

Annotated Catalogue of the records of the Edinburgh Dean of Guild Court - 1700-1824

Introduction.

The Records

The records catalogued here can be seen in the Edinburgh City Archives (ECA) in the City Chambers in the High Street. Most of the records are held outside the building and must be ordered at least one week in advance. The images of the drawings here are intended as a guide to what is available, not as high quality reproductions. This project would not have been possible without the help and support of a succession of City archivists and their staff and I record my thanks here for the continued patience of archivist, Richard Hunter and his staff. The project began around 1977/8 when Dr. Walter Makey (1920-1999) was archivist.

Petitions are not always dated but the Court was very efficient in dealing with them as soon as they arrived. Consequently the date for PETITION LODGED is most often the date of the first Court action or when the Court Officer issued a summons to the interested parties.

There are roughly 1,800 petitions to the Court in the 1770-1800 period, 1,300 of them with extracted warrants. The Court could refuse a petition or grant a warrant to allow work to begin, usually building, demolishing or altering a building. An extracted warrant was simply an extract of the Court Minutes, often many pages long, with a description of the entire process (the legal clerks had to make a living somehow). This document was simply a legal proof that a warrant had been issued. Very few of them survive and the author has seen no abbreviated extracts, suggesting the process of extraction may have been a formality. Such was the increase in building activity in the 1820's, that documents were often extracted well after a warrant had been granted. This had little or no effect on work beginning and indeed, work occasionally started before the petition was presented, which could incur severe penalties if the Procurator Fiscal became aware of the infringement. The granting of a warrant is a constant that runs through the entire collection, from the very earliest records up to the present day. But in the 1760's the records are occasionally noted on the front as 'extracted' when the date given is the date of the warrant. Late 17th century petitions are often noted 'booked' on the front which is an indication that a warrant or a jedge was granted. Consequently, in this catalogue the date of issue of the warrant has been taken as the defining date not the date of extraction. At the bottom of most pages here, there is a section noted 'unextracted processes'. These are best understood as petitions that did not lead to any action, often after a visit to the place in question or where a petition was refused by the Court. This is also where miscellaneous papers can be found, associated with the Court's minor functions as arbiter in disputes over weights and measures or in pursuing 'unfree tradesmen' - people who were trading in the City without having a Burgess certificate. The entire character of the Court is different in the late 17th and early 18th century petitions where it acts more like the Baillie Court, dealing with the pursuit of unpaid accounts and this is not always for the building trades. It is unclear why there is this overlap in functions unless the Baillie Court was simply swamped and this was an alternative.



Copy of the Act of Council with regard to the elevations of houses in the new extended Royalty, 19th September 1784, published as a broadsheet and found in the petition of John Robertson and the Procurator Fiscal versus John Brough, wright, 1 October 1786.

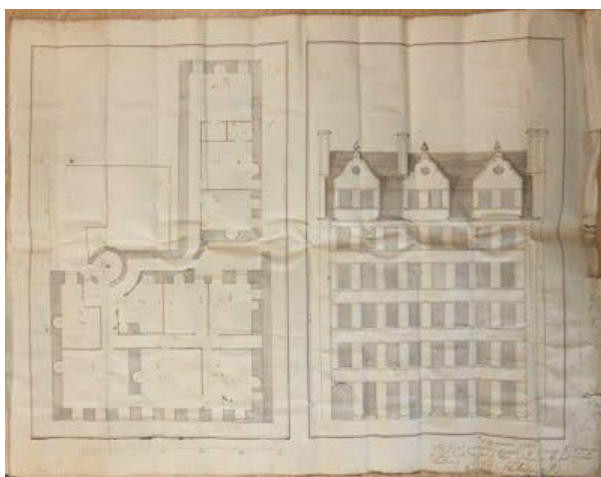
Having seen every preserved petition from 1700 and arranged them in bundles (by 2019) it is possible to make some comment on the gaps in the collection. There is one caveat. Material does still turn up in unlikely places and there is a surviving hand list in the search room entitled 'Unindexed Dean of Guild Petitions and Processes at Murrayburn', which gives the location of material. It lists 'extracted processes' in 'C26' and 'C27' throughout the period between 1728 and 1741 but the storage boxes hold only a few surviving petitions. Some attempt has been made to compensate for the loss in this catalogue by transcribing entries from the Court minute books (in italics) but it is very difficult to know when a petition was first presented without the annotations made on the document. It is equally difficult to follow its progress when some entries can be cursory at best. Not all minute books survive and during the sorting out of material prior to cataloguing, scroll minutes were found for the 1730's, roughly bundled up with petitions. It is interesting to note that from 1700 there was very little or no new building activity in the City until the 1770's. Most building activity was in repairing and rebuilding, occasionally after fires and the extent of this work can be measured in the accounts submitted after the work by tradesmen seeking payment. From a brief search in the material before 1700 it can be stated that there is a lot of material that would be of use to architectural historians, especially in the 1680's. There is evidence that some of the papers had been soaked with water, probably unnoticed, and had simply dried out themselves. The effect on readability is surprisingly minimal.

