letters-patent vnder the privy Seale of twenty-sevent of Junij 1633, Confirme the then Lord Lyon and his successors in the saids fines, dueties, and casualities, With power to him to vplift the saids fines, and vse all execution for the same, As in the said Gift is more amplie exprest; And his Maiestie now considering how much the honor and interest of the Kingdome is concerned in the due exercise of the Office of the Lyon, and in the right disposall and carieing of Armes, Doth therfor, with advice and consent of his estates of Parliament, Renew, Ratifie, and Approve the Act of Parliament above mentioned and gift vnder his Maiesties privy Seall, and all other gifts and grants formerly granted and given in favours of the Lyon King-of-Armes and his successors, And ordaines them to be punctually observed and put in execution, Conform to the tenor thairof, in all tyme comeing; And furder, considering what disorders and confusions have arisen, and are dayly occasioned by the Vsurpation of Cadents, who, against all rules, assume to themselffs the armes of the cheeff house of the familie out of which they are descendit, And that other mean persones who can nowayes deryve thair succession from the families whose names they bear, As they have at first assumed the name, Doe thereafter weare the coat of that name to which they pretend without any warrand or grund whatsumever, Doth with advice foresaid Statute and Ordean that no younger brother or cadent of any familie presume to carie the armes of that familie, bot with such distinctions as shall be given be the Lyon King-of-Armes; And that no man carie the Armes of any noble familie of his name, Except he make it appear to the Lyon (who is heirby declared to be the only Judge competent in such caces and debates) that he is descendit of that family; And for right ordering all these confusions which have creapt in in these latter tymes in the carieing of Armes, It is heirby ordained, That all Noblemen and Gentlemen shall have thair armes examined and renewed be the Lord Lyon and insert in his registers, and receive ane extract vnder his hand to be preserved be them, And that all such who, according to the addition of their honours, are to receive additions to their coats of Armes, That they receive the same from the Lyon, And whoever shall offer to assume any addition without his approbation, They are to be punished according to

the Acts of Parliament made against the bearers of false armes : And that no Painters, Maisons, Goldsmiths, Wrights, Gravers or any other of that nature, take vpon them to grave, cut, paint, or carve any armes whatsoever, Bot such as are approven by the Lyon King-of-armes; And remits to the Lords of his Maiesties privy Councill the further prosecution of this Act and the making of it effectuell, With power to them to make and set down such acts and orders theranent and for modifeing of fies, wher the samen are not modified alreadie, and doeing every other thing which they shall think fit for the establishing of the Lyons Office and the right ordering of armes within this Kingdome; Which acts and ordinances to be made be his Maiesties privy Councill, in pursuance of this present warrand, Shall be accompted, and are to have als much strenth as any Act of this or any other Parliament: And for the better maintaineing of the forsaid Office, his Maiestie and Estates of Parliament hes exeemed, And be thir presents exeemes the said Lyon King of Armes and his successors, their persons, lands, and moveables fra all taxations, stents, watchings, wardings, impositions reall or personall, for any cause or occasion whatsumever; Dischargeing heirby all and sindrie his Maiesties liedges to trouble or molest him or them by the exaction of any such imposition above mentioned, Bot to be frie from this present and in all tyme coming: And it is heirby declared, That the generall conception of this exemption shall nowayes derogat from the strenth and validitie thairof, Bot that, notwithstanding of the generality, they shall enjoy the benefite of it as fully, amplie, and validlie, As if all the saids taxations and others imposed, or to be imposed, wer particularly therein specified.

3.—1663, c. 15 (Car. II.)

ACT rescinding a former Act past in the last Session of Parliament, anent some fies acclaimed as due to the Lord Lyon's Office.

THE Estates of Parliament, having taken to consideration ane Act past in the Second session of Parliament, entituled Act in favours of the Lord Lyon, Doe find ane vnnessar and heavy burding therby layd vpon his Maiesties leidges, both in the sumes therby appointed to be payd to the Lord Lyon, and in many other particulars mentioned in the said Act, And therfor his Maiestie, with advice and consent of his Estates of Parliament, Doth heirby Rescind and annull the said Act past in the second session of Parliament, entituled Act in favours of the Lord Lyon, and als the pretendit Gift mentioned therein, pretendit to be granted be his late Maiestie of blessed memorie to the former Lord Lyons bot never past the Sealls, And declares the said Act and Gift therinmentioned voyd and null *ab initio*, as if they had never been.

4.—1672, c. 21; fol. edit., c. 47 (Car. II.)

ACT concerning the Priviledges of the Office of Lyon King-at-Armes.

OUR SOVERAIGNE LORD Considering that, albeit by the 125 Act of the 12 Parliament, holdin by his Maiesties grandfather in the yeir 1592, the usurpation of Armes

by any of his Maiesties leidges without the authority of the Lyon King-of-Armes is expresly discharged ; And that, in order therto, Power and Commission is granted to the Lyon King-of-Armes, or his Deputes, to visite the whole Armes of Noblemen, Barrons, and Gentlemen, and to matriculate the same in their Registers, and to fine in One Hundreth pounds all others who shall unjustlie usurp Armes ; As also to Escheit all such goods and geir as shall have unwarrantable Armes ingraven on them : Yet, amongst the many irregularities of these late times, very many have assumed to themselvis Armes, who should bear none, and many of these who may in law bear, have assumed to themselvis the Armes of their cheiff, without distinctions, or Armes which were not caried by them or their prediceors : Therefore His Maiestie, with advice and consent of his Estates of Parliament, Ratifies and Approves the forsaid Act of Parliament ; And for the more vigorous prosecution therof, Doth hereby statute and ordain that lettirs of publication of this present Act be direct to be execute at the mercat-cross of the heid Burghs of the Shires, Stewartries, Bailliaries of Royaltie and Regallitie, and Royall Burrowghs, chargeing all and sundry Prelates, Noblemen, Barons, and Gentlemen, who make vse of any Armes or Signes armoriall, within the space of one yeir aftir the said publication, to bring or send an account of what Armes or Signes armoriall they are accustomed to vse ; and whither they be descendants of any familie the Armes of which familie they bear, and of what Brother of the familie they are descended ; With Testificats from persones of Honour, Noblemen, or Gentlemen of qualitie, anent the verity of their having and vseing those Armes, and of their descent as afoirsaid, to be delivered either to the Clerk of the Jurisdiction where the persones duells, or to the Lyon Clerk at his office in Edinburgh, at the option of the party, vpon their receipts *gratis* without paying anything therfore ; Which Receipt shall be a sufficient exoneration to them from being obleidged to produce again, to the effect that the Lyon King-of-Armes may distinguish the saids Armes with congruent differences, and may matriculat the same in his Bookes and Registers, and may give Armes to vertuous and well-deserving Persones, and Extracts of all Armes, expressing the blasoning of the Arms, vndir his hand and seall of office ; For which shall be payed to the Lyon the soume of Tuentie merkes by every Prelat and Nobleman, and Ten merkes be every Knight and Baron, and Five merkes by every other persone bearing Armes, and noe more : And his Maiestie hereby Dispenses with any penalties that may arise be this or any preceeding Act for bearing Armes befor the Proclamation to be issued herevpon : And it is Statute and Ordained, with consent forsaid, that the said Register shall be respected as the true and unrepeallable rule of all Armes and Bearings in Scotland, to remain with the Lyons office as a publick Register of the Kingdome, and to be transmitted to his Successors in all tyme comeing : And that whosoever shall vse any other Armes any manner of way aftir the expireing of year and day from the date of the Proclamation to be issued herevpon, in maner forsaid, shall pay One Hundred pounds money *toties quoties* to the Lyon, and shall likewise escheat to his Maiestie all the moveable Goods and Geir vpon which the saids

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Armes are engraven or otherwise represented : And his Maiestie, with consent forsaid, Declaires that it is onlie allowed for Noblemen and Bishopes to subscribe by their titles ; and that all others shall subscribe their Christned names, or the initiall letter therof with there sirnames, and may, if they please, adject the designations of their lands, prefixing the word " Of " to the saids designations : And the Lyon King-at-Armes and his Brethren are required to be carefull of informeing themselvis of the contraveiners heirof, and that they acquaint his Maiesties Councill therewith, who are hereby impowered to punish them as persones disobedient to, and contraveiners of the Law : It is likewise hereby Declaired that the Lyon and his Brethren Heralds are judges in all such causes concerning the Malversation of Messingers in their office, and are to enjoy all other priviledges belonging to their office, which are secured to them by the lawes of this kingdome, and according to former practice.

5.—1867, c. 17 (Victoria).

AN ACT to regulate the COURT and OFFICE of the LYON KING OF ARMS IN Scotland, and the EMOLUMENTS of the OFFICERS of the same.

WHEREAS it is expedient to regulate the Court and Office of the Lyon King of Arms in Scotland, and the Emoluments of the Officers of the same :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

1. From and after the passing of this Act the Jurisdiction of the Lyon Court in Scotland shall be exercised by the Lyon King of Arms, who shall have the same Rights, Duties, Powers, Privileges, and Dignities as have heretofore belonged to the Lyon King of Arms in Scotland, except in so far as these are herein-after altered or regulated.

2. The Lyon King of Arms shall be bound to discharge the Duties of his Office personally and not by Deputy : Provided always, that in the event of the temporary Absence of the Lyon King of Arms, from Illness or other necessary Cause, it shall be lawful for the Lord President of the Court of Session to grant a Commission to some other Person to discharge the Duties of Lyon King of Arms *ad interim*, and such Commission shall not be liable to any Stamp Duty : And provided also, that without any such Commission, in the event of the temporary Absence or Incapacity of the Lyon King of Arms, the Lyon Clerk shall be and is hereby empowered to admit to the Office of Messenger at Arms Persons properly qualified according to the present Law and Practice.

3. The Lyon King of Arms, who shall be appointed by Her Majesty, Her Heirs and Successors, shall receive such Salary, not exceeding Six hundred Pounds *per Annum*, as the Commissioners of Her Majesty's Treasury shall from Time to Time approve, payable quarterly out of any Monies to be voted by Parliament for that Purpose, which Salary shall come in place of the Fees hitherto exigible by him, to which he shall no longer be entitled.

4. The Lyon Clerk shall hereafter have the same Rights and perform the same Duties as heretofore, except in so far as the same are herein-after altered or regulated.

5. The Lyon Clerk, who shall be appointed by Her Majesty, Her Heirs and Successors, shall, subject to the Provision contained in the Twelfth Section of this Act, perform the Duties of his Office personally and not by Deputy, and shall receive such Salary, not exceeding Two hundred and fifty Pounds *per Annum*, as the Commissioners of Her Majesty's Treasury shall from Time to Time approve, payable as aforesaid, which Salary shall come in place of the Fees hitherto exigible by him, to which he shall no longer be entitled: Provided always, that in the event of the temporary Absence or Incapacity of the Lyon Clerk it shall be lawful for the Lyon King of Arms, with the Consent of Her Majesty's Advocate, to grant a Commission to some other Person to discharge the Duties of the Lyon Clerk *ad interim*, and such Commission shall not be liable to any Stamp Duty.

6. The Heralds and Pursuivants in *Scotland* shall be appointed by the Lyon King of Arms, and shall have the same Rights and Privileges and discharge the same Duties as heretofore, except in so far as altered or regulated by this Act.

7. No Vacancy in the Office of Herald in *Scotland* shall be filled up by the Lyon King of Arms until the Number of Heralds has, by Death, Resignation, or Removal, fallen to below Three, after which Event the Vacancies which may occur in said Office shall be filled up, so that the Number of Heralds shall in Time coming be maintained at Three; and no Vacancy in the Office of Pursuivant in *Scotland* shall be filled up by the Lyon King of Arms until the Number of Pursuivants has, by Death, Resignation, or Removal, fallen to below Three, after which Event the Vacancies which may occur in said Office shall be filled up, so that the Number of Pursuivants shall in Time coming be maintained at Three: Provided always, that no Herald or Pursuivant appointed before the passing of this Act shall in respect of any Vacancy not being filled up be entitled to any larger Share of Fees than he would have been entitled to had there been no such Vacancy.

8. No Herald or Pursuivant appointed after the passing of this Act shall be entitled to exact any Fees, but each Herald or Pursuivant so appointed shall receive, in lieu of Fees, such Salary as the Commissioners of Her Majesty's Treasury shall from Time to Time approve, payable as aforesaid: Provided always, that no Herald or Pursuivant appointed after the passing of this Act shall pay or give to the Lyon King of Arms any Consideration for his Appointment, and if any such Consideration shall have been paid or given by any such Herald or Pursuivant his Appointment shall be null and void.

9. The Herald Painter in *Scotland* and Procurator Fiscal of the Lyon Court shall hereafter be appointed by the Lyon King of Arms, and shall respectively perform the Duties, and be entitled to receive the Fees, which the Herald Painter and Procurator Fiscal aforesaid have hitherto been bound to perform and entitled to exact: Provided always, that no Herald Painter or Procurator Fiscal shall have any vested Right in such fees.

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10. From the First Day of *October* to the Twentieth Day of *December* and from the Fifth Day of *January* to the Twentieth Day of *July* in each Year the Hours of Attendance at the Lyon Office shall be from Eleven o'Clock in the Forenoon to Three o'Clock in the Afternoon, every lawful Day except *Saturday*; and from the Twenty-first Day of *July* to the Thirtieth Day of *September* and from the Twenty-first Day of *December* to the Fourth Day of *January* in each Year the Hours of Attendance shall be from Eleven o'Clock in the Forenoon to Two o'Clock in the Afternoon, and on *Wednesdays* and *Fridays* only: Provided always, that between the Twenty-first Day of *July* and the Thirtieth Day of *September*, and between the Twenty-first Day of *December* and the Fourth Day of *January*, in each Year, the Lyon King of Arms shall not be bound to entertain any Applications for Grants or Matriculations of Arms, or for recording Pedigrees: Provided also, that there shall be provided for the Lyon King of Arms, the Lyon Clerk, and the Herald Painter, such sufficient Office Accommodation as the Commissioners of Her Majesty's Treasury may determine.

