

NOTES ON THE BURGH OF DUNFERMLINE

By James Moir Webster



Compiled by S. Pitcairn and edited by W. T. Johnson

PRINTED ON DISC

ISBN 978-1-909634-13-8

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BY

JAMES MOIR WEBSTER

FROM

**NOTES HE LEFT WHILE WORKING ON HIS
DUNFERMLINE ABBEY**

Published in 1948

Compiled by Sheila Pitcairn F.S.A. Scot., L.H.G.



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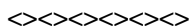
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Throughout his life Dr Webster evinced the greatest interest in the historical background of Dunfermline and the immediate surrounding neighbourhood. His literary works included "History of the Parish of Carnock" and more recently, "Dunfermline Abbey." In a tribute to Dr Webster's authorship of the latter work the minister of the Abbey, the Rev. Robert Dollar, B.D., said, shortly after its publication: "He has brought all previous histories of the church up to date—and corrected a great many previous misconceptions." Dr Webster was also responsible for an introduction and notes, in conjunction with Mr A. A. M. Duncan, M.A. (Hons.), lecturer in History, Queen's University, Belfast, to a transcript of the Regality of Dunfermline Court Book, 1531-1538, which was published by the Carnegie Dunfermline Trustees in February 1953. He was also a frequent and informative contributor to The Dunfermline Press on a variety of topics related to the history of the burgh and its environs.

In November 1952 his jubilee as an ordained minister of the Church of Scotland was marked when he was the guest of honour at a Presbytery lunch where he was made the recipient of a gift subscribed to by fellow Presbyters. When he received his Doctorate degree from Aberdeen University in 1950 members of the Presbytery and friends in the parishes of Carnock and Dunfermline North presented him with a D.D. hood and cap to mark the honour conferred upon him.



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John Slezer "Theatrum Scotia" London 1693

The emergence of Dunfermline as a community and its subsequent development into a burgh of various sorts were to a large extent determined by two facts: -

- (1) That Malcolm Canmore, or his predecessors, had chosen the Tower-Hill as their residence, and
- (2) That Margaret, Malcolm's Queen, took the first steps towards the establishment of what came to be one of the greatest monasteries in the country by her appeal to the Archbishop of Canterbury for help in her endeavour to reform the Scottish Church, to which he responded by sending her two monks under the leadership of Goldwinus. (Lawrie, E.S.C. 236).

The presence of the court gave security, and the growth of the monastery meant increased trade.

By 1124 David I the youngest son of Malcolm and Margaret, refers to this community in one of his charters as "burgus meus" – my burgh. (Reg.26). It is, no doubt, possible to read too much into this. Still, it has to be remembered that they were the King's own words, embodied in a royal charter, and that, when Robert the Bruce, at a later date, referred in one of his charters (Reg.346) to the four towns

associated with Dunfermline Abbey as burghs, that statement is everywhere accepted as evidence of their status that cannot be gain-said.

In several of the charters issued by King David we are confronted with the unmistakable fact that the early community had settled on both sides of the Tower-Burn. The oft-repeated use of such a phrase as “that part of the burgh (or Dunfermline) which is on the same side of the water as the church”, leaves no room for doubt that there was another part of the community on the other side of the water (Reg.3, 5, 19, 28, 40, 46), presumably on the high ground in the vicinity of the present Bridge Street entrance to Pittencrieff Glen.

There are also frequent references to the “Gyrth-Bow” (Reg.370), a bridge across the burn in the neighbourhood of St. Catherine’s Yard, or Garden, which would seem to have been the connecting link between the two portions. This is unexpected in fact that, at a somewhat later date, the burgh lay entirely on the left, or east side of the Tower Burn; but the explanation is not far to seek.

So long as the Court had its regular residence at Dunfermline, all the lands in the immediate neighbourhood were within the king’s demesne. Its transference to Edinburgh brought changes, Pittencrieff being particularly affected.

Following the death of Malcolm and Margaret, the Celtic element reasserted itself, with consequent unsettlement, the northern clans, in particular, being difficult to reconcile. To meet this situation, the help of Norman knights, who, after 1066, came to be regarded as the leading authorities on warfare, was frequently procured by gifts of lands, and, the king being no longer resident in the Tower, the lands of Pittencrieff and Gallorig were given to a Norman family of the name of Oberville.

Of two members of this family mention is made in the Convent Chartulary. John de Oberville is on record as a witness to charters on various occasions (Reg. Index); and William de Oberville, presumably his son, is best known by the fact that in 1291 he granted the monks of Dunfermline the right to work coals for their own use in the lands of Pittencrieff, except on arable land – one of the earliest references to the working of coals in Scotland (Reg.323).

The fact that the lands of Pittencrieff were now in the hands of these Normans meant that the site on the west side of the burn where part of the early community had settled was also theirs, and no part of Dunfermline. It did not, in fact, return to the burgh till the extension of boundaries in 1911.

The Obervilles, as it happened, were not “Lords of Pittencrieff” for long. These Norman knights, it must be remembered, came to Scotland from England, where many of them still continued to hold lands, and it is not greatly to be wondered at that, in the War of Independence, many, if not most of them, espoused the cause of the English King’s nominee to the Crown of Scotland. The result, in this case, almost certainly was that, after Bannockburn, William de Oberville lost the lands of Pittencrieff by forfeiture and Bruce gave them to a member of the Fife family of Wemyss, which had given valuable service in his support.

This sort of thing was happening all over – a notable instance being the barony of Aberdour. Constantine Mortimer, the previous holder, lost it by forfeiture – Edward I, in fact, was with him at Aberdour when word was brought to him of the capture of Sir William Wallace. The lands of Aberdour, thus forfeited, were conferred by Bruce upon his nephew, Randolph, Earl of Moray.

From this time onwards till about 1600, Pittencrieff was held by members of the Wemyss family. In the time of Patrick Wemyss, the lands of Pittencrieff, Gallorig and Clune were erected into a barony because of good service rendered to the king at home and abroad (R.M.S. No.1838 16th September, 1583); and, every time a successor inherited, the Register of Sasines bears witness to the fact that the boundary between the barony and the burgh was the burn as far north as Wooers' Alley.

The question naturally rises as to where these families (Oberville and Wemyss) had their residence. The ruins that are still to be seen on the Tower Hill are almost certainly of later date than Malcolm Canmore's time, which would suggest continued occupation after the Court had moved to Edinburgh. But, so far as is known, the Tower-Hill did not become part of Pittencrieff till Arthur Forbes of Pittencrieff acquired it by excambion from Lord Tweeddale in 1730 (Scottish Jurist, xliii. 595), so that it is unlikely to have been the "messuage", or manor-house, of the barony.

A new house may have been built either on the same site as the present Pittencrieff House or, possibly, somewhat further north where parts of the community of Dunfermline had originally settled.

KING'S BURGH



To return to the question of Dunfermline as "burgus meus" – what Sir Archibald C. Lawrie in his Scottish Early Charters describes as a King's Burgh. According to him there were twelve such burghs in Scotland in the time of David I (p. 461):- Aberdeen, Berwick, Crail, Dunfermline, Edinburgh, Elgin, Haddington, Inverkeithing, Linlithgow, Perth Roxburgh and Stirling. How many of the twelve had a charter of erection is not said. Not every burgh had one; and not many at such an early date.

It is much to be regretted that no charter of erection can be discovered for Dunfermline. On the other hand, it is going much too far to suggest, as some do, that, without a charter of erection, there can be no burgh. Dunfermline, as already indicated, was, at one time or other, a burgh of various sorts: - King's Burgh, Abbot's Burgh, Burgh of Barony, Burgh of Regality, Royal Burgh. For not one of these can an express charter of erection be produced, but of the first four there is royal recognition either in charters or in the Register of the Great Seal, and for the last we have the Records of the Convention of Royal Burghs.

In theory, the land within these burghs belonged to the king, the burgesses being his immediate tenants, and the intermediary between them his prepositus, who would collect all rents etc, due to the king and account for them to the royal treasurer.

That there was a King's prepositus for Dunfermline is not in doubt. In a charter granted before 1128, while the monastic buildings were still incomplete, it is recorded that the bondmen of the monastery, some of whom had been gifted to it by the king himself (D/A. 32), had gone on strike and were hindering the building operations. The charter orders the king's prepositus not to suffer this neglect. He must assist the Prior so that the church may get from its "men" as much as the king gets from his (Reg.18). The name of the prepositus is given as Suuene – possibly Swain or Swayne – a name not unknown at the time. Unfortunately, nothing else is known of him, but the fact that there was in Dunfermline an official of the kind is unmistakable evidence that "burgus meus", as applied to it, is no mere empty form of words and that rents and petty-customs, for example, were already in operation.

Like many other official of the early days, the prepositus declined in prestige and status as time went on.

"This goes on till 1359 when prepositi suddenly ceased to be the accountants and their place is taken by bailies, who previously had made but a very rare appearance in this capacity".

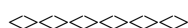
"When, further, we find among these later prepositi a musician, a dyer, a weaver, a shoemaker, a porter, and often a cleric or clerk, we may boldly infer that this officer is not quite on the same footing as his original namesake and is the nominee of the community".

"So, too, the bailies are now definitely those of the Burgh". (Mackenzie, The Scottish Burghs, pp. 98/9).

The word "prepositus" is so often explained as equivalent of "provost". While this may be true of later days, in the light of what has been said it is clear that it was not always so. The early "prepositus" was a King's official. There might be more than one in the same burgh at the same time – which could not be said of provosts – and, long after the name "prepositus" had dropped out, there were many burghs that had never had a provost.

