

THE EARLY HISTORY  
OF  
THE SCOTTISH SIGNET

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## THE EARLY HISTORY OF THE SCOTTISH SIGNET

By the eleventh century in Western Europe kings had their chancellors, who acted as secretaries and had the custody of their seals. The employment of churchmen by secular princes for the preparation of writs was a natural consequence of the regular organisation which had developed under bishops and within monasteries. Royal chanceries had the ecclesiastical character consistent with their origin and with the circumstances of the time ; and writs, issuing literally from the king's "chapel" under his seal, were engrossed by the king's "clerks."

At the beginning of the twelfth century the royal chancellor in England was in charge of an office. In Scotland itself, owing to the intimacy between the court of Henry I. and the sons of Malcolm and Margaret, it is not surprising to find that Alexander I. also had his chancellor,<sup>1</sup> or that Eadmer of Canterbury was specially recommended to Alexander as a person skilled not only in Scripture but in secular writs.<sup>2</sup> Under Malcolm IV. in 1159 we hear of a chancellor's clerk.<sup>3</sup> During this century the chancellorship continued to grow in importance. In England a chancellor of Richard I. retained his office even after his elevation to the episcopate, and was apparently "the first of the magnate chancellors,"<sup>4</sup> while in Scotland a similar tendency operated, though it is less precisely observable.

As long as the business of government was done in the household, there was no need for more than one office for the issue of sealed writs, or for more than what was denominated without further

<sup>1</sup> Lawrie, *Early Sc. Charters*, 42.

<sup>3</sup> Lawrie, *Annals of Malcolm and William*, 40.

<sup>2</sup> Anderson, *Sc. Annals from Eng. Chron-iclers*, 141.

<sup>4</sup> Tout, *Chapters in Mediaeval Administrative History*, i. 134.

specification "the king's seal." The gradual separation of the exchequer from the royal *curia* and its growth as a special department of state compelled Henry II. to engrave a seal exclusively for exchequer purposes, a seal which was still technically in the custody of the chancellor, but in practice was applied by his clerk acting as deputy.<sup>1</sup> By the end of Henry's reign the clerical machinery of the exchequer had become independent. The chancellor's deputy tended to become an exchequer officer, nominated directly by the king and known as "chancellor of the exchequer."<sup>2</sup> When Richard I. departed for the Holy Land he left a small seal for use in his absence, which may or may not have been the seal already devised for the exchequer.<sup>3</sup> Under John, however, the development becomes clearer. We hear of the "great" seal as distinguished from the "small" or "privy" seal. The exchequer seal remained in action; and this new seal was specially concerned with the business of the royal chamber. Owing to the dignity and the preoccupations of the chancellor, as Professor Tout observed, "it looks as if the court had now found the practical need for a special household seal, always ready for service, just as, under Henry II., the exchequer had done for a seal always at hand."<sup>4</sup> In 1208 a function of the privy seal is neatly indicated by a writ in which King John says: "We have caused this letter to be sealed with our small seal because we will that these debts should be paid into our chamber: we would have caused them to be sealed with our greater seal had we willed that they should be paid to our exchequer."<sup>5</sup>

The evolution of the privy seal in the thirteenth century was affected not only by baronial efforts to exert a control over the machinery of government, but also by the increasing complexity of the administrative system. As the importance and independence of the chancellor grew, the privy seal, remaining with the king himself or in the hands of a familiar clerk, had the personal associations due to its origin; but it would appear that the personal character rapidly gave place to the official. In 1232 it was already being committed to a recognised custodian, who was still, in the

<sup>1</sup> Tout, *Chapters in Mediaeval Administrative History*, i. 145.

<sup>2</sup> *Ibid.* i. 146.

<sup>3</sup> *Ibid.* i. 148.

<sup>4</sup> *Ibid.* i. 154.

<sup>5</sup> Maxwell-Lyte, *Great Seal*, 20.

reign of Edward I., controller of the wardrobe. During the reign of Edward II. the custody was permanently dissociated from the wardrobe office. In 1340 a statute of Edward III. included the keeper of the privy seal among those who must be required to take oath of lawful service to the king and the people: next year parliament requested that "a clerk suitable for the custody of the privy seal," as well as the chief ministers of the crown, should be nominated in its own presence. By the end of the fourteenth century the office of keeper had become so considerable that it was not necessarily incompatible with a bishopric, and was frequently a stepping-stone to the episcopate.<sup>1</sup>

## THE ENGLISH SIGNET

In 1311, in consequence of the movement initiated by the barons of Edward II., the privy seal was taken away from the controller of the wardrobe and handed over to Roger of Northburgh—a fact incidentally of interest to Scots, because the seal, along with Roger and two of his clerks, was among the booty falling to the victors at Bannockburn.<sup>2</sup> It is at the time of this transference that we first become aware of a new seal, demonstrably distinct from the privy seal, and known as the "secret" seal. One proof of the difference lies in the fact that scarcely a month after the battle, when Edward II. was at York, he used the privy seal of his queen Isabella in express substitution for that which was lost, while on the very same day he issued writs *sub secreto sigillo nostro* and *souz nostre seal secret*.<sup>3</sup>

The separate identity of the "privy" and the "secret" seal under Edward II., amply proved, could not easily be discerned through the current nomenclature alone. In the thirteenth century the "privy" seal was commonly so described, and rarely as "secret"; but the legend of the matrix was *secretum*, not *privatum*, and the two designations continued to be a source of confusion throughout the fourteenth century.<sup>4</sup> To explain the appearance of this secret seal which was not a privy seal, Professor Tout laid emphasis upon the removal of the privy seal from the controller of the wardrobe,

<sup>1</sup> Maxwell-Lyte, *Great Seal*, 21-24.

<sup>2</sup> *Ibid.* 22, 60.

<sup>3</sup> Tout, *op. cit.* v. 167.

<sup>4</sup> *Ibid.* v. 161.

and the appointment of a special keeper, who was in the political circumstances associated with the Lords Ordainers, and upon the very intelligible desire of Edward to possess an instrument of authentication subject to his own control.<sup>1</sup> This new seal was, in view of its origin, appropriate to writs conveying the personal will of the king, and to his own communications.

The designation "secret" for a seal distinctively personal was inconsistent with the usage of continental powers in close contact with England. To a French clerk the term connected itself inevitably with a seal which had long been official, in sharp contrast with "the little seal which the king was wont to carry."<sup>2</sup> The application of "signet" to the personal seal in France was a convenience which eventually came to be adopted in England, where it appears to have crept into usage, naturally enough, with special regard to royal seals of the ring type. Among the several *secreta* engraved successively for Edward III., the second, which is found in action for the first time in 1331, leaves an impression so small as to be in all probability that of a finger ring.<sup>3</sup> Towards the close of the reign, after the employment of secret seals considerably larger in diameter, there was a return to a small matrix, which gradually appropriated the name of the royal "signet." "This," says Professor Tout, "was the signet which the moribund king ordered to be affixed to his last will with his great and privy seals, to give it all the force that a document could possess."<sup>4</sup>

#### THE SIGNET OF DAVID II.

When exactly the *secretum* as distinguished from the privy seal made its appearance in Scotland can hardly be determined. Our first acquaintance with it is in the reign of David II. and in the year 1358-9; but its character is such as to leave room for doubt whether King Robert and not his son was the earliest sovereign to employ this particular seal. David was in London, and had occasion to conclude an agreement relating to the ransom imposed for his recent liberation after eleven years of captivity in England. Not having

<sup>1</sup> Tout, *op. cit.* v. 169-170.

<sup>2</sup> *Ibid.* v. 197.

<sup>3</sup> *Ibid.* v. 171.

<sup>4</sup> *Ibid.* v. 177; Maxwell-Lyte, *Great Seal*, 107.



CAST FROM AN IMPRESSION OF THE SIGNET USED BY DAVID II  
AND ATTACHED TO A WRIT OF 1358-9

Furnished by the courtesy of the Public Record Office. See p. 6.

his great seal, he used his "signet" as a substitute. The impression is in excellent preservation, but is at first sight puzzling. It is that of an oval gem, slightly less than an inch in length, showing "a lion couchant" with the letters M B above and the legend SECRETUM REGIS SCOCIE, the legend not continuous but distributed above and beneath.<sup>1</sup>

The lion couchant—unless he is passant—is an unfamiliar figure for heraldic scholars to explain. Whatever may be made of him, the matrix of the seal was evidently a signet ring; and the initials M B suggest that the ring was an heirloom once worn on the hand of Marjory, the Countess of Carrick who married the son of Robert Bruce the competitor and became the mother of Robert I. In 1285 she was using an oval seal, much larger than a signet, which bore, like the seal of her husband, a lion passant.<sup>2</sup> The legend must have been a later addition, leaving an obvious uncertainty as to whether it was engraved for David or for his father. It seems possible that David was using this seal at a considerably earlier date. In 1342, shortly after his return from France, whither he had been sent in 1334 to be out of harm's way, he directed a precept for payment *sub signaculo suo*,<sup>3</sup> a phrase which can hardly refer to his privy seal, for his father's privy seal was well over an inch in diameter and his own privy seal in 1359 measured an inch and three-quarters.<sup>4</sup> Already in the days of King Robert there was a little seal carried by the French sovereign, distinct from the privy seal kept by his chamberlain.<sup>5</sup> David may have copied the fashion; but dates do not preclude the possibility that Robert adapted his mother's ring for personal charges. The Scottish privy seal must have been in the custody of a keeper at the end of Robert's reign. After his death payment had to be made for a seal of gold with a silver-gilt chain which he had ordered, as well as for a seal of silver with a silver chain procured on behalf of the boy David<sup>6</sup>; and we know that the privy seal of Edward I. was similarly fitted for the convenience of its custodian.<sup>7</sup>

<sup>1</sup> *Cal. of Docs. relating to Scotland*, iv. No. 27.

<sup>2</sup> *Brit. Mus. Cat. of Seals*, iv. 15861 and 15865; Laing, *Cat. of Sc. Seals*, i. 140-1.

<sup>3</sup> *Exchequer Rolls*, i. 481.

<sup>4</sup> *B.M. Cat.* iv. 14855-7.

<sup>5</sup> Tout, *op. cit.* v. 196.

<sup>6</sup> *Exchequer Rolls*, i. 150.

<sup>7</sup> Maxwell-Lyte, *op. cit.* 41, cf. 45.

References in the Acts of Parliament show that David employed his "signet" in affairs of state, not always to the general satisfaction. The first allusion is implicit. In 1364 the lords, who were watching with a jealous eye negotiations with Edward III. which threatened the independence of the Scottish crown, consented to regard as "parliament" in the full technical sense a meeting summoned on short notice "under whatsoever seal."<sup>1</sup> The phrase *sub quocunque sigillo* is explained later in an ordinance which forbade the execution of mandates contrary to statute or the common form of law given "under whatsoever seal, the great, the secret, the small seal or signet."<sup>2</sup> In 1366 the king had granted expressly and had proclaimed publicly that justice should be done without favour or exception, and that judicial writs emanating from the royal chapel or issued by the ministers concerned should not be revoked by any other letters "under whatsoever seal," but that officers receiving such letters might proceed notwithstanding, and should return them unexecuted.<sup>3</sup>

There had been similar difficulties in England over interventions through the privy seal; and with the development of the signet public dissatisfaction seems to have been revived. Almost simultaneously with the movement to restrain David II. in Scotland, the commons in England petitioned against the interference of the privy seal with the course of justice. In 1377, when Richard II. met his first parliament, there were complaints in which abuse of the signet was included; and eventually the Merciless Parliament of 1388 ordained by statute that no letter of the signet should be issued to the disturbance of the law or the damage of the realm.<sup>4</sup>

#### THE ENGLISH SECRETARY AND THE SIGNET

During the reign of Edward II. and for a great part of the reign of Edward III. the keeper of the privy seal was the royal secretary. The term "secretary," applicable in the earlier stages of development to any confidential clerk of the king, tended gradually throughout the first half of the fourteenth century in England to be reserved

<sup>1</sup> *Acts of Parl.* i. 493.

<sup>2</sup> *Ibid.* i. 509, 535.

<sup>3</sup> *Ibid.* i. 498.

<sup>4</sup> *Tout, op. cit.* v. 62, 208-9.



for that custodian.<sup>1</sup> As the privy seal became more and more a seal of state, and the signet was devised by the king to be a personal instrument, the keeper of the signet became the more appropriate secretary, related to Richard II. in much the same way as the custodian of the privy seal had been related to the sovereign a century earlier.

