

SOCIAL CONTROL IN A SIXTEENTH-CENTURY BURGH:
A STUDY OF THE BURGH COURT BOOK OF SELKIRK 1503-1545

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Presented for the Degree of
Doctor of Philosophy

University of Edinburgh
1986



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ABSTRACT

Using the detailed evidence of the burgh court records of Selkirk for the period 1503 to 1545, supported by comparative material from the records of other burghs, this study examines the nature and function of social control in an urban community.

The burgh court is described through its functions as the chief formal mechanism of social control, and in the case of Selkirk, the organ of burgh government. The operation of the court is examined under a number of headings which reflect those areas of urban life which were of the greatest concern to community and individuals alike. Many of these concerns are revealed to be about the economic affairs of the burgh, and about the perceived need for economic and social stability and continuity. The protection of stability and continuity is a recurring theme throughout the study, in which the burgh court may be seen to be exercising formal and intentional social control.

A parallel theme is provided by the evidence for a well developed and effective system of informal social control, based on the existence of a sense of consensus or public opinion. It is argued that this public opinion provided a framework within which the formal mechanisms of social control were able to function, and from this it is concluded that successful control was dependent on consent. The

study ends with an explanation of the special role of the burgh court in bringing together the formal and informal aspects of social control through its function as public forum, sounding board, and mirror of the community's shared system of values and beliefs.

ABBREVIATIONS

- Abdn. Recs. Early Records of the Burgh of Aberdeen, 1317, 1398-1407, ed. W.C. Dickinson (SHS, 1957).
- Abdn. Counc. Extracts from the Council Register of the Burgh of Aberdeen (Spalding Club, 1844-48).
- ADC The Acts of the Lords of Council in Civil Causes, edd. T. Thomson and others (Edinburgh 1839 and 1918 -).
- ADCP Acts of the Lords of Council in Public Affairs 1501-1554: Selections from Acta Dominorum Concilii, ed. R.K. Hannay (Edinburgh 1932).
- APS The Acts of the Parliaments of Scotland edd. T. Thomson and C. Innes (Edinburgh, 1814-75).
- Ancient Burgh Laws Ancient Laws and Customs of the Burghs of Scotland 1124-1424 and 1424-1707 (SBRS, 1868-1910).
- Ayr Accts. Ayr Burgh Accounts 1534-1624 ed. G.S. Pryde (SHS, 1937).
- RCRB Records of the Convention of the Royal Burghs of Scotland, ed. J.D. Marwick (Edinburgh, 1866-90).
- CDS Calendar of Documents relating to Scotland ed. J. Bain (Edinburgh 1881-8).
- CSP Scot Calendar of the State Papers relating to Scotland and Mary, Queen of Scots 1547-1603, edd. J. Bain and others (Edinburgh, 1898 -).
- Dunf. Ct. Bk. Regality of Dunfermline Court Book 1531-1538, edd. J.M. Webster and A.A.M. Duncan (Dunfermline, 1953).
- Dunf. Recs. The Burgh Records of Dunfermline, ed. E. Beveridge (Edinburgh 1917).
- Edin. Recs. Extracts from the Records of the Burgh of Edinburgh (SBRS, 1869-92).
- ER The Exchequer Rolls of Scotland, edd. J. Stuart and others (Edinburgh, 1878-1908).

- Fife Ct. Bk. The Sheriff Court Book of Fife 1515-22,
ed. W.C. Dickinson (SHS, 1928).
- Flodden Papers Flodden Papers 1507-17, ed. M. Wood
(SHS 1933).
- Hamilton Papers The Hamilton Papers, ed. J. Bain
(Edinburgh, 1890-92).
- IR The Innes Review (1950 -).
- James V Letters The Letters of James V, edd. R.K. Hannay
and D. Hay (Edinburgh, 1954).
- Kelso Liber Liber S. Marie de Calchou (Bannatyne
Club, 1846).
- Knox, Works The Works of John Knox, ed. D. Laing
(Edinburgh 1846-64).
- Melrose Recs. Selections from the Records of the
Regality of Melrose (SHS, 1914-17).
- BOEC The Book of the Old Edinburgh Club
(1908 -).
- Peebles Recs. Extracts from the Records of the Burgh
of Peebles (SBRs, 1910).
- Pitcairn, Trials Criminal Trials in Scotland from 1488 to
1624, ed. R. Pitcairn (Edinburgh 1833;
also Bannatyne and Maitland Clubs).
- Pitscottie, History R. Lindesay of Pitscottie, The Historie
and Cronicles of Scotland (STS, 1899-1911).
- Prot. Bk. Cristisone Protocol Book of Sir John Cristisone
1518-51, ed. R.H. Lindsay (SRS, 1930).
- Prot. Bk. Grote Protocol Book of Mr. Gilbert Grote
1552-73 (SRS, 1914).
- Prot. Bk. Johnsoun Protocol Books of Dominus Thomas Johnsoun
1528-78 (SRS, 1920).
- Prot. Bk. Young Protocol Book of James Young 1485-1515,
ed. G. Donaldson (SRS 1952).
- Regiam Maj. Regiam Majestatem and Quoniam Attachiamta,
ed. Lord Cooper (Stair Society 1947).
- RMS Registrum Magni Sigilli Regum Scotorum,
edd. J.M. Thomson and others (Edinburgh,
1882-1914).

- RPC The Register of the Privy Council of Scotland, edd. J.H. Burton and others (Edinburgh, 1877 -).
- RSS Registrum Secreti Sigilli Regum Scotorum, edd. M. Livingstone and others (Edinburgh, 1908 -).
- Rosseboom, Staple M.P. Rosseboom, The Scottish Staple in the Netherlands (The Hague, 1910).
- SHR The Scottish Historical Review (1903-28, 1947 -).
- Selkirk Court Book The Burgh Court Book of Selkirk 1503-1545, edd. J. Imrie and others (SRS, 1960 -).
- Sources of Scots Law An Introductory Survey of the Sources and Literature of Scots Law, ed. H. McKechnie (Stair Society, 1936).
- TA Accounts of the Lord High Treasurer of Scotland, edd. T. Dickson and Sir J. Balfour Paul (Edinburgh, 1877-1916).
- TSCB Transcript of the Burgh Court Book of Selkirk 1503-1545.
- Wodrow Misc. The Miscellany of the Wodrow Society (Wodrow Society, 1844).

ACKNOWLEDGEMENTS

The idea for this thesis grew out of a preliminary examination of the Burgh Court Book of Selkirk which was prompted by a suggestion from Mr. Hugh Mackay of the Borders Regional Library Service, and greatly assisted by the loan of material by Mr. Ian Brown, the Museums Officer of Ettrick and Lauderdale District Council. The Roxburghshire Educational Trust were kind enough to assist with travelling expenses at the start of my period of research in 1981, and a small grant at the end of my work.

The urban historian is very dependent on sources of local knowledge, and I have been particularly fortunate to have had expert guidance on many local matters from Mr. Walter Elliot of Selkirk, whose knowledge of the history of the burgh is unsurpassed. I also gratefully acknowledge the advice that I have received from Mr. Walter Mason and Mr. Jack Harper, who share Mr. Elliot's love of the burgh and its history.

To my supervisor, Professor Geoffrey Barrow, I must give my warmest thanks. He was prepared to accept me as a part-time student in 1981, and throughout the period of my research he has supported and encouraged my work. I am also grateful to Dr. Michael Lynch for his advice and guidance, and to all my fellow students in the

Department of Scottish History for the many discussions and stimulating suggestions that have made my work so enjoyable.

I gratefully acknowledge financial support in the form of a scholarship from the University of Edinburgh, and a small grant from the Research Fund of the Scottish College of Textiles. Practical encouragement has come from Mr. Douglas Blyth, Head of the Department of Management Studies at the Scottish College of Textiles, who has made it possible for me to work at the University for a day each week. The most valued encouragement has always come from my family, and I owe much to my wife, Dorcas, who has always supported my work, endured the boredom of reading my drafts, and shared with me the financial burden.

Research would be impossible without the support of many people who are able to provide resources and information. I acknowledge the assistance that I have received from the staffs of the Scottish Record Office, the National Library of Scotland, the University Library, Miss Una Grant and her staff of the library of the Scottish College of Textiles, and Mr. Mike Smith and his colleagues of the Computer Department of the Scottish College of Textiles.

Finally I must give my thanks to Mrs. Doris Williamson of the Scottish History Department who from my untidy manuscript has produced a typescript that is both elegant and accurate, and who has always been a source of friendship and encouragement.

I declare that this thesis is entirely
my own work, and that no part of it has
been previously published in the form
in which it is now presented.

CHAPTER ONE - INTRODUCTION

SELKIRK: THE BURGH IN CONTEXT

This thesis deals with social control in an urban setting, and is based on a study of the burgh court book of Selkirk, covering the period 1503-1545. The court book contains evidence which throws light on many aspects of daily life in the burgh, making it possible to examine the part played by social control in the complex network of life in the community. On the face of it, evidence derived from a court book may appear to present a somewhat narrow view of the operation of social control, dealing as it does with the use of the law in community affairs. On closer examination the evidence can be seen to illustrate how the deliberations of the burgh court often contained many of the strands that went to make up the total network of urban life. As this thesis will attempt to show, social control played a part in most aspects of burgh life, and may be seen as the 'means and force' that gave motive, thrust and drive to the community, as well as defining and controlling the limits of social behaviour.¹

1. D.M. Walker, The Oxford Companion to Law (Oxford 1980), 1151. The legalistic view of social control is that it consists of the 'means and forces which maintain, regulate and limit the behaviour of individuals in a society or subgroup of society. The category accordingly includes law, morals, religion, custom, habit, etiquette, education, fashion and similar forces'.

The study of social control is the study of regulation and limitation, but it is also the study of development and change in a community, and these dual aims give it purpose and significance in the field of urban history. Urban history has been defined as the study of the 'interaction between material conditions and psychological attitudes, environment and social values, town layout and town life'.² The study of social control measures plays a part in this overall view, and enables us to see how the community was able to function as a self-regulating mechanism, so long as it is remembered that most documentary evidence gives only the occasional insight into individual behaviour, an aspect of urban life much influenced by social control.³ This inevitably leads to a certain amount of conjecture about social relationships, but it is also possible to draw some conclusions that are based on fairly extensive evidence.⁴ The thesis attempts to explain

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2. F. Bédarida, 'The growth of urban history in France: some methodological trends' in H.J. Dyos (ed.), The Study of Urban History (London 1968), 59.
 3. L.F. Schore, 'Problems in the quantitative study of urban history' in H.J. Dyos (ed.), Urban History, 197. Schore discusses the problems of looking at the behavioural aspects of urban communities, concluding that urban historians will continue to depend on 'impressionistic accounts concerning the attitudes and values of our urban forbears'.
 4. Appendix ii traces the court appearance of a Selkirk burgess in sufficient detail for it to be possible to make some conclusions about his social relationships, and the strategies adopted by the community to contain and control his deviant behaviour.

social control in Selkirk as a complex process of checks and balances, in which it is possible to detect the existence of a degree of consensus. Selkirk was not alone in finding that a certain amount of popular consent was necessary for the smooth and peaceful running of a community. Because of Selkirk's relative poverty and the relatively homogeneous nature of its social structure,⁵ social control could only operate effectively when decisions taken on behalf of the community reflected what may be described as public opinion.

This is not to say that Selkirk was in any way unique, as may be seen when the burgh is looked at in the context of other small urban communities in the first half of the sixteenth century. By 1550 there were over fifty royal burghs, a number of which were very small.⁶

It has been suggested that a burgh needed a minimum population of 1000 to be successful.⁷

This would appear to be too rigid a concept, and

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5. Selkirk's social structure is discussed in chapter 3.
 6. G.S. Pryde, The Burghs of Scotland: A Critical List (London 1965), passim. Pryde's list of royal burghs starts with Berwick, although by 1482 this burgh was lost to the English. By 1550 the total had risen to fifty eight creations, most of which had survived as burghs, although a number were so small as to be incapable of operating as viable communities (the royal burgh of Cromarty is an example).
 7. K. Alauddin, Scottish burghs: some aspects of their origins, development and plan (un-published B.Litt. thesis, University of Glasgow, 1968), 40. Alauddin argues that 'almost all the successful burghs of Scotland had populations above 500 persons and most of the smallest successful burghs had approximately 1000 persons or more'.

it is perhaps safer to follow the advice given by two English urban historians who have pointed out the impossibility of setting any 'precise lower limit to the size of a town'.⁸ Clark and Slack define an 'unusual concentration of population' as one of the basic characteristics of English pre-industrial towns, which is sufficiently flexible to be used as a definition for all but the very smallest community, including a number of the Scottish royal burghs. They also point to four other basic characteristics that should be present if a community is to be regarded as a town, namely that there should be a 'specialist economic function; a complex social structure; a sophisticated political order and a distinctive influence beyond the immediate boundary',⁹ Special trading privileges gave the Scottish royal burghs at least the potential to possess a specialist economic function with monopoly of trade within the burghal area of influence. The social structure, whilst not particularly complex in the smaller royal burghs, was based on the special and privileged status of the burghess and on an urban elite, which in most communities was able to control the processes of burgh government, and which in the largest burghs amounted to political control of a

8. P. Clark and P. Slack, English Towns in Transition: 1500-1700 (Oxford 1976), 5.

9. P. Clark and P. Slack, English Towns, 5.

fairly high degree of sophistication. Royal burghs were able to exercise a distinctive influence beyond their immediate boundaries through their monopoly of trade, and by acting as marketing centres for their hinterlands. The viability of an urban community was based on all these factors, and not simply on population,¹⁰ although it has to be said that the smallest royal burghs were probably unable to function as viable economic units in the way envisaged by their founders.¹¹ The very existence of these small and economically vulnerable royal burghs causes us to look at the various reasons that have been advanced to explain their foundation. A great deal has been written about the origins of urban communities, and what seems to emerge from a study of the foundation theories is that in most cases it would be unwise to attempt to explain the origin of any burgh by reference to any single theory. Some of the theories seek to explain foundation as something arising from continuity rather than from changing circumstances. The 'free village' theory explains foundation as a gradual process of development from the village,

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10. F. Braudel, 'Pre-modern towns' in P. Clark (ed.), The Early Modern Town (London 1976), 54. 'Numbers are not the only consideration involved'.
11. T.C. Smout, A History of the Scottish People, 1560-1830 (London 1969), 146. 'In the rural world of sixteenth and seventeenth century Scotland there were many burghs, but comparatively few populous towns'. Smout describes the population of the smallest royal burghs as being numbered in 'scores rather than in hundreds or thousands'.

drawing on its customs and carrying on its distinct traditions of self-government. The 'romanist' theory sees the medieval towns as the direct descendants of Roman settlements,¹² but this approach does not prove effective in Scotland where Roman colonisation was minimal. Other foundation theories are more concerned with change than with continuity, so that the creation of castle or abbey is said to have led to the establishment of a settled population.¹³

Economic reasons lie at the heart of some of the most convincing theories¹⁴ and the Scottish kings created the royal burghs to raise revenue for themselves, as well as for reasons of defence and

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12. J.F. Berton, Town Origins - the Evidence from Medieval England (Boston 1968), Introduction, ix.
13. The 'military' theory, associated with Maitland relates burgh or town foundation to the building of castles, and to the need for garrison troops to have access to 'special' courts and 'special' law which were designed to protect the king's peace. The 'ecclesiastical' theory put forward by Ennen explains foundation as the attraction of an abbey or great church for tradesmen and merchants, leading to a settled population which acquired special privileges relating to those enjoyed by the ecclesiastical foundation.
14. Pirenne's 'mercantile settlement' theory, echoed by Carl Stephenson in Borough and Town: a Study of Urban Origins in England (Cambridge, Mass., 1933), explains foundation as the result of mercantile settlement at suitable locations on long-distance trade routes. By contrast Tait's 'market' theory places the emphasis on local trade, with the special status of the town or burgh arising from the right to hold markets.

territorial control.¹⁵ It has been said that the 'typical medieval town was the one that grew 'naturally' because it had a good cause to grow'.¹⁶ The good cause might be a favourable trading location, special trade or merchanting interests, the rights to hold markets and fairs, and we may add, in the case of the Scottish royal burghs, the interest of the crown. All of these factors were necessary to the existence of the royal burghs, and a royal desire for revenue could not of itself produce viability. This was no doubt found to be the case by a number of the smallest burghs, whose economic value to the crown was minimal or even non-existent, and whose fate was to exist as vulnerable communities, often more village than town.¹⁷

The royal burgh cannot just be seen as an economic unit. Any self-sustaining urban community was also a social unit, containing a complex pattern of social

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15. B. Dicks, 'The Scottish medieval town: a search for origins', in G. Gordon and B. Dicks (eds.), Scottish Urban History (Aberdeen 1983), 27 and 48. Dicks argues that 'places gaining burgh status must already have been centres of some local or regional significance'. The royal burghs may be seen as centres of economic activity, often relatively small, but capable of providing some royal revenue because of their location and hinterland.
16. G. Burke, Towns in the Making (London 1975), 53.
17. G.S. Pryde, The Burghs of Scotland, 19. The royal burgh of Cromarty (also see footnote 6) is described as a 'struggling, poverty stricken little community', unable to function effectively, and eventually removed (in 1685) from the roll of the royal burghs.

relationships, social structures and social norms. In an earlier period the abbeys and cathedral churches had acted as the focal points of local culture and learning. By the sixteenth century the burghs had taken on this role, albeit in a much more basic manner. The concentration of population within a burgh was also a concentration of much of the literacy and learning that existed within that area of the country. This was largely due to the presence in burghs of priests and chaplains, most of whom were at least literate and in some cases men of some culture. Many of the royal burghs were able to support schools, and literacy was beginning to spread outward from the focal points within the burghs, so that urban literacy grew slowly but steadily throughout the century. The burghs were also the focal points of legal activity for the rural population of the landward areas, and this is another example of the way in which the concentration of literacy within the burghs caused them to have a significant role within their areas of influence. This is not to suggest that the smaller royal burghs were centres of art and culture, which undoubtedly was not the case, but it is, perhaps, reasonable to see the burghs as oases of relative sophistication surrounded by the very basic simplicities of sixteenth-century rural life. The small burghs may have been 'inconspicuous in the setting of dispersed rural settlement',¹⁸ but this can only be said to refer to their physical presence and not to their economic and social influence, which was considerable in their local environment.

18. G. Donaldson, Scotland, James V to James VII (Edinburgh 1965), 10.

It is necessary to see Selkirk within the context of this general setting of the smaller royal burghs of the early sixteenth century. It shared a number of common features with other burghs in terms of economic function, trading privileges and the special position of burgesses. It dominated trade in its landward area and operated as a marketing centre. It was of use to the crown as a source of revenue¹⁹ and when the need arose, as a source of military manpower.²⁰ Although Peebles was less vulnerable to English attack by virtue of its location, and although Jedburgh was more significant as an administrative centre, Selkirk was a border burgh of some importance to the crown. It was used by James V as a wool depot for the annual clip from his flocks in the Ettrick Forest (see chapter eleven), and it shared with Peebles the rather doubtful privilege of being used as a meeting place for levies of troops raised to suppress the unruly parts of the borders.²¹ In most respects it was a typical border burgh, apart from the extent of its common lands, which were perhaps the largest in the country. (see chapter four and appendix vi)

19. Crown revenue from Selkirk is examined in chapter eleven and in appendix iv.

20. Chapter six looks at the role of the burgess as part-time soldier.

21. D.L.W. Tough, The Last Years of a Frontier (Oxford 1928), 19. Peebles and Selkirk were seen as suitable places for levies to meet. Jedburgh was 'well inhabited and frequented', and Kelso and Hawick were described as 'towns of some importance'.

Selkirk is thought to have grown up as a settlement to serve the needs of Selkirk Castle, which was built for David, Earl of Huntingdon, on a good defensive site beside the Haining Loch ²² (see the conjectural plan of the burgh in appendix i). By June 1328 the sheriff of Selkirk accounted to the exchequer for rent due from free tenants and burgesses, ²³ and Pryde dates Selkirk's existence as a royal burgh from this exchequer roll entry. ²⁴ In fact, the burgh was simply a king's burgh during its early life, a title denoting that it stood on royal land and paid rent to the crown. The term burgum regalis, or royal burgh, began to be used in the fifteenth century to distinguish between royal foundations and burghs of barony. ²⁵ By the sixteenth century, when Selkirk's status as a royal burgh was confirmed by James V, ²⁶ the community had survived the Wars of Independence, and the decline and eventual ruin of Selkirk Castle. The burgh was burned during an English raid in 1418 ²⁷ and again in 1502 by a raiding party of

22. W. Elliot and J. Gilbert, 'The early Middle Ages' in J. Gilbert (ed.), Flower of the Forest: Selkirk: a New History (Galashiels 1985), 25.

23. ER, i, 105.

24. G.S. Pryde, The Burghs of Scotland, 21.

25. W. Elliot and J. Gilbert, 'The early Middle Ages', 27.

26. RMS, iii, 1555. See chapter eleven.

27. T. Craig-Brown, The History of Selkirkshire, or Chronicles of the Ettrick Forest (Edinburgh 1886), ii, 13.

English and Scots led by Sir John Musgrave.²⁸

The sixteenth century was not an easy time for the community, which was relatively poor and under-populated, and economically weak compared with some of the larger and wealthier burghs, although its economic potential was improved in 1536 when the king gave permission for 1000 acres of common land to be cultivated (see chapter eleven). During this period the burgh continued to face the effects of war, sharing with all communities the impact of the battle of Flodden in 1513, as well as further English raiding. The extent and nature of the common land gave rise to almost continuous disputes with the burgh's neighbours, plague and animal disease periodically threatened its stability and economy,²⁹ and an increasing burden of taxation affected most burgesses and indwellers, even those who might have been considered too poor to pay by other communities.³⁰ Against this difficult background the burgh was able to remain a viable community, with a rich and vigorous social life, and a strong sense of community identity which comes out clearly from the evidence contained in the burgh court records.

Selkirk was a small community, even in the context of the low population density of the borders. It has been estimated that the total population of the Middle Marches was around 20,000, compared with over 10,000 for the

28. Pitcairn, *Trials*, i. On 14 November 1502 Adam Turnbull produced 'remission for art and part of the treasonable in-bringing of Sir John Musgrave to the burning of Selkirk.'

29. See chapter seven.

30. Much of the burden of taxation that fell on Selkirk during this period was related to its need to protect and restate its privileges as a royal burgh and to protect its common land from encroachment. Selkirk's taxation record is examined in chapter eleven and appendix iv.

Eastern Marches and 14,000 for the Western Marches.³¹

These figures can only be regarded as guesses, and must therefore be treated with some caution. The same caution is necessary when attempting to arrive at a population estimate for Selkirk. The best evidence for this comes from taxation records, but certain assumptions are usually made about taxation roll estimates which do not necessarily apply to Selkirk. For example, two writers on Edinburgh have taken figures from taxation rolls and based their calculations on indications that approximately 30% of householders were burgesses,³² or that males predominate on the tax rolls and that those listed make up some 30% of the adult male population.³³ A multiplier is then applied to arrive at a total population estimate.³⁴ From the evidence of the

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31. D.L.W. Tough, The Last Years, 28. Tough's estimates of population are for the year 1600, and should be seen against his estimate of a population of 600,000 for Scotland as a whole.
32. M. Lynch, Edinburgh and the Reformation (Edinburgh 1981), 10.
33. J.J. Brown, The social political and economic influences of the Edinburgh merchant elite (un-published Ph.D. thesis, University of Edinburgh, 1985), 12.
34. Opinions vary as to the size of the multiplier that should be used to represent the average number of people per household. In a chapter entitled 'Poverty and urban development in early modern Europe', Thomas Riis claims that analysis of population figures for cities compared with smaller towns and the countryside shows that the cities tend to have smaller households than the towns, and the towns smaller households than the countryside. He cites the example of Florence where the ratio of people to hearths rose from 4.19 in 1380 to 6.21 in 1552, suggesting that household size does not remain constant but is influenced by the economic situation, the effect of epidemics and by the political climate. (in Thomas Riis (ed.), Aspects of Poverty in Early Modern Europe (Florence 1981), 6). Susan Reynolds cites a multiplier /

Selkirk taxation rolls (see appendix iv) it appears that the proportion of people paying tax, although often at a very low rate, was perhaps higher than in Edinburgh. If 50% of the population were burgesses and paid tax the figure of 110 burghal tenures cited for 1426,³⁵ using a multiplier of 4.5 persons per household, produces a population figure of 990. This would seem to be somewhat high, and it may be that more than 50% of the population paid tax in this community. The stent rolls reproduced in appendix iv provide the following totals of names:-

January 1521	-	122 names
3 March 1531	-	86 names
22 April 1535	-	118 names
20 July 1535	-	123 names
17 March 1536	-	117 names
9 April 1538	-	126 names
6 September 1539	-	153 names

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34. (contd.) multiplier of 'about 5' used by H.C. Darby and his colleagues in calculating the population of a town from the number of burgesses (H.C. Darby and others (eds.), The Domesday Geographies of England (Cambridge 1954-1967) in S. Reynolds, An Introduction to the History of English Medieval Towns (Oxford 1977), 36.) A multiplier of 4.75 is used by T.P.R. Laslett in 'Size and structure of the household in England over three centuries', Population Studies xxiii, no. 2 (1969), 207, 211, whilst D.V. Glass and D.E.C. Eversley suggest a figure of 4.2 in Population in History: Essays in Historical Demography (London 1965), 177. In the light of all this advice, a multiplier of 4.5 has been used to calculate the likely population of Selkirk.
35. S.G.E. Lythe and J. Butt, An Economic History of Scotland 1100-1939 (Glasgow 1975), 5.

The last stent roll was prefaced by the words 'Ane stent cassyne throu all the communitie',³⁶ and using the multiplier of 4.5, this produces a population figure of 688. There are two more lists of names in the burgh court records which may represent all householders, rather than just taxpayers. The first, dated 25 May 1513, is headed with the words 'Communitas burgi de Selkyrk' and contains 160 names, which gives a population figure of 720, and the second, undated but appearing after an entry for 6 October 1523, has 180 names, which suggests a population of 810.³⁷ It would, therefore, seem reasonable to suggest that Selkirk had a population of between 700 and 800 during the first half of the sixteenth century.

