RETOURS OF SERVICES OF HEIRS
1544-1699

Inquisitionum ad Capellam Domini Regis Retornatarum quae in Publicis Archivis Scotiae adhuc Servantur

Abbreviation

Volume A
Inquisitiones Speciales
Aberdeen - Kirkcudbright

Originally published in 1816

Edited, rearranged and with a new introduction by

Bruce Durie
INTRODUCTION

The Retours of Services of Heirs 1544-1699

This book and the accompanying Volume B are composed from the three volumes together called Inquisitionum ad Capellam Domini Regis Retornatarum, quae in Publicis Archivis Scotiae Adhuc Servantur (Inquiries Retourned to the Chancery of our Lord the King which are Held in the Archives of Scotland) from 1544 to 1699. These records, informally known as Retours of Services of Heirs, represent possibly the greatest unused resource for Scottish genealogy and land history. Essentially, they are abbreviated abstracts of the records of inheritance, the continuity of heritable possession of land and certain associated rights and responsibilities. The original Retours themselves are often long and complicated, and mostly in Latin, but they were indexed and abbreviated by the wholly wonderful Thomas Thomson (see next page) into the form presented here.

The Retours are an almost unparallelled source of land and inheritance information (matched only by the Sasines), but are not widely available – mostly, the printed volumes are in the National Records of Scotland (NRS) and certain specialised archives and libraries. Scanned versions are on a CD produced by the Scottish Genealogical Society, but not in a very user-friendly form; downloadable PDF format versions available variously around the internet are usually poorly scanned and also not text-searchable.

The structure of the original volumes makes them complicated to use – it is necessary to know which form of service is required (there are five, see below); to look up Volume III in either an Index Nominum (Name Index) or Index Locorum (Place Index) for each County; then to refer to Volume I or Volume II for the actual Abbreviation. In order to simplify the process, the contents of all three original Volumes have been rationalised into a more useable order.

The original contents were:

Volume I
- Fontispiece
- Address to the House of Commons
- Retour Illustration and Exemplar (transcription and translation)
- Ordo Generalis (contents of all three Volumes)
- Inquisitionum (de Successione) Specialium Abbreviatio (Aberdeen to Orkney et Shetland)

Volume II
- Inquisitionum (de Successione) Specialium Continuatio (Peebles to Wigton)
- Abbreviationis Inquisitionum Specialium Supplementa
- Inquisitionum (de Successione) Generalium Abbreviatio
- Abbreviationis Inquisitionum Generalium Supplementa
- Inquisitionum de Tutela Abbreviatio
- Abbreviationis Inquisitionum de Tutela Supplementa
- Inquisitiones Valorum (Sive Extentuum)
- Inquisitiones de Possessione Quinquennali

Volume III
- Indices Nominum et Locorum

The present two volumes are rearrangements of these so that the Indices for each County appear before the Abbreviations, followed by the Supplementa and any Addenda et Corrigenda, in County order:
Volume A
Fontispiece
Address to the House of Commons
Retour Illustration and Exemplar (transcription and translation)
Ordo Generalis (contents of all three Volumes)
Inquisitionum (de Successione) Specialium Abbreviatio (Aberdeen to Kirkcudbright)

Volume B
Continuation of the Inquisitionum (de Successione) Specialium (Lanark to Wigton)
Inquisitionum (de Successione) Generalium Abbreviatio
Addenda et Corrigenda
Inquisitionum de Tutela Abbreviatio
Abbreviationis Inquisitionum de Tutela Supplementa
Glossary of terms in Scots, English and Latin

Inquisitiones Valorum (Sive Extentuum) and Inquisitiones de Possessione Quinquennali are in Volume C along with the Retours for 1700-1859.

