

# The Scottish Genealogist

THE QUARTERLY JOURNAL OF THE SCOTTISH GENEALOGY SOCIETY

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EDITORIAL

The Lord Lyon has certainly given us food for thought in his address to the Scottish Genealogy Society. There can be no doubt that tombstones provide some of the most valuable information about the early members of many families. If there had been restrictions on tombstones four and five centuries ago we should know very much less of genealogy than we do today.

Apart from restrictions there is another danger to graveyards in this country which we, as genealogists, can perhaps do something to prevent. The threat comes not only from the action of local authorities in removing tombstones to widen roads or generally to facilitate town planning, but also from neglect which does even greater damage. Churchyards that are not looked after quickly become overgrown and stones are covered with moss and grass. In some cases work with a brush will produce surprising results but stones gradually break or crumble. Sometimes the stones are removed and used to rebuild walls. Finally many tombstones sink into the ground until only a few inches are showing and the inscription is lost for ever.

In order to preserve what information we can before further damage is done, the Scottish Genealogy Society has offered to help anyone willing to take systematic extracts of inscriptions in any of the graveyards of Scotland. We will also be glad to receive copies of extracts already made and to keep them available for reference. We hope that it may be possible at some later date to print these extracts. Anyone who is able to help in any way is asked to get in touch with our Secretary. We realise that this is a job which takes a great deal of time but we have proof that tombstones that were visible a century ago are no longer to be found and we wish to record what may soon be lost in the same way.

## GENEALOGY IN ARCHITECTURE AND DECORATION

Sir Thomas Innes of Learney K.C.V.O., Lord Lyon King of Arms  
Vice-Presidential Address given to Scottish Genealogy  
Society on 17th October, 1955.

Genealogists have the responsible function of recording and illustrating - more perhaps than any others - the human characteristics on which a nation is built. They are studying the evidence and the evolution by which families and the Nation are preserved. It is on the Laws and Customs of Marriage; Succession; and Land Tenure that national character is built, and it is on the records of these that our work as Genealogists is based; if these are destroyed, the very character of a race is altered, and as a nation it ceases to exist.

This realm of Scotland, and its national character, have by a providential series of lucky events been wonderfully preserved. Good Scots Laws still enshrine what was the law as it came from the time when the great Earldoms, without losing their identity, were built into the Kingdom of Scotland. Our fundamental laws are now seen to have preserved within their frame much of the older tribal spirit and custom. One views with astonishment and apprehension Professor Henry's conveyancing suggestion at Edinburgh University last Friday that the Scottish feuing system should for unrealistic reasons be swept away. The suggested changes would really mean introducing in Scotland a developed form of the English Land System of Edward I. What Bruce gained at Bannockburn would thus be lost. Professor Dickinson in his Baron Court Book of Carnwath, and Dr. I. F. Grant, Scotland's economic historian, have shown how the feuing system has not only been popular and adapted to the national temperament, but how it is the basis on which the Scottish family and clan are built and preserved. It enters every shade of thought in the Scottish nation. It is far from serving no purpose whatever. It serves many purposes, including the tourist trade, in ways the learned Professor may never have thought of. Feu tenure, even blench, and its symbolic implications are one of the three pillars upon

which both the civil and religious character of Scotland are built. Was not James VI himself told from the pulpit, in a figure of speech understood by all; that he was "God's own sillie vassal".

Having failed to abolish the tenurial structure whereby Scotland was built and preserved, Sassenach propagandists have steadily endeavoured to turn the Scots against it. You will see in Dickinson's "Carnwath" that it was against the introduction of the English type of tenure that the people of the old Scottish Earldoms successfully fought the central Government. The characteristic aspect of the feuing structure now, as ever, is that it has been a bulwark of local freedom and genuine popular local self-government. If we now exchange our ancient and popular feu system for a developed form of that which Edward Longshanks would have imposed upon us, we would go a long way down towards becoming "Scotlandshire".

