time of James, 6th Lord Somerville, who died in 1569. The Registers of the Privy Council of Scotland, which have been printed from 1545 to 1610, give the following. On 29 October 1576, *young*[1] John Somervile is named on the council of the burgh. On 26 November, 1585, William Somervell, burgess of Renfrew, and others, complain to the Privy Council of outrages by Robert, Lord Ros, who with 40 followers had broken into William's house, and shamefully treated his "gud-dochtir," Agnes Brisbane. In 1587 the Privy Council granted suspension of letters of horning, obtained by one John Jackson of Renfrew, against William Somervell *elder*, John Somervell in Tounheid, William Somervell *younger*, and other councillors of the burgh. On 24 July, 1594, William Somervell, burgess of Renfrew, and others, were fined 100 marks each for not giving suit at last Parliament. From 1600 to 1610, a William Somervell appears to have been a notary and common clerk of the burgh of Renfrew. On 15 May, 1610, *Janet* Craufurd relict of John Somervill, *junior*, burgess of Renfrew, found security in 500 marks not to harm Adam Somervill another burgess there. And on 23 November, 1615, this Adam Somervell styled "in Tounheid of Ranthrow" (*i.e.*, Renfrew), was punished with a number of others for usury, taking more than ten in the hundred (*i.e.*, 10 per cent).

When the remaining volumes are printed, it will probably not be difficult to connect the late Doctor Somerville's grandfather, John (the provost of Renfrew for 50 years) with this race of burgesses. It is a far more likely origin for the family than the vague and absolutely unsupported claim to represent the dormant peerage, evidently founded on nothing better than similarity of surname.

JANET BARCLAY WIFE OF SIR THOMAS ERSKINE

The evidence produced during the hearing of the Mar Peerage case brought out the fact that the wife of Sir Thomas Erskine was Janet Barclay, *daughter* of Sir David Barclay of Brechin by his wife, Christian Monteith, daughter of Elyne, daughter of Gratney, Earl of Mar. Accounts of the family printed in Peerages have styled her Janet Keith, daughter of Christian Monteith by another husband, Sir Edward Keith. It is notoriously difficult to obtain a recognition of any new discovery which affects a long received pedigree. Burke still calls Janet the daughter of Sir Edward Keith, but to account for her being styled Barclay makes her the widow of Sir David Barclay, and mother by him of a daughter, Janet (*sic*), married (1378) to Walter Stewart, Earl of Athole. "G. E. C.," in the *Complete Peerage* (*voce* "Erskine, S. B.") follows Burke's lead, but is more cautious about the daughter and leaves her anonymous. Anderson in *The Scottish Nation* (*voce* Erskine of Dun) states that Sir Thomas Erskine married Janet daughter of Sir David Barclay, mother of John Erskine, first Laird of Dun, after the death of Janet Keith, mother of Sir Robert Erskine. The Exchequer Rolls, however (iii. 639) state that Robert Erskine was eldest son and *heir* of Sir Thomas Erskine and Janet Barclay his wife.

[1] This shows there was an *old* John living.

It may be well to show that, apart from the evidence which was led in the Peerage Case, Janet must have been daughter, not wife of Sir David Barclay. Sir David Barclay married in 1325 Margaret, sister of Sir David de Brechin, who was executed for treason 1320. The King on the occasion of Margaret's marriage granted her brother's forfeited lands of Brechin and Dun to Sir David Barclay, his personal friend; by her he had one son David who succeeded to the estate of Brechin, and a daughter Janet from whom the Maules of Brechin descend. Sir David, the elder, was slain in 1352. About 1368 or 16 years later Janet Barclay became the wife of Sir Thomas Erskine. It cannot be that she was wife of Sir David Barclay, the younger, for he died about 1373, that is, after the marriage with Sir Thomas Erskine he left a daughter Margaret, of whom in 1373, Sir Thomas had wardship and maritagium—she it was who in 1378 married Sir Walter Stewart who *jure uxoris* was Lord of Brechin.[1] To return to Janet, she is styled Janet Barclay during her marriage with Sir Thomas Erskine, and during her widowhood till her death in 1416, sixty-three years after the death of Sir David Barclay. The Scottish custom in all official documents, was, and is, to call women during marriage and widowhood by their maiden name. No instance can be adduced where in such documents a widow invariably used her first husband's name during a second marriage and a second widowhood. There is yet a further fact to be noted, Janet Barclay made a grant of the estate of Dun to John, her second son, by Sir Thomas Erskine. As the daughter of Sir David Barclay she doubtless had Dun as her share of his estates. As his widow it would have been but a jointure not at her disposal. It may be well to show that Sir Thomas Erskine's marriage could not have occurred much before 1368. Fordun states that in 1357, he, with other noble youths, was sent as a hostage to England, where they abode "for a very long time," and on his return he married Mary, daughter of Sir William Douglas. She died in childbed (Fordun), and he married secondly Janet Barclay.

It has not been discovered whether Sir David Barclay was the first or the second husband of Christian Monteith, her husband Sir Edward Keith was slain 1346, so it is quite possible that Sir David was the second husband. Sir Robert Erskine, the father of Sir Thomas by a first wife, married secondly about 1358 Christian Keith,[2] and, heedless of the Scottish custom as to surnames of women, it has been stated in Peerages that Christian was the widow of Sir Edward Keith. There is no proof of this, and it may be assumed that she was a daughter of Sir Edward Keith by Christian Monteith, and elder sister of the half blood to Janet Barclay, the wife of Sir Robert's son. It

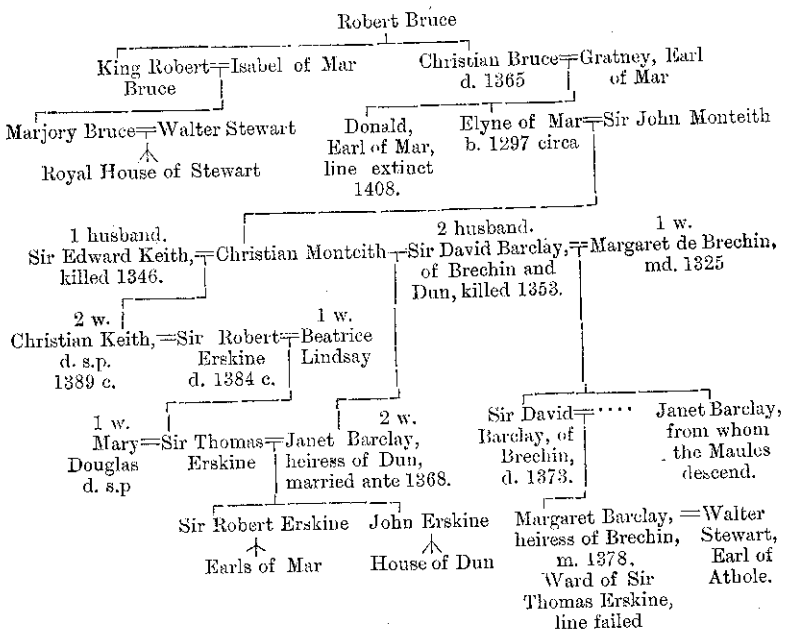
[1] Margaret Barclays line failed and the Brechin lands passed to the heirs of Janet Barclay her father's full sister.

[2] Nov. 12, 1358—Thomas Earl of Mar confirmed a Charter to Sir Robert Erskine and his wife Christian Keith, of lands in Garioch. Act. Parl.

In 1386, mention is made—"Domine Christian de Keith relicti quondam Dom. Roberti Erskine." Exch. Rolls iii. 141.

