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COSMO INNES AND THE SOURCES OF SCOTTISH HISTORY C. 1825-1875

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Abstract

This thesis examines how primary sources were used to build conceptualisations of the Scottish past during the nineteenth century. To achieve this it focuses on the work of the record scholar and legal antiquary Cosmo Innes (1798-1874). Innes was a prolific editor of source material relating to parliament, the burghs, the medieval church, family history and the universities. He was also an authority on Scotland's legal history, an architectural antiquary, a practising lawyer, a university professor and one of Scotland's earliest photographers. Through an investigation of these activities, this thesis explores the ways in which Scots perceived their own history during the period of what Marinell Ash calls the 'strange death of Scottish history'.

What differentiates this study from previous investigations is its emphasis on the presentation and associated interpretation of primary sources, as opposed to institutional frameworks or secondary narratives. Innes put particular types of source to specific uses in an attempt to rehabilitate the tarnished reputation of Scottish history. However, he was not a radical operating on the intellectual fringes, but a respected mainstream figure who worked within the traditions of Enlightenment and the boundaries of Romanticism. He relied upon an institutional interpretation of history which placed abbeys, bishoprics, burghs, universities, families and the apparatus of law and government within broader narratives of national progress. Yet he also used both documentary and architectural sources as the basis for an imagistic and imaginative evocation of the textures of the past.

Whilst Innes's work illustrates how conflicted Scottish historiography was in the period, it also shows how a prominent antiquary sought to heal those historiographical wounds. The thesis will demonstrate that many of his attempts met ultimately with failure, particularly those which tried to imbue the Scottish past with an ideological validity derived from Whiggism and Enlightenment. However, it will also argue that Scottish historical Romanticism, to which Innes was an important contributor, provided the basis for a broad consensus about the value of Scottish history in the later decades of the century. The significance of this romantic consensus has been neglected by recent scholarship, and the study therefore sheds new light on the 'strange death' that occurred in the 1840s and 1850s.

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Abbreviations

<i>Aberdeen Fasti</i>	<i>Fasti Aberdonenses. Selections from the Records of the University and King's College of Aberdeen, 1494-1854</i> [Spalding Club 26], ed. C. Innes (Aberdeen, 1854)
<i>Aberdeen Registrum</i>	<i>Registrum Episcopatus Aberdonensis: Ecclesie Cathedralis Aberdonensis Regesta que Extant in Unum Collecta</i> [Spalding Club 13 & 14 & Maitland Club 63], ed. C. Innes, 2 vols. (Edinburgh, 1845)
<i>Ancient Burgh Laws</i>	<i>Ancient Laws and Customs of the Burghs of Scotland I; 1124-1424</i> [Scottish Burgh Records Society 1], ed. C. Innes (Edinburgh, 1868)
<i>APS</i>	<i>Acts of the Parliaments of Scotland 1124-1707</i> , ed. T. Thomson & C. Innes, 13 vols. (Edinburgh, 1814-1875)
<i>Arbroath Liber</i>	<i>Liber S. Thome de Aberbrothoc: Registrum Abbacie de Aberbrothoc</i> ; [Bannatyne Club 86], ed. C. Innes & P. Chalmers, 2 vols. (Edinburgh, 1848-1856)
<i>Ash, Strange Death</i>	M. Ash, <i>The Strange Death of Scottish History</i> (Edinburgh, 1980)
<i>Barbour, Brus</i>	J. Barbour, <i>The Brus by John Barbour, from a Collation of the Cambridge and Edinburgh Manuscripts</i> [Spalding Club 28], ed. C. Innes (Aberdeen, 1856)
<i>BQR</i>	<i>British Quarterly Review</i>
<i>Brechin Registrum</i>	<i>Registrum Episcopatus Brechinensis: cui Accedunt Cartae Quamplurimae Originales</i> [Bannatyne Club 102], ed. P. Chalmers, J. Chalmers & C. Innes (Aberdeen, 1856)
<i>Burton, Memoir</i>	K. Burton, <i>Memoir of Cosmo Innes</i> (Edinburgh, 1874)
<i>Caithness Records</i>	<i>Two Ancient Records of the Bishopric of Caithness; from the Charterroom at Dunrobin</i> [Bannatyne Club], ed. C. Innes, (Edinburgh, 1848)
<i>Cawdor Book</i>	<i>The Book of the Thanes of Cawdor: a Series of Papers Selected from the Charter Room at Cawdor, 1236-1742</i> [Spalding Club 30], ed. C. Innes (Edinburgh, 1859)
<i>Dunfermline Registrum</i>	<i>Registrum de Dunfermelyn: liber Cartarum Abbatie Benedictine S.S. Trinitatis et B. Margarete Regine de Dunfermelyn</i> [Bannatyne Club 74], ed. C. Innes (Edinburgh, 1842)

ECC	Edinburgh Calotype Club
ECCA	<i>Edinburgh Calotype Club Album</i> , 2 vols. (Edinburgh, c. 1848)
<i>Familie of Innes</i>	D. Forbes, <i>An Account of the Familie of Innes, Compiled by Duncan Forbes of Culloden, 1698</i> [Spalding Club 34], C. Innes (Aberdeen, 1864)
<i>Family of Rose</i>	H. Rose, <i>A Genealogical Deduction of the Family of Rose of Kilravock</i> [Spalding Club 18], ed. C. Innes (Edinburgh, 1848)
Fry, 'Whig Interpretation'	M. Fry, 'The Whig interpretation of Scottish history', <i>The Manufacture of Scottish History</i> , ed. I. Donnachie & C. Whatley (Edinburgh, 1992), pp. 72-89.
<i>Glasgow Registrum</i>	<i>Registrum Episcopatus Glasguensis: Munimenta Ecclesie Metropolitane Glasguensis a Sede Restaurata Seculo Ineunte XII ad Reformatam Religionem</i> [Bannatyne Club 75 & Maitland Club 61], ed. C. Innes, 2 vols. (Edinburgh, 1843)
<i>Glasgow University Muniments</i>	<i>Munimenta Alme Universitatis Glasguensis. Records of the University of Glasgow from its foundation till 1727</i> [Maitland Club 72], ed. C. Innes, 4 vols. (Glasgow, 1854)
Gordon, <i>Descriptio</i>	J. Gordon, <i>Aberdoniae Utriusque Descriptio. A Description of Both Touns of Aberdeen</i> [Spalding Club 5], ed. C. Innes (Edinburgh, 1842)
<i>Halyburton's Ledger</i>	<i>Ledger of Andrew Halyburton, Conservator of the Privileges of the Scotch Nation in the Netherlands, 1492-1503, together with the Book of Customs and Valuation of Merchandises in Scotland, 1612</i> , ed. C. Innes (Edinburgh, 1867)
<i>Holyrood Liber</i>	<i>Liber Cartarum Sancte Crucis: Munimenta Ecclesie Sancte Crucis de Edwinesbur;</i> [Bannatyne Club 70], ed. C. Innes (Edinburgh, 1840)
<i>Inchaffray Liber</i>	<i>Liber Insule Missarum: Abbacie Canonicorum Regularium B. Virginis et S. Johannis de Inchaffery Registrum Vetus</i> [Bannatyne Club 85], ed. C. Innes (Edinburgh, 1847)
<i>Kelso Liber</i>	<i>Liber S. Marie de Calchou: Registrum Cartarum Abbacie Tironensis de Kelso, 1113-1567</i> [Bannatyne Club 82], ed. C. Innes, 2 vols. (Edinburgh, 1846)
Kidd, <i>Subverting</i>	C. Kidd, <i>Subverting Scotland's Past; Scottish Whig Historians and the Creation of an Anglo-British Identity 1689-c.1830</i> (Cambridge, 1993)

Laing, Bannatyne Club	<i>The Bannatyne Club; Lists of Members and the Rules with a Catalogue of the Books Printed for the Bannatyne Club since its Institution in 1823</i> [Bannatyne Club 119], ed. D. Laing (Edinburgh, 1867)
<i>Liber Officialis</i>	<i>Liber Officialis Sancti Andree Curie Metropolitane Sancti Andree in Scotia Sententiarum in Causis Consistorialibus que Extant</i> [Abbotsford Club 23], ed. C. Innes (Edinburgh, 1845)
<i>Melrose Liber</i>	<i>Liber Sancte Marie de Melros: Munimenta Vetustiora Monasterii Cisterciensis de Melros</i> [Bannatyne Club 56], ed. C. Innes, 2 vols. (Edinburgh, 1837)
<i>Moray Registrum</i>	<i>Registrum Episcopatus Moraviensis e Pluribus Codicibus Consarcinatum circa A.D. MCCC, cum Continuatione Diplomatum Recentiorum usque ad A.D. MDCXXIII</i> [Bannatyne Club 58], ed. C. Innes (Edinburgh, 1837)
<i>Morton Registrum</i>	<i>Registrum Honoris de Morton; a Series of Ancient Charters of the Earldom of Morton with Other Original Papers in Two Volumes</i> [Bannatyne Club 94], ed. T. Thomson, A. MacDonald & C. Innes (Edinburgh, 1853)
[n. d.]	No date of creation or publication
[n. p.]	No page numbers
NAS	National Archives of Scotland
NMS	<i>Facsimiles of National Manuscripts of Scotland; Selected Under the Direction of Sir William Gibson-Craig and Photozincographed by Sir Henry James</i> , ed. J. Robertson & C. Innes, 3 vols. (Southampton, 1867-1871)
NBR	<i>North British Review</i>
<i>Newbattle Registrum</i>	<i>Registrum S. Marie de Neubotle: Abbacie Cisterciensis Beate Virginis de Neubotle Chartarium Vetus, 1140-1528; Accedit Appendix Cartarum Originalium</i> [Bannatyne Club 89], ed. C. Innes (Edinburgh, 1849)
NLS	National Library of Scotland
<i>North Berwick Carte</i>	<i>Carte Monialium de Northberwic: Prioratus Cisterciensis B. Marie de Northberwic Munimenta Vetusta que Supersunt</i> [Bannatyne Club 84], ed. C. Innes (Edinburgh, 1847)

NRAS	National Register of Archives for Scotland
ODNB	<i>Oxford Dictionary of National Biography: from the Earliest Times to the Year 2000</i> , ed. H. C. G. Matthew & B. Harrison, 61 vols. (Oxford, 2004)
OPS	C. Innes, <i>Origines Parochiales Scotiae; the Antiquities, Ecclesiastical and Territorial, of the Parishes of Scotland</i> [Bannatyne Club 97], 2 vols. in 3 pts (Edinburgh, 1850-1855)
<i>Paisley Registrum</i>	<i>Registrum Monasterii de Passelet: Cartas Privilegia Conventiones Aliaque Munimenta Complectens a Domo Fundata A.D. MCLXIII usque ad A.D. MDXXIX; ad Fidem Codicis M.S. in Bibliotheca Facultatis Juridicae Edinensis Servati nunc Primum Typis Mandatum</i> [Maitland Club 17], ed. C. Innes (Glasgow, 1832)
PSAS	<i>Proceedings of the Society of Antiquaries of Scotland</i>
PSS	Photographic Society of Scotland
QR	<i>Quarterly Review</i>
Ross, 'Bannatyne Club'	A. Ross, 'The Bannatyne Club and the publication of Scottish ecclesiastical cartularies', <i>SHR</i> 85 (2006),
Riddell, <i>Stewartiana</i>	J. Riddell, <i>Stewartiana; Containing the Case of Robert ii and Elizabeth Mure, and Question of Legitimacy of their Issue</i> (Edinburgh, 1843),
RPS	<i>Records of the Parliaments of Scotland to 1707</i> (St Andrews, 2007), at http://www.rps.ac.uk/static/statutes_index.html
SAS	Society of Antiquaries of Scotland
SBRS	Scottish Burgh Record Society
<i>Scone Liber</i>	<i>Liber Ecclesie de Scon; Munimenta Vetustiora Monasterii Sancte Trinitatis et Sancti Michaelis de Scon</i> [Bannatyne Club 78 & Maitland Club 62], ed. C. Innes (Edinburgh, 1843)
SESH	C. Innes, <i>Sketches of Early Scotch History and Social Progress; Church Organization, the University; Home Life</i> (Edinburgh 1861)
SHR	<i>Scottish Historical Review</i>
SLA	C. Innes, <i>Lectures on Scotch Legal antiquities</i> (Edinburgh, 1872)

<i>SMA</i>	<i>C. Innes, Scotland in the Middle Ages: Sketches of Early Scotch History and Social Progress</i> (Edinburgh, 1860)
<i>Smith, Maitland Club</i>	Catalogue of the Works Printed for the Maitland Club, instituted March MDCCC.XXVIII, with Lists of the Members and Rules of the Club [Maitland Club 39], ed. J. Smith (Edinburgh, 1836)
<i>Stuart, Spalding Club</i>	<i>Notices of the Spalding Club</i> [Spalding Club 38], ed. J. Stuart (Aberdeen, 1871)
<i>Taymouth Book</i>	W. Bowie, <i>The Black Book of Taymouth with Other Papers from the Breadalbane Charter Room</i> [Bannatyne Club 100], ed. C. Innes (Edinburgh, 1855)
<i>WIVP</i>	<i>Wellesley Index to Victorian Periodicals</i> , ed. W. E. Houghton, E. R. Houghton & J. H. Slingerland, 5 vols. (Toronto, 1966-1989)

Chapter 1 – Recent Scholarship

The relationship between historians and sources lies at the heart of modern historical method, and that relationship is fundamentally shaped by the agendas and worldviews of the historians in question. Yet this complex interplay has yet to be explored in the context of nineteenth-century Scotland, despite the fact that the period is often depicted as one of puzzling historiographical failure. With that in mind, this chapter will review recent literature on Scottish history writing in the 1800s. It will thus provide historiographical context for the rest of the thesis and, in so doing, will demonstrate both its validity and necessity.

Historical Revolution and ‘Strange Death’

Writing on Scotland, Marinell Ash highlights a shift in historical method in the early nineteenth century in which primary sources were placed at the forefront of historical activity. She supports this by pointing to the rationalisation of Scotland’s public records at the Register House and the proliferation of private publishing clubs.¹ This change was, in Ash’s view, a direct consequence of the influence of Walter Scott (1771-1832). She argues that renewed interest in sources arose from a desire to discover the kind of history that Scott created in his novels.² She further believes that Scott’s romanticism helped to free Scottish history from the philosophical constraints of the Enlightenment

Because history was no longer tied to philosophy and the standards of enlightened good taste, whole new areas – heretofore seen as not worthy of tasteful interest or excessively obscure and difficult – were opened up to serious study. The very strangeness, remoteness or glamour of the past was highly prized by the new “romantic” historian.³

This was a fundamental change from eighteenth-century outlooks, in which Scottish history was usually associated with barbarism and illiberality and was valid only as a means of

¹ Ash, *Strange Death*, pp. 41-86.

² *ibid.*, pp. 13-40.

³ *ibid.*, p. 41.

demonstrating progress towards the present. Indeed, the very idea of ‘Enlightenment’ was set against the ‘dark’ that had preceded it.⁴ However, Ash makes clear that Scott himself worked within an Enlightenment framework, a view supported by the likes of Hugh Trevor-Roper and Christopher Harvie. They argue that Scott’s view of Scottish history was imbued with a Whiggish sense of the progress of liberty, juxtaposed against an emotional attachment to the shapes of the past. All three historians perceive a connection between this dichotomy and Scott’s dual upbringing in urban Edinburgh and rural Sandyhove. Scott’s writings thus embodied a widespread tendency to associate the city with progressive commercialism and the countryside with an older, simpler and fast-disappearing way of life.⁵

Ash also states that Scott’s importance came not only from his novels but also his antiquarian activities. Scott, along with Thomas Thomson (1768-1852) and David Laing (1793-1878), was by the late 1820s part of an influential group transforming antiquarianism from a hobby for the wealthy to an expression of Scottish patriotism.⁶ It was Scott who inspired the narrative historian Patrick Fraser Tytler (1791-1848) and influenced Thomson in his rejuvenation of the public records. It was also Scott who formed the Bannatyne Club and stimulated imitations such as the Maitland and Spalding Clubs.⁷ Indeed, according to Harrison Steeves this

⁴ A. Broadie, *The Scottish Enlightenment; the Historical Age of the Historical Nation*, 2nd edition (Edinburgh, 2007, orig. 2001), pp. 15-18; M. G. H. Pittock, ‘Historiography’, in *The Cambridge Companion to the Scottish Enlightenment*, ed. A. Broadie (Cambridge, 2003), pp. 266-71.

⁵ Ash, *Strange Death*, pp. 13-15; H. Trevor-Roper, *The Romantic Movement and the Study of History; the John Coffin Memorial Lecture* (London, 1969), pp. 5-6; Harvie, ‘Legalism, myth and national identity in Scotland in the imperial epoch’, *Cencrastus* 26 (1987), p. 37; R. Williams, *The Country and the City* (Oxford, 1975), pp. 2-12.

⁶ M. Ash, ‘David Laing’, *The Past and the Present; the Role of the National Museum of Antiquities of Scotland*, ed. A. Fenton (Edinburgh, 1979), pp. 9-14.

⁷ M. Ash, ‘Scott and historical publishing; the Bannatyne and Maitland Clubs’, *Scots Antiquaries and Historians; Papers Read at the Silver Jubilee Conference of the Abertay Historical Society on 15 April 1972*, ed. A. A. M. Duncan (Dundee, 1972), pp. 26-42.

bibliophile culture was central to the growth of romantic interest in Scottish history.⁸ For Ina Ferris, meanwhile, the publishing clubs ‘mark[ed] an important intersection of the culture of the book, antiquarianism, and historicism’.⁹ As a leading figure in those clubs, Innes was at the centre of these developments.

Ash argues that Scott was the catalyst for a less judgemental and more source-focused approach to Scotland’s history; a revolution in how the past was viewed and constructed. However, she also highlights the failure of this revolution to sustain itself through the second half of the century, splintering instead down a variety of disparate avenues. Her conclusion is that Scott’s revolution led not to historical consensus but to divisive historiographical factionalism. This stemmed in part from the apparent contradictions of embracing both progress and nostalgia. Yet for Ash the causes lie in the wider context of Scottish society, in urbanisation, class tensions, discord within the Presbyterian Church, and pressures applied by anglicising sections of the intelligentsia.¹⁰ Significantly for this study, Innes’s historical career spanned both the record ‘revolution’ and the ‘strange death’ that followed.

Colin Kidd identifies the same decline, but places causal emphasis on the historiography of previous centuries.¹¹ He explains the failure through a series of ‘faultlines’ in Scotland’s historiographical edifice. One example was the Whig-Enlightenment criticism of the Scottish Parliament as corrupt, impotent and a tool of monarchical tyranny.¹² Old Scottish law, meanwhile, was increasingly portrayed as mired in a backward feudal jurisprudence that was inimical to the spirit of liberty.¹³ At the same time the Scottish nobility, traditionally depicted as a bulwark against absolutism, came under fire for pursuing their own ends to the detriment

⁸ H. R. Steeves, *Learned Societies and English Literary Scholarship* (New York, 1913), pp. 98-137.

⁹ I. Ferris, ‘Printing the past; Walter Scott’s Bannatyne Club and the antiquarian document’, *Romanticism* 11 (2005), p. 143.

¹⁰ Ash, *Strange Death*, pp. 124-52.

¹¹ Kidd, *Subverting*, pp. 268-80.

¹² *ibid.*, pp. 130-44.

¹³ *ibid.*, pp. 144-65.

of the country in the late medieval and early modern periods.¹⁴ In the same vein, Ash points to another ‘faultline’ in the form of Presbyterian distaste for the Catholicism of the pre-Reformation past.¹⁵

The conclusion that Ash and Kidd draw from this is that Scottish nationalism lacked viable historical materials with which to support itself in the nineteenth century. As Kidd argues, the dominant national identity in Scotland was Anglo-British in character and looked for constitutional legitimacy to the English past.¹⁶ The 1707 Union was seen in overwhelmingly positive terms and this presented a barrier to the development of a coherent national historiography. Indeed, the triumphant Whiggism of English historiography meant that Scots tended to see the Union as a mechanism by which the benefits of English progress were spread to Scotland.¹⁷ Moreover, the self-consciously civil values of the commercial and intellectual classes rendered the extreme Whiggism and Presbyterianism of Scottish history distasteful. The result was what Kidd calls the ‘sociological Whiggism’ of the Enlightenment, which perceived the past in stadial terms and saw England as more ‘advanced’ and better furnished with the ‘spirit of liberty’ than Scotland.¹⁸ He goes on to assert that the source-based revolution of the early 1800s ‘did nothing to alleviate, and could not disguise, the ideological bankruptcy of the Scottish past itself’.¹⁹ The post-Enlightenment *milieu* that Innes inhabited was, therefore, infused with a perception of the Scottish past as not merely different but also inferior. Whilst Scott’s influence added romantic nostalgia to the mix, the totem of historical progress reigned supreme throughout the century.²⁰ As Ferris puts it, the Bannatyne Club was

¹⁴ *ibid.*, pp. 165-84.

¹⁵ Ash, *Strange Death*, pp. 33-4, 74-8.

¹⁶ Kidd, *Subverting*, pp. 205-15.

¹⁷ C. Kidd, ‘*The Strange Death of Scottish History* revisited; constructions of the past in Scotland c. 1790-1914’, *SHR* 76 (1997), p. 87.

¹⁸ Kidd, *Subverting*, pp. 107-23.

¹⁹ *ibid.*, pp. 255-56.

²⁰ M. G. H. Pittock, ‘Enlightenment Historiography and its Legacy; plurality, authority and Power’, in *History, Nationhood and the Question of Britain*, eds. H. Brocklehurst & R. Philips (Basingstoke, 2004), pp. 42-3.

‘produced out of a convergence of romantic recollection and historical alienation’.²¹ Scott’s novels, meanwhile, could feed the romanticism of Scottish readers without awakening an appetite for change. Indeed, Scott was only too aware of the benefits of Union.²²

Michael Fry’s view contains elements of Kidd’s interpretation. He argues that Scottish historians of the 1700s and 1800s were disconnected from their own past whilst historical continuity was being promoted in the cause of nationalism elsewhere in Europe. Consequently, Scotland leaned towards an Anglo-centric provincialism that was accompanied by a lack of interest in Scottish political history.²³ Ronald Cant similarly asserts that Unionism was the watchword of Scottish historical scholarship during the 1800s. However, he also makes the valuable point that this Unionism was not incompatible with romantic nostalgia for past independence. In fact, that historic independence could lend the country credibility within the Union.²⁴ This is a vital point for understanding conceptualisations of Scottish history during the 1800s. As Graeme Morton points out, there was a new sense of dynamism to Scottish identity in the 1800s which was based on civic society rather than the confluence of state and ethnicity.²⁵ This stood in contrast to the eighteenth century, when Scotland’s intelligentsia largely supported Anglicisation.²⁶ The result was a form of patriotism that

²¹ Ferris, ‘Printing the past’, p. 145.

²² M. Cranston, *The Romantic Movement* (Oxford, 1994), pp. 89-90.

²³ Fry, ‘Whig interpretation’, pp. 72-89.

²⁴ R. G. Cant, *The Writing of Scottish History in the Time of Andrew Lang; Being the Andrew Lang Lecture Delivered Before the University of St. Andrews 8 February 1978* (Edinburgh, 1978), pp. 10-11.

²⁵ G. Morton, ‘What If? The Significance of Scotland’s Missing Nationalism in the Nineteenth Century’, *Image and Identity; the Making and Re-making of Scotland Through the Ages*, ed. D. Broun, R. J. Finlay & M. Lynch (Glasgow, 1998), pp. 157-76; see also A. Ichijo, ‘Civic or Ethnic? The Evolution of Britishness and Scottishness’, in Brocklehurst & Philips, *History, Nationhood*, pp. 112-23.

²⁶ C. Kidd, ‘Sentiment, Race and Revival; Scottish Identities in the Aftermath of Enlightenment’, in *A Union of Multiple Identities; the British Isles c.1750-c.1850*, ed.

promoted Scottish distinctiveness within the Union. Scots did not deny their Scottishness, yet were simultaneously able to opt-in to a British civic identity based on shared assumptions about issues such as law and liberty.²⁷ Influential figures like Scott could thus assert a form of Scottish identity that was reliant on history and highlighted the Scottish contribution to the success of Britain.²⁸ Indeed, Morton goes as far as referring to this phenomenon, in the period between 1830 and 1860, as ‘unionist-nationalism’.²⁹ This patriotism-within-union was influential in shaping Innes’s work, as subsequent chapters will demonstrate.

As Ash and Kidd argue, ultimately this nationalism-within-union faltered. As already outlined, this was in part due to social changes, religious conflict, Anglicisation and pre-existing historiographical fissures. Another factor was historical racialism. A sense of common ethnic identity was central to the construction of historically-based nationalisms during the 1800s.³⁰ However, Kidd highlights a perceived ethnic divide in Scotland between Highland ‘Celts’, and lowland ‘Teutons’. This was a divisive issue which soured Scottish historical writing throughout the 1800s and presented a further obstacle to the growth of a national historiography.³¹ The notion that ‘Celtic’ culture was inferior to Teutonic ‘civilisation’ was a basic assumption for most educated Scots. Many lowlanders, of whom the nineteenth-century intelligentsia largely consisted, felt a greater commonality with the English than with the Highlanders.³² Indeed, it has been persuasively argued that ‘Highland’ identity and its ‘Celtic’

L. W. B. Brockliss & D. Eastwood (Manchester, 1997), pp. 110-11; see also Pittock, ‘Historiography’, pp. 272-3.

²⁷ G. Morton, *Unionist Nationalism; Governing Urban Scotland 1830-1860* (East Linton, 1999), pp. 1-9, 189-96.

²⁸ C. Kidd, ‘Sentiment’, pp. 111-13; M. G. H. Pittock, *Scottish and Irish Romanticism* (Oxford, 2008), pp. 187-210.

²⁹ Morton, *Unionist Nationalism*, p. 10.

³⁰ P. J. Geary, *The Myth of Nations; the Medieval Origins of Europe* (Princeton & Oxford, 2002), pp. 15-40.

³¹ Kidd, ‘*Strange Death revisited*’, pp. 93-4.

³² C. Kidd, ‘Teutonist ethnology and Scottish nationalist inhibition 1780-1880’ *SHR* 74 (1995), pp. 45-68.

connotations were largely imposed from without in the centuries following Union.³³ This sense of race was as powerful in Scotland as across the rest of the Europe, but in Scotland it hindered rather than supported the construction of a national history. It is therefore relevant to this thesis that Matthew Hammond specifically notes how Innes's source editions were the products of this racialised intellectual atmosphere.³⁴

The 'revolution' of the earlier 1800s and the 'strange death' that followed comprise the backdrop to Innes's career. He was an active participant in the new engagement with primary sources in the second quarter of the century and continued as one of Scotland's leading antiquaries well into the 1870s. The themes outlined above consequently provide vital context for the rest of this thesis.

Recent Literature and the Sources of Scottish History

Historiographical analysis of nineteenth-century Scotland has mainly focused on secondary material, as in the case of Kidd, Fry and Cant, or on institutional frameworks, as discussed by Steeves and Ash. This institutional approach has also been taken by Peter Goldesbrough and Margaret Young, who focus on the Record Commission and the Register House, and by Donald Withrington and Charles Finlayson, who investigate the publishing clubs.³⁵ Bruce

³³ E. J. Cowan, 'The invention of Celtic Scotland', *Alba; Celtic Scotland in the Medieval Era*, ed. E. J. Cowan & R. A. MacDonald (East Linton, 2000), pp. 1-23; C. Withers, 'The historical creation of the Scottish Highlands', *The Manufacture of Scottish History*, ed. I. Donnachie & C. Whatley (Edinburgh, 1992), pp. 143-56.

³⁴ M. H. Hammond, "Ethnicity and the Writing of Medieval Scottish History", *SHR* 85 (2006), p. 12.

³⁵ P. Goldesbrough, 'The Record Commission and Scotland', *Prisca Munimenta; Studies in Archival and Administrative History Presented to Dr. A. E. J. Hollander*, ed. F. Ranger (London, 1973), pp. 19-26; M. D. Young, 'The age of the Deputy Clerk Register, 1806-1928', *SHR* 53 (1974), pp. 157-93; D. J. Withrington, 'Aberdeen antiquaries; the founding of the Spalding Club, 1839', *Aberdeen University Review* 44 (1971), pp. 43-

Lenman, meanwhile, examines the connection between history and the universities, whilst Iain Gordon Brown and Thomas Rae concentrate on Scottish antiquarianism, although primarily in an eighteenth-century setting.³⁶ There has been little direct analysis of the source editions that were the products of Ash's 'historical revolution'. Instead these volumes are used, through their mere existence, as evidence of the vibrancy of the intellectual culture that created them. Gordon Donaldson's study of the record scholar and family historian Sir William Fraser (1816-1898), a contemporary of Innes, is similarly limited. The focus is narrowly biographical and the emphasis is on how Fraser conducted his affairs. There is little exploration of how he actually constructed history from primary sources.³⁷

I have written articles dealing respectively with burgh record scholarship and the treatment of pre-Reformation church sources in nineteenth-century Scotland. Many of the arguments put forward in these essays are made in more depth in Chapters Five and Six, so there is no need to discuss them here.³⁸ Apart from these, there are only a few pieces of recent work focusing on the source editions of the 1800s. Julian Goodare has explored Volumes Two and Three of the *Acts of the Parliaments of Scotland* (henceforth *APS*), and the editors of the recent *Records of the Parliaments of Scotland* (henceforth *RPS*) have done the same for the entire edition. Yet

55; C. P. Finlayson, 'David Laing and his friends', *University of Edinburgh Journal* 22 (1968), pp. 145-56.

³⁶ B. P. Lenman, 'The teaching of Scottish history in the Scottish universities', *SHR* 52 (1973), pp. 163-190; I. G. Brown, *The Hobby-Horsical Antiquary; a Scottish Character 1640-1830* (Edinburgh, 1980); T. L. Rae, 'The Scottish antiquarian tradition', in Duncan, *Scots Antiquaries and Historians*, pp. 12-25.

³⁷ G. Donaldson, *Sir William Fraser; the Man and his Work* (Edinburgh, 1985).

³⁸ R. Marsden, 'Scottish burgh record scholarship c. 1830-1880' in *Further from the Frontiers: Cross-currents in Irish and Scottish Studies*, ed. A. McNair & J. Ryder (Aberdeen, 2010), pp. 75-87; R. Marsden, 'Editing the past; Cosmo Innes and the Scottish medieval church', in *Signs, Symbols and Words; Proceedings of the Cardiff University Reading Conference 2007*, ed. A. Smith, K. Tennant & J. Webb (Cardiff, 2008), pp. 13-30, at <http://www.cardiff.ac.uk/chri/researchpapers/pgconference/Papers%201%20-%207/>, accessed 15 February 2010.

both address defects rather than examine the context in which the *APS* was produced.³⁹ Meanwhile, Ferris has written about how Bannatyne Club publications represented tangible traces of Scotland's history. However, her focus is on early modern Scots prose material rather than the medieval Latin records that formed the bulk of Innes's output.⁴⁰

The most important discussion of nineteenth-century editorial techniques for this thesis is an article by Alasdair Ross.⁴¹ The bulk of this study focuses on how Innes's ecclesiastical editions were actually produced. Ross discusses Innes's editorial philosophy and processes, demonstrating that his volumes were built from a range of sources and showing how the resulting products frequently differed greatly from the manuscripts that they purported to represent. The article highlights Innes's tendency to re-arrange material, collate different manuscripts into one 'authoritative' reading, and abbreviate documents or entries which he believed to be repetitive or of lesser historical value. It ends with a warning to modern historians about these record volumes:

Many of them, particularly those produced by the Bannatyne Club, are in some fashion artificial constructs. They have either been built out of disparate holdings of documents or collated from one or more manuscripts. While these artificial constructions were obviously acceptable to historians of that period, they were clearly working within a radically different set of historical principles.⁴²

The essay highlights the unreliability of Innes's editions when used by modern medievalists and acts as a stepping-stone for this study by raising some key issues connected with Innes's editorial style. However, what Ross does not investigate, because it is beyond the remit that he

³⁹ J. Goodare, 'The Scottish parliamentary records 1560-1603', *Historical Research* 72 (2003), pp. 244-67; G. H. MacIntosh, A. J. Mann & R. J. Tanner, 'Editorial Introduction', *RPS*, accessed 3 March 2010.

⁴⁰ Ferris, 'Printing the past', pp. 149-56.

⁴¹ Ross, 'Bannatyne Club', pp. 202-30.

⁴² *ibid.*, p. 223.

has set himself, is what exactly this ‘radically different set of historical principles’ was. This is precisely the issue that this thesis will seek to explore, not just through the ecclesiastical editions on which Ross focuses, but through Innes’s work as a whole.

The Emphases of Recent Scholarship

Nineteenth-century Scottish historiography has received significant attention. However, that it is vastly outweighed by scholarship on how history was conceptualised during the Enlightenment. Names like David Hume (1711-1776), William Robertson (1721-1793), Adam Smith (1723-1790) and John Millar (1735-1801) have acquired the sheen of myth. As Murray Pittock asserts:

The historiography of the Scottish Enlightenment has had an unparalleled influence on the way history has been understood in the United Kingdom, North America, and throughout the erstwhile British Empire. It is to the Enlightenment that we owe the idea of historical progress, of state development through time and, ultimately, the whole teleological apparatus which for many years sustained what was known as the school of Whig history; the analysis of the past not on its own terms, but in light of what it could contribute to an account of progress towards the present.⁴³

Pittock sees the Enlightenment as a defining moment in history-writing across the English-speaking world. By comparison, the 1800s are often viewed as a disappointment and it is telling that the last chapter of the *Cambridge Companion to the Scottish Enlightenment* (2003) is entitled ‘The Nineteenth Century Aftermath’.⁴⁴ Even Ash marks the Disruption of the Kirk in 1843 as a turning point in the fortunes of Scottish historiography, whilst Kidd ends his study around 1830. The achievements of the nineteenth century, and particularly the later

⁴³ Pittock, ‘Historiography’, pp. 258-79; see also Pittock, ‘Enlightenment Historiography’, pp. 33-44.

⁴⁴ G. Graham, ‘The Nineteenth Century Aftermath’, in Broadie, *Cambridge Companion*, pp. 338-50.

portion of it, are implicitly judged to be paltry beside those of the later eighteenth. Ash depicts the later 1800s in terms of failure and disintegration. Kidd supports this and also highlights a distasteful strand of racialism.⁴⁵ These depictions are in stark contrast to scholarly celebrations of the intellectual achievements of the 1700s. Yet many historians of the Enlightenment acknowledge that traditional assumptions of nineteenth-century decline need to be challenged. David Allan questions the notion that ‘Scotland was apparently reduced by the middle of the nineteenth century to the sort of yellowing provincialism associated with the virtual absence of cultural innovation’.⁴⁶ Alexander Broadie makes a similar point, arguing that ‘nineteenth-century Scotland was also intellectually vibrant, and it is necessary to stress the continuities, since it is all too easy to see the later century as a sad anti-climax after the days of glory’.⁴⁷ Graeme Morton, meanwhile, has vigorously condemned such outlooks as a loaded with assumptions and symptomatic of an Anglo-British bias.⁴⁸

Despite this recognition of bias, there has been a tendency to criticise nineteenth-century Scotland for its failure to develop nationalism of the kind found in other European stateless nations. Indeed, these criticisms imply that the growth of nationalism is somehow inevitable; Scotland faced a test and failed it, and was thus left behind by the rest of Europe. Tom Nairn, for example, refers to Scottish identity in the period as a ‘stunted, caricatured [...] cultural sub-nationalism’ whilst Nicholas Phillipson calls it a ‘period of noisy inaction’.⁴⁹ Lenman makes a similar point by stating of the Register House and the state publication work of which Innes was a part that ‘a fine repository is not necessarily a guarantee of a flourishing “national

⁴⁵ Ash, *Strange Death*, pp. 124-52; Kidd, *Subverting*, pp. 268-80.

⁴⁶ D. Allan, *Virtue, Learning and the Scottish Enlightenment: Ideas of Scholarship in Early Modern History* (Edinburgh, 1993), pp. 231-2.

⁴⁷ Broadie, *Scottish Enlightenment*, p. 119.

⁴⁸ Morton, *Unionist Nationalism*, pp. 9-10.

⁴⁹ T. Nairn, *The Break-up of Britain; Crisis and Neo-nationalism*, 2nd edition (Glasgow, 2003, orig. 1977), p. 143; N. Phillipson, ‘Nationalism and Ideology’, in *Government and Nationalism in Scotland*, ed. J. N. Wolfe (Edinburgh, 1969), p. 186; both quoted in Kidd, ‘Sentiment’, p. 112.

history”’.⁵⁰ Even Morton’s suggestion of civic identity in the 1800s has been read by some as an attempt to explain away an uncomfortable lack of full-blown nationalism.⁵¹ This interpretation is supported by Morton’s complaint that historians have a tendency to view the nineteenth-century as an ‘intensification of cultural colonialism leaving behind a degraded kailyard culture mingled with a brash tartanry’.⁵² Ash and Kidd certainly do not fall into that category, and both perceive complexity and vibrancy in the intellectual culture of the 1800s. Nevertheless, these assumptions inform the idea of Scottish history’s ‘strange death’, and Kidd, for example, discusses a ‘wounded [...] Scottish national tradition’ in the 1800s.⁵³

Given the above, it is not surprising that Scott is the only nineteenth-century figure to receive widespread attention for his contribution to Scottish historiography. Ash, for instance, places him at the centre of her ‘historical revolution’. Yet Scott’s importance to the Scottish historical tradition comes primarily from his fiction rather than his historical narratives or record work. Indeed, James Anderson asserts that he was a historian of dubious analytical powers and states that, as a record scholar, he was neither prolific nor accurate.⁵⁴ Scott’s fiction has been the subject of countless literary studies, and there have also been many dealing specifically with his relationship with history.⁵⁵ By sheer weight of numbers, works on Scott dwarf recent

⁵⁰ B. P. Lenman, *Integration and Enlightenment: Scotland 1746-1832*, 2nd edition (Edinburgh, 1997, orig. 1981), p. 137.

⁵¹ L. Eriksonas, *National Heroes and National Identities; Scotland, Norway and Lithuania* (Brussels, 2004), pp. 150-60.

⁵² R. J. Morris & G. Morton, ‘Where was nineteenth-century Scotland?’, *SHR* 73 (1994), p. 90.

⁵³ Kidd, *Subverting*, p. 272.

⁵⁴ J. Anderson, *Sir Walter Scott and History, with Other Papers* (Edinburgh, 1981), p. 26

⁵⁵ See, for example, D. Brown, *Walter Scott and the Historical Imagination* (London, 1979); E. Batho, ‘Scott as medievalist’, *Sir Walter Scott Today; some retrospective essays and studies*, ed. H. J. C. Grierson (London, 1932), pp. 133-57; D. Daiches, ‘Sir Walter Scott and history’, *Etudes Anglaises* 24, no. 4 (1971), pp. 458-77; D. D. Devlin, ‘Scott and history’, *Scott’s Mind and Art Essays*, ed. A. Norman-Jefferies (Edinburgh, 1969), pp. 72-92; R. French, ‘Sir Walter Scott as historian’, *Dalhousie Review* 47, no. 2

research on any other aspect of nineteenth-century Scottish historiography. Moreover, in the view of his biographer for the *Oxford Dictionary of National Biography* (henceforth *ODNB*):

Scott was the greatest editor of his age. Others were more precise, and more accurate, but they were more precise and more accurate about more limited areas. None had his ability to illuminate the past through the exercise of scholarship. [...] Scott's skill and tact in using literature as historical evidence, and recreating history as literature, has never been surpassed [...] Walter Scott changed the world's understanding of history.⁵⁶

This eulogy implicitly denigrates the work of narrative historians such as Tytler and John Hill Burton (1809-1881), as well as record scholars like Thomson, Laing and Innes. Moreover, Scott is perhaps the only nineteenth-century Scottish intellectual accorded equal status with Hume and Smith. Indeed, Trevor-Roper compares him to Barthold Niebuhr and Leopold von Ranke, both seminal figures in European history-writing.⁵⁷ It is therefore difficult for contemporaries to compete against his reputation, and the rest of the century is often seen as a freewheeling descent into ever-more fractured and ideologically moribund interpretations of Scotland's past.⁵⁸ The lack of research into the historiographies of the later 1800s is evidence of the existence of this assumption.

(1967), pp. 159-72; P. D. Garside, 'Scott and the "philosophical" historians', *Journal of the History of Ideas* 36, no. 3 (1975), pp. 497-512; H. J. C. Grierson, 'Sir Walter Scott; history and the novel', *University of Edinburgh Journal* 11, no. 2 (1941), pp. 80-90; D. Munro, 'Sir Walter Scott and the development of historical study', *Queen's Quarterly* 45 (1938), pp. 216-27; J. F. Walker, 'Sir Walter Scott as a populariser of history', *Aberdeen University Review* 23 (1937), pp. 212-25; G. M. Young, 'Scott and the historians', *the Sir Walter Scott Lectures 1940-1949* (Edinburgh, 1950), pp 79-107.

⁵⁶ D. Hewitt, 'Scott, Sir Walter (1771-1832)', *ODNB* 49, pp. 490-510.

⁵⁷ Trevor-Roper, *Romantic Movement*, pp. 9-14.

⁵⁸ For example, J. Anderson, 'William Forbes Skene; *Celtic Scotland* v. *Caledonia*', *SHR* 46 (1967), pp. 140-50.

There is, however, another bias affecting views of nineteenth-century Scottish historiography. The subject has been slighted in favour of history-writing in Victorian England. Indeed, this is an excellent example of the durable nature of Kidd's 'Anglo-British identity', in which English history forms the mainstay of the British past. Whilst Scots view the Enlightenment as an intellectual and historiographical pinnacle, in England the equivalent zenith is the Victorian age. Rosemary Jann asserts that, in England, 'the historical was indeed the common coin of the nineteenth century'.⁵⁹ This contrasts strongly with the perceived ideological bankruptcy of history in Scotland in the same period. Jann's interpretation of nineteenth-century English historiography as full of ideological mileage is supported by John Burrow, John Kenyon and Dwight Culler.⁶⁰ Burrow in particular illustrates the ability of Whiggish constitutional historiography to construct a powerful historical identity. This stands in contrast to the assumed failure of the Scottish constitution to deliver liberty. Philippa Levine also provides evidence of an active English historical culture, focusing not on Whiggish narratives but on antiquarianism, record scholarship, academia and archaeology.⁶¹ This communal and institutional analysis bears similarities to Ash's work, but Levine deals in detail with the later 1800s in England whilst Ash largely dismisses that period in Scotland.

Analyses of both Scottish and English historiography have shown that potent Anglo-centric Whiggism and burgeoning institutional frameworks were common to both. However, much recent literature on historiography in Victorian England has engaged specifically with medievalism in a way that Scottish research has not. Roger Smith argues that constitutional links with the past were partially severed by the Reform Act (1832), which fundamentally changed the nature of representation in England. As a result, the medieval aspect of Whiggism lost much of its political relevance and became the purview of apolitical antiquaries and

⁵⁹ R. Jann, *The Art and Science of Victorian History* (Ohio, 1985), p. xi.

⁶⁰ J. M. Burrow, *A Liberal Descent; Victorian Historians and the English Past* (Cambridge, 1981), pp. 1-7; J. P. Kenyon, *The History Men: the Historical Profession in England since the Renaissance* (London, 1993), pp. 97-143.; A. D. Culler, *The Victorian Mirror of History* (New Haven, 1986), pp. 20-38.

⁶¹ P. Levine, *The Amateur and the Professional: Antiquarians, Historians and Archaeologists in Victorian England, 1838-1886* (Cambridge, 1986), pp. 1-6.

romantic visionaries.⁶² Nevertheless, studies by the likes of Kevin Morris, R. R. Agrawal and Michael Alexander have emphasised the cultural and aesthetic value of Victorian medievalism.⁶³ Moreover, Alice Chandler demonstrates how some literary portrayals of the English Middle Ages provided a rebuke to the present and questioned Whiggish assumptions of historical progress.⁶⁴ This chimes with the Scottish context, in which Scott's romanticism was hugely popular, ancient literature was a prime concern of the publishing clubs, yet the pre-Reformation past was accorded little political relevance.

In that vein, Peter Mandler suggests that for the majority it was romanticism rather than Whiggism that connected English history with English national identity in the first half of the nineteenth century.⁶⁵ This argument implies that romantic views of history could be as potent as Whiggism in the creation and maintenance of a sense of nation. It is also perhaps for this reason that many English commentators perceive a strong Scottish element to English medievalism. Culler, Morris and Alexander all discuss Scott's contribution to English medieval romanticism.⁶⁶ Agrawal, meanwhile, highlights the importance of James MacPherson's *Ossian*, whilst Smith emphasises the role of Enlightenment figures in adding a sense of Gothic legacy to English identity.⁶⁷ There is thus an implication in recent scholarship

⁶² R. J. Smith, *The Gothic Bequest: Medieval Institutions in British Thought, 1688-1863* (Cambridge, 1987), pp. 171-3.

⁶³ K. L. Morris, *The Image of the Middle Ages in Romantic and Victorian Literature* (London, 1984), pp. 1-2; R. R. Agrawal, *The Medieval Revival and its Influence on the Romantic Movement* (New-Delhi, 1990), pp. 236-53; M. Alexander, *Medievalism: the Middle Ages in Modern England* (Yale, 2007), pp. 26-147; Culler, *Victorian Mirror*, pp. 122-51, 152-84, 218-40.

⁶⁴ A. Chandler, *A Dream of Order; the Medieval Ideal in Nineteenth Century English Literature* (London, 1971), pp. 1-11

⁶⁵ P. Mandler, "'In the Olden Time': romantic history and English national identity 1820-50', in Brockliss & Eastwood, *Multiple Identities*, pp. 78-93.

⁶⁶ Morris, *Image of the Middle Ages*, pp. 133-6; Culler, *Victorian Mirror*, pp. 20-39; Alexander, *Medievalism*, pp. 26-49, 127-48.

⁶⁷ Smith, *Gothic Bequest*, pp. 74-85.

that Scott and the Enlightenment helped to foster a lively and relevant historical culture in England, but ultimately bred only historiographical sterility in their own country.

Modern Views of Innes

The intellectual context in which Innes worked is, therefore, relatively neglected. Nor does he feature heavily in the historiographical studies of the period which do exist. He is often treated as an ‘also-ran’ alongside the likes of Thomson, Laing and Tytler, plus Joseph Robertson (1810-1866) and William Forbes Skene (1809-1892), and better-known figures such as Scott, Henry Cockburn (1779-1854) and Francis Jeffrey (1773-1850). Thomson is depicted by Ash, Goldesbrough and Young as the saviour of Scotland’s public records, whilst Laing is portrayed by Ash and Finlayson as central to the historical communities of which Innes was a part. Tytler, meanwhile, produced a multi-volume narrative of Scottish history which Fry believes ‘helped bring about something of a revolution in British historical method’ and ‘set future historians a high example of objectivity in his painstaking scrutiny and strict evaluation of relevant documents’.⁶⁸ Meanwhile, Skene is portrayed by David Sellar as the founder of Scottish ‘Celtic’ history and Robertson is the subject of an article by John Miner.⁶⁹

Innes, on the other hand, is not the focus of any studies. He founded no clubs, reformed no archives and produced no multi-tome narratives. He is consequently a little-known and easily dismissed figure on the Scottish historical stage. He is often cited alongside the individuals mentioned above, as part of a group whose existence is used as shorthand for the historical industry of the 1800s.⁷⁰ Alternatively, he is sometimes used to represent wider ideological types. In a comparative study of national identities in Scotland, Norway and Lithuania, Linas

⁶⁸ M. Fry, ‘Tytler, Patrick Fraser (1791–1849)’, *ODNB* 55, pp. 826-8.

⁶⁹ W. D. H. Sellar, ‘William Forbes Skene (1809–92): historian of Celtic Scotland’, *PSAS* 131 (2001), pp. 3-21; J. N. Miner, ‘Joseph Robertson and the Scottish middle ages’, *Innes Review* 32 (1981), pp. 34–54.

⁷⁰ See, for instance, A. W. Ward & A. R. Waller, *The Cambridge History of English Literature XII; the Nineteenth Century I* (Cambridge, 1915), pp. 358-9.

Eriksonas depicts him as an exemplar of Scottish Teutonism and Whiggism.⁷¹ As this thesis will show, however, Innes's worldview and approaches to the past were rather more complex than that. Yet it is indicative of his low stock among modern historians that his biography in the *ODNB* is a revision of the 1891 entry. It is also telling that the revised text is 30% shorter than the original.⁷² The only other works focused predominantly on Innes are three short bibliographic entries dating from 1940 in *Notes & Queries*.⁷³ Furthermore, this decline in reputation can only have been augmented by Ross's recent criticisms of Innes's work.

Nevertheless, Innes has warranted mention by some historians. Ash depicts him as the greatest of Thomson's successors and the leading Episcopalian historian of the age, praising his sympathetic yet balanced approach to the medieval church.⁷⁴ Cant, meanwhile, states that Innes surpassed Thomson as a record scholar and argues that:

Innes was also in his own characteristically modest way a historian of institutions, especially those of the Middle Ages, and the three volumes which he published between 1860 and 1872 with their lucid analyses of parliament, church and burgh, feudal tenures and forms of law, social organisation and other matters – all of which he himself might have been prepared to dismiss under the title of one of them as mere 'Scotch legal antiquities' – remain classics of their time, superseded if at all only in comparatively recent times.⁷⁵

⁷¹ Eriksonas, *National Heroes*, p. 151.

⁷² W. W. Wroth, 'Innes, Cosmo (1798–1874), antiquary', *Dictionary of National Biography* 29, ed. S. Lee & L. Stephens (London, 1881), p. 299; W. W. Wroth, rev. H. C. G. Matthew, 'Innes, Cosmo Nelson (1798–1874)', *ODNB* 29, p. 299. The original entry is 1,028 words long whilst the revised entry is 720 words long.

⁷³ J. L. Weir, 'Cosmo Innes; a bibliography', *Notes & Queries* 178:8 (1940), pp. 128-31; 178:12 (1940), pp. 206-7; J. L. Weir, 'Cosmo Innes', *Notes & Queries* 178:22 (1940), p. 387.

⁷⁴ Ash, *Strange Death*, pp. 57, 131.

⁷⁵ Cant, *Writing of Scottish History*, p. 5.

Lenman provides an equally positive portrayal, referring to Innes as ‘an historian of insight and distinction in Scotland’s medieval institutions’ and credits him in the 1860s with an ‘impressive revival of academic writing on Scottish history’.⁷⁶ All three historians assign Innes a significant role within nineteenth-century Scottish historiography. Cast as they are against a wider backdrop of disinterest, such depictions add weight to the need for a study of his historical activities.

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This review shows that an investigation of Innes is not only legitimate but necessary. He is, in recent scholarship, a marginalised member of a marginalised generation who contributed to a marginalised historiographical culture. Moreover, with the exception of Ross, those historians who do discuss Innes and his *milieu* focus on narratives and institutions rather than the products of record scholarship. Even Ross, who does explore these products, does so as in order to question their value rather than to find out what they reveal about the time and place in which they were created. That is the niche which this study will fill by investigating Innes’s presentation and interpretation of sources against the backdrop outlined above. Firstly, however, Chapter Two will provide an overview of Innes’s activities and connections and, in so doing, will demonstrate his validity as a focus for this investigation.

⁷⁶ Lenman, ‘Teaching of Scottish history’, p. 173.

Chapter 2 – Innes and his *Milieu*

According to the *Scotsman*, Innes was ‘one of a small band of acute and learned investigators’ whose labours with primary sources ‘may indeed be said to have been the means of entirely reconstructing the history of their country’.¹ He had connections across Scotland’s antiquarian community and occupied a lauded position in the country’s intellectual elite. As early as 1861 he merited an entry in the *Annals of Eminent Living Men*, which featured individuals from Britain, Europe and the United States.² Numerous adverts appeared in the Scottish and English press for the *Memoir of Cosmo Innes* following his death in 1874, illustrating how well-regarded he was across Britain.³ In addition, and as demonstrated below, Innes was respected beyond the intellectual community and he operated in an environment that was very different from the isolated specialism of present-day academic history. His conceptualisations of the past, and the means by which they were constructed, were therefore representative of a wide section of society. This chapter will make that point, and will thus argue that Innes is an ideal means of investigating how nineteenth-century Scots thought about their own history.

Background and Professional Life

To understand Innes’s activities as a scholar it is necessary to know something of his life. He was born in Durrus, near Aberdeen, on 9 September 1798. His daughter Katharine Burton recorded that his father had been laird of Leuchars in Fife.⁴ However, Innes stated elsewhere that his father bought land at Durrus rather than inherited it, which undermines Burton’s claim. Indeed, the family were ejected from Durrus whilst Innes was a child; the land being subject to

¹ *Scotsman* (3 August 1874), p. 5.

² G. Coutie, *Annals of Eminent Living Men* (London, 1861), p. 103.

³ *Athenaeum* 2450 (10 October 1874), p. 492; 2451 (17 October 1874), p. 525; *Academy*, 127 (10 October 1874), p. 3; 128 (17 October 1874), p. 2; 138 (26 December 1874), p. 2; *Scotsman*, (8 October 1874), p. 2; (12 October 1874), p. 2; *Pall Mall Gazette* 3014 (14 October 1874), p. 12.

⁴ She describes Leuchars as ‘in Morayshire’, but this, like much else in her biography, is erroneous; Burton, *Memoir*, p. 1.

the law of entail and its purchase by his father therefore not legal.⁵ The family moved north to Stonehaven in Kincardineshire. Innes was educated at the parish school there and later at Edinburgh High School.⁶ He next studied at King's College, Aberdeen and attended the University of Glasgow between 1814 and 1817. His transfer to Balliol College, Oxford in 1817 was facilitated by a Snell Exhibition, and he graduated with a BA in 1820 with a subsequent MA awarded in 1824.⁷ Innes was called to the Scottish bar in 1822, appointed Junior Advocate-Depute in 1833 and the following year was promoted to Advocate-Depute in recognition of his support for the Whig Reform Act.⁸ This salaried position as a public prosecutor required him to travel with the High Court of Justiciary on circuits across the country.⁹ His connection with the north east, through his education in Stonehaven and Aberdeen, was cemented in 1840 by his appointment, again under a Whig ministry, to the sheriffdom of Moray.¹⁰ In 1852, however, Innes resigned that position in favour of the Edinburgh-based administrative role of Clerk of Session. He was soon promoted to the post of

⁵ C. Innes, 'Memoir of Dean Ramsay', in E. B. Ramsay, *Reminiscences of Scottish Life & Character*, 27th edition (Edinburgh, 1875), p. xxiv; D. M. Walker, *A Legal History of Scotland*, 6 vols. (London, 1988-2001), VI, pp. 948-50.

⁶ Burton, *Memoir*, pp. 3-5.

⁷ W. I. Addison, *The Snell Exhibitions; from the University of Glasgow to Baliol College, Oxford* (Glasgow, 1901), pp. 98-100; Anon., 'University Intelligence', *Cambridge Academical Register* 1:2 (1824), p. 119.

⁸ *Caledonian Mercury* 17473 (8 July 1833), p. 2; Burton, *Memoir*, p. 23.

⁹ Walker, *Legal History* VI, p. 289; *Scotsman*, (26 November 1834), p. 2; (6 May 1835), p. 3; (18 July 1835), p. 5; (20 April 1836), p. 3; (27 September 1836), p. 3; (17 March 1838), p. 2; (21 April 1838), p. 4; (9 May 1838), p. 3; (27 April 1839), p. 2; (28 September 1839), p. 4.

¹⁰ Burton, *Memoir*, pp. 38-9. The most notable occurrence of his tenure of sheriff came in 1846, when he dealt with a riot in Elgin over the export of Scottish produce to alleviate the Irish potato famine; *ibid.*, pp. 43-8.

Principal Clerk of Session, vacated by the recently-deceased Thomson, where he remained until his death in 1874.¹¹

This legal career created a methodological framework for Innes's record scholarship, as is discussed below, but it was his involvement in peerage cases that proved most significant for his antiquarian work. These cases involved competing claims to aristocratic titles between members of Scotland's nobility.¹² The proofs put forward were often obscure charters, and the research involved helped Innes to develop the knowledge and skills that facilitated his historical work. Between 1830 and 1832 he worked on the Forbes Case, and in 1836 he became involved in the Winton Case, which had been ongoing since 1822 and was finally decided in 1840.¹³ He also gathered evidence in Paris on behalf of the crown in the Stirling Case, and between 1848 and 1853 he defended the Duke of Montrose against a claim to his title by the Earl of Crawford.¹⁴ In addition, he was involved in the inter-related Hamilton and Chatelherault cases during the 1860s.¹⁵

¹¹ Walker, *Legal History* VI, pp. 289-90; Burton, *Memoir*, p. 58; *Scotsman*, (28 February 1852), p. 2; *Morning Chronicle* 26573 (25 February 1852), p. 6; *Caledonian Mercury* 21978 (5 March 1860), p. 3.

¹² G. Donaldson, *Sir William Fraser; the Man and his Work* (Edinburgh, 1985), pp. 27-8; Walker, *Legal History* VI, p. 109.

¹³ Burton, *Memoir*, p. 14; *Letters to Messrs. Tod and Hill about the Winton Peerage* (1822-1836), NAS, GD3/5/1282, nos. 58, 60, 61, 62, 63, 67, 88, 90; M. S. Millar, 'Montgomerie, Archibald William, thirteenth earl of Eglinton and first earl of Winton (1812-1861)', *ODNB* 38, pp. 814-16.

¹⁴ Burton, *Memoir*, pp. 30-2; letters relating to the Stirling case are in *Correspondence re Indictment Against Viscount Arbuthnot on Forgery Charge* (1838-1848), NAS, AD58/214, nos. 20-23; *Letters from Cosmo Innes to E. D. Dunbar* (1859-1873), NLS, acc. 7183, no. 45.

¹⁵ *Letter from Cosmo Innes to Various Recipients regarding the Hamilton and Chatelherault Cases* (1861), NRAS332/C4; Anon., 'Introduction, Abercorn Papers', *Public Record Office of Northern Ireland* (2007), pp. 27-8, at http://www.proni.gov.uk/introduction_abercorn_d623.pdf, accessed 22 April 2010.

The Montrose case had a high enough public profile for one Edinburgh book seller to publish an edition of the evidence and arguments put forward on both sides.¹⁶ Moreover, the Earl of Crawford's son published a similar collection of the proofs presented in the case as a means of validating his father's claim.¹⁷ Other cases spawned similar editions, such as two opposing volumes relating to the Stirling case.¹⁸ Peerage cases could thus beget documentary compilations that, although different in aim, bore similarities to source editions. Like their historical counterparts, these legal collections related to specific topics, comprised an eclectic range of sources, and were prefaced with interpretive commentaries. Other types of case could lead to the creation of similar volumes. In 1827 Innes compiled a set of documents about a case in which a rented horse had expired.¹⁹ A more voluminous example was an appendix of evidence that Innes collected in relation to a disagreement between the burgh and presbytery of Dundee in 1858.²⁰ In both instances the objective was to present disparate but relevant

¹⁶ *Scotsman*, (20 February 1856), p. 1; *Caledonian Mercury* 20716 (19 February 1856), p. 1.

¹⁷ *Report of the Speeches of Counsel and of the Lord Chancellor and Lord St. Leonard's in Moving the Resolution, upon the Claim of James Earl of Crawford to the Original Dukedom of Montrose*, ed. A. W. C. Lindsay (London, 1855).

¹⁸ *The Stirling Peerage; the Trial of Alexander Humphreys, or Alexander Styling Himself Earl of Stirling, before the High Court of Justiciary for Forgery*, ed. W. B. D. D Turnbull (Edinburgh, 1839); *Remarks on the Trial of the Earl of Stirling at Edinburgh, April 29th, 1839 for Forgery*, ed. anon. (London, 1839).

¹⁹ *Reclaiming Note for the Right Honourable Archibald Lord Kennedy in the Conjoined Processes of Advocation Depending Between Him and William Campbell, Horse-Hirer in Aberdeen, and William Henry Doubigging, Esq.*, ed. C. Innes [Aberdeen University Queen Mother Library, n f p Lambda Lawsuits Ca] (1827).

²⁰ *Joint Appendix of Documents in the House of Lords from the Second Division of the Court of Session in Scotland [regarding] the Magistrates and Town-Council of the Royal Burgh of Dundee, appellants, [and] the Reverend the Presbytery of Dundee, respondents*, ed. C. Innes [Dundee City Archives and Records Centre, CH2/1218/41] (1861); *Dundee Courier* 2790 (21 July 1862), p. 2; *Caledonian Mercury* 21304 (6 January 1858), p. 4.

documentation in an orderly and accessible manner to advance a particular argument. Moreover, compilations like Innes's *Dundee Appendix* and those relating to the Montrose case featured many medieval documents. The inclusion of such material reinforces the argument that it was Innes's legal career, and peerage cases in particular, which gave him his initial experience in dealing with medieval record sources.

In addition to legal work, Innes had an academic career. In 1846 he was appointed Professor of Civil History at Edinburgh University.²¹ As a Professor he was a member of the Senate which, until the later part of the century, had considerable influence over university policy. In 1860 he participated in the installation of Lord Brougham and the future Prime Minister William Gladstone (1809-1898) as Chancellor and Rector of the university respectively.²² In 1861 he supported George Skene's (1807-1875) application for the Chair of Scots Law and in 1862 backed the application of Stirling of Keir to become the new Rector.²³ He also suggested Laing for an honorary Doctorate and in 1864 presented that award to both Laing and Robertson.²⁴ It is therefore evident that he was a figure of some influence.

Nevertheless, in the 1840s academic chairs had only an ill-defined relationship with the degrees that universities offered. Moreover, the subject of History, especially Scottish History, was of only marginal relevance to those degree syllabuses.²⁵ Innes's history classes were not compulsory and, unlike most chairs, there was no stipend attached to his professorship. Indeed, he was actually required to pay substantial dues to the university. Any income that could be generated therefore had to come through the direct collection of fees from attendees

²¹ Burton, *Memoir*, p. 52; *Scotsman*, (1st July 1846), p. 3.

²² *ibid.*, (21 February 1860), p. 4.

²³ *ibid.*, (21 November 1861), p. 2; (4 November 1862), p. 2.

²⁴ G. Goudie, *David Laing LLD; a Memoir of his Life and Literary Work* (Edinburgh, 1913), pp. 94-6; T. Clarke, 'Robertson, Joseph (1810-1866)', *ODNB* 47, pp. 355-6.

²⁵ B. P. Lenman, 'The teaching of Scottish history in the Scottish universities', *SHR* 52 (1973), pp. 169-71.

at lectures.²⁶ As a result, Innes had difficulty in making his professorship lucrative, especially since the chair had been in abeyance prior to his appointment due to poor attendance at lectures. Students were generally unwilling to pay for classes which they did not have to attend, and whilst audiences were good when he did not charge a fee they plummeted when one was introduced. After a few years Innes gave up the lectures altogether, and the fact that he was able to do so whilst retaining his chair illustrates just how divorced the subject of History was from the courses that the university offered. It was only when the classes became a compulsory part of the new Law degree in 1862, accompanied by a change in title to Professor of Constitutional History, that Innes took them up again.²⁷ Nevertheless, it was through lecturing that two of Innes's key works were produced. *Scotland in the Middle Ages* (1860, henceforth *SMA*) was based on lectures delivered at Edinburgh University and its content was very similar to his 1846 syllabus of professorial lectures.²⁸ In a similar vein, *Lectures on Scotch Legal Antiquities* (1872, henceforth *SLA*) was derived from lectures delivered to the Juridical Society in 1868 and 1869.²⁹

Later chapters will discuss how Innes's legal and academic activities influenced his historical work. Yet it is his role as a record scholar that makes him a viable subject for this thesis. According to his daughter, it was a personal connection that opened this door:

²⁶ Burton, *Memoir*, pp. 52-3; R. D. Anderson, *Education and Opportunity in Victorian Scotland: Schools and Universities* (Oxford, 1983), p. 29; R. D. Anderson, 'The Construction of a Modern University', in *The University of Edinburgh; an Illustrated History*, ed. R. D. Anderson, M. Lynch & N. Phillipson (Edinburgh, 2003), p. 109.

²⁷ Burton, *Memoir*, pp 53-4; J. W. Cairns & H. L. MacQueen, 'Learning and the Law; a Short History of the Edinburgh Law School' *Edinburgh Law School* (University of Edinburgh, [n. d.]), pp. 14-15, at <http://www.law.ed.ac.uk/Tercentenary/documents/Learning%20the%20Law.pdf>, accessed 1 September 2008.

²⁸ *SMA*, p. v; *Scotsman*, (1 July 1846), p. 3.

²⁹ *SLA*, p. 1; C. Innes, *Syllabus of Lectures on Legal Antiquities* [National Library of Scotland, Rare Books and Music Reading Room, 3.2380.a(12)] (1868).

An acquaintance made about this time was of more importance both to Cosmo Innes himself and to his future services to the law and literature of his country. We allude to that of the late Mr. Thomas Thomson, who found in Mr. Innes an invaluable assistant in his labours among the confused mass of ancient documents then lying without order or arrangement in the Register House. Mr. Innes for but small remuneration gladly assisted him, and so commenced that extra-professional part of his labours which he continued with ever-increasing zeal to his dying day.³⁰

Innes's daughter placed this meeting in the early 1830s, but in his *Memoir of Thomson* (1854) Innes stated that Thomson contracted him to work on the index to the *APS* (1814-1875) in 1824.³¹ Innes was never employed on a permanent basis at the Register House, but his association with that institution continued throughout his life. Following Thomson's dismissal in 1841, it was Innes who was chosen to complete his predecessors work on the *APS* and 1844 saw the publication of the missing first volume that Thomson had been unable to complete.³² The fact that he was entrusted with this work indicates Innes's stock in official and antiquarian circles by the start of the 1840s. His involvement with the project continued when he issued revised editions of Volumes Five (1870) and Six (1870-1872) and the index, which he had been employed to compile in 1824, eventually appeared in 1875.³³ The Register House also published Innes's edition of *Halyburton's Ledger* (1867), and he later superintended the *National Manuscripts of Scotland* (1867-1872, henceforth *NMS*) after the death of its initial editor Robertson.

The Register House was an ongoing thread in Innes's antiquarian career, but it was the Bannatyne and Spalding Clubs for whom he carried out the bulk of his record scholarship.

³⁰ Burton, *Memoir*, pp. 15-16.

³¹ C. Innes, *Memoir of Thomas Thomson, Advocate*; [Bannatyne Club 124] (Edinburgh, 1854), pp. 181-2.

³² M. D. Young, 'The age of the Deputy Clerk Register, 1806-1928', *SHR* 53 (1974), p. 165.

³³ P. Goldesbrough, 'The Record Commission and Scotland', *Prisca Muniment; Studies in Archival and Administrative History Presented to Dr. A. E. J. Hollander*, ed. F. Ranger (London, 1973), pp. 22-3.

Much of this work focused on ecclesiastical records from before the Reformation. His first volume for the Bannatyne Club was an 1831 revision of Thomson's 1823 version of Alexander Myln's *Lives of the Bishops of Dunkeld*. Between 1837 and 1856 he edited fourteen more editions for the club, relating to the abbeys of Melrose, Holyrood, Dunfermline, Scone, Kelso, Inchaffray, Arbroath and Newbattle, the nunnery of North Berwick, the bishoprics of Moray, Glasgow and Brechin, and the families of the earls of Morton and the marquises of Breadalbane. The club also published his *Memoir of Thomson* and his *Origines Parochiales Scotiae* (1850-55, henceforth *OPS*), an unfinished but exhaustive antiquarian survey of Scottish parishes. For the Spalding Club, meanwhile, Innes produced seven editions between 1842 and 1864. These dealt with the Roses of Kilravock, the Campbells of Cawdor and the Innes's of Innes, plus the bishopric of Aberdeen, King's College in Aberdeen, John Barbour's *Brus* and a sixteenth-century description of Aberdeen. Innes also edited the records of Paisley Abbey (1832) and Glasgow University (1854) for the Maitland Club. Meanwhile his *Liber Officialis* (1854), containing sixteenth-century legal records from the Episcopal courts of St Andrews, was printed by the Abbotsford Club.³⁴

Intellectual Communities

Innes was from a class for whom education and opportunity, to use Robert Anderson's terms, were the norm. His descent from gentry stock and his legal and educational posts allowed him admittance to what Robert Morris calls the 'active and varied associational culture' of Edinburgh society.³⁵ The networks and clubs that comprised this culture were the hallmarks of civil society and urban life in nineteenth-century Britain, and were simultaneously contributory toward and symptomatic of a more vigorous sense of Scottish identity within the union. Indeed, Morton argues that it was through this civil society that the middle classes

³⁴ For a full list of Innes's source editions see Appendix 1. For a discussion of the likely extent of their readership see Appendix 4.

³⁵ R. J. Morris, 'Urban associations in England and Scotland 1750-1914; the formation of the middle class or the formation of a civil society?', in *Civil Society, Associations, and Urban Places: Class, Nation, and Culture in Nineteenth-Century Europe*, ed. G. Morton, R. J. Morris & B. M. A. De Vries (Aldershot, 2006), p. 139.

effectively ‘governed’ Scottish affairs in the middle decades of the century³⁶ Innes’s ability to access that society was central to the development of his antiquarian work and, as is demonstrated below, was also indicative of his wider influence and reputation.

As already demonstrated, Innes’s relationship with Thomson enabled him to gain employment at the Register House. In turn, this helped him to build relationships with other record scholars involved with that institution, such as Robertson and Robert Pitcairn (1793-1855).³⁷ It was also partly through Thomson that he was welcomed into the Bannatyne Club in 1829.³⁸ The club’s membership was limited and exclusive, and entry was therefore a form of admittance to Edinburgh’s intellectual elite.³⁹ Because of its small membership, it operated on an intimate level that later, larger clubs were unable to emulate. Club meetings centred on social events such as meals, which formed personal bonds between members.⁴⁰ In this way the club gave Innes access to many leading figures in the Scottish historical revival, including Thomson, Laing and Scott, who was president for the first two years of Innes’s membership. Other members included Tytler, Pitcairn, plus the historians Mark Napier (1798-1879) and George Brodie (1786-1867) and the record scholars James Dennistoun (1803-1855), James Maidment

³⁶ *ibid.*, pp. 141-2; G. Morton, *Unionist Nationalism; Governing Urban Scotland 1830-1860* (East Linton, 1999), pp. 64-133.

³⁷ A. Bell, ‘Pitcairn, Robert (1793–1855)’, *ODNB* 44, p. 421; J. N. Miner, ‘Joseph Robertson and the Scottish middle ages’, *Innes Review* 32 (1981), pp. 40-2.

³⁸ Laing, *Bannatyne Club*, p. 22.

³⁹ Ash, *Strange Death*, pp. 61-6. Levine makes a similar point with reference to the antiquarian societies of nineteenth-century England; P. Levine, *The Amateur and the Professional: Antiquarians, Historians and Archaeologists in Victorian England, 1838-1886* (Cambridge, 1986), p. 40.

⁴⁰ M. Ash, ‘Scott and historical publishing; the Bannatyne and Maitland Clubs’, *Scots Antiquaries and Historians; Papers Read at the Silver Jubilee Conference of the Abertay Historical Society on 15 April 1972*, ed. A. A. M. Duncan (Dundee, 1972), p. 32.

(1793-1879) and William Turnbull (1811-1863).⁴¹ Ferris argues that few academics joined the Bannatyne Club, yet Edinburgh University was represented not only by Innes but also by Principal John Lee, who had previously held Chairs at St Andrews and King's College Aberdeen.⁴² Other Bannatyne Club members from Edinburgh University included Professors James Simpson, Archibald Swinton, William Stevenson, George Joseph Bell, Macvey Napier and William Gregory. Innes, Lee, Swinton and Napier served repeatedly on the Council.

Many other Edinburgh luminaries such as Jeffrey and Cockburn were members of the Bannatyne Club, and Jeffrey also helped to facilitate Innes's infiltration of Edinburgh society since, from the early 1830s, the two men were close neighbours.⁴³ The strength of that connection is illustrated by Innes's involvement in the monument and heraldic device commissioned to commemorate Jeffrey after his death in 1850, and also by the fact that Innes named one of his sons after his friend.⁴⁴ It is also probably through the Bannatyne Club that Innes developed a friendship with Laing, a figure whom Ash and Finlayson place at the core of the Club's success and at the heart of Edinburgh's intellectual community.⁴⁵ Significantly Innes, Scott, Thomson, Laing, Tytler, Pitcairn, Dennistoun, Maidment, Brodie and Napier were all lawyers by trade, and both Cockburn and Jeffrey were appointed to the judicial bench. A legal background was evidently something of a prerequisite for historical study in early-

⁴¹ For the discussion of Bannatyne Club membership that follows see Laing, *Bannatyne Club*, pp. 3-5, 17-28.

⁴² I. Ferris, 'Printing the past; Walter Scott's Bannatyne Club and the antiquarian document', *Romanticism* 11 (2005), pp. 146-7.

⁴³ Burton, *Memoir*, pp. 26-9.

⁴⁴ *Scotsman*, (9 February 1850), p. 4; (8 October 1870), p. 2; Burton, *Memoir*, p. 60.

⁴⁵ M. Ash, 'David Laing', *The Past and the Present; the Role of the National Museum of Antiquities of Scotland*, ed. A. Fenton (Edinburgh, 1979), pp. 9-14; C. P. Finlayson, 'David Laing and his Friends', *University of Edinburgh Journal* 22 (1968), pp. 145-56. Many letters between Innes and Laing attest to their relationship, *Letters from Cosmo Innes to David Laing* (1831-1872), Edinburgh University Library, La IV 17, fols. 4895-4972.

nineteenth-century Scotland.⁴⁶ Moreover, in wider terms lawyers formed the largest and most active contingent of Scotland's civil society.⁴⁷

Innes became a mainstay of the Bannatyne Club and served on its committee in 1832-1835, 1836-1839, 1840-1843, and 1848-1849. He was then appointed to the permanent Committee established in 1855.⁴⁸ He was also an original member of the Spalding Club, in part through of his pre-existing associations with the north east, and was quickly appointed to its council.⁴⁹ This club was set up in Aberdeen by Robertson and Burton, plus the ecclesiastical historian George Grub (1812-1882) and the record scholar John Stuart (1813-1877) as a response to the exclusivity of the Bannatyne Club. All four founders were again legally trained and a quarter of the Club's membership consisted of lawyers.⁵⁰ The Spalding Club had a much larger membership than the Bannatyne and aimed to spread its volumes as widely as possible, rather than privileging their appeal as bibliophilic collectables by limiting the numbers produced.⁵¹ The fact that the Spalding Club publicised its proceedings in the local press, unlike the Bannatyne or Maitland Clubs, is indicative of its open ethos.⁵²

The larger membership of the Spalding Club meant that relationships between members were unlikely to have been as close as they were in the Bannatyne Club. Nevertheless, it enabled

⁴⁶ C. Harvie, 'Legalism, myth and national identity in Scotland in the imperial epoch', *Cencrastus* 26 (1987), p. 39.

⁴⁷ Morton, *Unionist Nationalism*, p. 131

⁴⁸ Laing, *Bannatyne Club*, pp. 4-5.

⁴⁹ Stuart, *Spalding Club*, p. 123.

⁵⁰ D. J. Withrington, 'Aberdeen Antiquaries; the founding of the Spalding Club, 1839', *Aberdeen University Review* 44 (1971), pp. 48, 55.

⁵¹ *ibid.*, pp. 45-7; Miner, 'Robertson', pp. 38-9.

⁵² For example *Aberdeen Journal* 5216 (29 December 1847), p. 1; 5320 (26 December 1849), p. 1; 5424 (24 December 1851), p. 1; 5476 (22 December 1852), p. 4. It was Innes's involvement in the Spalding Club that introduced him to Burton, who would subsequently marry his daughter and biographer Katherine; K. Burton, 'Memoir', in J. H. Burton, *The Book Hunter*, 2nd edition (Edinburgh, 1882), pp. liii-liv.

Innes to access the intellectual society of Aberdeen as well as that of Edinburgh. Like the Bannatyne Club, the Spalding boasted an impressive list of members. Notables included its four founders, plus many prominent Bannatyne Club members such as Thomson, Laing, Pitcairn, Dennistoun, Irving and Napier. Skene was also a member, as was Professor Simpson of Edinburgh University. Other members from the universities included Principal William Jack and Professors Hercules Scott and John Fleming, of King's College. Another key member was John Blackie, Professor of Greek at Marischal College in Aberdeen and for a period joint-treasurer of the Club. In addition, both Hercules Scott and James Simpson served on the club's council.⁵³ Finally Innes was, along with Pitcairn, Laing, Turnbull and Skene, also a member of the short-lived Iona Club, dedicated to the antiquities of the Highlands and the Isles.⁵⁴

It was partly through his work for these clubs that Innes developed his antiquarian reputation. However, by the 1850s the Bannatyne Club was ailing and the Spalding Club began to decline soon afterwards.⁵⁵ Innes then became involved with the Scottish Burgh Record Society (henceforth SBRS), the first of a new type of historical society that began to replace the publishing clubs in the latter decades of the century. It boasted Innes, Laing, Stuart and Burton on its committee, plus Simpson, the Lord Clerk Register Sir William Gibson Craig (1797-1878), the publisher and provost of Edinburgh William Chambers (1800-1883), and the publisher and politician Adam Black (1784-1874). It could also claim a distinguished membership of burgh officers, sheriffs, judges, lawyers, MPs, professors and senior army officers.⁵⁶ Connections between members were far less personal than in the case of its

⁵³ Stuart, *Spalding Club*, pp. 111-36.

⁵⁴ Ash, *Strange Death*, pp. 78-80; *Collectanea de Rebus Albanicis; Consisting of Original Papers and Documents Relating to the History of the Highlands and Islands of Scotland* [Iona Club 1], ed. Anon. (Edinburgh, 1847), pp. 11-15.

⁵⁵ Ash, *Strange Death*, pp. 84-6; Ross, 'Bannatyne Club', pp. 206-7; Withrington, 'Aberdeen antiquaries', p. 55.

⁵⁶ *Ancient Burgh Laws*, pp. 3-8.

predecessors.⁵⁷ Nonetheless, its membership was indicative of the circles in which Innes moved. He was, in addition, admitted to the Society of Antiquaries of Scotland (henceforth SAS) in 1853.⁵⁸ By this point he had already served on the Councils of the Bannatyne and Spalding Club, edited Volume One of the *APS*, spent twelve years as sheriff of Moray and been appointed a professor at Edinburgh University. It is therefore not surprising that he was appointed to the Council in 1855 and remained there until 1867, and was vice-president in 1856-1859 and again in 1860-1863.⁵⁹ This indicated his standing in Scotland's intellectual networks, and the point is strengthened by the familiar names holding SAS offices and council seats, including Burton, Laing, Robertson, Simpson, Skene and Stuart.⁶⁰

Innes was also involved in many other societies. In 1856 he became president of the History section of the Scottish branch of the Archaeological Institute of Great Britain and Ireland, which also attracted the usual crowd of Scottish antiquaries and lawyers.⁶¹ By 1860 he was a member of the Royal Association for the Promotion of Fine Arts in Scotland, and also the Royal Caledonian Horticultural Society.⁶² He was a member of the Glasgow Archaeological Society and the Highland and Agricultural Society of Scotland, and delivered papers to both in 1863.⁶³ He also gave lectures to the Elgin Literary and Scientific Association and the Greenock Philosophical Society, and was a vice-president of the Edinburgh Morayshire Society.⁶⁴ The sheer range of these associations demonstrated that nineteenth-century Scottish

⁵⁷ H. R. Steeves, *Learned Societies and English Literary Scholarship* (New York, 1913), pp. 117-18.

⁵⁸ *General Index and Index of Illustrations of the Proceedings of the Society of Antiquaries of Scotland Vols. I-XXIV* (Edinburgh, 1892), p. xx.

⁵⁹ *ibid.*, pp. v, vii.

⁶⁰ *ibid.*, pp. v-viii.

⁶¹ *Gentleman's Magazine* 201 (September 1856), pp. 346-349; *Times* 22434 (31 July 1856), p. 7.

⁶² *Scotsman*, (23 July 1860), p. 3; *Caledonian Mercury* 19661 (25 March 1847), p. 3; 19788 (12 June 1848), p. 4.

⁶³ Burton, *Memoir*, pp. 65-6; *Aberdeen Journal* 4825 (1 July 1840), p. 4.

⁶⁴ *Scotsman*, (18 December 1841), p. 3; *Caledonian Mercury* 19174 (15 December 1842), p. 3.

antiquarianism was not an insular world of narrow specialism, but was part of a broad, inclusive and interdisciplinary intellectual environment. In that vein, Innes was also part of Scotland's growing photographic community. The Edinburgh Calotype Club (henceforth ECC), of which Innes was a founding member, was set up around 1841 and may have been the first photographic society in the world.⁶⁵ Technological advances made the calotype process obsolete in the 1850s, and the ECC was disbanded in 1856 and replaced with the Photographic Society of Scotland (henceforth PSS). Innes was again a founding member, served as a vice-president and was active up to the society's dissolution in 1873.⁶⁶ The ECC was part of Edinburgh's civil society and, like many of the organisations already discussed, was formed primarily from members of the legal profession and, more specifically, employees or frequenters of Parliament House.⁶⁷ Furthermore, Innes's involvement was symptomatic of a tendency across Britain for amateur photography to be spear-headed by members of antiquarian associations.⁶⁸ Chapter Ten will build on this point by showing how Innes's photography has important implications for the analysis of his approach to the past

The clubs and societies discussed above helped Innes to gain entry to Scotland's intellectual communities, but his legal career also contributed to this process. It was his work as a lawyer that first placed him in the orbit of Thomson, by that point Deputy Clerk Register but previously a peerage expert like Innes. These peerage cases drew Innes into a network of

⁶⁵ J. Hannavy, *Encyclopaedia of Nineteenth-Century Photography I* (London, 2008), pp. 470-1, 746; *British Journal of Photography* 21 (1874), p. 385, cited at *Pencils of Light; the Albums of the Edinburgh Calotype Club* (National Library of Scotland, 2002), at <http://www.nls.uk/pencilsoflight/history.htm>, accessed 19 September 2009.

