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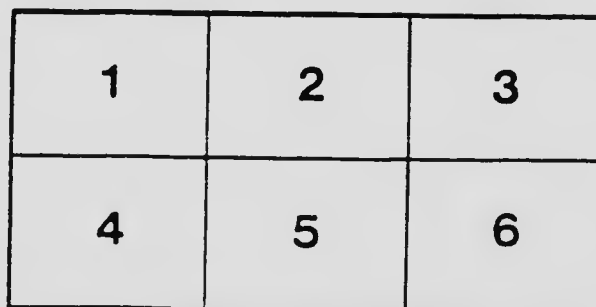
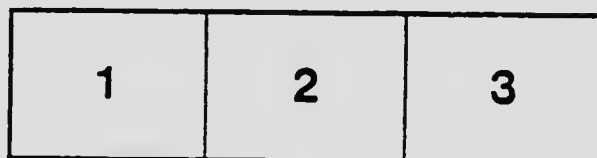
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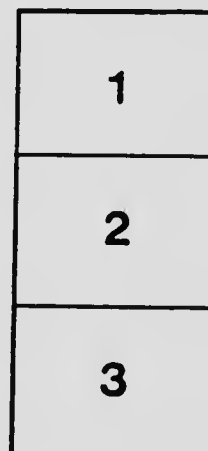
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HERALDRY IN SCOTLAND

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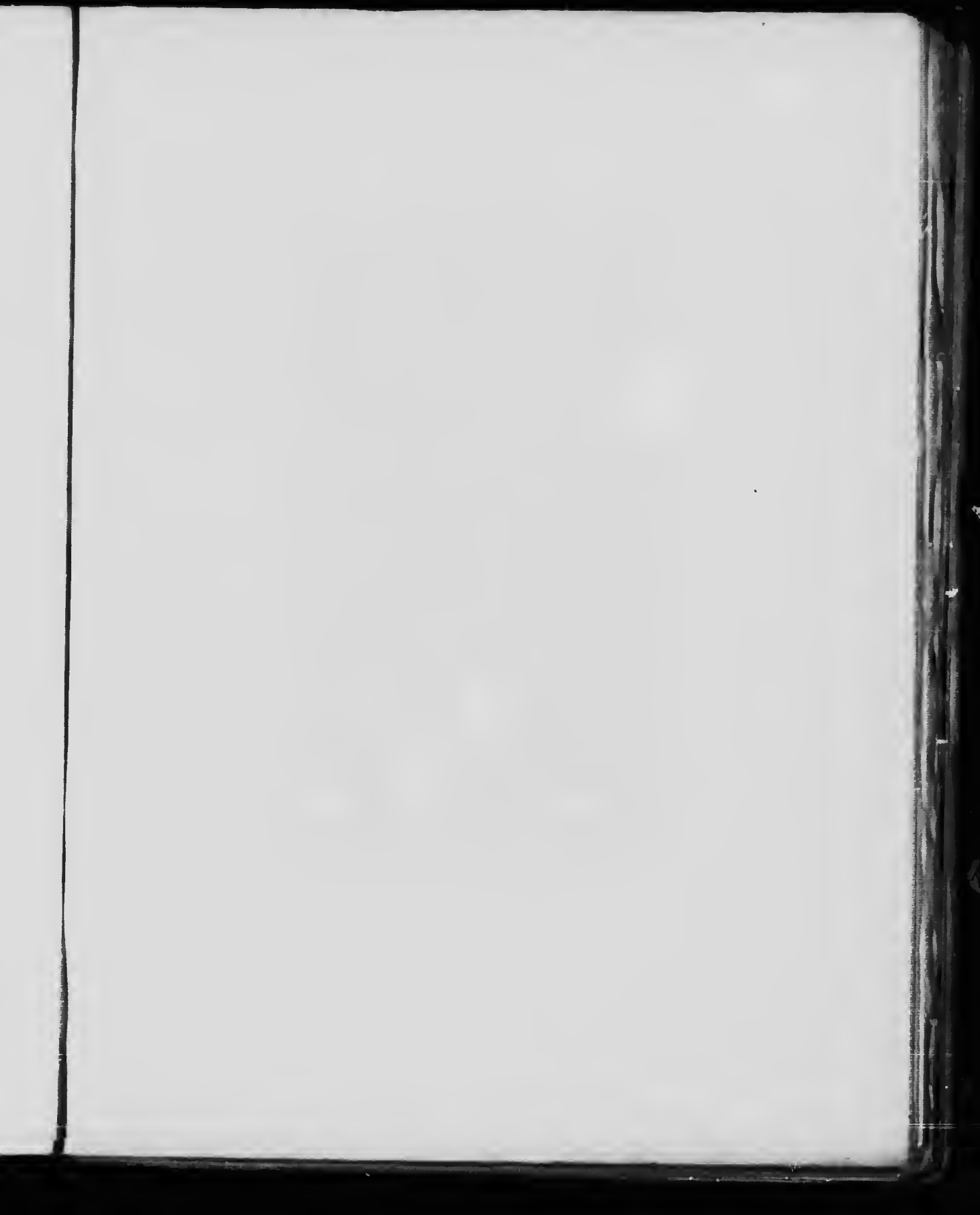
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THE ROYAL ARMS OF SCOTLAND

Carved on the west front of the Abbey Church of St. Andrew, Dundee.
Reproduction of relief by D. Y. Cameron, R.S.A., 1911.

THE ROYAL ARMS OF SCOTLAND

Carved on the west-most buttress of the Abbey Church of Melrose. Photogravure reproduction of etching by D. Y. Cameron, A.R.S.A., A.R.A., I.L.D.





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 I

GLASGOW
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1914

119410

PREFACE.

The Law and Practice of Heraldry in Scotland, which issued from the facile pen of the late Mr. Seton in 1863, marked an era in the literature of its subject, and in no long time went out of print. Its learned author, however, though naturally gratified by the high estimation which his work had continued to enjoy, decided not to reprint it; but, in view of the extensive additions to the materials available to the student of the subject, which had been made in the interval which had elapsed since the appearance of the publication of his work, he resolved to issue a new book which should contain all that was still useful in the original work and as much additional matter relative to its subject as was compatible with a general adherence to the style and method which he had already adopted with such acceptance.

For the purpose at the same time of leaving his original treatise, capable as it was of being referred to without qualification under its original title, he desired that the new work should be issued under a new name. After consideration, he expressed a preference for the title of 'Heraldry in Scotland'; and, although Mr. Seton died before coming to any final decision on the subject, that title has been adhered to.¹

In the meantime, Mr. Seton had done the present writer the honour of inviting him to take the labouring oar as well as all the responsibilities in connection with the preparation of what was to be in large measure a new work. In anticipation of some such undertaking, Mr. Seton had made a

¹ In this matter the objection to the inconvenience of requiring to cite two works with such relations to each other as 'First Edition' and 'Second Edition' deservedly received its weight; but the present writer confesses that he has been somewhat reluctant to omit from the title the original words 'Law and Practice,' which seems to designate the present work with as much precision as any other.

number of notes. He had also made an analysis in several respects of the contents of Mr. Henry Laing's Supplementary Volume on Seals, which had appeared since *The Law and Practice* had been printed. He had carefully preserved a large collection of letters dealing with various matters heraldic which he had received, mostly on the occasion of the appearance of his book. All these and the very delicately executed wood-blocks used in that work, which he naturally desired should be used again, he handed over to the writer for the purposes of the new undertaking. It is to be observed that, owing to the scale on which most of these wood-blocks were made, each of the tressures is represented by a single line. The royal tressure consists, as is known, of two very narrow tressures, parallel and close to each other, flory and counter-flory, the field but not the fleur-de-lis being seen between the tressures.

That work, the issue of which, from various circumstances relative at one time to Mr. Seton, at another time to the writer, has been long delayed, was sufficiently advanced in Mr. Seton's lifetime to allow him to see and approve of its first and second Chapters. With regard to these it is therefore unnecessary in a Preface like the present to say more. But with regard to the subsequent chapters it is proper, out of respect to Mr. Seton's memory, as well as for the sake of any authority with which the statements which they contain may claim to have been made, to state, that on most if not all of the few points on which the present and former volumes appear to contradict each other, the writer had the advantage of conversing with Mr. Seton and of finding that, on consideration, they were of the same opinion.

No relevant matter written in 1863 (unless it has become obsolete) has been omitted, though some had to be curtailed to make room for more important additions, or because of the exigencies of space. The scope of the original work will be found, therefore, to be in no respect diminished. On the contrary, it is in some parts enlarged.

In dealing with the early law and practice of heraldry, we have freely cited several famous causes which have been litigated in England, because at the dates to which these cases belong, the law of both lands in these matters was the same. Mention of these minor differences between the armorial

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practice of the two countries, which now appear in their respective estimations and uses of certain heraldic bearings which are common to both, does not come within the scope of this work. And it is hoped that, in dealing with those differences which exist or seem to exist in matters of heraldic right, the law of England has been correctly stated.

It is impossible to close this prefatory note without returning thanks for the assistance which we have received. to Sir James Balfour Paul, C.V.O., LL.D., Lyon King of Arms, for the very kind interest he has taken in the work, and specially for reading the proofs of some parts of it which dealt, among other things, with the jurisdiction of his office and other points of the law; also for communicating a copy of the Report on Lyon Office which constitutes Appendix No. III., and for permission to reproduce several armorial emblazonments from the Register of Arms, and photograph several seals in the Lyon Office collection, and the insignia of his office; to Mr. F. J. Grant, Rothesay Herald and Lyon Clerk, to whom we are indebted for the Lists of the holders of the Offices of Lyon and Lyon Depute, and Lyon Clerk and Lyon Clerk Depute;¹ for very kindly reading some of the parts of the book in which, among other things, the practice of Lyon Office and the duties of its officers is dealt with.

We have to acknowledge great obligations to Mr. R. K. Hannay, Curator of the Historical Department of the Register House, for the very great facilities he was good enough to grant for the photography of charter seals, both casts and originals, for use as illustrations; we have also to thank Mr. C. W. Yule, the Assistant-Curator, for his ever-ready assistance in enabling us to take advantage of the leave thus accorded. The extent of our obligation to the Historical Department may be measured when it is known that almost the whole of the reproductions of armorial seals, which occupy ten of our plates, are taken from the casts and originals there deposited.

To Sir Malcolm MacGregor of MacGregor, Baronet, we tender our best

¹ The names in the lists of Lyons and Lyon Deputes will be found to be numerous than those in the Appendix of biographical notes of the holders of these two offices which appeared in the original work, and which, with some regret, we are obliged to omit owing to want of the space requisite to make it sufficiently complete.

thanks for leave to reproduce in photogravure what is perhaps the earliest Scottish plate decorated with armorial shields in enamel, namely, the print or centre-plate of the Bannatyne Mazer, not hitherto reproduced in any book. Mr. W. Moir Bryce we have also to thank for placing at our disposal his photograph of the miniature of Isabella of Scotland, Duchess of Brittany (plate xxvi.), found in her copy of *La Somme des Vices et des Vertus*, till now reproduced only in his own erudite work on the Grey Friars of Scotland. The Council of the Society of Antiquaries of Scotland, and its Secretary, Mr. A. O. Curle, we have to thank for the facilities accorded for illustrating the early chessmen to be seen on plate xxvii. and the matrices of seals to be seen on plate vii. Similarly we have to express our indebtedness to Mr. D. J. Vallance, Curator of the Royal Scottish Museum, and to his Assistants for their great kindness in connection with the photography of the Rubbings of English Brasses which constitute plate xi. Mr. Rae Macdonald, Albany Herald, we have to thank for placing casts of seals at our disposal and for other acts of kindness, and Mr. John Fleming, Glasgow, for allowing us to have a number of his photographs. Mr. James Craig Annan, has given valuable personal help in overcoming various difficulties of illustration.

To Mr. D. Y. Cameron we offer our special acknowledgments for his great kindness in agreeing to grace this work with an etching of the remains of what he himself and both author and publisher consider to be the finest known example of the Royal Arms of Scotland of any early date—the achievement carved on the west-most buttress of the Abbey Church of Melrose; and both the artist and the author are indebted to Mr. James Curle, Melrose, for his advice and practical help in lightening their labour in connection with this etching.

Finally, to Mr. James MacLehose, for the assistance he has given through all the difficulties of the long and intermittent periods of the preparation of this work, I owe more thanks than he will permit me to express.

J. H. STEVENSON.

January, 1914.

MR. SETON'S PREFACE TO THE ORIGINAL *LAW AND PRACTICE OF HERALDRY IN SCOTLAND*, PUBLISHED IN 1863.

THE author has long been of opinion that the alleged 'contempt of scutcheons' is not so universal as is usually represented, and that, even where the sentiment is expressed, it is frequently not very genuine. Many sounder hearts than Voltaire's, and many wiser heads than Lord Chesterfield's have revered, instead of ridiculing, the armorial traditions of Europe; and in these days of crumbling Republics, the favourite theories of the Utilitarians are passing into wholesome obscurity. What is the use of it? or, what is it worth? are questions which are not so universally asked as formerly; and the principles of those heartless, short-sighted philosophers who would estimate everything under the sun according to its money value, seem to be gradually falling into disrepute. Under these hopeful circumstances, and notwithstanding Professor Innes' friendly '*Requiesca*;' the author has made a humble attempt to rescue the 'Noble Science' from the 'tender mercies of the lapidary and the coach-painter,' at whose unsparing hands it has certainly met with many painful indignities.

A considerable portion of this volume was written, without a view to publication, several years ago, when its completion was unavoidably abandoned; but the author was induced to resume his labours, and in consequence of the unexpected encouragement which he received, his manuscript has at length assumed its present shape. Various circumstances, over which he had no control, have retarded the appearance of the work, the preparation of which was more than once suspended for several months together; and he may state, moreover, that he has gone much more fully into certain branches of the subject than was originally contemplated. On the whole,

PREFACE

he has adhered pretty closely to the arrangement proposed in his prospectus. While he has thought it expedient to omit an intended chapter relative to armorial bearings as a source of revenue, he has introduced a pretty detailed account of Scottish Heraldry as illustrated by Seals, besides a chapter on the Royal Arms in Scotland, and other minor additions. He has also devoted a considerable amount of space to the subject of change of Surname, which has recently excited a good deal of public interest. Besides a comprehensive list of Contents, he has prepared a copious Index, which he ventures to hope will prove serviceable.

In the selection of his examples, the author has always endeavoured to introduce the most apposite illustrations; and if it should be considered that too much prominence has been given to certain surnames, he has merely to remark that, independently of his greater familiarity with the relative bearings, it so happens that the pages of both Mackenzie and Nisbet abound with references to the Heraldry of the Houses in question.

He trusts that it is quite unnecessary for him to disclaim any intention to cause offence in his strictures on what he considers to be heraldic irregularities; for most of which, indeed, the Authorities of the Lyon Office are responsible, and not the families by whom these irregularities are exhibited. In his anxiety to avoid such a result, he at one time entertained the idea of resorting to what lawyers call the 'A.B.' system of illustration; but he soon found that a hypothetical mode of treatment was not calculated to explain his views with sufficient clearness, and that the actual mention of names was desirable, if not absolutely necessary.

With reference to the Dedication, the author thinks it right to state that, in accordance with the permission of the lamented Lord Eglinton, he hoped to have published the work under his Lordship's living patronage, but—*dis aliter visum*.

He embraces this opportunity of acknowledging the valuable assistance he has received during the progress of the work, more particularly from Lord Lindsay,¹ Mr. David Laing, Mr. William Fraser of the Register House, and Mr. William Anderson of the Lyon Office. He also begs to express his great obligations to Mr. James Drummond, R.S.A., and

¹ Afterwards Earl of Crawford.

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Mr. Robert Frier, for their ready and skilful aid in the preparation of several of the illustrations.

The author may state that his mode of treatment implies a knowledge of at least the elements of Heraldry; and while he has endeavoured to show that the 'Science' of Blazon is by *no* means devoid of interest, his chief aim has been to make the subject both instructive and popular, without giving undue prominence to those drier and less acceptable details which a treatise on the *Law* of Heraldry must necessarily embrace.

ST. BENNET'S, GREENHILL,
EDINBURGH, 10th March, 1863.

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- | | |
|-----------------------|------------------------|
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| 3. Earl of Carrick. | 9. King of Man. |
| 4. Earl of Fife. | 10. Earl of Moray. |
| 5. Earl of Strathern. | 11. Earl of Lennox. |
| 6. Earl of Douglas. | 12. Lord of Annandale. |

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- | | |
|--------------------------------|----------------------------|
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- | | |
|------------------------------------|---------------------------|
| 1. Sir James Sandelands of Calder. | 9. Sir Walter Halyburton. |
| 2. Sir Robert of Erskin. | 10. Sir Harry of Preston. |
| 3. Lord of Moray. | 11. Sir ——— Comyn. |
| 4. Sir Thomas Erskine. | 12. Sir John St. Clair. |
| 5. Lord of Keith. | 13. ——— Craig. |
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2. Marie de Lorraine ; married 1538.

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NOTE AS TO ILLUSTRATIONS.

All the full-page plates in this volume have been prepared specially for this edition; the illustrations printed on the same pages as the text are those which were engraved for Mr. Seton and used in his 'Law and Practice of Heraldry.' In the drawings and reproductions of shields found on seals, the original scale has not been adhered to: some of the smaller seals have been enlarged, and some of the very large seals reduced in size.

The photogravures and collotype plates Nos. 1, 2, 4, 5, 7 to 11, 15, 18, 22, 24 to 27, 30, 32 to 36, have been prepared by Messrs. T. & R. Annan & Sons, Glasgow; the coloured plates Nos. 6, 12 to 14, 16, 17, 19 to 21, 28, 37, have been printed by Messrs. Alexander Ritchie & Son, Edinburgh; plates 3, 23, 29, 31 have been engraved by Messrs. Hislop & Day, Edinburgh.

The drawings for plates Nos. 19, 20, 23, 31 have been made by Mr. Graham Johnston, Edinburgh, and the drawings for plates Nos. 6, 21, 29, 37 by Mr. J. R. Sutherland, Edinburgh.

CHAPTER I

INTRODUCTORY

If the days of Chivalry have departed, the 'noble Science' of Heraldry which formed one of their most notable characteristics still retains a hold on the sympathies of our countrymen which is by no means inconsiderable. In spite of its apparent anachronism, and the formidable technicalities of its language; and although quite unintelligible, not only to the great mass of the community, but even to many of those who emblazon its multifarious devices on almost every chattel which they possess, the right to bear these varied devices is universally regarded as an essential mark of gentility.¹ Doubtless there are certain of the public who, complacently regarding themselves as the oracles of the age and the advanced guard of social progress, endeavour to persuade their fellows that everything in the shape of rank or distinction is both obsolete and worthless. But their preaching is unheeded, or, at least, practically disbelieved; ordinary mortals exhibit a wholesome dread of that 'creature of civilization' commonly called 'Cant,' which takes so grave a delight in pretending to despise all kinds of honours. Probably the worst of the many phases of pride is that which 'apes humility,'—affecting a contempt for the rank to which it has not been born, and which is certainly quite as indefensible as the folly that worships rank for its own sake. But the study and appreciation of the heraldry of our ancestors, and the well-nigh inseparable subject of genealogy, are not to be confused with the question of the appropriateness of heraldry to a *novus homo*, or the necessity of ancestry to a man who is 'self-made.' And to those who may have

¹ 'There's sma' gentry without that'—Christie Steele *lq.* (Introductory. *Chronicles of the Canongate*, 1832 Edition, p. 63).

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persuaded themselves that the study of these sister subjects is not important to both history and science, we can but reply that there is a great body of opinion against them. 'The more thoughtful a man is,' writes George Macdonald,¹ 'and the more conscious of what is going on within himself, the more interest will he take in what he can know of his progenitors to the remotest generations; and a regard to ancestral honours, however contemptible the forms which the appropriation of them often assumes, is a plant rooted in the deepest soil of humanity.'

Perhaps no more impartial witness can be adduced than James Nasmyth—himself a genealogical curiosity from the antithesis of his name and his fame,—'Nae smith,' yet inventor of the steam-hammer!² 'Our history,' he declares, 'begins before we are born. We represent the hereditary influences of our race, and our ancestors virtually live in us. The sentiment of ancestry seems to be inherent in human nature, especially in the more civilized races. At all events we cannot help having a due regard for our forefathers. Our curiosity is stimulated by their immediate or indirect influence upon ourselves.'³ 'This is an age,' says Robert Louis Stevenson,⁴ 'when genealogy has taken a new lease of life, and become for the first time a human science,' so that we no longer study it in quest of the mythical prince from whom we say, no doubt, we spring, 'but to trace out some of the secrets of descent and destiny; and as we study we think less of Sir Bernard Burke, and more of Mr. Galton. Not only do our character and talents lie upon the anvil and receive their temper during

¹ *Malcolm*, vol. iii. p. 33.

² The tradition is well known; how a fugitive warrior, found in a smithy, was detected and declared by his pursuers to be 'nae smith,' though he had endeavoured his best to play the smith's part. The warrior under this sobriquet became the eponym of his descendants, who took for arms, a hand holding a sword, between two broken hammers, and for a crest a hand holding a hammer with a broken shaft, and their motto *Non arte sed marte*, a motto which the inventor of the steam-hammer may be said to have counterchanged when he substituted—*Non marte sed arte!* The surname may, however, have originally been *Nail-smith*, a name of the well-known trade of *nailer*—a forger of nails (cf. surname Naylor). This suggests a more suitable origin for a family which, in several of its descendants through both male and female lines, subsequently evinced such mechanical instincts.

³ *Autobiography of James Nasmyth*, p. 1.

⁴ *Memoir of Fleeming Jenkin*, p. xii.

generations; but the very plot of our life's story unfolds itself on a scale of centuries, and the biography of the man is only an episode in the epic of the family.'

It would be easy to furnish instances of distinguished men of every rank in life and every bent of mind who have manifested great interest in the study of heraldry and genealogy, men as different, for example, as David Hume and Benjamin Franklin. Leibnitz did not disdain to take an interest in genealogical inquiries, which also occupied the attention of Cecil and Fuller, and amused the leisure of Gray and Gibbon. Referring to the sentiment of birth, the historian of the *Decline and Fall of the Roman Empire* remarks, that 'our calmer judgment will rather tend to moderate than to suppress the pride of an ancient and worthy race. The satirist may laugh, the philosopher may preach; but Reason herself will respect the prejudices and habits which have been consecrated by the experience of mankind.'¹ In speaking of Heraldry and Genealogy as his favourite study, Sir Andrew Agnew used to say, that 'far from ministering to pride, as was sometimes thought, it rather tended to promote humility. It taught him that, while many were, as regarded rank, below him, many were also far above him; and the higher any one rose in family distinction, he argued that it must be the more humbling to think how far he came short of worthily filling his position in society.'²

A limited acquaintance with the principles of Heraldry is of unquestionable advantage to that large section of the community who indulge in the perusal of poetry and romance. The most careless reader of the poets of the Middle Ages, or of the works of fiction of more modern times, cannot

¹ Gibbon's *Autobiography* (ed. 1869, p. 5). In the same work, the author makes the following curious allusion to his armorial ensigns: 'My family arms are the same which are borne by the Gibbons of Kent, . . . a lion rampant gardant, between three scallop-shells argent, on a field azure. . . . About the reign of James I., the three harmless scallop-shells were changed by Edmund Gibbon, Esquire, into three Ogresses, or female cannibals, with a design of stigmatizing three ladies, his kinswomen, who had provoked him by an unjust law suit. But this singular mode of revenge, for which he obtained the sanction of Sir William Seagar, King-at-arms, soon expired with its author; and on his own monument in the Temple Church, the monsters vanish, and the three scallop-shells resume their proper and hereditary place' (pp. 8, 9).

² M'Crie's *Life of Sir Andrew Agnew*, 1850, p. 23.

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fail to have been struck with the richness and variety of the heraldic allusions. In many a page Sir Walter Scott exhibits his genuine sympathy with the 'noble science'; and of his most proper anxiety to be strictly correct in its most minute details, we have abundant evidence in his published correspondence.¹ If, however, in the case of the author of *Waverley*, a taste for heraldic and genealogical investigations was the natural associate of a variety of kindred feelings, we are able to cite an instance of one over whom the glamour of mediæval rank and chivalry cast no spell, and this



is no less a personage than the author of 'A man's a man for a' that.' In a letter to Alexander Cunningham, in 1793, Robert Burns thus expresses himself: 'I lately lost a valuable seal, a present from a departed friend, which vexes me much. I have gotten one of your Highland pebbles, which I fancy would make a very decent one, and I want to cut my armorial bearing on it: will you be so obliging as inquire what will be the expense of such a business? I do not know that my name is matriculated, as the Heralds call it, at all, but I have invented arms for myself; so, you know, I shall be chief of the name, and, by courtesy of Scotland, will likewise be entitled to supporters. These, however, I do not intend having on my seal. I am a bit of a herald, and shall give you, *secundum artem*, my arms.

¹ See Lockhart's *Life of Scott*, chapters xlv., lviii., and lx. (Letters to Mr. Richardson, Lord Montagu, and Mr. Constable); also Hannay's *Essays from the Quarterly Review*, p. 68.

On a field azure, a holly bush seeded proper, in base; a shepherd's pipe and crook saltirewise, also proper, in chief. On a wreath of the colours, a woodlark perching on a sprig of bay-tree, proper, for crest. Two mottoes: round the top of the crest, "Wood-notes wild"; at the bottom of the shield, in the usual place, "Better a wee bush than nae bield."¹

The works of the great English dramatist abound with allusions to the 'Noble Science,' indicative of a thorough knowledge of the subject. Every

¹ The late Dr. Robert Chambers informed us that a seal with these bearings actually cut for the poet, was used by him during the remainder of his life. It is represented, as in our woodcut, but on a much smaller scale, and with an oval border, under the silhouette portrait of its owner in Allan Cunningham's Edition of Burns, viii. 188.

The Poet's arms, or variants of them, did afterwards appear on the Register, where they formed a part of a heraldry which was not without its pathos. In 1837 Dr. James Burnes, his cousin's eldest son, a knight of the Order of Hanover, a distinguished East India servant, and elder brother of the brilliant and intrepid Sir Alexander Burnes, and Charles Burnes, received a grant of arms, destined to himself and the lawful descendants of his paternal grandfather. Of the somewhat elaborate shield which Dr. Burnes received it need only be said that in its base was placed what were described in the blason as 'the well-known device of the Poet Burns.' The crest was: Issuant from an Eastern crown an oak shivered, renewing its foliage; and there were two mottoes: 'Revirescimus' and 'Ruinam salutarunt pro rege.' Four years afterwards, on the 2nd of November, 1841, Alexander and Charles fell, in the massacre of the British at Cabul. For ten years longer the arms and mottoes remained on the Register; then the Doctor returned to the Heralds and obtained a new grant. The 'device of the Poet' reappeared in the new coat, though now placed in an escutcheon on a bend. A second crest was added:¹ "Out of a mural coronet a demi-eagle pierced by a javelin; but the proclamations 'Ruinam salutarunt' and 'Revirescimus' were now omitted, and in their stead was placed only the words 'Ob patriam vulnera passi.'

The 'well-known device' of the Poet has reappeared since in the blason of the arms assigned by Lyon in 1905 to Kenneth Glencairn Burns, Esq., the descendant and representative of a nearer relative of the Poet's—his brother Gilbert; and in this case the device again occupies an escutcheon on a bend.

In none of these entries in the Register are the Poet's mottoes perpetuated, nor is his blason itself entirely adhered to. His shepherd's pipe is turned into a hunting horn, and the azure field has become a field or. In the two earlier entries the holly bush is said to be 'surmounted by' the other charges. The context which designates the device as the 'well-known device of the Poet,' and the accompanying coloured emblasonment, interpret the phrase to mean there that the other charges are higher in the field than the bush. The last entry, of 1905, returns to the language used by the Poet himself.

¹ Perhaps in the circumstances a warrantable grant.

one, for example, must remember the amusing dialogue, with all its personal allusions—not the most respectful, and its heraldic insinuations—none of the nicest, between Shallow and Slender, at the commencement of the ‘Merry Wives,’ regarding the family status of the former, whose successors ‘gone *before* him,’ as well as his ancestors ‘that come *after* him,’ were unquestionably entitled to the designation of *armiger*, besides charging their ‘old coat’ with a ‘dozen white *lucres*.’

An interesting parallel has been drawn between Shakespeare and Scott, with reference to their respective ambitions to found a family, both having had a motive for the idea in the gentle blood which flowed in their veins. In the year 1596, ‘when Shakespeare was getting his head above water in London, his father is found applying to the Heralds’ College for a coat of arms on the basis of family service to King Henry VII., of official dignity, of the possession of property, and the fact of having married a daughter of Arden of Wilmcote; an application which was extended, three years later, to one for the privilege of impaling the Shakespeare arms with those of Arden. There can, of course, be no doubt,’ thinks Chambers, ‘that William the poet prompted these ambitious applications, and designed them for the benefit of himself and his descendants. They take their place,’ he considers, ‘with the investments at Stratford, as part of the ultimate plan of life which the great poet had in view.’¹

Sir George Mackenzie carries the recollection of heraldic principles with him in his most serious contemplations: ‘As the Heraldry of our Reason cannot blason the Soul’s *Impressa*; so can it not help us to line out its Descent.’ ‘In Religion,’ he says again, ‘as in Heraldry, the simpler the Bearing be, it is so much the purer and the ancients.’²

The late Poet Laureate, Lord Tennyson, furnishes numerous examples of his familiarity with the science of Heraldry, and on at least one occasion he exercises his imaginative powers in the production of a piece of blazonry. In one of his charming ‘Idylls of the King,’ the wizard Merlin thus addresses the ‘wily Vivien’:

‘I once was looking for a magic weed,
And found a fair young squire who sat alone,

¹ *Book of Days*.

² *Religio Stoici* (A.D. 1663), cap. xiii. and cap. xx.

INTRODUCTORY

7

Had carved himself a knightly shield of wood,
And then was painting on it fancied arms,
Azure, an eagle rising or, the sun
In dexter chief; the scroll "I follow fame."
And speaking not, but leaning over him,
I took his brush and blotted out the bird,
And made a gardener putting in a graft,
With this for motto, "Rather use than fame."¹

The increasing interest in the study of Heraldry may be fairly inferred from the large number of treatises, devoted to its elucidation, which have lately appeared, and by-and-by the ignorance of a Frank Osbaldistone will



merit, more than ever, the rebuke of his sprightly kinswoman: 'Not know the figures of heraldry, of what could your father be thinking?'²

Without pausing to examine all the causes which contribute to the survival of the institution of arms and to the general estimation in which they have always been held, we may observe that they have been viewed as the 'Shorthand of History,' the pictorial chronicle of days gone by, the evidence of gentle blood, the record of important alliances, the symbolical title to patrimonial rights, and more, their actual proof, a guide in cases

¹ Other adaptations of the emblem of the king of birds looking towards the sun are found in Scottish heraldry. About 1672-7, Monro of Pitlundie received for crest, an eagle gazing at the sun; motto, *caelestia sequor*, and Monteith of Auldathie, an eagle rising, and gazing at the sun, with a motto, *sub sole nihil*. Spottiswood of that Ilk has an eagle displayed, looking toward the sun; motto, *paiior ut potiar*. The drawing for the wood-cut in the text is one of those done for the former edition by the late James Drummond, R.S.A.

² *Rob Roy*, vol. i. chap. x.

of disputed succession. The utility of the science of Heraldry to the historian and the architect has been repeatedly acknowledged, and it is hardly necessary to mention the various ways in which armorial ensigns have proved of material service to the lawyer in matters of genealogy. Not only the seals of charters, testaments, and other documents, but even the blazonings which occur on churches, castles, monuments, banners, pictures, and plate, have often thrown important light upon doubtful questions of marriage and descent. 'Welsh families,' says Grimaldi, 'are more known by their arms than by their names; and even in English families, many persons of the same name can only now be classed with their proper families by an inspection of the arms on their seals, shields, and the like.'¹

'I know three families,' says Bigland, 'who have acquired estates by virtue of preserving the arms and escutcheons of their ancestors.'²

'The antiquity of a church window for the proof of a match and issue hath been delivered to a jury at an assize, and been accepted.'³

In the Harleian ms. No. 1386 is 'the argument of the Officers of Arms against Sir Michael Blount, who endeavoured to prove himself heyre-male of the bodye of Sir Walter, first Lord Mountjoy, from a glasse windowe,' set up in Ives, in Buckinghamshire, in the reign of Henry VII.

Amongst the evidence of the Earl of Huntingdon, received by the Attorney-General in 1818, in support of his claim to the peerage of Huntingdon, there was produced a very old armorial shield, emblazoned with the bearings of Hastings Earl of Huntingdon, quartered with those of Stanley, as evidence of the marriage of Henry, 5th Earl of Huntingdon, to the daughter of Ferdinando, Earl of Derby.⁴

¹ *Origines Genealogicæ*, p. 82.

² See Lower, *Curiosities of Heraldry*, p. ix.

³ Burton's *History of Leicestershire*, 1622; 2nd ed. 1777, p. iv.

⁴ *Huntingdon Peerage*, p. 359. Most of these cases, as well as others of recent date, are referred to in Hubback's *Evidence of Succession*, pp. 694-6. See also Montagu's *Guide to the Study of Heraldry*, p. 35. The Patent of Arms granted by Lyon to John Lord Herries in 1566-7 was adduced by one of the claimants in the Herries Peerage Case in 1854. See *Min. of Ev.* 268 and the Solicitor-General for England's Speech, p. 79. The successful party in the Standard Bearer of Scotland case—Earl of Lauderdale *v.* Scrymgeour Wedderburn, 1910—founded his case in support of his ancestors' propinquity to the head of the house on *inter alia* the bearings on their armorial seals.

A melancholy instance of the use of Armorial Bearings for the purpose of identification

In Scotland, as in Wales, where surnames are comparatively few in number, armorial bearings afford no inconsiderable assistance in authenticating genealogies and in distinguishing the various branches of a widely extended clan. Unaided by the characteristic symbols of the herald, and in the absence of an estate to serve as a designation, who, for example, could ever comprehend the endless ramifications of the families of Douglas, Campbell, or Scott?

In his well-known work on the early history of Scotland, after referring to the great importance of some knowledge of Heraldry to the student of historical antiquities, Professor Innes observes, that 'for the pursuit of family history—of topographical and territorial learning—of ecclesiology—of architecture—it is altogether indispensable.'¹

A still higher and more philosophical branch of heraldic inquiry is adverted to by Lord Lindsay in one of his Letters on the sculpture of the Lombards. In noticing the emblematical character of griffins, lions, and other monsters, as they appear in the porches of churches and on the roofs of cathedrals, he alludes to their ultimate adoption by the Italian States as *crests*, and also to their retention, to the present day, as the *supporters* of royal and noble escutcheons, all over Europe. 'Heraldry,' he continues, 'is in fact the last remnant of the ancient symbolism, and a legitimate branch of Christian art; the griffins and unicorns, fesses and chevrons, the very tinctures and colours, are all symbolical—each has its mystic meaning, singly and in combination; and thus every genuine old Coat-of-arms preaches a lesson of chivalric honour and Christian principle to those that inherit it,—truths little suspected now-a-days in our Heralds' offices.'²

The preceding observations are mainly, if not entirely, confined to the armorial ensigns of the past, handed down from generation to generation, of which the descendants of the original bearers may feel justly proud, and

is mentioned in M'Clintock's interesting narrative of his voyage to the Arctic Seas. Several silver spoons and forks exhibiting the crests of some of the officers of the lamented Franklin's Expedition were among the articles found by the crew of the 'Fox,' and afterwards transmitted, as precious relics, to the surviving relatives in England.

¹ *Scotland in the Middle Ages*, p. 303.

² *Sketches of Christian Art*, ii. 49.

to whom, not unfrequently, the ancestral shield and surname alone remain, while the ancient stronghold has been levelled with the dust, and many a broad acre become the inheritance of strangers. But a word about the charge of 'anachronism.' Heraldry, according to various principal theories, arose from the necessity of having distinguishing devices on seals, or on armour in the tournament, or in war. It is true that these first necessities no longer exist, but a time-honoured custom does not become an anachronism by merely surviving the circumstances which first called it into being. In the days of chivalry the display of heraldic cognizances was not confined to their owner's seal, and the armour in which he tilted, or the banner under which he and his followers went to war. While these, their first uses, were still being served, heraldic ensigns became genealogical as well as personal. They were not only displayed on the knight's surcoat, but they might have been seen on his lady's mantle and his daughter's kirtle; they were emblazoned in his glass windows,¹ and carved in stone both on his castle and on his church, and so on. Why should the descendants of these knights have no arms with which to designate themselves on wall and window merely because they do not require to paint or embroider them upon their clothes? And why should not the newly risen gentleman of to-day continue the practice of the new risen gentleman in the past, which has never been discontinued, though often much neglected,

¹ It is perhaps unnecessary to do more than cite the indignant speech which Shakespeare's Bolingbroke, Duke of Hereford, addresses to the minions of Richard II.:

'Myself . . .
 Eating the bitter bread of banishment;
 Whilst you have fed upon my signories,
 Dispark'd my parks and felled my forest woods,
 From my own windows torn my household coat,
 Razed out my imprese, leaving me no sign,
 Save men's opinions and my living blood,
 To show the world I am a gentleman.'

King Richard II. Act iii. Scene i.

One of the first acts of Charles I. in 1630, in setting about the work of depriving the Earl of Menteith and Stratherne of his rightful honours, was to order him, as the main agent Sir John Scot of Scotstarvit puts it, 'to dash out' of his windows the arms of the Earldom of Stratherne. Sir Harrie Nicolas, *History of the Earldom of Stratherne*, etc., 1842, App. p. xlv.

and have arms assigned to himself? In doing so he may also aid to distinguish himself and his family, by the adoption of peculiar 'charges,' from those who bear a common surname; and perform what is, in a manner, a duty to the members of the family he is founding, by giving them a cognizance by which they may indicate their consanguinity to each other, and trace their lineage to the founder of their fortunes, or at the least, to the author of their gentle rank. 'Several of the most powerful families of our titled aristocracy, and some even of the oldest, inherit their wealth and consequence from a clothier, a goldsmith, or a merchant of a former age, who felt as much pride in bequeathing to them the armorial bearings he had obtained from the Heralds' College, as the property accumulated by his prudence and industry. It is the peculiar boast of this country that, almost from the foundation of the Monarchy, the ranks of her aristocracy have been thus gradually fed, and their numbers kept up, by the addition of the eminent and enterprising from the general mass; so that no one has ever been so lowly in birth a station that he might not aspire, by the exercise of his talents and industry, to become the founder of a family which should eventually take rank with the direct descendants of the Knights of Battle-Abbey, or the Barons of Runnymede.'¹

It is not here intended, however, to defend the 'Noble Science' of Heraldry—which constitutes a portion of the history of civilization—from the sneers of the ignorant or from the harmless contempt of those unenviable individuals who, shutting their eyes upon the influences of the past as well as on the issues of the future, endeavour to bound their contemplations by the age in which they live. Proceeding, rather, on the simple fact that the estimation of heraldic ensigns still continues as of old, that the knowledge of them is of value to the historical student, and that, in Scotland at least, the bearing of coats armorial is a matter of undoubted legal right, our main object is to endeavour to set forth their history and the rules and principles which regulate their use.

¹ *Quarterly Review*, vol. lvi. p. 2. See also some very sensible observations on the vitality of Heraldry and its adaptation to modern times in the *Gentleman's Magazine* for 1851, vol. xxxvi. (new ser.) pp. 295 and 315.

CHAPTER II

ARMORIAL BEARINGS: THEIR RISE AND ULTIMATE RECOGNITION IN LAW

ARMORIAL Bearings are defined by Sir George Mackenzie to be 'Marks of hereditary honour, given or authorized by some supreme Power, to gratify the Bearer or distinguish Families';¹ and the same learned writer, under no fewer than twenty heads, sets forth the reasons for which they are conferred, and the advantages which are derived from a knowledge of heraldry. A somewhat similar definition is given by Nisbet, who describes them as 'hereditary marks of honour, regularly composed of certain tinctures and figures, granted or authorized by Sovereigns, for distinguishing, differencing, and illustrating persons, families, and communities.'² Unlike emblems and other similar devices, heraldic ensigns are, then, 'regularly composed of certain tinctures and figures,' and are distinguished from all arbitrary marks and symbols by being 'granted or authorized' by the Sovereign. Nisbet's definition is perhaps sufficiently exact, at least for the purposes of this branch of the discussion; it postulates the characters of system, authority, inheritance, and honour.

These heraldic 'marks' consist primarily of what is usually styled in common parlance the 'Coat of Arms,' although they are usually portrayed as an armorial shield.³ In the days of chivalry, when the language of heraldry was in the making, to 'bear' arms was practically synonymous with to 'wear' arms. The primary purpose of 'arms' was to distinguish

¹ *Science of Heraldry*, chap. i.

² *System of Heraldry*, vol. i. p. 9.

³ Each of the parts of the full armorial achievement—shield, helm, crest, motto, supporters, etc.—falls to be considered separately anon.

and identify their wearer. So long then as a particular armorial bearing remained the bearer's cognizance, he used it on everything according as the fashion of his time prescribed. The figures and tinctures of his shield reappeared thus as the figures and tinctures of his surcoat, jupon or tabard, as the case might be; on his lady's mantle, as we have already said, and his daughter's kirtle; his banner, the housings of his war-horse, the tabards of his heralds and pursuivants, and even perchance the sail of his galley. It being thus immaterial to the nature of the figures and tinctures, whether they were found on one of these articles or another, any one of the more important or more personal of them is mentioned according to convenience as the article on which the arms happen to be emblazoned. In that context, namely in a mere blazon, though in that alone, 'coat of arms,' 'shield,' 'bauer,' 'ensigns armorial' mean the same thing.

The place that the naming of the 'coat' or 'shield,'¹ etc., plays in the blazon of arms is merely to show that the tinctures and figures about to be mentioned are heraldic, the personal marks or cognizances of some one—man, official person or corporation—according to the case.

A vast amount of laborious research has been expended in endeavouring to trace back the use of armorial bearings to at least classical times; but no custom so early has been discovered which contained all the ideas of the system of heraldry, or armory,² which arose in the Middle Ages. The *jus imaginum* of the Romans has been examined. Nisbet, for example, writes: 'As in ancient times, the statues or images of their ancestors were proofs of their nobility, so, of latter times, Coat-arms came in lieu of those statues or images, and are the most certain proofs and evidences of nobility. Hence it followeth that *jus nobilitatis* is nothing else but *jus imaginis*; insomuch that the word *imago* doth oftentimes signify nobility; and the right of having images of their ancestors was the same as the

¹ Or *iszeuge* in the more modern cases of ladies' arms.

² We agree with Planché (*The Pursuivant of Arms*, p. 15), that the older term 'Armory' most accurately denotes the matters which relate to Armorial Bearings. It might have been convenient if the term had been retained in use for that department of heraldry, but in any case it would have been thought scarcely adequate to the title of the present work.

right of having arms now with us.'¹ The Roman system certainly had the ideas of *honour and inheritance*, and so far was a parallel system. But it had no lineal connection with armory; the missing link—half an ancestral bust and half a painted shield—has not been found. Gibbon thought armory a superior kind of totemism, and a recent erudite and painstaking writer has made a disquisition on totems a part of a work entitled *British and Foreign Heraldry*.² Others have variously derived the science from the Crusades or Holy Wars, the feats of Tilt and Tournament, the introduction of the Feudal system, the conquests of Alexander, the siege of Troy,³ the twelve tribes of Israel, and the Garden of Eden.

That the Israelites had tribal and family ensigns in the time of Moses is undoubted. In the order for the pitching of the camp it was laid down that they 'shall pitch every man by his own standard, with the ensigns of their father's houses.'⁴ But though European heraldry has been influenced and enriched by ideas borrowed from the Bible, its distinctive characteristics are not found there, nor was the system by any means derived from the laws or customs of the Biblical people. The mediaeval mind failed to grasp the historical connection between the Jews and the people of the Old Testament. While on the one hand it sought to obtain the credit of the greatest antiquity for the art of blazon by asserting that Adam and all the Patriarchs wore coat armour, it explicitly denied even the capacity of the Jews to bear arms.⁵

On the score of some etymologies, it has been suggested that part at least of the elements of our heraldry may have been brought home by, we presume, the earliest Crusaders, who had borrowed them from some system already established among their enemies, the Arabs.⁶ There is no doubt

¹ Nisbet, following Brydal's *Jus Imaginis apud Anglos*, p. 53.

² Woodward, *Heraldry*, i. 21.

³ See Boswell's *Life of Johnson*, Croker's edition, chap. xxvii. For a review of the ideas of the earlier writers on Armory, see Mr. Burnet in Woodward and Burnet's *Heraldry*. First edition (1892), chapter ii.

⁴ *Numbers*, ii. 2.

⁵ Lucian Wolf, *Anglo-Jewish Coats of Arms* (Jewish Chronicle Office, London), 1889.

⁶ See discussion in Woodward, *Heraldry*, i. 63 *et seq.*

that the heraldic words, *azure* and *gules*, appear to be more or less directly derived from the Persian words for blue and rose colour—*lazurd* and *gûl*. But the mediaeval pre-eminence of Oriental chemists and Oriental dyes is sufficient to account for the presence of these words in the West, along with such words as *alizari*, madder; *alkanet*, a reed grown for the sake of the red dye obtained from its root, etc. And the adoption by the herald blazoner of the terms in use by the herald-painter was natural. The very probable derivation of the name for green, the third of the three tinctures in use by the early heralds, viz. *sinople*, from *Sinope*, the port on the northern coast of Asia Minor from which a green dye came, appears to favour our view that these early names of colours were but the names of commerce.

In the early stages of most nations of history, it was the practice of warriors to exhibit emblems and badges on their shields and banners, 'a species of decoration,' says Brydson, 'employed to embellish the apparel and arms of the superior class, and more or less either simple or hieroglyphical according to the fancy of the wearer.'¹ These, however, were mere personal distinctions assumed and abandoned at pleasure; and it seems to be pretty generally admitted that the first invention of the Science of Armory, in the accepted sense of the term, cannot be credited to any other part of the world than feudal Western Europe, nor assigned to a more remote date than the middle of the twelfth or the beginning of the thirteenth century. This was the period also of the general adoption of hereditary surnames, which, along with regular heraldic insignia, have ever since continued to distinguish families from one another.²

The original introduction of Heraldry may possibly be traced to Germany, but the credit of having reduced it to a Science is unquestionably due to France; a large number of the heraldic terms used by us are borrowed from or have come through the language of that country. The term 'blazon,' however, is usually derived from the German word *blasen*, to blow a horn, in allusion to the custom of the ancient heralds sounding their trumpets before declaring the bearings of the Knights who presented themselves at the Lists.

¹ Brydson, *Summary View of Heraldry in reference to the Usages of Chivalry*, 1795, p. 43.

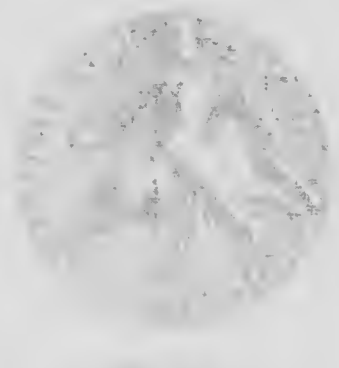
² Cp. Brydson, *Summary View*, *ut sup.* cap. ii., and his *Precedency*, 1812, pp. 27-28.

The late J. R. Planché, who belonged to the modern and scientific school of heralds, sets himself, in his work entitled *The Pursuivant of Arms*,¹ to establish the following four propositions, and most of them appear to be substantially true. It seems to be most convenient to print and discuss them together: 'Firstly, That Heraldry appears as a Science at the commencement of the thirteenth century, and that although Armorial Bearings had then been in existence, undoubtedly for some time previous, no precise date has yet been discovered for their first assumption. Secondly, That in their assumption the object of the assumers was not, as has been so generally asserted and believed, to record any achievement or to symbolize any virtue or qualification, but simply to distinguish their persons and properties; to display their pretensions to certain honours or estates; attest their alliances, or acknowledge their feudal tenures.² Thirdly, That whenever it has been possible to sift the evidence thoroughly, it has appeared that the popular traditions of the origin of certain singular Coats of Arms have been the invention of a later period; stories fabricated to account for the bearings, and sometimes flatter the descendants of the family, by attributing to their ancestors the most improbable adventures or achievements. Fourthly, That the real value of the study of Heraldry has but recently become apparent, and that, however some may regret the demolition of old and familiar legends, the importance of eliciting genealogical facts must be admitted by all, and the new interest thus imparted to the Science elevate it in the eyes of many who have hitherto looked upon it with indifference, if not with contempt.'

Planché's conclusions, coinciding with Brydson's, that Heraldry appears as a Science at the beginning of the thirteenth century, and that it is clear also that at that date armorial bearings had been already in use for some time, are as true for Scotland as for any other part of feudal Europe. He and other modern heralds consider that the earliest proof of the use of such

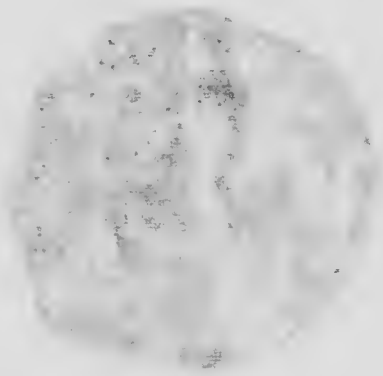
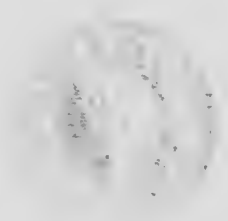
¹ *The Pursuivant of Arms*, 1859, p. 191, 1873, p. 283, by J. R. Planché (Somerset Herald).

² In his *Plea for the Antiquity of Heraldry* (23 pp. 8vo, 1853), and afterwards in his larger and very learned work, *The Antiquities of Heraldry*, 1869, Mr. W. Smith Ellis condemns the 'rigid scepticism' of modern writers on Heraldry. His conception of the scope of the word 'heraldry' is wider than ours, and admits as heraldic what are merely emblematic figures. For an examination of his work, see Woodward, *British Heraldry*, i. p. 30 *et seq.*



ARMORIAL SEALS.

1. Alan, High Steward of Scotland, 1177-1204.
2. c. 1190; Walter, son of the above, High Steward, 1204-1241.
3. a. 1200; Walter, do. do.
4. Patrick Dunbar, fifth Earl of Dunbar, 1182-1232, First Seal.
5. c. 1200; Gilbert, third Earl of Strathern (d. 1223), Privy Seal.
6. ante 1225; Alan of Galloway, Constable of Scotland.



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PLATE I



bearings is the representation of an armorial shield on the seal of Philip I., Count of Flanders, which is appended to a charter of the year 1164.¹ In Scotland, owing to our charters being then very generally undated, it may not be possible to pitch so precisely upon any year for the appearance of the armorial shield; but we may, at any rate, point to the seals of one or two of a group of charters which were granted about the same time as Count Philip's or soon after, or whose grantors flourished in the same century.

The seal of Alan, the High Steward of Scotland from 1177 to 1204, is still attached to a charter in favour of the monks of Melrose. The Steward himself is represented on the seal as an armed knight on horseback, and on the shield which he holds is the fess chequy which is still the Stewart cognizance.² When Alan placed his arms on his seal we do not know, but the fess appears in or about the year 1170³ on the equestrian seal of Walter his son, whose privy seal, used about the year 1200, bears a shield of the same bearings alone within the inscription.⁴

Similarly Patrick, Earl of Dunbar from 1182 to 1232, is shown on his seal, which is appended to several of his charters in favour of the monks of Durham, as a knight on horseback with a shield bearing a lion rampant.⁵ The privy seal of Gilbert, third Earl of Strathern, who died 1223, was used by him in 1200. It bears a kite-shaped shield on which are nine charges thought to be billets 5, 3 and 1.⁶ To take another example, there is the seal used before 1225 by Alan of Galloway, the Constable of Scotland from 1200 to 1234, father of Devorgilla the mother of John Baliol. The shield and the housings of the Constable's horse display the lion rampant of Galloway.⁷

These shields are all certainly heraldic; they exhibit in every case a shield charged with one or more of those definite devices which are the accepted heraldic symbols. But though the presence of the shield may be

¹ See Woodward, *Heraldry*, i. 49.

² Plate I. : Laing, i. 772; Macdonald 2535.

³ Plate I. : Laing, i. 773; Macd. 2536. ⁴ Plate I. : Laing, i. 774; Macd. 2537.

⁵ Plate I. : Durham Charters, Macd. 778.

⁶ Plate I. : *Liber Insule Missarum xx.*, fig. Macd. 2732. *Charters of Inchaffray* (Scot. Hist. Soc.), p. 313.

⁷ Plate I. : Charter, ante 1225, to Hugh de Crawford; among the Earl of Loudoun's charters.

held to be conclusive of the heraldic character of the symbols it contains, it would be rash to assert that but for the shield they would have been non-heraldic, and not allusions to an existing heraldry.

Many of the seals, therefore, of the latter half of the preceding twelfth century, which do not display a shield, but merely a device, may be truly heraldic. As examples, we may mention the seal of Richard Falconer (A.D. 1170)—two falcons on a fleur-de-lis, and that of Patrick Corbet, of the same year—two corbeaux in a tree.¹ In consideration, no doubt, of the fact that fleurs-de-lis were the bearings of the kings of France in later heraldic times, Planché considers that the single fleur-de-lis which appears on the seal of Louis VII. (1137-1180) is his badge, though it is not on a shield.² Scots heraldry possesses a similar case in the fleur-de-lis of Montgomery which appears without a shield on the seal of John Montgomerie of Eaglesham in 1170 or thereby.³

The seal of Sir Henry de Graham, of about the year 1230, bears a scallop shell,⁴ while the seal of his son, Sir Nicolas, of perhaps 1260, bears a shield with three escallops on a chief,⁵ which have ever since been the arms of the main line of Graham. The heraldic lion of Galloway already mentioned may be traced back in an unbroken line to the non-heraldic or doubtfully heraldic seals of the Morvilles, which are dated about 1170.⁶

We now approach Planché's second proposition, in which he denies the existence of any design in the first assumers of heraldic ensigns to record any achievement or symbolize any virtue by means of them. We have seen, however, that at least some heraldic cognizances, which cannot be shown to be second to any in their date, were personal badges before they became heraldic, and were of kinds that were almost certainly symbolical of some

¹ The Falconers afterwards bore falcons. Corbet of Hardgray, etc., in 1453, bore with a saltire, a chief charged with three corbies (ravens), and his crest also was a raven; Macd. 501a, following Hist. MSS. Rep. xv. App. viii. 46 (Drumlanrig Charters).

² Plate II.: *Pursuivant of Arms*, 1873, p. 131.

³ Plate II.: Macd. 1987. The three fleurs-de-lis appear on the seal of John Montgomerie of Eaglesham in 1392, with an annulet for Eglinton, whose heiress he had married. Plate II.: Macd. 1988.

⁴ Macd. 1117; *Scottish Antiquary*, xvii. 178-9.

⁵ Plate II.: *Liber de Melros*, II. pl. ii. fig. 6. Macd. 1117a.

⁶ Laing, i. 594, 595.

sentiment, or allusive to some circumstance which their wearers desired to keep in mind.

The original adoption of a lion or a lily as the device on a seal was apparently meant not so much to distinguish the bearer as to announce his sentiment. Too many of the early seals bear, e.g., lions to leave room for any theory that they were taken for mere distinctiveness. It is also impossible to suppose that in a time when the spirit of allegory and symbolism dominated men's minds, people made one exception and adopted their most personal badges for distinctiveness alone—that, for example, Sir Henry de Graham, already mentioned, took for his mark a scallop shell, the badge of the pilgrim who had been to the shrine of St. James at Compostella, merely because a scallop shell was neither a lily nor a lion, but was among the heap of objects still unappropriated—which it scarcely was—by the adoption of any one of which he might show that he was neither de Montgomerie nor de Morville; or to suppose that de Montgomerie chose a lily and de Morville a lion without any attention to the ideas associated with them, and merely because they were not too like anything else. It was not at all by accident that the Emperor's cognizance was the king of birds, and the kings of England and Scotland adopted the king of beasts.

Even were there no proof of the contrary, it would be at the least exceedingly improbable that the original assumer of arms never selected as his distinguishing mark a device which should connect him with some achievement which was already his distinction, or with some qualification which he claimed to possess, or some virtue which he claimed or aimed in special to follow after.

Distinctiveness was a necessity which was realized probably only after the emblem of the private sentiment came to be used as the bearer's cognizance in public—specially in the field. For a seal was one thing, and a shield or a banner another. A seal bore the owner's name as well as his flower or 'his beast.' A shield required to be distinguished by the flower or the beast alone. This distinctiveness was achieved in many cases partly by the modification or alteration of the badge, and partly by the adoption of differing tinctures.

With the rest of Planché's second proposition all must agree, so far as

to say that arms were certainly selected on various accounts, such as to be the symbols of the wearer's particular possessions, or pretensions, his family alliances or his acknowledged feudal obligations. But there is no evidence of any limit to the fancy of the original assumers of arms, or the ideas which they symbolized in their assumptions.

The earliest writers on heraldry affirm a symbolism even in the attitude of the animals borne as charges; and indeed in the very tinctures of heraldry apart from the manner of their occurrence in arms. The arms originating in their times,—times later, it is true, than the date of the first rise of the art, but still prolific in new families and renowned in chivalry—must have been designed to be symbolical, and cannot now be otherwise interpreted. It may be reasonable to discard the 'credulous and extravagant' theories of some writers regarding the meanings of arms which originated in times which were much earlier than their own; but we are not warranted on that account in denying that these earlier arms had any symbolism at all. It was on account of the symbolism of the scallop shell—the symbol of a pilgrimage achieved—that Pope Alexander IV., between 1254 and 1261, forbade it, as he is said to have done, to be displayed by any but pilgrims of noble blood. The meaning of the scallop cannot have been forgotten when it was adopted as a cognizance in heraldry.

So much for the original ideas, veiled, or, it may be, flaunted in the cognizance at its first adoption. It is as obvious, however, that when a man came to hold a fief or an office in virtue of being the son of his father, and realized that he himself was but a link in a chain, and that his son would succeed him by a similar right, he would naturally adopt ensigns which would identify him, not only as an individual, but as his father's son; in this way would heraldic ensigns become hereditary, and their original attraction in the eyes of their inventor become perhaps a matter of secondary interest.

Planché's third proposition, that picturesque tales of the origin of arms are apocryphal, must be accepted as a statement of a general truth, and the fabulous accounts of the origins of some, at least, of our coats of arms which are told by our Scottish historians, must, like the tales told in other countries, be regretfully abandoned. Others which seem

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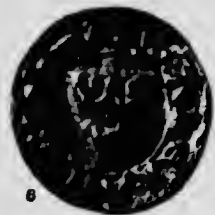
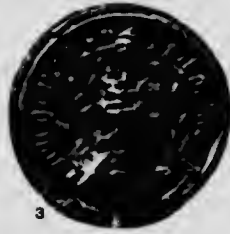
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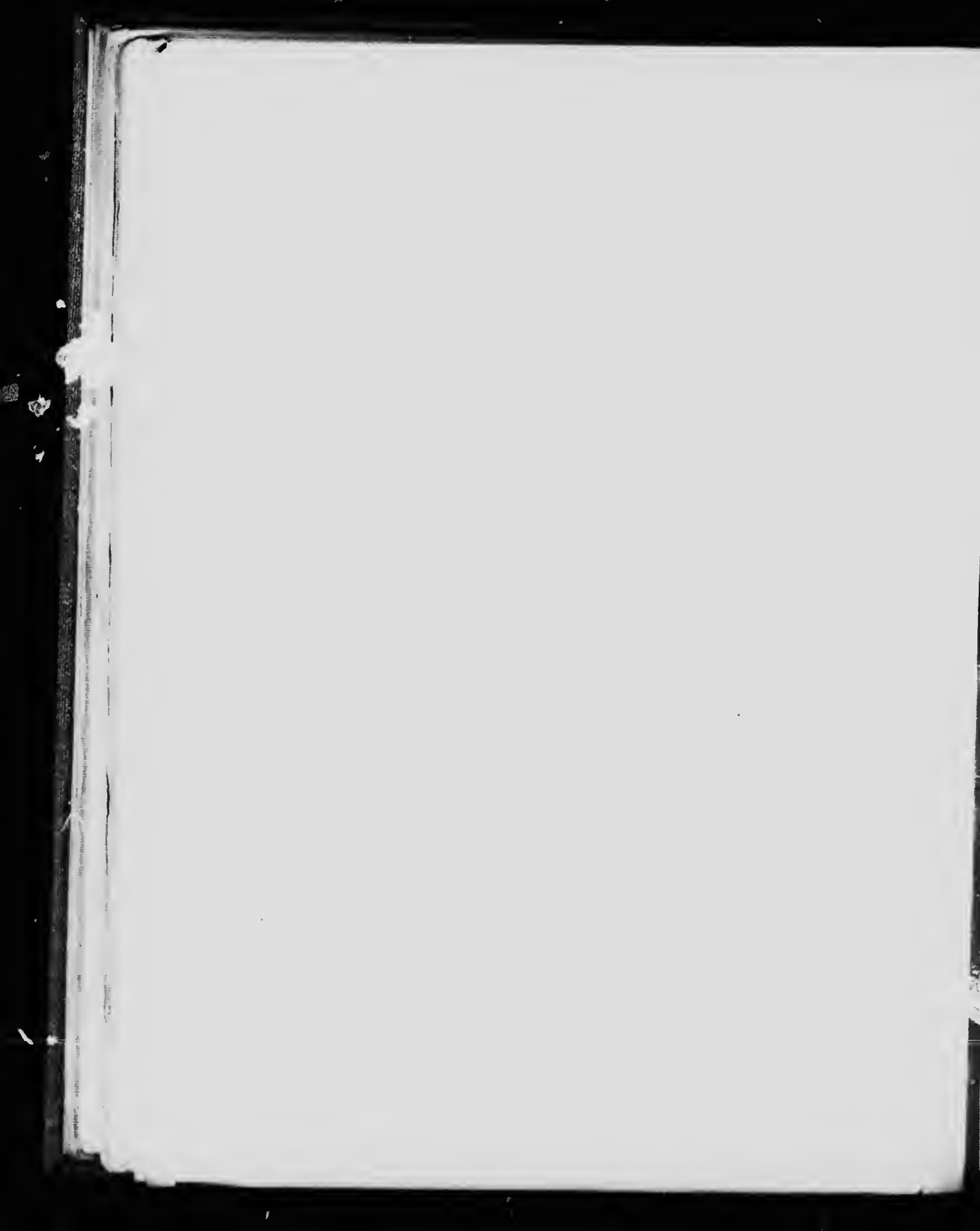
- 1. 1174; King of France, 1174-1181
- 2. 1170; John Montgomerie of ...
- 3. 1167; John Montgomerie of ...
- 4. 1160; Sir Nicholas de Graham
- 5. William the Lion, 1167-1173; reverse of Great Seal
- 6. 1160; Sir Alexander son of ...
- 7. 1157; Alexander II, reverse of Great Seal
- 8. 1157; reverse of Great Seal
- 9. 1150; reverse of Great Seal

ARMORIAL SEALS.

1. c. 1174 ; Louis VII. of France, 1137-1180.
2. c. 1170 ; John Montgomery of Eaglesham.
3. A.D. 1392 ; John Montgomery of Eaglesham.
4. c. 1260 ; Sir Nicholas de Graham.
5. William the Lion, 1165-1214 ; reverse of Great Seal.
6. c. 1216 ; Sir Alexander, son of Saer de Seton.
7. A.D. 1229 ; Alexander II. ; reverse of Great Seal.
8. A.D. 1265 ; Alexander III. ; reverse of second Great Seal.
9. A.D. 1386 ; Robert II. ; reverse of Great Seal.

PLATE II





born of the same class of imagination we are inclined to discard along with them. But it would not be safe to say that these are apocryphal merely because they are picturesque. Indubitable records sometimes lend a likelihood to a tale, even when they do not in point substantiate it. Let us take an example.

The old Scottish historians, Fordoun, Boece, etc., relate a story of the origin of the surname and arms of the hereditary Royal Standard-bearers of Scotland of the ancient house of Scrymgeour. Once upon a time, one of the kings—accounts differ as to which, for it may have been Alexander I., II., or III., or the third King Malcolm—found himself with his army face to face with a rebel host; but the swift river Spey ran between, and the king's standard-bearer hesitated at the brink. Seizing the flag out of his hands, the king gave it to one of his knights, Sir Alexander Carron, who immediately plunged into the flood, and, with his master, led the army through to victory. The king thereupon conferred the office of Royal Standard-bearer upon the knight and his heirs for ever, and made him large gifts of lands. With minor differences again, the historians agree that Carron or his near descendant got the surname of 'the Skymischur' and a Royal grant of a coat of arms bearing a lion with a curved sword in its paw.

In support of a tale of such antiquity we can hardly expect to find contemporary evidence of any kind. Among the archives of the Scrymgeours, however, which for centuries have been buried in the charter-room of the Earls of Lauderdale, we find a parchment dated before the term of Martinmas 1293, and a fragment of another parchment even earlier than the first, both of which have conveyed land rights in Fife to 'Alexander called the Skirmisher, son of Colin the son of Carun.'¹ It also appears from another document in the same archives that the lion in the Scrymgeour arms did really originate in a royal grant, and that the grant was made together with a grant of lands in Argyll. For in the year 1443, when the Standard-bearer of the day exchanged his Argyll lands, or some of them, with Sir Duncan

¹ Lease of the lands of the Torrer by Thomas of Kilmaron. *Scrymgeour-Wedderburn v. Earl of Lauderdale*, House of Lords, 1910, *Appendix of Documents*, p. 1. The fragment of the earlier parchment referred to serves as the tag of the lease just mentioned; it is cut from an earlier deed in favour of the same Alexander, as the writing within its folds reveals.

Campbell of Lochow for some lands in the east of Scotland, 'it was accordit that the said Schir Duncan na his ayris sal nevir mak clayme na lettyng [obstacle] in tyme to cum to the said Schir John Skrymgeour or his ayris in the beryng of the lioun in thair armys, bot at [that] the said Schir John Skrymgeour and his ayris sal oys: [use] and bere the lioun in thair armys frele [freely], as thair eldris did befor.' ¹

These deeds do not bear out any of the historians altogether, but they leave us in the strong belief that their stories had at the least some foundation in fact.

With the last of Planché's four propositions few modern heralds will quarrel. For it indeed appears incontrovertible that heraldry, like other things of the past, is in the process of being studied nowadays on better methods, with more intelligent and useful objects, and with a greater success than at any previous time. It is in this modern spirit alone that we endeavour to examine and appreciate the facts and information contained in the relics and records of this ancient institution.

Once the idea of a cognizance which should be both hereditary and personal was conceived its growth was rapid, the diverse uses and advantages of such cognizances contributing to elaborate the system into which the idea developed. The feudal lord's armorial bearings were as much his ensigns in peace as in war, or at the tournament; carved in stone they marked his castle for his own; hung from a balcony they indicated the place of his lodging in the town; his galley on the sea was distinguished by the bearings of its armorial sail; and finally, when his earthly course was run, his arms proclaimed again in stone the spot in which was laid all that was mortal of him. Surrounded by his name, and, it may be, designation, his arms composed his seal—his signature for all his most formal deeds. The pendant seal then in vogue, free from all restriction on its size save the consideration of convenience and the cost of bees-wax, afforded to the seal-engraver such opportunities of magnifying his art that it is a matter of controversy whether he was merely a copyist in heraldry, and not, sometimes, an inventor. The

¹ Indenture, 16 November, 1443, *ibid.* p. 21. It is to be supposed that but for this proviso there might have been a question whether the right to the arms did not go to Sir Duncan with the right to the lands.

principal invention attributed to him by some writers is nothing less than the honourable augmentation now so strictly guarded by the heralds, videlicet, Supporters.

