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Loch Doon Castle see article by Rob Close within

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Loch Doon Castle Resurrected

By Rob Close

It is said that a lie goes around the world before the truth has put its boots own. Never has that been more obvious than in these present times of fake news, chatbots and social media. None of us can avoid it, but I didn't expect to have to correct the facts regarding to Loch Doon Castle. This is from the May/June 2023 edition of the Doon Valley Gazette.

A CASTLE ON THE MOVE

In the January/February edition of the *Doon Valley Gazette*, Drew Currie from Patna asked how long it took to move Loch Doon Castle from the island and to rebuild it. First we have an interesting and in-depth answer from Margaret Stirrat of Dalmellington History Group. Second, we have a shorter but also interesting answer from the online artificial intelligence language tool, chatGPT.

In the 1930s it was decided to create a new hydroelectric scheme in the southwest of Scotland.

The principal source of water for this would come from Loch Doon. The River Doon would not be affected but by boring a tunnel from Loch Doon, the water would be pumped to the new Tongland power station. The water in this scheme would be used to power a further four hydro electric stations. This was considered an efficient use of water and used as a model for other schemes.

Despite many objections from locals, it was decided to continue with this project. One of the objections concerned the ancient castle which sat in the middle of the loch; with a higher water level, the structure would be submerged. The castle

had a long history and at one time had an important part to play in the defense of this part of Scotland.

It was decided to appease these objections by moving the castle - stone by stone - to the loch side where it would be above the proposed water level. This was a major undertaking and the whole castle could not be moved. The outer walls and a vestige of the inner walls was moved. The remainder of the interior and the dungeons would be left in place, and the remains can still be seen when the water level drops low enough.

It was originally supposed to employ workers from the local area but, as this was the 1930s, in the middle of the Great Depression, workers came from all over the country. The men lived in camps along the length of the route. The scheme took over five years and in this time several men were killed or injured in the construction.

As the castle is not in its original condition, it is no longer a listed building. At the time of the move the name changed from Balloch Castle to Loch Doon Castle.

Margaret Stirrat

According to historical records, the Loch Doon Castle was moved from its original island location in 1935. It took around two years to dismantle the castle and rebuild it on the shore of the loch.

The process was undertaken by the Ayrshire Archaeological and Natural History Society, along with the permission and support of the landowner, Sir Andrew Agnew. The reconstructed castle was officially opened to the public in 1937.

chatGPT

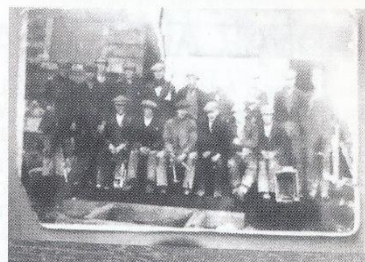


Photo taken during dismantling of castle at Loch Doon 1930's



BALLOCH CASTLE, LOCH DOON

Neither of the responses published in the Doon Valley Gazette can be wholly relied upon. Margaret Stirrat is closer to the truth, though her ‘interesting and in-depth’ answer lacks precision and could be read to infer that the numbers employed upon the Galloway hydro-electric scheme were actually employed solely on the castle. More worrying is the ChatGPT answer (boxed in red), which in the space of 69 words, manages at least three verifiable errors. The work was not carried out by the Ayrshire Archaeological and Natural History Society, which wasn’t founded until 1946. Sir Andrew Agnew was not the owner: the left bank of Loch Doon belonged to the Cassillis and Culzean Estate, i.e. to the Kennedys, Marquesses of Ailsa¹. The castle was part of a substantial sheep farm (Starrs, Craigmalloch and Lamdoughty). There was no official opening. Tempting as it is to launch a broadside at the paper, I have restricted myself to a short rebuttal. However, I thought it worth checking how much could be found out, and how easily. This is a more informal article than normal, as it started as a broadside.

Loch Doon Castle is described in detail by David MacGibbon and Thomas Ross on pages 96 to 105 of the third volume of their magisterial

Castellated and Domestic Architecture of Scotland (1887; downloadable at archive.org/details/castellateddomes03macg).

They use the name Loch Doon Castle, as does James Paterson,

¹ See, for instance, note to this effect in Dundee Evening Telegraph, Thursday 29th August 1935, 9g. All newspaper citations were found via britishnewspaperarchive.com.

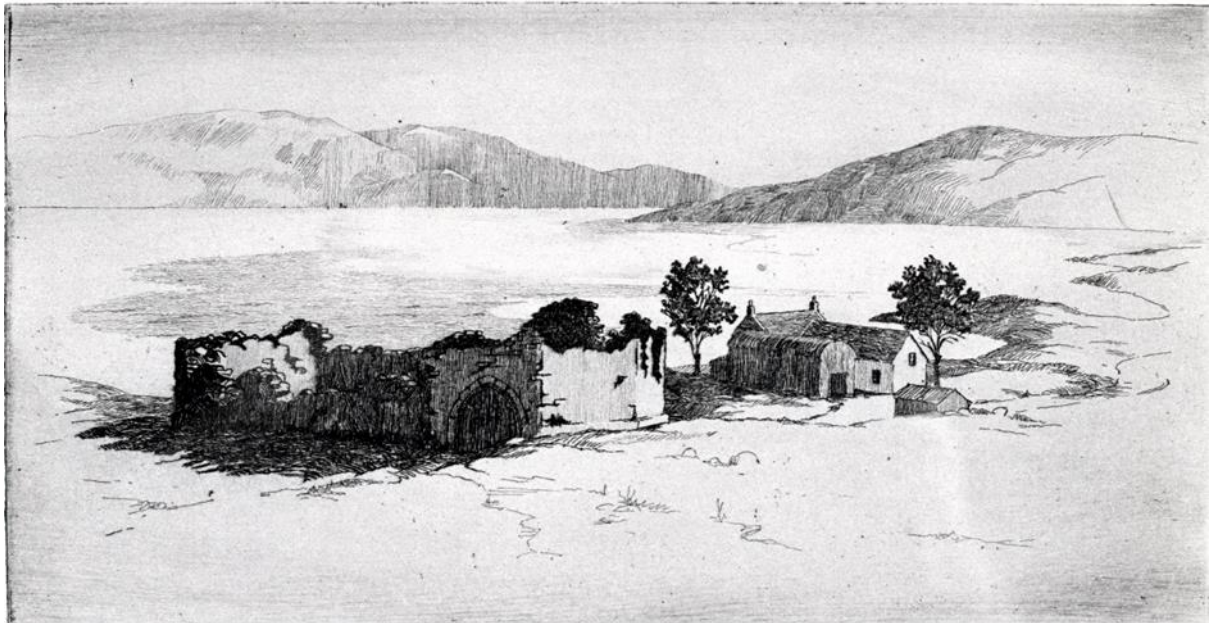
in his *History of the County of Ayr*, vol 2, published in Paisley by Robert Stewart in 1852

(downloadable at <https://archive.org/details/historyofcountyo02pateuoft>) .

On page 467² of that volume Paterson says ‘Loch Doon was anciently called Loch Balloch. How its name came to be changed is unknown. As ‘dun’ in Celtic signifies a fort, it may have been called Loch Dun, or the Loch of the Fort, after the erection of the castle.’ This is, of course, supposition, and the reliable place-name expert, Michael Ansell (a frequent contributor to the Doon Valley Gazette), may have something to say on this subject. In 1511 William Craufurd, son of William Craufurd of Leifnoris; Alan Cathcart of Clowlynan; John Craufurd of Drongan and others were accused of treasonably taking the King’s castle of Lochdown, and plundering the castle and its captain, Sir David Kennedy – this reference can be found in the *Ayr Advertiser* of 15th May 1890, as part of a long and interesting series of articles on Early Ayrshire Criminal Trials. If the castle was ever called Balloch, the name was changed many centuries ago, and not at the re-

² This is in the section on Straiton parish. Although it is always associated with Dalmellington, most of the left bank of Loch Doon is in Straiton parish.

siting in the 1930s. The sketch below, by James Clark, shows the castle in its re-sited position.



Paterson, again (pages 466-468) has much to say of the traditional ancient history of the castle, all in that hazy long-ago somewhere between truth and legend. Coming nearer to his own time he says:

‘The well-prepared ashlar stones of which the outer facing of the building is composed are entirely different from the rocky strata in the vicinity. Hence it has been a subject of conjecture where they were obtained and how conveyed to so remote and inaccessible a spot. About sixty years ago [i.e, in the 1790s] a person well skilled in geology and who felt an antiquarian enthusiasm in the question discovered a quarry about two miles from Dalmellington, the stone of which corresponds exactly

with the quality of those of the castle. He farther traced a route by which they might have been conveyed on sledges to the bottom of the loch. His supposition, therefore, was that the stones, having been prepared at the quarry, were floated to the castle on rafts. ... If this conjecture is correct, the stones must have been carried a distance, between land and water, of not less than eight or ten miles.'

He goes on to say that in 1823, 'after the waters had been reduced to a lower level by the construction of sluices at the lower extremity of the loch ... three canoes were discovered at the bottom, near the entrance of the castle.' Each had been hewn from a solid piece of oak. One was sent to the Museum of the University of Glasgow, and the others, according to Paterson, were in 1852 'preserved in a pond near Berbeth.' Much there for the local history society to revisit.

