DAUVIT BROUN

The Charters of Gaelic Scotland and Ireland in the Early and Central Middle Ages

Edmund Crosby Quiggin (1875-1920) was the first teacher of Celtic in the University of Cambridge, as well as being a Germanist. His extraordinarily comprehensive vision of Celtic studies offered an integrated approach to the subject: his combination of philological, literary, and historical approaches paralleled those which his older contemporary, H.M. Chadwick, had already demonstrated in his studies of Anglo-Saxon England and which the Department of Anglo-Saxon, Norse, and Celtic continues to seek to emulate. The Department has wished to commemorate Dr Quiggin's contribution by establishing in his name, and with the support of his family, an annual lecture and a series of pamphlets. The focus initially was on the sources for Mediaeval Gaelic History. Since 2006 the Quiggin Memorial Lecture is on any aspect of Celtic and/or Germanic textual culture taught in the Department.

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PREFACE

It was a great pleasure and an honour for me to be invited to give the Quiggin Lecture on the Sources of Mediaeval Gaelic History. It is an awesome honour to be asked to follow John Carey's lucid and perceptive first Quiggin Lecture and Pamphlet on *The Irish National Origin-legend*, which so successfully established an extremely high standard for the series. It is also a particular pleasure to be asked to contribute to a series dedicated to the memory of one of the most eclectic of the great Celtic scholars, who in his brief career managed to encompass almost all the many areas of Celtic studies.

It is obviously appropriate, given that Quiggin was a Manxman, that this series bearing his name should be devoted to Gaelic history. I feel, however, that this is a particularly important and imaginative enterprise as far as the study of Scottish, Irish, and Manx history is concerned. There has in recent years been a growing realisation among historians writing in English that the past is not always best understood by interpreting it chiefly as English, Irish, Scottish, or Welsh. There is a new appreciation of other approaches which cut across national boundaries, for instance by examining the history of lands and islands within and around the Irish Sea and the North Channel, or by exploring the history of Britain and Ireland as a whole. This is not to deny England, Ireland, Scotland, and Wales their own histories; it is, instead, to encourage a wide range of perspectives. We live in an exciting era in the study of history, in which national histories have lost their sovereignty, leaving us free to discover and explore the kaleidoscope of concentric and overlapping fields of vision offered, sometimes only fleetingly, by the past. In this new historiographical world Gaelic history can take its place as one of the most fertile fields for future study. It is well known that throughout most of the middle ages (and beyond) a single language, culture, and (in many respects) society stretched from Munster to Moray and, in the central middle ages, from Inishboffin in the Atlantic to Inchcolm in the North Sea. Yet Gaeldom's history has still to be written. Most Scottish and Irish historians still (like myself) tend to focus their output on their own countries and see themselves as Scottish or Irish historians. There is nothing wrong with this, of course. Few

scholars, however, would advertise themselves as both Scottish *and* Irish historians, even those who could justifiably do so. It must be hoped that this series will provoke more of today's historians into attempting a pan-Gaelic perspective even if, like myself, they are only at home in either Scotland or Ireland; and, most of all, it must be hoped that the series will encourage a new generation to espouse Gaelic history. It may seem, on the face of it, slightly odd that this series should be initiated neither in a Scottish nor in an Irish university, but in a university and a country where, as David Dumville has memorably put it in his memoir of E.C. Quiggin, 'we still struggle against the anaesthetic of anglocentricity'. It is not at all a surprise, however, that the Department of Anglo-Saxon, Norse & Celtic should be the sponsor, given its track-record as a pioneer in offering students a broad vision of mediaeval culture and history, in teaching the skills which a historian needs in order to gain a proper understanding of sources, and especially in teaching Gaelic history.

Dauvit Broun

THE CHARTERS OF
GAELIC SCOTLAND AND IRELAND
IN THE EARLY AND CENTRAL MIDDLE AGES

The bulk of the material which I shall be discussing belongs to the twelfth century;[1] and if we think of the charters of this period, the kind of document which is likely to come to mind is represented by the following example in Latin.[2]

> Dauid, Dei gratia rex Scottorum, omnibus baronibus suis et hominibus et amicis Francis et Anglis salutem.
>
> Sciatis me dedisse et concessisse Roberto de Brus Estrahanent et totam terram a diuisa Dunegal de Stranit usque ad diuisam Randulfi Meschin'; et uolo et concedo ut illam terram et suum castellum bene et honorifice cum omnibus consuetudinibus suis teneat et habeat, uidelicet cum omnibus illis consuetudinibus quas Randulfus Meschin' unquam habuit in Carduill' et in terra sua de Cumberland', illo die in quo unquam meliores et liberiores habuit.
>
> Testibus Eustachio filio Iohannis et Hugone de Morvill' et Alano de [Perci] et Willelmo de Sumeruill' et Berengario Engaine et Randulfo de Sules et Willelmo de Morvill et Herui filio Warini et Edmundo Camerario. Apud Sconam.

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[1] I define the Latin charters of Gaelic Scotland and Ireland as those which were authenticated by Gaels (among whom I include the increasingly 'Europeanised' kings of Scots in this period). In what follows I have made an attempt to avoid excessive duplication with the valuable discussion, of charters as a source, by Bruce Webster, *Scotland from the Eleventh Century to 1603* (London 1975), pp. 67-86.

[2] Edited by Archibald C. Lawrie, *Early Scottish Charters prior to A.D. 1153* (Glasgow 1905), pp. 48-9 (no. LIV). For a text with translation see G. Donaldson, 'Aspects of early Scottish conveyancing', *apud* Peter Gouldesbrough, *Formulary of Old Scots Legal Documents* (Edinburgh 1985), pp. 153-86, at 161-2. For a photograph of the original, see G.W.S. Barrow, *Scotland and its Neighbours in the Middle Ages* (London 1992), plate 1(a) between pp. 94 and 95. It is usually dated 1124, by which time Ranulf Meschin had already ceased to hold Cumberland and Carlisle. William E. Kapelle, *The Norman Conquest of the North: the Region and its Transformation* (London 1979), p. 207, has suggested that Brus held Annandale as early as 1116x1120.

David, by the grace of God king of Scots, to all his barons, men, and friends, French and English, greeting.

Know ye that I have given and granted to Robert de Brus *Srath Anann*[3] and all the land from the boundary of Dúngal of *Srath Nith*[4] to the boundary of Ranulf Meschin; and I will and grant that he should hold and have that land and its castle well and honourably with all its customs, namely with all those customs which Ranulf Meschin ever had in Carlisle and in his land of Cumberland on that day in which he had them most fully and freely.

The text closes with a list of witnesses and finally a place-date: 'at Scone'. Originally the document would have had the seal of the grantor attached to the bottom. This is the famous charter of King David I, granting Annandale to Robert de Brus. Original documents of this sort, which may be referred to generally as the Latin charter, are found in reasonable numbers from the Gaelic world of the mid- and late twelfth century. The great majority — about 165 — comprises charters of the kings of Scots, although most of the charters which relate to the Gaelic regions of their realm survive only as copies.[5] The earliest probably original charter of a king of Scots

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3 *Estrahanent*, viz Annandale. The first element could be either Gaelic *srath* or Old Cumbric *strat* (Modern Welsh *ystrad*). If the former, then the first syllable may simply be an example of the same phenomenon which produced the first syllable in *Ecosse* (bearing in mind that the scribe was probably a French-speaker: see Barrow, *Scotland and its Neighbours*, p. 102). The final syllable of *Estrahanent* was understood by W.J. Watson, *The History of the Celtic Place-names of Scotland* (Edinburgh 1926), p. 55, to be a masculine *n*-stem genitival inflexion.

4 *Stranit*, viz Nithsdale. Both Annandale and Nithsdale have *baile* place-names: see the map given by W.F.H. Nicolaisen, *Scottish Place-names: their Study and Significance* (Edinburgh 1976), p. 126 — although, as Professor Barrow has reminded me, there is a striking contrast: there are substantial numbers of Gaelic settlement-names west of the Nith, while in Annandale they are much thinner on the ground. Liam Price, 'A note on the use of the word *baile* in place-names', *Celtica* 6 (1963) 119-25, argued that *baile* place-names in Ireland were coined only from the twelfth century. The earliest *baile* place-names of Scotland are probably of similar date (probably late eleventh-century). Scotland's *baile* place-names are currently being researched by Dr Simon Taylor of the Institute of Scottish Studies, University of St Andrews: I have greatly benefitted from discussing the subject with him.

5 The figure has been calculated from *Early Scottish Charters*, ed. Lawrie; G.W.S. Barrow, 'The charters of David I', *Anglo-Norman Studies* 14 (1991) 25-37, at p. 25; *Regesta Regum Scottorum, I, The Acts of Malcolm IV*, ed. G.W.S. Barrow (Edinburgh 1960), p. 57; and *Regesta Regum Scottorum, II, The Acts of William I*, edd.

belongs to Donnchad mac Maíl Choluim (1094).[6] Only two originals survive of charters given by Irish kings before 1200, of which the earliest, given by Diarmait Mac Murchada, dates from 1162x1165.[7] Two original charters of the kings of Mann survived until the eighteenth century, the earliest of which bore the seal of Gu∂rö∂r (Godred) Ólafsson (1153-87),[8] and a late twelfth-century original charter of a king of the Isles was copied in a notarial instrument in 1426.[9] By way of comparison, about 750 English royal charters of the twelfth century survive as originals.[10] Thankfully, many charters were transcribed before the originals perished. In total, therefore, the texts of about 750 Scottish royal charters still survive — but not all of these relate to the Gaelic areas of the kingdom.[11] The figure for Irish

G.W.S. Barrow & W.W. Scott (Edinburgh 1971), p. 68 (but excluding originals later than 1200, *ibid*., pp. 401-72, *passim*).

[6] *Early Scottish Charters*, ed. Lawrie, p. 10 (no. XII). The charter, and probably the seal also, was produced at Durham, the document's beneficiary. See G.W.S. Barrow, 'The kings of Scotland and Durham', in *Anglo-Norman Durham, 1093-1193*, edd. David Rollason *et al*. (Woodbridge 1994), pp. 311-23, at 314-15. The charter's status has been the subject of controversy: see J. Donnelly, 'The earliest Scottish charters?', *Scottish Historical Review* 68 (1989) 1-22, and A.A.M. Duncan, 'The earliest Scottish charters', *Scottish Historical Review* 37 (1958) 118-25. If, as seems probable, Gaelic was spoken by at least a few freeholders in Annandale in the early twelfth century (see nn. 3 & 4, above), then a case can be made for regarding the charter of David I to Robert Brus, quoted above, p. 1, as the earliest surviving original royal charter pertaining to what was (if only sparsely) a Gaelic area. (I am grateful to Professor Barrow for sending me a detailed and very helpful discussion of the limitations of Gaelic settlement in Annandale.)

[7] J.H. Bernard & C.M. Butler, 'The charters of the Cistercian abbey of Duiske in the county of Kilkenny', *Proceedings of the Royal Irish Academy* 35 C (1918-20) 1-188, at pp. 5-8. The other original is Domnall Mór Ó Briain's charter for Holycross Abbey (ed. William Dugdale, *Monasticon Anglicanum* [new edn, 6 vols in 8, London 1817-30], VI, pt 2, pp. 1137-8). My knowledge of these and other Irish charters has benefitted greatly from M.-T. Flanagan, 'The context and uses of the Latin charter in twelfth-century Ireland', in *Literacy in Medieval Celtic Societies*, ed. Huw Pryce (Cambridge 1996).

[8] B.R.S. Megaw, 'The ship seals of the kings of Man', *Journal of the Manx Museum* 6 (1957-65) 78-80, at p. 79.

[9] *Registrum Monasterii de Passelet*, ed. Cosmo Innes (Maitland Club, Edinburgh 1832), pp. 147-9. A.A.M. Duncan & A.L. Brown, 'Argyll and the Isles in the earlier middle ages', *Proceedings of the Society of Antiquaries of Scotland* 90 (1956/7) 192-220, at p. 198, have suggested a date later than 1192.

[10] T.A.M. Bishop, *Scriptores Regis* (Oxford 1961), p. 3.

[11] The earliest may be the foundation-charter of Alexander I for Scone, *ca* 1120: *Early Scottish Charters*, ed. Lawrie, pp. 28-30 (no. XXXVI), who argued (*ibid*., pp. 280-2) that

royal charters increases to ten.[12] It was not only the kings of Scots and the most powerful Irish kings who gave charters, of course. Some survive, for instance, from Scottish earls and a few from minor Irish kings.[13] Another major source of charters was the Church: Marie-Thérèse Flanagan has counted six originals issued by ethnically Irish ecclesiastics in the twelfth century and forty-five transcripts.[14] In Scotland, there are forty extant *acta* from the twelfth-century bishops of Glasgow alone.[15] Copies, however, may have been mistranscribed or even tampered with, and are clearly not as valuable as originals.

These statistics are, of course, only the statistics of survival, not of the original number of charters. It takes especially favourable conditions for a body of originals to survive. Where originals are lost, their texts will often survive because they have been copied into a codex compiled in a monastery or cathedral as a record of its charters. Again, however, the accidents of survival will distort the picture. In Gaeldom as a whole, the only area which is at all well

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it is spurious. See also A.A.M. Duncan, *Scotland: the Making of the Kingdom* (Edinburgh 1975), pp. 640-1, who has described the problem of its authenticity as 'formidable'. Geoffrey Barrow has, however, offered strong arguments for accepting that 'it seems at least as likely that the charter is genuine' (*Regesta*, I, ed. Barrow, pp. 36-7).

