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## THE DEATHBED DISPOSITIONS OF ELIZABETH, PRIORESS OF THE ABBEY OF HADDINGTON, 1563.

THE accompanying document is from the Protocol Book of Thomas Stevin, Notary Public and Common Clerk of the Burgh and Sheriff-Clerk of the Constabulary of Haddington from 1556 to 1580. The Society is indebted to the Staff of the Scottish Record Office for tracing and furnishing a copy of this very interesting paper.

In December 1563 the Prioress Elizabeth lay grievously ill. She was unsure about what might happen to anything she might leave undisposed of, and the final entry in our document would seem to indicate that among the tribe of Hepburns there were already intrigues as to who should benefit by her death. And so to obviate disputes she caused to be made in the presence of a Notary the series of donations *Mortis causa* here recorded. But even at her age—she must have been nearly seventy—she had some lingering hopes of recovery and made provision that she might recall her gifts “at hir desyre gyf scho convalesschis of hir infirmite at this present.” She did not recover. In a few weeks she was dead.

Dr Gordon Donaldson in the last volume of these Transactions (Vol. V p. 17 and see also p. 42 of the same volume) has pointed out the endeavours made by Elizabeth and the Convent to convert as much as possible of their assets into hard cash in view of the impending Reformation. At first sight one might suppose that the monies now disbursed by her could have resulted from these realisations and might be Elizabeth's share of the spoils. One thing seems to cast doubt on this. All the payments were made in gold, some of them in foreign gold coins current in Scotland. Now gold currency of any designation was, during the 16th century in Scotland, if not quite so rare as golden Sovereigns are to-day, a very scarce commodity. The currency of Scotland was during that century in a rapid state of devaluation with regard to foreign currencies. Between 1503 and 1601 the ratio of the Scots pound to the pound sterling fell from 3 to 1 to 12 to 1 and was at the time of our document between 5 and 6 to 1. Despite the repeated acts of Parliament the first thing that any reasonable Scot thought of doing if any reputable coin came into his hand was to export it. Not much of the grassums or entry-fees

## THE DEATHBED DISPOSITIONS OF ELIZABETH, PRIORESS OF THE ABBEY OF HADDINGTON, 1563.

exacted by the Convent for the grants of fee-farms and long tacks can have been paid in gold, so that the fact that the Prioress had been able to accumulate such a hoard of gold Coin would seem to indicate that the old lady had long pursued a course of prudent and intelligent investment in something likely to yield a capital appreciation.

She may have started quite early in her career for one of her gifts, a small one it is true of twenty Marks in gold to William Hepburn, can only have been in the Bonnet pieces of James V issued in 1539 and 1540 and coined from native gold 23 carats fine, for these were the only coins ever issued in Scotland in terms of the mark which was otherwise merely an accounting figure. Judging from the rapidity with which good money disappeared in Scotland few coins of such quality can have been in circulation twenty years later.

Owing to the vagaries of the black market exchange in Scotland it is not easy to estimate the value even in Scots currency of the Prioress's hoard. Fortunately owing to the curious document "Anent Cunye [coinage], ane ample discourse" written apparently shortly after 1580 and printed in R. W. Cochran-Patrick's "Records of the Coinage of Scotland" Vol. I p. 94, one can make a fairly close approximation to the values of the two foreign coins mentioned. The Crown of the Sun was a French coin  $22\frac{1}{2}$  carats fine and weighing 54.37 grains. In 1561 it was worth 26s 4d, and by 1582 it had risen to 48s. We may reasonably take it at the end of 1563 as worth 30s, so that Marion Hepburn's 495 crowns would be worth £742 Scots. The double ducat of 108.4 grains and  $23\frac{1}{2}$  carats fine was worth 44s 4d in 1561 and in 1591 £6. We may take it at £3 so that Agnes Stewart got £300 Scots. With regard to the remaining £450 13s 4d the figures given are surely nominal and not the true market value which was something more. The author of the "Ample Discourse" says that within two years of their issue in 1580 the four-pound pieces of James VI, although of only 21 carats fine (the basest coined in Scotland for sixty years) were at a premium of 5s. Elizabeth's Scots coins were probably worth £500, so that the total value of her hoard was almost £1550 Scots. What would this be worth today? What should one take as the "cost of living index," a phrase to which we have grown all too well accustomed? Living was simple in those days and only the bare necessities of life, wine and ale and beef and barley need be taken seriously into account.

## THE DEATHBED DISPOSITIONS OF ELIZABETH, PRIORESS OF THE ABBEY OF HADDINGTON, 1563.

Again the author of the "Ample Discourse" helps us. "Qubill [till] the end the lix yeir (i.e. 1559) or thairby pryces of wittelis wer reasonable, cartage (carcase) of beif iij li xijs ane guid veill xxs, a muttoun bouk (carcase) xs . . . a pynt of wine xvjd a pynt of aill vj pence and all utheris accordinglie." As for grain we know that prices fluctuated violently with the nature of the season. Our year 1563 was a bad one, as bad as 1954, and meal was at famine price, £3 6s 8d per boll, but the next year was better and the boll was only 18s (I.E. Grant, *Social and Economic Development of Scotland* p. 302). Barley was round about twenty or twenty-four shillings a boll. As for the "cost of dying index" the Haddington grave digger contracted to bury a bairn for 8d and an "auld man" for 16d. Divide these prices by six to get the contemporary figure in sterling and in the case of the wine and ale divide again by three to get the sterling price per imperial pint. The bceves bought for salting and the sheep may have been lean and scraggy runts but the wine at a penny a pint actually came from Bordeaux and as for the ale the good and substantial burgesses who acted as ale conners in the market saw to it that it was "gude and substantious stuff". Today, with beef at 160s per cwt. and barley at £6 a quarter, I think we should not be far wrong if we multiply the pound Scots by five and call it sterling which would give us a round figure for the Prioress's gifts of £7550. Even if she could not write — neither could some of the provosts and baillies who went to the Convention of Royal Burghs and Parliament—she had at least a business sense, though perhaps the amount she had laid by was not so immoderate considering that she, a Hepburn, had ruled a wealthy convent for forty years.

The declaration made pro Mariota Hepburn the same morning at ten o'clock in the morning in a certain "conclave" in the eastern part of the Abbey shows us two of the principal beneficiaries, both Hepburns and probably related to the Prioress, preparing to set up house on the strength of Elizabeth's largesse. Was it with her blessing and as the result of her match-making? The bride to be has already handed over her "tocher" but prudently seeks instruments which she can hold over the groom should he prove recalcitrant. One would like to know the outcome. Incidentally the description of her as a "natural" daughter does not cast any doubts on her legitimacy. In another deed Stevin uses "naturalis," "carnalis" and "legitima" as equivalent.

A. MONTGOMERIE,

The Deathbed Dispositions of Elizabeth, Prioress of the Abbey of  
Haddington, 1563.

Haddington Burgh: Protocol Book of Thomas Stevin f 379v.

Pro Joanne Hepburne

Secundo die mensis decembris Anno domini im vlxiiiio Indictione  
septima pontificatus pape Pii quarti Anno quarto.

Quo die the personis underwrittin grantit thame respective to haue rasauit  
out of the handis of Johne Hepburn in the Nungait the sowmes of mony efter-  
followand ilkane of thaim thair awin partiis as followis quhilkis sowmes of mony the  
said Johne Hepburn rasauit fra Nowe Bruse be command of Elezabeth prioress  
of the abbay of Hadingtoun and the said Johne be hir command as he allegit was  
ordanit to deliuer the samyn as followis: That is Patrik Hepburn of Quhitcastell  
grantit him to haue rasauit fra the said Johne iijc lib. in gold and that in part of  
payment of certane sowmes of mony and utheris gudis geir and jowellis intronettit  
with be the said priores and uptayne be hir efter the decese of vmquhill Mr Johne  
Hepburn of Quhitcastell his fader pertaining to him the tyme of his decese and  
now pertaining to the said Patrik as he allegit Alsua Marioun Hepburn grantit hir  
to haue rasait fra the said Johne iiijciiiijxxv crownis of the soun ane belt with heid  
and pendess of gold and burd of crammasy weluot alsua Agnes Stewart douchter of  
Johne Stewart of Mynto knyght jc doublien dukettis Alsua William Cokburn  
brother germane of James Cokburn of Langtoun xl lib. in gold Alsua Rychart  
Congiltoun brother germane of Patrik of that ilk xl lib. in gold alsua Johne Bald  
xxj lib. in gold alsua Robert Diksoun xx lib. in gold alsua Mr William Walderstoun  
x lib. in gold alsua William Hepburn son of John Hepburn foresaid xx merkis in  
gold alsua John Neisbet vj lib. in gold of the quhilkis sowmes in gold the saidis  
personis all in ane voce grantit thaim contentit and payit ilk ane thair awin part  
be the said John and for thaim thair ayris executouris and assignais exonerit  
quitclomit and dischargit the said Johne Hepburn his ayris executouris and  
assignais of the saidis sowmes in gold for now and euer faythfullie promittit band  
and oblist thaim to refund and agayne deliuer the forsaidis sowmes of mony in  
gold ilk ane thair awin part as thai instantlie hes rasauit the samyn to the said  
Elizabeth priores at hir desyre gyf scho convaleschis of hir infirmite at this present.  
Super quibus dictus Joannes Hepburn peciit instrumentum acta in conclavi dicte  
prioressa hora circiter decima ante meridiem testibus Nowe Bruse et Joanne  
Stewart de Mynto milite.

Eoden die the said Patrick Hepburn grantit him to haue rasauit fra the said  
Johne Hepburn ane siluer pece and faythfullie promittit band and oblist him to  
agayne deliuer the samyn to the said Johne Hepburn incontinent efter he be  
requirit be the said Johne to deliuer to him the samyn efter the said prioress decese.  
Super quibus dictus Joannes Hepburn peciit instrumentum acta in quodam  
conclavi in orientali parte monasterii predicti hora circiter decima ante meridiem  
testibus Joanne Stewart de Mynto milite at Joanne Hepburn iuniore.

Pro Mariota Hepburn

Eodem die the said Patrik Hepburn of his awin proper confessioun grantit him  
to haue rasauit in kepin fra Marioun Hepburn douchter naturalie of Georg  
Hepburn of Paulewell the soun of iiijciiiijxxv crownis of the soun in numerit mony  
and faythfullie promittit band and oblist him his ayris executouris and assignais  
be thir presentis to refund and agayne deliuer to the said Marioun Hepburn hir

The Deathbed Dispositions of Elizabeth, Prioress of the Abbey of  
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ayris executouris and assignais the foresaid soun of iiijciiiijxxv crownis of the soun  
quhat tyme or quhow sone the said Marioun requiris him for to deliuer the samyn  
to hir or sall marie hir and take hir to his spousit wyf the said Marioun requirand  
the samyn. Super quibus dicta Margarēta peciit instrumentum acta in conclavi  
predicto hora et coram testibus predictis et dicto Joanne Hepburn in Nungait.  
Pro domino Wauchtoun

Eodem [die] Patrik Hepburn of Wauchtoun exponit in presens of John  
Hepburn in Nungait that he offerit to him certane sowmes of mony ane tyme in  
Lufnes ane vther tyme in Edinburgh in nayme of Elezabeth prioress of the abbay  
of Hadingtoun and therfor requirit the said Johne gyf the samyn was of verite or  
nocht to quham the said Johne ansurand said that he neuer offerit nor zeit deliuerit  
ony mony to said Patrik in the said prioress nayme. Super quibus dictus Patricius  
de Wauchtoun peciit instrumentum acta in Lufnes hora tercia post merediem aut  
eocirca testibus Patricio Hepburn famulo dicti Patricii et Willelmo Hepburn filio  
dicti Joannis.

## LONGNIDDRY IN TRANSITION (1778-1798).

Two interesting old estate plans in possession of the Earl of Wemyss and March show the village of Longniddry and its lands as they were in 1778 and again in 1798<sup>1</sup>. They furnish evidence of the sweeping changes effected within the space of twenty years by the influence of the Agricultural Revolution. In 1778 Longniddry was a considerable village, housing what was mainly a farming community of tenant farmers and sub-tenants or cottars who worked the surrounding lands. At this time changes were beginning to take place: new steadings were being erected in the outlying lands and there was soon to be a general exodus from the village. By 1798 Longniddry had shrunk to the proportions of a hamlet and was to remain in that condition for more than a century. The lands worked from the village decreased commensurately from over twelve hundred Scots acres in 1778 to three hundred and thirty-six Scots acres, known in 1798 as Longniddry Farm and possessed by the tenant of the only steading left within the village<sup>2</sup>.

Large farms of from four to eight hundred acres were not uncommon in the more fertile districts of Scotland during medieval times but the lands of Longniddry were unusually extensive. In 1778 the five principal tenants held arable fields that were more than a mile distant from the village, and to add to this inconvenience their various individual possessions lay scattered in small parcels about the farmland. The intermingling of possessions was a survival from the era when the lands were worked under the Scots Runrig System and indeed lands so possessed were said at the time to be "lying runrig."

Farms were worked co-operatively in Runrig times by small groups of tenant farmers who contributed jointly the necessary oxen or horses for a plough-team. The possessions of co-tenants were re-allocated periodically, usually on the basis of a ballot, to ensure fair distribution of the better and poorer land. The unit of land was the ridge or rig, commonly about a quarter of an acre in extent, and the individual rig possessions were usually distributed piecemeal throughout the farmland. In the north-west corner of the earlier

1 See Plates 1 and 2.

2 A Scots acre was equivalent roughly to 1.25 Imperial acres. Scots acreages are used throughout.



## LONGNIDDRY IN TRANSITION (1778-1798).

plan of Longniddry the crooked S shape of the old rigs can be seen. At one time the lands of Longniddry would be apportioned amongst a considerable number of tenants but it is to be suspected that the rewarding nature of the farm afforded opportunities for the more enterprising farmers to gain land at their neighbours' expense. Thus shares of the farm became unequal, individual rig possessions were combined to form block possessions, and these blocks lay intermixed awaiting the final consolidation that came with the enclosure movement.

The 1778 plan shows "Long Niddery" in truth a long straggling village, the cottages of cottars, weavers and other artisans, abutting onto the main road or clustered round the open spaces beside it. At the west end of the village the modest stone mansion stood, separated from the road by a formal garden but companionably close to a cluster of cot-houses. Each of these cottages had attached to it the customary toft or kailyard. It is almost certain that at this time there were at least five steadings within the village. The position of three of these can be gleaned from the plan by the use of symbolic haystacks to denote barnyards. One steading stood between the mansion house and the Cadger Burn, one to the south of the road between Cadger and Braid Burns, and one by the roadside at the eastern extremity of the village.

