



# NOTARIES PUBLIC IN THE NORTHERN DIOCESES OF SCOTLAND BEFORE THE REFORMATION

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## ABSTRACT

The historical record reveals that only a relatively small number of individuals were active in the role of notary public within the 'northern dioceses' during the pre-Reformation period. This paper seeks to identify a number of them and to provide a little information about their activities. A particular study is made of (Sir) John Cristisone, a notary of Aberdeen Diocese, 1518-1551.

## Table of Contents

Table of Contents .....	1
List of Figures.....	3
List of Tables.....	3
Abstract: .....	4
Introduction.....	4
Notaries: An Early History. ....	4
The Arrival of Notaries in England.....	8
Notaries in Scotland. ....	15
Notarial Protocols and Instruments. ....	20
The notarial ‘Sign’.....	24
Dating Notarial Instruments.....	28
General Identity of Scottish notaries.....	29
Education and Training.....	29
<i>Training</i> .....	33
Graduate Numbers.....	36
Clerks and Clerics.....	38
Dress Code.....	40
Family Links. ....	41
Identity of Notaries in the North-East.....	41
The Area of Interest.....	42
Statistics.....	48
Interpreting “of Aberdeen” etc. ....	50
Remuneration.....	55
Locations.....	58
(Sir) John Cristisone 1518-1551.....	61
Appendix A: The Vision of St Peter.....	70
Appendix B: Diocesan Income c.1562. ....	75
Appendix C: List of NE Notaries.....	76
Appendix D: Thomas Boner.....	77
Appendix E: (Sir) John Cristisone’s activity by ‘Location’. ....	79
Appendix F: Types of Notarial Instrument Recorded by (Sir) John Cristisone. ....	79
Appendix G: Notaries Recorded in the North-East who were Graduates.....	81
Appendix H: Extent of the Garioch Deanery. ....	82
Appendix I: Graduates Recorded in the North-East.....	84



Appendix J: List of all Notaries Identified in Scotland ..... 84

Appendix K: Robert Lambedene (c.1230), notary. .... 85

Bibliography..... 89

Archives. .... 93

Websites ..... 95

Image Licenses..... 96

Mapping..... 96



**List of Figures.**

Figure 1: Image of the Legatine Council of 1237 with Cardinal Otho presiding (left). [Matthew Paris.].....	9
Figure 2: Notarial Device of Robert Wedderburn, notary, 20 Sept. 1525.....	10
Figure 3: Notarial Device of Alexander Wedderburn, town clerk of Dundee, notary, 14 Oct. 1575.....	10
Figure 4: A Cardinal sitting as a judge in court, with a notary flanked by two scribes, at his feet, ca. 1355-60. Attributed to Bartolomeo dei Baroli.....	12
Figure 5: "Portrait of a Notary" by Quentin Massys (Matsijs) (†1530), Antwerp School. Oil on wood, c.1510. © National Galleries of Scotland. ....	15
Figure 6: Notarial 'Sign' of Alexander Gaw who was also Vicar Pensionar of Abernethy, 1545. © Council of the Scottish Text Society.....	25
Figure 7: Notarial 'Sign' of John Foular, Edinburgh notary, c.1500. ....	25
Figure 8: Notarial 'sign' of David Douglas, NP. Douglas is recorded as a priest and notary in Moray Diocese – the earliest reference being in 1538. The source illustrated above is "a register of documents pertaining to the Dominican Priory of Elgin and the Maison Dieu, copied from the Chartulary of the see of Moray and certified mostly by David Douglas, notary public, in 1548." © National Library of Scotland (Adv.MS.34.7.2) .....	26
Figure 9: Notarial Instrument executed in 1500 by Alexander Myln, subsequently Lord President of the Court of Session. Myln is first recorded as a notary of Aberdeen Diocese in 1496. ....	27
Figure 10: Rolandino's tomb in Piazza San Domenico, Bologna. (Image: P. Granville).....	32
Figure 11: Map of the Scottish Dioceses at the Reformation of 1560. (Those dioceses covered in this paper are marked in PINK. Those in BLUE were part of the Scandinavian archbishopric of Nidaros.).....	44
Figure 12: The six parishes of 'North Argyll' are shown above in green. The lands of the parish of Ardersier (including Delnies) are shown in red.....	45
Figure 13: Map of Moray: Rampini (1897), front-piece. ....	47
Figure 14: Pi-chart showing the number of notaries recorded in each diocese expressed as a percentage of the total...49	49
Figure 15: Graph showing the rate of appearance of notaries in the north-east. (Total = 195) - 9 more appeared between 1550-1560. ....	50
Figure 16: Interior of the Consistory Court at Chester Cathedral.....	62
Figure 17: Large-scale map of Scotland showing where Cristisone is known to have been active.....	63
Figure 18: More detailed map showing the specific locations where John Cristisone performed most of his notarial functions. ....	64
Figure 19: The Parish Churches of the Garioch Deanery (marked in 'yellow').....	66
Figure 20: Map showing the parish churches that have been known in the Deanery of the Garioch. ....	82
Figure 21: Letter of the Earl of Dunbar to T.[homas] Prior of Coldingham. ....	85

**List of Tables.**

Table 1: Number of Notaries recorded in each of the Northern Diocese.....	49
Table 2: Locations of Cristison's notarial activity in Aberdeen.....	59
Table 3: Main locations.....	66
Table 4: Other locations used frequently. ....	67
Table 5: Types of Notarial Instrument most regularly encountered. ....	67



# Notaries Public in the Northern Dioceses of Scotland before the Reformation of c.1560.

## **Abstract:**

The historical record reveals that only a relatively small number of individuals were active in the role of *notary* within the 'northern dioceses'<sup>1</sup> during the pre-reformation period. This paper seeks to identify some of them and to give a little information about their activities. A start is made by tracing the earliest appearance of notaries within the civil administration of Rome. There then follows a description of the development of the functions of notaries in both the civil and ecclesiastical administrations which followed the Empire. A section describes the duties performed by Scottish notaries and compares this with the pattern that was to be found elsewhere during this period. Finally, an attempt is made to identify some of the individuals who acted as notaries in north-east Scotland during the period leading up to the Reformation of 1560 with a particular study being made of the notarial activities of (Sir) John Cristison (1518-1551).

## Introduction.

It has long been considered that notaries were the 'backroom boys' of both the civil courts and the Church's ecclesiastical administration. Their role was seldom high-profile, but their functions were of the first importance. Although sometimes they were only a shadowy presence at illustrious and, at times, nationally important events, these were the people who recorded history as it happened and created records which were then handed down to future generations. A significant number of these records are still extant within the vaults of the *National Records of Scotland* and elsewhere and continue to provide a rich source for research into the sociological history of Scotland.

Dr. Patrick Zutshi, who was, up until 2015, Keeper of Manuscripts and University Archives in Cambridge University Library was an early expert on the work of notaries, and it was one of his papers that initiated the research which led to the present paper being written.<sup>2</sup>

## Notaries: An Early History.

An appreciation of the role of those functionaries who carried out notarial duties in the Roman era can not be fully developed without due reference to the magnificent thesis of Dr. James C. Brown, entitled *The Origin and Early History of the Office of Notary*.<sup>3</sup> It sets out, in clearly structured detail, the nature and responsibilities of the various offices such as *scriba* and *notarius*, the qualifications which were required of them, their duties and the methods such

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<sup>1</sup> For the purposes of this paper, we have defined the 'northern dioceses' as being those of Moray, Ross, Caithness, and Aberdeen.

<sup>2</sup> Zutshi, P. (1977).

<sup>3</sup> Brown (1936).



officials employed in drawing up the various *instruments* that were the product of their 'profession'. Brown's thesis provides a secure foundation upon which to build an understanding of the functions of notaries in later eras.

'Notaries', as we understand them, first appeared in republican Rome at a very early date and they came to play an important part in the civil and legal institutions of the Empire from the pre-Christian era. The word "notary" itself stems from the Latin term "nota," applied to a system of shorthand developed by M. Tullius Tiro (d. 3BC) who was Cicero's clerk. Justinian, particularly in his *Novels* (XLIV. and LXXIII.), dealt specially with the notary, providing *codes, digests, and institutes* that were to govern the office. To gain a proper understanding of this requires a familiarity with the main characteristics of Roman Civil Law but it remains to be said that "We can trace certain functions of the Notary back nearly two thousand years."<sup>4</sup>

Reference should also be made here to the *notarii* who, in the early centuries of the Christian Church, were ecclesiastical officers, "their office being to gather and preserve the Acts of the martyrs." They were seven in number, one in each of the seven ecclesiastical divisions which had developed from the fourteen civil divisions created by the Emperor Augustus (27BC-14AD). These seven divisions seemingly correspond to the seven Roman deacons (*diaconus regionarius*) who were each appointed to one of them. Each deacon had an administration which included a number of *notarii regionarii* and *defensores regionarii*. The fourth Pope, St. Clement Clement (c.88-c.97AD), was the first who established these notaries, and assigned to them their different stations in Rome, there to write the Acts of the martyrs who would suffer in that City. As we learn from the *Liber Pontificalis* of the third century, St. Fabien, a later Pope, considering that the writings, which were then produced employing a form of M. Tullius Tiro's notarial *shorthand*, were very obscure, added seven sub-deacons to these notaries, to the end that they should take care to write out, at length and without abbreviations, that which the notaries had written in shorthand.<sup>5</sup>

From an early period, several public officials existed who were known generally as *scribæ*, or scribes. These men were at once set apart from the general population since they had learned to write quite fluently, although their time was spent mostly as mere copiers and transcribers rather than as composers of what they wrote. However, in time they rose to the rank of a learned profession, and "by reason of their technical knowledge and skill, took a prominent part in the conduct of public and private affairs."<sup>6</sup> There was no uniformity about the occupation of these *scribæ*. Some were permanently employed in the senate and courts of law, where they recorded **public** proceedings - transcribing state papers, supplying magistrates with legal forms, and registering the magistrates' judgements and decrees; others were employed in matters of **private** concern - drafting deeds, recording wills, conveyancing, etc.

As has already been observed, in the last century of the Republic, and possibly in the days of Cicero, a new system of 'shorthand' was invented, using, instead of abbreviations (called *sigla*), certain arbitrary marks or signs (called *notæ*), which were substituted for words that were commonly used. A writer who adopted this new method was called a *notarius*. Originally, then, a notary was one who took down statements in shorthand and, later, wrote them out in the form of memoranda or minutes.

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<sup>4</sup> Brown (1936), p. 2.

<sup>5</sup> Brown (1936), p. 11.

<sup>6</sup> Brooke (1867), p. 1.



In time, however, the title *notarius* came to be reserved almost exclusively to *registrars* attached to the courts of provincial governors, to the *secretaries* of emperors, and to the highest class of *officials* employed in the Imperial Chancery or Privy Council.<sup>7</sup> As well as their public duties, notaries were also connected with what was known as the *voluntary* or *non-contentious* jurisdiction of the courts. This involved them in drawing up deeds and other private documents, which were afterwards sealed in the presence of the presiding magistrate using the official seal of the court. This then transformed them from **private** 'acts' into **public** 'acts' and, most importantly, authentic 'acts'. When all the customary formalities had been completed, the instrument or act was complete and was binding on the parties.<sup>8</sup> These acts of a *tabellio/notary* were known as *instrumenta publice confecta* and commanded a degree legitimacy and authenticity that was not necessarily accorded to *instrumenta privata*, or documents executed by private individuals without the involvement of a *tabellio/notary*. However, even these *instrumenta publice confecta* were not, in Roman Law, accorded the full credit and authenticity that was attached to an official record prepared by a *notarius* and sealed in court. The consequence of this was that *instrumenta publice confecta* were not, in themselves, accepted as proof in a court, and would require the presence of the *tabellio/notary* himself, or, in the event that he had died, the attendance of the subscribing witnesses, who were required to prove, on oath, the truth of the facts expressed in the instrument or act. Obviously, this could lead to considerable inconvenience and loss of time and possibly money. To avoid this, a system was required to allow for the deposit and registration of such *instrumenta publice confecta* in a local public archive. The use of such a system meant that the instruments became *instrumenta publica* in the full sense of the term and were then accorded full credulity and authenticity in the courts.

“Imperial power passed into Christian hands beginning in the early fourth century during the reign of Constantine, and the legal profession soon felt the effects of the new religious regime. Devotees of traditional Roman religions in the ranks of the [legal/notarial] profession gradually dwindled in number, and by the second half of the fifth century non-Christians were forbidden to practice as advocates.”<sup>9</sup>

Justinian subsequently took matters further and banned pagans from teaching law. To add to this, the church fathers, often through the early church councils, adopted a policy which forbade clerics from becoming involved in worldly affairs, including practicing as advocates in the civil courts.<sup>10</sup> They emphasized the teaching of St Paul that, “No man, being a soldier to God, entangleth himself with secular businesses; that he may please him to whom he hath engaged himself.”<sup>11</sup>

In Europe, the fall of the Roman Empire (c.471AD) did not result in the extinction of the Roman legal system or of the office of *notary* or *tabellio*. Although the barbarian 'invaders,' as a rule, imposed their own customs on the 'vanquished', they found it expedient in some of the conquered provinces to retain the laws and institutions of ancient Rome.<sup>12</sup> Much remained as it

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<sup>7</sup> Brooke (1867), p. 2.

<sup>8</sup> Brooke (1867), p. 3.

<sup>9</sup> Brundage (2008), p. 39.

<sup>10</sup> Council of Chalcedon (451) c. 3, 7, 9, in *DEC* 1:88, 90-91; Charvet, “Accession des clerics aux fonctions d’advocat.” 291.

<sup>11</sup> 2 Tim. 2:4, [Douay-Rheims Bible](#).

<sup>12</sup> Brooke (1867), p. 4.



had been with only a few adjustments to accommodate the new regime. In many instances, the most obvious change was that the former Roman governor's place was taken by a Teutonic count and a diocesan bishop who administered justice – both temporal and spiritual. But much of the old administrative (and legal) structure remained as it had been for centuries. In the courts held by the *count*, jurists assisted him in much the same ways as they had assisted the Roman provincial governor. And, attached to his court for the purpose of expediting business were registrars nominated by himself and known as *Notaries of the Count*. These notaries were, as a rule, ecclesiastics with no fixed residence. The courts moved around the territories which were under the count's authority, being held at several regular locations and occasionally at other subsidiary sites as business required. The notaries, therefore, were likewise, peripatetic. The documents they produced were sealed in the presence of the Count using the official seal of the court and were, thereby, immediately rendered *public* and *authentic* acts.

Under the Franks there was also created a central court – a *Curia Regis* – which appears to have been a general court of appeal serving all the provincial courts of the various counts. Some transactions of higher importance were, for greater solemnity, concluded in this *Curia Regis*, which was presided over either by the *king* himself or a *count palatine*. This also had the added advantage that, in the event of the documents held in the 'local' archives being destroyed, appeal could still be made to the king for the issue of a general confirmation of title.

In the ninth century, the courts of the Count fell into disrepute. Complaints of injustice and neglect were frequently made and Charlemagne, desirous on all occasions to secure justice for his subjects, appointed special itinerant justices or royal commissioners called *missi regii*, who went from place to place and held assizes four times a year. In 803AD, these commissioners were ordered by the emperor to appoint notaries to accompany them on their circuits and also to see that all bishops, abbots, and counts, were provided with notaries. The notaries who were appointed by these commissioners were known as *Royal Notaries*.

In the beginning of the tenth century royal notaries, as well as notaries of the palace, became *registrars* and they now had fixed residences and were employed both in recording judicial proceedings and in drawing up private deeds. Towards the middle of the tenth century the number of these *royal notaries* greatly exceeded that of the *notaries of the count*, and in the eleventh century all distinction between the attributes and names of these different classes of notary entirely disappeared and the office of notary assumed a uniform character.<sup>13</sup>

Although, about this same period, the count palatine ceased to be president of the *curia regis*, he retained the right to appoint notaries; indeed, from the twelfth century, the Emperors of Germany, who, as successors of the Emperor Augustus, laid claim to the rights and privileges of the Roman Emperors, granted this right to other high officers of state and even to municipal authorities and corporate bodies. Notaries were henceforward called Imperial (or Palatine) Notaries. Towards the end of the eleventh century, the Popes, who until this time had only exercised the right to appoint notaries who were permitted to act within the papal territories, now assumed the right to appoint notaries who were permitted to act outwith the Papal States. These notaries were known as *notarii apostolicæ sedis*. Hence, notaries who derived their authority from the emperor came to work alongside those whose authority was derived from the Pope. This was the foundation of a practice which continued throughout the medieval period whereby notaries

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<sup>13</sup> Brooke (1867), p. 5.





ascribed themselves to be a notary public by Imperial authority or by Apostolic authority, and certain individuals claimed that they held the authority of both.<sup>14</sup> However, although some countries accepted a notarial instrument without the need for it to be sealed by a court, the law of France long continued to hold that a notarial deed was not to be deemed to possess the advantages of authenticity until the seal of the court at which the notary who prepared the document was registered, had been affixed.<sup>15</sup> Louis XIV. abolished this formality and so destroyed the last vestige of the ancient dependence of notaries on judicial authorities. He did this by granting to each notary a seal-matrix which bore the royal arms, and which the notary himself was to use to affix a seal to his deeds.<sup>16</sup>

### **The Arrival of Notaries in England.**

It is appropriate that we should look briefly at what happened in England since, very often, their practices found their way into customary use in Scotland.

Originally, English notaries were officers of both the civil and ecclesiastical (canon law) courts and acted by both imperial and papal (apostolic) authority. Most of these were what might be called 'peripatetic notaries' who carried out functions during a stay in this country, often as part of the *entourage* of some foreign noble, or under the authority and directions of one such, and they occur in the historical record from an early date. Only later were there permanent notaries resident in England. When Regenbald (Reinbaldi) was chancellor of England, during the reign of King Edward the Confessor (1042-1066), certain manors and lands were granted by that king to Westminster Abbey, as is recorded in a charter which, according to its final clause, was written and attested by one Swidgarus/Swardius [Switgar = Swidgar], a notary.<sup>17</sup> The charter in question is related in full in [Appendix A](#) of this paper because it is of such immense importance. It is considered to be the first recorded instance of a notary in England, and it is of even greater importance since it was written by Swardius to record King Edward the Confessor's gifts which enabled the re-building of Westminster Abbey. It was dated at Westminster on 28 December 1065 – only a little time before Edward's death and his successor's ultimate defeat at Hastings.

A century later, in a deed of King John, dated AD 1199, we find Master Phillip, a papal nuncio and notary, who was granted thirty marks of silver annually until such time as the King could provide him with an ecclesiastical benefice.<sup>18</sup>

<sup>14</sup> REM., no. 139, pp. 156-157. One of the first notaries who we encounter in the northern dioceses – Thomas John Boner, a clerk of the diocese of Ross – on 20<sup>th</sup> October, 1345, wrote a notarial instrument which contained the grounds and evidence on the claim of the bishop of Moray to have the 'rights of visitation' of the Priory of Pluscarden. He signed himself as, "... Thomas Johannes Boner Rossensis Dyoceseos publicus apostolica et imperiali auctoritate ..." He appears twice in the *Registrum* and signs himself in the same way on each occasion [REM., no. 137, at p. 153; REM., no. 139, at p. 157.]

<sup>15</sup> Brooke (1867), p. 7.

<sup>16</sup> Brooke (1867), p. 7.

<sup>17</sup> "Swidgar notarius, ad vicem Reinbaldi regiae dignitatis cancellarii, hanc cartam scripsi et subscripsi." [I, Swidgar (= Switgar), a notary, I wrote and signed this letter at the time of Reinbald's royal position as chancellor], in Hruschka, A. (1885) *Zur Angelsächsischen Namensforschung*, Prague: Selbstverlag, druk der Staathalterei-Dtuckerei, Vol. 23, p. 42; Mayor (1869), pp. 231-239.

<sup>18</sup> Rot. Chart. 1 John, 61 b: Letters patent to archbishops, bishops, &c., to show due honour to Master Philip, the pope's nuncio, and notary. It would appear that Master Philip, the envoy of Innocent III, came to



In the year 1237<sup>19</sup>, Cardinal Otho of Tonengo<sup>20</sup> arrived as apostolic legate (*legatus a latere*) to England, Scotland and Ireland. He had been sent as the consequence of a request made to the pope by King Henry III., in an attempt to counter the power of Edmund, then archbishop of Canterbury. The pope also hoped that the presence of the *legatus* could help to resolve a dispute between King Henry and Alexander II., King of Scots. Cardinal Otho's powers were immense, and he lost little time in setting himself to his task. On 14 September 1237, at York, only three months after his arrival in England, negotiations commenced, with Otho acting as president. King Henry only arrived in York on 22 September<sup>21</sup> which meant that face-to-face discussions between the two kings can only have lasted for two or three days. However, they resulted in the *Treaty of York*, signed on 25 September 1237, the full diet of discussions having lasted some eleven days.<sup>22</sup> Otto then summoned a legatine council of the English church to be held at St. Paul's cathedral in London. The outcome was a series of statutes which were roughly in accord with the *Fourth Lateran Council* and were designed 'to strengthen and reform the state of the Church in England.' Amongst these statutes, it was decreed that all archbishops, bishops, and their officials, and all abbots, priors, deans, and their officials, should each have and use an authentic seal. These were not to be 'personal' seals but rather seals to be used by the heads of an institution *in perpetuo*. This obviated the need to have a new seal matrix engraved each time a new abbot or bishop was consecrated, and it also allowed the institution's seal to become more recognizable through its continued and regular use.



Figure 1: Image of the Legatine Council of 1237 with Cardinal Otho presiding (left). [Matthew Paris.]

England to see to the collection of the income-tax of one-fortieth imposed by the pope on the clergy, for the succour of the Holy Land, in December 1199. He reached England before 24 April 1200, probably bringing with him the papal mandate. He met an assembly of the abbots and priors of the diocese of Salisbury to expound the mandate and was responsible for transmitting the funds to the pope. While he stayed in London, the charges of his household on neighbouring religious houses were very burdensome. It is thought by Lunt that, in 1204 he was collecting procurations from Whitby Abbey and was still in England on 1 June 1206. [Cheney 1948, p. 342] However, Cheney refutes this.

<sup>19</sup> 12 February 1237.

<sup>20</sup> The town of Tonengo, whence he derived his appellation, is in the province of Asti in the Piemonte region of Italy.

<sup>21</sup> *Cal. Pat. Rolls*, 197; *Close Rolls*, 565.

<sup>22</sup> Williamson (1949), 12.



In the meantime, the concept of a document's *authenticity* had come to have increasing importance since forgery was practised more and more in an attempt to mislead and defraud. A simple written charter could be forged with little difficulty and even a wax seal – often a personal device and frequently unidentifiable because of its obscurity – was of little use. Even the personal seal of a well-known individual might not be commonly known. Here, Cardinal Otho was attempting to obviate the problem by ensuring that each office and institution possessed a seal which did not change as officeholders came and went. Notaries, too, on being sworn in to their office, were required to record a copy of the 'notarial device' that they would use to set their work apart from that of other notaries. These were often of a complicated design which was done in an attempt to avoid forgery. Some Scottish examples are illustrated below:

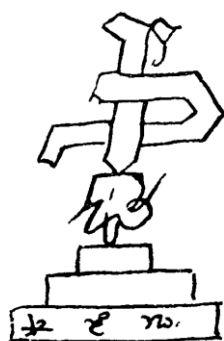


Figure 2: Notarial Device of Robert Wedderburn, notary, 20 Sept. 1525

[*Dundee Charters*, XIV., vi., 15]

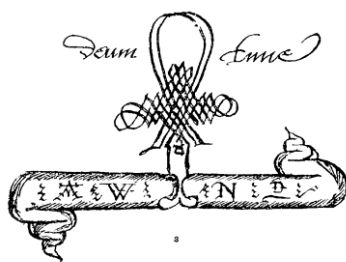


Figure 3: Notarial Device of Alexander Wedderburn, town clerk of Dundee, notary, 14 Oct. 1575.

{*Scrymgeour-Wedderburn Papers*, No. 30}

Otho continued his work in London throughout most of 1238 and 1239. In the autumn of 1239, he went to Scotland, supposedly to publish the excommunication of the Emperor Frederick II. The *Chronicle of Melrose* tells us that he, "came into Scotland about the feast of St. Matthew the apostle and evangelist [21<sup>st</sup> Sept.] and was at Melrose upon the eve of St. Dionysius [8<sup>th</sup> Oct.]." "The same Otho (by the title of cardinal deacon of St. Nicholas *in carcere Tuillano*) held a council at Edinburgh, upon the morrow of St. Luke the Evangelist [19<sup>th</sup> Oct.], and then departed from



Scotland after the feast of All Saints [1<sup>st</sup> Nov.].”<sup>23</sup> At the Council in Edinburgh, the Scottish Church was also brought to accept the statutes of the Fourth Lateran Council.

Otho might be considered to be the agent who established a more thorough administrative organization for the Church both in England and Scotland. In a letter of 10 May 1235 to the Scottish King, Pope Gregory had said that Otho was, “*virum experte providentie et magna morum predictum honestate*” – ‘a man with experienced foresight and great honesty of character’ – and it can be allowed that his relatively brief stay had monumental consequences in both kingdoms. Both churches were to be brought into line with current Vatican thought and administrative procedures.

Also, Matthew Paris recorded that, “The first of the decrees of the council of London laid it down that ‘all cathedral, conventual, and parochial churches ... were to be consecrated within two years.’”<sup>24</sup> When we reflect that David de Bernham was appointed to be Bishop of St. Andrews in the same year as Otho’s visit to Scotland, we can understand that bishop’s famous zeal for visiting his diocese and consecrating an astonishing number of churches – he was following the statutes laid down by the Legate!

From the twelfth century, notaries were to be found, licensed either by *papal* or *imperial* authority and possessing *instruments* – permissions to practice – which were regarded as being *universally valid*, thus allowing them to work in any country of the Catholic World. The papal legate Otto, in the constitutions of the Council of London of 1237, stated that there were [at that time] no notaries in England (*tabellionum usus in regno Anglie non habetur*).<sup>25</sup> As we have already noted, although a very small number of notaries come occasionally into view carrying out duties of a domestic nature for the benefit of an individual, or a family, the Legate’s comment probably held true throughout large tracts of England.

In London c.1235, an individual named *Angelus*, who is described as *Magne Imperialis Curie notarius*, is to be found having written letters on behalf of Petrus de Vineia, proctor of the Emperor Frederick II., concerning the marriage of the latter to Isabella, sister of Henry III., king of England. *Angelus* corroborated the letters with his *signum*. However, he was acting in a private capacity not public – that is, he was not acting as a notary public, nor can the letters be considered to be public instruments. The first known notarial instrument produced in England dates from 1257.<sup>26</sup>

After this time, a notary, having been examined and found ‘sufficient’, was required to take an oath that he would be true to the See of Rome, to the Empire, or (in later times) to the King. He was then ‘invested’ with pen, case, and paper – *per pennam, calamarium, et chartam*. An inkhorn and pen case attached to a silken cord suspended from his girdle formed the notary’s distinguishing badge of office in the Middle Ages.<sup>27</sup> Notaries, if they were not in the ranks of the

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<sup>23</sup> Stevenson (1850), pp. 64-65, *sub anno* 1239.

<sup>24</sup> Mat. Par., *Chron*, iii, 421 f. The custom in Scotland was that although churches were known by the name of an early saint or one of his followers, the service of ‘consecration’ was not commonly used.

<sup>25</sup> Cheney, C.R. (1972) *Notaries Public in England in the Thirteenth and Fourteenth Centuries*, Oxford, p. 12. [Ab Uni Law Lib General; 347.42016 Che]

<sup>26</sup> It occurs in a broadly similar context being a marriage contract to which one of the parties was the marquess of Montferrat. Many of the early English notarial instruments involved foreign relations, most commonly relations with the papacy.

<sup>27</sup> Brooke (1867), p. 9., footnote ‘u’.



clergy (i.e. ordained), were certainly under their guidance or control, wearing the ecclesiastical habit and enjoying the same privileges and immunities as did the clergy.

The duties of notaries in those days were two-fold: on the one hand, because their authority derived from popes, emperors, and kings, they were *de facto et de jure* international officers and in this capacity they attested and authenticated documents for use in foreign countries; and on the other hand, they acted as conveyancers, and were employed in attesting the execution of wills, deeds, contracts and other such documents.



Figure 4: A Cardinal sitting as a judge in court, with a notary flanked by two scribes, at his feet, ca. 1355-60. Attributed to Bartolomeo dei Baroli.

(© Fitzwilliam Museum, Cambridge, MS 331.)

But matters were to change and, in the reign of Edward II., during the great controversy with Rome, foreign notaries, both papal and imperial, were forbidden to practise in England. On 26 April 1320, a writ was issued directing the Archbishop of Canterbury not to allow any imperial notary to appear in any cause before him. On the same day, the King issued a general



proclamation against such notaries and their *instruments*. From this time onwards, notaries in England were to be appointed by English 'authority' and not by any outside administration. It was at this point that the English system diverged from most of Europe, including Scotland. In these *extra Anglia* countries, notaries were still appointed by Papal or Imperial authority, usually via 'local' individuals who had been given permission to act on either the Pope's or the Emperor's behalf.

In England, as trading expanded, it was chiefly matters of a commercial nature that occupied a notary's time. As these matters became steadily more complicated, the necessity soon arose to separate the functions of secular and ecclesiastical notaries, and this has remained so ever since the reign of Richard II.

The Reformation produced no material change in the position and functions of notaries in England. However, the power to grant *faculties* and appoint individuals to be notaries, which had formerly belonged to the Pope and had, by the Pope, been delegated to the Archbishop of Canterbury, was, by the statute 25 Henry VIII. c. 21, assumed by the King himself. A *Court of Faculties* was called into existence, and it thenceforth assumed (along with the archbishop) the right to appoint notaries and the responsibility to keep a register of the names of those individuals so appointed.