Around 1772, as Michael Moss recounts in his book *The Magnificent Castle of Culzean and the Kennedy Family* (Edinburgh University Press, 2002, page 62), which draws widely from the Kennedy family papers in the National Records of Scotland, 'a summer house and hunting lodge with bedrooms for the Earl and his brother was built at Starr (later known as Fore Starr) on a spectacular hilltop location a mile beyond the south end

of Loch Doon. James McBain³ who regularly visited the then substantial ruins in the 1920s conjectured that much of the material for this lodge had been pillaged from Castle Doon (sic). As Moss noted the ruins of Fore Starr “can still be found by those intrepid enough to scramble up above the Gala Lane at the head of Loch Doon. Here in what was a substantial house the 9th Earl could indulge his passion for shooting”. At the same time the Kennedys also built a smaller fishing lodge at Craigmalloch.

At the time of the well researched military use of the loch during World War I, it is believed that the loch level was raised. Again Michael Moss states on page 252 “During the war the west bank of Loch Doon, which was part of the estate, was the site of one of the most publicised contract scandals. Schools of aerial gunnery proved successful in France and in 1916 the War Office decided to build one on Loch Doon largely because the area was sparsely populated and the steep hills on either side could be used to lay rails for launching targets. The only drawback was that the unevenness of the ground made it prohibitively expensive to build an airfield. Beside the Bogton Loch for this purpose. Work was soon delayed. The rough unmetalled estate roads soon broke up under truckloads of material. Eventually it was decided to drain the peat bog. Draining the bog proved to be more difficult

³ In his 1929 book *The Merrick and the Neighbouring Hills* pp204-5

than anticipated. In April 1917 the well known contractor Robert McAlpine was called in to take over. By summer there were 1,400 civilians working on the site and over 1000 German prisoners of war along with detachments from the Royal Engineers and Royal Defence Corps. A weir was built at the northern end of the loch to control the water level, and huge tanks constructed in the hills to hold water for general use and for firefighting. A Blondin aerial ropeway was erected from which men could practice gunnery while being propelled along it in cages. They could fire at huge Telfer targets – a gravity target on rails laid down the hillside – or at railway-mounted targets on flat land near the loch side. A seaplane station was built along with a dock for motor boats, and a small village laid out with a cinema to seat four hundred.” In 1918 Air Ministry officials visited, alarmed by the mounting costs, and were told by the base commander that the heavy rainfall made the gunnery school unusable for at least half the time. Work was stopped, questions were asked in Parliament, and a report made by the Select Committee on National Expenditure. It was not until 1926 that the Ailsa Estate was paid £1,200 compensation for the disruption⁴.

Now turning to the effects of the Galloway Hydro

⁴ Moss's account is based on that in Iain Russell's 1983 book *Sir Robert McAlpine and Sons* Pages 147-149. There have been subsequent articles looking at this episode in the history of Loch Doon

Electric Scheme on the castle. The broadcaster Gordon Irving commented in John Moore's 1975 book *Among Thy Green Braes*, (page 17) "I wonder where else on earth you'll find a "jigsaw castle" like the one of the shores of Loch Doon." When he visited "on a braw summer's day" he and three Germans in their Volkswagen who had ventured ... along the shores of the loch intently as a cottage lady told us the story of the castle, the coming of the hydro scheme and how "men moved in and literally dismantled the outer shell, treating it with the utmost care. Then so we were told, they ferried the stones across to the shore near Craigmalloch Farm and by 1935 the castle ruins were standing again. It was as if they had never been sited anywhere else."

The main source for information on the Galloway Scheme is George Hill's *Tunnel and Dam: The Story of the Galloway Hydros* published by the South of Scotland Electricity Board in 1984. There is a great deal of information in Hill's book about Loch Doon. In his discussion on the act of Parliament authorising the Galloway Scheme, he mentions that in 1922 the Ayrshire Joint Electricity Board had obtained parliamentary powers to use Loch Doon for electricity generation⁵ although they never took up the option. It still remained

⁵ The original impetus for this had come from Ayr Burgh Council. The Ayrshire Electricity Board was formed in 1922 to essentially bring together the interests of the two main suppliers of electricity in the county namely the burghs of Ayr and Kilmarnock

live and in 1929 during the preliminary stage of piloting the Galloway Company's bill through parliament, they were able to reach a settlement with the Board (pages 17 and 18). Compromise solutions were also reached with mill owners on the Doon, especially the Skeldon Blanket Mill and Thomas Murray and Sons of Dutch Mills. Alloway. This compromise related to a guaranteed flow of water once Loch Doon was being used as a giant header tank (page 23). On 10th May 1929 following much discussion and amendment the Bill received Royal Assent.

Work on the Loch Doon part of the wider scheme began in 1934. Tenders for Contract number 37 (road diversions at Kendoon and Loch Doon) were sought in December 1934. The work to be tendered for included a new concrete bridge across the Garpel Burn⁶. In February 1935 further tenders were sought for Contact number 39 (the Loch Doon Dam and the demolition of the Ness Bridge⁷). The following month it was reported that this contract had been awarded to Sir Robert McAlpine and Sons Ltd at a cost of about £50,000⁸.

More importantly George Hill has a lengthy passage on Loch Doon Castle on page 34. This is repeated in full

⁶ Scotsman, Friday 21st December 1934 Id

⁷ Scotsman, Friday 8th February 1935 Id

⁸ Scotsman, Saturday 16th March 1935 14a

below.

“During March 1929, the promoters, through their parliamentary agents, wrote to HM Office of Works giving an undertaking that they would carry out the necessary work associated with preserving Loch Doon Castle on its islet site. This basically meant regrouting the walls and generally making the stonework sound. A rough estimate of the cost involved was £3,000. On this understanding the Office of Works refrained from opposing the Bill. This is ironical since as early as the summer of 1928 when engineers revamped the scheme to meet the Central Electricity Board (CEB)’s demand for peak-load rather than base-load operation, the promoters were aware that Loch Doon was to be raised by twenty seven feet, thus submerging three quarters of the castle. It is hardly creditable that HM Office of Works accepted the regrouting offer without recourse to plans and drawings of the proposed works. It may be that what they saw was the original version in which Loch Doon was to be raised by a much smaller amount.

In fact it was 1934 before the true significance of the Loch Doon works came to light. At this time the Commissioners of HM Office of Works met with representatives of the power company and it was agreed that the former should prepare a scheme, with estimates,

for re-erecting and preserving the main part of the castle, including the ashlar work which was of particular architectural significance, on a mainland site. Discussions with the Marquis of Ailsa led to a site near Craigmalloch Farmhouse being made available. This was eminently suitable as it was opposite the islet on which the castle stood, thus enabling its removal via a causeway to be accomplished with a minimum of labour. The estimated cost of this operation was put at £4,000.

The power company were at first hesitant about this new commitment and concomitant increase in expenditure. News regarding the rather alarming proposition that Doon Castle might be submerged reached the Ancient Monuments Board (Scotland), whose chairman Sir John Stirling-Maxwell wrote to Sir Archibald Page of the CEB explaining that only £1,000 stood between preservation and ruin so far as the castle was concerned. In an attempt to put the work and more particularly the cost in its proper perspective, Sir John Stirling-Maxwell pointed out that in view of the immense sums of money being spent on this speculative undertaking it would be a scandal if a national monument, scheduled under the Ancient Monuments Act were to be sacrificed in order to save the promoters £1,000⁹.

⁹ In his letter in the Aberdeen Press and Journal further quoted below the noted archaeologist W Douglas Simpson noted that 'no expenditure of public moneys is involved as the cost is being most generously borne by

Rationality prevailed, the castle was reprieved and moved stone by stone to its new site where it was re-erected. The castle's new location, robust appearance and unusual relationship with the hydro-electric scheme inexorably link this Norman fortress with twentieth century technology."

Much of the information George Hill uses in the paragraphs above has come from two Office of Works files in the National Records of Scotland reference MW1/581 and 582. These date from 1929, when the Office was first notified to 1936 when it can be assumed they considered the matter to be closed and the restoration completed. Hill's focus was obviously on the history of the hydro-scheme. But further study of these files should reveal the extent of the involvement in the management and design of the re-erection by James Smith Richardson, the principal inspector of the HM Office of Works and of their chief architect, John Wilson Paterson. To access these files, you must order them in advance of any visit to the National Records of Scotland at HM General Register House and also possess a current reader's ticket which can be obtained on the day of your visit providing you bring the required documentation.

the Galloway Water Power Company. In this matter the Company have set an example of public spirit for which no praise can be too high.' Aberdeen Press and Journal, Monday 2nd September 1935 3C

For more details see

<https://www.nrscotland.gov.uk/research/visit-us/historical-search-room/readers-ticket>

Another important source is the online British Newspaper Archive at

<https://britishnewspaperarchive.co.uk/> as the unique re-erection of an ancient monument caught the attention of the national press.

The British Newspaper Archive can also be accessed for free via any local library who participated in the project.

On 31st Mat 1935, the Edinburgh Evening News reported that Loch Doon Castle was to be moved. There was some objection to this although the notable archaeologist W Douglas Simpson succinctly summed up the issues in a letter to the Aberdeen Press and Journal.

“There will be a general agreement that normally the rebuilding of an ancient monument on another site is an indefensible proceeding. It merely achieves a sham, devoid of reality: doubly so in a case like the present, when the castle is built upon an island site, to which its layout has been accommodated.

At Loch Doon, however, the deciding special factor has been the desire to preserve the superb ashlar masonry of

its curtain wall. Dating from the end of the 13th century this is as fine as anything of its kind in Scotland and derives additional interest from the extraordinary way in which many of the stones are ‘joggled’ ie angled so as to fit into one another¹⁰.”

