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Sir Archibald Lawrie's Charter Collections

BORN at 48 West Nile Street, Glasgow, 8th September, 1837, oldest child of Professor James Adair Lawrie, M.D., and of Janet Finlay of The Moss, the future Sir Archibald Campbell Lawrie was fated to win high distinction as an advocate, judge and historical scholar. On his retiral from his supreme judgeship in Ceylon he returned to Scotland in 1902 to settle down at The Moss, an ancient property of the Buchanan family situated at the foot of Dumgoyne, a well-known spur of the Campsie Fells in Stirlingshire. It was at The Moss that the great George Buchanan was born: it had belonged to his brother, Thomas Buchanan, from whom Lawrie was a descendant. It had passed out of Buchanan hands in 1751, but was purchased by the Finlays, in whose ownership it remained until by inheritance from his uncle, William Finlay, it became the property of Lawrie, whose interest, as will be seen, in the Buchanan ancestry was naturally considerable.

Sir Archibald's return after a strenuous career on the colonial bench was not the prelude to any quest of inglorious ease. It would be difficult to point out a dozen years more absolutely and productively employed than those which Sir Archibald spent at The Moss in his retirement. He greatly extended the old mansion, laid out the gardens anew, and stocked the library with the standard materials for early Scottish history. That his ancestor Thomas Buchanan was the brother of the lauded scholar and sorely discussed historian of Queen Mary and tutor of King

James may have remotely affected the studious tastes of the occupant of Buchanan's birthplace by the side of the Blane Water in Stirlingshire—in *Levinia Scotiae provincia natus est ad Blatum amnem*—may be left to psychological speculation. Sometimes we know historical pursuits are hereditary. Whilst Lawrie, called to the Scottish bar in 1860, was beginning with only small hopes of practice he came into touch with Professor Cosmo Innes, then at the height of his antiquarian distinction, an archaeologist of records whose broad fine spirit of enquiry and criticism ranged with masterly freedom over the past, especially the medieval periods of Scotland when the cathedrals were building and the great sees were being laid out, and the institutes of the feudal system flourished in the land. In Cosmo Innes there was a lofty flight above mere antiquity into the divine, serene ether of history, and he had a gift of style that transformed his prefaces to the cartularies into literature and his lectures on legal antiquities into an idyll of feudalism. The acquaintance began through Margaret (Lawrie's eldest sister, to whom he was greatly attached) being a school friend of Mabel Innes, the professor's daughter. When Lawrie and Margaret took charge of the upbringing of their two younger sisters and removed to Edinburgh, the acquaintance became so much the more intimate. Lawrie's father himself, too, had been a fellow-student if not a class-mate of Innes at Glasgow University, and the social opportunities of Edinburgh, of course, were many. Innes by this time was finishing the edition of *The Acts of the Parliaments of Scotland* started by Thomas Thomson—closing his predecessor's task with a mighty index volume, which was the thirteenth tome of Scottish law and legislation from the coming of David I. in 1124 until the parliamentary Union of 1707. The making of this final statutory volume with Innes as editorial chief was entrusted to Lawrie, along with Mr. Archibald Anderson, another advocate, and their execution of the massive task left little to wish for : it provided Scotland with an apparatus of over 1200 double-columned folio pages reflecting, analysing, glossing, and affording exhaustive references to the entire body of judgment, legislation and history of the land for six hundred years. A unique condensation of the long record of Scottish institutional life, it was approaching completion when Lawrie's appointment to a judgeship in Ceylon called him away, leaving to colleagues at home the work of passing through the press this key to the parliaments of Scotland. Innes was dead when at

last the work was, with preface by Mr. Anderson, issued in 1875.

Long before his departure to Ceylon, Lawrie had won the confidence and affectionate regard of Innes. A significant token of intimacy is seen in the transcript still extant which Innes in 1864 made for Lawrie of the charter of 'Middle Ledlowan' (the old name of The Moss) to Thomas Buchanan, Lawrie's ancestor. It is hard to resist speculating whether this was not the veritable beginning of the young advocate's antiquarian life. About this time he drew up a series of notes on 150 pages quarto manuscript on the Buchanan family. Antiquarianism can hardly find a better beginning than at home.

Before his Ceylonese appointment Lawrie had for a year or two acted as interim sheriff-substitute in Glasgow, where he established a gratifying reputation—so much so that his reception led him for a time to desire a permanency there. After his awaygoing to the East a long letter pleasantly associating Innes, the old sheriff, editor, and scholar, with the young District Judge of Kandy was sent to Lawrie. A closing sentence said :

'In society you always stood well, and the same good qualities that made you popular and respected will tell now. Let one who has tried your temper most, speak of it as *imperturbable*—and is that not a testimonial worth all others !'

The old scholar, who died in the following year, had judged shrewdly of his young friend, who quickly adapted himself to his new environment, making a judicial reputation as a patient investigator, a little incredulous but full of kindly sympathy, and constantly increasing his store of knowledge of local topography, history, statistics, monuments, and general lore of the Central Province which then formed his jurisdiction. He believed that the Roman basis of much of Scots law helped him to assimilate the Dutch-Roman elements in the code of Ceylon. He remained there until 1892, when he was raised to the position of Senior Puisne Judge of the Supreme Court of Ceylon. His administration in Kandy was remarkable for the degree of confidence reposed in him by the native races of the island. His social gift and modesty of bearing, as well as his unfailing good-humour, hospitality, and zest in life lent grace to justice. All the while he was by a study of the records, journals, returns and official registers, amassing a body of information never before collected, which must have shaken much dust out of many pigeon-holes, and which by degrees he shaped into a truly surprising couple

of volumes of 974 large pages, the *Gazetteer of the Central Province of Ceylon*. Its miscellany of geography, ethnology, architecture, archaeology, history, detail of land tenure, town and village characteristics, provincial and judicial government service, etc., illustrated by very numerous translations of quaint documents, inscriptions and title deeds, anecdotes, incidents, and historical annals could only have been the work of a born compiler. It marks the extreme of contrast between the life of the author as a Scottish advocate and as a judge in Ceylon. His home for nearly twenty years was at Peradeniya, a village about four miles out of Kandy. Once it was a royal residence, and there are still traces of ancient buildings, as well as of Dutch fortifications. The locality is of striking beauty on the banks of the stream Ma-o-ya, with famous botanical gardens, and the judge's house was well suited to its picturesque and historic situation. He had married in 1880 Constance Dennistoun (widow of John Hamilton), who died in 1890. It is not difficult to trace in the *Gazetteer* his admiration for his place of abode, and he transcribes curious deeds concerning the village lands. They are fortified by queer imprecations, as vehement and no doubt as effectual as those which served as the warranty of similar documents of conveyance which have come down to us from Anglo-Saxon charters and continental formularies. References to 'vengeance' and to oaths on the 'five ordeals' evince some of the juristic parallelisms if not the basal magic unities of pre-historic Indo-European law. East and West have never been parted.

On his promotion in 1892 the judge changed his residence to Colombo, where his last nine years of Ceylon were spent. His eldest sister (who died in 1898) and his youngest sister, Miss Louise Lawrie, paid him several visits there. During the eight-and-twenty years of his being stationed in the island he met or entertained many celebrities and some royalties, including the Prince of Wales (afterwards King Edward VII.) and Prince George (now King George V.). He saw Arabi Pasha pass from Egypt into his Indian exile. On his homecoming he was knighted by King Edward VII., an honour announced to him in a letter from Mr. Joseph Chamberlain in 1901 expressing high appreciation of his colonial services.

In Ceylon, of course, the annals of Scots kings and parliaments and earls were impossible, beyond the rim of his eastern world, however wistfully his eye may have turned to homeward themes. But very soon after his taking up residence in Scotland and setting

up his home at The Moss he must have been devising his plans of work on Scottish history on an ambitious scale, and having as the inspiration a purpose to offer a critical study of early reigns, beginning with David I. Generalisations he instinctively distrusted, and a fireside critic hit him off very neatly in declaring that he was 'no philosopher.' He had no leaning towards picturesque or speculative elements in our annals; he was not in quest of sensations; and he was free from prejudices equally as regards Pict and Scot on the one hand and the racial rivalries of Gael and Saxon on the other. He had little faith in, and still less liking for, ethnological inferences: he believed in pedigrees which admitted of concrete ascertainment, and he had a passion for exact chronology, for the 'diplomatic' of our old documents, and for the descents of the great families. John Barbour himself was not more eager to bring out the truth—

'the suthfastnes

That schawys the thing rycht as it wes.'

He had a fine scent for a forgery, and a demure zeal in critical dubitations and hostilities when required. These were capital equipments for the general editor and critic of the annals, charters and cartularies of the feudal period which had been left in somewhat of a tangle for a whole century.

Some bundles of letters addressed to him in his preliminary enquiries and examination of material display numerous signs of the mixture of caution and self-confidence with which he felt his way into the subject, diffident at the outset but gradually encouraged to the high achievement he meditated by the verdict of the scholars he consulted about the lines of his enterprise, and the principles of his scrutiny of the annals and charter grants of David I. and his successors. Not to reconstruct in the mode of Dr. W. F. Skene the constitution of Scotland under the kings who followed Skene's more shadowy Celtic monarchs with other ideals and traditions than theirs, but to piece together the chart and plain autobiography of the time from the collective chronicles and charters which time has preserved, he shaped a method for himself. It was less, much less, a narrative than a collection of text, with a special annotation of each document in what might in entirety be reckoned a historical cartulary. The letters he received concern sometimes the format, sometimes they have more attractive hints and discussions. Thus Dr. John Maitland Thomson, in quantity and quality Lawrie's greatest correspondent

of all, debates the alternatives 'Rex Scotiae' and 'Rex Scottorum,' or interprets 'Jhu' (a contraction for 'Jesu'), in which, as he says, 'of course the *h* is Greek *eta*,' or he explains the Count of Holland's claim in the grand multiplepointing for the vacant Scottish throne. The Rev. Henry Paton records his results from searches of charters. Professor Hume Brown warmly endorses his scheme, recommends Henry Paton as the safest of searchers, and discusses the problem of the relationship between our two earliest chroniclers. 'As far as I know,' he says, 'Wyntoun and Fordun have never been carefully compared with a view to settling the relation of their narratives to each other. My own impression is that both used common sources which undoubtedly existed in their day. I quite agree with you in thinking that Fordun did not invent the Macduff story, but that he only made use of a legend to which he may have given his own touches. Such legends are not created by one author. The same remark applies to the 'Weird Sisters,' which is almost certainly a tradition¹ from an early time with considerable accretions which could not fail to accumulate round the original nucleus of the story.'

A working basis determined, the pace of preparation did not slow down, and in 1905 the book *Early Scottish Charters Prior to A.D. 1153* made its appearance, winning at once the recognition by charter students of its standard value. Glasgow University made him LL.D. Dr. J. H. Round expressed himself handsomely, as also did Dr. William Farren, whose labours on the charters of Lancashire had given him a parallel experience. Reviewers were equally complimentary. Few of his judgments on authenticity were challenged, but some may be noted here. He had condemned, although with hesitation, two Swinton charters (Nos. C and CI), also the Scone Foundation Charter of A.D. 1120 (No. XXXVI.) by Alexander I. The outcome of the defence discussions was that in the case of the Swinton deeds his doubts were heavily undermined, and in his private interleaved copy of his book he deleted on page 343 the words 'but there is not sufficient evidence for that assertion'—the assertion, namely, that Hernulf was the Swinton ancestor. With characteristic generosity, although he never withdrew his observation 'I am not sure that these charters are genuine,' he made gracious *amende* to the house of Swinton by presenting to Captain Swinton the

¹ Cf. Amours' edition (Scottish Text Society) of Wyntoun's *Chronicle*, book vi. line 1902, and notes in vol. i. pp. 63-65.

precept (which he had acquired) by Archibald Earl of Douglas to John of Swinton, dated 5 July, 1402. Thus the episode was rounded off with a personal courtesy. On the Nostell question he was probably not convinced, and certainly was obdurate in his doubt when confronted with the fresh documentary vouchers adduced by Canon James Wilson, powerfully supporting the authenticity of the impeached charter of Scone.

Besides these, other two deeds stigmatised by him as spurious were Coldingham charters, preserved like the Swinton charters in the treasury of Durham. That the verification is difficult must be owned, but the authenticity of both (Nos. XVI. XVII.) had long ago the support of James Raine, historian of North Durham, and will still find defenders. The curious fact is that in each of these Coldingham grants the Scottish monarchs represented as making compromising acknowledgments of their relation to English kings were at the respective times of the grants in the actual position of being supported on—or towards—the Scottish throne by English arms. There was room, however, for Sir Archibald's doubt.

Out of 271 deeds edited in his work in 1905 only eight are condemned, of which, as above suggested, four are capable of defence. He was a constitutional doubter, but generous enough in his admission of his own occasional error. The present writer had the pleasure of accompanying him in 1905 to Durham to inspect amongst others the Swinton charter, as well as the charters implying homage to English kings, and can well remember Lawrie's expressed wish on account of some detected slips in the *Early Charters* to cancel and re-issue the book. It was the time of the conflict on the Ruthven of Freeland barony and peerage, on which his opinions were contrary to his sympathies. The meeting with the almost nonagenarian Canon Greenwell and Maitland Thomson at Durham, the quadrilateral conference over the challenged deeds of homage, and the collation of certain of the challenged Coldingham charters left a unique remembrance. Nor less of instructive interest to me was the journey with Lawrie that evening to Richmond and our inspection of the Castle next day. During that happy week-end of antiquarian associations, replying to some question of mine, he said he did not know whether he had been attracted to Cosmo Innes by antiquities or to antiquities by Cosmo Innes. One other link of thought with a great antiquary aforetime joins itself

with these reminiscences of Durham and Richmond. When introducing Sir Archibald to Miss Violet Hunt, at once guest, guardian, and protégée of the venerable Greenwell, I mentioned to him that she was a grand-daughter of James Raine. To Miss Hunt's delight Lawrie said in his salutation that he raised his hat not only to her but in respect to the good old historian. For me also the shadows of honoured names now gather round my memories of Durham.

As regards any ultimate scheme of his projected books, it may be supposed that his *Annals of the Reigns of Malcolm and William, Kings of Scotland* A.D. 1153-1214, which came out in 1910, revealed a change of plan. The annals were edited by themselves, intended to be followed in one or more separate volumes by the charters. These, had life and health been granted to him, would have been a goodly accession to the critical sources available for research. The piles of his manuscript notes evince the diligence and assiduity with which he carried on to fulfil his purpose. They were, after Lawrie's death, put in Maitland Thomson's hands, and he took steps to complete for publication certain parts of the collection. Unfortunately his state of health prevented the realisation of his hope, although, happily, before his illness forced the surrender of his purpose, he had made large advances towards it, in particular adding to the gatherings of text by Sir Archibald his own extensive, most important and often recondite documents from the Vatican, from Scottish baronial strong rooms, and from a lifetime's connection with lawyers, antiquaries and archivists, communicating to him materials within their knowledge or affording him access to ancient charters. That all this wealth of text, the labour and search of two of the most eminent charter authorities that Scotland has known, should have failed to reach the printing press is no doubt deplorable, but there is every occasion to congratulate the Faculty of Advocates on the public spirit with which Miss Lawrie and the relatives of Sir Archibald have arranged, with the hearty and most generous approbation of Maitland Thomson, to present the whole of these MSS. to the Advocates' Library. With that end in view they have been carefully bound in a series of large foolscap books, the title page of which is

SCOTTISH HISTORICAL DOCUMENTS.

Transcripts and Notes by Sir Archibald C. Lawrie, LL.D.
In Fifteen Volumes.

