The Records of the Parliaments of Scotland to 1707

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Author: Keith Brown

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This digital edition of the acts of the Scottish parliament is the latest product of a long tradition. The acts have been published in various ways over the centuries. In the Middle Ages, acts were sent as writs to sheriffs, with an order to make them known. In the 15th century, acts also began to be proclaimed publicly in head burghs. New technology was employed in the 16th century, first with experimental printings of the acts of the parliaments of 1540 and 1563, and then, in 1566, the publication of a magisterial volume containing the public acts of all parliaments back to 1424. The 1566 volume came to be known by lawyers as the 'Black Acts', from its Gothic typeface. From then on, acts of further parliaments were regularly printed after each parliament's close, and users sometimes bound these together with their copy of the 1566 acts. There were further collected editions of the acts in 1597 and 1681.

The Scottish parliament became history in 1707, with the Anglo-Scottish parliamentary union. With the rise of record scholarship in the late 18th century, the acts were seen in an antiquarian light, and the idea began that the government – specifically the clerk register, responsible for the keeping of Scottish archives – should issue a new, scholarly publication of the acts, based on the original manuscripts. A specially-designed archive building, Register House, was constructed in Edinburgh between 1772 and 1788, and scholars began examining the manuscripts that were assembled in it. In the 1790s a multi-volume edition of transcripts of Scottish government records, beginning with the acts of parliament, was projected, and the first volume of acts was printed under the editorship of William Robertson in 1804.

Robertson's volume, however, was never published. Doubts about his editorial principles led to a report on it being commissioned from the legal scholar Thomas Thomson. Thomson argued that Robertson's method, to provide a literal transcript of the manuscripts in Register House, was flawed. There were many gaps in the original registers. Before 1466 there were no surviving original registers; the manuscripts in Register House were copies with no special status. Better copies existed elsewhere, along with further manuscripts that could fill many of the gaps. And it was perverse to ignore the previous printed editions.

This report led to Robertson's volume being suppressed (though copies survive in a few specialist libraries), and to Thomas Thomson himself being appointed in 1806 to the newly-created post of deputy clerk register, in charge of a new archival department. Thomson and his colleagues now set out to prove what they could achieve with their more sophisticated critical methods. The result was the publication of the *Acts of the Parliaments of Scotland (APS)*, in 12 hefty folio volumes, between 1814 and 1875. This is the text of the acts of parliament that has been familiar to Scottish historians ever since.

This history of previous publications is relevant to ‘Records of the Parliaments of Scotland to 1707’ (RPS), the present digital edition. Like its predecessors, RPS has had to grapple with the varying status of the documents that it presents. There are still no original registers before 1466. There are still various documents that may or may not be ‘acts’, and may or may not be ‘parliamentary’. One of the strengths of RPS is that it has generally, in its editorial introduction and its notes, set out clear criteria for inclusion and principles of editing.

One novel feature of RPS is that, alongside the original text, it gives a translation of everything into modern English. The website can display just the original text (‘manuscript’ as it is called), or just the translation, or the two in parallel. The main reason this has been done is to enable the text to be searched electronically (on which more will be said in a moment), but it also aids comprehension and accessibility.

The gain in accessibility can be illustrated by one of the Scottish parliament’s curious acts, a brief measure passed in 1424. Here it is, firstly as given in the printed text of 1566:

ITEM It is statute and the king forbiddis, that na man play at the fute ball under the pane of xl s. to be rasit to the Lord of the land, als oft as he be taintit, or to the Schiref of the land or his ministers gif the Lordis will not punis sic trespassouris.

The Scots language here is difficult for non-specialists. In this quotation I have expanded the text’s one abbreviation, from ‘m?’ to ‘man’. How have *APS* and RPS tackled this? *APS* used a specially-designed ‘record type’ that could reproduce scribal contractions and obsolete letters. The result, from the contemporary manuscript, was even more impenetrable: ‘ITEM it is ?tatut and the king forbidd? p^t na m? play at þe fut ball’, and so on. A substantive difference from the 1566 text was that *APS* gave the penalty for playing football, correctly, as ‘iiii d’ rather than ‘xl s’; it turns out that the 1566 editors had updated fines in line with prices in their own day. Now, in RPS, we have a ‘manuscript’ version that expands the contractions, thus producing a text similar to that of 1566 (but with the correct 1424 fine), plus a translation that makes the meaning clear to the reader, and an editorial discussion of variant manuscripts. The RPS reference is ‘1424/19’. Here is the translation:

Item it is decreed and the king forbids that any man play football under the pain of 4 d. to the lord of the land as often as he is convicted (by the sheriff of the land or his ministers, if the lords will not punish such trespassers).