⁶⁶ For Innes's contributions to the society see *Photographic Journal* 5:81 (1859), pp. 223-7; 8:133 (1864), pp. 288-9; *Scotsman*, (17 December 1859), p. 2; (12 February 1863), p. 2; (25 March 1863), p. 2. Innes also reported on the activities of the PSS to the national photographic press, see *Photographic News*. 7:246 (22 March 1863), p. 250.

⁶⁷ Hannavy, *Encyclopaedia of Photography*, p. 471; *British Journal of Photography* 21, p. 385.

⁶⁸ R. Harrison & A. Linkman, 'Critical Approaches to Heritage', in *Understanding the Politics of Heritage*, ed. R. Harrison (Manchester, 2010), p. 54.

specialist lawyers for whom legal research and record scholarship became synonymous. The Winton case provides a useful example of this. Not only did Innes work on it, but so too did Thomson, Fraser and the genealogist John Riddell (1785-1862).⁶⁹ Indeed, Fraser was employed by Innes as a clerk from the start of the 1840s, and it was probably in this role that he was introduced to peerage work.⁷⁰ He was also employed on the Stirling case as Innes's clerk, and it was no coincidence that his first volume of family history related to the Stirlings of Keir (1853).⁷¹ The two men also shared an earlier commonality in that both were educated at Stonehaven, although Fraser was eighteen years Innes's junior.⁷² Their relationship continued through the 1850s and 60s and the Sutherland title, which had been the subject of legal dispute in the 1770s, was a particular topic of correspondence between them.⁷³

Innes was a frequent correspondent, as his numerous letters to Laing demonstrate.⁷⁴ He also corresponded extensively with the Free Church minister James Calder MacPhail (1821-1908), the Moray naturalist George Gordon (1801-1893) and the Deputy-Lieutenant for Elgin Edward Dunbar (1818-1898).⁷⁵ He maintained a lifelong friendship, conducted mainly through

⁶⁹ For Thomson's involvement see *Winton Peerage Letters*, nos. 61, 62., for Riddell's involvement see nos. 1, 2, 5-9, 11-15, 21, 29, 31, 35, 37, 44, 45, 50, 56; for Fraser's involvement see *Memorials of the Montgomeries, Earls of Eglinton I*, ed. W. Fraser (Edinburgh, 1859), p. v.

⁷⁰ Donaldson, *Fraser*, pp. 4-5.

⁷¹ *ibid.*, pp. 27-8.

⁷² *ibid.*, p. 3; Burton, *Memoir*, p. 5.

⁷³ *Cosmo Innes's Papers*, Mitchell Lib, MS no. 891069 [no nos.], letters from Fraser to Innes dated 22 & 29 January 1859.

⁷⁴ *Innes to Laing Letters*, fols. 4895-4972.

⁷⁵ *Letters Between James Calder MacPhail and Cosmo Innes* (1849-1871), NAS, GD1/238/3; *Letters between Cosmo Innes and George Gordon* (1857-1871), Elgin Museum, ELGINM: L1987.S; *Innes to Dunbar Letters*. For MacPhail see 'History', *Pencils of Light; the Albums of the Edinburgh Calotype Club* (National Library of Scotland, 2002), at <http://www.nls.uk/pencilsoflight/history.htm>, accessed 12 August 2009; for Gordon see S. Bennett, 'Gordon, George (1801-1893)', *ODNB* 22, pp. 898-9; for

letters, with the Anglican vicar Richard Butler (1794-1862).⁷⁶ The fact that Innes was able to have Butler admitted to the Bannatyne Club in 1843, despite the fact that at the time the clergyman had only edited one set of sixteenth-century annals, showed how influential he had become.⁷⁷ Innes also had connections with scholars and statesmen in France. In 1867 he wrote to Dunbar about a visit he had intended to make to the deceased French intellectual Alexis de Tocqueville (1805-1859).⁷⁸ Prior to that, he had developed a friendship with the archivist Alexander Teulet following the latter's involvement in the Stirling case. Indeed, Innes read proofs of Teulet's writings and sub-contracting him for work on Volume One of the *APS*.⁷⁹ He was also on friendly terms with the French statesmen and historians Charles Forbes René de Montalembert, Adolphe Thiers and Francois Guizot.⁸⁰ Moreover, Innes's obituary in the *Academy* made a point of noting that Guizot had praised his ecclesiastical editions.⁸¹

Aristocratic Connections

The relationships detailed above illustrate the connections that Innes had with intellectual and social elites in Britain and on the continent. He was also connected at the highest political and aristocratic levels. His daughter claimed that he was a frequent correspondent of Queen

Dunbar see D. Lundy, 'Person Page 30523', at *The Peerage.com* (2009), at <http://www.thepeerage.com/p30523.htm>, accessed 19 September 2009.

⁷⁶ H. Butler, *A Memoir of Richard Butler by his Widow* (Edinburgh, 1863), pp. 11-16.

⁷⁷ Laing, *Bannatyne Club*, p. 19; J. Grace, *Annales Hiberniae* [Irish Archaeological Society], ed. R. Butler (Dublin, 1842).

⁷⁸ *Innes to Dunbar Letters*, no. 19.

⁷⁹ Burton, *Memoir*, p. 33; *Innes to Laing Letters*, fols. 4940-1; *Letters from Cosmo Innes to the Lord Clerk Register*. (1844-1845), NAS, SRO10/78, no. 2.

⁸⁰ *Scotsman*, (3 August 1874), p. 5; 'Charles Forbes René de Montalembert', *Encyclopaedia Britannica: a Dictionary of Arts, Sciences, Literature and General Information*, 11th edition, 29 vols. (Cambridge, 1910-1911), XVIII, p. 751; 'François Guizot' *ibid.* XII, pp. 705-9; 'Adolphe Thiers', *ibid.* XXVI, pp. 848-9.

⁸¹ *Academy* 119 (15 August 1874), pp. 181-2.

Victoria.⁸² Another daughter married the Scottish lawyer Robert Finlay, later a viscount and Lord Chancellor of Great Britain.⁸³ In addition, Innes had a link with Gladstone as both were friends of Edward Bannerman Ramsay (1793-1872), the Episcopalian Dean of Edinburgh.⁸⁴ In 1863 Innes went to a party attended by the Lord Palmerston.⁸⁵ Furthermore, Prince Albert was patron of the Spalding Club and an honorary member of the SAS. The King of Sweden and one of Louis Napoleon's cousins were also honorary SAS members.⁸⁶

Innes also forged close links with Scotland's rural aristocracy, and whilst sheriff of Moray befriended the Dukes of Sutherland and Roxburghe and the Marquis of Breadalbane.⁸⁷ Moreover, his travels with the circuit courts and tenure as sheriff meant that his time was split between country and city. His childhood had been spent in predominantly rural environments, and whilst his professional life was centred on Edinburgh he maintained a keen interest in country life. This was evidenced by his membership of the agricultural and horticultural societies discussed above, and his articles on 'Highland Sport' and the 'Country Life of England' for the *Quarterly Review* (henceforth *QR*) and the *North British Review* (henceforth *NBR*) respectively.⁸⁸ From an early age he was a keen hiker, rider and hunter and this led him into the company of the Moray laird Charles St John (1809-1856), of whom he subsequently

⁸² *ibid.*, p. 41

⁸³ G. R. Rubin, 'Finlay, Robert Bannatyne, first Viscount Finlay (1842–1929)', *ODNB* 19, pp. 609-12.

⁸⁴ Innes, 'Memoir of Ramsay', pp. lxxii-lxxxv; C. Rogers, *Memorials and Recollections of the Very Reverend Edward Bannerman Ramsay, LL.D., F.R.S.E., Dean of Edinburgh* (London, 1873), p. 52; G. White, *The Scottish Episcopal Church; a New History* (Edinburgh, 1998), p. 36.

⁸⁵ *Innes to Dunbar Letters*, no. 31

⁸⁶ Stuart, *Spalding Club*, p. 111; *General Index of PSAS*, pp. v-vi.

⁸⁷ Burton, *Memoir*, p. 40.

⁸⁸ Anon., [WIVP attr. C. Innes & C. W. G. St John], 'Highland sport', *QR* 77: 153 (1845), pp. 69-105; Anon. [WIVP attr. C. Innes], 'The Country Life of England', *NBR* 40:79 (1864), pp. 1-39.

wrote a memoir.⁸⁹ In this way Innes embodied the juxtaposition between town and country which Ash sees in the life and works of Scott.⁹⁰

Conversely, many of Scotland's rural aristocrats involved themselves in the associational culture of the towns. This was partly something that was expected of 'Enlightened' gentlemen. However, it was also in part a response by the old political elite to the perceived threat of Anglicisation in the early decades of the century.⁹¹ The Marquis of Breadalbane and the Duke of Sutherland were members of the Bannatyne Club, the Spalding Club and the SAS. The Duke of Buccleuch and Queensferry, the Marquises of Bute and Lothian, the Earls of Rosebery, Rosslyn and Dalhousie, and Viscount Melville, were all members of the Bannatyne Club and the SAS. The Earl of Aberdeen, later Prime Minister, was the first president of the Spalding Club. He was supported by the Dukes of Richmond and Sutherland, the Earls of Erroll and Moray, and Viscount Arbuthnot as vice-presidents. Between 1851 and 1876 the four presidents of the SAS were the Marquis of Breadalbane, the Duke of Buccleuch and Queensferry, the Marquis of Lothian and the Duke of Sutherland.⁹² The SBRS could also claim numerous aristocratic members, including the Dukes of Argyll and Sutherland, and the Earls of Dalhousie, Minto, Rosslyn, Seafield, Southesk, Stair, Wemyss and Zetland.⁹³

Additionally, many of the source editions that Innes edited were sponsored by aristocratic club members. These included the Dukes of Sutherland, Roxburghe, Buckingham and Buccleuch and Queensferry, the Marquis of Breadalbane, and the Earls of Glasgow, Spencer, Elsmere

⁸⁹ Burton, *Memoir*, pp. 10-12; C. W. G. St. John, *Natural History and Sport in Moray, Collected from the Journals and Letters of C. St. John*, ed. C. Innes (Edinburgh, 1863), pp. xvii-xviii.

⁹⁰ Ash, *Strange Death*, pp. 13-15.

⁹¹ B. P. Lenman, *Integration and Enlightenment: Scotland 1746-1832*, 2nd edition (Edinburgh, 1997, orig. 1981), pp. 138-9.

⁹² Laing, *Bannatyne Club*, pp. 17-28; Stuart, *Spalding Club*, pp. 111-36; *General Index of PSAS*, pp. v-xxxii.

⁹³ *Ancient Burgh Laws*, pp. 3-8.

and Rosslyn.⁹⁴ Innes's *Aberdeen Fasti* was paid for by the Earl of Aberdeen, and his relationship with the Earl was such that he was able, in 1853, to bring a deputation of lawyers to Downing Street to discuss the Advocates Library.⁹⁵ Such connections are significant given that the middle and upper classes were closely allied during the 1800s in their efforts to revive interest in Scottish history.⁹⁶ Moreover, it is likely that many of these connections were initially made in the course of Innes's peerage work, and Chapters Six and Eight will explore that aspect of his aristocratic connections in more detail. It was therefore through peerage cases, publishing clubs and civic societies that Innes gained access to social, political and economic elites as well as the intelligentsia. The results of this can be seen in his involvement in high-profile bodies and functions. These include a reception thrown by Countess Stair at Holyrood Palace in 1869, an event held by the Edinburgh Royal Archers in 1863 and a ball at the prestigious New Club in the same year. As early as 1833 he was part of the Municipal Corporations (Scotland) Commission and in 1857 he was appointed to a committee created to report on the potential unification of King's and Marischal Colleges in Aberdeen.⁹⁷ He was thus an active and respected participant in Edinburgh's public life.

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As one obituary put it, Innes was 'one of the most distinguished, and also the most universally respected of our Edinburgh citizens'.⁹⁸ Yet the next chapter will argue that, methodologically speaking, he had much in common with the antiquaries of the eighteenth-century. Nevertheless, he and his contemporaries were not marginalised in the way that antiquaries had

⁹⁴ Laing, *Bannatyne Club*, pp. 68, 69, 73, 74, 77, 84, 85; Stuart, *Spalding Club*, p. 144; Smith, *Maitland Club*, p. 20.

⁹⁵ Stuart, *Spalding Club*, p. 144; *Times* 21402 (14 April 1853), p. 5; see Appendix 1 for a full list of Innes's editions and their sponsors.

⁹⁶ Ash, 'Scott and Historical Publishing', p. 28; Morris, 'Urban Associations', pp. 142-3.

⁹⁷ *Caledonian Mercury* 17481 (27 July 1833), p. 3; 21405 (4 May 1858), p. 4; *Scotsman*, (28 May 1869), p. 7; (10 April 1863), p. 2; (15 April 1863), p. 2; (25 February 1857), p. 3; *Times* 22612 (24 February 1857), p. 5; Burton, *Memoir*, p. 66.

⁹⁸ *Scotsman*, (3 August 1874), p. 5.

been in the 1700s.⁹⁹ On the contrary, they operated at the heart of Scotland's intellectual mainstream with the support of aristocratic, political and civic leaders. Innes's views of the past, therefore, cannot be dismissed as the minority opinions of an unregarded antiquary. Instead, his standing lends his historical interpretations weight as a means of understanding how Scots perceived their own history in this period.

⁹⁹ I. G. Brown, *The Hobby-Horsical Antiquary; a Scottish Character 1640-1830* (Edinburgh, 1980), pp. 9-18.

Chapter 3 –Antiquarianism, Old and New

In *SLA* Innes referred to contemporaries such as Thomson and Robertson, as ‘our legal antiquaries’.¹ Articles in the *Scotsman* called him a ‘great legal antiquary’ and ‘our greatest legal and antiquarian scholar’, whilst the *Glasgow Herald* labelled him ‘a thorough antiquarian’.² Innes’s daughter, meanwhile, wrote of his rivalry with John Riddell (discussed in Chapter Eight) in terms of ‘rival antiquaries’.³ Antiquarianism had been viewed with disdain by the intellectual mainstream in the seventeenth and eighteenth centuries, but the previous chapter has highlighted Innes’s connections at the highest levels of society. This implies that a shift in attitude towards antiquarianism occurred in nineteenth-century Scotland. This chapter will examine that change, and will explore some of the antiquarian methodologies that informed Innes’s work with sources.

Traditional Antiquarianism

Before discussing Innes’s antiquarianism, it is necessary to define the term. One key characteristic was an emphasis on classification and compilation, as opposed to literary and narrative history-writing. Antiquaries did not narrate events. Instead they collected sources, either physically or through the act of describing them, and in so doing compared and categorised them.⁴ Antiquaries also tended to focus on specific fragments of the past, as

¹ *SLA*, pp. 2-14.

² *Scotsman* (9 December 1847), p. 4; (9 August 1866), p. 2; *Glasgow Herald* 7980 (4 August 1865), p. 6.

³ Burton, *Memoir*, p. 71.

⁴ H. Ritter, *Dictionary of Concepts in History* (London, 1986), p. 14; Sweet, *Antiquaries: the Discovery of the Past in Eighteenth-century Britain* (London, 2004), p. xvi; T. L. Rae, ‘The Scottish antiquarian tradition’, *Scots Antiquaries and Historians; Papers Read at the Silver Jubilee Conference of the Abertay Historical Society on 15 April 1972*, ed. A. A. M. Duncan (Dundee, 1972), pp. 20-2; P. Levine, *The Amateur and the Professional: Antiquarians, Historians and Archaeologists in Victorian England, 1838-1886* (Cambridge, 1986), pp. 14-15 & 60.

opposed to the over-arching frameworks of narrative historians.⁵ The antiquarianism that Innes inherited from the previous century was a broad church and his predecessors had engaged with manuscripts, artefacts, archaeological sites, topography, philology and natural history.⁶ However, their work had centred particularly on physical sources, and this remained an important strand throughout the 1800s.⁷ Antiquarianism consequently tended to privilege the tangible over the intangible, and this was associated with a collecting culture that has been described by one historian as both ‘possess[ive]’ and ‘fetishistic’.⁸ The implications of this approach, and the resulting view of manuscripts as objects as well as texts, will form the subject of Chapter Nine.

Innes’s activities centred on record scholarship, but he also followed earlier antiquaries by conducting investigations into a range of other sources. He was a vice-president of the SAS and his contributions to that society illustrate this broad approach. His interest in artefacts can be seen in the fact that he exhibited mural floor tiles from the nunnery of North Berwick and gave presentations about a saint’s staff and a privateer’s medallion.⁹ He also gave a paper on the fifteenth-century seal of the burgh of Aberdeen and donated casts of various medieval

⁵ S. A. Crane, ‘Story, history and the passionate Collector’, in *Producing the Past; Aspects of Antiquarian Culture and Practice 1700-1850*, ed. L. Peltz & M. Myrone (Aldershot, 1999), pp. 187-90.

⁶ Sweet, *Antiquaries*, p. xix; Levine, *Amateur*, pp. 11-12; Rae, ‘Antiquarian Tradition’, p. 13.

⁷ *ibid.*; A. Buchanan, ‘Science and sensibility; architectural antiquarianism in the early nineteenth century’, in Peltz & Myrone, *Producing the Past*, p. 169; I. G. Brown, *The Hobby-Horsical Antiquary; a Scottish Character 1640-1830* (Edinburgh, 1980), pp. 12-13. The SAS’s laws, instituted in 1780, state that the society’s work will be carried out ‘especially by means of Archaeological Research’; *PSAS* 136 (2006), p. xi.

⁸ Crane, ‘Passionate collector’, p. 187; L. Peltz, & M. Myrone, ‘Introduction; “Mine are the subjects rejected by the historian”, antiquarianism, history and the making of modern culture’ in Peltz & Myrone, *Producing the Past*, pp. 2-3.

⁹ *Scotsman* (26 May 1847), p. 3; likenesses of these tiles were later published in the *North Berwick Carte*, at end of volume; Innes, ‘Crozier of St Moluach’, *PSAS* 2 (1857), pp. 12-15; C. Innes, ‘Medallion of Paul Jones’, *PSAS* 3 (1857), pp. 391-2.

seals to the SAS's museum.¹⁰ Innes was also interested in topography; both *SMA* and the *OPS* contained detailed historical maps, whilst the *NMS* contained several facsimiles of maps from medieval manuscripts.¹¹ Moreover, the fact that he talked to the SAS about the maps in *SMA* shows that he considered their creation to be an antiquarian undertaking.¹² Topography was also linked to the study of statistics, which had long been associated with antiquarianism.¹³ Indeed, the title of Innes's *QR* article on 'Scotch Topography and Statistics' illustrated how closely these two areas were allied.¹⁴ Speaking to the SAS, Innes praised the Earl of Buchan (founder of the SAS) for his involvement in the *Old Statistical Account of Scotland* (1791-1799) and suggested using local school masters for a future statistical project.¹⁵ Indeed, a tract from Innes's papers discussed the *New Statistical Account* (1834-45) and probably formed part of his research for 'Scotch Topography and Statistics'.¹⁶ In that article Innes stated that topographical study had been central to Scottish antiquarianism for centuries. He then praised the intent behind both *Statistical Accounts*, but condemned their execution. In this way he awarded himself the intellectual authority to pass judgement on existing statistical and topographical surveys. The fact that those judgements were published in the *QR* indicates that

¹⁰ C. Innes, 'Original matrix of the seal of the burgh of Aberdeen', *PSAS* 5 (1864), pp. 138-40; *PSAS* 2, p. 78.

¹¹ *SMA*, pp. xi-xxxiv; *OPS* 1, 2.1, 2.2, at the end of each volume; *NMS* II, nos. V, p. 5, LXVIII, p. 54; LXIX, p. 55; LXX, p. 56; *NMS* III, nos. II, XXXVII [n. p.].

¹² C. Innes, 'Anniversary address', *PSAS* 3 (1859), pp. 323-4; topographical study was also part of the mandate of the Bannatyne Club, *Bannatyne Club Minutes* I, NLS, MS 2046, p. 5, quoted in I. Ferris, 'Printing the past; Walter Scott's Bannatyne Club and the antiquarian document', *Romanticism* 11 (2005), p. 145.

¹³ D. J. Withrington, 'Aberdeen Antiquaries; the founding of the Spalding Club, 1839', *Aberdeen University Review* 44 (1971), p. 43.

¹⁴ Anon. [*WIVP* attr. C. Innes], 'Scotch topography and statistics', *QR* 82: 164 (1848), pp. 342-90

¹⁵ C. Innes, 'Annual address', *PSAS* 5 (1864), pp. 196-212; C. Innes, 'Communication with the school masters of Scotland', *PSAS* 2 (1857), pp. 344-5.

¹⁶ *Cosmo Innes's Papers*, Mitchell Lib, MS no. 891069, [no nos.], headed 'New Statistical Account of Scotland', [n. d.].

his contemporaries accepted that authority. It is therefore notable that Innes's *OPS* was similar in terms of structure and content to the *Statistical Accounts*.

Innes also dabbled with philology and, as Chapter Four will show, his edition of Barbour's *Brus* (1856) was as much linguistic as it was literary or historical. Moreover, his interest in natural history fitted the antiquarian mould and was significant enough to warrant comment in his obituary in *The Academy*.¹⁷ As Chapter Two has noted, he was a member of the Royal Caledonian Horticultural Society and the Highland and Agricultural Society, and he delivered a paper on 'Old and Remarkable Trees in Scotland' to the latter.¹⁸ In the late 1860s he even involved himself in present-day forestry by pushing for the planting of trees near his Edinburgh home to replace those damaged by storms.¹⁹ His periodical articles on outdoor pursuits and his connection with the Moray laird Charles St John have already been discussed, and he also edited St John's journals for publication. Innes shied away from giving St John's writings on hunting, fishing, flora and fauna 'the appearance of scientific accuracy of description and arrangement'.²⁰ This was because he recognised that St John was not an antiquary and did not write according to antiquarian conventions of classification and description. Nevertheless, *Natural History and Sport in Moray* (1863) had an uneven tone, oscillating between personal recollection and more objective description.²¹ It seems likely that Innes, as an antiquary, sought to privilege this descriptive material in his editing.

¹⁷ Rae, 'Antiquarian Tradition', p. 16; Levine, *Amateur*, pp. 16-7; *Academy* 119 (15 August 1874), pp. 181-2.

¹⁸ C. Innes, 'Old and remarkable trees in Scotland', *Transactions of the Highland and Agricultural Society of Scotland* 73 (1863), pp. 40-53.

¹⁹ *Letter from Cosmo Innes to Unknown Recipient* (1869), NLS, Acc. 12319.

²⁰ *ibid.*, no. 12.

²¹ For examples of the intermittently more objective tone see discussions of the widgeon, the long-tailed duck and the water rail, C. W. G. St. John, *Natural History and Sport in Moray, Collected from the Journals and Letters of C. St. John*, ed. C. Innes (Edinburgh, 1863), pp. 6, 9-10, 13.

Innes also reported on the cairns, barrows and megaliths that were a staple of Scottish antiquarianism.²² In *SMA* he called the study of such sites the ‘proper ground of the antiquary’.²³ He delivered papers to the SAS on a tomb in Morayshire, a cairn in Nairnshire, a chapel in Pembrokeshire and a stone circle in Lewis.²⁴ He was present at an excavation on the estate of Largo, examined cairns in Forfarshire, and participated in a visit to the ruins of a Columban church in the Western Isles.²⁵ However, archaeological sites comprised only a small part of his activities, and several of the papers mentioned above relied as much on textual research as on-site observation. Moreover, Innes did not lead these archaeological investigations; he was often an observer and at most a participant rather than a leader.

All of these pursuits were characterised by the fact that Innes could not claim any great expertise in them. His engagement with artefacts was minor and occasional. In his edition of Barbour’s *Brus* he admitted his own lack of philological expertise.²⁶ His interest in natural history was as a sportsman rather than a specialist. He was content to observe and report on excavations rather than lead them. In a letter to Dunbar he discussed his antiquarian interest in, but lack of knowledge of, geology.²⁷ Innes, therefore, partially conformed to the tradition of the gentleman-amateur, dabbling in various fields without specialist knowledge. On the other hand, he could certainly claim considerable expertise with manuscripts and sometimes his amateur pursuits dovetailed with his record scholarship. The *OPS*, for example, was a major

²² Brown, *Hobby-Horsical Antiquary*, pp. 18-19.

²³ *SMA*, p. 276.

²⁴ C. Innes, ‘Tomb on the hill of Roseisle’, *PSAS* 3 (1859), pp. 46-50; C. Innes, ‘Notice of St Govane’s hermitage’, *PSAS* 3 (1859), pp. 184-6; C. Innes, ‘Stone circle of Callernish in the Lewis’, *PSAS* 3 (1859), pp. 110-12.

²⁵ *Gentleman’s Magazine* [no issue no.] (October 1864), p. 494; *Scotsman* (20 August 1864), p. 2; (17 February 1865), p. 3; *Times* 24957 (22 August 1864), p. 9; C. Innes, ‘Suggestions of objects of archaeological interest in the west of Scotland’, *Transactions of the Glasgow Archaeological Society* 1:5 (1863), pp. 317-18.

²⁶ Barbour, *Brus*, p. xxxi.

²⁷ *Letters between Cosmo Innes and George Gordon* (1857-1871), Elgin Museum, ELGINM: L1987.S, no. 4.

survey of Scotland's parishes and most entries contained topographical, archaeological and architectural information. Yet those entries were also based primarily on the pre-Reformation church records that were at the heart of Innes's work, and which will be discussed in detail in Chapter Six.²⁸ Manuscript studies were the foundation on which Innes's reputation was built, and in that area he was no dilettante but rather an acknowledged expert.

Record Scholarship and Expertise

Despite the traditional primacy given to physical remains, record scholarship was also accepted as a facet of antiquarianism.²⁹ Innes's work with records can therefore be placed within the antiquarian *milieu* and was consequently characterised by the urge to collect and analyse.³⁰ This urge was articulated in terms of physical sources through his call to the SAS for the better labelling of artefacts in the society's museum.³¹ Crucially, however, he had the same approach when writing works such as *SMA*, *SLA* and *Sketches of Early Scotch History* (1861, henceforth *SESH*), which were based mainly on documentary research. They were descriptive and thematic rather than narrative and chronological, and were thus products of an antiquarian mindset. Furthermore, record scholarship formed part of Innes's contributions to the SAS. In 1857 he presented a paper on William Bowie's *Taymouth Book* and another on the records of the burgh of Dundee.³² In the same year he eulogised the work of the Record Commission and the publishing clubs in printing Scottish manuscript sources.³³ Whilst the

²⁸ *OPS* 1, p. xxvii-xli; see also (for example) entries for Renfrew, Inchinnan, *OPS* 1, pp. 73-80, Kilberry, North Knapdale, *OPS* 2.1, pp. 36-42, Ardersier, Dornoch, *OPS* 2.2, pp. 593-647.

²⁹ P. R. Murray, 'Antiquarianism', in *The Edinburgh History of the Book in Scotland: III, Ambition and Industry 1800-1880*, ed. B. Bell (Edinburgh, 2007), pp. 278-86; Rae, 'Antiquarian tradition', p. 17; Withrington, 'Aberdeen antiquaries', pp. 43-55.

³⁰ Levine, *Amateur*, pp. 70-1.

³¹ C. Innes, 'President's address', *PSAS* 3 (1857), p. 6.

³² C. Innes, 'The Black Book of Breadalbane', *PSAS* 2 (1857), pp. 17-19; C. Innes, 'Manners from the council-books of Dundee', *PSAS* 2, (1857), pp. 347-9.

³³ C. Innes, 'Opening address', *PSAS* 3 (1857), pp. 3-8.

bulk of this work was carried out by the state and the clubs, the SAS did produce Stuart's editions of the records of the Abbey of Kinloss and the Priory of May.

Innes certainly considered his record work to be antiquarian. In *SMA* he discussed the value of charters to the 'legal antiquary'.³⁴ In the *Taymouth Book* he used the same term when writing about court records and also extolled the value of the Taymouth charter chest to the 'Scotch antiquary'.³⁵ Similarly, he applied the label of 'legal antiquary' to Thomson throughout his biography of the man.³⁶ He used the term 'church antiquary' in a discussion of early saints in the *Arbroath Liber* and in a description of cathedral statutes in the *Glasgow Registrum*.³⁷ In the *Melrose Liber* he referred to the 'excavation' of charters by the 'zealous antiquary', thus drawing a parallel between record scholarship and the investigation of archaeological sites.³⁸ The use of the term 'antiquities' in the title of *SLA* conferred a similar sense of tangibility on the textual sources on which that book was based. In the same vein, Innes's daughter referred to his record work as 'archaeological labours', and a review of *SMA* in the *Gentleman's Magazine* stated that it 'belongs more to what is usually considered archaeology than history'.³⁹ Several other reviews used similar terminology when discussing Innes's work with documentary sources.⁴⁰ In addition, reviews of *SMA* appeared in the *Transactions of the Glasgow Archaeological Society* and *Archaeologia Cambrensis*, and one of his *Familie of Innes* (1859) appeared in the *Archaeological Journal*.⁴¹ Indeed, the review in the *Archaeologia Cambrensis* stated that:

³⁴ *SMA*, p. 166.

³⁵ *Taymouth Book*, pp. xv, xxix; *SESH*, pp. 365, 381.

³⁶ C. Innes, *Memoir of Thomas Thomson, Advocate*; [Bannatyne Club 124] (Edinburgh, 1854), pp. 23, 132, 153, 244.

³⁷ *Arbroath Liber* I, pp. xxvii-xxviii; *Glasgow Registrum* I, p. xlii; *SESH*, pp. 57, 156.

³⁸ *Melrose Liber* I, p. ix, *SESH*, p. 92.

³⁹ Burton, *Memoir*, pp. 52, 54-5; *Gentleman's Magazine* 208 (May 1860), p. 497.

⁴⁰ For example, Anon. [WIVP attr. J. H. Burton], 'Student Life in Scotland', *Blackwoods Edinburgh Magazine*, 76:466 (1854), p. 135; *Athenaeum* 2358 (4 January 1873), p. 11.

⁴¹ A. Galloway, 'Scotland in the Middle Ages; Notes on the Work of Cosmo Innes', *Transactions of the Glasgow Archaeological Society* 1:2 (1859), pp 180-94; Anon',

Professor Innes is a good archaeologist, and, if we may borrow a word from our French brethren, a good “archivist”; that is to say, he is not only well acquainted with the general archaeology of Scotland and of Europe, but he is profoundly versed in the records and the archives of his own country. He is a palaeographer; he really can read the original records which he quotes [...] We had long been aware how high Scottish Archaeology stood; and it is a gratifying circumstance to find Scottish History again claiming a similar position.⁴²

Evidently present-day distinctions between disciplines did not apply in the 1800s, and terms such as ‘history’, ‘archaeology’ and ‘antiquarianism’ were to an extent interchangeable. For antiquaries sources were sources, regardless of what form they took, and could consequently be approached with a single philosophy. Categorisation and description were as much features of record scholarship as they were of the study of artefacts or sites. Indeed, that approach was evident in the typological structure of some of Innes’s source editions, and also in his tendency to use uniform terms such as ‘charter’, ‘confirmation’ and ‘lease’ to identify the different documents presented therein.⁴³

The classificatory leanings of record scholarship were also in part the result of other influences. Innes and his contemporaries were heirs to the adoption of Diplomatics by Scottish antiquaries in the 1700s.⁴⁴ However, Innes’s legal experience also immersed him in a complex taxonomy that had been undergoing codification by institutional writers since the seventeenth

‘Scotland in the Middle Ages’, *Archaeologia Cambrensis* 8:30 (1862) pp. 162-72; Anon., ‘Ane Account of the Familie of Innes, by Cosmo Innes’, *Archaeological Journal* 49 (1892), pp. 428-33;

⁴² Anon., ‘Scotland in the Middle Ages’, *Archaeologia Cambrensis* 8:30 (1862), pp. 162-3.

⁴³ See, for example, *Glasgow Registrum* I, pp. cv-cxxxvi; *Aberdeen Registrum* I, ‘Tabula’, [n. p.]; *Arbroath Liber* I, ‘Tabula’, pp. i-xxiv.

⁴⁴ B. P. Lenman, *Integration and Enlightenment: Scotland 1746-1832*, 2nd edition (Edinburgh, 1997, orig. 1981), pp. 136-7; Rae, ‘Antiquarian Tradition’, pp. 19-20

century.⁴⁵ Many of the historical records with which he worked, both as a record scholar and a peerage lawyer, were legal documents. Indeed, Chapter Two has demonstrated that the documentary compilations that Innes created as a lawyer resembled the editions that he created as an antiquary. This confluence is further illustrated by the technical terminology used to describe legal documentation in *SLA*. For instance, the content listings relating to the second and fifth chapters, on ‘Charters’ and ‘Old Forms of Law’, covered:

The Tenure: *modus tenendi* – Grant of Regality – Grant of Earldom – Grant of *liberam forestam* – Mode of constituting the right of forest – Apparent extent of the right – Right of Pannage – Grant in *liberam warrenam* – Nature & extent of this right – Grant in *liberam baroniam* [...] Notice of Brieves for compelling payment of debts - Implement of contracts - Brieves of mortancestry, of novel disseisin, of recognition, of perambulation, of partition, of ward - Brief *de nativis et fugitivis* - Brief of emancipation - Brief to compel payment of church rents - Brief against excommunicates and apostates - Brief limiting the jurisdiction of the Church - Brief prohibiting process in Consistorial Court concerning a lay tenement - Brieves concerning Seisin, Terce, Dowry, Tutorship - Brief to compel friends to support a pauper - Brief to distinguish between aforethought felony and *chaude melee* - Brief of right - Brief *in re mercatoria* - Brief ordering inquiry as to the disease of sheep - Brief for putting down cruives.⁴⁶

This specialist vocabulary was both legal and antiquarian, and it excluded those without expert knowledge. Moreover, the prevalence of this vocabulary in his work supports Cant’s view that Innes approached the past primarily in legal and institutional terms.⁴⁷ Subsequent chapters will

⁴⁵ R. M. White & I. D. Willock, *The Scottish Legal System*, 4th edition (West Sussex, 2007, orig. 1993), pp. 105-8; Walker, *Legal History* IV, pp. 2-4; V, pp. 19-25; VI (2001), pp. 20-6.

⁴⁶ *SLA*, pp. viii, xii-xiii.

⁴⁷ R. G. Cant, *The Writing of Scottish History in the Time of Andrew Lang; Being the Andrew Lang Lecture Delivered Before the University of St. Andrews 8 February 1978* (Edinburgh, 1978), p. 5.

show that, whilst his presentation of history was multi-dimensional and complex, law and institutions generally provided the backbone of his interpretations.

This was in turn reflected in the fact that record sources, rather than prose tracts, were the subjects of the bulk of Innes's manuscript work. With his background as a lawyer, he was a legal antiquary first and foremost and he worked primarily with legal records. This expertise was what differentiated his record scholarship from his other antiquarian activities, and which differentiated his generation from its antiquarian forbears.⁴⁸ Levine highlights the tendency of antiquaries in nineteenth-century England to rely on enthusiasm rather than expertise. However, in Scotland the antiquarian work of men like Innes, Thomson, Riddell and Fraser drew on legal experience and peerage work.

Levine also notes that English antiquaries were generally amateurs with private incomes, and before the closing years of the century only a minority could command payment.⁴⁹ Innes was part of a similar minority in Scotland, although Ash states that Innes was not financially reliant on his record work.⁵⁰ He held various paid positions within the state and maintained a private practice well into later life. Nevertheless, his work for the publishing clubs and the Register House brought in substantial sums. In 1831 he was paid £150 for his work on the index to the *APS*. In 1844 he was awarded £700 for editing Volume One of the *APS* in 1844 and requested a further £150 to cover unforeseen costs.⁵¹ He initially offered his skills to the clubs for free, but by the 1840s was requiring payment of around £100 per volume.⁵² In 1849, for instance, he was paid £100 for editing Volume One of the *Arbroath Liber* and in 1854 received £105 for Volume Two. In 1850 and 1851 he requested additional funds for the completion of the *OPS*.⁵³

⁴⁸ Buchanan, 'Science and sensibility', p. 168; Rae, 'Antiquarian tradition', pp. 19-20.

⁴⁹ Levine, *Amateur*, pp. 22-3, 122-34.

⁵⁰ Ash, *Strange Death*, p. 51.

⁵¹ *Statement of Expenses Incurred on Account of the Record Commission, 1 April to 1 July 1831* (1836), NAS, SRO10/68; *Innes to LCR Letters*, nos. 1-3.

⁵² Ross, 'Bannatyne Club', p. 211.

⁵³ *Letters from Cosmo Innes to David Laing* (1831-1872), Edinburgh University Library, La IV 17, regarding the *Arbroath Liber*, fols. 4917, 4929-30, 4931, regarding the *OPS*,

These examples represented a much wider trend and show that Innes's record work was semi-professional. The same can be said for lawyers like Pitcairn, who was employed at the Register House in the 1820s and 1830s on an *ad hoc* basis, and for Thomson, who held the paid offices of Deputy Clerk Register and Principal Clerk of Session concurrently.⁵⁴ Similarly, both Robertson and Fraser were employed at the Register House in the 1850s and 60s and supplemented their incomes not only with other record work but also with journalism and peerage cases respectively.⁵⁵

Innes's ability to attract payment is further evidence that he belonged to the top echelon of the antiquarian community. This gave him the intellectual power to provide authoritative interpretations of sources, although these interpretations engendered criticism from some quarters.⁵⁶ This prestige also enabled him to remove himself from the day-to-day work of record scholarship. He was paid to supervise the creation of record editions, rather than to labour with the records himself. This point is made by Ross, who shows that Innes made extensive use of clerks for transcription, translation, collation, proofing and indexing on the *Moray Registrum*, the *Kelso Liber*, the *North Berwick Carte*, the *Inchaffray Liber* and the *Newbattle Registrum*.⁵⁷ The money that he earned had to cover all costs, including those of sub-contracting work. Ross also demonstrates that Innes used clerks in preparing the *Glasgow*

fols. 4918-9, 4922-3; fols. 4918-9 are also reproduced in Ross, 'Bannatyne Club', p. 225.

⁵⁴ Ash, *Strange Death*, pp. 41-58; P. Goldesbrough, 'The Record Commission and Scotland', *Prisca Muniment; Studies in Archival and Administrative History Presented to Dr. A. E. J. Hollander*, ed. F. Ranger (London, 1973), pp. 21-6.

⁵⁵ T. Clarke, 'Robertson, Joseph (1810-1866)', *ODNB* 47, pp. 355-6; G. Donaldson, *Sir William Fraser; the Man and his Work* (Edinburgh, 1985), pp. 8-13, 33-41.

⁵⁶ See, for example, Riddell, *Stewartiana*, p. 83; Anon. [no attr. in WIVP], 'The Scottish Monks', *NBR* II (1845), p. 389.

⁵⁷ *Bannatyne Club Papers*, NLS, MS 9362, nos. 73, 75, 119: *Abstracts of the Bannatyne Club Treasurer's Accounts From M.D.CCCXXIII. to M.D.CCC.XXVIII* (Edinburgh, 1867), years 1848 and 1849; *Papers of William MacKenzie*, NAS, GD 271/173; cited in Ross, 'Bannatyne Club', p. 216.

Registrum and the *Arbroath Liber*.⁵⁸ Several clerks also collaborated with Innes on the *OPS*, the *APS* and the *Taymouth Book*.⁵⁹ Moreover, by the 1860s Innes had a team of assistants working on the long-awaited index to the *APS*.⁶⁰ Ross argues convincingly that much of Innes's responsibilities were managerial. His two key editorial contributions were the selection and ordering of items, and the provision of an editorial preface. Whilst he also checked the proofs that his clerks produced, he was paid primarily for making editorial decisions and providing introductory exposition.⁶¹

Innes was no amateur with a private income but was paid by the state and the clubs to reconstruct Scottish history from original sources. His activities thus represented a step

⁵⁸ These included James Brichan, Robert Chambers, Robert Jameson, James MacPhail, George Melville, William Millar, John Rennie and a clerk called Lowe; see *Bannatyne Club Papers*, NLS, MS 9361, no. 115; *Bannatyne Club Papers*, NLS, MS 9362, nos. 19, 21 and 28; *Innes to Laing Letters*, fols. 4915-6, 4925-6, 4929-30; cited in Ross, 'Bannatyne Club', p. 214 and the latter two are reproduced on p. 229; see also *Historical Department Correspondence* (1872), NAS, SRO8/119, no. 9; *Caledonian Mercury* 21978, (5 March 1860), p. 3.

⁵⁹ William Anderson, James Birchan, William McNab and Joseph Robertson were involved in the *OPS*, *OPS* 2:1, p. xx; Laing, *Bannatyne Club*, p. 84; *Scotsman* (13 December 1870), p. 2; James MacPhail assisted on *APS* I, *Letters Between James Calder MacPhail and Cosmo Innes* (1849-1871), NAS, GD1/238/3, nos. 1, 2, 8, 9, 12, 13, 14, 15, 16, 17, 18, 22; *Innes to Laing Letters*, fol. 4957. Alexander Campbell searched the Breadalbane charter room on Innes's behalf, see *Innes Papers* [no nos.] letters from Campbell to Innes dated 21 & 22 January, 16 March, 9 December 1853; other unnamed clerks worked with Innes on other editions, see *Innes to Laing Letters*, fols. 4905-8, 4918-9.

⁶⁰ This team included clerks called Grant and Kirkpatrick, Archibald Anderson (who took over the project following Innes's death) and Archibald Lawrie, later editor of *Early Scottish Charters to AD. 1153* (1905); *Papers Concerning Work on the Index to APS* (1872-1874), SRO10/125, no. 8.

⁶¹ Ross, 'Bannatyne Club', pp. 214-5.

towards the professionalization of record scholarship, mirroring changes that were occurring in England.⁶² This employment shows that both the British state and Scotland's civic society saw his record work as legitimate and necessary, and this was a key aspect of Ash's 'historical revolution'. It was the specialist and professional status of individuals like Innes, compared to the eclectic amateurism of the previous century, which helped to give Scottish antiquarianism a new validity during the 1800s.

Towards a New Antiquarianism

That new legitimacy stood in contrast to the pejorative views of antiquarianism that had been the norm in previous centuries.⁶³ Brown states that the Scottish antiquaries of the later 1700s were often criticised for 'a concern with trifles, controversy for its own sake, back-biting, absurd speculation, the minutiae of pointlessly arcane scholarship'.⁶⁴ Scott's character Jonathan Oldbuck is frequently held up as an affectionate example of this, although Scott was himself an antiquary.⁶⁵ Moreover, eighteenth-century antiquarianism operated outside the conceptual boundaries of Enlightenment.⁶⁶ Its focus on objects rather than words was at odds with the Enlightenment ethos, and its descriptive and non-narrative form was seen as old-fashioned.⁶⁷ In addition, a preoccupation with historical fragments and minutiae inevitably

⁶² Levine, *Amateur*, pp. 123-34.

⁶³ *ibid.*, pp. 17-18; Sweet, *Antiquaries*, pp. xiii; Brown, *Hobby-Horsical Antiquary*, pp. 9-18.

⁶⁴ *ibid.*, pp. 10-11.

⁶⁵ Ferris provides an insightful analysis of Oldbuck and the character's relationship with Scott;

I. Ferris, 'Pedantry and the question of Enlightenment history: the figure of the antiquary in Scott', *European Romantic Review* 13 (2002), pp. 273-83.

⁶⁶ Peltz, & Myrone, 'Introduction', p. 8; see also S. Manning, 'Antiquarianism, the Scottish sciences of man, and the emergence of modern disciplinarity', in *Scotland and the Borders of Romanticism*, ed. L. Davis, I. Duncan & J. Sorensen (Cambridge, 2004), pp. 57-76.

⁶⁷ P. Fielding, *Scotland and the Fictions of Geography; North Britain 1760-1830* (Cambridge, 2008), p. 102.

stood in opposition to philosophical history, which saw the past in terms of over-arching systems and sweeping narratives.⁶⁸

Yet Innes was not ashamed of his antiquarian activities. In the *Morton Registrum* he communicated the very antiquarian excitement that he felt in the pursuit of his researches:

One uninitiated in the exciting pursuit of charter antiquities cannot readily appreciate the interest with which the zealous investigator searches through a charter room like that of Dalmahoy. As each massive old chest is approached, and one after another the bolts and locks, with all their quaint devices for puzzling the stranger, give way, and as one after another he opens the little oak drawers, and lets in the light upon their sleep of centuries, he is in constant hope of some important revelation.⁶⁹

This extract evokes how rewarding Innes found antiquarian work, and it would be a mistake to view his historical career purely as an exercise in public duty or the pushing of agendas. Yet he also created conceptual distance between himself and the antiquarianism of the previous century. In *SMA* he wrote that:

The proper study of antiquities is hardly begun among us; and much of the discredit and ridicule that have fallen upon it and its votaries, arises from the crude and presumptuous judgments passed upon individual cases and objects as they arise, instead of investigating each with reference to the family to which it belongs.⁷⁰

Later in the same chapter, he used the same grounds to condemn the ways in which earth houses in northern Scotland had been analysed by previous antiquaries. According to Innes, ‘each pretender blurts out his own crude and undigested theory, formed from a specimen or

⁶⁸ Manning, ‘Antiquarianism’, pp. 57-76.

⁶⁹ *Morton Registrum* I, p. xxii.

⁷⁰ *SMA*, p. 277.

two nearest to himself'.⁷¹ In contrast, he was keen to depict his own analysis as the result of systematic comparative study. He took a similar line when telling the SAS about the maps in *SMA*. The abstract of that paper noted that it challenged the 'the opinionative and prejudiced assumptions of the more modern chroniclers' with regards to the Picts.⁷² In other words, Innes was disassociating himself from the Pictish controversies that had raged between antiquaries at a few decades before. This was part of an effort to re-brand antiquarianism for the nineteenth century. It can also be seen in Innes's 1857 assertion to the SAS that 'you no longer hear antiquaries sneered at as laborious triflers' and that 'the public are not dead to the feeling of the antiquary'. He also exhorted members to 'make our studies popular' and 'to carry the intelligent public along with us in our researches'.⁷³ Innes's goal was thus for antiquarianism to shed its negative associations and continue its move into the mainstream.

As already argued, the possession of credible expertise was necessary to distance the antiquarianism of Innes's day from that of the last century. Enthusiasm on its own was no longer enough to justify assertions about the past; specialist knowledge and skills were now also required. There was, however, another facet to the rehabilitation of antiquarianism. The perceived failure of eighteenth-century antiquaries to assign meaning to the past had placed them at odds with Enlightenment discourse. As Alexandrina Buchanan argues, antiquarianism was 'any relationship with the past which seeks rather to describe and categorise its physical remains than to draw from them any wider message or moral'.⁷⁴ Yet Innes's interpretation of Scottish history was not ideologically neutral. As later chapters will show, he overlaid the classificatory bent of traditional antiquarianism with a sense of societal progress more usually associated with what Kidd calls the 'sociological Whiggism' of the Enlightenment.⁷⁵ To Innes

⁷¹ *ibid.*, pp. 283-4.

⁷² C. Innes, 'Anniversary Address', *PSAS* 3 (1857), p. 323.

⁷³ C. Innes, 'Opening address', *PSAS* 3 (1857), pp. 5-6.

⁷⁴ Buchanan, 'Science and sensibility'; p. 169.

⁷⁵ Kidd, *Subverting*, pp. 107-23; see also A. Broadie, *The Scottish Enlightenment; the Historical Age of the Historical Nation*, 2nd edition (Edinburgh, 2007, orig. 2001), pp. 754-8; M. G. H. Pittock, 'Historiography', in *The Cambridge Companion to the Scottish Enlightenment*, ed. A. Broadie (Cambridge, 2003), pp. 259-61.

and his contemporaries, however, progress was not theoretical but could be proved using the methodologies of source analysis that antiquarianism provided.

Innes used his vice-presidency of the SAS to make a direct link between antiquarianism and the elucidation of historical progress. In one address, he likened the progress of antiquarian study since the SAS's inception to the wider advancement of society and concluded by stating that antiquarianism was now a 'rational historical study'.⁷⁶ Elsewhere he argued that the role of antiquarianism was to 'illustrate the progress of the people and the country from the earliest times', and that the SAS's museum should be organised in such a way as to demonstrate that progress.⁷⁷ In another presentation he asserted that antiquarian study was of benefit to the country as a whole.⁷⁸ These examples indicate a shift in attitude from older forms of antiquarianism, which eschewed wider meaning and focused on historical fragments for their own sake. For Innes, minutiae were still at the heart of what antiquaries did, but they could also be used to divine the wider meanings of the past. For example, the *OPS* focused on the local but in so doing encompassed the national, and thus engaged with both the fragment and the whole. Similarly, Innes's source editions tended to focus on specific abbeys or families, but placed them in a broader national context. In this way his work was heir to kind of antiquarianism represented by the *Old Statistical Account* at the end of the 1700s, and which Penny Fielding calls 'a sophisticated and dense form of national antiquarianism'.⁷⁹

This preoccupation with national progress was a far cry from eighteenth-century antiquarianism, whose practitioners often took refuge in the past because of dissatisfaction with the present.⁸⁰ Innes was one of a new breed of antiquaries who adopted the methods of their predecessors whilst reacting against their ideological legacy. He sought to appropriate aspects of Enlightenment on behalf of antiquarianism and thus break the antagonism that had

⁷⁶ C. Innes, 'Annual address', *PSAS* 5 (1864), pp. 196-212.

⁷⁷ C. Innes, 'Opening address', *PSAS* 3 (1857), pp. 5-7; B. Black, *On Exhibit: Victorians and their Museums* (Virginia, 2000), p. 22.

⁷⁸ C. Innes, 'Early geography of Scotland', *PSAS* 3 (1859), p. 323.

⁷⁹ Fielding, *Fictions of Geography*, p. 125, see also pp. 76-7.

⁸⁰ Brown, *Hobby-Horsical Antiquary*, pp. 29-30.

previously existed between the two approaches.⁸¹ Yet he did not achieve this single-handedly. Scott and his brand of Enlightened Romanticism were already having a powerful influence on antiquarian work. Nevertheless, Innes played a significant role during the middle of the century in continuing the field's relocation into intellectual respectability. He and his colleagues clothed the framework of antiquarianism in the language of Enlightenment and could consequently be welcomed by the Scotland's elites.

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Innes was simultaneously a traditionalist and an innovator. He represented both continuity with Scotland's antiquarian tradition and also a deliberate break from it. He contributed to a kind of intellectual renaissance in the nineteenth-century that Fry calls 'the classic age of Scottish antiquarianism'.⁸² This new antiquarianism was the framework in which the research discussed in subsequent chapters was located. Innes's source-centred and evidential approach was antiquarian, whilst his views on the meaning of history were shaped by the Enlightenment inheritance. However, whilst an Enlightenment facelift helped to legitimise Scottish antiquarianism, the following chapters will show that providing Scottish history itself with lasting validity was more problematic.

⁸¹ Manning, 'Antiquarianism', pp. 59, 67; Peltz & Myrone, 'Mine are the subjects', pp. 2-9.

⁸² Fry, 'Whig Interpretation', p. 82.

Chapter 4 – The Acts of the Parliaments of Scotland

Innes's reputation as a record scholar rested in large part on his labours with Scotland's parliamentary records. Work began on the *APS* in 1806 and was finally completed in 1875. Ten volumes were produced between 1814 and 1824, another in 1844, three more between 1870 and 1872 and an index volume appeared in 1875. Thomson began the work but it was Innes who completed it. The *APS* was the most ambitious, extensive, and challenging record publication undertaken in Scotland during the nineteenth century.¹ Yet its focus was an institution that no longer existed and which was held in little regard by most Scots. It therefore seems a strange project for Innes, Thomson and the state itself to spend so much time on. This apparent contradiction will be explored below, and the chapter will also investigate how Innes deployed his sources in the parts of the *APS* that he oversaw, and what messages he sought to convey with them.

Administrative and Historiographical Context

Although work on the *APS* started in 1806, efforts to publish Scotland's parliamentary records had begun in 1800 when the Record Commission was created.² However, the volume produced by the Register House's Deputy Keeper William Robertson (1740-1803) was deemed unsatisfactory by the Commissioners. Subsequently Thomson, on whose recommendation Robertson's edition had been suppressed, was hired as Deputy Clerk Register and restarted the project. Having published ten volumes by 1824, Thomson stalled. He continued to edit other record publications, but came under increasing pressure to produce the missing Volume One that would cover the period 1124 to 1424. An additional blow fell in

¹ It was also the only state-funded Scottish record project of the 1800s to be completed, J. Goodare, 'The Scottish parliamentary records 1560-1603', *Historical Research* 72 (2003), p. 245.

² The Commission was tasked with rationalising public records but its remit included publication, P. Walne, 'The Record Commissions 1800-1837', *Journal of the Society of Archivists* 2 (1960), pp. 10-11; L. J. Cappon, 'Antecedents of the Rolls Series; issues in historical editing', *Journal of the Society of Archivists* 4 (1972), pp. 358-61.

1826 when a mass of parliamentary papers from the 1600s was discovered in the London State Paper Office, thus rendering Volumes Five and Six obsolete. By the late 1830s Thomson was facing investigation by the Treasury for financial mismanagement and this culminated in his removal from office in 1841 with Volume One still incomplete.³

This was the troubled venture which Innes joined in 1824. Following Thomson's removal, he completed Volume One in 1844, although he experienced difficulty in extracting remuneration for the expenses incurred.⁴ However, it was not until the early 1870s that he finished replacement versions of Volumes Five and Six. Meanwhile the index to the edition, which Innes had initially been employed to work on in the 1820s, was not completed until after his death in 1875.⁵ This delay was in part to the termination of the Record Commission in 1838, but work restarted after William Gibson-Craig was appointed Lord Clerk Register in 1862.⁶ By 1871 Gibson-Craig was coming under pressure from the Treasury to produce the index and he, in turn, passed that onto Innes.⁷ In addition to these financial problems, the *APS* was a cause of personal acrimony for Innes. His agreement to take over the project did

³ Ash, *Strange Death*, pp. 41-58; Goodare, 'Parliamentary records', pp. 244-5; P. Goldesbrough, 'The Record Commission and Scotland', *Prisca Muniment; Studies in Archival and Administrative History Presented to Dr. A. E. J. Hollander*, ed. F. Ranger (London, 1973), pp. 19-26; M. D. Young, 'The age of the Deputy Clerk Register, 1806-1928', *SHR* 53 (1974), pp. 157-66; J. Fergusson, *The Man Behind Macbeth and Other Stories* (London, 1969), pp. 142-9.

⁴ *Letters from Cosmo Innes to the Lord Clerk Register*. (1844-1845), NAS, SRO10/78, nos. 1-3.

⁵ C. Innes, *Memoir of Thomas Thomson, Advocate* [Bannatyne Club 99] (Edinburgh, 1854), pp. 181-2.

⁶ *APS* XII, p. v.

⁷ *Historical Department Correspondence* (1871), NAS, SRO8/115, no. 37; (1872), NAS, SRO8/119, nos. 2, 5, 7, 8, 10, 11; *Papers Concerning Work on the Index to the APS* (1872-1874), SRO10/125, nos. 1-3.

considerable damage to his friendship with Thomson.⁸ Decades later, bitter rivalries broke out between the clerks employed to work on the index and the new Volumes Five and Six.⁹

The work of publishing Scotland's parliamentary acts was daunting because of its sheer scale, and was also beset by administrative, financial and personal problems. The fact that Innes, Thomson, the Register House and the Treasury persevered with the project shows how important they believed it to be. Yet this commitment was juxtaposed against a dominant view of the Scottish parliament as an embarrassing failure. Whig historians in the 1700s overlaid existing discourses on constitutional liberty with an emphasis on historical progress. Intellectuals in both England and Scotland argued that, as a result of this progress, the English constitution had successfully supplied liberty to Britain as a whole.¹⁰ The delivery of that liberty was perceived to be reliant on the refinement of law and the motor of constitutional development. Moreover, the sociological Whigs of the Scottish Enlightenment had been central to the promulgation of English constitutional triumphalism, and at the same time had condemned Scotland's constitutional past on the grounds of impotence against monarchical tyranny. The judge and philosopher Lord Kames (1696-1782), for example, argued that in the sixteenth and seventeenth centuries the power of parliament had been disastrously usurped by the Lords of the Articles, a committee controlled by the monarchy and empowered to draft legislation on parliament's behalf.¹¹ This view was shared by many of Kames's contemporaries such as Robertson and Hume.¹² To these Scottish Whigs it was Union with

⁸ Innes, *Memoir of Thomson*, p. 228; APS I, 'Preface', p. 52.

⁹ *Index to APS Papers*, nos. 7-10; see also APS XII, pp. vii-viii.

¹⁰ R. J. Smith, *The Gothic Bequest: Medieval Institutions in British Thought, 1688-1863* (Cambridge, 1987), pp. 57-70, 85-96; J. Gascoigne, *Joseph Banks and the English Enlightenment; Useful Knowledge and Polite Culture* (Cambridge, 2003), pp. 28-30; Kidd, *Subverting*, pp. 107-28

¹¹ H. Home, Lord Kames, *Essays Upon Several Subjects Concerning British Antiquities* (London, 1749), pp. 48-50; see also Kidd, *Subverting*, pp. 130-44.

¹² W. Robertson, *The History of Scotland, during the Reigns of Queen Mary and of King James VI. till his Accession to the Crown of England I* (London, 1759), p. 71; D.

England that was responsible for Scotland's current happy state; her own constitutional past was irrelevant and distasteful. Indeed, the legal theorist John Dalrymple (1726-1810) even worried that Scottish illiberality was having a deleterious effect on English freedom.¹³

Whiggism actually gained currency in the nineteenth century, and it was in this historiographical context that Innes worked on the *APS*.¹⁴ Throughout the 1800s the dominant view of Scotland's history was Unionist and Whiggish in its acceptance of English constitutional superiority.¹⁵ Scott himself was quick to criticise the old Scottish constitution, referring to the Lords of the Articles as an 'obnoxious institution' that 'became a severe restraint on national freedom'.¹⁶ Burton similarly argued that favourites of the monarch 'found the delegation of business to this committee to be the weakest part of the organisation of the legislature, and they accomplished their ends by corrupting its constitution'.¹⁷ Elsewhere he referred to the 'rapid progress in wealth and civilisation accruing in Scotland' following the Union.¹⁸ This indicates that the Enlightenment critique of Scotland's constitution remained durable through the nineteenth century and that the *APS* was unlikely to have been intended as a celebration of Scottish constitutional history. Nevertheless, its very existence was indicative

Hume, *The History of England* VI (Indianapolis, 1983, orig. 1759), p. 466; cited in Kidd, *Subverting*, p. 139.

¹³ J. Dalrymple, *An Essay Towards a General History of Feudal Property in Great Britain* (London, 1757), pp. 327-31, cited in Kidd, *Subverting*, pp. 139-42.

¹⁴ M. Bentley, *Modern Historiography: an Introduction* (Abingdon, 1999), pp. 62-70; B. Stuchtey, 'Literature, liberty and the life of the nation; British historiography from Macaulay to Trevelyan'; in *Writing National Histories; Western Europe since 1800*, ed. S. Berger, M. Donovan & K. Passmore (London, 1999), pp. 30-46; J. W. Burrow, *A Liberal Descent; Victorian Historians and the English Past* (Cambridge, 1981), pp. 36-60.

¹⁵ Fry, 'Whig Interpretation', pp. 80-3.

¹⁶ W. Scott, *History of Scotland*, 2 vols. (London, 1830), I, p. 217.

¹⁷ J. H. Burton, *History of Scotland from Agricola's Invasion to the Revolution of 1688*, 7 vols. (Edinburgh, 1867-70), IV, p. 97.

¹⁸ *ibid.* VII, p. 54.

of a historically-based sense of Scottish identity. It is reasonable to assume that the project was born from the sentiments that also fuelled the building of the New Register House and the subsequent rationalisation of the public records under Thomson.¹⁹ The creation of such archives was in the nineteenth century associated with the rise of nationalism. Across Europe they implicitly promoted interpretations of the past in which nation and state were closely intertwined.²⁰ Scotland, however, was no longer a state. Nor was it home to the robust nationalism found in other stateless nations at the time.²¹ Yet it had a national archive and its constitutional records were published on a grand scale against considerable impediments.

Although the *APS* could not emphasise constitutional progress towards present-day statehood, it could articulate a sense of identity through legal history. Some historians have implied that the institutional writings of the eighteenth century leant Scotland's law an aura of distinctiveness which fed into Scottish identity within the Union.²² However, Kidd undermines that view by highlighting how the Enlightenment *literati* attacked native jurisprudence for failing to rid itself of feudal barbarism.²³ Yet the situation in the early 1800s was somewhat different. Many leading figures, such as Cockburn, certainly favoured assimilation with the

¹⁹ Ash, *Strange Death*, pp. 43-6.

²⁰ T. Cook, 'Remembering the future: appraisal of records and the role of archives in constructing social memory', in *Archives, Documentation, and Institutions of Social Memory: Essays from the Sawyer Seminar*, ed. F. X. Blouin & W. G. Rosenberg (Michigan, 2007), pp. 172-3; A. Laurence, 'Heritage as a tool of government', in *Understanding the Politics of Heritage*, ed. R. Harrison (Manchester, 2010), pp. 81-4.

²¹ C. Harvie, *Scotland and Nationalism; Scottish Society and Politics 1707-1977* (London, 1977), pp. 16-17, 122-3, cited in Kidd, *Subverting*, p. 4. See also P. J. Geary, *The Myth of Nations; the Medieval Origins of Europe* (Oxford, 2002), pp. 15-40.

²² T. M. Cooper, M. C. Meston & W. D. H. Sellar, *The Scottish Legal Tradition*, 4th edition (Edinburgh, 1991, orig. 1949), pp. 69-70; T. B. Smith, *British Justice: the Scottish Contribution* (London, 1961), pp. 14-16, 19-20, 213-4

²³ Kidd, *Subverting*, pp. 144-65.

English legal system.²⁴ Yet a new form of historical patriotism led many, including Scott, to oppose the erosion of Scottish law on the grounds of its historic contribution to national character.²⁵ The judge John Inglis, Lord Glencorse (1810-1891), was an influential defender of Scottish legal distinctiveness and it was therefore telling that Innes dedicated *SLA* to him.²⁶

Legal Antiquarianism and the APS

Despite the low esteem in which Scotland's constitution was held, the 1800s were characterised by a close association between history and law. Chapter Two has illustrated the dominance of lawyers in Scotland's antiquarian community. This entrenched an existing tendency to view history through the prism of law, a tendency extending back to the institutional writers of the 1600s.²⁷ Innes and Thomson operated in that tradition and perceived historiographical connections between their own legal antiquarianism and that of their predecessors. In that vein, the opening chapter of *SLA* surveyed writing on Scottish legal history from the seventeenth century to Innes's own contemporaries such as Thomson and Riddell.²⁸ This emphasised Innes's perception of his work as part of an established canon of Scottish institutional writing.

²⁴ C. Kidd, 'Sentiment, Race and Revival; Scottish Identities in the Aftermath of Enlightenment', in *A Union of Multiple Identities; the British Isles c.1750-c.1850*, ed. L. W. B. Brockliss & D. Eastwood (Manchester, 1997), pp. 113-14; Fry, 'Whig interpretation', pp. 80-1.

²⁵ C. Harvie, 'Legalism, myth and national identity in Scotland in the imperial epoch', *Cencrastus* 26 (1987), pp. 37-8; A. N. Bold, *Sir Walter Scott: the Long-Forgotten Melody* (Michigan, 1983), pp. 23-4; Kidd, 'Sentiment', pp. 111-13.

²⁶ *SLA*, p. v, cited in Harvie, 'Legalism', p. 39; G. F. Millar, 'Inglis, John, Lord Glencorse (1810-1891)', *ODNB* 29, pp. 265-7.

²⁷ J. W. Cairns, 'Legal Theory', in *The Cambridge Companion to the Scottish Enlightenment*, ed. A. Broadie (Cambridge, 2003), p. 222.

²⁸ *SLA*, pp. 1-29.

It is therefore significant that all ten of Thomson's original volumes of the *APS*, plus Innes's Volume One, contained comparative tables illustrating the relationships between the acts as presented in that edition and the versions in earlier collections.²⁹ A similar sense of continuity was created in Innes's revised Volumes Five and Six, where he reprinted much of the superseded material from Thomson's originals in appendices.³⁰ These measures were intended to help readers who were used to earlier editions, but they also emphasised the long history of statute publication in Scotland. Indeed, Innes's preface to Volume One contained a survey of the printed acts over the previous three hundred years.³¹ This located the *APS* within a tradition of constitutional publishing dating back to the early sixteenth century. Yet Innes's preface also differentiated the *APS* from its predecessors by emphasising their failings. These criticisms were bolstered by the fact, highlighted by Innes, that Thomson's work at the Register House had only recently made the materials for a full edition of Scottish acts accessible.³² In addition, and in contrast to William Robertson's volume, the *APS* drew on sources from outside the Register House.³³ It was thus believed by its editors to be the first collection of Scottish statute law based on all surviving records. This point was further emphasised in Volume One, which contained an expositional catalogue of the main sources from which the volume was compiled.³⁴ Innes thus stressed the comprehensiveness, accuracy and evidentially sound nature of his own work.

The *APS* also melded this antiquarian emphasis on evidence with an Enlightenment concern for the progress of liberty, which itself helped to mould the interpretations of Scottish legal

²⁹ *APS* II, pp. 43-56; III, pp. 31-2; IV, pp. 23-26; V, pp. 31-2; VI, pp. 53-5; VII, pp. 27-8; VIII, pp. 27-8; IX, pp. 23-4; X, p. 19; XI, p. 23; I, 'A comparative table of the chapters in the edition of Mr John Skene, and those contained in this volume', [n. p.].

³⁰ *ibid.* V (2nd edition), p. iv.

³¹ *ibid.* I, 'Preface', pp. 21-30.

³² *ibid.* 'Preface', pp. 19-21.

³³ Goodare, 'Parliamentary records', p. 247.

³⁴ *APS* I, 'A notice of the principal manuscript collections of the ancient laws of Scotland employed in the compilation of this volume', pp. iii-xxxvi.

history discussed later in this chapter.³⁵ Nonetheless, Thomson and Innes did not accept the intellectual inheritance of the previous century without reservation. Enlightenment Scots saw justice and jurisprudence as natural and universal rather than constructed and contextual.³⁶ By the start of the 1800s, however, Scott was questioning the idea of natural justice and arguing that actual laws were frequently enacted and enforced for the benefit of the powerful.³⁷ Writing decades later, Innes was even more sceptical about law as a universal constant. He believed, for instance, that Kames's work was valuable but marred by frequent digressions on natural law. He also ironically commended Kames for the 'one or two instances he actually dug out an old record and used it'.³⁸ For Innes, law was a matter of historical context communicated through evidence. European legal systems had many similarities but this was not a function of natural law but rather, as argued in *SMA*, a consequence of the shared origins of European institutions.³⁹ The *APS* was therefore compiled with a concern for original sources containing specific legislation born of particular circumstances.

Partly because of this, Innes perceived contemporary relevance in old legal records. He believed that the most powerful force in law was the appeal to 'ancient writs'.⁴⁰ He therefore used *SLA*, delivered originally to the Juridical Society, to urge Scottish lawyers to familiarise themselves with these records.⁴¹ He also pointed out that Scotland was the only European country whose system of conveyancing still operated on medieval principles.⁴² In this way,

³⁵ S. Manning, 'Antiquarianism, the Scottish sciences of man, and the emergence of modern disciplinarity', in *Scotland and the Borders of Romanticism*, ed. L. Davis, I. Duncan & J. Sorensen (Cambridge, 2004), pp. 64-6.

³⁶ K. K. Haakonssen, 'Natural Jurisprudence and the Theory of Justice', in Broadie, *Cambridge Companion*, pp. 205-21.

³⁷ D. D. Brown, *Walter Scott and the Historical Imagination* (London, 1979), pp. 22-4, 35-7, 40-3, 115-16; R. H. Hutton, *Sir Walter Scott* (South Carolina, 2008), p. 33.

³⁸ *SLA*, pp. 10-11; Riddell had similar views; Riddell, *Stewartiana*, p. 5.

³⁹ *SMA*, pp. 2-3.

⁴⁰ *SLA*, p. 230.

⁴¹ *ibid.*, pp. 287-8.

⁴² *APS* I, 'Preface', p. 30.

Innes demonstrated his attachment to the Scottish legal system and his opposition to assimilation into English law. However, the *APS* was neither intended nor used as a handbook for practising lawyers.⁴³ Several volumes included non-legislative material such as parliamentary proceedings and minutes whilst Volume One comprised material too ancient to retain any force in law. Similarly, much of Volume Five consisted of acts rescinded in 1661 and in his revised version Innes justified their publication by arguing that ‘the period over which they extend (1639-1650) is still the period most studied by the historian and the politician’.⁴⁴ In addition, the edition’s size and expense would have prohibited its use as a day-to-day reference work, and it was not in any case produced in great numbers.⁴⁵

This was perhaps why the index was persevered with for so long and why it received acclaim when it did arrive.⁴⁶ It provided a key to the rest of the edition, enabling readers to find legislation by date, personal names, place names and the names of religious foundations and towns. Yet it also contained thematic entries such as ‘Burgh’, ‘Church government’, ‘Heresy’ and ‘Literary services’ and featured specifically legal entries such as ‘Brieve’, ‘Forfeiture’, ‘Heritable Jurisdictions’ and ‘Retour’.⁴⁷ It therefore augmented the *APS*’s accessibility as a historical record but also gave it additional value as a work of legal reference. As Archibald Anderson stated in the preface, the lack of an index had ‘hitherto proved a serious impediment to the usefulness of that important National Collection’.⁴⁸ Nevertheless, it was a long time coming and in 1841 an abridgement of the acts appeared, compiled by the advocate William Alexander. This single-volume collection was based on the statutes as published in the *APS* but included only legislation that was still in force. It was therefore a fraction of the size of the *APS* and acted as the accessible legal reference work that the *APS* was not. In the preface Alexander acknowledged the value of the *APS*, but also highlighted the difficulties in using it

⁴³ D. M. Walker, *A Legal History of Scotland*, 6 vols. (London, 1988-2001), VI, p. 42.

⁴⁴ *APS* V (2nd edition), p. ii.

⁴⁵ See Appendix 4 for a discussion of numbers produced.

⁴⁶ For example *Good Words* 18 (1877), p. 574; *Academy* 264 (26 May 1877), p. 455.

⁴⁷ *APS* XII, pp. 266-72, 327, 636, 789, 250-3, 556-62, 637, 1051-2.

⁴⁸ *ibid.*, p. v.

to practice law.⁴⁹ The fact that this abridgement was published shows that the *APS* was seen primarily as a historical edition rather than a legal one.

The *APS* was compiled by men who were both lawyers and antiquaries and was shaped by their fixation on sources and evidence. That meant that, whilst Innes's views were moulded by Enlightenment discourse, they also had to be supported with evidence in a way that those of Kames and his contemporaries did not.⁵⁰ Innes made this explicit in *SMA* by stating his intention to look at 'real evidence' and the catalogue of sources included in Volume One showed that that he had previously acted on that intention.⁵¹ The edition was thus intended to be an evidentially sound representation of Scotland's constitutional records. Its publication was indicative of the increasing importance that educated Scots placed on access to those records and therefore to their own history.⁵² Antiquarianism was no longer a private pastime for marginalised individuals hoarding manuscripts and artefacts. As the *APS* showed, it was by the early 1800s a patriotic endeavour promoting public access to sources and encouraging public interest in the Scottish past.

Continuity, Uniformity, Artificiality

Since it was Thomson who superintended the first ten volumes and created the framework within which Innes operated, it is necessary to understand both men's approach to their sources. As the editors of the *RPS* point out, much of the *APS* was not based on official parliamentary records. Volume Two, for instance, was built from eleven different manuscripts,

⁴⁹ *An Abridgement of the Acts of the Parliaments of Scotland, from the Reign of James I in 1424 to the Union with England in 1707*, ed. W. Alexander (Edinburgh, 1841), p. xxxvi.

⁵⁰ A. Broadie, *The Scottish Enlightenment; the Historical Age of the Historical Nation*, 2nd edition (Edinburgh, 2007, orig. 2001), pp. 61-4.; M. G. H. Pittock, 'Historiography', in Broadie, *Cambridge Companion*, pp. 262-4.

⁵¹ *SMA*, p. vii.

⁵² Access to records was an issue of increasing concern in the 1830s and 1840s; Ash, *Strange Death*, pp. 48-9; Walne, 'Record Commissions', pp. 11-12.

none of which were particularly authoritative, but the preface stated only that it was based on ‘records preserved in his Majesty’s General Register House’ and ‘partly also from other sources, of inferior quality indeed’.⁵³ There was little indication of what those sources were, and no sense of which manuscripts related to which printed sections. Volume Three, meanwhile, covered 1567-1592, a period for which the parliamentary record was lost and was consequently based in part on an earlier printed edition.⁵⁴ Volume Five was based on a statute book, an English index of acts, a series of parliamentary abstracts and numerous single-sheet warrants.⁵⁵ Moreover, Thomson sometimes privileged later sources over earlier ones. For instance, in Volume Two he gave primacy to a sixteenth-century printed edition and sidelined the fifteenth-century manuscripts that he also had access to.⁵⁶ In addition, he sometimes conflated several acts into one and intermittently included and then omitted material produced by and relating to private individuals.⁵⁷ He also had a tendency to change wordings or insert new phrases into texts, and present these amended versions as faithful to the original. Manuscripts that were, in his view, defective or unreliable were in this way ‘corrected’.⁵⁸ The validity of these alterations was founded on his expertise as a legal antiquary and, crucially, they were designed to make the printed text more authentic, not less.

Additionally, Thomson organised his volumes along typological lines that did not reflect the arrangements of the original manuscripts. For example, in the *APS* acts were divided according to whether they had originated in parliaments or conventions of estates, but this distinction was not observed in the original records.⁵⁹ Several volumes also featured appendices of ‘parliamentary proceedings’, again creating typological partitions that did not

⁵³ *APS* II, p. xiii; Anon., ‘Chronological tables of statutes, 1424 to 1707’, *RPS*, accessed 3 March 2010.

⁵⁴ *ibid.* III, ‘Preface’, [n. p.].

⁵⁵ *ibid.* V, ‘Preface’, [n. p.].

⁵⁶ Anon., ‘Notes on the sources for the Parliaments of Scotland, 1424-1466’, *RPS*, accessed 3 March 2010; Goodare, ‘Parliamentary records’, pp. 246-8.

⁵⁷ Anon., ‘Chronological tables’, *RPS*.

⁵⁸ Anon., ‘Notes on the sources’, *RPS*.

⁵⁹ For examples see the ‘Tabulas’ in *APS* II, III, IV, IV, [n. p.].

exist in the manuscripts.⁶⁰ In addition, the proceedings of the Lords Auditors and the Lords of Council were recorded in the same manuscripts as those of parliament itself, yet Thomson removed them from the Volume Two and published them in separate editions.⁶¹ He also excluded much seventeenth-century committee material from Volumes Four to Ten.⁶² However, beyond these typological distinctions the overriding organisational imperative of the *APS* was chronology. Volumes were numbered in chronological order with Volume Two starting in 1424 and Volume Eleven concluding in 1707. Within each volume material was presented chronologically and divided by sitting and reign. This was augmented by tables at the start of every volume listing all statutes contained therein in chronological order.⁶³ In the main body of each volume acts and proceedings were numbered consecutively. Moreover, all items were printed in ‘record type’, which is discussed further in Chapter Nine, and arrayed in a uniform two-column layout.

These universal organisational and presentational characteristics led to a representation of the original records that was quite artificial. In their discussion of this, the editors of the *RPS* attribute Thomson’s editorial style to a ‘Victorian obsession with order and tidiness’.⁶⁴ They also state that the ‘*APS* often appears to represent an authoritative text drawn from a straightforward source, and leads the reader to trust the printed version of the acts when he or she should proceed with caution’.⁶⁵ This was, in actual fact, exactly the effect that Thomson was aiming for. His volumes drew together an array of sources of varying types, ages and reliability and conferred a sense of consistency and uniformity on them that belied the fragmented nature of the documentary record and obscured unseemly gaps in the material. The

⁶⁰ For examples see the ‘General table of the contents’ in *APS* XII, IX, X, [n. p].

⁶¹ *The Acts of the Lords Auditors of Causes and Complaints; A.D. MCCCCLXVI.-A.D. MCCCXCIV*, ed. T. Thomson (London, 1839); *The Acts of the Lords of Council in Civil Causes, A.D. M.CCCC.LXXVIII-M.CCCC.XCV*, ed. T. Thomson (London, 1839).

⁶² MacIntosh *et al*, ‘Editorial Introduction’, *RPS*.

⁶³ *APS* II, pp. 3-40; III, pp. 3-22; IV, pp. 3-20; V, pp. 3-26; VI, pp. 3-50; VII, pp. 2-24; VIII, pp. 3-20; IX, pp. 3-19; X, pp. 3-15; XI, pp. 1-19, XII, pp. xiii-xxii.

⁶⁴ Anon., ‘Chronological Tables’, *RPS*.

⁶⁵ McIntosh *et al*, ‘Editorial Introduction’, *RPS*.

absence of editorial annotation added to this illusion.⁶⁶ In this way, Thomson's *APS* implied the existence of a well-ordered set of records tracing Scotland's parliamentary history back to 1424. This in turn gave the institution itself a misleading aura of orderliness.

This was the interventionist editorial approach that Innes inherited. However, Volume One was a more problematic proposition than its predecessors and the difficulty of corralling the pre-1424 material into an orderly format was a factor in Thomson's failure to deliver it.⁶⁷ As Thomson's successor, Innes tried to mould those sources into a form that resembled the existing volumes. The structure was again chronological and regnal. Within that, typological divisions were made between monarchical acts and proceedings in the King's *curia*.⁶⁸ The layout and typescript from previous volumes were also used. Volume One was therefore cosmetically and structurally similar to its predecessors, and it was actually Thomson who edited much of it; Innes took credit only for the extensive appendices.⁶⁹

Nevertheless, the nature of the sources meant that they could not be presented simply as acts and proceedings.⁷⁰ Indeed, no official register of parliamentary acts survived for the period before 1466.⁷¹ From the late 1200s some materials could be legitimately presented as 'parliamentary'.⁷² Yet that left serious questions about the parliamentary record for the period

⁶⁶ *ibid.*; Goodare, 'Parliamentary records', pp. 265-6.

⁶⁷ Innes, *Memoir of Thomson*, pp. 181-6.

⁶⁸ See *APS* I, 'Preface', p. 37 for Innes's explanation of this typological differentiation.

⁶⁹ *APS* I, 'Preface', pp. 50-1. The confused pagination of the volume, which in the index volume Anderson called 'embarrassing', testified to the problems caused by this consecutive editorship; *ibid.* XII, p. vii.

⁷⁰ For the materials and structure referred to in the following discussion see *ibid.* I, 'General table of the contents of the first volume', pp. iii-vi, 'Tabula', pp. 3-36.

⁷¹ McIntosh *et al.*, 'Editorial Introduction', *RPS*.

⁷² *ibid.* I, 'Tabula', pp. 11; see also K.M. Brown & R. J. Tanner, 'Introduction: parliament and politics in Scotland 1235-1560' in *The History of the Scottish Parliament I: Parliament and Politics in Scotland, 1235-1560*, ed. K.M. Brown & R. J. Tanner (Edinburgh,

from the accession of David I in 1124 to Alexander III's death in 1286. Thomson and Innes sidestepped this problem by representing those 160 years through records of assizes and curial acta. Various burghal sources were also incorporated into the volume, as is discussed in the following chapter. Whilst these records were not parliamentary, they were legislative (or on occasion judicial) and therefore embodied elements of Scottish law. This shows that, despite the name of the edition, Volume One was broadly legal rather than specifically parliamentary. Indeed, the early pages of Innes's preface were about law rather than parliament itself.⁷³ Moreover, Burton later asserted that these early records were not even fully legislative. In Volume Two of his *History of Scotland* (1867) he argued of the early assizes that:

There is very little absolute law in them, and they may be said chiefly to consist of good advice and regulations for the preservation of good order, civility and good morals which there was no punishment, penalty or other sanction for enforcing.⁷⁴

Nevertheless, their inclusion in the *APS* implied that they were part of a canon of parliamentary records to which they did not in fact belong, and which did not even exist in the manner put forward in other volumes. It also extended the apparent roots of the Scottish parliamentary system back into the twelfth century.

However, Volume One also included sundry matter that could not be incorporated into even a pseudo-parliamentary record. This eclectic range of sources was presented before the regnal structure that comprised its main body and included twelfth-century charters and writs, a collection of early land tenures, specimens of legal process and parliamentary styles, and Edward I's thirteenth-century ordinances for Scotland. The end of the volume, meanwhile, featured an even larger array of sources including the *Leges Malcolmi*, *Regiam Majestatem* and *Quoniam Attachiamenta*. These texts had previously been thought to contain the earliest traces of Scottish law, and it was only in the later eighteenth century that this erroneous view

2004), pp. 3-4; A.A.M. Duncan, 'The early parliaments of Scotland', *SHR* 14 (1966), pp. 36-8.

⁷³ *APS* I, 'Preface', pp. 3-7.