11. The Fees hitherto payable to the Lyon King of Arms by Knights of the Thistle under the Statutes of the Order of the Thistle, and the Fees payable to the Lyon King of Arms in Terms of a Grant of His Majesty King *George* the Second, under the Great Seal of *Great Britain*, of Date the Nineteenth Day of *July* One thousand seven hundred and thirty-one, shall from and after the passing of this Act be paid into Her Majesty's Exchequer; and after the Death, Resignation, or Removal of any of the Heralds or Pursuivants aforesaid appointed prior to the passing of this Act the Proportion of Fees which but for the said Death, Resignation, or Removal would have been payable to him or them in Terms of the said Statutes of the Order of the Thistle, or in Terms of the before-mentioned Grant of His Majesty King *George* the Second, shall be paid into Her Majesty's Exchequer, so that after the Death, Resignation, or Removal of all the Heralds and Pursuivants appointed prior to the passing of this Act the whole Sums appointed by the said Statutes of the Order of the Thistle and the said Grant of His Majesty King *George* the Second to be paid to the Heralds and Pursuivants aforesaid shall instead be paid into Her Majesty's Exchequer.

12. Until the Death, Resignation, or Removal of the present Lyon Clerk, notwithstanding anything to the contrary contained in this Act, it shall be lawful for him to perform the Duties of his Office as he is authorized by his Commission, and to exact the Fees and Dues hitherto exigible by him.

13. Until the Occurrence of the next Vacancy in the Office of Lyon Clerk, the Fees and Dues enumerated in Schedule A. annexed to this Act shall be exigible in lieu of the Fees and Dues hitherto payable to the Lyon King of Arms and Lyon Depute, and shall be paid into Her Majesty's Exchequer; and after the Occurrence of such Vacancy the Fees and Dues enumerated in Schedule B. annexed to this Act shall be exigible in lieu of the Fees and Dues hitherto payable to the Lyon King of Arms, Lyon Depute, and Lyon Clerk, and shall be paid into Her Majesty's Exchequer.

SCHEDULES.

SCHEDULE A.

[No longer in operation.]

SCHEDULE B.

	<i>£.</i>	<i>s.</i>	<i>d.</i>
On every Patent of Arms with Supporters - - - -	49	12	0
On every Patent of Arms without Supporters - - - -	29	18	0
On every Matriculation of Arms with Supporters, without a new Patent - - - - -	15	15	6
On every Matriculation of Arms without Supporters, without a new Patent - - - - -	12	0	6
On every Matriculation of Arms without a new Patent of Arms, but with a Patent of Supporters - - - - -	34	13	6
On every Genealogy recorded - - - - -	10	10	0
Additional for each Member of the Pedigree - - - - -	0	5	0
Certificate regarding Change of Surname - - - - -	0	15	0
Search in Register of Arms - - - - -	0	5	0
Search in Register of Genealogies - - - - -	0	5	0
General Search in Heraldic MSS. - - - - -	1	1	0
General Search in Genealogical MSS. - - - - -	1	1	0
On every Extract from a Register - - - - -	0	10	6
On entering a Caveat - - - - -	0	5	0
On the Admission of a Messenger at Arms to practise in the County of Edinburgh - - - - -	19	14	0
On the Admission of a Messenger at Arms to practise out of the County of Edinburgh - - - - -	15	14	0
Annual Dues of a Messenger at Arms practising in the County of Edinburgh - - - - -	0	17	0
Annual Dues of a Messenger at Arms practising out of the County of Edinburgh - - - - -	0	17	6
On renewal of a Messenger's Bond of Caution - - - - -	2	10	0
On recording Resignation or Change of Residence of a Messenger - - - - -	0	2	6
On search for a Messenger's Cautioner - - - - -	0	2	6
On every certified Statement of Name and Designation of such Cautioner, and Date of Bond - - - - -	0	5	0
On each Petition or Paper lodged in a Process against a Messenger - - - - -	0	5	0
On each Interlocutor in a Process against a Messenger - - - - -	0	5	0

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	On extracting each Warrant, Decreet, or Precept of Suspension, first Sheet - - - - -	£	s.	d.
	On ditto, each subsequent Sheet - - - - -	0	5	0
	On affixing Seal of Office to Warrant, Decree, or Precept - - -	0	3	0
	On examining Executions of Service and Intimations of Precepts of Suspension, marking them on the Record and giving out Certificate - - - - -	0	5	0
	On lending Process and taking Receipt - - - - -	0	2	0
s. d.	On Return of Process and scoring Receipt - - - - -	0	1	0
12 0	On Re-admission of a Messenger at Arms - - - - -	1	0	6
18 0	On the appointment of a Herald - - - - -	9	16	4
15 6	On the Appointment of a Pursuivant - - - - -	9	1	0

N.B.—These Fees are exclusive of Stamp Duties when such are exigible.

APPENDIX II.

LYON KINGS-OF-ARMS.

(Mr. Francis J. Grant, W.S., Rothesay Herald and Lyon Clerk, has kindly supplied this list and the three lists which follow it.)

1399.	Henry Greve, King of Scottish Heralds.
1400-1421.	Douglas.
1437-1450.	Alexander Nairne of Saintfoord.
1450-1484. (1489).	David Dundas of Newliston.
1496-1512. (1512)	Henry Thomson of Kellour, previously <i>Islay</i> . Sir William Cumyng of Inverallochy, previously <i>Marchmont</i> .
1522.	Thomas Pettigrew, previously <i>Angus</i> .
1542 (? 1538).	Sir David Lindsay of the Mount, previously <i>Snow-down</i> .
1555.	Sir Robert Forman of Luthrie, previously <i>Ross</i> .
1567. Feb. 20.	Sir William Stewart, previously <i>Ross</i> .
1568. Sept. 13.	Sir David Lindsay of Rathillet, previously <i>Rothesay</i> .
1591. Dec. 25.	Sir David Lindsay of the Mount.

1620. Nov. 8. Sir Jerome Lindsay of Annatland, advocate.
 1630. April 20. Sir James Balfour of Kinnaird, Bart.
 1658. May 13. Sir James Campbell of Lawers.
 1660. Gilbert Stewart.
 1660. Aug. 28. Sir Alexander Durham of Largo.
 1663. Jan. 4. Sir Charles Erskine of Cambo.
 1681. June 27. Sir Alexander Erskine of Cambo (joint 1677).
 1727. July 6. Alexander Brodie of Brodie.
 1754. April 3. John Hooke Campbell of Bangeston.
 1796. May 26. Robert Hay, 9th Earl of Kinnoull.
 1804. April 12. Thomas Robert, 10th Earl of Kinnoull.
 1866. July 26. George Burnett, LL.D., advocate.
 1890. March 12. Sir James Balfour Paul, C.V.O., LL.D., advocate.

LYONS DEPUTE.

1631. Jan. 31. Laurence Oliphant, advocate.
 1636. Harry Maule of Melgund.
 1650. March 20. David Balfour, advocate, afterwards Knight and Lord
 of Session.
 1663. Aug. 15. Sir John Baird of Newbyth, advocate, afterwards Lord
 of Session.
 1666. Jan. 4. William Thomson, W.S., of Fairliehope.
 1677. Nov. 10. James Skene, joint north of the Water of Esk.
 1677. Nov. 4. Robert Innes, W.S., joint; sole 10th Nov. 1687.
 1689. May 5. James Douglas of Earnshaw.
 1724. June 6. David Erskine, previously *Rothesay*.
 1728. Nov. 1. John Dundas of Newhalls, W.S.
 1744. June 18. Thomas Dundas, yr. of Fingask.
 1754. Aug. 30. Thomas Brodie, W.S.
 1770. Nov. 2. Robert Boswell, W.S.
 1796. Aug. 8. James Home of Linhouse, W.S.
 1819. Feb. 21. David Clyne, S.S.C., *interim*.
 1819. April 24. George Tait, advocate, *interim*.

LYONS DEPUTE

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1823. April 1. George Clerk Craigie of Dunbarney, advocate.
 1827. June 2. James Tytler of Woodhouselee, W.S., joint; sole 1845.
 1863. Nov. 9. George Burnett, advocate.
 Office abolished 1867.

LYON CLERKS AND KEEPERS OF THE RECORDS.

- (1554). Adam M'Culloch, *Marchmont*.
 (1584). James Purdy of Kinaldies, *Islay*.
 1587. Jan. 4. John Purdie, *Ross*.
 (1597). James Borthwick, W.S., *Rothesay*.
 (1607). James Winram.
 1630. Robert Watson, W.S., of Newhall.
 1632. Thomas Drysdale, *Islay*.
 1660. William Weir, writer, Edinburgh.
 1663. Aug. 8. Robert Smith of Gibleston.
 1715. June 4. Charles Erskine, *Bute*, afterwards Baronet.
 1724. June 6. David Erskine, *Rothesay*.
 1769. Dec. 8. Thomas Brodie, W.S.
 1770. Nov. 2. Robert Boswell, W.S.
 1804. May 4. James Home, W.S.
 1819. Feb. 3. David Clyne, S.S.C.
 1823. April 1. Edward William Auriol Drummond Hay.
 1845. May 5. Alexander Macdonald, *interim*.
 1848. Nov. 7. James Lorimer, advocate, *interim*.
 1864. May 3. Do. do. for life.
 1890. March 6. James William Mitchell, *Rothesay*.
 1898. Oct. 3. Francis James Grant, W.S., *Rothesay*.

LYON CLERKS DEPUTE.

- (1675). Robert Innes, W.S.
 1715. James Dallas.
 1718. David Erskine, *Rothesay*.

APPENDIX II

1724-1751.	No depute.
1751. May 6.	William Richardson.
1755. April 17.	Robert Donaldson (afterwards W.S.), <i>Marchmont</i> .
1769. July 29.	William Walker, writer, Edinburgh.
1770. Nov. 17.	James Cumyng, herald painter.
1773. Nov. 7.	Robert Ranken, solicitor-at-law.
1794. Dec. 24.	William Boswell, advocate.
1796. Sept. 12.	Alexander Liston Ramage, writer, Edinburgh.
1799. Jan. 12.	John Blair, writer, Edinburgh.
1801. Jan. 23.	Alexander Boswell, afterwards W.S.
1804. May 2.	Thomas Small, W.S., <i>Marchmont</i> .
1807. June 20.	John Edward Touch, writer.
1807. Aug. 25.	David Clyne, joint.
1812. July 30.	Alexander Lambe Robertson (W.S.) and William Thomson jointly.
1819. Nov. 5.	De Carteret Mendell.
1823. May 17.	William Smith.
1825. Sept. 7.	Archibald Duncan, S.S.C.
1828. Nov. 8.	William Anderson, <i>Marchmont</i> .
1829. June 3.	Alexander Macdonald.
1845. May 7.	William Anderson, <i>Marchmont</i> .
1863. June 29.	John Whyte.
1864. May 9.	Robert Riddle Stodart.
1886. June 4.	James William Mitchell, <i>Rothesay</i> .
	Office abolished 1890.

APPENDIX III.

REPORT ON LYON OFFICE.

The following copy of a MS. in the Advocates' Library (29. 3. 4.) has been kindly communicated by Sir James Balfour Paul, C.V.O., LL.D., Lyon King-of-Arms. It appears to be the replies to some questions put by Captain Slezer, the military engineer and author of the *Theatrum Scotiae*, but for what purpose they were asked is not clear.

ANSWERS TO CAPTAIN SLEZER 449

The answers may possibly have been the work of the Lyon, Sir Alexander Erskine. The date must be between 1681, as there is a reference to the Duke of Rothes' funeral which took place that year, and 1714, which is the date of Slezer's death.

ANSWERS TO CAPTAIN SLEZER'S QUERIES.

To the first concerning the Constitution of the Herald Office and of the Lyon King of Armes it is answered,

That the first institution of this office hath certainly been designed to reward with coat-armour and proper badge of honor such as had done great services to their Prince. The Lyon being the competent judge to the bearer's merit as may be seen by Sir George McKenzie's Heraldry and Acts of Parliament. He is designed with us *Leo rex armorum* or *Leo feccialis rex armorum* being the principall Herald and called Lyon from the royal bearing of Scotland. He has right to his office by patent under the Broad Seall and a fee of 100 lib. ster. annexed thereto. He attends on all Parliaments, assists at Coronations, walks or rides in all processions or cavalcads immediatly befor the Honors. He is at all solemn proclamations wears on these occasions a rich Coat of Armes and sometimes a long crimson Rob and at Coronations a Crown over gilded, has a rich foot mantle and suteable horse-ornaments at Cavalcads, and has a Battoi. Semé of Thistles. He is princell. Herald of the Order of St. Andrew or of the Thistle, and wears the order in gold about his neck hanging down on his breast. He has power to give and difference armes. He admits all the Heralds Purservants and Messengers-at-arms, and of old admitted both macers and trumpets. He is judge to all maleverses and even to the messengers' cautioners. He has two solemn head Courts in the year vizt :—6th. day of May and 6th. day of November when all messengers are obliged to appear befor him, and at other times as often as he has occasion to call one. He has a deput one or moe who ordinarily sitts with him, the Heralds likewise sitt and have a vote but though the Purservants sitt they have no vote. He has a Clerk Fiscall and officer and all magistrats are obliged to concurr with him and affoord prisons for punishing offenders. He attests all genealogies under his hand and seali which bear Faith abroad as well as at home. He and the other Heralds and Purservants according to their respective stations denunce war, proclame peace, charge to lay down armes, cite on actions of treason and doe all other things known to be proper to the office of ane Herald here or in any other Kingdom. And finally the Lyon and his bretheren enjoy many other priviledges, honors, dignities and immunities too long to be insert here.

There are six Heralds vizt :—Albany, Rothesay, Snadown, Marchmont, Yla and Ross.

There are also six Purservants vizt :—Unicorn, Kintyre, Bute, Dingwall, Ormond, and Carrick.

The Heralds take place according to their patents and the Purservants accordingly.

There are also six Trumpets who are called the King's ordinary Trumpets and are obliged to attend upon the orders of the Lyon Office.

And that the solemnity of the investing and crowning of the Lyon may be better understood you have apart the order of the Coronation of the present Lyon which was done by King James then Duke of Albany and York, and then representing his Royall hrother King Charles 2d as his high Commissioner.

NOTA here take in the order as in a paper apart and thus the second querie is answered.

To the third of the way and maner of publishing the King's proclamations it is answered:—

If it be a very solemn one such as of peace or war or of ane indemnity then the Lyon, Heralds, and Pursevants begin their procession from the door of the Councill Chamber and so walk to the Cross, the trumpets sounding befor them and walking 2 and 2 the youngest always first and the Lyon last with the Clerks of Councill. But if it be ane ordinary thing only the Heralds and Pursevants goe from the Lyon Office and return in the same maner.