12 Flanagan, 'The context'. The earliest (1156/7) is Muirchertach Mac Lochlainn's foundation-charter for the abbey of Newry (ed. Dugdale, *Monasticon*, VI, pt 2, pp. 1133-4). There are also lost charters which are referred to in later confirmations, such as a charter for Jerpoint Abbey from Domnall Mac Gilla Phátraic, king of Osraige, and a charter of Domnall Mór Ó Briain for Kilcooly (*ibid*., VI, pt 2, pp. 1131-2).

13 The only Gaelic earldom in Scotland whose charters have been systematically edited and studied is Strathearn: see Cynthia J. Neville, 'The Earls of Strathearn from the Twelfth to the Mid-fourteenth Century, with an Edition of their Written Acts' (unpublished Ph.D. dissertation, 2 vols, University of Aberdeen 1983) (vol. II for edition). (Most of the earls' twelfth- and thirteenth-century charters were previously edited by J. Dowden *et al*., *Charters, Bulls and other Documents relating ot the Abbey of Inchaffray* [Scottish History Society 1908] and *Liber Insule Missarum*, ed. Cosmo Innes (Bannatyne Club, Edinburgh 1847). Charters of the king of Uí Dúnchada and his wife, Derbfhorgaill daughter of Diarmait Mac Murchada were published in *Cartularies of St Mary's Abbey, Dublin* (2 vols, London 1884), I.31-3. For a charter of Diarmait Ua Díomasaig, king of Uí Fhailge, see Dugdale, *Monasticon*, VI, pt 2, p. 1134.

14 Flanagan, 'The context'.

15 Norman F. Shead, 'The Diocese of Glasgow in the Twelfth and Thirteenth Centuries, with an Edition of the Bishops' *Acta* c. 1140-1258' (unpublished B.Litt thesis, University of Glasgow 1965).

represented in the twelfth century is Fife, which has thirteenth-century cartularies of two major religious houses, the abbey of Dunfermline and the priory of St Andrews.[16]

In the light of these comments it should not be surprising that the Church is the beneficiary of the bulk of surviving charters. All ten charters from Irish kings record grants to the Church.[17] Of the 161 full texts of charters of Mael Coluim IV, king of Scots (1153-65), no fewer than 150 relate to the Church.[18] A further consideration is that this period saw an upsurge in new monastic foundations across Gaeldom — a few Benedictine houses, but mainly houses of the new orders which captured the imagination of the Gaelic world as they did of Europe in general.[19] All entailed substantial endowments by the original patron, often followed by smaller grants by his successors, friends, and followers. Taking the seventy-six charters of Mael Coluim IV relating specifically to his kingdom's Gaelic heartland north of the Forth and south of the Mounth, for instance, seventy were issued to the Church or to individual clerics, of which sixty-four were for the benefit of monasteries which had been founded, re-founded, or

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16 *Registrum de Dunfermelyn*, ed. Cosmo Innes (Bannatyne Club 1842); *Liber Cartarum Prioratus S. Andreae in Scotia*, ed. T. Thomson (Bannatyne Club 1841). The former contains copies of indubitably authentic charters dating from 1124; the latter contains copies from 1144 (not including the Loch Leven records, for which see below, nn. 116-117). The latter was lost for a while during this century. Lay cartularies are very rare throughout the middle ages: the earliest Scottish example is that of Douglas of Morton in the late fourteenth century; cf. Webster, *Scotland*, pp. 61-2, and G.R.C. Davis, *Medieval Cartularies of Great Britain. A Short Catalogue* (London 1958), pp. 139-56 (but he missed the Douglas volume).

17 Flanagan, 'The context'. For some examples, see Dugdale, *Monasticon*, VI, pt 2, pp. 1131-4, 1136-42; and cf. n. 7, above.

18 *Regesta*, I, ed. Barrow, p. 57.

19 For Scotland, see especially G.W.S. Barrow, *The Kingdom of the Scots* (London 1973), pp. 165-211, and, for the reform-movement in Ireland in general, Aubrey Gwynn, *The Irish Church in the Eleventh and Twelfth Centuries* (Dublin 1992). In the twelfth century monasteries were founded by kings of Scotland, Ireland (Muirchertach Mac Lochlainn, *rex totius Hibernie*: ed. Dugdale, *Monasticon*, VI, pt 2, p. 1133), Galloway, the Isles, Mann, Ulster, Meath, Leinster, Ossory, Thomond, Desmond, and Connaught. See Aubrey Gwynn & R.N. Hadcock, *Medieval Religious Houses: Ireland* (London 1970), pp. 102-200, *passim*; Ian B. Cowan & D.E. Easson, *Medieval Religious Houses: Scotland* (2nd edn, London 1976), pp. 55-104, *passim*.

raised to the rank of abbey by himself or his immediate predecessor, David I.[20]

In contrast, the number of extant charters to lay individuals is strikingly small. For instance, only eleven of Mael Coluim's 161 fully surviving charters were issued to laymen.[21] Many, of course, must have been lost; proportionately more charters to lay individuals have doubtless disappeared than charters to the Church.[22] Even so, of all Mael Coluim's known or suspected charters the proportion issued to lay individuals remains small: thirty-five out of 213. No doubt many more have vanished without trace, but so too, equally, have some charters to monasteries whose cartularies have perished (or whose archivists, perhaps, never kept one).[23]

The kings of Scots were not typical of the majority of Gaelic kings and magnates in this period, however. If anything, they were the most likely to have given charters to the laity, if only because they, more than any other Gaelic kings, had the resources and the opportunity to make numerous grants to laymen and to produce charters to order. No trace remains of a charter issued by an Irish king to a lay individual. The statistical base is so small, however, that it would be dangerous to conclude that none ever existed. There is one Gaelic magnate whose charters survive in sufficient numbers to allow some sensible comment, though not any hard-and-fast

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[20] The figures have been calculated from *Regesta*, I, ed. Barrow (but do not include as charters for a new foundation the four issued to the hospital of St Andrews, which was taken by the bishop of St Andrews from *céli Dé* and *personae* of the cathedral and made a dependency of the canons). Mael Coluim himself founded only one abbey (Coupar Angus, *ca* 1161) and a nunnery (Manuel, near Falkirk). He elevated Scone and Jedburgh to the status of abbey. (He also conveyed Restenneth to Jedburgh, thus making it an Augustinian priory.) Only Coupar Angus, Scone, and Restenneth are north of the Forth.

[21] *Regesta*, I, ed. Barrow, p. 57. The eleven include two which survive only in the archives of an ecclesiastical institution which succeeded to the grant.

[22] Of the fifty-two lost charters adduced by Barrow (not all of them certainly charters of Mael Coluim), twenty-four relate to lay individuals; of these, however, there is positive evidence for only eight charters (*ibid*., pp. 278-87). See also below, p. 00 & n. 0.

[23] *Regesta*, I, ed. Barrow p. 58, where it is noted, *inter alia*, that the cartulary of Mael Coluim's foundation, Coupar Angus, is lost, although some transcripts were made by Balfour of Denmilne in the seventeenth century. See also the observation, about the selectivity of the Lindores cartulary, by Keith J. Stringer, *David, Earl of Huntingdon 1152-1219: a Study in Anglo-Scottish History* (Edinburgh 1985), p. 154.

conclusions. He is Gille Brigte (Gilbert), earl of Strathearn from 1171 to 1223, whose charters have recently been edited and discussed by Cynthia Neville.[24] Although Gille Brigte was not in the same league as an Irish provincial king, he did have sufficient resources to found an Augustinian priory at Inchaffray in 1200.[25] Twenty-seven of his charters survive (seventeen as originals), dating mostly from the first decade of the thirteenth century.[26] The great majority relates to the monastery at Inchaffray, and only one is for a layperson (although the existence of three others has been posited by Cynthia Neville). The principal lay beneficiaries, moreover, were his children, arguably in response to circumstances quite untypical of twelfth-century Gaeldom in general.[27]

The issue of how frequently charters recording grants to lay individuals were produced in this period is difficult and contentious. Geoffrey Barrow has commented of Mael Coluim IV that 'the practice of issuing written documents for laymen was in no way uncommon',[28] while Keith Stringer has said of Mael Coluim's brother David, earl of Huntingdon, that 'it would be rash to assume that laymen had less use for written titles' than ecclesiastical

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[24] Neville, 'The Earls'.

[25] There was a community described as the 'brethren of St John' at Inchaffray before the foundation of the Augustinian priory. See *Charters, Bulls and Other Documents relating to the Abbey of Inchaffray*, edd. J. Dowden *et al.* (Scottish History Society, Edinburgh 1908), pp. xxiv, 1-2, 4-5.

[26] Neville, 'The Earls', I.301, and discussion on pp. 252-3, 300-4. A comparison with the larger (though by no means substantial) number of original charters to lay beneficiaries issued by Gille Brigte's contemporary, David (*ob*. 1219), earl of Huntingdon and brother of King William, is instructive (see n. 29, below), and suggests (as Neville has pointed out) that the small number of charters to laity in the case of Earl Gille Brigte (and his successor) is not simply a matter of poor survival.

[27] *Ibid.*, I.302 and 273-4: Earl Gille Brigte recorded grants in charters to his sons Fergus and Gille Brigte and his son-in-law Walter son of Alan. Neither Fergus nor Gille Brigte had a realistic chance of succeeding to the earldom if primogeniture were established. These grants may be interpreted, therefore, as part of an arrangement to make sure that primogeniture prevailed — as it did on Earl Gille Brigte's death at a considerable age in 1223. (Changing laws of succession with regard to earldoms have been discussed by Duncan, *Scotland*, pp. 199-200.) The charters to Gille Brigte's sons were probably intended to secure what they had gained by the arrangement. Gille Brigte's charter of frank-marriage, to his daughter and her husband, would also have been innovatory.

[28] *Regesta*, I, ed. Barrow, p. 57.

corporations: 'quite simply', he continued, 'chances of survival have operated against the records of the private individual or family and in favour of the archives of religious institutions'.[29] Clearly this has contributed to the very strong representation of religious houses, but it is not the whole story. It is notable, for instance, that the proportion of Scottish royal charters for the laity increases dramatically in the late twelfth century,[30] while in the earldom of Strathearn a similarly striking increase is witnessed in the mid-thirteenth century.[31] This suggests that the earlier dearth of charters to the laity is not simply a matter of a poor rate of survival. Although the statistical base is too limited to support any firm conclusions, a pattern does seem to emerge which suggests that the first generation of charters was indeed predominantly for ecclesiastical beneficiaries, particularly new foundations. A further consideration is that the main producers of charters are likely to have been monasteries — and mostly for their own benefit. Cynthia Neville's analysis of Earl Gille Brigte's charters has led her to conclude that they were produced by the

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[29] Stringer, *David*, p. 153; for an edition of Earl David's *acta*, see pp. 220-70. From this it can be calculated that of his charters to beneficiaries relating to Scotland north of the Forth (David was lord of the Garioch and held lands in Angus), there survive two originals and seventeen full transcripts for new monastic foundations, and five originals but only one full transcript for laity. Of lost and fragmentary charters there are two (perhaps three) for new foundations and five for lay individuals (three are fragments found in one source, sixteenth- or seventeenth-century abstracts in the Mar and Kellie muniments: see charters nos 8-10 in Stringer's edition). Stringer has commented (p. 153) that nearly all Earl David's extant charters were issued later than 1185.

[30] The proportion of charters to laity issued by Mael Coluim's successor, William I (1165-1214), is 23% of all full surviving charters, as against 7% of Mael Coluim's. The proportion of lost but traceable or adduced acts to lay individuals shows a similar jump: 71% of William's, as against 43% of Mael Coluim's (*Regesta*, I, ed. Barrow, p. 57; II, edd. Barrow & Scott, p. 68). The *acta* of Alexander II (1214-49) and Alexander III (1249-86) await publication. Handlists have, however, been produced under the auspices of the Conference of Scottish Medieval Historical Research: J. Scoular, *Handlist of Acts of Alexander II* (1959), and G.G. Simpson, *Handlist of the Acts of Alexander III, Guardians and John* (1960). The total extant *acta* of Alexander II and Alexander III listed in these handlists are 396 for Alexander II and 283 for Alexander III: the proportion of these which are for lay beneficiaries is roughly the same (about 20%) as the proportion of full surviving charters of William I to the laity. This consistency makes it seem unlikely that the significant difference between the proportion of extant charters to lay beneficiaries in the reigns of Mael Coluim and William is simply an accident of survival over six centuries (but the figures would no doubt benefit from closer scrutiny).

[31] Neville, 'The Earls', I.273 and 301 ff.

canons of Inchaffray if they or a lay individual were the beneficiary.[32] If this was true for Earl Gille Brigte, it was doubtless true of any other earl in this period.[33] Marie-Thérèse Flanagan has shown that Diarmait Mac Murchada's three surviving complete charters were produced by scribes employed by beneficiaries, all of them new monastic foundations (or, to be precise, by their abbots).[34] Also, some Scottish royal charters were produced by monastic beneficiaries[35] — even though from the time of David I (at least) clerks in the royal household are known to have written charters.[36] This does not mean that monastic charter-writers would have had a free hand. Charters were, as a rule, authenticated with the donor's seal. If the donor did not possess a seal, then his lord could append his seal to the document.[37] It has even been suggested that, lower

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[32] *Ibid.*, I.339.

[33] There is an example of an original charter from an earl (Gospatric of Dunbar, admittedly not a Gael), which appears to have been produced by a royal scribe: *Regesta*, I, ed. Barrow, pp. 85, 196; *ibid.*, Barrow has taken it and its royal confirmation as written by the same royal scribe.

[34] Flanagan, 'The context'. For the texts, see Bernard & Butler, 'The charters', pp. 5-8; and Dugdale, *Monasticon*, VI, pt 2, pp. 1140-2.