On the 25th August 1935, the Dundee reported as follows:

“HM Office of Works, however, have now begun operations and are pushing ahead with the work as fast as possible in order that the castle may be out of harm’s way by the time the water level is raised. About thirty men are being employed on the work, which is of a particularly interesting kind, and involves the use, to a large extent, of photography. Detailed photographs of the ruin are taken and every stone to be transferred is numbered on the photograph and numbered on the stone itself, so that when the new site is reached the men engaged in the work have the photographs to guide them and are not faced with the task of putting together a gigantic jigsaw puzzle which might occupy them a lifetime, and then be a source of endless annoyance to the archaeologists who remembered the Castle as it looked originally. The little island on which the Castle stands is about 300 yards from the shore, and two lifeboats and a motorboat are being used by the Office of Works for

¹⁰ Aberdeen Press and Journal Monday, 2ND September 1935 3c

transferring the stones to the shore, about 300 yards way, from where the stones are taken in lorries up the hill for another 300 yards to the new site.

The main Entrance gateway, although the work began only about three weeks ago, is now ready to set up in its new position. In the case of the ashlar work, of course, the erection of it on the new site cannot begun until it has all been removed from its old position, the reason for this being that the stones are drawn out beginning at the top of the wall, and working down, so that the character of the rough work may be reproduced with similar stones surmounting the ashlar work on the new site.

As has been stated, the work is being pushed ahead as quickly as possible. In order that all the stones may be on the new site before the water level is raised. In bad weather owing to the difficulty in getting the stones across the loch, the operations will inevitably be held up. But it is hoped that the whole task will be completed on time¹¹.”

By March 1936, it was said that ‘the old castle has been removed from its island fastness and rebuilt on the side of the loch¹² though this appears to represent the removal of the stones from the islet. A photograph in the Sphere

¹¹ Dundee Evening Telegraph Thursday, 29th August 1935 9g

¹² R E in a letter to the Edinburgh Evening News Saturday, 21st March 1936 5e. R E generally not in favour of the Galloway Scheme though his epistolary complaint seems a little late in the day

(28th March 1838 page 33 below) shows the castle in its



new location.

Ann Bovill, writing in her “For Every Woman” column in the *Daily Mirror* 24th September 1936 said “I learnt a lot of useful things in Scotland. That a twig of bog myrtle, for instance, stuck in your hat will keep the midges from biting. One of the workmen engaged on the rebuilding Castle Doon .. told me that. And he gave me a bit to try in exchange for a cigarette.”

Bovill also noted that the castle had been one of the shooting locations for the 1935 film, *The Ghost Goes West*. That the cast were in Scotland is confirmed by a typically terse note in *The Era*, of 4th September 1935: ‘Jean Parker has been in Scotland with Robert Donat making *The Ghost Goes West* sequences. Eugene Pallette there, too.’ The plot of this film, directed by René Clair and largely shot at Denham Studios, with Donat in the starring role and Parker as the female lead, revolved about the purchase and re-erection in the United States of a Scottish castle (‘Castle Glourie’). Sub-plots incorporated a love story and a mischievous ghost. It is easy to see why Loch Doon Castle would have been an ideal location for shooting such a

story. I think the full film can be found on YouTube, so again a line of enquiry for the local society.



We can, therefore, say, in answer to Drew Curre, that the re-erection was carried out in 1935 and 1936, over about 12 months, so largely confirming the tale told by the ‘old cottage lady’ to Gordon Irving, above. There is no evidence for a formal opening of the new structure, not in 1937 or any other year. Indeed, as Hill notes (pages 44-45) the whole Galloway scheme was brought into use with remarkably little public fuss; the supply of electricity commenced on 1st November 1936, but there was no official unveiling ceremony until 11th March 1938.

It should be noted that Margaret Stirrat is correct in saying that the castle is no longer a listed building. This was done in March 2015. The castle is, however, still a scheduled monument in terms of the Ancient Monuments and Archaeological Areas Act

1979. The de-listing was carried out, not because the castle is ‘not in its original condition’ but as part of a nationwide policy of de-listing structures which were both ancient monuments and listed buildings, it being considered that designation as an ancient monument offered the greater level of protection.

And finally, from John Moore (page 111). ‘Dalmellington was something of a health spa and angling centre at the end of last century, with people taking a house for a month or putting up at one of the local hotels. Some of the hotels had boats on Loch Doon for the convenience of their guests and horse-drawn vehicles to convey them to the water. One old boatman was taking a rather nervous gentleman angler out on the loch. “I say, my man, do you know all the rocks?” he was asked. “Aye” he replied, “Ah ken them a’.” A short time later the boat’s keel ground against something in the water. “What was that?” demanded the alarmed angler. Said the old boatman, “That was yin o’ them.”’ The moral, perhaps, for those interested in Loch Doon Castle would be ‘choose your guide with care.



Queen Mary's Charter, Ayr, 1567

Described by unknown author

The document transcribed below was found during a deep-clean of Loudoun Hall, Ayr, during 2021-23. Its provenance is unknown, but it is assumed that it was given to Sheena M Andrew (1941-2021), a long-time trustee and *quondam* custodian of the Hall. It was with a number of other typescript documents on a variety of subjects and appears unrelated to a larger collection found during the same cleaning process. This larger collection is presently being catalogued and will be deposited with Ayrshire Archives, along with the present document.

The document reports proceedings in the Presbytery of Ayr in 1870 anent the charter given to the burgh by Queen Mary in 1567, the interpretation of which was in dispute between the Kirk Session and the Burgh. It records events at two meetings of the Presbytery, offering a longer narrative than that to be found in the official minute of the meetings.

PROCEEDINGS ON JULY 6th and OCTOBER 5th 1870
WITH REFERENCE TO QUEEN MARY'S CHARTER TO
THE BURGH OF AYR

PROCEEDINGS IN REFERENCE TO QUEEN MARY'S
CHARTER

Ayr, July 6th 1870

The Rev. Mr. Dykes laid on the Table of the Presbytery, copy of a Charter granted by Mary Queen of Scots to the Magistrates and Town Council of Ayr, dated 14th April 1567, and relative documents; and also an excerpt from minute of meeting of Kirk-Session of Ayr, which was as follows:-

Excerpt from minute of meeting of the Kirk-Session of the Parish of Ayr, held on 7th June 1870.

Sederunt – The Rev. Messrs Dykes and Menzies, Messrs. Lennox, Kay, Highet, Young, Armstrong, W Dykes, Paterson, Grant and Dunlop, elders. Mr Menzies, Moderator.

The meeting was duly constituted by prayer.

The Moderator produced the memorial of the Kirk-Session with the opinion of the Dean of Faculty (Mr. E S Gordon, QC) and the Solicitor-General (Rutherford Clark) thereon, which memorial and opinion having been read and considered the Session approve of the actings of the Committee, thank them for their diligence, and refer the whole case with the documents simpliciter to the Presbytery of the bounds.

Extracted by D Dunlop, Session-Clerk.

With the permission of the Presbytery, Mr. Dykes then made the following statement:-

I intend to move that a Committee of Presbytery be appointed to examine the documents now laid on the table, and to report to a future meeting. Before proceeding to nominate a Committee, allow me to explain as shortly as I can the nature

of the question which is now submitted to you by this reference of the Kirk-Session. It has always been well known that a large part of the property held by the Burgh of Ayr was conveyed by Charter of Mary Queen of Scots. You will find that fact stated in the Statistical Account of Ayrshire, and in all the histories of the Burgh. Until quite lately however the terms of this ancient Charter had become unknown; like many other old documents of the kind, it fell aside; and until lately its contents do not appear to have been known since the commencement of the present century. I shall afterwards explain the causes which led to a search being made, and to the consequent recovery of a copy of this important document. But first of all, I may mention that the tenor of the Charter is as follows – it is called ‘The Charter of the Foundation of the Ministry and Hospital of the Burgh of Ayr’. It is dated 14th April 1567. It states that Mary Queen of Scots, ‘considering that it was incumbent to provide for the Ministers of the Word of God, and preserve the Hospitals for poor, maimed persons, and orphans in the Burgh of Ayr, gave, granted and disposed to the Provost, Bailies and Councillors of said Burgh all property whatsoever which belonged to the preaching or Dominican Friars and the minor or Fransiscan Friars of said Burgh.’ Then the purpose of the grant is expressed in these words:- ‘But the said Provost, Bailies, Councillors and their successors will be held and astricted to maintain the ministers, readers and the other ecclesiastical burdens, with the aforesaid annual revenues, profits and dues, according to the value and quantity of the same; and to apply them for repairing places and buildings for hospitals, and other abovementioned uses.’ Further the Charter

goes on to say:- ‘We unite and incorporate all and each the lands, tenements, &c. into one corporate property to be henceforth called Our Foundation of the Ministry and Hospital of the Burgh of Ayr.’

The Presbytery will see at once that this is a grant to the Town in trust for two objects, the primary one being the maintenance of the minister and the church, the second purpose being the upholding of the hospitals or, as we would now call them, almshouses for the poor. It is an interesting fact, which I may mention in passing, that this Charter of Queen Mary was issued in consequence apparently of a general resolution of the Scottish Government with regard to cities and burghs. At Stirling, on January 10th 1567, three months before the date of the Ayr Charter, an Act was passed entitles, ‘Provision for Sustentatioun of the Ministeris in Burrowis.’ That Act ordains that the Burghs shall maintain their ministers, and for this purpose it gives and grants to the said Burghs the annual revenues of property held formerly by the Roman Catholic church; with this further provision that ‘the superplus gif ony beis, is to be distributit to the poor, and hospitalis of everie Burgh within thameselffs, be avyis of the minister and eldaris thereof’. This Act is important as showing that Charters, similar to the Ayr one, were in all probability issued to other Burghs of Scotland, though only in one case, namely that of Dundee, has that fact been brought to light. It is also important as showing that the primary object was the sustentation of the ministers; and that the superplus only, if there were any, was to be applied to the second purpose. Queen Mary’s Grant does not appear ever to have been used in Ayr for the second purpose

– for the maintenance of hospitals.