In 1513, soon after the successful siege of Tournai, Henry passed "*an Act concerning Ministracion of Justice in the Citie of To'ney.*" [5 Hen. VIII c.1.] In the preamble to this Act, it was laid down that there should be two officers in the city,

*"Notaries otherwise called Graffers," ... "to accepte take and recorde the Knowlege of all contractes, bargeyns, convencions, pacts and agreements made and to be made within the said City and Town of Turney ... by all manner of persons that will and shall resorte and come before them to make knowlege of the same; whiche the Notaries or Graffers shall present and deliver in wrytting all such knowlege as shalbe soo taken under there Notarie signes unto an other officer of the same Citie and Town, which our seid Sovereign Lord hath there made and deputed to accepte and take of them the same which officer for the more affirmaunce therof shall sette thereto the Seall of our Sovereign Lord made and left in the keyping of the same officer for the same entent."*

In the Ecclesiastical Licences Act (sometimes known as the 'Peter's Pence Act,' since its full title is *An Acte for the exoneracion from exaccions payde to the See of Rome.*) [25 Hen. VIII c.21 1533], the King created a new system, whereby notaries were licensed by the Archbishop of Canterbury after application to the Master of the Faculties.<sup>28</sup> These two Acts set the scene for a different approach in England which completely divorced the system from any Papal influence or interference.

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<sup>28</sup> This Official of the Archbishop of Canterbury still exists and acts to fulfil the same function as was envisaged in the medieval era. The present Master is the Dean of the Arches, Morag Ellis KC, who, being the 'approved regulator' as described in the Legal Services Act 2007, is charged, amongst other things, with the supervision of all notarial activities in England. (See Master's speech to the Society of Scrivener Notaries, 2023. <https://www.facultyoffice.org.uk/wp-content/uploads/2023/11/Masters-Speech-to-the-SoSN-and-UoNIN.pdf> )



A helpful definition of the *Ars notarius* which prevailed from the time of King Henry onwards is to be found in one of the *Books of Precedents* in the York Diocesan Records which dates to about 1605. It runs as follows:

*“Ars notarius: Notarius dicitur is qui publicum officium exercet, quo varia hominum negotia diversaque actus in solemnem publicam ac autenticam formam redigantur, atque ita dignam plenamque fidem ad perpetuam posterum memoriam faciunt.”*<sup>29</sup>

‘The art of the notary: A notary is said to be one who exercises a public office, by which the various affairs of men and their various acts are reduced to a solemn public and authentic form, and thus make a worthy, full and faithful record for the perpetual memory of posterity.’

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<sup>29</sup> Purvis (1957), iv.



## Notaries in Scotland.



Figure 5: "Portrait of a Notary" by Quentin Massys (Matsijs) (†1530), Antwerp School. Oil on wood, c.1510. © [National Galleries of Scotland](#).<sup>30</sup>

"While it is certain that a great influence on Scots law arose from the fact that, in the Middle Ages, Scots lawyers regularly studied abroad at Paris, Orleans, and even Bologna and Pavia, and in a later age at the colleges of Utrecht, Leyden and Heidelberg, and unquestionably must have brought back with them principles of Roman law which were then incorporated into the Scots legal system, yet great difficulty attaches to tracing the arrival and adoption of these, or the proceeds of any other absorptions of Roman influence, earlier than the thirteenth century and, indeed, not with any great certainty for centuries thereafter."<sup>31</sup>

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<sup>30</sup> The cross, quill, rose, paper and writing instruments indicate that this man is a notary, but his actual identity is not known. Massys was profoundly influenced by Leonardo da Vinci and Albrecht Dürer, and his sitters are usually seen against a wooded or mountainous landscape (Similar to that in the *Mona Lisa*). According to legend, Massys was a blacksmith who transformed himself into a musician and man of culture. A distinguished and realistic painter, he developed a highly polished technique.

<sup>31</sup> Brown (1936), p. 2.





Many of the early bishops appointed to the Scottish dioceses were steeped in the administration of the Scottish Royal court which, in turn, was often of a very Norman nature, and had strong links to both Roman and Canon Law. There can be little surprise, then, that the administrative structures brought by these bishops to their dioceses conformed, to a great extent, to those found in England and elsewhere on the Continent. For example, [Simon \(de\) Tosny](#),<sup>32</sup> who was elected to the bishopric of Moray in 1171, was from a most Norman of Norman families and had had his early training at the hands of the Cistercians. His [family](#) was very closely related to the Scottish royal family and so also to a number of powerful nobles in France and Normandy. It would be most surprising if it were to be found that Moray diocese had avoided a certain *Normanising* effect brought about as a consequence of its spiritual leader's upbringing.

Scottish ecclesiastical administration was governed by the same systems that were employed in the Vatican and, for those who could afford it, it was most advantageous to obtain an education and training within the Vatican itself or to follow the Curia as it progressed round various locations. If, in addition, the individual made himself known to the Pope or other senior clerics, then it was possible for him to obtain a *provision* to some 'living' which could provide him with an income for life. It is known that certain clerics 'followed' the Papal Court with the sole intention of snapping up provisions to ecclesiastical benefices as they became vacant – it was much easier to do this if the individual was already at the Curia since when a vacancy became known they could immediately present a *supplication* to the Pope, whereas it could take a cleric back in Scotland months to present such a *supplication*, by which time the Pope might already have made a provision to the 'living.'

It would be appropriate to remind ourselves here that for many years, up to 14 August 1472, there was no archbishopric in Scotland. It was on this date that St. Andrews was elevated into an archepiscopal seat and, following a period of typically Scottish rivalry (if not jealousy), Glasgow was also elevated to metropolitan status on 9 January 1492. Before these dates, any dispute within a Scottish diocese necessarily had to be referred directly to the Pope for judgement. On occasion, there was a *Legate a Latere* who had responsibility for Scotland and who could act as an intermediary. Indeed, there are occasions when the Pope appointed one of the Scottish bishops to be Legate in Scotland, as for instance, William, bishop of Moray from 1159-1161. He was appointed by Pope Alexander III. following William's visit to the Vatican on behalf of the Scottish king during early negotiations for the see of St Andrews to be elevated into an archbishopric. This attempt to have a permanent *primate* in Scotland was an attempt on the king's part to thwart the ambitions of the archbishops of York who, for many years, had attempted to claim authority over the church in Scotland and subsume the Scottish dioceses as suffragans of York.

But business, both lay and ecclesiastical, blossomed in the north-east of Scotland and trade with other distant countries developed apace. To support this, a comprehensive system of administration had to be put in place and a ready 'model' for this existed on the Continent.

Although the office of notary may definitely be considered to be one of the inferior offices of the legal process, it has, nevertheless, "occupied a position which is far from negligible and essential for the performance of certain acts."<sup>33</sup> As we have seen, in pre-Reformation England, notaries were appointed and licensed by the Pope, or, alternatively, by the Emperor, even on occasion by

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<sup>32</sup> See "The Family of Tosny" [https://www.cushnieent.com/articles/Tosny/Tosny\\_family.htm](https://www.cushnieent.com/articles/Tosny/Tosny_family.htm)

<sup>33</sup> Purvis (1957), iii.



both, and they therefore described themselves as acting *auctoritate apostolica (sacra Romana)* or *auctoritate imperiali (sacra Romana)*, or both<sup>34</sup>. This system prevailed also in Scotland and, indeed, it outlasted the English system which, as we have seen, was completely changed by King Henry VIII.

In the early medieval period, in the north-east of Scotland, since the skill of writing (and reading) was confined to a very few, agreements were, by tradition, made in a purely verbal form. Contracts were most often made orally in the presence of witnesses: the parties (*principals*) simply met in the presence of a group of people who were known to them and trusted, and, after discussion, an agreement was reached, and the witnesses were called upon to 'remember weel' what they had seen and heard. They were then expected to give witness to the truth of the transaction should they be called upon to do so at some later date. On occasions such as these it was not uncommon for oaths to be sworn whilst laying the right-hand on a copy of the Gospels, so invoking a greater degree of solemnity on the occasion – a tradition which continues to this day. However, it should be pointed out that such a system was open to abuse and did not stand up to the passage of time – witnesses were not immortal!

Scotland, during this early period, was very much "on the march" and trade with other countries was expanding rapidly. This increase necessitated more prolific record-keeping, and notaries became significantly more numerous in order to accommodate the increase in demand for their professional skills.

Wherever there was a trading center there was a growing need for more notaries. This is reflected in the expanding wealth of the Scottish dioceses, and, by the time of the Reformation, it is revealing to note the 'incomes' of each one and to suggest that the number of active notaries within them would have reflected their relative wealth. Of course, an additional factor here is the comparative geographical sizes of the dioceses – greater size resulted in more lands to administer, both by the Church itself and by the landed gentry, and this, in turn, often presented more opportunities for notarial employment.<sup>35</sup>

We have seen that the close relationship of the Scottish Church with both Rome and England meant that notaries began to appear north of the border only a short time after their appearance in England. Robert de Garvalde (who was perhaps from Garvald, in East Lothian) and William de Horsboch (?Horsburgh, co. Peebles) acted at Edinburgh in a suit before the *official* of the Bishop of St Andrews, on 4 December 1287, and other public instruments drawn up by Robert (a notary by apostolic authority) date from 1298 and 1305.<sup>36</sup> Meanwhile, further evidence is found in a faculty

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<sup>34</sup> Du Cange, Vol. 4 (Tom. Secundi, Pars. Secunda, L - O), p. 665, at 'Notarii Apostolici & Imperiales'.

*"Notarius vel tabellio ab Imperatore vel papa vel ab eo cui hoc speciali privilegio indultum erat ordinatus posset ubique in Francia vel Anglia seu Hispania non solum in terris eis specialiter subiectis suo officio uti et instrumenta conficere etc."*

"A notary or clerk, ordered by the emperor, or the pope, or by him to whom this special privilege was granted, could everywhere, even in France or England or Spain, not only in the countries especially subject to them, exercise his office, and make instruments, etc." To this we might add Scotland.

<sup>35</sup> See '[Appendix B](#)' at the end of this paper for a list of the stated annual incomes for each diocese c.1562.

<sup>36</sup> *Carte Mon. de Northberwic*, p. 24, no. 23; *Lib. de Scon*, p. 89, no.124; *Facs. Of National MSS. Of Scotland*, part ii (1870), no. xii: this is an original instrument with the notary's sign manual, from P.R.O. C 47/22/8(1). All three documents are cited by W. Angus in *An Introductory Survey of the Sources of Literature of Scots Law* (Stair Soc. Publications, vol. i) p. 289. For an appearance of Mr. Robert at Carlisle in 1284 see Brentano (1959), p. 239.



from Pope Nicholas IV (28 May 1288) addressed to the bishop of Dunkeld, in which the pope grants his permission for the bishop to appoint as notary public one fit clerk of his diocese.<sup>37</sup> Only a little later, on 30 April 1291, a notary by imperial authority, Nicholas dictus Campion, was practising in the royal town of Roxburgh.<sup>38</sup>

Recently, Professor Hector MacQueen has brought it to our attention that Garvalde and Horsboch may not be the earliest occurrences of a notary acting within Scotland. He draws attention to a Robert Lambedene who, in a letter from the Earl of Dunbar (Patrick) to the Prior of Coldingham (T. [homas de Melsonby]) in 1231, calls Robert “*notarium meum qui sigillum meum gerit et custodit.*”<sup>39</sup>

But it would be wrong to imagine that the winds of change always blew from over the border, *i.e.* from England. There are many instances of Scottish clerics visiting Rome and some of them attended the various Lateran Councils. Indeed, we must remember the ‘special relationship’ that existed between the Church in Scotland and the Holy See. As has been noted, not having a metropolitan archbishop, Scotland had to use the services of the Papal Curia to carry out duties that would normally have been carried out by an archbishop within his province. This resulted in numerous embassies being sent from Scotland to the Papal Court (wherever it was), often having had to obtain permission from the English King for safe conduct to travel through his country *en route*. This resulted in an unusually large collection of records being filed away in the Vatican Archives, whose number reflects a disproportionate importance on Scottish affairs that is quite remarkable until one realizes that the Vatican was acting as *the court of appeal* for the Scottish dioceses. To the historian, this is a most happy situation since it has meant that modern scholars have at their disposal a much more detailed record of Scottish history than might otherwise have been the case - a matter which has long been the envy of historians in other countries!

One of the more famous men to visit Rome was Guillaume de Malveisin, known better in Scotland as William de Malvoisin. Probably a Frenchman by birth, and, by some writers, said to have been a nephew of [Samson de Mauvoisin](#), Archbishop of Rheims (1140-1161), William first appears in Scotland in the 1180s. as a royal clerk. Having already become archdeacon of Lothian in the diocese of St Andrews, and then Chancellor of Scotland,<sup>40</sup> William was elected to the see of Glasgow in 1199. However, it is revealing that he was actually consecrated in his home country of France - at Lyon, by [Renaud de Forez](#), Archbishop of Lyon (1193-1226) - in the September of the following year. Two years later, in 1202, William was translated to the see of St. Andrews. Throughout his life, William maintained very strong relationships with his family abroad and he was, surely, well versed in the ways of the Church in France.<sup>41</sup> It is also suggested that William ‘assisted’ at the Lateran Council of 1215, at which it was decided that better records should be

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<sup>37</sup> 'Regesta 44: 1288-1290', in *Calendar of Papal Registers Relating to Great Britain and Ireland: Volume 1, 1198-1304*, ed. W H Bliss (London, 1893), pp. 491-511. *British History Online* <http://www.british-history.ac.uk/cal-papal-registers/brit-ie/vol1/pp491-511> [accessed 20 November 2023].

<sup>38</sup> Liber S. Marie de Melros, i., pp. 315-17.

<sup>39</sup> “Robert de Lambedene, my notary, who wears (carries) and guards my seal.” Raine, *North Durham* appendix, No. 129; DCM Misc.Ch. 738; MacQueen, p. 53, n.132. (See [Appendix K](#) for further details.)

<sup>40</sup> Watt Fasti, 145.

<sup>41</sup> Walter Bower relates that William received the permission of King William to visit his relatives in France.



kept of trial proceedings. This Council is considered by some to represent the establishment of the positions of *scriba* and *notary* within the administrative systems of the time.<sup>42</sup>

The tide was on the flood and soon, notaries are recorded across most of the Scottish mainland, even as far as the extreme north, in the Diocese of Ross, where Thomas John Boner, a clerk of the diocese, is recorded as a notary public (by both papal and imperial authority) on 20 October 1345.<sup>43</sup> Indeed, if we accept that John Boner is one and the same person as this Thomas John Boner, then we must push the date back to 11 May 1328. In the chapter house of the cathedral (*in capitulo cathedrali*) at Elgin Thomas John wrote a notarial instrument containing the grounds and evidence supporting the claim of the bishop of Moray to have the power of *visitation* over the priory of Pluscarden, which right was being energetically contested by both principals at the time! We believe that is very possible that he is one and the same person who was recorded on 11 May 1328 as being within the episcopal chapel at the bishop's manor house at Kinneddar when he recorded a notarial instrument signing himself simply as *John Boner*.<sup>44</sup> However, the assumption is not without its problems!

An important change to the process by which notaries were appointed in Scotland took place in 1469 when legislation was passed at the Edinburgh Parliament of 20 November, that,

“... it is thought expedient that, since our sovereign lord [King James III] has full jurisdiction and free empire within his realm, that his highness may make notaries and tabellions, whose instruments shall be held in full faith in all civil contracts within the realm. **And in time to come no existing or future notary made by the emperor's authority is to have faith in civil contracts within the realm unless he is examined by the ordinary and approved by the king's highness.** And that full faith be given to the papal notaries created in the past and in the future in all their instruments. And also, that full faith be given to all instruments given previously by the imperial notaries, just as they are now in force. And further, that the notaries to be made by our sovereign lord be

<sup>42</sup> One Decree of this Council was that:

§38. **On Keeping Written Trial Records**

An innocent litigant can never prove the truth of his denial of a false assertion made by an unjust judge, since a denial by the nature of things does not constitute a direct proof. We therefore decree, lest falsehood prejudice truth or wickedness prevail over justice, that in both ordinary and extraordinary trials the judge shall always employ either a public official, if he can find one, or two suitable men to write down faithfully all the judicial acts—that is to say the citations, adjournments, objections and exceptions, petitions and replies, interrogations, confessions, depositions of witnesses, productions of documents, interlocutions, appeals, renunciations, final decisions and the other things that ought to be written down in the correct order—stating the places, times and persons. Everything thus written down shall be given to the parties in question, but the originals shall remain with the scribes, so that if a dispute arises over how the judge conducted the case, the truth can be established from the originals. With this measure being applied, such deference will be paid to honest and prudent judges that justice for the innocent will not be harmed by imprudent and wicked judges. A judge who neglects to observe this constitution shall, if some difficulty arises from his negligence, be punished as he deserves by a superior judge; nor shall presumption be made in favor of his handling of the case except insofar as it accords with the legal documents.

<sup>43</sup> Macphail 1881, p. 216; REM., no. 137, pp. 150-154; REM., no. 139, pp. 156-57.

<sup>44</sup> Moray Reg., no. 137, pp. 150-154. The instrument recorded an arrangement between Master Roger of Inverness, precentor of Moray, and (Sir) Martin, succentor of Moray, to settle a controversy between them regarding lands and income from Alves and Rathen [Rafford].



examined before their bishops' ordinaries and gain certification from them that they are of faith, good reputation, knowledge and loyalty fitting for the said office." [RPS, A1469/20]

This Act effectively ended the authority of the emperor to appoint notaries in Scotland. However, it is notable that the Pope's authority to make such appointments was to remain uninhibited. Although a significant change, this act cannot be seen in the same light as the changes made previously by King Edward III in England. The two nations were still to follow quite different courses.

### **Notarial Protocols and Instruments.**

It is important, now, to address the general question as to why there was ever a need for a 'notarial instrument' to be produced, since there was often a charter recording the events which had taken place. We should first realize the great expense of vellum and the fact that a charter might well take some time for the appointed scribe to complete and correct after it was commissioned. During this '*interregnum*', the notarial instrument stood proxy, should the need arise, for those who might need to know the details of the enactments which had taken place. This instrument might be available in the space of only a matter of hours. In addition, charters, because they were delicate and often only available in single copy, were at considerable risk of damage from use or by fire.<sup>45</sup> The notarial instrument was a backup which, so long as the notary's credentials were sufficiently sound, could be used in the place of an original charter. Also, in those days, the charters were often stored in the 'charter chests' of one of the *principals*,<sup>46</sup> which might result in them being located at the very extremes of the country, thus being most difficult to produce in court if and when they were required. This could be made even more difficult because it was not unusual for a charter to be cut into two halves with one half being given to each of the *principals*, each bearing the other's signatures and/or seals. If it was difficult to secure one half, it would be even more difficult to produce two, particularly if one of the principals was 'unwilling'! Of course, the notary's *instrument* was often also much more brief than the charter's contents and so much more accommodating for everyday legal use.

"In the sphere of public law it was essential, and increasingly so, to have decreets and Court proceedings carefully noted, approved by the appropriate authority, and registered, while the development of the 'law merchant' had possibly a still greater influence than anything on the

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<sup>45</sup> When Elgin Cathedral was destroyed by fire the records of other religious houses and a large number of estate charter-chests which were, by tradition, kept in the muniments room of the cathedral, perished in the flames. A call went out for any duplicates which existed to be brought to Elgin so that copies could be made and stored in the new building once it had undergone repairs. Some observers might consider that the destruction caused to these charter records was as catastrophic as that caused to the fabric of the building!

<sup>46</sup> A developing trend was to tear an original charter in half so that each principal bore away one half of the parchment, each one bearing the 'signatures' of the witnesses from the party of the other principal. By placing the two halves together again, at a date in the future, the authenticity of each half could be proven. Of course, it meant that only one-half of the body of the charter was available to be read by each party, which, after the passing of significant periods of time, meant that each party could only know one half of the facts relevant to the story!



importance of the notarial office, and there is no doubt that in this sphere the itinerant scribe also played a large part.”<sup>47</sup>

Before the Reformation, the duties of being a notary were regularly discharged by Catholic ecclesiastics, but, by a Scottish Act of 1584, the clergy were, thereafter, forbidden to act as notaries.<sup>48</sup> The king of Scots retained the right to appoint secular notaries and this right is still, today, exercised by the Lord President of the Court of Session, acting in the name of the Sovereign. It is to be noted that a number of the clergy who had joined the Reformed Church continued to act as notaries with the permission of the King. Dr Brochard has recently written a useful study which addresses this post-Reformation period but, unfortunately, since it begins its story at the year 1500, matters are a little confused.<sup>49</sup> What is true, however, is that the research he carried out to identify the various notarial Protocol Books which still exist was admirable in its extent.

In the north-east of Scotland, by the time of the Reformation, there had come to be something of, “an abundance of notaries [which] resulted in their occupying other, additional, roles – as legal advisers, factors, and even, on occasion, schoolteachers.”<sup>50</sup> This was in contrast to what was to be found in the lands of the Highlands where legal structures were as yet weak and notaries scarce on the ground.<sup>51</sup> Here, in order to maintain a sufficient income, it was often necessary for the individual to enjoy a form of ‘job-share’ – the duties of notary being only one part. It is a similar system as is still to be found today where ‘crofters’ often need to obtain a number of jobs in the community in order to provide themselves with a living income.

Carswell writes about the ‘dark age’ of Scottish legal history and that the origins of a legal profession in Scotland lie in a ‘crystallization’ process which took place during the course of the sixteenth century; an age which saw both the establishment of the College of Justice and the passage of the Reformation.<sup>52</sup> He comments that, “It was during this period that the legal practice of advocates, other procurators, writers and notaries took on a significance which gave the practitioners a definite vocation rather than a part time occupation – in fact, a profession.”<sup>53</sup>

To this, it might be added that, “Scottish notaries were the professional draftsmen of legal business, familial documents and land transactions.”<sup>54</sup>

As has been noted, the final product of a notary’s work was a *Notarial Instrument*. Notarial instruments are defined as, ‘formal and duly authenticated records of any proceeding or transaction drawn up by a notary public; a similar record made by the scribe [clerk] of a court.’<sup>55</sup>

However, it might take a little time for such an instrument to be produced and there needed to be an ‘*aide memoir*’ which the notary could refer to in cases where his short-term memory let him

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<sup>47</sup> Brown (1936), p. 4.

<sup>48</sup> APS, iii, 294, c.6, “Disqualification of Ministers.”

<sup>49</sup> Brochard (2023).

<sup>50</sup> Brochard (2023), p. 1.

<sup>51</sup> Goodare (1999), pp. 223-5, 227-9; Goodare (2004), p. 221.

<sup>52</sup> Carswell (1967), p. 56.

<sup>53</sup> Carswell (1967), p. 56.

<sup>54</sup> Wilson (2021), p. 268.

<sup>55</sup> Craigie (1937), iii., p. 288.



down. This *aide memoir* took the form of brief notes which were written down at the place and at the time that the deed or transaction took place, with special note being taken of the names and 'station' of the witnesses who were present. This *aide memoir* is often called a NOTARIAL PROTOCOL. In later times, notaries were issued with books within which they could record these 'protocols' and, for this reason, the books are commonly called Protocol Books. When completed, these books were to be returned to the issuing authority for safe storage.

Within the archives of Stirling Council is "the Protocol Book of James Darow, 1469-1484", which is considered to be the oldest surviving protocol book of Scottish origin.<sup>56</sup> Darow was a notary by both imperial and papal authority (which would imply that he was in one of the lower 'degrees' of Holy Orders) and he conducted his activities mainly, but not entirely, within the burgh of Stirling.

As a result of these 'notarial' practices, we regularly have two historical sources available to us recording an event – the notary's Protocol Book and the Notarial Instrument, itself in charter form.

Notaries, as part of their training, had access to various *formulae* which they could use for framing *instruments* as the case demanded. Although not absolutely restricted to the use of these formulae, the notaries tended to adhere to them quite closely. Thus, they had at their disposal, 'blue-prints' which covered a number of different types of activity or event, although the majority were forms of transcript (*transcripta, transsumpta, exempla*) of all manner of title-deed and judicial act. However, the notaries would also be familiar with other transactions such as, records of admission to office, resignations of benefices, procuratorial instruments, instruments to record citations and judicial appeals, recognizances and quittances of debt, etc..<sup>57</sup>

As we approach the Reformation – and certainly after it – we find that this whole system was subjected to more and more centralized discipline. However, before that, the notaries within a diocese were 'supervised' by the Diocesan Official, often a lay person who acted on behalf of the bishop in judicial matters.<sup>58</sup>

Because of the corruption which permeated the notarial system, "specific measures" were established which "included the examination of knowledge and conduct of notaries under the Act 1503, c. 8,<sup>59</sup> and the inspection, marking and numbering of protocol books by the Lords of Council

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<sup>56</sup> An image of two pages from the Book may be seen at

<https://www.stirlingarchives.scot/2015/07/17/lawsuits-murder-protocol-book-james-darow-1469-1484/>

<sup>57</sup> Cheney (1972), p. 104.

<sup>58</sup> (Sir) John Cristisone notes in the flyleaf of his Protocol Book that he was created a notary by Master Arthur Boecius, who was Commissary-General of Aberdeen at the time. This tells us two things – firstly, that we must date the event to between 30<sup>th</sup> June 1518, when Bishop Gordon died, and 20<sup>th</sup> February 1519, when Gavin Dunbar was consecrated bishop in his place. During the interregnum, it would appear that Arthur Boecius was acting as Commissary-General/Vicar-General, which leads to our second point – that he was performing a function which would, ordinarily, have been carried out by the bishop of the diocese. [Lindsay (1930), *preface*.]

<sup>59</sup> APS, ii., 242, 250.



and Session by the Act 1555, c. 18.<sup>60</sup> Later acts, in 1563<sup>61</sup> and 1587,<sup>62</sup> provided for registration and examination by the Lords of Council.

It is relevant to note here the actions of William Stewart, bishop of Aberdeen (1532-1545), who, on 13 April 1540, decided that he would immediately revoke the 'commissions' of every notary within his diocese, apart from four named individuals. One of these was Laurentio Cheyne, a notary, and clerk of the Consistory Court of the diocese, who produced the notarial instrument recording the bishop's action, a copy of which appears in the pages of the *Registrum Episcopatus Aberdonensis*.<sup>63</sup> We can only wonder what the motives of the bishop were when he took this relatively drastic step. The strongest suggestion is that there were a number of individuals of questionable probity operating as 'notaries' within his diocese and that he wished to weed them out and, in so doing, return a measure of confidence to the profession. (As we have seen, there was always an element of fraud which appeared from age to age.) But it is also interesting to see the bishop acting in a way which demonstrated quite clearly that, at a time when the Reformation clouds were gathering, he considered himself to be still responsible for the licensing of notaries within his episcopal jurisdiction. Perhaps the idea of *reformation* had become part of the bishop's thinking and that he had seen here an instance of a matter that required a reforming hand. Having 'sacked' all but four notaries, the bishop set about appointing another group, a number of whom had been authorized notaries before, but the bishop took the opportunity to sweep clean and appoint individuals known to him and from whom he required an oath of obedience. The following were thus admitted:

Magifter Johannes Gardyn rector de Tyre •  
 Magifter Willelmus Hay vicarius de Mygvv •  
 Magifter Johannes Gibsoun lord clerk •  
 Magifter Laurentius Cheyn clerk to the Consistory •  
 Magifter Daid Nicholfoun in the town of Aberdeen •  
 Magifter Johannes Guthry •<sup>1</sup>  
 Thomas Dalloquhy laicus • [Daloquhy manu propria] •  
 Magifter Thomas Seres •  
 Magifter Robertus Lumifdan fubfcripfit •  
 Magifter Johannes Bell notarius fubfcripfit •  
 Magifter Johannes Nicholfoun •  
 Dominus Johannes Thomfon •  
 Johannes Howefoun •  
 Magifter Willelmus Meldrum •  
 Magifter Johannes Chalmer manu propria •  
 Magifter Willelmus Elphinstone vicarius de Rotheven •  
 Dominus Thomas Helty vicarius penfionarius de BanchoryTerny •  
 Dominus Jacobus Kyd curatus de Inueroury •  
 Martinus Howefoun fubfcripfit •  
 Magifter Oleuerius Lamby vicarius de Methlik manu propria •  
 Dominus Duncanus Conon vicarius penfionarius de Auchindoyr manu propria •

<sup>60</sup> APS, ii., 496.

<sup>61</sup> Act 1563, c. 17, APS, ii., 542.

<sup>62</sup> Act 1587, c. 29, APS, iii., 448.

<sup>63</sup> REA, ii., p. 323. At a Synod held by William [Stewart], bishop of Aberdeen, all the notaries who were then resident in the said diocese were suspended from the exercise of notarial offices, with the exception of masters Johanne Gardyn, rector de Tyre [Tyrie], magister William Hay, vicar of Mygvv [Migvie], Johanne Gibsoun Lord Clerk, and Laurentius Cheyne, Clerk at that time of the Consistory Court of Aberdeen.





*Magifter Jacobus Currou* •  
*Magifter Georgius Forbes fubfcripfit* •  
*Dominus Johannes Criftifone fubfcripfit* •  
*Magifter Jacobus Skeyne fubfcripfit* •  
*Magifter Andreas Leflie fubfcripfit* •  
*Magifter Robertus Rowft fubfcripfit* •  
*Magifter Vilhelmus Skeyne fubfcripfit* •

28 in total.

[Those highlighted in GREEN were known to have been notaries previously - n=9 (32%)]

Notes:

1. There is a John Guthry previously recorded as a notary, but this was in 1465 [REA, i., p. 294] and so, probably, is not the individual mentioned here.

It is notable that, of the 28 individuals mentioned, no less than 21 (75%) had studied at a university and gained a master's degree, as is shown by them being given the title "Magifter." In addition, only one of the twenty-eight appointees was a lay person, something which seems a little surprising until we remember that these were to be notaries by ecclesiastical (apostolic) authority and that others, those authorised by the secular authorities, may not be reflected here. It would appear to be significant, however, that the bishop appointed as many as twenty-eight notaries, revealing, perhaps, that their services were much in demand at the time.

### The notarial 'Sign'.

In the early period, notaries simply signed an instrument. However, as we have seen, fraud by forgery was an increasing problem and so each individual notary came to use a final clause (*eschatocol*) which included not only his signature but also a personal 'sign' (*signum*) and, on a very few occasions, an inconspicuous *paraph* at the end of the *eschatocol*. In many cases, the *signum* appears on the left-hand side of the instrument with the *eschatocol* to the right of it, but there was no hard-and-fast rule about this.

These *signæ* or signs were unique to each notary.<sup>64</sup> A number of examples are illustrated on the following pages.

