

# The Scottish Genealogist

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## CONTENTS

Editorial	54.
Some Aspects of Place Name Study A. B. Taylor, D.Litt.	55
The Lost Legion W. D. Cargill Thompson.	59
The Genealogy of the Bidges Eleanor M. Budge, M.A.	63
An Approach to Records John Lurie, M.A.	69
Notes	75
Queries	77.
Notices	79

### EDITORIAL

In the last issue, Sir George Maokenzie of Rosehaugh, the seventeenth century lawyer and genealogist, was the subject of this editorial comment, and now we are retreating some further fifty years into the past to consider another genealogist - Sir James Balfour of Denmilne, who died exactly three hundred years ago. Sir James Balfour was appointed Lord Lyon King of Arms in 1630 and held the office under Charles I and Charles II for more than 20 years before being deposed by Cromwell. Reference has recently been made in the magazine to Balfour's Armorial, but his heraldic work occupied only a fraction of the time. His writings on historical and contemporary subjects are of the greatest value and interest, and the appreciation of the importance of original documents was unique in the time.

Balfour collected documents with enthusiasm. His collection of MSS was to some extent broken up after his death and some of the papers were lost but much was eventually bought by the Advocate's library and can now be seen in the National Library of Scotland. Comparatively little of Balfour's work has been acknowledged and four volumes produced in 1825 cover nearly everything published. His MSS were widely but often anonymously used by 18th century writers, while most of the collections of documents pointed in the 19th century by the historical clubs include items from the papers. Thus generations of historians have used the material which he accumulated, and while three centuries of research enables us to criticise and amend his work, we salute one who was a pioneer in the field of record study.

In this connection, as you will see in a Note on page 75 below, a conference is to be held in Edinburgh on 2nd November. Papers will be read on Balfour and his Times, on his charter work and on his heraldic and genealogical studies, while it is hoped that a general discussion among the scholars attending the meeting will cover further aspects of Balfour and his contemporaries. Details and application forms will be provided later and members are urged to take this opportunity of hearing a number of leading authorities on Scottish history, heraldry and genealogy.

## SOME ASPECTS OF PLACE NAME STUDY

A. B. Taylor, D.Litt.

Sooner or later the genealogist will turn from persons to places, from families to family homes, partly from curiosity perhaps, and partly to see what the study of the place name will add to his knowledge of the family.

The objects of place name study are -

- (a) to trace a name back to its earliest form so as to ascertain its meaning;
- (b) to chart its history in its spoken and written forms;
- (c) to study its history and see what story it has to tell.

Scientific place name study needs a proper training in linguistics and phonetics, and is a slow, laborious process. Less progress has been made with it in Scotland than in the Scandinavian countries or in England. One reason for this is the varied linguistic background that the place name scholar in Scotland must have. The strata in the linguistic history of Scotland are almost as complicated as the geology of Wester Ross. To begin with there was a pre-Celtic language, possibly non-Indo-European, found in some of the so-called "Pictish" inscriptions; then there are Brittonic (a P-Celtic) language), of which there were apparently different dialects north and south of the Forth; Old English, the language of the Angles of Lothian; Irish Gaelic (a Q-Celtic language) which came over with the early settlers from Ireland, and Old Norse, introduced in the ninth century and spreading in the following centuries all round the northern and western coasts and outer isles. All of these have been the source of new place names in Scotland or have influenced the development of their spoken form.

The technique of place name study has five main elements:

A. Modern spelling and pronunciation. The first step is to record the Ordnance Survey spelling of the name; and then its pronunciation (in standard phonetic script) as used

by the older generation of the local inhabitants. The meaning of a place name is often forgotten and map spellings are often corrupt, but the local pronunciation often remains unchanged over many centuries and may give a clue to the meaning:

Kinghorn, Fife, is pronounced Kin-gorn locally, with the stress on the second syllable. W. J. Watson (1926) showed that it meant 'the head of the bog', 'bog-head'.

B. Collection of early forms. This involves the laborious task, in which many years may be spent, of collecting and classifying spellings from early records of all kinds. The object is to use these forms to trace as far backwards as possible the history of the pronunciation of the name.

For Scottish names, our earliest sources of information are the geographical writings of Ptolemy of Alexandria (about 150 A.D.), the Ravenna geographer (seventh century), Adamnan's Life of Saint Columba (seventh century, the Irish Annals, and the Icelandic Sagas. Later there are State papers of all kinds like the Register of the Great Seal, and rentals and estate and family papers. In the sixteenth century there are the earliest satisfactory maps of Scotland of which the writer is at present making a special study. Of particular interest is Mercator's map of the British Isles in 1564, a reproduction of which was recently acquired by the National Library of Scotland. For the Hebrides, Dean Munro's "Description of the Western Isles" (1549) is a rich storehouse, and a new edition in preparation by Mr. R. W. Munro is awaited with much interest.

In the following examples it will be seen that the early forms are necessary to explain the meaning:

Cape Wrath has nothing to do with 'wrath'. It appears in a poem by an Icelandic sea-faring poet of the thirteenth century as Hvarf, the Old Icelandic word for 'a turning place'.

Romanno, Peeblesshire, has nothing to do with the Romans. It appears in the twelfth century Charter of Holyrood as Rothmaneic, which, as W. J. Watson (1926) suggested, appears to be Celtic Rath Manach, 'the rath

or fortress of the monks'.