"In their days of full self-government burghs could get along without a provost. Even Linlithgow had none till 1540; Lanark none till it was given power to choose a provost annually in March 1540/1. As late as 1708-11 there was no provost in at least nine royal burghs." (Ibid. p.99)

Kirkcaldy, as we shall see later, had very definite opinions on the subject and for long strenuously resisted any attempt to appoint one.



ABBOT'S BURGH



The next stage in the development is when Dunfermline ceased to be a King's Burgh and became an Abbot's Burgh. The date of transference can only be more or less approximate.

In a charter, which is undated, Robert the Bruce confirms the gift to the monastery of four towns – Dunfermline, Kirkcaldy, Musselburgh and South Queensferry – and formally and officially recognises their status as burghs (Reg.346). The charter is one of Confirmation and does not indicate when or by whom, the gift had been made, whether by himself or one of his predecessors.

When in 1304 the abbot petitioned for a market at Kirkcaldy, he described it as “one of the most ancient burghs of Scotland, held by the monastery of Dunfermline as a free burgh”. (Cal. of Docs. Scot. ii. 432). This description is too suggestive of an attempt to buttress the petition to justify one in building very much upon it. But a charter (Reg.596) of Robert (de Crail), abbot of Dunfermline, refers to “the community of our burgh of Dunfermline”, thus indicating that, by that time, Dunfermline at least had been gifted to the monastery. Though undated, this charter must have been prior to 1332, the date of the abbot's death.

Robert the Bruce's charter is unlikely to have been much earlier than 1315.

A date between these two is probably the nearest approximation we can reach to the time of transfer of the four burghs; though the gift may have been somewhat earlier than Bruce's confirmation of it.

COMMON PASTURAGE

Following the transfer, we note a gift by the abbot to the burgh of a large area of land running from the lands of Baldrige to the neighbourhood of Townhill as a “common moor”, to the charter conveying which is appended a Reddendo, stipulating for the annual payment to the monastery of a pair of French gloves or 6d. Stg. by way of blench duty (Reg. 596). This Reddendo will be referred to later. In the meantime it is worth noting that, in the charter erecting Kirkcaldy into a Royal Burgh, “common pasturage” is referred to as one of the traditional features of such a burgh.

On 24th October, 1362, David II confirms to the burgesses of all four burghs the right to buy and sell (Reg. 390). This right was by no means limited to retail trade within the bounds of their individual burghs. The charter is at pains to make it clear that what was granted was the right to trade in wool, hides and skins in all lands belonging to the regality throughout the kingdom; in other words, Export-Trade; a very material difference.

MERCHANT-GUILD

Another stage in the development is indicated by the issue of a monastic charter (undated but probably before 1395, and certainly between 1365 and 1399, which conferred on “our burgesses of Dunfermline and their heirs in perpetuity Gyldam marcatricem, with all liberties, rights and easements pertaining to a free guild, or may by right pertain, along with houses pertaining from of old to the said guilds, without violating the rights of anyone whatever; to be held and possessed by the said burgesses and their heirs, of us and our successors, in respect of buying and selling and all else, as freely, quietly, fully and honourably as the burgesses of our Lord the King hold and possess in his burghs” Reg. 595). This charter, if fully given effect to, would represent a considerable advance so far as the community itself was concerned.

“Covering the whole burghess population, the Guild would appear to be the first official recognition of that as a self-regulated unity; a big step towards full burghal autonomy, as against control by a superior. The Guild can profess to speak and act for the community as a whole, a new voice and combination in a feudal state which in itself allowed no place for such popular activities.” (Mackenzie, Scot. Burghs, p.102).

“The formation of a merchant guild (did not) occur as a matter of course. It followed a grant or licence, and the issue of such to different burghs goes on down to at least the close of the seventeenth century. More than half the guilds indeed, are of a date later than the Reformation.” (Ibid. 101)

Originating on the continent, the movement spread to England, from which it reached Scotland about the time of David I; its primary object being the maintenance and regulation of the burgh’s trade monopoly. Only members of the Guild could engage in trade, particularly foreign trade. If a stranger brought merchandise to the burgh, he must first offer it to the Dean of Guild, who would then dispose of it to Guild members. Dunfermline was a comparatively early instance of merchant-guild privilege – before 1395. Amongst the first to possess the privilege were Perth (1165-1214) and Aberdeen (1222). Edinburgh did not have it till 1403, nor did Glasgow till 1605. Cupar (1369) had it about the same time as Dunfermline; but most of the Fife Burghs were much later – Burntisland (1541); Culross (1588; Inverkeithing, a very old burgh (1598); Kirkcaldy (1644). (Cross, *The Gild Merchant*, i. 203-6)

There are no records available for the time when the right of guildry was given to Dunfermline, but the earliest extant records reveal it as a well-established institution (B.R. 37, 74). To begin with, it was not so exclusive as it afterwards became, craftsmen being freely admitted to membership on the usual terms. But, as craftsmen increased in numbers and importance and voluntary associations and fraternities amongst them developed, rivalry became widespread, leading to controversies, often accompanied by much bitterness. An entry, of date 3rd August, 1573, tells of “the stubbornes and heich consettis of the deacinis and craftsmen” (Shearer B.R., p.2). Another, of date 12th October, 1620, records a complaint against certain persons “for chusing a Deacon and Officer amangs yame selffs in his and manifest contempt of the Magrats of this burt and be ye moving of tumultis & uproir yrintill” (Ibid. 128). Still

another, 24th November, 1620, tells of “privat conventions of ye Deacons & brethren of craftis in ye kirk” and of altercations banns, curses, threattins & miscalling uthers to ye great dishonour of God & of His sanctuarie” (Ibid. p.129).

Further instances of strife between the guildry and the crafts are to be found in the minutes of the Convention of Royal Burghs: - 3rd July, 1594 – Six members of the Dunfermline Guildry appeared complaining against craftsmen of that burgh “for the molesting and trubling of the said gild brether in thair gildrie, be the violent and maisterfull vsurping vpoun thame, be force and be way of deid, the vse, prevelege and freedom thairrof, be handling and selling of merchandice and staipill wayres, quhilk onlie pertenis to the said gild brether and thair successoures intending thairby to deface the ordour of the said gildrie and to bring in ane meir confusioun within the said burgh be making of cadgeares, kairteris of fuilzie, and all sort of pepill equall in fredome and society with thame, and zitt sall nocht onnowayes meyne to enter in society with thame albeit that the said gild brether ar content the saidis crafts enter in lyke fredome with thame; thai pay and thair entres according to the act of burrowes”.

The Craftsmen, on their part, complained against “wragus debarring of the saidis craftismen and burgessis fra all bying and selling of wayres and merchandice as thai may win to be thair puir substance, quhilk is occasioun of thair decay and pouerty, quhairvpoun hes procedit and rayse trubill and cummer, and ane of the saidis craftis number slayne.....”.

The Convention, having heard both sides at some length, ordains the Dean of Guild to admit and receive the craftsmen to their guildry on payment of the prescribed duty of £20; failing which, he shall be liable to a fine of 500 merks; the craftsmen, on their part, to be liable to a fine of £20, payable to the Dean of Guild, for every encroachment on the privileges of the Guild. (Conv. i. 448).

3rd July 1617. Dunfermline is found guilty of having elected a craftsman bailie of the burgh contrary to “the acts of parliament and burghs” and fined £100. (Conv. iii.41).

10th July 1618. Meeting at Dunfermline, the Convention finds the charge aggravated by offences committed in 1616 and the fact that there were other officers, as well as a bailie, unlawfully elected and raises the fine to £500. Both parties re heard at length and thereafter the Convention “considering and pondering the present estait of the said burgh, and that thair hes divers seditiounes, tumults and vproares fallen furth of betuixt baith the saids parties vpone the electioun of thair saids magistrattis, and that the said question hes intertynneit grit hatred and seditioun amongs theme, quherby thair said burgh hes not bene weill governit in tymes bypast” remits the fine, ordains the council to consist of sixteen persons – nine merchants and seven craftsmen – and makes various recommendations with a view to relieving the tension. (Conv.iii.61-65).

28th Feb. 1662. Complaint being made by the commissioner for Dunfermline that the craftsmen, being equal in number with the merchants, have elected magistrates unqualified for that office, the Convention appoints commissioners for eight burghs to investigate the charges with a view to a friendly “composing of the said bussienes”. (Conv. iii.552)

3rd Sept. 1662 the committee appointed find some contradiction in the finding of 10th July 1618 which can only be determined by the Court of Session. (Conv. iii.561/2.)

It may be that these extracts, whilst perfectly authentic, convey a somewhat exaggerated idea of the unhappy relations between traders and craftsmen in Dunfermline. Certain it is that, not long afterwards, we find a better spirit prevailing in so far at least as their common obligations to the parish church are concerned.

“11 June 1665. The Same Day the sd. p b & c all in ane voice “did conclude and agrie that the Counsall seat in the Kirk of Dunfermline” be provided with a green cloth, with green silk tassels – the cost being equally shared by the guild-brethern and craftsmen. (Shearer, B.R. p.273).

“6th Sept. 1665.The said merds and craftismen of this sd. burt of quhom the said Councal doeth qsist for ymselffs & in name of the remanent merchands & craftismen of the samen burt & takand burden for ym Have unanimouslie concordit settled & agried that in all tyme coming they and ther successors shall sitt and possesse the sd. seat in manner following”. (Ibid. p.276).