The nature of the development of the arts both of peace and war assisted also in promoting the use of distinguishing marks such as heraldic ensigns afforded. In the affairs of peace the spread of the system of committing the record of all important transactions to writing promoted the use of the seal by which the parties to them could be identified and the transaction verified; and the addition of the nasal or nose-guard to the helmet, added a grim propriety to the adoption of ensigns by which the steel-cased warrior might be known for himself in war; the entirely closed helmet, which was introduced in the thirteenth century, made it necessary. The armorial shield, certainly, did not, as is sometimes supposed, wait on the adoption of the vizor. The seals of Alan the Steward, Patrick, Earl of Dunbar, etc., just mentioned, represent them wearing open-faced steel caps with nose guards such as might have been used at the battle of Hastings; the closed helmet appears with the seals of the next generation.

A further part in the development of heraldry is assigned to the Crusades. There is no doubt that they immeasurably raised the prestige of chivalry, and that they also, or the third and later Crusades at least, brought much of the heraldry of Europe into the same field, a circumstance calculated both to stimulate and to unify the heraldry of the rival nations which met there. The punctilios of the tournament, however, a national, and frequently also an international pastime, in which the brave fought in the presence of the fair and the heralds, may be credited with some at least of the requirements in the laws of composition and differencing of arms, and no small part of the sentiment of bearings and their symbolism.

In the thirteenth century the armorial bearings of most of the great Scottish families are found established and fixed, many of them having been in use in the early part of it, some, as we have seen, before it began, and all of them conforming remarkably to the rules and measures of the system which was afterwards to be handed on to us in the treatises of

the learned. The discussion of the bearings of these shields, and of the later introduction of quartering, impalement, etc., we shall endeavour to undertake anon: for the present, it is to be noted that the shields we meet with in Scotland before the middle of the thirteenth century include the *chief and saltire* of Bruce, and the *orle* of Balliol, the *chequered fess* of Stewart, the *crescents* of Seton and the *garbs* of Comyn, the *escutcheons* of Hay and the *lions* of Angus, Wallace, Galloway and Dunbar. These instances, to say nothing of the tressured lion of the Scottish kings, are enough to show the complete acceptance of heraldry in Scotland at that time.

RIGHTS IN ARMS.

In the choice of badges and of arms in the days of the beginnings of heraldry there is no doubt but that every man did only that which was right in his own eyes. It was inevitable that when the bearing of coats of arms became at all general, regulation would be required for the preservation of their character as distinctive badges. Men would have to be restrained from adopting and using bearings which were already identified as the badges of other men; both public convenience and private right would require it. And as time went on and it became increasingly difficult to know what possible arms had not already been appropriated, both new men and cadets of old houses would require expert assistance in ascertaining what arms it was safe as well as sound to adopt. This latter need was apparently the origin of the ministerial function of assigning arms which came to reside in the heralds; but as the laws for the cure of evils are generally earlier than laws for their prevention, it is not surprising to find the rights of arms dealt with by the writers on the general civil law, before any officers were constituted for the granting of arms, or the idea was invented that armorial rights flowed like honours from the Crown.

In the early times of which we speak the Civil Law, which was otherwise known as the Roman Law, was accepted in Scotland, as in most of the countries of Western Christendom, as authoritative in such matters, unless it had been abrogated by some special law of the country itself. So in Scotland, in the complete absence of any indication of the existence of

any special heraldic law or custom, we turn for the earliest authority on the law in force with us to the pages of Bartolus a Saxo Ferrato. This most celebrated jurist of his time—born 1313, died 1356—first of the civilians who applied themselves to the adapting of the principles of the ancient law to the institutions and requirements of their own day, had his attention very directly turned to heraldry. He resided for a considerable time at the court of the Emperor, Charles IV., who raised him next to the rank of a Counsellor and the dignity of a Count Palatine,¹ but conferred on him a coat of arms—a red lion with two tails on a golden shield. And Bartolus relates that he had seen the Emperor make many other armorial grants.

The law of the fourteenth century relating to armorial bearings as it is laid down by Bartolus² recognizes a right in any man to assume a distinctive coat of arms at his own hand, and his right to redress against any one who afterwards adopts the same arms to his detriment. But he must show injury: so a man of one country has no right in general to complain of a man of another country who takes the same arms. As an example, the writer cites the case of a German, who on the occasion of an Imperial amnesty (*tempore indulgentiae*) visited Rome, where he found an Italian bearing his ancient arms and insignia. The German wished to make this a cause of complaint, but he had no case; their places of domicile were so far apart that he could not be injured by the use of the same arms by the other man. Apart from individual complaint, however, the judge, he adds, may restrain a man from taking arms against the public interest.

¹ See *Loci Communes in Bartoli Opera*, s.v. *Bartolus*.

² *Tractatus Bartoli de Insigniis et Armis*.

Although it is superfluous to testify to the authority enjoyed by the works of Bartolus in any country where the Civil Law was quoted, it may be interesting to note that a fifteenth century ms. of his Treatise on Insignia, made for William Cuming of Inverallochy, Marchmont Herald, and a manuscript copy of probably the same century, which belonged to his successor in that office, John Meldrum, are both extant; respectively British Museum, Harl., 6149; (Adam Loutfut's ms.), fol. 155; and Adv. Lib. ms. 31-6-5, art. 1; and that in Honore Bonet's *Arbre des Batailles*, or *Book of the Law of Arms*, written about 1386, the translation of which, done by Gilbert of the Haye in Roslyn Castle in 1456, forms what is thought to be the earliest extant Scots literary prose, the sections on armorial bearings are directly derived from the same Tractate of Bartolus. To these last we shall refer again for the law in the time of Haye, who re-wrote them.

But although a man may take arms at his own hand, it is a great advantage to him to have them by grant of the sovereign; it is a greater honour to have such arms. No one else, save one who has already acquired them, can object to his bearing them. If it cannot be shown which is the first user of a coat of arms, the man who has the sovereign's grant of it will be preferred to any other. Other things being equal, the man who has a grant of arms from the sovereign will take precedence of the man whose arms were merely assumed. The law recognized also the hereditary nature of the arms of private men, and descent of the right to all the males (*agnates*) of the house, to the exclusion of relatives through the female line and bastards. It also excluded assignees, thereby indicating that armorial bearings were not liable to be bought or sold or arrested by creditors. It recognized the existence also of arms which had been granted to go with dignities and offices. Wrongly to bear these arms amounted to fraudulent misrepresentation (*crimen falsi*). No man might appropriate the insignia of a king or other great overlord; but a vassal might put up the arms of his king or his overlord on his wall above his own arms in token of his own subjection.

Here, then, are the main points of what was the common law of Scotland in the matter of armorial right before the year 1350. The remainder of the treatise by Bartolus, so far as it concerns armorial bearings, relates to the matters of emblazonment. We propose to refer to it at a later page, and need say no more of it here than to remark that, as far as can now be seen, the rules he there lays down were observed in Scotland as certainly as the laws we have just been considering.

Of the recognition by the law that arms, like surnames, were among the cognizances of persons and families, we find evidences in charters and acts of Parliament of dates earlier than the early treatise on heraldic law which we have just cited.

What has been supposed by some writers, however, to be the earliest recorded case of such a recognition in Scotland is an undoubted forgery. A duel of law is said to have taken place before King Robert I. of Scotland on the North Inch of Perth in the year 1312, between Hugh Harding, an Englishman, and William de Seintlowe, a Scot, both of whom claimed right to bear the same coat of arms—*gules three greyhounds or, collared azure*. The

Englishman was victorious and received letters patent from the king, dated the second day of April of that year testifying to his right in perpetuity to the arms in dispute.¹ The late Dr. George Burnett and Mr. Woodward accepted the story.² But Lord Hailes, at an earlier period, had doubted it; 'Was this Hugh,' he had asked, 'related to John Harding the forger?'³ Dr. George Neilson, now, has branded the so-called letters patent a fraud, and shown them, from their internal evidence, to be, what Hailes had surmised, probably only another forgery of John Harding's.⁴ We are, respectfully, of Dr. Neilson's view. The letters patent bear internal evidence that they are not the Bruce's. By the law of Heraldry also, it is clear that⁵ Hugh Harding had no case unless Scotland, to which Seintlowe belonged, was a part of the realm of England. Perhaps John Harding saw this;⁶ but then the Bruce would have seen it too. The combat must be held to be a myth.

We are on firmer ground when we arrive at the Parliamentary ratification, in the year 1324, of a charter of resignation of the same date, by which King Robert I. granted the lands of Keith-Marischal, etc., and the office of Marischal of Scotland to the Keith of that day, and to his heirs

¹ The patent is printed as a note by Sir Edward Byshe (Garter) in his edition of Nicholas Upton's *De Studio Militari*, 1654. The day hit upon for the document, 2nd April, 1312, was a Sunday, the first Sunday after Easter (Low Sunday). We don't say that any meaning is to be attached to the date selected; but the duel was obviously an affair of the day before.

² Woodward and Burnett, *Heraldry*, 1892, p. 34.

³ *Annals*, ii. 325.

⁴ *Trial by Combat*, 1890, pp. 207-9, published after Dr. Burnett's death, but before Mr. Woodward's publication of their opinion.

⁵ See p. 25 and p. 30.

⁶ John Harding, of the fifteenth century, a Northumberland squire, antiquary and chronicler, is chiefly known to fame as the person who brought to the English Court a collection of forged charters to prove that Scotland had acknowledged the supremacy of England. See Palgrave's *Introd. Hist. Doc.* p. cxvii; Burton, *History*, iii. 5, 6. Another forgery quite as curious, and apparently belonging to this same *dossier*, affects to relate to the year 1167. It is a pretended charter of King William the Lion, to whose charge a trial by combat allowed by the 'Marshal of England' had been remitted by the King of England, because one of the parties was Scottish! See *Scot. Hist. Review*, 1907, vol. iv. p. 481. The 'Indenture' between the competitors, Bruce of Annandale and Florence Count of Holland, which attracts our notice here on account of the heraldry with which it is embellished, is also worthy of the attention of the learned.

male who should bear as their name and principal arms the name and arms of Keith. (*Cognomen et arma predicta [de Keith] principaliter gerentibus.*)¹ Here is a recognition (1) of the existence of hereditary arms identified with a particular house; (2) of the existence of coats of arms in which the arms of more than one house were emblazoned together, and (3) of rules by which arms were 'principal' or not.

Whatever was the amount of distinction and of honour which was attached to the bearing of arms, the deprivation of the right of arms was a disgrace. We find the forfeiture of the right actually provided as a sanction to a contract. On 29th November of a year between 1360 and 1370, John Kennedy, lord of Dunure, entered into a bond to Margaret, second Queen of David II., and her son John, lord of Logie, to be of their party and support them for all his life, with all his forces, saving his fealty to the king, and agreed that if he failed in anything of his promise, he should be held reprobate, a defaulter, a perjurer, etc., etc., and lastly, should lose all the honour of arms for ever.²

To multiply instances here of the recognition of armory as an institution and the care with which armorial rights and the significance of arms were attended to might be tedious. We may however recall the case, already mentioned (at p. 21), of the indenture in 1443 by which Sir Duncan Campbell of Lochow, and Sir John Scrymgeour of Dudope, agreed that Sir John's right to bear the lion in his arms was not to be challenged by Sir Duncan on account of his having alienated to Sir Duncan the lands along with which the bearing had been held. The knights who were parties to that deed seem thus to have agreed that the lion in question went rightfully with the blood of the Scrymgeours, though it had, in form, been feudalized.

In 1471 there was passed a curious Act aimed at the ancient *double tressure flory counterflory* of the Royal Arms. The fault which the High Court of Parliament found with the *tressure* it took care not to place on record; but it clearly construed the *tressure* to have a meaning. What

¹ Charter, 7 Nov. 1324; *Acts Parl. Scot.* i. 482-3.

² . . . et omni honore armorum in perpetuum carentem—29th November, 136- (part of the date gone). Erroll Charter Chest, *per* Riddell, *Peerage Law*, 983.

that something was we may consider at a later page, but all that the record bears is that the King (James III.), with the advice of his three estates, 'ordanit that in tyme to cum thare suld be na double trewe about his armys, bot that he suld bere hale [= whole] armis of the lyoune without ony mare [= more].'¹

In presence of the treatises of the civilians it is perhaps the less surprising that no distinctively Scottish work on the subject of the laws and customs of heraldry survives which belongs to a date earlier than the seventeenth century. We may assume that if many of such a kind had ever existed we should have known of it. Certainly no work of the kind had reached 'the dignity of print' before the time of Sir George Mackenzie, who pointedly observes upon the fact.² Manuscripts here and there remain of dates as early as the fifteenth century which belonged to the libraries of Scottish heralds and jurists, but so far as they are concerned with heraldic rights they are transcripts or translations of the writings of the jurists and heralds of the Continent, or, to a lesser extent, of those of heraldic writers of England.³

First and most remarkable among these is Sir Gilbert of the Haye's *Buke of the Law of Armys*,⁴ which was written in the castle of Roslyn in the year 1456, at the request of the Earl of Orkney and Caithness, the Chancellor of Scotland at the time. It announces itself as a translation of the French Abbé Bonet's *Arbre des Batailles*. The Frenchman's work, which was very famous in its time, was written probably between 1382 and 1387, and was probably known in Scotland some years before the end of that century. Haye in his translation, or rather his recension, makes the book so much his own that we may safely consider that the law he lays down was as current in Scotland in his own time as in France in the time of Bonet.

¹ 22 Feb. 1471, *Acts Parl. Scot.* ii. 102. An ordinance which neither James nor any of his Royal successors seem ever to have acted upon.

² *Science of Heraldry*, 1680, preface.

³ Where also, as Gerard Legh, in his well-known *Accedens of Armory*, informs us 'the law of arms is for the most part directed and regulated by the Civil Law.'

⁴ *Gilbert of the Haye's Prose Manuscript*, in the Library of Abbotsford, vol. i. Scot. Text Soc. No. 44. See above, p. 25, note 2.

Chapter 138 of the fourth book of the work is devoted to questions arising out of the use of 'arms that are in blasons, and of banners and pennons'¹: it is obvious at once that it is founded mainly on the treatise of Bartolus.² Some arms, he says, are given by the authority of emperors, kings, and princes. These arms become immediately the exclusive right of the person to whom the grant has been made, so far, that is, as the realm of the ruler extends who has made the grant. If the King of France has given a lion of gold as a bearing to a lord of France, that lord may bear it without injury to a lord of Spain or Germany to whom the King of Spain or the Emperor has given a similar lion.³

Other arms are taken at the wearer's own hand, merely to difference himself from his neighbours, as a man may adopt a distinguishing surname. Others, again, are taken by their bearers by counsel and consent of their relatives. In the beginning, he says, 'when the wars began,' some arms were assigned, and some were taken at pleasure. And thus in time of war, he continues, new men of arms 'that has nane armes of propertie' may take arms at their liking, so long as the arms belong to no one else already; and these arms are their exclusive property after they have borne them long and openly, and are known in deeds of arms, and in other ways in time of peace, and their bearings have come to be known as theirs. If a man, he adds, have taken for his arms 'a low of gules in a champ of

¹ Haye, *ut sup.* p. 276.

² A fact probably recognized also by Haye, the translator, who was himself a person of legal training.

³ The French lord—Jehan de Clarmont—in his combat of words with Sir John Chandos, related by Froissart, recognized this. These two redoubted knights met while reconnoitring each other's forces on the day before the battle of Poitiers. 'How long is it,' demanded the Lord of Clarmont, 'since you have taken upon you to bear my device?' 'On the contrary,' replied Sir John, 'you bear mine, for it is my device as well as yours.' 'I deny that,' retorted Clarmont, 'and if it were not for the truce, should immediately prove it.' 'You will find me to-morrow,' said Chandos, 'ready to prove that it is mine as well as yours.' Chandos seems not to have thought it necessary or perhaps possible to say that the arms in dispute had been his first; yet de Clarmont clearly saw that he had no redress in law. He took all the revenge possible to have on the spot by exclaiming, 'That is the common speech of you English; you invent nothing for yourselves, but take whatever you see belonging to any one else if it is handsome.'

silver,' and 'has it winteris and yeiris,' the prince will give him redress if another in the same town takes the same cognizance.

Arms in such a case are not, he says, like personal names which cannot be made private property; but are like wild fowl or fish or wild beast in the wilderness which fall to the first captor. If then, he demands, ingeniously preserving the matter of his simile—if 'this nobleman has first tanc sik a beste or sik a foule or sik a fysch to bere in his schelde, and on his cote of armes, and on his baner, paunnone (pennon) of armes, or in blasoun upon his heraulde or persevandis brest, or other wayis to paynt in hall or chaumer,' why should anyone in the same town or country be allowed to assume the same tokens? There is good reason, he concludes, to preserve a person's arms from being imitated, because the noble personages who bear them should be known by them in battle, in arms or in tournaments. A lord has to be known on the battlefield by his armorial tokens that his supporters may gather to him. If he be slain and disfigured, he is still known by his coat of arms,² and obtains Christian burial. And after death, his arms over his sepulchre proclaim who lies below; and his memory and fame are perpetuated.

There is an even greater reason, he considers,³ for preserving diversity in arms, namely, that 'be all gude custumes of nobless, lordis and gentilis makis thair selis efter thair armes, and if ane suld bere ane otheris armes in his sele, men suld richt wit quhais (whose) it war.' But that matter, he observes, comes under the general office of the prince, to deal with injuries; and that office, as regards arms, he should execute with advice of the 'harraldis and men of knawage.'

¹ A flame (pile wavy) gules in a silver field. Thus the arms of the family of Bataille de Mandelot are, Argent three flames, or piles wavy gules, issuant from the base. Woodward, *Heraldry*, i. 158. Otherwise one might almost suppose that the word 'low' of the ms. was a misprint or a misunderstanding of the scribe for 'cew'; for the instance in one ms. of the original French is that of a man who bore 'une vache de guies et de is estoiles par dessus.'

² Stowe mentions that at the battle of Bannockburn 'there was slain Gilbert de Clare, Earle of Gloucester, whome the Scottis would gladly have kept for a ransome, if they had known him; but he had forgotten to put on his coat of armes.'

³ In view of the modern inclination to consider heraldry to be exclusively a relic of a bygone militarism, it is worth noting that Bonet, the fourteenth century writer whom we are quoting, holds its uses in peace to be more important than its uses in war.

But it is different, he continues, when the bearers of the same arms are of different nations. The principle there is the same as that laid down already in the case of arms which had been granted by the king. He supposes the case of a German knight who, when attending knightly exercises in France, meets a French knight bearing the same arms. He challenges him to desist. Each knight claims that his ancestors bore the arms in question first, and is willing to submit his right to the test of a duel of law. Bonet's question here is, May the King of France allow the combat? And his answer is, No, 'for, as we have before said, they are not of one realm, nor do they hold of the same prince.' From this rule, however, he excludes the case where the arms have been taken 'for despite or other barate' (dishonest end). For if the Frenchman 'be a wikkitt man of lyf, a tyran and unhonourable that mycht defame the armes in ferr contreis,' the German might have cause of complaint. And if the Frenchman passed into Burgundy, Barri or Loraine, and burnt, slew and robbed . . . and had the renown of a man of wicked life where he might be mistaken for the German whose arms were well known in these countries, then the German knight, if he were a man of lineage and honour, would have good ground to appeal to the King of France to deprive the misdoer of the arms he defamed, and, in addition, to compel him to grant him battle in the lists if he (the German) desires it. So again, continues Bonet, if a simple soldier or an ordinary knight should attempt to procure his own advancement by assuming the ensigns of a knight of fame and high degree, then by the law of arms he is punishable as certainly as any man who copies another's trademark or signature.

We see in this way that the recognition of rights in armorial bearings preceded by a long period the restriction of these rights to bearings which had been granted by the Sovereign or his officers.

Sir Harris Nicolas¹ accepts Vincent's account that in 1417 Henry V. of England issued a writ addressed to the sheriffs of counties forbidding all manner of persons unless 'by right of ancestry or a grant by some person having sufficient power thereunto,' to bear arms, excepting

¹*History of the Battle of Agincourt*, 1832, p. 169, quoting Vincent's *Ess.*, College of Arms Library, London.

only from his order such as had borne arms at Agincourt (A.D. 1415). The form of the writ of 1417, however, now in the Record Office (Close Roll, 5 Henry V. m. 15 dor.), does not mention the heralds; but only persons 'having sufficient power' to grant arms,—feudal lords, commanders of armies, etc., probably. As late as the year 1486 the writer of the heraldic part of the *Boke of Saint Albans*, following Nicholas Upton (c. 1445), concludes that if any arms are borne because they are given by a herald, 'thoos armys be of no more auctorite than thoos armys the wich be taken by a mannys awne auctorite.'¹ This passage is evidence, however, that the transition of opinion had begun; and the later law of the necessity of a grant of arms appears in the sixteenth century. It is laid down then by Tiraqueau, who is followed in the next century by Sir George Mackenzie.² As of old the *jus imaginum* was only bestowed by magistrates and other lawful authorities—'ita hodie,' says Tiraqueau, 'tantum illi jus insignium vel armorum conferre possunt. Sunt enim Arma tesserae et symbola dignitatis, et nemo potest dignitatem sibi arrogare sine Principis licentia.'

Before the century was out an Act appeared on the Statute-book (1592, cap. 125) the terms of which show that by that time the law of arms of to-day was fully established. It recognizes a division of the people into two classes. Those in the one class are entitled to bear arms, but must do so subject to the regulation of their arms by the King-of-Arms and his brother Heralds. The other class is composed of 'the common sort of people,' who are 'not worthy by the Law of Arms to bear any signs armorial'; and these are made liable to pains and penalties if they presume to do so.

Another Act, to the same or similar effect regarding the points we at present advert to, was passed in 1672 (Rec. Ed., c. 47), and is the principal statute now in force dealing with armorial bearings.

At the date of this Act of 1672 flourished the first of our institutional writers who deals with the subject under consideration, namely, Sir George Mackenzie. 'Real injuries,' says Mackenzie in 1678, in his treatise on *The*

¹ *The Boke of Saint Albans*, 1486. The heraldic part is reprinted inaccurately in Dallaway, *Inquiries*, 1753, App. p. lxxvii, and the whole *Boke* in facsimile by W. Blades, 1899.

Upton, *De Studio Militari*, written before 1446; ed. by Bysshe, 1654.

² Mackenzie, *Science of Heraldry*, 1680, cap. 2, p. 11.

Laws and Customs of Scotland in matters Criminal, 'are committed by hindering a man to use what is his own, by removing his seat out of its place in the Church, . . . by arresting his goods unjustly, by wearing in contempt what belongs to another man as a mark of Honour, by razing shamefully a man's hair or beard, by offering to strike him in public, or by striking him, or riving or abusing his clothes, or his house, and many other ways.'¹

Mackenzie's *Science of Heraldry, treated* (it is to be observed in view of what we have been saying), as a part of the *Civil Law and Law of Nations* appeared in 1680. He there lays down the general law of arms, and comments upon the statutes. The law may be summarized as follows:

1. By the civil law, he who bears and uses another man's Arms to his prejudice,² *vel in ejus scandalum et ignominiam*, is to be punished arbitrarily at the discretion of the Judge; but he who usurps his Prince's Arms loses his head, and his goods are confiscated (pp. 12-13).

2. No man may bear arms but by authority (p. 11).

3. 'Arms' includes 'differences.' A cadet, therefore, of a family that has arms may not bear the family arms without a difference, nor assume a difference at his own hand (p. 12). This restriction is not enforceable within a foreign jurisdiction.

4. All rights of arms flow from the sovereign. He bestows the power of granting arms upon the heralds,³ the commission to the chief of whom in Scotland, namely Lyon King of Arms, invests him with full power and authority to grant patents of arms to persons who are virtuous and well-deserving of the sovereign his master.⁴

5. The powers granted to Lyon and the heralds include the power of assigning differences to cadets of families that already have arms (p. 12).

¹ *Laws and Customs of Scotland in matters Criminal*, part i. tit. 30, § 3.

² Mackenzie seems to think that before the Act—presumably of 1672—prescription might have been pleaded against a person claiming to be an earlier user of arms in dispute (p. 12). It may have settled the curious question of the right to the tressured crescents borne by both Seton and Edmonstone.

³ Lyon alone has a commission now to grant arms, as will be seen.

⁴ Mackenzie quotes the patent of 1663 (thus earlier than the Act of 1672 by which parliament gives Lyon and his brethren the like powers): 'plena potestate . . . et auctoritate personis virtute praeditis et de nobis bene meritis diplomata armorum secundum ordinem et constitutiones eatenus praescriptis concedendi.'

6. The sovereign, however, has not denuded himself of his power of granting arms.

7. He alone can grant any part of the Royal Arms.

8. Only gentlemen are entitled to arms from Lyon without special faculty from the sovereign.

9. The 'virtue' which entitles to arms is not moral virtue but 'politick or civil.' The following are thus entitled :

A lord of a barony ; a 'laird,' or person who holds his lands under the crown directly, in contradistinction to a 'goodman,' who holds his lands from a subject-superior ; a soldier who enjoys any 'considerable command' ; clergymen ; doctors of universities ; advocates ; physicians ; 'orators' (possibly the same as advocates) ; 'laureate poets' (pp. 13-14).

10. Neither wealth nor the business of a merchant entitles of itself to arms, 'though as Jerom observes Nobility is nothing oftentimes but ancient Riches' (pp. 13, 14). The right of arms, on the other hand, is not lost by poverty.

11. The exercise of a mean trade suspends the right of arms.

12. Whatever renders a person infamous renders him incapable of getting arms, though every infamy forfeits them not.

13. The right is lost by sentence of forfeiture.

14. A father's arms descend to the eldest son, who may bear them without any additional warrant.¹ (His observations on inheritance of arms through heiresses we advert to at a later page.)

15. Only the *nobiles majores* are entitled to supporters, such as Lords, Chiefs of Families, Lairds, or lesser barons, but none under Baronets.

Later institutional writers say little or nothing of the laws of heraldry, and add nothing to what was already said by Mackenzie. Erskine, almost quoting the words of Mackenzie's first cited passage, says :

'Real injuries are committed by doing whatever may either hurt one's person, as giving him a blow ; or may affect his honour or dignity, as the bare aiming of a blow without striking ; assuming a Coat of Arms or any mark of distinction proper to another, spitting in his face,' etc. ; and

¹Mackenzie adds, 'and such as are descended by three generations from him to whom arms were given are Gentlemen.' It is probable that he means 'gentlemen of ancestry.'

'this offence,' he adds, 'is punished arbitrarily by the Judge Ordinary according to the circumstances attending it, either by fine or imprisonment.'

In the case of *M'Donnell v. Macdonald*, in the year 1826, Lord (William) Robertson remarks that 'the Lord Lyon's power to grant new Armorial Bearings is merely discretionary and ministerial, and with that the Court of Session cannot interfere. But if the Lord Lyon should grant to one person Arms which another is entitled to bear, and should refuse to give redress, there could be no doubt of the jurisdiction of the Court of Session to entertain an action at the instance of the party to have his right declared, as this would involve a question of property, which a right to bear particular Ensigns Armorial undoubtedly is.' In the same case, Lord Pitmilley observes: 'As to the abstract principle, it is clear that wherever there is a competition as to the right to Armorial Bearings, an appeal lies to the Court of Session by advocacy, and also by reduction, which is the proper remedy when the Arms are already granted.'

In accordance with these established principles, Lord (Patrick) Robertson remarks, in the case of *Cuninghame v. Cunyngham*: 'It is enough for the Lord Ordinary to be satisfied that the subject of the wearing of Coats of Arms is matter of legal right; and this being once settled, the dispute must be considered and determined with a due regard to the interest of the parties, just as much as if it involved large patrimonial interests.'

¹ *Institute of the Law of Scotland*, book iv. tit. 4, § 81. See also Hoppingius, *De Insigniis* (1642), cap. ii. par. xii. membr. 3, 'De propriis et alienis Insignibus'; and cap. xiv. 'De actionibus Insignium Nomine competentibus.'

That the term 'injury' has long been regarded as synonymous with *affront* or *contumely*, will appear from the following passages, which are quoted in Wallace's *Principles of the Law of Scotland*, p. 509: 'Injuriae sunt quae aut pulsatione corpus, aut convicio aureis, aut aliqua turpitudine vitam cujuscumque violant.' Cicero, l. 4, *ad Herennium*.

'Quodvis dictum factumve, ad alterius contumeliam dolo malo directum.' Heineccius, 'De Injuriis.'

'Delictum in contemptum hominis liberi admissum, quo ejus corpus, vel dignitas, vel fama laeditur dolo malo.' Voet, § 1, *Com. ad ff. de Injuriis*.

² Note to Interlocutor in case of *Cuninghame v. Cunyngham*, 13th June, 1849, 11 D. (Session Cases, 2nd Ser.) 1139.

CHAPTER III.

THE OFFICERS OF ARMS

THE officers who came to have a special jurisdiction, partly executive, partly judicial, and partly ministerial, in matters of armory were the heralds.¹ Their office, already established, which engaged them in affairs of ceremony in connection with both war and the tournament, etc., necessarily brought under their professional notice the practice of bearing armorial insignia. It was natural then for the King to summon them to advise him when questions of arms came before his court, and it was also natural that persons about to assume arms or alter them should consult the recognized experts, and induce them to assign such arms as were both safe and proper. At the beginning it was no doubt true, as was said in the *Boke of Saint Albans*, that arms assigned by a herald were of no more authority than arms taken at a man's own hand. But to cautious people passing ignorant of what arms were still unappropriated and what arms were proper for them to bear, the arguments were in favour of assuming only the arms that had been devised or sanctioned by a herald; and it was natural that in time the heralds should refuse to recognize the validity of rights of arms which did not flow actually or presumably from heraldic authority, or, in later times, from the King himself. It is to an origin of this kind rather than to any

¹ Herald est vox incertae radices, sed vere similior derivatio est a Saxon hepe, *exercitus*, et alio, *famulus sive minister*, quasi minister exercitus vel armorum.—Spelman, *Gloss Herald.*: Herod, which in Welsh signifies a messenger, is one of the suggested roots.—Edmondson, *Heraldry*, i. 81 *et seq.* Among the Romans the office of the heralds was one with that of the *Feciales*, and is said to have been instituted by Numa Pompilius. That office is described by several distinguished authors. See Dionysius Halicarnassensis, lib. ii.; Cicero, *De Legibus*, lib. ii.; Livy, i. 24, 32; x. 45.

Royal writ or delegation of a once sole Royal prerogative of granting the honour of arms that we must trace in history the jurisdiction of the heralds in grants of armorial bearings. In the days of chivalry their office was held in very high repute. They were the repositories of the kind of learning probably most appreciated by knights and dames. Clothed in their garb of office, they enjoyed a sacredness of person that would have satisfied the *Feciales* of ancient Rome.

KINGS-OF-ARMS.

The principal herald was styled King of Heralds or King-of-Arms; and in Scotland was solemnly crowned at his installation, the ceremony being occasionally performed by the Sovereign himself.¹ 'Some authors,' says Lord Bankton, 'are of opinion that the principal of the Heralds are designed Kings-of-Arms because in some measure they represent the Sovereign.'² He certainly wore the King's own armorial coat, which no other subject, not even the King's son and heir, might do. It is also said that none of lesser degree than an independent prince might have a King-of-Arms; but the title probably implied only that the officer who bore it had a jurisdiction in which he was supreme officer of arms. His earliest title was probably King of Heralds, and all the king's heralds wore the Royal tabard. The question is by no means free from difficulty.

In Scotland there is only one principal Herald or King-of-Arms. An Act of Parliament of 1482 (cap. 1) directs that 'a king of arms or a herald of wisdom and knowledge' be sent to England to treat of the proposed marriage of the King.³ But if there was ever any Scots King-of-Arms besides Lyon we are unacquainted with his title.

The title *Lyon* King-of-Arms might easily be supposed to have been derived from the fact that his tabard before the Union of 1603 bore the lion emblazoned upon it. But the title 'Lyon King' or 'Lion Herald' is found applied to the King's herald as early as 1377,⁴ if not earlier. At that time, whatever the herald's coat was the King's was the same; the lion on it was

¹ See Paul, *Heraldry in relation to Scottish History and Art*, pp. 84-5.

² *Institutes of the Law of Scotland*, book iv. title 8 § 14.

³ *Acts Parl. Scot.* Record Ed. ii. 143 a.

⁴ *Exchequer Rolls*, ii. 553.

no distinction between them. The title Lyon was not then bestowed on the herald by the public on account of his coat, but by his master himself, who named him after his own 'beast'—the animal he had selected, according to the fashion of the day, as the symbol of the qualities he aspired to the personal possession of. At a somewhat later date a Royal Pursuivant appears similarly named after the fabulous Unicorn. He had no allusion to his title on his coat, any more than Blue Mantle, Rouge Dragon, Portcullis or Rouge Croix had in England. So it was, however, that Lyon, named after the principal beast, wore a coat emblazoned with the figure of his eponym!

'So bright the King's armorial coat,
That scarce the dazzled eye could note,
In living colours, blazoned brave,
The Lion, which his title gave.'¹

Although the precise date of its institution is believed to be unknown, there can be no doubt that the office of Lyon, the earliest of all Scottish heralds, is of great antiquity. Chalmers² remarks that there is no trace of the Lyon King or his heralds at the memorable coronation of Alexander III. in 1249, of which Fordun gives a very minute account;³ nor is the same Sovereign said to have been attended by any such officers when he met Edward I. at Westminster in the year 1274. Spelman, however, shows that Kings of Heraldry were in existence in England about two years later (4 Edward I.), and Edmondson quotes a Household Account of the sixth year of the same King (1278-9 A.D.) in which credit is taken for payments on account of Kings of Heraldry belonging to France and Scotland. The names of the kings appear to have been miswritten or misread. Grey Hunel is given for the name of the Frenchman, and Caupeny, the Scot.⁴ Perhaps their offices had not specific titles attached to them at that date. Such titles were certainly of later introduction in England. Even in the reign of Edward III. (1327-1377) the English Kings-of-Arms then created were described rather than entitled: they were respectively only King of the North-erners (Rex Norrey) and King of the people of Clare (Rex des Clarenceux).

¹ *Marmion*, Canto iv.

² *Caledonia*, New Ed. ii. 762 note.

³ See also Nisbet's *System of Heraldry*, vol. ii. part iv. p. 106.

⁴ Albany. Cf. 'Halpyeny,' *Cal. State Papers (For.)* 28 Nov. 1559. No. 336, p. 145.

In 1377 *Leo Heraldus*, obviously the King's principal herald, receives a payment from the Exchequer. He is styled 'King of Herald's' (*Leo Rex heraldorum*) in the Exchequer Rolls of 1388, and 'King of Arms' as early as 1413; and in 1420 and following years he is found to be in receipt of a salary.¹

Professor Lorimer, writing in the time in which the Earls of Kinnoull held the office of Lyon, remarks that 'the now prevalent custom of speaking of the *Lord Lyon*, though not entirely destitute of the countenance of earlier usage, seems to have arisen from the accidental circumstance of the present holder of the office and his immediate predecessor being peers. In 1587, c. 46, he is throughout called "the Lyon" simply, though the Act speaks of "the Lords of Council and Session"; and the same is the case in 1592, c. 127.'²

As instances of the earlier use which Professor Lorimer probably referred to, but did not connect with the present use, we may cite the following: In 1633 Lawrence Oliphant, depute of Sir James Balfour, is called Lord Lyon throughout the Lyon Court books; and in 1662, c. 53, an Act which was rescinded by 1663, c. 15, he is twice called Lord Lyon, and he is so called also in the repealing statute. The old form is resorted to in the important Act, 1672, c. 21, by which the office and court of 'the Lyon' were placed practically on their present footing. In Bankton's *Institutes*, still before the advent of the earls, we find 'the Lord Lyon, Herald, Pursuivants, and macers, being 17 in all.'³ The title employed in the Lyon Court Act of Parliament of 1867 is uniformly 'The Lyon King of Arms.'

¹ Burnett, *The Lyon Office*; MS., a copy of which is in the Lyon Office Library. The warrant for Sir Jerome Lindsay's patent, dated 8th November, 1620, constitutes him 'King of his maist excellent Majestie's Armes.' See App. iv.

² *Handbook of the Law of Scotland*, 6th ed. p. 541 note. The author of this useful manual held the office of Lyon Clerk, the duties of which he, however, like the Lords Lyon, executed by a deputy—the late learned Mr. R. R. Stodart.

³ Bankton, 1752, bk. iv. t. vi. § 12. The Earl of Kinnoull's grant of the office, for two lives, was dated in 1795; and he and his son, the tenth Earl, enjoyed it till 1866. In the Parish Registers of Kingsbarns, Fife, under date 1672, March 4, occurs 'Sir James Balfour, Laird of Denmill, and Lord Lyon King-at-Arms,' and under 1687, October 1, 'Sir Archibald Areskine of Cambo, Lord Lyon of Scotland.'



THE 'HEARS' TABARD.
Tabard of a King-of-Arms (seventeenth century), from the original now in the Victoria and Albert Museum, South Kensington.



THE OFFICERS OF ARMS

41

That the Lyon King-of-Arms was at one time subordinate to the Marshal and Constable of Scotland has been supposed, perhaps on the strength of the passage from Sir James Balfour just quoted, or on an assumed analogy with the case of England; but all evidence points to the contrary, in so far at least as the functions still remaining to him are concerned.¹ The late learned Mr. George Burnett was of opinion that the Lyon was never subject to either.² In any case his dependence on these great officers was non-existent at an early period, and unlike the English Kings-of-Arms, he came, at an early period, to hold his office immediately from the Sovereign, and has continued to do so. So sacred was the office of the Lyon formerly regarded, that in the year 1515, in the minority of King James V., Lord Drummond was declared guilty of treason, and forfeited in Parliament, 'eo quod Leonem Armorum Regem, pugno violasset, dum eum de ineptiis suis admoneret.' At the request of the Queen and the three estates of the realm, the Regent remitted Drummond the life penalty, in the same Parliament; but it was not till 1516 that he was restored to his honours and estate.³

Sir James Balfour states that at the coronation of Robert II. at Holyrood Abbey, on the 23rd of May, 1371, the Lyon King-of-Arms occupied a very prominent position. After the Monarch's formal acceptance of the crown and the benediction of the Bishops, 'the Lyone King-of-Armes was called on by the Lord Marishall, quho, attendit on be the Herauldes, came in ther Coates,—the Lyon satt doune⁴ at the Kinges feete, and the

¹ The Decree by Sir David Lindsay of the Mount, Lyon King-at-Arms, 16th January, 1554 (MS. 34. 6. 24. p. 277, Adv. Lib.), quoted by the House of Commons Commission of 1821 (the *Reports on the Office and Court of the Lord Lyon* (1822), p. 5) in support of the view that Lyon was a subordinate officer, is an important evidence of the contrary. It was a judgement on an erring messenger-at-arms pronounced by the Lyon King, in presence of *inter alios* the higher of the two Great Officers, the Constable of Scotland himself, who was actually one of Lyon's assessors.

² Copy MS. account of the Lyon Office, intended for the work on Scottish Heraldry which Mr. Burnett projected but did not live to publish, and parts of which were included after his death in the first edition of *British and Foreign Heraldry* under the names of Woodward and Burnett.—Lyon Office.

³ *Acts Parl. Scot.* 22nd Nov. 1516: Rec. Ed. ii. 2 § 4.

⁴ Probably *knelt*, the old Scots for which was 'sat down on his knees.'



Herauldes went to ther stage prepared for them, and ther the Marishall, by the mouthe of the Bishope of St. Andrewes, did sueire the Lyon, quho being suorne, then did he put on hes croune, ordained him to weare for that solemnity.¹ Whatever the antiquity of a ceremony it was certainly in use in 1568 and 1592. On the admission of two successive Sir David Lindsays (III.),² and in 1630 at the admission of Sir James Balfour himself. On the last mentioned occasion the Lyon King was solemnly crowned, on his admission into office, by the King's Commissioner, in presence of the nobility, officers of state, and other distinguished personages, after an appropriate sermon in the Chapel Royal; and his diadem was of the same form as the imperial crown of the kingdom, not set with stones, but only enamelled. At the coronation of Charles I. at Edinburgh, in 1633, the Lyon King 'having a crown upon his head, carried in his hand the vessel containing the sacred oil : two Heralds walked on either side of him ; the trumpets sounded, and so they marched.'³ In virtue of his office and by Royal bounty, the Lyon was freed from all kinds of taxation—an immunity, however, which, in common with certain other privileges, he has long ceased to enjoy.⁴

¹ *Heraldic and Antiquarian Tracts*, by Sir James Balfour, Lyon King-at-Arms, p. 37. Modern researches have proved that Sir James Balfour's authority in very ancient things is not altogether reliable. His account might be thought to bear marks of ideas which he had gathered in the English College of Arms; he had received a certificate of his proficiency as a herald from that Corporation. The certificate, dated in 1628, now reposes in the Advocates' Library (MS. 13. 2-6). But an analogy in England only makes the account of the Scottish practice the more probable.

A description of the ceremony in 1630, at the coronation of Sir James Balfour himself as Lyon King-of-Arms, by George Viscount Dupplin (afterwards Earl of Kinnoull), Chancellor of Scotland, as Commissioner for King Charles I., is found in the *Account of the Office of Heralds*, folio MS. Adv. Lib. 34. 3. 22. In England a formal investiture of Kings-of-Arms was long in use, and the Earl Marshal repeatedly, in virtue of special Royal Commissions, similarly invested Ulster King.

² Paul, *Heraldry in Relation to Scottish History and Art*, pp. 84-85.

³ *Harl. MSS.* No. 4707, British Museum. See also *The Coronation of Charles I. at Holyrood*; an article in the *Scottish Review*, x. 266 (reprinted in *Scottish Coronations*), by John Patrick, Marquis of Bute, K.T., 1901 (Paisley).

⁴ Except with regard to some local rates, see p. 46, note 4.

According to Nisbet,¹ the Lord Lyon had precedence of all Knights and Gentlemen within the kingdom, not being Officers of State or Senators of the College of Justice. His place in Scotland now is after the Solicitor-General, and before Sheriffs Principal, who again come before Knights Bachelor.²

With regard to Lyon's precedence elsewhere than in Scotland, Noble informs us that in 1603, at the installation of Prince Henry, eldest son of King James VI., as a Knight of the Garter, the procession consisted of 'alms-knights, prebends, pursuivants, heralds, Ulster King-at-Arms, Lyon King-at-Arms, and Clarenceux King-at-Arms (these two walking together), the four new elected Knights, the other Knights Companions, Black Rod, Garter principal King-at-Arms, Registrar, Chancellor, and the Sovereign's representative leading the Prince in his hand.'³ By the Treaty of Union of the kingdoms in 1707 the precedence of the Lyon, along with the quartering of the Royal Arms, was expressly left to the decision of the Queen.⁴ Sir Harris Nicolas states that no ordinance was ever issued by the Crown in pursuance of the Article, so far as the precedence of the officer was concerned.⁵ But Noble says it was settled that the Lyon should be accounted the second King-of-Arms in all public ceremonies, taking place next after Garter, and such rank was always assigned to him during the reign of Queen Anne and her successors after the year 1707.⁶

¹ *System of Heraldry*, vol. ii. part iv. p. 166.

² Royal warrant of 9th March, 1905, settling the Scale of Precedence in Scotland. Sir George Mackenzie informs us that 'the Lyon and the Usher of the Parliament (*Ostiarium*) do debate who shall go next to the King or his Commissioner, in Parliaments and Conventions.'—*On Precedency*, chapter viii. The Papers are in Lyon Office. But the Usher is not given any place in the present Scottish Scale of Precedency under the Royal Warrant of 1905. The office is at present in the anomalous position of being in the hands of a body of trustees. The question with Lyon can therefore only arise when a regularly appointed and recognized deputy for the trustees happens to exist, and can be settled only by the King.

³ 14th June, 1603, *History of the College of Arms*, p. 191 note.

⁴ Treaty of Union, Art. 24.

⁵ *Orders of Knighthood*, vol. iv. p. 87.

⁶ *History of the College of Arms*, p. 330. At the Coronations of George III. in 1761, and George IV. in 1821, Lyon and Garter walked abreast, Garter being on the right; and were flanked by the Usher of the Black Rod and the Lord Mayor of London. To the two next

The insignia of the Lyon Office are argent, a lion sejant affronté gules (being the crest of the Scottish Royal achievement), holding in his dexter paw a thistle slipped, vert, and in his sinister paw an escutcheon of the second: on a chief azure, a saltire of the first (St. Andrew's Cross). They were recorded in the Lyon Register in 1673, and appear as the bearings of the official seal of Lyon in the same year.¹ These arms were carried, impaled with his own paternal coat, by Sir Charles Erskine of Cambo, when



Lyon King;² and by his son, Sir Alexander Erskine, who was appointed to the office of Lyon in 1681. Behind the shield, which was surmounted by an imperial crown and surrounded by the collar of the Order of the Thistle, were placed two batons each semé of thistles. The official seals used by Sir Charles before 1673, and by his predecessor, Sir Robert Forman, in the previous century, bear only their paternal ensigns and an official circumscription.³ Anciently,

says the second volume of Nisbet, the seal or badge used by our principal heralds exhibited the Royal Arms of the kingdom.⁴

The Lord Lyon, besides being the King-of-Arms with general jurisdiction succeeding Coronations the Scottish Officers of Arms were not summoned. At the Coronation of his late Majesty King Edward VII., and at that of his present Majesty King George V., Lyon was again the next King-of-Arms after Garter; but on these occasions Black Rod and the Lord Mayor were interposed between them. By the Statutes of the Order of St. Patrick it is declared that 'in all ceremonials and assemblies, Ulster King-of-Arms shall have place immediately after the Lord Lyon King-of-Arms of Scotland.'

¹ An impression of the seal is found appended to a confirmation, 21st February, 1673, by Sir Charles Erskine, Lyon, in favour of Sir James Dalrymple, afterwards created Viscount Stair. *Scottish Heraldry Exhibition (Memorial) Catalogue*, 1892, No. 51. The same matrix is still in use by the Office.

² Mackenzie, *Heraldry*, 1680, chapter xxiv. p. 85, plate, fig. 2.

³ Warrant; 23rd June, 1668, by Sir Charles Erskine, Lyon, 'sealed with my seall of office.' The circumscription is SIGILLUM OFFICII LEONIS ANNO DOMINI, 1663 (*Scot. Hist. Ex. Cat.* No. 61): Patents of Arms by Sir Robert Forman, Lyon, dated 6th Feb., 1566-7, and and April, 1567 (*Ibid.* Nos. 48, 49, plates i. and ii.).

⁴ *System of Heraldry*, ii. pt. iii. p. 42. No instance of this seal is, however, known to us.

diction in Scottish matters armorial, is also King-of-Arms to the Order of the Thistle.¹

Formerly Scotland, like England, was divided into two provinces, the one on the north and the other on the south side of the Forth, and these provinces were under the management of *two* Deputies, appointed by the Lord Lyon for the execution of all the business of his office. The right of the Lyon King-of-Arms, or *his Deputies*, 'to visit the whole Armes of Noblemen, Barons, and Gentle-men, etc.,' is recognized by the Act 1672, c. 21, which is the latest Scottish statute on the subject of Armorial Bearings; but it is by no means clear whether the term 'Deputies' there used may not be understood to signify 'his Brether Heraldes,' as described in preceding statutes. At all events, the practice of naming at least one Depute existed as far back as the end of the seventeenth century, and from 1760 till 1866 it would appear that the duties of the Lord Lyon were performed in part, if not altogether, by Deputy.² The Report of the Commissioners appointed to inquire into the state of the Lord Lyon's department, in 1822, concluded with a series of proposals for the regulation of the Lyon Court, in which some anxiety is expressed with reference to the appointment of a proper person to the office of Lyon-Depute. The Commissioners recommended that, as the duties of the Lyon-Depute are of a *judicial* nature, it should be provided that the person to be appointed by the Lord Lyon as his Deputy should be a member of the Faculty of Advocates, of not less than three years' standing at the Bar. The circumstances of the office were altered in 1867, when, on the death of the Lord Lyon, the Earl of Kinnoull, the office of Lyon-Depute was abolished,³ and Mr. Burnett, then Lyon-Depute, was appointed Lyon, with an obligation to perform his duties personally. Both in his appointment and in that of his successor, Sir James Balfour Paul, the recommendation of the Commissioners in favour of the appointment of a

¹ The personal attendance of the Lyon in the performance of the duties of that office at the Chapters of the Order was dispensed with by King William IV. so long as the Earl of Kinnoull was Lyon. Dodd's *Manual of Dignities*, 229.

² See Report on the Office and Court of the Lord Lyon, 1822, p. 22. Sir James Balfour Paul, *Heraldry in relation to Scottish History and Art*, p. 88.

³ Lyon Court, Scotland Act, 1867, 30 Vict. cap. 17. Appendix i.

member of the Scots Bar to perform the duties of the office has been observed.

Lyon is appointed by the Crown *ad vitam aut culpam*, and holds a commission under the Seal appointed to be used in Scotland instead of the Great Seal.¹ His armorial prerogatives are considered in the next chapter.

THE HERALDS AND PURSUIVANTS.

Next to him in rank among the officers of arms come the Heralds, and after them the Pursuivants. These are the whole officers of arms so far as armory is concerned.

In the seventeenth century Heralds also and Pursuivants were appointed by the Crown. So late as in the year 1604 a commission—of the office of Albany Herald, in favour of Thomas O'iphant, ancestor of the Oliphants of Condie—appears in the Register of the Privy Seal. In the previous year a Pursuivant was reponed by the Privy Council.²

From the Lyon Court books we learn that in 1630, during the time of Sir James Balfour, the Heralds and Pursuivants were appointed by Lyon. How the change was made does not appear. Balfour's commission as Lyon is not extant nor recorded. The commissions of the Lyon Kings who preceded him did not grant him the power, at least not expressly.³ Those of his successors, however, have done so. And the regulating Act of 1867 provides (§ 6) that the Heralds and Pursuivants in Scotland shall be appointed by the Lyon, '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.' The alterations made by the Act regard fees only; the rights and privileges therefore possessed by these officers before the passing of the Act, such as to hold their offices *ad vitam aut culpam*, are now statutory.⁴

At the date of the Lyon Court Act of 1867 there were six Scottish Heralds and six Pursuivants, namely, Albany, Islay, Marchmont, Ross, Rothesay, and

¹ For terms of Lyon's commission see App. iv.

² P.C. Reg. 18th Aug. 1603.

³ See Warrant for a patent to Sir Jerome Lindsay, 28th Nov. 1620, *infra*, Appendix iv.

⁴ They are exempt from Poor and School Rates; Letter of Gift, 27th June, 1633; Parl. Confirmation, 22nd July, 1670; Grants by Wm. IV. and Geo. II.; Act of 1867.

Snowdon Heralds, and Bute, Carrick, Dingwall, Kintyre, Ormond, and Unicorn Pursuivants. That Statute, however, enacted that the numbers of officers of each rank should be reduced in effect to three. It abolished none of the offices in terms, nor did it name any of them as selected either for suspension or to remain in commission. But it provided (§ 7) that 'no vacancy in the office of Herald shall be filled up by the Lyon King of Arms until the number of Heralds has . . . fallen below three.' After that event 'the vacancies which may occur in the said office shall be filled up, so that the number of Heralds shall in time coming be maintained at three.' The provision relating to the Pursuivants is in identical terms.¹

THE OFFICIAL TITLES OF THE OFFICERS OF ARMS.

The titles of the Lyon and his subordinate officers of arms, fanciful though they may seem, are not so fanciful in reality, with perhaps the exceptions of that of Lyon himself and the title of Unicorn Pursuivant. With these exceptions, each also contains a memory of some historic transaction which left the Herald or Pursuivant of the name a servant of the Crown.

Lyon took his title, as we have seen, by direct gift of his Royal master at a time when the virtues aspired to by man were supposed to be already exemplified by beasts. As the King's principal Herald, he afterwards came naturally to be the King of Heralds, and of Arms.

Unicorn, whose title has a similar origin with that of Lyon, and in other respects as a fanciful title, has its parallel in those of the English Pursuivants Rouge Dragon, Bluemantle, etc., was also probably from the beginning the title of an officer in attendance at the Court. His office was found in existence early in the year 1426,² more than a century before the supporters of the Royal Arms were changed to Unicorns on the Great Seal; but not perhaps before the Unicorn had been adopted by our Kings as an occasional supporter of their arms on coins, minor seals, crosses of Royal burghs, etc.

¹ Act of 1867, § 7. See Appendix i.

The order of precedence among the officers of each grade is the order of their appointments.

² Robert Keith, Marischal of Scotland, granted a charter to his cousin, John Fraser, *nunc vocato* Unicorn, 1st April, 1426; confirmed, *Reg. Mag. Sig.* 21st Aug. 1426 (57).

Carrick may be assumed to have been the title of the Herald or Pursuivant of the Bruces, Earls of Carrick, before they reached the throne, and to date therefore as a Royal office from the accession of King Robert in 1306. In the reign of David II., the second and last King of that house, we find him of the dignity of a Herald, in the year 1364, in the person of the warlike Jak Trumpour.¹ In 1475-7, after the accession of the house of Stewart, Carrick reappears as a Pursuivant of the Prince, thus attached still to the principality in which the earldom of Carrick lay,² though reduced in rank.

Marchmont Herald was the officer of arms attached to the capital of the Scottish Marches. Thence he took his title. Marchmund bears its meaning in its name. In the year 1460 the town was degraded of its rank as a Royal burgh for incurable rebelliousness; and, under its other name of Old Roxburgh, it is now a part of the modern burgh of Kelso. Marchmont Herald, however, who appears in the earlier records in 1438,³ survived, and may still be said to exist, though for a few years it has not been in commission. March Pursuivant also existed in 1512.

Albany Herald bears the title of a dukedom which has always been Royal. There were four creations of the ducal title before February, 1566-7, when on the death of Henry Lord Darnley it merged in the Crown. With the Crown it remained till it was granted out by Queen Victoria in 1881 as a peerage of the United Kingdom in favour of the late Prince Leopold.

The first duke was the Regent of 1406, third son of King Robert II. His dukedom was forfeited in 1425, and the title was not regranted till 1455 at the earliest. 'Albany,' however, appears in registers as a King's Pursuivant in 1447-8, getting an armorial tabard in 1448-9; and as a Herald in 1451-2. His office must therefore be attributed to the first creation of the dukedom.

Snowdon Herald appears only in the year 1450; but if, as is most naturally supposed, the title was taken from the ancient name of the Royal Castle of Stirling,⁴ the office, under some name or another, must be more

¹ *Reg. Mag. Sig.* 1306-1424, p. 41; 5th Dec. 1364. 'John Barbour, John Trumpour, and a Legend of the Saints . . .,' by George Neilson, LL.D., *Scottish Antiquary*, xi. 102.

² *Exchequer Rolls*, 1475-7.

³ *Exchequer Rolls*, vol. v. p. 33.

⁴ Balfour Paul, *Heraldry in relation to Scottish History and Art*, p. 94 and refs.

ancient. Nisbet's theory, that the Snowdon of the title of the Herald was a Royal castle in the shire of Ross is very doubtfully well founded.

The title of Rothesay Herald, clearly referring to the Royal castle of that name, in the territory of the Stewartry and Principality of Scotland, must be held to date as a Royal Herald from the date of the accession of the House of Stewart, A.D. 1370-1, and to have very certainly been a Herald under the Lord High Stewards before that date. He appears in the records in 1402.¹ In 1480 he is still attached to the Principality, and is styled *heraldus domini principis*.²

The same remark applies to the title of Bute Pursuivant, which we meet first in 1488. The Isle of Bute belonged to the House of Stewart.³

Ormond Pursuivant seems to be an office named from the Castle of Ormond taken from the Douglases on their forfeiture of 9 June, 1455. In 1475 or so King James III. made James, his second son, Marquis of Ormond. It is not till 1488 that the Pursuivant of the name appears. When he does appear he is in the King's immediate service, carrying the Royal letters.⁴

The next five titles are reminiscent of another great episode in Scottish history. They are Islay Herald, Ross Herald, Kintyre Pursuivant, and Dingwall Pursuivant. Islay was the capital and strength of the Lords of the Isles. The last surrender of the last real Lord to the power of the Crown, in 1494, need not be rehearsed here. Before it was well accomplished Islay Herald appeared among the officers of the King.⁵ The title of Lord of the Isles is now among the Royal titles.

Kintyre Pursuivant, who appears in 1494, in the person of Adam ... transcriber of Heraldic mss.,⁶ is in the same case. He bore a title taken from a part of the territories of the same Lords of the Isles, which came finally into the hands of the King in 1494.

Ross Herald's title, which appears first in 1475, marks in the same way

¹ *Exchequer Rolls*, 1402, vol. iii. p. 552. ² *Exchequer Rolls*, 1480-7, vol. ix. pp. 38, 504.

³ *Acts of Parl.* ii. 202.

⁴ *Treasurers' Accounts*, vol. i. *passim*.

⁵ *Exchequer Rolls*, 1494, x. 449. His title is not to be identified with that of Alishay Pursuivant, probably Ailsa, who appears with Unicorn in 1426.

⁶ See above, p. 25.

the date of the first forfeiture of John Lord of the Isles and Earl of Ross.¹

Dingwall Pursuivant derived his title from the capital of the same Earldom of Ross. He appears about the same time—in 1479.²

Cosmo Innes is thus very far wrong when he attributes 'the chivalrous styles' of our Scottish Heralds and Pursuivants to the fancy of King James III., whose reign began only on 3 Aug., 1460, and ended 11 June, 1488. Within that period only three of the thirteen titles just mentioned occur for the first time. Lyon, Carrick, Unicorn, Marchmont, Snowdon, and Albany, for certain appear before it.³

The Officers of Arms of England consist of three Kings-of-Arms, Garter Principal King of English Arms, Norroy King-of-Arms (*i.e.* King-of-Arms of the Northerners), Clarenceux King-of-Arms, whose jurisdiction is that of the former Surroy King-of-Arms (*i.e.* King-of-Arms of the Southerners), six Heralds and four Pursuivants. The names of the Heralds are Windsor, Chester, Lancaster, York, Richmond, and Somerset, all territorial titles; while the Pursuivants are denominated Rougecroix, Bluemantle, Rouge Dragon, and Portcullis—names probably derived from the badge or cognizance of the Sovereign during whose reign they were appointed. These Officers of Arms, who compose the incorporation called the College of Arms or Heralds College, are in all their Acts subject to the control of the Earl Marshal of England.⁴ The Officers of Arms of Ireland are Ulster King-of-Arms, and Athlone Pursuivant.

The principal King of English Arms is, as his title implies, King-of-Arms of the Order of the Garter. Lyon, as we have said, has that office in the Order of the Thistle, and Ulster in that of St. Patrick, to which are also appropriated two Heralds, Dublin and Cork, Athlone Pursuivant being also

¹ The date of the forfeiture: 20th November, 1475.

² *Acts of Parl.* ii. 125.

³ Titles of other Heralds and Pursuivants, some Royal and some not, in use between 1390 and 1581, but now no longer existing, will be found collected in the *Treasurers' Accounts*, i. cxciv. and ccxciv.

⁴ The ordinary occupations of the officers of the College of Heralds naturally leads to antiquarian research, in which field, as well as in general literature, many of them have been greatly distinguished. The names of Camden, Dugdale, and Ashmole may be mentioned as reflecting peculiar lustre on the ancient institution to which they belonged.

Pursuivant of the Order. A King-of-Arms, bearing the name of 'Bath,' was created in the year 1725 for the service of that Order, and the Order of St. Michael and St. George has a King-of-Arms and an Officer of Arms.

Anciently the chief nobility had special Heralds or Pursuivants, who bore on their tabards the arms of their respective masters. Thus the Percys, Earls of Northumberland, had a Herald bearing their territorial title, and a Pursuivant called 'Esperance.' In like manner, the Earl of Crawford had 'Lindsay Herald' in 1398; and in 1460 and probably earlier, 'Endure Pursuivant.' 'Montrose Herald' appears about 1488, and there were 'Angus,' 'Douglas,' 'Darnaway,' etc., and we have noticed the similar origins of some of the Royal Officers of Arms. The Earl of Mar had 'Garioch Pursuivant'; the Earl of Erroll, 'Slaines' Pursuivant; and the Earl of Bothwell, 'Hailes' Pursuivant. In England, the celebrated Scottish Earl of March (George Dunbar) had a Pursuivant under the title of 'Shrewsbury,' evidently given to him, according to John Riddell, 'from having been a main instrument of the victory gained there over Hotspur and his adherents, which fixed Henry IV. upon the throne.'¹ But of the need of a Royal grant to account for either the Pursuivant or his title there is no evidence.²

THE LYON-CLERK.

Under the Lyon, both in the ministerial and judicial departments of the office, is the Lyon-Clerk, who is also the Keeper of the Records. He is appointed by the Crown. There is also a Herald Painter, a Procurator-Fiscal and a Macer of the Court, who are appointed by Lyon.

The duties of the Lyon-Clerk, in connection with the matriculation of Arms, are thus set forth in the Report of the year 1822:—'Every application for a grant of arms, or for recording a genealogy, is made to the Lyon Office, either personally, by the applicant himself, or through the medium of an agent, or by correspondence. It is the duty of the Lyon-Clerk, on these occasions, to attend and hold personal interviews with the applicant or his agent, and to conduct the correspondence with them; to furnish them

¹ *Law and Practice in Scottish Peerages*, i. 265. See also *Quentin Durward*, vol. ii. chap. xvi.

² See Edmondson's *Heraldry*, vol. i. p. 134.

with the use of the records, and to afford every facility and assistance in making the necessary searches; to receive the documents produced by the applicant to instruct the claim, and, where these are referred to, to make the necessary examination and searches in the records of the General Register House and otherwise; and to take care that the arms are properly described and illuminated in the patent, and entered in the Register in the precise terms thereof. It is also his duty, as Keeper of the Register of Armorial Bearings, Genealogies, Manuscripts, and Books of Arms, to allow inspection of these to all who may have occasion to make searches or inquiries, and to give out, from the records, certified extracts and emblazonments when required.¹

Attached to the heraldic department of the Office of Arms are six State Trumpeters. Mention of them along with Heralds and Pursuivants is made in the account of the creation of the Marquises of Hamilton and Huntly on the 17th of April, 1599.²

THE DUTIES OF THE OFFICERS OF ARMS.

The duties past and present of these officers may be divided into three classes namely, the duties of (1) carrying and delivering Royal messages; (2) directing Royal and public ceremonies; (3) attending to the enforcement of the law of arms, and making grants of arms. These classes are mentioned in their probable historical order; to the third and last of them, however, the principal subject of the present volume, we must postpone all but the most cursory mention of the first and second heads.

In all his official functions the Officer of Arms is, as his armorial coat implies, the direct representative of the King. Of his earlier duties in that capacity, as the King's messenger, and as a director of ceremonies, etc., ample vestiges remain in the forms observed on occasions of State, such as Royal Coronations, Royal Funerals, the opening of the Imperial Parliament, the ceremonies of the Imperial Durbar of 1912, Royal Proclamations, the National Proclamation of a King, the ceremony of a solemn investiture of the Prince of Wales at Caernarvon Castle, or of a Knight of an Order

¹ *Report on the Office and Court of the Lord Lyon* (1822), p. 24.

² Mackenzie, *Precedency*, 1680, p. 33; *Works*, 1722, vol. ii. p. 535.

such as the Garter, Thistle, St. Patrick, the Bath, SS. Michael and George ; Royal State or semi-State ceremonies, such as the entry of King George and Queen Mary into Edinburgh in 1911, the Royal opening of the Chapel of the Order of the Thistle ; the ceremony of summoning the governor of a fortress to open his gates to the King, who is about to enter in State—a picturesque ceremony repeatedly enacted in modern reigns at the Castle of Edinburgh. Officers of Arms attend also on occasions at the Courts of Viceroy—Ireland and the Indian Durbar in the reign of King Edward Seventh are the cases in mind—and the Court of the Lord High Commissioner at his semi-State opening of the General Assembly of the Church of Scotland. These officers are seldom or never sent to foreign Courts at the present day, except as Officers of Arms of an Order of Knighthood, with custody of the insignia of the Order which is to be conferred on a foreign reigning Prince.

Imperial State in Great Britain is not fully displayed without the presence of the Royal Households, and in special the Officers of Arms, of the three kingdoms. This self-evident principle is fully recognized in the chief State ceremony, when the King takes formal and solemn seisin of his office and dominions—the ceremony of his Coronation.¹

NOTE :

THE OFFICIAL DRESS AND INSIGNIA OF THE OFFICERS OF ARMS.²

The official dress and insignia of the Lyon King consist of (1) a coat of arms, viz. :—a tabard, embroidered throughout, before and behind, and on each maunch or shoulder-piece, with the Royal quartered arms in their proper tinctures ; since 1821 the quartering of the arms has been the same as that on the English and Irish officers' tabards (1 and 4 England, 2 Scotland, 3 Ireland).³ (2) A golden crown which consists of a circlet from

¹The principle is admitted also in the ceremony at Royal Funerals, but carried very inadequately into practice, while at the State openings of Parliament it is indefensibly neglected ; the blame on both these occasions resting entirely with the officials in charge of the arrangements.

²See Appendix VII.

³This is worn over a special variety of household uniform, the coatee of which is scarlet, assigned in the Court Dress Regulations to Officers of Arms.

which arise a row of upright acanthus leaves. Round the circlet runs the motto—'Miserere mei, Deus, secundum magnam misericordiam tuam,' Psalm li. 1 (Vulgate, l. 3). Inside the crown is the usual crimson cap with a gold tassel, and turned up with ermine. This is the same pattern of crown as is assigned to the English and Irish Kings-of-Arms. The Kings-of-Arms of all three kingdoms formerly wore crowns, which were more similar to the 'ducal coronet' seen in crests. At the present day a King-of-Arms wears his crown only at a Royal Coronation. At other times, when wearing his tabard, he has a black velvet cap of a Tudor style, on which, in the case of Lyon, is the badge of the thistle. (3) A gold collar of S.S. (4) A baton or sceptre of blue enamel powdered with the badges of the three kingdoms.¹ In respect of the fact that he is also King-of-Arms of the Order of the Thistle he wears, in addition, over his tabard and round his neck, a triple row of gold chains, from which hangs a gold and enamelled oval badge with the Royal Arms of Scotland—the tressured lion—on one side, and a representation of St. Andrew with his Cross on the other.² His robes for attendance at Chapters of the Order of the Thistle are specified in the statutes of the Order.³

Lyon has no robe other than his tabard appropriate to him when sitting in his judicial capacity.

The tabards of Lyon King, the Heralds, and the Pursuivants differ in no respect save in the materials of which they are constructed. The red and blue of the arms are in velvet for Lyon, satin for the Heralds, and brocade silk for the Pursuivants. Gold is represented by cloth of gold in Lyon's and the Heralds' coats, and by yellow satin in the Pursuivants'. In Lyon's coat the gold fields of the quarters for Scotland are diapered, but in the others' plain.⁴ The velvet cap of the Heralds and Pursuivants is similar to Lyon's. Both Heralds and Pursuivants wear, suspended from the neck

¹ And fleur-de-lys, which should have been omitted in 1800!

² On public occasions of full dress, when the insignia as above mentioned are not worn, he wears the oval badge suspended round his neck from a broad green ribbon.

³ The outer garment of which is a mantle of green satin.

