

The Burghs of Ayrshire

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THE HISTORIC BACKGROUND

Apart from their purely local interest, the Ayrshire burghs may be studied with profit for their national or "institutional" significance.¹ The general course of burghal development in Scotland shows that the terms "royal burgh" (1401) and "burgh-in-barony" (1450) are of late occurrence and represent a form of differentiation that was wholly absent in earlier times.² Economic privileges—extending even to the grant of trade-monopoly areas—were for long conferred freely and indifferently upon burghs holding from king, bishop, abbot, earl or baron. Discrimination between classes of burghs began to take shape in the second half of the fourteenth century, after the summoning of burgesses to Parliament (in the years 1357-66 or possibly earlier)³ and the grant to the "free burghs" of special rights in foreign trade (1364).⁴ Between 1450 and 1560 some 88 charter-grants of burghs-in-barony were made, and, although many of these were inoperative, the new burghs, added to the older ecclesiastical and baronial burghs, were, by the close of the middle ages, playing some part in the local economy and arousing the envy and hostility of certain of the fifty or more royal burghs.

The local and feudal setting, however, had its share in determining the origin and status of the Ayrshire burghs. The historic divisions of Cuninghame, Kyle and Carrick antedated the emergence of the sheriffdom or shire, and from the mid-twelfth century the new feudal order was penetrating deeply into all three. Hugh de Morville, supported by the progenitors of many families destined to be famous in the district, received Cuninghame, together with the office of Constable of Scotland; Kyle was split in two, the northern section falling to Walter FitzAlan, hereditary Steward, and acquiring the name of Walter's Kyle, or Kyle-stewart, the southern remaining under the Crown as King's Kyle, or Kyle-regis; a little later Carrick was carved out of Galloway as a separate lordship, and Duncan, son of Gilbert of Galloway, was Earl of Carrick in the late twelfth or early thirteenth century.⁵

1. This article is a slightly expanded version of two lectures delivered to the Ayrshire Archaeological and Natural History Society—"The Pre-Reformation Burghs of Ayrshire" (9 February, 1950) and "The Ayrshire Burghs since the Reformation" (12 January, 1955).

2. *Cf. Scot. Hist. Rev.*, xxviii, 157-9.

3. E. W. M. Balfour-Melville, in *Eng. Hist. Rev.*, lix, 79-87.

4. *Recess. Conv. Royal Burghs*, i, 540-1.

5. Chalmers, *Caledonia*, iii, 457-9; *N.S.A., Ayr*, 582; D. Murray, *Early Burgh Organisation*, ii, 335-6; *Scots Peerage*, ii, 422-3.

Apart from the Stewarts, who flourished in the genealogical as well as material sense, these early families died out quickly, their lands and offices being carried over by heiresses to their husbands' lines. The de Morville possessions came, by way of Alan FitzRoland of Galloway, to be divided between Balliols, Comyns and de la Zouches; while the lordship was claimed in thirds by absentees,⁶ the actual lands were in the hands of many small proprietors. The Steward, overlord of Kyle-stewart, was regarded as a Renfrewshire baron. Thus Robert de Bruce, father of the future king and Earl of Carrick by marriage, has been called the only Ayrshire noble alive in 1290.⁷

PRESTWICK

The oldest burgh in the shire is Prestwick, which is mentioned as *burgo meo* in Walter FitzAlan's charter, dated 1165-73, to the abbey of Paisley.⁸ It was, therefore, like Renfrew, a baronial burgh, dependent upon the Steward of Scotland; unlike Renfrew, however, it did not, on the elevation of the Stewarts to the throne, improve in status and it never (to use the later term) became a royal burgh. Though, after 1371, it paid its dues to the king (*burgenses . . . tenentur solvere domino nostro regi suas firmas burgales*), it remained the head-burgh of the bailiery of Kyle-stewart, where the bailie held his head-courts, with power of repelling burgesses and indwellers from other jurisdictions (including that of the king), and whither all inhabitants of the bailiery must bring their merchandise for presentation at the market cross, paying their customs there and taking their weights and measures from the burgh (whose bailies must in turn get their standards *apud antiquum burgum domini nostri regis de Are*); these matters were all ascertained, confirmed and declared by an *inquisicio* in 1446.⁹

The failure of Prestwick, despite royal favour, to achieve higher rank was doubtless due to its small size, poverty and lack of trade, as well as the powerful opposition of nearby Ayr, and it has led at least one commentator into a curious error. David Murray, noting the absence of any lord interposed between Crown and burgh, argued that Prestwick was not, in later parlance, a burgh of barony.¹⁰ The position is clearly set out in the charter of confirmation, dated 19 June, 1600. James VI granted the charter for himself and as administrator for his son, Henry, who held, with other titles, those of Prince and Steward of

6. *Cf. Bain, Cal. of Docs.*, ii, No. 824 (p. 216).

7. Chalmers, *loc. cit.*

8. *Reg. de Passelet*, 6.

9. *Burgh Recs. of Prestwick*, 113-15.

10. Murray, *op. cit.*, ii, 64.

Scotland. Prestwick's erection in *unum liberum burgum baronie* was ratified. The burgh was to be held *de . . . Henrico principe et senescallo Scotie in feudifirma hereditate et libero burgagio baronie*, and the burghal dues (3d a rood, *unacum servitio burghi baronie tantum*) were to be rendered to the said Prince and Steward.¹ The heavy incidence of premature deaths and long minorities in the royal house resulted in the apparent merging of the Stewartry and Principality in the kingship, but they were administrative and financial entities,² capable of being separately held when, as in the reign of James VI, royal family circumstances permitted. Prestwick's unusual condition had its own perils, but the status of the burgh is not really in doubt.

The preamble to the charter of 1600 refers to the erection of the burgh as dating *ab antiquo ultra hominum memoriam per spatium sex centorum et septem decem annorum*. The phrase (though sometimes taken seriously in the past) is merely stylistic and is intended to give precision to the words "beyond the memory of men"; but why the exact figure 617? It takes us back to the reign of Kenneth II, father of Malcolm MacKenneth, who "gaif all the land of the kinrik of Scotland till his men" and whose reputed Laws (dating in fact to about 300 years later)³ were just then being edited by Sir John Skene. Kenneth stood for the farthest reach of Scottish historical memory, the ultimate in respectable antiquity; and 983 is the medial year of his reign (971-995).

THE FOUNDATION OF AYR

The second of our ancient burghs is Ayr itself. Ayrshire is unusual, but not unique, in being organised around a head-burgh that was not the oldest in the district; in nearby Lanarkshire, Rutherglen appears to be older than Lanark; while in Fife, Dunfermline, Crail, Inverkeithing and St. Andrews all antedate Cupar. Yet the anomaly (if such it be) has induced patriotic local historians to strain every nerve in the interests of Ayr's antiquity. James Paterson considered that the "new castle" must imply that "an old castle had previously been in existence" and that the term "Newton-upon-Ayr" showed that Ayr's origin "must have been long anterior."⁴ David Murray, too, made much of the "immemorial" antiquity of the town and of its community of freemen, bound in fellowship by oath.⁵ Mere surmises of this kind are profitless, for the new does not always and automatically imply the old—as witness, in Fife, Newburgh

(*Novus burgus*) founded in 1266,⁶ or the new town of Glenrothes in our own day.

The facts can speak for themselves. In the year 1197 *factum est novum oppidum inter Don et Ar*.⁷ Though in classical times *oppidum* meant town, it was also used in the middle ages to denote castle, and there is no doubt that that is what it means here. By charter dated 21 May 1203-06, King William announced *me ad novum castellum meum super Are burgum fecisse*.⁸ Reginald de Crawford, sheriff of Ayr, is mentioned in a charter dated 1208-14.⁹ Here we have, then, perhaps the clearest instance on record of that close connexion between castle, burgh and sheriffdom which was basic in the early feudal system of local government:¹⁰ the setting up, within about a dozen years, of all three institutions shows the power of the Crown now making itself felt directly and strongly in the south-west.

The terms of the charter of 1203-06 are comprehensive and detailed. The burgh was given all the liberties and customs of the king's other burghs, a weekly market, and defined burgh lands.¹ The burgesses got freedom from toll throughout Scotland *de dominicis catallis suis*, and each of them might have for his own use six acres of land to be reclaimed *de boscho* (from the forest). The king's peace was bestowed on all men coming or going for trading purposes. Five check-points were named, where tolls and customs due in the burgh might be collected—Mach, Karnebuth, Lowdun, Croseneton and Lachtalpin. These toll stations, though they do not define either the later sheriffdom or Ayr's trading precinct, are distant up to 25 miles from Ayr, form a great arc from north to south-east,² and may represent a day's hard walking or normal riding from the market town.

Developments at Ayr are fairly typical of our early burghs. The grant in 1236 of a further five pennylands (which were recognised by 1325 as the barony of Alloway and completed the burgh's possession of the entire historic parish of Ayr) and of the fishings of Ayr and Doon made the town territorially wealthy.³ The right to hold an annual fair was given in 1261.⁴ As early as 1263 pacifist sentiment (or simple neglect of duty) is apparent, for the sheriff claimed relief for the hiring of 120 men to guard the castle for three weeks, *pro defectu burgensium, qui deberent intrasse*

6. *Liber de Lundoris*, 8.

7. *Chron. de Mailros*, 103.

8. *Charters of Royal Burgh of Ayr*, 1.

9. *Reg. de Passelet*, 22; *Sheriff Court Book of Fife*, 368.

10. G. Neilson, in *Jurid. Rev.*, xiv, 129-40; W. C. Dickinson, *Sheriff Court Book of Fife*, App. D.

1. They came to be called the Burrowfield, they were reckoned five pennylands (*quinque nummatus terre*), and they formed the original parish of Ayr: Murray, *op. cit.*, ii, 304, 379.

2. Cf. *Ayr Charters*, xxiii *et seq.*; Murray, *op. cit.*, ii, 403 *et seq.*

3. *Ayr Charters*, 9, 14, 21; Murray, *op. cit.*, ii, 385-7, 422, 574-5.

4. *Ayr Charters*, 18; Murray, *op. cit.*, 458.

1. *Burgh Recs. of Prestwick*, 120-4; *R.M.S.*, vi, 1042.

2. For details, see *A.P.S.*, ii, 187, 221.

3. *Ib.*, i, 51, 345-8; C. Innes, *Sketches of Early Scotch History*, 203-4.

4. *Hist. of Ayr and Wigtown* (1863-66), i, 5.

5. Murray, *op. cit.*, ii, 300-9.

*castrum ad tuicionem eiusdem . . . et . . . noluerunt.*⁵ Thus castle-guard was still a burghal duty. The burgh-ferme payable to the Crown was fixed by feu-charter in 1400 at £10, with other £10 for Alloway; characteristically the whole £20, following a grant by Alexander II, went to the Black Friars of Ayr.⁶ The curse of the western burghs, blowing sand, is recorded in 1425,⁷ yet there was already some foreign trade in the staple wares (wool, woollfells and hides),⁸ and the listing in 1432 of 49 indwelling guild brethren and 19 *extra manentes* indicates some measure of prosperity.⁹

IRVINE'S EARLY DOCUMENTS

The earliest charters of Irvine, the third burgh of Ayrshire, have not survived, and their loss has led to much ill-founded speculation over a subject whose outlines, at least, are tolerably clear. The burgh's oldest existing charter is dated 12 May, 1322, when Robert I confirmed Alexander II's charter (now lost) relieving the burgesses from toll and custom on their burgh goods throughout the kingdom; Bruce also of new exempted them from paying the toll *quod solvere solebant in burgo nostro de Are ante presentem concessionem nostram*.¹⁰ This re-grant proves that Irvine had been a burgh in the period 1214-49, though, in the confused state of Cuninghame following the failure of the Morville line, it is impossible to say who was the burgh's superior.

The position was clarified in the fourteenth century when many lands fell to the Crown by forfeiture and were conferred by Bruce on his adherents. Between 1316 and 1320 he gave his grandson, Robert, son of Walter the Steward and later Robert II, Cuninghame *tam infra burghum quam extra . . . in liberam baroniam*.¹ The phrase could only mean Irvine,² which remained a Stewart burgh for over half a century; this is confirmed by the Steward's grant in 1367 to Sir Hugh de Eglinton of the office of bailie of his barony of Cuninghame, *vnacum officio Camerarii burgi nostri de Iruyn*.³ Robert's elevation to the throne in 1371 led to the promotion of his burgh. An inquest was held by the bailie of Cuninghame to settle the dispute between Ayr and Irvine, and, on 8 April, 1372, the king confirmed the latter in its sole trading rights within the baronies of Cuninghame and Largs and granted the burgesses their burgh as freely as any burgh set up by any

5. *Exch. Rolls*, i, 6.

6. *Ayr Charters*, 25-6; *Ayr Burgh Accounts*, xvii-xix; Murray, *op. cit.*, ii, 484; *Charters of Friars Preachers of Ayr*, Nos. 1, 3, 4, 7, 14, 22.

7. *Ayr Charters*, 79, 81; cf. Murray, *op. cit.*, ii, 493.

8. *Ib.*, 533 n. 4.

9. "Proceedings of Gild Court of Ayr," in *Arch. Collns. of Ayr and Wigton*, i, 228-9.

10. *Muniments of Irvine*, i, 9-10.

1. *R.M.S.*, i, 54; *Mun. of Irvine*, i, 233.

2. *Cf. ib.*, xxx.