The production of the Retours
As described above the Retours were indexed and abbreviated by Thomas Thomson, appointed to the new office of Depute Clerk Register in 1806. Between 1811 and 1816, Thomson produced his indices in two series: 1544–1699 (mostly in Latin except for 1652–9, but all with English indexes); and 1700–1859 (in English). The first series consisted of two volumes of printed summaries, Inquisitionum ad Capellam Regis Retornatarum Abbreviatio and a third volume carrying indices to the first series, arranged by county, of names (Index Nominum) and places (Index Locorum). These are rearranged in Volumes A and B of this work. The second series (1700–1859) is for all of Scotland, arranged by decades. That forms the material in Volume C.

The printing in the originals is not always clear and suffers from other imperfections – accentuated, sadly, when such material is scanned and which mitigates against any optical character recognition. This explains why the Retours have been produced in this printed format rather than presented as text in a database.

Immoveable (heritable) property under the feudal system
When looking for evidence of inheritance in Scotland, it would perhaps be natural to look to wills and testaments. However, we should remember that until 1868, wills (strictly speaking, testaments) could only transfer moveable property; ‘real’ property (also called immoveable or heritable) – essentially land, buildings and heritable titles or offices – were subject to the separate process of Retours of Services of Heirs, much like the distinction in English executry law between bequeathing (moveables) and devising (immoveables, heritables). There was a way to subvert the Scottish process, the use of a Trust Disposition and Settlement (‘deed of settlement’) – not dealt with here, but those interested might consult two related works: Durie (2012) and Durie (2013).ii

Until well after the 1950s, most of Scotland’s inhabitants were tenants rather than landowners or householders and 100 years before that, the majority were agricultural tenants or labourers, factory or mill workers, coal miners and so on. Records of land and property ownership will only be useful for tracking and identifying property holders rather than tenants or workers. Sale or
transfer of ownership (or, properly, vassalage) during life, and wadsetting (mortgages) was by means of sasines and because after 1858 it was possible, but not necessary, to register long leases (tacks) on properties, so renters and tacksmen might well appear in the Register of Sasines. Inheritance is recorded in the Retours.

Under the feudal system which governed landholding in Scotland until 2004, in theory almost all land belonged to the Crown as ultimus haeres, in a hierarchy of heritable possession to immediate vassals (‘subject superiors’ or ‘Crown tenants’, who were also feudal or minor barons, as distinct from peerage barons). No-one actually owned land – they were ‘seised as of fee’ – but one who had heritable possession of a property could in turn pass the possession of parts of the property to someone else – who then became vassal to that superior. A landholder could also alienate (dispose of, sell) the whole, including passing on the barony at the same time, and the rights, duties and responsibilities which accompanied that dignity. Sometimes the entire landed estate was alienated but the dignity of the barony retained, by a convenient legal fiction.

Say an estate had been, over the years, subdivided in 16ths and those parts subinfeudated (passed heritably in fee) to vassals. The superior received a reddendo which could be of various kinds: ward (military or some other service, which gradually disappeared); feu-ferme (payment in cash or produce, at a certain level and at specified times); blench-ferme (the reddendo being minimal or notional – a silver penny, a white rose each Christmas, a peppercorn – and then only if asked for); free-alms (the usual mechanism for granting land to a church or other collegiate body in perpetuity, in exchange for masses said, services held, prayers offered etc., but usually reserving advowson, the right to appoint the minister or other clergy).

Now say the superior retained the portion around the main house, but later alienated the house and the land it stood on, all except one pocket-handkerchief-sized parcel of land near the property boundary. At this point, can the superior still be said to hold the estate, and with it, the barony? In other words, in what part of the land – and of what minimum size – is the barony itself vested? The convention was to use some landmark – a particular stone, for example – as the caput of the barony, and retaining that retained the baronial dignity. One consequence was the existence of a number of ‘telephone-pole barons’ whose ancestors had sold all their patrimony over the years except for the all-important caput, thus allowing the scion to be termed ‘So-and-So of that Ilk, Baron of So-and-So’ but without the tedious appendage of an estate and a ruinous property to maintain. Now that land and barony have been divorced from each other (see note 3), Lord Lyon takes the view that a few acres are necessary before anyone can have a territorial designation recognised in a new Grant of Arms. In a parallel way, the caput of Scotland was held to be the ancient crowning-place of Kings of Scots, the moot-stone at Scone Palace – the so-called Stone of Destiny, which explains the significance of that piece of masonry beyond the mere mythical and emblematic, as in theory anyone in possession of it is ‘seised’ of Scotland, as Edward I evidently believed (or believed the Scots believed) when he removed the stone southwards.

