

Reformation and Record-keeping: Dundee's Sixteenth-Century Burgh Books

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Dundee was Scotland's second-wealthiest burgh for much of the early modern period. The English invasion and burning of the town during the Anglo-Scottish wars of the 1540s led to the loss of a significant portion of its archives; more materials were destroyed when General Monck sacked the town in 1651. Despite these losses, Dundee remains in possession of an extensive and interesting sixteenth-century archive. This article undertakes a close examination of the extant pre-Reformation materials originating with the burgh council, unpicking the relationship that various copies have to each other, in order to explore how record-keeping restarted in 1550 after the English had finally withdrawn from the nearby fort of Broughty Castle. In doing so it reveals an adaptive and flexible record-keeping culture which exposes, in particular, the impact of religious reformation in 1559 on municipal records.

In recent years much welcome attention has been paid to Scotland's late medieval and early modern urban communities.¹ The third estate is no longer seen as the less important or effective among its parliamentary peers: Cinderella-like, the youngest of the three fictional siblings has stepped out of its rags and has shown that (sometimes, at least) it could capture the attention and, indeed, the affection of the Prince. Alongside the broad movement towards accepting that towns were politically effective as well as economic powerhouses, however, a more specific concern for the state of their records has begun to emerge, itself part of the wider and influential 'archival turn'. In this context, understanding the records of Scotland's urban communities is evidently an important foundation stone on which further studies can build. This article considers the earliest extant burgh books of Dundee which, at least in economic terms, was Scotland's second city for much of the early modern period.² While the contours of early modern

¹ A. R. MacDonald, "'Tedious to Rehers'?: Parliament and Locality in Scotland c.1500–1651: The Burghs of North-East Fife', *Parliaments, Estates and Representation* 20:1 (2000), 31–58; A. R. MacDonald, *The Burghs and Parliament in Scotland, c.1550–1651* (Aldershot, 2007); A. Juhala, 'An Advantageous Alliance: Edinburgh and the Court of James VI', in (ed.) J. Goodare and A. A. MacDonald, *Sixteenth-Century Scotland: Essays in Honour of Michael Lynch* (Leiden, 2008), 337–64; L. A. M. Stewart, 'Politics and Government in the Scottish Burghs, 1603–1638', in (ed.) Goodare and MacDonald, *Sixteenth-Century Scotland*, 427–50; C. Hawes, 'Community and Public Authority in Later Fifteenth-Century Scotland' (PhD thesis, University of St Andrews, 2015); (ed.) J. W. Armstrong and E. Frankot, *Cultures of Law in Urban Northern Europe* (Abingdon, 2021).

² C. McKean, 'What Kind of Renaissance Town Was Dundee?', in (ed.) C. McKean, B. Harris and C. Whatley, *Dundee: Renaissance to Enlightenment* (Dundee, 2009), 1–2.

Dundee's relations with the crown and its national economic importance were outlined in a series of essays edited by Charles McKean, Bob Harris and Christopher Whatley, this path-breaking overview did not include a full study of Dundee's records.³ If these are to be utilised to full advantage, however, we must first understand what they comprise.

In contrast to the best-studied records of this nature, namely those of Aberdeen, which stretch back to 1398, Dundee's extant burgh books begin in September 1550.⁴ The reason for this is very simple. In 1548, during their occupation of nearby Broughty Castle, the English army burned Dundee. At this point the town's books were destroyed along with other important, practical and symbolic constituents of civic identity: the Tollbooth, burgh Kirk and clock.⁵ It is not clear what, if any, records were kept in the immediate aftermath, the first extant burgh book begins twenty-two months after the fire, and five months after the English withdrew from Broughty. Potentially, municipal government and record-keeping were disturbed during the occupation. Perhaps too when the burgh returned to the peace of the Scottish crown it was deemed prudent to destroy evidence relating to potential collaboration. While nothing could make up for records lost, Dundee's archive does offer us an opportunity to consider what an urban community did when it was required to restart its record-keeping from scratch. At first glance what it lacks in terms of chronological length is compensated for in terms of depth, since some of the contents of these early records exist in triplicate copies. The relationship of these volumes to each other is initially unclear. Closely examining the ten years of extant pre-Reformation records, however, offers clarification. Such scrutiny also reveals that record-keeping in Dundee in this period was developing and that the Reformation in Dundee at least coincided with, and may even have prompted, a shift in record-keeping practices.

We need to start with the archival materials as they appear today. It is well known among Scottish historians that the nineteenth century witnessed a major overhaul of central governmental records, overseen by deputy clerk register Thomas Thomson, aided and abetted by his binder, Mrs Maria Weir.⁶ Under their supervision, early modern registers were removed from original bindings and reorganised, with volumes variously combined or split up, depending on what

³ McKean, Harris and Whatley, *Dundee: Renaissance to Enlightenment*.

⁴ For the Aberdeen Burgh Records Project see <https://aberdeenregisters.org/>.

⁵ McKean, 'What Kind of Renaissance Town Was Dundee?', 9–10. Examples of references to fire damage and rebuilding in its aftermath include: Dundee City Archive (hereafter DCA), 1, Burgh and Head Court Book, 1550–54, 12/11/1550, 5/12/1550, 26/1/1551, 7/8/1551, 16/12/1552, 23/2/1554. For burgh records: 3/11/1551. For the Tollbooth: 11/5/1551, 7/8/1551, 8/1/1554. For the burgh kirk: 31/12/1551, 10/10/1552, 9/11/1552. For the clock: 1550–54, 8/1/1554; also DCA, Burgh and Head Court Book 1555–58, 27/3/1556, 11/6/1556. For the war: M. Merriman, *The Rough Wooings: Mary, Queen of Scots, 1542–51* (East Linton, 2000).