So soon as they are on the Cross the trumpets give three sounds and they pulling of their hatts the Lyon in extraordinary cases and in ordinary the eldest Herald proclames as it is privatly read by the Clerk of Councill standing behind the proclamer then the trumpets sound again, and they return as they came. But it is to be observed that when the King is to be proclamed that the Privy Councill in a body ushered by the Lyon, Heralds and Pursevants and likeways by the Magistrats in their formalities goe to the Cross and assist at the proclamation there being a theatre erected below the Cross for the magistrats and such of the nobility as cannot gett room on the Cross. Nay sometimes the whole Convention of Estates or Parliament have gone in a body from the Parliament house.

Sometimes also the Chancellor hath proclamed and the Register read, the Lyon and his bretheren standing by. Ordinarily the proclamation begins and ends with God save the King. When war is proclamed it is done on the Cross, at the Castle Gate, and peer and shoar of Leith.

To the fourth of the way of inviting to burialsl it is answered:—

That the King's trumpets with trumpet banners goe thryce through the City and with sound of trumpet give the invitation in these words or the like:—

'These are to invite noblemen, prelats, barons, and gentlemen to assist at the 'funerall of the right Honorll A. Earle of B. whose body is to be transported from his 'house of _____ to the Church of _____ in order to its interment upon such a 'day of the week and such a day of the moneth and year.'

And for the solemnity of a buriall you have it in a paper apart in the case of the funeralls of the Duke of Rothes Lord High Chancellor but take care to leave out the names of those who bore the honors it heing needless to put them in.

To the fifth being the way of reversing arms it is thus :—

When the sentence of forfeiture is pronounced against any in Parliament the great doors are cast open. The Lyon, Heralds and Pursevants preceded by the Trumpets in ye formalities come in and advance with sound of trumpet till they be within the inner bar when the Heralds and Pursevants stand at the end of the table the Trumpets on a bench hard by the bar and the Lyon advances to the thron and stepping up stands on the degree below the Chancellor untill the sentence be read and then after sound of trumpet he or his deput holding in his hand an escutcheon of the armes of the forfeited person (every one of the Heralds and Pursevants holding the like) say this :—CONFORM to this sentence of his Majestie's High Commissioner and Estates of Parliament now pronounced against A. B. finding him guilty of the crime of high treason forfeiting him in life and fortune and ordaining his armes to be reversed and torn in maner therein contained I his Majestie's Lyon King of Armes assisted by my bretheren the Heralds and Pursevants Doe in his Majestie's name and by his authority openly reverse tear and trample under foot¹ these armoriall ensigns of the said A. B. and intimat the same to be cancelled delate and razed furth of the books and publick registers of armes and declare the said A. B. as being a traitor and disloyall and the descendents of his body to be hencefurth ignoble and unworthy to bear any coat-armor or any mark or token of honor for ever. From thence they goe to the Cross and doe the same. If the sentence be pronounced by the Lords of the Judicarie much about the same form is used.

If the person be of ordinary quality the Heralds and pursevants doe it : If he be a Peer the Lyon or his deput is present.

After all, some escutcheons of the armes are affixed upon the Cross being turn'd upside down.

Advocates' Library MSS. 29. 3. c.

APPENDIX IV.

PATENTS OF LYON KINGS-OF-ARMS.

- I. WARRANT FOR A COMMISSION in favour of SIR JEROME LINDSAY as Lyon King of Arms, dated 8th November 1620. In the collection of ancient papers at Dalmahoy.

OUR SOUERANE LORD Ordanes ane Lettre to be maid vnder his hienes grit seale in dew forme, Makand mentioun That his hienes excellent Maiestie Haueing gude prwfe and experience of the Literature, gude Lettres, abundance of Langwages, ingenious maneris, qualificatioun and abilitie of his hienes Louit Maister Jerome Lindsay of

¹ *Nota* :—At these words they first turn upside down and then tear and throw away the armes.

Annatland, for exerceed the office of his maist excellent Maiesties Lyoung King of Armes; and vnderstanding that the said office is now Vaikand in his Maiesties handis and at his hienes gift and dispositioun, Be demission of the samen maid in his hienes handis be Sir Dauid Lindesay of the Mount, Knicht, his Maiesties present Lyoung King of Armes, In fauouris of the said Mr. Jerome; Thairfore our said Souerane Lord with advyse and consent of the Lordis of his hienes Secret Counsell of his Maiesties Kingdome of Scotland, his hienes Commissioneris, Hes nominat and presentit, and be the tenour heirof nominatis and presentis, the said Mr. Jerome Lindesay to the said office, And makis and constituitis him King of his maist excellent Maiesties Armes, Giveand, grantand, and disponand to him the said office to be bruikit, vsit, and possessit be him during all the dayes of his Lyfytyme, with the honor titill and dignitie of ane Knicht; Ordaining him in altye cuming during his Lyfytyme to be callit, writtin, and intitulat Sir Jerome Lindesay of Annatland, Knicht, Lyoung King of his hienes Armes, Giveand and assigneand to him the sowme of Fortie pundis vsuall money of this realme, to be zeirlie tane and vpliftit furth of the radiest fermes and dewties of the landis of Rathiulet, with the pertinentis, Lyand within the Schirefdome of Fyiff, with all vther fies, casualities, and dewties belonging to the said office: To he bruikit and possessit be him zeirlie during his lyfytyme, With powar to the said Mr. Jerome to vse and exerce, occupy, hruik, and possis the said place and office, with all honouris, stipeinds, commodities, priuelidgis, and dewties belonging to the said office, and to conuene before him and his brethering herauldis All and Sindrie members of the samen office and inferiour officeris at all tymes necessaris, and to try the qualificatiounis, fidelitie, honestie, diligence, and to admit thame of new to thair offices as thaj sall find meit, or to depryve thame of the samen, according to his discretioun; And to mak statutes and constitutiounis for obserueing of the samen honorable office of Armes in the puritie and right ordour, And to imput panis vpoun the resisteris, contraveineris thairof and the samen panis to vplift and apply to his awin proper vse, And to reduce and repledge all and sindrie herauldis, maissieris, messingeris, and armour beareris arrestit, citat, or callit in law before quhatsumeuer Judges criminall, civile, or spiritual to the priueleges of his office and to the judgement of him and his brethering herauldis Cautioun de Collerauch (*i.e.*, surety to Court) to offer and find for administratioun of Justice within terme of Law to all pairties persewaris, and with all and sindrie vtheris Liberties, commodities, profites, and easementes, and righteous pertinentis quhatsumeuer perteing or that righteouslie may be knawin to perteine to the said office, frielie, quyetlie, fullie, honorable, weill and in peace, Siclyk and in the samen maner in all respectis as the said Sir Dauid Lindesay or ony of his predecessouris, Lyoung Kings of Armes, brukit the said office before, But (*i.e.*, without) ony Reuocatioun, obstacle, impediment, or aganecalling quhatsumeuir. Gevin at Newmarkat the aucht day of November 1620 yeiris. Sic Subscritur, Al. Cancel^r Mar Thes^{ms} Melros. George Hay. J. Murray Oliphant.

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2. PATENT of the Office of Lord Lyon King of Arms in favour of ROBERT-AURIOL, ninth Earl of Kinnoull, with remainder to his son THOMAS-ROBERT, Viscount Dupplin (afterwards tenth Earl of Kinnoull), dated 26th May 1796.

GEORGIUS, Dei gratia, Magnæ Britanniae Franciæ et Hiberniæ Rex, Fidei Defensor, Omnibus probis hominibus ad quos presentes Literæ nostræ pervenerint, salutem: Quandoquidem nos considerantes qualificationes et animi dotes fidelissimi et dilectissimi nostri consanguinei et Consilarii Roberti Auriol Drummond Hay Comitis de Kinnoull Vicecomitis Dupplin et Domini Hay de Kinfauns in Scotia et Baronis Hay de Pedwarden in Anglia, et Thomæ Roberti Hay vulgo nuncupati Vicecomitis Dupplin, filii ejus natu maximi, ad fungendum et exequendum officium nostri Domini Leonis Fecialis Regis Armorum pro illa parte Regni nostri uniti Scotia vocata, nunc vacans et ad nostram Donationem existens, per decessum Joannis Campbell et Alexander Campbell Armigerorum, quibus idem officium ultimo concessum erat; Igitur Sciatis nos, ex gratiosa voluntate nostra, Fecisse, Nominasse, et Ordinasse memoratos Robertum Auriol Drummond Hay Comitem de Kinnoull, et Thomam Robertum Hay vulgo nuncupatum Vicecomitem Dupplin, durantibus omnibus eorum vitæ diebus et diebus vitæ eorum superviventis, Dominum Leonem Nostrum Fecialem Regem Armorum, una cum Stilo et Titulo ad dictum officium spectantibus et cum eodem in illa parte Regni nostri uniti Scotia vocata usualiter habitis et potitis: Ac etiam nos pro nobis et nostris Regiis successoribus Damas et Concedimus dicto Roberto Auriol Drummond Hay Comiti De Kinnoull et Thomæ Roberto Hay vulgo nuncupato Vicecomiti Dupplin, durantibus omnibus eorum vitæ diebus durantibusque vitæ diebus eorum superviventis, secundum respectivos eorum interesse in dicto officio, nostram plenariam potestatem, libertatem, licentiam et auctoritatem Insignia Armoria personis virtute præditis et de nobis bene merentibus, juxta ordines et constitutiones eatenus præscriptas, Dandi et Concedendi, una cum omnibus fœdis, juribus, libertatibus, privilegiis et emolumentis ad dictum officium spectantibus et cum eodem usualiter habitis et potitis, vel quæ quovis tempore præterito ad idem pertinuerunt aut quæ ullo modo ad dictum officium a die mortis Joannis Campbell Armigeri qui ejusdem ultimo potitus fuit pertinuerint, spectaverint, vel accreverint: Tenendum et Habendum dictum officium Nostri Domini Leonis Regis Armorum, a die mortis dicti Joannis Campbell qui ejusdem ultimo potitus fuit, per dictum Robertum Auriol Drummond Hay Comitem de Kinnoull durantibus omnibus ejus vitæ diebus, cum Stilo et Titulo et Salario et omnibus fœdis, juribus, libertatibus, privilegiis et emolumentis ad idem spectantibus et cum eodem usualiter habitis et potitis, vel quæ quovis tempore præterito ad dictum officium pertinuerunt, aut quæ ullo modo ad dictum officium a die mortis dicti Joannis Campbell qui ejusdem ultimo potitus fuit pertinuerint, spectaverint vel accreverint, et a et post decessum dicti Roberti Auriol Drummond Hay Comitis de Kinnoull, vel resignationem ejus dicti Officii vel aliam sui interesse in eodem determinationem,

tunc Tenendum et Habendum dictum officium Domini nostri Leonis Regis Armorum per dictum Thomam Robertum Hay vulgo nuncupatum Vicecomitem Dupplin durantibus omnibus ejus vitæ diebus, cum Stilo, Titulo et Salario et omnibus fidelis, juribus, libertatibus, privilegiis et emolumentis ad dictum officium spectantibus, et cum eodem usualiter habitis et potitis, vel quæ quovis tempore præterito ad idem pertinuerunt. Præterea Nos, ex Regia nostra benignitate et favore, Damus et Concedimus dicto Roberto Auriol Drummond Hay Comiti de Kinnoull et Thomæ Roberto Hay vulgo nuncupato Vicecomiti Dupplin, Salarium Sex Centum librarum Sterlinensium per annum a die mortis dicti Joannis Campbell qui ejusdem officii ultimo potitus fuit incipere, et per diem illis et eorum superstiti durantibus omnibus eorum vitæ diebus et vitæ diebus eorum superstitis quamdiu dictum officium habuerint et ejusdem potiti fuerint secundum in eodem eorum respectivos interesse solvendum et solubile ut supra, ex ulla nostrorum redituum parte in Scotia existentium ad usus civiles istius partis regni nostri uniti applicabilium apud eosdem terminos et similiter quasi alia Salaria in Stabilimento pro rebus civilibus in Scotia usualiter solvuntur. In cujus rei Testimonium, sigillum nostrum per Unionis tractatum custodiendum et in Scotia vice et loco magni Sigilli ejusdem utendum ordinatum præsentibus appendi mandavimus, apud Aulam nostram apud St. James's, Vigesimo sexto die mensis Maii millesimo septingentesimo nonagesimo sexto Regni que Nostri anno trigesimo sexto.

3. PATENT in favour of JAMES BALFOUR PAUL, Esquire (now Sir James Balfour Paul, C.V.O., LL.D.), dated 12th March 1890.

VICTORIA by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, whereas we taking into Our consideration the qualifications and abilities of Our trusty and well beloved James Balfour Paul, Esquire, advocate, for discharging the duties of the office of Lyon King of Arms for that part of Our United Kingdom called Scotland now vacant and at Our disposal by the death of George Burnett Esquire, to whom the said office was last granted, Therefore know ye that We out of Our gracious pleasure have made nominated and appointed the said James Balfour Paul during the term of his natural life Our Lyon King of Arms in that part of Our United Kingdom called Scotland and also We for Us and Our Royal Successors Give and Grant to the said James Balfour Paul during the term of his natural life Our full power, liberty, licence and authority of giving and granting Armorial Bearings to virtuous and deserving persons according to the rules and ordinances already established for that purpose: To have and to hold the said office of Lyon King of Arms from the day of the death of the said George Burnett who last held the same unto him the said James Balfour Paul during all the days of his life with such yearly salary as may be assigned thereto by the Lords Commissioners of Our Treasury in lieu of all fees casualties and profits of the same: And with all rights privileges and immunities helonging to the said office and therewith usually held and enjoyed or which thereto at any time heretofore pertained but subject always to the

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provisions of an Act passed in the Session of Parliament holden in the 30th and 31st years of Our Reign chapter 17 intituled 'An Act to regulate the Court and Office of the Lyon King of Arms in Scotland and the emoluments of the officers of the same.' In witness whereof We have ordered the Seal appointed by the Treaty of Union to be kept and made use of in place of the Great Seal of Scotland to be appended hereto. Given at Our Court at St. James the twelfth day of March in the year one thousand eight hundred and ninety and in the fifty third year of Our Reign.