[35] The most obvious examples are the charters of confirmation issued by Mael Coluim IV and William I to Dunfermline Abbey, which stand out as the only diplomas issued by these kings: *Regesta*, I, ed. Barrow, pp. 59, 182-5; *Regestas*, II, edd. Barrow & Scott, pp. 69, 140-2, and also p. 70, where Barrow has commented that 'in the earlier decades of [William's] reign, it was clearly not uncommon for documents in classes (1) to (5) [charters, but not brieves *stricto sensu*] to be produced by the beneficiaries themselves'. Of Mael Coluim's twenty-seven originals, Barrow has found that seven or eight are in the hand which he has designated 'A', and three are in hand 'B' (*Regesta*, II, edd. Barrow & Scott, p. 84, superseding *Regesta*, I, ed. Barrow, p. 86). The charters in these hands are to a number of different beneficiaries. For examples of charters of Mael Coluim's brother, David, earl of Huntingdon, produced by monastic beneficiaries, see K.J. Stringer, 'The charters of David, earl of Huntingdon and lord of Garioch: a study in Anglo-Scottish diplomatic', in *Essays on the Nobility of Medieval Scotland*, ed. Keith J. Stringer (Edinburgh 1985), pp. 72-101, at 79.

[36] Barrow, *Scotland and its Neighbours*, p. 102.

[37] A notable (if late) example is a charter listing grants of a shilling (or, in one case, 20d.) by eleven Munster noblemen and their wives to Cîteaux, which is authenticated with the seal of Donnchad Cairprech Ó Briain, king of Thomond (1210-42). The greater part of the document was published by G.H. Orpen, 'Some Irish Cistercian documents', *English Historical Review* 28 (1913) 303-13, at pp. 308-9. A Scottish example is a charter of Ysenda, countess of Strathearn, authenticated with the seal of the bishop of Dunblane (1221x1223) (see *Charters, Bulls and other Documents relating to the Abbey of Inchaffray*, edd. Dowden *et al.*, no. XLVI).

down the social scale, land might be granted in alms as if it were, in fact, a gift made by the donor's lord himself.[38] There was, of course, an opportunity for forgery. It appears, however, that this was not common in twelfth-century Gaeldom; but the matter has not benefitted from a systematic study. There is, as might be expected, a number of charters purporting to be as old as the twelfth century but in fact concocted or tampered with later.[39]

The impression that the Latin charter in this period was chiefly an ecclesiastical, indeed monastic, concern is reinforced if its usage in England — where there is a relative abundance of surviving examples — is taken into account. In general, it has been observed that 'in the twelfth century magnates used documents occasionally and they and the gentry made gifts for religious houses by charter because the monks wanted this'.[40] For even the greatest magnates, charters recording their donations were often written by beneficiaries, mainly religious houses. Moreover, only about 450 of the approximately 750 original twelfth-century royal charters have been shown to have been written by royal scribes.[41] If charters were mainly the concern of religious houses in twelfth-century England, I can see no reason why the same should not be true of Gaeldom also.

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38 Webster, *Scotland*, p. 75. A possible example could be the donation of the land of Ailfric the mason at (?)*Leth mac Dubgaill* (*Ledmacduuegil* in Barrow's edition) in Dunfermline to Dunfermline Abbey, recorded in a charter of Mael Coluim IV (*Regesta*, I, ed. Barrow, p. 178). This may have been Ailfric's bequest, but there is no way of knowing.

39 See Webster, *Scotland*, pp. 79-80, and discussion of some examples in *Regesta*, I, ed. Barrow, pp. 83, 95. There are also forged charters created in the name of Mael Coluim II (1005-34) and Mael Coluim III (1058-93) (*Early Scottish Charters*, ed. Lawrie, pp. 4-5 [no. IV] and 8-9 [no. X]).

40 Michael Clanchy, *From Memory to Written Record: England 1066-1307* (2nd edn, Oxford 1993), p. 53. For example, of the charters of William, earl of Gloucester (1147-83), twenty-four are to lay individuals, eighty-eight to the Church (mainly monasteries). If 'lost' charters are included, the figures are thirty-six and 124 (calculated from *Earldom of Gloucester Charters*, ed. Robert Patterson [Oxford 1973]). The figures for the Honour of Mowbray 1130-91 (including fragmentary charters) are seventy-one for lay individuals and 311 for religious beneficiaries (again, chiefly monasteries). Those to lay beneficiaries divide roughly equally between 1130-*ca* 1170 and *ca* 1170-1190, the figures suggesting that charters to laity were becoming more common (calculated from *Charters of the Honour of Mowbray*, ed. D.E. Greenway [London 1972], schedule on pp. 1-3).

41 Bishop, *Scriptores Regis*, pp. 10-11.

Now it might be protested that charters represent legal title to property and as such must have been of fundamental concern to lay landholders. Indeed, some scholars see the charter as among the most important of the trappings of 'feudal society', 'a tangible symbol of land conveyance and tenure'.[42] One scholar's sound-bite for the 'feudalisation' of Scotland from David I onwards is the 'Age of Charters'.[43] A crucial consideration pin-pointed by Michael Clanchy, however, is contemporary attitudes to written records. He has observed that 'laymen used documents among themselves as a matter of habit only when they became sufficiently familiar with literate modes to trust them', which in England did not occur, he argued, until the thirteenth century.[44] It is well known that, especially in this period when lay literacy was uncommon, ownership of land was established not by a piece of writing but by the performance of a public ceremony which would be remembered, such as receiving a sod of earth or a symbolic object on the altar.[45] In the Augustinian account of the St Andrews foundation-legend (written in 1144x1152), it was envisaged that the Pictish King Hungus memorialised his grant of St Andrews to God and St Andrew by taking hold of a turf in the presence of the Pictish nobles and carrying it to the altar of St Andrew where he placed it.[46] Acts of this sort continued to be crucial beyond the twelfth century in establishing ownership of land. According to Bracton, writing in thirteenth-century England, no gift was valid if the beneficiary had not ceremonially taken possession by receiving a symbolic object from the donor; 'for,' he explained, 'the thing given is transferred not

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42 Neville, 'The Earls', I.254.

43 R.L. Graeme Ritchie, *The Normans in Scotland* (Edinburgh 1954), p. 185.

44 Clanchy, *From Memory*, p. 53; and see especially pp. 254- .

45 For a detailed discussion, see *ibid.*.

46 *Chronicles of the Picts, Chronicles of the Scots, and Other Early Memorials of Scottish History*, ed. W.F. Skene (Edinburgh 1867), pp. 183-93, at 187. For the dating, see Barrow, *The Kingdom*, p. 172, n. 32. The same source gives an account of how Alexander I took his Arab steed and armour up to the altar in the church at St Andrews, symbolising thus his restoration of property to that church. For another example see King Étgair's charter recording his gift of Swinton to Durham, in which he says that 'he offered the endowment on the altar and gave it': *Early Scottish Charters*, ed. Lawrie, pp. 17-18 (no. XX).

by homage, nor by the drawing up of instruments, even though they be recited in public'. A gift, he stated, 'may be valid though no charter has been made … and conversely the charter may be genuine and valid and the gift incomplete'.[47] In Scots law the handing over of earth and stone on land being granted was a requirement until as late as 1845.[48] The charter, moreover, typically used the past tense. It self-evidently followed the grant itself, sometimes 'in leisurely fashion', to use Geoffrey Barrow's phrase.[49] Only later did it become usual or a necessity to have a charter *before* possession could be ceremonially enacted and established — as early as the first half of the thirteenth century in England,[50] but probably later in Scotland where the earliest recorded instance was in 1271.[51] All this should warn us against assuming that on every occasion when the king granted land in the twelfth century it was recorded by charter.[52]

Michael Clanchy has observed that 'writings seem to have been thought of at first as subsidiary aids to traditional memorizing

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[47] Quoted by Clanchy, *From Memory*, p. 260.

[48] Gouldesbrough, *Formulary*, p. 107. Kenneth Nicholls ('Anglo-French Ireland and after', *Peritia* 1 [1982] 370-403, at p. 374) has referred to a statute of Alexander II in 1230 (*Acts of the Parliament of Scotland*, I [1844], pp. 400-1 [red pagination]) as drawing 'a sharp line of social — and legal — distinction between those who held their land by military tenure or other free service by charter' and peasants and those without a freeholding. It is not clear, however, that the statute equates charters with freeholders. The text reads '… miles uel filius militis uel aliquis libere tenens in feodo militari uel aliquis alius terram suam aliquo modo tenens per cartam in feodo per liberum seruicium uel per fie de hauberk uel eorum filii …', which may be translated, 'a knight or son of a knight or someone freely possessing a military fee, or anyone else possessing his land in some other way by charter in fee, by free service, or by fee of hauberk, or their sons', which would suggest that, while those with charters were freeholders, not all freeholders had charters.

[49] Barrow, *Scotland and its Neighbours*, p. 94. See also the comments of Donaldson, 'Aspects', p. 166.

[50] Clanchy, *From Memory*, p. 52.

[51] Donaldson, 'Aspects', p. 170.

[52] For instance, only eight of the twenty-four 'lost' charters of Mael Coluim IV to lay individuals are explicitly mentioned in the references to them. The others are often deduced, chiefly from the fact that grants were made, rather than from positive evidence for the charters themselves. The likelihood that William's reign saw an increase in the issuing of charters to lay individuals is supported by the corresponding figures for his 'lost' charters: out of a total of forty, there is positive evidence for twenty-three as charters. See *Regesta*, I, ed. Barrow, pp. 283-7; II, edd. Barrow & Scott, pp. 476-81.

procedures and not as replacements of them'.[53] An obvious case in point is David I's charter granting Annandale to Robert de Brus, which I gave earlier.[54] It fails to detail the service which Robert owed to the king, and assumes, when it says that Robert's rights in Annandale will be the same as those exercised by Ranulf Meschin in Carlisle and Cumberland, that whoever might read the charter would know about Ranulf Meschin's lordship. It is only from other sources that it can be deduced that Robert's (and therefore Ranulf Meschin's) rights included criminal jurisdiction and that Robert owed the service of ten knights to the king.[55] Clearly the charter is not a precise or complete record of the grant. The details were, no doubt, given orally and expressed symbolically and would have been established and remembered by such tokens.

The subsidiary role of the charter also helps to explain one of its most striking features in this period: the noticeable variation in form and formula, layout and physical appearance. This is to some extent a result of monastic beneficiaries' producing charters to record their endowments: different scribes in different places would have their own procedures and habits. It is significant, however, that, even though the king of Scots employed his own scribes for some, at least, of the charters in his name, variation in clerical practice continued to be widespread, if less so towards the end of the century.[56] Twelfth-century Scottish royal charters cannot usefully be distinguished from notifications, mandates, precepts, or the like. As Geoffrey Barrow has observed, 'before 1165 — indeed, we may say, before 1214 — we are dealing with prototypes rather than actual

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[53] Clanchy, *From Memory*, p. 327.

[54] See above, p. 1.

[55] Williams I's confirmation (1165x1173) specifies the knights' service owed by Brus for Annandale. Brus's judicial powers are vividly brought to light in the account of how St Malachy cursed Brus for hanging a thief despite assuring the saint that clemency would be shown: *Regesta*, II, edd. Barrow & Scott, pp. 48, 50, 178-9. For discussion of this aspect of Earl David's charters, see Stringer, 'The charters of David', p. 77, where he has observed that 'local knowledge and the memory of those who saw the donee put in possession were still of importance in the conveyancing illustrated by the charters in this collection' (that is, Earl David's), charters belonging chiefly in the period *ca* 1185-1219.

[56] *Regesta*, II, edd. Barrow & Scott, pp. 69-70. See also Barrow, *Scotland and its Neighbours*, pp. 101-2.

examples of the Charter, Letters-Patent and Letters-Close familiar to a later age'.[57]   And he seems to have captured the spirit of the age when he observed that 'the clerks were not categorizing but luxuriating among a large (but not infinite) range of variations in verbal formulae': they were not 'patient experimenters systematically trying now one method and now another until they obtained a result already envisaged; rather', he continued, 'were they pioneers blazing trails across virgin prairie, only some of which proved passable in the long run or were found to be leading to some place to which people actually wanted to go'.[58]   As long as remembering ceremonies rather than reading documents was regarded as more important, such clerical freedom was unlikely to be a problem.   If charters were to assume equal or greater significance as a matter of course, however, then standardisation became important, not least to counter forgery.   By becoming standardised, they would become less individual but also more official.[59]   The problem of 'false charters' was broached in one of King William's statutes;[60] but it was only towards the very end of the century that, for instance, the writers of Scottish royal charters began to make systematic use of a time-date, and not until *ca* 1222 that the full dating clause of place, day of month, and regnal year became standard.[61]   Only when the volume of business increased and standardisation became concomitantly important would it have become necessary for kings and magnates to take the production of charters out of the hands of beneficiaries and more into the control of their household-staff.[62]

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[57]   *Regesta*, I, ed. Barrow, p. 59.

[58]   Barrow, *Scotland and its Neighbours*, p. 99.

[59]   See Clanchy, *From Memory*, pp. 295- .

[60]   *Acts of the Parliaments of Scotland*, I.373 (red pagination).

[61]   Barrow, *Scotland and its Neighbours*, p. 100.