This system of feudal possession also applied to property held collegiately or ex-officio. If, for instance, the Crown had granted lands to an abbey, the abbot as commendator and/or usufructuar, could then subinfeudate it in parcels to others, rent or lease it and so on. This ensured that abbeys were maintained by an income and produce, and that the land was worked. It was also a way for highly-placed clerics to vest their families and offspring in lands that were, in theory, ecclesiastical but then became in effect personal property. In such manner did the Duries of Fife acquire certain lands, though not the eponymous estate, which had been granted in the 1260s.
However, the consequence of heritable possession in fee to a superior was that when a vassal died, it was not automatic that the property would be passed to his or her designated heir – that would depend on the conditions of the original grant, and on the ability to prove heirship.

**Heritable immoveable property and Retours of Services of Heirs**

When a vassal died, his or her heir had to prove the claim, hence the system of Retours. Thomson gives an outline (reproduced in this volume) of the process from breve (warrant) to the ‘retourned’ results of an inquisition. In the case of a subject superior (a vassal directly of the Crown), a jury of 15 local landholders or other ‘upright and faithful men of the country’ was summoned by a breve served on the sheriff or other officer, to convene and hear pleas, to consider any documents provided and to decide who was the rightful heir. These would be other local landholders, who knew the place and the family, and might well include neighbours and relatives. (This, incidentally, is the origin of ‘Fifteen men on a dead man’s chest’, the chest in question being the documents-kist which presumably held the relevant paperwork – it had nothing to do with Yo-Ho-Ho-ing pirates until Robert Lewis Balfour Stevenson purloined it for use in *Treasure Island*.) The findings of the jury were retourned (returned) to the Royal Chancery to confirm inheritance. If approved by Chancery the individual would be served as heir, and the process could start to give full title.

Where the Retours are especially important for family history purposes, is that they often help to clarify connections, such as when land was inherited by a grandson, brother, cousin, niece etc. They can also, by consulting the appropriate *Index Locorum*, be used to track the history of a property across the centuries. There are a number of forms of retour:

1. **Special Retours** dealt with lands of subject superiors, and unambiguously described the property in some detail - when it concerned their own vassals, subject superiors could confirm an heir’s right to inherit by a Precept of Clare Constat (‘clearly shows’) essentially authorising the grant of title to the heir; there is no central register of these, but they are within many collections of family papers held at the NRS and elsewhere;

2. where the succession was not to any one particular estate ‘in special’ but to general heirship to the deceased ancestor, the claimant could use the Chancery to get a jury’s opinion on the claim and use this, if beneficial, to get the superior’s consent or to require him to consent. This produced a **General Retour** (which did not give any great detail about the property itself, merely those persons involved in the transaction). This situation may have arisen the need to prove the right to inherit, possibly because there was a dispute, or because the subject superior did not know the heir personally, or was refusing to grant title for some reason. It would help rationalise the process by which property held by a ‘defunct’ with no issue would pass to his next-elder brother if the property had been acquired by ‘conqueish’ or to his next-younger brother if by inheritance (and corresponding sisters as heirs portioner if no brothers existed).

