

**A STUDY IN THE
LANGUAGE OF SCOTTISH
PROSE BEFORE 1600. A
DISSERTATION; PP. 4-103**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649740062

A Study in the Language of Scottish Prose Before 1600. A Dissertation; pp. 4-103 by William Peters Reeves

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

WILLIAM PETERS REEVES

**A STUDY IN THE
LANGUAGE OF SCOTTISH
PROSE BEFORE 1600. A
DISSERTATION; PP. 4-103**

A STUDY
IN THE
LANGUAGE OF SCOTTISH PROSE
BEFORE 1600.

A DISSERTATION

PRESENTED TO THE BOARD OF UNIVERSITY STUDIES OF
THE JOHNS HOPKINS UNIVERSITY FOR THE
DEGREE OF DOCTOR OF PHILOSOPHY.

BY

WILLIAM PETERS REEVES.



BALTIMORE:
JOHN MURPHY & CO.
1893.

that the volume was not only soon superseded, but that it was suppressed.¹

The first authoritative edition of the 'Acts' was edited by Thomas Thomson,² Curator of the General Register House. This formed Vol. II, comprising the years 1424-1567. Volume I, re-edited and with a preface by Cosmo Innes, was printed by command of Queen Victoria in 1844, and embraced the years 1124-1423. The Preface to Vol. I contains valuable information regarding the Records, for which he fixed the beginnings as follows: "There is probably no Scotch writing extant, whether of Charter, Record or Chronicle, so old as the reign of Malcolm Canmore, who died in the year 1093 (The Charter of Duncan at Durham is not free from suspicion. The

¹ The 'Observations' deserve to be quoted, in part.

"With modern print to intermix the abbreviations of ancient manuscripts, appears unseemly and incongruous. To print in that manner, while it conveys no distinct idea of the character or mode of writing employed in the original, unavoidably creates additional and unnecessary difficulties to readers not conversant in the language of remote times, who will often be sufficiently puzzled without such artificial obscurity. The words therefore in this and the following volumes of the Records . . . will be found printed at full length; the contracted syllables in the Record being spelt like the same syllables when fully written out in the passages nearest to those in which they are found contracted. . . . It may be remarked that the engrossers of the more early Parliamentary Records of Scotland, like their contemporaries in the other nations of Europe, are, when writing their vernacular language, far from being uniform in their orthography. The same word is often spelt differently in the same page, sometimes even in the same line . . . they are extremely sparing in the use of points and by no means correct in placing the few they employ . . . the letters c and t are in most words written so exactly alike that the acutest eye cannot distinguish the one from the other. . . . And finally, like the transcribers of all ages and nations, they frequently commit blunders. . . . THE Editor, thinking it his duty to give a faithful copy of the Records of the Parliament of Scotland, will neither alter nor supply, nor suppress a single letter. Where the blunder is obvious, every reader can correct it for himself; where there is any degree of obscurity it seems better that the reader should in the correction exercise his own private judgment, than submit to the conjectures of any Editor whatever." "W. R."

This volume was thus described by the editor of the standard edition of the Acts. "See in 1804, an untrustworthy book published by his Majesty's Printer in Scotland, 'The Parliamentary Records of Scotland in the General Register House, Edinburgh,' and which professed to give those records from the year 1240 to 1671. Suppressed by Royal Commission." Innes, *Introd. to Vol. I, Acts Sc. Par.*

² C. Innes, *Scotch Legal Antiquities*, pp. 11-12.

earliest undoubted writings of Scotland are the Charters of Edgar, which are also preserved among the Coldingham Charters of Durham).” Although Wyntoun had mentioned the Parliament of 1286, Innes thought that the “Parliament assembled by John Balliol at Scone on the 9th day of February, 1292, was probably the first of the national councils of Scotland which bore that name in the country at the time, although later historians have bestowed it freely on all assemblies of a legislative character.” We know certainly that “Balliol’s treaty with France was confirmed at Dumferline, 23 February, 1295.”¹

On the Records themselves, Innes says: “The loss or destruction of the far greater part of the original public documents of Scotland is a fact as to which unhappily there can be no doubt, and which has been often the subject of just and deep lamentation. That the whole of the Public Records and National Muniments preserved in the Royal Archives of Scotland at the death of King Alexander III were swept away by the hostile policy of Edward I we know from authentic evidence. Of the intentional destruction of any of them there is certainly no evidence; and from the few which yet remain in the Chapter House at Westminster [1844], it seems more probable that the rest have perished by neglect and the gradual ravages of time. That any of them were restored to Scotland, after the expulsion of Balliol, seems improbable; and the only reason for doubt on this head is to be found in the Treaty of Peace concluded between the kingdoms in 1328, commonly called the Treaty of Northampton. It was one of the articles of that Treaty ‘That all writings, obligations, instruments and other muniments touching the subjection of the people and country of Scotland to the King of England, together with all other instruments and privileges touching the freedom of Scotland which might be discovered, should be given up and restored to the King of Scots as soon as they could be found, according to a special Indenture or Inventory thereof.’ These formed, perhaps, the most interesting class of the National Records, yet they certainly were but a small part of what Edward I had taken possession of; and, if the other classes of Records were still in the hands of the English, it seems strange and unaccountable that their restoration

¹Innes, *Introd. Acts*, V; also ‘*Origines Parliamentaris*.’ *Scotch Leg. Antiq.*, pp. 98-106, 119.

should not likewise have been made a condition of the Treaty. Certain it is that none of the Records carried away by Edward I are now to be found in Scotland." Acts, Vol. I, p. 18.