⁶ <https://www.nrscotland.gov.uk/record-keeping/conservation/the-birth-of-conservation-at-nrs>.

best suited nineteenth-century ideas of how governmental records ‘ought’ to look.⁷ Spurred on, perhaps, by this example, combined with the publication efforts of the Scottish Burgh Records Society, in 1866 Dundee City Council ordered for the documents in the care of its Town Clerk, Christopher Ker, to be rebound. Prior to this the records were in a state of ‘utter confusion and culpable neglect’.⁸ Ker also arranged for a transcript to be made of the ‘earliest volumes of the burgh register’, which formed the basis for the nineteenth-century municipal histories by Alexander Maxwell.⁹ Maxwell’s description of the dates of the transcript suggests that it covered what is now known as ‘Council Minute Book, 1’. Yet, he drew back from publishing an edition of the records from the transcript because of the ‘short, detached and intermixed references’.¹⁰ Ironically, this is precisely what makes the record so interesting from the perspective of a history of civic administration.

The rebounding project was duly completed by 1867. Each of the volumes rebound in this process contains a note on the inner side of the front board to this effect and the binding is standard. Each also once had a number on the spine in the form of a small, pasted-on square label with a decorative border, some of which are still visible. There is some evidence that when volumes had bindings in a decent condition, Ker preferred to repair – one at least still bears an early modern clasp – but the labels stuck to the spine confirms such items were at least considered and catalogued at this point.¹¹ This provides us with a very helpful insight into what from among the volumes now housed below Caird Hall was in the Council’s care in 1866–67, although as we shall see, various items were mislaid, even within the municipal archive. The titles and numbers on the spines, however, do not always quite match those now given in the archive’s catalogue, so this information is clarified below:

- Council Minute Book, 1 (spine title: ‘Council Book Dundee 1553–1587, I’; no Ker number), 2 October 1553–31 October 1588
- Head Court Laws (spine title identical; Ker number 1), 1550–1622
- Burgh and Head Court Book (spine title: ‘Record of Burgh and Head Courts’; Ker number 3), 28 September 1550–21 January 1554–5
- Burgh and Head Court Book (spine title: ‘R. of Burgh and Head Courts’; Ker number 4), October 1555–13 June 1558
- Burgh and Head Court Book (spine title: ‘R. of Burgh and Head Courts’; Ker number 5), 13 June 1558–14 April 1561

⁷ A. Murray, ‘Introduction’, in (ed.), A. B. Calderwood, *Acts of the Lords of Council, 1501–1503*, III (hereafter *ADC*) (Edinburgh, 1993), xiii; M. Ash, *The Strange Death of Scottish History* (Ramsay Head Press, 1980), 48–9; A. Blakeway, ‘Reassessing the Scottish Parliamentary Records, 1528–48: Manuscript, Print, Bureaucracy and Royal Authority’, *Parliamentary History*, 40 (2021), 417–42, 420–1.

⁸ A. J. Warden, *Burgh Laws of Dundee, with the History, Statutes, & Proceedings of the Guild of Merchants and Fraternities of Craftsmen* (London, 1872), 5–6.

⁹ A. Maxwell, *The History of Old Dundee Out of the Town Council Register* (Edinburgh, 1884), 5.

¹⁰ Maxwell, *History of Old Dundee*, 6.

¹¹ DCA, 15, Burgh and Head Court Book 1580–1582.

Broadly speaking, the titles suggest that the nineteenth-century archivists considered that the records were split into something resembling council minutes or the decrees of the head courts, and another series whose volumes contained the burgh's judicial business. In recent years, however, scholars have firmly established that early modern record-keeping at both a central governmental and an urban level was flexible, in that judicial business relating to private actions between parties and general acts or statutes applicable to a whole community were often recorded together.¹² Moreover, during the sixteenth century, private individuals seeking greater security for their agreements would often avail themselves of the record-keeping service provided by the royal council and its urban siblings, and have their contracts copied in. This was both a practical measure against loss and a remedy against future default or disagreement.¹³ William Hepburn has recently shown that in Aberdeen the types of record that contained judicial business as well as statutes generally pertaining to the town were described by contemporaries as 'Common Books'.¹⁴ This not only helps foreground the important point that these books were the property of the urban community, but is useful in avoiding the suggestion they contained only one type of business which 'court' or 'council' books or minutes imply.

The 'Burgh and Head Court Books' covering 1550–55 and 1555–58 are excellent examples of Hepburn's 'Common Books', and sometimes described themselves as such, although they also called themselves 'court books'.¹⁵ They are largely chronological, although gaps left by the clerk and occasional entries out of date order, as well as the generally good standard of neatness and layout, suggest that these were not original minutes but rather compiled from notes taken as the events they recorded unfolded. Several hands were at work during the same periods. It is not clear when the quires of paper were bound together into their current volumes and they remain unpaginated. Even so, the contents of these volumes would be needed again and again, and accordingly they had some finding aids – the chronological order was supplemented by marginal notes such as the names of parties in a case. This was inconsistent, but the fact that records of debts owing or curators appointed were indeed deleted once they had been paid or were no longer required, shows this was fit for purpose.¹⁶ In terms

¹² A. Murray, 'Introduction' to *ADC*; (ed.) R. K. Hannay, *The Acts of the Lords of Council in Public Affairs 1501–1554* (Edinburgh, 1932); W. Hepburn and G. Small, 'Common Books in Aberdeen, c.1398–1511', in (ed.) Armstrong and Frankot, *Cultures of Law*, 41–57.