At the beginning of Richard II.'s reign (1377-1399) the first clear evidence is found of an official secretary who is not in charge of the privy seal, though the tendency towards this result may have been in progress while Edward III. was still alive.<sup>2</sup> Whatever was the case before Richard came to the throne, the signet was now no longer actually in the hands of the king. In 1380 we find him borrowing a seal *par cause qe nostre clerik et nostre signet ne sont pas presentz*; and in subsequent years he had occasional recourse to *le signet de nostre compaignie la roigne en absence du nostre*.<sup>3</sup>

Repeated attempts to check arbitrary and unconstitutional action under the signet contribute perhaps to explain the fact that Richard II. by no means confined himself to the use of a single seal. Besides what may by this time be called the official signet, it would appear that there were still signets of the finger ring. In 1390 William of Wykeham as chancellor restored to the king *sigillum suum secretum, videlicet annulum*<sup>4</sup>; and in resigning the throne Richard placed upon the finger of Henry of Lancaster *annulum auri de signeto suo*.<sup>5</sup> In this period the king sought to give additional emphasis to the intention indicated by his signet letters. In 1386 there occurs the first official document as yet known to have not only the signet but the signature or sign manual.<sup>6</sup>

Information regarding the various uses of the signet under Edward III. and Richard II. is far from complete—a circumstance unfortunate for any study of the parallel development in Scotland. It is well known that after the liberation of David II. in 1357, and until the papal schism of 1378 found the two countries separated in their obedience, relations between them were fairly intimate, since Edward was following a policy of peaceful penetration instead of

<sup>1</sup> Maxwell-Lyte, *op. cit.* 114.

<sup>2</sup> Tout, *op. cit.* v. 211.

<sup>3</sup> Maxwell-Lyte, *op. cit.* 114-15.

<sup>4</sup> Tout, *op. cit.* v. 219.

<sup>5</sup> Maxwell-Lyte, *op. cit.* 117, 131.

<sup>6</sup> Tout, *op. cit.* v. 216.

pursuing any longer his grandfather's scheme of conquest. This period, supervening upon the eleven years during which David resided in England, no doubt allowed developments in the south to exert influence upon Scottish usage. The facts about the signet collected by Sir Henry Maxwell-Lyte bear especially upon its place and function in the progress of writs through the seals. His subject was the great seal and the chancery: the material which interested him was of the nature of warrant, as it was also for the most part the kind of material which has survived in the chancery archives. Professor Tout, dealing with the history of administration, made it clear that the issue of warrants was but a fraction of the business done under the privy seal; but he was compelled to confine himself mainly to the body of writs preserved in the Public Record Office, and to confess that any full treatment of what emanated from the privy seal required a special monograph.<sup>1</sup>

Since Professor Tout wrote, M. Edouard Perroy has contributed some valuable additions to our knowledge; and his conclusions regarding English practice towards the end of the fourteenth century serve to throw a little light upon what, in Scotland, suffers from the lack of direct evidence. Concerned purely with diplomatic correspondence, M. Perroy inclines to believe that the main work of the government in this department was in the hands of the privy seal and signet offices.<sup>2</sup> Instructions to ambassadors, drafts of treaty articles and important letters to foreign princes would normally come under the cognisance of the council, with which the privy seal was very closely though by no means exclusively connected. On the other hand, among the correspondence collected by M. Perroy for the reign of Richard II. from various sources there are also letters given under the signet. Only about one-sixth of the communications which he has gathered and arranged contain a statement as to the seal employed; but an inspection of these cases goes far to establish a general principle. Letters to the pope or to princes seem to go under the privy seal when the king writes after deliberation in council or in parliament: letters of courtesy and of especially personal interest appear to be sent under the signet. The latter seal is used

<sup>1</sup> Tout, *op. cit.* v. 121.

<sup>2</sup> *Diplomatic Correspondence of Richard II.* (Roy. Hist. Soc.), xi.

in requests to the pope or to a cardinal regarding favours desired for particular benefices or individuals, and in one instance when the king conceives his prerogative to have been infringed by papal action.<sup>1</sup> It is also used in answer to complaints lodged by foreign powers, when they are informed that the matters in question shall be remitted for consideration and answer in council.<sup>2</sup>

## THE SMALL SEALS IN SCOTLAND

There is little illustration available to show the Scottish small seals in diplomatic action ; but it is at all events clear that the privy seal, as in England, was intimately connected with the deliverances of council. Robert II. uses it in 1377 when he writes to the Earl of Northumberland on public business<sup>3</sup> : Robert III. employs it for a letter to Richard II. which is evidently the result of consultation,<sup>4</sup> and for a letter of credence dispatched with an envoy.<sup>5</sup> In domestic affairs there are a good many examples among our sparse records of privy seal writs which are issued expressly in pursuance of conciliar acts. In 1395, for instance, Robert III. consults his auditors of exchequer regarding a complaint, and finally orders his secretary as keeper of the privy seal—himself one of the auditors—to issue a precept for the sum found due to the complainer, the precept serving as a sufficient voucher for allowance in account.<sup>6</sup>

As to the use of the signet in correspondence there is a lack of evidence. When Robert II. submitted himself in 1388 to the ordinance of a general council in respect of judicial administration and the defence of the realm, he declared his "intention and will" in a paper under "the signet of his ring."<sup>7</sup> Small seals of the ring type were very fashionable in Scotland, too fashionable in the judgment of the chancery ; and upon a strict interpretation of the act passed by Robert III. at the end of the century it would appear that *signetum* denoted the annular seal. In future, it was said, members of assize in making retour must have their own proper seals, which should

<sup>1</sup> *Diplomatic Correspondence of Richard II.* (Roy. Hist. Soc.), No. 41.

<sup>2</sup> *Ibid.* Nos. 65, 81.

<sup>3</sup> *Cal. of Docs. relating to Scotland*, iv. No. 242.

<sup>4</sup> *Ibid.* iv. No. 493.

<sup>5</sup> *Illustrations of Sc. History* (Maitland Club), 75.

<sup>6</sup> *Acts of Parl.* i. 581.

<sup>7</sup> *Ibid.* i. 555.

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<sup>5</sup> *Illustrations of Sc. History* (Maitland Club), 75.

<sup>6</sup> *Acts of Parl.* i. 581.

<sup>7</sup> *Ibid.* i. 555.

be *sigilla* and not, as hitherto customary, *signeta*.<sup>1</sup> It may be taken for granted that, as David II. had a *secretum* distinct from his privy seal, Robert II. and Robert III. were not less well provided. The difficulty is that no impression of either's signet seems to be extant, or at least known, and that direct evidence for their use of that seal depends entirely upon references in the exchequer accounts.

The evidence of the *Exchequer Rolls* is hard to interpret without the laborious examination of administrative and financial practice which awaits some ingenious student; but there are patent facts bearing upon the present inquiry which cannot escape notice. Payments made at the accession of Robert II. for a new great seal and a new secret or privy seal might suggest that the *secretum* or signet was still mainly personal and unofficial—nothing more than a ring such as David used in 1358. Though the accounts before Robert II.'s time scarcely ever refer to the seal applied to precepts, one entry in 1369 shows that under David both privy seal and signet served in this connection.<sup>2</sup> In 1377, under Robert II., a sum was delivered for the king's use by warrant *sub secreto sigillo*, while another and an equal sum was paid in several instalments by letters *sub sigillo secreto et signeto*.<sup>3</sup> Gradually the precepts *sub signeto*, so described, become more and more numerous, with very few variations from the normal phrase. Exceptions occur in 1377, when a considerable draft for the royal use was vouched by four separate orders *sub signeto anuli*, and a full year's fee was given to the Lyon, though he had not served so long, by a "special" letter from the king *signata anulo suo*.<sup>4</sup> In 1391 a gift by Robert III. was warranted *sub quodam signeto suo*, as if the particular seal were abnormal or unfamiliar.<sup>5</sup> There is only one other departure from the usual *sub signeto*, and that occurs in the case of a small present in 1401 made *sub anulo*.<sup>6</sup> These exceptional variations of phrase seem to justify the conclusion that there was by this time a royal signet in charge of a household clerk, and tending to become official.

<sup>1</sup> *Acts of Parl.* i. 575.

<sup>2</sup> *Exchequer Rolls*, ii. 344.

<sup>3</sup> *Ibid.* ii. 553, 565.

<sup>4</sup> *Ibid.* ii. 584, 587.

<sup>5</sup> *Ibid.* iii. 249.

<sup>6</sup> *Ibid.* iii. 525.

## THE SCOTTISH SECRETARY

While the alternation between privy seal and signet in these accounts is not explained, one fact cannot fail to be noted. Where no written mandate was in existence, or where the precept had gone amissing, the order is vouched by the "secretary" or, less frequently, by the "keeper of the secret seal."<sup>1</sup> We saw that in England, about the time when Robert II. ascended the Scottish throne, the royal secretary was ceasing, or had already ceased, to be the custodian of the privy seal, and that the secretarial office now involved the charge of the signet. David II. had as "secretary" Robert of Dumbarton, Walter Wardlaw—afterwards cardinal—and John Carrick, who must have kept his privy seal<sup>2</sup>; for at the accession of Robert II. we discover the secretary to be identical with the keeper in the person of John Lyon, who is at the same time a member of the secret council.<sup>3</sup>

If the prevalent use of the phrase *sub signeto* in the exchequer accounts, when the precept happens to be under the signet, and the few precise allusions to the ring may be taken together to imply that there was now a signet distinct from any means of authentication which the king carried upon his person, the question of custody at once arises. The secretary, though he was a beneficed person, had no very distracting ecclesiastical duties to perform. Yet, while he must have spent much of his time in attendance, he cannot have been always at hand. Apart from personal preoccupations, his office was becoming less closely attached to the royal household and more involved in the increasing complexity of state affairs. There are several instances in which it fell to men who had passed through a regular course of familiar service. John Carrick, who eventually reached the chancellorship, was clerk of the wardrobe and clerk of household audit before he was appointed secretary.<sup>4</sup> Duncan Petit, succeeding John Lyon in the secretariat, had served as audit clerk.<sup>5</sup> The circumstances encourage the conjecture, in default of direct

<sup>1</sup> *Exchequer Rolls*, iii. 117, 207, 210, 316, 357, 388, 466, 473, 483, for the secretary; 619 for his depute; 129, 352, 402, 671 for the *custos secreti sigilli*.

<sup>2</sup> *Ibid.* ii. *passim*.

<sup>3</sup> *Ibid.* ii. 350; *Acts of Parl.* i. 547.

<sup>4</sup> *Exchequer Rolls*, ii. 164, 290.

<sup>5</sup> *Ibid.* ii. 350.

evidence, that the signet was in charge of one of the familiar clerks—possibly the clerk of audit, who was the most responsible<sup>1</sup>—and that resorts to the ring were due to his temporary absence.

It would be dangerous to affirm that the first two Stewarts never used the signet in communicating with officers or, as did Richard II. in England,<sup>2</sup> when they were writing to their council. That they applied it to mandates other than those noted in the exchequer accounts is very far from unlikely: even under David II., as we saw, there was an ordinance prohibiting interferences with justice by letters which are contemplated as emanating under this seal.<sup>3</sup> With regard to polite correspondence, at home and with princes abroad, evidence is lacking. In relation to the chancery one fact seems to be clear. The privy seal had long been in operation as a check upon issues under the great seal; but there is no indication that a signet writ was as yet the original warrant in a graduated process. A development of that kind could hardly take place until the keeper of the privy seal and the secretary held independent positions.

#### JAMES I. AND THE SIGNET

The years between 1406 and 1424, during which Robert, Duke of Albany, and his son carried on the government while James I. was a captive in England, do not contribute much to the purpose. The *Exchequer Rolls* cease to describe the warrants with any degree of particularity, and only recover interest for us when the king returns to begin his active reign.

We know that James I. had his privy seal, which he used at Rouen in 1420,<sup>4</sup> and we hear in 1422 of its keeper Alexander Foulertoun<sup>5</sup>; but what bearing that seal could have upon Scottish affairs it is not easy to see. More important is the fact that he employed a signet—"the signet usit in selyng of oure lettres"—traces of which are discernible upon a document of 1412 confirming the lands of Sir William Douglas of Drumlanrig, purporting to be written with

<sup>1</sup> It should be noted that Robert III., at the close of his reign, employed as clerk of audit his natural brother John (*Reg. Mag. Sig.* i. app. i. 158).

<sup>2</sup> Tout, *op. cit.* v. 206.

<sup>3</sup> *Acts of Parl.* i. 509.

<sup>4</sup> *Copiale Prioratus S. Andree*, 272.

