Notes

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Scots in ‘English Ireland’ in the Thirteenth and Fourteenth Centuries

This note concerns Scots who in the later thirteenth and early fourteenth centuries were to be found in ‘English Ireland’.¹ The brevity of the discussion is indicative of the difficulties inherent in identifying Scots who visited or resided in Ireland during this period. Although, in part, this is because the surviving judicial records have large temporal gaps, the problem is exacerbated by the failure of the English courts (and others) in Ireland to label Scots explicitly before the mid-1290s.² Of course, several Scottish magnates were granted lands in Ireland during the reign of King John of England (1199–1216), and they are relatively easily identified.³ Several other people named ‘Scot’ appear in various types of surviving record but their legal ethnicity is not so obvious. Some, such as Albert le Escot and John le Escot, merchants of Piacenza who received a license to trade in Edward I’s realms in 1294, were certainly not from Scotland.⁴ Similarly, Walter Josselyn and Thomas Josselyne were charged before the archbishop of Dublin’s court in 1230 × 55 with the death of Edmund Scot *Anglicus*, a label which

¹ I use ‘English Ireland’ to refer to the various English-controlled lands in Ireland. They were not a singularity or physically connected. The term is a problematic abbreviation for the more accurate but cumbersome phrase.

² The oldest extant record is from the itinerant court in 1252. (The same court left records from 1260, 1261, 1265, 1266, 1290, 1295–7, 1301 and 1305–6.) The next oldest record is that of the Dublin Bench for 1278. From 1290 records from the Dublin Bench then run until 1318 (with some gaps) while those of the justiciar’s court survive from 1295 until 1318, also with gaps.

³ G. H. Orpen, *Ireland under the Normans* (reprint in 1 vol., Dublin, 2005), 204, 266–7, 303, 409–10; Seán Duffy, ‘The lords of Galloway, earls of Carrick, and the Bissets of the Glens: Scottish settlement in thirteenth-century Ulster’, in David Edwards (ed.), *Regions and Rulers in Ireland, 1100–1650: Essays for Kenneth Nicholls* (Dublin, 2004), 37–50, at 38, 43–6. See too D. J. Brown, ‘Power and patronage across the North Channel: Hugh de Lacy, St Andrews and the Anglo-Scottish crisis of 1209’, *SHR* 94 (2015) 1–23, esp. 1–6.

⁴ *Calendar of Documents Relating to Scotland, 1108–1509*, ed. Joseph Bain *et al.*, 5 vols (Edinburgh, 1881–1986), ii. 163. See too David Ditchburn, *Scotland and Europe: The Medieval Kingdom and its Contacts with Christendom* (East Linton, 2001), 253.

following an inquisition seems to have been legally accepted.⁵ Thus, not all 'Scots' were from Scotland and not all 'Scots' were regarded as Scots. Meanwhile, some who were, such as Macloine McCoffok (Mac Luinne Mac Cobhthaige?), Moriertagh McKenedy (Muircheartach Mac Cinnéide), Gilbert son of Peter and Robert son of Thomas, held names that are not readily distinguishable from other groups in Ireland.⁶ Many other Scots probably pass nowadays undetected in the thirteenth-century records. That probably includes some members of the Dublin guild merchant, though the identity of others—such as three men listed with the Gaelic moniker *Albanach* and a few dozen names possessed of Scottish toponymics—is more clear-cut.⁷ Still, at least some of these seemingly Scottish guild members were probably considered 'English' by birth, having acquired their toponymic surnames from an ancestor originally from Scotland. In the absence of court records involving definitively Scottish people we cannot, however, reach a definitive conclusion about the status of Scots in English Ireland before 1296, or even delineate who was considered Scottish and who was considered English.