¹³ A. M. Godfrey, *Civil Justice in Renaissance Scotland: The Origins of a Central Court* (Leiden, 2009), 411–13.

¹⁴ Hepburn and Small, 'Common Books', 41.

¹⁵ For 'common book': DCA, Burgh and Head Court Book 1550–54, 12/1/1551. For 'court books': DCA, Burgh and Head Court Book 1550–54, 17/7/1553, 21/7/1553; DCA, Burgh and Head Court Book 1555–58, 12/8/1557. For the variant 'common court book': DCA, Burgh and Head Court Book 1555–58, 30/9/1556 (this entry is inserted into that for 28/9/1556).

¹⁶ DCA, Burgh and Head Court Book 1550–54, 28/9/1553, 13/2/1554.

of general statutes, page headings such as ‘statuta comuna pro utilitati burgi’ and a marginal note of ‘a’ (for ‘acta’) or ‘statutum’ or ‘nota pro utilitate burgi’ are especially important to note: their presence would have removed the need to mark these up as part of any later extraction projects.¹⁷ Indeed, since statutes were often passed at head courts the distinctive layout of a list recording those elected in the Michaelmas Head Court, which marks a striking contrast to the usual block text, or occasional calligraphic flourishes to the capitals in ‘Curia Capitalis’, would help locate these entries.

Alongside this one-stop shop for judicial and civic administrative business, the burgh also kept account books which existed as independent volumes. These are not known to be extant, but are referred to in the burgh’s court/common books.¹⁸ In March 1551, heeding concerns that loose documents might ‘cum in wrang handis or happinis be put away’, the council decided that the burgh’s ‘evidents’ – loose documents proving rights, such as charters – would be copied into the ‘court buyks of this bourgche’.¹⁹ This tantalisingly suggests some had escaped the fire. Certainly, the evidents pertaining to the burgh craftsmen and those relating to the chaplaincies of St Clement, St Ninian and the Holy Rood in the Burgh Kirk, had somehow survived.²⁰ Likewise, the ‘Book of the Church’, which contains an inventory appertaining to St Mary’s, escaped. This was subsequently used to record burgh court activities from 1520 to 1523. Perhaps this volume survived because it was taken abroad, since an inscription by Cardinal Tollet suggests the book travelled to him overseas.²¹ Evidence from Cupar suggests that a town’s working documents might be stored in a more accessible location than its precious charters, which were squirrelled away elsewhere for safekeeping.²² Potentially, a similar archival division in Dundee preserved some of its charters. However, the plan to copy these into the ‘Burgh and Head Court’ book was not carried out – at least not in the extant volumes. In January 1553 arrangements were made for a new register of sasines.²³ Since the first entry was to be a copy of crown ordinances on payments relating to how rent ought to be calculated on lands burned by the English, this initiative was evidently designed to deal with the high volume of property transactions and revisions to the terms of existing agreements post-war.

This flexible and pragmatic record-keeping culture was also developing. The ‘Burgh and Head Court’ book covering 1558–61 begins in the same manner as its two predecessors: private legal matters appear interspersed with the statutes

¹⁷ Ibid., 6/10/1551, 7/10/1550, 30/10/1551, 3/10/1552.

¹⁸ Ibid., 5/10/1551, 8/5/1552.

¹⁹ Ibid., 20/3/1551.

²⁰ Ibid., 12/11/1550, 25/9/1554.

²¹ This is described and partially transcribed in Maxwell, *History of Old Dundee*, 555–67. See also: Alexander Maxwell, *Old Dundee, Ecclesiastical, Burghal and Social, Prior to the Reformation* (Edinburgh, 1891), v.

²² St Andrews University Library, B13/10/1, Cupar Common Book 1549–54, 22/12/1552.

²³ DCA, Burgh and Head Court Book 1550–54, 9/1/1553.

agreed upon by the the Michaelmas (October), Christmas (January) and Easter (late spring or early summer) Head Courts until January 1559. After this, although the judicial (primarily property-related) business of Head Courts appears, their general statutes are not recorded. Some appear in the 'Council Minute Book' and 'Head Court Laws' volumes which we will discuss below. There is also a complete lack of entries of any kind in the 'Burgh and Head Court' book between August 1559 and April 1560. Despite the fact that Dundee passed a series of reforming statutes in the January 1559 Head Court, and appears to have considered itself 'reformed' from then on (with a visit from John Knox in February and references to the 'eldars of the congregation' shortly thereafter), this gap is most obviously explained by the continued political upheaval in late 1559 and early 1560.²⁴ The removal of public business from a volume which originally included both private acts and general statutes has obvious parallels with the evolution of the royal council's record-keeping earlier in the century.²⁵ Just as with the royal council, however, general provisions (for example, regarding taxation or the burgh lands) occasionally appeared in a volume now primarily dedicated to judicial affairs throughout the 1558–61 'Burgh and Head Court' book.²⁶