This population followed the wide variety of trades and occupations typical of the smaller burghs, in which burgesses and indwellers combined their urban occupations with the rural work of growing crops and raising livestock. The burgh was largely self-sufficient in simple manufactured goods such as clothing, footwear, tools and implements and weapons, with the relatively un-sophisticated needs of a small community being met by local craftsmen. As inventories show, it was possible to find luxury items in some households, and these were not produced locally, but were from the larger burghs or from abroad.³⁸ The

36. TSCB, 6 September 1539.

37. TSCB, passim.

38. Appendix xi lists a number of inventories, which include luxury items. A Selkirk inventory dated 8 November 1534 refers to a carved bed, probably imported, and a 'Flanders counter with the formes', which was probably a counting table.

burgh's food supplies came from the produce of individual holdings of land both inside and outwith the perimeter dykes, and from grazings on the extensive common lands. Food was also brought in from the burgh's hinterland, to be bought and sold in the weekly market, and at fair days, which also gave the burgesses a chance to trade with a wider area, and to buy specialist and luxury items brought in from further afield. The fact that the community was largely self-sufficient was related to the economic base of burgh life being built on this mixture of trade and agriculture. It is possible to see Selkirk as an isolated pocket of urban life surrounded by an alien and often hostile rural area, but such a view fails to take account of the way in which the life of the burgh was closely linked with the life of the countryside. Outside the burghs, 'these little scattered, vigorous, contentious and monopolising towns, lay the open country',³⁹ but it was a countryside that was understood and used by the townsman in ways that would only disappear with the advent of large-scale industrialisation.

Against this complex background of urban life, revealed by the variety of relationships described by the burgh court records, and by the records of other urban communities, this thesis attempts to trace the part played by social control. It examines, under a number of different headings the 'usages and values

39. J. Clapham, A Concise Economic History of Britain (Cambridge 1957), 149.

which define the relations of one person to another, to things, to ideas, to groups, to classes and to the society in general'.⁴⁰ It seeks to show how the community regulated itself, setting the bounds of behaviour for groups and individuals and yet succeeding in functioning in a way that was aware of consensus.

40. A.B. Hollingshead, 'The concept of social control', American Sociology Review, 6 (1941), 217-224, cited by R.F. Meier, 'Perspectives on the concept of social control', Annual Review of Sociology (1982), 35.

CHAPTER TWO

THE BURGH COURT

This chapter examines the role of the burgh court as an instrument of social control. It does so by making use of the court records of Selkirk for the period 1503-1545, which provide a wealth of information about the functioning of the court and its administrative procedures, and which make it possible to assess the strength and weaknesses of the court as an 'organ of government',¹ and its effectiveness as a forum for public opinion. Burgh court records are scarce and fragmentary for earlier times, but a number of manuscripts have survived to provide 'voluminous but extremely repetitive'² records for the fifteenth and more particularly the sixteenth centuries. The Selkirk records are certainly voluminous, and in some respects repetitive, but they provide detail about almost every aspect of daily life in the burgh.³

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1. G.W.S. Barrow, Kingship and Unity: Scotland 1000-1306 (London 1981), 99. By c.1200 the burgh court was becoming 'an organ of government' devoted to the protection of the various privileges and freedoms that gave the community its means of existence.
 2. M. Lynch, 'Whatever happened to the medieval burgh? Some guidelines for sixteenth and seventeenth century historians', Scottish Economic and Social History (iv 1984), 16.
 3. The manuscript of the Burgh Court Book of Selkirk consists of 332 folios, mainly in one hand which is believed to be that of Ninian Bryden, priest and notary and the common clerk of the burgh (Selkirk Court Book, i, preface). The manuscript, which was the property of the Royal Burgh of Selkirk, was transcribed for the Selkirkshire Antiquarian Society, and later lent to the Scottish Record Office. The transcript, referred to in this thesis as TSCB, was used to prepare the edited version of the Court Book which was published by the Scottish Record Society in two volumes in 1960 and 1969. A complete copy of the transcript is in the possession of the writer and has been used throughout the study, supported by the edited version and the original manuscript. The manuscript was in a very poor condition, with damage from damp and much loss of legibility because of earlier repair work. It has now been skilfully restored and re-bound, with a considerable improvement in legibility, and is available for consultation at the Scottish Record Office although still on loan from Selkirk Community Council.

Using the evidence of these records and comparisons with other burghs, it is possible to build up a picture of control and consensus, and to use the seemingly mundane details of court hearings as a rich source of social history.

In the royal burghs the courts developed from bodies presided over by the royal officers, appointed as prepositi or ballivi to administer the burghs on the king's behalf.⁴ In this sense the courts were royal courts, and their transition to a more autonomous status is perhaps linked to the transition of the position of bailie from royal officer to burgh official, which was a slow process, and one hard to trace from the available burgh records.⁵ It has been said that the early burgh courts were concerned with enforcing burgh law and custom, much of which was concerned with vicinitas or good neighbourhood.⁶ In practical terms this meant that burgh courts were involved not only with cases arising out of the burgess obligations of watching and warding but were also concerned with the protection of trading privileges, on which the survival of the burgh communities depended. This has been described as 'one of the most urgent tasks for any town, and one which gave it much trouble',⁷ and it was a task which in its broadest sense was directed towards good neighbourhood. Indeed, the concept of good neighbourhood was central to burgh life, and was nowhere more important than in the smaller burghs, in which

4. Abdn. Recs., lxxx.

5. G.S. Pryde, 'The burgh courts and allied jurisdictions', An Introduction to Scottish Legal History (Stair Society xxv 1959), 385.

6. Abdn. Recs., lxxix.

7. S. Reynolds, Kingdoms and Communities in Western Europe 900-1300 (Oxford 1984), 200.

peaceful co-existence and inter-dependence called for a degree of consensus in social control that was not so critical for the larger burghs. Good neighbourhood included this requirement for peaceful co-existence and co-operation, and it can also be taken to describe the rules by which the daily life of the burgh was regulated. The word 'neighbourhood' has a number of meanings in the burghal setting, but all relate to the importance of community, and to the need for a degree of self-regulation. The burgh courts developed into the natural forum for the discussion and interpretation of the rules of good neighbourhood. As such the courts became 'more and more concerned with the administration of justice between burgess and burgess', and as burgh councils developed from the courts the administrative and judicial functions were separated, with the emerging councils taking on the 'role of administration'.⁸

Court procedure

The burgh court was a perpetual body, in the sense that it met regularly without recess, with sessions held every fifteen days.⁹ It appears that this fifteen day rule was normally followed, but the pattern could be broken by a lack of suitors or some emergency that caused cancellation. By 1544 the court seems to have been meeting every week to deal with small pleas. Pursuers were required to submit written bills of complaint, and answers were written on the back of the bills. (MS Court Book, 8 April 1544). The Selkirk records show that there was usually plenty of business to occupy the court, and that few sessions were cancelled. The court was known as the curia legalis or curia burgalis, and additional courts

8. Abdn. Recs., lxxxviii. The relationship between burgh court and council is examined in chapter three of this thesis.

9. Ancient Burgh Laws, Fragmenta Collecta, 177.

called to deal with heavy pressure of business were curia tenta per ballivos.¹⁰ A formal procedure had evolved for opening the sessions of the court, which required the alderman and bailies, or the bailies if an ordinary bailie court, to take their seats, following which the court was fenced.¹¹ The court then called all suitors and witnesses, and non-attenders were amerced.¹² The record of business at the last meeting of the court was then read out, and unfinished cases continued. Many cases were held over, often to allow the parties involved to bring forward proofs or witnesses,¹³ and only when all unfinished business had been concluded, or held over again to the next court,

10. Abdn. Recs., cxvii.

11. P.J. Hamilton-Grierson, 'Fencing the court', SHR xxi (1924), 54. The court records describe fencing as curia firmata, curia confirmata or curia affirmata, but the ceremony of fencing is of ancient origin, being found in pre-Christian Norse, Icelandic and Germanic societies. The purpose of fencing was to declare the sanctity of the court and the inviolability of its judgements, and to warn all those present to abide by its rules and procedures. The significance of this may be seen in the way in which the Selkirk court book records how John of Bellenden (see appendix ii) was put in the 'bailies' will for the 'distemperit language' he used in the fenced court (TSCB, 2 August 1536).

12. Non-appearance was a common feature of hearings of the Selkirk burgh court, and is discussed in more detail later in this chapter. It was a problem that was not confined to Selkirk, or just found in the burgh court records. A figure of 63% for non-appearance has been given for the period July to October 1611 (C.M.F. Ferguson, Law and order on the Anglo-Scottish border 1603-1707 (unpublished Ph.D. thesis, St. Andrews, 1981), 185).

13. Abdn. Recs., cxxix to cxxxi. Dickinson comments on the apparent reluctance of medieval courts to give a final judgement, with contested actions sometimes continuing over many sittings. This, he feels, may have led to a willingness to arrive at 'out of court' settlements. Another reason for the delay in judgement was the procedure by which a defender was called four times at four successive courts, being amerced for the first three non-appearances and only at the fourth court being judged in absentia.

were 'fresh' cases heard.¹⁴ Although this was the established formal procedure for holding the curia burgalis, it seems likely that it was not always followed to the letter. It would not be safe to rely on the surviving court records to support this assumption, because records are not always complete and important details may be missing. The assumption is based on the regular nature of burgh courts, and the routine content of the business transacted, which would suggest that familiarity and pressure of work might lead to a lessening of formality and a simplification of procedure. Although the absence of something from documentary evidence is certainly not to be taken to mean that it did not exist, it is worth recording that the Selkirk court records do not often mention the ceremony of fencing, nor do they give any indication that previous records were read to the court before the start of each hearing.

There was another type of burgh court hearing that was known as the curia capitalis, or head court. This was held three times a year, the first after the feast of St. Michael, the second after Yule and the third after Pasch (Easter). It was at the Michaelmas head court that the burgh officers were elected and although the act of 1469 allowing councils to re-elect themselves had the effect of undermining the

14. D.M. Murray, Early Burgh Organisation in Scotland, i (Glasgow 1924), 231.

traditional powers of the head court,¹⁵ in the smaller burghs it remained a body of some significance, both real and symbolic.¹⁶ All burgesses were required to attend the three meetings of the head court,¹⁷ whereas this was not a requirement for ordinary sessions of the burgh court. The main function of the head courts was to protect the privileges of the burgh and to confirm existing laws and regulations to this end. The head courts also introduced new burgh laws and regulations, regulated behaviour where this had an effect on the community as a whole, and in general dealt with all 'matters affecting the burgh...'.¹⁸ The Selkirk records show that ordinary business was dealt with at sessions of the head court, as shown in the court book entry for 30 April 1538.¹⁹ The head court was presided over by the alderman assisted by the two bailies and an inquest of fifteen. The main item of common interest to the burgh was a discussion about damage and encroachment to the king's street. All other matters dealt with by the court were in the nature of private

15. M. Lynch, 'The social and economic structure of the larger burghs 1450-1600', in M. Lynch (ed.), Scottish Medieval Towns, ooo. Lynch considers that the increasing power of the town councils in the larger burghs led to a decline in the power of the head court.

16. The reality of burgh head court power was related to the function of the head court in confirming old laws and customs concerning the common good of the community, and creating new regulations designed to protect and extend burgh privileges. The symbolic significance was that in the head courts the whole burgh body, acting on behalf of all indwellers, met together to 'settle matters relating to the common good' (M. Lynch, 'From privy kirk to burgh church': an alternative view of the process of Protestantism' in N. Macdougall (ed.), Church, Politics and Society: Scotland 1408-1929 (Edinburgh 1983), 88.

17. Ancient Burgh Laws, Leges Burgorum, i, 19.

18. W.M. Mackenzie, The Scottish Burghs (Edinburgh 1949), 110.

19. TSCB, 30 April 1538.

business, ranging from a dispute over the value of milking ewes to a request to three burgesses to settle the dispute between them by sitting down 'eisely nyctbourlyk to mak coumpt be gud record als fer as thair memor and conventions can dit thaim'. This was a common pattern of business for sittings of the Selkirk head court, with a mixture of public and private business being discussed, and in some ways it is difficult to see any significant difference between what happened in many meetings of the head court and the regular, and usually highly routine sittings of the ordinary burgh court. The main differences may be seen in the business transacted by the Michaelmas head courts, which normally dealt with the appointment of the bailies and various other burgh officers, and with a variety of other burgh matters.

The courts of the royal burghs were jealous of their privileges which included the power to repledge burgh inhabitants from other courts.²⁰ This power extended to those ordered to stand trial before a sheriff court, and in addition to the indwellers from royal burghs, it included those from burghs of regality and stewartries. In the case of Selkirk the power of the burgh to deal with its own legal affairs was greatly enhanced in 1540 when the king gave permission for the election of a provost, who also acted as sheriff for the burgh.²¹

20. V.A.C. Gatrell, B. Lenman and G. Parker (eds.), Crime and the Law (London 1980), 139.

21. RMS., iii, 2207. Following this royal letter Selkirk appointed John Mithag (later to be murdered by the Kers of Greenhead) as provost and sheriff, with the vicar, William Bryden, acting as his clerk in criminal cases.

Despite the considerable autonomy enjoyed by the courts of the royal burghs the jurisdiction of the local sheriff could be sought in certain cases. The Selkirk burgh court remitted several cases to the sheriff court. A typical example involved the sheriff depute agreeing to a request from the burgh court to take a dispute between two men to the next sitting of the sheriff court, promising to do them both justice.²² All the Selkirk examples suggest the use of the sheriff court to resolve difficult cases, or to remove particularly contentious matters from the immediate environment of the burgh. However, such a procedure was relatively uncommon, and most disputes were kept within the control of the burgh court. Another Selkirk case illustrates the way in which communities tried to keep all matters involving their own burgesses within the orbit of their own courts. When a Jedburgh man pursued a Selkirk burgess for an unspecified reason a special court was convened in Selkirk with the consent of the Dean of Christianity in Jedburgh. The Dean held his own court, and this is why his permission was necessary for the hearing in Selkirk,²³ but Selkirk remained careful of its rights and in a court book entry for 8 April 1544 indwellers were forbidden to 'sowmont ane uther to Glasgow or Jedward ... exceptand actiones concernand spiritualitie'.

Powers and sanctions of the burgh courts

The powers of the courts in royal burghs varied. Some, like Stirling, had the powers of a sheriff court, as did Selkirk after the creation of the post of sheriff for the burgh in 1540.

22. TSCB, oo July 1536.

23. TSCB, 29 October 1539. Despite the special sitting, which continued after 'court tyme of day', the pursuer did not appear, and the defender claimed to be relieved of all further liability in the matter, which was agreed to by the court.

Others, and it has been claimed that this was the majority of royal burghs, only had the powers of a baron court.²⁴ In this area there was a divergence between theory and practice, because although in theory burgh courts were able to try criminal cases with the exception of the four pleas of the crown,²⁵ in practice their over-riding concern was with civil cases.²⁶ Disputes over debt and a wide variety of other civil actions took up most of the time of the average burgh court, and this is well illustrated by an analysis of the Selkirk burgh court records.²⁷ Debt gave rise to 326 entries in the court book, and this figure can be divided between voluntary appearances of debtors to publicly acknowledge their indebtedness before witnesses, and creditors seeking repayment. Even more striking is the total number of 337 non-appearances, leading to amercements. Every court sitting started with the parties to each case being called to appear, and this procedure was followed for three successive courts. A fourth and final call was then

24. V.A.C. Gattrell *et al* (eds.), Crime and the Law, 139. Baron courts dealt with few criminal actions, but were largely concerned with debt cases, disputes over land and rents, the regulation of servants and all aspects of market regulation.

25. The four pleas of the crown were murder, robbery, rape and arson, and such cases were reserved to the High Court of Justiciary except where thieves were caught with the stolen goods (with the fang), or where murder had been committed in hot blood, and in both cases the Sheriff alone had the power to try the accused.

26. G.S. Pryde, 'The burgh courts', 386.

27. A summary of a computer analysis of matters dealt with by the burgh court of Selkirk is given in appendix iii.

made, and if the parties had still not appeared they could be fined, up to the standard limit on amercements which was eight shillings. Because non-appearance was such a common problem the recovery of amercement money must also have been difficult, and the Selkirk records contain no evidence to show that any amercements were paid until non-attendance at the fourth court. The court's usual remedy then was to fine the surety who had promised to present the missing party before the court.²⁸ The picture of the burgh court as a forum for the settlement of debts²⁹ is brought into even sharper focus when the nature of cases delayed by non-appearance is examined. Many of them were concerned with debt in its various forms, which includes the category of non-delivery and non-payment shown in the analysis. In a wider sense a number of the other categories in the analysis are to do with disputes over property, which is a measure of the nature of burgh life, based as it was on property, trade and land. The same emphasis can also be applied to an analysis of the judgements or disposals of the Selkirk burgh court. The most common punishment was amercement for non-appearance before the court, but as we have seen this was only likely to take practical effect after the fourth non-appearance. The most serious punishment was to deprive a burgess of burgh freedoms, and the mere threat of this was likely to be enough to bring about a change of heart or of behaviour.³⁰

28. TSCB, 17 June 1511. Lawrence Dunn was amerced for the non-entry of Alexander Wauch at the fourth court. Wauch's creditor swore that he was owed 5s. and the surety was ordered to pay him this sum within fifteen days, with 20d to cover the expenses of the plea. In a similar case heard 8 May 1537 the surety was condemned as the debtor by the dempster (an officer of the court whose duty was to pronounce the doom or judgement of the court).

29. See appendix iii.

30. C.M.F. Ferguson, Law and order, 403.

Finning has also been described as one of the most commonly used sanctions of burgh courts,³¹ but the evidence from Selkirk suggests that although fines were often threatened they were not often imposed. Since the majority of court hearings concerned various aspects of debt, it was less important for the court to impose sanctions, which were not necessarily easy to enforce, and more useful to deliver judgements that would lead to settlement of the dispute, and to do so in a way that would find general acceptance in the community. However, the small number of fines imposed by the Selkirk burgh court, amounting to a total of eleven, does not reflect the actual earning potential of the court. Many judgements and decisions were backed up with the threat of a fine for non-compliance, and in addition the burgh's trading regulations were enforced with the threat of fining, and in some cases forfeiture of goods.

Other sanctions included imprisonment and distraint. In theory it was possible for a burgh court to award a sentence of imprisonment, and if the burgh was also the location of the shire sheriff court the crown expected the community to provide and maintain a gaol. This was a burden which could cause resentment,³² perhaps because there was no profit to the burgh in maintaining lock-fast premises for prisoners, and in providing for food and a warder. Most burghs detained prisoners in the tolbooth, either under close confinement or by the process of warding. Warding was a form of voluntary imprisonment in

31. G.S. Pryde, 'The burgh courts', 387. C.M.F. Ferguson, Law and order, 403.

32. C.M.F. Ferguson, Law and order, 394.

which the prisoner placed himself in confinement. The Selkirk records contain only one mention of a sentence of imprisonment, and that was imposed in absentia, with an alternative solution being offered to the accused of being able to purge his wrongdoing by making amends to the person he had wronged.³³ Although no further details are available, it seems likely that the imprisonment was not carried out, which was probably just as well because at the time of the hearing there was concern about the misuse of the tolbooth by traders, and it was unlikely to have proved a very effective gaol.³⁴ Distrainment of goods was used in some burghs,³⁵ and confiscation and forfeiture were part of the control mechanism of market regulation.³⁶

However, the most important sanctions in Selkirk were not those that exacted penalties. The task of the burgh court was complex, and cannot be seen in terms of purely civil jurisdiction. Community law has been described as 'normative custom', which developed in urban dwellers the 'habit of arguing and agreeing and acting together to maintain the peace and to fulfil responsibilities towards rulers'.³⁷

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33. TSCB, 1 December 1534. The inquest made a declaration of wrong-doing against 'Jhone the Ross', and the bailies were ordered to put him in the 'kyngis irnes' if they could find him, until he had made amends to 'Villiem Ross' for an unspecified offence committed under cover of darkness. The court did not intend to keep him in irons for long because if he and his friends did not make amends he was to be banished from the burgh for a year and a day.
34. TSCB, 24 November 1534. See also chapter four which discusses the court's periodic concern about the misuse of the tolbooth.
35. Abdn. Recs., cxxxviii.
36. TSCB, 3 October 1536. Un-authorized half-firlot measures were to be confiscated by the bailies.
37. S. Reynolds, Kingdoms and Communities, 38.

This, it is argued by Reynolds, promoted a sense of community and a degree of independence. This is evident from the way in which the Selkirk court operated. It was largely concerned with civil matters, but took a vigorous interest in matters of law and order, which because of Selkirk's extensive common lands and uneasy relationships with some of the local lairds was effective over quite a wide area.³⁸ It was a cautious body, usually unwilling to jump too quickly to any legal conclusions, as may be seen by the repeated deferment of a judgement or opinion until further proof had been sought and presented. It is interesting to speculate how much this caution was prompted by the innate conservatism of burgh society, and how much was due to the fairly delicate balance of relationships in a relatively small community. Much of the evidence points to the desire of the burgh court to take account of public opinion in the way in which decisions were reached and judgements given. Although it is misleading to describe the court as acting through consensus, it does seem to be reasonable to see the court taking decisions on behalf of the whole community, and doing so in a way that did not run too obviously against the grain of the community's perception of right and wrong. In this sense one can say that the burgh court

38. T.I. Rae, The Administration of the Scottish Frontier 1513-1603 (Edinburgh 1966), 11. Rae argues that in terms of law and order the influence of the burghs was not of great importance. It is true that the Selkirk burgh court satisfies some aspects of his definition of the 'highly specialised nature' of burgh court jurisdiction, but even before the burgh was given the right to elect its own provosts/sheriffs, the court was dealing with law and order problems, as well as a range of social behaviour that included assault and theft, which were criminal acts.

was 'effective in moral matters',³⁹ but it was also able to take effective action as we may see from the care that it took over the use of burgh land and property, and the protection of trading privileges. At its most effective the Selkirk court combined the ability to control the daily life of the community within a framework of law and custom, with the attributes of a forum to which the community brought its disputes for public adjudication.⁴⁰ At its least effective the court saw its 'judgements and regulations ignored',⁴¹ and it was then that the relative lack of sanctions became most apparent, but for the most part the sanction of public opinion, coupled with public humiliation, disapproval and ridicule, ensured that the burgh court played the central role in the maintenance of social control. This theme is examined throughout this thesis, and is looked at under a variety of headings which cover many aspects of daily life in the burgh. By way of an introduction to this study of the activities of the burgh court, this chapter concludes with two brief case studies. The first looks at a deviant member of the community, and how the community dealt with him, and the second is concerned with theft.

39. C.M.F. Ferguson, *Law and order*, 406.

40. J. Brewer and J. Styles (eds.), *An Ungovernable People: the English and their Law in the 17th and 18th Centuries* (London 1980), 35. It is argued that early 17th-century courts in remote and under-developed areas were mainly concerned to function as passive instruments for the settlement of disputes arising in local communities and brought privately to the justices for adjudication. This has certain similarities with the picture presented by the Selkirk court in the 16th century, but differs in the way in which Selkirk made use of the court as a public forum for the airing of private disputes.

41. C.M.F. Ferguson, *Law and order*, 406.

The social deviant in the community

Between 1523 and 1542 the name John of Bellenden appears frequently in the burgh court records. Appendix ii analyses his many appearances before the court as pursuer, defender and witness. From the evidence it is clear that he was often at odds with his fellow citizens, and yet the community seem to have been remarkably tolerant towards him. In a more socially divided community, where oligarchal control had developed to a point where consensus in burgh government had largely ceased to operate, his treatment might have been less lenient.⁴² As it was, he remained a burgess, and despite his obvious failings in interpersonal relationships, he retained his position within the burgh. It is possible to speculate about the reasons for this apparent tolerance of a strong character who was clearly disruptive and anti-social on many occasions. One explanation could be the fact that in a poor community he was one of the wealthier men, being in the top twenty-five percent of tax-payers, and probably making his money from land rentals and dealing in livestock, and perhaps also operating as a moneylender. If he was a moneylender, this would give him something of a hold over his debtors, who might be careful not to antagonise him by challenging his anti-social behaviour. Or it could be argued that his relative wealth, and from 1531, his burgess status, gave him some protection. This possibility has to be

42. S. Reynolds, Kingdoms and communities, 38. 'Even unanimous collective judgements, when made in a hierarchical society with a high regard for loyalty and a toughly punitive moral code, were likely to produce some rather nasty consequences for any non-conformist plaintiff or defendant'.

seen in the light of the common resistance mounted by the community to Gilbert Ker, a much wealthier and potentially more powerful man.

Yet another explanation is that in a society made up of rugged individualists, John of Bellenden did not seem particularly troublesome, but this seems to be placing too much reliance on the picture of all borderers as lawless ruffians, which is perhaps due to a failure to recognise the very significant differences that existed in terms of life-style and social context between rural and urban borderers,⁴³ The typical border burgess, if one can attempt to describe such a generalised being, was no doubt independently minded, quick to anger where personal rights and privileges were in question, and highly prone to litigation to defend these rights and privileges. Coupled with all this was a willingness to use established law and custom, and an acceptance of the norms of the community at large. While Bellenden could be said to have deviated from the norms of his society, he was prepared to use the established procedures for dealing with disputes, and perhaps because of this his society was not prepared to totally reject him. On balance, the truth probably lies somewhere between this last explanation and the fact that he was relatively wealthy and powerful. It must be said that the tolerance extended to John of Bellenden would not have been extended so readily to the pauper

43. T.I. Rae, The Administration of the Frontier, 4. Borderers as a whole are described as being 'fearless of the law'. and all 'contributed towards both internal and frontier disturbances'. Whilst this would certainly appear to be true of men in some of the rural areas, the picture of burgh life that emerges from the records is one of relative order. There were many threats to this order from outside, and burgh life was by no means staid or genteel, but the rule of law was largely effective for much of the time, and loyalty to the crown was usually in evidence.

or beggar living on the margins of Scottish burgh society.

Theft and the burgh court

In the light of what has sometimes been said about the high incidence of theft in the Borders⁴⁴ it is perhaps surprising that the Selkirk records contain so few references to outright theft. It would be unwise to conclude from this that little theft took place because analysis of the records presents a number of problems of definition. For example, there are nearly twice as many references to disputes over ownership as to theft and even the category of cases which appear to involve theft also includes instances where borrowed goods were not returned to the owners. It seems that sixteenth-century Selkirk did not place such precise definitions on such matters as we do today, and the court was perhaps less interested in establishing that a technical offence had been committed than in trying to find out the motive and intent of all the parties concerned.

A number of the Selkirk cases of theft or its near relatives concern horses, which were animals of great value and significance in border society, being used for warfare, carriage of goods and humans and sometimes for arable cultivation.⁴⁵ The court procedure followed in such cases was to hear statements from the person alleging theft and from his witnesses, and to do the same with the accused, who might be supported by sureties. On 30 September

44. C.M.F. Ferguson, *Law and order*, 22. Ferguson argues that theft was common in the Borders because of the absence of other sources of income. Such a situation was undoubtedly the case in the more remote rural areas, which had always been regarded as lawless places, but there was far less reason for theft as a way of life in the burghs. Theft is discussed in chapter nine.

