

THE TOWN COUNCIL OF ROTHESAY.

ITS CONSTITUTION AND ELECTIONS TO 1833.

WITH LIST OF PROVOSTS TO 1910.

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While the Burgh of Rothesay is fortunate enough to possess its original Charters, the Council Records for the first 250 years of its existence as a Royal Burgh have been lost. According to Blain these Records were carried away by Cromwell's Governor of the Castle, and in the absence of these Records it is impossible to give any authentic account of the earliest Elections of Town Council of the Burgh.

In the earliest Scot Statutes there is no mention of Town Councils, but the oldest code of Laws—the Burgh Laws of King David—appointed the Alderman and Bailies to be chosen through the counsel of “of the good men of the town.”* The Mayor or Alderman was to cause twelve of the more sufficient or discreet Burgesses to swear by their great oath to keep and maintain to the utmost of their power all the laws and just customs of the Burgh.† The Statutes of the Guild of Berwick‡ which were adopted by the other Burghs of Scotland provided that the Mayor and Bailies should be chosen at the sight and by the consideration of the whole community, and appointed the community to be governed by 24 good men “of the better, more discreet and more trustworthy.” The “good men of the town” and the “whole community” mentioned in

*Leges Burgorum, Sec. 70.

†Leges Burgorum, Sec. 112.

‡Statuta Gilde, Sec 38.

these two codes seem to refer to the same class, viz., the Burgesses of the Burgh, and the oldest Records of Burgh Elections support the view that the Elections were of a "popular" character.*

But between the Merchants and Craftsmen there arose disputes which were attributed to the popular character of the Burghal Elections. The Merchants were the most important class in the Burghs, while their Guild was the most powerful Association in the Burghs. They kept aloof from the Craftsmen who formed Associations amongst themselves, and these came into opposition with the Merchant Guilds. These disputations were ostensibly the reason given for the passing of an Act in the reign of James III. (1469, c. 5) which enacted—

"As tuiching the electioun of alderman, bailiis, and vtheris officiaris of burowis, becaus of gret trubel and contensione yeirly for the chesing of the samyne throw multitud and clamor of commonis sympil personis, it is thocht expedient that nain officiaris na counsail be continuitt eftir the Kingis lawis of burowis forthir than a yeir; end at the chesing of the new officiaris be in this wise, that is to say, that the aulde counsail of the toune sall cheise the new counsail in sic novmyr as accordis to the toune; and the new counsail and the aulde of the yeir before sall cheise all officiaris pertenyng to the toune, as alderman, bailiis, dene of gild and vtheris officiaris; and that ilka craft sall cheis a persone of the samyn craft that sall have voce in the said electione of the officiaris for the tyme in like wise yeir be yeir."

We may probably assume that prior to 1469 the Elections in the Burgh were of a "popular" character. It is impossible to say whether a change was made on the passing of the Act of 1469. Some Burghs did not at once observe the new law, and although several Acts of Parliament were passed to regulate the Elections of Councils, the procedure in the

*Micellany of Burgh Records Society—lxiv.

Burghs was by no means uniform. Indeed, the Convention of Royal Burghs had great difficulty in getting the Burghs to conform to the Statutes—particularly with regard to the class of persons who, the Convention contended, had by Statute the sole right of being elected to the Council, viz., "Merchants and craftsmen actual and real burgesses dwelling within the town and bearing all portable charges within the samin." Ultimately the Convention ordered each Burgh to formulate and transmit to them an authoritative statement of its previous practice. The sett of the Burgh of Rothesay sent to the Convention (about 1710) is as follows:—

"The provost, baillies and council, does meet yearly upon the first Munday after Michalmass, and the method they follow is and has been in use these many years bygone past memory of man.

First, They make choise of four of the council, with one of the magistrats, to make choise of the council for the ensweing year, who removes to a place apart and makes choise and returns and shews what they did.

Then first they call in such men as are newly chosen, who swears the oath *de fideli* and qualifies themselves by law and so proceeds.

First, old and new council, with the magistrates, make a leit of four men to be provost the ensweing year, out of which four they nominate one to be provost, and he who gets manyest votes caryes to be provost of the year ensweing; next they make a leit of eight men to be baillies, out of which eight tuo are nominat baillies, and the tuo who bears manyest votes are made baillies for the ensweing year; and then adjourns till the Friday thereafter, and then the officer warnes the hail new council to meet on Friday, and does not warne if any be set off.