It may be convenient, in accounting for this loss, to refer to the old story that several hogsheds of Records were lost at sea, while being returned to Scotland. Other Records which were in the Tower early in this century were afterwards sent to the Public Record Office, where some search failed to discover anything of importance. The inference is that at this time they are in the General Register House, Edinburgh.¹

Whatever were the origin of the early laws, it is learned that they had some resemblance to a Code in the year 1425, for on the 11th of March at Perth, the following Act of Parliament was passed. "Item it is sene spedfull and ordanit be þe king & the parliament þat sex wise & discrete men of ilk ane of the thre estatis þe quhilkis knawis þe lawis best salbe chosyn quha sen fraude & gyll aw to keep no man false & examyn þe bukis of law þat is to say regiam maiestatem & quoniam attachiamonta & mend þe lawis at nedis mendment ande ordane als at all lauchfull exceptiounis of law be admittit in jugement & all frenolus & fraudfull exceptiounis be repellit & nocht admittit be no Juge swa þat þe causis letigious & pleyis be nocht wrangwisly prolongyt in scaith & preiudice of þe party & in fraude of the law." Reg. Sc. Par., p. 61, col. 2.²

The question of printing the Records arose in due time. In the year 1469 (James III, Nov. 20th) an act had been passed, aiming at the better preservation of the Records; "That þe kingis rollis and registeris be put in bukis 'Item it is thoct expedient þat þe kingis rollis and registeris be put in bukis ande haif sik strenthe as þe rollis had befor.'" Rec. Sc. Par., p. 52, col. I. In the succeeding reign of James IV the important plan was conceived for giving publicity not only to the Laws

¹A short description of those documents which were in the Gen'l Reg. House, available in 1796, will be found in the appendix No. XXIII to Pinkerton's History of Scotland, Vol. I.

²It will be seen that in spite of the suppression of this volume of the 'Records' I have made extensive use of it. The copy, which contains Thomas Thomson's markings for his new edition, is in my possession; and judging by the few corrections and by the consistency with which he has evidently compared this copy with the originals, I have no hesitancy in quoting from the contents.

of the kingdom, but also to the Historical monuments and Ecclesiastical Rituals. "In the year 1507 the art of Printing was introduced into Scotland by Royal sanction, avowedly for the purpose of 'emprinting within our Realme the Bukis of the Lawis, actis of Parliament, croniclis, mess bukis,' &c., and exclusive privileges were conferred upon the first printers for encouragement and support in the execution of these national works. This was not however sufficient for the publication of the Acts of Parliament, and it was not until 1541 that any part of the Scotch Statute Book appeared in print. A selection from the Acts of several Parliaments of James V was then published by legislative authority; and at the distance of twenty-four years this was followed in 1565 by the publication of the Acts of a Parliament of Queen Mary." Innes, *Introd. Acts*, p. 22, and *v. Annals Scottish Printing*, pp. 109-118. The confusing number of editions which appeared after this last date, under the various titles of 'Regiam Majestatem,' 'Quoniam Attachiamenta,' 'The Acts and the Old Laws,' &c., may be well left unconsidered.

The Manuscripts from which Thomson and Innes made their editions, were carefully described in their Introductions. Many of course are in the Latin, and it may be well to give a list of those containing vernacular versions. The MSS. referred to here have the same roman numbering which was used by T. and I.

No. IV. The so-called 'Bute' MS. Marquis of Bute, proprietor, written probably in the latter half of the 14th Cen. Cap. 13, two Scotch chapters: 'Chalyngc of transgressioun and þe fourme to mak clepe and call upon brekyng of proteccyon,' fol. 141. Cap. 19, Burgh Laws, fol. 153-163. Cap. 22, The 'Assise of Brede,' etc., fol. 167-170. a) 'of Custum,' fol. 170-171. b) 'of Law and the Custume of Schippis,' fol. 171-174. c) 'of wecht in flandrys and reknyns be the price of the mone,' fol. 175.

No. VII. Edinburgh University MS., not long after 1389, or early 15th Cen.; Latin except a miscellaneous collection of styles and forms of process in Scotch and Latin, fol. 102-111.

No. IX. Advocates' Library MS., W, 4, ult., "nearly all in Scotch, and is written in an unique hand, to within a few leaves of the end." Undated.