45. The use of horses is discussed in more detail in chapters six and nine.

1511 David Browne claimed ownership of a horse on behalf of David Bonyntoun. The animal was brought before the bailies, and appraised to be worth two merks by two independent valuator. The court allowed the usual fifteen days for proofs to be provided, but when the case was heard again on 14 October 1511 the proofs were not forthcoming, and the court decided that Bonyntoun was not the rightful owner. Because of this, the other parties in the case were able to swear that the horse was theirs and 'wragusly tane fra thaim and againes the law and halding againes thair woll'. Browne was ordered to pay the value of the horse because of his position as Bonyntoun's surety, and he also had to pay costs.⁴⁶ This case is quite typical, and it illustrates the way in which the burgh court followed the normal practice of allowing time for both parties to assemble proofs and witnesses. Sometimes the process was more simple, as in the case of Will Glover who appeared before the court holding the halter of a brown horse, and claimed that it was his and 'wragusly tane fra hyme'. No-one came forward to take the halter from him, and the court declared that the horse was his, and 'deliverit the man his awin hors agane'.⁴⁷ It was apparently important for the court to see the horses that were involved in these cases, because on 5 November 1527 the alderman insisted that a grey mare should be produced before the court, despite the presentation of proofs and an independent valuation.⁴⁸ The ownership of horses was sufficiently

46. TSCB, 30 September 1511 and 14 October 1511.

47. TSCB, 12 March 1538.

48. TSCB, 5 November 1527 (entered in the manuscript as 1526, but in a sequence of entries for 1527).

important for one case to be repledged to the sheriff court in Jedburgh, with the proviso that if justice could not be done there to both parties the case should be returned to Selkirk.⁴⁹

Another animal which appears in the Selkirk records is the ox. This was the main draught animal in the sixteenth century, and although not having the social significance associated with owning a good horse, the ox was essential to any arable farmer. Most people could not afford to buy and maintain a complete team of plough oxen, so it was common for these animals to be lent out between neighbours, and this inevitably led to disputes about their return. In a complex case heard in 1532 a young farm servant took two plough oxen from his employer and delivered them to his father. One witness in the case also claimed that he had earlier offered them to another man, who refused to take them. The boy's father kept the oxen for more than twenty days and they were then reported to be held by another man. It was suggested that the last person to hold the animals may have done so with the consent of the owner, but the owner disputed this, and claimed that they had been stolen from him. The boy's defence was that his employer owed him wages, and the court told him to produce proof of his claim. The eventual location of the two oxen is not recorded.⁵⁰ A less complicated defence was put forward in another case when it was argued that the oxen that James Elliot was trying to recover from Richard Thirbrand were taken by

49. TSCB, 1 February 1536.

50. TSCB, 5 November 1532 and 3 December 1532.

'Inglismen and tratoris'.⁵¹ Thirteen years after the battle of Flodden a Selkirk man also used the English to support his defence. When challenged over his title to a black horse he claimed that he had 'broucht it furtht of Inglannd at Flodoun',⁵² and as in the earlier case of the oxen the court seemed willing to accept this as a defence.

Although most of the cases of theft involved livestock, other items are also mentioned in the records, including a dye vat said to have been taken 'violentlie without officiar', and consequently ordered to be returned,⁵³ and a cloak which was borrowed and then lost under dramatic circumstances.⁵⁴

In some of these cases the burgh court was prepared to deliver a judgement, although the normal caution was exercised in allowing time for witnesses to be called and proofs provided by both sides. In some instances no court decision is recorded, and it seems that even in cases involving theft or circumstances approaching theft the main strength of the court was its function as a public forum before which both sides to a dispute could argue out their cases. The court assisted in this process by providing a framework of formal procedure, which was conducted in strict accordance with local custom and precedent.

51. TSCB, 14 July 1518.

52. TSCB, 29 October 1521.

53. TSCB, 19 January 1536.

54. TSCB, 16 August 1524 and 30 August 1524. A man borrowed a cloak and was wearing it on the night that 'the thewis come upone him'. During the confusion the thieves took the cloak, and the owner demanded compensation.

It would be wrong to see the burgh court as a weak and powerless body because of its method of operation. By working in this way it was operating as an effective mechanism for social control in the community.

CHAPTER THREE

SOCIAL STRUCTURE AND BURGH GOVERNMENT

The social structure of burghs was closely interwoven with the framework of burgh government, and at the heart of the social structure lay the unique position of the burgesses. Burgesses, with their rights and responsibilities, operated within a social hierarchy, out of which developed a form of local government, often based on oligarchal control, but nevertheless depending on a degree of consent that was particularly marked in the smaller burghs. This chapter examines the position of the burgess in relation to the 'unfree' urban dweller, the relationship between burgesses in terms of their economic activities as merchants or craftsmen, and their membership of guilds as a reflection of this economic status. The position of burgh officials is looked at in relation to the emergence of a system of burgh government, and this is also examined in the light of evidence of wealth and power in the urban elite, and the development of oligarchal control. Because the main purpose of this study is to look at social control in a small community, much of the chapter's detail is concerned with the special nature of social structure in such a setting, and the way in which factors like family ties and the relative poverty of the whole community may be seen to have operated against total control by an urban elite or ruling oligarchy.

The Burgess

The concept of the royal burgh as a 'corporate entity or institution'¹ was closely dependent on the concept of the special

1. G.W.S. Barrow, Kingship and Unity: Scotland 1000-1306 (London 1981), 92.

status of the burghess as a free citizen with clearly defined privileges and duties. This is not the place to examine the many theories that have been advanced to explain the origin of burghs, but it is significant that a number of these theories contain a common thread relating to the existence of a specially privileged group within each burgh. These groups came into existence because of the very nature of burghs as trading communities, and in Scottish burghs the burgesses were given their special privileges within a formal legal and constitutional framework. A number of writers have commented on the similarities in law and custom that may be found in a comparison of Scottish burghs with urban communities in the Low Countries and in parts of France,² but it is also possible to detect many points of difference in detail. In Scotland these differences were mainly concerned with special trading privileges relating to particular burghs,³ but the special position of burgesses was recognised on a national basis by a series of acts of parliament.⁴ The effect of this

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2. M. Bateson, 'The laws of Breteuil', English Historical Review, vols. 15 and 16 (1900 and 1901). In this article, Mary Bateson examines the wealth of evidence to show that burghal laws were highly derivative, being passed on and copied, and never being wholly original. The early French and Flemish settlements gave privileged status to traders and craftsmen who were prepared to settle and form the nucleus of the community.
 3. T. Keith, 'The trading privileges of the royal burghs of Scotland', English Historical Review vol. 27 (1913), 455.
 4. APS, ii, 49, 86, 178 and 245. All these laws dealt with the trading rights of burgesses.

legislation and of the charters by which the crown created royal burghs was to give burgesses 'a monopoly of foreign trade and of all domestic trade within their own bounds'.⁵ These privileges had to be matched by responsibilities placed on burgesses, which were those of watch and ward and scot and lot. The duties of watch and ward involved sharing in the burden of the nightly watch (see chapter six of this thesis), and it has been suggested in the context of some Welsh boroughs that in taking part in watch and ward the burgess was performing a duty to the crown rather than in a personal sense, since the 'town gates and walls, and even the town streets, belonged to the crown rather than to the borough community'.⁶ This concept would also appear to hold good for Scottish burghs. The duties of scot and lot required each burgess to pay taxes and whatever charges were levied by the burgh. In addition to the duties of watch and ward and scot and lot, which can be regarded as a national norm, individual burghs were free to impose their own rules, many of which were based on the Leges Quattor Burgorum.⁷

Within this framework of rules burgesses enjoyed their privileges. Trade monopolies were the most significant of these privileges, and the rights of burgesses were heavily protected against encroachment. This might come from outsiders or 'uplandis' men, or from un-free indwellers. As may be seen in chapter five of this thesis, a small

5. T. Keith, 'The trading privileges of the royal burghs', 460.

6. E.A. Lewis, The Medieval Boroughs of Snowdonia (London 1912), 121.

7. Ancient Burgh Laws, passim.

community like Selkirk sometimes found it difficult to control the trading activities of the unfree. Despite these pressures of encroachment, burgesses were able to maintain their special position, another feature of which was the restriction of ameracements, something found in many burghs and boroughs with laws and customs similar to those of Breteuil.⁸ In practice this meant that burgesses were normally not fined more than eight shillings, which was the limit specified in the Leges Burgorum.⁹

The relationship between the corporate entity of the burgh and its burgesses may be seen as symbiotic. The burgh as a trading centre and focus of economic activity could not exist without the presence of a sufficient number of burgesses, and burgesses could not exist without the privileges and protection conferred on them by their role within the burgh. It was therefore necessary for burghs to be able to maintain a sufficient number of burgesses, replenishing or augmenting this number as needed, without creating excessive competition within trades and other activities, which might prove disruptive or damaging. As in all other aspects of burgh government, continuity and stability were of great importance, and the social control measures that may be identified in this area of burgh life were always designed to achieve these objectives.

The replenishment of a burgh's supply of burgesses was achieved in a number of ways. Inheritance of a burgage holding by a son was a common reason for admission to burgess-ship, and where there were no male heirs it was possible for a woman to

8. M. Bateson, 'The laws of Breteuil', vol. 16, 92.

9. Ancient Burgh Laws, Leges Burgorum, xxxix.

take possession of a burgage.¹⁰ Inheritance could also take place through a wife. In every case of inheritance, burges-ship was not acquired automatically, but only after ratification by the burgh court, acting on behalf of the community. The Selkirk records contain a number of entries confirming heirs as burgesses, and at one point in time, it was decided that no more new burgesses would be created except for burgess heirs.¹¹ This reveals something of a special position for the sons, and sometimes the daughters of burgesses, who were clearly felt to have special rights. The sons of living burgesses were also considered to be freemen, with rights to buy and sell within the burgh, but this was only while they lived with their fathers. If they left home they lost burgess rights until they acquired their freedom again by inheritance or purchase.¹²

Burgess rights could also be acquired by the purchase of a burgage holding, which could be sold provided that family rights were considered and protected where necessary.¹³ When

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10. R.K. Marshall, Virgins and Viragos - A History of Women in Scotland from 1080 to 1980 (London 1983), 51. Marshall refers to women being admitted to burges-ship, citing some examples from Peebles. One such female burgess was Meg Wodhal, made a burgess on 29 October 1459, and instead of an entry fee (burgess silver) being required to make a 'rud of caussa' (Peebles Recs., i, 133). The Edinburgh records contain a reference to the burgess silver to be paid by the daughter of a burgess, the fee being fixed at 13s. 4d, and the Selkirk records show two female burgesses in 1538 (TSCB, 10 December 1538).
11. TSCB, 23 February 1511.
12. Ancient Burgh Laws, Leges Burgorum, xiv.
13. Abdn. Recs., xxxviii. Dickinson argues that burgesses had the 'freedom to alienate or to bequeath' land as freely as goods, 'the only burden' upon burgess land being the payment of rent,

a burgage was acquired by purchase the new owner did not become a burgesse automatically, but had to be confirmed in this position by the existing burgesses, or on behalf of all burgesses by the burgh court or council. This method of entry to burgesse-ship was linked to the concept of burgesses being land-holders within the burghs,¹⁴ but as the burghs developed, burgesse status could be acquired by 'admission by existing burgesses to their association',¹⁵ without the possession or occupation of land. Mention of 'outland' burgesses in various burgh records makes it clear that it was possible to become a burgesse although living out of the burgh. One such mention occurs in the Selkirk records for 1529, when 'all that ar outlandis burges and utheris usand fremen offices' were ordered to stop buying and selling until a decision was reached on the matter.¹⁶ An earlier entry had recorded an order to out burgesses 'to have booths in the burgh, or lose their burgesse freedoms'.¹⁷ A small burgh was placed in a difficult position by the existence of non-resident burgesses, who could hardly be expected to play much of a part in watching and warding, and who might also not be prepared to share other communal responsibilities like attendance at the burgh court, or serving as bailies or burgh officers. On the other hand, the admission

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14. Ancient Burgh Laws, Leges Burgorum, xxiv. No man to be created burgesse unless he has at least a rood of land.
15. R.L.C. Hunter, 'Corporate personality and the Scottish burgh' in G.W.S. Barrow (ed.), The Scottish Tradition (Edinburgh 1974), 236.
16. TSCB, 25 May 1529.
17. TSCB, 7 October 1510. In 1513 Aberdeen ordered that all non-resident burgesses should take up residence within twenty days (Abdn. Counc., 87).

of burgesses brought much-needed revenue to the burgh in the form of admission fees, or burgh silver, which provided a major part of the common good fund. There was therefore a temptation to tolerate a certain number of non-resident burgesses, although in principle the practice was considered undesirable. A burgh's position on this might vary from time to time, and burgh residence might sometimes be rigidly enforced.¹⁸

If the need for burgh silver sometimes prompted the creation of 'outland' burgesses, another need led to burghship being offered to local lairds or members of powerful local families. From the 1450s there was a 'drift of many burghs into the patronage networks of nobles or lairds',¹⁹ despite the risks that this presented to the independence of burgh government. This process of making local alliances may be seen clearly in the example of Selkirk.

A number of local lairds or powerful men were admitted to burghship, no doubt with the intention of securing support in both local and national disputes. In 1511 Murray of Falahill, sheriff of Selkirk, was made a burgher, to be followed in 1512 by a Scot of the Haining, an estate lying on the bounds of the burgh itself.²⁰ It is possible to see some logic in both situations, and the burgh clearly hoped to derive benefit from both new burgesses. The next lairds to

18. TSCB, 19 October 1540. A burgher heir was admitted to burghship on the strict understanding that he should come to the burgh at Whitsunday 'to his properte and heritagis within the said burgh', to share in watching and warding, and to take his part in scot and lot, 'nychtbourlyk as nychtbouris dois', and to pay burgh silver of two merks when called upon to do so by the provost or bailies.

19. M. Lynch, 'Whatever happened to the medieval burgh? Some guidelines for sixteenth and seventeenth century historians', Scottish Economic and Social History (iv 1984), 9.

20. TSCB, 30 September 1511 and 17 February 1512.

be made burgesses were Andrew Ker of Greenhead and his kinsman Andrew Ker of Gaitschaw. Ker of Greenhead, whose land marched with the burgh's common land, was also appointed 'weillwollar and supplear', as his father was before for a year.²¹ As will be seen later in this chapter, the Ker family were dominant in the burgh for many years, against a background of growing resistance to their power. The Kers of Greenhead fell into dispute with the burgh over common land, which eventually led to the murder of the provost by Ker retainers (see chapter four of this thesis). In 1534 another local laird was made burgess, but with ample justification since his father had been a burgess and he also had 'gret heritaigis' within the burgh.²²

With this variety of sources of new blood the burgh was able to regulate entry to burgess-ship, and an examination of the numbers of new burgesses created in Selkirk reveals a fairly steady pattern of

21. TSCB, un-dated entry in sequence of entries for 1513.

22. TSCB, 22 October 1534. John Turnbull of Hassendeanbank, also known as the laird of Garnock, was chosen as a burgess to follow his father, George Turnbull.

replenishment, with some years being marked by abnormally high entry figures.

<u>Year</u>	<u>Numbers of new burgesses</u>
1506	1
1509	1
1510	2
1511	2
1512	8
1513	1
1515	1
1516	1
1518	3
1519	4
1520	6
1523	1
1526	3 (mentioned by name, but others were probably made burgess at the same time)
1527	2
1528	1
1529	8
1530	1
1531	10
1532	4
1534	4
1536	46
1538	1
1539	1 (after probationary period)
1540	23
1541	2
1542	3
1543	1

The years in which the greatest number of new burgesses were created can be linked to heavy demands on the burgh for tax money. In 1531

a national tax was raised to pay for the expedition against Donald of the Isles, and parliament ordered another tax to repay money owing to Middelburg. In 1536 Selkirk had to raise a large sum of money to pay for the confirmation of its charter as a royal burgh, and in 1540 more money was needed for 'ane chairtour of divers freedomes grantit and gevin be our soveran lord King James the fyft'.²³

(These taxes are discussed in more detail in chapter eleven of this thesis). Burgess entry fees were seen as a useful source of income for a burgh, and one that might easily be augmented by increasing the number of new admissions. Since Selkirk was a poor community, increasing the number of burgesses was perhaps the only way in which reasonable sums of money could be raised quickly.

Apart from entry fees, money could also be raised from burgesses by extra or even annual payments. The Selkirk records contain an example of what may have been an annual payment by all

23. TSCB, 26 October 1540.

burgesses.²⁴ Burgess heirs could also be called upon to provide wine and spice for their colleagues after admission to burgess-ship.²⁵

Sometimes burgesses were admitted without fee,²⁶ and this appears to have happened in Selkirk in 1540 when for 'luf and effection of our belovit Stevin Hendersone' his brother William was made burgess and gild brother, without mention of fee, but with all the usual ceremonial details.²⁷ It is possible that some of the local lairds who were admitted to burgess-ship were given free entry as an inducement, and this practice was followed elsewhere, sometimes to make it possible for an important outsider to hold office.²⁸

From this brief survey of some of the evidence it is possible to confirm the importance of burgesses within the

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24. TSCB, 22 November 1538. All burgesses who had not paid their merks were ordered to do so within eight days, or forfeit their burgess-ship. On 10 December 1538 the common clerk recorded the names of all those who had paid. One hundred and twenty three names are recorded, including the alderman, the vicar and two priests and two women. Most paid one merk, with a woman and a man paying more, and three men less. The list may not be a complete record of all the burgesses, since some may not have paid, but it probably represents nearly all those entitled to claim burgess status in 1538.
25. TSCB, 27 November 1526.
26. G.S. Pryde, Scots burgh finances prior to 1707 (unpublished Ph.D. thesis, St. Andrews, 1926), 212. Pryde states that 'gratis burgess-ships' were purely honorary, but the only mention of such an admission in the Selkirk records has all the marks of normal burgess-ship.
27. TSCB, 28 August 1540.
28. W.T. MacCaffrey, Exeter 1540-1640 (London 1975), 52.

social and economic framework of burgh communities, but one must also be aware of a number of contradictions. As already suggested, burgesses needed the burgh, and the burgh could not function without the burgesses, but there were pressures at work, particularly in the smaller and poorer burghs, which gave rise to local rules and practices in the matters of burgess creation, residence and expulsion. A large number of newly created burgesses might cause problems of assimilation and competition in a small trading community, but such a community might have to depend on revenue from this new source of entry fees in order to meet a cash flow crisis. The admission of local lairds to burgess-ship could well create useful alliances that could benefit a burgh, but might also create a ruling elite mainly concerned with the extension of power outside the burgh, with resulting tensions over the ownership and use of common land. In this respect one only has to look at the problems faced by communities like Peebles and Selkirk in resisting encroachment by neighbouring landowners, problems becoming apparent in the sixteenth century and increasing in intensity in the seventeenth century.²⁹ Selkirk did not have easy relationships with many of its neighbouring lairds, despite admitting a number of them to burgess-ship.

Rules made by burghs to enforce burgess residence

29. Peebles Recs., ii, xiii. '... the management of the burgh lands and their preservation from encroachment occupied much of the attention which the town council bestowed on public affairs, but in their contests with adjoining proprietors the community were not always successful in establishing their claims'.

illustrate another area of ambivalence and Selkirk swung back and forth between toleration of out-burgesses and enforcement of the rule of residence.³⁰ Non-resident burgesses might be seen as parasites, enjoying all the economic benefits of burghal freedoms without bearing all the responsibilities, but they might also be recognised as producers of wealth and revenue for the burgh. The ambivalence of burgh authorities towards burgess-ship may also be seen in attitudes towards expulsion from burgess freedoms. Loss of freedom was a serious matter, and the threat of expulsion was a powerful sanction, often used by burgh courts and councils. Perhaps the threat of expulsion was sufficient in most cases, because burgh records do not contain much evidence of threats being put into effect. As may be seen in chapter seven, Selkirk deprived two men of their burgess freedoms for a year, as a punishment for bringing in an un-specified infection.³¹ Just over a year later one of the men is shown as a burgess on a stent roll, obviously restored to all his freedoms.³² The Edinburgh records contain an example of expulsion from burgess freedoms, with the added threat of banishment if the offence were repeated.³³ The offence itself, that of trading with

30. Peebles Recs., i. When the burgh court met on 22 April 1555 twelve 'outland burgessis' were absent. Three of these men were told to make 'residence within the fredome of burgh', or lose their burgess freedoms. Like Selkirk, Peebles was prepared to tolerate non-residence, but was also willing to try and restrict it.

31. TSCB, 5 April 1535.

32. TSCB, 17 March 1536.

33. Edin. Recs., i, 155.

strangers, went to the very heart of the economic relationship that bound burgesses to the community and to each other. Another offence likely to lead to the loss of burgh freedom was that of serious encroachment on common land, which was a threat to the whole community.³⁴

However, it was clearly not in the interest of any burgh community to act too severely towards delinquent burgesses, and that is why the records contain references to many threats of expulsion but very little positive action. Although a small burgh like Selkirk found it convenient to show a degree of toleration and flexibility over the admission of burgesses, outland burgh trading, and the disciplining of offending burgesses, it is important to remember that decisions about this area of burgh life were, as in everything else, subject to a measure of consent. This is not to imply that all decisions about the admission of burgesses and controls over their behaviour were taken by the whole community. We make a mistake if we apply the modern concept of democracy to burgh government in the sixteenth century, but in a small community there was certainly an element of democracy on the ancient Greek model. Decisions about burgesses were taken by a small group of burgesses, subject to the fact that all such decisions were common knowledge, and as such widely discussed throughout the community. These decisions were therefore exposed to public

34. TSCB, 6 April 1540. James Vilkesone, described as burgh and giltyne brother, was accused of receiving land from his master, Patrick Murray, Sheriff of Selkirk, which was not his to occupy, having been common land 'sene memor of man'. Vilkesone quickly submitted to the will of the community, having been threatened with loss of burgh freedoms, deprivation of 'giltyne brederheid' and banning from 'burghs counsall and communitie in tyme to cum'.



opinion, and might be influenced or modified by that opinion. The existence of this external influence on decision making led to the practice already discussed whereby all burghess admissions had to be ratified by a representative body of burghesses. It should not be assumed that ratification was always automatic, although it must be said that it was normally a formality. In 1539 four Selkirk burghesses voted against admission of a new burghess. The burgh court resolved the problem by telling the rejected applicant to deposit his entry money with the nine 'chosen men' (see below), who would admit him at a later date provided that he followed their instructions.³⁵ Burgh court decisions were made by a few men, but if they did not command support from the burghess body as a whole, and in broad terms act in a way that satisfied public opinion at large, consensus could not function, and dissent and possibly disorder would become a threat to the existence of the community. Public opinion at large was to some extent dependent on the 'un-free' inhabitants of the burgh.

The Un-free

The un-free population of a burgh was, at least in the larger burghs, like the submerged part of an iceberg. It was made up of a variety of social groups who for various reasons, were not able to gain burghess status. Stallangers formed one such group, being allowed to erect stalls in burgh markets, but

35. TSCB, 30 July 1539.

not enjoying burgh freedoms.³⁶ The burgh community was able to control the number of stallangers, and the way in which they traded, and the burgh gained revenue from the fees paid for the market stalls. In a 1513 list drawn up in Selkirk two men are shown as stallangers.³⁷ Neither man appears on any stent roll, nor did they seem to have become burghesses in later life. Although stallangers were more privileged than many of the un-free because they were allowed to trade, one cannot assume that this took them out of the ranks of the poor.

The other groups of the un-free included apprentices, domestic and trade servants, journeymen, craftsmen, most widows and a whole host of the poor. In the larger burghs the poor made up the major part of the population,³⁸ and the only influence that they could bring to bear on burgh government was through mob activity. In the smaller burghs the gulf between rich and poor was much less noticeable, and burgh status did not necessarily imply the possession of wealth, nor did it guarantee its acquisition. The social divisions between free and unfree were often small, sometimes barely existent, and the un-free were consequently able to play some part in the process of consensus. In Selkirk the pyramid of social structure was broad-based, and this produced results that can be contrasted with the experience of the larger burghs.

36. APS, i, 682.

37. TSCB, 25 May 1513.

38. W.G. Hoskins, 'English provincial towns in the early sixteenth century', in P.Clark (ed.), The Early Modern Town (London 1976), 101. '... fully two-thirds of the urban population in the 1520s lived below or very near the poverty line...'

Merchants, Craftsmen and the Gild

A great deal has been written about the relative importance of merchants and craftsmen to the social and economic life of burghs, and sufficient evidence has been examined for some basic principles to be widely accepted amongst burgh historians. The first and most important of these principles is that generalisation is dangerous. Burgh laws were widely followed in a general sense, but were subject to a variety of interpretations by different burghs, and custom and practice in the way that laws were applied owed much to local needs and circumstances. All Scottish burghs might look to Edinburgh as a model, but the proportions of craftsmen to merchants varied conspicuously from burgh to burgh,³⁹ and the significance of the words 'craftsman' and 'merchant' in a small burgh bore little relationship to their significance in the capital. Another basic principle to emerge is that it is dangerous to make assumptions about the relative wealth or social standing of merchants as compared with craftsmen, and a third point is that it is impossible to isolate the business activities of merchants from those of craftsmen, since in the smaller burghs there was a considerable degree of overlap. These three general principles should also guide any examination of the part played by gilds in the social and economic life of burghs. The picture of gild membership presented by the larger and wealthier burghs does not hold good for the

39. M. Lynch, Edinburgh and the Reformation (Edinburgh 1981), 51.

smaller and poorer communities, where one can see 'no firm delineation between burgess and gild member'.⁴⁰ This lack of uniformity in the membership of guilds was not unique to Scotland, but may also be seen, even from an early date, in other parts of Europe.⁴¹

It therefore seems important to treat each burgh as a special case, avoiding generalisations, but making whatever comparisons seem relevant. This is not to say that one should ignore any common ground that may exist, such as acts of parliament designed to differentiate between merchant and craftsman,⁴² but although these acts applied to all burghs, local circumstances in the smaller burghs did not make for uniformity of application of the law.⁴³

What emerges from a study of merchants and craftsmen in Selkirk is that it is very difficult to differentiate between them in terms of their business activity. Only one man is described as a merchant in the burgh court records,⁴⁴ and there is no further evidence to show what he did to justify this description. He may have been a small trader,

40. E.P.D. Torrie, 'The gild of Dunfermline in the 15th century (un-published Ph.D. thesis, Edinburgh, 1984), 336.

41. S. Reynolds, Kingdoms and Communities in Western Europe 900-1300 (Oxford 1984), 70. Reynolds sees the origin of the gild in the need for 'mutual insurance and protection' of townsmen involved in trade, and she points out that this could mean all a town's traders, including craftsmen, retailers or shopkeepers, although sometimes the gild would be 'dominated by rich wholesalers and devoted to their interests'.

