

# THE SCOTS CANADIAN

Issue XVII

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Fall/Winter 2003

## Granite Club to host our third annual Burns Night

It was predictable, inevitable and bound to happen. After organizing four very successful "Scot of the Year" celebrations at the Granite Club in Toronto, the management of the Granite Club made our Gordon Hepburn an offer he couldn't refuse!

Gordon, a laddie born and raised (not too tall) in the heart of Aberdeenshire, Scotland has been reading, reciting and retelling stories for more than three generations of haggis bashers. Gordon fondly remembers his first performance of a poem by Robert Burns in the Inverourie Auld Kirk Hall. His teacher stood at the back of the hall with clasped hands, closed eyes, perhaps praying. Girls, eyes wide open in the front row were mesmerized, pals in the second row

sniggered and mother cried. Recital over, Gordon neatly folded his hand printed page and took three steps back to be engulfed by a huge crimson velvet curtain. The bountiful applause was lifetime encouragement to the six year old.

In the summer edition of The Scots Canadian you read about Gordon's venture in 1975 into red Russia promoting Robert Burns and Scotland. Well, Gordon

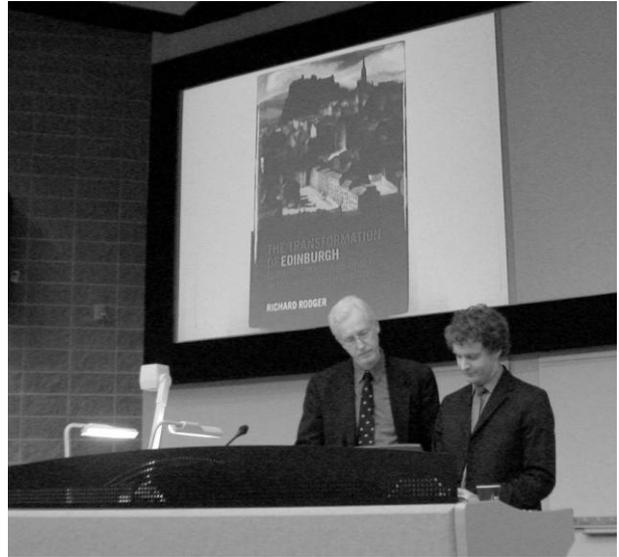
is still promoting and persuading kith and kin to appreciate the work of Robert Burns.

Guided and assisted by Gordon, the Scottish Studies Society inaugurated its first annual Burns Supper. Gordon was host and Master of Ceremonies. In 2003 at our second annual Burns Supper the Society had the honour of being host to Mr. Jim Robertson, the President of the Robert Burns World Federation, all the way from Yorkshire, England. The attendance of Mr. Robertson was a tribute to Gordon and the lifetime of work he has done to promote recognition of Scotland's finest poet.

The 2003 Burns Supper was so successful the University of Toronto bought the hotel where our annual Burns Suppers were held! But that's another story for another day. And now in 2004, with Gordon at the helm, the Scottish Studies Society and the Granite Club will join together in presenting what we hope will be the grandest Burns Supper in Canada. The Granite Club asked Gordon to organize a Burns Supper for the Club. Being the practical man that he is Gordon suggested we join forces and combine the Granite Club and the Scottish Studies Society events.

If you plan to attend only one Burns supper in 2004 this should be the one.

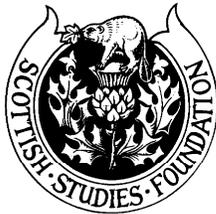
The pipes and drums of the 48<sup>th</sup> Highlanders will be there in full regalia, Sandy MacIntyre with the best musicians



Professor Richard Rodger from the University of Leicester and the University of Guelph's Professor Kevin James review notes at the Fall Colloquium (see page 3)

### Scots Wha Hae

*a desire to nurture and preserve  
their heritage in Canada  
are invited to join*



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from Cape Breton, Danielle Bourre with her enchanting Celtic harp and delightful singing of Burns songs will complete the entertainment. And let's not forget a beautiful traditional Scottish meal and a bevy of Burns scholars reciting the famous stanzas culminating with Holy Willie's Prayer.

Imagine Willie -- a craggy old man, lungs dried out by peat smoke and the chaff of one harvest too many. A large dram or a guid measured gill loosens Willie's throat. He struggles down on his knees to pray.....

O thou wha in the heavens dost dwell,  
Wha, as it pleases best thysel'  
Sends ane to heaven and ten to hell,  
A' for thy glory,  
And no for ony guid or ill  
They've done afore thee!

But Lord remember me and mine,  
Wi' mercies temp'ral and divine,  
That I for grace and gear may shine,  
Excell'd by nane,  
An' a' the glory shall be thine,  
Amen...Amen.

The date is easy to remember Friday, January 23<sup>rd</sup>, 2004. Mark it in your calendar NOW.