⁷⁴ Burton, *History of Scotland* II, p. 160.

had been debunked.⁷⁵ By including them in the volume but separating them from more authentic records, Innes was again able to underscore the accuracy of the *APS* in comparison to the errors of the past. Other material located at the end of Volume One included burgh constitutions, march laws, trade regulations, weights and measures, sources relating to private jurisdictions, formats for the oaths of royal officers, and records of burghal assemblies and courts. The goal was thus to include every legal record available, regardless of its relevance to parliament. Indeed, Innes's catalogue of sources listed no less than twenty-six different sources, ranging from thirteenth-century manuscripts to transcripts made at the end of the sixteenth. This shows that the volume was based on a documentary record that was not only disjointed but also of variable authority. The aim was to marshal a disparate menagerie of sources into a coherent representation of Scottish law between 1124 and 1424.

The first ten volumes of the *APS* were intended to confer order onto inherently disorderly sources. Volume One had the same aim. The enforcement of uniformity evoked a solid and continuous constitutional history. Innes continued this approach with his revised Volumes Five and Six. Volume Five comprised not only newly discovered parliamentary records but also various other materials from the Public Record Office in London. These were acknowledged in the preface, but were in the main body silent contributors to an apparently uniform record.⁷⁶ Both volumes contained the standard chronological tables and correlations with early printed versions of the statutes.⁷⁷ They also used the same double-columned layout and record type, as did the supplement of acts printed in the index volume. Given that sixty-six years had passed between Volume Two and the index, the maintenance of a single format is striking. The sense of continuity was further enhanced by the lack of information about which parts of the printed record were drawn from which sources, and the silent amendment of texts throughout. Indeed, Robertson's 1804 edition had been suppressed in part because it had

⁷⁵ Kidd, *Subverting*, pp. 148-9.

⁷⁶ *APS* V (2nd edition), p. vi.

⁷⁷ *ibid.*, pp. xi-xl, xliii-xliv; VI Pt 1 (2nd edition), pp. ix-xli, xlv-xlvi; VI Pt 2 (2nd edition), pp. ix-lxv, lxix-lxx.

reproduced what Thomson and Innes regarded as undesirable scribal errors.⁷⁸ These perceived errors were in the *APS* corrected without comment. In an 1852 letter in the *Scotsman*, Robertson's son defended his father's volume from the criticisms of Thomson and Innes. He argued that his father's aim had been to produce an accurate representation of the parliamentary sources held in the Register House. That meant printing a record with gaps in it and including scribal errors, repetitions and notes in the margins.⁷⁹ The fact that the volume was deemed unacceptable shows how attractive the idea of an unbroken and uniform documentary record was. By virtue of their acknowledged expertise, Thomson and Innes were seen as qualified to take the interventionist editorial approach necessary to achieve this. They made far-reaching decisions about the material so that the reader, who would almost certainly lack such expertise, would not have to.

The success of this effort is illustrated by the difficulties that recent scholars have experienced in unpicking the *APS*. Many medievalists have bemoaned the edition, with particular disfavour focused on Volume One. Archibald Duncan questions Innes's treatment of the *Leges Malcolmi*, *Regiam Majestatem* and *Quoniam Attachiamenta*.⁸⁰ Patrick Wormald refers to his own presentation at the 2001 *Scottish Medievalists Conference* as 'another of those papers, all too familiar to aficionados of the subject, which declares that it is high time *someone* did *something* about *APS* i'.⁸¹ This point was specifically foregrounded by Dauvit Broun and Ewen Cameron when they published the paper in the *Scottish Historical Review*.⁸² Meanwhile,

⁷⁸ Goldesbrough, 'Record Commission', pp. 20-1; Anon., 'Notes on the Sources', *RPS*; P. Cadell, 'Robertson, William (1740–1803)', *ODNB* 47, pp. 279-80.

⁷⁹ *Scotsman* (13 October 1852), p. 3; see also *APS* I, 'Preface', pp. 29-30.

⁸⁰ A. A. M. Duncan, 'The "Laws of Malcolm MacKenneth"', in *Medieval Scotland; Crown, Lordship and Community*, ed. A. Grant & K. J. Stringer (Edinburgh, 1998), pp. 239-273; A. A. M. Duncan, 'Regiam Majestatem; a reconsideration', *Juridical Review* 6 (1961), pp. 199-217.

⁸¹ P. Wormald, 'Anglo-Saxon law and Scots law', *SHR* 88 (2009), p. 195.

⁸² D. Broun & E. Cameron, 'Editorial: discussions of early Scottish law in SHR', *SHR* 88 (2009), p. 191.

the editors of the *RPS* highlight an array of offences against modern editorial sensibilities and cite the very existence of the *APS* as a justification for their own project.⁸³

However, these criticisms show how successful Innes and Thomson were in conferring a drastically new shape onto their sources. Some modern historians embrace the edition; Goodare, for instance, argues that ‘the parliamentary statutes stand among the glories of Scottish record publishing’ and are a ‘splendid achievement’.⁸⁴ He also states that:

Thomson may have erred in asking the world to take his composite texts as fully authoritative. But he did succeed triumphantly not only in an editor's basic responsibility - to render recourse to the manuscripts permanently unnecessary for ordinary purposes - but also in the more challenging task of drawing together and assessing disparate materials bearing on the common purpose. The solidity of his foundations has eased my primary task in this article, which has been to add a few bricks to the edifice he constructed.⁸⁵

That ‘primary task’ is to highlight problems in Volumes Two and Three, but Goodare’s agenda is not to denigrate the *APS*. Instead he asserts that its defects must be identified so that the best possible use can be made of it.⁸⁶ He thus approaches Volumes Two and Three almost as though they are medieval manuscripts. Like many manuscripts they contain a wealth of material copied from older sources and much altered in the process. Like many manuscripts they are confusing, problematic and often misleading, yet vital for the study of history. Historians are therefore compelled to excavate material from the *APS* as they might from the original sources themselves. This point is echoed in medievalists’ approaches to Volume One. The abstract to Wormald’s paper states that it ‘suggests methods of examining the legal material in volume i of the *Acts of the Parliaments of Scotland*’.⁸⁷ The abstract to Alice

⁸³ MacIntosh *et al*, ‘Editorial introduction’, *RPS*.

⁸⁴ Goodare, ‘Parliamentary records’, p. 244, 267.

⁸⁵ *ibid.*, p. 267.

⁸⁶ *ibid.*, pp. 244-5, 266.

⁸⁷ Wormald, ‘Anglo-Saxon Law’, p. 192.

Taylor's recent article on the *Leges Scocie* talks about 'open[ing] up the material in volume i of the *Acts of the Parliaments of Scotland* for further study'.⁸⁸ There is a clear resemblance between such assertions and the ways in which medievalists approach manuscripts. This underlines how different editorial expectations were in the nineteenth century, and how successfully Innes and Thomson met them.

The *APS* gave continuity and structure to a constitutional history that was, in terms of its original records, actually very messy. In so doing it rendered palatable sources which were in the early 1800s still regarded with a certain amount of Enlightenment distaste.⁸⁹ With Volume One Innes continued this mission with particularly challenging sources, and provided Scotland with a constitutional past that stretched back seven hundred years.

The Origins of Scottish Law

As Innes commented, Thomson had a 'morbid reluctance to commit his opinions to paper'.⁹⁰ The prefaces to Volumes Two to Eleven consequently contained little interpretation of the materials contained therein.⁹¹ In contrast, Innes was keen to explain the significance of the sources that he presented. His preface to Volume One, which acted as an introduction to the whole series, was fifty-three pages long. He also wrote extensively about Scottish law in *SMA* and *SLA*, which were similarly based on the analysis of legal records. All three works show that Innes saw constitutional history very much in terms of national progress. In Volume One he stated that the Scottish constitution was 'more obscure in its origin and progress' than that of other European countries.⁹² This implied that the volume's aim was to address that obscurity. Later he discussed the 'marks of rapid improvement and civilisation' during the

⁸⁸ A. Taylor, '*Leges Scocie* and the lawcodes of David II, William the Lion and Alexander II', *SHR* 88 (2009), p. 207.

⁸⁹ Ash, *Strange Death*, p. 41.

⁹⁰ Innes, *Memoir of Thomson*, p. 184.

⁹¹ *APS* II, pp. xiii-xv; none of the prefaces in *APS* III-XI have page numbers.

⁹² *ibid.* I, 'Preface', p. 3.

reign of David I'.⁹³ In *SLA*, meanwhile, he reproved the judge and institutional writer Viscount Stair (1619-1695) for paying little attention to 'the origin and progress of our peculiar law' and argued that, in the twelfth and thirteenth centuries, England and Scotland 'seem to have gone side by side in constitutional progress.'⁹⁴ He also emphasised the burghal contribution to constitutional advancement, as the next chapter will show.

Nonetheless, Innes's sense of constitutional advancement was centred more on the English parliament than the Scottish. This was in sympathy with his Whiggish political views and he had, in his daughter's words, 'exerted himself like other men of his then standing to further the passing of the Reform Bill'.⁹⁵ He even attended a public dinner held in honour of the Whig Prime Minister Lord Grey in 1834.⁹⁶ This stance not only helped his career, as Chapter Two has noted, but was linked to his views on the progress of liberty. Whig history and Whig politics were by no means synonymous, yet both combined reverence for the Anglo-British constitution with a belief in the value of reform. Lenman has contrasted Innes's Whiggism with the Toryism of many of his fellow antiquaries and historians.⁹⁷ However, this distinction is somewhat misleading. Innes was a Whig politically and historically, but by this period most Tories were also Whigs in historiographical terms. Both groups were concerned with the history of liberty; the differences between them were about interpretation and degree.⁹⁸ Scott, for instance, is sometimes seen as a Whig because of his belief in progress, but also as a Tory because of his nostalgia for former days.⁹⁹ Similarly, Innes held Whiggish views but had a romantic attachment to the past that was expressed through his antiquarian work and which will be analysed in Chapter Ten. Furthermore, he contributed several articles to the Tory-leaning *QR* and none to its Whiggish competitor the *Edinburgh Review*, despite the fact that

⁹³ *ibid.* I, 'Preface', p. 6.

⁹⁴ *SLA*, pp. 6, 120.

⁹⁵ Burton, *Memoir*, pp. 73-4.

⁹⁶ *Scotsman*, (6 September 1834), p. 1.

⁹⁷ B. P. Lenman, *Integration and Enlightenment: Scotland 1746-1832*, 2nd edition (Edinburgh, 1997, orig. 1981), pp. 137-8.

⁹⁸ Kidd, *Subverting*, pp. 10-11.

⁹⁹ Ash, *Strange Death*, p. 15; Burrow, *Liberal Descent*, p. 117.

the latter was edited by his friend Jeffrey.¹⁰⁰ These moderate tendencies were also evident in his praise for the seventeenth-century lawyer John Lauder, Lord Fountainhall (1646-1722), in an *NBR* article. Fountainhall was a moderate royalist but had a reputation for fidelity to the principles of liberty and law rather than partisan causes.¹⁰¹

Innes followed Scott in his preference for the English constitution. As already argued, the Enlightenment inheritance cast the Scottish parliament in a negative light; it had failed to safeguard liberty and curb monarchical absolutism. In both *SMA* and the preface to Volume One Innes acknowledged defects in the Scottish constitution and followed the likes of Kames in criticising the Lords of the Articles for dominating parliament's legislative agenda on behalf of the crown.¹⁰² He also highlighted the failure of fifteenth-century measures to enfranchise the lesser baronage and characterised the replacement of the clergy during the Reformation as the empowerment of an already over-mighty nobility. In addition, he argued that the tendency for the estates to sit in one mixed group, rather than separately as in England, reduced the ability of the burghs to maintain an independent voice.¹⁰³ Furthermore, in *SLA* Innes referred to the early Scottish parliaments as 'rude and unsuccessful' and in support cited the siphoning off of power into committees.¹⁰⁴ He then criticised the right of the king to repeal grants made during his minority and bemoaned the conflicts created by competing private jurisdictions. In the same section he decried the lack of protection that Scottish law afforded the individual, and condemned the ways in which feudal law was often used to advantage the rich over the poor. This was also a characteristic which he divined in his own time, and in highlighting it he

¹⁰⁰ For the *QR* see *WIVP* I, pp. 696-702; for the *Edinburgh Review* see *WIVP*, I, pp. 416-29; see Appendix 3 for a discussion of the doubtful authorship of some of the articles attributed to Innes by the *WIVP*.

¹⁰¹ Anon. [*WIVP* attr. C. Innes], 'The Scotch Lawyer of the Seventeenth Century', *NBR* 41:81 (1864), pp. 170-98; D. Allan, 'Lauder, Sir John, second baronet, Lord Fountainhall (1646-1722)', *ODNB* 32, pp. 674-5.

¹⁰² *SMA*, pp. 220-1; *APS* I, 'Preface', p. 12.

¹⁰³ *ibid.* I, 'Preface', p. 11.

¹⁰⁴ *SLA*, pp. 1-2, 127, 143-4.

echoed the legal cynicism of Scott.¹⁰⁵ He then argued that the advent of written land tenure had encroached on the rights of the poor and changed the relationships between chiefs and their people from implicitly contractual to explicitly tyrannical.¹⁰⁶

Most of these criticisms were focused on the centuries following the Wars of Independence. Much of Innes's qualified praise, on the other hand, related to the twelfth and thirteenth centuries and was thus based on the sources in Volume One of the *APS*. Indeed, his partiality for this period was symptomatic of his Anglo-centric Whiggism. For Innes, Scotland's law and institutions were part of a wider European feudalism that was communicated to Scotland through Saxon England. In Volume One Innes characterised the reign of Malcolm III as a period of Anglicisation in which the constitution assumed a lasting feudal character.¹⁰⁷ He also cited English influence on offices of state and burghal constitutions under David I.¹⁰⁸ The first two chapters of *SMA* expanded these views and Chapter One focused not on Scotland but on Charlemagne.¹⁰⁹ According to Innes, it was in the Carolingian Empire that feudal institutions had first developed, and these were later transmitted to Scotland through England.¹¹⁰ The second chapter discussed the growth of those institutions in Normandy and England.¹¹¹ Over a fifth of the book was devoted to Europe and England, which illustrates the debt that Innes believed Scotland's constitution owed to European and English feudalism. Later in the book Innes cited David I as the font of Scottish law and institutions:

He was the founder of the law, still more than of the Church of Scotland. We cannot get beyond him. We owe to him all the civil institutions and structures of

¹⁰⁵ *ibid.*, pp. 149-6.

¹⁰⁶ *ibid.*, pp. 156-8.

¹⁰⁷ *APS* I, 'Preface', p. 4.

¹⁰⁸ *ibid.* I, 'Preface', pp.4-5.

¹⁰⁹ *SMA*, pp.1-34.

¹¹⁰ *ibid.*, pp. 2-4; see also C. Innes, *On Bruce and Royal Life in his Period: being a Lecture Delivered before the Greenock Philosophical Society on 9th October 1865* (1865), p. 10.

¹¹¹ *SMA*, pp. 35-76.

our present society. When any legislators of a later age wished to stamp their institutions with a name of authority, they founded them upon the laws and statutes of the good king David, and this was not a mere image magnified in the distance. I shall be able to show you hereafter, enough of the actual laws and institutions of David, to justify that impression.¹¹²

This point was particularly significant given Innes's view that Scotland's twelfth-century kings had connections with England that were as powerful as their links with their own kingdom. He also contended that 'the young David, the most distinguished of his race, was especially Anglicised'.¹¹³ Innes then highlighted widespread Norman and Saxon immigration during David's reign, accompanied by the rapid feudalisation of law and tenure.¹¹⁴ This association between Scottish and English law in the Middle Ages was further emphasised by the fact that in *SLA* Innes directed the reader to almost as many English law books as Scottish.¹¹⁵

Innes saw the twelfth and thirteenth centuries as a time of Anglicisation that was also the most stable, prosperous and civilised period in Scottish history before 1707. This view inevitably impacted on his view of Gaelic culture, particularly given the racialised historiographical context discussed in Chapter One. Innes's outlook was not as pejorative as those held by many of his predecessors, and in both *SMA* and *SLA* he highlighted similarities between English and Celtic institutions.¹¹⁶ As Hammond points out, Innes was not entirely convinced by the sharp racial divisions that many others saw between Celts and Teutons.¹¹⁷ Indeed, he maintained

¹¹² *ibid*, p. 115.

¹¹³ *ibid*, p. 87.

¹¹⁴ *ibid.*, pp. 88-90.

¹¹⁵ *SLA*, pp. 296-7.

¹¹⁶ C. Kidd, 'Teutonist ethnology and Scottish nationalist inhibition 1780-1880' *SHR* 74 (1995), pp. 51-5; *SMA*, pp. 175-80; *SLA*, pp. 95-8.

¹¹⁷ M. H. Hammond, 'Ethnicity and the Writing of Medieval Scottish History', *SHR* 85 (2006), p. 12.

friendships with champions of Gaelic culture like Skene and MacPhail.¹¹⁸ Nevertheless, the assumption that ethnicity dictated government, law, and manners underpinned the thinking of even moderates like Innes.¹¹⁹ In a review of a Provencal poem, for example, he emphasised the importance of descent in shaping regional character.¹²⁰ Furthermore, the tendency throughout the century was to see lowland Scots as Teutonic, as opposed to the Celts of the Highlands. Innes could not help but think in these ethnically dualistic terms when arguing that feudal institutions had largely subsumed their Celtic predecessors.¹²¹ To Innes, Scottish law was feudal law and the lasting influence of Celtic custom was minimal. Yet he perceived an ongoing divide in Scotland's population well into the modern period, articulated by the relics of Celtic practice in Galloway and the north east.¹²² Moreover, his daughter recorded that he was 'entirely ignorant of Gaelic, and not at all partial to Highlanders'. She then dismissively described how the Highland courts he presided over as sheriff of Moray were frequently held in 'some mud-floored hut', how the claims were of little consequence, and how Innes had to rely on corrupt interpreters who were often in collusion with the plaintiffs.¹²³

Given Innes's moderate Teutonism, it is notable that he assigned a Saxon rather than a Norman root to imported feudalism and believed that this Saxon influence had imbued those feudal institutions with a unique flavour.¹²⁴ Of the Saxons following the conquest he stated:

There was an earnestness in the people that gave a zeal to their nationality before which the novel customs of the Normans could not long stand. As had happened to the Normans before, and as had happened in similar cases since the days of the

¹¹⁸ As Chapter Two shows, Innes was a member of several publishing clubs with Skene and he also thanked him in *SMA*, p. ix; for MacPhail see *Highland Papers I* [Scottish History Society 5, second series], ed. J. R. N. MacPhail (Edinburgh 1914), p. viii.

¹¹⁹ Hammond, 'Ethnicity', pp. 2-4.

¹²⁰ Anon. [*WIVP* attr. C. Innes], 'Mistral's *Mireio*', *NBR* 48:96 (1868) p. 342.

¹²¹ *SLA*, pp. 95-6.

¹²² *SMA*, p. 176; *Cawdor Book*, pp. xi-xii; *SESH*, pp. 397-8.

¹²³ Burton, *Memoir*. pp. 48-9.

¹²⁴ *SMA*, pp. 55-6.

Roman conquest of Greece, the cultivated and written language prevailed over the rude and unwritten, and the institutions of the civilised subjects modified and refined the customs of the barbarous conquerors.¹²⁵

It was thus Saxon law that triumphed over Norman, and it was consequently a Saxon version of feudalism that was brought to Scotland in the 1100s. Elsewhere Innes argued that many Scottish forms of legal process and record were based on Saxon models.¹²⁶ These Saxon institutions, he believed, combined personal independence with community safety, and balanced feelings of self-respect with social obligation and mutual responsibility.¹²⁷ In this way he portrayed the pre-Norman institutions of Anglo-Saxon England as the bedrock of modern Scottish liberty.¹²⁸

This positive interpretation of English influence was echoed by Innes's attitude towards Union. In *SLA* he ended his discussion of the 'defects' in Scottish institutions by proclaiming that there was 'not constitutional feeling enough in Scotland to remedy or counteract them til they were swept away by the fortunate union with the freer nation'.¹²⁹ This was a standard Enlightenment attitude, and one that continued well into the 1800s.¹³⁰ Moreover, the Anglo-centred parliamentary amalgamation of 1707 resonated with Innes's depiction of constitutional importation from the south during the 1100s. Indeed, the majority of Innes's historical work can be located between these two dates. The *APS*, for instance, began at the earliest point in the legal documentary record and ended in 1707, when Scotland's constitutional history was superseded by a superior Anglo-British variant.

¹²⁵ *ibid.*, p. 75.

¹²⁶ *SLA*, pp. 30-1, 55-7, 70-1.

¹²⁷ *ibid.*, p. 56.

¹²⁸ R. Jann, *The Art and Science of Victorian History* (Ohio, 1985), pp. 149-51; Smith, *Gothic Bequest*, pp. 98-103.

¹²⁹ *SLA*, p. 150.

¹³⁰ Kidd, 'Sentiment', p. 111.

Despite his praise for Anglicisation in the 1100s and Union in 1707, Innes was a patriotic Scot and his daughter made a point of highlighting this.¹³¹ In an 1865 letter from Paris, subsequently published, he commented that ‘English talkers and writers have an offensive way with their constitution [...] as the only perfect system, the only model for other nations, which provokes dissent’.¹³² Yet in the same letter he admitted his own pride in that constitution. *SESH* provided another example of Innes’s patriotism existing in harmony with Unionism. The preface quoted the philosopher Dugald Stewart (1753-1828) on the subject of William Robertson’s *History of Scotland*. Stewart complained about English assumptions of Scottish provincialism and suggested that Scottish history needed to be ‘translated’ before it could gain the respect that English history was accorded. Innes remarked that Stewart wrote in a period of endemic anti-Scottish feeling in England, but asserted that the efforts of Robertson, Smith, Scott and others had reversed that prejudice, and that Scottish literature and history were now received enthusiastically in London. It was as a result of this change that he felt able to release *SESH* and *SMA* in England and, as Appendix Four shows, he did so with considerable success.¹³³ His intended audience was as much English as Scottish, and his aim was to raise the profile of Scottish history in England as well as his own country. In this way Innes exemplified the unionist-nationalism suggested by Morton and discussed in Chapter One.

This patriotism-within-union surfaced frequently in Innes’s writings. In *SMA* he refuted the ‘monstrous proposition’ that Scotland had no common law before the 1100s.¹³⁴ Volume One of the *APS* therefore represented for Innes not the beginnings of Scottish law *per se*, but rather its codification through an imported feudal framework. He also stated in *SLA* that Scottish legal forms were not borrowed wholesale from the south, but that both systems derived from a shared Teutonic origin.¹³⁵ In both *SLA* and *NMS*, meanwhile, he argued that serfdom ended in

¹³¹ Burton, *Memoir*, p. 72.

¹³² C. Innes., ‘Notes from Paris, or why are Frenchmen and Englishmen different?’, *Odds and Ends* 7 (1865), pp. 39-40.

¹³³ *SESH*, pp. v-ix.

¹³⁴ *SMA*, p. 175.

¹³⁵ *SLA*, p. 209.

Scotland long before it did in England, France or Germany.¹³⁶ He even defended Scotland's parliament in the *APS*, arguing that 'circumstances were most unfavourable to the growth of a sound representative constitution in Scotland'.¹³⁷ He then wrote:

It was rather from the accidents of its history than any radical defect in its constitution, that the Scottish legislative assembly never fulfilled the highest end of a Parliament, in possessing the confidence of the country.¹³⁸

This shows how Innes's patriotism and Teutonism were forced into an uncomfortable compromise with his Whiggism. He believed that the Scottish constitution was based on the same Saxon institutions on which British constitutional achievement was founded. Yet he also had to justify the Union from a Scottish perspective by explaining the failure of those institutions in Scotland compared to their success in England. This ambivalence can be seen in his discussion of the Act of Union in *SMA*. Innes expressed sadness at the loss of an independence so dearly defended but asserted that, whilst that Scottish constitution was no longer in force, it was still present through its influence on national character.¹³⁹ He made the same argument in an 1865 paper on Robert I. Here, he claimed that national freedom was worth any cost to maintain, but in the next passage referred to Scotland's 'blessing' to be subject to the laws of Britain and the 'noble' constitution of England. He then justified Robert's defence of Scottish independence on the grounds that it prevented the country from becoming a 'mere province' of England like Yorkshire or Wales.¹⁴⁰ This was symptomatic of the view, common amongst educated Scots, that they were partners in Union rather than a subject people. However, it also showed Innes's tendency to interpret the past so that it justified the present. For Innes and also for many of his contemporaries, the 1707 Union had

¹³⁶ *ibid.*, pp. 159-60, *NMS* I, pp.vii, x-xiii.

¹³⁷ *APS* I, 'Preface', p. 12.

¹³⁸ *Ibid.* I, 'Preface', p. 13; this sentiment was repeated in *SMA*, pp. 225-6.

¹³⁹ *SMA*, pp. 199-200.

¹⁴⁰ Innes, *Bruce and Royal Life*, p. 9.

yielded many benefits for Scotland, but the maintenance of Scottish independence up to that point was also a vital factor in the country's current happy state.¹⁴¹

Innes's position on the origins of the Scots language again exemplified his sense of Scottish patriotism within a broader pro-Union outlook. In his edition of Barbour's *Brus* he claimed that Scots was a 'northern tongue' descended from the 'Anglian' spoken in Northumbria. This rejected the argument made by other Scottish philologists that it was a separate Teutonic language and instead depicted it as a sister-speech to English.¹⁴² This interest in language was part of a search for origins that was associated with ethnicity and echoed previous controversies about the Picts.¹⁴³ By discussing the Scots language, Innes was able to sidestep the divisive Pictish issue and link Scottish origins with a later Teutonic influence. Eriksonas sees this as evidence of Scottish patriotism within an imperial rather than a unionist framework, and as part of a calculated effort on Innes's part to appropriate the Anglo-Saxon legacy of empire for Scotland.¹⁴⁴ However, Innes's welcoming attitudes to importation from the south in both the 1100s and 1700s undermines this view. From both ethnic and institutional perspectives, he emphasised the importance of English influence in shaping Scottish national history and character. His patriotism operated firmly within those boundaries and, as has already been argued, was unionist in character rather than imperial.¹⁴⁵ Indeed, there was very little mention of the British Empire in Innes's published works or private writings.

It therefore appears that the desire to validate Scottish independence within a unionist worldview was what created the need for the *APS*. A glance at contemporaneous state-

¹⁴¹ K. H. Grenier, *Tourism and Identity in Scotland, 1770-1914; Creating Caledonia* (Aldershot, 2005), pp. 145-6.

¹⁴² Barbour, *Brus*, pp. xx-xxi.

¹⁴³ P. Fielding, *Scotland and the Fictions of Geography; North Britain 1760-1830* (Cambridge, 2008), pp. 101-6; Kidd, 'Teutonist ethnology', pp. 51-6.

¹⁴⁴ L. Eriksonas, *National Heroes and National Identities; Scotland, Norway and Lithuania* (Brussels, 2004), pp. 151-4.

¹⁴⁵ G. Morton, *Unionist Nationalism; Governing Urban Scotland 1830-1860* (East Linton, 1999), pp. 189-96.

sponsored constitutional record scholarship in England highlights this point. A Whiggish emphasis on the English constitution was central to English history-writing in the early 1800s.¹⁴⁶ However, Mandler argues the elite felt secure in the stability of their own historic institutions, which had ‘adapted to the social changes in the recent past and were still thriving in the present’.¹⁴⁷ It was consequently not until 1838 that the English public records underwent the kind of rationalisation that the Scotland had experienced at the start of the century, and not until the 1840s that an effective programme of state record publication got underway.¹⁴⁸ The *APS*, plus the many other publications during Thomson’s tenure as Deputy Clerk Register, form a striking contrast to this which actually derived in part from the weakness of Scotland’s constitutional legacy. Parliament was gone, law was under threat and the constitution’s reputation was tarnished by Whiggish critiques. This was a far cry from the constitutional complacency felt by English Whigs, and the result was a kind of historical insecurity amongst Scotland’s intellectual elite which ultimately played out in the ‘strange death’ of Scottish history. However, that insecurity was also articulated through the publications of the Register House and the publishing clubs. It was also both expressed and addressed by the *APS*, which sought to place Scottish constitutional history on a par with that of other countries in terms of longevity, orderliness and source-based authenticity.

In this way, the *APS* was a fairly moderate example of the kind of historical patriotism that led many to stand up for Scotland’s law, and in some cases, even her parliament. In his defence of Scottish law, Scott argued that Scottish jurisprudence ‘derived from the noble Gothic stem, the principles of freedom, the darling attribute of those gallant tribes [...] who felt that life could

¹⁴⁶ Burrow, *Liberal Descent*, pp. 36-60.

¹⁴⁷ P. Mandler, ‘“In the olden time”; romantic history and English national identity 1820-50’, in Brockliss & Eastwood, *Union of Multiple Identities*, p. 78.

¹⁴⁸ J. D. Cantwell, *The Public Record Office 1838-1958* (London, 1991), pp. 1-12; P. Levine, *The Amateur and the Professional: Antiquarians, Historians and Archaeologists in Victorian England, 1838-1886* (Cambridge, 1986), pp. 101-108; Cappon, ‘Antecedents of the Rolls Series’, pp. 358-62.

not be enjoyed without the full possession of personal liberty.¹⁴⁹ Several later commentators were of a similar mind. Alexander, editor of the 1841 abridgement of Scottish acts, stated that: ‘the prosperity of Scotland is in no small degree to be attributed to the excellence and comprehensiveness of her statute law’.¹⁵⁰ He then praised twenty-two aspects of Scottish law including the protection of property, the institution of courts, trial by jury, burghal privileges, the construction of roads and bridges, security for tenants, an effective record system, the establishment of a national church after the Reformation, and provision for education through parochial schools.¹⁵¹ He concluded by arguing that ‘the wisdom displayed in the statute-book of Scotland will enable it to bear a favourable comparison with the written code of any other European nation of the period.’¹⁵² Meanwhile the Tory historian Tytler justified the Lords of the Articles as the means by which James V undermined the power of the Regent Albany.¹⁵³ Robert Chambers went further in his *History of Scotland* (1832) and defended both the Scottish constitution and the feudal contribution to the progress of liberty. He argued of the dominance of the baronial estate over David II that:

It may thus be perceived that the feudal system contained within itself the seeds of freedom. And such has really been exemplified in both countries: the outline of the history of British liberty being, in one word, that the nobles first wrought it out of the hands of weak, minor, or ill-titled kings, and that the middle ranks afterwards got their share from the nobles, as it were, by purchase ; a process not yet complete.¹⁵⁴

¹⁴⁹ Anon. [*WIVP* attr. W. Scott], ‘Pitcairn’s Ancient Criminal Trials of Scotland’, *QR*. 44:88 (1831), p. 457.

¹⁵⁰ Alexander, *Abridgement*, p. xxxii.

¹⁵¹ *ibid.*, pp. xxxii-xxxiv.

¹⁵² *ibid.*, p. xxxiv.

¹⁵³ P. F. Tytler, *History of Scotland*, 9 vols. (Edinburgh, 1829-1843), III, pp. 208, 216-17

¹⁵⁴ R. Chambers, *The History of Scotland: from the Earliest Period to the Present Time*, 2nd edition (London: 1849, orig. 1832), pp. 58-9.

In the same decade the Tory lawyer Archibald Alison used the *QR* to launch an even more robust defence of the Scottish constitution.¹⁵⁵ He refuted the notion that Scotland had only attained liberty through England, then praised Scotland's attachment to national freedom and argued that Scottish laws protecting individual liberties were both older and more effective than their English counterparts. He praised Scotland's early provisions for education and the relief of the poor and emphasised the failings of English law in these areas. He then stated that the Scottish acts contained:

[...] more of the spirit of real freedom, more wise resolution and practically beneficial legislation, better provisions for the liberty of the subject, and a more equitable settlement of all the objects of the popular party at this time, than is to be found in the whole thirty quarto volumes of the statutes at large, and all the efforts of English freedom, from Magna Carta to the Reform Bill.¹⁵⁶

However, neither these arguments nor the *APS* were able to overcome the dominant view of Scotland's constitution as an embarrassing historical failure.¹⁵⁷ The fact that these commentators felt the need to defend Scotland's law and constitution was indicative of the strength of this prevailing discourse. Hector MacQueen asserts that the significance of Scottish law and the debates that surrounded its medieval origins faded away during the 1800s, but the attitudes highlighted above show that it could still be a source of controversy.¹⁵⁸ Moreover, the fact that the editors of the *APS* and its sponsors within the state persevered with the project showed that Scottish legal history retained ideological currency well into the 1870s. This was particularly striking since in this period Scottish history was being pushed out of other areas of

¹⁵⁵ A. Alison, 'The old Scottish parliament', *Blackwoods Edinburgh Magazine* 36:228 (November 1834), pp. 661-73; see M. Michie, *An Enlightenment Tory in Victorian Scotland; The Career of Sir Archibald Alison* (East Linton, 1997), pp. 190-7.

¹⁵⁶ Alison, 'Scottish parliament', p. 669.

¹⁵⁷ C. Kidd, 'The Strange Death of Scottish History revisited; constructions of the past in Scotland c. 1790-1914', *SHR* 76 (1997), pp. 87-9; Kidd, *Subverting*, pp. 272-7.

¹⁵⁸ H. L. MacQueen, 'Regiam Majestatem, Scots law and national identity', *SHR* 74 (1995), p. 24.

Scottish life, such as the universities.¹⁵⁹ That currency derived from the *APS*'s ability to articulate Scottish historical identity within an orthodox unionist framework. The fact that the Scottish parliament no longer existed, and that it was tainted with negative associations, was exactly what made the *APS* necessary. Its initiation was symptomatic of a newly vital sense of Scottish distinctiveness within Union in the early part of the century. Its continuation showed that this sense of distinctiveness persisted well into the later 1800s.

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Although Innes's interpretations of Scotland's legal and parliamentary sources conformed to historiographical traditions inherited from the Enlightenment, they were also characterised by an antiquarian concern for sources that had been largely absent from analyses of legal history in the 1700s. This was perhaps why there had been no edition of Scottish statutes since the seventeenth century. Innes and Thomson were the first to use legal sources to illustrate Scotland's constitutional progress and in so doing provided Scottish history with a spine reaching back to the twelfth century. Nevertheless, the perceived failure of that constitution remained a stumbling block for Innes's brand of historical patriotism and was particularly problematic in light of his specialism as a legal antiquary. Fry argues that Scottish Whigs in the 1700s trod an ideological middle path as firm Unionists yet not full-blown anglicisers.¹⁶⁰ This description is equally applicable to Innes and many of his antiquarian contemporaries in the 1800s, and the strain of walking that line is apparent in the *APS*.

¹⁵⁹ B. P. Lenman, 'The teaching of Scottish history in the Scottish universities', *SHR* 52 (1973), pp. 173-5.

¹⁶⁰ Fry, 'Whig interpretation', p. 80.

Chapter 5 – Burgh Sources

Volume One of the *APS* contained substantial material that was burghal, rather than parliamentary or even monarchical. This shows that Innes saw the burghs as an important element in Scotland's historical and constitutional identity. Given this outlook, it is no surprise that he took this interest further by editing James Gordon's *Descriptio* (1842) and *Halyburton's Ledger* (1867). Moreover, *Ancient Burgh Laws* appeared in 1868 and was the inaugural publication of the SBRS. This chapter will use these publications to investigate Innes's role in the development of Scottish burgh record scholarship and his interpretation of the burghal contribution to Scottish history. It will also compare Innes's work to that of other researchers as a means of illustrating the ideological controversies that dogged the field.¹

The Development of a Discipline

Towns occupied an important place in the nineteenth-century Scottish psyche. The Enlightenment had been primarily an urban phenomenon and the *literati* of the 1800s had a similarly urban centre of gravity.² Chapter One has highlighted a conceptual divide between town and country in the minds of Scott and his generation. The town was associated with modernisation and progress, whilst the country had connotations of an older way of life. One way in which this dichotomy manifested was a romantic nostalgia for the rural past set against a Whiggish enthusiasm for the urban present. Fuelled by urbanisation and industrialisation, Edinburgh and Glasgow were home to a self-consciously urbane and commercial presentation of Scottish culture.³ This commercialism was juxtaposed against an agrarian feudalism that

¹ Some of the ideas explored in this chapter have been aired in a less developed form in R. Marsden, 'Scottish burgh record scholarship c. 1830-1880' in *Further from the Frontiers: Cross-currents in Irish and Scottish Studies*, ed. A. McNair & J. Ryder (Aberdeen, 2010), pp. 75-87.

² M. Fitzpatrick, 'Enlightenment', in *An Oxford Companion to the Romantic Age; British Culture 1776-1832*, ed. I. McCalman (Oxford, 1999), pp. 299-310.

³ O. Checkland & S. G. Checkland, *Industry and Ethos: Scotland, 1832-1914*, 2nd edition (Edinburgh, 1989, orig. 1984), pp. 34-54; R. Strong, *Episcopalianism in Nineteenth-*

was believed to have preceded it, and of which traces could supposedly be discerned in rural life.⁴ Thus the idea that the town was somehow distinct from the countryside remained powerful and had an important impact on how burgh history was understood.⁵

It was in this context that a volume of burgh sources was published by the Maitland Club in 1832. It was edited by the club secretary John Smith and was constructed from the records of Glasgow during the Reformation.⁶ A trickle of similar editions followed over the next four decades. Smith published another volume of Glasgow records in 1835, and John Fullarton edited a collection of Prestwick material for the Maitland Club in 1834. In the 1840s John Stuart produced two volumes on Aberdeen for the Spalding Club. Innes's edition of Gordon's *Descriptio* appeared in the same decade, although it consisted of a prose tract rather than administrative records. The 1850s saw just one volume of burgh sources appear, edited by William Muir and relating to the burgh of Dysart. In addition, the clubs had, since the 1820s, been printing a selection of urban sources in their *Miscellanies*.⁷ Innes's *Halyburton's Ledger*

Century Scotland; Religious Responses to a Modernising Society (Oxford, 2002), pp. 139-4; P. Clark & R. A. Houston, 'Culture and Leisure 1700-1840', in *The Cambridge Urban History of Britain 1540-1840*, ed. D. M. Palliser, P. Clark & M. J. Daunt (Cambridge, 2000), pp. 576, 612-13; A. Broadie, *The Scottish Enlightenment; the Historical Age of the Historical Nation*, 2nd edition (Edinburgh, 2007, orig. 2001), pp. 94-5.

⁴ Ash, *Strange Death*, pp. 13-15; Kidd, *Subverting*, pp. 118, 155-61, 208-9.

⁵ M. Lynch, M. Spearman & G. Stell, 'Introduction', in *The Scottish Medieval Town*, ed. M. Lynch, M. Spearman & G. Stell (Edinburgh, 1988), p. 4.

⁶ For the editions discussed here see D. Stevenson & W. B. Stevenson, *Scottish Texts and Calendars; an Analytical Guide to Serial Publications* (Edinburgh, 1987), pp. 57-71, 150-7.

⁷ *Bannatyne Miscellany* I [Bannatyne Club 20], ed. W. Scott & D. Laing (Edinburgh, 1827), pp. 185-7; *The Bannatyne Miscellany* II [Bannatyne Club 21], ed. D. Laing (Edinburgh 1836), pp. 391-406; *Miscellany of the Maitland Club* II [Maitland Club 53], ed. J. Dennistoun & A. MacDonald (Edinburgh, 1840), pp. 39-50, 75-120, 281-360; *The Miscellany of the Spalding Club* I [Spalding Club 3], ed. J. Stuart (Aberdeen, 1841),

appeared next, although it dealt with international trade and was thus located only on the fringes of burgh studies. Nonetheless, for Innes and his contemporaries burgh history was intimately associated with wider economic debates and so *Halyburton's Ledger*, whilst not strictly burghal, is relevant to this analysis.

This list may seem full, but in comparison to the number of editions that the clubs produced on other subjects it is paltry. It was the creation of the SBRS in 1867 that heralded change. This organisation was, from its inception until well into the 1900s, the leading forum for the publication of Scottish burgh sources. Indeed, between 1868 and 1880 it released fifteen burgh record editions, and the 1870s consequently saw an unprecedented boom in the publication of burgh sources.⁸ This proliferation was made possible in part by what Bill Bell calls a 'technological revolution' in book production, which reduced the cost of publishing dramatically over the course of the 1800s.⁹ Yet, like the foundation of the Society itself, it also represented the consolidation of the field as a legitimate area of inquiry.

Nonetheless, continuity existed between the endeavours of the SBRS and those of the clubs in previous decades. As Chapter Two notes, Innes, Stuart, Laing and Burton were on the Committee of the new society and many established antiquaries and supporters of the publishing clubs were also members. Their involvement provided a bridge with the clubs and enabled the SBRS to begin life under distinguished governance. Innes was already well-known for his work on the *APS*, his club editions and his chair at Edinburgh University. Stuart had co-founded the Spalding Club and had been one of the first record scholars to produce a

pp. 195-226; *The Miscellany of the Spalding Club* III [Spalding Club 16], ed. J Stuart (Aberdeen, 1846), pp. 155-174.

⁸ For the SBRS editions discussed here and in the remainder of this section see Stevenson, *Scottish Texts*, pp. 83-9.

⁹ B. Bell, 'Introduction', in *The Edinburgh History of the Book in Scotland: III, Ambition and Industry 1800-1880*, ed. B. Bell (Edinburgh, 2007), pp. 1-3.

burgh source edition.¹⁰ Laing had been a friend of Walter Scott, a secretary of the Bannatyne Club and was regarded as Scotland's foremost expert on literary history.¹¹ Burton had recently released the early volumes of his *History of Scotland* and had just been appointed Scotland's historiographer-royal.¹² These men therefore provided the SBRS with credibility.

However, it was the founder and secretary James Marwick (1826-1908) who took the lead in the SBRS's activities. He had established relations with Innes, Laing, Burton and Stuart in Edinburgh in the 1850s and began his researches in the 1860s under Innes's supervision, assisting in the production of *Ancient Burgh Laws*.¹³ Between 1869 and 1908 he edited twenty-three editions for the SBRS. Unlike his predecessors, however, Marwick's career was primarily municipal rather than legal. He was legally-trained and spent many years working as a solicitor but by the mid-1850s was on the verge of abandoning the law. He was elected to Edinburgh town council in 1856 and played a prominent role in local politics. After resigning in 1859 he was appointed Edinburgh Town Clerk and then Clerk to the Convention of the Royal Burghs in 1861. He became Glasgow Town Clerk in the early 1870s.¹⁴ In these roles he had access to burghal records and, through contact with Innes and his contemporaries, acquired the motivation to explore them.

¹⁰ D. J. Withrington, 'Aberdeen Antiquaries; the founding of the Spalding Club, 1839', *Aberdeen University Review* 44 (1971), pp. 48; G. Stronach, rev. H. C. G. Matthew, 'Stuart, John (1813-1877)', *ODNB* 53, p. 185.

¹¹ C. P. Finlayson, 'David Laing and his Friends', *University of Edinburgh Journal* 22 (1968), pp. 145-156; M. Ash, 'David Laing', *The Past and the Present; the Role of the National Museum of Antiquities of Scotland*, ed. A. Fenton (Edinburgh, 1979), pp. 9-14.

¹² K. Burton, 'Memoir', in J. H. Burton, *The Book Hunter*, 2nd edition (Edinburgh, 1882), pp. 60, 63; M. Fry, 'Burton, John Hill (1809-1881)', *ODNB* 9, pp. 27-8.

¹³ J. D. Marwick, *A Retrospect* (Glasgow, 1905), pp. 154-7; J. G. McKendrick, 'Memoir of Sir John David Marwick LL.D, F.R.S.E', in J. D. Marwick, *The River Clyde and the Clyde Burghs* (Glasgow, 1909), pp. xxxii-xxxiv; *Ancient Burgh Laws*, p. xl; G. F. Millar, 'Marwick, Sir James David (1826-1908)', *ODNB* 37, pp. 52-4.

¹⁴ Marwick, *Retrospect*, pp. 28-31, 42-69; McKendrick, 'Memoir', pp. xxvi-xxxvii.

The SBRS's most prolific editor was thus a municipal officer and, whilst its membership comprised a standard mix of aristocrats, lawyers and antiquaries, it also featured a large contingent of town clerks, magistrates and guild masters.¹⁵ In addition, twenty-two burghs were corporate members in 1868 and many of the society's editions were funded partially through their sponsorship. By 1869 Edinburgh had already donated £25 whilst the Convention of the Royal Burghs had given £50.¹⁶ Moreover, Marwick's initial volume of *Burgh Convention Records* was published by the Convention itself in 1866, and was only later reissued by the SBRS.¹⁷

The SBRS therefore had strong continuities with the publishing clubs plus a new municipal character that was a reflection of its specialisation. Its publications were a similar balance between old and new. Early volumes opened with a tract explaining the purpose of the Society and listing the burgh record work that had been done already by the Bannatyne, Maitland and Spalding Clubs. Yet the tract expressed dissatisfaction with that work and portrayed burgh records as a largely untapped resource for understanding Scotland's past.¹⁸ This attitude is evident in the speed with which Smith's Glasgow editions were superseded by two volumes edited by Marwick. On the other hand, Stuart continued his work on the Aberdeen records with two volumes that augmented rather than replaced his editions for the Spalding Club. Indeed, the SBRS did not take burgh record scholarship in a new direction, but rather placed an embryonic field on a firmer footing. Yet its publications broke new ground in terms of their number, scale and comprehensiveness. By 1882, for instance, Marwick had published four volumes of Edinburgh records and another volume of associated charters. By 1885, meanwhile, he had issued five volumes of *Burgh Convention Records*.

¹⁵ *Ancient Burgh Laws*, 'Scottish Burgh Records Society', pp. 4-8.

¹⁶ *Extracts from the Records of the Burgh of Edinburgh 1403-1528* [SBRS 2], ed. J. D. Marwick (Edinburgh, 1869), 'Scottish Burgh Records Society', p. 2.

¹⁷ *Records of the Convention of the Royal Burghs of Scotland, with Extracts from Other Records Relating to the Affairs of the Burghs of Scotland 1295-1597*, ed. J. D. Marwick (Edinburgh, 1866), title-page.

¹⁸ *Ancient Burgh Laws*, 'The Scottish Burgh Records Society', p. 1.

The SBRS was a successor to the communal record publishing that Innes had been involved in since the 1830s. It was as prolific as any of the clubs, yet focused on one theme and dealt almost exclusively with record sources. In this way it was quite different from most of its predecessors, although there had been clubs that had serviced specific themes. The Iona Club had focused on the Highlands and Isles, the Wodrow Society had been concerned with Presbyterian history, and the Spottiswoode Society had dealt with Scottish Episcopalianism. However, these organisations had all been relatively short-lived. The Spalding Club, meanwhile, had started with a focus on the north east but its remit had not been limited to that area, which perhaps accounts for its success.¹⁹ Ash argues that the existence of specialist clubs in the 1840s was symptomatic of the splintering of Scottish historiographical consensus. The creation of the SBRS therefore shows how that pronounced that splintering had become by the late 1860s onward, yet its success demonstrated that historiographical fragmentation did not equate to a lack of industry or enthusiasm amongst those involved.

Burghs as Legal Entities

Innes was a legal record scholar but his first foray into burgh sources took him in a different direction. James Gordon's *Descriptio* was not a record source but an extended piece of prose. Gordon (1617-1686) had been a Presbyterian parson, historian and cartographer.²⁰ His *Description* was composed in Latin and described both the royal and bishop's burghs of Aberdeen. It was therefore an obvious text for the Aberdeen-based Spalding Club to publish. *Halyburton's Ledger*, on the other hand, was a record edition but was not specifically burghal. The main part comprised the accounts of the Conservator of Scottish trading privileges in Flanders at the end of the fifteenth century. Whilst Halyburton did trade on his own account, the bulk of his work was to handle imports and exports on behalf of others.²¹ The *Ledger* therefore contained details of trade conducted by numerous Scottish notables like the

¹⁹ Its list of publications contains many titles of regional significance, but many others were national in scope, see Stevenson, *Scottish Texts*, pp. 150-7.

²⁰ J. C. Stone, 'Gordon, James (1617-1686)', *ODNB* 22, pp. 915-17.

²¹ H. Summerson, 'Halyburton, Andrew (d. 1506)', *ODNB* 24, pp. 729-30.

archbishop of St Andrews, the abbot of Holyrood and the duke of Ross. The edition also featured a *Book of Customs and Valuations of Merchandise* for 1612. There were no other versions for Innes to collate his texts against, and there is no evidence that he altered the material beyond standardising spellings and the use of numbers.²² Consequently, neither edition offers much information about Innes's record scholarship but, as will become apparent below, the preface to *Halyburton's Ledger* contained a great deal of information about his view of the role of the burghs in Scotland's history.

The *Ancient Burgh Laws* edition was more revealing of Innes's editorial style. Like Volume One of the *APS* it covered the period 1124 to 1424 and was built from a diverse range of legal sources. Indeed, most of the material in *Ancient Burgh Laws* had already been printed in the *APS*. This included the *Leges Quatuor Burgorum* from the reign of David I, extracts from the assizes of William I, the thirteenth-century *Statuta Gilde*, and extracts from *Regiam Majestatem* and *Quoniam Attachiamenta*. Both editions also contained lists of tolls and duties, burghal constitutions, records from the Chamberlain's ayre, and parliamentary acts regulating burgh life.²³ This extensive crossover is significant because it shows how Innes used the same sources to convey somewhat different messages. In the *APS* this material was used to imply the existence of a coherent legal system reaching back to the 1100s. In *Ancient Burgh Laws* it made the same point but also served as evidence for early urbanisation and economic sophistication. The connection between the two editions was emphasised by the discussion in the preface to *Ancient Burgh Laws* of editions of Scottish statutes prior to the *APS*.²⁴

The inclusion of burghal material in the *APS* showed how important Innes believed the burghs were to Scotland's constitutional tradition. It also implied that he saw the burghs primarily as legal entities existing within a national legislative framework. Although he was open about the variety of legal sources that he used in *Ancient Burgh Laws*, there was little discussion of the implementation or scope of those laws. The effect, bolstered by the edition's title, was of a developed system of law governing burgh life across Scotland. Indeed, Innes believed that no

²² *Halyburton's Ledger*, p. xxiv.

²³ *APS* I, 'Tabula', pp. 3-36 & 'Preface', pp. 40-50; *Ancient Burgh Laws*, pp. iii-xv.

²⁴ *ibid.*, pp. xix-xxi.

other country could claim a body of burgh law so ancient or well documented.²⁵ Moreover, subsequent SBRS publications stated that *Ancient Burgh Laws* was ‘a key to much that is to be found in the Records of the Burghs, and [...] generally illustrative of municipal institutions in Scotland’.²⁶ The volume was designed to elucidate the legislative structure within which the burghs were located, and to act as a companion to the rest of the society’s output. It thus set the agenda for an interpretation of the burghs that was fundamentally legalistic.

Innes’s burgh editions were very different from the bulk of those produced between 1830 and 1880, the majority of which were built from records relating to specific burghs. As such they focused on the internal affairs of the ‘community of the burgh’, as opposed to Innes’s work on the burghs within a national context.²⁷ Yet in other ways the SBRS volumes conformed to the approaches laid out by *Ancient Burgh Laws*, in that they consisted of legal and institutional material. Indeed, that approach had already been set by the editions earlier in the century, thus indicating the legal predilections of record scholarship throughout the 1800s. The burgh editions that appeared between 1830 and 1880 were built mainly from charters, court records and council minutes (which were themselves largely concerned with civic ordinances). For example, Smith’s 1832 work consisted of council minutes, magistrate records and burgh court proceedings.²⁸ His 1835 follow-up was based on council minutes.²⁹ Fullarton’s 1834

²⁵ *ibid.*, p. xxi.

²⁶ *ibid.*, ‘The Scottish Burgh Records Society’, p. 1; *Extracts from the Records of the Burgh of Edinburgh 1403-1528* [SBRS 2], ed. J. D. Marwick (Edinburgh, 1869), ‘The Scottish Burgh Records Society’, p. 1; *Records of the Convention of the Royal Burghs of Scotland, with Extracts from Other Records Relating to the Affairs of the Burghs of Scotland 1295-1597* [SBRS 52], ed. J. D. Marwick (Edinburgh, 1870, orig. 1866), ‘The Scottish Burgh Records Society’, p. 1.

²⁷ E. L. Ewan, ‘The community of the burgh in the fourteenth century’ in Lynch *et al*, *Scottish Medieval Town*, pp. 228-244.

²⁸ It also included extracts from the Treasurer’s Accounts; *Burgh Records of the City of Glasgow, 1573-1581* [Maitland Club 16], ed. J. Smith (Glasgow, 1832), p. vi.

²⁹ *Memorabilia of the City of Glasgow, Selected from the Minute Books of the Burgh: MDLXXXVIII-MDCCL*, ed. J. Smith (Glasgow, 1835), p. iii.

Prestwick Records included not only internally-generated burgh records but also charters in the town's favour.³⁰ Muir's *Dysart Records*, meanwhile, was constructed primarily from the protocol book of a legal notary employed by the burgh.³¹ Furthermore, Stuart's first edition of Aberdeen records was drawn from council minutes and the proceedings of both guild and bailie's courts.³² Yet the work was entitled *Extracts from the Council Register of the Burgh of Aberdeen*, thus implying the existence of a single source. Stuart gave his subsequent volumes the same title, despite the fact that Volume Four contained material that was far later than and fundamentally different from the contents of Volume One.³³ Like the *APS*, this was an attempt to impose order and uniformity on disparate and untidy sources.

This legal emphasis continued in SBRS publications, where it was given impetus by *Ancient Burgh Laws*. Marwick's editions on the Convention of the Royal Burghs were drawn primarily from minute books whose contents were legalistic and were often referred to in the prefaces as the 'acts' of the convention.³⁴ It is also notable that the convention was a sixteenth-century

³⁰ *Records of the Burgh of Prestwick in the Sheriffdom of Ayr, 1470-1782, with an Appendix and Illustrative Notes* [Maitland Club 28], ed. J. Fullarton (Glasgow, 1834), pp. xvii-xviii.

³¹ *Notices from the Local Records of Dysart* [Maitland Club 75], ed. W. Muir (Edinburgh, 1853), p. ix.

³² *Extracts from the Council Register of the Burgh of Aberdeen, 1398-1570* [Spalding Club 12], ed. J. Stuart (Aberdeen, 1844), pp. vii-ix

³³ *Extracts from the Council Register of the Burgh of Aberdeen, 1570-1625* [Spalding Club 19], ed. J. Stuart (Aberdeen, 1848), p. vii; *Extracts from the Council Register of the Burgh of Aberdeen 1625-1642* [SBRS 8], ed. J. Stuart (Edinburgh, 1871), pp. vii-viii; *Extracts from the Council Register of the Burgh of Aberdeen 1643-1747* [SBRS 9], ed. J. Stuart (Edinburgh, 1872), p. vii.

³⁴ Marwick, *Burgh Convention Records 1295-1597*, pp. xv-xviii; *Records of the Convention of the Royal Burghs of Scotland, with Extracts from Other Records Relating to the Affairs of the Burghs of Scotland 1597-1614* [SBRS 53], ed. J. D. Marwick (Edinburgh, 1870), pp. v-vi; *Records of the Convention of the Royal Burghs of Scotland, with Extracts from Other Records Relating to the Affairs of the Burghs of Scotland 1615-1676*

innovation based on the old Court of the Four Burghs.³⁵ By beginning the series in 1295 and entitling all volumes *Records of the Convention of the Royal Burghs of Scotland*, Marwick conferred a spurious stability and longevity on that body. His two volumes on Glasgow were also constructed largely from institutional records in the form of council proceedings.³⁶ Meanwhile, his four-volume Edinburgh series began in 1403 and was entitled *Extracts from the Records of the Burgh*, yet the surviving official records do not begin until 1551. The whole of the first volume and much of the second were drawn from protocol books, unofficial registers of ordinances and inventories of rents and writs, and Marwick himself noted that the first volume consisted of material that was not strictly burghal.³⁷ From the mid-sixteenth century these sources were jettisoned in favour of the council register, the proceedings of the guild court, and the burgh and guild accounts.³⁸ Evidently official material was preferred when available but for the earlier period a range of unofficial and semi-official sources were could

[SBRs 54], ed. J. D. Marwick (Edinburgh, 1878), pp. v-vi; *Records of the Convention of the Royal Burghs of Scotland, with Extracts from Other Records Relating to the Affairs of the Burghs of Scotland 1677-1711* [SBRs 55], ed. J. D. Marwick (Edinburgh, 1880), pp. ix-x; *Records of the Convention of the Royal Burghs of Scotland, with Extracts from Other Records Relating to the Affairs of the Burghs of Scotland 1711-1738* [SBRs 56], ed. J. D. Marwick (Edinburgh, 1885), p. v.

³⁵ J. Goodare, *The Government of Scotland, 1560-1625* (Oxford, 2004), p. 51; P. Glennie & I. Whyte, 'Towns in an agrarian economy 1540-1700', in Clark *et al*, *Cambridge Urban History 1540-1840*, p. 170.

³⁶ *Extracts from the Records of the Burgh of Glasgow 1573-1642* [SBRs 11], ed. J. D. Marwick (Edinburgh, 1876), pp. lii-liii; *Extracts from the Records of the Burgh of Glasgow 1630-1662* [SBRs 12], ed. J. D. Marwick (Edinburgh, 1881), 'Preface', [n. p.], see also Smith, *Glasgow Records*, pp. v-vii.

³⁷ Marwick, *Edinburgh Burgh Records 1403-1528*, p. xxxii.

³⁸ *Extracts from the Records of the Burgh of Edinburgh 1528-1557* [SBRs 2], ed. J. D. Marwick (Edinburgh, 1869), p. liii; *Extracts from the Records of the Burgh of Edinburgh 1557-1571* [SBRs 4], ed. J. D. Marwick (Edinburgh, 1875), p. i, see also I. Flett & J. Cripps, 'Documentary Sources', in Lynch *et al*, *Scottish Medieval Town*, pp. 26-9.

be used to form a pseudo official record. Smaller projects, such as Chambers's *Peebles Documents* (1872) and William Cooper's *Ayr Charters* (1883) frequently combined charters, council minutes, court proceedings and financial accounts.³⁹ Again the effect was to reinforce the longstanding perception of Scottish towns as legal rather than economic entities.⁴⁰

The focus on law and institutions was partly a function of the available material. The burgh court was the main instrument of urban government in medieval Scotland. That role was then taken by the town council, much of whose business related to the passing of ordinances.⁴¹ Burgh records were consequently predominantly legal; charters, council minutes and court proceedings constituted the majority of extant documentation.⁴² However, this emphasis was also related to the backgrounds of those engaged in research. Stuart was from 1836 a member of the Society of Advocates, whilst Innes held a succession of legal posts within the state apparatus. Marwick, as mentioned above, had been a solicitor and the same was true of both Laing and Burton. As noted in Chapters Two and Three, record scholarship was an aspect of antiquarianism, and in the nineteenth century antiquaries were frequently lawyers.

Given the range of sources in use, editors had various organisational options. A typological arrangement was evident in some editions, but chronology was the stronger imperative. Some editors, like Cooper and Chambers, made a rudimentary distinction between charters and

³⁹ *Charters and Documents Relating to the Burgh of Peebles, with Extracts from the Records of the Burgh, AD.1165-1710* [SBRS 10], ed. W. Chambers & J. D. Marwick (Edinburgh, 1872), 'Contents', [n. p.]; *Charters of the Royal Burgh of Ayr* [Ayrshire and Wigtonshire Archaeological Association 12], ed. W. S. Cooper (Edinburgh, 1883), see main body.

⁴⁰ H. Swanson, *British Medieval Towns* (Basingstoke, 1999), pp. 67-8.

⁴¹ G. W. S. Barrow, *Kingship and Unity; Scotland 1000-1300*, 2nd edition (Edinburgh, 2003, orig. 1981), p. 123; H. L. MacQueen & W. J. Windram, 'Laws and courts in the burghs', in Lynch *et al*, *Scottish Medieval Town*, pp. 73-7; A. J. S. Gibson & T. C. Smout, *Prices, Food and Wages in Scotland 1550-1780* (Cambridge, 1995), p. 20; Swanson, *British Towns*, pp. 80-1.

⁴² Flett & Cripps, 'Documentary Sources', pp. 24-9.

miscellaneous ‘burgh records’, but within those partitions items were arranged by date.⁴³ Indeed, the majority of burgh editions used a purely chronological arrangement, and Stuart explained why with reference to his first volume of Aberdeen records:

As the Editor found it impossible to devise any system of classifying so various and discordant, which appeared at all satisfactory, he has given them in their chronological order, a plan which seemed less objectionable than any other.⁴⁴

As a result, these volumes underscored the continuity of burgh history and illustrated the stories of particular burghs. Even Innes’s *Ancient Burgh Laws*, which was structured typologically, combined that arrangement with a loose chronology.⁴⁵ Some editions dealt with compact periods; for example Smith’s 1832 Glasgow edition covered 1573 to 1581. However, it was more usual for collections to cover a much longer time span. Smith’s second Glasgow collection went from 1587 to 1750. Fullarton’s *Prestwick Records* ran from 1470 to 1782 whilst William Hay’s *Dundee Documents* covered the period from 1292 to 1880. It was also common for individual volumes to form part of a larger series. Stuart’s four volumes on Aberdeen covered the period 1398 to 1747 whilst Marwick’s Edinburgh series began in 1403 and had by its fourth volume reached 1581. Marwick’s five-volumes of *Burgh Convention Records*, meanwhile, ran from 1295 to 1738 and it was intended that a second volume of *Ancient Burgh Laws* should be published, taking burgh legislation up to 1707.⁴⁶

Burgh editions therefore had the potential to cut through historiographical barriers such as the Reformation, the Glorious Revolution and the Union. They did this by presenting legal and institutional sources in a tidy, chronological format that frequently reached from the Middle

⁴³ Cooper, *Ayr Charters*, pp. 1, 75; Chambers & Marwick, *Peebles Charters*, pp. vii-xliii.

⁴⁴ Stuart, *Aberdeen Council Register 1398-1570*, p. ix; also quoted in Marsden, ‘Burgh record scholarship’, p. 79.

⁴⁵ *Ancient Burgh Laws*, pp. iii-xv.

⁴⁶ Innes and Marwick started the work but did not complete it; *Ancient Laws and Customs of the Burghs of Scotland 1424-1707* [SBRS 23], ed. R. Renwick (Edinburgh, 1910), p. vii.

Ages to the modern period. Like the *APS*, these editions were to a significant degree artificial constructs and it was the expertise of their editors that lent them validity. Unlike the *APS*, however, they did not have to end in 1707. As Geoffrey Barrow puts it, the burghs ‘had their origin in our period [1000-1306] but preserved as a class an astonishingly unaltered, homogenous character from the twelfth or thirteenth century to the eighteenth’.⁴⁷ They consequently presented an excellent means of highlighting connections between past and present. Moreover, the specialist nature of burgh editions and the SBRS’s remit, plus the favoured place that the urban commercial environment occupied in the minds of educated Scots, could potentially insulate the burghs from broader criticisms of Scotland’s past. The idea of a separate legislative framework for burghs, articulated in Innes’s *Ancient Burgh Laws*, helped to create a long-standing impression that towns had been separate from the wider feudal jurisprudence of the medieval period.⁴⁸ This meant that they were less tainted with the brush of feudal barbarism, and therefore offered the possibility of bridging the dislocation between Scotland’s past and present.

The Contested Urban Past

Of all the constitutional themes discussed in Volume One of the *APS*, it was the contribution of the burghs that Innes praised most unequivocally. He argued that ‘among the marks of rapid improvement and civilisation which distinguished the reign of David I, the most important was the recognition of the privileges of the Free Burghs’.⁴⁹ He then emphasised the importance of the *Leges Quatuor Burgorum* as the earliest surviving body of Scottish law, a point also made in *Ancient Burgh Laws*.⁵⁰ In *Halyburton’s Ledger* he called those laws the ‘real and proud distinction of Scotland’.⁵¹ In addition, he claimed in the *APS* that a ‘burghal spirit’ could be

⁴⁷ Barrow, *Kingship and Unity*, pp. 104; also quoted in Marsden, ‘Burgh record scholarship’, pp. 83-4.

⁴⁸ MacQueen Windram, ‘Laws and courts in the burghs’, p. 214.

⁴⁹ *APS* I, ‘Preface’, p. 6.

⁵⁰ *ibid.*, p. 32; *Ancient Burgh Laws*, p. xxi.

⁵¹ *Halyburton’s Ledger*, p. xlvi.

traced back through the free towns of Europe to Roman times.⁵² Similarly, in *Ancient Burgh Laws* he supplied an extended narrative on the continental burghs as centres of liberty and civilisation after the fall of Rome.⁵³ He even labelled a group of monks, against whose feudal overlordship the town of Amiens struggled to free itself, in crudely Whiggish terms as ‘Tories’.⁵⁴ Later in *Ancient Burgh Laws* he stated that the Scottish burghs had been vital to the development of free institutions and had fostered a respect for law that surpassed that found in other countries.⁵⁵ Significantly, however, this interpretation emphasised an ephemeral ‘spirit’ of liberty, rather than a concrete constitutional contribution as the third estate.

Similarly, one of Innes’s unpublished tracts stressed the institutional homogeneity of Scottish, English and European burghs. It linked them to the Roman town and implied that burghal institutions were imported to Scotland from England in the early 1100s.⁵⁶ This was reiterated in Innes’s 1869 syllabus of professorial lectures on constitutional law and history, which included sections on ‘Free Towns and their Share in Constitutional Struggles’ and ‘Burghal Institutions – general view of their rise and progress’.⁵⁷ This was again symptomatic of Innes’s tendency towards legislative frameworks rather than individual towns. In *Halyburton’s Ledger* he referred to a ‘freemasonry in feeling’ that connected burghs across Europe and attributed a shared Teutonic character to those of Scotland and the Netherlands.⁵⁸ In *SMA*, meanwhile, he constructed a narrative of European and British towns that extended back far beyond their appearance in the documentary record.⁵⁹ That chapter also emphasised the common law

⁵² *APS I*, ‘Preface’, pp. 32-5.

⁵³ *Ancient Burgh Laws*, pp. xxi-xxxi.

⁵⁴ *ibid.*, pp. xxxi-xxxiii.

⁵⁵ *ibid.*, pp. xlvi-1.

⁵⁶ *Cosmo Innes’s Papers*, Mitchell Lib, MS no. 891069, [no nos.], untitled tract starting with ‘Magistrates of the Bourg’.

⁵⁷ C. Innes, *General View and Syllabus of Professor Innes’s Course of Forty Lectures on Constitutional Law and Constitutional History. Session 1869* [National Library of Scotland, Rare Books and Music Reading Room, 3.2380.a(13)] (1868).

⁵⁸ *Halyburton’s Ledger*, pp. xlvi-1, lxxviii

⁵⁹ *SMA*, pp. 148-53.

existence of Scottish burghs prior to the 1100s and highlighted the early appearance of an elective principle within them.⁶⁰

Like the feudal institutions discussed in Chapter Four, Innes believed that Scotland's burghs were based on a Saxonised version of a continental institution. He also perceived them as a vital component in national progress. There was some support for this view amongst his contemporaries. Smith stated that the Glasgow records contained, 'many interesting hints regarding the progress of civilization'.⁶¹ The introductory tract in SBRS volumes argued for the value of burgh records in 'explaining national institutions, and illustrating social progress'.⁶² However, such references were vague and infrequent. Few scholars were as convinced by the burghal contribution to a defunct constitution, or even the spirit of liberty, as Innes was. Most made no mention of it.

A livelier dispute centred on the burghal role in Scotland's economic advancement; an issue shaped by contemporary debates over free trade. The perceived connection between free trade and economic development had been a central plank in Enlightenment worldviews. As a result, nineteenth-century liberalism followed the likes of Adam Smith in associating monopolies and state regulation with illiberality and economic retardation.⁶³ Yet protectionism had been a mainstay of British policy until the mid-nineteenth century, and many Tories continued to support it for decades afterwards.⁶⁴ Indeed, in Scotland the repeal of the Corn

⁶⁰ *ibid.*, pp. 155-8.

⁶¹ Smith, *Glasgow Records*, p. i.

⁶² Marwick, *Edinburgh Burgh Records 1528-1557*, 'Scottish Burgh Records Society', p. 1.

⁶³ J. Robertson, 'The legacy of Adam Smith; government and economic development in the *Wealth of Nations*', in *Victorian Liberalism; Nineteenth-century Political Thought and Practice*, ed. R. Bellamy (London, 1990), pp. 15-41, cited in D. Allan, *Virtue, Learning and the Scottish Enlightenment: Ideas of Scholarship in Early Modern History* (Edinburgh, 1993), p. 237.

⁶⁴ M. J. Turner, 'Political leadership and political parties 1846-1900', in *A Companion to Nineteenth-Century Britain*, ed. C. Williams (Oxford, 2007), p. 150; L. Magnusson, *The Tradition of Free Trade* (Abingdon, 2004), pp. 2-4.

Laws (1846) had been much less of a turning point in the debate over protectionism than it had been in England because of Scotland's greater reliance on pastoral as well as arable farming.⁶⁵ Nevertheless, by the later 1800s the Free Trade argument was very much in the ascendancy in Scotland, and this placed the history of the Scottish burghs, with their monopolies, trade restrictions, price-fixing and strict state control, in a difficult historiographical position.⁶⁶

As a historical and political Whig and an inheritor of Enlightenment, Innes shared this negative view of trade restrictions. Yet he was also an antiquary with a reverence for the past. In Gordon's *Descriptio* he asserted that the establishment of the burghs marked the first security of private property and the earliest examples of commercial enterprise.⁶⁷ In *Halyburton's Ledger* he associated their creation with the growth of commerce and prosperity.⁶⁸ Nonetheless, monopolies were discussed in negative terms:

Through all that burghal exclusive legislation, whether specific or general, runs the trader's jealous, exclusive spirit, which offends the modern merchant and the politician well read in Adam Smith. Freedom of trade, protection for honest industry, was not enough. Every privilege granted to individuals or corporations, to be valued, must be accompanied by prohibition of rivals.⁶⁹

Innes echoed this view in *Ancient Burgh Laws*, pointing out that the term 'freedom of trade' actually meant a monopoly in the medieval period.⁷⁰ Moreover, his Unionism surfaced in

⁶⁵ I. G. C. Hutchinson, *A Political History of Scotland 1832-1924; Parties Elections and Issues* (Edinburgh, 1986), pp. 85-9.

⁶⁶ G. Morton, *Unionist Nationalism; Governing Urban Scotland 1830-1860* (East Linton, 1999), pp. 23-27; Barrow, *Kingship and Unity*, pp. 116-22; Ewan, 'Community of the burgh', pp. 228-30; Gibson & Smout, *Prices, Food and Wages*, pp. 19-65.

⁶⁷ Gordon, *Descriptio*, pp. vi-viii.

⁶⁸ *Halyburton's Ledger*, p. xlv-xlvii.

⁶⁹ *ibid.*, p. xlix.

⁷⁰ *Ancient Burgh Laws*, p. xlvi.

Halyburton's Ledger, where he stressed Scottish economic decrepitude in the 1600s and cited Union as a key factor in the country's subsequent prosperity.⁷¹

Nevertheless, Innes was an advocate of the burghal role in economic progress, particularly in the period before the Wars of Independence. In *Halyburton's Ledger* he defended burgh monopolies, postulating that they were necessary to protect trade and manufacturing. He then argued that burghal institutions were suited to their time and provided security against a 'turbulent, lawless population'.⁷² He also asserted that burgh monopolies in Europe continued whilst free institutions declined, but in Scotland it was the free institutions that endured whilst the monopolies, 'which the progress of society and law rendered no longer a public good', disappeared.⁷³ Innes thus saw the burghs as drivers of economic progress as well as champions of freedom. Indeed, these two roles were intertwined in his mind and both were vital ingredients in Scotland's movement towards liberty. In this way his views echoed a common medieval view of the town as a centre of civilising influence.⁷⁴

By stressing the importance of historical context and portraying progress as a journey as well as a destination, Innes combined a free trade philosophy with a positive slant on burgh history. This outlook saw the present as superior to the past, but also perceived value in the past precisely because it showed how Scotland had reached its current state. The present could not exist without the past. This outlook was also articulated in Innes's involvement with improvement projects in his own time, such as the Municipal Corporations (Scotland) Commission of 1833, various initiatives relating to burgh schools in Edinburgh and a movement to extend the Aberdeen railway.⁷⁵ This simultaneous belief in ongoing progress and the value of the past was what led Innes to describe the pre-Reformation history of Aberdeen

⁷¹ *Halyburton's Ledger*, pp. civ-cix.

⁷² *ibid.*, p. xlvi-xlvii, li.

⁷³ *ibid.*, pp. xlv-xlix.

⁷⁴ Swanson, *British Towns*, p. 1.

⁷⁵ *Caledonian Mercury* 17481 (27 July 1833), p. 3; p. 4; 19458 (14 April 1845), p. 1; 19666, (12 April 1847), p. 4; 19686, (21 June 1847), p. 4; 20254 (30 December 1852), p. 1.

as a ‘healthy and simple childhood’ before the ‘manly vigour’ of modern times.⁷⁶ In that vein, Innes used *SMA* to praise Scotland’s medieval burghers for their morality, their sense of civic duty and their zeal for education, and went on to state that:

Our Scotch burghs seem to me the natural, healthy and happy growth of an industrious and steadily progressive country. The privileges, necessary at first perhaps for their existence, and so beneficial to the country, they have gradually abandoned, as they appeared to obstruct an extending commerce. Their citizens have always worthily filled the important place and functions of a third estate. [...] Above all, their steady industry and active enterprise – quite removed from the mad speculations that now surround us – their honest frugality, and simple primitive manners, not rarely united with some accomplishment and learning – formed a class of men that I should be sorry to think was altogether extinct.⁷⁷

This quotation showed Innes’s approval of the burghs and their contribution to national progress, and illustrated the importance that he placed on historical context. However, it also contained a strand of nostalgia and, in the closing sentence, a sense of anxiety over the dislocation of past from present. For Innes, modern burghers were closely associated with their forbears. These were the men who had supported heroes like Wallace and Bruce and sent a tide of patriotic feeling down the centuries which had been expressed in the literary achievements of Burns and Scott.⁷⁸ Innes thus believed that the patriotism, public spirit and enterprise of modern Scotland were in part derived from the burghal past. Any loss of connection with that past was therefore cause for concern.

Some other editors shared this nostalgic interest in burgh history. In 1872 Stuart bemoaned the changes following the 1745 rebellion because they had created a new form of burgh life which, ‘with its many advantages was destitute of those features of contrast and picturesqueness which have invested the Burgh Records of earlier years with so much of interest and

⁷⁶ *Halyburton’s Ledger*, p. lxxxiv.

⁷⁷ *SMA*, pp. 173-4, also quoted in Marsden, ‘Burgh record scholarship’, pp. 80-1.

⁷⁸ *Ancient Burgh Laws*, pp. xlix-xl.

historical value'.⁷⁹ Stuart, like Innes, recognised the benefits of what he saw as progress but was also keen that the past should continue to be accessible and relevant in the present or, as Scott put it, just 'sixty years hence'.⁸⁰

Some editors of burgh records essayed cautious approval of certain aspects of urban history, although none were as full-throated as Innes. Smith praised the burgh of Glasgow during the Reformation, highlighting the early introduction of jury-trials, the burgh's support for the poor, its role in resurrecting the university after the Reformation, and the zeal of the burgesses for maintaining the cathedral.⁸¹ Stuart applauded Aberdeen for the quality of its grammar schools in the seventeenth century and noted approvingly that the burgh encouraged law suits as an alternative to violence.⁸² Hay admired the burgesses of Dundee for their patriotism during the Wars of Independence.⁸³ Marwick, however, remained scrupulously neutral in the prefaces to his editions, highlighting information but withholding interpretation.⁸⁴ Nevertheless, the connection that he perceived between the burghal past and the municipal present was indicated by the very existence of his volumes, their chronological arrangement, and their presentation of many sources as one cohesive whole.

Many editors, however, condemned the burghs. John Fullarton argued that the records of Prestwick showed how monopolies were based on 'erroneous principles' and served only to

⁷⁹ Stuart, *Aberdeen Council Register 1643-1747*, p. xxxix; also quoted in Marsden, 'Burgh record scholarship', pp. 81-2.

⁸⁰ D. D. Brown, *Walter Scott and the Historical Imagination* (London, 1979), pp. 174-5; Ash, *Strange Death*, pp. 14-15.

⁸¹ Smith, *Glasgow Records*, pp. i-xxi.

⁸² Stuart, *Aberdeen Council Register 1570-1625*, pp. xxiii-xxvii, xxxi.

⁸³ *Charters, Writs, and Public Documents of the Royal Burgh of Dundee, the Hospital and Johnston's Bequest, 1292-1880* [SBRS 28], ed. W. Hay (Edinburgh, 1880), pp. iv-v.

⁸⁴ See, for example, Marwick, *Edinburgh Burgh Records 1573-1589*, pp. lviii-lxxx; Marwick, *Burgh Convention Records 1295-1597*, pp. v-xix; Marwick, *Glasgow Burgh Records 1573-1642*, pp. li-lvi.

‘obstruct [...] the cause of beneficial competition and enterprise’.⁸⁵ He then described those monopolies as:

Special immunities and privileges of all sorts – the legitimate progeny of ignorance and cupidity – are in truth only an aggravated species of legalized robbery, for whilst one portion of the community is thereby compelled unjustly to contribute to another, competition, that prime spring of improvement, is excluded, as well as the self-creative principle of commerce interdicted and destroyed.⁸⁶

He also stated that there was no evidence of advancement in burgh records and argued that Union alone had been the catalyst for improvement across Scotland.⁸⁷ In 1853 William Muir issued a more general condemnation in a discussion of the records of Dysart, citing feudal injustice and oppression and denying the validity of a nostalgic attachment to the burghal past.⁸⁸ The publisher William Chambers made a similar point in the preface to his and Marwick’s *Peebles Charters*:

The extracts offered on these and other points in social economy during a period extending over centuries painfully enlightens us on three things – the extraordinary degree of arbitrary power which was exercised by the burgh authorities, the prodigious ignorance and narrow-mindedness concerning the principles of commercial, and it may be said public, well-being, and the wretched state of manners and morals prevalent in what are fancifully spoken of as the “good old times”.⁸⁹

⁸⁵ Fullarton, *Prestwick Records*, p. xviii

⁸⁶ *ibid.*; also quoted in Marsden, ‘Burgh record scholarship’, p. 82.

⁸⁷ Fullarton, *Prestwick Records*, p. xix.

⁸⁸ Muir, *Dysart Records*, p. x.

⁸⁹ Chambers & Marwick, *Peebles Charters*, p. lxxv; also quoted in Marsden, ‘Burgh record scholarship’, pp. 82-3.

Like Muir, Chambers emphasised the deficiencies of the urban past and disparaged those who saw it in nostalgic and romantic terms. However, this raises the question of why men like Chambers involved themselves in burgh scholarship in the first place. Perhaps they deliberately sought to denigrate the past in order to highlight the glory of the present. Chambers, for example, was an avowed progressive. He had created Britain's first successful cheap weekly newspaper, led calls for improved housing for the working classes and conducted a government survey that found Edinburgh to be the smelliest city in Europe.⁹⁰ In this context his disdain for the urban life of previous centuries is not surprising. His justification of the present through pejorative comparison with the past was at odds with Innes's romantic nostalgia and attempts to portray a positive causal relationship between past and present. The issue was therefore about what burgh history was for. Innes believed that it had value as an illustration of historical progress and a means of connecting Scots with their own past. Chambers, Muir and Hay, on the other hand, saw it in crudely oppositional terms as evidence of the superiority of 'now' over 'then'.

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The burghs were a divisive topic in Scottish historiography. Their long existence, plentiful records and associations with commercial society did not prevent controversy over their contributions to the Scottish present. Despite Innes's efforts, nostalgia sat uncomfortably with a dismissal of the past as utterly inferior to the present. Nevertheless, the prolific publication of burghs sources from the late 1860s, plus the SBRS's distinguished membership, showed that the field had considerable currency. Research was conducted with a thoroughness and organisation that was different from the pursuits of the private antiquary or even the convivial activities of the publishing clubs. The existence of such a specialist antiquarian society marked burgh history out from other areas of record scholarship, both in the quantity of material produced and the control that it exercised over the field. Yet that existence was also indicative of the historiographical fragmentation that marked the 'strange death' of Scottish history, as the controversy discussed above proves. In the case of the burghs, therefore, Innes's attempt to address the dislocation of past from present was largely unsuccessful.

⁹⁰ S. M. Cooney, 'Chambers, William (1800–1883)', *ODNB* 10, pp. 1106–8.

Chapter 6 – Ecclesiastical Manuscripts

Burgh record scholarship and the *APS* were key strands in Innes's antiquarianism, but it was his work with medieval church sources that formed the core of his activities. Of his twenty-seven source editions, seventeen were built from ecclesiastical records dating from the twelfth to the sixteenth centuries, when Scotland was a Catholic country. This period was regarded askance by the Presbyterian mainstream, and by working so extensively with its sources Innes was swimming against the historiographical tide. This chapter will examine what he did with this ecclesiastical material, thus building on the work that Ross has already done. Unlike Ross's investigation, however it will explore Innes's motivations and intentions and place his work within its historiographical context.¹

Religion in the 1800s

Innes's work on the medieval church took place in a hostile historiographical environment. Nineteenth-century Scotland was a predominantly Presbyterian country and some historians have argued that Presbyterianism was, alongside law and education, another strand in the civic distinctiveness that sustained Scottish identity within the Union.² Nonetheless, creating a sustainable religious identity that reached back past the Reformation was particularly problematic in Scotland. The Anglican Church had been born of compromise between Catholic tradition and Protestant innovation. It therefore contained many traces of Roman Christianity, both liturgically and structurally, which allowed lines of ecclesiastical continuity

¹ Some of the ideas explored in this chapter have been aired in a less developed form in R. Marsden, 'Editing the past; Cosmo Innes and the Scottish medieval church', in *Signs, Symbols and Words; Proceedings of the Cardiff University Reading Conference 2007*, ed. A. Smith, K. Tennant & J. Webb (Cardiff, 2008), pp. 13-30, at <http://www.cardiff.ac.uk/chri/researchpapers/pgconference/Papers%201%20-%207/>, accessed 15 February 2010.