[62]   The increase in business may be gauged by the development of more cursive handwriting. As far as Scottish royal charters are concerned, Geoffrey Barrow has noted how all genuine original charters issued in the last two decades of William's reign (*ca* 1195-1214) are written in cursive hands (*Regesta*, II, edd. Barrow & Scott, p. 84), a fact which implies that the scribes who wrote them were called upon frequently to write documents. Barrow has also noted (*ibid*., pp. 58, 70) that an increasing standardisation in form and formula is also in evidence: this suggests that, from *ca* 1195, royal charters were written almost exclusively by royal scribes (and copies kept on a roll). The charters

The freedom of twelfth-century charter-scribes was not unlimited, however. Latin, of course, was the language of these charters. The documents also shared the same basic form. The constituent parts normally included a style, address, and salutation (for example, 'William, king of Scots, to his bishops, abbots, earls, … and all the worthy men of his land, greeting'); a notification and disposition ('May those present and future know that I have given', etc.); a list of witnesses; and some form of dating (even if only a place-date). Some charters have other elements, such as a description of the bounds, a curse against any future infringers or a guarantee (that is, 'warrandice'); and the constituent parts could take different forms or enjoy a variety of similar expressions. There was, indeed, a veritable store-house of words and phrases used repeatedly. The disposition, for instance, would often include phrases like 'in fee and heritage', 'in wood and plain', 'in lands and waters', or such alliterative jingles as *cum sacca et socca* and *cum furca et fossa*.[63] Charter-scribes evidently used forms and formulas embedded in their consciousness or acquired from a number of exemplars; they rarely took a risk with their own fresh prose.

As a varied but structured, almost pre-packaged, approach to writing, it was wide open to influence from available models. The Scottish royal scribes often took their cue from English royal charters,[64] and, in turn, the practices of Scottish royal scribes appear to have been influential in other contexts within Scotland.[65] Scottish bishops' charters were also influenced by English episcopal *acta* as well as by the usage of the papal chancery.[66] For Ireland,

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of David, brother of William I (chiefly *ca* 1185-1219), betray 'instructive degrees of uniformity in *clausulae* and, where originals survive, in external appearance' (Stringer, *David, Earl of Huntingdon*, p. 154) but a wide variety of hands (Stringer, 'The charters of David', p. 79). As far as charters of the earls of Strathearn are concerned, standardisation and the regular appearance of cursive hands occur only in the time of Earl Mael Ísu II (1245-71) (Neville, 'The Earls', I.312, 321).

[63] For the significance of these last two phrases and the development of their use, see *Regesta*, II, edd. Barrow & Scott, pp. 48-51. In general see, for example, *ibid.*, p. 79, and Stringer, 'The charters of David', pp. 77-8.

[64] Barrow, *Scotland and its Neighbours*, pp. 101-2.

[65] For example, Neville, 'The Earls', I.353.

[66] For example, Shead, 'The Diocese', pp. 124-38.

Marie-Thérèse Flanagan has demonstrated the influence of the German imperial chancery on a charter of Diarmait Mac Carthaig, and she has deduced that in Ireland Continental influence was at least as important as, if not more important than, English influence before the Anglo-French invasions of 1169-71.[67]

The freedom which scribes enjoyed in applying tried and tested words and phrases could produce some unexpected results. Scottish royal charters (until *ca* 1180) often included a racial address — *Francis, Anglis, et Scotis* is particularly common.[68] Usually this was applied in a way appropriate to the area concerned. It might be trimmed down to *Francis et Anglis* if the charter related to Lothian, or be expanded to include *Galwalensibus*, 'to Galwegians', if it concerned Galloway.[69] On a few occasions, however, Galwegians are addressed quite inappropriately in charters relating to Fife.[70] This is not evidence for significant Galwegian immigration into Fife. It is, rather, the result of a scribe copying an exemplar unthinkingly, or being too eager to make his charter impressive.[71] Another curiosity is where a charter of confirmation is drafted as if it were an original grant. It has been argued that this may reflect the strength of the donor's position vis-à-vis the grantee, in that he could treat an inheritance as if it were a fresh gift.[72] Not only is it very rare, however, but it occurs where inheritance is not at issue.[73] I suspect,

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[67] Flanagan, 'The context'.

[68] *Regesta*, I, ed. Barrow, pp. 74-5; II, edd. Barrow & Scott, pp. 76-7.

[69] 'Welsh' are added in one charter relating to the diocese of Glasgow: *Regesta*, I, ed. Barrow, pp. 74, 272-3.

[70] Or, on one occasion, Welsh rather than Galwegians: *ibid*., pp. 74, 261.

[71] As Barrow has suggested: *ibid*., p. 74.

[72] Stringer, 'The charters of David', p. 76; cf. his comment on p. 96, 'The earl [David] could demonstrate his authority by "granting" rather than confirming earlier gifts — the use of *dedisse* indicating a strong control over the drafting and thus the involvement of household clerks'. See also Hector L. MacQueen, *Common Law and Feudal Society in Medieval Scotland* (Edinburgh 1993), pp. 40-1.

[73] Among Earl David's twenty-six complete surviving *acta* relating to Scotland north of the Forth, there is only one example. There are three instances among the earl's English charters, although (as Keith Stringer has observed) a lord's powers in England at this time hardly justified such phraseology ('The charters of David', pp. 76-7). (For an excellent recent discussion of the relationship between lords and 'tenants' see MacQueen, *Common Law*, pp. 33-73.) Among the charters of Gille Brigte, earl of

bearing in mind the subsidiary importance of charters, that it is probably only a scribal quirk, betraying a certain lack of care or experience in applying the appropriate formula for the occasion. Another textual curiosity, not without its own logic, is where an original witness-list has been merged with the witnesses to the confirmation, which can give the impression that the dead returned to rub shoulders with the next generation.[74] These and other oddities serve to emphasise that charters in this period are, first and foremost, texts built with varying degrees of care and competence from set-piece phrases, formulas, and exemplars. They are not, as a rule, a vivid snap-shot of reality or a dry, meticulous, and precise legal record.

Despite the variety enjoyed by scribes, charters are generally highly stereotyped and conventional, therefore. Gifts to the Church, for instance, are typically described as for the soul of the family, lord, or ancestors of the donor. The circumstances and motivation are not always so pure and simple, however. For example, the charter by which David I granted his peace to Tynemouth Priory, given during his campaign in northern England in 1138, declares that it is for the

Strathearn, there are three drafted as grants where confirmations would have been appropriate (Neville, 'The Earls', I.308, 370-1). These include instances where the beneficiary (Inchaffray Priory) produced the charter. There may be some examples among royal charters. In *Regesta*, I, ed. Barrow, pp. 186-7, there is a charter (no. 121, A.D. 1153x1156) in which Baldwin the Lorimer is granted his toft in Perth. This (as Barrow has pointed out, *ibid.*, p. 186, n. 2) is almost identical to the charter of David I to the same Baldwin (*Early Scottish Charters*, ed. Lawrie, p. 200, no. CCXLVIII). Another possible example of this phenomenon among royal charters are two in which Mael Coluim IV on each occasion 'gave' the toun of Gocelin the cook to Newbattle Abbey (although the second charter differs from the first in providing details of the extent of Gocelin's land; also, only the first survives as an original): *Regesta*, I, ed. Barrow, pp. 178-9 (no. 113) and 257-8 (no. 236). If a confirmation was, in fact, copied from the original charter recording the grant, it perhaps might not be surprising if, occasionally, its phraseology was accidentally retained. For a recent detailed discussion of verbs of granting used in English charters, see John Hudson, *Land, Law and Lordship in Anglo-Norman England* (Oxford 1994), pp. 77-85.

74 See, for instance, *Early Scottish Charters*, ed. Lawrie, pp. 116-19 (no. CLIII) and 386, and especially G.W.S. Barrow, 'Witnesses and the attestation of formal documents in Scotland, twelfth-thirteenth centuries', *Legal History* 16 (1995) 1-20, especially pp. 2-4, 14-15. I am grateful to Professor Barrow for originally bringing this phenomenon to my attention. For a later example of a non-contemporaneous witness-list, see Stringer, 'The charters of David', p. 94. On the construction of witness-lists, see also E.L.G. Stones, 'Two points of diplomatic', *Scottish Historical Review* 32 (1953) 47-51, at pp. 47-8.

souls of his father, mother, brother, sister, ancestors, and successors. This may be so, but it says nothing of the twenty-seven shillings of protection-money which the monks had paid him.[75] It is rare, especially in the twelfth century, to have enough supplementary information to be able to put into context a gift recorded by charter. Donnchad II, earl of Fife, granted the churches of Markinch and Scoonie to Loch Leven Priory: this appears, according to the charters at least, to be a generous and pious gift. It is only because, exceptionally, a few pre-twelfth-century records survive that we know that these churches had previously been granted to Loch Leven by two bishops of St Andrews.[76] What we do not know is whether the earls of Fife retained an unspecified right to some income which was then granted by Donnchad II or whether the original grants had been ineffective or whether the churches had simply been seized by Donnchad's predecessors.

It is dangerous, therefore, to take charters at face-value. The circumstances surrounding an individual charter need to be considered, and the genre in general needs to be understood in terms of contemporary attitudes to literacy and establishing property-rights. In short, charters individually or collectively are, like any other writing, used to greatest effect by the historian if the questions are asked, 'who wrote them? when? and why?' Unhappily, the answers are not easy to find in relation to this period. It is also important to consider the reaction of a charter's intended audience. Geoffrey Barrow has very aptly described the twelfth-century Scottish royal charter as 'a letter conveying information, commands or prohibitions'.[77] As may be expected, the commands and prohibitions were not always heeded. David I and Mael Coluim IV between them issued a series of charters confirming, supporting, or restoring

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[75] *Early Scottish Charters*, ed. Lawrie, pp. 91-2 (no. CXIX) and 358. A particularly striking case has been discussed by Duncan, *Scotland*, p. 411. Patrick, earl of Dunbar, in 1231, gave a charter restoring Swinewood to Coldingham Priory for love of St Cuthbert and for the souls of his ancestors (who, he admitted, had unjustly seized it). Fortunately there survives a series of documents relating to this transaction, which reveals that Earl Patrick's charter was given only after royal intervention and a promise of 200 merks from the priory.

[76] *Early Scottish Charters*, ed. Lawrie, pp. 6-7 (nos VI-VII) and 233-4.

[77] Barrow, *Scotland and its Neighbours*, p. 94.

Dunfermline's possessions in Fife.[78] The problem was that the earls of Fife were unmoved by all this parchment, and they repeatedly, if not persistently, infringed Dunfermline's rights. What is particularly striking about their disobedience is that they had a close relationship with the royal dynasty, playing a vital role in ensuring the accession of Mael Coluim IV in 1153.[79] If the earls of Fife could disregard a royal charter, we must ask if others did so too. Indeed, it is known that — despite two royal charters and the combined efforts of Alexander I and his heir, the future David I — the monks of Coldingham could not dislodge a freeholder of no great importance from Swinton, even though David reassured them that he 'would not suffer any more that anyone should disturb you in it in any way, and that is for sure'.[80] Well, it was not for sure, because Swinton was evidently inherited by the freeholder's son.[81]

We know about these cases because the monks of Coldingham and Dunfermline repeatedly sought (and probably both executed and produced in evidence) royal charters to assist them in their struggles against a secular foe. It obviously made sense to get help from someone powerful in such a situation, and no doubt it would often have paid off. As I have already noted, however, the newly founded monastic houses were especially keen to obtain charters for their property-rights, no doubt even where there was no immediate

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[78] *Early Scottish Charters*, ed. Lawrie, p. 70 (no. LXXXV) and 76-7 (no. XCIV); *Regesta*, I, ed. Barrow, p. 223 (no. 181).

[79] Geoffrey Barrow has calculated that Earl Donnchad I alone accounts for thirty-five of the sixty-eight occurrences of earls witnessing charters of David I, and has concluded that he 'ranked without question as chief of the non-official nobility … at the court of David I': Barrow, *Scotland and its Neighbours*, pp. 61-2. The support of Donnchad I for the succession of Mael Coluim IV to the kingship may not have been disinterested, however. Donnchad I may have been keen that his immature son should succeed in the event of his death, which is indeed how events transpired the following year. See especially J. Bannerman, 'MacDuff of Fife', in *Medieval Scotland: Crown, Lordship and Community. Essays presented to G.W.S. Barrow*, edd. Alexander Grant & K.J. Stringer (Edinburgh 1993), pp. 20-38, especially 32-7. Donnchad I was the first earl in Scotland to receive a charter for his earldom (*ca* 1136): *Regesta*, I, ed. Barrow, pp. 61, 166 (no. 63).

[80] Duncan, *Scotland*, pp. 142-3.

[81] It may be suspected that the freeholder had a powerful backer. The earls of Dunbar were in dispute with Coldingham in this period: see Duncan, *Scotland*, p. 143.

threat.[82]   As Wendy Davies has observed, written title was an important element in the Church's armoury.[83]   Literacy was its domain; and it was hoped no doubt that the awe of writing would help keep the heirs of donors to the promises of their forefathers. Better still, charters of confirmation were obtained from kings and magnates, and from anyone else, as appropriate. This could be a complicated process. The canons of Inchaffray, for instance, were granted the *apdaine* or 'abbacy' of Madderty by Gille Brigte, earl of Strathearn. A royal charter of confirmation was duly obtained for Earl Gille Brigte's grant; but a charter of confirmation was also elicited from the bishop of Dunkeld, who evidently had a claim on the property.[84] It made sense to get explicit support for any grant from the greatest power in the land and from any interested party. It would be rash, however, to interpret an eagerness for royal confirmations as evidence that the king was already generally regarded as the ultimate owner of land in the kingdom. In this period confirmations should probably be seen first and foremost as an insurance-strategy developed and used mainly by monks, from which, in due course, the notion of the Crown as the ultimate proprietor may have evolved.[85]

Exactly how sought-after charters were would no doubt have depended ultimately on the current realities of royal or magnatial power. Of all the kings in Gaeldom, the kings of Scots were, on the face of it, in greatest demand for charters. This, no doubt, was because they successfully maintained and consolidated their power in this period while others suffered from external aggression and

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[82]   See above, p. 000.