The contents of the respective books may be briefly indicated, with here and there a notification of special characteristics :

- Vol. I. Malcolm IV. charters.
- Vol. II. William the Lion charters.
- Vol. III. Alexander II. charters, 1204-1222.
- Vol. IV. Alexander II. charters, 1223-1230.
- Vol. V. Alexander II. charters, 1231-1237.
- Vol. VI. Alexander II. charters, 1238-1243.
- Vol. VII. Alexander II. charters, 1244-1249.
- Vol. VIII. Holyrood, Coldingham, Newbattle and Inchaffray.
- Vol. IX. Melrose, Dryburgh, Jedburgh.
- Vol. X. Kelso.
- Vol. XI. St. Andrews, Lindores, Scone.
- Vol. XII. Paisley, Dunfermline, Cambuskenneth, Kinloss.
- Vol. XIII. Coldstream, North Berwick, Isle of May, Soltre, English Religious Houses.
- Vol. XIV. Aberdeen, Inchaffray, Brechin, Argyll, Dunblane, Whithorn, Caithness.
- Vol. XV. Burghs, Church Privileges, Miscellanies.

Miss Lawrie has asked the writer of this article to express her grateful acknowledgments to her brother's friend, Mr. James MacLehose, for the labour and solicitous thought he has given to all the arrangements regarding Lawrie's collections, and for his advice in the matter of their ultimate transfer to the Advocates' Library.

From a letter of 1910 it appears that Maitland Thomson had sent to Lawrie his list of William the Lion charters, and his frequent letters prove him to have been an invaluable auxiliary of his friend. There was no flattery in the words printed in the forefront of Lawrie's *Annals of Malcolm and William* in 1910: 'Dedicated to John Maitland Thomson in acknowledgment of much kindness and assistance.'

On 20th October, 1910, a reply was sent in these terms :

Dear Sir Archibald Lawrie—I accept with some shame. For I neither have done anything nor am anything worthy of such an honour. But at least no one takes more interest in your subject or can have a warmer wish for the success of your book.

Yours very truly, John Maitland Thomson.

This letter has still its place inside Lawrie's own copy of the *Annals*, as if it lay near to his heart.

In the first volume alone not fewer than sixteen charters are noted as having come from Thomson's transcripts, and some of them contain phrases which feudalists will one day add to the repertory of their glosses. For instance, in a grant by David, brother of the King of Scotland, to Malcolm, son of Bartolf, there occur the words *cum furca et omnibus aliis libertatibus praeter fossam*, upon which Lawrie proposed conjectures. Perhaps a better answer than his is that *fossa*, fully interpreted, is *fossa iusii* (*judicii*), as the exact Mr. Madox has it (*Hist. Exch.*, 1711, p. 256), that is to say the ordeal of water. A Perth burghal charter excepts from the civic liabilities the enclosing of the burgh (*claustrura burgi*), an exemption which possibly accounts for the claim made by the burgesses against Edward I. in 1307 for the costs of the *pielle et le fosse* which they had made (*National MSS. Scot.*, part ii. No. 15). Thomson remarks in a letter of 1913 that grants of *fossa et furca* never became normal in English charters. Another transcript, from an original at Welbeck, obviously implies that in the phrase *furca et fossa* the fosse is the 'pit' or 'dykepot' of the ordeal.

To pretend that Lawrie was void of predilections of doubt approximating to prejudices might be to strain the due inferences. That his scepticism was deep-seated and inherent in his character and no mere assumption for his editorial function is certain: he had a habit of question, and his dubieties were not easily overcome. One notes that in the *Early Charters* he denied the name and disbelieved portions of the text of the *Inquest of David*, and that in the *Annals of Malcolm and William* he ignored the charter of Malcolm to Walter son of Alan the Steward of Scotland—a plain hint of his refusal to be convinced either by Sir John Skene or Dr. Maitland Thomson that Sir James Balfour's fraudulent miscopying of the charter left its authenticity without a stain on its character.¹

Volume XV., on Church Privileges, etc., and the like, is a restricted enquiry into the functions of bishops and others, but neither here nor in the parallel annotations concerning the offices of chamberlain, etc., do his studies appear to have been focussed. What he had done was a unique preliminary assembling of the evidences from every source for the story of the founding and development of the bishoprics and the abbeys, as well as for the regal annals and the institutions of state.

¹ See *History of the Berwickshire Naturalists' Club*, vol. xxiv, pp. 126-147, for a discussion of the charter, with facsimiles.

It is no mere *torso* of texts that is thus made over to the Advocates' Library, it is almost a body of history in itself, and the future enquirer into the record of the twelfth and thirteenth century is to be congratulated on the assistance assured him by these many tomes. But a primary and pressing need is to have the fifteen volumes adequately indexed along with a few subsidiary collections of notes which have also been carefully bound and are at the same time being handed over. For the future editor what shall be said except to wish that he will come soon? A long and a noble task lies before him to complete, or at least to carry well forward, the enterprise so efficiently begun.

Of The Moss as a home Lawrie was always intensely fond. The library was, and still is, a cosy and ideal work-room, entering from the hall and looking southward out upon the abrupt peak of Dumgoyne which beautifully dominates the valley of the Blane below, while a mile or two away the church steeple of Killearn and the obelisk to the memory of George Buchanan crown the ridge. A picture of the old place of the Buchanans hangs on the library wall. We have seen that Buchanan was an early study of Sir Archibald's, but apparently it did not carry him far; albeit in the library there are the first issue of the *History* (1582) and various subsequent editions, especially the *Opera Omnia* (Ruddiman's folio of 1715), which last bears inserted MS. notes on the portrait of the stout old preceptor, politician and poet.¹ His book collections—he did not collect nor even greatly study manuscript—were in the main for the purposes of his historical work, although by no means unrepresentative of general literature. More than forty years ago a friend of mine deputed to approach John Hill Burton found the old historian

¹ In 1905 Sir Archibald did the honours of host with peculiar felicity when the 'pilgrimage' of the Buchanan quater-centenary was made to The Moss. But he would not contribute to the quater-centenary volume, and does not seem to have written anything formally concerning his most illustrious kinsman.

While engaged in the alterations and extensions of The Moss, Sir Archibald meditated, but apparently deferred, the setting up of an inscription outside the front of the house. I have letters from him discussing his proposal for an inscription in those terms:

'A few yards to the north stood the house in which George Buchanan was born.
February, 1506.

Mente firma provocat discrimina.
Virtute vixit, Memoria vivat, Gloria vivet.'

The first Latin passage is from Buchanan's *Psalms*, psalm 112, verse 7. The second is from a tomb in Rome.

in the confusion of dispersing his library, the books gathered into boxes for transmission to a London saleroom, the shelves and cases an aching void, knowing no longer their store of the erst-while book-hunter's trophies. There was pathos in the scene, the picture of the end of a literary life. Miss Lawrie has postponed the process in the case of Sir Archibald by keeping his reliquiae in their places. His shelves are rich in cartularies and chronicles, in tomes of the record series, in peerage biographies, and in the publications of the clubs and societies which contain the arcana of Scottish antiquity, and one never knows but that any volume may contain some little memorandum to supplement the work. One of these, dated 8th February, 1862, is the death notice of 'John Riddell Esq Advocate' in his seventy-seventh year.

The copy of the Scone cartulary has inserted a letter by its anonymous editor, David Laing, announcing to Hew Scott his election as a member of the Bannatyne Club in 1852. He had an instinct thus to bind up with the works the personalities from which they came. His copy of the famous Session Paper on Old Extent in the case of Cranston *versus* Gibson, 1818, Faculty Collection, p. 511, carries in it numerous MS. additions by Joseph Robertson to the elaborate erudition of Thomas Thomson. Curios do not seem to have been greatly his quest. He kept his library as one that loved it. He was not given to pencilling his cross references, corrections or memoranda, preferring an untainted page and being a bit of a 'beau in his books,' which for the most part are good copies, well-bound and in admirable condition. He was never a member of the Society of Antiquaries or the Scottish Text Society or the Scottish History Society, and he was averse from speech-making and essay writing. Reviewing he frankly detested. He had his own domain, knew too well the limits of time, and with grim concentration plodded along till the annals and the charters began to loom out of the vague into compassable shape and dimensions. This was the world of his mind: the mundane Sir Archibald moved about among his fellows the blithest and most hospitable and companionable of men—a gay contributor to the talk of his club, with a whimsical, self-depreciatory manner as far as possible apart from any pretensions of literary or historic aloofness. No wonder that he was universally popular: the testimonial of Cosmo Innes never needed revision. My acquaintance with him is to me a delight to remember.

He died on 11th May, 1914, and was interred in Killearn Churchyard amid a great concourse of his Stirlingshire neighbours and his Glasgow and other friends. One of the obituary notices refers to his visit with other archaeologists, in 1909, to the Roman Wall in Northumberland, when he 'faced every responsibility save that of proposing a toast.' It also makes an important suggestion concerning his unfinished writings—'As since 1910 he is known to have been, so far as not interrupted by illness, steadily continuing his studies of the early period, it is hoped that these continuations, however incomplete, may yet be available to bring further public honours to his distinguished and genial memory.'

It hardly needs saying that now, when the value of the original collection has been so markedly confirmed and enhanced by the amalgamation with it of Maitland Thomson's transcripts, the necessity has become still more obvious and clamant of making adequate and honourable acknowledgment by a prompt editing of the material. The unselfish conjunction—for it was two collections, and is now one—will be an enduring monument of a generous friendship, a splendid gift to the Advocates' Library, and a priceless register of Scottish feudalism.

GEO. NEILSON.

Relation of the Manner of Judicatores of Scotland

THE document here printed has been unearthed from among the treasures of the British Museum. It has been printed as it stands—even to the misspellings—and the original method of paragraphing has been retained. For greater clarity, however, additional punctuation marks have been introduced, and the paragraphs have been furnished with numbers and headings.

The general tenor of the document is clear. The account of the judicatures of Scotland begins with the Parliament, which is treated at some length. The College of Justice, which comes next on the list, receives even fuller discussion. The remaining eight paragraphs are devoted to inferior civil jurisdictions, ecclesiastical courts, and the criminal courts of the Justiciar, his deputies, and various minor authorities.

Many points of interest emerge, some of them of great importance to the student of constitutional history. Only a few of the latter—those relating to the Scottish Parliament in particular—can be discussed in this paper.

We have first to discover what importance may be attributed to the statements contained in the text, and this raises the questions as to by whom, and at what date, the report on the Scottish courts was composed.

As for the authorship, certain points are obvious. The memorandum was written by a Scotsman (Paras. 19 and 14—'Wee' and 'our'), and that Scotsman was in England (Para. 1—'this Kingdome'). He was writing for the information of some person of consequence in England (Para. 17), and he was plainly a person of consequence himself—probably a Lord of Session (Para. 14), certainly a lawyer. Not only is he expert in the law of Scotland, but he knows enough about the law of England to be able to emphasise points which would strike an Englishman as being important.

The hand, unfortunately, is of no assistance. It is a clerk's hand, and Professor Hannay, who has consulted with other experts at the Register House, is confident that it is the hand of an Englishman. He makes the conjecture that the document was dictated to an English clerk by the Scottish author, and in view of such spellings as 'president' for 'precedent' (Para. 7), 'begone' for 'bygone' (Para. 23), and 'repute' for 'depute' (Para. 23), it is hard to reject his conclusion.

It is with regard to the date that difficulties appear. One would naturally expect that the memorandum should date from the time of the negotiations for union, when English ministers would naturally wish to acquire information about the government of Scotland. But the description of the Scottish Parliament given in the text seems to point to a date considerably later, in that it mentions, as already existing, certain features which are commonly supposed to occur only in and after the year 1612.

Thus in paragraph 2 we are informed that the Scottish Burghs each sent only one commissioner to parliament, except Edinburgh, which sent two. According to the official view, this arrangement was introduced only in 1619, and that by a decision of the Convention of Royal Burghs.¹

Again the method of choosing the Lords of the Articles here described has not been found before the year 1612, and its introduction at that date is generally ascribed to the subtlety of James, who, having made the Churchmen his servants, used this means of controlling the whole committee.

Lastly, in paragraph 4, it is categorically stated that, during the sessions of the 'Articles,' the rest of the Estates did nothing at all. Now Calderwood represents that only in the year 1621 were the members of Parliament 'restrained from the necessarie use of the ancient priviledges granted to the severall states, to conveene by themselves in time of parliament, for advising, reasoning, and preparing themselves the more deliberatlie to vote in publict.'²

Here, then, are three good arguments for dating our memorandum after 1612, and their total effect is to point to the year 1621. If, as Calderwood alleges, the government was then conducting an attack on the privileges of parliament, what more likely than that some Scottish statesman should be at pains to inform James' English advisers exactly how the case stood? Is it possible that the author is none other than the Earl of Melrose,

¹ *A.P.S.* i. 17.

² Calderwood, vii. 492.

the redoubtable 'Tam o' the Cowgate' himself, whose 'Ordouir and Progres of the Parlement, October 1612,'¹ reveals him as an authority on the Scottish constitution?

This view of the genesis of the memorandum is plausible. But a closer examination of the text favours an earlier date, and an origin still more interesting.

In the first place the *a priori* argument, already cited, must be emphasised. Surely by the year 1621, English statesmen, at all events the statesmen concerned, must have been well informed as to Scottish affairs.

Again, paragraph 2 states quite distinctly that it is only some twenty years since commissioners from the shires began to attend parliament. This can only refer to the Act of 1587, and would therefore date the document at about 1607. If the author had been writing in 1621, 'twenty years' would be a long way out; it would have been quite as easy to write 'thirty' or 'thirty-five.'

The account of the Officers of State on the 'Articles,' given in paragraph 3, is correct only for a date prior to 1617. In that year the number of such officers was definitely fixed at eight.²

The same argument applies to the statement, in paragraph 6, that there were five extraordinary Lords of Session. By the original act of institution the number of such Lords was limited to four, but the crown abused its power, and before long seven or eight were sitting. In the time of Mary of Guise protests were raised, and from then on the number was steadily reduced, until in March 1617 it was formally fixed at four. Clearly our document was written before 1617.³

The mention of the hereditary right of the Argylls in the office of Justiciar supplies evidence pointing in the same direction. Archibald, seventh Earl of Argyll, left Scotland rather under a cloud in 1617, and in 1619 he was proclaimed traitor. Two years later he was pardoned, but though he survived till 1638 he never returned to Scotland; and it was his son, the eighth earl, who, in 1628, surrendered to the crown, 'as far as lay in his power,' the office of Justice-General of Scotland. These circumstances were quite abnormal, and the casual notice, in our text, of the earl and his father, must plainly apply to the seventh and the sixth earls. Now the sixth earl died in 1584, and this

¹ *Miscellany of the Maitland Club*, iii. pt. i. p. 112.

² *A.P.S.* iv. 526.

³ Brunton and Haig, *Senators of the College of Justice*, xlvi.

establishes a presumption that the memorandum was written soon after 1603; otherwise the earl's father would hardly have been within the memory of the writer. In any case the absence of any reference to the troubles of the Argyll family precludes a date later than 1619.

Another argument *e silentio* appears from a study of the paragraphs (21 and 22) which deal with the Commissary Courts. All that we are told is that they were composed of lawyers, and that they were inferior to the Session. Prior to the year 1609, it was quite correct to represent these courts as purely legal institutions, for the bishops had lost their control at the time of the Reformation, and, since 1567, the Commissars had been appointed by the Session. In 1609, however, the Commissars became once again dependent on the bishops, who in their turn were made responsible for the salaries.¹ Surely a document written after this year would have contained some reference to the episcopal control.