Well, after having discovered the terms of this Charter the next point that had to be investigated was what the Burgh of Ayr had done with the properties so conveyed to them. We discovered a great deal of interesting evidence with regard to that. In the first place, we found that the Magistrates of Ayr in 1591 disposed in feu to David Bannatyne the lands of Crawisland and Castlehill, these lands being distinctly specified in the feu grant as held under the Charter of Queen Mary, and the purposes for which they were disposed of being described as ‘the helping and supporting of the key and herbery [quay and harbour]’ and ‘the augmentation of the yearly rental of the burgh’. Again in 1603 ‘for augmentation of the yearly rental of the burgh, that piece of land which sometime appertained to the black friars predicators, beside the Overmill’ was feued to David Crawford. I give these as specimens of the way in which the properties granted by Queen Mary to the Burgh in trust were disposed of.

In 1648 the commissioners for the plantation of kirks, after localling the stipend of the first charge upon the teinds of the parish, directed that the Burgh of Ayr should support a colleague minister also; and they make specific mention in their decreet of the properties held under Queen Mary’s grant as the source from which the second minister should be supported. Queen Mary’s grant is described in the decreet in these terms: ‘The mortification of Queen Mary of the haill lands of Freirlands, and Milns thereof, with the pertinents whereby the Town of Ayr is astricted to maintain their ministers.’ An

appearance was made on behalf of the burgh before the commissioners for the plantation of kirks, when the burgh professed that they were already expending the whole rents of their properties held in virtue of the mortification of Queen Mary on pious uses, In respect, however, of their obligation, and with assistance from the surplus of the teinds, they took on them the burden of paying to the second minister 1000 marks yearly. The second charge of Ayr, therefore, was undeniably founded from the grant given by Queen Mary's Charter. Not only so, but it appears from this that in 1648 the commissioners for the plantation of kirks dealt with what was held under the Charter as simply a trust for the benefit of this church and the Burgh acknowledged it to be so.

And now, I shall ask the Presbytery to look at one or two entries in the session records, which help us to trace the history of this document down to a subsequent period. In 1630 Mr. Adair, then minister, drew up a statement of certain rights which he and the Kirk-Session declared themselves to possess under the Charter. Many years after, namely in 1708, a controversy arose betwixt the Kirk-Session and Town Council, which subsequently embraced a variety of questions, but was at the outset a dispute merely with regard to the power of appointing and discharging the beadle. It may not at first sight appear that this had anything to do with Queen Mary's Charter, but, in point of fact, it served to raise the whole question of the rights of parties under that document. You will understand how this was so if you bear in mind that the Charter makes the town liable to 'maintain the ministers, readers and the other ecclesiastical charges or burdens [*ecclesiastica onera*}'. There can be no

doubt that the town's authorities of that day were defraying the beadle's salary out of Queen Mary's Mortifications, regarding his office quite properly as an *onus ecclesiasticum*. They were also paying from the same source the precentor, and indeed all the functionaries of the church.

Well, they thought, as they paid the beadle, they had the exclusive right of appointing and dismissing him in spite of the session. The contest between the Town Council and Kirk-Session went on for some years, and became complicated with a variety of questions, to which I need not refer. But the issue was this, that in 1709 the Kirk-Session, having no copy of the Charter, and being obliged to trust for a knowledge of its contents to what Mr. Adair had recorded of it in 1630 made a formal application to the town for a sight of it. If any one imagines that human nature was more simple and ingenuous 160 years ago than it is now, he will find some amusing proofs of the contrary in what followed this request. When the ministers went, as deputed by the Kirk-Session, to ask a sight of the Charter, the first answer made was that 'the keys of the charter chest were out of the town'; upon a second application (when the keys had come back, I suppose) the reply was given that 'by law the session had no more right to require a sight of the paper than of any man's personal property.' The next time the Charter was asked for, it had gone to Edinburgh.

Things could not long continue in this position, and the matter was carried by the Kirk-Session into court in 1710 or 1711. The case seems to have been delayed for a long period and at last, at the instance of the town, the Kirk-Session consented to

withdraw it from court and submit the matters in dispute to arbitration. This was ultimately accomplished and a decret arbitral was pronounced in 1722. Whether it was not *ultra vires* of the parties to submit their rights to arbitration may of course be made a question; but, upon the whole, there is no reason to doubt the correctness of the conclusion at which the arbiters arrived, so far as the position of matters at that day was concerned. The arbiter found that the value of the subjects conveyed by Queen Mary's Charter was at that date being 'all laid out and expended on pious uses, and in making up the second minister of Ayr his stipend;', then, upon this narrative, they go on to lay down certain decisions.

You will observe that the arbiters treat the Charter properties as an acknowledged trust to be employed for pious uses; and, though it is quite true that the subjects have been partially alienated before this time, the feu duties of portions disposed of may have been paid by the Town to ecclesiastical objects; so that the finding of the arbiters was probably substantially correct as regards the state of things in 1722. But what the present Kirk-Session complains of is that the position in which matters were in 1722 has long since been abandoned by the Town. They have withdrawn from the church the payments which they were then making to it, with the exception of part of the stipend of the second charge. They now no longer defray from Queen Mary's grant the ecclesiastical charges of the parish. The last thing, we believe, which they did in the way of withdrawing payments from the church was to discontinue the salaries of the precentors which they had paid from time immemorial out of Queen Mary's grant; they now pay them by

means of the proclamation fees. A considerable portion of the Charter revenues was expended, at the date of the decret arbitral, and for at least a hundred years before, on educational purposes within the parish; the schools of the country being then so closely connected with the church that they were regarded as coming within the *ecclesiastica onera* of the Charter – that portion of the revenues, too, has been withdrawn from us.

I now ask the attention of the Presbytery to another important fact in connection with the history of this document. About the year 1780, Dr. McGill, the then minister of the second charge, raised the question whether he was not entitled to an increase of stipend, from the subjects held by the Town under the Charter; and he made application to the Town for information with regard to the state of the Trust and the administration of its revenues. His endeavours to obtain information met with a decided refusal; but about this time, the Town Council began to vote gratuities to him and to his colleague, Dr. Dalrymple. These gratuities were continued year by year for many years, ranging in amount from £12 to £75. The Magistrates seemed anxious to guard themselves against any disclosure of the source from which these gratuities were given, and they also manifested their anxiety to prevent the gratuities from acquiring the character of legal claims on the part of the ministers. This appears from the minutes of the Town Council on the subject. Thus, at the meeting held on 31st May 1785, ‘the Magistrates and Council, considering that they had superseded payment of the extra gratuities formerly paid to the ministers of Ayr for the year from Michaelmas 1783 to Michaelmas 1784 in

order to prevent prescription; yet out of their sincere regard to them they appoint David Scott, their treasurer, to pay them double the sum this present year, viz, to Dr. William Dalrymple, £35 4/- and to Dr. William McGill, £75 14/-.'

There are some interesting memoranda by Dr. McGill on this subject from which it appears that he at one time contemplated raising an action against the Town in regard to his claims under the Charter; but he had cautious advisers, and took the 'gratuity' instead. It is a most extraordinary circumstance that, from the commencement of this century until a short time ago, nothing almost seems to have been known with regard to the terms of the Charter. It seems certain that the late Dr. Auld was not made acquainted with the provisions of the Charter. I have a strong impression, however, that on the part of the Town Council there continued to exist, for a good while after the commencement of Dr. Auld's ministry, a knowledge of the claims which might be made against them; for after abandoning the gratuity system, they resumed it, and when the New Church was built, they appear to have commuted the gratuities into a fixed sum of £108 to be paid annually to the Minister of the Second Charge. Shortly after the beginning of the present century, the Town disposed of a valuable portion of the Charter property, which has thus become alienated from the church. This consisted of the multures, or dues of thirlage connected with the mills. The redemption of these multures yielded the Town a very handsome sum – amounting, the statistic account says, to several thousand pounds.

There is only one part, I am sorry to say, of the Trust property

which the Town has not sold. I refer to the mills, now yielding an annual rent of about £300. A year or two ago the Town Council disposed of one of the mills to the late Mr. Oswald of Auchincruive; and Mr. Oswald, acting on legal advice, afterwards repudiated the purchase. The reason for this remarkable sequel to the transaction was never made public; but with the knowledge which we now have obtained of the terms of the Charter, we can conjecture pretty correctly what the reason was. I have no doubt that, when the nature of the Charter became known to Mr. Oswald's legal advisers, they must have seen that the mill was Trust property, which the Town were not entitled to dispose of, and which their client could not safely buy. Very probably the Town Council, before they allowed Mr. Oswald to give up the bargain, took the best legal advice for their guidance. If they did so, that advice must have been unfavourable to them, for the bargain was cancelled and the price of the property repaid to Mr. Oswald with interest.