Where petitioners live has only been recorded if they give a place other than Edinburgh. In all other cases it may be assumed that they live in the City.



A drawing of 1817 with evidence of sealing wax still attached to the corners. Often the corners and the remnants of the wax were simply cut off as is often the case with drawings by Richard Crichton.

The records are stored in archival boxes, usually one box per year in the early period and should be ordered out by year. The unextracted processes are stored in a separate series but there is some overlap. In 1780 for example the unextracted processes were simply placed in the main series. If they are recorded in this catalogue at the bottom of the page it usually means they are in the separate series and should be clearly ordered as 'unextracted Processes' using the Edinburgh City Archive reference given at the head of the section. There are normally only a few unextracted processes in any year but in a petition dated 26 November 1772 the Procurator Fiscal noted that a number of chimney stacks had fallen recently and people had been complaining about ruinous buildings. He petitioned the Court to appoint five creditable tradesmen to visit and inspect chimney stacks and roofs in the City and grant warrants to take them down and repair them. This led to an astonishing rise in unextracted processes between 1772 and 1776 with fifty, for example, in 1773. Clearly the Court could not deal with the amount of work generated and so many of these petitions resulted in nothing more than a visit to the site. It may be wondered if the Court and the Procurator Fiscal were involved in job creation, so soon after the fall of Douglas Heron Bank in June 1772 when the Scottish economy suffered a severe setback and economic activity collapsed, leaving many tradesmen idle.



A remarkably large drawing, by James Smith of Whitehill for the wright, George Riddel. It was made in 1726 for a magnificent tenement, still standing on the south side of the Lawnmarket. The appearance and date of this drawing is significant, given that the engraver, Richard Cooper and the architect, William Adam were engaged at this time in planning the *Vitruvius Scoticus*, a volume that would not appear in print until 1815.

The paper

All of the drawings in this period are on paper. The earlier the example, the more likely it is that this will be the normal writing paper of the time - quite thin and laid (i.e. when looked at against a light, the paper has watermark lines made by the wire screens used to make the sheet). These sheets are usually British Imperial size, using all or part of a folded folio sheet. These folio sheets had watermarks in the centre of each half, an armorial on one side and a single letter or date on the other - this is a countermark. These countermarks and any text have been recorded here but no attempt has been made to describe the numerous armorial marks. Towards the end of the period more sophisticated papers begin to appear; still laid paper, not wove, but of a better and more even quality. There is a lot of paper of mixed quality with the watermark C or often just a year, which indicates the influence of Cowan family at Penicuik near Edinburgh. In the 1820's much of the paper is woven with a smooth finish and often manufactured by James Whatman at the Turkey Mill in England. Unfortunately these papers suffered most from storage conditions when the drawings were housed in the lower floors of the City Chambers, close to a very smoking boiler room. In some cases the paper became so brittle that it simply broke along the folds. Today the records are stored in proper archival conditions.