Another quarter in which important traditional practice seems in some danger, both in England and Scotland, is one wherein an extensive use of genealogy is made on wood, bronze and stone, viz. family burial places. In regard to this a considerable body of private right and legal decision has been evolved, both in Scotland and England, and there are law and right as to both the erection, maintenance and protection of monuments.

In England, where the family is a less integrated organisation than in Scotland or on the Continent, a tendency for the individual tombstone rather than the group monument has grown up.

As recently pointed out by English antiquarians, tombstones form one of the most important sources of genealogical knowledge and embody peculiarly interesting forms of local art and culture. Moreover, the records of parents, profession and residence upon them cover the humbler folk of the district of whom particulars are not normally found in documents and records.

There must be few members of either this or the sister Society of Genealogists who have not had to depend on the

information from sepulchral monuments.

The monuments are often also the "Mecca" of tourists from America or elsewhere abroad, anxious to trace their forebears.

Since these records have a permanence in days of bombs and large-scale warfare, (which may easily deprive a whole nation of its paper records) they have assumed to-day a greater use and sanctity.

They are part of our link with British stock overseas and at home.

More than that, they go with the seat in church and the hearth at home as the three fundamental elements in preserving the concept and spirit of the family as an institution upon which the solidarity of the state depends.

It is therefore a matter of grave concern to genealogists that many of these ancient sources of record and culture are tending to be thoughtlessly destroyed or obliterated to make churchyards look like bleaching-greens.

But there is a greater danger. In England memorials are being subjected to harsh and heartless restrictions. There are signs that this movement will soon spread to Scotland.

Rules and regulations imposed by minor officials of local councils will not only obliterate these ancient monuments, but prohibit and infringe the fundamental familial rights that have come down throughout the ages in this country. If we allow such restrictions to go unchallenged we could no longer continue to erect these local art monuments and permanent records, whereby the veneration of our forefathers, and the family as an institution, is so solemnly preserved.

This policy is apparently inspired by the abnormal uniformity of war grave cemeteries which, of course, commemorate conditions into a tragedy fundamentally different to the normal familial structure of healthy and peace-loving nations.

Nevertheless local council officials, bitten with the prevailing uniformity-regimentation misconceptions, seek to dictate to the people the very forms of monument which they may choose. In some cases the only memorial allowed is a little plaque of 10" x 8", and in at least one instance the inscription is confined to 40 letters, which even the officials concerned admit is insufficient to give the man's or woman's full name and occupation, let alone residence, parentage and matrimonial details and date.

To the genealogist such scanty inscriptions are useless. To the sociologist the whole practice must appear fraught with danger to the family as an institution and the veneration of our parents enjoined in the Fifth Commandment. This unwarrantable restriction of local art ends the age-old custom and rights in the erection and maintenance of appropriate memorials.

The Law of Arms, though applicable to a relatively lesser number of monuments, seems yet capable of acting as a spearhead and shield to guard the rights and monuments of others. Indeed, in terms of the Royal Patents and Law of Arms, there is quite a lot of law on this subject.

The grantee and his successors have a right to display their lawful arms "without molestation, let or hindrance from any person whatsoever". Under the laws of Arms such bearings are a proper and lawful form of ornament upon the family sepulchre.

This is the law and if any Scottish local authorities are planning to impose regulations similar to some adopted in England, they will infringe the ancient rights of the individual.

In England it has been laid down in the ancient traditions of armory that an infringement or removal of such monuments is an offence done to the blood, and vindicable not by the executor but by the heir upon whom the honour of the blood devolves.

In Scotland, with our continued organisation of Chiefship and arms, this is even more so. However, from the legal

aspect the point is that the arms are themselves an inscription identifying the defunct, his matrimonial status and other attributes. In law what is true of the arms is equally true of the right to have a family monument, and thereon to inscribe not only the name but the parentage, occupation, residence, spouse and dates. Even where, under the Burial Grounds Act, the local council has power to authorise or forbid the erection of a gravestone or monument, it is evident that if the memorial is authorised at all, those concerned are entitled, without any hindrance, to place upon it the legal identification and arms. It is also evident that the local authority has no power to defeat the rights of identification in the inscription (quite different to an epitaph) to which the deceased has a right under law and custom.