<sup>5</sup> *Scottish Supplications to Rome* (Sc. Hist. Soc.), 300.

the king's own hand, and ordering the issue of a charter under the great seal.<sup>1</sup> The impression was made after the English manner introduced for the small *secreta* of Edward III. and Richard II., at the centre of a pointed cross of red wax.<sup>2</sup> When Anderson's *Thesaurus* was produced in the eighteenth century, the impression seems still to have been legible: at all events it is there represented as left by a ring bearing the royal lion rampant within a surrounding tressure. The undated fragment of a letter-book, belonging to the period of royal captivity, testifies both to the king's use of his signet and to conformity with another English fashion by which additional emphasis was given. The first of the letters is "undyr our propir signe manuele and signet."<sup>3</sup>

The influence exerted upon James by his residence in England appears in other ways. Though the English privy seal bore the epithet *secretum* upon the matrix, it was usually designated *sigillum privatum*: on the other hand, its French analogue was styled *sigillum secretum* and *sceau du secret*. In Scotland, either by accident or by conscious imitation of France, *sigillum secretum* had been the prevalent name. In the accounts of James I., however, *privatum sigillum* is a designation now so frequent as to be remarkable.

#### THE SECRETARY AND THE SIGNET

Perhaps this alteration in current usage was connected with a change in the position of the secretary, analogous to that which had occurred in England almost half a century earlier. Entries in the *Exchequer Rolls*, not by themselves conclusive, forcibly suggest innovation. In two cases, under the year 1426, we find an order certified by the *custos privati sigilli* and a second—the very next in the record—by the *secretarius*.<sup>4</sup> There is, however, a great seal charter which seems to be decisive for the tendency towards separation of these offices. On September 1, 1426, John of Inverkeithing is described as secretary in a royal confirmation which is witnessed by William Foulis as keeper of the privy seal.<sup>5</sup> Later, in 1432, a

<sup>1</sup> Fraser, *Scotts of Buccleuch*, ii. 22; where there is a facsimile.

<sup>2</sup> Tout, *op. cit.* v. 177, 200. Red wax was everywhere appropriate to the small seals.

<sup>3</sup> State Papers (Reg. House), No. 12.

<sup>4</sup> *Exchequer Rolls*, iv. 406, 430.

<sup>5</sup> *Reg. Mag. Sig.* ii. 60; the *index officiorum* inaccurately makes John secretary in 1423.



certain John Benyng ended his life as secretary<sup>1</sup>; yet we know that Foulis was keeper in that year, as he had long been and as he was for some time under James II. John Methven, who became secretary in the new reign, is not associated with the privy seal, and in 1439 he is clearly distinguished from Foulis.<sup>2</sup> Methven disappears in 1440, when it would seem, though the record is at this point defective, that William Turnbull, future bishop of Glasgow and founder of the University, temporarily recombined the offices.<sup>3</sup> From June 8, 1444, when Turnbull and John Ralstoun are auditors of exchequer as keeper and as secretary respectively,<sup>4</sup> we can be certain of a separation which proves thereafter to be permanent. About a year later a surviving list of the council sederunt places these two after the chancellor as clerical officers of state.<sup>5</sup>

## SIGNETS OF JAMES I. AND JAMES II.

When Maitland Thomson wrote his Rhind lectures on *The Public Records of Scotland*, the earliest impression of the Scottish signet known—for David II. and his ring escaped notice—was upon a summons issued in name of James III. in 1476.<sup>6</sup> The Yester writs, however, have furnished since then a good specimen of James II.'s signet upon a letter of March 8, 1440-1, directed to the sheriff of Peebles, and two receipts by James I. upon which sufficient red wax remains to indicate the features of the seal.<sup>7</sup> Of these receipts one, dated September 24, 1435, acknowledges payment of relief by David Hay of Yester: the other, of January 21, 1435-6, concerns "the contribucione that he suld gife til the passage of our dochter"—the aid for the marriage of the princess Margaret to the Dauphin. These seals raise a problem of curious interest which deserves to be mentioned.

An excellent impression of James V.'s signet in 1536 shows the lion rampant upon a shield of arms surmounted by a crown, above

<sup>1</sup> Cameron, *Apostolic Camera and Scottish Benefices*, 108, 111; *Exchequer Rolls*, iv. 681.

<sup>2</sup> *Reg. Mag. Sig.* ii. 202.

<sup>3</sup> *Ibid.* ii. 264-5.

<sup>4</sup> *Exchequer Rolls*, v. 143.

<sup>5</sup> Reg. House Charters, No. 311.

<sup>6</sup> Swinton Charters (Reg. House), No. 54.

<sup>7</sup> Yester Charters (Reg. House), Nos. 73, 68 and 69; the *Calendar* (Record Society) puts Nos. 68 and 69 in reverse chronological order.



which is a scroll with the word "Marchmond."<sup>1</sup> The same legend occurs on the signet of James IV. in 1491 and 1503,<sup>2</sup> and upon that of James III. in 1476, already noticed. Had no specimens earlier than 1476 appeared, it might have been thought that James III. adopted the word to commemorate the recovery of Roxburgh, of which Marchmond was an alternative name,<sup>3</sup> achieved in 1460 after his father's accidental death at the siege; but "Marchmond" is clear upon the signet of James II. and partially legible upon that of James I. Though we cannot be perfectly certain that James I. was the deviser of the inscription, there are remarkable facts which point to that conclusion while they leave the circumstances mysterious. It is unfortunate that the *signetum aureum* procured by James from the continent just at this time cannot be identified with the Marchmond signet: the record of payment does not describe it, or indicate whether it was delivered by the autumn of 1435.<sup>4</sup> The chroniclers note what may be a significant fact, that James was planning an elaborate attack upon Roxburgh, held by the English since the days of David II. and unsuccessfully assailed in the "Foul Raid" under the government of Albany. The king had a sentimental interest in the place. Its church, founded by David I., was dedicated to St. James.<sup>5</sup> Another curious fact has emerged recently. It has been pointed out that the current belief that the future king was born in December is founded on a misunderstanding by Sir Archibald Dunbar.<sup>6</sup> Queen Annabella in a letter to Richard II., dated August 1, refers to the very recent birth of her third son James.<sup>7</sup> July 25 was St. James's day. Even if the prince did not owe his name to birth on the anniversary of the apostle, he was in 1435 deeply interested in the matter of Roxburgh. It cannot be without importance that the Marchmond herald makes his first appearance upon record in 1436, when he receives a fee for his services during that year.<sup>8</sup>

This signet of James I., a little smaller than a sixpenny-piece, has the shield and lion rampant which also mark the signets of his

<sup>1</sup> Fraser, *Earls of Haddington*, i. xxxvi.

<sup>2</sup> Breadalbane Charters (Reg. House), No. 25; *Cal. of Docs. relating to Scotland*, iv. app. No. 37.

<sup>3</sup> *Castrum Marchemond, Roxburgum videlicet* (*Scotichronicon*, v. cap. 42).

<sup>4</sup> *Exchequer Rolls*, iv. 681.

<sup>5</sup> *Origines Parochiales*, i. 455.

<sup>6</sup> *Scottish Kings*, 182. Mr E. W. M. Balfour-Melville drew attention to Dunbar's mistaken assumption that *natale* was the king's birthday and not Christmas.

<sup>7</sup> *Diplomatic Correspondence of Richard II.* (Roy. Hist. Soc.), 251.

<sup>8</sup> *Treasurers' Accounts*, i. cxciv., cxcxiii.

successors, and it seems to be very much of a size with the English signet of Henry v.<sup>1</sup> On either side of the shield is a sprig of foliage with buds. The signet of James II. is identical in size and design, except that the buds have now blossomed into flowers indicated by tiny annulets. Neither seal is applied to the paper at the centre of a cross after the fashion which still obtained in England,<sup>2</sup> but upon a sufficient circle of red wax; and the seal of James II. is still protected, according to the device employed in England and France, by a fender of twisted rush imbedded round the circumference. The signet of James III. definitely exceeds the possible dimensions of a finger ring. It is at least an inch in diameter, displaying the lion shield surmounted by a crown. The ends of the scroll are brought down on either side of the shield in place of the sprigs of foliage, which have now disappeared. James v., whose small signet is of the same size and little different in detail, was the last of these kings to retain the legend "Marchmond." Early in 1540 the privy council reformed the design, which was now "without ony word."<sup>3</sup>

The matrix of a signet belonging to Joan Beaufort, the queen of James I., is to be seen at the National Museum of Antiquities. It is very slightly larger than must have been the matrix of her husband's signet; and it has upon the back "two semicircular wings, working from a common hinge, to enable it to be held when in use."<sup>4</sup> This very decisive departure from the ring type seems to strengthen the impression made by the evidence of the exchequer accounts under the first two Stewarts, that the royal signet had for some time been an official seal, distinct from any means of authentication which the king might wear upon his person. Very few traces remain of the finger ring. Among the archives at Innsbruck is a letter addressed to Sigismund in the name of James II., written from Edinburgh *sub nostro annulo et gemma regia*.<sup>5</sup> James III., immured in Edinburgh Castle during the crisis of 1482, had occasion to give a charge which required the privy seal. In its absence he signed the writ and applied what seems to have been a ring—his "signet" as he calls it—bearing a unicorn, with the legend TOUT A UNE.<sup>6</sup> About

<sup>1</sup> Maxwell-Lyte, *Great Seal*, 118.

<sup>2</sup> *Ibid.* 155.

<sup>3</sup> *Acta Dom. Con.* (1501-1554), 485.

<sup>4</sup> *Proc. Soc. of Antiquaries*, vol. liv. 15.

<sup>5</sup> Noted by Dr A. I. Cameron.

<sup>6</sup> Fraser's *Lennox*, ii. 121.

the end of the century we have James IV. writing to one of his lords on behalf of a royal servant "under oure speciale signet of the unicorne"; but whether this was a ring, and the ring of his father, does not appear.<sup>1</sup> It might have been expected that the officialising of the signet would encourage resort to personal devices of this kind. James V., however, had a signet in use for his own as distinguished from purely official purposes—"for oure awne directionis," as he himself says—and it does not seem to have differed in design from the companion matrices which by that time had been made for departmental employment in the business of the civil and the criminal court.<sup>2</sup>

#### USE OF THE SIGNET

There is more similarity between conditions in England and Scotland in the time of James I. than is generally supposed. Observations by the editor of *Select Cases in Chancery* (Selden Society) may surprise those accustomed to regard England as an exemplary scene of law and order, and Scotland as strongly contrasted by the reign of violence. "The extent," he says, "to which force of arms was carried in private affairs is truly astounding. Every man seems to have appealed to his friends and neighbours to help him *vi et armis* on the smallest provocation, and to have set at defiance the laws of the realm, if not with impunity, at any rate regardless of consequences." This state of affairs he attributes partly to the weakness of the central authority and to the wars at the end of the fourteenth and the beginning of the fifteenth century; but in "the abuse of office by sheriffs, constables, and others in authority" he discovers an important cause.<sup>3</sup> Most of the ancient petitions related to some outrage for which, though it was cognisable at common law, the complainant could not get redress because the perpetrator was under the powerful protection of some baron or officer.<sup>4</sup> Such abuses are interesting when the judicial legislation of James I. comes to be considered, particularly the development of action for spuilzie

<sup>1</sup> *Hist. MSS. Report: Duntreath*, 84. In 1488 (*Treasurers' Accounts*, i. 85) a signet is precisely distinguished from a ring.

<sup>2</sup> *Reg. Sec. Sig.* ii. 3444; *Acta Dom. Con.* (1501-1554), 485.

<sup>3</sup> *Select Cases in Chancery*, xliv. <sup>4</sup> *Ibid.* xvi.

before the king's council, and the special expedients to deal with offences partaking both of a civil and of a criminal character.

The English parliament was compelled, owing to the number of petitions of law presented, to hand over a surplus to the royal council. That was what happened in Scotland also under James I. and his successors. In England the council was supposed to give priority to the king's business, and remit to the courts matters relating to the common law; but, like parliament, it was overwhelmed by petitions, some of which it was forced to transmit to the chancery. The councillors of the fifteenth century could not cope with the judicial demands in addition to their administrative and political work, and a result was the development of the chancellor's court.<sup>1</sup> In Scotland, on the other hand, the heavy burden thrust upon the council through the inefficiency of the common law courts was met by evolving, under the presidency of the chancellor, a conciliar department of judicial activity, which led under James III. to special sessions of council for civil causes, and gradually to a court manned by "lords of council and session."

