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SKETCH

OF

THE HISTORY AND IMPERFECT CONDITION

OF THE

PAROCHIAL RECORDS

OF BIRTHS, DEATHS, AND MARRIAGES

IN SCOTLAND,

IN ILLUSTRATION OF THE IMPORTANT ADVANTAGES WHICH WOULD BE DERIVED FROM THE INTRODUCTION OF A SYSTEM OF

COMPULSORY REGISTRATION.

BY GEORGE SETON, ESQ., ADVOCATE,

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PREFACE.

For some time past, the Author has directed his attention to the state of the Parochial Registers of Births, Deaths, and Marriages, in Scotland, more especially in connexion with their bearing upon questions of Evidence, as well as on the subject of Social Statistics; and, from a variety of materials which he had collected, he determined to prepare a little volume, in illustration of the history, importance, and lamentably defective condition of these local records. The recent announcement of a Bill, by the Scottish Lord of the Treasury, to provide for a better system of registration, has not had the effect of altering his intention; on the contrary, he has been induced to hasten its fulfilment, with the view of making a humble effort to remove the objections to a legislative enactment, which, in some quarters, still unfortunately exist.

The only work directly touching on Scottish registration is the important compilation of Mr. Turnbull, published about five years ago, which, with the ex-

ception of a few pages of introductory remarks, consists entirely of the returns, on the head of Parochial Records, contained in the New Statistical Account of Scotland, together with the result of that gentleman's applications to the ministers of those parishes, of which the registers are unnoticed in that national work.

Under these circumstances, it appeared that there was still ample room for the brief Sketch which is attempted in the following pages, and which the Author sincerely regrets has not been executed by an abler hand.

13, Coates Crescent,
Edinburgh, *March* 31, 1854.

THE REGISTRATION

OF

BIRTHS, DEATHS, AND MARRIAGES IN SCOTLAND.

THE three important events of birth, marriage, and death have formed subjects of record from the earliest ages. A large portion of the Old Testament history is devoted to the genealogies of the Patriarchs and their numerous descendants, and, to this day, the careful preservation of pedigree is one of the remarkable characteristics of the children of Abraham. It is well known also, that registers of births and burials were kept by both the Greeks and Romans; and in later times, the same practice has been observed by the various nations of Christendom. The confiding reader of the pages of David Hume would be apt to infer, from a grave and deliberate assertion of that learned historian, that, although not very *regularly kept*, parish registers were at least in existence as early as the twelfth century. About the year 1308, some sort of registration is, no doubt, said to

have been practised in France, and, during the middle ages, the primitive mode by which the Piovano, or priest, of San Giovanni, the baptistery of Florence, took an account of the infants whom he baptized, was by putting beans into a bag,—a white bean for a girl, and a black bean for a boy,—and then casting them up at the end of the year. It is not, however, till the very end of the fifteenth century, that we find any authentic notice of regular parish registers, which appear to have been first instituted in Spain by the great Cardinal Ximenes in the year 1497, and to have been shortly afterwards introduced into England, owing to the dissolution of the monasteries and the consequent dispersion of the monks, who had previously been the principal registrars. According to the generally received opinion, the first formal mandate upon the subject of registration was issued by Thomas Cromwell, Vicar-General, (afterwards Earl of Essex,) in the year 1538, (30 Henry VIII.,) by which it was enjoined, that in every parish a register-book should be kept in a "sure coffer, with two locks and keys;" and that every Sunday, in the presence of at least one of the church-wardens, the parson, vicar, or curate should enter in the said book a written record of the dates and names of the weddings, christenings, and burials of the preceding week; the penalty for each omission being a fine of three shillings and fourpence, to be employed in the "reparation" of the church.

During the reigns of the successors of the great "Defender of the Faith," various other injunctions were published on the subject of registration, and, in the year 1597, minute directions were given for the annual transmission of a transcript of every parish register to the registrar of the diocese.*

In consequence of the disturbances occasioned by the civil wars, the parochial registers were very much neglected. Their importance, however, was acknowledged by the legislature in the year 1644, and again in 1653, when an Act was passed, under which the custody of the registers was committed to "some able and honest person," to be chosen by the inhabitants of every parish, chargeable to the relief of the poor; but as this statute was not confirmed at the Restoration, the superintendence of registration reverted to the parochial clergy.

In the reign of William III., several Acts were passed, by which certain duties were imposed on births, marriages, and burials, "for carrying on the war with France with vigour;" while the clergy were compelled to make the proper entries under very heavy penalties, which, however, were shortly afterwards modified or removed.

With the exception of the Act of 1783, (to be

* Unfortunately these directions were by no means universally complied with. According to Grimaldi, (*Origines Genealogicæ*, p 277,) these duplicate registers are not perfect in any one diocese in England.

afterwards noticed,) which imposed a stamp-duty of threepence upon every registered entry of burial, marriage, birth, and christening, the next statutory provision respecting parish registers was the Act of 52 Geo. III., c. 146, introduced by the Right Honourable George Rose. After reciting both the public and private advantages that would be derived from an improvement in the mode of keeping and preserving parish registers, it enacted that new register-books, with relative forms, should be used in every parish in England after the 31st of December 1812; that baptisms, marriages, and burials should be registered in separate books, and signed within seven days after each ceremony had been performed; that the registers should be preserved in iron chests; and that annual copies, signed and attested, should be sent to the registrar of the diocese, who was required to prepare alphabetical catalogues both of persons and places. Besides other imperfections, two rather remarkable incongruities are to be found in this statute, namely, first, that although a register of *births* is included in the title, the Act itself does not contain any provision upon that subject; and, secondly, while the only penalty awarded is fourteen years' transportation for the falsification of any register, the 18th section directs that all penalties therein imposed shall be divided *between the informer and the poor of the parish!* There is no provision, moreover, for recording the date of *death;* in short, the

Act only required the registration of the ceremonies of baptism, marriage, and burial, according to the rites of the Church of England.

In a subsequent page, we propose to notice the inquiry into the subject of parochial registration, which took place in the year 1833, and also to give an outline of the very important measure, introduced a few years afterwards, which at present regulates the registration of births, deaths, and marriages in England.

Upwards of three centuries have now elapsed since the institution of Parish Registers in Scotland. In 1551, only thirteen years after the injunction on the subject issued by the Vicar-General of Henry VIII., a provincial council of the Scottish clergy was held at Edinburgh, by James Hamilton, Archbishop of St. Andrews, which, besides confirming some existing canons, enacted several new ones of considerable importance. To the fourteenth of these canons we are indebted for the establishment of parochial registers of baptisms and proclamations of marriage. After reciting the serious disputes, and other evils, which constantly arose from the want of proper records, the enactment ordains, that every curate shall henceforth keep a register of all baptisms, and also of proclamations of marriage, in the former of which shall be inscribed the names of the children, and of their reputed parents, as well as of their godfathers and godmothers, with the addition of the respective

dates, and the attestation of two witnesses. It further declares, that these records shall be preserved among the "most precious treasures of the Church," and enjoins the deans, in the course of their visitations, to investigate and report all instances of neglected registration.* In noticing this important canon, Lord Hailes observes, that "the solicitude of the council for rendering such registers perfect, is highly laudable. The reasons assigned for this solicitude are sensible; a circumstance," adds his Lordship, "which I the rather mention, because it has become the mode to despise everything that we ourselves *did not* enact, as much as it is to neglect the execution of what we *did*."†

In the canon of 1551, there is no provision for the registration of burials, but this deficiency was shortly afterwards considered, and eventually supplied, during the early struggles of the Reformation. At the convention of the General Assembly, held at Edinburgh in the year 1565, in reply to the request of the Commissaries of that city, that every minister or reader, besides keeping a register of the names and residences of persons deceased in their respective parishes, and the dates of their death, should deliver a copy thereof to the procurator-fiscal, "that pupils and creditors be not defrauded,"—it was answered,

* The original canon, which is in Latin, will be found in Wilkins' *Concilia*, vol. iv. p. 71.

† Annals of Scotland, vol. iii. p. 263.

that such a charge could not be laid upon the clergy, as few of them were then possessed of manses and glebes; on obtaining which, however, it was agreed that they should be required to conform to the request of the Commissaries.*

Nine years afterwards, (in 1574,) in compliance with a petition presented by two of the Senators of the College of Justice, in behalf of that learned body, the representatives of the Church enjoined "that the readers at every kirk, in the synodall assembly, should present the catalogue of the names of the persons deceased within their paroich to their superintendents, to the effect that they may report the same to the Generall Assembly, to be delivered to such as shall be appointed be the saids Lords (of the Court of Session) for receiving of the same."†

Two years later, in consequence of this order not having been complied with, the Court thought proper to remind the Assembly of its enactment: upon which, after it was stated by the venerable convention "that the said Act was not put in execution for lack of knowing of the same," it was again ordained to be kept and observed; and in order to promote the object in view, it was "thoght meitt that in every parochin ther be persons appointed to break the earth, and to make sepulchres, that sall notifie the names of the

* Booke of the Universall Kirk of Scotland, (Ban. Club, 1839-45,) vol. i. p. 63.

† *Ibid.*, vol. i. p. 310.

persons deceissit to the reidars, that they may present the same to the Commissioners to report to the Generall Assemblie."*

The only other allusion to the same injunction, at this early period, occurs in the notice of the meeting of Assembly in the following year (1577), when statements were made by certain superintendents respecting the mode in which they had fulfilled its provisions; and no further proceedings appear to have taken place in connexion with the subject of registration for nearly forty years, with the exception of an order issued by the Assembly, at Edinburgh, in 1588, to the effect that, if the poor neglected to show satisfactory proof of the baptism of their children, they should be "refused alms by all good and charitable persons."

At the meeting of the General Assembly, held at Aberdeen in August 1616, (during the existence of the Episcopal form of Church government,) a series of royal "instructions" were produced by the Earl of Montrose, Lord Commissioner for the King, among which the following was included:—"That every minister have a register of baptisms, marriages, and defuncts, within the parish, to be presented to ilk synod: for doing whereof it is statute, the ministers, their wives, and executors shall have the quotts and confirmation of their testaments free." On the day following the communication of this injunction, the

* Booke of the Universall Kirk of Scotland, vol. i. p. 372.

Assembly, "being rypelie advysit, statute and ordainit, (*inter alia*,) that every minister have a perfyte and formall register, quherin he sall have registrat the particular of the baptisme of every infant within his paroch, and quho wer witnesses therto; the tyme of the mariages of all persons within the same; and the special tyme of the buriall of every ane deceisand within thair parochin;" to be presented at their next synod assembly, under pain of suspension. The Assembly also resolved, that their Commissioners should humbly crave the Sovereign "to ordaine the extract foorth of the saids registers to make faith in all tyme comeing."*

The importance of the subject of registration was again acknowledged a few months afterwards, (December 10, 1616,) in an Act of the Scottish Privy Council.† After referring to the "grite contestatioun and pley," and the consequent "ydill and unnecessar chargeis and expenseis," which arose in the judicatories of the kingdom, in connexion with the numerous questions "anent the tymes of mariageis, bap-

* Booke of the Universall Kirk of Scotland, vol. iii. pp. 1124-1129.

† In the list of the "*Sederunt*" are a number of distinguished names, including Alexander Seton, Earl of Dunfermline, Chancellor of Scotland; John Spottiswoode, Archbishop of St. Andrews; James Law, Archbishop of Glasgow; John Erskine, Earl of Mar, High Treasurer; Thomas Hamilton, Lord Binning, (afterwards Earl of Haddington,) President of the Court of Session; and Sir William Oliphant of Newton, Lord Advocate.

tismes, and decease of personis," owing to the want of an authentic register; the enactment ordains, "that in euerie paroche of this kingdome, thair sallbe ane famous book and register maid be the minister of the paroche, and presentit be him, afoir ony thing be written thairintill, to the bischope of the diocese, who sall nomber and mark with his awne name the haill leafis of the said register, and the same being so markit and redelyuerit to the minister, he, or the reider, be his directioun, sallbe haldin, be vertew of this present Act, to insert thairintill the tymes and names of the persones to be maryed, and of the bairnes to be baptized, within the said parrochine, with the witnesses of the saidis bairnes, as alswa the names and tymes of personis deceisand within the same." It further provides, that the minister, or reader, along with two of the kirk-session, in the case of births and marriages, and two persons present at the burial, in the case of deaths, shall subscribe the register-book at the close of the entries of each day; and the minister is also required to exhibit the register annually at the synod, in order that the bishop may make a note on the last written leaf thereof, stating the number of the preceding leaves. In the conclusion of the Act, it is declared, that the said register shall be "repute and haldin as famous and authentic," and that, in accordance with the desire of the General Assembly, the extracts thereof, subscribed by the minister or reader, as well as the original record, shall

" mak faith in all and q^t^someuer judgementis within this kingdome."*

The "Directory for public worship," which was approved and established by an Act of the General Assembly, and also by a Statute of the Scottish Parliament, in 1645, (seven years after the re-establishment of Presbyterianism,) besides containing certain provisions respecting the proclamation and celebration of marriage, declares, in rather tautological language, that "a register is to be carefully kept, wherein the names of the parties married, with the time of their marriage, are forthwith to be fairly recorded in a book provided for that purpose, for the perusal of all whom it may concern." No similar injunction, however, is to be found in the same compilation, regarding the registration of baptisms or burials; but that of the former is specially referred to in a work of admitted authority, published in the year 1709, which treats of the worship, discipline, and government of the Kirk of Scotland, "as supported" (to use the language of the Preface) "by its acts or universal customs, and the constitutions of some other Churches." We are there informed, that "a register is to be kept of the names of all baptized, and of their parents' names and designations, and of the time of their bap-

* For invaluable assistance in the transcription of this interesting enactment, which it is believed has never before been published either in whole or in part, we are indebted to Mr. Joseph Robertson, the recently appointed "Searcher of Records for literary purposes," in the General Register-House, at Edinburgh.

tism, and of the names of the witnesses thereto. And of all illegitimate children, their names, and those of their parents, shall be likewise insert: but of such it is only said, that they are not born in lawful marriage." After quoting the provision, in the "Directory," respecting the registration of marriage, the same authority also declares that, in order "that the registers of baptisms and marriages may bear the greater faith, it is fit they be subscribed on each page by the minister; or, in a vacancy, by two elders, and the clerk of the Session."*

As all the recent ecclesiastical injunctions on the subject of registration had been confined to that of marriages and baptisms, the General Assembly appears to have found it necessary to pass an Act, in the year 1746, recommending and appointing "the several kirk-sessions to have a register, in which they shall record the names of every person dying within

* Steuart's "Collections and Observations concerning the worship, discipline, and government of the Church of Scotland," book ii. tit. 3, § 13 and 19.

The 11th section of the same title sets forth, that, "by the fourteenth article, chap. ii. of the French Church discipline, ministers shall reject names given to children that savour of ancient Paganism, such as *Diana*, and the like; and the names attributed to God, such as *Emmanuel*, and the like; but the names of holy men and women in Scripture are to be chosen." The spirit of this very proper injunction could have had little influence on the mind of a sporting English Baronet, who, not many years ago, made a wager that, in the event of a certain horse, rejoicing in some such appellation as that of "Queen of Trumps," or "Binks the Bagman," proving the winner of the "Derby," he would confer its name upon his own child, whose birth was shortly afterwards expected.

their respective parishes, and interred in their ordinary burying-places, and the times of their death."

No other provision respecting registration is to be met with in the records of the Church, till the year 1816, when the unsatisfactory state of the parochial records of births, deaths, and marriages became the subject of consideration in the General Assembly; as we shall afterwards have occasion to notice, in referring to the judicious suggestions for the improvement of these important local registers, contained in the Report to the Commissioners of Public Records, by Mr. Thomas Thomson, Deputy Clerk-Register, in the year 1810.

Even those who are most inclined to disparage the doings of former ages cannot fail to admire the wisdom of these various enactments. The remark upon the canon of 1551, which we have already quoted from no mean authority, applies with still greater force to the Act of the Privy Council, in the year 1616, the anxious provisions of which are worthy of the highest commendation; and had these important injunctions of our ancestors been reasonably well attended to by succeeding generations, much of the melancholy evidence contained in the following pages could never have been adduced.

The imperfect condition of Scottish parish registers attracted the attention of various writers, as early as the latter part of the eighteenth century. Arnot, in his History of Edinburgh, published in the year 1779,

makes the following observations respecting the registers of the metropolis:—"As to the registers of births and burials in Edinburgh, they have of late been kept in such a manner as to render them, (if any arguments be drawn from them,) *the infallible sources of error.* The register of burials is kept by people whose faculties are impaired by drinking, who forget to-day what was done yesterday: people who have an interest in reducing the list of burials, as thereby they may peculate the share of the *mortcloth* (or pall) money due to the charity workhouse. Besides, they enter not into the list of burials any who have died without receiving baptism; nor those whose relations are so poor as not to be able to pay for the use of a *mortcloth;* nor those who die in the charity workhouse.* In foreign nations, and other parts of this kingdom, the clergy pay attention to the parochial registers. We shall leave it to the ministers of Edinburgh to assign their own reasons for omitting what is generally considered as a branch of the pastoral duty. As for the register of births, it *does not deserve the name.* True it is, a list is kept in the south side of St. Giles' Church, where any person who chooses to go with a piece of money, will get the

* As we shall afterwards have occasion to notice, there is no record of burials in the *city* parish of Edinburgh. Registers are kept by the "recorders" of the principal church-yards, including those of Canongate and St. Cuthbert's, from which, however, owing to the frequent interments in the suburban cemeteries, no approach to the true mortality of the metropolis can possibly be made.

name and birth of a child inserted. But no attention is paid to the observation of this practice, either by the clergy or by parents. *In our calculation, therefore, of the populousness of Edinburgh, we set aside entirely any consideration of the parochial registers."**

In the old Statistical Account of Scotland, edited by Sir John Sinclair, and published during the concluding decade of last century, we also find very frequent allusion to the unsatisfactory state of the parish registers; but considering the position occupied by the contributors to that valuable work, we need hardly be surprised not to discover any repetition of the charge which is made, in perhaps rather too unqualified terms, by the historian of Edinburgh. In addition to various special reasons peculiar to certain localities, the principal causes of the imperfection of the registers there enumerated, are the negligence of the people in general, more particularly the Dissenters, and the unwise provisions of the Act of 1783. (23 Geo. III. c. 67.)