² For an overview see C. G. Brown, *Religion and Society in Scotland since 1707* (Edinburgh, 1997), pp. 177-87.

to be drawn with England's medieval past.³ In contrast, Presbyterianism represented a deeper structural and doctrinal break with pre-Reformation conventions and this manifested particularly in an aversion to prelacy and ritualism.⁴ In this context, Scotland's medieval church was seen through a lens of Presbyterian hostility which was exacerbated by the existence of a centuries-old prejudice against Catholics across Britain.⁵

Yet Presbyterians frequently advocated positive interpretations of pre-eleventh-century Scottish Christianity. The Culdees were seen as representatives of that period and were depicted as practitioners of primitive proto-Presbyterianism. This view cast the Reformation not in innovatory terms but as a return to original purity. The centuries between David I and Mary were an aberration in which Presbyterianism was suppressed by the oppression of Rome.⁶ For instance, the advertisement for an 1841 edition of John Knox's *History of the Reformation* stated that:

From the period of the introduction of Christianity into Scotland, our fathers, for many ages, were quite independent of the Church of Rome—holding a purer faith, and practising a more simple form of worship. But during the dark ages, corruption in both doctrine and worship began to prevail; and though the Scots maintained their religious independence much longer than most of the other

³ R. J. Smith, *The Gothic Bequest: Medieval Institutions in British Thought, 1688-1863* (Cambridge, 1987), pp. 173-88.

⁴ 'Presbyterianism', *The Encyclopaedia Britannica: a Dictionary of Arts, Sciences, Literature and General Information*, 11th edition, 29 vols. (Cambridge, 1910-1911), XXII, pp. 283-94.

⁵ L. Colley, *Britons: Forging the Nation 1707-1837* (London, 1992), pp. 19-31; Brown, *Religion and Society*, p. 191; Ash, *Strange Death*, pp. 129-30.

⁶ Kidd, *Subverting*, pp. 63-7; Ash, *Strange Death*, p. 33.

nations of Europe, they yielded at last, and for about three centuries the Man of Sin reigned over them with absolute dominion.⁷

The advertisement then discussed the ‘domineering and luxurious priesthood, who kept the people in the grossest ignorance’ and concluded that ‘it must be interesting to know how our fathers burst such fetters, and cast off such a yoke’.⁸ In *Stories from the History of Scotland* (1829) Alexander Stewart made comparable assertions. He believed that the medieval church had abandoned true Christianity, and accused it of an avaricious lust for power based on deceit and superstition.⁹ He then referred to the ‘total absence of the light of learning and knowledge’ in which the church kept the people.¹⁰ Presbyterian ministers such as Thomas McCrie, William Maxwell Hetherington and Thomas MacLauchlan expressed similar sentiments.¹¹ McCrie used his *Life of John Knox* (1812) to accuse the medieval church of corruption, avarice, ignorance, idleness, immorality and a desertion of true Christianity.¹² Hetherington quoted this critique in his *History of the Church of Scotland* (1843) and portrayed the Culdees as representatives of a pure bishop-less Christianity that was corrupted

⁷ Anon., ‘Advertisement by the Publishers’, in J. Knox, *The History of the Reformation of Religion in Scotland*, ed. W. McGavin, 3rd edition (Edinburgh, 1841, orig. 1831), [n. p.]

⁸ *ibid.*

⁹ A. Stewart, *Stories from the History of Scotland* (Edinburgh, 1829), pp. 168-79, also quoted in Marsden, ‘Editing the Past’, p. 24.

¹⁰ *ibid.*, p. 174.

¹¹ J. Kirk, ‘McCrie, Thomas (1772–1835)’, *ODNB* 35, pp. 171-2; T. W. Bayne, rev. S. R. J. Baudry, ‘Hetherington, William Maxwell (1803–1865)’, *ODNB* 26, p. 896; J. L. MacLeod, ‘Maclauchlan, Thomas (1816–1886)’, *ODNB* 35, pp. 735-6. For McCrie see also B. P. Lenman, *Integration and Enlightenment: Scotland 1746-1832*, 2nd edition (Edinburgh, 1997, orig. 1981), p. 147.

¹² T. McCrie, *The Life of John Knox, Containing Illustrations of the History of the Reformation in Scotland I* (Edinburgh, 1812), pp. 24-8.

by Rome but recovered by the Reformation.¹³ MacLauchlan made a similar point in his work *The Early Scottish Church* (1865), arguing of the Culdaic Church ‘that the revolution which supplanted it was the work of the king, not of the nation’. He concluded by stating that for ‘much of what now distinguishes Scotland ecclesiastically; she is indebted to the ancient Culdee Church’.¹⁴

Ash argues that this interpretation ‘created a large hole in Scots’ knowledge of their own history which was to have a profound and deleterious effect on the historical consciousness of Scotland’. She also suggests that it was as a direct result of this that the Middle Ages became the purview of Episcopalian historians who could claim some level of continuity with the pre-Reformation church.¹⁵ It is telling that Tytler and Burton, authors of the two great nineteenth-century narrative histories of Scotland, were both Episcopalians. So too were a significant number of the century’s leading antiquaries, such as Skene, Robertson, Stuart and Grub.¹⁶ A significant proportion of the aristocrats involved in the publishing clubs were also Episcopalian, including the Duke of Buccleuch, the Earl of Errol, Lord Panmure and the wives of the Dukes of Argyll and Sutherland.¹⁷

¹³ W. M. Hetherington, *History of the Church of Scotland: from the Introduction of Christianity to the Period of the Disruption in 1843*, 9th edition (New York, 1860, orig. 1843), pp. 17-22.

¹⁴ T. MacLauchlan, *The Early Scottish Church: the Ecclesiastical History of Scotland from the First to the Twelfth Century* (Edinburgh, 1865), p. 440.

¹⁵ Ash, *Strange Death*, pp. 33-4.

¹⁶ M. Fry, ‘Tytler, Patrick Fraser (1791–1849)’, *ODNB* 55, pp. 826-8; M. Fry, ‘Burton, John Hill (1809–1881)’, *ODNB* 9, pp. 27-8; W. D. H. Sellar, ‘William Forbes Skene (1809–92): historian of Celtic Scotland’, *PSAS* 131 (2001), pp. 12-13; D. J. Withrington, ‘Aberdeen Antiquaries; the founding of the Spalding Club, 1839’, *Aberdeen University Review* 44 (1971), p. 48.

¹⁷ R. Strong, *Episcopalianism in Nineteenth-Century Scotland; Religious Responses to a Modernising Society* (Oxford, 2002), pp. 264-88.

Innes's own Episcopalianism is therefore no surprise. However, the Scottish Episcopal Church was not an ideological monolith and Innes's religious outlook was complex. The traditional stronghold of Episcopalianism was in north-east, an area that Innes was connected to by education and his tenure as sheriff of Moray.¹⁸ It is perhaps indicative of his religious views that he attended King's College in Aberdeen which, although by this point a Presbyterian establishment, had been a centre for Episcopalian intellectualism until the 1715 uprising.¹⁹ Whilst at King's, Innes lodged with an Episcopalian clergyman and was thus directly exposed to a northern brand of the religion, which preferred native forms of worship over the Anglican styles favoured in the south of Scotland.²⁰ Yet despite this early encounter, as an adult Innes favoured the Anglican-influenced Episcopalianism of Edinburgh. The clearest evidence of this was his friendship with Ramsay, Episcopal Dean of Edinburgh. Innes attended Ramsay's church and wrote a memoir of him following his death in 1872.²¹ In the Episcopalian factionalism of the mid-1800s, Ramsay took a neutral stance between the northern high-church tradition and the English-influenced southern evangelicals.²² Yet according to Innes's memoir, the Dean saw the Scottish Episcopal Church in fundamentally Anglican terms; a view that is hardly surprising considering that Ramsay was English and had been ordained into the Church of England.²³ In the same work, Innes expressed admiration for Bishop Terrot of

¹⁸ *ibid.*, p. 33.

¹⁹ R. L. Emerson, *Professors Politics and Patronage; the Aberdeen Universities in the Eighteenth Century* (Aberdeen, 1992), pp. 18-26, 32-4.

²⁰ Burton, *Memoir*, p. 5; Strong, *Episcopalianism*, pp. 33-69; F. Goldie, *A Short History of the Episcopal Church in Scotland from the Reformation to the Present Time*, 2nd edition (Edinburgh, 1976, orig. 1951), pp. 70-3,

²¹ C. Innes, 'Memoir of Dean Ramsay', in E. B. Ramsay, *Reminiscences of Scottish life & Character*, 27th edition (Edinburgh, 1875), p. i; *Scotsman* (4 April 1874), p. 4.

²² G. White, *The Scottish Episcopal Church; a New History* (Edinburgh, 1998), pp. 35-7.

²³ Innes, 'Memoir of Ramsay', p. ii-xi, xlviii; C. Rogers, *Memorials and Recollections of the Very Reverend Edward Bannerman Ramsay, LL.D., F.R.S.E., Dean of Edinburgh* (London, 1873), pp. 9-10.

Edinburgh, a committed angliciser with little sympathy for northern traditions.²⁴ Neither Innes nor Ramsay seceded to join the Church of England, as many southern Episcopalians did.²⁵ Yet their Anglican sympathies were clear.

Nevertheless, Innes was friendly with several well-known French Catholics. His daughter saw this as evidence of Innes's own Catholic sympathies:

Historically, like M. Guizot, he was a Roman Catholic. Like him also, he never thought of giving his own personal allegiance to the system. Perfectly seeing that the Roman Catholics had the logic of Christianity on their side, he also, like Guizot, preferred being illogical with all the world; - this, although not logic alone but also many of his tastes and feelings leant towards Ecclesiasticism. His writings were so entirely on the Catholic side that distinguished Catholics, among others M. de Montalembert, sought him, and as both a friend and an historical authority valued him highly.²⁶

His daughter then asserted that her father had been the object of anti-Catholic prejudice, although she did not reveal its source.²⁷ These sympathies may have led Innes to remain in the Scottish Church, since seceders to Anglicanism were usually allied to the evangelical movement.²⁸ This was, moreover, the period of Tractarianism, led in Scotland by Bishop

²⁴ Innes, 'Memoir of Ramsay', p. xlix; G. Stronach, rev. R. Strong, 'Terrot, Charles Hughes (1790–1872)', *ODNB* 54, p. 162.

²⁵ Strong, *Episcopalianism*, pp. 211–29; White, *Episcopal Church*, pp. 75–80.

²⁶ Burton, *Memoir*, p. 56.

²⁷ Burton, *Memoir*, pp. 56–7; this assertion was supported by the review of the *Memoir* in the *Academy*, but the *Scotsman's* reviewer was less convinced, *Academy* 130 (31 October 1874), pp. 479–80; *Scotsman* (16 October 1874), p. 3; see also Ash, *Strange Death*, pp. 131–2. It was certainly the case that some Presbyterians saw Episcopalianism as little different from 'Popery', Brown, *Religion and Society*, p. 34.

²⁸ Strong, *Episcopalianism*, pp. 221–32.

Forbes of Brechin (1817-1875).²⁹ Given that this movement sought to move the Church of England back towards Catholicism, it might be reasonable to suppose that Innes, with his Catholic sympathies and admiration for the medieval church, was a supporter. However, there is no evidence that Innes had any significant connection with Forbes, the Tractarians in England, or even native high church leaders in Edinburgh such as Archibald Alison.³⁰ It was Ramsay, the Englishman and moderate, with whom he was associated. Nor did Innes allow religion to influence his relationships and he was friendly with the Presbyterian ministers John Rennie, James Calder MacPhail and William Anderson.³¹ In addition, he contributed articles to the Free Church-affiliated *NBR* but none to the Episcopalian periodicals of the period.³² Nor was he a member of the Spotiswoode Society, which published material relating to the history of Scottish Episcopalianism.³³ Indeed, in his biography of Ramsay Innes expressed approval for the Dean's focus on the ethos of Christianity rather than its forms.³⁴

Innes's ecumenical outlook and reluctance to engage with doctrinal issues were mirrored by the avoidance of them in his record editions, as discussed below. Nevertheless, when analysing his presentation and interpretation of medieval church sources it is important to remember that he was an Episcopalian whose religious and historical views were, in this instance, at odds with the Scottish intellectual mainstream. That is not to say that he was drawn to the medieval church simply because he was an Episcopalian, but rather that his

²⁹ *ibid.*, pp. 243-58; White, *Episcopal Church*, pp. 42-6.

³⁰ Innes, 'M memoir of Ramsay', p. xxx; White, *Episcopal Church*, p. 37; Strong, *Episcopalianism*, pp. 138-9; this Alison was the father of the Archibald who is the focus of Michie's biography, M. Michie, *An Enlightenment Tory in Victorian Scotland; The Career of Sir Archibald Alison* (East Linton, 1997), pp. 15-21.

³¹ *Letters between James Calder MacPhail and Cosmo Innes* (1849-1871), NAS, GD1/238/3; C. Innes, *Testimonials Respecting William Anderson M.A.* [Aberdeen University Special Libraries and Archives, Thomson 1107] (1850), *Caledonian Mercury* 21978, (5 March 1860), p. 3.

³² For the *NBR* see *WIVP* I, pp.663-6 and also Appendix 3; White, *Episcopal Church*, p. 61.

³³ Ash, *Strange Death*, pp. 83-4.

³⁴ Innes, 'M memoir of Ramsay', pp. i, xlvii-xlviii.

religious background allowed him to advocate a positive view of the church in that period in a way that would have been problematic if not impossible for a Presbyterian.

Rehabilitating the Medieval Church

In a paper to the Glasgow Archaeological Society, Innes warned against ‘Presbyterian pride’ when investigating the early church.³⁵ In a review of the *New Statistical Account* (1834-45) he berated the Presbyterian ministers from whose researches it was compiled for their ignorance of medieval church history. This ignorance, he asserted, was the result of an anti-Catholic prejudice that also tarred the Episcopal Church. He then chided them for their appropriation of the Culdees into a Presbyterian canon.³⁶ Elsewhere he stated that ‘their mantle of thickset Presbyterianism excluded all the feeling and ideas of antique Christianity’.³⁷ Moreover, in *SLA* he reproved seventeenth-century Presbyterian antiquaries for manipulating medieval charters to support the notion that the Culdees were Presbyterian, and stated that they were ‘undoubtedly Prelatists and Episcopalians as well as Romanists’.³⁸

Innes evidently took issue with Presbyterian dismissals of medieval church history and their characterisation of the Culdees as proto-Presbyterians. Yet Ross states that, as a lawyer, Innes saw ecclesiastical records primarily as illustrations of the development of conveyancing, feudal tenures, judicial processes and the settlement of disputes.³⁹ In the *Melrose Liber*, for example, Innes argued that ‘ancient writs’ were a more reliable source for Scottish law than

³⁵ C. Innes, ‘Suggestions of Objects of Archaeological Interest in the West of Scotland’, *Transactions of the Glasgow Archaeological Society* I:5 (1863), p. 581.

³⁶ Anon. [*WIVP* attr. C. Innes], ‘Scotch Topography and Statistics’, *QR* 82:164 (1848), pp. 359-62; see Appendix 3 for a discussion of the veracity of the *WIVP* attributions for this article and those discussed below.

³⁷ Anon. [*WIVP* attr. C. Innes], ‘Ecclesiastical antiquities of Scotland’ *QR* 72: 144 (1843), p. 387.

³⁸ *SLA*, pp. 8, 162-3.

³⁹ Ross, ‘Bannatyne club’, p. 211.

law codes like *Regiam Majestatem*.⁴⁰ This helps to explain his fascination with church records, since the vast majority of these surviving ‘writs’ related to ecclesiastical institutions.⁴¹ Innes highlighted their value for illuminating feudal law, tenure and conveyancing in the *Paisley Registrum*, the *Melrose Liber*, the *Moray Registrum*, the *Holyrood Liber*, the *Dunfermline Registrum*, the *Aberdeen Registrum*, the *Kelso Liber* and the *Brechin Registrum*.⁴² Moreover, his lectures on legal history to the Juridical Society contained an entire section on the medieval church and, whilst the corresponding chapter in *SLA* focused mostly on the internal constitutions of the church, it also showed how ecclesiastical charters could illustrate judicial proceedings.⁴³ As Chapter Four has demonstrated, Innes believed that ancient law had contemporary relevance. That meant that the ill-favoured medieval church, whose records contained the earliest traces of Scottish law, could be associated with Scotland’s legal distinctiveness and was therefore worthy of further study.

Nevertheless, Innes saw more than just legal value in church records. He also believed that they could shed light on local history. In the *Dunfermline Registrum* he hoped that the volume would provide an even fuller source of ‘ancient statistical and local information’ than any he had previously edited.⁴⁴ In *SESH* he stated that the sources in the *Kelso Liber* contained a great deal of local detail.⁴⁵ In the same edition he bemoaned the constraints of space which made

⁴⁰ *Melrose Liber* I, p. ix; *SESH*, p. 92.

⁴¹ D. Broun, *The Charters of Gaelic Scotland and Ireland in the Early and Central Middle Ages; Quiggin Pamphlet on the Sources of Medieval Gaelic History* 2 (Cambridge, 1995), pp. 6-7.

⁴² *Paisley Registrum*, pp. xv-xvi, xxi; *Melrose Liber* I, pp. xi-xii; *SESH*, pp. 93-6; *Moray Registrum*, p. xxxi; *Holyrood Liber*, p. xli; *Dunfermline Registrum*, p. xviii; *Aberdeen Registrum* I, pp. xxxii-xxxiii; *Kelso Liber* I, p. xix; *Brechin Registrum* I, pp. xx-xxiii.

⁴³ C. Innes, *Syllabus of Lectures on Legal Antiquities* [National Library of Scotland, Rare Books and Music Reading Room, 3.2380.a(12)] (1868); *SLA*, pp. 161-208, particularly pp. 205-8.

⁴⁴ *Dunfermline Registrum*, p. xxiv.

⁴⁵ *SESH*, p. 178.

him pass over local antiquities.⁴⁶ This interest in locality was, as Chapter Three notes, a long-standing aspect of antiquarianism and the *OPS*, with its emphasis on the topography, antiquities and histories of individual parishes, was its fullest expression.

However, the clearest theme in Innes's depiction of medieval church history was that of national progress. Ross asserts that Innes saw ecclesiastical sources as evidence for the supplanting of inferior races by more civilised southern foreigners.⁴⁷ Chapter Four has already explored his positive take on the Anglicisation and feudalisation of Scotland in the eleventh and twelfth centuries. Moreover, he often cited this period as the beginning of written law and tenure; something which was, for a lawyer and record scholar; hugely significant.⁴⁸ The 1100s were for Innes a watershed and, unlike his Presbyterian contemporaries, he showed little interest in the Culdees. To him they were symptomatic of a religious decline following conversion in the fifth and sixth centuries, and he found their irregular, property-owning, non-celibate lifestyles wanting.⁴⁹ The eleventh century, however, was a 'renewal of light' and the time 'when the dawn of a second day rose upon Scotland'.⁵⁰ This referred to the importation of monastic orders from England and the continent and the simultaneous introduction of a parochial and diocesan system.⁵¹ Innes argued that David I undertook a deliberate civilising policy by founding monasteries and establishing or restoring bishoprics.⁵² He also believed that David's accession heralded 'two centuries of steady and progressive prosperity' because David's descendents continued his policy.⁵³ These new establishments were, in Innes's mind, vital to national progress in a way that the Culdaic Church had not been. For example, he asserted that the monks of Melrose were responsible for:

⁴⁶ *Kelso Liber*, p. xix.

⁴⁷ Ross, 'Bannatyne club', p. 211.

⁴⁸ *OPS* I, p. xxv, *SESH*, p. 9; *SLA*, pp. 29-30.

⁴⁹ *SMA*, pp. 110-11.

⁵⁰ *OPS* I, p. xxv; *SESH*, pp. 9.

⁵¹ *SMA*, pp. xxvii-xxxiv

⁵² *ibid.*, p. 86.

⁵³ *ibid.*, p. 118.

[...] encouraging agriculture and every improvement of the soil; leading the way in an adventurous foreign trade, and in all arts and manufactures; cultivating the learning of the time, and latterly enjoying and teaching to others the enjoyment of the luxuries of civilized life, while they exercised extensive hospitality and charity and preserved a decorum which is akin to virtue. Posterity owes them a debt.⁵⁴

Earlier in the same volume he associated the new monasteries with a ‘social revolution’ and argued that ecclesiastical records evidenced a direct link between the church and an improvement in the ‘manners’ of the people.⁵⁵ Indeed, *SESH* featured the term ‘social progress’ in its title and was partially comprised of prefaces from Innes’s ecclesiastical editions. Elsewhere Innes argued that abbeys were charitable landlords who emancipated their tenants from serfdom and promoted agriculture. He also asserted that monastic records contained evidence of the progress of individual and national rights.⁵⁶ He made this point directly in relation to the records of Paisley Abbey, stating that they:

[...] contain[ed] the details of the foundation of religious houses, which may be called the first step in civilization, and marking their rapid acquisition of wealth, until the church accumulated property disproportionate to the narrowness of the county, and formed a counterbalance to the whole power of the aristocracy.⁵⁷

In *SESH*, meanwhile, Innes emphasised the church’s contribution to learning and painted the monastic life as a means of accessing social mobility.⁵⁸ He also claimed that the secular church had played a vital role in civilising Scotland, calling the thirteenth-century

⁵⁴ *Melrose Liber I*, pp. xxix, *SESH*, pp. 117-18, quoted in Marsden, ‘Editing the past’, p. 16.

⁵⁵ *Melrose Liber I*, pp. ix-x; *SESH*, pp. 91-2; *Paisley Registrum*, p. xx; *Aberdeen Registrum I*, pp. xxvii-xxx; *Arbroath Liber I*, pp. xxvi-xxvii, *SESH*, p. 156.

⁵⁶ *Kelso Liber I*, pp. xli-xlii, *SESH*, p. 95; *Paisley Registrum*, p. xix.

⁵⁷ *ibid.*, p. xx, quoted in Marsden, ‘Editing the past’, p. 17.

⁵⁸ *SESH*, pp. 159-60.

constitutions of Dornoch Cathedral the ‘first record of civilisation’ in the ‘black barbarism of the north’.⁵⁹ He made a similar assertion about the bishopric of Moray when it was settled at Elgin in 1224.⁶⁰ Furthermore, in an article in the *QR* he depicted the relationship between the medieval church and Scottish society as analogous to that of a father teaching his son.⁶¹

Innes clearly held medieval Christianity in high regard. In a lecture on the *Antiquities of Moray* he stated that it was the ‘greatest step in the civilization of the world’.⁶² In *SMA* he claimed that the Saxons had been civilised by their conversion to Christianity and depicted Alfred the Great as a champion of civilisation against the ‘heathen’ Danes.⁶³ This point is underlined by his portrayal in *SMA* of a ‘great European Christian community and republic’ under Charlemagne.⁶⁴ He attributed numerous achievements to that ‘republic’, such as saving Europe from secular tyranny, exerting a moral influence over rulers, protecting the weak, supporting the poor, ending slavery, attacking barbarism and leading social progress.⁶⁵

Other Episcopalians advocated a similar connection between medieval Catholicism and national advancement. Tytler, like Innes, linked David I’s monastic foundations with the spread of civilisation and referred to the clergy as ‘friends of liberty’.⁶⁶ Burton made a comparable point in his *History of Scotland*, describing a ‘dark period’ in ecclesiastical history

⁵⁹ *Caithness Records*, p. 8, *SESH*, p.76; the reference to the ‘black barbarism of the north’ appears only in *SESH*, p. 83.

⁶⁰ *Moray Registrum*, p. xi.

⁶¹ Innes, ‘Ecclesiastical antiquities’, p. 397.

⁶² C. Innes, *Antiquities of Moray; Elgin Past and Present, a Lecture Delivered on 23rd October 1860 for the Benefit of the Elgin Literary and Scientific Association and Printed at their Request* (Elgin, 1860), p. 14.

⁶³ *SMA*, pp. 57, 62.

⁶⁴ *ibid.*, p. 34.

⁶⁵ *ibid.*, pp. 18-20.

⁶⁶ P. F. Tytler, *History of Scotland*, 9 vols. (Edinburgh, 1829-1843), II, pp. 337-9.

between 700 and 1100 followed by religious revival in the early twelfth century.⁶⁷ Scott had previously expressed similar sentiments, describing David I as a ‘patriot king’ who ‘desire[d] to multiply the number of communities so much calculated to aid civilisation’.⁶⁸ Even Chambers, who largely accepted Presbyterian criticisms of the medieval church, stated that the monks and clergy possessed many virtues and a sense of public spirit.⁶⁹ Some of Innes’s fellow editors also shared this outlook. Speaking of Kinloss Abbey, whose records he edited in 1872, the Episcopalian Stuart asserted that it ‘formed part of the civilising policy of David I to carry the blessing of religion into the districts which his arms had vanquished’.⁷⁰ Robertson, another Episcopalian, claimed in his *Concilia Scotiae* (1866) that the Culdees had ‘fall[en] away from the comparatively easy rule they professed to follow, [and] became loose, worldly, self-indulgent, too often neglecting the offices of religion, not always respecting the duties of morality’.⁷¹ Elsewhere he praised Scotland’s kings for reinvigorating the church when the Culdees were in decay.⁷² As Miner states, Robertson shared Innes’s positive view of the medieval church and saw the Reformation as ‘a destructive and negative series of events’.⁷³ The Episcopalian and later Catholic antiquary William Turnbull took this outlook further

⁶⁷ J. H. Burton, *History of Scotland from Agricola’s Invasion to the Revolution of 1688* 7 vols. (Edinburgh, 1867-1870), II, pp. 1-41.

⁶⁸ W. Scott, *The History of Scotland*, 2 vols. (London, 1830), I, p. 32.

⁶⁹ R. Chambers, *The History of Scotland: from the Earliest Period to the Present Time*, 2nd edition (London: 1849, orig. 1832), pp. 171-7.

⁷⁰ *Records of the Monastery of Kinloss: with Illustrative Documents* [SAS], ed. J. Stuart (Edinburgh, 1872), p. x.

⁷¹ *Concilia Scotiae: Ecclesiae Scoticae Statuta tam Provincialia quam Synodalia quae Supersunt, MCCXXV-MDLIX; Statuta Ecclesiae Scoticae* [Bannatyne Club 113], ed. J. Robertson, 2 vols. (Edinburgh, 1866), I, pp. ccx-ccxi. Innes commended this argument in his review of Robertson’s work; Anon. [WIVP attr. C. Innes & G. Grub], ‘Concilia Scotiae’, *NBR* 47: 93 (1867), pp. 66, 92-3.

⁷² Anon. [WIVP attr. J. Robertson], ‘Scottish Abbeys and Cathedrals’, *QR* 85:169 (1849), pp. 115-19.

⁷³ J. N. Miner, ‘Joseph Robertson and the Scottish middle ages’, *Innes Review* 32 (1981), p. 48.

when editing the records of the abbeys of Lindores and Balmerino (1841), stating that ‘the Deformation in Scotland is one of the most atrocious events recorded in the history of the last thousand years’. He then compared the English Reformation, which had preserved religion, to the Scottish version which had ‘created a moral waste’.⁷⁴

This praise for the post-Culdee but pre-Reformation church was generally rejected by Presbyterians, as contemporary criticism of Tytler’s *History* demonstrated.⁷⁵ Yet several ecclesiastical record editions were edited by Presbyterian antiquaries with ambivalent attitudes towards medieval church history. In his *St Andrews Liber* (1841), Thomson implied that the records contained therein were valuable for local history and elucidating the deeds of dead ancestors.⁷⁶ Apart from an aside bemoaning David I’s expulsion of the Culdees from Lochleven, he gave little indication of his own views on the significance of the church in Scotland’s history.⁷⁷ Laing was similarly restrained in his *St Giles Registrum* (1859) and *Midlothian Charters* (1861). Both contained long prefaces which maintained a carefully factual tone throughout, even when discussing the Reformation.⁷⁸ The prefaces to Fraser’s

⁷⁴ *The Chartularies of Balmerino and Lindores: now First Printed from the Original Mss. in the Library of the Faculty of Advocates* [Abbottsford Club 22], ed. W. B. D. D. Turnbull (Edinburgh, 1841), pp. vii-viii; see also W. B. D. D. Turnbull, *Fragmenta Scoto-Monastica: Memoir of What Has Been Already Done, and What Materials Exist, Towards the Formation of a Scottish Monasticon* (Edinburgh, 1842), p. 1; F. Edwards, ‘Turnbull, William Barclay David Donald (1811–1863)’, *ODNB* 55, pp. 595-7.

⁷⁵ P. Fraser, *Tytler’s History of Scotland Examined; a Review* (Edinburgh, 1848), pp. 103-11; see also Ash, *Strange Death*, pp. 116-20.

⁷⁶ *Liber Cartarum Prioratus Sancti Andree in Scotia; e Registro Ipso in Archivis Baronum de Panmure Hodie Asservato* [Bannatyne Club 69], ed. T. Thomson (Edinburgh, 1841), pp. xii, xix-xx.

⁷⁷ *ibid.*, p. xv.

⁷⁸ *Registrum Cartarum Ecclesie Sancti Egidii de Edinburgh: a Series of Charters and Original Documents Connected with the Church of St. Giles Edinburgh, M.CCC.XLIV-M.D.LXVII* [Bannatyne Club 105], ed. D. Laing (Edinburgh, 1859), pp. iii-lxii; *Registrum Domus de Soltre Necnon Ecclesie Collegiate S. Trinitatis Propre*

Dryburgh Liber (1847) and *Cambuskenneth Registrum* (1872) were similarly neutral, although in the latter he suggested that the Catholic clergy were not as degraded as Knox had claimed.⁷⁹ Marwick, meanwhile, included only a two-page introduction to his edition on Trinity College Church, Edinburgh (1871), and that focused on municipal themes rather than the church itself.⁸⁰ Presbyterian editors of pre-Reformation church sources were clearly in a difficult position. As antiquaries they wanted to collect and present these previously undigested sources, yet they were also shaped by an intellectual *milieu* which despised the organisation that had produced them. The resulting ambivalence was exemplified by Maidment's argument in an edition on the nunnery of Sciennes (1841) that the Reformation was of 'public benefit' but also did considerable 'private evil'.⁸¹

Innes himself acknowledged many flaws in the medieval church, particularly in the fifteenth and sixteenth centuries. As an Episcopalian he was a Protestant and, despite his Catholic sympathies, consequently had a vested interest in illustrating the necessity of the Reformation. In the *Melrose Liber* he bemoaned the extent to which monasteries grew to dominate the regular clergy. This, he claimed, resulted in the appropriation of church benefices and the provision of ill-educated and poorly paid vicars to parishes.⁸² He made the same point in the *OPS*, stating that this dominance had 'shipwrecked' the parochial system and ground the

Edinburgh, etc.; Charters of the Hospital of Soltre, of Trinity College, Edinburgh, and Other Collegiate Churches in Mid-Lothian [Bannatyne Club 109], ed. D. Laing (Edinburgh, 1861), pp. i-c.

⁷⁹ *Liber S. Marie de Dryburgh: Registrum Cartarum Abbatie Premonstratensis de Dryburgh* [Bannatyne Club 86], ed. W. Fraser (Edinburgh, 1847), pp. v-xxxvii; *Registrum Monasterii S. Marie de Cambuskenneth, A.D. 1147-1535*; [Grampian Club 4], ed. W. Fraser (Edinburgh, 1872), pp. v-cx1, particularly p. ciii.

⁸⁰ *Charters and Documents Relating to the Collegiate Church and Hospital of the Holy Trinity, and the Trinity Hospital, Edinburgh, A.D. 1460-1661* [SBRS 18], ed. J. D. Marwick (Edinburgh, 1871), p. xi-xii.

⁸¹ *Liber Conventus S. Katherine Senensis prope Edinburgum* [Abbotsford Club 21], ed. J. Maidment (Edinburgh, 1841), p. xxix.

⁸² *Melrose Liber I*, pp. xxvii-xxviii, *SESH*, pp. 115-16.

clergy down to the wretched state that had sparked the Reformation.⁸³ In *SLA* he highlighted corruption at the papal *curia* in the 1400s and 1500s.⁸⁴ In the *Liber Officialis* (1845) he painted a damning picture of the bishopric of St Andrews on the eve of Reformation, highlighting clerical concubinage, the avaricious collection of dues, the purchase of marital dispensation by the rich, and a widespread immorality across all layers of society that was tacitly sanctioned by the church. These failings, he argued, led directly to the Reformation.⁸⁵ Similarly, in his review of Robertson's *Concilia Scotiae* he stated that the main cause of the Reformation was 'the wickedness of the priesthood'.⁸⁶

These views were in striking contrast to Innes's eulogising of the twelfth-century church. It was perhaps because of this that the later Middle Ages received little attention in his various discussions of pre-Reformation religion. It was only when a particular issue or individual caught his notice, such as Bishop Elphinstone of Aberdeen in the *Aberdeen Registrum*, that significant time was spent on that period.⁸⁷ Nevertheless, Innes did sometimes emphasise the organisational antiquity of his own church by discussing the continuation of Episcopacy after the Reformation. In so doing, he implicitly stressed the legitimacy of the Episcopal authority around which his own church was based.⁸⁸ Overall, however, his approach to the medieval church, and historical research in general, was in many ways balanced and critical. This was illustrated by his 1848 letter to the editor of the *QR*, in which he suggested an article that would illustrate ecclesiastical immorality both before and after the downfall of Catholicism.⁸⁹

Although Innes criticised aspects of Scotland's medieval church, especially in the later medieval period, his default position was clear. As he put it in the *Glasgow Registrum*:

⁸³ *OPS* I, p. xxx-xxxi, *SESH*, p. 19.

⁸⁴ *SLA*, p. 178.

⁸⁵ *Liber Officialis*, pp. xxxv-xxxvii.

⁸⁶ Innes & Grub, 'Concilia Scotiae', pp. 91-92.

⁸⁷ *Aberdeen Registrum* I, pp. xliii-xlvi, *SESH*, pp. 255-66.

⁸⁸ *Aberdeen Registrum* I, p. lxvii; *Brechin Registrum* I, pp. xiii-xv.

⁸⁹ *Lockhart Correspondence*, NLS, MS. 930, no. 76, folio 91, see Appendix 3 for more on this letter.

It is impossible for a student of ecclesiastical antiquities not to look back with fond regret to the lordly and ruined church which we have traced from its cradle to its grave, not stopping to question its doctrines, and throwing into a friendly shade its errors of practice. And yet, if we consider it more deeply, we may be satisfied that the gorgeous fabric fell not, till it had completed its work, and was no longer useful. Institutions, like mortal bodies, die and are reproduced.⁹⁰

As in his analysis of Scottish constitutional history, Innes presented the Scottish ecclesiastical past in a way that directly contributed to the present. He did not see ‘then’ as fundamentally similar to ‘now’ but nor did he dismiss it as irretrievably alien. Instead he perceived the past in terms of causal and providential continuity with the present. The Reformation had been necessary, but so had the civilising influence of Catholicism which had preceded it. To Innes, Presbyterians embraced the former point too enthusiastically whilst refusing to acknowledge the latter. It was this belief that gave rise to this encomium in the *Aberdeen Register*:

In that inquiry - in examining the foundations of that mighty power, wielded often for good, sometimes for evil - it may be allowed to lay aside for the time questions of doctrine. We may be permitted to view the ancient Church as an artist with a task proposed; to examine the materials in her power, and the skill with which she used them. We shall then find much to admire, something perhaps to imitate. We are astonished at her adaptation of herself to all circumstances, and patient bending of all things to her purpose. However politicians dispute, we cannot regard without sympathy her care of the poor, and the ceaseless charity which she inculcated for the benefit of the giver as well as of the receiver [...] As some part of the materials for such an investigation, these collections of church usages, the relics of a once splendid hierarchy, may be held not unworthy of some study; and it is not too much to

⁹⁰ *Glasgow Register* I, pp. liv-lv.

say, that their study, if entered upon without prejudice, would fill an instructive chapter of Scotch history.⁹¹

Innes's goal in working with ecclesiastical sources was to gain general acceptance for his own interpretation of the pre-Reformation church as a positive influence on Scotland. He also sought to prove that it had been a vital contributor to the processes of historical progress by which Scotland had arrived at her current state. His aim was thus to rehabilitate Scotland's medieval church in a society that was hostile towards it.

Innes and his Sources

Innes's work focused on the twelfth to the sixteenth centuries. He produced record editions relating to the bishoprics of Moray, Glasgow, Aberdeen, Brechin, Caithness, St Andrews and Dunkeld, and the monasteries of Paisley, Melrose, Holyrood, Dunfermline, Scone, Kelso, Inchaffray, Arbroath, Newbattle, and North Berwick.⁹² His choice of topics was striking when considered against a Presbyterian backdrop in which bishops and monks were vilified. His Episcopalianism must therefore have been an influence on his record scholarship and on his interpretation of medieval church history. Moreover, all ten of these monasteries were founded between 1070 and 1200 and all seven bishoprics were erected or restored between 1100 and

⁹¹ *Aberdeen Registrum* I, pp. lxxxii-lxxxiii, *SESH*, pp. 90-1.

⁹² Turnbull also listed Innes as having 'superintendence' over the publication of a sixteenth-century history of Kinloss Abbey, and the records of the Priory of St Andrews, the Church of St Giles, Cambuskenneth Abbey, and the Chapel-Royal at Stirling; Turnbull, *Fragmenta Scoto-Monastica*, pp. 26-7, 29-30. However, the first three were actually edited by William Wilson, Thomas Thomson and David Laing respectively. The second two did not appear until the 1870s and were edited by William Fraser and Charles Rogers respectively, D. Stevenson & W. B. Stevenson, *Scottish Texts and Calendars; an Analytical Guide to Serial Publications* (Edinburgh, 1987), pp. 17-38, 46-51; see Appendix 1 for details of Innes's ecclesiastical editions.

1200.⁹³ These institutions consequently represented the twelfth-century reform of the Scottish church that Innes eulogised. Indeed, it is notable that he did not edit any of the available records of collegiate churches, hospitals or friaries, which were mainly founded in the fourteenth and fifteenth centuries.⁹⁴

However, Innes was subject to paymasters in the form of club committees and individual sponsors. Fourteen of his ecclesiastical editions were published by the Bannatyne Club. Of those, the *Melrose Liber* was funded by the Episcopalian Duke of Buccleuch, whilst the *Moray Registrum* was sponsored by the Duke of Sutherland whose wife was Episcopalian.⁹⁵ Yet most sponsors were not Episcopalian and their willingness to fund these volumes must be attributed to antiquarian enthusiasm rather than religious sympathy. Indeed, Chapter Nine will argue that many members were more interested in club editions as symbols of cultural capital rather than historical texts. Innes was a frequent member of the Bannatyne Club's committee and therefore had considerable influence over its publications. This is particularly relevant since six of his editions were paid for from club funds rather than by individual sponsors. Furthermore, Innes had a marked preference for record sources over prose tracts. That left a finite pool of material to work with, since he could only publish editions on institutions for which sufficient records survived. Writing in 1850 he listed sixteen monastic and quasi-monastic foundations whose records had already been published, ten of which he had edited

⁹³ I. B. Cowan & D. Easson, *Medieval Religious Houses, Scotland: with an Appendix on the Houses in the Isle of Man*, 2nd edition (London, 1976, orig. 1957), Paisley pp. 64-5, Melrose pp. 76-7, Holyrood pp. 90-1, Dunfermline pp. 58-9, Scone pp. 97-8, Kelso pp. 68-9, Inchaffray p. 91, Arbroath pp. 66-7, Newbattle p. 77, North Berwick pp. 147-8, Moray pp. 206-7, Glasgow pp. 207-9, Aberdeen pp. 202-3, Brechin p. 203, St Andrews, pp. 211-12. Dunkeld, pp. 205-6; Cowan and Easson do not provide an entry for the bishopric of Caithness since there was religious community attached to it.

⁹⁴ *ibid.*, Ayr Friars, pp. 116, 130-1; Glasgow Blackfriars, p. 118; Holy Trinity (Edinburgh), p. 221; Our Lady College (Glasgow), pp. 221-2; Perth Blackfriars, p. 119; Soutra, pp. 192-3; St Giles, p. 220; St Nicholas (Aberdeen), pp. 214-15.

⁹⁵ Strong, *Episcopalianism*, pp. 264-88; see Appendix 1 for the following discussion of sponsorship.

himself.⁹⁶ He then named twelve more with extant but unpublished records.⁹⁷ Most of those on the first list had a high historical profile. The abbeys of Arbroath, Melrose, Holyrood, Scone, Kelso and Dunfermline, for example, had all been powerful and well-known houses. In contrast, many of those left unpublished had been minor foundations, and the records of many were themselves what Hammond calls ‘small cartularies’.⁹⁸ Innes’s choice of project was thus partially guided by the foundation’s reputation and the extent of its surviving records.

Those records were largely legal and administrative rather than doctrinal or theological, and this sat well with Innes’s background as a legal antiquary. Furthermore, it was his legal work that enabled him to access most of them. At least nine of his editions were built around manuscripts from the Advocates Library in Edinburgh, and it was only his legal credentials that allowed him to use that repository.⁹⁹ Moreover, peerage work set a precedent by which he could access aristocratic archives throughout Scotland, and many of those aristocrats were

⁹⁶ *OPS* I, pp. xxxii-xxxiii; the houses listed as having had their records printed are; Arbroath, Balmerino, Dryburgh, Dunfermline, Glasgow (Collegiate church), Glasgow (Friars-Preachers), Inchaffray, Holyrood, Kelso, Lindores, Melrose, Newbattle, North Berwick, Paisley, St. Andrews & Scone. In the 1861 republication of this preface he added St Giles to the list, *SESH*, pp. 20-2.

⁹⁷ *OPS* I, pp. xxxiii-xxxiv; the houses listed as not having had their records printed are; St. Nicholas at Aberdeen, Beaully, Cambuskenneth, Coldstream, Crossaguel, Coupar-Angus, Craill, Glenluce, Inchcolm, Kilwinning, St. Anthony at Leith and Soutra. In a similar note published twenty years later, Innes added Hum Cultras, Reskennet and three houses of friars in Aberdeen, *SLA* pp. 191-3.

⁹⁸ The records of Beaully, Coupar-Angus, Crossaguel and the Isle of May are included in this group; M. Hammond, ‘Charter Resources’, *Syllabus of Scottish Charters* (Glasgow University, 2009), at <http://www.arts.gla.ac.uk/scottishstudies/charters/index.htm>, accessed 25 March 2010.

⁹⁹ *Paisley Registrum*, p. vii; *Moray Registrum*, pp. ii-iii; *Dunfermline Registrum*, p. xix; *Glasgow Registrum* I, p. xv; *Scone Liber*, p. xvii; *Aberdeen Registrum* I, pp. lxxviii, lxxiii; *Kelso Liber*, p. xvii; *Arbroath Liber* I, pp. xxix-xxx; *Newbattle Registrum*, after title-page.

members of the same antiquarian societies as he was. Most of the charters in the *Melrose Liber* were held by the earls of Morton, whilst the *Caithness Records* came from the charter room of the Duke of Sutherland.¹⁰⁰ Similarly, the bulk of material in the *North Berwick Carte* and the *Holyrood Liber* came from the archives of Lord Panmure, and the latter edition was augmented with documents held by the Marquis of Lothian and the Earl of Stair.¹⁰¹ The main manuscript used in the *Brechin Registrum* was again from the Panmure archives, whilst the Marquis of Lothian also contributed documents to the *Newbattle Registrum*.¹⁰² Furthermore, the manuscript on which the *Inchaffray Liber* was based came from the Earl of Kinnoul, whilst the *Scone Liber* contained items from a number of private archives.¹⁰³ Innes's ability to enter these archives was consequently vital to his ecclesiastical record work.

However, these sources present a terminological problem that must be addressed before Innes's work can be explored in more detail. The manuscripts that he used are well-known to modern medievalists, who describe them using terms such as 'cartulary' and 'register'. Yet, as Trevor Foulds points out, this nomenclature is confused.¹⁰⁴ The *Oxford Companion to the Book* states that 'during the Middle Ages, the term most frequently applied to a cartulary is *registrum*, and the designation "cartulary" and "register" are frequently confused in modern scholarship'. It then defines a cartulary as an 'archival book containing a collection of muniments (title deeds, privileges)'. It clarifies this by stating that a cartulary 'predominantly contains charters', but a register 'may contain charters, [but] other kinds of document (such as memoranda, pleas, pensions, extents, statutes) will predominate'.¹⁰⁵ The *Oxford Companion to*

¹⁰⁰ *Melrose Liber*, p. v; *Caithness Records*, title-page. These Melrose charters are now held by the Duke of Buccleuch

¹⁰¹ *North Berwick Carte*, pp. xxix-xxxv; *Holyrood Liber*, p. lxxx.

¹⁰² *Brechin Registrum*, pp. i-ii; *Newbattle Registrum*, after title-page.

¹⁰³ *Inchaffray Liber*, p. xvi; *Scone Liber*, pp. xviii-xx.

¹⁰⁴ T. Foulds, 'Medieval Cartularies', *Archives* 18 (1987), p. 5.

¹⁰⁵ 'Cartulary', in *The Oxford Companion to the Book*, ed. M. F. Suarez, S. J. & H. R. Woudhuysen (Oxford, 2010), at <http://www.oxfordreference.com.libezproxy.open.ac.uk/views/ENTRY.html?subview=Main&entry=t290.e0911>, accessed 25 March 2010.

Local and Family History similarly asserts that cartularies predominantly consist of title-deeds.¹⁰⁶ However, the *Encyclopaedia of the Middle Ages* defines a cartulary only as a ‘collection of copies of documents compiled in the form of a volume or sometimes a roll’, and states that they often include ‘non-diplomatic’ material such as annals, narratives, inventories and tables of references.¹⁰⁷ The term ‘register’ is not listed in any of these works.

Addressing the same issue in his catalogue of British cartularies, Geoffrey Davis states that ‘true’ cartularies contain copies of just three types of document; charters relating to title deeds, charters relating to privileges, and other documents ‘kept by landowners as evidence of their personal or corporate rights’.¹⁰⁸ He lists several different types of cartulary, including what he calls ‘cartularies of rights, privileges etc’ which rarely contain title-deeds pertaining specifically to land. Davis also notes that the ‘general cartularies’ of ecclesiastical institutions often contain papal bulls granting privileges without territorial specificity. He then asserts that cartularies should be delineated from other types of register, thus implying that the former is a subset of the latter.¹⁰⁹ According to Davis, these other kinds of register might focus on acts, letters, memoranda, legal proceedings, alliances (foederies), rentals and surveys. Foulds supports this view, asserting that cartularies are a specific type of register containing land-related charters almost to the exclusion of all other documents. He argues that ‘the cartulary, then, is not just a random collection of documents relating to a monastery or landholding family’. Nor is it ‘a notebook of miscellaneous documents of varying degrees of importance or relevance relating to property’ Rather, it is a ‘studied transcription of the title deeds’.¹¹⁰

¹⁰⁶ ‘Cartulary’, in *The Oxford Companion to Local and Family History*, ed. D. Hey (Oxford, 2009), at <http://www.oxfordreference.com.libezproxy.open.ac.uk/views/ENTRY.html?subview=Main&entry=t266.e307>, accessed 25 March 2010.

¹⁰⁷ O. Guyotjeannin, ‘Cartulary’, in *Encyclopaedia of the Middle Ages*, ed. A. Vauchez. (Oxford, 2001), at <http://www.oxfordreference.com.libezproxy.open.ac.uk/views/ENTRY.html?subview=Main&entry=t179.e487>, accessed 25 March 2010.

¹⁰⁸ G. R. C. Davis, *Medieval Cartularies of Great Britain; A Short Catalogue* (London, 1958), p. xi.

¹⁰⁹ *ibid.*, p. xiii.

¹¹⁰ Foulds, ‘Cartularies’, p. 7.

There is evidently confusion about the delineations between cartularies and registers. The issue is exacerbated because these terms had different meanings in nineteenth-century Scotland. In his *History of Scotland* Tytler stated that monastic ‘registers’ could be divided into three groups: annals, obits, and cartularies. These ‘cartularies’ could contain:

[...] the charters of the kings, or other great men who favoured the religious house, the bulls of the popes, the revenues of their lands, the leases granted to their vassals or dependants, the history and the proceedings of the various lawsuits in which they were engaged, the taxes which they paid to the crown, and many other minute and interesting particulars are recorded.¹¹¹

For Tytler, therefore, a cartulary was exactly what Foulds believes it is not; that is a ‘notebook of miscellaneous documents [...] relating to property’. Innes echoed Tytler’s definition in the *Paisley Registrum* but confused matters further by referring to the third class as a ‘cartulary or register’, and stating that such distinctions could not in any case be consistently applied.¹¹² Indeed, he used the terms interchangeably. In the *Kelso Liber* he called the main manuscript a ‘register’ in one sentence and a ‘chartulary’ in the next.¹¹³ He frequently referred to manuscripts relating to the abbeys of Newbattle and Inchaffray as ‘registers’, despite the fact that both consist mainly of title deeds to land.¹¹⁴ Conversely, the manuscripts used in the *Paisley Registrum* and the *Dunfermline Registrum* contained not just charters and confirmations but also Papal Bulls, items relating to rent, details of benefices and records of competing jurisdictions. Nevertheless, Innes referred to both as ‘chartularies’ and ‘registers’ and then called all the manuscripts that he had edited up to 1842, ‘cartularies’.¹¹⁵

¹¹¹ Tytler, *History of Scotland* II, pp. 336-7.

¹¹² *Paisley Registrum*, pp. xi-x.

¹¹³ *Kelso Liber* I, p. xviii.

¹¹⁴ *Newbattle Registrum*, pp. xxx-xxxii, *SESH*, p. 133; *Inchaffray Liber*, pp. xvi-xvii.

¹¹⁵ *Paisley Registrum*, pp. vi-ix; *Dunfermline Registrum*, pp. xx, xxiv.

As will become apparent, most of the manuscripts that Innes used were too typologically diverse to fit the definition of a cartulary favoured by present-day medievalists. Such distinctions may work for English and European religious houses, but the Scottish material tends to be more heterogeneous. The term ‘cartulary’ is better accepted amongst modern Scottish medievalists, but it is arguably unsuited to the manuscripts that Innes used. The usages promoted by Tytler and Innes are actually more appropriate for this Scottish material. With that in mind, this chapter will use ‘register’ rather than ‘cartulary’ when discussing the manuscripts on which Innes based his editions.

The issue is farther complicated by Innes’s occasional reliance on transcripts of medieval material compiled during the seventeenth and eighteenth centuries by antiquaries such as Richard Hay (1661-1736), George Crawford (1695-1748), Walter MacFarlan (d.1767) and George Hutton (d. 1837).¹¹⁶ The *Holyrood Liber* featured an appendix of transcripts made by Hay and MacFarlan.¹¹⁷ The *Glasgow Registrum* was composed partly from transcripts made by Hutton and also Professor William McTurk, of Glasgow University. In addition, that edition incorporated material from a French transcript whose creation had been overseen by the Catholic antiquary Thomas Innes (1662-1744), and the preface explicitly stated that its arrangement had been inspired by that transcript.¹¹⁸ Ross states that Innes made extensive use of these antiquarian transcripts, but was also mistrustful of them and tried to check them against surviving originals.¹¹⁹ This is shown by the statement in the *Holyrood Liber* that Hay’s collections were ‘always ill arranged and often inaccurate’.¹²⁰ On the other hand, the life and

¹¹⁶ M. Dilworth, ‘Hay, Richard (1661–1736?)’, *ODNB* 25, pp. 1029-30; T. F. Henderson, rev. A. Du Toit, ‘Crawford, George (*b.* in or before 1695, *d.* 1748)’, *ODNB* 14, p. 88; A. F. Pollard, rev. A. Du Toit, ‘Macfarlan, Walter, of Arrochar (*d.* 1767)’, *ODNB* 35, p. 373; N. Guicciardini, ‘Hutton, George Henry (d. 1837)’, *ODNB* 29, pp. 52-3..

¹¹⁷ *Holyrood Liber*, p. lxxx.

¹¹⁸ *Glasgow Registrum* I, pp. xiv-xvi; B. M. Halloran, ‘Innes, Thomas (1662–1744)’, *ODNB* 29, pp. 307-8; for McTurk see P. Hoare, ‘The Librarians of Glasgow University over 350 Years: 1641-1991’ *Library Review* 40 (1991), pp. 35-6.

¹¹⁹ Ross, ‘Bannatyne Club’, pp. 211-12.

¹²⁰ *Holyrood Liber*, pp. ix-x.

works of Innes's namesake Thomas were eulogised in the *Glasgow Registrum*.¹²¹ Innes thus consciously operated within an antiquarian tradition, just as he had done with the *APS*. These individuals were his acknowledged predecessors, and when their work contained faults it only served to emphasise the progress that antiquarianism had made in the new century.

From Manuscripts to Editions

Of Innes's seventeen ecclesiastical editions, two can be discounted from this analysis. His 1831 edition of Alexander Myln's *Lives of the Bishops of Dunkeld* was merely an enlarged version of Thomson's 1823 volume and was in any case a prose tract rather than a collection of record sources.¹²² His *Caithness Records*, meanwhile, contained two documents and therefore provided limited scope for editorial manipulation. *Liber Officialis* was also different from the rest in that it contained sixteenth-century judicial material from the Episcopal courts of St Andrews. The remaining fourteen editions, however, consisted of registers and single-sheet originals. They can be roughly divided according to the materials on which they were based. Those relating to Paisley, Dunfermline, Kelso, Inchaffray and Newbattle were founded largely on single manuscripts. Those pertaining to Melrose, Holyrood and North Berwick were constructed primarily from single-sheet originals. Finally, those containing the records of Moray, Scone, Glasgow, Aberdeen, Arbroath and Brechin were built from several different registers, transcripts and originals. These categories are crude but they do illustrate the editorial challenges that Innes faced.¹²³

¹²¹ *Glasgow Registrum* I, pp. vi-viii.

¹²² Laing, *Bannatyne Club*, pp. 45-6.

¹²³ Ross divides nineteenth-century ecclesiastical record editions into 'true cartularies' and 'artificial cartularies', Ross, 'Bannatyne Club', pp. 207-8. These categories serve his purpose well, but they are less well-suited to the needs of this study. Ross categorises the *Dunfermline Registrum* and the *Melrose Liber* as multi-register 'true cartularies'. However, here the former is classed as a single-register edition because Innes mainly followed a single thirteenth-century manuscript and used later copies only for collation. The latter is here listed as constructed primarily from single-sheet originals because Innes took only a minority of texts from the two surviving registers.

Ross states that the majority of Innes's ecclesiastical editions were artificial constructs.¹²⁴ This was a consequence of the editorial interventionism already highlighted in relation to the *APS*. Innes explained his editorial philosophy in the *Paisley Registrum*, the first record edition that he produced:

Where the manuscript is of sufficient antiquity to claim somewhat of the authority of a writing contemporary with the most important deeds recorded [...] it seems to be the editor's duty to give, as nearly as printing will allow, a correct representation of the words and letters used by the writer [...] On the other hand, where the manuscript is a comparatively recent transcript, not approaching the orthography of the original documents [...] it appears absurd to adopt the imperfections which add nothing to its authority or character of genuineness.¹²⁵

Here Innes justified the 'correction' of texts that was also practiced in the *APS*. Many of the registers that he used had been compiled significantly later than the documents that they contained copies of. Innes consequently made a distinction between registers that were broadly contemporaneous with the items they contained, and those that were created considerably later.¹²⁶ He believed that the temporal distance between the original and the copy caused defects to creep into the text. This justified editorial revision in order to restore them to their original state. In such cases Innes did not aim to present an accurate version of the register, but rather sought to reconstruct the lost originals. He was therefore often less concerned with fidelity to the source in front of him than with his own conjecture about the original documents. His expertise meant that greater faith was placed in that conjecture than in the surviving copies.

¹²⁴ *ibid.*, p. 223.

¹²⁵ *Paisley Registrum*, p. xxii, also cited in Ross, 'Bannatyne Club', p. 211, and quoted in Marsden, 'Editing the past', p. 19.

¹²⁶ *Paisley Registrum*, pp. xxii-xxiii.

Nevertheless, Innes sought corroboration wherever possible and collated originals, manuscript copies and antiquarian transcripts against each other in almost all of his editions. For example, the *Paisley Register* was used as the basis for the printed *Paisley Registrum*.¹²⁷ This manuscript dated from the sixteenth century and was created considerably later than most of the items that it contained. Innes therefore felt empowered to amend it so that items more closely approximated what he believed they should have looked like.¹²⁸ Yet he also collated the manuscript against duplicate material in MacFarlan's transcript of the *Lennox Cartulary*, Hay's transcript of the *Paisley Register* itself, and a few surviving originals. He explained this approach in the edition's preface but the changes themselves were not highlighted.¹²⁹ The result was a text that was presented as the *Paisley Register* but which deviated from the manuscript significantly. Innes took this approach further five years later in the *Melrose Liber*, the first of his editions to be built primarily from single-sheet originals. In this case, he had access to two registers dating from the thirteenth and sixteenth centuries.¹³⁰ However, he believed that the former was too fragmentary whilst the latter was too late to be relied upon. Instead, he made use of twenty-six bags of charters owned by the earls of Morton.¹³¹ Because of his preference for originals over copies he relegated the unsatisfactory manuscripts to a supporting role and used the charters as the basis for the edition.¹³² Yet Ross points out that much material from the later register was included when no original was available, despite the fact that copies also existed in the earlier manuscript. This shows that, despite his stated

¹²⁷ [*Paisley Register*], NLS, Adv 34.4.14; Davis, *Medieval Cartularies*, no. 1174, p. 136; W. W. Scott, 'Paisley Reg.', in Hammond, *Scottish Cartularies*, at <http://www.arts.gla.ac.uk/scottishstudies/charters/Paisley.pdf>, accessed 1 April 2010.

¹²⁸ *Paisley Registrum*, p. x.

¹²⁹ *ibid.*, p. xxiii; Ross, 'Bannatyne Club', p. 213.

¹³⁰ [*Melrose Register*], NLS, Adv 34.4.11; [*Melrose Register*], British Museum, Harley 3960; Davis, *Medieval Cartularies*, nos. 1167, 1168, p. 135.

¹³¹ *Melrose Liber* I, pp. v-vi.

¹³² *ibid.* I, p. vii; the *tabulas* show that the majority of items came from these originals rather than the two registers, Innes, *ibid* I, 'Tabula', pp. iii-xix, II, 'Tabula', pp. iii-xix.

intention to use the older register wherever possible, Innes sometimes chose later versions because he believed that they better represented the originals.¹³³

These examples from Innes's first two editions set the tone for the rest of his ecclesiastical record work and the *Moray Registrum* was a good example of how he adapted that approach for multi-register editions. In this instance he had two registers to draw on; one dating from the late thirteenth and early fourteenth centuries and the other from the sixteenth.¹³⁴ Ross's analysis shows that Innes collated the manuscripts against each other and often chose texts from the later register. This privileged versions that were created almost three hundred years after the copies of the same items found in the earlier manuscript.¹³⁵ Ross also suggests that Innes collated both registers against the index to a third manuscript and corroborated many other items against manuscripts such as the *Dunfermline Register*.¹³⁶ He also notes that Innes admitted to 'correcting' texts not only in the Moray editions, but also those relating to Glasgow, Aberdeen, Brechin, Dunfermline, Newbattle and Arbroath.¹³⁷ This point is supported by a letter from Robertson disputing some of the readings that Innes had used in the *Aberdeen Registrum*.¹³⁸ This in turn implied that these endings were not copied from manuscripts but had been created or at least altered by Innes.

Innes took the amendment of source material much further than simply choosing between texts and altering phraseology. One aspect of this was the fact that he habitually abridged items from the fifteenth and sixteenth centuries. In the *Moray Registrum* he included 169 feu charters from the 1500s which were heavily abbreviated and separated from the rest of the

¹³³ Ross, 'Bannatyne Club', pp. 212-13; *Melrose Liber I*, p. vii.

¹³⁴ [*Moray Register*], NLS, Adv 34.4.10; [*Moray Register*], NLS, Adv 34.4.9; Davis, *Medieval Cartularies*, nos. 1171, 1172, p. 135.

¹³⁵ Ross, 'Bannatyne Club', p. 221

¹³⁶ *ibid.*, pp. 220-1, *Moray Registrum*, p. ii.

¹³⁷ Ross, 'Bannatyne Club', p. 213.

¹³⁸ *Innes MSS.* [no nos.], letter from Robertson to Innes, 8 October 1845, cited in Ross, 'Bannatyne Club', p. 209n.

edition in an appendix.¹³⁹ He used the same approach in the *Dunfermline Registrum*, where he referred to this abbreviated material as ‘those of lowest date, least importance, and greatest bulk’.¹⁴⁰ In the *Scone Liber*, meanwhile, he included numerous feu charters only as abstracts.¹⁴¹ Sixteenth-century material in the *North Berwick Carte* was treated in a similar way, and Innes stated laconically that it had been ‘abridged and thrown into an appendix’.¹⁴² In the case of the *Aberdeen Registrum*, items from between 1400 and 1550 were abridged whilst post-1550 material was given only in abstract.¹⁴³ Similarly, many of the items contained within Volume Two of the *Arbroath Liber*, running from 1329 to the Reformation, were heavily abbreviated.¹⁴⁴ This was particularly telling since the material in Volume One, relating to the earlier period, was given in full. Innes thus used the break between volumes to differentiate between the periods before and after the Wars of Independence, and was far more cavalier with the later sources. A comparable break was made at 1413 in the two-volume *Glasgow Registrum*, and most items in Volume Two were again heavily abbreviated.¹⁴⁵

Innes evidently preferred sources from the twelfth, thirteenth and, to a lesser extent, fourteenth centuries. This was partly due to the abundance of later records. Abbreviating them was, as Ross asserts, in part a practical response to the limitations of space and cost. However, it also echoed Innes’s preference for what he saw as a period of Christian reform. To Innes, sources from those earlier centuries showed a church in the ascendance, stimulating national progress and spreading civilisation. By contrast he associated the later period with the decline that ultimately led to the Reformation.

Nonetheless, even the abbreviation of later items was not the most radical change that Innes made to his sources. He also frequently altered their arrangement. The editions relating to

¹³⁹ *Moray Registrum*, pp. v, ‘Tabula’, pp. xix-xii.

¹⁴⁰ *Dunfermline Registrum*, pp. xxiii-xxiv

¹⁴¹ *Scone Liber*, pp. xviii, 222-34.

¹⁴² *North Berwick Carte*, pp. xx, xxxvi.

¹⁴³ *Aberdeen Registrum* I, p. lxxiv.

¹⁴⁴ *Arbroath Liber* I, ‘Tabula’, pp. iii-xxiv, II, p. xviii, ‘Tabula’, pp. i-xli.

¹⁴⁵ *Glasgow Registrum* I, pp. xvi-xvii; Ross, ‘Bannatyne Club’, p. 209.

Melrose, Holyrood and North Berwick were built first and foremost from single-sheet originals. This allowed Innes the freedom to arrange items as he chose. The *Melrose Liber* was neatly organised, firstly by chronologically-arrayed kings' reigns and then according to the lands to which the items referred. Grants made during the reign of William the Lion, for example, were divided into thirteen subgroups such as Carrick, Teviotdale, Kyle and Berwick.¹⁴⁶ The *Holyrood Liber* followed three years later and was also built primarily from original charters, this time augmented with a fragmentary fifteenth-century register.¹⁴⁷ Innes again adopted a regnal and chronological structure but did not impose a territorial organisation. The *North Berwick Carte*, meanwhile, was published seven years later and was a similar if smaller proposition. Its main section consisted of thirty-eight charters taken from six archives and arranged chronologically.¹⁴⁸ Innes evidently favoured chronology as an organisational principle and, as Chapter Five has argued, this emphasised continuity and longevity. A territorial arrangement, on the other hand, implied an antiquarian emphasis on topography which tied into Innes's belief in the value of church records to local history. The organisation of the *Melrose Liber* combined both approaches and was also structurally reminiscent of medieval manuscripts like the *Kelso Register*, the *Newbattle Register*, and the *tabula* of the *Dunfermline Register*, all three of which are discussed below. Innes had not published any of them when he was editing the Melrose records but as an antiquary, record scholar and peerage lawyer he was undoubtedly already familiar with and perhaps inspired by them.

The *Paisley Registrum*, on the other hand, was based on an extant register and was the only edition in which Innes did not change the arrangement.¹⁴⁹ Some degree of structure was

¹⁴⁶ *Melrose Liber* I, 'Tabula', pp. iii-xix, II, 'Tabula', pp. iii-xix.

¹⁴⁷ [*Holyrood Register*], Scottish Record Office, History Room (R. 2/4); [*Holyrood Register*], Edinburgh City Charter Room (bay B, shelf 11); Davis, *Medieval Cartularies*, nos. 1142, 1143, p. 132; many of the originals are in [*Holyrood Charters*] NAS, GD 45; I. C. Cunningham, 'Holyrood', in Hammond, *Scottish Cartularies*, at <http://www.arts.gla.ac.uk/scottishstudies/charters/Holyrood.pdf>, accessed 1 April 2010; see also Ross, 'Bannatyne Club', p. 208n.

¹⁴⁸ *North Berwick Carte*, pp. xxix-xxxv.

¹⁴⁹ Ross, 'Bannatyne Club', p. 212.

discernable in this manuscript; documents were arrayed partly by type and partly by the territories or subjects that they referred to.¹⁵⁰ However, a lack of headings made it seem haphazard to the modern eye. Nevertheless, Innes maintained organisational fidelity in his printed version, perhaps because this was his first such endeavour. Indeed, he defended the register from Crawford's accusation that its contents were arranged 'promiscuously' and chastised Hay's transcript for 'alter[ing] the order of the documents to suit his idea of chronology'.¹⁵¹ Moreover, the *tabula* in Innes's edition was copied directly from the manuscript, indicating how closely the source was followed.¹⁵² The registers of Inchaffray and Newbattle were equally simple to edit. The *Inchaffray Register* dated from the fifteenth century and already had a chronological arrangement that was acceptable to Innes.¹⁵³ Whilst he re-ordered some of the items, he mostly stayed organisationally close to the manuscript.¹⁵⁴ The fourteenth-century *Newbattle Register*, meanwhile, was organised along clear territorial lines and could also therefore be reproduced by Innes without substantial reworking.¹⁵⁵

The *Dunfermline Registrum* was another single-register edition, although Innes used later transcripts for corroboratory purposes.¹⁵⁶ However, the choices he faced on this project were more complex than in the case of Paisley, Newbattle or Inchaffray. The register was a thirteenth-century manuscript that had been interpolated with additional material over the following three centuries.¹⁵⁷ Innes to an extent followed the arrangement of the register, which

¹⁵⁰ *Paisley Registrum*, pp. xi-xvii.

¹⁵¹ *ibid.*, pp. xi, vii.

¹⁵² *ibid.*, p. xxiii.

¹⁵³ [*Inchaffray Register*], MS in hands of the Earl of Kinnoull; Davis, *Medieval Cartularies*, no. 1156, p. 134.

¹⁵⁴ *Inchaffray Liber*, pp. xxi-lvii.

¹⁵⁵ [*Newbattle Register*], NLS, Adv 34.4.13; Davis, *Medieval Cartularies*, no. 1173, p. 135-6; *Newbattle Registrum*, pp. li-lxix.

¹⁵⁶ Ross, 'Bannatyne Club', p. 209.

¹⁵⁷ [*Dunfermline Register*], NLS, Adv 34.1.30; for the later corroboratory registers see [*Dunfermline Register*], Scottish Record Office, (Room 2/3), [*Dunfermline Register*],

grouped items by granter. However, he made a distinction between the thirteenth-century material and the later additions. In the edition, these later items were removed from their positions in the manuscript and placed at the end, where they were arranged not by date of registering but by the conjectural dates that Innes assigned to the lost originals. That meant that items 1-298 of the printed version were given largely in the order found in the register, whilst numbers 299-599 were not. Nor did Innes put these later items in a separate section but instead continued straight on after number 298. The result was a sanitised composition that represented Innes's ideal of what an ecclesiastical register should look like.

He took a comparable approach with the *Kelso Liber*, based on a fourteenth-century register that was divided territorially with an additional group of papal documents at the end.¹⁵⁸ With only minor exceptions, such as the relocation of the foundation charter to the front of the edition, Innes followed that arrangement. Like the *Dunfermline Register*, however, the manuscript contained various additions, although these were mostly at the end of the register rather than interpolated into it. Innes presented these separately at the end of his edition and arranged them by conjectural date rather than their order in the manuscript.¹⁵⁹ As with the *Dunfermline Register*, he was attempting to rescue an early source from later additions that, in his view, detracted from its integrity, worth and authenticity.

Institutions for which several manuscripts survived provided Innes with more complex challenges. As stated above, the *Moray Registrum* was built from registers dating from the late thirteenth and early sixteenth centuries. The latter was a copy of the former with numerous additions registered after 1512. Innes's version followed the older register to an extent, in that both were organised by type and topic, but also contained sweeping changes. For example, items relating to the cathedral chapter were printed before grants made by the bishop, whereas

Scottish Record Office, Room 51, Shelf 13; Davis, *Medieval Cartularies*, nos. 1139, 1140, 1142, pp. 132-3.

¹⁵⁸ [*Kelso Register*], NLS, Adv 34.5.1; Davis, *Medieval Cartularies*, no. 1162, p. 134; N. F. Shead, 'Kelso Lib.', in Hammond, *Scottish Cartularies*, at http://www.arts.gla.ac.uk/scottishstudies/charters/Kelso_Shead_rev%206-6-7.pdf, accessed 1 April 2010.

¹⁵⁹ *Kelso Liber*, pp. xvii-xix, 'Tabula', pp. i-xxvi.

in the manuscript these were the other way round. He also re-arranged items within each section so that they were chronological and added several extra groupings containing material from the later register.¹⁶⁰ Ross conducts a detailed comparison between the manuscripts and the edition and shows that Innes's arrangement was entirely at odds with both registers.¹⁶¹ In essence he had created a new compilation, structured thematically and then chronologically, in which the seams between the two manuscripts were difficult to detect. The *Scone Liber* was similarly based on two registers from the fourteenth and late fifteenth centuries.¹⁶² Like the *Moray Registrum*, it contained numerous items not found in either register but taken instead from single-sheet originals. In the case of Moray, these were placed in a separate section labelled 'Carte Originates'.¹⁶³ In the Scone edition, however, they were interpolated into material from both registers in an unbroken chronological run of 233 items. This did not correspond to either manuscript, and the edition's *tabula*, whilst noting which items were originals, did not show which register the rest came from.¹⁶⁴ Where there was no single authoritative manuscript and no option to create a new collection from contemporary originals, Innes often made editorial decisions that left his sources far behind.

With the *Arbroath Liber*, Innes was faced with four manuscripts of varying age, reliability, condition and completeness. The *Ethie Register* was fragmentary and dated from the reign of Alexander III. The next oldest was the *Registrum Vetus*, created in the reign of Robert I, whilst the *Registrum Nigrum* was compiled at the beginning of the sixteenth century. Innes also used a fifteenth-century list of leases which he called the *Regality Register*.¹⁶⁵ In Volume One he

¹⁶⁰ It is notable that the folio numbers next to each item in the *tabula* were entirely out of order, *Moray Registrum*, pp. i-vi, 'Tabula', pp. ii-xxiv.

¹⁶¹ Ross, 'Bannatyne Club', pp. 217-9.

¹⁶² [*Scone Register*], NLS, Adv 34.3.29; [*Scone Register*], NLS, Adv 34.3.28; Davis, *Medieval Cartularies*, nos. 1179, 1180, p. 136; *Scone Liber*, pp. xvii-xviii.

¹⁶³ *Moray Registrum*, 'Tabula', pp. xiii-xiv.

¹⁶⁴ *Scone Liber*, pp. xxi-xxix.

¹⁶⁵ [*Arbroath Ethie Register*], formerly held by the Earls of Northesk at Ethie Castle, now in Dundee City Archives; [*Arbroath Registrum Vetus*], NLS, Adv. 34.4.2; [*Arbroath Registrum Nigrum*], NLS, Adv. 34.4.3; [*Arbroath Regality Register*], held in Arbroath

mainly followed the structure of the *Registrum Vetus* and used its *tabula* as the basis for his own.¹⁶⁶ He mostly used texts from the *Registrum Vetus* and the *Registrum Nigrum*, corroborating them against the *Ethie Register* and the *Regality Register*.¹⁶⁷ The *Registrum Vetus* was arranged according to granter and also had a chronological theme, and for the first 226 items Innes reproduced that. However items 227 to 276 of the published version came from the front of the *Registrum Vetus*. Most of that material was thirteenth-century and roughly contemporaneous with the last sections of the first 226 items. The edition then jumped to the end of the *Registrum Vetus* with a group of charters from the reign of Robert I and a set of documents with distinctive rubrics and endings. This was followed by another diversion to the front of the manuscript for four documents about ecclesiastical taxation plus a parliamentary statute from the early 1300s. The main part of Volume One concluded with fifty-nine items from the reign of Robert I, taken from the *Registrum Nigrum* and re-arranged into chronological order.¹⁶⁸ Volume Two, meanwhile, was based primarily on the *Registrum Nigrum* and covered the period from the end of Robert's reign to the Reformation. The structure of the manuscript was abandoned in favour of a chronological arrangement.¹⁶⁹ A letter from Innes to Laing shows that he considered printing the *Registrum Vetus* and the *Registrum Nigrum* separately, but decided that it would be 'most satisfactory [...] to arrange all

Burgh Muniments; see Davis, *Medieval Cartularies*, nos. 1117, 1118, 1119, 1121, pp. 129-30; see also *Arbroath Liber I*, pp. xxix-xxxiii. It should also be noted that Innes was unaware of another register; [*Arbroath Register*], British Library, MS Add. 33245; Davies, *Medieval Cartularies*, no. 1120, p. 130; see also Ross, 'Bannatyne Club', p. 216n.

¹⁶⁶ *ibid.* I, pp. xxxiii-xxxv.

¹⁶⁷ Since the *Ethie Register* was the oldest, Innes would usually have used that in first instance, however it only came to light when he had already prepared a substantial part of the edition, *Arbroath Liber I*, pp. xxxi, xxxiv; Ross, 'Bannatyne Club', p. 213.

¹⁶⁸ *Arbroath Liber I*, 'Tabula', pp. iii-xxiv.

¹⁶⁹ *ibid.* II, p. xviii, 'Tabula', pp. i-xli.

the materials of the Register [...] in chronological order'.¹⁷⁰ Indeed, Ross asserts that just twenty-four percent of items were printed in the order that they appeared in the manuscripts.¹⁷¹

Innes's aim was to impose order on a complex and, to him, unsatisfactory set of sources. His sensitivity to the original records is shown by his adoption of the structure of the *Registrum Vetus* in Volume One. However his amendments to that structure, his re-arrangement of items from the *Registrum Nigrum* in Volume Two, and also his willingness to 'correct' and abbreviate texts, demonstrate a readiness to over-ride his sources. The approach taken in Volume Two in particular destroyed any correlative relationship with the source but did create a well-ordered depiction of the abbey's later history through original material. Innes thus steered a course between two editorial imperatives. On one side was the need to respect his sources. On the other was the desire for a cogent and orderly representation of those sources, of the institution they represented and of the wider society that they illuminated.

With the *Brechin Registrum*, his last ecclesiastical record edition, Innes took an even more interventionist approach. Volume One comprised the sixteenth-century *Brechin Register* but, unlike the single-register editions already discussed, Innes re-arranged its contents into chronological order according to the conjectural dates that he assigned to the lost originals.¹⁷² However, the *Brechin Register* was different from the registers of Dunfermline, Kelso, Inchaffray and Newbattle, in that it was compiled several centuries after most of originals that were copied within it. Innes did not therefore feel a duty of fidelity towards it and could manipulate it as he chose. Volume Two, meanwhile, consisted of numerous originals and manuscript copies drawn from fifteen different sources, including aristocratic charter chests, other ecclesiastical registers, and the registers of the Great and Privy Seals. These records were arranged according to their place of origin and within that chronologically.¹⁷³ This second volume contained 343 items compared to Volume

¹⁷⁰ *Innes to Laing Letters*, fols. 4905-8.

¹⁷¹ Ross, 'Bannatyne Club', p. 212n.

¹⁷² [*Brechin Register*], Scottish Record Office, History Room, Dalhousie Collection; Davis, *Medieval Cartularies*, no. 1125, p. 130. The folio numbers in the edition's *tabula* are completely out of order, *Brechin Registrum* I, 'Tabula', pp. iii-x.

¹⁷³ *ibid.*, pp. ii-iv, 'Tabula', pp. xi-xli.

One's 114, and Ross states that the *Brechin Register* itself accounted for only twenty-six percent of the published *Brechin Registrum*.¹⁷⁴

The *Glasgow Registrum* appeared over a decade before the *Brechin Registrum* but was one of Innes's most ambitious projects. It incorporated material from two medieval manuscripts and six early-modern transcripts. Presenting these in an orderly and palatable form was therefore no easy task. The medieval manuscripts were the mainly thirteenth-century *Registrum Vetus* and the fifteenth-century *Liber Ruber*, which was a copy of the former with substantial additions.¹⁷⁵ The later transcripts included a late-sixteenth-century copy of the *Registrum Vetus*, the French collection of charter-copies mentioned earlier in the chapter, and another French transcript containing copies of the *Registrum Vetus*, the *Liber Ruber* and numerous items found in neither. Innes also made use of another transcript of the *Registrum Vetus*, copies of charters made by George Hutton and a set of cathedral statutes copied by William McTurk.¹⁷⁶ It was not possible to publish all of these manuscripts and transcripts in their entirety, especially since they duplicated so much material. Furthermore, two speculative organisational schemes found in Innes's papers show an understandable emphasis on the *Registrum Vetus* and the *Liber Ruber*.¹⁷⁷ Innes addressed this problem as follows:

From all these materials I have endeavoured to arrange, in chronological order, the whole extant and known muniments of the bishopric of Glasgow. I believe

¹⁷⁴ Ross, 'Bannatyne Club', p. 208n.

¹⁷⁵ [*Glasgow Liber Ruber*], NLS, Acc.10301; [*Glasgow Registrum Vetus*], NLS, Acc.10301; ; Davis, *Medieval Cartularies*, nos. 1150, 1151; p. 133, N. F. Shead & I. C. Cunningham, 'Glasgow Reg.', in Hammond, *Scottish Cartularies*, at <http://www.arts.gla.ac.uk/scottishstudies/charters/Glasgow.pdf>, accessed 2 April 2010.

¹⁷⁶ *Glasgow Registrum I*, pp. x-xvi.

¹⁷⁷ *Cosmo Innes's Papers*, Mitchell Library, MS no. 891069, [no nos.], two undated and untitled documents containing notes on and extracts from the *Glasgow Registrum Vetus* and *Liber Ruber*.

every document contained in any of these registers or collections will be found in the present work.¹⁷⁸

He thus abandoned the shapes of the manuscripts and transcripts entirely and instead arrayed 530 items from all eight sources in chronological order. That meant that the edition consisted of an undifferentiated mixture of charters, confirmations, obits, canons, papal bulls, inventories, financial records and sundry other legal and administrative material. Innes also left out items in the *Registrum Vetus* that had no direct connection to the bishopric and placed them in an appendix.¹⁷⁹ The only nod to the sources was that, unlike the *Moray Registrum* or the *Scone Liber*, the *tabula* did note which manuscript or transcript each item came from.

The *Aberdeen Registrum*, published two years later, was a similarly formidable challenge and drew upon nine manuscripts.¹⁸⁰ These included the *Registrum Album*, created in the fourteenth century with additions up to the sixteenth, the *Registrum Rubeum*, compiled in the fifteenth and sixteenth centuries, and another unnamed register from the 1500s. These three sources alone contained numerous charters, constitutions, privileges, statutes and bulls. Innes also used the sixteenth-century *Necrologia Ecclesie*, consisting mostly of obits, the fifteenth and sixteenth-century *Registrum Capellanorum Chori*, containing grants and indentures in favour of the vicars of the choir, and a sixteenth-century cathedral inventory called the *Inventarium Cath. Eccles. Aberdonensis*. The other three manuscripts dated from the sixteenth century. These were the *Registrum Assedationum*, containing constitutions and ordinances of the chapter plus leases of church land, the *Epistolare de Tempore*, consisting of a calendar of lessons and feasts plus an account of the bishops, and finally a rental from 1511.¹⁸¹ The

¹⁷⁸ *Glasgow Registrum* I, p. xvi.

¹⁷⁹ *ibid.* I, pp. lii-liv, cv-cxxxvi; II, pp. v-xxxii.

¹⁸⁰ For Innes's discussion of these manuscripts see *Aberdeen Registrum* I, pp. lxviii-lxxiii; see also Ross, 'Bannatyne Club', p. 208.

¹⁸¹ Some but by no means all of these manuscripts are listed by Davis; [*Aberdeen Registrum Rubeum*], Aberdeen University Library, MS. 247; [*Aberdeen Registrum Album*], NLS, Adv 16.1.10; [*Aberdeen Registrum Capellanorum Chori*], Aberdeen University Library MS. 249; [*Aberdeen Register*], Aberdeen University Library, MS. 248;

typological diversity of the material contained in these manuscripts was even broader than that found in Innes's other editions. Volume One was arrayed chronologically and consisted of charters, foundation documents, endowments and revenues. Indeed, it was loosely analogous to a cartulary in that it was concerned primarily with land and property. Volume Two contained a more eclectic range of documents, including calendars, statutes, inventories, obits, an extract from Bagimond's Roll, a narrative of the foundation of the See and charters relating to the military orders in Scotland.¹⁸² As with the *Glasgow Registrum*, the shapes of the manuscript sources were abandoned and a completely new scheme was imposed. However, the disjuncture between edition and manuscripts was to an extent bridged by the inclusion of *tabulas* giving manuscript and folio details for each item.