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<sup>64</sup> There are instances in England of two notaries using the same sign and even of one notary using two different signs, but this is highly unusual.





Figure 6: Notarial 'Sign' of Alexander Gaw who was also Vicar Pensionar of Abernethy, 1545. © Council of the Scottish Text Society.

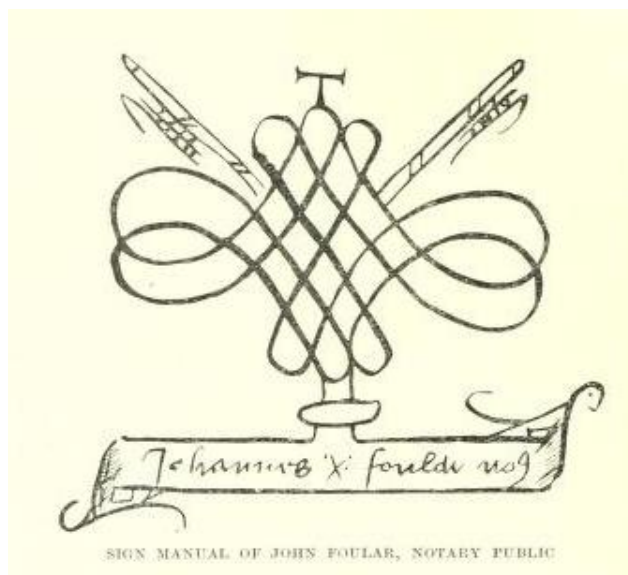


Figure 7: Notarial 'Sign' of John Foular, Edinburgh notary, c.1500.



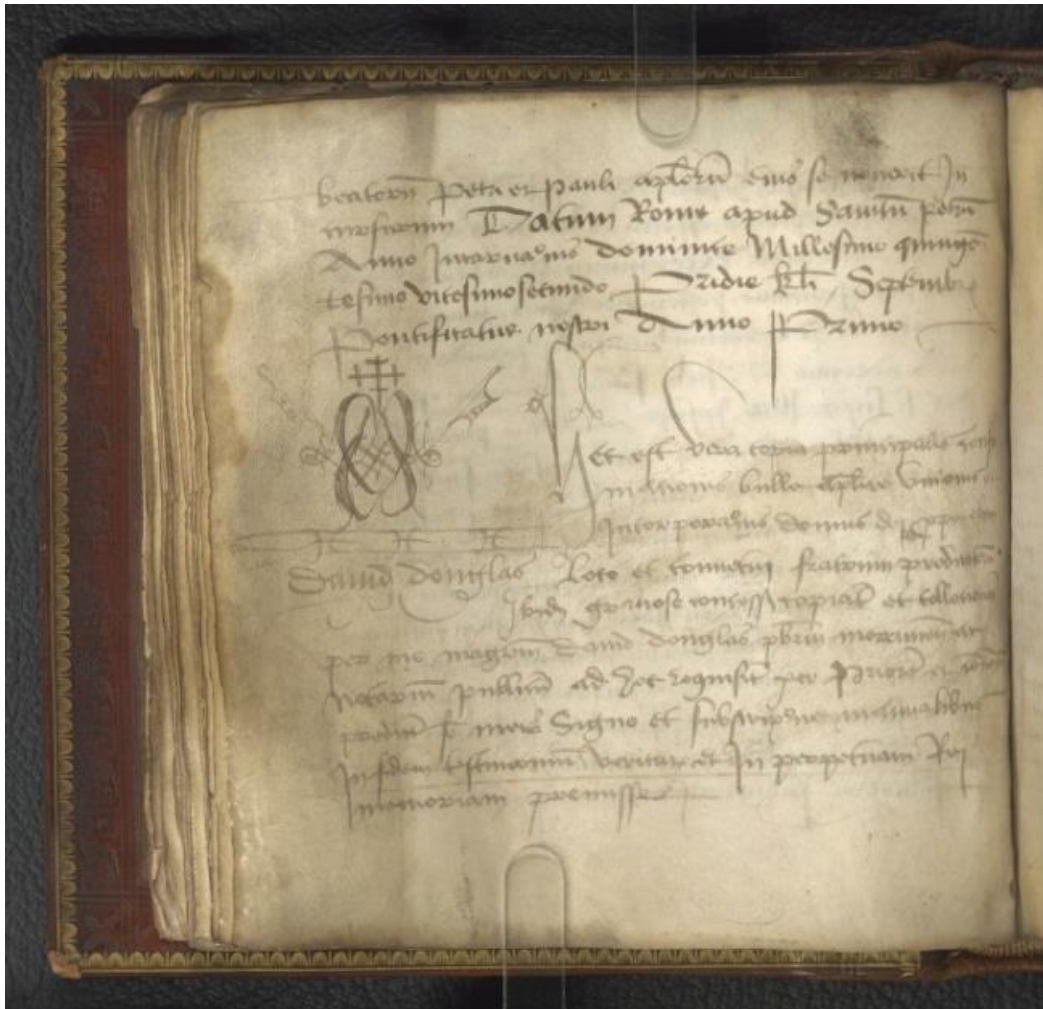


Figure 8: Notarial 'sign' of David Douglas, NP. Douglas is recorded as a priest and notary in Moray Diocese – the earliest reference being in 1538. The source illustrated above is “a register of documents pertaining to the Dominican Priory of Elgin and the Maison Dieu, copied from the Chartulary of the see of Moray and certified mostly by David Douglas, notary public, in 1548.” © National Library of Scotland (Adv.MS.34.7.2)

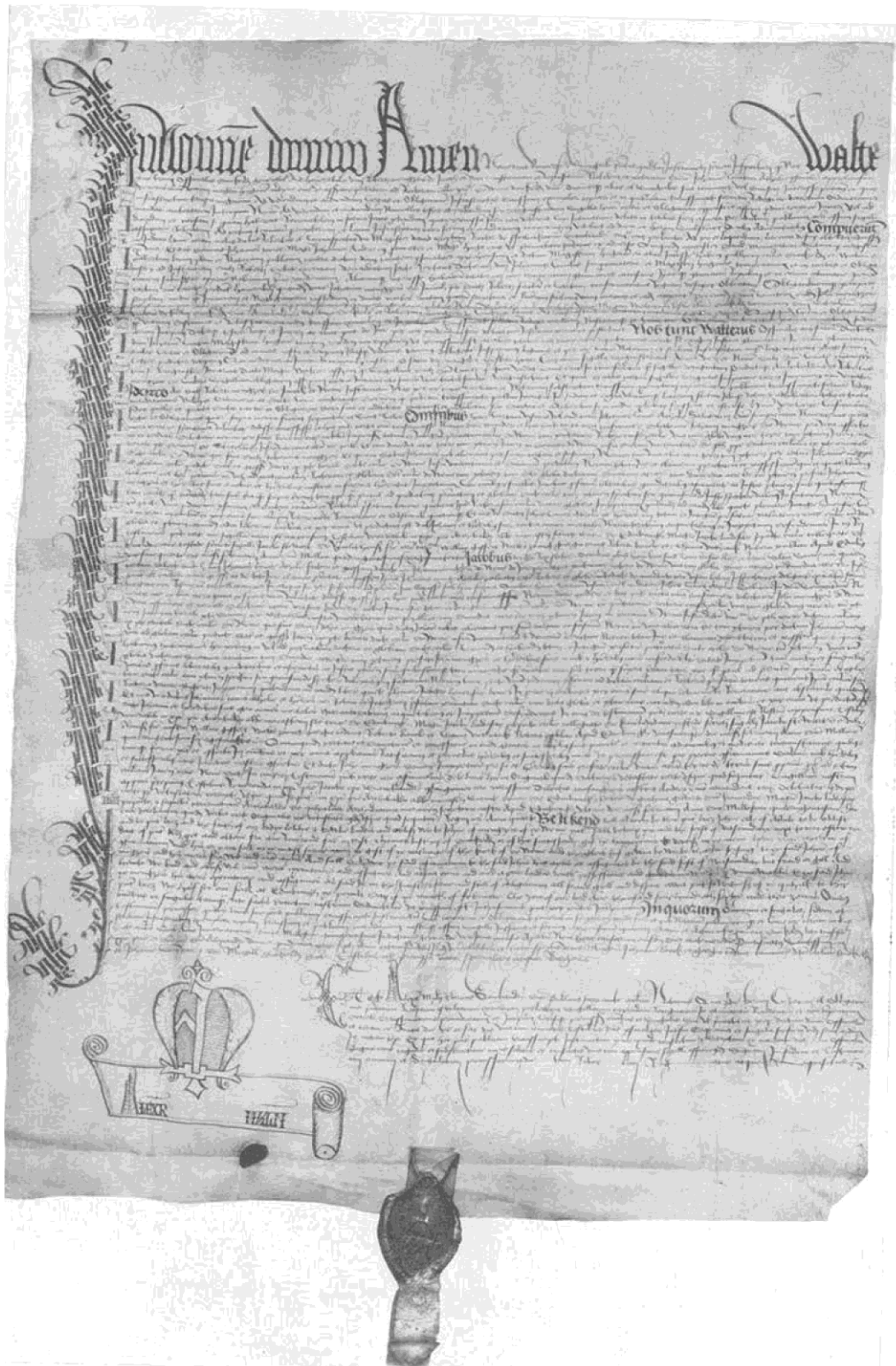


Figure 9: Notarial Instrument executed in 1500 by Alexander Myln, subsequently Lord President of the Court of Session. Myln is first recorded as a notary of Aberdeen Diocese in 1496.



## Dating Notarial Instruments.

It is not surprising to find that a most important component of a notarial instrument was the recording of the date on which the deed or act took place. Quite often this included both the calendar date and the regnal year, (pontifical year, or, on occasion, the consecration year of bishops). It was also required that a record was made of the location at which the deed or act took place, and this information can add greatly to an appreciation of the historical perspectives of the document. Sometimes, the details given also include the time of day at which the deed was enacted. However, we must take care not to assume that dates, times, and places have anything to do with the creation of the instrument – it might be written at some considerable time after the deed or act actually took place! At or near the beginning of some instruments there is the very helpful phrase “*in presencia mei notari subscripti*” and a date.

An interesting example of ‘location’ is to be found within the Protocol Book of (Sir) John Cristisone. The protocol notes:

“Instrument narrating that Andrew Fraser of Stanevod [Stoneywood], for the filial love which he bears to Elizabeth Fraser, his daughter, gave and delivered to her three cows with three calves at their feet, two of a reddish colour and one black, and three " quiakis," two of a reddish colour "brandit cjuiakis" and one of a black colour, and this by agreement, and also by touching the animals in his presence and at his command in token of true possession ; also by touching their horns and ears and the products of the animals in any future time without hindrance from him, his heirs, executors and assignees, so that the said Elizabeth may dispose of the animals at her will.

Done at the " cowbyir" of Mvkall 11th July 1547.

Witnesses, Alexander Touht, William Touht, William Bayne and (Sir John Cristisone), notary.

<sup>65</sup>

[In the old Scots of the north-east of Scotland, *quaikis* means a young cow or a heifer.<sup>66</sup>]

All is in order in this protocol – the date and place [Mvkall/Mukall = Castle Fraser] at which the action took place are both carefully noted – but is there a twinkle in the notary’s eye as he notes that all parties, including, we assume, the witnesses, were gathered together in the cow-byre on the estate of the illustrious castle!

It is this type of observation, so often included in the protocols recorded by notaries, which constitute such a mine of information for the social historian. They are, as yet, a rather neglected field of study but, thankfully, in recent times, more historians have turned to their pages in order to better inform their studies.

Of course, not all sources are as helpful to us as others. For example, in the case of many of the records contained within the pages of the *Registrorum Abacie de Aberbrothoc* which record the name of a notary, often no mention is made of the diocese from which the notary obtained his authority – such details can only sometimes be obtained by reference to records from other sources.

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<sup>65</sup> Lindsay (1930), p. 95.

<sup>66</sup> Warrack (1911), p. 435, at ‘*Quaick*’.



## General Identity of Scottish notaries.

Before the Reformation (c.1560), almost all of the Scottish notaries of the sixteenth century were in holy orders. "Indeed a common occupation for priests was that of notary public, and since the better educated clergy were generally trained in the law, this was 'one of the major services that the Church could offer to the community at large'."<sup>67</sup> Becoming a notary was "something that gave priests an opportunity to earn a good living, free from dependence on *stipend* or *altarage* fees."<sup>68</sup> This latter is a matter which remains a little unclear in the north of Scotland. Strictly speaking, a person who was in holy orders was expected to maintain a certain 'distance' from the lay world. As is noted elsewhere in this paper, notaries (priests) who carried out their duties strictly in the world of Church matters, might not have expected any worldly remuneration other than the stipend they had been awarded from the Church. Cowan argues that the legal duties performed by priests and chaplains for members of the laity, who were possibly kinsfolk, had the effect of 'cementing bonds between them.'<sup>69</sup> The point here is that those in Holy Orders obviously did partake in Civil Law cases and were remunerated for it, though the remuneration may not have been in *coin*, but rather in *kind* – strengthened familial and/or civic relationships; gifts of material goods; greater status within the community.

## Education and Training.

"Legal education affects how a community of lawyers thinks about the law, its rules and practices, which sources they should use in constructing their arguments and ultimately the nature of the legal system in which they operate."<sup>70</sup>

The two terms – *education* and *training* – are employed here to differentiate the formal, academic, education which was provided by the schools and universities, from the in-house training which was provided to an individual by being 'apprenticed', usually in an unofficial manner, to an experienced notary. However, we must not forget the education which was common to the majority of individuals whilst they were still youths. The grammar schools, cathedral schools and monastic schools, which were a common feature in Scotland after the mid-medieval period, provided the necessary grounding in Latin, and other subjects, which were a necessary pre-cursor to a successful career as a notary. For some individuals, very often because of a lack of sufficient funds, this was as far as their formal education went. To go further and consider a priestly or an administrative career in the Church would often require a youth to attract a measure of patronage in some form.

However, as Teresa Maley and Walter Elliot note, "Sometimes the skill and degree of literacy of the notary may have been little better than that of his clients, but 'in the country of the blind, the one-eyed man is king', and any knowledge of the law in a society much addicted to litigation must have been regarded as a marketable commodity."<sup>71</sup>

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<sup>67</sup> Maley and Elliot (1993), p. xi.; Cowan (1982), p. 20.

<sup>68</sup> Malley and Elliot (1993), p. xi.

<sup>69</sup> Cowan (1982), pp. 21-22.

<sup>70</sup> Wilson (2021), p. 267.

<sup>71</sup> Maley and Elliot (1993), p. xi.



**Education:**

After the fall of the Empire, and during the time of the rule of the 'barbarian' kings, Roman Law tended to wither away and, by the late sixth century, systematic and detailed teaching of Roman Law of the kind that a practicing lawyer needed had virtually vanished in the regions which came to be ruled by the Barbarians. However, knowledge of Roman Law did not entirely disappear. Notaries continued to function in at least some parts of early medieval Europe, much as they had done in late antiquity.

AS far as the provision of education was concerned, the end twelfth century and the first decades of the thirteenth was a period of great change in Europe. Scholrs were drawn to the cities of Bologna and Paris which hosted "the two foremost universities of the Middle Ages, whose example was later followed by other European universities."<sup>72</sup> In England, the new universities of Oxford and Cambridge, which both excelled in arts and theology, looked to copy Paris emphasizing a corporation of masters. Others in Italy, such as Padua, and those specializing in law, such as Orléans in France, followed the student-centred organization of Bologna.<sup>73</sup>

James Brundage has voiced the opinion that, "The presence or absence of law schools is critical for the history of legal systems."<sup>74</sup> The lack of support for law schools meant that the barbarian kingdoms could not produce 'lawyers' who could act in ways that would be recognize today as being professional. But what remained of Roman society was eager to maintain as much of the *anciene regime* as possible and, once the tumult and uproar of invasion had subsided, there was a concentrated effort on all sides to achieve an accommodation of each others desires and customs. The Church, and especially its bishops, were key players in this process. As Roman civil administration began to fade away, bishops filled much of the vacuum left behind. By the start of the sixth century, very few major cities still remained in the West, and many of those that did still exist were port cities such as Rimini and Ancona. "A few towns outside of the Italian peninsula continued, if not to prosper, at least to maintain an urban culture, notably in southern France (Marseilles, Arles, and Toulouse), and the Iberian peninsula (Toledo, Cordoba, Tarragona, and Seville), while Lyon in the former Roman province of Gaul had become the chief city of the Burgundian kingdom."<sup>75</sup>

But the barbarian legal system relied very much upon 'arbitration' and both law codes and lawyers were of very much reduced importance, as was the use of courts. However, once the 'yoke' of conquest was removed, the Church, and its bishops, moved apace to encourage a return to strict codes and legal practice, all placed within a court structure. Inevitably though, the Law became primarily Church Law since that was seen as the principal need at the time, with the result that Roman Law returned in a hybrid form, known as Canon Law, becoming very quickly the field of practice for increasingly numerous clergymen or '*clericii*.'

"Virtually every school that we know much about in the West between the sixth century and the thirteenth aimed primarily, if not always exclusively, at training future priests, clerics,

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<sup>72</sup> Baldwin (1971), p. 41.

<sup>73</sup> Baldwin (1971), p. 44.

<sup>74</sup> Brundage (2008), p. 61.

<sup>75</sup> Brundage (2008), p. 51; Russell (1958), pp. 73-75, 83-85; O'Callaghan (1983), pp. 70-72.



monks, or nuns. It was no accident that the Latin vocabulary of the early Middle Ages treated the words “cleric” and “literate” as synonyms.”<sup>76</sup>

Formal notarial education had a solid foundation in the Law Schools of the University of Bologna from an early date, and many aspiring European notaries were drawn to its portals. In 1251, the city restructured the university’s notarial courses and delegated the testing of final-year students in that discipline to the City’s *Notary’s Guild*, the profession having become by that point fundamental to the prosperity of the municipal bodies. And it was precisely in 1251 that one of the city’s notaries, Rolandino De’ Passaggeri, became the university’s most prominent figure, founding a *notarial school*, to which he dedicated himself almost exclusively until 1274, and writing important theoretical and practical texts for his students.<sup>77</sup> Some of these texts became well known across western Europe and there is little doubt that their teachings became known in England and Scotland. Alongside his narrowly focused works such as *Flos ultimarum voluntatum* (on writing wills), the *De officio tabellionatus in villis et castris* (a manual for rural notaries) and the *Collectio contractum* (on notarial contracts) we find the more composite *Summa totius artis notariae* (the “Rolandina”), which immediately became a pillar of the notarial profession across Europe when it was issued in 1255. Such publications, in conjunction with the ‘Form Books’ which were quite readily available, provided a foundation upon which a Scottish notarial tradition could be established. Very few Scotsmen were able to travel to, or study at, universities such as Bologna. However, those few that did, could (and did) pass their learning on to others when they returned to their home country.

After 1298 there was a papal “scholarship” of sorts called a *Cum ex eo* license (named for its opening words), which allowed a beneficed clergyman (i.e., someone who held a parish church) to use a portion of his church’s income (i.e. tithes) to support himself for a few years of university study and, importantly, to be absent from his parish while at school (so long as he left an assistant in his place). No doubt, those who had received a *dispensatio* from the Pope, to hold more than one benefice simultaneously, would have been able to support themselves in ‘greater comfort’ and/or for a greater period of time. It was also considered a *pious act* for a wealthy patron to support a student at university. We should understand here that, in the thirteenth century, an MA of Paris took about four or five years to obtain whilst an MTh might take up to twelve years of advanced training. At Bologna canon law might take six years or Roman law eight years beyond the Arts degree.<sup>78</sup>

During the Hundred Years’ War, many of the Scottish students who might normally have attended the law schools of Paris, made their way instead to the Italian Universities – particularly to Bologna, Pavia, Padua, and Ferrara. “The comparatively few Scottish names that are preserved in the university records must represent a proportion only of the Scotsmen who studied in these places, for in many cases the student would attend lectures without proceeding to a degree, and would move off from city to city, attracted by the reputation of this or that doctor.”<sup>79</sup> In famously Scottish fashion such an approach would obviate the need to pay the substantial fees required of a student in order to graduate!

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<sup>76</sup> Brundage (2008), p. 63; Riché (1989), 189-220.

<sup>77</sup> University of Bologna: <https://www.unibo.it/en/university/who-we-are/our-history/famous-people-It-is-unfortunate-and-students/rolandino-de-passaggeri> (Accessed 18/07/2024)

<sup>78</sup> Baldwin (1971), p. 46.

<sup>79</sup> Mitchell (1937), p. 19.







Figure 10: Rolandino's tomb in Piazza San Domenico, Bologna. (Image: P. Granville)

It is unfortunate that in these early years the structure and governance of these early universities and *studia generalia* was somewhat *ad hoc* and there was little attempt at creating a uniform approach even to such basics as what constituted a degree and the programs of study which individual students were required to follow. Consequently, “there are confusing differences in the precise titles given to the various academic grades passed by Scots at universities ...”<sup>80</sup>

In the north-east of Scotland, more advanced formal education was only a realistic option after the foundation of the universities. The King's College which is now a part of Aberdeen University was founded in 1495 by the illustrious William Elphinstone, Bishop of Aberdeen, who was himself a trained lawyer. From 1505 onwards, there were two professors teaching law there – one specialising in Canon law, and the other in Civil law.

Students entering a university were often to be distinguished by two features: They were often quite young - around 15 years was common. They were probably already in one of the minor clerical *orders* of the Church. This latter gave the individual certain legal privileges: lay people could not hit or assault you without risking being excommunicated; if you were charged with a

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<sup>80</sup> Watt (1997), p. xiv.



crime, you could only be tried in an ecclesiastical court where capital punishment was not permitted.

For many, the essentially professional nature of the university law schools meant that they were held in very high esteem, and, if an individual worked hard, even if not to the extent of being able to graduate, the vocational education which they had received would allow them to attach themselves to a powerful patron, either lay or clerical, perhaps at home or at the Vatican, and to serve him in some bureaucratic position.

### **Training:**

Many notaries, particularly in the early part of their careers, were taken in to work with an established notary in much the same way that an apprentice might be taken in by a master craftsman. Indeed, there are many examples of boys who were the sons of a notary, commencing their training with their own father and making such a start at quite an early age. This can be seen to be the advent of a feature of certain Scots families who produced generations of notaries and other legal functionaries over an extended period. It has been noted that in Aberdeen, the family of one David Nicolson, a man who had risen to become the 'the premier notary in that city by the 1520s,'<sup>81</sup> became something of a legal dynasty which spread across many generations.<sup>82</sup> In general, matters were greatly encouraged by the Education Act of 1496 which made it compulsory for the sons of barons and freeholders of substance to attend grammar school where, of course, they would receive a grounding in Latin.

In 1504, parliament, sitting in the Old Tolbooth of Edinburgh, required bishops to re-examine the capability, reputation and previous conduct of notaries within their dioceses. Those who were found wanting as well as those found using 'false instruments' were to be severely punished, whilst those notaries who were found capable were to be sent with their writings to the king's highness, who will depute certain persons to examine them, and if they are suitable they are to be made Regal, *i.e.* to be made 'Notaries Public by Royal Authority', if they had not already been given royal authority before.<sup>83</sup> The judges of the Court of Session were given the task of 'testing',

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<sup>81</sup> Nicolson's Protocol Book, often referred to as the Register of Sasines of the Burgh of Aberdeen, 9 February 1521 – 12 January 1535 is still held within the Aberdeen City Archives.

<sup>82</sup> Wilson (2021), p. 269; Booton (1987), p. 202.

<sup>83</sup> [RPS, A1504/3/108] "Item, regarding the article of notaries, because there have been several and great complaints made by our sovereign lord's lieges that there are so many dishonest notaries in the realm that it is feared that through their deceit honest men cannot be certain of their inheritance and clerks cannot be certain of their benefices, and in other civil actions, which may cause a great division among our sovereign lord's lieges, therefore it is decreed and ordained in this present parliament that all bishops and ordinaries [are to] make all the notaries within their dioceses be called before them on a suitable day and place and have them be examined as to their adequacy and knowledge, and also to find out how they have conducted themselves and their reputation; and those that they find guilty are to be deprived of their offices and punished for their faults according to their faults, and those they find acceptable are to be sent with their writings to the king's highness, who will depute certain persons to examine them, and if they are suitable they are to be made regal, if they were not made regal before. And also that the said ordinaries find out all those who use false instruments and in so far as [it] pertains to his office ordinary to punish them, and where it does not pertain to his office



they being assisted by a clerk to the admission of notaries. A further attempt to enforce a structure to regulate the qualification and capability of notaries was made in 1555.<sup>84</sup>

The wording of these Acts passed by parliament and endorsed by the monarch (regent) is strong, as indeed are the punishments to be meted out to offenders, but they show that, in spite of the steps taken, there was considered to be a serious and continuing problem of fraud carried out by some notaries. It is clear that no easy solution to the problem had been found since, in 1563, the queen (regent) had to promulgate further legislation to address it.<sup>85</sup>

This same 'problem' existed still after the Reformation. Even as late as 1587, the king (James VI) wrote of his displeasure regarding the admission of notaries:

“... many persons within these few years being admitted to the office of notary with over slender trial taken of their knowledge and qualification, and they being for the most part ignorant of the common course of the law, form and practice which orderly ought to be observed in making of their instruments, contracts and other

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ordinary to send them to the king to be punished as is fitting.”

<https://www.rps.ac.uk/trans/A1504/3/108>

<sup>84</sup> [RPS, A1555/6/19] “Item, [Mary of Guise], the queen's grace, dowager and regent of this realm, and the three estates of parliament of the same, considering the great and many acts of fraud done daily within this realm by notaries, and that our sovereign lord King James V, and similarly our sovereign lady in her parliament held at Edinburgh, 1 February 1551 [1552], made acts for the ordering of notaries and the punishment of forgers, which as of yet have not taken due or effectual execution; therefore, it is statute and ordained that all notaries within this realm, both spiritual and temporal, be caused to come by their ordinaries, sheriffs, stewarts and bailies respectively to the burgh of Edinburgh, there to compear personally before the lords of council, or that the said lords direct their letters requiring and charging all notaries within this realm to compear before them as said is, bringing with them their creations and all their protocols between this day and the feast of Whitsunday [24 May] next to come, at such days as shall be appointed and assigned by the said lords, to be examined and their creations inspected by them, their protocols produced to be marked by the said lords and the leaves numbered and the blanks marked, and the said protocol books are not to be seen or read without being marked in presence of the said notary and delivered again to him without any inspection; and as they are found qualified and admitted by the said lords of council, to use the office of notary thereafter, and that no notary, by whatever power he is created, use the office of notary within this realm in time coming without presenting himself to the said lords, showing his creation and being admitted by them as qualified thereto, and that no notaries that shall happen to be discharged by the said lords or not admitted by them hereafter use the office of notary under the pain specified below. And also it is ordained that all notaries are to be admitted as said is, giving instruments and requiring witnesses thereto, that they shall require the said witness from where they dwell or take some other evidence of them and insert the same in their said instruments, that the witness may be known as being present at that time. Further, if any notaries are convicted of forgery and not admitted by the lords in the manner foresaid and use the office of notary, they shall be punished as follows: that is to say their whole moveable goods are to be escheated and applied to our sovereign lady's use and they to want their right hand and to be banished from the realm forever, and further they shall be punished to the forfeiture of their life inclusively as the quality of the cause requires by the sight and discretion of the judge; and those who cause the forgeries to be done to receive the same punishment in their persons and goods. And because in the act made by our sovereign lady in her foresaid parliament all notaries were suspended from the last day of March thereafter until the time of their admission by the lords foresaid, it being considered that the said act has not taken due execution as of yet, therefore, the queen's grace, regent, with the advice of the three estates, dispenses and supplies any fault by that part of the said act in all instruments given since then, and all instruments to be given, until the foresaid feast of Whitsunday next to come.” <https://www.rps.ac.uk/trans/1578/7/1>

<sup>85</sup> [RPS, A1563/6/16-19]. <https://www.rps.ac.uk/trans/1578/7/1>



writs, titles and securities, not knowing what may stand by law, order and practice observed within this realm and what not, has generated and daily generates many lawsuits, questions and controversies amongst his highness's lieges, bringing them in great trouble charges and expenses; for remedy whereof, it is statute and ordained by his majesty, with advice of the three estates of this present parliament, that all admission of notaries in time coming cease and stay for the space of five years next after the date of this act, and that none be admitted notaries thereafter unless they that have reasonable understanding in the Latin tongue and is at the least congruous, that they have served and been in company with one of the lords of session, commissaries, writers to the signet or some of the sheriff, steward or bailie clerks of the shire or common clerks of the head burghs of this realm and have served them truly the full space of seven years, and report their testimonial of their truth and qualification to be shown to the lords of council in time of their examination, who shall take care in the same examination, by themselves or some of their own clerks or some of the clerks of the signet whom they please call to them for that effect; and specially they shall cause the party desirous to be admitted notary give a present and full proof in their presence of his writing and congruity by forming of some evidence as charter of ward, blench, feu ferm, burgage, mortification or apprising, or of a precept passed on a retour or of *clare constat*, or of an infeftment of resignation in favour or to remain perpetually, or some instrument of sasine or of a contract, a settlement from the procurator, a tack, a reversion, acquittance, obligation or some other common form of evident, and none to be admitted but by trial and proof in manner aforesaid. And whereas diverse and sundry notaries have been admitted in time past and caution found by them, according to the acts made thereupon, and that the cautioners who become caution for them are for the most part deceased, it is statute and ordained that the bonds and acts of the said cautioners shall extend against their heirs, and that all notaries within this realm shall bring and present their protocol books before the lords of session between this and 1 January 1588, to be examined and considered by the said lords that it may be known how many of their cautioners are alive and how many deceased; and where they are deceased or shall be found by the said lords to be insufficient, that other new and sufficient cautioners be found in place of the cautioners deceased to the contentment of the lords of council." [\[RPS A1567/7/39\]](#)

However, as interesting as this reflection on the state of affairs is, it takes us outwith the timeframe of this study.