C. Phonological study of the name. Phonology is the science of the gradual and unconscious sound changes that take place in a language or dialect with the passage of time. These may take the form of changes in vowel and consonant sounds, changes of stress and quantity, and sometimes the omission of whole syllables. Standard principles of sound change have been established as the result of the detailed study of large numbers of examples, and the place name student must keep these principles in mind in interpreting the many forms that he may have before him. Through a knowledge of these principles he may be able to deduce the existence of a hypothetical form which may explain the meaning of the name.

D. Etymology. Closely associated with the study of the sound changes that the name has undergone is an inquiry into its original meaning. One usually finds that the meaning is of one of two types:

(a) A descriptive name, e.g. Grassmarket, Ben More, Sanday.

(b) A topographical term with an identifying epithet. The epithet may be the name of a person (e.g. Philips-toun) or of a tribe or family (e.g. Caithness goes back to Old Norse Kataness, 'the ness of the Cat tribe'; Haddington was 'the farm of the family of Hadda').

E. A Study of the General Significance of the Name. The history of the written and spoken forms of the name are studied to see what light they throw on social, economic or family history. The geographical distribution of particular names known to come from a particular language can also be used to demarcate the settlement of peoples. Professor Kenneth Jackson (1955) uses the 'Pictish' prefix Pit in Pitlochry, Pittenween etc., in this way. He finds that, with less than a dozen exceptions out of 300, these names are all concentrated in the eastern part of Scotland between the Antonine Wall and the south-eastern corner of Sutherland round the Dornoch Firth.

Many individual names require prolonged study, and most

place name scholars in Scotland have been too ambitious and have tried to cover too wide a field. This might even be said of the late Professor W. J. Watson, whose monumental 'Celtic Place-Names of Scotland' has been quoted. The immediate future in the scientific study of Scottish place names lies in taking a deliberately limited field - the names on a particular county or part of a county, or a group of names of a particular type. For example, the writer is interested especially in those Scottish names that are found in Old Norse form in Old Norse writings of the eleventh to the fourteenth centuries; these number about 200. For county studies, we have had, in recent years:

Angus Macdonald, 'The Place Names of West Lothian',  
Edinburgh, 1941.

Hugh Marwick, 'Orkney Farm-Names', Kirkwall, 1952.

The School of Scottish Studies has a department of place names under a full-time research worker. He is at present engaged mainly in organising the collection of early forms and local pronunciations. We badly need in Scotland a small corps of scholars with the requisite linguistic background and an urge to make this field of study their own. One may venture to hope that the School of Scottish Studies will be able to find them and nurture them.

#### References

Watson (1926) - W. J. Watson, 'The Celtic Place-Names of Scotland' Edinburgh, 1926.

Jackson (1955) - K. H. Jackson, 'The Pictish Language', in 'The Problem of the Picts' edited by F. T. Wainwright, Edinburgh, 1955.

## THE LOST LEGION

W. D. Cargill Thompson

The purpose of this article is to draw attention to the considerable body of Scotsmen and Scotswomen, the records of whose birth, christening, marriage and death are scattered about the territories of the once great British Empire. I exclude the Great Dominions, Canada, Australia and New Zealand and possibly South Africa as, for the most part, migrants to these countries have settled there and have become Canadian, etc. citizens and the particulars of their 'family events' have been registered in permanent registers in the countries of their adoption.

Those to whom I refer are the men and women of Scots descent, and their children, who spent their working lives in the Empire of India and in the tropical colonies or foreign countries but who, for the most part, returned in due course to this country, bringing their families with them.

As an example, I shall take my own family over four generations and show how scattered are its records. My grandfather was a planter in Ceylon: his wife the sister of another Scots planter. Their marriage was celebrated in St. Andrew's Scots Kirk in Colombo on 5 September 1855 and four out of their five children were born and christened in Ceylon where one of them died in infancy. The fifth child, my father, was born in Arbroath while his parents were on leave and was the only one of the family whose birth was registered in Scotland.

At the beginning of November 1929 I was in Ceylon and decided that I would like a copy of the entry covering my grandparents' marriage. I accordingly got in touch with the Minister of St. Andrews Church. Thereafter ensued a protracted correspondence with the Minister and the Registrar-General of Ceylon and it was not until 16 November 1933 that the Marriage Register for 1855 was traced and an 'Extract from Copy of the Register of Marriage of Saint Andrew's Church, Colombo' was issued. The entry merely

certified that the parties named had been married and referred to "a licence of date Sept. 4 1855 granted by T. Luvaliore Esq., District Judge of Colombo, in accordance with the 24th Clause of the Ordinance No. 6 of 1847." Presumably the licence or the application for same gave particulars of the parties, (age, parentage, residence, etc.) but an application for a copy of the licence brought the reply that these records could not be traced.

So far as the baptismal records of the Scots Kirk are concerned, the entries covering three of the children were traced in the Baptismal Register of St. Andrew's Church, Colombo from the years 1856-1860 and the fourth in the Register of the Scots Kirk, Kandy for the year 1863. In the case of the child who died, I found the grave in the Burial Ground at Kandy so assume particulars were entered in a Register maintained in connection therewith.

