# TRADITION *versus* RECORD.

By Joseph Bain, F.S.A. Scot.

It is refreshing to find there is some romance left in this prosaic world. Though it is more than half a century since Mr. Drummond, of Albury, brought out his splendid folio volume (never completed) *The History of Noble British Families*, where tradition is the chief authority, his example has found few imitators of any mark. Some years ago, however, I chanced to open a historical work,[1] where the authority of tradition is preferred to that of authentic record. The author, in fact, re-writes the history of a considerable province of Scotland, disregarding all previous historians and their authorities, and relies exclusively on local traditions, sometimes fortified by the stories of *Henry the Minstrel* (or "Blind Harry"), a poet who lived at least 150 years later than the events which he professed to chronicle. I have not seen any review of the book, but having had occasion to study the same historical period, and differing on certain points from the author, propose to note briefly the true versions, with authorities, that readers may weigh one against the other.

On p. 175, Alan, Lord of Galloway, is said truly enough, to have been created High Constable of Scotland, as he undoubtedly was. But the further information that he was also "Chancellor of Scotland," and styled in records, "Alan of Dumfries," is extraordinary. This last person was a churchman and able to read and write, indispensable qualifications for a "Chancellor," while the High Constable most likely could do neither! Besides this, Master Alan of Dumfries was appointed Chancellor by Edward I in 1292, when Alan of Galloway had been for sixty years in his grave. On p. 189, a personage styled "Sir William Mac Cairill of Cruggleton Castle," is said to have been the only Galloway land-owner who remained true to Scottish rule during the usurpation of Edward I. His castle of Cruggleton had been (it is said) taken in 1282, by the treachery of a guest (Sir William *alias* Lord Soulis), who held it for King Edward of England.[2] Again "in 1298, tradition states that Mac Cairill was at the head of five hundred men at the battle of Falkirk, where most of them were slain." Finally, that "Mac Cairill was slain when Wallace was captured by treachery at Robroystown." Now this knight, though absolutely unknown to history, is identified by the author with one "Kerlie," who, according to "Blind Harry," was a companion of Wallace, though he is heard of nowhere else. As for Cruggleton Castle, it was one of the possessions of Alan of Galloway, and fell to the Comyns of Buchan as coheirs of his eldest daughter. Any other owner than the Lords of Galloway is mythical. On p. 204 a strange account is given of a man well known

[1] *Galloway in Ancient Times*, by P. H. McKerlie, F.S.A. Scot. (Edinburgh, 1891, 8vo.)

[2] Authority for this is desirable, for in 1282 Edward I had no concern in Scottish affairs except as a friend, Alexander III being then alive!

in Scottish history—Sir Alexander Balliol of Cavers. He is there said to have left two sons, Alexander and William, to the latter of whom the lands of Hoprig and Penston in Haddingtonshire, were granted. "He," says the author, "was the Sir William Baillie who is mentioned as having married the heiress of Lamington, and thereby obtained the estate." This account is quite incorrect—save the fact that Sir Alexander Balliol had a son Alexander *junior*, and both *father and son* were dead by 1310, when "Monsieur Thomas de Bayllol" of Cavers, and Isolda, his wife, appear on record—presumably a son and heir,[1] as no son William is known. Sir Thomas was an English partizan, but so was the contemporary supposed son-in-law of Wallace, who, as "William de Bailli," was one of a jury of Lothian Scotsmen, who held an inquiry before the Sheriff of Edinburgh on 20th February 1311-12 on the confiscated lands of their neighbours who supported Bruce.[2] This William de Bailli (sometimes simply styled "William Bailli"), whose origin is as yet unknown, was dead before 12th October 1335, for his lands of Hoperigg and Payneston were then in the hands of Edward III, who granted their custody and that of his minor heir, to one William Wasshyngton.[3] And so far from his being owner of the Barony of Lamington, it undoubtedly belonged in 1329 to an Alexander Seton.[4] Wallace was never its owner, nor had a daughter to succeed to it, except in the legends of *Henry the Minstrel*. It is certain that the Baillies acquired it at some later date, but it was not through descent from the imaginary daughter of Wallace.