42. APS, ii, 86 and 178. The act of 1467, confirmed in 1487, required craftsmen to give up their crafts if they wished to be merchants.

43. Reynolds, Kingdoms and Communities, 38. 'The idea of law is one thing. Its practical working is another'.

44. John Down, described as a merchant, appears on stent rolls between 1535 and 1539 (see appendix iv).

retailing from a market stall, even at the business level of a stallanger,⁴⁵ or, and this is a more unlikely explanation in a small burgh, he may have dealt wholesale, perhaps in wool. From the evidence of the stent rolls he would appear to have been one of the wealthier men in the burgh, paying a total of £1. 16s. Od. over five stents, a figure which probably says more about the relative poverty of Selkirk than it does about the wealth of merchants relative to craftsmen. With the proviso, referred to in chapter eleven, that stent rolls do not necessarily reflect the actual wealth of an individual, we can identify a Selkirk flesher who paid more tax than the burgh's only named merchant, being assessed for a total of £2. 1s. Od. over six stents.⁴⁶ Despite the pressure put on the victualling traders by burgh authorities, (see chapter five), fleshers and baxters were in a position to make a regular living, and in a study of craftsmen in late medieval York, butchers and bakers were included in a list of the most successful crafts, and were said to be the 'best defined and most coherently organised'.⁴⁷ Other craftsmen identified in the Selkirk stent rolls include websters, cordiners, a wright, maltman,

45. S. Reynolds, An Introduction to the History of English Medieval Towns (Oxford 1977), 75. In the early Middle Ages a merchant might be a retailer, and it was only later that the word was restricted to wholesale trading.

46. Jock Down, described as a flesher, and perhaps related to John Down the merchant although identifiable as a different man, appears on stent rolls between 1531 and 1539.

47. H.C. Swanson, 'Craftsmen and industry in late medieval York', (un-published D.Phil. thesis, York, 1980), 147 and 435. Swanson's list of the most successful crafts also includes tanners, some cordwainers, tailors, inn-holders, barbers and pewterers.

millers and a mason, and elsewhere in the burgh records we find tailors, brewsters and a sword-slipper. It is reasonable to assume that Selkirk's crafts could meet all the basic needs of the burgh, with any demand for luxuries being supplied from the large burghs or from abroad. Because the burgh was small, and of necessity largely self-sufficient in manufactured goods, the role of the craftsman was important, but the lack of any sort of a mass market would have ensured that most craftsmen stayed as small employers or operated single-handed. Perhaps the only trade to produce a surplus of goods that could be sold outside the burgh and its landward area was that of shoe-making, and when the trades began to become incorporated in the seventeenth century the cordiners were the largest of the new gilds.⁴⁸ The typical Selkirk craftsman would have been unable to contemplate large-scale production, and would have worked to satisfy the small local market, operating both as manufacturer or producer and as merchant for his own goods. This duality of role, with no demarcation between the tasks of making and selling, was a common feature in any small burgh. There was little or no scope for specialist merchants, indeed it is likely that those who only sold the goods produced by others were among the poorer members of the community. Most craftsmen would sell directly from home or workshop, as well as in the burgh markets and at fairs, and inventories provide the evidence

48. J.W. Elliot, 'The age of reason? 1690-1780' in J.M. Gilbert (ed.), Flower of the Forest: Selkirk: a New History (Galashiels 1985), 92. By the eighteenth century the burgh had become a sufficiently active centre of shoe-making for Jacobite armies to demand shoes in 1715 and 1745. In 1745 over 2000 pairs of shoes were supplied to troops quartered in Edinburgh after the battle of Prestonpans.

for this in the lists of fittings and equipment for booths that form part of many testaments. What distinguished the citizen of a small burgh was burghship rather than occupation as merchant or craftsman.

This blurring of definitions extended to gild membership, with the smaller burghs following their own needs and customs, without too much regard for the example set by larger burghs like Edinburgh and Aberdeen. This had not always been the case, since Scottish merchant and craft guilds had a common origin, both being concerned in the early burghs with religious observances and religious rites and ceremonies.⁴⁹ This view of the common origins of Scottish guilds coincides with what is known of the origin of guilds on the continent. Guilds in many European communities were 'originally social and religious associations, primarily for drinking and fellowship, and probably of pagan origin'.⁵⁰ Later the guilds began to pursue the economic interests of their members, leading inevitably in the larger communities to a division of interests between merchants and craftsmen. Until economic considerations became dominant in the life of the guilds, they remained more than 'economic federations' for their members. The guilds 'embraced their whole external lives'.⁵¹ After the divergence of interests the merchant guilds became concerned with 'maximising the volume of trade and the consequent benefit to the town and its own merchants', while the chief aims of the craft guilds were to maintain a 'steady volume of business',

49. E. Bain, Merchant and Craft Guilds - a History of the Aberdeen Incorporated Trades (Aberdeen 1887), 7.

50. S. Reynolds, English Medieval Towns, 81.

51. F. Rörig, The Medieval Town (London 1967 - trans. of revised German edition of 1955), 159.

and to fix price and quality standards for the products of the crafts.⁵²

In the wealthier seaport burghs of Scotland a lengthy period of development had led to the existence of a merchant class that was heavily involved in foreign trade and in the wholesaling of goods within Scotland. This class possessed both wealth and political influence and this influence was reflected in the power of the merchant guilds within the burghs. By the late fifteenth century it was also possible to define another power group, which has been described as a craft aristocracy,⁵³ and by the sixteenth century the power of the craft guilds was a significant factor in the politics of the larger burghs. The existence of these urban power groups was an important factor in the development of urban oligarchies, but it has to be remembered that the evidence that exists about guilds in the larger burghs is not necessarily evidence for a uniform pattern of gild development in all communities.

We have already seen that the evidence for Selkirk makes it difficult to differentiate between craftsman and merchant. Similarly, the burgh court records do not distinguish between merchant and craft gild. In fact it is clear that no such distinction existed, and that membership of what was usually referred to as 'giltyne brotherhood' could be achieved by burgesses regardless of occupation. This description appears a number of times in the records, with men sometimes being shown as giltyne brothers and sometimes as burgesses and giltyne brothers. One burgh court book entry could be taken to imply that all burgesses were members of the

52. A. Black, Guilds and Civil Society in European Political Thought from the Twelfth Century to the Present (London 1984), 8.

53. M. Lynch, Edinburgh and the Reformation, 64.

gild,⁵⁴ and on the basis of the available evidence, that may well have been the case. In Selkirk there was a clear association between the gild and the status of burgh-ship, and it seems that one gild sufficed for the burgh, without regard to the craft or occupation of the burgh member. Nothing is known about the origins of this gild, but it is possible that like gilds in other communities, it began for social and religious reasons, perhaps using one of the altars in the parish church, and supporting a chaplain to say mass for gild members past and present. This type of gild can be seen in other small burghs, with local variations.⁵⁵ We must also see the Selkirk gild as something quite distinct from the trade incorporations which developed in the seventeenth century. The first Selkirk trade incorporation was that of the weavers, granted a seal of cause in 1608, followed by the souters or cordiners in 1609 and the tailors in 1610.⁵⁶ However, a burgh court book entry for 1540 refers to the tailors' burghesses in a way that shows that there was some form of recognised craft organisation running parallel with the gild, and pre-dating the formal

54. TSCB, 5 April 1535. 'We fynd that quhair ane unfreman presentis ony stuff forbydding be avice of our communitie and than vith violence, efter that he be reproffit, dyngis our giltine burges one the faice with sic forbidding ger, ve put sic ane man in to ane gret vrang'.

55. E.P.D. Torrie, 'The gild of Dunfermline', passim. There is no suggestion that gild membership was the exclusive preserve of a merchant oligarchy', and Torrie feels that the Dunfermline gild developed as a fraternal society with religious connections, becoming less open as time went on.

56. T. Craig-Brown, The History of Selkirkshire, ii (Edinburgh 1886), 187, 192 and 206.

incorporation of the trade by seventy years.⁵⁷ It may be that the Selkirk trades did not feel the need for a more formal type of craft gild until the neighbouring community of Galashiels was made a burgh of barony in 1599,⁵⁸ which act may have prompted the formation of trade incorporations.⁵⁹

The evidence from the Selkirk records illustrates how one burgh followed its own road, and it shows how dangerous it is to make general assumptions about the place of merchants and craftsmen in burgh society.⁶⁰ Selkirk's social structure evolved to suit the particular needs of the burgh, and its survival as a viable community was related to the relevance of this structure to the social and commercial life of the burgh, and to the ability of the structure to develop to meet changing circumstances. Within the social structure crafts and the gild may be seen as important units, fitting into the pattern of relationships, just as the smaller social units of families and kinship groups occupied their

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57. TSCB, 6 April 1540. The burgh court ordered the three tailors' burgesses (the manuscript gives four names, but one is crossed out), Jhone Andersone, Jhone of Vennes (probably Venne, which is a small town south of Bremen) and Jhone Cruik, to 'consider the clath and schap of Thome Hendersone vyf kyrtaill and tak thaim sworne to decerne in the verite'. This is a clear example of a craft being asked to exercise control over quality, one of the traditional roles of a craft gild, but here being exercised in a less formal framework.
58. RMS, vi, 988.
59. J.M. Gilbert, 'From reformation to revolution: 1560-1690', in J.M. Gilbert (ed.), Flower of the Forest, 83. 'It seems most likely that the erection of Galashiels into a burgh of barony ... was seen as a threat to the trade of the Selkirk crafts'.
60. M. Lynch, 'Whatever happened to the medieval burgh?', 13. The use of the terms 'merchants' and 'craftsmen' to analyse burgh society is likened to 'using bulldozers instead of trowels'.

own places within the community.⁶¹ Later in this chapter we shall examine how power and social control became concentrated into the hands of a burghal elite which in a small burgh like Selkirk had its origins in the larger privileged grouping of burgesses and gild brothers.

Burgh Administration

In the early days of the royal burghs the crown kept close control of these valuable assets through the annual visit of the chamberlain and the day to day administration of the prepositus or alderman. The chamberlain oversaw the financial administration of the burgh, and his yearly visit provided the opportunity to ensure that the crown was receiving the proper amount of financial benefit from the activities of the burgh. The alderman played the part of the resident royal officer and crown representative, and as an officer of the crown he was armed with wide powers, wide enough to be seen as despotic by modern standards. Despite these powers, an alderman might choose to involve some or all of the burgesses in the process of burgh government, and particularly in the smaller communities it will have become apparent to aldermen that a measure of consent was needed if effective control was to be exercised. As burghs evolved and developed it became necessary for the burden of burgh government to be spread more widely. Burgesses became involved with day to day matters of administration through

61. A. Black, Guilds and Civil Society, 241. Black sees crafts as 'social units with human meaning, like families', in which the shared interests of work led to a specific type of relationship between fellow craftsmen. This interpretation echoes the view of the craft gild as a body developing from a mutual aid society with social and religious overtones.

membership of the burgh court, meeting at first under the control of the alderman, and then as the use of courts developed bailies were appointed from the body of burgesses to serve as magistrates and as senior officers of the burgh,⁶² and they took over the running of routine meetings of the burgh court. By the fourteenth century the officers of a burgh 'usually came to include an alderman or provost',⁶³ bailies, sergeants (often described as the bailies' servants), liners (to define the boundaries of land holdings), tasters of ale and wine, and apprisers of flesh.⁶⁴ The sergeants were paid servants, and other paid officials might include a locksmith, or common executioner, a knock-keeper, if the burgh had been able to afford the status symbol of a clock, and a drummer or piper.⁶⁵

The Selkirk bailies seem to have been able to choose their own sergeants, subject to the approval of 'divers men in the inquest',⁶⁶ and on at least one occasion paid them by collecting money amongst the burgesses on St. Stephen's day,

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62. G.W.S. Barrow, Kingship and Unity, 101. In the early burghs the word 'bailie' (ballivus: bailiff or official) was sometimes used to describe the king's officer, with duties similar to those of the alderman or prepositus. The title was later given to the senior officers, usually two in number, who acted under the alderman, and had special duties in relation to law and order.
63. Ayr Accts., xxiii. The title provost gradually replaced that of alderman, although in some burghs (Ayr and Selkirk being two examples), the term alderman was used until the reign of James V.
64. W.C. Dickinson (ed. A.A.M. Duncan), Scotland from the Earliest Times to 1603 (Oxford 1977), 109.
65. TSCB, 15 May 1537. George Roull was appointed as burgh piper, being 'most abill for a yeir to mak the toun service deulye'. He was given a monopoly within the burgh for the year, with no other 'minstralis' being allowed to play at weddings or feasts. His official title was 'common minstrall'.
66. TSCB, 30 October 1537.

which was then divided equally between the sergeants.⁶⁷ The payment of officials was sometimes a problem for Selkirk, and even Ninian Bryden, the burgh's common clerk, found it necessary to ask for his fee, which was promised when the burgh 'pait the restis of grettair sowmes'.⁶⁸ The burgh had a knock or clock, but paid a man to travel to the burgh to carry out maintenance.⁶⁹ It also appears that there was no locksmith in the burgh, since there is no mention of such an official in the burgh court records. Indeed, much later in the burgh's history it was necessary for a locksmith to be borrowed from Jedburgh to carry out a sentence of whipping imposed by the sheriff.⁷⁰

By the sixteenth century burgh government in Selkirk shared most of the characteristics to be found in other small burghs. Alderman and bailies were appointed regularly, and in most cases for the period of one year laid down by statute.⁷¹ As the statute had intended, the election of officers was not democratic, but all burgesses were expected to attend head courts (see chapter two), and in theory therefore were able to have some say in the election of alderman and bailies. Other in-dwellers were excluded from this process, but it appears that in Selkirk the 1469 act was not followed to the

67. TSCB, 15 January 1538.

68. TSCB, 22 November 1538.

69. TSCB, 22 May 1541. The burgh court ordered that money collected as 'Our Lady bred' should be used for costs and travelling expenses involved in the maintenance of the burgh clock.

70. J.W. Elliot, 'The age of reason?', 98. This incident took place in 1766.

71. APS, ii, 95. This act, passed in 1469, specifies that alderman/provosts, bailies and officers should not hold office for more than a year, without being re-elected. The act was particularly aimed at preventing the 'gret truble and contensione' that occurred when these officials were popularly elected, so it provided that the outgoing council should choose a new council.

letter. Whilst it is true that the burgess body was effectively self-perpetuating, it was possible for appointments to be challenged, as when the burgh court announced that it had appointed John of Murray alderman for one year only, and that his year in office had been completed by the previous Michaelmas.⁷² It is also clear that burgesses were prepared to challenge bailies who were failing to live up to expectations, in this instance a failure to follow custom and practice over the common good fund of the burgh. There were thirty burgesses at the court, and they threatened to boycott the bailie court unless their complaints were accepted and the situation remedied.⁷³ Parliament continued in its efforts to regulate burgh government, ratifying the 1469 act with one in 1487,⁷⁴ ordering that only 'honest and substantious' men were to be elected aldermen, provosts or bailies,⁷⁵ that officers who failed in their duty were not to hold office again for three years,⁷⁶ and that provosts and bailies should oversee the work of craft deacons in fixing prices.⁷⁷ In Selkirk the Ker family, who were certainly 'substantious' if not honest, dominated the burgh for a number of years, with Gilbert and Andrew Ker both serving as aldermen. This Ker domination

72. TSCB, 21 June 1513. From a later court book entry on 5 February 1516 it appears that John of Murray had been made alderman without first being a burgess, an unusual procedure.

73. TSCB, 3 December 1515.

74. APS, ii, 178

75. APS, ii, 349.

76. APS, ii, 373.

77. APS, ii, 487.

was broken when John Mithag was appointed as the burgh's first provost in 1540, following a letter from James V granting permission for Selkirk to elect a provost.⁷⁸ Mithag was murdered in 1541 over a dispute with the Kers of Greenhead (see chapter four), and he was replaced as provost by Walter Scot. Scot may well have been reluctant to accept the post, because five men pledged that he would remain in office for a year, on pain of forfeiting the pledge of £100.⁷⁹ Gilbert Ker did not give up hopes of regaining power in the burgh, and in 1543 he challenged Scot's fitness to be provost. His challenge was based on the assertion that Scot was a rebel and 'at the horn', but he was answered by one of the bailies who denied the charge on the provost's behalf.⁸⁰ Three months later Scot was still in office, so it is clear that Ker's challenge had been unsuccessful.⁸¹ This incident illustrates how burgh government, particularly in a smaller burgh, could be influenced by popular feeling, or at least by the wishes of burgesses acting on behalf of the rest of the community. 'Head courts continued to act as a regular re-expression of consensus',⁸² and the Selkirk records contain a number of examples of resistance by the community to the wishes of powerful men. This independence of thought and action must, however, be seen

78. RMS, iii, 2207 (also see chapter four of this thesis).

79. TSCB, 4 October 1541. Walter Scot was cousin to Thomas Scot, laird of the Haining, illustrating the burgh's need to secure an alliance which would help resist the power of the numerous Ker kindred in the area. This alliance with the Scot family may be traced in the court book for 1557-1575, with Thomas Scot of Haining being elected provost in 1561 and Walter Scot of Branxholme in 1573 (Scot of Branxholme's election is recorded in the MS. Court Book, 4 November 1573, f. 151v.)

80. TSCB, 16 January 1543.

81. TSCB, 15 April 1543.

82. M. Lynch, 'Whatever happened to the medieval burgh?', 17.

in the context of the emergence of oligarchal control of burgh government, a theme examined later in this chapter.

So far we have seen that Selkirk shared many characteristics of burgh government that were common to the smaller urban communities in the sixteenth century, but in the matter of a council, Selkirk was behind the times. The idea of a council began to develop in the thirteenth century, and the body of burgesses which fulfilled this role became known as the 'doussane', regardless of the number involved.⁸³ It has been suggested that the 'germ of the idea of the town council' can be found in the words of the Leges Quattor Burgorum, 'thruch the consaile of the gud men of the toune', and that standing councils had evolved in most burghs during the fourteenth and fifteenth centuries.⁸⁴ It is unwise to generalise about the composition or function of these bodies, because development seems to have taken place in various ways and within different time-scales in different burghs. The problem of definition is compounded by the way in which the same burgesses might well take part in the deliberations of three bodies - council, burgh court and gild court, with all three taking decisions affecting the whole community.⁸⁵ From this rather confused picture several basic points seem to emerge. The leading burgesses took part in most of the decision-making bodies in the burgh, and from their involvement in the

83. G.W.S. Barrow, Kingship and Unity, 102.

84. Ayr Accts., xxiv and xxv.

85. W.C. Dickinson, 'Burgh life from burgh records', Aberdeen University Review xxi (1946), 214.

burgh court came the selection of the special inquest or dozen, which in turn evolved into a council. This process of evolution had taken place earlier in the larger burghs, but even Edinburgh's town council was not a 'closed oligarchy',⁸⁶ despite the extension and growth of the council's oligarchic powers during the sixteenth century. This is in marked contrast to the councils that had developed in the larger English towns, as in Exeter, where the 'inner' council of twenty-four had been elected by another group of thirty-six, but after a privy seal writ was issued in 1509, the 'twenty-four' abandoned any pretence to annual elections and became a 'self co-opting body'.⁸⁷ The governing body of Norwich was also known as the 'twenty-four', and they made all the decisions about local government, having beneath them sixty councillors whose function was to consent to legislation.⁸⁸ A similar situation was to be found in York, where 'most of the business of government' was conducted by the mayor and the aldermen, with the twenty-four acting as an advisory body.⁸⁹ This amount of oligarchal control did not emerge in Scottish burghs until later, but when it did, privilege and corruption

86. M. Lynch, Edinburgh and the Reformation, 22. The power of the council was 'circumscribed by the old idea of the common good'.

87. W.T. MacCaffrey, Exeter 1540-1640, 17. Under the terms of the writ the council members sat for life, unless removed by their brethren for specific reasons. All replacements to the council were by nomination by the members, who came from the 'wealthiest and most influential' families.

88. J.F. Pound, Government and society in Tudor and Stuart Norwich 1525-1675 (un-published Ph.D. thesis, University of Leicester, 1974), 101.

89. H.C. Swanson, Craftsmen and industry in late medieval York (un-published D.Phil. thesis, University of York, 1980), 337.

flourished as freely as in the English towns.⁹⁰ Selkirk, as a small burgh with a tradition of a degree of consensus in its government, eventually followed this pattern, but it did so later than other burghs, and its steps towards a council do not seem to have begun until 1535. At the October head court an inquest of fourteen men, meeting under the alderman and bailies, appointed 'ane inquest of the best and vorthtyest unsuspekit men', twenty-nine in number to 'decreit and to decerne rycht and wrang' for a year to come. These men were ordered not to absent themselves when called by the bailies, without good reason, or face a fine of 12d.⁹¹ This is the first evidence in the Selkirk records of the formal appointment of an inquest, charged with the task of helping to govern the burgh. In the following year the burgh received confirmation of its charters from the king, and four men were chosen to be 'laufull procuratouris, exactouris, ouris erend bereris and messingeris' in all matters to do with the freedoms of the burgh,⁹² and shortly after this nine men were named as a special inquest to look into matters of burgh freedoms and common land. This group were chosen by the 'mair part of our communitie' which agreed to back their actions with 'body and geris'.⁹³ Two years later the burgh appointed a group

90. T.C. Smout, A History of the Scottish People 1560-1830 (London 1979), 149 and 150. Smout links the corruption of burgh government to the concentration of power in the hands of a small elite group in each burgh, so that the checks and balances of consensus began to be of little significance.

91. TSCB, 12 October 1535.

92. TSCB, 17 March 1536.

93. TSCB, 5 May 1536.

of eleven men for one year, to act, under the two bailies, in all things affecting the 'common veil', and it is clear that a pattern of formally appointed inquests had emerged.⁹⁴ Not long afterwards the inquest was referred to as 'weill avyssait counsell',⁹⁵ and this phrase then appears a number of times, although the size of the body was reduced to nine members. A lengthy entry for 4 September 1542 records the selection of nine men, with the consent of the 'mair part of the toun'. They were given powers as inquisitors and councillors, and supervisors of the burgh rents and petty customs.⁹⁶ Selkirk stopped short of creating a full council until much later,⁹⁷ and the inquest that is described in the burgh court records was a transitional body in the evolution of the finally developed form of burgh government that appeared in the seventeenth century. The records suggest that the main task of the eleven, and later the nine, was to protect burgh privileges and to look after matters of common interest and common ownership. The existence of this body owed a great deal to the influence of public opinion, or at least to the influence of the whole body of burgesses as representing the community at large. The election of members of the inquest depended on questions of wealth and standing in the community, and in that sense one can see the emergence of an elite, but members were also

94. TSCB, 22 November 1538.

95. TSCB, 3 June 1539. Eleven men were involved in this body, but by 30 July the number seems to have dropped to nine.

96. TSCB, 4 September 1542. A fragmentary court book entry for 1545 repeats the formula, 'inquisitors, councillors and provisors'.

97. RCRB, iii, 7. Selkirk did not produce a sett or form of procedure for burgh elections that was able to satisfy the Convention of Royal Burghs until as late as 1629. Evidence from the Selkirk Burgh Court Book MS. 1557-1575, suggests that by 1573 the bailies and council were dealing with much of the administrative business of the burgh, leaving legal matters largely in the hands of the inquest. However it cannot be said that a fully developed council had emerged, although by 1575 the term 'council' was in regular use.

chosen on the basis of their personal standing and perhaps out of popular regard for qualities of impartiality and honesty. Personal strengths and weaknesses were more obvious to all in a small community like Selkirk than might have been the case in a larger community, and the social structure of the burgh was sufficiently homogeneous to allow public expression of opinion about personalities. The burgh court records contain ample evidence of the way in which publicly expressed opinions led to disputes between neighbours,⁹⁸ between parties to business deals,⁹⁹ and between burgesses and burgh officers.¹⁰⁰ It was a robust community, not overly impressed by considerations of social status when it came to commenting on personal failings. Consensus arose from the very nature of the burgh's social structure, and although it is important to remember that public opinion is a force that has to be seen in the context of the undoubted inequalities of life in a sixteenth century burgh, it did nevertheless play a part in the day to day government of the burgh. It is within this framework that one must look at the question of oligarchic control.

The first writer to attempt a definition of oligarchy was Plato, who saw it as 'a society where it is wealth that

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98. TSCB, 18 March 1539. One man accused another of slander before the court, in that he told the court that he had seen the complainant lying in a midden with a woman.
99. TSCB, 25 July 1517. An exchange of words before the court led to warnings to both men. When one called the other a 'litill fals cur' the reply was 'thow art fals thi selff'.
100. TSCB, 7 December 1535. Robert Inglis told the bailies that they and the burgh court 'var fals' and there was 'na justis to get'.

counts, and in which political power is in the hands of the rich and the poor have no share of it'.¹⁰¹ Plato would have recognised the oligarchies that controlled sixteenth century towns and cities all over Europe, but even in the largest and wealthiest of the Scottish burghs the ruling elite were aware of the need to take some account of popular opinion. The size of the community was an important factor, and as a general rule it may be stated that there was a direct connection between increasing size and increasing oligarchic control.¹⁰² It can also be said that ruling elites were able to strengthen their position in the larger communities during the course of the sixteenth century, so that by 1620 Edinburgh town council was 'totally dominated by a clique of wealthy merchants',¹⁰³ with the powers of burgh government being concentrated in the hands of a relatively small group of men. The common denominator in membership of this urban elite was personal wealth, and this illustrates a change from some of the town patriciates of earlier times, who owed their power to aristocratic or

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101. Plato, The Republic (translated by D. Lee, London 1744), 366. In his introduction the translator explains Plato's distaste for oligarchies, which, he believed, always led to increasing exploitation of the poor by the rich, leading in turn to social discord, resentment and eventually revolution (intro., p. 25).
102. W.G. Hoskins, 'The Elizabethan merchants of Exeter', in S.T. Bindoff, J. *Hurstfield* and C.H. Williams (eds.), Elizabethan Government and Society: Essays presented to Sir John Neale (London 1961), 165.
103. J.J. Brown, The social, political and economic influences of the Edinburgh merchant elite (un-published Ph.D. thesis, University of Edinburgh, 1985), 419. Brown produces evidence to show that political control over an expanding population was exercised by 'perhaps no more than sixty individuals'.

feudal connections,¹⁰⁴ and only later joined with or were superseded by the emerging mercantile class.