It is to be noted that in those days “The Kirkin` o` the “Council” was no mere occasional occurrence, and voluntary at that.

“15 July 1665. That day the sd. p b & c Ordains in tym coming yt the dean of gild conviner & thesaurer als weill as the baillies attend & wait on the provest & convoyie him to the Kirk on the Sabeth Day & everie on to tak yr awn places in the seat under the pain of xiis for ilk failzie to be payit on the Counsall table the nixt day eft the failzie”. (Ibid. p.274).

During the 16th and 17th centuries there was a considerable revival of the guildry movement – burghs, which had long been without it were now making application for it.

“17 Dec, 1657 – Supplication of the merchants of Kirkcaldy for the erection of ane gildrie within thair burgh conforms to thair charter of erection”. (Conv. iii.461).

Strangely enough, the privilege, even when granted, was not always put into immediate operation. It was granted to Arbroath in 1599, but the guild did not operate till 1725. The corresponding dates for Culross were 1588 and 1668.

There is still a Guildry of Dunfermline with its Dean and Clerk, but it has now no official connection with the Town Council and is, in fact, no more than an Annuity Association distributing certain benefits to members. There is, however, a Burgh Official still known as the Dean of Guild, whose duties are defined by Erskine as follows:-

“It belongs to the Dean of Guild to take care that buildings within borough be agreeable to law, neither encroaching on private property, nor on public streets or passages; and that houses in danger of falling be thrown down”. (Erskine, Inst. I. p. 70).

The Guildhall still remains.

“The Guildhall is a large building, the property of a number of individuals, and of the fraternity of guildry; founded on the 20th of July 1807, but mostly built in the subsequent year. It was determined by the proprietors (after affording a place of meeting to the guildry) to fit it up as an inn; but (with the exception of the room called the guildhall, and one used by a newspaper club), it remains in a state entirely unfinished (1815)”. (Ferne Hist. 19/20).

It was used for a time as an Inn – the Spire Inn – but is now used for Sheriff Court purposes.

FISCAL AUTONOMY

But the most definite advance, whilst the burgh was still attached to the monastery was that which resulted from the change-over in the payment of petty-customs.

Whilst Dunfermline was a King’s Burgh, petty-customs, stallages &c. would be payable to the King’s prepositus, who would answer for them to the royal treasurer. When it became an Abbot’s Burgh, they would be paid to the officials of the monastery. But, as the community grew in numbers and importance there gradually developed a desire to have some measure of control over their own affairs and, following the grant by the Crown of feu-ferme status to Aberdeen in 1319, we find a movement on the part of ecclesiastical burghs for similar relaxation of their dependence.

On 10th Oct. 1393 the Registrum (No. 396) records an Indenture between the Venerable Father John, abbot of the monastery and convent of Dunfermline, on the one part, and the alderman and community of the burgh of Dunfermline, on the other, whereby it is testified that the said abbot and convent have let for ever in feu-ferme the said burgh with its small customs, stallages and court-fines, with all commodities, rights, laws and easements belonging to it, to be held as freely in every respect as the burgesses of the king hold, have and possess their burghs in feu-ferme throughout the kingdom: RESERVING, however, to the said lord abbot and convent the lands in the said burgh, acquired or to be acquired, with chamberlain’s justice-ayres, annual pensions due to the monastery from these land, with the “correction” of the bailies as often as they, or any of them, fail in the administration or execution of justice. For this grant the alderman and community agree to pay yearly in all time coming to the aforesaid religious thirteen marks usual money at the four usual terms in equal portions without delay, debate or evil intention. And if it shall happen that they fail in payment of the forementioned sum, either in part or in whole, at the foresaid terms – which God forbid – they bind themselves that all the goods belonging to the community, and the goods of every individual in it, shall be at the will of the said religious. (Reg.396).

On 20th Jan. 1450/1 a similar arrangement was reached with the burgh of Kirkcaldy (Reg. 432), and Musselburgh followed suit on 18 Aug. 1466 (Reg.460). South Queensferry may have had a similar grant, but there is no reference to it in the Registrum. The Priory of Urquhart and Pluscarden, on its part, claimed exemption from the payment of customs: -

“10 March 1500/1 – Comperit the Prior of Pluscardy and producit ane charter of the Robert of Bruis that the place of Urquhart quhilk was ane cell of the abbay of Dunfermling was fre of al paying of custumes in all partys of the realm of Scotland and thairupon the Prior askit ane instrument and protestit tharfore for the privilege of the place.” (A.D.C. p.478).

In substance, these grants of feu-ferme represent the conversion, or commutation, of all dues owed by the burghs in question to the monastery as superior – rents of houses and lands, petty customs, market-tolls and burgh-court fines – into a fixed annual sum. In other words, the burghs obtained something like fiscal autonomy, but remained dependent in other respects upon the monastery. The annual payment for Dunfermline, as we have seen, was thirteen marks; for Kirkcaldy thirty-three shillings and fourpence ; for Musselburgh four marks.

OFFICIALS OF THE BURGH

In this same Indenture (Reg. 396) we have the first known reference to an official of the burgh, under Abbot’s Burgh conditions, - “the alderman and community of the burgh”.

It is not to be too readily assumed that, because an alderman is here mentioned, whilst there is no reference to a bailie, the office of alderman is older than that of bailie. The definite impression created by references elsewhere is to the opposite effect.

“King William and Alexander II speak of `my bailies` of Inverness and Aberdeen respectively, who were to assist the burgesses in maintaining right customs. In the reign of Robert I (1318) we have a mandate involving references to the courts and bailies of the prepositi. It may be, therefore that to begin with, the bailies were those of the prepositus, his agents, before we get them later in the same century as `bailies of the said burgh`”. (Mackenzie, Scot. Burghs, pp.27/8).

Dr. Pryde is clearly of the same opinion.

“The earliest burgh magistrates were the bailies, the kyngis bailyeis, collectors of Crown rents, fines and customs, who answered the Chamberlain as to all matters of local import; the burgh-oath was taken to the King, the bailies and the community.

“Less often there is mention of a single chief magistrate, the alderman or burgh-grieve; but we hear of his existence from law-codes rather than as an actual official in being. The vernacular term provost displaced alderman much later; and whereas all burghs had bailies, quite a few dispensed with the higher dignity. Indeed, though the office and functions of bailie were clearly defined and uniform throughout Scotland, those of provost were liable to vary widely from place to place and from time to time.” (Pryde, Ayr, xxii/iii).

Kirkcaldy, as already indicated, had very definite views upon this subject: -

“22nd April, 1588 – The haill assyse understanding thair is a brute and rumour of sum that monie to (do) seike to be proviest of this burgh, and considering in cais that purpois tak effect, the same wald be ane perpetuall servitude and slauerie to this toun and nybouris thairroff present and to cum. Tharfor, for preventing of this inconvenience and danger it is thought gud and statut and ordainit be the foirsaid persons of assyis that na proviest quhatsomever be admittit nor ressavit in na tyme to cum, nor na magistrat be evir chosen, but vnly baillies als of auld uss and wont; and quhatsomever nybour or nybouris heirop consentis to the electioun of ane proviest to be chosen, either privatelie or openlie, sall be concludit ane periurit personis, and mansworne aganis the nybouris ayth maid to the toun, and to be depyvat of the freedom of nybourhuid in all tyme thairafter, and they and thair posteritie to breik only freidom and liberties within the burgh fra tyme furth and for evir, and als to pay in name of penalties vnlaw ane hundreth merkis giff he be responsible, and giff they be not responsible of the said soum thai sall be put openlie in the Joggis, the market dayis, ilk day fra sax in the morning to vi houris at evn, but (without) respecting of personis in example of utheris. And the ressoun of the straitness of this act is because of the great quyetnes and stabilities of this commoun weill past memory of man, in rewling and ordering thairof without cort, feir, or counsall allowed be thame to be thairin; on the contrair dyvers vther townis ar subvertit and under greit thraldome and servitude to thair proveist .. besides mony uther inconveniences thair followes upon thair haiffing off a proviest.” (Macbean, 118/9).

Kirkcaldy in fact, did not have a provost till 8th Dec. 1658 – fourteen years, that is, after it became a Royal Burgh.

But, whilst slow to consent to the appointment of a provost, it did not hesitate to invoke the Act of 1535 “against any of whatever degree als sall trouble or unquiet provosts, bailies &c.”. (A.P.S. Jas. V).

Dunfermline, too, was quick to resent any suggestion of disrespect towards her civic Head.

“26th March 1613 – The Qlk Day the c’saill convenit eftre due tryall of witness^s sourns & examined in yair c’sciences ffynds thomas thomson to have gr^{lie} offendit be misreporting ye provost’s hous and c’pairing his hous eftir his rank in honestie w^t ye provost & his hous Thairfor c’victs him in xls unlaw to ye tounis c’mone guide and ordanes him to be imprysonit in ye mid ward hous during xxiiii hours space and yreft to acknowledge his offence on his kneis to ye p’vost and ask him forgivnes, and give eyir he be convict in ye lyk offence hereeft^r to forefalt his freedom w^lin this burg^t y^r eftir for evir”.