[83]   W. Davies, 'Charter writing and its uses in medieval Celtic societies', in *Literacy in Medieval Celtic Societies*, ed. Huw Pryce (Cambridge 1996).

[84]   *Regesta*, II, edd. Barrow & Scott, pp. 404-5 (no. 427); *Charters, Bulls and other Documents relating to the Abbey of Inchaffray*, edd. J. Dowden *et al.* (Scottish History Society, Edinburgh 1908), nos VII & XXIII.

[85]   On the notion of a 'feudal pyramid', see now Susan Reynolds, *Frefs and Vassals: the Medieval Evidence Reinterpreted* (Oxford 1994), especially pp. 70-2.   A mid-fourteenth-century text called the 'Laws of Mael Coluim mac Cinaeda' gave an account of how all the land in the kingdom of Scotland had been granted out by Mael Coluim mac Cinaeda (1005-34), save the inaugural mound at Scone. As might be expected, in reality this text has nothing to do with the eleventh century. See A.A.M. Duncan, 'The "Laws of Malcolm MacKenneth"', in *Medieval Scotland*, edd. Grant & Stringer (as n. 79, above), pp. 239-73.

dynastic instability. The kings of Scots were predominant in eastern, central, and southern Scotland. For any religious house drawing up a charter of confirmation in that area, it was obvious that the institution should seek to have the seal of the king of Scots appended to it; and it was increasingly worthwhile to do so.

We need not doubt that the kings of Scots and other kings were ready to oblige. They were, after all, the patrons of the first generation of new foundations, often established for strategic as much as pious motives.[86] Moreover, this was a period in which political power was becoming increasingly concentrated in the hands of a few kings who refashioned political relationships to their advantage and sought to establish ways of securing their hard won gains for the future. New foundations not only altered the political landscape, but their brethren could provide ways of expressing the new order in writing.[87] Marie-Thérèse Flanagan, in particular, has illustrated how charters could reflect the donor's point of view. She has cited Diarmait Mac Murchada's confirmation of Diarmait Ó Riain's foundation of Killenny (Co. Kilkenny) in which Ó Riain is referred to merely as *dux* rather than as king of Uí Dróna, while Mac Murchada himself was 'by the will of God king of the Leinstermen' and gave 'our permission (*licentia*)' for Ó Riain's grant.[88]

The Latin charter in twelfth-century Gaeldom was not simply a propaganda-opportunity or an attempt to obtain safeguards from the high and mighty. Its appeal and authority lay also beyond the bounds of kingdoms. It is significant that the first Gaelic generation of Latin charters was particularly the concern of the new wave of religious foundations and other parts of the Church touched with the spirit of renewal. The reformers and new foundations were part of a revival of christendom under the leadership of the papacy and they enthusiastically identified themselves as belonging to the Roman,

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[86] See, for example, D. Ó Corráin, 'Nationality and kingship in pre-Norman Ireland', *Historical Studies* [Irish Conference of Historians] 11 (1975) 1-35, at pp. 24-5.

[87] As, much earlier, Iona (especially St Adomnán) did for Uí Néill: see Francis John Byrne, *Irish Kings and High Kings* (London 1973), pp. 96-7, 257; Máire Herbert, *Iona, Kells, and Derry. The History and Hagiography of the Monastic* Familia *of Columba* (Oxford 1988), p. 52.

[88] Flanagan, 'The context'; Bernard & Butler, 'The charters', p. 5.

Catholic world. The international awareness revealed by the chroniclers at Cistercian Melrose is one tangible expression of this;[89] the espousal of the Latin charter is another, as Marie-Thérèse Flanagan has cogently argued, observing that the language of the charters, their form, and above all the script in which they were written meant that they could be read and understood anywhere in Roman christendom.[90] They could, therefore, constitute the basis of the ultimate document of confirmation obtained from the supreme pontiff or his representative.[91] Their value, therefore, was not only as a record of a grant or a safeguard from secular power, but also as a document made recognisable throughout christendom, which the Church as a whole could witness and confirm. It should not be a surprise that kings also would be especially receptive to this new international awareness, if perhaps only to relish the exercise of kingship and the platform for wider recognition offered by such an active role as the Church's guardians.[92]

This internationalism encouraged Latin equivalents to be found for vernacular terms, frequently without much difficulty, such as *comes* for *mormaer* ('earl'). This process could result, however, in a Gaelic institution being camouflaged almost beyond recognition. For example, *carucata*, 'ploughgate' or 'ploughland', was the term occasionally adopted for a *dabach*, a land-unit found across most of Gaelic Scotland. In reality, however, the *dabach* was not a ploughgate at all: indeed, its area was often about twice the size of a standard ploughgate. Were it not for Geoffrey Barrow's forensic skills it would still be concealed under its foreign clothing in twelfth-century charters.[93] Another example, I suspect, is the use of

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89 Webster, *Scotland*, p. 39.

90 Flanagan, 'The context'.

91 The cost of getting to Rome could be shared between monasteries. For an example, see Stringer, *David, Earl of Huntingdon*, p. 294, n. 82. For an example (from the end of the twelfth century) of papal judges delegate playing a key role in upholding a monastery's claim to land (for which it had a royal charter of confirmation), see MacQueen, *Common Law*, pp. 44-5.

92 On the contemporary reputation of David I, see Barrow, *Scotland and its Neighbours*, pp. 46-8.

93 Barrow, *The Kingdom*, pp. 267-74: a few scribes strove for greater accuracy by talking of a 'Scottish ploughgate' (*carucata scottica*); it was only in the thirteenth century,

the phrase *rex designatus* for Henry, son of David I, in the three charters relating to the foundation of St Andrews Priory in 1144.[94] There is little doubt that Henry was, indeed, 'king designate' from *ca* 1135 until his death in 1152.[95] Geoffrey Barrow has argued vigorously that this did not mean, however, that Henry's position was that of *tánaiste*, even though *rex designatus*, 'king designate', is perfectly appropriate for a royal *tánaiste*. The Latin phrase, Barrow has pointed out, is found also in France in the 1130s in similar circumstances.[96] The coincidence is notable, but it need only be the Latin phrase, not the concept of 'king designate' itself, which travelled from France to St Andrews.

It would be a mistake, however, to imagine that Gaelic terms were generally spurned. If the *dabach* was regarded as a ploughgate, it should have been possible for *coinnmed* (a requirement to give hospitality) and *cáin* (tribute) to be equated with existing terms for their northern English equivalents of 'waiting' and 'cornage'. There are only a very few instances, however, in which these Gaelic terms were not retained.[97] The same mix is seen in the treatment of personal names. Some are found only superficially latinised; but others have been replaced by names with a wider international currency —*Gilbertus* for Gille Brigte; *Hugo* for Aed; or, in Ireland, *Donatus* for Donnchad.[98] At the same time, it is not uncommon to

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however, that latinised versions of the word *dabach* itself (for example, *dauata*, *dauoca*) came to be used generally.

[94] *Early Scottish Charters*, ed. Lawrie, pp. 124-9 (nos CLXII, CLXIII, CLXIV). See Duncan, *Scotland*, p. 172.

[95] Barrow, *Scotland and its Neighbours*, p. 50.

[96] *Ibid*., pp. 50-1: the instances are Louis, son of Philip I, from *ca* 1092 to 1108; and in the next generation Philip and, on his death, his brother Louis, sons of Louis VI, from 1131 to 1137. Barrow (*ibid*.) has also cited the use of formulas such as *A. filius regis B.* or simply *A. filius regis*. His statement that tanistry 'never once countenanced the immediate succession of a father by a son' does not, it seems to me, give enough credit to Irish examples which show that such a succession occurred on a number of occasions.

[97] *Ibid*., pp. 144-7. The only occasion in the charters of Mael Coluim IV and William I relating to lands north of the Forth is in a grant to Coupar Angus datable 1173x1178: *Regesta*, II, edd. Barrow & Scott, p. 224 (no. 154).

[98] Gille Brigte, earl of Strathearn, thus appears as 'Gilbertus' (or Gillebertus'). Gille Brigte, earl of Angus (*ca* 1150-87), however, normally retained his Gaelic name. Attempts were also made to render Aed itself rather than simply adopting Hugo as an alternative (see Bannerman, 'MacDuff of Fife', pp. 31-2). In Scotland, Dunecanus was

find *mac* rather than *filius* in a Gael's patronymic,[99] or occasions where the Gaelic has been preferred to the Latin — the most striking instance being the appearance of Mael Coluim IV on his seal as *Malcolum*, rather than *Malcolmus*.[100] It would be facile to see the Latin charter as anti-Gaelic: indeed, a few (especially in Ireland) have clearly been written by scribes accustomed to writing Gaelic.[101]

The Church in twelfth-century Gaeldom was not all about new monastic foundations, however. A number of older religious communities continued to function throughout the century. In Scotland by the 1190s a few, as at Scone and Loch Leven, had already become Augustinian foundations.[102] In Ireland many more adopted the Augustinian rule in the twelfth century, though not all (for example, the houses of *céli Dé* at Armagh and Devenish).[103] In the Isles Iona had yet to become a Benedictine house.[104] Records of the property-rights of a few of these 'unreformed' communities have survived, though in significant numbers only for Kells (in Meath),

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the usual Latin form for Donnchad. This is a different phenomenon, of course, from the direct translation of Gaelic names into Latin (for example, Brian Borúma's confessor Mael Suthain signed himself *Caluus Perennis* in Brian's confirmation of Armagh's primatial rights: see below, n. 158).

[99] J. Bannerman, 'The king's poet and the inauguration of Alexander III', *Scottish Historical Review* 68 (1989) 120-49, at p. 139.

[100] *Regesta*, I, ed. Barrow, p. 72.

[101] Flanagan, 'The context'; D. Broun, 'Gaelic literacy in eastern Scotland, 1124-1249', in *Literacy in Medieval Celtic Societies*, ed. Huw Pryce (Cambridge 1996).

[102] Gordon Donaldson, *Scottish Historical Documents* (Edinburgh 1974), p. 23, commented on King David's conversion of Loch Leven into an Augustinian house that 'an innovator like David I, bent on the introduction to Scotland of new monastic orders, had to provide for the extinction or absorption of the outdated communities of culdees'. In fact, this is the only example of David I supressing a house of *céli Dé*. His only other attempt to convert a house to the Augustinian order — at St Andrews — failed, and *céli Dé* survived there until the end of the century (see Barrow, *The Kingdom*, pp. 212-32). Far from the *céli Dé* becoming extinct, it may be noted that Gaelic-named priors of *céli Dé* can be found as late as 1235x1239 at Abernethy and 1204x1214 at Brechin. The last prior of the *céli Dé* of Muthill is found as late as 1284x1296. (See Cowan & Easson, *Medieval Religious Houses: Scotland*, pp. 46-51, for these and other examples of continuity into the thirteenth century in the east of Scotland.)

[103] See Gwynn & Hadcock, *Medieval Religious Houses: Ireland*, pp. 29-30 (Armagh) and 33 (Devenish); also p. 151 for general comment. *Céli Dé* at both Armagh and Devenish survived in some form until the sixteenth century.

[104] Cowan & Easson, *Medieval Religious Houses: Scotland*, p. 59.

Deer (in Buchan), and Loch Leven (in Fife).[105] The records from Kells and Deer have survived because they were written (sometimes squeezed) into spaces in illustrated gospel-books — the 'Book of Kells' and the 'Book of Deer' — which have been prized as relics and treasured by antiquaries. The gospel-books themselves are of much earlier dates,[106] but the records were evidently not written into them until the late eleventh and twelfth centuries.[107] An analysis of the handwriting, however, reveals that they were not entered all at once, but usually singly.[108] The 'Book of Durrow' which has only a single record (datable to 1103x1116)[109] is not so odd, therefore. The

[105] See 'Bibliography of suggested reading', below, pp. 00-00, for details of these archives of charters. In what follows, in the case of Kells I shall follow the practice of Máire Herbert, giving reference to both of Mac Niocaill's publications. *N* will signify *Notitiae*, ed. Mac Niocaill, while 'C' will indicate G. Mac Niocaill, 'The Irish "charters"', in *The Book of Kells, MS 58, Trinity College Library, Dublin: Commentary*, ed. Peter Fox (Luzern 1990), pp. 153-65. *N* nos. IV, VII, VIII, X, and XI ('C' nos. 12, 8, 9, 11, and 10) are no longer in the 'Book of Kells'. Mac Niocaill has suggested (*N*, pp. 2-3; 'C', p. 154) that they may have been on folios lost after fo 330. They survive only in a faulty seventeenth-century transcription (except for *N* no. VII, 'C' no. 8, which also survives in what Mac Niocaill has described ('C', p. 154) as 'an extremely accurate transcript' made by Charles O'Conor the elder in 1776x1786. For a discussion of these records see also M. Herbert, 'Charter material from Kells', in *The Book of Kells. Proceedings of a Conference at Trinity College, Dublin, 6-9 September, 1992*, ed. Felicity O'Mahony (Aldershot 1994), pp. 60-77. See also Herbert, *Iona*, pp. 98-108. Mac Niocaill's translation supersedes that of J. O'Donovan, 'The Irish charters in the Book of Kells', *Miscellany of the Irish Archaeological Society*, I (Dublin 1846), pp. 127-58, at 129-49 (which deals only with those records still extant in the 'Book of Kells').

[106] For the 'Book of Deer', see Kathleen Hughes, *Celtic Britain in the Early Middle Ages. Studies in Scottish and Welsh Sources* (Woodbridge 1980), pp. 22-37.