⁴ In the 'Hearn' tabard of a King-of-Arms, which is at present in the Victoria and Albert Museum, South Kensington, see plate iii., the quarters for Scotland, which, it will be observed, are the first and fourth, are of yellow satin, powdered with gilt sequins.

by a blue ribbon with a narrow edge of white, an oval badge of gold with an enamelled effigy in relief of St. Andrew on the front¹ and the Royal Arms engraved on the other side. They also carry black ebony batons, gold tipped at each end, with an embossed crown on one end and a thistle, similarly embossed, on the other. The Heralds wear silver collars of S.S. The blue colour of the ribbon is understood to be a relic of the time before Queen Anne, who changed the ribbon of the Order of the Thistle from blue to green. The badges at present in use date from the year 1821. The Royal Arms they bear are therefore an anachronism to-day.

The fashion of the coat of arms as an article of dress existed in the early part of the thirteenth century, when the nobles and gentry as well as the King wore their own armorial bearings. *Ane Schort Memoriale* (p. 28) records that at the battle of Brechin (A.D. 1449) the slain on one side were the Earl of Crawford's brother, and the laird of Dundas, and sundry other gentillmen to the number of 'four score of cot armoris.' The present tabards are the same in the system of emblazoning the arms so as to occupy their whole surfaces, and substantially the same in form also, as the tabards to be found in English sepulchral brasses dating from 1420 or thereby.²

A Herald or Pursuivant of a subject, e.g. an Earl of Douglas or Ross, bore his master's arms on his tabard of course.³ So also, it must be supposed, he would be ordered to attire himself in a tabard with the King's arms immediately on entering the King's service. Sir Walter Scott, therefore, is not

¹ We find in the Account of the Customars of Edinburgh for 1436-8 'a payment made at the King's command of five pounds to Marchmont Herald's widow for an ensign of the King's Arms ("uno signo armorum domini regis"), commonly called a *scuchionn*, which was forthwith delivered over to Unicorn' (*Exchequer Rolls*, vol. v. p. 217, or *Composita Camerariorum Scoticae*, ii. 519). This was probably the escutcheon or email, the badge worn once by Heralds and Pursuivants when the tabard was not worn, and a relic of which may be seen in the 'blason' worn as their only armorial insignia by Messengers-at-Arms (plate iv.). Sir David Lindsay of the Mount is represented in a wood-cut in the first edition of his Poems with a small shield of the Royal Arms on his shoulder.

² Before the beginning of that century the coat was generally of the close-fitting sleeveless type known as the jupon.

³ A good instance of a herald in his master's coat of arms, and in attendance on his master at a joust, is figured in outline from the British Museum MS. Julius E iv, by Foster, *Some Feudal Coats of Arms*, p. 13.

to be taken as a historian but merely a poet, when he describes the King's officers of arms at the date of the Battle of Flodden (1513) as not by any means all arrayed in the Royal Arms of gold and red—

‘Heralds, and Pursuivants, by name
Bute, Islay, Marchmont, Rothesay came,
In painted tabards, proudly showing
Gules, Argent, Or and Azure glowing,
Attendant on a King at Arms,
Whose hand the armorial truncheon held,
That feudal strife had often quelled,
When wildest its alarms.’¹

According to the *Account of the Office of Heralds*, the arms in A.D. 1661 covered only part of the tabard. ‘As for the moderne fashione of coates used in this realme of Scotland by the King of Armes, Heralds and Pursevants,’ says the above mentioned account, ‘they are for modell all on [one], eftir the Dalmatic fashion, and differs in this that the King of Armes Coat is of cloth of tishew and velvet ritcheie embroydred with gold and arrayed with pearles, crowned with the imperiall croune of Great Brittain, and doubled with crimpstone satin. The heraulds coates ar onlie of satine partialie embroydred with purple and silk and doubled with taffety, adorned with the single escutcheone onlie. The pursevants coates ar of damask onlie paintit by paintirs pincell with the single escutcheone in metall and collar and doubled with collar.’²

The wood-cuts of the famous Sir David Lindsay of the Mount, Lyon King from about 1530 to about 1555, which adorn the early prints of his Poems, published in 1558 and 1634, may be accepted as containing tolerably true representations of the tabard and badge which he wore.

The arms on the tabards of the King's officers are the full arms of the King. Doubt on the point seems to have been expressed in 1629 during the preparations for the Scottish Coronation of King Charles I. A theory may have been entertained that owing to the character of the occasion the Heralds

¹ *Marmion*, Canto iv. *Azure* and *argent* are to be found in the fess chequy of the Stuart Kings' paternal arms, but these formed no part of their coat as Kings. Scott was, of course, a poet also when he represented the Lyon of that day as Sir David Lindsay of the Mount.

² *Account of the Office of Heralds*, MS. Adv. Lib. 31. 3. 18 (see also 34. 3. 22), cap. 10.

should have displayed the Scottish Royal Arms alone. But the Register of the Scots Privy Council bears that 'the lordis thinkis that the heraulds must carie the arms quartered and mixed with those of England France and Ireland according as has heiretofor been observed in all publict solemnities both in Scotland and England.' The Lords settled another question also, for the Register adds that, 'having seen the Lyoun Heralds, the Heraldis and pursevants thair coates of armes, they find the same sufficient, and that thair is no necessitie to renew or repaire the same.'¹

LYON OFFICE.

'The business transacted by the Lyon Office' was reported by the late Mr. George Burnett, Lyon King-of-Arms, in 1870, to the Scotch Offices Inquiry Commission to embrace—

'The keeping of the register of all arms and bearings in Scotland instituted by Act 1672, c. 21.

'The matriculation of the arms of all cadets of families having right to coat armour, who are desirous of having the family arms assigned them with differences, without which differences the arms cannot be legally borne.

'The conferring of the family arms to the representatives of families whose ancestors may have neglected to have them matriculated in the public register.

'The granting of new arms, in terms of Act 1672, to persons who can show no hereditary right to arms, but who are judged socially to be in a position entitling them to coat armour.

'The empowering of applicants, on cause shown, to add or to alter the coat to which they are already entitled, and the sanctioning of the adoption of quarterings to indicate representation.

'The granting of arms in conformity with stipulations in deeds of entail or other settlements, imposing on the heirs succeeding the condition of assuming a certain name and arms; and the granting, when a change of surname is required, an official recognition of the new surname along with the patent of arms, the certificate of which recognition serves the same

¹ *Privy Council Register*, Feb. 17, 1629, iii. 50, 51. The 'Hearn' tabard, though, of course, earlier than 1688, seems to be later than the style described above, p. 56.

purpose, in the case of a Scotchman, as the Royal licence does in the case of an Englishman, and is required by the War Office and Admiralty from officers in the Army and Navy.

‘The investigating and deciding on questions of family representation and claims to particular coats of arms or armorial distinctions subject to the review of the Court of Session. The enforcing of the prohibitions of the Acts 1592, cap. 127, and 1672, cap. 21, against the illegal assumption of coat armour. Prosecutions against illegal assumers of arms were common last century; but in recent times, when complaints have been made of such assumption, an intimation by Lyon King-of-Arms to the party complained of has generally been found to lead to the disuse of the arms without further proceedings.

‘The receiving of evidence regarding the genealogy of applicants to be recorded in a proper register for preservation,—no pedigree being recorded unless Lyon is satisfied with the sufficiency of the evidence. The evidence adduced is itself preserved, so that it can be conveniently referred to at any future period.

‘The making of searches in the Registers as well as the numerous manuscripts and documents in Lyon Office, and giving out extracts, accompanied, if required, by plain or coloured drawings.

‘The conducting of many genealogical investigations of a more difficult kind, and the answering numerous enquiries regarding points of genealogy, heraldry, and precedence.

‘The preparation of funeral escutcheons.

‘The conducting of the execution of Royal Proclamations in Edinburgh.

‘The marshalling of public processions, and deciding of questions of precedence.

‘The appointment and control of Messengers-at-Arms, the officers who execute the process and letters of the Supreme Court; the keeping of the roll of the Messengers-at-Arms, and a record of the life, solvency, and residence of their cautioners, and including a great deal of correspondence with the various Messengers-at-Arms regarding their change of domicile, the state of their cautioners, and the renewal of their bonds.

'The trial of complaints against Messengers-at-Arms at the instance of the Procurator-Fiscal, and their suspension and deprivation.'¹

Lyon is also charged with the executive duty of seeing the Royal Warrant of Precedence in Scotland of 1907 obeyed. It has been recently laid down, however, that he has no judicial functions entitling him to grant declarator of precedence.²

He has the duty of assisting the Home Secretary under the Baronets' Warrant of 15th February, 1910, so far as his jurisdiction is concerned, in preparing the Roll of Baronets: and thereafter of receiving and examining and reporting to the Home Secretary the claims of succession by persons belonging to his jurisdiction. He has also, when called upon, to register the names of persons who, after the date of the warrant, succeed to baronetcies or are created baronet; and the names and ages of their living descendants.

He is also referred to by the Home Secretary and the Secretary for Scotland to advise on the facts in petitions from Scotland for personal precedence, as, *e.g.* the petition of a peer who has succeeded as a collateral, that his brother or sister, as the case may be, should be granted the precedence of a son or daughter of a peer; and in petitions to the King by claimants for Scottish peerages or Scottish claimants for peerages. Royal warrants conferring such rights of precedence are properly addressed to him; as also are Royal warrants to grant supporters or other honourable augmentations and additions to arms to persons who are within his general heraldic jurisdiction.

Formerly in Lyon's judicial, and ministerial functions also, the Heralds were associated with him. Queen Mary's letter of 1561 to Lyon on the subject of irregularities committed by the subordinate Officers of Arms empowers him to call the delinquents before himself and his 'brethir heraldis.' In the Act of 1592, c. 29, the power to inspect the arms used by the nobility and gentry and to grant and matriculate new arms is

¹ *Report of the Treasury Commissioners to Enquire into certain Civil Departments in Scotland, 1870, Appendix ix. pp. 189-190.*

² Royal College of Physicians of Edinburgh and Royal College of Surgeons of Edinburgh, 23rd June, 1911. S.C.

similarly given to Lyon and his 'brethir herauldis.'¹ Before the date of the Act Lyon's patents of arms were issued in his name 'with our brethir herauldis.'² The words were thus no mere form. They probably became so, however, soon after 1630, when the Heralds came to be of Lyon's own appointment. Still, for many years after that date the King continued to include the Heralds in the clause, inserted in patents of dignities, ordaining Lyon, and to grant additaments of honour to the arms of the patentee.³

The Act of 1672, cap. 47, however, conferred on Lyon alone the power to grant and matriculate arms; and subsequent patents of arms run in his name only.⁴

¹ In the last year of his life, on 16th January, 1554-5, Sir David Lyndsay 'held a chaptour of Heralds *chaptourly* convened, in the Abbey of Halyroodhouse for the trial and punishment of William Cramer for abuse of his office.' *Works of Sir David Lyndsay*, by Chalmers, i. 36-42: quoted by David Laing, *Poetical Works of Sir David Lindsay*, i. xliii.

² E.g. Patent of Arms by Sir Robert Forman, Lyon, in favour of John Lord Maxwell of Herries, 2nd April, 1567. *Minutes of Evidence, Herries Peerage Case*, p. 268. See below, p. 21.

³ E.g. in the Patent of peerage in favour of the Earl of Teviot, 2nd February, 1663. *Great Seal Register*.

⁴ E.g. Confirmation of Arms by Sir Charles Erskine, Lyon, in favour of Patrick Hamilton of Little Preston, 6th September, 1673. *Memorial Catalogue* (Heraldic Exhibition, Edinburgh), 1892. Patent of Arms by Sir Alexander Erskine, Lyon, in favour of the Incorporation of Wrights and Coopers of Aberdeen, 6th April, 1696. *Memorial Catalogue*, plate 3.

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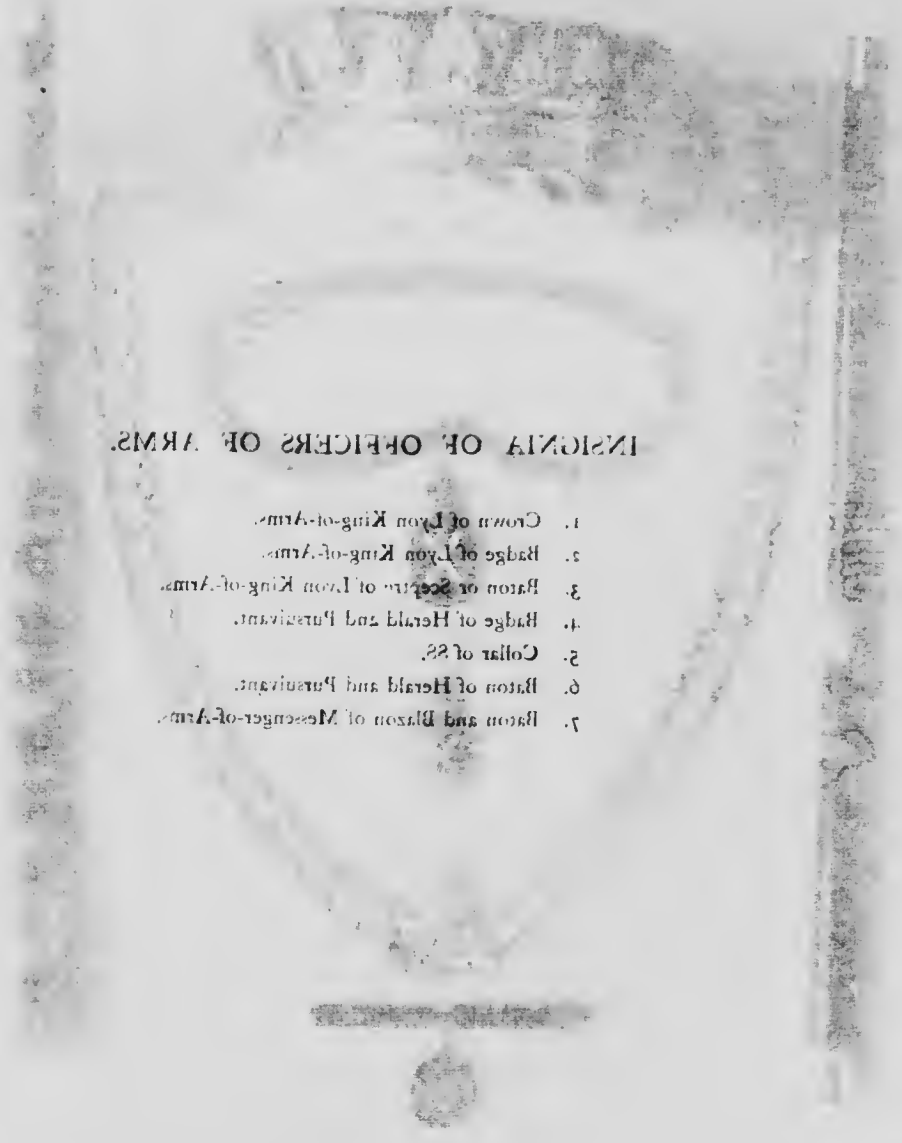
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INSIGNIA OF OFFICERS OF ARMS.

1. Crown of Lyon King-of-Arms.
2. Badge of Lyon King-of-Arms.
3. Baton or Sceptre of Lyon King-of-Arms.
4. Badge of Herald and Pursuivant.
5. Collar of SS.
6. Baton of Herald and Pursuivant.
7. Baton and Blazon of Messenger-of-Arms.



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7. Baton and Blazon of Messenger-of-Arms.



INSIGNIA OF OFFICERS OF ARMS



CHAPTER IV

JURISDICTION OF THE LORD LYON IN MATTERS OF ARMORIAL BEARINGS

We have already noticed the existence of a King of Heralds in Scotland as early as 1278 or 1279; and the existence and rendering of Scottish Arms in the famous Armorial of a Herald of the Duke of Gueldres, which is dated about 1370-1388,¹ goes far to establish, if proof were necessary, that by that date Armorial Bearings in Scotland were regularly listed, an evidence of the existence of Officers of Arms, part at least of whose business it was to be acquainted with the arms which were in use. If we may judge by the analogy of other countries, the recognition of the authority of these officers to regulate the assumption of arms, and the theory that right to bear any particular ensigns flowed only from the King, were growths of the fifteenth century,² fully established only in the sixteenth.³ In an armorial manuscript in Lyon Office, 'of remarkable general accuracy,'⁴ by Porteous, *Snowdon Herald*, a patent of arms of as old a date as 1503, in favour of a person named Hopkirk, is alluded to as if Porteous had seen it or an entry of it in a Register. A certain number of armorials of the early part of that century may or may not be considered to have been official; some appear to have been constructed by individual heralds, somewhat as lawyers compiled Books of Praticks, and notaries kept protocol books, strictly in the course

¹ *Armorial de Gelre*. See below, p. 114.

² See above, page 33.

³ 'Non solum potestas conferendi nova insignia, sed potestas augendi, mutandi, diminuendi, et confirmandi insignia vetera est penes principem et ejus heraldos.' Hopping, cap. 8 memb. 5, per Mackenzie, *Works*, ii. (*Heraldry*, cap. ii.), 582.

⁴ *MS. Account of Lyon Office*, by the late Dr. George Burnett, Lyon, Lyon Office.

of their proper business; but the earliest undoubted official Register of Arms extant is that of the famous Sir David Lindsay of the Mount, Lyon King-of-Arms, Poet and Satirist, in the reign of James V. This Register consists entirely of armorial shields in their proper colours, each shield being accompanied by the name of its owner, the shield of Lindsay of the Mount being entitled the shield of the author of the book. At the end of the book is the writing which attests it to be official in its character :

'This Booke and Register of Armes, done by Sir David Lindesay of the Mount, Lyone King-of-Armes, Regn. Ja. V., contains cvi. leaves, which register was approvene be the Lordis of his Majesties most honourable Privie Counsale at Halierude house, ix Decem. 1630.

'SIR JAMES BALFOUR, *Lyon.*

'THOMAS DRYSDALE, *Hay Herald Register.*'

Sir George Mackenzie, in 1680, reports a case from which we learn that Lyon's armorial jurisdiction was recognized about the year 1550. Burnet of Burnetland then 'pursued Burnet of Leys before Lindsay of the Mount, then Lyon, to change his motto.' Leys thereupon, continues Sir George, took another motto.¹

In 1581 we find that an entry of Arms in the Register was recognized as the appropriate evidence of title. The Royal Charter of 1581, which

¹*Science of Heraldry*, cap. xxxii. Both Burnets had used the motto, *Virescit vulnere virtus*, and the action of Burnet of Burnetland was raised, as Mackenzie notes, in spite of the fact that the Earl of Galloway was using the motto too. It must also have been known to Lyon—we may assume it, seeing that the Lyon of the day was 'Davie Lindsay'—the motto was to be found in Furius Gellius, and was, taken by itself, an expression of sentiment that could not be private property. Mary Queen of Scots certainly thought that it was identified with no one family, when she used it as the legend to accompany the device of a hand cutting vines with a sword which she is recorded to have embroidered in England for the Duke of Norfolk. Burnetland's case then rested presumably on the fact that Leys was using the same motto, with the same crest, as he did. The Earl of Galloway's crest was a Pelican in her piety. We are not informed whether Lyon pronounced any judgment; only that after the raising of the action Burnet of Leys took for his motto, *Alterius non sit qui potest esse suus*, 'alluding,' as Mackenzie observes, to the occasion. It has only to be added that in 1672-8, in a day of laxer heraldic practice, Burnet of Leys was permitted to return to his former motto, with the same crest, and to register it at the same time that both were registered by Burnet of Burnetland, or, as he then called himself—Burnet of Barnes. See Nisbet, *Heraldry*, i. 396.

granted the dignity of Earl of Arran to James Stewart of Bothwellmure, with all the precedence of the former Earls of the house of Hamilton, ordained, in addition, that the new Earl's 'name, style, title insignia and motto shall be inserted in the book of insignia in that place in which the Earl of Arran was formerly.'¹

At this time the jurisdiction of Lyon and the authority of the Lyon Register were founded in the common law of the land and the Royal prerogative alone. Parliament, however, presently intervened.

The irregularities in the bearing of Coat Armour, which are believed to have resulted from the gradual disuse of Seals as a documentary solemnity, towards the close of the sixteenth century, had in all probability an important influence in inducing it to make some statutory provisions upon the subject. Accordingly, the first legislative enactment which bestows a jurisdiction upon the Lyon in questions of Armorial Bearings was the Statute 1592, c. 125,² by which he and his brother Heralds are empowered to *inspect* the Arms of all Noblemen, Barons, and Gentle men, to *distinguish* them with proper differences, to *matriculate* them in their Books and Registers, and 'to *put inhibition* to all the common sort of people, not worthy by the law of Arms to bear any signs armorial.' The Act also provides that those persons who presume to use heraldic ensigns without lawful authority shall be liable to the forfeiture to the King of the articles of furniture (insicht or household geir) on which the Arms are found, cut or painted, and a fine to the Lyon and his brother Heralds of a hundred pounds Scots (= £8 sterling), and, failing payment, then imprisonment in the nearest prison during the Lyon's pleasure.

The jurisdiction of the Lyon King in matters of Arms was more fully set forth in an Act passed after the Restoration (1662, c. 53),³ by which he was declared to be the only competent judge in all questions respecting the distinction of Arms to be worn by the younger branches of families, of whose descent he was authorized to take evidence; and also empowered to 'punish, according to the Acts of Parliament made against the bearers of

¹ *Great Seal Register*, 28th October, 1581 (262).

² *Record Ed.* c. 29, § 1. iii. 554.

³ *Record Ed.* 1662, c. 53 : vii. p. 404.

false arms,' all those who ventured to assume any additions to their Coats Armorial without his approbation. Besides other provisions, the same statute ratified and confirmed a grant by Charles I. to the Lyon King-of-Arms, of certain fees and casualties payable at the funerals of Prelates and Noblemen of the rank of Lords of Parliament and the wives or widows of the latter, and conferred on the said Lyon and his successors in office full exemption from all taxation, whether then subsisting or to be imposed in time coming. It is unnecessary, however, to make any further observations upon this statute, as it was repealed in the following year, 1663, c. 15,¹ except that from its narrative we learn that it was part of Lyon's office, on the occasion of funerals such as those just mentioned, to record 'in his booke' the deceased persons' 'matches and issues, with the proper Arms pertaining to their familie.'

The next legislative enactment on the subject of Armorial Bearings, 1672, c. 21,² renews and confirms the powers granted in 1592, and makes provision for their more effectual execution, by commanding all persons who use Ensigns Armorial to send an account of the same, within a year from the publication of the Act, with authenticated certificates of their use of the said ensigns, as well as of their descent, in order, as formerly, that the Lyon may distinguish their Arms with proper differences and matriculate them in his Books.

In former days the Lyon King-of-Arms appears to have refused the use of a Coat Armorial to none who were able to maintain a horse with furniture for the service of the Sovereign. 'Dummodo heretici non sint, contra fidem, ex illegitimo toro prognati, vel ex ignobili sanguine oriundi, sed viri probi et honesti nominis.'³ This statute, however, further expressly authorizes the Lyon to give Armorial Bearings 'to virtuous and well-deserving persons,' and to furnish extracts, or authenticated copies, of Arms, under his hand and seal of office, for which certain payments are appointed to be made, according to the quality of the bearer. It also remits any penalties that may have been incurred previous to the date of its enjoined publication, and after declaring that the Lyon's Register 'shall be respected

¹ Record Ed. 1663, c. 15 : vii. p. 458.

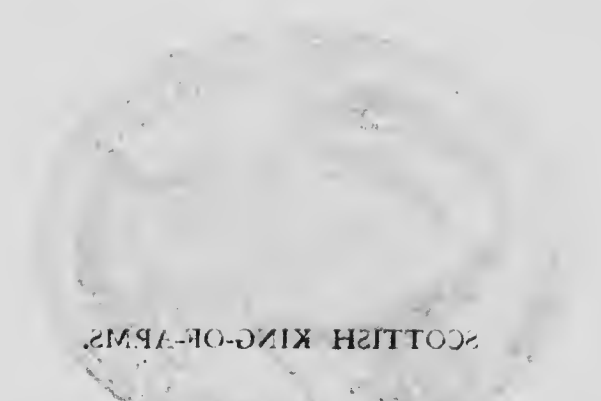
² *Ibid.* 1672, c. 47 : viii. p. 95.

³ Nisbet, *Heraldry*, ii. part iv. chapter xvi. :—*Of the Office of Heraldry*, p. 166.

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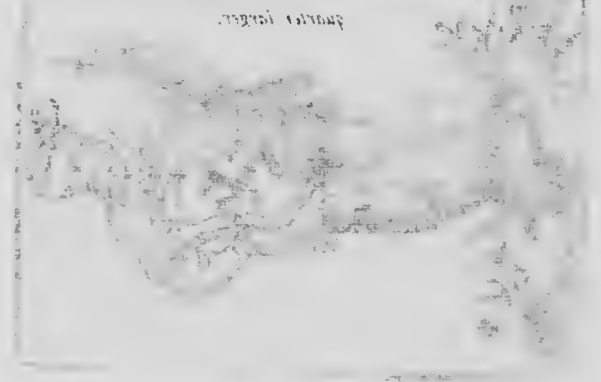
The Great Seal of the Most Excellent King of Great Britain

1 Facsimile of the woodcut in Lindsay's Poems, 1752.

2 Facsimile of the woodcut in Lindsay's Poems, Edinburgh, 1814.

Facsimile of the woodcut in Lindsay's Poems, Edinburgh, 1814.

Facsimile of the woodcut in Lindsay's Poems, Edinburgh, 1814.



SCOTTISH KING-OF-ARMS.

Sir David Lindsay of the Mount, Lyon King-of-Arms; b. 1490, d. 1555.

1. Facsimile of the woodcut in Lindsay's Poems. Paris, 1558.
2. Facsimile of the woodcut in Lindsay's Poems. Edinburgh, 1634.

Facsimile of No. 1 is about a seventh larger than the original, and facsimile of No. 2 about a quarter larger.

PLATE V



SCOTTISH KING OF-ARMS

as the true and unrepealable rule of all arms and bearings in Scotland,' it repeats, with some modification, the pains which are denounced against the wearers of false arms by the Act of 1592.

By these two statutes (1592 and 1672) the jurisdiction of the Lyon King-of-Arms in questions of Armorial Bearings is fully established. His authority is reserved entire in the nineteenth article of the Treaty of Union, by which, after a notice of the Court of Session and other supreme judicatures, it is expressly declared 'that all other Courts now in being within the Kingdom of Scotland do remain'; while the twenty-fourth article provides 'that the quartering the arms, and the rank and precedency of the Lyon King-at-Arms of the Kingdom of Scotland, as may best suit the Union, be left to her Majesty.'

The Scottish heraldic authority thus remains the sole heraldic authority within Scotland, in the same way as the heraldic authorities of England and Ireland remain the authorities of these kingdoms respectively.

1. LYON'S JURISDICTION AS REGARDS PERSONS.

The persons to whom, under the King, it is Lyon's exclusive province to assign arms, and who are conversely entitled to apply for arms to him only, are divisible into three classes.

The *first* of these consists of those persons who are Scottish in descent and have not lost their Scottish domicile, *i.e.* have not transferred their home from Scotland. The *second* consists of those persons who, though not Scottish originally, have become domiciled in Scotland, and elected to become Scottish in heraldic matters as well as in others.¹ *Thirdly* comes

¹ On this question different opinions have been expressed: on the one hand, that a person's home or domicile for general purposes ought to indicate the heraldic jurisdiction to which he is subject in all cases; on the other hand, that domicile ought to have no effect on heraldic jurisdiction at all, but that paternal descent alone should be taken into consideration. But it does not appear that a rigid application of the theory of domicile would accord with the spirit of the law of arms, which recognizes and respects the pride of ancestry, or with its practice, which aims at preserving the record of ancestry in bearings. Nor would a rigid insistence on the fact of paternal descent consort with the sentiment of the individual in all cases. An Englishman may come to consider himself a Scotsman after making his home in Scotland on inheriting great interests and responsibilities in that country, perhaps through a maternal descent. A Scot may, in the converse case, come to be sympathetically an Englishman.

the class of persons who are descended in the male line from a member of class one, and who are themselves British subjects, and not amenable to the jurisdiction of any of the other British heraldic authorities. The Kings-of-Arms of neither England, Scotland, nor Ireland can give a grant of arms to an alien without a special warrant from the King. But British subjects outside the United Kingdom, whether in the colonies or elsewhere, tracing or claiming an English, Scottish, or Irish descent, are respectively, in cases of new grants of arms, within the jurisdiction of Garter, Lyon, or Ulster as the case may be.

By special statute or ordinance of the King a heraldic authority may be called upon to grant arms of the King's special grace to persons who are not within its jurisdiction. Thus, by the statutes of several of the British Orders of Knighthood, Garter King-of-Arms is distinctly authorized and commanded to assign supporters to those of their Knights Grand Cross who, not having any ordinary heraldic right or subjection, may apply for them to him. Thus an Indian Prince who is made a Grand Cross of the Bath, and who, not being English, Irish, or Scottish, cannot demand supporters through the Earl Marshal of England, or Ulster or Lyon, may under the statutes of the Order demand them of Garter. Occasionally distinguished foreigners have received grants of honourable augmentation in obedience to special warrants.

When a dignity, as of peerage, is conferred on a foreigner, everything heraldic that would follow on a grant of a peerage to a national is as a rule conferred on him also. But this, though entirely complimentary, is scarcely an exception to the rule of jurisdiction, for the heraldry granted to the foreigner is ancillary to the peerage alone; and so far as the peerage goes, the foreigner who has accepted it is under the jurisdiction of the heraldic authority of the kingdom in which he holds it, even though personally he is under the authority which is in power in his own country.

Before the Union of 1707 illustrations of the case were to be had very near home. In 1645 the Scottish Earl of Forth was made an English Earl, —the Earl of Brentford. As an English Earl he received supporters from the English heraldic authority. When the converse happened, and Sir

JURISDICTION OF THE LORD LYON 67

Richard Graham, an Englishman, was, in 1681, created Viscount Preston in the peerage of Scotland, he received a grant of supporters from the Scottish authority. Those grants were quite correct, but the grantees altered nothing of their heraldic position in their own countries.

2. LYON'S JURISDICTION IN ARMS.

Lyon's jurisdiction in arms is threefold: *Firstly*, he has a power of inhibiting persons who are not of the classes eligible to bear arms from bearing arms at all. *Secondly*, he has the power, in the cases of persons who are eligible, to regulate and matriculate their arms in the event of their having inherited rights to arms, or to grant them arms if they have not. *Thirdly*, he has sole original jurisdiction over the arms which are recorded in his present Register, or have been legally used before the present Register was called into existence. For there is nothing in the statute under which the Register exists (1672, cap. 47) to extinguish an armorial right which already existed; although it imposes a fine payable to Lyon for its exercise if the arms have not been placed on the Register, and in certain cases enacts escheat to the King of the possessions on which the arms are represented.¹

With regard to such recognized arms he has power in certain cases to alter them; to vary the limitation of heirs contained in the patent; and in all cases to matriculate them over again, with such differences as he chooses, in favour of any of the persons who come within the destination of heirs contemplated in the patent.

Although a person of British descent loses, as we have said in the previous section, his right to demand a *grant* of arms from the King's officers when he transfers his allegiance to another state, this loss of status has not been held in Scottish practice to extinguish his right of blood (*jus sanguinis*) as a cadet of a family whose arms are already recorded, to ask for a matriculation of these arms in his own name with a proper difference. *A fortiori* an Englishman or an Irishman who inherits rights in such recorded arms is entitled, without transferring his personal allegiance from

¹ *I.e.* where they are placed on 'moveable goods and gear.' See 'Analysis of Statutes,' on pages 77-8 below.

the heraldic authority of his own kingdom, to matriculate in Lyon Register as accords with the law of Scotland. Similarly, any British subject may matriculate, or even obtain an original grant of arms, in Scotland, if he is obliged to do so in order to inherit under the provisions of an entail of Scottish heritage. It is doubtful if the same may not be said of an alien.

However the persons in these cases may be situated, their rights, and therefore the arms so entered on the Register, are Scottish, and under the sole jurisdiction of the heraldic authority and superior courts of that country. A forfeiture of them by the operation of the Scots law or a Scottish judgment would end the right to all intents. The jurisdiction is the same in the case of arms or honourable augmentations granted to a foreigner on a special warrant, or on his becoming a peer, as in the case supposed in the previous section. While the grantee may omit at will to use these, it would be as grave a heraldic irregularity for any other heraldic authority as for the grantee himself to amend them or alter their limitations.

The only limit to Lyon's jurisdiction over recognized arms is that he cannot pronounce sentence of forfeiture of them. By the old Scottish law, says Mackenzie, 'only crimes and a sentence, doe now take off the sacred character of honour. And with us, upon reading the sentence of forfeiture, the arms are torn, and the decret of forfeiture bears an order for this, but no other sentence for other crimes discharges the bearing of Arms with us.'¹ Since the Act, 7 Anne, c. 21, which assimilated the law of Scotland with that of England in matters of treason, it is probable that only a sentence following a conviction of high treason will forfeit a right of arms in Scotland.²

Upon the subject of the Lyon's armorial authority Lord Stair is silent, and Erskine merely states that 'in the list of inferior judges may also be placed the Lyon King of Arms,' and that 'the extent of his jurisdiction is set forth in several statutes,' of which he enumerates the principal provisions.³ 'The Court of Session,' says Lord Kames, 'hath an original

¹ *Science of Heraldry*, 14.

² The subsequent Act, 33 and 34 Victoria, cap. 23, which abolished the law of corruption of blood and forfeiture on conviction of high treason, does not extend to Scotland.

³ *Institute of the Law of Scotland*, book i. tit. 4, §§ 32, 33.

jurisdiction in matters of property, and in everything that comes under the notion of pecuniary interest. But this Court hath not an original jurisdiction in matters of rank and precedency, nor in bearing arms. Controversies of this kind belong to the jurisdiction of the Lord Lyon.' By the words 'of this kind' Kames probably refers only to the 'bearing of arms,' for he adds, in terms which also require some qualification, that 'to determine a right of Peerage is the exclusive privilege of the House of Lords.'¹ 'The Lord Lyon,' says Lord Bankton, '... has the sole power and jurisdiction concerning coats of arms, or signs armorial; ... he may give the privilege of them to any that he judges has right to claim the same, either by birth or merit, or on other accounts; and may inhibit all common people, unworthy, by the law of arms, to bear any signs armorial, from using them; ... and all magistrates may be charged to assist the Lord Lyon in putting the acts in his favour in execution.'²

APPEALS FROM JUDGMENTS OF THE LYON.

The Scots Privy Council might probably have entertained an appeal from the Lyon Court; from the Earl Marshal of England, the head of the 'College of Heralds,' it is competent to appeal to the Sovereign in Council; and the language of at least one of the Scottish statutes already referred to,³ as well as the attestation at the end of Sir David Lindsay's Register of Arms, seem to lead to the conclusion that a similar rule formerly existed in Scotland. The Scottish Privy Council, says Erskine, 'came at last, besides their powers in matters of state and public police, to have a fixed supreme jurisdiction in all questions of wrong, for which no redress could be had in the common courts of law, and in all causes where the public peace was concerned. Thus, they inquired into and punished violent encroachments upon possession, all acts importing oppression, concussion,

¹ *Law Tracts*, 2nd ed. (pub. 1761), p. 211. It was decided by the Court of Session, and not appealed from, in the case of the Royal College of Surgeons of Edinburgh v. the Royal College of Physicians of Edinburgh, 23rd June, 1911, S.C., that Lyon has no jurisdiction to grant a declarator of a right of Precedence.

² Bankton, *Institute*, A.D. 1752, book iv. tit. 6, § 12.

³ 1662, c. 53. See also 1672, c. 21.

or contempt of the laws or of public authority; they decreed alimony to pupils, and to wives barbarously used by their husbands; and judged in many other questions of that sort where summary proceeding was necessary. These powers continued in the Scottish Privy Council till an Act, passed soon after the Union, 6 Anne, c. 6, whereby that court was abolished, and sunk into the Privy Council of Britain, which, for the future, was declared to have no other powers than the English Privy Council had at the time of the Union. What the powers of a British Privy Council are it does not much import a Scottish lawyer to know: It is certain, that they have no judicial powers that can affect Scotsmen; for, though they may commit them to custody for crimes against the State, and examine them, they have no right of trial.¹ Under these circumstances, therefore, the right of appeal to the Privy Council from the judgments of the Lord Lyon, if it ever did exist, ceased at the Union, at which period, according to Erskine,² the extraordinary powers of the Scottish Privy Council were transferred to the Court of Session; but there can be no doubt that, for some time past, the Court of Session has regarded the jurisdiction of the Lord Lyon in questions affecting rights in arms as subject to its review and control.³

Thus, about the middle of last century, Dundas the Laird of Dundas complained to the Lyon that Dundas of Fingask had got from the Lyon's predecessor, in the year 1744, a grant of armorial bearings, to which he, Dundas of Dundas, and his ancestors had right many ages before. The

¹ *Institute of the Law of Scotland*, book i. tit. 3, § 9. 'The tendency of recent legislation has been to increase the judicial and administrative powers of the Privy Council. As a judicial body it has no jurisdiction in Scotch affairs, except where it is given under special statutes, e.g. the Universities (Scotland) Act, 21 and 22 Vict. c. 83, § 15. As an administrative body the Privy Council now exercises large powers in every part of the United Kingdom; and Orders in Council, Orders of Council, and Minutes of Council are constantly being made as the means of explicating general enactments of the legislature.'—Nicolson's note on the passage in Erskine.

² *Ibid.* § 23. See also Shand's *Practice of the Court of Session*, i. 41 *et seq.*

³ See *Dundas v. Dundas*, 22nd January, 1762. *Brown's Supp.* v. 493. *Proc. Fisc. of Lyon Office v. Murray*, 24th June, 1778. *Mor.* 7656. *Cuninghame v. Cunyngnam*, 13th June, 1849, 11 D. 1139. And see Riddell, whose language is characteristic of his temper towards the Lyon Office of his day. *Peerage Law*, 1859, p. 4.

matter was brought before the Court of Session by an *advocation*¹ at the instance of Fingask, the defender. Dundas, the complainer, disputed the competency of taking the cause to the superior Court, but his plea was soon abandoned; and on the merits, the Lords, on the 22nd of January, 1762, pronounced this interlocutor: 'Find that George Dundas of Dundas, heir-male of James Dundas of that Ilk, who was forfeited in the year 1449, but afterwards rehabilitate, has the sole right to use and bear the Coat of Arms belonging to Dundas of that Ilk, as matriculated in the Register, authenticated by the subscription of Sir James Balfour, then Lord Lyon; and find that the Coat of Arms obtained, in 1744, by Thomas Dundas, Defender, from the late Lord Lyon, was obtained by *obreption*,² and that he has no right to use the same; and therefore ordain the said Coat of Arms to be recalled and expunged from the Lord Lyon's Books, reserving to the said Thomas Dundas to apply for a new Coat of Arms as accords: Find the Defenders, Thomas Dundas of Fingask and Thomas Dundas of Quanal, liable to the Pursuer in the expense of the complaint before the Lord Lyon's Court, and in the expense of this process of *advocation*.'³

In the case of the Procurator Fiscal of the Lyon Court, against William Murray of Touchadam, the Fiscal cited Murray before the Lyon Court under the statutes 1592 c. 127 and 1672 c. 21, for having assumed ensigns armorial without matriculation, and concluded for certain penalties, and the escheat of the goods and furniture on which the arms were represented. The Lyon-depute presiding in that Court decerned in terms of the libel. Murray brought the cause before the Court of Session by *advocation*, and among other things objected to the competency of the Lyon Court. The Fiscal, on the other hand, pleaded, *inter alia*, that the jurisdiction of the

¹ "Advocation," a form of process formerly in use by which a cause was removed from an inferior Court to the Supreme Court, in order that a judgement pronounced in the inferior Court might be reviewed or that the further procedure in the cause might be conducted in the superior Court. *Bell's Law Dict.*

² *Obreption*, falsehood supplied as truth to a Court or the Crown for the purpose of obtaining a judgement or a gift; distinguished from *subreption*, the concealment of the truth for the same object.

³ Dundas v. Dundas, 22nd January, 1762. *Brown's Supp.* v. 493. Quanal ? Quarrel.

Lyon Court was privative. The Court of Session, on 30th November, 1775, 'repelled the objection to the competency of the Lyon Court, and also repelled the plea of its jurisdiction being privative.'¹

On the other hand, however, it is equally certain that the proceedings of Lyon, in so far as he grants armorial bearings, cannot be disturbed by the Supreme Court, unless he thereby invades the rights of others. Accordingly, that tribunal will not entertain an action of reduction of a matriculation of arms, at the instance of a party who does not claim them for himself, upon the mere ground 'that the Arms blazoned are not such as the defender (or person challenged) is entitled to bear.'² In the case of *M'Donnell v. Macdonald*, to which we refer, the Court dismissed as incompetent an action of reduction of a matriculation of arms, in which the pursuer (*M'Donnell of Glengarry*) did not set forth that he had a right to the arms in question. The summons concluded for reduction of the matriculation of the arms of 'Reginald George Macdonald of Clan Ranald, Esquire, captain and chief of Clan Ranald,' as entered in the Lyon Register on the 9th of August, 1810, on the grounds that 'the arms blazoned were not such as the defender is entitled to bear,' and that the defender 'is not chief of Clan Ranald.' The pursuer designed himself 'of Glengarry' and 'heir-male in general duly served and retoured to Æneas, Lord M'Donnell of Arros, who was recognised by the King's Commissioner and Privy Council, in 1672, as Chief of the Name and Clan of M'Donald,' and stated that the matriculation sought to be reduced was to his 'great hurt and prejudice.' He did not, however, set forth that he was the Chief of Clan Ranald, or that he was entitled to bear the arms which had been matriculated as the ensigns armorial of the defender; and moreover, in the year 1797, he himself had matriculated arms which were essentially different.

Lord Robertson observed: 'The power of granting ensigns armorial is part of the royal prerogative, but everything belonging to that power has been given by sundry statutes to the Lord Lyon. His power to grant new armorial bearings is merely discretionary and ministerial, and with that this

¹ *Procurator Fiscal of the Lyon Court v. Murray of Touchadam*, 24th June, 1778, M. 7656, and see 20th Dec., 1776, *Brown's Supp.* v. 490.

² *M'Donnell v. Macdonald*, 20th January, 1826, 4th S. (Session Cases, 1st Ser.) 371.

Court cannot interfere. But if the Lord Lyon should grant to one person arms which another is entitled to bear, and should refuse to give redress, there could be no doubt of the jurisdiction of this Court to entertain an action at the instance of the party to have his right declared, as this would involve a question of property, which a right to bear particular ensigns armorial undoubtedly is.'

Lord Pitmilley observed: 'As to the abstract principle, it is clear that wherever there is a competition as to the right of armorial bearings, an appeal lies to this Court by advocacy, and also by reduction, which is the proper remedy when the arms are already granted; or even if the Lyon refuse arms to a party entitled, this Court has jurisdiction to give redress. The Lyon Court is, in fact, just on the same footing with other Inferior Courts. But this opinion does not affect the present action, which is not competent, as the pursuer does not claim the arms given to the defender.'

The jurisdiction of the Court of Session to review a judgment of the Lyon Court was reaffirmed in the case of *Cuninghame v. Cunyngham*.¹ There the case presented by the appellant involved the question whether the armorial ensigns which had been granted by Lyon were heraldically in accordance with the provisions of a private Act of Parliament. The Court held in the first place that the power of Parliament to create or determine a right of arms was not open to dispute. To enforce the Act the Court recalled a grant of certain supporters, made by Lyon Depute to one of the parties, and remitted to him to grant them to the other party. The patent of arms, which bore to have been granted by the Lyon in terms of the Act, and which was submitted to the Court for review, specified a canton of Nova Scotia (a badge to which the patentee had a right as a baronet) on the shield of the patentee as a mark of cadency, placed there in obedience to the Act. The Court held that it was not of the nature of a mark of cadency, and remitted to Lyon Depute to add such a mark.

The validity of a patent of a coat armorial granted by Lyon must be challenged in the regular way before it can competently be called in question

¹ 13th June, 1849, 11 Dunalop (Session Cases, 2nd Series), 1139. This case is referred to again on a later page.

as a side issue. This was decided in the case of *Hunter v. Weston*.¹ In 1810, March 31, Robert Caldwell Hunter of Hunterstoun obtained a patent of arms, vert, three dogs of chace courant argent, collared or, on a chief of the second three hunting-horns of the first, stringed gules. Two days afterwards he entailed the estate of Hunterstoun, making the bearing of the name and arms of Hunter of Hunterstoun a condition of succession. He bore the arms contained in his patent of 1810 as his arms till his death in 1826. His son and heir bore them after him till 1865, when he petitioned Lyon, stating that the patentee of 1810 was unversed in heraldry, and had neither brought the facts of his family heraldry before the Lyon at that date, nor the separate fact that as Hunter of that ilk, he, from the 'long-recognised chieftainship, from the early and continued importance of the family, and from the honourable office of hereditary forester held by them for centuries,' was entitled to supporters, which also were omitted from the grant he had received. Lyon then, 5th June, 1865, issued a new patent of arms, as the arms of Hunter of Hunterstoun: or, three hunting horns vert, garnished and stringed gules; supporters two greyhounds proper gorged with antique crowns or.

In 1880 the succession to Hunterstoun went into the female line, and the husband of the heiress recorded, both in Scotland and England, the arms granted in 1865 quarterly with his own (of Weston). One of the substitutes under the entail brought an action of declarator of irritancy of the entail against the heiress and her husband, alleging as the cause of forfeiture of their rights that they had neglected to bear the arms of Hunter of Hunterstoun as these were declared to be in the patent of 1810, which also were the true and ancient arms of Hunter of Hunterstoun. The pursuer argued, as the Lord President Inglis observed, that in 1865 'the Lyon King was misinformed and misled by the heir of entail who wished to have the coat assigned. That,' his Lordship continued, 'is not a very intelligible statement, because I think it must be taken for granted that the Lyon King-at-Arms knows more about coats of arms than any other person, whether the heir of entail himself or someone else. He is the proper officer for the purpose, and by his judgment and authority any one who

¹ 31st January, 1882, 9 Rottie (Session Cases, 4th Series), 492.

bears the coat armorial is bound. And I know of no authority for taking to another Court and bringing up as a side issue the decision arrived at on such a point by the Lyon King, where recourse has not in the first place been had to the regular proceedings by which such a decision can be reviewed.

'There have been cases in which the judgment of the Lyon King has been brought under review by advocacy or reduction, and if a party has a proper interest he will be entitled to be heard upon the points on such a matter. But to disregard as unimportant the judgment which was pronounced upon this matter in 1865 is unprecedented. . . . As the matter now stands, no one is entitled to use any other coat armorial than that settled by the decree of 1865, and if he did he would render himself liable to the penalties specified in the Act of 1672 . . . it must be assumed by the Court that the true coat armorial of the Hunterstoun family is that conferred by the patent of 1865.

'But it is further said that when Mrs. Hunter-Weston succeeded to the estate in 1880 there was what may be called a tampering with the coat armorial by the defenders, by the fact that the coat armorial of the Hunter family was quartered with the coat armorial of the Weston family, and that thus there has been a contravention of the entail. The contention is not raised upon record, which is one objection to it. But I am unwilling to give it no further answer, because I am very clearly of opinion that Colonel and Mrs. Hunter-Weston could do nothing more than what they did, and that what they did they did rightly.' After rehearsing that Colonel Weston had recorded the arms of Hunter and Weston quarterly both in England and Scotland under the eye of the respective authorities of these kingdoms, his Lordship continued: 'It is said that in order to comply with the terms of the clause of entail it is not enough to use the Hunter arms quartered along with the arms of another family, but that the arms of Hunter of Hunterstoun must be used alone in order to satisfy these terms. That is a matter upon which one wishes to have authority, and the only authority which has been quoted is a very direct and conclusive one against the pursuer. Sir George Mackenzie says (*Science of Heraldry*, p. 80): "The learnedest antiquaries and lawyers . . . conclude that when a person leaves his estate to another upon condition that he shall 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 . . . except the contrair be expressed in the institution. . . ." No doubt that quotation is applicable to the case of a person succeeding in his own name to an estate destined to him under such a condition. In the present case we are dealing with an heiress of entail and her husband. According to the contention of the pursuer, this paragraph from Sir George Mackenzie's work, which I have just read, is not applicable to the present case. Her counsel says that it is the paragraph which follows :

"When a man joyns in the arms of his wife with his own in one shield, he does it by dividing the shield *per pale* in two parts ; on the right side the man's, and on the left the wife's are placed ; and therefore this form of bearing is called *impaling*, from the *pale* that divides the arms, and *Barron* and *Femme* from the different arms that are borne. . . .

"If a man marry an heretrix, he himself impales only her arms ; but his children procreat of that marriage quarters them ; the first and fourth quarters should contain the father's arms, and the [second and third] the mother's", which ought to regulate the present case, and that when a husband assumes the arms of his wife the way to emblazon the shield is to impale and not to quarter the arms of the two familiès. Now it would be rather a remarkable conclusion if the Court were to hold that upon such a matter the Garter King-of-Arms and the Lyon King are wrong, and they must be wrong if the contention of the pursuer is right. I am not disposed to impugn their authority, and on the whole matter, therefore, I am of opinion that the Lord Ordinary's interlocutor [in favour of the defenders] ought to be adhered to.' The Court was unanimous.

THE STATUTE LAW RELATING TO ARMS.

The statutory powers and duties of Lyon in matters of arms, conferred upon him by the Acts of 1592 and 1672, may be conveniently summarized in the following analysis :

(I.) ANALYSIS OF ACT 1592, c. 125 (Rec. Ed. c. 29). (JAC. VI.)

'Concerning the Office of Lyon King-of-Arms and his brother Heralds.'

- I. PREAMBLE. In which is set forth the great abuse among the Lieges in the bearing and usurpation of Arms, so that Gentlemen of Blood and those descended of Noble Stock and Lineage cannot be distinguished.
- II. PROVISIONS. Full power granted to the Lyon King-of-Arms and his brother Heralds :
1. To visit the whole Arms of *Noblemen, Barons, and Gentlemen*, borne and used within the realm, in order,—
 - 1st, To *distinguish* and discern them with congruent differences.
 - 2d, To *matriculate* them in their Books and Registers.
 2. To put inhibition to all the *common sort of people*, not worthy by the law of Arms to bear any Signs-Armorial.
- III. PENALTIES for each contravention of the Act by 'the common sort of people':
1. *Escheat* to the Sovereign of all goods and gear whereon Arms unlawfully assumed are found graven or painted.
 2. *Payment* of one hundred pounds to the Lyon and his brother Heralds; and failing payment,
 3. *Incarceration* in the nearest prison, during the pleasure of the Lyon.¹

(II.) ANALYSIS OF ACT 1672, c. 21 (Rec. Ed. c. 47). (CAR. II.)

'Concerning the Privileges of the Office of Lyon King-at-Arms.'

- I. PREAMBLE, containing :
1. Reference to the provisions of Act 1592.
 2. Notice of continued irregularities in the assumption of Armorial Bearings.
- II. PROVISIONS.
1. A general ratification of the Act of 1592.
 2. Within a year after the enjoined publication of the Act throughout the Kingdom, all Prelates, Noblemen, Barons, and Gentlemen, who make Use of any Signs-Armorial,—(1) To bring or send to the clerk of the jurisdiction where they dwell, or to the Lyon-Clerk in Edinburgh, an account of the Arms they are accustomed to bear; (2) With statement whether they are descendants of any family the Arms of which they use, and from what brother of the family they are sprung; (3) With certificates from persons of honour, Noblemen or

¹ This Statute also contains provisions regarding the execution of letters of treason, and the admission and number of Officers at Arms; and enjoins all civil magistrates, when required by the Lyon, to concur with him in carrying out the various powers conferred upon his office.

HERALDRY IN SCOTLAND

Gentlemen of quality, anent the verity of their having and using the Arms they claim, and of their descent as aforesaid, to enable the Lyon King-of-Arms,—

- 1st, To *distinguish* the said Arms with congruent differences.
- 2d, To *matriculate* the same in his Books and Registers.
3. The Lyon to give Arms to *virtuous and well-deserving persons*.
4. To furnish *extracts* (or authenticated copies) of all registered Arms, expressing their blazoning, under his hand and seal of office, the payment for said extracts being:

By Prelates and Noblemen,	20 merks.
„ Knights and Barons,	10 „
„ All other persons,	5 „
5. Remission of any penalties that may have been incurred previous to the publication of this Act.
6. The Lyon's official Register to be respected as the true and unrepealable rule of all Arms and Bearings in Scotland.
7. Penalties for the use of unregistered Arms after the lapse of a year from the publication of this Act:
 - (1) *Payment* of one hundred pounds, *toties quoties*, to the Lyon.
 - (2) *Escheat* to the Sovereign of all moveable goods and gear whereon the said Arms are engraven or otherwise represented.
8. The Statute also ordains that none save noblemen and bishops may subscribe by their titles; and that all others shall subscribe their Christian names, or initials thereof, with their surnames; and lays on Lyon and his brethren a duty to inform themselves of the contraveners of the provision, and acquaint His Majesty's Council therewith. The provision regarding the signatures of bishops ceased to have any application on the passing of the Act 1689, cap. 3.
9. The Statute concludes with a general ratification to the Lyon and his brother Heralds of all the privileges secured by the laws of the kingdom, and enjoyed by former practice.

Neither of the statutes just referred to introduced any new principle into the law of arms, save in regard to its administration. Both of the statutes recognize a *twofold* classification of the lieges, viz. those who are, and those who are not, worthy by the law of arms to use heraldic ensigns. The main objects of the first enactment were to check their unwarrantable assumption by the first class; and to more effectually regulate their use by the second class. The principal provisions of the second enactment were

the establishment of a permanent Register of all arms, to be kept by Lyon King; and the establishment of the illegality of the use of any arms that had not been put on the register.

The right to bear armorial ensigns was by this time held to depend either on *immemorial custom*, which was taken to have originated in a grant, and had always been deemed in itself sufficient, or on proof of actual valid *Royal concession* by the Sovereign or his appointed servants the Heralds, the Sovereign being then, as now, the fountain of honour. The only wearers by right of armorial insignia are classed in the statute as Noblemen, Barons, and Gentlemen,¹ incidental allusion is also made to Knights, who are classified along with Barons. The term Nobleman is used in the Act in the modern sense of a titled noble, and imports no denial of the possibly entirely noble blood of the baron and the gentleman, who are distinguished into separate classes. The term Baron comprehends the 'lesser Barons' or Lairds, those who, though not among the great lords, were the King's men, held their lands direct from the Crown, and were liable by the law of their holdings to be summoned to sit in the Scottish Parliament, along with the Nobles (or greater Barons), although from the year 1585,² their attendance was dispensed with, on condition of their sending representatives from each county (who were designed 'Commissioners of the Schires').³ *Gentlemen* were such as were descended from the first-named classes or from other 'worshipful houses,' or persons engaged in employments which were considered essentially honourable, and were distinguished from mere citizens, traders, artisans, and others, who were considered to be unqualified. Some writers inform us that of old there was a distinction between Gentlemen of *Coat-armour* and Gentlemen of *Blood*, and that the third from him who first bore coat-armour was, like the second, to all effects and purposes

¹ In addition to whom the Act of 1672 specifies, as a separate class, Prelates, who at the time, and till 1689, were known to the law of Scotland, the form of Church government then recognized by the State being prelatie. The Act does not affect any Prelates as such created since the Revolution Settlement.

² Act of Parliament, 1585, cap. 74. Thus originated the county franchise, which lasted till 1832. A previous Act of relief of 1427, cap. 2, had been abortive.

³ For notices of the Minor Barons, see *Lives of the Lindsays*, i. 57 and 147.

a Gentleman of Blood and entitled further to be classed as a Gentleman of Ancestry. But these refinements of degree were not pretended to affect the Gentleman's rights to arms. The preamble of the Act of 1592 makes special mention of Gentlemen of Blood and those descended of noble stock and lineage, who are clearly presumed to be entitled to use armorial bearings. Here, however, the object is apparently to distinguish between the gentlemen who on account of their lineage have a right to demand arms and those who have already got them; in other words, it refers to the Gentleman of Blood, who may not be also a Gentleman of Coat-armour.

Both of the statutes under consideration, while they acknowledge the general right and title of Noblemen, Barons, and Gentlemen to heraldic ensigns, expressly authorize the Lyon to distinguish and adjudge¹ all arms borne within the kingdom, 'with congruent differences,' and thereafter to matriculate them in his official Register. For the accomplishment of these objects, he is empowered, by the Act of 1592, to 'visit the whole Arms' of Noblemen, Barons, and Gentlemen; while the later statute enjoins all such persons, who make use of any signs-armorial, to bring or send an account of the same, accompanied by duly authenticated certificates of their descent, either to the clerk of the jurisdiction within which they reside, or to the Lyon-Clerk in Edinburgh. The statutes may well have been taken in their time to be designed to strengthen the hands of the heraldic authority, even to alter coats of arms radically,² but their provisions for distinguishing arms certainly applied more especially to the *Cadets* of families, of which only the *Chief* is entitled to wear the simple arms, without abatement. The preamble of the Act of 1672 sets forth, 'amongst the many irregularities of these late times,' not only that numerous

¹ The word, which occurs originally in the Act of 1592, is *discerne*, now spelt *decern*, which means in Scots law-language to *decree*.

² The arms of the ancestors of Mylne of Muirton or Mylnefield were a cross engrailed between two mullets in chief; in base two bars wavy (e.g. on tombstones in The Howff, Dundee), but in the Lyon Register he appears, between 1672-7, with the cross moline between three mullets, and a bordure inverted, reclaimed as it were to a heraldic allegiance which they were not acknowledging; and made to appear to be cadets of Mylne of Balfargie! The engrailing reappears curiously between 1680 and 1687 in the cross moline of Mylne of Balwylo. For the case of Macpherson of Cluny's supporters, see below, p. 85, note 2.

persons have adopted armorial ensigns 'who should bear none,' but also that 'many of these who may in law bear, have assumed to themselves the Arms of their Chief, *without distinctions*, or Arms which were not carried by them or their predecessors.' To these younger branches of families the Lyon is commanded to assign suitable marks of cadency. This provision, like much else in these statutes, adds, however, nothing to the common law of arms. For, in the words of a civilian already quoted:—'*Non solum potestas conferendi nova insignia, sed potestas augendi, mutandi, diminuendi, et confirmandi insignia vetera, est penes Principem et ejus Heraldos.*'¹

As the grand fountain of honour, the Sovereign possesses the prerogative of conferring armorial bearings on whomsoever he will. And it is in complete agreement with the ancient principle of the Scots law that his prerogative is undiminished by the powers he has conferred upon the King-of-Arms. The prerogative, however, falls seldom to be exercised directly. For by the statutes Lyon, in addition to the powers which he certainly already possessed from the King in virtue of his appointment, is invested with powers of great width. In this respect, he received no direct power under the Act of 1592, which only authorized him 'to put inhibition to all the common sort of people not worthy, by the law of Arms, to bear any signs-armorial,' and to alter or difference the arms already used by persons who had a right to arms. But the later enactment expressly declares that he may grant arms to 'virtuous and well-deserving persons,' the interpretation of these rather ambiguous but by no means unprecedented words being omitted. By the Lyon's patent of creation—in that of Sir Charles Erskine of Cambo, for example, who was appointed King-at-Arms in 1663—he was already invested '*plena potestate, libertate, licentia, et auctoritate, personis virtute praeditis, et de nobis bene meritis, diplomata armorum, secundum ordinem et constitutiones eatenus praescriptas, concedendi.*' In a dissertation already referred to on the persons who are worthy to use Armorial Bearings, which will be found in the second chapter of Sir George Mackenzie's *Science of Heraldry*, that learned author admits that the civilians have shown that there is a *Civil* or *Politie*, as distinguished from a *Moral*,

¹ Hopingius, 8. 5, cited in Mackenzie's *Science of Heraldry*, chap. ii. p. 12.

nobility.¹ He points out, however, that in the words with which we have to do,² the qualification of virtue is not taken alone, but in conjunction with the other qualification of deserving well of the Sovereign. It is after considering the provisions of the Act of 1592, which alone he discusses, along with the terms of Lyon's patent which we have just touched upon, that Mackenzie lays it down that the right to bear Armorial Ensigns extends to Soldiers, Ecclesiastics, Orators, and Laureate Poets; but not, at least in every case, to Heritors of Land, and never to the mere possessors of Wealth; that while the privilege is extinguished by 'whatever renders the bearer infamous,' and suspended during the exercise of mean trades (*viles et mechanicas artes*), it is not lost or suspended by the pursuit of liberal professions, as those of Advocates and Physicians, and still less in consequence of poverty, 'even in the longest course of time.' With respect to the calling of the Merchant, he says only that it does not of itself ennoble. As an exception he cites the case of the merchants of Paris whom Charles V., A.D. 1371, ennobled, and allowed to bear coat-armour, and he intimates that the chief burgesses of capital towns pretend to the same privilege. But he by no means classes the traffic in merchandise among the trades which are *viles et mechanicas*.³ With Mackenzie's dictum agrees a later authority of a very different hue. 'Our most respectable families,' says Gibbon, speaking mainly of England, 'have not disdained the counting-house, or even the shop; their names are enrolled in the livery and companies of London; and in England, as well as in the Italian commonwealths, heralds have been compelled to declare that gentility is not degraded by the exercise of trade.'⁴

The terms of the Act of 1592, which required the Lyon and his brethren to 'visit' all 'Arms,' did not necessarily imply that they

¹This distinction of civil lawyers appears to repudiate the motto of more than one illustrious family—'Sola virtus nobilitat,' say some; but the Duke of Abercorn, more greatly daring, asserts—'sola nobilitas virtus.'

²Mackenzie's observations here refer to the words of the Lyon's patent (of 1663) only. Though his *Heraldry* was not published till 1680, his discussion in his second chapter seems to have been penned before the Act 1672, cap. 21, to which he makes no allusion. Had the Act of 1672, however, in any way abrogated the law here laid down, the author of the *Science of Heraldry* would most certainly have noticed it.

³*Science of Heraldry*, chap. ii.

⁴Gibbon, *Autobiography*, ed. 1869, p. 7.

were to visit the people who bore them, or in any way perambulate the country. Still, we can only regret now that no regular system of armorial visitation appears to have been adopted by the Heralds of Scotland, such as that once in use in England, in which kingdom the practice of sending Heralds on circuit, as it were, extended over a considerable period, and resulted in the collection of a large amount of heraldic and genealogical information. The most ancient English visitation on record is said to have been made at the commencement of the fifteenth century; but the earliest visitation, by virtue of a Royal Commission, took place during the reign of Henry VIII., in the year 1528-9, and embraced the counties of Gloucester, Worcester, Oxford, Wilts, Berks, and Stafford. From that time till the end of the seventeenth century, the different counties were visited at irregular intervals, and the Registers made during these visitations contain the pedigrees and arms of the Nobility and Gentry, authenticated by the heads of their respective families. Several of these important records are now lost or scattered, but many of them are still preserved among the archives of the College of Arms and at the British Museum. Others are to be found in the Bodleian as well as in various College libraries, while not a few are in private custody.¹ The visitation of the county of York, in 1665-6, by the celebrated Dugdale (then Norroy and afterwards Garter King-of-Arms) was printed in 1859 as the thirty-sixth volume of the publications of the Surtees Society. It appears from the Preface that 'nearly one-third of the whole number of gentry whom the Herald called upon to appear before him with proofs of their arms and pedigrees treated his summons with neglect.' Two years after the visitation, he issued a precept, to which a list of these families was annexed, formally interdicting them against using their arms and titles. The list contains 'a few of the well-known ancient gentry of the county, besides many heads of families, whose descendants at this day would have rejoiced had they then placed their

¹ See Sims' *Manual for the Genealogist*, etc. A Catalogue of the Visitations in the British Museum was printed by Sir N. H. Nicolas in 1825, and an Index to the pedigrees and arms contained in about 250 of the principal MSS. mentioned therein was published by Mr. Sims in 1849. Since that date much has been done to render them accessible to the student.

pedigrees upon record. But the majority of the names were probably then of little note, and are now wholly lost sight of.¹

JURISDICTION IN MATTERS OF CRESTS, SUPPORTERS, ETC.

The jurisdiction of Lyon King-of-Arms and his brethren over what Mackenzie and some other heralds have conveniently classed together as 'the exterior parts and ornaments of the Arms,' namely, 'the Helmet, Wreath, Crest, Mantlings, Supporters, Mottoes or Words' followed naturally on the recognition of those things as heraldic. Accordingly we have seen a case regarding a contested assumption of a motto brought before Sir David Lindsay. Freedom of assumption and change of such ornaments, even of crests and supporters, so long as no anterior rights were invaded, still remained, and existed even in the time of Mackenzie,² although, long before it, grants of them were also in use, and grants of crests and supporters as well as arms from the King direct were a known and special honour.³

The absence of all mention of supporters in the statutes of 1592 and 1672 has been animadverted upon recently, with the suggestion that jurisdiction to grant these honourable adjuncts to arms had therefore not been conferred upon Lyon. But the assumption that if they had been included, they would have been included by name is not warranted. No mention is made, for example, of crests. So far as the jurisdiction of the ordinary heraldic authority is concerned, supporters in Scotland differ from arms, only in being proper to be granted to a more limited class or classes of persons.

¹ After the blazon of the arms and before the pedigree, such entries as the following are of frequent occurrence :

'No prooffe made of these armes.'

'Qu. for prooffe of these armes?'

'Respite given for exhibiting y^e armes.' (*Where no blazon entered.*)

'For prooffe of these armes, he voucheth his father's seale, who died at the age of 88 years.'

'Per me W. Dugdale Norroy concessa.'

'This family have for many ages used their armes with supporters, viz., an antelope and a tyger,' etc.

'To expect a certificate from Mr. A. of B. that this gentleman is of his family.'

'It appears that the grant of the armes was to Sir A. B. and his descendants, therefore these have no right to them.'

² *Science of Heraldry*, xxv. 85 ; xxix. 90, 91 ; xxxi. 94.

³ *Ibid.* xxix. 90 ; xxxi. 94.

The date at which grants of supporters came in Scotland to be made by the heraldic authority is perhaps not now to be ascertained. Two patents exist, of the year 1567, in which Lyon grants supporters along with arms; the one of these is in favour of Sir James Balfour of Pittendreich, ancestor of Lord Balfour of Burleigh, the other is to Sir John Maxwell who had become Lord Herries. In both cases the Lyon narrates that he grants the patent at the instance of the patentee, and that he grants him such arms as it appertains to him of his office to do. These patents are an eloquent proof that at this date supporters were not honours of special concession. Lyon, while granting them, is not even at the pains to record their nature in either case in his verbal blazon, but contents himself with referring to the painting which accompanies it.¹

Lyon's powers of granting supporters at a later date are revealed in the report of the litigation raised against him in 1673 by the Minor Barons, who complained to the Court of Session that he had stopped giving out their arms with supporters. Lyon's defence was a recent Royal Letter, which instructed him for the future to give supporters to none under the rank of a peer. The letter thus by implication confirmed his power to assign supporters to peers without special warrant, and that power has never been withdrawn from him. Lord Fountainhall, who reports the Barons' case, records that after it Lyon had resumed the issue of supporters with the arms of at least those Barons whose ancestors had had them.²

¹ Plate vi. See page 121, and Appendix iv. The painted blazon of Balfour's coat represents his supporters, dexter an otter, sinister a swan, both proper, and rising out of the water. They are on a minute scale, holding on to the shield in or at a hollow on either flank.

² June, 1673. Fountainhall, *Decis. per Brown's Supp.* iii. 6. See also Mackenzie, *Heraldry*, cap. xxxi. p. 94. The language of Mackenzie's report of the case has singular resemblances to Fountainhall's. It is clear that the Ordinance reported by Lyon on that occasion to have been contained in the King's Letter never came to be the law in Scotland.