Accordingly they all meet on Friday, and the first thing is the magistrates newly chosen gives their oath *de fideli*

administratione. and if any of the new council who were not present the first day they then compear and swear *de fidei* and all of them qualifies themselves by swearing and subscribing the oaths ordained by law. Next the magistrats and council choses their clerk and qualifies him.

The baillies choses their officers and qualifies them and procurator fiscall of court; and the magistrats and Council proceeds and makes a leit of eight or moe whereof one to be chosen treasurer of the burgh for the ensweing year, and he who hes maniest votes is chosen treasurer for the year ensweing to uplift all dues belonging to the toun."

But even this method of election was not allowed to go on without interruption for at two periods the State prevented the election laws being carried out.

One of the earliest of the existing Minutes—dated 2nd October 1654—bears that an order was received from—Lilburn forbidding the election and continuing the Council till further orders.* The Election was allowed to take place in 1655 and for 30 years there was no further interference. The elections apparently took place each year, but in several years the Election Minute is awanting while in other years it is incomplete. The number of Councillors varied. One year (1681) the number was as high as 28. From 1760 till 1852 the number was uniformly 17.

James II. ascended the throne in 1685, and he interfered with the election of Council in "ane arbitrary and despotick way." When the Council met on 4th October, 1686, to proceed with the election, a message was received from the Earl of Perth, Lord High Chancellor, mentioning that His Majesty had prohibited and discharged any new election of Burghs to be made until His Majesty's Royal pleasure be further known, and the election was accordingly delayed—the former Provost,

*This officer's rank is not given in the Minute. Major General Robert Lilburn was appointed Commander in Chief in Scotland in 1652. He was superseded for incompetence by General Monk in 1654.

Bailies and Council remaining in office. His Majesty's pleasure was made known on 9th January, 1687. "Qlk day, John Glass, Provost, Ninian Stewart and Adam Stewart, Balzies, In obedience of ane act of his Maties privy Counsell making mention that in pursuance of his Maties Comands did nominat Major David Ramsay to be provist, and David Ramsay his sone and Donall McGilchrist to be Balzies and to meet with the first conveniency and admitt themselves in their respective offices and to continue until Michalmas as the sd act of the date the eleventh of Apryle last in itself more fully beares who haveing compeared in obedience thereunto have attested."* While the nomination of the Provost and Bailies took place in January, the new Magistrates did not meet till 28th June. Several Courts were held during April, and the presiding Magistrate is given as "John Glass, Provost of Rothesay."

The election of the new Magistrates was resented by the old Councillors, for, as Blain says, † "most of the old Councillors refused to act." The minute of the election of Council gives the full details. It was shewn that some of the old Councillors were not, according to the old Statute Law, qualified to act, as Major Ramsay promptly pointed out—two of them not being residents, while the third was the Town Clerk. But long after this date the Town Clerk was a member of Council, and John Blain resigned his office of Town Clerk in 1804, on being promoted to the Magistracy, after a service of 40 years in the Council.

The minute is as follows :

At Rothesay the twentie eight day of June jm VIc four score seven years. The qlk day Major David Ramsay,

*The new Provost, Major David Ramsay, was Commissary of the Isles, and while he does not appear to have taken part in local municipal affairs prior to his nomination as Provost, his son, David Ramsay, was one of the Council elected in 1685. Donall M'Gilchrist was, apparently, the "eminent attorney" at whose house, according to Blain (History p. 297) the Earl of Argyll established his headquarters when he came at the head of an invading army in 1685.

†History, p. 319.

provost, David Ramsay and Donall McGilchrist, Bailies of the Burgh being convened and having ordered of before the hail old Counsell of the said burgh who were elected at Michelmas, jm VIc eighty five yeares to be warned against this day which was accordingly done by Alexr. Robinsone officer, treuly verified, for electing a Commissioner to the Most Generall Convention of Burrowes to be holden at Edgn. against the first twesday of Jully next conforme to the letter direct to this Burgh be the Burgh of Edr. yranent And for laying doune some effectual Course for payment makeing to the Agent of Burrows of this Burghes proportion of Costomes, great sumes of money advanced be him in the public affaires of the Burrows and for payment to his Maties Excheqr. of years reddendo of this Burghs Charter And also for payment making to the Genall Reseaver of the Cess of this Kingdom off this Burghes proportion thereof for the terms of Martimes and Wittsonday last and finding the whole last yeares Counsell not to have compeared except Robert Stewart, John Kelburne, John Ker, James Stewart, Alexr. Ffraser, and David Stewart, Clerk, Patrick Mertin and Donall Campbell And that Cuthbert Stewart and Neill Bannatyne are nott actual residents within this Burgh And that David Stewart, Towne Clerk were all three elected Counsellors of this Burgh expressly contraire to the Acts of Burrowes and that the old Magistrates, viz., John Glasse, Provost, Ninian Stewart and Adam Stewart, Balzies aft. the present Magistrates accepta'n of their offices deserted their places as Councillors declaring they would retire and leave them to themselves which they did accordingly. Therefore the Provost Magistrates and those of the old Counsell present have thought fitt that the places of the old Counsell not compearand should be filled up with the persones following to the effect aftermentioned, viz., Neill M'Neill, Adam Kelburne, John Bannatyne, John McIntyre, John McFferson, Robert Moore, Robert Wallace, John McNeill, Thomas McKinlay younger, James Niven, Duncan McLea younger, who all being sent for compeared and attested And thereafter In regards there was noe new Counsell elected at Michael-

