churned and the butter "was about to separate, the dairy people put red-hot stones into it and churned until the butter floated on top.1 The Icelanders in the Middle Ages also used hot stones in the treatment .of milk. Burt also has an interesting reference to this method of cooking. He says 'I have been assured, that in some of the Islands the meaner Sort of People still retain the Custom of boiling the Beef in the Hide; or otherwise (being destitute of Vessels of Metal or Earth) they put Water into a Block of Wood, made hollow by; the help of the Dirk and burning; and then with pretty large Stones heated red-hot, and successively quenched in that Vessel, they keep the Water boiling till they have dressed their Food".

ADDENDUM.

When the writer was reading the proofs of this paper, he received a copy of *Stavanger Museums Årshefte*, 1939–40, in which Dr Knut Fægri and Dr

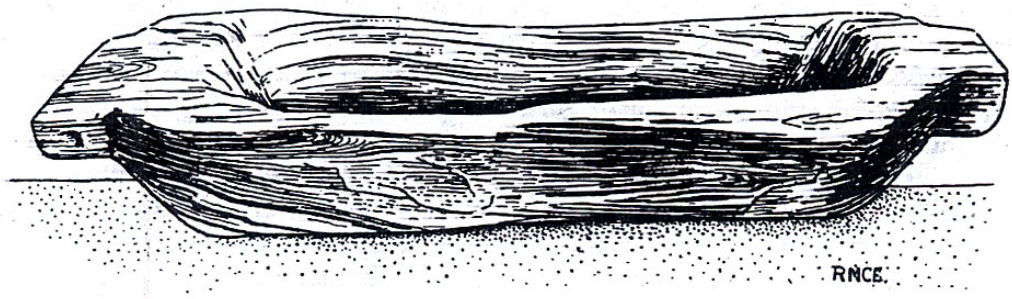

Fig. 3. Wooden trough, Nærbø, Norway.

Jan Petersen describe the discovery of a wooden trough 4 and a wooden spear 80 cm. below the surface of a bog. My colleague, Dr B. M. C. Eagar, has, at my request, kindly made me a drawing (fig. 3) based on Dr Petersen's photograph. Pollen-analysis seems to point to a date for the trough "between the viking age and the Middle Ages proper." Dr Petersen is inclined, however, on archaeological grounds to favour an earlier date and to regard the finds "as remains of sacrifice from early iron age"; but he points out that oblong, steatite troughs of the same form, which are probably copies of wooden prototypes, are known from late viking times, which would support Dr Paegri's pollen-analytic dating,

The .Naerb0 trough is much smaller than the Loch Treig and Cumberland specimens, but the resemblance in shape is interesting. The Norwegian example measures 39 cm. long and 13-2 cm. wide on the outside; the inside

dimensions are 18 by 11 cm. Dr Petersen refers to two similar wooden troughs from the same part of Norway. These are somewhat bigger than the new find, and one has perforations, possibly for carrying purposes, in the projecting ears. He does not quote the dimensions in this paper, but a previous volume 1 gives the outside .measurement of one of them as about 50 cm. There appears to be further reference to similar troughs in *Oseberg-funnet,* ii, pi. xi, and figs. 77-79, but I have not been able to consult this work.

R. U. S.

VI.
THE ROBES OF THE FEUDAL BARONAGE OF SCOTLAND.

BY THOMAS INNES OF LEARNEY AND KINNAIKDY, F.S.A.SCOT.,
LORD LYON KING OF ARMS.

Read October 27, 1945.

The Baronage is an Order derived partly from the allodial system of territorial tribalism in

'which the patriarch held his *country* "under God", and partly from the later feudal system-which we shall see -was, in Western Europe at any rate, itself a developed form of tribalism-in –which the territory came to be held "of and -under" the King *{i.e.* "head of the kindred") in an organised parental realm. The robes and insignia of the Baronage "will be found to trace back to both these forms of tenure, which first require some examination from angles not usually co-ordinated, if the later insignia (not to add, the -writer thinks, some of even the earlier symbols) are to be understood.

Feudalism has aptly been described as "the development, the extension of the Family",2 or one may say *the organisation of the family upon, and in relation to, the Land',* and in Scotland, so fundamentally a tribal country, - where the predominant influences have consistently been Tribality and Inheritance,3" *the feudal system was immensely popular,* took root as a means of consolidating and preserving the earlier clannish institutions,4 and the clan-system itself was, as modern historians now recognise, not only closely intermingled with feudalism, but that clan-system was "feudal in the strictly historical sense".5

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Feudalism, being the " organisation of the family", had in principle nothing "oppressive" about it; on the contrary, *it* was the antithesis of the earlier slave-based social systems, and, - whatever the original advantages and disadvantages of serfdom, in Scotland, which became perhaps the most perfectly feudalised country in Europe, serfdom expired sooner than else-where, and vanished by about 1330.1

Scottish Feudalism "Family-feudalism"- was in fact the same popular system as that of ninth to twelfth century France, and preserved its popularity simply because it retained the clan/family aspect 2 under which "the feudal baron was *chef de famiUe"* in relation to the occupants of his fief,3 and never evolved a "caste-distinction" which played havoc with the popularity of feudalism on the Continent.

On these grounds, and "because as an organisation it accorded so well with the national temperament, feudalism survived as a living force in Scotland, when it had become a wom-out institution in other lands".4

Indeed, as Professor Bell, the Scottish jurist of last century observes: " It may well be noticed not without a sense of wonder, and at the same time of gratification, that the system formerly so well adapted to times of war and internal commotion should now be so perfectly suited to times of peace, and security," 5 whilst Professor Home Brown points out that in Scotland, under its system of government, though there -were many petty disturbances (the ebullition - of local independence of character), Scottish history is a record of progress uninterrupted by any major breaks such as have occurred in England and elsewhere.6

In these circumstances, amongst the institutions -which have survived a the tribal structure of Scotland, is the ancient *Baronage of Scotland,* of whom its first historian. Sir Robert Douglas of Gienbervie, observes: " There is no nation in Europe where the Gentry, or lesser Barons and Freeholders, enjoyed so much liberty, or had. such extensive privileges as those of Scotland." 7 It is with these barons and not with the Peerage that the Baronages of the Continent always have been, and fall to be, equated.8

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That*',* a feudal barony confers what is termed a "title", the erection *in liberam baroniam as* a temporal fief, of the estates of the Bishopric of Moray, provides an example in explicit terms. This Crown charter, 6th May 1590, erecting the free barony of Spynie constituted a *Titulum, Honorem, Ordinem et Statum liberi Baronis . . . qui nunc et imperpetuum Barones de Spynie nuncupabuntur.1* This "title, honour, and rank of a free baron" was, however, held by Lord Mansfield and the Committee for Privileges *not to be a peerage,* but that the charter related to "merely an ordinary-fief"; indeed the claimants' counsel also "give it up" as relating to the peerage.2 This latter, the Honour of "ane frie lorde of parliament to be intitulat Lordis of

Spynie" was indeed not created until three years later and by a subsequent charter of 17th April 1593

Not only *ex terminis,* but by resolution of the Committee for Privileges, and admission of the Claimant, this Crown charter of 6th May 1590 explicitly demonstrates that erection of a fief *in liberam baroniam* confers a "title, honour, order, and estate" of free-barony. The grantee and the heirs are entitled to be styled "Barons of Spynie", -whereas the subsequent peerage - grant of 1593 created a dignity "intitulat" *Lord Spynie,* agreeably to Sir George Mackenzie's distinction between "Lords" and "Barons", which last, as we see, are those referred to as such, in the Lyon Court Act, 1672, c. 47.4 The precedence of the Baronage was defined in the Nova Scotia Baronetcy Patents, wherein the Baronets were placed before "omnes milites auratos . . . et prae omnibus baronibus *lie* Lairdis, annigeris *lie* Esquyris, et generosis quibuscunque *lie* gentehnen" (see *Douglas' Baronage,* p. 11), and the "Baronets, Knights, and Barons" were grouped together in the 3rd section of the first volume of Lyon Kegister. Their precedence-was thus after Knights and before Esquires.

In examining the ceremonial robes of this Feudal Baronage it is necessary to consider the order, both in relation to the baronial fief and in relation to the King and Great Council; *i.e.* the internal economy and the external relationships of "the Baron", as Hereditary Be presenter of an organised community.

It cannot be too strongly emphasised (in view of the misrepresentations of fiction-writers, etc.) that the Barony -was a peaceful self-governing social unit, and that the economic functions of the Baronial-Council, or court, were far more important than its judicial functions (which in their criminal aspect-as is usual of all court proceedings-attract disproportionate attention). The Barony "was, like any other rural estate-only more so- both a co-operative and a communal unit.1 These aspects were coloured, and galvanised into more than ordinary vivacity, by the' operating of these units each as a natural family organisation whereby the State was able to "do more than make alliance 'with the -Family, and to *assimilate itself to* the Family". In ceremonial, tradition, and legal custom, this *is* just *what the feudal state effectively did,* and is why, as a system, it has proved so enduring, and so attractive, alike to students and tourists. It is always the *feudal* state which these crowd to see, or-to study. In this lies what is called its "romance", or "glamour" and the colourful variety, at once stimulating and restful, which characterises the life, clothing, art, and customs of the feudal state.

In emphasising that the baronial castle was not a robbers' den (like the strongholds seized by "Tree Companies" during the Hundred Years War), but "the proper residence of a landed gentleman, *the centre of local Government",* Mackay Mackenzie has exalted rather than lessened the status of the castle.2 "The seigneurie, its spirit breathing within the stone-built donjon, became a fatherland which was loved with a blind instinct and devotion."

So indeed the Scottish Legislature regarded them, enacting that mansions be maintained by lairds "for the gracious governall of thair landis be gude polising" *{and as another statute puts it),* "Mak his ordinary duelling and residence at his awin hous "with llls familie . . . for setting forward of policie and decoratioun of their saidis duelling places, supporting of the puir and intertening of freyndschip with nechbours be all guid honest means" *(A.P.S.,* iii. 222).

These things require an organisation, and picturesque ceremonial, if they are to "go". This the feudal System provided right down the ages, and the system *did* "go" with such vigour and success that it promptly incurred the jealousy of the central governments, whether monarchial or republican. Indeed it is *this* which explains why "feudalism", and its organised basis, the *Barony,* in England the *Manor,* were unpopular in administrative circles. In England, moreover, the

system was introduced -by a Saxon defeat, the Norman Conquest, and the existent Anglo-Saxon society (a gilfine-civilisation) was far less tribally knit than those of Scotland, Ireland, and Wales, depended largely on *comiteslgesith* related to their "master" by a transient "commendation" rather than clannish ties, and the English tendency was to ignore any relatives beyond first cousins. In England, therefore, writers assert, the decay of feudalism "was not only the failure of the military organisation, but was also its failure as a social system".

In short, *not the sort of military or social system which any central government wanted.* Ideal, no doubt, for defensive purposes; but no "aggressive" medieval statesman could "do" much to his neighbours with a feudal army bound only to provide 40 days service (hence the resort to "scutage" and other un-feudal subterfuges for hiring mercenaries); and in a system where each Barony or Manor was a constitutional "family" unit governing itself; and in which the holders of great titular fiefs governed along with the King; "statesmen" found great difficulty in imposing then- ideas upon local communities with (usually very different) ideas of their own.

The history of Scotland, and the significance of so many of our Scottish antiquities down the ages, was the effective survivance of these local self- governing communities, of various sorts, not only down to 1747, but indeed later; in France, of then- effective survivance down to the Richelieu period, and in a modified form for another 150 years. U.S.A. Ambassador Morris, interestingly records (13/7/1789) having urged La Eayette "to preserve if possible some constitutional authority in the hands of the nobility as the sole means of preserving some liberty -to the people".

In 'England, popular dislike of a system imposed after defeat, the unforeseen effects 'of *Quia Emptores,* and finally the devastation of the Wars of the Roses, destroyed the organisation.

Even so, however. Englishmen never understood the principles under- lying the feudal system, and when new laws broke down the integrity of fiefs, and again when faced with incorporeal hereditary dignities, their jurists seemed helpless, and, they say: "The law did not fit the new conditions, and there was no new law to apply; nor was there likely to be, for the King was the Fountain of Honour and was a law unto himself." 1

In Scotland, no such *impasse* staggered either Grown, jurists, or vassals;

and the law of "impartible tenures" (corporeal or incorporeal) was applied smoothly and Bcientifically. The Baronage, and the .Baronial-Councils of each fief, continued to function both. practicably and ceremonially-as indeed Douglas observed; and the title of *Baron* continued to be used in Scotland (and interchangeably with other countries, to which so many "wandering Scots" made their way) in the same sense, as this title is employed on the Continent.1 It is a title superior to "miles" (Knight, in the feudal sense, which is to be distinguished from the later *Eques A-uratus),* and whilst a Baron usually held his baronial fief feudally, instances arise of *Barons par le Grace de Dieu*-nobles 'who, of evident baronial status, held alloidal fiefs, *i.e.* by ancestral family occupation, and by no grant from, nor as vassals to, any Prince, in respect thereof. We shall find this reflected in certain aspects of the robes.

It is noticeable on the Continent that not only many of the later feudal grants (of baronial, as well as. other "noble" fiefs) were descendible to all members of the Family, partably. This was a feature of the *free-allod;* yet the *chief ship* (and in Baronial fiefs, the simple title *of. Baron de X. . ..* as compared with, *e.g.. Baron Charles de X.. . .*) went down with the principal mansion, or the principal "hearth" within it.2

Such considerations all bear out Craig's views that the title of *Baron* in Scotland was first applied to those who were *Capitani Tribuum,* and that Feudalism (or anyway an organisation

which we would now recognize as synonymous with it) *existed in Scotland prior to the Norman Conquest in England.3*

Professor Di&kinson, unlike too many previous writers, readily and amply recognises (a) the existence of *Barons* within Scottish Earldoms and, most accurately also, the "princely" character of these Earls,4 the *Hi* of provinces, so that our *Ard-Righ Albann* was verily a'"King of Kings",

and the Crown of Scotland, in that-the technical-sense, "Ane Imperiall Croun", as the Scots Ambassadors proudly informed the French Statesmen when negotiating the marriage of Mary Queen of Scots-and were duly poisoned for saying it *(So. Per.,* ii. 471) on their journey home 11

Dickinson, however, whilst amply conceding the baronial status, did question whether, though holding *ut baro,* they held *in liberam baroniam?* 2

On further investigation, my answer must be that they did both. They undoubtedly held territorial "baronies" *cum curiis* with lands over, and 'within, which they had "baronial" jurisdiction; but this jurisdiction, as I shall show, "was more ancient and very different from that conferred by the subsequent erections *in liberam baroniam Regni Scocie.* The lands were undoubtedly held "as and denominated "baronies", *i.e.* more than *ut baro,* and actually "in baroniam", in a very special sense, related to the Celto-Pictish social organisation; but some of them had interesting characters reminiscent of the Continental baronial *allods*; in that we find, *e.g.,* Moniak 3 being held in divisions by portioners each designated "Baron" -a state of affairs which becomes far less "anomalous" when -we look at what was occurring in the allodial fiefs of Europe, and baronial titles devolving on "all the descendants" *{in familia)* of the grantee. The point, however, would be that, as there, the terms of tenure of each barony were liable to be of special character. In the Feudal realm there was never the drab sameness which modem folk too often conceive as "order". The Family Law " in a Tribal Monarchy was capable of infinite variation, and healthy adaptability.