We would refer our readers to a note by the late G. Burnet, Lyon King of Arms, to the preface of the fourth volume of Exchequer Rolls (p. cxviii); our views coincide, inasmuch as Christian Keith, being the *eldest* coheir, would enjoy for her life the heritage of the "Ferme" of Aberdeen, and on her death *sine prole* she would be succeeded by her uterine sister, Janet Barclay.

cannot be doubted that these marriages were arranged with due regard to the possible extinction, not only of the descendants of Donald, Earl of Mar, and the succession to the Earldom of the descendants of Elyne of Mar, his sister, but to a far more important contingency. Elyne's mother, Christian Bruce, was sister to the Bruce, and failing his descendants heir to the Crown of Scotland, Sir Robert Erskine was far more likely to marry a young daughter of Christian Monteith than a middle-aged matron[1] and when no issue was born to the marriage her half sister and next heir was a good match for his youthful and lately widowed son. Through this marriage the Mar Earldom came to the house of Erskine, though the higher prize remained with the house of Stewart. The pedigree may be better understood by the following table.



A. W. Cornelius Hallen.

[1] Christian Monteith could not have been born later than 1314 for her younger sister Janet Monteith, widow of Malise, Earl of Strathern, buried her second husband John Campbell Earl of Athole in 1333 ("Complete Peerage" *vocc* Athole and Note) In 1358, about which year Sir Robert Erskine married a second time, Christian Monteith, if living, was not less than 44 years old.

JANET BARCLAY, WIFE OF SIR THOMAS ERSKINE.

An article under this heading has appeared in "The Genealogist" (*ante* p. 4) from the pen of that well known Scottish antiquary, Mr. Cornelius Hallen, in which he (quite unconsciously, it would seem) advances a pedigree at direct variance with that which Lord Mar's counsel claims to have proved before the Committee for Privileges in 1885, and on which the Earldom of Mar Restitution Act was based. So unconscious is Mr. Hallen of this that he begins his article by the statement that "the evidence produced during the hearing of the Mar Peerage case brought out the fact that the wife of Sir Thomas Erskine was Janet Barclay, daughter of Sir David Barclay, of Brechin, etc." But reference to the quasi-official article on "the earldom of Mar" in "The Genealogist" (Vol. iii., N.S. p. 3) will shew that the orthodox pedigree presents an exactly opposite conclusion, and that Mr. Hallen's chart pedigree (p. 6) is utterly contrary to, and destructive of, that "proved" orthodox pedigree which he thus ignores. Further reference to "The Genealogist" (Vol. ii., N.S. p. 309) will shew that, according to Mr. Lindsay (counsel for Mr. Goodeve Erskine[1]) "the great interest to genealogists lies in the proof of the pedigree" before the Committee.

I merely wish, for the present, to insist upon this discrepancy, and to trace to their origin the contradictions in the two pedigrees. Here are the two versions of the portion chiefly concerned.

(I.) THE ORTHODOX PEDIGREE.

Sir Edward Keith of Syntown = (1) Christian dau. of Sir J. Menteith. (2) = Sir Robert Erskine = Beatrice Lindsay.

Sir David Barclay = (1) Janet (2) = Sir Thomas Erskine.

Robert, Lord Erskine.

(II.) MR. HALLEN'S PEDIGREE.

Sir Edward Keith = (1) Christian, dau. of Sir J. Menteith. (2) = (2) Sir David Barclay (1) = Margaret de Brechin.

Christian Keith = Sir Robert Erskine. = Beatrice Lindsay.

Mary Douglas = (1) Sir Thomas Erskine (2) = Janet Barclay.

Robert, Lord Erskine.

The *origin* of all these contradictions is simple enough. The orthodox pedigree assumes that Christian "Keith" (wife of Sir Robert Erskine) and Janet "Barclay" (wife of Sir Thomas Erskine) derived their names from previous husbands. Mr. Hallen assumes, as a matter of course, that they derived them from their respective fathers.

We are thus led to a general question apart from any particular descent: was it the custom in Scotland for a widow on re-marriage to

[1] As he is termed in the Restitution Act. See also Minutes of Evidence, p. 1.

bear (1) her maiden name, or (2) that of her former husband? It is strange that Scottish Genealogists, whose learning is well-known, appear to be hopelessly at sea on this elementary question.

(*a*). In his "Dissertation upon heirs-male" (1837), Mr. Alexander Sinclair advanced the view that "widows even when married again, or after becoming widows again often kept the name of their first husband in those remote times" (p. 140); and he adduced the very case of "Christian de Keith spouse of Sir Robert de Erskine, who was by birth a Menteith and *widow of Sir Edward Keith.*" This it will be seen is the view held in the orthodox pedigree (*supra*).

(*b*). Riddell in his "Peerage and Consistorial law" (1842) assailed Mr. Sinclair with his bitterest sarcasm for entertaining so preposterous an idea (pp. 1038-1040), and, adverting to the case of Christian "Keith," insisted that "Keith" was "her maiden surname" and not that of a former husband. He denounced the latter hypothesis as involving "the most extraordinary medley and error that can be fancied in a point of pedigree"[1] and he insisted that he had "fully shown, and could further prove *ex abundanti*, that in conformity to the far prevalent and *peculiar* custom with us, even still observed in a degree, married women retained their *maiden* appellation both during their marriages, and after the death of their husbands."

(*c*). In 1885, Mr. Lindsay being asked by the Committee how he accounted for Christian "Keith" being so styled if a Menteith by birth, replied: "I think it was usual for the widow to be called by the surname of her previous husband. I know of numberless instances where the widow was called by the name of her previous husband."[2] This it will be seen is Mr. Sinclair's theory so mercilessly ridiculed by Riddell.

(*d*). Mr. Hallen now calmly ignores Mr. Lindsay and his "proved" pedigree, and tells us that—

> "Heedless of the Scottish custom as to surnames of women it has been stated *in Peerages* that Christian was the widow of Sir Edward Keith. There is no proof of this and it may be assumed that she was a daughter of Sir Edward Keith" &c. &c.

He similarly maintains of Janet "Barclay" that "apart from the evidence led in the Peerage case, Janet must have been a *daughter* not *wife* of Sir David Barclay." And he finally lays down the general proposition that—

> "The Scottish custom in all official documents was and is to call women during marriage and widowhood by their maiden name. No instance can be adduced where in such documents, a widow invariably used her first husband's name during a second marriage and a second widowhood." (*Ante* p. 5).

This of course is Riddell's proposition and should be carefully compared with Mr. Lindsay's *dictum* above.

Now being myself an ignorant Southron, I do not presume to say who is right, but Mr. Hallen, it will be seen, dismisses Mr. Lindsay's proposition as "heedless of the Scottish custom." Without in any way pronouncing the latter mistaken, I may point to a good instance in Mr. Hallen's favour, that of Janet Keith daughter of William Earl Marischal who is documented Janet "Keith" (or "of Keith") when spouse of John Leslie grandson of George Earl of Rothes (1477-88), also Janet "Keith" when Lady of the Barony of Naughton (1497), and again Janet "Keith" when "spouse of Thomas Lord Innermeath" (1507).[1] Riddell appeals to the similar case of "Dame Agnes Keith.....who is so described after the death of the Regent Moray her first spouse, nay even after she had re-married Colin, Earl of Argyle in 1574."

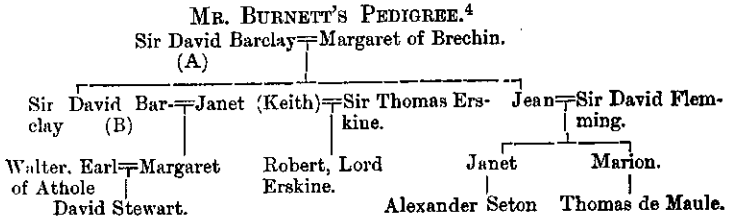
Another point may here be noticed. Riddell quotes in support of his argument, "a royal charter still upon record of the lands of Kinnoul in favour of Nicolas de Erskine the son of Roberti de Erskyne militis, patris predicti Nicolai, et Christiane de Keth sponse sue." Now Mr. Lindsay said of this Christian de Keith (appealing to the original Minutes) "she afterwards married Sir Robert of Erskine of whom no issue."[2] Is there not, here, some discrepancy?