From the foregoing it will be seen that the arrangements under the British regime for the safeguarding of the Registers were no better than those which prevailed in Scotland prior to 1855 and it is doubtful if the Registers will be as well looked after now that the control of affairs is no longer in British hands.

My own marriage took place in Colombo in 1929 and involved the issue of a licence under Section 53 of the Marriage Registration Ordinance 1907, by the Government of Ceylon and also a certificate by the clergyman who performed the ceremony. These records are presumably in good order but, as time goes on, the ravages of the climate coupled with a dwindling European population, are bound to lead to neglect and subsequent loss of the files and books concerned.

All three of my children were born in Rangoon. When my first child was born in my house I visited the Rangoon Municipal Offices where the individual I interviewed was quite taken aback to learn that I wanted to register the birth. In the end I came away with a small and flimsy sheet of paper printed in English and Burmese and headed "Certificate of Registration" "Birth Certificate" and stating that I and my wife were the parents of a child born on a certain



day. The main part of the form constituted a notice that the child had to be vaccinated within six months.

The child was christened in the Cantonment Church, (C. of E.) and the fact entered in the church register and afterwards a member of the Indian Civil Service casually enquired if I knew that I could register the birth in the office of the District Magistrate under the provisions of Sections 23/25 of the Births, Deaths and Marriages Act 1886 (India). I looked into the matter and saw the District Magistrate and effected the registration but, judging by the entries on the same page of the Register, very few people availed themselves of the privilege, and I found in the course of subsequent discussions with other people that very few knew of the existence of this Register.

My second and third children were born in the Dufferin (Women's) Hospital and there the Corporation Certificates were issued automatically by the Assistant Superintendent of the Hospital and merely recorded the birth of "One female child" and "One male child" respectively. No names or other means of identification being given. In both these cases I availed myself of the Register in the District Magistrate's Office.

That registration under the Act of 1886 was scarcely known to the Commercial Community is borne out by the fact that, on many occasions I received in my office letters from harrassed parents who had retired from the East asking me to contact the Minister of the Scots Kirk or the Cantonment Chaplain to obtain a copy of the baptismal record for production to the proper authority when a child was being sent to school or entered for an examination, etc.

At the time I registered the births of my family under the Births, Deaths and Marriages Act 1886 I assumed that the Registers were maintained only at the place of registration however, after the War, I happened to be in the India Office in London and discovered that copies of these registrations had been transmitted to the India Office. I also found that copies of the Baptismal Records of the Cantonment Church in Rangoon were filed in the same place. The Cantonment Church in Rangoon was a Government Church served by a Government

Chaplain under the 'Bengal Establishment' which may account for this and it therefore does not follow that the records of the Scots Kirk in Rangoon were similarly dealt with.

Extracts from the India Office Registers may be obtained from the Secretary of State for Commonwealth affairs at a cost of 7/6d-

The foregoing will indicate how haphazard was the system of recording 'family events' in Ceylon and Burma before 1939 and as Burma was a Province of India till 1 April 1937 it may be assumed that the keeping of records in other Provinces was on similar lines. During the War Burma was over-run and, I understand, the Scots Kirk in Rangoon was destroyed by fire. I have no idea what happened to the Church Records in Rangoon, Maymyo, Mandalay, etc. and it might be worth while setting enquiries on foot. The Minister of the Scots Kirk is now (1957) Moderator of the Presbyterian Church of South Africa and resides in Johannesburg.

I expect that the Registrar General for Scotland would not be inclined to consider the complication of a Register of past events relating to non-resident Scots but might it not be worth while trying to interest the Lord Lyon to extend the scope of the Public Register of All Genealogies and Birthbrieves in Scotland by providing a Register of Scottish Births, Marriages and Deaths Outwith Scotland in which Scotsmen who have retained their Scottish Domicile although resident abroad could register their 'family events' and so ensure continuity of records for future generations.

Personally, I would be glad to produce for registration and, if required, deposit in the Lyon Office, all the certificates relating to my grand parents, their children and my own family to ensure continuity of record and I am sure many other Scotsmen of similar experience would be pleased to do the same.

In conclusion, may I put forward the suggestion that the Council of the Scottish Genealogical Society take up with the Lord Lyon the question of the establishment of a Register of Scottish Births, Marriages and Deaths Outside Scotland before it is too late and the scanty records extant in our erstwhile Overseas Empire are allowed to decay and disappear.

## THE GENEALOGY OF THE BUDGES

Eleanor M. Budge. M.A.

**Arms** Azure a Lion Passant Argent.  
**Crest** A Hand holding a Dagger proper.  
**Motto** Stricta Parata Neci. 'Recorded 8 Feb. 1703. in the name of Donald Budge, Toftingall.)

The name Budge, although rather uncommon, occurs very early in Scotland. Because, of its Irish or Gaelic derivation it is not always recognised in old records as being the same name.

The name is chiefly confined to Caithness, the Orkneys, and the Isle of Skye, and anyone bearing the name can trace their origin to one of these places.