Although the 'Council Minute Book' and 'Head Court Laws' contain similar materials, close inspection reveals them to have been created at different times and for different purposes. As we noted earlier, the 'Council Minute Book' does not have the binding used by Ker, nor does it have the label used for his numbers: potentially, it spent part of its life outwith the municipal archive, or was mislaid within it. The binding is relatively modern with marbled endpapers and an identical binding covers a second volume whose spine bears the legend 'Council Book Dundee, 1587–1603, II'. These two items seem therefore to have remained together. They also, unlike most of the items rebound by Ker, contain pencil pagination. This later continuous pagination across the earlier volume is, unfortunately, misleading since 'Council Minute Book, I' comprises materials originating from four different sixteenth-century books. We will call these A to D and their pagination is as follows:

- A. 1–68 (covers 1553–69)
- B. 69–108 (covers 1562–69)
- C. 109–30 (covers 1579–82)
- D. 131 (covers 1588)

²⁴ DCA, Head Court Laws 1550–1662, pp. 9–10; DCA Burgh and Head Court Book 1558–61, 10/1/1559, 10/2/1559, 7/3/1559.

²⁵ A. Blakeway, 'Privy Council of James V of Scotland', *Historical Journal*, 59 (2016), 23–44, 26–8.

²⁶ DCA, Burgh and Head Court Book 1558–61, 14/11/1560, 7/2/1561. A spot check on the Head Court materials from 1580 in the 'Council Minute Book' compared to the corresponding Burgh and Head Court book confirms that the practice of separating out the general statutes continued as the century progressed. See: DCA, 15, Burgh and Head Court Book 1580–82, 4/10/1580, 9/1/1581, 2/10/1581, 1/10/1582; DCA, Council Minute Book, 1, 1553–88, pp. 114–29.

The first entry in item A begins mid-sentence and the opening page is very dirty, suggesting that this is only a partial survival of the original and that it was for much of its life unbound. The volume then contains the vast majority of the general statutes passed by January and October head courts in the 'Burgh and Head Court Books' from 1553 to 1559. All the materials up to and including the January 1559 Head Court are in the same hand and ink, although some marginal finding aids may have been added later.²⁷ The October 1559 Head Court and the immediately following entries are in a subtly different hand which differentiates more clearly between the 't' and 'h' in 'the'; the 'h' also has a much shorter descender.²⁸ The new hand is also less slanted and has two capital 'I' formations: one, for the start of entries or lists, with a looped top and long looped descender; the other, for use within lists, less elaborate. When appearing next to a 't', as in 'item', the letterform with a long straight descender is crossed by the bar of the 't'. This distinctive form is absent in the entries covering 1553 to January 1559 where the 'I' in 'item' has a descender looped back to the left.

This evidence strongly suggests that materials until January 1559 were copied together by one person and thereafter the scribe changed. Another change of ink in October 1560 and a series of subsequent changes of ink and hand suggests entries were then being written up at different times.²⁹ This implies that A was begun between January 1559 and the autumn, being ready for the October 1559 Head Court materials, and thereafter new materials were added more or less in real time. Since the October 1553 entry begins *in media res*, it seems likely all materials from 1550 were originally included. This book, then, was almost certainly the original repository of the Head Court materials absent from the 'Burgh and Head Court' books from October 1559 onwards. When the decision was made to separate these in future record-keeping, it was evidently also decided to copy out earlier materials at the start of the volume. This would have helped with practical easy access. However, it also allowed for statutes to be edited. In the context of the ongoing Reformation this had immediate importance, since during the 1550s burgh statutes had regularly made reference to Catholic practices. For example, the January 1554 Head Court included a statute prohibiting disobedience to the town's officers. This included several punishments with explicit reference to Catholic religious practices, including a payment to the kirkmaster of 'our Lady kirk', an instruction that miscreants should 'cum to the hie alter and offer ane pund of walx in ane candil to the party compleanar' and return the following week in linen cloth with a two-pound wax candle as an offering, presumably to the altar.³⁰ All of these references were copied, then deleted and revised: payments were to be made to the kirkmaster, with no references to Our Lady, and the public apology would be performed

²⁷ DCA, Council Minute Book, 1, 1553–88, pp. 1–10.

²⁸ *Ibid.*, p. 11.

²⁹ *Ibid.*, pp. 14, 19, 32, 35, 38.

³⁰ DCA, 1, Burgh and Head Court Book, 1550–55, 8/1/1554.

at the mercat cross with no references to donations of wax.³¹ The omission of a statute passed in October 1556 on lepers cannot be incorporated into this pattern and so may have been a mistake.³² With these exceptions, this section of the volume is very clean and accurate. This suggests the changes to the January 1554 Head Court acts were finalised only after the copy was completed. Either the new record was in part prompted by a desire to revise old statutes, or the process of creating the new record alerted the council to the need for these changes. After this, the volume contains a mixture of Head Court statutes and other general statutes running in chronological order (with occasional insertions out of date order) until February 1568. As noted above, this contains frequent changes of ink and hand. As the volume progressed, some private matters began to appear, and no business at all was recorded between May 1564 and August 1566.³³

The marginalia throughout item A, including circles, crosses, diamonds, numbers and letters, suggests it was consulted regularly: the letter 'p' in particular may suggest items were identified to be re-proclaimed. There are two fuller notes, apparently in the same hand. One appears next to a 1556 statute passed on 'kensy wobbis' (likely to have been a type of home-woven cloth), enjoining the reader 'to remember the execution of this act & addition at the next heid cort'. Another, next to a November 1566 promise by the provost, bailies (perhaps a slip of the pen for 'council') and craft deacons to relieve the bailies of charges incurred in their duties, is dated 'xiiij octobris 1567 this act ratefeitt & apprevit for the yeir to cum'. These examples offer solid evidence that this was part of the working archive belonging to someone associated with the burgh council.³⁴ So, item 'A' began its life as a clean copy, then became an intermittently used working book in which a range of people recorded general statutes and occasionally, if it was to hand, popped in other materials. This combination of several hands and the fact the book was used to record private agreements strongly suggest this volume was an 'official' burgh book. It was accessible to a group of people and could be counted upon in the future as a version of the official record of decisions or agreements. At the least, the volume may have been understood as a secure intermediate repository from which copies would in due course be made into the book that would form the final version of record.