[107] Herbert, 'Charter material from Kells', pp. 61-2, superseding *Notitiæ as Leabhar Ceanannais*, ed. Gearóid Mac Niocaill (Dublin 1961), pp. 1-2; *The Gaelic Notes in the Book of Deer*, ed. & transl. Kenneth H. Jackson (Cambridge 1972), pp. 89-91.

[108] Herbert, 'Charter material from Kells', pp. 61-2. It is impossible, of course, to know how and when those Kells records surviving only as copies were entered originally (although Máire Herbert must be justified in inferring that they too were entered contemporaneously with the transactions which they record). *N* VII ('C' 8) and *N* X ('C' 11) are composite, but neither survives in the 'Book of Kells' and so this might only reflect how they were copied. For Deer, see *The Gaelic Notes*, ed. & transl. Jackson, pp. 11-15: nos III and IV were probably entered together; V is composite.

[109] R.I. Best (ed. & transl.), 'An early monastic grant in the Book of Durrow', *Ériu* 10 (1926-8) 135-42. For the dating see *The Irish Sex Aetates Mundi*, ed. & transl. Dáibhí Ó Cróinín (Dublin 1983), pp. 42-3, and F.J. Byrne *apud* W. Davies, 'The Latin charter-tradition in western Britain, Brittany and Ireland in the early mediaeval period', in *Ireland in Early Mediaeval Europe. Studies in Memory of Kathleen Hughes* edd.

'Book of Kells' also has a single record (datable to 1161) relating to the monastery of Ardbraccan.[110] Another single record survives for Kilbarry (Co. Roscommon) in Connaught, but only in a seventeenth-century copy.[111] Some of the Deer records are copies, some of these indeed relating to donations as old as the early or mid-eleventh century;[112] of the Kells records still extant in the 'Book of Kells' itself, however, Máire Herbert has shown that all but one are contemporaneous with the transactions which they record.[113] Only at Deer was a systematic attempt evidently made to have all the monastery's property-rights recorded in the gospel-book.[114] The Loch Leven records, for their part, survive not in a gospel-book but in the cartulary of the Augustinian priory of St Andrews, which was granted Loch Leven with its possessions *ca* 1150.[115] These records were translated from 'an old volume in Gaelic': it is an assumption

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Dorothy Whitelock *et al.* (Cambridge 1982), pp. 258-80, at 261, n. 14. For a discussion of the text, see R. Sharpe, 'Dispute settlement in medieval Ireland: a preliminary inquiry', in *The Settlement of Disputes in Early Medieval Europe*, edd. Wendy Davies & P. Fouracre (Cambridge 1986), pp. 169-89, at 170-4.

[110] *N* XII ('C' 6).

[111] *Annala Rioghachta Eireann. Annals of the Kingdom of Ireland, by the Four Masters, from the Earliest Period to the Year 1616*, ed. & transl. John O'Donovan (2nd edn, 7 vols, Dublin 1856), III.26-7; *Notitiae*, ed. Mac Niocaill, p. 6. Kilbarry (Cell Beraig, also Cluain Coirpthe) is doubtless the grant's beneficiary: St Berach's *comarba* was located there; see Gwynn & Hadcock, *Medieval Religious Houses: Ireland*, p. 38; cf. Edmund Hogan, *Onomasticon Goedelicum Locorum et Tribuum Hiberniae et Scotiae* (Dublin 1910), pp. 177, 258.

[112] *The Gaelic Notes*, ed. & transl. Jackson, pp. 89-91. He argued that III and IV represent a rewriting of the last part of II, which has been erased. If so, they must be copies. II is itself a list of fourteen donations (and presumably is a copy of an earlier record or records), and V records three donations. Donations by Mael Coluim mac Maíl Brigte (*ob*. 1029) and Mael Coluim mac Cinaeda (*ob*. 1034) are recorded. Some may be even earlier: a Domnall mac Ruiadrí and a Mael Coluim mac Cuilén (named together, although that need not be signficant chronologically) may be respectively a great-uncle of Mael Coluim mac Maíl Brigte (*ob*. 1029) and a son of Cuilén mac Illuilb (*ob*. 971).

[113] Herbert, 'Charter material from Kells', pp. 61-2. The earliest Kells record (*N* IV, 'C' 1) relates to 1033x1049 (but was not entered contemporaneously into the Book: see Herbert, *ibid*., p. 68); the latest (*N* XII, 'C' 6) is dated 1161.

[114] This is suggested by the stages in which the records were entered: scribe A apparently covered donations up to 1131/2 (or a little later) and gave an account of Deer's foundation (I and II), and scribes B and C then added more recent donations (V and VI) (*The Gaelic Notes*, ed. & transl. Jackson, pp. 11-15). (For III and IV, see n. 112, above.)

[115] *Early Scottish Charters*, ed. Lawrie, pp. 210-11 (no. CCLXIII).

that this old volume was a gospel-book.[116] Moreover, they do not appear to have been faithfully copied or translated — a problem which, unfortunately, I cannot discuss on this occasion.[117] Finally, it should be noted that not all these records across Gaeldom relate to the eleventh and twelfth centuries.   There was also a much earlier collection of grants to Armagh, perhaps made already by *ca* 700, and recorded in the 'Book of Armagh' copied in 807.[118] Furthermore, many records must have been lost.[119]

All these records, like the Latin charters with which some of them are contemporary, played no part in the transactions which they

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[116] *Early Scottish Charters*, ed. Lawrie, p. 228: *ueteris uoluminis antiquo Scotorum idiomate conscripti*.   The earliest record (not including the account of Loch Leven's foundation) relates to the mid-tenth century, the latest to sometime in the late 1120s.

[117] Some, but not all, have apparently been abbreviated (*Early Scottish Charters*, ed. Lawrie, p. 228).   V, XI, and XIV are notably detailed.   For discussion of some inaccuracies, see Bannerman, 'MacDuff of Fife', p. 30, n. 4.   I have greatly benefitted from discussing Loch Leven and other Fife material with Dr Simon Taylor, Institute of Scottish Studies, University of St Andrews, who is working on a new edition of the Loch Leven records.

[118] The *Additamenta: Liber Ardmachanus.   The Book of Armagh*, ed. John Gwynn (Dublin 1913), p. 31, col. 2-p. 36, col. 2; *The Patrician Texts in the Book of Armagh*, edd. & transl. Ludwig Bieler & F. Kelly (Dublin 1979), pp. 166-79; and p. 246 where Fergus Kelly has suggested dating the *Additamenta* to 'round about A.D. 700' (but Bieler, *ibid*., p. 50, suggested that, in their present form, they date from the second half of the eighth century).   For discussion, see especially the review by R. Sharpe, *Éigse* 18 (1980/1) 329-32, at pp. 331-2; C. Doherty, 'Some aspects of hagiography as a source for Irish economic history', *Peritia* 1 (1982) 300-28, at pp. 304-7; and J. Stevenson, 'Literacy in Ireland: the evidence of the Patrick dossier in the Book of Armagh', in *The Uses of Literacy in Early Mediaeval Europe*, ed. Rosamond McKitterick (Cambridge 1990), pp. 11-35, at 27-8.   On the 'Book of Armagh' itself, see especially R. Sharpe, 'Palaeographical considerations in the study of the Patrician documents in the Book of Armagh', *Scriptorium* 36 (1982) 3-28.

[119] For instance, Erich Poppe has shown that a genuine late seventh-century record probably lies behind the account of privileges obtained by St Éimíne from Bran ua Faeláin (king of Leinster, *ob*. 693): see E. Poppe, 'A new edition of *Cáin Éimíne Báin*', *Celtica* 18 (1986) 35-52, and 'The list of sureties in *Cáin Éimíne*', *Celtica* 21 (1990) 588-92.   A possible Scottish example might be a record of a grant of lands to Monymusk and St Andrews Cathedral by King Mael Coluim (II or III?), of which only a portion (not much more than a description of the bounds) survives.   See Joseph Robertson, *Collections for a History of the Shires of Aberdeen and Banff* [vol. i] (Spalding Club, Aberdeen 1843), pp. 171-2, for text, and *Regesta*, I, ed. Barrow, pp. 162-3 (no. 47), for translation and discussion (where it is observed [p. 162, n. 1] that many of the place-names are obsolete and cannot be located).   See generally Herbert, 'Charter material from Kells', pp. 65-6, and Doherty, 'Some aspects', p. 306.

record. They were written up later (and therefore the past tense was used) and were no doubt intended as an aid to securing the transactions for the future. They differ from Latin charters in a number of crucial respects, however. They are written in Gaelic, not Latin, in Insular, not Continental, script. They were not authenticated by the donor and have no formal protocol. Their authority was not derived from being in either the name of a secular power or an internationally recognisable form. They were local affairs. The ultimate means of empowering these records was to copy them into the monastery's or the locality's most venerated book-relic, a practice also found earlier in Wales, in England, and on the Continent.[120]

The essentially local character of these records readily accounts for the considerable differences between them. Deer's gospel-book records twenty donations (not including the original foundation), all to the community at Deer.[121] Of the twelve records written into the 'Book of Kells', however, only two concern grants to the community (*muinter*) and two to the *dísert* of Kells.[122] The others relate to property acquired individually by, for instance, a *comarba* the priest of Kells and his family, and someone with no explicit connexion with the community.[123] They also record purchases as well as gifts, and a settlement too.[124] It would appear that the gospel-books at Kells and

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[120] Herbert, 'Charter material from Kells', pp. 66-7. D. Jenkins & M.E. Owen, 'The Welsh marginalia in the Lichfield Gospels. Part I', *Cambridge Medieval Celtic Studies* 5 (1983) 37-65, at pp. 61-5; D. Jenkins, 'From Wales to Weltenburg? Some considerations on the origins of the use of sacred books for the preservation of secular records', in *Vom mittelalterlichen Recht zur neuzeitlichen Rechtswissenschaft*, edd. N. Brieskorn *et al.* (Paderborn 1994), pp. 75-88 (I am grateful to Morfydd Owen for bringing this last article to my attention). See also David N. Dumville, *Liturgy and the Ecclesiastical History of Late Anglo-Saxon England: Four Studies* (Woodbridge 1992), pp. 119-27.

[121] Fourteen donations are recorded in II, three in V.

[122] *N* I ('C' 4), *N* II ('C' 2), *N* VII ('C' 8) (which records two donations) and *N* IX ('C' 1). On the *dísert* see Herbert, *Iona*, p. 103, and 'Charter material from Kells', pp. 68-9, 74-5.

[123] *N* X ('C' 11), *N* III ('C' 3), *N* XI ('C' 10); *N* V ('C' 7) and *N* VI ('C' 5) record purchases (the former probably by a layman). See Herbert, *Iona*, pp. 103-4, and 'Charter material from Kells', p. 68.

[124] *N* IV ('C' 12): see Herbert, *ibid.*, pp. 69-70. Loch Leven includes one account of a judicial settlement of a dispute in its favour (*Early Scottish Charters*, ed. Lawrie

Deer were serving different functions. The monks at Deer were seeking to gain greater security and freedom for their possessions. The later scribes doctored earlier records accordingly;[125] and their efforts, indeed, culminated in a Latin royal charter confirming them in the free possession of their properties, which was carefully transcribed into their gospel-book using Continental rather than Insular script.[126] The records from Kells show no such purpose. Perhaps they were written into the gospel-book as a special service to members of the ecclesiastical community or to others in the locality. The appearance of records which do not concern Kells's own possessions may be linked to the social and political instability which no doubt followed in the wake of what Máire Herbert has described as 'a politically eventful period' in the history of Meath.[127] At Durrow, in contrast to Deer and Kells, the community used its gospel-book to record only the favourable settlement of a dispute with another church, Killeshin.[128] It is striking that the insertion of records into the Books of Kells, Deer, and Durrow apparently occurred only in the twelfth century, even though these gospel-books themselves are two, three, or more centuries older. I suspect, however, that, given the significant differences between the ways in which Kells, Durrow, and Deer used their gospel-books, the explanation is not to be found in any all-embracing theory.[129]

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no. LXXX): the rest are grants (apart from the legend of its foundation and account of its dependence on the bishop of St Andrews).

[125] *The Gaelic Notes*, ed. & transl. Jackson, pp. 13-15. Scribes A and B were apparently less exercised about the issue of exemption from secular exactions that were their successors, scribes C and D.

[126] *Ibid*., pp. 22-3, 32, 36. The exemption from secular exactions is the main concession in the charter.

[127] See Herbert, 'Charter material from Kells', pp. 71-2; Donncha Ó Corráin, *Ireland before the Normans* (Dublin 1972), pp. 168-71; Herbert, *Iona*, pp. 106-7. Kells itself was burnt in 1135.

[128] See above, n. 109.

[129] See also comments by Herbert, 'Charter material from Kells', pp. 65-7. For a different view, see Sharpe, 'Dispute settlement', pp. 73-4, who has commented that 'these three sources [Kells, Deer, and Durrow] are so similar in form, and sufficiently close in date, for it to be possible that they represent a rather short-lived revival in the Gaelic areas of a form derived from the British-Latin charter. The Columban connexion makes one wonder whether this revival was not even more limited.' There are, however, further differences between the Kells and Deer records: see below, p. 000.