The original Charter was lost a great many years ago. When it was searched for so far back as the year 1821, when the manse case was going on, it could not be found; but Mr. Murdoch the then Town Clerk, gave evidence that it is 'recorded in the Register of Probative Writs for the Burgh of Ayr'. With regard to the joint opinion of the Dean of Faculty and the Solicitor-General, which we have obtained on the case, and which is now laid on your table, I may state that, considering the great importance of the case, we thought it desirable to obtain a joint opinion from the two most eminent counsel in the country. That opinion is in our favour. They advise us that the primary purpose of Queen Mary's grant is the support of the Ministers

of the Established Church in the parish and burgh, and the payment of ecclesiastical burdens; that the rights of the beneficiaries must be determined by the trust deed, and are not prejudiced by any mere usage or any act done in contravention of the Trust; and also that the Magistrates and Town Council of Ayr are bound to exhibit to the ministers and elders a statement of, and to account to them for, their intromissions with the subjects conveyed by the Charter, and the revenues thereof, and also to account to them for the value of the portions of the Trust property sold, and the proceeds of price of said portions.

The case which was litigated twelve years ago by the Presbytery of Dundee against the Magistrates of Dundee serves to simplify the question raised by us.¹³ The Dundee Charter was also granted by Mary Queen of Scots and in the same year and month as the Ayr one – the former being dated April 15th 1567, while the latter is dated April 14th. The wording is almost entirely the same, and the purpose is the same. The title also is the same, with the exception of the locality – ‘Foundation of the Ministry and Hospital of Dundee.’ The Ayr Charter, however, contains a very important clause which is wanting in the other, namely, that clause which I have already quoted – ‘But the said Provost, Bailies, Councillors and their successors

¹³The case was finally resolved, largely in favour of the church, in the House of Lords in 1861. The judgment of the Law Lords can be found at lawcarenigeria.com/magistrates-of-dundee-v-presbytery-of-dundee/, accessed 14th August 2023.

will be held and astricted, &c...’ You will remember that that case went against the Magistrates of Dundee both in the Court of Session and in the House of Lords; it being decided that they were bound to implement the terms of the Charter for behoof of the Ministers, notwithstanding any usage to the contrary; and, if I recollect aright, costs were not allowed out of the Trust funds.

I need hardly assure the Presbytery that we find it extremely unpleasant to have to make a statement like this – a statement which reflects so seriously upon the Town’s management of a large and important trust. Of course, while calling in question the acts of the Town Council as trustees we do not impugn the good faith with which, in later times, at least, the estate has been applied; for it seems certain that, until quite recently, the present Town Council have been unaware of the terms of the Charter. It may be thought perhaps that, in thus bringing the whole matter publicly before the Presbytery, we have taken a hasty step; but, when I explain what has already been done, it will be seen, I think, that we had no other course open to us. In October last, Mr Menzies and myself went to the Town Council, and told them that we had become aware of the contents of the Charter; and, as it appeared to us that the

Council would be willing to inform themselves on such an important subject, and would not intentionally withhold any facts from us, we requested a reply to certain queries. At the same time, we mentioned some matters in connection with the relation of the Town to the Old and New Churches which, we thought, stood in need of reform. We hoped, by approaching the Council in this amicable way, to secure their friendly consideration of the case: and, had we found that they were disposed to consider it fairly and fully we trusted that we should have been able to avoid bringing the questions betwixt us to an open issue. In this, however, we have been entirely disappointed. The Town Council have seen fit not only to give no reply to our request for information, but also to give no pledge that there will be any redress of those other matters which we brought before them. We were, therefore, shut up by the failure of our application, to the necessity of first of all submitting our case to counsel, and of now laying it before the Presbytery.

But I am anxious to explain, before I close, the reason why this subject was first thought of by us. It was not all from a desire to have the stipends of the ministers augmented that the investigation was made which resulted in the discovery of the

Charter. I can say for myself and for my colleague also, that no ambition in that direction prompted us. The real cause which led to an inquiry into our ecclesiastical rights was the great and increasing difficulty which the Kirk Session have long felt in co-operating with the Town Council in the management of the churches. The Town Council, as the Presbytery are aware, occupy the same relation to the Old and New Churches in Ayr as heritors do in a purely landward parish: with this difference, however, that they levy seat rents. They have drawn rents from a portion of the Old Church for the greater part of 200 years, and they receive rental for the whole of the New Church. Well, how do they apply the seat rents? A proportion of them goes to the First Charge by special arrangement; but over the remaining part of the rents, which is by far the largest proportion, the Town Council assert the right of unlimited control; they throw them into the common revenues of the Burgh, and employ them indiscriminately with the other Burgh revenues. Consequently, when we want repairs on the churches we are often unable to obtain them, even though there is quite enough, and more than enough of seat rent to defray the expenses which we ask.

Readers of the Ayr newspapers need not be told of the nature of the reception which our applications in regard to repairs have met with from the Town Council. Floods of indignant eloquence have been poured upon our heads for venturing to request the most trifling and reasonable matters. We have been told that we must pay for all such things ourselves. In great mercy and compassion to us, it is true, the Town Council have gone so far as to say that they will keep our churches wind- and water-tight which we ought to be thankful for. But all improvements – anything that is for comfort, or anything that will improve the church accommodation – they tell us must be paid by ourselves; they meanwhile taking the seat rents!

But how can it be reconciled with justice that the Town should exact seat rent from the people; and then should expect them to do the greater part of the repairs, and renovations and improvements from their own pockets? The truth is, that the system of throwing the seat rents into the ordinary revenues of the Burgh seems as much opposed to law as it is to common fairness. There ought in justice to be a separate accounting; let the money which is raised from the churches be all expended on the churches and on purposes connected with them. I have said that this seems no less accordant with law than with

common fairness. In a case which came before the Court of Session in 1840, the rights of Burghs in this respect were decided after a very full hearing; and it was held that, while Burghs may levy seat rents, they must apply them either to stipend &c or to the maintenance and improvement of the fabric of the church. Here are the words in which Duncan states the decision in his Parochial Ecclesiastical Law – ‘The money derived from this source ought to be applied in defraying proper repairs and alterations on the building, and providing what is necessary for the due celebration of public worship within it: rent may not be levied in order to increase the revenues of the Burgh, or pay its ordinary debts of expenditure, but ought to be exclusively applied to the purposes above mentioned.’ It is this difficulty in connection with the management and maintenance of the churches which as now brought things to what, I think, I may call a crisis. The Town Council will do nothing to remove this difficulty. They stand upon what they conceive to be their rights; and we have been compelled as a result of this to make ourselves acquainted with our rights. We have made a long and searching investigation into the real state of matters. Hence the facts which we have now laid before the Presbytery.

Now, though I must apologise for the length of time which I have already occupied, there is one fact so closely connected with this seat-rent difficulty, and in itself so important, that I must allude to it. There is published annually an 'Abstract Account of the Affairs of the Burgh of Ayr.' Well, in that published account certain payments are entered as made to the ministers under the head of 'Stipends', and what I would direct the attention of the Presbytery to is this, that neither in the charge nor discharge is it stated from what sources these payments are made. The inevitable impression which would be produced on the mind of any one who knows nothing more than he sees in this statement of account would be that these items of stipend are paid from the seat rents of the churches, or the funds of the Burgh. That is consequently the belief entertained by many. It seems to be, or at least very lately to have been, the impression of the Town Council themselves; for they have often spoken as if the entire seat rents were exhausted in maintaining the ministers so that nothing could be spared for repairs. And yet the truth is that not one of these items entered under the head of 'stipends' in the abstract account is derived either from the Burgh funds or from seat rents. They are all chargeable against property which the Town Council hold in

trust for ecclesiastical purposes, though in this abstract account the fact is suppressed that the Town hold any such property at all – unintentionally suppressed, I doubt not – but still suppressed. Instead of further lengthening out these remarks, I have thrown the explanation of these items of stipend into a note which will appear along with this statement when it is published, and I now propose that Dr Chrystal of Auchinleck, Mr Fairlie of Mauchline, Mr Rankine of Sorn, Mr Jeffrey of Riccarton and Mr Ritchie of Tarbolton be appointed a Committee to examine the documents laid on the table, and report to a future meeting of Presbytery; Mr Ritchie, convener. Mr Ritchie and Dr Chrystal having spoken in support of the proposal to appoint a committee, the motion was agreed to, and it was also agreed to add the name of Mr Cooper of Failford to the Committee.

Sources of the Stipends which are entered in the Town's Annual Abstract without explanation

First Charge	£16 13s 4d	Half of the old stipend of Alloway, paid from the Teinds of Alloway
Second Charge	£16 13s 4d	Ditto
	£3 6s 8d	Annual rent of Alloway Glebe
	£55 11s 1d	Original stipend of Second Charge, ordained by the Commissioners for planting of Kirks to be paid by the Town out of Queen Mary's Grant and superplus teind
	£108 6s 8d	Sum which the Town offered to the Presbytery as additional allowance to Second Charge when the 'gratuities' were given up. Apparent source, Queen Mary's Grant
Total (Second Charge)	£183 17s 9d	

Ayr, October 5th 1870

The Presbytery proceeded to consider in private the question of the Charter of Queen Mary, brought under its notice by the Rev Mr Dykes at the meeting in July. We understand that the Committee previously appointed on this subject gave in their

report, on which the deliverance of the Presbytery was as follows:-

The Presbytery having heard the report of the Committee on reference from the Kirk Session of Ayr with regard to Queen Mary's Charter which states that 'in their opinion, the Kirk Session and Presbytery of Ayr have a strong case in favour of the ministers and church of the parish of Ayr under Queen Mary's Charter, and recommend to the Presbytery to consult with the standing Law Committee of the Church', approved of said report and unanimously resolved to transmit the relative papers to the Law Committee of the Church for their opinion and advice in the case.

The Committee also laid upon the table the following translation of the Charter:-

Charter of the Foundation of the Ministry and Hospital of the Burgh of Ayr

Mary, by the grace of God, Queen of Scots, to all good men of her whole land, clerical and lay, wishes health.