Between pages 68 and 69 there is an unpaginated, heavily damaged and very dirty leaf which bears notes typical of an endpaper. Page 69, the start of item 'B', then jumps back chronologically to 9 December 1562, containing a mixture of judicial business and brief notes of general statutes – referred to in short as 'an act upon ...' rather than copied in full. Revealingly, it also contains elements of to-do lists. For example, under the date 22 December 1562 appears the note

³¹ DCA, Council Minute Book, 1, 1553–88, p. 2.

³² For the original: DCA, Burgh and Head Court Book, 1555–58, 5/10/1556.

³³ DCA, Council Minute Book, 1, 1553–88, pp. 45–6, 62, 64. For the gap in business: pp. 52–3.

³⁴ *Ibid.*, pp. 6, 55.

‘To remember to mak ane act aganis the warkmen that warks one the sabbeth day & panes thairfor.’³⁵ The dates then jump back to July 1562 and, after copies of two charters from the 1540s, the volume contains chronologically ordered materials comprising some private cases and some general statutes beginning in April 1563.³⁶ This material is not the same as that in item ‘A’, its predecessor in the volume. For instance, ‘A’ contains materials from 13 and 30 April 1563, but ‘B’ includes materials from 29 April.³⁷ Several hands are at work, and changes in ink and hand suggest it was being filled out in sections – this was not a compilation completed as a cohesive project.³⁸ So, two records were being maintained, each with different contents, in roughly real time. On or shortly after 7 July 1570 the book was evidently to hand during or around the time the burgh court sat since a blank half-page was used to jot down five items. The phrasing of three of these, beginning ‘The quhilk day in presence of the provost bailies and counsel ...’ or simply ‘That ...’, followed by an outcome, suggests decisions. The two remaining items, however, begin ‘To ...’, which introduces, respectively, a plan to roup lands and a promise to infest an individual in her land: these read like to-do memos arising from a meeting.³⁹ Further evidence that the book was now being used to jot down notes can be found in the memo that Captain George Michell had received fifty-six ‘tikketts’ in October 1572.⁴⁰ This was presumably a document or notice which required dissemination and it is frustrating no other details were recorded as to its contents. Although the final entry, on an unusually dirty page, is dated January 1569, this was evidently still to hand over the coming years.⁴¹

Item ‘C’ again begins mid-flow, part way through the first in a series of general statutes, and has no date.⁴² It appears to be in the same hand as a February 1568 entry from ‘A’, but the materials do not follow on directly from this.⁴³ The first dated entry in this section is September 1579.⁴⁴ Thereafter, entries are all in the same hand, consistently described as being minutes of Head Courts, and laid out following a standard formula. The content copied out, however, comprises only the general statutes of this body: materials related to these meetings in the relevant ‘Burgh and Head Court’ book instead cover elections, judicial business and legal protests.⁴⁵ The second-to-last page in this

³⁵ Ibid., p. 69.

³⁶ Ibid., pp. 70–5.

³⁷ Ibid., pp. 44, 75.

³⁸ Ibid., pp. 72–7, 80–2, 93, 100–1, 106.

³⁹ Ibid., p. 88.

⁴⁰ Ibid., p. 96.

⁴¹ Ibid., p. 108.

⁴² Ibid., p. 109.

⁴³ Ibid., p. 65.

⁴⁴ Ibid., p. 114.

⁴⁵ DCA, 15, Burgh and Head Court Book 1580–82, 4/10/1580, 9/1/1581, 2/10/1581, 1/10/1582; DCA, Council Minute Book, 1, 1553–88, pp. 114–29.

section is dirty, which could be a sign that this was once the final paper in the volume. However, the final act on this page is complete, and the first act on the next page begins with the telltale 'Item it is statute ...', showing it was also complete, so it is possible these indeed followed on from each other.⁴⁶ The consistency in hand and ink within this section suggests it was compiled at the same time and so was similar in nature to section 'A', namely a clean copy, compiled from minutes or another copy, of the Head Court statutes. The high quality of presentation suggests this was designed for easy consultation, but the lack of annotations means there is no evidence this was a heavily used working volume. Item 'D' is the last in the volume and comprises a single folio. The recto is dirty and dated 1588 – alas, this single page containing burgh statutes looks like a chance survival.

These material features show that 'Council Minute Book, 1' was not originally a single book, even one whose purpose changed over time: rather, it comprises materials from four different sources. Although the rationale for this apparently modern organisation is unrecorded, it seems likely that this collection of items were located together, identified as similar, and bound up together to prevent further damage. Returning to the early modern context, the features of the different items further suggest that general statutes, elections and other matters related to the burgh were recorded separately from the judicial business of the burgh court. Moreover, within the civic business, the Head Court general statutes were being recorded separately to other material such as the records of elections, arrangements for taxes or decisions on who to send as a commissioner to parliament.