The best lands of the farm lay surrounding the village. These "Crofts" received the manure from the village midden heaps and yards and could thus be continuously cropped. The crofts of the principal tenants were conveniently arranged in strips lying at right angles to the road and on either side of their respective steadings, so that the names of the possessors of the steadings may readily be deduced from the names appearing on the possessions. To the north-west lay the Cotlands mainly possessed by the village cottars but interspersed with strips in the hands of the tenant Robert Burns, who was perhaps the most considerable of the tenants. He had succeeded in forming what he termed "Inclosures" to the south-west of the village. His attempts to regularise and fence his fields may have been somewhat amateurish, but doubtless they stood out in marked contrast to the irregularly-shaped, unfenced strips, patches and fields elsewhere. To the north-east lay the Common, the source of peat and turf for village hearth, roof and even walls.

The plan of 1798 shows the scene transformed. Enclosure had taken place and the straight lines of drystone dyke, ditch and hedge, can be seen

## LONGNIDDRY IN TRANSITION (1778-1798).

outlining a field pattern which is the obvious foundation of that existing today. The outlying lands had now been divided into separate and distinct farms, leaving the centrally-situated farm shown on the plan, to bear the name of Longniddry. The village had become a shadow of its former self, but on the other hand, as a reflection of the increasing prosperity of the landowner class, the mansion house had been enlarged and now stood in a more imposing setting amidst the parks of its policies. An old man related to the writer of the New Statistical Account his recollection of seventy houses being taken down in Longniddry, and some of the inhabitants remembered several rows of houses "forming a little village of themselves," being swept away from the vicinity of the mansion "without a stone remaining"<sup>1</sup>. An imposing farmhouse was constructed for the tenant of Longniddry Farm and it is to be presumed that the other vacated farm steadings soon disappeared. Numbers of dispossessed cottars doubtless contributed towards the growing colonies of labourers attached to neighbouring farms.

Neither the mansion nor the farmhouse is an obtrusive feature of the village today. Each in fact stands apart amidst fields and hidden by gracious old trees from the encroachments of modern Longniddry. The old mansion house, with its low ceilings and panelled walls, set behind the long-established formal gardens, has personality and a mellow charm. The farmhouse of Longniddry towers above some rows of old red-pantiled farm offices standing beside it as a symbol of its venerable origin.

1 New Statistical Account of Scotland, Parish of Gladsmuir, 1836. Volume 2, page 194.

BETTY M. W. THIRD.

Maps reproduced by the courtesy of the Rt. Hon. the Earl of Wemyss and March.

## THE MEDIEVAL HOSPITALS OF HADDINGTON.

ACCORDING to the usage of to-day, the word "hospital" is applied to an institution for the treatment of invalids. But until fairly recent times, it was also used to designate such charitable foundations as orphanages and homes for the aged and poor<sup>1</sup>. This was a relic of the wider medieval usage, for pre-Reformation hospitals were of various types: (a) those which were designed for the sick and the infirm, and we may regard as in this category those assigned to the victims of a specific disease—leper houses were common and St. Anthony's hospital at Leith was intended for sufferers from erysipelas; (b) those which provided for the poor—some were alms-houses which gave relief and shelter to the casual poor, some housed as permanent residents a number of indigent men or women (sometimes men and women); (c) those which existed for the succour of wayfarers and pilgrims. These varieties were not mutually exclusive; certain hospitals were of a mixed type; and it was not entirely unusual for a hospital to change its character, e.g. a leper house in the course of time might have poor people as its inmates. Nor was there any rigid uniformity in the organisation of these institutions. Some hospitals were kept by the members of religious orders; thus, the Bethlehemites had the hospital of St. Germain's, the Augustinians the hospital at Soutra, the Trinitarians the hospitals at Dundee, Berwick and elsewhere. But most hospitals were under the supervision of a secular priest, called the master or preceptor or warden, with whom some chaplains might be associated. Hospitals were primarily religious institutions, founded and endowed as an act of piety. Sometimes a hospital is associated with a collegiate church, as at Dunglass. Otherwise we may expect to find that a hospital had attached to it a chapel<sup>2</sup>. As we shall shortly observe, the main obligations laid upon beneficiaries took the form of religious observances. Thus, where there were permanent inmates—poor men and women—they were duty-bound to make one recompense for the benefits they received, viz. to pray for the soul of the founder (hence the name "bedesman", "bedeswoman"). Little is known of the way in which the Scottish medieval hospitals were conducted and one of the most illuminating documents in this regard emanates from Haddington.

1 The name is still retained in the case of certain schools which were originally orphanages.

2 To be accurate, a hospital was sometimes founded where a chapel already existed.

## THE MEDIEVAL HOSPITALS OF HADDINGTON.

No less than fourteen hospitals are mentioned in East Lothian. Of these four were situated in or near Haddington:

### *St. Mary's Hospital.*

On 30 July, 1319, the English king took upon himself the appointment of a warden of the hospital of the Blessed Virgin Mary at Haddington<sup>1</sup>. But beyond this bare indication of the hospital's existence, nothing is known of it.

### *Almshouse.*

Among the burgh charters is a document in the form of an indenture or agreement between the Greyfriars of Haddington and Sir John Haliburton, vicar of Greenlaw, dated 11 June, 1478<sup>2</sup>, in terms of which the latter infested the warden and convent of the friars in a piece of land on the south side of the Poldrait, as well as other small properties and revenues, for the upkeep of an almshouse "of three beds" built by Haliburton on this site. The warden is to expend a mark upon "rolys" between Whitsunday and Michaelmas, and another mark on oatmeal between Martinmas and St. Andrew's day; and on this "purvyance" are to be maintained "twa bodiis borne or upbred of the barony of Driltoun (Dirleton), auld and honest persones," selected in the first instance by Haliburton and later by the lord of Dirleton. These are to be examined to see if they can say their Pater Noster, Ave Maria and Creed, and to be bidden by the warden and convent to say thrice daily the Psalter of our Lady. Also, they are to lodge for a night in the third bed a "poor body" presented to them by the warden and convent, which "body" will be examined by the warden to discover "gif it can say" the Pater Noster, the Ave Maria and the Creed and charged to say a Psalter of Our Lady at night. "All thir thre bodiis" will say each night, at the curfew bell, five Pater Nosters, five Aves and a Creed and, if they are "letterit" (able to read) the De Profundis<sup>3</sup>. A friar is to say mass in the oratory of the almshouse after 11 a.m. "upon the Sounday, and sync on the Friday, and eftyr on the Wednesday, and syne as it may fall." There is provision for keeping the almshouse "thycht" (? ticht, i.e. weathertight; or theekit, i.e. thatched), for upholding the beds, and for maintaining the oratory "in buk, vestment and chalice." The warden and convent are also made responsible for soul-masses and other

1 *Calendar of Documents relating to Scotland*, III. no. 657.

2 This charter is printed Moir Bryce, *Scottish Greyfriars*, II, 13-16.

3 Similar requirements were made of prospective inmates of English hospitals, especially a knowledge of the Psalter of the Blessed Virgin. "the standard form of worship for the unlettered." See Clay, *Medieval Hospitals of England*, 160-161.

## THE MEDIEVAL HOSPITALS OF HADDINGTON.

services for the founder and his kin. It is not uncommon to find friars taking charge of an almshouse. In this instance, the religious significance of the foundation is emphasised at many points in the charter. The land in the Poldrait (with other items) was confirmed to the friars by a charter of James III on 1 October, 1483<sup>1</sup>. But we hear no more of the almshouse. Its history, as Moir Bryce remarks, is "wholly unknown"<sup>2</sup>.

### *Leper house.*

All that is known of the *leprosaria* (leper house) of Haddington—and that is little more than its existence in the fifteenth century—appears in one of the following paragraphs.

### *St. Laurence's Hospital.*

In contrast to the foregoing hospitals, the history of this foundation can be traced in some detail. It stood to the west of Haddington<sup>3</sup>. The name of its founder is not recorded, and James IV's assertion that it was founded and endowed by his ancestors for the use of the poor<sup>4</sup> need not be taken too seriously—it may have been a royal foundation; but, on the other hand, such claims were sometimes made for the Crown where, in fact, the founder's name was forgotten. The date of the hospital's foundation is likewise unknown. There is a reference, on 26 February, 1327/8, to the master of the hospital of Haddington<sup>5</sup>. That this was St. Laurence's is evident from the fact that the master appears as the recipient of 20s, a sum paid again and again after this date to the hospital by the burgh<sup>6</sup> and no doubt forming part of its original endowment. About ten years later (29 September, 1337), the master of St. Laurence's hospital near Haddington is specifically named in a record<sup>7</sup>. As this writ is concerned with its fixed alms "from of yore," we may assume that the hospital was already of some antiquity. Later references suggest that it was a foundation for the poor but of this as yet there is no explicit mention.

In the fifteenth century, there are signs that the Scottish hospitals had fallen on evil days; and measures were proposed for their restitution. Thus, an act of parliament of 12 March, 1424/5 ordains that hospitals founded by the Crown for "pur folkis and seik" are to be visited by the chancellor "as hais bene done in the kingis progenitouris tymis," while those founded by

1 Moir Bryce, *op. cit.*, I, 180n.

2 *Ibid.*, I, 180n.

3 "Bewast the . . . burgh of hadingtoun" (*Acts of Parliament*, III, 580).

4 *Letters of James IV.* (Scottish Hist. Society), no. 471.

5 *Exchequer Rolls*, I, 73.

6 It appears very frequently in the *Exchequer Rolls*.

7 *Calendar of Documents relating to Scotland*, III, no. 1247.

## THE MEDIEVAL HOSPITALS OF HADDINGTON.

bishops "or vthir lordis spirituale or temporale" are to have visitation from the bishop in order to reform them in accordance with their first foundation<sup>1</sup>. What were the defects and abuses prevailing in them that called for remedial action? The act does not say—it merely indicates that they were not fulfilling their intended function. A further step was taken by parliament on 9 October, 1466, when it was enacted "for reformatioun of the hospitals and for helping of the failzeit creatouris<sup>2</sup>" that the bishops should warn those who hold hospitals within their diocese to produce on a certain day the infetments and foundations of these for the inspection of the bishop and chancellor, "that thai be reducit (brought back) to thare first fundacione quharethrou goddis seruice maye be obseruit and failzet and miserable persounis sustenit." Where these documents cannot be found, the income of the hospital is to be assigned to "pure (poor) and miserable personis" according to the extent of the endowments<sup>3</sup>. The next stage is reached on 20 November, 1469, when a further act appoints Master Richard Guthrie principal confessor to the king and "generale elemosinar" (almoner-general), with royal and episcopal authority to give effect to the enactment of 1466<sup>4</sup>. The one recorded instance of his activity in this regard comes from Haddington, where he set about the reformation of St. Laurence's hospital. Guthrie, indeed, is described as the founder of this hospital<sup>5</sup>; but this is an exaggeration. He was responsible for a scheme whereby the ancient foundation should be revived and reconstituted. It is worth mentioning that his employment in this capacity was not entirely an innovation. In England, during the thirteenth century, the royal almoner had the supervision of crown hospitals<sup>6</sup>.

The charter of James III, which incorporates and confirms Guthrie's charter of refoundation, is said to exist among the burgh charters—indeed, to exist both as an original and as a notary's transumpt. A repeated search among these charters has not brought it (or the transumpt) to light<sup>7</sup>. But a version of it appears in one of the late Dr Wallace-James's note-books<sup>8</sup>; and

1 *Acts of Parliament*, II, 7.

2 "Failed creatures (or, in Scots, 'craturis')," i.e. their beneficiaries.

3 *Acts of Parliament*, II, 86. On the bishop and chancellor in relation to the English medieval hospitals, see Clap, *op. cit.*, 195.

4 *Acts of Parliament*, II, 97.

5 In an act of parliament of 1592 (*Ibid.*, III, 580).

6 Clap, *op. cit.*, 195.

7 This is not to say that it may be regarded as missing. These charters await arranging and calendaring.

8 Now in H.M. General Register House. This version is, at a few points, doubtful and defective, but most of the words which perplexed the transcriber can be recognised (e.g. smegma (soap)).

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this, *faute de mieux*, we have used. The charter, as transcribed by that industrious Haddington antiquary, purports to be given under the Great Seal<sup>1</sup>; but it bears neither date nor names of witnesses. Reference, however, is evidently made to it in an act of parliament of 1592<sup>2</sup>; and though its form is irregular, there is no good reason for doubting its authenticity. Guthrie's charter, which is cited at length, is likewise undated. Its date, none the less, can be fairly accurately ascertained; for Master Richard is now designated abbot of Arbroath<sup>3</sup>. This office he is known to have held for a brief period of time: he was elected on 3 November, 1470<sup>4</sup> and grants a charter as abbot on 20 May, 1471<sup>5</sup>; but by 29 July, 1472, another abbot had succeeded<sup>6</sup>. His charter (and, in all probability, the king's confirmation also) belongs thus to a date within the years 1470-1472. This is consistent with the date of his appointment as almoner.

After some allusion to the measures adopted by parliament for the reform of the hospitals and to Guthrie's appointment for putting them into operation — it is said indeed that "he has visited various hospitals of our realm; especially he has been careful to visit among others, with expert care, the hospital of St. Laurence near Haddington"—the crown charter reveals that St. Laurence's was one of the cases, contemplated by parliament, where the foundation charter could not be found; and, since this ruled out the possibility of bringing it back to its "pristine state," a new foundation "to the glory of God and in fulfilment of our desire and for provision for Christ's poor" fell to be devised. Guthrie's charter is now recited. After a lengthy and rhetorical preamble (with references to Jacob, Rachel, Leah and Martha), he formulates his regulations for the hospital as follows:—

(1) A "suitable churchman" will be appointed master, with the care of the poor and the administration of the hospital. His institution and removal will be the concern of the great almoner, to whom he will swear to do everything not to his own advantage but for the advantage of Christ's poor. Each year the master will render an account of his stewardship; and if negligent, will be dismissed by the almoner.

(2) Every week the master will celebrate or have celebrated three masses

1 It does not appear in the printed Register of the Great Seal.

2 *Acts of Parliament*, III, 580.

3 He designates himself also "inquisitor of heretical pravity" as well as "great almoner (of the king) throughout the whole realm."

4 *Aberbrothoc*, II, no. 186

5 *Ibid.*, II, no 187.

6 *Ibid.*, II, no. 188.

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in the chapel of St. Laurence, viz. on Sunday and the fourth and sixth days of the week. He will do likewise on the greater church festivals, the Annunciation, Christmas, the Circumcision, Epiphany, Easter, Ascension, Whitsunday, Trinity Sunday, and Corpus Christi; and on all feasts of the Virgin, the Annunciation, Visitation, Assumption, Nativity, Conception and Purification; on those of St. John the Baptist, the apostles Peter and Paul, the martyrs Andrew, Laurence and Dionysius, the confessors Augustine and Leonard, of All Saints and the Angels and on the commemoration of Souls.

(3) In the almshouse to be built and kept up by the master, five beds will be prepared and set up with bedsteads and sufficient bedding for the reception for one night's lodging of four poor people and vagrants<sup>1</sup>, for whom the master will provide fuel for a fire, a suitable meal of porridge<sup>2</sup> and a sufficient amount of bread, according to the number of poor, so that each poor person put up at the hospital will have a twelve ounce loaf, wheaten or of oatmeal or of "some other grain commonly used for eating." Each lodger, too, will have a "draught of sufficient drink of two pints or one." If any inmate shall take seriously ill in the hospital, the master will look after him till his recovery and "treat him honestly in (the matter of) fire and comforts of the like nature." Should there be one such invalid in the hospital, the master will be excused (from taking in) two lodgers or vagrants; and the presence of two such invalids will exonerate him from having four of the latter. Any who die will have decent burial.