Thus, in one parish, we are told that the registers "cannot be depended upon, owing to the obstinacy and ignorance of the people, and their aversion to have the births and deaths in their families duly inserted."† Again, in the notice of another locality, the same result is attributed "to the negligence of some, and to the unwillingness of others, to pay the

* Arnot's History of Edinburgh, p. 332.

† *Old Cumnock*, (Ayrshire,) vol. vi. p. 412.

tax and trifling dues on births, to which the session-clerk is legally entitled, for his trouble in filling up the register."*

The reluctance on the part of the Dissenters to take advantage of the benefits of registration, is specially referred to in the accounts of various parishes, including *Monimail*, and *Collessie*, (Fife;) *Careston*, (Forfar;) *Barony of Glasgow*, (Lanark;) and *Kirkconnel*, (Dumfries.) According to the minister of the last mentioned parish, the children of Dissenters are not included in the parochial records, as the parents decline to make any use of these, "either to avoid paying the usual small perquisite to the clerk, or, as is supposed by most people, because it is a part of their political etiquette, to express in this way their dread of contagion, or contamination, from even a parochial record."†

The Act of 23 Geo. III., however, is pointed to as contributing, perhaps more than any other cause, to the imperfect state of the registers.‡ The author

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* *Dunblane*, (Perthshire,) vol. vii. p. 326.

† Old Statistical Account of Scotland, vol. x. p. 446, *note*.

‡ By this Statute, which was repealed eleven years after its enactment, and which is said to have been even more unpopular in Scotland than on the other side of the Tweed, a stamp-duty of threepence was imposed upon the registered entry of every burial, marriage, birth, and christening. Clergymen and other persons having authority to make these entries, were specially empowered to demand the duty from the proper parties, whose refusal to pay rendered them liable to a penalty of £5. The same penalty was also incurred by the keepers of the records for making any entry except

of the account of the parish of *Birse*, in Aberdeenshire, designates the tax imposed by that Statute, not only as "odious and unproductive," but also as "hurtful to a useful class of men, the schoolmasters, who are usually the session-clerks, many of whom, to secure the small trifle of dues that remain, agree to pay the tax themselves; so that in those instances the clerk loses more than the revenue gains."* In other places, we are told that, in consequence of the same unpopular enactment, not only many parishes, but even whole counties, such as Sutherland, kept no registers whatever; while the writer of the article on *Balmaclellan*, in the Stewartry of Kirkcudbright, thus concludes his observations:—"In a parish like this, where the whole duties to Government would not amount to more than four or five shillings yearly, through the refractoriness of individuals, and the apprehension of penalty, the parish at large is deprived of a record which might one day be necessary for proving their propinquity, or securing their claims."† The soundness of the conjecture contained in the latter portion of the passage just quoted, meets with ample confirmation under the notice of the parish of *Fordyce*, in Banff-

on stamped paper provided for the purpose; while, on the other hand, they were entitled to an allowance of two shillings in the pound out of the duties received by them, "as a recompense for their trouble in accounting for the same."

* Old Statistical Account of Scotland, vol. ix. p. 120.

† *Ibid.*, vol. iv. p. 292, and vol. vii. p. 229.

shire, where we are informed, "that after the year 1717, the people became very negligent in registering, and have generally continued so, to the great loss of many, in proving their kindred with relations who have entered the seafaring line, or settled abroad."*

In numerous instances we find very distinct statements respecting the utter worthlessness of the parochial records, when their assistance is resorted to in the prosecution of statistical inquiries; while the great importance of accurate registration is also fully acknowledged, and some very sensible suggestions not unfrequently introduced.†

Under these circumstances, therefore, no one need be surprised by the statement contained in the population Abstract of 1801, to the effect, that out of the 850 parishes in Scotland that made returns to Government, not more than 99 possessed regular registers, the rest having made only occasional entries, or having kept no register whatever.‡

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* Old Statistical Account of Scotland, vol. iii. p. 50.

† *Ibid.*, Notices of *Ormiston*, and *Dunbar*, (Haddingtonshire;) *Falkland*, (Fifeshire;) *Dron*, and *Caputh*, (Perthshire;) and *Rothesay*, (Bute.)

‡ Of these 99 parishes, which represented less than a seventh of the whole population, nearly two-thirds were situated in the counties of Berwick, Lanark, Linlithgow, Haddington, and Peebles.

In consequence of the very unsatisfactory state of the registers, it was considered useless in 1811 and 1821, in the case of Scotland, to repeat the questions respecting the increase and diminution of the population, &c., which were circulated in 1801.

In addition to the preceding evidence respecting the imperfect condition of our parish registers, we now propose, in illustration of the same subject, to introduce the results of a careful analysis of the returns, on the head of parochial records, contained in the *New* Statistical Account of Scotland, (published in 1845,) as well as of those subsequently obtained by Mr. Turnbull, and included along with the former, in his useful volume already referred to.* Before proceeding, however, to make any further remarks on their numerous imperfections, it is thought advisable to subjoin the following tabular view of the *age* of the parish registers, in the preparation of which, the earliest date—whether in the record of baptisms, marriages, or burials—has invariably been adopted, for the purpose of classification. In most parishes, we may remark, the register of baptisms is considerably older than that of marriages; and the record of burials, which in a large majority of instances is entirely awanting, is usually of very recent introduction. It must be borne in mind, moreover,

* See Preface.—The following is believed to be a tolerably accurate statement of these returns :—

Number of parishes in New Statistical Account *with* such returns,	749
Do. *without* such returns = 130, from which returns subsequently obtained by Mr. Turnbull, in reply to 120 personal applications,	47
Leaving still without any published returns,	83
Total number of parishes,	879

that these records (as we shall afterwards see) are by no means universally continuous :—

Date.	Number of Registers.
Between 1550 and 1600,	21*
„ 1600 „ 1650,	127
„ 1650 „ 1700,	266
„ 1700 „ 1750,	226
„ 1750 „ 1800,	84
Subsequent to 1800,	28
No date given,	44
No return,	83
Total,	879

Owing to various causes, a large number of *registers*, or portions of registers, *formerly existing*, have now

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* The following is a list of these early registers, in the order of their dates, which extend from 1553 (two years subsequent to the ecclesiastical canon on registration) to 1598 :—*Errol*, (Perth ;) *Dunfermline*, (Fife ;) *Perth; Canongate*, (Edinburgh ;) *Aberdeen; Lasswade*, (Edinburgh ;) *St. Cuthbert's*, (Edinburgh ;) *Kinghorn*, (Fife ;) *Stirling; Abercorn*, (Linlithgow ;) *Kilrenny*, (Fife ;) *Uphall*, (Linlithgow ;) *St. Madoes*, (Perth ;) *Clackmannan; Dunbarnie*, (Perth ;) *Falkirk*, (Stirling ;) *Edinburgh*, (City ;) *South Leith*, (Edinburgh ;) *Prestonpans*, (Haddington ;) *Kelso*, (Roxburgh ;) *Pencaitland*, (Haddington.)

The dates of the *English* parish registers are classified as follows, in the Preface to the Population Abstract for 1831 :—

	No. of Registers.
Commencing in 1538, (see p. 2,)	812
Between 1538 and 1558,	1822
„ 1558 „ 1603,	2448
„ 1603 „ 1650,	969
„ 1650 „ 1700,	2757
„ 1700 „ 1750,	1476
Subsequent to 1750, (six or seven hundred,) *say*,	716
Total number of registers,	11,000

disappeared. Some are stated to have been lost or destroyed; while others have been borrowed, usually for legal purposes, without being returned. In numerous instances they have been burnt, along with the manse or school-house, in which they happened to be deposited; and one unfortunate record appears to have met with a watery grave, having been dropped by the person to whom it was intrusted, while he was "in the act of crossing a rapid stream!"*

Of registers which have been "*lost*" or "*destroyed*," we may give the following examples:—

Halkirk, (Caithness.)—"The old registers of this parish were destroyed many years ago by some ill-disposed persons."

Kirriemuir, (Forfar.)—"It appears that the registers were taken possession of, in 1713, by the Rev. James Rait, and were never afterwards recovered."

Alness, (Ross.)—"There was a register prior to 1783, but it was taken away nearly a century ago (cir. 1750) by some one or other, and lost."

Yetholm, (Roxburgh.)—It is reported, that earlier registers than the oldest now extant, "were destroyed accidentally by the family of one of the former ministers of the parish."

In numerous cases, no information is furnished respecting the *cause* of disappearance. Thus:—

Aberdour, (Aberdeen.)—The most ancient part of the register, (supposed to have been the oldest in Scotland,) was lost about the year 1815, "by some unaccountable accident."

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* *Abertarff*, (Inverness-shire.)

Note.—As both the counties and their respective parishes are alphabetically arranged in Mr. Turnbull's volume, in quoting from the returns, reference to the *page* is considered unnecessary.

Kilbrandon and Kilchattan, (Argyll.)—"Owing to some cause not well explained," the register, subsequent to 1793, was lost or destroyed about the year 1820.

Gargunnock, (Stirling.)—"Owing to accident or carelessness, the registers of the last forty years of the seventeenth century have been lost."

As a pleasing relief to such mournful instances of neglect, it is consoling to think that we may occasionally discover a bright spot in the generally gloomy picture. In speaking of the frequent disappearance of Scottish ecclesiastical records, the writer of the return relative to *St. Andrews* remarks, that "it is probable many of the volumes of these records, which are supposed to be lost or destroyed, might still be recovered, were the ministers of the parishes to institute a diligent inquiry respecting them." Accordingly, in the notice of the parish of *Kirkden*, in Forfarshire, we find it stated, that "a register of parochial matters, from the year 1650 to 1690, after having been lost for a long while, was accidentally discovered by the predecessor of the present incumbent, one of the leaves having been casually sent from a shop in the neighbourhood." In like manner, in more than one instance, important local registers have been recovered, and restored to their proper parishes, through the instrumentality of the Rev. Dr. Lee, the learned Principal of the University of Edinburgh.*

In a good many instances, the loss of parochial

* See *Stow*, (Edinburgh,) and *Logierait*, (Perth.)

records has arisen from their having been *borrowed*, generally for legal purposes, without being returned. Thus :—

Tiree and Coll, (Argyll.)—"All the parish records, previous to the year 1775, were sent to Edinburgh, in order to ascertain certain disputed dates relative to a legal process then carrying on, and were lost, or at least never returned."

Inverkeithing and Rosythe, (Fife.)—There is a blank in the register of baptisms and marriages from 1711 to 1748, "caused by the loss of a book, which, according to an entry in the Session Minutes, was taken to London, as evidence in a law-suit, about 1750, and never returned."

Ancrum, (Roxburgh.)—"Before 1703, (the date of the oldest register extant,) this parish had also a parochial register, which is understood to be *in retentis* by some of the Church Courts."

Again, we are informed that a volume of the parish records of *Carluke*, in Lanarkshire, was "taken away by a former clergyman;" and while a portion of the baptismal register belonging to *Bothwell*, in the same county, appears to be in the hands of a family in *Stirling*, that important parish seems to atone, in some degree, for the unfair possession, by allowing a similar record of its own to find a resting-place in the Register House at Edinburgh.*

Of all the causes, however, which have contributed to the destruction of our parish registers, perhaps *fire* has been the most frequent. As examples of the ravages of that devouring element, we may insert the

* In the same repository were lately to be seen "several leaves from the register of a parish in Ayrshire, which, to save trouble, had been *torn out* and sent to Edinburgh for production in a process before the Court of Session!"—(Introduction to Turnbull's *Memoranda*, p. xiv, *note.*)

following, taken at random from a large number of cases noted in the course of our investigations :—

Polwarth, (Berwick.)—The parochial registers "were unfortunately destroyed about forty-five years ago, the schoolmaster's house, where they were kept, having been accidentally burnt to the ground."

Penpont, (Dumfries.)—"A fire which happened in the manse during the ministry of Mr. Murray, consumed the parochial records prior to the year 1728."

Ormiston, (Haddington.)—"Some of the earlier registers, according to tradition, being in the possession of one of the elders, who was tenant of East Mains, were consumed when his house was burnt."

Keig, (Aberdeen.)—"All the early records were accidentally burnt, excepting a part commencing in 1740 and ending in 1743."

It may here be observed, that the year 1783 proved very unpropitious to parish registers. Besides being the date of the unpopular Stamp Act, which has already been referred to, it appears to have witnessed the conflagration of no less than three Scottish schoolhouses, as well as of the parochial records which they unfortunately contained.

We now come to notice a few of the principal imperfections which are so frequently found to lessen the value of *existing registers*, arising chiefly from the negligence of their custodiers, and the wasting influences of time. A vast number of the returns make mention of blanks or chasms in the records, sometimes extending over long periods of time; and there is scarcely a single register, part of which is not described as being in loose sheets, injured by damp, illegible, or otherwise in bad condition. The following examples

may be adduced in illustration of the *carelessness of session-clerks* :—

Monymusk, (Aberdeen.)—The register is interrupted at various periods, "owing, as is recorded, to the loss of notes by some of the clerks."

Crail, (Fife.)—One of the blanks in the parochial records "seems to have been occasioned by the clerk neglecting to copy from his scroll-book, as the leaves are paged, but not filled up." *

Pettie, (Inverness.)—"In 1765 there is a minute of session complaining that previous session-clerks had taken away the records for not being paid their fees, and no wonder, then, (it is added,) at the blanks to be found here."

Urray, (Ross.)—"The register of births previous to 1820 was very irregularly kept, a great many names having been left out, and in many cases entered improperly. The record was not even signed by the session-clerk." †

Notices of registers consisting of *detached or misplaced sheets* are also of very frequent occurrence. Thus :—

Dunoon and *Kilmun*, (Argyll.)—"The registers consist of several MS. volumes, and scattered fasciculi of scrolls, &c., irregularly kept, down to a modern date."

Mauchline, (Ayr.)—Till about the year 1760, the parochial records were "written mostly on detached leaves, so that they are almost useless."

Midcalder, (Edinburgh.)—The parish registers of the seventeenth century "are in rather a dilapidated state, and the pages, in several instances, have been misplaced."

Peebles.—From the year 1808, (prior to which they were kept with great accuracy,) the local records "are written on detached pieces of paper, and like the Sibylline leaves, they have been *ludibria ventis*, as many of them are irrecoverably lost." ‡

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* The register of Crail commences in the year 1648, with a minute in the beautiful handwriting of Mr. James Sharpe, then minister of the parish, and afterwards Archbishop of St. Andrews.

† See also *Glenmuick Tullich* and *Glengairn*, (Aberdeen;) *Auldearn*, (Nairn;) and *Tongue*, (Sutherland.)

‡ See, as other instances, *Fintray*, (Aberdeen;) *Alvah*, and *Rothiemay*, (Banff;) *Brechin*, and *Edzell*, (Forfar.)

Many pages might easily be filled with notices of various other imperfections in our local registers. As examples of injury from exposure to *damp*, we may mention the records of *Alloa*, (Clackmannan ;) *Kirknewton*, (Edinburgh ;) *Crawfordjohn*, (Lanark ;) and *Lethendy*, (Perth ;) as being partially *decayed* or *illegible*, those of *Dailly*, (Ayr ;) *Kilmorie*, (Bute ;) *Currie*, (Edinburgh ;) *Kilrenny*, (Fife ;) *Dun*, (Forfar ;) and *Urr*, (Kirkcudbright ;) and lastly, as being *generally imperfect and in bad condition*, those of *Dundonald*, (Ayr ;) *Lauder*, (Berwick ;) *Dalkeith*, (Edinburgh ;) *Crawford*, (Lanark ;) *Gladsmuir*, (Haddington ;) and *Neilston*, (Renfrew.)

In concluding these rather disjointed remarks on the state of the registers generally, we have great pleasure in referring to a few of the rare instances of attention to their preservation which are noticed in the returns. In the case of the parochial records of *Dysart*, in Fifeshire, for example, only one out of about twenty volumes happened to be in bad order, and, " being reckoned of importance, was, at the request of the session, lately transcribed by the clerk." In like manner, in the account of the united parishes of *Kirkmichael* and *Cullicudden*, in the county of Ross, we are informed that " a register previous to 1748 evidently did exist, but only a few leaves of it remain. Its contents, however, were carefully transcribed into the present register." Again, while it is elsewhere stated that " a few of the parishioners of *Rothiemay*,

in Banffshire, impressed with the value of the local records, are about to raise a subscription to have them re-bound;" the actual fulfilment of a similar good intention is recorded under the notice of *Duffus*, in the county of Elgin, where, in 1825, the older registers "underwent a thorough and substantial repair, being strongly re-bound in parchment covers, with brass clasps; so that with ordinary care, (it is added,) they may now last for centuries to come."

In addition to the numerous defects already noticed, there are certain instances of *special imperfections in the mode of making the entries*, which now fall to be enumerated. Thus, the unsatisfactory custom of *promiscuously* recording baptisms, marriages, and burials, is referred to in a great many of the returns:—

Wick, (Caithness.)—"Up till a late date the registers of matrimonial contracts, and of births and baptisms, were strangely mixed and jumbled together."

Cults, (Fife.)—Prior to 1748, the notices of births, marriages, and deaths were "huddled together with the minutes of the Kirk-Session," &c.

Kinnettles, Mains and Strathmartin, and Monikie, (all in the county of Forfar.)—The entries of baptisms and marriages are "recorded promiscuously with other matters."*

Another very irregular practice consists in the entries being made at a *different* period from the occurrence of the events recorded, in consequence of which, great inconvenience is not unfrequently experienced in the consultation of parish registers. Thus,

* See also *Beith*, (Ayr.)—*Ladykirk*, (Berwick;) *Kirkgunzeon*, (Kirkcudbright;) and *Monivaird and Strowan*, (Perth.)

we are told, in the notice of *Kilmaronock*, in the county of Dumbarton, that the entries in the baptismal register "are not always made according to the exact order of their date." In like manner, in the Crown agent's return on the subject of registration, to be afterwards noticed, we find it stated, that in the parish of *Kincardine O'Neil*, in Aberdeenshire, "the number of births since 1842 is 156, but they are registered so irregularly, that *no distinction* is known *for the years.*"* Similar defects appear to have formerly existed in some parts of England. The parish register of Thorrington, in Essex, for example, contains the following quaint entry under the year 1597:—"M^m., *forgotten until now*, that Edmund Denmark and Alice Smyth were married the 24th of May 1584."