Hugh Macdonald, the Sleat scannachie, who wrote during the reign of Charles II, the History of the Macdonalds, tells how the name came into Scotland from Ireland:

Angus Og of Islay, the friend of Robert the Bruce, married Margaret the daughter of Guy O'Cathan one of the barons of Ulster. "The portion or tocher he had by her was seven score men out of every surname under O'Kain, viz. the Munroes, so called because they came from the innermost Rowater in the country of Derry, their names being formerly O'Millans; the Roses of Kilrack; the Fairns; the Dingwalls; Glasses, the Beavons; so now called but improperly, that being a French name whereas they are Irish of the tribe of O'Neals and took the name first from following the name of Beda. The Macphersons, who are not the same as the Macphersons of Badenoch, but are the O'Docharties in Ireland; the Butikes in Caithness. of whom is the laird of Tolingail (Toftingall), and many other surnames." (High. Papers, Vol. 1 p 20.)

In "Clan Donald" the Seannachie's story is repeated with the following addition.

"The descendants of those who left representatives are known to-day as 'Tochradh Nighean a 'Chathanaich' (The dowry of the daughter of O'Cathan.) These Irishmen like their

forerunners of Clan Donald, obtained grants of land throughout Scotland and became the founders of Scottish families and clans. ("Clan Donald." p 100.)

It would appear that the 'Butikes' or Budikes (Budges) settled in Caithness where they acquired lands, and we have evidence that in the early days they were considered a clan. The Rev. John Fraser in his "History of the Frasers" says that in 1438 there were "continual jarres betwixt the Benes and Budges and other clans in Caithness. (Wardlaw. p 103.)

There is in the possession of Mr. Peter Murray Threipland, Dale House, Caithness, who inherited Toftingall and other estates originally belonging to the Budges, a manuscript entitled "The Genealogy of the Lairds of Toftingall" written about the 17th century. The manuscript gives information concerning the family of Budge which evidently settled in Caithness some time in the 15th century. Unfortunately, on account of its age, parts of the manuscript are illegible.

The following is a copy taken from the original manuscript and given to the writer by Mr. Murray-Threipland. "The family of Toftingall is undoubtedly amongst the most ancient in the shire of Caithness, as shall be made to appear by the following documents. From whence they came or took their name is unknown for the most part, but by common tradition it is affirmed by all that know the family that they are descended of the family of Macdonald and that the first of this family that came to Caithness fled thither for slaughter and changed his name from Macdonald to Budge. The late Sir Donald Macdonald of Slate, chief of that name affirmed that the Budges of Toftingall are of his family as he pleaded the same with Donald Budge then of Toftingall in the year 1685, at the general convention of Gentlemen and others for apprehending the Earl of Argyll and offered to prove the time of their cadency by authentic writs in his charter Chest. There are several charters belonging to Toftingall which are not legible by reason of the badness of the write and the length of time and ill keeping. But the first that can be read is a charter granted by William, Earl of

Caithness of the three penny land of Toftingall to Nicolas Budge of Toftingall dated the - day of July 1403 the seal hercof is entire and thereon there is a precept of Claro Constat granted by John Earl of Caithness to Magnus Budge of Toftingall, as heir to Nicolas Budge of Toftingall of the three penny-lands of Toftingall and tenements of Wick dated 21st February 1415, the seal is entire. There is a charter granted by Alexander, bishop of Caithness to Magnus Budge of Wick (pro suo servitio et Consilio nobis impenso) of the croft and tenements in Wick. It is dated at Wick the 10th of January 1421. There are two doubles of the principle service of Sir Henry Budge treasurer of Ross to the said Magnus Budge, his father, dated 19th November 1437. He was treasure of the Church revenues of Ross.

There is a principal agreement between the said Sir Henry and Anna Wemyss, the Relict of his father, (it would seem that she was not Sir Henry's mother) whereby she sells to him her right of terce falling to her by the death of her husband of the lands, he died infiefed in; for 7 merks scots payable at the two terms. It is dated the 29th April 1430.

There is a charter granted by Andrew, bishop of Caithness, to Nicolas Budge of the tenement of Wick dated 27th March 1507. There is a sasine hereon in 1500. N.B., there is a charter granted to Henricus De Soncto Clara Comos Archadia to Budge of the tenements of Wick. There is only a Notorial double of this charter and it has no date."

Written in the margin of the Manuscript in a different hand is the following list of the Lairds of Toftingall.

" 1	Nicolas	1400-4
2	Nicolas	1400-15
3	Magnus	1400-21
4	Sir Henry	1400-37
5	Nicholas	1508
6	Magnus	1500
7	William	1500
8	James	1600
9	William	1600
10	William	1600
11	Donald	1600
12	Wm	1700
13	James	- 65 "

John Henderson, author of "Caithness Family History" published in 1884, suggested that some of the dates given in the "Genealogy of the Lairds of Toftingall" are incorrect. He pointed out that the first legible charter was one granted to Nicholas Budge of Toftingall in July 1403, and that the correct date must be 1503, as William, 1st Earl of Caithness did not acquire the earldom until 1455, and that it must have been his successor, William, the 2nd Earl of Caithness, who granted the charter, as he inherited the earldom in 1476 and died in 1513. Henderson consequently changes the three subsequent dates, the 21st Feb. 1415 is changed to 1515, when John, Earl of Caithness granted a precept to Nicholas's heir, also, named Nicholas; 1521 instead of 1421, when Magnus Budge took over the tenements of Wick; and 1437 to 1537, when Sir Henry Budge, a priest and Treasurer of Ross became laird of Toftingall.