The singular case of the withdrawal of the supporters of Macpherson of Cluny may have its explanation in the Letter of the King, and assist us in fixing the Letter's date. On 12th March, 1672, immediately before the institution of the Register, a patent of Arms with supporters—two Highlanders—was issued by Sir Charles Erskine, Lyon at that time, in favour of Duncan Macpherson of Cluny as 'the true and only representative of the ancient and honourable familie of the Clan Chattane.' This was before the action of the barons; it was thus also clearly before Lyon had received the Letter from the King, for between these dates

At the date of Lyon's patents which we have just mentioned as granted in 1567, the English Kings-of-Arms had equally unrestricted powers. In the very next year, however, 1568, the Earl Marshal took the first step in a course of action which has no parallel in Scotland; he imposed a regulation on the English Officers of Arms depriving them of their powers of acting in the matter of arms, save in grants of crests and confirmations of former grants of arms, without special license obtained from himself.¹ It is important to observe that for long afterwards the English Kings-of-Arms considered that their power to make grants of supporters was not affected by this law.² But that power also, save in the case of peers and others above the degree of a Knight of the Bath, was some years afterwards assumed by the Earl Marshal. On Garter endeavouring to maintain the integrity of his general right, the matter was referred to the English Privy Council, which decided in favour of the Earl Marshal. The council's decision was come to in the year 1672; and it is doubtless no mere coincidence that King Charles's letter to Lyon, meant to restrict his powers in part, as Garter's had been restricted, belonged to that same year or the next. We may note in passing that the King's letter was addressed to Lyon, not to the Scottish Earl

the grant would not have been made. Close upon this grant came a decision of the Privy Council, which was then engaged in binding over the chiefs for the peaceable conduct of their clans, that Mackintosh and not Macpherson was to be treated as the chief of Clan Chattan, and that Cluny was only head of the Macphersons. To be head of the Macphersons seems title enough to supporters; but Sir Charles Erskine divested Cluny of them when he entered his arms on the Register in 1672. There was no transference of them to Mackintosh, who does not appear on the Register till about 1680 (the early entries in the Register are not dated), long after the action of the barons, when he was granted, by the next Lyon, Sir Alexander Erskine, two wild cats for supporters, but 'without any direct acknowledgement of his chieftaincy,' says Dr. Burnett, whose MS. account of Lyon Office, already referred to, we follow here in part. Lyon (Burnett) restored Macpherson's supporters to him in 1873.

¹ Orders and Statutes of the Earl Marshal, 18th July, 1568. See Edmondson, *Complete Body of Heraldry*, p. 143.

² We have in this way the beautifully executed patent of supporters, granted to the Company of Tallow-Chandlers of London, by William Camden, Clarenceux King-of-Arms, on 29th January, 1602—*Memorial Catalogue of the Scottish Heraldry Exhibition* (Edinburgh), 1892, p. 35, facsimile, plate vi. On the patent we may observe a note by [Sir] William Segar, and an attestation, A.D. 1634, by [Sir] Henry St. George, certain warranties that they saw nothing irregular in it.

Marshal, who was still in existence,—an evidence, if evidence is needed, that in Scotland the Earl Marshal was not, in matters of heraldry, the superior officer of the King-of-Arms, as he was in England. The residue of Garter's rights—to grant supporters at his own hand to Knights of the Bath and persons of superior rank—remained his throughout the next century.¹ The question of the existence of the prerogative in the Scottish Heraldic authority as regards supporters is assumed without hesitation in the Act of 1867, which goes so far as to regulate the fees due to the Exchequer on his grants—schedule B of the Act

The extent of Lyon's right to grant supporters as empowered by his office has been variously interpreted by various writers, and even successive Lyons. But Sir George Mackenzie (A.D. 1680), followed by all other Scottish authorities down to the present day, has laid it down that there are certain classes or categories of persons in Scotland who have a common law right to supporters, as gentlemen in general have a right to arms.² Concerning Lyon's power and duty to assign supporters to the members of these classes, there has never been any doubt. Mackenzie infers it,³ as we have seen, and indeed the instances of Patents already given establish it.

The gravest discussion has arisen on the question whether Lyon is entitled by his office to grant supporters to persons who are not of the classes who are entitled to demand supporters.

Mackenzie clearly lays it down that 'in the received opinion' of all Heralds 'only' *nobiles majores* are entitled to these honours.⁴ This implies that Lyon has no ordinary power properly to assign them to any other. The question then arises whether practice has settled the law otherwise.

On the most cursory examination of the records of Lyon Office, one finds, it is to be confessed, that more than one Lyon has granted supporters professedly on the strength of his own judgement that the case was, to use the word in the statute, 'deserving.'⁵ In regard to those cases, the first

¹ Joseph Edmondson, Mowbray Herald Extraordinary, *Complete Body of Heraldry*, 1780, p. 193.

² *Heraldry*, cap. xxxi. For the discussion of the classes so entitled, see below, page 88.

³ *Ibid.* caps. ii. and xxxi.

⁴ Cap. xxxi. 93.

⁵ The re-grant of the Scott of Abbotsford supporters to Sir Walter's heir female and of line is one.

enquiry is: to persons of what classes have these grants been made? For if the exercises of Lyon's discretion were in favour only of persons who were by law entitled to supporters as of right, it may be doubtful whether the practice has established a custom on the strength of which Lyon is entitled to exercise his discretion in any case in which the applicant has no right, is not a member of one of the privileged classes.

These classes, according to Mackenzie, were such as 'Dukes, Marquises, Knights of St. Andrew, the Garter, or any other order,' Knights Banneret, and Baronets, and particularly the old minor Barons. And to these, all of whom have right by general law of rank, he adds Chiefs and heads of families as having right by prescription. There have been few cases which were not grants, really or ostensibly, to persons who were members of one or other of these classes; and for that reason we are unable to say that the practice of the Lyon Court has gone any length to establish a right in Lyon to grant supporters to any persons outwith these classes; the opinion also of recent holders of the office of Lyon has been that such a grant must be authorized by Royal Warrant.

The persons now entitled to apply to Lyon for supporters, being otherwise within his heraldic jurisdiction, are peers of the realm, representatives of those minor barons who were liable to be summoned to sit in parliaments before the Act of 1587, Chiefs, Knights Banneret, Knights of the Thistle, and Knights Grand Cross or Grand Commander of most Orders. A baronetcy of Great Britain, or of the United Kingdom, is not held to entitle the holder to supporters, and a baronet of the Order of Nova Scotia, whose predecessors in his title have not hitherto borne them, will not be granted them now, unless on a warrant in his patent or otherwise. All Knights of the Bath (K.B.'s) were entitled to supporters, but the supporters of none but the Knights Grand Cross are mentioned in the statutes of the present re-formed order.

In England a peer of the realm is similarly entitled to demand supporters. He addresses his petition to the Earl Marshal, who issues his warrant as head of the ordinary heraldic executive without higher authority. Similarly also Knights of the Garter, and Knights Grand Cross and Grand Commanders of most Orders possessing these grades are by statutes of their

STATEMENT

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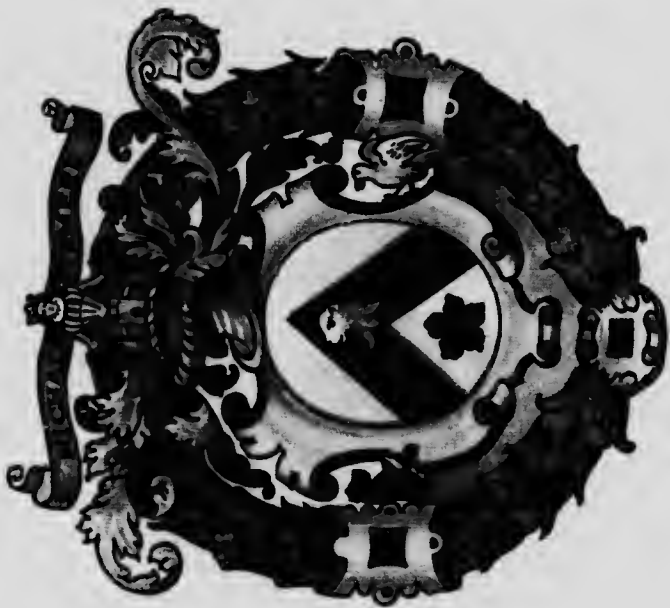
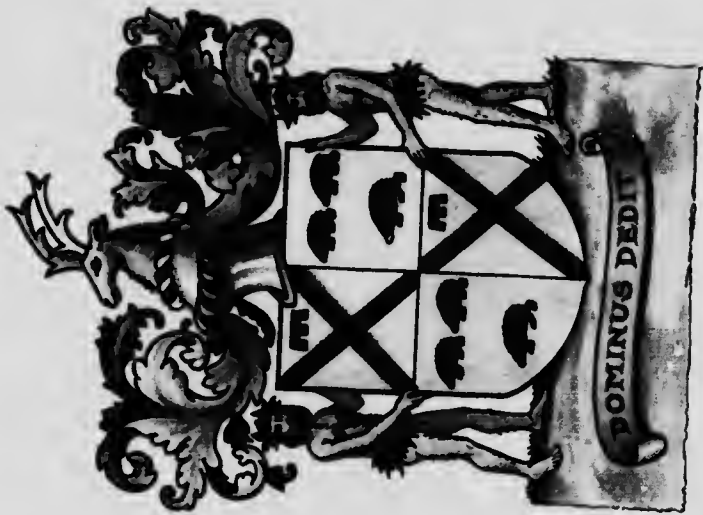
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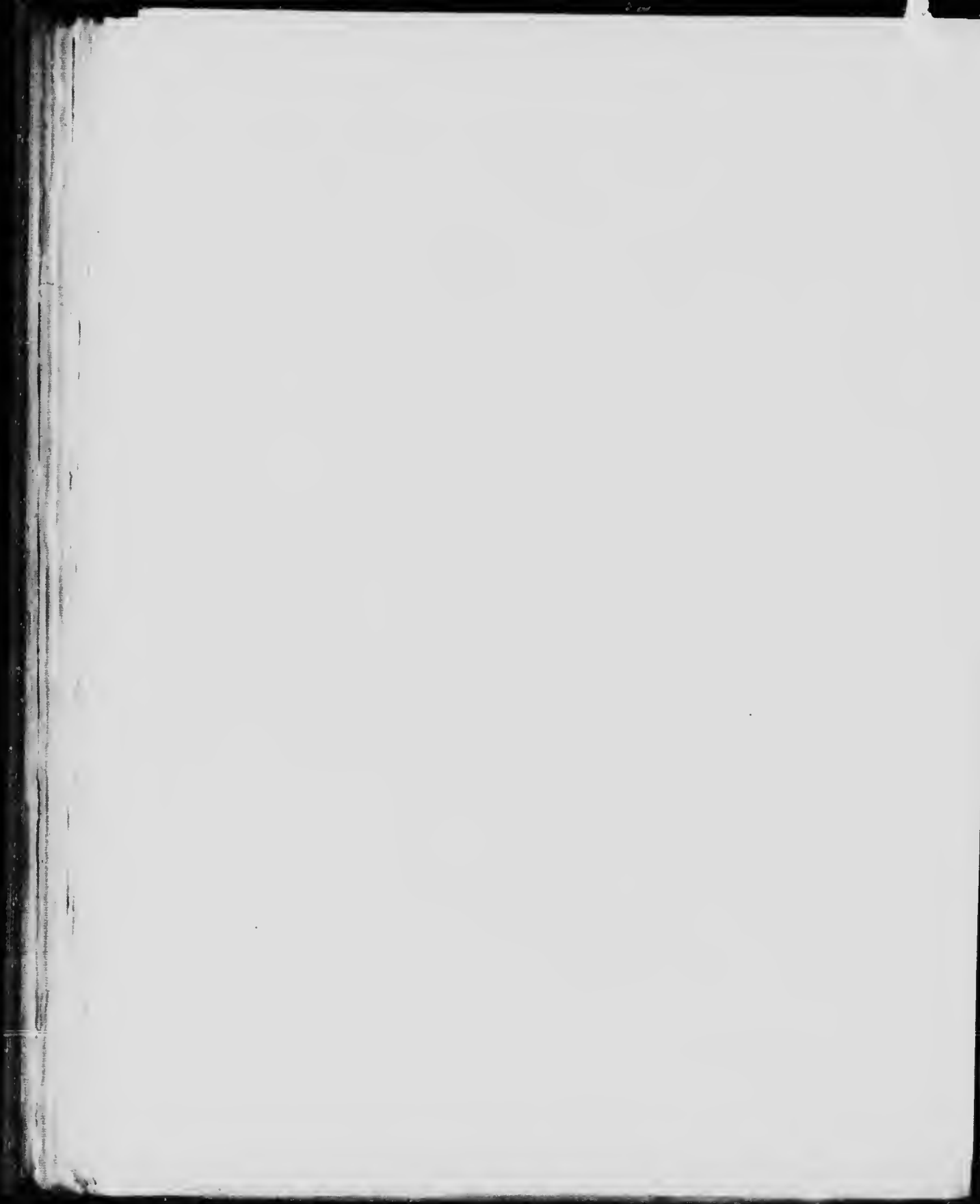
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EMBLAZONMENTS.

PATENTS OF ARMS IN SIXTEENTH CENTURY

1. Armorial achievement of Sir James Balfour of Pittendreich, from his Patent of Arms ; 6th February, 1566-7.
2. Armorial achievement of Sir John Maxwell, Lord Maxwell of Herries, from his Patent of Arms ; 2nd April, 1567.





Orders entitled to apply to Garter direct. And that officer is entitled to grant their petitions without reference to any higher power. Garter has, in addition, a general commission by warrants contained in the statutes of the Orders concerned to grant supporters to those Knights Grand Cross and Grand Commanders who 'are not otherwise entitled thereto.'¹ There are no classes in England analogous to the chiefs and representatives of the lesser barons. To persons of all other than the descriptions already mentioned, supporters can be granted only on Special Royal Warrant.

In Ireland the law is similar to that in Scotland. Supporters granted to Knights of St. Patrick are granted by Ulster.

When the Sovereign issues a Royal Warrant for a grant of supporters to a subject as a mark of grace and favour, the whole office of receiving the warrant and of executing it belongs to the heraldic authority under whose jurisdiction the favoured person is as regards the ordinary affairs of heraldry.

PENALTIES FOR THE UNLAWFUL ASSUMPTION OF ARMORIAL BEARINGS.

The Penalties imposed on the unlawful use of armorial ensigns by the Statutes of 1592 and 1672 are :

1. Escheat to the Sovereign of all the goods and gear on which the said ensigns are engraven, painted, or otherwise represented ; and,
2. Payment of one hundred pounds Scots, *toties quoties*, to the Lyon.

Failing payment of the fine, as already stated, the Act of 1592 ordains incarceration in the nearest prison 'during the pleasure of the Lyon.'

THE ENFORCEMENT OF THE LAW.

The Preamble of the Act of 1672 makes very pointed reference to the prevailing irregularities with respect to the unlawful assumption of arms, not only on the part of persons who should not bear any such distinctions,

¹ The statutes of the Order of SS. Michael and George (10th October, 1911) are peculiar. They command Garter to grant supporters to 'all' Knights Grand Cross of that Order. They also enact that these knights 'shall' surround their armorial ensigns with the collar circle and motto of the Order.

but also on the part of those who may legally bear arms, and who either usurp the ensigns of their Chief without marks of difference, or adopt arms which were not carried by their predecessors. After ratifying the former Statute of 1592, the Act ordains that, with a view to its more vigorous prosecution, 'Letters of publication of this Act be directed to be executed at the market-cross of the head burghs of the Shires,' etc.

The following is a copy of a Messenger's printed Charge, requiring compliance with the injunction of the Letters in question, a few years after the passing of the Statute of 1672 : 'I, — — —, Messenger, by virtue of Letters of Horning raised at the instance of Sir *Charles Areskine of Cambo*, Knight Baronet, Lyon King-of-Arms : in our Sovereign Lord's Name and Authority, commandis and charges you, — — —, to bring or send an accompt to the Complainer, or his Clerk in his Office at *Edinburgh*, of what Signs or Arms-armorial ye are accustomed to bear and use ; and whether ye be descended of any Family the Arms whereof ye bear, and of what Brother of the Family ye are descended, with certificats from persons of Honour, Noblemen, and Gentlemen of Quality, anent the verity of your having and wearing these Arms, and of your descent as aforesaid, to the effect the Complainer may distinguish these Arms with congruent differences, and matriculate the same in his Books and Registers, and give Extracts of the Blazoning of the saidis Arms under his hand and seal of office ; and also to pay to the Complainer the sum of an hundred pounds Scots, as the penalty already incurred by you through using your Arms any manner of way, after expiring of year and day from the date of the Proclamation under written, issued upon the Act after specified, conform to an Act of Parliament, entituled 125 Act of K. *James the Sixth*, Parl. 12, anent the Office of the Lyon King-of-Arms, and also conform to an particular Act of Ratification made in the first Session of the second Parliament, dated 23 *September* 1669. And to the letters of publication made upon the twenty-one Act of the third Session of the second Parliament of K. *Charles the Second*, after publication of year and day is expired, conform to the Principal Letters in all points, within six dayes next after this my Charge, under the pain of Rebellion, and putting you to the Horn ; wherein if ye failzie, I will denounce, etc., conform to the saidis

Letters, bearing date, The fourth day of June 1675.—Ex deliberatione Dominorum Consilii.¹

The heraldic authority at the time of the passing of the statute of 1672 had much to contend with. After referring to the statutory pains denounced against the bearers of 'false arms,' the rescinded Act of 1662 expressly declares 'that no painters, masons, goldsmiths, wrights, gravers, or any other of that nature, take upon them to grave, cut, paint, or carve any arms whatsoever but such as are approved by the Lyon King-of-Arms.' The necessity for such an injunction is acknowledged by Nisbet in his remarks upon the frequent custom of persons assuming coats-armorial to which they have no legal right, and charging them with one of the minute or temporary heraldic differences, by way of distinction. 'We have reason to complain,' he says, 'of our goldsmiths, engravers, painters, masons, and carpenters, who are very ready, although altogether ignorant of the science, to give to those who employ them in any piece of work, coats-of-arms with some of the foresaid differences; not only to those who have right to carry arms, but even to some who ought not to be honoured with armorial bearings, although they be of some ancient surname. To which irregular and unwarrantable practice I wish the Lyon King-at-Arms would put a stop, by putting the Acts of Parliament in execution against such persons, by which the arms of our old gentry will be better known and more easily distinguished from new upstarts.'²

The irregularities in question do not appear to have been confined to this part of the island. In the Order issued by the Earl Marshal of England, in 1509, the assumption of armorial ensigns without the authority of the College of Herald is interdicted, 'upon pain of imprisonment and fine at the King's pleasure.' Again, in the year 1555, a Royal Commission of Visitation was directed to Clarenceux King-of-Arms, in which he is enjoined 'to correct all false crests, arms, and cognizances' within his province; and a few years later, the same officer was invested with similar authority,

¹ A printed copy of this Charge is pasted on the inside of one of the boards of a folio MS. Scottish Armorial in the Advocates' Library, containing 'Illuminate Arms,' by J. Sawers, Herald Painter in the reign of Charles I. (31. 4. 4). At the foot, in the autograph of Joseph Stacie, Ross Herald, is a note addressed to his son: 'Isaac, keep this for a memorandum, 1682.'

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

besides being empowered to levy fines from delinquents at his will and pleasure. In the letters-patent issued by Charles II., in 1682, authorizing an Armorial Visitation, it is declared that 'no painter, glazier, goldsmith, graver, or any other artificer whatsoever he or they be, shall take upon them to paint, grave, glaze, carve, cut, devise, or set forth, by any ways or means, any manner of arms, crests, cognizances, pedigrees, or other devices appertaining to the Office of Arms, otherwise or in any other form or manner than they may lawfully do, and shall be allowed by the said Clarenceux, his deputy or deputies, according to the ancient laws and statutes of arms.' The same royal ordinance confers full power upon Clarenceux King-of-Arms and his deputies, 'to correct, control, and reform all manner of arms, crests, cognizances, and devices, unlawful, or unlawfully usurped, borne, or taken by any manner of person or persons, contrary to the due order of the law of arms, and to reverse, pull down, or otherwise to deface, as well in coat-armour, helm, banners, standards, pennon, and hatchments of tents and pavilions, as also in plate, jewels, paper, parchment, windows, gravestones, tombs, and monuments, or elsewhere, wheresoever they be set or placed, whether they be in shield, escutcheon, lozenge, square, roundle, or otherwise, contrary to the ancient laws, customs, rules, privileges, and orders of arms.'

There can be no doubt that, both in Scotland and England, many such irregularities have long been practised; but besides goldsmiths, painters, and engravers, there is a numerous class of pretenders, who profess to 'procure' arms, and whose advertisements not unfrequently occupy a very prominent position in the periodicals of the day.¹ With a smattering of

¹ As examples of modern advertising shopkeepers' advertisements, we may give the following: 'FOR FAMILY ARMS.—Send Name and County to the Royal Heraldic Studio and Library; in a few days you will receive a correct copy of your Armorial Bearings. Plain sketch, 3s.; in Heraldic colours, with written description, 6s.; large size, 12s. Family Pedigrees, with original Grant of Arms, to whom and when granted, the origin of the Name, all traced from authentic records—Fee, Two guineas.—Address: ' ——— !

'HERALDIC Queries answered; *Family Arms found*, and every information afforded. Drawing of Arms, 2s. 6d.; Painting ditto, 5s.; Book-Plate Crest, 5s.; Arms, etc., from 20s.; Crest on Card-Plate and one hundred Cards, 8s.; *Queries answered* for 1s.; Saxon, Mediaeval, and Modern Style Book-Plates. The best Authorities and MS. Books of thirty-five years' practice consulted.—Address: ' ——— !

heraldic knowledge, they have little difficulty in providing any applicant with what they coolly choose to term a 'suitable' coat of arms, which *imposing* invention is forthwith shamelessly exhibited on the panels of his carriage, the covers of his dishes, the boards of his books, and the ring upon his finger; and, in the eyes of the uninitiated, he is as much a 'gentleman of coat-armour' as any of his neighbours, even although they may be able to instruct their descent from the days of Malcolm Canmore.¹

The occurrence of a case of proceedings in the year 1637 at the instance of Lyon King-of-Arms for the enforcement of the law of arms is known from an entry in the Burgh Record of Aberdeen for that year, that the burgh had sent Mr. Matthew Lumsden as its Commissioner to Edinburgh 'anent the mater of armes pursuit be the Lord Lyon aganes the town.' More of the pursuit we do not know; but the burgh registered arms and obtained a patent of them on 25th February, 1674.²

(During the eighteenth century Lyon's powers of enforcing observance of the statutes were in no neglect; there were frequent processes in the Lyon Court directed against persons in each of the categories with which the statutes were concerned: 1. Persons with right to arms who had neglected, however, to apply under the Act, 1672, to have them confirmed and recorded. 2. Cadets carrying their ancestors' arms undifferenced. 3. Usurpers of arms, persons who had at their own hand used arms to which they had no hereditary right.) These processes generally issued at the instance of the Procurator-Fiscal of the Lyon Court.³ 'The writ served on the offender, called a Lyon Precept, is similar in form,' says the late

¹ In the year 1597, the Earl of Essex, Earl Marshal, issued a warrant for the apprehension of one W. Dakyns, 'a notable dealer in arms, and maker of false pedigrees, for which fault about xx. years past, he lost one of his ears.' The warrant sets forth the names of nearly one hundred families, chiefly in the counties of Essex, Hertford, and Cambridge, for whom he compiled spurious pedigrees. So late as the year 1727, an impostor, named Robert Harman, pretending to be a Herald, was prosecuted by the English College of Arms at the Suffolk quarter-sessions held at Beccles, and, on being convicted, was punished with fine, imprisonment, and the pillory.

² For the Patent, see Mackenzie, *Science of Heraldry*, cap. ii. p. 9.

³ According to the *notandum* annexed to the 'Table' of Matriculation Fees, dated 1760, 'to force nobility and gentlemen to matriculate, the Lyon causes execute a precept in the fiscal's name, and on the dependence, arrests the equipages on which the arms are painted.'

Mr. George Burnett, Lyon King-of-Arms, whose MS. Account¹ we follow in this section, 'to other writs in the inferior courts of Scotland. It runs in the name of Lyon King-of-Arms as judge: it is a complaint at the instance of the prosecutor, containing a narrative of the statutes of 1592 and 1672, and of the assumption complained of, with a conclusion for the penalties of fine and escheat, and payment of the expenses of process.'

'Among the persons prosecuted for armorial irregularities between 1729 and 1773,' continues Mr. Burnett,² 'occur the names of William Cunningham, otherwise Dick, of Prestonfield, John Campbell of Shawfield, George Lockhart of Carnwath, Peter Grant Leslie of Balquhain, the Countess of Wemyss, Fisher of Newhall, Richard Newton of Newton, Major-General Robert Horn Elphinston, Sir James Douglas, Knight, Mr. Wallace Dunlop of Craigie, Mr. George Beaumont, residing at Lainshaw, Mr. John Dalrymple *alias* Hamilton of Bargeny, Rothead of Inverleith, Murray of Polmaise, and one William Wood. Against some of these persons decree of fine and confiscation was pronounced, but much more frequently such a consummation was avoided by timely submission. In the case of the Countess of Wemyss the offence consisted in exhibiting on the funeral escutcheon of her father, Colonel Francis Charteris, arms which were unregistered, and were also said "to belong to another family" (Charteris of Kinfauns), "which the said Colonel Francis Charteris does no ways represent." The conclusion was for the usual fine, and that the escutcheon be pulled down and defaced. On 7th August, 1732, decree was pronounced in terms of the libel, not by Lyon himself, as might have been expected in consideration of the quality of the delinquent, but by his deputy, Mr. John Dundas; the fine was imposed and the offending escutcheon removed.'

'The case of Murray of Polmaise attained greater notoriety than the rest from having been brought under review of the Court of Session. The

¹ Manuscript Account of Lyon Office intended by Mr. Burnett for *Heraldry, British and Foreign*, but not used. A copy of it is in Lyon Office.

² This and the next three paragraphs are from Mr. Burnett's valuable Account just mentioned.

³ Charteris of Kinfauns bore the Royal tressure from an early period; and the coveted tressure was not borne by Charteris of Amisfield. It was, however, allowed at a later date to a son of this Countess of Wemyss.'

Court made no question of the competency of the original proceedings, and as little of its own jurisdiction to review them; but after a long discussion on the merits, reversed Lyon's judgement, mainly on the ground that Mr. Murray being admitted to be the representative of a family entitled by descent to coat-armour, there ought to have been a conclusion in the Precept for matriculation of his arms in the Register.

'The case of William Wood, Comptroller of the Customs at Port-Glasgow, which figures largely in the proceedings of the Lyon Court at its date, was an instance of pure assumption without any hereditary right. In virtue of a decree of that Court of June 8, 1773, the carriage on which the arms complained of were painted was seized at a stabler's in the Canongate, and confiscated to the Crown. Mr. Wood thereupon presented a petition (drawn and signed by Sir Ilay Campbell, afterwards President of the Court of Session) praying for a recall of the sentence, on the ground of the seizure being unexpected and without notice; but the prayer was refused. Another petition was presented to the Barons of Exchequer, in which Mr. Wood offered to prove that the proceedings were irregular, and praying for an order to have the carriage restored, either *simpliciter* or on his granting bond for its appraised value. Consideration of this latter petition was postponed till the carriage had been appraised; and eventually the Barons consented that it should be delivered to Mr. Wood on his lodging security for the appraised value, and paying £6 10s. 5d. as the Lyon dues of condemnation and fees of Exchequer. Mr. Wood paid this sum under reservation of his right to bring the proceedings of Lyon under review, a right, however, which he forebore from exercising.

'Arms of towns and corporations were understood to be included under the comprehensive words of the Act of 1672. Besides the "Letters of Publication" dispatched to each burgh in accordance with the Act, a separate letter was sent by the Lyon to the Convention of Royal Burghs, on receipt of which that body ordained the whole Burghs to matriculate their arms before its next meeting. Though the Burghs in general obeyed this injunction without delay, a few neglected their duty, and among the delinquents were the civic dignitaries of the capital. On 28th November, 1732, the Magistrates of Edinburgh were served with a Lyon Precept,

narrating "that John Osburn, Esquire, present Lord Provost of Edinburgh, James Simpson, Robert Lindsay, James Colquhoun, and William Crokat, present bailies of the said burgh, Thomas Dick, Dean of Guild, and Alexander Blackwood, Treasurer, usurp and assume ensigns armoriall to the said good town of Edinburgh, and cause illuminat, engrave, and otherwys represent the same upon their public plates, and others belonging to the said good town, and affix seals bearing the said ensigns armoriall to their public writings, without any warrant or authority from me for so doing." There is the usual alternative of fine or imprisonment, "during my pleasure," with forfeiture of the articles on which the arms are represented, besides which the arms are to be "raz'd and pulled down," and the "seals broken." Defences were lodged, and answered, and the result was that the civic authorities without further delay had their arms put on record, the same coat which the good town continues to bear.¹

It is difficult to imagine why this vigilance which had been so successful should have come to be as little exercised afterwards as it was. But the Report by the Commission of 1820 on the Lyon Court did much to confirm the officials of the office in the course they had adopted. The ignorance which is manifest in the Report and throughout the Commission's proceedings reflects little credit either on the Commissioners or on Mr. George Tait, Interim Lyon Depute at the time, on whose evidence they relied. Mr. Tait, who had been appointed in April, 1819, and was endeavouring to execute the office along with that of Sheriff-Substitute of Midlothian, deponed before the Commissioners, on 27th June, 1821, that 'the injunction of the Acts of the Scottish Parliament, requiring all persons to register their arms, has not for

¹ The following announcement is two or three times repeated in the *Caledonian Mercury* for the year 1758 :

'By order of the Hon. John Campbell-Hoche, Esq., Lyon King-of-Arms.—All such persons who assume to themselves armorial bearings without matriculating in the Lyon Books, will be prosecuted according to law; and all plate, equipages, and others, whereon such arms are painted or engraven, will be seized as forfeited in terms of the Acts of Parliament thereanent. ROBERT DONALDSON, Clerk-Depute.'

In the year 1771, a much more detailed commination was repeatedly inserted by the same Lord Lyon in all the newspapers published in Scotland; it forms No. II. of the Appendix to the Petition of the Procurator-Fiscal of the Lyon Court, a few years afterwards, in the action already referred to, against the Laird of Touchadam.

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.' At the same time he excused himself for not enforcing the statutes on the ground that he 'did not find, upon coming into office, that the practice of levying such fines had been followed by his predecessors, 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.' Mr James Williamson, who had been Lyon Fiscal since 1806, deponed that 'there had been no legal proceedings since his appointment in matters connected with armorial bearings; that as far as he knew there was none such at the time of his predecessor.'¹ Content with this excuse and concluding that the Acts 'for many years past' have not been strictly enforced, no prosecutions at all since 1806—the Commissioners forthwith recommended that since 1672 the powers conferred by that Act on Lyon had been entirely deserted by him. Whether this they continued to do was 'from a consideration that the enforcement of his right would be felt as a harsh and oppressive act, or that the relaxation and indulgence which had been introduced into the later practice of the office, in the grant of arms may have rendered the observance of the rules more difficult' they do not decide. The question which ought to have been before them was, whether the enforcement of the Acts had been abandoned after it had been found both possible and beneficial?

The position was taken by the Officials of Lyon Court towards the end of the eighteenth century has never been fully re-occupied. In the case, however, the law has been left in this respect entirely unaltered.

¹ Report of the Commissioners on the Office and Court of the Lord Lyon, 1822, Appendix No. 3, p. 50. *Edinburgh Weekly Journal*, 5, p. 52.

As happened the achievement of the Royal Arms put up on the Edinburgh General Post office was ordered down, and removed at the orders of the Lyon Depute 'and the Usher of the Court' about the year 1820, 'as derogatory to the independence of Scotland,' owing to some communication given to England in the quartering. Grant, *Old and New Edinburgh*, 1. p. 10. *Edinburgh Weekly Journal*. Perhaps the Fiscal did not consider it to be a

Report of the Commissioners on the Office and Court of the Lord Lyon, 1822 p. 29.

In cases of the public use of unauthorized arms, or of the arms of other persons, while no formal proceedings have taken place at the instance of the Lyon Fiscal, still measures sufficiently effectual have been adopted in a number of cases. It is understood that in some cases a letter from the office, merely calling attention to the facts, and to the state of the law, has been found to be enough. Not every one who consents to his arms being set up in a public building is personally aware whether they are or require to be on the armorial Register.¹

In other cases representations of a more formal kind and sometimes orders have been sent to the parties, for example in the case of the arms in the stained-glass windows which were placed in Glasgow Cathedral by the former Board of Works in or about the year 1867, which were removed in obedience to an order by Dr. Burnett, then Lyon King. On a comparatively recent occasion of a peculiarly indefensible character, H.M. Treasury, after taking the advice of the Lord-Advocate, gave its consent to a proposed prosecution by the Fiscal of Lyon Court. The threat of prosecution which followed produced an immediate conformity to the law on the part of the law breaker. As a rule when objection is made in cases of the projected decoration of public buildings with unregistered arms, the proposed work is not abandoned, but is made regular by the Registration of the arms which are to be used.

¹ Notice was issued in the newspapers, in 1832, in the following terms :

'It having come to the knowledge of the LORD LYON that many INDIVIDUALS are bearing and using ARMORIAL ENSIGNS without due authority, and that many CADETS OF FAMILIES are using and carrying the arms appropriated to the Houses from which they descend, without any proper difference authorized by the LORD LYON, and properly matriculated in his Lordship's books,—NOTICE IS HEREBY GIVEN, that ALL persons who have assumed or shall assume to themselves ARMORIAL ENSIGNS OR BEARINGS, without official license and authority so to do, are rendering themselves liable to the DELETION of their Arms, and the CONFISCATION of all plate, equipages, and others whereon such Arms are engraved or depicted, in terms of the different Acts of Parliament, investing the LORD LYON with the powers of regulating the wearing and bearing of all Armorial Bearings in Scotland.—By order of the Right Hon. the LORD LYON King-of-Arms, A. MACDONALD, *Lyon-Clerk Depute*.'

'LYON OFFICE, EDINBURGH,
28th April, 1832.'

Similar notices were published in the columns of the newspapers from time to time after the year last mentioned.

Still there seems to be no reason whatever why the statutory pains and penalties should not be more rigidly enforced. And, most assuredly, many cases of unwarrantable assumption are daily presenting themselves, which loudly call for the interference of the Lord Lyon. Mr. Seton very indignantly and most properly declared in the former edition that 'within a gunshot of the Lyon Court, numerous instances might be pointed out of landowners and fundholders, lawyers and physicians, soldiers and sailors, merchants and shopkeepers—individuals, in short, belonging to every rank and profession—who, without being able to plead regular inheritance or any other justification, unscrupulously adopt and wear the most elaborate heraldic insignia.¹ The very cabmen on our streets have the effrontery to emblazon their vehicles with armorial devices, among which may occasionally be recognized the escutcheon of Clan Donnachie and the ensigns of Lochiel. Less than a hundred years ago, the indignant chieftains would have inflicted a very summary punishment upon these daring offenders, by thrusting a red-hot poker through the offending panels, without waiting for the interposition of the Lyon King-at-Arms. Nor is this undisguised assumption confined to the metropolis. In every corner of the kingdom the same system of appropriation is now so much in vogue, that we are reminded of the old story of the English diplomatist in America who happened to send his London chariot to a New York coachmaker's. On calling shortly afterwards, he was somewhat astonished to discover his ancestral shield and crest figuring upon half-a-dozen surrounding gigs and dogcarts; and having asked for an explanation, he was immediately informed, with the most perfect *sang froid*, that 'the pattern seemed to be very much admired'!

But there is great ignorance of the law. Most users of unauthorized

¹Footnote to former edition (1863): 'Even William Campbell, the worthy piper of the Grassmarket, displays the boar's head of his ducal chieftain on the panel of his velocipede, with which every almshouse in the Scottish metropolis must have long been familiar.'

These liberties have been much less frequent in recent years. But they are still seen in a certain class of mourning-coach which affects the air of an old-style private carriage. We understand that coach proprietors are not liable to pay excise duty on coats and crests which may appear on the vehicles and harness which they keep exclusively for hire, a most peculiar and pernicious exemption!

arms would apply for grants of arms the moment that they realized that the law requiring them to do so really subsists—a law in the very existence of which they have at present only too good an excuse for disbelieving. No other cause than ignorance or incredulity regarding the law of arms can explain the neglect of its provisions by so many who are otherwise quite law-abiding subjects of the King.¹

But by far the most outrageous infringement of the law in Scotland is the constant use by all sorts of people and institutions of flags bearing 'the Scottish Lion,' which is essentially and entirely a Royal cognizance.² How legal proceedings are not instituted against the miscellaneous usurpers of this emblem of Royalty passes the comprehension of any herald or historical lawyer. Recently an Order by the Scottish Secretary was issued instructing the police to intervene for the purpose of restraining people from using the Royal Standard, which consists of the Royal Arms of England, Scotland, and Ireland.³ But by a second Order the police were informed that the Order did not 'apply with equal force' to the Royal Arms of Scotland when flown alone, 'and that there is therefore no necessity to discourage the display of this flag.'⁴ According to this, any butcher, baker, or candlestick-

¹ It is almost incredible that the Treasury officials should not be able to see that by the institution of a stricter enforcement of the law, the Treasury's receipts of fees would be vastly increased. If all are allowed to assume and flaunt such arms as they please, the display of arms is no longer a mark of any distinction in the wearer. When no one requires to possess a right to enable him to display arms, few will register at all, and fewer or none will display. Already large numbers of people who have a right to arms never display them. The Treasury is a chief and direct sufferer, both in the revenue from Lyon Office and the Inland Revenue duty. But the moment that the display of arms is confined to those who have a heraldic right to arms, at that moment the display of arms will come again into use; and with it will come the desire for the acquisition of the right, by obtaining the requisite heraldic grant.

² The practice would neither have been tolerated nor even dreamt of by our forefathers. But the evil is of recent origin, and due to the flooding of the market with cheap stamped bunting, by foreign firms who were unaware that the flag they supplied as merely 'Scotch' was the flag of the Kings, not the people. The supply has now created a demand, and the flag is supposed to be admissible for use because it is sold openly. The mannerless and vulgar impropriety in a subject of the King flying the flag is periodically pointed out by heralds and others in the columns of the daily press. But the practice is always enthusiastically defended in reply by persons who are interested in the trade.

³ Police Circular, 16th March, 1907.

⁴ Police Circular, 18th June, 1907.

maker, English, Scottish, or Irish, may fly the Three Lions of the Kings of England, the Ruddy Lion of Scotland, or the Harp which the King bears for the kingdom of Ireland. The only prerogative thus left to the King is that His Majesty alone may bear all these emblems at the same time! The Order undertakes to deal with the personal rights of the King as a King, but it does not bear that it has the King's personal authority for what it does. It is a direct incitement to break the law of the land, yet it does not bear that it is issued after consultation with those who are in charge of the law. Granted that its framers were ignorant of armory, the Order is doubly and inexcusably irregular.

CHAPTER V.

THE RECORDS OF EARLY PRACTICE.

SEALS.

REGARDING the first adoption of heraldic bearings, and the nature of the devices first employed, and, in a word, the earliest practice of heraldry, the only direct and unimpeachable evidence is to be found in the seals which are attached to charters of the date. And until the era at which public Registers of Arms appear, seals continue to be our main, as well as most reliable source of information.¹

Nisbet is not of any different opinion on this when he places the Lyon Register first, and seals only second to it in authority. Where the question is what the arms of any person *are*, Lyon Register, as the later authority, must supersede any earlier seal, whatever the authority of the seal may have been for its time. In competition with later seals the Register must again be preferred, as in presence of the official registration of what a man is, in fact, entitled to bear, his seal showing what he or his seal engraver thought about it is no evidence of his right.² But when we come to deal with periods during which there was no registration, even the intermediate period when there were registers which are now lost, all we can ask for is evidence of what the man did bear, and for the rest, presume that he did so rightly.³ With regard to the earliest of heraldic times, when freedom in arms existed, this is evidence of his right. With regard to the intermediate period it is

¹ See Woodward, *Heraldry*, i. 46, citing with approval Seton, *Law and Practice* (1st ed.), 1863, p. 189.

² See *Hunter case*, per L. P. Inglis, above, p. 74.

³ *In antiquis rebus omnia presumuntur rite et solemniter acta esse.*

evidence, because it is the best evidence and the presumption of the law regarding ancient things, that everything then done was done rightly. Nisbet also had no want of appreciation for the testimony of an ancient seal, when he was fortunate enough to light upon one. But his times did not afford him the facilities in regard to the acquisition of the knowledge of them which we enjoy now.

The late Professor Cosmo Innes, after alluding to seals as illustrative of the state of the arts at a remote period, points to the valuable information which they afford as to the real style and title of the owner, with respect to which the charter itself is sometimes silent.¹ 'As mere works of art,' he says, 'these old seals show great skill in figure and combination, and evince undoubtedly a clear perception of the beautiful. But when you consider that in them we read the first adoption of the cognizance of each noble name—the descent and alliances of most of our old families—while the arms, though commonly surrounded simply with the name and style of the individual, are sometimes in combination with the proud battle-cry of the race, or with a motto of peace and affection, approaching to the sentiment on a modern lady's seal-ring, you will see that a knowledge of them is not only calculated to give precision to history, but to throw light upon the modes of life and thought of our ancestors.'²

It was enacted, by certain Scottish statutes, that every Freeholder should have his proper seal of Arms, with which, and not merely with his signet, either he himself, or his attorney, was required to 'compear' at the head Court of the shire, when services and retours of heirs had to be made out and sealed, and all who failed to comply with these provisions were liable to punishment by fine.³

¹ See *Sketches of Early Scottish History*, p. 112.

² *Scotland in the Middle Ages*, p. 308. Dr. Birch's remarks on the value of seals as evidence, and the character of the art exhibited in the work of the early Scottish seal engravers, in his *Royal Seals of Scotland*, 1905, pp. 22; 94-5, are valuable as the expressions of an English scholar of an extensive acquaintance with seals in general.

³ Feb. 21, 1400 (Rob. III.), and 1430, 9 Parl. c. 21 (Jac. I.).

The former of these statutes provides, 'quod sigilla sint et non signeta sicut ante ista tempora fieri consuevit.' In the time of Edward II. (1307-27) seals became so very common

• To counterfeit another man's seal was reckoned no less a crime than forgery; but legally it was immaterial whether the deed was sealed by the granter with his own seal or with that of another, so long as the granter sealed it as his deed.¹ Charters exist in which it is stated that the granter, having no seal of his own, has borrowed the seal of someone else; or that he uses some other person's seal which is better known than his own.² In some cases where, nothing being said of it in the deed, the seal is presumably the granter's own, the bearings and legend of the seal appear to have been purposely obliterated while the wax was soft, which prompts the suggestion that the seal was not his, whether he had a seal or not. Such a seal on a charter of an important person might prompt the additional suggestion of forgery. But people did not always carry their seals with them; and so occasionally, when called upon to act as witnesses to deeds, they had to borrow the seals of bystanders. Of this an interesting illustration is to be found in the case of the deed of Appointment come to in the General Council at Stirling on 4th September, 1439, between Queen Joan Beaufort, widow of James I., and Sir Alexander Livingstone, her late captor, governor of Stirling Castle, regarding the custody of the young King James II. The agreement between these rival powers was clearly unexpected, certainly by the Estates of the realm who were called upon to witness it. Even the Chancellor, Lord Crichton, had come without his seal, and had to borrow Lord Gordon's; the Earl of Douglas had only his signet; and the Commissioners for Edinburgh and Inverness, who were selected to seal on behalf of the Burghs of the kingdom, had to borrow the seals of the Commissioner for Linlithgow and the Abbot of Cambuskenneth. Out of ten witnesses called to append their seals, four were found to be without them.³

in England that they were used not only by those who bore Arms, but others fashioned *signets*, on which initials, birds, flowers, etc., were engraved. See Sim's *Manual for the Genealogist*, etc., 1856.

¹ *Regiam Majestatem* (Skene), lib. iii. cap. 8.

² Thus, on 9th July, 1321, Agnes of Northington uses the seal of Lamberton, Bishop of St. Andrews. *Act. Parl. Scot. Rec. Ed. i. p. 479.* The practice caused litigations at times.

³ *Act. Parl. Scot. Rec. Ed. ii. p. 55.*

Table with 4 columns

Year	1900	1901	1902
Population	1,000,000	1,050,000	1,100,000
Area (sq. miles)	100,000	100,000	100,000
Density (per sq. mile)	10	10.5	11

THE CHARTER SEAL.

1. Pendant seal on its silken cord. Seal used in Scotland, instead of the Great Seal, by Queen Victoria.
2. Counter-seal of the same.
3. Pendant seal on its parchment tag. Seal of William de Ramsay, Earl of Fife, c. 1350.
4. Knuckle-mark on the back of pendant seal. Seal of David Spalding, Junior, A.D. 1455.
5. Tags showing the twists referred to at page 106. From precepts of Clare Constat by Archibald Bell-the-Cat, A.D. 1496, and George, Earl of Huntly, A.D. 1486.
6. Metal matrices of the obverse and reverse of the City of Aberdeen Common Seal.
7. Impression of the seal of the Prior of the Friars preachers of Perth.
8. Metal matrix of the same, back view



The existence of a seal used for signature suggests, save perhaps in the case of a King, that the owner was of age, or had entered into the married state; certainly that he was above the age of pupilarity. In France the privilege of having a seal came, as knighthood did normally, not sooner than at 21, or at marriage. Till then the minor used his father's or mother's seal, or perhaps some other relative's, such as an uncle's.¹ 'Anciently,' says Nisbet, 'our notaries were obliged, in transumps of rights, to describe or blazon the seal, because it was the seal only that verified the deeds or evidents, which then were not subscribed by the granters. I have met (he adds) with several such descriptions of blazons by our notaries in transumps, some of them awkwardly, and some handsomely done.'²

By 1540, c. 117,³ it was 'statute and ordained, that because mennis seales may of adventure be tint (lost), quhair-throw great hurt may be genered to them that awe the samin :⁴ And that mennis seales may be fenziend or put to writings after their decease, in hurt and prejudice of our Soverain Lord's lieges : That therefore na faith be given, in time cumming, to ony obligation, band, or uther writing under ane seale, without the subscription of him that awe the samin, and witsesse : or else gif the partie cannot write, with the subscription of ane Notar thereto.'⁵ The sealing of deeds, however, still continued necessary, and was expressly required as a solemnity by 1579, c. 80 (Record Edition, c. 18). In 1584 it was dispensed

¹ Ducange (ed. 1736), vol. vi. p. 490, and cases cited there.

² *System of Heraldry*, i. 101. As an example of a confused description, in a notarial transumpt of a deed, he gives the following, relative to the seal of John Lord Halyburton in 1447 : 'Literam assedationis stipatam sigillo nobilis Domini Johannis de Halyburton, in quo sigillo sculptum fuit unum scutum, in dicto scuto bend lossyne et trias faces ; et in inferiore parte dicti sigilli unum simplex bend, et unum bend lossyne.' The original deed, with its seal, still survives. The seal bears in its first quarter a bend charged with three lozenges ; in its second three bars ; in its third a bend, and in its fourth the bend and lozenges that appear in its first quarter ; but the notary's description alone could not have helped us to its bearings. *Laing Charters*, No. 124 (10th May, 1447).

³ Record Ed. c. 37, re-enacting 1525, c. 3.

⁴ Engendered to them that own the same.

⁵ See also 1525, c. 3. These are the earliest Scottish statutes relating to the subscription of deeds, which is now regulated by 1681, c. 5 (Car. II.).

with in the case of deeds containing a clause of registration, and shortly afterwards the practice was altogether laid aside.¹

The material of all early seals, save those which issued from the Vatican, and which were made of lead,² was beeswax, a sufficient explanation of some at least of the wax so often specified by the feudal lord as a *reddendo* payable to him by a vassal, though wax for candles was of course also wanted, and wax candles are sometimes specified. The wax for the surface of the seal was frequently mixed with red colouring matter, often vermilion; sometimes, especially in very early seals, the colour was green, and then, at times, the seal was coloured through and through.

The method of appending a seal to a charter varied. In some cases the seal is formed on the end of a strip of the parchment on which the deed is written—namely, a horizontal strip from the lower margin of the parchment severed from it save at the 'dexter' end. But in most cases the strip is a separate piece which, previous to the sealing, is looped through slits cut in the lower margin of the deed, the margin having been doubled up for the purpose of strengthening it. The two ends of the strip, generally fastened together by being slit longitudinally near the points and the ends passed

¹ See Erskine's *Institute of the Law of Scotland*, book iii. tit. 2, § 7. But by a blunder, the credit of which need not be apportioned at this date, sealing was reintroduced in 1708 in the case of the sheriff who might have to attest the oath of a peer, and subsisted till the statute 31 and 32 Vict. cap. 72, § 9 abolished the oaths.

The use of seals is still a formality, but a mere formality, in the execution of English deeds. They are not usually impressions of the subscriber's, or any one's private seal. Sir George Mackenzie observes, in the first chapter of his *Science of Heraldry*, that 'it would be a further check upon forgers of papers that the granter's seal were to be appended; for many can forge a subscription who cannot forge a seal, so that each forger behoved to associate at least another with himself, which would discourage them before the cheat, or help to discover the forgers after the cheat was perpetrated.' The ordinary use of the word *Signature*, in reference to subscription, is rather a curious instance of a misapplication of terms. Doubtless a writer's subscription of his name constitutes his *Signum* or mark, but it is equally certain that, in its original and accurate acceptation, the word signature had reference to a *Seal*. An interesting allusion to the joint practice of subscription and sealing occurs in the last verse of the 32nd chapter of Jeremiah (B.C. 590): 'Men shall buy fields for money, and subscribe evidences, and seal them, and take witnesses in the land of Benjamin.'

² Imperial and papal bulls were so called from the (leaden) *bulła*, which in late Latin means a seal, which was appended to them.

through the slit, are embedded in the body of the seal.¹ At times the seal is formed on a cord, plain or plaited, similarly threaded through the lower margin of the charter, and which is generally of silk. This silken cord is seldom, if ever, seen save in Royal charters and patents, and in the charters of the *nobiles majores*. The leaden seals of the Vatican are hung on cords.

The method of forming the pendant wax seal appears to have been as follows, and we take as an illustration a seal dating about 1450 A.D., which lies before us. A thin layer, not more than a tenth of an inch in thickness, of beeswax coloured with a red which seems to be at least partly vermilion, has been laid on the surface of the matrix, just reaching its circumference. On that, in turn, a layer of uncoloured wax, extending half an inch beyond the seal all round has been laid. On this mass the two ends of the parchment strip or tag have then been laid, so that the seal is near its lower end, so as to allow the slit with its twists to be embedded. More wax has then been laid on for that purpose, leaving the ends of the tags to stick out at the other side of the mass (or, properly at the foot). The whole mass of wax has been pressed and kneaded together till all the layers of wax have become one, and the wax is like a low mound on the matrix. The impressions on the wax of the skin of fingers, and sometimes the palm of a hand, show how this kneading has been done. When a counter-seal was to be impressed on this mound of wax—at its apex—it was done then. In the seal before us no counter-seal was used; but the knuckle of the second joint of a first finger of the owner or at least the keeper of the seal presumably, has been pressed deep into the wax at the same spot. One is generally impressed with the coarseness of the skin and the variety and depth of the lines on these manly knuckles; but the strength of their characteristics made them all the more valuable as a counter-seal—a testimonial to the greater seal on the other side. A man's seal might be appended to a charter in his absence, but it was not so easy to obtain the impression of his knuckle.

By the time the seal was completed the matrix was sometimes not only deeply embedded in the wax, but so imprisoned that the inner edges of the wax had to be pared with a knife, as in the case before us, to allow the

¹The twists thus produced afford a hold for the wax.

matrix to be removed. The remainder of this wall of wax was the best shelter procurable for the impression which it still surrounds.

Sometimes, where more than one seal was to be appended to a deed, the name of each signatory is to be found written on an inner side of the tag on which his seal, when forthcoming, was to be appended.

This method of attaching the seal by a pendant parchment tag laid the charter open to the perpetration of a species of forgery. We have seen at least one charter from which depended a seal from a tag which on investigation was found to contain a splice!

Frequently, when a seal, or more usually a signet, was to be placed on the surface of the paper, a strip of paper twisted into a cord-like roll was placed in the form of a circle about the size of the seal round the selected spot, to prevent the melted wax from spreading.

From their very nature few ancient seals—we speak now of the matrix itself, not the impression from it—have come down to us. One of the first precautions of the heir on succeeding to his ancestor was, naturally, to destroy the ancestor's seal. Thus in 1649 the Parliament ordered a Great Seal of Scotland for King Charles II. to be made, and the Great Seal of King Charles I. to be broken.¹ The specimens which we have in our museums to-day are probably only a few of those which were stolen or lost in the lifetime of their owners, before the time for their destruction had arrived. The beautiful gold signet of Joan Beaufort, Queen of James I., was found near Kinross in 1829.² Seals found at Iona, Melrose, on the links of Montrose, on Arthur's Seat, etc., are among those recovered. Among the lost is a Privy Seal of King Edward II., lost in the flight from Bannockburn. Another such was lost not far south of the Border, in the flight from Biland to Bridlington in 1322.³ John Lindsay, Bishop of Glasgow (c. 1325-1335), probably the first Bishop of that see who placed arms on his seals, lost his judicial seal (*ad causas*), or, in other words, Robert del Barkour, probably his chaplain or the official of the diocese, lost it for

¹The breaking of the Official Seals of the realm is still one of the ceremonies at the beginning of a new reign.

²We refer to this seal again, with illustration, at a later page.

³Tyler, i. 342-3, citing *Rymer Foedera*, iii. 977. *Leland Collect.* i. 250.

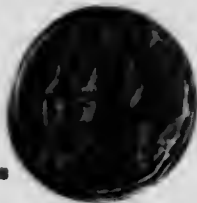
ARTICULAR PARTS

1. An. 1500: Robert, Bishop of Exeter, to the monks of Exeter.
2. An. 1470: Robert, Bishop of Exeter, to the monks of Exeter.
3. An. 1523: Robert, Bishop of Exeter, to the monks of Exeter.
4. The same, continued.
5. An. 1500: Robert, Bishop of Exeter, to the monks of Exeter.
6. An. 1521: Robert, Bishop of Exeter, to the monks of Exeter.
7. An. 1500 and 1521: Robert, Bishop of Exeter, to the monks of Exeter.
8. An. 1504: Robert, Bishop of Exeter, to the monks of Exeter.
9. An. 1500: Robert, Bishop of Exeter, to the monks of Exeter.

ARMORIAL SEALS.

1. A.D. 1333; John Lindsay, Bishop of Glasgow. Seal *ad causas*.
2. c. 1170; Seher de Quincy, Earl of Winchester, Lord of Tranent.
3. A.D. 1273; Roger de Quincy, Earl of Winchester, Lord of Galloway, and Constable of Scotland.
4. The same; counter-seal.
5. c. 1220; Margaret de Breteuil, widow of Seher de Quincy.
6. A.D. 1251; Patrick, seventh Earl of Dunbar.
7. A.D. 1369 (and 1371); Sir Robert Erskine, Lord of that ilk.
8. A.D. 1364; Sir Thomas Erskine.
9. A.D. 1296; Sir Alexander de Abernethy.

PLATE VIII



him, near the chapel of St. Mary, of Dunbarton, while the Bishop was staying at Bishops-loch (*Manerium de lacu*). The seal was found by James of Irwyn, a monk of Paisley, on or about 23rd April, 1325, for on that day the Bishop caused a notarial instrument to be executed formally recording its recovery. The instrument describes the seal as containing 'the form or image of the blessed bishop Kentigern his patron, along with the shield of a nobleman William de Coucy, on the one side, with a fish bearing a ring in its mouth, above it, and his own shield on the other side with a little bird over it'¹—presumably the same bird that appears in the arms of Glasgow. Impressions of the seal exist; the arms of de Coucy on it are *barry of six, vair and [plain]*; and the Bishop's own arms are an *orle vair*, Lindsay of Thurston's arms, *surmounted of a bend*.²

At the date of the publication of the former edition of the present work, only two independent works on Scottish Seals had seen the light, namely, Astles' *Account of the Seals of the Kings, Royal Burghs, and Magnates of Scotland*, 1796, and Henry Laing's *Descriptive Catalogue of Scottish Seals*, issued by the Bannatyne Club in 1850. To these, as available works of reference, the name of James Anderson's *Diplomata Scotiac*, 1739, might be prefixed as the work which first made public the knowledge of a number of the seals of the first importance; and there have to be added the first volume of the Record Edition of the *Acts of the Scottish Parliament*, published with its valuable *facsimiles* of early public documents and their numerous seals, by Thomas Thomson in 1844, and the volumes of the Bannatyne and other book-clubs, which contained *facsimiles* of seals found among the charters of the former monasteries, etc. Since that date great numbers of seals, unknown to the compilers of these works, have been found in various repositories, public and private. The second volume of Henry Laing's *Catalogue* appeared in 1866. The volumes of Mr. Joseph Bain's invaluable *Calendar of Documents* began to appear in 1881. Mr. Allan Wyon's articles on the Great Seals of Scotland appeared in the *Journal of the British Archaeological Association* for 1889. Dr. de Gray Birch completed his fourth (the Scottish) volume of his great *Catalogue of the British Museum Collection*

¹ Gordon, *Scotichronicon*, ii. 491, note, quoting MacGeorge, *Armorial Insignia of Glasgow*.

² Plate viii. See Macd., 1669.

in 1895, and finally Mr. William Rae Macdonald, then Carrick Pursuivant, now Albany Herald, has published in 1904 his *Scottish Armorial Seals*, a work of the greatest care and accuracy, superseding in authority all previous catalogues of Scottish seals so far as it deals with them. It contains descriptions of upwards of 3000 of the ancient seals and counter-seals of the Scottish nobles and gentry, with references to his authorities in every case. Dr. Birch has since added a *History of Scottish Seals* so far as to include a volume on the *Royal Seals*, 1905, and a volume on *Ecclesiastical and Monastic Seals*, 1907. These volumes, however, are concerned as much, or perhaps more, with the style and development of the art than the heraldry which they display.¹

In the very important respect of illustration all these works are more or less contributory. The great family histories, also, published in recent years by the late Sir William Fraser and others, have illustrations of seals which are, in some instances, not otherwise to be seen. The Reports of the Historical MSS. Commission, and many other publications describing or reproducing seals of arms, should also be mentioned if space permitted.

COINS, CARVINGS IN WOOD AND STONE, METAL WORK, PAINTINGS, STAINED GLASS, ETC.

Along with seals as sources of our knowledge of early heraldic bearings may be classed, for Royal and national heraldry, coins. After these we may perhaps rank those engravings which are carved on ancient castles, churches, etc., which have been placed there presumably by the orders of the persons whose edifices or whose benefactions they are designed to identify: thus, the now doubtfully decipherable shields on the Castle of Dundonald, perhaps as early as any mural heraldry in Great Britain; the fourteenth century arms of Douglas at Bothwell, Preston at Craigmillar, the cinquefoils of Borthwick in the fifteenth century stronghold of his name, and so on. Melrose Abbey still exhibits the Royal Arms of King James IV. over

¹ Dr. Birch's book on *Royal Seals* above mentioned supplies in a measure the only omission in Mr. Macdonald's work which, unlike the volumes of Laing and the *B.M. Catalogue*, does not deal with the Official Seals of our Kings, Queens, or Government Offices.

doorway and buttress¹ of the portion which he restored. The chapter-house of the Cathedral of Elgin bears the arms of Stewart; St. Giles's, Edinburgh, has Royal Arms in the chancel and the Preston arms in the Preston Aisle. Bishop Chisholm's arms appear on the walls and on the oak stalls of Dunblane Cathedral choir, which was erected by him. Bishop Cameron's arms appear similarly in the chapter-house and elsewhere in the Cathedral of Glasgow.²

A detailed record of the heraldry to be found in metal work would make a long and varied catalogue. It would include the wrought-iron railing over the doorway at Caroline Park, near Edinburgh, in which is worked, among other things, the stag's head cabossed and the swan—the crests of George Viscount Tarbat and his wife, the Countess of Wemyss. Also the wrought-iron gate at Gogar House, with its quartered shield, which seems to bear the quartered arms of a branch of the house of Stuart. It would include at the other and more valuable end of the list the arms to be found on plate of gold, silver, and silver-gilt. Of plate the only instance which we shall mention is the silver-gilt cover of a cup which may be construed to belong to a date before 1370-1 at the latest. Presently and for more than the last three and a half centuries it has performed the duty of the plate in the bottom of a mazer which belonged to the Bannatyne of Kames, and with which it has descended to that ancient family's heir of line, Sir Malcolm Macgregor of Macgregor. The representation of the cover, which by Sir Malcolm's kindness we are permitted to produce here, supersedes the necessity of much verbal description.³ It is perhaps

¹ Perhaps the finest surviving example of the ancient Royal Arms of Scotland is here, on the westmost buttress of the south wall of this church, of fine carving.

² The general account of the architecture of Scotland to be found in *The Castellated and Domestic Architecture*, 5 vols., and *Ecclesiastical Architecture*, 3 vols., of Messrs. Macgibbon and Ross, indicates not only the distribution of our heraldic records in stone and wood work, but that the enquirer need not be deterred from inspecting our ecclesiastical buildings by the statements made by a certain class of writers for other than archaeological or historical reasons that they and all their contents were destroyed 'at the Reformation!'

³ Plate ix. A disquisition on the artistic characters of the cover would be out of place in a work on mere heraldry. As regards the ownership indicated by its heraldry, it need only be observed that though the arms in the principal place are those of the High Steward, we do not know what, if anything, the cup bore.

enough to add that the six coats of arms with which the cover is decorated are in their heraldic tinctures, metal and enamel. Those parts of the enamel which we conclude were meant for blue are in all cases black; whether the blue went black in the furnace or has become so since we cannot say. If we begin with the shield in front of the lion couchant, round which they are ordered, they read as follows: 1. The arms of the High Steward: or a fess chequy argent and azure. 2. Douglas without the addition of the heart: argent, on a chief azure three mullets of the field. 3. Walter FitzGilbert, or his son David FitzWalter, or grandson John of Hamilton: gules three cinquefoils. 4. A cadet of FitzGilbert (?): gules, between three cinquefoils or, a chevron ermine. 5. Crawford: gules, a fess ermine. 6. Stewart: or, a bend chequy azure and argent.¹

The occurrence of shields of arms in the backgrounds of early portraits, usually in the upper corners, needs no observation. But we should not omit to name the Royal and other arms on the remarkable fifteenth century oil painting of King James III. and his Queen and son, originally in Trinity College Church, Edinburgh, and whose home is now at Holyrood;² and the still earlier miniatures of Isabella, daughter of James I. of Scotland, Duchess of Brittany, in her heraldic robes, found in her Book of Hours, dated c. 1442, and her copy of *La Somme*, 1469.³

Of pre-Reformation stained-glass heraldry Scotland has none, unless it is contained in four plaques in the Magdalen Chapel windows in Edinburgh.⁴

¹ According as we take the colour now black to stand for blue, or, in this case, for itself, we may read the sixth shield as the arms perhaps of Stewart of Bute, and perhaps of Stewart (Menteith) of Rusky. But on the one hand we are not aware of any evidence of the adoption of the bend chequy sable and argent by Menteith before the year 1496; and on the other hand our only authority for the use of the bend chequy of Stewart of Bute is the shield on the recumbent figure in the Stewart burial ground in the old church of Rothesay, believed to be that of the first of that house. The bend in that case is markedly abased below its normal position—pointing thus to the wearer's illegitimacy.

² *Proceedings Soc. Scot. Antiq.* x. p. 310.

³ See W. Moir Bryce, *Scottish Gray Friars*, i. pp. 1, 52, photogravures.

⁴ These display the arms of James V. and Queen Mary of Loraine, and those of the founders of this chapel, etc., Michael Maquhen and his wife Janet Ryne. See *Historical Sketch of Constitution of Edinburgh*, 1826, p. 110; *Scot. Heraldry Exhib. Cat.* plate 63.

ARABIAN BAZAAR

The four main articles mentioned in the list (1) to (4) are the property of the Arab Bazaar and are not to be sold or given away without the permission of the Arab Bazaar.

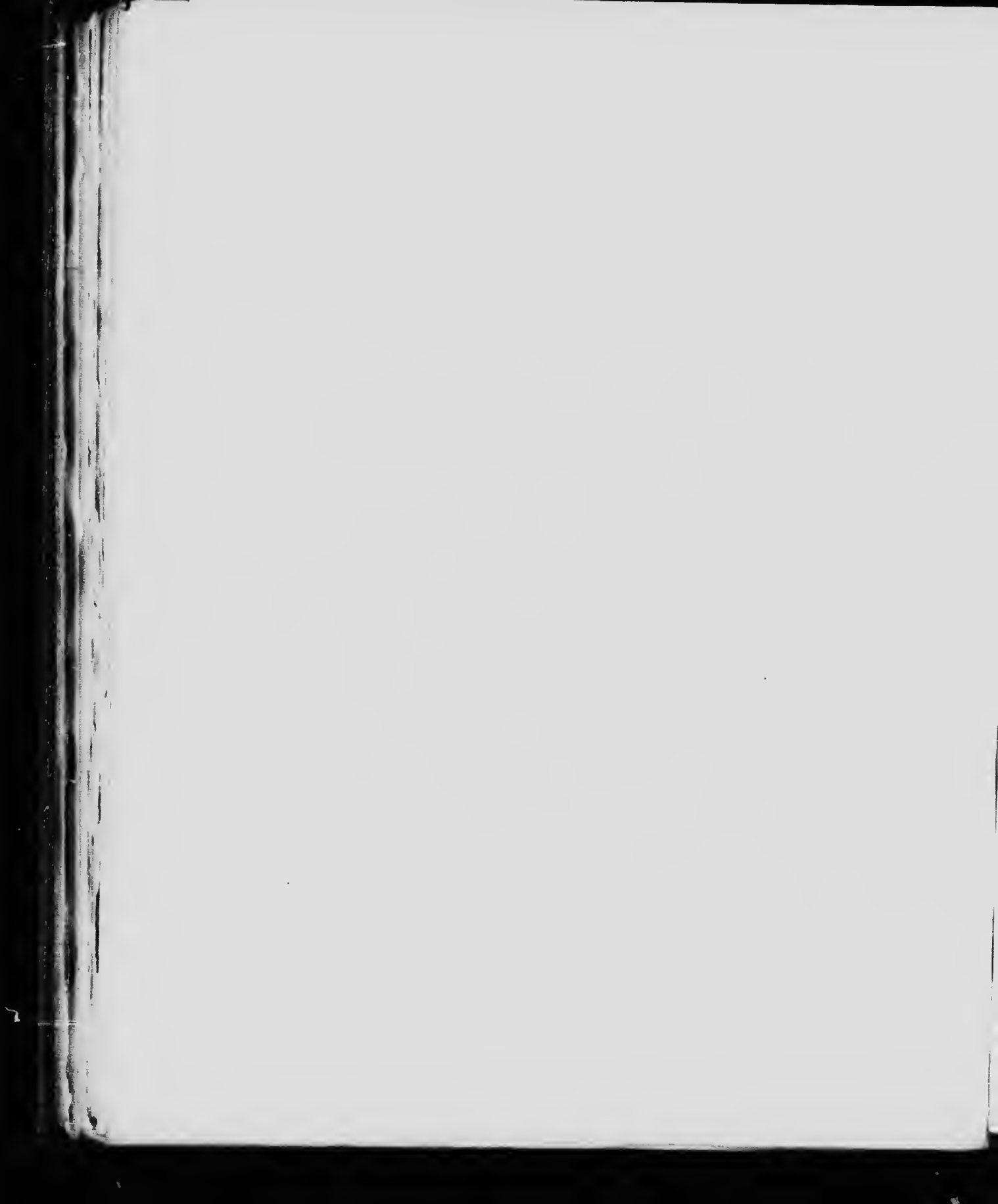
ARMORIAL ENAMEL.