Entries are sometimes also made at the usual place of *residence* of the families to which they relate, or where they may have property or estates, instead of in the register of the parish in which the events recorded happened to occur; while another still more objectionable custom, in the eyes of the statist, is what may be termed the system of "double entry," —to wit, registration in two different places, which is occasionally adopted for the sake of additional security.

In some of the returns, mention is made of defects

* See also notes in the same return respecting the registers of *Sleat*, (Inverness,) and *Hawick*, (Roxburgh.)

in the entries, arising from the want of *designations*, as well as of the *place of residence*, the use of which additions, it may be observed, not having been previously required by the canon law, were introduced into England, by statute, during the reign of Henry V. Thus, the register of births and marriages belonging to the parish of *Denny*, in Stirlingshire, contains "merely a list of names having no specialty connected with them but the date." Again, in the notice of *Westruther*, in the county of Berwick, it is stated that the greatest defect in the parochial registers, is "the want of designations." In many parts of Scotland, we may remark, the insertion of nothing but the name would be next to no indication of the party referred to. Everybody knows the story of the unfortunate gentleman, rejoicing in the world-wide appellation of Smith, who was in vain summoned from the body of one of the London theatres; and although, perhaps, in this portion of the kingdom, few of our surnames are of equally common occurrence, several of them are so very frequent in certain localities, that without some such addition as the name of the acres which they possess, or the professions which they pursue, many of our countrymen could not be sufficiently distinguished. We have a vague recollection of an anecdote, told by Sir Walter Scott, respecting a disappointed gaberlunzie woman, who, on finding that she was unable to excite the pity of the inhabitants of a certain village in

the south of Scotland, charitably informed them that they were not entitled to the name of *Christians*. Nor did this serious allegation meet with any denial; on the contrary, she was quietly informed in reply, "Na, na; we be a' Elliots and Armstrongs!"*

In like manner, the frequent recurrence of favourite Christian names in the same clan or family, renders the insertion of designations, and other special additions, even more necessary in Scotland than in many other countries. Thus, among the Frasers and the Mackenzies, we find a marked preference given to the names of *Simon* and *Kenneth*, while *James* and *William* are equally common in the "Houses" of Graham and of Douglas.†

In some of the earlier registers, more especially in the case of deaths, even the *name* is not always

* Scott, Ker, and Johnston, may be mentioned as other instances of common Lowland surnames, while Campbell, Macdonald, Mackenzie, and a host of other *Macs*, are notoriously frequent in the Highlands.

† See a list of male Christian names peculiar to certain Scottish families in "Notes and Queries," vol. vi. p. 287. A similar catalogue of *female* Christian names might easily be prepared, in which we would not fail to find such familiar instances of conjunction as *Anne* Hay, *Elizabeth* Lindsay, *Mary* Campbell, and *Florence* Macleod. It occasionally happens, that *two* members of one family bear the same Christian name; and a case recently occurred in the Court of Session, in which considerable difficulty arose in consequence of this circumstance. Some parents even go the length of conferring a favourite name (usually in conjunction with another) on *all* their sons or daughters. Thus, the Christian name of their father is borne by all the sons of the late Sir *Andrew* Agnew; and, in like manner, the name of *Edward* was bestowed upon all the sons of Gibbon, the historian.

recorded; in consequence of which irregularity, it need scarcely be observed, such entries are rendered very nearly worthless.*

The generally imperfect condition of our parish registers is briefly set forth in the following "explanatory note," by Mr. Brodie, the Crown agent, which is prefixed to a return stating the annual number of births, deaths, and marriages in each parish in Scotland, since 31st December 1841, and ordered by the House of Commons to be printed, 3d February 1852:

"The information for the preparation of this return has been obtained from the session-clerks of the various parishes in Scotland, and, it may be proper to mention, that they almost universally explain—

"1. That there being no register of births, the column headed 'births' embraces *baptisms* merely, and of these only the limited number which are registered.

"2. That there being no register of deaths, the column headed 'deaths' embraces *burials* merely, and of these only a very limited number.

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* In his interesting volume on English Parish Registers, Mr. Burn gives the following rather curious examples of this unaccountable omission :—

Baptism.—"An infant crisaned."

Marriage.—"1722. This day(?) were married by Mr. Holloway, a couple whose names I could never learn, for he allowed them to carry away the license."

Burials.—"A Mayde from the Mill."—"Black John."—"A prentice of Mr. Kilford."—"Goodwife Lee, 1719."—"A Tinker of Berye, in Suffolk."

"3. That there being no register of marriages, the column headed 'marriages' embraces only *proclamations* with a view to marriage. Of course the number of proclamations affords hardly any criterion of the number of marriages, since, on the occasion of each marriage, there must generally be proclamation in two parishes; and proclamations must often occur where either no marriage follows, or the marriage takes place in a parish different from the parish or parishes in which proclamation is made."

The preceding statement respecting the imperfection of what can scarcely be called the *marriage* register, is thus referred to in the notice of the parish of *North Berwick*, in Haddingtonshire, contained in the New Statistical Account:—"A serious neglect in parochial registration has prevailed here, as generally elsewhere, we fear, in the proclamation of marriages alone being recorded, and not the solemnization. It has happened repeatedly during the incumbency of the present minister in this parish, that proclamation was duly made and recorded, but the proposed marriage never took place."

It very often occurs that, even where a marriage has duly followed its proclamation, the fact of celebration is not inserted in the register. Thus:—

Eastwood or *Pollock*, (Renfrew.)—The register of marriage proclamations "is likewise defective, as the parties frequently neglect to return and get the marriage registered."

Dryfesdale, (Dumfries.)—The register of marriages has been regularly kept since the year 1833, "in so far, at least, as regards the

proclamation of banns, the parties often omitting to register the date of the marriages, although no additional fee is exacted for that duty."

Dunipace, (Stirling.)—After the registers came under the care of the session-clerk, appointed in 1843, he "endeavoured to keep a record of marriages, but in a few cases could not get information of the *fact*, and though he asked the parties interested to let him know the date of their marriage, they very often neglected to do so."

In several important parishes, including *Galashiels*, in the county of Selkirk, and *Biggar*, in Lanarkshire, no marriage register of any kind appears to be kept, —an omission which need not, perhaps, be very seriously regretted, when we bear in mind the usually imperfect character of that important record.*

Again, while we are informed in one or two of the returns, including that from the parish of *Barray*, in Inverness-shire, that no record of any kind is kept, a good many others refer to the tendency to even greater irregularity in registration than in former years. Thus:—

Minto, (Roxburgh.)—"During last century, entries were made with more regularity than has since been observed."

Kenmore, (Perth.)—The different entries in the earlier registers "appear to have been made with laudable minuteness—much more so, indeed, than they are at the present day."

Menmuir, (Forfar.)—"Since the year 1827, the number of baptisms registered has continued to decrease, so that now it is rarely that either the birth or baptism of a child is recorded."†

In justice, however, to those few parishes where some attention is paid to the subject of registration,

* See also *Linton*, and *Newlands*, (Peebles;) *Mearns*, (Renfrew;) and *Morebattle and Mow*, (Roxburgh.)

† See, as other examples, *Ancrum*, (Roxburgh;) *Fortingal*, (Perth;) and *Cross and Burness*, (Orkney.)

we must not fail to notice the following creditable exceptions to the usual practice:—

Straiton, (Ayr.)—"During the last twelve years the registers have been kept with great care, embracing almost all that have been born or that have died within the parish, not, as is sometimes the case, only those that were baptized or buried."

Houston and Killallan, (Renfrew.)—The insertion of baptisms merely has been discontinued by the present minister, who "considered it his duty to the public to insist that *births* should be strictly and uniformly registered."

Elie, (Fife.)—The present incumbent "laid it down as a rule not to baptize, till a certificate of registration from the session-clerk was produced; and now this is so well understood, that almost no one thinks of speaking to him on the subject, till this preliminary point has been settled. If any are too poor to bear the expense, the session-clerk either gives his labour *gratis*, or is remunerated by the session."

In the parish of *Eccles*, in Berwickshire, the present clergyman has introduced a great improvement into the mode of baptismal registration, by the use of a book, of which the pages are divided into columns for the entry of various particulars; and at *Dunse*, in the same county, there are *indices* to the registers from the year 1615 to the present time.*

In the case of the baptismal register, the value of the entries is sometimes materially lessened by the *omission of the mother's name*, which, as is truly observed under the notice of *Fogo*, in Berwickshire, "is sometimes as essential to her descendants as the

* See also *Prestonkirk*, (Haddington;) *Killean and Kilchenzie*, (Argyll;) *Old Cumnock*, (Ayr;) *Buittle*, (Kirkcudbright;) *Creich*, (Fife;) and *Wandell and Lammingtoune*, (Lanark.)

father's."* In consequence of this serious deficiency, several questions have occurred in England as to its effect in casting a doubt upon the legitimacy of the children to whom such entries relate; and although some of the decisions have repelled the allegation of bastardy, they have generally proceeded upon certain specialties in each individual case. There can be no doubt that the absence of the *father's* name would, in every instance, be looked upon with the gravest suspicion, and we need hardly observe that the omission of either of the parents, in the register, is liable to be attended by very unpleasant consequences. In the case of children acknowledged to be illegitimate, the words *base born*, or the letters *b. b.*, are usually added to the name in English parish records; and in this part of the kingdom, on the other hand, children born in wedlock are almost invariably described as "lawful" sons and daughters.

In some baptismal registers, for the sake of brevity, the *sex* of the child is omitted, without which it may frequently be quite impossible to discover whether it be a boy or a girl, as many persons have departed from the general rule, by conferring names upon their children not usually applied to their sex.† Thus, a son of the first Earl Powlett, born in the year 1711, was called *Anne*, on account of Queen Anne having

* See *Kinfauns*, (Perth;) and *Urquhart and Logie-Wester*, (Ross.)

† See page 12, *note*.

been his godmother; and cases have occasionally occurred, where posthumous daughters have received the Christian name of their deceased fathers. Some names, moreover, are indiscriminately borne by persons of both sexes; and the now common use of surnames as Christian names has, of course, introduced another source of ambiguity.

By far the rarest of the three classes of records is the register of burials, which, as already noticed, is entirely awanting in a large majority of parishes, including the City of Edinburgh. In a good many instances, although formerly kept, it has now been discontinued, and where it does exist, the date of its commencement is usually very recent.* It almost never happens that any notice is taken of the *cause of death;* and, in the parish of *Stewarton*, in Ayrshire, we are informed, that "there is no distinction of the sexes of children under twelve years of age."

In the few following instances, however, it is gratifying to find that a better system has been introduced:—

Lochlee, (Forfar.)—"The age and diseases (if known) of all persons dying, are carefully recorded."

Scone, (Perth.)—"Since 1838, a register of deaths has also been kept, stating the age and the disease that proved fatal."

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* According to the Crown Agent's return, salaries are paid to the keepers of the burial registers by the magistrates of Ayr, Stirling, and Greenock, amounting to the sums of £1, 6s., £5, and £10 respectively.

Maybole, (Ayr.)—"A very accurate register of deaths, and the age and diseases of the deceased, has been kept for the last few years; and the mode of furnishing a document so important, is at the same time so simple, that its general adoption is much to be desired. A small fee (it is added) leads the church-officer to make the requisite inquiries at every funeral. The result is given in to the kirk-session every Sabbath after service, and is then entered into a book. If there is any defect in the information, the elder best acquainted with the relatives of the deceased makes further inquiry, and reports to the succeeding meeting."*

Notwithstanding an enactment upon the subject, by the General Assembly, in the year 1700, it is much to be feared that the annual revision of the parochial registers is not very carefully attended to by the different presbyteries; and, without some such examination, it can hardly be expected that, under the present system, these important records can be kept with any degree of accuracy.†

In different parishes we find a material variation in the forms of the entries, which, even where they do not exhibit any of the more serious imperfections already referred to, are frequently very far from being well expressed. There would be little room for complaint, were the session-clerks invariably to adopt the judicious styles which are contained in the Rev. Dr. Cook's very useful manual;‡ or, what would be still better, if they could be prevailed upon to use small folio books, with printed headings, such as those

* See also *Closeburn*, (Dumfries;) and *Carnwath*, (Lanark.)

† See "Styles of Procedure in the Church Courts of Scotland," by the Rev. Dr. Cook of Haddington, pp. 264, 265.

‡ *Ibid.*, pp. 37-41.

which are published by Mr. David Robertson, Church Stationer, Glasgow.*

The very imperfect state of our parish registers is perhaps more strikingly set forth in the Crown Agent's Return, already referred to, than by any other authority. From the pages of that important document, we have prepared, with considerable care, the follow-

* In many instances, the entries in our parish registers contain other information besides the mere events of baptism, burial, and marriage. Thus, in the case of baptisms, in addition to the witnesses, mention is frequently made of one or more *namefathers* or *namemothers*, reminding us of the godfathers and godmothers of the canon of 1551. The burial register, besides recording the merits of the deceased, sometimes describes with the greatest minuteness the position of his grave; and, in the record of marriage proclamations, the "consignation of pledges" by the contracting parties is occasionally noticed, their restoration being also chronicled, after the ceremony has been duly performed.

Some of our modern newspaper announcements appear to vie with the more elaborate entries in the parish registers, and, it must be added, they not unfrequently provoke a smile. In notices of marriage, for example, we often find a little pedigree of the parties, in which the comparatively obscure parents are almost entirely lost sight of amid the names of titled granduncles and even mere *connexions;* and the additional security of the knot seems sometimes to be implied by the mention of at least two officiating clergymen, one of whom is usually "uncle," or "brother of the bride." A still more remarkable feature in these amusing advertisements is what may be called the *abuse of terms*. Thus, in announcing the births of their children, many husbands appear to be ashamed of the good old and intelligible appellation of "Wife," giving an extraordinary preference to the rather questionable substitute of "Lady." The "names of worship," too, are now regarded as common property; and while, among the softer sex, not only ladies-maids, but even the rulers of the kitchen, are indignant at the omission of *Miss* or *Mistress*, the humblest butler considers himself quite as much entitled to the addition of *Esquire*, as the master whom he serves, although his blood may happen to be as red as that of the Howards.

ing tabular statements, which, it is believed, will illustrate more clearly than any other means, the almost incredible deficiencies in Scottish Registration. In the first of these statements, the counties of Sutherland, Linlithgow, and Dumfries, have been selected as pretty fairly representing the three districts of Highland, Midland, and Lowland, into which Scotland may be divided; while the second exhibits the state of registration in the five largest cities and towns. The third table, it will be observed, shows the total number of births, deaths, and marriages, recorded in the whole of Scotland, during only the first and last years of the Crown Agent's Return:—

No. I.

Name of County.	Sutherland.			Linlithgow.			Dumfries.		
Number of Parishes.	13			13			43		
Population in 1841.	24,782			26,872			72,830		
Number of registered	Births.	Deaths.	Marriages	Births.	Deaths.	Marriages	Births.	Deaths.	Marriages
During Year 1842	470	53	134	350	193	175	1045	378	369
" 1843	390	38	116	282	206	176	1016	370	339
" 1844	190	19	141	262	208	194	751	376	395
" 1845	185	12	149	245	180	260	908	372	406
" 1846	124	7	149	279	267	263	899	456	482
" 1847	100	14	138	186	367	244	862	692	463
" 1848	88	22	155	177	327	243	829	868	488
" 1849	78	24	129	203	391	220	930	559	516
" 1850	74	21	131	209	315	291	860	584	498
Average of the nine years, exclusive of fractions.	188	23	138	243	272	229	900	517	439
Population in 1851.	25,739			30,135			78,123		

Note.—In six of the nine years *deaths* are entered under only *one* of the thirteen parishes in Sutherlandshire, and in the other three years under only *two* of these.

From two of the forty-three parishes of Dumfriesshire no returns were received; while under upwards of *one-half* of the other forty-one parishes no *deaths* are entered, and under nearly *one-fourth* of these, no *marriages*.

No. II.

Name of City or Town.	Glasgow, (including *Barony* and *Govan* Parishes.)			Edinburgh, (including *Canongate* and *St. Cuthbert's* Parishes.)			Dundee.			Aberdeen.			Paisley, (including *Abbey* Parish.)		
Population in 1841.	270,486. (?)			138,190.			62,794.			64,767.			47,695.		
Number of Registered	Births.	Deaths.	Marriages	Births.	Deaths.	Marriages	Births.	Deaths.	Marriages	Births	Deaths.	Marriages	Births.	Deaths.	Marriages
During Year 1842	2393	54	1769	1150	2204	1091	761	1567	539	605	369	291	443	...	325
,, 1843	2384	61	1893	1145	2304	1063	586	1637	512	570	542	244	398	...	457
,, 1844	2511	59	2249	1062	1745	1175	458	1267	545	506	526	289	313	...	530
,, 1845	2633	124	2637	1040	1691	1217	433	1440	578	518	605	336	335	...	570
,, 1846	2561	120	2493	950	1988	1176	467	1649	566	512	619	338	324	...	517
,, 1847	2160	209	2280	1057	2675	1207	487	2641	423	501	579	269	308	...	418
,, 1848	2475	158	2553	1032	2520	1287	504	2248	545	396	1082	325	297	...	459
,, 1849	2454	189	2988	1071	2079	1376	536	2463	662	518	486	300	369	...	541
,, 1850	2638	118	3263	1194	1481	1294	554	1629	716	626	428	328	291	...	624
Average of the nine years, exclusive of fractions.	2467	121	2458	1077	2074	1209	531	1837	565	528	581	302	342	...	493
Population in 1851.	343,352[1]			160,302			78,931			71,973			47,952		

Note.—All the *deaths* under the head of Glasgow are from the *Govan* Register, which accounts for the smallness of the figures. No register of deaths is kept in the City parish of Edinburgh; nor in either of the Paisley parishes, as indicated by the blanks.