There are other striking differences between the records from Deer and from Kells. All but one of the Kells records attach often lengthy lists of notables described not as witnesses but as sureties, guarantees, or protection (*rátha*, *slána*, *commairge*). These are not exactly the same as witnesses. A rare formula for witnesses common to Deer, Loch Leven, and Kells was 'in the presence of' (*i fiadnaise / in presentia*), which is found in one of the Kells records to refer to someone who was, in fact, witnessing the giving of sureties.[130] If comparison is to be made with Latin charters, then sureties appear to be fulfilling a role nearer to warrandice than to witness.[131] The greater commitment suggested by surety would also explain why the Durrow record of settlement between it and Killeshin is guaranteed by sureties from Killeshin alone. In the Deer records, in contrast, sureties are never mentioned, only witnesses; moreover, its later (Gaelic) records have the Latin word for witness rather than the Gaelic.[132] This suggests that Deer's later scribes were influenced by the Latin charter.[133] It can also be noted that Kenneth Jackson identified Continental features in the script of the last of the Insular hands in the 'Book of Deer'.[134]

There are not only marked differences between collections, but also notable differences within them too. The Kells records range from a simple statement of a grant or purchase with a list of sureties, which is the most common form, to a lengthy narration, followed by the grant, sureties, witnesses, and a sanction, or an account of the extent of the land, the purchase, sureties, and more detail on the

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[130] *N* II ('C' 2): see Herbert, 'Charter material from Kells', p. 70, for comment.

[131] On warrandice, see MacQueen, *Common Law*, pp. 44-7. A particular (English) comparison may be made with the positive commitment involved in giving warranty noted by P.R. Hyams, 'Warranty and good lordship in twelfth century England', *Law and History Review* 5 (1987) 437-503 (at p. 440) (quoted by Hudson, *Land*, p. 52). On *slán*, 'guarantee', and *ráth*, 'surety', see Fergus Kelly, *A Guide to Medieval Irish Law* (Dublin 1988), p. 169. See also Herbert, 'Charter material from Kells', pp. 70-1.

[132] III, *testibus istis*; IV, *teste*; VI, *testibus his* to introduce the list, but the Gaelic *ina fiaidnaisse*, 'in witness of it', at the close. No. V, written earlier than III, IV, or VI, has *ina fiaidnaisse in testus*.

[133] *The Gaelic Notes*, ed. & transl. Jackson, p. 60.

[134] *Ibid.*, p. 14.

bounds.[135]   The Deer records range from the earliest scribe's series of plain statements that someone granted something, to records which note witnesses as well and may also give a dating.[136]   Not only is there great fluidity in form, however, but there is also notable variety in wording. No more than a few basic stock words and phrases are deployed frequently.[137]   In short, there is nothing here to suggest that, by contrast even with the most rudimentary Latin charters, records such as these were written according to a well established structure using stereotyped phraseology, even in the same monastery, never mind across Gaeldom as a whole.

Wendy Davies in her pioneering work on records of this kind in all Celtic areas in the middle ages has identified four Kells records, the Durrow record, and one each from Deer and Loch Leven as being

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[135] *N* I ('C' 4); *N* V ('C' 7). There are also records which relate to more than one transaction, but these only survive as copies from lost leaves of the 'Book of Kells': *N* VII ('C' 8) (gifts of Tigernán Ua Ruairc), *N* X ('C' 11) (purchases by the *comarba*).

[136] No. III includes witnesses and is dated to the eighth year of David I (1131/2); no. VI includes witnesses and a place-date. Kells *N* IX ('C' 1) is given a precise time-date (11 November, 1133, according to Mac Niocaill), while the Durrow record is dated to the reigns of Muirchertach Ua Briain, 'king of Ireland', and Muiredach Mac Gormáin, king of Uí Bairrche. There is a formal possibility that the record relating to Kilbarry (see above, n. 111) may originally have had a time-date, which may account for its inclusion in the annal for 1176.

[137] For instance, there is notable variety in how the lists of sureties are introduced in the Kells records. A few brief examples are, not surprisingly, very similar: *ité na slána* (*N* V; 'C' 7); *et iteat so na slána* (*N* VII. 1 & 2; 'C' 8.1 & 2); *isiat so imorro na slána* (*N* X. 2; 'C' 11.2). Most are more elaborate, however, and have a considerable range of different words and phrases. Following *Notitiae*, ed. Mac Niocaill, from which I quote, round brackets denote illegible words or letter in the 'Book of Kells'; '' denote interlineation; and square brackets denote editorial additions: *ocus (ate)tat so inna commairche ocus in'na' slána do rata and* (*N* I; 'C' 4); *isiat immora sláin ocus dílsi do rata ina dílsi in dísirt sin* (*N* II; 'C' 2); *ocus iteat so sís in(n)a comairge ocus ina dílse do ratai and* (*N* III; 'C' 3); *isiat so imorro slána filet i ndílsi in feraind sin* (*N* IV; 'C' 12); *uteat (ina) r(átha filet) ina dílsi aire féin ocus ar cach duine archena* (*N* VI; 'C' 5); *ocus isiat slánai na hógdílsi co bráth* (*N* VIII; 'C' 9); *isiat so imorro na ráthai filed i ndílsi in feraind im dingbáil cech duine ar a chind* (*N* X. 1; 'C' 11.1); *isiad so slána ind [fh]eraind sin* (*N* X. 3; 'C' 11.3); *itiat dano so na rátha filet 'na mbithdílse orra féin ocus ar lucht a n-inad co bráth* (*N* XI; 'C' 10); *isiat so slána in tshochuir sin ocus na sóire* (*N* XII; 'C' 6). The Durrow record has *is siat so dano anmand na slánta féin*, while the 'Annals of the Four Masters', *s.a.* 1176, have *itiad slána na hóghdhílsi go bráth* (cf. Kells *N* VIII; 'C' 9). There is little or no sense here of a set phrase being deployed. It would appear that scribes wrote 'fresh prose' on each occasion.

of a particular type which she has termed 'Celtic charters'.[138] She has defined this class of record by what she has called its 'characteristic form', consisting of two elements: its writers' use of the past tense, and its structure. Its structure, she has maintained, is 'determined by the consistent inclusion of three constituent parts, disposition [the grant], witness-list and sanction'.[139] Other features — for example, descriptions of the bounds and preambles — are extras. As long as any one of these records includes disposition, witness-list, and sanction, it is regarded as 'complete'; if it lacks any of these three features it is 'incomplete' or a 'fragment'.[140] Wendy Davies has readily admitted that the proportion of the Kells and Deer (and Loch Leven) records which can therefore be regarded as complete 'Celtic charters' is small, while Armagh's collection has none. Indeed, the only example from Deer should in fact be chalked off because its sanction was added by a later scribe.[141] The score, then, is Scotland 1, Ireland 5, although it has to be said that there is a suspicion of off-side about Scotland's one remaining example.[142] Davies's figures also reveal the rarity of these 'Celtic charters' in Brittany and Cornwall. Of Redon's 230 records which have the past tense, only five are 'complete' Celtic charters; at Landévennec, only nine out of fifty-seven; at Padstow-Bodmin, seven out of

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[138] W. Davies, 'The Latin charter-tradition'; see also her earlier comments in 'St Mary's Worcester and the *Liber Landavensis*', *Journal of the Society of Archivists* 4 (1970-3) 459-85, at pp. 461 and 485, and '*Liber Landavensis*: its construction and credibility', *English Historical Review* 88 (1973) 335-51, at pp. 346-7.

[139] Davies, 'The Latin charter-tradition', p. 262.

[140] *Ibid.*, p. 261 & n. 17. See also her comment (p. 267) that 'witness list and sanction are as important to the "Celtic" charter-form as is the record of the grant'.

[141] *The Gaelic Notes*, ed. & transl. Jackson, pp. 14, 21, 35. Moreover the Deer record in question (no. V) is composite, with the witness-list relating to the first of three donations. Davies has corrected the omission of part of the sanction in Jackson's translation: 'The Latin charter-tradition', pp. 264-5.

[142] *Early Scottish Charters*, ed. Lawrie, pp. 11-12 (no. XIV). The witnesses are, in fact, not witnessing the grant but the confirmation by the donor's brothers, David and Alexander. Records have, of course, been lost: see n. 119, above. The record of privileges granted to St Éimíne and his community which Erich Poppe has shown to lie behind *Cáin Éimíne* (see n. 119, above) certainly seems to have included disposition and sureties. The sanction (Poppe, 'A new edition of *Cáin Éimíne Báin*', pp. 46-7) is quite different in form from the sanctions identified by Wendy Davies, and seems not so likely, therefore, to have been derived from the original record of the grant of privileges.

fifty-one.[143] Only in Wales are complete 'Celtic charters' found in ample proportion: no fewer than 149 from Llandaf; fourteen from Llancarfan (out of fourteen); and five (out of seven) from Llandeilo Fawr.[144] She has also classified one Irish and three Welsh inscriptions on stone as 'Celtic charters'.[145] The final score, then, is Scotland 1, Ireland 6, Cornwall 7, Brittany 14, and Wales 171. A number of the Llandaf examples, however, should, on Davies's criteria, be rejected because of the addition of sanctions by one or other of the collection's various compilers during the long history which she has given it.[146] It may be possible to speak of a Welsh charter: indeed, it is probably no coincidence that it is only in Wales that there is evidence that these records were formally written on separate pieces of parchment and that they may have played a role in conveyancing.[147] The existence of a 'Celtic charter', as defined by Wendy Davies, seems rather doubtful, however.

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[143] Davies, 'The Latin charter-tradigion', pp. 259-60. Davies has also noted six examples from Exeter and one in the Register of Athelney (Somerset).

[144] *Ibid*., p. 260. There are eight records from Llandeilo Fawr in the 'Lichfield Gospels', which are commonly referred to as 'Chad' 1-8. On these see especially Jenkins & Owen, 'The Welsh marginalia in the Lichfield Gospels. Part I: on p. 55 it is suggested that 'Chad 8' (a list of names, mostly in pairs) is a record of people commemorated at Llandeilo (and later Lichfield). It is not, therefore, a 'charter'. For the Llancarfan examples, see *Vitae Sanctorum Britanniae et Genealogiae*, ed. & transl. A.W. Wade-Evans (Cardiff 1944), pp. 124-36. The Llandaf records have been meticulously analysed by Wendy Davies, *The Llandaff Charters* (Aberystwyth 1979).

[145] Davies, 'The Latin charter-tradition', p. 261.

[146] Davies, *The Llandaff Charters*, especially pp. 14-16. The Llancarfan records were added *ca* 1200 to *Vita Sancti Cadoci* (Davies, 'The Latin charter-tradition', p. 260, n. 10). Their uniformity of structure is not above suspicion, therefore. Christopher Brooke, *The Church and the Welsh Border in the Central Middle Ages* (Woodbridge 1986), p. 90, has commented that 'It may fairly be presumed that, in form, all the documents in this collection have been doctored'. The Llandeilo 'charters' are *bona fide* documents dating from the early ninth century to the late ninth or early tenth (see Jenkins & Owen, 'The Welsh Marginalia in the Lichfield Gospels. Part I', pp. 56-61).

[147] Some of the Llancarfan records, for example, mention that the donor 'held a charter or writing on the hand of X … in confirmation of this grant' (*tenuit cartam siue graphium super manum X … in confirmationem huius donationis*): *Vitae*, ed. & transl. Wade-Evans, pp. 126-7 (§§55-56) and 132-5 (§§65, 68). One of the records in the *Additamenta* in the 'Book of Armagh' mentions a bequest (*edoct/aidacht*) which was brought by Aed of Slébte (Sletty) to Ségéne of Armagh who returned it to Aed. Aed subsequently granted it to Armagh with his kin and his church, and left it to Conchad. This may have been a document; but it could equally refer to whatever was bequeathed.

A critical examination of the Breton and Cornish material may, in due course, uncover some explanation for the poor showing of complete 'Celtic charters'.[148]   As far as the Gaelic material is concerned, however, it is puzzling that, where collections of records were kept and survive, the great majority should be 'incomplete' or 'fragmentary' charters — even when some effort has been made to boost their authority by entering them in gospel-books. It might be argued that much of what we have is abbreviated copies of lost originals which may have been complete 'Celtic charters', but this would be to run dangerously close to placing theory before evidence. It would be more convincing if fewer of the 'incomplete' or 'fragmentary' records were so detailed, or if more of them showed a greater level of consistency in form and formula.   Moreover, if records in gospel-books were intended to be seen as fully authenticated accounts of transactions, and were entered individually, each in a contemporary hand, then it is difficult to deny that these, at least, shoule be recognised as originals.   Indeed, Máire Herbert has argued convincingly that this is the case for all but one of the Kells records.[149]   The safest conclusion to reach if all these records are taken together is, it seems to me, that contemporaries did not regard only a few as complete and the rest as incomplete; rather, it is fair to suggest that the wide variety in form shown by surviving examples is likely to be a true reflection of the minimal extent to which these documents were expected to conform to a recognised structure.   In essence, these records are memoranda of transactions which were, let us not forget, constituted by the performance of a ritual, not by a written deed.   The elements commonly found are two: a note of the donor and her or his gift, with a list of the sureties or witnesses on whose commitment and memory the donee could depend if the gift

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See *The Patrician Texts*, edd. & transl. Bieler & Kelly, pp. 178/9 for text and translation, and p. 48 for discussion. This is not to deny evidence for the potential writings to play a role in dispute resolution in Ireland: see *Notitiae*, ed. Mac Niocaill, p. 7, and Mac Niocaill, 'The Irish "charters"', p. 153; Herbert, 'Charter material from Kells', p. 64.

[148] The Bodmin records are all manumissions, and Dr Oliver Padel suggests to me that this may account for the low number of 'complete' records.

[149] Herbert, 'Charter material from Kells', pp. 61-2: her exact words are that 'with one exception, all of the surviving texts in the Book of Kells are contemporary testimonies of the transactions which they relate'.

came under threat.[150] As we have seen, even a monastery favoured by a strong king such as David I was not immune from having its property-rights denied even within the king's own back yard. It is a matter for debate whether these records are charters any more than any other memorandum of a transaction relating to rights or property may be regarded as a charter.[151] It would appear that the most effective extra dimension available to contemporaries was to write memoranda of transactions into a sacred book.