The trend of judicial legislation by James I. is comparatively clear. Judges in the ordinary courts must be such as "can and may halde the lawe," punishing trespass with careful regard to forfeits due to the crown and to the compensation of sufferers.<sup>2</sup> Bills of complaint which cannot be answered in parliament are to go under "strayt commandment" from the king to the ordinaries: if justice is not done, the complainers may have recourse to the king, who will make an example of the defaulting judges.<sup>3</sup> A body of auditors, with the chancellor as president, is to sit during stated terms and deal with complaints, meeting the public demand and relieving both parliament and council.<sup>4</sup>

In all these ordinances the personal action of the king is emphasised; but we have no illustrations of intervention under his personal seal, the signet. That he employed it freely to maintain law and order is certain. Dwelling on his vigorous methods, Bower tells us that a scrap of writing under the royal signet (*scriptura breviliqua*

<sup>1</sup> *Select Cases before the King's Council* (Selden Society), xviii.-xx.

<sup>2</sup> *Acts of Parl.* ii. 3-4, caps. 6-7; cf. 7, cap. 10.

<sup>3</sup> *Ibid.* ii. 8, cap. 24.

<sup>4</sup> *Ibid.* ii. 11, cap. 19.

*sub signeto missa*) was sufficient to intimidate the unruly and preserve peace.<sup>1</sup> What we cannot affirm, though we may strongly suspect, is the incipient use of the signet in connection with the judicial proceedings of council. It would be the seal naturally employed where the king took action in his own affairs, or where he intervened personally in response to complaint for the correction of defaulting officers. The gradual emergence of the secretary as a minister no longer in charge of the privy seal, but presumably keeper of the signet, is by itself significant of expansion.

In another department James I. came to be credited with the introduction of letters under the signet. Among the novelties he borrowed from England, according to the tradition repeatedly noticed by Sir Thomas Craig, was the order of chancery. By the time of Richard II. the customary course of procedure, in applying for a great seal writ, was that indicated by the petitioner who approached the king for "a letter under your secret seal directed to the keeper of the privy seal for a warrant to the chancellor."<sup>2</sup> Maitland Thomson, whose charter learning was unrivalled, could find no positive proof that the signet was used in Scotland as a check upon the privy seal before the days of James IV. ; but he inclined to believe, in view of the growth of the secretariat, that the tradition attributing the innovation to James I. was not far astray.<sup>3</sup>

#### JAMES II.

In the exchequer accounts of James II., which bear witness to the constant use of the signet for precepts, we find reference to supplies of paper and red wax furnished for the royal service, and in one case the paper is procured by Master George Schoriswod, who is frequently described as the king's clerk, and who was in fact on the eve of becoming secretary.<sup>4</sup> The paper was dispensed with economy. The two surviving signet letters of James I., already noticed, are written upon narrow strips about three inches in breadth, while the mandate of James II. to the sheriff of Peebles is not much

<sup>1</sup> *Scotichronicon*, xvi. cap. 33.

<sup>3</sup> *Public Records of Scotland*, 64-66; there is proof in 1488 (*Acta Dom. Con.* i. 109).

<sup>2</sup> Maxwell-Lyte, *op. cit.* 78.

<sup>4</sup> *Exchequer Rolls*, v. 38, 502.

broader, and is in strict keeping with the amount of text.<sup>1</sup> The signet was in some cases applied *en placard* on the face of the writ, sometimes again merely to close it, occasionally, it would seem, to close as well as to authenticate. In strictness, letters "close" were those addressed to individuals; but "close" appears to have had reference also to folding and sealing, and to have been opposed not only to "patent" but to "open." Thus James I. is found to have issued *litteras clausas sub signeto, patentes litteras clausas, litteras clausas et apertas sub signeto, litteras clausas sub signeto et manu propria signatas*.<sup>2</sup> Orders and missives under the signet were usually headed *Rex*, the Scottish practice differing from the English, which had *De par le Roi* or "By the King." Where the communication was private or personal and by way of request rather than command, it seems to have been signed and merely closed under the signet. Thus a polite, but no doubt cogent, note by James II. to the dean and chapter of Brechin, addressing them as "venerabile clerkis" and suggesting a candidate for a vicarage in their gift, was "wrytyn under oure signet" and had the seal on the back, *super clausuras dorsorum*, along with the direction *Dilectis clericis nostris decano et capitulo Brechinensi*.<sup>3</sup>

Few signet letters of James II. have survived, even in copy; yet the general course of development indicates his reign as the period in which the signet began to acquire its intimate association with the proceedings of council in civil causes. Complaint of spoliation was regulated by a parliamentary act in 1449-50. If the offence was proved before the council, the king should give orders to the sheriff for restitution: when it was not proved, the sheriff should receive directions to take evidence and deal with the matter.<sup>4</sup> At the same time, it ought to be observed, an ordinance for all cases in which "ony persoun geris summonde ane uthir befor the king and his consal" prescribed that "the lettres of summondis be maid and pas undir the quhite wax," that is to say, under the quarter seal by writ out of chancery.<sup>5</sup>

One or two writs in the episcopal register of Brechin illustrate

<sup>1</sup> These strips of paper are the *schedule* of the records.

<sup>2</sup> *Ibid.* iv. 677-8.

<sup>3</sup> *Reg. Brechin.* ii. 87.

<sup>4</sup> *Acts of Parl.* ii. 36, cap. 7.

<sup>5</sup> *Ibid.* ii. 37, cap. 18.



the use of signet letters, where the king, presumably with advice of council, orders his officer to conserve the rights of complainers. Understanding that the citizens of Brechin are disturbed in the enjoyment of their common by a local laird, he bids his mair of fee inhibit the offender and make him "amend the skaithis." If the offender is disobedient, the mair shall "summond hym to compeir befor us quhar it sal happine us to be the saxt day eftir the summondis," returning this writ duly execute.<sup>1</sup> A perambulation became necessary, after which "letters patent under the signet" directed the sheriff of Forfar to see the bounds "observit and kept."<sup>2</sup> Some years later, in 1457, a succeeding laird disregarded the limits; and upon complaint the sheriff was commanded under the signet to "charge the foirsaide Thomas to compeir befor us and our counsale at Dundee the secunde day of the nixt justice aire of Anguss" to answer to the king for breach of the perambulation and to the men of Brechin for the disturbance, "deliverynge thir our letteris be you deulie execut agane to the berer."<sup>3</sup>

#### THE SIGNET AND THE SESSION

These signet letters are not stated in so many words to be issued by deliverance of council; but early in the reign of James III., in 1464, we come upon a charge to cite witnesses in express pursuance of a council order.<sup>4</sup> In 1473 a mandate is found with the inscription *ex deliberatione dominorum concilii* along with the signet.<sup>5</sup> The growing importance of the signet and the secretary in connection with the work of the council is sufficiently obvious: the difficulty is to trace the development whereby summons in civil matters came more and more to be authenticated under the signet, at the expense of the quarter seal writ out of chancery prescribed for the ordinary litigant in 1450. An ordinance of 1495, designed to facilitate council business through the orderly tabulation of cases, reveals the alternatives still in operation. "The clerkis of chancellary and signete sall in tyme tocum convene togiddre ilk day in the hous

<sup>1</sup> *Reg. Brechin.* i. 127.

<sup>2</sup> *Ibid.* i. 143, 147, 162.

<sup>3</sup> *Ibid.* i. 183.

<sup>4</sup> *Reg. Nig. Aberbroth.* 138.

<sup>5</sup> *Antiquities of Aberdeen and Banff*, iv. 406.

of the chancellery, and quhasa plessis to take summondis other undir the quhite or red waxis, thai to deliver and gif the samyn on the partiis expens.”<sup>1</sup> Specimens, one in each form, are to be found in the register of Paisley abbey, both relating to alleged wrongous intromission, and charging sheriffs in that part to executé the citation. The earlier writ (1495) is in the vernacular and under the signet: the later (1504) in Latin and under the quarter seal. The Latin document follows a conventional style: the vernacular, while in outline it is a free translation or paraphrase of the Latin, is less rigid and more discursive.<sup>2</sup> The chancery summons has to do with the occupation of lands, and that fact may contribute to explain resort to the quarter seal, whereas the signet writ is concerned with the levy of custom. We know that chancery precepts were engrossed upon parchment, and that precepts of the signet were written on paper. There may have been considerations of expense which favoured the secretary’s office; but in point of convenience, and in cases of any complexity, the vernacular was bound to prevail. It became more and more the fashion to approach the king and his council by bill, particularly in such matters as spoliation, where speedy decision was required, and necessarily in grievances of an unusual character. The causes which came to be known as “privileged,” those of the king himself, of strangers, and of any persons who succeeded in obtaining special favour, no doubt involved intervention under the signet by deliverance of the lords and had the benefit of priority.<sup>3</sup> It was natural that procedure by bill of complaint should be preferred and that delivery of bills should become a serious item in the daily business of session. Whatever the details and the explanation of the development, there was a great increase under James III. and James IV. in the number of writs issued from the secretariat; and we learn that the parliamentary committee on civil causes, as well as the lords of session, ordered summons under the signet.<sup>4</sup>

<sup>1</sup> *Acta Dom. Con.* i. 423.

<sup>2</sup> *Reg. Passelet.* 61, 404.

<sup>3</sup> An act attributed to David I. enunciates the principle that *omnes qui cunctorum auxilio*

*destituti sunt sint sub procuracione et protectione domini regis* (*Acts of Parl.* i. 324, cap. 30).

<sup>4</sup> *Hist. MSS. Report: Duns Castle*, 39.

## OTHER USES OF THE SIGNET

It is clear that not only for the department of council and session was there an increase of activity in the office of the secretary. Parliament was called by precepts under the quarter seal out of chancery: summons to council, on the other hand, and indeed in all cases in which the king required a subject's presence for special reasons, was issued under the signet. Though evidence is lacking, this usage must have been of long standing. A necessary consequence of the position acquired by the secretary under James II., it is in full operation during the reign of James III., whose treasurer has to pay for the transmission of letters.<sup>1</sup> The missives which are actually described as sent under the signet doubtless constitute a mere fraction of those so authenticated. In 1481 it became advisable to organise some kind of postal service under the superintendence of a treasury official to accelerate the transit of writs under the small seals.<sup>2</sup> There was diplomatic correspondence under the signet with such persons as the Earl of Northumberland and Edward IV. or with an ambassador of England.<sup>3</sup> A batch of letters was sent out in 1487 to all the prelates and temporal magnates, explaining the reasons which prompted the king to summon parliament<sup>4</sup>; and there is sufficient ground to believe that the signet was also employed to call up members when parliament had been indefinitely "continued" or adjourned.<sup>5</sup>

The relations of the secretary's office with those of the privy seal and the chancellor, though the course of development cannot be clearly traced, must have involved a measure of expansion. When we obtain the record of the privy seal, it is found that in certain grants by the crown this seal is by itself sufficient, while in business requiring completion by the chancellor it serves as his warrant. Tradition, as has been already said, attributed to James I. the introduction of the signet precept, after the English fashion, as a preliminary step towards the great seal charter; and there is

<sup>1</sup> *Treasurers' Accounts*, i. *passim*; on one day in 1522 (*ibid.* v. 202) 60 signet letters for a convention were dispatched.

<sup>2</sup> *Acts of Parl.* ii. 139, cap. 5.

<sup>3</sup> *Cal. of Docs. relating to Scotland*, iv. app. Nos. 24, 29, 30; also Nos. 1451-2.

<sup>4</sup> *Acts of Parl.* ii. 184.

<sup>5</sup> *Yester Cal.* No. 376 (1516).

proof that by 1488 the intervention of the secretary was quite a matter of course. A man had to complain upon him "because he wald nocht ansuer and gif him preceptis apoun a signature" for a grant of lands.<sup>1</sup> On the other hand, where the privy seal alone was adequate, its application was authorised merely *per signaturam*, through a writ having the subscription of the king.<sup>2</sup>

In England the sign manual, while it added emphasis to what was official, might also serve as a device to vindicate the king's independence and insist upon his purely personal will. As a contrivance to free the sovereign from restrictions it was in effect a reduplication of the signet. Among "certain restraints" imposed upon Henry VI. in 1444 there was an ordinance of council that all bills approved by the king should pass through the hands of the secretary, and be the authority for warrants under his official seal.<sup>3</sup> In Scotland the royal subscription was used on occasion instead of the signet, as well as in emphatic combination with it.<sup>4</sup> We find both James I. and James II. merely signing orders produced later as vouchers in exchequer.<sup>5</sup> Owing to royal minorities, however, abuse seems to have been due mainly to direct solicitation of a youthful king for grants inconsistent with restrictions imposed for the conservation of the crown estate. James IV. had to promise that he would abide by the advice of the council named in parliament, "and eschew all circumvencious and dissatis . . . be brynging of divers signaturis" and other such writs to the detriment of the casualty or property.<sup>6</sup> The signature was placed, with more than temporary effect, under the supervision of the council, and all signatures seem to have been framed, as was certainly the case later, by the secretary's clerks. Those which had to pass the signet were undoubtedly so prepared. At the fall of Angus, in 1528, Bothwell was empowered as lieutenant to grant remissions to the Douglas adherents. Directions were given to the secretary to "mak signaturis conforme to the said erlis writting and gett the samin subscrivit be our soverane lord, and thareftir with all diligence speid all sic remissionis undir the signet that the samin may pass throw the

<sup>1</sup> *Acta Dom. Con.* i. 109.