(4) "Moreover, we will that in the aforesaid almshouse there will be an honest and respectable old woman chosen by the master . . . for the fifth bed, who will have the care and keeping of the aforesaid hospital so far as its cleanness and propriety are concerned and especially in regard to making up beds for wayfarers, sojourners and lodgers, whose clothes she will keep decently clean and washed; and she will receive the poor kindly, look after the feeble, and give devoted and diligent attention to the ailing till their recovery. She will prepare their food and serve it to them. The aforesaid master of the hospital will suitably bestow all that is necessary for carrying on her services to the weak and Christ's poor; and he will supply her sufficiently with soap for the washing of the clothes of the aforesaid house and poor people."

(5) From the possessions and revenues of the hospital the master will give

<sup>1</sup> "Devios peregrinantes": *Scottice* "gangrels, gaun' bodies, gaun' about bodies."

<sup>2</sup> A word seems to be omitted before "porridge." The original may be: "some suitable meal such as porridge."



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the "lepers of Haddington dwelling in the leper house" a chalder of victual, barley meal or oatmeal, for their maintenance. He will also provide them with a garden sufficient for kale and herbs near the leper house. Again, he will give them three days' winning of turf and fuel<sup>1</sup>.

(6) If, through the master's prudence and exertion or otherwise, the hospital's possessions and revenues are increased, and more poor people than the foundation "contains or requires" can be conveniently provided for, the master may have to undertake additional obligations, at the discretion of the great almoner at his visitation.

(7) The master will be held bound to these duties both in the oratory and the almshouse.

Here Guthrie's charter abruptly ends. There is, curiously enough, no mention of religious obligations laid upon the inmates. The king's confirmation of the refoundation is added; and the charter is said to bear a much damaged seal.

We may judge from these regulations that the royal almoner, had he lived in later times, would have served with efficiency on a hospital board; and his measures of reform deserved a better fate than seems to have befallen them. How far were they effective? Only one of his proposals is known to have become operative—that which was concerned with the contribution to the lepers<sup>2</sup>. For the rest, all the indications are that his scheme was stillborn.

A new development ensued in or about 1511<sup>3</sup>, when James IV wrote to Pope Julius II requesting that the hospital of St. Laurence of Haddington (which, we have seen, he represented as a foundation of his ancestors) should be converted, with the consent of the present possessor, into a house of Augustinian friars or, as they are otherwise called, Augustinian hermits<sup>4</sup>; and, on 13 October, 1511, the Pope accordingly suppressed the hospital and erected a house of that order<sup>5</sup>. But these friars, for whom the king had some partiality since he tried to introduce them elsewhere<sup>6</sup>, did not settle in Haddington, though for a brief period one of their number may have held the mastership of the hospital of St. Laurence. We find Friar James Wyndiyettis

1 Presumably in the hospital's lands.

2 See *infra*.

3 Rather than July 1512, the date suggested in *Letters of James IV*, 260.

4 *Letters of James IV*, no. 471.

5 *Letters and Papers of Henry VIII*, III, 1522.

6 At Manuel, where he proposed to have the nuns replaced by friars of that order.

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mentioned as holding that office in 1511 and 1512<sup>1</sup>; and there is a possibility that he was an Augustinian friar. But, about 1513-14, James V informed Pope Leo X that, as the friars had not taken up residence nor erected any building at the hospital, he had conferred it on his chaplain, Walter Ramsay, and asked the Pope's confirmation of this appointment and the severance of the incorporation of the hospital in that order of friars<sup>2</sup>. Ramsay is duly mentioned as master in the Exchequer accounts of 1513-14<sup>3</sup>; and he was apparently succeeded by another secular priest, John Gourlaw, who is named in 1517-18<sup>4</sup> and held office till his death in 1533<sup>5</sup>. It may be noted that in 1515-16, Friar Adam Harlaw appears as receiving, on behalf of the master, the hospital's grant from the burgh revenues<sup>6</sup>. But he was no Augustinian. On the contrary, Harlaw was a friar and later the warden of the Franciscan house in Haddington; and for some unexplained reason, he and his successor, John Strathaven, are mentioned, on a number of occasions, till 1544-45 as taking payment of this sum<sup>7</sup>. If for these thirty years the Greyfriars had some interest in St. Laurence's hospital<sup>8</sup>, there is good ground for questioning Moir Bryce's statement (in which he gives no date) that the hospital was under the control of the Blackfriars and subject to the visitation of a Dominican "visitor" and his "marrow (colleague)" from the Edinburgh priory of that order<sup>9</sup>.

On 29 August, 1532, a notarial instrument records the annexation of the hospital, with its fruits and revenues, to the Dominican nunnery of St. Catherine of Siena, near Edinburgh (the nunnery of Sciennes); and this took place with the consent of John Gourlaw, the master, to whom the income and tenure of the hospital are reserved for his lifetime<sup>10</sup>. Soon after (26 November), James V is found writing to Pope Clement VII, declaring that the sisters of the monastery of St. Catherine, in order that "they may devote themselves more unreservedly to the worship of God and prayer to the Virgin" (we may

1 *Exchequer Rolls*, XIII, 386, 496.

2 *Epistolae Regum Scottorum*, I, 193-194; *Letters of James V*, 8.

3 *Exchequer Rolls*, XIV, 62.

4 *Ibid.*, XIV, 339.

5 *Liber S. Katherine Senensis*, no. V.

6 *Exchequer Rolls*, XIV, 206.

7 *Ibid.*, XV, 76-XVIII, 74.

8 It is a nice question whether this interest implies that Haliburton's almshouse had not materialised.

9 *Blackfriars of Edinburgh*, 67. This statement may be correct, but its source is not given and has not been traced.

10 *Lib. S. Kath. Senen.*, no. IV.

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assume that the king means "without worrying about money matters"), desire the annexation to their house of the hospital of St. Laurence the Martyr, near Haddington, which formerly was in the royal patronage. James has granted the request and now seeks papal ratification<sup>1</sup>. Another instrument—of August, 1533—narrates the delivery by the sisters' procurator, Friar John Smyt, of letters of provision and annexation by the archbishop of St. Andrews to John Lawson, chaplain, requiring their institution in St. Laurence's on the vacancy created by the death of John Gourlaw, last possessor of the hospital<sup>2</sup>; and the union of the hospital to the nunnery was further confirmed by the papal legate to Scotland on 5 March, 1544/5<sup>3</sup>. No doubt by this time the hospital had ceased—and probably had long ceased—to be a place of succour for the poor, and had been held simply as a benefice by the master, and there is no suggestion that the nuns of Sciennes took it over in order that they might maintain or revive it as a hospital. Its properties and lands went to endow the nunnery. Even so, a master continued to be paid the old allowance from the burgh; and in 1540, when the warden of the Greyfriars gave his receipt for it, this sum was payable "to the master of the hospital of St. Laurence for the maintenance of divine service in the hospital"<sup>4</sup>. This obligation continues to be mentioned till 1550-51<sup>5</sup>, after which date it disappears although a master received payments till 1558-59<sup>6</sup>.

Meanwhile, the nuns, pressed by necessity, were granting the lands of the hospital on lease. Thus, on 15 February, 1555/6, the prioress and convent, with the consent of the provincial of the Dominicans in Scotland, leased for seven years to James Wilky, one of the bailies of the Canongate, "our landis of oure kirk (*sic*) of Santt Laurence, exceptand the Spittell rig . . . extendand to four skoir and twa aikeris of land or thairbv", on the west side of Haddington<sup>7</sup>. When this lease expired, the nuns feued the lands of "Saint Laurence-hous" to Sir John Bellenden of Auchnoule, the Lord Justice Clerk, in name of his son, Lewis (later Sir Lewis) Bellenden, by a charter dated 15 February, 1562/3<sup>8</sup>. From the latter these lands passed by sale, on 13 March 1587/8.

1 *Tynninghame Letter Book*.

2 *Lib. S. Kath. Senen.*, no. V.

3 *Ibid.*, no. VI.

4 *Exchequer Rolls*, XVII. 309.

5 *Ibid.*, XVIII. 152.

6 *Ibid.*, XIX. 86.

7 *Historical Manuscripts Commission's Report* XIV. Appendix. Part III. 42-43.

8 *Lib. S. Kath. Senen.*, no. IX.

9 *Registrum Magni Sigilli*, V. no. 1514.

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to Mr Thomas Craig of Wrichtislands<sup>9</sup>, whose son, Sir Lewis Craig, heired them, according to his retour of 5 July, 1608<sup>1</sup>. We need not pursue their history further. Hospitals and their properties, after the Reformation, frequently came into the hands of the Town Councils of the burghs where they were situated. This did not happen at Haddington, where the hospital stood outside the burgh; and, in any case, its lands were on the way to be alienated beyond recall. But the magistrates managed to save something from the wreck; for an act of parliament of 1592 empowered the provost, bailies and council to uplift the chalder of victual assigned to the leper house, without prejudice to the infeftments of Sir Lewis Bellenden and Mr Thomas Craig<sup>2</sup>. Probably by this date the leper house was, like the hospital, defunct. With their demise, the burgh was doubtless a little richer—positively, by the acquisition of the lepers' victual and negatively, by the cessation of the annual payment of 20s to St. Laurence's.

From lack of local knowledge, little can be said here regarding the site of the hospital and of its lands. Mackinlay (who calls it erroneously "an establishment for lepers") describes it as "situated about a mile from Haddington 'bewast the toun'." The same writer, founding on information supplied by Dr Wallace-James, declares:

"An antique building, which tradition identifies with it (i.e. the hospital), stood by the roadside till several years ago, when it was taken down and some houses were erected on the site. The hospital lands are now comprised in the farm of Spittalrig"<sup>3</sup>.

This statement was published forty years ago. Perhaps some member of the Society may be able to amend or amplify it.

<sup>1</sup> *Haddington Retours*, no. 48.

<sup>2</sup> *Acts of Parliament*, III, 580-1.

<sup>3</sup> *Ancient Church Dedications in Scotland* (non-Scriptural), 392.

### *Additional Note.*

A number of the masters of the hospital are mentioned. To those named in this article may be added Henry de Cockburn, who appears in the Exchequer account of 1393-5 (*Exchequer Rolls*, III, 364); master John de Haliburton, a. 1413 (*Ibid.*, IV, 182, 206); Hugh Laundalis, who appears in the account of 1427-8 (*Ibid.*, IV, 455) and is mentioned in 1430 as holding the lands of the hospital (*Charters and Writs concerning the Royal Burgh of Haddington*, 15); Donald Mugy, named in the account of 1466-7 (*Exchequer Rolls*, VII, 575); Alexander Barcar, who is on record from 1478 to 1508 (*Ibid.*, VIII, 554-XIII, 103); and Andrew McBreik, presented under the privy seal, in succession to Barcar, in 1508 (*Registrum Secreti Sigilli*, I, no. 1710).

D. E. EASSON.

## CHARTER OF ROBERT I, 1318

*CHARTER by Robert the Bruce, under his Great Seal, confirming all their rights to the Burgesses of Haddington, and granting them freedom from Toll and Custom throughout the Kingdom, exclusive Rights of Trade within the Sheriffdom of Haddington, and a general protection for all going to or returning from the Burgh.—Scone, 6th Dec., 1318.*

*(Original in Register House).*

ROBERTUS DEI GRATIA REX SCOTTORUM. — Omnibus probis hominibus totius terre sue. Salutem. Sciatis nos dedisse concessisse at hac presenti carta nostra confirmasse Burgo nostro de Hadingtoun et burgensibus nostris in eodem Burgo nostro manentibus omnia jura libertates et privilegia que vel quas iidem burgenses nostri temporibus nostris sive alicujus antecessorum nostrorum aliquo tempore hactenus habuerunt et possiderunt seu habere debuerunt cum omnibus libertatibus Burgi adeo libere sicut alii Burgi nostri communiter infra regnum nostrum de nobis liberius et quietecius tenentur et possidentur. Concessimus etiam Burgensibus nostris de Hadingtoun qui in eodem Burgo erunt ut quieti sint imperpetuum de Toloneo et consuetudine de diversis Catallis suis per totum regnum nostrum Scocie. Quare firmiter prohibemus nequis eos contra hanc concessionem nostram injuste vexare presumat ab eis exigendo Toloneum aut consuetudinem de diversis catallis suis. Prohibemus etiam nequis infra vicecomitatum nostrum de Hadingtoun emat lanas vel correa vel aliquam aliam mercaturam excerceat vel pannum latum et tinctum aut tonsum faciat preter burgenses nostros de Hadingtoun. Item ne aliquis alius mercator infra dictum vicecomitatum nostrum de Hadingtoun vel in eodem Burgo nostro aliquam mercaturam emat nisi a predictis Burgensibus de Hadingtoun super nostram plenariam forisfacturam. Si quis vero aliquis mercator inventus fuerit in dicto vicecomitatu nostro de Hadingtoun emens lanas correa vel aliquam aliam mercaturam vel aliquid consimile excerceatur corpus ejus per Burgenses nostros de Hadingtoun capiatur, bona sua, sic empta ad Burgum nostrum de Hadingtoun conducantur, et Burgensibus nostris ejusdem per escaeta efficiantur. Corpus que ibidem dicti emptoris detineatur donec de eo voluntatem nostram ordinaverimus. Et quod omnes

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qui ligna aut mercimuniam attrahunt ad dictum Burgum nostrum de Hadingtoun sustintandum de quocunque bosco vel de quocunque feodo fuerint firmam pacem et protectionem nostram habeant Itaque ullus eos namare vel vexare presumat injuste in via nostra regia in eundo ad dictam villam de Hadingtoun vel redeundo ab eadem super nostram plenariam forisfacturam. Voluimus insuper quod dicti burgenses nostri de Hadingtoun adeo libere habeant et possideant omnia communia sua et compunem pasturam suam in moris petariis et in omnibus aliis aysiamendis ad dictam villam de Hadingtoun juste pertinentibus sicut aliquo tempore sepedicti burgenses nostri vel aliqui antecessorum suorum per suas rectas metas et divisas hactenus habuerunt et possiderunt et eisdem usi sunt usque ad hec tempore. In cujus rei testimonium presenti carte nostre Sigillum nostrum precipimus apponi.—Testibus Bernardo Abbate de Abirbrothoc Cancellario nostro. Willelmo de Lindesay Camerario nostro. Thoma Rannulf, Comite Moravie et Domino Mannie, nepote nostro Karissimo. Waltero Senescallo nostro Scocie. Johanne de Menteth. Jacobo Domino de Duglas. Gilberto de Haya, Constabulario nostro Scocie et Roberto de Keth, Marescallo nostro, militibus. Apud Sconam. Sexto die Decembris. Anno Regni nostri tercio decimo.