After 1296 Scots were often labelled as such. The chronologically first and perhaps the most pertinent example relates to an assize of novel disseisin which Henry Scot brought against Laurence son of Henry Trynedyn in 1297.⁸ It is the only surviving case I have found which determined the legal status of a Scot who was at peace in English Ireland. Trynedyn claimed that Scot was a *Hibernicus* and the son of Neuyñ Ofothy [*Neamhain Ó Fogartaig?*]. Scot replied that he was an *Anglicus*, 'born of [in?] Scotland', and that he, his father, and all of his ancestors had always used English laws.⁹ The jurors returned that Scot's father was from Scotland, considered a *Scotus* in Ireland and enjoyed access to the royal courts. The jurors did not confirm that Scot was an *Anglicus* but they did acknowledge that he had access to the royal courts. This distinction is extremely important since it indicates that access to the courts did not *per se* make someone an *Anglicus/-a*. It placed Scots in a similar position to some Ost-people (Scandinavian Irish) who also claimed to be 'English', based on their access to the

⁵ *Historic and Municipal Documents of Ireland, A. D. 1172–1320*, ed. J. T. Gilbert (London, 1870), 155; *Calendar of Archbishop Alen's Register, c. 1172–1534*, ed. Charles McNeill (Dublin, 1950), 106.

⁶ Dublin, The National Archives of Ireland [NAI], KB 2/7, fo. 32r.

⁷ *The Dublin Guild Merchant Roll, c. 1190–1265*, ed. Philomena Connolly and Geoffrey Martin [DGMR] (Dublin, 1992), 78–80, 104, 107. See too Seán Duffy, 'Ireland and the Irish Sea Region, 1014–1318', unpublished Ph.D. thesis (University of Dublin, 1993), 93–4; Ditchburn, *Scotland and Europe*, 207; and NAI, KB 2/12, fos 1r–3r; for a juror from Ulster named 'Adam Albenagh' who deliberated on whether an Englishman had helped the Scots during the Bruce invasion.

⁸ *Calendar of the Justiciary Rolls or Proceedings in the Court of the Justiciar of Ireland*, ed. James Mills *et al.*, 3 vols (Dublin, 1905–56) [CJRI], 1295–1303, 158.

⁹ Obviously, all of Henry's ancestors did not use English laws since English laws did not always exist.

royal courts. Similarly, in none of the surviving records was a Welsh person (*Wallensis*)—of whom there were several—denied access to the English courts in Ireland. Could it be that throughout the thirteenth century Scots were treated in court just as the Welsh were?¹⁰ The paucity of cases in which the status of Scots arose perhaps suggests as much—but the silence of the records on this matter may alternatively be explained by the extensive gaps in the court records.

Henry Scot's case has been cited many times as definitive proof that accusing someone in an English court of being a *Hibernicus/-a* (Irish Gael) was a peremptory plea and considered defamatory if not true.¹¹ That is because in Scot's case Laurence Trynedyn lost because he wrongly accused Scot of being a *Hibernicus*. The justices ruled that this plea was peremptory and gaoled Trynedyn for *odiosa* ('making an untrue claim in court out of hate').¹² The *odiosa* charge, therefore, implies that Trynedyn had on a previous occasion accused Scot maliciously, similar to the example of William Norens, who was held for receiving the slayer of Geoffrey de Cogan, but was acquitted after the jury returned that Adam de Leg accused William Norens out of 'perpetual hate' (*imposuit ei istud perpetuum odium*).¹³

Meanwhile, Trynedyn persisted in suing Scot for the five acres in co. Cork. In the Michaelmas 1297 session of the Dublin Bench (a month after the assize), Trynedyn brought a writ of *quod reddat* against Scot and claimed that Scot had held the five acres in 'Katherconeghur' (Caherconnor) by demise from Trynedyn and that the terms of the agreement had ended.¹⁴ Trynedyn presumably claimed that he had granted the lands for a stipulated number of years in order to repay Scot for a debt. No verdict was recorded but we can assume that Trynedyn lost the case because two years later (Hilary term, 1298/9) he sued Scot again. This time, making no mention of the demission, Trynedyn claimed that the five acres were his inheritance.¹⁵ No judgment was recorded and we do not know if, in either of these cases, Scot raised the *odiosa* charge which had been made at the assize in the justiciar's court.