<sup>2</sup> *Reg. Sec. Sig.* i. vii.

<sup>3</sup> Maxwell-Lyte, *op. cit.* 90.

<sup>4</sup> *Exchequer Rolls*, v. 685.

<sup>5</sup> *Ibid.* iv. 543, 571; v. 218 ff.

<sup>6</sup> *Acts of Parl.* ii. 220.

prive seal and grett sele as accordis.”<sup>1</sup> David Betoun, as keeper of the privy seal, declined to answer a signature solely authenticated by royal subscription until he was assured that it had official sanction.<sup>2</sup> From the merely clerical point of view, and for the preservation of forms, it was no doubt necessary that bills should be drafted by experienced hands.

The employment of the signet in criminal matters is not so frequently noticed as in the case of the session, but is none the less certain. In 1483, for instance, it was applied to a roll of offenders to be called before a justice court<sup>3</sup>: in 1512 the secretary and his clerk had to be satisfied for the fees of letters following a slaughter at Dumfries<sup>4</sup>: in 1535, anent special criminal diets, parliament enacted that “the keparis of the signet sall ansuer na lettres for calling of ony personis and partiis to sik particular diettis bot gif the samin be subscrivit with the clerk writar to the signet and justice clerk or his deputis.”<sup>5</sup> When the council ordered a man to ward upon his own expense, it was the secretary who furnished a writ to the captain at Blackness, or whatever the destination, for the reception and custody of the delinquent.<sup>6</sup>

#### THE CLERKS OF THE SIGNET

Unfortunately, while these and other miscellaneous charges, civil and military, too numerous to illustrate in detail, occupied the clerks in the secretary's office, there seems to be little possibility of ascertaining the number of them engaged. John Reid *alias* Stobo, well known as the “gud gentill Stobo” of William Dunbar, died about 1505 and had been a writer under three successive reigns. A pension granted to him in 1474 by James III. recognised his services “to our deceased father and to ourselves in engrossing letters to his holiness the Pope and missives to divers kings, princes and magnates abroad, together with outlays incurred for parchment, paper, red wax and white, and other charges met, and to be met during his lifetime, in the dispatch of foreign correspondence.”<sup>7</sup> Evidently

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 306.

<sup>2</sup> *Ibid.* 410.

<sup>3</sup> *Acta Dom. Con.* ii. cxxxii.

<sup>4</sup> Pitcairn, *Criminal Trials*, i. 75\*.

<sup>5</sup> *Acts of Parl.* ii. 350.

<sup>6</sup> *Acta Dom. Con.* i. 31, 38; ii. 152.

<sup>7</sup> *Exchequer Rolls*, viii. 315.

Reid was a scribe of special skill, working under the chancellor as well as for the small seals. The royal gift, as the accounts tend to show, would seem to have been in addition to regular fees. Possibly he acted in a confidential capacity under James III., who is found employing William Schevez, Patrick Graham's successor in the archbishopric of St Andrews, to execute or supervise his correspondence, and even to prepare mandates for the signet.<sup>1</sup> In the reign of James IV. Reid is associated with a colleague in Walter Chepman, of printing celebrity. These two seem to have been rewarded after exceptional labour, as in 1496 for "lettrez writing the tyme the king past in Ingland"<sup>2</sup>; but they were men who can hardly have been compelled to undergo all the clerical drudgery. That must have fallen upon assistants and probationers, those "writaris of the singnet" and "clerkis of the singnet" who had "drink-silver" to console or revive them after a bout of toil.<sup>3</sup>

Perpetual fluctuations in the amount of work that required dispatch was likely to prevent the secretary's office from being self-contained; and there is evidence that his clerks took to do with other departments. Dictation was a common device in everyday practice, especially when multiplication of letters or forms became necessary. From time to time subordinates of the secretary are mentioned. In 1478 William Quereland was his clerk,<sup>4</sup> and, like others in this employment, a notary public.<sup>5</sup> Some, for instance Master James Lyn, servitor to the secretary, or Master James Douglas, the latter a "writar to the signet" along with Alexander Clerk, were graduates.<sup>6</sup> About the same time, immediately before and after Flodden, we hear of Robert Josse, John Donaldson, George Gude, and William Haliburton, described as "writaris,"<sup>7</sup> of whom Josse and, later, Gude certainly wrote for the signet. Josse had the misfortune to get into trouble. The abbot of Kilwinning obtained an order from the lords of council for the distraint or citation of his debtors; and Josse, who prepared the writ, "grantit that the lettres

<sup>1</sup> *Cal. Docs. Scotland*, iv. app. Nos. 29, 30; Fraser's *Anmandale*, i. 13; *Reg. Hon. Morton*, ii. 243.

<sup>2</sup> *Treasurers' Accounts*, i. 270.

<sup>3</sup> *Ibid.* i. 89, 108, 238.

<sup>4</sup> *Exchequer Rolls*, viii. 548.

<sup>5</sup> *Reg. Mag. Sig.* ii. 1447.

<sup>6</sup> *Reg. Sec. Sig.* i. 2189; *Treasurers' Accounts*, iv. 355; Lyn and Douglas graduated at St Andrews.

<sup>7</sup> *Treasurers' Accounts*, iv.

differit fra the deliverance, and that he that kepit the signet grantit the samyn"—incidentally an interesting testimony to the detachment of the secretary himself from business of routine. One of the prelates "desirit the clerkis that maid the letter by [*i.e.* not in keeping with] the deliverance of the lordis to be punist"; but the outcome is not recorded.<sup>1</sup>

The growing association of the signet with the business of council and session created a distinct department of activity in the secretary's office. Before the close of the fifteenth century we find the responsible clerk signing a writ of summons at the lower right-hand corner.<sup>2</sup> Among the Yester muniments there survives an original of 1507 written and signed by "Anderson," who is likely to have been the Alexander Anderson elsewhere described as "servitor of the secretary."<sup>3</sup> A colleague in the same year and at the same task is "Nudrie."<sup>4</sup> It would appear, during the earlier years of James v., that two clerks attended regularly, though not exclusively, to this branch of the work. Master John Chepman and John Bannatyne acted throughout the greater part of the reign; Chepman, grandson of the printer and writer to the signet, aided by a second Walter<sup>5</sup>; Bannatyne assisted by his son James.<sup>6</sup> The subscriptions of the two principals are found upon writs recorded by the sheriff clerk of Fife<sup>7</sup> or preserved among the Yester papers. It is demonstrable that the elder men did not write all the letters to which they appended their names.

That these clerks were not engaged solely upon session business is shown by a privy seal grant of military exemption in favour of John Bannatyne in 1532, when there was some danger of war with England. The exemption, founded upon the supplicant's own account of his condition, states that "our lovit daily servitour Johnne Bannatyne in Edinburgh, writar to our signet, is now of gret age, seiklie and corpulent in his persoun, and hes sustenit and as yit sustenis divers infirmiteis in his leggis and uthir partis of his body cumin of cauld through his ythand [constant] and deligent

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 10.

<sup>2</sup> *Reg. Passelet*, 404 (1495).

<sup>3</sup> *Yester Cal.* No. 298; *Reg. Sec. Sig.* i. app. 845.

<sup>4</sup> *Yester Cal.* No. 300.

<sup>5</sup> *Exchequer Rolls*, xv. 295.

<sup>6</sup> *Reg. Sec. Sig.* ii. 2726.

<sup>7</sup> *Sheriff Court Book of Fife* (Sc. Hist. Soc.).

lawbouris maid in our service in our justice-airis haldin in tyme of winter, and tharthrow is nocht abill for our weris nor may nocht gudlie travel tharto." <sup>1</sup>

Though unable to take the field, Bannatyne was not entirely incapacitated by his ailments, and continued to carry on work in the signet office which was less exacting. In 1538 he succeeded in procuring for himself and his son James the exclusive right to discharge a function relating to the civil court. A privy seal letter was issued "makand thame and the langer levand of thame, conjunctlie and severalie, tabularis of summondis rasisit or to be rasisit in actionis to be persewit befor the lordis of counsale and sessioun for all the dais of thare lyffis." <sup>2</sup> In this year 1538 there were at least four chief clerks engaged under the direction of the secretary: the Bannatynes, Thomas Maben, and Master Thomas Kene. The elder Bannatyne still wrote royal letters in criminal actions, and was alive in 1540, "an old man with many children," rewarded "for his past labours" with a pension, and with an unlaw of £100 which he might perhaps find some difficulty in extracting from influential delinquents in the region of Aberdeen. <sup>3</sup>

Additional evidence of occupation outside the ordinary business of council and session is furnished by James Bannatyne and Maben. The latter, along with George Gude, also a writer to the signet, <sup>4</sup> was called upon to write exchequer accounts, and had a special fee. <sup>5</sup> Another task, the writing of letters "for inbringing" of the king's casualty and property, earned for Bannatyne and Maben life pensions of £10 each. <sup>6</sup> We know, from the statutes made at the inception of the College of Justice, that the clerks of the signet exacted their own fees for writs connected with the business of session, and that a tariff had been in operation since the days of James IV. None was to "tak mair for the writtin of ane bill bot viiid., and for the writtin of ane lettir upoun ane decrete of the lordis and deliverance bot xxd., nor for nane uther lettir mair than wes usit in our soverane lordis tyme that last decessit." <sup>7</sup> These men must have had subordinates

<sup>1</sup> *Reg. Sec. Sig.* ii. 1416.

<sup>2</sup> *Ibid.* ii. 2726.

<sup>3</sup> *Exchequer Rolls*, xvii. 173, 292; *Reg. Sec. Sig.* ii. 3908.

<sup>4</sup> *Yester Cal.*, where his initial is wrongly given.

<sup>5</sup> *Exchequer Rolls*, xvii. 172-3, 292.

<sup>6</sup> *Reg. Sec. Sig.* ii. 2782-3.

<sup>7</sup> *Acta Dom. Con.* (1501-1554), 376.



in training under their supervision for whom they were held responsible, and who, though not directly employed by the secretary, would expect to obtain his official recognition as writers to the signet. The fees paid by the comptroller and the treasurer to the secretary's clerks were, of course, in respect of government work done in their service, and were independent of those levied from litigants in the civil court or in other private practice.

#### MULTIPLICATION OF SEALS

The royal secretary, as we learn in 1515, was put in possession of his office by the symbolic delivery to him of the signet.<sup>1</sup> Normally he was in close attendance. Master Archibald Whitelaw combined tutorial with secretarial services to the youthful James III.—*secretarius regis et ipsius in scolis doctor*.<sup>2</sup> He continued to act as secretary not only throughout this reign but for a few years after the accession of James IV. An accomplished Latin scholar, as this minister had to be, he would compose diplomatic correspondence and draft articles of treaty. Naturally he was often found among his master's envoys. During his absence an under-secretary had to be employed in domestic business; and it may well be doubted whether, even when he was at home, he could always be in direct personal contact with every departmental use to which the signet was now turned. In 1489 James IV., shortly after his accession, wrote to Whitelaw about the privileges of the Glasgow cathedral chapter, of which the secretary was a member, and acknowledged a letter delivered by Whitelaw's "servitour" Sir John Tyry—another writer to the signet.<sup>3</sup> The king's reply was "wryttyn under our signet"; and there is no indication whatever in the notarial copy of the correspondence that the seal called for special remark, or was an impression left by a ring.<sup>4</sup>

This is the first evidence for the multiplication of signets under the official charge of the secretary. The seal here employed was no doubt such as we find reserved under James V. for his own

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 51.

<sup>3</sup> *Treasurers' Accounts*, i. 111.

<sup>2</sup> *Reg. Supplic.* (Vatican), 578, 139 (Feb. 7, 1464-5): a reference due to Dr A. I. Cameron.