Henderson's reason for advancing these four dates a century, would seem plausible except for the fact that the "Papal Letters" Vol. IX, p431, 439, 449, record, around 1444 the death of Henry Buge, Treasurer of Ross and brother of Magnus Buge, who was canon of Ross in 1440 and Vicar of Tain in 1444. (ibid p 144-145.) Apparently Henderson had not seen the Papal Letters.

R. W. St. Clair in his "The St. Clairs of the Isles" has this to say. "In Calder's 'History of Caithness' there is an unsupported statement that the Sinclairs of Dun settled in the County in 1379, but there is no evidence of the Sinclairs appearing in connection with lands in Caithness until 1455, unless we can accept the charter of Henricus de Sancto Claro, comes Orchadiae. to the founder of the Budes of Toftingall of tenements in Wick as establishing such a fact". p 240.

A charter granted by Henry, Earl of Orkney would carry the Budes back to between 1379 and 1420, when the second Henry, Earl of Orkney died.

The story which follows and which is taken from "The Gunns" by Thomas Sinclair, would indicate that the Budes have been in Caithness, and possibly in Toftingall since the end of the fourteenth or the beginning of the fifteenth

century.

from "The Gunns" by Thomas Sinclair. p 193.

The Battle of Auchingale, Loch Watten, (about 1350).

"Paul Macintyre, of Creich Castle, Sutherland, was married to Mariota daughter of Graham of Graham, and niece of Hugh, Earl of Ross.

Paul Macintyre had the right to get from Caithness yearly, nine score kine, as long as he came for them personally. It happened at last that he was busy erecting and fortifying a castle at Creich in Sutherland. He sent his son Gillespie and Murdo Rivach Mackenzie, an outlaw and a brave warrior, with a strong party of men to take up the custom cows: but the Caithnessians assembled at Spittal Hill and put themselves under the command of Burd, afterwards Budge of Toftingall. They took up their position at the south corner of the east end of Loch Watten extending themselves to the steep banks of the river below Auchingale. The banks protected their right flank as the Loch Watten did their left, and moreover they had the advantage of the higher ground.

Here they awaited the approach of Gillespie and Murdo Rivach who were driving a herd of cattle from the low lands. On arriving the strangers made a furious attack on the centre of Burd's position, and succeeded, but only for a time in pushing back the Caithness man. The fight was furious and the slain many. At last Gillespie and Murdo were overpowered by numbers, and both fell in the action. The remains of Gillespie were taken home, and there is a poem extant which relates that when crossing the Helmsdale river which was in flood, the force of the current carried away the corpse and those bearing it, and all were lost. Murdo Rivach's body was buried where he fell, and the mark of the grave is still to be seen. His head was being carried home, and while the company were passing the top of the Ord, the road then on the very edge of the cliffs, a fight took place between two of those bearing the head, and both together with their ghastly burden, tumbled over the rocks, a hundred feet high and were dashed to pieces. Murdo Rivach

Mackenzie's two-handed sword remained in the possession of the Budes of Toftingall till the year 1688, when it was given to Kenneth Mackenzie of Seaforth."

Commenting on the probability of the Budes being a branch of the Macdonalds of Sleat, Henderson says "Hugh Macdonald of Sleat, who was third son of Alexander tenth Lord of the Isles, is said to have had a son Donald, who was called Gallach from his having been fostered in Caithness by his mother's relations of the Clan Gunn to which she belonged. Donald Gallach's grandfather, Alexander, died in 1449, and as the Budes had certainly settled in Caithness toward the end of the fifteenth century, their descent from the Macdonalds and their connection with the country through Donald Gallach are not improbable."

The Hugh Macdonald referred to was married in 1460 to Elizabeth or Mary Gunn, daughter of the Crowner of Caithness, George Gunn. Their son Donald, called "Gallach," became Donald Macdonald, chief of Sleat.

There would appear to be truth in the claim of both Henderson and the author of the 'Manuscript' that there is a connection between the Budes of Caithness and the Macdonalds of Sleat, although there is little actual proof, unless one takes into consideration that after a certain date the early Budge Christian names, Nicholas, Magnus, etc. disappeared and Christian names typically Macdonald in character such as Donald, James, William, take their place.

As regards the suggestion that the Budes were Macdonalds to begin with, and that they changed to Budge on going to Caithness; one would prefer to accept such a recognised authority as the early Sleat Seannachie, Hugh Macdonald, who traced the name right back to Ireland through the marriage dowry of Angus Og of Islay to Margaret O'Gathan (or O'Kain). We definitely find a Donald Budge well established in Toftingall by 1627.

Anyone interested in looking up the major line of the Budes of Toftingall should consult Henderson's "Caithness Family History," and although a more complete work on this family could be done, a good start has been made by this



authority. Maybe, some day, when the many boxes of papers now in Dale House concerning the family, are classified, more will be known about the Budes of Toftingall and elsewhere.

### AN APPROACH TO RECORDS

Part of a lecture given to the Scottish Genealogy Society on  
15th March 1957.

John Lario, M.A.