In examining the development of the Baron and his robes, we must turn next to the great "Family Council" of tribal Scotland as a National Family, viz. the Parliament of Scotland, in which the foregoing features are found symbolised in form, dress, and ceremonial. Fortunately a seventeenth/eighteenth-century print of this exists in the *Atlas de Chatelainf Gueudeville,* which has, curiously enough, been completely overlooked by

our antiquaries and historians, and lias indeed .only once hitherto been illustrated or referred to in Britain-in. the Court of Session Quater- Centenary Number of *The Juridical .Review, from* which Plate XI is re- produced with the -kind permission of the Editors and-Publishers.1 The plate provides a most interesting presentation of the robes, their setting and their significance.

What I have now to expound is the development of the ceremonial attire of these ancient Feudal Barons, and its relation to the underlying social organisation whereof they formed an essential part, and emphasizing Craig's deduction, that the early Scottish barons were chiefs of dans, one observes at once that the "Wand" of the Officers of a Barony was the "white wand" associated with Ghiefship, and indeed with the sceptre of an Ard-Righ,2 and we thus realise at once the significance of the observations that "the feudal baron was a chef de famille"-and that "He reigned- that is the word used in documents of the period".3

Of the manner and other symbols of his "reigning " we shall see more a little later; but of the operations, of this feudo-tribal system, the un-interrupted progress enjoyed under it in Scotland is commented on by Hume Brown.1 Miss Grant emphasises the non-existence, the absence in Scottish history, of the class-struggles usually from time to time noticed in other nations,2 and, as Miss Mure Mackenzie tersely summarises: "Now this patriarchal Government could work".3 Indeed it "worked" both at home and abroad, and it was in no small degree the ceremonial organisation at home which enabled the " Scot Abroad " to make his way as he did in Continental countries. His feudo-Baronial system gave Tim an advantage which was not available to the wanderer from south of the Border-even when circumstances admitted the international relations which, however,

forms such a constant element of Scottish history. It 'has been said that the Scottish Parliament; in which as a Council; the Barons had place, consisted of five groups: (1) Officers of State, (2) The Clergy, (3) The "Nobility", (4) The "Barons", (5) The Burghs, and whilst it came to be termed the "Estaits", and was represented usually as consisting of "three estates" (sometimes four), the true "nature of its composition has not been recognised by our constitutional historians, whose views are usually tinctured by looking at it from an angle of comparison with the English Parliament, to which it had no true analogy. Its actual and theoretical composition had, as we shall see, a bearing on the robes worn.

The Peers, originally an Order of Earls-and the Scottish Peerage contained more Earls than it did'of Lord-Barons-had their seats on the *palatium,* or " Benches of the Throne" at the south end of'the Parliament Hall, and wore velvet robes in Parliament; whilst the "Masters" (Tanisters of Peerages) sat on the steps of the throne.

The Earls-an'' Estait'' which grew out of the '' Seven Earls of Scotland'', who first appear to be mentioned as "Seven great Chiefs" in 760 *1-* represented the seven great provincial divisions of Ancient -Alban, the "Kingdom of the Picts"; and were themselves *Hi* or provincial kings (we shall later on see that the great Earls had "baronages" of their own, like the Sovereign-Duchies of the Continent); and it becomes evident that they sat on the "Benches of the Throne" much like the Electoral princes of the Imperial Diet: they were> there in a regal capacity, as *High,* beside and under, the *Ard-Righ-AIban* presiding in a Federal Kingdom.

The Baronage, at this stage, represented two ideas, in law, heads of the feudal fiefs in Council, of a feudalised realm; they were there, and entitled to be there, to represent land, and in theory all the land of Scotland was entitled to be represented in Parliament,2 and that these were the *Procures Regni* was vigorously maintained by Sir Aeneas Macpherson a century later,3 and such were evidently amongst the "other impartible tenures" referred to in the Try ours, report to Edward I's *Curia Centumvirale* of 1292."

The above two ideas are, however, found on analysis to be identical, since the "family" and the "family fief" were regarded as integrated and indissoluble. The fief *was* a "family-community", a sort of beehive. The

Baron "was *Ohefide tF.amille.* I suspect thatdn theory, though not in -practice, we should find (and may yet manage to elicit) that amongst the other *Commzmitates -Regni* "were the " Freeholders'', who ultimately, for reasons of which presently, we shall find get electorally grouped with the Barons, though technically distinct from the Barons.

The Burghs do not appear in Parliament until, comparatively late. The first appear in Bruce's Parliament of 1326, but they do not regularly appear until 1455. They were, as Cosmo Innes

pointed out, "recognised members of the body-politic of a feudal kingdom",1 though they do not really appear so early as he imagined. The theory is that a Royal Burgh is a *pro indiviso* corporate Crown Vassal. Actually it is a communal free- hold; -whilst a few of the great Cities seem to have been regarded as in the nature of corporate baronies; and one, the City of Edinburgh, as in the nature, maybe, of a corporate peer; much as the City of London is stated to equal a corporate Earl.

The Parliament of Scotland was, as we know, a "single-chamber" Court, and there was in Scotland no such distinction as "Peers and Commoners". Professor Kait was quite wrong, and most misleading, when he described the Parliament of 1326 "the first complete Parliament containing Lords and Commons".2 In the Scottish Parliament there were never "Commons " in the English sense; and in 1326 there were no " Lords " -in either the Scottish or English later senses of that word.3 It was, of course, no fault of James I that "Lords and Commons" "were not invented in 1424-27 after his return from prison in London, -where he picked up and acquired an - enthusiasm for a number of constitutional ideas quite inconsonant with the feudo-tribal realm of which he had inherited the Crown; ideas which led directly to the tragedy of 1437 and acquired for him a character in contemporary opinion somewhat different from that –which his untimely end-and the tendency of historians to assume that the "Governance of England" was perfect, and that of Scotland the reverse - subsequently endowed him with. More thoughtful historians are now pointing out that it was Scotland with its feudal regime which had the more uninterrupted record of social progress.4 The Feudal Baron was *Chef de Famille,* and the *familia* over which he ruled comprehended not only all his children, and cousins, but also the vassals, tenants, and servants.5 This explains why it has been observed of Feudalism in Scotland: "Such a form of social organisation accorded very well with the natural pugnacity

and clannishness of the Scots . . .. *(and)* made the .feudal system in a. strange sense 1 a truly popular one." 2

I do not think the position of the feudal population has been better expressed than in a recent passage by one of our modem and popular historians 3 writing of a chieftain or;baron:

"A man -whose life and property depended on "the 'willing service of his followers, .and whose only police were these same followers, had to behave himself reasonably well so far as they, at any rate, were concerned. He might murder his wife, carry off his neighbour's, bum another chief's castle or rise against*the King, but to do these things, or to prevent someone else from doing them to himself, he had to depend on the clansmen who were his tenants, who were Highlanders with a sense of their dignity, and as much right to the tartan as himself."

In Scotland, moreover, where the early tribo-feudalism was developed instead of being narrowed into a "class" system), the Family-concept was spread and fostered, as Lord Crawford says:

"A peculiar element mingled from the first in the feudality of Scotland, and has left an indelible impress on the manners and habits of thought in the country . . the blood of the highest noble in the land was flowing in that of the working peasant, at no great interval. This was a subject of pride." 4

The courtly habits and customs of the little baronial courts were again reflected in the farmhouses and cottages, where, says Eliz. Mure, in 1730, 'Every master was revered by his family, honoured by his tenants, and awful to his domestics. . . . He .kept his own seat by the fire or at table,

With his hatson his head." 1 Theihat, we shall see, lias a deep significance, for-an Spain-*' The Family Hat" of each family descends along with the Ohiefehip, "whether by succession or tailzie 2 and in the Baronage "we shall duly "find heraldry and the *hat* figuring prominently.

Of the "domestics" I need only refer to the observation of foreigners that in a Scottish baronial menage, the footmen were referred to as "gentlemen",3 and in the Highlands as *ghillies',* and this was no affectation, since many of them claimed .kinship with the laird, or had pedigrees of their own, *e.g.* William Rose, of Gask, Ziord Rfe's factor, who, though a cadet of Rose of Ballivat-as in due course established in Lyon Court-began his career as a footman, "standing behind his Lordship's chair, and changing his plate".

We have, moreover, only to analyse (as I shall presently also do for another reason) Van Bassan and Father Hay's grandiose account of the St Clairs of Boslin, to perceive that its domestic and ceremonial details are not so much untruthful exaggeration as a process of presenting Roslin "geese" as "swans". None the less, a princely and most enlightened and artistic household it evidently was.

The Earl-Prince of Orkney and Caithness is represented as maintaining an establishment of 200 to 300 "rideing gentlemen" who accompanied the Countess (Lady Elizabeth Douglas) on her journies from Roslin to the town house in Blackfriars Wynd, and she had also "serving her 75 gentle- women, whereof 53 were daughters to .noblemen, all cloathed in velvets and silks with their chains of gold and other pertinents".

A glance at their duties, not to speak of their numbers, shows that the 75 fair Maids of Honour of this Princess of the Orkneys were-as we may also assume a number of the "rideing gentlemen"-simply the domestic staff of Roslin Castle, which was evidently an all (or almost) '' all pedigreed'' establishment. Presumably the 53 who were "noblemen's daughters" were actually the children of armigerous or landed men, whilst the remaining 22 were of remoter gentility-like Bailie Nicol Jarvie's "Leebie". The accounts of certain peers holding offices in the establishment are, when analysed, evidently related to certain feu-duties and feudal services con- nected with lands held *de me* of the Earl-Prince, and on which Father Hay and Van Bassan placed strangely magnified constructions.

This was "the last Jail-Prince of Orkney, and Ust Earl of Caithness, who, on, 12th May 1471, at the command of James III, resigned the sovereign-jarldom of Orkney-in' exchange for the castle of Ravensheugh in Fife. He was, moreover, the founder of Boslin Chapel, where the magnificent "pillar" beside the altar-from which the whole carving in the building foliates-is in Slezer's *Theatrum Scotiae,* p. 63, described as *The Prince's Pillar.* That is, it was in 1662, *i.e.* (within 166 years of the Earl's death) already (one might rather say "still") known, not by the sordid legend of the "prentice", but by allusion to the great Jari-Prince the founder of the building. It seems deplorable that a connection with such an illustrious noble, not to mention the traditional connection of the House of Roslin with Scottish Freemasonry, should have been replaced by a banal misrendering of the ancient name of the pillar. It is well recognised that the whole tracery of the Chapel flows upwards from the base of this "Prince's Pillar", which is accordingly the Foundation Stone of the whole marvellous edifice. Looking to this fact, I am quite ready to believe there *is* a gruesome grain of truth underlying the "prentice" legend; not the hackneyed fable of the master-mason's sudden passion, but, I am afraid, a ritual murder, or burying-alive beneath it of "the youngest brother". Th6 "story" would *then* fall into line with a number of well-known instances of this practice, an animal having, in "later" times been the victim. At Koslin I suspect legend preserves that the "old custom" was actually carried out. It is, however, most regrettable that the old title "Prince's Pillar" is not properly applied nowadays.

The parents of this Jarl-Prince, viz. Jarl Henry and his wife Egidia Douglas, the "Fair Maid of

Nithsdale", kept a slightly smaller "indoor" establishment, *i.e.* in this case "his Princess (had) 55 gentlewomen, whereof 35 were ladies, he had his dainties tasted before him. He had meeting him when he -went to Orkney, 300 men meeting him -with red scarlet gowns and coats of black velvet." *1*

The ceremonial significance of this has, of course, never been noticed, and it is that I have been leading up to. We can hardly doubt that these three hundred were the *Odallers,* who, as freemen, held their lands by Udal Law, and that the "scarlet gowns" -were their red mantles@no doubt analogous to the "franklin's mantle" illustrated in Herbert Norris's *Costume and Fashion,* ii., fig. 363, and described (p. 257) as "A circular or semi- circular cloke, with a hood attached, fastened on the right shoulder with three ornamental metal buttons, and according to the prevailing custom the front part is thrown back over the left shoulder." 2

This would disclose the black velvet undergarment, in the case of the Udallers. The franklyn, like the Udaller, was a country gentleman, who

held his land without feudal dues, and was entitled to be regarded s as "gentle", *i.e.* noble, in the continental; sense of the term. The Circular mantles, split down one side and -fixed by three ornaments, were of French origin, and -began .early in the fourteenth century. They were "worn by both sexes of the nobility".1 During the course of the century, moreover, this form of "cloke" came to be the Parliamentary robe both in trance and England, and, first in France, then in England, these "parliamentary robes" came to be worn, with the opening at the right shoulder, and with "guards" or bands of ermine edged with gold braid, to denote rank. A peerage-baron had 2 rank-bars, which in England were worn on either side of the slit, and in France were worn on the other *(i.e.* left) shoulder.2

We shall find that certainly from the middle of the fifteenth century, and no doubt a good deal earlier, similar round-mantles were worn by the Feudal Baronage of Scotland. Of this fifteenth century use there is at least one portrait, not indeed contemporary, but which we can regard as based on contemporary evidence of some sort. It is a portrait of Sir Duncan. Campbell of Lochow, Feudal Baron of Lochow, Craignish, and Melfort, and afterwards a peer as Lord Campbell from, anyway, 1445 (Pl. VII). Bis portrait appears on a page of the celebrated *Black Book of Taymouth,* the Baron of Lochow being represented between his younger son, Colin, 1st Laird of Glenurquhy, and his grandson, Archibald, 1st Earl of Argyll (cr. 1457). The portraits in this Manuscript have indeed been described 3 as "fanciful and grotesque", which last is only what one would expect in such a manuscript; but they embody details which cannot be dismissed as " fancy" and are easily related to contemporary details of costume, arid render them valuable historically, however crude as "Art".

The Baron of Lochow, Lord Campbell, is arrayed in a long robe of "cardinal" red, with narrow furring round the neck and edges, which fur is of a greenish and purplish hue, clearly an artist's rendering of "vair" (purray), the blue-and -white alternations of the grey squirrel-skin con- ventionalised in this heraldic fur. The collar is a greyish-white, which might well be "grey-grece". It is worn over a camail of chain-mail, and hose below, whilst the headgear is a broad black hat, with convex brim, of the "bonnet" style, which is correct for his period, and the legend *Dom Dun. Campbell de Lochow* seems to stress his feudo-baronial rather than his peerage rank amongst the new "Lord-Barons". In short one infers,

both from the structure of the robe (which like its "wearer, existed anterior to 1455) and the bonnet worn therewith, that the* illustration has been reproduced from an earlier, and genuine contemporary source. This is not the sort of dress which a seventeenth-century artist would depict or invent for a fourteenth-century peer.