The fourteenth century enamelled armorial print (centre-plate) of the Bannatyne Mazer
(by the kind permission of Sir Malcolm MacGregor of MacGregor, Baronet).



THE BANNATYNE MAZER





That the country ever possessed much more it is hard to say. If it did, very little old can have survived to see the Reformation, so much had Scotland suffered in its wars especially with its 'auld enemies' of the south! Surprisingly little stained glass, even in fragments, has ever been found among the ruins of the Cathedrals, etc., where it would most likely have existed, if it existed anywhere; and glass is a most indestructible manufacture. We are not aware if any of the fragments found and carefully preserved, for example at Melrose, bears any evidence that it was heraldic.

Sculptured tombstones, some early, more later, supply evidence which is somewhat of the same nature as that of stained-glass windows. Some of them were clearly executed during the lifetime of the persons whom they were afterwards to commemorate: their less pious or less careful posterity has inadvertently proved the early date and authorship of the intended memorial by forgetting to fill in the blanks left for the date of the departed's death.

The wealth of ancient heraldic memorial brasses still enjoyed by England was never shared to an equal extent by Scotland any more than any other country. Scotland, which probably never possessed a tenth part of the remnant which England has still, can count now only five brasses which date before the eighteenth century, all of the style of the continuous plate, square or oblong (see plate x.). Of brasses of the beautiful and exclusively English type, it has left to it only a few of the stone matrices.¹

ARMORIALS.

Ancient armorials other than those which are recognized as the official books of the Lyon Court may be mentioned next, in so far as they contain records of arms which are earlier in date than the Registers.

The earliest of them consists of three leaves of a remarkable foreign

¹ This well-known type of 'brass,' to which so much of our knowledge of early English armour and armory is due, may be generally described as consisting of a very large slab of grey Purbeck marble, in which was set, flush with its surface, a figure of the knight or lady to be commemorated, as the case might be, armorially apparelled, or accompanied by shields of arms, and probably within an ornamental shrine or border, all being cut out of brass plate, and probably enamelled in colours (plate xi.).

collection—the Armorial de Gelre, dated between 1370 and 1388,¹ a manuscript in the Bibliothèque Royale at Brussels. It is the record of a foreigner living at a distance from Scotland, which deprives his compilation of the credit due to first-hand information. Still it was probably compiled from information he had received from the Scottish authority in heraldic things; for it is a compilation clearly made in the execution of his duty. This circumstance adds to the credit with which it must be received.

Next to the Armorial de Gelre comes the Scots arms included in the Armorial of Bouvier, Berri roi d'Armes, which belongs to the middle of the next century. All subsequent foreign Armorial's are not so reliable regarding British arms as is the Armorial of the herault d'armes of the Duke of Gueldres already mentioned.

The Scottish Armorial nearest in date to the Armorial de Berri is a portion of the Workman or Forman ms. in Lyon Office, which was considered by the late Mr. George Burnett, Lyon, to have been executed probably between 1508 and 1530.² As we omit Sir David Lindsay's ms. in this list,³ next comes the Hamilton Armorial, now in Herald's College, London, executed between 1561 and 1564. A copy of it is in the Lyon Office. The Harleian ms., No. 115, in the British Museum; Kings and Nobilities Arms, vol. i., in Lyon Office; the 'Le Breton Armorial' in Herald's College, London; the Dunvegan Armorial in the possession of MacLeod of Dunvegan; the Seton Armorial,⁴ called by Nisbet the Espleine ms., belonging to Mrs. Hamilton Ogilvie—these are the most important of the illuminated mss. of Scottish Arms which are not official. Unfortunately for the ordinary student, none of them, save the Gelre pages and the 1542 Armorial of Sir David Lindsay of the other list, have been repro-

¹ Plates xii. xiii. xiv. Sir Archibald Dunbar, Bart., *Scottish Kings* (Edinburgh), 1899, p. 165. The pages of the Armorial containing Scottish Arms are reproduced in *facsimile* in the *Proceedings of the Society of Scottish Antiquaries*, 1890-1891, vol. xxv. 9-19, and in the *Memorial Catalogue of the Scottish Heraldic Exhibition*, plates vii. viii. xi. A faulty representation of them appears in Stodart's *Scottish Arms*.

² Burnett's ms. Account of Lyon Office.

³ Lindsay's ms. is described among the Official Registers, of which it is the earliest. See pages 62, 116.

⁴ Plate xv.

duced and published complete in *facsimile*. Verbal blazons of several, however, along with a partial reproduction in *facsimile*, have been published in Stodart's valuable but badly arranged work, entitled *Scottish Arms*.¹

Along with illuminated mss. must be classed Mackenzie's and Nisbet's printed works on Heraldry, and a large number of un-illustrated mss. catalogues of coats of arms, such as those of Joseph Pont, Sir James Balfour, Sir George Mackenzie, etc.

The heraldic value of these Armorial, both illuminated and unilluminated, varies considerably. An Armorial compiled by an Official Herald as a work of reference for himself in the execution of his duty, or as a record or memorandum of arms which he has himself granted or confirmed, will carry an authority similar to that of an institutional writing or a collection of reports by a skilled reporter of decisions in law courts. Any book kept from day to day by a Herald as a record of what he had granted or seen granted would have an authority similar to that of a Notary's Protocol Book which the Notary of old was obliged to keep. Great reliance, too, may be placed on any armorial which has been executed by an Official Herald for the use of a King or great Noble, that it is a faithful copy of the most official records at his command.

ACTS OF PARLIAMENT, CHARTERS, PATENTS, ETC.

Acts of Parliament, Charters, Notarial transumps of Charters, and other Notarial instruments, may be mentioned here as occasional sources—some of them of great antiquity—of information.

A certain number of patents of arms granted prior to the Act of 1672 still exist. The patents to Sir James Balfour of Pittendreich, 1566-7 A.D., Sir John Maxwell, Lord Herries, 1567 A.D., and others mentioned in the Appendix are instances.² Patents which were granted after the Act of 1672, and before 1867, were sometimes left unregistered, or at least do not appear in the volumes of the Register in Lyon Office. Official certificates of probative quarterings, granted in proof of gentility; and the entries in the Register of Funeral Escutcheons must be mentioned.

¹ *Scottish Arms*, 2 vols. large folio, Edinburgh, 1881.

² Appendix v.

THE REGISTER OF ARMS.

Last in the enumeration of the sources of information regarding heraldic practice in Scotland comes the Lyon Register.

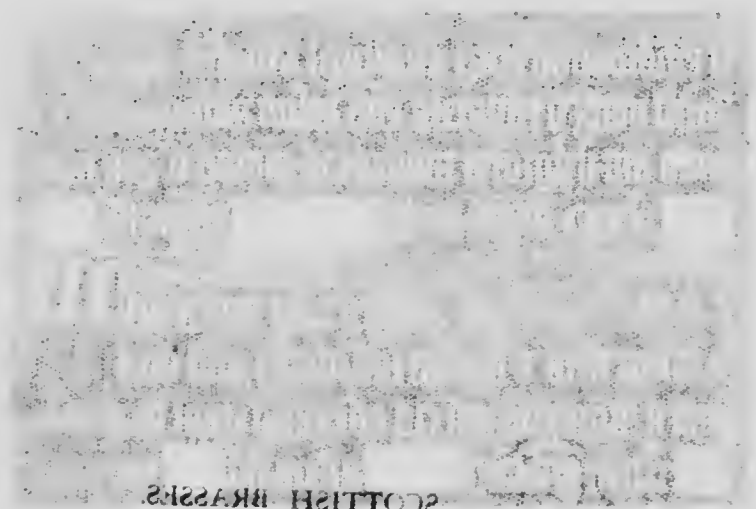
This Register may be divided into the Register kept before 1672, and that kept after that date, and under the Act of Parliament of that year.

There is evidence that Scottish Registers of Arms of an earlier date than any now extant once existed. The earliest officially acknowledged Register of Arms now extant in Scotland is the book of blazons executed by Sir David Lindsay of the Mount about the year 1542, and certified by Sir James Balfour, Lyon, and Thomas Dryisdale, the Herald Registrar, to have been approved, as we have already seen, by the Scottish Privy Council in 1630.¹ The following autograph of the author accompanies the illumination of his own Arms: 'The Armes of Sir David Lindesay of the Mont, Knytht, alias Lyon King of Armes, autor of the present buke, Anno Domini 1542.' This remarkable manuscript appears to have remained in the custody of Sir David's successors in office till the advent of Sir James Balfour. Its history, after it was then 'approve' by the Privy Council, seems to have been that in 1650, at the approach of Oliver Cromwell to Scotland, Sir James Balfour took it with others of the heraldic mss. in his possession (official or not) to his Castle of Denmiln in the north-east of Fife,² where it remained till the year 1698. It then came, along with remaining mss. collections of Sir James, into the possession of the Faculty of Advocates, in whose Library it still reposes.

Reproductions of the manuscript in its present state have been made in 1822 and 1878, the former, made under the superintendence of the late Dr. David Laing, librarian of the Signet Library, is hand-coloured; the latter, projected by Dr. Laing, and eventually, after his death, executed under the

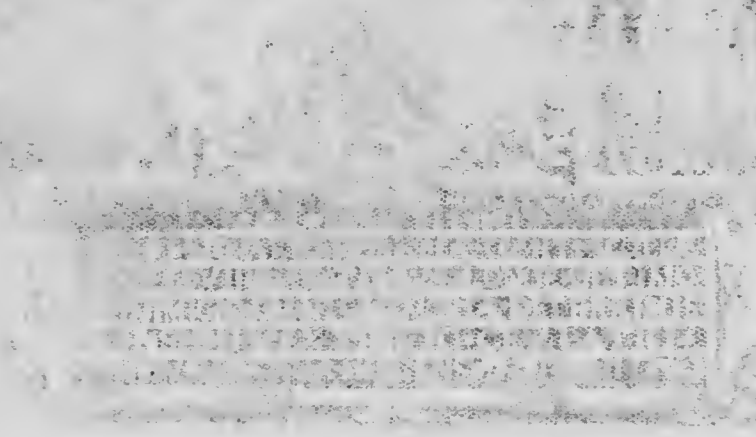
¹ Above, page 62.

² It is said that a great part of Balfour's literary collections was burnt by the English in Perth, where they had been taken in the first place. Perth was taken by Cromwell on 3rd August, 1651. Of his manuscripts, however, a number certainly survived. How many of those now in the Advocates' Library belong properly to Lyon Office we are not aware; but Scottish heraldry owes much to the Library for their preservation.



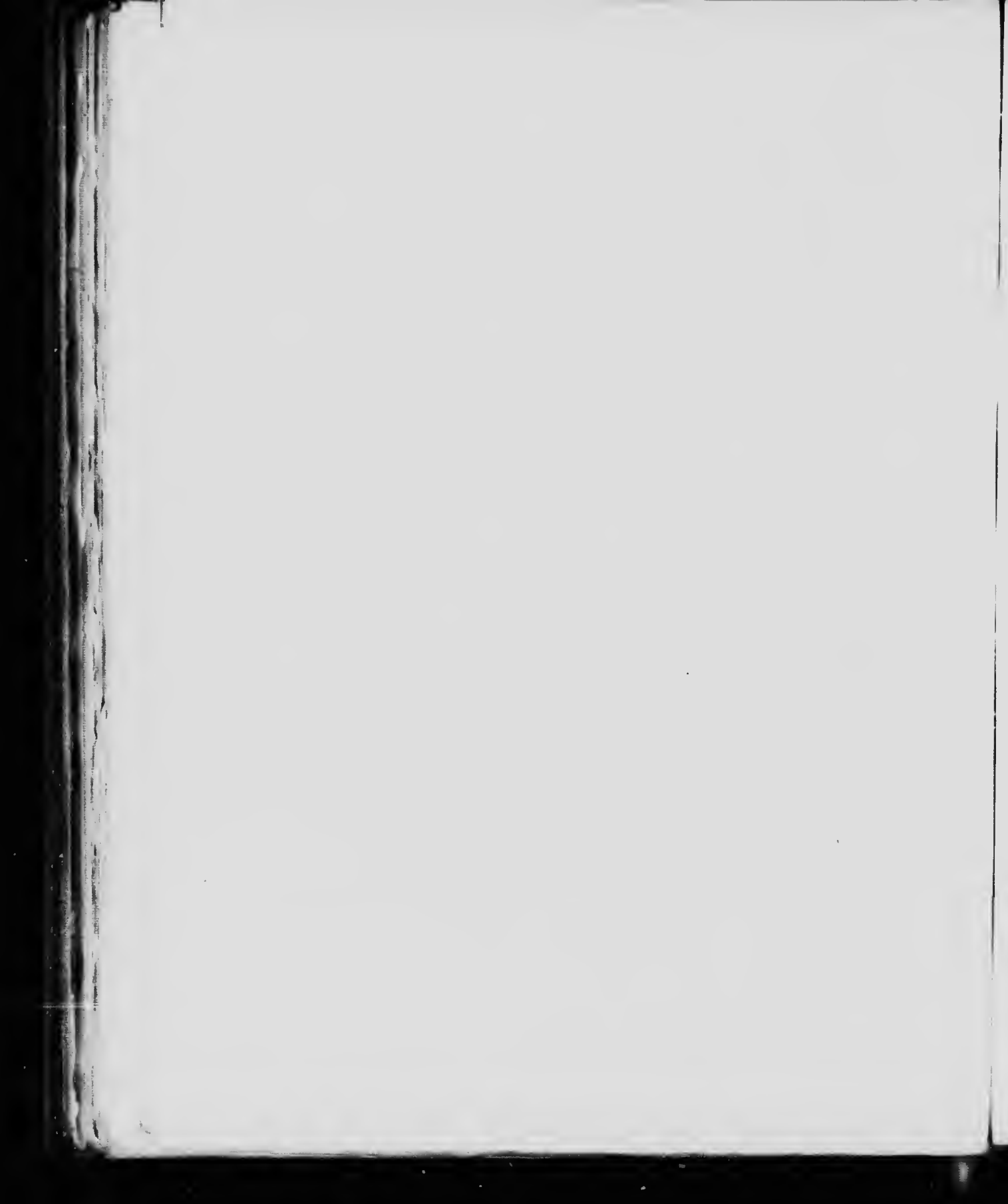
SCOTTISH BRASS

The original base of Sir Alexander Living of Dinn (d. 1487) and his wife
Elizabeth Keir, early fifteenth century (St. Nicholas' Parish Church, Ayr)
The base is a monument of James, Earl of Mar, Earl of Orkney (d. 1547)
1550; present location (St. Giles' Cathedral, Edinburgh).



SCOTTISH BRASSES.

1. The Sepulchral Brass of Sir Alexander I . . . of Drum (d. 1427), and his wife, Dame Elizabeth Keith, Early fifteenth century, (St. Nicholas's Parish Church, Aberdeen).
2. The Brass in memory of James, Earl of Moray, Regent of Scotland (d. 23rd January, 1570) ; sixteenth century (St. Giles's Cathedral, Edinburgh).



eye of the late Mr. R. R. Stodart, Lyon Clerk, is a chromo-lithograph. Neither, however, makes any attempt to distinguish the original work from the additions or alterations which here and there are apparently made on it.

Besides the heraldic ensigns of the King, of various members of the Royal Family of Scotland, and of foreign Princes, it exhibits, in their proper colours, the armorial bearings of 114 Noblemen and about 320 of the principal gentry in the kingdom, unaccompanied, however, by any exterior ornaments in the shape of crest, motto, or supporters. The illuminations are given without any verbal description of the arms, the names of the bearers being merely entered over their respective shields, thus: Dunber erle of Marche; Dowglass erle of Angus. The admirable drawing and brilliant colouring of the manuscript presents a very favourable specimen of the state of the arts in Scotland in the middle of the sixteenth century. While an entire page is assigned to the Arms of the King and most of the Queens of Scotland,¹ and some others, the escutcheons of foreign potentates are usually placed in threes (two and one). The bearings of the nobility are arranged four on every page, the shields of the Earls and higher degrees being ensigned by contemporary coronets.² The 'principal families' are similarly placed. In the latter portion of the volume a smaller shield is introduced in the centre, making five in every page; and occasionally a single coat is illuminated on the back of the leaf. These, however, seem to be additions to the original manuscript. Some even of the bearings of the original shields have been altered since they were first painted. It may be impossible now to say whether these additions and alterations were made before the book was approved by the Privy Council or afterwards; but a critical analysis of the manuscript as it now stands would be gratefully welcomed by Scottish Heralds. On the page before the arms of the principal families, three reasons are stated for including the bearings of persons convicted of treason and other serious crimes: viz. 1st, To the honour of their noble predecessors; 2nd, To the shame and disgrace of the guilty parties; and 3rd, As a warning to others to avoid the like offences.

Several Armorial or other books of arms of this same age or near it

¹ See plate xvi.

² Plate xvii.

have been done by officers of arms. One of these is held to date probably between 1561 and 1565, but is now without a known author.¹

The next official book is the Register or Scroll Register of Blazons of the time of Sir Robert Forman, Lyon King, dated 9th February, 1566. It is in the Lyon Office, and contains arms of the nobility and gentry of Scotland, and portraits of the Kings and Queens. Part of the volume has been mentioned already.² After this may be ranked the Armorial of the second Sir David Lindsay, who was Lyon King from 1591 to 1621. It is in the possession of the Earl of Crawford and Balcarres.³

There is no existing official Register pertaining to the interval between 1621 and 1672, unless it be one of the manuscripts which are now unauthenticated. During that period there was no legislative enactment for the establishment of an Office Record; still the absence of a record of the same nature as the Lindsay mss. is not accounted for; ordained and enabled by the distinct and simple provisions of the Statute of 1592, the Lyon Kings of the period could not have failed to possess 'Books and Registers' of a general character. From what we know, for example, of Sir James Balfour generally, and in particular from the number of his own heraldic notes, etc., now in the Advocates' Library and elsewhere, we must presume that he kept a Register which was proportionately voluminous. We may hold it to be no less certain that the two Lyon Kings, for Cromwell in this preserved the kingly title,⁴ who officiated during the Commonwealth, kept careful records of any business which they were given to do. Whatever we may think of Oliver Cromwell, there is no doubt that he had ideas of Courts, Corporate Bodies, and Registers which were well abreast, and some of them far ahead of his time. He was also exceedingly correct in his heraldry, if we may judge by his Great Seal. As the very existence of these two occupants of the Lyon's

¹ Adv. Lib. ms. No. 31. 4. 2; *Scot. Her. Ex. Cat.* 1892, No. 664.

² It bears the signature of James Workman, Marchmont Herald, 1623. *Scot. Her. Ex. Cat.* 666.

³ Plate xviii. See *Scot. Her. Ex. Cat.* 1892, No. 671^a; *Scottish Heraldry in Relation to History and Art*, p. 201.

⁴ Commission dated 13th May, 1658, in favour of Sir James Campbell of Lawers as Lyon King-of-Arms. *Heraldry Exhib.* (Edin.) *Memorial Catalogue*, No. 63.

office was ignored at the Restoration,¹ it is to be assumed that any records kept by them were also ignored on the occurrence of that event.²

But it is only too possible that the older Lyon Registers and such records as that presumably then existing of the Order of the Thistle, were among those of Balfour's effects that are understood to have been burnt at Perth on their way to Denmiln on the invasion of Cromwell in 1650; or among the national records transported to London by General Monk in the same year; and that they thereafter perished in that greatest of all disasters to Scottish Records in general, when, on 8th January, 1661, eighty-five hogs-heads filled with them went down at sea with the vessel 'Elizabeth of Burntisland,' which was in the course of bringing them back to Scotland.³ No index or catalogue exists of the documents which had been taken to London. We thus know only what survived; we shall never know what perished.

From the report of the case of Murray, however (24th June, 1778), we learn that most of the Lyon records were then supposed to have been indebted to fire rather than water for their destruction. In answer to various questions suggested by the Lord Ordinary (Hailes) in that case, it was stated by the Procurator-Fiscal of the Lyon Court, *inter alia*, that most of the ancient records of arms were traditionally reported to have been destroyed by fire, but that there were still preserved in the Lyon Office several old manuscript books of Heraldry, which proved of great use in the matriculation of armorial bearings. Arnot thus refers to the traditionary conflagration in question: 'Upwards of a hundred years ago (*i.e.* cir. 1670), it happened the records of the Lyon Office to be burned; upon

¹ Cromwell's Lyon Kings were Sir James Campbell of Lawers and Gilbert Stewart. Sir Alexander Durham of Largo was the first Lyon appointed by Charles II. after the Restoration. In the parliamentary limitation of 1672, cap. 7^a (*Acts of Parl.* vol. viii. p. 123), in favour of Sir Charles Skene, Lyon Sir James Balfour is styled Durham's 'immediate antecessor.'

² Charles II. by warrant, 4th September, 1660, declared the grants of arms made by Cromwell's Garter (Sir Edward Byshe) illegal and void. *Per Moule, Bib. Her.* p. 142.

³ They were despatched in H.M. Frigate 'Eagle,' which arrived safely. The captain (Fletcher), however, had transhipped the Records into the 'Elizabeth' at the mouth of the Forth during a storm. *Acts Parl. Scot.* Record Edition, vii. App. ab, 3a, etc. and i. 26 (20) *et seq.* (*Preface* by Cosmo Innes). See also Robertson's *Proceedings relating to the Peccage of Scotland*, p. 220.

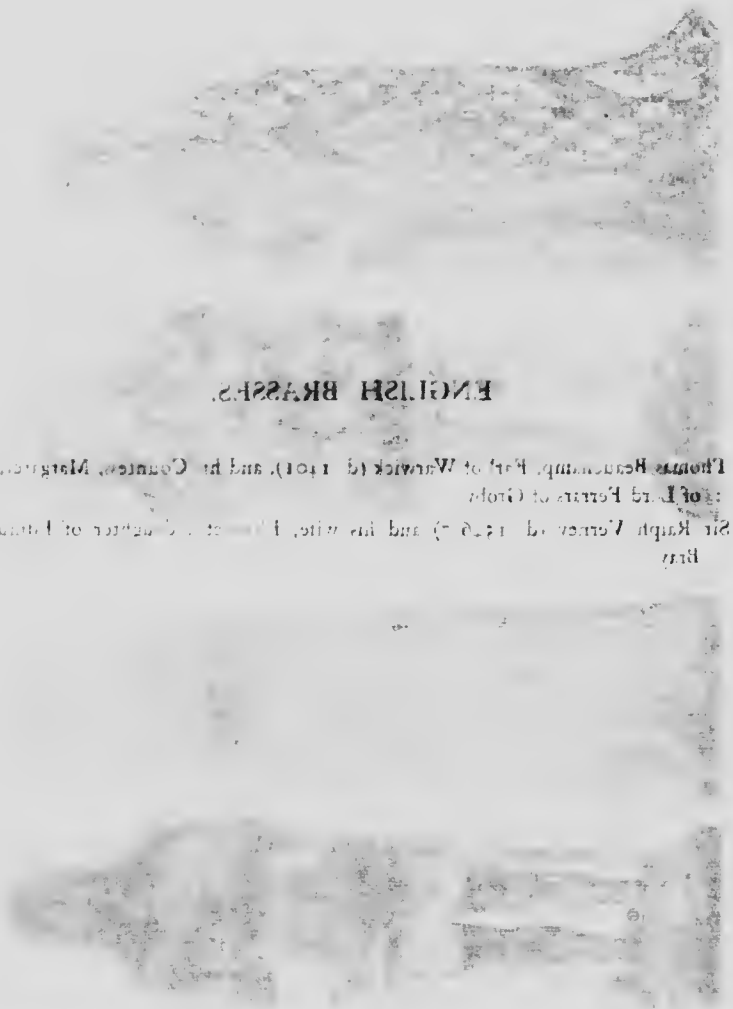
- which an Act of Parliament was made (1672, c. 21), ordaining all the nobility and gentry of Scotland to register their armorial bearings in the books of the Lord Lyon, under pain of the confiscation of all plate, carriages, etc., upon which arms not regularly entered should be depicted.¹

A Parliamentary Return from the Lyon Office in the year 1800 contains several allusions to the state of the Records.² Besides the 'proper Records' of the Office, which are articulately specified, we are informed that 'there are, indeed, said to be other manuscript books and printed treatises upon Heraldry, in the custody of the Lyon-Clerk, who was also Deputy to the late Lord Lyon; but he insists that they are the private property of his former constituent, as having been purchased by him.' We are further told that 'several of the volumes of the proceedings of the Lyon Court are lost or missing from the office, and, it is believed, are irrecoverable.' At the date of the Return, the official Books and Records were deposited in the private house, in St. Andrew Square, of Mr. Boswell, Lyon-Clerk, who had refused the offer of an apartment in the General Register House; and a question was then under submission to the Lord Advocate as to the custody of the Records, for which the Lyon-Clerk and the Lord Lyon respectively contended—the latter maintaining that, according to former practice, he or his Deputy was entitled to such custody. But all such questions are at an end: Lyon Office, with not only its official chambers, but all its Registers, and an extensive and valuable library both of manuscripts and printed books, has been permanently resident in the General Register House for many years, formerly in the south-east corner of the New Register House, and now in the central suite of apartments in the south front of the Old Register House. The library, though largely recruited by private donations, is official in its nature and a permanent adjunct of the Office.

The period corresponding with the gap, already mentioned, in the Register, before 1672, is not, however, entirely without its records. Patents of arms granted within these dates exist throughout the country.

¹ *History of Edinburgh*, p. 493.

² This Return forms Appendix W. 4, pp. 402-5, of the *First Report on the Public Records*, ordered to be printed 4th July, 1800.



ENGLISH BRASS

1. Thomas Beaufort, Earl of Warwick (d. 1401) and his Countess, Margaret, seated
 2. Sir Ralph Forman (d. 1478) and his wife, Elizabeth, seated
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ords,

ENGLISH BRASSES.

1. Thomas Beauchamp, Earl of Warwick (d. 1401), and his Countess, Margaret, daughter of Lord Ferrars of Groby.
2. Sir Ralph Verney (d. 1546-7) and his wife, Elizabeth, daughter of Edmund, Lord Bray.

PLATE XI



ENGLISH BRASSES



Some of these patents belonging to the period in question and to the succeeding period are mentioned in the Appendix.¹ The early armorial patent of 'Johnne Lord maxwell of hereiss,' which we have already alluded to, along with that of Sir James Balfour of Pittendreich, 6th February, 1566-7, is dated 2nd April, 1567, and is interesting, as it is probably one of the oldest existing Scottish documents of the kind :

'Twill all and sindrie quhome it efferis quhais knowlege thir pntis salcum Greting In god ewirlesting We Shir Robert forman of Luthrie Knicht Lyon King of armes with our brithir heraldis of the realme of Scotland being requirit be the richt honorable Johnne lord maxwell of hereiss to assigne and gif unto him sic armes In mettaill and culloure as maist deulie suld appertene to him and his posteritie as become us of our office to do QUHAIRFORE we having respect to thais thingis that apperent hes assignit and assignis to him quarrelle the first and thrid silver ane saulter sable with aie Lambeaw of thre feitt gulis secund and ferde silver thre hurtcheonis sable with the beraris of the scheilde helme Tymmerall and Detoun as heirunder Is Depaintit² quhilk he and his posteritie may lefullie beir without reproche Quhilk We testifie be thir pntis Subscrivit be Marchemont hairauld our clerk of office quhairunto oure seile of office is appensit At Edinburgh the Secund Day of aprile the zeir of god ane thowsand fyve hundreth thre score sevin zeiris.

(Signed)

'ADAME M'ULLO'

mr'chemont hairauld, clerk of ye office
of Armes of Scotland.'

(Dorso.) 'Armes of the hous of herreis.'

The Register, commenced under the Act of 1672, referred to by Nisbet as the New Register, is styled officially The Public Register of All Arms and Bearings in Scotland. The first volume is dated 1678. The

¹ Appendix v.

² See plate vi. : the coloured emblazonment of the arms, which appears on the margin of the patent, shows in modern language 1 and 4 Max. Ill, and 3 Herries. See *Herries Peerage Claim*, 1851, *Minutes of Evidence*, p. 268, where the arms are reproduced in chromo-lithograph; also for a photograph reproduction, though on a reduced scale, of the whole patent, see the *Edinburgh Heraldry Exhib. Memorial Catalogue*, plate ii.

matriculations of the intervening years are arranged in it on a system which was necessarily abandoned in the volumes which followed.

At the commencement of Part i. of the volume—for on account of its size the volume is now bound in two separate parts—are separately illuminated the official and family bearings of Sir Charles Erskine of Cambo, (Lord) Lyon during the reign of Charles II., followed by a verbal blazon of the Arms of the King, Duke of Albany, Archbishops, Bishops, and Peers of Scotland, a blank space being left for the arms of those who had not matriculated. Next in order come the bearings of the Knights Baronet, Knights Bachelor, and Barons, 'all sett downe as their sur-names agree with the order of the alphabet, blanks being left for adding the atchievements of those who shall hereafter come in at the end of each letter.' Part ii. contains matriculated 'Armes belonging to the Gentlemen within the Kingdome . . . insert alphabeticallie ;'¹ and after these the bearings of Burghs, Colleges, Corporations, Companies, and Offices ; while the last pages of this part of the volume contain a number of 'promiscuous matriculations,' in other words, matriculations inserted chronologically without regard to other considerations. The arms of each person whose registration occurs as the first under any letter of the alphabet are illuminated in the margin of the verbal blazon ; only one or two other marginal illuminations occur. In the earlier part of the Register, a single page not unfrequently embraces entries pertaining to eight different families.

In the subsequent volumes, the matriculations are entered chronologically without regard either to the rank of the persons registering or the alphabetical order of their names. The verbal description of the arms is invariably accompanied by a pictorial emblazonment.² In vol. ii., arms with supporters usually occupy an entire page of the Record, being placed *above* the relative verbal description ; while escutcheons without supporters are painted in the *margin* of the blazon, varying in number from two to four on each

¹The order in which occur the surnames of those who have matriculated before 1678 is strictly alphabetical. The registrations entered in the volume of which we are speaking as made after that date are arranged under the initial letters of the bearers' surnames ; but, under each letter, the entries are naturally in chronological order.

²See plate xix.

page. In the same volume, neither the supported nor the unsupported shields are timbred with helmets and mantlings, being merely surmounted by the crest on a wreath of the bearer's liveries.

In the later volumes, an entire page is given to each entry. The shields are invariably accompanied by suitable helmets and mantlings, not unfrequently surmounted by two, and occasionally by three crests and mottoes. In the earlier of these volumes, the mantlings of the peers are red, lined (or doubled) with ermine, that of commoners being also red, but with a *white* lining, save in a few instances where the mantling has been made to consist of the principal colour and metal in the escutcheon, with which the wreath placed below the crest is always alternately tinctured. In the volumes belonging to the term of office of Sir James Balfour Paul, the present Lord Lyon, this exception has become the rule.¹

The Lyon Register embraces a few entries of arms, of which no record had been made when they were originally granted. Thus, in the year 1820, on the production of a patent of arms, dated 29th November, 1700, by Sir Alexander Erskine of Cambo, Lord Lyon King-at-Arms, in favour of Sir William Scott of Harden, a relative insertion is duly made in the Register, in consequence of the grant not having been entered at the proper time; and it may be interesting to mention, that the application for registration was made by 'Walter Scott of Abbotsford, Esquire, one of the Principal Clerks of Session.' Again, as late as 1849, a similar entry appears relative to the arms of the Bank of Scotland, originally granted by the same Lord Lyon in the year 1701.

In 1825 we find a curious insertion respecting the forfeited ensigns of Andrew Fletcher of Saltoun, which had been deleted from the Lyon Register 'upon his forfeiture in the Justice Court, 4th January, 1686.' The record bears, that 'although the said Andrew was by Act of Parliament restored in the year 1690, yet as no re-entry of the armorial ensigns of the chief of his

¹ It is interesting to observe that while the Register was in its sixth volume in 1863, the date at which Mr. Seton first published the *Law and Practice*, it is now in its twenty-second. The entries it must, however, be recollected are not now so closely packed as in the earlier volumes. The later volumes of the Register contain a number of grants to Royal and other burghs, colleges, companies, societies, etc.

family had been made upon the said Register subsequent to the said restoration, the same are now, upon petition to that effect by (his great-grand-nephew) Andrew Fletcher, the representative of the House of Saltoun, here matriculated of new,' viz. sable, a cross flory betwixt four escallops, argent.

Examples also occur of what may be termed amended matriculations, either in consequence of certain errors in the original grants, or for the purpose of adding supporters, and making other alterations. Occasionally, however, when the change is not very extensive, it is merely recorded in a marginal note, as in the case of the additional crest and motto granted by the Lord Lyon, in 1860, to Mr. Mitchell-Innes of Ayton—the original grant to his father having been made twenty years previously.

Besides grants and matriculations, the Register contains Exerplifications, namely, entries merely recording arms which have been granted in other countries, *e.g.* in England. The bearings of Mr. Watson Taylor are thus recorded in the year 1815, on the authority of a relative warrant transmitted from the English College of Heralds. In like manner, in the year 1851, a similar entry is made, on the application of Mr. Carrick Moore of Corswall, in virtue of a grant of arms to his brother, Sir John Moore, in 1804, under the hands of the three English Kings-of-Arms—the destination being to the patentee and his descendants, and the descendants of his late father.

In the year 1836, the Record furnishes an example of the substitution of a Scottish for an English grant, in the case of the Rev. John George Storie, Vicar of Camberwell, in Surrey, on the ground that he is descended from a Renfrewshire family, and is 'desirous to renew his connexion with Scotland, and to have the Lord Lyon's authority to bear and use such armorial ensigns as might by his Lordship be found suitable, and to discontinue those formerly registered to his family in the College of Arms, London.' The bearings granted by Lyon on the occasion are: Argent, a lion rampant, double-queued, purpure, within a tressure flowered of the same.

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SCOTTISH ARMS

FIRST LIST OF SCOTTISH ARMS IN THE ARMOIRIAL DE GRÈS HÉRALDIQUES

Earl of Argyll Earl of Carrick Earl of Mar

King Robert II

Earl of Argyll Earl of Douglas Earl of Strathern

Earl of Argyll Earl of Carrick Earl of Mar King of Scots Earl of Argyll

SCOTTISH ARMS.

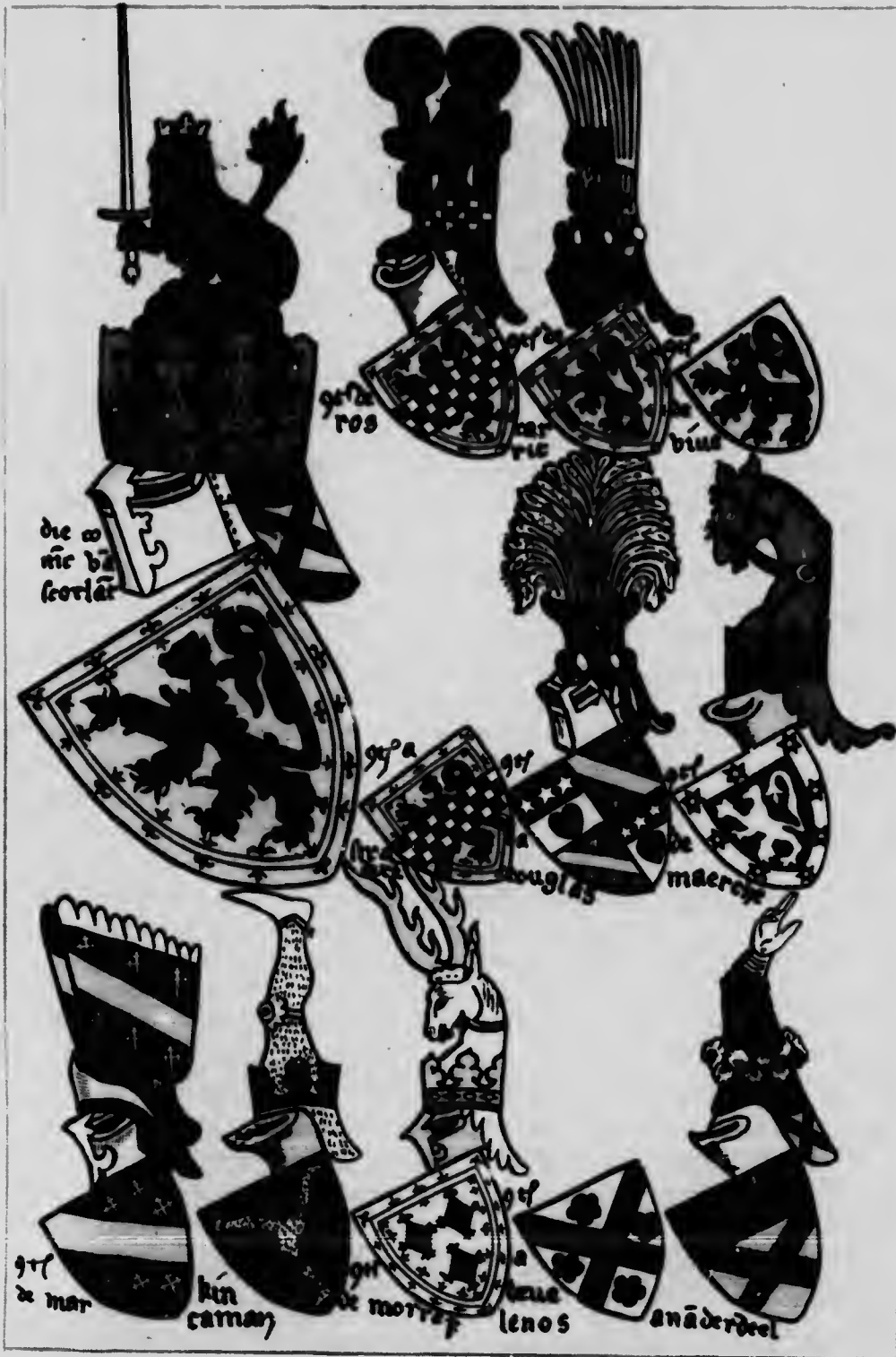
FIRST FOLIO OF SCOTTISH ARMS IN THE ARMORIAL DE GEURE (FOURTEENTH CENTURY).

Earl of Menteith Earl of Carrick Earl of Fife

King Robert II

Earl of Strathern Earl of Douglas Earl of March

Earl of Mar King of Man Earl of Moray Earl of Lennox Lord of Annandale





CHAPTER VI.

PROCEDURE IN THE OFFICE AND COURT OF THE LORD LYON IN MATTERS OF ARMS.

THE judicial forms for the trial and decision of heraldic right are the same as those in use in respect of other civil rights of similar nature. The business of the Office and Court of the Lyon, however, is chiefly ministerial nature, the cases which come before it as a judicial tribunal not very numerous.

In all cases in which Lyon is invoked in his ministerial capacity, the proceedings before him are originated in the form of a Petition. The Petition is addressed to the Lord Lyon, and sets forth the name and designation of the petitioner, and the grounds and nature of his Petition.

The ordinary petitions are (1) for a Grant of Arms; (2) a matriculation of arms. There are also petitions (3) to register arms held by a right anterior to the date of the statute of 1672; and (4) to record a Pedigree. The term, a Grant or Patent of Arms, is confined to an original grant to a person who has maintained or at least proved no hereditary right to the arms involved, but takes them as new arms.

In original grants of arms the particular bearings which are granted are settled by Lyon at his sole discretion, so far as the petitioner is concerned, save where they are prescribed to him by a Royal warrant. But the petitioner may specify the bearings which he may desire to have, and in doing so he will probably state reasons for his desire. The petitioner's preferences are always respected by the Court where no objection of a heraldic or other nature stands in the way of their being satisfied. The heraldic authority is, however, not obliged to give reasons for refusing to

give the petitioner his choice. The terms of the patent guard, with perhaps unnecessary assertion, against any recognition of any right which might be supposed to accrue from previous unauthorised use of the arms, by using the words that Lyon has 'devised' as well as 'confirms' the ensigns in the grant, even where he has not really invented, but only, at the supplication of the petitioner, adopted them, the petitioner having reasons for desiring them, though he has not convinced the Court that his ancestors had used them before the date of the Act of 1672.¹

A grant of arms may include the whole possible armorial achievement, as when a person who has no arms is created a peer, and is entitled to supporters as well as the arms of an ordinary gentleman. It may also be a matriculation of arms with a grant of supporters, or of a crest or motto, or of an honourable augmentation made in obedience to a Royal Warrant.²

The Petition ought to set forth the desired nature of the destination of the grant. Cases of limitations to heirs, or heirs male, whomsoever; or to the heirs, or the heirs male, of the body of the grantee, or of that of some specified ancestor are to be found in the Register. The usual destination is, now, to the patentee and his descendants, or to the descendants of some specified ancestor—the words 'according to the law of arms' being, of course, understood. The limitation may also be to the heirs of an entail.³ If the grant is to be merely personal to the grantee, the restric-

¹ The non-appearance in the Register of a coat of arms is a ground for a very strong presumption that the arms have not been granted since the date of the Act of 1672, but, as was stated by Lord Hailes in the case of Murray of Touchadam, it does not prove it. There are therefore cases in which, when the heraldic authority comes to make and register a grant of the arms, the word 'devise' were more properly omitted.

² Schedule B of Fees annexed to the Act of 1867—see Appendix—does not contemplate the case of a person who is entitled to a grant of supporters, crest or motto, and does not require either to register his arms or to matriculate them. A grant of supporters is understood, therefore, in practice to involve a re-matriculation of the arms and other 'exterior ornaments.'

³ In practice the formal presentation of the Petition is in general preceded by more or less informal inquiries addressed to the Lyon Clerk or one or other of the Heralds or Pursuivants. But the preparation of the cases of petitioners is no part of the official duties of these functionaries, and any petitioner who applies for a grant personally, and not through his legal advisers, is advised at the office that if he desires more assistance than a mere revision of the form of his Petition by the Lyon Clerk, he should take advice of his lawyers, or of a Herald, Pursuivant, or other expert in heraldry and genealogy, on an ordinary business footing.

tion, according to Scots law, must be stated. A Scottish grant to the grantee *simpliciter*, without mention of heirs, will go to the grantee and his heirs whomsoever according to the law of arms.

The ordinary applicant for a grant of arms needs no further qualification than that he is, in the words of the Act of 1672, 'virtuous and well-deserving.'

The term Matriculation of Arms denotes a registration of arms which are already recognized to exist. Thus a cadet of a house whose arms are already on the Register of the Lyon or some other King-of-Arms, is entitled to matriculate the ancestor's arms, with a *difference*, as his arms; although in Scotland the precise difference which denotes him is unknown till it is assigned to him by Lyon; and his right *in* his arms is not complete until they are so matriculated. A re-grant where a coat of arms which is already in the petitioner's possession is desired by him with an alteration on it or a new destination of heirs included in the patent is treated as a matriculation.

An assumption of a quartered coat by a person who has a recorded right to the several coats of which it consists requires a matriculation, not a grant. So also a matriculation is appropriate on the occasion of an abandonment of a quartering or a difference. A re-matriculation is proper where the bearer of arms which are on the Register has changed his surname. When a Scotsman who is entitled to arms in a foreign jurisdiction enters them on Lyon Register he does so in form of an exemplification.

In an application for matriculation of arms by a cadet of a family which has arms, the petitioner sets forth merely his propinquity as a cadet, the evidence of his ancestor's right, and that no forfeiture of that right has intervened. If he has any desire as to the precise difference to be assigned to him he may state it in his petition. Such desires are always carefully considered by the Court, and when possible given effect to.

In the case of a Petition for arms by the heir of an entail which prescribes the bearing of specified arms, the Petition sets forth the arms which are specified, the clause of obligation contained in the entail, and his desire to obtemper the entailer's conditions. In the case of *Moir v. Graham*, the arms of Moir of Leckie, which the heir was obliged by the entail to bear,

turned out to be non-existent. The Court of Session did not consider the provision to be *ex facie* impossible to be observed, not that it was to be held *pro non scripto*; but found that the heir, in order to inherit, must apply to Lyon for a grant of arms 'of the description' provided in the entail.¹ In this case Lyon issued a grant of arms. But no provision in any mere entail can impose upon Lyon the function of confirming to the heir what was not in existence; as, for example, a provision that the heir shall bear the entailer's arms, while the entailer had no arms,² or that he shall bear arms which were not in the entailer's power to entail, as, for example, arms which are the property of another family, and within the right of neither the entailer nor his heir.³ Whether an entail will or will not probably be held to be otherwise inoperative because it contains a condition that Lyon shall perform the impossible, or an act which infringes any existing right, or in any other way violates the law of heraldry is a matter of consequences which the King-of-Arms is not entitled to consider.

The Petition is signed by the petitioner or by his law agent or counsel, and is presented by being lodged with the Lyon Clerk. If it is accompanied by sufficient proofs of the statements on which it proceeds Lyon may grant its prayer without further procedure; he may, however, order further proof, or a hearing in presence, either on the whole Petition or on any part of it.

From the purely ministerial nature of the powers appealed to in most of these cases, the proceedings are entirely *ex parte*, and are initiated and conducted without public intimation; and the fact that they have taken place is published only by the grant, if any grant follows, being made by Lyon's Letters Patent, and by its being entered on the Public Register of All Arms. Lyon, however, may order intimation of the application to be made by the applicant to any persons or person whose interests he considers may be affected by the grant which is prayed for, or who may have entered a caveat against the issue of the grant without intimation, and

¹ *Moir v. Graham and Others*, 5th Feb. 1794, M. 15537.

² *Lex non cogit ad impossibilia*.

³ Petition Maitland to matriculate in his favour the arms of Strachan of Thornton in accordance with the provisions of the will of a relative of the surname of Strachan, 5th April, 1900. The prayer of the petition was refused.

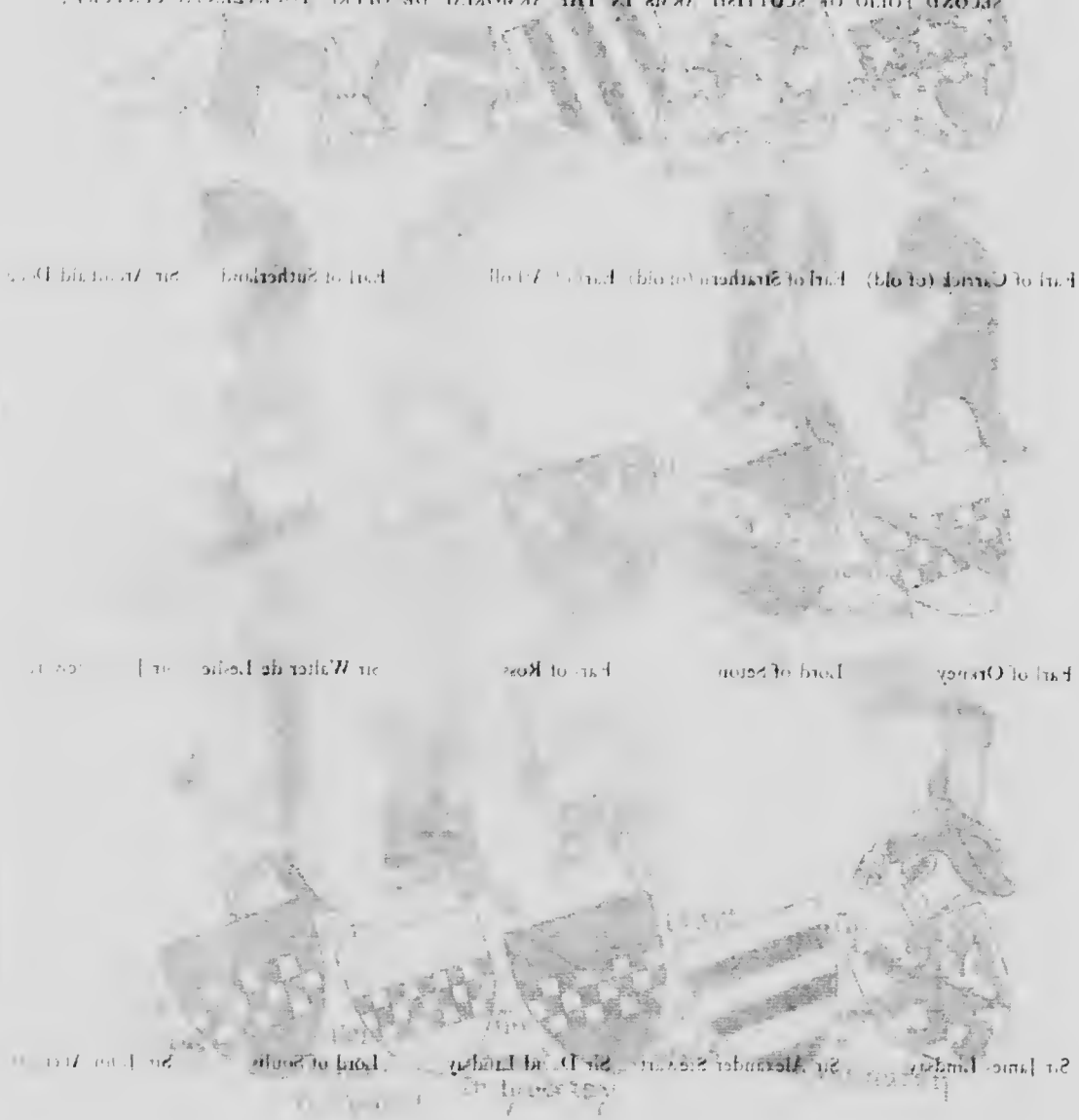
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SCOTTISH ARMS

SECOND FOLIO OF SCOTTISH ARMS IN THE ARMOIRIE DE CLERE FOURREZELLE CENTRE



SCOTTISH ARMS.

SECOND FOLIO OF SCOTTISH ARMS IN THE ARMORIAL DE GEURE (FOURTEENTH CENTURY).

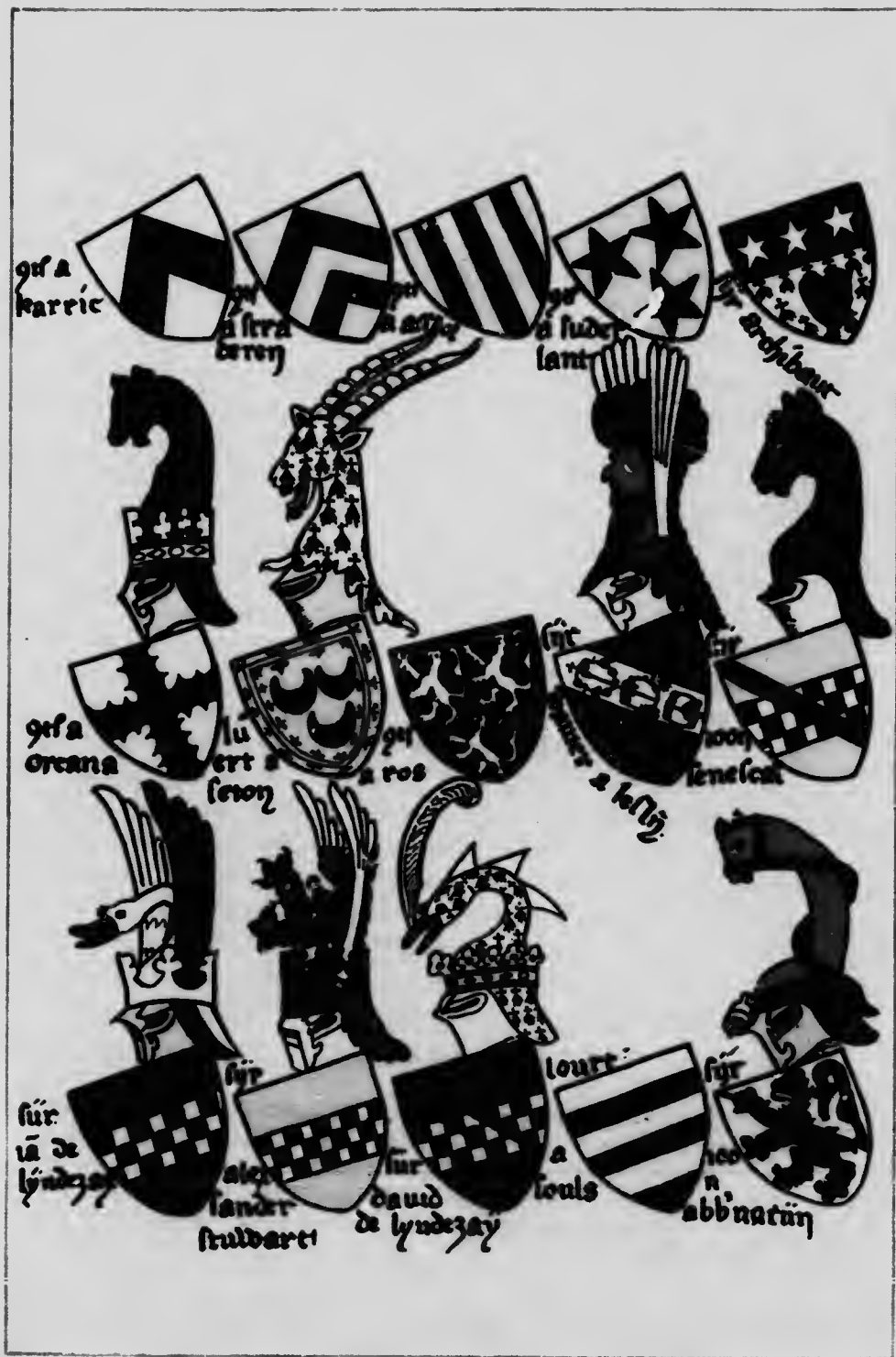
Earl of Carrick (of old) Earl of Strathern (of old) Earl of Atholl
 Earl of Sutherland Sir Archibald Douglas

Earl of Orkney Lord of Seton Earl of Ross
 Sir Walter de Leslie Sir John Stewart

Sir James Lindsay Sir Alexander Stewart Sir David Lindsay
 Lord of Soulis Sir John Abernethy

Douglas

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PROCEDURE IN THE LYON COURT 129

may adjourn the further consideration of the Petition till they have had an opportunity of objecting, if they desire to do so.¹ In a contested case the procedure in the Lyon Court is that of other courts in similar cases. Whether the grant of the prayer of the Petition is opposed or not, the petitioner must prove his own case.

If the petitioner for a grant or matriculation of arms is not satisfied with the arms or difference which Lyon decides to offer him, he is at liberty to withdraw his petition. Arms are not 'inflicted' upon anyone. Unless the petitioner is able to say that Lyon's decision is tantamount to a refusal to grant him arms, an appeal will probably not be entertained. A judgement of Lyon's refusing to make any grant at all in response to a petition will probably be held to be appealable.²

On the grant of a Petition for an original grant of arms the petitioner is entitled to receive a patent under the seal of Lyon Court; in the case of a matriculation he receives a certified extract, as the case may be, of the same. In either case, and whether he asks for a patent or an extract or not, the act of Lyon is immediately entered upon the Public Register of All Arms.

A patent of arms is written on a sheet of vellum, and sets forth the circumstances and terms of the grant. Along with the verbal blazon of the conceded bearings, the whole in the form of an achievement are depicted on the margin in their proper tinctures.³ The entry in the Register is a duplicate of the patent, with the exception that it omits the purely formal parts of it. The patent runs in the name of Lyon, and is signed by him, while the entry in the Register is signed by the Lyon Clerk as Keeper of the Records. Past practice in the form and signature of patents has not been uniform, as may be seen in the specimens which we print in the Appendix. The earlier entries in the Register are unsigned. Formerly a full extract of the entry in the Register was given to the applicant on

¹ On the question: Who have a right to object? see *M'Donnell v. Macdonald*, referred to on p. 72.

² Obs. per Lord Pitmilley, in *M'Donnell v. Macdonald*, see above, page 73.

³ There is nothing in a patent of arms to distinguish it as regards questions of property and custody from other documents of title. In an English case, the widow of a patentee who had a life rent of his estate was held in competition with the next heir to be entitled to the custody of her late husband's patent of arms, on giving security for its preservation.

stamped paper, and was accompanied by an emblazonment of the arms on a separate sheet of vellum, with a certificate identifying it. According to the present practice, the extract of a matriculation is signed by the Lyon Clerk as Keeper of the Records, and the emblazonment of the arms is on the extract.

A petitioner for registration of his arms, who showed that he was in right of them, as heir of an ancestor who bore them before the date of the Act of 1672, was entitled to have the arms in question placed on the Register on payment of a fee of twenty, ten, or five merks Scots, according to his rank.¹ These fees, enacted by the statute of 1672, are now superseded by those for a matriculation in schedule B of the Act of 1867.²

The law and practice of heraldry in England, though in the main the same as that which is in force in Scotland and elsewhere, has some differences; and one of these is that the Kings-of-Arms, except when acting in obedience to a direct warrant from the King,³ cannot exercise their

¹ Proc. Fiscal v. Murray of Touchadam, 24th June, 1778, M. 7656. A merk Scots = 1s. 6d. sterling.

The ministerial functions of the Lyon King-of-Arms appear not always to have been conducted with that measure of propriety which characterizes their exercise at the present day. Arnot in 1779, in his *History of Edinburgh*, p. 493, and Riddell, the well-known lawyer and antiquary, in his *Saltfoot Controversy*, p. 121, and *Peerage Law*, p. 629, etc., take occasion to pronounce strictures on the state and conduct of the office, which are important when the acts of the occupants of the office during the times of which they speak are under consideration. These were quoted at some length in the first edition of the present work, pp. 67-70. We are happy to think it unnecessary now to do more than refer to them. They were not without serious charges, but it must be borne in mind that blameworthy though the charges which called them forth may have been, Riddell is grossly unfair, as he sometimes is in dealing with abuses, in suggesting that they were peculiar to Scotland. On the contrary, no evidence exists that the Scottish Heralds compared unfavourably in the matter of their official conduct with other Heralds. See Noble in the Appendix to his *History of the College of Arms*; the *Quarterly Review*, xlvi. 315, on the College of Arms of the reign of Louis XV. and his successor, etc. Whatever was the practice of the office in Arnot's or in Riddell's time, the evidence given before the H. of C. Commission, which we print in an Appendix, shows that their strictures were inapplicable by the year 1821. It is also to be noted that Alexander Nisbet, the author of the celebrated *System of Heraldry*, 1722, speaks of the office in by no means so condemnatory a manner (*System*, vol. i. Preface, p. 5). Some part, therefore, of the conclusions of Arnot and Riddell may be referable to their own idiosyncrasies.

² See Appendix i.

³ A Royal Warrant of 22nd August, 1906, settling the Armorial Bearings of H.M. Queen Alexandra, was addressed to Garter.

PROCEDURE IN THE LYON COURT 131

heraldic functions without warrant of the Earl Marshal. It may be that this formal restriction on their powers is the cause of some delay and expense, which might not otherwise be incurred in the obtaining grants through the heraldic authority, but otherwise the obtaining of the Earl Marshal's consent is a matter of form which does not affect the petitioner. The judgement on his petition and the consequent grant, if grant there is, are the doing of the Kings or King-of-Arms alone. An ordinary Petition for a grant of arms is addressed to the Earl Marshal who, on entertaining it, grants a warrant under his hand and seal to the English Kings-of-Arms to grant and assign the ensigns which they find to be proper to the petitioner. They thereupon issue their letters patent 'in respect of' the warrant and 'in virtue of' their own letters patent of appointment. The grant is at the same time recorded in the books of the College of Arms. The Earl Marshal's warrant is sufficient for a grant of supporters to a peer, but a Royal warrant is now held necessary to a grant of supporters to a commoner.

The heraldic jurisdiction similar to that which is exercised in Scotland by the Lyon King-of-Arms, subject to appeal from him to the Court of Session and House of Lords, belongs, i. England, constitutionally to the Court of the Earl Marshal, subject to similar rights of appeal. Without entering here into the question how far the similarity between these jurisdictions extends, or whether public inconvenience or private wrong in matters of arms in England lies open to any other avenue of redress, we need only observe that neither of these can be beyond the remedy of the law, so long as arms are an institution of the country, and specific arms are recognized as capable of being an hereditament.

The early law of heraldry in England was identical with that of Scotland. No two persons under its jurisdiction were admitted to have a right at one and the same time to bear the same arms. And though the right of younger sons to bear their father's ensigns was admitted, practice demonstrates that the admission was subject to the qualification that they must bear them with differences.

The Officers of Arms will still refuse to grant arms which are already borne by any person within their jurisdiction to a stranger in blood. But

how far in any other relations the principle of exclusive personal right in any particular shield other than the shields of the King and the other members of the Royal House is still observed, is a difficult question. The introduction by the heralds of a former fanciful age of a fixed set of marks of cadency—the 'minute differences' against which saner heralds of later ages have railed in vain—has had an effect on English heraldry of more importance than that of crowding its shields with crescents and mullets, etc., for which effect it is usually condemned. For cadets armed with the admission that they have a right to their ancestor's arms, and being left to themselves to add the difference, the crescent, mullet or martlet, or the crescent charged with a mullet, or whatever at the moment denoted the degree of their cadency, came so frequently to assume the arms of which they were certain and proud, and to forget and omit to add the differences, of which they were perhaps neither proud, nor certain, nor particular, that a general belief now exists that the usual grant of arms in England, namely, to the grantee and his descendants in the male line, etc., confers on each of these descendants, however many, an equal right to the grantee's coat, and that each of them may wear it with a difference or without one as he himself chooses. The existence of such a right is contrary to the doctrine underlying the decisions, and to the whole genius of English heraldry, which has not depended for the distinction of individuals, as the systems in some parts of Europe do, on differences in the crest, but on those on the coat. The right could be upheld only on the theory that coats of arms in England have ceased to be meant to distinguish individuals, but are only for the purpose of distinguishing families; or on the even more destructive theory that any person may wear what arms he likes, in fact, that heraldic law and right is no longer recognized. But it seems sufficiently obvious that the cadet who bears his ancestor's arms is bound by the laws of heraldry to do so only with the proper difference. His ancestral rights may be duly acknowledged and recorded in the College of Arms; and his pedigree, under the College seal, it may be, may emblazon only his ancestor's undifferenced coat. But none of these things exempts him from his obedience to the general law, whether his loyalty to the head of his house incline him thereto or not.

COLLEGE GRAD

THE UNIVERSITY OF CHICAGO

CHICAGO, ILLINOIS

CHICAGO, ILLINOIS

CHICAGO, ILLINOIS



SCOTTISH ARMS.

THIRD AND LAST FOLIO OF SCOTTISH ARMS IN THE ARMORIAL DE GÈRE (FOURTEENTH CENTURY).

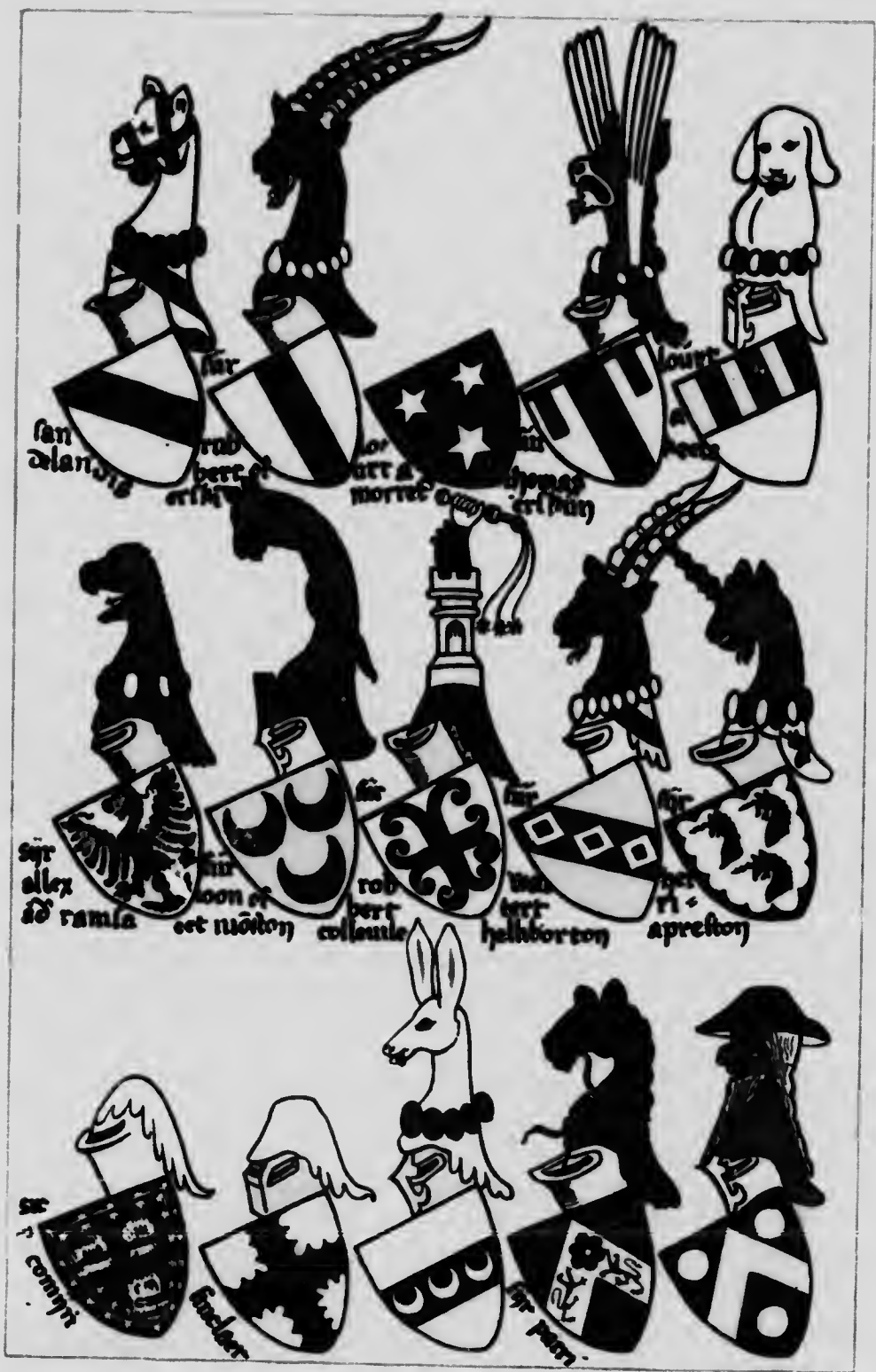
Sir James Sandelands of Calder Sir Robert of Erskin Lord of Moray Sir Thomas Erskine Lord of Keith

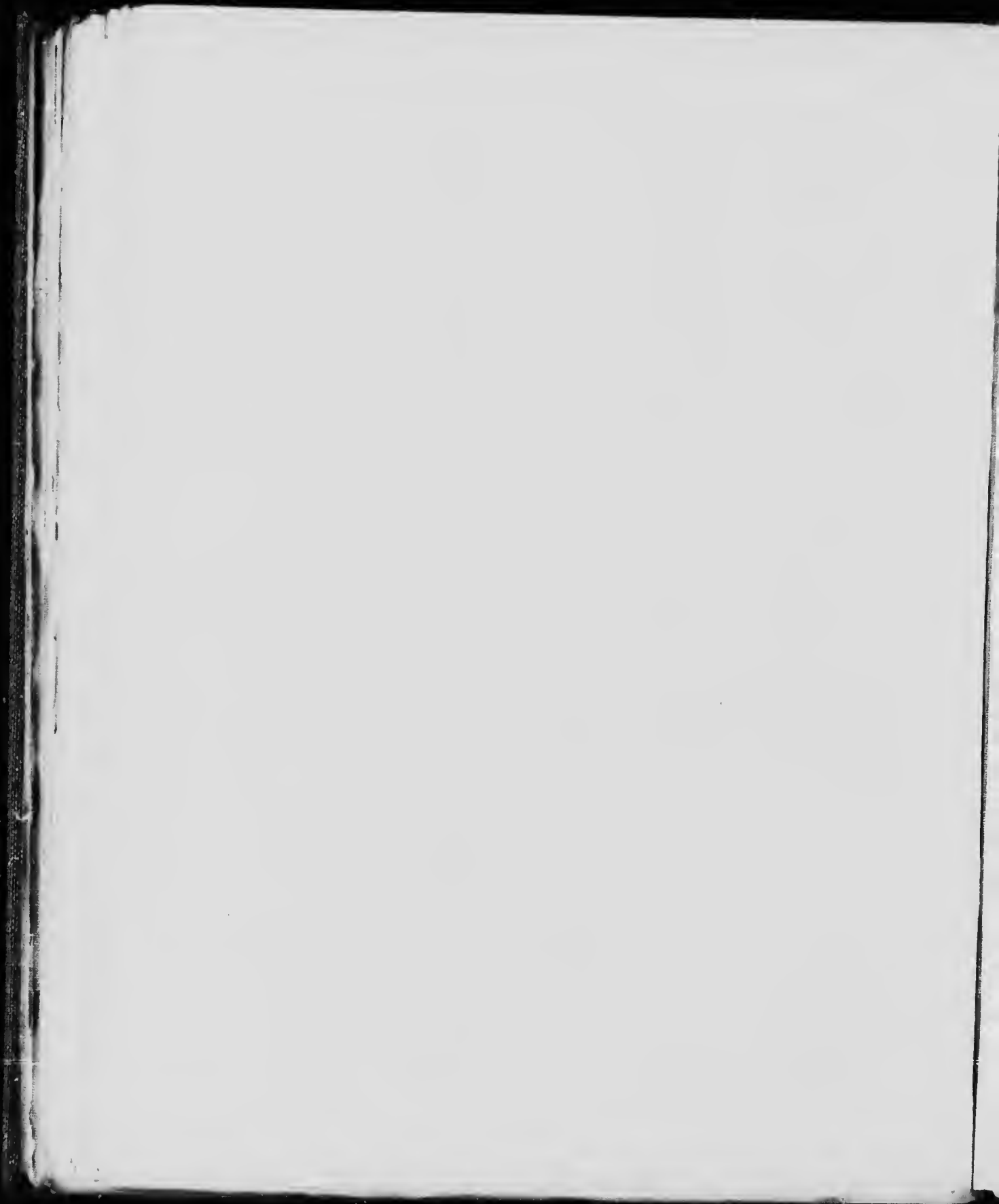
Sir Alexander Ramsay Sir John of Edmonston Sir Robert Colville Sir Walter Haliburton Sir Harry of Preston

Sir ——— Comyn Sir John St. Clair ——— Craig Sir Patrick Hepburn —

(FURY).