As genealogists we should lead the public, the sculptors and the artists - who design the greater memorials - to maintain their traditional rights. Stock-pattern "tickets" in the turf will never replace the inspiration of and veneration for clan and family burial places that have come down from the prehistoric ages.

This small realm of Scotland, its people and their character, have inspired the admiration of the world. It is acknowledged as pre-eminently the home of a freedom and independence not elsewhere enjoyed. If we are proud of our Scotland, where Genealogy has been described as "an interest of the hale people and nocht only of the nobilitie", we must see that our laws and customs are appreciated as they deserve. There is no use singing "Scotland yet" if we trail our flag in the gutter, and sweep away the symbols and legal structure on which our national character and freedom depend.

# REPORT OF COUNCIL for Session 1954-1955

This report in actual fact covers the period from 7th March 1955 when Mr. McNaughton was appointed Honorary Secretary in succession to Mr. R. J. B. Munro. Prior to this date he had acted as interim Secretary, doing little more than arranging speakers to ensure the continuity of the Society.

During the Session six meetings were held at which the following papers were submitted:-

Tuesday 15th November 1954. "Edinburgh Families" by Rolland J. B. Munro.

Wednesday 17th December 1954. "The Effect of Industry on Genealogical Research" by Miss Hilda M. Woodford.

Monday 17th January 1955. "The Highland Fisheries" by Jean Dunlop, B.A., Ph.D.

Tuesday 15th February 1955. "Some Famous Names in West Lothian's History" by Mr. Donald Whyte.

Tuesday 15th March 1955. "Schools and Schoolmasters in the 17th century" by Mr. J. M. Beale, Ph.D.

Thursday 14th April 1955. "Footnotes on Heraldry" by Mr. Lewis Gordon.

Saturday 30th April, 1955. "The Family" by Capt. Iain Moncreiffe of Easter Moncreiffe. Unicorn Pursuivant, Chairman of Council.

Since our final successful meeting most of the work of the Society centred on the production of the magazine for which the credit must go to Dr. Jean Dunlop, who has now completed the issue of Volume I and Nos. 1 & 2 of Volume II. The Council wish to place on record their appreciation of her work in this respect, and her willing assistance in making suggestions and contacts for the syllabus for the present Session. The Council would appeal to the members present and to all members to assist in continuing this valuable work by submitting articles for publication. The Council cannot produce a magazine out of nothing, and if the Society is to continue, it must expand and develop this side of its activities.

During the Summer, the Council has arranged the syllabus-



bus which you should all have received by now. It trusts that the distinguished speakers who have so generously given their time and leisure in preparing addresses will have the wholehearted support of the members during the Winter.

The Society has secured the use of these comfortable rooms for this Session and would thank the St. Andrew Society for its courtesy and co-operation.

During last Session the Society has received valuable publicity from Mr. Macdonald Robertson, W.S., Secretary of the Council of Scottish Clan Societies, in various newspapers and magazines, and contacts at home and abroad have resulted.

So far as membership is concerned we finished the year at 30th September with 120 names on our list including 12 libraries.

Finally the Council desires to express its thanks to the Speakers who addressed the Society in the last Session, and who have provided a transcript of their lectures for publication, and to Mr. McNaughton for his work since he took over the duties of Honorary Secretary. Though there is evidence of increased interest, much remains to be done. The Council appeals to all members to do as much propaganda as possible, but better still to submit articles and answers to the queries, as it is only by means of the Magazine that this Society can maintain its membership abroad.

On behalf of the Council,

Duncan McNaughton,

Honorary Secretary.

GENEALOGICAL NOTES CONTAINED IN THE TRANSACTIONS OF THE  
HAWICK ARCHAEOLOGICAL SOCIETY.

Registers of Monumental Inscriptions, with Indexes and Notes, on the following Churchyears:-

St.Mary's Church, Hawick (from the 16th century) Trans. 1935-6-7-8-40.