One item which is of note from these parliamentary proceeding is that we are given a list of those to whom the notaries were responsible. In [RPS, A1555/6/19] (see above, n. 64) it states that the notaries were to be compelled by – their ordinaries [bishops], sheriffs, steward[d]s and bailies – to come before the Lords of Council for the purpose of being ‘examined’ and from this we can assume that these were the persons to whom the notaries were responsible. There are no surprises here, but it is interesting to see that this was the ‘official line’ taken by the State at that time. In the later act [RPS, A1563/6/17], we see that it was the *lordis of sessioun* and *college of justice* who are named as being responsible for taking the oaths of suitably qualified notaries.<sup>86</sup>

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<sup>86</sup> [RPS, A1563/6/17] “Item, because our soverane ladyis liegis ar greitumlle hurt be unworthy and in sufficient notaris not qualifeit as effeir is to be in making of instrumentis and uthers wittingis according to thair officis, it is statute and ordanit be our soverane lady, with the avise of the thre



A review of these acts of parliament reveals very quickly that the main concern of 'the three estates' was that actions involving the transfer of ownership of land might be put in jeopardy because of the failure of the system of *sesingis* [sasine] and the operation of unqualified notaries. It is made very clear that for all three 'estates', nothing was of greater importance. The idea that the ownership of any piece of land might be put into question was not something that could be tolerated in any way, not by anybody!

The picture given above of the pre-Reformation standards of learning of notaries is less than flattering. It would appear that, in Scotland, in spite of the ongoing struggle to establish a 'national formula', the result was a series of 'deviations' from what could have reasonably been expected of them by the general public. Undoubtedly, there were some very able and exceptionally well-educated individuals who 'plied their trade' as notaries but there was not a great deal to be found of what would nowadays be called 'professionalism'. Standards of education and practice varied and, in the absence of law schools in our universities until the later years of the period in question, we can only conclude that in the majority of cases, it was 'training' that was experienced by these early notaries rather than 'education'.

The comments in some of the Statutes mentioned above, made on behalf of the 'three estates', reveal significant corruption and, indeed, criminality, amongst the individuals who claimed to act as notaries. It had become so bad that the general opinion appears to have been that notarial instruments were not worth the paper they were written on! What comes as something of a surprise is the time it took, and the extents to which parliament and the monarch had to go, to make even a moderate impact on the prevailing situation. There is a temptation to suspect that there were 'vested interests' here which militated strongly against changes being made at grass-roots level, particularly when those concerned might think that they were at a 'safe' distance from Edinburgh! There is no evidence to support the suggestion that the situation in the north of Scotland, being somewhat more divorced, geographically, from Edinburgh, suffered a greater degree of fraud as a result. In fact, it could be argued that since the Society of Advocates in Aberdeen was established at about the same time as equivalent body in Edinburgh, the advancement of legal practice in the north had kept pace with developments in the capital.

However, it certainly could be suggested that the Scottish notary of these pre-Reformation times was not imbued with altruism!

### Graduate Numbers.

It is clear, that from an early date, a proportion of Scottish notaries had the benefit of a university education.

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estatis, that na persoun tak upone hand to use nor exerce the office of notarie be na maner of creatioun to be maid in ony tyme to cum fra this day furth under the pane of deid, without thay be maid and creat be the quenis majesteis speciall letters and thairefter examinat and admittit be the lordis of sessioun and college of justice, quha sall tak thair aithis for dew and lauchfull using of the said office of notaris and cause register thair signe and subscription, quhilk thay sall use in all tymes efter thair said admissioun. And gif ony persoun or persounis attemptis or dois in contrare heirof in creating or making notaris or using of the said office utherwayis nor said is, thay salbe punist to the deid and thair instrumentis nor notis to mak na faith."



It has already been noted (*vide supra*) that the University of Bologna's Law School acted 'like a lantern to the moths,' attracting many Scottish students to its teaching halls, and a little later, the University of Paris also became a great attraction.

In 1997, extensive work by Donald E.R. Watt was published in the form of his *Biographical Dictionary of Scottish Graduates to A.D. 1410*.<sup>87</sup> This ground-breaking volume is still the main source to study when considering the prosopography of early graduates but, for this study's purposes, it has the serious drawback of ending some 150 years short of the Reformation. However, his painstaking work has created a most valuable resource, allowing historians to trace the footsteps of these early Scottish scholars.

It is difficult to determine, with certainty, who these graduate notaries were. In some cases, their *instruments* recorded not only their names but also included a statement of the degree(s) they had obtained, and also, though much more rarely, the name of the university that they had attended.<sup>88</sup> But this was not always the case. There was a 'habit', regularly seen in written documents, that individuals who were graduates were given the (honorary) title of "Master" (quite often truncated by placing before their name a simple "M."). This was done in cases involving laymen as well as ecclesiastics. Those ecclesiastics who had not graduated were often given the title "Dom"<sup>89</sup> (truncated to "D." before their name to indicate that they were in one of the grades of Holy Orders). Of course, there exist many examples where no indication was given at all that an individual held a degree and, in fact, this represents the majority of the records available.

In this study it was decided to record those who were designated *Master (M.)* as being graduates.<sup>90</sup> This was in addition to those whose degrees were recorded more precisely in the source in question. Watt faced the same problem and set out a coherent scheme to regularize the considerable list of degrees that he encountered during the course of his studies.<sup>91</sup> Taking Scotland as a whole, a comprehensive list has been established from pre-Reformation sources, which shows the different degrees awarded to Scotsmen (both lay and ecclesiastical).<sup>92</sup>

Of the approximately 200 notaries who are known so far to have been active at some point within the Northern Diocese, some 47 are recorded as being graduates.<sup>93</sup> The earliest of these is Thomas de Gre(e)nlaw, a canon of Moray, who first appears as a notary in 1422 and is often recorded as holding two degrees – B.Dec., and M.A. In a supplication to the Pope on 24 January 1430, Thomas, then resident at the Curia, declares that his degree of M.A. had been obtained from the University

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<sup>87</sup> Watt, *Graduates*.

<sup>88</sup> Many of those who had graduated were keen to 'advertise' the fact and, as is true even to this day, there could be a certain advantage that might be gained by indicating at which university the individual had taken their degree.

<sup>89</sup> In the case of Scottish sources, this title "*Dom (Dominus)*", is regularly translated as "*Sir*". However, this should not be confused with the heraldic titles of "*lord*" or "*knight*".

<sup>90</sup> This followed the example set in *Graduates*.

<sup>91</sup> Watt, *Graduates*, p. xiv-xv.

<sup>92</sup> Degrees attributed to Scotsmen include: BCivil; BCan; MTh; BTheol; BDec; LDecret; DDec; BA; MA; LArt; LLaws; BLeg; LLeg; BUJ; LUJ; DUJ; ProfUJ.

<sup>93</sup> Of these, 41 had an MA, and only one had a BA. One individual had both a BDec and an MA. See [Appendix G](#) at the end of this paper.



of Paris.<sup>94</sup> In fact, Thomas<sup>95</sup> was, ultimately, the holder of five degrees – BA, MA, LicDec, BDec, DDec – from Paris, Cologne, and possibly Avignon.<sup>96</sup>

In general, there were rules governing the minimum age required of individuals who wished to take a degree. In the thirteenth- and fourteenth-centuries, an individual was required to be in at least his twenty-first year to take a Licentiate in Arts at the University of Paris.<sup>97</sup> However, it was possible to obtain a *dispensation* from this age requirement and, in the 1380s, Masters of Arts may be found at Paris aged only 19 or 20 years!<sup>98</sup>

### Clerks and Clerics.

When attempting to make a study of notaries public, an urgent question soon arises – “was this man a priest or a secular notary?” At the root of this question may lie a misconception which is still prevalent amongst modern historians. The tautology is often that the two terms are considered to be in a mutually exclusive ‘binary’ relationship – men were either priests or laymen. This concept can stem from a somewhat post-Reformation view of the priesthood. The truth is that there was a sequence of ‘grades’ of priesthood – usually considered to be seven in number – and the ecclesiastical regulations changed as an individual progressed through them. Together, the grades of ‘priesthood’ comprise two divisions – Minor Orders and Major Orders.

<u>Minor Orders</u>	Doorkeeper	<u>Major Orders</u>	Sub-Deacon
	Exorcist		Deacon
	Lector		Priest
	Acolyte		

To progress through all the different grades to the level of *priest* often required some seventeen, or more, years of training but it should be understood that, of those who entered the first level, often in boyhood, only a relatively small percentage stayed the full course and became ordained as Priests. In the historical record we find that individuals who had only obtained one of the early ‘grades’ were commonly referred to by the term *clericus* (they were clerks in *minor* holy orders).<sup>99</sup> It was only when an individual was preparing for ordination as a Sub-Deacon that he was required to take, and obey, a *vow of celibacy* and it was also from this point onwards that the Church accepted full responsibility for his material support. Consequently, it was possible for a *clericus* who was in minor orders to be married and to have children.

<sup>94</sup> Burns (1962), p. 76. Greenlaw determined at Paris in 1399. He was an inveterate *pluralist*.

<sup>95</sup> Thomas de Grenlaw was one of the most avid pluralists that Scotland ever saw. Over the span of his career he held (or attempted to hold) over five different canonries (Ruffyl.Dunkeld; Duffus.Moray; Kinnoir.Moray; Banchory-Devenick.Aberdeen; Campsie.Glasgow; Kincardine O’Neil.Aberdeen; Mortlach.Aberdeen; Croy.Moray; Moy.Moray; Kirkmichael.Ross; Renfrew.Glasgow) as well as the Archdeaconries of Orkney, Caithness and Lothian, and the rectory of Conveth/Laurencekirk in St Andrews diocese.

<sup>96</sup> Watt *Graduates*, pp. 240-242.

<sup>97</sup> CUP, i, no. 20., p. 78; ii, no. 14, p. 678; Weisheipi, (1964), 146.

<sup>98</sup> CUP, iii, 384-5, 460.

<sup>99</sup> To this day, in the Church of England, “*clerk in Holy Orders*” is the correct title for an individual acting as a curate, priest-in-charge, vicar, etc.



A significant number of individuals ceased to progress beyond the grade of Acolyte. On 25 October 1431, Robert de Crannach, MA, BDec., then described as “an acolyte of Aberdeen Diocese”, was provided by the Pope (*perinde valere*<sup>100</sup>) to the deanery of Dunblane cathedral.<sup>101</sup> It is to be noted that on 21 November 1424, the same Robert de Crannach, MA of Paris, was described as “clerk to the late Earl of Buchan, Constable of France,” at which time it was also recorded that Robert had been in the Roman Court for almost two years and for the greater part of this time he had been ill!<sup>102</sup>

A little earlier, in 1419, a notable Scottish pluralist – Ingeram de Lyndesay - who spent much of his time residing in the Curia, was described as an “acolyte of Glasgow diocese” whilst, at the same time, holding the rectory of the church of Ratho in St Andrews diocese. Ingeram was well educated, having already obtained the degree of Bachelor of Decrees but, because he had been so busy at the Roman Curia, he had “hitherto not been conveniently able” to take higher orders. Canon Law requirements were such that he was bound to take higher orders to allow him to hold a church ‘with cure’.<sup>103</sup> In a supplication to the pope (Peter da Luna, *Benedict XIII*), dated 3 May 1419,<sup>104</sup> Ingeram is styled a “clerk of Glasgow diocese, of knightly race” but one month later, on 5 June 1419, he is styled an “acolyte of Glasgow diocese, rector of the parish church of Rathow, St Andrews diocese in Scotland, B.Dec.”.<sup>105</sup> In this latter supplication, Ingeram, then present in the Curia, asks the Pope that, since he had already been *dispensed* from ‘defect of birth, being the son of an unmarried knight, a baron, and an unmarried woman,’ “he might receive in Curia, on the Saturday of the approaching Ember Week, from some Catholic bishop, subdeacon’s, deacon’s and priest’s orders on the one day and by a single laying on of hands, and thereafter freely and lawfully to minister in the said orders.” This, it must be said, is an extreme example of an individual advancing through the grades of major orders! Lyndesay was a prolific pluralist and only a week later he supplicated the Pope for provision to the canonry and prebend of Castiltaris in the Church of Glasgow!<sup>106</sup>

The situation becomes somewhat more confused by the term *presbyter*, which is often encountered in archives. This term was conferred upon an individual who had had an outstanding career in the Church, gaining the deep respect of both his colleagues and the greater community. It was not an *order* of the *priesthood* but rather an accolade which could be applied to men who could be in any one of the *orders*. Experience reveals that presbyters were ‘ranked’ alongside the other senior clergy whilst not, necessarily, holding a particular title such as dean, archdeacon, or canon. Indeed, one can sometimes feel, that because of the deep respect that was shown to presbyters,

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<sup>100</sup> ‘*Perinde valere*’ – a dispensation granted (often by the Pope) to an ecclesiastic who, being for some reason defective in capacity for provision to a benefice or other ecclesiastical function, is *de facto* admitted to it.

<sup>101</sup> CSSR, ii., p. 194.

<sup>102</sup> This was John Stewart, 1st Earl of Buchan (1380-1424). He died on 17th August 1424 at Verneuil-sur-Avre, Évereux, fighting on the Franco-Scottish side, against an English-Burgundian army, and alongside his comrade in arms the Earl of Douglas. Douglas was in command of the Scottish army at this battle, at which the Scottish forces suffered a severe defeat.

<sup>103</sup> It was usual that a one-year period of grace was allowed, after taking up a benefice, during which time the individual was expected to have himself promoted to the appropriate grade of Holy Orders.

<sup>104</sup> CSSR, i., p. 39-41.

<sup>105</sup> CSSR, i., p. 67-68.

<sup>106</sup> CSSR, i., p. 72.





they occupied a position second only to that of the bishop. They were very much the *elders* of ecclesiastical society, such as you might find in a tribal society.

The *Laing Charters*<sup>107</sup> reveal many occasions, particularly those involving notaries of Glasgow and St. Andrews dioceses, where the individuals are recorded as being 'presbyters'. This is a feature to be found in the case of notaries in the Northern Dioceses, but not with the same regularity as appears in these two southern dioceses.

At the beginning of Scott's article, he comments, that William Cranston "... calls himself '*clericus coniugatus*', i.e. married. No ecclesiastic, then."<sup>108</sup> This could be seen as a comment coming from one deeply imbued in modern historical thinking but not completely conversant with the nature of the medieval priesthood. It is true that Cranston may well have been a secular clerk, but his use of this term does not necessarily exclude him from being in minor orders, i.e. from being an ecclesiastic. In addition, Cranston is regularly described in the records as "a clerk of the diocese of St Andrews" which would imply that he, himself, recognized some link with ecclesiastical authority.

It should also be borne in mind that the many notaries did not confine themselves to either secular or ecclesiastical matters – they could not, usually, afford to restrict themselves in such a way! Nor can we determine what the primary focus of their work might have been simply by looking to see if they were notaries by *Imperial* or *Apostolic* authority. Their training and education, and the ready availability of *form books*, allowed a relatively easy application of their abilities in either field. In addition, when one remembers that bishops held great secular lordships in addition to their Church properties, it immediately becomes clear that they would have had a very real need for notarial support from individuals who were conversant in both areas of the law.

### Dress Code.

We have commented elsewhere that, as we move through the period under study, it becomes true to say that notaries, who, in the early period, were mostly clerics who also happened to be notaries, went through a reversal to the extent that not only did they become notaries who happened to be clerics, but indeed, notaries who might have discarded their ecclesiastical calling or allowed their calling to become of little importance to their everyday lives. As priests they were marked out from the laity by the clothes that they were expected to wear, and, as notaries it was preferable that they should employ a dress code that set them apart from run-of-the-mill chaplains.

From early times and very much for practical reasons, notaries carried their signs of office suspended from the girdle or *cincture* which, as clerics, they tied round their waist, in much the same way as is shown in the picture on the title sheet of this paper. In the Church it was common practice for those being *ordained* or *commissioned* into one of the seven grades of priesthood, to be presented with the *instruments* of that office. Even a lowly *doorkeeper* – the lowest of the seven grades – was presented with the keys to the church which he would duly touch with his right

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<sup>107</sup> Anderson (1899).

<sup>108</sup> Scott (2015), p. 125.



hand.<sup>109</sup> The notary's instruments comprised a pen-case containing quills and a sharpening knife. These, and a container of ink, were usually suspended from the cincture by a silken cord.

Notaries would often wear a white *surplice* over a black or brown *cassock*, to denote their priestly status, and would regularly be seen wearing a clerical cap. In addition, since they were clerics, they were required to be clean-shaven in order to further distinguish them from the general laity.<sup>110</sup> But, as with all clerical clothing, there was an advantage to be had by being dressed in a fashion unique to their station, particularly when being viewed from a distance. It would be possible for a stranger to mark them out. As Malley and Edwards suggest, notaries were "socially different from the mass of the laity, and their special status was even marked by distinctive dress."<sup>111</sup>

### Family Links.

It has been noted that, "The obvious family connections of the majority of the Selkirk clergy must have created a sense of identity between them and the burgh, so that their social position, like that of the wealthier members of the community, was always subject to the checks and balances of the wide range of close personal relationships within which they had to work."<sup>112</sup> This may also be true for our north-east notaries. However, looking at the list in [Appendix C](#), it is suspected that it might be more true to suggest that a significant number of notaries were either members of such families by blood relation, or enjoyed strong relationships as the result of patronage.

It is commonly accepted that the younger sons of a noble or chiefly house might find a career in the Church and a fraction of these could have become notaries. There are, indeed, instances of notaries bearing famous north-east surnames – Leslie, Irvine, Elphinstone, Farquharson, etc. – but they do not occur as frequently as might be expected and, when they do, they are often names of 'the second tier' of the nobility. This is only a feeling gained from many hours of study and would, perhaps, be a fruitful avenue to pursue in further studies.

### Identity of Notaries in the North-East.

There are records of Scottish notaries from the thirteenth century onwards,<sup>113</sup> but the importance of the profession, and the numbers involved in it, increased over the following centuries.<sup>114</sup> The growing prominence of notaries was the result of several factors, amongst which was an increasing role in evidencing land transactions, but an essential underlying impetus was also

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<sup>109</sup> The bishop or other senior priest would also admonish the candidate to, "conduct yourselves as having to render an account to God for those things which are kept under these keys." (See, *The Medieval Priesthood in Northern Scotland*, <https://cushnieent.com/articles/The%20Medieval%20Priesthood.pdf>)

<sup>110</sup> McRoberts, D. (1962), p. 90.

<sup>111</sup> Maley and Elliot (1993), p. xiii.

<sup>112</sup> Maley and Elliot (1993), p. xiii.

<sup>113</sup> Notaries first appear in Scotland in the 1280s, the first recorded being Robert de Garvald who was active from 1284 to 1306. [Watt, *Graduates*, p. 215] Robert is again on record, along with William de Horsboch, acting in Edinburgh in a suit before the Official of the bishop of St Andrews, within whose diocese Edinburgh lay.

<sup>114</sup> Scott, W.W. (2015), p. 129.



generated by the general move towards the greater 'professionalization' of legal work and the significant development of centers of trade.

It is, of course, not possible to create an exhaustive list of those individuals who can be identified as having been authorized to act as a Notary Public in the geographical area in question. However, in recent years, this has become a particularly active area of research, stemming in part from the work being conducted into the records of the various Scottish Burghs. In his PhD Thesis, Dr Harold Booton (Booton, 1989) used the Records of the Burgh of Aberdeen as the foundation for his chapter on 'the Role of Aberdeen Notaries in Burgess and Baronial society in North-East Scotland from 1400 to 1530'. This collection of records in Aberdeen, which has since been digitized and made [available on-line](#), forms one of the oldest and most complete sets of burgh records from anywhere in Europe. In addition, the work which has been carried out recently at the University of St Andrews,<sup>115</sup> and by scholars such as Dr Thomas Brochard<sup>116</sup> has opened a bright new chapter and allowed our knowledge of the identity of Scottish Notaries Public to expand apace. It was Dr Brochard who very kindly suggested that the author might find additional information within the *Laing Charters*, and this work has recently been completed and corresponding additions have been made to the data contained within the Appendices of this paper.<sup>117</sup>

### The Area of Interest.

In this paper the geographical area of interest is defined as being delineated by the pre-Reformation boundaries of the four northern medieval dioceses - Aberdeen, Moray, Ross, and Caithness. It is a remarkable fact that these boundaries have changed so very little over many centuries. A picture approximating to their extent may be obtained from the map shown below ([Figure 11](#)).

In this paper, the diocesan boundaries (rather than the 'civil' ones) have been employed since these relate more readily to the written sources, particularly the older ones. It was only after the Reformation that the civil boundaries - the shire boundaries - came to be used almost to the exclusion of the ecclesiastical ones, and notaries were, henceforth, principally officers of the civil jurisdiction rather than the Church. In addition, in the pre-Reformation period, notaries were often in one of the orders of priesthood and their allegiance, which was routinely recorded by them when they signed their instruments, was to the bishop who had first *ordained* them. Even those whose 'credentials' as notaries were 'by Imperial authority', acted under the supervision of a diocesan bishop or an official appointed by the bishop for that purpose. This was an important

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<sup>115</sup> At the time of writing, a PhD candidate, Kate McGregor, has been working for the past year as a Research Assistant at St Andrews University, focusing on "Notarial marks in the St Andrews burgh charters," and "Notaries and their Networks in St Andrews, 1466-1560." Her research has followed on from a recently-completed pilot project, funded by [The Scottish Medievalists](#), in which Mrs. Rachel Hart, Senior Archivist and Keeper of Manuscripts and Muniments, and Professor Margaret Connolly, Professor of Palaeography and Codicology in the Schools of English and History, surveyed and identified notarial instruments within the University's muniment collection. To add to a background understanding, reference might also be made to Canon Dr. Purvis's work amongst the York archives.

<sup>116</sup> Brochard (2003).

<sup>117</sup> Anderson (1899).



matter since it identified the person to whom recourse could be made in the event of a notary's services proving to be the subject of complaint.

As has been noted, in the case of the north of Scotland, these ecclesiastical, or diocesan, boundaries remained relatively consistent over an extended period of time. However, on occasion, certain changes did take place.

One major change affected the diocese of Ross which was so regularly characterized by observers as being 'struck by poverty.' Shortly after 1255-56, in an attempt to bolster the finances of this diocese, the churches of 'North Argyll' were transferred to it and this arrangement remained in place up to the Reformation.<sup>118</sup> In addition, it should be noted that, from early times, the parish of *Ardersier* was part of the diocese of Ross and not Moray, even though it lay on the opposite (south) side of the Moray Firth from the lands of Ross.<sup>119</sup>

It will be seen that when the six parishes of North-Argyll were added to it, Ross diocese gained considerably in geographical area, although the increase in its income would not have been so pronounced! It would follow that there would necessarily have been a corresponding increase in the need for notarial services.

The extent of the lands of North Argyll involved in the transfer (c.1255), as well as those of the parish of *Ardersier*, are illustrated below (Figure 12).

The issue of jurisdiction has ever been a thorny matter in northern Scotland, as it was elsewhere in western Europe. In the *Registrum* of Moray diocese, we find a significant number of records dealing with 'differences' taking place between the Bishops, Earls, their Sheriffs, and the local lairds, whose jurisdictions were seen to be infringing upon each other. If the pages of the Moray *Registrum* are searched for *controversia*, a number of illuminating incidents appear, showing how various bishops had need to energetically defend their property rights.<sup>120</sup> But, in all of this, it should be remembered that it is, perhaps, an anachronism to use the name *Moray* except in reference to either the bishopric or the earldom - there were two (later three) Sheriffdoms within the diocese.<sup>121</sup>

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<sup>118</sup> The parishes which were transferred to the diocese of Ross were those of [Kintail](#), [Lochalsh](#), [Lochcarron](#), [Gairloch](#), [Applecross](#), and [Lochbroom](#).

<sup>119</sup> Although geographically in the diocese of Moray, this parish was the property of the bishops of Ross - the Campbells of Cawdor holding the lands of the bishop. In 1226, a *compositio* was reached between Andrew, bishop of Moray, and Robert, bishop of Ross - in it, the bishop of Ross resigned his rights in the church of Kintarlity and, in return, the bishop of Moray resigned his rights to the church of *Ardersier* [REM, no. 75, p. 81]. In 1556, sensing the imminent approach of the Reformation, David Panitar, bishop of Ross, disposed the lands of *Ardersier* and *Delnies* (including the parish church of *Ardersier*) to his brother-uterine, Robert Lesley [Shaw (1882), ii., p.264]. John Campbell of Cawdor then purchased them from Lesley in 1575 [Shaw (1882), ii., p. 264].

<sup>120</sup> Moray Reg., nos. 33, 52, 75, 85, 123, **164**, **179**, 196.

<sup>121</sup> The two shires - Elgin & Forres, and Nairn - were later joined by the Sheriffdom of Inverness. From the map below (Figure 13) it will be seen that matters were further complicated by the fact that the diocese also encompassed the western portion of the Sheriffdom of Banff.



The map shown below (Figure 13), which is taken from Rampini's book, shows that he considered that the total land-surface could be divided into the Diocese of Moray, the Earldom of Moray, and the Province of Moray. Inevitably, Rampini was particularly interested in Elgin(shire) and Nairn(shire) since he was Sheriff-Depute of both.

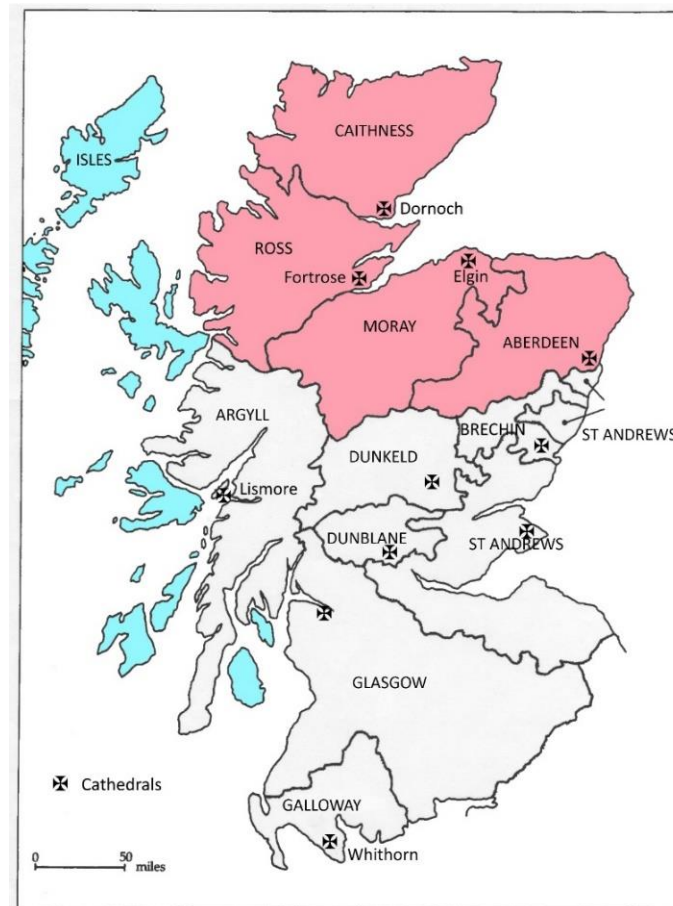


Figure 11: Map of the Scottish Dioceses at the Reformation of 1560. (Those dioceses covered in this paper are marked in PINK. Those in BLUE were part of the Scandinavian archbishopric of Nidaros.)



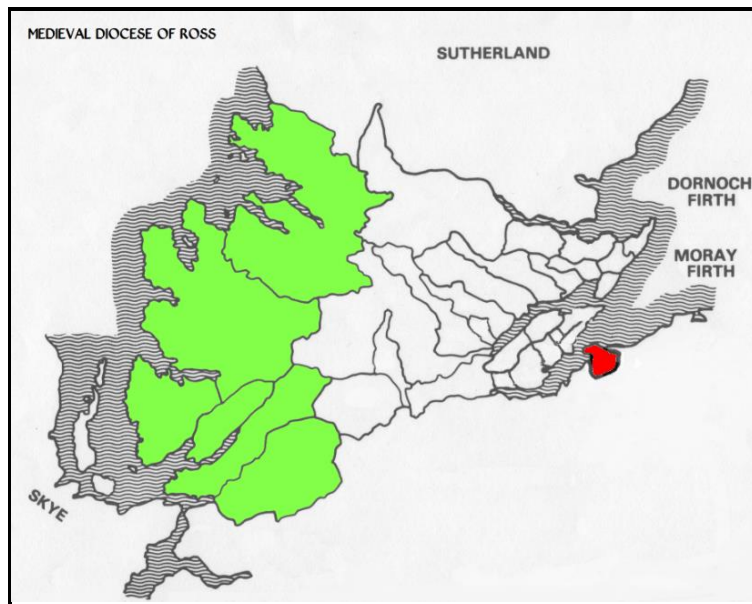


Figure 12: The six parishes of 'North Argyll' are shown above in green. The lands of the parish of Ardersier (including Delnies) are shown in red.

This map illustrates many of the difficulties which we face when attempting to define our area of interest. As the map shows, the diocese of Moray extended to the west of the Great Glen to include much of the lands of Glen Affric. In addition, the diocese extended south-east beyond the River Spey to include a large swathe of land corresponding to the eastern part of the Spey Valley and extending to the mountain heights of the Cairngorms. A significant part of this area was in the Sheriffdom of Banff, particularly where the River Spey approached the Moray Firth. This eastward 'encroachment' of the diocesan boundary inevitably brought the bishop of Moray into conflict with the bishop of Aberdeen on a number of occasions over a significant period. This eastern appendage constituted the deanery of Strathbogie, and corresponded very much to the ancient Gordon barony of the same name.

The earldom of Moray included even greater tracts of land to the west of the diocesan boundaries, extending as far as the western seaboard and encompassing the lands of Knoydart and most of Glenelg. It also included Glen Nevis and north Lochaber to the south-east.

An interesting feature of this map is that it shows that Rampini considered the Province of Moray to include most of the earldom of Ross and the lands of Cromarty.

(In order to provide greater clarity, Rampini's map is reproduced, full-size, on the following page.)







Figure 13: Map of Moray: Rampini (1897), front-piece.





## Statistics.

Research carried out by the author has, to date, identified the names of 209 individuals who were active as notaries public in the North-East at or before the Reformation (c.1560).<sup>122</sup> However, particular care must be taken here since this number reflects the *quantity* and *quality* of the historical records which have come down to us rather than the actual number of notaries that may have been active. Some of the notaries are known to us simply because they have been recorded – perhaps on only one occasion – within one of the sources. The ‘thin’ nature of the historical record means that there may be many individuals whose names have simply not been preserved. Consequently, the drawing of any conclusions from the data is a task fraught with difficulties since the numbers may not reflect even an approximation of ‘the truth.’ This is particularly true when attempting to draw any conclusions based on the number of notaries recorded in each of the four dioceses.