A further reason for attributing our document to an early date is supplied by the statement (in paragraph 2) that writs of summons were issued to all bishops, abbots and priors, for, after the 'constitution' of the estate of bishops in 1606, the abbots and priors hardly appear in parliament at all. The evidence is admittedly incomplete, but it all points in the same direction, and indeed the occurrences of abbots and priors are so few that they may be examined in detail.

In 1604 there appear among the Lords of the Articles, the Abbot of Holyrood-house,² the Prior of Blantyre,³ and the Commendator of Tongland.⁴ They are plainly regarded as clergy, for along with the five bishops they complete the normal clerical representation of eight members. All were, in fact, laymen; all were Lords of Session and active politicians. In 1606 the lands of the first two were erected into temporal lordships. Holyroodhouse and Blantyre, that is to say, were elevated to the peerage, although for some reason the former received his charter only in December 1607. William Melville possessed both the spirituality and the temporalities of Tongland, but there is no record that his estate was erected into a temporal lordship.

¹ Sir George Mackenzie, *Observations on the Acts of Parliament*, 328.

² John Bothwell, eldest son of the Bishop of Orkney.

³ Walter Stewart, son of Sir John Stewart of Minto.

⁴ William Melville, fourth son of Sir John Melville of Raith.

In the Articles of 1606 both Holyroodhouse and Blantyre appear again, and still as clergy, though the list is now headed *pro clero episcopi*.

In 1607, however, Blantyre appears as a temporal lord, but among the clergy both Holyroodhouse and Tongland find place, along with the abbot of Inchaffray.¹ This last was also a lay commendator, whose abbey was this same year erected into a temporal lordship, and who became Lord Maderty.

Holyroodhouse, as has been seen, received his charter in the month of December, and in the parliament of 1609 he sat as a lay lord. On that occasion there is no record of the presence of a single abbot or prior. For the year 1612 we possess not only the list of the 'Articles,' but the whole sederunt of parliament. Except for Tongland, who was on the Articles, no abbot or prior sat. He died in 1613, and the only subsequent appearance of an abbot in parliament occurred in 1617, when the Abbot of Crossraguel was present. This is odd, for the crown had been commendator of Crossraguel for many years, and in this very year the spirituality and temporality of the abbey were annexed to the bishopric of Dunblane by King James VI. What happened was that the nominal abbot—described by Spottiswoode as a contentious person—appeared to try his luck, but he did not repeat the experiment.² Crossraguel did not appear again, and the parliament of 1621 was not graced by the presence of a single abbot or prior.

In the face of this evidence, it is difficult to suppose that any well-informed person, writing in the year 1621, could represent the abbots and priors as an essential part of the Scottish Parliament. No doubt the theory was that the religious houses should receive special writs, even when they were represented by lay commendators, but after 1607 no commendator save Tongland remained.

Our document, then, was probably written before the end of 1607 at latest; and if the evidence supplied by paragraph 16 is pressed, it is possible to argue that the most likely date was 1604 or 1605. The method of filling vacancies in the Session was fixed by an Act of Sederunt in 1594,³ and the procedure described in our text was first used, so far as is known, in 1595. In 1605 the system was elaborated; the king decided that only

¹ James Drummond, son of David Lord Drummond. Unlike the others, he was not a senator.

² *History* [Ed. 1677], p. 533.

³ Brunton and Haig, xli, xlii.

certain classes of persons should be eligible for presentation in the first instance, and also ordered the judges to prescribe a definite form for the final trial of the candidates.

Paragraph 16 certainly mentions the final trial; but some sort of trial probably existed before the regulation of 1605, though its exact form was not fixed. In any case it should be noted that our text follows the wording of the earlier ordinance in the phrase 'choise of the worthiest,' and that it contains no reference to the initial qualifications demanded by the system established in 1605. Considering that our author is usually so informative on the subject of the Session, this omission is noteworthy; and taken in conjunction with the other evidence, it gives good ground for the conclusion that the memorandum was composed soon after James' accession to the English throne.

But if this date is to be accepted it will be necessary to discount the evidence in favour of the year 1621. This is not impossible, for that evidence rests upon assumption rather than upon definite facts and dates.

Take, for instance, the question of burghal representation. The editor of the Acts of Parliament certainly asserts that this was fixed by an order of the Convention of Royal Burghs, 'as it appears unsanctioned by parliament.' This does not sound very probable, and no evidence is adduced; but the statement gains some support from a comparison between the lists of burgh commissioners for the years 1617 and 1621 respectively. In the latter year no town save Edinburgh sent two members; in 1617 no fewer than eighteen burghs sent two commissioners apiece.

But an examination of earlier lists is very instructive.

No burgh save Edinburgh sent two commissioners to the parliaments of 1579, 1581, 1584,¹ 1585 and 1587. For the year 1592 no list survives. In 1593, however, Perth, St. Andrews, Aberdeen and Glasgow, besides Edinburgh, each sent two members; and in 1612, the next year for which a list survives, Dundee, Stirling, St. Andrews and Glasgow share with the capital the privilege of being represented by two burgesses. Amongst the eighteen burghs exercising the privilege in 1617 are found Anstruther Easter, Anstruther Wester, Cupar, Kinghorn, and Rutherglen.

Surely these lists speak for themselves. The rule was that no burgh save Edinburgh should send more than one commissioner;

¹ There were two Parliaments in 1584.

but certain large burghs, especially when they had to transact business of local importance,¹ began to send two commissioners. But when Anstruther Easter and Anstruther Wester began to follow suit the Convention of Royal Burghs intervened, with the order cited by Cosmo Innes. When, then, and by whom, was the representation of the burghs fixed? No evidence is available, but the presumption is that it was fixed by parliament. At all events parliament, by an Act of 1578, ordained that no town save Edinburgh should send two members to the Convention of Royal Burghs; and as the Convention repeatedly fixed its meetings to coincide with the meetings of parliament,² it seems reasonable to conclude that the Estate of Burgesses in Parliament resembled in personnel the Convention of Royal Burghs. This would explain the fact that, while parliament fixed the cess, it was apportioned out by the Convention.

The account of burghal representation, then, given in our text, affords no proof that the document was written after the year 1619; nor is the description of the choice of the 'Articles,' contained in paragraph 2, evidence that our author composed his memorandum after 1612.

The system whereby the Lords and Prelates jointly selected the representatives of the other estates, has hitherto been found in no document earlier than 'Tam o' the Cowgate's' Memoir of 1612; but that is no proof that the system was first invented in that year. The fact that our text omits all reference to royal interference in the choice, whereas 'Tam' mentions the rolls of royal nominees, may be adduced as evidence that the account here presented was written before the year 1606, in which year James presented a formal list for the approbation of the Estates.³

A study of the early parliaments of James VI. and I. certainly bears out our memorialist in his assertion that eight was the number of 'Articles' usually elected by each estate, for if the two Edinburgh burgesses be reckoned as one, it will be found that the only exception from the rule occurs in 1607. In that year both the clergy and the temporal lords chose nine representatives apiece, if the lists are correct. It is, however, noticeable that in the 'Articles' of this year there were few officers of state, and it is possible that one of the clergy and one of the lords, shown on the lists, were really present in some official capacity. Thus

¹ Cf. Aberdeen in 1593; Stirling and Glasgow in 1612. This is evident from the published Burgh Records.

² *Records of the Convention of Royal Burghs*, I. viii.

³ *The Melrose Papers*, i. 15.

the clerical list includes the name of Tongland, who in the Convention of 1608 was accounted a 'councillour' and not a prelate, and who was several times employed as a commissioner for the opening of parliament. Of the lay lords most held important administrative posts, and several were privy councillors.

It is true that of the whole eighteen none seems to have held an office which would normally entitle him to a seat on the 'Articles,' but even if it be admitted that on this occasion prelates and lords each elected nine representatives, this one exception is not sufficient to destroy the general rule. Whatever the rule, a certain laxity in practice is not abnormal. In 1617 the number of officers of state eligible for the 'Articles' was fixed at eight; but in the next parliament only seven seem to have been chosen.

On the whole, therefore, the statements of our text about the choice of the 'Articles' supply no evidence which would date our document after the year 1612; on the contrary, they place it before the year 1606, when—so far as is known—royal interference first began.¹

The discrepancy between our author and Calderwood on the subject of the separate meetings of the Estates during the sessions of the 'Articles' is easily explicable on the assumption that such meetings were all along informal. Our author was rather inclined to uphold the royal prerogative—a new word in Scots law, by the way²—and he would naturally omit all reference to evidences of parliamentary independence. Calderwood, on the other hand, would be quick to define as a well-established right what was only a matter of practice, and to denounce its suppression as an act of tyranny.

In conclusion, there is no reason why our document should not be dated soon after the Union of 1603, and it is tempting to

¹ In the hope of dating our manuscript more certainly, a copy of the watermark was taken. This was submitted to Mr. R. L. Poole, who identified it with No. 1347 of the marks pictured by Briquet in *Les Filigranes*.

This mark is found at Basle in 1585, and again at Geneva in 1605-6. The whole device can be definitely traced to Basle.

At present we can make no deduction from the Basle origin of the paper; but the recorded dates of the appearance of the watermark fit in with the view that our document was written about 1604, though, of course, a later date is possible.

² Sir George Mackenzie in his *Observations* (p. 319) points out that the word 'prerogative' is first used in a statute in the first Act of the parliament of 1606, and that in consequence that Act is careful to employ also the old Scottish synonym 'privilege of the Crown.'

suppose that it was one of the very documents which formed the basis of negotiations between the commissioners appointed by England and Scotland. Both sets of commissioners were explicitly warned against making concessions derogatory to the privileges of their respective countries, and a clear statement of the 'judicatures' of Scotland would be necessary. Our memorandum, which was plainly written with a view to a comparison between the institutions of England and Scotland, would be just the kind of document required.

Who was the writer? Was it the learned 'Tam'?

Certainly the account of parliament here given tallies well with that supplied by Hamilton in his 'Ordour and Progres' in 1612. Sir John Skene, however, is another possibility, and occasionally the wording of our memorandum suggests some of Skene's definitions. Both these eminent lawyers were on the commission for the Union with England, and either may have prepared this clear description of the judicatures of Scotland for the use of some English statesman. The Lord Chancellor, Thomas Ellesmere, was first among the English commissioners, but Robert Cecil presented to the king the findings of the whole commission, and took an active part in the business. One of these two was probably the recipient of the memorandum, for though the English commission included several experts in law, none save the Chancellor would be addressed as 'My Lord.' On the whole, the legal—rather than constitutional—setting of our document suggests that it was prepared for the Lord Chancellor of England.¹

J. D. MACKIE.

W. C. DICKINSON.

Cottonian MSS. Caligula, B. v. No. 48. Folio 266 (old pagination),
272 (new pagination).

1. Parliament the Supreme Court.

In the Kingdome of Scotland the supream court of all others ys the court of Parliament; which we Judge extraordinarie because yt is the Princes appoyntment and hath nether an ordinarie tyme of sittinge nor hath yt any lymitted Jurisdiction, but

¹The entire transcription of this document was made by Mr. Dickinson, Carnegie Research Scholar. The writers of the article owe much to the generous assistance given by Professor R. S. Rait and Professor R. K. Hannay, whose suggestions have been invaluable. For any rash speculations here made these gentlemen are not responsible.—J. D. M.

hath most ample power to proceede in all thinges that that [*sic*] shall fallforth in deliberacion accordinge as the court of Parliament in this Kingdome hath. Only the differences in their conveaninge and proceedinge will appeare in this that followeth/

2. Summons, fencing, choice of the 'Articles' and procedure: on the first day of Parliament.

The Kinges Majestie of his prerogative Royall maye appoynt a parliament at such day and place as shall please him. It is first done by proclamacion at everye head shire Towne through the Kingdome. The proclamacion must be published at least fortie dayes before the affixt dyett of the parliament. There are directed fourth of the Channcery little writtes to all Byshopps, Abbotes and Pryors; to all Earles and Lordes nominatim to will them to be present at the appoynted day. The like writtes or preceptes are directed forth to the Sherife of every shire to conveane the knightes, squiers, and landed gentlemen of the shire to make choise of commissioners to the parliament; the number of everye shire must not excede two. The like is sent to everye Cyttie and free Brough royall that hath voice in parliament by their commissioner; they must send but one at the most, Edinbrough ys permitted to have two. The day approaches of the parliament. The first day (by commission given by his Majestie to two of everye estate) the court of parliament ys begun and fenced; the commissioners for shires and Broughes are called uppon and their commissions produced and the Court contynued to such a day as yt shall please his Majestie to appoynt for his owne presence in the parliament howse. That day cominge his Majestie beinge within the parliament howse, the sperituall estate beinge on the right hand and the Earles and Lordes upon the left, the commissioners of the Shires and Broughes belowe, the Kinges majestie first usuallye maketh some speach concerninge the cause of the conveaninge of the present Parliament which thereafter is seconded by the Chancellour by a speach to that same purpose. Then the Chancellour willeth the sperituall estate and the nobillitie to remove themselves to some inner roomes where they doe proceede to the election of the Lordes of Articles; for clearinge whereof yt must be first understood that of old tymes except within these xxtie yeares we had noe commissioners of shires had any voice in parliament but our parliament was said to consist of three severall estates, Churchmen Nobillitie and Commissioners of Broughes,

the Commissioners of Shires beinge but lately adioyned by example and upon a particuler motion. While as there were three estates, the Churchmen—to witt all Bishopps Abbottes and Priors present,—passinge into a severall Roome aparte, did make choise of so many of the nobillitye to be upon the Articles. The number of everye estate must be eight, The nobillitie in like manner aparte by themselves to make choise of the number of Churchmen, eyther of their elections beinge putt in writt. The Churchmen and nobillitie conveanes together and makes choise of the like number, as well for the Commissioners of shires and Broughes: Soe that of old the number thus usually made choise of beinge onlie xxiiijer by the accession of the Commissioners of Shires they make xxxijtie. They havinge condiscended upon the eleccion, retourne back to the parliament howse, and there names that are chosen are openly redd forth. And then the Chancellour appointes the place and hower of their meetinge within a day after, and soe for that day there ys noe more done/.

3. The Officers of State.

Nowe these Lordes of Articles doe conveane at the appoynted tyme where usually, besides the Chancellour whoe is as president of that assemblie, are present certeine of his Majesties Councill whose offices give them Warrant for their presence, such as Thesaurer, Privie seale, Secreatarie, Comptrowler, and some fewe others. Noe others present but the Clerkes/.