Wilton Old Churchyard (from the 17th Century), Trans. 1937-8-9.

Wellogate Cemetery, Heritor's Area (from 1849), Trans. 1942-3-4-6-7-8-50.

Yarrow Churchyard, Selkirkshire, Trans. 1933.

Borthwick Wa's Churchyard, Roxburghshire, Trans. 1938.

Teviothead Old Churchyard, Roxburghshire, Trans. 1940.

The above contain many notes on family history.

Among the numerous papers on Border and local families the following are included:-

Scotts of Euisdail - 1884.

"Hawick, De", The Surname - 1898.

Chicholms of that Ilk and Stirches - 1902.

Turnbulls of Rulewater - 1903.

Rules of Rulewater - 1906.

Gledstane Family - 1910.

Rutherfords, The Border - 1912.

Lorraines, The - 1916.

Scott Family (many other references) - 1924.

Scotts of Hawick Mill - the Family of Ruecastle - 1927.

Rutherfords of Wells - 1933.

Lovell Family - 1932.

Murray, Sir James, of the Oxford English Dictionary - 1934,  
 (also MSS notes on Murray Family in Hawick Public Library).

Gladstains, The Local - 1937.

Elliots of Minto - 1938.

Grieve Family - 1938.

Pringles of Whytbank - 1939.

Roosevelt, President; A Link with Scotland - 1942.

Purdom Family - 1943.

Elliots of Larriston - 1944.

Kedie Family - 1951.

R. E. Scott.

CHURCH RECORDS (Part II)Cont'd. from p. 19 Vol. II. No. 3

The Reformation brought temporary confusion to the ecclesiastical courts. An act of parliament of August 1560, which abrogated papal authority in Scotland, laid down that 'no bishop nor other prelate of this realm use any jurisdiction in time to come by the said bishop of Rome's authority.' But, quite apart from the question whether the legislation of this parliament was constitutionally valid, it was not at all clear whether the terms of the statute denuded the bishops of their consistorial jurisdiction, and there are several documents demonstrating that in practice they continued to exercise it, at least intermittently. It is also true that throughout the country the bishop's deputies, the commissaries, remained in office. But the reformers, too, had their candidates for the consistorial jurisdiction, at congregational level in the kirk session and at diocesan or regional level in the court of the superintendent (consisting of the kirk session of a chief town in his diocese). The kirk session of St. Andrews began to act in divorce suits in February 1560 (Reg. 18-27), and in the following August the archbishop of St. Andrews remarked to his brother of Glasgow 'The elders of every town take all the causes of our ecclesiastical jurisdiction and intromit with our office'. (Keith, ii 5) Presently we find the Lords of Council themselves requesting the kirk session of St. Andrews to give sentence of divorce (Reg. 50-59), and expressly granting authority to the superintendent of Lothian to decide on divorce suits. There was however, a third competitor for the ecclesiastical jurisdiction, in addition to the bishops and the courts of the reformed church - namely, the Court of Session. From 1560 consistorial cases were from time to time brought before the Lords of Session, either because the facilities offered by bishops, superintendents and kirk sessions were inadequate - which is likely enough - or because there was some dubiety about the legality of proceedings before ecclesiastical courts. The first step towards ending this confusion which had followed the reformation was the erection, in 1564, of the commissary court of Edinburgh, which was given, besides a local jurisdiction in all consistorial cases, a general

jurisdiction throughout the whole realm, in specified cases, including divorce, and power to confirm all testaments above a certain value. Confusion was not thereby ended, but continued for another two decades or more; yet from that point the wings of the church were clipped. For two or three years after 1560 there had been a strong tendency for the superintendent's consistory to inherit the jurisdiction of the old episcopal courts; but from 1560 that tendency was checked and the church lost a very large part of its ancient jurisdiction.

The competence of the commissary court of Edinburgh is amply illustrated in Consistorial Decrees and Processes (Scot. Rec. Soc.) and Lord Hermand's Consistorial Decisions (Stair Soc.). Divorce, adherence, legitinacy and defamation evidently accounted for the great majority of the cases.