Now "Janet Barclay" Mr. Hallen writes, "must have been daughter not wife (*i.e.* widow) of Sir David Barclay" because Sir David Barclay the younger (her alleged husband) did not die till 1373, whereas she was married to Sir Thomas Erskine about 1368,[3] also because she granted Dun, a Barclay property, to her son John Erskine, and could only have inherited it as a Barclay by birth. I merely state these arguments without giving any opinion on them.

On the other side, Lyon (Mr. Burnett) insisting that Janet "was a Barclay not by birth, but by marriage" ("Athenæum" 3 July, 1886), relied on an extract from the "Registrum de Panmure" which was not admitted in evidence, but which proves his case conclusively. It is singular that neither he nor Mr. Hallen alluded to the dispensation of 27 July, 1358 for the marriage of "David of Barclay" with Elizabeth daughter of the Earl of Fife, nor indeed to any wife but Janet. In Mr. Burnett's case this was probably due to an unfortunate error in his "Exchequer Rolls of Scotland." In a note to pp. clvi—vii. of Vol. 4, he identified the above Elizabeth with a different person, Isabel *suo jure* Countess of Fife who was married to Walter Stewart shortly afterwards. Reference to the "Vetera Monumenta" will at once prove his error which has been carefully avoided by G. E. C. under "Fife."

Here are the rival Barclay pedigrees.

MR. BURNETT'S PEDIGREE.[4]



[1] I pointed out in the "Athenæum" (19 June 1886) that this denunciation obviously applied to the same hypothesis when upheld by Messrs. Burnett (Lyon) and Lindsay in 1885, even should their views be right. Mr. Burnett denied (*Ibid* 3 July, 1886), point blank that Riddell had denounced it. But I repeated my original statement (*Ibid* 17 July, 1886) that he had denounced the hypothesis on which it (the orthodox pedigree) rests.....as "the most extraordinary medley and error that can be fancied in a point of pedigree." The correspondence lies before me as I write.

[2] Minutes of Evidence, Mar Restitution Act, p. 83.

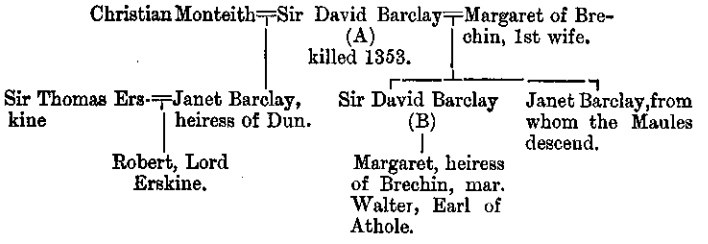
[1] This reminds me that I do not find "Innermeath" (formerly "Lorne") in the *Complete Peerage* of G. E. C.

[2] Minutes *ut supra*, p. 91.

[3] I do not know the authority for dating the marriage so early.

[4] "Athenæum," 3, July, 1886.

MR. HALLEN'S PEDIGREE.



It will be seen that Mr. Hallen converts *the* Janet Barclay from the widow of Sir David Barclay, the younger, into his half-sister! His pedigree, on the face of it, strikes one as improbable.

I have not yet nearly done with "Janet Barclay, wife of Sir Thomas Erskine." My next point is the date of her death. Mr. Hallen says she died "1416." But Mr. Burnett, in his evidence before the Committee, was asked, "What is the date of the death of Janet Erskine?" His reply was, "1427 or 1428." Being further asked, "That discharge or receipt was in 1428, I think?" He replied, "I suppose she was dead at that time, and that she must have died between the two accounts; the account of the former year (1427) was received by her."[1] Bearing in mind the circumstances under which this statement was made, it will scarcely be credited that that account was *not* "received by her," that she did *not* die "between the two accounts," that she was dead many years before, and that the volume which the witness produced, and which he himself had edited, contains absolute evidence of the fact! He had only to refer to his own index (p. 696) to learn (p. 260) that she is documented dead as early as 1416, while brief research would have shown that the last year's annuity that she lived to draw was that of 1413. For 1414 and the following years, the annuity was drawn by her son, to whom it then belonged.

Here, then, we have a glaring and most wanton error of some *fifteen years* in a date of death, set on record by a presumed expert for the bewilderment of future genealogists.

But this is by no means all. In the course of his evidence on this annuity, the entries of which were adduced in support of the descent, Mr. Burnett stated that a certain entry of March 20th, 1405-6 "continues from year to year exactly the same down to the year, 1428, when it is altered in form."[2] It is difficult to realise that Lyon King-of-Arms, was here giving evidence on a volume edited by himself, and then in his hands, when we find that even the very next entry (that for 1406) is "altered in form" by the insertion of a most important and significant clause, while that of 1416 is, we shall find, entirely and vitally "altered." And yet the witness stated that, for the purposes of this evidence, he had carefully compared his transcripts in these volumes with the originals.[3]

I propose, therefore, as briefly as possible, to set forth the true history

[1] Minutes of Evidence, Mar Restitution Act, p. 84.
[2] Minutes of Evidence, p. 84.
[3] Ibid, pp. 52-3.

of the annuity from the fermes (*firmis*) of Aberdeen held by the family of Erskine. Its earliest appearance on the Rolls is in 1373, when we find *dominus* Robert de Erskyne, in receipt of this annuity of £100, "per cartam domini nostri regis Roberti." (Vol. II., p. 415.) Of this entry Mr. Burnett, in his introduction, gave the following explanation:—

"Sir Robert Erskine, if superseded in the custody of Stirling Castle, was rewarded for his many public services with a gift of 500 marks, and an annuity of £100, from the fermes of Aberdeen." (Vol. II., p. 82.)

But in the fourth volume, published two years later, we are given an entirely different account of the origin of this annuity. Mr. Burnett, after devoting nearly a page (IV., cxviii.) to what he deems the ill-treatment of "Robert, Lord Erskine, the rightful heir" to "the Earldom of Mar," went out of his way to add the following *ex parte* note:—

But for a late attempt to throw doubt on the fact that the Erskines were the descendants and representatives of Sir John of Menteith, the husband of Ellen of Mar, it would hardly be necessary to advert to an incidental corroboration of their pedigree which these rolls afford.....From 1387 onwards, in or before which year John of Menteith must have died, we find an annuity of £100 allowed from the burgh fermes and fishings of Aberdeen to Sir Thomas of Erskine in right of his wife. (Vol. III., pp. 217, 233, 261, etc.) It was paid to Erskine till his death, which occurred in 1405, and, after his death it was received by his widow, and expressly said to be due to her in her own right." (Vol. III., 639.)

It has been well observed by an able writer:—

"We cannot help expressing the opinion that it is unfortunate that State publications such as the Exchequer Rolls—intended to provide the public with original materials for historical study—should be turned into mediums for the ventilation of personal crotchets or preconceived opinions.. ... . An editor of such volumes is expected to have a fair knowledge of Scottish history; but there is no call that he should set up for being omniscient, and so putting everybody right on every possible sort of question.[1]

But leaving this point of partisanship, as one that needs no comment, the point remains that Mr. Burnett was not consistent with himself. He first tells us that this annuity (for its identity is beyond dispute) was granted to Sir Robert Erskine as a reward for "his public services," and then, when he wished to found on its existence an *ex parte* argument, he suppresses or ignores Sir Robert and his tenure of the annuity, and represents it as first coming into the family in the person of his "son," Sir Thomas, and in right of his (Sir Thomas's) wife, in 1387, "in or before which year John of Menteith must have died," thus implying that she inherited it from her uncle (*ex hypothesi*), the said John, whose heir Mr. Burnett is here so anxious to make her out. I need hardly point out that these two accounts cannot both be true. Either Sir Thomas inherited this annuity through his wife (and she from her uncle) or it had been conferred on Sir Thomas's "father," Sir Robert for his "public services." Is there, or is there not, a hopeless discrepancy? That is the question.