Another representation of him, in the Glenurquhy pedigree, will be referred to later. It shows him, I think, not in this robe, but in that which came to be allocated to the "Estate of the Nobility" in 1455, the year in which Duncan himself died.

Of the survival of the ancient circular robe-that illustrated in the *Black Book*-and its official recognition as an ancient and denominative, baronial robe, we have two seventeenth century examples, one an official representation of a more or less "conventional" baron, the other an actual portrait dating from slightly after the middle of the century. The former is in a reproduction of a formal document issued from the Lyon Office, namely, a *Seizequartiers* issued to Sir Henry Innes younger of that ilk (afterwards 4fch Baronet) about the time of his marriage in September 1694 to Jean, daughter of Duncan Forbes of Oulloden, and signed by Sir Alexander Erskihe of Gambo, the Lord Lyon, the document (PI. XIII, now extant so far as is known, only in a striking old -copperplate engraving and a, contemporary copy by the Lyon Clerk, to be hereafter mentioned)1 is in many of its details an interesting example of such workmanship and of the manner wherein peers and feudal barons were intituled. *TOT* example: Lord Ross of Hawkhead, a peer, is *Baro Parliamentari,* whilst his wife, the feudo-baronial Laird of Baploch's daughter (Jean Hamilton), is, in accordance with the usual practice in such documents, duly styled *"filia legitima Baronis de Raploch".* In the case of Sir Henry himself (still "younger of that ilk") though knighted as a Baronet's heir-apparent the qualification *"junioris"* (as in formal documents, it should) *follows the* territorial title, *"ab Eodem".*

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The preamble of an accompanying *Diploma Stemmatis* narrates not only that Lyon's original functions -were genealogical (to which Heraldry *'was* subsequently added), but specially that it * 'especially concerns his *duty to* avouch, and in his archives to record, the "genealogies of all nobles who from any ancient Scottish stem legally deduce their descent".

There is, in addition to the genealogy and heraldry, *(a)* a small drawing of a feudal castle,-which, on the same analogy as induced Dr. Douglas Simpson to correlate the carving on the Macleod tomb at Rodil with the then form of Dun vegan Castle,1 may well be regarded as a representation of the baronial "tower and forfcalice of Innes", which in 1646-54 was replaced by the present Innes House; (b) two long-bearded old men in long robes, over which are worn just the sort of mantles under consideration, and who respectively hold up a banner of the paternal arms of Innes of that Ilk, and a quartered banner of the arms of Innes and Aberchirder. (The latter figure is the more clearly drawn, and accordingly selected for enlarged illustration, PI. XIII.)

The under-garment is a long dark robe (and thus reminiscent of the Orkneymen (apparently Udallers) above-mentioned). The " cloke "-mantle, now extant only in the engraving, is lighter, and evidently red, lined with white. No shoulder "guards" are shown (but such details may easily be omitted by an engraver, just as the tying-bows of the tabard of Boss Herald, 1745, are omitted in the engraving of that functionary's portrait by Sir George Chalmers-the 'whereabouts of which original is not meantime traceable).

On the right shoulder, however, is a fastening consisting of *five large spherical buttons.* It has already been noticed that *three* buttons were the fastening for a "franklyn"-*or freeholder,* to use the Scottish term.

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It is also to be noticed that there is worn a' Cap *of Maintenance,* which other evidence shows was the "headgear .appropriate to the feudal baronage, and which "was duly awarded expressly as applicable to such feudal barons, by Lyon Court in I836.

These then appear as the ..Lord Lyon's official ruling of the garb distinctive of a Feudal Baron (Baro minor as distinct from the Greater-Barons the Peerage Lords) at the close of the seventeenth century.

These robes were, as we have -noticed, ancient nobiliary garments, worn (as in Lochow's case) over chain-mail, and adapted for travelling or *riding,* and thus no doubt worn by Barons attending Parliaments and "General Councils" both at these and in the initial "riding ".

What had thus been the old mediaeval .Noble's cloak, became the subject of a sudden direction for use in Parliament pursuant to certain indefinitely recorded and hurried instructions issued following James VI's sartorial pronouncements of 1605 -1610. Indeed the garment depicted may even have been acquired in connection with the riding of 1606, or preparatory to that of 1617, though Moray was not represented in the Parliament of 1606, nor indeed until some time later.

The robe thus depicted in the Official Innes Birth brief (and it is significant that the 1st, 2nd, 3rd, and 4th Baronets of Innes all sat in Parliament as Commissioners for the Baronage) appears as an actual garment in the mid-seventeenth century portrait of another Northern baron (and necessarily *qua* Baron, not *qua* Commissioner)., namely James Grant of Grant, 7th feudal Baron of Preuchie,3 at Castle Grant, a painting made in

1658 1 (PI. VIII, 1), who, though very much a Baron, was never a Commissioner to Parliament. *This* is interesting and significant, for it shows that baronial robes were kept and worn locally, *and quite apart from mere use in Parliament.* They "were in fact used in daily "baronial" life, in the baron-court as we have seen was the case at Lesswalt-and the Lairds of Grant were, we know from then' Acts of Court, particular about liveries, dress, and tartan. They realized that a large clan *(parentela)* family requires ceremonial, indeed "ceremoniousness", if it is to work smoothly; and accordingly just as Scotland was a clannish country, so was it necessarily, as Riddell observed, a ceremonious one, and traditional Highland and feudal courtesy has been aptly described as "the living survival of the courtly customs of Celtic royalty"-with which regime the Baronage, as representing the earlier *Capitani Tribuum,* has, as we see, been equated by Craig of Riccarton. The identity of the pattern of mantle worn by the Laird of Grant "with that depicted in the Innes Birth brief is unmistakeable. It is a crimson robe, the large bulbous buttons on the right shoulder being therein seen life-size, though the fifth button is hidden by the Laird's hair. There is in front, however, a sort of applique "guard" with other five bulbous buttons, the exact nature and purpose of which is not quite clear, as it is clearly a circular robe, but is probably related to the contemporary neckwear.

At any rate, we here find the actual depicting by an artist, *on a living baron,* of the robe which some 30-40 years later is officially emblazoned, as the baronial robe of *circa* 1694-1700. It is now of additional interest to observe that amongst the robe-wearing County Commissioners shown in Chatellain's plate, is one Baron wearing just such a circular cloak-mantle, and we see it opening, and "flapped" apart just at the right shoulder, exposing his arm within. Here it is "worn with a late seventeenth-century hat and wig, which last unfortunately covers the shoulder fastening. A page carries the train, -which shows that such mantles could be fairly voluminous.

We shall next consider the mature .and. provenance of what became the "State-robe" (though instituted as Parliamentary, robe) of a minor baron, pursuant to a statute of James II. This Act of 1455 is-indeed the first wherein robes are defined. The King on the point of attaining the perfect age" of 25 was evidently setting about the ceremonial embellishment of public life in the realm, and had Just completed the overthrow of the House of Douglas. The

preamble of the statute (4th August 1455) runs: "Item, as tuiching the habit of the Erlis, Lords of Plieament, Commissars of Burrowys and Advocatis, sail haif and use at all pliaments and generale consallis In tyme cuming."

The Act then dealt with the apparel of the temporal Estates, *i.e.* the Nobility (princely-comital, and baronial) and the Burghs, but noticeably not with that of the Clergy, their raiment being in pre-Reformation days an ecclesiastical subject. The statute, 1455, c. II. 1 provides that: "All Erles sail use mantells of brown granyt opyn befor furryt with quhyt and lynyt befor outwt ane hand braide to the belt stede with the samyn furring with litill huds of the samyn clath and to be usyt upon the schuldis, and the uther lords of parliament 2 to haif ane mantell of rede ryt sa oppinit befor and iynit with silk or furyt with cristy gray grece or purray 3 together with ane hude of the samyn clath and furryt as such is. And all Commissaris of burrowys ilk ane to haif ane pair of cloks of blew furryt fut syde opyn on the ryt schulder furryt as offers,4 and with huds of the amyn as said is."

The first outstanding feature of these provisions is that the greater and lesser sections of the "Estait of the Nobility" were both to wear mantles *opening in front* and furred with white and grey-white (or in the case of the baronage, if desired, the lining might be white silk-such an extent of real fur being no doubt so costly that the smaller barons might well have been unable to obtain it.

The Iree-burgesses of the Royal Burghs were to wear cloaks opening on the right shoulder, and, as we shall see, the appropriate fur for burgesses (normally craftsmen and professional men) was a "grave", in fact *brozon,* fur. The cut of this cloak was, it will be observed, that of the "franklin" Or freeman,6 but which, in more elaborate form and garniture, was also the ancient circular mantle of the Nobility.

The intention of James II was evidently to re-arrange the probes to be worn in Parliament, and ;at the riding, in such a manner as to make a clean-cut distinction between the Estait of the Nobility (Peers and Feudal Baronage) and the Estait of the Burgesses. The former were henceforth to appear in mantles opening in front, whilst the burgesses were to wear mantles opening on the right shoulder.

The assignment of blue to the Commissioners for Burghs is curious, for in mediaeval chronicles it is found in many mantles both royal and noble. Perhaps it represented an attack on the livery-colour of the House of Douglas. Not only was blue the original heraldic livery of that house, but it was noticeably the colour of the Earl's *Cap of Estate* (as appears from his stall-plate at Windsor). We may therefore take it *his* robe of state was also blue. It was accordingly an astute move to associate this colour with the burghal robes-enough to spoil it, in mediaeval life, as a "baronial" garment.

The Burghs, however, seem never, in fact, to have adopted the provision, which indeed was probably abandoned on the revival of the ancient Douglas colours, in the Angus line,1 and Burgh-Commissioners and Provosts are accordingly found wearing the black robes usually associated with municipal office.

Reverting to the "Estait of the Nobility", this-then, and for another 11/2 centuries-consisted of: (1) The *'Earl/Comites* constitutionally derived from, and representing, the provincial Sub-Kings of early Scottish history, the Provincial *Righ/Morair,* and even in mediaeval and heraldic documents an Earl is described as "High and Mighty Prince". (2) The Baronage, or Crown vassals holding *in liberam baroniam, or* apparently *ut baro* in respect of some incorporeal baronial hereditament.

Parliament came to be, however, conceived as a representation of

"lands" and as represented,; in 'effect, either by the Baronage 1 or by the Earls, and accordingly we shall not find. the sub-baronial "freeholders" until these were admitted by statutory Commissioners at a later stage.

During the sixteenth century the English terminology of referring to the Peerage as " The Nobility", and the creation of the personal peerage *Barones Majores,* later denominated ("Lords of Parliament") "Baron-Banrent," and the determination to constitute "the Baronage" a distinct "Estait" (to replace the clergy after the Reformation), led to a statute of 20th December 1567 providing for more effective baronial representation on the preamble that "Of law and reason *the barons* of this realm ought to have vote in Parliemant as a *part of the nobility,* and for safety of number at each parliament that a preept of Parliament be directed to the sheriff . . . "

This clarifies the (obvious) nobiliary fact, that the Barons are a part of "The Nobility" in its constitutional sense, and as an "Order" or "Estate", and in the 1455 statute of Apparel *we* accordingly find both degrees, the Earls and the Baronage-great and small-provided with similar mantles opening in front.

The Earls, as of regal origin, representing the provincial *righ,* are given "brown" velvet, or blue-purpure, mantles-and as evidenced by the Earl of Winton's robes (belonging to Sir Alexander Seton of Abercom, Bt.),5 -whilst those of the Baronage (great and small) were of "red ryt sa",6 which I suppose means (in reference to the preceding brown/purple cut-pile) *red* velvet, with furring of grey "gris", viz. grey-squirrel, or else "vairry," namely the grey and white furring formed by the backs and bellies of these squirrels.7 This fur, says Norris8 "ranked with sable and ermine, and was much valued in the Middle Ages". It has, however, rather an interesting, possible, bearing on the early character of "The Baronage" as *Capitani Tribuum,* and holders of, originally, *allodial* fiefs; for the Scottish Parliament was careful, in 1556, to remind the Crown and Nation that the title "King

of Scots " denoted that .the Sovereign was essentially, and at Common Law, a personal *Ard-High,* and not territorially King *of Scotland.*

That is, whilst ermine was primarily related to Royalty, and by derivation to the high feudal nobility, there are hints, I think, that *vair,* the squirrel fur heraldically represented by blue and white "greys", was the fur associated "with the allodial "Sire" 2 or "Baron par le Grace de Dieu", a fact perhaps rather pointedly emphasised by the arms, "barry of six, gules and vair" borne by Engerrard de Coucy, whose house proudly boasted

"Ni Koi, ni Price sui jy
Je suis le Sire de Coucy."

The story, moreover, related by Mackenzie regarding the origin of the Coucy Arms, though of the character of "family traditions" with which nineteenth century heralds came to look with a critical eye, is of simple nature which, taking the date coeval with the introduction of Armoury into consideration, is probably quite correct; namely that, in a campaign against the Hungarians, De Coucy, as yet not using arms on his shield, having apparently fallen, and his following likely to give way, detached his cloak (red doubled squirrel) and "pulling out the lining" hoisted it as banner upon a spear, when all was well.3 We thus certainly find a robe of red doubled *vair* strikingly associated with the early robes of an outstanding allodial "Baron par le Grace de Dieu".

Equally, we find in Scotland the *Earl-Righ* branch of the "Estate of the Nobility" employing purple velvet robes furred with -white, *i.e.* ermine which certainly in practice was used *with* the black ermine-tails which, however, in due course came to connote itself "baronial status" or jurisdiction, at least as regards the cap, of which more hereafter.

In the first stage these robes were -worn with the hood, which led to a brave display of the "furryt" lining, and in addition the *chapeau,* gules doubled with ermine, or other fur (to be hereafter referred to), or else a

'chaperon" was worn; whilst later,; and-throughout the sixteenth century, a black chapeau-type of cap, the/precorsor of the judicial "Black cap", was worn. Later on the furred >collar grew into the fur cape, which in the case of the robes of peers and the Lord Lyon had become a full cape by the close of the seventeenth century.

Of the foregoing state robe of the feudal baronage, as laid. down by 1455, c. 10, we are fortunate in having (1) a portrait of "Black Duncan", 8th Laird, feudal Baron of Glenurquhy, by Jameson, showing him in a robe consisting of a darkish red mantle, having a bluish *{i.e.* grey) lining (not ill.). The headgear is again a black cap, in this case close-fitting. The pigment of the robe has evidently darkened, but the same mantle as previously observed is again represented about the commencement of the seventeenth century, in a miniature in the Glenorchy pedigree.

(2) *A* portrait of Sir John Colquhcmn of Luss, 2nd Bt. ("The Black Cock of the West"), who succeeded as Baron of Luss in 1646, and lived until 1676 (PI. X, 1). Here the crimson, robe is again furred with a small collar, and lining showing along the edges, but the robe has also a broad cape likewise furred along the edges, but not all over like that of a peer, and the fur has no ermine-tails, so is no doubt vair, as the *Act* of 1455 laid down. This portrait is interesting as showing the use of the baronial robe of state by minor barons even so late as the middle of the seventeenth century. We shall see that it can be regarded as an example of the robes used prior to, and (evidently with the usual Scottish determination) subsequent to, the post-union Orders anent Apparell of 1605 *et seq.* (which. however, do not specifically apply to the feudal barons).