3. Sir W. Fraser, *Memorials of the Montgomeries*, ii, 6-8; cf. *Mun. of Irvine*, i, 26.

king within the kingdom, with all the privileges of other burghs, including *libertatem gilde*. That Irvine was now a "king's burgh" appears from Robert's commands to his officers to respect the chartered liberties *burgi nostri de Iruyne* (14 February, 1372-3).⁴

Apart from the charters, which show Irvine as a baronial burgh prior to its elevation in 1372-73, two other documents demand our attention. In 1260 an agreement, the terms of which survive in a notarial transumpt of 1444, was made between the burgesses and Sir Godfrey de Ross, a local landowner, regarding the burgesses' rights to pasture and wood in the lands of Hormissok, held by Sir Godfrey for a yearly payment of 2½ merks to the burgesses; both parties are said to have set their seals to the concord.⁵

THE ALLEGED AGREEMENT OF 1205

The other early document, the first in the printed *Muniments*, purports to be a copy of an agreement made on 20 September, 1205, whereby the burgesses and community of Irvine let to Bryce de Eglunstone in feu-ferme, for 10/- sterling a year, those 20 acres of land in the tenement of Eglunstone which Ralph, son and heir of the late Hugh, lord of Eglunstone, gave to the burgesses. Bryce, who is described as son of the late Eglun, lord of Eglunstone, found his brother Ralph, lord of Eglunstone, surety and pledge (*fidejussorem et debitorem*). The burgh court is mentioned and *comune sigillum burgensium et comunitatis* was appended to the deed.⁶

The existence of this curious document has long been known to historians. In 1716 George Crawford quoted it rather loosely, reversing its sense by making Bryce acquire the lands *tempore regis Malcolmi* and Ralph give them back to the burgh in 1205.⁷ From this basis George Robertson a century later developed a full genealogy for the family:—

"In 1205 Rodolphus de Eglintoun appears in a contract with the town of Irvine, and it should seem was the son and heir of Hugh the son of Bryce, the son of Eglun Lord of Eglintoun in the reign of Malcolm King of Scots, probably Malcolm Canmore who reigned from 1057 till 1093."⁸

4. *Ib.*, i, 11-14. Both grants were confirmed by Robert III and James I: *ib.* 17-18, 22.

5. *Ib.*, 5-7. A. McJannet identifies the lands as Armsheugh: *Royal Burgh of Irvine* (1938), 68.

6. *Mun. of Irvine*, i, 1-3.

7. *Peerage of Scotland*, 126.

8. *Topographical Description of Ayrshire* (1820), 207-8.

Sir William Fraser placed Eglun firmly in the reign of Malcolm III as first lord of Eglinton, repeated the tale of the next three lords (Bryce, Hugh, Ralph) and allowed an intervening generation before the next Ralph in 1296.⁹ James Paterson wisely took evasive action over the whole story,¹⁰ but John Fullarton, while settling the family under Hugh de Morville, derived the name of the land (Eglin's-toun) from that of the founder and noted that this "has been supposed to point to an Anglo-Saxon source."¹ The document was printed in the *Muniments* and taken at its face value by the editor, John Shedden-Dobie.

The latest commentator, Arnold McJannet, accepted the now hallowed genealogy almost in its entirety and repeated the Malcolm Canmore legend. He did note Sir William Fraser's "serious mistake" (as if it were his alone) "in supposing the lands were regranted to Irvine by Rodolphus" and his misreading of the agreement, without, however, giving his own solution of the riddle.² Instead, dissenting from Shedden-Dobie, founding mainly on the sentence *si contingat* (to be examined later) and remarking particularly on certain challenging features of the document (the absence of a named overlord and the presence of a burgh court), McJannet cited the contract as proof that Irvine was not only the oldest burgh in Ayrshire but also an earlier royal burgh than Ayr.³ This conclusion overlooks both the prior existence of Prestwick and the circumstance that there was not then, or for centuries later, any such thing, in name or in fact, as a royal burgh.

THE DOCUMENT EXAMINED.

The unusual features of the agreement, which convinced McJannet of the antiquity and royalty of his burgh, led the present writer's thoughts in an opposite direction. Was Irvine, it may well be asked, likely to have a burgh seal as early as 1205, long before even the larger burghs are known to have had one?⁴ The feu-ferming of burgh lands and the mention of the burgh court also seemed uncommonly early.⁵ Troubled by these and other points, I have verified that, with few and trifling variations, the print is an accurate version of the document in the Irvine municipal

9. *Memorials of the Montgomeries*, i, 16-17.

10. *Hist. of Ayr and Wighton*, iii, 490. From Eglun, in the reign of "Malcolm King of Scots," he leapt forward to Sir Hugh in the time of Robert II.

1. *Historical Memoir of Family of Eglinton* (1864), 4.

2. *Royal Burgh of Irvine*, 30, 38 (note 21).

3. *Ib.*, 57-63.

4. The first recorded instances seem to be in the reign of Alexander II. For Aberdeen (1214-49), see *Reg. de Aberbrothoc*, i, 98; for Berwick (*ante* 1226), *Reg. de Neubottle*, 151; for Perth (1219), *Lib. de Scon*, 52; and *cf. ib.*, 55, 57 (*bis*), 61.

5. The earliest grants *ad (in) feodofirmam* noted by me belong to the years 1232-36; *Reg. Episc. Morav.*, 26, 28, 89, 464; *Lib. Sancte Crucis*, 51. Perth's *curia burgensium*, mentioned in 1240, must be among the first in our records: *Lib. de Scon*, 60; *cf. Lib. de Balmerinloch*, 19-24, *passim*.

archives; with the kind help of Mr. Robert Whyte, the present town clerk, I was able to establish that the copy was made in 1699 by John Hamilton, the then town clerk. It is not a notarial transumpt and does not profess to be a certified copy; it may, indeed, be merely a copy of a copy—there is no telling. It is well to bear this in mind, as also the fact that the accurate transcription of mediaeval documents, with their unfamiliar calligraphy, abbreviations and symbols, is a task demanding some special skill and experience.

The alleged contract of 1205, then, calls for close scrutiny in view of its importance for Ayrshire local history. The date is given as *Anno gratie millesimo duscentesimo quinto*. The intrusive *s* in *duscentesimo* is striking, while a little later the rendering of a *tam . . . quam* construction as *tam . . . quas* shakes confidence in the copyist's Latinity. Above all, the sentence on which McJannet leaned most heavily for his argument reads *si contingat dictum Bricium heredes . . . seu eorum homines . . . in curia dictorum burgensium . . . quocunque casu adveniente emere conarere eorum merciamantum prout justum fuerit capiatur*. This hardly makes sense. The word *conarere* may be a double error for *conari*, but, if we accept that and take the sense as "attempt to buy," we still have a double difficulty: the verb "to buy" requires an object or at least some qualification, for simple buying is not an offence in any land or tongue, and, moreover, a court case is scarcely a proper occasion for buying anything. The translator has concealed the flaw by rendering *emere conarere* as "to do wrong," but the entire passage is clearly corrupt.

THE SEVEN WITNESSES

Is it possible to recognise the flaws and still accept the document as substantially sound? The testing clause, as is often the case, is of help here. Seven witnesses are named, three of them knights—Sir Godfrey⁶ de Ross, Sir Robert Boyd and Sir Bryce de Blair—and four others—Fergus de Ross and Arthur de Ross, brothers, William Kerr and Alexander Blair. Rosses, Boyds, Blairs and Kerrs are, of course, all noted names in Ayrshire history; is it not, then, rather surprising to find that this is the first mention of any of them and that we know nothing whatever of most of them until about a century later?

On 29 January, 1280-1, Sir Godfrey de Ross, son and heir of another of the same name (probably the party to the agreement with Irvine in 1260), granted lands at Stewarton to Paisley abbey.⁷ He was sheriff of Lanark in 1294,⁸ was imprisoned in 1296 and

6. The original has *Godalrho*, the print has *Godolpho*, and a note in the former, printed in the *Muniments*, says that the name should be *Godfredo*.

7. *Reg. de Passelet*, 380-1.

8. *Liber de Calchou*, i, 160.

again in 1297,⁹ but he or a namesake was appointed sheriff of Ayr by Edward I in 1305.¹⁰ He served that king and his son faithfully,¹ and, as sheriff of Ayr and Lanark and an adherent of Edward Balliol, is said to have been killed by Maurice Moray in 1335.² His sons (unnamed) petitioned Edward III in 1344 for aid in consideration of their father's services,³ and his name appears, as one of the Disinherited, in 1363-4.⁴

Sir Robert Boyd swore fealty to Edward I as an Ayrshire knight in 1296,⁵ served that king with men-at-arms in the west country in 1304,⁶ but, joining Bruce's party, was captured at Kildrummy in 1306,⁷ was one of the signers of the letter to Philip IV of France in 1308-9,⁸ fought at Bannockburn, got the barony of Kilmarnock soon after,⁹ and did not long survive his capture at Halidon Hill in 1333.¹⁰ A descendant became Lord Boyd in 1454 and another was created Earl of Kilmarnock in 1661.

The third knight is more elusive. Bryce occurs so often among the later Blairs as to be common form, but I can find none earlier than the reign of Robert I. The source—John Barbour's *Bruce*—has not the unimpeachable authority of charters and state papers, but is reliable enough for the main facts. After recounting the deaths of Crystall (Sir Christopher) of Seton and Sir Ranald (or Reginald) Craufurd, in 1306, Barbour says that Schir Bruce (or Bryce) the Blair was "hangyt intill a berne in Ar."¹ A later and garbled version of the story, prompted no doubt by its *locale*, had the Scots knights treacherously slain as the prelude to and provocation for the legendary "burning of the barns of Ayr" in 1297.²

Of the other witnesses, William Kerr swore fealty to Edward I on 28 August, 1296; on the same day he was one of twelve jurors who inquired into Elena de la Zouche's claim to hold in chief one-third of the moiety of Irvine, in Cuninghame.³ His holdings in the barony of Ardrossan were included in a grant of 1315-21.⁴ He was the ancestor of the Kerrs of Kersland.

9. Bain, *Cal. of Docs.*, iv, no. 1768 (p. 359); ii, no. 742 (p. 177); *Rotuli Scotiae*, i, 43. 10. *A.P.S.*, i, 121.

1. To be repaid a loan of £18 5/- for the king's service: Bain, *Cal. of Docs.*, ii, no. 1942. To deliver wine to Edward II in 1309: *Rotuli Scotiae*, i, 64.

2. *Scots Peerage*, viii, 256. The writer of the article, noting the difficulty of setting out the Ross pedigree "with accuracy," makes no effort to do so.

3. Bain, *Cal. of Docs.*, iii, nos. 1432, 1435.

4. *A.P.S.*, i, 494.

5. Bain, *Cal. of Docs.*, ii, no. 823 (p. 202).

6. *Id.*, no. 1646 (p. 443). The king whom Boyd served was Edward I, not, as stated in the *Scots Peerage* (v, 138), Robert Bruce.

7. Bain, *Cal. of Docs.*, ii, no. 1829.

8. *A.P.S.*, i, 459.

9. *R.M.S.*, i, 46.

10. *Scots Peerage*, v, 137-8.

1. Barbour's *Bruce*, book iv, lines 37-8.

2. Blind Harry's *Wallace*, book vii, lines 199-226. See also Paterson, *Hist. of Ayr and Wigtown*, i, xlii.

3. Bain, *Cal. of Docs.*, ii, nos. 823 (p. 199), 824 (p. 216).

4. *R.M.S.*, i, 51.

I have been unable to trace Fergus de Ross, Arthur de Ross, or Alexander de Blair, but I have a suggestion for Ayrshire genealogists. Godfrey de Ross, whose career on the English side has been mentioned, is not recorded (as are so many other knights) as having sworn fealty, but Godfrey de Ardrossan is so noticed.⁵ And, while Fergus de Ross eludes me entirely, Fergus de Ardrossan is a known patriot. A prisoner in 1305,⁶ he accompanied Edward Bruce on his Irish expedition,⁷ he had a grant of the barony of Ardrossan in 1315-21,⁸ and he was one of the freeholders who wrote to the Pope in the famous Declaration of Arbroath in 1320.⁹ The names Godfrey and Fergus *could* occur at one epoch in two different families of Cuninghame, but it would be a strange coincidence. The Barclays or Berclays are the first recorded lords in this area, and it is thought that their name was either interchangeable with that of Ardrossan, or that it gave way to Ardrossan in the thirteenth century.¹⁰ The point is perhaps incapable of absolute proof, but the evidence indicates a strong probability that the de Ross family, in the late thirteenth and early fourteenth centuries, was in fact the de Ardrossan family.¹ If so, Fergus de Ross or Ardrossan is readily identifiable as one of Bruce's followers.

Of the seven witnesses, then, there is no trace whatsoever in the early thirteenth century, though all belonged to families of note in later times. Persons bearing the same name as four of them, however—Sir Godfrey de Ross, Sir Robert Boyd, Sir Bryce de Blair and William Kerr—played their parts about a hundred years later, and this may possibly be true of a fifth (Fergus de Ross); Arthur de Ross² and Alexander de Blair are unidentifiable.

THE FAMILY OF EGLINTON

Of the Eglinton family, principals to the alleged contract, only three members are recorded in other sources. Sir Ralph de Eglinton swore fealty to Edward I in July and August, 1296,³ and served as a juror in the de la Zouche inquiry at Berwick.⁴

5. Bain, *Cal. of Docs.*, ii, no. 770; again (with Godfrey de Ross's sons and Fergus le Mareschal), *ib.*, no. 823 (p. 195); yet again (with Fergus Fortresone and William Kerr), *ib.*, no. 823 (p. 199).

6. *Id.*, ii, 1668.

7. Chalmers, *Caledonia*, iii, 462.

8. *R.M.S.*, i, 51.

9. *A.P.S.*, i, 474.

10. Paterson, *Hist.*, iii, 49-50; *N.S.A. Ayr*, 197-8.

1. For further pointers in this direction, see *R.M.S.*, i, Index, *sub. voc.* Ardrossan. 2. An Arthur de Ardrossan, it is fair to say, is said to have witnessed a charter of 1226 (*N.S.A. Ayr*, 197 n.t.; Paterson, *Hist.*, iii, 49), but I have been unable to trace this document.

3. Bain, *Cal. of Docs.*, ii, nos. 776, 823 (p. 194), 823 (p. 205); for his seal, Fraser, *Memorials of Montgomerie*, i, 17.

4. Bain, *op. cit.*, ii, no. 824 (p. 216).

He was among the Scots magnates to whom Edward I wrote in May, 1297.⁵ The second (and last male) member of the family on record is Sir Hugh, whom we have seen as the Steward's bailie of Cuninghame and chamberlain of Irvine in 1367.⁶ From 1358 he had a number of safe-conducts to go to England,⁷ there are numerous references to him in ecclesiastical chartularies from 1360,⁸ and, as a poet, he is known as "Huchoun of the Awle Ryall." This line, like many another, "went wi' a lass," when Sir Hugh's daughter and heiress, Elizabeth, married Sir John Montgomerie of Eaglesham;⁹ the Montgomeries thereby acquired Eglinton and Ardrossan and became a leading Ayrshire family. Ralph and Hugh are thus the only male names recorded for the Eglintons elsewhere than in the Irvine document; and Ralph de Eglinton, like four or five of the witnesses, is (apart from that document) a historic personage at the close, but not at the opening, of the thirteenth century.