Personal wealth as an entry qualification to membership of an urban elite was not confined to the larger burghs, and when one looks at the evidence for Selkirk it becomes clear that despite the burgh's comparatively slow progress towards full government by council, effective control of the burgh was in the hands of the wealthiest men. The evidence for this is contained in the stent rolls in the burgh court records (see appendix iv), which span a period of nearly twenty years. Bearing in mind the cautionary note sounded in chapter eleven, to the effect that stent rolls can only reflect an individual's ability to pay at a particular time, and may therefore not present a totally accurate picture of relative wealth, it is possible to compare tax paid by individuals with their service in burgh offices and membership of inquests/councils. Appendix v lists those men who may be described as the elite of Selkirk, and who over a period of twenty years occupied the positions of alderman/provost, bailies and members of an emerging form of burgh government. If one divides the tax summary in appendix iv, which totals the taxes paid in seven stents between 1521 and 1539, into four quartiles, almost all the men holding office fit into the first quartile. There are a few men paying totals in the second quartile, and the four men shown in the third quartile

104. A.B. Hibbert, 'The origins of the medieval town patriciate', Past and Present, iii (1953), 19.

made no payments at all in the latter part of the period under review. Overall, there is a very strong correlation between wealth, as measured by the ability to pay taxes, and the occupation of the positions of power within the burgh. Those men shown as having served as bailies often did so more than once, and there is a clear pattern of re-election to the various inquests or embryo councils shown in the summary. Certain family names appear several times, reflecting the importance of Kers, Brydens, Scots and other leading kinship groups to the life of the burgh. What we see in Selkirk is an urban elite, occupying its position because of relative wealth and family connection, but not having sufficient power and status to be described as a ruling oligarchy. The Selkirk elite were not wealthy enough compared with many of their neighbours or powerful enough in the face of Border family and kin-ship connections, to rise above the rest of the community in this way. Within the context of this small community they were influential men, but because it was a small community their influence was subjected to a series of checks and balances which arose from what may be described as public opinion. The public opinion of the burgh expressed the community's sense of what was right and wrong, but it was not untrammelled because it had to operate within the social structure of the community. As we have seen, this social structure was based on the considerable privileges that were attached to burgess-ship, set against the almost total lack of privileges of the un-free. In Selkirk's case, this division was as significant a component

of the burgh's social structure as the 'distribution of wealth and its display'.¹⁰⁵ Against this background consensus was able to function, and it may be seen as a powerful influence throughout the period under examination, and there is ample evidence to show that decisions were often made in a way that would express the general feelings of the whole community. Having said this, it must also be repeated that a small burgh like Selkirk was not a democracy in the modern sense of the word, but it can be argued that late twentieth century belief in the existence of truly democratic systems of government is largely self-deception. It has been said that people cannot rule themselves, and that management of society is a matter for minority elites, making 'inequality a political and social necessity'.¹⁰⁶ This view replaces the phrase 'government of the people by the people' with 'government of the people by an elite sprung from the people', making 'democracy the rule of the politicians'.¹⁰⁷ This somewhat gloomy modern analysis of the function of an elite might well be recognisable to the ruling burgesses of Selkirk. Sprung from the people that they governed, they lacked the wealth, power and social detachment to become an oligarchy, and the nature of the community's social structure made it necessary for them to govern by a measure of consent.

105. P. Clark and P. Slack, English Towns in Transition: 1500-1700 (London 1976), 115.

106. A.C. MacIntyre, 'Recent political thought', in D. Thomson (ed.), Political Ideas (London 1972), 185.

107. M. Duverger, Political Parties (London 1954), passim.

CHAPTER FOUR

COMMON PROPERTY AND THE COMMON GOOD

By making selective use of contemporary records it is possible to paint a picture of the typical sixteenth century burgess as a determined individualist, pursuing his own selfish ends within the community, intent on exploiting advantages of trade, land and family connection to the disadvantage of neighbours. There is no doubt that such individualism was able to flourish, sometimes in a fairly extreme form (see appendix ii on John of Bellenden, a socially deviant burgess of Selkirk), but as this thesis often points out, it is also possible to find much evidence for co-operation and interdependence between townspeople, amounting sometimes to a picture of strong community solidarity. This community feeling may be contrasted with the breakdown of feelings of community in modern urban life which is commented on by sociologists,¹ who have found that the word community may now have a purely abstract rather than a practical meaning. The practical meaning of community

1. M. Young and P. Willmott, Family and Kinship in East London (London 1957), passim. Willmott and Young were interested in the effects of slum clearance, both by bomb damage during the war and by local government action afterwards, on mutual solidarity and kinship patterns that had existed for many generations within the old community. They were concerned about the sociological consequences of these changes - we may see the changes as perhaps the first real break in the ties of interdependence and solidarity in a community in many generations, and in a historical sense, providing a comparison with much earlier urban communities where kinship and mutual solidarity were vital factors in daily life.

in a sixteenth century burgh is strikingly illustrated by an examination of the control and use of commonly held property, and in the concept of community funds known as the common good. This chapter will look at common property, paying particular attention to the use of common land and buildings owned by the burgh, and it will examine the various sources of revenue which were directed towards the common good fund, and in some cases mis-directed away from it.²

Common Land

Because the majority of Scottish burghs were communities that depended on a mixture of trade and agriculture for their survival, the burghess was often both townsman and farmer, seeing no distinction between the needs of his land and livestock and the needs of his trade or craft. This situation was particularly true of the smaller burghs, but even in the larger and more prosperous communities the ownership of land was important, although wealthier burghesses might choose to let out their land rather than work it themselves. Links between urban and rural life were of great importance, and in this the sixteenth century townsman shared in an unbroken pattern of urban attitudes going back to the earliest days of towns, a pattern only to be broken by large-scale industrialisation.

2. I.F. Grant, The Social and Economic Development of Scotland Before 1603 (Edinburgh 1930), 403. 'There are many examples of the grossest misuse of the Common Good'.

This pattern of attitudes gave urban communities a great interest, not just in the individual ownership of land, but also in common land. 'Common rights ... were a necessary element in the agricultural system, they were involved in the ownership and cultivation of the land, and they were largely the source of the profits obtained from the land and the means of rendering its cultivation effective'.³ Terra communis was the 'pasture land or undivided waste, and was occupied by the burgesses in commonty'.⁴ The other burgh lands were referred to in early documents as terra burgalis (land within the burgh bearing buildings) and terra campestris (arable land, usually lying close to the burgh).

Common land was therefore very important to the community since it provided grazing, and might, if the land was good enough, also be used to produce hay for winter fodder.⁵ In

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3. E.C.K. Gonner, Common Land and Inclosure (London 1966), 4. In talking about the main English common rights of pasture, estover (taking of wood) and turbary (cutting of peats), Gonner pointed out the economic significance. Common rights helped to maintain the local pattern of agriculture by providing pasture and by filling needs not met by the use of arable land, and they made up 'an intricate mesh of mutual privileges and obligations, which at once gave permanence and stability to the system of cultivation' (p. 16).
 4. David Murray, Early Burgh Organisation in Scotland (Glasgow 1924), Vol. 1, 128.
 5. Andrew Gibb, Glasgow - The Making of a City (London 1983), 32. The community's need for winter fodder is borne out by evidence showing that a high proportion of livestock was successfully over-wintered, at least until maturity. Specific evidence for cattle, based on studies of animal bones, 'indicates that the majority of cattle were over-wintered for at least three winters and many were raised to an age in excess of five years'. (G.W.I. Hodgson, 'The animal remains from medieval sites within three burghs on the eastern Scottish seaboard', Site Environment and Economy (BAR International Series 173, 1983), 12.

less favoured areas the common land was likely to be little better than rough or hill grazing, but still of importance to the communities controlling its use, who were able to move sheep and cattle away from the arable land during cultivation, growing time and harvest, returning the animals to folds on the better land after the harvest to restore soil fertility. A common herd was employed to look after the burgh's cattle and was expected to restrict grazing to the area appropriate to various seasons of the year.⁶ Common land also provided a number of natural resources that were of great value to urban communities, in the form of wood and peat for fuel and heather for thatching,⁷ and burgh records contain references to the way in which these resources were controlled. Only burgesses were allowed to collect fuel or heather, and then only in a controlled way. For unfreemen to attempt to do this was seen as 'breaking of the common'.⁸ Freedom to use the common could be extended to non-burgesses as a privilege, as when Selkirk granted permission for George Jameson to

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6. TSCB, 9 March 1521 (possibly an incorrect entry since following an entry for 12 March - 9 April 1521 may be correct). The burgh court ordered that cattle should not be grazed on the infield, which was to be reserved for work horses and oxen about to give birth and for the period immediately afterwards. The cattle were to be taken daily to the common (by the common herd).
 7. Houses in all but the most prosperous burghs were likely to be thatched in heather if locally available. In Selkirk a slated roof was sufficiently rare for a house to be known as the Sclaithouse. Heather thatching was easily renewed, and the old thatch, blackened with smoke and containing useful soil nutrients, was often used as manure.
 8. TSCB, 1 June 1518. The burgh court made a statement 'anent the fredom of our cownoun' forbidding unfreemen to collect fuel, 'under the payn that thai may incur anent our soverand lord the king for breking of his protection and playne oppressioun of us'.

'us and hant all fredomes of our common to his propir sustentatioun ... for favoris and his honest pollecy maid in our burgh'. This permission covered the digging of peats and the collection of heather and rushes.⁹ Even greater controls surrounded the cutting of wood, which by the evidence from Selkirk, seems to have been a scarce resource. The Selkirk burgh court book contains references to orders made at regular intervals for the protection of timber growing on the common land, starting with an entry for 18 December 1522 forbidding indwellers to cut any growing timber in the howes (hollows) of the common under pain of a fine of two shillings,¹⁰ the last such order recorded on 3 November 1540.¹¹ Many of the intervening protection orders were issued at October head courts, once being supplemented by the appointment of a 'guardian' of common woods, whose task was to tell the bailies the names of all those who cut growing timber.¹² Two orders (12 October 1535 and 29 February 1536) appear to extend the ban on cutting wood from the common to include rented land, but a man accused of cutting alder wood was told that the charge would be dropped if he was able to prove that the wood came from his own land,¹³ so exceptions were clearly

9. TSCB, 3 August 1535.

10. TSCB, 18 December 1522.

11. TSCB, 3 November 1540.

12. TSCB, 1 October 1538.

13. TSCB, 23 February 1540. Two men were ordered to pay eight shillings each for having 'neuly cuitit' alder wood, but one was promised that he would not be fined if he was able to prove that he 'cuttit the alleris in his awn heugh'.

possible. Another somewhat contradictory order was issued at the October head court in 1531, which seems to suggest that whereas non-freeholders were forbidden to cut alders on the common land, freeholders were allowed this privilege,¹⁴ but this was perhaps a careless entry by the common clerk, rather than a departure from the normal rule. Alder is the only type of tree mentioned in the Selkirk records, and as a fairly fast-growing tree suited to river-sides and marshy ground it might be expected to have grown freely around Selkirk and its common land. It is one of the species that can be coppiced, that is to say it will re-generate from the stumps after felling, producing a regular 'crop' of timber suitable for burning in faggots, or giving bark for tanning purposes if allowed to grow to a greater size. There is evidence that coppicing was practised in the fifteenth century,¹⁵ and it is possible that Selkirk's commonly owned alder woods were treated in this way to provide essential burning timber for bake-ovens and malt kilns. There is an overall impression of a serious shortage of timber, and post-medieval Scotland has been described as a 'relatively bare country, lacking residual woodland, hedgerow trees and planted clumps'.¹⁶ So common is this view, which seems to be borne out by documentary

14. TSCB, 10 October 1531.

15. J.M. Lindsay, 'The commercial use of woodland and coppice management', in M.L. Parry and T.R. Slater (eds.), The Making of the Scottish Countryside (London 1980), 276. Lindsay mentions 'formal coppicing on monastic lands in Perthshire as early as the 1470s'.

16. J.M. Lindsay, 'Commercial use of woodland', 272.

evidence relating to the protection of woodland, that it can probably be regarded as the accepted view of the nature of much of the Scottish landscape. It is therefore interesting to be reminded that it is also possible to find documentary evidence that gives a different picture. The 1510 justice ayre in Selkirk dealt with 148 offences of wood-cutting, alleged to have been committed within the bounds of Ettrick Forest, which is said to prove that reasonable amounts of woodland still existed.¹⁷ Perhaps within the bounds of the old hunting forest there were some areas still bearing trees, but it seems likely that most of the old woodland anywhere near human habitation had been destroyed well before the sixteenth century, and that all that remained in the way of useable timber was in the form of the wet-ground trees such as alders that were so carefully protected by communities like Selkirk.

We may see, then, that burgh common land was of great importance to the community, making it possible to maintain a balance between arable farming and the rearing of livestock for meat, leather and wool, and providing a source of fuel and thatching materials. Before turning to examine the problems faced by burghs in controlling and protecting commons, it is necessary to try and understand the way in which land became common.

17. J.M. Gilbert, *Hunting and Hunting Reserves in Medieval Scotland* (Edinburgh 1979), 238.

The royal burghs were created by the crown, and everything held by burgesses of the royal burghs was held 'of the king'. In the early days of the burghs royal administration was direct, in the person of the bailie or sheriff. Burgess rights were set out in charters of erection, and when 'new rights were acquired, a new charter was necessary to confirm them'.¹⁸ Tofts and tenements within the burgh were the king's, to grant to whom he chose.¹⁹ The common land of the burgh was originally the common grazing of the shire, and this grazing could be used by a variety of people, apart from the inhabitants of the burgh. This is illustrated by the grant of land by Robert I to William Barbitonsor, which included the use of grazing rights, 'communa pasture ville de Selkyrk'.²⁰ Selkirk was to experience much trouble because of the 'multiple use of common land'. Sometimes rights of use could be proved,²¹ but other claims were made that had less foundation. The latter type of claim may be illustrated by the case of John Watson, who in 1539 was accused by the burgh court of Selkirk of building his house on common land. His defence to this charge was that he was allowed to do this by the king, and by the laird of Yair, but the community responded to the claim by pulling the house down.²²

Direct royal control over royal burghs gradually weakened, and passed from the sheriff as representative of

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18. G.S. Pryde, Scots burgh finances prior to 1707 (un-published Ph.D. thesis, St Andrews, 1926), 15. Pryde defines the 'chief concrete rights' of burgesses as the possession of the burgh itself with a certain amount of 'real property' around the burgh, such as fields, pastures, meadows, mills, ponds, fishings, peat-bogs and quarries.
19. Abdn. Recs., lxi.
20. RMS, i, 23. Barbitonsor was also appointed hereditary constable of Selkirk.
21. APS, v, 96. In 1633 parliament recognised the earlier claims of local lairds to rights over parts of Selkirk common land, and granted these rights to the lairds of the Haining and Philiphaugh.
22. TSCB, 3 June 1539.

the crown to the community itself, so that by the sixteenth century we may see a burgh such as Selkirk exercising very close control over all aspects of life, including the use of the common. Such a situation was not confined to royal burghs in Scotland, for in a study of the medieval boroughs of Snowdonia it is suggested that a similar degree of community control over common land had been achieved by the middle of the sixteenth century.²³ In North Wales, as in Scotland, the 'estrangement of royal administration ... did not do away with royal ownership'.²⁴ The grant of feu-ferme to the royal burghs, like fee-farm to the boroughs of Snowdonia, delegated royal power to communities to administer their own common land, and provided the means whereby these communities could mount some sort of defence against the encroachments of neighbouring landlords.

Selkirk's common land covered a very large area, and was divided into the North and South Commons by the natural boundary formed by the Ettrick Water (see the plan of the commons in appendix vi). The North Common covered around 5400 acres (2200 hectares), with a perimeter of some fourteen miles, and the South Common amounted to some 5800 acres (2350 hectares) with a perimeter of about twenty miles. Much of the ground was hill grazing, but there was also lower ground suitable for arable crops.²⁵ It was often the better ground that was

23. E.A. Lewis, The Medieval Boroughs of Snowdonia (London 1912), 88. Lewis describes most of the North Welsh boroughs acting as though they had 'proprietary and demisable interests in their common lands'.

24. E.A. Lewis, Boroughs of Snowdonia, 89.

25. RMS, iii, 1773. Writing from Stirling on 20 June 1536 the king, recognising the 'gude, treu and thankfull service done and to be done to us be oure lovittis the bailies burgessis and communitie of oure burgh of Selkirk, and for certane otheris resonable causis, grantis licence to thaim and their successouris to ryf, outbreke and till yeirlie 1000 acris of thair commoun landis...'.

disputed by neighbouring landlords, but with such extensive lands Selkirk also had to face encroachments and disputes over grazing from smaller neighbouring communities. The village of Midlem, lying at the edge of Selkirk's south common, claimed ancient grazing rights, alleging that 'thai and thairis predecessouris hes had, past memor of man, lonyng and pasturing of caitaill in mos, mur, gers and vaitter fra the towne heid of Midlame est throu the common of Selkirk ... and never stoppit be na man in na mannes dais past memor of man in symmer nor vynter...'.²⁶

The community dealt with encroachments severely, pulling down un-authorized buildings and dykes,²⁷ issuing 'letters of cursing' against those involved in destroying boundary dykes and cairns²⁸ and trampling down crops unlawfully grown on common land.²⁹ Certain pieces of land appear more than once in the records, suggesting that ownership was a debatable matter. An example of this may be seen in a declaration by Selkirk burgh court in 1512 that a piece of land between the old dam and the river by ground known as Maldisheugh 'is commoun and hes ben acallit sa of befor':³⁰

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26. TSCB, 23 April 1536.
27. TSCB, 22 July 1524. A 'ride-out' by 'agit and veil avysait men' found a yard built at Philiphaugh, and dykes erected by the bounds of Whitmuir Hall and at Howdenburnfoot. The latter encroachment was found to be the work of Rynyen Smyth, and after the yard and all the dykes were destroyed Smyth and his local laird, Thomas Ker, promised never to take the land again.
28. TSCB, 5 October 1529 and 8 November 1529. The 'brekaris' of barrows, if known, to be made to repair them, and if not known to be cursed by the vicar, and the barrows to be repaired at common expense.
29. TSCB, 3 June 1539. The whole community was ordered to destroy corn planted on common land by Simon Fairle, and ash trees planted by a priest, John Michelhill. On 12 June the 'hail communitie' rode the North Common to where Fairle had planted corn, and rode over the growing crop and destroyed it. Fairle promised publicly that he would never again occupy that portion of the common.
30. TSCB, un-dated head court entry for October 1512.

Twenty eight years later, in 1540, the burgh court repeated that the green haugh on the north side of Maldisheugh mill and all the land by the water as far as the cauld had always been common.³¹

The riding of the commons became a routine ceremony, usually carried out on behalf of the whole community by named individuals of standing (sometimes described as the best, worthiest, eldest and least suspect), whose task was to ride around the whole perimeter, checking for encroachments, replacing stones on cairns and measuring wherever necessary. They rode out fully armed and with a certain amount of ceremony which is echoed to this day in the festival of Common Riding. After each ride-out the riders could be required to swear that they had carried out their duties faithfully, finding 'na wrang dyking within thair fredome'.³² As we have seen, special arrangements were made to deal with particular incidents of encroachment and the records contain very detailed instructions for certain ride-outs. At the time of the confirmation of Selkirk's royal charters in 1536 (see also chapter eleven of this thesis), the community was clearly anxious to emphasise rights of common, and so precise are the instructions to the riders that it has been possible to construct the map shown in appendix vi. The boundaries of the

31. TSCB, 6 April 1540. James Wilkesone, described as 'our giltyne brother and burges' was accused of encroachment, and if it was found that he took the land with the permission of Patrick Murray, a neighbouring laird and the Sheriff, he was to be 'adnullit of his fredome and deprevit of his giltyne brederheid and never to be admittit amangis our burgess counsail and communitie in tyme to cum'. Wilkesone submitted to the will of the community, whether or not the land in question was claimed by his master.

32. TSCB, 22 April 1536.

south common are taken from a burgh court book entry for 22 April 1536, and the extent of the north common may be seen from an even more detailed entry for 21 September 1541. This entry follows the most serious incident of encroachment experienced by the burgh, which led to the murder of the provost, John Mithag, and one of the bailies.³³ Despite strenuous efforts by the burgh to protect common land, encroachments continued, made easier because of the size of both commons, so that by the seventeenth century Selkirk appeared to be losing the fight. In 1607 Selkirk complained to the Convention of Royal Burghs that the burgh was in poverty 'throw the intollerable oppressing' for many years past which the burgh has suffered at the hands of those 'quha duellis about thame, in violentlie withhalding thair rentis and commoun landis'.³⁴ Selkirk common has been described 'as a sort of no man's land, in which rights were claimed by the burgh, the Earl of Roxburgh and other neighbouring landlords,'³⁵ but the real problem lay with the fact that the common was the successor to grazing for Selkirk shire long before the foundation of the burgh. Selkirk's problems over control of the common seem to lie both with the vast acreage involved, said to be 'much larger than the common lands of any other town'³⁶ and with the vague and ill-defined

33. TSCB, 21 September 1541. The court book entry recalls the murder of Provost John Mithag and Bailie James Keyne on St. James's day, 25 July 1541, by James Ker, Ralph Ker and William Renton, kinsmen of a local laird and claimant to Selkirk common land, Ker of Greenhead. James Ker was said to have tilled common land 'for the quhilk the communitie sowmont hyme and his complices before the Lordis'. Selkirk won a decret against Ker, and Mithag and Keyne were murdered when they were riding to Edinburgh for the third production of proofs.

34. RCRB, i, 236, 1 and 2 July 1607.

35. G.S. Pryde, Scots burgh finances, 132.

36. J.M. Gilbert, 'Selkirk from the reformation to revolution', in J.M. Gilbert (ed.), Flower of the Forest - Selkirk: a New History (Galashiels 1985), 76.

way in which control of the common passed from the crown, with dual use by local landowners and the burgh, to nominal control by the burgh in the sixteenth century. It seems that the community of the burgh were unable through relative weakness and lack of sufficient political influence to enforce full control.

Common mills

Urban communities, with their concentration of demand for flour from the bread grains of barley and wheat, oatmeal, and ground malt for brewing, were highly dependent on the existence of mills. Water driven mills were to be found in or near all such communities, and were recognised as valuable assets. From early times the mills of royal burghs were referred to as the king's mills,³⁷ but the burghs had effective control over the buildings, the choice of mill servants and the way in which the mills met the needs of the community. Apart from their practical function in grinding grain, mills also became valuable to burghs as an important source of revenue.³⁸ This revenue was derived from rents, since most mills were roused (rented), in theory at least to the highest bidder, with the rental paid being devoted to the common good fund of the burgh. Tacks were sometimes for one year,³⁹ but three year leases were common,

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37. Ancient Burgh Laws, 30 . This entry in the Leges Burgorum calls for mill servants in the king's mill to be 'lele and of gud fame' and to swear to deal honestly. These servants, although nominally answerable to the king, were to be appointed by the 'gud men of the toune'.
38. I.H. Adams, The Making of Urban Scotland (London 1978), 44.
39. TSCB, 30 July 1519. Selkirk let the tack of the common mill at Billesheugh for one year. The takers of the tack were to 'uphald the said myll in wod, irene and stane, and gud and dew servic doand to ilk mane'.

and the tacksmen of mills, who did not necessarily operate the mills themselves, paid 'either a money-rent or a fixed rent in kind, malt, meal or bere'.⁴⁰ The monopoly of burgh mills was complete⁴¹ because all inhabitants were thirled to use them and no other, even to the extent of being forbidden to grind at home using querns.⁴² A unique type of thirlage related to burghs, known as invicta et illata, 'under which corn consumed within the thirl had to be manufactured at the burgh mill, regardless of where it was grown'.⁴³

Thirlage, whilst binding all burgh inhabitants to use burgh mills, did not create income. That came from the payment by all using the mill of an impost known as multure ('normally at the rate of 1/24th to 1/13th of the total'), and supplemented by small and 'supposedly voluntary payments to the miller (bannock) and to his servant or knave (knaveship)'.⁴⁴ Multure was bound to be unpopular, and it was necessary for burgh authorities to remind the users of the mills of the level of multure to be taken by the miller.⁴⁵ In Peebles the collectors of multure were chosen by ballot, suggesting that this may have been an unwelcome task, to 'collect and gadder thair multuris of the

40. Ayr Accts., xl.

41. Ayr Accts., xxxix.

42. Ancient Burgh Laws, 74. Hand-grinding was only permitted when made necessary by 'great storm or scarcity of mills'. Even then multure (payment in grain, meal or flour) could not be avoided, being fixed at 1/13 of the grain ground.

43. J. Shaw, Water Power in Scotland 1550-1870 (Edinburgh 1984), 25.

44. J. Shaw, Water Power, 26.

45. Abdn. Counc., 161. On 18 April 1539 it was stated that tacksmen of the mills were to have 1/24th of all malt that they ground.

tua commoun milnis',⁴⁶ and in Aberdeen the friars tried to avoid multures altogether.⁴⁷

In exploiting the use of common mills through the granting of tacks, the community helped to solve one problem, that of scarce burgh revenue, and ensured control over an essential aspect of burgh survival - that of an assured supply of ground food grains. However, the common ownership of mills could also create problems and cause tensions within the community. Sometimes the problems arose from the natural antipathy of mill user towards miller, who was likely to be seen as a rogue intent on giving short measure of flour or meal for the grain delivered, the owner of the notorious 'miller's thumb'. Burghs had to balance their need to ensure that tacksmen gained sufficient profit from multures to induce them to bid a realistic price when the tacks were roup'd, against the widely held feelings of antipathy towards millers and their servants. They, therefore, tried to enforce thirlage and multures, and imposed sanctions on those who offended.⁴⁸ The community also tried to control the way in which the mills were operated by calling for regular statements of account,⁴⁹ by ensuring that bids for tacks would be honoured and rents

46. Peebles Recs., i, 220.

47. Abdn. Counc., 225. The friars argued their case against the payment of multures on 30 April, 13 May and 23 May 1546, but the decision went against them and they were ordered to use the common mills and to be mulct'd in the usual way.

48. TSCB, 30 July 1519. All men living in Selkirk were ordered to bring all their grist to the two common mills (Billesheugh or Maldisheugh), or suffer a fine of 8 shillings and a ban on brewing or baking for sale within the burgh for a year and a day.

49. TSCB, 6 October 1528.

promptly paid by threatening to ward (a form of voluntary imprisonment) tacksmen or sureties,⁵⁰ and by ordering that grain be properly ground, and where this was a matter for dispute, to have the quality appraised.⁵¹

Despite the controls that were developed by burghs to ensure that mills were both profitable and of practical use to the community, it was sometimes necessary to assist the holders of tacks with any unusually heavy expenses. The maintenance costs of hard-working water mills could be high, and although tacks usually required the tenant to undertake all necessary repairs,⁵² it is possible to find evidence for repairs being treated in a special way, with some, or all, of the cost being met by the community. Edinburgh found it necessary to reduce the mill rents by ten merks in 1525 because the three farmers of the tacks had spent this sum on repairs.⁵³

50. Edin. Recs., i, 70 and 71.

51. TSCB, 7 August 1520. 'That day it is ordanit ... that the witel cumand to our myll be sufficiantlie done to and na falt to be in the miller, under the payne of samekle as ony man persone beis hindrit in defalt of gud workmanschip'. The quality of the flour or meal in question was to be judged by four named individuals, or any two of them.