Forasmuch as we, earnestly pondering our duty to the Eternal Lord, and for the ardent zeal which we have for

maintaining the State, and preserving just order among our subjects, particularly within our Burgh of Ayr; considering, therefore, that we are bound in virtue of our office, and ought to give heed to our duty towards God, by whose providence we are exalted to the government of this our kingdom; and that so it is incumbent on us in virtue of our office to provide for the Ministers of the Word of God in every just way, and that the hospitals for poor, maimed and miserable persons, for orphans, and destitute parents and infants, within our said Burgh may be preserved.

After our full age, with advice of the Lords of our Privy Council, We have given, granted and disposed, and have confirmed for ourselves and our successors in all time coming, as likewise, by the tenor of this present our Charter we give, grant, dispone and confirm for ourselves and our successors in all time coming, to our beloved the provost, bailies, councillors and community of our said burgh, and their successors in all time coming. All and each the lands, tenements, houses, buildings, churches, chapels, spaces, gardens, acres, crofts, annual revenues, mills, fishings, fruits, due profits, emoluments, fixed alms, and whatsoever things have in any way belonged, or are known to belong, to whatsoever

chapelries, altarages, prebends, in any church, chapel or college within the liberty and parish of our said Burgh of Ayr; founded by any patron, and in possession of which the chaplains and prebendaries of the same have in foretime been, wheresoever the foresaid houses, tenements, buildings, spaces, gardens, acres, annual revenues, fishings, mills, yearly dues, fruits and emoluments lie, or have in foretime been levied respectively; Along with the mills, places, gardens, acres, lands, annual revenues, emoluments and dues, whatsoever, which have in foretime belonged to the preaching or Dominican friars and the minor or Franciscan friars of our said Burgh; Along with all and each the lands, houses, tenements, lying within our said Burgh and the parish and liberty of the same, with all annual revenues from whatsoever houses, lands or tenements within our said Burgh levied - said houses, lands or tenements having been given, endowed and founded from any chapelries, altarages, friaries, mortifications or annual dues, wherever they may be within our kingdom; And also with all and each the annual revenues and other dues paid by, or which, by any church beyond the limits of our said Burgh, can be demanded from the provost and bailies of the same, from the common

revenue of the same, for the celebration of religious service by suffragans; with pertinents.

To be held and possessed – that is to say, all and each the aforesaid lands, tenements, houses, buildings, annual revenues – by the foresaid provost, bailies, councillors and community and their successors from us and our successors; according as the same lie in length and breadth in houses, buildings, woods, moors, marshes, roads, paths, pasture ground, and pastures, mills, multures. With power to the said provost, bailies, councillors and community and their successors for themselves, or their collectors whom they shall appoint, of levying and receiving the aforesaid annual revenues, fruits, dues, profits, emoluments, whatsoever wherever in foretime they have been levied; of placing and removing the foresaid lands and tenements; of building up waste places and repairing the same for hospitals or other similar legitimate uses, as to them, with the advice of the ministers and elders of our said Burgh, shall seem expedient, and of reducing and applying the foresaid annual revenues, fruits, dues, profits and emoluments as freely in all things as the foresaid prebendaries, chaplains and the above-mentioned friars could enjoy and possess the same in foretime. But the said provost, bailies, councillors and

their successors will be held and astricted to maintain the ministers, the readers, and the other ecclesiastical burdens, with the foresaid annual revenues, profits and dues according to the value and quantity of the same; and to apply them for repairing places and buildings for hospital, and other above-mentioned uses.

Considering, therefore, with how great fraud a large number of the said prebendaries, chaplains and fore-mentioned friars have acted, who, after the change of religion, have disposed of, alienated and given away into the hands of certain private men their lands, annual revenues and tenements, mortified in foretime to chapels, prebends and other places respectively; and also that very many of our lieges of certain lands, tenements and annual revenues, mortified by their ancestors, claiming justice to themselves have recovered, by briefs of our chapel or otherwise, sasine as heirs of their ancestors, who in foretime gave the same to the church; which had happened partly by the negligence of the officials of our said Burgh, and partly by the collusion of the said prebendaries, chaplains and fore-mentioned friars. Wherefore, with advice as aforesaid, we by this our present Charter rescind and annul all and each of this kind, the alienations, dispositions and sasines;

by which the original design and mind of the founders is infringed, altered and changed, by transferring the same to private uses; to the effect that the same may be converted to the uses above-mentioned. Which, our declaration, we will to be of as much force and efficacy as if the persons who have obtained the same dispositions were specially cited; and we will that their infeftments should be rescinded without further process. And, also, with advice as aforesaid, we unite and incorporate all and each the lands, tenements, houses, buildings, churches, cemeteries, chapels, gardens, acres, crofts, annual revenues, mills, fishings, fruits, dues, profits, emoluments, fixed alms, obit money, yearly payments of the friars and the places and gardens of the same, with their pertinents, into one corporate property to be henceforth called Our Foundation of the Ministry and Hospital of our Burgh of Ayr.'

[Then follow directions with regard to the due execution of the above. The testing clause bears date – Edinburgh, 14th April 1567].

The records of the Presbytery of Ayr have been digitised and are available through the scotlandspeople website. The NRS reference for the Presbytery's minutes from 1866 to 1875 is

CH2/532/16. The present document, which is handwritten, extends at length the minute for 6th July, which in its entirety reads

‘Mr Dykes laid before the Presbytery a copy of the Charter of Mary Queen of Scots to the Magistrates of Ayr for maintenance of the ministers of Ayr, dated 14th April 1557 [*sic*: 1567 is meant] and certain other documents relative thereto including a Memorial to Counsel from the Kirk Session of Ayr with the opinion thereon of the Dean of Faculty and Solicitor General, and an extract Minute of the Kirk Session referring the whole case with the documents simpliciter to the Presbytery and, having made a lengthened explanatory statement, he moved that a Committee be appointed to examine the said documents and report to a future meeting. This motion was seconded by Dr Chrystal and unanimously agreed to. Wherefore the Presbytery did and hereby do appoint Mr Ritchie, Convener, Dr Chrystal, Mr James Fairlie, Mr Rankine and Mr Jeffrey, ministers, and William Cooper Esq of Failford, elder, to act as their Committee in terms of said motion.’¹⁴

The minute for 5th October reads ‘The Presbytery having heard the report of the Committee on reference from the Kirk Session

² NRS, CH2/532/16, Minutes of Ayr Presbytery 1866-1875, meeting of 6th July 1870, p.189, accessed through scotlandsppeople.gov.uk, accessed 14th August 2023.

of Ayr with regard to Queen Mary's Charter which states that 'in their opinion, the Kirk Session and Presbytery of Ayr have a strong case in favour of the ministers and church of the parish of Ayr under Queen Mary's Charter, and recommend to the Presbytery to consult with the standing Law Committee of the Church', approved of said report and unanimously resolved to transmit the relative papers to the Law Committee of the Church for their opinion and advice in the case',¹⁵ which is close to the wording adopted in the present document, but without the introductory paragraph. The minute goes on to note the tabling of the translation of the Charter, and then has this paragraph:

'The Presbytery re-appoint the Committee and instruct them to transmit the papers to Mr John Rankine, advocate, for presentation to the Law Committee, and to take any further steps in the case which may be deemed expedient in the meantime.'¹⁶

This spat between the church and the town appears not to have been much discussed in histories of either town or church.¹⁷

³ NRS, CH2/532/16, Minutes of Ayr Presbytery 1866-1875, meeting of 5th October 1870, p.217, accessed through scotlandspeople.gov.uk, accessed 14th August 2023.

⁴ NRS, CH2/532/16, Minutes of Ayr Presbytery 1866-1875, meeting of 5th October 1870, p.217, accessed through scotlandspeople.gov.uk, accessed 14th August 2023

⁵ John Strawhorn, for instance, in *The History of Ayr: Royal Burgh and County Town*, Edinburgh, John Donald, 1989, notes that 'in 1567 the burgh was endowed with what became known locally as Queen Mary's Mortification. As part of an unavailing attempt to rally support for the Queen, the extensive lands of the

When Thomas Dykes, who is clearly the main mover in this dispute, arrived in Ayr in 1854 he found the Auld Kirk to be ‘picturesque but in a very rough and uncomfortable state. Heating and lighting had recently been installed but there was no flooring in the area of the church, the pews resting on earth, with foot boards in front to enable the sitters to keep their feet of the ground. The lofts were only partially floored. The old wooden ceiling had become so defective and unsightly that it had been covered with canvas which, through time, gave way in places.’¹⁸ Setting this right was clearly one of his objectives for his ministry. James J Fowler and J Strathearn McNab note that the Kirk Session minutes of 22nd April, 6th and 21st May 1873 deal with an agreement between the church, town and ‘other parties interested in subjects in trust under Queen Mary’s Charter’;¹⁹ they also note that a generation or more earlier the session had been vexed at its lack of control when in 1835 the town agreed to make sittings in the churches available freely or at a low rate to the poorer classes in the community,²⁰ and again

Blackfriars, the few acres of the Greyfriars, and those of St Leonard’s Chapel were transferred from the crown to the burgh for the maintenance of the reformed church and provision for poor relief and education’, (p.59) but does not mention this dispute.

⁶ Anon, *The Auld Kirk of Ayr* (St John the Baptist), Ayr, Auld Kirk, c.1994, p.18.00

⁷ James J Fowler and J Strathearn McNab, *The Churches After 1800*, in Annie I Dunlop, ed., *The Royal Burgh of Ayr: 750 Years of History*, Edinburgh, Oliver & Boyd, 1953, p.147, fn 4.