[1] According to the census of 1851, the population within the Parliamentary boundaries of Glasgow, which include the greater portions of both the *Barony* and *Govan* parishes, as well as the whole of *Gorbals* parish, amounted to 329,097.

It will be observed that, since 1841, the position of Dundee and Aberdeen has been reversed with respect to population.

No. III.

Whole of Scotland, (879 Parishes.)	Number of Registered			Population.	
	Births.	Deaths.	Marriages.		
During year 1842,	36,158	15,948	17,722	1841,	2,620,184
„ 1850,	26,780	18,509	23,941	1851,	2,888,742

Note.—Of the 879 parishes, only 14 appear to have made *no returns*. A few of the others have *no entries* under the head of "Births," while considerably more than a tenth of the whole number exhibit a similar deficiency in the Marriage Register. By far the greatest number of blanks, however, occur under the head of "Deaths," there being no fewer than 584 in 1842, and 552 in 1850.

Not a few remarkable results are presented in each of the preceding tables. Thus we learn from the figures in No. I. that, in each of the three counties of Sutherland, Linlithgow, and Dumfries, there was a large *decrease* in the number of BIRTHS registered during the period embraced by the return. This decrease is most striking in the case of Sutherlandshire, where the number of registered births fell, from 470 in 1842, to 74 in 1850, the average being 188. It appears from one of the recent reports of the Registrar-General, that in England there is one birth for every 31 persons living; and according to the same ratio, taking the population of Sutherlandshire, in round numbers, at 25,000, (as an approach to the mean between the results of the last and the

preceding census,) the annual number of births, in that county, should amount to upwards of 800. In addition to the remarkable decrease, all the returns exhibit several instances of extraordinary *fluctuation*, in the number of registered births, during the course of the nine years included in the return. Thus, the births recorded in the counties of Dumfries and Linlithgow in the year 1843, amounted to 1016 and 390 respectively; while in the following year, only 751 and 190 appear to have been registered. In 1845, the births recorded in Dumfriesshire again rose to 908, while in Sutherlandshire, their number presented almost no variation as compared with that of 1844.

With respect to the returns under the head of "DEATHS," if we keep in view the explanation contained in the *note* appended to the table, it is quite useless to make any observations on those relative to the counties of Sutherland and Dumfries. In the case of Linlithgowshire, we find that the number of registered deaths fluctuated between 180 and 391, while the average of the nine years was 272; a number, we may remark, far short of the English ratio, (founded on the returns applicable to the years 1838-1846 inclusive,) which gives 622 deaths to a population of 28,000, being about one in every forty-five persons living.

No satisfactory deductions can be drawn from the returns under the head of "MARRIAGES," as we have

already seen that the figures represent the number of proclamations of banns, and afford almost no criterion of the number of marriages. Accordingly, although it happens to be otherwise in the shires of Sutherland and Dumfries, the average number, under the head of marriages, in the county of Linlithgow is considerably *larger* than it ought to be, (229 instead of 215,) if, at least, we are to be guided by the English ratio, which only gives one marriage to every 130 persons living.

By applying the same principle of calculation to our SECOND TABLE, we find that the number of registered *births* in the five largest cities and towns in Scotland, is also very far short of what it ought to be. Thus, in the Glasgow column, instead of nearly 10,000 births, we have only an average of 2467; in the Edinburgh column, 1077, instead of upwards of 4800; and, in the Dundee column, only 531, instead of about 2250! Again, as striking instances of decrease in the numbers registered, we observe that in the case of the two Paisley parishes, the recorded births fell, from 443 in 1842, to 291 in 1850; in Aberdeen, from 605 in 1842, to 396 in 1848; and in Dundee, from 761 in 1842, to 433 in 1845, being a decrease of no less than 328 in the short space of three years!

In consequence of the statements contained in the *note* annexed to the table, it is, of course, unnecessary to notice the returns under the head of "*deaths*," in the

cases of Glasgow, Edinburgh, or Paisley. It will be observed, that the number recorded in Aberdeen fluctuates rather remarkably between 369 and 1082, while the average is only 581, instead of 1500, according to the ratio of English mortality. A very different, and very awful result, presents itself in the case of Dundee, where the numbers fluctuate between 1267 and 2641, while the average of the nine years, instead of only 1555, is no less than 1837 ! *

With respect to *marriages*, of which the actual number is probably very far short of that represented in the returns, it will be seen that the average of those registered in Edinburgh and in Glasgow, bear a very fair proportion to each other, in comparison with the respective populations. The gradual increase, however, in the number registered during the nine years embraced by the return, presents a very striking contrast in the two cities. Thus, while the number in Edinburgh rose, from 1091 in 1842, to 1294 in 1850, being an increase of only about 200 during the course of eight years, those of the wonderful Metropolis of the West advanced, in the same time, from 1769 to 3263; being a difference of very nearly 1500 ! † Again, while in Glasgow the average

* Even this large number is, in all probability, considerably short of the truth. It must be borne in mind, however, that we are contrasting the Scottish returns with the ratio of births, deaths, and marriages in the *whole* of England, which will, of course, in some degree, account for the prodigious mortality of Dundee!

† On Sunday, the 11th of December 1853, there were no less

numbers of recorded births and marriages are very nearly the same; in the case of Edinburgh, Dundee, and Paisley, the former are very considerably *less* than the latter. Surely the wives of the house of Abimelech are among the inhabitants of our cities and towns!

On turning to the LAST of the three tables, we find that the *births* registered in the whole of Scotland, fell, from 36,158 in 1842, to 26,780 in 1850, being a decrease of very nearly 10,000. The last of these two figures (26,780) presents a very extraordinary result, when we compare it with the ratio applicable to England, which, to a population of 2,888,742, gives upwards of 93,000 births!

When we repeat the statement already made, that, of the 879 parishes included in the return, upwards of 550 are not possessed of any register of *deaths*, it will be apparent, even to the most unwilling inquirer into the mysteries of statistics, that the very slightest approach to any satisfactory conclusion on the subject of our national mortality, during the nine years extending from 1842 to 1850, cannot possibly be made.

As explained in our remarks upon the other tables, the figures under the head of "*marriages*," as relative to the whole of Scotland, are also of comparatively little value. The average number of the two years

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than 189 proclamations of marriage in the city and barony parishes of Glasgow, of which 78 occurred in the former, and 111 in the latter.

which we have selected, amounts to about 20,000, and if these figures applied to the number of marriages, instead of to the number of *proclamations*, the result would be tolerably near the probable truth. Thus, we find that a population of 2,750,000—which is about the mean between the returns of the last and the preceding census—gives, according to the English ratio, rather less than 21,000 marriages.

We refrain from making any further comment on the very extraordinary results presented in these tables, —suffice it to be observed, that they cannot possibly be produced by any natural, and still less by any *unavoidable*, causes.

In the returns, on the head of parochial records, contained in the New Statistical Account of Scotland, we find the deficient state of the registers attributed, almost invariably, to one of the two principal causes already noticed, in our quotations from Sir John Sinclair's earlier work. The first of these causes, which applies more especially to the record of births, is the negligence of parents in general; while the second, and by far the most frequent cause, is the reluctance or refusal, on the part of Dissenters, to make use of any of the registers. The allusions to the *negligence of parents* are so numerous, that we believe it would be no very great exaggeration, were we to assert that every tenth return expresses a complaint upon this subject. Thus, in the county of Aberdeen alone, it occurs in no less than eight instances, and we are

positively wearied by its constant repetition in almost the same words. In a few cases, the irregularity is referred to in rather striking language. For example :—

Kelton, (Kirkcudbright.)—" So inveterate has become the habit of neglecting the register, that not one parent in ten can be persuaded to record the births of his children."

Wilton, (Roxburgh.)—" The only remaining register is that of births, but it exhibits nothing like a punctual or regular registration, parents often disregarding every admonition to record the nativity of their children."

Under the notices of the parishes of *Forres* and *Rafford*, both in the county of Elgin, the neglect of registration is partly attributed to the fact of the poorer classes desiring to evade the small fee which is charged by the keeper of the record ; and perhaps this circumstance need not cause very much surprise, when we bear in mind the vast amount of ignorance, respecting the importance of the subject, which still, unfortunately, exists, even among those who occupy a higher sphere in society.*

* In the note prefixed to the Crown Agent's return already referred to, it is stated, that " as to the scale of fees, (I.) the column headed ' deaths ' is not filled up, there being no proper register either of deaths or burials, and consequently no fees charged ; and (II.) the column headed ' marriages ' is rarely filled up, any fees charged being usually paid with reference to the proclamations."

On examining the column headed " births," we find, that, with a very few exceptions, where the fee charged varies from 2s. to 5s., the sum paid at the registration of a birth, or rather baptism, never exceeds 1s. 6d. ; being usually 1s., occasionally 9d., very frequently 6d., and sometimes even as low as 3d. Notwithstanding the Crown Agent's statement, the column headed " deaths " contains a good many entries. In a few cases, the fees extend from 1s. 6d. to 5s.,

The *reluctance or refusal, on the part of the Dissenters*, to use any of the records, forms a still more frequent ground of complaint than the negligence of parents in general. In some parishes, it appears that their objections to register could not be removed even when it was resolved to make the entries without any charge. Thus :—

Kirkmahoe, (Dumfries.)—"For a long time the Dissenters declined to give their names to be inserted, though they had the offer of registration free of expense. Even now (1834) our registers are not entirely full."

Kinclaven, (Perth.)—"Among the Dissenters especially great negligence in recording the births and baptisms of their children still prevails ; although, to induce them to do so, it has been the practice, during several years, to exact no fees for such registrations."

In a few parishes, including *Cumbernauld* and *Kirkintilloch*, in Dumbartonshire, the Dissenters keep a register for their own congregations, and a similar practice is observed by some of the Scottish Episcopalians ; but such a record, we need scarcely observe, is, under present circumstances at least, of very limited value.

Two rather remarkable exceptions to the all but universal neglect of registration, on the part of Dis-

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but 1s. is very common, and from 6d. to 2d. even more so. In the parish of *Dunse*, in Berwickshire, the burial fees are paid by the heritors. From the column headed "marriages," we learn that in some rare instances the fee paid varies from 1s. 6d. to 7s. ; but the usual sum is 1s., while 6d. occasionally occurs. The "little fortune" of sixteen shillings and sixpence appears to have been paid for the only marriage registered in the parish of *Alford*, in Aberdeenshire, during the period embraced by the return.

senters, present themselves among the various returns. In the parish of *Lerwick*, in Shetland, we are informed, that "*the people of all sects*" are now alive to the importance of the subject; while the Dissenters of *Lochmaben*, in Dumfriesshire, have the good sense to "shew as much anxiety for the registration of their children as the members of the Established Church."

Under the notices of several parishes in the county of Inverness, special mention is made of the neglect to use the registers, on the part of Roman Catholics;* and in other quarters, we are told, that since the year 1843, Free Churchmen have been guilty of a similar omission.†

Various other causes might be enumerated as contributing to the scantiness of the different records. Thus, in the case of the baptismal register, in addition to the large number of infants who die without having been baptized, and consequently without having been recorded, we must also bear in mind the lamentable neglect of the sacred ordinance, on the part of too many parents whose offspring has been permitted to survive.

In former times, the "unworthiness" of parents

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* See *Kilmalie*, *Kilmonivaig*, &c.

† See *Carnwath*, (Lanark,) and *Alness*, (Ross.) It is highly probable that the decrease in the number of registrations, exhibited in the Crown Agent's Return, is, in no small degree, attributable to the unfortunate "Disruption" of 1843.

sometimes proved an obstacle to the baptism of their innocent children, and therefore, also, to the insertion of their names in the register. Many of our kirk-session books of "discipline" contain references to the rising of 1715, any connexion with which, on the part of a parent, had to be contritely acknowledged before his child could be baptized. The following abridged entry from the session minute-book of the parish of *Anstruther Wester*, in the "Kingdom" of Fife, affords rather a curious example of the result of a reproof, which is also recorded:—

"*January* 25, 1717.—John Lyall, late magistrate of this burgh, confesses his sinful compliance in the late rebellion, drinking the pretender Mar, and several other rebels' healths att the Cross, ... and several other things he confesses, and professes his sorrow for the same, and promises to walk more regularly in time coming, and to worship God in his family; upon which the minister condescends to baptize his child."*

Several of the returns attribute the imperfection of the *burial* register to the circumstance of many people being interred in cemeteries which do not happen to be situated within the parish of their decease;† and it still appears to be the practice in some parts of the country to record only those persons, whose friends have paid for the use of the *mort-cloth* belonging to

* In our own day, clergymen sometimes consider it to be their duty to refuse the sacred rite. Not many months ago, an instance of this occurred in the metropolis of the West, where a Free Church minister declined to baptize the child of a member of his congregation, who on Sundays acted as the "conductor" of an omnibus.

† See *Colinton*, (Edinburgh,) and *Kettle*, and *St. Andrews*, (Fife.)

the kirk-session.* We are informed, however, that in the parish of *Auchtermuchty*, in Fife, it has now become fashionable to use the mort-cloth of private societies, or, what is even more common, none at all; in consequence of which innovation, "no authentic record is kept of the mortality which takes place within the parish." On the other hand, it is rather curious to find it stated in Wood's History of the Parish of *Cramond*, (published in the year 1794,) that the original mort-cloths having been purchased by the heritors and principal farmers, these persons and their families were exempted from all payment of dues for the use of them, and accordingly that their burials were not recorded in any of the parochial books.

The very imperfect condition of our parochial records of births, deaths, and marriages, has often proved the source of much ambiguity and annoyance in cases of disputed succession, as well as in questions of legitimacy, and other important legal proceedings. In some instances, great difficulties have arisen in consequence of the irregular and suspicious appearance of the registers which have been produced; while at other times, the entire, or partial, omission of desiderated entries has compelled the rival parties to resort to evidence of an inferior kind, usually founded on hearsay or reputation, and

* See *Stevenston*, (Ayr,) and *Cromarty*. Also *Dron*, (Perth,) *Old* Statistical Account, vol. ix. p. 474.

not unfrequently on mere presumption. The value, as well as the imperfection or non-existence, of parish registers, has very often appeared in claims to peerages before the House of Lords. In two Scotch cases, for example, it was proved that no register of deaths had been kept in various parishes, in consequence of which deficiency, the attainment of some important evidence was rendered, if not impossible, at least much more difficult than it would otherwise have been.*

The worthlessness of our system of registration is very clearly exhibited in several of the reported decisions of the Scottish courts, of which the earliest occur towards the beginning of the seventeenth century. Thus, in an action of reduction of a bond between two parties, the pursuer adduced a testimonial, bearing the time of his baptism, subscribed by the keeper of the session-books of Edinburgh, in order to prove his minority. The Lords, however, found that it was insufficient to do so, partly because the register was not of such authority that an extract thereof ought to make faith *per se;* but chiefly, because the date of baptism could not be regarded as proving the time of *birth*, as the party might have been one or more years of age before he was baptized, and accordingly was not entitled, in proving his minority, to reckon from his baptism. "Such testimonials, however," the report rather quaintly

* Lovat Barony, Min. Ev., 65-71. Airth Earldom, Min. Ev., 143.

adds, "may have greater respect and faith to prove *majority*, and that to count from the time of his baptism, *for he must be born ere he be baptized.*"*

In addition to questions of liability for civil contracts, it may frequently be of the greatest consequence to ascertain a young person's age, in reference to other very important matters, such as the power of consent to marriage; choice of domicile; qualification for certain offices and professions; the right to dispose of property, to vote at Parliamentary elections, or to sit in the House of Commons; the competency of giving evidence, or of being employed in factories and mines; and finally, the responsibility for criminal acts.†

In two other early Scotch cases, the testimonial of a reader, or minister, on the one hand, and an extract from the books of a kirk-session, on the other, were not considered to be sufficient proof of age, being only regarded as adminicles.‡

Several questions have occurred in England, as to

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* Wilson *v.* Aitken, March 3, 1626. Mor. Dict. 12700.

† "In reckoning age, the birth-day is excluded; this throws back the period of majority one day, and as 'the law knows no fractions of a day,' infancy ceases at the very commencement of the day preceding the twenty-first anniversary of the birth. Thus, a man who was born on the 1st of January (1822,) at any moment before midnight, is of age, to all intents, on the 31st of December (1842,) immediately after midnight of the 30th."—*Macpherson's Law of Infants*, p. 447.

‡ Cumming *v.* Cumming, July 20, 1628. Mor. Dict. 12630, Thomson *v.* Stevenson, June 4, 1667. *Ibid.*, 12701.

the evidence of the time of *birth* afforded by mere baptismal registers, which, as stated by Mr. Hubback, do no more than create "strong presumptions, in conjunction with other facts."* Accordingly, in a comparatively recent case, a register of baptism, accompanied by proof that the party, to whom it referred, was born about the time, was only admitted as evidence of *infancy*." †

During the present century, numerous cases have been litigated in Scotland, which could never have arisen, if reasonable attention had been paid to the subject of parochial registration. Thus, in a trial before Lord Pitmilly, at Inverness, in the year 1825, the sole point at issue was, whether a certain Mrs. Catherine Fraser, or Robertson, survived the 2d day of July 1802? The presiding judge observed, "It is clear that this woman died in a month of October, and the only question is, whether it was in October 1801, or 1802? It is much to be regretted," added his Lordship, "that there is no register of births, deaths, and marriages, as the want of it may, in this case, be productive of injustice to one or other of the parties, and much benefit arises from their being regularly kept." ‡

A few years later, another case occurred, in which an extract, from the Perth register of burials, of an entry

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* Evidence of Succession, p. 426.

† Leader *v.* Barry, 1 Esp. N. P. C. 353.