For more details or information please call:  
Duncan Campbell at 416 633 8974  
Gordon Hepburn at 905 881 5780

## Letter from the Chair

Dear Fellow Members,

Well it's hard to believe that yet another year has gone by! And in this case, what a year it has been! Ever since Dr. Rosanski announced at our annual Tartan Day Dinner last April that the University of Guelph would be going ahead with the establishment of a permanent Chair in Scottish Studies all of us on the Board of Directors are still getting to grips with the fact that our major objective is about to be realized.

In this regard, the University has been active in attempting to recruit a suitable candidate to fill the Chair. Advertisements in the academic press and in publications such as the *Globe & Mail* have been placed and the selection committee which was established last summer has been charged with the goal of recommending an appointment for the 2004-05 academic year. The latest word is that they will meet on January 6 to draw up a short list of candidates and we wish them well in this challenging task.

On other business, I would like to take this opportunity to thank each and every one of you, our members, for your tremendous support. I cannot stress strongly enough how crucial this has been in making the case that the Scottish tradition in Canada is held in high esteem with people from across the country and abroad.

I would also like to thank all members of the Board, including our Fundraising team for their dedicated efforts over the last year. As you know, we had a very successful



Prof. Liz Ewan, Prof. Richard Roger, Dr. Cicely Watson and Dr Kevin James at the 2003 Fall Colloquium

Burns Night in Toronto's Colony Hotel last January, followed by a spectacular Tartan Day Dinner at the Granite Club. Thanks to the efforts of Gordon Hepburn and Duncan Campbell these events turned out as usual to be nights to remember.

We also had a very successful Tall Ship Cruise in September, once again to commemorate the anniversary of the Scots pioneer ship Hector. Thanks are due to Ed and Anne Patrick for their efforts in organizing this event.

And in the fall, of course we had a very well attended Colloquium featuring keynote speaker Professor Richard Roger of the University of Leicester, England. At that event, Dr. Cicely Watson presented Professor Roger with the Frank Watson Prize (in honour of her late husband). We were also able to let attendees know about the Foundation's purchase of six very valuable City of Glasgow Directories dating from 1804 to 1849 which we were able to donate to the University of Guelph library.

Incidentally, next spring the University will be hosting a Family History Day, which will focus on genealogy and, for the first time, will be held in Toronto at the new Humber Campus of the University of Guelph.

There is another activity going on behind the scenes that I would also like to mention to you. For some years now, a major source of income for the Foundation is that obtained from the operation of the Keele Street Bingo in Toronto. This goes back to the time when the Ontario Government legalized this type of activity with the stipulation that a portion

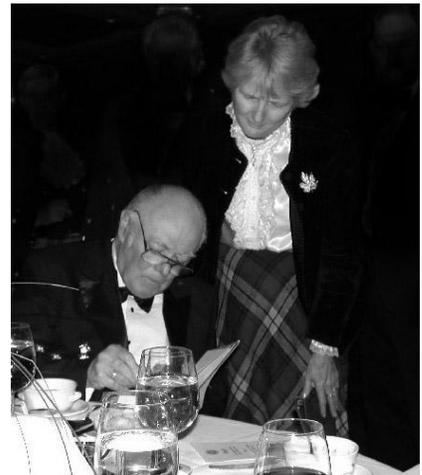
of the revenue goes to registered charities.

We were fortunate to be one of the charities allowed to participate in this but the catch is that we must have some bona fide members present at the game.

However, as you might imagine, finding members who are interested in Scottish Studies and the game of bingo has not been easy! But to put this in perspective, our income from bingo exceeded \$17,000 for the fiscal year 2003, an amount we cannot afford

to lose. So we are delighted to announce that Foundation member Maggie McEwan has volunteered to be the coordinator for the Foundation's portion of the Keele Street operation. Maggie will ensure that there are the right number of people present to run the bingo and will keep us informed of the financial and operational aspects of each event.

I would also like to thank Alan McKenzie who personally ensured that the bingo operation has been maintained over the last two or three months. In addition, thanks are due to Ed and Anne Patrick for their participation. Should you know of anyone who would like to help with this please let us know.



Alistair MacLeod signs one of his books for Blanche McMillan

I was also delighted to learn that our Scot of the Year 2002, author and "quiet literary giant" Alistair MacLeod recently won the coveted Lannan Literary Award in the fiction category, an award worth \$125,000 US. Established by the Lannan Foundation of Santa Fe, N.M., in 1989, the Lannan Literary Awards celebrate excellence in poetry, fiction and nonfiction, and recognize writers worldwide who have made a significant contribution to English literature. Congratulations Alistair and thanks for keeping the tradition alive!

And last but not least -- a very big thank you to Trudi Wright, Stephanie Hill and Andrew Bonnell, our graduate students who keep the Scottish Studies Office running at the University and who answer the many questions that come by phone or e-mail from all over the world.