A not insignificant number of notarial *protocol books* have come down to us, and many have been collected at the Scottish Records Office. Some of these have been translated from their original Latin texts and then, having been edited, made readily available to the general public. However, a recent, and perhaps regrettable, trend has resulted in the latest volumes being made widely available only via a Canadian ‘agency’ and at some cost!<sup>123</sup>

It is worth considering whether the demand for notarial services was in any way determined by the sheer geography of ‘the North’ – and, although it is accepted that this must have been a major factor, we suggest that other factors, such as variations in population density and the extent and location of merchant enterprise, must also have been very significant. It would also be correct to suggest that the physical presence of ecclesiastical institutions (cathedrals, abbeys, priories, etc.) would also have been an important factor and would have resulted in an inflated number of transactions than might otherwise have been expected.

The information contained in [Appendix C](#) records that during the period in question there may have been over two hundred individuals who were recorded as having acted at some time as a notary in the Northern Dioceses.

Some of the individuals named as notaries occur on numerous occasions but, as has been said, this is a feature which results more from the successful preservation of the historical evidence than anything else. In some instances, we have protocol books containing scores of entries, spread over an extended period of time; in other cases, we have only one charter reference to a particular individual being a notary public.

The number of notaries recorded in each of the four dioceses is summarized in the following table (*Table 1*). A full list being given in [Appendix C](#).

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<sup>122</sup> To-date, we have collected a total of 1345 separate references to an occasion when a Scottish notary was present/involved in a transaction. (See [Appendix I](#)).

<sup>123</sup> A number of them can now be obtained by searching the website of Tanner Ritchie Publishing of Ontario, at <https://tannerritchie.com/> (See the *Bibliography* at the end of this paper for further details.)



Diocese.	Number Recorded.		Date of first record.
	n = 189	%	
Aberdeen	108	57	1366
Moray	65	35	1368
Ross	10 <sup>124</sup>	5	1345
Caithness	6	3	1495

Table 1: Number of Notaries recorded in each of the Northern Diocese.<sup>125</sup>

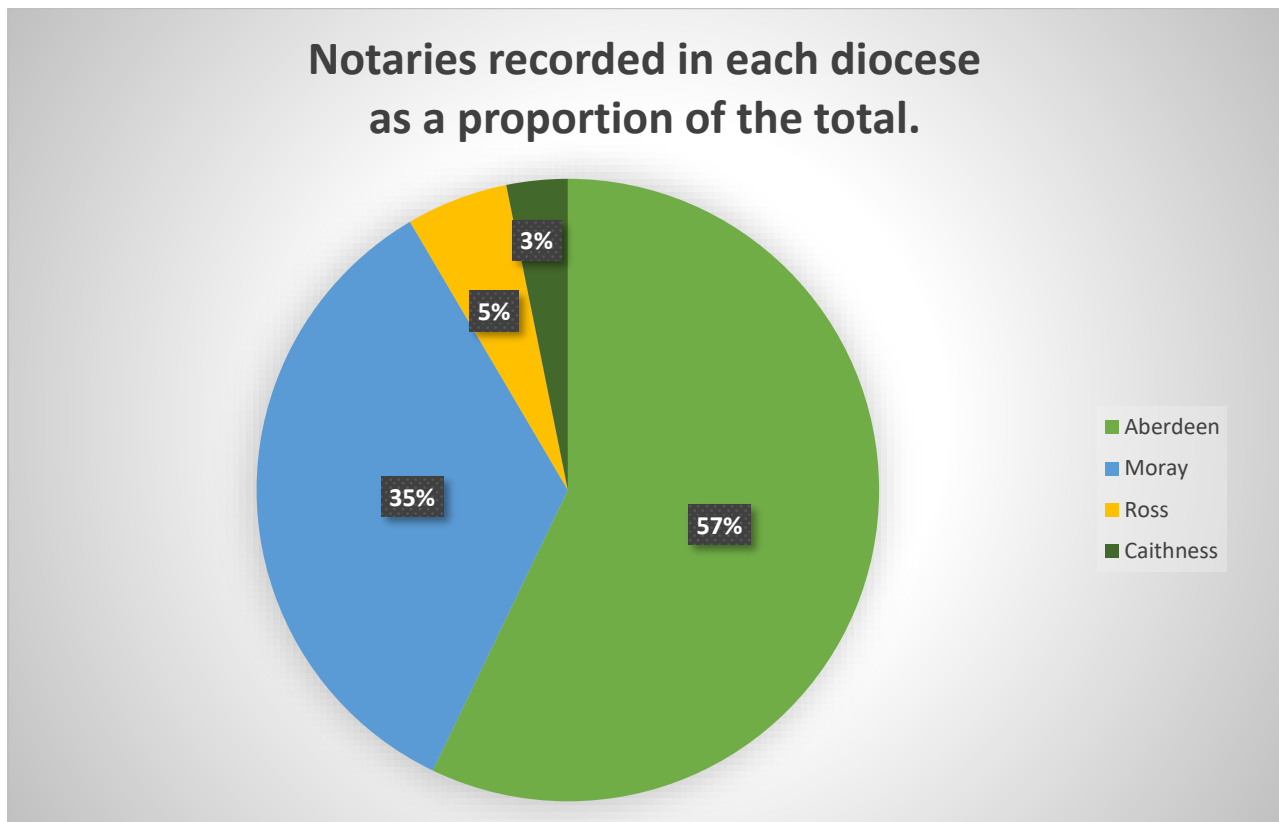


Figure 14: Pi-chart showing the number of notaries recorded in each diocese expressed as a percentage of the total.

Clearly, the dioceses of Aberdeen (57%) and Moray (35%) had by far the greatest number of notaries recorded as being active within them at some point in time.

<sup>124</sup> This is only 10 if we accept that Thomas John Boner and John Boner are one and the same person. (We also note in passing another John Boner - a priest and notary of St Andrews diocese, in 1495.)

<sup>125</sup> Figures drawn from the 'List of Notaries' given in [Appendix C](#).



The following graph (Fig. 15) shows very clearly how the number of notaries who are recorded as having first appeared in the north-east, during each 50 year period, showed a very slow increase during the two hundred years up to 1449 but then increased very rapidly during the last period up to 1549.<sup>126</sup>

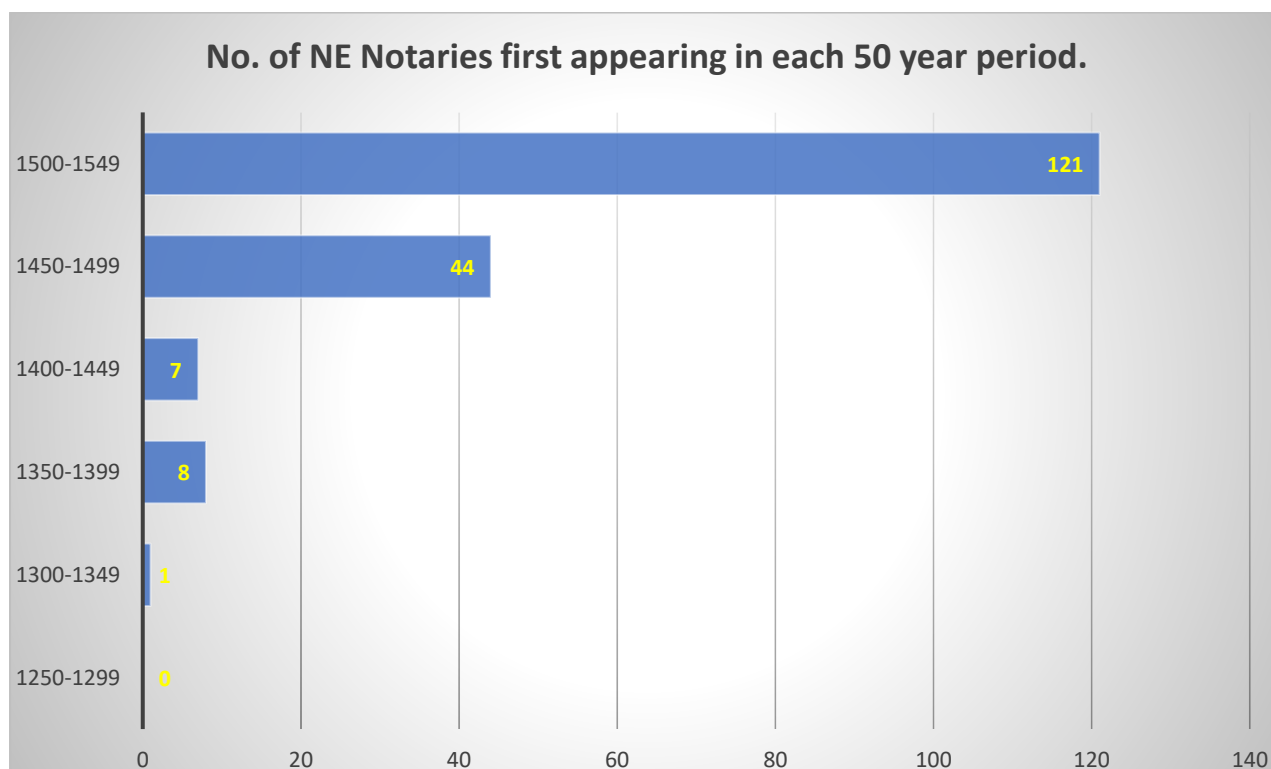


Figure 15: Graph showing the rate of appearance of notaries in the north-east. (Total = 181) - 8 more appeared between 1550-1560.

### Interpreting “of Aberdeen” etc.

A *caveat* should be offered here since it is important to fully understand what the statement “of Moray” (or one of the other dioceses) actually means when a clerk or a notary is encountered who is so described. In the ecclesiastical world the phrase was often used to tell the reader which *diocesan* had ordained the individual rather than in which diocese he may have been working. It is important, also, to avoid the mistake of assuming that this is where the individual concerned was born and brought up. An example, is provided by the previously highlighted Thomas (John) Boner, who was described as “clerk of Ross (diocese).” It is tempting to immediately interpret this appellation as meaning that Thomas carried out his notarial activities within the diocese of Ross which, if true, makes him something of a special case since that diocese did not produce very many examples of notaries at all!

<sup>126</sup> Figures drawn from the North East Fasti database. Between 1550 and 1560, a further 8 notaries made their first appearance but are not represented in this graph for reasons of scaling.



The case of Thomas Boner<sup>127</sup> is of even greater interest since he is one of the earliest notaries to be found working anywhere within the Northern Diocese – he is first encountered in 1328. However, a more detailed study reveals that, although he is described as being “of Ross diocese,” of the three records that have been found to date, two show him working in the cathedral at Elgin and the third shows that he may have held the vicarage of Duffus, in Moray diocese.<sup>128</sup> It would appear that, having been first licensed in Ross diocese, he spent much, if not all, of his career working in Moray diocese. But it must be pointed out that we are making a bold assumption here – that all three instances relate to the same person. In the first he is called “John”, in the second “Thomas John”, and in the third “Thomas.” It seems, then, to be a reasonable assumption to make. But it cannot be proved that all three references relate to the same person, and the dates involved might seem at first sight to militate against it. (See footnote 113 and Appendix D.)

In a similar, but later, case, we find Robert Urquhart, who is described in 1545 as a priest “of Moray,” actively carrying out notarial duties in the diocese of Caithness, where he had been presented to the rectory of Kildonan in the June of that year.<sup>129</sup> Similarly, we find the case of William Collie, described as “a priest of Aberdeen diocese” but who was Commissary of Caithness in 1525, when he was recorded as being a notary by both imperial and royal authority.<sup>130</sup> Similarly, Thomas Gre[e]nlaw, who, by October 1403, had graduated MA from the University of Paris, and had gone on to study canon law, gaining the degree of B.Dec., and was provided to the archdeaconry of Caithness in 1419. In 1422, whilst in the Curia, Greenlaw resigned a canonry of Moray, and the archdeaconry of Orkney, revealing his true colours as a *pluralist* and a litigationist *par excellence!*

Dr Brochard seems to become a little confused here since he writes,

“The fifteenth century saw a substantial rise in the number of notaries, almost certainly to meet the growing demand for their services and, during that century, they were to be found on Scotland’s north-eastern seaboard, with Magnus Macculloch recorded as clerk of the diocese of Ross in 1477.”<sup>131</sup>

He bases his conclusion partly on information drawn from (Stevenson G., 1918, pp. xiv-xv). However, the individual in question, Magnus Makculloch, spent the majority of his life working for the Archbishop of St Andrews – William Scheves (1476 - 1497) - and so his *locus operandi* would have mirrored that of his ‘master,’ being principally south of *the Mounth*. It is correct that Magnus, on one occasion, called himself “*Magnum Makcullocht de Rossia in Iovania residentem,*”

<sup>127</sup> We assume that Thomas Boner and Thomas John Boner are one and the same person.

<sup>128</sup> Moray Reg., no. 137, p. 153. (11 May 1328). In the Chapter House of Elgin Cathedral, having, on 8 May 1328, been present at a meeting of the principals in the chapel of the bishop’s manor at Kynedor. “*Johannes Boner Rossensis dyoceseos clericus auctoritate imperiali publicus notarius.*”

Moray Reg., no. 139, p. 156. (20 October 1345). In the Chapter House of Elgin Cathedral. “*Et ego Thomas Johannis Boner Roffensis Diocefeos publicus apoftolica et imperiali auctoritate notarius.*”

Moray Reg., no. 251, p. 326. (1 August 1398). Thomas Boner is mentioned by the bishop as ‘being of good memory’ which implies that he had died some time before the date given. (Thomas may have been vicar of Duffus for a time.)

<sup>129</sup> Brochard (2023), p. 8. After June 1545, Robert was to be found carrying out notarial duties in the Cromarty area although he actual entry to Kildonan took place the following month, in July 1545.

<sup>130</sup> Brochard (2023), p. 7. “Collie was already present in Wick when John Sinclair, earl of Caithness, granted a charter to the Trinity Friars in Aberdeen:” [Aberdeen, Seven Incorporated Trades, Box 838, T9.]

<sup>131</sup> Brochard (2023), p. 6.



and, on another, “*magnum Mackulloche clericum Rossensis Diocesis*,”<sup>132</sup> but this signified only that he had been ordained a *clerk* (one of the lower orders of priesthood) in that diocese – probably before he went to Louvain to further his studies. It is misleading to suggest that Magnus “was to be found on Scotland’s north-east coast.” He was certainly not the clerk of the diocese – he was simply a clerk who happened to come originally from somewhere within that diocese.

The case in question also reveals another of the ‘problems’ which was identified earlier. Magnus is known as a *clerk*, but he has yet to be found anywhere described as a *notary*. In the *Oxford Dictionary of National Biography*, there is the following entry – “Magnus Makculloch, fl. 1477-1484; b. in Tain, Ross-shire; student at Louvain, 1477; professional scribe.”<sup>133</sup> Some writers conflate the two terms - *scribe* and *notary* - but it is often erroneous to do so. In addition, experience has shown that, in this era, individuals were not keen to hide their having been licensed to act as a notary since this placed them above mere scribes in the strata of medieval Scottish society. If they were notaries then they would invariably say so, even if only by adding a simple “*n.p.*” after their signatures. The writings of a notary carried much greater authority than those of a mere scribe and this was reflected by the social position they enjoyed. But how did a relatively lowly individual from a small, obscure, diocese in the far-flung northern parts of Scotland (it is thought that Makculloch’s family lived in Tain<sup>134</sup>), ever come into contact with such a ‘rising star’ of mid-fifteenth century Scotland – Archbishop William Scheves? It has already been noted that Makculloch himself records that he was studying at the university of Louvain in 1477, and it should now be noted that William Scheves, after first studying at the University of St Andrews during the 1450s, then ventured abroad to continue his education and is thought to have ended up at Louvain. Scottish students would have been a sufficiently rare breed that we might ask if the two would have met each other and perhaps started a working friendship which could have lasted until well after they had both returned to Scotland. At the very least, it is reasonable to suggest that they would have been drawn together because of their shared background. Makculloch is credited with being the copyist of two manuscripts of John of Fordoun (MS. Brechin Castle and MS. Harl. 712, both editions of the *Scotichronicon*) and of MS. 205 in the Edinburgh University Collections. This type of transcription work was quite unlike that carried out by a notary public. Consequently, Makculloch’s name has not been added to the lists presented here of ‘Northern Notaries.’

Dr Brochard is also a little in error in the case of William Spynie.<sup>135</sup> He states that:

“A case in point is that of Tain provost William Spynie who in February 1504/5 was present at Fearn abbey to draft a conveyancing instrument as a notary created by imperial authority. His civic functions could hardly have been compatible with the pastoral duties of a serving priest as noted below.”

Firstly, there were, in fact, two notaries who bore the same name – the first William de Spynie is found from 1380 to 1393; secondly, William II de Spynie, is found from 1492 to 1514. It would appear to be the second of these that Dr Brochard is referencing. William II was indeed recorded as being “provost of Tain” and as having been “present at Fearn Abbey to draft an instrument (as notary).” However, Dr Brochard mistakenly interprets the title of ‘Provost’ here as being the *civic*

<sup>132</sup> Stevenson, G. (1918), pp. xiv-xv.

<sup>133</sup> Oxf. Dict. Nat. Biog., v. 6: p. 922.

<sup>134</sup> Stevenson, G., (1918), p. xv.; Alexander McCulloch was mentioned in Tain on 10 November 1450. [Munro & Munro (1986), no. 55, pp. 82-83.]

<sup>135</sup> Brochard (2023), pp. 6 – 7.



position of Provost of the burgh of Tain. William II was, in fact, a priest, and is recorded as being Provost of the Collegiate Church of St Duthac<sup>136</sup> at Tain from 1492 to 1514.<sup>137</sup> William II was provost of the college for over twenty years which suggests that in the performance of his duties, he must have found some favour with the 'authorities', since this was at a time when King James IV and other great *magnates* were frequent visitors to St Duthac's Shrine at Tain. In his following sentence, Dr Brochard continues by commenting that:

"These benefice holders could not be considered clergymen in any meaningful sense, lessening in the process the difference between notaries working under the Catholic regime and their colleagues under a Protestant administration."<sup>138</sup>

This, if it is taken to be a reflection on William II de Spynie, is a most unfortunate comment to make. No doubt, like many others, William II had his faults, but it is to be feared that Dr Brochard is being somewhat unfair in his comment.<sup>139</sup> Also, since we are dealing with events at the start of the sixteenth-century, it is difficult to see that a comparison with later 'Protestant administrations' is secure.

There is also the example of Nicholas Tunnock who is described on 18 May 1414 as being a presbyter "of St Andrews diocese" but who, on that day, was acting in his capacity as notary (by imperial authority), creating a notarial instrument which recorded him occupied (as a judge?) "withing (*sic.*) the secret [private] chamber within the bell-tower of Elgin Cathedral."<sup>140</sup> Since it appears that the major part of the 'community' of the cathedral was called before him, we gain a sense that Nicholas had been drafted in to provide an independent judgement upon the matter in question. However, the point is that the appellation "of St Andrews" tells us nothing about where he was working at the time – at Elgin.<sup>141</sup>

It would probably not be true to imagine that notaries were continuously peripatetic - although it may be true to suggest that they were quite 'mobile'. Some, like Tunnock, travelled considerable distances whereas others, like (Sir) John Cristisone, were indeed mobile, but within a much more restricted geographical area.<sup>142</sup> This presents an interesting difference between these two notaries – Tunnock appears to have been an ecclesiastic of some substance, who was only incidentally a notary; whereas Cristisone appears to be the epitome of the *rural notary*, busy within his locality (the Garioch Deanery) but with only a small ecclesiastical 'living' (the vicarage of Kemnay<sup>143</sup>) to

<sup>136</sup> Founded by Thomas, bishop of Ross in September 1481.

<sup>137</sup> **Watt Fasti**, p. 374; Chisholm-Batten (1877), pp. 180, 184.

<sup>138</sup> Brochard (2023), p. 7.

<sup>139</sup> It is interesting to note, however, that the editor of *the Calendar of Fearn* may have agreed with Dr Brochard. He writes of William II, "One of the curators named for Alexander Sutherland, claimant to the earldom of Sutherland, when he resigned his rights at Inverness, 25 July 1509, he was more prominent as a notary than as a churchman, both before and after acquiring the provostry. He died at an unknown date after 22 October 1517." [Adam (1991), p. 27].

<sup>140</sup> REM, no. 187, p. 216. "Acta fuerunt hec in quadam camera secreta in campanili ecclesie Moraviensis."

<sup>141</sup> To-date, we have found nearly fifty occurrences of Nicholas Tunnock in the records, ranging from this mention of him in 1414, as a presbyter (senior priest), to 1430, when he was dean of Aberdeen.

<sup>142</sup> Cristisone only records one visit to Edinburgh (when he was 'in the house of the Bishop of Galloway, then President of the Lords of Council'), and was not regularly so far from his home area – Kintore, Inverurie, Kemnay, Monymusk - as to visit Aberdeen (only 30 of the 466 entries in his Protocol Book were enacted in that city).

<sup>143</sup> Lindsay (1930), p. 110.



augment his income. As notaries, they were at what might be considered to be opposite ends of a spectrum from each other!

One final example which is of considerable interest is that of a notary called John de Oxon [Oxford], dated 1386. On 4 December of that year, John acted as notary in drawing up an *instrument* regarding the collation of the vicarage of the church of [Dyke](#), in Elgin deanery, Moray diocese.<sup>144</sup> The previous vicar having resigned, Bishop Alexander collated the living into the hands of (Sir) Alexander de Urchard, a canon of Moray, who was acting as *proxy* for the intended recipient, Alexander de Brothi [Brodie],<sup>145</sup> a younger son of Thomas de Brothy [Brodie], who was absent from the proceedings. John de Oxon signed the instrument as “*clericus Lincolniensis diocesis publicus apostolica auctoritate notarius ...*” “This, most certainly, is an ‘extreme’ case of the mobility which could be demonstrated by notaries public and, although he appears in the pages of the *Registrum* only once, one is tempted to ask how long he might have remained in Moray and what brought him there in the first place? It is an interesting example of the very close links that once existed between Moray diocese and the cathedrals in the south of England, an association which went back certainly as far as the end of the twelfth century and three of the early bishops of Moray – Richard of Lincoln (1187-1203), Brice de Douglas (1203-1222), and Andrew de Moravia (1222-12420).<sup>146</sup> Indeed when disaster struck Lincoln, and its muniments perished in a great fire, it was to Elgin that a request was sent to recover a copy of Moray’s constitutions since these had been first composed using those of Lincoln as a ‘blue-print’ and so represented the closest thing possible to Lincoln’s lost originals.<sup>147</sup>

This ‘spectrum’ of notarial occupation is important to understand since it underlines the fact that notaries should not be considered to be *clones* of each other – the life and work of notaries could be extremely varied.

Although all of the individuals who have been recorded here acted as notaries, it would not, of course, be safe to assume that all were clerics, i.e. that they had been *ordained* into one of the orders of priesthood.<sup>148</sup> As has been pointed out already, certain of them were probably not ordained at all, but were lay or civilian clerks rather than *clerks in Holy Orders*. It could be argued that, in Scotland, the *secular* nature of notaries became more common as the Reformation approached and this was certainly true afterwards. Although many notaries who were churchmen at the Reformation continued to carry out their duties during the years that followed, they did so more as laymen, and, after 1584, the reformed clergy (ministers) of Scotland were

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<sup>144</sup> Moray Reg., no. 248, pp. 323-324.

<sup>145</sup> The church of *Dyke* is only a stone’s-throw from Brodie Castle and the author assumes that the surname Brothie is an old form/misprint of Brodie. The estate of Brodie includes the parish of Dyke within it.

<sup>146</sup> During the process of establishing the diocese of Moray on a more sound footing, these successive bishops created a ‘structure’ which was heavily based on the *statutes* and *use* of Lincoln.

<sup>147</sup> Moray Reg., nos. 46, 47, and 48, pp. 40-43, 43-44, 44-51.

<sup>148</sup> See “[The Medieval Priesthood in Northern Scotland.](#)”



forbidden to act as notaries.<sup>149</sup> Lord Carswell commented that, “after the Reformation, the clerical order of papal notaries quickly disappeared.”<sup>150</sup>

Carswell added, “From these and similar records it is clear that a small but increasing group of notaries were in existence from the early sixteenth century as full-time practitioners. Only in Edinburgh, however, among the group of *writers* at the Court of Session was there evidence of a corporate feeling among notaries before the seventeenth century, during which emerged the Faculty of Procurators in Glasgow and Society of Advocates in Aberdeen, combining the functions of procurators and notaries.”<sup>151</sup> From this time onwards in Scotland the role of secular notaries was such that they became a progressively full-time *profession*.

### Remuneration.

It is not easy to determine the basis upon which notaries were paid for their services. It is very likely that the sums involved would have depended on the nature of the business contracted which would, in turn, have governed the length of time that a notary would have had to spend on a particular matter, including such items as any travel costs incurred. What is also unclear is if there was ever any agreement between Scottish notaries which regulated or standardized fees. This latter would only have been a possibility within a town or city where there was sufficient demand for notaries. This latter might have resulted in a significant number of notaries being employed in close proximity, which may then have created an element of professional competition. Vershuur identifies, “a small but reasonably prosperous group of town notaries operating in Perth in the sixteenth-century,” but there is no indication of any arrangement existing between them regarding fees.<sup>152</sup>

Booton suggests that “The notaries of Aberdeen were not poor men, but they were far from being amongst the richest burgh inhabitants.”<sup>153</sup> It would be reasonable to extend this observation to other burghs in the north-east such as Banff, Elgin and Inverness. It is also reasonable to emphasize the observation made by Brochard who has highlighted the concept of notaries being employed in more than one occupation<sup>154</sup> – what has been observed earlier as being an approach similar to that used for generations by the crofting communities in these northern lands. This ‘job-

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<sup>149</sup> APS, iii, 294, c.6, “Disqualification of Ministers.” *The king's majesty and his three estates assembled in this present parliament, earnestly desirous that all his loving and good subjects shall be faithfully instructed in the doctrine of their salvation and that the ministers of God's word and sacraments may the better and more diligently attend upon their own charges and vocation, therefore statutes and ordains that all the said ministers shall lawfully await thereupon, to the comfort and edification of the flocks committed to them, and that none of them presently being in that function, or that shall be admitted thereto in time coming, shall in any way accept, use or administer any place of judicature in whatsoever civil or criminal causes, not to be of the college of justice, commissioners, advocates, court clerks or notaries in any matters (the making of testaments only excepted) under the pain of deprivation from their benefices, livings and function; and if they fail herein, being called, tried and judged culpable by their ordinaries or the king's majesty's commissioners in ecclesiastical causes, they shall then lose their said benefices and livings and other qualified persons shall be presented and provided thereto, as if they were naturally dead.*

<sup>150</sup> Carswell (1967), p. 49.

<sup>151</sup> *Ibid.*, p. 49.

<sup>152</sup> Vershuur (1985), p. 169.

<sup>153</sup> Booton (1989), p. 211.

<sup>154</sup> Brochard (2023), p. 22.





share' scenario is clearly demonstrated in the case of (Sir) John Cristison who supplemented his notarial income with a second income stream derived from his position as vicar of Kemnay.

What may be surmised from a study of the Aberdeen Burgh Records is that a significant number of notaries in that burgh (as in Perth) became quite wealthy as a result of their participating in general trade and, most particularly, from the rental income which they may have obtained from the portfolio of properties which they often came to own.

In 1513, we find the Aberdeen notary, (Sir) John Stirling, being employed by David Lesley of Pitcaple to receive 40 shillings on the laird's behalf from John Brebner for a barrel of salmon, he having bought it from the laird.<sup>155</sup> Dr Booton comments that, "Stirling acted as the laird of Pitcaple's *middleman* in selling his fish for him. He probably charged a fee for his time and trouble."<sup>156</sup>

A notary who found favour with a group of landed-men or, even better, some of the nobility, and became a trusted *agent* for them, carrying out both family and estate matters, was also assured of an increased income. In the more sparsely populated regions of the countryside, it might be that notaries were difficult to find and that it was advantageous for individuals to keep a particular notary 'in their pockets' as it were – not as a full-time employee, perhaps, but always available when needed. It was also often of great advantage to all concerned if the notary had an extensive understanding of the previous history leading up to an action, especially a full understanding of the family's genealogy.

The situation would have been very different for a notary who was part of the ecclesiastical administration. They were often chaplains or clerks employed on-staff, whose income was governed by their position within the church hierarchy. Their remuneration would not necessarily have been linked to the notarial work that they undertook but rather to the regular sums of money they obtained because of their having been provided to certain chaplaincies or prebends. However, it is not impossible to imagine that they were remunerated in some way when they undertook work of a secular nature, with that remuneration coming, perhaps, 'in kind' rather than in coin. After all, it was an easy matter for goods to be traded later in the marketplaces in return for other items such as horses, clothes, shoes, etc. Because of their experience in the world of canon law, these notaries had a particular set of skills which resulted in them being the 'first choice' for employment by the various religious houses. But only the very richest of the monasteries could even think of employing a notary full-time and there were no such institutions in the north-east of which we are aware, with even Kinloss Abbey falling short of the mark.

However, those notaries who had a grounding in canon law, perhaps a degree from a foreign university and experience at the Roman Curia, would be a favourite choice for carrying petitions to Rome or even going on embassies to foreign courts, representing both the Church in Scotland and its King. Even if such work did not earn them a direct income, such notaries were often *preferred* to additional and often more lucrative 'livings' (e.g. canonries both at home and of foreign cathedrals, provostries of collegiate churches, and even the ultimate prize of a bishopric) and a small number of them, perhaps entranced by the 'glitz and glamour,' became, ultimately, extremely and ostentatiously rich. There is a great contrast here between the above and the life and work of (Sir) John Cristisone, trudging his arduous way round rain-swept rural

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<sup>155</sup> CR, ix., 277.

<sup>156</sup> Booton (1989), p. 232.



