

## Crying the Peace of the Fair

### The Quern-Dust Calendar — Ragnall MacilleDhuibh

IN ARTICLES earlier this year I investigated the origins of traditional Scottish fairs and some of their strange-sounding names. Now in this one I will try to answer the question, how were these fairs organised? In particular I want to look at how ‘the Peace of the Fair’ was proclaimed at different times and in different places.

For information on fairs we must go back to the records of the burghs. Irrespective of whether fair came first or burgh came first, the two are inseparable in the historical record. The first burghs were set up as points of economic growth by David I (1124-53), Malcolm IV (‘the Maiden’, 1153-65) and William the Lion (1165-1214).

The burgh was not a castle or a fortress, but a closely-knit commune of skilled entrepreneurs of diverse origin, operating under a set of precise rules which tied them legislatively to the King — either directly, in the case of Royal Burghs, or indirectly through some great landlord, abbot or bishop. The burghers therefore had both privileges and responsibilities. Among the latter, for example, were watch and ward duties. At the stroke of a staff on his door he had to turn out and keep armed watch from ‘coure feu till day down’. Houses were usually of timber and thatch, and fear of fire was ever-present, so the watch started by seeing that all fires were covered. Long weapons had to be kept in the booths, ready for any hue and cry through the community. Warding involved the guarding of prisoners in the tolbooth, though they were honour bound not to attempt to escape. The burgher had to defend his burgh, build a house on it within a year, and maintain it thereafter; he had to attend three head courts yearly, keep his weights and measures sealed with the burgh seal, pay his part of the civic burdens and take his turn as a burgh official.

Once a burgh was established under a charter of erection, the duty of the burghers was to establish trade, and trade was undertaken during markets and fairs. Two weekly markets and an annual fair were usually granted. Stallholders set up their open stalls or booths, and the dues were an important item of burgh revenue. Trading restrictions were often removed for the period of the market, and other community restraints were also lifted so that no-one could be arrested unless he broke ‘the Peace of the Fair’. Special courts were set up to deal immediate justice to any wrongdoer.

It became a vital principle of the feudal system that the right of holding fairs and markets was a prerogative of the King, exercised only through Act of Parliament. Anyone setting up a fair or market without such authority was liable to penalties, while those duly authorised to hold a fair or market could prevent the establishment of another one near enough to be a nuisance.

The right to hold a fair was valuable, for it carried with it the right of exacting toll on goods sold, while it also gave certain judicial rights to the holder of the fair. Those attending fairs became subject to laws made for and peculiar to the occasion, and the sites of fairs thus acquired some semblance of community organisation. The laws of the fair were administered in courts set up for the purpose. They gave special protection to traders going to or returning from fairs as well as while at the fair itself. In fact, as A R B Haldane once pointed out, the ‘Peace of the Fair’ seems to have carried with it almost the rights of sanctuary.

There was logic in this. Annual fairs were held on holy days, and dedicated to a saint. They would come under the protection of this saint and thus have the same status as one of his (or her) relics. They were normally held in the churchyard until this practice was stopped by Act of Parliament in 1503. Even then commercial announcements were still read from the pulpit, and trading was allowed in the church porch except during divine service.

There is a further strong parallel between fairs and religion. The fair was ‘fenced’ in the same way that all medieval courts were ‘fenced’, and in exactly the same sense in which the tables are, or were, ‘fenced’ at communion — that is, reserved to those who had earned the right to sit at the Lord’s Table. This fencing is well described by a nineteenth-century writer speaking of *Féill nam Bannaomh*, the ‘Fair of the Female Saints’ held on 26 July every year at Kenmore in Highland Perthshire.

The Peace of the Fair, he says, was proclaimed by the ground officer after arriving with drawn sword in procession with a piper and a dozen halberdiers. “From the moment the peace of the fair was cried, there was perfect liberty. The debtor could not be taken up for his debt, or the riever for his theft; even the fugitive bondman was free from arrest on that day, and though his owner met him in the fair he dared neither ‘chase nor tak him’, nor apprehend him, on his way home. And besides, there was unrestricted free trade, while at other times only those privileged to sell could do so.”

As on holy ground, then, there was a form of amnesty for crimes committed under secular jurisdiction, but so, too, did outrage and bloodshed become a form of sacrilege. Time and again the site of a fair was changed after a murder had been committed during its term. The ‘New Statistical Account’ of 1845, for example, states that there was a tradition at Whitsome in Berwickshire that a fair was formerly held there twice a year, but that the privilege was lost when a scuffle took place at one of the fairs, as a result of which a man was killed.