So please accept my best wishes to you and yours in the year ahead. Peace, happiness and goodwill to you all.

Sincerely  
David Hunter

## Meet the Staff

Trudi Wright, Stephanie Hill and Andrew Bonnell (pictured below) are the graduate students who keep the Scottish Studies Office running. Here are a few words of introduction from each of them:



Hello, my name is Trudi Wright, and I came to the University of Guelph masters program from Brock University (St. Catharines, Ontario). My research interests include Scottish and Welsh ecclesiastic and gender history. I am currently writing a paper looking at whether there is a distinctive Scottish hagiographic tradition (or whether the Scots had their own way of writing about saints' lives). I am also keen on superstition, folk culture, and football (that's the UK type). I'm quite happy to be working in the Centre for Scottish Studies, and appreciate the opportunity that the Scottish Foundation has given me within the community.

\*\*\*\*\*

Hi there! My name is Stephanie Hill, and, like Andrew, I am also a graduate of University College of Cape Breton, pursuing



Ryan O' Connor and Kevin James

my MA here at the University of Guelph. My chief research interest focuses on the education of Scottish clergy in France in the late middle ages, and I'm also interested in church history and the Viking infiltration of Scotland. I've very much enjoyed my experience with the Centre for Scottish Studies thus far, and I hope to continue working here throughout the remainder of my MA. Cheers!

\*\*\*\*\*

Good-day, my name is Andrew Bonnell and this is my first year in Guelph's history MA program, having completed my undergraduate degree at the University College of Cape Breton. I am continuing my interest in Scottish history by looking at aspects of Celtic Scotland in the middle ages. My research at the

moment is focused on concepts of Celtic masculinity as well as portrayals of Scottish national identity. Working in the Centre for Scottish Studies is proving a valuable experience and I am grateful for the opportunity.

### *Scottish Studies Fall Colloquium well attended*

On October 4, 2003 the University of Guelph held its annual Scottish Studies Colloquium. The Scottish community was out in force to enjoy the day's events and discuss all things Scottish.

After the first presentation by Mark Spencer of Brock University, guests were treated to refreshments and a book browse, including an opportunity to acquire books from the University's Scottish Collection.

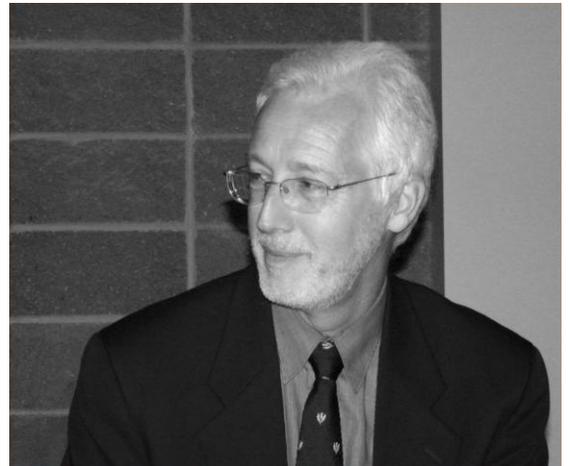
Following the break, Professor

Kevin James gave the update of annual activities, highlighting progress from the past year, including the appointment of Dr. Elizabeth Ewan as a full professor at the University.

Two young Scottish historians, Wesley Jameel Hampton and Ryan O'Connor, then gave very well received presentations before lunch was provided.

The second half of the colloquium began with Dr. Gary Peatling of the University of Guelph giving a paper entitled, *Scotland, Ireland and Ulster: historians, pasts and futures*.

To bring the day to a close, Professor Richard Rodger from the University of Leicester was awarded the Frank Watson Prize for his outstanding contribution to Scottish historical literature: *Transformation of Edinburgh: land, property and trust in the nineteenth century*. After his thought-provoking discussion on the making of urban Scotland, the day was brought to a close. All those in attendance now eagerly await next year's event.



Professor Richard Rodger



Colloquium attendees browsing in the new Rosanski Hall

# The Battle of Glen Tilt

*Anyone visiting the Highlands of Scotland for the first time is always struck by the freedom to roam hills, glens and moors without encountering the "no trespassing" signs that are commonplace in North America. The subtlety of this situation is touched on in this little known event.*

This obscure "battle" came about in the summer of 1847, when James Balfour, Professor of Botany at the University between 1845 and 1879, led a group of students on a field trip to the Cairngorm Mountains. On their first outing they climbed Ben Macdui to study the grasses that grew on its high arctic plateau.

On August 21 the party then set off through Glen Tilt intending to head back to Edinburgh via Blair Atholl. At this time, the Duke of Athole was known to look less than favourably on people crossing his land and it has been suggested, though no evidence exists to support this theory, that the Professor was deliberately trying to provoke a confrontation.