Aberdeenshire for so many years! Even his luckier fellow notaries who plied their trade in Aberdeen, such as Patrick Badenagh and John Stirling, had to make do with becoming the landlord of a property in the ‘up-market’ Castlegate – a much less glamorous prize than a prebend or a bishopric!<sup>157</sup>

We are, however, allowed occasional glimpses of the remuneration of certain notaries – suggestions of the profit that could be made from their professional legal activities. In the burgh court of Aberdeen, 24 January 1483:

“comperit in the tolbuthe of Abirdene before the aldirman and ane of the ballies of that samen, maistir Androw Leil thesaurar' of abirdene [cathedral] on the ta [one] part and ser Androw of Chawmer, bruthir german to maistir Johne of Chawmer, on the tuthir [other] part / procuratoure to the said maistir Jhon as wes knawin to ser Johne of striueling notar' public thare vppon than present: And the thesaurar' forsaid exponit that he wes awand to [he owed to] the said maistir Johne ane hundreth ducatis of gold be resoun of expens' made in the pley [plee] of the subchawntoury [succentorship] of murref [Moray].”<sup>158</sup>

This, of course, begs the question “how much money are we actually talking about here”? A number of historians consider that the medieval gold ducat was the equivalent of £100 in ‘modern’ money and, if we accept this, we see that the treasurer, Andrew Leil, owed (Sir) John Chawmer the equivalent of some £10,000 – a very considerable sum of money!

Dr Booton writes, “Without doubt the Aberdeen notaries of the later medieval period appear as able ambitious and energetic men. Their careers and land holdings add another important facet to the social structure that existed in fifteenth-century Aberdeen.”<sup>159</sup> There seems to be little reason to suspect that the Aberdeen notaries were unique in any way, except that they had, perhaps, greaer opportunity because of the volume of ‘trade’ in that burgh and the notable activity of the local landed-men within it. Dr Booton’s comment may carry a truth that could be observed across the north-east. She continues: “The gradual rise in prosperity and prominence of the Aberdeen notaries suggests the very slow development of a more literate and legally minded society within late medieval Aberdeen. This process was in itself part of the much larger ‘phenomenon of advancing literacy.’<sup>160</sup> However, this latter statement may not hold so true across the whole expanse of our area of study. Inverness, Elgin and Banff all had respectable levels of trade, but not on the same scale as Aberdeen. The more remote parts of the dioceses of Ross and Caithness could not boast anything like the same levels and, consequently, it would not be surprising to find there a slower rate of progress in the development of ‘a more literate and legally minded society.’

<sup>157</sup><sup>157</sup><sup>157</sup> Booton (1989), pp. 218, 219; [CR, iv, 48]; [CR, v, 98]

<sup>158</sup> [CR vi 848]; [ARO-6-0778-01, Volume: 6, Page 778, Date: 1483-01-24]

<https://sar.abdn.ac.uk/search?utf8=%E2%9C%93&q=subchawntoury> John de Camera [Chamer] is mentioned in 1482 as being the succentor of Moray [St Nich. Cart., i., 148] but there had been considerable litigation going on previous to this regarding his ‘title’ and this extract, from the Aberdeen Burgh Records, seems to have stemmed from this litigation. In the St Nicholas charter, he is also called Master of the Hospital of St Thomas in Aberdeen.

<sup>159</sup> Booton (1989), p. 223.

<sup>160</sup> Booton (1989), p. 223, referring to G.G. Simpson, *Scottish Handwriting, 1150-1650*, Aberdeen: Aberdeen University Press, 1973, p. 11-12.



However, even in these more remote areas, there was still a need for the services of notaries and we find their names in the records from the early fourteenth-century onwards – e.g. we have already noted Thomas John Boner, a clerk of Ross diocese, who appears from 1328/45; William Gerland, a clerk of Moray diocese, from 1375; William I de Spynie, a clerk of Moray, from 1380. These are all early dates as far as the history of notaries in the north-east is concerned and demonstrate that it was not long before notaries penetrated even these northern areas.

However, as Jenny Wormald observed in the *Summary* of her article ‘Scotland: 1406-1513’,<sup>161</sup> “fifteenth-century Scotland was a very violent society,” and it was within this world that notaries worked and tried to earn a living. In the more rural areas, the old customs of verbal agreements continued but, of course, by their very nature, they have left little or no trace in the historical record. The growing commercialization of later medieval Scottish society was reflected in the increased amount of feuing by landed families of their property to others<sup>162</sup> and this, in turn, created a greater need for the services of notaries.

### Locations.

There are certain divisions of notaries which relate to which law (ecclesiastical or civil) they specialized in and a further separation into those notaries who were peripatetic in nature and those who remained mainly in one location. The case of Aberdeen is an interesting one since there were, in effect, two townships – Old Aberdeen, centered on the ecclesiastical and academic community resident around the ancient cathedral of St Mary and St Machar; and New Aberdeen, a busy trading port, focussed mainly round the parish church of St Nicholas (eventually to become a collegiate church) and having extensive mercantile and residential areas close by, such as the Castlegate, Gallowgate, Upperkirkgate and Shiprow. To an extent, the same sort of ‘demarcation’ could be seen in Elgin where there was the ecclesiastical community surrounding the cathedral, walled round and set a little distance apart from the merchant and residential quarters around and between the parish church of St Giles and the royal castle situated further to the west upon what is now called the Lady Hill.

In both of the above examples, a natural focus of activity for the ecclesiastical notary was the cathedral and, more especially, the cathedral chapter house or the bishop’s consistory court. Both in Fortrose (Ross diocese) and Dingwall (Caithness diocese) we have the cathedral acting in a similar fashion drawing notaries to it like moths to a lantern. The cathedral acted as a draw for ‘rural’ notaries too. In the case of (Sir) John Cristisone we can see him making a number entries in his Protocol Book at locations in and around Aberdeen cathedral although, unfortunately, on fourteen of the thirty-one occasions, he gives the location simply as ‘Aberdeen’, with no additional information ([Table 2](#)).

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<sup>161</sup> ‘Scotland: 1406-1513’ in *The New Cambridge Medieval History VII*, pp. 514-531

<sup>162</sup> Nicholson (1973), pp. 1-20.



Count	Location	Detail
14	Aberdeen	(unspecified)
3	Aberdeen	Bishop's Palace
2	Aberdeen	Consistory Court
1	Aberdeen Cathedral	(unspecified)
2	Aberdeen Cathedral	In the Cell of St Machar
1	Aberdeen Cathedral	In the cemetery.
1	Aberdeen	At the Tolbooth
2	Aberdeen	Greyfriar's Monastery
2	Aberdeen	In the Church of St Nicholas
2	Aberdeen	In the house of Mr Robert Lummysdane (notary)
1	Aberdeen - House of the Carmelites	At the Outer Gate
n = 31		

Table 2: Locations of Cristison's notarial activity in Aberdeen

It would appear that certain notaries – principally those specializing in civil law – could be found in Aberdeen inhabiting ‘booths’ within the merchant quarter. Dr Booton writes:

“Because the estates of north-east landed men often could never merit, and nor did their business affairs require, an expensive number of professional full-time advisers, they sought out the best advice and expertise as and when occasion demanded. Their use of Aberdeen notaries in the later medieval period suggests where they found good advice when their interests required it.”<sup>163</sup>

(Sir) John Stirling certainly owned such a booth since, on 24 January 1511, David Tailor was found guilty of breaking a window “in the booth belonging to sir John Stirling.”<sup>164</sup> On 26 June 1492, (Sir) Robert Leis is recorded as receiving 12 shillings in rent from William Buchan for his booth.<sup>165</sup> Leis, apparently, owned a booth which he had rented out to Buchan but it is very likely that Leis had himself used it for his notarial business at some time. There even exists a record mentioning the existence of a ‘Boothrow’ in Aberdeen, in the vicinity of ‘the Green’, which would imply a street where some of these booths were to be found, although, of course, not all would have been owned or used by notaries public.<sup>166</sup> Indeed, the term ‘booth’ is often best translated as a simple ‘shop’ where the burgesses carried on their various trades.

It was probably true that places where one could find a notary were well-known and, when required, it would only take a simple enquiry to determine where one could be found. In many cases, a simple message would have soon brought a notary to a laird’s door. We should remember that many of the more important landed-men had houses within Aberdeen as well as on their estates, and it would not be unusual for a notary to become, in time, a familiar guest at the dining table in these houses. But it would appear that the majority of notaries, wherever they were domiciled, used their own homes as their offices. The booths we have heard about were very few in number and, so far in the north-east, have been identified only to have existed in New Aberdeen.

The ecclesiastical notaries were, of course, to be found within the establishment where they had been instituted to a ‘living’. However, as we have seen, this did not mean that their activities were

<sup>163</sup> Booton (1989), p. 230.

<sup>164</sup> Booton (1989), p. 213; [CR viii 1151] One is tempted to imagine that this was the outcome of a local youth engaging in a winter snowball fight!

<sup>165</sup> Booton (1989), p. 213; [CR vii 330]

<sup>166</sup> Booton (1989), p. 213.



restricted to that locality and many are found carrying out their duties both within their own diocese and, on occasion, outwith its boundaries. Nevertheless, since their permission to practice had been granted by the local bishop, or his representative, these notaries would have been available to him on an '*a priori*' basis. One advantage offered to those who worked in an ecclesiastical setting was a kind of 'collegiate' system which made it possible for junior notaries to obtain advice from seniors when necessary and, of course, it meant that youths could obtain *in situ* training whilst being supported by their ecclesiastical incomes. This may have contributed to a heightened sense of loyalty from these notaries to the establishment which had provided for their training and the bishop who had possibly *ordained* them and *provided* them to a living.

When a notary's service was required by any individual it goes without saying that one could always be found within a cathedral, especially within the precincts of the consistory court which was governed by the Official of the diocese, representing the bishop's *ordinary* powers.

A final, but most important point, is relevant here, in that the bishop's authority was not just ecclesiastical. The bishops of our four northern dioceses were also *lords* in the secular sense (*lords temporal*), they having been provided with lordships by the crown which passed down from one bishop to the next.<sup>167</sup> These 'temporal' lordships provided the bishops with considerable incomes which added to the 'mensal' and 'episcopal' incomes which they obtained from the churches in their diocese. At times, these episcopal lordships were raised into *Regalities* which resulted in the bishop having virtually the same civil powers within them as the king himself, the only exception being trials for *treason*. These lands needed management and the bishop was required, as was every secular lord, regularly to hold courts at convenient locations to deal with misdemeanors and to discipline defaulters. To provide such estates with a measure of 'local' management *baillies* were routinely appointed and, in the north-east, such positions often became almost hereditary within certain landed families. All of this involved a measure of administration which, on occasion, necessitated the involvement of appropriately skilled notaries.

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<sup>167</sup> The Bishop of Moray had also the secular lordships of Spynie, Kinneddar, Birnie, Rafford, Ardclach, Keith, Kinmylies, and Moy. In addition, all of the ecclesiastical lands of Moray were incorporated into the Regality of Spynie.

[https://www.cushnieent.com/new\\_moray\\_churches/elgin\\_deanery/bishops\\_lands.html](https://www.cushnieent.com/new_moray_churches/elgin_deanery/bishops_lands.html)

(accessed 20/06/2024) and

[https://www.cushnieent.com/new\\_moray\\_churches/elgin\\_deanery/regality\\_creation.html](https://www.cushnieent.com/new_moray_churches/elgin_deanery/regality_creation.html)

(accessed 20/06/2024)



**(Sir) John Cristisone 1518-1551.**

A particular study has been made of the work of (Sir) John Cristisone who acted as a notary, mostly within the *Deanery of the Garioch*<sup>168</sup> in Aberdeen Diocese, during the first half of the sixteenth century. The Protocol Book<sup>169</sup> which Cristisone left behind is the earliest to have survived from our area of study – the Northern Dioceses.

John's biography is somewhat obscure, although it becomes clear that he was often to be found working in Monymusk, Kemnay, Fetterneir and Kintore. In some notes written on the flyleaf at the front of his Protocol Book we are told that he received it from Master Arthur Boecius, who was Commissary-General of the diocese at the time when he created Cristisone a notary.<sup>170</sup> The first notarial instrument recorded in the book is dated 10 December 1518. From all of this evidence, it would seem reasonable to assume that John Cristisone was, by then, a notary and therefore, that his "creation" as such by Master Arthur Boecius, took place at some date a little before that of this first instrument, i.e. probably not long before 10 December 1518. There then follow regular records of notarial instruments in the following years - from 1518 up to 1551.

The abovementioned Arthur Boyce would appear to have been acting as Commissary-General in 1518. This would correspond to the fact that Bishop Gordon of Aberdeen had died on 30 June 1518 and that his successor, Gavin Dunbar, was not consecrated until 20 February 1519 (he was provided on 5 November 1518). This would have created an *interregnum* during which the diocese would have been briefly in the care of a Commissary-General/Vicar-General. The suggestion here is that it was Arthur Boyce who filled that rôle. The problem is that in Watt's *Fasti*, the dates given for 'Boyce' being Commissary are 1529-1533, and here we have an earlier date - 1518.<sup>171</sup>

Unfortunately, we are not told where the 'swearing-in ceremony' took place, but it is quite likely that it would have been at the Consistory Court of Aberdeen. Professor Richard Oram has suggested to the author that this Court was most likely held in a chamber of one of the western towers of the cathedral.<sup>172</sup> In some of the English cathedrals, the practice was to use the ground-floor chamber of one of the western towers for court hearings whilst the chamber above was used for the 'treasury' where records were stored along with the cathedral 'plate'. When the diocese of

<sup>168</sup> There were, within the medieval *Deanery of the Garioch*, parish churches at: Auchterless; Bourtie; Culsalmond; Bethelnie; Daviot; Drumblade; Dyce; Fetterneir; Fintray; Forgue; Inch; Inverurie (moved here from Rothket); Kemnay; Kinellar; Kinkell; Kennethmont; Kintore; Leslie; Logie-Durno; Monymusk; Oyne; Premnay; Rathmuriel; Kirkton of Rayne; Rothket (moved to Inverurie c.1200); Skene; and Tullynestle. [See Appendix H]

<sup>169</sup> Lindsay (1930).

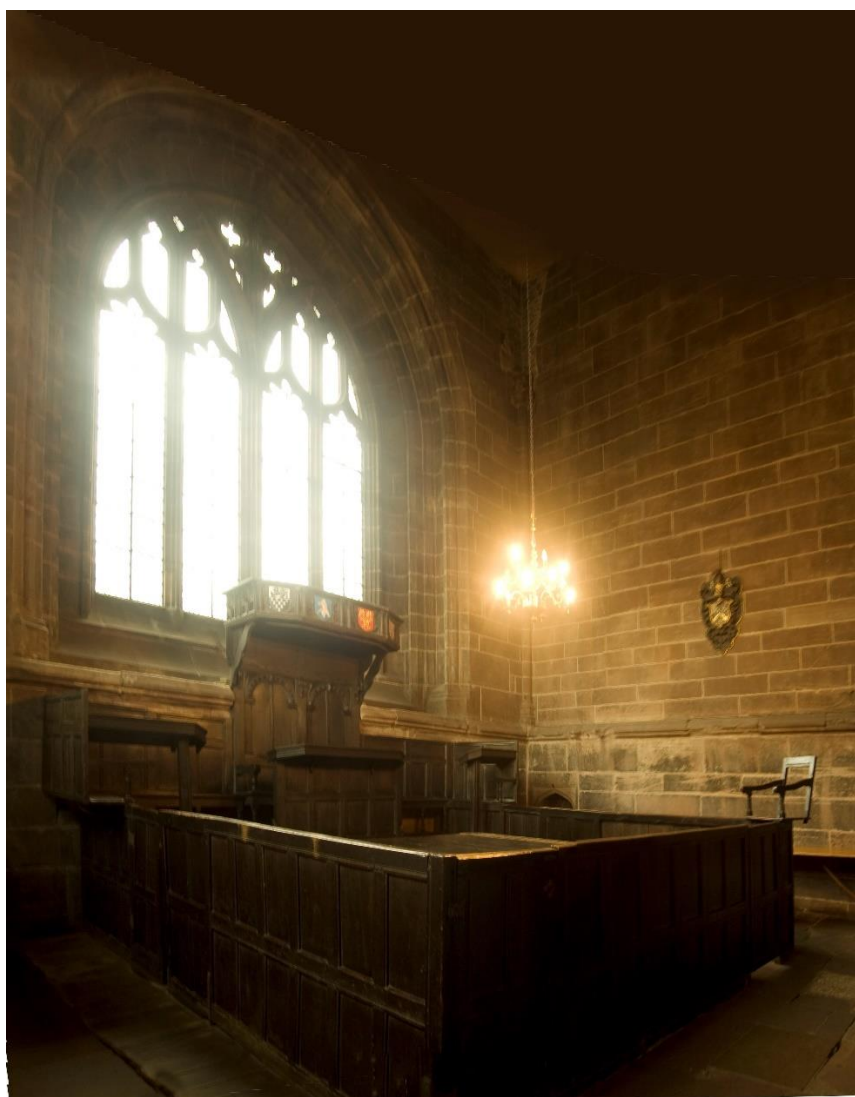
<sup>170</sup> Watt *Fasti*, p. 24.

<sup>171</sup> Having recounted this information to Mr. Norman Shead, he is now of the same opinion and has kindly written that, "I am very grateful for the reference to Boyce and will send it on with my changes for the new volume of supplications ..." [Personal Comm. 09/02/2024]

<sup>172</sup> "In respect of a consistory court meeting house, it is possible that there was a separate structure within the wider precinct, but there is a trend in Scotland towards locating these somewhere in the western limb of the cathedral. At Dunkeld, the bottom stage of the NW tower was the location and at Glasgow it was the SW tower. Given the space that was available in both western towers at Aberdeen, it is likely that one of these served as the court meeting house, with record storage on the upper floors." [Personal Com. 01/07/2024]



Chester was founded in 1541, the Consistory Court was housed in a chamber at the south-western end of the Cathedral building, originally the Abbey Church of St Werburgh. This chamber is still in existence. The same general layout is to be found at Lincoln Cathedral where a chamber that housed the Consistory Court, which still exists, was situated at the south-west of the nave adjoining St Hugh's Tower. This is an important example since the historical links between Lincoln and Elgin cathedrals are numerous and well known.



*Figure 16: Interior of the Consistory Court at Chester Cathedral.*

In all, there are some 466 separate entries in Cristisone's protocol book – the first being dated (as we have seen) on 10 December 1518 within the parish church of Monymusk; the last being an entry that was, for reasons unknown, left incomplete, on 11 January 1552.<sup>173</sup>

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<sup>173</sup> Instrument narrating that Mr. Robert Skeyne, vicar of Logy, acknowledged that he had received from John Stratauhyn of Lenturk in loan two instruments, one containing that John Ramsay affirmed a certain assignation of James Straquhyne, formerly in Tullecarne, to Duncan Stratauhyne .... [Cristisone No. 466]

Cristisone performed his notarial functions at 156 different locations scattered across the north-east of Scotland but, principally, within the deanery of *the Garioch*. This *location* information is given in tabular form in [Appendix E](#) and is represented in the following two maps:

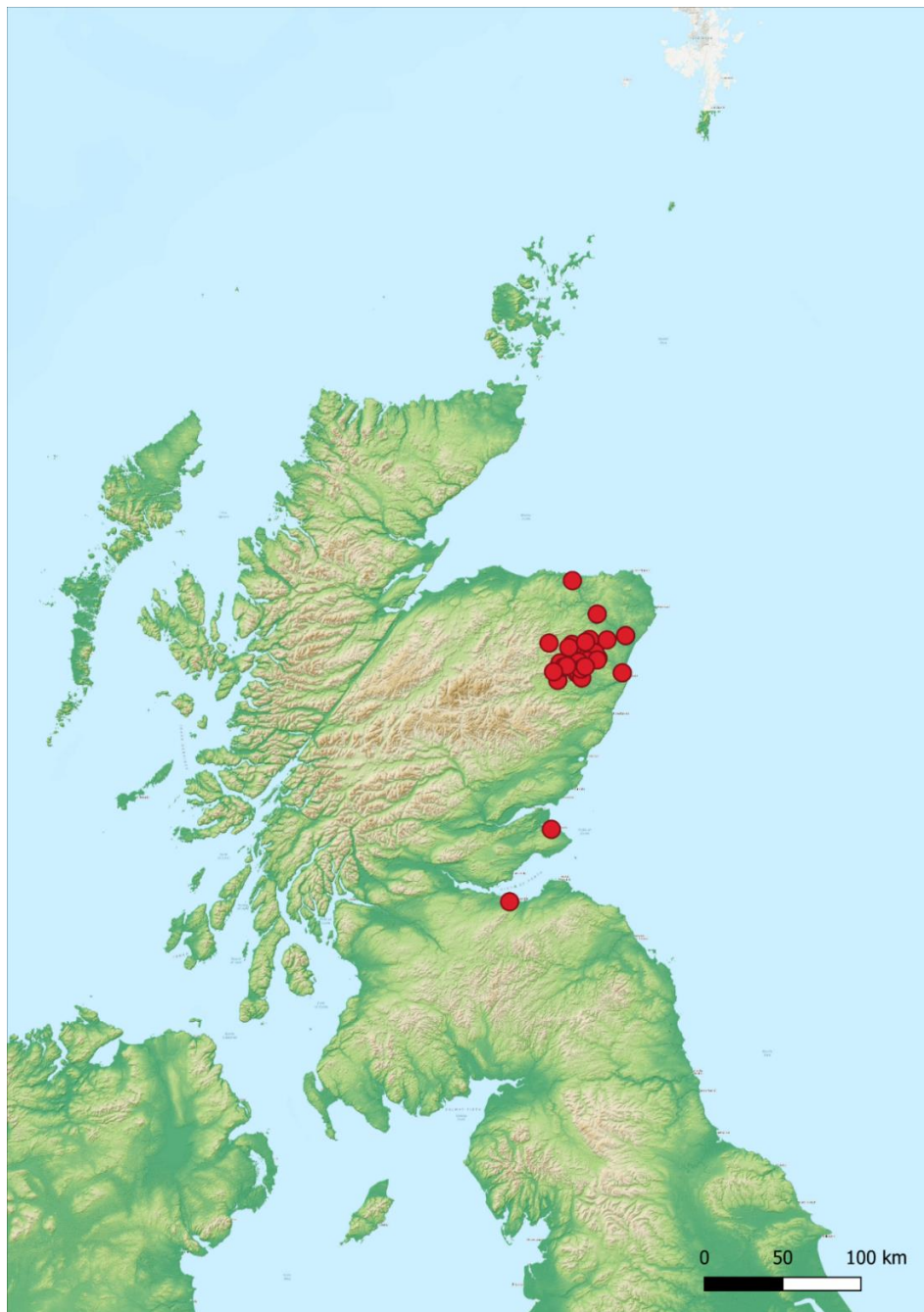


Figure 17: Large-scale map of Scotland showing where Cristisone is known to have been active.



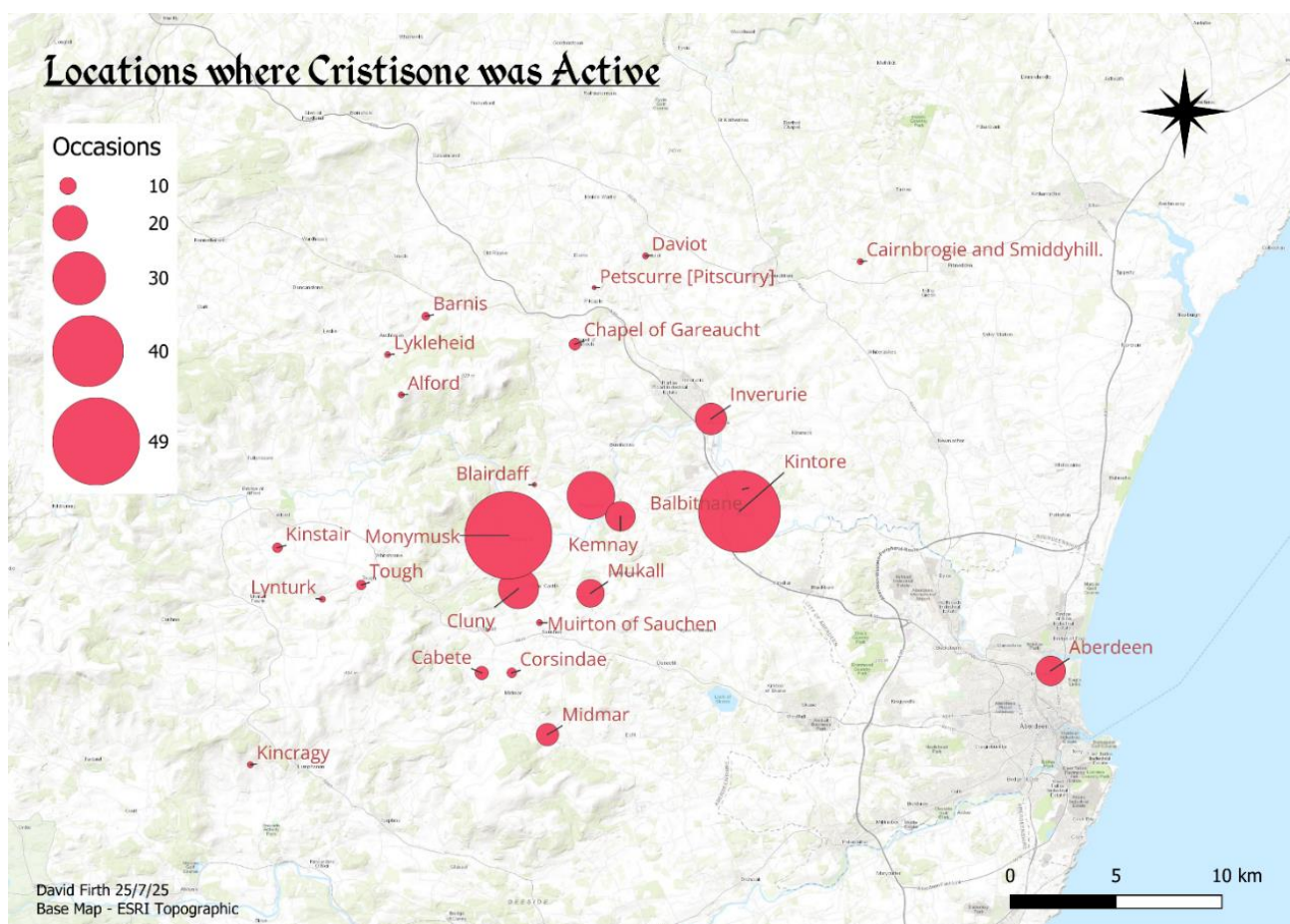


Figure 18: More detailed map showing the specific locations where John Cristisone performed most of his notarial functions.

This map (Fig. 18) emphasizes the fact that Cristisone performed his notarial activities within a relatively confined area of Aberdeenshire, corresponding very much to the deanery of *the Garioch*. (A map showing the parish churches in the Garioch Deanery is presented in [Appendix H](#).)

There were occasions when he ventured further afield – e.g. to *Maktary* (in Fyvie barony) and *Culsalmond* (on the coast just to the west of Banff) – but such occasions were relatively few in number. It can be seen that he operated most often at *Kintore*, and regularly at *Fetterneir*, *Monymusk* and *Castle Fraser (Mukall)*.

As we have seen, a full inventory of the entries made in Cristisone’s Protocol Book reveals that he acted as a notary public on over 400 occasions, and that these duties were carried out at some 156 different locations. One of the earliest tasks in this part of our study was to identify and locate where these locations were. Some were easy to identify – such as ‘the parish church of Monymusk’ – but Cristisone, as would be expected, regularly used more obscure place names which required a measure of investigation to ‘decipher’ and locate. Some of these place names were those which had been anciently or locally employed and it proved necessary to resort to



certain old place name studies,<sup>174</sup> including the Ordnance Survey Name Books,<sup>175</sup> in order to understand where they were located. Following this, the online georeferenced map resources of the Scottish National Library in Edinburgh<sup>176</sup> were used to determine both the OS Map Reference numbers and the 'northings (latitude)' and 'eastings (longitude)' of the locations in question.

As a result, only six (five) locations have not yet been identified: -

1. "Pettis" [No. 91] Granting of Sasine on 17/06/1532. (Macdonald suggests that this is Petts in Monymusk parish. Macdonald (1899), p. 272.
2. "Ley of Tullechavdo" within the "Wodsted of Corryne" [No. 293] Granting of Sasine on 01/03/1540.
3. "Blakpot" [No. 305] Settlement of Land Boundaries on 27/07/1540.
4. "Glesso" [No. 316] Inheritance Agreement on 03/12/1540.
5. "Madlatre" [No. 319] Inheritance Agreement on 03/04/1541
6. "Glesso" [No. 388] Land Transfer on 05/07/1545. {See 4. Above}

In addition, on six occasions, Cristisone did not record a location: -

1. No. 7. the Election of a Parish Clerk on 17/08/1521. (Possibly located at the parish church of Kincardyne where the clerk was to serve.)
2. No. 11. Court Matters 30/04/1522. (Probably at the Manor of Kemnay since it was 'done on the same day as No. 10'.)
3. No. 74. Instrument recording that a copy had been made of another instrument. 20/05/1528. (Possibly at Craigievar.)
4. No. 77. (unspecified) 27/05/1529. (Possibly the granting of Sasine at Inverurie.)
5. No. 328. Land Transfer 21/07/1541. (*place left blank*)
6. No. 466. (Incomplete last entry in Protocol Book.)

A complete list of the 'identified' locations is given in [Appendix E](#).

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<sup>174</sup> Of particular use here were, Macdonald, J. (1899) *Place Names of West Aberdeenshire*; and, Milne, J. (1912) *Celtic Place-Names in Aberdeenshire*.