4. Sitting of the Lords of the Articles.

None of the Churchmen or nobillitie may be present at their meetinge but such as are of the number elected Before these of the Articles is everie matter debayted that shall happen to be proponed, and beinge refused noe further mention made of yt. If by them it be allowed, then yt is appoynted to be redd in open parliament before the whole estates. But that allowance of the Lordes of Articles of anye thinge workes noe more but that yt is thought convenyent by them to be graunted, which they leave for the consideracion of the whole estates. And there yt is eyther agreed unto, or refused. When as these Lordes of Articles doe sitt, which ordinarilye ys everie day for the space of a weeke or two, the rest of the Estates must staye in Towne and not departe, allwise they have nothinge to doe in these matters/

5. Ratification by Parliament.

Albeyt in open parliament anye thinge be accorded unto, yet the Kinge may staye the same unconcluded. When as all thinges done by the Lordes of Articles are putt in forme, then ordinarilye the Kinges Majestie repaires to the open parliament howse with his whole estates, and theis thinges that were done by the Lordes of Articles are redd and everye one thinge after the readinge debayted upon and putt to the votinge and eyther refused or allowed. When all is redd the Kinges Majestie doth approve the same and ordinarilie maketh some short speech givinge thanks to the estates conveyaned for their conveyinge. And then the Kinges Commandement eyther ys the parliament deserted or then declared to be current. Wherein this ys the difference that beinge deserted yt must have a proclamacion of ffortye dayes preceedinge anye new parliament that can be holden, otherwise beinge declared current uppon xvene dayes they may procede and conveyane of new/

6. The College of Justice : constitution.

The cheife ordinarie Court ys that of The Session or colledge of Justice which was first instituted in the yeare of God 1532 in the dayes of Kinge James the ffifte his majestes Grandfather to the example of the Courte of Parliament of Paris. The first institution appointeth one President and ffowerteene Senatours, seaven Churchmen and seaven Laye men in the whole number beinge xvteene. There are now adioyned unto them The Chancellour whoe ys the Cheifest of the whole assemblie, and five extraordinarye betwixt whome and the other Senatours there is noe difference except that in anye matter that ys to be debayted before them, there is required the presence of nyne at least of these ordinarie Senatours, and albeyt there be eight of them and all the five extraordinarye present yet they supplie not the absence of the nynth. Neverthelesse otherwise their voice is to the concludinge of any matter ys of as greate force as the voice of anie other in the howse/

7. Competence of the Court.

There is nothinge that may fall forth in suyte betwixte partie and partie (not beinge in the quallitie of Ryottes and oppressions the takinge order wherewith belongeth to the Secrett Counsell : neyther beinge of anie cryminall nature, whereunto the Justice is competent Judge) but they of the Session are Judges Competent

thereto, eyther anent recovery of Landes benefices or ether possessions, or payment of tyethes or sommes of monie. From which Judicatorie there is no appellacion, albeyt in in some matters of greate ymportance and difficultie (for which there was noe president for a warrant for them to proceede into), they have bene accustomed (but verie seldome) to remitt these matters to be iudged upon by parliament, that by statute of parliament they may have a warrant for their decision in such like cases thereafter. They mell not, neyther doth their Jurisdiction stretch soe farr, as to discide in matters Cryminall, albeyt the reduccion and retractacion of sentences given before the Justice hath bene deduced before them. And in that respect they are the more absolute and supream Judicatorie then the other, not in the first instance, for there they have a litle authoritie and there may be noe appellacion from the one to the other ; but, as is afore-said, the reduccion of that which hath bene done by the Justice hath bene prosecuted before the Lordes of the Session as Judges Competent/.

8. Sessions of the Court.

They have two tearmes or severall tymes of sittinge in the yeare, to witt from the first of November to the xvth day of March, and from the xvth day of March to the first of August. The two interiected spaces are vacation tymes for ease of the subiectes, the one beinge the tyme of Harvest the other the tyme of sowinge. Duringe all the tyme appoynted for the sittinge they sitt weekely and daylie except upon the sondayes and mondayes which last ys given to them weekelie for a day of recreacion, but there is noe respect at all had, neyther is there anye intermission of sittinge upon whatsoever ffestivall hollidaies, yf they happen not to be on the Sondayes or mondayes/

9. The House of the Court.

The howse wherein they sitt ys a greate large howse to receave aswell the Atturnyes as the Clyantes. Within the same there is a prettie large roome fower square, and within this Roome doe the Judges sitt, everye one close by an other upon the backe side of a longe table standinge before them and all lookinge directlie to the entrie of the dore. In the midst of the backside of the table sitt the Chancelour and President, and the rest of the Judges sitt the one halfe on the one hand and the other halfe on thother ; and on thother side of the table right

against the Chancellour and President, sitt the Clerkes. And through the verie midst of the howse, a little removed from the table, there is a barr from the one end of the howse to the other without which the Advocates and Attorneys with their clyantes at their backes at the tyme of the pleadinge doe stand/

10. Clearing the Court for debate.

When any matter ys debated and reasoned of at length in the Judges audience, and that the same be of greater difficultie then which the Chancelour or President will presentelie of themselves decide, then by one of them the Atturnies and clyentes are commanded to remouv themselves ofout of that Roome; and none stave within but the Judges and the Clerkes where the matter debayted before them by the Atturnies is reasoned of amongst themselves, and the Chancellour, or in his absence the President, doth inquier of everie one his opinion in order and accordingly as most voyces shall agree (by the usher of the howse the parties beinge called in againe) sentence or Judgement is pronounced/.

11. Inner and Outer House.

Nowe usuallie noe matter cometh to be debated before the publick assemblie of the whole number except matters of greate importance and difficultie. For in the other greate roome where the Atturnies and Clyentes doe stand, there is a Judgment seatt and one or two of the Seanatours sittinge there, for discidinge and discussinge matters that are not of greate moment. Which howse is called the utter howse and the other (where the whole Judges sitt) the inner howse. If the Judge in the utter howse in anye matter that shall happen before him finde anye difficultie, he will take the same to be advised of with the whole number in the inner howse, causinge the Clerke presentlye make a noate of the scruple and doubte for his memories cause; and thereafter goeth forward to the hearinge of other causes. Soe that in one fore-noones sittinge he that sitteth in the utter howse may have some dozen or moe matters of difficultie to be reported in the inner howse/.

12. Referenee from Outer to Inner House.

The whole Senatours usuallie doe meete every day at viijte of the clock in the morninge: noe clyant or Attorney repayres before nyne. In that space betwixt viijte and ixne he whoe did

sitt before in the utter howse in presence of the whole number maketh report of everie difficultie that did occur; first declaringe the quallitie of the plea and action, next the argumentes used pro et contra, and then the verie poynt of difficultie that he did conceave. Which beinge reasoned amonge the whole number there and thereafter putt to votinge, yt is determind accordinge as the most voyces agree; and the reporter havinge finished his taske goeth fourth to the utter howse and there pronounceth to the Attornies and Clyentes the Lordes determinacion in every thinge/.

13. No Common Law : Precedent admitted in practice.

There is noe common lawe in Scotland, but the Judge eyther proceedeth accordinge to warrant of the municypall lawe, which is the statutes of Parliament, and that faylinge they have recourse and doe decide accordinge to the ymperiall civill lawe. Albeyt there be many conclusions as verie Axioms never contraverted uppon, as particulerly in matters of discent and succession of Landes and such other thinges, whereuppon the Judges doe proceede havinge noe particuler warrant for the same but in all former ages havinge bene acknowledged as infallible and allowed customes and consuetudes/.

14. Execution of Decrees : Horning.

The ordinarie execution of our decrees and sentences ys by charginge the partie to obaye the same; which must be done by one of the Kinges officers at Armes. Yf the same be not obeyed within the tyme prefixt then is he denounced Rebell and declared outlawe by an usuall forme after the readinge and publicacion of the lettres and charge at the markett crosse of the head brough of the shire where he dwelleth; because of his disobeydience, the officer at armes doth in signe or token of his outlawinge blowe three severall tymes a little horne. And from thenceforth he is an outlawe ever and untill by obeyinge of the charge he purchase himself Relaxed/.

15. Personnel of the Court.

The ordinarie members of this court of the Session are the Senatours themselves, three princypall Clarkes, fower ushers, the advocattes or attornies soe manie as please the Lordes to admitt, the clerkes to the signett whoe have the writinge of all the libelles

summons and Charges, beinge of what number the Secretarie pleaseth whoe hath the guifte of their presentacion/.

16. Filling of vacancies.

When anye of the ordinarie places of the Session are voyde by decease of anye of the Senatours, the Kinges Majestie by one lettre of presentacion giveth unto the rest of the number their choise to elect anye of three whome his Majestie hath cawssed to insert into that presentacion. The Lordes after triall of all their quallificacions make choise of the worthiest and he is preferred/.

17. Privileges of the Court.

That they have many priviledges and ymunities and there are manie other things beside that may be sett downe concerninge that Jurisdiccion; only thus much shortlie for your Lo: present satisfaccion/.

18. Equitable Jurisdiction of the Court.

The Session and colledge of Justice doth not decide strictlie secundum rigorem iuris onlye: but also secundum aequum et bonum and in that representinge the Court of Channcery in this Kingdome. As for particuler instances;—whereas by daylie and usuall practick in an action of spoyle and wrongfull intromission with goodes, where, the fact beinge proved, the quantitie is referred to the parties oath, they use upon speciall consideracions to tax and retrinch the same. As likewise where the double of a bonde is forfeyled; yf they doe finde that there hath bene noe willinge fraude in the partie that was bounde, or that some particuler unlooked for accident had bene the cause of his oversight, then doe they ordinarilie appoynt a termelie and yearelie proffitt accordinge to the proporcion of tenn in the hundreth, for all tearmes and yeares since the daye of payment appoynted by the bond, and in manie other such like cases/.

19. Sheriff-Courts: rarity of appeals.

Wee have inferiour civill Judicatories in everie shire. The Sheriffe and his Deputie are Judges before whome anye partie within that shire may be conveyaned and pursued for removinge from landes, for spoylinge of goodes, for violent eieccion of an other and intrudinge himselfe in possession, and for payment of sommes of monie, or anye other such like matters. There ys

noe appellacion from this Judicatorie to the Session ; but upon the parties complant, and triall taken of the partialitie of the Sheriffe and his Deputies, or otherwise upon Argument of affinitie and consanguinitie betweene the Sheriffe and the plaintiffe, the Defendant will procure lettres of advocacion whereby the Sheriffe and his Deputies are dischargd from proceedinge further in that matter and yt is advocated to the Lordes/.

20. Civil Jurisdiction of Regalities and Burghs.

There are also other civill Judicatories in everye Regallitie by the Baylife of him that hath the Regallitie ; and in every free brough and Cyttie by the magistrates thereof/.

21. Commissary Courts.

Next there is a Judicatorie called the Judicatorie of Commissariat in which kinde that of Edinbrough is most supream ; and all the others in the Countrie are inferiour to yt, and they all inferior to the Session. Before this Judicatorie are usually deduced processe and pleas anent recoverie of Legacies and sommes of monie lefte by Testament and anent double rightes of benifices, anent payment of tythes ; alsoe in matters of divorce betwixt man and wife which is only for two causes Inabillitie and Adultrie/.

22. Competence of Commissary Courts.

Theis Commissaries have the Charge to take probabates and to confirme testaments and latter wills, and to discerne and appointe executours whereas there is none nominated by the defunct. Whereas before the lordes of the Session anye question happeneth to occurr anent double rightes to one benifice or anent the triall of the lawfullnes or unlawfullnes of anye mans byrth, they are accustomed to remitt the tryall of these matters to the Judicatorie of Commissariatt as beinge more ecclesiasticall. In that of Edinbrough the Judges are fower learned Lawyers. In the rest of the partes of the Countrie never but one and that almost in everie Shire/.

23. Criminal Courts : Justiciar and his Deputes.

In matters that are cryminall the cheife iudicatorie is the Kinges cheife Justice, which office hath bene in these last yeares begone in the person of the Earle of Argyle and his ffather (by noe other guyfte but duringe life), whoe did ever repute two or

three Lawyers to sitt in that Judgment seatt. They are properlie Judges to anye thinge that may inferr the losse of life, of any member, or of a mans whole goodes and moveables. Their ordinarie place of sittinge ys ever at Edinbrough. The forme of proceedinge before them ys that the partie accused beinge brought to the barr and beinge pursued eyther by anye plaintife or by the Kinges Attorney or by both together (his accusacion beinge redd) he is inquired what he can saie that yt should not goe to the tryall of a Jurie or assise/.

24. Conduct of Criminal Cases.

Nowe there is denyed to noe man in noe [matter?], yea even in matter of treason, to have his Attorney or Counsellor at lawe to assist and pleade for him at the barr. Whereas he hath eyther said nothings at all wherefore the matter should not be putt to assise or Jurie, or that which he hath said bene repelled by the Judge, then is the Jurie called upon, against whome he hath libertie to propone all lawfull obieccions to declyne them. Allwise there beinge a full number eyther of 13 or is founde out, and they beinge all sworne, the Judge causeth the accusacion to be redd over before them and then the Kinges Attorney and plaintife doe argue the veritie of the accusation and alledge all probabilitities and presumpcions for the truth thereof and addressinge his speach to the Jurie adviseth them to beware of periurie &ctr./ Whereas the Defendant doth stand upon his owne ynnocencie, denyinge the fact whereof he is accused, then his attornies pleades for him yf there be any proofes or witnesses brought in, he hath his lawfull obieccions against them before they were admitted, but beinge admitted there is noe further but their oath taken before the Judge and the Jurie examyneth them aparte. After the debayinge of eyther side the Jurie inclose themselves with a clerke quietly togyether within a private howse and the verdict is accordinge to the voyces of the greater number/.

25. Inferior Criminal Courts: Commission, burghs, sheriffs, feudal tenants.

There are other inferior Judicatories in cryminall matters and these are such as are authorised by Commission from his Majestie and his Councill nominatim to hold Justice upon such and such particuler persons. Likewise there are sondrie Broughes within the Kingdome, and everye Sheriffe within the boundes of his owne shire may in matter of manslaughter havinge (in recente facto)

apprehended the malefactor within xxiiijer howers, putt him to a Jurie, and beinge convicted execute him. But yf that tyme expire he hath noe power to doe yt, but must eyther be bone by the Kinges Justice or by Commission allwayes he must make the man forthcominge. The like priviledge have many noble men and gentlemen by their enfeoffmentes; apprehendinge the theif with the fang (that is to say with any parte of goodes which he hath stolen).

26. Criminal Courts of Regality.

Ffurther there are Lordes of Regallities whoe have priviledge to constitute Justice within their owne boundes in cryminall matters. And these same, some fewe cases excepted, may repledge anye man dwellinge within their Regallities and pursued from the Kinges Justice; they allwayes findinge suertie to doe Justice.

St. Helena in 1817

THE following account of a short visit to St. Helena is extracted from a MS. diary which was purchased at the recent sale of the Ardpatrik Library. It bears the title 'Journal of a Homeward bound voyage in the *General Hewitt* (East Indiaman) from the mouth of the Pei-Ho (or White River) in the Gulf of Petch-e-lee Empire of China to England.' The first entry is dated 11th August, 1816, and the last 22nd March, 1817. It is possible from internal evidence to identify the writer as Admiral Colin Campbell of Ardpatrik, 1787-1851, son of Walter Campbell of Shawfield. Colin Campbell had served as a midshipman at Trafalgar, and at the date of the diary was an officer of some seniority.¹ He appears to have been attached in an unofficial capacity to Lord Amherst's abortive Embassy to China, but he had no command, and sailed on board the East Indiaman *General Hewitt*, commanded by his brother Walter, which carried the Royal gifts to the Emperor. He did not accompany the Embassy to the neighbourhood of Peking. He remained on board ship and sailed down the Chinese coast to Canton, where Lord Amherst and his suite took ship after a long journey by river and land.²

Colin Campbell's account of the sail down the Chinese coast and of the *General Hewitt's* adventures at Canton is lively and interesting. The pages of the diary reveal an attractive character, boyish even for his thirty years, humorous, intelligent and affectionate. He had an eye for a pretty girl and a keen sense of the ludicrous, as displayed by the Mandarins of China and his own countrymen. He had no responsibilities and no occupation, and when at sea passed the time in reading and writing his diary.³

¹ He refers to himself as 'Senior Captain in the Navy.'

² Colin Campbell is not mentioned in Ellis' *Journal of the Proceedings of the late Embassy to China* (second edition, London, 1818) or in Abel's *Narrative of a Journey in the Interior of China*, London, 1818.