ROBERT, BY THE GRACE OF GOD, KING OF SCOTS. — To all good men of all his land. Greeting. Know ye that we have given and granted, and by this our present charter have confirmed to our Burgh of Haddington and our burgesses dwelling in that our Burgh all rights, liberties, and privileges which our same burgesses in our times or in the times of any of our ancestors until now had or possessed or ought to have, with all burghal rights as freely as any other burghs commonly within our kingdom freely and quietly hold and possess from us. We grant also to our burgesses of Haddington that those who may be in the said burgh shall be free for ever from all toll and custom on their different goods throughout all our Kingdom of Scotland. Wherefore we firmly prohibit any one to dare, against this our grant, to vex them unjustly by exacting from them toll or custom on their different goods. We forbid, also, anyone within our Sherifffdom of Haddington to buy wool or skins or to trade in merchandise or to make broad cloth dyed or shorn except our burgesses of Haddington. Also that no other merchant within the said Sherifffdom of Haddington or in our Burgh shall buy any except from our burgesses of Haddington, under our heavy displeasure. If, nevertheless, any merchant be found within our said Sherifffdom of Haddington buying wool or skins, or any

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acting as a trader in any such way, his person shall be seized by our burgesses of Haddington: the goods thus bought shall be carried to our said Burgh of Haddington, and forfeited to our said burgesses. The person, however, of the said buyer shall be detained until we decree our will concerning him. All those conveying timber or merchandise to supply our said Burgh of Haddington, from whatever wood or from whatever barony they may be, shall have our firm peace and protection. Anyone daring to poind goods or to annoy them unjustly on our highway in going to the said town of Haddington or in returning shall incur our heavy displeasure. We will that our said burgesses of Haddington shall as freely have and possess all common rights and common pasturage in moors, in peat mosses, turbaries, and in all other easements rightly pertaining to the said town of Haddington, as in any time the aforementioned burgesses or any of their ancestors had or possessed by all the true marches and boundaries, or have been used by them up till this time. In witness of which we have ordered our seal to be affixed to this our present charter. Witnesses—Bernard, Abbot of Arbroath, our Chancellor. William of Lindesay, our Chamberlain. Thomas Rannulph, Earl of Moray and Lord of Man, our dearest nephew. Walter, our Stewart of Scotland. John of Menteth. James Lord of Douglas. Gilbert of Hay, our Constable of Scotland, and Robert of Keth, our Marshal, knights. At Scone, 6th of December. Thirteenth year of our Reign.

## NOTES ON THE REPUTATION OF SIR JOHN HEPBURN IN FRANCE

ONE of East Lothian's greatest sons has had singularly little honour in his own County. Just over a hundred years ago James Grant wrote "John Hepburn was born about the year 1598 or 1600, at his father's house, which is still standing in Athelstaneford and by the old inhabitants of that sequestered district is pointed out to strangers as the birth place of a Marshal of France, for *that* is remembered, though his name is forgotten there now. It is a plain old edifice situated at the east end of the village burying-ground and not many yards from the foundations of the ruined church which belonged to the Franciscans of Haddington. It was principally distinguished by a great projecting chimney or *ingle-lum*<sup>1</sup>". Grant does say in his introduction that the house had been shown to him by "a patriarch of the parish of upwards of 80 years of age who had heard his predecessors speak of Sir John Hepburn and who in his youth had assisted the late venerable incumbent to search the Hepburn aisle and the churchyard for any inscriptions that might remain of the Marshal or of his family but none was found." And indeed, though the great soldier with his last breath lamented that he was dying so far from the graves of his ancestors, but little memory and no memorial will be found to-day, unless we are to count the Royal Scots Cottages and a regimental flag in Haddington Parish Church as such. The "late venerable incumbent" may have been the Reverend William Ritchie who wrote the account of the parish in the "New Statistical Account of Scotland" published in 1845. If so he must have been a strange guide in any search for traces of Sir John Hepburn. These are his words, "The lands of Athelstaneford 200 years ago belonged to a gentleman named Hepburn. When General Leslie's army were encamped near Gladsmuir before the battle of Philiphaugh [1645] Hepburn of Athelstaneford attended by his five sons paid a visit to the General at his camp; and Leslie was so much struck with the appearance of one of the sons that he offered him a Commission in his Army which was readily accepted. Young Hepburn conducted himself in the Scottish Army with propriety and courage; and when peace was restored to Scotland, Hepburn, fond of the military pro-

1 A similar structure is described in the Inventory of Ancient and Historical Monuments. East Lothian as existing at Drem. (Item 10). The house stood till nearly the end of last century. Mr Cumming of Athelstaneford informs me that as an apprentice some sixty or sixty-five years ago he was employed on its demolition.



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fession, entered the service of Gustavus of Sweden, received the honour of Knighthood from that Sovereign and was made Colonel of the Scottish Brigade. Afterwards he went into French service and died a Field Marshal of France. The 'Memoirs of Sir John Hepburn' is a scarce but interesting narrative." One must agree that such memoirs if ever written would be interesting. But though Scotland has ever been fertile in ghosts and wraiths and *revenants* it must have "garred the good folk of Elshinfur grue" when they saw the fierce old soldier George Hepburn rise from the grave where he had been lying for thirty years to bring aid to the enemies of the grandson of the Queen for whom he had fought at Langside. And Leslie must have been strangely moved to see once more the Commander of the Scots forces with which he himself had served under the great and lamented Gustavus, the Commander whose heroic death had resounded through Europe nine years before this resuscitation.

The notice of Hepburn in the "East Lothian Biographies" published under the auspices of our Society sticks perhaps closer to facts but is even more wide of the mark in its appraisal of Hepburn's character. He is described as "a typical soldier of fortune—a Dugald Dalgetty whose services were at the disposal of the highest bidder and whose career is not without elements of romance. Though a Catholic Hepburn had no scruples about joining the Scottish force under Sir Andrew Gray in the service of the Elector Palatine." To take the second point first, it is by no means certain that in 1620 Hepburn was a Catholic. Indeed such evidence as there is is all the other way. He appears to have studied at St. Andrews<sup>1</sup>. He could not have done so had he been a professing catholic. If he was one of the John Hepburns who appear in the list of matriculates at St. Andrews in 1611-12, he must have bound himself by his signature of the roll to observe not only the laws of the University but also the Confession of Faith of the Church of Scotland. The list in question is headed "Nomina incorporatorum et jurantium in leges Academiae ac articulos religionis in Collegis Leonardino 1612"<sup>2</sup>. His nephew George Hepburn was certainly protestant and the author of the funerary inscription on his tomb in the Cathedral of Toul implies that it was only after his entry into the French Service that he became a Catholic. In any case the expedition of 1200 men many of whom must have been from East Lothian collected by Sir Andrew Gray (himself described as 'a ranke papist') at Monkkrig in 1620

1 Munro says of him "we were comrades in love, first in College, next in our travels in France."

2 Information kindly supplied by Mr R. G. Cant of the University of St. Andrews.

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was as much inspired by a chivalrous sympathy with the woes of the ill-starred Winter Queen, the Elizabeth Stuart through whom our present Elizabeth traces her claim to the throne, as by any question whether her husband was protestant or catholic. Those of our members who enjoyed a recent visit to Tynninghame must have been moved by the fine portrait of her who was:

By virtue, first, then choice a Queen.

Tell me, if she were not designed

Th' eclipse and glory of her kind<sup>1</sup>.

James VI was no more eager to be involved in saving his daughter's throne than he had been to be so in saving his mother's life, but the whole sentiment of the country, as well as its political sense was against him and it seems ungenerous to accuse an East Lothian lad of twenty whether catholic or protestant of lack of scruple because he responded to such a call.

The first part of the passage quoted is, in its comparison of Hepburn with the mercenary and pedantic Dalgetty, even more inept. Hepburn stands out as one of the most brilliant and romantic figures of his day. There is nothing whatever in his career to suggest that "his services were at the disposal of the highest bidder." He served on one side throughout his military career—the side which opposed the domination of Europe by the Imperialist forces. It was on some point of personal honour that he left the service of Gustavus. Some say that it was something said by the King about his religion (which would suggest that he had already become a Catholic before 1632), others that it was some criticism of his personal ostentation. In any case it was a manifestation of that personal pride which from the 15th century had made the French say "*fier comme un Ecossais*" and which made him when he came to enter the French Service fight for and in the teeth of the fiercest opposition by the officers of the elite of the French Army obtain from Louis XIII the privilege for the "Regiment d' Hebron"<sup>2</sup> of taking the right of the line in

1 After quoting Wotton's beautiful poem "You meaner beauties of the Night" one shudders to remember the worst line that even John Donne ever wrote in describing the marriage-bed of Princess Elizabeth and Prince Frederick — "Here lyes a shee sun and a hee Moone here."

2 Hepburn was so called because the French found his name difficult to pronounce. It appears also as Esborne and even Hopbrune. The things the French did with Scots' names were indeed strange. The witnesses to the marriage contract of Andrew Gray Archer in the Garde du Roy in 1526 were "deux Nobles personnes Christoph Bourtic et George Bourtic, escuiers archiers de la garde du corp du Roy." Andrew Gray is a well-known East Lothian name in the 16th and 17th centuries and it is reasonable to suppose that his best men were his fellow countrymen and that they were Borthwicks from Soutra or Johnstoneburn. It may be more difficult to recognise a well-known Haddington name in Quoquebourne.

## NOTES ON THE REPUTATION OF SIR JOHN HEPBURN IN FRANCE.

battle. Even when he had declared to Gustavus that he would never draw his sword in his service again, he remained as a volunteer to take part in dangerous service in an emergency. And when he entered the service of France he was joining an ally of his late leader.

He was a magnificent leader of men. His Scots clamoured for the honour of being the first to storm a breach or to guard the rear of a retreating army. By a curious form of protective mimicry, the Dutch in Gustavus's service were many times glad to beat 'The Old Scotch March' when they designed to frighten or alarm an enemy<sup>1</sup>. His Green Brigade was Gustavus's sword-arm and gave the Coup de Grâce at the battle of Breitenfeld, and when in 1635 Bernard de Saxe-Weimer brought a force from the Swedes to join the French at Landau and the Scots with him found their old Commander there, they welcomed him with the Scottish March and demanded to be allowed to serve under him; and thus was formed the corps d'élite, the Regiment d'Hebron the forerunner of our East Lothian Regiment the Royal Scots. Hepburn served Richelieu as brilliantly as he had served Gustavus. But on the 8th of July 1636 he died at the Siege of Saverne. I translate a French account of his death. "On the 9th of June, a breach having been made in the ramparts a general assault was ordered. Under a blazing sun the attackers advanced in perfect order, drums beating, pikes at charge, under the murderous fire of the enemy's cannon. There were many dead and wounded. At the top of the breach there was fierce hand to hand fighting with two great soldiers Turenne and Hepburn in the forefront. Fighting went on for three hours and only the fall of night obliged the troops of Cardinal de la Valette (the French commander in chief) to retire. Seven hundred men had been killed or wounded. Two days later a second, and then a third assault had no more success. Furious at the check la Valette and Hepburn redoubled the fire of their batteries and took every means to render the next assault decisive. Hepburn with his usual sang-froid and tenacity advanced too close and was caught in a blast of fire from enemy cannon and musketry. A musket ball struck him in the neck. Was it aimed deliberately? Possibly, for he always went into battle wearing the rich armour of which he was proud nor was he averse from the display of the numerous military decorations to which he was entitled as Maréchal de Camp. He was carried off by his faithful Scots and his fall was the signal for

<sup>1</sup> For a discussion of the "Scots March" see Dr Henry Farmer's "Handel's Kettle-drums and Other Papers on Military Music."

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the fourth assault by which Turenne forced his way gloriously into the town . . . And so on the 8th July 1636 died the brave Scotsman who had put his ardour and his life at the service of France."

Orders had already been given by Louis XIII for Hepburn's elevation to the rank of Marshal of France but he died before the appointment could be registered. Richelieu, who admired and indeed loved him and took his advice on the conduct of the war, while laughing at the Scotch accent in which the advice was given, wrote to the Cardinal de la Valette "I cannot enough express to you the pain I feel at the death of poor Colonel Hepburn, not only for the esteem I had for him personally, but for the affection and the zeal which he always evinced for the service of the King. I tell you that his loss has touched me so closely that I am inconsolable. Nor do I doubt when you tell me of your own particular affliction because he was in fact a man who was most necessary to you at this juncture. I have rendered to his memory every token of respect possible to mark the high esteem in which I held him and have ordered prayers to be said for his soul. I shall help his nephew and shall care for him as if he were of my own kin . . . . Saverne has cost us very dear but we must bend our wills to what God pleases."

The great Statesman would not have written thus of Dugald Dalgetty. He was writing of one who after his death was referred to as the "greatest soldier in christendom and therefore in the world."

Hepburn's body was taken to Toul the nearest town in France where it was received with the roar of cannon and the pealing of church bells. It was buried on the 12th August 1630 with all military pomp on the west side of the southern transept of the Cathedral. The slab over his tomb bore an inscription in Latin now almost illegible:

Under this stone lie the bones of Sir John Hepburn Scottish Knight (equitis aurati) Maréchal de Camp of the French Army who pierced by a leaden ball fell gloriously at the Siege of Saverne the eighth of the Ides of July 1636.

Passer-by pray for him. Scotland has his cradle, the earth his fame, Toul his ashes and Heaven his soul.

Later there was erected on the orders of Louis XIV on the wall of the southern transept nearest to the tomb, immediately opposite the chapelle de la blanche Mere de Dieu (now chapelle de la Sainte Rosaire), a magnificent

## NOTES ON THE RÉPUTATION OF SIR JOHN HEPBURN IN FRANCE.

Baroque Monument. This was unfortunately destroyed by the vandals of the Revolution in 1793 but before that it had been very fully described by Comte E. Fourier de Baucourt in "Épitaphes et Monuments funèbres de Toul," M. Ch. Hoffmann, the Secretary of the "Cercle d' Etudes locales de Toulouais" has very kindly furnished me with a copy of this description included by him in a lecture given by him to our opposite number in Toul in 1950 on Hepburn and his career in France.

The Monument was 25 feet high and 18 feet in breadth, the principal ornament of the Cathedral, and may aptly be compared with the somewhat earlier Monument to the Earl of Dunbar in Dunbar Parish Church figured on plate 2 of the "Ancient and Historical Monuments." It seems to have been rather the more elaborate of the two. There were figures of Fame and Death, of the Virgin and Child, of Christ rising from the tomb, of angels and saints, notably of St. John and St. Andrew, of Saint Mansuy the first bishop of Toul and of Saint Palladius<sup>1</sup>. The semi-recumbent figure of Sir John was surmounted by a long and flamboyant inscription written in grotesque Latin by the weeping priest Thomas Camerarius<sup>2</sup> in whose arms the hero had died. It called on the provinces of the European princes to view him now immobile who had traversed them with more victories than paces, cold who, amid the ardours of war, had spread so many conflagrations. This was flanked by the shields of thirty two noble families of Scotland whose names have been transmogrified out of all recognition from Ocsenford and Ogilujus which may be Athelstaneford and Ogilvie to Smiton and Argathelius which are Smeton and Argyle. In 1852 and 1882 alterations in the structure of the cathedral necessitated the opening of the grave, the remains being reverently re-interred, on the second occasion being enclosed in a lead-lined oaken coffin. On the original coffin there was found on a leaden band in a form of the Cross the inscription: "D.O.M. Ossa Johannis Hepburni Scoti Equitis Aurati Campi Marescalli Qui ad Tavernas Sclopeto trajectus occubuit VIII Idus Julii MDCXXXVI Requiescat in Pace".