Let us consider the Eglinton family as it is revealed in the contract of 1205. The burgesses gave (*dederunt*) to Bryce, son of the late Eglun, lord of Eglinton, those lands which Ralph, son and heir of the late Hugh, lord of Eglinton, gave (*dediit*) to the burgesses. (The tense is the same—the perfect—in each clause, but the context shows that the present arrangement is with Bryce, and that Ralph's transaction must be taken as preceding it; earlier commentators erred, as McJannet pointed out in Fraser's case, by reversing the order of the transactions.) Finally, Bryce takes Ralph, lord of Eglinton and his brother, as his surety, and both append their seals.

The Malcolm Canmore myth is pure invention, resting on Robertson's misunderstanding of Crawford's guess, but the accepted line of descent (Eglun, Bryce, Hugh, Ralph) is equally nonsensical. Bryce (who is *de Eglinton* in the contract, but not lord) was, according to this tale, the son of one lord and the father of another (who predeceased him); he got lands which his grandson (son and heir to the late lord) had given to the burgh; and he took his brother, the present lord and named, like Bryce's grandson, Ralph, as his surety. (The brother has rightly been omitted from this genealogy as an impossibly inconvenient character.)

Will any adjustment of the names make sense of the document?—for assuredly no ingenuity can reconcile its data as they stand. Such an adjustment is not only possible; it is easy. Ralph is

5. *Ib.*, no. 884.

6. Fraser, *op. cit.*, ii, 6-8; McJannet, *Royal Burgh of Irvine*, 43.

7. *Rotuli Scotiae*, i, 823, and Index, *sub voc.* Egelyngtoun.

8. *Reg. Epis. Brech.*, i, 16; *Reg. Epis. Glasg.*, i, 274, 285, 289; *Reg. de Passelet*, 31, 43, 47; *Reg. Epis. Moray*, 319.

9. *Scots Peerage*, iii, 428; B. G. de Montgomery, *Hist. of the Montgomerys*, 106.

mentioned three times, once as son and heir of the late lord, and twice as the present lord (and also, on the last occasion, as Bryce's brother—the latter not being lord himself). It seems clear that the Ralphs are one and the same person, and the elder brother of Bryce. They should, then, have the same father, and not Eglun for Bryce and Hugh for Ralph. If we remember the copyist's imperfect Latinity and the idiosyncrasies (including ornate capitals) of mediaeval scribes, the liability to confusion between *Eglun* and *Hugon* (the abbreviated genitive form) becomes apparent. Since Hugh was an Eglinton name, I should surmise that it was the name of the father of Ralph and Bryce. The transaction then falls into place. The elder brother gives the burgh some of his land *pro quadam finali concordia inter eosdem quondam facta* and the burgh feus the land to the younger brother.

THE TRUE DATE

In the light of what we know of the principals and witnesses, the agreement must be placed somewhere about the year 1300. It is possible that *ducescentimo* is a mistranscription of the less strange *trescentesimo*, and the date ought to read 1305. At all events, if we date it as *circa* 1300, the anachronisms disappear; and the year 1305 would fit the known facts well.

One other point. On this shaky foundation, Eglun has been taken as the founder of Eglunstown or Eglinton, but he now becomes pure surmise—the hero of an eponymous myth. He is not necessary to explain the derivation of the word Eglinton—the common prefix *Eggilis*, *Eagles* or *Eccles* (church) will serve equally well. The intermediate form *Egleston* occurs in 1297,¹⁰ and the transition to *Eglinton* is no harder than, say, from *Egglismaldie* (*ecclesia Magdalenae*) to *Englishmadie* or to the modern *Inglismaldie*.¹

Irvine must therefore be classified as the head-burgh of the lordship or barony of Cuninghame from its foundation some time in the reign of Alexander II (1214-49) until it became a king's burgh in 1372-73. In 1386 Robert II granted it land in the market-gate (*in vico fori*) on which to build a Tolbooth (*pretorium*),² and in 1417 Robert, Duke of Albany and regent for James I, upheld the burgesses' right to a piece of moorland, following an inquisition, by a jury of 15 local lairds and others, in a dispute between the burgh and William Frances of Stane.³

10. Bain, *Cal. of Docs.*, ii, no. 884.

1. Macfarlane's *Geographical Collections*, i, 262, 268; cf. *Fraser Papers*, 72, 138, 142, and *Charters of Coupar Angus*, i, 152.

2. *Mun. of Irvine*, 15-16.

3. *Ib.*, 19-20.

In the first half of the fifteenth century, though neither Ayr nor Irvine appears in the Rolls of Parliament, it can be established from the fragmentary Ayr burgh accounts of 1428-29⁴ that that burgh was then in fact represented in Parliament, and, by an interesting coincidence, evidence survives of Irvine's concern in the affairs of the national assembly from precisely the same epoch. On 6 March, 1429-30, John Kerde, commissioner for Irvine, took an instrument of the terms of an Act of Parliament passed that day at Perth,⁵ *per universitatem commissariorum burgorum Scocie in dicto parlamento existencium*; the Act regulated the process whereby a burgh might recognise, for the community, any waste and indistrainable burgh lands after they had been offered at four head courts.⁶ The transaction suggests that Irvine was already in Parliament.⁷

NEWTON-UPON-AYR

The evidence for Newton-upon-Ayr, the fourth of the Ayrshire burghs, is much the most tenuous of all. It seems to be a *villa*, containing "tofts," in 1208-14,⁸ and *Newton juxta Are* is certainly a *villa* by about 1280,⁹ but this is a very different matter from establishing its burghal status at this time. We have, indeed, no information about Newton as a burgh until 1446, when the inquisition for establishing Prestwick's rights found that the same judicial privilege belonged to Newton: all who were repledged from another court to either burgh *tenentur iudicia pati coram balliuis de Kylestewart*. The marches between the burghs were determined.¹⁰

The inquisition proves that Newton, like Prestwick, depended on the Steward of Scotland, and this is confirmed in its charter of 1600, granted by James VI as administrator for the Prince and Steward.¹ David Murray held that Prestwick and Newton (with Maybole added) were "independent and self-governing" and constituted a special class of "free burgh of barony"—"a burgh which had the same liberty of trading as a royal burgh"—one, indeed, with all the rights of royal burghs except that of parliamentary representation.² There was, in fact, no such special category, and Newton, like Prestwick, was simply an

4. *Scot. Hist. Rev.*, xxxi, 139-46.

5. It is not among the 22 recorded Acts of that Parliament: *A.P.S.*, ii, 17 *et seq.* The wording tempts one to surmise that it was a purely burghal "law," but it was more probably an ordinary statute that was not engrossed in the record.

6. *Mun. of Irvine*, i, 23-4.

7. Its first recorded appearance was in 1469: *A.P.S.*, ii, 93.

8. The phrase, *nova villa super Are*, could mean (on the analogy of *novum castellum super Are* in the charter of 1203-06) Ayr itself, but the context strongly suggests Newton: *Reg. de Passelet*, 21, 48.

9. *Ib.*, 71.

10. *Burgh Recs. of Prestwick*, 114-16.

1. *R.M.S.*, vi, 1048.

2. Murray, *Early Burgh Organisation*, ii, 173-4, 210-14.

early baronial burgh, later definable as a burgh of barony, with a permanently absentee baron.

The date of the erection of Newton cannot now be determined. The Municipal Corporations Commissioners in 1835 contented themselves with the observation that the date lay between 1208 and 1446,³ and this has often been repeated. The tradition that it was founded by Robert I⁴ is far from impossible. Chalmers was nearer the truth in believing that it was "founded at a much more recent period than the shire-town"⁵ than was David Murray in arguing that the independent freemen "existed and enjoyed their rights and privileges long before the time of Robert Bruce and before the age of charters."⁶ The negative evidence against this presumption is strong. The existence of a burgh had a very good chance of being mentioned in some surviving national or local records, and more especially in the ecclesiastical chartularies. There are, for example, a goodly number of references to the burgh of Prestwick before the War of Independence, and it is a fair inference that Newton, had it then been a burgh, would have been similarly noticed. On the other hand, the fact that the Stewarts were superiors of Newton suggests that the town was a burgh before that family became royal, as otherwise it would have been a royal burgh in 1600 rather than a burgh of barony. This surmise is confirmed by the design of the burgh's seal, attributed to the fifteenth century, for the *fesse chequy*, which appears on it, was borne by the Stewarts as lords of Kyle-stewart.⁷ It would be reasonable, in all the circumstances, to take 1306-1371 as the probable range for the foundation of the burgh of Newton.

MAUCHLINE: NUCLEUS OF A BURGH

It is noteworthy that early Ayrshire, in contrast to many other counties, had no ecclesiastical burgh. Kilwinning in the north and Crossraguel in the south (to say nothing of the lesser foundations in the middle of the shire) were rich monasteries, but neither at any time possessed a burgh. There was, however, an interesting development at Mauchline, which has attracted little attention,⁸ and which illustrates an essential feature of our early burghal history. Differential privileges and strict classification of burghs were of late and rather slow growth, and it is fatal to read back into times anterior to the age of

3. *Local Reports*, i, 92.

4. *Burgh Recs. of Prestwick*, xv.

5. *Caledonia*, iii, 504.

6. Murray, *op. cit.*, ii, 174.

7. *Ib.*, 230-1. The author points out that the *fesse chequy* was also borne by the Lindsays of Craigie and passed from them to the Wallaces of Craigie, who from 1599 pressed a spurious claim to the superiority of the burgh: *ib.*, 194-211.

8. It is noticed in passing by Sir James Marwick in his *List of Markets and Fairs* (1890), 88.

definition either the styles or the rights of royal burghs and burghs of barony, for much will be found happening in the twelfth, thirteenth and fourteenth centuries which does not conform to subsequent law and practice—the very liberal grants to the episcopal burghs of Glasgow and St. Andrews,⁹ the “mediatisation” of Renfrew,¹⁰ Dundee,¹ Dunfermline,² the Moray burghs,³ Wigtown,⁴ and others, the freedom from toll enjoyed by the burgesses of Canongate and Arbroath,⁵ and the trade monopoly areas of the baronial burghs of Renfrew, Irvine and Dunbar.⁶ Such grants seem anomalous only if judged by later criteria.

In general, burghs, whoever their superior might be, were regarded as the proper centres for trade—“Let no man bargain out of port”—but even that monopoly could be modified, as Adolphus Ballard pointed out in the cases of David I's grant of a non-burghal market to the bishop of Brechin and of King William's concession (before 1174) to the abbot of Kelso that his men might sell goods from their windows in Kelso town except on Roxburgh's market-day.⁷ The Mauchline grant belongs to the same category and further exemplifies the variety of early Scots practice.

The lands of Mauchline had been conveyed by Walter FitzAlan to the abbey of Melrose between 1165 and 1174,⁸ and there the cell set up by the monks evolved, in due course, into the parish church.⁹ In 1266 Alexander the Steward confirmed his predecessors' grants and gave the abbey certain judicial and economic privileges. The former are interesting enough.¹⁰ The abbot and convent may hold their pleas where and when they will in these lands, *cum omnibus libertatibus quibus ego et heredes mei curiam nostram de prestwich tenemus uel tenere debemus*; they may take forfeitures, escheats and fines; and the Steward's bailies and men will support the abbot's court and maintain his jurisdiction. On the economic side, the Steward gave *libertatem uendendi et emendi in quocumque foro uel loco uoluerint sine molestia et contradiccione mei uel heredum aut balliuorum*

9. *Reg. Epis. Glasg.*, i, 36-8; *A.P.S.*, i, 509, 536.

10. It was Walter FitzAlan's burgh by 1163: *Reg. de Passelet*, 2.

1. Given by King William to his brother, Earl David: *Munic. Corp. Comm. Local Reports*, i, 229, 238; *Charters of Dundee*, no. 16.

2. One of the Abbot's burghs by Robert I's time: *R.M.S.*, i, App. i, 24; *Reg. de Dunferm.*, 232-3, 415; E. Henderson, *Annals of Dunfermline*, 121-2.

3. Included in the regality grant to the Earl of Moray: *Reg. Epis. Moray.*, 342-4; *R.M.S.*, i, App. i, 31.

4. Given to Sir Malcolm Fleming in 1341 with the Crown lands of the shire: *ib.*, 119; *Wigtown Charter Chest* (Scot. Rec. Soc.), no. 3.

5. *Lib. Sancte Crucis*, 4-6; *Reg. de Aberbrothoc*, i, 3.

6. A. Ballard, “Theory of the Scottish Burgh,” in *Scot. Hist. Rev.*, xiii, 17.

7. Ballard, *ut. cit.*, 18.

8. *Lib. de Melros*, i, 55-6.

9. Chalmers, *Caledonia*, iii, 518-19.

10. Cosmo Innes mentions them in *Sketches of Early Scotch History*, 95 n. 1.

*meorum et ut quieti sint a theloneo tam in burgo meo quam extra.*¹ This is the nucleus, the foreshadowing of a burgh. Just as the Kelso men's trading rights were the core of that burgh, which was in being by 1237,² so the unusual concessions made to Melrose resulted long after in the creation of the burgh of Mauchline.