(3) The Composite Plate of the Scottish Parliament, and procession (on foot) of those who normally took part in "the Riding of the Parliament" in the *Atlas de GueudevillelChatelain,* published 1721, and first reproduced in Scotland in June 1932, in the Court of Session Quatercentenary issue of the *Juridical Review,* 1932.

Although issued in the beginning of the eighteenth century, the plate was evidently compiled from much older sources, the dress of the heralds, for example, being drawn from some source of about a generation prior to 1603-for the tabards shown are of the form used prior to the Union of the Crowns, in fact the style of this heraldic dress is approximately 1555-60 or thereby. Lyon is seen wearing, along with his tabard,1 the robe of crimson velvet with cords and tassels of silk and silver which he is recorded as having worn at Coronations as High Sennachie, 2 whilst the ermine cape, or collar, is not quite so ample as in the later engraving of the Lord Lyon in the plate of the Riding of Parliament. The pursuivants,

moreover, are in the early mediaeval cape-and-hoods, not in tabards. It would seem the "Heraldic contingent" has been copied in from some mid-sixteenth century drawing not extant, and represents Officers of Arms of about the time of Sir Robert Form an of Luthrie. The pursuivants would seem elicited from some still earlier, even late fifteenth century, source.

Along with these there are included in the procession bewigged men with tricorne hats of about the James YII period, say round 1685, for the presence of Bishops and Archbishops shows -that Gueudeville's material was collected and sketched prior to the accession of

William and -Mary. The procession thus represents a composition of figures from the two centuries, roughly 1480-1680.

In this connection the robes of Alexander, 1st Earl of Huntly, upon his carved effigy in Elgin Cathedral (c. 1470), are of considerable interest, since they may well, especially when compared with certain of the sleeved robes, in the Gueudeville plate, bear some relation to what may have been the contemporary interpretation of the 1455 style of robes, though in their later development they were the more picturesque sleeveless flowing and ermine-caped front-opening robes. Huntly's robe shows hanging' sleeves, each cut in several places, and opening in front, of a similar style to those seen in fifteenth century manuscripts, and indeed in the Seton Armorial, heraldic portraits of James III and James IY. Huntly's, however, are far more elaborate than those there illustrated, and his tomb is thus of very great sartorial interest.

For the "purpose of the present investigation, in analysing Gueudeville, one examines the detail of the Commissioners for Shires and Burghs, who (and we .know from the Chalmers-Somers plates and the Order of Procession in the Lyon Court Precedency Book that the Burghs walked as an Estate by themselves, before the Estate of the Baronage) stretch along the row above the heralds, and the Lord Advocate intervenes between them and Estate of the Peerage, wherein the "Lord Barons" appear in robes, -whilst the Viscounts and Earls, in this representation, are shown in ordinary dress.

The Burgh Commissioners are shown in a mixed selection of short cloaks and gowns, reaching for the most part to the knees, or half-way down the calf, some having no sleeves, some normal sleeves, and others the slashed, and drooping, gown-sleeves. At any rate we perceive the then Municipal gown was short and sleeved; namely, the black gowns worn in the Town Councils - no doubt with "grave" brown furring, whilst, as

hereinafter noticed, the great burghs -with "Lord Provosts" probably wore, as Aberdeen still does, the crimson robes sanctioned by James VI, with *brown* furring, *not* ermine, for the trimming of ermine on-burghal robes properly belongs *only to* the Lord Provost of Edinburgh as the capital of Scotland.

We look next at the part where the Commissioners of Shires should (and do) appear. Here there is a marked distinction between (a) the portion walking first, "which appear in ordinary clothes without robes, and (6) the second part of this contingent who wear mantles, held up by pages.

The former are clearly those Commissioners who-were only Freeholders, and the latter these Commissioners who, being Barons *(Barones Minores),* were still entitled to wear the mantles specified by 1455, c. 10, and shown in the Colquhoun of Luss portrait; whilst one, as already pointed out, wears the voluminous circular baronial "cloak" like those in the limes birthbrief and Grant of Treuchie's portrait.

The Gueudeville plate therefore agrees with portraits such as that of Colquhoun of Luss, regarding the continued use, by some feudal barons, of these stately baronial mantles. Having thus shown the survivance down' to a period of roughly the half-century before the Union, of the "State Robes" of the feudal Baronage, it falls to explore the development of a "Parliamentary Kobe" both for peers and the feudal Barons, at the instance of James VI in the beginning of the seventeenth century.

It has already been pointed out that Parliament was always spoken of as "The Three Estates" (Clergy, Nobility, and Burghs), and that after the Reformation, at those times when "Prelacy" was banned, the "three" estates 1 were constituted by distinguishing the Baronage from the Peerage (which on English terminology got loosely called "the Nobility"), though, as we have seen, Parliament carefully and explicitly acknowledge in 1567 that the Baronage

was "a part of the nobility" 2 in the sense of a *Noblesse.*

The distinction between the "Peerage" and the "Baronage", in that sense and at this time, was in Scotland an easy one, owing to the tradition of the Peerage as an Order of Earls, in origin the provincial *High,3* whilst the Baronage *(Barones Minores)* were in origin the *Capitani Tribuum,* and holders of the larger *duthus-aRods* within the comital provinces. The Earls (and consequently in due course all Scots *peers)* sat in Parliament "on the *benches* of the Throne",4 whilst the Masters (Tanisters of the

Comital and subsequently of all peerage-houses) sat on the *steps* of ;the throne. The vague recollection of this distinction between -Bego-Comital Order and the feudal Baronage/Capitani *Tribuum* Order became useful to the Covenanting Parliament of 1640, for when Charles I pointed out the difficulty arising from the abolition of the Bishops (the Estait of the Clergy), that unconstitutional Parliament determined "that this present .Parliament holden by the Nobility, Barons and Burgesses, and their Commissioners, the true Estates of the Kingdom, ... to be a complete and perfect Parliament".

This matter had already arisen in 1585 when on account of the alleged "great decay of the ecclesiastical estate, and other most necessary and weighty considerations", a course of legislation was initiated which in due course, under the Shire-representation developments, eventually led to Freeholders other than Barons being elected Commissioners, and getting seats within what continued to be entitled the "Estate of the Baronage", which (hived off from the Estate of the Nobility) took the place of the vanished Estate of the Clergy.

We, however, notice that in the "Riding", or procession, the Commissioners of Freeholder rank were ranked separately, and beneath, Commissioners of Baronial rank *(vide* Gueudeville's plate), and that the latter wore robes supported by pages. Moreover, in Sommers's plates there seems an error in marking *two sets* of "Commissioners for Burghs" (each pair with two "lacqueys"), whilst there follows *one* pair of "Commissioners for Shires" with/our lacqueys (the "Lords" have *six* lacqueys). What was no-doubt intended to be shown was (1) a pair of Burgh Commissioners, with the two lacqueys; (2) a pair of Freeholder Shire Commissioners, also with two lacqueys; (3) a pair of Baronial Shire-Commissioners, with four lacqueys.3 This would agree with the analogous distinctions seen in Gueudeville's procession, though by 1685 all these Commissioners had ceased to wear their robes, whereof the distinctions and use were still set forth in Gueudeville.

Another statute of 1585, the "Statute of Apparells", had dealt with this robing aspect of the rearranged "Estaits", providing that "every Estate shall have their several apparel in seemly fashion conform to the

pattern thereof which the King's Majesty shall make and command to' be observed'. This suggests that the new Estate of the Baronage was intended to have robes, and robes different from those of 'the peers, for use in Parliament. Hitherto, under 14:55, c. 10, it will be recollected that the *Barones,* major and minor, both -wore the same robes, and that these differed from the robes of the Earls.

Whilst it was easy enough, for the reasons already mentioned, to hive off the Baronage from the Peerage, .and so divide the old "Estait of the Nobility" nothing seems to have been done about robes until after the Union of 1603, and apparel for the new Baronial Estait may well have presented some difficulty, since the Barons would be loth to accept a sartorial innovation which might affect their social status as "ane part of the Nobility" (see p. 132, n. 4,

and p. 136, n. 2).

In practice it appears, from GueudeviUe's plate, that both peers and Barons clung tenaciously to their "velvet and furryt" robes, the front- opening mantles of 14:55 "with trains and pages, whereof we And a surviving example in the second half of the seventeenth century, in the Colquhoun of Luss portrait. Indeed Gueudeville shows that the only processional break between the *Lords* and the *Barons* was the interjection of the Lord Advocate, who wears, as he still does, the black robe trimmed with black velvet" and fur.

Indeed we shall find a similar retention of nobility-standard in such apparel, both as regards the "velvet" and revived circular mantles, when His Majesty did in due course take up the matter shortly after the Union of 1603.

On 7th June 1605 James VI sent his commands to the Privy Council ordaining "that Dukes, Marquises, and Earls" should wear "red crimson velvet robes lined with white ermine and taffets" and that "Lords" should wear "red scarlet robes, lined after the same fashion".

These robes -were of course of the "front-opening" pattern with furred capes, shown in both Sommers and Gueudeville, and to which the Scottish noblesse reverted, after the Restoration, as being the more impressive. Examples of the actual garments are seen on the effigy of George, 1st Earl of Kinnoull (who died in 1634), in Kinnoull Old Kirk, and in the portrait of "William 8th" (more probably William 6th) Earl of Morion in *Scottish History and Life* (MacLehose, 1902), vol. xiii. This "statutory Command" of course superseded for the moment, and no doubt unconstitutionally, the ancient purple comital robes such as that worn at Holyroodhouse by Robert, 1st Earl of Winton, at his formal creation in November 1600.

By next year, however, James VI had seen the English House of Lords in its parliamentary robes, and on 8th April 1606 issued a contradictory

order on the narrative of surprise that certain of the Scottish nobles were going to wear their velvet robes at the forthcoming parliament and (quite contrary to 1455, c. 10) stating that "velvet robes are never at any time worn by any Earls except at Coronations, creations and such public solemnities", and that parliamentary robes were to be of .scarlet cloth with stripes of "white fur as rank-bars" in the capes or hoods of the same". On 24th April 1606 the Council duly made an Act amending that of 7th June 1605.

Whether King James meant this to apply only to Peerage Lords, and not to the "Estate of the Baronage", or to both Orders, we have seen that under the existent statutory provisions (1455, c. 10) the *Barones Majores* and *Barones Minores* were robed alike, and that the latter had been again quite recently declared "ane part of the Nobilitie" *(supra), so* the Privy Council, in framing the Proclamation which followed, promulgating His Majesty's pleasure, adopted the foregoing statutory interpretation of the Royal Command. The text of this, like most such proclamations, is not officially recorded, but fortunately we have a contemporary account of it from *Birrell's Diary:*

"22nd June 1606; Proclamation that Dukes, Marquesses, Earls, Lordis, *and Barronis,* should show their evidents to be placed 2 and robes to be made in red, lined white."

Birrell accordingly preserved the fact that the proclamation applied the Royal Command anent robes of "red, lined white" to both "Lords" and "Barons".

This meant that the newly acquired velvet robes were, for ordinary purposes (unless, of course, sitting in their own courts), useless at any rate for the great ceremony of Biding of Parliament the outstanding occasion on 'which robes *were* worn. For this they had now suddenly to acquire circular mantles of cloth, with rank-guards. In a sense, this was a reversion to the earlier traveling mantle, as already explained, but in a state procession was

no doubt far less effective than the velvet be-trained mantles which had so long been in use.

The Order of Council, made on 24th June, left only a week to go before the Opening of Parliament on 1st July, and for that day no one was ready. However, Scottish Statesmen met the situation in as practical a way as possible, and on the Opening day issued this pronouncement:

“The Lordis Commissionarie contmewis this pnt. parliament . . . to therisday nextte cum the third day of this instant, the qlk day rthe haill -Estaittis of pliament will convene and ryd with thair honors, with Croune, sword and Jgceptour."

The phrase "thair honors" refers, I think, to the insignia of each Estait, and not to *' *The* Honours" which are thereafter specified.

By Thursday the peers had managed to get then" new circular mantles ready, but the Barons had not been able to get theirs (probably were anything but anxious to incur the expense!), nor were the Commissioners for Burghs able to *'get* those which had so recently been determined were applicable to them, and the official record of the Biding, .kept by the Lord Lyon King of Arms, bears that

"Notwithstanding this Act (of Council) at Perthe, nather Commissioners of Burows nor Barons rode, for vant of furnitur, to reasone of the untymous Yaminge."

In due course, the Barons, or some of them, did, as we have seen, duly acquire the new form of circular mantle, as depicted in Grant of Grant's portrait and officially by the Lord Lyon in the Birthbrief.

It will next be convenient to examine in' somewhat greater detail the history of this circular mantle which thus came to be restored to use as a ' working-garment", we might say, for the Scottish *haute noblesse,* and which, as in Lochow's representation in the *Black Book of Taymouth,* had already been in use by the early fifteenth century Scottish Baronage, and which, moreover, in an attenuated form, and with an inappropriate single-brooch fastening, purports to be depicted on the "Baron of Scotland armed cap a pie" *(circa* 1320) assigned by Lord Lyon Balfour Paul as one of Arbroath's supporters, 1900.

Circular mantles, split down the right side, and fixed on the right shoulder, were an ancient French fashion, which early in the fourteenth century came to be worn "by both sexes of the nobility", and as we have noticed, were probably already *worn* by the udallers of Orkney in the

early fifteenth century, and, with a shoulder-fastening of *three* buttons, or ornaments, were the recognised dress of the franklyn or free-gentleman. In 1455 we find that whilst the peers wore then' purple white-furred robes of velvet, and the Feudal Baronage their red velvet robes furred with *vair,* both open in front (evidently the test of "the state-mantle of the *hoch-adel)* (and the feudal Laird-Baron of Scotland is still received as *hoch-adel* hi Continental society), the statute of 1455, c. 10, provided just such "clokes" fastened on the right shoulder, for the Burgh Commissioners, and as a robe of parliament.

During the course, of the fourteenth century, such "cloaks" had come to be the parliamentary dress both in France and England; and first in France, then in England, they came to be decorated with "guards" or bands of white fur edged with gold braid, the number of which denoted rank as James VI's order of 8th April 1606 directed without being too specific. Actually a Baron had two such bars, which in England were worn on either side of the slit (and later on the loose hood),1 whilst in France the guards were affixed on the left shoulder.

Now the number of rows of ermine upon the State robes came to correspond with the number of "guards" on the parliamentary robes, and therefore, from an observation of Nisbet's:

"A distinguishing sign of the degrees of nobility in Britain is the number of rows or *bars 3* of ermine allowed to them by sovereigns to wear on their robes as signs of then degrees of nobility. A Duke in his mantle of state has four bars of ermine allowed him, a Marquis three and a half, the Earls, three. The Viscounts and Lords, say our present writers, have only their mantles and robes faced up with a white fur."