Alongside the central commissary court, in Edinburgh, the local commissaries continued to operate, though their appointment no longer lay with the bishops except for two periods in the 17th century. The exclusive jurisdiction of the commissary court of Edinburgh in matrimonial causes deprived the local commissaries of one large sphere of work. Executry continued to be one of the principal fields in which they operated, because, although Edinburgh remained a general commissariat, where testaments from all parts of the country could be recorded, yet the distinction proposed in 1564, between major and minor testaments, the latter alone being confirmed locally, was not in practice observed. Jurisdiction in cases arising from an undertaking fortified by oath long remained to them, and although it was limited to actions for £40 or less in the local courts and £100 in the commissary court of Edinburgh, yet the commissary courts long continued to hear large numbers of suits for payment of money and victual. Each commissary court had its Register of Deeds until 1809, and was therefore competent in suits arising from deeds recorded in its books.

The Commissary Courts have, therefore, their decreets, processes and deeds - in very considerable bulk in most cases - but they are thought of primarily because of the Record of Testaments. As already mentioned, in some cases there are pre-Reformation records; in other commissariots

the extant record begins at various dates after the Reformation, and there a number of grievous gaps. The closing dates are 1823 or 1830.

A 'testament' does not imply that there was a 'will'; if there is a will, it is a 'testament testamentary', if there is not, it is a 'testament dative', and the first words always make the distinction clear. But in every case there is an inventory of the deceased's 'goods, gear, debts and sums of money'; sometimes the inventories are in a separate record from the testaments. These inventories are invaluable for social history. As Maitland Thomson remarked: 'A study of the inventories of movable property which they contain, systematically made - made I should say, by districts, would throw as much light on our ancestors' ways of life in all parts of Scotland at all periods since the Reformation as any book that could be written'. The inventories extend down the social scale to very small people. In Shetland, in the early 17th century, the total value of estates ranges from £26,000 down to about £20. In Argyll 100 years later, you find inventories of two cows and five sheep, worth £32, and one of £28. In one instance there is a marginal comment 'Desperate poor and aught to be discharged'.

Testaments are also of great value to genealogists, for even the testament dative usually mentions the relict and the children.

There are printed indexes for nearly all commissariots down to 1800 (Record Society), and typescript indexes from 1800 to the close of the registers. It must be remembered that Edinburgh served as a general commissariot, so that its index should always be consulted; and that the commissariot boundaries, which were based on the old diocesan boundaries, were in some areas very peculiar - particularly in Perthshire and Angus - and care should be taken to ensure that the correct index is consulted. Keith's list of parishes may be useful here.

The commissariot jurisdiction was in the nineteenth century transferred largely to the sheriff courts; consequently, the records of testaments and inventories for

modern times are among sheriff court records, which may or may not have been transmitted to the Register House. There is, for a large part of the nineteenth century, a printed 'Index to Estates of Defuncts'. Wills and testamentary dispositions may, of course, appear in the Register of Deeds.

We seem to have diverged somewhat from the records of church courts, as we have been dealing with a jurisdiction which was secularised (a phenomenon of which we shall see another instance later). You may, if you like, think of the records of church courts at the Reformation dividing into two streams - one becoming the records of the secularised commissary courts, the other continuing as the records of the courts of the reformed church. Not merely the records of 'the presbyterian church courts' as they are apt to be called and are styled in Stair Soc's Sources; because the synod was originally the superintendent's synod (no synod where there was no superintendent) and for a century, was more often a bishop's synod than a presbyterian synod; the kirk session was not peculiarly presbyterian, and was in fact first established universally throughout the country under episcopalian auspices; and even the presbytery - though without lay members - sometimes continued under an episcopal regime. The most complete list of these records is in Thomas Burns, The Benefice Lectures (1905); there is a selective list in Sources. Quite a number have been printed, but as a rule only in selections. The old registers of the general assemblies were lost in the fire of 1834 which destroyed the old Houses of Parliament. The surviving so-called 'Book of the Universal Kirk' is only a selection and abridgment, and the Maitland and Barnatyne Club volumes which conflate it with extracts from Calderwood and other writings is not satisfactory... Like many Scottish statutes, the acts of the early assemblies should be regarded as commentaries on, rather than as statements of, the facts.