So that’s clear. It might be added that, while a handful of the acts of the old Scottish parliament are still in force today, the act banning football does not seem to be among them.

Using the database

The RPS website is well designed and fairly straightforward to use. The usual entry point to the database is its ‘Browse by reign’ feature. Clicking on this produces a left-hand navigation bar with chronological lists of entries that can be expanded and contracted one by one: dated parliaments, then proceedings of particular days, then individual acts. The main screen displays one act at a time, or sometimes several smaller acts through which one can scroll. One can resize the windows, enabling one for instance to widen the navigation bar so as to display more of the title of a longer act. There are clickable links to small ‘pop-up’ windows, giving sources or editorial comments – the sort of thing that would be given in the footnotes of a printed book. There is a facility to send the text of an act to an email address. The typeface and layout are clear, and there is a well-written ‘help’ system. I am not sure how accessible the website would be for a visually-impaired user; there seems to be no facility to increase the font size, and the multiple windows and clickable features might pose problems for automatic screen readers.

Here is an example of RPS in action. If you want to know what the revolutionary convention of estates of 1689 did, you will probably begin with the ‘Browse by Reign’ feature, and click on the reign of ‘William II and Mary II (1689–1694)’, probably selecting the ‘Manuscript’ option which gives the original text. This initially brings up a single line:

+ William II and Mary II: Manuscript

Clicking on the + sign expands this as follows:

- William II and Mary II: Manuscript**
- 1689, 14 March, Edinburgh, Convention**
 - + Parliamentary Register**
 - + Parliamentary Minutes**
- + 1689, 5 June, Edinburgh, Parliament**
- + 1690, 15 April, Edinburgh, Parliament**
- + 1690, 3 September, Edinburgh, Parliament**
- + 1693, 18 April, Edinburgh, Parliament**

This identifies the main parliamentary sessions of the reign. Clicking on the next + sign (‘Parliamentary Register’) expands the 1689 material further:

- William II and Mary II: Manuscript**
- 1689, 14 March, Edinburgh, Convention**
 - Parliamentary Register**
 - + [14 March 1689]**
 - + Edinburgh 15th March 1689**
 - + Edinburgh 16th March 1689**
 - + Edinburgh 18th March 1689**
 - + Edinburgh 19th March 1689**
 - + Edinburgh 20th March 1689**
 - + Edinburgh 21st March 1689**
 - + Edinburgh 22nd March 1689**

And the list of dates continues relentlessly until:

+ Edinburgh 24th Maij 1689

To reach a list of individual acts, you have to expand each date in turn, often then leading to further lines requiring expansion. Eventually, you can produce a complete list of the titles of individual acts, such as this famous one: ‘Edinburgh 11th Apryll 1689: Declaration: The declaration of the estates containing the Claim of Right and the offer of the croune to the king and queen of England’ (1689/3/108). Much of the material is procedural and less clear from the titles, such as ‘Edinburgh 3rd Apryll 1689: Procedure: resolution read and continued’ (1689/3/93). The individual items are given in chronological order for 1689, but chronological order is not invariable, since there are some complex or overlapping series of documents.

Criteria for inclusion

The ‘records’ of Scottish parliaments comprise a variety of materials. For most of its history, the record of a parliamentary session would include the formal opening phrases, in Latin, by which royal commissioners constituted the parliament by ‘fencing’ it as a feudal court. There would be a ‘sederunt’, or list of members – indeed often several, on different days. There would be a record of the election of the ‘lords of the articles’, the parliamentary steering committee that considered draft legislation. There might be further procedural minutes, though records of debates are rare and voting records are even rarer. Finally, there would be the

record of the acts themselves, sometimes divided into public acts (the only ones printed at the time) and private acts. All this material, when it survives, is included in RPS. The pop-up windows diligently explain the source of each act, and if necessary provide editorial comment. This marks an advance on *APS*, which explains its sources in the introductions and contents pages but has little in the way of editorial apparatus.