mas last conforme to the order of this Burgh asserted in tymes bygane Therefore the sd. Magistrates and those present by plurality of votes made choyse of the two present Balzies and with them Robert Stewart, Patrick Mertin and Neil McNeil to elect a new Counsell of this Burgh to bear office till Michelmas next who having removed to a place apart for that effect, according to use and wont, Returned after choyse making of the persones following to bear office accordingly, vizt.,

Robert Stewart.	John Moore, Jr.
Patrick Mertin.	John M'Neill.
Neil M'Neil.	Thomas M'Kinley, Jr.
John Glasse.	John Bannatyne.
Archibald Glasse.	John M'Tyre.
John Kelburne.	Donald Campbell.
John Ker.	Donal M'Lea.
Adam Kelburne.	John M'Fferson.
Robert Wallace.	Robert M'Gilchrist.
Robert Moore.	John Ramsay.

The Council elected consisted of the three Magistrates nominated by the Privy Council and twenty elected Members or 23 in all. The Council elected in 1685 had consisted of 22 members and of these nine were re-elected. The Provost, Magistrates and Robert Stewart, Patrick Mertin, John Bannatyne, and Adam Kelburne were to meet with the Treasurer and Collectors and see if there were any funds in their hands for paying the town's debts and to report to next meeting. The Council again met on 6th July but the attendance was very small for the Minute reads—"The Provost, balzies and ane part of the Counsell and in regarde of many of them being absent to receive report have ordained the Counsell to be peremptorily warned to Fryday next." On the 8th of July the Provost Magistrates and 16 of the Council met and re-appointed the Collector, James Stewart, with instructions to collect all dues as formerly.

On the 4th of October "being the first Monday after Michaelmas" the Council met for the election of a new Council.

Again there was a small attendance but probably they had been made aware that they could not proceed to business. The Minute reads---

"Convenit—Major David Ramsay, provist, Donall M'Gilchrist, Balzy, with Neill M'Neill, John M'Neal, Robert Wallace, Adam Kelburne, John M'Ferson, John Moore, younger, John Ker, Robert Stewart, Robert Moore And the haill old Counsell being warned be name and surname there compeared now butt those above named.

The qlk day the Provost produced a letter subd. be the Duke of Hamiltoun his Grace by warrant of his Matie's. privy Counsell Dated at Edn. the sixteen September last whereby this Burgh is expressly prohibited and discharged as they will answer upon ther perrill to elect any new Magistrates or Counsell within this Burgh this yeir And the present Magistrates and Counsell are by his maties. au'ty authorised to continue & exerce as Magistrates and Counsell until his Matie. shall signifie his further pleasure."

This prohibition seems to have been quite unnecessary and indeed contrary to the Royal Commands as evidenced by the Minute of 12th December for from it we find that on 15th August the King had nominated "James Stewart late Provost to be provost of the Burgh for the space of a whole year after Michaelmas last until Michaelmas next" and he also nominated "Ninian Stewart and Adam Stewart to be Balzyes as being such whom His Maty. judges most loyall and ready to promote his service and most forward to support the good and interests of the sd. Burgh." This was intimated to the Magistrates and Council by Sir James Stewart, Sheriff of Bute, on 12th December in virtue of an Act of the Privy Council dated 8th December. The new Magistrates and such of the old Council as were present then proceeded to elect a new Council.

On 25th September, 1688, Sir James Stewart appeared at a Council Meeting and submitted an order of the Privy Council suspending the Election of a Council and continuing the former Magistrates in their respective offices.

But kingly interference with the elections ended with the arrival of the Prince of Orange, on 5th November, 1688.