52. Edin. Recs., i, 70 or 71. The farmers of the town mills were expected to vacate mills at the end of tacks, leaving them as they had found them. Edinburgh seems to have had some trouble with the farmers of mills at this time (1497), and the record refers to 'greit divisioun and variance betwixt the toun and the fermoraris of the mylnis'. A number of steps were taken to improve the situation. (Also relevant is an entry in the Selkirk records - TSCB, 30 July 1519, which records an obligation placed on the holders of the tack on a common mill to carry out all necessary maintenance).

53. Edin. Recs., i, 221. Some of the rental was also remitted in December of 1525, because of 'great expense' sustained by the farmers of the tacks.

Peebles let the tack of a waulk mill to a priest and his brother, for the annual rental of three merks to be paid towards the upkeep and service of St. John's altar in the parish church. Profits from this life-long tack were to go to the tacksmen, and the community agreed to help with repairs due to floods, spates or siltings.⁵⁴

By following the sixteenth century history of one of Selkirk's common mills it is possible to trace the problems that milling could cause to a community, and the action taken to secure both an income from a valuable asset, and a steady supply of flour and meal for the inhabitants of the burgh.

The account begins in 1506 with a letter from the king giving Ralph Ker, a local laird, permission to build a mill on land at Billesheugh, and to dig a mill-lade from the Ettrick.⁵⁵ This permission was conditional on the consent of the community (consensum ballivorum, consulum et comunitatis), and the rent payable to the king was fixed at one silver penny. Ker was also ordered to build a bridge (pontem sufficientum), probably over the mill-dam, which will appear again at a later date. The nature of the royal permission illustrates a difficulty over Selkirk's common already referred to in this chapter. It was the king's common, just as the burgh was his, and it appears that

54. Peebles Recs., i, 191. In 1556 the tacksman for the same waulk mill was allowed the sum of forty shillings for looking after the cauld (the weir built in the river to divert water into the mill lade or watercourse), and for ensuring that there was enough water for both waulk and corn mills. In times of drought he was required to direct the available water to the common corn mill (Peebles Recs., i, 231).

55. RMS, ii, 2966. The king's letter was also referred to in the burgh court (TSCB, 19 May 1506).

for centuries neighbouring landlords had enjoyed common grazing rights that were gradually assumed by the burgh community to be exclusive to them. The king had a perfect right to grant permission for building to whom he chose, but it is significant that he required that the consent of the community be given to a project on common land, which would then be regarded as a common mill.

By 1519 we are able to see that the mill, described as the common mill at Billesheugh, was roused to the highest bidder for one year, with the rent ear-marked for the 'commone profet'. The successful bidder took the tack at the considerable rent of thirty-eight merks, and perhaps because she was a widow, produced four sureties instead of the two called for when the tack was first announced.⁵⁶ In August 1520 the tack came to an end and the mill was returned to the community. The burgh court agreed to take the multures for a short time, and then to consider re-letting. It is not clear if a new tack was granted in 1520.⁵⁷ By May 1521 Janet Scot and her son were once again in possession of the mill, paying the same rent of thirty-eight merks, and this time providing three sureties.⁵⁸

The next entry in the record describes how, in 1528, it was decided to call the farmers of the mill to give account to the bailies and auditors, and if it was found that the community had 'na proffet of the myll' to once again place the running of the mill in the hands of the alderman and oversman.⁵⁹

56. TSCB, 30 July 1519.
 57. TSCB, 3 August 1520.
 58. TSCB, 15 May 1521.
 59. TSCB, 6 October 1528.

This decision seems to have concentrated the minds of the farmers of the mill (by this time being Janet, James and George Scot), who gave account of their stewardship to alderman, bailies and 'certane of the nobyllest of our communitie' and offered twelve pounds, to be paid into the common good fund within a specified time.⁶⁰

Nothing more is recorded until 1538, when Gilbert Ker, the alderman, was ordered to build a bridge over the nether mill-dam, after the 'tenor of his chairtour maid be the communitie for an vater condute to the myll'.⁶¹ This would appear to be a reference to the permission given in 1506 to his kinsman, Ralph Ker, to dig a mill-lade, and the reason given for the demand for a bridge was that the millers had damaged the wooden linings of the dam, putting people to the inconvenience of wading to the mill. Gilbert Ker features in the last entry about this mill, made in 1541 and recording a five year tack of the mill taken in partnership with James Scot for an annual rental of ten pounds and ten shillings.⁶²

In the involvement of two members of the powerful Ker family with this mill we can see that commonly owned property was not immune from private interest, although it must be said that the burgh court records contain no evidence of corruption. What is certain however, is that in the administration of common property and the common good there were opportunities for corruption.

60. TSCB, 20 November 1528.

61. TSCB, 28 May 1538.

62. TSCB, 1 February 1541.

Common buildings and structures

Mills were undoubtedly the most important structures to be held in common by the royal burghs, but there were also many other buildings and structures that were common property, some of which produced revenue for burgh common good funds and therefore likely to be maintained to a standard which would attract rent, and others which could not produce any revenue and might suffer from neglect and lack of maintenance. The wide range of buildings and structures held as common property included tolbooths, market booths, forges, bridges, roads and in at least one burgh⁶³ malt kilns, steeping vats (for textiles) and bark holes (for tanning).

The tolbooth, used as gaol in most burghs, and sometimes as council chambers, did not always receive the sort of attention that might be expected. In wealthier burghs the tolbooths were likely to be in constant use for the custody of prisoners, and were therefore maintained and kept in a secure condition. In the smaller burghs the picture could be different, with evidence of serious neglect, punctuated by occasional efforts by the community to keep the buildings in repair. The Selkirk records contain evidence of neglect, despite attempts by the burgh court to control the situation. Burgess silver, at the rate of one merk from each burgess, was allocated in 1516 to carry out repairs to the tolbooth.⁶⁴ A special

63. Peebles Recs., i, 203 and 204.

64. TSCB, 20 October 1516.

donation of five shillings was received in 1531, and was used to help with repairs and re-thatching, but this donation was conditional.⁶⁵ 'Privatisation' of repairs had been tried before, when the profit of the tolbooth, presumably as a place on which to hang goods, was offered to anyone prepared to make the building water-tight.⁶⁶ If the burgh court was prepared to allow the outside of the building to be used for trading purposes, it seems to have resisted the use of the interior for trade, with offenders being threatened with a fine in 1534,⁶⁷ and later being deterred by caretakers (in this case the two burgh bursars), and the provision of a 'nobyll' lock for the door.⁶⁸ That the measures taken were ineffective may be seen by a strongly worded order issued by the burgh court in 1539. It was stated that the tolbooth should not be used for any purpose other than to 'serff the kingis graice and lordis of his counsaill and his substitutis bailyeis and communitie quhen thai lik to cum in it; quhen the bailyeis keipit nocht the key it was aluterly frustrat, and benkis, stulis wer distroit and fillit with fylth of men and bestis, quhilk was schaime to sie'.⁶⁹

65. TSCB, 18 October 1531. The burgess giving the money was allowed to hang meat for sale on the west end of the tolbooth for his lifetime. Others wishing to hang up their goods in this way were also expected to pay five shillings towards repairs.

66. TSCB, 17 January 1525.

67. TSCB, 24 November 1534.

68. TSCB, 17 March 1536. It is significant that this decision to try and prevent misuse of the tolbooth was taken at the time when the king had granted charters confirming Selkirk's status as a royal burgh, and when the burgh was very conscious of this status and anxious to conduct itself accordingly.

69. TSCB, 16 December 1539.

Market booths were less of a problem than tolbooths, being common property to be let by public roup. Booths in small burghs may have been temporary and perhaps flimsy structures, and therefore not likely to attract very much rent, but in the larger burghs, like Edinburgh, booths could provide useful income. Edinburgh spent money on maintaining its booths,⁷⁰ and obviously expected a good return on this investment. In March 1537 the north wall of the Netherbow was roused as a booth. The annual rent was five merks and fore-mail (pre-paid rent) of twenty merks was paid.⁷¹ In addition to rent, booth and stall holders might be expected to pay towards cleaning and repairing the streets where they traded. Edinburgh levied a higher charge on the 'dirty' trades, so that fleshers and sellers of fish had to pay more for the 'clengeing of thair inhonestie and filth', as did the owners of horses 'standand and eittand thair meitt on the streitt'.⁷² In the larger communities it was possible to let out street cleansing around the booths (the Edinburgh contractor paid a fee of twenty pounds in 1527), with the contractor making his living by collecting duties and fees at the agreed rate.

Selkirk seems to have been unusual in having common forges, at least one of which stood in the common street.⁷³ A list of rentals for 1536 shows that there were then three forges, let at annual rentals of five shillings, which did not

70. Edin. Recs., ii, 74. 'Masters' of common work were appointed, being paid five pounds a year. Their duties included the building and repair of the common booths.

71. Edin. Recs., ii, 83.

72. Edin. Recs., i, 124 and 125.

73. TSCB, 27 November 1526.

always seem to have been paid promptly.⁷⁴ The tack of one of the forges was increased in 1540 to include 34 or 35 feet of land but 'na thing fordar' to the west, for ten shillings a year.⁷⁵

Bridges in and around burghs were not just the responsibility of the community as one more type of commonly owned structure. Some burghs depended on bridges for communication and trade, and therefore placed great importance on bridge building and repair. The provision of a bridge was sometimes seen as a charitable act, or as an act of religious devotion, and individual benefactors and corporate bodies were involved in this activity. When a corporate body built a bridge they could levy tolls to help with the upkeep, or land might be granted by the crown to reward those who had built the bridge, and to provide revenue to keep the structure in good repair. Burghs began to see the possibility of charging bridge tolls, and tolls became more common by the late sixteenth century,⁷⁶ but it is difficult to find earlier evidence for this practice in the Border burghs. The Peebles records contain a number of entries detailing the arrangements for bridge works, and it is clear that all members of the community could be called on to provide labour. Those who did not appear were fined the cost of a man's work for one day, which in 1465 was fixed at six pence.⁷⁷ Labour alone was not enough, and Peebles adopted a number of measures to pay for or obtain building materials. Unlaws (fines) were allocated at one point,⁷⁸ as were rents

74. TSCB, 27 June 1536 (also 20 April 1528 and 15 December 1534). Tacksman sometimes had to be reminded to pay arrears of rent, and the community did not apply fore-maill or advances of rent to the common forges.

75. TSCB, 26 October 1540.

76. Ayr Accts., xlvii.

77. Peebles Recs., i, 154.

78. Peebles Recs., i, 157.

received from tacks of common land.⁷⁹ Later the burgh used burgess silver, so that the 'entry fee' paid into the common good fund by newly created burgesses was allocated to the bridge-works as soon as it was received.⁸⁰ The entry fee was sometimes commuted into building materials, and this varied between eight loads of stone⁸¹ in 1475, a load of lime⁸² in 1495, and one hundred loads of stone⁸³ in 1497. Activity on the Peebles bridge then seems to have ceased, perhaps because major building work was finished, and the community were no longer called on to provide labour, money and materials until 1555, when a woman was paid by the burgh to supply bread and ale to those working on the repair of the bridge. The overall picture is one of considerable involvement by all those in the burgh, and the bridge over the Tweed was clearly of great importance. Selkirk was less concerned about bridges, but in 1529 followed the method adopted by Peebles in calling on all indwellers to work on a bridge or causeway.⁸⁴ Here the fine for non-appearance was fixed at twelve pence.

It is difficult to say much about roads as common property because of the lack of evidence. The lack of evidence is no doubt related to the lack of roads in Scotland as a whole, but

79. Peebles Recs., i, 159. Four pounds rent received from tacks of the common haugh was used for the bridge-works in 1469.

80. Peebles Recs., i, 162.

81. Peebles Recs., i, 174.

82. Peebles Recs., i, 196.

83. Peebles Recs., i, 197.

84. TSCB, 19 January 1529. All indwellers were ordered to assemble after noon on St. Paul's day to cart stones and gravel to make a bridge at the 'ester pull'. (If this was the same as Porches Pool - see the plan of the burgh in appendix i - it seems likely that a causeway over the boggy ground was involved, rather than a bridge).

in particular in any area away from the larger centres of population. There is evidence for a 'carriage road of some sort in the upper Tweed valley' although deterioration may have set in after the fourteenth century.⁸⁵ In Selkirk, and perhaps also in other burghs, the main road was known as 'the king's street', and where it passed through the burgh it was a wide thoroughfare.⁸⁶ Repairs and cleaning were carried out as need arose, and for the main streets which were likely to be used for markets, need can be related to the normal instincts of burgh communities to protect and encourage all activities relating to trade. We have seen how Edinburgh dealt with the problem of street cleaning by contracting the work to a cleaner who then charged tradesmen for his services. In the smaller burghs the process seems to have been more haphazard, although there is evidence that Peebles inspected the streets, and inefficient 'dichters' were replaced.⁸⁷

One more commonly owned structure is worthy of mention, and that is the tron, or public weigh-beam.⁸⁸ All trading communities needed public facilities for weighing goods and as early as 1365 Scottish ports were required to have 'tron-scales' for weighing wool.⁸⁹ In England and Wales there was

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85. G.W.S. Barrow, 'Land Routes: The Medieval Evidence', in A. Fenton and G. Stell (edd.), Loads and Roads in Scotland and Beyond (Edinburgh 1984).
86. TSCB, 1 May 1538. Orders issued for a riding of the common covered land on the north and south sides of the Peelhill (the site of Selkirk Castle). It was said that the king's street was to be forty feet wide 'as us is and vas'.
87. Peebles Recs., 218.
88. The tron or trone was 'an instrument consisting of two horizontal bars crossing each other, beaked at the extremities, and supported by a wooden pillar'. (Jamieson's Dictionary of the Scottish Language (Edinburgh 1867)).
89. R.E. Zupko, 'The weights and measures of Scotland before the Union', SHR, lvi (April 1977), 138.

also a 'statutory obligation to provide a common beam',⁹⁰ and throughout the British Isles goods sold in open market were supposed to be weighed at the common tron or beam. It was to the advantage of the community to enforce the monopoly of the common tron, partly to reduce the chances of false weights being used on private trons, with the resulting friction and public disharmony, but more importantly to retain the useful profits from tron rental. Trons, therefore, were carefully controlled, being roused to the highest bidder,⁹¹ in the same way as burgh mills. The term of tacks varied from one year to three, although the Selkirk burgh court at one time ordered that no-one should be granted a tack for more than one year.⁹² Selkirk had decided to build a new tron in 1517, to be located by the market cross on an area to be cleared of middens, and for the 'common profet'.⁹³ From that time tacks were let at annual rents rising from two pounds in 1519⁹⁴ to eleven pounds in 1540,⁹⁵ with tacksmen being responsible for returning balance and weights in good condition at the end of the term. Like the tacksmen of mills, they were entitled to ask the community to re-imburse any money spent on the weights,⁹⁶ and as with the system of thirlage, the whole community were bound to use the common tron

90. A. Everitt, 'The market towns', in P. Clark (ed.), The Early Modern Town (London 1976), 182.

91. TSCB, 27 June 1536. One tron roup was recorded as being before the 'mair part of communitie' with each burgess to make one bid and no more (19 May 1540).

92. TSCB, 27 June 1536.

93. TSCB, 28 April 1517.

94. TSCB, 28 July 1519.

95. TSCB, 19 May 1540.

96. TSCB, 28 July 1519.

for weighing 'voll, ches or uther gudis pertening to our thronne and stapill of our burgh', and to 'satisfy and pay our thronman thankfully under the pane of viii s.', except where goods had been bought beforehand.⁹⁷

The Common Good

So far this chapter has examined a number of aspects of common ownership, and it has been shown that most of the property held in common by the burgh community could be expected to fulfil the dual purpose of providing both utility and profit. Profits, as we know in modern life, are not always compatible with public utility, and this problem was known to sixteenth century communities, and was no doubt viewed in a pragmatic light. The 'bulk of burgh revenue, the so-called common good',⁹⁸ had to come from the property of the burgh and the burgh authorities in the form of town council or burgh court were faced with the need to balance their never-ending requirements for cash with the need to ensure that inefficiency or corruption in the administration of public assets did not develop to the point where public reaction might cause unrest. As pointed out in the introduction to this chapter, the typical sixteenth century burgh was an environment in which individualism could flourish, but it was also an environment which depended on consensus and a sense of community. This consensus demanded that burgh revenue, or the common good, should be carefully

97. TSCB, 27 June 1536. There were a number of exceptions to the tron monopoly, and the question of privately owned weights and measures is dealt with in another chapter.

98. M. Lynch, Edinburgh and the Reformation (Edinburgh 1981), 21.

controlled and accounted for, and this concern was formally expressed in acts of parliament.⁹⁹ Parliament also laid down the basic rules for the roup or public auction of the tacks of common property, which were to go to the highest bidder, and for periods of no more than three years.¹⁰⁰ It was expected that income should arise from land, mills and various other buildings as well as from the 'wild adventures' (foreign trading voyages), the let of petty customs,¹⁰¹ fishings, and the common tron. Common good income also arose from the collection of burgess silver, that is to say, the entry or admission fees received from newly created burgesses, and annual payments by all burgesses. The way in which burgesses were created is dealt with in more detail in chapter three of this thesis, but it is worth noting here that burgess silver could provide a useful source of revenue for the burgh, sometimes leading to a sharp rise in the number of new burgesses at times of heavy demands on common good funds, such as may be seen when Selkirk had to find money to pay for the confirmation of its charters. On 28 March 1536 thirteen burgess heirs were admitted and twenty six new burgesses created.¹⁰² As we have seen, the payment of

99. APS, i, 689. The Chamberlain was to enquire at his ayre if the common profits of burghs had been legally let.

APS, ii, 349. Provosts, bailies and aldermen were to account yearly to the Exchequer for the common good funds of burghs, and the auditors of the Exchequer had the power to examine these accounts.

100. APS, ii, 227. This act, passed in 1491, was repeated in 1593.

101. The petty customs, consisting mainly of market tolls, were usually farmed out to a customer, who paid for a tack. (In 1560 the Peebles petty customs were let for one year for 18 merks, 3 shillings and 4 pence, with the customer being required to look after the official set of weights and measures (Peebles Recs., i, 272).)

102. TSCB, 28 March 1536.

burghess silver as an admission fee could be commuted to payment in kind for a specific purpose, and it is also possible to see instances of admission money being specially allocated to pay for such diverse items as glass for a chapel window, a surplice for a priest and oil for the town clock.¹⁰³ The Selkirk records contain evidence which suggest that burghesses could be called upon to make annual payments to the common good fund.¹⁰⁴

Money from fines levied by the burgh court also 'went to the common good, or to specific common good works', with the possibility that 'fines were always more strictly imposed whenever the burgh had some new and expensive common work on hand which it would otherwise have been impossible to pay'.¹⁰⁵

There were therefore a large number of possible sources of money for the common good fund, with national legislation designed to ensure that corruption and fraud did not occur in the handling and disposal of this money. Far more important in practical terms than these acts of parliament were the local rules and practices followed by individual burghs in administering the common good. A detailed examination of Selkirk's records shows that the concept of public accountability was well understood, as was the procedure of public roup that was supposed to be followed when tacks of the common good were let to the highest bidder. Responsibility

103. Peebles Recs., i, passim.

104. TSCB, 22 November 1538 and 10 December 1538. All burghesses were called upon to pay their merk, and the names of those who had paid were recorded.

105. W. Croft Dickinson, 'Burgh life from burgh records', Aberdeen University Review, xxi (1946), 225.

for collecting and supervising the common good money originally fell on the two bailies, who were expected to render account at the end of their term of office.¹⁰⁶

Such an account was recorded in a memorandum written in 1520 on behalf of one of the bailies. He received seven merks which were allocated to the common good fund, apart from the sum of 3s. 10d. which he spent on wood for the vicar. From the vicar and another men he received six merks, and he noted that the tronman owed 10s.¹⁰⁷ Later the burgh court appointed eleven men to help the bailies with the task of supervising the common good.¹⁰⁸

The bailies were supposed to hand over all monies collected to the bursars or in some cases to one of the auditors. Cash payment was expected, although the vicar once made payment in a mixture of money, silver rings and spoons.¹⁰⁹ A meeting was then held, attended by the outgoing and incoming bailies, the common clerk, the bursars and auditors and a varying number of people to act as witnesses to the statement of account. One meeting was held in the house of Stephen of Lauder, described as one of the auditors,¹¹⁰ and the venue must have restricted the number present. Other meetings were held in the parish kirk, implying a larger gathering,

106. TSCB, 4 September 1519. From the money collected the bailies were allowed to keep their fees of 40s, with a merk to each of their officers. The balance, coming from 'malis, annualis and burges silwer' to be kept 'to the common profet', and account given at the next head court after Michaelmas.

107. TSCB, 22 October 1520.

108. TSCB, 22 November 1538. This is the first meeting of a group of burgesses specifically chosen to look after the common good of the burgh although an earlier reference (16 May 1536) shows the 'avisit counsaill' being ordered to take an account of the common good from the bailies.

109. TSCB, 19 January 1523.

110. TSCB, 17 October 1525.

described on one occasion as 'part of the community'.¹¹¹ The largest meeting took place in 1539, when 'all that haldis communitie of the town' were ordered to 'geif coumpt and mak coumpt of all common gudis'.¹¹² 1539 seems to have been a difficult year for the common good fund in Selkirk. Before the mass meeting mentioned above, the bailies had met with the common clerk to take account of the 'pour and small common gudis and put thaim in souer keping'.¹¹³ Two months later the 'weill avyssait counsell' of eleven men delegated powers to the bailies and a burgess to act as necessary to protect burgh freedoms. Any lawful expenses were to be taken from the 'reddiest' common goods, or failing that from their own goods.¹¹⁴ This in itself is not remarkable, since the burgh was often in dispute over encroachments on common land and support and legal advice might have to be sought in Edinburgh, but the next entry about the common good fund suggests a serious cash flow problem which could only be solved by loans to the common good by some of the wealthier men in the community.¹¹⁵ A further meeting of the whole community was ordered for December 1539, with another account called for later in the same month.¹¹⁶ The situation that faced the community in 1539 was not uncommon, and it was not always easy for the bailies to collect all the money that was owing. In 1534 it was announced that a number of men owed money to the common good fund to the total of six pounds, six shillings,¹¹⁷

111. TSCB, 17 November 1528.

112. TSCB, 23 May 1539.

113. TSCB, 28 April 1539.

114. TSCB, 3 June 1539.

115. TSCB, 23 June 1539.

116. TSCB, 2 and 16 December 1539.

117. TSCB, 18 August 1534.

a sum exceeding the burgh's annual feu-ferme payment of five pounds. The wording of a burgh court order for the collection of money in 1537 re-inforces the impression of a relatively poor community, barely able to produce enough common good revenue to meet its needs. 'This inquest ordanes our burges silver and common gudis, thocht thai be smaw, to be inbroucht, poundit and put in our bursairis handis vithin vii dais'.¹¹⁸ The problems of low income and a resistance to prompt payment of money due were not new problems for Selkirk, which had faced a precarious existence as one of the poorest royal burghs in the fifteenth century,¹¹⁹ and was only marginally better off during the sixteenth. The lack of sufficient common good funds was made worse by the bailies' fees of forty shillings a year, with a merk to each of their officers, which they were entitled to deduct from the money that they collected,¹²⁰ although on one occasion they were told to spend their fee money in the defence of burgh freedoms, rather than burgess silver or common good money.¹²¹

As already indicated, there is no evidence of corruption in the administration of Selkirk's common property or common

118. TSCB, 13 November 1537.

119. J.M. Gilbert, 'Selkirk in the fourteenth to fifteenth centuries' in J.M. Gilbert (ed.), Flower of the Forest, 36.

120. TSCB, 4 September 1519.

121. TSCB, 29 February 1536. The bailies were ordered to 'spend thair awin fee in our quiet defenss'.

good fund during the period under examination, but many writers have commented on the way in which burgh property was exploited for private gain.¹²² Perhaps the relative poverty of Selkirk among royal burghs and the absence of examples of extreme wealth in a small and close-knit population, helped to ensure a reasonable standard of honesty in the administration of the common good. The actual mechanism of administration was not always particularly efficient, as may be seen from the records, but the very close, not to say claustrophobic, nature of communal life in a small burgh ensured that a degree of public control and scrutiny existed over common property that might not be found in a larger community. Cliques and factions were usually small enough to be challenged by other interest groups, and in this way a rough and ready balance of public against private interest could often be maintained. Thus, the common good was at least partially protected, and perhaps remained this way until the widening of social and financial gulfs began to be significant in the community in the seventeenth century.

122. T.C. Smout, A History of the Scottish People 1560-1830 (London 1979), 150. 'Inevitably corruption followed in the wake of untrammelled privilege: town contracts went to the provosts' friends, the property of the burgh was let at derisory rents to relatives, and burgess rights were sold for private gain. Long after 1690 the Scottish town councils remained notorious for their graft'.

CHAPTER FIVE

MARKET REGULATION

The sixteenth-century burgh depended on trade for economic survival, and on assured food supplies to sustain its population. Market regulation was therefore of great importance, and in its broadest sense was concerned with the control of food supplies, the maintenance of quality standards in foodstuffs and manufactured goods and the protection of trading privileges. This chapter examines the ways in which these various aims of market regulation were pursued by urban communities through complex structures of national and local rules, as an important part of the fabric of social control. Like all the aspects of social control examined in this thesis, market regulation was ultimately concerned with the achievement of stability and continuity in the community.

The control of food supplies

The control of the supply of foodstuffs to an urban community, and the regulation of the quality and price of the most important items of diet, were of such universal significance as to be described as essential features of town government throughout Europe, and there is ample evidence on which to base any study of the subject. Much of the Scottish evidence points to a pragmatic approach to the problems of urban food supplies, with rules and regulations designed to protect the consumer, and therefore aimed at maintaining stability and order

in the burghs, but also aimed at the preservation of trading privileges. The staple food items of bread and ale were the most closely controlled of all foodstuffs, and bakers and brewers were compelled to follow regulations which were often of far more benefit to burgh authorities than to the trades concerned. The very nature of the regulations, and the suspicion felt towards traders by burgh authorities and no doubt many inhabitants, suggests that some food traders brought much unpopularity upon themselves.¹ A typical English approach to the problem may be seen in the example of sixteenth-century Exeter, where a system of market regulation had been developed 'which was concerned largely with the provision of victuals to the inhabitants of the city ... controlled not from the trader's point of view but rather from that of the consumers'.² The aim was to ensure a 'plentiful supply' at prices and qualities that would satisfy the population and prevent disorder and social instability. By contrast, Calvin's Geneva adopted food price controls for reasons that were at least declared to be of a loftier nature, and the regulation of the prices of bread, meat and wine was seen as being a 'part of ecclesiastical discipline.'³

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1. T.C. Smout, A History of the Scottish People 1560-1830 (London 1979), 209. 'Riots in the burghs had been common in the sixteenth and seventeenth centuries, stirred sometimes by purely local grievances ... such as by the greed of baxters and mealmen in time of scarcity.'
 2. W.T. MacCaffrey, Exeter 1540-1640 (London 1975), 80.
 3. H.G. Koenigsberger and G.L. Mosse, Europe in the Sixteenth Century (London 1968), 152.