Preston





CHAPTER VII.

THE ACHIEVEMENT.

(THE heraldic Achievement is the conventional group in which the whole of any person's armorial ensigns are collected for display.¹ It consists of, firstly and always, an armorial shield, or, in the case of a lady, a lozenge. Along with this may or may not be, according to circumstances which will be detailed anon, one or more of the following 'exterior ornaments,' as Nisbet and others call them. These are helmet, coronet, wreath, crest, motto, compartment, cordelière or lac d'amour; the *Garter* of the order of that name, ribbons and collars of other exalted orders of knighthood, the dependent badge of a baronet of Scotland or of an order of knighthood; supporters, family or personal badges.) These we shall allude to in their order, observing in passing that it is only with regard to the achievement that coronets, collars, and so on are spoken of as if ancillary to the shield, or at all related to it.

THE SHIELD.

The Shield is the one necessary part of the achievement, and may comprise the whole of it. For a man or a lady may have a coat of arms without having any other heraldic possession. A crest, although capable of being represented heraldically alone, implies historically the existence of a shield, to say nothing of the existence physically of a helmet. Mottoes and supporters, apart from the shield or crest are, like separate bearings borrowed from the shield itself, mere allusions to heraldry.

The shape of the shield is not essential to the owner's heraldry, but as

¹ See the Royal achievement, plate xxii.

the type of shields most in use has varied at different times, the type found in any particular case may be important from an historical point of view. The shape of the shield is indeed sufficient at times to fix approximately the date of the seal or stone on which it is found.

On the earliest 'equestrian seals' we find the narrow 'kite'-shaped shield of the Normans, often borne by the rider with its inner side displayed instead of the outer, but, when its outside is seen, it is found almost invariably to be without any heraldic charges,¹ and frequently with a pointed boss, in the middle. The shield, however, on the very early armorial seal (A.D. 1200) of Gilbert, third Earl of Strathern, is of this form.² The form prevailed with certain modifications, tending to the 'pear'-shape and 'heart'-shape, till about the middle of the thirteenth century, when the 'heater'-shape was almost universally adopted. The seals of William de Vesci (c. 1220),³ Malcolm, Earl of Angus (1225),⁴ John son of Michael, ancestor of the family of Wemyss (c. 1230),⁵ and Geoffrey of Hordene (c. 1230),⁶ afford good examples of the pear-shaped shield, while the heart-shape is exhibited on that of Robert Croc (c. 1200)⁷ and others. As amongst the earliest examples of the heater-shape, we may mention the seals of Thomas de Aunoy (1237)⁸ and John de Vesci (c. 1260).⁹ This last mentioned shield, and the beautiful shield on the counter-seal of the Privy Seal of King Alexander III. (c. 1260),¹⁰ and the scarcely less beautiful shield on the counter-seal of Patrick, seventh Earl of Dunbar (1251),¹¹ exemplify the three early varieties of the heater pattern. The heater-shape continued to prevail during the fourteenth and fifteenth centuries, exhibiting, however, a tendency to increase in breadth, particularly towards the base. Up to the

¹ See the seals of King William the Lion (1165-1214)—plate ii., B.M., 14773-6; Thor de Travernent (1150), and William Lindsay, Lord of Ercildoun and Crawford (c. 1170). Laing's *Catalogue*, i. Nos. 822 and 503; Ralph de Bonkil, Laing, ii. 119.

² Plate i.; Macd. 2732.

³ Plate xxiii.; Laing, i. 833, fig.; Macd. 2821.

⁴ Plate xxiii.; Macd. 26; Douglas, Book ii. 555, fig. 1.

⁵ Plate xxiii.; Macd. 2859; Laing, i. 459, fig.

⁶ Plate xxiii.; Macd. 1348-9; Laing, i. 438.

⁷ Plate xxiii.; Macd. 573; Laing, i. 221, fig.

⁸ Plate xxiii.; Macd. 55; Laing, i. 93, fig.

⁹ Plate xxiii.; Macd. 2822; Laing, i. 834.

¹⁰ Plate xxiii.; Macd. 783; Laing, i. 287, fig.

¹¹ Plate xxiii.; Laing, i. 16, fig.

middle of the fourteenth century the shield, when it is the principal feature in a seal, is usually represented *erect*, and surrounded by a legend descriptive of the owner. After the introduction of the helmet and crest as heraldic accessories, the escutcheon is generally represented *couché*, *i.e.* pendent from the right or left upper corner—the latter being the position almost invariably adopted. This arrangement is supposed to have derived its origin from tilts and tournaments, prior to which the competitors required to hang up their shields of arms; and, according to Columbiere, 'they who were to fight on foot had their shields hung by the right corner, and they on horseback by the left.' The alteration in the fifteenth century to a rounder, and, at the lower end, wider shield was to admit of the proper representation of quartered arms. By the end, however, of that century it had come to be considered unnecessary that the armorial shield in seals, windows, or stone should be in any degree of the form of a shield of war; during the sixteenth and seventeenth centuries the armorial shield exhibits numerous changes of form, many of which seem to us to be at once inelegant and unsuitable; down to the present day these and even more ungainly and senseless developments of what are now classed as debased forms of the shield have had a wonderful vogue; but the public taste for the older and simpler heater-form seems to be returning.¹

The architect of the Italian renaissance period may be directly responsible for some of these, and the seal engraver, emancipated from the feeling that he was representing a thing required to be actually used in war, may be responsible for the rest. Some appear to be designed so as to compensate with the co-operation of exaggerated mantellings, etc., for the want of supporters. These last seem perhaps to suggest the beginnings at least, if not the establishment, of the law which limited the right to supporters.

THE LOZENGE.

According to modern practice, women of all ranks (a Sovereign alone

¹ The shield proper in the Balfour of Pittendreich patent, see plate vi., is nearly round; a shape which, in modern times, is adopted with much convenience in the case of arms which are to be encircled by the Garter or knightly collars.

excepted¹) carry their arms in lozenges,² but formerly ladies of rank bore their arms upon shields.³ Much earlier examples of the lozenge are to be found in English than in Scottish heraldry; indeed, during the whole period of the latter heraldry down to the year 1700, embraced by Mr. Laing's and Mr. Macdonald's Catalogues, which contain numerous examples of women's seals, we do not find a single instance of the lozenge, with the doubtfully Scottish exception of the seal of Joan Beaufort, to be mentioned presently—the arms being disposed in the ordinary shield of the day. One or two exceptions of early date occur in which her arms are placed in a pointed oval—thus, the cross moline and cross-crosslets fitchée of Eustacia Colville (1316).⁴ The learned Sir George Mackenzie makes a statement, in the third chapter of his *Science of Heraldry*, relative to the seal of Muriel, Countess of Strathern (1284),⁵ to the effect that she carried her arms 'in a lozenge.' The Countess's seal, which he represents in one of his plates, by no means bears him out. It consists of a coronetted shield resting on the back of a duck and supported on the sinister by a falcon, which stands with the other talon on the duck's head. This whole achievement or device is within a lozenge. There is no other record of the existence of her arms thus arranged; and the late forms of the lozenge, and of

¹ At one time the exception did not extend beyond a Queen Regnant. But their present Majesties, the Queen and the Queen Mother, place their arms on the circular area within the Garter, as ladies of that Order.

² The original of the lozenge has been variously accounted for. According to Sylvanus Morgan, while the form of the shield was taken from Adam's spade, that of the lozenge was derived from Eve's spindle, a conceit which reminds us of the much earlier couplet which John Ball, hanged, etc. 15th July, 1381, the adherent of Wat Tyler, made the text of his sermon at Blackheath:

'When Adam dalf and Eve span,
Wo was thanne the Gentilman?'

A Scots version of it formed one of the many quaint inscriptions on the ancient mansion of the Napiers of Wrychtishousis, in the suburbs of Edinburgh, demolished in the year 1800:

'When Adam delved and Eve span,
Quhair war a' the Gentiles than?'

The idea of the spindle is contained in the dictum of the Salic law—*Nunquam corona a lancea transibit ad fusum* (i.e. fusil or spindle). But, unfortunately for Sylvanus Morgan, or for Edward Waterhouse, who is said to have used his name, the early 'lozenge' had no resemblance to a spindle.

³ See instances collected on plate xxiv.

⁴ Plate xxiv.; Macd. 479.

⁵ Plate xxiv.

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ARMS OF JAMES II AND HIS QUEEN
MARGARET OF ENGLAND

1688

ARMS OF JAMES IV. AND HIS QUEEN,
MARGARET OF ENGLAND.

From the Seton Armorial, folio 18.



ARMS OF JAMES IV AND HIS QUEEN



the Countess's coronet above the shield rob the drawing of the benefit of any presumption of accuracy. There is also a seal of the same Countess which, with a somewhat similar device, has nothing of the lozenge about it. It is pointed oval in shape, and has a shield with the same bearings as the other—the two chevrons of Strathern—which rests on an arm outstretched from the sinister. The hand holds by the jesses a falcon contourné, the breast of which rests against the dexter chief of the shield.¹

The earliest case that has yet been met with connected with Scotland of a coat of arms contained in a lozenge,—the seal of Joan Beaufort, widow of James I., and daughter of John, Earl of Somerset (born an illegitimate son of John of Gaunt, the father of Henry IV.), may probably be classed as of the English school. It is unfortunately now very imperfect; but the outline of the 'lozenge' is complete enough to show that, as in all early cases in Scotland and England, it is square. The dexter side is occupied with the arms of Scotland, and the sinister with those of France and England quarterly, within a bordure 'componé,' which has been taken by Scottish heralds to be a reference to the original illegitimacy of the Queen's father. The dexter supporter—perhaps a unicorn (?)—alone remains. The seal is appended to an indenture, in the General Register House, dated 1439, between the Queen and Sir Alexander Livingston and others, by which she surrenders the guardianship of her youthful son, James II.² The same arms, without the supporters, are engraved in an *escutcheon* (thus conforming to the Scottish practice) on the beautiful little gold signet of the same Queen, which was found near Kinross in the year 1829;³ but the lozenge occurs again in the portrait of Margaret of Denmark (Queen of James III.) on the interesting altar-piece of Trinity College Church, now at Holyrood Palace, which Mr. David Laing considered to have been painted not later than the year 1484.⁴ Another remarkable example of lozenges occurs on the monument, surmounted by two recumbent figures, within the ruinous choir of the parish church

¹ Plate xxiv., and Macd. 2740.

² Plate xxiv.; Laing, ii. 11. See above, page 104.

³ Laing's *Catalogue*, No. 44, and *Archæologia Scotica*, iv. 420. Plate xxiv.

⁴ Plate xxiv. *Proceedings of the Society of Antiquaries of Scotland*, iii. 8. The painting, it must be recollected, is attributed to a foreign artist.

of Dalkeith, supposed to represent James Douglas, first Earl of Morton (who died about 1498), and Johan his wife, third daughter of James I. At the head of the male figure is a lozenge, nearly equally divided by a horizontal line, the upper portion being charged with two mullets—the bearings of the Morton family are, argent, a chief gules charged with two mullets or stars; while the lozenge at the head of the female figure has the same coat on the dexter side, impaled with the Royal arms of Scotland. These lozenges recur on the sides of the monument.¹ The occurrence of a lozenge of a man's arms indicates that its appropriation for the arms of ladies was not yet generally admitted. At least one early English case occurs of a man's arms similarly in a lozenge.

In Sir David Lindsay's Register the arms of the Queens Consort of Scotland, commencing with 'Sanct Margaret,' are impaled within lozenges of later (longer) shape, with those of their husbands.² Three or four late examples of the lozenge carrying ladies' arms occur in the curious set of playing cards, exhibiting the arms of the Scottish nobility, engraved at Edinburgh in the year 1691.³ Thus, on the card representing the Queen of Clubs, along with the escutcheon of the Duke of Lennox within a garter, the bearings of Anne Scott, Duchess of Buccleuch, widow of the Duke of

¹ *Proceedings of the Society of Antiquaries of Scotland*, iii. 27. Plate xxv. ² Plate xvi.

³ The copy of the pack from which the description in the text was taken was lent to Mr. Seton by his friend the late Mr. David Laing of the Signet Library. Besides the set belonging to Mr. Laing, there are copies at Abbotsford and Drummond Castle. The first of the set, forming a sort of title-page, exhibits the arms of the City of Edinburgh; and the second, the insignia of the Lyon Office impaled with the bearings of Sir Alexander Erskine, Lyon King-of-Arms. The four Kings (hearts, clubs, spades, and diamonds) bear the arms of Scotland, England, France, and Ireland; the four Queens, those of the Dukes of Hamilton, Gordon, Queensberry, and Lennox—the last being conjoined, as stated in the text, with those of the Duchess of Buccleuch. Three of the Knaves (termed *Princes*: the term Knave presumably meant only Boy when first introduced into the pack) display the ensigns of the Marquises of Douglas, Montrose, and Atholl, the fourth (diamonds) bearing the arms of three Earls—Argyll, Crawford, and Errol. Each of the remaining cards is occupied by three, and in a few instances four, escutcheons, with the arms of the rest of the Earls and the Lords. The suite and denomination of the card is marked at the top, usually at the dexter corner, after the manner of what is now termed the 'index pip.' A set of these cards belonging to Miss Crichton has been reproduced in facsimile in the *Memorial Catalogue of the Scottish Exhibition of Heraldry*, 1892 (No. 1167, Plates 85-98), at which Exhibition English, French, German, Italian, and Russian cards similarly armorial were also exhibited (*Catalogue*, Nos. 1168-74).

Monmouth, figure on a lozenge surrounded by a cordelière, both the escutcheon and the lozenge, which are placed side by side, being jointly surmounted by a ducal coronet.¹ In England the lozenge appears to have been used by ladies about the middle of the fourteenth century, as on the seals of Elizabeth Darcie (1347) and Maud Fitzpayne (1356).² In the first of these examples five lozenges are curiously conjoined in the form of a saltire, the centre lozenge exhibiting the lady's arms (on the *dexter* side) impaled with her husband's, while the four other lozenges are charged with her ancestral ensigns. In the second a single lozenge is charged with the arms of Fitzpayne, and surrounded by various heraldic devices within circular compartments. In both cases the lozenge employed is, as we have said, square. The arms of Isobel, daughter of James I. of Scotland, and wife of Francis, Duke of Brittany, appear in 1442 and 1469 in a rectangular figure, which stands on one side or end, and, if not square, is as nearly so as art perhaps admits of.³ The rectangular lozenge was used by Queen Mary, wife of William III., as the form of her signet in which she placed her shield, crowned and flanked by the letters M and R.⁴ But in that capacity the lozenge is not indicative of anything. It appears so on the similar signets of King Charles II. and of Adrian, Earl of Hopetoun.

BEARINGS OF THE EARLY SHIELD.

We have already referred to armorial seals as the principal source of our knowledge of early heraldry. The earliest of these, as we have seen, exhibits a single shield. And the bearings of the shield are simple—a lion, or three scallops, or six mascles, or nine billets, and so on. Some examples of these we have already mentioned—on pages 17 and 24—when treating of the date at which heraldry appeared. Other examples are the fess,

¹ Plate xxviii.

² Engraved in Dallaway, plate xxv. See also the curious seal of Nicholas de Canteloup (1359), engraved at p. 36 of Montagu's *Guide to the Study of Heraldry*, exhibiting a shield charged with the arms of Canteloup, supported by two lions and surrounded by three lozenges, each bearing the ensigns, not of his wife, but of her *former husband*, whose lordship she is supposed to have brought to De Canteloup.

³ Plate xxvi., reproduced, by Mr. Wm. Moir Bryce's very kind permission, from the photographure in his *Scottish Grey-Friars*, 1909, i. p. 1.

⁴ Plate xxv. Referred to again under Royal Arms.

differenced by a label, of Seher de Quincy, Earl of Winchester, in his seal appended to a charter granting the Church of Tranent to the Abbey of Holyrood (c. 1170); and the mascles of his son, Earl Roger, in his seal in a charter to the same abbey, dated by Laing as in 1250.¹ As we have seen, one of the seals of Alan, son of Walter, Steward of Scotland (c. 1190), exhibits a shield charged with a fess chequy, which is perhaps the earliest instance of the armorial ensign of the House of Stewart; and the same bearing is very distinctly represented on the Privy Seal of Alan's son Walter, appended to one of the Melrose charters (c. 1200).² As early examples of Scottish heraldic bearings we may mention the seals, already noticed, of Gilbert, Earl of Strathern (1200)—nine billets; Patrick, fifth Earl of Dunbar (c. 1200)—a lion rampant; Robert Croc (c. 1200)—three crooks; William de Vesci (c. 1220)—a cross patonce; Galfrid of Hordene (c. 1230)—a fess between three pelicans; Thomas de Aunoy (1237)—an escallop shell; also of Sir Alexander Seton (c. 1216)—three crescents and a label.³

Many of the Scottish seals of the thirteenth and fourteenth centuries furnish examples also of heraldic *Differences*—the charges adopted including the Label, the Bend, the Bordure, and the Chevron. Thus, along with the paternal ensigns of the respective surnames, a *label* of three, four, or five points appears upon the seals of Sir Alexander Seton (1216), already mentioned, Simon Fraser (1292), Alexander Stewart, Earl of Menteith (c. 1300),⁴ Sir Thomas Erskine (1364),⁵ and Sir James Douglas (1373); and the same figure is represented, along with the arms of Scotland, on the seal of John, Earl of Carrick (1380), afterwards Robert III.⁶ A Bend or bendlet and a ribbon engrailed respectively surmount the fess chequy, the chief

¹ Plate viii.; Laing, i. 679-82.

² Plate i., and Laing, i. Nos. 772 and 774; Macd. 2535, 2536-7.

³ Plates i., ii., and xxiii.; Laing, i. Nos. 762, 283, 221, 736, 833, 438, and 93; Macd. 2732, 778-9, 573, 2423, 2821, 1348, 55.

⁴ Plate xxix. A mode of differencing, now in use only in the arms of Royal Princes, occurs on the seal of William, 'son of the late Sir Alexander Fraser,' appended to a deed of homage dated 1295, viz. a Label of three points (not on a shield)—each point being charged with two fraises. Plate xxix.; Macd. 996. See Laing, i. Nos. 736, 347, 785, 311, and 242; Macd. 2423, 1000, 2554, 861, 658, the last correcting Laing, 240.

⁵ Plate viii.

⁶ Laing, i. No. 783, fig.

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SIR DAVID LIVINGSTONE

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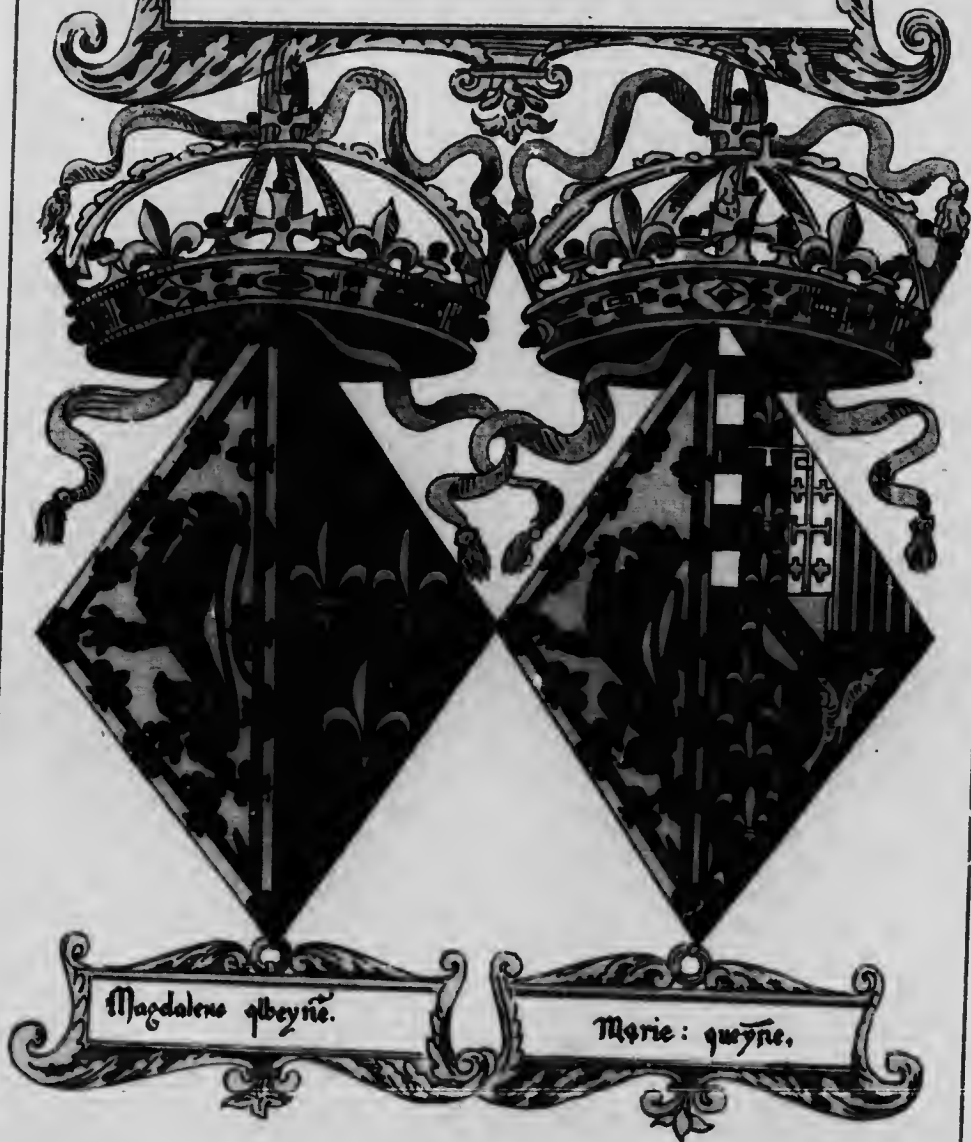
SIR DAVID LINDSAY'S MANUSCRIPT, A.D. 1542.

Approved by the Privy Council, 1630. (Folio 22.)

The Arms of the two Queens of James V. of Scotland.

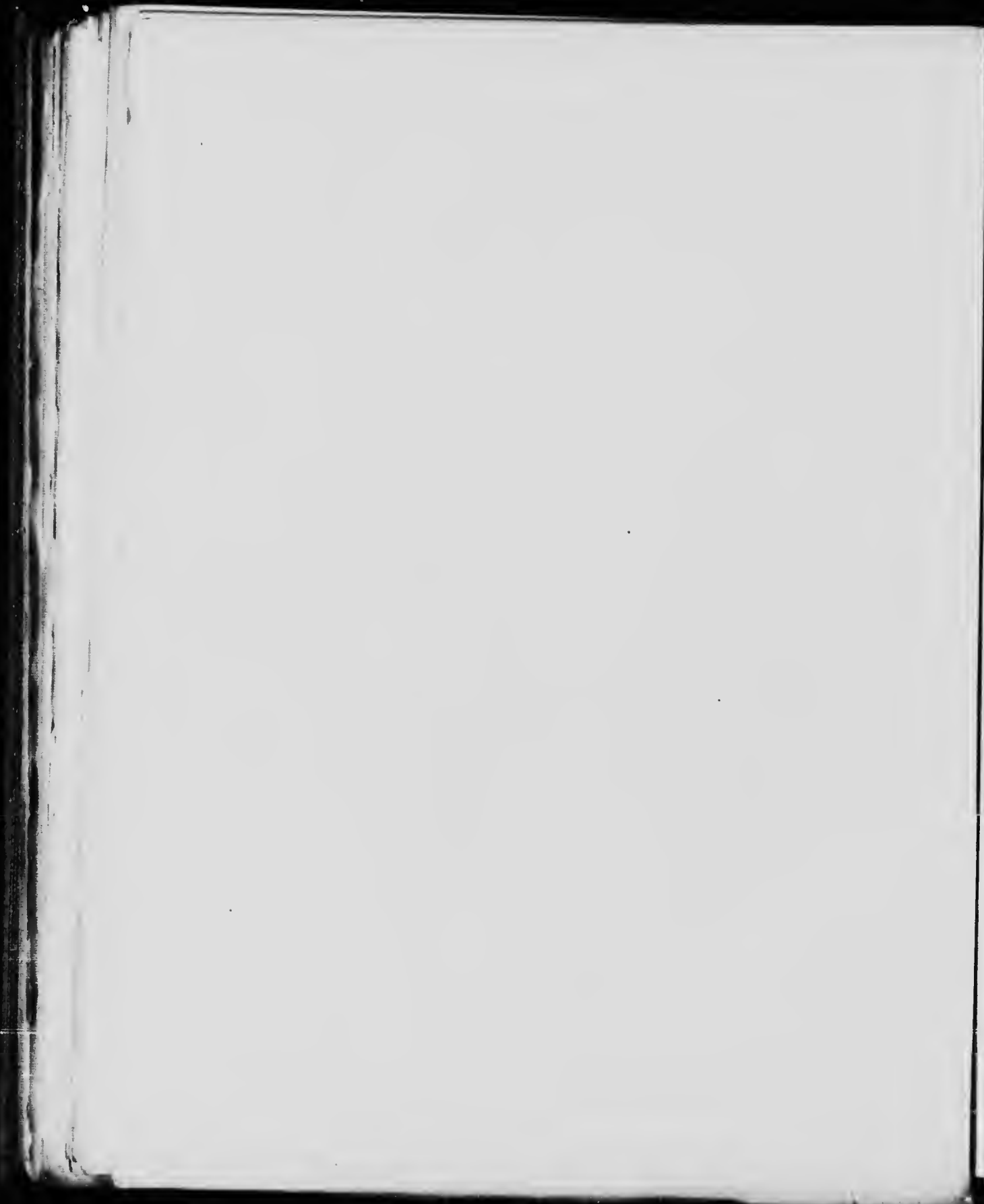
1. Madeleine de Valois; died 1537.
2. Marie de Lorraine; married 1538.

*The arms of ye two queyns promysed to King James ye first
ye first was magdalene de france: ye second marie de lozane.*



Magdalene qbeynē.

Marie: queynē.



paly, and the three escutcheons on the seals of Sir John Stewart of Bonkil (1296), Edward Keith (1320, Plate xxix.), and John Hay (1368, Plate xxix.).¹ In like manner, a lion rampant, debruised with a bend, occurs upon the seal of Sir Richard Wallace (1220, Plate xxix.), and by a ribbon on that of Alexander Abernethy (1292), while on that of William Ramsay, Earl of Fife, *jure uxoris*, (1358), a displayed eagle is surmounted by a ribbon engrailed;² but whether these charges are introduced as marks of cadetship is not always certain. In addition to their paternal arms, the shields of Sir Andrew Murray (c. 1296, Plate xxix.), Hugh Fraser (1377), and Patrick Hepburn (1366, Plate xxix.), furnish examples of the Bordure, which in the two first cases is charged with eleven roundels and nine stars respectively, while in the third the bordure is uncharged but engrailed.³ A chevron between three stars appears on the shield of William Murray of Tullibardin (1292, Plate xxix.), and between three escallop shells on that of John Graham (1370).⁴ The star, crescent, and fleur-de-lis also occasionally occur as marks of difference. Thus, in addition to the fess chequy, a star appears upon the shield of Sir Alexander Lindsay, Lord of Glenesk (1371, Plate xxix.), and Robert Stewart, afterwards Duke of Albany (1373)—in the one case occupying the sinister and in the other the dexter chief point.⁵ Again, on the later seal of Walter Ogilvie (1454), we find the ensigns of Ogilvie and Ramsay borne quarterly, with a star 'over all' (*i.e.* on the fess point) for difference.⁶ A crescent occurs between three

¹ Laing, i. Nos. 780, 462, and 419; (Macd. 2257, 1447, and 1287).

² *Ibid.* Nos. 839, 80, and 684; (Macd. 2233, reading the lion as surmounting the bend, 3, 2236).

³ *Ibid.* Nos. 608, 351, and 427; (Macd. 2052, 1005, and 1307).

⁴ *Ibid.* Nos. 610 and 380; (Macd. 2054 and 1129).

⁵ *Ibid.* Nos. 511 and 786; (Macd. 1635, 2562).

Sir Alexander Lindsay married Catharine, daughter of Sir John Stirling, and heiress of Glenesk and Edzell in Angus, by whom he had issue—David, first Earl of Craufurd. In common with the House of De Moravia and other northern families, three stars or mullets were the cognizance of the Stirlings of Glenesk, and these figures were afterwards borne in the escutcheon of the family of Byres and other branches of the Lindsays (see Lord Lindsay's *Lives of the Lindsays*, i. 51), and are to be seen in the heraldic design which ornaments the walls of the garden at Edzell.

⁶ Laing, i. No. 658; (Macd. 2137).

covered cups (the paternal arms) on the seal of James Shaw (1409, Plate xxix.), and also on the pale in the shield of Alexander Erskine, brother of John Lord Erskine (1563).¹ Besides a demi-lion issuing from a fess—as on the seal of William Chalmers (1404)—a fleur-de-lis appears in the base of the shield on the seal of Thomas Chalmers (1416, Plate xxix.).²

Besides the cases in which the additions to the original arms of the family were probably used to denote collateral kinship, there are instances in which new charges were adopted by each successive generation of the main line itself. Thus, while the escutcheon of Reginald le Chein, Lord of Inverugie (c. 1296, Plate xxix.), displays a bend on a field semé of cross-crosslets fitchée, in that of his son Reginald (at the same date) the bend is charged with three escallop shells. In 1320, his son and heir, again of the name Reginald, changed the shells for eagles displayed.³ And when he in turn was succeeded by a daughter and heiress, she, in 1390, abandoned the eagles and charged her bend with three stars.⁴ Again, on the seal of Sir John Graham, Lord of Abercorn (1320), in addition to the paternal arms (three escallops on a chief), we find a boar's head coupé, muzzle downwards; while on that of Gilbert Maxwell (1342), the family saltire surmounts a lion rampant.⁵ There are, moreover, several pretty early examples of heraldic differences formed by altering the hitherto plain lines of bends, bordures, and other figures to irregular lines, of which the indented and engrailed are probably the most frequent. Thus, the pale of Erskine is engrailed on the shield of Sir Nicolas, second son of Sir Robert Erskine (1370, Plate xxix.); the Douglas and Graham chiefs are dancetté and in-vecked respectively on the seals of Henry Douglas, Lord of Lugton (1392, Plate xxix.), and Robert Graham of Fintry (1478, Plate xxix.).⁶ In few rare instances we find an ermine field, presumably by way of difference—as on

¹ Laing, i. Nos. 743 and 319; (Macd. 2452 and 887).

About the same date (1558), a pale charged with a cross-crosslet fitchée appears on the seal of Robert Erskine, Dean of Aberdeen. *Ibid.* No. 318; (Macd. 880).

² *Ibid.* Nos. 168 and 169; (Macd. 392 and 393).

³ *Ibid.* Nos. 176, 177, and 178; (Macd. 412, 413, and 414).

⁴ Macd. 416. A Reginald de Chene, between 1306 and 1329, while preserving the family bend uncharged, altered it to a bend sinister. Macd. 415.

⁵ Laing, i. Nos. 378 and 573; (Macd. 1123 and 1900).

⁶ *Ibid.* Nos. 312, 261, and 381; (Macd. 862, 740, and 1136).

the seals of Archibald Douglas, Lord of Galloway (1373, Plate xxxiii.), and John Douglas, Dean of Moray (1392).¹

DIAPER AND MARKS INDICATING TINCTURES.

Before we pass from our observations on the earliest shields, it seems appropriate to mention the subject of *diaper*. The practice of diapering the plain surfaces of shields appears at so early a date that it is doubtful whether it is not older than heraldry itself. It is certainly to be found—a pattern of a lozenge style—along with the pre-heraldic escarbuncle, on more than one of the long kite-shaped shields on the stone effigies of the Knights Templars in their church in London; it appears on one shield which seems to have, in addition, two or perhaps three bars dancetté, and in another instance the shield has no other carvings at all.² Diapering was apparently introduced for mere artistic effect; no pattern was appropriated by any common consent to any particular colour or metal. It was the practice, however, to confine the pattern used on any part of the shield to the area of the tincture it was placed upon. Thus, the shield on the stone effigy of Robert de Vere, third Earl of Oxford, who died A.D. 1221,³ is quarterly of two colours, with a star or mullet in the first quarter. The first and fourth quarters are diapered with fleurs-de-lis in lozenge-shaped compartments, while the second and third are similarly diapered with a pattern of which the main features are roses within roundels which have crosses alternated with them. From the account of the arms borne by the Earl's descendant at the battle of Falkirk we gather that these quarters were first and fourth gules, and second and third or, the mullet being argent. The diapers on the beautiful and well-known shield on the effigy of William de Valence, Earl of Pembroke (d. 1296), on his monument in Westminster Abbey, are arabesque in style. The shield, which is in Champlevé enamel, is barruly argent and azure, an orle of martlets gules. Each of the (twenty-eight) narrow horizontal strips of white and blue of which the barring is

¹ *Ibid.* Nos. 239 and 260; (Macd. 663 and 742.)

² Diaper is also found on some of the shields of Knights, etc., of sets of ivory chessmen of the eleventh or twelfth and thirteenth centuries. See Plate xxxi. and page 160.

³ Hatfield Church, Broad Oak, Essex.

composed is covered with a separate scrol pattern. Diapering is naturally more desiderated for large than for small representations of shields. It appears, however, to some extent even on seals, witness the seal of John de Vesci (c. 1260, Plate xxiii.), which we have already noticed. The seals of John de Vesci, the Competitor (1291), William Keith, Great Marischal of Scotland (1371), and Sir James Douglas of Dalkeith (1371), also furnish early examples of the practice in seals.¹

Diapering, unlike heraldic bearings, was usually done in the same tincture as that of the surface which it was to ornament, only in a different shade. Rightly done it was not liable to be excusably taken for a charge. The first quarter of the Earl of Oxford's shield, with its fleur-de-lis diaper already mentioned, was, however, mistaken by Ralph Brooke, York Herald, for a quarter of France of Old, *i.e.* semé-de-lis.² But some continental heraldry is accounted to have originated in similar mistakes. See Woodward, *British and Foreign Heraldry*, i. 124, citing Mr. Watson's notes on Planché's Roll; *Herald and Genealogist*, vol. viii.







The invention of the present system of distinguishing *tinctures* by *lines* drawn in various distinctive directions across the field, or bearing, and of distinguishing gold from silver by representing it in small dots over its surface, is usually attributed to Francesco di Petra Sancta, an Italian Jesuit who flourished about the middle of the seventeenth century, but is now known to have been only selected by him from among several systems adopted by previous heralds, and to have been published at least as early as 1600.³ A few of our earliest seals exhibit lines which may possibly have

¹ Laing, i, Nos. 835, 463, and 257; (Macd. 2823, 1448, 725).

² See Moule, *Bibliotheca Heraldica*, p. 91.

³ Viz. in an armorial chart of the Duchy of Brabant, published at Louvain, 1600, by Jo. Baptista Langrius—*per* Woodward, *Heraldry*, i. 71, *which see*.

The late Dr. David Laing's copy of Féron's *Primitive Institution des Roys, Heralds, et Poursuivans d'Armes*, Paris, 1555, contains the following in early MS. on a fly-leaf:

Recta rubent  , transversa virent  , sunt cœrula plana 
 Puncta  aurum, nihil  argentum, nigrum  undique clausum.

These lines are apparently a composition of a date at any rate earlier than that of the addition of purple, sanguine, and tenny to the roll of heraldic tinctures.

SIR DAVID LINDLEY'S MANUSCRIPTS, 1841-1842

Printed by the University of Cambridge Press

- 1. Introduction
- 2. The Law of Evidence
- 3. The Law of Procedure
- 4. The Law of Practice

SIR DAVID LINDSAY'S MANUSCRIPT, A.D. 1542.

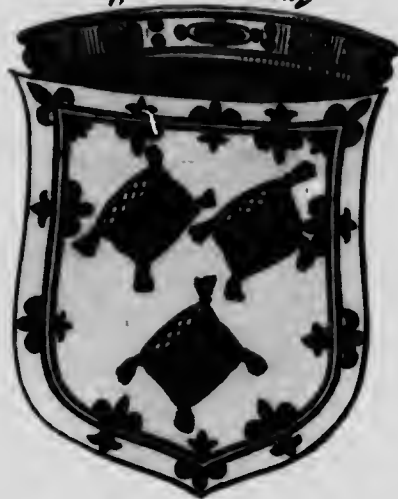
Approved by the Privy Council, 1630. (Folio 25.)

1. Dunbar, Erle of Marche.
2. Randulff, Erle of Murray.
3. Douglas, Erle of Dowglass.
4. Dowglas, Erle of Angus.

Sumbez erle of martzhe



Fandulff erle of murray



Douglas erle of douglas



Douglas erle of angus.





been intended to indicate colour. Thus, on the seal of John, son of Michael (c. 1230), to which we have already referred (p. 134), the shield is party per pale, a chevron surmounted by another reversed, the sinister side of the field being marked with lines crossing each other dexter and sinister bendwise, lines which also occur in the shield of Alexander Seton (1320).¹

INHERITED ARMS.

When arms became hereditary the simple bearings with which they began did not long suffice; differences for younger sons did not provide for all circumstances. When the representation of two houses devolved on one man, and he inherited their arms, the question had to be settled—were honourable arms to be discarded? He had of course the choice of adhering to one of them, and some at times did so, and not always to the arms of his father; otherwise, for the purpose of preserving the marks of both inheritances, he had two courses open to him, namely, of making out of the bearings of both shields a composite—in heraldry styled a *composed*—shield, or of marshalling them together in the condition in which they came down to him, an alternative which was, and is, usually adopted in the form of a shield *quarterly*. The composed coat is the earlier in the date of its appearance, but earlier perhaps than either, earlier also than the custom of impaling the arms of husbands and wives, or even that of placing their shields together *accolee*, which grew up along with these, was the custom of placing more than one shield, disposed, as it were merely artistically, on the seal, while yet leaving them separate and independent of each other. Here one of the shields is recognizable as the principal, and probably paternal arms, while the other is present merely as a genealogical allusion, or the sign of a claim to a fief through inheritance or alliance.

The earliest instance of this which we have seen is in the equestrian seal (about 1170 A.D.) of Seher de Quincy, the first Earl of Winchester, and lord of Tranent in East Lothian.² The Earl's near-shaped shield, already

¹ Laing, i. Nos. 737 (Macd. 2422), and see No. 116, the seal of Roger Bigod (1292), the dexter side of the shield on which is 'engraved to indicate some colour.'

² Plate viii.

noticed, bears a fess and, in chief, a label of seven or more points.¹ On the sky above the horse's quarters is a second shield of the same shape, but on a much smaller scale, bearing a fess between two chevrons.² We venture to suggest that the smaller shield is that of the house of which Earl Seher was the heir, and that during his apparenity he bore the fess and substituted a label for the chevrons as his difference. The shield with the fess and chevrons appears again on the seal of his widow (he died A.D. 1219), a seal which affords itself an illustration of our present text. In that seal, which is pointed oval in form, the lady, who was Margaret, daughter and co-heir of Robert de Breteuil, Earl of Leicester, is represented standing under an arch on which is a sexfoil. She is clothed in a close dress which is covered with mascles, presumably her own personal cognizance,³ and on the stem of a tree by her side are two shields. The shield nearer to the foot of the tree is the shield with the fess and chevrons. The upper shield bears a repetition of the mascles of her dress. The shield with the fess and label is absent; and the tree with its shields may perhaps be interpreted to mean that the house of the fess and chevrons has become the house of the mascles. In corroboration of this reading, there is the fact that when we come to the seal of Seher's son, Earl Roger, Constable of Scotland, we find that he bears the mascles of Margaret of Breteuil alone.⁴ Mr. John Gough Nichols, in calling attention to these seals,⁵ remarks that they prove that at that date 'a certain meaning was attached to secondary and accessory coats, such meaning as is now expressed by the practice of impaling and quartering.'

The reverse of King John the Balliol's great seal (A.D. 1292) bears on the dexter side of his throne the shield of Balliol, and on the sinister the shield of Devorgilla of Galloway, his mother, just as she bears these arms in her seal of the year 1282.

It was on the seals of great ladies that this practice of repeating shields of different arms was most largely observed. It is seen from the

¹ Arms which are repeated, as if the label had an indeterminate number of horse-housings.

² The shield of the Fitzwalters, Earls of Essex, bore a fess between two chevrons.

³ Plate viii.; Macd. 2226, 7, 8.

⁴ Plate viii.; Macd. 2226; 2227, and see 2228.

⁵ *Proceedings of the Archaeological Institute*, 1845, p. 103.

thirteenth till the fifteenth century, and produced seals of much art and beauty as well as great heraldic value.

The seal of the widow of Earl Seher may be dated in the year 1219 or 1220. The pointed oval seal (p. 1282) of Devorgilla, daughter of Alan of Galloway, and wife of John Balliol, and mother of John the King, is to be seen pendant at her charter of foundation of Balliol College, Oxford.¹ It bears an effigy of the lady attired in a wimple and long flowing robe: a shield in her right hand bears the orle of Balliol: another in her left is her father's shield, bearing the crowned lion rampant of Galloway. Beneath each of these is a smaller bearing yet another shield—with the arms of one of her grand parents. On the dexter are thus the three garbs of the Earl of Chester, while on the sinister are the two piles in point of the Earl of Huntingdon. The counter-seal has, with some repetition, some additional interest. It is surmounted from a tree of three branches are three shields, one large in the centre and two smaller towards either side above it. All the smaller arms bear—the dexter shield, the garbs of Chester; the sinister shield, the piles of Huntingdon. The centre shield bears the arms of the lady's arms on the dexter side, impaled with those of her husband; in other words, per pale, two coats, dexter, a lion rampant (Galloway) impaling, and sinister, an orle (Balliol).² Euphemia, daughter of Hugh, fifth Earl of Ross, widow of John Randolph, third Earl of Moray, and second wife of Robert Stewart, Earl of Strathern, afterwards King Robert II., used a seal in 1369-70 which bears a representation of a castle with two side turrets. On the battlements stands a lady who holds a shield above the doorway. On each turret is a lion sejant regardant with a shield slung from its neck. The shields bear respectively: *centre*, three lions rampant (Ross); *dexter*, couché to sinister, a fess chequy (Stewart). *Sinister* couché, three cushions lozengeways within a royal tressure (Randolph).³ The seal of the second Queen of King David II., 'Margaret of Logie,' which corroborated the long-forgotten fact that the lady was by birth a Drummond and only by marriage a Logie, bears an effigy of a lady holding two shields; though the shield in her right hand is now indecipherable, that in her left bears the [or] three bars wavy [gules] of Drummond. The Royal arms of Scotland

¹ Plate xxx.; Macd. 1028.

² Plate xxx.; Macd. 1029.

³ Macd. 2332.

are above her head, and their supporters, two lions rampant reguardant, stand each on one of the shields first mentioned.¹

Along with the foregoing we may group the seal of Christiana de Vaux, Lady of Dirleton and wife of Sir John Haliburton (c. 1350),² the second seal of Margaret Stewart, Countess of Mar and Angus (A.D. 1378),³ and the seals of Isabel Douglas, Countess of Mar and Garioch (A.D. 1404),⁴ and Margaret of Ross, daughter of Euphemia, Countess of Ross, and Sir Walter Leslie, and wife of Donald, Lord of the Isles (A.D. 1420).⁵ The effigies of ladies which support the shields in these seals are generally considered to represent the owners of the seals themselves. The device, however, is entirely a matter of taste. Alicia de Vesci's seal, which belongs to the end of the thirteenth century, has the figure of a lady holding a single seal of the arms of de Vesci, a cross fleury, but on her counter-seal is placed a tree, or it may be a wheatsheaf, from which hang four shields of various arms.⁶ Two shields suspended from the branches of a tree appear on the seal (A.D. 1369)⁷ of Isabella, Countess of Fife, a lady who was wife to four successive husbands within the space of twelve years, and who places on her seal her own arms, the lion rampant of Fife, and the Stewart fess, the arms of her second husband, Walter (died c. 1362), son of King Robert II. The seal of Euphemia, Countess of Ross (A.D. 1394),⁸ and the first seal of Margaret, Countess of Angus (A.D. 1366), whose second seal we have mentioned already, bear severally three shields disposed upon the breast and wings of an eagle displayed.⁹ A simpler style of seal, but one occasionally of great delicacy of execution, was adopted by others, namely, a seal in which three or more shields were arranged in a symmetrical design. Thus, the seal of Mary de Ramsay, which her husband, David de Brechyn, used as his signature to the famous letter of the Scottish barons to the Pope on 6th April, 1320, acknowledging Robert the Bruce as their King, bears three shields arranged point to point, with (1) upmost, the spread eagle of Ramsay; (2) dexter, the three piles in point of Brechyn; (3) sinister, the

¹ Riddell, *Peerage Law*, 983. Cf. Woodward, *British and Foreign Heraldry*, ii. 69; cf. *B.M. Catalogue*, 17,232.

² Macd. 2815.

³ Plate xxx.; Macd. 2560.

⁴ Plate xxx.; Macd. 660.

⁵ Macd. 1614.

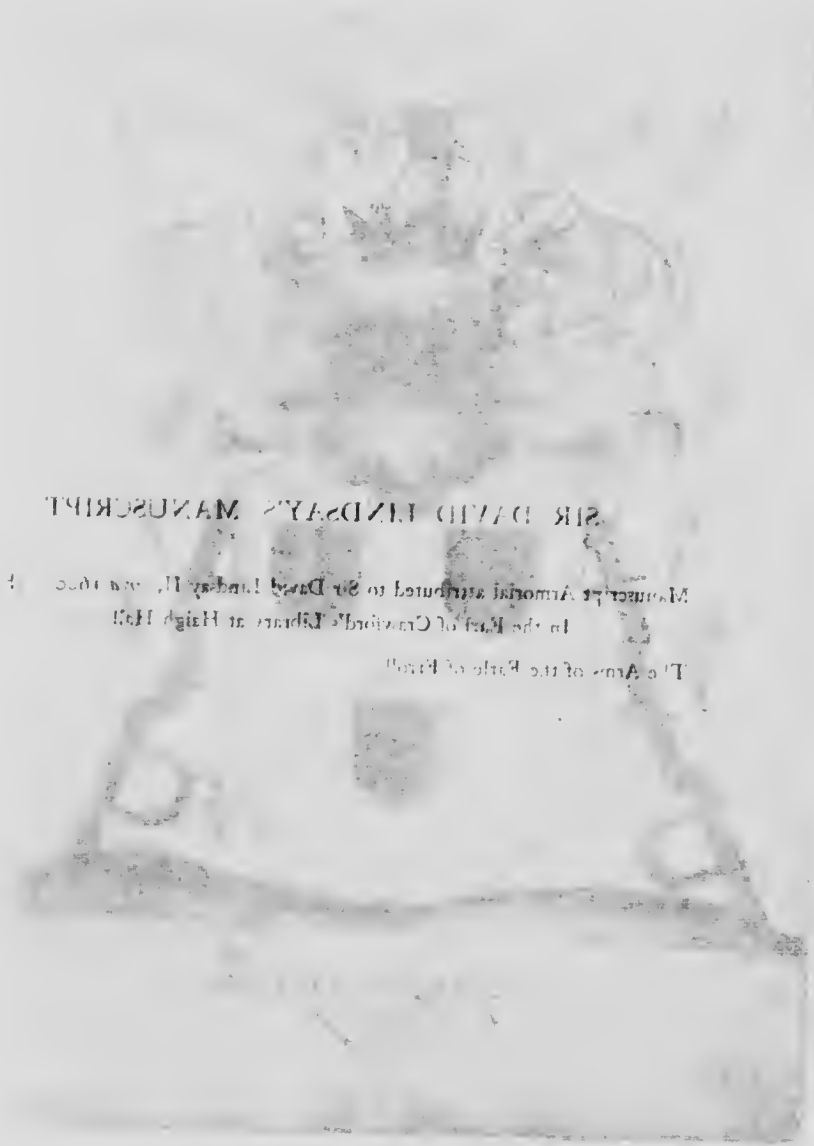
⁶ Macd. 2824, 2825.

⁷ Macd. 927.

⁸ Plate xxxiii.; Macd. 2333. Her daughter's seal is mentioned above. ⁹ Macd. 2559.

SIR DAVID LINDSAY'S MANUSCRIPT

Manuscript Armorial attributed to Sir David Lindsay II, now in the
In the MS. of Crawford's Library at High Hall
The Arms of the House of Lindsay



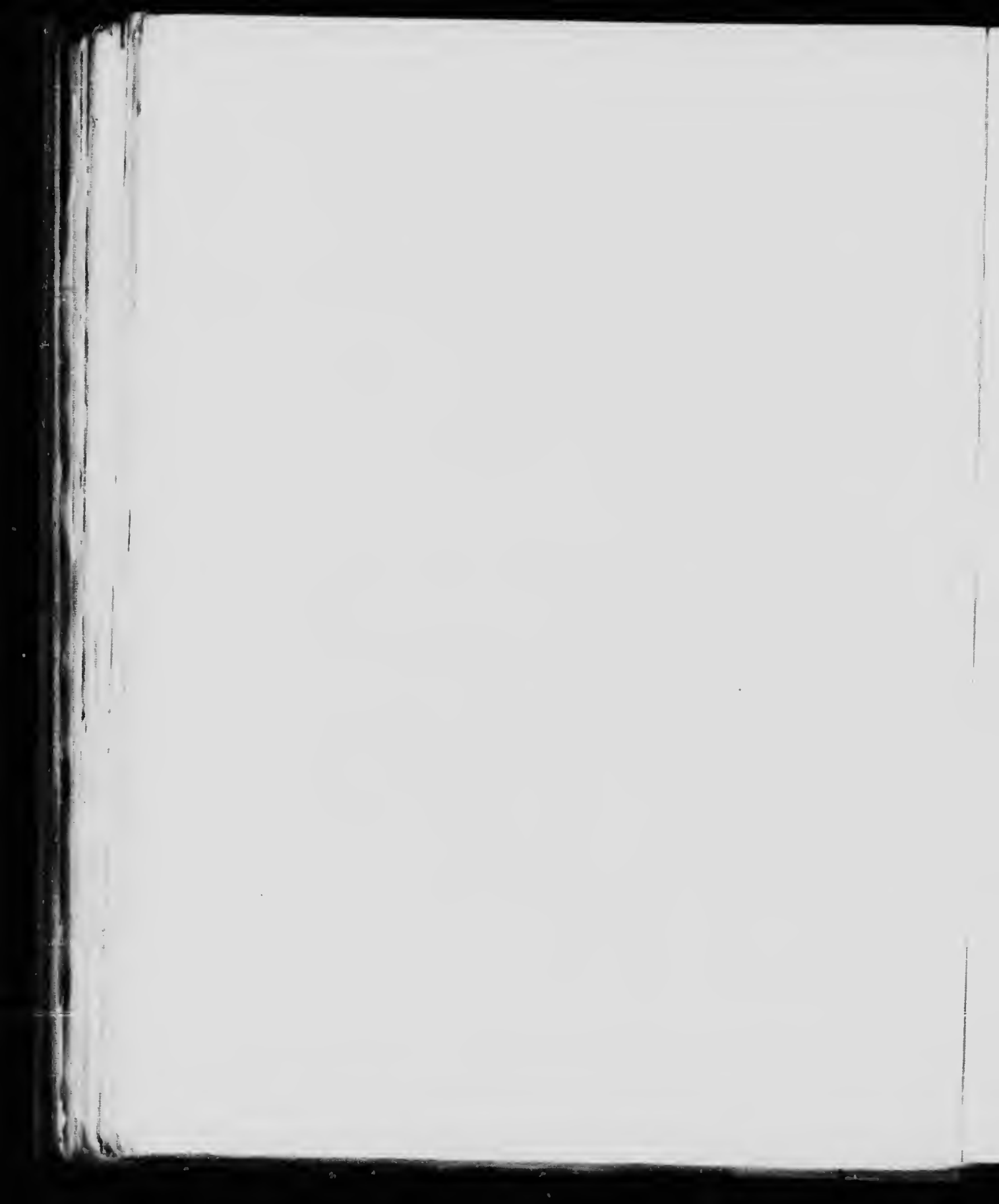
SIR DAVID LINDSAY'S MANUSCRIPT.

Manuscript Armorial attributed to Sir David Lindsay II, *circa* 1600. (Folio 26.)
In the Earl of Crawford's Library at Haigh Hall.

The Arms of the Earle of Erroll.



ARMS OF THE EARLE OF ERROLL.



three garbs of Cumming.¹ The seal of Margaret, daughter and heiress of Sir John Fraser of Kincardine, and wife of Sir William Keith, Great Marshal of Scotland, bears three shields similarly (A.D. 1392-3).² The seals of Eleanor de Umfraville, Countess of Angus, who died in 1357,³ and Agnes Randolph, Countess of Moray (A.D. 1367),⁴ are each composed of four shields arranged in cross. At times the sole object in the multiplication of shields seems to have been the achievement of an artistic design. Such, at any rate, appears to be the natural explanation of the four identical shields, each charged with a bend, which surround the central device (two lions combatant) on the seal of Elizabeth Bisset, Lady of Kelrevock, and widow of Sir Andrew de Bois (A.D. 1280),⁵ and of the seal of Sir Norman Leslie (A.D. 1296), which consists of six shields in a circle, each with the bend charged with three buckles, which constituted his own arms.⁶

COMPOSED ARMS.

By composed arms is meant arms which consist of charges derived from various inheritances placed on one field. The method of representing separate inheritances, etc., on one field, by adding mere charges to the paternal coat, was certainly introduced earlier than the system of *marshalling* two or more whole coats of arms side by side on one shield. It is impossible to say how soon after the invention of heraldry the composed coat appeared. Some of the earliest known coats seem, from what we know of later coats, to be of this nature. Of these we may instance the arms on the seals of Eustacia Colvile, widow of Reginald le Chein (1316),⁷ David Stewart, Earl of Strathern (1374),⁸ and Alan Stewart of Ochiltre (1377).⁹ The first of these exhibits a cross moline, square pierced, for Colvile, between four cross-crosslets fitchée for Chein. These are undoubtedly heraldic figures, though not placed upon a *shield*. The second bears a fess chequy for Stewart, between two chevrons for Strathern; and the third, a similar fess surmounted by a bend charged

¹ Plate xxx.; Macd. 2234. ² Macd. 1006. ³ Macd. 2804. ⁴ Macd. 2257.

⁵ Macd. 165.

⁶ Macd. 1609.

⁷ Plate xxiv.; Laing, i. 191; Macd. 479.

⁸ Plate xxxi.; Laing, i. No. 768; Macd. 2570.

⁹ Plate xxxi.; Laing, 1241; Macd. 2649.

with three buckles for Bonkil of that ilk, in the Merse, the heiress of which family was married to Sir John Stewart about the year 1294.

SHIELDS ACCOLEE.

According to some heraldic writers, the earliest mode of marshalling the arms of a husband and wife together was by placing them side by side; and shields so disposed are said to be *Accolee* or *Collateral*—scarcely *marshalling* in the strict sense, but still the immediate precursor apparently of impaling. Sandford, in his *Genealogical History of England*, refers to the seal of Margaret, Duchess of Norfolk, daughter of Edward I., on which her paternal arms occupy an escutcheon placed between two others accolee, the dexter bearing the ensigns of her first husband, John Lord Segrave, and the sinister those of her second husband, Sir Walter Manny. Very few instances of this arrangement are to be met with either in French or Scottish heraldry.¹ One tolerably early Scottish case occurs on the seal used in 1400 by Joanna Murray, Lady of Bothwell, wife of Archibald Douglas, 'The Grim,' third Earl of Douglas.² But in Scotland the cases we have noticed have been generally much later. Nisbet, in 1718, knew of examples of the practice 'on the Entries of old houses' in Edinburgh and the provinces.³ An interesting example is to be seen on the north wall of the choir of St. Giles's, Edinburgh, above the tablet

¹ If we are right in our reading of a fourteenth century boss in the roof of the crypt of the Church of St. Nicolas, Aberdeen, it represents an angel supporting three shields accolee. Their bearings are: 1, (dexter) a fleur-de-lis; 2, (centre) per fess, in base a fleur-de-lis; 3, (sinister) a chief. But we are not aware whose shields they are, or what connection their owners bore to each other. See MacGibbon and Ross, *Ecclesiastical Architecture*, i. 435. These authors in their *Castellated and Domestic Architecture* figure a later carving of two shields accolee, in the 'Wine Tower,' near Fraserburgh.

² Plate xxxiii.; Macd. 2057. Two shields supported by an angel. First shield, per pale: 1, a heart, on a chief three stars (Douglas); 2, a lion rampant (Galloway). Second shield: three stars (Murray).

³ *Essay on Armories*, p. 62. He specifies only two instances of his own time, namely, the bearings of his 'very good friend,' Henry Frazer, Ross Herald, and James Smith of Whitehill, Architect and Master of Works in Scotland, as *engraved on copper plate* side by side with the arms of their wives, in separate escutcheons.

which indicates the burial-place of the Napier family¹—the dexter escutcheon being charged with an engrailed saltire between four roses for Napier of Merchiston, while the sinister bears a bend charged with a crescent between two mullets (or spur-rowels), believed by Mark Napier, the author of *The Partition of the Lennox*, to be the ensigns of the Napiers of Wrychtishousis, and not those of the Scots of Thirlstane, as by some writers supposed.² The two escutcheons are placed between two angels as supporters, and are timbred with a helmet and mantling surmounted by the Merchiston crest.

IMPALEMENT AND DIMIDIATION.

Impalement, producing what Menétrier terms the 'écu de femmes,'³ may be generally described as the method of dividing the shield down the middle—at the *palar* line—and placing a separate coat of arms, or a half of it, in either half of the shield so divided. The first alternative form, in which both coats are inserted entire, is in almost every respect the method now and for long since in use. But impalement, when first introduced, was accompanied with the dimidiation of either one or both coats.

The earliest examples which we have seen of impalement are, however, not on the arms of women, but of warriors. They are found on shields on some of the pieces of early sets of chessmen. The ivory set found in the Island of Lewis, several pieces of which are represented on plate xxxi., are pronounced to belong to the eleventh or twelfth century. The piece found in the Island of Skye, belonging to a larger set, dates probably from about the thirteenth century.⁴

¹ The tablet is inscribed : Sep. | Familie Naperorū interius | hic situm | est.

² See Wilson's *Memorials of Edinburgh*, ii. 131, 208, and Napier's *History of the Partition of the Lennox*, page 184.

The arms of the Scots of Thirlstane are a bend charged with a mullet between two crescents (not a crescent between two mullets) within a double tressure—a bend charged with a crescent between two mullets are assigned to Napier of Wrichtishousis by Sir David Lindsay. A matrimonial alliance took place between the families of Merchiston and Wrychtishousis about the year 1513, to which the stone at St. Giles's most probably relates.

³ Menétrier, *Abrégé Méthodique*.

⁴ These chessmen are partly in the British Museum and partly in the Museum of the Society of Scottish Antiquaries.

Dimidiation of the arms of both husband and wife is found to have been pretty frequent in England about the time of Edward I. The seal of Eleanor Ferre (1348), engraved in the *Archaeological Journal* (xi. 375), affords an early example of the practice;¹ and the arms of Aylmer de Valence, Earl of Pembroke and Montgomery, and Mary his wife, daughter of Guy de Chastillon, Earl of St. Paul in France, are still borne dimidiated by the Society of Pembroke Hall, Cambridge, which the said Mary founded in 1343.

The origin of the device of dimidiation, in which usually the husband's arms appear to overlap those of the wife, has been traced to the same symbolism which has produced the phrases *feme covert*, 'clothed with a husband.' But the idea was not recognized in the thirteenth century. The counter-seal, already mentioned, appended in 1282 to the charter of Balliol College, Oxford, by Devorgilla, daughter of Alan of Galloway and wife of John Balliol, is one of those which bears, among other things, a shield of her own paternal arms on the dexter side entire—namely, the crowned lion rampant of Galloway, impaling the orle of Balliol her husband, which is dimidiated.²

Similarly, in 1445-6, Isabella, Countess of Lennox in her own right, and widow of Murdoch Stewart, Duke of Albany, placed her whole paternal arms, the Lennox saltire and roses, on the dexter half of her shield, and the quartered coat of her husband the Duke on the sinister, dimidiated so as to show its sinister side only,³ namely, his second quarter a fess charging with a label in chief, and fourth quarter a lion rampant.

As late as the end of the sixteenth century we find that the seal of Margaret, eldest daughter of Hugh Montgomerie, fifth Earl of Eglinton, and wife of Robert, sixth Lord Seton, afterwards first Earl of Winton, bears her paternal arms in the dexter half of her shield, and those of her husband in the sinister half (plate xxv.). In this case both original coats are quartered coats, and both are dimidiated. The quarters left to be

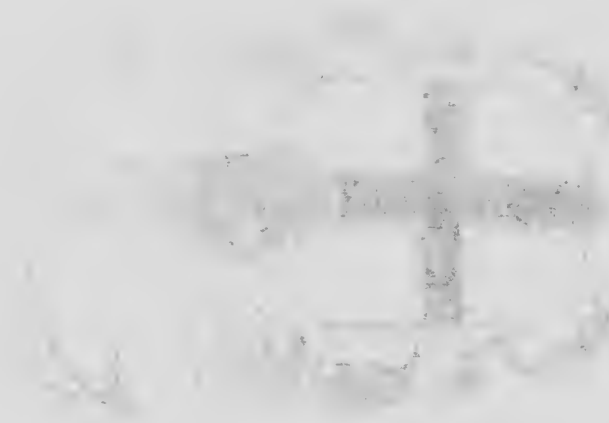
¹ See also the shield bearing the arms of Harcourt and Beke dimidiated (c. 1330), engraved at p. lv of the Introduction to the *Oxford Manual of Monumental Graves*.

² Plate xxx.; Macd. 1029; Laing, ii.

³ Plate xxiv.; Macd. 1601 *contra*; but see Macd. 2566 and 2567.

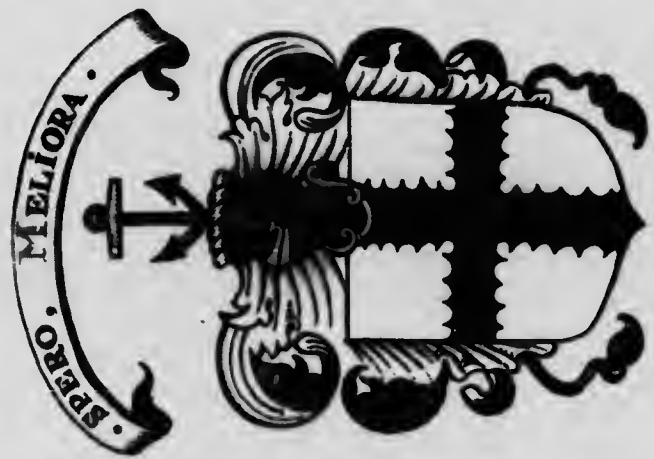
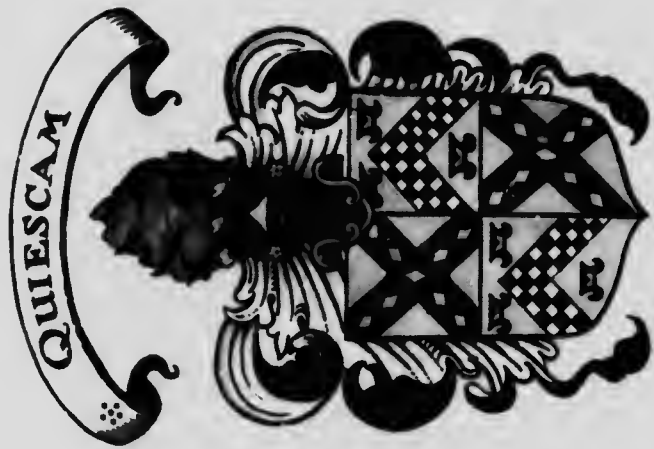
REGISTER OF ALL ARMS AND AMMUNITION

of the Ordnance Department, and of the Arms and Ammunition of the Army, Navy, and Air Force, from 1800 to 1850.



REGISTER OF ALL ARMS AND BEARINGS.

1. Rait of Haigrein, 1672-7.
2. Sir James Dalrymple of Stair, 1672-7, Lord President of the Court of Session, afterwards Viscount Stair, 21st February, 1673.