Now I have worked out the descent of this annuity, and would venture to enlighten the public on the subject. Meanwhile, I call attention to the statement of Mr. Lindsay, who acted, if I may be allowed the expression, as showman before the Select Committee:—

Tragedy in Scottish History re-considered."—("Blackwood," June, 1883.)

"Lyon King-of-Arms, will be able to show your Lordships some extracts from the Exchequer Rolls, which show that there was an annuity granted to Sir John Menteith; that that annuity was inherited in the next generation by Christian Keith, as we say, the wife of Erskine, and that it ultimately came to Janet Barclay, wife of Erskine..... ..I offer that, my Lords, as corroborating the descent," etc., etc.[1]

Such an assertion, from a presumed expert, may satisfy an amiable Committee, but I challenge Mr. Lindsay to produce one jot or tittle of evidence, either from the Exchequer Rolls, or from any other record, "that there was an annuity granted to Sir John Menteith.' Nay, more, these very Rolls prove that the annuity was not. "I am very familiar with the Exchequer Rolls,"[2] Mr. Lindsay ultroneously informed the Committee. If so, it is the more strange that he should have ventured upon such an assertion. "The Committee presuming that one so "familiar with the Exchequer Rolls" must have spoken by the card, acted upon that presumption, and Lord Watson proceeded to lay stress upon the fact that "that annuity, according to the law of Scotch succession, was heritable, and would go to the heir, unless it was destined otherwise by deed," and that consequently *primâ facie*, it went to her (Janet) as heir, and that goes to show the non-existence of male heirs." As it happens, there is evidence in these very Rolls to rebut this *primâ facie* assumption and to suggest a special destination. Why was it not adduced? Again, why did Mr. Burnett, in his evidence, so persistently ignore the tenure of this annuity, so far back as 1373, by Sir Robert Erskine (to which his own volumes, as we know, bear witness), and state that "the first entry referring to it is on page 217" of Vol. III?[3] For, as we have seen, the earliest entries are found in Vol. II., and are there commented on by Mr. Burnett himself. Lastly, in the *réchauffé* of this evidence in "The Genealogist" it is stated that Sir Thomas Erskine received the annuity "in right of his wife," and that "after his death his widow, Janet Barclay, is the recipient of it as due to her in her own right." There is not one word in the actual entries (as we shall see) to prove either statement.

Mr. Burnett, I find, was asked whether Sir David Barclay died without issue, and replied:—He died without male issue at all events. .....I rather think he had a daughter.[4] Why this hesitation? Mr. Burnett had himself shown in his second, and again in his fourth volume that Sir David's daughter and heir, (who is mentioned in the Rolls) "became the wife of Walter, Earl of Athole, the King's son by his second marriage."[5] It is true that this fact tells against the pedigree favoured by his friends, which states that Sir David left "no issue" (a statement followed by Lord Crawford), but that is no reason for treating as doubtful a well-known historic fact.

But to return to the annuity. The first entry on the Rolls relating to it is under 1373:—

"Et in solucione facta domino Roberto de Erskyne, percipienti par (*sic*) annum de firmis dicti burgi hereditarie, per cartam domini nostri regis Roberti qui nunc est centum libras ut patet per literas ipsius domini, etc."

[1] Minutes of Evidence, p. 80 (No. 50).
[2] Ibid. p. 55.
[3] See Minutes, p. 81 (No. 51).
[4] Minutes, p. 84 (No. 61).
[5] Exchequer Rolls II., lxxxii.; IV., clix.-x.

Reference to the Aberdeen accounts for previous years proves that the annuity was wholly a new one, and had never been received by, or belonged to, the Menteiths. There is obviously nothing in the above entry to suggest that Sir Robert received it in right of his wife, and Mr. Burnett himself, as we have seen, looked on it, in his introduction to the volume, as a reward given to Sir Robert. As a matter of fact the annuity was held in conjunct fee. But my point is that, however it was actually held, words have been *read into* the entries on the Rolls which are not found on them. Thus the alleged words "in right of his wife" are not found in the entries of payments to Sir Robert or to Sir Thomas Erskine. We find the words "racione sponse sue" inserted in other cases; but they are not inserted here. Again, take the entries of payments to Janet Barclay. The annuity, according to Mr. Burnett's note (*ut supra*) is "expressly said to be due to her in her own right." Now here are the formulæ for payment to Sir Robert, Sir Thomas, and Janet:—

Domino Roberto de Erskyne, percipienti per annum de firmis dicti burgi hereditarie..... c libras, etc.	Domino Thomæ de Erskyne, percipienti hereditarie de firmis dicti burgi c libras annuatim, etc.	Domine Johannæ de Berclay, sponse quondam domini Thome de Erskyne militis, percipienti per annum hereditarie c libras de firmis dicti burgi, etc.

The word "hereditarie" is used in all three cases, and if it has the alleged meaning in the case of Janet, it must have it also in the cases of Sir Robert and Sir Thomas, who are therefore "expressly said" to receive the annuity in their own right, exactly the contrary of what is alleged!

The great interest of this annuity for genealogists lies in the *data* it affords for those who received it. Thus it supplies those definite dates omitted in "Burke's Peerage," "The Genealogist," etc. Sir Robert Erskine is found to have died in 1385 (after Whitsuntide). The next holder is his widow Christian, "que fuit infeodata conjunctim cum predicto quondam Roberto per cartam," she drew it for the last half of 1385, and for 1386 and 1387; but Sir Thomas received it for 1388 and the following years, till his death. From 1404, inclusive it was held by his widow, Janet Barclay, and this brings me to the contradiction that I have alluded to above. Mr. Burnett quoted before the Committee the first entry of her receipt and stated that "that entry continues from year to year *exactly the same*, down to the year 1428." I here print the very next entry side by side with it:—

Et domine Johanne de Berclay, sponse quondam domini Thome de Erskyne, militis, percipienti per annum *hereditarie* centum libras, etc.	Et domine Johanne de Berclay, sponse quondam domini Thome de Erskyn militis, percipienti per annum *ex conjuncta infeodacione sibi facta*, centum libras, etc.

Lastly, we learn from the Rolls that Janet was still alive at Whitsunday, 1413 (and indeed on July 4) but that the annuity was thenceforth paid to her successor, Sir Robert Erskine.

The looseness, however, over this branch of the "proof" of pedigree was as nothing to the confusion over the "Act of Parliament" of 1358, relating to Sir Robert Erskine and Christian Keith, his wife, and the

Royal "deliverance" of 18 March, 1390-1, in favour of Sir Thomas Erskine and (Janet Barclay) his wife.

It is on pp. 89-92 of the Minutes that this confusion reigns supreme. The Chairman, it must be remembered, of the Select Committee was Lord Selborne, who had himself appeared before the Committee for privileges as counsel for Mr. Goodeve Erskine. It is consequently passing strange to find that he who, one would have thought would be more familiar with the pedigree than any one else could possibly have been, floundered, if I may venture to use the expression, helplessly over its facts, and was absolutely at issue, as to them, with Mr. Lindsay, who appeared before this Committee on behalf of Mr. Goodeve Erskine!

No one can realise what this confusion is till they read for themselves the Minutes (pp. 89-92.) Briefly, however, it began thus. Mr. Lindsay produced "an Act of Parliament" of 1358, relating to "Christian de Keith," and her husband, Sir Robert Erskine. Thereupon Lord Selborne suggested that her husband was not Sir *Robert* but Sir *Thomas* Erskine. Mr. Lindsay seems to have feebly protested, but Lord Selborne fortifying his erroneous suggestion by reference to the pedigree as printed in the original Minutes of Evidence (p. 513), pushed his contention further, and urged that as "Christian de Keith" was the wife (1358) of Sir *Thomas* Erskine (which she was not), and as "Sir Thomas Erskine" was the petitioner of 1391, therefore the "wife" alluded to in his petition of that date was "evidently" Christian de Keith (which she was not). Mr. Lindsay at once meekly submitted, and, playing Polonius to Lord Selborne's Hamlet, admitted unreservedly that she was. Here is the gist of the evidence referred to:—

CHAIRMAN: "There the statement is 'Christian Keith alleged married to Sir Thomas Erskine.' I was right about the name, and, what is more, I think that appears elsewhere. Sir Thomas, if I remember right, is the person who, on behalf of his wife, addressed the King in 1390 (*sic*) to prevent his making any grant to his prejudice?"