No. X. The Harleian MS., 4700. Early 15th Cen. Cap. 4, 2 leaves in Scotch, 'the maneir of Batall within lists.' Cap. 14, 'The poyntis belangand to the Warden Courts.' Cap. 16, Lawis and Custumis of the Schippis, 8 leaves. Cap. 15, Miscellany: Latin and Scotch. Cap. 28, one leaf in Scotch, 'on launfulnes of tailzies': also cap's 31, 32 (3 leaves), 34 (17 leaves).

No. XII. Cambridge MS., Public Library, Cambridge E, 4, 21, Late 15th Cen., uniform hand. Cap. 18, 14 leaves. Cap. 19, lawis and Custumis of Schippis (33 chapters).

No. XIII. The Cockburn MS. Advocates' Library, W, 4, 28, or W, 4, penult. Cap. 4, 2 parts by different scribes; late 15th Cen. Cap. 10, *statuta Regis Dav. primi*, in Scotch; 20 titles. Cap. 11, fol. 90-92. Cap. 12, fol. 93-99. Cap. 16, fol. 1-20 of second part; *Borowe Laws*, fol. 20-24, 28-38, 38-40.

No. XIV. Advocates' Library MS., A, I, 32; late 15th Cen., all Scotch.

No. XV. The Monynet MS., Adv. Libr., A, 1, 28, written by James Monynet, 1488. Cap. 19, *þe poyntis belangande to þe wardane courte*, fol. 203. Cap. 21, *Law and Custumis of the Schippis*, fol. 205-216. Cap. 24, *On Tailzie*, fol. 319; also fols. 342-353, 365-371, 371-373, 375-378, 400.

No. XVI. Colvil MS., 'now [1844] owned by Mr. J. A. Maconochie; v. Bibliography, 'Regiam Majestatem.' Cap. 15, 'The gret lawis maid thro King Davyd; 20 chapters. Cap. 16, *Lawis of King William*; 11 titles. Cap. 17, *Lawis of King Alexander*.

No. XVII. Cambridge MS., K, I, 5. Public Library Camb., 4° thick; tracts and MSS. Part 3rd, Scotch laws, 'written in a careless hand; late 15th or beginning of the 16th Cen.'

No. XVIII. John Bannatyne MS. Adv. Libr., A, 7, 25, written by John Bannatyne, 1520. Cap. 3, 'Maner of battale within lists; 11 titles. Cap. 17, 7 oaths. Cap. 20, 'laws and custumis of schippis.' Cap. 22, *On Taillie* (Scotch and Latin).

No. XIX. Lambeth MS., Lambeth Palace Library, No. 167; early 16th Cen. Cap. 17, *The process of the again calling of a dome*; fols. 178-189, 190-2, 192-208.

No. XXI. Thomas Bannatyne MS., Adv. Libr., Jac. V, 6, 13 (old numbering); latter half 16th Cen. Cap. 15, 'How the batall within listis salbe gouernit; 10 titles in Scotch.

Cap. 18, 'Acts of the Parliament holdin at Edinburgh the thrid day of December.'

No. XXII. Malcolm MS., Adv. Libr., A, 3, 22 fol. ; late 16th Cen. ; a large part in Scotch. The rest of the twenty-five MSS. noted by T. and I. are in Latin.

The following extracts from the two first volumes of the Acts were selected to show the character of the language ; regard has therefore been had for variety in vocabulary and grammatical forms. The nature of the material would of itself suggest much repetition and a general neglect of literary quality.

I.

ACTS OF THE SCOTCH PARLIAMENT (v. Scottish Record
Pub. in Bibliography).

Heir begynnis the lawys of the King David

I. of hym þat eschapis of þe gallowys

Gif ony mysdoar thurch dome be hingit and eftirwart he eschapis of þe gallowis he sal be quyrt us of þat deid fra thin furth And þai þat hingit hym sal mak fine wyth þe kyng saufand þaim lyf and memberis and disherisone for quhi that trespas is mekil and oure mesur.

II. of ony appelyt of thyft (de apelato de furto)

Gif ony appellis ony man in þe kyngis court or in ony opir court of thyft it sal be in þe likyng of hym at beis appelyt quhepir he wil bataile or to tak purgacioun of XII leil men with clengyng of a hyrdman.

III. of herberyng of strange men (de advenis hospitandis)

It is leffel to na man to herbery na strangear langar þan a nycht na hald hym in his house wytboutin borch and gif ony forsuth bydis in a toum oure a nycht he sal be brocht befor þe justice or þe schireff and be at þar wil.

IV. How jugment sal be geyffin.

þe kyng hes statut þat na justice schireff alderman na bailge of ony baroun sal sit at jugement to be done apone þe folowyng or þe ausuer befor þaim to be maid bot quhen sic cumis to jugement he sal pas furth of þe court þarapone and þan þe iustice schireff or