Both archivist and searcher need something more than technical qualifications. One could know the covering dates of every group of records in Register House listed in Livingstone's Guide to the Public Records of Scotland and still know very little about records. One could be provided with all sorts of catalogues and indexes and still not be able to use them intelligently. There is a need for both the keeper and the reader of records to develop an approach to records which may give some measure of coherence to the detailed and often unrelated information on specific record groups, which is to be found in guides of various kinds. Probably there are many ways in which such an approach can be built up but one obvious way is to base it on the answers to a number of simple, general questions which can be asked, if not necessarily answered, by anyone interested in records whether he is an expert or a beginner. The important thing is to ask the question!

#### Records and their Purpose.

The first question which must be asked could perhaps be put in this form, "What are records and how much can we reasonably expect from them?"

This question can only be answered very generally as there are many definitions and many methods of classification. But one thing is certain. Records may provide raw

materials for all types of history but, unlike some other written sources such as chronicles, diaries or contemporary histories, they are framed for practical legal and administrative purposes and not for the benefit of posterity. As a result all records tend to be rather disappointing to the out-and-out specialist and the usefulness of any record to a future research worker often has little to do with the purpose for which it was originally created. Property registers are a most valuable source for pedigree purposes although framed with quite another object.

There is no doubt that records possess a character and quality which all written materials useful for history do not necessarily possess. They have an "unselfconsciousness" and impartiality in that they themselves do not normally seek to justify anything and they have a second distinguishing quality of authenticity deriving from the nature of the recording authorities, the regulations for framing the record and in part from their preservation in official custody. This is not to deny that records on occasions have their defects. They may contain alterations, mistakes and omissions and of course they do reflect the prejudices of their age, but such natural flaws do not affect their basic qualities. On reflection the student of family history or any other kind of history would probably agree that the peculiar qualities of records derive from their having accrued in the course of normal administration and not having been created or modified in form for the historian's special benefit. Even today, the Report of the Committee on Departmental Records in England which was published recently has stressed that the historical criterion for preservation can only be applied by indirect means. After all, had a commissary clerk executed his duties with a view to catering for the needs of future genealogists then no doubt he would have taken the trouble to enter up the date of death of the deceased in every case; but then again he might have exercised his judgement and decided that historically speaking he would be safe enough to register the testament of John Knox but that he would probably be justified in omitting that of "John Smith".

If we appreciate record quality then we must recognise

record limitations. Each record has a purpose and there is no use expecting more from it than falls within its purpose. The Registers of Sasines record heritable rights - including rights in security - but they do not normally profess to record leases. Although many tenants are indeed mentioned, they are only referred to incidentally. Property is described but only to the extent necessary for the purpose of the record, and the description given would not satisfy the modern surveyor. Testaments are less valuable than wills in England because they do not refer to heritage. It must also be remembered that the Record of Testaments was compiled for legal and financial reasons. While the names of relatives are often to be discovered among creditors, debtors, beneficiaries, witnesses, executors or cautioners, the searcher will not necessarily find all the genealogical information he seeks. Indeed, in the case of a testamentative, he may not find any genealogical details at all. Where people come into some relationship with central or local authorities, some genealogical or other designatory information may be given in the records, but only if this is necessary for the purposes of the record concerned. If members of the 'kin' are pursuing an action their relationships to the injured party will be specified. But there is no reason, say in the Exchequer Rolls, for finding more than the name of a person in monetary relationship with the Crown with perhaps the addition of a territorial or vocational designation.

The searcher must realise at the outset that some understanding of the nature and purpose of records is essential. He must be prepared to accept the limitations of records which are, in a sense, by-products of their very virtues.

### The 'Birth' and 'Death' of Records

The record student, reflecting on the covering dates of records which seem to be either too early or too late for his purposes, may be prompted occasionally to ask the question: "Is any record really born so abruptly on such a definite date and does it die so suddenly at some later equally specific date?"

On the face of things at any rate, it is true that a

record may be created in a certain form at a certain date either by statute or otherwise. The new-series of Privy Council records was commenced in 1545. The establishment of the Registers of Sasines in substantially the modern form was accomplished by an Act of 28th June, 1617. Similarly, records may be killed by statute. The Act of Union of 1707 ended the separate Scottish Parliament and Privy Council and of course, ended their records. In more modern times, the Register of the Privy Seal was allowed to die in 1898 and the Burgh Registers of Sasines have been killed by the progressive operation of the Burgh Registers Act of 1926..

But it may be suggested that the question should perhaps be viewed on another level. Surely any record satisfies a 'record need' which may be temporary or permanent. The management of the estates forfeited in the Rebellions of 1715 and 1745 was placed in the hands of commissioners but, later in the century, an Act authorised the restoration of the estates to their former owners. Thus the records of the Forfeited Estates have a pretty definite life-span and there the recording need was only temporary. But so long as society considers it necessary or desirable that a record be kept of certain transactions, then there will be a continuing record to meet such a permanent 'record need', although the form of the record may change, sometimes slightly but often very substantially.