Sure enough, once in the Glen, Balfour and his party came across the Duke and his ghillies who demanded that they turn round and return to Braemar. Ignoring this advice Balfour and his students leapt over a wall and ran down the glen to Blair Atholl.

As a direct result of the Duke's actions, the Edinburgh-based Association for the Protection of Public Rights of Roadways in Scotland took up the case on behalf of the public. The case generated a great deal of publicity and was eventually won by the Association who established the public's right to walk on this old drove-road.

The Duke, concerned that the exercise of a public right of way would "materially decrease the value of the forest" and, in particular, his commercial deer-stalking interests, continued to bar the right of way, although it is not recorded whether he used his private army (largely ceremonial, but the only permitted private army in the United

Kingdom).

Finally, Alexander Torrie, an Aberdeen solicitor, Robert Cox, an Edinburgh solicitor and Charles Law, a Perth merchant, raised an action in the Court of Session seeking a declarator that the road running through Glen Tilt was "a public road and that the pursuers and all others were entitled to the free and uninterrupted enjoyment of it".

There was little difficulty in establishing that the road had a long history of public use; it had been an ancient drove road, used for centuries for the purpose of driving cattle and sheep to market. The Duke had changed the precise line of the route from time to time, but this was held to be irrelevant.

Lord President Boyle in his judgement described... "a sort of phrenzy (*sic*) which has seized persons in various districts of the country" referring to the wide publicity which the case was receiving. But, although the pursuers were not resident in areas close to the right of way, Lord Boyle had no difficulty in holding that they were entitled to raise the action and declared that the road through the Glen was, indeed, a right of way.

Not only was this case a landmark in the history of Scottish Rights of Way, it re-opened to the public one of the finest walks in Scotland through one of its grandest glens. The present owner of Atholl Estate has a more enlightened view of the subject and representatives of the Estate accompanied members of the Rights of Way Society in a commemorative walk through the Glen (22 miles) in 1997, 150 years after the original "battle".

However, it is a myth to say that now one has the right to go anywhere in Scotland.

temporary intrusion into property owned by another, without the permission or consent of the owner. The main remedy open to the landowners is interdict (to forbid or prohibit in a formal manner). Damages are not available unless there has been actual damage to the property because of the intrusion. Nevertheless, the owner or proprietor of the land is entitled to use a reasonable degree of self-help to remove the trespasser. It must be reasonable in all circumstances and must not be excessive. In other words, the trespasser cannot be threatened with violence if he or she refuses to leave.

An interdict will not be granted unless there is sufficient evidence to show that further intrusions onto the land are likely. Accordingly, it may be necessary to prove a pattern of behaviour on the part of the trespasser and this may be extremely difficult to establish.

## Is trespassing a criminal offence in Scotland?

In general, trespass is not a criminal offence unless the person enters onto another's property with the specific intention of occupying the property for an indefinite period, e.g. a squatter. In these circumstances the squatter would probably commit a criminal offence under the Trespass (Scotland) Act 1865 or the Criminal Justice and Public Order Act 1994. Trespass by way of a temporary intrusion onto land is not a criminal offence in Scotland.

In some circumstances it is also a criminal offence to trespass on land with the purpose of holding large gatherings or unregulated raves there. The law prevents the holding of gatherings on land which are likely to attract significant numbers. This may apply to field sport saboteurs and environmental protest groups. This aspect of the law is seen as highly controversial both in Scotland and England as it may affect the rights of those who wish to demonstrate.

## Is there a law of trespass in Scotland?

Yes. A person who deliberately enters another person's land may be interdicted from entering the land again, and may be liable to pay damages to the owner, if damage has been caused to the property. It has been wrongly assumed in the past that there is no law of trespass in Scotland and that everyone enjoys as of right the freedom to roam the countryside. This is not the case.

Trespass is defined as a

## Are the laws of trespass in Scotland different from those in England and Wales?

There is very little difference. In each of these countries it could be said to be a civil offence against the personal right of property although in Scotland enforcement action by way of interdict is extremely difficult for the reasons set out above.

Nevertheless, Scotland's distinctive laws and traditions are different from those of England and Wales and the freedom of access argument is being closely examined by various public and voluntary bodies at present in an attempt to clarify this confusing and important area of the law.



Blair Castle at the southern end of Glen Tilt

2003 Events - a retrospective



← Singing along on the Tall Ship Cruise

The Tunnockbrae Dancers at Burns Night →



← Ready to sail on the Empire Sandy

Sandy MacIntyre and his band "Steeped in Tradition" (Tartan Day)→



Burning off the calories at Tartan Day!



The skirl o' the pipes at Tartan Day

Here are a just few photographs from some of this year's events. As you can see, we know how to have a good time and raise the sound level more than a few decibels!



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