⁸ James J Fowler and J Strathearn McNab, *The Churches After 1800*, in Annie I Dunlop, ed., *The Royal Burgh of Ayr: 750 Years of History*, Edinburgh, Oliver & Boyd, 1953, p.147, fn 2.

in 1859, when it could not grant the use of the Auld Kirk for a concert of sacred music ‘on account of the greater part of it being private property’.²¹ There are, of course, deeper themes behind this dispute, especially the declining influence of the national church, now facing competition from other, schismatic presbyterian churches, as well as a resurgent Roman Catholic church and a growing atheism. The national church was also facing challenges to its control of education in Scotland, and to its assumed position at the heart of the Scottish polity. That is the background against which this dispute between church and town was played out. A detailed and critical re-examination of this case ought to reveal much about the contemporary relationship between the clerical and lay communities, not only in Ayr, but also within the broader Scottish picture.

13 The case was finally resolved, largely in favour of the church, in the House of Lords in 1861. The judgment of the Law Lords can be found at lawcarenigeria.com/magistrates-of-dundee-v-presbytery-of-dundee/, accessed 14th August 2023.

14 NRS, CH2/532/16, Minutes of Ayr Presbytery 1866-1875, meeting of 6th July 1870, p.189, accessed through scotlandspeople.gov.uk, accessed 14th August 2023.

¹⁵ NRS, CH2/532/16, Minutes of Ayr Presbytery 1866-1875, meeting of 5th October 1870, p.217, accessed through scotlandspeople.gov.uk, accessed 14th August 2023.

¹⁶ NRS, CH2/532/16, Minutes of Ayr Presbytery 1866-1875, meeting of 5th October 1870, p.217, accessed through scotlandspeople.gov.uk, accessed 14th August 2023

17 John Strawhorn, for instance, in *The History of Ayr: Royal Burgh and County Town*, Edinburgh, John Donald, 1989, notes that ‘in 1567 the burgh was endowed with what became known locally as Queen Mary’s Mortification. As part of an unavailing attempt to rally support for the Queen, the extensive lands of the Blackfriars, the few acres of the Greyfriars, and those of St Leonard’s Chapel were transferred from the crown to the burgh

for the maintenance of the reformed church and provision for poor relief and education', (p.59) but does not mention this dispute.

18 Anon, *The Auld Kirk of Ayr (St John the Baptist)*, Ayr, Auld Kirk, c.1994, p.18.00

19 James J Fowler and J Strathearn McNab, *The Churches After 1800*, in Annie I Dunlop, ed., *The Royal Burgh of Ayr: 750 Years of History*, Edinburgh, Oliver & Boyd, 1953, p.147, fn 4r

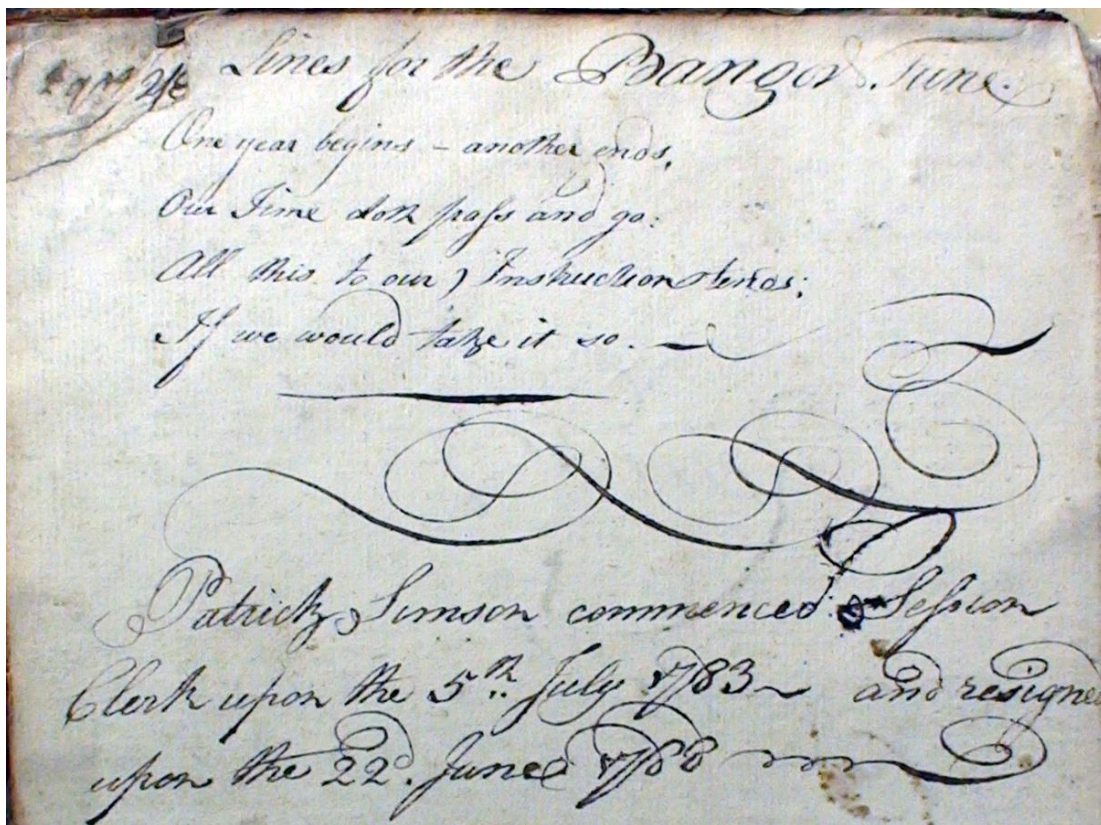
20 James J Fowler and J Strathearn McNab, *The Churches After 1800*, in Annie I Dunlop, ed., *The Royal Burgh of Ayr: 750 Years of History*, Edinburgh, Oliver & Boyd, 1953, p.147, fn 2.

21 James J Fowler and J Strathearn McNab, *The Churches After 1800*, in Annie I Dunlop, ed., *The Royal Burgh of Ayr: 750 Years of History*, Edinburgh, Oliver & Boyd, 1953, p.147, fn 3.

Nay Luck About the Hoose: Parish Relief in 18th Century Straiton

By James Brown

For over 300 years, until an Act of Parliament in 1845 transferred the legal responsibility for supporting the poor from Church to State, the Kirk Sessions in Scottish parishes constantly juggled with dilemmas in dispensing cash to needy parishioners, vagrants and itinerants. In a subsistence economy subject to the vagaries of weather, and a constant scarcity of ready cash, Kirk Sessions sometimes found themselves challenging neighbouring Sessions over who bore financial responsibility for people who had moved from one parish to another.



1 A detail from the Straiton Kirk Session Records

The routine management of church business was carried out by Elders and led by the parish minister, described as Moderator in the records. The Session acted as ‘morality police’ rebuking sinners and imposing fines on transgressors that, if paid promptly, would release them from their scandalous behaviour. Frequent offenders could find themselves excommunicated - that is, unable to attend holy communion. Individuals from other parishes who, for example, brought forth illegitimate children, would be reported to their home Kirk Session to be summonsed and made to pay for their wrongful behaviour. To qualify for parish relief required a period of residency of three years. Needy newcomers would be expected to appeal to their previous parish for money. The Session had the option of resorting to Civil Law to have burdensome parishioners from other parishes driven out, as was the prospect facing Gilbert Nay and family in 1782 - as described below.

A significant part of the church’s work was dispensing cash to the poor - known as ‘Debursements’. The amounts paid out each month varied from a few pennies to several pounds and one has to presume the sums were in proportion to the individual’s needs. Sometimes the help for the poor was in kind such as in the case of Thomas McClure who received a load of coal in January, 1785 and in March that year, half a peck of meal (about half a gallon). On occasions of food scarcity after a bad harvest, resulting in high prices, the Session would buy meal in bulk to sell to the poor at low rates. In 1787 Grizzel Goldie was given wine! In 1801 Jean Goudie received flour - perhaps she might have been baking bread for the poor. From 1796 to 1811 Agnes McClownan was in regular receipt of cash from the parish but on 3rd August, 1800 Thomas Muir was paid 1s. 6d. for a jacket for her and two men were paid 7s. 6d. for

Debursements	
Brought forward	6 17 9
Board of Robt. Monald	
2 to the 7th May last	0 12
Rent to Jean Monald	
due at Whitsunday 1800	10 0
Schoolages for Robert	
Monald paid to this date	5 0
Thos. Muir for washing	
Jacket to Agnes Monald	1 6
to two Men for attending	
Said Agnes Monald	7 6
Messages for Do.	1 6
Debursed in August	8 15 3

2 A typical extract from the Kirk Session Records of dispensing support to the poor 'attending' her. A further 1s. 6d. was spent on 'Messages' (shopping) for Agnes. (Fig. 2)

Gilbert Nay and family

On 15th May, 1782 Gilbert Nay and his wife, Marion McWhirter, moved to Burnton Farm, about four miles from Straiton. (Fig. 3) On 27th November that year their child 'born in lawfull marriage' and baptised Sarah. Two years later they came to the notice of the Kirk Session. On 12th December, 1784 their case was considered and the Minutes read as follows:

‘Same day it being represented to the Session that Gilbert Nay who came to this parish from Kirkmichael at Whitsunday 1782 with his family are in great needy circumstances and unable to maintain themselves — The Session think it their duty to intimate this to the Sess: of Kirkmichael that they may give such assistance to the poor family in their present distress as the[y] shall think proper and in the mean time give this Session security at least by an Extract of a Minute to that (*illegible*) that in case said family is allowed to reside in this parish till Whitsunday first they will notwithstanding consideration as among the number of their Poor and supply him accordingly - this Session cannot doubt but that the Session of Kirkmichael will readily comply with their requisition and so prevent their being obliged to have them removed from this parish before that the three years residence is elapsed in the mean time the Sessn. allow their Treasurer to give the s[ai]d family the Amount of 5 Shillings depending entirely that the Session of Kirkmichael will repay the same - and the Clerk is ordered to make out an extract of this Minute to be transmitted to Mr Ramsay without delay.’