During the seventeenth century the Registers of the Great and Privy Seals were each split into two parallel series for the registration of different kinds of royal grants. Following the Land Registers Act of 1868 there occurred the consolidation of the old General Register of Sasines and Particular Registers into one central General Register of Sasines kept in county divisions. These are comparatively slight changes of form. But even very great changes in form, including the apparent death of a record, do not mean that the 'record need' has died. The old Scottish Privy Council has been succeeded by later administrative bodies which keep records of the day-by-day government of the country much as the Council did in its day. Writs formerly recorded in the Burgh Registers of Sasines are now recorded in the appropriate division of the General

Register of Sasinos. The ending of the Register of the Privy Seal does not mean that the type of grant formerly passing under that seal does not now exist and is not now recorded. Such grants, those of minor offices for example, are now to be found in records kept by the Scottish Home Department. Broadly speaking, the functions of the Commissary Courts in regard to the confirmation of testaments were ended in the nineteenth century but these functions were transferred to the Sheriff Courts and the same sort of material is now recorded in the appropriate Sheriff Court registers. During the nineteenth century the Court of Session swallowed up the jurisdictions formerly executed by the Exchequer Court, the Admiralty Court, the Commissary Court of Edinburgh (for consistorial actions) and the Jury Court. Such very great changes in the form of records may tend to conceal the simple fact that the new is frequently satisfying almost exactly the same 'record need' as the old.

Similarly at the beginning of records there are many cases of apparent 'birth' of new records which might be more aptly described as examples of 'rejuvenation' of older records. There is a very noticeable lack of differentiation of function in early times. One body may tackle administration, judicial proceedings and registration and its records will reflect such multi-competence. Increasing differentiation of administration brings parallel differentiation of record and the development of separate records to cater for the various purposes originally interwoven in one record. It is most important to realise that the judicial function precedes both the administrative and registrative functions. The new Register of the Privy Council starts in 1545 and records the day-by-day administration of the country. Town Council minutes are extant from the sixteenth and seventeenth centuries and record the daily administration of the smaller community. But obviously there was administrative activity in both these fields long before these dates. Once this is realised, a brief search will soon show that the administrative acts of the Council before 1545 are intermingled with private legal decrees in the Acts of the Lords of Council extant from 1478. Indeed even after 1545 acts relating to state affairs continue for some years to appear

among the acts of the Lords of Council and Session. Similarly the administrative acts of town councils or their precursors are frequently recorded in burgh court books which may be in existence a century or more before the commencement of separate town council minutes. In the same way the various registers of deeds, the Books of Council and Session and the Sheriff Court, Burgh Court and Commissary Court Registers of Deeds all grew out of the courts concerned. Although these develop into separate registers in the sixteenth or seventeenth centuries, such growth should not be allowed to obscure the fact that a very high proportion of entries in older court books of any authority are, in fact, examples of registration for execution.

If new records emerge from a process of differentiation, they may also develop from a process of experimentation. The Court of Session was established in 1532 and separate Court of Session records, such as the Register of Acts and Decrees, exist from about that period but there were previous experiments designed to provide a supreme and readily accessible tribunal of civil jurisdiction through both Parliament and Council and earlier records, known as the Acts of the Lords of Council (later Acts of Lords of Council and Session) and the Acts of the Lords Auditors, contain very similar material to that found later in the Register of Acts and Decrees. Probably the best illustration of a permanent 'record need' seeking fulfilment is to be seen in the concern to record in some way the fact of taking legal possession of heritable property. From early times a variety of methods had been attempted; for example, by the affixing of a special seal to a precept, by endorsement on the precept or charter or by entry in court books. Gradually a separate document of transfer (the instrument of sasine) was evolved and many of these are to be found in collections of family muniments during the fifteenth century. These were entered in the protocol books of the notaries framing the instruments and about two hundred of these books, dating from the early sixteenth century, are now in Register House. Many more are preserved in burgh records either in the custody of Town Clerks or in Register House and these are of particular importance as the Burgh Registers of

Sasines were not instituted until 1681. A little before 1617 the Secretary's Register was attempted and failed largely for political reasons. Although the year 1617 is justly regarded as one of the great dates in the Scottish system of conveyancing and registration and the Registers of Sasines then instituted were for more effective and comprehensive than anything going before, it would be wrong to overlook the earlier material produced in the various experiments which preceded 1617.

If due weight must be given to changes in form of records and to the institution of new records or perhaps the disappearance of older ones between specific dates, one should not be at the mercy of covering dates. If regard is paid to the underlying and frequently permanent 'record need', the development of records may well be seen as a process of evolution rather than sudden birth and violent death.

### NOTES

#### CONFERENCE IN EDINBURGH

On 2nd November 1957, a conference is being held at the National Library, Edinburgh, to celebrate the Tercentenary of Sir James Balfour of Denmilne (c1600-1657), Lord Lyon King of Arms, historian and antiquarian. Details of this will be sent later to all home members of the Scottish Genealogy Society. A paper on Balfour as a herald and genealogist will be read by our senior Vice President, the Lord Lyon; and papers on other aspects of Balfours work as well as an exhibition of relevant MSS should prove of interest to many of our readers, who are urged to make a note of the date.