Per signaturam manu S.D.N. Regina suprascriptam.

APPENDIX V.

PATENTS OF ARMS.

WE have already given a specimen of an Early Scottish Patent of Arms (*supra*, p. 121), in favour of John, Lord Herries, in the year 1567.¹ As examples of more recent Concessions, we shall here introduce (1) a Grant by Sir Charles Erskine, Lyon King-of-Arms, about a hundred years later; and (2) a specimen of the style adopted at the present time.

GRANT OF ARMS to the ROYAL BURGH of ABERDEEN by Sir CHARLES ERSKINE of Cambo, Baronet, Lyon King-of-Arms.

To all and sundrie whom it effeirs. I Sir Charles Erskine of Cambo, Knight and Baronet, Lyon, King of Arms; Considering, that by several Acts of Parliament, as well of Our dread Sovereign Lord, Charles the Second, By the Grace of God, King of Scotland, England, France, and Ireland, Defender of the Faith; as of His Majestic's Royal Predecessors: especially, by the twenty one Act of the third Session of this Current Parliament, I am impowered to visit the whole Arms and Bearings within this Kingdom, and to distinguish them, and marticulate the same in my Books and Registers, and to give Extracts of all Arms, expressing the Blazoning thereof, under my hand and seal of Office: And which Register, is by the fore-cited Act, ordained to be respected, as the true and unrepealable Rule of all Arms and Bearings in Scotland,

¹ As further examples of Patents granted before the passing of the Act of 1672 we may cite those in favour of:

(1) Sir James Balfour of Pittendreich, 6th February, 1566-67, printed and also photographically reproduced in the *Scottish Heraldry Exhibition Catalogue*, 1892, No. 41, plate i. For a reproduction of the arms emblazoned on the patent, see above, plate vi.

(2) David Clayhills, of Innergowrie, 22nd October, 1667 (*Scot. Her. Ex.* No. 50).

(3) Sir James Galloway, Master of Requests, 19th December, 1631, quoted by Sir George Mackenzie in his *Heraldry*, is a specimen of a grant of a crest to a person already in possession of Arms.

to remain with the Lyon's Office, as a publick Register of the Kingdom. Therefore, conform to the power given to me by His Sacred Majesty, and according to the tenors of the said Acts of Parliament; I testife and make known, that the arms of old belonging to the Royal Burgh of *Aberdeen*, and now confirm'd by me, are marticulate in my said publick Register, upon the day and date of thir presents: And are thus blazoned, *viz.* The said Royal Burgh of *Aberdeen* Gives for Ensigns Armorial, Gules, three Towers triple towered, within a double Tressure Counterflowred Argent: Supported by two Leopards proper: The Motto, in an escrol above, *Bon-Accord* (the Word *Bon-Accord* was given them by King *Robert Bruce*, for killing all the *English* in one night in their Town, their word being that night *Bon-Accord*). And upon the Reverse of the Seal of the said Burgh is insculped, in a Field Azure, a Temple Argent, Saint Michael standing in the porch mitered and vested proper, with his Dexter hand lifted up to Heaven, praying over three children in a boyling Caldron¹ of the first, and holding in the Sinister a Crosier, Or. Which Arms above-blazoned, I hereby declare to have been, and to be, the true and unrepealable Signs Armorial of the Burgh Royal above-named. In testimony whereof, I have subscrib'd this Extract with my hand; and have caus'd append my Seal of Office thereto.

Given at *Edinburgh*, the twenty fifth day of *February*, and of Our said Sovereign Lord's Reign, the twenty sixth Year, 1674.

CHARLES ARESKINE, *Lyon*.

PATENT OF ARMS by THOMAS-ROBERT, Earl of Kinnoull, Lord-Lyon King of Arms, in favour of Sir JAMES CAMPBELL of Strathcathro, Knight.

To All and Sundry whom these presents do or may concern, We Thomas Robert, Earl of Kinnoull, etc., Lord Lyon King of Arms, send Greeting: Whereas Sir James Campbell of Stracathro, in the county of Forfar, Knight, hath by a Petition, of date the twenty-third day of August last; Represented unto us, That the Petitioner was the second son of James Campbell by Helen his Wife, daughter of John Forrester, That the Petitioner was desirous of bearing and using such Arms as might be indicative of his Name and station in life, And prayed for Our licence and authority accordingly. Know ye therefore that We have devised and do by these presents Assign, Ratify, and Confirm unto the said Sir James Campbell, Knight, and his Descendants, to bear and use in all time coming, with due and proper differences, according to the Laws of Arms, the following Ensigns-Armorial, as depicted upon the

¹This is an erroneous account of a miracle attributed to St. Nicholas, who was the patron saint of Aberdeen. He was said to have found three children killed and salted down in a tub—not in Aberdeen—for food; and to have raised them up to life again by making over them the sign of the cross. A representation of the Legend is found on the ancient seal of the city. See *The Arms of the Royal and Parliamentary Burghs of Scotland*, by the late Marquess of Bute and Messrs. J. R. N. Macphail and H. W. Lonsdale, 1897, p. 3.

margin hereof, and Matriculated of even date with these presents in Our Public Register of all Arms and Bearings in Scotland, viz. : Gyronny of eight *Or* and *Sable*, within a Bordure ingrailed *Azure* ; On a Canton *Argent* a Galley with her sail furled up, flagged, and her oars in action of the second, and upon a Chief of the fourth, three Hunting horns also of the second, viroled of the first and stringed *Gules*, for maternal difference. Above the shield is placed a Helmet befitting his Degree with a Mantling *Gules*, doubled *Argent*, and upon a Wreath of his Liveries is set for Crest a Boar's head, erased, proper, and in an Escroll over the same this Motto 'Ne obliviscaris.' In testimony whereof these presents are subscribed by James Tytler of Woodhouselee, Esquire, our Depute, and the Seal of Our Office is appended hereunto, at Edinburgh, the second day of September, in the year of our Lord One thousand eight hundred and fifty nine.

A number of Patents of Arms granted at various dates after the passing of the Act of 1672 were exhibited in the Heraldry Exhibition just mentioned, such as that to Sir James Dalrymple, 21st February, 1673 (No. 51), and those of Hamilton, 6th September, 1673 (No. 53); Mercer, 18th March, 1676 (No. 56); Baikie, 25th May, 1686 (Nos. 57, 58); Crawford, 9th September, 1693 (No. 54); Incorporation of Wrights, Aberdeen, 6th April, 1696 (Nos. 40, 41); Bank of Scotland, 1st March, 1701 (No. 59).

A very doubtful specimen of a Patent of Arms is quoted in Lower's *Curiosities of Heraldry*, the date being 1376; a later patent, dated 1542, is printed at p. 171 of Dallaway's *Heraldic Enquiries*. Several curious examples of Gifts and Bequests of Armorial Bearings are given by Edmondson in his *Complete Body of Heraldry*, vol. i. pp. 154-158.

APPENDIX VI.

EVIDENCE OF GEORGE TAIT, ESQ., ADVOCATE, INTERIM LYON DEPUTE, before the Commissioners on the Office and Court of the Lord Lyon, 1821.

(See Report of the Commissioners, Appendix No. 3, p. 50.)

'*Edinburgh, 27th June 1821.*—In presence of the Commissioners, compared Mr. George Tait, advocate, *interim* Lyon-Depute, who being solemnly sworn and interrogated, depones (*inter alia*), That the whole duty (of the Lyon King-of-Arms) has been delegated to the deponent, and is exercised by him; and that he has not known of any appeal being made from his decision to the Lord Lyon. . . . Being interrogated in what form the proceedings relative to claims for Armorial Bearings and competitions of such claims are carried on, depones, That such claims are usually made, in the first instance at least,

by a verbal application, but that he has seldom disposed of any question of this kind, without some written statement from the parties having intervened; that parties are in the practice of applying to have their Arms registered, which applications are always stated to the deponent, and determined on by him, and are in no case granted as matter of course by the Clerk of Court; that since the deponent's appointment, several applications have been made for authority to the applicants to bear Supporters, but such authority has not hitherto been granted by him in any case, none of the parties applying having, in his opinion, established their right to obtain such authority; that some instances have also occurred, where applications have been made by persons stating themselves to be heirs-male of families, the senior branches of which had become extinct in the male line, and which claims have been decided on by the deponent; and one case is now depending where competition has occurred respecting the right of bearing the Arms of a particular family. Being interrogated, whether any record of the proceedings in such cases is made and preserved in the office, depones, That there is not, so far as the deponent knows; but when a case is disposed of by the Arms being granted, the grant is entered in the Register of Arms, and the relationship of the party is generally entered shortly in the grant; that the injunction of the Acts of the Scottish Parliament, requiring all persons to register their Arms, has not for many years past been strictly enforced, and there are many cases in which registration has not taken place, both with respect to those old families having right to Arms, and likewise to persons bearing Arms without any authority or legal right; that the Register of Arms is preserved and entire from the year 1672, or nearly that time, and consists partly of the entries of armorial bearings of old families having right at that time, and partly of later grants, which Register will be exhibited for the inspection of the Commissioners. Being interrogated, according to what rules or ordinances cases respecting the grant of Arms or competitions of claims between different parties are determined, and whether there is any record of proceedings or decisions in such matters, depones, That he is not aware of any record of precedents in cases of this nature; that he has not, since his appointment, had occasion to decide in any formal or regular question of competition, but that the rules according to which he would form his opinion, and which he has observed in so far as he has been called upon to decide on claims presented, are those to be found in the Acts of the Scottish Parliament 1592, cap. 125, and 1672, cap. 21, and the rules laid down by Sir George Mackenzie, Nisbet, and other writers on Heraldry. Being interrogated, if there is any restriction observed with respect to the class or description of persons to whom a grant of arms should be allowed, depones, That such grants are not refused in any case where the persons applying are respectable, which the Deponent understands to be conformable to the practice now observed in all other Colleges of Arms; but with respect to the right of bearing supporters, this, the Deponent conceives competent to be granted in very few cases, and as already observed, has not been allowed in any case hitherto by him, and he will furnish the Commissioners with a statement of what he considers to be the rule applicable to this case. Being

interrogated if any instance has occurred since he was in office in which a person has been prosecuted, as liable to fine, for bearing arms unduly, depones, That the Deponent did not find, upon coming into office, that the practice of levying such fines had been followed by his predecessor, or at least not for some years immediately preceding, and as his own appointment is *ad interim*, he has not thought it proper to adopt a different rule.'

(Signed) 'G. TAIT.'

(See Report of the Commissioners, Appendix No. 7, p. 53.)

'NOTE of Persons who are considered by GEORGE TAIT, Esquire, Lyon-Depute, to be entitled to Supporters, furnished to the Commissioners of Inquiry by their desire, intimated to him at his examination this day, 27th June 1821.

'1. *Peers*.—By immemorial usage, Peers have right to supporters, and supporters are commonly inserted in modern patents of peerage. This includes Peeresses in their own right.

'2. *Ancient usage*.—Those private gentlemen, and the lawful heirs-male of their bodies, who can prove immemorial usage of carrying supporters, or a usage very ancient, and long prior to the Act 1672, are entitled to have their supporters recognised, it being presumed that they received them from lawful authority, on account of feats of valour in battle or in tournaments, or as marks of the royal favour. (See *Murray of Touchadam's case*, 24th June 1778.)

'3. *Barons*.—Lawful heirs-male of the bodies of the smaller Barons, who had the full right of free barony (not mere freeholders) prior to 1587, when representation of the minor Barons was fully established, upon the ground that those persons were Barons, and sat in Parliament as such, and were of the same order as the titled Barons. Their right is recognised by the writers on heraldry and antiquities. Persons having right on this ground, will almost always have established it by ancient usage, and the want of usage is a strong presumption against the right.

'4. *Chiefs*.—Lawful heirs-male of Chiefs of tribes or clans which had attained power, and extensive territories and numerous members at a distant period, or at least of tribes consisting of numerous families of some degree of rank and consideration. Such persons will generally have right to supporters, either as Barons (great or small) or by ancient usage. When any new claim is set up on such a ground, it may be viewed with suspicion, and it will be extremely difficult to establish it, chiefly from the present state of society, by which the traces of clanship, or the patriarchal state, are in most parts of the country almost obliterated; and indeed it is very difficult to conceive a case in which a new claim of that kind could be admitted. Mr. Tait has had some such claims, and has rejected them.

'*Royal Commissions*.—Knights of the Garter and Bath, and any others to whom the King may think proper to concede the honour of supporters.

‘These are the only descriptions of persons who appear to Mr. Tait to be entitled to supporters.

‘An idea has gone abroad, that Scots Baronets are entitled to supporters; but there is no authority for this in their patents, or any good authority for it elsewhere. And for many years subsequent to 1672, a very small portion indeed of their arms which are matriculated in the Lyon Register, are matriculated with supporters; so small as necessarily to lead to this inference, that those whose arms are entered with supporters had right to them on other grounds, *e.g.*, ancient usage, chieftainship, or being heirs of Barons. The arms of few Scots Baronets are matriculated during the last fifty or sixty years; but the practice of assigning supporters gradually gained ground during that time, or rather the practice of assigning supporters to them, merely as such, seems to have arisen during that period; and it appears to Mr. Tait to be an erroneous practice, which he would not be warranted in following.

‘British Baronets have also, by recent practice, had supporters assigned to them, but Mr. Tait considers the practice to be unwarranted; and accordingly, in a recent case, a gentleman, upon being created a Baronet, applied for supporters to the King,—having applied to Mr. Tait, and been informed by him that he did not conceive the Lord Lyon entitled to give supporters to British Baronets.

‘No females (except Peeresses in their own right) are entitled to supporters, as the representation of families is only in the male line. But the widows of Peers, by courtesy, carry their arms and supporters; and the sons of Peers, using the lower titles of the peerage by courtesy, also carry the supporters by courtesy.

‘Mr. Tait does not know of any authority for the Lord Lyon having a discretionary power of granting supporters, and understands that only the King has such a power.

‘Humbly submitted by

(Signed) ‘G. TAIT.’

APPENDIX VII.

1. THE OFFICIAL DRESS AND INSIGNIA OF THE OFFICERS OF ARMS.

(See plate v. and page 53.)