It is worth briefly noting that this composite volume is in many ways similar to its companion, the 'Council Book Dundee 1587–1603, II', which, although requiring further investigation, also contains several disparate items. The first of these is preceded by a title page on which Alexander Wedderburn, the town clerk, has explained to his readers 'In this Buik is conteanit the Actis and Conclusiounis of the Counsall of the Burgh of DUNDIE' and that the book was begun on 7 March 1587/8. This introduces the first item bound therein, which was in use during or at least around the time of the meetings it recorded, a fact attested to by the original signatures representing agreement throughout the volume.⁴⁷ Several Alexander Wedderburns held the town clerkship in Dundee as part of that family's occupation of the office from 1557 to 1716. One was appointed in February 1557 and served until 1582.⁴⁸ He was succeeded by his son, also Alexander, whose tenure endured until 1626, and who was responsible for this note.⁴⁹

⁴⁶ DCA, Council Minute Book, 1, 1553–88, pp. 128–9.

⁴⁷ DCA, Council Minute Book, 2, 1588–1600, pp. 9, 11, 15, 17, 28, 63, 81, 85, 89.

⁴⁸ DCA, TC/CC/1/57. A. D. O. Wedderburn, *The Wedderburn Book*, I (for private circulation, 1898), 103–6.

⁴⁹ For Alexander junior's career: Wedderburn, *Wedderburn Book*, I, 123–9.

Frequent changes of hand suggest that this book was used in a similar manner to the second part of item 'A' in the preceding 'Council Book'. Its contents include records of the election of the council and officers which took place at Michaelmas Head Courts (excitingly, sometimes with tallies of votes cast for potential councillors), and details of decisions on burgh finances taken at about that time, but no record of the burgh statutes traditionally passed on those dates.⁵⁰ The second item (pp. 91–114) is easily identifiable as separate since it is on much smaller paper. It picks up chronologically where the first left off and contains slightly different materials which include the elections (again, intermittently with votes), and financial agreements but also, sometimes, the statutes of the Head Courts.⁵¹ The third item (pp. 115–35) is identical to the second in the type of content it contains and follows on chronologically. It is only distinguishable by paper size, which is slightly larger.⁵² It is possible these first three items were part of a single series. Item four is a single, dirty and dateless leaf, recording who was in possession of various burgh monies; item five is a folded paper containing a dateless list of 'stabilers and hors hyrers within the overgaitt quarter'.⁵³ Again, the rationale for binding them together and the circumstances surrounding this are unclear.

Unlike the materials in the first 'Town Council Minute Book', the second contains very little marginalia. Given the nature of its material, this is unsurprising: a record of elected officials or a one-off financial agreement was only current for a set period of time, but statutes which remained permanently in force retained their interest in the future. Temporary provisions probably would not need to be located many years after they were made; arrangements between individuals would be needed for consultation less frequently than those appertaining to the whole community. Returning to the marginalia next to such statutes in 'Town Council Minute Book, 1', it is possible that this suggests a categorisation or extraction process and further research might uncover patterns among such marginalia. It is, however, unlikely that they were part of a process which culminated in the only other extant copy of the burgh statutes, the 'Head Court Laws', covering 1550 to 1622, to which we shall now turn.⁵⁴

Unlike the 'Council Minute Books' the 'Head Court Laws' began its life as a single volume, albeit one whose purpose changed over time. The first portion of the 'Head Court Laws' contains exclusively acts passed at the burgh's Head Courts but not every act is included and some are slightly amended. It covers the activities of courts held between October 1550 and January 1554, and there is then a gap in coverage until October 1557, after which dates until

⁵⁰ DCA, Council Minute Book II, 1588–1600, pp. 13–14, 37–9, 49, 64–5, 82–3, 85.

⁵¹ Ibid., pp. 95, 101–2, 107, 114.

⁵² For the Head Court elections: *ibid.*, pp. 116, 124.

⁵³ These are both unpaginated but can be found easily at the back of the volume.

⁵⁴ The 'Head Court Laws' was at some point mislaid and on rediscovery in the nineteenth century described erroneously as a copy of the 'Council Minute Book': Wedderburn, *Wedderburn Book*, II, 259.

1566 are covered.⁵⁵ This is followed by a brief jump back in time to 1564, before returning to 1566 and onwards to February 1569.⁵⁶ No events between this date and September 1579 are noted, after which it runs until 1582.⁵⁷ This break is marked by a signature – A Wedderburn – a shortened version of the mark usually left by the Town Clerk of 1582 to 1626.⁵⁸ The next page begins in 1594, inaugurating a fairly consistent run from late in that decade until 1603 but a lack of coverage of any statutes from 1596 may mean this is incomplete.⁵⁹ In this period Wedderburn's signature appears twice, affirming that this was being produced during his tenure as Town Clerk (i.e. 1582–1626).⁶⁰ After a blank page, the statutes of a single court in September 1622 appear, followed by thirty blank pages.⁶¹ This section contains explicit instructions to someone tasked with copying from these materials, such as 'all this side', 'leave all this syd ~~under~~ that follows underwrittin and leave off whill I speak yow' or 'leave this syde', and is very heavily annotated.⁶² The frequent emendations suggest this was a draft.