Some relics of the ancient ecclesiastical jurisdiction remained to these church courts after the erection of the commissary courts. The procedure in cases of desertion provided for the issue by a kirk session of a decree of adherence as a necessary preliminary to proceedings to divorce; and they dealt with slander to the extent of ordaini...

ing the offending party to make apology and crave forgiveness in public. They are best known, of course, as registra enormium delictorum, to use the original title of the Register of the kirk session of St. Andrews, and as sources for an abundant supply of scandal. But they are judicial and administrative records, valuable for all ecclesiastical affairs at a time when the scope of the church's work in education and poor relief was very extensive, and also for social, local and family history. A large number of the older volumes have been concentrated in the Church of Scotland Library at the Tolbooth Church.

'Parish Registers' (registers not of births, marriages and deaths, but of baptisms, marriages and burials).

Their origin is somewhat mysterious. While there was from an early date an obligation on the parish clergy to notify deaths, so that the officials or commissaries should not be defrauded of their quots for the confirmation of testaments, the earliest known attempt to encourage the keeping of more comprehensive records came, rather oddly, in 1552, when the provincial council ordered clergy to keep a register of baptisms and banns of marriage (Patrick, ). The reformed church likewise, so far as we can see - for again we are dependent on defective record - was at first concerned only for the notification of deaths. The answer of the general assembly of June 1565 on this subject is perhaps one of the best retorts in our records: 'Touching the request of the commissars of Edinburgh, that every minister or reader should have a register of the names of the deceased of the place where they dwell, ... and deliver the copy thereof to the procurator fiscal .... it was answered, they could not lay such a charge upon their brethern, in respect none or few of the ministry had manses and glebes to make residence in: but, how soon they obtained their manses, they should exhort them ... to do conform to the said request' (B.U.K., 63). On October 1576, however, the general assembly did lay the desired obligation on the ministers (Calderwood, iii, 376). Only in 1616, was it that the general assembly ordained 'That every minister have a register of baptisms, marriages and defuncts; within the parish, to be presented to ilk synos' (B.U.K., 1124, 1129), and the same

provision was incorporated in the canons of 1636.

Such is the legislation: but the fact is that, with one doubtful exception, no parish register dates from earlier than 1560, while, on the other hand, some twenty come into existence between 1560 and 1600. There is no clear relationship to the statutes which have been quoted. In 1610, six years before the general assembly ordained that every minister should have a register of baptisms, marriages and defuncts, the kirk session of Aberdeen ordered that the daughter of a reader should receive £10 if she would surrender his books of baptisms, marriages and burial, 'to be furth command to the use of the town' (Eccl. Records of Aberdeen, 73).

A very few registers - notably Dunfermline, the earliest of them - have been printed by the Record Society. There is a printed Detailed list of the oldparochial registers of Scotland (1872.)

The registers, when kept at all, were not always kept separately from the minutes of the kirk sessions, and much miscellaneous information is therefore contained in them. E.G., Saltoun, 11 April 1641. 'It is statute with consent of minister and elders that every one that takes snuff in time of divine service shall pay 6s.8d. and give ane publick confession of their fault'.

It is a complication that from the latter part of the 17th century not all Scots were members of the parish churches, and despite all attempts at coercion it ultimately proved impossible to prevent dissenting ministers from baptising, marrying and burying the members of their own flocks. It may be that even before the Revolution some of the Cameronian preachers kept their own registers: they certainly did so very soon after the Revolution. From the Revolution the episcopalians, too, were outside the establishment, and they had their own registers - Muthill Baptisms begin in 1697 (printed), St. Andrews in 1722, Old St. Paul's and St. James's, Leith, in the 1730s - all these have been printed. Then came the presbyterian secessions; and by 1800 possibly a quarter of the population were outside the established church. Finally, the Disruption made the pretence that the



establishment was the church of the nation no longer tenable.