So far as we can gather, the original surcoat, and, following it, the tabard of the Officer of Arms was in form and in the matter of its bearings, though probably not in its material, the same as that of the personage whom he represented. For a time a practice was in use among the Officers of Arms of the King, for the Pursuivant to wear his tabard in a way which was meant to distinguish him from a herald; he wore it turned round so far that one of the wings or arm-pieces hung down over his breast,

while the other wing hung down over his back. The breast of the coat, in consequence, was over one shoulder, and hung down over his arm on that side, while the back was over the other shoulder and arm. Such a custom dates itself as posterior to the introduction of the tabard, on which the arms were repeated on the shoulders, and there seems to be no evidence that it lasted very long.

Sir David Lindsay is represented in one of the woodcuts reproduced on plate v. with a tabard, on the breast of which is the Royal Shield ensigned with the Royal Crown. The crown appears about the same time on the tabards of Kings-of-Arms in France, and in both countries distinguished a King-of-Arms from an officer of lower degree. In the other woodcut represented on the same plate, Lindsay appears in what was probably an unofficial dress, the only heraldic mark on which was a small shield of the Royal Arms, placed on his right breast, in a manner which is somewhat analogous to that of the badge of an order of knighthood on the left breast or shoulder of the knight's mantle.

There is evidence that the Officers of Arms frequently carried staves, wands, or batons of office, though it is said that the present baton of the Heralds and Pursuivants of Scotland was introduced in the nineteenth century, in its present shape and size at least, to enable the large sheet of paper on which a Royal Proclamation is in modern times printed to be rolled on it and held flat during the act of reading it out to the people. Heralds and Pursuivants in England and Ireland had certainly discontinued the use of batons for a time. Athlone Pursuivant was provided with one in time only for his appearance at the ceremony of the coronation of King Edward VII. and Queen Alexandra, and the English Officers of Arms similarly appeared with batons, for the first occasion in modern times, at the coronation of their present Majesties King George and Queen Mary.

One of our Scottish Armorial has a coloured representation of a herald whom it attributes in an eighteenth century hand to the year 1500. He is portrayed with the winged ensigns, cap, sandals, and caduceus of Mercury; but of the serious intent of the artist, whose work is probably little earlier than the inscription, we have no means of judging.

2. THE 'HEARN' TABARD.

(See plate iii. and pp. 54, 57.)

The tabard which we refer to under this title is at present exhibited in the Victoria and Albert Museum, South Kensington. It is the tabard of a King-of-Arms: the fields of those of its quarters which are of colour are in velvet, and that of Scotland, which is of metal, is in yellow silk or satin, on which are the remains of a diaper worked in small gilt sequins.¹

¹ In the general appearance of its design and workmanship it has a marked similarity to the tabard of Sir William Dugdale, which is well reproduced by Mr. Fox Davies in his *Heraldry*.

Of its history nothing is known to have been recorded. Its bearings, as will be seen in plate iii., are Quarterly: first and fourth, Scotland; second, France and England quarterly; third, Ireland. The tabard may therefore belong to the period which began with the accession of James VI. to the English Crown and ended with the accession of William III., who placed the arms of Nassau surtout on the Royal Arms which he found here; or to the later period between the accession of Queen Anne and the Union of the Kingdoms in 1707, when the arms of Scotland and England came to be impaled.

We are informed that the tabard is traditionally that which was worn by Sir James Balfour, who was Lyon King in 1630; but a small slit in the upper part of the breast of the coat for the accommodation of the shirt-frill or neck-ruff seems to indicate a later date; and if we accept the evidence of a manuscript of A.D. 1661, mentioned already at page 56, the tabard of a King-of-Arms, for a large part at least of the period to which we have referred, which followed the Union under King James, was ensigned with a Royal Crown, as we see in the woodcut we reproduce of the tabard of Sir David Lindsay. Or the whole, we are inclined to attribute the tabard to some date shortly before 1688.

It should be added that while we have assumed that the tabard is Scottish, we are not aware that it is certainly so.

APPENDIX VIII.

NOTE OF SCOTTISH CASES INVOLVING ARMORIAL RIGHTS.

1. SUNDRY BARONS *v.* LORD LYON, June, 1673. Fountainhall's *Decisions*, No. 393. Brown's *Supplement*, iii. 6; Mackenzie, *Heraldry*, chap. xxxi. 94.
This case has been noticed already at pages 85 and 314.
2. DUNCAN OF DUNDAS *v.* DUNDAS OF FINGASK, 22nd January, 1762. Brown's *Supplement*, v. 493.
This case has been noticed already at pages 70-71.
3. PROCURATOR FISCAL OF LYON COURT *v.* MURRAY OF TOUCHADAM (Polmaise), 24th June, 1778; Morison's *Dictionary*, 7656; Brown's *Supplement*, v. 490.

IN 1774 the Procurator Fiscal of Lyon Court brought a summons in that Court against Murray of Touchadam, concluding for payment of the statutory penalty for wearing arms which were not in the Register of All Arms, and for confiscation of the moveables upon which they were engraved; and the Lyon Court gave decree in terms of the libel. Murray then presented a bill of advocation of the cause to the Court of Session, and pleaded that the Lyon Court was not competent to entertain the summons. The

Lyon Fiscal, on the other hand, defended, and pleaded that the appeal was incompetent, as the jurisdiction of Lyon Court was privative and independent. The Lord Ordinary (Lord Hailes) repelled the objection to the competency of the Lyon Court, and also repelled the objection to the competency of the appeal. To these findings the Court afterwards adhered.

The Lord Ordinary then ordained the Fiscal to set forth: 1st Whether there are in the Lyon Office any register or authentic books of armorial bearings of a date prior to the statute of 1672. 2nd Whether there is in the Lyon Office a connected series of registers from 1672 unto this present day; and, if not, what chasms there are in the register, and whether there is evidence that any volume of such register is lost or amissing. 3rd To set forth whether it is proposed to matriculate the arms of the defender, as of one entitled to bear arms on matriculation, or to give arms to him as a well deserving person in terms of the Act 1672, and if the former is proposed what are the arms which Murray of Touchadam ought to bear on a matriculation; and whereas it is said by the Pursuer (the Fiscal) that one reason for demanding larger fees from a gentleman than the sum of ten merks specified in the statute 1672, is that an expense must be incurred for illuminating the arms on the margin of the instrument of matriculation; the Lord Ordinary requires the Pursuer, 4th, To explain the use and intention of such illumination, when it is considered that the science of heraldry has its own terms of art, precise and fixed, and which may serve as a certain directory to all painters, engravers and others, for properly delineating the arms of every family respectively, on wheel carriages, plate, and household furniture.

The Lord Ordinary at the same time appointed the defender (Murray) to bring into Court¹ the most ancient seals, impressions of seals, or other evidence that he is possessed of or can procure for proving that before 1592, or before 1672, the Murrays of Touchadam did actually bear signs armorial.

In answer the Fiscal set forth that there was 'no public authentic record of arms in the Lyon Office prior to the year 1672. The tradition was that most of the old records of arms were destroyed by fire; there are, however, in the office several old manuscript books of heraldry which are of great use in matriculation.' He added that from the institution of the said Register to the present time the entries are regular, only until of late they did not mention dates. He said that when Mr. Murray applied for arms it would be time enough to say what he should have, and that illuminations of arms were required to keep unlearned painters right.

The Lord Ordinary found that Murray's predecessors had been in public possession of a coat armorial in 1511 and 1568, and that that public possession had been continued down till the date of the prosecution; that as to the tinctures, since no evidence to the contrary had been adduced, it must be presumed 'that the colours of field and charge were the same anciently as now. He also found it proved that since 1660 the family had used the supporters, crest, and device which were borne by the defender, and found

¹ 'Lodge in the hands of the clerk to the process.'

that such long possession infers an antecedent right, or excludes all challenge on account of defect of such antecedent right.' The Lord Ordinary took notice that the Pursuer (the Fiscal) had declined to say which category under the Act of 1672 the defender belonged to,—whether that of persons who had arms which they had right to matriculate or that of persons who had no right of arms and must petition for a grant. He therefore found that the defender had arms which he was entitled to matriculate.

The Lord Ordinary came to some additional findings, namely, that the conclusions of the Fiscal's summons were altogether penal, and that the Register of Arms did not afford sufficient evidence as to what armorial bearings have been matriculated by Lyon and what not: 1st. Because the Register is so framed that any chasms therein cannot *ex facie* be discovered. 2nd. Because it is admitted that the armorial bearings of certain persons matriculated did not appear therein till of late. He therefore found that it is not proved whether the armorial bearings of Murray of Touchadam have been actually matriculated in the Lyon Register or not, and that William Murray was not *in mala fide* to continue the use of the armorial bearings which his predecessors had enjoyed: there was therefore no sufficient warrant for the penal conclusions of the original summons. He therefore assoilzied him from the conclusions of the summons, reserving to the Fiscal to charge him to matriculate his armorial bearings in terms of the statute of 1672; and to pay the proper fee, and in addition anything reasonable for a painting of his arms in water-colours and other ornaments should he want one, 'these being things which the Lord Lyon is not bound by law to provide without a suitable remuneration.'

The Fiscal reclaimed from the Lord Ordinary's judgement to the Court, but the Lords adhered, observing that immemorial possession of arms would presume a grant even from the Sovereign himself to wear them; and many families in Scotland had right to wear arms before the Act of 1672; so did not derive right to wear them from the Lyon in virtue of that Act of Parliament. But as to matriculation, in consequence of the Act 1672 that was requisite in every case, and is so found by the Ordinary in this case.

The judgement regarding the fees payable by the defender in this case on matriculation need not be noticed, as it does not bear upon the matriculations made since the Act of 1867. The Court found the Lyon liable in certain of the expenses of the process; this also is a matter of probably no interest since the said Act of 1867.

4. MOIR *v.* GRAHAM, 5th February, 1794. Morison's *Dictionary*, 15537.
This case is noticed on page 361.
5. MACDONELL *v.* MACDONALD, 20th January, 1826. 4 Shaw and Dunlop, 371.
This case is noticed on pages 72, 73.
6. CUNINGHAME *v.* CUNYNGHAM, 13th June, 1849. 11 Dunlop, 1139.
This case is noticed on pages 73, 345-351.

7. HUNTER v. WESTON.

This case is noticed on pages 74-76.

8. PETITION. MACRAE, 22nd April, 1909. Lyon Court, *unreported*.

The Petitioner in this case, Sir Colin G. Macrae, stated that he was the eldest male representative of the deceased Colin Macrae of Inverinate, that he 'and his ancestors as Chiefs of the Clan Macrae have used certain armorial ensigns from a period long anterior to the passing of the Act of Parliament, 1672, cap. 47, but that the same have never been recorded in the Public Register of All Arms and Bearings in Scotland in terms of the said statute.' He therefore prayed that the Lyon would grant warrant to the Lyon Clerk to matriculate 'the ensigns armorial above indicated in name of the Petitioner as Chief of the Clan Macrae.'

John MacRae-Gilstrap, major of the 3rd Battalion of the Black Watch, who had previously lodged a caveat, appeared and lodged answers, stating that he was the second son of the late Duncan MacRae, who was head of the family of MacRae of Conchra. He denied that the Petitioner, or any of his ancestors whom he represented, was Chief of the Clan Macrae, or used arms as such; and he denied that the petition was competent in so far as it asked Lyon to recognize the Petitioner as Chief of the Clan Macrae.

The Petitioner objected that the Respondent had no *locus standi*; that he represented no one but himself; that his elder brother, who was head of his family, was aware of the Petition, and was making no objection; that the Respondent claimed and could claim nothing that the Petitioner was claiming (*Macdonell v. Macdonald*, 20th January, 1826, 4 Shaw, 371). The Respondent argued that he had an interest to object to any person being put over him as his Chief. The Petitioner explained that the Court was not asked to come to any judgement that the Petitioner was Chief of the Clan.

The Court sustained the Respondent's *locus* 'in so far as his right to be heard on the question of the existence of the clan Macrae and its chiefship.'

On the merits the Petitioner produced a declaration of his chiefship signed by a number of persons of the surname of Macrae, which he stated represented the vast majority of the Clan. He also produced other evidence of his accepted position, and to prove that in the past Macrae of Inverinate was the chief or head (*Ceann*) of the clan (*Fine* or *Cinnidh*), being called in Gaelic *Ceann Fine* and *Ceann Cinnidh*, both titles meaning that he was chief of a clan; and, *separatim*, that he was head of the chief family of the name Macrae. To prove the nature of the arms of Macrae, and their use before 1672, he pointed to the Porteous manuscript in Lyon Office, in which they occur, and argued that the arms of Macrae, without any qualification, were necessarily the arms of the Chief of the name.

The Respondent led evidence to show that the opinion of the Petitioner's chiefship was not unanimous; and that Clan Macrae in the past was notoriously a clan which

had no chief other than Seaforth ; and argued that Clan Macrae was a clan only in a popular sense.

Lyon pronounced judgement as follows : 'The Lord Lyon King of Arms having taken the proof and heard Counsel for the parties thereon, Finds that the Petitioner has failed to prove user of arms or supporters previous to the passing of the Act,' concerning the privileges of the Office of Lyon King-at-Arms, '1672, cap. 217, Refuses the prayer of the Petition, and Decerns.' His Lordship's Note accompanying the judgement is as follows :

Note. This is a petition for a matriculation of arms by Sir Colin Macrae, representing the old family of Inverinate. The term 'matriculation of arms' is used in the ordinary practice of the Lyon Court to denote (a) the registration, by a cadet, of a coat of arms which has been already recorded by an ancestor in his own name with a suitable difference, if necessary, or (b) the registration in the present Lyon Register of a coat which has been used by the family of the applicant previous to 1672, but which has not been recorded in terms of the Act of that year, which required all persons who claimed arms to give the same in to the Lyon, in order that they might be recorded in his books. The only other way of recording arms is by applying for a new grant or patent, which the Lyon is bound to give to all 'virtuous and well deserving persons.' As the Petitioner does not aver that he is a cadet, but, on the contrary, that he represents the senior line of the Macrae family or clan, it is evident that he can only ask for a matriculation on the ground of user of arms before 1672.