MR. LINDSAY: "Sir Thomas, if I remember right, was the person who protested in the name of his father." [What can be meant by this? It seems to refer to an event of two generations later, when another Sir Thomas protested in the name of *his* father 1449-50.]

CHAIRMAN: "No; I think you will find that Sir Thomas Erskine was the person who so addressed the King." [This is quite right.] "I will give you the reference immediately to the place where that document occurs?"

MR. LINDSAY: "Yes, I think so, too, my Lord; I was thinking of the document of 1391." [Why, the document of 1391 *is* the one in question!]

CHAIRMAN: "It is at page 358.....That wife (1391) would be Christian Keith, evidently?"

MR. LINDSAY: "Yes. Then in that case, I suppose, the spouse mentioned in the charter (1358) I now refer to may be by another marriage between an Erskine and a Christian Keith. It will tend to show the relationship between the families of Mar, Erskine and Keith, but it will go no further in that case," etc., etc.—*Minutes*, p. 90.

Notwithstanding this, Mr. Lindsay then proceeded to suggest as "the true solution of it," that the "wife" of the petitioner was, after all, *not* Christian, but Janet!

MR. LINDSAY: "It is suggested to me, and I think that is the true solution of it, that Sir Thomas, who petitioned the King in 1391, is the husband of Janet, the third lady."

CHAIRMAN: "We had better follow that if we can. We must turn again to p. 358."

While the Chairman was thus engaged, the following dialogue, arising from his original error, took place between Lord Blackburn and Mr. Lindsay.

LORD BLACKBURN: "It is not likely that Sir Thomas who petitions in 1391 should have been the same Sir Thomas who was in Parliament in 1358, for there was an interval of nearly 40 years between those dates?"

MR. LINDSAY: "No, I think it is not the same man; I think it is Sir Robert, the son of Sir Thomas."

Mr. Lindsay must have meant just the reverse, viz., that it was Sir Thomas, the son of Sir Robert!

LORD BLACKBURN: "It may be a son, or it may be Sir Thomas; it is possible that he might be an old man in 1391, and that he acted at both of those times; but it is not likely." [Certainly not; nor was it the case.][1]

After this we return to the duet between Mr. Lindsay and the Chairman. "I cannot help thinking," urged the former, "that it is the husband of Janet who is making the petition not the husband of Christian." The Chairman, however, remained obdurate.

MR. LINDSAY: "It" [the Act of Parliament] "was in the previous generation."
CHAIRMAN: "No Erskine comes in until the last generation but one."
MR. LINDSAY: "If your Lordship will pardon me, that is not so," etc., etc.

Then Mr. Lindsay enunciated once more, what might be termed the orthodox pedigree (as set forth at the beginning of these remarks). He had already explained, just before, that Christian was the name of the second, and Janet of the third, of the three ladies through whom the heirship to the dignity was claimed, and that "*Janet* was the mother of the person styling himself Robert, Earl of Mar; *Christian* was his grandmother." But the Chairman was as obdurate as ever. "Janet," he persisted, "might be the same as 'Christian.'" Perhaps the same lady had both names (!)[2] In any case he would not give in to Mr. Lindsay's version of the pedigree. So he dismissed the question by telling Mr. Lindsay that he was "upon a false scent altogether in this Act of Parliament."

Now, am I, or am I not, justified in speaking of all this as hopeless confusion? I am quite prepared to criticise and rebut some of the evidence bearing on the titles of Douglas and Mar. But I confine myself for the present to Janet Barclay and the annuity. When Mr. Lindsay boasts in "The Genealogist" of all that was "proved" before the Committee, the conversation from which extracts are given above, affords a curious comment on the method of proof; while the evidence as to Janet Barclay's death reminds one painfully of that "proved and registered" Marjoribanks pedigree on the genesis of which Mr. Joseph Foster enlightened the world.

One word more. Let it not be said that I "do not disprove" the Mar descent. I have not claimed to do so. What I have done is to expose laxity and confusion. Therefore, if my remarks are replied to, let me beg my readers—speaking from experience—to refer to what I have *actually written* before forming their conclusion.

J. H. ROUND.

[1] Minutes, p. 91.

[2] CHAIRMAN: "'Janet' may be the same as 'Christian'; it is possible that she may have had both names."

JANET BARCLAY, WIFE OF SIR THOMAS ERSKINE.

I ask leave to make some observations upon two articles, one by the Rev. Cornelius Hallen, published last July, the other by Mr. H. J. Round in the January number of *The Genealogist*. It is the latter performance which appears especially to call for notice from me, inasmuch as my accuracy on an important occasion is therein particularly questioned.

Mr. Hallen asserts that evidence given in the Mar Peerage case shows that Janet Barclay wife of Sir Thomas Erskine and mother of Robert, styling himself Earl of Mar, was a Barclay by birth, and not by a previous marriage. I am quite unacquainted with that evidence. Mr. Hallen adds that Janet must have been a Barclay by birth, because women always bore their maiden surnames after marriage to one or more husbands, and that those who assert pedigrees which ignore this rule are "heedless of Scottish custom." In support of this view Mr. Round refers to a passage of Mr. Riddell's ridiculing an opinion of Mr. Sinclair's.

I do not find that any proof has ever been given of the existence of this custom. The argument appears to be that because it existed after, therefore it existed in the fourteenth century. Mr. Hallen, inspired by this belief, has reconstructed the Mar-Erskine pedigree to suit it, and Mr. Round considers this reconstruction to be directly at variance to and destructive of the pedigree which I, Mr. Lindsay, claim to have proved before the Select Committee of the House of Lords in 1885, and on which the Act for the Restoration of the Earldom of Mar was based. In these circumstances I feel myself compelled to reply.

I assert *in limine* that the question is not directly relevant to the Mar descent, and I proceed to give reasons, founded principally on Lindsay history, (with which I am better acquainted than with any other), for my opinion that whether or not there was any law or custom respecting the surnames borne by married women before the fifteenth century, there is strong evidence to show that it was not a general or especially Scottish custom for them to retain their maiden surnames after marriage. The rule before 1300 appears to have been to describe a lady as wife or widow of her spouse without ascribing to her any surname. That of describing a married lady by her maiden surname became established after 1400, and the period from 1300 to 1400—the century in which Christian de Keth and Janet Barclay lived—is therefore the period of transition.

Christiana, dau. of William de Lindsay, Lord of Lamberton in Scotland, and a great proprietor in Westmoreland, by Ada de Baliol, married 1282 Ingelram de Gynes. She was dead in 1335, leaving a son who assumed the surname of de Coucy. During her marriage I have not found her described by any surname except that she appears in Duchesne's History of the House of Gynes as Christian de Bailleul, but when a widow she is mentioned in two *English* documents[1] as Christiana

[1] Bain's Calendar of Scottish Documents, iii, 1139 and 1224.

de Lindsay. William de Lindsay, Lord of Luffness and Crawford, married Alianora, coheiress of the English Barons of Limesi. I know no proof of Alianora's surname, but as her heirs were called Lindsays in Scotland and Limesis in England, the maiden surname to some extent survived. From these and other instances, I surmise that the use of the maiden surname was originally as much or as little English as Scotch.