There are many other equally questionable historical statements to be found in this history of Galloway, but the only remaining one I shall notice may serve for an example. On p. 222 the author says he had seen a document in connexion with the marriage of Margaret, a sister of Malcolm, Lord Fleming, where to his surprise, Lord Fleming is called *brother* of Malcolm Fleming, Prior of Whithern—and thus comments on this relationship :—"How two brothers alive could bear the same Christian name, has yet to be solved. We have seen the Charter; it must have been miswritten." I believe the same document was in my hands some years ago. It is among the old Wigton papers, and is a bond by Malcolm Fleming, the Prior, to his brother Malcolm, third Lord Fleming (afterwards killed at Pinkie in 1547), for a sum of money towards the dower of their sister Margaret on her marriage to an Ayrshire gentleman, John Cunningham, younger, of Glengarnock. There is no miswriting or doubt about the fact, and though the author may in 1891 have been unaware of the custom, he must surely since have learned that it was common enough for two brothers to bear the same Christian name. In 1213, Maurice, Earl of Menteth, and Maurice, *junior*, his brother, executed an agreement before William the Lyon, as to the Earldom.[5] About the same date in the *Chartulary of Kelso*,[6]

[1] *Calendar of Documents* (Scotland), iii, Nos. 219, 303.
[2] *Ib.*, No. 245.
[3] *Ib.*, p. 336.
[4] *Ib.*, p. 316.
[5] Patent Roll, 45 Hen. III.
[6] Nos. 139, 140.



William de Veteripont and William de Veteripont, *junior*, brothers, appear together. In 1380 Sir John Hamilton, fourth Lord of Cadzow, had four younger brothers living, the last of whom was also a John Hamilton, ancestor of the family of Hamilton of Bardowie, while Sir John was ancestor of the Dukes of Hamilton.[1] Other instances in plenty may be found by those taking the trouble to look for them.

The book contains many similar doubtful historical facts, and if its authority were accepted without question, would be rather a blind guide to the history of Galloway in ancient times, whatever it may be in modern days.

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## THE ORIGIN OF THE SWINTONS.

The article contributed by Captain Swinton to the last number of *The Genealogist* is of interest, not only as dealing with a family of great antiquity, but also as raising a question which presents itself very frequently in genealogical enquiry. It was shown to me before publication, but I felt very strongly that the author should put his own case in his own way, in order that genealogists might read it as it presented itself to him. I have tested its arguments very carefully since it has appeared in print, and it is, I believe, its author's wish that I should publish my opinion on the case.

On referring to my paper on "Odard, the Sheriff,"[2] it will be seen that I assign to Odard two sons, William and John. This I did on record evidence. It appeared subsequently that I had, quite unwittingly, ignored the family tradition of the Swintons, which is that "Ernulf," to whom Swinton was granted by David I, and whose parentage is nowhere mentioned, was a son of this Odard, the Sheriff. Captain Swinton now comes forward to uphold this family tradition, and produces in support of it an interesting charter discovered by Mr. Bateson, at Durham, and an argument derived from what I shall term the Aldcambus evidence. I propose to deal, in turn, below with the tradition, the charter, and the Aldcambus evidence; but it will be helpful to explain at the outset that it is now proved by two records that the above sons of Odard, the Sheriff, had a "brother" Ernald or Ernulf, who appears in connection with Northumberland. It is Captain Swinton's task to prove that this man was identical with the Ernald or Ernulf who obtained Swinton, in Berwickshire, from David I. This, it will be seen, is precisely such a problem as is often the *crux* of a doubtful pedigree.

It is frankly admitted by Captain Swinton that "family tradition and pedigrees written long after the dates to which they refer, are, of course, not proof." But he is naturally loth to abandon his own. His first point is that in 1690, John Swinton of Swinton claimed to have inherited his lands "by an uninterrupted succession of above 600

[1] Riddell's *Reply*, and authorities.
[2] *Genealogist* (N.S.), v, 25—28 (1888).