Concerning the method of appointing provosts and bailies about this time very little reliable information is available; but some light, so far as Dunfermline is concerned, would seem to be thrown upon it by the Paisley Charter. On 19 Aug. 1488 James IV “made and erected the villa “(town) of Paisley a free burgh in barony to be held in all and through all as the burghs of Dunfermline, Newburgh and Arbroath, or any other burgh in barony in the kingdom of Scotland is held; he also conceded to the abbots of Paisley the power to elect annually a provost and bailies and other officers of the said burgh.” (R.M.S. 1768). In Charters and Documents belonging to Paisley (No.42) Metcalf goes a little further and says that the abbot was to have the power of electing all officials and removing them at his pleasure without any other election by

the burgesses or the community. The natural inference to be drawn from Dunfermline being bracketed in this way with Paisley would seem to be that it also had this power; and no evidence to the contrary has been disclosed. On the other hand, it is almost certain that, if it still had the right of election, it could not have exercised it much longer. Dr. Beveridge, referring to the appointment of William of Kirkcaldy as Alderman of Dunfermline (B.R. xvi) in 1461/2, goes on to say:- "From about this time forward, the prepositus or alderman (the names by this time being interchangeable) was chosen each year at the head-court held after Michaelmas, and the bailies at the same time". Mr Macbean is of opinion that "the over-lordship was relinquished", so far as Kirkcaldy was concerned, about the time that it received its charter of feu-ferme (Jan. 1450/1). In any case, the Act of 1469 has to be reckoned with.

This Act "laid down that officials and councils should not continue in office for longer than a year; that the old council should choose the new, which was to be of a number corresponding to the size of the town; that the new Council and that of the year before should choose all the officers of the town; and that a representative of each of the crafts should have a vote in the election of these officers".

It does not follow that an Act like this became immediately and universally operative. There is, in fact, no express reference to a Council in Dunfermline till 1515, though, as already noted, there is a reference to "the alderman and community" as early as 1393 (Reg. 396). But it is almost certain that, from about this time, the right of election lay with representatives of the community.

According to the charter above referred to, the constitution of the Burgh of Paisley followed the example of Dunfermline, Newburgh and Arbroath. But when Burntisland became a burgh, 12th June, 1585, it was as a daughter of Dunfermline pure and simple – "doted with the lyke privilegis as is the tovene of Dunfermling". (Conv. i. 165).

EXPORT TRADE

Trade was of the very essence of the burghal life, and for long was a jealously guarded monopoly. Begun for the supply of personal and immediate needs, it soon developed into retail; and later, when that was possible, into export. Unlike the experience of later days, it was in the east-coast towns and ports of Scotland that export trade first flourished – the bulk of it consisting of wool, hides and skins for the continental markets; and the development of trade rights and interests within the regality of Dunfermline is most easily traced in the light of the experience of the burghs associated with it.

The petty-customs of Dunfermline – consisting of rents, market-dues, stallages, burgh-fines &c. – were, as far back as we can trace them, in the hands of the King's prepositus. On the community becoming an Abbot's Burgh, they were payable to the monastic authorities; and, still later, the burgh itself obtained a feu-ferme of them.

The Great Custom, on the other hand, was leviable on exports and went to the king; except, as in the case of the regality of Dunfermline, where he chose to make a gift of them.

“..... We (Robert I) give and grant, and by this present charter confirm to the foresaid monks our whole new great custom of all their land within our kingdom, viz:- as well of the burghs of Dunfermline, Kirkcaldy, Musselburgh and Queensferry, as of all their other lands whatever; so that the said monks may have and use their own proper cocket according to the liberties of their regality, and this our present grant in all their foresaid lands; which cocket is to be admitted and acknowledged by all our burgesses and people and foreign merchants throughout our whole kingdom, without hindrance from our chamberlain or any other of our ministers”. (Reg.346).

Sometimes the grant was limited to a certain specified amount. In this case it was unrestricted, and the fact that the king took the trouble to advise Bruges of his intention to furnish the regality with a cocket (Reg. 361) seems to suggest the possibility of trade on no small scale.

The portus (port) of Dunfermline was Gellald (Gellet), its modern equivalent being Limekilns – Gellet Rock being about half-way between Charlestown and Limekilns. Described as the Grange of Gellald or Wester Rosyth, the port was given to the Abbey by Queen Margaret and confirmed by King David II. (Reg. 391).

The above grant, however, of freedom from custom duty applied only to goods forwarded from the lands of the regality – not to goods purchased outside of them with a view to custom-free export. To make assurance doubly sure, the King issued in 1322 an instruction to his chamberlain confirming his grant to the monastery and repeating that it applied to the Great Custom, which might accrue from their lands and people, alike within their burghs as without. (Reg. 362).

Robert the Bruce's son, David II in 1363, also issued a charter relating to this question in the following terms: -

“Know ye that we, by inspecting the charters which the religious men, abbot and convent of the monastery of Dunfermline, have from our ancestors, Kings of Scotland, have more fully understood the rights and liberties of their regality we also have given and granted and by this present charter of ours grant them freely and lawfully to buy and sell in each of their own burghs and within the boundaries and limits of the whole regality so, however, that they do not exceed the bounds and limits of their said burghs or their regality aforesaid **RESERVING ALWAYS to ourselves the Great Custom of wool, hides and skins and other merchandise accruing outwith the limits and boundaries of the said burghs and regality fore-said**” (Reg.390)

In 1404 Robert III having learned that the abbot and religious of the monastery of Dunfermline, by taking to themselves the great customs, have exceeded the limits of the concession made to them “to our no small prejudice”, orders the tron (public weighing-machine) and customs to be put under arrest and brought into the hands of his own officers. This meant a complete embargo on the export of all merchandise belonging to the vassals, tenants and craftsmen on regality lands, and soon compelled the churchmen to think again. The embargo was in due course lifted “to the end that they may hold and enjoy the customs due to them granted by our predecessors and confirmed by us, on condition that they do not usurp the customs due to us, under

penalty (of the loss) of all that they can lose in relation to our royal majesty". (Reg. 394).

This was not, however, the last to be heard of differences between the Convent and the Crown on this vexed question of customs, as the following extracts from the Records of the Lords and Council show: -

"13 Aug. 1540 – The Auditors of Exchequer appoint a day for George, abbot of Dunfermline, to show his right `to mak impediment to the Inglismen cumand in at the port of Kirkcaldy to pay thar custumes of sic Inglis guddis as cummys to the said port to our soverane lordis customaris` (Collectors of Customs)".

"31 Aug. 1540 - In the action before the auditors of Exchequer against the abbot of Dunfermline (Aug.13) the lordis of counsale decernis and ordainis the said venerable fader and convent to brouke and jois thair haill new grete custumes of all and sindry thar landis within the realme of Scotland, that is to say, of the burrowis of Dunfermline, Kirkcaldy, Musselburgh, the Queenis ferry, and of all and sindry utheris quhatsumevir, and that thai have and use ane coquete of thair awin eftir the fredome of thair regalite and aftir the ferme and tennour of thair charter grantit to thame by King Robert the Bruce undir the grete seill ; and ordainis thame, thair servandis and factouris, to desist and ceis fra all intronetting with ony custumes pertenyng to our soverane lord of his rialte (royalty), and siclike of all strangearis resortand to ony port or part within this realme, because it is understand to the said lordis be resonne of the infetmentis schewin and productit before the said lordis that thai hav na rycht to na custumes bot within the saidis foure burrowis and propir landis of thair regalite foresaid; and lettres to be direct heirupoun, gif need be, in forme as offeris".

A description of the Dunfermline Cocket Seal is given in Dr. Chalmers' History of Dunfermline. 1. 247.



Cocket seal of the Regality of the Abbey of Dunfermline 1322

THE BURGH COURT



Seal of the Burgh of Dunfermline 1395

In the Regality Court the abbot never presided – his place being taken by the “*bailie of regality*” or one or more depute-bailies.

Though in important cases an assize was constituted, it was to all intents and purposes a bailie-court. No head-court could be held while Parliament was sitting ; and in feriat (harvest time) only by permission of the Lords of Session.

“The Burgh Court was the bailie-court, and the unlaws (fines) went to the bailies. Fines were exigible for breaking the prices fixed at the assizes, for absence from burgh-courts, council meeting or even burials, for trublance (or strublance – breach of the peace), drawing a weapon or striking any one (blood-unlaws), for defamation of character, disobeying or failing to assist an officer, for bad nyctbourheid, or seeking the protection of a laird, being fund drukkin or insulting a bailie, grinding at extra-burghal mills or blocking public passages”. (Pryde, Ayr, xcvi/vii).

“The frequent orders to bailies to devote the profits of justice to objects of common welfare may reflect suspicions as to the uses to which they were put. In 1607 a compromise was adopted at Paisley, whereby blood-unlaws were to be `implovit haillilie for the common weill of this burgh` and all others to be paid two-thirds to the treasurer, one-third to the bailies for their fees, which should amount to £20. Collectors of unlaws were sometimes appointed to assist the bailies, and many fines were specifically allocated to the use of the poor” (Ibid).

That Dunfermline bailies had no conscientious objections to being paid for their services may be inferred from the following:-

“27 Nov. 1498 – The quhilk day baith the balyes ar content and weill appeissit to tak twa markis of fe betuixt thaim”. (Beveridge B.R.90).

Then, as now, probably, the commonest offence dealt with in a Burgh-court was breach of the peace. On occasion, at least, Dunfermline seems to have done its best to hold the balance even: -

“2 Sepr. 1488 - `The quhilk day Henre Barbur wes accusit in `judgment of strublans of the towne anence Andro Dewer`. The assize, being sworn with God before their eyes, went out, and, on returning, found the said Henre guiltless of breach of the peace”. (Beveridge B.R.3).