¹⁰ For the legal status of Ost-people and Welsh in English Ireland, see Stephen Hewer, 'Justice for all? Access by Ethnic Groups to the English Royal Courts in Ireland, 1252–1318', unpublished Ph.D. thesis (University of Dublin, 2018), 141–67.

¹¹ Goddard Orpen realised that the plea was *est Hibernicus/-a et servilis conditionis* and not simply *est Hibernicus/-a*, but he still believed it was *odiosa*: Orpen, *Ireland*, 448. See too Edmund Curtis, 'Rental of the manor of Lisronagh, 1333, and notes on betagh tenure in medieval Ireland', *Proceedings of the Royal Irish Academy* 43 (1936) 41–76, at 74. G. J. Hand conflated fines and gaol for trespasses with a punishment for the plea *est Hibernicus* but in all of his examples the defendant was fined and gaoled for several factors within the plaintiff's writ of trespass: G. J. Hand, *English Law in Ireland, 1290–1324* (Cambridge, 1967), 200.

¹² In later court records the justices did not judge the *est Hibernicus/-a* plea as peremptory, nor did they fine the pleader for *odiosa*. See, for example, NAI, KB 2/4, fo. 442r (dated 17 Jun. 1313); RC 8/17, 150–2 (dated 1333).

¹³ NAI, RC 7/1, 161. For an actual defamation case, see *CJRI*, 1305–7, 342.

¹⁴ NAI, RC 7/5, 368.

¹⁵ NAI, RC 7/5, 477.

The Scot *v.* Trynedyn cases were not, however, primarily about ethnicity or identity but instead about Trynedyn's claim to lands occupied by Scot. Still, were it not for Trynedyn's efforts to acquire these lands we would not have any evidence of the ability of Scots to sue civil writs in the English courts in Ireland.

Henry Scot was not the only 'loyal' Scot in English Ireland. In 1299 Edward I granted Hugh Bisset the authority to receive any 'tenant from the islands of the kingdom of Scotland' (except nobles and knights) into the king of England's peace.¹⁶ Professor Duffy traced the Bisset connections to Scotland and their advent in the Glens. By 1299 they appear to have been considered legally fully English.¹⁷ Other loyal Scots arrived as exiles during the Anglo-Scottish wars and many, including John de Argyll and Donecanus McGoffry [*Donnchadh Mac Gofraid?*], were granted lands and titles to aid in their war against King Robert I.¹⁸ McGoffry was closely linked with John de Argyll and may, therefore, have been from Argyll. In 1316 McGoffry petitioned Edward II for a wardship to maintain his wife and children after he lost 'his father and kindred' fighting the Scots.¹⁹ A year earlier he had been appointed by John de Argyll as *custos* of the Isle of Man and subsequently captured a group of Scots sailing past the Isle in 1315.²⁰ Afterwards, from January 1317 until his death on c. 15 May 1327, McGoffry served, and was well paid, as constable of Newcastle Mackinegan (co. Dublin).²¹ Donecanus was appointed to defend Newcastle MacKinegan against the Bruce army in Ireland and against the Irish Gaels of the Leinster mountains. One of his executors was Godfrey McGoffry, possibly Donecanus's son.²²

¹⁶ *CJRI, 1295–1303*, 218.

¹⁷ Duffy, 'Ireland and the Irish Sea', 247–54; *idem*, 'Lords of Galloway', 37–50. Professor Barrow believed that Hugh Bisset was a Scot, not pro-English and motivated instead more by hostility to the Macdougalls [*Meic Dubhghaill*] of Lorn than by loyalty to Edward I: G. W. S. Barrow, *Robert Bruce and the Community of the Realm of Scotland* (5th edn, Edinburgh, 2013) 217–18.

¹⁸ Professor Duffy found one exception, John MacSween [*Mac Suibne*] of Knapdale, who Bruce, asked Edward II for lands and support to fight Bruce, but received none: Seán Duffy, 'The Bruce Brothers and the Irish Sea World, 1306–29', *Cambridge Medieval Celtic Studies* 21 (1991), 55–86, at 74. MacSween, however, did receive restoration of his lands in Knapdale and possession of Arran in 1309: Duffy, 'Ireland and the Irish Sea Region', 203.