³ He read La Perouse's *Voyages on the Coast of Korea*, Krusenstern's *Voyage round the World*, Burrow's *Account of Macartney's Embassy to China*, Thumberg's *Travels*,

Sometimes whist was played of an evening with his brother Walter, the purser and the doctor, 'alias Dominie Sampson as grave as a pump bolt and as dull as ditchwater.'

Walter Campbell does not appear to have been entirely sympathetic to his cadet. Colin was a bachelor, and only received two home letters, while Walter was apparently uxorious and spent days in gloating over packets of letters from his wife. 'I am *determined*,' writes Colin, 'I will get married, even if it be only for the pleasure of receiving letters from my wife when at sea !!' Colin as an officer in his Majesty's Navy betrays some contempt for his brother's speculations in birds' nests and other Chinese delicacies, and complains of the monotony of life on board a merchant ship, though a band played sometimes on the poop on a fine evening. 'There is,' he writes, 'a *pleasing variety* in a man's life in this ship! *Lots of fun* !! It puts me in mind of the story of the midshipman's dinner !! Beef and pork one day, and pork and beef the other! *Woeful soup* ! I wish I was in Inglaterro !'

In the earlier part of the voyage the *General Hewitt* hugged the shore, and frequent landings were made in spite of protests from Mandarins. The visitors were followed by crowds of inquisitive Chinamen, but to Colin Campbell's disappointment the ladies always hobbled off at his approach and were shut up in their houses. On one occasion, when he was out with his gun on the hills, he met a pretty girl riding with an escort. Both of them looked back and their eyes met. He speculated about her for some days. His favourite dog 'Lion' strayed from him on one of his shooting 'cruises,' and departed to begin a new life, if it did not grace some Mandarin's table. Green rice fields, sandy bays, rocky islets and eastern moonlit nights with squadrons of junks slipping past under unfamiliar stars ! Perhaps he recalled them long after at Ardpatrik on the coast of Kintyre, with the scent of the seaweed carried by a south-wester and the winter sun setting behinds the Pap of Jura ! *Forsan et haec olim meminisse juvabit.*

Colin Campbell would not have been true to his type if he had not criticised his brother's merchant seamanship. 'I wish,' he

Sir John Carr's *Tour in Scotland*, *Waverley*, Turnbull's *Voyages in the Pacific*, *The Life of Buonaparte*, *The Misanthropist or a Picture of Society*, Watkins' *Lives of Illustrious Men*, St. Pierre's *The Story of Paul and Virginia*, Ashe's *The Spirit of the Book and Memoirs*, Southby's *Royal Wanderer*, *The Philosophy of Nature* and Sir Charles Grandison.

writes, 'Walter was not so fond of going so *close* to those Shoals and Rocks *in dark nights* ! It answers no one *good* purpose, and is certainly running a considerable *risque* ! This is not the *only* Reef we have *shaved* much too close in *my* opinion ; and I shall not feel at *ease*, until we have *passed Java Head* and are in the *open ocean*.'¹

The whole ship's company, however, found distraction at Java, where they took on board two strange passengers, a sick sea captain and 'a nice looking girl.' The couple had been leading a miserable beach-combing existence, and the man in his eagerness to get a passage displayed cruel indifference to the fate of his companion. Captain and 'Mrs.' Meriton, and particularly the latter, roused endless speculation. Smith, the purser, fell in love with the lady and irritated Colin Campbell with his sighs. When his malady permitted him to appear, Meriton cowed and subservient was made a butt, but the girl, artless and apprehensive and devoted to her unhappy comrade, excited sympathy. In a moment of weakness, Meriton told her story. She was a milliner's apprentice, convicted of a petty larceny and sent as a convict to Botany Bay, from which he had apparently removed her. The simple girl welcomed the betrayal of her story with relief, and was at her ease until the *General Hewitt* approached St. Helena. Her growing apprehensions for her companion and herself were realised, and they were cast adrift there by the virtuous Walter.

On the arrival of the *General Hewitt* at St. Helena on 12th March, 1817, Colin Campbell learned of the death of his father. This was a severe blow, for he regarded his father with the liveliest affection and his diary had been written for his eye. It was with a warm heart purged with generous emotion that he noted the following particulars.

DAVID BAIRD SMITH.

EXTRACTS FROM MANUSCRIPT DIARY

About three o'clock, Sir Thos Reade having lent me a Horse (which by the by was the same that Buonaparte rode for the three first months he was on the Island) and having procured a Pass from the Governor (without which no Person is allowed to enter the Grounds of *Longwood*) I set off in company with Colonel Hodson, Walter, and the Surgeon of the *Hewitt*. We

¹ His apprehensions were justified by the subsequent wreck on a coral reef of the ship which bore Lord Amherst.

took the road to Longwood meaning to see Buonaparte if it was *possible*, and at all events to call on Marshal and Madame Bertrand, who live within a few *yards* of Buonaparte's House and with whom Hodson told us he was on intimate terms.

Longwood which was *formerly* the Country House of the Lieutenant Governor, is about seven miles up the Country from James's Town ; and the Road to it, passes thro as *Barren, Burnt* up, and *miserable* looking a Country as it is possible to conceive. When you come within about a mile of the House, the Road is *much better*, and the Country looks *a little* better. Just about the House and a little in Front of Bertrand's House, there is a considerable space of Flattish Ground, on which is encamped an English Regiment the 53rd, and they are at present making a sort of *Race course* there. It is in fact the *only* level Ground on the Island.

There are two avenues of about half a mile long leading from the high road to the House, and within the Gates of those Avenues No Person is allowed to go without a Pass signed by the Governor. There is an Officers Guard stationed at the principal Gate.

Having shewed our Pass to the Officer on Guard, We were allowed to enter the Gates. We went in by the *Back* of the House, that Buonaparte might not perceive us from the Windows. As he often walks down to Bertrand's House and pays them a visit about five o'clock, we were in hopes we might either *find* him there, or that if he did not *see* us arrive, He might *call* while we were there. We stopped at Bertrand's door and he immediately came out and received us, and introduced us to his Wife. She received us according to the French *custom* in her *Bedroom*, which was very clean & tidy, and handsomely furnished. I do not think her a *pretty* Woman but there is something *very* sweet, and *interesting* in her appearance, and her manners are very pleasing and *perfectly* those of a well bred Lady. She speaks English fluently, with hardly anything of a *foreign* accent, and the Marshal also speaks a *little* English.

Madame Bertrand was a Miss Dillon, Daughter of Count Dillon who was a long time Governor of some of the French West India Islands. He was of *Irish* extraction: Madame Bertrand was born in the Island of Martinique when her Father was Governor of it. We staid nearly two Hours with them. I like her very much and felt quite sorry for her being shut up in that miserable Island for the rest of her life. However, I believe

no objection would be made by the English Government to *her* going to France. But if she does, she will not be allowed to *return* to her Husband again and I understand she has made up her mind to remain at St. Helena for ever.

Hodson told us they appeared in better spirits that day than he had ever seen them. The reason was, that Madame B. had received letters the day before from her Mother and other Relations in France, and these are the *first* she has had.

She laughed & talked a great deal, But I think it was *easy* to perceive, that her gaiety was in a great degree forced, and that she is unhappy. Her countenance struck me some times as having *much Melancholy*, and some thing particularly sweet and interesting in it. They have four very fine Children. Three Boys and a Girl. Two of the Boys and the Girl are from the Years of Nine to six I should *think* and the Youngest who was born at St. Helena is an Infant of only a few months. Their Names ar Napoleon, Hortense, Henri, and Arthur. All *very fine* Children, and *apparently* very well brought up. Their poor Father seems *extremely* fond of them, and pressed them to his Bosom, and kissed them at least *twenty* times during the time we remained there. He seems a Plain Good humoured man about 40, I should think. There is nothing *striking* in his appearance either one way or other. He was Dressed in Plain Cloaths with Military *long* Boots, and a Cocked Hat; But had not I think, much the *appearance* of a *Military* Man. He stoops very much, has high shoulders, and keeps his knees *bent* when he stands up. They gave us Sweet wine, & Claret, and some Cake made they said by the *Emperor's* Cook. All the French People of course still *call* him *Emperor*, but the English only General, at which I am told, he is *extremely indignant*. Sir George and Lady Bingham called on the Bertrands while we were there. Sir George is a General, and Second *in command* on the Island. Boney and he came out in the same ship together (the Northumberland) and are on *pretty good* terms. But Sir Hudson Lowe he *detests*, and cannot bear the sight of.

The Bingham's are lately married, and she is quite young, seems very good tempered, and is I think *rather* pretty.

We asked Bertrand whether it was possible to be *introduced* to Buonaparte. He said he was sorry it was not. That he had made a *positive* resolution to see No Person, and more especially *Strangers*, and that he feared we had not even a chance of seeing him out of doors walking in his Grounds, as he had not been out

for many weeks, and had not been on *Horseback* or in the *Carriage* for many months !! He said he feared his Health must very soon *materially* suffer from such a change in his way of life. Indeed that it had *already* suffered, and that he was by no means in so good health as he used to be formerly.

About five o'clock, We took leave of the Bertrands. Altho with little or indeed *no hopes* of seeing Buonaparte, yet we determined to ride *round* the House, and Grounds, and thought we *might* catch a *Glimpse* of him at one of the windows.

But to our great surprise & satisfaction upon turning a Corner of the plantation of Gum Wood Trees at the Back of the House, We *saw* him, The *Great Napoleon* himself !! General & Madame Monthelone and General Gourgod all walking together.

They were walking extremely slow, so that we had time to see them *perfectly*, and they stood still occasionally for some minutes, apparently in *earnest* conversation. We did not chuse to annoy him by riding quite *close* up to him, which we could easily have done. But contented ourselves by keeping within twenty or thirty yards of the party where we could distinctly see their Figures, Dress, &c. and in a great degree their *Features*. Monthelone and Gogo Gourgod were uncovered. Napoleon had on a Plain Cocked Hat with a Small Tri-Coloured Cockade in it. He had on also a Green Frock Coat, with a *Black* Collar and Cuffs, a White Waistcoat & Small Cloaths White Stockings, Shoes & *large* Gold Buckles.

He was walking with his Hands behind his back, and appeared to me to stoop very much. He looked extremely Fat and *Squat*, quite Pot bellied, and Round shouldered, and by no means so well built and good-looking a Man as I had always fancied him, and as the Prints one sees of him make him appear to be.

But every body says he is very much altered in his looks within these few years and that even since he came to St. Helena he is become much Fatter & Grosser in his person. We stood looking at him for some time concealed by some Gum wood Trees. He at last *I believe* saw us, for he looked towards the spot where we were, and then turned, and walked into his House.

Walter and I felt much gratified in having had even *this* sort of view of him. We were particularly *fortunate*, for many others have gone up and wandered round the House the whole day in hopes of seeing him *without success*, and many Officers who have been for many months *resident* on the Island, have not *yet* been able to see him. As to being introduced to him, that is *now*

out of the question as he will see Nobody, but the Governor and the Admiral, and them he is obliged to see. The latter (Sir Pultney Malcolm) he is very good Friends with, as the Admiral never interferes with him, and makes a *point* of talking to him *only* on Common Place Topics and laughs & jokes with him. Lady Malcolm has called on him several times, & been out airing with him in his Carriage. Had we remained a few days longer at St. Helena, I think through the means of the *Admiral* I should have been able to obtain an Interview, and have been introduced. But I cannot say I regret it *much*, and am very well satisfied with what I *did* see of him, & his Party.

After he retired into the house, we rode round the House & Grounds. The House appears to be very Spacious & comfortable, and the Grounds rather pretty, at least for such a *miserable* place as St. Helena.

There are a good many Trees round the House, and a considerable space of flat Ground. Within a quarter of a mile there is a Regiment encamped in Huts & Tents, which he must *see* from his Windows, and the Race Course they are now making at Dead Wood will also be *seen* from his House.

During the day, there are no Centinels within less than a quarter of a mile of the House, But at Sunset, they are drawn in *close* round the walls, and not a Soul is allowed to *move* after that.

I am told this annoys him *very much* and the moment it is Sunset He makes his Servants shut all the *Blinds*, and Curtains that he may not *see* the Soldiers.

Sir Hudson Lowe has not visited him for some months. The last time he was there He told Napoleon of some new Regulations and Orders that the British Government had *lately* sent out. These Regulations Nap. did not *at all admire*, and he flew into a *violent* Rage, and *abused* the English Government, and also Sir Hudson in the *Grossest* manner. Sir Thos. Reade (who was present) told me that he never *heard* more abusive language, and that he defied any Fish Woman in *Billings Gate* to beat it. Sir H. made him a low Bow, Said that he could hold no further Converse with a Man who treated him in that way, That he *pitied his ignorance*, Mounted his horse and left him. Since that, they have never met. When any Official Orders come out from England that the Governor thinks it proper he should know, He sends Sir Thos. Reade up to Long Wood, and he *reads* them to him.

He was up about five weeks ago with some Paper. Buonaparte did not relish the contents at all. He sat down opposite Sir Thos, *Bit his Lips*, Took *quantities* of Snuff, but did not utter a word.

Sir Thomas says he looked extremely *savage* and he was glad when he got out of the House, and was *fairly* on his horse again !!

We returned to James's Town about seven, and dined *quietly* at Solomon's Boarding House, where we had taken Rooms for the few days that Walter meant to remain. We were very much pressed to dine at Plantation House, the Country Seat of the Governor. Sir Hudson & Lady Lowe were most kind. Having heard of the melancholy News we had received, They desired Sir Thos. Reade to say that if we would come up and dine at Plantation House, they would invite Nobody else, that they would give us Beds, and that we should be as quiet as we pleased ! I begged to decline *dining* there, as when one's Spirits are low Dining with *perfect Strangers* is very unpleasant to *both* Parties, But as both Walter and I thought it would be improper to leave the Island without paying our Respects and thanking them for their kind attention, We agreed to go up and breakfast there, the following morning.

Sir Thomas Reade came into Solomon's in the evening and stay'd a couple of hours with us. He is a very good humoured pleasant Man, and told us many curious anecdotes of Buonaparte. On Saturday morning the 15th, We set off about Eight o'clock for Plantation House which is a little more than three miles from James's Town.

The Road winds up the side of a very Steep Mountain called Ladder Hill. For the Two first miles It resembles the one leading to Longwood, Barren and over a miserable looking Country. But when you get within a mile of the House, it is really very pretty. The Valleys Look Green & fertile, and the View *altogether* is Romantic and pretty. Plantation House is a sweet pretty place surrounded with Trees of all kinds, & Natives of all countries. The Grounds are laid out with much taste and it looks exactly like a Handsome Country Seat in England. I had no idea there was anything *half* so pretty on the Island, or that there were half so many Trees and so fine a Verdure !! Sir Thos. Reade accompanied us to Breakfast there. We were rather early, as Sir H. and Lady Lowe did not come down for some time. Sir Hudson appears reserved in his manners and

I think has rather a *Sulky* countenance. I believe however that he is not really so, and he was very civil and attentive to us. Lady Lowe I think a *Delightful* Woman. She is I think pretty, very *fashionable* looking and with manners extremely pleasing. She talks away at a great rate, and quite makes up for the taciturnity of her Husband. She is so Frank and open in her manner, that we were soon at our ease, and felt quite at home with her. Soon after Breakfast, Sir Hudson retired to his own Room having some business to attend to, and we sat in the Drawing room with her Ladyship for a long time. I have seldom met with a Woman who has more pleasing unaffected manners, or who makes herself more agreeable than she does. I felt quite sorry to leave her. We walked all over the Grounds afterwards which are very pretty; and Lady L. has I am told done much towards improving it since she came there. They have also a House in James's Town, But seldom or ever *live* there.