IMPALEMENT AND DIMIDIATION 153

displayed after the dimidiation are the first and third quarters of the lady's (Montgomerie and Eglinton) coat, and the first and third quarters of the husband's coat (Seton and Buchan). It would involve a misconstruction of the shield to blazon it as a hereditary quartered coat—(1) Montgomerie, (2) Seton, (3) Eglinton, (4) Buchan. Laing's blazon (vol. i. 592), or rather description of it, is: 'Per pale, dexter per fess, first Montgomerie, second Eglinton; sinister, also per fess, first Seton, second Buchan.'¹ A more correct manner must be: 'Per pale, two coats, both dimidiated; the first quarterly, (1) Montgomerie, (3) Eglinton: the second quarterly, (1) Seton, (3) Buchan, contourné.'²

The four seals just described may be held to be exceptional in so far as the order in which the arms of the spouses are marshalled is concerned. The order is in respect, presumably, of the lady's greater dignity. The rule from the fourteenth century at least *was*, as it is at present, that the husband's arms should be placed on the dexter side and the wife's on the sinister. But even when marshalled according to this rule, a mark of pre-eminence might be given to the arms of the lady by preserving them entire, while the husband's arms were dimidiated. The counter-seal of the Great Seal used by Mary Queen of Scots after her first widowhood is probably the most familiar example of this.³

Seals occur in which a single coat is impaled with a quartered coat, and the quartered coat alone is dimidiated. Thus the seal (1430 A.D.) of Katherine Seton, wife of Sir Alan Stewart of Darnley, bears her entire arms in the sinister, the quartered coat of Seton, impaled with the quartered arms of her husband in the dexter, dimidiated, so that only the first and third quarters are seen, namely, the Stewart fess and the three fleurs-de-lis of Aubigny, the second and fourth being absconded.⁴

¹ A remarkable illustration of the second coat being thus turned over, right to left, before dimidiation, so that its ordinary dexter side with its principal arms in the first quarter remains visible after the operation, is found in the arms of Anne of Austria, widow of Louis XII. Woodward, *Heraldry, British and Foreign*, ii. 81.

² Plate xxv. Per pale, dexter, the three fleurs-de-lis of France; sinister, the lion rampant and double tressure of Scotland—the dexter coat dimidiated, the sinister coat, including the tressure, entire.

³ Macd. 2428.

In 1531, on the other hand, Margaret Campbell, widow of Archibald Napier of Merchiston, placed her husband's engrailed saltire and roses in the dexter half of her seal. In the sinister half she placed her own quartered coat dimidiated, viz. (1) a lymphad with dragon heads at stem and stern, (3) gyronny of eight, contourné.¹

We have observed as it happens no case in Scots heraldry where dimidiation has produced any grotesque effect such as that of the shield of the Cinque Ports, which consists of two coats carried impaled together, dimidiated: (1) Three lions passant in pale, and (2) three galleys similarly in pale. The result is a shield which appears to carry three monsters, the fore part of each of which is the fore part of a lion and the hinder part of which is the hinder part of a ship.²

Such achievements were arrived at without thought of consequences or any intention to make a new monster symbolic of anything, but only to make a union of cognizances. Continental heraldry has created in this way a monster, the fore part of which is lion and the after part cod;³ it has also a monster, one side of which is imperial eagle and the other side bear, an unshapely object ill to understand at any distance; and another which is half a bear and half an armoured knight. If such monsters were not produced in Scottish arms, they were excluded probably by no rule of Scottish heraldry, but rather by the humour of the race, which did not tend in that direction.

Some, indeed, have surmised that the double-headed eagle of which the heraldry of Scotland possesses examples, as in the shield of the first Maxwell Earl of Morton, 1581,⁴ and those of Maxwell of Monreith,⁵ Aitchison, Donaldson and Dunlop, was the result of a dimidiation of two shields, each of which bore an eagle displayed. The second head would in that case be accounted for by the second coat being contourné. But heraldry possesses

¹ Macd. 344.

² These monsters have been acclaimed by more than one writer as truly symbolical of Britain's power by land and sea. By an adoption of the doctrine of assent it may be so, but the symbol of such a power ought to be amphibious, not incapable of life on either sea or land.

³ The after part of the lion in the shield of Great Yarmouth is herring.

⁴ Macd. 1893.

⁵ Plate xxxii

other double-headed animals as well as double-tailed, which cannot be, directly, at least, the creation of the mere mechanical operation of marshalling.

For the earliest Scottish instance of impalement in which the bearings of both shields are left entire, we are accustomed to point to the seal which Isabella, younger daughter of Randolph Earl of Moray, sister of 'Black Agnes' of Dunbar, and wife of Sir Patrick Dunbar, used in the year 1351-2.¹ It bears: Per pale, dexter, a lion rampant within a Royal tressure; sinister, three square cushions within a Royal tressure.² Even the tressure round each coat is preserved entire. This preservation of the tressure is not peculiar to a case where both coats are tressured. It occurs on the seal of Margaret, daughter of King Robert III. That Princess, who was married to Archibald Earl of Angus and Duke of Touraine—the same who was killed at Verneuil in 1424, placed her husband's quartered coat upon the dexter half of her shield entire, and her own Royal arms, also entire with the tressure unbroken, on the sinister. It has to be observed, however, that the Earl's coat did not lend itself to the practice of dimidiation like a shield quarterly of two coats where it is merely repetitions that are omitted. He bore: (1) The fleur-de-lis of his dukedom of Touraine, (2) the heart and chief of Douglas, (3) the saltire and chief of his earldom of Annandale, (4) the crowned lion rampant of his lordship of Galloway.³ To have dimidiated such a shield would have been to abandon whole cognizances of noble fiefs, or the shield of the even more illustrious surname.

On a charter of 1392 we find the seal of Marion, wife of Sir William Dalziel, in which she places her own arms in the dexter half of her shield and her husband's in the sinister. Who the lady was is not settled, but by her arms, a saltire with a cinquefoil in chief, she may have been a Maxwell.⁴ Her husband's arms, the well-known naked man of the Dalziels, appears on his own seal appended to the same deed.⁵

The seal of Alison Douglas, second daughter of George, Master of

¹ Macd. 2258; see also 795, 796.

² The second coat being that of Randolph, the first must stand for Dunbar, with the tressure substituted for the orle of roses, in consideration perhaps of the Royal lineage of the line of Dunbar and March.

³ Plate xxv.; Macd. 2575.

⁴ Plate xxiv.; Macd. 628.

⁵ Macd. 627.

Angus, and widow of David Home of Wedderburn, consists of her husband's quartered coat on the dexter and her own simple coat on the sinister. As will be observed in our illustration, the former occupies nearly two-thirds of the shield, producing somewhat the aspect of a shield quarterly of six. The Wedderburn coat consists of (1) the lion of Home, (2) and (3) the engrailed cross of Sinclair, (4) the three papingoes in pale of Pepdie. The Douglas coat is the Douglas heart and chief charged with three stars, above which is a label, as her father was only an eldest son who had not succeeded to the undifferenced coat of Douglas.¹

There is no instance of a reigning sovereign's arms dimidiated while his consort's are left entire. It will be noticed that on the seal and signet of Joan Beaufort, Queen of James I.,² and the seal of Mary of Guelders, Queen of James II., on which the Scottish Royal lion on the dexter is impaled with her already impaled lions of Guelders and Juliers,³ the Royal tressure of the King is complete. Queen Mary's seal, already mentioned, is not an exception to this. In so far as Scotland was concerned, Francis was only a King consort. Queen consorts' arms, on the other hand, have been dimidiated when impaled with those of their Royal husbands.

If further instances of impaled *undimidiated* arms were desired, we might cite the shields of Mariota, daughter and heiress of Reginald Chein of Inverugie, and wife of John, second son of Sir Edward Keith, Great Marshal of Scotland (A.D. 1390);⁴ Muriel, daughter and heiress of John de Chisholm, and wife of Alexander Sutherland of Duffus (A.D. 1433);⁵ Margareta, daughter and heiress of John of Cnagy of that ilk, and wife of — Mercer (?) (A.D. 1377);⁶ Janet Hepburn, eldest daughter of Robert, first Earl of Bothwell, and wife of George, third Lord Seton (A.D. 1541);⁷ Margaret Douglas, eldest daughter of James, third Earl of Morton, and Duchess of Chatelherault (A.D. 1560).⁸

From the foregoing examples it appears that the presence on the husband's shield of his wife's arms impaled with his own indicated that she

¹ See plate xv. ; 10. The blazon offered in the text differs regarding the second coat from that in Macd. 705.

² Plate xxiv.

³ Plate xxiii. ; Laing. i. 48 ; B.M. 14,897.

⁴ Macd. 416.

⁵ Macd. 422.

⁶ Plate xxiv. ; Macd. 508.

⁷ Macd. 1321.

⁸ Macd. 731.

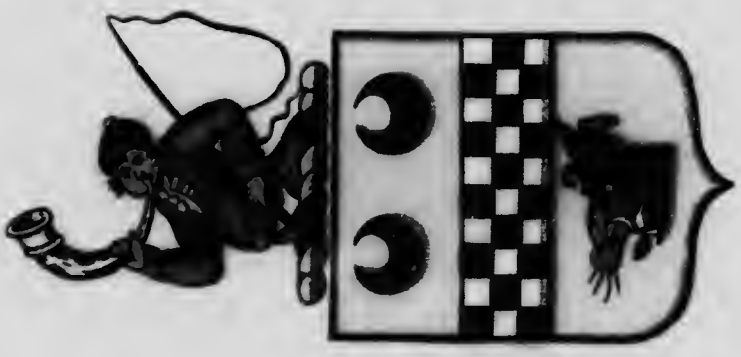
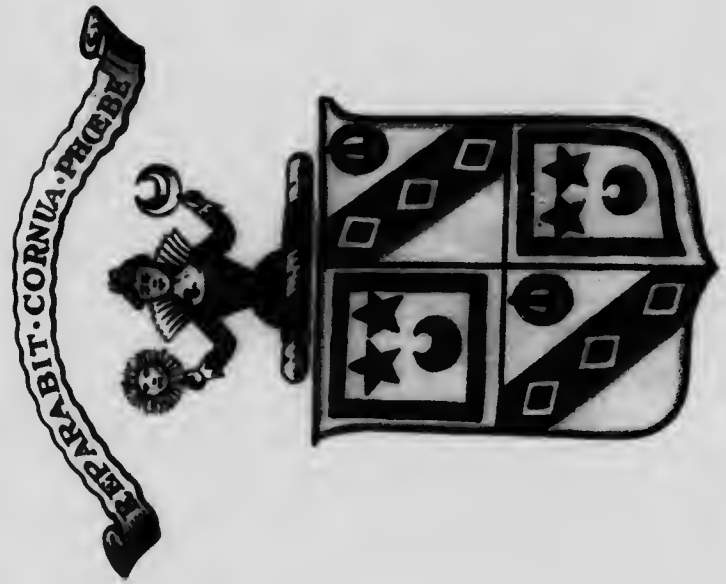
REGISTER OF ALL ARMS AND BEARINGS

Printed and Published by the Government Printer, Wellington, New Zealand.



REGISTER OF ALL ARMS AND BEARINGS.

1. Sir George Clerk of Penicuik, Baronet, 21st July, 1807.
2. Walter Scott of Abbotsford, Esquire, 7th March, 1820 (afterwards Sir Walter Scott, Baronet).



was an heiress. So we find that it is laid down in 1680, when Sir George Mackenzie wrote, that a man who married an heiress and was disposed to marshal her arms with his, impaled the two coats together.¹ In modern practice impalement merely indicates a marriage.

Impalement of arms as signifying a married state has been extended so as to signify the marriage, so to speak, which ought to exist between an official and his office. So we find the English Bishop impaling his paternal arms with those of his See. The Grand Prior of the Knights Hospitallers impaled his arms with the white cross of his Order. In Scotland since 1672 the Lyon King-of-Arms has customarily impaled his arms with those of Lyon Office.² But no early example exists in Scotland of the arms of an office so impaled, unless it be in a case such as that of Archibald the Grim, third Earl of Douglas, and father of the Earl last mentioned. He used a seal in 1393 in which his Douglas arms, placed in the dexter half, were impaled with the arms of his lordship of Galloway.³ Burghs in Scotland had arms from a very early period; but we have met with no case of a Provost impaling his burgh's arms with his own. And unlike the Episcopal Sees and the Monasteries of England, those of Scotland before the Reformation had no arms.⁴

Here we may mention two cases of arms which are rather exceptional in Scots heraldry.

William, second Lord Ruthven, married Janet, daughter and heiress of the sixth Lord Haliburton of Dirleton. Their son and heir, Patrick,

¹ Mackenzie, *Works*, ii. 622. In England, in a few early instances, the wife's arms are not only impaled with those of her husband on his shield, but are placed in the more honourable position, in consequence of her being a great heiress or of higher rank than her husband, as on the seal of John of Gaunt, Duke of Lancaster, where the arms of his second wife, Constance, eldest daughter and co-heir of Peter, King of Castile and Leon, occupy the dexter side of the escutcheon. See *Archaeological Journal*, v. 15.

² In these cases the arms of the See or office are placed in the dexter as the more honourable part of the shield.

³ See above, pp. 157, 159; Macd. 664. His Countess Joanna's arms consisted of the three stars of Murray. Her seal, bearing two shields accolée—her husband's impaled as on his own seal, and her own—we have mentioned already (p. 159, and plate xxxiii.).

⁴ *Scot. Hist. Rev.* (1908), v. 313. Arms were registered for two or three of the post-Reformation Sees after 1672 which they enjoyed till the Revolution.

inherited—about 1550 and 1560—the honours of both his father and his mother, and was styled Lord Ruthven and Dirleton. After his succession he used a seal with his father's and his mother's arms per pale.¹

The shield of William Meldrum of Fyvie in 1468 may perhaps be mentioned in this context. It bears: Per pale, dexter, the pallets of Meldrum of that ilk in the first quarter, with the unicorn heads of Preston in the third quarter, the second and fourth quarters being absconded; sinister, the otter salient which was borne with minor charges by Meldrum of Seggie in 1449.²

The method of marshalling by impalement, with or without dimidiation, has been used to indicate the union as by marriage of two fiefs or two kingdoms. It is very possible that the case of Ruthven and Dirleton just cited may be held to be a case of the former. The impaled arms of Guelders and Juliers, as seen in the shield of Mary, the Queen of James II. of Scotland, are a case of the latter.

Queen Anne impaled the quartered coat of France and England with Scotland on the first and fourth quarters of the Great Seal, and that arrangement was persevered in in the Royal Arms till the year 1801.

IMPALEMENT OMITTED.

It may be convenient to notice, after reviewing so many cases in which married ladies of rank placed their arms on the dexter, with their husband's on the sinister, of their shields, that in early times there were married ladies and widows who used seals with their paternal arms alone. The seal of Elizabeth Bisset, Lady of Kelrevoek, and widow of Sir Andrew de Bosco (de Bois), in A.D. 1280, contains four representations of the shield of Bisset, namely, a bend.³ The bearings of de Bois were a saltire and chief.⁴ Marjory, daughter of King Robert II., married John of Dunbar in 1370. In 1371-2 they were created Earl and Countess of Moray. The Countess's seal bears the lion rampant and Royal tressure alone.⁵ The custom, however, was not common till about the beginning of the sixteenth century, when it came to be followed in at least five cases out of six. As further

¹ Macd. 2353-5.

² Plate xxxii.; Macd. 1931, 1930.

³ Macd. 165.

⁴ Macd. 232.

⁵ Macd. 2569. 1st May, 1390. The Earl died in 1391.

illustrations of this practice, we may mention the seals of Margaret, daughter of Sir James Edmonstone of that ilk, wife of Sir Walter Ogilvie of Boyne (1485);¹ Margaret Cockburn, wife of William Hay of Tallo (1513);² Egidia Blair, widow of James Kennedy of Row, second son of Gilbert, first Lord Kennedy (A.D. 1520);³ Christina Ochterlony, wife of George Arrot of that ilk (1533);⁴ Margaret Lindsay, wife of David Beton of Melgund (1550);⁵ Marion Pringle, wife of Walter Riddell of that ilk (1566);⁶ Grizel, daughter of Sir Walter Scott of Branksholm, wife firstly of Lord Borthwick and secondly of Walter Cameron of Colmslie (A.D. 1576);⁷ Katherine Lauder, wife of John Swinton of that ilk (A.D. 1514);⁸ Margaret, daughter of John, seventh Lord Glamis, and wife firstly of the fourth Earl of Cassillis, secondly of the first Marquis of Hamilton (A.D. 1607);⁹ and Anne, Duchess of Buccleuch, so created in 1663 on her marriage with James, Duke of Monmouth.¹⁰ The seal of Barbara Moubray of Barnbogle, bearing her paternal arms only, is appended to a charter, dated 1534, along with the seal of her husband, Robert Barton (*alias* Moubray), which exhibits a quartered shield—the first and fourth quarters being occupied by three *bars wavy*, the arms of Barton, and the second and third by a lion rampant crowned, the arms of Moubray.¹¹

Such are a few of the instances furnished by seals of this practice so akin to that of the retention by married women of their maiden surnames, a practice always more or less in vogue in Scotland.¹² Churches, castles, and tombstones, however, afford numerous examples of the same custom even at a comparatively recent date. Thus, on the slabs in the Abbey of Holyrood, which commemorate the decease of 'Margaret Erskin, Lady of

¹ Macd. 840.

² Plate xxv.; Macd. 449. Hay of Tallo's arms—plate xxxi.

³ Macd. 184.

⁴ Macd. 2131.

⁵ Macd. 1682.

⁶ Macd. 2220.

⁷ Macd. 2398.

⁸ Macd. 1564.

⁹ Macd. 1607.

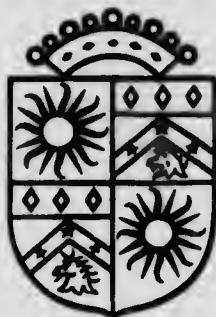
¹⁰ Macd. 2406.

¹¹ Laing, i. Nos. 604 and 605; Macd. 2038, 2039. In terms of an Act of the Scottish Parliament, Robert Barton was obliged to assume the surname of Moubray, on his marriage to the heiress of Barnbogle.

¹² And still observed in a certain degree in legal documents, in which a married woman or widow is named with her maiden surname and her marriage surname also, as if they were alternative names.

Allerdes' (1599), and Isobel Ker, Viscountess of Drumlanrig (1628), only the maiden arms appear in the escutcheons.¹

A practice exactly the reverse was adopted, however, by other ladies who, though heiresses, abandoned their own arms entirely and adopted those of their husbands. A very early instance is that of Margaret or Marjorie, the romantic Countess of Carrick, who, historians tell us, found Sir Robert Bruce, son of the Lord of Annandale, hunting in her domains,



carried him off prisoner to her castle and married him.

The whole heraldry which is connected with that lady, or seems to be so, is interesting, and it at least does not belie the character which the historians give her. Her first husband—Earl of Carrick in his time in her right—was Sir Adam of Kilconquhar. His seal displays him a knight on horseback. His horse housings are charged with cinquefoils, and he reaches out his hands to receive a shield which is held out to him by a lady who stands clothed in a flowing robe

beside him. The shield bears the same charges—three cinquefoils. This was before 1267 A.D.² In 1269 the knight went on the last Crusade, and died at Acre in 1270. In 1271, it is said, his widow married the Bruce. That the lady in the seal was the Countess, and that the cinquefoils were really her arms we must assume. But in 1285 she used a seal bearing the arms of her second husband, the saltire and chief, with the lion passant guardant on the latter—the cognizances of a Bruce of Annandale, and no other.³

A method of mingling quartered arms was used in 1454 by Janet Dunbar, Countess of Moray and Lady of Fren draught, and her husband, the second Lord Crichton. The seals of both bear quarterly (1) Randolph,

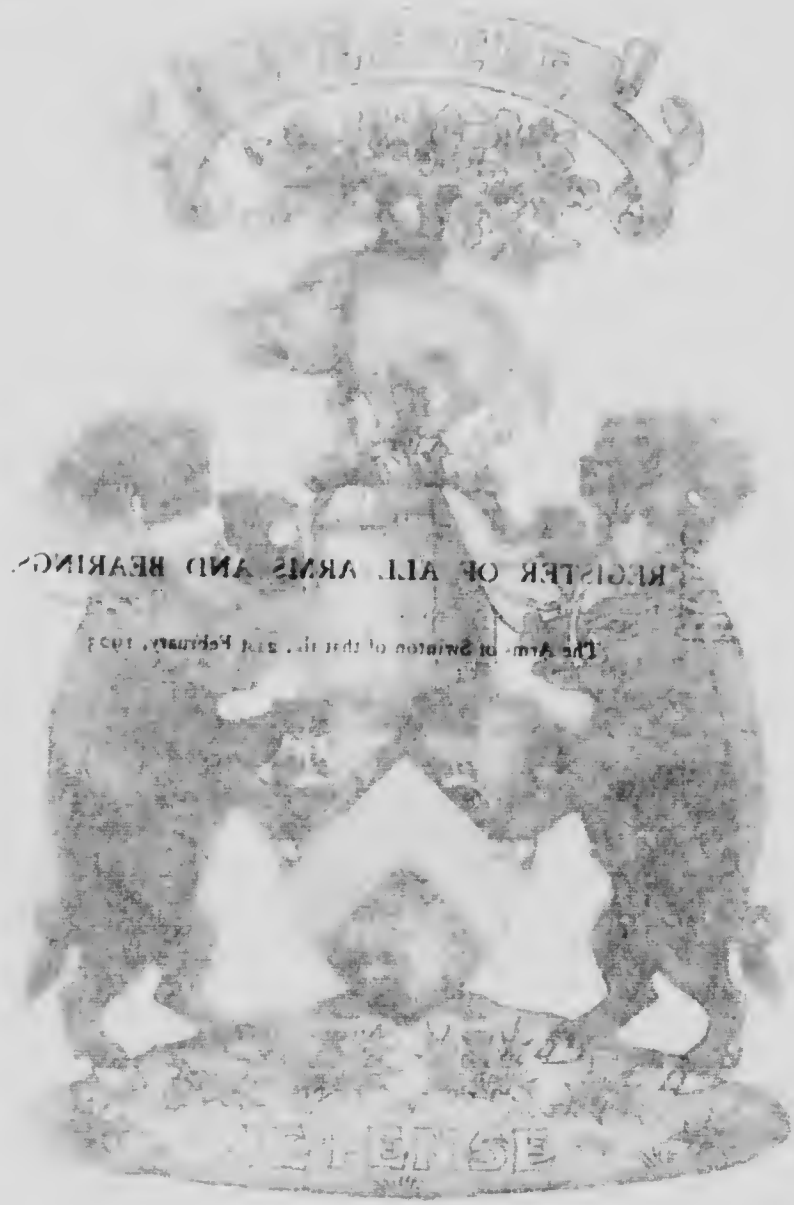
¹ See paper by the author [the late Mr. Seton] on the Incised Slabs at Holyrood, *Archæologia Scotica*, iv. 446. In the latter of the cases mentioned in the text, the stone actually bears the arms of Ker, ensigned with the Coronet to which the Viscountess was entitled only by her marriage. See engraving above.

² Plate xxx.; Macd. 1497.

³ Plate xxx.; Macd. 279 and 275. For seal of Robert Bruce, Lord of Annandale (the Competitor), 1291, see plate xxiv.

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REGISTER OF ALL ARMS AND BEARINGS.

The Arms of Swinton of that ilk, 21st February, 1903.





(2) Crichton, (3) Boyes, (4) Fraser of Frenndraught. The first and fourth are thus contributed by the lady, the second and third by the lord.¹ Her sister, Elizabeth, or Mary, and her husband, Archibald Douglas, subsequently Earl of Moray, bore quarterly (1) and (4) Randolph, (2) and (3) ermine, a heart, on a chief three stars (Douglas).²

A third method is found in 1543 or thereby on the seal of Elizabeth Douglas, youngest daughter of James, third Earl of Morton, and wife of James, afterwards the fourth Earl, second son of Sir George Douglas of Pittendreich. The seal bears a shield charged with a heart and, on a chief, three stars. This corresponds neither with her father's nor her husband's arms, but is the shield borne by the latter—quarterly with Morton, a chief with two stars, for his paternal house of Pittendreich.³

In one or two cases the lady assumed 'composed' arms. The seal of Eustacia Colvil, widow of Reginald le Chein (A.D. 1316), bears a cross moline square, pierced for Colvil, between four cross crosslets fitchée, part of the ensigns of Chein.⁴

Cases of a husband impaling his wife's arms with his own are of no very early occurrence in Scotland, unless some of the chessmen already referred to, on page 160, furnish instances. Arms, which are probably of this kind, appear on the seal of Andrew Stewart, who acts as bailie for the Earl of Buchan in a sasine in the year 1432. They are: Per pale, dexter two pallets, sinister a fess chequy.⁵ Alexander Wemyss of Lathocar, however, in 1511⁶ bears, per pale, dexter a lion rampant for Wemyss, and sinister a saltire. The saltire is probably his wife's arms. It may naturally be taken for the same saltire which is quartered as a saltire coupé in the second and third quarters, with the lion in the first and fourth, on the shield of Master James Wemyss,⁷ his son and successor. The seal of Andrew Clephane (A.D. 1558)⁸ bears, per pale, dexter a chevron between three mascles, sinister a helmet in profile, and on it for crest a boar's head. The helmet, here in the sinister half, appears afterwards in the Lyon Register as a Clephane cognizance. The impaled shield on the seal of Robert

¹ Macd. 803 and 547.

² Macd. 804 and 678.

³ Macd. 732, 734, 735, and 708.

⁴ Plate xxiv. ; Macd. 479 and 412-16.

⁵ Macd. 2644.

⁶ Macd. 2876.

⁷ Macd. 2877.

⁸ Macd. 439.

Williamson of Murieston (A.D. 1611)¹ bears on the sinister half a saltire cantoned in chief and base with two boar heads, and in each flank with a star.² This must be held to represent the name Williamson. In the dexter half he places a thistle stalked and leaved. In each of the three cases just mentioned the bearer of the arms appears to place his patrimonial arms in the sinister half of his shield. Dimidiation is now entirely disused, with the exception that on the impalement of a bordured or tressured coat the part of the bordure or tressure next the paler line, and with it the part of the field on which it lies, is omitted. An instance of the omission of the Royal tressure is seen in the Duchess of Brittany's arms.³

According to the practice of the present day, a husband may impale his wife's arms with his own personal arms whether she is heraldically an heiress or not, but may not do so where his official arms are also impaled with his arms, and, it is sometimes said, not with his arms if they are surrounded with the collar of an order of knighthood. The reason for this last dictum is not so apparent, seeing that the knighthood may give her rank as well as her husband.

Where the wife is heraldically an heiress the husband may place her arms on his shield surtout on an escutcheon of pretence. In no case, however, is there any heraldic necessity laid on him to place her arms on or along with his, or to allude to them in any way.

Impalement has been used also at times in the marshalling of arms of special, that is royal, concession. Arms, consisting of a sword supporting an Imperial crown, are related to have been granted with the barony of Barns to Sir Alexander Seton of Seton by Robert the Bruce, as a reward for his rescue of the King from captors during the battle of Methven Wood. They were 'the ancientest coat of special concession' that Nisbet had met with 'in Manuscripts and Books of Heraldry,' and went ultimately with the lands of Barns to a Seton cadet, who, he records, bore them on the dexter side of his shield 'impaled with his other coat of augmentation,' namely, the blazing star of Winton.⁴

Similarly, Sir John Ramsay of Weilycleuch, who was eventually created

¹ Paul, *Ordinary of Arms*, 3843, 3988.

² Macd. 2892.

³ Plate xxvi.

⁴ Nisbet, *Essay on Armories*, 1718, p. 141, plate 4, No. 9.

Earl of Holderness, bore his additament of honour, granted to him by King James VI.—a dexter hand holding a sword in pale piercing a man's heart, and with the point supporting an Imperial crown—on the dexter impaled with his own paternal arms, an eagle displayed, on the sinister.¹

The augmentation of honour granted by Mary Queen of Scots to Sir James Sandilands, Preceptor of Torphichen, whom she erected into a hereditary Lord of Parliament, which consisted of a thistle leaved and slipped and, on a chief, an Imperial crown, was borne by him on one of his seals without any other arms, but by his grand-nephew, the second lord, it was borne (1583-1616) impaled with his paternal ensigns, and actually on the sinister side.² The later Lords Torphichen have borne the coat quarterly with their paternal ensigns and accorded it its proper position of honour.

QUARTERED ARMS.

The coat of arms on the seal of John Stewart, Lord of Lorne (A.D. 1448) (see plate xxxi.), is by no means the earliest known shield bearing quarters. But its style calls for remark in case it should be deemed to illustrate the manner in which the quartered coat may in some cases at least have been evolved out of coats that were simple. Laing, considering the arms to be meant for a shield of two coats borne quarterly, pronounced the charges to be disposed 'in outrage of all heraldic rule,' and so as to make a correct blazon almost impossible.³ Woodward considered the shield a curious example of Scottish marshalling—'which indicates how little the Scottish lords and heralds of the fifteenth century were trammelled by modern rules.'⁴ Laing's blazon of the shield, which has been adopted by Mr. Woodward, Dr. Birch, and Mr. Macdonald, is, in the words of the last, 'Quarterly: 1st, a buckle in chief, the base counter-compony. 2nd and 3rd, a lymphad with sails spread. 4th, a chief counter-compony with a garb in base.'⁵ We think that the correct blazon is as follows: A fess chequy

¹ *Ibid.* plate 4, No. 8.

² Laing, i. 718; Macd. 2368, 2369.

³ Laing, i. 797.

⁴ Woodward, ii. 57.

⁵ Macd. 2635. Yet Laing's knowledge of the ownership of the seal must have nearly led him to a correct blazon. He actually adds: 'This has evidently been intended for a composed coat; the counter-compony in the first and fourth quarters being meant for the fess chequy.'

of four tracts between two buckles (Stewart of Bonkil) in chief and a garb (or two garbs) (for Buchan) in base; a sinister quarter bearing a lymphad with sails set (for Lorne); and in the dexter base another quarter of the same, absconding one of the buckles (and it may be said one of the garbs).

Each of the quarters necessarily absconds the half of the fess nearest it. That John Stewart's shield, considered apart from the addition of the quarters for Lorne, bore a fess between two buckles in chief and one garb in base, might be suggested. But the shield of his brother and successor, Walter, who divested himself of that lordship, gives little assistance to the speculation. In 1484, after he had exchanged Lorne for the lordship of Innermeath, his shield was quartered 1 and 4, a buckle; 2 and 3, a fess of four tracts (plate xxxi.).

The shield of John Lord of Lorne appears then to illustrate perhaps the earliest form of quartering, analogous to impalement by dimidiation. Instead of making a composed coat by transferring the charge merely—in this case the Lorne galley—to the paternal (ge') shield, when the galley would be preserved, but the colours of Lorne, black upon silver, lost, the whole coat of Lorne on a reduced scale is placed on that shield, as a quarter, or a canton is occasionally still placed on another coat.

The shield of Alexander Hamilton of Innerwick is another instance of the same heraldry.¹ The seal on which we find his bearings dates only from 1588, but the marriage with Elizabeth Stewart, daughter of Sir Alan Stewart of Darnley and Crookston, and heiress of Ballincrief, which, according to Mackenzie² and Nisbet,³ explains its contents, dates about two centuries earlier. 'Hamilton of Innerwick,' says Mackenzie, 'did take the fess chequy with his paternal shield when he married Stuart heritrix of Bancrief.'⁴

Hamilton's seal, however, shows that he had gone further; he had taken the shield of his wife, which appears to have been a fess chequy of four tracts between a rose of Lennox (or two) in chief and another (presumably only one) in base; and on it had placed a quarter charged with

¹ Plate xxxi.; Laing, ii. 471, fig.; B.M. 16320; Macd. 1243. The previous blazon of this shield is: 'Parted per cross, in the first quarter a cinquefoil; in the second, another with base counter-compony; in the third, another with chief counter-compony; in the fourth, a buckle.'

² Mackenzie, *Heraldry*, chap. xxiv. ³ Nisbet, *Heraldry*, i. 385. ⁴ *Heraldry*, chap. xxiv.

THE ROYAL ACHIEVEMENT

The reverse of the Seal used in Scotland by His late Majesty King Edward VII, under the provisions of the Treaty of Union, in place of the Great Seal.



THE ROYAL ACHIEVEMENT.

The reverse of the Seal used in Scotland by His late Majesty King Edward VII., under the provisions of the Treaty of Union, in place of the Great Seal.



THE ROYAL ACHIEVEMENT OF ARMS



a cinquefoil, and in the sinister base another quarter charged with a buckle. Sir Alan placed no buckles (Bonkil) on his shield, which was: 1 and 4, a fess; 2 and 3, three fleurs-de-lis.¹ But the paternal arms of Hamilton of Innerwick, to judge by the shield of Alexander Hamilton in 1539, before his succession, were three cinquefoils and a buckle in the fess point.² We are thus inclined to think the buckle in the fourth quarter is for Deglay of Innerwick. It is, at any rate, clearly on a quarter which, like the other, absconds part of the fess on which it is placed.

In the arms of the noble house of Cronberg, continental heraldry presents us with a shield which seems to be properly blazoned in the same way,³ namely: gules a fess vair of four tracts between two (open?) open crowns for Cronberg: a quarter or, charged with a fess gules, and in the sinister base a second quarter of the same, for the County of Hohen-Giroldeck; over all for augmentation, an escutcheon of the Empire.

The quartered shield of which we now propose to speak is the shield in which two or more distinct coats are marshalled together quarterly⁴—for the term quarterly is used as well for shields of any number of compartments above 4, as 'quarterly of six,' etc. It is constructed for the purpose of identifying the bearer as the representative of more than one family, or as the lord of some territory or territories, and it sometimes includes a quarter which was never a separate coat, but which has been granted to the bearer or his ancestor as an honourable augmentation.

The number of quarters which it is lawful to marshal in one shield is quite indeterminate, and limited only by the number of the bearer's separate armorial rights. There is, on the other hand, no *heraldic* necessity laid on anyone to marshal any arms with his own patrimonial coat, unless, indeed,

¹ Macd. 2613.

² Macd. 1229.

³ Plate xxxi.; Woodward, ii. p. 113 (with plate vi. 4), who observes that the arms are 'to our ideas strangely arranged,' and who gives them as 'Quarterly: 1 and 4, or, a fess gules (County of Hohen-Giroldeck); 2, two rows of vair (Beffroi?), on a chief gules, an open crown or; 3, two rows of vair on a champagne gules, an open crown or (both 2 and 3 are for Cronberg); *en surmont*, an escutcheon of the Empire as an Imperial augmentation.'

⁴ An interesting and important class of shields, mainly of Western Highland Chiefs, such as those of the Macdonalds, ought to be considered in the main, as a variety of arms parted *per* cross, rather than as arms *marshalled* quarterly.

it be a question of honourable augmentation granted and accepted from the Fountain of Honour. Pride of family at times decides rather for the exclusion of quarters representing rights of blood or dominion which do not add materially to the family glory. And the physical necessity of having charges on a shield on a scale large enough to enable them to be easily distinguished, has been as powerful an agent in preserving the simplicity of our shields, as the will to select only the quarterings that are proudest.

Some of our noblest houses, indeed, have restricted the number of their quarterings most rigidly, and from generation to generation have used the same ancestral arms, as if they were a complete and indivisible cognizance to which it was impossible to add, and from which as impossible to subtract without a diminution of its honour. Thus the Ducal Chief of the House of Campbell bears the same coat to-day that his ancestors in all time without intermission, since the second Earl of Argyll, have borne for the last four centuries, namely, the gyronny of eight or and sable of his name, quartered with the galley of Lorne, his earliest great fief. The Chiefs of the House of Atholl are entitled, it has been computed, to upwards of a thousand quarterings, from their marriages with heiresses, but their shield contains only nine. The Marquis of Bute, who is entitled to numerous quarterings, as heir of Crichton, Earl of Dumfries, Mackenzie of Roshaugh, the fourth Earl of Stair, the Duke of Kingston, quarters, with Stewart of Bute, only the blue lion of the Earls of Dumfries, whose titles are also the oldest which he inherits.¹ Other peers and heads of noble families have entirely abstained from quartering their original coats.

Sir George Mackenzie, who completed his remarkable work on heraldry in 1680, states that though in other lands they indulged themselves to numerous quarterings, yet 'in Scotland we exceed not six.' That limit, certainly seldom reached in Mackenzie's time, has been exceeded since by the introduction of the practice of bearing as quarters arms that are already quartered.

The position of the first quarter in a shield is the most honourable, that

¹The Earls of Crawford have almost invariably confined their ensigns to the simple coat of Lindsay, gules a fess chequy argent and azure, quartered with the most ancient coat of the Abernethy, the identical arms used by the first of the 26 Earls of that house in A.D. 1399.

of the second next, and so on in their numerical order. The relative positions, therefore, in which the several coats are marshalled together has much to do with the reading of the shield. The paternal arms may be placed in the first quarter by the chief of their name, who may consider his family of greater importance than any fief he may possess, or any alliance by marriage which he may have formed. These arms, however, may be found in a less important place in the shield of a cadet, who may consider that the arms of some house which he has come to represent in the female line, or those of some fief or honour acquired by him on his line branch in particular, are a greater distinction to him than his subordinate place in the house of his fathers. And the same in the case of a chief of a house, however honourable, who inherits a higher title or greater fief through an ancestress. Thus the Chiefs of Argyll and Montrose, as already mentioned, place the arms of Campbell and Graham in the first (and fourth) quarters. Erskine, now paternally Goodeve, but by surname Erskine, places in that quarter the arms of his ancient Earldom of Mar, which he inherits through ancestresses, and bears the arms of his surname, Erskine, in the second and third. 'But if his Majesty bestow any part of his own arms even upon an ancient family in their coat of augmentation, then the coat of augmentation is to be first.'¹

Quartered coats are commonly treated as if they were heritable in the same manner and under the same conditions as simple coats. In the case of a coat where all the quarters are genealogical, the practice is unexceptionable. In 1457 Walter Lindsay of Edzel, second son of David, third Earl of Crawford, bore his paternal quarterings of Abernethy and Lindsay quarterly, with, over all, a mark of difference, viz. at the fess point a star.² Sir Alexander Lindsay of Auchtermontzie, second son of Alexander, fourth Earl of Crawford, bore in 1501, while still only a cadet, his father the Earl's shield of Lindsay, quartered with Abernethy, differenced with a charge over all,—a rose, it is thought.³

Cases where one of the quarters represents a fief or an honour which descends only to the eldest heir are somewhat different. 'When any Nobleman, at his Creation, takes or gets a new additional Symbol, as Earl

¹ Mackenzie, chap. xxiv.

² Macd. 1672.

³ Macd. 1651.

(as Montrose carries the Roses, not as *Graham*, but as Earl), I think,' says Sir George Mackenzie, 'that these Coats or Symbols should not be transmitted to their Cadets, but are incommunicable, as the Honours are, to signify which they are granted. And such as are descended from the Dukes of Lennox may as well take the Symbol which he bears as Admiral,¹ as such as are descended from the Earl of Montrose may take these Roses, which he bears as Earl; and yet Custom has prevailed against this Rule.'²

On behalf of these cadets whom Mackenzie points at, it might have been urged that they were entitled to set forth that they were not only *Grahams*, but *Grahams* descended from the Earl, and that they were within the limitation of the patent of the Earldom. The latter argument is of no weight in heraldry. If a mere *spes successionis* were to entitle to a heraldic bearing, then every descendant, man or woman, of the first Earl of Mar might quarter the bend and cross-crosslets of that Earldom, which dates from somewhere about the year 1100! The first argument involves the assertion that the coat is borne by the cadet as a merely genealogical coat. That, however, is no reply to Mackenzie's attack, unless it can be shown that the arms were genealogical in the person of the chief from whom the cadet sprang. If they were, which we question, then the whole coat ought to be borne as a unit with a difference of cadency placed so as to affect the whole.³

When the arms of more than one ancestress are marshalled together, then again the more important takes precedence of the less, but other things being equal, these arms are marshalled in the order in which the inheritances which they represent accrued to the family.

The quarterings of an ancestor's shield are sometimes transposed on the shield of his heir for no probable reason save the convenience of having a shield which was more certainly distinguished than it might be by the mere addition of a label, which also would not be available after the heir's succession. Of the Earls of Crawford, whose ensigns have been already referred to, three—the fourth, eleventh, and fourteenth—transposed their hereditary quarterings so as to place Abernethy in the first and fourth quarters, and Lindsay in the second and third.⁴

¹ The hereditary office of High Admiral of Scotland.

² *Heraldry*, chap. xxiv.

³ See section on Marks of Cadency.

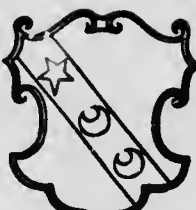
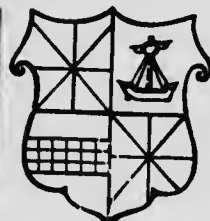
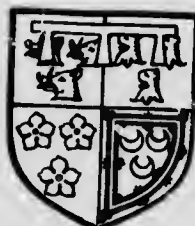
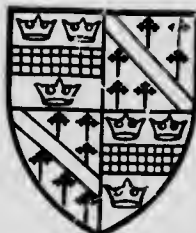
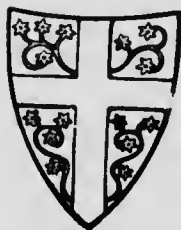
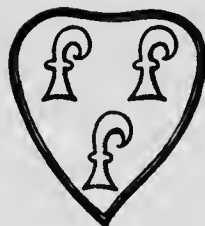
⁴ Macd. 1637-1654.

ARMORIAL SHIELDS OF LARVA FORMS AND STAGES
FOR THE SPAIN

- 1. Larva of *Meloboris* (Larva of *Agabus*)
- 2. Larva of *Meloboris* (Larva of *Agabus*)
- 3. Larva of *Meloboris* (Larva of *Agabus*)
- 4. Larva of *Meloboris* (Larva of *Agabus*)
- 5. Larva of *Meloboris* (Larva of *Agabus*)
- 6. Larva of *Meloboris* (Larva of *Agabus*)
- 7. Larva of *Meloboris* (Larva of *Agabus*)
- 8. Larva of *Meloboris* (Larva of *Agabus*)
- 9. Larva of *Meloboris* (Larva of *Agabus*)
- 10. Larva of *Meloboris* (Larva of *Agabus*)
- 11. Larva of *Meloboris* (Larva of *Agabus*)
- 12. Larva of *Meloboris* (Larva of *Agabus*)
- 13. Larva of *Meloboris* (Larva of *Agabus*)
- 14. Larva of *Meloboris* (Larva of *Agabus*)
- 15. Larva of *Meloboris* (Larva of *Agabus*)
- 16. Larva of *Meloboris* (Larva of *Agabus*)

ARMORIAL SHIELDS, OF EARLY FORMS AND LATER,
FOUND IN SEALS.

1. A.D. 1225 ; Malcolm, Earl of Angus.
2. c. 1230 ; John, son of Michael [of Wemyss].
3. c. 1230 ; Geoffrey of Hordene.
4. c. 1200 ; Robert Croc [of Neilston and Crookston ?].
5. c. 1260 ; John de Vesci.
6. c. 1260 ; Alexander III. Privy Seal, counter-seal.
7. A.D. 1251 ; Patrick, seventh Earl of Dunbar. Counter-seal.
8. c. 1220 ; William de Vesci.
9. A.D. 1237 ; Thomas de Aunoy.
10. A.D. 1435 ; Alexander Stewart in right of his wife, Earl of Mar
11. A.D. 1492 ; Alexander Lord Gordon.
12. A.D. 1556 ; Sir Colin Campbell of Glenorchy.
13. A.D. 1566 ; Sir Richard Maitland.
14. A.D. 1632 ; Walter, Earl of Buccleuch.
15. A.D. 1547 ; William, Lord Ruthven.
16. A.D. 1762 ; George III., Privy Seal.





There are cases also where one and the same person has used several seals in succession with no apparent design of adding or subtracting anything from his seal, but has changed the order of his quarters. The first shield of the fourth Earl of Lindsay just mentioned, who eventually bore a coat of Abernethy quartered with Lindsay, exhibits Lindsay quartered with Abernethy.¹

When the arms of two or more distinct houses come to be marshalled together quarterly on one shield, the rule is that the arms of each house shall be treated as a separate unit, and not mingled or merged with the others. Thus, if two coats, each bearing a royal tressure, come to be quartered with each other, 1 and 4 and 2 and 3 respectively, it is not permissible to enclose the whole in one such tressure; each quarter must be contained as the primary coat was contained in its own tressure. In comparatively modern times it became customary to extend this rule to the quartering of arms which were themselves already borne quarterly. Thus, Douglas, Earl of Forfar, created in 1661, assumed the bearings of Douglas and Angus. The last Earls of Angus and Marquises of Douglas had borne these quarterly: 1, Galloway; 2, Abernethy; 3, The Piles, variously called those of Brechin, Wishart, Jedworth Forest, and Ettrick Forest; 4, a fess chequy surmounted by a bend charged with three buckles, and over all had placed on an inescutcheon the arms of Douglas, the crowned heart and the chief charged with the three stars. Lord Forfar made these last-mentioned Douglas arms on the inescutcheon his first quarter, and repeated it as his fourth, and the whole of the rest of the Angus shield he placed in his second quarter, and repeated it in his third.

Woodward notices and disapproves of a recent disposition to break up the quartered shields which are brought in by heiresses, and to distribute their component quarters with those of the paternal arms, and perhaps only to select from them. But such marshalling is only a return to an earlier practice, and the only alternatives to it are to omit all representation of heiresses whose shields are already counter-quartered, or to produce a shield which is too elaborate to be called the *cognizance* or *ensigns* of anyone.

The seal of Walter Leslie, 'Dominus de Ros' (1367), presents one of

¹ Macd. 1641, 1642.

the earliest Scottish examples of *Quartered* arms, viz. first and fourth, a bend charged with three buckles for Leslie; second and third, three lions rampant, the paternal and sole arms of his wife, Euphemia, daughter and heiress of William, sixth and last Celtic Earl of Ross.¹ Thirteen years later (1380), a quartered shield appears upon a seal of William, first Earl of Douglas and Earl of Mar—first and fourth, a heart, and on a chief three mullets, for Douglas; second and third, a bend between six cross-crosslets fitchée, the arms of the Celtic Earls of Mar, whose earldom he enjoyed in right of his wife, the daughter and heiress of the thirteenth earl of that ancient line.²

In both these cases the quarters which were added to the bearer's paternal coat were the arms of his wife. In neither case was the ancestor dead, but whether she and her husband had a mere *spes successionis*, and no certainty of it at the time of the making of the seals, we do not know.

The arms of the Douglasses furnish excellent illustration of the practice of Scottish heraldry from the time of the first methods of marshalling, onwards.

James, the second Earl of Douglas, bore the same quartered arms as his father.³ In his shield the ensigns of Mar were those of representation in blood as well as possession of lands and title. On this Earl's death at the battle of Otterburn, 1388, his sister Isabel carried the Earldom of Mar out of the Douglas family, while to the Earldom of Douglas succeeded the bastard Douglas, Archibald the Grim, Lord of Galloway, and husband of Joanna Murray, Lady of Bothwell.

We have already noticed the third of Earl Archibald's seals, for there is evidence of four which he used in succession.⁴ The shield on the first (A.D. 1364), while he was as yet only Lord of Galloway, bears the simple Douglas coat, but with a field ermine. In the second, a small signet (A.D. 1369), while he is still only Lord of Galloway, he seems to have omitted the ermine, but to have added perhaps a bordure. In his third seal (A.D. 1373) he continued the ermine. The changes in this seal from his former seals concern his crest and supporters, and the introduction of a motto.⁵ His fourth seal, his first and last as Earl of Douglas, appears in use in

¹ Plate xxxiii.; Laing, i. 496; Macd. 1611.

² Laing, 238; Macd. 656.

³ Macd. 659.

⁴ Macd. 661, 662, 663, 664.

⁵ Plate xxxiii.

1393; it bears Douglas (a heart, on a chief three stars) and Galloway (a lion rampant crowned) impaled. He had in the meantime, about 1371, married Joanna Murray, Lady of Bothwell, but makes no allusion to her or her fief in his arms. Nor does she allude to him in hers; but she places his shield, separately from her own, on her seal.¹

We now pass to the shield of Archibald, fourth Earl of Douglas, their son. He also used at least four seals, impressions of three of which remain.² In the first (A.D. 1401), a year after he succeeded, he quartered the arms which his father impaled; 1 and 4, Douglas; 2 and 3, Galloway. Over all he bore an escutcheon of three stars for Murray. His second, a smaller seal, used in 1406, contains the quarterings, but omits the shield *surtout*. In his third (1413) the quarterings are altered: 1st, a heart, on a chief three stars, for Douglas; 2nd, a lion rampant crowned for Galloway; 3rd, three stars for Murray; 4th, a saltire and chief for Annandale.³ In other words he bore his paternal arms in the first quarter, arms of a territorial inheritance in the second, arms of a maternal succession in the third, and arms of a territorial acquisition in the fourth. Finally, in his fourth shield (A.D. 1424), which we know from its appearance as the seal of his widow, the Princess Margaret, he bore: 1, three fleurs-de-lis for the Dukedom of Touraine, which he had received in April, 1424; 2, Douglas; 3, Annandale; 4, Galloway. Here Galloway is reduced to the lowest place, and Murray is omitted altogether. But the most important change is the displacement of Douglas itself from the principal quarter, and the substitution for it of the arms of Touraine.

The Duke has no bearing to represent his marriage, even though his wife was a daughter of the King. She, however, brought him no fief, nor carried any representation of any family with her.

During his lifetime his quartered arms, as seen in his seal of 1413, were used by Archibald his son, afterwards fifth Earl of Douglas, with the addition of a label on the Douglas quarter.⁴ The father's quarterings, territorial as well as others, were thus treated as hereditary—in the blood,

¹ Macd. 2057, and above, p. 150.

² Macd. 666, 667, 668, 670.

³ Plate xxxiii.

⁴ Macd. 671.

and the cognizances of an eldest son (with an eldest son's difference) during his father's life.¹

Sir John Fern classifies quartered arms under three heads, viz. plain-quartered, quartered, and quarterly-quartered coats. Plain-quartered shields, however, are not usually classed separately from shields that are merely described as *quartered*, but Sir John's classification may shortly be illustrated.

(1) A *plain-quartered coat* is produced by dividing the field into four parts, one coat of arms being repeated in the first and fourth quarters, and another in the second and third. This is the proper arrangement of the armorial ensigns of the son of a gentleman by an heiress (in the heraldic sense of the word heiress²) when he desires to bear his mother's, as well as his father's arms, and these only—his father's arms presumably occupying the principal position, viz. the first and fourth quarters, and his mother's the second and third. Thus, Mackenzie of Coul charges the first and fourth quarters of his escutcheon with the 'Caberfae,' or stag's head, which forms his paternal bearing; the second and third quarters being the boar's head of Chisholm of Comar, his ancestor; the first of the Coul branch having married the heiress of that family.³ In like manner, the Earl of Mansfield places the principal coat of Murray (three stars within a double tressure) in the first and fourth quarters, while the second and third are charged with three crosses, patty, in consequence of the marriage of his ancestor, Sir Andrew Murray, to the daughter and heiress of Barclay of Balvaird, about the beginning of the sixteenth century. Another course, one to which Sir George Mackenzie objects, is followed by some cadets who are advanced to dignities, and who, 'if they be not obliged to quarter the coat of some heretrix, for a difference take crest or supporters of the family out of which they are descended, and quarter with their paternal coat. As the Viscount

¹ Macd. 672. But for the exigencies of space, this study of the heraldic practice of the houses of Douglas might have been continued till a much later period. Macdonald's *Armorial Seals*, Nos. 673-753, and the *Douglas Book*, ii. 558, are referred to.

² An heiress in the heraldic sense is a lady who has a personal right to armorial ensigns which descends to her heirs.

³ *Register of Arms*, 1680-7. First and fourth, azure a hart's head cabossed or; second and third, gules, a boar's head coupé argent.

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THE NATIONAL ANTHROPOLOGICAL ARCHIVES
SMITHSONIAN INSTITUTION

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1930-1939
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1950-1959
1960-1969
1970-1979
1980-1989
1990-1999
2000-2009
2010-2019
2020-2029

LADIES' SEALS BEARING ARMORIAL SHIELDS
AND LOZENGES.

1. A.D. 1284 ; Muriel, daughter of Convel of Strathern.
2. The same ; her seal as recorded by Sir George Mackenzie.
3. A.D. 1316 ; Eustacia Colville, widow of Reginald le Chem.
4. A.D. 1439 ; Joan Beaufort, Queen of James I. Armorial lozenge from her seal.
5. The same ; signet, from the gold matrix found at Kinross.
6. A.D. 1377 ; Margaret, daughter and heiress of John Cragy (Craig or Craigie) of that ilk.
7. A.D. 1392 ; Marion, *née* Maxwell, wife of Sir William Dalziel.
8. A.D. 1445 ; Isobella, Countess of Lennox, widow of Murdach Stewart, Duke of Albany.
9. c. 1484 ; Margaret of Denmark, Queen of James III. (armorial lozenge from the contemporary painting now belonging to Holyrood Palace).

PLATE XXIV



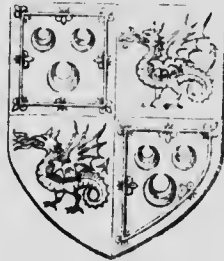
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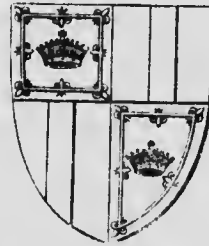
of Kingston bears, first and fourth, the arms of Seton (three crescents within a double tressure),¹ in the second and third, argent, a winged dragon, vert, vomiting fire, which dragon is the crest of his elder brother, the Earl of



Mackenzie of Coull.



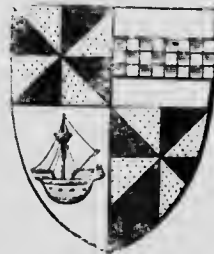
Viscount Kingston.



Erskine, Earl of Kellie.

Winton.² In some cases, however, the paternal arms do not occupy the principal quarters of the shield. Thus, both in England and Scotland, the precedency is given to *arms of special concession* otherwise styled additaments of honour, or honourable augmentations of arms, and to those in particular, as already mentioned, which embrace some portion of the Royal ensigns. The escutcheons of Erskine, Earl of Kellie;³ Hay, Earl of Kinnoull;⁴ and Sandilands, Lord Torphichen,⁵ may be mentioned as illustrations of such postponement of the paternal bearings. Occasionally, moreover, the *maternal* arms are placed before the father's bearings, in consequence of their 'more eminent nobility,' as in the case of the Montgomeries of Lainshaw, afterwards referred to as an illustration of a quarterly-quartered coat.

(2) The term *quartered coat* is applied by Fern only to a shield in which the arms of more than two different families are marshalled together. Thus, the Marquis of Breadalbane carries *three* coats quarterly, viz. first and fourth, the paternal arms of Campbell (gyronny of eight or and sable); second, or, a fess chequy azure and argent for Stewart; and third, argent, a



Campbell, Marquis of Breadalbane.

¹ Red upon gold.

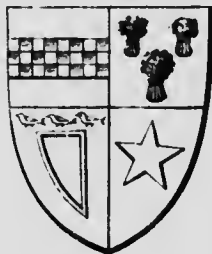
² *Science of Heraldry*, chap. xxiv. p. 82.

³ Quarterly; first and fourth, gules the Imperial crown within the Royal tressure, or; second and third, argent a pale sable.

⁴ See below. pp. 176-7.

⁵ See above, p. 163.

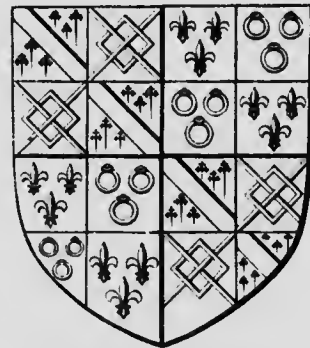
lymphad (or galley) sable, for Lorn. Sometimes *four* coats are carried, each of the quarters being differently charged, as in the escutcheon of Stewart, Earl of Traquair, which is thus blazoned : First, the paternal arms of Stewart ; second, azure three garbs (wheat sheaves) or, for Buchan ; third, argent, an orle, gules with three martlets sable in chief, for Rutherford ; and fourth, sable a mullet argent for Traquair.



Stewart,
Earl of Traquair.

(3) A shield of arms is said to be *quarterly-quartered* (or counter-quartered) when one or more of its four areas or quarters are themselves quartered, in which case they are usually termed 'grand quarters.' Thus,

the Montgomeries of Lainshaw, cadets of the House of Eglinton, carried quarterly, First and Fourth grand quarters counter-quartered : first and fourth, azure, a bend between six cross-crosslets, fitchée, or, for the Earldom of Mar ; second and third, or, a fret, gules, for Lord Lyle, in consequence of Sir Neil Montgomery, second of Lainshaw, having married the daughter and heiress of the last Lord Lyle : Second and Third grand quarters also counter-quartered : first and fourth, azure, three fleurs-de-lis, or, for Montgomery ; second and third, gules, three annulets, or, stoned azure, for Eglinton.¹ A precisely similar armorial arrangement was adopted by William (the eldest son of William, Marquis of Douglas, by his second wife) on his marriage to Anne, the eldest daughter and heiress of James, first Duke of Hamilton, in consequence of which marriage he was created Duke of Hamilton, for life, in the year 1660. In both of these



Montgomery of Lainshaw.

¹ This is the blazon given by Nesbet in his *Essay on Armories*, 1718, p. 101. In his larger work (*System of Heraldry*, 1722, i. 377), he substitutes the arms of Mure of Skeldon (argent, on a fess azure, three stars of the first) for the second and third grand quarters, and places the quartered coat of Eglinton surtout.

examples, it will be observed that the paternal arms are deprived of their usual precedency.

The terms *quartered* and *quarterly* are used though the several areas exceed four. Thus we may blazon the shield of Mary of Lorraine in the Leith panel; quarterly of eight, four and four.¹ In the lozenge in Lindsay's *Register* they are, quarterly of six, four and two.²

When the areas within the shield are similar to these, but less than four, their disposition is stated. Thus the shield of William Sutherland of Duffus in 1540 was parted per fess, and in chief per pale, three coats; first, three stars for Sutherland; second, three cross-crosslets for Chein of Duffus; third, a boar's head erased for Chisholm.³

Other ways of marshalling arms, such as quarterly per saltire, tierced in pairle, etc., are familiar to us in arms of foreign origin. The Royal coat of Hanover affords the example best known to us of arms tierced in pairle reversed.

In shields in which there is no honourable augmentation or other specialty the arms of successive heiresses, if quartered, are usually placed in the chronological order of their alliance. The first is placed in the second quarter, the second in the third quarter, and so on. Where the paternal arms and the coats that are quartered with it make an uneven number, the arms that are placed in the first quarter are usually repeated in the last.⁴

THE INESCUTCHEON OR SHIELD SURTOUT.

On a coat of arms, and, when not otherwise expressed, on its centre, is sometimes marshalled a smaller shield of arms, which is then termed an inescutcheon, or shield overall or surtout.⁵ It forms a part of the general achievement of arms, and, according to the purpose assigned to it, it contains paternal arms, feudal arms, or arms of alliance; in the last case it is

¹ Plate xxxvi. According to French forms we should say, coupé one, parti three, eight coats.

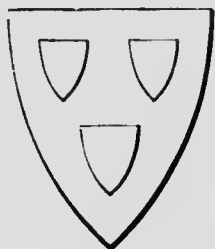
² Plate xvi. Coupé one, parti three in chief, parti one in base. ³ Macd. 2748.

⁴ See 'Glover's Rules,' per Dallaway, *Inquiries*, 369 note; Boutell, *Heraldry* (1864), 138.

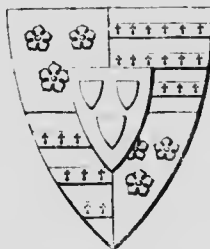
⁵ The word inescutcheon has with us the meaning of a shield which is placed *on* another shield.

termed in England an escutcheon of pretence. It may also contain arms which have been granted as an 'additament of honour.'

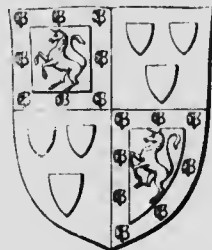
The use of the escutcheon appears to have anciently prevailed among the Emperors of Germany, who, says Nisbet, always placed their paternal arms in one, and Guillim mentions an example in England as early as the reign of Richard II. (1377-99), in which the inescutcheon was placed on the paternal arms.¹ Probably the earliest Scottish example of this is on the shield of Archibald, fourth Earl of Douglas, in 1401, which we have already referred to. There the shield is that of his Moray inheritance, derived from his mother, or perhaps still in expectation, as the seal was probably made during her lifetime.² In the arms of Walter Stewart, Earl of Atholl (1430),³ and Alexander Gordon (paternally Seton), first Earl of Huntly



Hay, Earl of Erroll.



Hay, Marquis of Tweeddale.



Hay, Earl of Kinnoull.

(1457), the charges in the shields surtout are arms of dominion, namely, a ship and three lions' heads for the lordships of Caithness and Badenoch respectively.⁴ The Duke of Abercorn bears similarly the arms of the Dukedom of Chatelherault. But more frequently the coat surtout was the paternal arms, as in the arms of Archibald 'Bell the Cat' (fifth Earl of Angus), in 1482-3 and his successors. In 1421, the same arrangement is observed by Lord Tweeddale's ancestor, Sir William Hay of Locherwort, who married the eldest daughter and co-heir of Sir Hew Gifford of Yester—his arms on his seal, which is appended to the Charter of founda-

¹ Nisbet, *Armories*, p. 97.

² It is to be noted also that in his next seal, in 1409, the inescutcheon is omitted, and in his seal of 1413-1419 the Moray arms reappear as a third quarter.

³ Plate xxxiii.

⁴ Laing's *Catalogue*, i. 794 and 361; Macd. 2573 and 1065.

ARMORIAL SHIELDS AND MONUMENTS

Continued

- 1. 1515: *James Douglas, Earl of Mar, and William Hay of Talloch.*
- 2. c. 1498: *James Douglas, Earl of Mar (armorial lozenge on his tombstone, Old Church of Dalkeith).*
- 3. c. 1498: *Joan, third daughter of James I. Countess of the above James, Earl of Mar (armorial lozenge on her tombstone, Old Church of Dalkeith).*
- 4. a.d. 1564: *Maria Queen of Scots. Countess of the above James after the death of Francis II.*
- 5. a.d. 1587: *Alison Douglas, daughter of Robert, Master of Angus; widow of James Home of Westburn.*
- 6. 1600: *Margaret, fifth daughter of Hugh, Earl of Eglinton. Countess of Robert, Earl of Winton.*
- 7. *Queen Mary II, wife of William III.*
- 8. a.d. 1435: *Margaret, eldest daughter of Robert III. Countess of Douglas. In the fountain.*

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ARMORIAL SHIELDS AND LOZENGES

Continued.

1. A.D. 1513; Margaret Cockburn, wife of William Hay of Tallo.
2. c. 1498; James Douglas, first Earl of Morton (armorial lozenge on his tombstone, old Church of Dalkeith).
3. c. 1498; Joan, third daughter of James I. Countess of the above James, Earl of Morton (armorial lozenge on her tombstone, Old Church of Dalkeith).
4. A.D. 1564; Mary Queen of Scots. Counter-seal of her Great Seal after the death of Francis II.
5. A.D. 1535; Alison Douglas, daughter of George, Master of Angus; widow of James Home of Wedderburn. Seal.
6. c. 1600; Margaret Montgomery, daughter of Hugh, Earl of Eglinton, Countess of Robert, first Earl of Winton. Seal.
7. Queen Mary II., wife of William III. Signet.
8. A.D. 1425; Margaret, eldest daughter of Robert III., Countess of Douglas, Duchess of Touraine.

PLATE XXV





tion of the Collegiate Church of St. Bathan's in the year 1421, being quarterly, first and fourth, azure, three cinquefoils, argent, for Fraser of Olivercastle, on account of a previous alliance; second and third, gules, three bars, ermine, for Gifford of Yester; overall (surtout), argent, three escutcheons, gules, the paternal arms of Hay.¹ The bearings of the three noble families of Erroll, Kinnoull, and Tweeddale may here be appropriately referred to, in illustration of the different modes of marshalling. While the Earl of Erroll, as head of the House of Hay, merely carries the paternal arms of the family, and the Marquis of Tweeddale adopts the blazon already noticed, the Earl of Kinnoull bears, first and fourth, azure, a unicorn, salient, argent, armed, maned and unguled, or, within a bordure, of the last, charged with eight half thistles, vert, impaled with as many half roses, gules, being a coat of augmentation; second and third, argent, three escutcheons, gules, for Hay.²

The modern custom by which a man surmounts his arms with an inescutcheon of the arms of a wife who is heraldically an heiress, placed indifferently on the centre of a quartered or simple coat, was introduced on a later day from England, where it had come into use in the sixteenth century.³ Sir George Mackenzie, after describing the older form,

¹ Nisbet, *Essay on Armories*, p. 98.

On the rudely executed seal of Sir William Hay of Tallo (Laing's *Catalogue*, No. 1223), appended to an indenture dated 1473, the arms of Hay are similarly carried surtout, the bearings of Fraser and Gifford, however, being transposed. (See also arms of 1513, plate xxxi.) Sir George Mackenzie objects to a different arrangement adopted by the Earl of Home, who bears quarterly, first and fourth, vert, a lion rampant, argent, armed and langued, gules, for Home; second and third, argent, three papingoes (popinjays), vert, beaked and membered, gules, for Pepdie; over all, an escutcheon, or, charged with an orle, azure, for Landell. 'But these coats,' says Sir George, 'might have been better marshalled thus, first and fourth, Pepdie, second and third, Landell, and the Home arms surtout, or above all; or, first and fourth, Home, second, Pepdie, and third, Landell—either of which had been more proper.' *Science of Heraldry*, chap xxiv.

² These arms occupy the first and fourth grand quarters of Lord Kinnoull's escutcheon. The second is charged with three bars wavy for Drummond, which now forms a part of the family surname; while the third consists of a coat of augmentation (also for Drummond), viz. a lion's head erased, within a double tressure flowered and counter-flowered.

³ In 1854 it was argued (quite unnecessarily) for Mr. Constable Maxwell, the successful claimant for the peerage of Herries, that Sir John Maxwell, Lord Herries, who in 1567

proceeds: 'Sometimes also (says Guillim) he who marries an Heritrix may carry her arms in an Inescutcheon upon his own, because the Husband pretends that his Heirs shall one day inherit an Estate by her, it is therefore called an Escutcheon of Pretence; but this way of Bearing is not known abroad upon that occasion.'¹

Most heraldic writers, however, are of opinion that, until the husband has issue by the heiress, and until the death of her father, he should only *impale* her arms, because he cannot, till then, transmit her inheritance to his posterity.

An additament of honour, though, as we have seen, frequently marshalled with the paternal coat quarterly, is at times marshalled or surtout, as in the case of the ensigns of the Earldom of Winton, *azure*, a star of twelve points, which the first Earl placed over his ancestral coat of Seton, and which are now borne impaled with *gules*, a sword impaled proper supporting an imperial crown.

obtained the patent already referred to, of his own Maxwell arms and the Herries arms of his wife quarterly (see above, p. 121 and plate vi.), did so, as, without authority, he could not have borne his wife's arms, those of an heiress, otherwise than on an escutcheon of pretence. But, as we have seen, the escutcheon of pretence was not usual then for that purpose in Scotland. Maxwell had other sufficient reasons for matriculating his arms: he was a second son, and he had become *jure uxoris* a lord of parliament. By matriculation he had his cadency difference—a red label—assigned to him, and, as it were, his marriage recorded at the same time.

¹ Mackenzie, *Heraldry*, chap. xxiv. See Guillim (ed. 1638), 384, 387.