‡ Millar *v.* Fraser, Oct. 25, 1825. 4 Mur. 112

made in the year 1800, was founded on in the reduction of a service. "Eighty years" was stated in the entry as the age of a person then buried, and that age was a circumstance which vitally affected the service. The defender offered to prove, *inter alia*, that the register was loosely and inaccurately kept, particularly in and about the year 1800, and that the person who then kept the record was since dead; but the presiding judge (Lord President Hope) refused to admit the evidence, observing, that it was at the best immaterial, as the extract was not good evidence of the *age*, (which was inserted on hearsay,) but merely of the burial, of the party; and his Lordship repeated the same observation in charging the jury. It was held, however, under a bill of exceptions, that the evidence ought to have gone to the jury, as it could not be known what effect the extract had on their minds, or how far that effect was successfully counteracted by the observations of the judge.*

Such cases very clearly show the vast importance of the provisions in the existing English Registration Act, which require the day of every *birth* and *death* to be accurately recorded. Our French neighbours, as we shall afterwards have occasion to notice, in accordance with their usual love of detail, go a step further, by insisting on the *hour* being also registered; and it cannot be doubted that questions of survivorship

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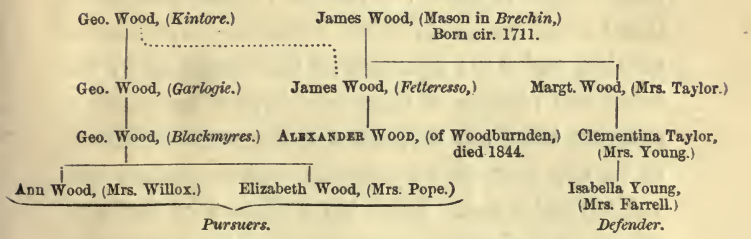
* Watson *v.* Watson and others, March 7, 1837. 15 S. 753.

might easily arise, where such minute information would prove of material consequence.

Within the last few years, two very important cases of disputed succession have occupied the attention of the Scottish Courts. The first of these cases, *Willox* v. *Farrell*, was not decided until after a lengthened course of litigation; and the other, that of *Morgan*, in the first branch of which the verdict of a jury was returned not many months ago, is not likely to be settled at a very early period.

The defender, in the case of *Willox*, was Mrs. Isabella Young or Farrell, widow of John Farrell, (corporal in the 16th Regiment of Foot,) residing in Stonehaven, who, in the year 1845, had been served nearest and lawful heir in heritage of the deceased Alexander Wood, of Woodburnden, in the county of Kincardine, the value of whose property amounted to about £40,000. The pursuers, Mrs. Ann Wood or Willox, and Mrs. Elizabeth Wood or Pope, (two sisters,) having raised an action of reduction of Mrs. Farrell's service, the following issue was tried before Lord Robertson and a jury, at Edinburgh, in the autumn of 1846:—"Whether the pursuers are the nearest and lawful heirs-portioners of Alexander Wood of Woodburnden, deceased?" On a verdict being returned for the defender, the pursuers tendered an exception to the law as laid down by the presiding judge, in so far as his Lordship had rejected the evidence of a witness who happened to be

their aunt. In March 1847, this exception was disallowed by an interlocutor of the Court, which, however, was afterwards reversed by the House of Lords, and leave granted for a new trial. A second trial accordingly took place before Lord Ivory and a special jury, at Aberdeen, in January 1848, which lasted no less than *twelve* days, and the verdict, as on the former occasion, proved favourable to the defender. Probably no other jury trial in Scotland has extended over so long a period of time, and, it is believed, that the professional gentleman who acted as agent for the losing parties, and who was practically the *dominus litis*, became seriously embarrassed on account of the enormous expenses that were incurred. The narrowness of the question at issue will best appear from the following tabular pedigree:—



It was alleged by the pursuers, that James Wood of Fetteresso was not the son of James Wood, mason in Brechin, but of their great-grandfather, George Wood of Kintore, and consequently the brother of George Wood of Garlogie; in which view, it will be obvious,

that, as sprung from the *uncle* of the laird of Woodburnden, the pursuers, had they succeeded in proving their case, would have had a prior claim to the defender, who was only the granddaughter of his aunt, Mrs. Taylor.

In the absence of more satisfactory proof, it became necessary to have recourse to a mass of inferior evidence, from which, as is usually the case, some very ingenious conclusions were endeavoured to be deduced. Much speculation would, of course, have been prevented, if the parish registers, which were consulted, had proved to have been even tolerably well kept. In addition to the entire omission of certain entries, the imperfections of these important records, in other respects, appeared in various portions of the evidence. Thus, the session-clerk of Dunnotar deponed, with regard to a certain volume produced, that he was not aware of its containing any authentication, under the signature of the keeper, as to its being the register of marriages within the parish; and that there was not, either at the commencement or in any part of it, any title declaring what the volume really was. From the testimony of the session-clerk of Kintore, it was found, not only that the register of that parish, about the year 1720, (the period in question,) was almost illegible, but also, that in one of the entries material to the case, several words appeared to be *retraced.* The irregularity of the Brechin registers, during the early portion of

the eighteenth century, was also shewn by various excerpts from the minute-book of the kirk-session. About the year 1704, these registers appear to have been carried off by a minister named Skinner, who was discharged from preaching, "for contempt and disobedience;" and an action for their recovery having been threatened, if not actually raised, some of them, at least, seem to have been restored, although not until after the lapse of a good many years. Accordingly, we learn from a *notandum* at the end of the volume of the baptismal register, which concludes with the year 1725, that "some children's names are there set down, who were baptized in the meeting-house in 1711, an omission (it is added) which is not to be imputed to the session-clerk, but to the divisions in the place at that time."

The following is a slightly abridged summary of the other important case of disputed succession, already referred to, for which we are indebted to a recent volume of reported Session cases.*

John Morgan, of Coates Crescent, Edinburgh, died on the 25th of August 1850, leaving property to the value of about £100,000. Two years previously, Mr. Donald Lindsay had been appointed his *curator bonis*, on account of his infirm state of mind, and, in the month of November following his death, that gentleman was also nominated judicial factor on his estate.

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* Morgan *v.* Morris, Nov. 23, 1853. 16 D. 82.

Under authority of the Court, he confirmed executor-dative of the deceased, and immediately raised an action of multiplepoinding, in which he called all whom he could ascertain to be interested in the estate. Among the claimants, there appeared a James Morgan, who alleged that he was nearest heir of the deceased, both in heritage and moveables, being the only surviving son of another James Morgan, who was brother of Thomas Morgan, John Morgan's father—in short, that he was *cousin-german* of the deceased. There also appeared two brothers named Morris, recently residing in Canada, who denied that there existed any relationship between James Morgan and the deceased, and averred that they themselves were his nearest of kin, being grandsons of the sister of his father, and consequently his *cousins-german, once removed.* Claims were also lodged for other parties, and, after certain proceedings in the case, a new claimant appeared in the person of Alexander Morgan, who had lived abroad for many years, and who was admitted to be the elder brother of the claimant James Morgan.

After much discussion as to what shape the case should take for trial, the Court ultimately held, that the parties averring the nearest relationship should, in the first instance, prove their allegation, (the other claimants standing as defenders,) which, if well-founded, would necessarily exclude all the rest. In February 1853, the following issues were approved

of:—" 1. Whether the pursuer, Alexander Morgan, is nearest and lawful heir of John Morgan, some time residing at Coates Crescent, Edinburgh, deceased? 2. Whether the pursuer, James Morgan, is, along with the said Alexander Morgan, next of kin of the said John Morgan, deceased?"

In the month of July following, some other parties named Crocket, claiming through the same ancestor as James and Alexander Morgan, made an unsuccessful motion to be sisted in the action; and the trial took place at Edinburgh in August, before the Lord Justice-Clerk and a jury. After having lasted four days, the case for the pursuers was found to be "Not Proven." On the 23d of November, the defenders moved the Second Division of the Court to "apply" the verdict, which proposal was resisted by the pursuers, on the ground that it was not truly an answer to the issues, and that there had been a miscarriage in the shape in which the case was sent to trial. The Court, however, unanimously considered the verdict to be an appropriate answer to the issues, and accordingly applied the verdict.*

In this important case, the evidence of pedigree

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* It is understood that an appeal has been presented against this judgment to the House of Lords. In the meantime, however, some of the other parties, defenders on the former occasion, are about to act the part of pursuers in a *second* trial; in which, the effect of a favourable decision will, of course, depend upon the result of the proceedings in the Court of last resort.

only extended two generations backwards, John Morgan, the grandfather of the deceased, being the alleged "common ancestor" of all the various claimants. As in the case of Willox, the registers of several parishes were resorted to, with more or less success, and, in one instance at least, their unsatisfactory condition was very clearly exhibited. It appeared from the evidence of the session-clerk of the parish of Barry, in Forfarshire, that a material entry of a baptism, dated April 24, 1735, was an obvious interpolation. This the witness inferred from the difference in the colour of the ink, and in the form of the letters, as compared with other entries at the same period; and, moreover, it did not occur in its proper place, being inserted at the bottom of a page, and coming between two other entries dated the 9th and 11th of March. Again, the entry did not appear in what was produced as a "duplicate" of the register, which the witness considered to be more complete than the register itself. At the end of the year 1735, there was a summation of the number of male and female children that had been baptized, representing the former at 16, and the latter at 12, which figures, in the opinion of the session-clerk, had been originally 17 and 10 respectively, and had evidently been altered. Such a supposition, however, cannot be very easily reconciled with the fact, that, independently of the entry in question, the number of male children amounted to only 16. It further appeared from the

testimony of the same witness, that he was not in the habit of keeping the register locked up; that he allowed it to be inspected without himself being present; and that he was in the practice of making entries of births and marriages, not only after the date of the events, but also irrespectively of chronological order.

It is rather remarkable, that in another important case of disputed succession, now under investigation, the parties who are believed to be most deeply interested, happen to belong to the same locality as the claimants of the large fortunes left by Mr. Wood and Mr. Morgan. Upwards of a century has elapsed since two brothers of the name of Souter took their departure, from the town of Arbroath, for the continent of Europe. Some years ago, the son of one of these brothers died without issue, near Aran in Switzerland, leaving upwards of £1,000,000 sterling; and the supposed heirs to this princely fortune are said to be resident in the neighbourhood of Laurencekirk, in the county of Kincardine.

We need scarcely observe, that, notwithstanding their frequent occurrence, the cases of disputed succession, which occupy the attention of our courts, afford a very insufficient indication of the many serious hardships experienced both by families and individuals, in consequence of the imperfect condition of the parochial records. Where the proof of consanguinity has to be carried back to a period which lies

beyond the recollection of the "oldest inhabitant," the very strongest presumptions of propinquity are generally entirely worthless, when unsupported by the clear and simple evidence of the parish register; and it too frequently happens, that the pages of that unsatisfactory record are consulted in vain, more especially by our poorer brethren. The truth of this statement, while it is fully confirmed by at least one of our quotations from the Old Statistical Account of Scotland, also meets with ample corroboration in the later returns from the different parishes, to which we have already so frequently referred. Thus:—

Denny, (Stirling.)—"It is to be regretted that there are some who do not record the baptisms or births of their children. Not a year passes in which parties do not suffer from this neglect."

Gargunnock, (Stirling.)—"Since the end of the seventeenth century, many marriages, births, baptisms, and burials have been omitted to be recorded; and in consequence, several valuable legacies have been lost to the nearest heir."

Loth, (Sutherland.)—The want of registers of an earlier date than the end of last century "has been often attended with the most vexatious and injurious consequences to persons in humble life, who require to establish their propinquity to deceased and remote relatives." *

In noticing the neglect on the part of the poorer classes to register births, marriages, and deaths, the minister of the united parishes of *Bunkle* and *Preston*, in Berwickshire, remarks, that "the reason which they assign for not doing so, is, that they have no rich friends to leave them or their families money

* See also *Stewarton*, (Ayr;) *Gamrie*, (Banff;) *Alloa*, (Clackmannan;) *Kirktown*, (Roxburgh;) and *Dornoch*, (Sutherland.)

and property. It does sometimes occur, however, (he continues,) that some one or other of a family becomes prosperous, and leaves property at home or abroad, and then the want of a registration is occasionally inconveniently felt. For this reason alone, (it is very properly added,) a general registration is a great desideratum." Such an opinion, it will be acknowledged, is abundantly confirmed by the litigated causes which we have noticed above. The proverbial success of our wandering countrymen, in almost every quarter of the globe, renders attention to registration peculiarly necessary in Scotland; and, in the present day, the vast and increasing amount of colonial immigration, encouraged by the return of what may literally be described as the "golden age," is, most assuredly, well calculated to remind us of the great importance of the subject.

Everybody knows that the law prescribes no limit in consanguinity, beyond which succession to real or personal property shall not take place; and it is perfectly obvious, that accurate and universal registration would be the means of preventing many an instance of unwarrantable possession, both of money and estates, besides frequently revealing the existence of unknown, or at least unacknowledged, propinquity. A curious case recently occurred in the south of England, the result of which would seem to prove that the condition of some of the parish registers in that part of the kingdom cannot be very imperfect. An

inhabitant of Bristol, named Russell, had left, at his death, a considerable amount of property. Among the legacies in the will, the sum of £100 was bequeathed by the deceased to each of "his cousins;" but no names being specified, it was open to the whole of the testator's cousinhood to come forward as claimants. It was expected that about half-a-dozen persons might possibly appear, whereas the actual number, who eventually presented themselves, amounted to no less than *fifty-nine*, from various parts of the world, of whom only two have failed in making out a case to the satisfaction of the executors.

Advertisements for "next-of-kin," and of rewards to session-clerks for desired information, are frequently to be seen in the columns of our newspapers; but it is to be feared that in Scotland, more especially, their insertion is very often unattended by any satisfactory result. So common, indeed, is the occurrence of such notices, that at least one office exists in London, where "complete registers are kept of all next-of-kin, who have been advertised for during the last hundred years."

The rules of evidence applicable to parish registers are fully set forth in the works of various able authors.* The amount of credibility to be attached to these important records depends on various circumstances;

* See particularly the valuable treatises of Phillipps, Starkie, Greenleaf, and Hubback.

thus, it is usually considered necessary that the entries relied upon should have been made by the proper person, not only in what is admitted to be the authentic register of the district, where the events recorded happened to occur, but also at the time at which they purport to bear date.

It does not appear to be positively settled, whether the production of an *extract* from a parish register renders it unnecessary to exhibit the original record. According to Mr. Tait, wherever the original documents are of a public nature, and admissible in evidence, copies or extracts, examined and certified by the proper officer, will equally be admitted, except in peculiar cases; and, among the records so privileged, parish registers are specially enumerated. This rule, it is added, is considered necessary, "as well for the security of the instrument as for the convenience of the public."* The propriety of some such regulation has already been fully illustrated, in our notice of the numerous instances in which parish registers have been lost, when produced in the course of legal proceedings. At the same time, however, it must be acknowledged, that the occurrence of interpolations, alterations, and erasures, frequently renders the production of the register very desirable, in order that both judge and jury may be better enabled to pro-

* Tait on Evidence, p. 201. See also Bell's Principles of the Law of Scotland, § 2213.

mote the ends of justice, by an actual inspection of the original entries.

For some years past, the House of Lords have departed from the usual practice of other tribunals, by insisting on the production of original registers, in the case of claims to peerages. It would appear, however, that this rule has not invariably been extended to Scottish and Irish records, but on what ground the former are entitled to any peculiar favour, does not very clearly appear in the course of the preceding pages! The reason of this requirement seems to be fully justified by the fact, that, as in peerage cases an opposing party rarely appears, the original register, more especially if it presented any suspicious features, would not otherwise find its way into the House.

The disadvantages arising, in individual cases, from our defective system of registration, although unquestionably very great, appear altogether insignificant when contrasted with the many serious evils, affecting the country at large, which are derived from the same unfortunate cause. Only the most limited amount of investigation is required to shew the utter worthlessness of our parish registers, for the purposes of *statistical science*. We have already seen, that, as early as the end of last century, special reference was made to this unsatisfactory circumstance, by several of the contributors to Sir John Sinclair's valuable publication; and we frequently meet with similar notices, in the returns contained in the New Statistical

Account.* At the meeting of the British Association, held at Glasgow in the autumn of 1840, a resolution was adopted by the Statistical section of that learned Society, with reference to the numerous inconveniences arising, in Scotland, from the want of a complete registration of births, deaths, and marriages, and more especially of the causes of death; which concluded with a recommendation to the general committee to represent the defect to Government, "with a view to obtain appropriate legislative provisions for its remedy." Upwards of thirteen years have since elapsed, during which the neglect of registration has very palpably increased, and the suggestion of the British Association has still to be complied with.

In consequence of the magnitude of the subject, it is perfectly obvious, that the deficiency cannot possibly be supplied by means of individual exertion; and without the most ample details, no accurate or satisfactory deductions can ever be drawn in the prosecution of statistical inquiries. We must not, however, fail to mention the names of Dr. Stark of Edinburgh, and Dr. Strang, City Chamberlain of Glasgow, as among the few gentlemen who, besides frequently directing the attention of their countrymen to the imperfect state of Scottish registration, have materially assisted in diminishing its natural results, more

* See *Aberlady*, (Haddington;) *Abernethy*, (Perth;) *Rutherglen* (Lanark;) *Greenock*, (Renfrew;) *Polmont*, (Stirling,) &c.

particularly by their laborious investigations, in connexion with the important subject of vital statistics.

Although it may unquestionably be partially illustrated by means of various other circumstances, the social condition of a country cannot be satisfactorily exhibited, without an accurate registration of births, deaths, and marriages. The proportion of these different occurrences affords the most trustworthy index to the state of the times, more especially in reference to the demand for labour, and the price of provisions. Thus, it has been shewn that, at least in certain parts of Europe, a diminution of births, and probably also of marriages, occurred in the years 1826 and 1831, which were both characterized by severe commercial distress; while, on the other hand, an increase of the same events has more than once been referred to, in the returns issued by the English Registrar-General, as indicating an obvious improvement in the prospects and condition of our southern neighbours.