About One o'clock we took leave of Sir Hudson and Lady Lowe, Mounted our Horses and took a long ride towards the West and South west side of the Island where I had never been before. This part of the Country is pretty and Romantic enough and there are some neat little Cottages belonging to some of the Gentlemen of the Isld. situated in the neighbourhood of Sandy Bay, which is on this side. On our way Back to James's Town, We called at Mr. Bakomb's House which is called the Briars. It is a very pretty little spot, and is where Bonaparte took up his abode for some months when he came out first, and while the House at Longwood was preparing for him. We found Mr. & Mrs. B. at home and also the Two Young Ladies, Jane and Betsey. I was anxious to see the latter as so much has been said about her and Boneyte. in the English News-papers. She is certainly a pretty Girl, about Sixteen and is very lively and good tempered. But as to his paying her particular attention, I am told it is all nonsense. As she talks French *tolerably* well, and is lively and good humoured, He used to converse and joke a good deal with her while he lived in her Father's House, and that was all. The Mother appears to me to be Vulgar, Low bred Woman; at the same time affecting the airs of a *Fine Lady*, and Jane the Eldest looks Sulky and is not near so well looked as Betsey. She is I am told a compleat Romp, and says she fears Nobody in the World, but her Father and a *large* Dog, that is in the Garden.

She paid Boney a visit lately at Longwood. She had been unwell, and told him she had been near going into the other World ! He asked her where she expected to have gone, had she gone there. She answered, To Heaven of course. Boney laughed and said No, No, You are too Noisy. God would never admit you there. You would disturb too much his Kingdom !!¹

¹For particulars of the persons mentioned by Campbell *vide* Lord Rosebery's *Napoleon : The Last Phase*.

Roman Advance in Britain and the City of Perth

CAESAR'S campaign in Britain (B.C. 55) led to no occupation of any part of the Island. For nearly a hundred years more the Britons were left unmolested by Rome. But they could neither rule themselves nor defend themselves. Domestic dissensions again invited foreign intervention, and their hour was come. Caligula talked of conquering Britain, but Claudius, ambitious of military honours, embraced the scheme in earnest.

The organisation of the expedition was committed to a tried soldier, Aulus Plautius; among his subordinates was a man for whom fate had great things in store, Titus Flavius Vespasianus. The legions selected for the enterprise were the 2nd Augusta; the 9th Hispana; the 14th Gemina; and the 20th Valeria Victrix. With the auxiliaries Mommsen takes the army at 40,000 men. Hübner would raise the total to the immense sum of 60,000 fighting men.¹

A.D. 43. From Gesoariacum (Boulogne) as their base, the troops were transported to Kent. As leader of the native resistance we hear most of Caratocos, better known as Caractacus. Step by step, the Britons were driven to the line of the Thames. Plautius, judging that the time had come for Imperial intervention, sent word to Claudius, who joined the forces in camp at London. A general advance was then made to Camulodunon, by Colchester, the stockades were carried by storm, and the Catuvelauni and Trinobantes surrendered their independence. But Caractacos, scorning to submit, retired to keep up the hopeless struggle in the west.

After sixteen days in Britain Claudius returned to Rome 'to enjoy a triumph and the surname of Britannicus.'²

For four years under Plautius and Vespasian the conquest was vigorously pushed, Plautius holding office as *Legatus Augusti pro-pretore*, being thus distinguished from the ordinary Legatus,

¹ *Foundations of England*, i. 51; and authorities there cited.

² See *Foundations of England*, i. 51, 53.

the commander of a legion.¹ The bulk of the fighting would doubtless be done by Vespasian. The existing Roman roads, with which the southern parts of the Island are intersected, reveal the lines of their advance. Thus we have Stone Street from London to Dorchester; the Port Way to Sarbiodunum (Old Sarum); the Watling Street striking north-westwards; and the great Ermine Street due north. In A.D. 47 Aulus Plautius was recalled. The subjugation of the Isle of Wight (*Vectis*), credited to him, implies that Winchester (*Venta Belgarum*), and in fact the whole South Coast, had been reduced. A pig of Roman lead found in the Mendip Hills, with the date for the year 49, warrants the belief that by that time the conquest had been pushed to the banks of the Bristol Channel, probably to the line of the Exe. The Romans were always ready to make terms with native princes willing to accept positions of friendly dependence. Such a treaty was entered into, among others, with the *Iceni* or *Icii* who held the later East Anglia.

Plautius was succeeded by Publius Ostorius Scapula, but he did not make his appearance till the year 50; and, the Province having been left without a head for three years, affairs had fallen into confusion. The independent natives were making war freely on the friendly allies and endeavouring to arrange for concerted action. Scapula showed extraordinary vigour, crushing all resistance, and further proceeding to fortify a frontier by establishing a chain of outposts from Antona (Nen), presumably along the line of the Warwickshire Avon, down to the Severn.² Next he proceeded to disarm the natives within those limits. But the *Iceni* refused to be disarmed. They claimed to have made terms as friendly allies, and their resources were unimpaired. Under their leadership a considerable confederacy was enlisted, and mustered on one of the usual strongholds, a hill fortified with earthworks. Scapula's force, we are told, consisted mainly if not wholly of auxiliaries, the legions presumably being quartered in defensive border outposts. But the Roman on-rush could not be stayed. Again the earthworks were stormed and the natives routed with heavy loss. Borough

¹ For two hundred years on the inscriptions *Leg. Aug. P.R.* remained the official designation of the Governor.

² Mr. H. Bradley (*Academy*, 28th April and 19th May, 1883, and again 2nd April, 1892) would take the line of the Trent, but this would not present a definite boundary, and it lacks the earthworks traceable along the other line. See *Foundations*, i. 54, 62.

Hill, near Daventry, has been suggested as the place; a well-marked Celtic fort can be traced there.¹

The Southern Midlands having been awed into 'sullen submission,' Scapula, pushing on, turned north-westwards, leading his men into the new territory of the Cangi. Pigs of Roman lead found with the mark De Ceangi connect the name with our Staffordshire and Cheshire. Of course, this line of advance would coincide with the celebrated Watling Street, carried on to Uriconium (Wroxeter). According to Tacitus the advance was pushed almost to the Irish Sea, say to the Dee.

As the next recorded move brought the Romans within the limits of our Yorkshire, we may further conjecture that Deva (Chester), as a Roman station, may date from this period. It became the quarters of the 20th legion. From the borders of Wales, or the later Welsh March, the Legate was recalled by reports of movements among the Brigantes, the most powerful of British nations, who, apparently, ruled all the country from the Mersey to the Cheviots; in fact, the later Bernicia is a name clearly connected with Brigantes.

But the Brigantes were not prepared for serious resistance, and were easily brought to terms. Having settled matters in the North, Scapula could now turn his attention to the Welsh March, the constant preoccupation, centuries later, of the Anglo-Norman Kings.

Scapula's hands had been strengthened by the establishment of a *colonia* of veterans—the first in Britain—at Colchester, near the native Camulodunon (*Colonia Victrix*). Thus the legion previously quartered there, presumably the 14th, would be available for service elsewhere. Advancing probably from Glevum (Gloucester), the legate attacked the Silures, the swarthy curly-haired men of Gwent and Glamorgan; and succeeded in establishing outposts, the details whereof are only given to us in connexion with accounts of their subsequent loss.

Having, however, to some extent curbed the men of South Wales, Scapula, turning northwards, moved into the country of the Ordovices (Middle and North Wales), where Caratocos still found men to follow him. Driven to bay, he took his position on a hill fortified with ramparts of earth and stone, and protected by a river. The legate hesitated, we are told, but the men refused to be kept back. A ford having been found, the defences were stormed. Step by step the Britons retired along the hill

¹ *Foundations*, i. 54.

tops, the Romans pressing them on all sides. The rout was complete.¹ The wife and daughter of Caratocos were taken. He himself escaped to the Brigantes, to be ultimately given up by their queen, Cartismandua (A.D. 51). Nine years of resistance had made his name great even at Rome. His manly bearing justified his reputation, and he was allowed to live in honourable custody with his wife and family. 'They were enrolled perhaps among the clients of the Claudian house; and indulgence may be claimed for the pleasing conjecture that Claudia the foreigner, Claudia the offspring of the painted Britons, whose charms are celebrated by Martial, was actually the child of the hero Caratocos.'²

Meanwhile the Silures rising behind the legate's back had overpowered his outposts. On one occasion a camp prefect and eight centurions were killed; on another two auxiliary cohorts were cut off. Worn out by the interminable struggle Ostorius died (A.D. 51 or 52).

A successor was promptly sent out in the person of Aulus Didius Gallus, an elderly man. No advance was made during the six years of his tenure of office, his attentions being divided between the stubborn Silures and the Brigantes. The latter, however, were divided; their Queen, Cartismandua, holding to the Roman Alliance, while Venutios, a distinguished warrior, whom she had taken as her husband, favoured a more independent policy; and the Romans had to do some fighting to keep her on her throne.

About the year 58 Gallus was succeeded by Veranius, who passed away during the twelvemonth.

In 59 the command was entrusted to Suetonius Paulinus, a general of the highest repute. Again, for two years, we are told that he was content to consolidate his province.

But the Roman government was very oppressive. Conscription, taxation and requisitions pressed hard upon men little used to government of any sort. Tyranny had been organised till it had become intolerable.³ Unconscious, however, of the ferment that was brewing behind him in the East, Suetonius in

¹ For the various places suggested, see Merivale, *Romans*, vi. 37. The most likely, perhaps, is Cefn Carnedd, west of the Severn, near Llanidloes, Hartshorne, *Salop. Antiq.* 63.

² Merivale, *Romans*, vi. 41; Martial, *Epig.*, v. 48, vi. 58.

³ See *Agricola*, xxx. xxxii., Church and Brodrick; *Foundations*, i. 58, and authors there cited.

the year 61 undertook the reduction of Mona (Anglesey), the stronghold of Druidism and Celtic nationality. For the crossing of the Menai Straits flat-bottomed barges were prepared for the infantry; for the cavalry, at low tide the waters opposite Beaumaris would offer little difficulty. A weird resistance was offered by the natives. Dishevelled women robed in black ran up and down the ranks with flaming torches, while the Druids filled the air with curses and incantations. For a moment the legionaries were over-awed, then charging home they scattered the natives. The Druids were sacrificed on their own altars, the sacred groves cut down, and Druidism trampled underfoot.

From Mona Suetonius was recalled by alarming tidings from headquarters. For some ten years the Iceni had been ruled under Roman protection by one Prasutagos. At his death, for attempting to assert arrangements made by him in favour of his daughters and his wife Boudicca, she was brutally scourged and her daughters outraged. With a Celtic outburst the Iceni once more flew to arms; the neighbouring Trinovantes joined them; Camulodunon, as yet insufficiently fortified, was stormed, and Boudicca, scattering the insufficient local garrisons, boldly marched to meet the 9th legion, the only one within reach, and fairly overwhelmed them in the fury of her rush.

On receiving the alarm Suetonius at once started for London with the 14th legion and Vexillarii—re-enlisted veterans of the 20th legion. Satisfied of the importance of checking the movement, he left London to its fate, and advanced to face the natives, taking up a strong position with a narrow front, backed by a wood. His men were kept on the defensive till the first wild rush, the dangerous point of a Celtic attack, was over; then the Romans formed a wedge, charged home, and all was over.¹ The escape of the vanquished was much impeded by their own waggons, and the presence of their wives and children. No mercy was shown to age or sex. Boudicca took poison and destroyed herself.

☛ The Britons were crushed, but Suetonius showed no disposition to be merciful. The mischievous consequences of his severity being reported to Rome, led to his recall in 62.

☛ Under a series of humane rulers the land began to recover from its wounds. The struggles of the years 68 and 69, following on the death of Nero, led to no disturbances in Britain, the several supporters of Galba, Otho and Vitellius leaving the

¹ Merivale, 57.

Island to fall in with their friends abroad. Thus for eight years, since the reduction of Mona, the Roman advance seemed to have been marking time. But their establishment at Lindum (Lincoln), with the prolongation of the Ermine Street to that point within this period, may be accepted as a fact, marking a third period in their advance, and bringing them to the line of the Trent. The existing Cathedral at Lincoln stands within the limits of the Roman camp.

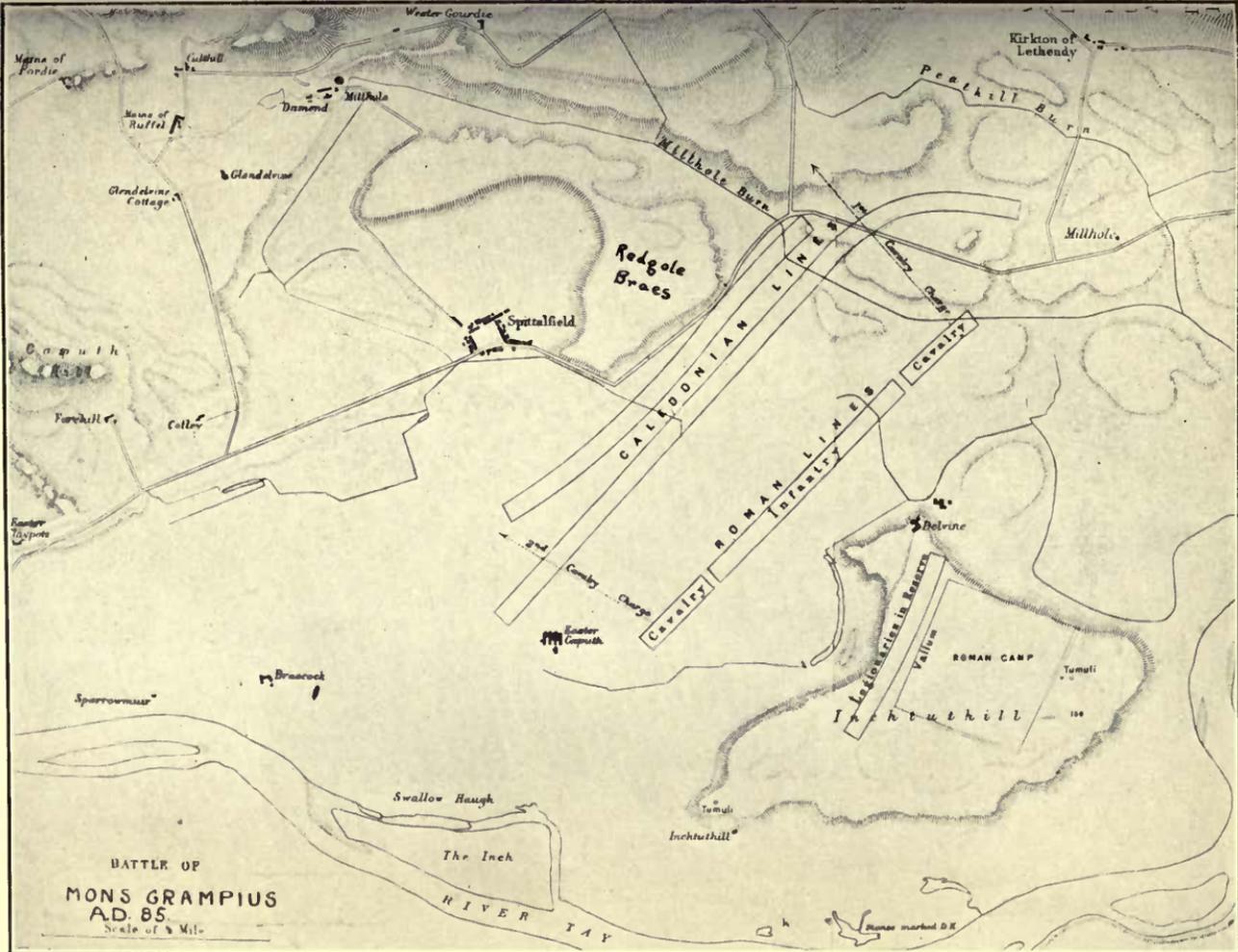
With the accession of Vespasian a fresh period of advance was inaugurated. In 70 Petilius Cerealis, a thorough-going supporter of the Flavian House, was appointed governor, and lost no time in declaring war on the Brigantes. In the course of three years, and after much fighting, great parts of their territory were wrested from them. To this period we may attribute the laying down of the two military roads, the one running from Lindum, the headquarters of the 9th¹ legion, through Danum (Doncaster) to Legeolium (Castleford), and the other leading from Deva (Chester), the headquarters of the 20th legion, to Mancunium (Manchester) and Castleford; the two roads uniting at Castleford for an advance on York. Thirteen miles further on we come to Tadcaster, a name that speaks for itself; and beyond that again at Street Houses, within six miles of the doomed capital of the Brigantes, we have a formidable entrenched camp of 50 acres.