Such is the pride of the citizens of Toul in the possession of the remains of our East Lothian hero that in 1918 M. l'Abbé Clanché the historian of the

1 It is difficult to see how this obscure saint came into the picture. He is said to have come from Rome to Ireland in 431. Rejected by the Scoti there he passed to Scotland to do missionary work among the Picts among whom he died. I am indebted to Sir Irvine Masson for the information that he is still celebrated at Fordoun by a St. Paldy's Fair. I know of no connection between the Hepburn family and the Mearns.

2 Chalmers or Chambers?

## NOTES ON THE REPUTATION OF SIR JOHN HEPBURN IN FRANCE.

Cathedral proposed that the monument should be restored. Such a scheme could never in modern conditions have been carried out, but in 1921 The Royal Scots erected on the wall against which the Monument had stood a plaque which commemorated not only their founding father but also the glorious comradeship of the Regiment with the French Army in the war of 1914-18.

In an eloquent peroration which I must confess I read with a sense of shame to think of how little has been done in his own homeland to preserve his memory M. Hoffmann says:

“Constatons simplement qu’un grand homme, Ecossais de naissance, offrit à la France après l’avoir bien servie tout simplement, Sa vie.

Alors vous qui m’écoutez, appelés à passer sur son tombeau lorsque vous descendrez à la “Crèche” n’aurez-vous pas, les uns, une pensée émue, les autres, une prière pour le grand héros de la guerre de 30 ans dont la Cathédrale de Toul a l’insigne honneur de conserver sa dépouille mortelle.

Si de tels hommes honorent un pays un tel geste honorera ceux qui l’accompliront.”

Sir John’s younger brother James had already been killed before him in the same campaign. Richelieu was doubtful about giving the command of his Regiment to Sir John’s nephew George, the son of his brother George, who had served with him in Germany and France, on the ground of his Protestantism but did so at the request of the Cardinal de la Valette. He served with Châtillon in Lorraine but a year later he died true to the tradition of his family leading his Scots into the breach at Damvilliers<sup>1</sup>.

### A. MONTGOMERIE.

1 Another young relative of Sir John, who may have been at one time a page of Richelieu distinguished himself in a different field. When the young widow of the third Earl of Haddington, the daughter of Marshal Châtillon and great-grand daughter of the martyred Huguenot Admiral Colligny returned to France, young Hepburn laid siege to her. Her mother, to prevent her changing her religion, “married her to the Conte de la Suze, one-eyed, drunken and bankrupt though he was. Hepburn tried to force a duel on him but failed and then “il se depite, montre les lettres de la dame (surely not a very gallant thing to do) et s’en rit partout.” The mother’s precautions were in vain. The young lady got rid of her objectionable husband, turned catholic, but did not marry Hepburn.

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### *Appendix.*

James Grant in his "Memoirs of Sir John Hepburn" mentions a number of Scots who rose to high rank in the anti-Imperialist forces. Among them are a number of East Lothian men who are not mentioned in "East Lothian Biographies."

#### *Field Marshal.*

Field Marshal Sir Robert Douglas of Whittingehame. This must have been a younger son of the branch of the Douglas family who succeeded to Whittingehame after the fall of Morton. His service was later than that of Hepburn for he served under Torstensson and commanded the left wing of the general's army at Jankovitz (1645) and led the cavalry charge which decided the fate of the day. He never returned to Scotland. He became a Councillor of Sweden and of the College of War, Lord of Shelley, Hochstaten and Earl of Schonengen. One of his grandsons Count William Douglas was A.D.C. to Charles XII and was captured at Pultava.

#### *Lieutenant General.*

1. Sir William Borthwick of Johnstoneburn. This was the son of William 9th Lord Borthwick who in 1604 forfeited his title and estates as having incurred the penalties of treason for breaking into the house of James Scrymgeour of Fordell and stealing his horses and for uttering false coin. Colonel William recovered the estates, but left them in charge of his brother Alexander when he went to the wars in Germany. He was in the service of Gustavus at the time of the King's death at Lutzen in 1632. He remained abroad for some time before returning to Scotland where he died before 1663. He had a son Major William whose son, also William, Colonel of the Cameronians, was killed at Ramillies being succeeded by the grandson of the Alexander above mentioned who died, of wounds received in the same battle, four days later. In Humble churchyard is a stone which after having been at some time removed to the garden wall of Johnstoneburn was with decent piety restored to its proper place by the late Mrs Usher. The inscription runs:

Here lys interd within this p[ . . . ] of Ston  
A Borthwick bold, scarce left he such a one.  
True to his God and loyal to his King  
A Galeand man and just in everything.

Whether this is the epitaph of Sir William or his son the Major is uncertain.

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2. Sir Alexander Hamilton, described by Grant as of Redhouse. He says, quoting a "Life of Wallenstein" that Gustavus's light artillery was constructed on a new principle by a Scottish gentleman named Hamilton whose gun forges were at Urbowe in Sweden and his invention, the Canon à la Suedois was used in the French Army till the year 1780. He adds, quoting as his authority Miller's "Lamp of Lothian," that in his old age he was blown up in the disastrous explosion at Dunglass in 1640. Grant has confused three different Hamiltons here. The Alexander who was killed at Dunglass was Sir Alexander Hamilton of Innerwick, a collateral of the Earl of Haddington's family and there is no evidence that he was ever in Germany. The Redhouse Hamilton who was killed was Sir John, cousin-german of the Second Earl of Haddington. Of him it is recorded without further detail that he served with distinction in the wars in Germany. The person to whom Grant was really referring was Alexander<sup>1</sup> younger step-brother of the first Earl of Haddington. Commissioned in 1624 for service as Sergeant-Major in a detachment being sent to assist the protestant armies in Northern Germany he rose to high rank and had some connexion with the founding of small arms for Gustavus. He had returned to Scotland in 1635. Of him Sir Thomas Urquhart commenting on the Scots who had gained distinction abroad says, "As likewise Colonel Alexander Hamilton agnamed *Dear Sandy* who afterwards in Scotland was made general of the Artillery for that in some measure he had exercised that same charge in Dutchland." His services in that capacity are fully detailed in "The Memorials of the Earls of Haddington" by Sir William Fraser, Vol I. pp. 25 et seqq. The activity which seems to have attracted most popular attention was the invention of a species of cannon with which the covenanting armies were armed. They were made in the Potter row and had a bore of tin, wrapped in leather and bound with ropes. From their appearance they were known as "Dear Sandy's Stoups." Presumably they were *not* the weapons with which Gustavus won his battles. He died on 26th November 1649.

A.M.

1 It is uncertain whether he was ever knighted.



## BOTHANS OR ST. BOTHAN'S?

In the section devoted to the parish of Yester in the *Third Statistical Account* (*County of East Lothian* (1953) 280-281), the following statements appear under the heading "History of Local Community":

"The Church was founded by St. Bothan, a Briton from North Wales, speaking a Brythonic form of Celtic. It stood about a mile south-east of Gifford, in what are now the grounds of Yester House, and was replaced by a new building in 1241. This was raised to the status of a collegiate church in 1421, but by that time it was dedicated to St. Cuthbert".

Let us examine these assertions:

(1) "The Church was founded by St. Bothan". Of this there is not a particle of evidence; and, guess as we may, the fact remains that no one knows who founded the church. Behind this pronouncement, however, is (it would seem) a common assumption, viz. that "Bothans", the name by which the parish was known from the thirteenth to the eighteenth centuries, is equivalent to "St. Bothan's". The name, indeed, appears in the latter (erroneous) form in a seventeenth century inventory, where an entry, recording the substance of a charter of 5 April, 1464, has the phrase: "St. edmond his altar in the colledge kirk of st. bothanis" (*Calendar of Yester Writs* (Scottish Record Society), no. 125A). The error here is not in the charter but in the inventory; and it is noteworthy that a seventeenth century writ preserves the correct form — the parish kirk and parish of "Bothans" are mentioned, 15 May, 1618 (*Ibid.*, no. 1203). We find this error once more in the "Alphabetical Table of all the Parishes in Scotland", included in Keith's *Scottish Bishops* (571), a work first published in 1755: the parish is entered as "Yester alias St. Bothan's". Again, in the preface to David Laing's edition of *the Collegiate Churches of Midlothian* (Bannatyne Club, 1861, p. iii), the church figures as "St. Bothanis". These instances must suffice. Turn now to medieval records. In the famous taxation-roll of "Bagimond" (1274-75), there is a reference to "the rector of the church of Bothans" (*Miscellany of the Scottish History Society*, VI, 33); and in other taxation-rolls of the thirteenth-fourteenth centuries are mentions of the church of "Bothanes" (*Priory of Coldingham*

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(Surtees Society), cix) or "Bothanis" (*Registrum de Dunfermelyn* (Bannatyne Club), 204), in the deanery of Lothian. (In the last of these lists "the church of St. Boithan" also appears—but in the deanery of the Merse (*Ibid.*, 205).) Later in the Middle Ages, the name occurs, somewhat exceptionally, as "the Bothans", e.g. the endorsement of a charter, dated April, 1539, among the Haddington burgh writs refers to Robert Walterston, "prouest of ze bothanis". (This is significant only as illustrating the Scottish custom of placing the definite article before certain place-names<sup>1</sup>). In no case known to us is "St. Bothan's" used, in the Middle Ages, as the designation of the church or parish; and in the period of the Reformation "Bothanis" is still the current form of the name (Cf. *Accounts of the Collectors of the Thirds of Benefices* (Scottish Hist. Socy.), 28, 162, 278 (1561-72); *Register of Ministers etc.* (Maitland Club), 10 (1572)). We may suppose that the intrusive "St.", which appears now and then from the seventeenth century onwards, is the result of a tempting but rash inference, viz. that "Bothans" is derived from the saint whose name is commemorated in the form "St. Bathan" in "Abbey St. Bathans" (This Berwickshire parish, which owes its name to a Cistercian nunnery, provides an instance of a genuine dedication to St. Bothan). But the inference is entirely unwarranted. Over twenty years ago, Dr Mackay Mackenzie pointed out that "Bothans" is the Gaelic for "shielings" (*Scotsman*, 13/2/33).

(2) "[It] was replaced by a new building in 1241". This statement rests on a misunderstanding. In 1241, David de Bernham, bishop of St. Andrews, dedicated the church of this parish—not, however, because it was a brand-new building but simply because, as in the case of many other churches in his diocese, it had not hitherto been dedicated. There is little doubt that the church which de Bernham dedicated was the original church of the parish. In the list of that bishop's dedications, it is called the church of "Yestrith" (A.O. Anderson, *Early Sources of Scottish History*, II, 251), which seems to suggest that the name "Yester" (which is once more the name of the parish) was in use before the name "Bothans". If there was any rebuilding—and this can most readily be decided by architectural evidence—it took place, in all likelihood, when or after the church became collegiate.

(3) "This was raised to the status of a collegiate church in 1421, but by

<sup>1</sup> It has been suggested that at some time "ze. bothanis" may have been misread as "st. bothanis" but the present writer leaves this as an open question.

## BOTHANS OR ST. BOTHAN'S?

that time it was dedicated to St. Cuthbert''. But there is no reason to doubt that from the outset Cuthbert had been its patron saint. We find in the *Chronicle of Lanercost*, under the year 1282, a story which attests this; it is translated by Sir Herbert Maxwell as follows:

"About the same time the rector of the church of Bothans in Lothian caused the woodwork of his choir to be carved during Lent, to the honour of St. Cuthbert, whose church it is and for the credit of the place. But when the work was finished, on the vigil of the saint (19 March), while the rector was worrying himself about how the scaffolding, made of huge, rough beams, which the workmen had erected on the ground, could be removed so that it should be no impediment to the celebration, one of the workmen went up and loosed the upper lashings so that the supports threatened to fall down. And while the artisan was at a loss how to get down, suddenly the whole scaffolding collapsed, carrying him with it. A great shout arose, for the men supposed that he was crushed [to death], seeing that he had fallen upon a stone pavement; [but], on removing the beams they found the man not a bit the worse, even making fun of it with his rescuers. Thus did the saint renew his ancient miracles [performed] at the time of his translation in the scaffolding of vaulted building"

(*Chronicle of Lanercost*, 29; cf. *Chronicon de Lanercost* (Bannatyne Club), 108-109).

Cuthbert appears as the patron saint of the "college kirk" (e.g. in 1447 (*Yester Writs*, nos. 85, 86) ) for the very good reason that the church had been dedicated to him long before.

It is evident that the association of Bothans with St. Bothan is fanciful. Let the compiler(s) of the *Third Statistical Account* take note.

D. E. EASSON.

## NOTES ON HADDINGTON MUNICIPAL RECORDS AND OTHER MATERIALS FOR THE HISTORY OF THE BURGH

THE treatment of its records and charters by the Royal Burgh of Haddington has during the last hundred years not been particularly creditable. In 1950 many of them were lying in a confused mess in a dark hole which had possibly been once the grim debtors prison described by Elizabeth Fry and they were steadily undergoing a process of deterioration by dampness and dry rot. Important documents including the most precious, the Charter of Robert the Bruce, were confusedly mixed with a litter of routine papers ready for pulping. A few more years of such neglect, and one of the finest collections of municipal records in Scotland would have been irretrievably lost. Fortunately they came to the notice of Mr McInnes, the Curator of Historical Records for Scotland who visited the Town House, made an inspection and reported to the Council on the state of affairs. As a result of his recommendation the whole body of historical records has been transferred for preservation to the Scottish Record Office in terms of the Public Records (Scotland) 1937. The ravages of time and neglect have been with almost incredible skill and patience repaired, the old record books handsomely rebound and all the miscellaneous documents of the past carefully catalogued. The inventory, a summary of which is appended to this article, constitutes an invaluable guide to the future student of all aspects of our burghal life. One copy has been supplied to the Council Office and one will be placed in the library of the Society.