¹⁹ *CDS*, iii. no. 521; Duffy, 'Bruce Brothers', 75.

²⁰ *Irish Exchequer Payments, 1270–1446*, ed. Philomena Connolly, 2 vols (Dublin, 1998) [hereafter *IEP*], 228; 'Lord Chancellor Gerrard's notes of his report on Ireland: with extracts from original Irish records exhibited by him before the privy council in England, 1577–8', ed. Charles McNeill, *Analecta Hibernica* 2 (1931) 92–291, at 261.

²¹ *IEP*, 243, 247, 249, 252, 256, 260, 264, 267, 272–3, 276, 279, 281, 284, 291, 294, 297, 301, 306, 307–8, 310, 314–15. For his grant of Newcastle and his death (when his replacement as constable of Newcastle MacKinegan was appointed), see *ibid.*, 243, 325. See too *Calendar of Memoranda Rolls: Exchequer, Michaelmas 1326–Michaelmas 1327*, ed. R. E. Latham (London, 1968), no. 2153 (p. 308).

²² *IEP*, 315.

John de Argyll [*Eógan 'Bacach' Mac Dubhghaill*] is better known.²³ The assassination of his cousin, John Comyn, had precipitated Robert Bruce's pitch for the Scottish kingship, and subsequently John de Argyll became a close ally of Edward II. After defeating Bruce at Dail Righ in 1306 de Argyll appears frequently in English records (from both England and Ireland).²⁴ John and his father, Alexander de Argyll, were in Ireland by 1309 and receiving substantial remuneration to maintain a fighting force in Ireland. After Alexander died, John took sole custody of the army and led it to Scotland to fight for Edward II. The mayor and bailiffs of Drogheda were paid to sail John and the army to Scotland.²⁵ John de Argyll also received recognition from the English in Ireland; he was allowed to stand surety for two convicted felons in Dublin without having to pay mainprise, a privilege reserved for magnates.²⁶

As already noted, we cannot assume that everyone with the 'surname' Scot was considered a Scot legally and this remained the case after 1296. Matilda and Isabel Scot, for example, sued William de Barry and his son, Philip, for a house and two carucates in Fynnouere, co. Cork, which Tancard de Carew had disseised from Rysius Scot [*Rhys?*], their grandfather. This case had begun by 1303 at the latest, and was still being heard in 1305.²⁷ Philip son of William de Barry called the prior of St Mary de Ponte of Fermoy to warranty his claim to the house and lands. The verdicts do not survive but it appears that there was no accusation that the Scot women were Scottish or, at least, Scottish 'rebels'. Rather, the women were almost certainly born in English Ireland since their grandfather had held lands in co. Cork.

Scots who pledged loyalty to Edward I and Edward II were, sometimes at least, issued with letters of safe conduct for their protection in England and English Ireland. Many of these accepted Scots—along with some from northern England and Ireland too—were, however, suspected of loyalty to King Robert and sometimes disseised of their property.²⁸ In 1299, for example, a merchant from Drogheda, Adam Vivian, who had been living in Scotland and selling his merchandise there, returned to Ireland. He claimed that he only sold goods to those loyal to Edward I. When the Anglo-Scottish war began, Adam gathered his merchandise and Scottish wife, and fled

²³ W. D. H. Sellar, 'MacDougall, John, lord of Argyll (d. 1316)', *Oxford Dictionary of National Biography* (Oxford, 2004) (<http://www.oxforddnb.com/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-54284>; accessed 20 Jun. 2018).

See too Michael Penman, *Robert the Bruce, King of Scots* (New Haven, 2014), *passim*.

²⁴ See, e.g., *CDS*, iii. nos 132, 191, 203, 355, 447, 450, 479, 490, 479, 636.

²⁵ 'The enrolled account of Alexander Bicknor, treasurer of Ireland, 1308–14', ed. James Lydon, *Analecta Hibernica* 30 (1982) 7–46, at 35–7.

²⁶ *CJRI, 1308–14*, 219. John of Argyll also stood as surety for an Englishman convicted of homicide but the latter was required to pay £20 for mainprise, and John then pledged for the payment: *ibid.*, 167.