Also in RPS are records of other bodies rather like parliaments – ‘general councils’ in the 14th and 15th centuries, ‘conventions of estates’ in the 16th and 17th. These often had a similar membership to parliaments, and could do some of the same things. A further category of records is the minutes of parliamentary committees. There is little such material before 1639, but a series of items from 1504 was argued in 2000 by Roland Tanner (in the *Scottish Historical Review*) to be draft legislation discussed by the lords of the articles. These items to some extent duplicate the parliament’s final legislation, but with interesting differences. RPS includes this material, as indeed did *APS*, but fails to discuss its nature (1504/3/15 to 1504/3/70). There is similar material for 1567, somewhat better explained by the RPS editors (1567/12/12 to 1567/12/103). For the period 1639 onwards, RPS has included additional material of this kind not known to the *APS* editors – one of its major advances. It has unfortunately decided to exclude the records of the committees of estates in the 1640s. Committees of estates were appointed by parliament, and during much of the revolutionary period formed the day-to-day executive of the country, superseding the privy council; their records remain in manuscript.

What is or is not a convention of estates may be debated. A line between ‘parliamentary’ conventions of estates and ‘non-parliamentary’ conventions of the nobility and expanded privy council meetings is difficult to draw, particularly in the later 16th century. The meeting that ratified the appointment of the Earl of Moray as regent on 22 August 1567 was described as ‘the lordis of secreit counsall, nobilitie, spiritualitie, commissaris of burrowis and baronis convenit within the tolbuyth of the burgh of Edinburgh’; RPS has included it (1567/8/2). Formal speeches made to parliament are occasionally included (e.g. A1567/12/50); they form no part of any official record, but can plausibly be regarded as parliamentary.

This question of the ‘official’ nature of the records is a difficult one that calls for further comment. The RPS ‘Editorial Introduction’ says that ‘general reportage has not been added to RPS which must be seen as an official record’. But this line is sometimes hard to maintain. An intriguing series of items from March and April 1648 is headed in RPS as follows: ‘[Unofficial minutes of parliament] Minutes of parliament, from a manuscript in the charter room at Hamilton Palace’ (A1648/3/1 to A1648/3/22). This document, a note of proceedings in parliament, was probably written by or for the Duke of Hamilton, and is comparable to an English parliamentary diary. Its inclusion raises questions about what exactly is a ‘parliamentary’ record. There are several 17th-century diaries, narratives or newsletters relating to proceedings in parliaments. Most, like the 1648 diary, were written by government managers or agents, but that does not necessarily make them official documents. If RPS is an edition of parliament’s own official records, then the 1648 diary has no good claim to inclusion. On the other hand, if we want contemporary evidence of what happened in parliament, then the 1648 diary undoubtedly provides it. RPS’s ‘Editorial introduction’ discusses several other extra-parliamentary documents of this nature that have been included. On the whole I welcome broad criteria for inclusion that can allow such unofficial documents to be included, but I would have liked much clearer editorial signposting to prevent inexperienced readers from being led to believe that these documents are ‘acts of parliament’.

At one point, the criteria for inclusion are not so much broadened as abandoned. RPS has included the barons’ letter to the pope of 1320, much discussed in recent times and dubbed the Declaration of Arbroath (1320/4/1). I am not aware of any modern scholar who has even suggested that this might be a parliamentary document. The RPS editors make no attempt to justify its inclusion or to explain what might be parliamentary about it. And the ‘manuscript’ version is headed ‘Record of Assembly: [6 April 1320]: Letters: “The Declaration of Arbroath”; letter of the barons of Scotland to Pope John XXII’, which hardly foregrounds the fact that modern scholars have abandoned the idea that the barons assembled at Arbroath, or anywhere at all, on 6 April 1320. One may feel that the RPS editors’ strictures on Thomas Thomson at his worst (he ‘occasionally includes phrases and sentences that are pure invention’, says their editorial

introduction) could here be turned back on them.