Most urban authorities were not interested in such abstract considerations, but were concerned with the maintenance of public order, and this was reflected in the way in which food prices and quality were controlled. It has been suggested that sixteenth-century Scotland did not experience bread riots,⁴ although there were 'fairly frequent minor riots' involving baxters and other suppliers of basic foodstuffs, precipitated by the way in which urban authorities held down the prices of their products.⁵ The Scottish bread riot then was of a special nature, and was over-shadowed by urban unrest that was religious or political in origin, but the threat of the food riot was a familiar concern of city and town authorities throughout Europe, and remained the main reason for disturbances until industrialisation raised new political issues which generated unrest.⁶ Scotland may well have avoided rioting because of the degree of control exercised over food prices, and in the smaller burghs price and quality control could be effectively maintained in a manner not possible in the cities, but all burgh authorities were obviously aware of the

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4. J. Wormald, Court, Kirk and Community - Scotland 1470-1625 (London 1981), 46.
 5. M. Lynch, 'Whatever happened to the medieval burgh? Some guidelines for sixteenth and seventeenth century historians', Scottish Economic and Social History (iv 1984), 16.
 6. G. Rudé, Paris and London in the Eighteenth Century - Studies in Popular Protest (London 1970), 18. Rudé argues that the characteristic riot in 'pre-industrial' societies was over the price of bread, 'understandable enough ... when bread accounted for something like half, or more, of the working-man's budget'.

threat to stability that could be posed by any lack of control in the supply, price and quality of basic foodstuffs, as well as being very conscious of the need to maintain the burgh as a successful centre of trade and market activity.

Such was the importance of stable food supplies that the basic framework of Scottish regulation was established at national level. Acts of parliament appeared regularly, dealing with most aspects of food supply, from price checking of bread and ale⁷ to the prevention of forestalling and regrating.⁸ These acts were carefully followed by the burghs, and in addition there were many customs and practices followed in burghs, and recorded as the Ancient Laws and Customs of the Burghs of Scotland. The Leges Burgorum contain references to brewing,⁹ baking,¹⁰ fleshers,¹¹ sellers of fish,¹² and many other aspects of market regulation, and there are further references to the subject in the Articuli Inquirendi, the Juramenta Officiariorum and the Fragmenta Collecta, the last named containing the heartless injunction

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7. APS, ii, 238. This act, passed in 1496, ordered provosts and bailies to examine the quality and price of bread and ale, and to punish those who over-charged for these commodities.
 8. APS, ii, 253, ii, 347 and ii, 376. Forestalling involved buying up supplies of a commodity before a market to force up the price and regrating was keeping goods away from the market for private sale.
 9. Ancient Burgh Laws, 'Leges Burgorum', xxxvi (annual payment by brewsters), lxiii (ale to be of good quality, with fines for making 'uvil' ale).
 10. Ancient Burgh Laws, 'Leges Burgorum', lx (bakers to sell bread, both white and grey to the quality and price fixed by the burgh), lxi (regulations for the operation of bakehouses).
 11. Ancient Burgh Laws, 'Leges Burgorum', lxiv (fleshers to sell good meat openly and at the time of slaughter), lxv (beasts to be slaughtered during the hours of daylight, in full view of the public).
 12. Ancient Burgh Laws, 'Leges Burgorum', lx (fish to be displayed openly at prices fixed by the burgh).

that all rotten pork and salmon should be removed from open sale in the market and given to the lepers.¹³

The operation of national laws and local customs in the control of food supplies and prices may be seen in detail in burgh records, and as may be expected, the most important foodstuff, bread, is often mentioned. The evidence suggests that wheat was the commonest bread grain in use in the burghs,¹⁴ and that various grades of wheaten bread were made, referred to as white and gray bread in the Edinburgh records.¹⁵ There may well have been more than two grades, and bakers in late medieval York produced three grades from wheat flour.¹⁶ There is no evidence for bread made from barley flour, although it seems likely that barley or bere bannocks would have been made in the poorer households. Apart from the indigestible nature of barley bread, and the low gluten content of the flour which makes a risen loaf impossible to achieve, there is a further factor restricting the use of barley as a bread grain. Quite simply, this was the heavy use made of barley for the manufacture of malt, used in large quantities by most households for the brewing of ale.

13. Ancient Burgh Laws, 'Fragmenta Collecta', xlv.

14. The Edinburgh records refer to the price of bread being related to the price of wheat (Edin. Recs., i, 108, i, 233). Similar evidence exists for Peebles (Peebles Recs., i, 25 October 1462 and 30 September 1471) and Selkirk (TSCB, 17 October 1525).

15. Edin Recs., i, 178.

16. H.A. Swanson, Craftsmen and industry in late medieval York (un-published D.Phil. thesis, University of York 1980), 131. White bread was known as wastel, simnel cocket or main bread, the next grade, perhaps corresponding to Edinburgh's 'gray' bread was bastard wastel or simnel and panis integer was the common coarse loaf, presumably made of whole wheat.

Apart from wheat, the other important food was oats, normally sold in the form of meal, but also found in the form of bread.¹⁷

The price and weight of bread was controlled by the burgh authorities in accordance with statute, and an entry in the Selkirk records describes how the bailies sent a firlo¹⁸ of wheat to the common mill to be ground into flour which they then took to a baker and watched while it was made into bread. This bread was known as the 'pais' or standard loaf from which all others were to be judged. All bakers were then given a standard loaf, and if they broke the 'pais' by selling under-weight bread the bailies were empowered to confiscate the bread and break the ovens of the bakers concerned.¹⁹ The weight of the bread offered for sale was perhaps the most significant factor, and was related, as we have seen, to the price of wheat. Loaf weights were regularly checked in all communities, a practice so common as to be found in many countries, and sometimes surviving to the present day. Scotland, in common with other parts of the United Kingdom, has now virtually abandoned weight regulations in relation to bread, but the French government still exercise rigid

17. Edin. Recs., ii, 17. Oat bread is mentioned, a penny loaf to weigh one third of the weight of the penny wheaten loaf.

18. R.E. Zupko, 'The weights and measures of Scotland before the Union', SHR lvi (April 1977), 128. The traditional definition of the firlo^t prior to 1600 was a vessel holding 41 pounds of the clear water of the Tay. There were however many regional variations, and the Selkirkshire firlo^t of wheat was 2281.350 cubic inches.

19. TSCB, 16 February 1530.

centralised control over weight and price. There is no doubt that control was strict in sixteenth-century Scotland, and there is ample evidence in burgh records to show how this control was maintained. Edinburgh council regularly fixed bread prices, relating price to weight, and penalising unfree or 'outland' bakers by requiring them to sell heavier loaves for the standard prices. Edinburgh bakers were allowed to sell loaves prices at 1d., 2d., 4d., 6d., 8d., and 12d.,²⁰ but for practical purposes the 1d., 2d. and 4d. loaves may be regarded as the normal range likely to be on sale.

The approved prices, linked to the price of wheat, moved up and down as grain supplies fluctuated.²¹ Peebles followed the lead of Edinburgh by basing loaf weight on the price of a boll of wheat, but the Peebles records do not specify the actual weights that were undoubtedly fixed from time to time. The Selkirk records present a slightly different picture. The main concern in Selkirk was that 'pennybread' should be the standard loaf,²² and that no baker should give more than twelve loaves to the dozen.²³ The latter injunction

20. Edin. Recs., ii, 116.

21. Edin. Recs., i and ii, passim. In 1518 unfree and outland bakers were ordered to sell their 4d. bread 4 oz. heavier than the weight fixed for white 'town' bread, and 6 oz. heavier than the coarser or 'gray' town loaf (i, 178). The 1528 prices were fixed on wheat at 12s. a boll, and the 1d. loaf was set at 11½ ozs. (i, 233). The 1529 weight for the 2d. loaf was 18 ozs., and by 1535 this had fallen to 17 ozs. (ii, 5 and ii, 71). One year later in 1536 the 2d. loaf weight had gone up to 24 ozs. with the 'outland' equivalent weighing 26 ozs. (ii, 80). By 1539 the 2d. weight was down again to 17 ozs. (ii, 95), reaching 21 ozs. in 1545 (ii, 116).

22. TSCB, 17 October 1525. The bailies were ordered to buy a firloft of wheat and have it ground and baked into 'pennybread' as standard loaves to act as the pais.

23. TSCB, 30 April 1527.

was often repeated, and indicates determined but perhaps not very successful efforts to stop the practice of the baker's dozen, in which thirteen loaves were sold for the price of twelve. Burgh authorities tried to stamp out the practice because it went against the normal strict regulations about loaf weight.²⁴ In their efforts to control the price and weight of bread the Selkirk authorities were consciously following national standards, arranging for 'bailies and alderman to vesy oukly quhar that fre men makis nocht thair pennorthis efter cos of the four borchtes' (pennybread to be made after the laws of the four burghs).²⁵ There is one mention in the Selkirk records of authorisation for larger loaves when burgesses' wives who were bakers were ordered to give no more than twelve loaves to the dozen, and these to be two-penny loaves,²⁶ but the penny loaf seems to have remained as the standard unit of sale. In 1539 the burgh court took action to prevent the sale of 1½d. loaves to strangers in the burgh or within the sheriffdom, and landward bakers were placed under the same restriction.²⁷ This suggests that the regular inspection of bread by the bailies was no mere formality,

24. I.H. Evans, Brewer's Dictionary of Phrase and Fable (London 1981), 72. The practice of giving thirteen loaves for twelve arose because of the heavy penalties inflicted for selling short-weight bread, and to avoid this, bakers would add an extra loaf, called the 'vantage loaf', to make up any possible short-fall in weight. Although on the face of it, it seems that the buyer should benefit, if all thirteen loaves were short-weight the practice became fraudulent.

25. TSCB, 16 May 1531.

26. TSCB, 30 June 1528.

27. TSCB, 15 October 1539.

and that despite the strict control that existed, bakers were always likely to try and ignore the rules. The reference in the 1539 court book entry to bread being sold by landward bakers probably refers to supplies being brought into the burgh on market days. Attempts were made from time to time to restrict baking to freemen or women, that is to say, those with full burgess rights,²⁸ but such a restrictive rule was probably impossible to enforce except for limited periods. The frequent orders that were issued to try and prevent the sale of foodstuffs by unfreemen have to be seen against other court book entries that refer to both free and unfree bakers,²⁹ to stallangers (stallholders not holding burgess status) being allowed to 'baik and brew as freemen',³⁰ and to unfreemen and women holding 'freeman's office' to pay half a merk to the common good.³¹ The reality of the situation demanded that market regulation had to be interpreted pragmatically, particularly in the sensitive area of food supplies. To ensure that there was always enough bread for sale burgh authorities had to allow 'unfree' baking and sometimes even the supply of bread by landward or outland bakers. Burgh attitudes to external sources of supply must have been dependent on the size of the

28. TSCB, 3 July 1515. '...we ordane that na man or woman be admittit to bake bot freman under the payne of chetyng (forfeiting) of the samen'. A later entry (20 October 1528) elaborates this doctrine, ordaining 'nayne unfremen to us the officis of fre (men), as baking, brewing and owder siclyk officis pertenant to the fredom of the town'.

29. TSCB, 30 April 1527 and 15 October 1539.

30. TSCB, 17 October 1536. Two stallangers were given permission to bake and brew.

31. TSCB, 27 February 1538.

population to be fed, and we have seen how Edinburgh allowed outland bread but placed a weight penalty on this source. Attitudes were also dependent on the availability of grain and other foodstuffs, and dearth may have led Selkirk to welcome 'every man inbringand vittailis to our town, that thai salbe thankfully resaiffit,' with the exception of fleshers.³² However, the fact that burgh regulations about bread were not always followed to the letter does not detract from the importance that must be placed on this aspect of market regulation. Burgh authorities were concerned with quality as well as with weight and price, and burgh records contain references to the need for bakers to produce 'good and dry' bread,³³ to improve quality³⁴ and to ensure that the quality was 'sufficient and nyctbourlyk'.³⁵ Similar regulations were in force in England, where the first national assize of bread was ordered in the reign of Henry II (1154-1189),³⁶ which at local level meant that bread and beer had to be 'good and wholesome for mannes body'.³⁷

Enforcement of the bread regulations was backed by a range of penalties, the most common of which was a fine,³⁸

32. TSCB, 8 October 1532.

33. Edin. Recs., i, 217. We might now take this to mean 'well-risen and well-fired' bread.

34. TSCB, 23 February 1511.

35. TSCB, 3 October 1536.

36. A.C. Ross, 'The assize of bread', Economic History Review (2nd series IX 1956-7), 335.

37. W.T. McCaffrey, Exeter, 81.

38. The standard fine was 8 shillings.

but which included the breaking of ovens, forfeiture of freeman's status, confiscation of the bread,³⁹ and in one case involving violence, a solemn statement of great wrong-doing.⁴⁰

The next most important commodity was ale, the common drink for most people in sixteenth-century Scotland,⁴¹ although large quantities of wine were consumed in the larger burghs. Most of the available barley and its more primitive relative, bere,⁴² was converted into malt for the brewing of ale, and almost every household brewed for its own use. Like bread, ale was subject to national regulations, some of which specified the amount of grain to be used in making malt,⁴³ the price by which malt could exceed the price of the grain from which it was made,⁴⁴ the quality of the ale⁽⁹⁾ and a variety of other topics including the clear advertising of the price of each batch of ale. The price of each brewing was fixed by burgh officials variously described as ale-tasters, conners or cunnars, who were supposed to take an oath to 'taste the ale and

39. TSCB, 6 April 1540. On this occasion the confiscated bread was to be given to the poor.

40. TSCB, 5 April 1535. 'We find that where an unfreeman offers for sale any goods forbidden by the community, and on being reprov'd, strikes a giltine burgess on the face with the forbidden goods, then such a man is guilty of a great wrong'. Such a statement clearly refers to an actual incident, which unfortunately is not recorded.

41. F.M. McNeill, The Scots Cellar (Edinburgh 1973), 2. '... ale, which for centuries remained the common beverage of Lowland Scotland and the Scandinavian north-east'.

42. Bere, or bear, still grown in small quantities in Orkney, is a type of four-rowed barley.

43. APS, ii, 245 and 253.

44. APS, ii, 351. The price of a boll of malt was not to exceed the price of a boll of bere beyond two shillings, modified in 1551 to four shillings for one year only because of a scarcity of fuel (APS, ii, 486).

lawfully to apprise the same according to the price of malt, and that in so doing they will spare no one for fear or favour'.⁴⁵ The ale-tasters were appointed to serve for a set period, often one year, and the appointments were usually made at the October head court, although this procedure was not always followed in Selkirk.⁴⁶ Ale prices were fixed according to the price of malt, and the Selkirk records contain a reference to the tasters being accompanied by a maltman.⁴⁷ The price also reflected quality, with a maximum price being set for the better ale,⁴⁸ and a lower figure for the second grade. Edinburgh prices ranged between a maximum of 12d. per gallon in 1516 to 32d. per gallon in 1550,⁴⁹ linked to the constant fluctuations in the price of malt. Peebles prices are not shown as regularly in the burgh records as those for Edinburgh, but also illustrate the effects of inflation and possible grain shortages.⁵⁰ Selkirk prices are given in some detail in the burgh court records, ranging from a maximum of 12d. per gallon in 1515, a price still found in 1525, with the second grade to be sold at 8d. per gallon, to a high of

45. Ancient Burgh Laws, 'Juramenta Officiariorum', 129.

46. TSCB, passim. Ale-tasters were also appointed in February and in December, one December appointee being Ninian Bryden, priest and notary, and the common clerk of the burgh (7 December 1529).

47. TSCB, 19 October 1540.

48. Edin. Recs., ii, 124. The price for strong ale was fixed at 4d. a pint, with the proviso that it was really strong.

49. Edin. Recs., i and ii, passim.

50. Peebles Recs., i, passim. The maximum price per gallon in 1471 was given as 10d. This had risen to 32d. by 1555.

16d. per gallon for the best and 12d. per gallon for the second grade. All the available evidence points to a high rate of consumption of ale in Selkirk (see comments in chapter six of this thesis), and this may have tended to limit price rises.

Once ale prices had been fixed these were notified by the tasters who chalked the figures on the doors or shutters of brewsters and ostlers.⁵¹ Penalties were imposed for price-breaking, the standard fine being eight shillings. A more drastic punishment for over-charging was for the bottom of the brewing vessel to be struck out with a hammer, a measure threatened by both Edinburgh⁵² and Peebles.⁵³ Edinburgh proposed a similar punishment for those selling wine at more than the fixed price (6d. per pint), ordering that the puncheon head should be knocked off.⁵⁴

51. TSCB, 27 January 1540. Detailed instructions are given for ale-tasting and pricing, with the bailies rather than ale-tasters being required to 'drink ane gallon of aill of every man that breuit xvi d. ail at Yoill'. All the burgh's brewsters are charged with the duty of brewing 'worthy' ale for feast days and fair days, and to sell it at the price chalked on every ostler's door by the two tasters accompanied by a bailie, according to the strength of the ale. All ale still being brewed to be sold for 12d. per gallon, with subsequent brewings to be sold for 16d. if of sufficient quality.

52. Edin. Recs., ii, 150.

53. Peebles Recs., i, 218 and 219.

54. Edin. Recs., i, 197.

Bread and ale can certainly be regarded as the most important foodstuffs to an urban community, and for the poorer sort of people bread would no doubt have been replaced by oatmeal and ale by water. However, the urban diet was perhaps more varied than that to be found in country areas, and burgh records contain references to a number of other food commodities. The average diet was likely to include cheese and some fish and meat, with meat being much in evidence in the records.⁵⁵ Analysis of animals' remains found in burghs shows that cattle, sheep, pigs and goats were killed for food, with successful overwintering of animals until maturity,⁵⁶ and extensive use was made of castration of sheep and goats to produce meat animals for slaughter at three to four years.⁵⁷ Beef, mutton and pork are specified in the Leges Burgorum, to be sold openly by fleshers at the time of slaughter⁽¹¹⁾ and burghs controlled the way in which fleshers bought and sold as well as fixing

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55. C.M.F. Ferguson, Law and order on the Anglo-Scottish border 1603-1707 (un-published Ph.D. thesis, St. Andrews, 1981), 16. Ferguson suggests that the diet contained 'barley and oats, cheese and very little fish and meat', which was perhaps true for the population of the borders as a whole, but may be somewhat pessimistic a view for the burghs. She comments on the population's vulnerability to poor harvests and the subsequent grain shortages - even in good years grain yields were very low by modern standards, with a three or four fold return suggested by one writer (R. Renwick, Peebles during the reign of Queen Mary (Peebles 1903), 125).
56. G.W.I. Hodgson, 'The animal remains from medieval sites within three burghs on the eastern Scottish seaboard', Site, Environment and Economy (BAR International Series 173, 1983), 3.
57. G.W.I. Hodgson, 'The animal remains', 12 and 13.

prices,⁵⁸ and quality. We have already seen how the Ancient Burgh Laws provided for the disposal of putrid pork to the lepers, and other attempts were made to stop the sale of meat unfit for human consumption. Meat from 'longsought' or lung-diseased animals was banned from sale,⁵⁹ as was meat that was damaged in any way or even badly butchered.⁶⁰ Burgh regulations for the sale of meat were intended to control supply, price and quality, and these regulations included measures to prevent the use of dishonest practices by fleshers. These practices were aimed at altering the appearance of meat so as to attract customers, and included the blowing or inflating of a whole carcass, usually of mutton, to give the meat a full and rounded appearance,⁶¹ and the scoring or bleeding of animals before slaughter to remove any signs of over-conditioning caused by last-minute feeding.⁶² In addition to measures taken to control these practices, fleshers were also required to openly display meat for sale, using the open market and not

58. Ancient Burgh Laws, 'Fragmenta Collecta', xliii. This burgh custom also denies fleshers the right to trade as pastry-cooks, perhaps in recognition of the meat pie as a receptacle for meat not of market standard.

59. TSCB, 3 July 1515.

60. TSCB, 19 October 1529.

61. Peebles Recs., i, 215.

62. TSCB, 22 November 1538. Several entries in the Selkirk records refer to attempts to control the fleshers' practice of bleeding before slaughter. Meat is described as having been 'flauchit' or 'lattin doun', and in this context flauchit does not seem to mean flayed, since carcasses would be flayed before sale, but to the use of a flane or flaine - an arrow-like tool used within living memory for piercing animal veins and bleeding them as a means of restoring health or condition. I am indebted to Mr. H. McKerchar, Veterinary Surgeon, for this information.

keeping meat in houses or booths.⁶³ Different burghs specified different times by which all meat was to be displayed in markets, but the clear intention was to ensure that all available supplies of meat were openly offered for sale, with none being held back for private dealing.⁶⁴ Peebles were prepared to allow landward fleshers to bring meat into the burgh, but only if this was in the form of whole carcasses or complete legs, perhaps feeling that if they allowed landward men to trade in small pieces of meat that quality control by the burgh would be made more difficult.⁶⁵

Fleshers who infringed any of the burgh regulations could be fined,⁶⁶ but Selkirk's bailies usually followed the procedure of confiscating part of the carcass, sometimes the 'best' leg.⁶⁷ A more extreme sanction was threatened in 1528, with the possible loss of burgess freedom, or banishment for a year and a day for unfreemen.⁶⁸

63. TSCB, 15 October 1521.

64. Peebles required the flesh market to operate on Saturdays from 10.00 a.m. to 4.00 p.m. (20 October 1564). Selkirk fixed 8.00 a.m. or 9.00 a.m. as the times by which all meat was to be openly displayed.

65. Peebles Recs., i, 274.

66. TSCB, fines of 12d. for each beef carcass and 4d. for carcasses of mutton were threatened in 1521, with the 'standard' 8s. fine or a leg from the offending carcass being called for in 1539.

67. TSCB, 22 November 1538. Those found to have bled their meat before slaughter were ordered to forfeit the best leg to the bailies. An earlier order dated 19 October 1529 called for confiscation of one leg from each carcass of mutton and the hough, head and feet of a cow or steer.

68. TSCB, 20 October 1528. On 8 October 1532 the burgh court decided that unfreemen could not sell meat unless authorised to do so by the bailies.

Regulations controlling the sale of fish were similar to those for meat, and included the requirement that supplies of fish should be offered for sale openly and during daylight hours,⁶⁹ and a rule that fish should be sold whole, or if sold in pieces to be sold together with the skin.⁷⁰ Salmon was readily available in the border burghs, and other fish on offer in markets was likely to have included salt herring and stockfish (dried salt cod). Fresh sea fish was available in coastal burghs, but would not have been widely available inland, except perhaps during the winter.

Other foodstuffs mentioned in burgh records include cheese, butter, oatmeal and salt. These items were not covered by national regulations, but were subject to a variety of local rules in the burghs. Selkirk required sellers of cheese and butter to leave their goods for sale at the market cross until midday, 'that the gud town and burgessis be deuly servit', and only then to be offered from booths and houses.⁷¹ Hucksters (small-scale dealers) were forbidden to buy cheese and butter for re-sale except from burgesses' wives, and if they sold salt they were

69. Ancient Burgh Laws, Leges Burgorum, lxxiii.

70. Ancient Burgh Laws, Articuli Inquirendi, 57. Peebles applied this rule by requiring those selling pieces of salmon to also sell the skin. (Peebles Recs., i, 154 and 155).

71. TSCB, 19 October 1529.

required to sell 'na derer in the ouk day then the merkat day under the pane of viii s.'. ⁷² To try and prevent unfreemen from setting up as small retailers of foodstuffs, Selkirk restricted their purchases to the amount necessary to feed themselves and their families for eight days. ⁷³

Scottish burghs exercised control over the quality and price of foodstuffs, specified who might sell and who might not, and laid down the times at which various commodities were to be sold. The interests of burgesses were placed before those of unfreemen, and this is illustrated by the action taken by Selkirk in 1534, banning purchases by the unfree until burgesses and indwellers were satisfied. ⁷⁴

An English parallel may be seen in the operation of the corn market in sixteenth-century Exeter. Here no corn could be sold before the ringing of a bell, and only free citizens were entitled to buy. A second bell was rung, allowing all-comers to buy, but no farmer was able to buy unless he had some of his own corn to sell in the market. Market men were appointed by the city authorities, and they were responsible for enforcing the market regulations. ⁷⁵ Exeter also provides evidence for the way in which the various market commodities were allocated specific areas in which to be sold, ⁷⁶ and similar arrangements were made in Scottish burghs. Edinburgh

72. TSCB, 30 June 1528.

73. TSCB, 2 October 1526.

74. TSCB, 13 April 1534.

75. W.T. MacCaffrey, Exeter, 82.

76. W.T. MacCaffrey, Exeter, 81.

'crowded ^{most of} the markets, with the exception of those for cattle and grass, into the High Street'.⁷⁷ Peebles required all commodities to be presented for sale at the market cross,⁷⁸ and Selkirk designated the areas of the burgh that were to be used on fair days. '... ix men hes devyssit and assignet every geir ane rowm within the burgh viz., the chepman merchandis one the southt sid of the croice, the cordinaris one the southt sid of tolbuith, voll, skyne, cheis, butter about the trone, the meil mercat quhair it vas effoir, uther vytaillis est by to George Lydderdail hous, and all to be estail the tobulbuith, the mercat of hors, nowt and scheip in the ester part of the town about the forggis. The vod mercat one Hallewolhill'.⁷⁹ (see market locations on the conjectural plan of the burgh in appendix i). In 1541 the men of Selkirk's east watch petitioned the burgh court to have the meal market moved from the market cross to the east end of the town, arguing that they paid as much in taxation as any around the cross. There were obvious advantages in having an important part of the market near one's house, since this gave the householder the opportunity to sell food and drink, and perhaps to trade in other items. The burgh court was not moved by this petition, and ordered that all goods should be presented for sale 'in ald usit boundis near about the

77. M.C. March, 'The trade regulations of Edinburgh during the fifteenth and sixteenth centuries', Scottish Geographical Magazine (xxx 1914), 485.