AYR AND IRVINE IN THE LATER MIDDLE AGES

In the next period of burghal development, from 1450 to 1560, the two royal burghs (as we may now properly call them) followed a normal pattern of evolution. Here, as elsewhere, there was reluctance to conform to the new order of self-elective councils laid down in the Act of 1469.³ Irvine was disciplined by the Crown in 1537 for preferring elections by “ane multitude” of “simple persouns fremen within oure said burgh” to a choice “be the best and wourthiest,”⁴ while Ayr seems to have remained obdurately attached to the old rule until after the Reformation.⁵ Municipal jurisdiction at this time was still ample extending to slaughter, theft and mutilation,⁶ and many cases are recorded of men being repledged to the burgh court from other jurisdictions.⁷ In 1539, indeed, the sheriff of Ayr was charged by the king to desist from infringing Irvine's privilege of immunity from inquests and assizes in the sheriff-court and the bailie-court of Cuninghame, they “havand provest and ballies of thare aune jugeis ordinare to thame.”⁸ A little later Ayr was given similar protection, first against the sheriff (1548), then against Hugh, Earl of Eglinton, as bailie of Cuninghame (1558).⁹ The highest form of justice was needed at what was, for all burghs, the supreme emergency—a visitation of the dreaded plague. In the crisis of 1546 the magistrates of both burghs were appointed *justiciarii in hac parte*, to execute plague statutes and punish offenders—“to justefy thame that brak rewill in the tyme of the pest”—*ad mortem justificandi*.¹⁰

By the sixteenth century the two burghs were leading western seaports. Ayr traded regularly with France and Ireland, and sent fishing expeditions to the Western Isles; she exported wool, wool-fells, woollen cloth, skins, hides and cured fish, importing in return salt, iron, flour and wine.¹ Already “unfree trade” was being met and resented. In 1538 Ayr sent “ane bill to the

1. *Lib. de Melros*, i, 236-7.

2. *Lib. de Calchou*, ii, 265.

3. *A.P.S.*, ii, 95; W. M. Mackenzie, *The Scottish Burghs*, 111, 121 *et seq.*

4. *Mun. of Irvine*, i, 40.

5. Murray, *Early Burgh Organisation*, ii, 489-90.

6. *ib.*, 502-3; *Ayr Charters*, 42-7.

7. *Mun. of Irvine*, i, 27-8; Murray, *op. cit.*, ii, 504.

8. *Mun. of Irvine*, i, 42-4.

9. *Ayr Charters*, 40-1, 106-8.

10. *Ayr Burgh Accounts*, 102; *Mun. of Irvine*, i, 47-8.

1. D. Murray, *Legal Practice in Ayr*, 51 *et seq.*

kingis grace anent chepmen at landwert kirkis,"² and in the same year Irvine invoked Crown aid against the merchants and chapmen who "makis plane mercattis" on Sundays at the parish kirks of Kilmarnock, Beith, Dalry and Largs, to the ruin of the burgh, which is "of auld infest in fre burrowage and hes broukit the samyn within the boundis of Cunynghame."³

It is hard, but not impossible, to arrive at an estimate of the pre-Reformation population of the two royal burghs. As members of Parliament and the Convention of Royal Burghs, both contributed to burgh taxation, and the six surviving stent rolls of the period 1535-57 are a rough guide to relative size and wealth.⁴ Ayr then paid £2 7s 3d in every £100 collected from 42⁵ burghs, while Irvine was assessed at £1 7s. Ayr normally ranked tenth among the Scots burghs and Irvine sixteenth.⁶ Luckily Arbroath, with which Irvine was invariably bracketed, is one of the few towns in mediaeval Scotland for which we have a firm estimate: it contained about 1,000 people in 1517.⁷ It seems safe to take Irvine's population as about the same total. A further check is possible. A list of the tenements of the burgh owing chaplainry annuities in 1542 has survived; most, but not all, of them seem to be neighbouring houses, set down in "runs" of two, three, or more, with gaps, and my approximate count of the total is 127.⁸ This would agree well enough with the 200 houses necessary to accommodate a population of 1,000. On this basis, the inhabitants of pre-Reformation Ayr would probably number between 1,500 and 2,000.

DEVELOPMENTS AT PRESTWICK AND NEWTON

Of the two other early burghs, we know much more of Prestwick than of Newton, since the records of the first are extant from 1470, but of the latter only from 1596. The 56 holdings of Prestwick listed in an inquest of the burgh lands in 1470 (not all of them with houses)⁹ suggest a population of perhaps 200,¹⁰ and it is clear from the statutes and regulations, made by the bailies with consent of the community, that the indwellers' main interests were agrarian—upholding of dikes "to kep ilke nyctbur fra schatht" and restraining of swine, geese and hens during summer for the same reason,¹ compulsory sowing of peas,²

2. *Ayr Burgh Accounts*, 78.

3. *Mun. of Irvine*, i, 41.

4. *Recs. Conv. Roy. Burghs*, i, 514-26.

5. 43 in 1550, when Hamilton was included: *ib.*, 519-20.

6. The rankings varied with changes in other burghs' quotas, so that Ayr was once eighth and once eleventh, and Irvine was once fifteenth and once seventeenth.

7. G. Hay, *Hist. of Arbroath* (1876), 39.

8. *Mun. of Irvine*, i, 181 *et seq.* The Earls of Eglinton and Glencairn, the Abbot of Kilwinning, and the lairds of Adamton, Lyne, Robertland and Stane all had town houses; and one house, that of John Mure in the Seagate (*in via marina*), is noted as being new roofed with tiles (*nunc tegulatum*).

9. *Burgh Recs. of Prestwick*, 1-6.

10. D. Murray, *Early Burgh Organisation*, ii, 83, seems to overstate the number of freemen at 63-80, for many new names were added to the original 28 in the list of 1507.

1. *Burgh Recs. of Prestwick*, 15.

2. *ib.*, 16-17.

fixing of prices of ale brewed locally or brought in from Ayr,³ and poinding of calves found in crops after mid-summer.⁴ Many anti-social actions were forbidden—excessive or untidy cutting of peat or turf, especially for sale and not use,⁵ setting of moss or muir to "outmen" or keeping "outtin scheip" in the town,⁶ pulling bent or shearing grass between Beltane and Lammass,⁷ having "scabyt horse or ony wdir wnlauchful geyr" or gathering more sea-wrack than they can "turs . . . away with thar kar and fill the samyn."⁸

It is a tight little community of small landholders, whose visits to the nearby leper-house at Kingcase or harbouring of strangers in time of pest are matters of deep concern to the neighbours.⁹ Men and women might be banished as "common rebellouris" or "pikaris and unlachful nyctburis."¹⁰ Out-burgesses were warned (probably with as little effect here as in other burghs) to "cum and duell betuex and mychelmes, or ellis to bruyk na fredome."¹ Debts, "strublanche," "flyting," slander, deforcement of officers, boundary disputes, and all the varied "faltis of nyctborheid" constitute the burgh-court cases. Accused persons might be repledged from Prestwick to Paisley's baron-court at Monkton (1499) or, *per contra*, from baron-court to burgh-court (1523).² At the Michaelmas elections there were chosen two bailies, a sergeand and varying numbers of "lynaris" and "cunnaris," a common herd and, sometimes, a brewster.³ In addition an "ourisman" or overman was appointed for a period of years or for life, and, since this superior magistrate was generally a neighbour laird like Wallace or Blair of Adamton, the custom held future danger for the little community.⁴

Of Newton we have only a glimpse at this time. Whether or not the Act of 1469 for self-perpetuating councils was intended to apply to burghs of barony (and its references to dean of guild and captain of the king's castle suggest not), the statute did not operate in Newton or in Prestwick;⁵ for the former, however, the same peril impended as for the latter. Until 8 January, 1539-40, the castle of Newton had belonged to the burgh, but then

3. *ib.*, 17-18.

4. *ib.*, 63.

5. *ib.*, 18, 30, 33, 60, 61.

6. *ib.*, 27, 29.

7. *ib.*, 51.

8. *ib.*, 57, 63.

9. *ib.*, 28, 29, 33, 36.

10. *ib.*, 24-5, 49.

1. *ib.*, 60-1; *cf. ib.*, 42.

2. *ib.*, 35, 50; *cf. Murray, Early Burgh Organisation*, ii, 113. It is the balliery-court, not the burgh-court, that is meant when (as in 1549 and 1550) lands in Kyle-stewart were appraised *in curia apud Muthill de Prestwick*: *R.M.S.*, iv, 316, 589.

3. *Burgh Recs. of Prestwick*, 40, 65.

4. *ib.*, 25, 31, 46-7, 56, 60. Murray (*op. cit.*, 78-9) rather over-states the burgesses' freedom of choice in the matter: this was not very real even in the royal burghs, and would be much less so in a village like Prestwick.

5. Murray, *op. cit.*, 233-5.

it was sold, with certain lands in and around the burgh, rabbit-warrens, salmon-fishings and peat-mosses, to Sir William Hamilton of Sanquhar.⁶ The barony of Sanquhar-Hamilton was confirmed to his son, another Sir William, in 1556.⁷ With the change of the barony's name to Newton and its transference from the Hamiltons to the Wallaces of Craigie, there was to come, at the end of the century, a move to interpose a new superior between the burgh and its true overlord, the Stewart.⁸

A NEW NOBILITY

The rise of new burghs in the period 1450-1560 coincided with the emergence of a new baronage to fill the void left after the greater part of the shire had fallen to the Crown in the fourteenth century, on the elevation of first the Bruces and then the Stewarts.⁹ The new aristocracy appears in an Act of 1488 for staunching crimes, whereby various lords undertook to punish malefactors in their own regions, or to send them to the king "to be justifiit"; the Ayrshire magnates were Lord Kennedy for Carrick, the sheriff of Ayr for Ayr, Wallace of Craigie for Kyle, and Lord Montgomerie for Cuninghame.¹⁰ In Carrick the Kennedys were indeed supreme, acquiring the Lordship in 1458 and the Earldom of Cassilis in 1509. The Kyle division had no Lord of Parliament, but the Campbells of Loudoun (whose titles date only from the seventeenth century) enjoyed, as hereditary sheriffs from the reign of Robert I onwards, power equal to that of their noble rivals. Cuninghame, on the other hand, boasted no fewer than three of the new peers—Lords Montgomerie (1445), Boyd (1454) and Kilmaurs (1463). The first and third, harbouring the bitterest family feud in the shire, each advanced a step in the peerage under James IV, to become Earls of Eglinton (1507) and Glencairn (1503).¹ Only less powerful were the many lairds in all divisions, sometimes leagued with the nobles, sometimes in deadly feud against them.

EIGHT NEW BURGHS IN BARONY

In this feudal setting eight burghs in barony were created by charter within about fifty years. The new type of Scottish burgh had begun with the erection of Strathaven in 1450,² and it is noteworthy that, throughout the kingdom, the charter-grants were in almost identical terms.³ In each case the town was erected, in favour of the superior, *in liberum burgum in baronia*, with standardised privileges—the right of buying and selling wine,

6. *Ib.*, 176-8. Sanquhar was the old name of St. Quivox.

7. The reddendo included three suits at the head-courts of the bailiery of Kyle-stewart *apud Mudehill de Prestik*: *R.M.S.*, iv, 1125.

8. Murray, *op. cit.*, 196 *et seq.*

9. Ayrshire lands and lordships predominate in the composition of the Principality, as defined in 1469: *A.P.S.*, ii, 187.

10. *Ib.*, ii, 208.

1. The first creation, in 1488, was annulled: *Scots Peerage*, iv, 235-6.

2. *R.M.S.*, ii, 340.

3. Cf. Ballard, in *S.H.R.*, xiii, 20-1.

wax, cloth and other goods, of having bakers, brewers, fleshers and other craftsmen, of becoming burgesses, of electing (generally with the superior's assent) bailies and other officers needed for the government of the burgh, of having a market cross, of holding weekly markets and annual fairs, and of levying tolls. Departures from the norm were few and small.

The first of the new burghs in Ayrshire was Newmilns, in Loudoun parish, erected in favour of Sir George Campbell of Loudoun, sheriff of Ayr, on 9 January, 1490-1.⁴ In 1949 this small but sturdy burgh celebrated over four and a half centuries of continuous municipal existence.

On 27 May, 1507, Auchinleck (under the name of Keithstoun) was given the status of a burgh, the grantee being Thomas Boswell of Auchinleck, but, as there is no evidence of the burgh ever having come into existence,⁵ it must be classed among the many "parchment burghs."

On 27 September, 1509, James Dunbar of Cumnock got a charter making Cumnock a burgh in barony. The barony had once belonged to the Earls of March, but was held by the Dunbars of Cumnock from the fourteenth to the seventeenth century.⁶ The burgesses were to elect their bailies and other officers *cum avisamento et consensu baronis de Cumnok*. Mr. Thomas Campbell, canon of Glasgow Cathedral and prebendary of Cumnock church, was authorised to set in feu, with the baron's consent, *terras glebe in particatas burgales*.⁷ The power to feu was from now on a normal clause in charters of erection; it was generally given to the baron and referred to the lands of his burgh.⁸

The fourth of the new burghs was Mauchline, whose charter of 30 October, 1510, in favour of the Abbot of Melrose,⁹ was the belated sequel to the unusual grant of 1266.¹⁰

The three Ayrshire earls now received grants in turn. There was no burgh in the large district of Carrick until, on 14 November, 1516, Maybole was erected, with Gilbert, Earl of Cassilis, as its superior; the power to feu lands in *particatas burgales* was conceded to the provost of the collegiate church of Maybole,

4. *R.M.S.*, ii, 2001. Cf. J. Strawhorn, *Newmilns: the Story of an Ayrshire Burgh* (*Collections of Ayrsh. Archaeol. & Nat. Hist. Soc.*, 2nd ser., vol. i, 1947-49), which has a translation, in full, of the charter of erection.

5. *Reg. Sec. Sig.*, i, 1481; cf. Marq. of Bute, J. H. Stevenson, and H. W. Lonsdale, *Arms of Baronial Burghs* (1903), 33.

6. Chalmers, *Caledonia*, iii, 521-2.

7. *R.M.S.*, ii, 3376.

8. Ballard (*loc. cit.*) dates the new clause from 1510.

9. *R.M.S.*, ii, 3514.

10. *Vide supra*, pp. 21-23*.

with consent of the Earl.¹ That the charter took immediate effect is established by a surviving land-grant of 1520, which concerns subjects lying *in burgo de Mabile*.² The burgh was, indeed, a centre of some economic importance, but Abercrommie, writing at the end of the seventeenth century, was wrong in regarding the then Earl's insistence on his superiority as an unwarranted intrusion, for the charter gives him full right.³

Cuthbert, Earl of Glencairn, was the next beneficiary, with a grant of Kilmaurs on 2 June, 1527. The superior acted without delay on his chartered right to feu *in particatis burgalibus*, by conveying, on 15 November, 1527, some 280 acres in 40 equal shares to named burgesses, in feu-ferme, heritage and burgage in barony, at a reddendo of 80 merks per annum, or two merks from each tenement. No burgess was to hold more than two tenements, and outdwelling was forbidden. No maltmen or craftsmen would be tolerated elsewhere in the barony, and merchandise must be presented only at the market cross of the burgh.⁴ Kilmaurs differed from the other mainly agrarian burghs, Prestwick and Newton, in that the burgh lands were feued from the beginning; and this circumstance fixed its character even more firmly than was the case with the earlier communities, ensuring that, despite the encouragement of crafts, its burgesses should be smallholders.⁵ What is indeed remarkable is that, under these conditions, the burgh should survive into the twentieth century.