<sup>4</sup> *Reg. Glasg.* ii. 482.

directions. Immediately after Flodden it would appear that the council, especially owing to the growth of the session in civil causes, required a matrix to authenticate its own ordinances. When Robert Josse wrote a letter inconsistent with the endorsement upon a bill, it was not the secretary in person that was involved in the accusation but "he that kept the signet."<sup>1</sup> Only a few weeks later Queen Margaret demanded the resignation of Master Patrick Painter by delivery of "the signetis" or, as it was also phrased, "the selis of the signet."<sup>2</sup> At the end of Albany's regency in 1524, the retiring secretary gave up "the signetis" to the king; and his successor Master Patrick Hepburn received "ane greite signete and ane small signet." Next day a third matrix, that of "the kingis signet," was produced by Sir John Stirling of Keir, who had somehow possessed himself of it, and this also was handed over to Hepburn.<sup>3</sup>

#### THE GREAT SIGNET

The normal signet of Henry VII. was barely an inch in diameter; but he had a larger matrix measuring an inch and three-quarters which, as Sir Henry Maxwell-Lyte suggests, "was perhaps used only for communications to foreign potentates."<sup>4</sup> Search among continental archives might verify the natural conjecture that the great signet of Scotland served an analogous purpose. From the time of James IV. and doubtless earlier the royal secretary was keeping record of the foreign correspondence which passed under his hand, and to which it was his special function to attend; but these letter-books, if they ever include a reference to the signet, mention it without further specification. Whether James IV. copied a fashion from his father-in-law of England does not as yet appear. At all events in 1524, when the exercise of his royal authority by James V. was recognised, "the greite signet" seems to have been nothing new. David Betoun, sent as envoy to France, had "ane lettir of estaite" under it, besides his commission under the great seal.<sup>5</sup> Probably the letter contained instructions and articles, just

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 10; cf. 99, 148.

<sup>2</sup> *Ibid.* 14-15.

<sup>3</sup> *Ibid.* 204, 212, 214.

<sup>4</sup> *Great Seal*, 132.

<sup>5</sup> *Acta Dom. Con.* (1501-1554), 200.

as did "ane lettir of staite" prepared a few years afterwards for dispatch to Henry VIII.<sup>1</sup> On another occasion the great signet was applied to a general respite granted to the bishop of Aberdeen, his suite, and their kinsmen and friends, when he led an embassy across the border.<sup>2</sup>

#### THE KING'S AND THE SESSION SIGNET

During the reign of James IV., possibly even under James III., "the kingis signet" had come to be distinguished from the signet required by judicial and administrative routine. It is not easy, however, to ascertain particulars regarding the management and custody of the matrix which was appropriated to the special use of the sovereign. The great signet can scarcely have been at this stage in other hands than those of the secretary himself. As the court of session became more and more closely associated with Edinburgh and carried on business irrespective of the royal presence, it would need a signet for its own purposes. There seems to be no doubt that the criminal courts had come to require a duplicate of the signet, to which John Bannatyne was chief writer. In the spring of 1540 James V. directed an important order to his secretary Sir Thomas Erskine. "Beccaus we undirstand that it is necessar thar be thre small signettis for service in our sessioun, justice airis, and for our awn directiouns, our will is herfor and we charge yow that incontinent eftir the sycht hereof ye caus mak ane thrid signet in place of it that was stollin, to be usit in our service as said is, and to reforme the uthir thre signettis gret and small as salbe thocht expedient be the lordis of our consale."<sup>3</sup>

While the session and the justice signet must have been handled by departmental officers acting under the secretary's authority, the management of the king's signet is mysterious, and could hardly

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 278.

<sup>2</sup> *Ibid.* 415. Respite was usually given under the privy seal. In this case the writ was recorded in the books of council that the clerk register might give extract to any applicants having interest. The secretary had a respite as ambassador about the same time (*ibid.* 418) given under the signet and treated

in the same fashion; but it was subsequently extended (*ibid.* 420) under the privy seal and registered for extract. For a reason not stated Aberdeen renounced his respite (*ibid.* 424) four months after it was granted, but not owing to the seal used.

<sup>3</sup> *Reg. Sec. Sig.* ii. 3444; *Acta Dom. Con.* (1501-1554), 485.

be made intelligible without an elaborate examination of scattered and somewhat inaccessible material. Comparatively few originals survive: transcribers of family archives did not, until recent times, think of noting the diplomatic details requisite for study; the numerous royal letters registered in the books of council are more puzzling than illuminating, and might in the end defy full explanation. Resort to the ring is not now mentioned.<sup>1</sup> Instead the signature served to authenticate the personal will of the sovereign, used in combination with the signet *en placard* upon the face of the writ,<sup>2</sup> or standing alone at the foot of missives purporting to be "undir our signet" but only closed, it would appear, with that seal.<sup>3</sup> There are also missives of James v. with his signature, and headed *Rex* in the usual signet form, which make no reference whatever to the seal, and are obviously concerned with action in public affairs.<sup>4</sup>

These inconsistencies of practice render it almost impossible to say how far what passed under the king's signet came to the notice, direct or indirect, of the secretary. James constantly gave his signature for purposes which were friendly rather than lawful. Royal gifts obtained by interested solicitation to the financial prejudice of the crown were, as usual, the subject of prohibitive ordinance.<sup>5</sup> The invincible tendency to interfere with the course of justice by what were now styled "private" writings, in response to the importunities of a favourite, had to be restrained and corrected.<sup>6</sup> Flagrant departures from legality the council declined to accept or respectfully pointed out to his majesty for reconsideration. The secretary, however tactful and assiduous, might be forced to assent to communications which he could neither approve nor prevent; and there were probably some which he never saw at all, such as these "private" appeals under the royal signature to the lords of council to favour the cause of this or that importunate petitioner. Even when a royal missive had the seal, and presumably had come

<sup>1</sup> But Mary had a ring signet of elaborate design (*Brit. Mus., Catalogue of Seals*, iv. 14876).

<sup>2</sup> As in the letter of 1536 (Fraser's *Haddington*) preserving a perfect impression of the "Marchmond" signet; an equally good impression of Mary's signet (1542-3) in Fraser's *Douglas*.

<sup>3</sup> Fraser's *Douglas* (1528) and *Melville* (1533).

<sup>4</sup> Fraser's *Wemyss* (1529) and *Grant* (1534): cf. *Wemyss* (1546 and 1555) for similar letters on public matters.

<sup>5</sup> *Acta Dom. Con.* (1501-1554), 281, 353.

<sup>6</sup> *Ibid.* 351, 449, 454; see also the cases quoted in Balfour's *Practicks*, 267, cap. v.

under the cognisance of the secretary or his deputy, it was not necessarily an order which the council felt constrained to obey.

In 1531, for example, James wrote indignantly to the presiding chancellor and the lords to say that "we direct divers our writingis to yow of befor dischargeing yow of ony proceeding aganis our lovit servitour . . . and as we ar informit ye have procedit in his contrar, of the quhilk we marvell considerand our will and mynd."<sup>1</sup> Another case, in 1540, may be quoted. The prelates had assigned benefices which were to furnish their quotas of the £1400 payable to the senators of the College of Justice, and Kilwinning had resolved upon the vicarage of Kilbirnie. The abbot and convent, however, changed their minds, and proposed to lay the burden upon the vicarage of Dunlop on the ground that the stipend was larger and that it was therefore more fitted both to sustain the pension "and fulfill the service of god"—in secular language, to leave the incumbent better provided. Master John Major, the celebrated scholar, had held the vicarage of Dunlop, and had transacted with a younger man, Sir George Atkinsoun, for a resignation leaving Major with the usufruct while it secured for Atkinsoun the title. According to the arrangement reached regarding the College of Justice, the payment would fall upon Sir George's emoluments when Major's interest ceased, and his investment would have unexpectedly depreciated. Atkinsoun therefore resorted to the king, who warmly espoused the cause of his "lovit oratour and chaiplane," arming him with a letter under both subscription and signet. Instructed by his petitioner, James pronounced the proposed alteration to be "contrare all ressoun, equite, and justice," and declared to the lords his will that it should not be permitted. There was naturally some difference of opinion in the council, seeing that the king had written "sa effectuous"; but in the end the members declined to yield to the pressure and "plainly acceptit" the second mandate from Kilwinning.<sup>2</sup> Whether Atkinsoun began with the keeper of the signet or with the king himself is just the fact that is not revealed: possibly councillors were helped towards their decision by an exact knowledge of the circumstances which we do not possess.

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 354.

<sup>2</sup> *Ibid.* 497, 499-500.

Royal letters directed to the council, either above the signature only or reinforced by the signet, usually combined the language of request with that of command—"we pray and also chargis yow" was a common formula—but registration was a gesture of respect which did not always mean acquiescence, and the attitude of the council was that of a body which ought to be convinced of justice or expediency. When the king desired the admission of a new member, and gave him a letter to the chancellor and his colleagues under signature and signet, the lords did not accede without recording that they considered the charge "ressonable."<sup>1</sup> This procedure became the model for the admission of lords of session, nominated by the crown under the signet and accepted by the senators as satisfactory additions to the bench.<sup>2</sup> It is interesting to note that it came to be applied in 1594 to the relation between the secretary and the writers in dealing with entry to their society.

Apart from restraints imposed by legislation or the critical attitude of the council, James found many openings for the arbitrary use of signature and signet, as when he enlarged the parks of Falkland and Holyrood by action so notoriously unlawful that it was deemed advisable after his death to consult "the wele of his grace saule" by giving the injured parties opportunity to obtain reduction.<sup>3</sup> His letters under the signet reproduced in the family histories of Sir William Fraser, and quoted above, illustrate however inadequately the nature of his interventions. It was kindly and tactful to exempt a Douglas, because he was "sa tender to thame of blude and of tender age," from the expedition against Angus and his house: authority given to Grant of Freuchie for participation in an onslaught upon the rebel Mackintoshes—"takand thar guddis to your self for your lauboris"—was not the best way to procure ultimate peace: a writ addressed to the magistrates of Edinburgh, making a request on behalf of a servitor, ignored the restrictions of burgh law, while it hinted at royal beneficence in return for compliance, as well as unpalatable results consequent upon refusal.

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 307.

<sup>2</sup> *Ibid.* 432, 459, 567-8, 636.

<sup>3</sup> *Ibid.* 522-3, 540.

## PRIVY SIGNET OF JAMES V.

In 1538 James began to think that he was not so fully equipped in the matter of signets as current fashion dictated. He hastened to remedy the defect, sending to the council the impression of a new seal, obviously intended to serve the purposes of secret diplomacy and to be a privy signet for foreign correspondence distinguished from the existing great signet. "Forsamekle as we have thocht expedient that thar be ane new signet maid, les of quantite nor the gret signet and mair than the litle signettis, for our secret and gret effaris tretit with divers princis and to be send furth of our realm with our ambassadouris and in speciale now with [David Betoun] the archibishop of Sanctandrois for sic our gret materis as ar to be tretit with our derrest fadir the maist cristin king of France, as utheris princis usis till have, quharfor it is our will that ye ressave this our ordinance anent the making and using of our said signet, and interpone your auctorite and avise tharto, and insert the samin in our bukis of consell to have the strength of ane act and ordinance maid be us with your avise and consent tharto, or ordane the said signet to be auctorizat and have faith in all partis." The new seal was applied to this communication, "to the effect that the quantite, circumference and prent tharof may be knawin and kennit, in all tymes cuming."<sup>1</sup> Its adoption was a sign of the times; for James had definitely chosen to abide by the old alliance, and there were dealings with Francis I., under the auspices of Cardinal Betoun, which should be kept strictly secret, particularly from Henry VIII. and his informers.

## THE NEW SIGNETS OF JAMES V.

In the spring of 1540, as has been already noticed, James directed his council to have a new signet made in place of one which had been stolen, and at the same time "to reform the uthir thre signettis gret and small" as they should think best. They decided that the new matrices should be "all maid new of gold." The two little signets for the session and the justice ayres were to be identical in

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 480. The original of this writ does not survive.

size, and the third "that sall serve the kingis grace directiouns be sum part mair nor the tothir tua." On these three "the kingis grace armis with ane clos croun" should be engraved "without ony word"—so that "Marchmond," the century-old legend of the scroll, disappeared for good. The great signet should differ only, apart from its size, in having "the kingis grace ordour of the mollettis and thrissillis about the scheld fra the nukis of the croun." When the new designs had been executed, the old matrices were to be broken in presence of his majesty or the council,<sup>1</sup> an expedient which could not altogether preclude the ingenuity of the forger. The signets prepared for use in Mary's name seem to have been distinguished by the initials M R, a letter on either side of the shield.<sup>2</sup> In 1546 a certain Alexander Dunlop thought he might safely counterfeit the signet of King James for some illicit purpose; but the fraud was detected in circumstances which are not explained.<sup>3</sup>

#### THE WRITERS AND THE COLLEGE OF JUSTICE

The inception of the College of Justice marked an important stage in the history of the royal council. Session for civil causes had been for more than half a century one special department of conciliar activity. Now a juncture was reached at which legal learning and experience had to be retained and remunerated for a function which increasingly absorbed attention. But the process of differentiation in the council was very slow. James v. continued to treat his lords of session who became senators of the College of Justice as lords of council capable of being consulted, even in the midst of their judicial occupations, upon affairs which were by no means session business. The signet had come more and more to be associated with the council along its various lines of public action; and the clerks of the signet prepared writs covering a much wider field than that contemplated for the College of Justice. In 1532 a few advocates were licensed to plead before the lords. Their special function, their relation to the court, and their status as depending upon its appointment, were from the beginning comparatively clear.