On 16th April, 1689, the Estates of Scotland "takeing to ther consideratione the Invasiones made upon the priveledges of the Royall burgh of Rothesay in the electione of ther magistrats by recommendationes otherwayes made by the late King in ane arbitrary & Despotick Way Therefor the said Estates Doe authorize the present toun clerks to Conveen the wholl burgesses who bear burden with the toun and are lyable in watching and warding (Excluding honorary burgesses) to meet upon the twentynynth Instant with continuacione To the effect the saids burgesses may elect magistrats and ordinary Counsell of the said Burgh according as the plurality of Votes shall determine, and the Estates doe nominate and appoynt the Laird of Cames elder*, the Captain of Dunnet† and Mr John Stewart of Escog or any one of them to see the electione made, and appoynts the magistrats and Counsell swa chosen to continow till the first tuesday after Michaelmas next That then and on that day a new election for the ensueing year of both magistrats, Council & Deacons of Crafts may proceed in all poynts conforme to the sett and custome of the burgh."‡

The Town Clerk, apparently, convened the Burgesses, as directed, but it is not clear what happened.

The minute is not complete. It reads :—

"At Rothesay the twenty nyth day of Apryle, jm VIc eighty nyne years. The qlk day in obedience of ane act of the Meeting of the estates of this kingdom authorising the present Toun Clerk of the Burgh of Rothesay to convene the whole burgesses who bear burden within the toun,

*Ninian Bannatyne.

†John Campbell, proprietor of the Estate of Ardbeg. The estate is now held by his descendant, Mrs Campbell Wyndham Long.

‡1689 c 44, Acts of the Parliaments of Scotland, Vol IX. p. 47.

and are lyable in watching and warding (except every honorary burgess) to meet this day with convenience to the effect the said burgesses may elect Magistrates and ordinar Counsell of the Burgh according as the plurality of votes shall determine, and the estates do nominate the Laird of Kames, elder, the Captaine of Denoone, and Mr. John Stewart of Ascoge or any ane of them to observe the election made as the said Act of the date foresd. in itself more fully bears. The Court being called in their Majestys name King William and Queen Mary and ther three being present they have nominat and chosen the Captaine of Denoone preces of this pnt. meeting."

On 3rd May there is a Minute of the Magistrates and Council minuting the roupung of the common grass of the town but no sederunt is given. On 29th August the Provost, Magistrates and some of those who had been in previous Councils called a Meeting of the whole heritors and burgesses "in respect of the want of a Towne Counsell" and went over the Collector's Books and made arrangements for uplifting the "Martimas townes cess." The Provost and Magistrates are not named in this Minute.

On 28th September Robert Stewart, Provost, and John Kelburne and Adam Stewart Bailies by virtue of a warrant from David Boyle of Kelburn, one of the Commissioners of Parliament for the Shire of Bute convened the Burgesses to choose a Council by poll. From these Minutes it would appear that a new Provost and Bailies had been elected—very probably at the Meeting convened by the Commissioners. If a Council was also elected the Councillors must have declined to act.

The Burgesses met as desired by the Magistrates and elected a Council of 18 Members. The Minute does not give the number of Burgesses compearing but from the minute of 7th March of the same year one finds that 115 burgesses met to elect a Member of Parliament while 37 were absent, the

total number of burgesses in Rothesay thus being 152.* There is no Minute of Election of Provost and Magistrates at this time but from the Sederunt of the Minute of the following Michaelmas Court the Provost and Magistrates were evidently either continued or re-elected. At the Michaelmas Court the Provost, Bailies and Council were elected—James Stewart being again elected as Provost. After this the Elections were held annually at the Michaelmas Court without any interference.

The charter of novodamus granted by James VI. provided that there should be a Treasurer to attend to the Burgh's finances and the Set provided for his annual election but his position differed from the Honorary Treasurer of the present day. The Town Council on 4th October, 1675, ordained that no person should thereafter be elected a Bailie until he had served one year as Treasurer—a resolution which does not appear to have been acted upon—but so far as one can gather from the Minutes the Treasurer was not a Member of Council. His duty apparently was to collect the "Common Maills, Reddendoes, and other dues of the Burgh" and he received a salary. His accounts seem to embrace not only his own collections but also the customs collected by the Collectors of Custom and it is probable that it was part of the Treasurer's duty to supervise the Collectors of Custon. The Treasurer does not appear to have been regularly elected and during the Provostship of Robert Wallace (1730-45) there was no Treasurer. The Provost—subsequent Minutes state—acted as Treasurer himself with the result that the Finances of the Town got into a very unsatisfactory condition. On 2nd October, 1746, the Council minuted that "taking to consideration the great disorder and confusion of the affairs of the Burgh occasioned chiefly by the want of a Treasurer for receiving all the Town's Revenues and publick moneys and disbursing the same by order of Council, the Magistrates and Council for preventing thereof in time coming and extricating the Town's affairs out of their present situation enact and