It has been pointed out that many of these records share a few basic formulas: for instance, property is 'sacrificed' or 'offered'; it is 'to God and St X'; and it is 'for ever' or 'till Doomsday'.[152] The distribution of these formulas in what survives can be quite uneven, however. Deer, for instance, never referred to gifts being 'sacrificed'

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[150] It could be argued that Deer no. II, as a list of fourteen donations, represents an abbreviated version of records which may have included witnesses/sureties. Another explanation would have to be found for the omission of witnesses from the second and third donations in Deer no. V (possibly reasons of space: see *The Gaelic Notes*, ed. & transl. Jackson, p. 13). The Loch Leven records have probably suffered from abbreviation in translation from Gaelic to Latin. It has been argued that the Armagh records are based on charters (Sharpe, 'Dispute settlement', p. 174, has described them as 'not charters, but apparently charter-derived'; see also Stevenson, 'Literacy in Ireland', p. 28, and Doherty, 'Some aspects', pp. 305-7). Richard Sharpe, *Éigse* 18 (1980/1) 329-32, at pp. 331-2) has argued that a curious list of names in the Armagh records represents 'ill-digested witness-lists from a documentary source such as lies behind most of the Additamenta'. If so, it is striking that by 807 (if not at an earlier stage) a scribe at Armagh was unable to recognise a witness-list for what it was.

[151] Some commentators have continued to show unease about following Davies in describing these records as charters. For instance, Mac Niocaill, 'The Irish "charters"', p. 153, has referred to the Kells records as '… "charters" — more properly *notitiae* —', while Morfydd Owen and Dafydd Jenkins in their articles on the Llandeilo records in the Lichfield gospel-book (see n. 120, above) prefer to call them memoranda. In a typically uncompromising comment, Donaldson, 'Aspects', p. 153, described the Deer records as '*notitiae* or jottings'. In the absence of any formal role or external authentication or confirmation of these records, it should not be surprising that they did not acquire a recognisable structure. For an example of where Wendy Davies has drawn the line between what is and is not a charter, see, for instance, 'The Latin charter-tradition', p. 259, that some stone-inscriptions relating to property-right 'are obviously not charters, not least because they include no witness list or sanction', although 'they are clearly intended to perform the same function as a charter, that is, provide permanent evidence of rights of property'.

[152] *Ibid*., p. 269.

or 'offered'.[153]   Moreover, such words have not necessarily been derived from a written 'charter-tradition'. They may, indeed, have been words and phrases used in the rituals of conveyancing in Gaeldom and beyond and may thereby have found their way into how donations were described, be it in a prosaic memorandum or a saint's Life.[154]   An example of a coincidence of formulas which cannot be explained by the imitation of written exemplars is found in two oral charters (complete with address, witnesses, and dating). I give first the one in Scots, which purports to record a grant of land in the Borders in 1168/9.[155]

> Heir I Williame King
> The thrid yeir of my regne,
> Gevis to the Normond Hunter,
> To me thow art bayth leif and deir,
> The Hope and the Hoptoun (?)
> And all the boundis up and doun,
> Under the erd to hell,
> Abone the erd to hevin,
> Fra me and fra myne, to the and to thyne,
> Als sure as the kingrik is myne,
> To werifie the, this is suith,
> I byte the quhit walx with my tuith,
> Before Meg, Mald, Mariorye, and my eldest sone,
> For ane bow and ane braid arrow,
> Quhan I cum to hunt upoun Yarrow.

The other, in Gaelic, relates a grant of land in Argyll by the Lord of the Isles in the early fifteenth century; I quote Ronald Black's translation.[156]

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[153] The Deer scribes preferred *do rat*, 'gave'. They alone used *ro báith*, 'drowned', 'quenched', for granting immunity from dues owed to secular authorities: see *The Gaelic Notes*, ed. & transl. Jackson, pp. 120-3.

[154] For examples, see Davies, 'The Latin charter-tradition', pp. 269-74.

[155] Quoted from *Regesta*, I, ed. Barrow, pp. 83-4, who has noted that there are versions attributing the charter to Mael Coluim IV.

[156] Ronald Black, *Cothrom Ionnsachaidh* (6th edn, 1989; reset 1992), p. 63.

> I, Domhnall nan Domhnall,
> Seated on Dundonald
> Am giving possession from today to tomorrow
> And so on to the Day of Doom
> To you, MacAoidh Beag,
> of Kilmochumaig
> Up to God's realm
> And down to Hell,
> As long as water runs
> And wind blows;
> And this in the presence of Catriona my wife
> And of little Effie my nurse.

It is striking that both describe the land concerned in similar terms: the former says 'under the earth to hell, above the earth to heaven', while the latter has 'up to God's realm and down to hell' (*suas gu flaitheas Dhé agus sìos gu h-Ifhrinn*). As far as I know, this formula was never used in mediaeval written records. Whether or not these oral charters are as old as they claim, the phrase had evidently crossed cultures, and probably centuries, without touching parchment or paper.

It can be argued that, before the advent of the Latin charter, therefore, although some records were kept, no specialised type of document with a clearly developed structure was used by the Gaelic Churches (or anyone else in Gaeldom) to safeguard their property. It would appear, rather, that greater emphasis was placed on other potentially more effective ways of protecting and asserting their rights — for example, a saint's cult. It may be noted that the records from Armagh became fodder for hagiography.[157] Another, more striking, illustration may be provided by Brian Bóruma's recognition of the rights of the church of Armagh in 1005.[158] At the time, that church

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[157] Sharpe, 'Paleographical considerations', p. 26. They were not, it seems, highly regarded by the scribe who copied them into the 'Book of Armagh', who declared them to be barely intelligible stories (*fabulae*).

[158] For the text see *The Tripartite Life of Patrick with Other Documents relating to that Saint*, ed. & transl. Whitley Stokes (2 vols, London 1887), II.336; *Liber Ardmachanus*, ed. Gwynn, p. 32, col. 2, and p. ciii for translation. See also A. Gwynn, 'Brian in Armagh (1005)', *Seanchas Ardmhacha* 9 (1978/9) 35-50, especially pp. 41-2. The text, which was written into a blank space in the *Additamenta*, reads in translation:

must have been anxious not to suffer from the eclipse of its age-old patrons, Uí Néill, by Brian in 1002, and must therefore have attached great significance to Brian's formal acknowledgment of Armagh's status and rights. Brian would doubtless have relished Armagh's recognition of his supremacy. The written statement procured on this occasion was, indeed, regarded as so important that it was written directly into what we must suppose to have been the most sacred book available, the 'Book of Armagh', in the presence of Brian himself.[159] What is especially striking about this document is that its structure appears to have been largely improvised. Here was an occasion, it might be thought, in which the basic elements of a charter-tradition would have been employed or adapted if they had been known and established. Neither witness-list nor sanction was used, however. Instead it was left to Brian's confessor to find the words, in occasionally fumbling prose, to express his master's will.[160] What Brian was putting his name to, in fact, was a statement that St Patrick on his way to heaven had ordered a wide range of dues to be paid to Armagh. On this solemn occasion, therefore, it was in the cult of the patronal saint and in the mere fact of obtaining a written statement in a revered book that the greatest religious centre in Gaeldom put its trust. This offers a striking contrast with Deer *ca* 1150, when in a not dissimilar situation of momentous change — David I's destruction of the ruling family of Moray, the greatest power in northern Scotland — the community's officers sought and obtained a charter from the

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'St Patrick, going to heaven, ordered that all revenue deriving from his work, as well of baptism, of law-suits as of alms, should be paid to the apostolic city which in Gaelic is called Armagh. So I have found in the books of the Gaels. I — that is, Mael Suthain — have written in sight of Brian, emperor of the Gaels, and what I have written he has determined for all kings of Cashel.'

[159] *Book of Armagh. The Patrician Documents*, facs. ed. Edward Gwynn (Dublin 1937), fo 16vb. It appears (from the facsimile, at least) to be written in two similar hands. The second (Mael Suthain's) begins at 'So I have found …' (*Sic reperi*). Only this section, therefore, may have been written in Brian's presence: the preceding section may have been written by someone in Armagh in readiness for the ceremony involving Brian and his scribe.

[160] *Liber Ardmachanus*, ed. Gwynn, p. 32, col. 2, where the editor showed that the scribe first wrote *finit*, 'he determines', but then changed his mind about what tense was appropriate, and altered it to *finiuit*. Gwynn argued (p. lviii) that the document's terminology betrays the influence of *Liber Angeli* (a text which appears after the *Additamenta* in the 'Book of Armagh'). This has been disputed (correctly, in my view) by Sharpe, 'Palaeographical considerations', p. 28 & n. 86.

victor which, as I have remarked already,[161] they took care to have written into their gospel-book using Continental script.

It may be assumed that the assiduous scribes at Deer understood the potential of the Latin charter as expressing the will of a secular power in a way which was recognised throughout christendom. That something of this sort was not employed earlier is not because the Gaelic Churches were ignorant or incapable.[162] Rather, it was that their world was changing. The reform of the Church opened up new and more effective channels of authority, linking monasteries together through the new monastic orders and the Church at large through diocese and province to the pope himself. At the same time secular power was becoming increasingly concentrated in the hands of fewer kings who began to develop an apparatus of government through which to exercise their might.[163] The conditions were right, therefore, for a document to gain currency which could formally encapsulate the power of kings and the authority of the rejuvenated Church. In these conditions it had the potential to be an effective instrument for safeguarding rights and property. Where both Church-reform initially and royal power subsequently became well established and gathered strength, the charter could eventually evolve into a stereotyped and standardised official document produced exclusively by a writing office, a stage which began to be reached by the Scottish kingship only in the very last years of the twelfth century.[164]

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[161] See above, p. 00.

[162] See *Notitiae*, ed. Mac Niocaill, pp. 6-9.

[163] See especially Ó Corráin, 'Nationality', pp. 25-30.

[164] This is a revised and annotated text of the second E.C. Quiggin Memorial Lecture, given in the University of Cambridge on Thursday, 17 November, 1994, in the very fine venue provided by the Old Hall, Queens' College.

Bibliography of suggested reading

I: Latin Charters

a: Primary

G.W.S. Barrow (ed.), *Regesta Regum Scottorum, I, The Acts of Malcolm IV* (Edinburgh 1960), pp. 116-287 (includes pre-1153 royal charters missed by Lawrie, *Early Scottish Charters*).

G.W.S. Barrow & W.W. Scott (edd.), *Regesta Regum Scottorum, II, The Acts of William I* (Edinburgh 1971), pp. 106-482

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J. Dowden *et al.* (edd.), *Charters, Bulls and other Documents relating to the Abbey of Inchaffray* (Scottish History Society 1908) (includes most of the charters of Gille Brigte, earl of Strathearn)

William Dugdale (ed.), *Monasticon Anglicanum* (new edn, 6 vols in 8, London 1817-30), VI, pt 2, pp. 1132-42 ('Charters of Irish Kings')

John T. Gilbert (ed.), *Cartularies of St Mary's Abbey, Dublin*, Rolls Series, vol. 80 (2 vols, London 1884), I. 31-3 (charters of king of Uí Dúnchada and his wife)

Cosmo Innes (ed.), *Registrum de Dunfermelyn* (Bannatyne Club 1842)

Cosmo Innes (ed.), *Registrum Monasterii de Passelet* (Maitland Club 1832) (includes charter of king of Isles at pp. 125, 147-9)

James F. Kenney, *The Sources for the Early History of Ireland: Ecclesiastical. An Introduction and Guide* (New York 1929; rev. imp., by L. Bieler, 1966), pp. 769-70

Michael Lapidge & R. Sharpe, *A Bibliography of Celtic-Latin Literature* (Dublin 1985), pp. 160-1, 291-309

Archibald C. Lawrie (ed.), *Early Scottish Charters prior to A.D. 1153* (Glasgow 1905)

Keith J. Stringer, *David, Earl of Huntingdon 1152-1219: a Study in Anglo-Scottish History* (Edinburgh 1985), pp. 212-70

T. Thomson (ed.), *Liber Cartarum Prioratus S. Andreae in Scotia* (Bannatyne Club 1841)

Professor G.W.S. Barrow is currently preparing a new edition of the charters of David I.

b: Secondary

G.W.S. Barrow (ed.), *Regesta Regum Scottorum, I, The Acts of Malcolm IV* (Edinburgh 1960), pp. 57-112

G.W.S. Barrow & W.W. Scott (edd.), *Regesta Regum Scottorum, II, The Acts of William I* (Edinburgh 1971), pp. 68-94

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B.R.S. Megaw, 'The ship seals of the kings of Man', *Journal of the Manx Museum* 6 (1957-65) 78-80

K.J. Stringer, 'The charters of David, earl of Huntingdon and lord of Garioch: a study in Anglo-Scottish diplomatic', in *Essays on the Nobility of Medieval Scotland*, ed. Keith J. Stringer (Edinburgh 1985), pp. 72-101

Keith J. Stringer, *David, Earl of Huntingdon 1152-1219: a Study in Anglo-Scottish History* (Edinburgh 1985), especially pp. 153-5

Bruce Webster, *Scotland from the Eleventh Century to 1603* (London 1975), pp. 67-86

II: Eleventh- and Twelfth-century Gaelic Property-records
a: Primary

Deer: Kenneth H. Jackson (ed. & transl.), *The Gaelic Notes in the Book of Deer* (Cambridge 1972), pp. 17-36 (edition of texts, diplomatic edition, and translation)

Durrow: R.I. Best (ed. & transl.), 'An early monastic grant in the Book of Durrow', *Ériu* 10 (1926-8) 135-42;

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