The question of arms is the first point which I must take into consideration, because under the terms of the Petition it is not a matter of pedigree which is primarily involved, still less is it one of the Chiefship of a clan with which this Court is concerned only so far as it might be the warrant for a matriculation of supporters. It is a singular fact that this question of arms, the most important, so far as I am concerned, should have been relegated to a very minor place both in the proof itself and in the speeches of Counsel. But it forms the only reason why parties can appear before me at all, and it is, therefore, obvious that it must be considered first. The Petitioner, according to the rules of this Court, must prove user of arms before 1672 by his direct ancestors. In support of his claim he produces an entry of arms in an armorial MS. in the Lyon Office, originally compiled by Porteous, who was Snowdown Herald in 1661. The entry is for Macreach (or perhaps Macreath), Argent, a fess between three mullets in chief and a lion rampant in base gules. It is not assigned to any particular individual, but, like several other entries in the same MS., has a more general name attached. I may take it, however, that Porteous was satisfied that in his day these arms were borne by some one of the name of Macrae (I do not attach any weight to the contention for the Respondent that Macreach meant anything else than Macrae, though it is a singular circumstance that it is only in this armorial MS. that any mention of such arms can be found before 1672. The coat, of which the blazon is given above, is somewhat suggestive. It is not in the least like any arms borne by other West High-

land clans. But in the course of the proof it was shown, and I have no reason to doubt the accuracy of the assertion, that the Macraes came originally from Clunes, a place a little to the west of Inverness. Now this is just the part of the country where armorial bearings having stars or mullets as their chief charge might be expected to appear. The great house of Moray bore azure three stars argent, while that of Innes reversed the tinctures and bore argent three stars azure. The Dallas family, too, who were inhabitants of the neighbouring district, bore stars in some form or other on their shield, and the coat assigned by Lyon to General Sir Thomas Dallas, K.C.B., in 1815, bears a close resemblance to that of Macrae as given by Porteous, argent a fess between five mullets of six points, three in chief and two in base gules. This is exactly the Macrae coat, save that a lion rampant has been substituted for the mullets in base. The presumption, therefore, is that some person of the name of Macrae bore that coat before the family left Clunes, and this shows (as indeed is admitted by both parties) that the date of 1200 given for the migration of the Macraes from Clunes to Kintail by the Rev. John MacCra must be much too early, as armorial bearings were at that time entirely unknown in the Highlands. By whom these arms were originally borne has not come out in the evidence; the first person of the name of Macrae who assumed them was probably a vassal of some of the great families who bore somewhat similar charges on their arms. It was quite a common practice for the arms of vassals to be founded on those of their superiors, even though there was no blood connection whatever.

Accepting Porteous's blazon of the arms as that of a coat to which some Macrae had a right or had assumed, I may point out that before the Petitioner can prove his right to it, he must show that it belonged to a person of whom he is now the senior male representative. He cannot come here and say: 'This is a Macrae coat or the Macrae coat, and in virtue of my being the chief of the clan, I claim to have it recorded in my name.' There is no such thing, strictly speaking, in Scottish Heraldry as a 'family' coat of arms, that is, a coat which may be used indiscriminately by all the members of one family or clan. The head of a house bears a certain coat of arms, but all younger sons can only bear these arms of their ancestor with a certain difference, such differences being assigned by the Lyon. And further differences must be assigned to younger sons of younger sons in all generations. This indicates how jealous the statutory armorial law of Scotland has always been of any infringement on the rights of the main line of the family. Such being the case, I cannot find that the Petitioner has proved, or even attempted to prove, that any of his ancestors, the representatives of the house of Inverinate, have ever borne the arms given by Porteous, or indeed any other, except in comparatively recent times. Had they done so it is almost inconceivable that some relic denoting such use should not have survived to the present. No seal, no tombstone, no article of domestic use, is known to exist with these arms upon them. The only things of the kind that have been produced as belonging to the Inverinate family are two seals, the one bearing the arms as given by

Porteous with the crest of a cubit arm holding a scimitar and the motto *Fortitudine*, the other has some remarkable features,—the arms on the shield are the same, but the fess is charged with a thistle slipped: the crest is a unicorn trippant: there are two mottos, that above the crest being '*Libertas et Honor*,' and that below the shield '*Trust in God and fear nought*.' But the most important feature of difference in the second achievement is the presence of supporters in the shape of two Highlanders with drawn swords in their hands. But these seals are evidently modern; from the style of their execution I should say that they date from the early part of last century. They show, in the first place, that the Macraes of Inverinate were not certain at that period what exactly their arms were. It may also be presumed that the seal without the supporters is probably the older of the two; the other one was evidently assumed as that of chief of the clan. Unfortunately, however, for the sake of heraldic accuracy the one without the supporters would connote the older family of the two, because the fess is uncharged. In the seal with supporters it is charged with a thistle, which at once suggests, from a heraldic point of view, that the arms are those of a junior branch, which is quite inconsistent with the presence of supporters. It is significant too, that this seal is almost certainly of a later date than 1815, which was the date of the death of the last Earl of Seaforth. It is not stated who executed either of the seals in process: I should have thought them the work of Alexander Deuchar but for a reason to be mentioned presently; he was a well-known seal engraver who flourished in Edinburgh in the early part of last century. He did not hesitate to please his clients, and he readily invented arms for any one who came to him, and as he had considerable knowledge of heraldry, he generally composed them on better lines than is usually done by the ordinary seal engraver. He made large collections, which have been much scattered since his death, but some of them are in the Lyon office, and in a volume which was compiled 1807-12, there are several so-called Macrae coats given. The arms of John Macrae of Inverinate appear exactly as given on the first seal mentioned above, with the exception that there are only two mullets instead of three. This version is what Mr. Horatio Macrae gives as the '*Macrae Arms*' in his letter to Major Macrae-Gilstrap of 19th January, 1886 (No. 39 of Process). Exactly the same arms are given in this collection for a George M'Crie, but in his case the crest is not a cubit arm, but an arm embowed. Other Macraes appear in Deuchar's collection; James M'Cree has a similar coat to Inverinate, but has the fess blue, and he is the only one of the name to whom Deuchar gives three mullets in chief. Andrew Macrae has also the fess blue, but has only two stars in chief. Archibald M'Cray has two stars in chief, but has the fess gules, and charged with another star argent.

It does not seem necessary to go further into the question of the coat of arms itself. I regret I cannot find in the proceedings evidence to show that any arms were borne by persons whom the Petitioner has proved to be ancestors of his. But besides the arms there is the question of supporters; under the terms of the Petition, of course, if the Petitioner is not found entitled to arms, he cannot be entitled to supporters, which

are only what Nisbet calls 'exterior additaments' to a coat of arms. The prayer of the Petition is that I should 'matriculate' in the Lyon Register in name of the Petitioner as *Chief of the Clan Macrae* the ensigns armorial indicated in the Petition. As a matter of fact, however, there are no specific arms mentioned there; all that is said is that certain armorial bearings were borne by the Petitioner and his ancestors long anterior to 1672, the passing of the Act regulating the registration of arms. No attempt has been made in the whole course of this case to show that any of the Petitioner's ancestors ever bore supporters, and supposing he had been successful in proving his hereditary right to arms, and in consequence to have these 'matriculated,' it would have been necessary for him, supposing he had established the fact that he was *Chief of the Clan Macrae*, to Petition not for a mere matriculation of supporters, because something which is not at present on record, and the existence of which previous to 1672 is not proved, cannot be made the subject of matriculation, but for a new grant of supporters.

Under the terms of the present Petition, it does not appear to me to be necessary to go into the further points in this case which have been raised during its discussion, but as the Petitioner would be quite entitled to present a new Petition praying for a grant of arms and supporters as the *Chief of the Clan Macrae*, it may be convenient to allude to the question of supporters in relation to that of the *Chiefship*. It is an accepted fact in Scottish armorial law that *Chiefs of Highland Clans* are entitled to add supporters to their arms. The other classes of persons who are in right of such adjuncts are (a) *Peers*, and (b) *lawful heirs male of the bodies of Mincr Barons* who held their lands from the King under a *Barony* title previous to 1587, when they sat in Parliament as *Barons*—after that date they were relieved from attendance and a system of representation established. But as Mr. Tait, the then *Lyon Depute*, remarked to a Commission in 1821, 'persons having right on this ground will almost always have it established by ancient usage and the want of usage is a strong presumption against it.' Cases, however, have occurred within recent years in which supporters have been granted to such representatives. As to *Highland Chiefs*, Sir George Mackenzie in his *Treatise on Heraldry* remarks, 'I crave liberty to assert that all our chiefs of families and old *Barons* may use supporters,' thus including in the privilege not only *Chiefs of Clans*, but the heads of any considerable families, and he goes on to quote specific instances, such as the *Haliburtons*, *Fotheringhams*, *Irvines*, etc. But Sir George seems to found their right more on ancient custom than anything else; 'these *Chiefs* have prescribed a right to use supporters and that such a right may be prescribed I have proved formerly, and what warrant is there for most of our rules in *Heraldry* but in aged custom?' Mr. Tait says in the above mentioned report regarding the right of *Chiefs of Clans* to supporters, that they have generally such a right either as *Barons* (great or small) or by ancient usage. 'When any new claim is set up on such a ground, it may be viewed with suspicion . . . it is very difficult to conceive a case in which a new claim of that kind could be admitted.' Now in this case there is not

an attempt to prove any ancient user of supporters. All that need now be asked would be a new grant of such, but to enable me to make this, I should require clearer proof of the existence of a chiefship than has been produced. There is no doubt a certain amount of popular belief in the district that the representative of the Inverinate branch is the Chief of the Clan Macrae, but there is a great want of definite evidence to show what this belief was founded on. Professor Mackinnon was examined as to a Gaelic Lament on the death of Farquhar Ban of Inverinate, who is said to be there described as 'Chief.' The words used in the original were Ceann Fine. It is apparently the only known instance of Fine being employed to denote a Chief, it being generally used as an expression for a Clan. There was much discussion as to difference in meaning between Ceann Cinnidh, Ceann Fine, and Ceann Tighe, but it is not necessary to go into them here. Had the Petitioner instead of coming to the Lyon Court gone to the Court of Session and asked for a Declarator that he was the Chief of the Clan Macrae, all this would have been much more to the point. But as he only asks for a matriculation of arms on the ground that his ancestors used them before 1672, and as I have found that he has not proved this, it does not appear to me that it is necessary for me to go into the question of Chiefship in detail.

APPENDIX IX.

LETTER FROM GENERAL SIR JOHN MOORE, K.B., ON HIS CHOICE OF SUPPORTERS.

(Gordon's Regimental Gazette per *Scottish N. & Q.*, 2nd Series, iv. 123.)

RICHMOND, 17 Nov. 1804.

MY DEAR NAPIER,

My reason for troubling you for a drawing is that, as a Knight, I am entitled to supporters.

I have chosen a light infantry soldier for one, and a Highland soldier for the other, in gratitude to and in commemoration of two soldiers of the 92nd, who, in the action of the 2nd October, raised me from the ground when I was lying on my face wounded and stunned (they must have thought me dead), and helped me out of the field. As my senses were returning I heard one of them say, 'Here is the General, let us take him away'; upon which they stopped, and raised me by the arm. I never could discover who they were; and therefore concluded they must have been killed. I hope the 92nd will not have any objection—as I commanded them, and as they rendered me such a service—to my taking one of the corps as a supporter.

Believe me, etc.,

JOHN MOORE.

PROCLAMATIONS

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APPENDIX X.

ACCESSION PROCLAMATIONS AT EDINBURGH AS THE CAPITAL OF SCOTLAND.

So far as we have any knowledge of Ancient Scotland in times of peace, the proclamation of a King's Accession was made like other proclamations by the Officers of Arms, by direct order of the Monarch then existing or the Privy Council.

The proclamation of Henry Lord Darnley made by command of Queen Mary is a case in point, and interesting in itself. It runs:

'Marie, by the Grace of God, Quene of Scottis to our lovittis Lyoun King of Armes and his brethir herauldis, and to our lovittis messengeris, our shereffis in that part,¹ conjunctlie and severalie specialie constitute greting: For sa mekill as we intend, at the pleasour and will of God, to solempniz and compleit the band of matrimony, in face of halie kirk, with the rycht nobill and illustir Prince Henry, Duke of Albany, &c., in respect of the quhilk mariage, and during the tyme thair of, we will, ordane, and consentis that he be namit and stylit King of this our Kingdome . . . Our will is heirfoir, and we charge you straitlie, and commandis that incontinent, thiroure lettres sene, ye pas to the mercat croce of our burgh of Edinburgh, and all otheris places neidfull, and thair be oppin proclamatioun, mak publicatioun and intimatioun heirof to all and sindry our liegis and subdittis as appertenis, . . . as ye will answer to us thairupoun, delivering thiroure lettres, be you dewlie execut, and indorsat, again to the herare.'²

'Upon Saterdaye at afternone,' wrote Randolph, the English Ambassador, 'these matters were longe in debatinge, and before theie were wele resolved upon, at ix howers at night, by iij herauldes at sonde of the trompet, he was proclaimed Kinge; thys was the night before the mariage. This day, mondaye, at xii. of the clocke, the Lords, all that were in thys towne, were present at the proclaiminge of hym agayne.'³

The Privy Council does not particularise the officers to whom it directed the ordinance for the proclamation of 'the King's authoritie' on 30th July, 1567, marking James's accession to the throne of Scotland.⁴ But on 31st March, 1603, marking James's accession to the throne of England, he sent his proclamation of that event

'Officers in that part . . . constitute' = officers hereby commissioned for the purpose of carrying the order into execution.

¹ *Privy Council Register*, 28th July, 1565, i. 345-6.

² Letter, Thomas Randolph to the Earl of Leicester, dated Edinburgh, July 31, 1565, *per* Ellis, *Original Letters*, 1st Series, vol. ii. 202.