3. enquiries into matters of Tutory (looking after the interests of minors) and Curatory (looking after the infirm etc.) which are in *Inquisitionum de Tutela*;

4. **valuations of land (Inquisitionum Valorum and Inquisitionum de Possessione Quinquennali).**

The documents are in the Records of the Chancery at the NRS (Refs. C22 and C28), but there is rarely much need to consult them directly – usually the printed abridgement is all the information needed, but the documents themselves, particularly Special Retours, may contain important information about the property itself and any special conditions attached to it.
Understanding a Retour

A retour begins with the date of the inquest, the names of the jury, the name of the deceased, the lands concerned (if a Special Retour), and the name of the legitimate heir. The extent (worth) of the land was sometimes given in Old Extent (A.E.) and New Extent (N.E.), reflecting the change in value of the Pund Scots (Scottish Pound, see below). Land extents (annual values) are often expressed in Merks (1 Merk = 2/3 Pound Scots).

Translation

ARCHIBALD STIRLING, heir to Archibald Stirling Burgess of Stirling, his father, - in annual rent 640 Merks of the demesne lands of Menstrie, in the parish of Logie; and of the lands of Westerton of Tillicoutry, under the parish of Tillicoutry: - Extent 512 Merks – annual rent 508 Merks of the aforesaid lands and barony of Menstrie, extending to 20 Pounds [Scots] of land of Old Extent, in the parish of Logie, and of the forms etc. of the said lands and barony of Menstrie – Extent 406 Merks 5s 4d.

(51) MASTER GEORGE BONYMAN, heir to George Bonyman merchant and burgess of Edinburgh, his father.

(52) JOHN GORDON, heir to Sir John Gordon of Petlurg, Knight, his father.

(53) MASTER JAMES DURHAM of Duntarvie, heir to Captain Alexander Durham of Houschgour in Denmark, his paternal uncle’s son [i.e., his cousin]

[Note that Dominus when followed my militis = Sir and Magister signifies a graduate (M.A.).]

Abridgements of some General Retours from the 1600s. These are in Volume B.

Translation

(38) MASTER THOMAS GAIRDYNE of Blairton, uncle of Walter, Gilbert, Mary Margaret and Isabella Gairdyne, legitimate children of the deceased Master Gilbert Gairdyne of Bothis, - nearest relation by blood on father’s side of the said children of the deceased Master Gilbert his brother-german [= full brother]

Retour of Tutory (care of minors).

There are examples of a Special Retour and a General Retour at the start of Volume B.
Retours for counties and burghs from 1700 (Volume C)
From 1700 to 1859 the printed Indexes to the Services of Heirs in Scotland (reproduced in Volume C) are arranged as decennial sections, after which they became annual. From the name of the heir in the index it is possible to find the heir's designation, details about the ancestor (sometimes with the death date), the type of heir, the names of lands (if a special retour) and the retour date. Original records before 15 November 1847 have the NAS reference prefix C22, and after that, C28. The abbreviations look like this:

1750–1759.

INDEX

TO

THE SERVICES OF HEIRS IN SCOTLAND,
RECORDED IN THE TEN YEARS COMMENCING 1ST JANUARY 1750, AND ENDING 31ST DECEMBER 1759.

A

Name of the Person Served | Distinguishing Particulars | Date of Recording |
---|---|---
Alexander—George | of Tillibody, to his Father Alexander Alexander of Tillibody—Mr. Male and of Linne and Prov. Gl.—24th July 1753 | 1753 July 26
Alexander—Donald | to his Father William Kent of Aberdeen—Heir General—died 18th April 1759 | 1759 April 29
Adam—Charles | to his Father Charles Adam, Merchant in Perth—Heir General—died 24th January 1747 | 1747 Jan. 24
Adam—John | Widow of John Douglas, Dyer, to her Father John Adam, Merchant there—Heir Gl.—15th June 1752 | 1752 June 15
Adams—James | Mackenzie in Drury, to his Mother Mary—Heir to Adam, Widow of Matthew Adam there—Heir General—4th May 1753 | 1753 May 4
Adams—George | to his Father Patrick Barnacle, Wright, etc. there—Heir Port. Genl—26th March 1752 | 1752 March 26
Adam—Mary | Wife of A. Grieve, Aberdeen, and Wife of Rt. Adam there, to her Brother Andrew Touken, Rio Ecosse—Heir Port. Gl. | 1750 Oct. 14