The *Liber Officialis* provided a further example of Innes's willingness to manipulate ecclesiastical sources. It consisted of cases heard by ecclesiastical courts in the diocese of St Andrews during the decades before the Reformation, and was based on three sets of court records covering the period 1512 to 1554.¹⁸³ These consistorial courts had collapsed soon after the Reformation, which meant that the work was useless as an aid to the practice of law.¹⁸⁴ Like the *APS*, its intent was historical rather than contemporarily legal, and Innes explicitly stated that his aim was to illustrate consistorial process and highlight the wide jurisdiction of the Church in that period.¹⁸⁵ However, the cases selected for printing focused exclusively on

[*Aberdeen Registrum Assedationum*], Aberdeen University Library, MS 251; Davis, *Medieval Cartularies*, nos. 1110, 1111, 1112, 1113, 1115, p. 129.

¹⁸² *Aberdeen Registrum*. I, pp. lxxiii-lxxiv, 'Tabula', [n. p.]; II, 'Tabula', [n. p.].

¹⁸³ *Liber Officialis*, pp. x-xii; see also *The Commissariat Record of St Andrews; Register of Testaments 1549-1800* [Scottish Record Society 8], ed. F. J. Grant (Edinburgh, 1902), p. iv.

¹⁸⁴ D. M. Walker, *A Legal History of Scotland*, 6 vols. (London, 1988-2001), III, pp. 251, 286-7.

¹⁸⁵ *Liber Officialis*, p. xxxv; an appendix contained extra material illustrating consistorial process, *ibid.*, pp. xxvii, ixl, li; Innes included an appendix in *SLA* for similar reasons, pp. 299-301.

marriage, divorce, consanguinity, legitimisation of children and dowries.¹⁸⁶ Moreover, many cases were re-arranged or left out of the edition altogether, as evidenced by the non-consecutive folio numbers next to each printed item.¹⁸⁷ This implies an act of careful selection in support of the agenda discussed earlier in the chapter, which was to show that the pre-Reformation church corruptly sold marriage dispensations to the rich.

Innes did not operate in a vacuum but he did dominate pre-Reformation ecclesiastical record scholarship in the nineteenth-century. Ross lists thirty-five editions of which Innes was responsible for fourteen. Moreover, eleven of those were published after Innes's death, which means that he produced well over half of Scotland's output of this type of edition up to his death in 1874.¹⁸⁸ His pre-eminence in the field was further demonstrated by the fact that in 1870 he confidentially advised the Grampian Club on the arrangement of material in Fraser's *Cambuskenneth Registrum*.¹⁸⁹ It is therefore not surprising that other editors followed his methodological lead. Not only were they products of the same antiquarian *milieu*, but Innes's work provided a useful template. In the case of Thomson's *St Andrews Liber* and Turnbull's *Balmerino and Lindores Libers*, there was only one manuscript for each religious house. These editors could thus maintain relative fidelity to the registers whilst appending additional originals at the end.¹⁹⁰ Thomson in particular added so much extra material that it outweighed the register itself.¹⁹¹ Robertson's *St Mary's Liber* was similarly straightforward, as was Fraser's *Dryburgh Liber*.¹⁹² The same can be said of Fraser's *Cambuskenneth Registrum*,

¹⁸⁶ *Liber Officialis*, pp. liii-lv.

¹⁸⁷ For example, the first five items from the *Liber Sententiarum Officialis Sancti Andree* were taken from fols. 16, 26, 34, 5 and 9, *ibid.*, pp. 3-6.

¹⁸⁸ Ross, 'Bannatyne Club', p. 226, he does not list Innes's *Liber Officialis* or *Caithness Records*.

¹⁸⁹ *Innes Papers* [no nos.], letter dated 16 April 1870.

¹⁹⁰ Turnbull, *Balmerino and Lindores Liber*, 'Tabula', pp. i-iii.

¹⁹¹ Thomson, *St Andrew's Liber*, pp. ix, xxv-xxx, xxxiii-xli, xlii-xliv.

¹⁹² *Liber Collegii Nostre Domine Registrum Ecclesie B.V. Marie et S. Anne infra Muros Civitatis Glasguensis MDXLIX; Accedunt Munimenta Fratrum Predicatorum de Glasgu* [Maitland Club 65], ed. J. Robertson (Edinburgh, 1846), pp. lxxxvii-ci; Fraser,

based on a manuscript that already had a clear arrangement by subject.¹⁹³ Single registers were the mainstay of these editions and there was no call for the difficult editorial decisions that Innes was frequently faced with. Even in Maidment's *Sciennes Liber*, which utilised at least three medieval registers, two early modern transcripts and some single-sheet originals, a degree of organisational correlation with the medieval manuscripts was maintained.¹⁹⁴

Laing, on the other hand, completely re-arranged the contents of the *Register of St Giles* for his printed *St Giles Registrum* so that they were in chronological order.¹⁹⁵ He did the same with his *Midlothian Charters* (1861).¹⁹⁶ Stuart took a similar approach in his *Kinloss Records*, although that edition was built from single-sheet documents rather than an extended manuscript.¹⁹⁷ In the *May Records*, however, he used the index from a fragmentary register as the structural basis for a composite edition built from various manuscripts and originals.¹⁹⁸ Robertson, meanwhile, was the only other nineteenth-century editor of medieval church records to accept a challenge on the scale of Innes's *Glasgow Registrum* or *Aberdeen Registrum*. His *Concilia Scotiae* was constructed from no less than thirteen different manuscripts and used synod records to provide an institutional framework for Scottish ecclesiastical history in the Middle Ages. Robertson collated these manuscripts against each other wherever possible but, unlike Innes, tried to show alternative readings rather than making silent amendments.¹⁹⁹ However, like Innes he extensively re-organised his material so that it was organised by chronologically arrayed synods rather than by source.²⁰⁰ The effect

Dryburgh Liber, pp. iv-v, xxxix-lxiv; the *Dryburgh Liber* was also augmented with single-sheet originals.

¹⁹³ Fraser, *Cambuskenneth Registrum*, pp. v-vi.

¹⁹⁴ Maidment, *Edinburgh Sciennes Liber*, pp. xl-lii.

¹⁹⁵ Laing, *St Giles Registrum*, 'Tabula', pp. ix-xvi, 'Historical Notices', pp. iii-iv.

¹⁹⁶ Laing, *Midlothian Charters*, 'Tabula', pp. x-xxiv, 'Preface', pp. viii.

¹⁹⁷ Stuart, *Kinloss Records*, p. xiii.

¹⁹⁸ *Records of the Priory of the Isle of May* [Society of Antiquaries of Scotland], ed. J. Stuart (Edinburgh, 1860), pp. ix-xiv, lxv-lxvii.

¹⁹⁹ Robertson, *Concilia Scotiae* I, p. cci.

²⁰⁰ *ibid.*, pp. cxcii-cciv.

was to impose order on a chaotic and often fragmentary mass of material, and thus to act as expert mediator between the records themselves and the informed but inexperienced reader. Indeed, Innes was originally involved in the project but was forced by other commitments to pass it on to Robertson.²⁰¹ This helps to explain the synchronicity in subject-matter and technique between the *Concilia Scotiae* and Innes's editions.

Many editors used similar approaches to Innes when dealing with ecclesiastical record sources, partly because they had similar ideas about how obscure medieval sources should be prepared for modern consumption. However, with the exception of Turnbull and Robertson, they were not Episcopalians and were less personally invested in the medieval church. They did not have ideological agendas when editing their sources, but acted rather from the antiquarian urge to collect, classify and impose order on the disorderly remains of the past. Robertson's *Concilia Scotiae* was the only example of an editor following in Innes's footsteps by welding a complex and disparate mass of sources into a deceptively coherent representation of church history. This was because these two men, more than other editors, deliberately sought to rehabilitate the tarnished image of the pre-Reformation Church.

Constructing the Past

This analysis reveals much about Innes's approach to the sources of Scottish history. Firstly, his methodologies were dictated by the material rather than the nature of the institution; there was little difference between his treatment of Episcopal and monastic records. More importantly, one of his main concerns was to communicate authenticity. This was sometimes achieved by reproducing manuscripts faithfully but could also be realised by changing texts, re-arranging items, and creating new compilations. These measures could be justified because many extant manuscripts were seen by Innes as defective, particularly those from the later Middle Ages. By amending, re-organising and interpolating them, Innes sought to increase their authenticity through his own expertise. He favoured organisation by territory, by granter, by subject, by type and primarily by date. If a manuscript could claim one of those organisational schemes then it usually provided at least a basic template for the published

²⁰¹ *ibid.*, p. xiv.

edition. If not, then Innes felt empowered to impose one or more of those systems upon its contents. Many of his editions were therefore idealised representations of what Innes believed medieval registers should be like. Yet the authenticity that he strove to achieve was also emphasised by the frequent adaptation of manuscript *tabulas* in the editions. Indeed, he took this further in the *Aberdeen Registrum* by creating abstracts for post-1550 material using language reminiscent of the corresponding manuscript texts.²⁰² This manufacturing of new texts in a style intended to appear original and authentic is a metaphor for his entire approach to ecclesiastical record editions. All of them were artificial to a greater or lesser extent and became more so as Innes's confidence increased. The *Paisley Registrum* was his first such project and showed his editorial style at its most tentative. As early as 1837, however, he felt able to tackle the more complex records of the bishopric of Moray. By the 1840s he was using multiple sources to create entirely new compilations in the form of the *Glasgow Registrum* and the *Aberdeen Registrum*. By the *Brechin Registrum* he was confident enough to completely rearrange the contents of a single manuscript that was, in terms of age and doubtful authenticity, comparable to the *Paisley Register* which he had treated with so much respect twenty-five years before. Significantly, the point of doing that was to create an improved version of the original manuscript.

This approach enabled Innes to create editions that were comprehensive representations of the institutions that they referred to. They usually ran from the twelfth to the sixteenth century with an emphasis on the first two centuries, thus mirroring the period of church history which Innes saw in the most positive terms. This stood in contrast to the work of many other editors on the hospitals, friaries and collegiate churches of the later medieval period. Moreover, chronology was Innes's over-riding organisational imperative. Even when he followed or imposed other structures, items were invariably arranged by conjectural or actual date within that wider organisational framework. As with the burgh editions discussed in the previous chapter, these long date ranges and chronological arrangements emphasised the longevity of the abbeys and bishoprics to which they referred. Furthermore, Innes's editions were, on the whole, not focused on land tenure alone. Many incorporated other types of grant, together with writs, memoranda, bulls, constitutions, canons and statutes, obits, inventories, rentals,

²⁰² *Aberdeen Registrum* I, p. lxxiv.

financial records, absolutions, judicial notices and calendars. Long date spans provided spines for discrete chunks of ecclesiastical history and the range of records employed fleshed those spines out.

The *Aberdeen Registrum* gives a further insight into Innes's attitude towards medieval church sources. Volume One consisted mainly of charters whilst Volume Two was built from many of the document-types from the list above. Innes compared the volumes in the preface:

The first section is calculated to be oftenest referred to, and perhaps most practically useful. No one living within the bounds of the diocese can look into it without finding something to interest him - something throwing light on his family, his property, or his parish - showing the ancient state and occupation of his own residence, or of conterminous property. It may require somewhat more reflection to appreciate the body of Church muniments which form the materials of the second section. But, rightly considered, the interest of mere local history is secondary to that of the Christian antiquities of our country. If it be possible to trace the introduction of Christianity in its first simplicity, the weak beginning of the Church when struggling for existence, its progressive acquisition of security, wealth, and power, it cannot be unprofitable to examine dispassionately the causes of its success, by what means it controlled the minds of men not easily led, and influenced their laws, banished all dissent even in thought, and brought it about that men gave to the Church in the full confidence that they were giving to God.²⁰³

This reveals Innes's motivation in presenting so many ecclesiastical editions to the Scottish *literati*. He saw Scottish history as Christian history stretching back to the introduction of continental and Episcopal Christianity to Scotland during the 1100s. Ecclesiastical charters could illustrate local history, topography and legal process, plus economic and *social* progress. However, sources that did not relate to land could shed light on Scotland's moral and spiritual

²⁰³ *SESH*, pp. 89-90, also cited in Ross, 'Bannatyne Club', p. 209; the original version is slightly different, see *Aberdeen Registrum* I, p. lxxxii.

development. Ross asserts that Innes placed the more useful materials in Volume One and the less useful items in Volume Two.²⁰⁴ This is to an extent the case but, as the quotation shows, for Innes the most practically useful sources were not necessarily the most valuable.

Innes's editions were built from registers and single-sheet documents, but so too were the medieval manuscripts on which they drew. These medieval compositions could serve a number of purposes. They could act as an archival index or a means of preserving muniments against loss and decay.²⁰⁵ Alternatively they could be aids to administering lands and collecting revenue, or evidence of an institution's rights to lands, property and privileges.²⁰⁶ Crucially, however, they could also be expressions of an institution's identity. Indeed, registers could fulfil a commemorative function, charting an institution's history through legal and administrative documentation.²⁰⁷ The arrangement of material in a register often reflected its function. A typological structure might have an archival application whilst a territorial organisation could imply an administrative function. A chronological ordering, however, often implied a commemorative role.²⁰⁸ In addition, registers compiled in, for example, the thirteenth century were often of little use a century or two later. They could be damaged, grow out-of-date, or become too interpolated for effective use. In such cases a new register was compiled which incorporated and often replaced the old. It can consequently be argued that the editions that Innes and his contemporaries produced were part of the same tradition. Like medieval registers, they were new compilations relating to particular institutions and based on a variety of existing records. Moreover they were, like their medieval precursors, tailored to the needs of the time and context in which they were created.

²⁰⁴ Ross, 'Bannatyne Club', p. 209.

²⁰⁵ Foulds, 'Cartularies', pp. 20-3, 33-4

²⁰⁶ *ibid.*, pp. 32-5; see also D. Walker, 'The organization of material in medieval cartularies', in *The Study of Medieval Records. Essays in Honour of Kathleen Major*, eds. D. Bullough and R. L. Storey (Oxford, 1972), pp. 132-50.

²⁰⁷ G. Declercq, 'Originals and Cartularies; the Organisation of Archival Memory (Ninth – Eleventh Centuries)', in *Charters and the Use of the Written Word*, ed. K. Heidecker (Turnhout, 2000), p. 149.

²⁰⁸ *ibid.*, pp. 155, 159.

The arrangements of Innes's editions were therefore significant. As administrative tools they were clearly redundant. In legally evidential terms they were equally obsolete; peerage lawyers made use of them but that specialist function could not justify publication. The real purpose of Innes's editions was to commemorate Scotland's medieval church history through specific institutions. This commemorative function was emphasised by the dominance of chronology as an organisational principle, even in editions based on registers with a non-chronological structure. Innes's goal was to make the obscure records of a shunned subject palatable to a largely hostile Presbyterian audience. This was to be achieved by imposing order on a chaotic array of sources, just as he and Thomson had done with the *APS*. Many medieval registers lacked discernable structure, were full of errors and omissions and contained extensive repetition. Such chaotic manuscripts could only be seen as evidence of medieval ignorance in an intellectual culture shaped by the Enlightenment. The act of transforming them into printed editions that were standardised, sanitised, comprehensive and well-organised was intended to neutralise these negative connotations. Innes's treatment of medieval church sources thus stemmed from his positive interpretation of medieval church history. He sought to use his editions to rehabilitate the pre-Reformation church in the minds of educated Scots. By making ecclesiastical records palatable, Innes could then highlight their value as sources of antiquarian information and use them to illustrate the church's contribution to national progress. Moreover, these editions also served as reminders of historical identity in a country that was ideologically dislocated from its medieval past.

In effect, therefore, Innes's editions were modern registers designed to fulfil a specific purpose.²⁰⁹ Ross labels them artificial, but they were no more or less artificial than the medieval collections that inspired them.²¹⁰ The nature of such compilations can reveal much about the contexts in which they were created and the uses to which they were put. This is as true of Innes's editions as it is of the medieval registers of Dunfermline Abbey or the Bishopric of Moray. Indeed, this point is emphasised by the titles of Innes's editions. Those

²⁰⁹ Elsewhere I have argued that the same can be said of modern charter collections, Marsden, 'Editing the past', pp. 26-7.

²¹⁰ Ross, 'Bannatyne Club', pp. 207-8, 223-4.

relating to St Andrews, Melrose, Holyrood, Scone, Kelso, Inchaffray and Arbroath were all entitled 'Liber' (book). Those relating to the Paisley, Dunfermline, Newbattle, Moray, Glasgow, Aberdeen and Brechin were all called 'Registrum'. In the *Glasgow Registrum* Innes referred to his own edition as the 'Chartulary of Glasgow'.²¹¹ Similarly, in the *Dunfermline Registrum* he called the volumes that he had already produced, 'published chartularies'.²¹² It therefore seems that Innes viewed his editions as replacement for the messy and defective manuscripts from which they had been constructed. Indeed, modern academics have followed this lead by referring to Innes's published versions as, for instance, the *Arbroath Liber* or the *Brechin Registrum*.²¹³ These abbreviated titles imply that the nineteenth-century printed editions are synonymous with the medieval originals. As both Ross's article and this chapter have shown, this is not the case.

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Innes's ecclesiastical editions were the most numerous type of record publication that he produced. They consequently reveal the characteristics of his record scholarship more fully than any other area of his work. They combined the traditional antiquarian desire to collect and exhibit sources with the radical goal of re-popularising the pre-Reformation church. Distinct agendas of this type were also evident in Innes's work on Scotland's legal sources and burgh history. In addition, they were indicative of the shifts that were occurring within Scottish antiquarianism. No longer were antiquaries content to passively collect the documentary remains of the past. Instead, individuals like Innes used those remains in support of specific ideological agendas. Indeed, record editions could sometimes have a powerful relevance to the present, as the following chapter will demonstrate.

²¹¹ *Glasgow Registrum* I, p. x.

²¹² *Dunfermline Registrum*, p. xxiv.

²¹³ Anon., 'List of abbreviated titles of the printed sources of Scottish history to 1560' *SHR* 42 (1963), separate supplement.

Chapter 7 – University Records

In 1854 Innes produced both the *Glasgow University Muniments* and also the *Aberdeen Fasti*, relating to King's College, Aberdeen. On a superficial level they can be seen as extensions of the nineteenth-century urge to publish historical records. The clubs had already printed an array of materials relating to Scotland's past; university records were merely another step on that road. As this chapter will show, however, the situation was rather more complicated than that. Scottish universities were in the 1800s the subject of prolonged and high-profile debates in which issues of tradition and reform were central, and it was against this backdrop that Innes and some of his contemporaries published their university record editions.

Debate and Reform in the 1850s and 1860s

The nineteenth-century was a time of change in Scotland's universities. As a professor Innes was deeply affected by this. In the early 1800s the universities provided a broad philosophical education which led into careers in law, medicine and the church. The keystones of that curriculum were Latin, Greek, Mathematics, Natural Philosophy (i.e. Physics) and Logic. Moral Philosophy, however, was regarded as the lynchpin of the programme. This format could be traced back to the sixteenth century and thus claimed the authority of tradition. Furthermore, it was studied with only minor alterations by all students, regardless of the career that they intended to enter. Yet flexibility was gained by a lack of entrance examinations and by the fact that entrants ranged from early teens to late adulthood. Moreover, students could attend on full or part-time bases and could take specific classes whilst in paid employment. Few students graduated and certificates of attendance for specific classes were the main currency in terms of employment. In addition, power over administrative and educational policy lay with the professorial senate in each institution.¹

¹ R. D. Anderson, *Education and Opportunity in Victorian Scotland: Schools and Universities* (Oxford, 1983), pp. 1-3, 26-31, 34-5, 40-1, 76-7; G. E. Davie, *The Democratic Intellect; Scotland and her Universities in the Nineteenth Century* (Edinburgh, 1961), pp. 4-6, 12; D. J. Withrington, 'The idea of a national university in Scotland c.1820-

This system was, in the early nineteenth century at least, a source of national pride for the Scottish intelligentsia.² By the 1820s, however, debate over the direction of university education was growing. A Royal Commission (1826) on the subject was particularly critical of the existing system. It argued that the current curriculum was too general and philosophical, and failed to adequately prepare students for future careers. It favoured reform along anglicising lines with an emphasis on Mathematics and Classics that mirrored the format at Oxford and Cambridge. It also criticised the longstanding institutions through which universities were governed, including the professorial senates. However, the Commission's report, delivered in 1831, was subsumed in the Reform Bill debate and also met with disfavour from the majority of Scotland's professional classes. As a result its recommendations were not passed into law.³

Nevertheless, the Commission shaped the debate, which returned with renewed vigour in the 1850s. This was in a context of falling student recruitment and the erosion of long-standing links between the universities and the Presbyterian Church.⁴ Other issues were the bias in civil service entrance examinations towards the specialist curricula of Oxford and Cambridge, and a demand from graduates for a stake in university governance.⁵ This debate is cast by George Davie as a conflict between traditionalists and anglicisers but, as Robert Anderson argues, that

c.1870', in *Scottish Universities; Distinctiveness and Diversity*, ed. J. J. Carter & D. J. Withrington (Edinburgh, 1992), pp. 40-2.

² Davie, *Democratic Intellect*, pp. ix-xi; A. Broadie, *The Scottish Enlightenment; the Historical Age of the Historical Nation*, 2nd edition (Edinburgh, 2007, orig. 2001), pp. 9-11; R. D. Anderson, *Education and the Scottish People 1750-1918* (Oxford, 1995), p. 24.

³ Anderson, *Education and Opportunity*, pp. 38-45, 48-52; Davie, *Democratic Intellect*, pp. 26-40.

⁴ L. Williams, "'Pulpit and Gown': Edinburgh University and the Church 1760-1830', in Carter & Withrington, *Distinctiveness and Diversity*, pp. 87-95.

⁵ Anderson, *Education and Opportunity*, pp. 15, 53-4, 64-6; Davie, *Democratic Intellect*, pp. 41-2.

is overly simplistic.⁶ Many positions were possible on a range of issues, including age limits, entrance criteria, final examinations, access for the lower classes and the role of philosophy. These issues divided Scotland's educated elite and were the subject of a variety of public campaigns. However, when the Universities (Scotland) Act was passed in 1858 it made only minor changes to the curriculum. Its main impact was institutional and its most far-reaching provision was the creation of rectorial courts to manage administration. This left the professors with control over educational issues alone.⁷ The act was thus a response to the findings of the 1826 Commission, discussed above, in relation only to university institutions rather than its curricular criticisms or the far-reaching debates of the 1850s. It delivered institutional reform but did not address the issues relating to university education and the role of philosophy.

The Act did establish a Commission to oversee Edinburgh University.⁸ These Commissioners instituted a new law degree in 1862, which incorporated both practical training and more abstract subjects such as jurisprudence and constitutional history.⁹ It was for that reason that the title of Innes's professorial Chair changed from 'Civil History' to 'Constitutional History'.¹⁰ However, history was an unpopular university subject in the period. Interest in it had collapsed during the 1700s as philosophy became the dominant form of intellectual discourse. By 1850 the subject was entirely moribund in the universities, and Scottish history was held in particularly low regard for the reasons outlined in Chapter One.¹¹ The new

⁶ Davie, *Democratic Intellect*, pp. ix-xix; Anderson, *Education and Opportunity*, pp. 24-5, C. Harvie, 'Legalism, myth and national identity in Scotland in the imperial epoch', *Cencrastus* 26 (1987), pp. 35-41, pp. 39-40.

⁷ Anderson, *Education and Opportunity*, pp. 54-9; Davie, *Democratic Intellect*, pp. 70-6.

⁸ Anderson, *Education and Opportunity*, p. 67; Anderson, 'Modern University', pp. 119-20.

⁹ J. W. Cairns & H. L. MacQueen, 'Learning and the Law; a Short History of the Edinburgh Law School' *Edinburgh Law School* (University of Edinburgh, [n. d.]), p. 13, at <http://www.law.ed.ac.uk/Tercentenary/documents/Learning%20the%20Law.pdf>, accessed 1 September 2008.

¹⁰ Burton, *Memoir*, pp 53-4.

¹¹ B. P. Lenman, 'The teaching of Scottish history in the Scottish universities', *SHR* 52 (1973), p. 171.

nineteenth-century enthusiasm for the Scottish past, expressed through the Register House and the publishing clubs, had little to do with the universities. Indeed, the history required by the new degree was predominantly English rather than Scottish and this set the tone for the dominance of English constitutional history in Scottish universities well into the twentieth century.¹²

As Professor of History at Edinburgh from 1846, Innes's activities there provide an insight into the impact of the changes of 1858 and 1862. Chapter Two has noted that, prior to 1862, his lectures were so poorly attended that he stopped delivering them. It was only once they became a mandatory part of the new degree that he started them up again. Two syllabuses of his lectures from 1846 and 1868 illustrate this change. The former featured presentations on the 'progress of society' and included constitutional sections such as 'the structure of the political society of modern Europe' and 'the theory of property'. However, many more lectures dealt with law, towns, the church, art, literature and the state of society specifically in medieval Scotland.¹³ Sections that had a broader remit were in the minority and the role of these lectures as the basis for *SMA* indicates their centre of gravity.¹⁴ The 1868 syllabus was very different, providing 'forty lectures on constitutional law and constitutional history'. It opened with concepts like government, constitution and citizenship and conducted a survey of European constitutions. Most of the syllabus was then devoted to English constitutional history, with lectures on 'the Birth of the British Constitution' and 'the Settlement of the British Constitution'. Other units included 'Constitutional Struggles on the Continent after the Fourteenth Century', and 'North America and the British Colonies'.¹⁵ These topics were quite different from Innes's antiquarian interests, even his studies of old law in the *APS* and *SLA* were specifically Scottish in character. The 1868 syllabus thus illustrated the extent to which his teaching was, from 1862 onwards, directed by university policy rather than personal

¹² *ibid.*, pp. 171-6.; Kidd, *Subverting*, pp. 274-5.

¹³ *Scotsman* (2 December 1846), p. 3.

¹⁴ *SMA*, p. v.

¹⁵ C. Innes, *General View and Syllabus of Professor Innes's Course of Forty Lectures on Constitutional Law and Constitutional History. Session 1869* [National Library of Scotland, Rare Books and Music Reading Room, 3.2380.a(13)] (1868).

interest. In it he used two thousand years of history to explain the British constitutional triumphs of the present. This approach accorded in broad terms with his historical Whiggism but was at odds with his personal interests and preference, discussed in Chapter Four, for contextual specifics over broad legal theory.

Conflicting Traditions

The proposed and actual changes of the 1850s represented significant breaks with the past. As an antiquary with Whiggish leanings Innes had an ambivalent relationship with tradition and reform, as Chapters Four and Five have illustrated. However, his religious beliefs excluded him from the dominant Presbyterian canon of university tradition. The universities of St Andrews, Glasgow and King's College had been founded in the Middle Ages, but had been extensively remodelled by the Presbyterian establishment in the decades following the Reformation.¹⁶ This resulted in what Davie calls a sense of 'Presbyterian inheritance'.¹⁷ In his *Life of Andrew Melville* (1819) McCrie provided an example of the roots of this attitude:

The literary history of the University of Glasgow properly commences with Melville, although the seminary had subsisted for upwards of a century before he was connected with it. From its first erection it was provided with professors in all the liberal arts and sciences then taught, but those of the higher faculties – theology and law, civil and canon, lectured merely pro forma, or occasionally as it suited their own conveniency and the caprice of their beneficed auditors. The number of regular students who attended it appears never to have been great, and amongst those are to be found few names of eminence.¹⁸

¹⁶ H. Kearney, *Scholars and Gentlemen; Universities and Society in Pre-industrial Britain 1500-1700* (London, 1970), pp. 53-9.

¹⁷ Davie, *Democratic Intellect*, pp. xiv, 4.

¹⁸ T. McCrie, *Life of Andrew Melville, Containing Illustrations of the Ecclesiastical and Literary History of Scotland During the Latter Part of the Sixteenth and Beginning of the Seventeenth Century* I, 2nd edition (Edinburgh, 1825, orig. 1819), p. 65; see also James Kirk, 'Melville, Andrew (1545–1622)', *ODNB* 37, pp. 766-71.

McCrie's dismissive depiction of the university before the Reformation provided contrast to his description of the revitalising effect that the Presbyterian reformer Andrew Melville (1545-1622) had on it. He also asserted that Melville introduced the study of Logic, Moral Philosophy, Natural Philosophy, Universal History, Divinity, Latin, Greek, Mathematics and Oriental Languages.¹⁹ This could be seen as was the genesis of the curriculum that was still studied in the early 1800s. In this way, McCrie disregarded the pre-Reformation history of the university and associated the existing curriculum with a leading figure in the Presbyterianism mythos. Similarly, in his 1822 address as rector at Glasgow, the politician and writer Sir James Mackintosh said:

[The] Reformation — the emancipation of the human understanding, gave a new vigour to the University. Under the government of Melville, the able lawgiver of the Presbyterian Church, this University acquired a new impulse, which led it directly forward to that prosperity at which it was soon to arrive.²⁰

Meanwhile, in an 1830 history of Edinburgh University, the Presbyterian Relief Church minister Alexander Bower (1774-1837) painted the medieval origins of other universities in negative terms. He pointed out that 'the University of Edinburgh is the only institution in the Kingdom, that is not encumbered with any of these or similar embarrassments'.²¹ In this school of thought the successes of Scotland's universities were the result of Presbyterian influences rather than Catholic origins. This connection was strengthened by the fact that the universities were, from the seventeenth to the early nineteenth centuries, used primarily to

¹⁹ McCrie, *Life of Melville* I, pp. 65-71.

²⁰ *Inaugural Addresses by Lords Rectors of the University of Glasgow: to Which are Prefixed an Historical Sketch and Account of the Present State of the University*, ed. Anon. (Glasgow, 1839), p. 30; C. J. Finlay, 'Mackintosh, Sir James, of Kyllachy (1765–1832)', *ODNB* 35, pp. 674-9.

²¹ A. Bower, *The History of the University of Edinburgh: Chiefly Compiled from Original Papers and Records, Never Before Published* II (Edinburgh, 1830), p. vii; M. C. T. Simpson, 'Bower, Alexander (1774–1837)', *ODNB*, 6, pp. 912-3.

train Presbyterian clergy.²² The fact that debate over their future intensified after the 1843 Disruption was testament to the lingering power of that link.

Innes, however, focused on a different university tradition. In the *Glasgow University Muniments* and the *Aberdeen Fasti* he emphasised the pre-Reformation origins and papal connections of Glasgow and King's College.²³ He went further in the *Glasgow Registrum*, by stating of the church that 'it was not unworthy of that splendid hierarchy [...] to have given life and vigour to such a city as Glasgow, and to a school of learning like her University'.²⁴ Similarly, in the *Aberdeen Registrum* he praised Bishop William Elphinstone (1431-1514) for founding King's College.²⁵ These views were part of Innes's wider association, explored in Chapter Six, between the church, learning and the progress of civilisation. This attitude stood in stark contrast to the Presbyterian view that university history really began after the Reformation. Indeed, Innes argued that the fall of Catholicism had a negative effect on the universities. He accepted that King's College was in a poor state on the eve of Reformation but claimed that it sank to a nadir during the early 1600s.²⁶ In the case of Glasgow, he connected the university's original constitution with those of the eminent medieval universities of Bologna and Louvain. He then bemoaned how the 'lofty' papal university was replaced with a meagre 'academy'. He also mourned the loss of the 'stately ceremonial [...] sounding titles of the old Academic life, all the university forms [...] which had served to bind together the scholars of Europe in the last age'.²⁷ Whilst he admitted the positive influence of Melville, he nonetheless regretted many of the changes wrought by the Reformation.

Innes's religious predilections also impacted on his interpretation of the post-Reformation history of King's College. In the *Aberdeen Fasti* he highlighted the Episcopalian character of

²² Anderson, *Education & Opportunity*, p. 4.

²³ *Glasgow University Muniments* IV, pp. xii-xiii, *SESH*, pp. 220-1; *Aberdeen Fasti*, pp. i-ix, *SESH*, pp. 254-8; see also *Glasgow Registrum* I, p. xlvii, *SESH*, p. 58.

²⁴ *Glasgow Registrum* I, p. lv.

²⁵ *Aberdeen Registrum* I, pp. xlii-xliii, *SESH*, pp. 87-8.

²⁶ *Aberdeen Fasti*, pp. xxiv-xxix, *SESH*, pp. 276-80.

²⁷ *Glasgow University Muniments* IV, pp. xvii-xviii, *SESH*, p. 224-5.

the College in the late 1600s. He argued that, led by Bishop Alexander Forbes (1564-1617), these ‘Aberdeen Doctors’ turned the College into Scotland’s pre-eminent centre for literature.²⁸ In his own words:

These were the men whom the bishop drew into the centre and heart of the sphere which he had set himself to illuminate; and, in a short space of time, by their united endeavours, there grew up around their Cathedral and University a society more learned and accomplished than Scotland had hitherto known, which spread a taste for literature and art beyond the academic circle, and gave a tone of refinement to the great commercial city and its neighbourhood.²⁹

As Chapter Six has shown, Innes associated Catholicism and Episcopalianism with knowledge and Presbyterianism with ignorance. In light of this, it is telling that he chose Glasgow and King’s College as subjects. Not only had he studied at both but, unlike Marischal College or Edinburgh (where he held his chair), both had been founded before the Reformation. The same was true of the University of St Andrews, but that institution lacked renown in the 1800s and was therefore a less attractive subject to Innes.³⁰

Innes paid lip-service to the idea of impartiality in the *Glasgow University Muniments*, particularly in light of the debates discussed above. In the preface he wrote:

I have not endeavoured to extract the results of this mass of documents, or to give a history of the university, or an outline of it. Even if that could, in the common case, be held the duty of an editor collecting materials of history, there

²⁸ *Aberdeen Fasti*, pp. xxxvi-xlii, *SESH*, pp. 289-96.

²⁹ *Aberdeen Fasti*, pp. xl-xli, *SESH*, p. 294.

³⁰ Cant argues that this was a legacy of the 1700s and has been to an extent over-stated, R. G. Cant, *The University of St Andrews: a Short History*, 3rd edition (St Andrews, 1992, orig. 1946), pp. 75-103.

are here a few controverted points that could not have been passed, and on which it would have been unseemly for me to hazard an opinion.³¹

Yet the examples above show that he did not keep to this principle, and his regard for ancient university institutions was functional as well as religious and nostalgic. In the *Aberdeen Fasti*, for instance, he noted that King's College had in the 1600s 'a sort of University Court — an institution that might be imitated with great advantage at the present time'.³² The creation of rectorial courts was one of the major provisions of the 1858 act four years later.

Innes also commented on curricular issues. In the *Aberdeen Fasti* he asserted that the disappearance of Bachelor and Licentiate degrees was the loss of a valuable form of learning. He then complained about the disappearance of the final examination for Masters Degrees, arguing that the university had 'abandoned a valuable test of general academic study and advancement'. Significantly, he likened it to the system used at Oxford and Cambridge and found both wanting.³³ He also lamented the decline of the collegiate system by which students lived on campus. In the *Glasgow University Muniments* he argued that this system was 'favourable to scholastic discipline', and that the fellowship generated by communal living was beneficial to all. He also asserted that the current situation, whereby students lodged in towns, allowed too little contact between masters and students and resulted in crowds of young men living uncontrolled in the community.³⁴ In the *Aberdeen Fasti*, he stated that a reversion to the collegiate model would restore the paternalistic feeling between masters and students.³⁵ It is relevant that Innes had studied at Balliol College Oxford, where the collegiate system was the norm, and this surely influenced his view. On the other hand, he quoted the philosopher Thomas Reid's (1710-1796) argument from the *Old Statistical Account*, which claimed that the decline of communal university living had been beneficial to educational

³¹ *Glasgow University Muniments* IV, p. xlv.

³² *Aberdeen Fasti*, p. liii, *SESH*, p. 308.

³³ *Aberdeen Fasti*, p. lxv, *SESH*, pp. 321-2.

³⁴ *Glasgow University Muniments* IV, pp. xliii-xliv, *SESH*, pp. 250-1

³⁵ *Aberdeen Fasti*, p. lii, *SESH*, p. 306-7.

achievement. Yet Innes also specifically outlined his disagreement with this view.³⁶ These examples therefore show Innes advocating a return to older forms of university life.

Nevertheless, Innes was a Whig and consequently committed to the idea of progress. He essayed approval for the disappearance of the traditional Master's thesis, in which students were involved in a public 'disputation'. He also highlighted what he saw as the illiberal nature of King's College's original medieval constitution.³⁷ Furthermore, Chapter Two has noted that he was part of the Aberdeen Universities Commission of 1857, which advocated the union of King's and Marischal Colleges. A similar scheme had been thwarted in 1800 by the conservative tendencies of professors in both institutions.³⁸ Yet fifty years on Innes was recommending the union, and with it the end of King's College's long history as an independent institution.³⁹ The Commission's report spent several pages listing the historical precedents, most notable of which was the short-lived Union under Charles I.⁴⁰ Innes was the

³⁶ G. Jardine [& T. Reid], 'Appendix; Statistical Account of the Universities of Scotland; Number 1, University of Glasgow', in *The Statistical Account of Scotland, Drawn up from the Communications of the Ministers of the Different Parishes* 21, ed. J. Sinclair (Edinburgh, 1799), pp. 41-2, quoted in *Glasgow University Muniments* IV, pp. xlvii-xlviii, *SESH*, pp. 251-3.

³⁷ *Aberdeen Fasti*, p. lxxv, *SESH*, pp. 321-2.

³⁸ R. L. Emerson, *Professors Politics and Patronage; the Aberdeen Universities in the Eighteenth Century* (Aberdeen, 1992), pp. 93-101.

³⁹ W. D. Simpson, *The Fusion of 1860: a Record of the Centenary Celebrations and a History of the United University of Aberdeen, 1860-1960* (Edinburgh, 1963), pp. 7-9, see also A. A. McLaren, 'Privilege, patronage and the professions: Aberdeen and its universities 1760-1860', in Carter & Withrington, *Distinctiveness and Diversity*, pp. 96-104.

⁴⁰ *Annals of British Legislation: Being a Classified and Analysed Summary of Public Bills, Statutes, Accounts and Papers, Reports of Committees and of Commissioners, and of Sessional Papers Generally, of the Houses of Lords and Commons* VIII, ed. L. Levi (London, 1861), pp. 40-4.

only antiquary on the Commission and it is therefore likely that he wrote this section.⁴¹ Indeed, three years earlier he had made the same point in the *Aberdeen Fasti*, again using the union under Charles I as a precedent:

Unfortunately we learn nothing of the promoters of this measure, nor of the causes that induced one of the united bodies afterwards to dissolve a union, which, whether then legally effected or not, seems to us at the present day so reasonable and so expedient for the Colleges themselves, the public, and the cause of literature, that when it shall have come to pass, as it needs must, all men will wonder at the prejudice which so long delayed it.⁴²

He then asserted that union would result in ‘trifling inconvenience’ for some, but would give Aberdeen a university to rival any in Scotland.⁴³ Significantly, in both instances Innes’s used the past to justify his position, even when advocating sweeping change.

Innes also engaged with the issue of pre-university education. This was another area of debate in the 1800s and the connections between schools and universities came under particular scrutiny. In the *Aberdeen Fasti* he stressed the medieval origins of burgh and parish schools and their connection to the pre-Reformation church.⁴⁴ His support for these schools in relation to King’s College was especially significant since that institution enjoyed particularly close links with the parish schools of the rural north east.⁴⁵ Innes saw those links as evidence of

⁴¹ *Annals of British Legislation: Being a Classified and Analysed Summary of Public Bills, Statutes, Accounts and Papers, Reports of Committees and of Commissioners, and of Sessional Papers Generally, of the Houses of Lords and Commons VIII*, ed. L. Levi (London, 1861), pp. 40-4.

⁴² *Aberdeen Fasti*, pp. xlix, *SESH*, p. 303.

⁴³ *Aberdeen Fasti*, pp. lxvi-lxvii, *SESH*, p. 323.

⁴⁴ *Aberdeen Fasti*, pp. v-vii, *SESH*, p. 255-7.

⁴⁵ Anderson, *Education and Opportunity*, pp. 28-9; Anderson, *Scottish People*, pp. 5-6, 80-1; Withrington, ‘National university’, p. 41.

King's College's tradition of catering to the middle as well as upper classes.⁴⁶ The complexity of this issue can be demonstrated through an exchange of letters between Innes and MacPhail in 1871. As Chapter Four has noted, MacPhail was an advocate of Gaelic culture and he requested Innes's support for a bursary scheme to help Gaelic-speaking pupils reach university. Innes expressed caution because he had 'so often seen a school that should serve a district with wholesome useful education crippled and pinched into a machine for turning out young bursars for King's College'. He then discussed his resulting 'objection of charity schooling' and 'dislike to bursaries'.⁴⁷ MacPhail replied to assure Innes that the scheme featured competitive scholarships rather than open bursaries.⁴⁸ It is therefore relevant that the 1826 Commission attacked the bursary system in Aberdeen on the basis that it allowed too many untalented students to enter university. Yet bursaries were central to the special relationship between King's College and the parish schools, and the commission's findings were denounced by the College as a deliberate attempt at social exclusion.⁴⁹ Most universities preferred to recruit through school competition rather than controlling the quality of entrants through entrance examinations, but this line came under attack as the century wore on.⁵⁰ Innes's response to MacPhail's scheme shows that he wanted to keep the selection process in schools, but that he was opposed to the open bursary system favoured by King's. This outlook was a mixture of tradition and reform that was typical of Innes.

However, it was curricular change that sparked the most contentious debates of the period. Innes's views on this were expressed in part through his *Memoir of Andrew Dalzel*, published with Dalzel's *History of the University of Edinburgh* (1861). Dalzel had been professor of Greek at Edinburgh from 1772 to 1806 and was part of what Innes called the 'Golden Age' of

⁴⁶ *Aberdeen Fasti*, p. lxvi, *SESH*, p. 322.

⁴⁷ *Letters between James Calder MacPhail and Cosmo Innes* (1849-1871), NAS, GD1/238/3, no. 18.

⁴⁸ *ibid.*, no. 8

⁴⁹ Anderson, *Education and Opportunity*, pp. 47-8.

⁵⁰ *ibid.*, pp. 159-60, 168-9; Anderson, *Scottish People*, pp. 241-52.

Edinburgh scholars.⁵¹ Yet in Innes's own time the curriculum was criticised by many for its lack of emphasis on Classics and particularly Greek. The revival of Greek was a major intellectual movement in the 1800s, and a command of the language was increasingly seen as the mark of an educated man.⁵² The 1826 Commission recommended a greater focus on the subject and it gradually took a more prominent position at most Scottish universities. In the 1830s this was sometimes seen as Anglicisation, since Greek and Latin were curricular mainstays at Oxford and Cambridge.⁵³ However, the teaching of Greek had a long history in Scotland. As a result traditionalists had by the 1850s appropriated it for their own positions, and were worried that Anglicising reform would actually erode the subject and thus undermine the existing curriculum.⁵⁴

In this context, Innes's authorship of a biography of Dalzel can be read as a statement of support for Greek at the universities. In the 'Memoir' he argued in favour of the existing curriculum's emphasis on Classics, asserting that the Latin and Greek allowed students to trace the 'history of thought' in its highest form. He also praised Dalzel for restoring the study of Greek to Scotland following its decay in the seventeenth and early eighteenth centuries.⁵⁵ Later he bemoaned the decline of Greek in his own time:

In our Scotch course of education, we are told there is no time for that study which goes only to dignify the character and ennoble and refine the thoughts. The causes of such a defect I am not here to inquire [... but] I am sure we should agree, that the man who should complete Dalzel's work, and really and effectually restore the study of Greek among us, would deserve infinitely well of his country.⁵⁶

⁵¹ C. Innes, 'Memoir of Andrew Dalzel', in A. Dalzel, *History of the University of Edinburgh from its Foundation* I, ed. D. Laing (Edinburgh, 1862), pp. 62-3; see also M. Fry, 'Dalzel, Andrew (1742-1806)', *ODNB* 15, pp. 12-13.

⁵² Anderson, *Education and Opportunity*, pp. 32, 42; Davie, *Democratic Intellect*, pp. 201-53.

⁵³ Anderson, *Education and Opportunity*, pp. 46-7; Davie, *Democratic Intellect*, pp. 27-8.

⁵⁴ Anderson, *Education and Opportunity*, pp. 93-4.

⁵⁵ Innes, 'Memoir of Dalzel', pp. 55-6.

⁵⁶ *ibid.*, p. 256.

Indeed, the original title of Innes's chair was 'Professor of Universal Civil History and Greek and Roman Antiquities' and in an encomium of Enlightenment luminaries he included several professors of Greek.⁵⁷ Moreover, in the *Glasgow University Muniments* he praised Melville for introducing the study of Greek to that university and in the *Aberdeen Fasti* applauded the zealous Protestant Reformer Alexander Arbuthnot (1538-1583) for doing the same at King's College.⁵⁸ It was thus to the Scottish past rather than the English present that Innes appealed, despite the prevalence of Greek at the Oxford College he had attended.

This defence of Greek was accompanied by support for philosophy. Chapter Four has noted that Innes was unimpressed by the philosophical abstractions of the previous century, and in the 'Memoir' he acknowledged the problems associated with 'metaphysics'. However, he then argued that the reaction against philosophy had gone too far:

At length came the age when metaphysics were slighted, and physics and natural science ruled undisputed in the class-room. Some part of the wise man's objection, perhaps, was obviated by that change; but only to make way for new and greater dangers to liberal education. Our Universities giving way to an ignorant cry for "useful knowledge" were in danger of becoming mere schools for teaching professions. All sciences were cultivated except the master science which directs the others. In the eager rage for "accurate and applicable knowledge" we forget that both school and college are only training for the education of life.⁵⁹

This was an attack on reformers who aimed to replace the philosophical framework of the curriculum with training in specialist and practical skills. Despite his commitment to evidence and context, he saw much of value in the philosophy-centred curriculum that he had experienced at Glasgow and King's College. To Innes, a university education should do more than simply teach skills. Of the post-Reformation reorganisation of King's College, for

⁵⁷ *Scotsman* (2nd December 1846), p. 3; *Glasgow University Muniments* IV, p. xxxii.

⁵⁸ *ibid.*; *Aberdeen Fasti*, p. xxxiv.

⁵⁹ Innes, 'Memoir of Dalzel', pp. 54-5.

example, he wrote that ‘like the parallel measure for Glasgow, it went to break down all the usages and feelings of a University, setting up a teaching institution in its place’.⁶⁰

Record Editions as Tools of Debate

Innes’s comments on contemporary educational debates were couched in historical terms and frequently took the form of an appeal to the past. Moreover, since those comments usually appeared in the prefaces to record editions, they were lent an implicit authority by the sources contained therein. In light of this, the selection and presentation of university-related source material takes on an ideological significance.

The *Aberdeen Fasti* covered the period 1494 to 1854, the whole of King’s College’s existence, and its contents were organised typologically. First were the privileges and endowments of the college. Next were sets of college laws from the seventeenth century, followed by sections containing records of royal, external and internal visits or inspections. Then came a register of entrants between 1601 and 1686, followed by a register of Masters candidates from 1600 to 1688, a list of the ‘friends of King’s College’ compiled in 1640, and a 1658 catalogue of benefactors. The closing sections consisted of an inventory of movable assets from 1542 plus extracts from account books covering the period 1579 to 1667.⁶¹ In addition, an appendix to the preface contained a list of university officers up to the date of publication.⁶² The *Glasgow University Muniments* had a similar structure, albeit on a larger scale. It began at the university’s foundation in 1451 but, unlike the *Aberdeen Fasti*, stopped in 1727. In that year the university’s medieval constitution, based around regents, had finally given way to a professorial system.⁶³ Innes’s decision to stop there reflected his preoccupations with antiquity, origins and historical continuity. Volume One was dedicated to privileges and property and contained 303 charters, letters, memoranda, alienations, ordinances, instruments

⁶⁰ *Aberdeen Fasti*, pp. xxxiii.

⁶¹ *ibid.*, ‘The Table’, pp. 1-59.

⁶² *ibid.*, pp. lxxv-lxxxix.

⁶³ A. L. Brown & M. Moss, *The University of Glasgow: 1451–1996* (Edinburgh, 1996), pp. 18-19.

of seisin, Acts of Parliament and other items.⁶⁴ Volume Two was subtitled ‘Statutes and Annals’ and much of its contents, organised partly by faculty and partly by date, related to the pre-Reformation period. Later sections contained extracts from various university and faculty annals, followed by more post-Reformation statutes and a short run of documents relating to visitations.⁶⁵ Volume Three comprised lists of students and graduates followed by documents relating to the ‘internal economy’ of the university, for example accounts, inventories etc. Next were extracts from narratives of university affairs written by successive principals between 1664 and 1702. The volume also contained lists of Rectors, Deans of Faculties, Prefects, Principals, Masters and Professors for the whole period.⁶⁶ As with the *Aberdeen Fasti*, the structural imperative was typological and in both editions items were arranged chronologically within those divisions.

Both collections contained records of property and privileges, documents illustrative of university constitution, material relating to finance and assets, and lists of students and staff. In this way both presented the histories of their respective institutions through a series of thematic narratives built from original sources. Indeed, Innes noted in *Glasgow University Muniments* that he has used the organisation of the university’s oldest register, begun in 1490, for inspiration. That source was arranged by deeds of erection, privileges and endowments, then by statutes and internal discipline, and finally by lists of members, thus mirroring the structure of Innes’s edition.⁶⁷ This created a correlative connection to an important source, and thus boosted the perceived authenticity of his work. Moreover, he felt that:

Th[is] arrangement has been found to combine, with tolerable convenience, the two great ends of classification according to subjects and order of time; and it has accordingly been followed in the present collection, with such amplifications and

⁶⁴ *Glasgow University Muniments* I, ‘The Table’, pp. iii-lxx, IV, p. x.

⁶⁵ *ibid.*, II, ‘The Table’, pp. iii-lxxi, IV, pp. x-xi.

⁶⁶ *ibid.*, III, ‘The Table’, pp. iv-l, IV, pp. xi-xii.

⁶⁷ *ibid.* IV, p. ix-x.

additions as the increased and multifarious mass of documents rendered necessary.⁶⁸

As other chapters have shown, this functions as a policy statement for Innes's approach to record publication as a whole, although he also abridged as well as added and amplified. His university editions were characterised by an antiquarian concern for classification and completeness but they also emphasised the distinguished antiquity of the universities to which they pertained. This in turn gave implicit support to Innes's views on educational reform. That is not to say that the editions were designed purely to support certain agendas, but there was certainly an edge of contemporary relevance to them. As such, they were part of the debate over the future of Scotland's universities in the build up to the 1858 act. This point is bolstered by the fact that Burton's review of both editions in the *Blackwoods Magazine* made similar points about the medieval Catholic origins of the Scottish universities and their kinship with European learning rather than the English approach.⁶⁹ He also explicitly stressed the connection between a university's reputation and its antiquity.⁷⁰ The review, like the editions, was thus a contribution to the debate that used history as a means of persuasion.

Innes was not the only editor to use university records in this way. In 1850 the Maitland Club published an edition of the records of Glasgow University bursaries since the late sixteenth century.⁷¹ It was compiled by William Thomson, Lord Kelvin, Professor of Natural Philosophy at the university and one of Scotland's foremost scientists.⁷² A similar volume on

⁶⁸ *ibid.* IV, p. x. It should be noted that the *Glasgow University Muniments* was begun by Robertson, and Innes also stated that he followed Robertson's plan; *ibid.*, IV, p. lxxv.

⁶⁹ Anon. [WIVP attr. J. H. Burton], 'Student Life in Scotland', *Blackwoods Edinburgh Magazine*, 76:466 (1854), pp. 135-8, 136-7, 139-40, 145.

⁷⁰ *ibid.*, p. 138-9.

⁷¹ *Deeds Instituting Bursaries, Scholarships, and Other Foundations, in the College and University of Glasgow* [Maitland Club 71], ed. W. Thomson, Lord Kelvin (Edinburgh, 1850), v-vii.

⁷² C. Smith, 'Thomson, William, Baron Kelvin (1824-1907)', *ODNB* 54, pp. 567-75.

bursaries at King's College was published by the Spalding Club in 1857.⁷³ Given the controversial nature of bursaries in the period, it is difficult to see these volumes as anything other than contributions to that debate. The following year, Laing produced a source-based catalogue of Edinburgh graduates since the university's foundation in 1583.⁷⁴ It listed Bachelors, Masters and Doctoral graduates, plus Principals, Regents and Professors, and in so doing highlighted the eminent individuals who had taught and been educated at the university over the previous three centuries. Just as editions of bursary records acted as encomiums of the bursary system, lists of graduates could be read as celebrations of the traditional curriculum. Indeed, Laing's edition was issued through the Bannatyne Club but was also 'prepared in compliance with a resolution of the Senate'.⁷⁵ Similarly, Kelvin's *Deeds Instituting Bursaries* was sanctioned by Glasgow University. In this way, such volumes show how universities could use their own historical records as a defence of tradition.⁷⁶

Narrative sources could also be used in this way. The *Diary of James Melville* was published in 1829 by the Bannatyne Club and again by the Presbyterian-leaning Wodrow Society in 1842. Much of it focused on the aftermath of Reformation, but it also contained considerable information on the universities since its author taught at St Andrews during the 1580s. The diary also contained much about Andrew Melville, the author's uncle and a figure associated with post-Reformation university reform.⁷⁷ In his 1829 edition George Kinloch noted the diary's importance in illustrating the state of learning at the start of the seventeenth century.⁷⁸ In his 1842 version Pitcairn, meanwhile, noted approvingly that both Melvilles were

⁷³ *Deeds of Foundation of Bursaries at the University of King's College, Aberdeen* [Spalding Club 43], ed. Anon. (Aberdeen, 1857).

⁷⁴ *A Catalogue of the Graduates in the Faculties of Arts, Divinity, and Law, of the University of Edinburgh, since its Foundation* [Bannatyne Club 109], ed. D. Laing (Edinburgh, 1858), p. iv.

⁷⁵ *ibid.*, p. v.

⁷⁶ Kelvin, *Deeds Instituting Bursaries*, 'Extract from Minutes', [n. p.]

⁷⁷ J. Kirk, 'Melville, James (1556–1614)', *ODNB* 37, pp. 782–4.

⁷⁸ *The Diary of Mr James Melvill 1556–1601* [Bannatyne Club 37], ed. G. Kinloch (Edinburgh, 1829), p. i.

responsible for the introduction of Greek and Latin at the universities. Pitcairn also stated that James's expertise in classics, theology, maths, and philosophy was hardly less than that found in the 1800s.⁷⁹ These comments implied continuity between the curriculums of the sixteenth and nineteenth centuries, and were particularly striking given how much Presbyterian approaches to university education had actually changed in that period.⁸⁰

An edition of two near-contemporary biographies of Robert Rollock (1583-1599), first Rector of Edinburgh University, appeared in 1826 and was edited by Professor John Lee (1779-1859, later Principal at Edinburgh).⁸¹ Significantly, the minute at the edition's outset specifically referred to Rollock as 'First Principal of the University of Edinburgh'.⁸² This was followed in the 1840s by William Gunn's edition of Rollock's writings, including fifty-six of his lectures as Professor of Divinity at Edinburgh.⁸³ Moreover, in the 1840s Laing edited the letters of Robert Baillie, Presbyterian theologian and Principal of Glasgow University.⁸⁴ Baillie was Principal for only a year, but was nonetheless linked with far-reaching institutional and curricular change.⁸⁵ As with Pitcairn's *Diary of Melville*, Lee's *Lives of Rollock* and Gunn's *Works of Rollock*, Laing put 'Principal of Glasgow University' after Baillie's name in the

⁷⁹ *The Autobiography and Diary of Mr James Melvill, Minister of Kilrenny, in Fife, and Professor of Theology in the University of St. Andrews: with a Continuation of the Diary* [Woodrow Society 3], ed. R. Pitcairn (Edinburgh, 1842), pp. v-vi.

⁸⁰ Kearney, *Scholars & Gentlemen*, p. 109.

⁸¹ J. Kirk, 'Rollock, Robert (1555–1599)', *ODNB* 47, pp. 631-2; F. Macdonald, 'Lee, John (1779–1859)', *ODNB* 33, pp. 83-4.

⁸² *De Vita et Morte Roberti Rollok: Academiae Edinburgenae Primarii, Narrations, Auctoribus Georgio Robertson et Henrico Charteris* [Bannatyne Club 17], ed. J. Lee (Edinburgh, 1826).

⁸³ *Select Works of Robert Rollock, Principal of the University of Edinburgh: II* [Woodrow Society 8], ed. W. M. Gunn (Edinburgh, 1844), pp. xix-xxiv.

⁸⁴ *The Letters and Journals of Robert Baillie, A.M., Principal of the University of Glasgow, MDCXXXVII-MDCLXII* [Bannatyne Club 76], ed. D. Laing, 3 vols. (Edinburgh, 1841-1842); D. Stevenson, 'Baillie, Robert (1602–1662)', *ODNB* 3, pp. 296-9.

⁸⁵ Kearney, *Scholars and Gentlemen*, pp. 129-33.

edition's title. In all four cases this connected influential Presbyterians with a formative period in the development of Scotland's universities, and through that with the educational traditions that were under threat during the 1800s. Indeed, it is notable that only Innes's editions sought legitimacy for the universities in the pre-Reformation past; the rest focused instead on Presbyterianism to stress the antiquity and authority of the existing system.

Narrative sources and record editions could mobilise tradition as an argument against reform, and such publications often appeared in periods of heightened debate. Innes's *Aberdeen Fasti* and *Glasgow University Muniments*, Laing's *Catalogue of Graduates*, Kelvin's *Deeds Instituting Bursaries* and the anonymously edited *Deed's of Foundation* were all published between 1850 and 1858, a climactic period in the debates over the universities. Similarly, the Disruption of 1843, which raised questions about the role of the universities as training grounds for Presbyterian clergy, probably gave impetus to the production of Gunn's *Works of Rollock* and Laing's *Letters and Journals of Baillie* in the later 1840s. In the same vein, Lee's *Lives of Rollock* and Kinloch's *Diary of Melville* appeared whilst the 1826 Commission was preparing its report. A similar correlation occurred following the parliamentary act of 1889. This made further alterations to university administration and created a Commission to assess possible curricular change which sat until 1897.⁸⁶ It was therefore no coincidence that the 1890s saw the publication of record editions dealing with bursaries and curriculum at Marischal College, and officers and graduates of Kings College.⁸⁷

It would be easy to see these editions as the irrelevant offerings of marginalised antiquaries. However, figures such as Jeffrey and Cockburn took influential roles in the debate over university reform whilst simultaneously engaging enthusiastically with the antiquarianism of

⁸⁶ Anderson, *Education and Opportunity*, pp. 267-8; Davie, *Democratic Intellect*, pp. 76-102.

⁸⁷ *Fasti Academiae Mariscallanae Aberdonensis* [New Spalding Club 4, 19 & 20], ed. P. Anderson & F. K. Johnstone, 3 vols. (Aberdeen, 1889-1898); *Officers and Graduates of University and King's College Aberdeen* [New Spalding Club 11], ed. P. Anderson (Aberdeen, 1893).

the publishing clubs.⁸⁸ Moreover, Chapter Three has argued that antiquarianism was a respected intellectual force in nineteenth-century Scotland and Chapter Two has shown that university professors formed a significant portion of Bannatyne and Spalding club memberships. The Maitland Club, which funded Innes's *Glasgow University Muniments*, was also well connected to the universities. Lee and Cockburn were members, as were Duncan MacFarlan, Principal at Glasgow, and Professor William Fleming of the same institution. From 1832 the latter pair served on the club's council.⁸⁹ Kelvin's connection to the club as editor of *Deeds Instituting Bursaries* has already been highlighted. Furthermore, it is worth noting that John Blackie (1809-1895) was a member of the Spalding Club, which published Innes's *Aberdeen Fasti* and also the *Deeds of Foundation*. Blackie was Professor of Greek at Marischal College and a leading figure in the educational debates of the 1850s.⁹⁰ Furthermore, the clubs boasted many members who wielded influence in the political sphere, including MPs, aristocrats, public officials and leading members of the legal profession. Indeed, Innes's patron for the *Aberdeen Fasti* was the Earl of Aberdeen, who was Prime Minister when the edition was published.⁹¹ In addition, a large proportion of Scotland's antiquarian community had been legally trained and would thus have attended Scottish universities before the changes of 1858. In this way the editions discussed above had a potential readership that was engaged with the topic of university reform and had the necessary influence to sway the debate. In addition, they were funded by individual members or from club funds and thus represented not only the views of their editors but also, to an extent, those of their financial backers.

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⁸⁸ Anderson, *Education and Opportunity*, pp. 45, 51; Davie, *Democratic Intellect*, pp. 27-33, 64-74.

⁸⁹ Smith, *Maitland Club*, pp. 30-8.

⁹⁰ Stuart, *Spalding Club*, p. 118; Anderson, *Education and Opportunity*, pp. 54-7; Withrington, 'National university', pp. 46-50; S. Wallace, *John Stuart Blackie; Scottish Scholar and Patriot* (Edinburgh, 2006), pp. 222-9.

⁹¹ Stuart, *Spalding Club*, p. 144; M. E. Chamberlain, 'Gordon, George Hamilton-, fourth earl of Aberdeen (1784-1860)', *ODNB* 22, pp. 900-9.

The number of university record editions appearing in this period was small but significant. They were the fullest expression of the appeals to history that Anderson argues were a hallmark of the university debate.⁹² As a group they tended to celebrate antiquity and defend tradition. The flavour of that tradition differed from editor to editor, but Innes's reverence for medieval origins was at odds with a mainstream emphasis on the Presbyterian inheritance. Innes had a nuanced view of university history in which some elements were better discarded but others needed to be resurrected. Once again, the aim was to make obscure sources accessible and attractive; the typological and chronological arrangements were an attempt to achieve this. Only then could that material be an effective tool of persuasion. In this instance, therefore, record scholarship was as much about the present as it was about the past.

⁹² Anderson, *Education and Opportunity*, p. 23.

Chapter 8 – Family History

This thesis has already suggested that the impetus for Innes's antiquarianism was his peerage work. Nevertheless, his first volume of family history did not appear until 1848. He produced five such editions and was one of several researchers contributing to the field in the period. Indeed, his activities were overshadowed by those of William Fraser, who produced twenty-three family histories between 1858 and 1897.¹ As Chapter Two notes, Innes had professional and antiquarian connections to Fraser and was a formative influence on the younger man's career. Chapter Three, meanwhile, mentions Innes's more antagonistic relationship with the genealogist and peerage lawyer John Riddell. This chapter will explore Innes's presentation and interpretation of the sources of family history, and will use the activities of these two contemporaries to place that work in context.

Existing Traditions

The genealogical research of the nineteenth century was built on long-standing traditions. Royal genealogies had formed an important part of many medieval narratives, but it was in the sixteenth and seventeenth centuries that prose tracts focusing on specific families became common.² These included Richard Maitland's *History and Cronicle of the Hous and Surname of Seytoun* (1559), William Bowie's *Black Book of Breadalbane* (1598), Hew Rose's *Genealogical Deduction of the Familie of Rose of Kilravock* (1683), Duncan Forbes's *Account of the Familie of Innes* (1698) and John Birmie's *Account of the Families of Birnie and Hamilton* (1728).³ David Hume of Godscroft's *History of the House and Race of Douglas and*

¹ G. Donaldson, *Sir William Fraser; the Man and his Work* (Edinburgh, 1985), pp. 33-4.

² D. Allan, "“What's in a name?”: Pedigree and propaganda in seventeenth-century Scotland", in *Scottish History: the Power of the Past*, ed. E.J. Cowan & R.J. Finlay (Edinburgh, 2002), pp. 147-67.

³ R. Maitland, *History and Cronicle of the Hous and Surname of Seytoun*, NLS, Adv. MS 31.2.2; W. Bowie, *Black Book of Breadalbane*, Breadalbane Collection, NAS, GD112; H. Rose, *Genealogical Deduction of the family of Kilravock* [transcript], NAS RH2/8/9; D. Forbes, *Account of the Familie of Innes*, held by the Duke of Roxburghe,

Angus (1643) was perhaps the most celebrated of these works and was not only published shortly after completion but again in 1743 and 1820.⁴ These compositions were literary in character, but in the eighteenth century later genealogists adopted some of the methodologies of record scholarship. The *Genealogical Collections* of Walter MacFarlan, for instance, consisted of original text interpolated with transcripts of older prose and record sources.⁵ Hay's *Genealogie of the Sainteclaires of Rosslyn* and his *Genealogie of the Hayes of Tweeddale*, dating from the early 1700s, comprised a similar combination of original writings and copied sources.⁶ The same was true of Harry Maule's early eighteenth-century compilation relating to the Earls of Panmure.⁷ Family history thus remained an active field in the 1700s but also took on a more antiquarian hue than was previously the case. This, however, also meant that it was an intellectually marginalised discipline during the eighteenth century.⁸ Indeed, with the exception of Hume's *History*, none of the tracts or collections

NRAS1100J; J. Birnie, *Account of the Families of Birnie and Hamilton*, British Library Add 28850.

⁴ D. Hume, *History of the Houses of Douglas and Angus* (Edinburgh, 1643, 1743); D. Hume, *History of the House and Race of Douglas and Angus*, ed. L. Hunter (London, 1820).

⁵ W. MacFarlan, *Genealogical Collections Concerning Families in Scotland*, 2 vols. [Scottish History Society 33 & 34], ed. J. T. Clark (Edinburgh, 1900), I, pp. vii-ix, x-xii, II, pp. v-viii.

⁶ *Collections and Papers of Richard Hay*, NLS, Adv MSS 32.6.2, 33.4.18, 34.1.8-10, 34.6.9.

⁷ *Correspondence and Antiquarian Collections of Harry Maule* (1678-1734), NAS, GB234/GD45; Hew Blair-Imrie, 'Maule, Harry, styled fifth earl of Panmure (1659-1734)', *ODNB* 37, pp. 418-20.

⁸ For the links between genealogy and antiquarianism see particularly R. Sweet, 'Antiquaries and Antiquities in Eighteenth-Century England', *Eighteenth-Century Studies* 34 (2001), p. 189; J. Gascoigne, *Joseph Banks and the English Enlightenment: Useful Knowledge and Polite Culture* (Cambridge, 2003), p. 119; Y. S. Lee, *Nationalism and Irony: Burke, Scott, Carlyle* (Oxford, 2004), p. 91.

mentioned above were published until the 1800s.⁹ The field emerged from the shadow of Enlightenment in the nineteenth century, as is demonstrated below, but it was also founded on powerful historiographical traditions.

Existing genealogical manuscripts and record transcripts provided a historiographical framework and also a set of resources upon which antiquaries like Innes, Fraser and Riddell could build. However, the eighteenth-century changes in methodology had been accompanied by a shift in ethos. Authors like Maitland, Bowie, Rose, Forbes, Birnie and Hume sought to glorify the families that they wrote about and provide a blueprint for the behaviour of their readers.¹⁰ During the 1700s, however, not only was antiquarianism viewed askance by the mainstream, but many writers believed that the aristocracy had been a drag on social and constitutional progress prior to union.¹¹ Eulogies of noble families were thus out of favour in the period and the respectable face of genealogical research became peerage work. Chapter Two has discussed Innes's activities as a peerage lawyer, but he was only one of a number of experts working in the field. Conflicting claims to titles and estates had been a feature of the legal landscape in Britain since the sixteenth century.¹² However, the 1700s saw several particularly high-profile Scottish cases, such as the Sutherland case (1722-1771) and the Douglas case (1771-90).¹³ These helped to create a legal environment that could sustain

⁹ Although MacFarlan's collections were extensively used by Robert Douglas when compiling his *Peerage of Scotland* (1764), see A. F. Pollard, rev. A. Du Toit, 'Macfarlan, Walter, of Arrochar (d. 1767)', ODNB 35, p. 373.

¹⁰ Allan, "'What's in a name?'" pp. 161-2; D. Allan, *Virtue, Learning and the Scottish Enlightenment: Ideas of Scholarship in Early Modern History* (Edinburgh, 1993), pp. 42, 57-8, 75n, 91; M. Macgregor, 'The genealogical histories of Gaelic Scotland', in *The Spoken Word: Oral Culture in Britain, 1500-1850*, ed. A. Fox & D. R. Woolf (Manchester, 2002), p. 196.

¹¹ Kidd, *Subverting*, pp. 165-84.

¹² E. Spring, *Law, Land, and Family: Aristocratic Inheritance in England, 1300 to 1800* (North Carolina, 1997), p. 104.

¹³ W. C. Lowe, 'Bishops and Scottish representative peers in the House of Lords 1760-1775', in *Peers, Politics, and Power: the House of Lords, 1603-1911*, ed. C. Jones & D. L.

specialist practitioners like Innes, Riddell and Fraser. They also required research into the kinds of sources that became the basis for the record movement of the following century; sources which were regarded with distaste by the intellectual majority during the Enlightenment.¹⁴ However, these peerage cases emphasised descent, inheritance and the factual minutiae that could prove a claim. An antiquarian obsession with detail and accuracy consequently replaced the urge to eulogise. Indeed, it is telling that the celebrated judge and antiquary Lord Hailes (1726-1792) was involved in both of the above-named cases.¹⁵

This was the context in which Riddell conducted his peerage work.¹⁶ Whilst he displayed the factual mania that was a hallmark of eighteenth-century antiquarianism, he was concerned with the sources themselves only in so far as they proved claims of descent and title. As a result, many of his publications related to specific cases that he had worked on.¹⁷ Even his

Jones (London, 1986), p. 280; H. Montgomery-Massingberd & C. S. Sykes, *Great Houses of Scotland* (London, 1997), p. 59.

¹⁴ Ash, *Strange Death*, p. 41.

¹⁵ P. Cadell, 'Dalrymple, Sir David, third baronet, Lord Hailes (1726–1792)', *ODNB* 14, pp. 979-82.

¹⁶ D. M. Walker, *A Legal History of Scotland*, 6 vols. (London, 1988-2001), VI, pp. 26, 109; L. A. Ritchie, 'Riddell, John (1785–1862)', *ODNB* 46, pp. 909-10.

¹⁷ For example J. Riddell, *Analysis of the Objections Started by the Crown, and of the Replies Furnished by John Riddell in the Matter of the Evidence Adduced by the Earl of Balcarres, Claiming the Earldom of Crawford and Barony of Lindsay, Before the House of Lords, 1847* (London, 1848); J. Riddell, *Abstract of the Claim of James, Earl of Balcarres, to the Honours of Earl of Crawford and Lord Lindsay; Abridged from the Case Drawn up by John Riddell* (London, 1848); J. Riddell, *Abstract of the Case of James Earl of Crawford and Balcarres, etc., Claiming the Original Dukedom of Montrose, Created in 1488* (London, 1850); J. Riddell, *Analysis of the "Case for James Duke of Montrose, Petitioner, Upon his Right to Appear and be Heard Against the Claim of the Earl of Crawford and Balcarres to be Duke of Montrose:" and of the Remarks Thereupon Furnished for the Consideration of Counsel, April 1851* (London, 1851).

more general works, such as the *Inquiry into the Law and Practice in Scottish Peerages* (1842) focused predominantly on the principles of inheritance law rather than the sources that provided its evidential base.¹⁸ Riddell's genealogical works grew directly from his activities as a peerage lawyer, and represented legal antiquarianism at its narrowest. They were very different from the kind of family history practised in the sixteenth and seventeenth centuries. They were also fundamentally dissimilar from the approach that Innes, who hailed from a similar professional background, took to the same subject. Indeed, it was partly this incompatibility that fuelled the pair's acrimony, as later sections of this chapter will show.

New Approaches to Sources

Riddell was not a record scholar in the sense that Innes was. Whilst Riddell wrote legal disquisitions, Innes produced record editions. Chapter Six has shown that many of Innes's ecclesiastical editions used material from aristocratic archives. Reciprocally, many of the prefaces to those editions touched on genealogical topics. Indeed, Innes was in this way similar to MacFarlan in that both made use of ecclesiastical records for genealogical research.¹⁹ For instance, Innes argued that the *Inchaffray Register* could shed light on the Earls of Strathearn and that the *Scone Register* contained genealogical illustrations of the family of Ruthven.²⁰ In the *Moray Registrum* he linked the materials contained therein to the families of Stewart, de Moravia, Duffus, Bothwell, Douglas, Tullibardine and the Earls of Sutherland.²¹ He similarly commented on the wealth of genealogical information available in the various

¹⁸ See, for example, J. Riddell, *Inquiry into the Law and Practice in Scottish Peerages: Before, and After the Union; Involving the Questions of Jurisdiction and Forfeiture, Together with an Exposition of our Genuine, Original Consistorial Law I* (Edinburgh, 1842), pp. iii-xvi.

¹⁹ Pollard, 'MacFarlan' *ODNB*.

²⁰ *Inchaffray Liber*, pp. ix-xi, *SESH*, pp. 211-12; *Scone Liber*, pp. xvi-xvii, *SESH*, p. 125.

²¹ *Moray Registrum*, pp. xxxi-xlvii.

registers that made up the *Arbroath Liber*.²² Moreover, in the *Aberdeen Registrum* he stated that tenorial documents like charters were useful primarily for genealogical research.²³

Nevertheless, by the time that Innes produced his *Familie of Rose* (1848) a number of family history editions had already been published. Many of these were reproductions of the sixteenth, seventeenth and eighteenth century tracts and collections discussed above. Fullarton's publication of Maitland's *House of Seytoun* (1829) was a straightforward reproduction of the manuscript.²⁴ The same was true of Turnbull's version of Birnie's *Families of Birnie and Hamilton* (1838), and also the Abbotsford Club publication of Hume of Godscroft's *Family of Hume* (1839).²⁵ Scott's *Haliburton Memorials* (1829) reproduced an eighteenth-century manuscript containing extracts from various narratives and registers.²⁶ Similarly, Maidment's editions of the *Sainteclair Genealogies* and *Haye Genealogies* (both 1835) were reproductions of Hay's tracts followed by chunks of prose and record sources that Hay had copied during his researches.²⁷ In these instances it was the original writers and genealogists who shaped the material, rather than the nineteenth-century editors. Dennistoun was one of the few who tackled more challenging material. In 1833 he published MacFarlan's transcript of the *Lennox Cartulary*, re-arranging its contents into chronological order and including an appendix of additional material.²⁸ His *Coltness Collection* (1842), meanwhile,

²² *Arbroath Liber* I, pp. xxiv-xxvi; *SESH*, pp. 154-6.

²³ *Aberdeen Registrum* I, p. lxxxii; *SESH*, pp. 89-90.

²⁴ R. Maitland, *The History of the House of Seytoun to the Year MDLIX* [Bannatyne Club 34 & Maitland Club 1], ed. J. Fullarton (Glasgow, 1829), pp. ix-xi.

²⁵ J. Birnie, *Account of the Families of Birnie and Hamilton of Broomhill*, ed. W. B. D. D. Turnbull (Edinburgh, 1838), p. v; D. Hume, *Davidis Humii de Familia Humia Wedderburnensi Liber* [Abbotsford Club 15], ed. Anon. (Edinburgh, 1839), pp. ix-x.

²⁶ *Memorials of the Haliburtons*, ed. W. Scott (Edinburgh, 1824), pp. iii-iv.

²⁷ R. Hay, *Genealogie of the Sainteclaires of Rosslyn*, ed. J. Maidment (Edinburgh, 1835), p. xix; R. Hay *Genealogie of the Hayes of Tweeddale*, ed. J. Maidment (Edinburgh, 1835), 'Contents', [n. p.]

²⁸ *Cartularium Comitatus de Levenax ab Initio Seculi Decimi Tertii Usque ad Annum MCCCXCVIII* [Maitland Club 34], ed. J. Dennistoun (Edinburgh, 1833), pp. xvi-xviii,

relating to the Stewarts of Allanton, was built from three prose sources and augmented with biographies of family members that he wrote himself.²⁹

By the time that Innes entered the field the publication of both prose and record sources was well established. Most editors, however, took a fairly non-invasive approach compared to the editorial interventionism that Innes displayed with legal and ecclesiastical sources, as discussed in previous chapters. Nonetheless, Innes was similarly passive in his edition of Forbes's *Familie of Innes* (1864), which he reproduced without significant alteration. Indeed, he stated that:

It might have been possible to re-write his history more smoothly, and to array the pedigree and its proofs more systematically from the contents of the family charter-chest. But a new history would have wanted some of the weight which a writer carries with him who wrote nearly two centuries ago [...] Moreover I must confess a partiality for old Duncan Forbes, his honest statement of doubts and puzzles, and his quaint philosophy, which I should be sorry to displace for anything I am able to put in its room.³⁰

For Innes, the value of Forbes's account came not just from the genealogical information that it contained, but also the antiquity of the source itself. To change it would have compromised its validity as a link to the past. He was similarly faithful to his source in his edition of Bowie's *Taymouth Book* (1855), detailing the descent of the Campbells of Breadalbane. Indeed, he commended Bowie's work because it had 'the advantage of being founded, in all material parts, on charters and written evidence'.³¹ However, the volume also contained the sixteenth-century *Chronicle of Fortingall*, whose contents Innes claimed 'stand very

xxi-xxiv; see also [*Lennox Cartulary* (transcript)], NLS Adv. 34.4.9; Davis, *Medieval Cartularies*, no. 1279, p. 148; MacFarlan, *Genealogical Collections* I, p. v.

²⁹ *The Coltness Collections, MDCVIII-MDCCCX* [Maitland Club 60], ed. J. Dennistoun (Edinburgh, 1842), pp. xi-xiii, xv-xxii.

³⁰ *Familie of Innes*, p. vi.

³¹ *Taymouth Book*, p. iii, *SESH*, p. 342.

promiscuously'. He therefore re-arranged its entries chronologically.³² Moreover, he had by that point already taken greater liberties with Hew Rose's *Genealogical Deduction* in his *Familie of Rose* (1848). Here, Innes did not simply reproduce Rose's work but cut whole sections relating to domestic and foreign affairs. He justified this by arguing that these segments were based on books rather than Rose's own investigations or experiences.³³ As such, they were not as credible as the sections relating directly to the Rose family and could therefore be excised.

Building editions around the work of Rose, Bowie and Forbes provided a sense of authenticity that derived from their antiquity. Any disquisitions that Innes might have written himself could not have claimed the same authenticity. This was why he did not significantly alter the work of Bowie or Forbes. He also stated of Rose's *Deduction* that he was not 'entitled to overlay the antique narrative' and that editorial interpolations 'might lower its value with those who demand only authentic materials'.³⁴ Yet this claimed fidelity to the sources seems to be contradicted by his removal of sections from Rose's work and his re-arrangement of the *Chronicle of Fortingall*. However, the aim of these changes was to increase authenticity. By cutting material that he deemed invalid and altering structures that he perceived as 'promiscuous', the original sources could actually be improved upon. Indeed, they could be presented in the form in which, in Innes's opinion, they should have been produced in the first place. This was the same philosophy that he applied to his ecclesiastical editions, as Chapter Six has demonstrated. The works of Forbes and Bowie, on the other hand, did not require improvement because they had acceptable structures and confined themselves to the topic of family history, in which their authors could claim direct knowledge and expertise.

Innes often augmented his editions with supplementary material; a reflection of his antiquarian completism. However, this was also part of the process of creating new compilations which served contemporary purposes and improved upon the existing sources. Innes's *Taymouth Book*, for example, contained not only Bowie's account and the *Chronicle of Fortingall* but

³² *Chronicle of Fortingall*, no longer extant; *Taymouth Book*, p. x.

³³ *Family of Rose*, pp. vi-vii.

³⁴ *ibid.*

also a sixteenth-century poem, extracts from a register of friendship and homage, plus numerous charters, inventories, court proceedings, financial records and letters from the Taymouth charter room.³⁵ The *Family of Rose* also contained many records and letters from the Kilravock archives, presented in a laird-by-laird structure that mirrored the organisation of Rose's original tract.³⁶ Innes took a similar approach in his *Familie of Innes*. There, he arrayed charters and letters from Floors Castle in six sections, each corresponding to a chapter in Forbes's account and including copious notes which connected the additional records with the relevant sections of Forbes's tract.³⁷ In this way Innes took the role of supplementary documentation a step further by creating direct links with the prose works of his predecessors. This bolstered the reliability, erudition and evidential validity of those works without compromising their authenticity.

Innes's *Morton Registrum* (1853) was a different proposition. It was based on a fourteenth-century cartulary of the Earls of Morton, but what Innes presented was something very different.³⁸ Not only were the items in the cartulary re-arranged chronologically, but many were omitted entirely.³⁹ Moreover, only Volume Two contained material from the cartulary itself; Volume One consisted predominantly of single-sheet documents from the archives at Lochleven Castle and Dalmahoy House.⁴⁰ As with Innes's ecclesiastical editions, the aim was not the faithful reproduction of the manuscript but the creation of a new composition. Innes

³⁵ *Taymouth Book*, pp. xv-xvi, 'Contents', [n. p.], *SESH*, pp. 355-65.

³⁶ *Family of Rose*, pp. iii-iv.

³⁷ *Familie of Innes*, pp. iii, vi.

³⁸ [*Morton Cartulary*], NLS MS 72; omitted from Davis, *Medieval Cartularies*, see Anon., 'Scottish cartularies', *SHR* 38 (1959), p. 172; I. Cunningham, 'Registrum Honoris de Morton', in M. H. Hammond, 'Charter Resources', *Syllabus of Scottish Charters* (Glasgow University, 2009), at <http://www.arts.gla.ac.uk/scottishstudies/charters/Online%20Morton%20Syllabus.pdf>, accessed 23 April 2010. Innes inherited the project from Thomson and Alexander MacDonald; *Morton Registrum* I, pp. iii-iv, ix-x.

³⁹ *ibid.* I, pp. x & xxix-xxx.