On 1st January, 1785 Gilbert received 10 shillings from the parish and on 6th February he was given 4s. 6d. but no more payments are noted. In April the Moderator gave in a letter to the Session from Mr Ramsay, minister in Kirkmichael, about Gilbert Nay. On considering it,

‘... the Session unanimously agreed to the resolution that their Mod^r should in their name apply to the civil power in the way the minister proposed to have s[ai]d Gilbert Nay & family removed from this parish before

the term of Whitsunday first unless that the Session of K[irk]michael agree that in case of his being allowed to stay in this parish he shall notwithstanding be considered by them as one of their Parishoners.’



3 Burnton Farm in a 2023 sales brochure. The farmhouse is dwarfed by modern buildings and may be the one Gilbert Nay knew but in his time probably a thatched roof.

Another person bearing the family name Nay, was the subject of a dispute between the Kirk Sessions of Kirkoswald and Dalrymple. This took place in 1817 when the Dalrymple Session wrote to Kirkoswald regarding a pauper woman, Mary Nay, whom they claimed was the responsibility of Kirkoswald parish from whence she came. The response from the Session clerk, Thomas McCubbin, did not satisfy Dalrymple. He said

that she left Kirkoswald, ‘In sound health and in good industry was never a pauper nor asked poor relief in this parish.’ Mary it seems was well provided for by her late husband and Mr McCubbin stated that Kirkoswald was ready to instruct a Sheriff to question Mary on what she had done with her husband’s money to cause her impoverishment. The to and fro between the Sessions was likened to a duel by Kirkoswald. It was eventually taken to the Presbytery of Ayr and became a test case on how to deal with the mobile poor and thereafter became a precedent cited across Scotland (Guthrie: 1979).

Nay and McIlnay

These names came to the notice of this author as part of his research project, supported by the Royal Celtic Society, on the incidences of *Mac* (son, son of) and *Nic* (daughter, daughter of) names in Carrick from 1300 to 1800. An entry in that database notes Margaret McIlnay, wife of Thomas Findlay had a child, Katharine, baptised on 17th April, 1757. Another woman, who was the subject of *kintra clatter* (country gossip), came to public notice on 6th December, 1789 when one of the Elders notified the Straiton Session that ‘... an unmarried woman, Jean McIlnay, in Lamdoughty, on Lochdun (Loch Doon) was said to be with child in uncleanness ...’ and that she should be cited to appear before them in two week’s time. On 9th December William McSkimming in Lamdoughty appeared before the Session and voluntarily admitted he was the father of Jean’s child and, ‘... promises he will give all parental attention to the child with which she is now pregnant ...’. He gave a ‘Compliment’ (fine) to the poor box and was absolved of the scandal.

The loss of *Mac* and *Nic* from family names in Carrick has happened gradually over the years from when illiteracy was

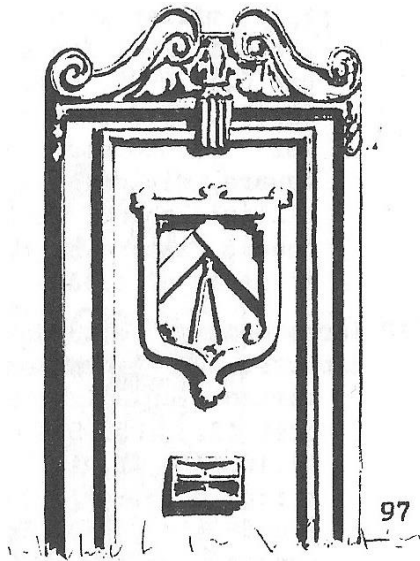
common and spelling was often random, based on what names sounded like. Eventually legal pressures demanding accuracy with personal identities arrested that process but a remarkable number of *Mac* names survive, especially in Carrick. Nay is rare, but the following are found in *Carrick Ayrshire Monumental Inscriptions pre-1855* (Mitchell: 1997):

Plot 97 ‘Jas Thomson died in Blackgenoch 12.2.1765, 50, son David 28.1.1761, wife **Margaret Nay** 3.3.1822 86 (west side) Shield with square and divider above a sand glass’ (Fig. 4)

Plot 98 ‘by **Margt Nay** in memory of father **Gilbert Nay** 10.1775, also Mary Sinclair d 10.1767’

Plot 100 ‘This stone belongs to — **McLnay** in Whitegenoch & Margt Miller his spouse. ‘Here lyes the corps of **Gilbert McLnay** 5. 1753, 41. Here lyes the corps of **Iohn McLnay** in Whitegenoch d[ied] 1741’.

The proximity of these three lairs suggest close relationships between the individuals. On the basis of the naming pattern where first sons were named after their fathers, it might indicate that Gilbert, who received charity from Straiton parish in 1785, was the son of Gilbert who died ten years earlier and grandson of Gilbert McLnay who died in 1753.



4 Tombstone in Straiton Kirkyard for James Thomson in Blackgenoch, his son, David and wife, Margaret Nay

It was common practice for close relatives to subtly change the spelling of their names to distinguish one from the other. For example, John could be Jhone, Johnne, or simply, John. Similarly the family name could be altered, most notably in Carrick with members of the McHarg clan named in a bewildering variety of forms in a 1762 marriage contract for William McIlwraith, younger of Dalreoch, and Janet McHarg, eldest daughter of James MeHarg of Keirs. The various signatures show 'Ja: MeHarg', 'McHarg', 'Maeharg' and 'M'Harg'. One of the witnesses, James's brother, Anthony M'Harg - 'Mr Anthony M'Harg' in the document, was also known as 'Anth: Mac-harg', writer in Ayr, who is named as author of the contract, and is shown within it as 'MeHarg', 'M'Harg' and 'MeeHarg'. Of course, Anthony the lawyer may have drafted the contract but it is likely that it was written up by one of his clerks who may have imbibed too much in claret. There is a further layer of mystery with the name McHarg as some have it that they were originally Border-reiving Grahams who hid their true identity by reversing their name.

It is with McHarg of Keirs that we complete the circle from Gilbert Nay as a recipient of charity to McHarg as one of the givers of charity. On 18th October 1820 a note was presented to the Session meeting amounting to £30 for the support of the Poor for the ensuing year and the meeting unanimously agreed that it ought to be subscribed by the heritors in the following proportions:

The Earl of Cassillis	8 - 0 - 1
Sir James Fergusson Bart	5 - 18 - 0
Sir David H Blain Bart	5 - 2 - 0
Quintin McAdam Esqr	4 - 18 - 8
William Fullarton Esqr	3 - 0 - 4
Mr McHarg of Keirs	1 - 8 - 9 ^{1/2}
Alexander McAdam Esqr	1 - 4 - 5
Mr Ramsay of Barbeth	0 - 7 - 8 ^{1/2}
	<u>£30-0 - 0</u>

As a final note a Mr McHarg paid a ‘penalty’ of 10s. 6d. (half a guinea) on 16th July, 1789. No further detail was recorded but since the heritors dealt in guineas it is a fair assumption that the Keirs gentleman had strayed into scandalous behaviour and was spared public opprobrium by a deferential Kirk Session.

Notes:

Straiton Kirk Session records, dating from 1756 to 1823, from which the above narrative has been taken, have recently being lodged with Ayrshire Archives and await cataloguing. Other documents from Straiton Kirk Session are already available to the public at Burns Monument Centre, Kilmarnock, ref. CH2/533. They cover from 1732 to 1928.

The McIlwraith and McHarg marriage contract is held by Ayrshire Archives in Ayr, ref. ATD60/10/14.

The 1817 account of Mary Nay seeking poor relief from Dalrymple parish is from *A Corner of Carrick* by James Guthrie (1979) a former minister at Kirkoswald. Copies are available for purchase from Kirkoswald Parish Church.

Mitchell, Alison, ed. (1997) *Carrick Ayrshire Monumental Inscriptions pre-1855*

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As from January 2024, the new venue for EAFHS meetings is the Boyd Room in the premises of CVO (East Ayrshire). Their address is as follows: Belford Mill, 16 Brewery Road, Kilmarnock, KA1 3HZ.

The Society meets there on Thursdays from 1.30 pm to 3.30 pm. There is a speaker on the second Thursday of the month. Visitors are welcome.

Please see the calendar on the website for further information.

AANHS Publications

Publications of the Ayrshire Archaeological and Natural History Society (AANHS) are available from Mr Rob Close, 1 Craigbrae Cottages, Drongan, AYR KA6 7EN email: info@aanhs.org or order via the AANHS website Further information about the AANHS and its publications will be found on the society's website: www.aanhs.org/publications/uk

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Antiquities of Ayrshire by Grose (edited by Strawhorn revised 2010) £4.00

11 Robert Adam in Ayrshire (Sanderson) revised 2010 £4.00

13 Toll and Tacksman (McClure) £1.50

20 Historic Ayr: A Guide for Visitors 2nd edition £2.50

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