Forms of Heirship
Refer to Volume B for explanation of terms such as 'heir of line' and 'heir portioner'. One of the forms of heirship requires some further explanation: if an heir was served as 'heir of tailzie', the property was 'entailed' – essentially, its further transfer was restricted in some way, say to 'heirs male', or to 'heirs of the body lawfully procreate' or (rarely) to females only. This prevented the property going outwith the family or down a certain line and could, for instance, require the heir of tailzie to take the surname and arms of the entailer. Thus, an outsider marrying a sole heir daughter would take the daughter’s family name.
Dates in Retours
There was no time limit for recording a retour, unlike with sasines, so the date of the Retour may not equate with that of the death. Some heirs engaged with the Chancery system years later if, for example, the inheritance was challenged or if they wanted to sell the property and required evidence of clear title.

Spelling of names in Retours
It is important not to be misled by spellings – these were variable in the earlier retours, and while Thomson has made efforts to rationalise the onomastic problem by grouping likely variants together under the more ‘modern’ form as recognised ca. 1800 (for instance MOUBRAY with MOUBRAY, or QUHEYT with WHITE). This example from Fife shows the same name rendered three different ways within the one Abbreviation – the accepted spelling now is DURIE, but the Index Nominum gives only DURY and DURRIE.

Using these volumes (Special Retours)
1. Under the appropriate County, look up a surname in the Index Nominum or the name of land in the Index Locorum and note the reference numbers.
2. The Abbreviations are organised chronologically, using the reference numbers derived as above.
3. Cross-check any other lands or surnames mentioned in any Abbreviation.
4. Look up unfamiliar terms used (Latin, Scots and English) in the Glossary.
5. If further detail is needed, consult the original Retour at NRS, Register House, Edinburgh (see www.nas.gov.uk)
6. This can usually be followed back to the original charter granting the land, which will also be at NRS in most cases – if it is lost, an official extract can be obtained from the Register of the Great Seal (also at NRS, but also available in print at specialised libraries) which has the same legal status as the original charter.

General Retours are addressed in Volume B

Money, land measurement and dates
Consult Durie (2012) and Durie (2013) for more detail, but remember the following:
1. Until 1600 in Scotland and 1752 in England, New Year was 25 March – this necessitates on occasion giving the year in Old Style (OS) and New Style (NS) when a date falls between 1 January and 24 March (e.g., 14 Feb. 1597/98) but where it is not, it is unclear whether Thomson has ‘modernised’ the date to NS or followed what was in the original retour (see entry 75, Fife).
2. Land was usually measured by Extent (annual value in rent or produce realisable, equivalent to the later rateable value) and equated to its production worth – therefore fertile land of Extent (say) 20 Merks will be a smaller area than land of the same Extent in relatively unproductive hill-scrub.
3. Auld Extent, New Extent – there was a revaluation of land values in the 1400s by a factor of 4 or 5, but most people used both to avoid ambiguity. Think of this as the annual rent or produce value.

4. Occasionally other measures are used, such as the acre, and the davach – about 32 to 48 acres of sown land, roughly the same as an English ploughgate, the area that a single plough could turn over in a season.

5. The denomination for money was in pounds, shillings and pence or L.S.D. (librae, solidi, denarii) with 12 d. = 1s., 20s. = £1; all values are either in pund Scots, with occasional references to Sterling, or in merks (2/3 of a pund Scots).