The early Council books show that in the sixteenth century the bailies and Council were far more careful of the town's 'evidents' than have been their successors of the nineteenth and twentieth centuries. It was apparently the custom that some of the bailies and councillors should make themselves responsible for the safe custody of particular items of the town's charters and documents of title. Thus in the minute of the meeting of Council on the 11th of July 1531 we find "The whilk day the Cownsaill fynds a charter of King Roberts of the burche of Haidinton of the ryng (reign) of XVII yer in the hands of Thome Synclair and alsua a charter of Kyng James the second of the schowrlyngs and schawdyns (customs of wool and skins) of the ryng of

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XV yers," followed by a list of other documents in the hands of other members of the Council. Again on 10th December 1532 after a list of documents produced in council "lhir evidens above wryttin the forsaid bailyes resavit day and yeir forsaid in sykyr keiping for the townes profit and to answer the towne for thaim." In 1533 another scheme was devised. On the 29th January 1533 "The Cownsaill ordains Thom of Sitserf to buy ane yrne (iron) Kyst in Flanders and what it cost the towne to pay hym at his own will." And on the 23rd November 1534 "Philip Gybson deliverit the townes evidens that he had in keiping whilk wor put in the Common Kyst in keiping and the keis thair of—an in Thome Wolson's keiping ane in Thome Synclair's hand baith to a lok a keye in Thome Wauss hand a keye in Thom Dickson's hand a keye in Alexr. Oigilleys hand." In the Kist were also kept such articles as a silver chalice and paten belonging to the town and even the play coats for the trades' pageants. During the seizure of the town by the English one Robert Maitland was instrumental in preserving the records from the destruction which was the usual fate of Scottish documents falling into the hands of the "Auld Enemy." How he did it is not recorded but in the 17th March 1551 "The provost, bailies and counsaill hais devisit and ordainit the fermaris (the farmers of the towns customs) to deliver to Robert Maitland for the saifying of the evidentis of the burgh of Haddington the sowme of viij markis." And again on the 25th April 1552 "ressavit fra Robert Maitland the new infeftment of the fredomes of the burgh of Haddingtoun, item etc." and there follows a list of thirty-four documents and records. From the Treasurer's accounts of 1554 and 1557 it appears that the sum of eight marks was not a payment down for good and all. The town so valued their records that they had granted Maitland an annual life payment of that amount. Although among the documents handed over there is the earliest record of the Burgh Court proceedings the "Auld Register with ane reid coveryng" no mention is made of the current Court and Council minute book. That, commencing in June 1530, shows a gap from December 1545 to March 1551. There would naturally be no meeting of council during the siege and it may have taken some little time before normal working could be resumed. In the interval the book was no doubt secreted by the clerk.

In 1585 as part of the proceedings by which in 1583 Frances Stewart, Earl of Bothwell, had been foisted by the King on the town as Provost with a

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packed Council, Alexander Symson who had succeeded Thomas Stevin as Town Clerk was dismissed from office and James Gray was nominated in his place. Symson refused to hand over the protocol books of his predecessor, his court books and other 'evidentis' of the town in his possession and it was only the threat of putting in execution the letters of horning obtained against him that induced him to produce these and the minute books kept by him during his own term of office. Thereafter it was the practice up to the middle of the 19th century for an inventory of the registers, Council books, deeds and other documents to be drawn up when a new Clerk took office.

In 1888 a Mr W. C. Bishop, W.S., prepared an inventory of documents. He says "The documents included in this inventory lay at the bottom of the ancient wooden chest in the Town Clerk's Chambers at Haddington without order or arrangement of any kind. They were for the most part in a very dilapidated condition from damp and neglect and, from these causes, a few of the documents are nearly, and some quite illegible." He grouped all the documents more or less according to subject in 17 bundles. These have now all been sorted out in the Register House and have been calendered chronologically under general headings.

The most important, for the historical student, of the materials now in the Register House are the records of the proceedings of the Town Council and the Burgh Court which, including as they do one volume of the 15th century and an almost complete series from 1530 onwards, form one of the finest collections of Burgh Records in Scotland. They have been worked over from time to time by various antiquarians but no substantial part has ever been published. James Miller used them in preparing "The Lamp of Lothian" and he gave numerous extracts in somewhat unsystematic fashion in a duodecimo year book which he published from 1825 to 1847. In vol. II of the Proceedings of the Society of Scottish Antiquaries (1854-7) Thomas Thomson, W.S. catalogued them and the Protocol Books of various Notaries. Public preserved in the Burgh Archives. He gave many short extracts on various points of interest some of which were used by Murray in his "Early Burgh Organisation of Scotland." Thomson's article has two most curious "howlers." In the extracts relating to the Council's control of prices (Assizes of Bread, Ale etc.) he includes the entry "5th November 1531. The whilk day the Sys (assize) deliveris that nane pass wyt the kirk breid bot honest

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men and that nane be fe(e)it ane for ane uther under the pane of viijs and maikyn of the breid as gude as the day efter." This does not, as one might imagine from the section in which it occurs, refer to a pre-Reformation method of administering one of the elements at the Sacrament or of preparing the sacred wafer. 'Breid' is an aberrant spelling for 'brod' i.e. 'board' and refers to the plate for taking the collection during Service. And under the heading 'Plays and Pageants' we find "8 February 1530. The whilk day the Sys deliveris that Thom Synclair sall haif xxs of the Common guid to debait the play till the chekar (exchequer) betwixt Dunfermline and the town of XLs claimed by the towne Dumferling on the towne," which has nothing to do with any inter-burgh amateur dramatic contest but refers to a 'guid ganging plea' which went on between the two towns for years over an annual payment of forty shillings.

During the last quarter of the 19th century Mr James Robb an enthusiastic and accurate antiquarian who wrote an excellent historical and topographical guide to Haddington made an intensive study of the town's records. He transcribed great part of the minute books of the Council and seven bound volumes of these transcriptions were presented to the library of the Society by his grand-daughter. The first six volumes contain extracts from the first two volumes of combined burgh court and council records (1423-1514 and 1530-1555) and from the Council minutes from 1554 to 1714. The seventh volume contains miscellaneous extracts dealing with such subjects as the town's coal-pot at Gladsmuir, the Auld Kirk, the appointment of ministers, the Town Bells and curious trials. There are also extracts from the separate Burgh Court books up to 1580. They are not complete transcripts but Mr Robb had a keen eye for matters of general import, such as the intrusions by the central Government on burgh elections, the influence of powerful neighbours and the wide powers of control exercised by the provost and bailies over every aspect of life within the burgh—powers which make one wonder whether the inhabitants of Haddington were not already living in a welfare if not indeed a totalitarian state. Another local Antiquary Dr Wallace-James (Provost of the burgh fifty years ago) has also left several volumes of extracts from the records of the Burgh Court which are now in the Register House.

In addition to the Burgh Court and Council records there was extant at the end of the last century a fragment of the Treasurer's Accounts. Mr W.

## NOTES ON HADDINGTON MUNICIPAL RECORDS AND OTHER MATERIALS FOR THE HISTORY OF THE BURGH.

C. Bishop's list has an entry "Bundle V contains copies of the Burgh Treasurer's Account 1554, 1555, 1558, 1559, 1565 and 1571-2 (more or less complete) and various miscellaneous notes of disbursements and vouchers, some undated, including curious 'supplications' of decayed burgesses and others for relief to 1659." This was the only one of the bundles which was not found among those handed over to the Register House. Fortunately both Mr Robb and Dr Wallace-James had made very full (possibly complete) transcripts. These contain much information on the day to day activities of the council and its employees. There are expenses arising from the English occupation and the damage to the Church, work on town buildings, roads and Mills, costs of poor relief and the execution of justice. Many of these are such as would not now be met from the rates.

"To Wm. Davidson runnyin to Samulston and to the Abbey  
about Matthew Liddle minister to heal John Carkettills barne and to  
marry Nicol Dunlop's dochter 8d.

To ane Swascher (drummer) to Lawder to stryk the Swasche when  
they (presumably some town deputation or perhaps a levy for a  
"raid") come and gaid to Jedburgh 5s.

To John Kerr and Wm. Purvis minstrals for ganging with them  
to Jedburgh 20s.

To Hewie Cambell for byggin the Kirk dyke 10 merks.

To him for byggin the pillar of repentance 20s.

Item to Boroge for the maikin of ane graif to ane pure bodye viiid.

To John Hoip for writtin of the examination and gevin thame  
their tickets for the Communion 4s.

To Robert Dodds, Andro Murdo and James Hays wyff for settin  
of the saittis (seats) and souppin (sweeping) of the Kirk upon the 19th  
day of July and preparing the Kirk for the Communion 4s.

To Thomas Paterson and James Bryson for threid and sewing in  
the burd claiths at the Communion. 8d.

To Andro Murdo for bringing away the tablis out of the Kirk to  
the Tolbuith upon the 27 July 16d.

To twa faddom of ane tow to scourge the fallow with (torn).



## NOTES ON HADDINGTON MUNICIPAL RECORDS AND OTHER MATERIALS FOR THE HISTORY OF THE BURGH.

To John Ramsay for scourgin him (torn).

For three fathom of towis to hang Andro Devis with and Wm. Broun lokman (hangman) for berin of the ladder with James Hornes ladder afield to hang him with and upon the 11 day of November for cords to hang the other fallow with (torn).

Item to the lokman to get ane schoping of Ail after he justifeit (i.e. hanged) the man and the woman xxxd.

To judge by the price the ale required to settle the hangman's nerves after his grisly task must have been much more than the 1½ Imperial pints usually said to be the contents of a Chopin<sup>1</sup>. It is much to be hoped that this interesting document may still be found and that it or the transcripts may at some future date be printed in extenso in our proceedings.

Various documents relating to the Town including the Minutes of the Skinnercraft 1682-1801 and a fragment of the day books 1573-74 of John Kyle Town Treasurer are included in the documents catalogued in the Proceedings of the Society (Vol. IV pp. 75-84, Vol. V pp. 67-80). A number of charters from the 12 century relating to the Parish Church are to be found in the "Account of the Parish of Haddington" by the Reverend Dr George Barclay in the 1st Volume of the Transactions of the Society of Scottish Antiquaries 1792.

Finally, the Society has recently come into possession of a mass of papers and notes accumulated by the late Mr James H. Jamieson in the course of his long study of the history of his native town. They are of the most miscellaneous character ranging from trivialities such as a record of all the tradesmen's advertisements and notices of sales of property in 18th century Edinburgh newspapers to valuable accounts of the ecclesiastical history of Haddington in the 18th and 19th centuries. They contain also much genealogical information, but require careful indexing before any proper use can be made of them. Included in the papers is a record containing many hundreds of entries in strict chronological order ranging from the 12th century almost to Mr Jamieson's death of every event in the history of Haddington which he had found in printed or manuscript sources in the course of his reading. Unfortunately there is no single note to show the source of any entry.

<sup>1</sup> And see Dunbar's "The Twa Cummers", "off wyne out of ane choppyne stowp. They drank twa quartis, sowp and sowp."

## NOTES ON HADDINGTON MUNICIPAL RECORDS AND OTHER MATERIALS FOR THE HISTORY OF THE BURGH.

Synopsis by Subject Headings of Register House Inventory of Haddington  
*Records.*

*(Figures in brackets indicate serial numbers in the inventory).*

1. Register of charters 1736-1805 (1).
2. Protocol Books of Notaries Public 1520-1677 (2-18).
3. Register of Deeds 1669-1909 (19-37).
4. Burgh Court Books 1423-1514 and 1530-1881 (38-65)<sup>1</sup>.
5. Criminal Court Books 1752-1856 (66-70).
6. Magistrates Cases 1854-1872 (71-74).
7. Police Criminal Record 1858-1881 (75-96).
8. Sheriff Court Books 1564 and 1733-64 (97-8).
9. Council Books 1554-1842 (99-121)<sup>2</sup>.
10. Minute books of Council Committees 1733-1817 (122-4).
11. Treasurer's Accounts 1660-97 and 1765-1833 (125-8).
12. Dean of Guild Court Books 1669-1818 (129-133).
13. Burgess and Guild Books 1835-1887 (134-6)<sup>3</sup>.
14. Craft Minute Books 1582-1836 (137-9).
15. Miscellaneous (140-1).
16. Royal Charters 1318-1624 (142-151)<sup>4</sup>.
17. Writs and papers relating to Burghal Subjects 1430-1740 (152-179).

1 The first volume in this series is "The Auld Register" which is in part a record of the judicial and notarial functions of the bailies. It runs from 1423 to 1463 with one entry in a blank space of 1514. It shows the bailies as exercising such functions as holding enquiries and giving decisions on such matters as title to land under a Brief of Right and the duties of executors under a will. The second volume 1530 to 1555 is in fact a record of the proceedings not only of the Burgh Court proper but also of the meetings of Council, the annual meetings of the Council and the whole community and the Court of Schillinghill (which dealt with the Management of the town Mills and the rights of persons adstricted thereto). In the second volume there is as already noted a gap from 1545 to 1551. There is also a gap from 1645 to 1669.

2 There are gaps in the series from 1624 to 1656 and from 1819 to 1836.

3 Serial No. 136 contains an Alphabetical Index of all Burgesses and Guild Brethren from 1700 to 1826.

4 The Charters of Robert I, Robert II, James II, James III and James V have been printed in "Charters and Writs concerning the Royal burgh of Haddington" by Wallace-James (1895). Among the documents printed in that compilation is an agreement dated 1532 between the town and Richard Maitland of Lethington regarding the Haughs. This document, about which Wallace-James has an interesting note (op. cit. p.1) is no longer forthcoming. We print in this volume a reproduction of the Charter of Robert I, with the transcript and translation of Dr Wallace-James.

## NOTES ON HADDINGTON MUNICIPAL RECORDS AND OTHER MATERIALS FOR THE HISTORY OF THE BURGH.

18. Writs and papers relating to the Friars Minors, Mortifications, teinds, stipends and other ecclesiastical matters 1409-1860 (180-192).
19. Papers relating to Schools 1564-1588 (193-6).
20. Papers relating to Public Affairs (including relations of the burgh with the Central Government and other authorities over jurisdiction, finance, taxation, customs, weights and measures, military matters etc. 1526-1662 (197-217).
21. Papers relating to Burgh administration & finance 1554-1798 (218-248).
22. Inventories of Burgh documents 1670-1888 (249-254).
23. Miscellaneous fragments 16th-17th centuries (255).
24. Papers relating to the East Lothian Rifles 1876-1940 (256).

A. MONTGOMERIE.

## MARKET AND FAIR IN MEDIEVAL HADDINGTON

IN W. Forbes Gray and James H. Jamieson's *Short History of Haddington* (Edinburgh, 1944), no evidence earlier than 1542 is given for the holding of the burgh's weekly market on Saturdays or for the dates of the annual fairs. The writings of John Major, who was born at Gleghornie near North Berwick, however, contain references to both these matters which may safely be regarded as describing the position in the late 15th century. Major is a good witness, since his schooldays, presumably in the late 1470's and early 1480's, were spent in Haddington<sup>1</sup>, which he tended to regard as his home town<sup>2</sup>. In the first two editions of his commentary on Book IV of the *Sentences* of Peter Lombard, Major refers several times to the *Saturday* market at Haddington<sup>3</sup>. As for the fair, Major in the same work refers to "St. Michael's fair at Haddington", which, he tells us, "lasts from Michaelmas to the day after"<sup>4</sup>.