In the year 75 Sextus Julius Frontinus assumed the command in Britain. By him the spirited Silures were at last subdued. But to retain the hold gained on them he had to keep the 2nd legion at Isca (Caerleon-upon-Usk).

In the year 78 Britain again changed hands, the command being assigned to Cnæus Julius Agricola.² He was no stranger to the Island, having served his novitiate in arms there under Suetonius. Losing no time in the autumn of his appearance, without indulging in the receptions and festivities usually consequent on the instalment of a new governor, the Pro Pretor attacked the Ordovices of North Wales, who had become not only independent but aggressive. Their land was wasted with fire and sword, and Mona (Anglesey) once more reduced to complete subjection.

¹ An inscription by a *veteranus* of the 14th legion found at Lincoln suggests that the legion had been at Lindum before it left Britain in 70. Hübner, *C.I.L.*, vii. 187; *Foundations*.

² *Agricola*, xviii., ed. Church and Brodribb.



BATTLE OF
MONS GRAUPIUS
 A.D. 85
 Scale of 1/2 Mil.

28

With the summer of 79 Agricola was again in the field, proceeding, presumably, with the reduction of the Brigantes, or the northern part of modern England. Harassed by perpetual inroads, and over-awed by military outposts carefully chosen, we are told that whole districts (*civitates*) gave hostages and submitted. We are further told that the frontier was fortified as it had never been before. Among the outposts established may have been Coccium (Ribchester on the Ribble); Longovicium (Lancaster); Luguvallium (Carlisle). About this time also, the headquarters of the 9th legion must have been removed to York, its place at Lincoln being taken by the 2nd Adjutrix, a legion sent over to reinforce Agricola. The establishment of these outposts implied the formation of roads connecting them. From York a great northern road must have been pushed on through Isurium (Oldborough) to Cataractonum (Catterick-on-Swale). At that point the highway forked, one branch continuing northwards by Vinonia (Binchester), Corstorpitum (Corbridge) and Bremenium (Riechester) to Ad Fines (Chew Green) on the Cheviots. The other branch turned north-westwards, past Greta Bridge, supported by a chain of outposts leading to Luguvallium (Carlisle). The laying down of these extensions, with their concomitant parts, may fairly be ascribed to this summer.

In fact, we are told as much by Tacitus, our sole informant, as he says that in the following summer, namely that of the year 80, Agricola broke into fresh ground—*novas aperuit gentes*—obviously lands lying beyond the Cheviots. His meagre notes of the progress made in this year and the next (81), taken together, amount to this, that in the first year they reached the mouth of a river called the Tanaus (*æstuario nomen est*), which we shall identify with the North Tyne; and that by the second year they found themselves confronted by two estuaries, Clota and Bodotria, that running towards one another from seas far apart almost cut off the rest of the Island. Here, of course, we have the Forth and Clyde described in words that cannot be mistaken. We are further told that in fact the second summer was chiefly devoted to fortifying this line to secure the territory already over-run.¹ Tacitus explains that the frontier was established by the systematic building of forts and outposts at short intervals apart, the garrisons being kept on foot, and victualled through the winter. No serious resistance was

¹ *Agricola*, xxii. and xxiii.

encountered, but the troops suffered from the weather. The account further distinctly implies that the advance was pushed simultaneously along two independent lines.

For further details we must turn to archaeological research. Fortunately, in situation and plan, Roman forts and camps are so uniform, so different from the works of all other hands, as to render their identification by practised eyes a matter of ease.

For the march of the Eastern army to the Tanaus, or North Tyne, we may take it that advancing from Ad Fines (Chew Green) it followed the track known on the Border as the 'Roman Road,' and marked on the Ordnance Map (wrongly) as Watling Street.¹ In mediæval charters it appears as the 'Dere Street' (Deorestrata). Crossing the Cheviots at Street House, it descends to the Kail Water, which it crosses below Towford School, and a little further on passes a large camp, doubtless Roman. Gradually ascending it crosses Pennymuir, and leaving Cunzierton to the west, or the left hand, runs from Shibden Hill in a straight line to the Oxnam, which it crosses near the fort at Coppock. To the north of the Oxnam the road, now out of use, is lost in the grounds of Moun-teviot. It reappears a little to the north-west of Ancrum House, continuing the line held from Shibden to Jedfoot. Further on, it merges in the road from Jedburgh to St. Boswells, and there, at last, we find ourselves on *terra firma* at Newstead at the foot of the Eildon Hills, the Trimontium of Ptolemy,² with a camp of fifty acres that must mark the line of Agricola's advance³ and also a minor camp or fort of somewhat later date, and intended for permanent occupation.⁴ Crossing the Tweed and ascending Lauderdale, at Channel Kirk, some five miles beyond Lauder, the outlines of another camp of fifty acres were still traceable a century and a half ago. From Channel Kirk the later road continued by Fala and Path Head, from whence a natural descent would bring the army to the North Tyne, clearly our Tanaus. We may fairly assume a parallel advance to Inveresk, an undoubted Roman station.

To trace the advance of the Western army from Luguvallium (Carlisle) towards the Clyde, *prima facie*, Annandale and Clydes-

¹ The Watling Street proper did not go beyond Uriconium (Wroxeter).

² See F. G. Macdonald, *Proceedings Antiquaries of Scotland*, 1894-1895, p. 317; Curle, *A Roman Frontier Post*.

³ Roy, *Military Antiquities*, p. 61 and plate vi.

⁴ See Curle, *sup.* 22, etc.

dale would offer a natural line of advance, as found at the present day for road and rail. But Roman strategy avoided roads exposed to flank attacks, preferring elevated lines of communication. Crossing the Esk at Netherby we find an unmistakable starting-point in the well-known *Castra Exploratorum*, and at Birrens, fifteen miles on, we have the equally famous *Blatum Bulgium*, afterwards the frontier outpost of the Roman Empire. Further stages of seven miles and twelve miles respectively bring us to large camps of fifty acres each at Torwood Moor, near Lockerby, and at Tassies Holm, approaching Moffat. At Thankerton a road branches off towards Lanark, with a 'Chester hill' two miles on. To the south of Carstairs we have a small camp at Castledykes, and three miles to the west of that, a large one on the Mouse river, between Cleghorn and Stobbielee.¹ From Castledykes Roman roads struck westwards to Glasgow and Paisley, and northwards to Castle Cary and, doubtless, eastwards to Cramond and Inveresk.

Returning to the celebrated chain of forts established at the close of the campaign, later they were connected by a continuous earthen rampart, that ran from West Kilpatrick on the Clyde to Borrowstone Ness on the Forth. General Roy has preserved plans of the ten western forts, being half the original number, namely Duntocher, Castle Hill, East Kilpatrick, Bemulie, Kirkintilloch, Auchendavy, Bar Hill, Westerwood, Castle Cary and Rough Castle. They occupy excellent sites at intervals of from one and a half to five miles.²

As there seem to be no camps to be found in Lothian, we may suggest that the Eastern army pushed on at once, past the later Eadwine's Burgh, to Cramond and Bridgeness, to the point where the line of forts was made to begin.

For the operations of the fifth summer (A.D. 82), we are told that Agricola, now first 'taking ship' (*nave prima*), attacked the westernmost districts, facing Ireland. Camps found at Kirkcudbright suggest that he sailed down the Solway. But he did not confine himself to naval operations, as we hear of extensive subjugation of tribes, not without much fighting (*gentes crebris simul ac prosperis praeliis domuit*). If indeed he fought his way through Galloway into the districts of Carrick or Ayrshire, he

¹ See *Foundations of England*, i. 67, 68, citing Roy's *Military Antiquities*; Stuart, *Caledonia Romana* and the Ordnance Map.

² See Roy and Stuart, *sup.* On existing evidence Haverfield accepts Bar, Rough Castle, Camelon and Castle Cary. Lecture, Edinburgh, 13th May, 1918.

would find plenty of resistance from the men known in later ages as the ferocious Attecotti.

By the end of the year 82, the Pro Praetor had fairly executed his plan of extension. He had pushed the limits of the Roman Empire to the scientific frontier of the Forth and Clyde. But like other conquerors, he found it difficult to stop. His exploration of the West Coast must have apprised him of the fact that behind his chain of forts there lurked numerous tribes yet unsubdued; while reports of formidable combinations, and impending attacks from the north, kept pouring in. Agricola therefore resolved to push a further series of inroads to crush the enemy.¹

Answering questions in Parliament without information has been pronounced hard work. But writing military history without facts must also be recognised as very arduous. For the years 81 and 82 Tacitus was content to give us a summary account of what was achieved in the period. Again, for the years 83 and 84, that 'worst of military historians',² has the barest sketch to offer; and might be said to take us, at a stride, from the banks of the Forth in 83 to the speech-making in view of the great battle of Mons Grampius or Granpius³ in 85. These are almost the only chronological data supplied; nor is there any indication given as to how the army got to the Mons Grampius—an inland site—except that the naval arm was brought in, and made to play a much greater part than before. Thus we hear of the exploration of harbours,⁴ and that the two forces could act so well together that at times one common camp could serve for soldiers and sailors together. Stress is also laid on the terrifying influence exercised on the natives by the disclosure of 'the secrets of their seas.'⁵ All this clearly points to a circumnavigation of Fife, with its numerous harbours and landing-places, ending in an advance up the estuary of the Tay to the site occupied by the present city of Perth, the highest point reached by the tide. That this must have been Agricola's objective cannot be doubted. The fleet was bound to be sent there, probably in advance of the army. But we cannot suppose that the whole army was taken there by water; Agricola, in his speech to his army, dwells on

¹ *Agricola*, c. xxv.

² Mommsen.

³ For the name see below.

⁴ *Portus classe exploravit; Agricola*, xxv.; *Premissa classe*, xxix.

⁵ *Aperto maris sui secreto. Id.*

the hardships encountered in pushing roads over hills and through woods and swamps, making less mention of actual fighting.

An advance through Fife has been suggested.¹ No doubt a strong *castellum* is to be found at Lochore, two miles to the south of Loch Leven—but, on the other hand, not a mile of Roman road can be traced in the two counties of Fife and Kinross. At the same time we shall find in the plan of the city of Perth indications that it was approached from two several points, so that a force may have been pushed forward through Fife. But, if taking the map in hand, we look for the most natural way from the Upper Forth to the Tay at Perth, we shall find one clearly pointed out along the lines of Strathallan and Strathearn. That Agricola took that way, at any rate for his principal advance, may safely be conjectured.

Eleven miles from Stirling, on an unmistakably Roman road, we have at Lindum (Ardoch) another camp of 50 acres, besides other works of later date. From Lindum the road leads with minor posts past Stragaith and Gask to Dupplin. From that point it is no longer traceable, but it must have come round with a sweep to enter by the gate that leads to South Street of modern Perth. The road in places is still in use.

That Agricola for his main force took that way may safely be assumed, and by that way we shall find that he certainly returned. But by whatever way the Legate did reach the Inches of Perth, the course of events seems to show that the year 83, or at latest the year 84, must have witnessed the laying down of the lines to be seen to the present day in the planning of that city. For the whole east coast of Caledonia just two places, viz. Devana and Orrhea are shown by Ptolemy on his map. Orrhea seems a Greek rendering of the Latin *Horrea*, meaning 'Barns,' a suitable name for a base camp. Devana is clearly Aberdeen; and as to the claims of Perth to represent Orrhea, there can be little more doubt. Let another place on the east coast with a similar plan be first produced in competition.

As for the date of the foundation of Perth, we shall find Agricola established in linked camps at Coupar-Angus and Lintrose in the year 84. That clearly involves the prior occupation of Perth. But for the advance beyond Perth much had to be accomplished before the army could reach the field of battle, wherever we may place it.

¹ W. F. Skene, *Celtic Scotland*, i. 48.

For two years, namely since Agricola's advance beyond the Forth, the Highlanders (may we say the Albanach?) had been making preparations. For a gathering of clans on a large scale, no more suitable spot than Dunkeld could be found, situate as it is at the foot of the natural highway that debouches from Atholl. That the tribes preparing to resist Agricola would be mustered at Dunkeld seems a natural suggestion.¹ But however prepared Agricola may have been to engage the enemy on a fair field, he was not inclined to attack them at the fords of the Tay at Dunkeld. Accordingly he refrained from a direct march on Dunkeld, and held eastwards up the valley of the Tay. It appears that formerly the road from Perth, now washed away by floods, followed the right bank or north side of the river as far as the ford at Bertha, at the junction of the Almond with the Tay. That the Romans crossed there is shown by the remains of the Roman road leading to the large camp near Scone Palace, marked on old maps as Grassy Walls, or less correctly as Gray's Wells. But Agricola could have no occasion for another camp within three miles of Perth; and the works must be referred to a later period, say that of Septimius Severus.

The next advance would bring Agricola to the well-known linked camps at Muirtown near Lintrose, and Coupar-Angus, twelve and thirteen miles from Perth. But we are told that he now met with a more formidable resistance than any that he had yet encountered, and for fear of being out-flanked he thought it prudent to advance in three columns. Encouraged by this, perhaps, the natives gathered in force—very likely round the vitrified fort of Dunsinnan—and fell by night on the camp of the 9th, the weakest legion. They overpowered the sentries (*Vigiles*) and actually penetrated the camp, where desperate fighting ensued. Agricola hastening to the rescue took the assailants in the rear, and retrieved the situation. It is from his address to his soldiers, delivered the next year, that we learn that this happened in 84.²

¹ Tacitus speaks of the Northern tribes as *Caledoniam habitantes*, but he also simply calls them Britanni like the natives of the South. Caledonia and Britanni were Romanised forms of native words. The original from which Caledonia was formed may be supposed to have been Calido, genitive Calidinos, whence Cailden in Dunchailden or Dunkeld. In early British the Caledonian Forest was Coed Celyddon (Rhys, *Celtic Britain*, 270), but in later times, as with Froissart, the Caledonian Forest was the Forest of Etrick and Selkirk.

² 'Octavus annus est . . . proximo anno,' Agricola, xxvi. xxxiii. xxxiv.