6. Where values are in pund Scots, this can be equated to pund Sterling using the following approximate exchange rates:

<table>
<thead>
<tr>
<th>Period</th>
<th>Exchange Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1355</td>
<td></td>
</tr>
<tr>
<td>1356-1390</td>
<td>1:2</td>
</tr>
<tr>
<td>1391-1451</td>
<td>1:2½</td>
</tr>
<tr>
<td>1452-1453</td>
<td>1:3</td>
</tr>
<tr>
<td>1454-1467</td>
<td>1:3½</td>
</tr>
<tr>
<td>1468-1475 (gold only)</td>
<td>1:4</td>
</tr>
<tr>
<td>1476-1544 (all coinage)</td>
<td>1:4</td>
</tr>
<tr>
<td>1545-1560</td>
<td>1:5</td>
</tr>
<tr>
<td>1561-1565</td>
<td>1:6</td>
</tr>
<tr>
<td>1566-1579</td>
<td>1:8</td>
</tr>
<tr>
<td>1580-1597</td>
<td>1:10</td>
</tr>
<tr>
<td>1598-1601</td>
<td>1:12</td>
</tr>
<tr>
<td>after 1603</td>
<td>1:12 – this rate persisted even after Scots currency disappeared in 1707.</td>
</tr>
</tbody>
</table>

There were various exchange rates during the Interregnum, 1649-1660.

7. There are occasional references to produce dry measure – bolls, firlots, pecks etc. (see entry 77, Fife). The basic measure was the firlot, equal to about 36 litres of wheat, peas, beans and meal, or about 53 litres of barley, oats and malt. A smaller unit, the lippie or forpet, was 1/16th of a firlot and thus around 2.25 or 3.3 litres. It was equivalent to the Imperial (English) half-gallon or 4 pints. Prices were usually expressed by the boll (4 firlots or 2 Imperial gallons).

- 4 lippies or 4 forpets = 1 peck
- 16 lippies = 4 pecks = 1 firlot (2214.3 cubic inches or 8 Imperial gallons for wheat etc., 3230.3 cu. in. or 11.65 Imperial gallons for barley etc.)
- 64 lippies = 16 pecks = 4 firlots = 1 boll
- 16 firlots = 4 bolls = 1 quarter (equivalent to an English bushel)
- 64 firlots = 16 bolls = 4 quarters = 1 chalder
- 31 Scots pints = 1 barley firlot

Liquid measure was different again, but rarely occurs in retours.

**Counties and maps**

It may be unclear in which county a certain place is located at the time. This is particularly the case where there have been many boundary-changes and/or renamings. In the area around Elgin, Forres and Nairn, a settlement or parish may have been considered Elginshire, Nairnshire, Morayshire or Inverness-shire. Some estates straddled more than one parish and county. Some county names have changed – Edinburghshire is now Midlothian, Linlithgowshire is West Lothian, Haddingtonshire is East Lothian and Forfarshire is now called Angus. Some more have disappeared.
completely – Selkirkshire, Roxburghshire, Berwickshire. Others are subdivided in modern times – Ayrshire is now three council areas of South Ayrshire, East Ayrshire and North Ayrshire.

To avoid doubt, consult a map for the relevant period – there are many, free to view, at the National Library of Scotland (www.nls.uk). Particularly valuable are Pont’s maps and Blaeu’s renditions of these from the late 1500s to about 1650, which show many placenames which have since disappeared or changed beyond recognition. Herman Moll’s County Maps of 1745 are useful for delineating county boundaries.

Part of Moll’s map of the Shires of Murray [Moray] and Nairn, showing that by 1745 the shire called Elgin and Forres had disappeared as a name.

Further Reading

Notes

3 Abolition of Feudal Tenure (Scotland) Act 2000, which came into force in 2004. See Further Reading.
4 The exceptions are heritable property in Orkney and Shetland, and certain ecclesiastical lands, held by allodial (udal) tenure – see Glossary (Volume B) for more detail.
5 Not exactly the same as ‘heir apparent’.
6 The phrase used is ‘probus et fideles homines patriæ’.
7 ‘Conquest’ is acquisition of land by any means other than inheritance, such as by purchase. There is no implication of a physical tussle for it.