On 1 February, 1528-9, a precept under the signet records the intention of erecting Saltcoats as a burgh, with Hugh, Earl of Eglinton, as superior.⁶ This would normally mean the granting of a charter under the great seal within a few months. In this case, however, something went wrong with the usual practice of "passing the seals," for the charter was not expedited until 6 May, 1576 (to another Earl Hugh), James V's grant having been left incomplete *per negligentiam*.⁷ Now, Saltcoats was a place of some importance, but the obscurity of its municipal history⁸ forces us to regard the 1529 grant as inoperative—a mere gleam of envy and emulation in Eglinton's eye, as he thought of Glencairn's new venture at Kilmaurs.

1. R.M.S., iii, 112. The charter is translated, in full, in *Munic. Corp. Comm. Local Reports* (1836), 128-9.

2. *Charters of Abbey of Crossraguel*, i, 68-70.

3. *Macfarlane's Geographical Collections*, ii, 16-17; cf. *infra.*, p. 37.

4. Both charters are transcribed in full, though faultily, and with translations, in D. McNaught, *Kilmaurs, Parish and Burgh* (1912), 332 *et seq.*

5. See J. Fullarton's Notes to T. Pont, *Cuninghame Topographized* (Mait. Club, 1858), 120-1; Murray, *Early Burgh Organisation*, ii, 296-8; McNaught, *op. cit.*, 225-7.

6. No details are given: *Reg. Sec. Sig.*, i, 4059.

7. R.M.S., iv, 2560; cf. A. Porteous, *Town Council Seals of Scotland* (1906), 265.

8. A.P.S., viii, 609; O.S.A., vii, 23, 51; cf. Fullarton, *ut cit.*, 167.

The eighth and last of the pre-Reformation charter-grants is that of Ballantrae, dated 8 July, 1541. The grantee was Thomas Kennedy of Bargany, whose feuds with the chief of his name, the Earl of Cassillis, were wont to disturb life in Carrick. The burgesses were empowered to elect their officers only with the baron's consent.⁹ Ballantrae's municipal existence (like that of Saltcoats) is in doubt,¹⁰ though it is spoken of in 1617 as "now erected in ane burgh of baronie,"¹ and in 1656 as the chief creek on the Carrick coast and "a mercate towne."²

THE REFORMATION: RETROSPECT

The year of the Reformation, 1560, falls almost exactly halfway between burghal beginnings in Ayrshire and the present day. Of the twelve burghs that had been "erected," in theory or in fact, before 1560, two were royal and ten were burghs in barony, of which two held from the Crown as Stewart, one from an Abbey, three from Earls and four from lairds. The two royal burghs were relatively wealthy commercial and industrial communities, each with a population running into four figures. Four of the burghs in barony (Newmilns, Cumnock, Mauchline and Maybole) were small market-towns, with some local trade and a few crafts; three others (Prestwick, Newton and Kilmaurs) were essentially agrarian communities, with crafts more in evidence than crafts; of the three remaining burghs, Saltcoats and Ballantrae had formal constitutions that were, so to speak, in suspense, while Auchinleck was a mere "parchment burgh." The geographical distribution shows four erections in Cuninghame, six in Kyle, and two in Carrick; for each division the total is one fewer in respect of effective, functioning burghs.

In the matter of burgh origins and developments, therefore, medieval Ayrshire presents as clear and colourful a picture as any county in Scotland. It claims the earliest surviving charter of erection of a king's burgh and provides the best example in our records of the historic link between castle, burgh and sheriffdom. We shall nowhere else see the rise of a new baronage more faithfully reflected in the foundation of new burghs; nor shall we encounter as full documentation of the essentially agrarian character of many a small Scots burgh.

THE RISE OF A NEW BARONAGE

The "erection" of a further group of Ayrshire burghs between the Reformation and the Union of the Parliaments was in part

9. R.M.S., iii, 2400.

10. Bute, *op. cit.*, 43; Murray, *op. cit.*, ii, 298.

1. A.P.S., iv, 555; cf. *Charters of Crossraguel*, ii, 70.

2. Tucker's Report, in *Burgh Recs. Soc. Misc.*, 28.

due to the economic needs of the townships, the village communities and the country-dwellers, but in part also to the emergence of a new set of noble landowners. The three earldoms (Eglinton, Cassilis and Glencairn) and the one lordship (Boyd) in existence before the Reformation were heavily reinforced during the seventeenth century. The main source of supply for the newer peerage was the large group of lairds, or tenants-in-chief of the Crown; there were at least 57 baronies in existence before 1560, stretching from Beith, Glengarnock and Pokelly in the north to Ardstinchar, Daljeburgh and Girvan in the south. Among the barons, Kennedys were dominant in Carrick; there were numerous families of Campbells, Wallaces and Craigies in Kyle; and Cunninghams and Montgomeries were most prominent in the north. Sometimes siding with, sometimes against, the neighbour lord, and often feuding among themselves, the barons, relying on native ability, kinship and marriage ties, hoped for advancement to the peerage, and such promotions came to not a few of them. Apart from one or two short-lived titles, and those with only a tenuous connexion with the shire, seven new creations are to be noted. Campbell of Loudoun achieved a lordship in 1601, and a successor, of the line of the Campbells of Lawers, was made Earl of Loudoun in 1633. Hamilton of Bargany became Lord Bargany in 1641. In 1647 the Cochrans of Dundonald were given a lordship, and in 1669 an earldom (that of Dundonald). Lord Colvill of Ochiltree appears in 1651, while in 1661 Lord Boyd (with a title already two centuries old) was created Earl of Kilmarnock. Viscount Dalrymple (1690) and Lord Boyle of Kelburne (1699) both became Earls in 1703—the former of Stair, the latter of Glasgow. By unusually good family fortune, moreover, none of these titles died out until well after the Union, which, therefore, found the shire with ten local peers—eight earls and two lords.

A flourishing native nobility, backed up by an ambitious and numerous body of barons, was bound to stimulate the development of the burghal system, for (as is already discernible in some of the pre-Reformation erections) proprietorial ambitions and considerations of social prestige, as well as real economic needs, might inspire the grant of a burgh charter. Not every new burgh of barony³ was a reality "on the ground," and the list of creations must be carefully scanned and checked, in order to sort out the nominal or "parchment" burgh from the genuine municipality.

3. In the period 1588-1600 (though with some later returns to the former practice) the term *burgus in baronia* gave way to *burgus baronie*.

SALTCOATS AND KILMARNOCK

The erection of Saltcoats, delayed, as we have seen,⁴ by nearly half a century, was effected on 6 May, 1576. Its subsequent record as a burgh is far from clear, but it can at least be said that in 1607, as a petition to the Privy Council testifies, its inhabitants were engaged in the western fishing to an extent that aroused the men of Ayr and Irvine to launch a night attack on them and to destroy their boats.⁵ That it was a place of some importance, especially for its salt manufactures, is attested by Timothy Pont's notice of the town,⁶ and by the attention paid to it later by the royal burghs and their Convention.

Much the most important of all the Ayrshire burghs of barony came into being on 12 January, 1591-2, when the Kirkcubright burgh of Kilmarnock was given this status, with power to the inhabitants, with the consent of the superior, Thomas, Lord Boyd, to elect bailies and other officials.⁷ Kilmarnock's subsequent history, as a thriving market-town with more than local repute for the products of its craftsmen, and as an urban centre that more and more dominated its region, is well chronicled:⁸ suffice it to say here that the charter took immediate effect, for, within a dozen years or so, it was described by Pont as "a large village, and of grate repaire. It hath in it a weekly market."⁹ Its magisterial and municipal status is indicated by the fact that, on 10 July, 1662, its bailies were appointed to serve on a commission for the trial of a suspected thief, the son of a local skinner, who was then imprisoned within the Tolbooth of the burgh.¹⁰ A few years later, as we learn from a melancholy accident recorded in the same source, the town's population must have been somewhere in the neighbourhood of one thousand; a supplication presented to the Privy Council on 4 June, 1668, from the inhabitants states that the greatest part of the town had been consumed by fire, so that "about sex-score families are set to the fields destitute both of goods and houses."¹

Twenty years later this large and growing town was in a different kind of trouble. In a violent dispute with their superior, the indwellers complained (May, 1688) that he had usurped their Common Good, imposed a stent of 5,000 merks for entertaining the notorious Highland Host, and exacted illegal petty customs at their public markets; but the Earl, denying

4. *Vide supra*, p. 23*.

5. *Reg. of Privy Council*, 1st ser., xiv, 525-6.

6. *Cuninghame Topographized*, 30.

7. *R.M.S.*, v, 2014.

8. A. Mackay, *History of Kilmarnock*, in five editions (1848, 1858, 1864, 1880, 1910).

9. Pont, *Cuninghame Topographized*, 24.

10. *R.P.C.*, 3rd ser., i, 243.

1. *Ib.*, ii, pp. xli, 461-2. If we allow the usual ratio of five persons to a family, "the greatest part" of the town would house some 600 people. (The Council responded by authorising a voluntary subscription to help the victims.)

the allegations of extortion, stressed that the town was a mere burgh of barony, without a charter of erection of its own, claimed the Tolbooth and Common Good as his properties, and asserted that he might or might not, at will, appoint bailies and officers (a meaning that the charters will hardly bear out). The superior's power and influence are suggested in the sequel—many of those in whose names letters had been raised against the Earl disclaimed the process in whole or in part.² The era of subjection was by no means over, and the rising burgh had to wait until the late eighteenth century for full independence.

RE-DEFINITIONS OF BURGHAL STATUS

At the close of the sixteenth century the two ancient and dependent burghs of the shire had their tenure and rights restated in the light of recent burghal developments. Since the old "evidents" of Newton-of-Ayr had been destroyed, it was re-granted on 24 September, 1595, as a free burgh to the burgesses, with power to them to elect their bailies and to feu the burgh lands. These terms seem to have been altogether too wide and liberal for the little burgh's powerful neighbours, and the charter was superseded by another, dated 30 June, 1600, which confirmed it, but with substantial variations. Newton was recognised as a free burgh of barony, without prejudice to the privileges of the royal burgh of Ayr; its burgh fermes and duties were owed to the Prince and Steward of Scotland (for whom, as administrator, the King was the grantor of the charter).³ And the charter to Prestwick, the terms of which have already been noticed in some detail,⁴ was dated only a few days earlier—19 June, 1600. Clearly the aim was a final tidying-up of all matters touching the tenure and duties of the two antique municipalities, but, specific as are the clauses of these documents, they were not to be the last word on the subject.

The oppression of the tiny burghs by the Wallaces of Craigie makes a sordid and shameful tale, which need not be particularised here, since it has been told, with justifiable warmth and indignation, by David Murray, the erudite and loquacious antiquary, who had more love in his heart for a bailie than for a baron.⁵ The entering wedge for the intrusion of this local family on burghal affairs was supplied by the office of "oversman" or provost; thus, John Wallace of Craigie was chosen "ourisman and prowest" of Prestwick on 8 November, 1571.⁶ The next step was to assert that the office was hereditary. The breach

2. R.P.C., 3rd ser., xiii, 236-41, 293, 295.

3. R.M.S., vi, 359, 1048.

4. *Vide supra*, pp. 9-10.

5. *Early Burgh Organisation*, ii, 78-80, 194-211.

6. *Burgh Recs. of Prestwick*, 72.

was widened when, in 1599 and again in 1603, Craigie affirmed that his purchase of Sanquhar-Hamilton⁷ embraced the possession of both towns. It was, of course, appreciation of the immediacy of the threat to their position that impelled the burgesses to seek the protection of the two charters of 1600, but Craigie was elected provost of Newton in 1603 and of Prestwick in 1605.⁸ For several generations the oppression continued, buttressed by a Privy Council decision of 25 November, 1680, in favour of Sir William Wallace of Craigie, although the case then presented by the magistrates of Newton seems strong beyond cavil.⁹ More than a century passed before the burghs recovered their rights.

A third instance of disputed superiority belongs to the same period. Near the church at Largs, where Irishmen, natives and strangers were wont to gather at a common market, the local landowner, Brisbane of Bishopton, was given, by charter dated 24 December, 1595, *jus edificandi oppidum*, and this town was erected into a burgh of barony under the name of Newtown of Gogo.¹⁰ Over thirty years later, however, the barony of Largs was acquired by one who had no county connexion, and who was the leading land-speculator of his day—Sir William Alexander of Menstrie. A charter of 11 April, 1629, granted him that barony, *cum libertate burgum infra aliquam partem dictarum bondarum condendi*, and this burgh was to be the burgh of barony of Largs.¹ The two grants were incompatible; one of the aspirants had to yield to the other. Final victory lay with the "man on the spot," for the latest charter in the series, dated 9 August, 1631, confirmed Brisbane of Bishopton in the barony and burgh of Gogo, including the town and port of Largs, resigned in his favour by Alexander of Menstrie.²

"The Largs" was already one of the few "unfree" ports of the west country³ of sufficient importance to be grouped with the royal burghs in the Privy Council's instructions for the control of trade and traffic, outgoing and incoming, between the Lowlands and the Western Isles and Ireland.⁴ That it was an active burgh appears from Pont's description ("It is a brughie of barroney," with "a small porte for botts one the mouth of the river Gogow"), and also from a Privy Council decree of 18 July, 1637, adjoining Henry Kelso, its bailie, with the justices of the peace within the bailiery of Cuninghame.⁵

7. *Cf. supra*, p. 26.

8. Murray, *op. cit.*, 198; *Burgh Recs. of Prestwick*, 85-6.

9. R.P.C., 3rd ser., vi, 590-2; *cf. Fountainhall, Historical Notices*, i, 276, and *Decisions*, i, 117.

10. R.M.S., vi, 385.

1. *Id.*, viii, 1404.

2. *Id.*, viii, 1846.