The change in paper use occurred at the same time that drawing masters became involved in making architectural drawings. The most interesting example in

this collection is Robert Kay who describes himself as a 'drawing master' in 1782 (11 July) but who became an architect. He made drawings for others, giving a unique insight into his practice in 1796 when he supplied an account for his services (21 June 1798 Ritchie). This evidence muddies the water considerably when trying to identify the hand of a particular architect. Of the 675 drawings in the period 1770-1800 the number of signed sheets is close to ten. One drawing by Robert Mylne and probably from his London office is notable for the quality of drawing and paper (20 July 1786 Brown). This more professional attitude to the drawings manifests itself in the way in which they were prepared. Very often drawings on better quality paper have marks on the reverse where sealing wax (red or black) was applied to the corners to stick the sheet to the drawing board. In many cases the corners and the remnants of the wax were simply cut off, giving a characteristic appearance.

Some drawings were taken from the collection in February 1988 and conserved by Tom Valentine as an exploratory exercise for the treatment of the collection. Many of these sheets were laid down on thick paper with windows left for inscriptions on the verso. Unfortunately this makes it impossible to see the watermarks. Some of the most delicate were also covered with Japanese tissue over the upper surface, a treatment that changed the visual balance of the lines and colours. All of these sheets are now stored in transparent sleeves in two folders, one covering 1781-1803 and the other, 1806. In my opinion the drawings in the Dean of Guild Court before the 1840's, when linen begins to be used as a support, should be treated in exactly the same way as artist's drawings in the National Galleries, with no backing support or surface covering. I would suggest the most basic treatment - unfolding and relaxing of the paper, removal of surface dust and storage in open ended transparent sleeves. This is the treatment used on the set of drawings that accompany the warrant granted to Alexander Fyfe on 23 March 1801 although unfortunately, they were trimmed to a regular size.

The Workings of the Court

The workings of the Court in the 18th and 19th centuries is best understood from this contemporary description of its functions:
This court is composed of an officer, called the Dean of Guild, assisted by a council of four members, appointed by the Magistrates. It takes cognizance of all the buildings which are erected within the city and liberties, none of which can be built without a warrant from this court. It has also the privilege of visiting and inspecting such houses as are insufficient, or in danger of falling down, and has a power of condemning them, if found insecure, and of obliging the proprietors to pull them down and rebuild them. The Dean of Guild Court inspects and regulates all the weights and measures used in the city; and has a power of seizing such as are found deficient, and punishing the persons who use them by fine and confiscation. This court likewise takes account of all the merchants and tradesmen within the town; and sees that none exercise these professions except those who have been admitted to the freedom of the city. [J. Stark, *Picture of Edinburgh*, 1806]

For a more detailed insight into the role of the court and its officers in the eighteenth and nineteenth centuries, including the role of the Procurator Fiscal see: 'The 11th Report of the Commissioners on the Courts of Justice in Scotland' *House of Commons Papers* Vol. 8 (London 1822) pp. 7-8, 12, 25-6, 28, 38-9. The relevant sections have been transcribed by Google Books. This report looked into the running of the Court and compared statistics from 1801 and 1813. For an earlier summary see: Andrew McDouall, *An Institute of the Laws of Scotland* (Edinburgh, 1752) Volume II, pp. 581-3, transcribed by Google Books.

The Court met regularly on a Wednesday, occasionally on a Friday and on other days in emergencies. The assembled members would read the petitions or letters to the Court and most often, summon the contiguous property owners and arrange a visit to the site. If there were no objections from the neighbours then a warrant would be granted within a few days. The main concerns of the Court were: (a) the safety of what was proposed; (b) whether it met with the regulations governing the siting of certain professions such as abattoirs or tallow workers; (c) the height restrictions

imposed by the 1698 Act regulating the manner of building within the town of Edinburgh or (d) if there was any encroachment on the property of others. The style or appearance of the building was of little or no concern. The Dean of Guild and the members of the Court (usually a mason, a wright or carpenter, a slater and two merchants) were unpaid but the building tradesmen gained financially if they undertook work for the petitioners. The mason William Jamieson, for example, took on large amounts of work related to sewers and drains or paving and he served on the Court for such a long period that he is occasionally noted as 'the Town's mason'. Merchants and painters or glaziers did not stand to gain and it is not surprising that Jamieson served for decades while other trades appear intermittently. The Clerk to the Court was paid for the papers he wrote according to a published list of fees. The Court Officer served the summonses by visiting the homes of those called to the Court.