The increase or diminution of a population—more briefly described by the French as the *movement* of the people—can only be accurately ascertained by comparing the returns of births and deaths, on the one hand, with those of immigrants and emigrants, on the other; but the possibility of doing so to any advantage, in the case of the United Kingdom, is entirely prevented by the absence of a proper system of registration, both in Scotland and Ireland. A large number of the emigrants who annually sail from

English ports are natives of one of these countries, and accordingly, the returns of the Emigration Commissioners, which are applicable to the whole empire, will be comparatively worthless for the purpose to which we refer, until births and deaths are accurately recorded in every portion of the kingdom.*

The very unsatisfactory condition of our registers of *births* has been fully set forth in the preceding pages. Thus, we have seen that, in the year 1850, considerably less than a third of the probable births in the whole of Scotland were inserted in the registers, while, in the case of the metropolis, the average number recorded, during the nine years embraced by the Crown Agent's Return, was very little more than a fifth of what may reasonably be considered to have actually occurred. Special allusion to a similar deficiency is made in all the recent reports on the mortality bills of the city and suburbs of Glasgow, by Dr. Strang, who estimates the yearly average of births, within the bounds to which his calculations apply, at no less than 13,000, while the number recorded in the parish registers has usually been considerably short of 4000. It is, moreover, rather

* The enormous amount of emigration, during the last few years, is well calculated to suggest some very important questions affecting our national interests, more especially in the prospect of war. Many persons will, perhaps, feel rather unwilling to believe, that, in the year 1852, no less than 368,000 of our countrymen sailed from their native land, being, on an average, *upwards of a thousand a-day!*

remarkable that, both in 1852 and 1853, the number of baptisms entered in the Roman Catholic record of Glasgow, considerably exceeded those which were placed on the pages of the regular (?) parochial register, the former amounting, in 1852, to 4114, and the latter to only 3806.

In addition to the total *number* of births, many other important results are exhibited by a system of accurate registration, such as the relative proportion of the sexes, and of legitimate and illegitimate children; and although no such record is kept in England, in some foreign countries, the *still-born* children are carefully registered. Thus, we find that, in the year 1850, the number of these, in the whole of France, amounted to 29,468, being about one in thirty-two of the total births; while in the city of Paris, the proportion was upwards of one in thirteen. A still larger proportion is exhibited in the case of Glasgow, during the three years subsequent to 1849, when the still-born are estimated, by Dr. Strang, as having been as many as one in twelve in the total number of conjectured births.*

According to the census of 1851, the proportion between the *sexes*, in England, was 100 males to 105 females; while, in Scotland, the "lords of the creation" were in a still greater minority, there being no less than 110 females to 100 males, in that portion

* Report on the Glasgow Mortality Bills for 1852, p. 11.

of the kingdom. In the case of England, during the last thirteen years, the *births* give a reversed proportion to the census returns, namely, 105 *boys* to 100 *girls;* and, independently of emigration, the subsequent disparity, in the numbers of the two sexes, may be reasonably attributed to a difference in degree of the dangers and diseases to which they are respectively exposed. The information required to elucidate this interesting question, can only be derived from such a register of deaths as is now kept in almost every civilized country in the world, with the exception of Scotland and Ireland.

Among the moral statistics of a population, not the least important subject of inquiry is the proportion of *illegitimate* births to the total number that take place, which, in the case of England, may be ascertained from the annual reports of the Registrar-General. Thus we learn that, in the year 1850, in a total of 593,422 births, the illegitimate children amounted to 40,306, being in the proportion of one in 14·72.* We have no very accurate means of knowing the corresponding proportion in Scotland, but it must be confessed that the boasted morality of that country is not very strikingly exhibited in the partial illustration given by Dr. Stark, in his valuable paper on "Scottish Vital Statistics." It there appears that out of 4305 births, which occurred in seventy-nine

* 13th Annual Report of English Registrar-General, dated 1852.

parishes in Scotland, 328 were illegitimate, being in the proportion of one in 13·12.* Even under a system of regular registration, a formidable obstacle to the discovery of the true number of illegitimate births, in Scotland, would be found to arise from the peculiarities in the law of that country with respect to the constitution of marriage; by means of which, whatever may be its advantages, the *status* of many families is undoubtedly rendered very uncertain, while endless difficulties and disputes, in connexion with succession to property and other important questions, are not unfrequently produced. On the other hand, however, it must be acknowledged that, in some instances at least, no objection can be offered to the charitable principle of the legal fiction, by which children born out of wedlock are legitimized by the subsequent marriage of their parents. The relative proportion of illegitimate births in various European countries will be found in the Sixth Annual Report of the Registrar-General of England, (1843,) from which it appears that it varies rather remarkably from one in 44·54 in Sardinia, to one in 4·85 in Bavaria, while the usual proportion is somewhere about one in 14.

As in the case of births, the absence of a proper record of *marriages* is very seriously felt in the investigation of many important questions, intimately connected with the social economy of our native

* Journal of the Statistical Society, vol. xiv. p. 68. (1851.)

country. As examples of the information that is to be derived from an accurate register of marriages, we may mention the relative age and condition of the parties, and the number of persons below majority who enter into a matrimonial alliance. Under the existing system in England, the state of *education* also is, in some degree, indicated by the record which is kept of the number of persons who sign the register with a *mark*. Thus it appears, that in 152,738 marriages, contracted in that country, in the year 1850, no fewer than 47,570 men, and 70,601 women, together 118,171 persons, were unable to attest the most important event in their lives, by signing their own names. But while we deplore this very melancholy result, let us not fail to remember, that when so many of the population are ignorant of the accomplishment of writing, the proportion of those who are unable to read the Scriptures must also be very great. It is, indeed, gratifying to reflect, that no approach to such a lamentable deficiency, in the state of public education, would be exhibited by our own highly favoured countrymen, were a similar system of registration to be extended to this portion of the kingdom.

It further appears, that during the same year, (1850,) 130,953 marriages were solemnized in England, according to the rites of the Established Church, while 21,785 were otherwise celebrated; that the marriages contracted between *bachelors* and *spinsters*

amounted to 124,025, between *bachelors* and *widows* to 6575, between *widowers* and *spinsters* to 14,558, and between *widowers* and *widows* to 7580 ; and, finally, that of the persons *under full age*, who abandoned the state of single-blessedness, only 7451 were men, while 23,105 were women.

It will be obvious to every one, that what is termed the " Law of Population," depends very materially on the fertility, as well as on the number, of marriages ; and that element, in its turn, is, of course, very intimately connected with the age of the contracting parties. " In ordinary times," moreover, to adopt the language of the Report on the last census, " a large proportion of the marriageable women of every country are unmarried, and the most direct action on the population would be produced by their entering the married state. . . . . The continuance of such a change in their condition, by increasing the rate of birth to the living through successive generations, would operate on population like a rise in the rate of interest on the increase of capital."

Some little light has been thrown on the relative proportion of fruitful and unfruitful marriages, by the researches of Professor Simpson of Edinburgh, who, a few years ago, produced the following table from an accurate census of two Scottish villages, on the one hand, and a careful examination of Sharpe's work on the British Peerage, (published in 1833,) on the other :—

	Total number of Marriages.	No. of Marriages without issue.	Proportion.
Grangemouth, (Stirlingshire,)	202	20	1 in $10\frac{1}{2}$
Bathgate, (Linlithgowshire,)	455	45	„ $10\frac{1}{9}$
British Peerage, ...	495	81	„ $6\frac{1}{9}$
	1152	146	1 in $8\frac{4}{7}$

The learned Professor, however, it appears, did not include, in his calculations, marriages which had not subsisted at least five complete years, nor those unions where the husband at the date of marriage exceeded fifty-six years of age. From Sharpe's work we learn that, among the British noblemen in 1833, there were 503 existing marriages, of which so many as 102 were without issue, being in the large proportion of one out of every *five*. On the other hand, it appears from the New Statistical Account, that only one marriage in eighteen proved unfruitful in the parish of Birse, Aberdeenshire, while in the parish of Portpatrick, in the county of Wigton, the proportion was only one in *twenty-two*. The frequent extinction of our noble families would seem to be, in some degree, accounted for by these rather remarkable facts.*

In his valuable paper already referred to, Dr. Stark concludes his observations on the subject of insanity and idiocy, by suggesting to the English Registrar-General the propriety of adding as a query to the

* Journal of the Statistical Society, vol. xiv. pp. 72-79.

marriage schedule, "What relation (if any) the parties bear to each other?"* and it cannot be doubted, that copious information on this interesting subject is very much to be desired in Scotland, where the inter-marriage of blood-relations is unusually prevalent. It is hardly necessary to add, that the prosecution of all such important inquiries would be very materially assisted by the introduction of a well-regulated system of registration.

Of all the Scottish local registers, as we have already shewn, the record of *deaths* is by far the most imperfect, and the effects of this unfortunate circumstance are now very seriously felt, on account of the increasing interest which is taken in the subject of *Vital Statistics*. It has been reasonably conjectured, that but for the invaluable reports of the English Registrar-General, the Health of Towns' Commission would never have been appointed; and consequently also, that our southern neighbours would have been deprived of the many important advantages resulting from the Sanitary Bill of 1848, which was introduced by the philanthropic Lord Carlisle, when in the House of Commons. We are probably not far short of the truth when we state that, at least in two of the divisions of the United Kingdom, greater exertion is made for the protection of property than of health. In most of the continental nations, a regular staff of

* Journal of the Statistical Society, vol. xiv. p. 62.

officers has for many years existed, for the express purpose of superintending the sanitary condition of the people; and while this laudable example has been only very recently followed by our national legislature, in the case of England, the two other portions of the empire are still apparently regarded as altogether unworthy of any similar consideration. Surely nobody, it seems to be conjectured, would ever dream of conferring, upon the barbarous inhabitants of Scotland, those advantages which are so freely bestowed upon the enlightened subjects of the Russian Autocrat!

The importance of accurate vital statistics is now universally recognised in the prosecution of all medical investigations. By means of these, we are enabled "to prove that the general mortality, the mortality in particular departments of practice, and the mortality from individual diseases, are capable of being altered by altering the attendant circumstances."* From the elaborate tables of the English Registrar-General, conclusions of the utmost importance to the health of the community may at all times be derived, and, by the information which they afford, the adoption of those measures is suggested, by means of which the operation of many malignant influences may be partially, if not entirely, suspended. Thus, a few years ago, it was incontestably proved, that the slaughter

* Article by Professor Simpson, in Monthly Journal of Medical Science, (1849.)

of the allied armies at Waterloo was not so great as the mortality annually produced, in England and Wales, by *small-pox* alone; against which we have long been possessed of a certain preservative, in the shape of vaccination, the universal adoption and registration of which is now required by law, in the sister kingdom. Again, in the return for the quarter ending September 30, 1850, in consequence of the frequent occurrence of domestic murders, the necessity of some alteration in the law to regulate the sale of *poisons* was very properly pointed out, and since that time, certain wholesome restrictions have been imposed, by the Legislature, on the unlimited purchase of arsenic. In like manner, by means of accurate registration, we are enabled to ascertain the favourite haunts of every other species of disease, and to secure the removal, or at least the modification, of their attendant evils, including poverty, wretchedness, and death.

Many other very important results are also obtained through the same medium, such as the healthiness or the insalubrity of particular localities, the comparative mortality of town and country, of old and young, of rich and poor, and of males and females, to the last of which we have already referred. Thus we are informed by the Registrar-General of England, that "the law of the distribution of disease, disclosed by the registration returns, has a practical application. . . . . These generally shew what

places are healthy, and what are unhealthy, in each season; and, with the local registers, furnish the information that is required to avoid the dangers of temporary residence in districts either habitually, or casually, the seat of epidemic visitations."* The comparative mortality of towns and rural districts is daily becoming a more important question, owing to the rapidly increasing proportion of the inhabitants of the former, who now constitute, in the case of England, one-half of the entire population. In consequence of various causes, more or less preventible, the concentration of human beings has hitherto invariably increased the ravages of death, and great cities have accordingly been too truly described by Süssmilch, as "the graves of our race." No very accurate approximation to the usual rate of mortality in Scotland can at present be made, owing to the very unsatisfactory mode in which deaths are recorded; but it appears from the conclusions of Dr. Stark, derived from returns applicable to all the principal towns, as well as to a considerable number of rural parishes, that while the proportion of deaths among the country population is only 1 in 49, in the case of the inhabitants of towns, it is no less than 1 in 37.†

The healthiness of any district may be safely infer-

* Return for the quarter ending June 30, 1851.

† Journal of the Statistical Society, vol. xiv. p. 75.

red from the longevity of its inhabitants, as exhibited, for example, by a comparatively large number of deaths above the Scriptural age of threescore and ten. It appeared from the first report of the Registrar-General, (1839,) that out of 1000 deaths, in the whole of England and Wales, 145 were at the age of 70 and upwards; and, while in some parts of Yorkshire and Durham, excluding the mining districts, the proportion was as high as 210, in Liverpool and Manchester it was only about 63. The same document presented some very remarkable information as to the diversity in the proportion of the deaths of infants under one year of age, (exclusive of still-born,) in different parts of the country. Thus, while in certain districts, including the northern counties, the proportion was only about 180 in 1000 deaths of all ages, in other less favoured quarters, including the mining portions of Staffordshire and Shropshire, the proportion was no less than 270.

Very palpable differences are almost everywhere exhibited in the mortality of the richer and the poorer classes of society, particularly in the case of children. Among the humbler ranks, it has been computed that more than one-half are removed by death under fifteen years of age, while a very large proportion of the children, whose lot has been cast in a higher sphere, are graciously permitted to survive. The very alarming increase in the infantile mortality of Glasgow, has been repeatedly adverted to in the

interesting reports of the intelligent City-Chamberlain. In the year 1851, it appears that the deaths under five years of age reached the enormous proportion of 50·85 per cent. in the whole mortality, while they only amounted to 32·3 per cent. in the city of Paris; and that during the four years preceding 1852, no less than 14,371 children were cut off under two years of age, in a large number of cases by the ravages of small-pox. Such an amount of destruction, to adopt the language of Dr. Strang, is indeed "fearful to contemplate, and loudly calls for something being effectually done for the preservation of the infants of the poor, among whom this high mortality exists. The want of care on the part of the mother, called to toil beyond her home, which is left filthy and neglected,—the want thereby of nature's nutriment to her child, who, when crying to others for food, is too often only soothed by opiates, or, when assailed by disease, is permitted to die without the aid of medical skill or nutritious appliances, are all elements in this frightful waste of life. Can nothing be suggested to meet this cruel calamity?"* Would that the opportunity for such virtuous indignation were confined to the Western Metropolis! Notwithstanding the many praiseworthy efforts which, happily, are now being made with a view to their alleviation, the prodigious extent of our various social

* Report on the Glasgow Mortality Bills for 1851, p. 7.

evils, in every corner of the empire, is well fitted to create alarm in the minds of the most indifferent; and nothing short of vastly increased exertion, on the part of the more influential members of the community, can be expected, under the blessing of God, to avert the most dreadful consequences.

From what has been already stated, it will be obvious that a record of the mere fact of death is of comparatively little value, the accurate specification of age and sex, of locality and occupation, and, more especially, of the *cause* of death, being among the details which are absolutely necessary for the construction of really useful tables of mortality. A record of the temperature is also of great value, for the purpose of illustrating the effect of climate upon health. In the tables of mortality issued by the Registrar-General of England, which are now also adopted by the authorities of Glasgow, the causes of death are arranged under seventeen principal heads, subdivided into about 100 minor classes, of which the more important are the following:—Small-pox, measles, cholera, influenza, typhus fever, and other zymotic diseases; dropsy and cancer; consumption; apoplexy and paralysis; disease of the heart; bronchitis and pneumonia; diseases of the stomach; rheumatism; violence and intemperance; and old age. Under the head of "sudden deaths," are classed not only deaths described as sudden, of which the cause has not been ascertained or stated; but also

all deaths returned by the coroner in vague terms, such as "found dead," &c.*

The advantages of a proper registration of deaths are also exhibited in connexion with another subject of no ordinary consequence. The facilities now afforded for the insurance of life, and the purchase of annuities, must unquestionably be regarded as among the greatest blessings of modern social existence; and by means of a trustworthy record of deaths, the true principles on which these important contracts are based are materially elucidated.

In concluding these imperfect observations on this portion of the subject, it is right that we should refer to a recent occasion, when the absence of a register of our national mortality was very seriously experienced by Dr. Gavin, the superintending inspector of the General Board of Health, who was appointed to visit those localities, in Scotland, which were afflicted or menaced by cholera. Not many months ago, in his address to a public meeting in the Police Chambers of our Metropolis, it was stated by that able officer, "that the want of a proper register of deaths in this country, and of the causes of death, by which

* The unfortunate want of a register of mortality, in Scotland, is supplied to a limited extent, by the investigations of the Medico-Statistical Association, lately instituted in Edinburgh, from the first of whose reports, it appears, that, in the various individual cases coming under the notice of the Society, the fullest possible information as to the principal morbid phenomena, and particularly the causes of death, are invariably recorded.

alone the co-relation of cause and effect could be traced, was one of the greatest evils under which Scotland appeared to labour. It hampered his investigations at every turn, and hindered him from making up those exact statistical tables which he was able to do elsewhere. The fact of this city," he concluded, "being destitute of any register of the causes of death, appeared to him important to be noticed in reporting his inquiry."

In accordance with our proposal in an early page, we now proceed to give an outline of the admirable system of registration, at present existing in England, to which incidental allusion has already been frequently made. The inadequacy of the parochial registration of that country, as regulated by Mr. Rose's Act of 1812, very soon became apparent, and, in the year 1833, formed the subject of investigation before a Select Committee of the House of Commons, who received evidence on registration "from clergymen of the Established Church, and from parish clerks; from gentlemen of the legal profession; from authors devoted to antiquarian researches; from persons of different religious denominations, including Roman Catholics, Dissenters, Jews, Quakers, and Methodists; from gentlemen eminently scientific, and attached to statistical inquiries; from medical authorities who had long desired ampler and more accurate information on the extent and causes of mortality; from an eminent foreigner distinguished for extensive and

accurate statistical intelligence ; and from others, whose wide-spread inquiries in foreign countries, and peculiar facilities of information, entitled them to respect."* Besides making various suggestions, the Committee unanimously agreed to report the conclusions at which they had arrived, under a series of articulate statements, in which they set forth that the subject was of urgent importance; that it involved matters of both national and individual interest, and deserved the attention of the humblest artisan, as well as of the most philosophical inquirer ; that the existing law required fundamental reform, and, being founded on religious rights, was exclusive and intolerant ; that it was occasionally suggestive of pain and regret to many of the parochial clergy ; that the registers were comparatively worthless, even to members of the Church of England, being mere records of baptisms and burials, and not of *births* and *deaths ;* that, in consequence of their frequent loss, falsification, and inaccuracy, they supplied no adequate proof of pedigree ; that the directions and provisions in the statute of 1812 had been fulfilled and enforced to a very limited extent ; and that it was impossible to obtain the information possessed, and justly valued, by other countries, as to the state of disease, the health of the people, and the progress of population.