*Blain says 152 burgesses compeared, but this is not quite accurate (History p. 321).

ordain that at the next annual Election and yearly thereafter a fit person of the Council be elected as Treasurer of this Burgh to continue for one or two years as the Council shall think proper: That the whole branches of the Town's Revenues as well as the publick cess be paid in to the said Treasurer: That he pay away no money on the Town's Acct. except the King's Cess and Schooll Master and Town Officers Salaries without a written order from the whole Magistrates or a Committee to be appointed for that effect: And that he be obliged to produce and have his Accompts cleared and discharged in Council sometime before the Candlemas after every year of his office at furdest or even during his office if that shall appear necessary." At the Election on 6th October 1746 Neil Taylor was appointed Treasurer, and at the Annual Election on 2nd October, 1758, a Committee was appointed to settle the accounts of the Treasurer.

You will probably have noticed that I have not yet made mention of the Dean of Guild. In Royal Burghs this was usually an important office. William Black, Advocate, Edinburgh, in his Book on the Privileges of the Royal Burrows (pub. 1707), says :—" Each Burgh Royal has a Dean of Gild, "who is the next Magistrat to the Baillies: and in some burghs, particularly in Edinburgh, the Dean of Guild is "chosen after he is a Baillie, and commonly the Provost is "Dean of Gild the year before he is elected Provost; Tho' "the Baillies have precedency in all publick Appearances. "The Dean of Gild in all Burghs where there is Trade, signifies a great deal more than the Bailies, for his power is "more extensive," and Mr Black goes on to enumerate his duties as being Judge of all the controversies arising betwixt Merchants relating to their Trade, Judge in controversies arising betwixt neighbours within Burgh anent their building of houses, &c., and in having the sole management of the common stock belonging to the Guildry. There was no guild or other trade incorporation in Rothesay, and an action, in 1682, to force the Town Council to form such corporations failed, so that there did not arise the same necessity for a Dean of Guild in this Burgh. Blain says :—" One of the

"Councilmen has since the year 1748 been "dignified with the title of dean of guild. However, he does "not exercise any jurisdiction as such, there not having been "a dean of guild in the place formerly, and because he is not "one of the officers enumerated in the charter of King James "VI. His office extends no further than the superintending "such businesses as the Town Council refer to him." On 26th December, 1684, a minute of the Council reads that "the Provost, Bailies and Dean of Gild of the Burgh being "convened, admitted and received John Kyle, Merchant in "Largs, to be a Burgess and Gild Brother." In the sederunt of the Michaelmas Court of 1720, Robert Kelburn is named as "Dean of Gild," but there is no Minute of Election of a Dean of Guild till 1st October, 1750 (not 1748, as in Blain's History,* when the Town Council "unanimously enacted and "ordained that in all time coming a Dean of Guild be yearly "chosen for this Burgh conform to the Towns Charter and "the practice of other Royal Burrows"—the first Dean being Robert Stewart. His duties do not seem to have been definitely fixed by the Council for some years later.

The Council, from 1750, consisted of a Provost, two Bailies, Dean of Guild, Treasurer, and twelve other members. John Blain had been appointed Town Clerk, on 2nd April, 1761. After the experience of two Elections he called the attention of the Council to the fact that the Minutes of Election did not accurately set forth the procedure. From a minute of 30th September, 1763, we find that—

"For many years back it has been the custom (of the Magistrates and Council) to convene upon the Friday immediately preceding the first Monday after Michaelmas and then to appoint a Committee of their number in terms of the Sett, to give in a list or nomination of the Councillors for the following year, and out of whom the Provost, Bailies, Dean of Gild and Treasurer, are afterwards chosen. That such of the old Councillors as is thought proper to discon-

*History, p. 303.

tinue have had no vote in the election of the Magistrates, Dean of Gild and Treasurer, but on the contrair those that are brought in their places are summoned to appear on the day of election of the Magistrates, Dean of Gild and Treasurer in order to vote thereat. And because there has never been any formal act past for thus anticipating the Election of the Councillors the Minutes of Election have hitherto bore that the whole was done upon one and the same day, namely the first Monday after Michaelmas."