⁴⁰ *ibid.* I, pp. xi & xxviii, xciii-xcix, II, pp. xv-xxiv.

saw himself as an active redactor rather than a passive preserver and his goal was to correct the flaws, faults, omissions and irrelevancies that, he believed, plagued the work of his fourteenth-century predecessor. The *Registrum* of the title was therefore more a reference to the edition itself than the cartulary on which part of it was based. The same point can be made of Innes's *Book of the Thanes of Cawdor* (1859). Its title implied that, like the *Taymouth Book*, it was built around an earlier prose tract. This was not the case and nor was it partially based on a cartulary like the *Morton Registrum*. Instead, it was constructed entirely from single-sheet originals from the Cawdor charter room.⁴¹ These were arrayed chronologically across the period 1236 to 1743 and were divided by successive thanes.⁴² The edition was therefore reminiscent of the *Melrose Liber* and the *Holyrood Liber*, both of which were constructed from scratch along similar lines. Yet it was also similar to some of the burgh editions discussed in Chapter Five, in that its long date range and chronological organisation expressed continuity between the recent and the distant past. In this context the title can only refer to the edition itself, and Innes was sometimes less an editor of existing source compilations and more a creator of new ones.

Other editors continued to contribute to the field once Innes became active in it. An 1857 volume relating to the Forbes family of Waterton consisted of lists of source abstracts.⁴³ The 1854 Maitland Club edition on the Caldwell family was more ambitious and, like Innes's *Cawdor Book*, was built from single-sheet originals arrayed chronologically.⁴⁴ Stuart's *Panmure Registrum* (1874) was based on Maule's eighteenth-century collection of record sources and prose extracts. Stuart, however, excised many items and interpolated Maule's collections with numerous additions from ecclesiastical registers and single-sheet originals at

⁴¹ *Cawdor Book*, p. ix.

⁴² *ibid.*, pp. l-lxxvii.

⁴³ *Memoranda Relating to the Family of Forbes of Waterton* [Spalding Club 44], ed. J. Forbes (Aberdeen, 1857).

⁴⁴ *Selections from the Family Papers Preserved at Caldwell* [Maitland Club 73], ed. W. Mure (Edinburgh, 1854), I, pp. vii-xvi, II.i, pp. vii-xviii, II.ii, pp. vii-xxv.

Panmure Castle.⁴⁵ His approach was thus reminiscent of Innes's editorial style, in that he took an existing manuscript and 'improved' it through omission and addition.

From the start of the 1860s, however, it was Fraser who dominated the field of family history. Given his connections with Innes, it is not surprising that he treated his record sources in a similar manner. For example, he tended to abridge later documents, divide material typologically, and array items chronologically within those divisions.⁴⁶ In one instance he even went as far as to build what he called a 'cartulary' from original sources where no such manuscript collection existed, thus echoing Innes's construction of the *Cawdor Book*.⁴⁷ Yet with that exception, there was a key difference between Fraser's editions and those that preceded them. Like several of Innes's volumes they usually featured genealogical treatises or 'memoirs', but these were written by Fraser himself rather than by authors from previous centuries.⁴⁸ Fraser's works were therefore only partially source editions, since large sections of them consisted of original text.⁴⁹

⁴⁵ *Registrum de Panmure; Records of the Families of Maule, de Valonis, Brechin, and Brechin-Barclay, United in the Line of the Barons and Earls of Panmure, compiled by the Hon. Harry Maule of Kelly, A.D. 1733* I, ed. J. Stuart, (Edinburgh, 1874), pp. lxxxix & clxxxix-ccx.

⁴⁶ See the first four of Fraser's editions as examples; *The Stirlings of Keir and their Family Papers*, ed. W. Fraser (Edinburgh, 1858), pp. iv-viii, ix, xiii, xvii-lxx; Fraser, *Eglinton* I, pp. iii-iv, xiii, II, pp. i-xlvi; *Memoirs of the Maxwells of Pollock*, ed. W. Fraser, (Edinburgh, 1863), I, 'Contents', [n. p.], pp. iii, 370-402, II, pp. i-liii; *History of the Carnegies, Earls of Southesk, and of their Kindred*, ed. W. Fraser (Edinburgh, 1867), I, pp. iii-iv, 533-44, II, pp. i-ii, 533-44.

⁴⁷ *The Cartulary of Pollok-Maxwell*, ed. W. Fraser (Edinburgh, 1875), pp. iii-viii.

⁴⁸ For example, Fraser, *Keir*, pp. 1-196; Fraser, *Eglinton* I, pp. 1-140; Fraser, *Pollock* I, pp. 1-493; Fraser, *Southesk* I, pp. 1-438.

⁴⁹ This set the tone for genealogical publication in the closing decades of the century. See, for instance, *Genealogical Collections Concerning the Scottish House of Edgar* [Grampian Club 5], ed. C. Rogers (London, 1873); *Genealogical Memoirs of the Family of Sir*

This change was partly due to the limited number of genealogical prose tracts surviving from the sixteenth, seventeenth and eighteenth centuries. By the time that Fraser began to publish, most of the viable examples had already been printed. Yet it was also a factor of the aristocratic sponsorship through which Fraser's editions were funded. This meant that, unlike the club editions produced by Innes and others, Fraser's projects were dictated more by who would pay for them and less by what sources were available. Nonetheless, Fraser's views on what family history was actually for were fundamentally similar to those of Innes, as the next section will demonstrate.

The Purpose of Family History

Given the use of earlier prose tracts and record collections as the foundations for genealogical publishing in the 1800s, it is necessary to assess which of the traditions discussed above editions of family history were aligned with. The issue of sponsorship can help to answer that question. Most volumes were produced by publishing clubs and several, including Innes's *Morton Registrum*, *Family of Rose* and *Familie of Innes*, plus Fullarton's *House of Seytoun*, were paid for from club funds.⁵⁰ Even those that were sponsored by individual members, such as Innes's *Taymouth Book* and *Cawdor Book*, still had to be approved by the club council.⁵¹ Moreover, these sponsors had already shown their commitment to the public and patriotic values underpinning the clubs by joining them in the first place. Indeed, Dennistoun's *Lennox Cartulary* and *Coltness Collections* were presented by club members who had little connection

Walter Scott, bart., of Abbotsford [Grampian Club 13], ed. C. Rogers (London, 1877), p. ix.

⁵⁰ Laing, *Bannatyne Club*, pp. 81-2; Stuart, *Spalding Club*, pp. 142, 145; Smith, *Maitland Club*, p. 9.

⁵¹ The *Taymouth Book* was sponsored by the Earl of Breadalbane; the *Cawdor Book* was sponsored by the Earl of Cawdor; Laing, *Bannatyne Club*, p. 86; Stuart, *Spalding Club*, p. 144; see also Appendix 1.

with the families to which those volumes related.⁵² However, editions such as Scott's *Haliburton Memorials* and Stuart's *Panmure Registrum* were produced outside the club system and were directly funded by sponsors from the aristocracy or gentry.⁵³ Fraser's family histories were similarly paid for by the heads of families to which they related.⁵⁴ There was thus an underlying tension in the publication of genealogical sources. On one hand there remained a powerful connection between specific editions and the families that they pertained to. On the other, the involvement of the clubs showed that family history had a wider significance that was congruent with the patriotic mission that inspired them.

Many nineteenth-century family history editions had a flavour of the eulogistic agendas found in the sixteenth and seventeenth century prose tracts that they were built around, albeit in a less obvious manner. Several of Innes's prefaces, for example, contained commentary on the lives and achievements of successive family members.⁵⁵ The prefaces in other editions often featured a similar focus.⁵⁶ This became more pronounced in the work of Fraser. His genealogical memoirs recounted the actions of family members in a hitherto unseen level of detail. Although he did not overtly extol the families that he wrote about as his predecessors had done, aristocratic status could nevertheless be enhanced by highlighting familial antiquity and prestige in this manner. Yet Fraser's memoirs were much more factual than those of the

⁵² Dennistoun's *Lennox Cartulary* was sponsored by Alexander Campbell and his *Coltness Collections* were sponsored by James Bogle; Smith, *Maitland Club*, p. 20; Dennistoun, *Coltness Collections* I, p. v.

⁵³ The *Haliburton Memorials* were sponsored by Scott himself, who was a descendant of the Halliburton family, and Stuart's *Panmure Registrum* was sponsored by the Earl of Dalhousie; Scott, *Haliburton Memorials*, pp. iii-ix; Stuart, *Panmure Registrum*, p. i.

⁵⁴ Donaldson, *Fraser*, pp. 38-41.

⁵⁵ *Taymouth Book*, pp. ii-x, *SESH*, pp. 342-52; *Morton Registrum*, pp. xii-xxii; *Cawdor Book*, pp. xii-xlv; *SESH*, pp. 398-434; see also *SESH*, pp. 438-81.

⁵⁶ For example Dennistoun, *Lennox Cartulary*, pp. ix-xvi; Stuart, *Panmure Registrum*, pp. v-lxxxiii; Mure's *Caldwell Papers* had no preface but instead contain a 'memoir' of the family that was an early version of those favoured by Fraser, Mure, *Caldwell Papers* I, pp. 1-46.

1500s and 1600s and, like Innes's expositional prefaces, drew on an array of record sources for support. Their emphasis was consequently on noting the appearance of family members as witnesses on charters, listing their marriages and highlighting their acquisition of lands, privileges and titles.⁵⁷ In this way, they show the influence of peerage work and the kind of legal genealogy favoured by Riddell. This focus on descent and title was also articulated by the inclusion of family trees in several volumes from the second half of the century.⁵⁸ Indeed, even Innes included two genealogical charts in his *Cawdor Book*.⁵⁹

The family history editions of the 1800s were clearly shaped by their historiographical and social context. They drew on the traditions of previous centuries, were sometimes imbued with the preoccupations of peerage work, and could be shaped by the need for aristocratic sponsorship. Nevertheless, Innes sought to give family history a new significance. In his view, its value lay primarily in its ability to shed light on local and social history. With reference to the supplementary documents included in the *Familie of Rose*, he wrote:

I have attempted this junction with a view not merely of making an array of documents and proofs of the family history, but in the hope, by the first portion of the collection, of throwing some interesting lights upon early tenures and legal antiquities of an unexplored district; and in the latter part of the series, of turning to account an unusually rich and indiscriminate assemblage of family papers, which seemed fitted to illustrate the life of the Scotch family gentleman for almost as long a period as it can be hoped to find written documents for its illustration.⁶⁰

⁵⁷ For example, discussion of Peter de Striurkyng (1150-70), Fraser, *Keir*, pp. 4-5; discussion of Alan de Mundegumbri (1178-1200) in Fraser, *Eglinton I*, pp. 9-10; discussion of Sir John Maxwell (1360-1405), Fraser, *Pollock I*, pp. 11-16; discussion of James Carnegie (c.1500-1530), Fraser, *Southesk I*, pp. 6-8.

⁵⁸ Forbes, *Forbes Memorials*, after p. 18; Stuart, *Panmure Registrum*, p. ccxi; Dennistoun, *Coltness Collections*, after p. xxii; Fraser, *Pollock I*, xlv-xlvi, after p. 493; Fraser, *Southesk I*, pp. civ-cx.

⁵⁹ *Cawdor Book*, after p. lxxvii.

⁶⁰ *Family of Rose*, p. iii.

Innes did not see family history as an end in itself, but rather as a means of exploring past modes of life in a particular region. Another example was his assertion that the *Taymouth Book* was intended to illustrate life in the Highlands, and that the affairs of the Breadalbane family were so intimately associated with the affairs of the region that it was not possible to investigate one without examining the other.⁶¹ Later in the same edition he used the Breadalbane papers as the basis for discussions on forestry, game, Celtic customs, adoption, agriculture, manners, baronial courts, animal husbandry and alcohol.⁶² He also stated that those papers were not simply a collection of antiquities, but shed light on the institutions of the district and illustrated the manners and lives of its people.⁶³ Similarly, in the *Cawdor Book* he referred to family papers as the ‘recognized servants and supplements of history’.⁶⁴ He then used the Cawdor records as the foundation for examinations of feudal tenures and offices, early law, tenants and rents in the 1400s, farming, game, dress and gardening.⁶⁵ In his discussion of the Rose family in *SESH* he again touched on broader issues, such as early forms of conveyancing, the 1707 Union, the purchase of books, schooling, rural sports and forestry.⁶⁶ In the *Morton Registrum*, meanwhile, he stated that family history could elucidate tenure, land ownership and the relations between social classes. He then claimed that ‘it is from such materials that our domestic annals are to be written, and the public history of the country is yet to receive its truest as well as its most characteristic colouring’.⁶⁷ To Innes, family history was also local history. Indeed, it was for that reason that the Rose, Cawdor and Innes editions were published by the Spalding Club, which had a specific interest in the north-eastern region of Scotland from which all three families hailed.

⁶¹ *Taymouth Book*, p. i, *SESH*, p. 341.

⁶² *Taymouth Book*, p. iv-xxxii, *SESH*, pp. 347-83.

⁶³ *Taymouth Book*, p. xxxviii, *SESH*, p. 395.

⁶⁴ *Cawdor Book*, p. ix.

⁶⁵ *ibid.*, p. viii-xlvi. *SESH*, pp. 396-434.

⁶⁶ *ibid.*, pp. 440-66.

⁶⁷ *Morton Registrum*, p. xxii, *SESH*, p. 337.

Also present in Innes's interpretation of family history was a familiar assumption of historical progress. As Chapter Four has shown, Innes associated the progenitors of many of Scotland's leading families with the feudalization of Scotland, which he saw as an important step away from barbarism.⁶⁸ This outlook also influenced his interpretation of their later histories. In the *Familie of Rose* his stated intention was to see how far the contents of one charter room could throw light on the state and progress of 'civilisation'. He believed that those materials illustrated 'steady improvement' in the manners of the gentry and the condition of the peasantry since the 'earliest times'.⁶⁹ In the same edition he invoked the kind of Whiggish critique of feudal law discussed in Chapter Four, arguing that the Heritable Jurisdictions Act (1746) had heralded the final stage of the progress of liberty by removing the 'fetters of feudal jurisdictions'.⁷⁰ Similarly, he asserted that the Breadalbane papers illustrated a clear improvement in the moral, social and physical condition of the people in the surrounding region.⁷¹ He then stated that the eighth laird of Breadalbane 'carries us a long step forward to civilization'.⁷² In the same vein, he claimed that the Kilravock Papers illustrated gradual change from violence and misrule to the onset of civilization.⁷³

Innes therefore used family history in a different way from the writers whose work he edited. In the *Familie of Innes* he asserted that, in the 'age of chivalry', family historians often found 'not only a scanty intelligence, a want of high aim or motive, but a low scale of feeling and morals whenever motives and the springs of action are disclosed'.⁷⁴ This demonstrated his wariness of familial glorification. However, in a short work on the origins of Scottish

⁶⁸ For that reason he sometimes discussed whether the origins of families were Norman or Celtic, for example, *SMA* pp. 88-96, 124; C. Innes, *On Bruce and Royal Life in his Period: being a Lecture Delivered before the Greenock Philosophical Society on 9th October 1865* (1865), p. 1

⁶⁹ *Family of Rose*, pp. iii-iv.

⁷⁰ *ibid.*, pp. iv-v.

⁷¹ *Taymouth Book*, pp. xxxvii-xxxviii, *SESH*, p. 394.

⁷² *Taymouth Book*, p. vi, *SESH*, p. 349.

⁷³ *ibid.*, pp. 441-2.

⁷⁴ *Familie of Innes*, p. vii.

surnames he showed that he was not immune to the allure of noble ancestry and famous names. Yet even here he distanced himself from the overt eulogies of previous centuries.⁷⁵ Indeed, in both the *Cawdor Book* and the *Taymouth Book* he deliberately included documents that illustrated local history and progress whilst excluding those that were purely genealogical.⁷⁶ Innes was keenly critical of what he saw as the narrowness of traditional genealogy, reproving Rose's *Genealogical Deduction* for its focus on descent and consequent lack of information on the region around Kilravock Castle.⁷⁷ In his review of Robertson's *Concilia Scotiae* he criticised 'writers making a painful trade of family history, who are capable of colouring and even suppressing documents'.⁷⁸ He encapsulated his views in the *Paisley Registrum*:

It is a very common mistake to imagine that genealogical information alone is to be derived from this source. Even if that impression were correct, it would not warrant their entire neglect. The study of genealogy has fallen into disrepute and contempt not altogether justly, in part from the base purposes to which it is occasionally turned, but more from its being so frequently raised into the importance of an end and object of research instead of serving as a road of connexion and guidance to the historian, the antiquary and the chronologist.⁷⁹

This again illustrates his belief that family history should be a means of investigating wider historical issues, rather than an end in itself. It was for this reason that Innes could not accept the narrow legal genealogy of his fellow peerage lawyer Riddell. For Riddell, whose approach was a direct extension of his peerage work, genealogy itself was a worthwhile goal. Sources were not required to illustrate progress or ways of life, but needed only provide evidence of descent, relation and inheritance.

⁷⁵ C. Innes, *Concerning Some Scotch Surnames* (Edinburgh, 1860), pp. 42-3.

⁷⁶ *Taymouth Book*, p. i, *SESH*, p. 341; *Cawdor Book*, p. ix.

⁷⁷ *SESH*, p. 437.

⁷⁸ Anon. [*WIVP* attr. C. Innes & C. W. G. St John], 'Highland Sport', *QR* 77:153 (1845), p. 66.

⁷⁹ *Paisley Registrum*, p. xxi.

It is therefore unsurprising that Riddell was engaged in an ongoing conflict with Innes.⁸⁰ This began in 1832 with a footnote on the origins of the Stewarts in the *Paisley Registrum*.⁸¹ Riddell disagreed with Innes's interpretation and a war of correspondence began, in which another bone of contention was the origin of the Riddell name.⁸² The situation was exacerbated by Innes's mention in the *Glasgow Registrum* of the legitimacy of the marriage of Robert II to Elisabeth Mure.⁸³ Riddell responded by publishing *Stewartiana* (1843) as a public riposte to Innes's views on the Stewarts. The first three segments of the book consisted of a minutely detailed discussion of the origins of the Stewarts and the legitimacy of the Mure marriage, much of which was couched as direct attacks on Innes's arguments.⁸⁴ Chapter Four was entitled 'Critical remarks in certain respects, upon Mr Innes's introductory prefaces to the Scotch chartularies recently edited by him'. Here Riddell listed a litany of errors that he believed Innes had made in his ecclesiastical editions regarding the genealogies of an array of Scottish families. The chapter also accused Innes of misusing sources, misinterpreting charter language, and misunderstanding topography.⁸⁵ The fact that the pair represented opposing claimants in the Montrose Case (decided in 1852) only added to their antagonism.⁸⁶

These disputes tended to be specifically genealogical in tone, focusing on factual accuracy in the tracing of descent in a manner reminiscent of peerage cases themselves. However *Stewartiana* revealed an antipathy that went far deeper than disagreement over the Stewarts.

⁸⁰ W. Andrews, *Legal Lore; Curiosities of Law and Lawyers* (London, 1897), p. 267; Burton, *Memoir*, pp. 70-2.

⁸¹ Burton, *Memoir*, pp. 70-1; *Paisley Registrum*, pp. ix-x.

⁸² Burton, *Memoir*, p. 71.

⁸³ Burton, *Memoir*, p. 71; *Glasgow Registrum* I, pp. xxxix-lx, *SESH*, p. 54.

⁸⁴ Riddell, *Stewartiana*, pp. iii-v, 1-70, for direct attacks on Innes see, for example, pp. 73, 99, 117. It is worth noting that the two men agreed that Robert III and the subsequent Stewart line were legitimate, but disagreed over the reason for that legitimacy.

⁸⁵ *ibid.*, pp. v-vii, 71-124.

⁸⁶ *ibid.*, p. 70; *Times* 21491 (27 July 1853), p. 7; 21496 (2 August 1853), p. 7. They were both also involved in the Winton case as Chapter Two points out.

Riddell was fundamentally opposed to Innes's dismissal, articulated the *Paisley Registrum* and the *Glasgow Registrum*, of genealogical research for its own sake.⁸⁷ For Riddell there were just three goals of family history; to fix facts and dates in 'general history', to explain laws of succession, and to ensure accuracy in the spelling of obscure names and terms.⁸⁸ These goals seem narrow next to Innes's use of aristocratic records as a means of tracing social progress and exploring how people used to live. Moreover, Riddell had strong views on the primacy of fact over conjecture or imagination, writing that:

All mere supposition should be entirely banished from genealogy; it is a stern and impracticable subject to deal with, neither susceptible of fancy, poetry, nay even of the noblest flights of the imagination, but in certain exposition of the error.⁸⁹

Riddell's approach thus stood in marked opposition to the kind of historical research that Innes espoused. Indeed, the relative importance that each man assigned to the Stewart debates was telling; Riddell devoted much of his book to them whilst Innes mentioned them only in passing in the prefaces to a couple of his many record editions.⁹⁰ Indeed, Innes stated of controversies surrounding the Mure marriage that they had 'fortunately taken their proper rank as mere subjects of antiquarian curiosity' and this was one of the comments that most roused Riddell's ire.⁹¹

Nevertheless, Riddell's genealogical philosophy was influential and his contemporaries held him in considerable esteem. Maidment dedicated his *Sainteclaires of Rosslyn* (1835) to Riddell, whilst Dennistoun omitted materials from his *Coltness Collection* because Riddell had thrown doubt on their accuracy.⁹² Turnbull, meanwhile, praised Riddell's genealogical skills

⁸⁷ Riddell, *Stewartiana*, p. 72.

⁸⁸ *ibid.*, pp. 117-19.

⁸⁹ *ibid.*, p. 83.

⁹⁰ *ibid.*, pp. 1-39, 55-70; *Glasgow Registrum*, pp. xx-xxi, xxxix-xl.

⁹¹ *ibid.*, p. xl; Riddell, *Stewartiana*, p. 72.

⁹² Maidment, *Sainteclaires Genealogies*, title page, p. xix; Dennistoun, *Coltness Collections*, pp. xvi-xvii.

in his *Families of Birnie and Hamilton* (1838).⁹³ In 1863 Maidment published a catalogue of Riddell's collection of annotated genealogical books and manuscripts, whilst in 1880 Mark Napier chastised Fraser for treating Riddell's memory with disrespect.⁹⁴ Even Innes had a high opinion of his adversary's abilities. In *SLA* he praised Riddell's pioneering work on peerage and constitutional law and in a letter to Edward Dunbar wrote, 'that he is the best genealogist in the world means that he is "on our side"'.⁹⁵ Yet Riddell was also involved in many disputes with other experts. Peerage cases encouraged adversarial relationships not only between rival claimants but also the lawyers who represented them. This can be seen in the discord between Riddell and Innes, which had roots in their peerage work. It was also evident in the role that Riddell played in the 'Salton Controversy' of 1817 in which, according to Turnbull, he had 'demolished' the arguments of his opponents.⁹⁶ Furthermore, Riddell was engaged in protracted genealogical disagreements with Napier, Fraser and Tytler.⁹⁷ Indeed, acrimony was a feature of genealogical research even when Riddell was not involved. Fraser, for instance,

⁹³ Turnbull, *Families of Birnie and Hamilton*, p. xviii.

⁹⁴ J. Maidment, *The Riddell papers. A Catalogue of the Annotated Books and Manuscripts of the Late John Riddell, Esq., Advocate* (Edinburgh, 1863); M. Napier, *The Lanux of Auld; an Epistolary Review of The Lennox by William Fraser* (Edinburgh, 1880), pp. 7-8.

⁹⁵ *SLA*, pp. 17-18; *Letters from Cosmo Innes to E. D. Dunbar* (1859-1873), NLS, acc. 7183, no. 10.

⁹⁶ Turnbull, *Families of Birnie and Hamilton*, p. xviii.

⁹⁷ J. Riddell, *Additional Remarks Upon the Question of the Lennox or Rusky Representation, and other Topics, in Answer to the Author of "History of the Partitions of the Lennox"* (Edinburgh, 1835); J. Riddell, *Comments in Refutation of Pretensions Advanced for the First Time, and Statements in a Recent Work "The Stirlings of Keir and their Family Papers"* (Edinburgh, 1860); J. Riddell, *Tracts Legal and Historical; with Other Antiquarian Matter Chiefly Relative to Scotland* (Edinburgh, 1835), pp. v-vii; Donaldson, *Fraser*, pp. 66-7; Fraser, *Pollock I*, pp. iv-v; see also Ritchie, 'Riddell', *ODNB*.

quarrelled not only with Riddell but also with several other genealogists including George Burnett, Mark Napier and Thomas Dickson.⁹⁸

By the later part of the century Innes's form of family history was proving more influential than Riddell's. This was predominantly because the prolific Fraser had a similar philosophy. Despite the role of his histories as implied glorifications of their sponsors' lineages, they were also intended to have historical value in their own right. For example, Fraser stated that some of the records included in his *History of the Carnegies* were useful for 'throwing light on their rise and progress in commerce and civilisation'.⁹⁹ In his *Memoirs of the Maxwells*, he asserted that editions such as his *Memorials of the Montgomeries* and Mure's *Caldwell Papers* elucidated local history.¹⁰⁰ He also stated that anyone interested in either local or general history would find much of value within his *Memorials of the Montgomeries*.¹⁰¹ In his work on the Stirlings of Keir, Fraser made his attitude clear:

Family history might be considered the most limited of all history, but it is generally interesting, and although the account of any one family, however long its descent, may be but a fragment of the history of a nation, it must be remembered that even the history of a nation is but a fragment of the history of the world.¹⁰²

He made a similar point in the *Memoirs of the Maxwells*, arguing that 'it is in the charter repositories of the old families of Scotland that much of the history of the nation is preserved'. He then continued, 'the unlocking of these repositories and making their contents more generally known by means of printing, appears to be a great public service'.¹⁰³ This association between genealogical publication and public duty was central to Fraser's view of

⁹⁸ Donaldson, *Fraser*, pp. 66-73

⁹⁹ Fraser, *Southesk* I, p. xix.

¹⁰⁰ Fraser, *Pollock* I, p. xiv.

¹⁰¹ Fraser, *Eglinton* I, p. xiii.

¹⁰² Fraser, *Keir*, p. xvi.

¹⁰³ Fraser, *Pollock* I, p. xv.

the validity of his own work. In both the *Stirlings of Keir* and the *Memorials of the Montgomeries* he compared the publication of familial records with the work done by the publishing clubs.¹⁰⁴ In this way he shaded his own editions with the ethos of public utility and patriotism that drove the clubs and informed their choice of publications. Fraser was ostensibly creating histories for the edification of private aristocratic sponsors. Nevertheless, the impact of Innes's philosophy on that work, despite its existence beyond the boundaries of the club system, is quite evident

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The ability to connect with the past through an evidentially established genealogy was a signifier of status throughout the nineteenth century. For that reason, genealogical research continued to be associated with the aristocracy and the gentry. Nonetheless, over the course of the century the publication of family records underwent a fundamental change in terms of purpose and value. Innes was at the heart of that change, and helped family history to broaden its historical relevance and become a means of understanding past lives. This was part of his wider belief, outlined in Chapter Three, that antiquarianism should not be an end in itself but should instead illuminate the texture of the past and progress towards the present.

¹⁰⁴ Fraser, *Keir*, p. xvi; Fraser, *Eglinton I*, pp. xiii-xiv.

Chapter 9 – The National Manuscripts of Scotland

Much of this thesis has discussed Innes's work with texts. However, his editions also had value as tangible artefacts exemplifying aspects of Scotland's past. As this chapter will show, this dual existence was accentuated by the inclusion of manuscript facsimiles, a movement which culminated in the *NMS*. These three volumes traced the history of Scotland through contemporary sources from the early medieval period to the Union of 1707. When completed, they contained almost 300 discrete documents. The *NMS* was different from any previous Scottish source collection in that it featured a photozincographed facsimile of each source rather than just a type-set rendering of its contents. It can thus reveal much about Innes's engagement with documentary sources as artefacts as well as texts.

Facsimiles in Innes's Record Editions

The *NMS* was the zenith of the facsimile movement, but many of Innes's earlier editions also featured reproductions of charters and manuscript folios. Given that he could only provide a handful of facsimiles in any one edition because of the costs involved, his choice of subject revealed much about his attitude to the sources of Scottish history. Unsurprisingly, facsimiles were often chosen to reflect the themes that Innes was interested in. For example, the *Moray Registrum*, the *Cawdor Book* and the *NMS* all contained reproductions of a document detailing the extent of the Kilravock estate in 1295.¹ This was because Innes valued it as the oldest surviving record of its type.² A fourteenth-century lease between Scone Abbey and the Hay family received comparable attention and was reproduced in the *NMS* and the *Scone Liber*.³ This was similarly indicative of its importance as Scotland's earliest surviving land lease.⁴ These documents represented the development of Scottish tenure and conveyancing and were

¹ *Moray Registrum*, after p. 471, listed in 'List of the Plates [n. p.]'; *Cawdor Book*, after p. 3, listed in 'Illustrations', p. xii; *NMS* I, no. LXXVII, p. 42.

² *Cawdor Book*, p. xiii; *SESH*, pp. 399, 440.

³ *Scone Liber*, after p. 104; *NMS* II, no. XIX, p. 14.

⁴ *Scone Liber*, p. xix; *NMS* II, p. viii; *SLA*, pp. 248-50.

central to the way that Innes, as a legal antiquary, engaged with the past.⁵ Similar motivations were at work in ecclesiastical editions like the *Melrose Liber* and the *Brechin Registrum*, which often contained facsimiles of the royal charters by which religious institutions were endowed.⁶ This implicitly supported Innes's presentation of the twelfth century as a period in which Scotland's kings used the church to civilise the kingdom. He also used facsimiles to show how great magnates had endowed religious institutions, as in the *Melrose Liber* and the *Moray Registrum*.⁷ This not only showed the contribution of the nobility to that civilising influence, but also illustrated the genealogical antiquity of the modern aristocrats with whom Innes worked as a peerage lawyer and club member. This was again articulated in the *Cawdor Book* and the *Kelso Liber*, which contained reproductions of charters by which families like the Breadalbanes and the Douglasses were first endowed.⁸

These examples show that Innes often used the same thematic selection criteria for facsimiles as for printed texts. Yet he also chose material for reproduction on other grounds. Visual impact could be an important criterion. The *Holyrood Liber*, for instance, contained reproductions of several colourful documents.⁹ Similarly, the *Dunfermline Registrum* featured twelve visually arresting facsimiles across nine plates.¹⁰ In the *Taymouth Book*, meanwhile, Innes reproduced nine colourful pictures of Campbell lairds from Bowie's manuscript.¹¹

⁵ Ross, 'Bannatyne club', p. 211.

⁶ *Melrose Liber* I, after pp. xxxi, 3, 215, II, after pp. 329, 666, listed in I, 'List of the Plates, pp. xiii-xiv; *Moray Registrum*, after pp. xlviii, 464, listed in 'List of the Plates [n. p.]; *Brechin Registrum* I, after p. 2, listed in 'List of the Plates' [n. p.].

⁷ *Moray Registrum*, after p. xlvii, listed in 'List of the Plates [n. p.]; *Melrose Liber* I, after pp. 8, 11, 67, listed in 'List of the Plates, pp. xiii-xiv.

⁸ *Cawdor Book*, after p. 4, listed in 'Illustrations', p. xii; *Kelso Liber* I, after pp. 78, 84, listed in 'Table of the Plates', p. i.

⁹ *Holyrood Liber*, after pp. cxxxii, cxxxiv, cxxxvi, 10, 20, 32, discussed on p. lxxxii, see Appendix 2, Image 21.

¹⁰ *Dunfermline Registrum*, after pp. vii, 4, 8, 48, 418, 420, 432.

¹¹ *Taymouth Book*, after pp. 9, 10, 14, 17, 18, 19, 20, 23, 72, listed in 'Illustrations', [n. p.]; see Appendix 2, Image 22.

Examples of hand-writing were also of interest to Innes since they could provide a sense of connectivity between printed texts and original sources. They were also an important means of establishing authenticity. For example, he stated of the *Dunfermline Register* that it ‘stands on a better foundation; and indeed no record is throughout freer from suspicion. The antiquity of the handwriting, and regularity of its early part, are certainly calculated to give it great authority’.¹² Seven of the twelve facsimiles in the edition were of folios from the register and thus implicitly supported that assertion.¹³ The *Scone Liber* placed a similar emphasis on writing. Here Innes included facsimiles of charters from both Malcolm IV and William so that the reader could compare the differences in handwriting between them.¹⁴ Furthermore, in the *Moray Registrum* he presented facsimiles of the same item from three different registers.¹⁵ This highlighted differences in hand-writing and style, but also implicitly justified Innes’s practice of basing printed versions on the oldest text whilst correcting ‘defects’ through collation with later copies. Indeed, his facsimiles tended to appear early in his editions and to relate to twelfth and thirteenth-century items. This reflected his preference for older documents over later material which, as Chapter Six has shown, he habitually abridged.

These examples were chosen because they were exceptional in some way or helped Innes to make particular points. However, many facsimiles reproduced material that was selected because it was unremarkable. The ‘List of the Plates’ in the *Moray Registrum* referred to ‘specimens’ of the manuscripts used in the edition.¹⁶ Similarly Volume One of the *Brechin Registrum* contained two ‘specimens’ of the *Brechin Register*.¹⁷ The *Melrose Liber* also contained a ‘specimen’ of the older of the two manuscripts used in that edition.¹⁸ Other examples included a leaf from a sixteenth-century poem about Duncan Macgregor reproduced in the *Taymouth Book*,

¹² *ibid.*, p. xxi.

¹³ *ibid.*, after pp. vii, 4, 8, 48.

¹⁴ *Scone Liber*, after pp. 8, 20, discussed on p. xix

¹⁵ *Moray Registrum*, after p. 14, listed in ‘List of the Plates’, [n. p.]; Appendix 2, Image 23.

¹⁶ *ibid.*, after p. ii, listed in ‘List of the Plates’ [n. p.].

¹⁷ *Brechin Registrum* I, after pp. 29, 234, listed in ‘List of the Plates’ [n. p.].

¹⁸ *Melrose Liber* I, p. xxxii, listed in ‘List of the Plates’, p. xiii.

and samples of the main manuscripts used to build the *Arbroath Liber* and *Liber Officialis*.¹⁹ These facsimiles were intended to give an impression of the manuscript as a whole, and were therefore representative rather than exceptional. They were exemplars of hand-writing, layout and content and could give the reader a flavor of the original without hamstringing Innes's active editorial style. In order to further this effect, first and sometimes last pages of manuscripts were often facsimiled. The *Glasgow Registrum*, for instance, contained the opening folios of the two oldest manuscripts used in its construction.²⁰ *Halyburton's Ledger* featured both the first and last page of the *Tariff of Customs of 1612*, whose contents formed the second part of the edition.²¹ Similarly the first charter in the *Cawdor Book* was given in facsimile, and the first leaf of a thirteenth-century rental of Kelso Abbey was reproduced in the *Kelso Liber*.²² Volume One of the *APS* also contained numerous facsimiles of law-codes, legal proceedings and parliamentary rolls, selected to be representative and frequently referred to as 'specimen' or 'commencement' in the table of engravings.²³ The same was true, albeit to a lesser extent, of Innes's new versions of Volumes Five and Six.²⁴

As already argued, Innes saw his editions not merely as copies of existing sources, but new compilations which gained validity by improving on the originals. For this to work, the authenticity of the originals needed to be transferred, in some measure at least, to the printed volumes. Facsimiles were one means of achieving this. However, a cheaper method was to use deliberately archaic typefaces and textual ornamentation. Several of Innes's editions were

¹⁹ *Taymouth Book*, after p. 150, listed in 'Illustrations', [n. p.]; *Arbroath Liber* I, after pp. xxvii, xxx, xxxii; *Liber Officialis*, pp. 60, 86, 152.

²⁰ *Glasgow Registrum* I, after p. 4, II, before title-page, both listed in II, 'The Plates' [n. p.].

²¹ *Halyburton's Ledger*, pp. cxii, cxiv, listed on p. xiv.

²² *Cawdor Book*, after p. 2, listed in 'Illustrations', p. xii; *Kelso Liber* I, after p. 455, listed in 'Table of the Plates', p. i.

²³ *APS* I, 'Preface', after p. 40, 'A Notice of the Principle Manuscript Collections of the Ancient Laws of Scotland', after pp. iii, iv, v, vii, ix, xi, xii, xiv, xvii, xxi, xxvi, xxx, xxxiv, also after pp. 89, 106, 134, 146, 149, 173, 210, listed in 'A Table of the Engravings from Records and Other Manuscripts Contained in this Volume', [n. p.]

²⁴ See tables of facsimiles, *APS* V (2nd edition), p. xlv; *APS* VI Pt 1 (2nd edition), p. xlvii.

presented in specialist fonts or ‘record type’.²⁵ These typefaces were able, to an extent, to emulate the script of original sources holistically rather than through the fragmented glimpses that a sprinkling of facsimiles provided. The relatively low cost of this approach was particularly important given the fluctuating financial circumstances in which most of the publishing clubs operated.²⁶ Volumes edited by Innes which used these archaic typefaces included the *Melrose Liber*, the *Dunfermline Registrum*, the *Glasgow Registrum*, the *North Berwick Carte* and the *Arbroath Liber*.²⁷ Indeed, in the *North Berwick Carte* he stated that its contents ‘are here printed, as nearly as types will allow, in facsimile of the originals’.²⁸ The *Familie of Rose*, meanwhile, was presented in a standard font but the first letter of each section was illustrated in a manner reminiscent of manuscript illuminations. Moreover, each section ended with ornamental patterns reminiscent of seals.²⁹ The *Taymouth Book*, meanwhile, was printed in an ornate typeface and divided up with red rubrics.³⁰ The aim here was to use both script and colour to emulate Bowie’s original manuscript. Even the *APS* was printed in record type, which the editors of the *RPS* state was intended to ‘reproduce all the scribal abbreviations found in the original manuscripts’.³¹

A third means of appropriating authenticity for record editions was by including illustrations of seals. Many of Innes’s editions took this approach, including the *Kelso Liber*, the *Arbroath Liber*, the *Inchaffray Liber*, the *Scone Liber*, the *Moray Registrum*, the *Caithness Records* and the *Cawdor Book*.³² The *Holyrood Liber* contained thirteen seals on five plates, while the

²⁵ G. H. MacIntosh, A. J. Mann & R. J. Tanner, ‘Editorial Introduction’, *RPS*, accessed 3 March 2010.

²⁶ Ash, *Strange Death*, pp.70-1; Ross, ‘Bannatyne Club’, pp.206-7.

²⁷ *Melrose Liber* I, p. 4; *Dunfermline Registrum*, p. 4; *Glasgow Registrum* I, p. 4; *North Berwick Carte*, p. 4; *Arbroath Liber* I, p. 4; see Appendix 2, Image 27.

²⁸ *North Berwick Carte*, p. xx.

²⁹ For example *Family of Rose*, pp. 25, 31, 43, 46.

³⁰ For example *Taymouth Book*, pp. 9-10; Appendix 2, Image 28.

³¹ MacIntosh *et al*, ‘Introduction’, *RPS*.

³² *Kelso Liber* I, at end of volume [n. p.], listed in ‘Table of the Plates’, p. ii; *Arbroath Liber* II, p. xxxi, discussed on p. xxx; *Inchaffray Liber*, after title-page [n. p.], discussed on

Glasgow Registrum featured thirty-four seals on six plates.³³ The *Melrose Liber*, meanwhile, included no less than ninety-seven seals across fifteen different plates.³⁴ The reproduction of these seals played a dual role. They were, like manuscripts, historical artefacts and were therefore subject to antiquarian interest. Yet their original function had been the authentication of writs, charters and letters, and their inclusion in these editions emulated that. They conferred validity on the new compilation just as they had done for the documents to which they had originally been affixed. The fact that they were frequently placed at the beginning or end of volumes heightened that impression. Innes even included some facsimiles of charters with the seals still attached. These reproductions, found in the *North Berwick Carte* and the *Melrose Liber*, showed the charters as they had initially existed and combined the authenticity of facsimiles and seals in one.³⁵ Innes's printed version of *Halyburton's Ledger* took this further by reproducing the superscription at the start of the manuscript, the bookbinder's stamps, the watermark and blotting leaf, a bookmark owned by the Bishop of St Andrews (one of Halyburton's clients), and the signatures of the Lords of the Exchequer.³⁶ Similarly, the *Morton Registrum* gave reproductions of signatures underneath many of the letters that it contained.³⁷ In all of these instances, the effect was to strengthen the connection between manuscript and edition.

These are only a sample of the reproductions found in Innes's editions. Moreover, he was not alone in his use of facsimiles. Thomson, for instance, used facsimiles in some of the volumes

pp. xix-xx; *Scone Liber*, after title-page [n. p.], discussed on p. xx; *Moray Registrum*, end of volume [n. p.], listed in 'List of the Plates', [n. p.]; *Caithness Records*, before title-page [n. p.], discussed on p. 16; *Cawdor Book*, pp. 13, 15, 92, 94, 124, listed in 'Illustrations', p. vii.

³³ *Holyrood Liber*, after p. 333, discussed on pp. lxxx-lxxxii; *Glasgow Registrum* II, after p. xxxiv, listed in 'The Plates', pp. xxxiii-xxxiv; see Appendix 2, Image 24.

³⁴ *Melrose Liber* II, after 'Index Locorum', pp. xxxv, listed in 'List of the Plates', pp. i-xiii.

³⁵ *North Berwick Carte*, after pp. 8, 10, 11, 12, listed in 'List of Plates' [n. p.]; *Melrose Liber* I, pp. 13, 76, listed in 'List of the Plates', pp. xiii-xiv; see Appendix 2, Image 26.

³⁶ *Halyburton's Ledger*, pp. xvii, xix, lvi, cxvi, 287, listed on pp. xiii-xiv.

³⁷ For example *Morton Registrum* I, pp. 5, 7, 10, 11, 13; see Appendix 2, Image 25.

of the *APS*, particularly Volume Two.³⁸ He also included a large number of them in his *St Andrews Liber*.³⁹ Others, including Stuart and Fullarton, also included facsimile extracts from the sources on which their editions were based.⁴⁰ Moreover, Laing reproduced some particularly colourful illuminations in his *Midlothian Charters* whilst Stuart included facsimiles of charters with seals attached in his *Kinloss Records*.⁴¹ Some, such as Laing and Mure, also included illustrations of seals and reproductions of signatures.⁴² Fraser's editions, meanwhile, featured numerous manuscript facsimiles, representations of seals and

³⁸ See the tables of engravings in *APS* II, pp. xvii-xviii, *APS* III, [n. p.].

³⁹ *Liber Cartarum Prioratus Sancti Andree in Scotia; e Registro Ipso in Archivis Baronum de Panmure Hodie Asservato* [Bannatyne Club 69], ed. T. Thomson (Edinburgh, 1841), p. xvi, after p. xvi, p. xxii, after p. xxii, after p. xlv.

⁴⁰ *Records of the Priory of the Isle of May* [SAS], ed. J. Stuart (Edinburgh, 1860), before title-page, listed in 'List of Plates', [n. p.]; *Registrum de Panmure; Records of the Families of Maule, de Valonis, Brechin, and Brechin-Barclay, United in the Line of the Barons and Earls of Panmure, compiled by the Hon. Harry Maule of Kelly, A.D. 1733 I*, ed. J. Stuart, (Edinburgh, 1874), after pp. 80, 84, 132, 158, 230, 318, 351, listed in 'List of Illustrations', [n. p.]; *Records of the Burgh of Prestwick in the Sheriffdom of Ayr, 1470-1782, with an Appendix and Illustrative Notes* [Maitland Club 28], ed. J. Fullarton (Glasgow, 1834), after pp. xxvii, 14, discussed on p. xxv.

⁴¹ *Registrum Domus de Soltre Necnon Ecclesie Collegiate S. Trinitatis Propre Edinburgh, etc.; Charters of the Hospital of Soltre, of Trinity College, Edinburgh, and Other Collegiate Churches in Mid-Lothian* [Bannatyne Club 109], ed. D. Laing (Edinburgh, 1861), after pp. xxviii, xxxviii, listed in 'List of Plates', [n. p.]; *Records of the Monastery of Kinloss: with Illustrative Documents* [SAS], ed. J. Stuart (Edinburgh, 1872), after p. lxiv.

⁴² Laing, *Midlothian Charters*, after p. xxviii, listed in 'List of Plates', [n. p.]; *Selections from the Family Papers Preserved at Caldwell* [Maitland Club 73], ed. W. Mure, 2 vols. (Edinburgh, 1854), I, pp. 49, 60, 78-84, 94, 136, listed in 'Notices of the Plates and Autographs', [n. p.].

reproductions of signatures.⁴³ Indeed, the reproductions in his works far outweighed those found in any of Innes's volumes. This was partly because creating them had become cheaper by the later part of the century, and partly because Fraser's sponsors were willing to pay considerable amounts to make their tomes as sumptuous as possible.⁴⁴ The facsimiles in Innes's editions can therefore be used as a case study on a much more widespread phenomenon. Nevertheless, it was Innes who took this practice further through the *NMS*.

The *NMS* Project

The *NMS* was in many ways similar to Innes's earlier editions. It dealt with Scottish history between the eleventh and eighteenth centuries, was compiled from numerous sources to create a new whole, and contained preparatory remarks in which those sources were placed in an interpretational context. The fact that each item was presented as a photozincographed facsimile was what differentiated it from all that had gone before. This process opened up a new avenue for the presentation of source material, but the criteria on which Innes selected material for inclusion did not substantially change.

Initially, however, it was Joseph Robertson who superintended the project and Volume One comprised documents chosen by him rather than Innes.⁴⁵ It was also Robertson who provided the initial motivation for the publication whilst working at the Register House.⁴⁶ However, Innes and Robertson had previously collaborated on the *OPS*, Innes had taken over the

⁴³ See the extensive lists of illustrations in *The Stirlings of Keir and their Family Papers*, ed. W. Fraser (Edinburgh, 1858), pp. vi-vii; *Memorials of the Montgomeries, Earls of Eglinton*, ed. W. Fraser, 2 vols. (Edinburgh, 1859), I, pp. iii-iv; *Memoirs of the Maxwells of Pollock*, ed. W. Fraser, 2 vols. (Edinburgh, 1863), I, 'Illustrations', [n. p.]; *History of the Carnegies, Earls of Southesk, and of their Kindred*, ed. W. Fraser, 2 vols. (Edinburgh, 1867), I, p., iv.

⁴⁴ J. Scully, 'Illustration', in *The Edinburgh History of the Book in Scotland: III, Ambition and Industry 1800-1880*, ed. B. Bell (Edinburgh, 2007), pp. 59-63.

⁴⁵ *NMS* I, pp. iii, v, vii.

⁴⁶ T. Clarke, 'Robertson, Joseph (1810-1866)', *ODNB* 47, pp. 355-6

Glasgow University Muniments from Robertson, and Robertson had inherited *Concilia Scotiae* from Innes.⁴⁷ It was therefore on the basis of intimate knowledge that Innes placed Robertson on a lofty pedestal of scholarly excellence.⁴⁸ Indeed, his review of the *Concilia Scotiae*, published after Robertson's death, was tantamount to a eulogy.⁴⁹ This praise derived partly from the views and backgrounds that both men shared. Both were Episcopalians and record scholars, and both took an interest in the Pre-Reformation church that was unusual in the period.⁵⁰ Given these similarities, it is likely that Innes would have made comparable editorial choices to Robertson even had he selected the documents for Volume One of the *NMS*. In any case, Innes oversaw the completion of the volume following Robertson's death, selected items for the other two volumes, and wrote all three introductory tracts.

Nevertheless, much of the material in the *NMS* was thematically dissimilar from the topics that Innes normally focused on. Many items related to political events such as royal marriages, royal successions, international treaties, the Civil War, the Gowrie Conspiracy and the 1689 Revolution.⁵¹ These were very different from Innes's usual preoccupations with legal, local and social history. In addition, much of Volume Three related to Queen Mary.⁵² She had been a powerful focus of historical interest since the eighteenth century, despite the decline of Jacobitism and the fact she was seen by many as having been on the wrong side of the

⁴⁷ *OPS* 1, p. xli; *Glasgow University Muniments* IV, p. xlv; Robertson, *Concilia Scotiae* I, p. xiv; J. N. Miner, 'Joseph Robertson and the Scottish middle ages', *Innes Review* 32 (1981), p. 43.

⁴⁸ *SLA*, p. 13; *Halyburton's Ledger*, p. cix; C. Innes, *Memoir of Thomas Thomson, Advocate* [Bannatyne Club 99] (Edinburgh, 1854), pp. 244-5.

⁴⁹ Anon. [WIVP attr. C. Innes & G. Grub], 'Concilia Scotiae', *NBR* 47:93 (1867), pp. 63-93.

⁵⁰ Miner, 'Robertson', pp. 45-8

⁵¹ *NMS* I, no. LI, p. 28; *NMS* II, nos. XLIIIa-XLIV, pp. 35-9; XLIX, p. 42; *NMS* III, nos. LXXVI, IC, C, CVII, [n. p.].

⁵² *NMS* III, nos. XXX, XXXII, XXXIII, XXXIV, XXXVI, XXXVIII, XXXIX, XL XLVIII, L, LI, LIII, LV, LVII, LVIII, LIX, LXV, [n. p.]; the large number of letters written by Mary and reproduced in the *NMS* are discussed below.

Reformation.⁵³ Her popularity as a historical icon continued through the nineteenth century and was boosted through associations with Queen Victoria, and by her perceived embodiment of the romantic heroine; she was noble and admirable, yet flawed and tragic.⁵⁴ Innes acknowledged this when discussing an inventory of Mary's jewels which was written in expectation of confinement, commenting that it was impossible to avoid 'a feeling of deepest sympathy for the unhappy queen'.⁵⁵ Yet political narratives and romantic figures were peripheral to Innes's other antiquarian work. Even his version of Barbour's *Brus* focused more on the poem's literary and philological qualities than on Robert I himself.⁵⁶ Innes also included material relating to Knox, the Reformation, and the Covenanters. These were again topics that he did not normally engage with, and he discussed them with a kind of careful neutrality that was at odds with the views discussed in Chapter Six.⁵⁷ Innes was clearly aware of the need to cater to a broader audience with the *NMS* than was usually the case for his editions, and also of the need to educate that audience in the history of own country. To achieve this goal, the *NMS* focused on high-profile events, foregrounded recognisable figures, and did not cast aspersions on the mainstream religion.

Yet Innes managed to combine this approach with themes that were more common in his work, and presented them within the familiar framework of historical progress. This

⁵³ Kidd, *Subverting*, pp. 95-6

⁵⁴ S. I. Ferris, 'Melancholy memory and the "narrative situation" of history in post-Enlightenment Scotland', in Davis *et al*, *Borders of Romanticism*, p. 87; S. Gilmartin, *Ancestry and Narrative in Nineteenth-Century British Literature: Blood Relations from Edgeworth to Hardy* (Cambridge, 1998), pp. 57-60; K. H. Grenier, *Tourism and Identity in Scotland, 1770-1914; Creating Caledonia* (Aldershot, 2005), pp. 63, 140-1.

⁵⁵ *NMS* III, no. L, [n. p.], discussed on p. xi.

⁵⁶ Barbour, *Brus*, pp. xiv-xxv.

⁵⁷ *NMS* II, nos. LX-LXII, pp. 47-8, discussed on pp. x-xii; *NMS* III, nos. XX, XXI, XXV, XCVII, XCV, CII, [n. p.], discussed on pp. viii-ix, xv-xvi; he took a similar stance in the preface to his revised Volume Five of the *APS*, in which he highlighted the information contained within about the establishment of the National Covenant, *APS* V (2nd edition), pp. ii-iii.

assumption of progress was accentuated by the edition's chronological structure, which helped the documents themselves to imply a narrative of improvement up to the Union. Robertson had begun the project to 'illustrat[e] the progress of society'.⁵⁸ This was in line with Innes's outlook, and he began the introduction to each volume by outlining how it showed advancement in legal, constitutional, burghal, religious, educational, and literary terms.⁵⁹ Each theme was then represented by certain documents and highlighted by Innes's item-by-item discussions in the volume introductions. For example, the progress of law and justice was illustrated through by charters containing information on trials and property rights, an extract from the *Berne Manuscript*, the Extent of Kilravock and the statutes of the Court of Session.⁶⁰ Volume One also featured several charters meant to illustrate not only the existence of serfdom but also its early abolition in Scotland.⁶¹ Constitutional development, meanwhile, was represented through a contract between Robert I and the community of the realm, and by various acts of Parliament intended to demonstrate the institution's growing authority as a check to monarchical power.⁶² This was of particular significance given the tarnished reputation of Scotland's parliament as a champion of constitutional liberty. Burgh records could also be used to illustrate a growing spirit of liberty through their role as what Innes called the 'third estate'.⁶³ The Whiggish narrative that Innes created with these documents was of a growing balance between the monarch and his subjects. This was further supported with several documents showing how the Estates had defied James VII and forced a religious and constitutional settlement from William of Orange.⁶⁴

⁵⁸ *NMS* I, p. vii.

⁵⁹ *NMS* I, pp. vii; *NMS* II, p. iii; *NMS* III, pp. v.

⁶⁰ *NMS* I, nos. XXXVI, p. 19; XLV, p. 23, LXVI, p. 34, LXXVII, p. 42, discussed on pp. x-xii, xiv; *NMS* III, no. XX, [n. p.], discussed on pp. viii-ix.

⁶¹ *NMS* I, nos. XXX, XXXI, p. 16; LIV, p. 29; LVII, LVIII, LIX, p. 31, discussed on pp. x-xiii.

⁶² *NMS* II, nos. XXVII, p. 22, XLII, p. 33; L, p. 42; LXV, p. 52, discussed on pp. ix, xi-xiii.

⁶³ *NMS* I, nos. XXXV, p. 19; XL, XLI, p. 21; XLIII, p. 22, discussed on pp. x-xi; *NMS* II, items XLVII, p. 41; LV-LVI, pp. 42-3; LXVII, p. 53; *NMS* III, nos. III, LXXXVI, LXXXVII, [n. p.], discussed on pp. vi, xiv-xv.

⁶⁴ *NMS* III, nos. CIII, CV, CVI, [n. p.], discussed on p. xvi.

As previous chapters have argued, Innes was as interested in social and economic progress as legal and constitutional advancement. Since he saw the pre-Reformation Church as the driver of those changes, the *NMS* contained numerous grants by which religious institutions were founded and endowed.⁶⁵ With reference to David I, Innes even referred to these endowments as ‘one manner of the civilisation of his reign’.⁶⁶ He also believed that this civilising process was supported by an imported southern feudal aristocracy. That belief was highlighted in the *NMS* through various grants issued both to and by some of Scotland’s leading aristocratic families.⁶⁷ The antiquity of Scotland’s universities was also celebrated through the inclusion of foundation bulls and early constitutions that were the subject of particularly detailed discussions in the introductions.⁶⁸ Most notably, Innes used these to emphasise Scotland’s educational independence from England and links with continental universities, thus implicitly commenting on the university debates of the period. Another element in Innes’s story of social progress was the development of Scots literature. This was exemplified by extracts from Andrew Wyntoun’s *Original Chronicle*; several works attributed to Barbour, Gavin Douglas’s translation of Virgil’s *Aeneid*, Bellenden’s translation of Boece’s *Chronicle*, and Richard Maitland’s sixteenth-century poetry.⁶⁹ This in turn supported the praise for early Scots literature found in *SMA* and in his edition of Barbour’s *Brus*.⁷⁰

⁶⁵ *NMS* I, nos. XVI, p. 14; XVII, XVIII, p. 15; XXXII, p. 17; XXXVIII, p. 20; XLVIII, p. 26; LII, p. 28, discussed on pp. ix-xi; *NMS* II, nos. XXV, pp. 18-19; XXIX, p. 23; XLI, p. 32; XLVIII, p. 41, discussed on pp. ix-xii.

⁶⁶ *NMS* I, p. ix

⁶⁷ *NMS* I, nos. XIX, XX, p. 12; XXXIII, p. 18, XXXIX, p. 20; L, p. 28, discussed on pp. ix-x, xii, *NMS* II, nos. XVIII, pp. 12-13; XXVIII, p. 23; XXXIII, p. 28; XXXVIII, p. 30; XL, p. 31, discussed on pp. viii-xi.

⁶⁸ *NMS* II, nos. LXIII-LXIV, pp. 49-51, discussed on p. xv; *NMS* III, nos. V, VI, VIII, LXXI, [n. p.], discussed on pp. vii-viii; xiii.

⁶⁹ *NMS* II, nos. LXXIII-LXXV, pp. 58-60, LXXXII, p. 66, discussed on pp. xvi-xviii; *NMS* III, nos. XIV, XXII, XXVI, LXXII, [n. p.], discussed on pp. viii-ix, xiii.

⁷⁰ *SMA*, pp. 251-75; Barbour, *Brus*, pp. xx-xxv.

The *NMS* highlighted many themes that had dominated Innes's antiquarian career, despite the need to cater to a more general audience. However, the examples discussed so far show selection on the basis of what the sources said. The same points could have been made by simply printing them as texts. Yet many items within the *NMS* were chosen specifically for their artifactual value and visual impact, and thus built on the selection of colourful facsimiles in some of Innes's earlier editions. One example of this was an 1159 charter to Kelso Abbey, featuring portraits of Malcolm IV and his grandfather David I in the illuminated letter 'm' which began the document. This was included in Volume One and also reproduced in colour on the title pages of all three volumes.⁷¹ Moreover, it had already appeared in Innes's *Kelso Liber*, once in its entirety and once as a close-up of the illumination.⁷² This visual emphasis also merited the inclusion of several illustrations from a version of Bower's *Scotichronicon*.⁷³ In the same vein, Innes selected a number of medieval maps and, in the introduction to Volume Two, wrote, 'I do not know that there are any materials so useful for illustrating history as contemporary maps'.⁷⁴ The *NMS* provided an opportunity to share those maps in a way that would have been impossible in a purely printed edition. They were also a reflection of Innes's interest in topography, discussed in Chapter Three and articulated by the maps and supporting discussions in *SMA* and the *OPS*.⁷⁵ Tellingly, the maps in the *NMS* merited more exposition than most other items, much of it focusing on the minutiae of place names and topographical features. Maps could provide a visual sense of location and a geographical setting in which history played out. Mountains, rivers and towns were relatively fixed points in

⁷¹ *NMS* I, nos. XXII, p. 13, discussed on p. x; Appendix 2, Image 29.

⁷² *Kelso Liber* I, before title-page, before p. 1, listed in 'List of the Plates', p. i.

⁷³ *NMS* II, nos. LXXXI, p. 67; LXXXIV, p. 68; LXXXV, LXXXVI, p. 69, discussed on p. xviii; Appendix 2, Image 30.

⁷⁴ *NMS* II, nos. V, p. 5, LXVIII, p. 54; LXIX, p. 55; LXX, p. 56, discussed on pp. vi-vii, xv-xvi; *NMS* III, nos. II, XXXVII, [n. p.] discussed on pp. v-vi, x; quote from *NMS* II, pp. vi-vii.

⁷⁵ *SMA* pp. xi-xxxiv; *OPS* 1, 2.1, *OPS* 2.2, at the end of each volume; see also R. Sweet, *Antiquaries: the Discovery of the Past in Eighteenth-century Britain* (London, 2004), p. xi; P. Levine, *The Amateur and the Professional: Antiquarians, Historians and Archaeologists in Victorian England, 1838-1886* (Cambridge, 1986), pp. 11-2.

both past and present and highlighting their existence in the past stressed continuity with the present.

As with other editions, the script in which a document was written could justify its inclusion, especially since one of the *NMS*'s goals was to facilitate the study of palaeography.⁷⁶ To that end, Innes drew particular attention to the hand-writing in gospel books, charters, confirmations and papal bulls.⁷⁷ Indeed, his desire to impose a sense of historical progress on writing and language was evident in the correspondence relating to the project.⁷⁸ The idea of facsimiles representing a larger manuscript or group of items was also carried over from earlier editions. The *NMS* consequently featured extracts from chamberlain rolls, account rolls, parliamentary records, treasurer's accounts and royal household books.⁷⁹ Furthermore, many of the facsimiles were enhanced, or 'doffed' as those carrying out the procedure called it.⁸⁰ That meant that the imperfections of the originals were minimised and sanitised versions were printed. This process made them easier to read and to engage with on a visual level, and thus made difficult and obscure material potentially more accessible to the reader.

Documents were included in the *NMS* for many different reasons, but the facsimiles helped to confer some of the historical authenticity of the originals onto the published edition. The sheer weight of reproductions therefore made the *NMS* more 'authentic' than any previous Scottish source edition. A focus on signatures enhanced this effect and the edition contained numerous

⁷⁶ *NMS* I, p. v.

⁷⁷ *NMS* I, nos. I, pp. 2-3, XVI, p. 10, XVII, p. 11, XLVII, p. 25, LVI, p. 30, discussed on pp. vii-viii, xi; *NMS* II, nos. II, p. 3, XXV, p. 18-9, XLI, p. 32, discussed on pp. vi, xi.

⁷⁸ *Letters to Lord Clerk Register, Cosmo Innes and Joseph Robertson*, (1865-1873), NAS, SRO10/106, nos. 47-48.

⁷⁹ *NMS* II, nos. XXXI, p. 26; XXXII, p. 27; XXXVI, p. 29; XLII, p. 33, XLIII, p. 34, LXXVII, p. 62, discussed on p. x-xii, xvii; *NMS* III, nos. VII, X, XIII, XVII, XVIII, XXIII, LIII, LIII, [n. p.], discussed on p. vii-viii, xii.

⁸⁰ *LCR, Innes and Robertson Letters*, nos. 34, 35, 38, 39, 40, 41, 45, 50, 53, 53, 55, 57, 58.

letters from James IV, Mary and James VI that were described as ‘autographed’.⁸¹ Many other signed letters, written by the likes of Mary de Guise, Catherine de Medici, Henry (Lord Darnley) and George Buchanan, were also included.⁸² Three other letters were included partly because they had been written by James I, II and III respectively.⁸³ In the introduction to Volume Three, Innes noted the significance of letters written in the ‘own hand’ of such high-profile individuals.⁸⁴ This enhanced the document’s value to the reader and enabled him or her to make a connection to the past through a famous historical figure. Ferris makes a similar argument in relation to the ‘informal histories’ that the publishing clubs printed. She asserts that their allure derived in part from the fact that they were written by famous protagonists in the events that they described, and that this helped the reader to traverse the conceptual distance between past and present.⁸⁵ The same was true of the letters in the *NMS*, and indeed to an extent of every document represented in facsimile form therein.

Collectability, Authenticity, Accessibility

In 1858 Innes exhibited several thirteenth-century manuscript illuminations to the SAS.⁸⁶ This shows how manuscripts could be perceived in dualistic terms. On one hand they were textual transmitters whose contents could be reproduced in print; on the other they were objects of historical and sometimes aesthetic value in their own right. This plurality of perception came from the connection that antiquaries felt for the physical remnants of the past, as highlighted in

⁸¹ *NMS* III, nos. IX, XVI, XXXV, XXXIX, LVII, LVIII, LXV, LXXIII, LXXIV, LXXVIII-LXXX, [n. p.], discussed on pp. xiii-xiv; see also the table of contents, pp. xvii-xx.

⁸² *NMS* III, items XV, XXII, XXVIII, XXX, XXXI, XXXII, XXXIII, XXXIV, XXXVI, XXXVIII, XLIII, LXVI, LXXVII, LXXXVIII, LXXXIX, XC, XCI, XCII, XCIII, XCIV, [n. p.], discussed on pp. xiii-xv.

⁸³ *NMS* II, items LXII, p. 48, LXXI, p. 57, LXXIX, p. 63, discussed on pp. xiv, xvi-xvii.

⁸⁴ *NMS* III, p. viii.

⁸⁵ I. Ferris, ‘Printing the past: Walter Scott’s Bannatyne Club and the antiquarian document’, *Romanticism* 11 (2005), pp. 150-1.

⁸⁶ *PSAS* 3 (1861), p. 341.

Chapter Three. Indeed, the antiquarian mania for collecting also encompassed manuscripts.⁸⁷ This meant that men like Innes valued them both as ancient texts and objects of intrinsic historical worth. It was this outlook that prompted the proliferation of manuscript facsimiles in Innes's record editions and ultimately the inception of the *NMS* itself. This link with traditional antiquarianism was illustrated by the fact that Innes presented a paper to the SAS on his selection of documents for inclusion in the *NMS*.⁸⁸ Of course, facsimiles were not a nineteenth-century innovation. In 1739 James Anderson's *Diplomata Scotiae* had included engravings of manuscript folios, seals and coins. However, this was the exception rather than norm because of the expense involved; it was not until the 1800s that facsimile processes became significantly cheaper.⁸⁹ By exploiting these advances, Innes was able to present not just the textual contents of his sources, but could also communicate an impression of their physical existence and visual impact.

This practice also helped to transfer a sense of artifactual physicality from manuscripts to editions. As a result, the volumes themselves became the focus of the antiquarian penchant for collection. Ash makes an explicit connection between the bibliomania of the earlier 1800s and the foundation of the Bannatyne Club.⁹⁰ Furthermore, Innes justified the publication of *SESH*, built from prefaces to his source editions, by noting the disparity between the number of Bannatyne, Maitland and Spalding club members who received copies of his editions, and those who actually read them.

Of the members who receive the Club works, perhaps a dozen of each of the first two - it may be twenty of the last - turn over the books, cut a few leaves (though that is rather avoided), and then the large quartos sleep undisturbed on the library shelf. Occasionally a local newspaper, of more than usual intelligence, has dug something

⁸⁷ Levine, *Amateur*, pp. 14-15; Sweet, *Antiquaries*, pp. 9, 15, 140, 278.

⁸⁸ C. Innes, 'Notes of some MSS. in English Libraries' *PSAS* 7 (1868), pp. 362-71.

⁸⁹ Scully, 'Illustration', pp. 59-63; A. Du Toit, 'Anderson, James (1662-1728)', *ODNB* 2, pp. 37-9.

⁹⁰ Ash, *Strange Death*, p. 60; see also H. R. Steeves, *Learned Societies and English Literary Scholarship* (New York, 1913), pp. 98-100.

out of those square repulsive volumes; but I may say confidently, that to the world at large, to the reading public, even to the class who read history, the present volume is entirely new matter.⁹¹

These volumes evidently had a value that was not simply textual since, as Innes notes, few of their owners read them. Indeed, when actually handling them the reader is impressed by their size, weight and the obvious expense of their original bindings. They were, in fact, far from the ‘repulsive volumes’ that Innes, perhaps sardonically, characterised them as. A comment made by Cockburn illustrated this point. He admitted that ‘very few of us can read our books, and still fewer can understand them: yet type, morocco and corporation spirit make us print on’.⁹² This shows that, whilst these volumes were partly the result of patriotism and public spirit, they were also products of the bibliophile’s interest in books as objects.⁹³ Indeed, they were tangible symbols of cultural capital. Parallels therefore existed between the urge to collect artefacts and manuscripts on one hand, and record editions on the other. The point was not necessarily to read these volumes, but merely to own them and through them own a tangible link with the past. Thus, the *literati* valued record editions in the same dualistic way as antiquaries valued the sources on which those editions were based. The creation of a sense of authenticity was vital to this process and, as previous chapters have argued, one of Innes’s main aims was to transfer the authenticity of his sources to his published renderings. This was achieved through a combination of active editing and learned exposition, supported by the inclusion of facsimiles. Moreover, there was a sense amongst historical editors that there job

⁹¹ *SESH*, pp. ix-x, Innes under-estimated the Spalding Club membership, see Appendix 4.

⁹² H. Cockburn, *Journal of Henry Cockburn: Being a Continuation of the Memorials of his time, 1831-1854 I* (Edinburgh, 1874), p. 39, cited in P. R. Murray, ‘Antiquarianism’, in Bell, *History of the Book III*, pp. 280-1, and M. Ash, ‘Scott and historical publishing; the Bannatyne and Maitland Clubs’, *Scots Antiquaries and Historians; Papers Read at the Silver Jubilee Conference of the Abertay Historical Society on 15 April 1972*, ed. A. A. M. Duncan (Dundee, 1972), p. 32. For a discussion of the likely readership of Innes’s editions see Appendix 4.

⁹³ As argued in Ferris, ‘Printing the past’, p. 143.

was to ‘exhibit’ the text’.⁹⁴ The inclusion of facsimiles offered a means by which to achieve that whilst heightening the authenticity and historical worth of the printed versions.

The use of facsimile and to a lesser extent specialist typefaces meant that manuscripts need no longer be individual artefacts existing only in one place. Instead they could be effectively reproduced. Indeed, some editors even saw printed texts in those terms. In his *Memorials of the Montgomeries*, Fraser referred to the printing of family records as ‘the most effectual means of preserving the evidence contained in their repositories’.⁹⁵ In the *Stirlings of Keir* he stated that the purpose of the volume was ‘to secure the preservation of the Documents and other Memorials which it contains’.⁹⁶ He then asserted that both the records’ owners and the wider public ‘profit by securing them, through the instrumentality of the press, from destruction by accident or the depredations of time’.⁹⁷ Innes never went quite so far, but his use of typefaces and facsimiles implied a similar outlook. The *NMS* was therefore a huge step forward because it used photo-zincography, which provided sharper results than existing facsimile methods and allowed the creation of multiple images from a single negative.⁹⁸ The result was an edition in which every source could be given in facsimile and therefore valued on a par with the originals. Indeed, Gibson-Craig asserted that one of the aims of the *NMS* project was the preservation of documents that would decay over time.⁹⁹ The dual role of facsimiles in the *NMS* was further articulated by Robertson in an 1865 report on the project. He laid out his intention to select documents that were ‘remarkable for their antiquity, for the language in which they are expressed, for the character of their writing’. Yet he also stated that he would include items ‘for the seals of signatures by which they are authenticated, for their connection with the distinguished persons, families and places, or for the illustrations which

⁹⁴ *ibid.*, p. 155.

⁹⁵ Fraser, *Eglinton I*, p. xxviii.

⁹⁶ Fraser, *Keir*, p. iii.

⁹⁷ *ibid.*, p. xvi.

⁹⁸ J. Hannavy, *Encyclopaedia of Nineteenth-Century Photography*, 2 vols. (London, 2008), I, pp. 767-8, 1119, 1485-6.

⁹⁹ *NMS I*, p. v.

they afforded of manners and customs'.¹⁰⁰ As the selections that Innes made for other two volumes show, his own criteria were very much in accord with Robertson's.

Furthermore, an interpretation of manuscripts as artefacts representing 'fragments' of the past, as one historian calls them, was central to the *NMS*.¹⁰¹ This was illustrated particularly by the inclusion of facsimiles purely on the basis of who had owned the original manuscript. A folio of the *Scotichronicon* was featured simply because it had belonged to Hector Boece.¹⁰² Two pages of Bishop Elphinstone *History of Scotland* were selected because the manuscript had been owned by Sir Thomas Fairfax and William Drummond.¹⁰³ These manuscripts, which had been handled as well as written by notable historical figures, provided a connection to the past that many of the more anonymous sources that Innes worked with elsewhere could not.

Another novel characteristic of the *NMS* was that it was deliberately national in scope. In this respect it bore comparison to the *APS*, but its thematic remit was far broader. By bringing together extracts from a huge spectrum of sources, a documentary collage was created that represented the entirety of Scottish history. Moreover, both Innes and Gibson-Craig saw it as a successor to Anderson's *Diplomata*, which had used record scholarship to advocate Scottish national freedom.¹⁰⁴ Many items therefore related to Scotland's success in maintaining her independence from England.¹⁰⁵ Innes even called the Declaration of Arbroath (1320) 'the noblest burst of patriotic feeling, the finest declaration of independence that real history has to

¹⁰⁰ *NMS* I, p. v.

¹⁰¹ S. A. Crane, 'Story, History and the Passionate Collector', in *Producing the Past; Aspects of Antiquarian Culture and Practice 1700-1850*, ed. L. Peltz & M. Myrone (Aldershot, 1999), pp. 187-90.

¹⁰² *NMS* II, no. LXXXI, p. 65, discussed on p. xvii.

¹⁰³ *NMS* II, no. LXXX, p. 64, discussed on p. xvii.

¹⁰⁴ Innes & Grub, 'Concilia Scotiae', p. 68; *NMS* I, p. v.

¹⁰⁵ *NMS* I, nos. VII, p. 6, XLVII, p. 25, LXX, p. 36, LXXI, p. 37, LXXV, p. 42; LXXVIII, p. 43, discussed on pp. viii, xi, xiii-xiv; *NMS* II, nos. VI-IX, pp. 6-8; XII-XIV, pp. 10-11; XX, p. 15, XXIV, p. 17, XXVI, p. 20, discussed on pp vii-ix.

show'.¹⁰⁶ Furthermore, the edition was divided regnally and well over half of its contents were issued by or related to Scotland's kings and queens.¹⁰⁷ This was a reflection of its broad political concerns, yet this monarchical emphasis was a powerful reminder of Scotland's ancient independence. However, the work ended with the Act of Union, despite the fact that Scotland's religious, educational, legal and literary distinctiveness carried on beyond this constitutional unification. Innes described the Act as 'that successful Treaty which, to their mutual advantage, bound together the kingdoms of England and Scotland into one nation'.¹⁰⁸ The *NMS* was therefore another example of the patriotism-within-union that the *APS* articulated. For Innes, Scottishness was not incommensurable with Britishness. Scotland's current successes rested on both past independence and present Union.¹⁰⁹

Given this national agenda, it is significant that the edition comprised not only public records but also material from private archives. Volume One contained nineteen items from the Register House but thirteen from the cathedral chapter of Durham. It also featured documents from the archives of Edinburgh and Ayr, Cambridge University, the Spalding Club and the Duchy of Lancaster.¹¹⁰ Volumes Two and Three were even more diverse, featuring material from the Register House, the British Museum, the Public Record Office in London, the Advocates Library, the universities of Oxford, Cambridge, Edinburgh and St Andrews, the cathedral chapters of Durham and Canterbury and the burgh of Aberdeen.¹¹¹ The three volumes also contained sources from, amongst others, the archives of the Dukes of Buccleuch, Roxburgh and Argyll, the Marquis of Ailsa, the Earls of Dalhousie, Home, Hopetoun, Moray and Morton and the charter rooms at Dundee and Kilravock Castles. The collection of these

¹⁰⁶ *NMS* II, p. viii.

¹⁰⁷ See *NMS* I, pp. xvi-xviii; *NMS* II, pp. xix-xxii; *NMS* III, pp. xvii-xx.

¹⁰⁸ *NMS* III, no. CVIII [n. p.], discussed on p. v.

¹⁰⁹ A. Ichijo, 'Civic or Ethnic? The Evolution of Britishness and Scottishness', in *History, Nationhood and the Question of Britain*, eds. H. Brocklehurst & R. Philips (Basingstoke, 2004), pp. 116-19; M. G. H. Pittock, *Scottish and Irish Romanticism* (Oxford, 2008), pp. 195-9.

¹¹⁰ *NMS* I, p. xviii.

¹¹¹ *NMS* II, p. xxii; *NMS* III, p. xx.

sources required considerable effort, as the Register House's correspondence shows.¹¹² The fact that Innes and Gibson-Craig persevered demonstrated the importance of including material from a range of archives. The *NMS* was a kind of exhibition, representing Scotland not only through manuscripts as texts and artefacts but also in terms of archival diversity. Indeed, this was part of the same notion of shared documentary heritage that inspired the Historical Manuscripts Commission, established in 1869 with a similar mission to cross the divide between public and private records.¹¹³

The *NMS* was intended to share manuscripts with a wider audience, but it was also designed to help that audience to read them. The process of 'doffing', discussed above, was one means of achieving this. This was a fundamental change from the bibliophile attitudes to club volumes, in which members like Cockburn prized them as artifactual exemplars of status rather than as historical texts. Manuscript sources were the purview of a tiny minority of experts but the *NMS* provided a key to accessing them. Not only was each source given in facsimile, but the Latin or Scots text was also printed in a clear typeface. In addition, an English translation was provided for documents in Latin.¹¹⁴ Those who were unable to read Latin could access the document through the translation, whilst those who could were able to practice their palaeographic skills by comparing the Latin to the facsimile. The inclusion of translations was a real innovation. Prior to this it was assumed that readers had some mastery of Latin; a reasonable assumption given the classical education most club members would have received at Scotland's universities. Nonetheless, signs of change were discernable as early as the 1830s. During the eighteenth-century the expositional prefaces to Latin source editions were often themselves written in Latin.¹¹⁵ This flagged such editions as the territory

¹¹² See *Historical Department Correspondence* (1868), NAS, SRO8/104; (1870), NAS, SRO8/112; (1871), NAS, SRO8/115; (1872), NAS, SRO8/119.

¹¹³ G. Donaldson, *Sir William Fraser; the Man and his Work* (Edinburgh, 1985), pp. 42-4.

¹¹⁴ For example *NMS* I, no. II, p. 4; *NMS* II, no. VII, p. 8; *NMS* III, no. VIII [n. p.].

¹¹⁵ See R. B. Sher, *The Enlightenment and the Book: Scottish Authors and Their Publishers in Eighteenth-Century Britain, Ireland, & America* (Chicago, 2006), p. 306; M. G. H. Pittock, 'Literature and Nationhood', in *A Companion to Literature from Milton to Blake*, ed. D. Womersley (Oxford, 2000), p. 121.

of the intelligentsia. Innes's 1831 version of Thomson's edition of the *Vitæ Dunkeldensis Ecclesiae Episcoporum* (1823) followed this convention.¹¹⁶ Yet in the *Paisley Registrum*, published the following year, Innes broke with tradition by writing the preface in English and stating that he could see no reason to 'cramp the free course of thought and give ambiguity to its expression, by using a dead language merely from deference to old editorial usage'.¹¹⁷ Similar sentiments probably informed his decision to print the near-contemporary Scots translation of Gordon's *Descriptio*, rather than the Latin original.¹¹⁸ The inclusion of translations in the *NMS* was therefore another step away from an attitude of possession and exclusion, and towards an ethos of public access to the past.

The *NMS* was symptomatic of a wider shift in collecting culture during the nineteenth century, which relocated it from the private to the public sphere.¹¹⁹ The result was a greater stress on exhibition and access, which was itself reflected in the mission of the publishing clubs and the proliferation of manuscript facsimiles in their volumes.¹²⁰ At the same time museums were becoming popular for the same reasons, and the *NMS* fulfilled many of the same functions.¹²¹ It exhibited artefacts (manuscripts) to the public, and Innes's detailed item-by-item introductions played the role of explanatory plaques. Innes's support for this movement towards access was explicit. In an address to the SAS he argued that artefacts should be cared for through collective responsibility and criticised the private ownership of objects on the grounds of insecurity and a lack of proper conservation.¹²² Fraser, meanwhile, took the idea of record edition as exhibition very literally indeed by framing the title-page of his

¹¹⁶ A. Myln, *Vitæ Dunkeldensis Ecclesiae Episcoporum* I [Bannatyne Club 1], ed. T. Thomson & C. Innes, 2nd edition, (Edinburgh, 1831, orig. 1823), pp. i-vii.

¹¹⁷ *Paisley Registrum*, p. xxiv.

¹¹⁸ Gordon, *Descriptio*, pp. vi-vii.

¹¹⁹ Crane, 'The passionate collector', pp. 187-95; Black, *On Exhibit*, pp. 16-17, 133.

¹²⁰ Ferris, 'Printing the past', pp. 145-7.

¹²¹ B. Black, *On Exhibit; Victorians and their Museums* (Virginia, 2000), pp. 24-9. . Levine puts forward a similar correlation between English county museums and county histories, both of which acted as 'symbols of shared access'; Levine, *Amateur*, p. 54.

¹²² Innes, 'Annual Address', *PSAS* 5 (1864), pp. 196-212

Cambuskenneth Registrum with an arched doorway.¹²³ The implication was that the reader could literally step inside the edition in the same way as a museum and, in so doing, gain access to the past. This analogy is important because museology's ethos of shared access was, as with public archives, frequently an expression of nationalism.¹²⁴ Whilst Scotland was not home to the popular nationalism appearing in many other European nations, its intellectual elite nevertheless maintained a strong sense of patriotism within the Union.¹²⁵ The *NMS*, like the *APS* decades earlier, was an articulation of this patriotism. Unlike the *APS*, however, it was designed to broaden access to the materials of the Scottish past.

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The *NMS* was an official representation of Scotland's historical records. It was, in Anne Laurence's words, 'understood as embodying values intrinsic to the character of the nation'.¹²⁶ This idea is reminiscent of Innes's insistence on the contribution of Scotland's history to the national character of his own day. The *NMS* was, like all of Innes's editions, designed to help the reader to forge a connection with a past that had shaped the present. The sources it contained were the bridge over which readers could travel and their representation in facsimile facilitated that journey by reproducing the immediacy of contact with tangible artefacts. That connection was based on an view of manuscripts as the physical products of past lives rather than just textual repositories. The aim, as Innes himself argued, was to illustrate past lives, not in the 'cold description of the historian and antiquary, but in a homely and living shape, bringing the student of history face to the face with the very materials of history'.¹²⁷

¹²³ *Registrum Monasterii S. Marie de Cambuskenneth, A.D. 1147-1535*; [Grampian Club 4], ed. W. Fraser (Edinburgh, 1872), title-page.

¹²⁴ L. Smith, *Uses of Heritage* (Abingdon, 2006), p. 18; A. Laurence, 'Heritage as a tool of government', in *Understanding the Politics of Heritage*, ed. R. Harrison (Manchester, 2010), pp. 81-4; Ash, *Strange Death*, pp. 48-9.

¹²⁵ C. Harvie, *Scotland and Nationalism; Scottish Society and Politics 1707-1977* (London, 1977), pp. 16-17, 122-3; G. Morton, *Unionist Nationalism; Governing Urban Scotland 1830-1860* (East Linton, 1999), pp. 189-200; Kidd, *Subverting*, p. 4,

¹²⁶ Laurence, 'Tool of government', p. 89.

¹²⁷ *NMS I*, p. xiv.