* Report of Select Committee on Parochial Registration, p. 6. (This Report, along with the Minutes of Evidence, extends to 188 folio pages.)

The Committee further suggested, as a remedy for these numerous defects, that "a national civil registration of births, marriages, and deaths, should be established," which would include "all ranks of society and religionists of every class."

In accordance with these recommendations, in August 1836, "an Act for registering births, deaths, and marriages in England," (6 and 7 Wm. IV. c. 86,) along with an Act for marriages, (*ibid.*, c. 85,) became law. After being suspended for a limited period, these statutes were amended and explained by 1 Vict. c. 22, and came into operation on the 1st of July 1837.*

One of the most important changes introduced by the first of these Statutes, is the provision of a system of registration, to be carried into effect by officers appointed under the Act, independent of that committed to the care of the parochial clergy. The 7th section provides for the division of the country into districts, and the appointment in each district of registrars, and superintendent registrars. Section 9 provides for the establishment of offices, to be under the care of the superintendent registrars.

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* By a subsequent Act, (3 and 4 Vict. c. 92,) the *non-parochial* registers of births, deaths, and marriages in England, amounting to nearly 7000, and now under the custody of the Registrar-General, were made receivable in evidence, and all extracts, sealed by that officer, are considered authentic, without any affidavit of examination with the original record.

Section 14 directs boxes to be supplied for the keeping of the register-books. By section 16, the registrars are required to live in the district for which they are appointed, while the following section directs register-books to be provided. Section 18 requires the registrar to record all births or deaths which shall happen within his district; notice of which events is, by section 19, directed to be given to the registrar by the persons therein pointed out. Section 20 provides for the communication of the particulars of such births to the registrar, and section 21, for the registration of births which may take place at sea. Section 22 limits the time to be allowed for registration to forty-two days from the birth, except in some cases; while section 23 prohibits the registration of births in any case, (except in that of children born at sea,) after six months from the births. Section 24 permits the name given in baptism to be registered within six months after the registration of the birth. Sections 25 to 28 inclusive, provide for the registration of deaths, of which information is directed to be given in the same way as of births. Section 30 directs marriage register-books to be provided, which section 31 requires to be kept in duplicate. One copy, when filled, is, by section 33, required to be kept by the superintendent registrar, and the other by the person having the charge of making the register. Section 32 directs that certified copies of the registers of births and deaths shall be sent quarterly, and also the register-books

themselves, when filled, to the superintendent registrar, who, by section 34, is required to transmit certified copies of the registers to the General Register Office in London. These are the most important sections of the new Registry Act, as affecting the mode and subject of registration, by which it will be seen that two important changes are effected. First, births and deaths are registered instead of baptisms and burials; and, secondly, a system of registration is provided, which, being independent of the ceremonials of the Church of England, is open to Jews, Quakers, and Dissenters of all denominations, who formerly laboured under the practical disability of not being able to avail themselves of the registers heretofore in use, without submitting to observances to which they conscientiously objected.*

The circumstances recorded in the register-book, under the new law, are, in cases of *birth*, the time and place; the name, if any; sex, name and surname of father; name and maiden surname of mother; rank or profession of father; signature, description, and residence of the informant; and the baptismal name, if added after registration of birth. In cases of *death*, the time and place; name and surname; sex; age; rank or profession; cause of death; and the signature, description, and residence of the informant. Every entry must be signed by the

* Hubback on the Evidence of Succession, p. 477.

informant and the registrar, who discharges this duty without any immediate expense to the parties requiring registration, but is remunerated by a moderate fee on each entry, paid quarterly out of the poor-rates. The informant, in a case of birth, must be one of the parents, or the occupier of the house in which the child was born; or, in the case of foundlings, the overseer of the poor. In a case of *death*, it must be some person present at the death, or in attendance during the last illness; or, in default of such person, the occupier, or an inmate, of the house in which the death occurred; and if there be an inquest, the Coroner. Persons so qualified, *must* inform under pain of indictment, and sign the register on being requested so to do; without which signature no birth or death can be duly registered, and the entry cannot be given in evidence.

The new form for registration of *marriages*, records the place and time; the names and surnames of the parties; whether they are of full age or minors; their condition, (*i.e.*, whether bachelor or spinster, widower or widow;) their rank or profession; residence at the time of marriage; name, surname, and rank or profession of father; by what rites and ceremonies, after what preliminary forms, (whether license, banns, or certificate,) and by whom solemnized; and must also contain the signatures of the parties, and of two witnesses.

One of the most important circumstances not pre-

viously recorded, for which provision is made in the new register, is the *cause of death*, to which a column is assigned, and where it is exhibited in juxtaposition with the period, locality, sex, age, and occupation, thus affording valuable data of the highest importance to medical science. In order to attain the utmost accuracy, printed circulars have been sent to all medical practitioners in England and Wales, recommending them to place, without delay, in the hands of the occupiers of the houses in which the deaths of their patients may occur, *written statements* of the causes of their decease.

The new Registration Act is peculiarly distinguished from other previous measures on that subject by the provision of a central office in London, for the deposit of certified copies of all registers and the general superintendence of everything relating to registration. It is presided over by an officer called the *Registrar-General*, appointed under the Great Seal, and intrusted with numerous important duties, under whom is an assistant registrar, a chief clerk, three first clerks, and forty-three others, who are nominated by the Lords of the Treasury, or by the Registrar-General with their approval.

The *superintendent registrars*, amounting to upwards of six hundred, are local officers acting solely within their respective districts; and, besides having the charge of all the register-books within the same when filled, they have to make indices, permit searches,

and give copies of entries on the receipt of certain fixed fees. It is also their duty to receive quarterly, from the registrars, the certified copies of births, deaths, and marriages registered within their respective districts, and after verifying them by comparison with the original entries, to transmit them to the Registrar-General. They have, moreover, to receive and transmit, but not also to verify, certified copies of marriages registered by the clergymen of the Established Church, or by any registering officers of the Quakers, or the secretaries of the Jewish synagogues.

The *registrars* of births and deaths, of whom there are about two thousand two hundred, are also local officers acting within certain smaller districts, who are required to register every birth and death occurring within their respective bounds. They have also to make quarterly copies of all the entries in their books; to certify that all these copies are correct; and to deliver them to the superintendent registrars. On presenting an account of the number of entries so copied, after having been verified by the superintendent registrar, they obtain payment, of the fees due upon the same, from the overseers of the poor. The registrars of marriages amount to upwards of eight hundred, of whom about one-half are also registrars of births and deaths. It is their duty to be present at, and to register, marriages not according to the forms of the Church of England, solemnized either in registered places of worship, or in the office of the

superintendent registrar, to whom they have to deliver, quarterly, certified copies of all the entries registered in their books. Marriages according to the forms of the Established Church are registered as formerly by the officiating clergyman, who also delivers certified copies, quarterly, to the superintendent registrar of his district, to be transmitted to the Registrar-General. These marriages are also registered at the time *in duplicate;* and one of the books, when filled, is immediately deposited in the office of the superintendent registrar. Similar provisions are made respecting the marriages of Jews and Quakers, which are registered by authorized officers of their respective persuasions.

All these registrars and superintendent registrars, amounting to upwards of three thousand two hundred officers, act under the direction of the Registrar-General, and are removable by him. The other persons by whom registration of marriage is effected, are 11,694 officiating ministers of the Established Church, besides 90 registering officers of Quakers, and 36 secretaries of Synagogues, all of whom are also in communication with the Registrar-General.

The certified copies of births, deaths, and marriages, transmitted by the clergy, registrars, &c., (amounting to upwards of 15,000 persons,) are all made on separate leaves of durable paper, of a uniform size and peculiar texture, having a distinguishing water-mark for the prevention of forgery, and furnished by the

Registrar-General. The returns of births, deaths, and marriages, are each sent separately through the post-office by the superintendent registrars, and, in order to prevent confusion, they are inclosed in covers which denote the nature of the contents, besides bearing the name of the district to which they belong. They are then arranged and examined, for the purpose of any ambiguities or defects being detected, and, after these have been explained or removed, the copies are paged, and inserted in books for reference.

Means of immediate reference to any one of the countless entries deposited in the General Register Office are provided in alphabetical indices, which are there prepared. This last work, far exceeding in magnitude anything of a similar kind ever before attempted in England, is performed in the following manner:—The few particulars requisite for the index are copied from each entry *seriatim*, on forms prepared for that purpose, with space for as many entries as are contained in one page of a certified copy. These, after having been checked, are cut into separate slips, each containing the reference to one entry; and the slips are then sorted and arranged alphabetically on files, from which they are taken off one by one, and the contents of each copied into the index. In this way nearly a million of names will be alphabetically indexed in the course of each year, the various processes being performed by between thirty and forty persons. There is a separate index

for each class of entries, (births, deaths, and marriages,) and also for each quarter, being twelve separate indices for the year. Any person, on payment of one shilling, may search these indices, and, on finding the name sought, may obtain, for two shillings and sixpence, a copy of the relative entry; which copy, being stamped with the official seal, will be received as evidence of the entry without any other proof. With no indication but the surname of the party, and the probable period of the event sought for, a search may be accomplished in the course of a few minutes.*

The importance of the subject of registration has long been thoroughly appreciated by almost all the Continental nations. The system pursued in France under the code Napoleon, and introduced into Belgium, Geneva, and the Rhenish provinces of Prussia, is perhaps, upon the whole, better calculated than that of any other country to secure the attainment of both copious and accurate information. The *maire* of each *commune*, of which there are upwards of 37,000 in France, is charged with the duty of recording all births, deaths, and marriages, which occur within his district. Births and deaths are registered in duplicate, the former upon information, in presence of two witnesses, and are signed in duplicate

* These details are chiefly derived from an interesting article on "Registration," in the Encyclopædia Britannica, by Thomas Henry Lister, Esq., formerly Registrar-General.

by the informant, the witnesses, and the registering officer; while, in the case of deaths, one of the witnesses may also be the informant. Marriages are recorded in the presence of four witnesses, who sign the register along with the parties and the registering officer. The registration of births is ensured by penalties imposed upon the father, or some person present at the birth, information of which must be given within three days to the registering officer, to whom the child must also be shewn. The registration of deaths is secured by a provision, which renders it penal for an interment to take place without the registering officer having first seen the body, and recorded the decease.

The register of births contains the name and sex of the child,—the year, day, hour, and place of birth,—and the names, professions, ages,(?) and residences of the parents, witnesses, and informant. In the case of illegitimate children, the name of the father is not inscribed, except by his own authority. The register of deaths records the name, designation, age, and residence of the deceased,—the year, day, hour, and place of death,—the names, professions, ages, and residences of the parents and of the witnesses,—and, in the case of married persons, a particular description of the surviving spouse. The register of marriages, in addition to the names, professions, residences, birth-places, and parentage of the parties, records the names, designations, ages, and residences

of their respective parents, (if alive,) and of the four witnesses; also the consent or opposition of the parents to the union, and the time and place of its solemnization. In all the three cases, the date of registration, and the name and quality of the registering officer, are also duly recorded.

The register-books are secured from falsification and interpolation by means of an entry in each, signed by a *Juge* or *President du Tribunal*, stating the purpose for which it is kept, the number of leaves (*feuillets*) which it contains, besides other particulars. Alphabetical indices are annually prepared in duplicate, and while one of the duplicate registers remains in the *commune* to which it belongs, the other is transmitted to the tribunal of the district, where it is examined and placed under the superintendence of the local officer of the Crown. A copy of the abstracts prepared by the registering officer of each *commune* is transmitted to the sub-prefect, from which he frames an abstract for his *arrondissement*, and sends a copy to the prefect, while that functionary, in his turn, from the abstracts which he receives, makes an abstract of his *departement*, and transmits copies thereof to be deposited in the central office at Paris.

Except in the case of the Rhenish provinces, the registration of births, deaths, and marriages in Prussia, and also in the Austrian dominions, is committed to the hands of the clergy. The registers of the Jews

in the former country, are kept, where there is a synagogue, by the rabbins, under the control of the local administration; and where there is no synagogue, the duty devolves upon the local police. In both countries, very careful provision is made for the recording of full and accurate information, the details of which will be found in the Appendices to the Report of the English Committee on Parochial Registration, already referred to.

In Spain also, and in Holland, the parish records of births, deaths, and marriages are kept with great regularity, and in the gigantic empire of Russia, it is believed that considerable attention is paid to the subject of registration.

Upwards of forty years ago, the defective condition of Scottish parish registers was pointed out by a very eminent authority. In his Report to the Commissioners of Public Records, in the year 1810, Mr. Thomas Thomson, then Deputy Clerk-Registrar, makes the following observations:—

"It is a matter of great and general regret that the regular formation and safe custody of our local records have been so little attended to, and so imperfectly provided for. They are committed to the immediate care and superintendence of the kirk-session of each parish, consisting of the minister and lay elders; and the session-clerk, who is usually the established parochial schoolmaster, is the proper officer to whom not only the formation, but also the record is committed.* It is certainly in the power, and is the pro-

* We have already seen that in a few towns the keepers of the burial register are appointed by the magistrates, who, it is presumed, have also the custody of the record. In consequence of a

per province of the kirk-session, to see that this record is faithfully and regularly framed; to take care that it be not unnecessarily exposed to hazard, and, that in passing from one session-clerk to another, no part of it be lost or mislaid; yet, when it is considered, that in comparatively few parishes are the existing records of greater antiquity than the beginning of last century, and many of them much less, it must be manifest that the present system of custody is altogether unsafe and improper . . . . . I am satisfied, that, in order to establish an efficient control over these scattered registers, and at the same time to derive from them the greatest utility to the public and to individuals, the whole ought to be connected together into one system, of which the most proper centre would be His Majesty's General Register-House. From that central repository might be issued the books to be employed by each kirk-session, both for a principal record and for a duplicate; and, to that repository, the principal record might be returned at the end of every ten years, to remain among the other records of the kingdom."

Besides proposing the payment, out of Exchequer, of a small fee to the session-clerks for their additional trouble, the Report contains some suggestions respecting the annual examination of the state of the record by the kirk-session, as well as the certification to the clerk of the presbytery, of a brief abstract of the total number of births, deaths, and marriages during the preceding year, for transmission to the General Register-House.*

A short time previously, Mr. Thomson had brought the subject before the Procurator of the Church, having communicated the sketch of a plan for the

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dispute between the kirk-session and the magistrates of *Aberdeen*, as to the right of keeping the register of baptisms, the question came before the Supreme Court in 1816, when a judgment was pronounced by Lord Gillies in favour of the magistrates, on the ground of long existing usage, extending as far back as the year 1631.

* Fourth Annual Report, pp. 46-48.

better regulation of the parish registers, in a series of articulate statements, embracing the principal suggestions contained in his Report; which plan, however, he considered could not be carried into effect, without the sanction of an Act of Parliament.* At the meeting of the General Assembly in the same year, (1810,) a very learned committee was appointed, who not only "highly approved" of the general object of the measure proposed by Mr. Thomson, but also nominated a sub-committee for promoting the end in view. No notice of the subject of registration, however, appears in the proceedings of the Church till the year 1816, when the Assembly recommended:—

"That the several Presbyteries should take the steps necessary to secure the keeping of three separate registers in every parish; in one of which, the names of all children, and of their parents, should be recorded, with the dates of their birth, whether their parents belong to the Church or are Dissenters; in another, the names of all persons married, with the dates of their marriages, whether legally solemnized or not, with the specialties of any particular cases that may occur; and in the third, the names of all persons who have died, with the particular dates of their deaths, whether they have been buried in the parish burying-ground or elsewhere."

It was further enjoined, that these registers were to be annually examined by the presbytery of the bounds; and a committee was appointed "to communicate with the officers of the Crown, with the view of obtaining the authority of the legislature to secure

* Fourth Annual Report, (Appendix, No. VII.) pp. 73-75.

the faithful observance of these arrangements." In consequence of this "recommendation," a few parishes appear to have commenced to keep registers of births and marriages, and in a good many instances, where these already existed, a record of deaths was also established for the first time; but it is to be feared that, throughout the country generally, no very great improvement took place with regard to registration.

No less than thirty years passed away—in other words, a generation of the human family—without the very slightest exertion being made to remedy the manifold defects in our system of parochial registration. In the year 1847, however, two bills were brought into Parliament by Lord Rutherfurd, who at that time so ably filled the office of Lord Advocate, by one of which it was proposed to make a material alteration in the law of Scotland as affecting the constitution of marriage, while the object of the other was to secure the compulsory registration of births, deaths, and marriages. A few months after the introduction of these measures, the learned Lord took an opportunity of describing their general nature, the Government having previously intimated its intention of not further proceeding with them, until they had been fully considered in Scotland. After referring to the great importance of regular registration, and to the very satisfactory working of the system which had prevailed in England since the year 1837,

he made the following explanatory statement with regard to the Registration Bill:—

"He proposed to have a head department in Edinburgh, under the charge of a Registrar-General, where the most important registers should be kept, and where parties seeking information might consult them, and obtain cheap and authentic certificates. Connected with this, he proposed, following the system in England, that there should be districts placed under superintending registrars, and sub-districts, in which the registration should be effected by local registrars. The districts would consist of counties, and of some large towns; and the sub-districts of divisions of these, consisting, in most instances, of parishes, according as the convenience of registration might require. In all this he followed the English system; but with some advantages, because he proposed to make the sheriff-clerks the superintending registrars—persons fully qualified for the discharge of that duty, and who were already provided with offices proper for the custody of important papers—by which there would be a considerable saving of expense."