Mr Blain was no doubt puzzled with this proceedure. There was no copy of the Sett in the Council Records or amongst the loose papers to guide him and on his advice the Magistrates and Council "to rectify these proceedings" declared that in future the Election of Council should take place on the Friday and the Election of Magistrates on the Monday following. Instead of rectifying the proceedings, the Council were confirming very irregular and indeed illegal proceedings. No one appears to have thought of any irregularity in this act of the Council until after the Election of 1787, when, to quote Blain, "the demon of discord began to throw its poisoned shafts "among the members of this happy community."* On account of this discord it was thought prudent to make minute inquiry as to the constitution of the Burgh. The Sett sent to the Convention was examined, with the result that on 2nd October, 1788, the Provost, Peter May, informed the Council that he had taken the opinion of Counsel on the legality of the act of 30th September, 1763, in as much as it altered the days of the Election as set forth in the Sett of the Burgh, and that Counsel was of opinion that this act was illegal, as it had not been ratified by the Convention of Burghs. The Council, acting on this opinion, repealed the Act of 30th September, 1763, and resolved to adhere strictly to the Sett in future, that was to have the Election of Council, Provost and Magistrates on the first Monday, after Michaelmas and the Election of Clerk, Officers and Treasurer on the Friday following.

The Election of 1788 was held in accordance with this

*History, p. 330.

Resolution, and was immediately challenged—an action being raised in the Court of Session to have it declared void. "My pen," says Blain, "would be but ill employed were I to attempt to hand over the names of the persons who stood forward in this foolish business," and I think it will be well to follow the old historian's example, the more especially as we have his assurance that "they afterwards saw and were convinced of their error, and by their subsequent conduct they shewed that they had been misled, and sincerely repented of "what they had done." Nor need I tire you with the long, irrelevant pleadings in the case. The cause of the whole was an anonymous letter submitted to the Council when assembled at Michaelmas, 1787, to elect the Council. The letter bore the Glasgow postmark, and was to the effect that if Rothesay would support a certain gentleman "of family and fortunes," who intended to offer himself as a candidate at the next Parliamentary Election, this gentleman would bear the whole expense of building a new Quay, and of otherwise improving the harbour. The Council would have nothing to do with the offer. Annoyed at the rejection of his bribe, the writer, it was alleged, instigated the action in the Court of Session. It was an extremely foolish action, for the Court was asked to annul the Election of 1788, which was admittedly according to the Sett of the Burgh, because in 1763, the Sett had been altered without authority! The action on this ground was just 25 years too late. The only other ground of action was that only nine of the seventeen Councillors elected were persons residing in Rothesay, the others being resident in the Island outwith the Burgh. The reply to this charge was that all the Councillors were burgesses, and that by a decision of the House of Lords (Anstruther case), residence in a burgh was not a necessary qualification. The respondents gave a list of Councillors from 1708 who were non-residents, and from this list it appears that while most of these Councillors resided in the Island, some had not, amongst them being two ex-Provosts—John Dunlop, who during his second term of provostship resided in Greenock, and Duncan Macmillan, who lived in Edinburgh. The only other point of interest brought out in the proceedings was that there was an unwritten law

at this time that two Councillors should retire from the Council each year, two new men being elected—a rule which was, however, not invariably kept. As might have been expected, the Court of Session dismissed the action, with expenses against the pursuer.*

In these days there were no Standing Orders, and the Council seems to have got on well enough without them. On 21st November, 1785, Mr Blain thought that some bye-laws were necessary for the "more orderly administration of the concerns of the Burgh," and he submitted a series of bye-laws drawn up by him. The first bye law dealt with the number of meetings of Council, and ordained that there should be four meetings per year—on the first Thursdays of November, February, May and August—special meetings being called, if necessary. No hour of meeting was then fixed upon, but in 1788 the Council resolved to meet not earlier than nine a.m. nor later than one p.m. Another bye law dealt with the duties of the Treasurer. It states that the Treasurer had seldom been called upon to account sooner than two years after his election, and sometimes not for a considerable number of years. To see that he did his duty, he was to submit at each of the regular meetings of Council, a Schedule of the Revenues received and outstanding debts, and at the November meeting annually, his account of Charge and Discharge. This bye-law was amended on 24th October, 1788 to the extent that he should be fined 5s for each day he was late in producing his Annual Accounts, and that the accounts should