In the supplement to Andrew Stewart's "History of the Stewarts" there are a number of Papal dispensations set out. On page 429 will be found a dispensation (1326) for the marriage of Andrew de Moravia and Christian de Seton, dau. of late Robert de Brus, from which I infer that Seton was the surname of a former husband. (This and several other dispensations are not in Theiner.) The immediately preceding dispensation (p. 428) is to the opposite effect. A dispensation to continue in marriage was granted 1322 to Adam de More and Joan de Cunningham, his *wife*, she having been first married to Hugh de Hutscon, and on p. 431 is a dispensation in favour of Alicia More (her maiden name), she being relict of William de Herch. But turning to p. 434 the dispensation will be found for the marriage of James de Lindsay, Kt., and Egidia Steward (1346). This Sir James was Lord of Crawford and heir to an annuity recorded for several generations in the Exchequer Rolls. Egidia was, therefore, entitled to terce of such annuity. She was half sister to King Robert II, and married first, Lindsay, who died c. 1357; second, Sir Hugh de Eglintoun; third, Sir James de Douglas of Dalkeith, and she always bore the surname of Lindsay—that of her first husband. (See R. Charters to Hugo de Eglyntoun and Egidia de Lyndesay, Reg. Mag. Sig. 91 and 123.) She granted a charter of Ratification 1377, as Egidia Lindsay, widow of Hen. Eglintoun.[1] As such widow she made a matrimonial contract 1378 with Sir James de Douglas, still as Lindsay.[2] And in 1383 Douglas received on account of Egidia de Lindsay, his wife, her terce of the Dundee pension. This Egidia married c. 1346, and living to at least 1383, is strictly contemporaneous, be it remarked, with Christian de Keith and Janet Barclay. And if it be objected that Steward was not originally a surname, the answer is that it appears as a surname in a number of dispensations and other deeds about and before the time when Egidia bore it.

Egidia had by her first husband a son, Sir James, who married Margaret, dau. of Sir William de Keith (Marshal of Scotland), which Margaret received her terce of the family pension from Dundee as Margaret de Lyndesay (Exch. Rolls iii, 411). Christian de Keth, sister of this Margaret, married Sir William Lord Lindsay (Byres), but I cannot find conclusive evidence as to her surname.

Sir Alexander de Lindsay, Lord of Glenesk, father of the first Earl of Crawford, mar. first Katherine Stirling, who granted her lands to him in that name as a virgin—but of whom I know no more—and second, before 1378, Margaret Stewart, a niece of the King. Sir Alexander died 1381, and his widow remarried Sir Henry de Douglas of Lochleven.

[1] Hist. MSS. Com. Rept. v, 612.
[2] Reg. Honoris de Morton ii, 139-40.

She received a pension (Exchequer Rolls iii, 321) as Lady Marjorie de Lyndesay, relict of late Sir Henry de Douglas.

I think the above examples are sufficient to show that before 1400 married women were not invariably styled by their maiden surnames. Probably the maiden surname obtained in the greater number of cases, and it may be that the determining cause of the surname actually used was founded in property.

On the other hand it is beyond reasonable doubt that Janet was the widow of Sir David Barclay before she married Sir Thomas Erskine, for a document belonging to the Panmure Charter Chest, and printed in fac-simile in the Registrum de Panmure, vol. ii, 230, to which Mr. Round makes reference as quoted by the late Mr. Burnett, proves the fact. This document is strictly admissible evidence, and was not used in 1885 because I had not the original, but only the privately printed Register. It is a statement under seal dated 6 June, 1437, made by Thomas Bisset, of Balwillo, with reference to the claim of the Maules to succeed to Brechin, if David Stewart, son of Margaret (Barclay), Countess of Athole, dau. to Sir David Barclay of Brechin, died without issue. This gentleman states that he was servitor (presumably esquire) to Sir Thomas Erskine, living in his household, and often heard Sir Thomas and Lady Jehan, his lady, *who was mother to David Stewart's mother*, say, &c.

I assert, therefore, upon the above authorities, that it is not true that Janet must have been a Barclay by birth because Barclay by name, and it is true that she was widow of Sir David Barclay of Brechin, and mother of his daughter and heir, Margaret, Countess of Athole. Now Janet had granted to her—I think in her first widowhood—an annuity from Linlithgow, which she granted to Sir Thomas, and that annuity given to her as a Barclay may have been the reason that she adhered to the name.

But Mr. Hallen says Janet must have been a Barclay because she owned Dun, a Barclay property, and settled it on her second son. On what authority he asserts this I know not, for in fact Dun belonged to Sir Robert de Erskine, father of Sir Thomas. And on resignation by Sir Robert it was of new granted by Royal Charter to Sir Thomas (Reg. Mag. Sig. 129).

The evidence above set forth does not prove who was Janet's father, but surely it is unreasonable to suppose without a tittle of evidence that her mother Christian married after the death of Sir Edward Keith some obscure Barclay, who cannot now be identified. The supposed husband cannot clearly be Sir David Barclay, the elder of Brechin, because Janet cannot have married her brother or half-brother.

It appears, therefore, to me that the whole argument by which Mr. Hallen supports his otherwise plausible theory is completely destroyed.

Upon Mr. Hallen's article thus dealt with, Mr. Round founds his contribution for the "enlightenment of the public." His object, as he very clearly indicates, is not to assist in an antiquarian enquiry as to the paternity of Janet Barclay, but to express the contempt he feels for all those concerned in the proof and passing of the Earldom of Mar Restitution Act. Having dealt with Janet, in order to suggest hopeless confusion as reigning in the minds of Mr. Riddell, Mr. Sinclair, Mr.

Burnett, Mr. Hallen, and myself, he proceeds to quote some amusing passages from the Minutes of Evidence 1885 for the purpose of exhibiting the ignorance of the Committee, the incapacity of the "showman," as he elegantly terms myself, and the false character of certain evidence founded on an annuity enjoyed by the Erskines out of the fermes of Aberdeen. I have already shewn that Mr. Hallen's speculation is probably wrong, but even if it were right, the Mar-Erskine descent would not be affected in the smallest degree, and I am clearly of opinion that the publication of Mr. Hallen's article afforded no ground whatever for the revival of Mr. Round's former attacks on the Earldom of Mar, nor for his uncomplimentary references to myself.

I have no objection to state that when I undertook to appear as counsel in order to assist the Select Committee of Peers in determining whether the preamble of the Bill referred to them was proved, I had only a few hours in which to refresh my memory of the Mar evidences; that I was expected to state anything I knew of opposed to the facts recited in the preamble; and that my whole conduct of the proof was liable to continual interruptions. I do not admit that the Minutes of these proceedings are strictly accurate, but it is exceedingly probable that in so difficult a position I may have occasionally used language not perfectly adapted to the circumstances. For my conduct, such as it was, I received the unstinted praise of Lord Selborne, expressed in debate in the House of Lords, and I trust Mr. Round will permit me to say that this fact enables me to face his own criticism with considerable fortitude.

Now for the purpose of proving the preamble it was necessary to show first, that there had been an original Earldom of Mar; second, that in 1565 the then Lord Erskine was heir to it; and third, that the Earls of Mar since 1565 had enjoyed the reputation of possessing the said original Earldom.

The first and third points are not now called in question. For the second portion of the proof I shewed that in 1391 Janet Barclay was asserted by her husband, Sir Thomas Erskine, to be next coheir to the Comitatus, if Isabella, Countess of Mar, died without issue; that Janet's son, Robert, after the death of Isabella's husband—life renter of the Earldom by courtesy and charter—said that he was the heir or co-heir; that Queen Mary reasserted the fact in 1565; and that the Court of Session in 1626 affirmed the fact by decree; and it being, therefore, clear that some connection must have existed between the Erskines and the Earldom of Mar, I showed that the family pedigree drawn up in 1709 stated what the connection was; that the family pedigree had never been contradicted except in one point—that of the marriage of Helen de Mar with Sir John de Menteith; and I proposed to add some evidence which proved that the family pedigree was right in respect of the point contradicted, and which corroborated to some extent other links in the said pedigree.