However, the criteria for inclusion of medieval material are generally tighter in RPS than in *APS*. As a result, one volume of *APS* that has certainly not been superseded by RPS is volume 1, nominally covering the period 1124-1423, edited by Thomson's collaborator Cosmo Innes and published in 1844. (Thomson himself had begun at volume 2, covering the period 1424-1567.) *APS* 1 contains a mass of material, mostly in Latin, and most of it not clearly parliamentary, from the 'old laws' of Scotland. These 'old laws' exist in compilations with obscure or improbable attributions, often hard to date from the surviving copies, and some with slightly desperate titles like *Fragmenta Collecta*. They are a fascinating topic, on which research continues. RPS, however, omits most of this material. By opting out of the debate on the old laws, RPS has missed an opportunity to move that research forwards – research which may eventually tell us something about the earliest parliaments. But the old laws are an arcane and specialist topic, and RPS's decision to restrict itself to identifiable acts of parliament was surely sensible. And, for the material it recognises as parliamentary, RPS has translated the Latin, just as it has translated the Scots.

Errors

Errors in RPS can be divided into three main categories: errors of transcription from the manuscripts, errors of translation, and errors of editing. Examples of all three types of error are, unfortunately, not hard to find. Let us begin with errors of transcription.

RPS is a fresh transcription from the manuscripts, not a copy of *APS*. Thus, since the editors also had *APS* to guide them, they should have been able to improve on *APS*. Sometimes they have, but not always. *APS*'s transcriptions, carried out by Thomson's anonymous assistants, are of an astonishingly high standard. RPS is also pretty good, but I am afraid that in accuracy of transcription it is outclassed by *APS*.

In writing this review I have not gone back to the manuscripts myself, but some examples can be given where the transcription impairs the sense of the document, or where a non-existent word is given. RPS twice gives a date as 'j^M iiij^{MC} xxiiij yeris' (1458/3/38, 1458/3/39); *APS* has 'j^M iiij^C xxiiij yeris', which is almost certainly correct. RPS has 'desyrous to releve his majestie of ane pane thairof' (A1594/1/17/3); *APS* has 'ane parte', which is probably correct. RPS has 'na maner of personis, inbringans of the said claith, silk and stuff' (1599/7/7); *APS* has 'inbringaris', which is almost certainly correct. RPS has 'the disprovall of the king' (A1648/3/3); this should probably be 'disposall', a real word, and a real issue in 1648. This act (not in *APS*) derives from a 19th-century transcript, so perhaps the error was made then; even so, some editorial comment would be called for. The Scots word 'coft', meaning 'bought', has defeated the RPS transcribers, who persistently give it as 'cost'. To take one example from many: 'the burgh of Sanct Johnstoun sall have licence to sell the wynis cost be thame' (A1552/2/1). The RPS editors do understand the word's meaning on this occasion, translating it correctly as 'bought'. However, in other instances the translation, as well as the transcription, is given as 'cost' (1633/6/32). The best that can be said about these errors is that most do not significantly affect our understanding of the meaning of the acts.

Turning to errors of translation, these are less serious for specialists, who will probably be working from the ‘manuscript’ version anyway, but such errors are nevertheless regrettable in a project that aims to increase the accessibility of the acts. Technical vocabulary has sometimes misled the unwary translator, as when ‘buschis and schipis’ is translated ‘bushes and ships’ (1504/3/32); ‘busses’ would be more accurate. In a list of weapons, ‘ane thousand pycks’ is translated as ‘1,000 picks’ (1689/3/60); these are surely ‘pikes’. The word ‘dantonit’ is translated ‘detained’ (1567/12/90); ‘subdued’ would be more accurate. A numeral is carelessly translated: ‘ane court of the foure burrowis on xv dais’ becomes ‘a court of the four burghs on 40 days’ (1504/3/65). A few Latin passages have escaped translation (e.g. A1690/4/28). Some overly-literal translations have not taken enough care with the slowly-uncoiling syntax of the acts. Thus, ‘office of custumarie maid for moe yeirs bot frome the exchecker till the compt be maid in the exchecker following’ is translated as ‘more years but’, which makes little sense in modern English (1633/6/24); ‘more years than’ would be preferable.