The final item in the volume is a series of bailies' accounts for some of the years between 1627 and 1643.⁶³ These are very neat, so are probably copies and not draft materials. The fact they appear in reverse chronological order read from the front indicates they were written in from the back inwards. Cumulatively, this evidence suggests that the volume began its life in the late sixteenth century as an attempt to record all general statutes. The changes in hand in the early-seventeenth-century materials, combined with a note on the second-to-last leaf instructing citizens to arrange for bonfires giving thanks for the failure of the gunpowder plot, as well as marginalia dating to the early 1610s, all show that it was being maintained to a degree until *c.* 1603, the date of the last Head Court recorded, but once it fell out of use it remained to hand for someone working in the burgh council.⁶⁴ The 1622 draft materials and the 1627–43 accounts show in turn that by 1622 the book was not being used for its original purpose, but remained in the hands of someone with access to the burgh's working archives.

As with item A in the 'Council Minute Book', Head Court Laws began its life as an attempt to create a list of general statutes arising from archival research in other registers. However, the 1554–57 gap shows the author cannot have been working from item 'A' in the 'Council Minute Book', which contained these materials. Since the gap does not correspond exactly to the coverage of a

⁵⁵ DCA, Head Court Laws. For 1550–54: ff. 1–7; for 1557–66: ff. 7–42.

⁵⁶ *Ibid.*, pp. 43–60.

⁵⁷ *Ibid.*, pp. 60–72.

⁵⁸ *Ibid.*, p. 72.

⁵⁹ *Ibid.*, pp. 73–97.

⁶⁰ *Ibid.*, pp. 77, 88.

⁶¹ *Ibid.*, pp. 99–143.

⁶² *Ibid.*, pp. 102–3.

⁶³ *Ibid.*, pp. 144–54.

⁶⁴ *Ibid.*: for the 1605 thanksgiving, p. 157; for marginalia from 1603 to 1613, pp. 76–97.

particular ‘Burgh and Head Court’ book it is not possible this can be explained by a scribe who had access to some volumes from the series but not others. Moreover, the presence of ‘reformed’ versions of statutes strongly suggests this scribe was not drawing on the ‘Burgh and Head Court’ books from which Catholic materials had not been excised. The ‘reformed’ January 1554 statute discussed above is given in the edited version eventually arrived at in item ‘A’ in ‘Council Minute Book, 1’.⁶⁵ Materials from the January 1553 Head Court, not included among the extant materials from item ‘A’ in ‘Council Minute Book, 1’, offers a second example. We have already encountered this Head Court’s activities in inaugurating a new register of burgh sasines. This Head Court also ratified all previous acts made by the town council, then provided for the Holyblood altar to be re-erected in its pre-war location within the Kirk, furnished with a new chaplain and provided for by its established rents. Moreover, the council instructed that ‘all craftis prepare thar altares and cause diuine seruice be done thare at conforme to thair letteris of craft and ald consuetude’. Finally, the burgh council ordained that the acts passed by the royal council on how to calculate the rent due from lands burned by the English were to be implemented in Dundee.⁶⁶ Clearly, this was an important set of provisions designed to reinstate elements of the burgh’s religious and economic life post-war. However, the account of this Head Court given in the ‘Head Court Laws’ omitted everything except the instructions for the new sasine register: in other words, references to Catholic culture were excised.⁶⁷

Taken together, this shows that the first ‘Head Court Laws’ scribe was using neither the original ‘Burgh and Head Court’ volumes nor the (presumed) first copy extracted from these, i.e. item ‘A’ from Council Minute Book, 1. Therefore, another copy of the reformed versions of the statutes, now lost, must have been to hand. The combination of ‘correct’ reformed statutes and patchy chronological coverage could be explained by either loose papers or a set of notes made to reflect a particular interest rather than general coverage, but what exactly this comprised can only remain speculation. Moreover, these potential papers are not the only lost items that the volume allows us to posit once existed. The fact that coverage of 1564–66 appears in two separate runs whose materials do not duplicate each other suggests that two volumes covering this period were consulted. This strengthens the case implied by the lack of shared material covered by the records of the early 1560s in items ‘A’ and ‘B’ in ‘Council Minute Book, 1’: namely, that burgh business was divided broadly into a category of general statutes that were permanent and a category of provisions that were temporary, which were recorded separately.

While the ‘Council Minutes’ and ‘Head Court Law’ volumes are complex, between them they offer considerable insight into the conciliar activities and record-keeping practices prevalent in early modern Dundee. Some further

⁶⁵ Ibid., p. 6.

⁶⁶ DCA, Burgh and Head Court Book, 1550–54, 9/1/1553.

⁶⁷ DCA, Head Court Laws, pp. 4–5.

corroborative evidence for this can be found in reports of an enigmatic volume of burgh statutes whose contents were edited and published by the antiquarian A. J. Warden in 1872 but which has not, apparently, been seen since.⁶⁸ The volume Warden had access to had been 'found among a quantity of old papers purchased several years ago by a tobacconist in Dundee', but by the time Warden began work it was in the private hands of 'a gentleman belonging to Dundee'.⁶⁹ While this provenance description is maddeningly vague, Warden did give some further details about the 'small quarto' volume which contained materials covering 1550 to 1646.⁷⁰ It was neatly produced and Warden reckoned the transcription to have been undertaken shortly after the volume terminated; in other words just before General Monck sacked the town. However, it also contained 'interleaved' pages in a 'more modern' hand, which contained materials up until the Restoration.⁷¹ Of the items discussed above, only the 'Head Court Laws' is quarto sized, but it has no interleaved materials and no coverage beyond 1643. This description therefore does not resemble anything known to remain in the Dundee City Archives at present, and I am grateful to the City Archivists for conducting a search of their store for any possible candidates.