Where, however, the offence was both manifest and grievous, it did not hesitate to take appropriate action :-

“18 Nov. 1606 - ordains him to be placeit in the stockis and detainit thair until q^{ll} four houris afternoone and to be detainet thairefter in Ward until he find sufficient caution to pay to the Toun £20 how soon & whenever he beis fund to comit the lyke offence heirefter without prejudice of banishment and farther punishment according to the grafitie of his offence. And last convictis him of four pundis unlaw for this nichts troubleance And Ordains him also to mak amendis upon his kneeis to the said David and his wife and to ask them forgiveness q^r comittit the said offence.”

A feature of the court in the early days was the transfer of heritable property. The following may be taken as a more or less typical example of an early form of infeftment: -

“Memorandum – 1st June, 1489 – Dauid Litster ane of the bailies of the burgh of Dunfermlyne resauit resignacione be ord and stane wytht ane out panne fra Johne Duccan and fra Marione his spous of a tennement liand in the NewrawThe said Marion makand the gret aitht neuyr to cum in the contrare tharof. And than in continent the said balye deliuerit heretable stat and conjunctfeftment of the said tenement wytht the pertinens to Wilyame Adamsonsone and to Elesabetht his spous as laucht of burght schawis sawyn all mennis rychtis payand yerly tharfor in all thyngis x^s and xx^d wytht the borow mail before thir witnesses” (Beveridge B.R. 13).

A somewhat later form expressly states that the bailie proceeded to the tenement in question; that the one party formally resigned possession of it in his hands by the gift of earth and stones; and that by the same symbolic gesture, he gave sasine and possession to the other; all in the presence of reputable witnesses; thus indicating that his role was feudal, not judicial.

“(1519) Memorandum that vpone the xij day of the moneth of May the yeir of God j^m v^c xix yeris Johne Ferguson ane of the balyeis of the burgh of Dunfermlyn past to ane tenement of land lyand one the Calsagait betuix the landis of Andro Smytht one the est part and the landis of Alexander Hendirsone one the vest part and the landis of Schir Johne Robertsonsone one the northt part and Elizabetht Blacot, the dochtir of Rob Blacot and air to hym of hir avin fre vil resignit the said tenement witht the pertinens in myn hands be erd and stan and witht express consent and assent of hir spous Dauid Atyin he be and thar personally present and consentit to the samyn maid in the balye hand of the forsaid tenement for stait saising and perpetual possessione to be gevin to Adam Brand as maner is in burgh.

Eftir the quhilk resignacione I the forsaid Johne balye gaf heretable stait saising and possessione be erd and stan to Adam Brand in veray real actual and corporal possessione of the said tenement witht the pertinens I inducit and inuestit the said Adam and his airis or assignais payand yeirly to the morne prest vj^s vj^d in the yeir

allanerly. And this til al and sindry quhom it efferis I mak knavin before thir bitnes
.....” (Beveridge, B.R. 39).

(NOTE: - The sum of 6/6d payable to the “morne prest” doubtless represents an annual liability on the tenement for the maintenance of the Morning Service, of which the burgh was patron. (See *infra* p.).

In the early days the Clerk was almost certainly an ecclesiastic. The following is a minute of appointment of a clerk for Kirkcaldy soon after the Reformation.

“To consult and conclud upon the nominatioun and electioun of thair common clerk for the zeir to cum, quha all voitand therein thai declairit for the maist part that thai wad accept and resave Andro Zoung, notar, to the said office of clerkschipe of this burght during the space of ane yeir to come. His entres therto to be and begin at this instant feast of Michelmess. Prowyding the said Andro cum and remane in his chalmer, and await diligentlie upoun the effairis of this burgh and nychtbouris therof; and sall not pas furth of the town until the tyme he ask and obteine licence of the baillies, ane or bayth, and that he sall travel and do his utter power in defence and service of the privelegis and commoun effairis heiroyf, as he sall be chargit; fer the quhilk thai assigne to him in name of fie, lyk as payit to his father of befor, and their predecessouris, clerkis of this burgh, Ten lib. zeirlye during his service, to be collectit to him of the toun annuallis, uss and wont”. (Macbean. 79/80).

THE TOLBOOTH



The usual place of meeting for both Burgh and Regality Courts was the Tolbooth. When the first Tolbooth was erected we do not know. There was one in use from the date of the earliest extant records (1480); but it goes without saying that, long before there was a Tolbooth, such courts were being held. Where did they meet?

According to the Statutes of the Scottish Church (Patrick pp.19.44,56) secular courts were forbidden to meet in churches or churchyards; but it was a regulation that cannot have been very strictly observed. There are frequent references to Regality Courts meeting within the precincts, at least, of churches and cathedrals. Indeed, it was a regular practice, both for Regality and Burgh Courts, when unable, on the evidence produced, to reach a decision, to appoint “arbitrares and amicable compositcuris” to meet with parties on the following Sunday in a parish church, with a time-limit within which to attain a settlement – both parties being bound by oath to abide by the decision reached.

As for churchyards, there was an assize held in the churchyard of Kettle 12 May 1340. (Reg. 379).

In the early days it was the almost invariable practice for courts to meet in the open; and even after tolbooths and other buildings had become available, the custom still continued.

The Burgh Court of Kirkcaldy met 4 June 1582, “at the eist march of the Mure”; and on 23 May 1591 “(was) hauldin accordin to uss and wont at the Thorn of the Mure”. (Macbean p.126).

No reference can be found to a place of meeting in the open for the Burgh of Dunfermline. It was a common practice, however, for such courts to meet where the “doom” was given effect to – which would suggest a site on what is now known as Townhill Road, where the Witch-dub and Gallow-bank were – but the Common Moor was not gifted by the abbot to the burgh till 1332 (Reg. 596).

The usual form of Tolbooth was a two-storeyed building; the court meeting in the upper storey, whilst the lower was used as a place of detention for those awaiting trial or undergoing sentence of punishment. Almost invariably, there was also an outside stairway, from which the dempster announced the findings of the Court.

Under the stairway at Dunfermline there was a common well where, however, the washing of yarn was strictly prohibited. (Shearer, B.R. pp.31.57).

In the immediate vicinity of the Tolbooth was usually to be found provision for other forms of punishment than detention, such as the GOWE (Pillory) – to which Agnes Bower was condemned, 3 Jan. 1491/2, whilst William Hart, with whom she was at issue, was fined (Beveridge B.R. 32); - the fine being seemingly more effective in the case of the man and the publicity of the “gowe” more effective for the woman; the STOCKS, from which three men were put on trial (Beveridge BN.R. 62), 24 Nov. 1495, for having delivered John Frew; and the LEAR-STANE, for the offence of “detractioun” which disappeared and had to be replaced by another, 17 March 1499 (Beveridge B.R.106).

There is all-too-common a belief that such practices came into being with the Reformers; but the above dates speak for themselves.

The idea of two courts using the same building, with jurisdiction, to some extent, over the same people, may seem somewhat perplexing. It has, however, to be remembered that, though the burgh court could deal only with minor offences whilst the regality-court could deal with any charge submitted to it, with the single exception of treason, the latter had also to deal with minor offences committed by people in the landward areas of the regality who were not subject to the jurisdiction of any of the burghs.

It is not surprising, however, to find the burgh, after attaining in large measure its freedom from monastic superiority, zealously protesting against application by any within its bounds for regality jurisdiction in matters with which the burgh itself was quite competent to deal.

“12 Apl. 1611 – The Qlk Day Wm. Lugtoun being accusit for purchessing ane precept of arrestment fra ye clerk of ye rega^{tie} of Dunfermyne direct to ye officers of ye said rega^{tie} for arresting ane strangar’s hors wⁱⁿ ye libertie of this burt and proclamation of ye last fair and in causing arrest ye said hors wⁱⁿ this bur^t in hur^t & plunder of ye libertie y^r of The said Wm compearand p^{lie} confest his purchessing of ye said precept and that he did ye saim of ignorance The provost baillies & c’saill eftir due advysg & deliberatiom fynds ye said Wm to have done wrang heirintill And y^rfoir discharges him and all uyer nyt^{bors} wⁱⁿ this burg fra committing ye lyk offence in tyme cuming undre ye paine of tynsall of ye friedome & never agane to be restorit yrto.” (Shearer, B.R. p.86).

BOUNDARIES AND POPULATION

The boundaries indicated in the 16th century map of Dunfermline, which accompanies the Regality Court Book of Dunfermline recently published by the Carnegie Dunfermline Trust, are based on information supplied by Mr. Andrew Shearer O.B.E., late Town Clerk, and may be assumed to be as accurate as it is possible to make them.

Very little reliable information is available as to the population; the only figures that can be traced being those mentioned in the Records of the Privy Council at the time of the Great Fire in Dunfermline in 1624, when the town was almost totally destroyed. Two hundred and twenty tenements, it is said, were burned, inhabited by 287 families. Of the population seven hundred were communicants and 320 were children under six years of age.