In Scotland at this tune the 21/2 guards for Viscounts, and 2 guards for Lord-Barons, had not been assigned. Indeed as Mackenzie points out there were, until 1606, no Viscounts in Scotland.

The point indicated is that these sub-comital peers were wearing robes trimmed with plain *white* fur; whilst the Feudal barons were, like Colquhoun of Luss, doing likewise, or else continuing to use (on their *robes,* though not on their headgear, of which later) the purple-grey furring formed either of "cristy grey gris" or the "purray" (fur vairre), as we see from the

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portraits already referred to. It'-was at ;3io'time the desire of the Crown pointedly "to irritate the Baronage by-peremptorily distinguishing between the *Barons majores* and the *Barones minores,* and Mackenzie in several passages points out that the Baronage @maintained its status. He observes that notwithstanding the Acts for appointing Commissioners for Shires,

"it is observable that tho by that Act they may for their conveniency choose two, yet they are by no express law discharged to come in greater numbers . . . the Barons and Noblemen (peers) having been represented promiscuously, and that long after the-Act of Parliament allowing them to send Commissioners, and this is the reason why our old Barons who are not Lords, and -hold only their Lands in free Barony, have supporters in their Achievement, and that with some reluctancy they yield the Precedence to Knights Baronets, they being originally Heritable Counsellors to the King, as Members of Parliament and not debarred.

"The old Barons (or Lairds) amongst us, especially where they are Chiefs of Clans or the Representatives of old families that were Earldoms . . . have never ceded s the precedency to Knights Baronets, much less to ordinary knights, tho the other pretend that a Baron is no Name of Dignity and that Knights Baronets have a special privilege ... and though *militia non est per se dignitas,* yet generally .it is believed that nest to Knights baronets succeed Knights Bachelors, and next to them our Lairds."

Barony, however, was, as he had observed at p. 549, much more than "militia per se"; and related to *jurisdiction;* and as he says in *Science of Herauldrie,* "such feus as had a jurisdiction annext to them, a Barony as we call it, do ennoble".

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Of course even hereditary Gentility is a 'dignity ", even a coat of arms has a *"nomen dignitotis"*-the noble "name" of Gentility under which the *' armigerous family "is made of record in the person of its representor, *i.e.* Chief, and the Barony is incorporated and erected under a specific "name" which becomes the. "title" *(sic* in litigations such as Moir of

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SO early as 1382 and therefore long anterior to the existence of "personal peerage " barons, it was set forth that Baronza *est nomen dignitatis et imported, judicaturam.* We can accordingly-readily perceive the wisdom of not seeking, even in the early seventeenth century, to distinguish over-pointedly between the Lord-Barons of the peerage and the Feudal Barons "who so late as 1672 successfully maintained, in claiming then" supporters, that "they were as good Barons after that Act (1587) as before".

Whilst James VI accordingly dealt with the Peerage. Robes in 1605-6 in the sense of prescribing *(a)* the new crimson and ermine state robes, replacing the former Comital robes of 1455; (6) the new scarlet doth peers' parliamentary robes, opening at the shoulder and embellished, at least for Dukes, Marquesses, and Earls, with furred guards denoting rank.

King James does not seem to have dealt specifically with the Estait of the Baronage, but the Royal Command, as interpreted by the Privy Council, applied the new circular mantles also to the *Feudal Baronage,* a course duly followed by Lyon Court later in the century.

It will at this juncture be useful to examine H.M.'s directions regarding It will at this juncture be useful to examine H.M.'s directions regarding

"As first, oure pleasour... is that the provestis of burrowis, aldermen, baillies and counsell of everie burgh ordinarlie weir blak gownis lynned with some *grave kynd* of furring" . . .

These they were to wear in their Councils, and at the Convention of Burghs, but it is added:

"Whilkis gownis, after the forme and schape of burgessis and citizenis gownis, and not of ministeris or divynes gownes . . . and . . . according to the shape proportion and model of a gowne heirwith sent."

But H.M. goes on to appoint that the Provost and bailies of Edinburgh, Perth, Dundee, St Andrews, Glasgow, Stirling, and Aberdeen" sail weare gownis of reid scarlatt cloathe, with furrings agreeable to the same" and that these were to be used at the Riding of Parliament, and whilst the list might be extended, H.M. clearly intended only the great burghs to wear these red gowns, and the remainder of the Royal Burghs were to wear their black gowns in Parliament.

King James was evidently too busy to deal with the matter in detail, explaining that owing to pressure of' business *' we ar not permitted at .this tyme to resolve fullie in the busynes yet . . . we haif thoght meete now only to send doun this directioun to be obeyit by suche to whome it is enjoyned".

One deduces that he intended certain burghs which might more or less be ranked as equivalent to "corporate barons " to wear the red parliamentary gowns, the remainder equivalent in a sense to corporate Freeholders to wear black gowns. Whilst just as the Lord Mayor of London is supposed to be equivalent to an Earl, so the Lord Provost of Edinburgh has been treated as the equivalent of a Lord-Baron (Peer), and lined his gown with ermine.

The other burghs furred their gowns with *brown* for from the fur which has ever decorated the red gown of *infer alia* the *Lord Provost of Aberdeen,* we learn that the "grave furring" appropriate to a municipal magnate was, and is, brown. This coincides with the brown fur caps borne above the heraldic achievements of London and Dublin. This brown-furred cap, called a "cap of maintenance", which surmounts the City Arms of London and Dublin, is more like an hussar's busby. An early example is seen in Froissart.

Of the analogous use of' brown fur by professional personages there is also corroboration from portrait-evidence, *e.g.* Sir William Butt, M.D., 1543, in black gown with brown fur.

Heraldically this municipal-professional fur is evidently that indicated as Erminois (a golden fur with black tails).

Of the legal dignitaries whose gowns were dealt with at this time, it is interesting to observe that the colour of the gowns of Lords of Session was then fixed as purple satin faced with crimson satin, the Lord President's (as such) being faced and lined with crimson velvet; but and this is interesting the Extraordinary Lords were to have black velvet gowns "lined with martrix or some other *black* lyning at their pleasour".

We have no guidance as to whether the "pattern" gown sent down for Burgh-gowns was of the sleeved variety or the 1455 "cloke"; probably it was not, as these would have been too like the new parliamentary Noble- men's robes, and accordingly in Gueudeville's plate we find the Commissioners of Burghs "wearing shortish sleeved robes, without trains.

By the close of the seventeenth century, the Commissioners of Shires,

other than, it appears, those "who were actually feudal Barons (see below), had, as we see from Sommers's plates, ceased to ride in robes, though the Innes birthbrief does show that officially feudal Barons were held entitled to robes, and in this case the recipient of the birthbrief being Commissioner for Elgin and Forres, was accorded the "parliamentary" form of robe, and whilst the two Northern examples show this, two of the Western paintings, Glenurquhy and Colquhoun of Luss, show the 1455 pattern baronial Robe of State; and that both varieties are represented in Gueudeville's plate.

From Sommers's plates, however, constructed from Roderick Chalmers, Ross Herald's drawings, it appears that the Parliamentary scarlet robes prescribed by James VI after seeing the English Parliament had fallen into disuse, and the peers were again riding, as of old, in the stately velvet robes of their rank. This, as we see, had been the old principle in Scotland, also that provided for in the statute 1455, c. 10, and that the Scottish *Noblesse* clung to it tenaciously.

We are able to summarise the matter thus: (1) The Earls, who were originally *dynastien-adel,* virtually "princely" nobility, looking to the *righ* origin of their Order, wore, under practice regulated (though probably not originated) by 1455, c. 10, purple-brown velvet robes trimmed and hooded with white fur, ermine, which very probably in practice included the black tails, though the Act does not say so. (2) The. Barons, and the new "Lords of Parliament" (invented 1425-45), -wore robes of red velvet furred with "grey grece" or "purray", *i.e.* vair, namely grey and white squirrel. The distinction, though not precisely laid down, may well have been intended to imply that the "greater barons" (the newly conceived peerage-lords) should fur with the grey squirrel, and the "smaller barons", the Feudal Baronage proper, with the vair (consisting of the grey and white back and belly fur), which in origin apparently went back to the allodial Chieftains, *Barons par le Grace de Dieu.* The mantles were lined with white.

Both these grades, which on the Continent at least in some realms fall within the ambit of "hoch-adel" (though in later times the tendency in *England* has been to distinguish the peerage alone as " High Nobility"; whilst in Scotland, where a Feudal Baronage still exists as a constitutional "Order", this following the Continental usage is officially recognised as *Hoch-adel},* wore their aforesaid "State" mantles "open before", *i.e.* in front. (3) The lesser *noblesse,* the Freeholders, had then no place in Parliament, and their robes were not specified in 1455, c. 10, but they appear to have worn circular cloaks of red, lined with white or grey taffeta, or perhaps furred vair, open at the right and fastened on the right shoulder with *three* buttons; and, if we may judge from those who seem to have been

the udallers of Orkney, worn in the fifteenth century over black velvet undergarments. (4) The Commissioners of Burghs were to wear, under the Act, blue circular cloaks-but actually always wore black ones opening at the right shoulder, and fastened there, like those of the Freeholders, and furred with what transpires to have been brown fur. (5) In 1605-6 the Peers State robes of purple-brown were altered to crimson velvet with ermine capes and hoods; and the old Anglo-French circular-cloak pattern of parliamentary robe, of scarlet cloth, open at the right shoulder, and in the case of Dukes, Marquises, and Earls embellished with guards of gold lace and white fur, denoting rank. Just as the Lord-Barons had no rank guards on their Parliamentary robes, they at this period got no ermine spots on the white ermine capes

of their velvet robes. (6) The feudal- Baronage continued to wear the velvet State robes of 1455 right through to the second half of the seventeenth century, and also (though no specific award of it is extant but properly under the Privy Council's interpretation), probably because, like the freeholders' cloak, it existed beyond memory or record *and with official sanction* (the baronage being in terms of 1567, cap. 33, "part of the nobility"), the red circular robe of the revived "parliamentary" pattern opening on the right shoulder, and fixed there with *five* large bulbous buttons; being thus enhanced above the three- button fastening of the old freeholders-cloak. I have not so far ascertained what form of fastening applied to the Lord-Barons circular parliamentary robe, the main distinction of which evidently came to be the rank-guards. (7) The Greater burghs were directed to wear red robes at Parliament, the lesser black robes, both to be furred -with "grave" furring which transpires to have been brown, 'which was both the municipal and professional shade of fur; grey or -white that of the baronage, and white or ermine that of the Earls and other "princely" ranks. It becomes evident that the "professional and municipal" fur was brown, or that heraldically symbolized by "Erminois" (gold with black spots) which should accordingly be used for such persons and officials. (8) During the post-Restoration period, and down to the Union of 1707, the Baronage continued to wear both the velvet open-fronted mantle of State (developed from the 1455 style, and illustrated in its fully developed form by that of Colquhoun of Luss), and also the earlier representation, and which in its developed form was worn fixed by five round-buttons on the right shoulder; and this received official approval in the last decade of the seventeenth century. (9) Towards the close of the century, the use of " Parliamentary" robes in the Riding of Parliament

was dropped, and the custom was resumed of riding in the State Robes of velvet and fur, in the old Scottish manner. (10) The Commissioners of Burghs, and such of the Commissioners of Shires at any rate as were only freeholders, ceased to ride in robes at all. The Commissioners for Shires who were -Barons, however, appear to have ridden in red open-fronted fur-caped robes, of the "developed" 1455 pattern, as used by, and best illustrated in, the portrait of Colquhoun of Luss.

Gueudeville's plate shows the persons in "ordinary dress" as people in the dress of James VII's reign, consequently *circa* 1682-88, though most of his official robes, tabards, etc., are representations of sixteenth century models, round about 1540.

The Sommers-Chalmers plates, attributed to the 1685 Parliament, relate to the period, say 1685-1700, definitely to a period to the latter, for the Marquess of Douglas, named as carrying the Crown, died 25th February 1700.

These show that the gradual abandoning of robes by the Commissioners even Freeholders and Burgesses dated only from, say, 1685-90 decade, or some seventeen years prior to thu Union, though as regards the Baronage, at this very period, the Lord Lyon was officially recognising the subsistence, in nobiliary law, of the ancient Baronial robe, as we find .it in the pre-1455- style portrait of Campbell of Lochow.

The Feudal Baronage had thus, like the Peerage, both a velvet state- robe with furred cape, and the more ancient circular mantle, which, from its use in Parliament, was probably regarded as a more "working" (medisevaUy speaking, should we soy effectively draught-proof") form of mantle, and probably went back to the time of primitive allodial provincial councils, and outdoor parliaments, such as the baron-court of Leswalt.

Whilst the Peers came to fur their capes wish the princely ermine originally appropriate to Earls, the Baronage furred their robes of state with "grey-grece" and their circular mantles with the allodial vair-purray, use of which were optional alternatives under the 1455 Act. The former, the greyish "white fur" of records, came to be, at any rate in the State chapeau (and necessarily, as the only means of illustrating such a fur in heraldry), depicted as "ermine" when applied as the lining of the baronial chapeau, of whose history and development next

fall to be examined.

THE BARONIAL CHAPEAU

It now remains to consider the baronial headgear, which it will be found is also related to the doctrine that "every feudal baron was *chef de famille"* and that the baronial robes are essentially a formalised survival of the dress of the tribal patriarch.

Both in Scotland and France, the "Head of the House" was marked

out by his sitting in his Chair of State, *with his hat on his head,* and this feature "was as noticed in the cottage as in the Palace.

In Spain the "Grandee's Hat" which devolves along -with the Chief ship (on heirs-general, and which may be cumulative) is a marked feature of the social organisation of the patriarchal communities in that partly-Celtic realm, and in Austria the exhibition of the Ducal bonnet for obeisance will be recollected in connection "with the legend of William Tell, whose party had opposed "adoption" of his canton by the Archduke and accordingly declined to recognise his parentality.

In Scotland the Hat forms a feature of the Scottish coronation, and was worn by the *Ard-Righ Alban,* whilst sitting in state with the Crown on a cushion at his feet, to be "touched" by the vassals, and we should bear in mind that the *duine-vasail* was equally a feature of the Celtic regime.

In England an analogous "hatte of estate" is borne for the two duchies Guyenne and Normandy, whilst the King *comes* to his coronation, already wearing his fur-trimmed hat of furred velvet, *i.e.* he is already the "undoubted" hereditary "father" who is to be formally presented to his "children" the people. In Scotland the essence of the whole coronation ceremonial, and of the familial character of the Monarchy, is demonstrated in the King's oath "To be a loving father to his people", and the whole ceremony in Scotland was that of the inauguration of the Tanister (or Successor-Designate) as High-Chief of a Celto-Pictish Tribe. The "Seven Earls" whose existence is traced, even as a body, down to 1237, indeed even until the Bruce and Baliol contest, and who were provincial Kings, are also duly found wearing the heraldic *chapeau,* at any rate in the case of Mar.