In 1854, therefore, came compulsory registration of births, marriages and deaths. Like the commissariat jurisdiction, it was another instance of secularisation; like the sasines, it was another instance of nationalisation. The statute provided for the transfer of parish registers to the (New) Register House. These were church records, often with sessional matter intermingled, but they were put into the custody of secular officials, officials moreover who were later removed from the jurisdiction of the record authority, and who were not primarily archivists. Besides, these old church records are accessible, even for historical purposes, only on payment of fees.

No provision was made for the centralisation of the records of bodies other than the establishment, and they remain in local custody.

The older ones, before 1855, may still be of great importance, if they can be traced and used. I suppose many a search must have petered out because some ancestor was baptized or married not in a parish church but in an episcopalian or dissenting congregation. Since compulsory registration was introduced, the church records of baptisms, marriages and burials, though still kept, are much less likely to be of value to the historian.

In short, we may say that the work of the church, in so far as it was concerned with the keeping of records essential to genealogists, has been in one way or another taken over by the state. Its old judicial functions were gradually transferred to secular courts; the recording of testaments passed likewise to secular officials: and the parish registers were superseded by the records kept by the Registrars. Yet it is still true that genealogists are every day using records compiled by the church or under its inspiration, and I hope they are duly grateful for the devoted - and often unpaid - labours which produced them.

Gordon Donaldson.

QUERIES

11/20. Dunderave Castle, Argyll. The family bible of James Campbell, writer in Inveraray, afterwards Commissary of the Isles, states (entries made in 1744) that his sixth son John "was born at Doundarave the (blank) day of Augt. 1743 and dyed the (blank) day of (blank) thereafter." Can anyone give the period during which James lived at Dunderave? He was born according to family mss on 6 March 1706 (probably in Glenlochay in Perthshire), moved to Argyllshire by 1734, and married Elizabeth eldest daughter of James Fisher, Provost of Inveraray, on 31 December of that year. (See also Queries 1/48.) He had a disposition of the lands of Lephemore in Cowall, 25 February 1751; and a commission to uplift rents as factor and chamberlain from Archibald 3rd Duke of Argyll dated 10 November 1757. He died 26 May 1760 and was father of Sir James Campbell of Inverneill (d. 1806) and of Sir Archibald of Inverneill, K.B., sometime Governor of Jamaica and afterwards of Madras, Usher of the White Rod, who died in 1791. His family bible makes no mention of the place of birth of any of his children other than John. It is thought possible that Dunderave may have been the birthplace of Sir James and Sir Archibald.

C.C.

11/21.

Books such as Dr. A.R.B. Haldane's Drove Roads of Scotland and Sheriff Hector McKechnie's Lamont Clan show how much social and family history is to be found in old law papers. Probably most genealogists could quote examples from their own researches. Those sources are no doubt easily worked by a lawyer, but the very wealth of material is baffling to a layman with no legal training. The genealogist may want to be able to tell for himself what may be found and where, and not to be alarmed by references such as "1 Rob. 492" or "3 Ross's Leading Cases (Land Rights) p.373". What years, and what type of cases, are covered by Durie, Elchies, Gilmour, Kames, Kilkerran and Stair? An account of

printed and/or MS sources of old decisions, and also collections of law papers on which they were based, would be most useful. R.W.M.

11/22. Can anyone supply any information about the ancestry of Rev. Andrew Bruce of Brechin Cathedral (B. 1722), who married Rebecca daughter of John Forbes of Cairn-hill and Pitsligo? Rev. Andrew Bruce's father, also Andrew was probably a farmer in Aberdeenshire and the Family claimed to be descended from Robert Bruce. Minister c. St. Giles (B. 1554) M.G.

11/23. James Maitland, son of Patrick Maitland second lord of Schivas in the fifteenth century was "slain at Randersfield". Can anyone help identify this either as a battle or as the location for a murder? K.B.