THE BURGH AND THE PARISH KIRK

The contribution of the burgh and its inhabitants to the building of the Nave – the Parish Church of Dunfermline from 1150 till 1821 – cannot have been otherwise than insignificant. The stone-dressers and builders were experts from the south, and the labourers, for the most part, the monastery’s own “*men*”, some of whom had been gifted to it by the king. The community may have been numerically large enough to justify King David’s description of it as “*burgus meus*”, but its financial resources must have been very, very limited. For 100 years after it was dedicated the Nave was the place of worship for both laymen and monastics; but, after the Conventual Church was completed in 1250, it was used exclusively as a Parochial Church and, in view of the medieval attitude towards such buildings it is only natural to expect that, in course of time, the residents within the burgh, or the parishioners outwith its bounds, would feel constrained to make some contribution. The first recorded instance of the kind comes from a woman. On 20 Oct. 1489 Marion Thomson, for the welfare of her soul, left five roods of land on the north side of the town for the morning mass, the burgesses to be patrons of the service. (Beveridge B.R. 17) The Morning Service, according to Dr. Beveridge, was a daily mass for the dead said in the early morning.

The original chaplain would seem to have been Schir Johne Orok, but he had also the service of our Lady’s Aisle, and on 23 Nov. 1490 the alderman, bailies and part of the community gave consent to Schir James Allanson, deputising for him at the Morning Service two days a week (Beveridge B.R. 23). On 4 Oct. 1491 there is a Memorandum to the effect that “the alderman, balyeis and comunite has grantit to Schir John Robertstone the morn seruice pertenyng to thaim, that is at thair gyft, for al the dais of his lyfe tyme, he makand gud and suficiand seruice baith in the morning and

in the quer the hali day”. (Beveridge B.R.30). On 28 July 1492 another Memorandum gives the names of five chaplains “that sall vphold the morne service” for Schir Robert Norman’s lifetime, he being the official chaplain for the Morning Service. (Beveridge B.R. 38).

There were, of course, other benefactors: - William Stewart of Rosyth, founder of the altar of our Lady, St. Michael and St. Katherine (B.R. 296); David Bothwell of Urquhart, of the same stock as Abbot Richard, who was founder of the altar of St. Mary of Pity in the Parish Kirk, and patron of St. Ninian’s Chapel within the burgh (Beveridge B.R. 266,270) ; and his son Hendry, sometime referred to as alderman, who was patron of the Altar of St. Nicholas (Beveridge B.R. 105). But with none of these, so far as we know, did the burgh, as such, have anything to do.

In his will, dated 26 Nov. 1468, Abbot de Bothwell made provision for a payment to the sacrist of four merks a year for the upkeep of a wax candle of one pound weight at the high altar near the picture of St. Margaret, sometime Queen of Scotland, the founder of the monastery, to burn during the divine office (D/A p.49). There are frequent references in the Burgh Records to such lights and to the collection of money for their maintenance.

“14 July 1492 – The quwhilk day the nychtburris has fundin thir personis (18 in number) to gadir the licht.” (Beveridge B.R. 38).

“4 Feb. 1494 – The quhilk day Robert Lam schaisyne (chosen) be the maist part of the communitie to gadir the licht and till uphalde the licht in silklik forme as it is now the fande Jhone Wrycht and Jhone Baxstar and Andro Litstar souerte for him for a yeir”. (Beveridge B.R. 480).

It cannot be said with confidence that all the lights referred to in the Burgh Records were provided by the burgh or under its administration, but these two clearly were.

From an entry in the Register of the Privy Council, 13 September 1563, we gather that, beyond the memory of man, the abbot had been in the habit of maintaining the walls and roof of the Parochial Church (See repairs effected by Abbot de Bothwell c. 1450); that the Sacristan, as Vicar of the church, had been responsible for its glass windows; and the burgh for the “reparaling” (repair) of the interior. When following the Reformation, the need for repair being urgent, the congregation appealed for help, the Town Council expressed its willingness to bear its share of the burden, but the commendator and sacristan denied liability. (R.P.C. 13 September 1563). In 1587 all the properties and revenues belonging to the former monastery of Dunfermline were annexed to the Crown, and the following year an appeal was made by the General Assembly to the king to avert the ruin which threatened the churches of Glasgow, Dunfermline and Dunblane, with the result that, under the direction of William Shaw, the King’s Master-mason, a genuine scheme of repair was set on foot at Dunfermline which took quite a few years to complete.

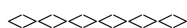
Thereafter, the charge of the building, particularly the roof, was laid upon the Town Council. That they took the responsibility seriously is evidenced by the following minute: -

“29 May 1607 – The Quhilk Day of Baillies and Counsaill convenit havvand consideration how it has pleasit thar ma^{ties} to command the parochie Kirk of Dunfermylne to be repairit in the thack and ruiff y^{rof} in mair substanious forme nor this lang tyme of befor to the glorie of God and comoditie of the parochinors bayth to bur^t and landwart And that the said wark is now almost endit and perfettit And the parochinaris bayth of bur^t and land relevit of the expenss and charges thairof and that the keyis of all the passages to the Rigging of the said Kirk are delyvarit to the baillies of this bur^t in custody and keiping. Quhilk ar haldin to be anserable for q^t sumevir wrang happenis to be done heireftir to the ruiff and theiking of the said Kirk be insolent and evill inclinit personnis young or auld presuming to clim haunt the resort y^rupoun for harying of craw or dow nests or under pretence y^rof upoun worse intentions: For staying q^tof it is statut and ordainit be the saids baillies and counsaill, convenit, that na persoun nor personnis young nor auld w^lin this burt nor to landward of q^tsumevir estait condition nor degree that they nor name of thame presume nor tak upoun hand heireftir to clim haunt nor resort directlie nor indirectlie to the Ruiff of the said Kirk nor to any pairt y^rof for abstrakting or away taking of the Leid, sklaittis, furnishing and materials belonging to the said Kirk or any pairt y^rof under painnis of Ane hundred pundis money of this realme for ye first fault, and in case they have not to pay the saidis soume, thai personnis to be incarcerated and haldin in stockis and irons during the saidis provost and baillies willis and thairefter scourgit and banischit the toun for evir; and under ye pannis of death for the second fault to be execut againis them to ye rigor according to the said Noble Erlis comand and directioun given to the saidis provost and baillies for setting down of this Act and ordinance in all poyntis, And ordains all personnis to be warmit heirop be sound of drum upon the mercat day of this burt Quilk was sone upon Sathurday the penult of May instant”. (Shearer B.R. pp.37/8)

For the Magistrates’ Seat in the Parish Church SEE D/A. pp. 232-234.

In 1821 a new church, built at the expense of the heritors, including the Town Council, was opened for worship and maintained by them till the passing of the Enabling Act of 1925, with a view to union of the Church of Scotland with the former United Free Church, relieved them of the responsibility.

The only liability of the sort still remaining on the Town Council is that of the maintenance and administration of the churchyard.



THE BURGH AND THE SCHOOL

That the monastery of Dunfermline was provided with a school almost from the start is in the highest degree likely, and the fact that in 1161 Arnold, Bishop of St. Andrews, confirmed to the monastery the gift of the churches of Perth and Stirling, with their schools (Reg. 96) is an indication that it was of some standing.

Until the Reformation, this school would seem to have been under the sole administration of the monastery.

Not a few instances are on record of burghs having an active interest in schools within their bounds from a comparatively early date.

This would arise, no doubt, from the burghs either having offered or been invited to contribute to the cost of their maintenance; with the result that, in time, they came to claim a voice in the administration. Where this was the case, the school, at the Reformation, naturally fell into the care of the burgh and was carried on by it.

In Dunfermline there is no evidence of any such co-operation with regard to the monastic school.

In the Will, however, of Abbot Richard de Bothwell, 26 Nov. 1468 (C.P.R. xii.297), there is provision, intended to be increased later, “of a house for the habitation of the schoolmaster of the town of Dunfermline and of certain pieces of land and divers rents for the said master”; clearly indicating an intention to establish an extra-mural school, to the existence of which there is unmistakable reference in the Burgh Records (No.280) under date 1525, and which later became known as the HIGH SCHOOL of Dunfermline.

As the result of the Reformation, the monastic school simply ceased to function and is no more heard of. What happened to the extra-mural school is not so clear as one would like, but the general impression created by various incidental reference is to the effect that, for the first fifty years following the Reformation, the administration of this school was largely, if not entirely, in the hands of the Reformed Church.

“The first reference to the burgh having any interest in the school is in 1610, when the Consort of James VI mortified in the hands of the Town Council £2,000 (Scots) for the support of the schoolmaster of the burgh and a teacher of music, yielding interest for each of them of £8:6:8d Stg. To this, in the case of the schoolmaster, the Town Council added from their own resources an annual sum of £9.0.10 Stg., and the fraternity of guildry another increment of £5:5/-, in all £22:12:6.....

In addition to the headmaster, there was an assistant, variously described as `loctor` or `usher` For this post the Town Council and Kirk Session were joint patrons – the Kirk Session having mortified a thousand merks (Scots) for the provision of a `doctor`. This arrangement continued till 1835 when the Kirk Session `agreed to waive at present the exercise of their joint-right of presentation to the ushership, protesting that this shall not be to the prejudice of any rights or privileges claimed by them in reference to the said ushership.” (D/A 173/4).

For a detailed and very informative “NOTE” on this mortification, see Mr Shearer’s Burgh Records (pp.118-120).

Though easily the largest of the school’s endowments, Queen Anne’s was not the only one. In the kirk-session records, under date 4 Feb. 1645, we find the following: -

“Item, Allane Coutts, sometyme chamerlane of the abbacie	100 mks.
Wm. Shaw Mr. (Master) of Wark	100 lib.
Wm. Philp, maltman in the Nethertoun	50 mks.
Jo ⁿ Davidson, servand to abbot robert pitcairne	100 mks.
Summa	400 mks.”