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 485.

<sup>3</sup> *Reg. Sec. Sig.* iii. 1698.

<sup>2</sup> Facsimile in Fraser's *Douglas*.



The writers to the signet, on the other hand, were in a somewhat anomalous position. They had long, as such, found part of their occupation in the work of session; yet they were the nominees and servants of the royal secretary, a minister who was not at the inception of the college and *ex officio* a senator, though it was soon found that at the least his free access to the deliberations was a necessity. As clerks in the secretary's office the writers were employed wherever the signet was concerned: usage was now too well established, and the differentiation of council and session from privy council too immature, to suggest any selection of writers in 1532 who should be attached exclusively to the service of the civil court.

Having obtained from Clement VII. in 1531 a subsidy of £10,000 Scots annually from the prelates on the pretext that he proposed to remunerate judges of session and establish a College of Justice, James V. was irrevocably committed to a project upon which he had no intention of expending more than a portion of the levy authorised. A majority of the prelates were indignant at a transaction carried out by a diplomacy in which their views and certainly their pockets had never been consulted. When parliament met in May, 1532, there was no draft constitution to submit, and little was resolved except that Clement must have a solid return for his beneficence in the repression of dangerous tendencies, with an assurance that James would be a more dutiful son than Henry VIII. was proving. Controversy over the papal subsidy precluded more than a nomination of the judges and of the prelate who was to preside: actual establishment of the college would have to await "more leisure."<sup>1</sup>

When the chosen lords assembled, later in the month, James directed the chancellor, who had hitherto presided in session, and who was still, by the determination of parliament, to occupy the chair if he were present, to prepare rules of procedure in concert with the president and the fourteen judges. The resultant statutes and ordinances, ratified by the king, were "to be observit and keptit be the said lordis of sessioun, advocatis and procuratouris of the samyne, and be all clerkis, scribes, maseris and uther ministeris of court in all tymys cummyne." In the circumstances, while advocates

<sup>1</sup> For details see Hannay, *College of Justice*, ch. iv.

were named, nothing precise was said about the place of the writers to the signet in an institution still inchoate and indefinite, though it would seem to have been taken for granted that they should come within the compass of the college. By the spring of 1540, as we saw, three small signets were in use; but it is not clear whether the third was a quite recent addition, subsequent to 1532. If, as the minute on the subject suggests, it was comparatively new, and at the inception of the college there was no seal set apart for its business, the fact would contribute to explain why no distinction was drawn between the writers with respect to occupation which did and which did not directly concern the session.<sup>1</sup>

Under James IV. the writers to the signet were already serving the lieges according to a fixed scale of charges: now they were forbidden to exact more than specified sums for bills and letters upon decreet, and for any other letter "mair than wes usit in our soverane lordis tyme that last decessit." The comprehensive intention is betrayed in an ordinance "that all clerkis of the signet be suorne to excerce thair office lauchfullie and diligentlie, and nane of thame sall reveil nor mak manifest to ony man quhat thai write or dois for ane uthir, bot sall kep all clos and secrete." To obviate abuses, no clerk of the signet might enter the council-house for the delivery of bills. Deliverances must be written by a clerk of the court: it was to be the rule that "everilk clerk of the signet that writtis ony billis mark the samyn with his awin name in the bill within, and the samyn salbe deliverit to him agane or to the party quhilk of thame cummys to ask the said bill."<sup>2</sup> The last requirement, not to speak of the other regulations, seems to imply that by 1532 the writers were sufficiently numerous to make subscription advisable for purposes of identification. A glance through the contemporary minutes of council and other records is enough to give some conception of the amount of writing and copying which had to be done for the signet, on occasion with an urgency making heavy demands upon the staff.

<sup>1</sup> An act of Parliament in 1535 forbade the keepers of the signet to answer with the seal any letters for summons to a justice ayre not subscribed by "the clerk writar to the signet"

and the justice clerk or his depute. (*Acts of Parl.* ii. 350.)

<sup>2</sup> *Acta Dom. Con.* (1501-1554), 376-7.

James duly ratified the statutes. After promising to support the lords in the dispensation of justice, he went on to exempt "the saidis personis" from all taxes, contributions and other extraordinary levies, and from the burden of any office or charge within burgh or without, unless it were undertaken voluntarily. The phrasing and tenor of the royal letter might seem to contemplate the judges only; but the ground of the exemption was that "the saidis personis mone awate daylie apoun our sessioun except at feriat tymes"—a consideration which applied to other members of the court—so that the privilege seems to have been interpreted comprehensively.<sup>1</sup>

Whatever were the defects and ambiguities of the writs issued in 1532, the bull of incorporation, granted by Paul III. in 1534-5 and founded upon instructions transmitted from Scotland, left no doubt of the royal intention regarding the membership. The prelates had compounded with James to extinguish the yearly tax of £10,000 by offering a sum of over £70,000 payable between 1532 and 1536, and had undertaken, in order to preserve the ecclesiastical power in the court, to contribute annually about £1400. Having extricated themselves thus expensively from the perpetuity of the grant wrung from Clement VII. by adroit play upon his apprehensions and the existing situation in Europe, they were not disposed to finance the judges out of their own pockets, and had agreed that the burden should fall upon the fruits of specified parochial benefices in their patronage. The arrangement necessarily involved papal intervention, owing both to the ecclesiastical source of the fund and to the determination, in view of the royal character, that the money should be spent upon its avowed object. The bull dealt first with the subsidy in relation to the judges, and then proceeded to confirm "the institution, grant and agreement" made by James and his prelates. "Furthermore," it continued, "since in terms of the institution of the college and the agreement aforesaid the president—always a prelate of the church—and the fourteen persons who form the college are bound to reside together and continuously and administer justice from day to day for the people of the realm, and in order to prevent distraction from the city, town, or place in which

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 378.

they happen to sit as a collegiate body, we do free and exempt wholly and in perpetuity the president and the fourteen senators of the college for the time being, as long as they are in office, with their clerks, writers, notaries and advocates enrolled and admitted to actual practice, and likewise all other necessary officers of the said senate, so long as they are in discharge of their functions, from any jurisdiction, superiority, lordship, command, power, pre-eminence, visitation and correction of any archbishops, even though primates and *legati nati*, and of bishops and other ordinaries of the realm now and for the time being, with their officials and commissaries likewise, howsoever depute, and do take them under the protection of St Peter, of the Apostolic See, and of ourselves . . . but the president and the fourteen senators ministering justice as aforesaid for the time, with their clerks, writers, notaries and advocates, and the officers of the said senate, are to answer complainers in judicial matters belonging to the ecclesiastical forum before our venerable brother the bishop of Whithorn and the chapel royal of Stirling, and our well-beloved sons the abbot of St Mary of Newbottill, diocese of St Andrews, and the provost of the chapel royal of St Mary of the Rock within or beside the city of St Andrews.”<sup>1</sup>

#### THE WRITERS AND THEIR IMMUNITIES

The foundation of the College of Justice was not the subject of any royal charter or detailed act of parliament, mainly because controversy continued over the exact interpretation to be put upon the financial agreement confirmed by the papal bull. In the parliament held early in 1541 a belated statute ratified generally “the institution of the said College of Justice and actis maid for the administratioun of justice tharin,” the papal erection, “and all privilegis grantit and to be grantit tharto be our said haly fader the pape and his hienes,”<sup>2</sup> but did not condescend upon particulars. After the death of James v. the immunity from public burdens seems to have been questioned even in the case of judges. At the beginning of 1546, however, in connection with a tax imposed by the estates,

<sup>1</sup> The bull is printed in Ilay Campbell's *Acts of Sederunt* and in the appendix to Keith's *History*, vol. i.

<sup>2</sup> *Acts of Parl.* ii. 371.

the governor Arran made a declaration in the presence of the lords that they, with the scribes and advocates associated with the court, were exempt from such charges by former acts, and that letters of horning, which appear to have been issued against them, must be regarded as null.<sup>1</sup>

The immunity from public burdens was a benefit more valuable to the members of the college than popular with the community. The senators might be trusted to protect their personal rights, not always with a disinterested regard for their less influential colleagues, who were exposed to the criticism of neighbours as persons well able to bear public charges. In 1565, when Edinburgh had to raise money for Mary and Darnley, the town made an unsuccessful effort to insist upon contribution by the advocates and writers.<sup>2</sup> Two years later there was an abortive article before parliament to the effect that all inhabitants in burgh should be subject to taxation without exception and notwithstanding any exemptions.<sup>3</sup> It was impossible to stand rigidly upon privilege. In 1588, with the Armada on the sea, the "ordinary" members of the college—including not merely advocates, clerks of session, writers to the signet and macers, but also clerks to the privy and the great seal<sup>4</sup>—volunteered to contribute, without prejudice, at the current rate imposed for defence.<sup>5</sup> At other times they were compelled to follow the lead of the lords. If a subscription in 1585 for the distressed people of Perth, to which the writers to the signet gave one-sixth of the £240 collected in the college,<sup>6</sup> was an act of free generosity, the case was different in 1589, when the lords were anxious to obtain a decisive ratification in their pecuniary interest of the whole surplus accruing from legacy duty.<sup>7</sup> Their lordships, aware that the project of endowing in the College of Edinburgh a chair of the laws had support in the most influential quarters, offered to assign £1000 of the accumulation, provided that their rights in the fund were expressly established, and promised another £1000 on behalf of the subordinate members. Advocates certainly, and no doubt also writers, were

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 541.

<sup>2</sup> *Acts and Decreets*, vol. 35, Dec. 15.

<sup>3</sup> *Acts of Parl.* iii. 42, cap. 64.

<sup>4</sup> Who may have been qualified writers to the signet.

<sup>5</sup> *Acts of Parl.* iv. 694.

<sup>6</sup> *Extracts* (Burgh Records), iv. 418.

<sup>7</sup> *College of Justice*, 84; *Univ. of Edinburgh*, 1883-1933, 14.

dissatisfied with a contract into which they seem to have been driven, and with a scheme in which some detected danger to their monopoly of instruction.

#### THE WRITERS AND THE ADVOCATES

These and similar financial questions compelled the advocates and writers to a measure of co-operation. They came to regard themselves, despite the development of their separate associations, as a body which had common interests over against the senators in the defence of privilege. At various junctures they seem to have been almost on the verge of fusion. In 1599, for instance, when it was "put to vote quhidder, gif or nocht, the brethrene consent to ane incorporatioun with the advocatis or not, the maist part voteit to the said incorporatioun."<sup>1</sup> Again in 1633, when there was a pressing question of taxation, the writers considered "the ovirture and desyre of the advocattis to have ane commissioun . . . to decerne and determine anent all materis that sald concern the incorporatioun of the advocattis and wryteris." They were "content to conjoyne" with the advocates regarding the tax and to protect their immunities; but they forbade further action by certain individuals who had committed them to a policy of union unauthorised by the whole society.<sup>2</sup> On the eve of the Restoration the dean of faculty lodged a petition on behalf of the advocates, clerks, writers, and other members of the College of Justice against the unlawful imposition by the magistrates of an exorbitant excise on wine and ale; and the writers appointed a commission to meet with the advocates for joint action.<sup>3</sup> These tendencies serve to explain the somewhat surprising fact that the earliest minutes of the advocates, in 1661, which concern the advocates only, are headed by the clerk as those of "the faculty of advocates and writers," and contain incidental references to what was no more than co-operation. In 1654 the writers depended no longer upon a royal secretary, but upon the Cromwellian commissioners for the administration of justice in Scotland.<sup>4</sup> Their position, thus assimilated for the time to that of

<sup>1</sup> Minutes, July 28, 1599.

<sup>2</sup> *Ibid.* Aug. 1, 1633.

<sup>3</sup> *Ibid.* Jan. 29, Feb. 23, 1659.

<sup>4</sup> *Ibid.* March 13, 1654.

the advocates, may have had unifying effects which did not persist after the Restoration and could not overcome the independent solidarity of a society long established.

#### THE SIGNETS UNDER MARY AND JAMES VI.

Departmental developments in the signet office, indicated by the four seals employed in 1540—not to mention the privy signet—are hard to trace during the rest of the century. The evidence readily available is scanty; seal catalogues take no account of the problem; any sketch must be tentative and subject to amplification and correction.