Fox Davies, who errs in thinking the "cap of maintenance" is not borne at a coronation,10 duly notices that the long folded cap of red velvet trimmed "with ermine forms the centre-piece of both Crown and coronets. He observes:

"Long before a coronet was assigned to the rank of baron, in the reign of Charles II, *all barons* had their caps of dignity, of scarlet lined with white fur, and in the old pedigrees a scarlet cap with a gold tuft

Or tassel on top, and a lining of fur will be found painted above the arms of a baron.

He goes on, however, to expand, somewhat rashly, as will appear, even on the English evidence, that “The cap of maintenance was inseparably connected with the Lordship and overlordship of Parliament.”

This proves erroneous. No doubt *chapeaux* were worn “in council” by Barons, even in early days in England, for all barons-by-tenure were originally Councillors. In Scotland, as on the Continent, however, the feudal barons retained their title, status, courts, and character, in a manner which constitutional developments obliterated in England. Even so, however, certain

representatives of the older feudal houses continued to bear their baronial caps, even though they never became “peers of Parliament” under the English Parliamentary bi-cameral system. Fox Davies himself notices the use of a chapeau by Sir John Grey, K.G., *before* he became a peer.

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On examining the history of the cap from a somewhat broader angle, we find H. Norris observes that such caps, of red, with brim of ermine, as those described by Fox-Davies in baronial pedigrees, “appear in the twelfth century” that it “ developed tails in the early fourteenth century”, when the top became flatter, and the brim divided at the back.

Such chapeaux were worn in Parliament in the reign of Henry VI, and whilst this old cap was still worn with state dress by royal and noble persons in the early part of the reign of Edward IV, the ermine brim upstanding all round the velvet brim, when it was called an “abacot” or “cap of estate”; it came about this time to be superseded for fashionable wear by the ‘French bonnet’ which was usually of black velvet.

This indeed is the style of “bonnet” worn by Lord Campbell in the *Black Book of Taymouth* (PI. VII), so that the same fashion extended to Scotland. The ancient and formal “cap of dignity” had, in fact, about this time, passed into a “state” headgear, employed rather to denote a specific noble rank, and was becoming related rather to record and heraldry than to everyday wear, save that the baronage still wore it with their state robes in Parliament – also no doubt in their own courts – and in Scotland, as on the Continent, “Baron” of the great families under the *Ard-righ* as “Father of all the Fathers”.

We can trace the history of the cap in Scotland, in this very sense, “baronial” as distinct from “peerage” only, from the thirteenth century onwards. In Barbour’s *Brus* the poet alludes to Sir Ingram de Umphreville on taking possession of Galloway, then a feudo-baronial, and *not* a “peerage” fief, having:

”…gert aye ber about
upon a sper a *red bonnet*
into tokyn that he was set
into the hycht off chivalry”

Whilst Sobieski Stuart quotes its use by Highland chiefs and “like the *baronial* caps of other countries”, instancing its attribution in a Gaelic description of *Mac mhic Ailean a Mhuidart* (who acquired from the Crown a character of the fief of Moydart and Ellan-Tirrim, 1531) in these lines:

”Le bonaid dhearg mar abhairt nam flath
A’ seillseach nin cheann an loach”

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("the red bonnet, as *was* the custom or the noble, glowing on me head of the hero "

In the Glenorchy Genealogy, by Jameson. we also rind rue *chapeau* worn both bv Lochow and Glenorchy. and much in the form. with slightly spread doubling. as shown in the Lyon Office version upon the Birthbrief towards the end of the century.

As regards actual use of this ancient baronial cap. and as a ceremonial headgear. in the Lowlands. and in "he same century, we mm an actual instance of use of the *red cap furred ermine,* by a *Laird-Baron* 3rd September 1650. in me funeral panoply 131 Sir William Sinclair of Roslin. Baron of Roslin. the last of the "twenty of Roslin's barons bold " rid" to be laid to rest uncoffined. " sheathed in his iron panoply". Father Hay, the family historian. Recording what was discovered when the vault was opened for the interment of Sir William’s son in 1650. states that Sir William remains:

" Seemed to be intire att the opening of the cave. But when they came to touch his body it fell to dust: he was laying in his armour with a *red velvet cap on his head.* On a flat stone. Nothing was spoiled except a piece of the *white furring that went round the cap"*

Here. then. was a contemporary feudal Baron of Roslin. So late as the mid-seventeenth century, actually (and in accordance with the custom of that house) ceremonially arrayed for interment in what was evidently the baronial cap and his Father Hay's description shows in the early form of the "abacot" or completely upstanding brim fur.

In figures upon the Innes of that Ilk Birthbrief. 1968. we find in addition to the robes already described that the representations of the two feudal barons wear flat caps with the slightly scalloped brims usual in the later "caps of maintenance" and that the brims are duly shown in the lighter tincture denoting a red cap and white-furred brim. The use of cap by the baronage, and official sanction, is thus traced into the dawn of the eighteenth century.

in Lyon Register. following the act of 1672. a few baronial lairds obtained chapeaux. but those who had been using the chivalric wreath or the crest-coronet, evidently adhered to these. *Ross of Auchlossan,* Baron of that fief a number of Homes. Bruces. and Douglasses, are found with chapeaux-matriculations.

Whilst the conventional chapeaux (usually surmounted by a crest) are shown flat-topped and with no tassel the traditional Scottish version

retained the .early nobiliary character of a higher crumpled cap, and with a golden tassel. Such is the chapeau illustrated *in Nisbet's Heraldry* (1742 ed.), ii. pt. iv. p. 1), in –the plate of "External Ornaments", 'where it follows *after* the "Lords" coronet, and prior to the "mural crown". This very/significantly, corroborates its place, in correct precedence, amongst heraldic insignia, as well as showing it in the early form used before the fifteenth century and in Old English baronial pedigrees. It is in this tasselled form that it was officially allowed by Lyon Court to Chisholm of Chisholm.

In 1771,. Archibald Douglas of Douglas, victor in the "Douglas Cause", as lineal heir and representative of the ancient and illustrious families of Douglas and-Angus, obtained a re-matriculation to the undifferenced Arms of. Douglas, and his Crest (which had been borne by the previous Earls and Dukes, upon a chapeau, and accompanied, by their coronets of rank) upon a helmet: "instead of a wreath, is set thereon a ducal coronet proper surmounted of a chapeau gules turned up ermine". The point of this Crest-coronet is that the Laird of Douglas was *Chef de Nom et d'Armes,* to which such Crest-coronets are appropriate in Scotland, as laid down by Nisbet and agreeably to the definition of that character by Johan Scohier, which in Scots terminology is simply those who are " of that Ilk" *(i.e.* having their surname and title the same).

Again in 1835, the matter was directly raised by George Robert Ainslie of Pilton, as "heir and representative of the Feudal Barons of Dolphinton ", his Petition for a re-matriculation of arms running: "With the following addition to the Crest . . . namely . . . issuing out of a Gap of Maintainance all proper . . . the cap as being indicative of his descent from the ancient barons of Dolphington".

The matriculation following, pursuant to Interlocutor of Lyon Court 28th November 1835, records that the Lieut.-General having prayed for his Lordship's Authority to have the same (arms) matriculated of new in his own name *with the addition and alteration set forth in his said Petition and which his Lordship was pleased to ordain accordingly.* Bears, Or a cross floree Gules . . . and for Crest a man's arm, embowed grasping a scimitar issuing out *of a Cap of Maintainance all proper,* and over the same this motto . . . Supporters, two knights in

chain armour armed at all points, the one on the dexter having . . . the other . . .holding a spear with a flowing pennon Azure on which in a canton argent is the abovementioned crest . . . *(Lyon Reg.,* vol. iv. p. 2.)

No textbook has referred to this decision of the Lyon Court 6; however,

it as 'evident that down to this time and in what was regarded as a period of most strict heraldic administration the relationship of the chapeau to the feudal baronage was recognised in Scotland, as we have seen it was in granting of chapeaux continued, Fox-Davies observing:

” In Scotland and Ireland Lyon and UIster have always been considered to have, and still retain, the right to grant crests upon a chapeau sand or issuing from a crest-coronet; but the power is exceedingly sparingly used. And except in the case of arms and crests matriculated as of ancient origin and in use before 1672, the ordinary ducal crest-coronet and: the chapeau are mot now considered proper to be granted in ordinary cases."

Nevertheless both chapeaux and crest-coronets were granted more freely than Fox-Davies supposed, and with no definite meaning. Such grants as those of *chapeau to Plat/fair,*' 4th June 1917**;** *Fortune,* 30th .August 1910; and *Brock* (two), 17th and 19th July 1913, were both meaningless and indefensible.

Investigation having shown that the true nature of the chapeau was baronial, and (though quite appropriate to peers) related to the feudal baronage; a formal application for it, with pleadings in support, was made in the Petition of *Gordon of Ballhead, Baron, of Esslemont,* when, after consideration of the evidence then adduced., the Lord Lyon, on 4th September 1934, found the claim established, and awarded the *chapeau.*

It was subsequently a matter for satisfaction to find that the lord Lyon's decision in 1934 agreed with the (then unnoticed) precedent decided by Lyon Court 28th @November 1835, in the equally specific petition of *Ainslie of Pitton,* already mentioned, and-matriculated 26th January 1836.

It had in Scots Heraldry, 1934 ed., p. 24, been tentatively suggested that the colour of chapeaux might be varied- according to the date of the erection, but subsequent .consideration demonstrated that no social distinction arises as between the dates of erection, all are equally, and in the European sense, "Barons" in a "Feudal Baronage", and constitute a "titled nobility" in the feudal sense.

The distinction, if any, appeared to be rather that where the Baron is in possession of his fief, the colour of the chapeau was Gules, and that

when she was not, it was 'Azure, or the colour of his armorial livery. This is deducible from the two early 'instances of Lord Beaumont, titular "Earl of Buchan", and “Count James de Douglas" (whose Earldom of Douglas was forfaulted in Scotland at the time his Garter-plate was erected).

Unfortunately neither of these instances forms a conclusive precedent regarding colour. "Beaumont's livery being Azure, could be construed as "of his liveries". This was also the ancient Douglas livery, though the augmentation of the 'heart made Gules the normal livery-colour. This, coupled with loss of "the fief, would have gone to establish the point, save that the plate-label *Comte James de Douglas* may suggest that it was assumed by the Heralds at

Windsor that he was not actually *"James, Comtede Douglas",* Chief of .the House. In *Ainslie of Pilton,* likewise,-the territorial barony of Dolphinton had been lost, yet the chapeau was Gules. In this case, also, the armorial livery was Gules, as it is in Ghishohn of Ohisholm - where the cap was allowed to the heir of line and –representative of the baronial race, who was duly declared equivalent to the *Hoch-adel* pf the Continent, and of the Chiefs of Continental Baronial Houses.

It seems therefore premature to conclude that a blue chapeau did not pertain, rather to "the heir" than denote a landless representative of a baronial house. Meantime Lyon Court accords the chapeau –tinctured Gules, where the Petitioner has, himself, been connected with the fief, either as infect or heir-apparent of the infeft baron; and such chapeau, once it is matriculated, descends to the "heir and representative" of-such "baronial race" who in the Continental sense is of course a "Baron". The baronial chapeau is also awarded to females 3 so succeeding to the feudal fief, or honours, or to the Representation.

It has also been decided that where the escutcheon of a feudal Baron is shown without helmet and crest, the shield may be ensigned with the appropriate chapeau, which is shown frontwise.

Investigation of these details of baronial insignia has added considerably to our knowledge regarding the social aspect of the feudal barony in mediaeval Scotland, thus supplementing the information already collected by Professor Dickinson, whose examination (as he explained) did not extend to the nobiliary aspect of such tenure.

In one juristic aspect, however, the further examination and investigation of West Highland title-deeds has led to important fresh light on the

Jurisdiction of Barons within, and holding *de me* of, Earldoms. These transpire to be of a very ancient and primitive character indeed. Though cum curiis and of course vassals sitting ini the council of the Earldom, their courts and jurisdiction did not relate to “pit and gallows”, but to the far more ancient jurisdiction under the Scoto-Pictish codes of Law,, wherein the function of the Court was to find the crime established, the rank of the victim, and then to assess the “Bote” or penalties in the appropriate number of cows. That this was the original character of the “High Justice” of the *ancient* Scottish Baronies is corroborated by such incidents as Douglas’s taunt that the Barons of Galloway made no great use of their capital penalty treated there as a dead letter. In short the “baronial” tradition in this province was the older tribal variety of the jurisdiction.

Realising that here the Lyon Court has to deal with a most ancient, but primitive, baronial status, which though possessing what was quite clearly a primitive form of the highest of “high justice” (yet essentially different from the later concept of criminal jurisdiction and service under the Crown of Scotland as comprehended in the later *Baroniae Regni Scociae*), Lyon did consider that some alteration in the relative chapeaux should be made, and accordingly in the case of such baronies, or representatives of such, Barons, of and under the old provincial *Ri* (or under great Earls, and in the Lordship of the Iles), it has been settled that the appropriate chapeaux be furred ermines, viz. a black fur, with white tails (“contre-ermine”).

We thus find that not only are the robes of the Scottish feudal Baronage illustrated by historical evidence still extant, but included in official representations; also that the baronial chapeaux, the ancient and primitive patriarchal hat, has (as was surmised before full investigation confirmed the matter) survivant in the heraldic “Cap of Estate” and that its allocation to the feudal baronage of Scotland had already been the subject of judicial decision, which has now been again, and in quite a number of cases added to arms in the course of re-matriculation; and it may now be affirmed that, in Scotland, it will be retained for this specific purpose, and not extended to individuals who are not either the holders of corporeal Baronies, or incorporeally Baronial as the Representatives of Baronial Houses.

Although the subject is thus yet a matter of living law and practice

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regarding a subsisting yet very ancient “Order” in the Realm of Scotland, still the subject is one of such a little-investigated character and remote antiquity, that its exposition from ancient examples down through the centuries, and official confirmations in the Court of the Lord Lyon, wherein so many aspects of ancient Scottish history still survive as living features of the National culture, and spirit of tribality, renders an examination of these mediaeval garments a matter of appropriate and indeed most interesting antiquarian investigation.

USE OF THE BARONIAL TITLE IN SCOTLAND

A matter of practical interest to antiquaries, as instanced by the tombstone investigations of Sir George Macdonald in proceedings, vol. Lxix. Pp. 44-47, is the extent of which the title of “Baron” was used in Scotland. An impression seems recently in philological quarters to have been formed that it was not used at all and contrariwise that it was applied to any large landowner! Both these views are wrong, as indeed Sir George’s observations make clear, and Sir Walter Scott was quite correct when he characterized his laird of Tully-veolan as “The Baron of Bradwardine”.

Examination shows that the title of (feudal) Baron was actually very widely used in daily life, and the language of the people in a broad belt round the “Highland line”, and as An Baron and the feminine Ban-Baran throughout the Highlands. In these parts there persisted more of the old ceremoniousness, whilst we shall also find the character and title of feudal Baron continued in the formal documents of Lyon Court.