All of these were mortified to the “Grammar schools”.

Allan Coutts of Bowhill, Grange, Balbougie and Wester Rosyth, was Chamberlain of Dunfermline Abbey following the Reformation. From him the Continental soldiers of the name of Coutts are descended. See Stephen’s History of Inverkeithing and Rosyth pp.473-5.

William Shaw was the King’s Master-mason. (See D/A.pp.229-31).

William Philp, apart from this entry, is unknown.

John Davidson, here described as a “servant” of Robert Pitcairn, the first Commendator, was before that “servant” to Abbot George Durie and an intimate friend of the family. See History of Carnock p. 334.

Another endowment not infrequently referred to is that of John Drysdale. In the sixteenth century there were only three buildings on the south side of the Maygate: - The Abbot House, the Great Lodging of Dunfermline (for which see the Regality Court Book published by the Carnegie Dunfermline Trust p.192) and the tenement of John Drysdale, still further west.

“4 July 1676 – Anent the 500 merks left to the poore be umq^{le} Joⁿ Drysdail, It is recommendit to the session to try and look his testament how y^t money should be disposed upon.” (K.S.R.).

“8 August 1676 – This day the Session having seen Joⁿ Drysdails confirmed testament brot in to y^m be Jonet burn his relict, Qlk mentions thus; viz. that the said John leaves to the toun and burgh of Dunfermline for the use of the common good y^fof, the soume of 400 merks Scotts money..... the said toun or burgh always peying dewly to the Kirk session of Dunfermline the ordinar annuell rent of the said two soumes yeirlie, and the annuell rent to be employed and laid forth be y^m for mentainance and holding of poore schollers at schools”. (K.S.R.).

Dr. Chalmers, writing in 1844, says that the Drysdale Mortification has long since been lost sight of.

In his Will, registered 8 Feb. 1638, Henry Wardlaw, second son of Cuthbert Wardlaw in Balmule and afterwards Sir Henry Wardlaw of Pitreavie, left £200 to the Grammar School and to the poor householders of Dunfermline. This Henry Wardlaw was, in all probability, one of the early scholars in the post-Reformation school at Dunfermline. George Buchanan, tutor to James VI, was a friend of the family and largely, one imagines, through his influence James VI gave Henry the vacant chaplainry of St. Leonard's, with the lands and emoluments thereto pertaining, to assist him in his studies at the College of Guienne in Bordeaux where Buchanan had once been a professor. (Gibson, Wardlaws in Scot. P. 117).

Occasionally, amongst Kirk Session disbursements, one meets such entries as:-

“21st Sepr. 1647 –

Item, given to buy a book to Joⁿ anderson, a poor scholar, 13/4.

Item, given to pay for a new testament and a psalme book to one of
Joⁿ peirsons bairnes in the nethertoun, 29/-.

Item, peyit for twa quart^{rs} learning of Ket Wardlaws bairnes 20/.”

The Town Council, also, has a place in its records for such entries as: -

“9 Feb. 1709 – The Counsell appoints William Wilsone to cause build and repair ye seats of ye scholars loft in ye church”.

“29 Sepr. 1711 – The said day the magistrates and counsel taking to their consideration that it would tend much to the benefit of their grammar school, the encouragement of learning and interest of the community that a Library were founded here, did, for encouragement of so good and pious a design, resolve out of the common good to contribute ten pounds sterling for that end, and did and hereby do, recommend to the gildrie and respective corporations of the burgh and all other persons who please frankly to contribute in order to make up such sum as may buy such a number of good books as may lay a competent foundation for a library.”

Sometimes the Town Council had to remind themselves, or be reminded, of the fact that the Kirk Session also had an interest in education – particularly as regards the High School doctor – but it is only fair to say that the reminder was never taken amiss.

“25 May, 1745 –

“Which day there was produced and read for a second time an extract registered obligation granted by the provost, bailies and Council of the burgh, bearing date 14th Sepr. 1678, and registered in the regality court books of Dunfermline, 18th Sepr., of the same year, NARRATING that the ministers and kirk-session of Dunfermline did a long time since advance and pay to the Magistrates and town-council, and mortify in their hands for the use of a doctor of the Grammar School the sum of 1,000 merks Scots.; the annual rent of which had hitherto been paid to the doctor in augmentation of his stipend; Therefore the Magistrates and town-council bound and obliged themselves and their successors to pay the annual rent of the said sum to the doctor and his successors; and further gave and granted to the Minister and kirk-session and their successors equal right and patronage with themselves in the appointment of a doctor”. (B.R.).

One gets the impression that what troubled the Town Council more than anything else in their administration of educational affairs was the examination and appointment of masters and doctors.

“8th March 1705 – Consilium in ye high schoolhouse.

That Mr James Bayne, schoolmaster of Musselburgh, Mr John M'Dougall, son to Alexander M'Dougall, brother to the laird of Legun (?), & Charles Steuart, son to umq^{ll} Mr William Steuart, minister of Ratho, having in presence of the counsell examined Mr Ker, they did report that Mr Ker, being examined about the fundamentals of grammar, gave no proof of his abilities to convey a clear notion of them to boys, and having also been examined in the most common places of Terence, Juvenal, Cicero's Orations, Livy and other Odes of Horace, he was found considerably defective in the reading, construction and exposition of the Latin; and withal he acknowledged his ignorance in mythology, Roman antiquity, Roman Calendar, geography, chronology and scanning of verse; and having been 'put' to making a theme and a version, he acquitted himself indifferently in the former, and made nothing in the latter”.

“By which report the counsel finding Mr Ker unqualified, commissioned Sir James Halkett, John Veatch and the clerk to advertise the Lord Yester thereof on Thursday.” (B.R.)

“23 June, 1705 – The Council having considered the report of John Hart's examiners, and having disagreed in their reports, one of them declaring before God out of a good conscience that he was qualified, and two of them having similarly testified that he was not qualified, the Council resolved not to appoint him meantime, but that he teach for a time by way of trial with a view to further examination”. (B.R.)

“It appears from the Session Records that, in the case of John Hart, the Town Council had made the appointment (as doctor) without reference to the Kirk Session. The Kirk Session, having equal rights in the matter with the Town Council in virtue of an agreement reached between them protested against this unilateral action and sent commissioners to interview the Town Council”.

“At the next meeting the commissioners reported that they had met with the Town Council, which in the meantime had discovered a copy of the agreement, and that they were 'inclined to give all satisfaction to the Session there-anent'”. (D/A 182/3).

“17 March, 1746 – The Council and Kirk Session taking to their consideration that Mr Andrew Donaldson whom they appointed to be interim doctor of the grammar school during their pleasure, has not been able to attend school by reason of having lost his judgment, or through distress of mind, unanimously recalled the commission granted by them And as Mr George Brown and Mr Charles Hay are the only candidates who have offered to supply the vacancy, the Town Council and Kirk Session allow them till the second Tuesday of April to produce credentials”. (B.R.).

Mr Donaldson was appointed in succession to Mr William Hutton who had been a tobacconist in Dunfermline. (B.R. 18 Aug. 1750).

BURGH OF BARONY AND BURGH OF REGALITY

Just when the four burghs attached to the monastery ceased to be Abbot's Burghs, is a question difficult to answer.

Even before the Reformation we find three of the four referred to in a monastic chartulary as burghs of barony; Musselburgh in 1438 (Reg.409). Kirkcaldy in 1539 (Reg. 536); and Dunfermline in 1561 (Reg. P.450). That this was nothing new, so far as Dunfermline is concerned, is evidenced by the Paisley Charter of 1488, already referred to, where it is described as a "burgh in barony". As the privileges and powers of a barony are best known by the terms of the charter erecting it, it is difficult to know what to make of this, there being no known charter of erection for any one of them.

After the Reformation, the situation is still further complicated by references to three of them as burghs of regality.

An entry in the Register of the Great Seal (No.1629) of date 11 Feb. 1588/9 contains the following explanatory clause: - "The king, knowing the burgh of Dunfermline to have been from of old a free burgh of regality", and the fact thus vouched for is confirmed by John Erskine, author of the Institutes of the Law of Scotland, who, as Laird of the neighbouring barony of Carnock, must have had trustworthy local, as well as legal, knowledge on a matter of this sort. "when, therefore," – he writes – "boroughs of regality were erected into royal burghs, asDunfermline".

From the same source (Register of the Great Seal) we learn that both Kirkcaldy and South Queensferry were once burghs of regality.

These references are too authoritative to be entirely disregarded. On the other hand, what are we to make of them?

It is easy to point out that, with the gifts of feu-ferme and the right of electing their own officials, the "superiority" of the monastery over the burghs had become more or less nominal; and that, in any case, the designation "Abbot's Burgh", following the Reformation, had become a misnomer, there being no longer an abbot of the monastery. But a commendator had been appointed by the king to take the abbot's place; the office of bailie of regality had been made hereditary and regality courts still continued to function; so that the difference was immaterial.

For many years Dunfermline, as an Abbot's Burgh, had been in the full enjoyment of regality rights and privileges, including export trade. It is difficult to see what it could have gained by becoming a burgh of barony, or even a burgh of regality.

DUNFERMLINE AS A ROYAL BURGH

When we approach the question from a different point of view – not when it ceased to be an Abbot's Burgh, but when it became a Royal Burgh – we are still confronted with innumerable difficulties.