This shows that Haddington's Michaelmas Fair, far from having been "granted" by James VI, as Forbes Gray and Jamieson suggest<sup>5</sup>, had been in existence for at least a century and a half — and very probably for much longer—before the confirmatory charter of 1624. It is therefore remarkable that James V's charter of 1542 does not mention this fair. The 1542 document refers, not to two fairs, as Forbes Gray and Jamieson suggest—apparently following a mistranslation of the text by J. G. Wallace-James<sup>6</sup>; but to one only. This was to be held "annually on the Day of St. Peter next and immediately following the Feast of St. John the Baptist which is called *mydsymer*"—i.e. the Feast of Sts. Peter and Paul, 29th June—"and throughout the week following." This week-long fair would seem at the period of

1 Cf. the dedicatory epistle to his *In Quantum Sententiarum* (1516), reprinted in the Scottish History Society's edition of his *History of Greater Britain*, p. 437 (there ascribed to the 1519 edition, where it also appears).

2 He repeatedly describes himself on the title-pages of his works as "of Haddington" (Haddingtonensis, Haddingtonanus, etc.)

3 Cf. dist. xv, q. xxiv: 1509, fol. civ recto; 1512, fol. cii verso. Also dist. xv, q. xxxiii: 1509, fol. cix recto; 1512, fol. cviii recto.

4 Dist. xv, q. xxiv: 1509, fol. civ recto; 1512, fol. ciii verso.

5 *Op. cit.*, p. 91.

6 *Charters and Writs concerning the Royal Burgh of Haddington* (Haddington, n.d.), p. 34: cf. text on p. 29. The punctuation of the text in the Register of the Great Seal, 1513-46 (No. 2847) makes the sense clear.

## MARKET AND FAIR IN MEDIEVAL HADDINGTON.

the charter to have been more important than the two-day Michaelmas Fair mentioned by Major. The special emphasis placed on the Michaelmas Fair in 1624<sup>1</sup> — “REX . . . ratificavit omnia infeofamenta et privilegia dicto burgo . . . et presertim nundinas S. Michaelis annuatim incipientes 29 Sept. et per 8 dies durantes . . .”—may indicate that its omission in 1542 had led to doubts about the town's right to hold a second fair. Its longer duration presumably reflects an expansion of trade.

It would thus appear that Forbes Gray and Jamieson are correct in saying that “In early times Haddington was permitted to hold two fairs annually.” The dates of these fairs, however, were 29th June and 29th September, not 24th and 29th June. At no time does there seem to have been any question of a third fair.

J. H. BURNS,

1 Register of the Great Seal. 1620-33. No. 569.

# CATALOGUE OF BOOKS & PAMPHLETS

BELONGING TO

EAST LOTHIAN ANTIQUARIAN AND

FIELD NATURALISTS' SOCIETY

*February, 1955.*

Note:— This small library of books pertaining to East Lothian, was collected mainly by the late James H. Jamieson from his own property and from gifts by members of the Society. It is at present stored in the public library at Haddington, where it is available for reference. The ultimate intention is to house the books at Haddington House when this property can be finally taken over by the Society. Additions are welcomed. The receipt of all such gifts of books or manuscripts will be acknowledged by The Hon. Secretary to whom the Society is much indebted for compiling this catalogue.

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## FURTHER RECORDS OF THE BARONY COURT OF COLSTOUN

IN Vol. II Part II—1930-31 of these transactions Lady Broun Lindsay published the records of the Barony Court of Colstoun from 1627 to 1644. Besides those there are some fragmentary records from 1698 to 1737 which are dealt with in the following pages. Their disjointed character and the fact that the bulk of them consists of petty accounting between landlord and tenant of no historical interest make it unnecessary to reproduce them in full. Spelling has throughout been modernised.

The gap in the records from 1644 to 1698 and the fragmentary character of the present record (only seventeen sittings in the 39 years are recorded) may be due to the destructive fire at Colstoun in 1907. This supposition is strengthened by the fact that many papers which one would have expected to survive, for example those of Lord Colstoun, Judge of the Court of Session and Laird of Colstoun from 1745 to 1766, no longer exist. But there are indications that before the earliest of these papers there may have been some break in the regular holding of the Court. As pointed out by Professor Dickinson in his introduction to the Court Book of The Barony of Carnwath the jurisdiction of these petty Courts in the administration of public justice had steadily declined in the seventeenth century so that a grant "*cum curiis earum que exitibus*" could be referred to as "*not much regarded being only an extension of Stile.*"<sup>1</sup> *Furca et fossa* (power to put to death) was included in the Colstoun grant but it would have been a bold laird who would in emulation of the great Highland Chieftains cited by Professor Dickinson have tried and hanged (or drowned) a criminal, even "*within three suns*" of the offence. But it may be that the work of the Court had been neglected for reasons peculiar to Colstoun. When our record opens the Laird of Colstoun was Sir George Broun. His bride, a daughter of Lord Cromartie, induced him to let her bite the famous pear, the "*Luck of Colstoun*," and according to the warning of the ancestral wizard Hugo de Gifford, "*the taste of that*

1. S.H.S. Third series vol. xxix pp. xlvi to xlviii.

## FURTHER RECORDS OF THE BARONY COURT OF COLSTOUN

forbidden fruit brought loss of Eden'' to her husband and death to the family into which she had married. Unlike Eve she had a brother and he proved a more expert gambler than Sir George who, to pay his gaming debts, had to sell part of his property and finally to transfer the Barony to his younger brother Robert. Sir George's preoccupations had probably led to negligence in the management of the estate and the first surviving entry in our record would seem to indicate that Robert, as a preliminary to taking over, was preparing to bring the Barony Court into working order. He has himself appointed as bailie with a proper staff, and draws up a short code of the principal matters affecting the Laird's interest.

''Court of the Barony of Colstoun holden at the old mill thereof by Robert Broun of Newhall baillie of the Said Barony the third day of September 1698.

''The which day Sir George Broun of Colstoun nominated and appointed Robert Broun of Newhall his brother-german to be baillie of the said Barony, Robert Gray, Notary public in Haddington, to be Clerk, Wm. Hunter in Colstoun fiscal and James Gullan there to be officer during pleasure.

Geo. Broun.

''The same day the said Judge statute and ordained that the whole tenants within the said Barony shall be liable and obliged in all time coming to bring home to the mills of Colstoun without distinction the mill stones to be made use of in the said mills with their own cart horses and servants peremptorily as they shall be required by the baron officer or any other having power to give them advertisement and also to help the dam heads, dams and water-gangs as oft as they shall be required as aforesaid under the penalty of twenty pound Scots for each fault.

'' The same day the said baillie statute and ordained that the whole tenants within the barony shall be liable for the faults and delinquencies of their children, hinds, cottars and servants in the first place reserving to the said tenants their relief off (i.e. against) the said hinds, cottars and servants.

''The same day the said baillie statute and ordained that whatsoever person within the barony of whatever age, sex or quality shall be seen or known to have been within the Laird's woods, parks, wards or enclosures (except they have licence from the Laird or his baillie) shall be reputed and holden as cutters, peelers and destroyers of timber and punished accordingly conform to the acts and status of the barony Court.

''The same day the baillie statute and ordained that each person who is

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thirled to the mills of Colstoun and grinds their corns by (i.e. away from) these mills shall pay five pounds Scots for each fault of fine and shall be liable in double multure to the master of the mill.

"The same day the said Judge ratifies and approves of the whole acts and statutes in the old burlaw book within the said barony and ordains the burlaw baillies to put the said Acts to full and vigorous execution with certification to the burlaw baillies if they fail so to do they shall be fined or otherwise punished as the baron baillie shall think fit.

"The same day the baillie foresaid statute and ordained that no person nor persons within the barony pursue one another before any inferior court except the said barony court without the Laird or his baillie their license or consent under the penalty of ten pounds for each fault.

"The same day the baillie appoints the Shilling Hill<sup>1</sup> at the old Mill of Colstoun to be the place where all poinds<sup>2</sup> taken within the barony shall be comprised and that all poinds so comprised shall be redeemable by the party from whom they are taken within forty eight hours after they are impounded and no otherwise.

Robert Broun."

The reference to the *old* burlaw book and the directions to the burlaw bailies to put its provisions in execution seem to indicate that there had been some lapse in the past.

At the next Court held by Robert as bailie on 14th December 1698 we have the first of several examples of the good old Scottish legal principle "Show me your man and I shall show you the law (or if there is no law I shall make one)." The bailie "statutes and ordains" a law and then immediately applies it retrospectively to some one who is already known to have broken it.

"The which day the said judge statute and ordained that no horses, nolt, sheep or "staigs"<sup>3</sup> be suffered to go within the Laird's parks, woods, wards or enclosures under the penalty of half a mark (6s 8d) for each beast toties quoties.

"The same day the said Judge unlaured Elspeth Steill in half a boll

1. Shilling is the act of clearing the grain from the chaff, or grain so freed. At the Court of Shillinghill rules were framed for the internal economy of the mills, the provision and use of store rooms for farmers using the mill and for the settlement of disputes and imposition of penalties for breaches of the regulations.
2. Impounded cattle etc.
3. Young horses.

## FURTHER RECORDS OF THE BARONY COURT OF COLSTOUN

of oats for her 'Staigs' going through the Laird's woods and enclosures and grinding certain corn by (i.e. away from) the Laird's mills because she compared and confessed the same."

The next sitting is on the 18th July 1699 and by this time Robert had risen from bailie to Laird. But his only recorded act is to appoint a new bailie. The curse of the forbidden fruit had not exhausted itself. On 5th May 1703 Robert and his two sons were drowned when their carriage overturned in the flooded Colstoun Water. He was succeeded by his daughter Jean who married her cousin Charles Broun of Gleghornie and it is he who for the rest of the record officiates as "Baroun of the Barronie." His first recorded Court is on 19th May 1707 when after the appointment of a new Baron bailie during pleasure and of two burlaw bailies for the ensuing year, he reaffirmed the restriction on the sale of ale to "what is brewed within the barony by the license of the baron of the ground and likewise that the said whole tenants shall be obliged in all time coming to work the smith and wright work with the wright and smith of the said barony whom the laird shall please to appoint and that under a penalty of five pound Scots for each fault toties quoties with this condition that the smith and wright make sufficient work and at as reasonable price as others of respective trades in the country and that it will be as good and cheap as others sell." It will be seen that there is thirlage not only to the smith but also to the wright.<sup>1</sup> In a contract for the sale of timber on the estate dated 13th May 1709 there occurs the clause "and [the contractor] also shall sell or vend no ale at the said bank or other timber except what is brewed at the old Mill of Colstoun, providing the ale be good and furnished at reasonable rates."<sup>2</sup>

The new bailie was one James Douglas, burgess and late bailie of Haddington, dignities which he loses no opportunity of mentioning; obviously a man who fancied himself as a lawyer. He lets himself go on the case he tries on the first day of his appointment. The smith and his wife and a farmer and his wife had engaged in an "unco collieshangie" with possibly some effusion of blood and, we may be sure, a vigorous use of the "guid Scots tongue" we hear so much about nowadays, the sort of thing that we find Charles Broun a trained lawyer (or indeed our Haddington baillies on a Monday morning)

1. Cf. Professor Dickinson's Notes Op. cit. at pp. lxxiv and lxxv.

2. The same contract contains a clause reminding us of the political situation in 1709. "Declaring that in case there fall a year of war within the Shire of East Lothian (as God forbid) the same shall not be counted and included within the said two years allowed for cutting the said timber."



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finishing off with a dozen words and a fine. Not so Douglas who knows what is due to the Solemnity of a court presided over by one who has sat on the bench in a Royal Burgh, even though the Procurator Fiscal who appears for the Laird's and Her Majesty's interest be only, when in his working clothes, the village carpenter: "Complains Jean Findlason spouse to Patrick Thomson Smith in Gateside and the said Patrick for his interest and Thomas Trotter fiscal upon David Hunter in the Old Mains of Colstoun that whereby the Laws of the Kingdom beaters and blooders of others are ordained to be punished in their persons to the terror of others nevertheless true it is and of verity that the said defenders hath contravened our Laws by beating and blooding Jean Findlason spouse to the said Patrick Thomson and that upon the 14th of this instant and therefore he is guilty of a manifold (qu. manifest) blood and riot and ought to be decerned to pay to our said fiscal 50 pound Scots money.

"The baillie ordains the pursuer to lead his witnesses for proving his libel the first day. John Scougall servitor to David Martine in Sandersdean aged 20 years unmarried purged of partial counsel being sworn and interrogated upon his great oath deponed that he did not see the defender David Hunter beat or strike the pursuer Jean Findlason with any weapon neither did he see her blooding but that he seen the said defender throw the said pursuer to the ground with his hands and that is the truth as he shall answer to God.

"Complains Isobel Hume spouse to David Hunter in the Old Mains of Colstoun and Thos. Trotter procurator fiscal for her Majesty's Interest upon Pat Thomson Smith in the Gateside that whereby the Laws of this Kingdom beaters, strikers and draggers of others are appointed to be punished in the persons to the terror of others nevertheless true it is and in verity that the said defender hath contravened the said laws by dragging the complainer through her house by the arms but likewise did drive a cow over her to her great prejudice and that in one or other of the days of April last and therefor hath committed a riot and ought to be ordained to content and pay to our said fiscal 10 pound Scots for the said riot.

"The pursuer and the defender being present and the said defender denying the libel the pursuer passes from the defender's oath and offers to prove it by witnesses and the baillie ordains the witnesses to be summoned the next court day for the same effect."

Bartoline Saddletree for all his study on the "Substitutes" of Justinian could not have done better. Unfortunately the outcome of this notable trial

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has not been recorded.

It may have been Douglas's desire to turn his petty court into a replica of the Courts in Edinburgh or a legalistic strain in Charles Broun that led to a complaint by the body of tenants. "2nd October 1720. (The Laird presiding). The same day it was represented by the whole tenants that when complaints was given in by any of them in small sums not exceeding ten shillings (qu. Scots or Sterling) that it was both uneasy to the Judge to decide these small controversies in the form of law but it was also tedious and expensive to the complainers before they purchased "decreits" for remeid thereof the said Judge statute and ordains that all complaints given in by any tenant against another not exceeding ten shillings should be first tabled before the burlaw judges and to decide the same summarily they always being comptable to the baron for their wrong sentences if there should happen any."

Ten shillings Scots was as we shall see the price of one hen so that it is little wonder that they complained if for such a debt they had to engage in pleas and duplies and condescendencies and then pay for an extract of decret before they could recover. Earlier at the same session three burlaw judges had been appointed for the ensuing year with power to adjust all controversies that might happen to arise between tenant and tenant, and a burlaw book had been produced and read over in presence of the whole tenants and approved by them. This, with an additional clause about the height of fences to barns and kailyards, was to be transcribed by William Aitken, village schoolmaster, and a duplicate given to the burlaw bailies for their guidance.

The burlaw bailies were members of the tenantry, appointed by the Laird annually to settle petty disputes between the inhabitants of the barony. Their main duty was in effect to enforce the practice of good neighbourhood in such matters as the limitation of pasturage on the Common lands, the maintenance of fences and dykes and the restraint of animals which might do damage to the crops of others<sup>1</sup>.