3. The others were Saltcoats, Ballantrae and Portpatrick.

4. R.P.C., 1st ser., vi, 384; viii, 106; 2nd ser., i, 621.

5. *Cuninghame Topographized*, 26; R.P.C., 2nd ser., vi, 481.

EIGHT CHARTERS OF ERECTION OF NEW BURGHS

Apart from the confirming charters of the period (in favour of Newmilns, Cumnock, Mauchline, Maybole and Ballantrae) the seventeenth century yields evidence for the formal erection of eight burghs of barony within Ayrshire.

The first grant (26 July, 1601), in favour of Robert Fairlie of that ilk, was in respect of Fairlie, a convenient port, the duties and services being payable to the Prince and Steward;⁶ but there seems to be no evidence that the burgh ever came into existence. On 4 March, 1607, under the name of Castlemerrick of Dalmellington, a burgh was created, most of the powers going to the superior, Alan, Lord Cathcart.⁷ Although its history is obscure in the extreme, there is, as we shall see, reason to believe that the burgh was a reality.⁸ Dundonald was granted to William Cochrane of Cowdoun on 5 March, 1638,⁹ while the unsupported statement of George Chalmers, the antiquary, affirms that Riccarton "was made a burgh of barony in 1638"¹⁰; if so, Riccarton, like Dundonald, must be classified as a "parchment burgh."

On 13 June, 1642, Sir John Crawfurd of Kilbirnie had a grant of the lands and barony of Kilbirnie, together with the lands of Easter Greenock and other lands and superiorities, all united in the barony of Kilbirnie, and part of the barony was erected as a free burgh of barony (the name of which is omitted in the Great Seal Register);¹ a retoured inquest of 4 December, 1690, however, names it as Kilbirnie.² Here again, retrospective evidence of a much later date tends to show that the burgh did function.³

The next formal erection was the outcome of a curious episode in our history. The measures taken after the Restoration for the demolition of the Cromwellian fortifications at Leith, Ayr, Perth and Inverness were dilatory in the extreme,⁴ and the decision to set up burghs on the sites of three of them may have been taken in the hope of stimulating action of some kind—of any kind, one is tempted to suppose. At all events, a charter of 20 August 1663 conveyed to Hugh, Earl of Eglinton, the Citadel

6. *R.M.S.*, vi, 1222.

7. *Ib.*, vi, 1872; charters of confirmation were given in 1622, 1626, 1632 and 1643: *ib.*, viii, 389, 736, 2055, 2056; ix, 1405.

8. *Vide infra*, p. 45*.

9. *R.M.S.*, ix, 805.

10. *Caledonia*, iii, 511.

1. *R.M.S.*, ix, 1130. The burgh is wrongly indexed in the Register as "Easter Greenock"; for a correct reading of the record and an accurate statement, see Chalmers, *Caledonia*, iii, 559.

2. *Inquis. Retorn. Abbrev.*, Ayr, no. 660.

3. *Vide infra*, p. 45*.

4. *R.P.C.*, 3rd ser., i, pp. ix-xi and Index, *sub voc.* Citadel.

of Ayr, with the magazine house, port, haven, and sums due by the burgh of Ayr, all united into the free barony, burgh and regality of Montgomeriestown.⁵ This project, literally on Ayr's doorstep, must have impressed the burgesses as the height of impudence, but they were strong enough to frustrate it.

On the narrative that there was no burgh or seaport at the mouth of the river Girvan, a charter of 6 May 1668, in favour of Thomas Boyd of Penkill, combined the townships of Ballochoule, Girvan and Knockinsheoch as the burgh of barony of Girvan, with liberty to build a port and a fort, and the usual privileges.⁶ Girvan must have supplied a real need, for the burgh functioned smoothly until well into the nineteenth century. This is even more true of Tarbolton, which, with John Cunningham of Enterkine as its baron, came into being on 28 July 1671.⁷ The new burgh must have been worth fighting about, for, on 4 March 1673, a dispute between Cunningham of Enterkine and Montgomerie of Coilsfield as to the right of holding the "fares, mercats and courtes" of Tarbolton came before the Privy Council.⁸

Leaving aside the cases of Ballantrae and Saltcoats (which may have belatedly made good formal privileges granted or fore-shadowed at an earlier date), of Prestwick and Newton-upon-Ayr (which were re-defined in the newer style), and of Fullarton and Ardrossan (which, as post-Union burghs, will be considered in the sequel), we find ten new erections between 1560 and 1700.⁹ Of the ten, Kilmarnock alone can be ranked as a substantial commercial town, Largs and Girvan were minor seaports, Dalmellington and Kilbirnie were small market-towns, and a sixth, Tarbolton, was akin to the agrarian townships or villages of an earlier age, Prestwick, Newton and Kilmaurs.¹⁰ The remaining four, Fairlie, Dundonald, Riccarton and Montgomeriestown, were, like Auchinleck, mere "parchment burghs," devoid of any municipal life despite their charter terms.

THE PROBLEM OF "UNFREE TRADE"

Five total casualties out of 22 formal erections¹ testify to a fairly high survival rate in comparison with most of the Scottish counties; still, the position does suggest that motives other than the strictly economic underlay some of the charter grants. That

5. *R.M.S.*, xi, 506. The property later passed to Cassillis: Chalmers, *Caledonia*, iii, 502.

6. *R.M.S.*, xi, 1179; cf. *A.P.S.*, vii, 639.

7. Bute, etc., *Arms of Baronial Burghs*, 491.

8. *R.P.C.*, 3rd ser., iv, 26-7.

9. This figure is based on the assumption that we can take the Gogo-Largs grants as constituting one transaction.

10. The population of the village in 1797 was about 450, and around it lay the small properties of the "portioners": *Old Stat. Acc.*, xix, 454.

1. Or, if we exclude Riccarton, four out of 21.

baronial ambition or the spirit of emulation was sometimes responsible for erections that were not justifiable or real "on the ground" is borne out by the fact that, during this period, recourse could be had to another device for the satisfaction of the modest shopping needs of the country-dwellers and village folk. This was the grant, in favour of the local lord or laird, of the right of holding, in a village or at some other convenient site, a weekly market, sometimes in conjunction with an annual fair, but in all cases without the burden of maintaining a municipal establishment. The statutory authority for eight such grants within the county is recorded: for Ochiltree in 1669 (the Earl of Dundonald), Dalry in 1681 (Blair of Blair), Dalvennan in Straiton parish in 1685 (Mackenzie of Dalvennan), Straiton itself in 1695 (the Earl of Cassillis), and Cocklebee in Stewarton parish (Cunningham of Corsehill), Doghillock in Fenwick parish (the Earl of Glasgow), Galston and Riccarton² (both for Campbell of Cessnock)—the last four all in the year 1707.³ There were other, though unrecorded, markets and fairs: the magistrates of Irvine complained in 1692 of the trade rivalry of the "unfree towns" of Beith, Kilwinning and Stewarton,⁴ while evidence was collected by Sir James Marwick of markets, or fairs, or both, at Barr, Colmonell, Dailly, Kilbride, Kirkmichael, Muirkirk, Sorn and Stevenston.⁵

Jealousy between the two royal burghs of the shire was much less prominent in the seventeenth century than their common fear of, and hostility to, unfree trade, whether in burghs of barony or landward markets. To this cause they unfailingly attributed the decay of their own prosperity, but the evidence that we have points to other, and perhaps more potent, factors. The preference for cumulative borrowing (at high rates of interest) over taxation, which was a common and fatally enfeebling feature of Scots burgh finance, was much in evidence at Ayr,⁶ while a peculiar and local hazard of the western harbours—their tendency to be clogged and choked by blown sand—played a part in arresting the progress, or even promoting the decline, of both Ayr and Irvine.⁷ It is certain that, in relation to the Scottish burghs as a whole, they lost some ground between the Reformation and the Union. Ayr stood ninth (above Glasgow) in the stent-roll of 1564 and eighth in that of 1597, while Irvine was seventeenth on both occasions, but by 1649 they were in thirteenth and twentieth places respectively.⁸ It is true that Charles II's reign brought some recovery—for Ayr to

2. The parliamentary grant of a non-burghal market argues against the existence of any burgh of Riccarton; cf. *supra*, p. 42.
3. A.P.S., vii, 562; viii, 445, 575; ix, 502; xi, 477.
4. *Burgh Recs. Soc. Misc.*, 104; "unfree" burghs and market towns or villages were indiscriminately denounced by the representatives of the royal burghs.
5. Marwick, *List of Markets and Fairs*, *sub voc.*
6. *Ayr Burgh Accounts* (Scot. Hist. Soc.), cxlii.
7. Font, *Cunninghame Topographized*, 19-20; Tucker's Report, in *Burgh Recs. Soc. Misc.*, 27-8.
8. *Recs. Conv. R. Burghs*, i, 530-1; ii, 10; iii, 332-3.

twelfth place in 1670 and tenth in 1683, and for Irvine to eighteenth in both these years;⁹ but the next revision of the roll, in 1705, reduced Ayr to fourteenth and Irvine to twentieth.¹⁰ On the basis of these classifications, it would seem plausible to guess the population of Ayr as about 2,000 in the seventeenth century, with Irvine perhaps 1,500, Kilmarnock around 1,000, and all others well below that figure. By modern standards, therefore, most of the Ayrshire burghs were minuscule townships, with only a few hundred inhabitants.

Though small, the older burghs of the shire seem all to have successfully survived the seventeenth century. Ayr, Irvine, Kilmarnock, Prestwick and Newton are reasonably well documented. Maybole, too, as the head burgh of the bailiery of Carrick, was somewhat in the public eye. We have references to assaults and riots at its market cross, sometimes involving merchants as well as craftsmen;¹ its bailies in 1663 were able to apprehend two notorious thieves;² proclamations were commonly made at its cross;³ and, besides the bailies, the burgh boasted a deacon convener, a town clerk and town officers.⁴ In 1688 a dispute between the Earl of Cassilis, as superior, and the town council, as to the former's right of nominating the two bailies from a leet of five proposed, after election, by the councillors, came before the Privy Council; and the extracts from the burgh records, produced and transcribed, serve to prove that the choice of the leets involved a real vote.⁵ The outcome seems to have been in the Earl's favour, which Abercrommie, in his contemporary *Description of Carrick*, denounces as an "usurpation."⁶

Of the other pre-Reformation burghs, we get brief glimpses, which, however, suffice to show them as working municipalities. A cooper of Newmilns, taken "with the bloodie hand" after committing slaughter, was imprisoned in the Tolbooth in 1629,⁷ while the bailies of that burgh effected the banishment of five suspected arsonists in 1677.⁸ There are references to the market in the town of Cumnock in 1607⁹ and to the bailies of Mauchline in 1637.¹⁰ The two bailies, a late bailie, a messenger and certain inhabitants of Kilmaurs were accused in 1627 of unlawfully coming

9. *Ib.*, iii, 622-3; iv, 40; *R.P.C.*, 3rd ser., ix, 329.

10. *Recs. Conv. R. Burghs*, iv, 371.

1. *R.P.C.*, 1st ser., viii, 146; 2nd ser., iii, 5, 607.

2. *Ib.*, 3rd ser., i, 442.

3. *Ib.*, v, 421, 524.

4. *Ib.*, ix, 353.

5. *Ib.*, xiii, 96, 204, 207-12.

6. *Macfarlane's Geographical Collections*, ii, 16-18; cf. *supra*, p. 28.

7. *R.P.C.*, 2nd ser., iii, 43.

8. *Ib.*, 3rd ser., v, 263-4; for a further reference to the bailies of this burgh (in 1684), see *ib.*, x, 324.

9. *Ib.*, 1st ser., vii, 290.

10. *Ib.*, 2nd ser., iii, 468, 505.

to the rescue of pressed men.¹ It would appear that only Auchinleck, of the older burghs, is still to be written off in the seventeenth century as a casualty.

At all events, in the eyes of the burgesses of Ayr and Irvine, both unfree burghs and unfree markets were too numerous and too prosperous. At the urging of the Convention of Royal Burghs, Ayr was persuaded to take punitive but costly action against its biggest local rival, Maybole, in the years 1599 and 1600,² while Irvine was similarly induced to proceed against its chief competitor, Kilmarnock, in 1617-18.³ After the Restoration, the threat became greater: not only were the nobles and barons seeking and obtaining statutory authority for private markets and fairs, but they also persuaded Parliament, in 1672, to modify, in favour of the burghs of barony, the rules strictly forbidding or limiting exports, imports and retail sales. The royal burghs won back most of the lost ground through further statutes of 1681 and 1690;⁴ but the problems of over-concentration of commercial rights, and of the consequent illegal trade, remained unsolved. Returns made in 1692 in response to a Convention inquiry show that Irvine felt cause to complain of the hurt to its interests by reason of the rivalry of seven unfree burghs or markets "within its precinct," and Ayr of about ten.⁵

"THE COMMUNICATION OF TRADE"

A proposed way out of the *impasse* appeared, as a result of negotiation, in the Act of 1693 "for the Communication of Trade," which offered to convey to unfree burghs and towns the right of participating in foreign trade provided they agreed to pay a reasonable share (to be fixed after discussion) towards the royal burghs' quota of the national "cess" or land-tax.⁶ Protracted bargaining ensued, the royal burghs' aim being to ensure a contribution from the unfree traders of £10 for every £100 that they themselves raised. Ayrshire was expected to find 13/-, or nearly one-fifteenth of the Scottish total, according to the findings of a parliamentary committee which sat in 1699-1700. Kilmarnock was rated highest, at 3/-, Kilwinning and Saltcoats next, at 1/6 each, Beith at 1/4, Maybole at 1/2, Largs and Newton at 8d each, and fourteen other burghs or markets at sums ranging from 1d. to 6d.⁷ This ambitious and comprehensive plan, as it turned out, was quite unrealistic.

1. *Ib.*, 2nd ser., viii, 380; (for the bailies in 1684) *ib.*, 3rd ser., x, 324, 325, 375.

2. *Ayr Burgh Accounts*, 45-7, 196, 200, 209, 219, 257; *Recs. Conv. Royal Burghs*, ii, 54-5, 78; Dunlop, *Royal Burgh of Ayr*, 40.

3. *Recs. Conv. Royal Burghs*, iii, 37, 58.

4. *A.P.S.*, viii, 63-4; xii, 44-5; ix, 152-3; Mackenzie, *The Scottish Burghs*, 146-50.