NOTES

1/32. Sir Willian Fraser, in The Earls of Cromartie (1876), vol. i, preface p. xii, says that Dr. George Mackenzie's History of the Mackenzie Family "was never published, but copies of it are found in the libraries of several of the Mackenzies". The same author says it was written about 1725. J.M.D.

11/9. A notice in "The Scottish Nation" (1867) on James Burnet states that he was born at Musselburgh in 1788 son of George Burnet and Anne Cruikshank and that the family originally came from Aberdeen; there is an article on similar lines in "British Painters" by Alan Cunningham, written originally about 1830 vide edition of 1880 Vol. III edited by Mrs. Heaton. This also says that Anne Cruikshank was sister of the eminent anatomist William Cruikshank.

George Burnet was not a descendent of Dr. Thomas Burnet; Dr. Thomas' only son was Gilbert Burnet, advocate (Edinburgh Testaments 25.2.1706). This Gilbert Burnet, advocate, was Commissioner of Excise from 22.4.1715 till his death in 1741. (Edinburgh Burgesses - Scottish Record Society, Thomas on 25.7.1706 and Gilbert on 22.4.1715 and list of Advocates.) Gilbert's only child was his daughter Anna by his first wife Anna Hamilton (Edinburgh Testaments, Anna Hamilton 16.5.1720 and Gilbert Burnet 18.6.1741).

J.F.M.

1/37. According to "Scottish Family History" by Margaret Stuart and James Balfour Paul there are references to the family of Fordyce in Memoir of J. Young, Aberdeen 1861 ed. Lt. Col. W. Johnston pp. 173-5. Also in Scottish Notes and Queries 2nd series i. 173 and iii. 171 and 188-9. J.M.D.

At a meeting of the Scottish Genealogy Society the question was asked "What is the meaning of the terms brother or cousin german?". The following note may be of general interest.

Genealogists the world over are prone, like children to view conditions and customs of generations past through the eyes of today. For example - About two years ago a Sunday School teacher gave her pupils paper and coloured pencils, and asked them to draw a picture of any of the stories told them in the previous month. Pictures of Arks and burning bushes appeared. However one picture of a Cadillac car with three people sitting on the front seat required explanation. On being asked which story he had illustrated, the young artist announced "This is a picture of Adam and Eve being driven out of the Garden of Eden".

What is the story behind the terms "brother or sister german" or "cousin german" so frequently found in old documents and parish registers? Until about the middle of the fifteenth century the word cousin was used in a very broad sense meaning kinsman or relative and there is even a record of a testator referring to his son as "cousin". Godfathers and Godmothers and Sponsors were regarded by the Church as spiritual parents, who with their husbands, wives and children were spiritually related to each other and to the infant to whom they were sponsors, within the prohibited degrees.

When two persons wished to dissolve their marriage they had only to allege that they had previously contracted some spiritual relationship which rendered their marriage canonically invalid. From the absence of any written record divorces were scandalously frequent. In the place of written record there were some ingenious ways of keeping a count of baptisms. During the 25 year period from 1470 to 1494 2,094 children were baptised at the Baptistery of San Giovanni at Florence. The parish priest at the ceremony placed a bean in a bag, a white bean for a girl and a black one for a boy, counting the beans at the end of the year.

To correct the prevailing laxity of morals Cardinal Ximenes at Toledo in the year 1497 in his wisdom founded what today we call parish registers and a strict record was kept of all baptisms with the names of the Sponsors. The word "german" after sister or brother denoted a brother or sister through both parents - a whole brother or sister and

not a spiritual one. Since early writers also used "brother uterine" meaning brother on the mother's side, it has been proposed in modern times to restrict the term "german" to mean brother on the father's side.

In our own generation the custom of giving children many "adopted" aunts and uncles where no kinship exists will not improve matters and a hundred years from now no doubt many genealogists will wish that we had used the word "german" also thereby simplifying genealogical research.

Hilda M. Woodford.

#### References:

A New English Dictionary on Historical Principles.

Ed. James A. Murray.

Parish Registers in England. R. E. Chester Waters.

Murray's Handbook of North Italy.

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