There are a number of important caveats to the simple description of the functions of the Dean of Guild Court given above.

Firstly, the jurisdiction of the Court was defined by 'the Royalty' or the boundary of the City for the purposes of taxation, beginning in 1661. This was re-defined by Acts of Parliament in 1767[1], 1785 and 1809 and many later Acts; extensions that did not always keep up with building development. It is probably fair to say that many builders simply ignored the Court until something went wrong and citizens too, if challenged in the Court by the Procurator Fiscal, would defend themselves by saying that they were building within their boundaries and their actions affected no-one else. The authority of the Court was seriously dented by the decisions made over planning the New Town by the Town Council.

Secondly and more significantly, the building of the vast majority of the houses in the golden rectangle of the New Town (within Princes St, Queen St. and the squares at either end) from 1767, is not recorded by the court. This is the result of a decision by the Town Council on 29 July 1767 that:

...the committee judge it improper that they should be put to the expence of obtaining jedge and warrant for the original buildings which might prove a great hindrance to offering out the ground.

There were some exceptions to this lack of coverage: a series of arguments over the building of mutual gables between building plots in the 1770's (the cost of a mutual gable would be shared but this was a bit difficult if the neighbour hadn't begun to build) and the occasional argument over encroachment.

The development of the New Town is often explained in the literature as a flight from the Old Town by well to do individuals who sought more style, light and space. But this is a simplification. The overall impression gained from cataloguing all of the records between 1750 and 1825 is that individuals were escaping, of course from the relative squalor of the Old Town, but also from the ever present danger of fire, the collapse of older tenements and the strict application of building standards as a result of this. Fires were fairly regular occurrences in the 18th century and examples can be quickly found by searching for 'fire' in the search box. Building collapse was more unusual but in the early 1750's there were a number and one of these killed a young man. It was probably as a result of these events that the Town began a scheme of improvements before 1755 resulting in the demolition of a group of old tenements in the area of Mary King's Close and the building of the Royal Exchange in that year. (The first exchange, designed by Sir William Bruce, had been destroyed by a serious fire in 1703).

This development on the north side of the High Street sparked a similar burst of improvement on the opposite side of the street, just below St. Giles Kirk. Here Robert Moubray, a member of the Dean of Guild Court, began work on a repairing a single ruinous tenement, a process that was very common but as one gable after another was found to be deficient in some way or another, the area redeveloped soon extended from Old Assembly Close, where it began, right down to New Assembly Close, near the Tron Kirk. Moubray was supported by the Court and drove the process relentlessly, challenging the work of other tradesmen against the very specific standards set down

in the 1698 Act. The buildings he replaced were not always the timber framed structures that appear in photographs of the Victorian period but were also stone fronted tenements with small pediments, extending to four or five floors. On the shop floor these tenements had stone piers between windows and doors of regular width and sequence, best seen in the remarkable series of measured drawings made by John Yeatts, the Town's Measurer, before they were demolished. Yeatts may also have been responsible for the new design.



John Yeatts and John Moubray, design for three new tenements south of Old Assembly Close. Petition of John Moubray, 23 January 1754.

There was also an attempt to develop areas of the Canongate which not as intensively developed as parts of the old Town and still had open spaces. This was most apparent in St. John Street and Young (now New) Street.

But none of this stood in the way of young builders who grabbed the opportunity to erect houses in the New Town after 1769, without the interference of the Dean of Guild Court or even the necessity to register legal title.

In 1784 the Council passed an Act to try and take control of building activities within the 'extended' Royalty i.e. the New Town. It refers to an earlier decision that every Act of Council granting feus (ground sold for building) should be accompanied by an elevation. The critical point is that the drawings simply had to be produced; there was no requirement to lodge drawings with the court, as applied in other cases for building activity:

Act of Council with regard to
Elevations of houses in the new extended Royalty.
At Edinburgh 15 September 1784.