Translating legal vocabulary is often tricky. RPS translates ‘taxt wards’ as ‘tax wards’ (1633/6/27); it should be ‘taxed wards’. (This act, by the way, also has a misplaced comma in both manuscript and translation: in ‘anent the premisis necessarie, it is that some solemne act be done by ws’, the comma should come after ‘premisiss’. Perhaps this is what the manuscript says, but a conscientious editor should comment on the meaning of a text.) Confusion over taxed wards recurs when ‘in taxt ward, heritage and frie barrony, for payment of the tax dueties of ward, releiff and mariage therinexpress’ is translated as ‘in taxed ward ...’, but ‘for payment of the tax duties ...’ (1663/6/118); these are not ‘tax duties’ but ‘taxed’ (fixed) duties. RPS translates ‘the proces of forefaulture led against the deceast Robert Hamiltone of Monkland’ as ‘the process of forfeiture laid ...’ (1690/4/179); it should be ‘led’. Other legal terms are translated inconsistently. The term ‘unlaw’ is sometimes translated with that term (1468/2), but elsewhere as ‘penalty’ (1504/3/113). The term ‘assythment’ is sometimes translated with that term (1546/7/51), but elsewhere as ‘compensation’ (1592/4/178). One may debate what is and what is not a legal term, but further attention to consistency would be desirable.

Some of the problematic legal vocabulary is in Latin. In the famous resolution of 1689 declaring the offences of James VII and deposing him, RPS has translated ‘By changing the nature of the judges gifts *ad vitam aut culpam* and giving them commissiones *ad beneplacitum*’ by the ploddingly over-literal ‘By changing the nature of the judges’ gifts to for life without creating offence and giving them commissions for as long as they please’, which misses the point (1689/3/94). I was, however, pleased to see the final ringing phrase ‘wherby he hath forefaulted the right to the croune and the thron is become vacant’: RPS has correctly translated ‘forefaulted’ as ‘forfeited’, disposing of a claim made at one time that this spelling of the word meant something different.

Finally there are errors of editing, mainly typographical errors in the translations. These are the least serious, though unfortunately far from rare. We have ‘the said said donations’ (1504/3/8); ‘as it rynniss in Drinlay’ is translated ‘as in runs in Dronley’ (A1431/3/1). Rather than dwelling on such minor blemishes, I might take the opportunity of this mention of a placename to mention some more positive features. The editors have not only identified many placenames, but have also attached Ordnance Survey references to them (Dronley is ‘OS NO3435’). And they have also identified most of the persons mentioned. Thus, in 1489, ‘Cancellarius’ and ‘preceptor de Torfichin’ are identified as ‘[Colin Campbell, earl of Argyll], chancellor’, and ‘[William Knollis], preceptor of Torphichen’ respectively (1489/1/14). This is really helpful editing. And one advantage of a digital publication is that it can be updated. At the time of original publication I sent the editors a note recommending several improvements, all of which they implemented. Perhaps they will also be able to rectify some of the shortcomings mentioned here.

Search engine versus index

While APS has an index, RPS has a search engine. This is a natural thing for a digital resource to have, and the translation of the entire text facilitates many searches. You have to begin by deciding whether to search

the 'Translation' or the 'MSS'. The former is the default, and can find specific words and phrases in a standardised way, at least in theory; the latter can find the exact original spelling of a particular word.

The search engine does not have the mystifying sophistication of a Google search, prioritising the items considered by the software to be most important. An RPS search relentlessly gives you each instance of your chosen word, in chronological order of instances, displaying ten instances at a time, with a line of text from each. It is not unusual to achieve several hundred hits, which then have to be worked through piecemeal – you can't 'refine' a search, or search within your results. There is, however, a separate 'advanced search' facility that enables you to limit your search to a chosen timeframe, or to carry out Boolean combined searches on two items with 'AND/OR'. Chronological ordering of results is valuable, and for that reason alone I would not want a Google-type search engine (here it might be noted in passing that Google itself can find specific phrases in RPS).