In the Lowlands proper, no doubt “Laird” was, or very nearly became, the dominant title, but even so, Sir George Macdonald notices at St Andrews an inscription relating to Dni Joannis Praeston equities ac Baronis de Ardry, showing that the style was used in Fife, whilst in the case of Kennedyt of Kermucks he points out that the Baronial title was carried on a generation after the fief had been lost and in quite a different part of the country.

As I have already pointed out, Sir George Mackenzie, who, as Lord Advocate, had good reason to know about such matters, laid down categorically that “Barons in England are Lords with us “, and that Baron means in Scots Law a feudal Baron; and this distinction is carefully observed in all the old Lyon Court Records.

Similarly in the Sheriff Courts, where the Crown Vassals had to answer the Roll at the three head-courts, the entry of praesentes was in the form

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" *Intrat A, Dominus de B" or* " *Intrat A. Baro de B* ", just as an Earl was marked. *"Intrat A, Comes de B"* and *not* (as Lord Hailes emphasises) ever *"Intrat A qui tenet terres de B in liberi comitatu".*

Where a peer held a feudal barony *(as* well as his dignities of *Baron-Banrent* ("Lord"), *his* feudal Baronies are added to his style in the form "Baron of the Barony of X-".

As regards the feudal barons who were not peers, it will now be shown from a variety of examples, of the highest authority, that when the rank of a free baron fell to be described in such baron's style, the actual description used was indeed, as Scott has immortalised it, "Baron of Bradwardine", or, as in actual fact, "Hugh Rose, Baron of Kilravock". This family is indeed one in which, from generation to generation, the right to the style of baron has been consistently asserted and recognised with the highest authority, for Mary Queen of Scots addressed letters to "Our traist friend the barroun of Kylrawak". He is similarly addressed by the Earl of Huntly, Argyll, and other great public men, and colloquially referred to as "the Baron". Whilst the description in formal writs was "Hutcheon Rose, Baron of Kilravock".

Or popular use in the speech of the countryside, and in Scottish ballad literature, it is only necessary to refer to "The Baron o' Brackley". "The Baron of Rivernie", "The Baron o' Towie". "The Baron o' Drum". "The Baron of Leys" (Burnett), "The Baron Ban" of Monaltrie (Farquliarson). all on Deeside; " The Baron of Kinchardine" (Stew-art); " Baron of Mulben and others on Speyside: and further south "The Baron Ruadh" Beid'l of .--traioch: whilst the tomb of Alexander Iruies of Sinnahard. Barer- 01 Towie in Strathdon. is still pointed out at Migvie. 200 years after his death as that
of "the Baron", variously named 01 Towie and Culquoich. whilst in Inverness (Macewens and Frasers) came to be described as "the Barons of Moniak", as occurs in Continental baronial farm ties-6 In Argyll "Baron McCorquodale" is found as a non-peerage description in 1-1:27.7 The "Baron o' Brackley", renowned in Aberdeenshire ballad fame. is. however, a matter of some legal interest because the estate of Brackley was *not* a

barony. It happens, however, that on 25th February 1481 Thomas Gordon of Bracldey had a charter of the *Barony of Eennerty,* and was thereupon legally described in writs, "Thomas Gordon, Baronis de Kennerty", and it has been pointed out that the barons of Brac-kley were really Barons of Kennerty. "Baron" was their highest feudal rank, though "Bracldey" was the Territorial designation, or title, they used. To this the Baronial title was therefore popularly prefixed. In this case we have a combination somewhat similar to "Gordon of Hallhead, Baron of Esslemont". Here *Hallhead,* his oldest property and ordinary designation, though it is only a feu-holding in the Barony of Cushnie, whilst at *Esslemont* he holds a barony in his own right.

According to the practice of Lyon Court during the rule of Sir Francis Grant, following that of George Burnett and preceding Lord -Lyons, a Petitioner who establishes his baronial status is, whether in the Register of Arms, in which Lyon is specially directed to take cognisance of and to record feudal tenures, or the Register of Genealogies, duly recorded as "Baron of X-" and Baronial ancestors duly numbered in the usual manner.

Instances of Barons of the Isles have also come under the jurisdiction of Lyon Court, as those of Barons in Earldoms did under Lord Lyon Burnett, and raise many interesting aspects of jurisprudence (see p. 156. *supra),* as well as explaining certain problems of the Duchess or Atlioll regarding vassal-landowners *{e.g.* the Baron of East-IIaugh) in Atholl. who were nevertheless denominated Barons and which it will now be seen were not mere titular "compliments", whilst her observation that the title or Baron is there found associated with the inheritance of " some local jurisdiction" is one which involves comparison with the West Highland "Barou ur the Bachull" (Keeper of the Crozier of St Moluag).' and high social status which in early Scotland attached TO the "fief" of holding, or being the "Keeper" of a holy relic, along with which, of course, normally devolved a property, great or small, which nevertheless, and irrespective of its *size,* possessed a certain nobiliary status of *fief-noble.* These things are in themselves worthy of far more detailed examination than they have yet received from Antiquaries and Jurists. Amongst the aspects of their practical value, and influence in even European history, was the astonishing,

but quite justifiable, resultant position and influence acquired by Scots abroad amongst the great houses of the Continent.

The Laird of Hallhead led a lengthy proof upon the use of the baronial title and "was in his re-matriculation duly described as *Baron of Esslemont* and awarded the baronial *chapeau,* as above-mentioned.

The Innes of that Ilk Birthbrief. now in the Duke of Koxburghe's charter chest, is another important document since it dates from before the extant Register of Genealogies (having been recorded in a volume proved to have formerly existed, (see p. 127). It is important not only since it describes the Petitioner and his ancestors as Barons, but refers to their

marriages with daughters of "the Baron of Fyvie" and "the Baron of Gight". Still more important, the Lord Lyon, Sir Alexander Ersldne, officially describes himself as *"Baron of Cambo".* Examination of the succeeding and existent volume of the *Public Register of Genealogies* showed the same practice and that Lord Lyon Brodie styled himself-Baron *of Brodie.* Such indeed is found to have been the usual practice, namely that in almost every birthbrief where the ancestors were feudal barons, whether in the paternal or maternal lines, they are described as " *A.B. Baro de* C.", and Leslie of Balquhain, 18th January 1861.4 Here the laird in a document which was required for production in a lawsuit over the Dietrichstein estates in Austria is officially described as "Colonel Charles Leslie of Balquhain in the County of Aberdeenshire, twenty-sixth Baron of Balquhain, by descent from John Leslie, sixth Baron of Balquhain, anno 15 TO", whilst a few pages further on the Laird of Lochgarry is recorded as *Joannes MacDonell, Baro de Lochgarry.6* Coming' to current times, we find the same practice continuing in. *e.g.,* the re-matriculation with Baronial *Chapeau* for the present *Wauchope of Niddrie,* wherein the Lord Lyon (Grant) officially declares:

"That the Petitioner, as feudal Baron of Niddrie-Merschell and Lochtoure is of Baronial Race, and of rank equivalent to that de-nominated *Hoch Adel,* and equivalent to the Chiefs of Baronial Houses, upon the Continent of Europe, and that by demonstration of the foresaid Ensigns Armorial, he, and his son and heir-apparent and their successors in the same 7 are to be so accounted, taken, and received amongst all Nobles and in all places of Honour."

Sir Duncan Campbell of Lochow, Knight, Baron of Lochow (*d.* 1453), in the robe of a feudal baron.
Black Book of Taymouth.

Thomas Innes.

[*To face p.* 160.

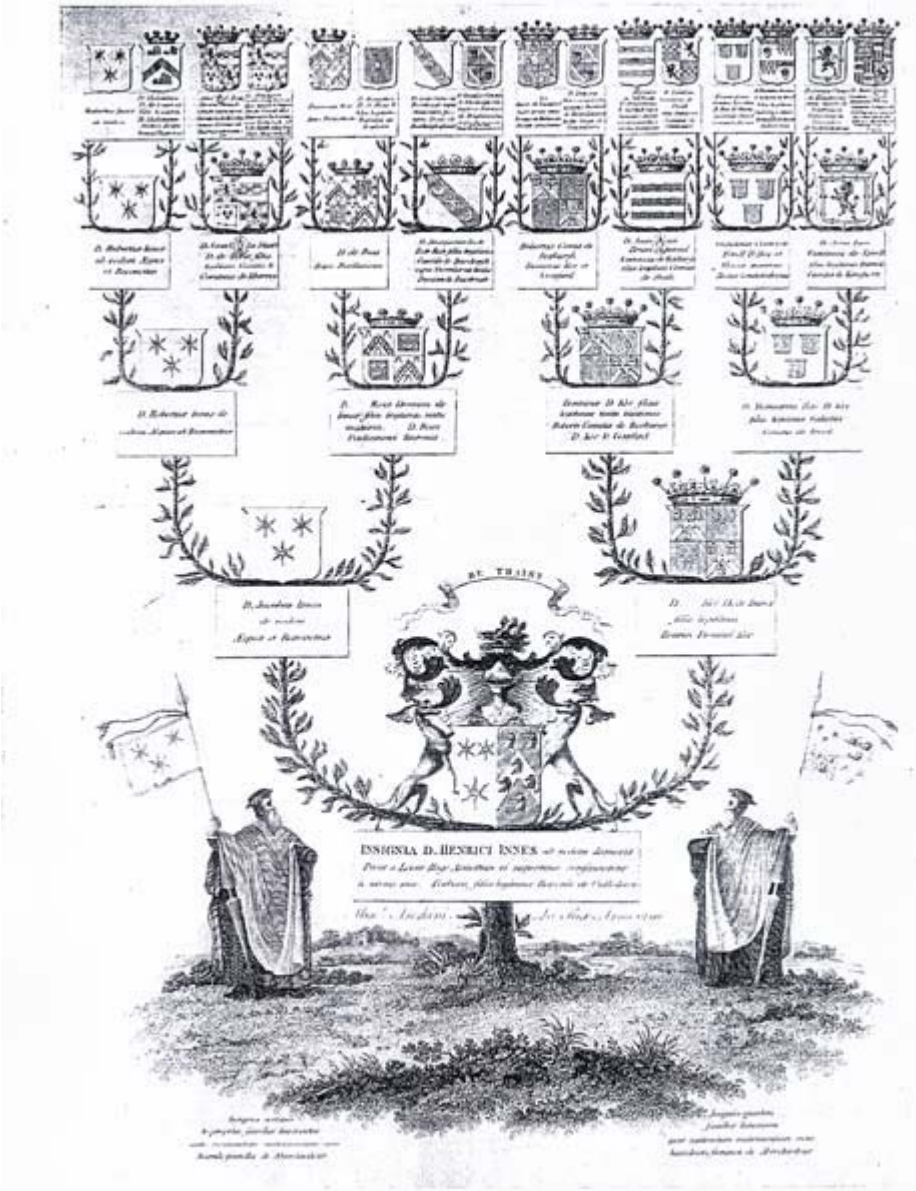
James Grant of Grant, Baron of Freuchie (*d.* 1663), red robe, with five-button fastening on right shoulder.

Portrait at Castle Grant.

Feudal Baron in Scottish Parliamentary procession (*Atlas de Claustration*) showing robe opening on right shoulder and train carried.

Examples of the circular Baronial Robe, with five-button fastening on right shoulder.

Thomas Innes.



Birthbrief of Sir Henry Innes of that Ilk, ygr.

(afterwards 4th Baronet), issued by Sir Alexander Erskine of Cambo, Bt., Lord Lyon King of Arms about 1695; showing official representation of two feudal Barons of Innes, in robes and chapeaux.

Innes Charter Chest, Floors Castle.

THOMAS INNES.

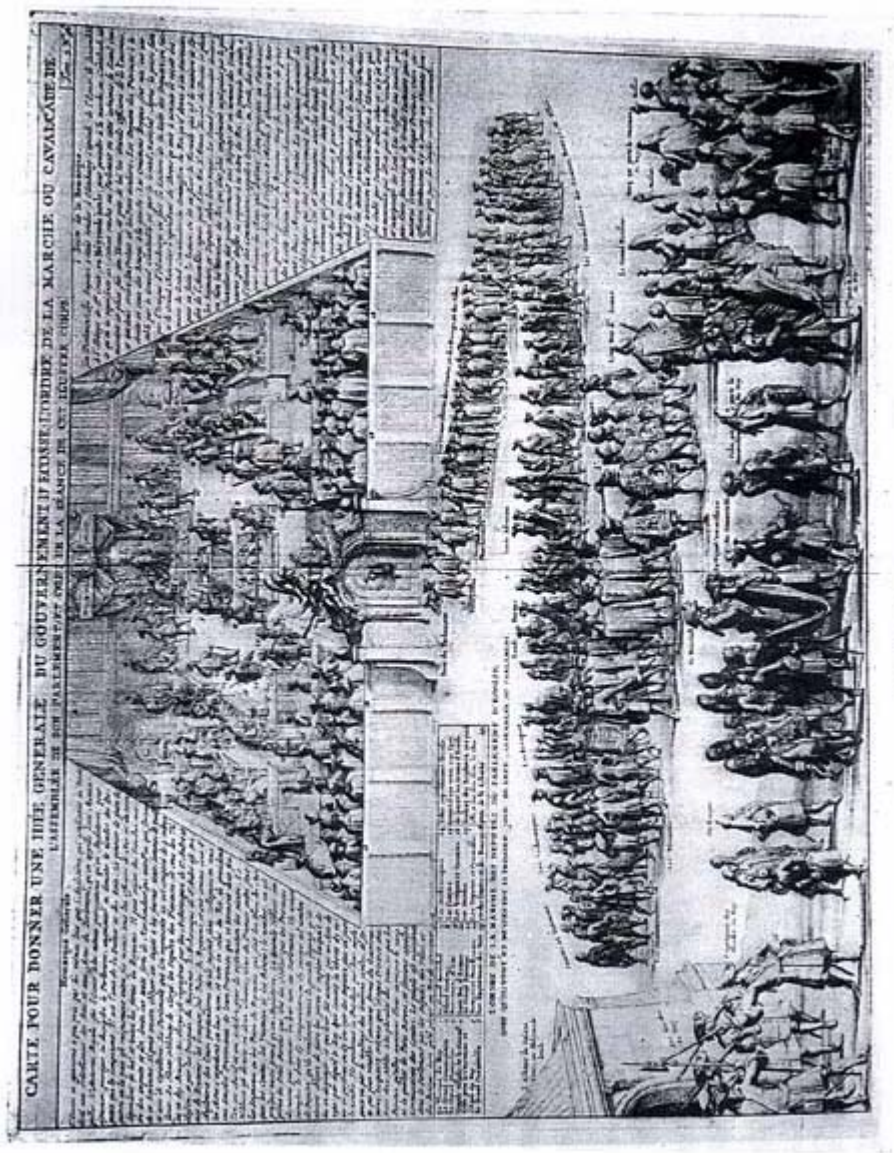
Sir John Colquhoun of Luss, 2nd Bt.
Baron of Luss (1650–76), in front-opening state-robe of feudal Baron.