At Coupar-Angus Agricola found himself conveniently situated for crossing the Isla at the ford of Couttie, now spanned by a bridge. By crossing the Isla Agricola had turned the bend of the river at Cargill, and so had got round to the left, now the north bank of the river, where the enemy would be found. The battlefield must be placed at the farthest point to which his works seem to extend, namely the camp and tremendous earthworks at Inchtuthil. The site is a very remarkable one, a bluff or plateau rising on all sides to a height of forty feet to sixty feet above the surrounding plain. The Tay now flows along the south side of Inchtuthil, and at one time must have encircled it with an arm of which detached portions still remain.¹ 'Inch,' of course, means an island. Of the actual roadway that the Romans followed, no traces appear; the meanderings of the river have doubtless obliterated the track. But indications of the line of their advance from Couttie are not wanting. The camp near Meikleour suggested on the Ordnance maps cannot be accepted, but in the Cleaven Dykes, a little to the north of Meikleour, we have a remarkable earthwork, which must be ascribed to Agricola. It consists of an earthen bank, without ditch. On old maps it is shown as running in a straight line for two miles north-west and south-east, and resting on the Isla at the east end, where a fort is shown. With a front covered by the windings of the Lunan Burn, which joins the Tay there, for resistance to an attack from Blairgowrie and the North, no better position than that along the Cleaven Dykes could be found. But the great battle was not to be fought there. Protected by this flank-work, the army could safely push on towards the hills where the enemy were gathering. In connection with this advance Tacitus, rather oddly, says "*Praemissa classe*," 'the fleet having been sent on in advance.' Any vessels that could be utilised above the Linn of Campsie, or the junction with the Isla, would be of a very slender sort. But as the writer goes on to refer to the extensive depredations and terror caused by the fleet, he must be taken to refer to the previous operations round the coast of Fife.

According to our theory, the Highlanders advancing from Dunkeld to give battle would follow the banks of the Tay by Newtyle Hill, Stenton and Caputh, to Spittalfield, facing Inchtuthil. Looking at our plan, it will be seen that while the village of Spittalfield lies in a hollow, it is encircled by a belt of high

¹ See plan of the battle, p. 288.

ground, known as the Redgole Braes. These end abruptly on the present road facing the entrance to Delvine House, which stands on the brink of the Inchtuthil plateau. The centre of the clansmen's position should be placed at the jutting point of the braes, the ground falling away on either side, as clearly implied by the narrative of Tacitus.¹ To the hills occupied by the enemy he gives the name of *Mons Grampius*.²

Estimated at the large figure of 30,000 men, the enemy were arrayed along the slopes, ranged in imposing tiers one above another; the front ranks occupied the level ground at foot.³ With the latter were arranged bodies of horse and chariots, their rattle adding to the general din and confusion. Pressing to the front they were soon lost in the mêlée.

In honour of the great battle that ensued, Tacitus, now quite in his element, has composed speeches for the two commanders, Agricola and Galgacus, or more correctly Calgacus.⁴ These addresses have enriched the literature of the world with some immortal phrases; but it must be added that Tacitus also gives a very graphic and intelligible account of the action.

Marshalling his forces, Agricola placed his auxiliary infantry, evidently the larger part, and given as 8000 strong, in the front line, with 3000 horse on the wings. The legionaries he kept in reserve, in front of the entrenched camp (*legiones pro vallo stetere*), a fact which, again we may point out, limits us in our search for a battlefield to a site adjacent to a camp.

Dismounting, the Legate took post on foot, in front of the colours—the enemy coming on in strength, he soon found himself in danger of being outflanked, and was obliged to extend his front at the risk of weakening it.⁵

With the onslaught we hear of no wild Celtic rush, but, after the usual preliminary interchange of missiles, only of stubborn hand-to-hand fighting, in which the Highlanders with their small targets (*brevibus cetris*) and huge pointless broadswords (*enormes gladii sine mucronibus*), found themselves at a dis-

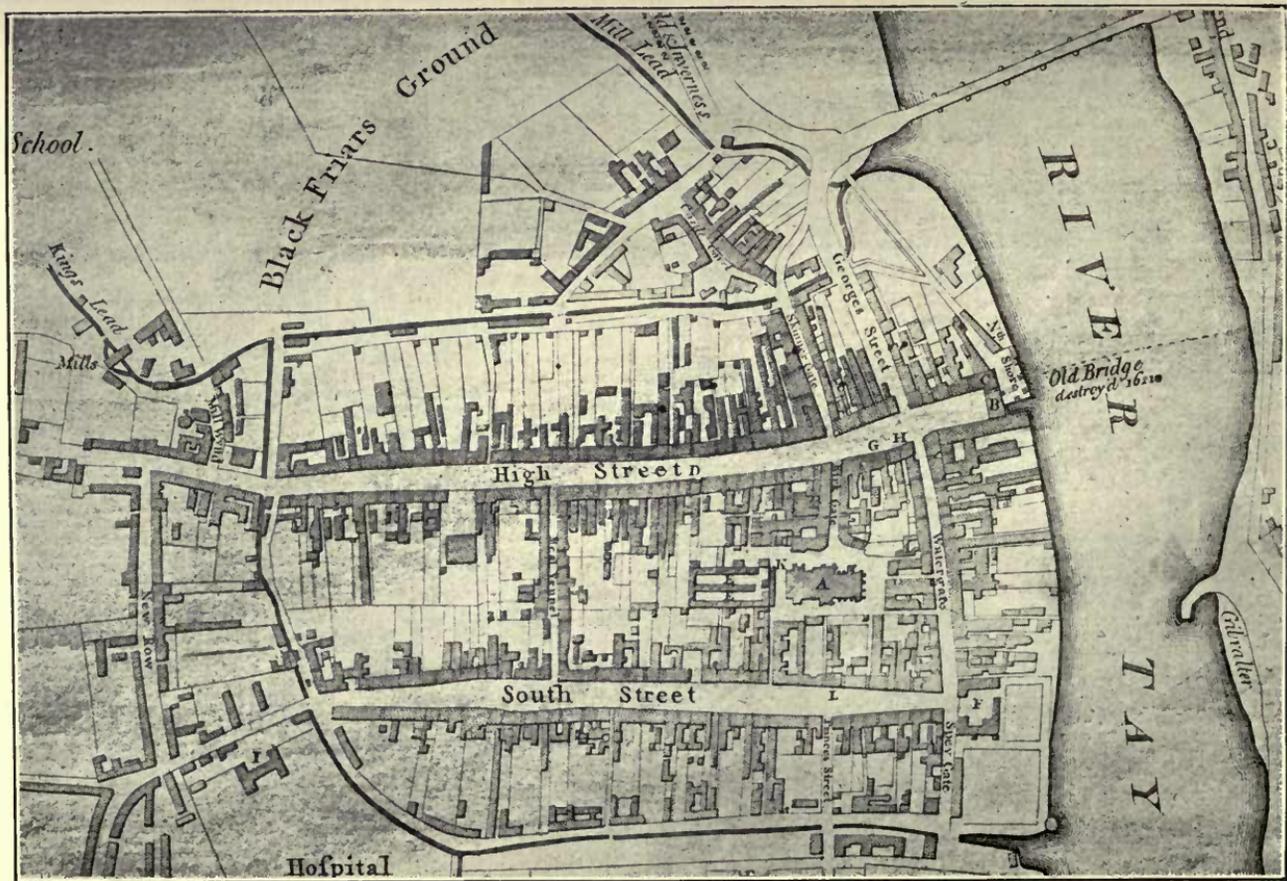
¹ See map, page 288.

² *Ad montem Grampium pervenit quem jam hostis insederat,* c. xxix. Here the 'jam' does not oblige us to suppose that the enemy were there before Agricola. For the name see below.

³ *Britannorum acies in speciem simul ac terrorem editioribus locis constituerat; ita ut primum agmen aequo, ceteri per acclive jugum connexi velut insurgerent,* lb. xxxv. See also the plan annexed.

⁴ See Rhys, *Celtic Britain*, p. 279.

⁵ *Agricola*, xxxv.



PERTH FROM STOBIE'S MAP OF 1785

advantage with the auxiliaries and their short Roman swords better fitted for stabbing. Accordingly Agricola ordered some cohorts of Batavi and Tungri to take the offensive and close with the enemy. Encouraged by their success, other cohorts joined in, and drove the central part of the enemy to the foot of the hill. But the men on the higher ground, who, so far, had been mere spectators, pouring down, began to flank the Romans on either side. But Agricola, prepared for this, sent out four wings of horse kept in hand for emergencies, to turn the enemy's flank—doubtless their left flank—up the hollow of the Millhole Burn. The enemy there, having been turned and put to flight, the cavalry were brought round, and the operation repeated on the other flank, which now in some measure had become the enemy's rear.¹ But why should the cavalry be brought by a circuitous round from one flank to the other, instead of being allowed to wheel round and take the enemy in his proper rear? The steepness of the banks facing the hollow of the burn made it impossible for cavalry to wheel round the rear of the enemy's position.

The rout became general; but an indiscriminate pursuit might have cost the victors dearly, as the enemy, used to hill fighting, rallied in bands in the woods and thickets that skirted the battlefield. The Legate, however, kept his men well in hand, scouring every thicket with horse and foot. Night put an end to the pursuit. When the morrow came silence reigned; while hill and dale reeked with the smoke of burning huts and villages.

With respect to the losses, the Romans admitted a loss of 360 men, with Aulus Atticus, Prefect of a cohort of horse. That of the enemy they were pleased to put at 10,000 men.² For the strength of the forces Tacitus tells us that the Romans had 8000 auxiliaries and 3000 horse. If we should add one full legion, or 5000 men, that would make a total of 16,000 effectives. The estimate of the native force as double that seems, after all, quite borne out by the facts of the action.

With respect to the name given to the battle, or rather to the hill occupied by the clansmen, it was always read as 'Mons Grampius,' whence the 'Grampian Hills where our fathers feed their flocks.' The name is unknown to native use or records.

¹ *Transvectæ precepti ducis a fronte pugnantium alæ aversam hostium aciem invasere,* c. xxxvii.

² *Ib.* xxxvii.

But in 1838 a new edition of the *Agricola* was published by C. Wex, who reads the name as Graupius. Mr. Skene, on grounds of Celtic philology, rejects Graupius, suggesting Granpius instead. The combination of the letters n and p being common in Gaelic, not so that of a u or a v with a labial. But, in fact, in many MSS. the letters u and n are undistinguishable.¹ In this conflict of authorities we may rest content with the old-established name. With regard to the sites to which Tacitus might be supposed to apply the name, if we take our stand on the vallum of the camp at Inchtuthil, from which point he may be supposed to have witnessed the action, we shall find our range of vision limited by the little line of hills running from Kirkton of Lethendy through Gourdie and Snaigow to Birnam Hill. For these the glory of being the 'original and only' (historical) 'Grampians' might fairly be claimed.²

To Mr. Skene is due the credit of having called attention to the claims of the neighbourhood of Blairgowrie to be recognised as the sphere within which the site of the battle should be sought, as, in fact, already suggested in the *Old Statistical Account*, 'Bendochy.' With Mr. Skene's account of the battle from Tacitus no fault can be found. But he places it as fought between the Cleaven Dykes and 'the Hill of Blair,' presumably the high ground at Blairgowrie. He accepts the earthworks, the 'Buzzard Dykes,' wrongly described on the Ordnance maps as 'Caledonian Camp,' and makes Calgacos muster there. In fact these earthworks are not a camp at all, but a deer-park, in a hollow, with the Lornty Water flowing through it. Local tradition claims it as the deer-park of Kenneth MacAlpine, say of Pictish kings. Lastly, with regard to the position at the Cleaven Dykes, a battle might well have been fought there, but not the battle described by Tacitus. From the Dykes an easy slope, without the semblance of a hill or prominence, leads up to Blairgowrie.

Satisfied of the futility of attempting to pursue an impalpable foe, *Agricola* turned southwards. The season was advanced, but there was still time to 'pacify'³ another district. We are told that the Legate led his forces into the land of the Boresti, or Horesti, exacting hostages. These men may safely be identified

¹ *Celtic Britain*, i. 52.

² To mark the site of the battle the late Sir Alexander Muir Mackenzie set up a stone in the approach to Delvine, but unfortunately without inscription.

³ 'Solitudinem faciunt, pacem appellant,' *Agric.* xxx.

with the Verturiones, or people of Fortrenn or Strathearn.¹ Agricola's incursion into that district is fully attested by the well-known linked camps of his usual style found at Dalginross and Comrie. As for his march thither, falling back through Perth along the road already laid down by himself, he would come to the camp at Lindum; and from that point, sure enough, on the maps we have a road of clearly Roman character, leading through Muthil straight to Crieff. The road from Crieff to Dalginross along the river Earn, like that from the ford at Couttie to Inchtuthill, has disappeared, presumably washed away by hill torrents and river floods.

To the good men of Crieff it may perhaps come as a surprise to hear their town had enjoyed the honour of a visit from Agricola.

From the account in Tacitus one would suppose that the camp at Inchtuthill was abandoned when Agricola turned southwards. Recent excavations have shown that such was not the case. A complete villa, with hypocausts and bath outside attached to the earthworks, has been brought to light. With the continuing occupation of Perth, which we assume, the discovery of a villa ought not to give surprise.

While Agricola held rule in Britain two emperors passed away, namely Vespasian and his elder son Titus. The 'timid, inhuman Domitian' now held sway. Agricola had done more than enough to excite his jealousy; but, in fact, he had held office beyond the usual term. Next year he was recalled. The 'triumphal ornaments' and a statue were decreed to him by the Senate; but he found it prudent to sink promptly into the obscurity of private life.²

We have ventured to assign a date to the foundation of the city of Perth. For its claim to be recognised as a Roman camp—whatever the date of its foundation—it must speak for itself.³

The normal camp of the time of the Empire, as given by Hyginus, the military writer, was an oblong with rounded angles, subdivided by streets and alleys, all at right angles to one another, with a gate through the walls on each side of the camp. It was subdivided laterally into three divisions by two principal streets, the *Via Principalis* and the *Via Quintana*. The *Via Principalis* marked off the *Praetorium* or quarter allotted to the headquarters' staff. This was placed at the forward end of the camp, that

¹ Rhys, *Celtic Britain*, 277, 308; *Chron. Picts and Scots*, 460.

² *Agricola*, xl.

³ See plan from Stobie's map of Perthshire, 1785, page 296.

facing the enemy. The *Via Quintana* divided the lower camp or soldiers' quarters in two; throughout this area the tents or huts were arranged in rows, abutting on lanes at right angles to the principal *Via*. Thirty feet of frontage were given to each single row, sixty feet to a double row, with six feet for passages between the rows.¹

All these features are traceable in the existing plan of the city of Perth, and still more clearly in the old map which we append. We have the rectangular camp, one of the rounded angles (Canal Crescent) still remaining. The other angles, presumably, were destroyed when the fortifications were dismantled in 1332. The line of the *Via Principalis* has been broken by the building of the Church of St. John. But Skinners' Street, Kirkgate and Princes Street show clearly how it ran. The Meal Vennel is just the *Via Quintana*; and the houses representing the old tents or huts are arranged along High Street and South Street running correctly at right angles to it. Most striking survival of all is the fact that in the streets of Perth to the present day the houses are to be seen blocked out with frontages of sixty and thirty feet, just the single and double rows of tents, and separated by little closes or lanes of six feet in width.

Of the different tribes, Pict, Gael or Scandinavian, that at one time or another may have occupied Perth, not one could ever have designed such a plan.

One point may be noticed in which Perth departs from the normal type, namely in having two gates on one side, instead of one gate on each side. But even the rules of Roman castrametation had to bend to circumstances. We can easily suppose that for the purposes of access to the place a second entrance was found desirable.

If further evidence were needed, either as to the Roman origin of Perth, or the date of its foundation, it would be found in Mr. Curle's detailed plans of the fort at Newstead², another monument of the same campaign.

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¹ Smith, *Antiquities* (2nd ed.), 254; Ramsay, *Antiquities* (17th ed.), 448.

² *Roman Frontier Post*, p. 38.