*The question of whether Councillors required to be resident in the Burgh was raised in several cases about this time. In the Wick case (1749), the Court of Session held that the majority of Councillors ought to be resident burgesses, and that the bailies, dean of guild and treasurer must be residents in the Burgh (Morrison's Dictionary, p. 1842). In the Anstruther case (1784), referred to above the House of Lords reversing the Court of Session's decision, held that residence was not a necessary qualification (see 3 Paton's Appeals, p. 22). In the Nairn case (1785), the House of Lords decided that the bailies and office bearers of Nairn should be elected from the resident burgesses, but residence qualification was not required for the provost and other councillors. It was also held that the town clerk could not be one of the magistrates. (3 Paton's Appeals, 23). These decisions of the House of Lords turned on the usage of the particular burgh.

be open for two weeks for inspection by the Magistrates and Burgesses. The Collectors of the Common Maills and Harbour Dues had to give in their accounts at the same time as the Treasurer.

The duties of the Dean of Guild were also regulated. He was to lay before the Council, at their meetings in August and November, a list of the unfree traders of the Burgh, and he was also at the same time to be able to certify that he had tried, before two persons of good repute, the weights and measures used in the town—his duty being to report to the Procurator-Fiscal anyone using false weights, &c. The necessity for traders becoming burgesses was abolished in 1846 (9 and 10 V. c. 17), and while the Weights and Measures Act, 1878, made the Magistrates the Local Authority, the Dean of Guild, having no other duties to perform, was, by courtesy, continued as head of that Department till the Dean of Guild Court was established on 26th May, 1893.

In the absence of any evidence to the contrary, we may probably assume that the earliest elections of the Town Council of Rothesay were conducted according to the old Scots Statutes, and were on a "popular" basis for 69 years. For some four years the Elections were controlled by the Government, and for 360 years the Councillors were self-elected. But—

"The old order changeth, yielding place to new,"

and if the "popular" method of election provided by the Burgh Reform Act, 1833, was not exactly new—the novelty of the people selecting councillors was sufficient to suggest to about one-third of the electors that they were the proper men to act as civic rulers. But before dealing with the first Election under the Act, let me note the principal changes made by it. The date of the Election was changed from Michaelmas to the first Tuesday of November. The councillors were elected for three years, one-third retiring annually. The qualification for the franchise was being the proprietor or tenant of a house, shop, or other building within the Burgh

of the annual value of £10, and the councillors were chosen from the electors.

The first Election under the Reform Act took place in Rothesay on 5th November, 1833, and was keenly contested. The electors numbered 202 of whom 103 were owners and 99 were occupiers and 66 candidates sought their votes. With such a small electorate it was inevitable that a considerable number of candidates would secure very few votes and five actually got two votes each while twenty received one vote each. It may be interesting to give the List of Councillors elected—

Archibald McIndoe (Merchant)	175 votes.
The Marquis of Bute	173 "
Charles Mackinlay (Tanner)	173 "
John McKinlay (Merchant)	173 "
John Muir (Factor to Marquis of Bute) ...	149 "
Archibald Sharp (Merchant)	136 "
James Duncan (Draper)	132 "
James Miller (Merchant)	129 "
William Gillies (Merchant)	120 "
Alexander Brown (Cooper)	119 "
Archibald McKirdy (Builder)	118 "
Daniel Thompson (Merchant)	117 "
Neil Jamieson (Fish Merchant)	114 "
Robert McKirdy (Lieutenant, R.N.) ...	104 "
Archibald McLea (Writer)	104 "
Neil McIntosh (Merchant)	101 "
John McFie (Draper)	88 "

The new Councillors, with four exceptions, were Members of the previous year's Council.

The Act 15 and 16 Vict. cap. 32 (1852) fixed the number of Councillors in certain Royal Burghs. The Rothesay Town Council was by this Act increased to 18 members, the additional member being added to the Magistracy making the Bailies three in number instead of two as formerly. No

*Population in 1831-4817, in 1901-9323.
Electorate 1909-10—Males 1596—Females 1037—2633.

change has since been made in the number of Members or constitution of the Council.

PROVOSTS OF ROTHESAY.

- 1583—John Stewart, Sheriff of Bute (1).
- 1589—John Stewart, Sheriff of Bute (2).
- 1639(?)—41—Matthew Spence (3).
- 1642-46—John Jamieson (4).
- 1653-5—Archibald Stewart.
- 1655-8—John McGilchrist.
- 1658-60—John Glass.
- 1660-61—John McGilchrist.
- 1661-63—John Glass.
- 1663-4—John McGilchrist.
- 1664-71—Sir Dougall Stewart (5).
- 1671-78—Cuthbert Stewart.
- 1678-81—Archibald Glass.
- 1681-82—James Stewart.
- 1682-84—Archibald Glass.
- 1684-85—Cuthbert Stewart.
- 1685-87 (Jan.)—John Glass.
- 1687 (Jan. to Dec.)—Major David Ramsay.
- 1687-1689 (Apr.)—James Stewart.