When fairs outgrew the churchyard, or moved to a different site, it was imperative that the geographical sanctuary afforded by the fair be clearly marked out. In other words, in order to keep the Peace of the Fair, the Law of the Fair had to be proclaimed and its marches had to be marked out, and these marches might well enclose an entire burgh. So for example the records of the Royal Burgh of Edinburgh of 10 June 1584 state (when put from Scots into English) that “the Provost is ordained to be warned to gather his own customs at the Trinity Fair now at hand, and proclamation is to be made that as it was enacted in December last that the town

should visit their marches at the Trinity Fair on foot, that therefore the neighbours should convene on Saturday next at 5 hours in the morning, at the provost's lodging, to pace and visit the same".

In the case of Crieff, by contrast, the King's grant of the fair was not direct to the burgh but to the Duke of Perth, who appears to have used the fencing of the Michaelmas Fair to assert his authority. "In former days," says the New Statistical Account, "the principal fairs at Crieff were opened with considerable pomp by the Duke of Perth in person. He held his court (often in the open air) in the morning, with a view to make the necessary arrangements, settle differences, and provide against the commission of outrages among the community. He afterwards rode through the market at the head of his guard, and proclaimed his titles at the different marches or boundaries of his property.

"Many of the feuars were bound by their charters to provide a given number of the halbert men that composed the guard at the fairs, and not many years have elapsed since their services were dispensed with. The regulation and management of the fairs was then entrusted to the committee who had the charge of the town's affairs; and the public funds of the town were principally derived from the grass upon the bleaching green, the public weights, and the rates of customs charged upon the different articles, and subjects that were exposed for sale during any of the market days."

That account conceals any historical tensions that may have existed between landlord and burgh over the right to hold the fair, but they are laid bare for Dundee in this mid-seventeenth-century reference to the Feast of the Assumption there (15 August): "Indenture between James Viscount Dudhope, constable of Dundee, and the magistrates, acknowledging the right of the former to customs of first fair, and consenting to his riding through the town during the fair, accompanied by not more than twenty followers."

Tension is evident, too, in the unexpected use of the word 'trespassers' in a charter by Charles II in favour of Sir George Mackenzie of Rosehaugh for the lands of the barony of Bute. It speaks of "the keeping of the fairs within the burgh of Rothesay" and "a right to have a gallon of ale out of each brew-house in the burgh, as use is, and of fining all trespassers within the burgh during the time of the fairs".

After 1700 tensions seem to disappear, but the need to keep the Peace of the Fair remains. The 'Old Statistical Account' of the parish of Kiltearn in Easter Ross in 1791 tells of two annual fairs at Drummond where "the proprietor exacted no toll or custom but maintained a guard while the market lasted to keep order and to prevent riots". The Old Statistical Account of Dunkeld in Perthshire tells of six yearly fairs at which "a guard paid by the Duke of Athol, and provided with arms, was always in readiness to preserve the peace and apprehend any offenders who might be detected".

After 1800 the economic landscape changes. Communications improve, shops open, people are driven from the land, fairs go into terminal decline, but sometimes customs are kept alive for their own sake, and I sense the hypocritical sentimentality of all-powerful landlords behind the following examples. By 1845, in the fair at Eaglesham on the last Thursday of August, "the feuars have a procession, terminated usually with a horse race for a Kilmarnock bonnet". In Berwickshire by 1890, even though the fair at Chirnside on the last Thursday of November has dwindled to one or two stalls selling gingerbread, the fair is still 'cried' by a servant of the lord of the manor, and a penny is still levied from each stallholder; while nearby in Swinton the 'crying of the fair' twice a year is still gone through even though the two annual fairs are discontinued!

My last description of how the Peace of the Fair was kept relates to the great July fair at St Boswells in Roxburghshire, well known to the Highland drovers as the *Féill Boisil*. I take it from Jean Lawrie's book 'Old St Boswells'. "Until 1870," she says, "the custom known as 'cryin the Burley' was observed." ('Burley' or 'birlie', the same word as English 'by-law', means local customary law and is from a Norse root.)

"Shortly before 11 a.m. on the Fair day," she goes on, "three men, carrying halberds on their shoulders, and preceded by a drummer in a 'tile hat', marched through the Fair ground proclaiming the Fair open. The last man to 'Cry the Burley' was Mr Charles Lamb. One of his henchmen, known as Black Davey, had dark bushy hair and whiskers and dressed for his part in a claw-hammer coat with a double row of bright metal buttons down the front. The drum and tile hat are still in existence, in the care of Mrs Tom Melrose of Elderbank."

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