Of two of the four burghs we have definite information.

Kirkcaldy was erected "ane frie Burgh Royal" by a charter dated at Whitehall 19 Feb. 1636, though it was not presented to Parliament till 5th Feb. 1644. (R.M.S. 1511). The Kirk of South Queensferry was disjoined from Dalmeny, and the burgh of South Queensferry erected a "free Burgh Royal" in 1636 (R.M.S. 603, A.P.S. p.571); though the Earl of Dunfermline, as bailie of regality, protested that this was

without prejudice to his rights and that the inhabitants were still, as of old, subject to the jurisdiction of the regality court of Dunfermline. (A.P.S. p.578).

No record has been traced concerning Musselburgh, and the information available concerning Dunfermline is baffling to a degree.

Dr. Chalmers, in his History of Dunfermline (i. 394), asserts that Dunfermline was constituted a royal burgh by a charter of James VI dated at Holyroodhouse 24th May 1588. This charter is a perfectly authentic document and is still in the possession of Dunfermline Town Council. But it is a Confirmation Charter, not one of Erection. The idea, however, that it did constitute Dunfermline a royal burgh has been so deeply implanted, and so widely accepted, that it may be desirable to say a little more about it.

It consists of two charters – one (undated, thought the abbot who granted it was in office from 1314/5 to 1332) conferring on the burgh “a common moor” (Reg.596); the other a charter, dated 10th Oct. 1393, both already referred to in connection with the feu-ferme of the burgh; and two Confirmation Charters, which are not difficult to explain. About 150 years after the issue of the second, the burgh authorities became uneasy about the validity of these early charters “because of their oldness”, and applied to the abbot of the time for confirmation of them; and George Durie gave them a Charter of Confirmation.

After the Reformation the burgh authorities again became uneasy, monastic charters no longer having, in Scotland, the authority of the Church behind them; and, at their request, James VI, being advised, apparently, that there was no reason why he should not, gave them the confirmation that they asked for. From first to last there is not a word in any of the documents concerned that would suggest the idea of creating Dunfermline a royal burgh.

Another reference, equally misleading, is to be met with in the Burgh Records. In that portion of them edited by Mr Andrew Shearer there appears the following: -

“10 August 1662 – The which day the counsall being convined they taking to ther consideration that they ar put to the horne by the exfheq^r and the thing they ar charged w^t being onlie six pounds Scotis money or a pair of gloves payable to his majesties as the tounis blench dewtie yeirlie for y^r libertie as a royall bur^t Which dewtie is restand thir many yeiris bygone w^t the fies of the Clerk and oy^r servants of excheq^r which will be considerabill Therfoir they all in ane voice seing it cannot be..... and for y^r awn liberation fra the horne Appoynts James Mudie Commissioner qⁿ he goes over this weik to parliat to compon and agrie y^r anent w^t the clerks & oy^r members of excheq^r als easie as he can”.

The Town Council, receiving such a communication from the King’s Treasurer, under threat of the horn, not unnaturally came to the conclusion that the claim must be based on the Reddendo of a royal charter, and the only such charter they could think of was a charter constituting the town a royal burgh. If they had known of such a charter, they would doubtless have consulted it, to see whether or not the claim was justified. But, knowing nothing of such a charter, they simply asked their commissioner to Parliament to settle the matter for them on the easiest terms possible.

The Reddendo in question, however, was not that of a royal charter, but of a monastic charter already referred to – the charter (Reg.596) conveying to the burgh the

abbot's gift of a moor for common pasturage. At the Reformation, the monastic lands and properties had been converted into a temporal lordship, which was given by James VI as a wedding-gift to his Consort, Anne of Denmark. That was how the claim for payment of the Reddendo came from the Royal Exchequer. The fact that the alternative to a pair of French gloves was now, after the lapse of two or three hundred years, said to be six pounds Scots, instead of 6d sterling, needs no comment whatever. The real significance of the minute is that the Town Council of 1662, whilst perfectly aware of the town's status as a royal burgh, knew nothing of a charter erecting it as such. That is a possibility that must be seriously reckoned with – the possibility that Dunfermline never had a charter of erection as a royal burgh.

The following extracts from the writings of two authorities upon this subject may help to throw a little light upon the situation. The first is from the late Principal Rait of Glasgow University; the second from Mrs Pagan, author of "The Convention of Royal Burghs".

"In the representation of the burghs there are some exceptions to the rule that only Royal Burghs could send commissioners to Parliament. The rule was based on the fact that Royal Burghs alone contributed to the payment of special taxes.

In return for this privilege, and for the burden of representation, they possessed a monopoly of the trade of the kingdom

But from a very early date certain trading privileges had been given to burghs which held, not from the Crown, but from an abbey or bishop. The most important of these were Glasgow, Arbroath, St. Andrews, Brechin and Dunfermline.....

A Burgh possessing such privileges might fairly be expected to take its part in the payment of national taxation, and a burgh paying its share of taxation might find itself represented in Parliament". (S.H.R. xii pp.127/8).

Non of these (Church burghs), except perhaps Dunfermline, was a royal burgh before its representation in Parliament, or in the convention of royal burghs, but they all appear in the earliest complete stent-roll (1535) or assessment of the proportions of taxations by the burghs themselves.

There was apparently a close connection between liability to taxation and membership of the convention. Forty-one burghs appear on the stent-roll of 1535, thirty-six royal burghs and the five church burghs already mentioned. These all appear at later meetings of the convention without any formal admission, while the twenty-six burghs which were represented later each applied for admission and had to produce its charter as a royal burgh before becoming a member". (Pagan, Conv. pp.27/8).

Facts available from other sources are as follows: -

In an allocation of taxation among burghs in the year 1533 Dunfermline paid its share. Of £20,000 levied in 1535 to meet the King's expenses in France, £5,000 merks were allocated on the burghs, of which Dunfermline paid £35:15/-.

From facts like these one might inclined to reason that, sharing in this way the burden of the royal burghs, Dunfermline was entitled to claim equality with them – to be, in fact, admitted to their fellowship.

The experience of Kirkcaldy would not bear that out.

On 2nd Septr, 1556, in an allocation “conforms to the auld “rollis of extent”, £21:18:9d was called for from Dunfermline and £14:12:6 from Kirkcaldy. (Conv. i. 523/4).

On 6th Septr. 1557, of £60,000 required for expenses in connection with the marriage of Mary, Queen of Scots, to the Dauphin of France, £10,000 was allocated on the burghs; Dunfermline being called on to pay £201:5/- and Kirkcaldy £67:10/- (Ibid. 526).

On 3rd Nov. 1587 – the Taxtt Rolls having been altered – Dunfermline paid 16/- and Kirkcaldy 26/-. (Ibid. i. 252-4).

Three days later, Robert Hay, bailie, appears at the Convention as Commissioner for Kirkcaldy in 1614. (Pryde, 60).

And Kirkcaldy had no charter as a royal burgh till 1644.

Dunfermline had been paying its share of the allocation upon royal burghs from at least 1533; and the Convention met there in 1618 (Pryde, 267); but no charter of erection has ever been discovered.

The only shred of comfort one can find is the assurance given by Mrs Pagan: - Referring to the calls made on Dunfermline in the years 1533 and 1535, she continues: -

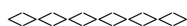
“Thereafter, commissioners from Dunfermline appeared at meetings of the Convention without formal admission, or the production of a charter as a royal burgh”.

In other words, it was, in fact, if not in full formality, a Royal Burgh.

“18 Jan. 1593 - Commissioner to Parliament - “willelmus prateris pro dunfermling”. (A.P.S.)



Arms of the City and Royal Burgh of Dunfermline
Still in use 1946 on Town Plans.



ABBREVIATIONS

A.D.C.	Acta Dominorum Concilii. The Acts of the Lords of Council in civil causes.
A.P.S.	Acts of the Parliaments of Scotland.
B.R.	Burgh records of Dunfermline, 1488-1584; ed. By Erskine Beveridge. Burgh Records of Dunfermline, 1573-1680; Ed. By Andrew Shearer.
Cal.	Of Docs. Scot. Calendar of Documents relating to Scotland; Ed. By J. Bain.
Carnock	Webster, (J.M.) History of Carnock (Fife) – Blackwood.
Chalmers	Hist. Chalmers (Peter). Historical and Statistical Account of Dunfermline.
Conv.	Records of the Convention of Royal Burghs.
C.P.R.	Calendar of Papal Registers.
D/A.	Webster (J.M.) Dunfermline Abbey – Carnegie Dunfermline Trust.
Fernie	Hist. Fernie (John). A History of the town and parish of Dunfermline.
Gibson	Wardlaws. Gibson (John C.) The Wardlaws in Scotland.
K.S.R.	Dunfermline Kirk Session Records.
Lawrie	E.S.C. Lawrie (Sir Archd.). Early Scottish Charters.
Macbean	The Kirkcaldy burgh records by L Macbean(?).
Mackenzie	Scot. Burghs. Mackenzie (William Mackay). The Scottish burghs.
Pagan	(Theodora). The Convention of the Royal Burghs of Scotland 1926.
Patrick	Statutes. Patrick (D). Statutes of the Scottish Church.
Pryde	Ayr. Ayr Burgh accounts, 1534-1624; ed. By George S. Pryde (S.H.S.).
Rait	Scottish Historical Review, xii.
Reg.	Registrum de Dunfermelyn.
R.M.S.	Registrum Magni Sigilli. The Register of the Great Seal.

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