Lord Provost of Aberdeen.
dark red robe furred brown; ancient and correct Lord Provost's robe.

Sir Duncan Campbell of Lochow, Knight and feudal Baron of Lochow
(afterwards 1st Lord Campbell). The same person as Pl. VII in a robe presumably intended to represent front-opening baronial state-robe, also chapeau.

Glenorchy Pedigree Jamieson *pinxit.* *ex Records of Argyll.*

THOMAS INNES.



The Scottish Parliament.
From Nicholas de Gueudeville's 'Nouveau Théâtre de la Grande Bretagne,' vol. ii., Plate 46.
From "Lyndsay Revived," 1822, by courtesy of Green & Sons Ltd.

THOMAS INNES.

The High-Sennachie of Scotland.

declaiming the Royal Genealogy at the Coronation of Alexander III. arrayed in the red robe, which subsequently devolved, along with the Sennachies jurisdiction, and function of Royal-Inaugurator, upon the Lord Lyon King of Arms.

From Illumination in Fordun. Block by courtesy of S.M.T. Magazine.

THOMAS INNES.

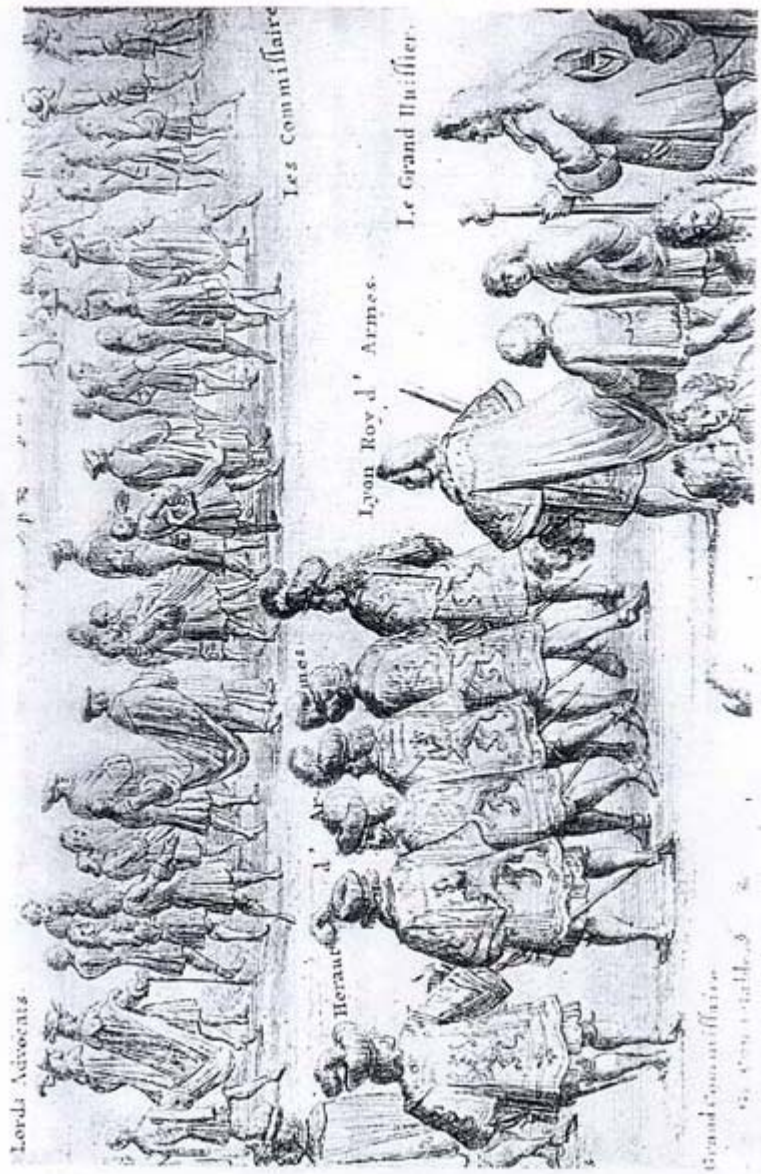
In *Lyon Register* the use of the term *baron* is not so freely found, but for a *perfectly obvious* reason, viz. the structure of the *Register* as drawn up in 1672 by Sir Charles Erskine, in which, conform to the Act which particularly refers to "the arms of noblemen, *barons,* and gentlemen", a *special section is* apportioned to the arms of the lesser barons, and it was therefore unnecessary to qualify each as baron. Merely the name x of each baron entered in the section is given, just as in the Rolls of Parliament, and much as in the list of witnesses of 1300, *William de Fedderach et William de Ynes, Baronibus, so every* laird recorded in that section of Erskine's Register was *ipso facto* a "baron", and to add the term *baron* in each case would, as in the Rolls of Parliament, have been superfluous.

It became, however, no longer superfluous to use the title *baron* hi later matriculations, after the sectional system has been departed from, and entries became consecutive, and chronological. Therefore an entry in the second and subsequent volumes of the Register will contain no evidence of barony unless the averment is made and entered, and in these cases where it falls to be entered, as in the similar consecutive Register of Birthbrieves, the proper

form is shown to be: *Alexander Areskinus. Baro de Cambo,* the Lord Lyon's own ruling upon the appropriate form of description, and conform to the style used by Mary Queen of Scots in writing to "the Baron of lyilravock". There are, however, a number of instances in *Lyon Register* where the description was inserted: John Ross "descended of the Baron or Auchlossan" '2: "Sir Alexander Colquhoun. Baron of Colquhoun" ;i: Sir George Brisbane. Baron of Brisbane 4: "Ayimer Hunter. Baron of Huntersion" -'): "John Erskine. Baron or Balhaggary ".

It will be noticed that it is not considered necessary to add the word *esquire,* and that in no instances are the terms *esquire* and *baron* conjoined. This is conform to the order laid down in the baronetcy patents wherein the *barones lie-lairds, armigerus lie-esquires, et generosis quibuscunque lie- gentlemen,* are distinct degrees. The baron is greater than the esquire, and the fact that a man is qualified *baron* necessarily infers that he is in a higher degree than *esquire,* and consequently the word *esquire* should not be applied to a baron, and accordingly was not so applied by Lyon Court where the individual was a feudal Baron.

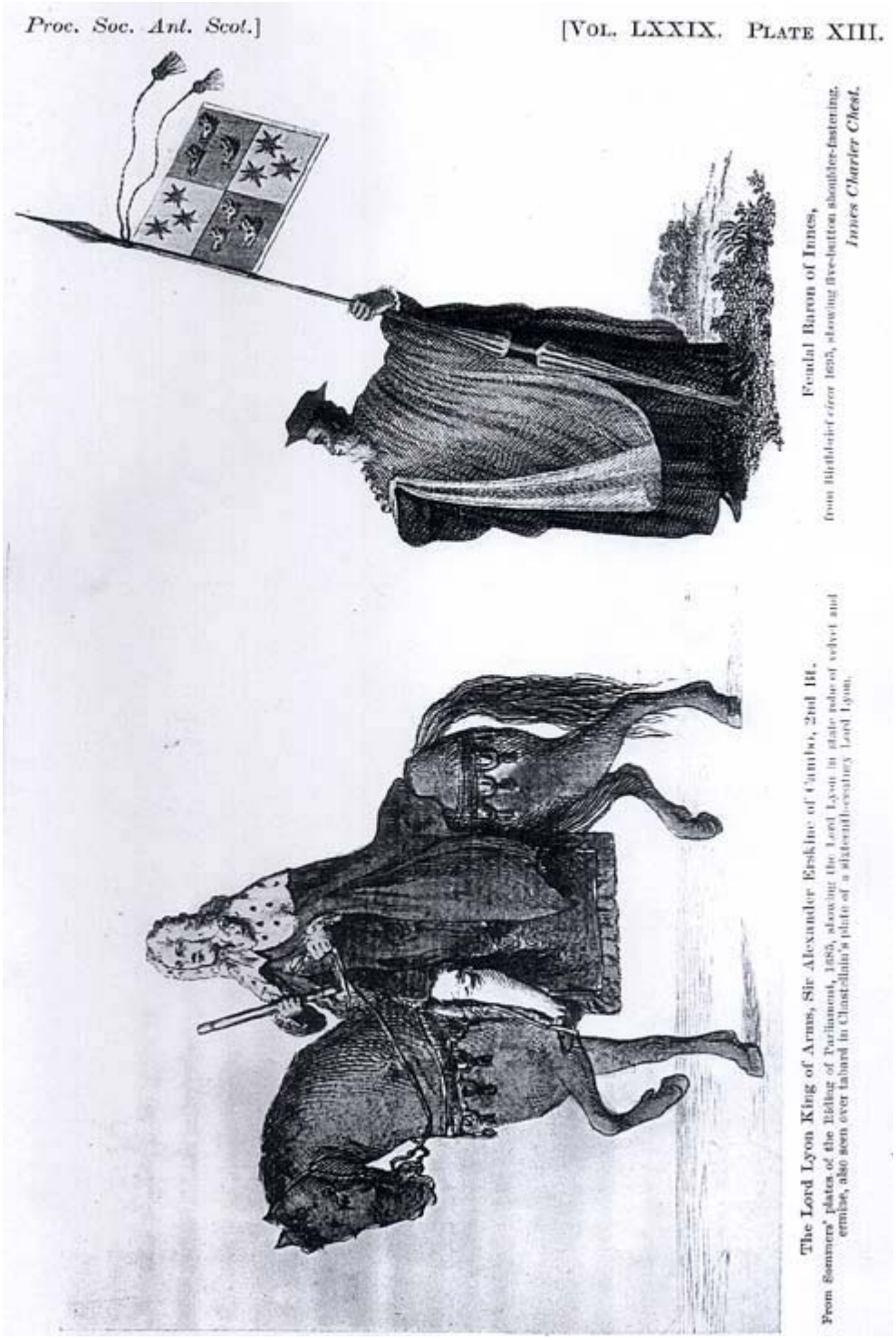
Further instances of the use and form of style of the lesser barons and their families are found in, *e.g.,* a certificate from the Kingcausie charter chest, 2nd June 1757, granted to Thomas Irvine of Auchmunziel by his chief, *"Alexander Irvine, baro de Drum, nominis et gentis Irvinorum princeps* ", deducing his own and his kinsmen's descent from the *"barones de Drum, major es nostri",* and from " *Gulielmum primum baronem de Drum, anno*



The Lord Lyon King of Arms and Heralds, mid-sixteenth century

(enlarged from Chandellier's "Scottish Parliament"). This section of the composite plate is from a drawing, 1558-71.

THOMAS INNES.



Feudal Baron of Innes,
from Hebdorf circa 1695, showing five-button shoulder-fastening.
Innes Charter Chest.

The Lord Lyon King of Arms, Sir Alexander Erskine of Cambo, 2nd Bt.
From Sommers' plates of the Riding of Parliament, 1685, showing the Lord Lyon in state robe of velvet and ermine, also seen ever tabard in Chantelaine's plate of a sixteenth-century Lord Lyon.

1323 ", and again " *Titulus et haereditas baronum de Drum".* In the Records of the Scots College at Douai are found:-
Roger Lindsay, *filius baronis de JMains* (p. 9).
J. Gordon, *fratri baronis de Cluny [p.* 26).
Baroni de Meldrum (p. 32).
Margaret Fraser, *filia baronis de Philorth* (p. 35).
H. Max-well, son of the Baron of Kirkconnel (p. 47).
Gilbert Menzies, eldest son of the Baron of Pitfodels (p. 418).
G. Johnston, *ex baronibus de Caskieben {Ibid.).*
A son of *Baronis de Skene* (p. 51).
A student, *filius baronis de Garlton.* bv Christian Hurne, *filia baronis de Renton* (p. 53).

Sir Thomas JNicolson, Baron of Kemnay (p. 56).
Margaret Abemethy, daughter of the Baron of Barry (p. 80).
Patrick Duguid, *filius baronis de* -dl *uchinhove* (p. 92).
Whilst on p. 277 is reference to the death, 25th May 1676, or Frances Hay *Baronis de Delgaty.*

In the house of Skene of Skene (New Spalding Club) we find that the young laird of Skene was known as "the Baron of the Letter" *(Ibid..* p. 29). whilst one of the Skene MSS. refers to the marriage of Robert Skene of Skene with Marion Mercer, "daughter of the Baron of Auldie". J. Grant Smith in *Records of Banff shire* (p. 16), quote? the entry on the *Rolls of Freeholders.* 1st June 1672, of "Mr James Gordon. Baron of Zeochrie": whilst in 1713 the Sheriff Depute orders production of charters, "That it may be known who are barons and who have power 10 vote" *{Ibid.,* p. 131 . It will be noticed that the Sheriff in making up his suit-roll is to determine not only *who are barons,* but *also* -who "have power to vote", meaning who are qualified, viz. other voters as freeholders, who are not barons. Again, in 1720.

"A meeting of barons and freeholders was holden by the barons following. to wit . . . ", and then follows a list of "names of barons" *(Ibid..* p. 140).

Gordon of Hallhead, Baron of Esslemont's Memorial then set forth:

" It is therefore respectfully submitted that it has been satisfactorily shown that the Baronage of Scotland is a subsisting baronage by tenure. whose privileges, though now negligible, do not interfere with its constitutional existence, and amongst the few privileges left is that of being known upon the most formal occasions by the style and title of *baron, so* that they may on matrimonial and other occasions not be prejudiced in their relations with the much inferior ' baronages' of the Continent. Their right to be known and described, where requisite, upon fully formal occasions, as, *e.g., 'Baron of Bradwardine',* has been recognised by the highest authorities, namely by the Crown and Parliament, and by the Lord Lyon King of Arms as recorded in the

Registers of the Lyon Court, and it is respectfully submitted that it would be most unfortunate if, merely because it happens that the title of *baron* is preferred for formal purposes by English and British *lords,* that the right of the Scottish Baronage to be designated as ' *Baron of Bradwardine'* should be allowed to fall into desuetude or- as it now transpires- peerage-conveyancing description' *Baron of the Barony of B--* substituted, thereby conveying to the public and to foreigners that the feudal Baronage of Scotland are not truly constitutional barons, whereas they are, being indeed the only remaining example of the original feudal and territorial baronage by tenure, and the fact that their ancient title may be a source of annoyance to mushroom political 'barons' under the English peerage system is no reason why the rights of the Order of Baronage in Scotland, guaranteed by Art. 22 of the Treaty of Union, should be one atom abrogated, and it is therefore respectfully submitted that in formal documents such as Letters Patent, matriculations and birth-brieves, where a petitioner establishes as required by the Sheriff Depute in 1713 (if need be by production of charters) that he is in fact a "baron', then he ought, in accordance with all the solemn documents, certificates, and others before recited and in particular the certificates of the Lord Lyon King of Arms himself, to be duly qualified 'baron of. *e.g. 'Baron of Bradtuardine* according to the custom of the Kingdom of Scotland." The Baron of Hallhead-Esslemont duly received both *chapeau* and designation. consistently with the Statute and the ancient precedents of Lyon Court.