<sup>175</sup> Ordnance Survey Name Books, Aberdeenshire OS Name Books, 1865-1871, <https://scotlandspplaces.gov.uk/digital-volumes/ordnance-survey-name-books/aberdeenshire-os-name-books-1865-1871> (Accessed 28/8/2024)

<sup>176</sup> <https://maps.nls.uk/>



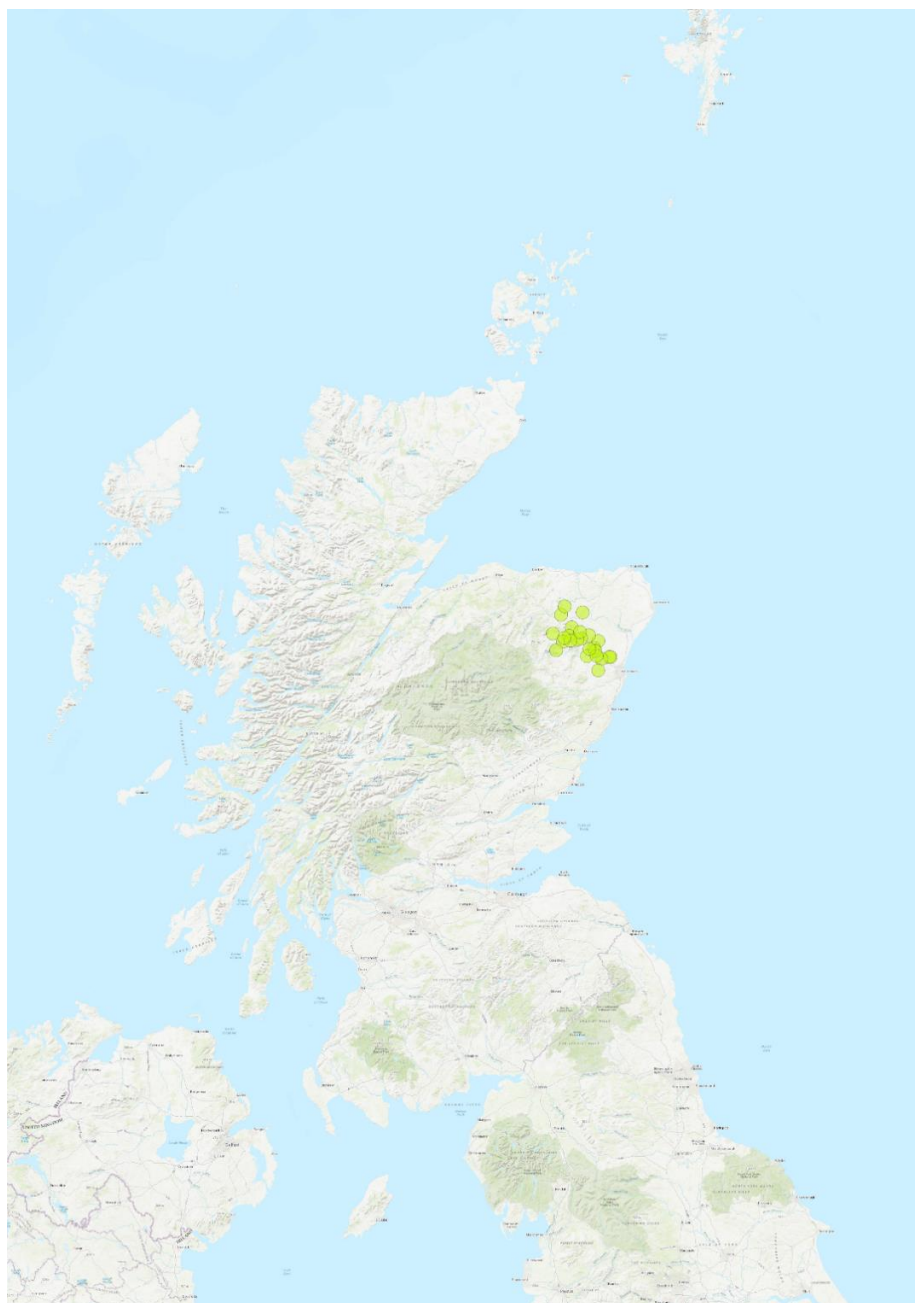


Figure 19: The Parish Churches of the Garioch Deanery (marked in 'yellow').

The following tables represent a summary of this data, which is also given in full in [Appendix E](#).

LOCATION NAME	Number of Occasions
Monymusk	59*
Kintore	46
Aberdeen	31
Fetterneir	29
* 66 if Craigearn (7) is included. (It was close to Monymusk.)	

Table 3: Main locations.



There were other locations which were also used regularly, namely:

LOCATION NAME	Number of Occasions
Cluny	24
Kemnay	19
Inverurie	18
Mukall (Castle Fraser)	17
Midmar	14

Table 4: Other locations used frequently.

From these figures it is apparent that Cristisone's activities were limited to a part of the Deanery of the Garioch. Unfortunately, we can not tell if this was a limitation that was imposed upon him by a higher authority (at his oath-taking, perhaps), or was a matter of personal choice, or, indeed, a limitation which resulted from the sheer geography of the area and the difficulties of transportation. One thing does become clear – that most were locations where he could be sure of a hospitable welcome and a comfortable stay!

The entries in his Protocol Book, when categorized, produce the following table (Table 5). These results can be seen in full in [Appendix F](#). However, it can be seen that Cristisone's activities were chiefly those of recording the sale, transfer, or inheritance of land or other property. Also, we can see that he was regularly required to record 'court matters' of one kind or another. It would be unwise to extrapolate these figures in order to provide a generalized view of what occupied the time of notaries in other places and at other times. However, they do cast a little light on what occupied the minds of the people and society in the Garioch at that time. Unsurprisingly, they were primarily occupied with land and recording the various ways in which the ownership of that land changed.

SUBJECT OF INSTRUMENT	Occasions	% (n= 466)
Land matters	221	47%
Court matters	41	9%
Inheritance Arrangements	35	9%
Debt payments	22	8%
Recording Agreements	14	3%
Marriage Arrangements	12	3%

Table 5: Types of Notarial Instrument most regularly encountered.

On occasion, Cristisone described himself as being *vicar of Kemnay*,<sup>177</sup> and he is routinely given the title '(Sir)', both indicating that he had been ordained into one of the orders of the priesthood.<sup>178</sup> From the fact that he had been given the 'cure' of the congregation of Kemnay, it may be supposed that he had been ordained into one of the *major orders*. It would also appear that he was typical of many notaries of the time in that he derived his income from more than one source.

<sup>177</sup> Instrument no. 155 (p. 38), 324 (p. 73), 463 (p.110).

<sup>178</sup> See "The Medieval Orders of Priesthood in Northern Scotland"

<https://www.cushnieent.com/articles/The%20Medieval%20Priesthood.pdf> (Accessed 15/06/2024)



There is little to tell us of John Cristisone's parentage. However, in one *instrument*, we are given a glimpse of who his family may have been. At Kintore, just to the west of Aberdeen, an instrument was given in which we are told that:

"Instrument narrating that John Cristisone alias Chapman passed to the personal presence of James Keyth, one of the bailies of the burgh of Kyntoir, and with due instance required him to give possession of six roods of land."<sup>179</sup>

Later, in the same instrument, we find,

"... which lands formerly belonged to Thomas Cristisone father of said John, who died last seised in the lands."

If nothing more, this tells us that there was a Cristisone family who lived and held property in Kintore in the summer of 1546, and who **may** have been related to John Cristisone the notary.

An earlier entry relates,

"Instrument narrating that Isobella Kelle with consent of Thomas Cristesone *alias* Chapman, her husband, resigned by a penny of "out toyll" an annual rent of 10s. to be uplifted yearly from two roods lying on the south side of the burgh of Kyntoir ... "<sup>180</sup>

This instrument, which was 'done on the grounds' at Kintore, is dated 8 August 1543. We may now have the names of the mother and father of the above mentioned John Cristisone (alias Chapman) - Isobella Kelle [Kellie] and Thomas Cristisone alias Chapman.

A third piece of information comes from a later entry in the protocol book. Its details are,

"Instrument narrating that Alexander Scot, burgess of Aberdeen, acknowledged that he had received from John Cristisone, dyer, the sum of £13 Scots and 18s. in name of Robert Scot according to an act in the tolbooth of Aberdeen, and also the sum of £3 and 18s. owing to the said Alexander, in complete payment of all debts due to Alexander S. by the said John Cristisone before the present date, and he exonerates the said John of these sums and others due.

Done at Aberdeen 19th April 1550.

Witnesses: Thomas Andrew, Thomas Sherar and (Sir John Cristisone), notary public.<sup>181</sup>

It is possible that the "John Cristisone, dyer," mentioned here was a relative of John the notary. John does not seem to have been a frequent visitor to Aberdeen, and it would appear to be too great a co-incidence that he added his name as a witness to this entry, in addition to acting as notary. There is also a suggestion here that John Cristisone, the dyer, was an inmate of the tolbooth at the time when this instrument was written to record that he was now free from any debt. Was it the case that Alexander Scot, a burgess, had had the dyer thrown into the tolbooth in exasperation at not having received payment for the sum of money he was owed?

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<sup>179</sup> Lindsay (1930), no. 396, p. 91.

<sup>180</sup> Lindsay (1930), no. 369, p. 84.

<sup>181</sup> Lindsay (1930), no. 428, p. 99.



John Cristisone also records a “Findelay Cristisone” acting as a witness to an instrument given within the Parish Church of Monymusk on 22 March 1523. This Findlay may have been accompanying John, the notary, at the time.<sup>182</sup>

Ten years later, on 19 September 1533, a “David Cristisone” is recorded in John Cristisone’s protocol book as a witness to a land transaction.<sup>183</sup>

A “Patrick Cristisone” is named in 1534 acting as arbiter for Elizabeth Reche in a matter between her and her father regarding certain property that she was claiming. Interestingly, the father, Andrew Reche, was being represented, amongst others, by a “William Cristisone.”<sup>184</sup>

At the church of Culsalmond on 23<sup>rd</sup> January 1534 the Dean of Christianity of the Garioch, Master Duncan Oudny, vicar of Kennethmont, was presented with a document containing certain complaints from the parishoners of Culsalmond regarding the conduct of their curate, John Govlis. The complaints were not pursued by the congregation with the exception of three individuals – Malcolm Cruschank, Robert Eldair, and **Alan Cristisone**. Their complaint was about the curate’s *intromission* with a tenancy called Litol Wranghayme.<sup>185</sup>

On 26 June 1542, we find another mention of John Cristisone, dyer, and this time we are told that John lived and held lands in the “Nedder Kirk get” (“*in vico inferiori*”), which we now know as the *Netherkirkgate* in Aberdeen.<sup>186</sup>

In the witness list of another entry in Cristisone’s protocol book we find,

“Witnesses: Sir William Cristisone, Master Thomas Mortimar, Thomas Red, Alexander Proctour and (Sir John Cristisone), notary public.”<sup>187</sup>

We are not told who this William Cristisone was other than the fact that he bore the same surname and appeared also to have been in holy orders.

One conclusion can be drawn here - that the ‘surname’ Cristisone was not uncommon in the Deanery of the Garioch at this point in time. There are grounds to suggest strongly that there was a family established hereabout for two or perhaps three generations at the start of the sixteenth century and that John Cristisone, the notary, was a member of that family.

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<sup>182</sup> Lindsay (1930), no. 31, p. 7.

<sup>183</sup> Lindsay (1930), no. 104, p. 24.

<sup>184</sup> Lindsay (1930), no. 133, p. 31. Done at *Fetternear* on 2<sup>nd</sup> November 1534.

<sup>185</sup> Lindsay (1938), no. 142, 143, p. 34. Wrangham is in Culsalmond parish, at {NJ 63440 31324}. *Intromission* here implies ‘meddling with’ the property.

<sup>186</sup> Lindsay (1930), No. 348, p. 79.

<sup>187</sup> Lindsay (1930), no. 377, p. 86. Done in the *Hall of Leslie*, on 21<sup>st</sup> January 1543.



**Appendix A: The Vision of St Peter.**

Source: Mayor, J.E.B. (ed.) (1869) *Ricardi de Cirencestria: Speculum Historiale de Gestis Regum Angliæ, Vol. II., A.D. 872-1086*, Published by the Authority of the Lords Commissioners of H.M. Treasury, London: Longmans, Green, and Co., pp. 231-239  
<https://ia802708.us.archive.org/30/items/ricardidecirence02rich/ricardidecirence02rich.pdf>

## CAP. XVI

*De revelatione et literis inclusi cuiusdam ad regem Edwardum directis.*

RESPONSALIBUS<sup>188</sup> regis et literis pontificis oraculum cœleste concurret, quod non longe agentibus nuntiis viro cuidam sancto quid Romæ egissent nescienti apostolorum principe sibi apparente personuit. Erat vir iste dilectus Deo et hominibus, qui specu subterraneo multis annis inclusus suorum erat meritorum stipendiis iam vicinus. Huic Petrus beatissimus in visione noctis assistens, cum metum vocis ac vultus lenitate depulisset, “Rex,” inquit, “Edwardus pro voto quo se com adhuc exularet astrinxerat, pro regni etiam pace plebisque consilio, pro pauperam quoque necessitate preceque sollicitus, Romanam ecclesiam de omnibus credidit consuelendam. Noverit ergo se mea auctoritate ab hac obligatione solutum, et de cœnobio ad mei honorem nominis construendo a summo pontifice suscepisse salutare mandatum. Incunctanter itaque literis apostolicis fidem habeat, præceptis obediat, consiliis adquiescat. A me enim egressus est sermo quem sibi quondam patronum elegit, viæ comitem, gratiæ largitorem. Est autem mihi locus ex occidentali parte Londoniæ a me electus, mihi dilectus, quem quondam mihi propriis manibus consecravi, mea nobilitavi præsentia, divinis insuper miraculis illustravi. Thorneya nomen est loci; qui quondam ob peccata populi barbarorum traditus potestati, pauperrimus ex divite, humilis ex sublimi, ex nobili factus est contemptibilis. Hunc rex me præcipiente in habitaculum monachorum suscipiat reparandum, sublimandum ædificiis, possessionibus ampliandum. Non erit ibi aliud nisi domus Dei et porta cœli. Ibi erigenda est scala per quam ascendentes et descendentes angeli preces et vota hominum Deo preferant, et referant gratiam. Inde ascendentibus reserabo ianuam paradisi, ut ex officio quod mens mihi Dominus ac Salvator iniunxit et ligatos absolvam, et absolutos suscipiam, et quam eis delictum obcluserat, iustificatis patriæ portam<sup>189</sup> cœlestis aperiā. Tu autem omnia quæ a me audisti et didicisti literis tradens mitte qui perferat regi, ut Dei munere duplicato et de absolutione securior, et in præcepti executione devotior, in mei autem dilectione et obsequio reperiatur propensior.” His dictis lux cum loquente disparuit. Ille nihil moratus, accitico notario quæ viderat vel audierat schedulæ litcrisque commisit; et tradens epistolam baiulo ad curiam quæ multis tunc milibus aberat, ut ei fuerat imperatum, direxit. Ea igitur die loco eodem in eodem concilio quo legati redeuntes ab urbe apostolicum retulere mandatum, epistola autem viri Dei regi præsentata profertur in medium, lectoque sancti papæ Leonis rescripto, loco sequenti beati senis apices recitantur, voce exteriori ac iubilo interiori benedicitur Deus in donis suis, et laudatur in omnibus operibus suis. Mirantur omnes regis sanctitatem, amplectuntur apostoli gloriam; confirmantur in fide, spe a terrenis ad coelestia attolluntur, in Dei amore sincerius accenduntur. De oraculi veritate nulla potuit esse cunctatio, cum in Wygorniensi provincia vir ille ab hominum conversatione seclusus, quid Romæ egerint, quid in mandatis acceperint, quandove redierint, scire non nisi Deo revelante potuerit. Tunc rex lætus et alacer, ut ei fuerat constitutum, pecuniam quam in peregrinationis suæ solacium procuraverat dispersit et dedit pauperibus, operique iniuncto intendens animum thesauros effudit. Insuper et

Abolition of Danegeld.

chooses Westminster for the site of the new monastery

The pope's and hermit's letters read at the same meeting of the king's council

<sup>188</sup> Resp. ] De sp., Ailred.

<sup>189</sup> patriæ portam ] portrie, M.S.



tributum illud gravissimum quod tempore patris sui primo classi Danicæ pendebatur, postmodum vero fisco regio annis singulis inferebatur, regia liberalitate remisit, et ab onere hoc importabili in perpetuum Angliam absolvit. Unde sancto huic regi non inconvenienter aptatur quod scriptum est : "Beatus vir qui inventus est sine macula, et qui post aurum non abiit, nec speravit in pecuniæ thesauris." Inventus est enim sine macula ob privilegium castitatis ; post aurum non abiit, quod potius dispersit ; nec in thesauris speravit, quos in Dei opere non tam minuit, quam consumpsit. Quis est hic ? et laudabimus eum. Fecit enim mirabilia in vita sua, reddens cæcis visum et claudis gressum, fugans febres, et paralyticos sanans, et diversas hominum valetudines curans. Præterea rex beatus informatus relatione fidedignorum, quomodo eundem locum de quo idem senex, cuius supra meminimus, per beatum Petrum apostolum monitus fuerat oraculo sibi ostenso regi per suas literas intimare, tempore Augustini apostoli angelico<sup>190</sup> ministerio fultus propriis manibus consecraverat ; multa que veterum regum munificentia honoratum, propter vetustatem et frequentes bellorum tumultus pene videbatur destructum. Cernensque dicti senis visionem et apostolicas literas<sup>191</sup> sibi æqualia detulisse, conferens voluntatem suam cum voluntate Dei et cum totius regni electione circa eiusdem loci reconstructionem operam dedit, expensis innumeris non parcendo. Et ut devotio regis quam in dicti loci reædificatione sive reconstructione habuerat legenti manifestius appareat, placet partem eiusdem cartæ quam dicto loco ad eiusdem tuitionem in futurum confecerat in præsentem opere annotare. Cuius tenor talis est.

Edward restores  
Westminster  
Abbey.

"In nomine Sanctæ et Individuæ Trinitatis. Ego Edwardus Æthelredi regis filius gratia Dei Anglorum rex futuris post me regibus et omnium dignitatum gradibus omniumque ætatum hominibus salutem et huius rei notitiam. Scire vos volo, quoniam tempore avorum meorum patrisque mei multa et gravia bellorum pericula affligerunt gentem Anglorum et ipsos, tam a suis quam ab extraneis concitata ; adeo ut pene periclitata sit hereditaria regum successio, magnumque insterstitium inter fratrem meum Edmundum qui patri meo mortuo successit meque habitum sit, invadentibus regnum Swano et Cnutone filio eius regibus Danorum et filiis ipsius Cnutonis Haroldo et Hardecnuto. A quibus etiam alter meus frater Aluredus crudeliter occisus est, solusque, sicut Joas occisionem Etholiæ, sic ego illorum crudelitatem evasi. Tandem respectu misericordiæ Dei post plures annos ego Edwardus ad paternum regnum reaccessi ; et eo potitus sine ullo bellorum labore, sicut amabilis Deo Salomon, tanta pace et rerum opulentia abundavi, ut nullus antecedentium regum similis mei fuerit in gloria et divitiis. Sed gratia Dei non me, ut assolet, ex opulentia superbia et contemptus invasit. Immo cœpi recogitare cuius dono et auxilio ad regni culmen evasi, quoniam Domini est regnum, et cui vult dat illud. Et quia mundus transit et concupiscentia eius, qui autem totum se subdit Deo feliciter regnat et perpetualiter dives est ; itaque deliberavi ire ad limina sublimium apostolorum Petri et Pauli, et ibi gratias agere pro collatis beneficiis, et exorare ut eam pacem firmaret Deus perpetuam mihi et posteris meis. Præparavi ergo et dinumeravi expensas necessarias itineri et honorabilia dona quæ ferrem Sanctis apostolis. Sed gravis super hac re mæror habebat optimates meos, utpote memores malorum quæ sub aliis regibus pertulerant, ne tanto domino et pio patriæ rege absente regnum noviter sedatum aliqua turbaretur hostilitate ; et metuentes id quod et sanctus Ezechias, ne, si forte in via aut ægritudine aut alio incommodo deficerem, hereditariis regibus carerent, maxime

Charter of  
Edward.

Kemble, Cod.  
Dipl. iv. 173

Spelm. Conc. i.  
628.

His intended  
pilgrimage.

<sup>190</sup> *angelico* ] *angelico*, M.S.

<sup>191</sup> *apostolicas literas* ] *apostolice litere*, M.S.





quod nullum habebam filium, itaque communi habito consilio rogabant me ut ab hac intentione desisterem, pollicentes se satisfacturos Deo pro voto meo tam in missarum et orationum oblatione quam in eleemosynarum larga distributione. Sed cum obnixe contradicerem, tandem utrisque placuit, ut mitterentur legati duo ab utraque parte, Ealdredus et Heremannus episcopi, et abbates Wlfricus et Alfwinus, qui apostolico meam voluntatem et votum et illorum petitionem indicarent. Et secundum eius sententiam quam mihi mandaret promisi me omnino facturum. Factum est ergo quod voluimus; et venientes Romani legati nostri ex voluntate Dei invenerunt collectam synodum in eadem urbe. Cumque exposuissent meam voluntatem et suam petitionem coram ducentis quinquaginta episcopis et alia multitudine sanctorum patrum, tunc apostolicus ex consultu sanctæ synodi decretum suum mihi rescripsit. 'Leo, episcopus servus servorum Dei dilecto filio Edwardo Anglorum regi.' Et infra. 'Præsecipimus tibi sub nomine sanctie obedientiæ et pænitentia, ut expensas quas ad iter istud paraveras pauperibus eroges, et cœnobium monachorum in honore sancti Petri apostolorum principis aut novum construas aut vetustum emendes et augeas, et sufficientiam victualium fratribus de tuis redditibus constituas ; quatinus, dum illi assidue inibi Deum laudaverint, et Sanctis augeatur gloria et tibi indulgentia.' "

Embassy to Rome.

Et infra.

" Hæc et alia apostolici mandata cum referrent nobis legati, interea revelavit beatus Petrus cuidam probabilis vitæ monacho incluso nomine Wlsino voluntatem suam esse, ut restruerem locum qui dicitur Westmonasterium, quod a tempore sancti Augustini primi Anglorum episcopi institutum multaque veterum regum munificentia honoratum propter vetustatem et frequentes bellorum tumultus pene videbatur destructum. Cumque hanc visionem mihi meisque retulisset, et apostolicæ literæ æqualia præcepta detulissent, contuli voluntatem meam cum voluntate Dei, et cum totius regni electione dedi me ad restitutionem eiusdem loci. Itaque decimari præcepi omnem substantiam meam tam in auro et argento quam in pecudibus et omni genere possessionum ; et destruens veterem, novam a fundamentis basilicam construxi, et constructam dedicari feci quinto kalendas Januarii. In qua collocavi ipsa die reliquias quas Martinus<sup>192</sup> papa et Leo qui eum consecravit dederunt Æluredo regi, et quas ipse a Karloinanno rege Francorum dari sibi impetravit, cuius filiam pater eius Æthelwlfus rex post mortem primæ coniugis duxerat uxorem ; quæque ab ipso ad successorem eius Æthelstanum, deinde ad Edgarum, ad ultimum ad nos pervenerunt ; scilicet duas partes crucis Domini, et partem unius clavi, partemque tunicæ eius inconsutilis, et de vestimentis Sanctæ Mariæ, et reliquias apostolorum Petri et Pauli, Andreæ, Bartholomæi, Barnabæ, et aliorum plurimorum sanctorum, et quinque capsas aliis sanctorum reliquiis plenas. Et statui, ut quicumque reus maiestatis regiae vel cuiuslibet alterius offensæ ad locum in quo pausant istæ reliquiæ confugerit, eius rei et membrorum ac vitæ impunitatem consequatur. Eodem die renovavi, confirmavi, et emendavi privilegia quae famosissimus avus Edgarus patruusque meus Deo amabilis rex et martyr gloriosus Edwardus eiusdem Edgari filius et sanctissimus pater Dunstanus Cantuariensis archiepiscopus ac piissimus rex Æthelredus pater meus illi loco contulerunt. Meam quoque auctoritatem adieci, augmentans decreta utilia admonitione venerabilium archiepiscoporum Stigandi et Ældredi et aliorum optimatum meorum ; videlicet, ut ille locus in perpetuum ab omni sæculari servitio sit liber ; et secundum beati Benedicti

Edward tithes his substance to restore Westminster Abbey.

Relics given by Edward to the Abbey.

Privileges of the Abbey.

<sup>192</sup> *Martinus* ] Marinus, M.S.



traditionem post obitum abbatis ex eadem congregatione eligatur alter qui dignus sit ; aliorum<sup>193</sup> vero nullus, nisi culpis promerentibus inibi inveniri nequiverit qui dignus sit tali officio fungi. Quod si evenerit, quod absit, potestatem habeant de alio noto et familiari loco abbatem eligendi, cuius vita sapientia et religione clarescat. Laicorum autem vel clericorum nemo ipsius loci dominium usurpare præsumat. Possessiones vero, quæ ibi a quibuscunque donatæ sunt, non abbas, non alia quælibet persona licentiam habeat vendendi vel extraneis dandi ; sed regum munimine deinceps locus ipse tueatur, ipseque abbas regi soli serviens, commissum sibi gregem spirituali et temporali pastu abundanter foveat. Concessi etiam et confirmavi donationes quæ ab eisdem regibus ante me donatæ sunt."

Et infra.

"Relaxavi igitur consuetudines omnes et exactiones regalium et episcopalium ministrorum, sicut antecessores mei reges prius fecerunt, ut nullis graventur oneribus expeditionum, nec pontium vel castrorum reconstructione, nec furis apprehensione. Et omnia quæ ad locum ipsum pertinent, sint omnino libera ; cellæ, ecclesiæ, cœmeteria<sup>194</sup>, terræ, pascua, silvæ, venationes, aquæ, piscationes, cum redditibus, servitiis, debitis, oblationibus, luminaribus, decimis, donariis, censu, morchidis, legibus, consuetudinibus, causarum discussionibus<sup>195</sup>, emendationibus, sive ecclesiasticis sive sæcularibus, et omnibus quæcunque scriptis et testimonio bonorum hominum rememorari potuerunt, quæ a regibus concessa vel concedenda sunt, ut nullus ex his subtrahere vel diminuere aut disperdere qualibet occasione indicio vel potestate præsumat."

Et infra.

"Et ut omnia concludam. Nullus succedentium regum per vim aut per consuetudinem pastum ab eorum possessionibus exigat ; sed omnimodam libertatem perpetualiter habeant. Post hanc donationem excommunicaverunt omnes episcopi et abbates totius Angliæ et monachi et clerici, secundum apostolici Leonis præceptum, eos qui hoc constitutum infringerent vel infringi permetterent, quantum in ipsis esset. Si quis ergo hanc donationem augere et amplificare voluerit, augeat Deus dies eius prosperos hic et in future. Si autem evenerit, ut aliquis aut regum succedentium vel alicuius personæ homo, quod non optamus, diabolica temeritate fuerit elatus vel seductus, quatinus hoc nostrum statutum infringere vel minuere aut in aliud mutare velit ; sciat se perpetuo anathemate damnatum, nisi tamen, digna satisfactione emendaverit : sin autem emendatione fuerit indignus, ipse quidem cum Juda traditore gehennæ ignibus cremabitur ; sed hæc carta nihilominus in sua libertate permanebit, quamdiu Christiani nominis timor et amor in hac nostra gente perseveraverit."

Confirmation of grants.

Ad ultimum : " Cartam istam conscribi et sigillari iussi, et ipse manu mea signum sanctæ crucis impressi, et idoneos testes annotari præcepi. Ad corroborandam itaque propriam donationis libertatem ego Edwardus Deo largiente Anglorum rex signum venerandæ crucis impressi."

Et testibus annotatis, ita carta concluditur :

"Acta apud Westmonasterium quinto kalendas Januarii, die sanctorum Innocentium, anno Dominicæ incarnationis millesimo sexagesimo sexto, indictione tertia, anno regni serenissimi

<sup>193</sup> *aliorum* ] *alorsum*, M.S.

<sup>194</sup> *cœmentaria* ] *cimiteria*, M.S.

<sup>195</sup> *discussionibus* ] *discucōibus*, M.S.



Edwardi regis vicesimo quinto.<sup>196</sup> **Swidgarus** notarius ad vicem Reinbaldi regiæ dignitatis cancellarii hanc cartam scripsi et subscripsi in Dei Nomine feliciter. Amen.”

Prædicta vero ex vero tenore cartæ beatissimi regis excerpimus, quatinus lector agnoscat quanta cura rex egerit a periculo voti emissi penitus absolvi, et etiam apostolico decreto recepto quanta diligentia, quanta humilitate, quanta devotione elaboraverit apostolicis censuris obtemperare. Unde prædictum locum sub nomine obedientiæ et sanctæ pænitiæ ad reformandum ac restruendum dictante papa oraculoque Divino sibi iniunctum, omni nisu, omni devotione omnique virtutis conamine satagebat deducere ad effectum.

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<sup>196</sup> A.D. 1065, December 28<sup>th</sup>. Anno regni serenissimi Edwardi regis 25.



**Appendix B: Diocesan Income c.1562.**

Source: Kirk, J. (1995) *The Books of Assumption of the Thirds of Benefices: Scottish Ecclesiastical Rentals at the Reformation*. Records of Social and Economic History, New Series, 21. Oxford: Oxford University press for the British Academy. pp. xlvii-xlviii.

<https://archive.org/details/booksofassumptio0000chur/page/n49/mode/2up>

**ANNUAL INCOME OF THE SCOTTISH DIOCESES C.1562.**

DIOCESE.	SILVER (£)	IN KIND [CHALDERS]	TOTAL VALUE (£)
St. Andrews	2,900	140 (£3,200)	6,000+
Glasgow	1,000	(£2,000)	3,000
Moray	2,000	(£2,400)	4,400
Dunkeld	1,500	(£3,000)	4,500
Aberdeen	1,600	(£2,600)	4,200
Ross			2,600
Brechin		(£2,000)	2,000
Orkney			2,000
Dunblane	312		2,000
Caithness	1,300		1,300
Galloway	1,200	(£500)	1,700
The Isles	(Excluded from survey)	-	-
Galloway	(ditto.)	-	-

Clearly, a bishop who received a significant proportion of his revenues 'in kind' was better placed to cope with the impact of inflation than one who relied wholly on fixed money payments whose value steadily depreciated.

It should be remembered, here, that the diocesan bishops were 'lords temporal' as well as 'lords spiritual' – the *temporality* of the archbishop of St. Andrews covered ten lordships; the bishop of Aberdeen's patrimony extended over ten baronies, and included extensive fishing rights on the rivers Dee and Don; the bishop of Moray drew rents from no less than [nine baronies](#) (Spynie; Kinneddar; Birnie; Rafford; Ardclach; Keith; Kinmylies; Strathspey; Moymore) and an income from fishings on the River Spey and River Findhorn. All of these 'estates' required the full panoply of administrative resources and the bishops' notarial requirements, therefore, included both ecclesiastical law (canon law) specialists and also those skilled in civil law.