## CAMPBELLS OF JURA

The notice of the Campbells of Jura (Vol. IV, No. 1) affords an opportunity to show how the accounts of tourists sometimes help to amplify our information about Highland families. Archibald, fourth of Jura, who succeeded in 1764, was host to Thomas Pennant in 1772, to Professor Robert Jameson in 1794, and to the Hon. Charles John Shore (Lord Teignmouth) in 1829. "Mr. Campbell," says Teignmouth Sketches of the Coasts and Islands of Scotland, Vol. II, pp. 335-6), "is so attached to his present habitation, that he has vowed to end his days in it, though he had built a house, in the modern style, near it, as a residence for his son. Mr. Campbell was born in 1744, and has spent his whole life in this island. The greatest misery, which he ever experienced, was the change of the national garb; he recollected every man in the island clad in the kilt. Speaking of Bein-an-noir, the highest of the Paps, he observed with shame, that he had never reached its summit till he accompanied Pennant. Mr. Campbell said of Pennant that he derived his information too much from the lower classes." This laird, who was 91 when he died in 1835, had a reign of 71 years.

R. W. M.

## SIR GEORGE MACKENZIE'S "FAMILIES OF SCOTLAND"

Mr. R. W. Munro rightly deduces that Sir George's collections were compiled about, or indeed in, 1672. From the "Familie of Innes" (1864, Spalding Club, ed. by Cosmo Innes) pp. 186-7, we can even see the (quite modern) manner in which he set about it, he evidently circulated queries for authentic information, and obtained in cases where interest was shown, copies of authentic charters, etc. In this case the "Informant" ("Elgin, 8 May 1672") was presumably a J. D(unbar?) - who unfortunately, after some general observations - did "forbear to enlarge" on the very subjects which Mackenzie or any other genealogist would have been glad to know with precision.

E. W. A. Drummond-Hay, the one-time owner, or at any rate autographist, of the "Hay MS" (B.M. Add.12,464) was



Lyon Clerk, 1823-1845.

The collections are valuable because they sometimes give what were often traditional accounts of family origins - at a period somewhat before other ideas supervened.

As regards Andrew Lang's observation on its printing, "and probably never will" shortly before the War I suggested it as suitable for the Scottish Text Society, but unfortunately they regarded Sir George Mackenzie's diction as "too good English" for their series. Those who have had occasion to study Mackenzie's writings will find that, though polished in form, as one expects of a great jurist, they nevertheless contain characteristic Scottish forms of thought and expression, which deserve careful study. Those who have collated all the versions might be able to say whether any of them is in more "Scottish" variety of spelling.

Thomas Innes of Learney,  
Lyon.

#### QUERIES

IV/14. RHYND. General information wanted on the Family of Rhynd of Carse, ancestors of Agnes, daughter of Alexander Rhynd (1624-1659) who married (1697) Alexander Dickson of Clocksbriggs. The following details especially are required a) Whose daughter was Christian Rhynd of the house of Carse, who married David, grandson of Robert Arbuthnott of Arbuthnott in the late 15th century: b) Who was James Rhynd, younger of Broxmouth who married Margaret Lyon, daughter of the 3rd Lord Glamis?

G.D.

IV/15. FORDYCE. What was the maiden name of the first wife of Alexander Fordyce, Peace Officer and China Merchant 1806-1842?

A.G.F.

IV/16. d'ARCES. Can anyone supply information concerning Antoine d'Arces (Antonius d'Arsius, alias de Arciis) born in Dauphiné (France), one of King James IV's favourites and governor of Dunbar, slain on 21st October 1517 by David Home Wedderburn while acting as one of the substitutes of the Regent, John of Albany, then travelling on the Continent?

R. V. du C.

IV/17. MACKAY. Is there any record of the ancestors of Alexander Mackay of Beaulieu:- Roderick, b 1745 and Donald b 1750 who sailed to Pictou in the Hector; Alexander b 1728 who joined 78th Regt. and went to Halifax in 1757; Hugh, who was lost at sea on a voyage to Australia; and Margaret who married (at Kilmorack) John Robertson and went to Halifax in 1784? Did any of the family remain in Scotland?

M. E. W.

IV/18. CAMERON. Is there any record of the ancestors of Donald Cameron, native of Urquhart, who served in 84th Regiment, probably son of Hugh Cameron? Donald had a son Duncan, and brothers Finlay and Samuel who served in the 84th Regiment also, and a daughter Mary who married James Fraser who left Cromarty for Halifax in 1775?

M. E. W.

### NOTICES

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All material for publication must be sent to the Editor, The Scottish Genealogist, 30 India Street, Edinburgh, 3, in a form ready for immediate use. MSS must be fully referenced signed and previously unpublished.

Publication in The Scottish Genealogist does not imply, that all views therein are accepted or admitted by The Scottish Genealogy Society. Authors, and not the Society are to be held responsible for errors of fact.

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By the constitution, the Society exists "to promote research into Scottish Family History" and "to undertake the collection, exchange and publication of information and material relating to Scottish Genealogy by means of meetings, lectures etc.". By the expressed desire of the Original Members, the Society was to remain an academic and consultative body; and was not to engage itself professionally in record searching. Arrangements will be made by which the Society can supply a list of those members who are professional searchers but any commissions of this kind must be carried out independently of the Society.

The monthly meetings of the Society are held in St. Andrews Society Rooms, 24 Hill Street (Castle Street end.), Edinburgh at 7. p.m. on 15th of the month. (in the event of the 15th falling on Saturday or Sunday, the meeting is held on the following Monday).

Typed and Duplicated for The Scottish Genealogy Society, 30 India Street, Edinburgh, 3, by LEGERSTAFFS, 44 Frederick Street, Edinburgh, 2, 'Phone 54510
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