"2nd April 1709. The same day it is statute and ordained that no person within the barony keeping swine to suffer them to go upon their neighbours skaith (damage) under the penalty of five pound Scots toties quoties but likewise any of the said tenants should have swine one or more and suffer

1. See Professor Dickinson's Appendix A, Barony of Carnwath p. cxiii. It is much to be regretted that the two burlaw books referred to in these Colstoun records have not survived. They would certainly have cast much light on the customs and internal economy of this little community.

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them to go abroad from the time of the Corn being led off the ground until the time of the sowing thereof again that they shall be all ringed in the nose under the penalty aforesaid.

"Item it is statute and ordained in all time coming that no person within the said barony carry or use whip shaft, goad or staff of oak, ash, elm or birch after Whitsunday next under the penalty of five pound Scots toties quoties<sup>1</sup> that no person presume to cast any 'Skaill' (rubbish) within another's ground particularly in that place called Clapperts without the liberty granted and obtained by the Laird of the said ground under the penalty of five pounds Scots toties quoties."

Most of the records from Charles Broun's time dealt with suits by the Laird for his rents, for penalties for breach of the terms of leases, for damage to his trees or brushwood, for infringements of the rights of multure, and for blood-wyte. There is only one instance recorded, though as appears from the complaint of the tenants already referred to there must have been many such, of a suit brought between private parties as distinct from suits by the Laird. In it one tenant sues the servant of another tenant on the ground that though the defender had hired out his son as servant to the pursuer at a fee of £4 Scots from Martinmas to Whitsunday together with the "grassing of four sheep value twenty-four shillings" he had not permitted his son to perform his service. Judgment in default for £4.

Judging by the number of suits, the Laird seems to have had considerable difficulty at times in getting in his rents whether in cash or kind. The accounts are sometimes complicated. For example Patrick Hepburn the tenant of the Old Mill, who seems never to have been in the habit of paying until forced to do so, paid in money rent £125 Scots per annum but he was also bound to provide at Candlemas (February 2nd) a boll and a half of ferm oat meal valued in one year at £9; at Whitsunday (May 15th) a fat swine (another tenant provided his fat swine at Fasternseen, Shrove Tuesday) valued at £8 and service with carts £3 13s 4d; at Lammas (August 1st) seven bolls ferm meal £44 16s and at Martinmas (November 11th) pay of shearers which he had failed to supply £26 13s 4d and thirteen Kain hens with three capons £8. On the other side of the account credits are given for certain bolls of meal delivered plus the price of two tups (rams) at £2 a piece, a bill drawn for £68 on and apparently accepted and met by Thomas Trotter and another on Alexander

1. The purpose of such a rule seems obscure.

## FURTHER RECORDS OF THE BARONY COURT OF COLSTOUN

Livingstone in Samuelston for £69 10s 0d. Decree was accordingly given for £159 15s 4d with costs of £16. A detailed bill of costs would have been interesting, as would have been one for proceedings in the Burlaw Court. Costs there must have been to make it worth while for the Laird to maintain the Court and in any case, to a lawyer, a Court without a table of Court fees is inconceivable.

In a suit by the Laird for barley sold to a tenant the defender offers as part payment "a four gallon barrel of two shillings each being fifty shillings Scots and of two days work of the wright trade and one day of his servant to the complainer at thirteen shillings four pennies per day extending also forty shillings Scots" and submits to judgment for the balance.

In a suit heard on 16th September 1734 against the tenant in Sandersdean it would appear that arrears over several years amounted to £338 11s 10d. Decree was given not only for this sum but also for the rents due at the end of the coming Martinmas term and the succeeding Whitsunday term next thereafter. "The terms of payment being first come and bygone." Dr C. M. Malcolm explains that this was a common form of penalty and that the tenant was lucky not to have his tack forfeited. By a tack entered into in 1706 the tenant bound himself to protect that part of the ward above the house of Colstoun (not apparently part of the land leased) which had been cut by the Laird in 1705, from being eaten or destroyed by beasts for the space of three years under a penalty of £100. It was proved in 1709 that the tenant had "suffered and permitted, he and his servants, their whole beasts, horse, nolt and sheep to pasture there both summer and winter and so hath destroyed eaten and Cankered the whole young timber therein." causing damage to the extent of £500. The Laird got his decree for £100 as liquidated damages but not for the additional sum of £500, and also got an injunction against the tenant to protect the timber for a further three years "until the said timber be out of reach and hazard of beasts" under the same penalty as before.

Charles Broun was careful to observe the proprieties when approaching the Court even though the Baron Bailie was his own subordinate. Thus at the Court held by the Baron Bailie Richard Robertson on the 16th September 1734: "Unto the Baillie of the Barony of Colstoun. The petition of Charles Broun of Colstoun. 'Humbly sheweth that Robert Smyth being tenant in Clauchendean being now imprisoned in the Tolbooth of Haddington for sheep stealing his goods will probably be imbezzled and the lands in his possession

## FURTHER RECORDS OF THE BARONY COURT OF COLSTOUN

will lie unlaboured for this ensuing year whereby your Petitioner will not only lie in danger of losing his rent which falls due at Candlemas next being sixteen bolls of bear and twenty four bolls of Oats and six pounds Scots for a shearer which he should have furnished last Harvest at least that sum was payable in place of a shearer at Martinmas last but also the like quantity of victual for this ensuing crop without remedy be provided thereto, 'May it therefore please your Honour to grant warrant for sequestrating as much of the said Robert Smith's goods and gear as will pay the said ferm at the rate of the next Candlemas fiars and the said six pounds Scots for a shearer and for that end to empower your petitioner to Roup and dispose thereupon for his payment and to allow your Petitioner to Labour and sow the ground this ensuing crop according to Justice.'

Cha. Broun,  
Colstoun, 25th January 1732.

"The Baillie having considered the witness's Petition finds the Desire thereof just and therefore Grants warrant for sequestration [of] Robert Smith's Goods and Gear for payment of his ferm and Rent within mentioned and nominates James May tenant in Bolton, Patrick Turner in Colstoun New Mill, George Lamb in the East Mains of Colstoun and Thomas Merrilees smith in Gateside to value the Goods and Gear and thereafter empowers the Petitioner to roup the said Goods on Thursday the third day of February next and to cause Intimation of the Said Roup to be made through Haddington on Friday next and to apply the price for payment of the Said ferm etc. at the rate of the next Candlemas highest fiars and allows the Petitioner to thresh out the Corns and Straw for the maintenance of the Beasts till the Roup and to Labour and sow the ground for this ensuing crop.

Ric. Robertson Baillie."

The cases of trespass and damage are trivial matters — "louping the Laird's dyke and going within his enclosures without liberty asked of the said Laird" fined five pounds; two farm hinds peeling several trees in the Laird's Ward and ingrossing their (and their sweethearts?) names on them, fined six pounds apiece or to be locked up until they or their Master pay; ten men and women for cutting the Laird's woods (they were just useless whins and small dry sticks say the defenders) let off without fine provided they pay up their arrears of Kain hens and rent, except David Hill who is fined five pounds for

## FURTHER RECORDS OF THE BARONY COURT OF COLSTOUN

his malbehaviour to the Judge (the Laird himself) in the face of the Court.

Perhaps the most interesting of all the records is that of 18th April 1717. "At Colstoun Old Mill 18 April 1717. "The which day it being proposed by Charles Broun of the Said Barony to the whole tenants there that it is necessary and expedient that a schoolmaster for teaching their children to read and write and in teaching arithmetic were necessary to be had upon the ground, and for his part for encouraging the said proposal he would himself contribute for the said encouragement of a schoolmaster for the place and give him ten shillings yearly together with a house providing that the whole of the other tenants would give him a load of coals bringing home for each plough to which it was adhered to by the whole tenants conditionally they bringing them home always in the summer time and for further encouragement James Aitken promised to give a gratuity each year during his life and residence half a peck of linseed further."

This is preceded by a list of those who owed suit and service to the Court and who had agreed to the proposal. Against some of the names are the amounts they had agreed to contribute—half a boll of pease; two pecks of meal; a firloft (quarter of a bushel) and two pecks of pease; a firloft of bear; and six forperts (quarter pecks) of oats apiece from three of the tenants. Out of the fourteen tenants there are five whose ancestors were on the farms of Colstoun a century earlier.

Attached to these records of the Baron Court but not forming part of them there are some memoranda indicative of the burdens imposed on the tenants by reason of their thirlage to the mills. There were two mills in the estate, the New Mill and the Old. From the first entry in the Baron Court record (ante p. 66) it will be seen that though the individual tenants were bound to bring their grain to one particular mill the whole body of tenantry was bound to give service for fetching Mill stones from time to time and for structural work to both. Between 1710 and 1740 stones have to be fetched on nine occasions, almost all in June and it was obviously a considerable business. Thus, "Colstoun, Old Milne, 2 June 1716. There being two stones for Old Mill and one to the New Mill needed, the Laird with consent of the tenants ordered Seggarsdean to send a cart and 6 horses (they having been formerly in use to send a cart) the Old Mill to send a cart (as use and wont formerly) with two horses which, with four horses out of Sandersdean, makes 6 horses and Sandersdean Myreside and Sandiford to send the

## FURTHER RECORDS OF THE BARONY COURT OF COLSTOUN

third cart (for bringing the two stones to Old Mill) James Aitken in Sandiford furnished the cart and Sandersdean and Myreside pay to him each of them 2/- for hire, the Mains sends one cart for New Mill stones and the New Mill another cart and those in that thirl furnish horses, those that are heavy-loaded change draught with those that are lighter loaded by the way and the master of the Mill furnishes meat to the Carters." To bring a bed stone (nether mill-stone) and a runner (upper mill-stone) from Gullane for the Old Mill fourteen horses had to be furnished. One can picture (and hear) the heavily loaded clumsy carts being dragged up the rough roads over the shoulders of the Garleton hills and down to the ford at Haddington with six or eight horses to each cart.

Multures (the remuneration in kind paid to the Millers) were a frequent source of dispute, the farmers taking their grain to mills where the rates were cheaper and the Baron Court fining them for the offence and making them pay double multure to the Mill to which they were thirled. Rates seem to have varied slightly from mill to mill and there might be disputes as to the extent of the thirlage. Thus the purchaser of the Estate of Newhall sold by Robert Broun on his accession to Colstoun claimed that the thirlage of three farms excepted from the sale extended to "*omnia grana crescentia*" within the Sucken<sup>1</sup> while Broun contended that it only applied to the corn made use of for the maintenance of their families. Attached to the papers, probably for guidance at the Colstoun Mills, is an account of the Multure and duty of Bolton Mills.

"Inprim. To the Mill Masters for eight bolls (twenty four pecks) of oats two heaped pecks of shilling with two pecks of meal straked (level) and two dishfulls (the dish held one-quarter peck) heaped, the Mill Masters finding elding (fuel) to dry the oats and the girsters (gristers, those who bring corn to a mill) find bedding to the kilns also the girsters is to carry half in and half out and they are to give a quart of ale for each kiln-full drying; the meal is sifted meal. "Item, For six firlots (= 36 pecks) of Hummel Corn<sup>2</sup> grinding they

1. The area of land round the mill thirled to it.
2. Hummel primarily means hornless or dishorned cattle like Neil Blane's "best coo" in Old Mortality. To hummel is to clean barley from the awn. Jamieson suggests that Hummel Corn is grain which wants a beard such as pease or beans but his quotations hardly bear this out and in a list of multures at Newhall "pease" is given separately from Hummel. Here it possibly means the cleaned barley berry, just as shilling is husked oats, ready for milling.

## FURTHER RECORDS OF THE BARONY COURT OF COLSTOUN

pay to the Mill Masters a heaped peck of corn and three heaped dishfulls of meal.

"Item For drying every boll of hummel corn the corn being ground in the mill it pays to the mill masters for each boll a dishful of sifted meal with the accustomed multure and duty as is rehearsed before. But if the corn be dried and taken to the market they pay a dishful of heaped corn for each boll of dried corn.

"Item The Millers gets of eight bolls of oats three dishfulls of heaped sifted meal, the Load man a dishful and the dust Lady a dishful.

"Item of six firlots of Hummel Corn the Millers gets two heaped dishfulls of meal the loadman a dishful and if it be dried in the kiln the dust Lady gets a dishful and the millers gets two dishful for the kiln-full drying forby (besides) their ordinary duty and so the girsters is to pay more or less, conform to the number and quantity of corn whether bolls, half bolls, firlots or pecks."

For "dust lady" we should almost certainly read "dust laddy." Lady Broun-Lindsay writes "The late Lochiel told me that once when he was a small boy he was staying with his uncle the Duke of Buccleuch. All the servants had been given leave to attend the Dalkeith Show except the butler. The Duke wanted to send a letter to the post and the butler said he had no one to send "except the dustman." The Duke much mystified asked why they had a dustman and what he did and the butler loftily replied he had no duties and was just called the dustman. He must have been a relic of the estate mill but I never thought of this till long afterwards and I think Lochiel remained puzzled to the end."

The Editor and all our readers are deeply indebted to our President for her trouble in collecting the material which has been used for these notes and for her help in elucidating from time to time points arising in preparing them for the Press.



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## OBITUARY

GILBERT F. M. OGILVY.

THE death of Mr Gilbert F. M. Ogilvy on 16th June, 1953, was a matter of deep regret to the Society. He took a very keen interest in all its affairs and was an office-bearer continuously from 1936, when he was elected Vice-President, until 1948 when he retired from the presidential chair which he had occupied since 1944. He ably assisted Dr Lang during the war years and, when Dr Lang resigned, it fell to Mr Ogilvy, as President, to revive the Society's activities when peace came. So successful was he in this that, by the time he resigned in 1948, he could do so because his advancing years (he was then eighty) were, he claimed, unequal to the many-sided enthusiasm that he had himself inspired.

In the last years of his life he continued to be actively interested in the Society and was often present at excursions. Only a month before his death, members were privileged to visit his home at Winton Castle and it was a disappointment to him that he was unable, personally, to welcome them.

His death, which came unexpectedly while he was on holiday in the north of Scotland, deprived us of his genial friendship and our deliberations of his informed guidance.

MARSHALL B. LANG.

The Very Rev. Marshall Buchanan Lang, T.D., D.D., F.S.A. Scot., died on Sunday, 3rd October, 1954. His death at the great age of eighty-six severed a long connection with the East Lothian Antiquarian and Field Naturalists' Society, and it is fitting that the Society pay its tribute to him in a new volume of those "Transactions" of which, for a time, he was joint editor and to which he contributed several articles of permanent value.

Dr Lang became a member of Council when the Society was founded in 1924 and remained so until his resignation from the office of President in 1944.

## OBITUARY

During that period of twenty years, he gave to the Society constant and thoughtful service which was always allied with inspiring leadership both in the field and at the Council table. He became President in 1937 and it was largely due to his buoyant spirit that the affairs of the Society fared so well during the years of war. In the ten years that remained between his resignation as President and his death, his interest was not abated though he found it no longer possible to take an active part.

It is with sincere gratitude that the Society records these brief tributes to the memory of two former Presidents.