One item of corroboration is the descent of the Aberdeen Annuity, and it is this which Mr. Round attacks, and which he seems to me unable to understand. The evidence was supplied by Mr. Burnett, and I frankly admit that when I first introduced it, I did not fully understand it myself, as the dialogue shows. Mr. Round comments largely on the

fact that an annuity granted to Sir Robert de Erskine and Christian de Keith, his spouse, in conjunct fee by Robert II, was supposed by Mr. Burnett—when writing his Preface to the second volume of the Exchequer Rolls in ignorance of the evidence which he would afterwards find in his fourth volume—to have been granted to Sir Robert for no other cause than his good services, or in exchange for Stirling Castle. It was not usual for the Chamberlains, when crediting themselves with payments made to pensioners, to state the grounds on which such pensioners claimed. But as time went on—perhaps the right had been questioned, and in fact several pensions were challenged by the King in the fifteenth century—the original grounds of the pension were occasionally stated. In the Erskine case this happened, and it accordingly appears that the pension granted to Sir Robert Erskine had been in recompense for Arran. I therefore proved that Sir John de Menteith, the brother of Christian de Keth according to the orthodox family pedigree, had been Lord of Arran. The inference is obvious. Christian was heir to Arran, the King wished to redeem it, and he granted Christian and her husband an annuity in its stead. Whether that annuity was granted to Christian's heirs or Sir Robert's heirs (subsequently identical) is quite immaterial. The only material fact is—Why was the annuity granted? This and a few other facts tended to shew that the descent of heirship to the Earldom of Mar was accurately stated in the pedigree of 1709, and the manner in which the annuity was dealt with for the purpose of family settlements, on which Mr. Round expends so much criticism, is wholly irrelevant.

I note that Mr. Round has much to say upon the titles of Douglas and Mar. In the first three volumes of the New Series of *The Genealogist*, and previously, he said a good deal. The existence of the pre-historic Earldom is to him a myth and a bugbear. I shall always read his remarks with interest, and as he proposes again to attack this great dignity of Mar, I confidently await his onslaught.

W. A. LINDSAY.

P.S.—The above remarks are written from the point of view of the Erskine pedigree. It is not to be assumed that I agree with Mr. Hallen's other statements about the Barclays. I do not understand why the date 1373 is given for the death of Sir David, for it is not unlikely that Sir Thomas Erskine obtained the wardship of Janet's daughter *after* he had married the mother. Then again there is a charter in the Panmure collection which suggests that the Barclay of Brechin, living in 1363, had for his mother a daughter of Sir David Lindsay, and an uncle David Barclay. If so, it is possible that there were three generations of Barclays of Brechin, instead of two. I am not, however, prepared at present to express any opinion on the Barclay pedigree, the elucidation of which is a work of great difficulty.

If this lady could be proved to have been, as suggested by the Rev. Mr. Hallen, the daughter of Sir David Barclay of Brechin, by a second

marriage[1] with Christian Menteith, widow of Sir Edward Keith,[2] the difficulty in respect to the circumstances under which she became the wife of Sir Thomas Erskine would be obviated.

Of course, as pointed out by Mr. J. H. Round, such a pedigree would be quite at variance with the one put before the Committee of Privileges of the House of Lords on the Mar Peerage in 1885; yet this would matter little, since the alteration could not invalidate the right of the claimant to the Earldom in virtue of descent from the mother of Christian Menteith, Elyne of Mar.

The suggestion referred to, will not, however, stand examination! "Dun" was not a Fief of the Barclays, nor did Janet inherit it as assumed. On the contrary we find Sir Robert Erskine (the Chamberlain) styling himself "Dominus de Dun" in the grant of an annuity from his lands there made to the Monks of Arbroath on 11th December, 1361. In July, 1363, he resigned that Barony to Sir Thomas Erskine, his son, the surrender being ratified by King Robert II. on 8th November, 1377, whilst the succeeding King, Robert III, in the third year of his reign (1393) confirmed by Royal Charter[3] to Sir John Erskine the Barony of Dun in the County of Forfar, which had belonged to Sir Thomas Erskine, his father, reserving "a tierce" of the rents of the lands to Johanna Barclay, his mother, "if she happen to survive the said Thomas, her husband."

Who then was this Johanna (or, in the vernacular, Janet) Barclay? It has been asserted[4] that she was the second wife of Sir Thomas Erskine, who is alleged to have first married Janet Keith, by whom he had only one son—Sir Robert Erskine. But this idea is refuted by an entry on the Exchequer Roll of 1406, which sets forth that Johanna Barclay, spouse of the late Sir Thomas Erskine, gave a receipt for £100 "through Sir Robert Erskine, her son and heir."[5]

Clearly, therefore, Janet Keith and Janet Barclay were one and the same woman, whose patronymic in the first case was derived from Sir Edward Keith, through whose marriage to Christian Menteith she had become entitled to the above annuity from the Customs of Aberdeen, secured to her grandfather Sir John Menteith in 1357, in exchange for the Isle of Arran;[6] whilst she owed her alternative surname[7] to her own previous marriage to Sir David Barclay (II) of Brechin, after whose

[1] His first marriage to Margaret of Brechin was in 1315, not 1325—*vide* his settlement of lands on her. Registrum de Panmure, vol. ii, p. 219.

[2] Not killed at the battle of Durham in 1346, but Marshal of Scotland after his grand nephew's death there, until his own in 1350. *Vide* Douglas's Peerage, &c.

[3] *Vide* Register of Great Seal of Scotland, Robert III, p. 211, No. 44.

[4] *Vide* Preface to Dun Papers in the Spalding Miscellany, vol. iv.

[5] "Ut patet per literas domini Roberti de Erskyn filii sui et hæredis. Ex Rolls in loco.

[6] *Vide* footnote at p. cxviii of Preface to vol. iv of Exchequer Rolls of Scotland.

[7] She was unquestionably styled Johanna Barclay in all official documents for more than 40 years after Sir David's decease. A keen controversy has been carried on as to the ordinary Scottish practice in such cases. In England, there can be no doubt, that among the Anglo-Norman aristocracy it was the rule for widows, after remarriage, to retain their first husband's surname. Numerous instances of a similar custom in Scotland about this period could be cited, although at a later date women in that country became known commonly by their patronymics after both marriage and remarriage, as at the present day.

decease she had married Sir Thomas Erskine. The "orthodox pedigree," as Mr. Round calls it, is thus so far confirmed. The real difficulty in regard to it lies in ascertaining the date of the remarriage, it being contended that it took place *early in 1368*, whereas Sir David Barclay is declared not to have died until *about 1373*. Both assumptions are based on inadequate grounds. The first arises from a miscalculation of the true date of a Royal Charter[1] "whereby David II, on the *16th April in the 40th year of his reign* granted to Sir Thomas Erskine for his faithful services the lands of Cultchone and Tulochgorm in the County of Stirling to be held by the said Thomas and Johanna de Barclay his spouse, or the longest liver of them, and by their heirs male afterwards." Now David Bruce, though his father died in June, 1329, was not crowned till 24th November, 1331, and *1369* is the earliest year assignable to this deed.

The second assumption rests, I believe, on an entry in the Exchequer Rolls, dated in February, 1373,[2] wherein the Chamberlain credits himself with payment to Sir Thomas Erskine of the "complement" of the payment due by the King for the wardship and marriage of the daughter and heiress of the late[3] Sir David Barclay, Knight. This shows that Robert II. fulfilled at this time a bargain he had entered into with regard to the youthful Margaret Barclay, whose hand he destined for his son, Walter Stuart, Earl of Athole, but it certainly in no way warrants the inference that her father was only just dead.[4] On the contrary, the balancing of accounts looks as if the transaction was of some standing, and although no allusion to it is to be found on the Rolls of the two preceding years, it is by no means certain that it may not have originated even earlier, since those for several previous years are not extant. It is obvious, indeed, that the wardship of Margaret must have been conceded to Sir Thomas by David II, who died on 22nd February, 1370, the gift having in all probability been made in

[1] Register of the Great Seal of Scotland, David II, p. 64.