⁴ *Privy Council Register*, i. 543.

to the 'officers of armes, sheriffs in that part,' charging them as Queen Mary had done in 1567, to make 'publicatioun heirof be oppin proclamatioun.' . . .¹

Calderwood records that 'the King wes proclaimed King of England, Scotland, France and Ireland at the croce of Edinburgh upon the last of March; which was done with noise of trumpets, playing upon instruments, singing and great acclamation of the people.'²

On 31st March, 1625, on the accession of King Charles I., the Scots Privy Council ordered the proclamation 'of his sacred majesties authoritie and his just laughfull and undoubt right by lineall succession . . . whilk proclamatioun . . . was accordinglie made and than instantlie publist at the mercat cros of Edinburgh with sound of trumpetts, displayed coattis of armeis and all otherissolemnities requisite . . .'³

The Register of the Edinburgh Town Council has no reference to the proclamation, although, on the day after, it has a minute which begins with a phrase doubtless borrowed from it: 'Since it has pleased God to call to his mercy upon the twentie sevin of Marche laste owre late Sovereigne King James of famous memorie.' On this preamble the Council 'ordain their Treasurer to caus hing the Kyngis loft in the gritt Kirk with blak'; in other words, the Royal gallery in St. Giles.

The proclamation of the accession of King Charles II., which was made in Scotland on 5th February, 1649, immediately on the arrival of the news of his father's execution, was the most formal, solemn, and most exactly recorded proclamation that was ever made in Scotland. The Estates of the Parliament had adjourned on the third of that month, to meet again on the sixth, but on receipt of news of the King's execution the members convened on the fifth, passed an Act declaring their proceedings regular (cap. 51), and proceeded at once (cap. 52) to 'Proclaim and declare to all the world that the . . . Lord and Prince Charles is . . . King of Great Britain France and Ireland. . . . For testification of all which Wee the parliament of the Kingdome of Scotland publish this our dew acknowledgement of his just right title and succession to the Crown of these Kingdomes at the Mercat Croce of Edinburgh with all usuall solemnities in the lyk cases. . . . And command this act to be proclaimed at all the mercat croces of the Royal burghes within this Kingdome, and to be printed that none may pretend ignorance thairof.'

To this the Estates of Parliament added a further 'Act (cap. 53) anent the solemnities to be kept in reading and proclaiming the proclamation above written.' It ordained that the market cross should be 'all covered with hangings,' that the guard of the town should line the way from the Parliament House to the Cross,⁴ and about

¹ *Privy Council Register*, vi. 552-4.

² *Calderwood's History*, vi. 210.

³ *Privy Council Register*, 2nd Series, i. 2, 3; *Edinburgh Town Council Register*, vol. 13, f. 278.

⁴ A distance of about a hundred and twenty yards. The 'Cross' was an octagonal tower-like building, standing in the fairway of the High Street. Its platform, reached by an inside stair, was twelve feet above the level of the street, and was surrounded by a parapet about a yard in height. From the centre of the tower rose the tall shaft of the cross proper.

the same, that the whole members of the Parliament should proceed in a double file from the House to the Cross, and stand round about the Cross, the nobles in the middle, the commissioners for the shires on their right, and the commissioners for the burghs on their left. The Act then ordained that after 'thrice sound of trumpet' the Lord High Chancellor, John Earl of Loudoun, should go upon the Cross, 'and read the said proclamation, and ane herald,' accompanied with his brethren heralds to proclaim the samyne.' It was the invariable method down till after the proclamation of King George III. that two officers should act together, the first reading the proclamation to the second, and the second proclaiming it to the people. The Act proceeded still further by ane warrant to the Lord Advocate, Sir Archibald Johnstoun of Warieston, to go likewise upon the said Cross, in order to take instruments upon the reading and proclaiming of the proclamation in the hands of the Clerk of Parliament, Sir William Scott of Clerkingtoun, who, for that purpose, was also ordained to be upon the Cross. The Parliament left nothing undone to secure the effectual and orderly execution of its Act. It ordained that the Provost and Bailies of Edinburgh should 'mak patent the doore of the samyne Croce'; and that, the proclamation having been made, the members of the Parliament should return to the Parliament House in the order in which they had come; and that the whole bells in the town should be tolled and the cannon in the Castle fired.

The proclamation thus elaborately prescribed was executed at twelve o'clock that day.

It is also recorded in the record of Parliament that on the Lord Chancellor craving admission to the Cross, 'it was enquired be the Provost and Bailies of Edinburgh what his Lordsh^{ip} was going about to doe, Who answered To proclaime Charles the Second King of Britain France and Ireland.' Immediately, says the record, the Provost and Bai^{lies} testify their approbation therto Did open the Doore of the Said Croce,' and caused the way to it to be cleared. After this ceremony of granting the use of the Cross, the Provost, Sir James Stuart, who was a commissioner to Parliament, took his place, as the Parliamentary record of the proceedings shows, at the side of the Cross with the other commissioners for the burghs.

The accounts of the forms prescribed and the forms actually observed in succeeding Proclamations of Accessions are none of them so detailed; nor in point of form are any of the ceremonies, save one, of the high authority of an Act of Parliament.

On the occasion of the demise of King Charles II. in 1685, an express arrived in Edinburgh at one in the morning of the 10th of February. The Privy Council met at Holyrood House between two and three, resolved that King James VII. should be proclaimed before noon, framed the proclamation, and ordered the Lyon King-of-Arms, the magistrates of Edinburgh, and all others concerned, to be summoned. Between

¹ There is evidence in the record of the day's proceedings that there was some difficulty in finding enough heralds to make a proper appearance. Some of them being out of town, the Parliament had to make a temporary herald to supply for the occasion the place of one of them.

ten and eleven the Council met again, read and signed the proclamation, and proceeded to the Cross of Edinburgh, where it was published 'by the mouth of the Lord High Chancellor.'¹

The *London Gazette* records that the Lord Provost, Magistrates, and Town Council of Edinburgh, 'in their formalities,' marched bareheaded next to the Lyon and Heralds in their coats of arms displayed; then the Lord Chancellor, etc. But the Register of the Town Council itself, after recording the resolution of the Council to take part in the procession at the Lord Chancellor's proclamation, adds that immediately it is over the Magistrates and Council appoint a proclamation to be made by tuck of drum, 'in our present Sovereign Lord King James the Seventh his name and authority, and in name and authority of the right honourable the Lord Provost, Bailies and Counsell.' In the meantime, immediately after the proclamation by the Chancellor, a Royal proclamation was made by Lyon of the continuance of all officers in their offices. In this case, similarly, the words must have been given to Lyon by some one, possibly the Clerk of Council again.

The proclamation on 11th April, 1689, of William and Mary, was made as that of James VII. had been, by the direct intervention of the Estates of the Realm. Their Act, after a preamble, runs that the Estates 'do statute and ordain that William and Mary, King and Queen of England, France and Ireland, be accordingly forthwith proclaimed King and Queen of Scotland at the Mercat Cross of Edinburgh by the Lyon King at Arms or his Deputs, his Brethren heralds macers and pursevants, and at the Head Burghs of all the shires, stewartries, Bailliaries and regalities within the Kingdom by messengers at Arms,' which proclamation was ordained to be published at the mercat cross of Edinburgh immediately after adjourning of the meeting.² On this occasion we may suppose that the proclamation was made by the mouth of one of the heralds or pursuivants, the Lyon King 'giving him the words.'

The Register of the Privy Council is more precise in its account of the proclamation of 13th March, 1702, of the accession of Queen Anne, which, it records, was prepared and signed by the Council, and the same day, between three and four in the afternoon, proclaimed from the market cross of Edinburgh 'by the mouth of the Lord Chancellor, the Clerk of Council giving him the words,' the Lyon King-of-Arms and his brethren Herald, Macers of Privy Council, Pursevants, etc., being present. The Royal proclamation enabling all ministers of state and other officers to continue to execute their offices was then made, and this was done 'by the Lyon King at Arms, the Clerk of Council giving him the words.'

This was the last proclamation of a monarch made in Scotland before the Union of

¹ *P.C. Register, Acta*, 10th February, 1685. The record omits to say what official gave the Chancellor the words; possibly, as we shall see when we come to consider the proclamation of Queen Anne, it was the Clerk of the Privy Council. He had written the proclamation, and could therefore read it best.

² *A.*, 1689, cap. 29, *Acta Parl. Scot.* Record ed. ix. p. 41, and 1689, cap. 35; *ibid.* ix. p. 43.

the Kingdoms of 1707. The death of Queen Anne in 1714 was followed by the first Royal accession which occurred after the Union, namely, the accession of King George I. On 1st August a concourse of the late Queen's principal subjects, official and other, including the Lord Mayor of London, assembled at St. James's Palace, and there, describing itself as 'the Lords Spiritual and Temporal of the Realm, assisted with those of Her late Majesty's Privy Council, numbers of other gentlemen of quality, and the Lord Mayor, Aldermen and Citizens of London,' 'with one full voice and consent of tongue and heart,' did 'publish and proclaim' the prince to be King, signed the proclamation, and gave it over to the heralds to proclaim, which they did firstly at the gate of the Palace at St. James, secondly at Charing Cross, thirdly at Temple Bar, fourthly at the end of Wood Street in Cheapside (for the place of the old cross of the Chape), and lastly at the Royal Exchange.

News did not travel fast in those days, and it was only on the 4th of the month, about twelve in the night, that an express arrived in Edinburgh at the house of the Lord Justice General, the Earl of Islay, with the announcement of the Queen's death, and orders, says Rae, the historian, who was in Edinburgh at the time, to proclaim King George. But it is incredible that the Lord Justice General, an officer with a general commission, received an order to make the proclamation and omitted to make it, electing rather to subscribe the proclamation to be made by a merely local official. A copy of the proclamation of the King, which had been made by the lords, gentlemen, and others in London, was certain' sent to the Lord Provost of Edinburgh 'with orders to proclaim the King there'; and from the conduct of the Lord Justice General and other great officers, who must have known of the forms used at the proclamation of Queen Anne, and that no proclamation of a King had ever been made by a Lord Provost or any officer of local jurisdiction, it is clear that they felt they must be content to give, if they could, the appearance of a national proclamation to a function which was in reality purely and merely local.

The occasion was unprecedented. The movements, therefore, of the actors on the occasion are interesting. The Lord Justice General immediately summoned 'the rest of the King's servants,' clearly including the Lord Provost, to meet at his house at eight next morning. They met and then repaired to the house of the Duke of Montrose, one of the Lords Justices named by King George in the Instrument of Government. There, says the Town Council Minute Book, they found the Duke with a number of other Scottish peers, whom it enumerates, and 'a very considerable number of gentry, officers of the army and principal inhabitants of this city,' and arranged the manner of the ceremony which they were to perform. The next step of the company was to adjourn to the Council Chambers, 'the Burrow Room,' where they were received by the Lord Provost, Magistrates and Council, the Lord President and Judges of the Court of Session, the Chief Baron and Barons of Exchequer, and other officers, and the whole company signed the proclamation which was to be made to the people of Scotland.

'The Lord Provost,' it must be admitted, played his part with the greatest spirit.

It is not clear whether the orders from London were explicit that the London proclamation was to be read out verbatim to the people of Scotland. The Lords of the Privy Council who dispatched it doubtless took for granted that it would be. But the Lord Provost and his advisers framed a proclamation of their own. It rehearsed the proclamation made at St. James's, and the order transmitted by the Privy Council for its publication by the Lord Provost; then, with a courageous adoption of terms, it proceeded:

'Therefore we the Lord Provost, Magistrates, and Town Council of Edinburgh, being assisted with numbers of Noblemen and other principal gentlemen of quality, do now with full voice and consent of tongue and heart publish and proclaim,' etc.

The proclamation was signed by the Duke, by eighteen or twenty other peers, the judges, magistrates, etc., 'and others of the best affectioned citizens of Edinburgh to the number,' says the Town Council minute, 'of one hundred and twenty-two.' 'Thereafter,' continues the minute, after describing the procession from the Council room, 'the High and Mighty Prince George Elector of Brunswick Lunenburg . . . was with sound of trumpet, proclaimed King of Great Britain, France and Ireland by the Lyon King of Arms, his Deputy, my Lord Provost reading the words of the Proclamation to him.'

This method of reading out the words of the proclamation to the person who was to proclaim was the method handed down from times when proclamations were less easy to read than they are now in their present ample print,² and when it was more essential than it now usually is that the exact words of the announcement should be heard, and heard far and wide. The plan was certainly more favourable to loud and clear speaking than that of the present day, when we have an officer proclaiming while his eyes are on a printed sheet which he holds before him. The superior personage, or the official representing the superior authority, as in the case of the Clerk of the Privy Council, read out the words to the inferior, and the inferior officer, probably also, in the case of the Officers of Arms, the younger man, proclaimed them to the people. The same method of publishing a proclamation was employed in other countries also. When it was abandoned in England we are not aware; but the *London Gazette*, in announcing the proclamation of William and Mary on 13th February, 1688-9, records that Garter King-of-Arms, having received a proclamation, 'and the said Officers of Arms being ordered by the House of Lords forthwith to proclaim the same, York Herald (after the Trumpets had thrice sounded) proclaimed it at Whitehall Gate accordingly (the said Garter reading it to him by periods) in the presence of the said Lords and Commons, and multitudes of people there assembled.'³

¹ Mr. George Warrender, afterwards a baronet.

² The proclamation in question was of course read from manuscript.

³ *London Gazette*, No. 2427.

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The method was in use in Scotland till the year 1902. But latterly its meaning had become obscured; and the practice had degenerated into a form by which two Heralds, each with a copy of the proclamation, read it out sentence by sentence, the second officer repeating the sentence read out by the first before the first proceeded to the next sentence, both officers addressing the people.

The proclamation of 4th August, 1714, came near to being a national proclamation, and it was probably thought by the nobles and great officers who signed it to have as much as possible the appearance of one, if it could not in the hurry of the occasion be made into one altogether.¹ But Mr. Rig, the Sheriff Depute of Midlothian, was not of that mind. He, like the Lord Provost, had received a copy of the proclamation with orders to publish it. Edinburgh, besides being a burgh with a Provost, was the head burgh of his sheriffdom. Mr. Rig was ready to allow one proclamation to do for both town and county; but if it was to be so done, he insisted that it was necessary for him to be personally on the market cross along with the Provost, 'and there read the Proclamation while the Depute Lyon was proclaiming.' The Provost, however, would not hear of it; so the Sheriff mounted the cross after the proclamation had been made by the Depute, to the reading of the Provost, 'and read the Proclamation to the Lyon Deputy a second time.' It is clear that the Sheriff did not consider that the proclamation when read to the official crier by the Provost was sufficiently made to the people of the surrounding country, the sheriffdom of Midlothian, and there the Sheriff was right. As the proclamation itself bore, it was only an act of the Magistrates and Town Council of Edinburgh. In the same way the Sheriff's proclamation was confined to his own sheriffdom. No general proclamation of the accession of King George I. was made in Scotland as it was made at the capitals of England and Ireland. Lyon had no orders from the Government to make any proclamation, but at the request of two local magistrates assisted in making two local proclamations.