An index, however, can do some things that a search engine cannot. *APS*'s extensive index, mainly compiled by Archibald Lawrie, was published in 1875. This was a monumental work that crowned the *APS* series. These days one might be advised to carry out a health and safety risk assessment before attempting to lift Lawrie's 1,255-page folio volume; some libraries have bound it in two parts. His index is splendidly discursive, with summaries of acts and other material so that the reader understands what is being referred to. These intelligent summaries easily beat the line of text delivered by the RPS search engine. And Lawrie, like any professional indexer, provides cross-references. Thus, he has no entry for 'scandal', but under that word there is a cross-reference to 'defamation'. Many of his entries contain a list of 'See also' cross-references. RPS has none of these useful tools.

It is possible to find entries in Lawrie with no counterpart in an RPS search. Lawrie has an entry for 'sparginer' – a variant of 'sparger', that is, a plasterer – but 'sparginer' is not found by RPS, nor indeed are 'sparger' or 'plasterer', neither in the 'Translation' nor the 'MSS' searches. The original text says 'spargineres', and RPS has translated this as 'roughcasters' (1641/8/447). It seems that the search engine can only find complete words. On the other hand, RPS can sometimes do better. A search for 'penal statutes' returns 28 items, as against 13 references in Lawrie.

Translation solves most, but not all, of the problems of variant spelling of old words. Names are particularly hard to standardise. The search engine appears to know about some variant spellings of names. The surname 'Spottiswoode/Spottiswood' has been translated as 'Spottiswood', but a search for 'Spottiswoode' also finds it, while 'Spottiswoodx' does not find anything. With a bit of trial and error one can ascertain that the surname 'Home' has usually been translated thus, rather than as 'Hume' – except for the Polwarth branch of the family, which is 'Hume of Polwarth', a spelling that continues when the lineage become peers as Lords Polwarth and then Earls of Marchmont. An index can rapidly *show* the decisions that have been made about spelling.

Here is a final example of the search engine in action. Knowing that RPS had added a good deal of material for the 1640s, I wondered what it would have on the 'brotherly assistance' – the £300,000 compensation promised by the English after the Bishops' Wars. A search for 'brotherly' found it and other things – 61 hits in total, a manageable number. A search for 'brotherly assistance' in quotation marks found it more precisely, with 49 hits. A search for 'brotherly assistance' without quotation marks produced largely the same results as a search for 'brotherly' alone. A related search taught me a bit more about the search engine. A search for 'three hundred thousand' in quotation marks found just one document, a royal letter from 1558, with the word 'three' in it (1558/11/14). This is probably because 1558/11/14 is part of a portmanteau series of shorter acts, ending at 1558/11/33, that are combined in the database and appear on a single screen; some of the other acts include the words 'hundred' and 'thousand'. By contrast, a search for 'three hundred thousand' without quotation marks produced over three thousand hits (fortunately not three hundred thousand). RPS's search engine can be a useful and even powerful tool, but it is not a straightforward one, and *APS*'s index remains important for researchers.

Conclusions

RPS is mainly a project of digitisation and accessibility. The scholarly breakthrough was achieved by Thomas Thomson two centuries ago, and RPS has continued – wisely, it should be said – to work within the broad paradigm that he established with *APS*. Nevertheless, digitisation and accessibility are much to be welcomed for their own sake. And RPS has made some real scholarly advances. It has given a fuller editorial apparatus explaining the sources of its texts in more detail, it has clarified the uncertainties that we face in interpreting the most difficult texts, and it has added some new and valuable material. Its decision to omit some of *APS*'s non-parliamentary material is sensible, given its remit. Overall, its shortcomings are minor, and it can be recommended as a reliable edition for ordinary purposes. That is the main test that RPS needed to pass, and it has succeeded.

For specialists in the history of the Scottish parliament, RPS has not entirely superseded *APS*, nor indeed did *APS* entirely supersede the 1566 'Black Acts'. RPS has corrected some of *APS*'s errors, but it has also introduced errors of its own. More importantly, for those accustomed to its language and typeface, *APS* can actually be more user-friendly. One may more easily obtain a sense of the acts from turning the pages of a printed book than from scrolling and clicking on a website, and the *APS* index remains useful. In my own work using the acts of parliament, I probably use RPS about three-quarters of the time, and *APS* one-quarter of the time. In reference notes I tend to cite both. So, three cheers for this latest product of the digital age, and an extra cheer for a remarkable monument of 19th-century scholarship, still standing after two centuries.

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