With regard to the question of expense, his Lordship stated, that the Chancellor of the Exchequer had promised to do for Scotland what had been done for England, viz., to defray, out of the public funds, a portion of the expense, including the cost of the central department, the important item of stationery, and the payment of the superintendent registrars. In the case of marriages, as the expense of registration would be paid by the contracting parties, the only *local taxation* would be the expense of registering births and deaths. Taking the population of Scotland at 3,000,000,—400,000 more than the census of 1841,—on the average English ratio of one birth to every 31, and one death to every 45, of the population, the annual number of births would be

about 96,700, and of deaths 66,600, making a total of 163,300 *entries* in the year. In the parishes or sub-districts, two shillings and sixpence was to be paid for each of the first twenty entries, and one shilling for all the others. Assuming the number of sub-districts to be 900, there would be 18,000 entries at two shillings and sixpence each, while the other entries would be at one shilling each, amounting in all to the sum of £9500, as the total expense of registration. The probable annual expense in 268 parishes, containing a population of less than 1000, would not exceed £3, 10s. for each, while in 275 others, with a population of from 1000 to 2000, the cost would be about £6, 10s. Again, in 217 parishes, containing a population of between 2000 and 4000, the annual expense of registration would be about £9, 10s. for each. The two first of these numbers exhausted more than one-half of the parishes in Scotland, while in the three numbers no less than 760 parishes were included, containing one-half of the entire population. The local taxation, however, would of course be greater in large towns and populous places.

Having failed to learn any other mode of assessment, his Lordship proposed to levy the expense on personal property, on the principle of a parochial rate, and by means of the same collectors, for three reasons:—"1*st*, Because the poor could not afford to register themselves. 2*dly*, Because the registra-

tion was for the service of the poor-law, as the registers would give important evidence in questions of settlement. 3*dly*, Because, finding the machinery already in operation for the collection of the poor-rate, it appeared to him that he followed the best, the cheapest, the most convenient, and the fairest course, when he assimilated the system to that pursued in England, and made the rate a parochial one."

The learned Lord concluded his sketch of the Registration Bill, by observing that no confusion could arise under such an arrangement, as the collectors would, of course, keep separate and distinct accounts of the two different assessments. He also explained, that his original intention of excluding parochial schoolmasters from holding the office of district registrars, arose entirely from the belief that their multifarious occupations would not permit them properly to discharge the duties of registration. It appeared from a return with which he had been furnished, that in 800 parishes, 706 schoolmasters were session-clerks, while upwards of 400 were inspectors of the poor. A large number were occupied with various other engagements, and "his attention had been directed to one case, in which the schoolmaster was session-clerk, inspector of the poor, collector of poor-rates, clerk of the heritors,—in short, the holder of no less than seven offices, besides that of schoolmaster."*

* Hansard's Parliamentary Debates, (3d Series,) vol. xciii. pp.

In April 1848, the Lord Advocate's two Bills were introduced into the House of Peers by Lord Campbell, who observed, that they involved no party dispute, being simply "intended for the improvement of the social condition of Scotland." His Lordship also referred to the beneficial working of the English measure of 1836, which it was his duty, as Attorney-General, to carry, and in which he had experienced very little difficulty, as the people of England almost unanimously agreed respecting its necessity. Both Bills passed the third reading in the month of July following, notwithstanding the opposition of two or three noble Lords connected with Scotland, including

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230, *et seq.* The Scottish Registration Bill, as amended by the Select Committee of the House of Commons, in the year 1849, consisted of sixty-four clauses, and nine relative schedules, many of which were very similar to the provisions of the English Act already referred to. In addition to each of the counties, the burghs or towns of Edinburgh, Glasgow, Aberdeen, Dundee, Paisley, Leith, Greenock, Perth, Dumfries, Ayr, and Inverness, were each to form a district, under a superintendent registrar. The duties of registrar were to be discharged by the session-clerk, if approved of by the Registrar-General, or, failing that functionary, by some other person, appointed by the heritors in the case of counties, and by the magistrates in the case of burghs and towns. According to a return presented to the House of Commons in June 1849, the total estimated charge upon the annual vote in Parliament amounted to about £2500, including a salary of £600 to the Registrar-General, £600 for the expenses of the general office at Edinburgh, and £1300 to forty-four Sheriff-clerks and town-clerks, as superintendent registrars. From that sum, however, there fell to be deducted all the fees payable for searches in the General Register Office, and to the superintendent registrars; also, for certificates, penalties, &c.

the Duke of Argyll and Lord Eglinton, who objected to the principle of centralization, and the creation of patronage, which the Registration Bill involved.* The two measures were immediately afterwards carried to the Lower House, where their second reading was moved by the Lord Advocate (Rutherfurd), who chiefly dwelt upon the provisions of the Marriage Bill. His Lordship was followed, among others, by Mr. Hume, who did not object to the principle of either bill, but, in some respects, preferred the more elaborate system of continental registration; by Mr. Francis Scott, who admitted the necessity of regular registration, but objected to either of the measures being proceeded with at so late a period of the session; and by Mr. Stuart Wortley, who, like Mr. Hume, was not opposed to the principle of either bill, but thought that the various details required fuller consideration. At the conclusion of the debate, both bills were read a second time, but were not further proceeded with during the same session.†

In the month of February, 1849, the two measures were again brought into the Upper House, by Lord Campbell, who, on moving the second reading, chiefly confined his observations to the Marriage Bill, and alluded to the omission of the objectionable

* Hansard's Parliamentary Debates, (3d Series,) vol. xcix. p. 567.

† *Ibid.*, vol. c. pp. 1164-71.

clause in the original Registration Bill, by which schoolmasters were disqualified from being registrars. His Lordship was followed by several noble Lords, including Lord Aberdeen and Lord Brougham, of whom the former, although opposed to the Marriage Bill, stated, as on the previous occasion, that "to the Registration Bill he did not intend to offer any objection;" while the latter was in favour of both measures, but regretted the "ill-assorted marriage" of the two Bills as having "led to this result, as in other unions, that the objections which were thought to prevail against the one measure had been communicated to the other."* A few weeks afterwards, the two Bills were read a third time, and passed, and on the 8th of March again found themselves in the House of Commons. After passing the first and second reading, a Select Committee was appointed on both Bills,† and on the 9th of July, (Monday,) a debate took place on a motion being made that the Marriage Bill should be read a third time on the Monday following. Mr. Forbes Mackenzie proposed, as an amendment, the insertion of the words, "this day three months," instead of "Monday next," and was followed by various

* Hansard's Parliamentary Debates, (Third Series,) vol. cii. pp. 857-867.

† The Committee consisted of the Lord Advocate (Rutherfurd), Sir George Clerk, Earl of March, Sir Henry Davie, Mr. Elliott, Sir David Dundas, Viscount Melgund, Mr. Duncan M'Neill, the Solicitor-General for Scotland (Maitland), Mr. Mackenzie, Mr. Cumming Bruce, Mr. Traill, Mr. Forbes, Mr. Duncan, and Mr. Smollett.

speakers. In the course of his observations, the Lord Advocate called in question the alleged importance of the numerous petitions that had been presented against the two measures. In referring to the Registration Bill, Sir George Clerk remarked, that "no doubt a perfect system of registration would be a very good thing, but it was just possible that they might pay too great a price for it;" while it was stated by Mr. Duncan M'Neill that his constituents in Argyleshire "were not opposed to an improved system of registration, though they deprecated a complex and expensive system." On a division, the motion was carried by a majority of five, in a House of 141 members, but, in accordance with a suggestion by Mr. Gladstone, Lord John Russell asked to be allowed till Thursday, (July 12th,) to consider whether or not Government would proceed with the measures. On that day they were finally abandoned, and have not again occupied the attention of either of the Houses of Parliament.*

Since that time, however, the importance of the subject of registration has not been altogether overlooked. During his brief tenure of office, a Scottish Registration Bill was in the course of preparation by Mr. Inglis, the talented Lord Advocate of Lord Derby's administration; and on the first night of

* Hansard's Parliamentary Debates, (Third Series,) vol. cvii. pp. 3, *et seq.*

the present session of Parliament, Lord Elcho, the Scotch Lord of the Treasury, exhibited fresh proof of his regard for the interests of his native country, by intimating his immediate intention of bringing in a measure "to provide for the better registration of births, deaths, and marriages in Scotland," the introduction of which is now daily expected.

There can be very little doubt, that the opposition to the measures proposed by Lord Rutherfurd arose, in a great degree, from the unfortunate conjunction of the two bills, as pointed out by Lord Brougham in the House of Lords. They were generally and justly regarded as indissolubly linked together, and accordingly, the all but universal objection to the Marriage Bill proved fatal to both measures. We have already seen that most of the principal speakers, who opposed the provisions of the Marriage Bill, distinctly admitted the importance of an improved system of registration, and these speakers included the head of the existing Government, in the Lords, and the present President of the Court of Session, in the Commons. In like manner, a large number of the petitions against the bills, which emanated from the Presbyteries and kirk-sessions in various parts of Scotland, were chiefly directed against the Marriage Bill. Although, in several instances, these petitions referred to the expense of the proposed mode of registration, not a few of them admitted the necessity of its being made imperative, and suggested that a

new measure should be devised, ingrafted on the existing system, and of which the provisions should be more simple in their nature. We must not fail, moreover, to notice the petitions presented in favour of the Registration Bill, including one from the Royal College of Surgeons of Edinburgh, and another from the Managers of the Life Assurance Offices of Scotland, in which the advantages of the contemplated measure were distinctly referred to.

In 1847, the General Assembly resolved to petition P arliament against both of the Bills, as containing clauses which were " objectionable to the Church and the country at large," but at the same time intimated their approval of the establishment of a proper registration of births, deaths, and marriages. In the following year, after having maturely deliberated on the Registration Bill, the same venerable body determined to petition against its being passed into a law " in its present shape ;" and four years afterwards, (in 1852,) appointed a committee, " for the purpose of obtaining information as to the best method of regulating registration." In 1853 the committee reported, through Dr. Stark, their convener,—

" That the present registers of births, deaths, and marriages were inadequate to the wants of society, and that nothing short of a legislative enactment could remedy the evil. They were, however, of opinion, that while the registers were incomplete, the existing machinery, acting under a legislative enactment, was quite sufficient for carrying out an efficient, practical, and economic system of registration. It would be an act of injustice, they thought, to deprive the parish schoolmaster of the office of registrar, as its

duties would no more interfere with the business of the schools than the duties of session-clerk, which he now discharged, while, in many of the Highland parishes, he was often the only man of sufficient intelligence and ability to fill the office. The Committee, therefore, recommended, that in any application to Government, due care should be taken to point out that the machinery already existed, and that it only required to be put in motion under a proper system. The Committee also suggested the appointment of a registrar and inspectors. The plan proposed in the first thirty-seven clauses of Lord Rutherfurd's bill of 1849, appeared to be as unexceptionable as any other that had been brought forward,—a similar system having worked well in England for the last fourteen years. Relative to the registration of marriages, the Committee thought there would be no difficulty in obtaining an efficient registration, without altering the marriage law. They would propose that, with the lines of proclamation, an additional schedule should be given to be filled up by the contracting parties, two witnesses, and the officiating clergyman,—the clergyman being called on to send the schedule to the registrar of the district. In the case of irregular marriages, the parties should be compelled to sign a schedule headed 'irregular marriage,' and to compear before the registrar, and declare their adherence to it; and, in order to discourage these marriages, the Committee recommend the exaction of double fees from the contracting parties."

It is to be feared that, under any system, it would be found rather difficult to ensure the invariable registration of irregular marriages, the occurrence of which, however, is, after all, comparatively rare, particularly if we except those numerous cases where the parties are natives of the sister kingdom; and accordingly, if we may judge by what actually takes place, any objection to the existing law, more especially as put in practice by the Gretna blacksmith and the keeper of Lamberton toll, would be raised, with the greatest propriety, by injured parents and guardians on the other side of the Tweed.

As might reasonably have been expected, a good many of the petitions presented to Parliament in connexion with Lord Rutherfurd's bills, were from schoolmasters and session-clerks, who set forth the injury which was threatened to their "vested rights," the infringement of which, they considered, would entitle them to some compensation. It cannot be denied that, in many instances, the schoolmaster is not the person best qualified for the office of registrar, but, on the other hand, it will also be generally admitted, that the reduction of his present scanty emoluments, by the withdrawal of the fees which he receives as keeper of the parish record, would be a very harsh and unfair proceeding. The present time, however, is singularly opportune for this matter being taken into consideration, in the framing of the measure, by which the salaries of our parochial schoolmasters must ere long be regulated.

It is humbly conceived, that the absolute necessity of a legislative enactment, on the subject of Scottish registration, will readily appear from the most cursory perusal of the preceding pages. The irregularities of the existing system have now become so very flagrant, that it is difficult to imagine how any opposition can possibly be offered to a reasonable proposal for their modification or removal. But, while the only effectual remedy would seem to be to render registration, in every case, *imperative*, it would probably be prudent, at least in the first instance, to make the com-

pulsory provisions as moderate in their nature as possible. Again, although it would be very inadvisable to introduce a system, overloaded with elaborate details; on the other hand, it must be admitted, that excessive scantiness of information would prove even more objectionable. Many valuable hints are, of course, to be derived from the admirable regulations, now in force both in England and on the Continent, to which we have already pretty fully referred; and some useful suggestions will also be found in the report, by the committee of the London Statistical Society, on the Registration Bill introduced by Lord Rutherfurd in 1847.* Whatever arrangements may eventually be adopted with regard to the appointment of local registrars,—whether their duties are to be discharged by the session-clerks, or by other properly qualified officers,—it appears to be absolutely necessary that some provision should be made for the inspection, supervision, and concentration of our various local records. Different views appear to be entertained with respect to the best mode of carrying out this very desirable arrangement. Many persons are inclined to prefer the plan which proposes to place the control of registration in the hands of the Lord Clerk Registrar, or of some other existing authority, while others are of opinion, that nothing short of a new and separate establishment will prove suffi-

* Journal of the Statistical Society, vol. xi. p. 282.

cient for the attainment of the important ends in view.

It must be borne in mind, however, that the introduction of the most perfect system of registration would not supersede the use of the existing parish registers, the importance of which, particularly in the case of genealogical investigations, would, of course, be as great as ever. The frequent loss of these valuable records, owing to the various causes already referred to, cannot fail to suggest the necessity of some stringent rules being established, in order, if possible, to prevent the recurrence of similar misfortunes; while the generally imperfect condition of a large number of the existing registers would certainly seem to justify the adoption of any measures that can be devised, to counteract the bad effects of exposure to damp, as well as the natural tendency to decay. In some rare instances, we have seen that the most praiseworthy exertions have been made to maintain the value of parochial registers, by transcription and other means; and there can be no doubt that many simple expedients might still be resorted to, which would materially contribute to the preservation of these important records.

Although it has been alleged that they are apt to "become *patriotic* at the imposition of £9000 *per annum*," we are unwilling to believe that the country gentlemen of Scotland will think of throwing any very serious obstacles in the way of a well-digested

measure for the amendment of our registration. Again, while it cannot be very truly asserted that any great exertion has been made by the clergy, to diminish the imperfections of the existing system, we are by no means inclined to re-echo those unqualified charges which have occasionally been made against them, as standing in the way of any improvement. In the returns from which we have so frequently quoted, numerous instances occur, where the parish ministers distinctly state that nothing short of legislative interference can produce a proper remedy. Thus:—

Neilston, (Renfrew.)—"Regularity in registration never will be attained, till a parliamentary enactment enforce it under penalties."

Abernethy, (Perth.)—"The defects which exist in all our parishes, with few exceptions, in the system of registration, suggest the necessity of some legislative measure on the subject."

Whitsome and Hilton, (Berwick.)—"Owing to the absence of an express law upon the subject, a complete register is impracticable."

Turiff, (Aberdeen.)—There is such remissness in registration, "that it would perhaps be well if a legislative measure, somewhat similar in its provisions to the Registration Act for England, were extended to Scotland."

Kirkpatrick-Durham, (Kirkcudbright.)—"Since the register came into his hands, the present minister of the parish has endeavoured to keep it a little better than formerly, but as he has always been expecting the proposed Registration Bill to pass into law, he has not got a new book, and even now it is not kept as it ought to be."*

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* See also *Dundonald*, (Ayr;) *Ellon*, (Aberdeen;) *Middlebie*, and *Wamphray*, (Dumfries;) *Auchterderran*, (Fife;) *Bracadale*, (Inverness;) *Traquair*, (Peebles;) *Caputh*, and *Methven*, (Perth;) *Hobkirk*, and *Wilton*, (Roxburgh;) *Loth*, (Sutherland,) &c.

In addition to the parochial clergy, numerous other bodies have joined in the cry for the interposition of the Legislature. We have already referred to the resolution of the British Association, to the Report of the General Assembly's Committee, and to the petitions presented to Parliament by the Royal College of Surgeons, and the Managers of our Life Insurance Offices; and we may now also mention the representations that have been made to Government by the Town-Councils of Edinburgh, Glasgow, and Aberdeen, as well as by the Statistical Congress, which last year assembled at Brussels. In more than one instance, the Scottish press has frequently directed public attention to the defects in our system of registration, and perhaps no other journal has given so much prominence to the subject as the "Edinburgh Evening Courant." Lastly, the testimony of the Scotch Inspector of the Board of Health, which we have already noticed, is fully confirmed by the English Registrar-General, who complains, in a recent quarterly report, that "births and deaths not being registered in Scotland, (and Ireland,) as in nearly all other civilized countries, the increase of the population of the United Kingdom cannot be ascertained."

Let us express an earnest hope that these remonstrances and complaints have not been made in vain; that an effective and satisfactory system of registration of births, deaths, and marriages, will, at no distant period, be in active operation throughout the

length and breadth of Scotland ; and that the country which has been so long and so justly celebrated for her admirable public record of legal and judicial writs, will thus cease to be regarded as a remarkable exception among the nations of Christendom.

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