Chapter 10 – Images of the Past

Throughout this thesis allusions have been made to Innes's espousal of romanticism in his interpretation of Scotland's history. Moreover, Chapter One highlights Ash's argument that the Romantic Movement was vital to the record culture of the early 1800s. Previous chapters have demonstrated Innes's Whiggism, assumptions of social progress and antiquarian concern for factual minutiae. Yet the ideas of romanticism were also deeply ingrained in his outlook. Morris argues that all views of the past are to some extent romantic because they require deliberate acts of visualisation.¹²⁸ With that in mind, this chapter will examine Innes's use of image as a means of connecting with the past. This engagement with the visual was, for Innes, focused to a striking degree on architecture and his architectural antiquarianism consequently provides the starting point for this analysis.

Architectural Antiquarianism

From the late 1700s, buildings were an increasingly important area of antiquarian endeavour.¹²⁹ Innes's interest in architecture was therefore part of the antiquary's focus on the tangible. For example, in 1857 he exhorted members of the SAS to spend more time drawing and comparing Scotland's historic buildings.¹³⁰ In *SMA*, meanwhile, he claimed that more could be learnt about ancient Rome from a visit to its ruins than from contemporary chronicles or modern scholarship.¹³¹ Buildings were primary sources just as manuscripts were, and Innes approached them from the classificatory perspective of the antiquary. In *SMA* he asserted that 'it is of the greatest consequence to aim at some precision in the history and dates of the

¹²⁸ K. L. Morris, *The Image of the Middle Ages in Romantic and Victorian Literature* (London, 1984), pp. 222-4.

¹²⁹ A. Buchanan, 'Science and Sensibility; Architectural Antiquarianism in the Early Nineteenth Century', in *Producing the Past; Aspects of Antiquarian Culture and Practice 1700-1850*, ed. L. Peltz & M. Myrone (Aldershot, 1999), pp. 170-1.

¹³⁰ C. Innes, 'Anniversary Address', *PSAS* 3 (1857), pp. 323-4.

¹³¹ *SMA*, pp. vi-vii.

successive styles of architecture, as they developed themselves in this country'.¹³² In that vein, he went on to apply a specific taxonomy to medieval architecture, built around terms like 'Norman', 'First Pointed', 'Decorated' and 'Flamboyant'.¹³³ He also saw the twelfth century as an architectural watershed, describing buildings prior to 1100 as the 'rude but interesting beginnings of constructive and masonic skill, which required great development before they deserve the name of Art'.¹³⁴ Later he stated that 'in them is little art, and nothing that can be called architecture' and also argued that 'the first period of our architecture has been usually named the Norman'.¹³⁵ It was therefore on the post-1100 period that Innes focused, mirroring his centre of gravity as a record scholar. Almost two-thirds of his chapter on dwellings and architecture in *SMA* dealt with this later period.¹³⁶

Innes attached considerable importance to buildings as sources, writing in *SMA* that:

The buildings of a people are perhaps always the oldest specimens of art among them; and the religious buildings called forth so much of the zeal of early Christians, that all the other arts may be considered as ancillary to architecture. Even painting, which now stands so high among the fine arts, was first used only as one of the means of church embellishment. In all discussions upon early art, then, we must look to architecture, not only as the foundation, but as the great end to which other arts were directed.¹³⁷

For Innes, architecture was a signifier of national achievement and a barometer for societal development. In an address to the SAS he made this explicit, arguing that public support for antiquarianism could be best encouraged by depicting the history of art, in which he included

¹³² *ibid.*, pp. 291-2.

¹³³ *ibid.*, pp. 293-302.

¹³⁴ *ibid.*, p. 276.

¹³⁵ *ibid.*, pp. 312, 293.

¹³⁶ *ibid.*, pp. 292-320.

¹³⁷ *ibid.*, pp. 291-2.

architecture, within the context of national advancement.¹³⁸ In *SMA*, meanwhile, he discussed dwellings in terms of ‘marked steps of progress’.¹³⁹ Innes’s approach to architecture was evidently imbued with assumptions about progress, just as his interpretations of other areas of Scottish history were. In this way he married the antiquary’s urge to categorise with an Enlightenment emphasis on societal progress, and made his study of architecture part of the new antiquarianism discussed in Chapter Three.

Nevertheless, in the quotation above Innes praised the ecclesiastical architecture of the Middle Ages. This was indicative of a complex view of Scottish architectural history, rather than a crude Whiggism in which the present was always superior to the past. In *SMA* he eulogised the thirteenth century as ‘the great age of church building in Scotland’ and contrasted that with what he saw as a decline in design and ambition over the following two centuries.¹⁴⁰ He also correlated this with Scotland’s prosperity in the 1200s and the strife that the country experienced subsequently.¹⁴¹ In this way, Innes’s views on ecclesiastical architecture mirrored his conceptualisation of the medieval church as a whole as renewal followed by decline. A similar interpretation was present in his views on secular architecture. He praised the fortresses of the thirteenth century for their ‘beauty of composition and detail’ but criticised the square towers of the fifteenth century.¹⁴² Indeed, he saw these later towers as symptomatic of an age characterised by lawlessness and governmental mismanagement. He believed that, in the fifteenth century, ‘the buildings were like the people – poor and mean in taste’.¹⁴³ Although secular architecture improved during the stability of the sixteenth century, Innes felt that it was not until the Union of the Crowns, which gave kings and nobles access to the riches of England, that true country houses began to appear in Scotland.¹⁴⁴ Moreover, Innes’s interest in secular architecture centred on how people lived rather than how they fought. In his own

¹³⁸ Innes, ‘Opening Address’, *PSAS* 3 (1857), p. 6.

¹³⁹ *SMA*, p. 318.

¹⁴⁰ *ibid.*, pp. 296, 297-8, 299-300.

¹⁴¹ *ibid.*, p. 299.

¹⁴² *ibid.*, p. 314.

¹⁴³ *ibid.*, p. 315.

¹⁴⁴ *ibid.*, pp. 316-17.

words; ‘Scotch thirteenth and fourteenth century castles, are too much of the nature of fortresses for receiving garrisons, to furnish what we are chiefly seeking, some indications of domestic life’.¹⁴⁵ It was the houses of the 1600s that he praised, stating that they ‘mark a great improvement in the comfort and in the tastes of our gentry’.¹⁴⁶

Innes’s view of the fourteenth and fifteenth centuries as a low point in Scottish architecture undermined any sense of smooth development from barbarous beginnings to civilised present. Change occurred and it could be progressive, but that did not mean it always was. Indeed, this attitude mirrored Innes’s preference for the documentary sources of the twelfth and thirteenth centuries. Chapter Nine has argued that Innes judged documents on aesthetic grounds, and he similarly saw buildings as works of art. He also connected architectural aestheticism with the wider course of history, claiming that ‘the public history of the country gives and receives light from the study of art’.¹⁴⁷ Given this statement, it is telling that he prized the architecture of previous centuries over that of his own day. For instance, he wrote in *SMA* that seventeenth-century mansions ‘still exist to teach our presumptuous age a lesson of humility’.¹⁴⁸ He also praised Kelso Abbey and noted, sardonically, that it was built ‘at a period which the confidence of modern times has proclaimed dark and degraded’.¹⁴⁹ Elsewhere he described the remnants of ‘good Norman architecture’ at Arbroath Abbey, despite ‘barbarous modern repairs’.¹⁵⁰ He also discussed the ‘decent though untasteful repairs’ made to the buildings of King’s College Aberdeen in the eighteenth century.¹⁵¹ A religious element to this outlook was apparent in his description of the church at King’s as ‘deformed by a pulpit thrust into the place of the high altar’.¹⁵² Moreover, in an article for the *QR* he wrote:

¹⁴⁵ *ibid.*, p. 314.

¹⁴⁶ *ibid.*, p. 318.

¹⁴⁷ *ibid.*, p. 296.

¹⁴⁸ *ibid.*, p. 318.

¹⁴⁹ *Kelso Liber I*, p. xliii; *SESH*, p. 197.

¹⁵⁰ *Arbroath Liber I*, p. xxxvi; *SESH*, pp. 158-9.

¹⁵¹ *Aberdeen Fasti*, p. lxii, *SESH*, p. 318.

¹⁵² *Aberdeen Fasti*, p. lviii, *SESHs*, p. 313.

We are no Roman Catholics, nor conscious of the least hankering after their tenets. But we find ourselves imitating the modern traveller through Scotland who passes the rectangular Presbyterian parish church to refresh his eyes with the ruined abbey or ivy-clad chapel beside it. Why should this be so?¹⁵³

This drew an unflattering comparison between medieval ecclesiastical architecture and that of modern Presbyterianism. Moreover, Innes's preference for the architectural forms of Catholicism echoed the wider religious attitudes discussed in Chapter Six.

Innes did not seek refuge in history from an unpalatable present as many antiquaries of the previous century had done.¹⁵⁴ Nevertheless there were many elements of the architectural past that he valued. For instance, in 1848 he was part of a deputation opposing the demolition of the sixteenth-century Trinity College in Edinburgh, and later contributed to a fund to have it rebuilt.¹⁵⁵ In the same vein, he referred to 'vulgar modernising' in Elgin and criticised the relocation of a church in the town to make way for a building of neo-classical design.¹⁵⁶ Similarly, he expressed regret over the destruction of royal palaces in Paris to make way for

¹⁵³ Anon. [WIVP attr. C. Innes], 'Ecclesiastical Antiquities of Scotland' *QR* 72:144 (1843), p. 392.

¹⁵⁴ I. G. Brown, *The Hobby-Horsical Antiquary; a Scottish Character 1640-1830* (Edinburgh, 1980), p. 29.

¹⁵⁵ *Scotsman* (5 March 1859), p. 1; *Caledonian Mercury* 20974 (16 December 1856), p. 1; *Times* 22558 (23 December 1856), p. 5; 'Trinity College Church And Hospital', at *Canmore; Scotland's National Collection of Buildings, Archaeology and Industry* (Royal Commission on the Ancient and Historic Monuments of Scotland [n. d.]), at <http://canmore.rcahms.gov.uk/en/site/52414/details/edinburgh+leith+wynd+trinity+college+church+and+hospital/>, accessed 9 May 2010.

¹⁵⁶ C. Innes, *Antiquities of Moray; Elgin Past and Present, a lecture delivered on 23rd October 1860 for the benefit of the Elgin Literary and Scientific Association and printed at their request* (Elgin, 1860), pp. 57-8.

neoclassical buildings.¹⁵⁷ This dislike of neoclassicism was an important element in Innes's architectural outlook, and was particularly significant in light of the neoclassical vogue that gripped Scotland from the late eighteenth century. Many public buildings were built in that style, and this augmented Edinburgh's intellectual reputation as the 'Athens of the North'.¹⁵⁸ Innes, however, criticised such buildings in an 1861 address to the Architectural Institute of Scotland and then eulogised Scotland's own forms of secular architecture. It was the Scottish tradition, he argued, that should be celebrated, emulated and developed.¹⁵⁹ These views were a reflection of his broader concerns about how Scots lacked interest in their own history. As he put it in the *Kelso Liber*, 'the time must come, when the gentlemen of Scotland will take an intelligent interest in the antiquities of their own districts, and scholars will be ashamed to know less of the colonizing and early history Scotland than they do of Greece or Italy'.¹⁶⁰ The fashion for neoclassicism at the expense of native Scottish architecture was, in his view, symptomatic of this problem.

Innes was not opposed to classical architecture as such, but rather its modern imitation. Indeed he subscribed to *Ephesus and the Temple of Diana* (1862) by the classical archaeologist and architect Edward Falkener (1814-1896).¹⁶¹ Yet his views suggest sympathies with Gothic Revivalists, who valued the medieval or 'gothic' ecclesiastical architecture of northern Europe because it represented native tradition and expressed Christian feeling. In comparison,

¹⁵⁷ C. Innes, 'Notes from Paris, or why are Frenchmen and Englishmen different?', *Odds and Ends* 7 (1865), pp. 6-7.

¹⁵⁸ D. Allan, 'The Age of Pericles in the Modern Athens: Greek History, Scottish Politics, and the Fading of Enlightenment', *Historical Journal* 44 (2001), pp. 409-10; M. Glendinning, R. MacInnes & A. MacKechnie, *A History of Scottish Architecture from the Renaissance to the Present Day* (Edinburgh, 1996), p. 193.

¹⁵⁹ *Aberdeen Journal* 5897 (16 Jan 1861), p. 6.

¹⁶⁰ *Kelso Liber* I, p. xix.

¹⁶¹ *Cosmo Innes's Papers*, Mitchell Lib, MS no. 891069, [no nos.]; G. Aitchison, rev. R. Ward, 'Falkener, Edward (1814-1896)', *ODNB* 18, pp. 982-3.

neoclassicism was seen as alien and pagan.¹⁶² Moreover, Gothic Revivalists prized ornamentation over the regular facades of neoclassical buildings and believed that the functional aspects of buildings should be in view, rather than hidden as they were in neoclassical designs.¹⁶³ This chimed with Innes's sentiments in his address to the Architectural Institute, where he argued for balconies and porches to break up the house fronts on Elgin streets. He then concluded with the following:

Let nothing be built without a purpose, and let every part of the building show fitness for its purpose. That is not inconsistent with just proportion and elegant form. It is, in truth, the first law of architecture. Neither, surely, is it incompatible with ornament, but let that ornament be subordinate and subservient to utility.¹⁶⁴

This exhortation was typical of the Gothic Revival, and gothic architecture was favoured by antiquaries across northern Europe in the 1800s.¹⁶⁵ The result in Scotland was that 'native' buildings came to be viewed as sources by antiquaries. Innes's support for Scottish architecture was thus also a championing of Scottish history, whereas supporters of neoclassicism tended to view Scotland's past in the critical terms of Enlightenment.¹⁶⁶ As with his religious predilections, however, Innes was no architectural zealot. His own Edinburgh residences, at 15 Inverleith Row and later Inverleith House, were neither Gothic nor neoclassical but solidly Georgian, as befitted a member of the city's civil elite.¹⁶⁷

¹⁶² M. Aldrich, *Gothic Revival* (London, 1994), pp. 14-17; J. F. White, *The Cambridge Movement: the Ecclesiologists and the Gothic Revival* (Cambridge, 1962), pp. 10-13; G. Germann, *Gothic Revival in Europe and Britain; Sources, Influences and Ideas*, trans. G. Onn (London, 1972), pp. 69-73.

¹⁶³ M. J. Lewis, *The Gothic Revival* (London, 2002), pp. 85-6; Aldrich, *Gothic Revival*, pp. 152-57.

¹⁶⁴ *Aberdeen Journal* 5897 (16 Jan 1861), p. 6.

¹⁶⁵ Buchanan, 'Science and Sensibility', pp. 170-1.

¹⁶⁶ Allan, 'Age of Pericles', p. 412.

¹⁶⁷ Burton, *Memoir*, pp. 58-61.

Nonetheless, the Gothic Revival was part of a wider resurgence of interest in the Middle Ages that provided the context for Innes's rehabilitation of Scotland's medieval past.¹⁶⁸ It had strong religious connotations and was linked to both Catholicism and the Tractarians.¹⁶⁹ Yet, as Chapter Six shows, Innes had no particular connections with the Tractarians, despite the Catholic sympathies articulated in his editions. Nor was he a member of the Ecclesiological Society, which spearheaded the revival of Gothic architecture.¹⁷⁰ His only recorded connection with that organisation was a gift of four unspecified volumes on Scottish ecclesiastical antiquities.¹⁷¹ Nevertheless, he made use of terms such as 'first pointed' and 'middle pointed', which the Ecclesiological Society had invented.¹⁷² Although he also used the more widely accepted 'Norman', 'Early English' and 'Decorated', the appearance of the Ecclesiological Society's nomenclature in his work indicated its influence on him.¹⁷³

Innes also subscribed to the view, put forward by Gothic Revivalists, that churches should provoke an emotional and spiritual response in worshippers through aesthetic impact.¹⁷⁴ In the *Aberdeen Register* he wrote of the pre-Reformation church:

Not less worthy of our attention is her avowed and consistent principle of inspiring piety by an appeal to the imagination and the heart. Subservient to that

¹⁶⁸ R. R. Agrawal, *The Medieval Revival and its Influence on the Romantic Movement* (New-Delhi, 1990), pp. 2-3.

¹⁶⁹ Morris, *Image of the Middle Ages*, pp. 177-90.

¹⁷⁰ Also known as the Cambridge Camden Society, Aldrich, *Gothic Revival*, p. 176; White, *Cambridge Movement*, pp. 35-47; Germann, *Gothic Revival*, pp. 104-35; Lewis, *Gothic Revival*, pp. 91-3.

¹⁷¹ Anon., 'Report of the Thirty-Fourth Meeting of the Cambridge Camden Society', *The Ecclesiologist* 3 (1844), p. 75.

¹⁷² See Anon., 'Mr Freeman and Mr Poole No. 1', *The Ecclesiologist* 83 (1849), p. 140; T. B. Bumpus, *London Churches Ancient and Modern* (London, 1883), pp. 2-3.

¹⁷³ *SMA*, pp. 293-301.

¹⁷⁴ Aldrich, *Gothic Revival*, pp. 14-17; see also A. D. Culler, *The Victorian Mirror of History* (New Haven, 1986), pp. 167-70.

end was the munificence directed [...] to make more glorious the service and the fabric of the Church [...] The effect of such means for the object proposed—to produce strong faith, unhesitating obedience; the success of the great plan of the ancient Church, and its whole influence on society—are subjects of reflection not to be slighted by the most philosophical, nor rejected by those most opposed to the Roman Catholic doctrines, with the same ends in view.¹⁷⁵

Innes evidently admired the ability of the medieval church to inspire faith through the appeal to emotion, rather than reason. In *SMA* he stated that early churches were built in a style in which the ‘form and structure of the sacred edifice, were all studied as having deep and important symbolical meaning’. This served to inspire religious zeal in the craftsmen working on them, which enabled them to produce such ‘admirable and effective designs’.¹⁷⁶ In this context it is significant that Innes was a parishioner at St John’s Church in Edinburgh. The church had been built in 1816 in an unashamedly splendid medieval style by the architect William Burn, a leading proponent of gothic architecture.¹⁷⁷ There are clear parallels between Innes’s positive portrayals of the medieval church and his choice of an ornate and colourful gothic reproduction as his place of worship. Furthermore, the idea that architecture should evoke an emotional response was symptomatic of a gothic romantic ‘temper’ that was central to Innes’s interpretation of Scotland’s past as a whole.¹⁷⁸

Image and Imagination

¹⁷⁵ *Aberdeen Registrum* I, pp. lxxxii-lxxxiii, *SESH*, pp. 90-1.

¹⁷⁶ *SMA*, pp. 304-5.

¹⁷⁷ J. Macaulay, *The Gothic Revival 1745-1845* (Glasgow, 1975), p. 266; Lewis, *Gothic Revival*, p. 53; ‘St John’s Episcopal Church’, *Canmore*, at <http://canmore.rcahms.gov.uk/en/site/74082/details/edinburgh+lothian+road+st+john+s+episcopal+church/>, accessed 11 May 2010; D. M. Walker, ‘Burn, William (1789–1870)’, *ODNB* 8, pp. 880-3..

¹⁷⁸ J. H. Buckley, *The Victorian Temper; a Study in Literary Culture* (Cambridge, 1981), pp. 140-1.

As one historian has noted, ‘romanticism is a notoriously slippery concept’.¹⁷⁹ However, some characteristics are reasonably free from contention. These are that romanticism gave primacy to emotion rather than reason, and that it was attracted to things that were different from the norm.¹⁸⁰ In terms of history this manifested in a number of ways, some of which stood in contrast to Enlightenment views of the past. Firstly, the differentness of the past made it appealing rather than distasteful. Secondly, there was a greater focus on what past lives had been like, rather than on the processes by which societies progressed towards the present. Thirdly, the past was conceptualised in terms of aesthetic value as well as potential political or philosophical mileage. This meant that history became a source of images that could satisfy the demands of good taste and provoke a positive emotional response. Finally, in order to elicit emotional responses, romantic writing was inclined towards an evocative literary style.¹⁸¹

¹⁷⁹ I. McCalman, ‘Introduction; A Romantic Age Companion’, in *An Oxford Companion to the Romantic Age; British Culture 1776-1832*, ed. I. McCalman (Oxford, 1999), p. 1; see also H. Ritter, *Dictionary of Concepts in History* (London, 1986), p. 394; M. G. H. Pittock, *Scottish and Irish Romanticism* (Oxford, 2008), pp. 1-3.

¹⁸⁰ M. Bentley, *Modern Historiography: An Introduction* (Abingdon, 1999), pp. 25-7; M. Cranston, *The Romantic Movement* (Oxford, 1994), pp. 7-11; Ritter, *Dictionary*, p. 394.

¹⁸¹ R. J. Smith, *The Gothic Bequest: Medieval Institutions in British Thought, 1688-1863* (Cambridge, 1987), pp. 133-7; H. Trevor-Roper, *The Romantic Movement and the Study of History; the John Coffin Memorial lecture* (London, 1969), pp. 4-5, 20-1; F I. Ferris, ‘Melancholy memory and the “narrative situation” of history in post-Enlightenment Scotland’, in *Scotland and the Borders of Romanticism*, ed. L. Davis, I. Duncan & J. Sorensen (Cambridge, 2004), pp. 77-80; M. Alexander, *Medievalism: the Middle Ages in Modern England* (Yale, 2007) pp. xxiii-xxiv; Cranston, *Romantic Movement*, pp. 88-90; Ritter, *Dictionary*, p. 394; Bentley, *Modern Historiography*, pp. 27-8.

With reference to Scottish history, romanticism was articulated partly through an attachment to locality.¹⁸² It also promoted a focus on primary sources that could, as Chapters Three and Nine have argued, make the past seem more immediate through their tangibility. It was these romantic sensibilities that underpinned the writings of Scott, the rationalisation of the public records, and the endeavours of the publishing clubs.¹⁸³ Yet the romantic view of Scottish history did not exist in crude opposition to Enlightenment. It was certainly a response to Enlightenment, in that it valued feeling as well as thought and found validity in the past beyond its role as evidence for the advanced state of the present. However, it overlaid rather than replaced Enlightenment attitudes and the two frequently operated in tandem.¹⁸⁴ For example, William Robertson's *History of Scotland* evoked romantic responses but was shaped by Enlightenment assumptions about medieval barbarism.¹⁸⁵ Scott, meanwhile, is often seen as an archetype of romanticism but his work was also moulded by Enlightenment notions of societal progress.¹⁸⁶ Innes is another example of romanticism co-existing with Enlightenment. As previous chapters have shown, he saw the past in terms of progress and had a Whig-Enlightenment interest in the development of law. In addition, he paid little attention to the

¹⁸² P. Fielding, *Scotland and the Fictions of Geography; North Britain 1760-1830* (Cambridge, 2008), pp. 5-6; M. G. H. Pittock, 'Literature and Nationhood', in *A Companion to Literature from Milton to Blake*, ed. D. Wormersley (Oxford, 2000), pp. 127-8.

¹⁸³ Ash, *Strange Death*, pp. 9, 41-2; I. Ferris, 'Printing the past; Walter Scott's Bannatyne Club and the antiquarian document', *Romanticism* 11 (2005), p. 156; R. Jann, *The Art and Science of Victorian History* (Ohio, 1985), pp. xxiii-xxiv; Wood, G. D., *The Shock of the Real; Romanticism and Visual Culture 1760-1860* (Basingstoke, 2001), p. 10.

¹⁸⁴ Smith, *Gothic Bequest*, pp. 97-8; Fielding., *Fictions of Geography*, pp. 2-3; Kidd, *Subverting*, pp. 247-9; Jann, *Art and Science*, pp. xvii-xxiii.

¹⁸⁵ O. D. Edwards, 'Robertsonian Romanticism and realism', in *William Robertson and the Expansion of Empire*, ed. S. J. Brown (Cambridge, 1997), pp. 111-13.

¹⁸⁶ A. Chandler, *A Dream of Order; the Medieval Ideal in Nineteenth Century English Literature* (London, 1971), pp. 25-51; Trevor-Roper, *Romantic Movement*, pp. 5-6; Culler, *Mirror of History*, pp. 20-6; Ash, *Strange Death*, pp. 19-28; Kidd, *Subverting*, p. 264-7.

romantic hero, preferring to look at communities, societies and institutions.¹⁸⁷ Yet he focused on local history, devoted his life to obscure sources and, as illustrated below, had highly developed aesthetic sensibilities. Indeed, his fascination with old law can be only partly explained as an attempt to show origins and progress; the detail with which he researched the topic implied a romantic interest in the institutions of the past for their own sake. Moreover, his appreciation of ecclesiastical architecture because of its appeal to imagination and emotion, discussed above, was similarly symptomatic of a romantic outlook.

Innes therefore operated in a romantic canon that valued the past for more than its implicit justification of the present. As he put it in the *Melrose Liber*:

The political events of a country of so narrow bounds and small resources as Scotland, are insignificant unless they are associated with the development of principles and feelings that know no limits of place or power. How rich Scotland has been in such associations is testified by the general sympathy which attends her history and her literature, and gives a pride to her children that forms not the weakest safeguard of their virtue. It is in recalling freshly the memory of times in which the proud and virtuous character of her people was formed, and which it is their delight and their duty to look back upon, that such studies as the present are most useful. Every local association, every faint illustration of antiquity, each indication of the bygone manners of a simple age, are in this view to be treasured, not only as filling a page of a meagre history, but as so many moral ties to bind us closer in affection to the country of our fathers.¹⁸⁸

This desire to get closer to the past was perhaps why Innes edited tracts like Myln's *Lives of the Bishops of Dunkeld*, Gordon's *Descriptio*, Bowie's *Taymouth Book*, Rose's *Familie of Kilravock* and Forbes's *Familie of Innes*. These were not the record sources that he usually worked with, but were an excellent means of accessing the thoughts and feelings of past ages. Indeed, this was why he published the genealogical memoirs of his sixteenth and seventeenth

¹⁸⁷ Bentley, *Modern Historiography*, pp. 28-9; Cranston, *Romantic Movement*, p. 19.

¹⁸⁸ *Melrose Liber I*, pp. xxxi-xxxii.

century predecessors rather than writing his own. It may also have been why Innes amended his printed version of the contemporary Scots translation of Gordon's *Descriptio*, which he thought was of poor quality, only when it did not make sense.¹⁸⁹

Innes's penchant for maps, discussed in Chapters Three and Nine, fulfilled a similar need. They provided a conceptual canvas on which the scenes of history were enacted. In a discussion of the maps and topographical tracts created by the fifteenth century chronicler John Harding and featured in the *NMS*, Innes wrote:

Rude as these maps are, they recall the pleasant, quaint plates of Michael Drayton's "Polyolbion", which Selden honoured with his annotations, where sea-gods and Naiads, St Winifred in her well, shepherds on their pasture grounds and foresters in their woods, lend a simple picturesque grace to his delineations that makes up for the contempt of accuracy.¹⁹⁰

Here Innes compared Harding's work to a seventeenth-century topographical poem which was a well-known inspiration to romantic writers in the later nineteenth century.¹⁹¹ Harding's maps and writings were included in the *NMS* not because they provided an accurate topographical portrayal of Scotland, but for exactly the opposite reason. Their inaccuracies exoticised the past in a manner that was enticing rather than alienating. Moreover, in the *Cawdor Book* Innes asked the reader to imagine, 'a state of society and feeling which we cannot rightly appreciate, so different does it seem from ours'.¹⁹² Scotland's historic buildings were an even more effective means of achieving this effect, because they were large, tangible and visually impressive. Their monumentality meant that they could physically dominate a landscape or surround a visitor in a way that maps, manuscripts and artefacts could not. They were thus an ideal focus for romantic interpretations of history and provided a conduit to a distinctively

¹⁸⁹ Gordon, *Descriptio*, pp. vi-vii.

¹⁹⁰ *NMS* II, no. p. xvi.

¹⁹¹ Buckley, *Victorian Temper*, pp. 10-11

¹⁹² *Cawdor Book*, p. xxxii.

Scottish past. Indeed, it was for this reason that neoclassicism could not fulfil the needs of a specifically Scottish historical romanticism.¹⁹³

The key to understanding Innes's brand of romantic history is to look at how he used the idea of the picturesque, a notion that was intimately associated with romanticism's imagistic engagement with history. This concept had, from its inception in the 1700s, emphasised the attraction of a scene in a way that appealed directly to emotion.¹⁹⁴ Furthermore, although not originally a central component, old buildings became in the nineteenth century an increasingly important part of the picturesque canon.¹⁹⁵ This allowed Innes to couch his views on architecture in terms of taste and emotional response, rather than as part of an Enlightenment-esque sociological framework. Modern architecture could thus be depicted as inferior to its medieval forebears on aesthetic grounds without undermining assumptions of overall historical progress. In the *Cawdor Book*, Innes explained his understanding of this term:

It is no contradiction to observe, that the sites of old houses, especially churches and churchmens' dwellings, are invariably fine — the most beautiful the district affords. Their beauty is not at all, or only accidentally, dependent on the rugged and wild scenery to which we improperly limit the picturesque. A great modern historian has laboured to prove that artists began to admire the wild and grand of nature only when it had become safe. 'A traveller must be freed from all apprehensions of being murdered or starved before he can be charmed by the bold outlines and rich tints of the hills', though it has been thought that danger with most minds enhances the feeling of the sublime.¹⁹⁶

¹⁹³ E. McEvoy, 'Picturesque', in *Encyclopaedia of the Romantic Era, 1760-1850* II, ed. C. J. Murray (New York, 2004) pp. 874-5; see also Cranston, *Romantic Movement*, pp. 48-9.

¹⁹⁴ A. Ross, *The Imprint of the Picturesque on Nineteenth-Century British Fiction* (Ontario, 1986), pp. 6-7.

¹⁹⁵ G. Sieberling & C. Bloore, *Amateurs, Photography and the Mid-Victorian Imagination* (Chicago, 1986), pp. 31, 54.

¹⁹⁶ *Cawdor Book*, p. xxiv.

Innes perceived the picturesque as an ideal existing between the safety of beauty and the horror of the sublime.¹⁹⁷ Although landscape provided the requisite setting, it was historic buildings that were the centrepiece of the picturesque scene. This confluence of the natural and the man-made represented the taming of the wild by human endeavour. Churches, castles and mansions were therefore vital to creating a sense of the picturesque, and the more grandly medieval they were the better. Indeed, there was a strong association between the picturesque and the gothic, and the medieval ruins that littered the British landscape served as focal points for the picturesque throughout the period.¹⁹⁸ Old buildings spoke of antiquity whilst the landscapes around them, like the maps discussed above, represented the contexts in which history played out. This helped to provide Scottish history with an aesthetic value that was alien to purely Enlightenment sensibilities.

The importance of historic architecture to Scotland's picturesque appeal shone through in Innes's works. In *SMA* he complained that 'travellers have been so occupied with the natural beauty of Scotland that they have paid too little attention to the beauty of our towns'.¹⁹⁹ Later in the chapter he wrote:

Our old burgesses loved to copy the steep roofs and tall gables of their Flemish allies in trade; and the towns they have built in imitation of them, stand better on the bank of our rivers and firths, and backed by our mountains, than even the fine old cities of decayed splendour on the shores of the Zuyder Zee, or the Great Canal.²⁰⁰

This not only suggested that the aesthetic appeal of Scotland's towns was complimented by the scenery in which they were located, but continued the association in Innes's works between Scottish burghs and the towns of northern Europe, discussed in Chapter Five.

¹⁹⁷ Harrison & Linkman, 'Critical approaches', p. 54.

¹⁹⁸ McEvoy, 'Picturesque', pp. 874-5.

¹⁹⁹ *SMA*, p. 172.

²⁰⁰ *ibid.*, p. 173.

Meanwhile, in a discussion of Elgin's history Innes disputed assertions that the town was not picturesque, and the idea was central to his aesthetic admiration of Newbattle Abbey and Kilravock Castle.²⁰¹ Yet Innes's appreciation for old Scottish buildings was historical as well as imagistic. According to the *Aberdeen Journal's* report on Innes's address to the Architectural Institute, he argued that towns such as Elgin had a distinctive Scottish style; 'every place having a history, he contended, also had a *genius loci* – a peculiar spirit and character, which must not be violated'.²⁰² In other words, Scottish architecture represented Scottish character on the basis of its history as well as its design

The term, 'picturesque' literally meant that a scene was worthy of being the subject of a picture. Yet Innes also used the term in a broader sense. He called Robertson's *History of Scotland* 'the sweet flowing narrative of that most tragical and picturesque part of our national annals'.²⁰³ Elsewhere he named a contemporary description of the Sixth Crusade 'the most picturesque account of that ill-fated crusade'.²⁰⁴ He also referred to the story of St Cuthbert as 'exceedingly picturesque and interesting' and elsewhere wrote about the 'picturesque dress of the fifteenth century'.²⁰⁵ In his article on 'Highland Sport' Innes not only called the Moray landscape 'picturesque', but applied the term to the activities, such as deer coursing, that he undertook there.²⁰⁶ This shows that he conceptualised the past on a visual level, not just in relation to static scenes but also events. It could be viewed in the imagination of the reader, and was not frozen but full of activity.²⁰⁷ Old buildings provided one means of re-awakening that sense of activity. Their aesthetic value was important, but so too was their role as a conduit to past lives. Furthermore, it was often the rural simplicity of these past lives that

²⁰¹ Innes, *Antiquities of Moray*, pp. 59-60; *Newbattle Registrum*, p. xlv; *Family of Rose*, p. vii; *SESH*, pp. 142, 490.

²⁰² *Aberdeen Journal* 5897 (16 January 1861), p. 6

²⁰³ *SESH*, p. vii.

²⁰⁴ *SMA*, p. 234.

²⁰⁵ *ibid.*, p. 105; *Glasgow Registrum* I, pp. lviii-lix, *SESH*, p. 67.

²⁰⁶ Anon. [WIVP attr. C. Innes & C. W. G. St John], 'Highland Sport', *QR* 77:153 (1845), pp. 70, 87.

²⁰⁷ Jann, *Art and Science*, pp. xxi-xxii.

made them romantically attractive, especially from Innes's position in an urban and commercial present. In his review of a Provencal poem, for example, he praised the work's picturesque evocation of rustic dress and a simple way of life.²⁰⁸

This search for the texture of the past was at the heart of Innes's tendency to evoke scenes in his writing; to dislocate the reader from the present and place them in a particular moment in the past. Indeed, both *SMA* and *SESH* featured the word 'sketches' in their titles, denoting Innes's intention of creating imagistic representations of history through words. Elsewhere he praised Barbour for using words to 'paint like an artist'.²⁰⁹ In a lecture on the *Antiquities of Moray*, he led his readers on an eight-page walk through the Elgin of the early 1700s.²¹⁰ Similarly, in an 1865 lecture he discussed not only the architecture of Robert I's royal residence, but also the pastimes that the court engaged in there.²¹¹ Another instance, from *SESH*, was a three-page description of the opening of Glasgow University in 1450, which evoked a celebratory atmosphere by describing in detail the associated fair and procession.²¹² Innes began that description by writing:

There is no reason in the thing, why these rough and true outlines of Episcopal history should be thus repulsively void of life and colour. There are materials enough for the artist who could sympathize with the life of a bygone time to paint many pictures from them.²¹³

Innes created romantic visions of history that emphasised texture. This can be seen in *Concerning Some Scotch Surnames*, where he described a thirteenth-century coastal town as a means of illustrating the origins of various surnames. That passage began, 'I wish you would

²⁰⁸ Anon. [*WIVP* attr. C. Innes], 'Mistral's *Mirieo*', *NBR* 48:96 (1868), pp. 345-62.

²⁰⁹ Barbour, *Brus*, p. xxv.

²¹⁰ Innes, *Antiquities of Moray*, pp. 25-33.

²¹¹ C. Innes, *On Bruce and Royal Life in his Period: being a Lecture Delivered before the Greenock Philosophical Society on 9th October 1865* (1865), pp. 9-11.

²¹² *SESH*, pp. 67-70.

²¹³ *ibid.*, p. 67.

turn back with me through the few intervening centuries, and fancy yourselves dwelling in a Scotch town in the time of King William the Lion, or his son Alexander II'.²¹⁴ Here, Innes articulated his desire to take the reader back in time through an act of imagination. The passage goes on scaffold that process by describing the boats in the harbour, the unloading of goods, the castle, the houses, the church, the town hall and the mills by the river.²¹⁵

This kind of evocative description prompts Michael Bentley to argue that, 'romantic historiography took its focus and its audience in resistance to the cold and clinical perspective associated with rationalism'. The point was to produce an interpretation of the past that was 'creative and alive', 'poetic and not merely expository', and which would carry 'the same ontological weight as a poem'.²¹⁶ This certainly implies friction between the outlooks of Enlightenment and Romanticism. Furthermore, the romantic approach to the past was couched in pronominally visual terms and relied on the reader's imagination to conjure those visions up. The very act of conceptualising history in this way made it susceptible to aesthetic judgement and it was for this reason that many nineteenth-century historians reconstructed historical scenes in a level of detail for which there could not possibly be supporting evidence.²¹⁷ Like pictures, maps, manuscripts and buildings, imagistic description allowed people in the present to encounter the past through imagination. Significantly, however, this approach was usually associated with historical narrative, and had not been a feature of traditional antiquarianism.²¹⁸ Its adoption by Innes was therefore innovative.

²¹⁴ C. Innes, *Concerning Some Scotch Surnames* (Edinburgh, 1860), p. 12.

²¹⁵ *ibid.*, pp. 12-13.

²¹⁶ Bentley, *Modern Historiography*, pp. 25-7; see also Ross, *Imprint of the Picturesque*, pp. 63-7.

²¹⁷ Trevor-Roper, *Romantic Movement*, pp. 19-22.

²¹⁸ T. L. Rae, 'The Scottish antiquarian tradition', *Scots Antiquaries and Historians; Papers Read at the Silver Jubilee Conference of the Abertay Historical Society on 15 April 1972*, ed. A. A. M. Duncan (Dundee, 1972), pp. 21-2; S. Manning, 'Antiquarianism, the Scottish sciences of man, and the emergence of modern disciplinarity', in *Scotland and the Borders of Romanticism*, ed. L. Davis, I. Duncan & J. Sorensen (Cambridge, 2004), pp. 65-7.

Nonetheless, different periods did not hold equal romantic value for Innes; his sense of historical progress was too strong for that. Whilst there was no clear-cut sense of periodisation in his works, the twelfth century was consistently cited as a defining moment in Scottish history. Innes was far from an Ossianic romantic and displayed a cynicism towards utopian savagery. In a paper to the Glasgow Archaeological Society he sardonically referred to the druids as ‘shadows, like the ghosts of Ossian’.²¹⁹ Elsewhere he made ironic use of the concept when describing the destruction of Elgin cathedral in 1390 by a local lord, calling him ‘another noble savage’. He then described society before Christianity by asking his audience to forget the ‘melodramatic Oscars and Selmas of Ossian’ and picture instead ‘the starving half-cannibal savage without food or clothes or shelter, without comfort or support in this world, or hope beyond it’.²²⁰ It was, as already demonstrated, the post-1100 period, with its Teutonic institutions and gothic architecture, which Innes favoured.

It was therefore this period that Innes focused on when including pictures in his source editions. In accordance with his understanding of the picturesque, many of these depicted buildings in rural settings. The *Cawdor Book* featured three representations of Cawdor Castle.²²¹ The first presented a wide landscape with the castle at the centre. The second and third were at much closer range but nonetheless framed the building with foliage and grassy foreground. The *Brechin Registrum* contained three images of Brechin Cathedral which framed the building in a similar manner.²²² The *Taymouth Book*, meanwhile, contained a broad view of Kilchurn Castle in its setting on the shore of Loch Awe.²²³ Other editions also featured historic buildings in rural settings. These included Kilravock Castle in the *Family of Rose*, Scone

²¹⁹ C. Innes, ‘Suggestions of Objects of Archaeological Interest in the West of Scotland’, *Transactions of the Glasgow Archaeological Society* I:5 (1863), p. 313.

²²⁰ Innes, *Antiquities of Moray*, p. 38.

²²¹ *Cawdor Book*, front piece, after pp. lxxvii, 434; Appendix 2, Image 1.

²²² *Brechin Registrum* I, front piece & after p. xxxi, listed in ‘List of the Plates’ [n. p.]; Appendix 2, Image 3.

²²³ *Taymouth Book*, front piece, listed in ‘Illustrations’ [n. p.]; Appendix 2, Image 7.

Palace in the *Scone Liber* and three views of Old Aberdeen in Gordon's *Descriptio*.²²⁴ All four volumes of the *Glasgow University Muniments* began with pictures of university buildings. Whilst these were finely drawn and by no means impressionistic, they featured the contrasts of light and shade that were a hallmark of images created in the romantic tradition.²²⁵ The preface to Volume Four contained nine more images of university exteriors and interiors, again drawn to emphasise light and shade. A picture of the 'Auld Pedagogy', with its ruined back wall and semi-wild foreground, provided a particularly good example of the convergence of the man-made and the natural which underpinned Innes's idea of the picturesque.²²⁶ The same can be said of a drawing of the ruined chapel of St Anthony in the *Holyrood Liber*, and the sketch of an old bridge near Newbattle in the *Newbattle Registrum*.²²⁷ Even the *NMS* featured a painting of Edinburgh in 1670, taken from Arthur's Seat and depicting the city in a setting of rolling countryside with the eye drawn to the castle.²²⁸

These images provided an additional means by which readers could visualise the past that Innes presented, and this was all the more vital because most of his editions comprised such difficult sources. His use of illustration was part of a wider movement in the 1800s which, although criticised by some literary figures, was associated with romanticism.²²⁹ Yet Innes did not restrict those illustrations to picturesque views of old buildings. Drawings of specific architectural features also often appeared in his editions. Examples include renderings of a

²²⁴ *Family of Rose*, front piece, discussed on p. viii; *Scone Liber*, after p. xx, discussed on p. xx; Gordon, *Descriptio*, after pp. 28, 98, discussed on p. vii; Appendix 2, Images 8, 9, 10.

²²⁵ *Glasgow University Muniments* I, before title page, II, before title page, III, before title page, IV, before title page, listed in IV, 'Illustrations', pp. il-l; see also Harrison & Linkman, 'Critical Approaches', pp. 54-6

²²⁶ *Glasgow University Muniments* IV, p. xxxvi; Appendix 2, Image 5; for the others see *ibid.*, pp. xv, xvi, xxxiv, xl, xli, xlii, xliii, xlvi, listed in 'Illustrations', pp. il-l

²²⁷ *Holyrood Liber*, p. lxxxiii; Appendix 2, Image 11; other drawings of buildings and architectural feature appear in *ibid.*, pp. xv, lvii, after, lxxvi, discussed on pp. lxxxii-lxxxiii; *Newbattle Registrum*, p. xlvi.

²²⁸ *NMS* III, no. CI, [n. p.].

²²⁹ Wood, *Shock of the Real*, pp. 171-85.

monumental stone, a fragment of font and floor tiles from the nunnery of North Berwick in the *North Berwick Carte*.²³⁰ *The Cawdor Book* contained pictures of an archway in the ruins of the church of Barevan and a vault under the Castle itself.²³¹ Similarly, the *Brechin Registrum* featured architecturally exact plans of the cathedral doorway and chancel and the Maison-Dieu Hospital.²³² These served as a reminder that Innes's interest in architecture was characterized by antiquarian precision as well as aesthetic impact. In addition, he sometimes included pictures of artifacts, such as the Glasgow University mace, which could evoke the same sense of tangibility as images of buildings and ruins.²³³

The prevalence of architectural images in Innes's editions increased as the decades passed. Editions from the 1830s, such as the *Paisley Registrum* and the *Melrose Liber*, contained none. Several from the 1840s, including the *North Berwick Carte*, the *Newbattle Registrum* and the *Scone Liber*, featured a sprinkling. By the 1850s, editions like the *Brechin Registrum* and the *Cawdor Book* contained considerable numbers. This rise, like the proliferation of manuscript facsimiles examined in the previous chapter, was partly due to improvements in image reproduction techniques from end of the 1830s. Nevertheless, it was not until the 1870s that illustrations became the norm in Scottish publishing.²³⁴ Innes was therefore a pioneer in their use. Yet many of his contemporaries also included pictures of buildings in their own editions. Examples can be found in Scott's *Halliburton Memorials*, Stuart's *Kinloss Records* and Fullarton's *Prestwick Records*.²³⁵ Laing's *Midlothian Charters* plus Fraser's *Cambuskenneth Registrum* and

²³⁰ *North Berwick Carte*, pp. xviii, xxvi, after p. 99, listed in 'List of the Plates', [n. p.]; Appendix 2, Image 12.

²³¹ *Cawdor Book*, pp. xlvii & 18, listed in 'Illustrations [n. p.]; Appendix 2, Image 2.

²³² *Brechin Registrum* I, after pp. xviii, xxxi, listed in 'List of the Plates' [n. p.]; Appendix 2, Image 4.

²³³ *Glasgow University Muniments* IV, pp. xli-xlii; Appendix 2, Image 6.

²³⁴ Scully, 'Illustration', pp. 61-3.

²³⁵ *Memorials of the Haliburtons*, ed. W. Scott (Edinburgh, 1824), before title-page; *Records of the Monastery of Kinloss: with Illustrative Documents* [SAS], ed. J. Stuart (Edinburgh, 1872), before title-page, after p. lx, pp. lxi, lxiii; *Records of the Burgh of*

Memorials of the Montgomeries were particularly replete with them.²³⁶ Nonetheless, with the exception of Fraser, who operated towards the end of the century when illustration was the norm, no editors included images of architecture as frequently and consistently as Innes.

Photography and the Past

Innes's romantic and imagistic sensibilities fed directly into his photography. His involvement with photographic organisations such as the ECC and the PSS was in one respect an example of the associational culture that characterised civic life in the period.²³⁷ However, photography also offered Innes new opportunities to capture images and thus articulate his visions of the past. As the photographic historian John Hannavy notes 'he had antiquarian interests outside the law, reflected in his choice of photographic subjects'.²³⁸ Historic buildings were used in this early period as photographic subjects by both professionals and amateurs, reflecting a

Prestwick in the Sherifffdom of Ayr, 1470-1782, with an Appendix and Illustrative Notes [Maitland Club 28], ed. J. Fullarton (Glasgow, 1834), before title-page.

²³⁶ *Registrum Domus de Soltre Necnon Ecclesie Collegiate S. Trinitatis Propre Edinburgh, etc.; Charters of the Hospital of Soltre, of Trinity College, Edinburgh, and Other Collegiate Churches in Mid-Lothian* [Bannatyne Club 109], ed. D. Laing (Edinburgh, 1861), before title-page, pp. xii, xiv, xli, xlii, after p. xlii, listed in 'List of Plates', [n. p.]; *Registrum Monasterii S. Marie de Cambuskenneth, A.D. 1147-1535*; [Grampian Club 4], ed. W. Fraser (Edinburgh, 1872), after pp. cxxvi, cxxxi, after cxxxiv, cxxxix, after cxl, after cxl, after cxli, listed in 'Illustrations', pp. ii-iii; *Memorials of the Montgomeries, Earls of Eglinton*, ed. W. Fraser, 2 vols. (Edinburgh, 1859), I, pp. xviii, xxviii, 112, 147, 150, 154, after 183, after 184, 155, 160, 378.

²³⁷ R. J. Morris, 'Urban associations in England and Scotland 1750-1914; the formation of the middle class or the formation of a civil society?', in *Civil Society, Associations, and Urban Places: Class, Nation, and Culture in Nineteenth-century Europe*, ed. G. Morton, R. J. Morris & B. M. A. De Vries (Aldershot, 2006), pp. 139-42.

²³⁸ J. Hannavy, *Encyclopaedia of Nineteenth-Century Photography*, 2 vols. (London, 2008), I, p. 746.

widespread preoccupation with British architectural heritage throughout the mid-1800s.²³⁹ Despite this, architectural and antiquarian photographs are often neglected in favour of better known narratives of early Scottish photography. The commonly told story is that put forward by Hannavy and also Larry Schaaf, of William Fox Talbot's 1841 visit to Scotland and the resulting work of David Octavius Hill, Robert Adamson and David Brewster.²⁴⁰ The prominence that these pioneers are given is a consequence of the angle from which modern commentators approach the subject. Hannavy and Schaaf both began their careers as professional photographers and they consequently explore photographic history from technical and artistic perspectives.²⁴¹ The work of Hill, Adamson and Brewster thus tends to be privileged over the activities of less celebrated photographers such as Innes.

Yet Innes's pictures have great significance as articulations of his view of Scottish history. Twenty-six of them survive in two ECC albums dating from the late 1840s. The club was active from 1841 and Innes's photographs could therefore have been taken at any point in that decade.²⁴² Innes's photographs made up only a small proportion of those preserved in the albums, and they were quite different from many of the pictures by other photographers. Many of these other photographs were individual and group portraits, and there were also a significant number of images of Mediterranean architecture.²⁴³ Nonetheless, some

²³⁹ R. O. Dougan, *The Scottish Tradition in Photography* (Edinburgh, 1949), pp. 2, 6; R. Harrison & A. Linkman, 'Critical Approaches to Heritage', in *Understanding the Politics of Heritage*, ed. R. Harrison (Manchester, 2010), pp. 53-6.

²⁴⁰ J. Hannavy, *A Moment in Time; Scottish Contributions to Photography 1840-1920* (Glasgow, 1983), pp. 5-17; L. Schaaf, *Sun Pictures Catalogue Eleven: St Andrews and Early Scottish Photography including Hill and Adamson* (New York, 2002), pp. 7-10.

²⁴¹ 'Home', *John Hannavy Picture Collection* (2009), at <http://johnhannavy.co.uk/index.html>, accessed 30 July 2009; 'Larry Schaaf', *London College of Communication Research Staff Profiles* (University of the Arts London, 2009), at <http://www.lcc.arts.ac.uk/38565.htm>, accessed 30 July 2009.

²⁴² Hannavy, *Encyclopaedia of Photography* I, pp. 470-1.

²⁴³ For examples of portraits see *ECCA* 1, pp. 8, 14-17, 20, 24-5, 29-31, 33-41, 43-46, 48, 51-3, 55-9, 69, 72, 74-5, 77-8, 80-1, 84, *ECCA* 2, pp. 3, 5, 7-10, 12, 30-3, 37, 50, 63-4, 71,

photographers, such as the lawyer and literary critic George Moir (1800-1870) and the lawyer and Episcopalian cleric James Francis Montgomery (1818-1897) took photographs of Scottish buildings like Innes did.²⁴⁴ However, neither was a well-known antiquary like Innes, and none of the other photographers were as narrow as Innes in their choice of subjects.²⁴⁵ Both Moir and Montgomery, for instance, photographed not only medieval and mock-medieval architecture but also buildings of neoclassical design.²⁴⁶

In contrast, Innes's pictures were taken at eight sites and all used Scottish or northern English buildings as their subjects. Furthermore, he had personal or professional connections with many of the buildings that he photographed. His four photographs of Cawdor Castle are an example of this.²⁴⁷ This was the seat of the Earl of Cawdor, a member of the Bannatyne and Spalding Clubs and sponsor of Innes's *Cawdor Book*, which was compiled partly from records held at the Castle.²⁴⁸ Innes therefore spent considerable time there and had a relationship with its owner. The Castle itself consisted of a fifteenth-century square tower with a seventeenth-

76, 80, 87-9, 91, 97, 103; for examples of Mediterranean architecture see *ECCA* 1, pp. 105-15, *ECCA* 2, pp. 43-8, 52-60, 67-70, 106.

²⁴⁴ For Montgomery's photographs of historic Scottish architecture see *ECCA* 1, pp. 4, 8, 10, 13, 18, 21-3, 26, 60-1, 63-8, 82-3, *ECCA* 2, pp. 4, 6, 9, 11-16, 19-26, 29, 34-6, 38; For Moir's photographs of historic Scottish architecture see *ECCA* 1, pp. 7, 19, 50, 54, 62, 104, *ECCA* 2, pp. 27, 89; see also 'History', *Pencils of Light; the Albums of the Edinburgh Calotype Club* (National Library of Scotland, 2002), at <http://www.nls.uk/pencilsoflight/history.htm>, accessed 12 August 2009.

²⁴⁵ The Scottish historian Mark Napier (1798-1879) was a member but none of his photographs were included in the albums; 'History', *Pencils of Light*.

²⁴⁶ For example, both men photographed the neo-classical facades of the Royal Institution for the Encouragement of the Fine Arts on Prince's Street in Edinburgh, *ECCA* 1, pp. 18, 54 and of Donaldson Hospital in Edinburgh, *ECCA* 1, pp. 21, 50, 61, *ECCA* 2, pp. 13-4; Moir also photographed the classically-inspired Old College Quadrangle of Edinburgh University, *ECCA* 2, p. 90.

²⁴⁷ *ECCA* 1, pp. 9, 93, 94; *ECCA* 2, p. 39; Appendix 2, Image 13.

²⁴⁸ Laing, *Bannatyne Club*, p. 19; Stuart, *Spalding Club*, p. 115; *Cawdor Book*, p. ix.

century mansion built around it.²⁴⁹ Innes referred approvingly to such composite structures in *SMA*, which while ‘preserving the rude ancestral tower, surrounded it with graceful ornament’.²⁵⁰ The photographs presented two different views of the castle but all four showed the later facade with the earlier tower rising behind it, framed by foliage and grassy foreground. The photographs thus bore strong similarities in range and framing to two of the three views featured in the *Cawdor Book* and it seems likely that these inspired Innes’s photographs.²⁵¹ Correlations can also be discerned with his description of the building:

The owners found it as it had been left by Sir Hugh; and the right feeling of the present time has forbidden any change that would alter the character of the quaint, antique, charming old place [...] The simple drawbridge hangs as it has hung for centuries. The gardens and garden-walls, the row of limes to screen the east wind, are all as Sir Hugh left them, or perhaps made and planted them. The place is unspoiled, not changed but for the better. The burn pours its brown sparkling stream down its rocky channel as of yore. The air has the brisk freshness of the Highlands, while the sun shines through a clearer sky than more southern climates can boast. But the woods now wave over the grey castle with a luxuriance of shade which its old inhabitants never dreamt of. Above all, the country round, of old occupied by a half-starving people, lodged in houses of "faile," disturbed by plundering neighbours, and ever and anon by the curse of civil war, is now cultivated by an active and thriving tenantry, with the comforts which increasing intelligence and wealth require and supply.²⁵²

²⁴⁹ H. Montgomery-Massingberd & C. S. Sykes, *Great Houses of Scotland* (London, 1997), pp. 46-55; ‘Cawdor Castle’, *Canmore*, at <http://canmore.rcahms.gov.uk/en/site/15021/details/cawdor+castle/>, accessed 12 August 2009.

²⁵⁰ *SMA*, p. 317.

²⁵¹ Many early photographers sought to emulate existing pictorial conventions, G. Davis, ‘Photography and Film’, *Exploring Visual Culture; Definitions, Concepts, Contexts*, ed. M. Rampley (Edinburgh, 2005), pp. 85-101.

²⁵² *Cawdor Book*, p. xlvi, *SESH*, pp. 435-6.

This quotation reveals much about the interplay in Innes's work between building, scenery, past and present. There is a sense that the castle existed in aesthetic balance with its Highland surroundings. Its age rendered it 'quaint', 'antique' and therefore 'charming', but the taming of the surroundings, in the form of gardens, was also vital to that charm. For Innes it was this domestication of landscape, with a historic building as focal point that made a scene picturesque. Moreover, there was a sense of balance between past and present. The castle was a link to the past which could be captured through photography, and Innes opposed change that would 'alter the character' of the scene. Yet the closing remarks about improvements in local life show that assumptions of progress were omnipresent in Innes's historical work, even when he was at his most nostalgic.

Innes's photographs of Auldbar and Gordon Castles were of the same type. Both were similar to Cawdor, in that they consisted of later mansions built around earlier towers or keeps. Auldbar was the home of Patrick Chalmers, Innes's collaborator on the *Arbroath Liber* and the *Brechin Registrum*.²⁵³ Innes reported that the castle was, in the 1840s and 1850s, a centre for artists and antiquaries, and it is therefore likely that he spent time there.²⁵⁴ This was probably why he put four photographs of it in the ECC albums.²⁵⁵ Indeed, the personal associations that Innes had with many of his photographic subjects perhaps reflected the links that he perceived between old buildings and the lives that had been played out within and around them. The photographs of Auldbar show the original tower, dating from the sixteenth century, surrounded by later additions from the early 1800s.²⁵⁶ Meanwhile the three photographs of Gordon Castle, in Morayshire where Innes was sheriff for sixteen years, again showcased an amalgam of earlier and later architecture.²⁵⁷ They placed the fifteenth-century tower in the foreground, the additions of the 1500s and 1600s behind, and the eighteenth-century mansion

²⁵³ *Arbroath Liber* I, extract from Bannatyne Club minutes, 21 November 1853, after title-page; *Brechin Registrum* I, p. i.

²⁵⁴ *Brechin Registrum* I, pp. xxvii-xxviii.

²⁵⁵ *ECCA* 1, pp. 100, 101; *ECCA* 2, pp. 40, 72; Appendix 2, Image 19.

²⁵⁶ 'Aldbarr Castle', *Canmore*, at <http://canmore.rcahms.gov.uk/en/site/34787/details/aldbarr+castle/>, accessed 12 July 2009.

²⁵⁷ *ECCA* 1, pp. 94, 95; *ECCA* 2, p. 42; Appendix 2, Image 14.

at the rear going out of shot to left and right.²⁵⁸ The pictures of all three castles displayed them in their rural settings and were mostly taken from angles. These traits were common characteristics of deliberately romantic images in the period.²⁵⁹ Moreover, those photographs show that Innes did not privilege architectural age and period above all other concerns. Instead he judged buildings on the grounds of style. Newer additions could actually improve a building, especially when the original was in a fifteenth-century style for which Innes had little regard, so long as those additions were in keeping with the spirit of the earlier architecture and the building's wider surroundings.

Innes also photographed the medieval ecclesiastical architecture that he praised so highly. Two of his photographs of Elgin Cathedral survive. The cathedral dated from the late thirteenth century but underwent extensive reconstruction in later centuries.²⁶⁰ It is therefore significant that Innes's pictures are of the south door, one of the few features that remained unaltered from the original construction.²⁶¹ Innes exhibited three photographs of the cathedral at the 1856 exhibition of the PSS; one of a doorway and two of windows.²⁶² In this way he captured specific elements of the cathedral that dated back to a period which he saw as the high-point of Scottish church-building. Yet he also admired the building as a whole and referred to it as that 'glorious cathedral, which has survived through fire and violence and long

²⁵⁸ Macaulay, *Gothic Revival*, pp. 152-61; 'Gordon Castle' *Canmore*, at <http://canmore.rcahms.gov.uk/en/site/16880/details/gordon+castle/>, accessed 12 July 2009.

²⁵⁹ Harrison & Linkman, 'Critical Approaches', pp. 54-5.

²⁶⁰ 'Elgin Cathedral', *Canmore*, at <http://canmore.rcahms.gov.uk/en/site/16584/details/elgin+north+college+street+elgin+cathedral+and+burial+ground/>, accessed 12 July 2009.

²⁶¹ *ECCA* 1, p. 98; *ECCA* 2, p. 51; Appendix 2, Image 17.

²⁶² Innes also entered a photograph of the sixteenth-century Church of Mid-Calder into the PSS's 1856 exhibition ; for all entries see R. Taylor, '1856, Edinburgh, Photographic Society of Scotland', *Photographic Exhibitions in Britain 1839-1865* (2002), at <http://peib.dmu.ac.uk/itemexhibition.php?exbtid=1025&orderBy=exhibid&exhibitionTitle=1856,+Edinburgh,+Photographic+Society+of+Scotland>, accessed 12 July 2009.

neglect, to recall some memory of the taste and religious feeling of an age called unenlightened'.²⁶³ A discussion of Elgin in the *Moray Registrum* provides further insights:

Within the memory of some yet alive, it presented the appearance of a little cathedral city, very unusual among the burghs of Presbyterian Scotland. There was an antique fashion of building, and withal a certain solemn, drowsy air, about the town and its inhabitants, that almost prepared a stranger to meet some church procession, or some imposing ceremonial of the picturesque old religion. The church of St. Giles, of venerable antiquity [...] has given way to an elegant new Grecian edifice. The dwellings of the citizens have put on a modern trim look, which does not satisfy the eye so well as the sober gray walls of their fathers. Numerous hospitals, the fruits of mixed charity and vanity, surround the town, and, with their gaudy white domes and porticoes, strikingly contrast with the mellow colouring and chaste proportions of the ancient structures. If the present taste continues, there will soon be nothing remaining of the reverend antique town but the ruins of its magnificent cathedral.²⁶⁴

This extract gives the impression that Elgin was a portal through which the visitor could step back into history. A threat to the town's architecture was thus a threat to that function. The cathedral acted as the centrepiece for the town's evocative architecture and contributed to Elgin's power to evoke the past. The quotation also provides another example of Innes's preference for native styles over imported neoclassical forms. It is notable that his complaint centred on the Mediterranean nature of redevelopment, whether in the form of a Greek temple replacing a medieval church or the Italian domes and porches of new hospitals.

The desire to find architecture that was authentically Scottish and thus in harmony with its setting was evident in Innes's photographs of Pluscarden Abbey, another site within his jurisdiction as sheriff of Moray. The two pictures are of the fifteenth-century church; covered

²⁶³ *SMA*, p. xxix.

²⁶⁴ *Moray Registrum*, p. xxv.

with ivy and in a state of roofless dilapidation.²⁶⁵ The ruined abbey therefore evoked the kind of picturesque melancholy that was a central component of historical romanticism.²⁶⁶ As Linkman puts it, ‘since the Picturesque embraced notions of age and decay, ruins were by definition Picturesque’.²⁶⁷ The photographs also featured romantic contrasts of light and shade similar to those found in the sketches in the *Glasgow University Muniments*. These sensibilities were apparent in a letter from Innes to Dunbar, in which he discussed a photograph of an arch as follows: ‘I wish the author had caught the light glancing across the arch so as to bring the mouldings more in relief. Perhaps he will try again with a morning sun’.²⁶⁸ Light was an important component in evoking picturesque melancholy and Innes’s interest in it showed that his concerns were aesthetic. His pictures were not part of the record tradition of architectural photography that developed in the later part of the century. Indeed, they were rarely accompanied by locations, dates or information about their subjects.²⁶⁹

However, sometimes Innes photographed new buildings. Three pictures of Dunrobin Castle survive, one of which was entered in the PSS’s 1856 exhibition.²⁷⁰ Whilst the original keep dated from the early 1400s and substantial additions had been made in the 1600s, what the photographs showed was the Scottish Baronial facade added between 1845 and 1847.²⁷¹ A key feature of that style, which was very fashionable in the period, was a romanticism anchored in

²⁶⁵ ECCA 1, pp. 96, 97; Appendix 2, Image 15; ‘Pluscarden Abbey’, *Canmore*, at <http://canmore.rcahms.gov.uk/en/site/16094/details/pluscarden+abbey/>, accessed 14 July 2009.

²⁶⁶ Wood, *Shock of the Real*, pp. 125-9; Ferris, ‘Melancholy memory’, pp. 81-5.

²⁶⁷ Harrison & Linkman, ‘Critical approaches’, p. 54.

²⁶⁸ *Innes to Dunbar Letters*, no. 37.

²⁶⁹ Sieberling & Bloore, *Mid-Victorian Imagination*, p. 79; Harrison & Linkman, ‘Critical Approaches’, pp. 53-62.

²⁷⁰ ECCA 1, pp.102, 103.

²⁷¹ Montgomery-Massingberd & Sykes, *Great Houses of Scotland*, pp. 56-64; ‘Dunrobin Castle’ at *Canmore*, at <http://canmore.rcahms.gov.uk/en/site/6512/details/dunrobin+castle/>, accessed 13 August 2009.

medieval gothic architecture.²⁷² Innes's photographs captured the pointed turrets and crenulations that were a hallmark of the style, and were framed in the same scenic way as his pictures of Cawdor and Gordon Castles. One photograph in particular presented the castle high on its hill against a dramatic backdrop of forest and sky.²⁷³ Yet the images also showed the Castle's neoclassical uniformity, a characteristic which Charles Barry, Dunrobin's architect, favoured in many other projects.²⁷⁴ Innes disliked the neoclassical influence, but he had various connections with Dunrobin. He was friendly with the Duke of Sutherland who lived there, his personal papers contained a list of the portraits hung there, and documents from Dunrobin were used in the *Moray Registrum*, the *Caithness Records* and the *OPS*, to which the Duke was also a financial contributor.²⁷⁵ It is thus understandable that Innes photographed this impressive mock-medieval building, despite its neoclassical leanings.

Innes's six photographs of Inverness Castle are also examples of his interest in mock-medieval architecture.²⁷⁶ This building was constructed in the Scottish Baronial style in 1835 by William Burn, a champion of gothic architecture.²⁷⁷ Innes's photographs were typical combinations of the Castle and its surroundings, in this case the river Ness. The vogue for the Scottish Baronial had in its early days been associated with Scott and was seen as a means of creating links with the nation's past.²⁷⁸ As discussed above, similar ideas underpinned Innes's architectural views. The choice of Inverness and Dunrobin Castles as photographic subjects

²⁷² L. Hull, *Britain's Medieval Castles* (London, 2006), p. 154; Lewis, *Gothic Revival*, pp. 51-3; Glendinning *et al*, *History of Scottish Architecture*, pp. 276-9

²⁷³ Appendix 2, Image 20.

²⁷⁴ These other projects included the Houses of Parliament, M. H. Port, 'Barry, Sir Charles (1795-1860)', *ODNB* 4, pp. 111-20.

²⁷⁵ *Innes Papers* [no nos.], entitled 'Portraits at Dunrobin'; *Moray Registrum*, after p. xlvi; *Caithness Records*, title-page; *OPS* 2.2, p. xxii; *Letters from Cosmo Innes to David Laing* (1831-1872), Edinburgh University Library, La IV 17, fols. 4922-23;

²⁷⁶ *ECCA* 1, pp. 99, 100, 108; *ECCA* 1, pp. 40 & 51; Appendix 2, Image 18.

²⁷⁷ Hull, *Medieval Castles*, p. 154; 'Inverness Castle Building History Event', *Canmore*, at <http://canmore.rcahms.gov.uk/en/event/574717/>, accessed 14 August 2009.

²⁷⁸ Hull, *Medieval Castles*, p. 154.

implied that he pseudo-medieval architecture could open the door to the past in the same way as the real thing. Two photographs of the Church of St Mary the Less in Durham support this assertion.²⁷⁹ The church had been rebuilt in 1847 in what a contemporary Durham historian called a 'Norman style'. That commentator also stated that the building it had replaced had been 'a very mean looking edifice, with low ceilings, sash windows and blue tiles'.²⁸⁰ The fact that Innes photographed the church showed his approval of its rebuilding, especially since, as mentioned above, his own church was a nineteenth-century gothic imitation.

Innes highlighted the connection between ancient and modern architecture to the Architectural Institute, asserting 'meagre and starved as the prototype of our style was, I think it is capable of adaptation to the wants of a more luxurious age'. This statement reflected the combination of theatricality and domesticity that was integral to the Scottish Baronial style.²⁸¹ Innes stated that he did not favour the dark, cold houses of the 1400s, but that this architecture should be the inspiration for modern buildings which could also provide present-day luxuries.²⁸² This meant a combination of romantically antique design and modern functionality. The blending of old and new at the castles of Dunrobin, Cawdor, Auldbar and Gordon are examples of this. In these cases, the original towers provided authenticity whilst the later embellishments added aesthetic value and domestic comfort. This contravenes the argument put forward by some scholars that amateur photographers in the Victorian era only photographed old buildings; in fact, Innes only photographed buildings that looked old.²⁸³ Moreover, this enthusiasm for careful architectural improvement resonated with his belief, discussed in Chapter Six, that he could improve medieval manuscripts by re-arranging, re-phrasing and abridging them.

The Significance of Travel

²⁷⁹ *ECCA* 1, p. 98; *ECCA* 1, p. 49; Appendix 2, Image 16.

²⁸⁰ W. Fordyce, *The History and Antiquities of the County Palatine of Durham*, (Newcastle, 1857), p. 372.

²⁸¹ Alexander, *Medievalism*, pp. 67-9.

²⁸² *Aberdeen Journal* 5897 (16 January 1861), p. 6.

²⁸³ Sieberling & Bloore, *Mid-Victorian Imagination*, p. 49.

Considering that Innes's use of image was in part born from a desire to connect with past lives, it is notable that the buildings in the many of his photographs were deserted. However, this was probably a consequence of the difficulty of using early photographic equipment to capture people in the foreground and an entire building in the middle ground or background. His pictures of specific architectural features, such as the door of Elgin cathedral and the side of the Durham church, tended to include people. Additionally, Henry Cockburn records that he was with Innes when the pictures of Pluscarden Abbey were taken.²⁸⁴ For Innes, photography was a hobby whose value derived not just from its products but also the touristic experiences that it provided. The buildings that Innes photographed were far from Edinburgh and this necessitated that he leave the city in order to access them. This resonated with the sense that moving from the urban to the rural was tantamount to moving from the present into the past. Indeed, this was perhaps why Innes opted to live on Inverleith Row, to the north of Edinburgh's New Town and in the earlier part of the century situated on the edge of the city next to the Royal Botanical Gardens.²⁸⁵ Whilst he worked in the centre of Edinburgh at Parliament House his choice of residence, on the border between town and country, reflected his conceptual location between rural and urban environments.

Given that the act of travel could be bound up with gaining access to the past through romantic evocation, it is not surprising that Innes's photography led him on trips to mainland Europe. In 1857 he spoke to the PSS about his tour around the coasts of Spain. In 1859 he entered several pictures of German and Venetian architecture in the PSS's annual exhibition, and in 1863 he exhibited photographs taken in France, Spain and Germany.²⁸⁶ The majority of these were

²⁸⁴ H. Cockburn, *Circuit Journeys* (Edinburgh, 1999, orig. 1888), p. 222, cited in Hannavy, *Encyclopaedia of Photography* I, p. 746.

²⁸⁵ Burton, *Memoir*, pp. 58-61; 'Edinburgh, Arboretum Place, Royal Botanic Garden, Inverleith House', *Canmore*, at '<http://canmore.rcahms.gov.uk/en/site/52050/details/edinburgh+arboretum+place+royal+botanic+garden+inverleith+house/>', accessed 14 December 2010.

²⁸⁶ *Scotsman* (12 February 1863), p. 2; (25 March 1863), p. 2; P. Stubbs, 'Cosmo Innes 1798-1874' *Edinphoto* (2010), at http://www.edinphoto.org.uk/3/3_pss_members_innes_cosmo.htm, accessed 14 May 2010.

examples of gothic architecture, and the Venetian examples are particularly significant given that medieval Venice was at the time being hailed by supporters of the gothic style as a model for English architecture.²⁸⁷ Another example of the associations between travel, photography and history was the ‘photographic tour’ of France that Innes undertook in 1856 and subsequently discussed in front of the PSS.²⁸⁸ His itinerary took him through Dieppe, Rouen, Lyon, Perpignan, Blois and Tours, and his presentation focused almost exclusively on the opportunities for architectural photography that each location provided. He displayed his usual preference for medieval architecture, both secular and ecclesiastical, over ‘vulgar’ modern forms.²⁸⁹ However, he also regretted his lack of a camera ‘when surrounded by groups of good-natured peasants, round Avingon especially, in the most grotesque costumes’.²⁹⁰ Innes saw these locals as exemplars of a rural past that was usually inaccessible to him from urban Edinburgh. They provided an opportunity to access the past directly, in the same way as a thirteenth-century church or a seventeenth-century mansion.

Moreover, travel and photography were crucial to the way in which Scottish history was imagined by Britain’s educated classes as a whole. From the mid-1800s photographs were used commercially to market Scotland as a tourist destination and to provide romantic depictions of the Scottish countryside which English visitors could take home. These featured the same confluence between old buildings and rustic landscapes that Innes captured in his pictures.²⁹¹ In addition, they contributed to the touristic attraction of rural Scotland as a kind of living museum through which visitors could directly encounter the past. Historic buildings played a central role in the creation of that image. They existed in both past and present and

²⁸⁷ R. Williams, ‘Architecture and Visual Culture’, in Rampley, *Visual Culture*, p. 105.

²⁸⁸ C. Innes, ‘Account of a Photographic Tour in France’, *Photographic Notes* 1 (1856), pp. 169-72

²⁸⁹ *ibid.*, p. 171.

²⁹⁰ *ibid.*, p. 170.

²⁹¹ Hannavy, *Moment in Time*, pp. 18-21.

consequently helped visitors to Scotland to step back into a medieval past that was exotic yet made safe by the proximity and superiority of the present.²⁹²

Innes was neither a foreign tourist nor a commercial photographer creating images for visitors, but a Scot taking pictures of his own country for presentation to likeminded individuals. Nevertheless, he too travelled into the countryside in order to visit buildings that were links to a past that was seen as romantically attractive yet less civilised than the present. Indeed, the past was different from the present precisely because historical progress produced change. Crucially, however, for Innes and his contemporaries, as for the tourists discussed above, this less civilised state engendered emotional nostalgia and aesthetic appreciation rather than distaste. In this way, notions of romanticism and historical progress not only co-existed but complimented one another.²⁹³ The texture of the past, symbolised by historic buildings in rural settings, could thus thrive without discord alongside with the benefits of the present.

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Innes's views on architecture demonstrate his imagistic and romantic approach to antiquarianism. By photographing buildings, he collected them in the same way that antiquaries collected artefacts and manuscripts. These photographs also facilitated wider access to old buildings, just as facsimiles did for documentary sources. The onus, however, was on capturing the romantic essence rather than creating a factual record. This was symptomatic of a change in attitude across Britain in which medieval art and architecture,

²⁹² K. H. Grenier, *Tourism and Identity in Scotland, 1770-1914: Creating Caledonia* (Aldershot, 2005), pp. 135-73; Wood, *Shock of the Real*, pp. 171-218; Chandler, *Dream of Order*, pp. 122-3.

²⁹³ Ferris, 'Melancholy Memory', pp. 79-81; M. G. H. Pittock, 'Enlightenment Historiography and its Legacy; plurality, authority and Power', in *History, Nationhood and the Question of Britain*, eds. H. Brocklehurst & R. Philips (Basingstoke, 2004), p. 37; L. Smith, *Uses of Heritage* (Abingdon, 2006), pp. 17-18.

previously viewed as barbarous, was imbued with new aesthetic validity.²⁹⁴ Indeed, that change was itself part of a more fundamental shift by which the past was conceptualised in more visual terms and thus became subject to aesthetic appreciation. Yet this new outlook built upon rather than replaced the existing ideological frameworks of Enlightenment Whiggism. Historical romanticism could not exist without historical progress; change had to be identified before the differentness of the past could be recognised.

²⁹⁴ P. Mandler, "'In the Olden Time"; romantic history and English national identity 1820-50', in *A Union of Multiple Identities; the British Isles c.1750-c.1850*, ed. L. W. B. Brockliss & D. Eastwood (Manchester, 1997), pp. 80-1; Agrawal, *Medieval Revival*, 239-41.

Chapter 11 – Conclusion

This thesis has argued that Innes sought to make Scots more aware and more appreciative of their own history. In so doing, he was attempting to address the dislocation between the Scottish past and the Scottish present that was the inheritance of the previous century, and which resulted in the ‘strange death’ of Scottish history. The position of social and intellectual authority that he occupied certainly gave him influence enough to attempt this, and earlier chapters have highlighted the ways in which he tried to achieve it. To conclude the study, this chapter will use contemporary responses to Innes’s work as a means of assessing the success of his various efforts to rehabilitate Scotland’s early history. In so doing, it will argue that it was the values of aesthetic romanticism explored in the previous chapter that gave Scottish history a durable validity into the later stages of the nineteenth century.

The Critical Reception

Innes’s interpretations of Scottish history were often at odds with historiographical traditions and popular perceptions, as earlier chapters have shown. His moderately positive portrayal of Scottish constitutional progress was one example of this, yet it did receive some support from the Scottish press. In 1821 the *Edinburgh Review* claimed that Thomson’s volumes of the *APS* were ‘a more accurate, complete, and splendid publication of the proceedings of a national legislature, than any other country in Europe possesses’. It then stated that the edition was valuable to ‘the constitutional antiquaries of all other countries, as well as those of Scotland’, and hoped the forthcoming Volume One would demonstrate the ‘constitution of our ancient government, and the progress of our early legislation’.¹ As Chapter Four has shown, such sentiments were very much in tune with those that drove Innes’s work on the *APS* and his interest in Scottish legal history more generally. Decades later, a review of *Ancient Burgh Laws* in the *Athenaeum* similarly supported Innes’s views by praising the edition for illustrating the habits of the burgher class which ‘in every country has proved the most

¹ Anon. [WIVP attr. J. Mackintosh], ‘Sir George Mackenzie’s memoirs’, *Edinburgh Review* 36:71 (1821), p. 1.

stubborn champion of liberty and law'.² Meanwhile, an 1877 review of the *APS* in the *Academy* stated that:

It is a record which either a Scottish or a British patriot will read with mingled feelings, but on the whole with thankfulness, for if its pages are stained with some wicked and many weak acts, due to the selfish interests of the Crown, the clergy, the nobles and the burghs, seeking their own ends and not the public good, yet in its final result it has been the progress of a barbarous race towards civilisation, culminating in the happy second Union by which Scotland became a full partner in the more perfect constitution and more assured liberties of England, while England received an addition of strength which it would not have done had Edward I united the island under an imperial sceptre, or had the iron hand of Cromwell welded by force the two countries into one commonwealth.³

This review also echoed the sentiments of Innes himself, who saw much of value in the Scottish constitutional past but whose Whiggish outlook perceived the English constitution as superior and the Union as a means of spreading its benefits to Scotland. Moreover, the review's depiction of Scotland's independence as a necessary and serendipitous precursor to present Union also mirrored Innes's views. It therefore seems that the *APS* had some success in its goal of promoting the value of Scottish legal distinctiveness and historical independence within the Union.

Nonetheless, there was certainly no consensus on the issue of Scottish historical progress as a whole. For example, the *Gentleman's Magazine* supported Innes's portrayal in *SMA* of the twelfth century as the start of Scotland's advancement towards civilisation.⁴ However, Alexander Galloway of the Glasgow Archaeological Society disputed this view and argued

² *Athenaeum* 2156 (20 February 1869), p. 275.

³ *Academy* 264 (26 May 1877), p. 455.

⁴ *Gentleman's Magazine* 208 (May 1860), pp.497-9.

that the fundamentals of law and society were ever-present and unchanging.⁵ The *North American Review*, meanwhile, saw in Innes's depiction of medieval Scotland 'a rude and illiterate nation, with fierce manners and barbarous laws'. For this reviewer, it was only since Union that Scotland had made progress towards the civilised and well-mannered society of modern times.⁶ Similarly, the London-based *Saturday Review* saw Innes's portrayal of Scotland's medieval history as a 'ghastly record of miseries and atrocities'.⁷ Other English periodicals emphasised the southern contribution to Scottish medieval history to an extent that went beyond even Innes's Anglophile interpretation. The *Examiner*, for instance, used its discussion of *SMA* to magnify the debt which Scottish law and institutions owed to Norman England and asserted that 'early Scottish history is, for the most part, so barren of interest, that readers are apt to neglect features in it really worth attentive study'.⁸ These features were, in the eyes of the reviewer, those that shed light on the triumphs of the English constitution through comparison. The same publication's review of *SLA* took a similarly negative line. It argued that a Scottish penchant for legal procedure frequently resulted in the law being used as the basis for injustice, as in the case of Highland clearances. Innes made this point himself and the review was thus agreeing with him.⁹ Yet the decision to highlight that minor aspect of his discussion was an act of bias-through-selection that greatly distorted Innes's wider interpretation. The review went on to portray Scotland's medieval constitution as retarded by the 'poverty and feebleness of the mercantile class'. It then described proper constitutional government as one of the benefits of Union with England.¹⁰ However, a review of *SLA* in the *Athenaeum*, another London-based weekly, took an opposing view. It emphasised the centrality of legal process to Scottish history and character, and contrasted the power of law

⁵ A. Galloway, 'Scotland in the Middle Ages; Notes on the Work of Cosmo Innes', *Transactions of the Glasgow Archaeological Society* 1:2 (1859), p. 193.

⁶ Anon., 'Scotland in the Middle Ages' *North American Review* 91 (1860), pp. 288-9.

⁷ *Saturday Review* 10:264 (17 November 1860), p. 629.

⁸ *Examiner* 2728 (12 May 1860), p. 292.

⁹ *SLA*, pp. 149-58.

¹⁰ *Examiner* 3390 (18 January 1873) pp. 64-5

over the Scottish monarchy against the ‘despotic constitution’ of England, where rulers exercised an unlimited royal prerogative.¹¹

The response to Innes’s depiction of Scottish legal and constitutional history was certainly mixed, but his attempt to repair the reputation of Scotland’s pre-Reformation religious history met with widespread condemnation. In 1847 the *English Review* gave the *Aberdeen Registrum* measured approval for its learning and erudition, but argued that it only held real value for the antiquary. The general reader, the reviewer believed, would gain greater benefit from the medieval burgh records of Aberdeen and the Presbytery records of Aberdeen and Strathbogie, reviewed in the same article. This was a useful illustration of the topical hierarchy that existed in how Scots valued their own past. Post-Reformation ecclesiastical history was deemed the most relevant, but medieval burgh history, sometimes associated with the progress of liberty and the advancement of commerce, was also a valid area of study. Medieval church history, however, was held to be of little value to anyone other than the ‘disciples of Dryasdust’.¹² In other words, the reviewer believed it to have no contemporary relevance.

Two years earlier the *NBR* had printed a scathing attack on Innes’s *Paisley Registrum*, *Moray Registrum*, *Melrose Liber*, *Holyrood Liber*, *Dunfermline Registrum* and *Glasgow Registrum*. The *NBR* was affiliated with the Free Church, and in 1845 religious sentiments amongst Presbyterians were running particularly high following the Disruption of 1843.¹³ This may account for the strength of feeling expressed in the article. The reviewer accepted that the editions illustrated the birth of modern Scottish jurisprudence.¹⁴ However, the article’s over-

¹¹ *Athenaeum* 2358 (4 January 1873) pp. 11-12

¹² Anon., ‘Ecclesiastical History of Scotland’, *English Review* 7:14 (1845) pp. 386-7.

