

2. The birth of Statutory Registration in Scotland.

The Birth, Marriage and Death Certificates and the Old Parish Registers, which we all now take for granted as a basic genealogical tool, whether it be in the ScotlandsPeople centre, online or in our local archives, were for many years of the 19th century the source of some bitter arguments and parliamentary disputes. Some of the earliest attempts to bring in some system of registration of births, marriages and deaths led to considerable opposition. Some of the suggested schemes very nearly resulted in a two-tier system, with the Established Church of Scotland maintaining their own Parochial Registers, and the Catholics, Non-Conformists, Dissenters, and others being required to pay for a form of Civil Registration. Although in England and Wales the Registration and Marriage Acts of 1836 superseded what was a very inadequate parochial system, it was to be another 18 years before a similar statutory system was achieved in Scotland. Unsuccessful Registration Bills for Scotland had been brought into Parliament no less than eight times between 1829 and 1854, but many obstacles were presented, mainly by the church. It was only by the time of the ninth bill that some progress was made. This was 44 years after Thomas Thomson, the deputy clerk register for Scotland, had initially proposed a plan to reform the Old Parochial Registers into a standardised national system for the preparation and custody of these records, and the provision of duplicate records to His Majesty's General Register House. Although the bills of 1830, 1848 and 1849 passed the House of Lords, they were rejected by the Commons, and the disputes continued. An earlier bill of 1847 had been improved following the experiences of the English system, but the main stumbling block became the decision as to who would maintain the registers, and what these individuals would be paid. The session clerks were determined to protect their vested interest in the recording of the information, and as many of these session clerks, especially in rural areas, were also the schoolmaster, the income from this work formed a substantial part of their salary. Indeed, many parishes would have found it difficult to appoint a schoolmaster at all if the extra income from his work as session clerk was not added to the pittance he received for teaching. The 1847 bill give us some of the most interesting and informative comments from the Established Church, which had only a few years earlier suffered the effects of the Disruption, and was still subject to some internal strife. A clause in this bill empowered the newly formed parochial boards to appoint a registrar, effectively barring schoolmasters, and consequently many session clerks, from holding this position. It was this provision which created a flood of petitions from every level of the Church of Scotland. The session clerks sent a collective petition to the House of Commons in March 1847, and the clause was removed from later bills being replaced by one which allowed the session clerks to be appointed as registrars, but only if they met with the approval of the Registrar General. The Church of Scotland saw this as a slur on the character of their session clerks, but the Dissenting Churches saw this as no obstacle and so the arguments continued. Another stumbling block was the very loose marriage laws in Scotland, which permitted "males aged

fourteen and females aged twelve to marry irregularly by mutual consent at any time, in any place, and without parental approval". It was proposed that only regular marriages celebrated by a clergyman or irregular marriages performed before a registrar should be recognised. These arguments over who should be appointed as a registrar effectively stifled the bills of 1847, 1848 and 1849 and it was another five years before the act was finally passed. Some of the petitions which were written by the Kirk Sessions have survived, and an interesting and quite complete example is the one presented by the Kirk Session of Keith, in Banffshire. On the 14th March 1847 the Minutes record that "The Kirk Session having this day met and convened, the Moderator stated that a very obnoxious bill had been brought into parliament for the registration of births and deaths and for the regulation of marriages in Scotland, when the Session appointed a committee consisting of Messrs [Robert] Green, [William] Thurnburn, [James] Simpson, [William] Longmore and the Moderator to consider the matter and report". So the Moderator, the Revd Mr James Thomson, and the chosen members of Session met during the following fortnight, and presented the conclusions of their discussions. On 29th March 1847 the Minutes record that "The committee appointed to report on the Registration and Marriage Bills laid on the table a petition that they had prepared to the House of Commons against them, which petition having been read was approved of a signed coram, and its contents instructed to be engrossed in the Minutes of the Keith Kirk Session it lay as follows: Unto the Honourable the Commons of Great Britain and Ireland in Parliament assembled The Petition of the undersigned Minister and Elders of the Kirk Session of Keith in the County of Banff Humbly sheweth That your Petitioners feel themselves constrained to crave the attention of your Honourable House to the terms of two Bills presently before you, intituled respectively "A Bill to amend the Law of Scotland affecting the constitution of Marriage", and "A Bill for Registering Births, Deaths and Marriages in Scotland" That your Petitioners recognise to the fullest extent the expediency of establishing throughout Scotland a uniform and official system of registration and they as fully admit the room which exists for improvement in certain parts of the Law of Marriage in that part of the United Kingdom . That your petitioners are however of opinion that the Bills which have been introduced into your Honourable House with the view of giving effect to the principles above recognised are not only in many respects insufficient for the purposes contemplated but in several of their provisions sectarian in character, unjust in principle, and prejudicial and demoralising in practice. That as regards the Law of Marriage, that which has for ages been considered the disgrace of the system, vizt; clandestine and irregular Marriages is practically legalized, and authoritatively recognised, whilst the proclamation of Banns, that safeguard against incestuous and forbidden marriages, which has been in force since the Vatican Council in 1216 – upwards of 600 years – if not absolutely abolished is practically done away with by the power given to parties to constitute a marriage regular, valid and binding in every respect by no other ceremony than the signature of their names in a book to be kept by a private official to be known by the name of a registrar. That in this respect your Petitioners consider the Marriage Bill as highly demoralizing in character and

most prejudicial in practice". The Kirk Session obviously did not condone the idea of what would later become 'Registry Office Marriages', as no Banns would be called, but this omission was later rectified. They then came out in support of the schoolmaster, who was also their session clerk, and raised concerns that such men were greatly underpaid. "That as regards the Registration Bill, whilst there are many of the provisions therein to which your Petitioners might as individuals be inclined to object, they do not as a Kirk Session think it necessary to advert to any but one, viz; the twelfth clause, which singling out one denomination of Her Majesty's subjects, and one only, viz; the Parochial Schoolmasters of Scotland expressly declares that class to be unfit for the duties of an office which, for the most part, the Individuals of that class have exercised hitherto throughout the greater part of Scotland, and for an amount of remuneration which scarcely served to deprive their services of the character of being gratuitous. That such at all events have been the practice in the several parishes of Scotland; that the class in question whilst they are confessedly one of the most useful and respectable denominations of Her Majesty's subjects in Scotland, and whilst they are identified with a system which is and has been the pride and the boast of that part of the United Kingdom viz; the system of Parochial Schools are at the same time confessedly greatly underpaid for their valuable services; that the exclusion of this class therefore from the Office of Registrar is sectarian in character, calculated to degrade the class, and through them insult the established Church of which it behoves them to be members, and unjust to these parties themselves who have done nothing to profit their capability for being employed in such capacity" May it therefore please your Honourable House either to refuse to pass these Bills altogether or so to modify the same as to remove therefrom the provisions therein of which the Petitioners complain". It is maybe a cause for reflection that if these objections had been upheld, and a statutory registration system had not been implemented, where would we be today? Would we still be searching from parish to parish for those elusive baptisms and marriages, with no central repository for the documents, and of course, no ScotlandsPeople website. Would family history have the enthusiastic following which it now has, or would it be the realm of a few experts delving away in dark and dusty corners? Maybe we should thank the people who, in the face of these objections, had the foresight to push through the changes which have enabled us all to pursue our research in the 21st century, but who at the same time were also able to facilitate the preservation and public accessibility of the old church records and many other documents which add to our greater understanding of the way of life of our ancestors.

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