The proclamation of the accession of King George II. at Edinburgh on 19th June, 1727, is formally recorded, like that of the previous King, in the Records of the Edinburgh Town Council. It runs that on that day the Lord Provost, who at that time was John Drummond, 'represented that by an express yesterday's night from my Lord Advocate directed to his Lordship and the Solicitor, we had the melancholy account of the Demise of his Majesty King George . . . and also an Order of Council directing his Lordship to proclaim his Majesty King George the Second. Upon its arrival his Lordship advertised such nobility his Majesty's Servants, Gentry, Lords of Session . . . to attend his Lordship in the Town House about eleven of the clock, to which place they accordingly came.' On this, as on the previous occasion in

¹ The proclamation when it came to be printed was headed with the Royal Arms. The first signatories were the Duke of Montrose, the Marquis of Tweeddale, and the other peers, the Lords of Session, and other magnates of the realm who were present, none of whom were necessarily citizens of Edinburgh; the signatures of the Lord Provost and Bailies of Edinburgh came far down in the list; the proclamation, however, ran in their name.

1714, the proclamation rehearsed the proclamation already made in London, and the order to republish it, and continued that 'therefore the Lord Provost, Magistrates, and Town Council of Edinburgh assisted, etc.,' and proclaimed the Prince of Wales King George II. On this occasion, however, the Lord Provost, George Drummond, signed the proclamation first. His signature is followed by that of the Marquis of Lothian and other peers and high officers. The record then relates the proceeding from the Town House to the Cross, how the Trumpeters and Heralds led the way, followed by the Lord Provost and Magistrates, and how the Lord Provost with the mace and sword followed the Heralds up to the Cross, while the Magistrates proceeded to a 'theatre' erected below it, and there received the nobility, Lords of Session, etc. Thereafter, it continues, the proclamation was made by Lyon Depute, 'my Lord Provost reading the words of the proclamation to him.' The record then narrates how that my Lord Provost and his attendants withdrew to the Town House, 'and drank his Majesty and other Loyal Healths,' and that thereafter 'his Lordship and attendants went from the Town House to the Abbey of Holyrood House,' and there again 'proclaimed his Majesty and drank his Majesty and other Loyal Healths.'

There is no word in the record of the Sheriff Depute of Midlothian, but he, or rather his principal, took a proper part in the proceedings on the next occasion—the proclamation of King George III. The Town Council record bears that on Tuesday, 28th October, 1760, the Lord Provost had intimation and orders sent to him similar to those of former occasions, and that he thereupon dispatched letters to the 'nobility, Lords of Session, Barons of Exchequer, and Gentry in this city and neighbourhood,' requesting them to attend his Lordship in the Parliament on Wednesday the 29th, 'at three o' the clock afternoon to assist' at the proclamation. They accordingly attended. The market cross had been abolished some years before, the Edinburgh Town Council being too much up-to-date to tolerate such relics, but the record describes the order of the procession to 'the Balcony in front of the new Exchange.' The Heralds and Pursuivants, ushered by the Household Trumpets and the Usher of the White Rod, led the way. 'Then followed the Lord Provost, accompanied by the Right Honourable the Earl of Lauderdale, High Sheriff of the County of Midlothian, on his left hand,' the Magistrates and Town Council behind them, and the city mace and sword in front. The noblemen, Lords of Session, etc., came after. Both Lyon and his Deputy were absent, but the King was proclaimed by one of the Heralds, 'the Lord Provost and the Earl of Lauderdale respectively reading the words of the Proclamation. . . . From thence they proceeded to the Castle gate, where His Majesty was again proclaimed by one of the Heralds, the Earl of Lauderdale having read to him the Proclamation as High Sheriff of the County.'¹

The first three accession proclamations after the Union of the Kingdoms were

¹ The Castle of Edinburgh and its esplanade, though surrounded by the city, are no part of it.

thus essentially the same, in so far that the proclamation was sent down to the Lord Provost of Edinburgh with an order to him to publish it, and that the Provost invariably executed the order by assembling such nobles, great officials, and others of the realm as he could, and read the proclamation piece by piece to the King's official Herald, who proclaimed it to the people. After the last of these occasions occurred a reign of well-nigh sixty years. It is not surprising to find that when the accession of George IV. came to be proclaimed the town official should have blundered in it: the Heralds themselves were at fault, which was more inexcusable.

The Magistrates and Town Council of Edinburgh have preserved no record of their own of the procedure at that proclamation. The only record of the proceedings which they have is a Report¹ drawn up by Sir Patrick Walker, Gentleman, Usher of the White Rod, which they have engrossed as the Report of that gentleman in their minutes. The proclamation was made on 3rd February, 1820. The Report hears that 'the Lord Provost read the Proclamation from the balcony (of the Royal Exchange) to the people, and the Heralds proclaimed the style and titles of his Majesty King George the Fourth with a flourish of Trumpets. . . . The procession moved to the Castle Hill . . . where the same form of Proclamation and cheering was followed as had been done at the Royal Exchange, with this only difference, that the Lord Provost did not read.'² But when we turn to the more workmanlike report in the *Caledonian Mercury* (an Edinburgh newspaper now extinct) we learn that 'the Proclamation was read by the Lord Provost and Heralds respectively, after which the Heralds proclaimed the style and titles of His Majesty King George the Fourth three several times, each time with a flourish of trumpets.' The newspaper continues that the part taken by the Provost at the Exchange was taken at the Castle Hill and at Holyrood by the Sheriff, and by the Sheriff-Clerk at Leith.

It thus appears that the Provost and the Herald had each a copy of the proclamation. The Provost erred by reading the document to the people instead of to the Herald: and the Herald, if he had any choice, erred similarly by reading the document to the people instead of taking the words of it in periods from the Provost. The accounts of the ceremony do not say whether the proclamation on this occasion was read through by the Provost before the Herald began. But there is no reason to suppose that this was done: though the (newspaper) account of the proclamation of the next monarch, King William, in 1830, throws no light on the point—in one paragraph it narrates that the Lord Provost 'read' the proclamation, 'and the heralds proclaimed the style and titles' of the King; and in another paragraph it states that the 'senior herald proclaimed the Sovereign.'³ The *Caledonian Mercury* account of

¹ *Records of the Town Council of Edinburgh*, 9th February, 1820.

² Sir Patrick Walker was a person of the greatest enthusiasm for the magnification of his office, but his accuracy was not commensurate with his activity, and his duties as Usher were entirely foreign to those he essayed to perform under colour of that office.

³ *Edinburgh Courant*, July 1, 1830.

the proclamation of Queen Victoria again, even more so than the official gazette, testifies to the continuance of the form by which the actors in the ceremony read the proclamation in a manner *pari passu*. 'The Queen,' it says, 'was then proclaimed by the Lord Provost and Islay Herald, who read the writ alternately sentence by sentence; it was immediately afterwards re-read by the Sheriff.' The official gazette varies its language as it describes the repetitions of the ceremony so as to render its account almost useless. It announces that at the Edinburgh Exchange the proclamation was first read by the Provost and 'afterwards repeated' by the Sheriff 'and responded to' by Islay Herald; that at the Town Hall of Leith the proclamation was read 'first by the Provost of Leith, then by the Sheriff,' and was 'repeated' by Islay; and that at the pier and shore of Leith it was 'again read by the Provost of Leith and Sheriff Substitute assisted' by Islay.

We must take it as practically certain that at all the places of proclamation of the Queen's accession, the proclamation was read out sentence by sentence by some local official and a Herald, the local official reading each sentence first and the Herald repeating it.

On the occasion of the proclamation of the accession of King Edward VII. on 25th January, 1901, 'the State Trumpeters, Pursuivants, Heralds, Lord Lyon King-of-Arms, the Sheriff and Lord Provost . . . having proceeded to the balcony of the Cross,¹ which was draped in black,² the Lord Provost called upon the Lord Lyon to read the Proclamation which he did, and was responded to by Unicorn Pursuivant.'³

It was said sometime afterwards, that on this occasion the Provost had meant to perform the whole ceremony alone, both to read and to proclaim with his own voice had his health permitted. But even with all allowance for the loss, during the long reign of Queen Victoria, of the tradition of the parts played by the Lord Provosts on former Royal Accessions, the saying bears the mark of an imagination of a later birth. A proclamation from the Cross of Edinburgh by one single person was not known till 1902, when the Heralds introduced the practice in ordinary Royal Proclamations. The Royal Accession of 1901 was proclaimed and 'responded to' at the Castle and Holyrood; and even at Leith, where no Officer of Arms performed any part in it, it was 'read' by the Provost of Leith and 'responded to' by a Sheriff Substitute of the County of Midlothian!

¹The market cross had been re-erected some years previously, the gift of the late Mr. W. E. Gladstone, then Member of Parliament for the county of Midlothian.

²Very doubtfully correct for such an occasion.

³The *Edinburgh Gazette*, 29th January, 1901. The Lyon was the present holder of that office, Sir James Balfour Paul. The pursuivant was the late Mr. S. M. Livingstone. The present writer, who was in attendance as a member of the Bodyguard, vouches for the fact that the voice of Lyon, who was in theory reading to Unicorn only, was heard far and wide, whereas Unicorn's voice, which was meant for the people, was lost in his paper.

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After the proclamation of 1901 the question of the ceremonial was raised in the public press and otherwise. It was strongly urged on the one hand that the Provost was the recipient of the order to make the proclamation, and might make it as he liked: and on the other hand it was argued that the proclamation was, or ought to be, addressed from the capital to the nation, and therefore could be made only by an officer of general and not local commission, and that the King's Heralds were the officials expressly appointed for the purpose.

On 8th May, 1910, an Order in Council was issued ordaining that the proclamation of the Royal Accession to be made in Edinburgh should be sent to the Lord Provost, who should make it with the assistance of Lyon King-of-Arms.

It must be assumed that the Privy Council, when it issued the Order, had no other method of proclamation in its mind than the old-established method, by which two persons divided the work of reading and proclaiming, and meant that the Provost should read the proclamation to Lyon and Lyon proclaim it to the people. But on 10th May, 1910, the day of the proclamation of his present Majesty King George, the Lord Provost disobeyed it. He read the proclamation without the assistance of Lyon or anyone.

From a national point of view the Provost's proclamation was a mistake; from the Edinburgh municipal point of view it was a blunder. By the Town Council permitting its Provost to become himself the crier of a proclamation they reduced the city for the occasion to the rank of a provincial burgh. The distinction between the capital and the provincial burgh in the matter of national and Royal Proclamations is that these proclamations in the capital are made by the King's officers, whereas in the provincial burgh the chief magistrate makes them; of that the settled practice in capitals, the practice in Edinburgh till 1910, and in London and Dublin till the present day, are illustration enough.

Whatever may be said of the Accession proclamations actually made in Edinburgh from the Union till the year 1910, it has to be said that the proclamation made in that year by Order of the Privy Council was neither meant nor executed as a national announcement.

A national proclamation was in fact made, but it was made by Lyon at his own hand. It has here to be noticed that the Sheriff of the Lothians, who like the Lord Provost had received a copy of the London proclamation, with orders to repeat it within his jurisdiction, executed his duty in the only manner proper in presence of the modern practice of the Officers of Arms, by which the Officer who proclaims does so without having it dictated to him.

After the Lord Provost had descended from the Cross platform, the State Trumpeters, Pursuivants, Heralds, Lord Lyon King-of-Arms and Sheriff having ascended, the Proclamation was, after a fanfare of trumpets, made to the people of the Kingdom of Scotland, and at request of the Sheriff to the lieges of the County of Edinburgh, by Lord Lyon King-of-Arms, who thereafter did proclaim the style and

titles of His Majesty, with a flourish of trumpets from the State Trumpeters, a Royal Salute from the Guard of Honour, and another Royal Salute of twenty-one guns from the Castle. Thereafter the Lord Lyon King-of-Arms called for three cheers for His Majesty, which were enthusiastically given by the vast assemblage of spectators.

The proclamation was subsequently made by Lyon at the gate of the Castle, by Rothesay at the door of the Palace of Holyrood house, and by March and the Provost of Leith at the Pier and Shore of Leith.

APPENDIX XI.

THE SUMMONS TO THE GOVERNOR AND GARRISON OF A ROYAL FORTRESS TO OPEN ITS GATES TO THE KING;

As delivered to the CASTLE of EDINBURGH on the occasion of the semi-state entry of KING EDWARD and QUEEN ALEXANDRA on 13th May, 1903.

In ordinary circumstances the Officers of Arms and the State Trumpeters should have been in attendance on the Majesties in their progress to the Castle from the Palace of Holyrood; but it was arranged that they should be in waiting on the Castle Esplanade on their Majesties' arrival there. On their Majesties' arrival with their escort, Lyon asked and received from the King a command to summon the Castle to open its gates. Lyon and other Officers of Arms then advanced to the drawbridge, and the trumpets sounded a summons. A sentry on the battlements above the guard-house challenged, 'Halt, who goes there?' Lyon replied, 'Lyon King-of-Arms!' The sentry: 'Stand, Lyon King-of-Arms, advance one and give the parole.' March, the senior Pursuivant, advanced and was received at the wicket, when he gave the word. On his return Lyon said: 'By command of King Edward I summon the Castle of Edinburgh to open its gates to the King.' The sentry: 'Advance the King, all's well.' On this the gate of the Castle was immediately thrown open, a Royal Guard of Honour, accompanied by the band of the regiment, doubled out and formed up on the north side of the esplanade. They were followed by the Governor and his staff, the Governor with the Castle keys. The National Anthem was played. The Governor of the Castle then presented the keys, and, after the usual military formalities, led their Majesties into the Castle. The Officers of Arms, with the Castle Guard and the Royal Escort, remained on the Esplanade till their Majesties' return and departure.

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The Summons on the occasion of the semi-state entry of their Present
Majesties KING GEORGE and QUEEN MARY, on 18th July, 1911.

On this occasion the ceremony was in its essentials the same as at the Royal visit
of 1903. The Officers of Arms rode in the Royal procession on their Majesties'
state entry into Edinburgh, but not in the progress to the Castle.

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