5. *Burgh Recs. Soc. Misc.*, 80, 104.

6. *A.P.S.*, ix, 315-16.

7. *A.P.S.*, x, Appendix, 132.

BURGHs OF REGALITY

As a late refinement of the term "burgh of barony," the variant style (it was probably no more) "burgh of regality" came into use in the sixteenth, but much more in the seventeenth, century. Ayrshire provides four cases. The first, Citadel of Ayr or Montgomeriestoun, was, as we have seen, purely and simply a "parchment burgh" (1663).⁸ On 18 October 1680 Cumnock was created a burgh of regality in favour of Charles, Lord Crichton.⁹ On 7 February 1707, just before the Union, Hugh, Earl of Loudoun, had a charter erecting Newmilns as the head burgh of the regality of Loudoun, and Mauchline as the head burgh of the regality of Mauchline.¹⁰ No accession of power or diminution of privilege, from the point of view of the burgh, is to be read into any of these charter grants; it was social prestige and a resonant style that the barons, as "lords of regality," sought from the crown.

The opening of the eighteenth century thus found Ayrshire with two royal burghs, three burghs of regality and twelve burghs of barony, or 17 functioning burghs in all, out of a total of 22 planned in terms of charter grants. The list, in chronological order, runs:—

Royal Burghs: Ayr, Irvine;

Burghs of Regality: Newmilns, Cumnock, Mauchline;

Burghs of Barony: Prestwick, Newton, Maybole, Kilmaurs, Saltcoats, Ballantrae, Kilmarnock, Largs, Dalmellington, Kilbirnie, Girvan, Tarbolton;

"Parchment Burghs": Auchinleck, Fairlie, Dundonald, Riccarton (?), Montgomeriestoun.

THE LATEST BURGHs OF BARONY

Two further creations complete the record for the county. On 5 August 1707, little more than three months after the Union, Fullarton (now included within Irvine, but then a little town on the opposite bank of the Irvine water) was erected as a burgh of barony, with the usual privileges, and holding from William Fullarton of that ilk.¹ Finally, on 16 July 1846, Parliament passed "an Act for erecting the Town or Village of Ardrossan . . . into a Burgh of Barony; for paving, lighting and cleansing the same; for establishing a Police therein; and for other Purposes relating thereto"; nine town councillors (including a provost, two bailies and a treasurer) were to be elected from and by the £5 householders; and the Act was to endure for 31 years.² If

8. *Vide supra*, pp. 34-35*.

9. Bute, *Arms of Baronial Burghs*, 149.

10. *A.P.S.*, xi, Appendix, 135.

1. Bute, *Arms of Baronial Burghs*, 224.

2. *Local & Personal Acts*, 9 and 10 Vict., cap. clxxxvi; vol. ii, pp. 3353-3426.

such an erection, well within the era of parliamentary and local government reform, seems an anachronism, the explanation is quite simple: no other method of obtaining municipal status was as yet open, nor was it offered till 1850. Ardrossan was thus the last of its kind in Scotland.

THE EIGHTEENTH CENTURY

After the Union, and more especially after mid-century, economic and social changes brought in their wake a process, at first gradual but becoming ever more rapid, of re-distribution of population and wealth: while some towns languished, others grew apace and entirely new communities came into being. In Ayrshire, the county town lost ground to its old rival and eventually to its new rival as well. At the Union, as we have seen,³ Ayr stood fourteenth on the burghs' stent-roll, and Irvine twentieth. The next revision, in 1718, brought Irvine up to eleventh place, at £1 4/-, and put Ayr back to fifteenth, at 18/- (in each £100).⁴ Both towns were slightly down-graded in 1730, when Irvine (£1) stood twelfth and Ayr (15/-) seventeenth.⁵

The inference that Irvine, as the port of a hinterland that was, for trading purposes, superior to that of Ayr, had overtaken and passed the capital of the shire is borne out by Dr. Webster's unofficial census, compiled in 1755. The parish of Ayr had 2,964 inhabitants, and that of Irvine 4,025; but both had been outstripped by the parish that was most favoured by the new industrial era, Kilmarnock, with a population of 4,403.⁶ By the early 1790's Ayr, with 4,647 within the parish (including 3,871 in the burgh), had again displaced Irvine (4,500 in the parish), though Kilmarnock retained a substantial lead over both, for the town alone held 5,670 people.⁷ In 1801 the first official census returned the population of the three parishes as 8,079 for Kilmarnock, 5,492 for Ayr, and 4,584 for Irvine.

For Ayr, however, the most distressing development of the eighteenth century concerns, not its failure to retain first place in sheer size, but its total lack of a sound financial policy. In common with most of the royal burghs of the time, Ayr was stubbornly unwilling to tax its prosperous enough citizens for its current needs, and preferred to slide into insolvency through injudicious borrowing. To meet the mounting burden of the public debts, the burgh parted with the valuable patrimony that it had held for over five centuries: in 1754 it sold the barony of Alloway for a mere £7,190 sterling.⁸

3. *Vide supra*, p. 37.

4. *Recs. Conv. Royal Burghs*, v, 196-7.

5. *Ib.*, v, 507.

6. *Scottish Population Statistics* (Scot. Hist. Soc.), 26-7.

7. *Old Stat. Act.*, i, 92; ii, 85, 577-8; vii, 175.

8. Lyon, *Ayr in the Olden Times*, 56.

Kilmarnock can view the century's record with more satisfaction. The famous Act of 1747 for the abrogation of heritable jurisdictions had strictly curtailed the powers of barons and their bailies, but had reserved the judicial rights of royal burghs and of such of the other burghs as were "independent of the lord of regality or baron";⁹ the crucial test was, whether or no the burgh had a constitution to free it from the arbitrary orders of its superior. A dispute having arisen between the burgh of Kilmarnock and its baron, the magistrates and councillors claimed that, under the "sett" of 1700, they leeted five of their number and, if the superior failed to nominate two of them as bailies, they proceeded to elect the magistrates themselves. The Court of Session found in favour of the burgh (1771), which gave Kilmarnock, as an independent burgh for the purposes of the 1747 Act, a standing at law equal to that of the royal burghs.¹⁰ It was a fortunate decision: in 1794 Greenock, with a similarly strong case, had to endure an adverse and degrading judgment.¹

Meanwhile, the royal burghs' grandiose scheme for "the communication of trade"² had had to be whittled down through the reluctance of the "unfree traders" to put themselves right in respect of a restrictive law in which they did not believe: their preference was for smuggling, which, as the Porteous Riot (1736) showed, was generally treated as a venial offence or even openly condoned. Soon after the Union, the Convention of Royal Burghs had to become reconciled to a relief from the burden of the land-tax of under £2 in each £100, instead of the hoped-for sum of £10.³ Ayrshire contributed heavily to this disappointment. In place of the 21 unfree burghs and market towns scheduled for payments in 1700, only the first three on the list were willing, in the event, to meet the cost of legally sharing in trading rights.⁴ Saltcoats (which, for this purpose, included the two parishes of Ardrossan and Stevenston) agreed to pay at its assessed rate of 1/6 per cent., but its quota was raised to 3/- from 1718 and to 4/- from 1730.⁵ Kilmarnock, on the other hand, obtained a reduction: bargaining for 1/8 in 1705 (instead of the proposed 3/-), it settled for 2/- from 1718, while Kilwinning would pay no more than 6d.⁶ These rates—4/-, 2/- and 6d.—came to be fixed and conventional: they were still being observed in 1776.⁷

9. 20 Geo., II, c. 43.

10. W. M. Morison, *Dictionary of Decisions* (1811), 7685-7; *Munic. Corp. Comm. Local Reports*, ii (1835), 139, 141; A. MacKay, *History of Kilmarnock* (1848), 63.

1. Morison, *op. cit.*, 7714-17; G. S. Pryde, "The Scottish Burgh of Barony in Decline," in *Proc. of Royal Philos. Soc. of Glasgow*, lxxiii (1948-9), 49-50.

2. *Vide supra*, p. 38.

3. *Recs. Conv. R. Burghs*, iv, 484.

4. There were about thirty in all Scotland.

5. *Recs. Conv. R. Burghs*, iv, 509; v, 211, 508.

6. *Ib.*, iv, 381; v, 211, 333, 508.

7. *Ib.*, vii, 552-3.

Even the small sums due for the communication of trade were often hard to collect. Kilmarnock tried in 1715 to renounce its agreement, but the Convention held it to its contract, promising instead, on two occasions, to assist the burgh against its own "mechanicks and tradesmen," who refused to pay their shares.⁸ Saltcoats and Kilwinning were listed in 1716 among the towns to be prosecuted for deficiencies.⁹ The alternative to amicable bargaining was a return to the old course of proceeding at law against individual unfree traders; in 1714, for instance, Ayr was instructed to take action against offenders in Maybole, Girvan, Ballantrae, and other southern centres.¹⁰ This was, however, a weapon that became blunted by the passage of time and the currency of new commercial ideas. Municipal corporations tried to maintain their antique feudal monopolies, but the tide was setting against exclusive trading privileges. An Act of 1751 exempted the important industry of linen-weaving (and, by extension, of cotton-weaving) from all craft restrictions,¹ while adverse verdicts in two law-suits (1750 and 1757) fatally injured the royal burghs' power or hope of enforcing their trading rights against unfreemen.² It is true that the whole fabric of burgess-, guild-, and craft-right was not formally abrogated until 1846,³ but long before then the substance of the archaic "freedoms" had departed.

THE INDUSTRIAL REVOLUTION

The course of the agrarian and industrial revolutions, between, say, 1750 and 1830, was necessarily inimical to the out-dated pretensions of burghs, whether royal or baronial. Such a town as Kilmarnock, admittedly, benefited and expanded under the stimulus of the new economic forces, but this was incidental, for these forces had no regard for chartered grants of long ago. The urban concentrations of the late eighteenth and early nineteenth centuries did not inevitably coincide with the established burghs. Beith and Stewarton flourished as bustling but unincorporated villages;⁴ Troon and Ardrossan drew their strength and vigour from the coal trade in the absence of any municipal government.

The impact of the agrarian improvements, and especially the trend to enclosures, long leases and feus, was in large part responsible for petrifying and ultimately disintegrating the little crofter-craftsman communities that were an interesting if atavistic

8. *Ib.*, v, 148-9, 213.

9. *Ib.*, v, 162.

10. *Ib.*, v, 126.

1. 24 Geo. II, c. 31; cf. *Munic. Corp. Comm. Gen. Report*, 82.

2. For *Kirkwall v. Stromness*, see *Revs. Conv. R. Burghs*, vii, 347-51, 391-2; for *John Smith v. Inverness*, see Mackenzie, *Scottish Burghs*, 152-3; Morison, *Dict. of Decisions*, 1952-3.

3. 9 & 10 Vict., c. 17.

4. *Munic. Corp. Comm. Local Reports* (1836), 14, 150.

feature of old Ayrshire's burghal life. About mid-century, we are told (by an unsympathetic witness), the 36 freemen of Prestwick and the 48 freemen of Newton had, besides their house, yard and croft, "liberty to send any Cattle they have to starve upon a Common."⁵ Each Prestwick freeman got two "souns" (or pasture for ten sheep); he might sell his freedom only to the community, who could then dispose of it at discretion.⁶ The *daill*, or partition and reallocation of the burghal lands, was held every nine years at Prestwick, every seven years at Newton,⁷ and comparable arrangements originally operated at Kilmaurs, with its 40 freedoms.⁸

Short tacks having become unfashionable, the men of Newton decided to apply drastic measures of "improvement." In 1771 the term of the *daill* was extended from seven to 57 years; in 1828, in order to render their tenure "more permanent than hitherto," they adopted 999-year leases—an action which led the Commissioners on Municipal Corporations, in 1835, to express the view that "it may be questioned whether every such usurpation be not illegal, and at variance with the chartered rights of the community."⁹ At Prestwick the *daill* was extended in 1766 to 21 years, in 1801 to 38 years, and in 1833 to 999 years.¹⁰ A similar, though less extreme, ossification of the burgess-body was effected at Kilmaurs, where the 40 freemen were reduced in number by sales and other transfers to 18 or 19, and by non-residence to 12.¹

During the period under review, therefore, the several constitutions of these small burghs hardened and contracted; but their municipal existence was not overthrown. Kilmaurs, for example, had, in 1836, two bailies, a treasurer, a fiscal and a clerk; the burgh owned property, levied petty customs and market dues, but no taxes; its debt was about £15, its annual revenue about £11.² The survival of the county's three larger burghs was, of course, not in question. Ayr and Irvine, like all the royal burghs, operated happily enough, if not without criticism, as closed corporations, with self-elective councils. Irvine's craftsmen in 1793 included 116 weavers, 80 masons and wrights, and 56 shoemakers,³ while in 1833 Ayr, with 375 burgesses and 322 guild brethren entered in the last forty years, had 51 squaremen, 42 weavers, 27 shoemakers and 24 hammermen.⁴ Only Kilmarnock,

5. Murray, *Early Burgh Organisation*, ii, 59, 62.

6. *Old Stat. Act.*, xii, 395-7.

7. *Burgh Recs. of Prestwick*, 94; *Munic. Corp. Comm. Local Repts.*, i, 92-3.

8. McNaught, *Kilmaurs Parish and Burgh*, 223-5.

9. *Local Reports*, i, 92-6.

10. *Burgh Recs. of Prestwick*, 97, 104-10; Murray, *Early Burgh Organisation*, ii, 72-3.

1. *Munic. Corp. Comm. Local Reports* (1836), 104.

2. *Ib.*, loc. cit.

3. *Old Stat. Act.*, vii, 173.

4. *Munic. Corp. Comm. Local Reports* (1835), i, 90-1.

more clearly than ever (with a population of 18,093 in 1831) the largest in the shire, had a constitution that was even slightly liberalised: its police establishment was regulated by a local Police Act of 1810,⁵ and the town council admitted, from 1831, four councillors elected by the burgesses.⁶

REPORTS ON BURGHS, PAST AND PRESENT

As to what was happening at this time in the other burghs, we have evidence and checks in the parish ministers' contributions to the two series of *Statistical Accounts*, and in the local reports compiled in 1835-36 by the Commissioners on Municipal Corporations. In some cases a fully functioning burgh is to be seen, in others corporate life has gone, but there are vestigial traces of a former municipality.