Warden saw from the fact the volume commenced midway through an entry that it lacked some opening materials.⁷² However, these cannot have been extensive since the part-entry was from the October 1550 Head Court, the first recorded in the 1550–54 'Burgh and Head Court' volume. As with the 'Head Court Laws', it lacked materials from 1554 to 1557, so its author cannot have been using item 'A' in 'Council Minute Book, 1' which included this period.⁷³ The presence of 'reformed' versions of statutes combined with the fact that post-January 1559 statutes appear mean the compiler cannot have been consulting the 'Burgh and Head Court' series.⁷⁴ Like the 'Head Court Laws' (and item 'A' in 'Council Minute Book, 1') there is a jump from February 1568 to February 1578 and September 1579.⁷⁵ The 1582 to 1590 gap again resembles the 'Head Court Laws', as well as reflecting the final entries in item 'C' in 'Council Minute Book, 1', while also suggesting that the volume from which item 'D' originated was not to hand.⁷⁶ Subsequent early-seventeenth-century materials must, of course, have been drawn from other sources. It is possible that the 'Head Court Laws' volume was a source for Warden's book: parts of it were annotated in the early seventeenth century, other parts were annotated as part of a copying-out

⁶⁸ Warden, *Burgh Laws*.

⁶⁹ *Ibid.*, 7.

⁷⁰ *Ibid.*, 7.

⁷¹ *Ibid.*, 57.

⁷² *Ibid.*, 7, 12–13.

⁷³ *Ibid.*, 16–17.

⁷⁴ *Ibid.*, 15–16, 20–5.

⁷⁵ *Ibid.*, 35–7.

⁷⁶ *Ibid.*, 41–4.

project, and the seventeenth-century accounts running to 1646 at the back of the ‘Head Court Laws’ show this to have been on someone’s desk in the decade when Warden supposed his volume was produced. Equally, Warden’s book only included sixteenth-century materials attested to in the ‘Head Court Laws’. However, other items must also have been consulted. While the absence of the original precludes speculation as to who prepared this volume, Warden’s description and edition at least offers evidence that the type of engagement with burgh records we have seen in the late sixteenth century continued until Dundee’s archive was once more damaged by fire in 1651.

The Dundonian record-keeping culture of which the author of Warden’s volume was a part evidently appreciated the importance of up-to-date and easy-to-access copies. It was also flexible, frequently adapting record-keeping practices to meet these requirements, and we will conclude by summarising what the partial survivals of its archive allow us to conclude about these changes. The town’s court books were burned by the English in 1548. After a short hiatus, once occupation was over, the burgh council arranged for a new book to be procured in which to record all their activities. Fortunately, some burgh ‘evidents’ – at least those relating to the crafts and some of the chaplaincies – had survived, so these must have been stored outwith the Tolbooth before the fire or, perhaps, were saved by a brave soul in its early stages. Plans were afoot to copy these into the ‘Court Book’ but this did not eventuate (alternatively a separate cartulary was begun and later lost). Accounts, produced by the individuals who held tacks from the burgh and the burgh treasurer, were separate.

Cognisant of the consequences of the loss of private papers too, within a few years a new register of sasines was begun, offering additional certainty in the crucial matter of property ownership. In 1559 the decision was taken to record the materials relating to Head Courts separately. This was probably partly driven by practical considerations, but was inextricably linked to the changing religious context. The new book at least prompted revisions of statutes to excise materials which recalled Catholic practices; it is possible that the desire to create such revisions served as an additional incentive to inaugurate the new book. This resulted in the first item bound into the volume now called ‘Council Minute Book, 1’. Henceforth, general statutes were recorded separately from judicial business between private parties.

Patchy evidence suggests the probable existence of two books covering business related to burgh governance, with a broad division by the 1560s between one recording general statutes, and the second recording time-limited provisions, such as conciliar elections or the feuing of burgh lands. This division may have been prompted by the differing lifespan of this type of information: tacks were set for limited time periods; taxes were collected on a one-off basis; burgh councils were elected for a year. By contrast, burgh laws were enacted forever and should have been enforced until they were repealed. General statutes, moreover, enjoyed a wider audience – the whole burgh needed to know the price of ale or the punishment for adultery, but the minute details of how a tax would be gathered was helpful information to only those appointed to collect and account for it. It is

therefore unsurprising that alongside these books the burgh sustained a wider appetite for copies of items containing general statutes. One of these remains extant – the ‘Head Court Laws’ – and there is evidence of another – that edited by Warden. These must have ultimately derived, at least in part, from a no longer extant source. Despite the obscurity of their origins, their existence is testimony to the success of the 1559 project of extraction and revision, since the copies of the statutes to which they bear witness are uniformly the reformed religious versions, and there is no evidence that the pre-Reformation ‘Burgh and Head Court’ books were consulted for the text of statutes after this extraction process had been completed. While many questions remain about Dundee’s archives – and, hopefully, this clarification of the relationship which its earliest conciliar records bear to each other will facilitate such investigation – this successful writing-over of Catholic practices with reformed texts, and the care with which successive burgh councils considered the state of their records, serves as a powerful reminder of the importance of urban archives as repositories of memory, identity, and power.