Whether the privy signet devised by James v. had successors is doubtful; but the great signet was used by James vi. Sailing for Denmark in 1589, he took his great signet along with his great seal; and the demands of business at home necessitated a temporary duplication of both matrices.<sup>1</sup> This seal was now among those under the charge of "the keeper of the signet"<sup>2</sup> and had to be available as occasion arose—probably for official letters from the council on such matters as mercantile interests abroad. Nor does it seem to be known whether the duplication of the small signet in 1540 for the separate purposes of the criminal and the civil courts initiated a permanent practice. The institutional writers assert confidently that criminal letters passed under the signet—as some of them certainly did—until Charles ii. established his Court of Justiciary.<sup>3</sup> Even if there was no distinct signet of justiciary before 1672, it is not unlikely that the expanding business of the signet office recommended the use of more than one matrix of the same seal.

#### KEEPERS OF THE SIGNET

At the beginning of Mary's reign the royal secretary was custodian "of all hir signettis," responsible for the conduct of his deputies.<sup>4</sup> In 1546 Master John Dennestoun or Danielston, rector

<sup>1</sup> *Reg. of Privy Council*, iv. 422.

<sup>2</sup> *Ibid.* and *Reg. Sec. Sig.* vol. 69, f. 72.

<sup>3</sup> Hume, *Commentaries*, ii. cap. 7; Erskine,

*Institutes*, i. tit. 3, cap. 39; Skene, *De verborum significatione*, s.v. *Feodum*.

<sup>4</sup> *Reg. Sec. Sig.* iii. 42.

of Dysart, had the "session" signet.<sup>1</sup> He was dead in 1547<sup>2</sup>; and he seems to have been succeeded by Neil Laing, clerk in the secretary's office.<sup>3</sup> When Laing described himself in 1549 as "kepar of the court signet,"<sup>4</sup> it might be assumed that he was referring to the signet of session. The inference, however, would be erroneous. At the time the secretary was on a mission in France,<sup>5</sup> and it is likely that Laing had temporary charge of a seal not usually in his care. Five years later this "court" signet is distinguished from what is called the "common" signet, each in different hands.<sup>6</sup>

#### THE SECRETARY AND THE COURT SIGNET

The nature of the court signet is revealed in transactions towards the close of the century. Neil Laing died in 1586, and was succeeded by a younger relative and pupil in Master John Laing.<sup>7</sup> In 1596 John Lindsay of Balcarres, recently appointed secretary, resigned for himself and his successors that part of his office which concerned custody of the signets, great and small, in favour of John Laing the present keeper. Laing became vested in a life office to be held in future of the crown on nomination by the secretary, in respect of which he was to pay for the benefit of the secretary £1000 annually, "the maist and greitest dewtie usit and wount to be payit of befor be the said Maister Johne Layng or onie utheris his predicessoures to his hienes said secretarie."<sup>8</sup> In 1609, without prejudice to Laing's tenure, this arrangement came to an end, obviously owing to the fact that the fees scheduled in 1597 had been enhanced in 1606.<sup>9</sup> As the keeping of the signets was "a particulare pendicle of the office of secretarie undisponable in ony sorte and unseperable thairfra," parliament passed an act restoring the secretary's full control, an act in which it was mentioned incidentally that Lindsay's resignation had excepted "the court signet ordinarlie useit to all suche thingis whilk pas the counsail tabill."<sup>10</sup> In 1595 we hear of a

<sup>1</sup> *Acta Dom. Con.* (1501-1554), 561.

<sup>2</sup> *Reg. Sec. Sig.* iii. 2436.

<sup>3</sup> *Treasurers' Accounts*, viii. 282.

<sup>4</sup> *Acta Dom. Con.* (1501-1554), 583.

<sup>5</sup> *Balcarres Papers* (Sc. Hist. Soc.), ii. 47.

<sup>6</sup> *Acta Dom. Con.* (1501-1554), 628.

<sup>7</sup> *Edinburgh Testaments: Reg. Mag. Sig.* v. 1516, 1603; *Yester Cal.* 847; *Reg. of Deeds*, xxiv. 257.

<sup>8</sup> *Reg. Sec. Sig.* vol. 69, f. 72.

<sup>9</sup> Skene, *De verborum significatione*, s.v. *Feodum*; *Acts of Parl.* iv. 616.

<sup>10</sup> *Acts of Parl.* iv. 448.



register of the court signet. This record had been kept for some years by Master George Young, archdeacon of St Andrews, and was now entrusted by James VI. on the advice of his secretary to Master Robert Young, writer. The gift included directions to the keeper of the court signet to refrain from sealing any royal letters of which warrant was preserved until these had been registered by Young, and marked accordingly.<sup>1</sup>

The court signet, it is clear, was appropriate to business of privy council. It was not in the hands of "the keeper of the signet" or, apparently, of the secretary himself, but held by some person over whom that minister exercised a close supervision. From an incident in 1644 we discover that it had come to be regarded as the special and most significant symbol of the secretarial office.<sup>2</sup>

The presumption is that this signet was the lineal descendant of the seal which James V. described as serving "our awn directions." In his reign there was a distinct tendency to make his manipulation of the personal signet more than a matter between himself and a minister or servant. That restraint, probably, explains the growing resort to mere subscription upon royal letters which announced the king's individual will. Again, from the administrative point of view, while the growth of council and session and the erection of the College of Justice had gradually demanded a signet for departmental use, the privy council required to have a seal at its own immediate command. The accounts of the treasurer record a steady outflow of signet letters from the government, notably those by which individuals were summoned to court, or councils special and general were called.<sup>3</sup> The writing of such letters, often produced in large numbers and in haste, employed clerks of the signet, whose services were constantly in requisition for one branch or another of executive business.

The regency during Mary's minority, with tension between the governor Arran and the dowager Mary of Lorraine, made the constitution of the privy council a matter of primary importance, so that in 1546 the personnel was the subject of precise ordinance.<sup>4</sup>

<sup>1</sup> Reg. Sec. Sig. vol. 68, f. 125. George Young is mentioned as a secretary depute in 1587 (*Exchequer Rolls*, xxi. 402).

<sup>2</sup> *Acts of Parl.* vi. (1), 182.

<sup>3</sup> *Sc. Hist. Rev.* xx. 104.

<sup>4</sup> *Acts of Parl.* ii. 598.

When James VI. assumed his royal power in 1578, parliament dealt with the membership and procedure in remarkable detail. "The greitest prejudice," it was stated, "that may be engenerat to our soverane lord . . . may stand and consist in the passing and directing of signaturis, lettres and missyves." The two financial officers and the secretary must always be present personally or by deputy. The secretary's special concern was the issue of all missives addressed for delivery at home or abroad: letters "commanding our soverane lordis subjectis to ony effect" must be issued by advice of council and no otherwise; so indispensable was the presence of a responsible officer that during Master Robert Pitcairn's temporary absence in England either Master George Buchanan—who had just relinquished the privy seal—or Master Peter Young, the king's preceptor, must attend in his place.<sup>1</sup> These regulations indicate the function now fulfilled by the court signet. From the directions given to the financial officers it is clear that many of the writs which passed the council came, when the signet was required, to Master John Laing. The fees due to him and the nature of the writs appear from the list of charges drawn up in 1597 by the lords of privy council and exchequer.<sup>2</sup> On the other hand, the sealing and dispatch of orders and missives remained under the personal superintendence of the secretary.

#### THE SECRETARY AND HIS WRITERS

There is little in the public records to indicate the stages by which the writers to the signet grew in numbers and importance during the course of the sixteenth century. Working in the service both of the government and of the lieges, the staff of the secretary, at first limited, must have expanded with the activities of the office and the increasing vogue of its seal. Employment at the order of the crown was occasionally heavy, and cannot have been easily

<sup>1</sup> *Acts of Parl.* iii. 96-98.

<sup>2</sup> Skene, *De verborum significatione*, s.v. *Feodum* :

(a) writs passing the signet only : letters of summons, inhibition, arrestment, of

law-borrows and other criminal letters, ministers' letters yearly raised, hornings and relaxations ;

(b) writs passing the privy and great seals : legitimations, infettments and remissions.

combined with the private clerical practice which was also developing. Even in the time of James v. the writers whose signatures satisfied the keeper of the seal were not always the actual scribes, but had resorted to assistance. Already the tendencies would be at work which led the writers to employ servants, to have their places of business, and to impose in 1594 the rule that they must "keip oppin buithis, specialle await and attend thair buithis and vocatioun, and nawayes be subject to ony uthir particular service or servitude." Though the secretary had the power of licence, the farming of the seal and its profits was a custom so firmly established at the end of the century that it may well have been introduced at an early stage. It would tend to give the custodian a very considerable degree of influence over admission to practice, and to make him, like the dean of the advocates, the representative of a body with corporate interests.

At what date the growth of the writers in number began to arouse the controversy regarding admission and professional conduct which led to the constitution of a society in 1594 it is unfortunately impossible to say. According to the gift of the secretarial office granted to Richard Cockburn of Clerkington in 1591 it was his right to admit clerks of the signet "being fund qualifeit thairfoir," to try and if necessary depose persons already admitted, and to appoint keepers for whom he should be responsible.<sup>1</sup> Similar powers had been conferred in 1584 upon his predecessor.<sup>2</sup> The language in both cases, while it leaves no doubt of the secretary's powers, seems to imply consultation, while the statutes framed in 1594 are sometimes reminiscent of corporate action. The writers are still prepared to convene at his summons "quhen occasioun sall serve as hes bene in tymes bypast"; they ratify "actis maid of befoir in ony tyme bigane"; "brethren" is no new name with them: there is more than a hint that members had been canvassed to support applications for admission. Unhappily there seems to be no record of a secretary's appointment prior to 1584 until we come back to 1558 and Maitland of Lethington, in whose case the right of admission is taken for granted. By 1584, at all events,

<sup>1</sup> Reg. Sec. Sig. vol. 62, f. 36.

<sup>2</sup> *Ibid.* vol. 50, f. 132.

there was some reason for dissatisfaction. A list of advocates and writers compiled in 1586 enumerates fifty-two advocates and thirty-eight clerks of the signet.<sup>1</sup> In the light of what happened in 1594 it seems probable that it was the writers who had raised the question of admission, finding the secretary too ready to be gracious. From the lieges also there were complaints. In answer the parliament of 1585 instructed the secretary to see that his deputies and writers refrained, on penalty of deprivation, from preparing writs "that contenis noveltie or informalitie contrair the lovable and accustomed style and forme."<sup>2</sup>

#### THE SOCIETY

Whoever was responsible for the laxity, matters came to a head in 1592, when parliament had before it an article "anent informall writting and usurping of the offices of admitted wrettaris to the signet" and referred it with powers to the privy council.<sup>3</sup> It must have been this remit that eventually resulted in the action taken by Sir Richard Cockburn in 1594, prompting him to grant the commission which opens the record of the society of writers. "Thair is," he says, "grite abuis, informalities and disordure amangis the ordinaire writtaris to his hienes signet quhilkis hes increscit throw admitting of ane grite number of persones to the office thair of and owirsicht of controlment of thair enormities." For the sake of the lieges and of the writers themselves a reform is imperative. While a body of eighteen commissioners under the keeper Master John Laing is to deal with abuses and legislate for practice, the provision regarding membership makes a significant alteration upon the powers conceded to Cockburn at his appointment. Whereas he admitted, now he merely presents for trial and admission. The right of veto lies with the writers, and they are to blame if undesirables enter; but they are still expected to exhibit a courteous deference to the secretary's wishes even against their own inclination, for he reserves "the power and privilege I and my predecessouris secretaris hes haid be vertew of our office over the saidis writteris and in presenting of quhatsumevir qualifeit persones to be admitted."

<sup>1</sup> Acts of Sederunt, iii. f. 354.

<sup>2</sup> Acts of Parl. iii. 377.

<sup>3</sup> Ibid. iii. 586.

This somewhat inconsistent reservation conflicted seriously with the resolve of the writers. Holding that "the treuth and honestie of thair predicessouris ordinarie writtaris to the signet . . . procedit upoun thair few number" and that the admission of "ane multitude" has left the majority poor and exposed to temptations, they determined to restrict their roll to twenty-four besides the keeper and a few clerks of court, no fresh entry to be suffered until time had done its salutary work. The policy of limitation seems to have been more successful against the secretary than among the writers themselves. Producing a servitor of the clerk register as his nominee in 1595, he had to promise not to repeat the experiment till numbers had been reduced to the appointed level—which they never reached. By 1627 there were sixty-eight members. Secretary after secretary between 1595 and the Restoration had to complain of lax admission and irregularities in practice, while the commissioners periodically made rules to limit the fraternity, both with a singular lack of success.

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