CHAPTER VIII.

THE CREST : WREATH, CREST-CORONET, CHAPEAU : MANTLING : HELMET : MOTTO : WAR CRY.

THE CREST.

ANCIENT documentary seals, which are our chief authority for the antiquities of coat armour, afford as valuable information regarding Crests,¹ Helmets, Mottoes, and other exterior heraldic ornaments. (The CREST (*Crista*), as is well known, was a figure affixed, at an early age, to the warrior's helmet, for the purpose of distinction in the confusion of battle; and there can be no doubt that, like devices on shields, it was in common use long before the era of hereditary bearings.) On the first introduction of heraldry the heraldic ensigns were placed on the shield. Afterwards they were repeated on the surcoat, helmet, mantling, wreath, crest, and horse caparisons. It is natural that at this period the crest, which added nothing to the shield, should not appear in addition to the shield on its owner's seal, unless the seal was equestrian. The idea of a crest with a meaning of its own was attained to as early as 1224, when a peacock's head and neck appears on the helmet of Mathieu de Montmorency; but such a crest, in the first

¹ The crests which were actually affixed to the helmet were structurally of two kinds—the one, which took the form of a plume sometimes shaped like a fan or a crest or wing of a bird, was, it is believed, made in general of feathers; the other, which imitated such things as lions, men's heads, etc., was, we learn, constructed of boiled, shaped, and painted leather.

² Among the Greeks the helmet was very commonly surmounted by the crest, which was often of horse-hair, and made so as to look both imposing and terrible. In the Roman army the crest served not only for ornament, but also to distinguish the different centurions, each of whom wore a casque of a peculiar form. See Smith's *Dictionary of Greek and Roman Antiquities*, sub voce '*Galea*.'

instance, at least, seems to have been both personal and temporary, and its connection with its wearer's arms does not appear to have been sufficiently established to warrant its being added to the armorial achievement on the seal before the end of the thirteenth or the commencement of the fourteenth century. The crest then, in its full development, was the badge of the wearer which he had selected to place on the top of his helmet, whether it was derived from his shield or not.)

(The crest is now generally considered a part of every normal heraldic achievement, but it is in reality only the badge used on the helmet.¹) No helmet, no crest, and there are several old English families who have never used one.² Every gentleman now who is entitled to a grant of a coat of arms is considered to be entitled to a grant of a crest. On his application also the Lyon King-of-Arms may alter his crest, as any other part of his heraldic bearings independently of the rest. His crest may or may not have any connection in meaning with his arms, or be alluded to by his motto.

The use of crests (or helmets) by clergymen—a frequent practice both in England and Scotland, and recognized in Germany—is improper if the clergyman is considered disentitled by his profession to fight. But the theory of all churches is that there are cases in which the clergyman may have to take the sword as well as its consequences.³ Why, then, should he not take a crest in token that he is ready for any emergency? The medieval theory, that the clergy could not shed blood without committing irregularity, did not prevent the clergy from taking the field. And whatever the weapons of offence they fought with personally may have been, the warrior bishops who fought for England and Scotland respectively in the palmiest days of heraldry, and clothed themselves in armour did not, we take it, debar themselves from personally wearing

¹ When seen apart from its helmet, a badge which is used as a crest is known from other badges and devices by the wreath, chapeau, or crest-coronet on which it stands, the presence of which in revenue cases has been held to establish its heraldic character.

² *Glossary of Heraldry*, p. 93.

³ When a clergyman happens to be a peer or a knight, he is entitled to place a helmet and crest over his escutcheon; and several bishops of Durham have timbred their shields, in token of their temporal dignity as earls-palatine. Archbishop Sharpe had helmet, mantling, crest, and wreath; A.D. 1662. *Macd.* 2451.

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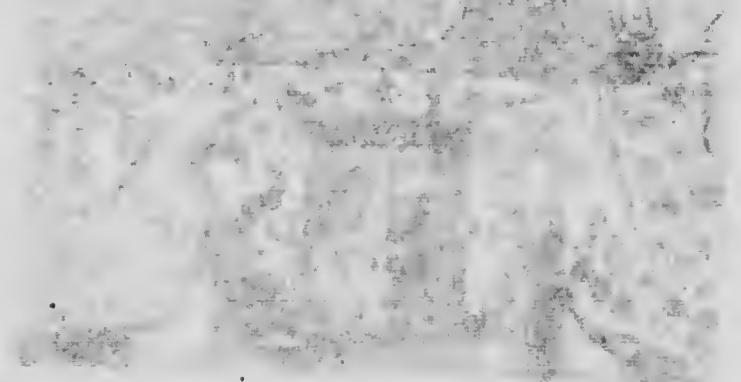
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ISABELLA, DAUGHTER OF JAMES I.

Miniature of Isabella, daughter of James I. of Scotland and wife of James II. of England. From the same as that in the British Museum.



ISABELLA, DAUGHTER OF JAMES I.

Miniature of Isabella, daughter of James I. of Scotland and wife of Francis, Duke of Brittany, 1469. From *La Somme des Vices et des Vertus*, 1464.



ISABELLA DAUGHTER OF JAMES I

ake of



crests when, from a military point of view, crests were expedient. Crests were forbidden to the Knights of the Hospital and the Temple by the rules of their Orders. But crests for them in the Crusades were unnecessary, and would only have been worn for display; and by the same rules they were forbidden to fight in any other war. At the same time, as they did not keep the latter rule, perchance they did not always respect the former. On the other hand, there is nothing to suggest that a clergyman ought to exercise any right he has to a crest. If he prefers as a minister of peace to omit it, and does so, he does not thereby prejudice the rights of his heirs.

With the exception of Queens Regnant, who place their arms on a shield, no *ladies* are entitled to bear crests. Even the Queen Consort, who places her arms within the Garter as a Lady of that Order, places her crown directly on the Garter. On many of the beautiful altar-tombs exhibiting the recumbent figures of a 'baron and femme,' in the fifteenth and sixteenth centuries, the crest of both the husband's and the wife's family are sculptured at the feet of the effigies. This, however, in the lady's case, is rightly only a record of the family from which she sprang, not an assertion that she *inherited* their crest. But the use of crests as well as coats of arms by ladies appears to have been noticed in England in the reign of Queen Elizabeth, for in 1562 their use is expressly interdicted, in the following terms, at a Chapter of Heralds held at Broiderer's Hall, London: 'That noe inheritresse, maid, wife, or widow shall beare or cause to be borne any crest or cognizances of her auncester but as followeth. If she be unmarried to beare in her ringe cognizances or otherwise the first coate of her auncestors in a lozenge; and during her widowhood to use the first coat of her husband impaled with the first coat of her auncestor, and if she be married with any that is no gentleman, then soe to be exempted from this conclusion.'¹ Whatever we may think of the positive allowances of this curious ordinance, we must observe that it contains no allowance at all of crests.

Instances of ladies granted crests, for the use of their heirs male, of course,

¹ If the 'first coat of her ancestor' means that in the case of a quartered coat she wears the coat which appears in the first quarter, the ordinance is in breach of all good heraldry.

occur in the Lyon Register about the year 1814. These include Miss William Boyd Robertson of Lawers, sole heiress of her uncle, Archibald Robertson of Lawers; Mrs. Farquharson of Invercauld; and the 'Hon. Dame Mary Frederica Elizabeth Hood Mackenzie of Seaforth,' eldest daughter of Francis Lord Seaforth (who died without surviving male issue), and widow of Sir Samuel Hood, Baronet. In a later volume of the same Register (A.D. 1851), under the lozenge containing the arms of Miss Elizabeth Kinnear Stark Dougall, the heiress of Scotsraig, we find an escroll inscribed with the motto 'Stand Fast.' No crest, however, is embraced in the illumination, but provision is made for a crest, in the event of the succession of an heir-male, viz. a lion's head erased, gorged with an antique crown, with the motto '*Auxilio Dei.*' When it is considered that the son of the heiress inherits the crest provided without difference, it is obvious that no such provision ought to be made in the case of a grant or matriculation in favour of heirs-portioners.¹

Corporate Bodies are usually regarded as having a right to register arms, and some ancient chartered bodies have always carried the arms of their founders. But on what principle corporation arms are ensigned with a helmet is a question, as has been truly observed 'not easily answered.'² A crest might be placed on the burgh standard, under which the citizens might be called to fight; and may still appear as a badge on the corporation coaches and liveries. But it is exceedingly doubtful if the Provost could have timbered his helmet with it. A very early instance of a grant of a crest, as well as arms, to a corporation is the grant to the Tallow Chandlers Company of London in A.D. 1456. The crest consists of a demi angel bearing a golden dish, on which is the head of the Christian Prometheus, John the Baptist, though from the bloody mark on the forehead in the emblazonment one might almost have mistaken it for the head of Goliath.³ The earliest instances of armorial grants to English corporations occur before the middle of the fifteenth century, in the case of the

¹ Accordingly there is none in such matriculations in the Lyon Register, according to present practice.

² *Glossary of Heraldry*, p. 94.

³ *Memorial Catalogue, Heraldry Exhibition*, Edinburgh, 1902, No. 34, Plate v.

Ironmongers, Drapers, and Vintners of London, to whom crests and supporters were afterwards assigned.¹

In Scotland, while respectable corporations are granted arms in the same way as respectable individuals, no rule has been observed in the granting or withholding of crests. Thus the Bank of Scotland in 1701 received with its arms (and supporters) a crest—a cornucopia diffusing money, and a motto, '*Tanto uberior.*' The National Bank in 1826 received a coat of arms only.

The Great Seal of Richard I. in 1198 is perhaps the first seal to exhibit a crest. The crest consists of a plume or fan, in the centre of which is a lion passant guardant. This, still the Royal crest of England, was a mere repetition of a lion from his shield, as many crests still are, among others the Royal crest of Scotland. The fan or plume, when used alone as a crest—in one form or another for long the commonest crest in use—was frequently, if not always, heraldically the same as these, in so far as it was made of the bearer's colours, or actually bore a repetition of part or all of the ensigns of his shield. The *Armorial de Gelre*, and other early continental mss.,² preserve numerous illustrations of the custom. One instance only need be cited here—the plume of Thomas, thirteenth and last Celtic Earl of Mar, which is seen both in Gelre's *Armorial*, and on the Earl's own seals, A.D. 1358-68.³

In 1224, as we have observed already, Mathieu de Montmorency took the head and neck of the peacock for his crest. In doing so he introduced a new and independent idea into his ensigns, as his arms were a cross cantoned with four alerions. In 1251 the seventh Earl of Dunbar appears on his seal, on his horse, with a shield bearing a lion rampant, and for a crest a crescent.⁴ The seals of Edmund Crouchback, Earl of Lancaster (son of Henry III.), who died in 1296, exhibit examples of crests; and their use

¹ See Nichols, *Herald and Genealogist*, vol. i. p. 36, for a detailed notice of the Ironmongers' Arms.

² For a selection of examples from which see Woodward's *British and Foreign Heraldry*, vol. ii.

³ Plate xii.; Macd. 1861-2. It consists of two expanded wings of ten feathers each, bearing across them his arms, *Azure a bend between six cross-crosslets fitchée, or.*

⁴ Plate viii. On this seal and on its counterseal the lion is borne *contourné*.

in the time of the poet Chaucer appears from his description of the one borne by Sire Thopas :

‘ Upon his crest he bare a tour,
And therein stiked a lily flour.’

Alexander III. of Scotland bore a fan-shaped crest in the year 1265, the crest being repeated, as was usual with that style of crest, on the head of his horse.¹ Robert II. (1370), before he reached the throne, bore a talbot's head and neck collared :² afterwards he adopted a lion statant guardant with a long wavy trailing queue.³ His first crest of the talbot's head is the more to be noted as his father, Walter, the High Steward before him, bore (c. 1314-18) a lion rampant both on his helm and on the head of his horse.⁴ The royal lion-crest of England appears, though not alone, as we have seen, on the seal of Richard I. in 1198. It reappears upon a cap of estate on the Great Seal of Edward III., who acceded to the throne in 1327. That monarch, however, does not appear to have retained it as his crest always and alone, for in 1333 he granted his eagle-crest (*tymbriam nostram de aquila*) to William Montacute, Earl of Salisbury. By a subsequent concession he made it *hereditary* ;⁵ which shows that, though crests in ordinary were then, and for long after, more frequently altered than arms, there was nothing incongruous in the idea of inheritance in them.⁶ According to Dallaway, even in 1793 ‘ crests are not held to be absolutely hereditary, but may be assumed.’⁷ If so, the older law lingered longer in England than in Scotland. But it is certain that in both countries the granting of crests had long previously been held to be a part of the business of the Officers of Arms, and that mere assumption conferred no right of exclusive possession. In Scotland the provisions of the Act of 1672 have always been held to apply to crests as well as everything else armorial. Sir George Mackenzie quotes a grant of a crest by

¹ Plate ii. ; *B.M. Cat.* 14,788.

² Macd. 2548.

³ Plate ii. ; *B.M. Cat.* 14,812.

⁴ Macd. 2543.

⁵ For the terms of these grants, see Dallaway's *Inquiries*, p. 388 *note*. The second concession embraces a substantial grant of lands ‘ *ut honorem dictæ tymbriæ posset decentius conservare.*’

⁶ On 12th January, 1293-4, Richard II., in altering the white label on the Earl of Nottingham's leopard crest to a crown, on the score that the leopard debased by that label belonged to the eldest son of the King, admits that the Earl had a hereditary title to the former crest, and gives the amended crest to him and his heirs equally hereditarily (*Pat. Roll*, 339).

⁷ P. 338.

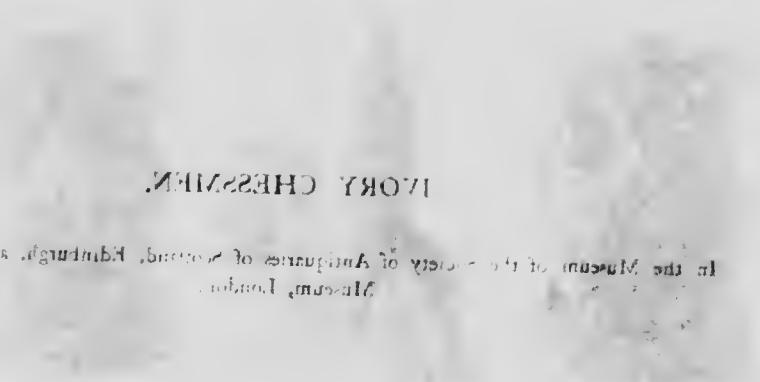
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PLATE I



IVORY CHESSMEN.

In the Museum of the Society of Antiquaries of Scotland, Edinburgh, and the British Museum, London.

IVORY CHESSMEN.

In the Museum of the Society of Antiquaries of Scotland, Edinburgh, and the British
Museum, London.



IVORY CHESSMEN



Sir James Balfour, Lyon King-of-Arms, dated 1631, to Sir James Galloway, 'Master of Requests to our dread Sovereign Charles King of Scotland.' In compliance with the petition of the said 'Master of Requests,' that the Lyon may give and assign unto his ancient coat-armour (a lion rampant) 'a crest, with scroll an' motto, which he may bear without wrong-doing to others,' the King-of-Arms assigns a suitable crest, scroll, and motto, 'as here in the margin adjected is to be seen; all which arms, crest, escroll, and motto, I the said Lyon King of Arms do by these presents ratify, confirm, give, grant, and assign unto the said Sir James Galloway, Knight, and to his posterity for ever,' etc.¹ The popular notion, however, that no individual property in crests exists is a principle that within limits is acted upon every day by heraldic authorities.

The Earl of Dunmore has the same crest and motto as his chief, the Duke of Atholl. The Irish baronets, Crefton of Longford House and Crofton of Mohill, have the same crest—seven ears of wheat on one stalk proper: motto, '*Dat Deus Incrementum.*' Lord Rathmore, younger son of the third Lord Plunket, was granted in 1896 the crest and motto of his elder brother—a horse passant argent charged on the side with a portcullis sable: motto, '*Festina lente.*' Lord Pentland, whose father was a cadet of Sinclair of Dunbeath, has been granted Sinclair of Dunbeath's crest and motto (1909), a cock proper: motto, '*Fidelitas.*'

It is impossible to explain the practice except on the theory that a crest is a kind of family totem which anyone may be given if he is a member of a family, or is indeed of the same surname, just as a tartan may be worn by anyone, provided he is a member of the clan. The theory that the crest and motto are things which are not worth troubling about cannot be admitted as an alternative view. There is more to be said for the German theory that it is not less but more important to difference the crest than the arms.² The frequent practice of the College of Arms of England in granting

¹ *Science of Heraldry*, chap. ii.

² A minor difference in the crest, such as the substitution of a wyvern for a demi-wyvern, is, however, quite inadequate as a difference when the same motto and same arms are granted, as in the case of Clifford of Flaxbourne, who, if Burke's *Peerage* is right, was granted the whole achievement of Lord Clifford with the above-mentioned substitution, and, as it happened, without Lord Clifford's supporters.

already existing crests with differences consisting of charges placed upon them has doubtless its technical defects; ¹ but it must not be forgotten that designing of new devices as simple as any that already exists is at this date a difficult task, and that the heraldic authority is inclined to accede to the utmost possible extent to the natural desire of a grantee to be given ensigns that are generically those of his chief. Still, these things do not account for the fact that hundreds of families share such crests as a lion's head erased, a hand holding a dagger, and so on.

The principle, which has been accepted avowedly or tacitly, that though two devices are the same they are different crests if the mottoes which accompany them are different, has at least technically eased the situation. It goes without saying that identity of motto does not make the crest the same if the device is different. But differences might have been introduced in many more cases with perfect simplicity, and would have avoided confusion, as well as given the grantee a greater pride in his cognizance, and more feeling of responsibility for its honour.

When, again, in modern times new crests have been invented, they have been devised frequently in contempt of the tradition that the crest is a thing that goes on a helmet—peradventure into battle, and certainly to the tournament. 'For crests,' says Mackenzie in 1680, 'men choose what they fancy, only it is not proper to choose such things as could not stand or be carried by warriors upon their helmets, such as balances or such other things which cannot either stand fixed or wave with beauty.'² A crest consisting of a hand reaching to a weapon, or with a weapon falling from it, is difficult to imagine on a helmet; for the essence of the device is that the weapon for the moment is attached to nothing. All that needs be said is that these crests bear their date marked broad on them. A sunflower with a sun over it in space, or a cloud of bees round a hive, could not have been taken into action unless the sun was supported on a very long wire, and the bees were real and went in on their own wings alive. Still, if

¹ Brooke of Colebrooke, Baronet, bears a badger ('brock') passant argent for his crest. Brooke of Summerton, descended from a sixth son of the family, has the same crest differentiated by a crescent and a martlet on its side.

² *Scien. Heraldry*, chap. xxiv.

anyone prefers a device which belongs to the age when armorial bearings never go into battle, not even the pipe banners of a Highland regiment, it would be a strong measure for any heraldic authority to refuse it.

In the case of many Scottish families, the same crest has been carried unchanged for a long period. Thus, the swan's head-and-neck which figures on the seal of Sir James Lindsay, Lord of Crawford, in 1357, is also to be found on that of David, ninth Earl Crawford, in 1558.¹ After a slight intermission, during which an entire swan with a ring in its bill took its place, it was resumed by the family, and is with little variation the crest of the twenty-seventh Earl to-day. The Douglas Earls of Angus bore a plume for their crest from the time of the second Earl (1402-1437), till Archibald, the sixth Earl, ended the series with a peacock's tail expanded.² The eighth Earl, who succeeded him, almost immediately instituted the crest of a salamander in flames,³ which was retained as consistently by his successors, and is borne to-day for the name and titles of Douglas by the present twenty-second Earl, the Duke of Hamilton. In like manner, the wild boar, which appears as a crest on the seal of James Douglas of Dalkeith in 1370,⁴ is still carried in the same capacity by his descendant and representative, the nineteenth Earl of Morton. The seal of Alexander Napier, first of Merchiston (1453), exhibits an arm embowed, the hand grasping an eagle's claw. A crescent was placed in the hand instead of the claw by Sir Archibald Napier of Merchiston, seventh in lineal descent from Alexander, in the year 1582, or by John, his son, the celebrated inventor of Logarithms, or by Archibald, his grandson, the first Lord Napier (1627);⁵ and in this form is still carried by the present Lord Napier, the heir of line of the house of Merchiston.⁶ On the other hand, it must be acknowledged that a change

¹ Plate xxxii.; Macd. 1633, and see 1634; Laing, i. 510; and precept of sasine in the possession of the Earl of Crawford. As used by Sir James's son and grandson its neck feathers were ruffled, and its head bore a plume. The bird's wings were added at an early date.

² Plate xxxii.; Macd. 681, 690.

³ Plate xxxii.; Macd. 691.

⁴ Plate xxxii.; Laing, i. 257; Macd. 725. It appears still earlier, in 1345, on a seal which is probably that of his uncle—William, 'the knight of Liddesdale.' Macd. 724.

⁵ Laing, i. 621, 625, and 628; Macd. 2095, 2099, 2102.

⁶ The older crest, however, is borne by the Milliken Napiers (Baronets), the heirs-male of the Merchiston family.

of crest has been not unfrequent in the heraldic practice of Scotland. Thus, instead of the present well-known crest of the Hamiltons, an oak tree and frame-saw, we find a boar's head and neck on the seal of Sir John Hamilton, the chief of the family in 1388.¹ His grandson's, the first Lord Hamilton's, crest was an oak tree, the trunk of which his dexter supporter was represented in the act of sawing with his horn. The ultimate device, the tree traversed by a frame-saw, appears only in 1525 on the seal of the next generation.² Again, the winged dragon, which ultimately became the crest of the Seton family, does not appear on the seals of the earlier Lords—that of William, first (?) Lord, exhibiting an antelope's or perhaps a ram's head in the year 1384, while on the seal of George, the second or third Lord Seton (c. 1480), the crest consists of two spears or pennons erect.³

In 1357 the seal of Sir Robert Erskine of that ilk, ancestor of the Earls of Mar, and of Mar and Kellie, shows a boar's head.⁴ In 1369 he had changed it for a griffin's head, neck, and wings,⁵ which Sir Thomas, his eldest son, husband of the heiress of Mar, also adopted (1364),⁶ as did his second son, Sir Nicolas, Lord of Kinnoull (1370).⁷ The crest of the grandson of Sir Thomas, namely Thomas, second Lord Erskine, was a swan's head, neck, and wings, which the next three or four lords retained; but in 1596 the seventh Lord (second Earl of Mar)'s crest was the hand holding a scimitar,⁸ which crest is still used under the name of a cutlass by the Earl of Mar, and, altered to a dagger (a skian dhu), by the Earl of Mar and Kellie.

The practice of bearing two or more crests, although frequent in Germany and other European countries, has, until recently, been of very rare occurrence in Scotland.⁹ Dallaway gives an early English example in the seal of Richard Earl of Warwick, commonly called 'The Kingmaker,' which displays both the crests and the supporters of the noble Houses of Beauchamp and Montagu.¹⁰ Not a single example, however, of more than

¹ Plate xxxii. ; Laing's *Catalogue*, i. 400 ; Macd. 1200 ; Laing, ii. 469.

² Plate xxxii. ; Laing, ii. 469 ; Macd. 1205.

³ Laing's *Catalogue*, Nos. 738 and 739 ; Macd. 2427, 2430.

⁴ Macd. 859.

⁵ Plate viii. ; Macd. 860.

⁶ Plate viii. ; Macd. 861.

⁷ Macd. 862.

⁸ Macd. 870.

⁹ Woodward states that 'before the year 1809 no instance can be found of more than a single crest being used by an individual north of the Tweed.' *Heraldry*, ii. 241.

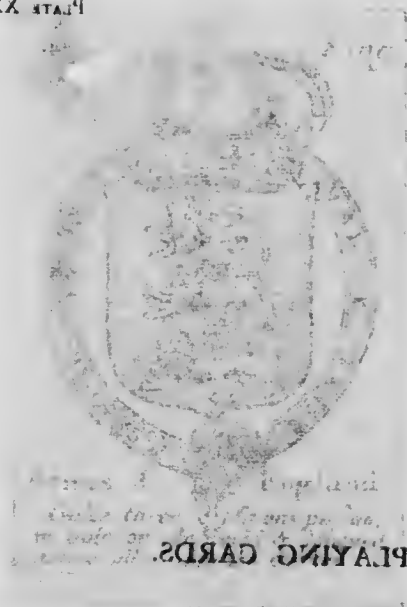
¹⁰ *Heraldic Inquiries*, plate xxiii.

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PLATE XXVIII



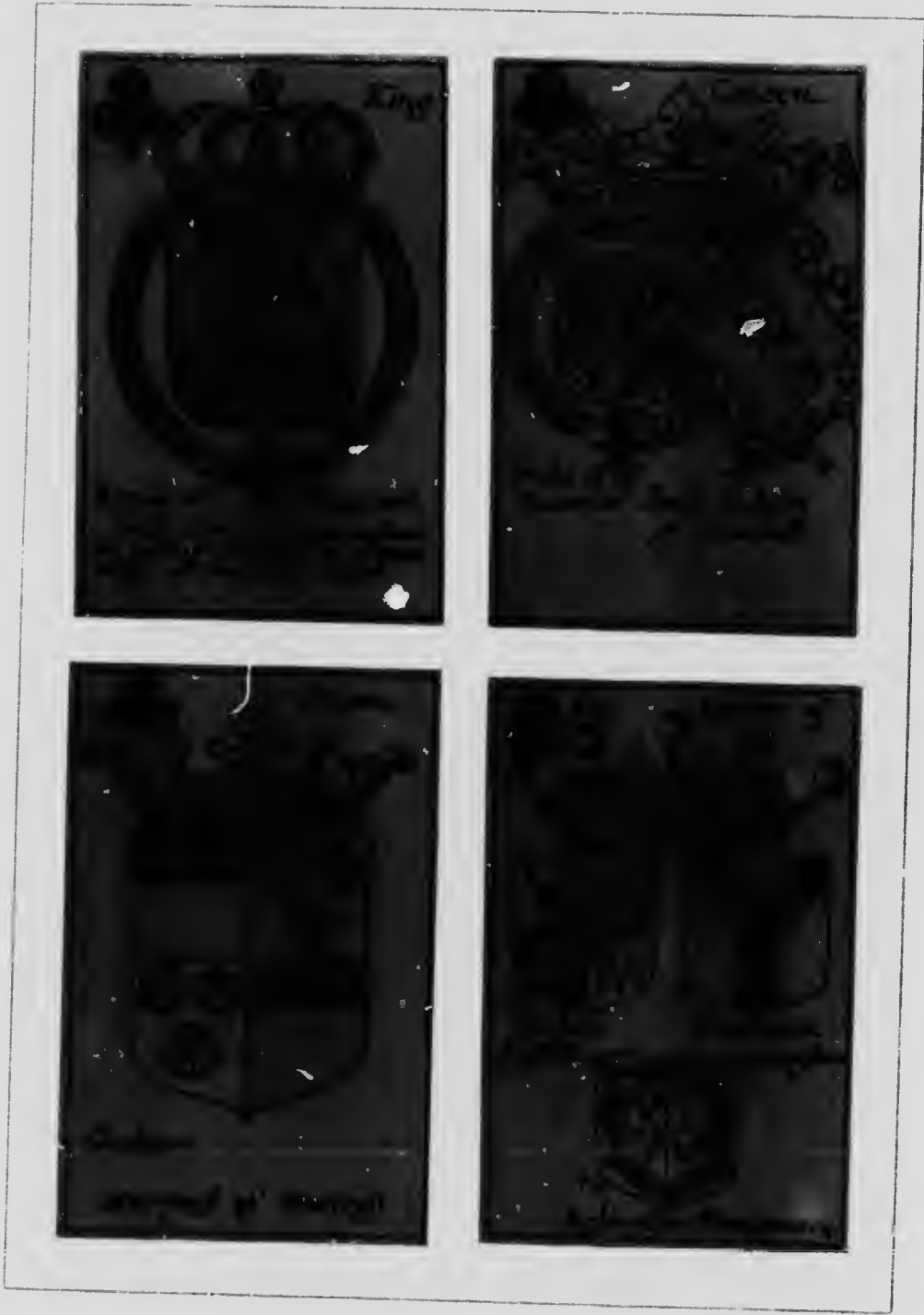
HERALDIC PLAYING CARDS.

1. James of England.
2. Duke of Lennox Scott, Duke of Buchan.
3. Graham, Marquis of Montrose.
4. Earls of Buchan, Glencairn, and Haddington.



HERALDIC PLAYING CARDS.

1. Armes of England.
2. Duke of Lennox Scott, Dutches of Buccleuch.
3. Graham, Marquess of Montross.
4. Earles of Buchan, Glencairn, and Eglington.





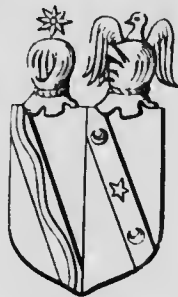
one crest is to be found in Laing's *Catalogue*;¹ nor, in that by the present Albany Herald, Mr. W. Rae Macdonald;² and among the numerous plates in Nisbet's largest work, his *System of Heraldry*, 1722, 1742, only one instance occurs—and it is not Scottish—to wit, the achievement of Colonel Alexander M'Dowall, 'Baron of Lodvica in Swedland' (a cadet of Mackerstoun), exhibiting *three* crests, and copied from a patent of nobility granted to the Colonel's father by Charles XI. of Sweden, in the year 1674.³

A few instances of two or more crests are to be found in the later volumes of the Lyon Register. Thus, Sir Robert Dalrymple-Horn-Elphinstone (1828), Alexander Dundas-Ross-Cochrane-Wiseheart-Baillie of Lamington (1837), and Adam Duncan-Morison of Naughton (1853), each carry three crests, there being, however, at least three different quarterings in their respective escutcheons. In the same record, as previously stated, on the margin of a blazon engrossed in the year 1840—being the quarterly coat, with a single crest and motto, assigned to William Mitchell-Innes of Parsonsgreen—we find a second crest and motto granted by the Lord Lyon,

¹ *Ancient Scottish Seals*, 1850, containing about 900 entries of heraldic seals.

² *Scottish Armorial Seals*, 1904, containing over 3000 entries.

³ See Nisbet's *Heraldry*, i. 413. A curious example of an escutcheon surmounted by two helmets and crests occurs on a sculptured stone panel over the arched doorway of the house in Jedburgh in which, according to tradition, Mary Queen of Scots held a justice ayre in 1566, and subsequently passed several weeks of sickness. The shield contains two coats impaled, the dexter coat being charged with a bend surmounted by a cost or ribbon wavy, while the sinister also exhibits a bend charged with a mullet between two crescents. The first coat may possibly be the bearings of Wigmure or Wigmer, as given in Workman's MS. and quoted by Nisbet (i. 103) viz. argent, a bend sable, charged with another waved of the field. The second coat is that of Scott. The two helmets and crests, to which we specially allude, are, dexter a helmet facing dexter ways, but with apparently an approach to the full face, and ensigned with a sunflower (?) for crest; the sinister, certainly side-long, with the visor open, the crest a bird's head and neck between two displayed wings. Below the shield, on separate scrolls, are two mottoes—dexter, '*Avis La Fin*'; sinister, '*Solum Deo confido*.' A careful sketch of the panel and its arms, which do not appear to be in their original setting, will be found in Messrs. Macgibbon and Ross, *Castellated Architecture*, iv. 115; but the carving has been poorly executed, and is probably not earlier than the seventeenth or eighteenth century.



in 1860, to Alexander Mitchell-Innes of Aytou, eldest son and heir of the original patentee.¹ The anomaly of two or more crests over an unquartered escutcheon is occasionally to be met with in these days.² Even in the case of many quartered coats, the propriety of bearing more than one crest is extremely doubtful; owing to the frequency of the practice, an order was issued in England by the Deputy Earl Marshal, in the year 1817, forbidding the assumption of crests, on the adoption of new quarterings, in virtue of descent from heiresses and co-heiresses. While it is possible to place several quarterings of arms on one shield, it is doubtfully possible to place more than one crest on one helmet. If, then, each crest is placed on a separate helm, there is still the difficulty that even a great lord has only one head.

As we have seen, crests which were no mere repetition, like the decorations on horse housings, of the bearings of the shield, but which conveyed ideas of their own, were in existence as early as 1224, and in Scotland as early as 1251. Still it was not till the next century—in Scotland 1334—that the crest was included in the armorial achievement. It is then that it begins to appear on the seal which does not represent the knight himself, but only represents his armorial bearings in a group. The inclusion of the crest in this achievement of arms does not imply that it had become hereditary; many of the crests which thus appear in fourteenth century seals were soon abandoned and superseded. It seems, however, to indicate the rank and estimation in which the crest was by that time held. It is more than a coincidence perhaps that supporters begin to appear in such seals at the same time as crests. As we shall have occasion to say when dealing with the subject of supporters, we think that their inclusion, perhaps their existence, was a consequence of the inclusion of the crest in the achievement.

¹The crest and motto here referred to were formerly carried by Mr. Alexander Innes, merchant in Edinburgh, descended from the family of Balveny, in the county of Banff—viz. an increscent proper, with the motto, '*Je reçois pour donner*,' as in Lyon Register. See also Nisbet's *Heraldry*, vol. i. plate ix. fig. 5.

²An example of this occurs in the Lyon Register, vol. iv. in 1835, in the achievement of Lord Glenelg. The case of the crests granted to Dr. James Burnes is mentioned above, at page 5.

The earliest Scottish example of a crest associated thus with the family arms is, we understand, that which occurs on the seal of Patrick, ninth Earl of Dunbar, second Earl of March, used by him on 13th March, 1334. The impression of this seal, says that most erudite historian, the late Sir A. H. Dunbar, affords the 'earliest known instance connected with Scotland of family arms on a shield with supporters, helmet, and crest.'¹ Like designs on some quite early shields, this fourteenth century crest is by no means simple. It consists of a tower masoned and embattled, from the battlements of which appears the half-length figure of a lady with flowing hair, holding in each hand a coronet. At each side of the tower is the head and forepart of a lion, one paw resting on the helmet.² It is to be noted that this crest did not become hereditary. Sir Patrick himself did not use it for long. In 1357 his crest over his shield and supporters was a horse's head bridled,³ and in 1367 he was using the same on his helmet on an equestrian seal.⁴

Among others⁵ of the first Scottish examples of this kind of seal, and, therefore, early examples of crests, are the four Erskine seals of 1357-70, already mentioned.⁶ In 1357 William Keith, Great Marshal of Scotland's seal bore his crest, a stag's head,⁷ which reappeared again on the seals of succeeding Marshals. The boar crest of the Swintons appears as a boar's head in 1389⁸ on the seal of John Swinton. The complete boar passant by a tree is on John Swinton of that ilk's seal in 1475.⁹ The seals of Sir James de Lindsay,¹⁰ Sir James Fraser, Sir William Keith the Great Marshal, Robert de Erskine, William de Dishington, the Earl of March,¹⁰ James Douglas of Dalkeith,¹⁰ and Alexander de Lindsay,¹⁰ all seals with crested helms above the arms, are appended to the Act of the Scottish Parliament settling the succession to the Crown in 1371, still preserved in the General

¹ *Scottish Kings*, 1899, p. 149.

² Plate xxxiii.; Macd. 789.

³ Macd. 790.

⁴ Macd. 791.

⁵ In the first edition of the *Law and Practice*, p. 224, we described a seal of David Lindsay, Lord of Crawford, A.D. 1345, with a crest—a key paleways, which General Hutton (*Sigilla*) gives on the authority of a sketch by Sir James Balfour (B.M. Harl. MSS. 4693). Mr. Rae-Macdonald, *Scottish Armorial Seals*, apparently does not consider this seal to be proved. Lindsay used another seal on 5th Jan. 1345-6, without the bordure which this drawing attributes to him. Macd. 1632.

⁶ P. :88.

⁷ Macd. 1448.

⁸ Macd. 2754a.

⁹ Macd. 2755.

¹⁰ Plate xxxiii.

Register House.¹ In addition to the families already mentioned here or on former pages, the surnames of Fleming, Mercer, Ruthven, and Cuningham² are also among those whose seals exhibit crests before the year 1400. The crests of this period, when not plumes, consist in general of the heads of men, women, horses, wolves, stags, lions, goats, boars, rams, griffins, eagles, swans, and peacocks³—in some instances accompanied by wings and other appendages. Walter the High Steward and King Richard II. had assumed, as said, whole animals—lions. Douglas of Dalkeith, also mentioned above, and Douglas of Lugton, had taken a whole boar passant between two trees,⁴ while Sir William de Conynghame of Kilmaurs in 1398 had taken the canting crest of a coney sejant.⁵

Canting crests, like canting arms and mottoes, belong to no particular age of heraldry nor to any particular country. We have just noticed the crest de Conynghame of Kilmaurs of the fourteenth century. If Conynghame was admitted to mean *home of the Conies*, the fact was seized upon to provide a significant crest, regardless of the scripture that the conies are a feeble folk. But great lords and knights, and even ecclesiastics, when men saw symbols in everything, and when there were no symbols, made them, were not fastidious. If canting heraldry helped better to direct the mind it was just all the better heraldry; a pun was held in excellent repute. The vogue of the Rebus, so largely dealt in by ecclesiastics, is an illustration of this interesting latter medievalism.

¹ Laing, i. 510, 350, 463, 310, 304, 294, 527, 511. Macd. 1634, 1004, 1448, 860, 648, 797, 725, 1635.

² Macd. 1964, 2345, 593.

³ The *boar's head* 'garnished brave' and the 'princely *peacock's* gilded train' are both noticed in Canto vi. of the *Lay of the Last Minstrel*. The former was a usual dish of feudal splendour. In Scotland it was sometimes surrounded with little banners displaying the colours and achievements of the baron at whose board it was served. Pinkerton's *History*, i. 432. The peacock was considered, during the times of chivalry, not merely as an exquisite delicacy, but as a dish of peculiar solemnity. After being roasted, it was again decorated with its plumage, and a sponge dipped in lighted spirits of wine was placed in its bill. When it was introduced on days of grand festival, it was the signal for the adventurous knights to take upon them vows to do some deed of chivalry, 'before the peacock and the ladies.'

⁴ Macd. 725, 740.

⁵ Macd. 593.

COATS OF ARMS

- 1. ad. 1366; Alexander Stewart, King of Scots
- 2. ad. 1366; William Fraser
- 3. ad. 1380; Edward Keith
- 4. ad. 1386; John Hay, Lord of Fife
- 5. ad. 1380; Sir Robert Wallace
- 6. ad. 1386; Sir Andrew de Murray
- 7. ad. 1382; William de Murray of Tullibredine
- 8. ad. 1386; Patrick de Hepburn of Hume
- 9. ad. 1371; Sir Alexander Lindsay, Lord of Glenesk, third son of David Lindsay of Crawford
- 10. ad. 1409; James de Gairn
- 11. ad. 1410; Thomas de Claince, baronet of Aberdeen
- 12. ad. 1396; Sir Richard de Gairn, Lord of Gairn
- 13. ad. 1396; Richard, son of the above
- 14. ad. 1370; Sir John de Erskine, Lord of Erskine, first son of Robert Erskine, Lord of Dunfermline
- 15. ad. 1392; Henry of Douglas, Lord of Dunfermline
- 16. ad. 1418; Robert Graham of Fife

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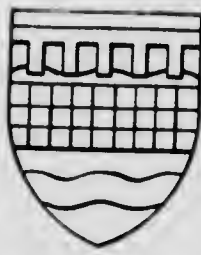
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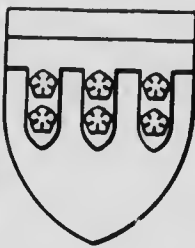
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COATS OF ARMS.

1. A.D. 1296 ; Alexander Stewart, sixth Earl of Menteith.
2. A.D. 1295 ; William Fraser.
3. A.D. 1320 ; Edward Keith.
4. A.D. 1386 ; John Hay, Lord of Tolibothel.
5. A.D. 1220 ; Sir Richard Wallace.
6. A.D. 1296 ; Sir Andrew de Murray.
7. A.D. 1292 ; William de Murray of Tullibardine.
8. A.D. 1366 ; Patrick de Hepburn of Hailes.
9. A.D. 1371 ; Sir Alexander Lindsay, Lord of Glenesk, third son of Sir David Lindsay of Crawford.
10. A.D. 1409 ; James de Shaw.
11. A.D. 1416 ; Thomas de Chalmers, burgess of Aberdeen.
12. A.D. 1296 ; Sir Reginald le Chein, Lord of Inverugie.
13. A.D. 1296 ; Reginald, son of the above.
14. A.D. 1370 ; Sir Nicolas de Erskine, Lord of Kinnoull, second son of Sir Robert de Erskyne, Lord of that ilk.
15. A.D. 1392 ; Henry of Douglas, Lord of Lugton.
16. A.D. 1478 ; Robert Graham of Fyntry.



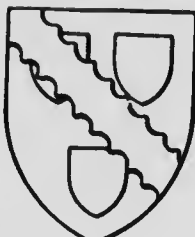
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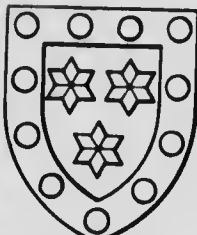
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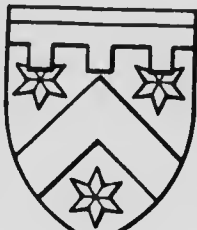
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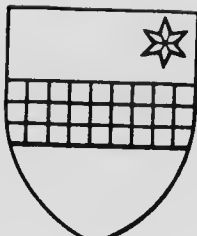
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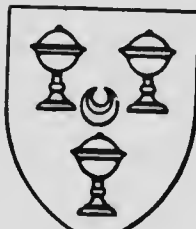
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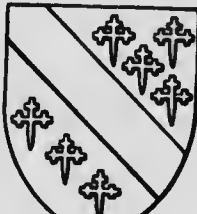
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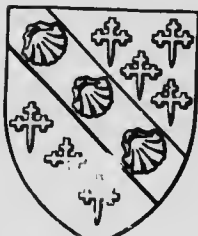
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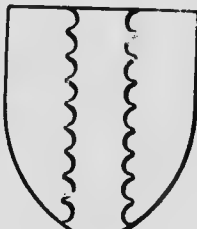
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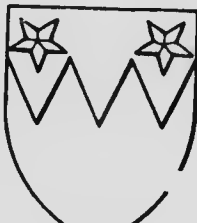
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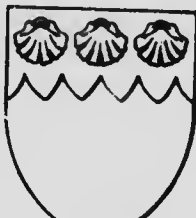
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WREATH, CREST-CORONET, CHAPEAU 193

The mallet (mell), accompanied by a rose at Melrose, and the press and tun at the Preston castle of Craigmillar, are among the many instances which might be cited. A crest of this order later in date, but of all the more perfection of its kind that its meaning is veiled, is the barn-door cock of the Cuthness in lairs. Their mottoes, so far as we are aware, take no notice of it; and that one of the aliases of the bird is chanticleer is no help to anyone who does not know that the surname which is said to mean de Sancto Claro, is in Scotland corruptly spelt Sinclair, and is still more tritely pronounced sin'-cler.

THE WREATH, CREST-CORONET, AND CHAPEAU.

Unless expressly mentioned, the crest is understood to be placed upon the helmet, or, strictly speaking, *within* a WREATH, consisting of a twisted silk-belt, believed by some to have been copied by the Crusaders from the Saracens, by others to be a protection to the helmet in battle, and by others again to be the binding by which the crest and mantling were supposed to be fastened to the helmet, or, in common with the coronet, more of an ornamental covering of the junction between the helmet and the mantling, on the one hand, and the helmet on the other. It is related also that in the days of tilts and tournaments the wreath was twisted together by the lady who chose the victor as her favourite knight. It is said by some writers that in its character it was 'our' bestowed by a lady about the middle of the fourteenth century to take the place of the kerchief or lady's scarf—called the 'kerchief of honour'—which was fastened to a staple at the apex of the tilting-helm.¹

'There many a youthful knight, full keen
To gain his spurs, in arms was seen,
With favour in his crest or glove,
Memorial of his lady-love.'²

¹ An example of the cointise occurs on the seal of Thomas, Earl of Lancaster (grandson of Henry III.), who was beheaded in 1322. See Planché's *Pursuivant of Arms*, p. 175.

² *Lay of the Last Minstrel*. Canto iv. stanza 19. Gloves worn as 'favours': See Pegge's *Curialia Miscellanea*, p. 308.

'Fair lord, whose name I know not, will you wear
My favour at this tourney? . . .

Then he bound

Her token on his helmet.'¹

'I'll wear thy colours in my cap,
Thy picture in my heart.'²

But the wreath of the heraldic achievement is usually tinctured with the principal metal and colour in the bearer's own escutcheon,³ and is represented as if it consisted of an equal number of divisions, which are now in practice restricted to six. In the case of a quartered coat, the principal tinctures are usually supposed to be those of the principal quarter. Sir George Mackenzie, however, considers that the wreath should embrace all the tinctures of the escutcheon, beginning with the field, and proceeding with 'the

¹ Tennyson's *Idylls*, 'Elaine.'

'Many of the greatest tournaments,' says Brydson, 'were held at the marriages of princes. Accordingly, the custom of giving *Favours* at marriages continues to the present day.' *View of Heraldry*, p. 50.

² 'If doughty deeds my lady please,' by Graham of Gartmore. Palgrave's *Golden Treasury*, 126.

³ In like manner, the full dress *Liveries* of servants and retainers are generally of the principal metal and colour of their master's arms. According to Du Cange, the splendid habits which royal households anciently received at great festivals were called 'Liveries,' from the circumstance of their being *delivered* or presented by the Sovereign—such occasions being termed *Liberations*. The Badge (to be afterwards referred to) was generally represented upon a ground tinctured of the livery colours of the family. In the days of chivalry, even a duke's son, as page to a prince, did not disdain to wear his master's livery. An esquire's son willingly wore the livery of the knight whom he served; and a gentleman's son, similarly dressed, performed the duty of servant to the esquire. An independent gentleman would on an occasion wear a friend's colours out of compliment to him, as at the present day the Emperor of Germany visiting the Court of St. James's may appear in the uniform of a British Admiral, while our own King may return the compliment by wearing that of perhaps a German Field Marshal. See *Ency. Brit.* 8th edit. xiii. 524. The liveries adopted by the Sovereigns of England have been as follows: The later Plantagenets—white and red; the House of York—murrey (blood colour) and blue; the House of Lancaster—white and blue; the House of Tudor—white and green; the House of Stuart—yellow and red (the tinctures of the national escutcheons of both England and Scotland); and the House of Hanover—scarlet and blue. William III. used the same colours as the House of Stuart, but before his accession, blue and *orange*. Prior to their succession to the English throne, the House of Hanover used yellow and red.

WREATH, CREST-CORONET, CHAPEAU 195

immediate charge, and after that the next mediate, and so forth, if there be more charges than one.' He even includes the red 'members' of an eagle, and regards ermine as a twofold tincture, viz. *argent* and *sable*, seeing that 'fur is not fit to be twisted in a wreath.'¹ This rule appears to have been occasionally followed in England, as appears from the grant of a crest to the city of Exeter, in the year 1580, where the wreath is blazoned *or*, *gules*, and *azure*—these being the tinctures in the relative shield.

None of these rules, however, appear to be very ancient. No attention to any of them is paid in the representations of the Scottish arms which appear in the *Armorial de Gelre* (c. A.D. 1375). Some of the crested helmets in that manuscript have no wreaths. On those that have them the wreath is sometimes of one colour; generally of two alternating. Not one is of more than two colours, and not one is of the two principal colours of the shield. We have the means of testing Gelre's statement that Keith the Earl Marshal's wreath was gold and red. As Keith's shield was argent, such an arrangement, as we have seen, was a contravention of Mackenzie's rule; but we have Mackenzie's own testimony that, in his time, at least, the wreath was as Gelre found it three hundred years before. 'Though the Earl Marishal,' says Sir George, 'bears argent on a chief or three pales gules, yet his wreath is or and gules, whereas it should have been argent, or and gules.'¹ The wreath in the Gelre MS. has usually but not always one of the colours of the shield. The wreath on the helmet of Sir Patrick Hepburn is composed of a chaplet of roses (note the rose on his chevron), that of Bruce, Earl of Annandale, is of leaves. On the helmet of Sir Walter a Lesly its place is taken by a plain band, once green perhaps, and on that of Sir John Abernethy by a golden belt or chain, with a bell pendant in front. On the helmet over a shield which is marked 'Count de Ross,' but which bears the tressured lion, debriused by a Stewart fess, there is a repetition of the fess under the crest (a boar's head and neck between two trees) where otherwise the wreath or a coronet might be. Gelre gives the real Ross arms—gules three lions argent, in another place with the ascription 'Count a Ros,' and the shield with the Stewart fess is no doubt that of Robert Stewart, Earl of Fife and Menteith, afterwards

¹ *Science of Heraldry*, chap. xxviii.

Duke of Albany and Regent of Scotland, son of King Robert II. The same crest and wreath appear on the seal which he adopted between 1374 and 1389, on which seal, too, we find the same arms as are given by Gelre, save that the lion surmounts the fess. But Robert repeatedly altered his arms.¹

The earliest examples of wreaths given by Montagu and Planché are those on the seal of Sir John Willoughby (1340), and the effigy of Sir Humphrey Stafford (c. 1350).² Among the earliest Scottish examples we may mention the wreaths of various kinds on the seals of Sir Thomas Erskine (1364),³ Sir Alexander⁴ and Sir David Lindsay, Lords of Glenesk (1371-89), the latter the first Earl of Crawford,⁵ Sir James Douglas of Dalkeith (1370),⁴ John Earl of Carrick (1383), Alexander Lord of the Isles (1440),⁴ and Henry Douglas, Lord of Lugton (1392).⁶ The wreath used in 1403 by Robert Stewart, the Regent Duke of Albany, was chequy.⁴ From the circumstance of the crest being placed *within* the wreath (as already mentioned), it is hardly necessary to add that, although only shown edgewise above the helmet, the wreath is in reality a circular cord or garland.

Instead of being placed upon a wreath, the crest is sometimes represented as issuing from a coronet which is variously known as a ducal coronet - CREST-CORONET. In early heraldry it was of no fixed pattern, consisting of a circle ornamented with, in general, 'strawberry leaves' or trefoils, in number from three to five. In recent times these ornaments have consisted of one strawberry leaf in the middle and a half leaf at either end. Newton,⁷ Woodward, and others surmise that the use of this coronet was developed from the wreath, but Woodward himself cites cases of the use of it in 1305 and 1313.⁸ It never was the index of peerage rank as that is now known. Gelre Herald assigns it to some knights such as Sir Alexander Stewart and Sir David Lindesay, while he omits it in the cases of several earls, including even the Earl of Carrick. He does not always make it of gold in the

¹ Laing, i. 787; see also 788, 789. Macd. 2563; see also 2564-6.

² *Study of Heraldry*, p. 40, and *Pursuivant of Arms*, p. 176.

³ Plate viii.; Laing, i. 311; Macd. 861.

⁴ Plate xxxii.

⁵ Macd. 1636.

⁶ Laing's *Catalogue*, No. 261; Macd. 740.

⁷ *Display of Heraldry*, p. 305.

⁸ *British and Foreign Heraldry*, ii. 249.

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ARMORIAL

1. The arms of the Count of Flanders, as they were in 1374.
2. The arms of the Count of Flanders, as they were in 1375.
3. The arms of the Count of Flanders, as they were in 1376.
4. The arms of the Count of Flanders, as they were in 1377.
5. The arms of the Count of Flanders, as they were in 1378.
6. The arms of the Count of Flanders, as they were in 1379.
7. The arms of the Count of Flanders, as they were in 1380.
8. The arms of the Count of Flanders, as they were in 1381.
9. The arms of the Count of Flanders, as they were in 1382.
10. The arms of the Count of Flanders, as they were in 1383.

ARMORIAL SEALS.

1. A.D. 1282 ; Devorgilla, daughter of Alan of Galloway, wife of John Balliol.
2. The same ; counter-seal.
3. A.D. 1266 ; Adam of Kilconquhar, Earl of Carrick.
4. A.D. 1285 ; Marjory, Countess of Carrick in her own right ; wife first of Adam of Kilconquhar, second of Robert Bruce, sixth of Annandale.
5. A.D. 1291 ; Robert Bruce, fifth of Annandale, the Competitor.
6. A.D. 1285 ; Robert Bruce, sixth of Annandale, Earl of Carrick.
7. A.D. 1320 ; Mary de Ramsay, wife of Sir David de Brechin.
8. A.D. 1378 ; Margaret Stewart, Countess of Angus, wife of Thomas, 13th Earl of Mar.
9. A.D. 1404 ; Isobel Douglas, Countess of Mar and Garioch, wife of Alexander, natural son of Alexander Stewart, Earl of Buchan.





WREATH, CREST-CORONET, CHAPEAU 197

Scottish cases, but sometimes silver and sometimes gules. He represents the crown under the crest of the King of Scotland as of gold with jewels, the crown or coronet of the King of Navarre he makes or covers with ermine. It has been supposed by some writers that the crest-coronet indicated what has been termed tourney nobility, namely, that the wearers came of an ancestry which had taken part in these contests.

Anstis, speaking in his *Order of the Garter* of the coronet out of which rises the crest on the Garter stall plate of Sir Simon D. Brygge (who died in 1442), says 'which crown in that age was a proof that he was a gentleman (as the term was) *de nom, d'armes, et de cry.*' Brydson, similarly, in his *Summary View*, pp. 189-90, thinks it the mark of a person of at least the rank of a banneret, and quotes Olivier de la March. The writer in the *Herald and Genealogist*, ii. 54, on the other hand, opines that the coronet was assumed at will for merely decorative and artistic motives. Neither thesis is proved. It might also be supposed that the coronet may have arisen—as perhaps royal crowns themselves may in a measure have done—out of the advisability of having a metal fender there as a protection for matter which was less hardy.

No restrictions on its use were attempted till after the time when a coronet too similar to it for convenient distinction came to be appropriated to persons of ducal rank; recently in England it has ceased with the chapeau to be granted to ordinary people. There is no evidence that in Scotland at least it ever was a mark of particular honour, ancestral or personal. Sir James Lindsay of Crawford used such a coronet in 1357. He afterwards bore a wreath.¹ But the crest coronet is now as liable in Scotland to misconstruction as in England.

Early English examples of the ducal coronet, which are relatively the more numerous, occur on the seals of Richard, Earl of Arundel (1346), and William le Scrope (1394), engraved in Montagu's *Study of Heraldry*; and at the present day the Duke of Marlborough and Lord Spencer both carry a demi-griffin issuing from a ducal coronet, in consequence of their descent from the ancient family of Le Despenser,² by which a similar crest was borne.

¹ *Genre Armorial*; Macd. 1633, 1634.

² This descent, it is now contended, is *not proven*. See *Herald and Genealogist*, ii. 53.

Three Scottish instances of the ducal coronet occur in the year 1371, on the seals of George Dunbar, third Earl of March, Sir Robert Erskine, and James Fraser of Frenndraught¹—the coronet, in the first of these examples, consisting of three points.² The crest issues from the same figure on at least three other later seals of the same century, viz. those of Alexander Cockburn (1375), Walter Stewart, afterwards Earl of Atholl (1389), and David Lindsay, first Earl of Crawford (c. 1399).³

According to Selden, the coronets of degree pertaining to the several orders of the peerage had acquired some approximation to their present form as early as the reign of Henry IV. (1399-1413), but they are generally supposed not to have been strictly assigned to the different ranks until a considerably later period. In 1628 Charles I., who was contemplating a coronation ceremony of unprecedented solemnity at Edinburgh, which eventually took place in 1633, sent a letter to the Scots Privy Council authorizing the Scots nobility to wear coronets of degree similar to those authorized in England. So we find the shield on the seal of the Earl of Haddington in 1633, and that of the Chancellor, Earl of Kinnoull, early in 1634, though not so correctly, ensigned with an earl's coronet. But the Earls of Dunfermline and Mar had borne earl's coronets already—in 1618 and 1612 respectively.

The idea of ensigning a shield of arms with a crown or coronet was not new. The Privy Seal of Robert II., 1371-1390, displays the royal arms ensigned with an open crown of trefoils or strawberry leaves.⁴ That of James I.; the beautiful carvings of the arms of James IV. at Melrose, and the Blacader Aisle, Glasgow; those also over the priory gate at Whithorn; and on the counter-seal used by Queen Mary with her great seal in 1561-2, are other instances of the same custom.⁵

¹ Laing, i. Nos. 294, 310, and 350; Macd. 797, 860, 1004.

² Plate xxxii.

³ Laing, i. Nos. 182, 793, and 515. (Macd. 414, 2571, 1637.) See also Nos. 796, 1201, 305, 267, and 322, as examples of the ducal coronet during the fifteenth and sixteenth centuries. On the seal of Sir William Edmonstone of Duntreath, 1400 (No. 305), the form of the coronet, which is very distinctly represented, is somewhat different from that of the third Earl of March (No. 294); and on the later seal of John Erskine, Earl of Mar, in 1496 (No. 322), it consists of no fewer than nine points.

⁴ B.M. 14,862; Laing, i. 35.

⁵ B.M. 14,864 and 14,832; Laing, i. 43.

WREATH, CREST-CORONET, CHAPEAU 199

Probably one of the earliest Scottish examples of a coronet placed immediately above the shield of arms of a subject occurs at Lincluden, where the shield dating about 1450, with the fleur-de-lis borne by the Earl of Douglas for his French duchy of Touraine, is carved, on the capital of a shaft, ensigned with a coronet slightly resembling a modern earl's.¹ A coronet appears also on the seal of Alexander Stewart, Duke of Albany, second son of James II. (1473).² It consists of five points, each ending in a quatrefoil. A coronet similarly arranged, but somewhat more ornamental, and with nine points ending in alternate trefoils and decorated crosses, ensigns the same duke's shield as it appears in a sculptured panel which adorned one of the southern buttresses of Trinity College Church, Edinburgh, before the wanton demolition of that building was achieved by the hands of Parliament and a railway company in the year 1849.³ Two later examples appear on the seals of the Duke and Duchess of Chatelherault (1560), the former being described by Mr. Laing as a 'ducal coronet,' and the latter as an 'open coronet of nine points.'⁴ Above the shield, on the seal of the Regent Moray (1567), we find a coronet of twelve points;⁵ while under the crest and upon the helmet surmounting the escutcheon on the brass plate (1569) of his monument now restored to the Cathedral Church of St. Giles, a coronet is engraved, consisting of seven balls resting upon a rim or circlet, very similar to the coronet assigned to viscounts by James I. of England.⁶ The same arrangement occurs on the seal of John Drummond, second Earl of Perth (1631), where the crest (which is lost) surmounts a coronet of nine points.

Coronets and crowns of other kinds, naval, vallery, mural, and antique or eastern, have been introduced in later times, some borrowed, some

¹ See MacGibbon and Ross, *Ecclesiastical Architecture*, ii. 389.

² Laing's *Catalogue*, No. 790; Macd. 2576; Plate xxxiv.

³ See *Proceedings Soc. Antiq. of Scot.* 14th January, 1884, and *Scot. Heraldry Exhib. Memorial Catalogue*, 1902, plate 50.

⁴ Laing's *Catalogue*, Nos. 405, 406; Macd. 1207, 1208, 731.

⁵ Laing, No. 808; Macd. 2599.

⁶ Plate x. This interesting brass, at one time removed from its place by the Edinburgh civil authorities, and afterwards begged back, was generously restored to the Church by the Earl of Moray, by whose family it had been preserved during its extrusion.

invented. They are all treated heraldically in the same manner as the 'ducal' crest-coronet, that is, placed directly on the helmet without the intervention of a wreath. The crests of the Earl of Northesk and Admiral Sir Alexander Milne issue from naval crowns. That of Lord Westbury from a crown vallery; the second crest of Cameron of Fassifern from a mural crown; and the crest of Campbell of Ava from an eastern crown.

As two other examples of coronets above armorial shields, during the seventeenth century, we may refer to the seals of Ludovic Stuart, second Duke of Lennox (c. 1600)—a ducal coronet, and James Scrymgeour, Viscount Dudhope (1643)—an open coronet of five points.¹

The CHAPEAU, usually called a cap of dignity or maintenance, is a third object out of which the crest is sometimes found to arise, or on which it is made to stand.

Towards the middle of the fifteenth century we have two examples of the crest so placed, namely, in the seals of Walter Stewart, Earl of Atholl (1430),² and George, third Lord Seton (c. 1440); while a later but very decided instance is afforded by the seal of William Douglas, eleventh Earl of Angus, in 1617.³ His immediate predecessors in the earldom had used coronets, and theirs in turn had used the wreath. But by far the earliest instance of the chapeau known to us is to be found in the *Armorial de Gelre*, where the crest of the Earl of Mar (who died in 1377)—two wings elevated displaying throughout the ensigns of the earl—rises out of a chapeau gules turned with white, which in its turn is placed over a lambrequin gules.

Whatever the wreath, crest-coronet, and chapeau were held to symbolize heraldically, there is little doubt that they each served the purpose of at least draping the joining between the crest and the mantling. It is to be noticed that of the three never more than one is employed at a time.

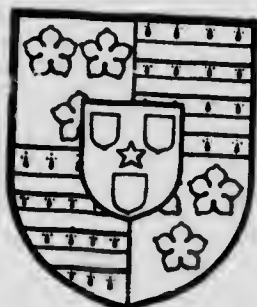
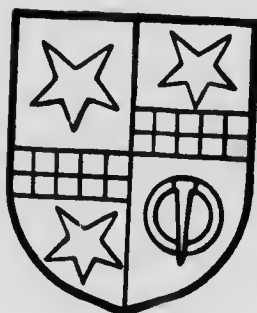
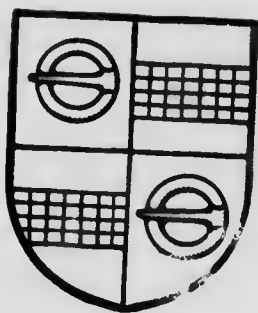
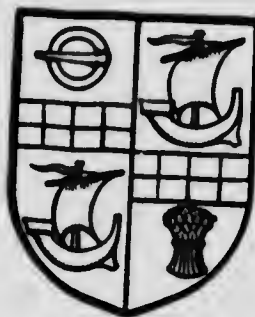
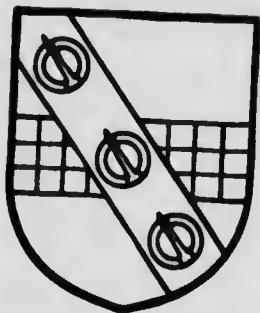
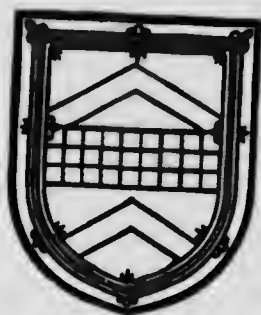
¹ Laing's *Catalogue*, Nos. 806. 732; Macd. 2628 and 2416.

² Plate xxxiii.; Macd. 2573.

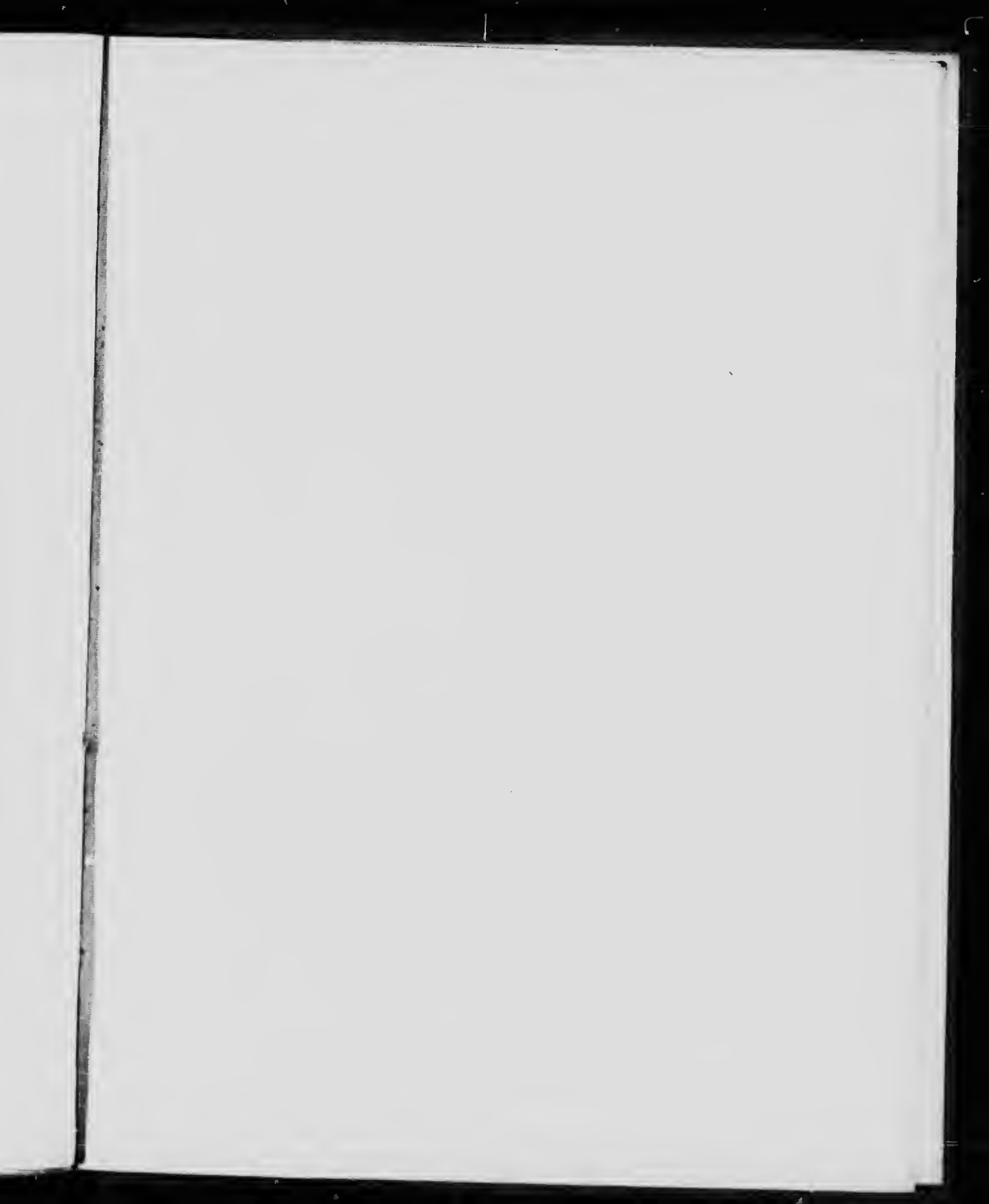
³ Laing's *Catalogue*, Nos. 794. 739, and 255. The English seal of Richard Duke of York (1430), engraved by Dallaway (plate 23), exhibits a very distinct chapeau of estate, as well as every other armorial distinction peculiar to one person.

ARMORIAL SHIELDS.

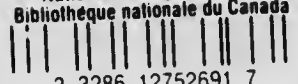
1. A.D. 1374 ; David Stewart, Earl of Strathern (from his seal for the regality of Strathern).
2. A.D. 1377 ; Sir Alan Stewart of Ochiltree.
3. A.D. 1448 ; John Stewart, Lord of Lorne.
4. A.D. 1484 ; Walter Stewart, Lord of Innermeath.
5. A.D. 1588 ; Alexander Hamilton of Innerwick.
6. The house of Cronberg.
7. A.D. 1388 ; Sir John de Hamilton.
8. A.D. 1523 ; James, second Lord Hamilton, first Earl of Arran.
9. A.D. 1513 ; William Hay of Tallo.







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