- (1). In 1583 John Stewart Sheriff of Bute and Provost of Rothesay, was Commissioner to the Convention of Burghs.
- (2). Privy Council Register Vol. IV. p. 446 see also Blain's History p. 233 and Rev. Dr Hewison's Bute in the Olden Time II. 154.
- (3). Matthew Spens was a Notary Public and seems to have been a very prominent man in Rothesay. He attended the Convention held in Kinghorn in 1600 and obliged himself to pay Rothesay's share of the dues. He was again Commissioner in 1606 (Dundee); 1607 he was then a Bailie (Dumbarton); 1611 (Stirling); 1612 (Edinburgh); 1617 (Dumbarton); 1621 (Edinburgh); 1626 (Edinburgh); 1627 then a Bailie (Ayr); 1630 (Jedburgh). He represented Rothesay in the Parliaments 1621, 1621-33 and 1639-41. In the last named he is called Provost but he probably held this office from 1628—see Bute in Olden Time Vol. II. p. 344, and Acts of Scottish Parliament Vols. IV. and V. His name appears in the Maill Book for 1642 but not in any of the subsequent Maill Books. I am indebted to Mr J. L. Officer, W.S., Agent of the Convention of Burghs, for information regarding the Commissioners from Rothesay.
- (4). Maill Book 1642. Murdered by Clan Campbell at Dunoon 1646—Bute in Olden Time Vol. II. p. 333.
- (5). Father of First Earl of Bute.

- 1689 (Apr. to Oct.)—Robert Stewart
 1689-1700—James Stewart.
 1700-1705—Archibald Stewart.
 1705-1712—James Stewart.
 1712-1714—James (Second) Earl of Bute.
 1714-20—James Stewart (not the James Stewart previously Provost).
 1720-24—David Glass.
 1724-26—James Stewart.
 1726-30—David Glass.
 1730-45—Robert Wallace.
 1745-58—Hugh McBryde.
 1758-65—John Dunlop (6).
 1765-71—David Blair.
 1771-77—John Dunlop.
 1777-79—Duncan McMillan.
 1779-88—Peter May.
 1788-93—John, Lord Cardiff, became 4th Earl of Bute in 1792 (7).
 1793-1794—John, Viscount Mountstuart (died 22nd Jan. 1794) (8).
 1794 (3rd Feb.)-1814—Fourth Earl of Bute afterwards first Marquis (died 16th Nov., 1814).
 1815 (9th Jan.)-1816—John (second) Marquis of Bute (9).
 1816-18—Lord Patrick J. H. C. Stuart, commonly called Lord James Stuart (10).
 1819-26—Second Marquis of Bute.
 1826-29—Lord P. J. H. C. Stuart.
 1829-39—Second Marquis of Bute.
 1839-45—Archibald McIndoe.
 1845-48—Neil Jameson.
 1848-51—Archibald Sharp.
 1851-55—Thomas Gibson, M.D.
 1855-58—Dugald Munn (died 2nd Feb., 1858).

- (6) John Dunlop, "Merchant in Glasgow" was appointed Sheriff Substitute of Bute in 1758 and almost immediately thereafter was appointed Provost.
 (7) John, Lord Mountstuart was son of the Third Earl and was created a Peer during his father's lifetime with the title of Baron Cardiff of Cardiff Castle. He succeeded his father as Fourth Earl in 1792 and was created First Marquis in 1796. The Minutes from 1788 to 1792 are signed "Mountstuart."
 (8). Son of Lord Cardiff.
 (9). Son of Viscount Mountstuart.
 (10). Son of Viscount Mountstuart.

- 1858 (Feb.-Nov.)—Archibald Brown (Interim).
 1858-61—John McEwan.
 1861-64—Archibald Mackirdy.
 1864-67—Charles Duncan.
 1867-72—Daniel Macbeth.
 1872-75—John Duncan.
 1875-78—John Orkney.
 1878-81—John A. Mackechnie.
 1881-87—Robert Sharp.
 1887-90—John R. Thomson.
 1890-93—Donald McMillan.
 1893-96—Lachlan Milloy.
 1896-99—Third Marquis of Bute.
 1899-1902—William McIntosh.
 1902-05—James A. Walker.
 1805-08—Robert Burness.
 1908—Robert C. Miller.