²⁷ NAI, RC 7/11, 95–6.

²⁸ For examples of this, see below, p. 216.

back to English Ireland. On landing in Ulster, the seneschal arrested Adam under a general precept to arrest Scottish merchants. He was subsequently acquitted and released, but only allowed to keep his goods after a jury confirmed that they were his.²⁹ Other Irish merchants also had their livelihoods disrupted by the Anglo-Scottish hostilities. In 1306 Robert Joye, a merchant and citizen of Dublin, delivered goods to Ayr, where his goods, ship and the accompanying sailors were arrested. In order to recover his losses, Robert petitioned the justiciar's court in Ireland to order the arrest of any merchant from Ayr who was in Dublin or Drogheda.³⁰ Scottish merchants also suffered amid the hostilities, especially perhaps after Edward II ordered their general arrest in 1310, though even before then at least eleven Scots were detained in Drogheda and Dundalk, their release requested by Aymer de Valence, Edward I's *locum tenens* in Scotland.³¹ An Irish jury, which included a Gael, Benedict Mackanfy [*Mac Anmhaid?*], cleared the Scots of wrongdoing though the latter's goods were kept by the burgesses of Dundalk. These Scottish merchants provide a clear example of the diversity of Scottish 'identity'. They included Adam de Hibernia, who was perhaps from Galloway, or perhaps the son of a man from Ireland, though we cannot tell if his father was Gaelic or English. Robert son of Brounyng was probably of English ancestry and Adam son of Bricius [*Breac?*] may have been Gaelic. There were at least a few Gaels named 'Bricius' in English Ireland.³²

The changes in ethnic/national/geographical labelling practice after 1296 are significant and have implications for our understanding of law and society in high medieval English Ireland. Before that date the English, in England and in Ireland, sometimes differentiated between Scots, Manx, and Hebrideans.³³ Given the mostly amicable relations between Henry III and Alexanders II and III, Scottishness was probably not, however, considered a debilitating factor in regards to someone's ability to use the English courts in Ireland. We are left to ask: were all Scots at peace in thirteenth-century English Ireland 'Scots who used English law' (just as Henry Scot was), or was that phrase an invention brought about by the Anglo-Scottish war? The treatment of Scots in English Ireland after 1296 indicates that political events in Britain caused the sudden labelling of Scots in the judicial records. All

²⁹ *CJRI*, 1295–1303, 229.

³⁰ *CJRI*, 1305–7, 226–8.

³¹ *CJRI*, 1305–7, 279–80. In 1310 Edward II ordered the arrest in Ireland of those who 'adhered to Robert de Bruce'. On the general arrest order, see James Lydon, 'The Bruce invasion of Ireland: an examination of some problems', in Seán Duffy (ed.), *Robert the Bruce's Irish Wars: The Invasions of Ireland, 1306–1329* (Stroud, 2001), 71–88, at 74; *Fœdera, Conventiones, Litteræ, et cujuscunque Generis Acta Publica, inter Reges Angliæ et alios quosvis Imperatores, Reges, Pontifices, Principes, vel Communitates*, ed. Thomas Rymer, 4 vols (London, 1816), ii, pt 2, 122.

³² NAI, RC 7/1, 130, 167; *DGMR*, 1. See too n. 6, above.

³³ NAI, RC 7/1, 149, 331–2. Cf. Richard Scot of Ultonia [Ulster]: KB 2/7, fo. 1r. The Scots of Cork: RC 7/5, 294, 342, 493; RC 7/8, 297; RC 7/11, 95–6.

Scots in Ireland were henceforth suspected of being 'enemies' of the English crown and they now had to prove that they were loyal to the English crown. It is noteworthy that, by contrast, when the Welsh in Wales rebelled against Edward I, the Welsh in English Ireland were not arrested.³⁴

³⁴ This could also be because of the gap in the court records for 1278–82, but there are no surviving royal letters patent ordering the arrest of the Welsh in Ireland, such as there were for the Scots in Ireland after 1296.