Which day, the Rt. Hon. The Lord Provost, the Magistrates and Council of the City of Edinburgh being assembled - the Dean of Guild represented, that although every Act of Council granting feus in the extended Royalty bears that the feuar before he begins to build, should produce an elevation of his intended building, that the Council may approve or disapprove of the same, yet builders pay little regard to their regulation, which is often productive of disagreeable consequences to the builders themselves - he therefore moved, in order to remedy this matter, that Thomas Stevenson the Town's Overseer [of Public works] shall be directed, when he sees a foundation digging out, to require from the builder a sight of the elevation, with an extract of the Act of Council approving thereof, and, upon refusing or delaying to do so, to apply to the Dean of Guild to stop the building, till such time as an elevation and extract of the act approving thereof, are produced; and that the act to follow hereupon should be printed, that none pretend ignorance. Agreed.

Some drawings from this period do survive and I am grateful to Neil Ogg in the City Archive for alerting me to these, now stored in the Macleod Bundles. They have also been discussed by Dr. Tony Lewis in his recent book, *The Builders of Edinburgh*

New Town 1767-1795. These drawings have minimal documentation and it would require a search in the Minutes of the Town Council to determine which lot the plans relate to. This is fraught with difficulty as lot numbers (usually letters, e.g. Lot EE) are often not recorded exactly as they appear on the feuing plans of the New Town. Four of these drawings have been reproduced here with their Macleod Bundle reference. This is an area that requires further research.



Alexander Balfour, Queen Street, 1790
[ECA, Macleod D12R]



Alexander Balfour, Queen Street, 1790
[ECA, Macleod DOI 17]



Alexander Crawford, Queen Street, 1791
[ECA, McLeod DOI 17]



John Hay & John Baxter, Castle Street, 1790
[ECA, Macleod D2R]

By the 1790's, most alterations to houses in the New Town came under the inspection of the Court and these petitions occasionally include a reference to the original builder. There are sporadic earlier references and some unextracted processes that shed light on irregularities of interpretation by builders and owners.

There are also many petitions for work in Leith, accompanied by architectural drawings by very competent draughtsmen and designers. Indeed, this is one of the hidden delights of the entire collection. It may be that buildings on land purchased from the City are less well recorded. In 1780 a petitioner in Leith (17 August, Watson) argued that 'not one feuar in Leith [purchasing a feu from the Town Council] ever applied for a warrant to build and upon searching the records of the Court this will be found to be the fact'. This is probably an exaggeration but the Dean of Guild allowed him to proceed with work already begun and there is no drawing mentioned in the petition.

Some further observations

There is a great deal to be learned about the building of the City of Edinburgh in the Dean of Guild papers and some assumptions made by scholars in the past must be re-visited. The most significant is the idea that the houses in the Old Town were occupied by all classes of people in a layered system, with the most genteel on the first and second floors and the *hoi poloi* in the uppermost flats or garrets. It is true that the garrets were most often occupied by the poorest but they were also used by minor trades or crafts people and there is even an example of sheep being kept in an attic. However, in the period between 1770 and 1800 the aristocracy can be only found in rare pockets in the City, most often in the Canongate. The middle floors in most tenements

are occupied by merchants or the elderly, 'residents' and very often they are not the owners. The level of lease holding is surprising and this is perhaps because there are very few other records of this type of occupation. The best records here for an understanding of occupancy are cognosed accounts, noted above and requests by the Procurator Fiscal to demolish a tenement or requests for common repairs - to the roof for example. These records list all of the occupants and often include details of the owners or 'heritors' as well as the occupiers.

The most common complaints in the entire collection relate to damage caused by water, either from a poorly maintained roof or from careless occupiers in upper flats. This is followed closely by arguments over boundaries or mutual gables. Many of these complaints have a familiar ring about them, for anyone who ever lived in the City. Interestingly, roofs in this period are still the responsibility of the owner of the uppermost flat, unless there is some legal agreement between the owners of the entire tenement.

Joe Rock, 2023