¹³ *WIVP* I, pp. 663-6.

¹⁴ Anon. [no attr. in *WIVP*], ‘The Scottish Monks’, *NBR* II (1845), p. 364; both this and the previous review are also discussed in R. Marsden, ‘Editing the past; Cosmo Innes and the Scottish medieval church’, in *Signs, Symbols and Words; Proceedings of the Cardiff University Reading Conference 2007*, ed. A. Smith, K. Tennant & J. Webb (Cardiff, 2008), pp. 24-5, at <http://www.cardiff.ac.uk/chri/researchpapers/pgconference/Papers%201%20-%207/>, accessed 15 February 2010.

riding theme was a negative judgement on the Scottish medieval church. It described how churchmen prayed on the fears of the dying and exerted moral blackmail over unwary travellers to gain their wealth. It labelled the monks avaricious, luxury-loving, selfish and over-privileged. It went on to dispute Innes's view of monasteries as centres of learning, arguing instead that the monks were misguided and ignorant, possessed of no intellectual impulses and leaving no evidence of academic achievement. These monks were also depicted as immoral and irreligious, ignoring their own rules, seizing privileges and property and exerting a destructive influence over the rest of society.¹⁵ The Reformation was then characterised as a heroic struggle in which a thousand-year old empire was put on trial by the people and found unequivocally guilty.¹⁶ The article concluded with a parting salvo aimed at both Innes and monasticism:

Mr Innes has departed from the example of the illustrious judge and antiquary to whom we have referred [Hailes], and instead of giving a cautious balancing of conflicting views so as to allow each reader to form his own opinions, he has laid down only the result of his own reflections [...] No-one can look without interest on such excavated memorials of a society which has perished. They tell the true story of monkish times. They strip it bare of all the decorated drapery with which poetry, or romance, or distance has invested it, and leave only the naked skeleton in all its grim deformity, a warning and example for our instruction.¹⁷

This review encapsulated the mainstream Presbyterian critique of the medieval church and also the hardening of anti-Catholic sentiment during the mid-1800s.¹⁸ Indeed, it is ironic that the materials with which Innes tried to rehabilitate the medieval church were here used to attack it. On a broader scale, however, the reaction to these volumes was not so much vitriol as apathy. Given that Innes edited seventeen editions relating to the medieval church, the number

¹⁵ Anon., 'Scottish Monks', pp. 370-81.

¹⁶ *ibid.*, pp. 381-4.

¹⁷ *ibid.*, p. 389.

¹⁸ Ash, *Strange Death*, pp. 33-4, 128-33.

of reviews discussing them was very small. Indeed, this was likely to have been a function of the very small numbers in which those editions were produced.¹⁹

Some reviews of Innes's original works, such as those relating to *SMA* in the *Athenaeum*, the *Glasgow Herald* and *Archaeologia Cambrensis*, supported his largely positive depiction of Scottish Christianity in the medieval period.²⁰ Many others, however, took issue with it as the *NBR* had done. The *Examiner's* review of *SLA* accused medieval churchmen of living 'off the fat of the land' and supporting the 'barbaric' practice of trial by ordeal.²¹ The same periodical's review of *SESH*, meanwhile, foregrounded Innes's own criticisms of the medieval church whilst marginalising his numerous positive assertions. For instance, the article praised Innes's chapters on monasteries and bishoprics for their detail and erudition, but chose in particular to emphasise his point about the deleterious effects of monastic control over the secular clergy.²² In a similar warping of Innes's views, the review of *SESH* in the *London Review* recommended his ecclesiastical chapters whilst accentuating the role of the consistorial court as 'one of the most oppressive instruments of church extortion in the days of Romish supremacy'.²³ A review of *SMA* in the ecumenically broad *Journal of Sacred Literature and Biblical Record*, meanwhile, took issue with Innes's portrayal of the Culdaic Church as in need of reform. It instead put forward the traditional depiction of the Culdees as exemplars of a pure Christianity akin to modern Protestantism, and argued that Innes's negative view of them denigrated all nineteenth-century Protestants.²⁴ Moreover, in the *Gentlemen's Magazine* Innes's chapter on architecture in *SMA* was criticised on religious

¹⁹ See Appendix Four.

²⁰ *Athenaeum* 1697 (5 May 1860), pp. 613-14; *Glasgow Herald* 6276 (23 February 1860), p.4; Anon', 'Scotland in the Middle Ages', *Archaeologia Cambrensis* 8:30 (1862) pp. 164-5.

²¹ *Examiner* 3390 (18 January 1873) p. 65.

²² *Examiner* 2777 (20 April 1861) p. 246; *Melrose Liber* I, pp. xxvii-xxviii, *SESH*, pp. 115-16; *OPS* I, p. xxx-xxxi, *SESH*, p. 19.

²³ *London Review* 2:42 (1861) p. 447.

²⁴ Anon., 'The Church History of Scotland', *Journal of Sacred Literature and Biblical Record* 12:24 (January 1861) pp. 317-19.

grounds. The reviewer argued that Innes should avoid using the terms ‘first pointed’, ‘middle pointed’ etc because they had been introduced by ‘a small clique’, but never reached general use.²⁵ As discussed in Chapter Ten, that ‘clique’ was the Ecclesiological Society, with its links to the Gothic Revival and the Tractarians.

Many of the more negative responses already discussed were printed in English periodicals, and the reception that Innes’s work received south of the border was often characterised by doubt over the value and validity of Scottish history. An 1861 review in the *Times* of the works of Innes and also Robert Chambers depicted post-Union Scotland in terms of religious back-biting and political corruption. It engendered an indignant response in the *Scotsman*, demonstrating that the Anglo-British historical model was by no means universally accepted in Scotland.²⁶ Discussing *SMA*, meanwhile, the *Saturday Review* praised Innes for resisting the ‘rabid quasi-patriotism’ ascribed to some of his fellow Scots, but nevertheless implied that he overrated the importance of Scottish history in an international context. The article admitted that Scotland could claim a high proportion of second and third rank intellects in its history, but argued that the country had produced no first-rate thinkers.²⁷ An even more critical stance was taken in the *Examiner’s* response to *SESH*. This review stated that the qualms felt by William Robertson’s publisher in the 1790s about the lack of English interest in a book on Scottish history were just as valid in the 1860s.²⁸ This was, according to the reviewer, because Scotland had no historical records of comparable interest to those of England, and because all the valuable features of Scottish history, such as Robert Bruce and Queen Mary, were also integral parts of English history. The review allowed that Scots had taken the lead in the fields of rhetoric and metaphysics, but also claimed that few Scots could claim eminence as either

²⁵ *Gentleman’s Magazine* 208, (May 1860), p.499; the review of *SMA* in the *Athenaeum* also criticised Innes’s delineations between architectural styles, *Athenaeum* 1697 (5 May 1860), p. 613.

²⁶ The review and response focused mainly on Chambers’ depiction of Scottish union after 1707; *Times* 23897 (3 April 1861), p. 7; *Scotsman* (9 April 1861), p. 2

²⁷ *Saturday Review* 10:264 (17 November 1860), p. 629.

²⁸ Innes used the same example to argue that attitudes towards Scottish history in England had changed drastically since the 1700s; *SESH*, pp. v-ix;

intellectuals or rulers, and that no figure could be found in Scottish history who had been were significant on a European scale. With particular reference to the Middle Ages, the review stated that England was more advanced than Scotland ‘in every way’. David I was referred to as a northern Alfred the Great, but his appearance three hundred years later was used as evidence of Scotland’s political retardation. Scottish backwardness was then illustrated through the late foundation of St Andrews University in comparison to Oxford, and the creation of King’s College in Aberdeen in response to the alleged barbarity of the country’s northern inhabitants. The review ended by referring to *SESH* as ‘old world gossip’.²⁹

Innes’s interpretations of Scottish legal and ecclesiastical history provoked a decidedly mixed and often very negative response. Significantly, however, his reviewers were largely unified in their praise for his ability to evoke the feel of the past. A review of *SMA* in the *New Quarterly Review* commended Innes’s portrayal of social fabric and stated that the chapters on literature and architecture were the most interesting.³⁰ The *Saturday Review* took a similar line, asserting that the chapters on law and constitution held little of interest for the English reader, who would instead turn to the sections on dress, manners and trade. The same article also commended Innes’s discussion of the historic beauty of Scottish towns.³¹ Displaying a similar predilection for information on how people used to live, the *London Review* spent the majority of its discussion of *SESH* detailing the sections on family history, passing swiftly over church and university records.³² Meanwhile, the *Examiner* claimed that these family history chapters were the most valuable part of the book because they ‘illustrate[d] the character and custom of the whole body of the people’.³³ This interest in past lives was also expressed in reviews of *Concerning Some Scotch Surnames* in the *Critic* and the *Examiner*. Both praised Innes’s device of exploring the origins of surnames through an imagistic sketch of life in a thirteenth-century Scottish fishing town.³⁴ The *Archaeologia Cambrensis*’s review of *SMA* and *SESH*

²⁹ *Examiner* 2777 (20 April 1861) pp. 245-6.

³⁰ Anon., ‘Scotland in the Middle Ages’, *New Quarterly Review* 9:33 (1860), p. 31.

³¹ *Saturday Review* 10:264 (17 November 1860), p. 629.

³² *London Review* 2:42 (1861) p. 447.

³³ *Examiner* 2777 (20 April 1861) p. 246.

³⁴ *Critic*, 21:538 (27 October 1860), pp. 511-12; *Examiner* 2785 (15 June 1861), pp. 374-5.

further emphasised the romantic attraction of Innes's antiquarian work by stating that 'had Sir Walter Scott been alive, he would have been proud of books such as these'.³⁵

The progressive element of Innes's view of the Scottish past, whether legal or religious, failed to provide the basis for consensus either in Scotland or England. Yet the romantic and aesthetic elements of his interpretation had a wider and less controversial appeal. In that vein, an article in *Fraser's Magazine* praised Innes for simply laying out the facts of history for the reader to interpret, rather than pushing his own agendas and forcing the past into the shapes of his own doctrines and systems.³⁶ In 1861 the *Times* reiterated this view in a review of *SESH*:

It is since Scottish writers have abandoned the search of a lost political history, have dropped their enthusiasm for a timid and turbulent ecclesiastical history, and have been content to depict the domestic annals of the people, to enter their shops and their houses, to follow them in the streets and the fields, and to record their every-day life—their eating and their drinking, their dress, their pleasures, their marriages, their wealth and their science—that Scottish history has become an enticing study. [...] In this new path none has been more active than Mr. Cosmo Innes.³⁷

This was a powerful illustration of where the ideological validity of Scottish history lay by the third quarter of the century. Although Enlightenment assumptions of historical progress were fundamental to nineteenth-century Whiggism in England, Innes's attempts to apply them to Scottish history did not meet with general approval. By the 1860s, when most of these reviews were written, it was the romantic side of Innes's depictions, centred on the aesthetics of image and the emotional appeal of nostalgia, which found popular support. This was especially the case south of the border.

³⁵ Anon', 'Scotland in the Middle Ages', *Archaeologia Cambrensis* 8:30 (1862), p. 163.

³⁶ *Fraser's Magazine* 62:372 (December 1860), p. 721.

³⁷ *Times* (3 April 1861), quoted in J. Syme, *Observations on Clinical Surgery* (Edinburgh, 1862), on p. 15 of the 'Edmunston and Douglas List of Works' at the end of the book.

The Sources of Scottish History

These reviews were representative of the attitudes of the educated classes in Britain. Furthermore, they are particularly relevant given the argument in Chapter Four that Innes wrote as much with an English audience in mind as a Scottish one, and sought to promote Scottish historical distinctiveness within the Union. His original works received the majority of attention from reviewers and had a far larger readership than his source editions.³⁸ Nevertheless, in his obituaries in the Scottish press it was his record work that received most praise, rather than his original writings or his academic or legal careers.³⁹ Indeed, this source work provided the basis for his standing as a figure on the national stage and, as is argued below, was central to the success of his romantic evocation of the past.

One example of this was a review of *Halyburton's Ledger* in the *Scotsman*. It praised Innes's depiction of the manners of the fifteenth century, and made the point that the history of national life should be derived not just from state papers but also from ecclesiastical cartularies, family papers, private letters, diaries, commercial records and accounts. In this way it supported Innes's belief that documentary sources could provide direct links to past lives, and also that such links were inherently worthwhile.⁴⁰ In the same vein, the *North American Review* praised Innes's depiction of social conditions in the 1600s and focused particularly on his use of *Halyburton's Ledger* to illuminate them.⁴¹ Similarly, the *Glasgow Herald* commended the 'almost romantic' summary of European municipality that Innes provided in the preface to *Ancient Burgh Laws*. This review then echoed Innes's opposition to the habitual dismissal of the Middle Ages as barbaric, expounding instead 'a high feeling of respect for the justice and strong good sense of those whom we are accustomed to speak of as our rude and unlettered ancestors'.⁴² It is also notable that a review of the index to the *APS* in

³⁸ See Appendix Four for a discussion of the circulation and readership of Innes's source editions and original works.

³⁹ *Academy* 119 (15 August 1874), pp. 181-2; *Scotsman* (3 August 1874), p. 5.

⁴⁰ *Scotsman* (17 June 1868), p. 6.

⁴¹ Anon., 'Scotland in the Middle Ages', *North American Review* 91 (1860), p. 289.

⁴² *Glasgow Herald* 9058 (13 January 1869), p. 6.

Good Words, published during 1877, made little reference to legal development or constitutional progress. Instead it focused on the texture of past lives, using statutes to extrapolate information about hunting, hawking and forestry; what people ate, drank and wore, and the dues that they paid for trading.⁴³ In the *NBR*, meanwhile, a discussion of the *NMS* highlighted the aesthetic impact of the manuscript facsimiles that it contained and lauded their power to inspire historical empathy.⁴⁴

These reviews, like many of those cited earlier in this chapter, were informed by a powerful romantic sensibility that sought a connection to the past in domestic detail and daily life, Innes's ability to make that connection using records that were seen as dry and obscure therefore attracted considerable admiration. The *Athenaeum*'s review of *SMA* praised his aim of studying history through original documents rather than secondary narratives.⁴⁵ The *London Review* congratulated *SESH* for enriching dry and difficult records with learning in a popular form.⁴⁶ The *Examiner*'s review of *SLA* highlighted the enormous amount of record scholarship that had aided its creation, of which Innes presented only the 'flowers' to the reader.⁴⁷ The *Athenaeum* praised the book for similar reasons, stating that it successfully joined 'legal archaeology' with 'common life'.⁴⁸ The link between sources and past lives was discussed further in the *Archaeologia Cambrensis*'s review of *SMA* and *SESH*, which stated that:

He shows how old records may be analysed, and ancient parchments – the dry bones of history – may be resuscitated into life, and their contents worked up into vivid representations of events, as bright and positive as though they were contemporaneous with his own pages.⁴⁹

⁴³ *Good Words* 18 (1877), pp. 574-6.

⁴⁴ Anon', [WIVP attr. J. Earle], 'The History of Writing', *NBR*, 48:96 (1868) for aesthetic value see pp. 513 & 541-3, for historical imagination see p. 513.

⁴⁵ *Athenaeum* 1697 (5 May 1860), p. 613.

⁴⁶ *London Review* 2:42 (1861) p. 447.

⁴⁷ *Examiner* 3390 (18 January 1873) p. 64.

⁴⁸ *Athenaeum* 2358 (4 January 1873) p. 12.

⁴⁹ Anon', 'Scotland in the Middle Ages', *Archaeologia Cambrensis* 8:30 (1862), p. 162

Similarly, the *Morning Post* asserted that *SESH* contained ‘a treasury of valuable documents, from which may be framed a better domestic history of Scotland during the middle ages than we yet possess’.⁵⁰ Writing along the same lines, the *Spectator* stated of the Breadalbane, Kilravock and Cawdor documents discussed in *SESH*:

Abounding, as these papers do, in social illustrations, and sketching, as they do, the character and spirit of the age, the condition and customs of the people, they cannot fail to instruct and entertain. Touches of reality, pleasant bits of gossip, records of wind and weather, household doings and sayings, are all to be found scattered over these family papers.⁵¹

The point that emerges is that, whilst few people read Innes’s source editions themselves, the discussions of past lives that he used those sources to create were very much in tune with the romantic sensibilities of educated society across Britain in the period. Furthermore, the fact that his little-read source editions even existed was itself something that the educated classes were aware of and appreciated. This is illustrated by the *Gentleman’s Magazine*’s review of *SMA*, which stated that Innes’s reputation was by 1860 already firmly established in both Scotland and England.⁵² Since *SMA* was his first work of synthesis, and the review was issued soon after the book was published, this implies that Innes’s standing was at that point based primarily on his record publications.

Yet despite this enthusiasm for some aspects of Innes’s work, the reviews discussed in the early sections of this chapter were symptomatic of the ‘strange death’ of Scottish history. They illustrate a clear lack of consensus about how the Scottish past should be interpreted and what value should be assigned to it, both in England and Scotland. The failure of Innes’s efforts to

⁵⁰ *Morning Post* (8 April 1861), quoted in Syme, *Clinical Surgery*, on p. 15 of the ‘Edmunston and Douglas List of Works’ at the end of the book.

⁵¹ *Spectator* (6 April 1861), quoted in Syme, *Clinical Surgery*, on p. 15 of the ‘Edmunston and Douglas List of Works’ at the end of the book.

⁵² *Gentleman’s Magazine* 208 (May 1860), p. 497.

rehabilitate Scottish legal, burghal and ecclesiastical history by clothing them in the Enlightenment raiment of historical progress was symptomatic of this. A similar lack of consensus was evident in the contemporary debates that Innes participated in over the historical legacy of Scotland's universities. His positive portrayals of the Scottish past, characterised by antiquarian methods, adapted Enlightenment outlooks and an assertive and historically-based patriotism-within-union, proved too rich for most Englishmen and many Scots to swallow. Moreover, the source editions on which those interpretations were predicated were accessible to few and actually read by even fewer.

Crucially, however, this did not mean that Scottish history was seen as valueless, as the reviews cited in the later sections of the chapter show. In a discussion of *SMA*, the *Glasgow Herald* asserted that 'it is, indeed, a favourable indication of our intelligence, our refinement and our civilisation, that the public bestow so much interest on all that concerns our forefathers of a long-past era.'⁵³ These sentiments certainly fuelled the 'historical revolution' earlier in the century, but this comment was written in 1860 and thus demonstrated that Innes's approach to Scottish history maintained ideological validity well into the later part of the century. As this thesis has argued; that approach was a legacy of the confluence between Enlightenment and Romanticism that historians like Ash highlight in Scott's work.⁵⁴ Yet by the 1860s it was only the romantic elements that were accepted and appreciated by a wider audience. Indeed, this was illustrated by the preference that many reviewers showed for Innes's discussions of family history. To Innes, historical progress and historical romanticism were two sides of the same coin; the latter could not exist without the former. For the reviewers discussed above, however, it was English progress that provided the foil for Scottish romanticism. Indeed, Chapter Ten has noted that it was precisely this outlook that made Scotland such a popular destination for English tourists.⁵⁵ Moreover, it was to an extent the sidelining of constitutional and religious history that enabled the Scottish historical experience

⁵³ *Glasgow Herald* 6276 (23 February 1860), p. 4.

⁵⁴ Ash, *Strange Death*, p. 15.

⁵⁵ K. H. Grenier, *Tourism and Identity in Scotland, 1770-1914: Creating Caledonia* (Aldershot, 2005), pp. 135-73; G. D. Wood, *The Shock of the Real; Romanticism and Visual Culture 1760-1860* (Basingstoke, 2001), pp. 171-218.

to be appreciated, both north and south of the border, on a more nostalgic, imaginative, and aesthetic level.⁵⁶

Fry, using a phrase coined by Cockburn, asserts that in the later 1800s ‘those “picturesque peculiarities” were the sole Scottish theme worth attention, and then only by way of light relief’.⁵⁷ Morton, meanwhile, has questioned the contribution of romantic history to Scottish identity in the middle decades of the nineteenth century.⁵⁸ Yet these views underrates the ideological power that romanticism conferred upon the Scottish past, and neglects its ongoing importance as an articulation of identity within Union. As Mandler asserts, romantic history was a key factor in English national identity in the period, and it should not be assumed that the same cannot be true in Scotland.⁵⁹ That is not to say that the historiographical implosion of the mid-nineteenth century did not happen; on the contrary, Ash’s argument and Kidd’s additions to it are persuasive.⁶⁰ Nonetheless, recent depictions of this decline have underrated the significance of Scottish historical romanticism in the later part of the century. As Trevor-Roper points out, from the pedestal of the present-day it is easy to be contemptuous of romantic historiography and to prefer the philosophical history of the eighteenth century or the ‘scientific’ history of the nineteenth.⁶¹ Yet the kind of romanticism that Innes practiced had a durability which, in terms of Scottish history, enabled it to survive in a broadly appealing form

⁵⁶ Grenier, *Tourism and Identity*, pp. 10-12.

⁵⁷ Fry, ‘Whig Interpretation’, p. 83; see also H. Cockburn, *Journal of Henry Cockburn: Being a Continuation of the Memorials of his time, 1831-1854*, 2 vols. (Edinburgh, 1874), I, p. 28.

⁵⁸ G. Morton, *Unionist Nationalism; Governing Urban Scotland 1830-1860* (East Linton, 1999), pp. 20-1.

⁵⁹ P. Mandler, ‘“In the Olden Time”; romantic history and English national identity 1820-50’, in *A Union of Multiple Identities; the British Isles c.1750-c.1850*, ed. L. W. B. Brockliss & D. Eastwood (Manchester, 1997), pp. 78-93.

⁶⁰ Ash, *Strange Death*, pp. 124-152; C. Kidd, ‘*The Strange Death of Scottish History* revisited; constructions of the past in Scotland c. 1790-1914’, *SHR* 76 (1997), pp. 86-102

⁶¹ H. Trevor-Roper, *The Romantic Movement and the Study of History; the John Coffin Memorial lecture* (London, 1969), pp. 22-4.

at a time when other approaches were undergoing the decline and fragmentation that Ash refers to as the ‘strange death of Scottish history’.

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This thesis has argued that Cosmo Innes was a leading proponent of a new form of antiquarianism that was acceptable to the mainstream and which was, particularly in Innes’s case, an expression of patriotism within Union. It took a number of guises in his positive portrayal of Scotland’s medieval history, many of them shaped by an Enlightenment-Whig preoccupation with historical progress. Yet it was his use of sources to give readers an evocative, imaginative and aesthetically pleasing connection to the lives of their predecessors that met with most success. This romantic view of Scottish history, which had a legal and Teutonist foundation that had little to do with kilts or kailyards, was Innes’s most lasting contribution to the country’s sense of its own history and place within the Union.

Appendix 1: Reference List of Innes's Editions

Short title	Contributor	Organisation	Date
<i>Mylne, Lives of the Bishops of Dunkeld</i>	The club	Bannatyne	1831
<i>Paisley Registrum</i>	Earl of Glasgow	Maitland	1832
<i>Melrose Liber</i>	Duke of Buccleuch and Queensferry	Bannatyne	1837
<i>Moray Registrum</i>	Duke of Sutherland	Bannatyne	1837
<i>Holyrood Liber</i>	Earl of Elsmere	Bannatyne	1840
<i>Dunfermline Registrum</i>	Duke of Buckingham, Earl Spencer, Earl of Rosslyn, Thomas Grenville, Robert Ferguson, James Loch, John Richardson	Bannatyne	1842
<i>Gordon, Descriptio</i>	The club	Spalding	1842
<i>Glasgow Registrum</i>	The clubs	Bannatyne & Maitland	1843
<i>Scone Liber</i>	William Smythe	Bannatyne & Maitland	1843
<i>APS I, 1124-1424</i>	The state	Register House	1844
<i>Aberdeen Registrum</i>	The clubs	Spalding & Maitland	1845
<i>Liber Officialis</i>	Lord Medwyn	Abbotsford	1845
<i>Kelso Liber</i>	Duke of Roxburghe	Bannatyne	1846
<i>North Berwick Carte</i>	The club	Bannatyne	1847
<i>Inchaffray Liber</i>	The club	Bannatyne	1847
<i>Family of Rose</i>	The club	Spalding	1848
<i>Arbroath Liber</i>	Patrick Chalmers	Bannatyne	1848-1856
<i>Caithness Records</i>	The club	Bannatyne	1848
<i>Newbattle Registrum</i>	The club	Bannatyne	1849

<i>Morton Registrum</i>	The club	Bannatyne	1853
<i>Glasgow University Muniments</i>	The club	Maitland	1854
<i>Aberdeen Fasti</i>	Earl of Aberdeen	Spalding	1854
<i>Taymouth Book</i>	Marquis of Breadalbane	Bannatyne	1855
<i>Brechin Registrum</i>	Patrick Chalmers	Bannatyne	1856
Barbour's <i>Brus</i>	The club	Spalding	1858
<i>Cawdor Book</i>	Earl of Cawdor	Spalding	1859
<i>Familie of Innes</i>	The club	Spalding	1864
<i>Halyburton's Ledger</i>	The state	Register House	1867
<i>NMS</i>	The state	Register House	1867-1872
<i>Ancient Burgh Laws</i>	The club	SBRS	1868
<i>APS V</i> (2 nd edition)	The state	Register House	1870
<i>APS VI</i> (2 nd edition)	The state	Register House	1870-1872

Appendix 2: Innes's Illustrations, Photographs and Facsimiles



Image 1 - 'Cawdor from across the Burn', *Cawdor Book*, after p. lxxvii
This image is now in the public domain

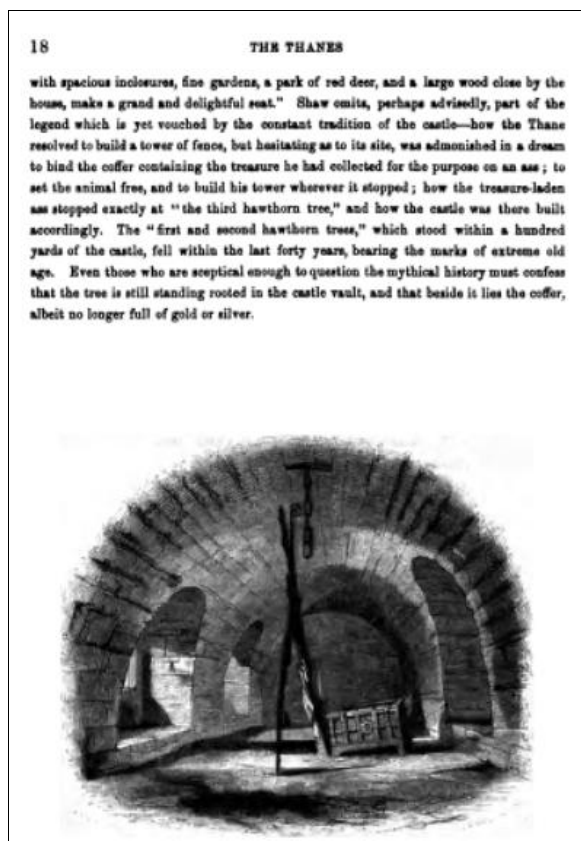


Image 2 - 'The Vault of the Hawthorn Tree in Cawdor castle, drawn by R. W. Billings', *Cawdor Book*, p. 18
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Image 3 - 'North View of Brechin Cathedral; from a drawing by Mr. Petley', *Brechin Registrum*, after p. xxxi
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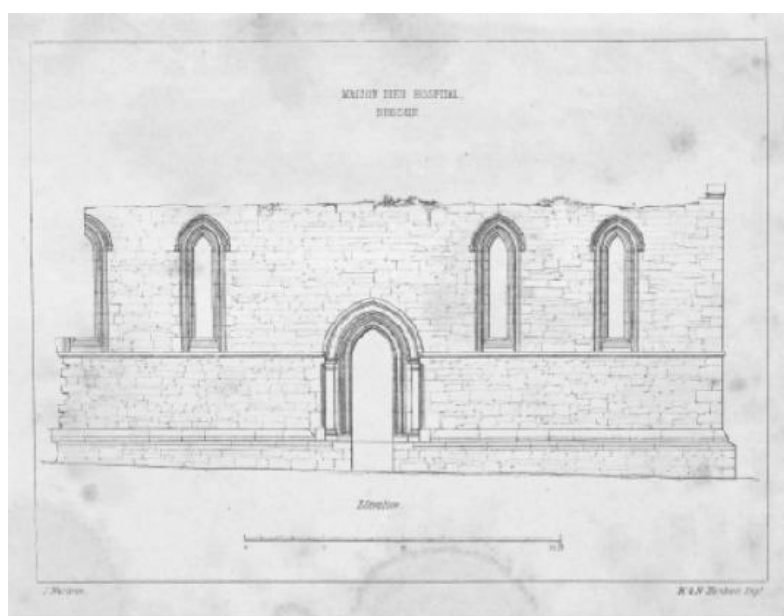


Image 4 - 'Maison-Dieu Hospital, elevation, by Mr. McLaren', *Brechin Registrum I*, after p. xxxi
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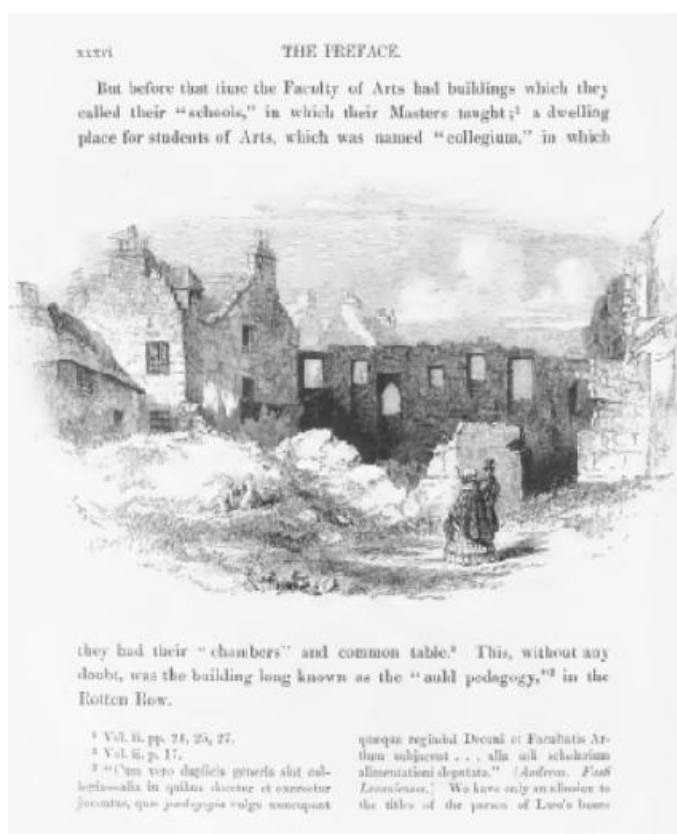


Image 5 - 'The "Auld Pedagogy" in Rotton Row; drawn by Mr. Rose - Cut by Mr. Measom', *Glasgow University Muniments IV*, p. xxxvi
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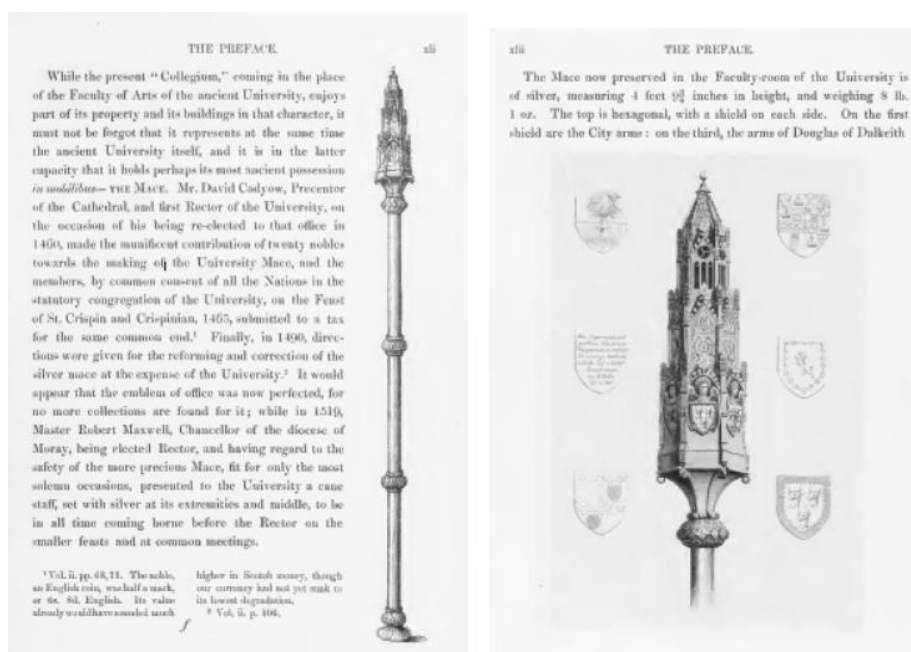


Image 6 – 'The University Mace, drawn by Mr. Scott', and 'The Head of the Mace, with the Shields, drawn and Engraved by Mr. Scott', *Glasgow University Muniments IV*, pp. xli, xlii
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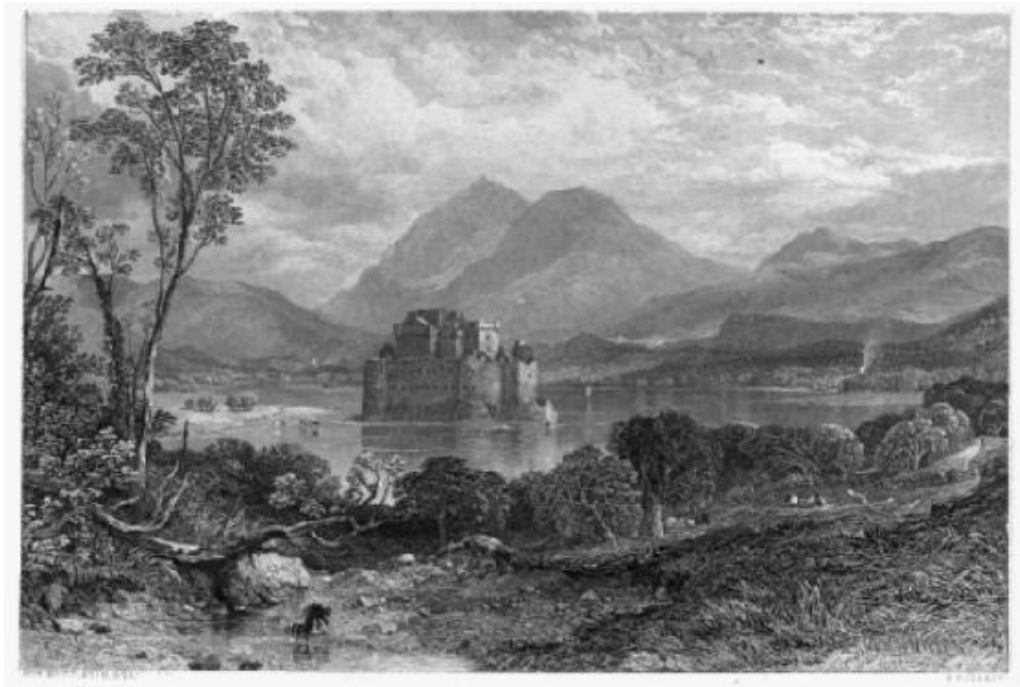


Image 7 - 'Kilchurn Castle. The Castle from an Etching of John Clerk of Eldin, 1777. The Scenery from a Sketch made on the spot, by Horatio McCulloch, U.S.A. Engraved by William Forrest, Edinburgh', *Taymouth Book*, front piece
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Image 8 - 'Palace of Scone' [in 1773 by Archibald Rutherford]', *Scone Liber*, after p. xx
This image is now in the public domain



Image 9 - 'Tacies Civitates Aberdoniae; the Prospect of Old Aberdeen',
Gordon, *Descriptio*, after p. 28
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Image 10 - 'Kilravock', *Family of Rose*, front piece
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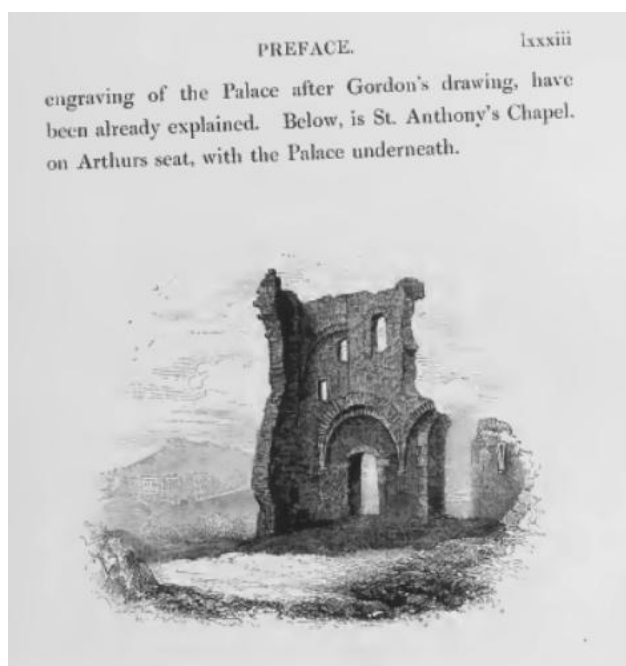


Image 11 - [St Anthony's Chapel, Edinburgh],
Holyrood Liber, p. lxxxiii;
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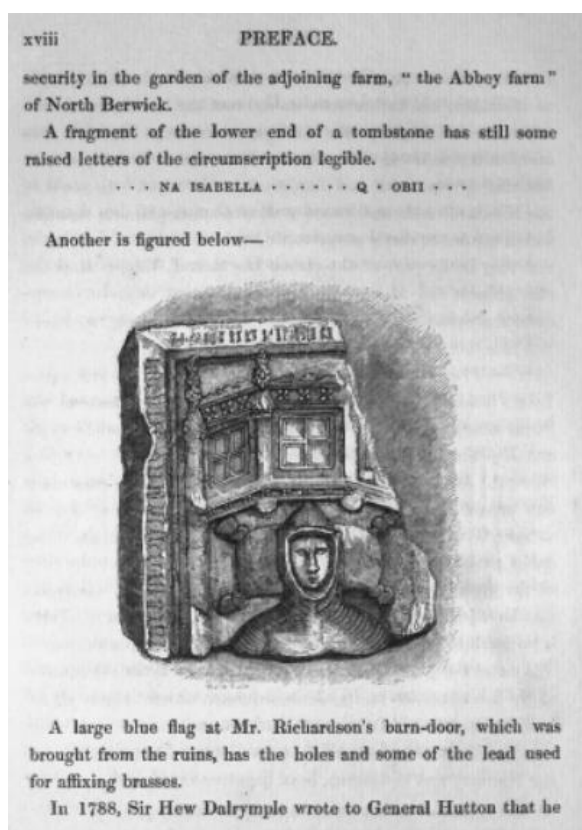


Image 12 - 'Wood-Cut of a Monumental Stone, preserved in the garden of the Abbey farm', *North Berwick Carte*, p. xviii
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Image 13 - C. Innes, 'Cawdor Castle, Nairnshire', *ECCA* 1, p. 92
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Image 14 - C. Innes, 'Gordon Castle, Morayshire', *ECCA* I, p. 95
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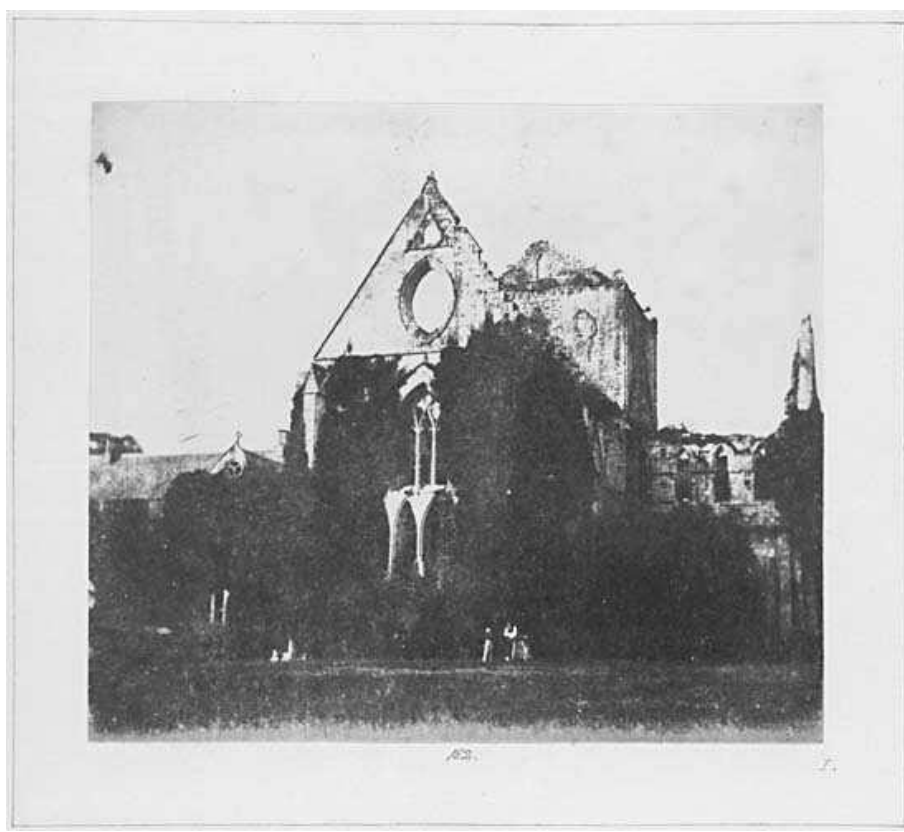


Image 15 – C. Innes, 'Pluscarden Abbey, Morayshire' *ECCA* I, p. 96
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Image 16 – C. Innes, 'Church of St Mary the Less, North Bailey, Durham', *ECCA* I, p. 98
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Image 17 – C. Innes, ‘South Door of Elgin Cathedral’, *ECCA* I, p. 98
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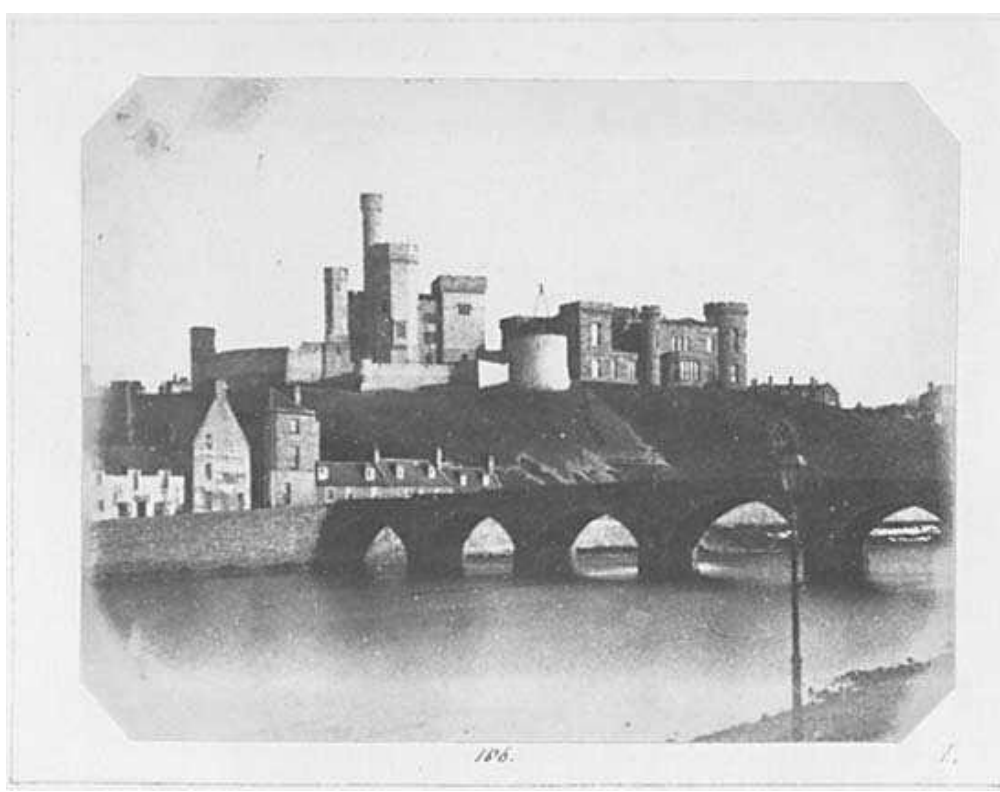


Image 18 – C. Innes, ‘View of Inverness showing bridge (washed away in January 1849)
over River Ness and Inverness Castle’, *ECCA* I, p. 99
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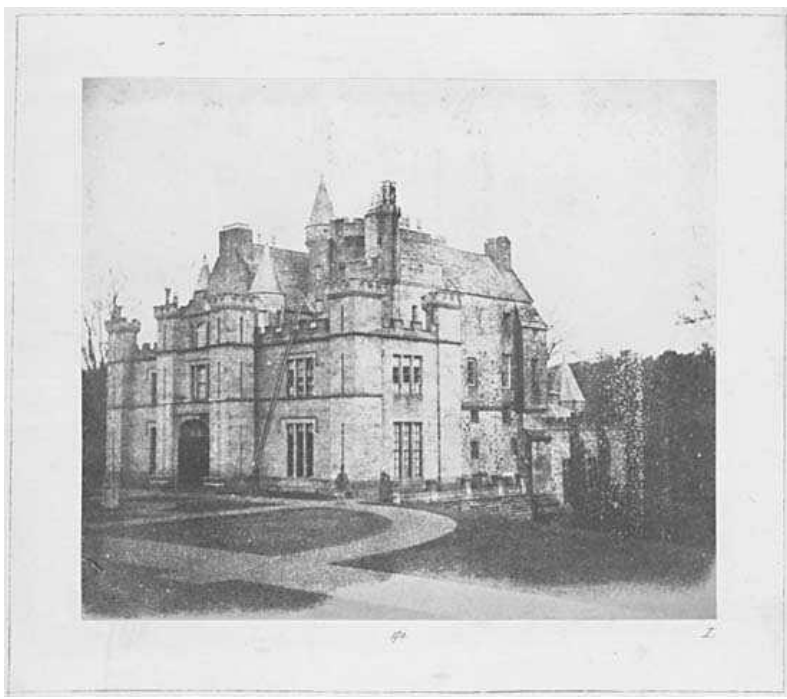


Image 19 – C. Innes, ‘Auldbar Castle, Forfarshire (now demolished)’, *ECCA* I, p. 101
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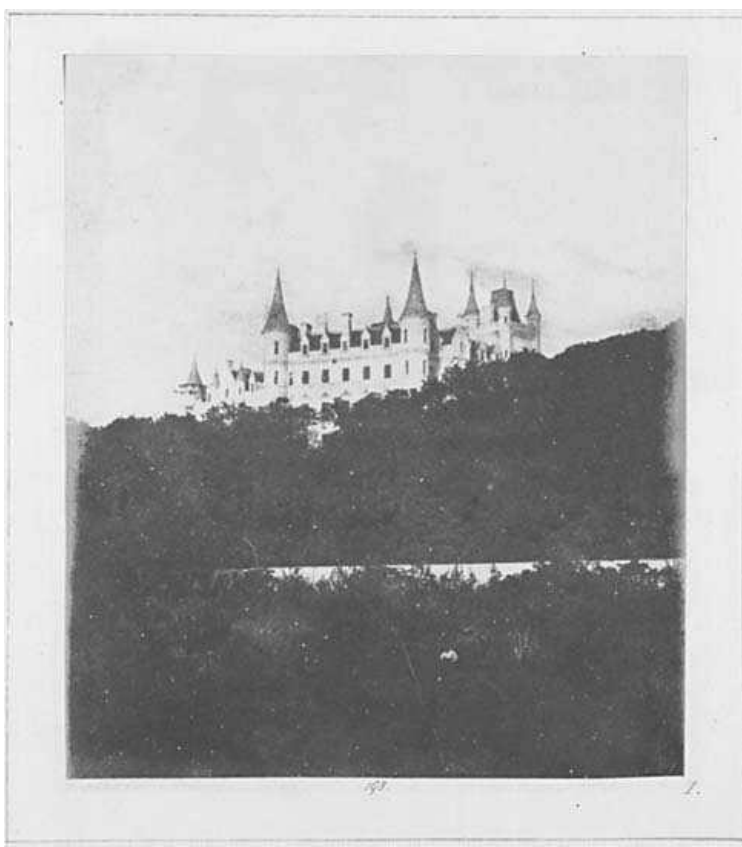


Image 20 - C. Innes, ‘Dunrobin Castle, Sutherland’, *ECCA* I, p. 103
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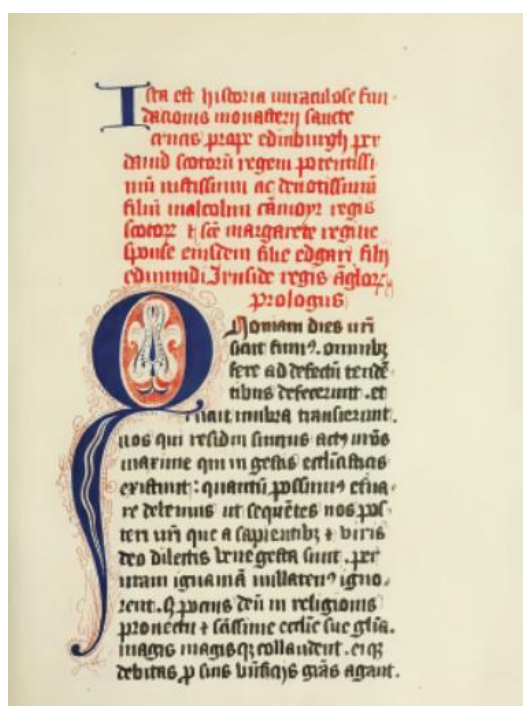


Image 21 – Untitled Charter Facsimile, *Holyrood Liber*, after p. cxxxiv
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Image 22 – Facsimile copies of the pictures in the Black Book of Taymouth,
 lithographed by W. H. Lizars – Sir Colene Campbell, First Laird',
Taymouth Book, after p. 10
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Image 23 – ‘The charter, No. 19, as written (1) in the *Liber Decani*, f. 15
(2) in the *Liber Episcopi*, f. 39 (3) in the later Chartulary, f. 14’,
Moray Registrum, after p. 14
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Image 24 – Various seals, *Glasgow Registrum II*, after p. xxxiv,
for details see ‘The Plates’, p. xxxiii
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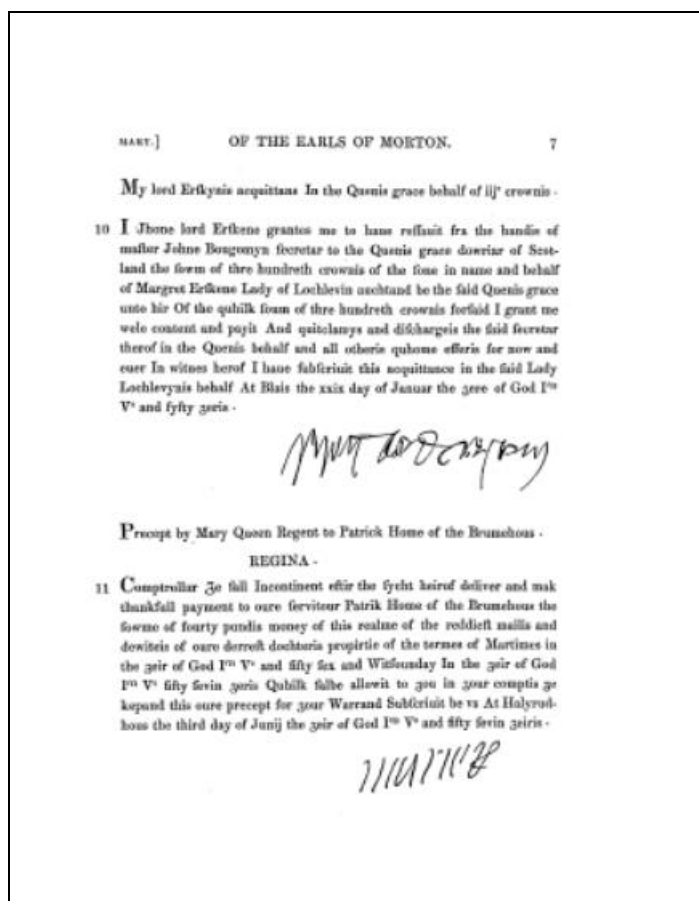


Image 25 – Signatures below items in the *Morton Registrum* I, p. 7
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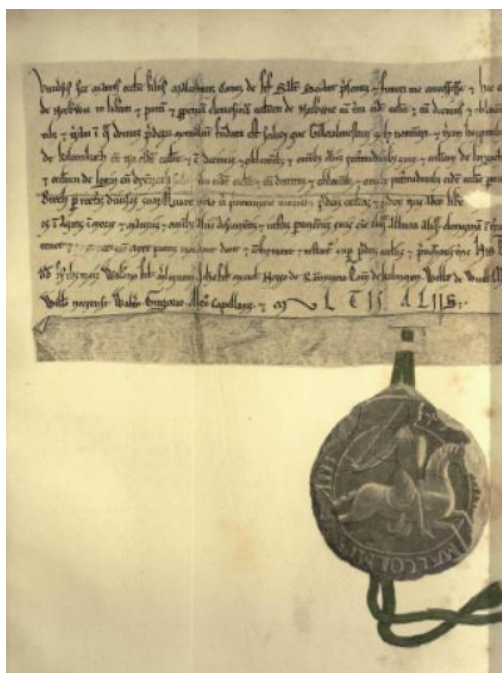


Image 26 – ‘Fac-simile of the Charter and Seal of Malcolm Earl of Fife; No. 7’, *North Berwick Carte*, after p. 8.

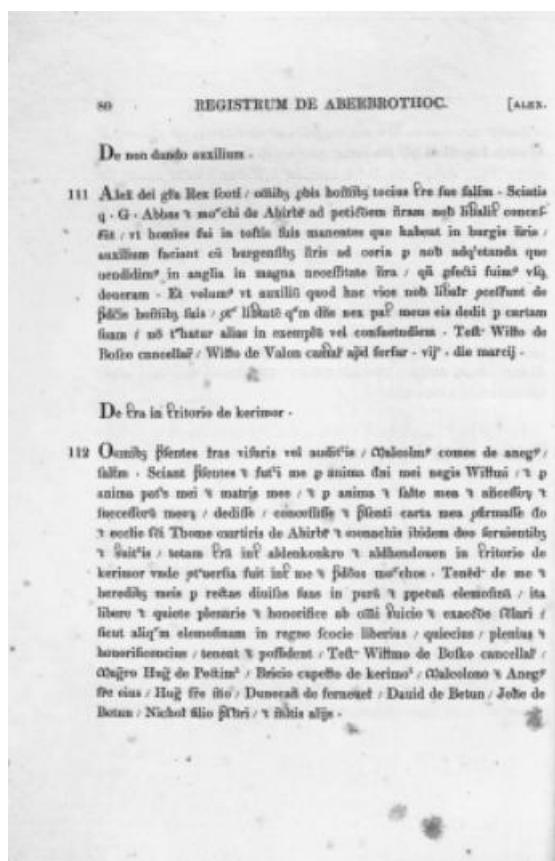


Image 27 – Page of Record Type in the *Arbroath Liber I*, p. 80
This image is now in the public domain

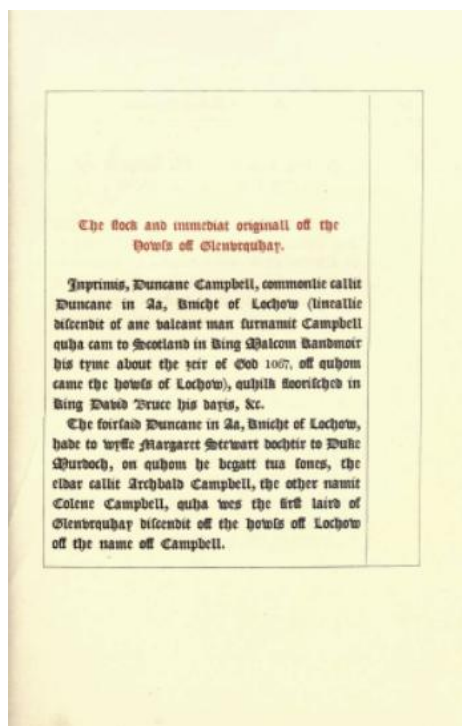


Image 28 – Pseudo-scribal script and rubrics used in the *Taymouth Book*, p. 8
This image is now in the public domain

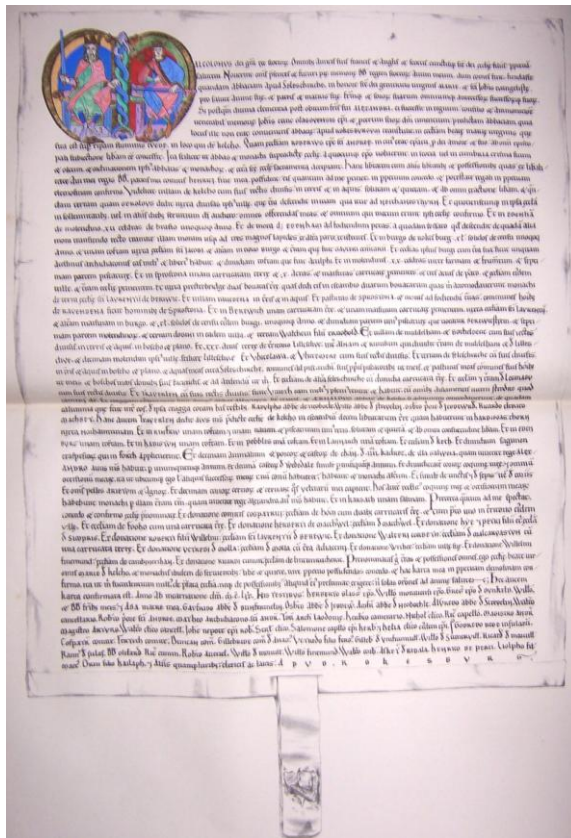


Image 29 – ‘King Malcolm’s Great Charter to Kelso’, *NMS I*, nos. XXII, p. 13



Image 30 – ‘A page of Fordun's *Scotichronicon*, from the same MS., with a drawing of the Coronation of King Alexander III’, *NMS II*, LXXXIV, p. 68

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Appendix 3: Innes's Contributions to the Periodical Press

Innes's daughter states that he was a 'frequent contributor' to the *QR* and the *NBR*, and the *WIVP* attributes twelve periodical articles to him.¹ Yet some of these attributions are problematic and have consequently been excluded from this thesis.

Excluded Articles

Doubt hangs over five *WIVP* attributions. The least convincing are three *British Quarterly Review* (henceforth *BQR*) articles printed between 1870 and 1872. The first is 'The Free Church of Scotland: A Quarter of a Century of Disestablishment' (1870) and is a review of Free Church financial records between 1843 and 1868.² This raises the question of why Innes, an Episcopalian, would write an article on this subject for a non-conformist periodical.³ The article praised the Free Church's rejection of lay control and calls for 'a broader and a less traditional Church life'.⁴ These are strange sentiments for an anglicising Episcopalian antiquary. The *WIVP* bases its attribution on a letter quoted in a posthumous biography of the *BQR*'s editor.⁵ However, that letter stated only that 'Innes' wrote an article on the Free Church for the *BQR*. It did not give a first name.⁶

The next article is 'Early Sufferings of the Free Church of Scotland' (1871).⁷ This is again an unlikely subject for Innes to write about. The *WIVP* attribution is founded on the fact that the article opened with a reference to the article discussed above, and that both pieces

¹ Burton, *Memoir*, p. 25.

² Anon. [*WIVP* attr. C. Innes], 'The Free Church of Scotland: A Quarter of a Century of Disestablishment', *BQR*, 51:101 (1870) pp. 102-45.

³ *WIVP* 4, pp. 114-25.

⁴ Anon., 'Free Church of Scotland', p. 145.

⁵ *WIVP* IV, p. 160.

⁶ S. F. R. Best & H. R. Vaizey, *Henry Robert Reynolds, D.D: his Life and Letters* (London, 1898), p. 229.

⁷ Anon. [*WIVP* attr. C. Innes], 'Early Sufferings of the Free Church of Scotland', *BQR* 108 (1871), pp. 335-58.

supported a proposed minimum stipend for Presbyterian ministers.⁸ Casting doubt on Innes as the author of the former therefore discredits him as author of the latter. The same applies to the third article in the series, called 'An Ecclesiastical Tournament in Edinburgh' (1872).⁹ The *WIVP* cites stylistic similarities with the 'Free Church of Scotland' article as evidence for Innes's authorship.¹⁰ However, Jonathan Cutmore has argued against attributing authorship on the basis of this kind of internal evidence, and the attribution for the first article is in any case doubtful.¹¹ 'Ecclesiastical Tournament' dealt with lectures on ecclesiastical history delivered by Dean Stanley of Westminster and the Free Church minister Robert Rainy. In contradiction of what might be expected from Innes, it favoured the Presbyterian Rainy over the Anglican Stanley.¹² Finally, Innes's daughter stated that her father contributed to the *QR* and the *NBR* but said nothing about the *BQR*.¹³

According to the *WIVP*, Innes wrote 'Puritanism in the Highlands - "The Men"' (1851) for the *QR*.¹⁴ This was a critique of Highland lay preachers and the tacit support that they received from some Free Church ministers; again an odd subject for Innes to write about. The *WIVP* attribution is derived from the *Murray Register*, a 'register of authors and articles in the *QR*', compiled by the periodical's publisher.¹⁵ It was begun in the late 1870s, and for that reason Cutmore advises caution when using it to ascertain the authorship of articles published before 1879.¹⁶ There is consequently doubt over the validity of this attribution as well as the three already discussed.

⁸ *WIVP* IV, p. 162; Anon., 'Free Church of Scotland', pp. 128-9; Anon., 'Early Sufferings', p. 335.

⁹ Anon. [*WIVP* attr. C. Innes], 'An Ecclesiastical Tournament in Edinburgh', *BQR*, 56:111 (1872), pp. 125-45.

¹⁰ *WIVP* IV, p. 163.

¹¹ J. Cutmore, 'Wellesley Index I's Quarterly Review" Identifications: Was the Murray Register a Reliable Source?', *Victorian Periodicals Review* 27 (1994), p. 298.

¹² Anon., 'Ecclesiastical Tournament', pp. 128-31, 133-5.

¹³ Burton, *Memoir*, p. 25.

¹⁴ Anon. [*WIVP* attr. C. Innes], 'Puritanism in the Highlands - "The Men"', *QR*, 89:178 (1851), pp. 307-32

¹⁵ *WIVP* I, p. 734.

¹⁶ Cutmore, 'Wellesley *WIVP*', pp. 295-7.

The *QR* article ‘Scotland Before the Reformation’ (1851) seems more likely to have been written by Innes.¹⁷ The *WIVP* attributes it to him on the basis of two pieces of evidence.¹⁸ The first is an 1848 letter from Innes to the *QR*’s editor, in which he offered to write a paper on Scotland ‘before and after the Scotch Reformation’.¹⁹ The second is that, in the *Memoir of Innes*, Innes’s daughter also recorded that he wrote an article called ‘Scotland Before the Reformation’.²⁰ Ash accepts this attribution, but there is reason to doubt it.²¹ The letter stated Innes’s intention to illustrate immorality both before and after the Reformation, yet the article focused only on the earlier part of the sixteenth century. Moreover, Innes’s daughter stated that ‘Scotland Before the Reformation’ was published in the *NBR* but no such article appeared in that periodical, The *WIVP* responds to this problem by linking Innes to the *QR* article of the same name through the 1848 letter. Yet the *Memoir of Innes* suffers from similar reliability issues to the *Murray Register*, in that it was written many years after most of the events that it describes. In addition, one of the works reviewed in the piece was Innes’s own *OPS*, and the article contained a footnote explaining that the *OPS* was incomplete at the time of writing and could therefore not be discussed. The footnote then stated of the *OPS* that ‘we cannot adopt some of the editor’s genealogical views’.²² This is an inexplicable sentiment if Innes is accepted as author. Finally, the article asserted that ‘Knox and his coadjutors were no destroyers of churches, as we have shown in a former number’.²³ A footnote indicated that this ‘former number’ was Robertson’s ‘Scottish Abbeys and Cathedrals’, published in a previous issue.²⁴ It therefore seems possible that the article was written by Robertson rather than Innes, especially since the two had similar views on ecclesiastical history. In any case, there is enough evidence to throw Innes’s alleged authorship into doubt.

¹⁷ Anon. [*WIVP* attr. C. Innes], ‘Scotland Before the Reformation’, *QR* 89:177 (1851), pp. 33-56.

¹⁸ *WIVP* I, p. 734.

¹⁹ *Correspondence of John Gibson Lockhart*, NLS, MS. 930, no. 76, fol. 91.

²⁰ Burton, *Memoir*, p. 61.

²¹ Ash, *Strange Death*, pp. 131-2.

²² Anon., ‘Scotland Before the Reformation’, p. 39

²³ *ibid.*, p. 35.

²⁴ Anon. [*WIVP* attr. J. Robertson], ‘Scottish Abbeys and Cathedrals’, *QR* 85:169 (1849), pp. 103-56.

Included Articles

Seven of the Innes attributions in the *WIVP* stand up to scrutiny. The most questionable is another *QR* article entitled ‘Ecclesiastical Antiquities of Scotland’ (1843).²⁵ Like ‘Puritanism in the Highlands’, it is assigned to Innes on the basis of the somewhat unreliable *Murray Register*.²⁶ Nevertheless, many entries in this source are accurate and the attribution cannot be dismissed without further investigation.²⁷ Unlike most of the examples discussed above, this article focused on the medieval church and therefore falls within Innes’s area of expertise. It also contained some of Innes’s trademark views, such as the civilising influence of the church and its corruption prior to the Reformation.²⁸ Additionally, the article contained a moderate bias against Presbyterianism that seems fitting for an Episcopalian; referring to ‘the grim features of Knox and Melville’, and Presbyterian ministers as ‘a singularly unlearned clergy’.²⁹ The article was partly a review of Innes’s own *Melrose Liber* and *Glasgow Registrum*. Although it may seem improbable that Innes would review his own works, such articles were not reviews in the modern sense. Rather than directly criticising, they often used the books under discussion to summarise a certain subject. In this case, the article used Innes’s editions, Turnbull’s *Fragmenta Scoto-Monastica* and a work by the Episcopal Dean William Dansey (1792-1856), to elucidate pre-Reformation Scottish ecclesiastical history. It is therefore not unlikely that Innes wrote an article based partly on his own editions.

The other six *WIVP* attributions are less problematic. A *QR* article entitled ‘Scotch Topography and Statistics’ (1848) is assigned to Innes on the basis of a letter from William Gibson-Craig and a further mention in an article published that year in the *Dublin Review*.³⁰ There is no reason to question either of piece of evidence. The authorship of the

²⁵ Anon. [*WIVP* attr. C. Innes], ‘Ecclesiastical Antiquities of Scotland’ *QR* 72:144 (1843), pp. 379-97.

²⁶ *WIVP* I, p. 725.

²⁷ Cutmore, ‘Wellesley *WIVP*’, p. 296.

²⁸ Innes, ‘Ecclesiastical Antiquities’, pp. 387, 391-2

²⁹ *ibid.*, pp. 379, 380.

³⁰ Anon. [*WIVP* attr. C. Innes], ‘Scotch Topography and Statistics’, *QR* 82:164 (1848), pp. 342-90; *WIVP* I, p. 734; *Correspondence of Macvey Napier* (1829-847), British Museum, MS. 34,626; Anon. [*WIVP* attr. F. Jeffrey], ‘The Bass Rock; its Civil and

QR article ‘Highland Sport’ (1845) is equally straight-forward, and is based on a comment in a later *QR* article and on Innes’s own statements in his biography of Charles St John.³¹ Further evidence, not cited in the *WIVP*, can be found in an 1857 letter from Innes to George Gordon.³²

The remaining articles were published in the *NBR*, and their attributions rely on records compiled contemporaneously by David Douglas (1824-1916). As the periodical’s publisher, Douglas was in a good position to keep accurate records and he was already familiar with Innes through publishing *SMA* and *SESH*. ‘The Country Life of England’ (1864) is assigned to Innes in two separate documents compiled by Douglas.³³ Despite the title, much of it focused on outdoor pursuits in Scotland and it therefore covered similar ground to ‘Highland Sport’. ‘The Scotch Lawyer of the Seventeenth Century’ (1864), focusing on Lord Fountainhall, is also attributed to Innes in both Douglas documents and again there is no reason to doubt this.³⁴ Indeed, the interest paid to Fountainhall’s travels on the continent and the rejections of his negative views of Catholicism were typical of Innes.³⁵ Moreover Innes, together with George Grub, is given as co-author of ‘*Concilia Scotiae*’ (1867) in just one of Douglas’s documents.³⁶ This was a review of Robertson’s edition of pre-Reformation synods. Innes was an expert on this topic and would have been a natural choice to review the work. In addition, the article takes an almost eulogistic approach to the recently-deceased Robertson and this reflects the close relationship

Ecclesiastic History, Geology, Martyrology, Zoology, and Botany’, *Dublin Review* 25:50 (1848), p. 515.

³¹ Anon. [*WIVP* attr. C. Innes & C. W. G. St John], ‘Highland Sport’, *QR* 77:153 (1845), pp. 69-105; *WIVP* I, p. 728; Anon. [*WIVP* attr. L. J. Jennings], ‘Country Life’, *QR* 158:316 (1884), p. 423; Innes, ‘Memoir [of St John]’, p. xix.

³² *Letters from Cosmo Innes to George Gordon* (1857-1871), Elgin Museum, ELGINM: L1987.S, no. 2.

³³ Anon. [*WIVP* attr. C. Innes], ‘The Country Life of England’, *NBR* 40 (1864), pp. 1-39; *WIVP* I, p. 688.

³⁴ Anon. [*WIVP* attr. C. Innes], ‘The Scotch Lawyer of the Seventeenth Century’, *NBR* 41 (1864), pp. 170-198; *WIVP* I, p. 689.

³⁵ Innes, ‘Scotch Lawyer’, pp. 171-80.

³⁶ Anon. [*WIVP* attr. C. Innes & G. Grub], ‘*Concilia Scotiae*’, *NBR* 47:93 (1867), pp. 63-93; *WIVP* I, p. 691.

between the two.³⁷ Finally, the *WIVP* notes that one of Douglas's records names Innes as the author of 'Mistral's *Mireo*' (1868).³⁸ This represented a rare foray into literary criticism for Innes, but the article focused particularly on language in a manner reminiscent of the preface to Barbour's *Brus*. It also contained romantic and picturesque sensibilities similar to those expressed in many of Innes's works.³⁹

³⁷ Innes & Grub, 'Concilia Scotiae', pp. 63-72.

³⁸ Anon. [*WIVP* attr. C. Innes], 'Mistral's *Mirio*', *NBR* 48:96 (1868), pp. 339-64; *WIVP* I, p. 692.

³⁹ Innes, 'Mistral's *Mireio*', pp. 340-2, 345-60, 360-1.

Appendix 4: The Readership of Innes's Editions

Innes's source editions had a limited readership. Between 1833 and 1844 Bannatyne Club membership was fixed at one hundred and each member received one copy of each volume. In the case of works funded by the Club, extra copies could be printed for sale at the discretion of the Committee. Works sponsored by individuals were limited to 113 copies; with one hundred going to members and the other thirteen to be disposed of as the contributor chose.¹ Innes's *Melrose Liber*, *Moray Registrum*, *Holyrood Liber* and *Dunfermline Registrum* were sponsored by individuals prior to 1844 and it can therefore be assumed that 113 copies of each were printed.² In 1844 the number of copies of individually-sponsored editions produced was increased from 113 to 130 and this affected the *Kelso Liber*, the *Arbroath Liber* and the *Taymouth Book*.³ Copies of the *Brechin Registrum*, sponsored by Patrick Chalmers, were more numerous because additional commemorative copies were produced following his death.⁴ The *OPS*, meanwhile, was sponsored through direct subscription by members. However, the Club experienced difficulties in collecting these payments and also had to deal with ballooning costs.⁵ It consequently seems likely that fewer than 130 copies were printed. Innes's *North Berwick Carte*, *Inchaffray Liber*, *Newbattle Registrum* and *Morton Registrum* were funded from Club money and it can thus be assumed that one hundred copies of each were produced.⁶

Even smaller numbers of Innes's works for the Maitland Club were printed. Membership was limited to eighty and each member received a copy, although the Council had discretionary powers to print additional copies.⁷ It does not, however, seem likely that Innes's *Glasgow University Muniments*, paid for from Club funds and running to four volumes, would have warranted extra copies. Meanwhile, just ninety-one copies of his *Paisley Registrum* were produced.⁸ The *Glasgow Registrum* and the *Scone Liber* were

¹ Laing, *Bannatyne Club*, pp. 37-9.

² *ibid.* pp. 68-9, 73-4.

³ *ibid.* pp. 40, 77, 86.

⁴ *ibid.* pp. 86-7.

⁵ *ibid.* pp. 84-5; *Letters from Cosmo Innes to David Laing* (1831-1872), Edinburgh University Library, La IV 17, fols. 4922-3, 4955.

⁶ Laing, *Bannatyne Club*, pp. 78-82.

⁷ Smith, *Maitland Club*, pp. 3-6.

⁸ *ibid.*, p. 20.

produced jointly by the Bannatyne and Maitland Clubs, and around two hundred of each were therefore printed. Innes's *Liber Officialis* was published by the Abbotsford Club but funded by an individual member, with the fifty members receiving a copy each and six more sent to libraries.⁹ *Ancient Burgh Laws* was published by the SBRs in larger numbers. There were 196 individual members when the volume was issued in 1868, plus twenty-two burghs and eleven libraries with corporate memberships. It is reasonable to assume that a copy was printed for every member, and the membership list stipulated that two copies be printed for each burgh.¹⁰ It is therefore probable that over 250 copies were produced. Innes's Spalding Club volumes, including Gordon's *Descriptio*, the *Family of Rose*, the *Aberdeen Fasti*, Barbour's *Brus*, the *Cawdor Book* and the *Familie of Innes*, were published in larger numbers still. The Club's membership was initially set at 300 but quickly raised to 500, and by 1842 it had filled that number.¹¹ Members received copies of Club publications and the Council had the right to produce more. Yet the most numerous of Innes's club publications was the *Aberdeen Registrum*. This was a joint venture by the Spalding and Maitland Clubs, and thus had a print-run of around six hundred.

Innes's state-sponsored editions were equally exclusive. A letter from the lithographers who worked on *Halyburton's Ledger* indicated that 550 copies were printed.¹² Further Register House correspondence showed that 550 copies of Volume Two of the *NMS* were produced in 1870, and presumably Volumes One and Three were printed in similar numbers.¹³ The *APS* seems to have been produced in smaller numbers, as shown by correspondence about the need to repaginate Volume One. A quote for this repagination work gives prices for both 150 and two hundred copies and these figures are likely to be

⁹ *A List of the Members, the Rules, and a Catalogue of Books Presented for the Abbotsford Club since its Institution in 1833* [Abbotsford Club 33], ed. D. Laing (Edinburgh, 1866), pp. xii-xv.

¹⁰ *Ancient Burgh Laws*, pp. 3-8.

¹¹ *Report of the Council of the Spalding Club to the Annual General Meeting of the Members on Thursday the Twenty-second of December 1842* (Aberdeen, 1842), pp. 8-9, 10-16; Withrington, 'Aberdeen Antiquaries', pp. 50, 53.

¹² *Historical Department Correspondence* (1868), NAS, SRO8/104, no. 22.

¹³ *Historical Department Correspondence* (1870), NAS, SRO8/112., no. 38.

indicative of the numbers that were originally printed.¹⁴ They can also be used as a rough indicator of how many of Thomson's original volumes were produced between 1814 and 1824, and how many of Innes's new Volumes Five and Six were printed in the 1870s.

Innes's original works reached a much wider audience. *SMA*, *SESH* and *SLA* were published not by clubs or the state, but as commercial propositions by the antiquarian publisher David Douglas.¹⁵ Douglas catered to a specialist market but his publications still had to be profitable. Innes's books were financially viable because they offered historical interpretation rather than historical sources themselves. As such, they were far more accessible to an educated but general readership. Extensive advertising campaigns were launched in the Scottish and English press. Six adverts for *SMA* appeared in the *Scotsman* in 1860 and others were posted in the *Glasgow Herald* and the *Caledonian Mercury*.¹⁶ Adverts also appeared in the London newspapers the *Saturday Review* and the *Athenaeum*.¹⁷ In the preface to *SESH*, Innes stated of *SMA* that 'a large impression of that book has now been sold' and its success fed the more extensive marketing campaign for *SESH* the following year.¹⁸ The *Scotsman* and the *NBR* advertised that work in Scotland, but the bulk of the publicity was in the London press.¹⁹ Numerous adverts appeared in the *Examiner*, the *Saturday Review*, the *London Review* and the *Literary Gazette*.²⁰ The

¹⁴ *Historical Department Correspondence* (1868), NAS, SRO8/104;), no. 43; *Academy* 245 (13 January 1877), p. 8, see also *APS* XII, p. vii.

¹⁵ E. J. Cowan, 'The invention of Celtic Scotland', *Alba; Celtic Scotland in the Medieval Era*, ed. E. J. Cowan & R. A. MacDonald (East Linton, 2000), pp. 2-3.

¹⁶ *Scotsman*, (17 January 1860), p. 1; (3 February 1860), p. 1; (22 February 1860), p. 1; (11 May 1860), p. 1; (18 May 1860), p. 1; (4 June 1860), p. 1; *Glasgow Herald* 6275 (22 Feb 1860) , p. 1; 6301 (23 March 1860), p. 6; 6348 (17 May 1860), p. 1; *Caledonian Mercury* 21971 (25 February 1860), p. 1.

¹⁷ *Saturday Review* 9:221 (21 Jan 1860), p. 94; 9:225 (18 February 1860), p. 221; 9:239 (26 May 1860), p. 694; *Athenaeum* 1683 (28 January 1860), p. 147; 1686 (18 February 1860), p. 246; 1700 (26 May 1860), p. 731.

¹⁸ *SESH*, p. ix.

¹⁹ *Scotsman* (23 March 1861), p. 1; *NBR* [no vol. no.] (January, 1870), p. 8.

²⁰ *Examiner* 2755 (17 November 1860) p. 735; 2756 (24 November 1860) p. 750; 2770 (2 March 1861) p. 144; *Saturday Review* 10:264 (17 November 1860) p. 641; 10:265

Athenaeum, meanwhile, printed no less than eight adverts for the book between November 1860 and April 1861, and two more in 1871.²¹ This campaign even reached across the Atlantic, with four adverts in the New York periodical the *Critic*.²² *SLA* and also *Concerning Some Scotch Surnames* were the subjects of more moderate campaigns. Three adverts for the former appeared in the *Saturday Review* in late 1860, whilst the *Athenaeum* featured six adverts for the latter in 1872-73.²³ *SLA* was also advertised in the *Pall Mall Gazette*.²⁴ In addition, *SMA*, *SESH* and *Concerning Some Scotch Surnames* were often advertised together as a series; for example in the *Athenaeum* and in the back of other Douglas books.²⁵ Similarly, *SLA* was sometimes advertised alongside *SESH*, for example in the *Athenaeum* and the *Academy*.²⁶ This shows that *SESH* was still in print eleven years after its publication, and that it was successful enough to be used to market *SLA*. It also makes the point that Innes's brand of historical interpretation was eminently marketable.

(24 November 1860) p. 677; 10:266 (1 December 1860) p. 713; *London Review* 21

(24 November 1860) p. 502; *Literary Gazette*, 5:125 (17 November 1860) p. 429.

²¹ *Athenaeum* 1725 (17 November 1860), p. 682; 1726 (24 November 1860), p. 725; 1727 (1 December 1860), p. 765; 1734 (19 January 1861), p. 95; 1740 (2 March 1861), p. 281; 1743 (23 March 1861), p. 382; 1744 (30 March 1861), p. 418; 1746 (13 April 1861), p. 486; 2272 (13 May 1871), p. 581; 2275 (3 June 1871), p. 702.

²² *Critic*, 21:541 (17 November 1860), p. 599; 21:542 (24 November 1860), p. 630; 21:543 (1 December 1860), p. 664; 22:556 (2 March 1861) p. 272.

²³ *Saturday Review* 10:260 (20 October 1860), p. 496; 10:263 (10 November 1860), p. 605; 10:264 (17 November 1860), p. 641; *Athenaeum* 2309 (27 January 1872), p. 102; 2345 (5 October 1872), p. 445; 2349 (2 November 1872), p. 549; 2354 (7 December 1872), p. 720; 2373 (19 April 1873), p. 494; 2384 (5 July 1873), p. 6.

²⁴ *Pall Mall Gazette* 2439 (7 December 1872), p. 15.

²⁵ *Athenaeum* 1729 (15 December 1860), p. 839; 1753 (1 June 1861), p. 736; 1770 (28 September 1861), p. 399; 1794 (15 March 1862), p. 352; M. W. Gordon, *Christopher North; A Memoir of John Wilson, compiled from Family Papers and Other Sources* II (Edinburgh, 1863), 'Edmunston and Douglas List of Works', p. 11; W. Hanna, *The Last Day of our Lord's Passion* (Edinburgh 1862), 'Edmunston and Douglas List of Works', pp. 14-16; J. Syme, *Observations on Clinical Surgery* (Edinburgh, 1862), 'Edmunston and Douglas List of Works', pp. 14-16.

²⁶ *Athenaeum* 2317 (23 March 1872), p. 359; 2438 (18 July 1874), p. 93; *Academy* 114 (11 July 1874), p. 2; 140 (9 January 1875), p. 3.

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