To begin with the four active burghs: at the oldest, Newmilns, the burgesses, paying trifling entry-dues, still elected each year 15 councillors, who chose two bailies, chancellor, treasurer and town clerk; the annual revenue, derived from customs, the public green and feu-dues, fell short of £10, but the accounts were open for inspection.⁷ Maybole's charter of 1516 still operated in 1836. The 17 councillors, elected for life and filling their own vacancies, chose the two bailies and the treasurer each year. The burgesses numbered 205, the annual revenue (from a stent or tax, sundry rents, customs and market-dues, and burgess-entries) amounted to £65, there was a weekly burgh-court, with service of heirs and the trial of petty delinquents, and the officials included the town clerk, fiscal, collector of stent and town officers;⁸ here we have a nearly perfect and complete survival—a model burgh of barony in working order in the nineteenth century. Girvan was in a similar state, under its charter of 1696, though here there was a debt of £1,500, four of the 12 councillors retired annually (but could be re-elected), and cleansing and watching were defrayed from the common fund.⁹ The two bailies and 12 councillors of Tarbolton were elected by the householders on Christmas eve; a town house and lock-up had been erected in 1836, the cost being defrayed by a subscription.¹⁰

The dawn of the Victorian epoch thus found Ayrshire with ten of the active burghs of the seventeenth century still in existence. Six of the others had lapsed, leaving, however, unmistakable evidence of their earlier corporate life. Cumnock in 1837 was administered by a baron-bailie, appointed by the superior (now the Marquis of Bute), and only its four annual fairs

survived as reminders of its burghal institutions.¹ At that time, likewise, Mauchline was governed by a baron-bailie, along with the local J.P.; but the minister was aware that it had formerly been a burgh of barony, though its charter had been lost about 120 years earlier, and had never been renewed.² In 1793 the Earl of Eglinton, still superior of Saltecoats, received the feu-dues, and, while there was no magistrate or local police, the "shore-bailiff" levied the anchorage-dues and a small annual fair was held;³ by 1837 the town was equipped with a modern town-house, with spire, clock and bell, a lock-up and a room used as a J.P. court.⁴ Largs as a burgh had utterly lapsed by 1836; it had no charter in operation, and no administration other than that afforded by the Ayr sheriff-court and the monthly court held by two resident J.P.s; the superior's baron-bailie, we are told, "now rarely interferes."⁵

In 1792 Dalmellington had no fewer than seven annual fairs, and its two large commons were let at reasonable rates to the inhabitants, for feeding their cattle.⁶ In 1837 the minister knew and stated that it was a burgh of barony, though "the date of its erection I have been unable to ascertain"; the number of its fairs was then reduced to three.⁷ Kilbirnie had a very large horse-market and used to have a cattle-market (which would both be fairs rather than markets); what is much more revealing is that it had recently had, each July, a "Trades Race," which was a contest between the representatives of the incorporated crafts, and crafts implied a burgh.⁸ Fullarton, too, was known in 1835 to be, in the formal sense, a burgh of barony with a separate jurisdiction, but it had no resident magistrate, no assessment, no lighting and no watching, while its streets were in utter disrepair. All this was highly inconvenient, for it was the main thoroughfare between Irvine and its harbour, and provided a haven of refuge for delinquents from the royal burgh.⁹ Only Ballantrae seems to have left, in the records of the period, no impress of its quondam status (of which, as we have seen, there is room for doubt).

What of the growing towns of this era which had no charters of any kind? Three are worth considering. Beith, with a population of 3,552 in 1831, "has no local government whatever." The chief heritor, the Earl of Eglinton, formerly named a baron-bailie, but he had not done so for forty years. To fill the void, some weak gestures were made towards an elementary form of

5. 50 Geo. III, c. 68.

6. *Munic. Corp. Comm. Local Reports* (1835), II, 141-2.

7. *Ib.* (1836), 138.

8. *Ib.*, 127-8.

9. *Ib.*, 77-8.

10. *New Stat. Acct., Ayrshire*, 760.

1. *Ib.*, 483, 487, 491.

2. *Ib.*, 165.

3. *Old Stat. Acct.*, VII, 2-3, 8-11, 21, 23.

4. *New Stat. Acct., Ayrshire*, 198, 201.

5. *Munic. Corp. Comm. Local Reports* (1836), 116.

6. *Old Stat. Acct.*, VI, 73.

7. *New Stat. Acct., Ayrshire*, 308, 315, 321.

8. *Ib.*, 725.

9. *Munic. Corp. Comm. Local Reports* (1835), II, 127-8.

administration : at the local fair, dues were levied from traders to pay the barony officer, and from exhibitors to defray the constables' expenses in preserving order and apprehending delinquents.¹⁰ Galston, with about 2,000 inhabitants, had undertaken a bolder experiment. "Feeling the want of a magistracy in the village," the people had, a few years before this time (1836), applied to the baron-bailie of the superior (the Duke of Portland) to delegate his powers to two persons. The petition was granted, so that the baron-bailie now named two bailies from a leet "fixed upon by the inhabitants." The householders also elected six councillors each year, to supply the places of the retiring half of a council of twelve; voting was "by signed lists." There was even a town clerk. The bailies fined offenders or imposed short prison sentences, and, though doubts had been expressed about their authority and a real magistracy was desirable, the community had obviously gone far on the road to voluntary self-government.¹ Stewarton, with 2,234 people in the town and 735 in the suburbs, had no burgh charter, crafts, revenue or tax. The village was held in feu from Cuninghame of Lainshaw, who maintained the J.P. court-house and the lock-up, appointed a baron-bailie, and had the right to the market customs and the duties of the fair (which were presently let for £5 per annum).² These three centres had this in common, that, while they were certainly not burghs of barony, they might be designated "barony towns," and they shared at least the germ of a nascent municipality.

REFORM AND THE POLICE BURGH

While Ayrshire had its quota of lapsed burghs as well as "parchment burghs," the three cases just cited prove the need for new methods of municipal administration; and that need was fairly generally felt throughout Scotland. Reform came in periodic instalments from 1833 until the end of the century; that it had not come earlier (to the chagrin of its liberal-minded advocates) was probably due, in Scotland as in England, to the fact that the system of closed corporations lent itself readily to the manipulations of the political parties.³ The enactment of parliamentary reform in 1832, however, opened the way to burgh reform.

At first the impact of the new ideas on Ayrshire was slight. Parliamentary representation was altered by a minor rearrangement of the constituency of the Ayr burghs, and also by the designation of Kilmarnock as one of the new category of "parliamentary burghs," which comprised a dozen of the larger burghs of barony in Scotland. (The Kilmarnock burghs remained in being until

10. *Ib.* (1836), 14.

1. *Ib.*, 72.

2. *Ib.*, 150.

3. Cf. Mackenzie, *The Scottish Burghs*, 153.

1918, the Ayr burghs until 1948, but ultimately each of the towns was merged in, and gave title to, a county division.) Two Acts of 1833 threw open the royal and parliamentary burghs by empowering the £10 householders to elect the town councils,⁴ while a third statute laid down a procedure by which the inhabitants of existing royal burghs or burghs of barony might adopt a "police system," in whole or in part, and thereafter elect magistrates and commissioners of police to administer the new powers, extending, if desired, to "watching" ("police," in our sense), lighting, paving, cleansing, water supply and other matters, and to the levying of an assessment for these purposes.⁵ The new "police burgh" did not supersede, abolish, or even necessarily coincide with, the royal or baronial burgh, so that a system of dual administration came into being, which was to last until 1900. The one town might be host, as it were, to two burghs of the same name, with overlapping personnel but separate powers and identities.

The burgh of barony thus survived, as something of a feudal anomaly in an industrial age, but not wholly so: the later burghs of barony had liberal constitutions, and were in all but formal style police burghs. Indeed, since unincorporated towns were not considered in the legislation of 1833, any such that desired municipal government could attain it only by being erected as a "free burgh of barony." This was the case with Ardrossan, which, in 1846—the year of the abolition of burgess right and exclusive trading privileges⁶—became, as we have seen, Scotland's last burgh of barony.⁷ The position was remedied by "Lock's Act" of 1850 and by "Lindsay's Act" of 1862, which authorised "populous places," defined, respectively, as having at least 1,200 or 700 inhabitants, to adopt a police system.⁸

This legislation opened the floodgates in Ayrshire, and within half a century the county had no fewer than thirteen of the new type of "police burgh," in addition to its two royal burghs (Ayr and Irvine) and its one parliamentary burgh (Kilmarnock):—

1857 Maybole	1877 Ardrossan
1862 Galston	1885 Saltcoats
1866 Cumnock	1886 Largs
1868 Stewarton	1889 Girvan
1872 Newmilns	1889 Kilwinning
1873 Darvel	1896 Troon

1903 Prestwick

4. 3 and 4 William IV, cap. 76 and 77.

5. 3 and 4 William IV, cap. 46.

6. 9 and 10 Vict., cap. 17.

7. 9 and 10 Vict., cap. clxxvi; cf. *supra*, p. .

8. 13 and 14 Vict., cap. 33; 25 and 26 Vict., cap. 101.

It is significant of the high degree of stability and durability in the county's urban settlements that eight of these police burghs had formerly been burghs of barony, and that three of the others—Galston, Stewarton and Kilwinning—were well-known and established market-towns; only Darvel and Troon can be labelled new creations of the industrial age.

LARGE AND SMALL BURGHS

Municipal legislation was consolidated and amplified by the Burgh Police (Scotland) Act, 1892,⁹ and the Town Councils (Scotland) Act, 1900,¹⁰ which removed the possibility of dual administration within the same town and, finally abolishing the offices of police magistrate and police commissioner, standardised the government of all recognised¹ burghs by insisting on the use of the traditional Scottish terms, provost, bailie and town councillor. The Local Government (Scotland) Act, 1929,² amended and brought up to date by a statute of the same title passed in 1947,³ drew a distinction between the "large" burghs and the "small" burghs, as scheduled in the Acts: a population "test" of approximately 20,000 was implicit—but only implicit—in this classification. To the large burghs were entrusted public health, poor relief, police administration (if a separate police force were already in existence⁴) and other duties, while the small burghs, apart from housing, were entrusted mainly with minor functions. Ayr and Kilmarnock⁵ accordingly became the county's two large burghs, and the other 14 (increased to 15 by the creation of the new burgh of Stevenston in 1952) were now small burghs.

These twentieth century terms have transcended, or at least rendered academic, the older forms. The title "royal burgh" is a mere matter of style, proudly retained and asserted as a badge of dignity and antiquity, but almost meaningless for purposes of local government. "Parliamentary burgh" has been laid aside as a consequence of the increasing tendency to draw electoral divisions with reference to population quotas and convenience of demarcation. "Police burgh" has also been dropped, since all the statutory burghs are in fact "police burghs." The question of what happened to the burgh of barony brings us to the last point.

While feuars' rights in burghs of barony had been safeguarded by the Act of 1892 (Section 27 (2)), the plain intention of that

9. 55 and 56 Vict., cap. 55.

10. 63 and 64 Vict., cap. 49.

1. As for those that were not recognised, *vide infra*.

2. 19 and 20 Geo. V, ch. 25.

3. 10 and 11 Geo. VI, ch. 43. Annual elections were moved from November to May by the Representation of the People Act, 1948 (11 and 12 Geo. VI, ch. 65).

4. Ayr and Kilmarnock each had, and has, one.

5. During the nineteenth and early twentieth centuries the population of Kilmarnock exceeded that of Ayr, but the 1951 enumeration showed the county town slightly in the lead, with 42,377 inhabitants against 42,123.

statute and of the Act of 1900 was to ignore, by silence, the existence of any such anomalous survivals: the burgh of barony was to be given "the cold shoulder." In the first decade of the twentieth century, three law-suits, concerning Blairgowrie, Leslie (Fife) and Kirkintilloch, decided that, in each case, the burgh of barony had been superseded by the police burgh, and that the property and revenues of the former fell to be administered by the latter.⁶ But what, we may ask, of the town which was not a police burgh and which continued as a burgh of barony? Three such demand our attention.

The unification of the burghs of Ayr and Newton had been recommended in 1835 by the Municipal Corporation Commissioners,⁷ but vested interests delayed this "most salutary measure" until 1873, when, by the Ayr Burgh Act, the county town absorbed, as one of its wards, the little, ancient burgh.⁸ Kilmaurs, however, survived, to be recorded in the *Third Statistical Account* (1951) as a burgh, with two bailies and a town clerk;⁹ but on 25 April 1952 its affairs were wound up and it was arranged to transfer its property to Kilmarnock District Council.¹⁰ Tarbolton has done even better in defiance of the inexorable march of progress, for, without benefit of Act of Parliament, but resting securely on ancient charter rights and long usage, this burgh of barony, now apparently unique in Scotland, still holds each year its Yule meeting, elects its bailies and councillors, appoints its town clerk (at an annual salary of 5/-) and administers its affairs under the superiority of the modern Cuninghame of Enterkin.¹ May the pleasing anachronism long continue!

CONCLUSION

Local patriotism is rightly strong in all our shires; each can point with pride to some distinctive merits, but it would be hard to match Ayrshire in the matter of burghal achievements. The county can justly claim two "firsts" and three "lasts"—the royal burgh with the earliest surviving charter of erection (Ayr), the oldest recorded baronial burgh (Prestwick), the last burgh of barony created in Scotland (Ardrossan), the most recent burgh established in the whole country (Stevenston),² and the only surviving burgh of barony (Tarbolton). This sketch may conclude with a tribute, in the form of a poor but honest variant of the words of the county's most famous son, to:—

Auld Ayr, by ne'er a shire surpassed
For burghs' records, first and last.

6. "The Scottish Burgh of Barony in Decline," *ut cit.*, 62-3.

7. *Local Reports* (1835), i, 91-2; *New Stat. Act.*, Ayrshire, 18.

8. 36 and 37 Vict., cap. cc.

9. *Ayrshire*, 464.

10. *Kilmarnock Standard*, May 3, 1952.

1. See *Third Statistical Act.*, Ayrshire, 583; *Ayr Advertiser*, Dec. 29, 1955; *Ayrshire Post*, Dec. 30, 1955; *Kilmarnock Standard*, Dec. 29, 1956.

2. Until May, 1958, when Bearsden became a burgh.