### **Appendix C: List of NE Notaries.**

The table available here is a list of those notaries who we have recorded as having been active in the Northern Dioceses at some point before the Reformation. The table records the first instance/date on which each notary has been found in the records.

Throughout this paper we have employed the approximate date of July – August, 1560, as being the cut-off point for our recording process. This, we recognise, is a very arbitrary choice and we acknowledge that some historians may not agree with its use.

The work of collecting these names from the sources is ongoing but currently stands at c.190 individuals.



Please “click “or press ENTER whilst hovering on the icon shown on the left (and then, if necessary, confirm by pressing “Open”) to display the table.



### **Appendix D: Thomas Boner.**

Thomas Boner has become something of a 'celebrity' since he is regularly (though erroneously) put forward as the first notary to be recorded in the north of Scotland.<sup>197</sup> Consequently, it is important that we fully investigate what is known about him from the historical records.

It is said that he was a 'clerk of Ross' diocese and here we are presented with our first problem. When individuals are described as *clerks*, it should be understood that there is a confusion here – was the individual a *clerk* in the ecclesiastical sense or was he a layman acting as a clerk to some individual or corporation.<sup>198</sup> In Thomas' case, the records make it clear that he was a clerk in the ecclesiastical sense (he was in Holy Orders).<sup>199</sup>

Three documents within the pages of *Registrum Episcopatus Moraviensis* relate instances where an individual occurs bearing the surname 'Boner'.<sup>200</sup>

1. [Moray Reg., no. 137, p. 150-154] 11 May 1328 – named as John.
2. [Moray Reg., no. 139, p. 156-157] 20 October 1345 – named as Thomas John
3. [Moray Reg., no. 251, p. 326] 1 August 1398 – named as Thomas.

The first of these documents is quite lengthy and contains an *ordinatio* (ordinance) regarding a controversy which had occurred between the Precentor of the cathedral of Moray at Elgin (Master Roger of Inverness) and the Succentor (Martin). It is recorded that Johannes Boner, clerk of Ross diocese, notary public by imperial authority, acted as notary in the chapter house of Elgin cathedral recording in detail the divisions of the property as agreed by the jurists appointed. This was three days after the principals had met, on 8 May 1328, in the chapel of the bishop's manor house at Kynedor [Kinneddar].

The second document is an instrument, written again in the chapter house of the cathedral at Elgin, recording the resolution of a difference which had taken place between the bishop of Moray and the prior of the monastery of St. Andrew at Pluscarden. Since it was located within his diocese, the bishop had claimed rights of *visitation* over the monastery, as ordinary, but the prior had insisted that rights of *visitation* were reserved to the head of the Order of Vallis Caulium since Pluscarden was a Valliscaulian house. Thomas Johannis Boner, of Ross diocese, notary public by apostolic and imperial authority, prepared the notarial instrument.

In the third document William, bishop of Moray, refers to "Thome Boner" (and others) as having been, at one time vicar of Duffus. Since the bishop describes them all as "*de quibus eft adhuc recens memoria*", we are led to believe that they are all, including Thomas Boner, now dead.

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<sup>197</sup> In fact, the earliest person, currently identified as having been a notary public in the Northern Diocese is Robert de Garvald, a notary of Aberdeen diocese in 1284, over 40 years before Thomas/John Boner.

<sup>198</sup> See "[Cerks and Clerics.](#)"

<sup>199</sup> See "The Medieval Priesthood in Northern Scotland",

<https://www.cushnieent.com/articles/The%20Medieval%20Priesthood.pdf> (Accessed; 21/4/2024)

<sup>200</sup> Innes (1837).



The first two documents were written seventeen years apart, which allows the possibility of their having been written by the same individual. The third, however, is dated some fifty-three years later. This presents a problem until it is remembered that this document records that Thomas had died some time before. Indeed, the bishop's comment might suggest that there had been three other priests who had held the vicarage after Thomas. If this is accepted, then it could support a belief that the Thomas mentioned in the third document could indeed have been the same individual as was mentioned in the other two.

If this evidence is accepted then it follows that his name was Thomas John Boner, but that, on different occasions, he is recorded using either, or both, of his first names.

The date that is commonly quoted as being the first occasion on which Thomas Boner is found is 1345, as recorded by MacPhail.<sup>201</sup> This, however, corresponds to the date of the second of the three documents listed above. The evidence presented here would indicate that Thomas Boner, under his other first-name of John, was mentioned earlier in 1328 in the Moray Registrum.<sup>202</sup>

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<sup>201</sup> MacPhail (1881), p. 216.

<sup>202</sup> Moray Reg., no. 137, p. 150-154.



### Appendix E: (Sir) John Cristisone's activity by 'Location'.

The table available here presents a list of the locations where John Cristisone created an entry in his Protocol Book. The list shows all those locations where he completed an *instrument* and is arranged alphabetically by 'Location Name'. In a number of instances, entries were made at different places at the same 'Location', and Cristisone recorded this in his protocol book. In each of these cases, the place is described in more detail in the table. (For example, at the township of Keig, one entry was made at 'Dera Croft of Dene' whereas two instruments were recorded at 'Glenstoun'. *Dera Croft of Dene* may be the modern *Dencroft* {NJ 63509 15457})



Please "click" or press ENTER whilst hovering on the icon shown on the left (and then, if necessary, confirm by pressing "Open") to display the table as a (.PDF) file.

### Appendix F: Types of Notarial Instrument Recorded by (Sir) John Cristisone.

The entries in Cristisone's Notary Book have been categorized and the table available here lists those types of instruments which he recorded in his Protocol Book. The first is a 'truncated' table showing only those types which he recorded on more than two occasions. The second table shows a complete list.



Please "click" or press ENTER whilst hovering on the icon shown on the left (and then, if necessary, confirm by pressing "Open") to display the **truncated table** as a (.PDF) file.



Please "click" or press ENTER whilst hovering on the icon shown on the left (and then, if necessary, confirm by pressing "Open") to display the **full table** as a (.PDF) file.



When compiling the Selkirk Protocol Books, 1511-1547, the editors presented a similar list of categories: -

- Landholding
- Delivery of Sasine
- Rights in Security
- Kindly Tenancies
- Litigation and Arbitration
- Recording of Transactions
- Procuratories
- Marriage Contracts
- Wills and Inheritance

[See, Maley, T, and Elliot, W. (1991) *Selkirk Protocol Books, 1511-1547*, Edinburgh: The Stair Society and the Walter Mason Trust, pp. xiv-xx.]



## Appendix G: Notaries Recorded in the North-East who were Graduates.



Please “click” or press ENTER whilst hovering on the icon shown on the left (and then, if necessary, confirm by pressing “Open”) to display the table as a (.PDF) file.

Of all the entries in this list, only one individual – Thomas Grenlaw (Greenlaw), a canon of Moray who attended the Council of Basle in 1422 – held multiple (5) degrees. He had been awarded a BA, MA, BDec, Lic.Dec., all probably from the University of Paris, and by June 1441 he was styled D.Dec..<sup>203</sup>

One – Alexander Myln, a notary of Aberdeen in 1496 – held the degree of B.A.

Of the remainder, most have been recorded as graduates (holding the degree of M.A.) because they were given the title ‘Master’ (M.) in the *source*.

Watt comments that, “On academic occasions and in ecclesiastical circles some care was taken usually over the matter of a man’s degrees. But in other circumstances there was no reason to be so precise, and all that the source may tell us is that a university-trained man was styled ‘Master’ (*Magister*) in a way that distinguished him from other clerks who may have had no title at all or who in some cases were given the respectful but wholly imprecise style of *Dominus*.” [Watt *Graduates*, p. xv.]

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<sup>203</sup> Watt, *Graduates*, p. 240.



**Appendix H: Extent of the Garioch Deanery.**

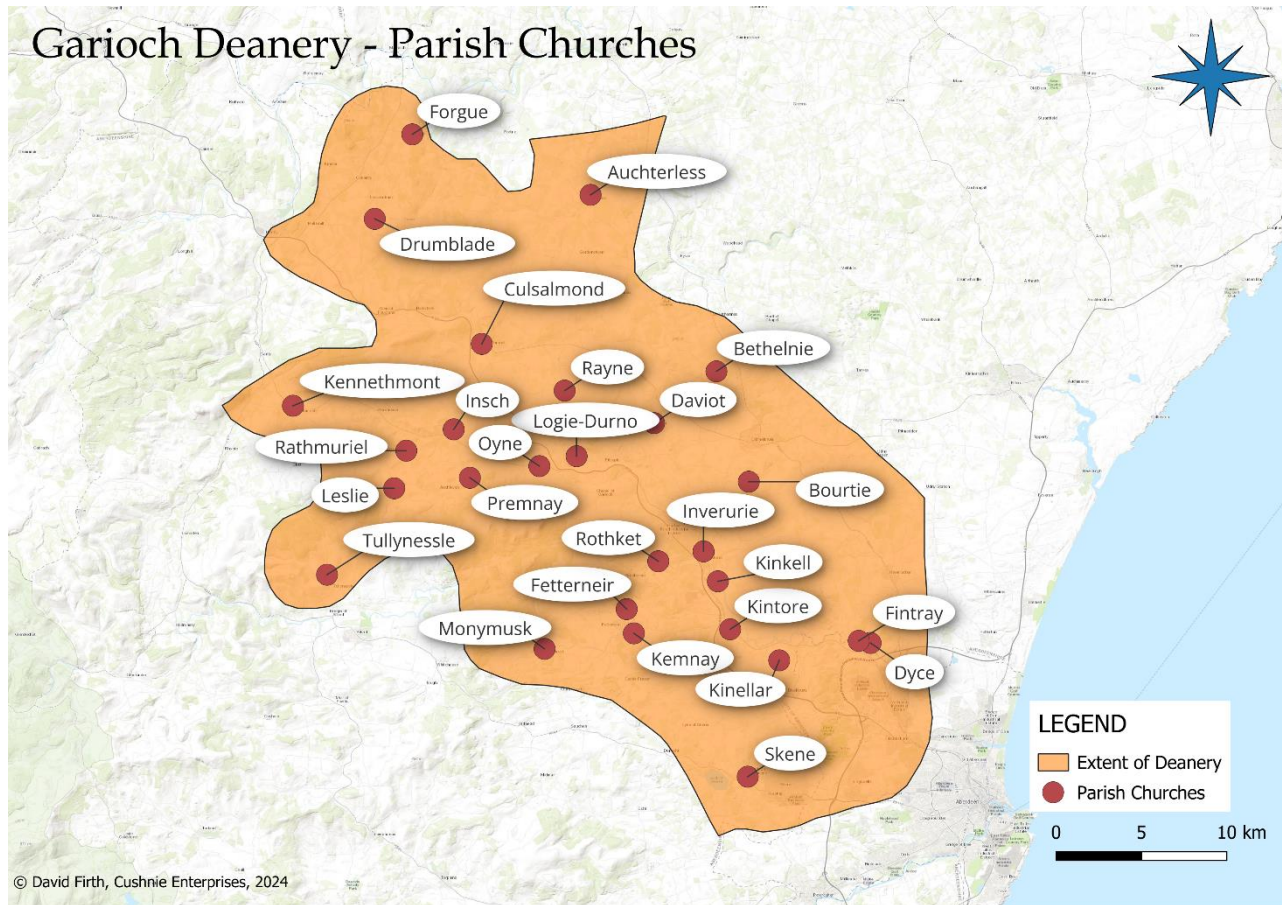


Figure 20: Map showing the parish churches that have been known in the Deanery of the Garioch.

NAME	OS GRID REFERENCE	LAT	LONG
Auchterless	NJ 714416	57.463112	-2.479156
Bethelnie <sup>3</sup>	NJ 786313	57.371284	-2.357548
Bourtie	NJ 805249	57.313759	-2.326226
Culsalmond	NJ 650329	57.385581	-2.584329
Daviot	NJ 750283	57.344298	-2.417790
Drumblade	NJ 588403	57.450649	-2.687750
Dyce	NJ 875154	57.229494	-2.208547
Fetterneir <sup>2</sup>	NJ 733175	57.247213	-2.444306
Fintray	NJ 872156	57.230632	-2.219990
Forgue	NJ 611451	57.494520	-2.651481
Insch	NJ 633281	57.341059	-2.611458
Inverurie <sup>1</sup>	NJ 778208	57.277401	-2.370007
Kemnay	NJ 737161	57.234567	-2.437314
Kennethmont	NJ 540295	57.353338	-2.766826
Kinellar	NJ 822144	57.220405	-2.296859
Kinkell	NJ 786191	57.261749	-2.356105



Kintore	NJ	793163	57.236653	-2.344266
Leslie	NJ	598247	57.310316	-2.668960
Logie-Durno	NJ	704264	57.327055	-2.492709
Monymusk <sup>2</sup>	NJ	685153	57.226448	-2.523649
Oyne	NJ	681257	57.321878	-2.528614
Premnay	NJ	643252	57.315807	-2.595797
Rathmuriel	NJ	606268	57.329921	-2.657304
Rayne	NJ	698302	57.361246	-2.504233
Rothket <sup>1</sup>	NJ	752204	57.272203	-2.413682
Skene	NJ	803076	57.159501	-2.327307
Tullynessle	NJ	558196	57.265179	-2.733925

A total of 27 Parish Churches have been recorded as existing in this Deanery at some point before the Reformation.

### Note:

1. *Inverurie* was, originally, a chapel dependent upon the parish church of *Rothket*. Granted to Lindores Abbey by its founder David, earl of Huntingdon (1191 x 5), and confirmed to the uses of the abbey in 1195 by Pope Celestine III, the parish, which included within its bounds the chapels of *Inverurie* and *Monkegie*, disappears from record shortly after these grants, with the chapel of *Inverurie* then becoming the parish church and *Monkegie* its dependant.
2. Occasionally, the parishes of *Monymusk* and *Fetterneir* are considered to have been in the deanery of *Mar*. (See Cowan 1967, pp. 66, 150)
3. The parish of *Bethelnie* is sometimes placed in the deanery of *Buchan*. (See Cowan 1967, p. 17)
4. The church of *Chapel of Garioch*, was, as its name implies, only a chapel during the pre-Reformation period. It lay within the parish of *Logie-Durno* and was not created an independent parish until 1583 when the parishes of *Logie-Durno* and *Fetterneir* were united.
5. It is nonsense to speak of “the parishes of the Garioch” as if it is a number which showed no variation over time. It is far more sensible to consider “those parish churches which existed at some point in time within the Garioch”. This allows for the changes which took place (such as at *Rothket* and *Inverurie*) – removals, unions, boundary changes, etc. Throughout, this study employs this ‘definition’ when presenting lists of parishes. However, this does create issues when comparing the lists used here with those employed by some other authors.



### **Appendix I: Graduates Recorded in the North-East.**

A list of those graduates who were associated with the Northern Dioceses is available by following the 'link' given below. This list, although far from complete, has been compared with Donald Watt's *Graduates* (1977) and has been found to be in general agreement, although this older source contains considerably more biographical detail. The present list includes records of all the of the 291 graduates encountered to date – not only (but including) those who were known to be notaries.



Please "click" or press ENTER whilst hovering on the icon shown on the left (and then, if necessary, confirm by pressing "Open") to display the table as a (.PDF) file.

### **Appendix J: List of all Notaries Identified in Scotland.**

This list includes an entry for each occasion on which a notary has been recorded acting within one of the Scottish dioceses. Such research will possibly never come to an end as new 'sources' may come to light in the future. However, at the time of writing, the list contains 1609 entries. It was decided to present this list with the data grouped first by *Surname* and then by *Date*.



Please "Click" or press ENTER whilst hovering on the icon shown on the left (and then, if necessary, confirm by pressing "Open") to display the table as a (.PDF) file.



### Appendix K: Robert Lambedene (c.1230), notary.

I am sincerely grateful to Professor Hector MacQueen, Emeritus Professor of Private Law at Edinburgh University, for drawing my attention to Robert Lambedene, a notary serving the Earl of Dunbar and his son, c.1230. In a letter from the earl to the Prior of Coldingham (T. [Thomas de Melsonby]), in 1231, Robert is described as, “*notarium meum qui sigillum meum gerit et custodit*” (my notary, who wears (carries) and guards my seal).

As such, this possibly represents the earliest record yet to be found of a notary working in Scotland, predating both Robert de Garvalde (1284) and William de Horboch (1287) by some fifty years.

Thankfully, the letter is preserved in the collections of Durham Cathedral and a digitised image of the original has been made publicly available by them. (Visiting the [Cathedral’s website](#) allows the reader to view this document in an interactive viewer.)

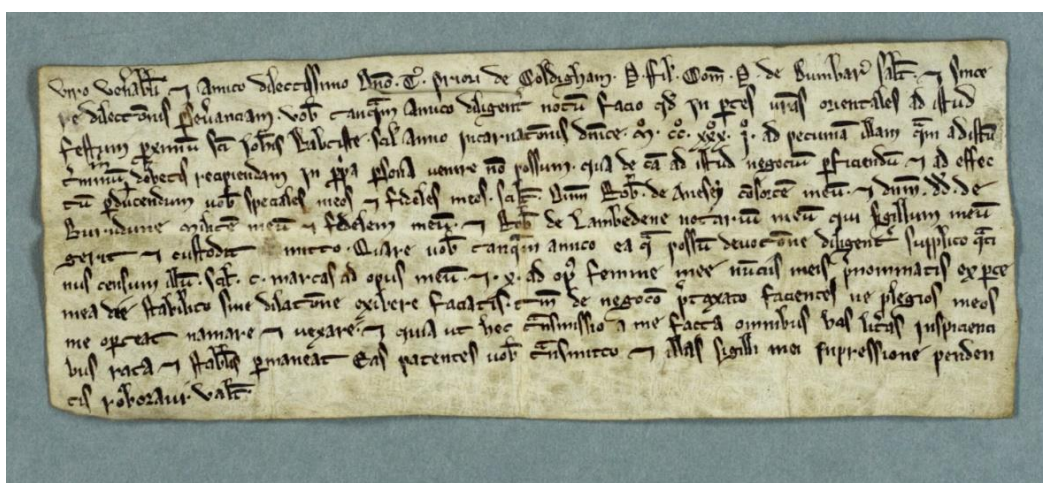


Figure 21: Letter of the Earl of Dunbar to T.[homas] Prior of Coldingham. © Dean and Chapter of Durham Cathedral.

### **Raine, North Durham appendix cxxix; DCD Misc.Ch. 738.**

Language: Latin

Letter of Patrick, son of Earl Patrick of Dunbar, to T[homas] prior of Coldingham, notifying him that he cannot come in person on the due date [feast of St John Baptist 1231] to collect money owed to him, and announcing that he is sending Lord Robert de Anesey "consortem mecum" [partner with me], Lord David de Burndune, his knight, and Robert de Lambedene, his notary, who keeps his seal, asking the prior to give them his 100 marks for his use and the 10 for his wife's.

Parchment, 1m

Size: 5½ x 2¼"

Seal: blank parchment [sealing] tag, through a slit in the top of the document.

Printed: Raine, North Durham App. CXXIX



[Digitised material for DCD Misc.Ch. 738. - Letters of Patrick, son of Earl Patrick of Dunbar, to ...](#)

<https://iiif.durham.ac.uk/index.html?manifest=t1m6m311p43j>

It is very possible that Robert came from the township of Lambden, near Eccles, in the Borders {NGR NT 74416 43023}. Lambden has always been a part of the parish of Greenlaw in the deanery of the Merse which was a part of the Archdeaconry of Lothian in the diocese of St Andrews. The patronage of the parish church belonged anciently to the Earls of Dunbar.

This letter is one of a series of documents relating to this matter and is commented on in some detail by Rev J. Raine in his *North Durham*, as detailed below:

### Why was the Earl owed money by the Prior?

Towards the latter part of his life, when possibly he [Earl Patrick I] was not capable of taking an active part in his affairs, being then an aged man, the earl's son, who succeeded him as Patrick II., appears to have occupied a position greater than that which being an heir would have warranted. On March 30th, 1231, acting, as he says, on what he found in King Edgar's charter, and other evidences, brought under his notice by Thomas, prior of Coldingham, he rendered back, by a deed executed on that day, in the court of King Alexander at Roxburgh, to the monks of Durham located at Coldingham, the *vill* of *Swinewode*, with the demesne lands and all other its appurtenances, "*per fistum et baculum*."<sup>204</sup> In others of his charters he states that he made the lands over to them because the *vill* had been unjustly detained and occupied by his ancestors, and the monks thereby deprived of the profit of the land given to them by King Edgar.<sup>205</sup> So far as appears on the face of these deeds, the transaction is one arising entirely out

<sup>204</sup> Raine, *North Durham*, Appendix p.28, No. cxxvi. DCD Misc.Ch. 733.

**DCD Misc.Ch. 733.** [30 March 1231]

Language: Latin

Charter of Patrick, son of Patrick earl of Dunbar, saying he had heard by King Edgar's charter and by other means, and had recognised in King Alexander's court the right of the prior and monks of Coldingham to the vill and demesne of Swinewood, for God and St Cuthbert and St Ebbe and the prior and monks of Durham at Coldingham.

Witnesses: Dom Walter Olifard justiciar of Lothian, Dom William [de Bondington] king's chancellor, Dom John de Maxwell (*Maccuswel*) king's chamberlain, Dom Robert de Ros, Dom Ranulf de Bonkil, Dom Bernard Fraser, Dom Thomas son of Ran', Dom Thomas de Haya, David clerk of Dom Walter Olifard.

Date: the court of King Alexander [II] at Roxburgh, 3 Kal. April 17 Alexander [II].

Parchment, 1m

Size: 8 x 4¾"

Seal: G&B No.2806, on a parchment tag, through a slit in a turnup

Duplicate: Misc.Ch. 734

Confirmed: Earl Patrick I in Misc.Ch. 765 [?]; King Alexander II in Misc.Ch. 624 [?]

Copies: Misc.Ch. 678; Reg. I, f.18

Printed: Raine, *North Durham* Appendix. CXXVI

[Digitised material for DCD Misc.Ch. 733. - Charter of Patrick, son of Patrick earl of Dunbar, saying ...](#)



of pure and unselfish motives, and the character Earl Patrick bore is one quite consistent with such a view. But there was also a matter of business in the affair, and Patrick received from the monks a compensation in money for the transfer. Whether that was one adequate to the value of the lands it is impossible to ascertain, nor is it quite clear, from the account of the payments, how much he actually received. The receipts, which run from December 28th, 1231, to June 24th, 1232, seem to show that he got 510 marcs for himself, and 10 marcs for his wife.<sup>206</sup>

In one of the receipts he states that as he is unable to come in person to their eastern parts ( *in partes vestras orientales*) on the feast of St. John Baptist (June 24th), to receive the money at that time due to him, he sends his special and faithful man, Sir Robert de Anesey, his comrade (*consortem meum*), Sir David de Burudune, his knight and faithful [supporter?], and Robert de Lambedene, his notary, who carries and has his seal, to receive the same.<sup>207</sup>

His gift was confirmed by Sir William, his brother.<sup>208</sup> Patrick I. gave confirmations of his ancestors' grants and made some himself to many of the monastic bodies in that part of

<sup>205</sup> *Ibid.* p. 29, No. cxxii; DCD Misc.Ch. No. 736.

**DCD Misc.Ch. 736.** [?1231]

Language: Latin

Letters of P[atrick] son of Earl P[atrick] of Dunbar to A[lexander III, King of Scots, notifying him of his quitclaim to God and St Mary and St Cuthbert and St Ebbe and the monks of Durham at Coldingham of the vill of Swinewood and asking him to confirm it.

Parchment, 1m

Size: 6¾ x 2¾"

Seal: G&B No.2806, on a tongue, with the address written on it

Confirmed: Alexander II in Misc.Ch. 624

Printed: Raine, *North Durham* Appendix CXXVII

[Digitised material for DCD Misc.Ch. 736. - Letters of P\[atrick\] son of Earl P\[atrick\] of Dunbar to ...](#)

<sup>206</sup> Raine, *North Durham*, Appendix, pp. 29, 30, No. cxxix, DCD Misc. Ch. No. 738; *ibid.* No. cxxx, DCD Misc.Ch. No. 735.

**DCD Misc.Ch. 735.** [?1232]

Language: Latin

Charter of P[atrick], son of Earl P[atrick] of Dunbar, acknowledging on the day of St John the Baptist [24 June or 29 August] 1232 receipt from the prior and convent of Coldingham of 200 marks silver in part payment of his quitclaim to them of the vill and demesne of Swinewood [in Misc.Ch. 733].

Parchment, 1m

Size: 6¼ x 1¾"

Seal: G&B 2806. Natural wax. Attached by parchment strip through foot of document. Noted as broken ("cum sigillo fracto") on 19th century wrapper (destroyed)

Printed: Raine, *North Durham* Appendix CXXXI

[Digitised material for DCD Misc.Ch. 735. - Charter of P\[atrick\], son of Earl P\[atrick\] of Dunbar, acknowledging ...](#)

<sup>207</sup> *Ibid.* p. 29, No. cxxix; DCD Misc.Ch. No. 730.

<sup>208</sup> *Ibid.* p. 30, No. cxxxiii; DCD Misc.Ch. No. 785.

**DCD Misc.Ch. 785.** [c.1230s]

Language: Latin

Charter of William, 2nd son of Patrick I Earl of Dunbar, confirming the quitclaim by Patrick II, Earl, his brother, to the Prior and monks of Coldingham of the vill of Swinewood [in Misc.Ch. 741].

Witnesses: Walter de Lindsey, Hervey the marshal, David the marshal, Bernard Fraser, Roger de Merley, Adam de Paulworth, Thomas de Nesbit, Master William de Edenham, Master William de Greenlaw,





Scotland with which he was connected. Following in the steps of his ancestors, he endowed the monks of St. Cuthbert at Coldingham, quit-claiming some land lying between Fogo and Swinton, and giving them a *moiety of Billy*.<sup>209</sup> To the Praemonstratensian abbey of Dryburgh he gave the land called Elwinesley, on the Leader, two bovates of land and a toft and croft in Ersildon, and common pasture in the same *vill* for one hundred sheep, twelve oxen, twelve swine and two horses. In his borough of Dunbar, he gave them [the monks] a toft, a house and two and a half acres of land, once held by Hugh, his uncle, Sir Patrick's chaplain.<sup>210</sup> An agreement made by him with the abbey of Melrose in 1208, concerning a piece of cultivated land called Sorwelesfeld and pasture [which] he had given the monks, contains some clauses of special interest in relation to agricultural and pastoral rights and operations.<sup>211</sup>

We have chosen to reproduce this information in detail because of its importance, representing, as it does, the earliest known reference to a notary performing his duties within Scotland.

---

Alan son of Alan, and many others

Parchment, 1m, lined

Size: 7¼ x 5¼"

Seal: G&B 2813. Green wax. Attached by parchment strip through a slit in a turnup

Duplicate: Misc.Ch. 786

Printed: Raine, *North Durham* Appendix CXXXIII.

<sup>209</sup> *Dur. Treas.* Mis.Ch. Nos. 766, 743, 744; Raine, *North Durham*, Appendix pp. 27, 28, Nos. cxvii., cxxii., cxiii.

<sup>210</sup> *Liber de Dryburgh*, Bannatyne Club, pp. 83, 249.

<sup>211</sup> *Liber de Melros*, p. 91, No. 102; p. 93, No. 104.



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A private database of the names, positions, and establishments, of those ecclesiastics who have been recorded primarily within the Northern Diocese of Scotland. (Currently approaching 30,000 entries.) More information may be obtained from the author [cushnieent@gmail.com](mailto:cushnieent@gmail.com).

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### Mapping.

Considerable use has been made of the on-line Mapping Services of the National Library of Scotland (*Leabharlann Nàiseanta na h-Alba*) during the research carried out in preparation for the writing of this paper, in particular of the *geo-referenced* copies of the 1885-1900 OS One-inch Survey Maps of Scotland. All Ordnance Survey Grid Reference Numbers, and the Latitude and Longitude values of locations were determined from this source. The maps in question are to be found in the library's 'Geo-referenced Maps' section at <https://maps.nls.uk/>

By using the NLS resources alongside the additional information provided by James Macdonald, FSAScot, in his *Place Names of West Aberdeenshire*, it was possible to identify many of the locations recorded in Cristisone's protocol book and this has yielded another dimension to the research.

Most of the geo-referenced maps produced for this paper were created using the open-source QGIS software package which is free to those who wish to use it. It is available to download at <https://qgis.org/download/>



In the early years of the Ordnance Survey a 'datum' called OSGB-36 was used as the mapping datum for the UK. After 2014, the Ordnance Survey, like many others worldwide, began to use a new datum known as WGS-84 (World Geodetic System 84) for latitude/longitude co-ordinates, but the OSGB-36 continued, and still is, the basis for OS grid references and maps. The CANMORE Database presents information superimposed on OS maps and, consequently, all references quoted by them on their pages are determined using the 'old' OSGB-36 datum. All of the maps created for this paper employ ESRI (Environmental Systems Research Institute) products as 'base-maps' upon which relevant information is super-imposed, and, consequently, the WGS-84 system is employed throughout. Although this results in minor 'errors' as seen when comparing CANMORE locations with those quoted here, the differences are very small indeed and do not adversely affect the researcher on the ground. Indeed, since Global Positioning Systems (GPS) currently employ WGS-84, there is a distinct advantage to be had by using this modern system. It should be noted that WGS-84 is also compatible with currently used International Terrestrial Referencing System (ITRS). {On 7 January 2024, a change took place which has resulted in WGS84 (and countless GPS systems worldwide) becoming aligned with the ITRS's International Terrestrial Reference Frame (ITRF) standard.} Considering what an immensely expensive project it would be for the OS to change the 'datum' which it employs to produce the ever-popular paper series of maps which it offers to the general public, it is not likely that any moves will be seen in the near future to bring them into line with any modern, internationally accepted, datum.

As a general rule in this paper, the names of locations are given with spellings as they appear on modern Ordnance Survey maps. Deviations from this rule, where they appear, are occasionally given as alternatives.