[2] Et in solucione facta domino Thomæ de Erskyne, in complementum solucionis debite per regem eidem pro warda et maritagio filiæ et heredis quondam domini Davidis de Berclay militis; ut patet per literas regis de precepto, et ipsius domini Thomæ de recepto, ostensas super compotum: cclxvi . xiii . iij li. Rot. Scacc.Reg. Scotor, vol. ii.

[3] I have translated "quondam" *late*, but the word has a much wider sense. It is applied in the Receipt of 1406, already quoted, to Sir Thomas Erskine, who had then been dead *eleven* years.

[4] Nothing appears on record as to Sir David Barclay of Brechin later than a charter of the lands of Dunmore to Roger Mortimer, granted by him in October 1363, "Registrum de Panmure," vol. ii, p. 233. An entry on the Exchequer Roll of 1372, of payment of £6 13s. 4d. to David Barclay (not styled either Dominus or Miles), Lieutenant of the Sheriff of Fife, for payment of a debt due by the late King for the expenses incurred in keeping a certain birthday at Lindores, is clearly inapplicable to the Lord of Brechin, though curiously enough he did reside at the place named, and the money was probably due to his executor.

It is noteworthy, however, that a *Sir* David Barclay of Scotland obtained a safe-conduct from Edward III. in 1366, to travel through England with a retinue of eight horsemen on his way to the Holy Land (Rot. Scot. en Tur. Lond.), from which he probably never returned. He may have been a different person from Sir David of Brechin, but no knight with that Christian name is found in any other contemporaneous pedigree of the Barclays!

1369, on the occasion of his marrying her mother,[1] her natural, though not her feudal guardian.

On a review of the whole matter it may, I think, be fairly concluded that, so far as our knowledge extends, there is nothing irreconcilable between the dates we are free to assign for the death of Janet Barclay's first husband, and her marriage to Sir Thomas Erskine.

HENRY BARKLY.

Mr. Round requires a few words of reply to his criticism of my paper on Janet Barclay. I cannot follow him through his digressions. It is an universal and well-known Scottish rule that women should retain through life their paternal name. The opinion of the late Mr. Riddell is supported by two living authorities, Dr. Dickson, Curator of Historical Documents, Register House, Edinburgh, and Professor Masson, Historiographer Royal for Scotland. Instances may, of course, be produced where through carelessness this rule has been disregarded, but no single instance can be produced where it has been ignored *persistently* by *officials*. We must apply the rule to this case. Janet's father must have been a Barclay. There is documentary evidence that her mother was Christian, the daughter of Elyne of Mar. There is no such evidence that Christian did *not* marry a Barclay, as well as a Keith. There is, however, sufficient evidence that she did, for Janet bore the name *Barclay* not *Keith*. Those, who for reasons best known to themselves, deny such a marriage, ignore the Scottish rule by asserting that Janet must have been the daughter of Christian by Sir Edward Keith (why?) that having married Sir David Barclay, she *from thenceforth* assumed his name (why?). We may well refuse to acquiesce in such vague assumptions. If Keith was her proper name, why did she not stick to it? Where is the proof that a Keith was her father? Those who value fact before fiction must see that these guesses are worthless. Lastly, if a widow, who was her first pretended husband? There were two Sir David Barclays, father and son. Sir David, the younger, was alive in 1370. Janet was married to Sir Thomas Erskine about 1368, certainly before 1369 (Reg. Mag. Sig. p. 64), and after 1366 when Mary Douglas, the first wife of Sir Thomas Erskine was alive (Comp. Peerage, iv., app. ij.). So we must put the younger Barclay aside. Sir David Barclay, the elder, died 1351. If she was his widow she spent seventeen years waiting for a second husband, a most remarkable instance in those days of a young, and peculiarly eligible heiress, being neglected by ambitious woers. But more, if left a widow in 1351, the curious fact comes out that she would then have had a grandmother only fifty-four years old. Few women of that age,

[1] That Margaret was Janet Barclay's own daughter, and not Sir David's child by Elizabeth, daughter of William, Earl of Fife (*alias* Sir William Ramsay of Colluthie), whom he obtained a Dispensation from Pope Innocent VI. on 27th June, 1358, to marry (Theiner, Vet Mon Hib. et Scot., Rome, 1864), is placed beyond doubt by an affidavit, made many years later by Thomas Bisset, an old servant, in which he speaks of "my lord Schir Thomas of Erskyn and my ladye *Dame Jehan his* wif, *that was modir to David Steuart's modir*."—*Vide* Registrum de Panmure, vol. ii, p. 220.

we fancy, can boast of having a widowed grand-daughter.[1] Of course, if Mr. Round can prove her marriage, the case is settled. If he is not able to do so, one guess is as good as another, and mine has this advantage—that while we know no reason why Christian should not have married Sir David, the elder, and had a daughter by him between 1346, when Sir Edward Keith died, and 1351, when Sir David Barclay died, it is next to impossible that she could have a daughter by Sir Edward Keith, old enough to be left a widow in 1351, and to remain a widow with a prospective earldom as her dowry for *seventeen* years!

Next as to Sir Robert Erskine's second wife, Christian Keith. It has been here also assumed that she was a widow who also, most unaccountably, stuck to her first husband's name. Fortunately there is proof to the contrary. Janet, Countess of Strathern, was younger sister to Christian, wife of Sir Edward Keith, in 1366 she granted a charter (Cart. of Cambuskenneth, p. 255) to Sir Robert Erskine, and his wife, Christian Keith, "consanguineæ meæ dilectissimæ"—*niece* mark! not *sister*.[2] It should be clearly borne in mind that all we know *as proved* is that Janet Barclay was grand-daughter of Elyne of Mar, and that her son through that descent succeeded to the right of the Earldom of Mar. The filling up of the pedigree has been the work of various hands at various times, and has been sadly botched. At one time Janet Barclay was never mentioned—but Janet Keith was the favourite. Official documents dislodged her and substituted Janet Barclay, and modern, and in most cases "Southron" genealogists, tried to get over the difficulty by guessing—there is no better word for it—that Janet Keith was the same person as Janet Barclay. Scotsmen cannot accept such slipshod work, and surely they know their own customs best. They know no Janet Keith: they find her not save in modern Peerages, and they conclude that Sir Thomas' wife was styled Barclay because it was her father's name, just as Sir Robert Erskine's second wife was styled Keith, because it was her father's name.

That Sir David Barclay should have had by each of his two wives a daughter named Janet, is not surprising, every genealogist knows such cases—the Peerage alone supplies at least a score. I leave my plea for Janet Barclay for the consideration of Scottish experts, offering it as compact, consistent, and in accordance with Scottish usage, while the commonly received but modern version (or more correctly conflicting versions) is void of documentary support, sins against Scottish usage, and involves grave difficulties of dates as well as names.

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[1] To incumber themselves with additional and needless difficulties some modern genealogists have asserted that Janet had a daughter by Sir David Barclay. This would make her not only a widow, but a mother, as early as 1351. The daughter, however, is as much a myth as the husband.

[2] In the appendix to vol iv. of the "Complete Peerage," is given a list of Papal dispensations to marry; from it we find he had a dispensation in 1355 to marry Christian Beth (*sic* in orig. but clearly should be Keith). When this document is examined, her exact position in the pedigree will doubtless be established. I shall be surprised if she is not shown to be the daughter of Christian Monteith by Sir Edward Keith, and elder half-sister of Janet Barclay, daughter of Christian Monteith, by her second husband, Sir David Barclay, the elder. The date of Sir Robert Erskine's marriage with Christian shows how ridiculous is the notion that she was the mother of Sir Nicholas Erskine of Kinnoul who was of full age in 1361! (Cartul. of Cambuskenneth, p. 287.)