78. Peebles Recs., i, 166 and 167.

79. TSCB, 2 August 1536.

mercat croice and na uther partes of the town for certane causes'.⁸⁰

Fair days and markets

The royal burghs enjoyed a monopoly of all foreign trade, and 'of all domestic trade within their own bounds'.⁸¹ This gave the royal burghs the right to hold weekly markets, but it did not stop other burghs from attempting to establish markets. The protection of trading privileges, which when allowed to flourish without encroachment, gave the royal burghs a total monopoly of trade within their landward areas, was a 'principal function' of the Convention of Royal Burghs.⁸² Apart from weekly markets, the royal burghs were given the privilege of holding one or more fairs. Royal permission to hold fairs was usually contained in burgh charters, but might, as in the case of Selkirk's second fair, be granted in a royal letter. Selkirk had two fairs, one being held on St. Lawrence's day and for the octave (eight days) following, and the second was on the Feast of the Conception (8 September) and its octave (see chapter eleven of this thesis). The fact that the St. Lawrence fair was proclaimed at market crosses and by hand bell 'throu greit borrow tounes' suggests that buyers and sellers were expected to come from a wide area, and fairs gave the smaller and more remote burghs the chance to buy

80. TSCB, 20 January 1541.

81. T. Keith, 'The trading privileges of the royal burghs of Scotland', English Historical Review (xxvii 1913), 460.

82. T. Keith, 'Trading privileges of the royal burghs', 466.

goods that could not be manufactured or supplied locally. Some areas specialised in a particular product, for example Selkirk produced shoes, and fairs provided a framework within which needs could be satisfied and surpluses disposed of. Fairs also gave people the opportunity of buying luxury or unusual goods many of which were likely to be imported. A list of trade goods from Northern Europe includes the following:-

Bricks from the Low Countries;
 Swords and helmets from Cologne;
 Tapestries and painted images from Flanders;
 Books from France and the Low Countries;
 Amber paternosters from Prussia;
 Beeswax and honey from Russia;
 Thread and lace from Cologne and Brabant;
 Hawks from Bruges and Calais;
 Feathers for pillows from Germany.⁸³

The Selkirk records contain references to lace, 'Flanders' beds and a counting table, English cloth, peppercorns and a tapestry probably of Flemish origin, all of which may reasonably be described as luxury items, and perhaps acquired at fairs.

Weights and measures

Communities that were dependent on trade were also dependent on weights and measures. Almost everything that was sold had to be weighed or measured, and the importance of standards was recognised 'as early as the reign of David I' when a number of

83. M.M. Postan, Medieval Trade and Finance (Cambridge 1973), 102.

national standards were established.⁸⁴ However, despite these early efforts to bring about a measure of national control, followed by many more acts of parliament in the centuries that followed, a multiplicity of local variations remained. During the sixteenth century parliament passed seven acts relating to weights and measures, admitting just after the middle of the century that earlier attempts to achieve standardisation had proved ineffectual, and naming new commissioners to create universal standards.⁸⁵

Perhaps the most useful piece of legislation was the act of 1503,⁸⁶ insofar as it instructed all burghs to keep sealed (branded or marked) measuring vessels to act as standard measures, enabling burgh authorities to enforce local regulations to prevent fraud and deception in this important aspect of trade. As we shall see, serious efforts were made to ensure that these regulations had some practical effect, but local custom also recognised the right of every burgess to have 'private' measures, consisting of a measure for corn, an ell-wand and both stone and pound weights.⁸⁷ The Leges Burgorum contain a reference to the penalties to be imposed on

84. R.E. Zupko, 'Weights and measures'. 119.

85. APS, ii, 496.

86. APS, ii, 246.

87. Ancient Burgh Laws, Leges Burgorum, xlviii.

people using false weights and measures. Bailies had the power to fine offenders for the first two offences, but the third offence could lead to appearance before the king's court, with liability for 'life and limb' if found guilty.⁸⁸ Burghs attempted to regulate the use of 'private' measures by checking their accuracy and marking them by branding.⁸⁹ Selkirk marked such measures on the side to distinguish them from the official burgh measures held by the customer, which were branded on both side and bottom. Only buyers and sellers of goods were allowed to use the marked 'private' measures, and unauthorised measures (usually specified as half a firloft in capacity) were confiscated and broken up, with the owners being fined eight shillings.⁹⁰ Private measures could not be used in the market, where the customer had the monopoly of the official measures, taking a toll of the measured goods as a fee.⁹¹ The customer, who paid the burgh for the right to collect the petty customs, was expected to enforce this monopoly, answering to 'God and the town' for any failure.⁹² The official measures were likely to include a firloft, half firloft, peck and sack, and the customer might also be called upon to hold a large number of firloft or half

88. Ancient Burgh Laws, Leges Burgorum, lxviii.

89. TSCB, 3 October 1536.

90. TSCB, 20 January 1541.

91. A. Everitt, 'The market towns', in P. Clark (ed.), The Early Modern Town (London 1976), 184. The English equivalent of the customer was the toll-gatherer, 'dyping his toll-dish into the mouth of each man's sack'.

92. TSCB, 23 November 1518.

firlot measures for use by meal-men.⁹³ Selkirk ordered Janet Brown 'to inbryng xiii halff furlattes to be merket with the common merk for the tyme', and these measures were intended for the meal market. At the same time women were forbidden to measure meal for men, and every man was expected to measure for himself, or 'every gud man for uther, the quhilk is for the common proffet of the countre'.⁹⁴ Seven years later another thirteen half firlot measures were to be supplied by Selkirk's customer, twelve for malt, bere and meal, and one for wheat. All were to be branded to mark them as official measures. Two weeks later twelve burgesses were asked to lend the customer twelve half firlot measures, whilst the burgh court considered if he should look after all the half firlot measures in the market.⁹⁵ The process of checking and branding measures was normally carried out in the tolbooth under the supervision of the bailies, and the burgh court might call for a special inspection, as in 1526, to find measures that were 'skant' or inaccurate.⁹⁶ All this activity by burghs points to a real need for control in the use of weights and measures. It has been said that 'commercial morality was lax ... light weights, false measures and bad material were used without scruple',⁹⁷ and this would seem to be supported by the evidence in burgh records. However, it can also be said that burghs were able to exercise quite effective controls in the whole area of market regulation,

93. Peebles Recs., i, 158. The customers were ordered to look after 9 firlot measures.

94. TSCB, 19 October, 1529.

95. TSCB, 17 October 1536.

96. TSCB, 16 January 1526.

97. D. Murray, Early Burgh Organisation in Scotland, i (Glasgow 1924), 314,

as may be seen in the example of Will Winterhope of Selkirk who was accused 'be the haill communitie' of forestalling. Faced with this sort of community pressure, and not under threat of a fine or any other sort of punishment, he agreed to reform and 'do as nichtburis and otheris hes don'.⁹⁸ (The tron is discussed in chapter four of this thesis).

Other market regulations

In the larger burghs the various crafts exercised a degree of self-regulation by enforcing quality standards, but this was largely designed to stop 'dilution' of the crafts by unfreemen, and protection of the consumer was a secondary consideration.⁹⁹ However, burgh authorities were jealous of their rights to control all aspects of the buying and selling of goods, and this could lead to conflict with the crafts. In the larger burghs this conflict came to the surface from time to time, and was often linked to the conflict between merchants and craftsmen. Burgh authorities gained control of quality inspection, and the bailies were responsible for examining the standards of workmanship.¹⁰⁰ The Scottish approach was similar to that in the larger English towns, with Exeter council reserving the right to punish 'faulty workmen' rather than letting this be done by the wardens of the crafts,¹⁰¹ while in York the degree of self regulation allowed to the craft guilds 'was as great or as little as the city council would allow'.¹⁰² In the

98. TSCB, 21 August 1520.

99. T.C. Smout, A History of the Scottish People 160.

100. J. Wormald, Court, Kirk and Community. Scotland 1470-1625 (London 1981), 49.

101. W.T. MacCaffrey, Exeter, 89.

102. H.A. Swanson, Craftsmen and industry in York, 331.

smaller burghs the picture was slightly different.

Community ties, less obvious extremes of wealth and power and the weaker nature of oligarchic control in some of the smaller communities, led to a more co-operative relationship between burgh authorities and the crafts.

It is possible to find evidence showing that urban authorities were sometimes willing to delegate their powers over quality to 'associations of craftsmen'.¹⁰³

An example of this may be seen in the Selkirk records, and concerns a burgh court decision to order the tailors' burgesses 'to consider the clath and schap (shape) of Thome Hendersone vyf kyrtaill and tak thaim sworne to decerne in the verite'.¹⁰⁴ Their judgement is not recorded, but their involvement as representatives of their craft shows that market authorities were prepared to be guided by specialist opinion. Another example, although not involving craft representation in such a formal way, has already been discussed in this chapter, in the case of ale-tasters being accompanied by a maltman.⁽⁴⁷⁾

The quality of leather seems to have been a matter of concern for both national and local authorities, and souters who tanned their own hides were only allowed to use the skins from young animals, the age being judged by a requirement that ears and horns should be of equal length.¹⁰⁵ Even if this rule was applied, any lack of skill in the tanning process adversely affected quality, and it has been said that late medieval footwear, usually made of

103. S. Reynolds, Kingdoms and Communities in Western Europe (Oxford 1984), 200.

104. TSCB, 6 April 1540.

105. Ancient Burgh Laws, Leges Burgorum, xciii.

tanned leather, was 'liable to wear out quickly'.¹⁰⁶
Leather was not the only manufactured item which could suffer from poor quality, and despite the existence of craft guilds with their declared interest in quality standards, and the efforts of burgh authorities, 'Scottish manufactures were known through half Europe for their bad quality'.¹⁰⁷ It is in the control of the price and quality of food that burgh market regulation may be seen at its most effective, and in the smaller burghs this area of activity owed more to community consensus and a degree of co-operation than to the coercive power of burgh authorities. Despite ample opportunity for fraud and deception, the framework of rules made it possible for burghs to deal with the worst and most obvious offenders. As a trading community the burgh was aware of the need for self-regulation.

106. H.A. Swanson, *Craftsmen and industry in York*, 92.
107. T.C. Smout, *A History of the Scottish People*, 161.

CHAPTER SIX
SECURITY AND PUBLIC ORDER

Burgh life in the borders in the early sixteenth century may have seemed secure by comparison with the uncertainties of life in the country, but it is clear that burgh defence was something of great concern, both nationally as well as locally. The renewal of Selkirk's charter in April 1536 takes account of 'assaults of war ... fire and others...'.¹ Later, James V, in granting sheriffship to Selkirk in 1540, wrote of it as being 'often burned, harried, destroyed and overwhelmed'.² All the contemporary records, and many modern commentators, have been at pains to point out the lawless nature of border life. The object of this chapter is to examine the extent to which Selkirk was able to provide effective answers to this lawlessness and to the ever present threat of attack. The Selkirk answers can be compared and contrasted with the experience of other burghs of a similar size, and with the more sophisticated response of Edinburgh.

One can form a preliminary idea of the relative importance of security and public order to the daily life of Selkirk, by analysing those cases heard before the burgh court which dealt with violence and assault, and those orders of the court dealing with defence of

1. RMS, iii, 1555.
 2. RMS, iii, 2207.

the burgh, as well as matters concerning national defence. The following summary gives the totals of hearings under various categories:-

Security and defence (the watch, weapons, ports and walls, wappynschaws, etc.)	80 references
Assault	23 references
Damage	7 references
Slander and defamation	6 references
Disturbing the peace	1 reference

Source: TSCB.³

The total number of hearings on matters related to security and public order amounts to some seven per cent of all recorded hearings, and can therefore be said to represent a significant amount of interest by the bailies and burgesses of Selkirk in this aspect of their daily lives.

The burgh as a defensive unit

At least four distinct theories have been advanced to explain the development of the Scottish burgh, and two of these theories have something specific to say about the defensive role. In what has been called the commercial theory, Adolphus Ballard played down the significance of burgh defences, quoting Hume Brown's

3. TSCB, passim.

observation that the Scottish burghs were unwalled, unlike the older English boroughs that were all walled.⁴ Ballard made it clear that he disagreed with aspects of the garrison theory of George Neilson, which linked the development of the burgh with the king's need to maintain garrisoned strongpoints. More recent writers, such as J.M. Houston, have thrown doubt on the adequacy of both of these theories in terms of the defence of the burghs. Houston agreed that the 'military creation of towns' such as Ayr, Lanark and Dumfries, was 'expedient for the control of the valley exits from Galloway'.⁵ However, he suggests that the main factors in the creation of burghs were the location of royal castles and the foundation of ecclesiastical houses. So far as Selkirk is concerned, it is possible to see the influence of both factors, and in terms of defences, it seems likely that the remains of the castle earthworks were merged with the 'heidrooms' of the developing settlement (see appendix i for the conjectural plan of Selkirk).

From the early defences of dyke and palisade, as at Inverness, some burghs progressed to masonry walls (Houston mentions Edinburgh in the fifteenth

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4. A. Ballard, 'The theory of the Scottish burgh', SHR, xii (1916), 25.
 5. J.M. Houston, 'The Scottish burgh', The Town Planning Review, xxv (1954), 115.

century, followed by Stirling, Dundee, Inverkeithing and Peebles in the sixteenth).⁶ For the majority of Scottish burghs earthen or turf outer defences had to suffice, and in the case of Selkirk the perimeter defence consisted of the heid roomes or back walls of the rigs of arable land, often, as we shall see, subject to decay, damage and disrepair, and the subject of anxious discussion in the burgh court. When the security of the burgh was threatened, heid roomes were built up, perhaps to shoulder height, and any ditch in front of the heid roomes would be cleaned out. It is easy to imagine how such simple defences could fall into disrepair under the stress of wind and weather, and sometimes, as in Peebles in 1572, by people leaping the walls.⁷ It seems likely that Selkirk's perimeter defence of heid roomes was strengthened at the three corners of the burgh by ports or gates (see appendix i). On 11 March 1514 a number of the burgesses of Selkirk, presumably those best able to bear the cost, agreed to 'geit the towne to be forborne fra osting of (Ingless) and of law...'.⁸ The ports may have been closed by baulks of timber, or by wooden

6. J.M. Houston, 'The Scottish burgh', 121.

7. Peebles Recs., i, 347.

8. TSCB, 11 March 1514. In the manuscript the word (Ingless) is scored out, and what follows 'law...' is illegible, but should perhaps read 'law-breakers'.

gates hung on hinges. If the latter was the case, it is likely that the gates were hung on masonry piers, as suggested by Craig-Brown,⁹ but excavation carried out at the site of the South Port provided no evidence for this.¹⁰ However, it is clear that masonry was not often used in building the defensive perimeter of a small burgh. W.M. Mackenzie saw a combination of turf heid roomes with some form of ports or gates as representing the norm for the average community, and in describing this as an 'intermediate stage' of defence, he added that 'the erection and maintenance of substantial walls was usually beyond the resources of the burgh'.¹¹ Most of the documentary evidence points to the maintenance of defences at the expense of burgesses, indeed one advantage of using heid roomes as perimeter defences was that individual proprietors could be called upon to look after their own sections. Ports presented more of a problem, and the expense of construction and maintenance might be shared among the wealthier burgesses, as in the case of the Selkirk gates referred to above, or paid from burgh funds. The Ayr Burgh Accounts record the payment of £1. 4s. Od.

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9. T. Craig-Brown, The History of Selkirkshire, or Chronicles of the Ettrick Forest, ii (1886), 18.
 10. A.T. Simpson and S. Stevenson, Historic Selkirk - the Archaeological Implications of Development (Scottish Burgh Survey 1980, 13).
 11. W.M. Mackenzie, The Scottish Burgh (Edinburgh 1949), 44.

for the digging of turf for the ports.¹²

With its relatively compact lay-out, occupying a site with a number of natural defensive advantages, sixteenth-century Selkirk should have been easier to defend than some of the other burghs in Mackenzie's 'intermediate stage' of defensive development. The burgh lies on rising ground, protected on one side by the natural barrier of the Ettrick Water. As already suggested, the heid roome defences probably took advantage of the remains of the castle earthworks to the south, and the marshy ground to the east provided another natural barrier. Despite this, it is clear from the records that the maintenance of heid roomes caused concern from time to time. On 2 August 1513 the burgh court gave instructions for the strengthening of defences. 'Nychtburis about the hyll of the Ewilwach to lend thaim horses to bring v sladfull of faill (turf) and quha hes na hors to cum thair selff and geiff thair paines for casting and laying of the faill ... and alsua that all nychtburis cast his hedrowmes and fensplacis'.¹³

The court's instructions were particularly detailed on this occasion, as were the associated orders for a wappynschawin which formed part of the preliminaries to the campaign which ended in the battle of Flodden. In July 1518, the burgh court again ordered a major effort to be made, 'that all man to mak his hedrowme wyth gret soucht (ditch) undyr and a dik abone, owder wyth

12. Ayr Accts., 159.

13. TSCB, 12 August 1513.

stane and morter, or wyth morter, or fail (turf), and falyeand heroff wyth dowbyll dik sufficiand of thorne, be sycht of the balyeis'.¹⁴ It would appear that special attention was paid to the burgh's defences in times of particular tension, but it is also possible to find court orders which appear to have less urgency in the way in which they are worded, and less detail as to the repair work to be done. The records contain several references to heid roomes which are referred to as matters requiring attention, but on a regular basis rather than in an emergency. Such an order was made on 29 October 1532, when the three watches of the burgh were ordered to mend 'thair awin barrowis honeistlie and substantiouslie quhill thai cum to the yettis hening, and than the yettis salbe hong with our common gudis be avys of our balzeis'.¹⁵ This appears to refer to routine maintenance, with the labour and cost of perimeter defence repair being borne by the burgesses, in this case acting as a group or watch according to their location in the burgh, and the heavier financial burden of gate repairs being met from burgh funds. In all cases, repair work on heid roomes was to be carried out to the satisfaction of the

14. TSCB, 14 July 1518.

15. TSCB, 29 October 1532.

bailies, or those nominated by them, and sometimes penalties were specified for those who did not complete the work on time. So we find the burgh court, meeting on 26 June 1537, ordering all heid roomes between the '*Loch* and *Fouebriig*' (probably the Haining Loch and the Foul Brig) to be built up within fifteen days, 'for utilite of our common proffet', under the pain of an eight shilling fine.¹⁶

It is quite likely that such repair work was not particularly popular, interfering as it did with the daily pre-occupations of farming and trading, and calling upon valuable resources such as draught animals for the carriage of repair materials. Perhaps the work was only undertaken with something approaching enthusiasm when serious danger threatened the community, and when public opinion would naturally favour concerted effort. This picture of the Selkirk burgess as a reluctant participant in burgh defence is re-inforced and given greater clarity by a study of those parts of the records dealing with the activities of the watch.

The burgess as a soldier

The army of sixteenth-century Scotland was essentially a citizen army, and part-time at that, and mercenaries were largely unknown until the arrival of French and German

16. TSCB, 26 June 1537.

troops during the regency of Mary of Guise. Military service was demanded by the king of all fencible men, that is to say, all able bodied males between the ages of sixteen and sixty. Service was for a maximum of forty days in any one year, and was normally at the individual's own expense, thereby providing a 'form of military organisation' for the king which gave him 'a large army at very little cost'.¹⁷ For kings who were often short of funds, such an arrangement had attractions, but there were distinct disadvantages, which, inevitably enough, only became apparent at times of military crisis. The first and most obvious problem was caused by the limitation of service to forty days in the year. This could, and sometimes did, lead to difficulty in retaining troops if a campaign happened to exceed their period of service, although this could be overcome by a system of rotation. Because service was usually at the individual's own expense, poor men might find it hard to maintain and feed themselves in the field for more than a very limited period, and they might also be reluctant to leave their families unsupported and unprotected. This problem was recognised by the king and parliament, and in 1522 an act was passed which granted the use of lands to the dependants of men fatally wounded or killed in the king's service against the English. Such tenancy was to be for a period of five years after the death of the soldier,

17. D.H. Caldwell (ed.), Scottish Weapons and Fortifications 1100-1800 (Edinburgh 1981), 73.

with the grassums (premiums for a tack or feu-charter) payable, but with rents and duties to be paid as usual.¹⁸

A further problem was related to the pressing needs of agricultural life, and in particular the harvest, which made it likely that any autumn campaign would be bedevilled by desertions as men slipped away from the host to return home. It was, therefore, necessary for the king to try to ensure that campaigning was kept short, which had an inevitable result on Scottish tactics. Hit and run campaigns were often highly successful in terms of border skirmishing, where mobility and surprise were the most important elements, but far less appropriate against well supplied and highly trained troops, stiffened with a high proportion of professionals and mercenaries. Such conflicts of organisation and tactics often caused the Scots to be at a disadvantage against the English in the fighting which took place in the sixteenth century.

However, the country's relative poverty in money and resources ensured that the Scottish army remained a part-time force, and there is no doubt that for the swift punitive expedition, this arrangement proved largely satisfactory. In September 1528, the king with his lords and barons departed from Edinburgh towards Haddington 'for ordouring of matis concernyng the comoune wele and pecifying of the cuntre'. Lords,

18. APS, ii, 284.

barons, freeholders and townsmen were ordered to muster to the king, and to be ready 'in thair best maner', with weapons, horses and rations for fifteen days.¹⁹ This was one of many expeditions made against the borders, and the more vigorous raids may have achieved their limited objectives. The role of burgesses in these raids is difficult to determine, and although the border burghs were doubtless expected to send contingents to join the larger expeditions, border family ties would have created yet another problem for the leaders of the citizen army. As T.I. Rae points out in The Administration of the Scottish Frontier, 'the social organisation of the border people had a dual character'. One element, based on the feudal tenure of land, would not have greatly influenced the inhabitants of a royal burgh like Selkirk, but the other element was based on the family, and kinship was the effective social link'.²⁰ Kinship ties might lead to a reluctance to serve, affecting families within a burgh, as well, perhaps, as whole communities.

Weapons and Equipment

Another difficulty facing king and parliament was that of weaponry and tactics. There are many references in the records to weapons and equipment, clearly showing the administration's concern that the population should be properly armed. There was always

19. APS, ii, 322.

20. T.I. Rae, The Administration of the Scottish Frontier 1513-1603 (Edinburgh 1966), 4.

a shortage of certain items such as bow and pike staves, and early in the fifteenth century merchants were being encouraged by the crown 'to bring home from each voyage, harness, armour, spear-shafts and bow-staves in proportion to the value of their merchandise'.²¹

Perhaps built on the success of the schiltrons at Bannockburn, the long spear or pike remained a favourite infantry weapon well into the sixteenth century, and proved a handicap when matched against the slightly more modern bills used by the English infantry at Flodden. The successful use of the pike depended on firm discipline and careful training, to ensure that the ranks remained unbroken and the great length of the weapon used to best advantage. The length was indeed formidable, and explains why it was necessary to import the pike-staves from countries where trees grew both tall and straight. One can imagine that merchants may have been reluctant to take up valuable cargo space with bundles of staves which had to be not less than 6 ells in length (5.639 metres).²² This was the length specified in 1471, although ten years later, it was reduced to 5½ or 5 ells.²³ After Flodden it appears that the pike slowly began to lose popularity, faced with the gradual introduction of more modern military technology. Pitscottie's account of the muster at Fala Moor refers to 'jak and speir' and 'haberjouns and

21. G. Dickinson, 'Some notes on the Scottish army in the first half of the sixteenth century', SHR, xxviii (1949), 133-145.

22. APS, ii, 100, 6.

23. APS, ii, 132, 2.

tua handit suordis, quhilk was the airmour of the
 hielandis men'.²⁴ Pikes and artillery were also mentioned,
 and it is clear from an earlier reference that a contingent
 was armed with bows. From contemporary records it
 appears that it would be dangerous to rely on Pitscottie's
 account, at least as far as arms and equipment are concerned.
 The muster on Fala Moor took place in 1542, and one could
 have expected to find fewer men armed with the pike than in
 earlier times, and the reference to 'haberjouns' requires
 qualification. It is unlikely that mail shirts or tunics
 were still in common use, if, indeed, they ever were in
 the Scottish host, since their cost would have been far
 beyond the means of most men. The jack was the
 universally used protective garment. Two-handed
 swords were used by Highlanders, but by 1542 the hand
 axe was also a popular weapon. Pitscottie's reference
 to bows raises a number of questions.

Royal anxiety about the availability of bow-staves
 has already been mentioned, and there are many references
 in the records to attempts by king and parliament to
 ensure that the Scots became competent bowmen, despite
 the earlier tradition of skilled bowmen from the
 Ettrick Forest. It seems clear that the shortage
 of competent archers by the sixteenth century marked a
 major change in Scottish weaponry and tactics. In
 1457 an act was passed to encourage practice at
 archery. '... the bowe mark be maide at ilk proch
 kirk, a pair of butts and schuting be usit ilk Sunday'.

24. Pitscottie, Historie, i, 400, quoted in D.H.
 Caldwell (ed.), Weapons and Fortifications, 276.

'Fut ball ande the golfe be utterly (banned).'²⁵ The rest of the act calls for a bowyer and a fletcher to be resident in the chief town of every shire. Such orders were later repeated, with football and golf being mentioned as those pastimes most likely to distract people from military practice. Concern about the encouragement of archery can also be found in English records, with similar remarks about the distracting effect of football, but royal interest seems to have been more effective in England and Wales in ensuring at least a hard core or highly competent and well drilled bowmen, most of whom were probably professional or semi-professional. The Highlanders had their bows, and burgesses could be required to practice archery, or to donate bows and arrows instead of burgess silver, as in Peebles in 1463,²⁶ but it seems clear that archers never made up a significant part of the strength of the Scottish army of the sixteenth century as compared with any English force. One of the skeletons recovered from the wreck of the Tudor warship 'Mary Rose', is said to show signs of deformity caused by a lifetime of practice at the butts with the long-bow. It seems unlikely that such deformities would be found amongst the remains of Scottish soldiers of the sixteenth century.

25. APS, ii, 48.

26. Peebles Recs., i, 149.

Having suggested that Pitscottie's account may give a misleading picture of arms and equipment, one must turn to the records to try and establish how the average soldier was equipped. There are two ways of doing this. The first is to examine the Acts of the Parliaments of Scotland, which contain many references to weapons, and then to turn to burgh records which show how these royal orders were carried out.

By the sixteenth century we can see that 'great men', and those with yearly rents of £100, are to be equipped with white (plate) armour. Others are to have jacks,²⁷ steel bonnets and swords.²⁸ Jacks were ordered to be worn by all men 'for the defens of thair body',²⁹ and were also intended to cover the top of any leg harness or armour. The steel bonnet might be little more than a skull-cap, but a better equipped man would have a proper helmet, which might take the form of the morion or Spanish helmet. The type of sword was not specified, and it

27. The jack was a tunic or jacket, padded and quilted, and covered with thick linen canvas or hide. It was capable of turning a cutting blow, but would have been less effective at resisting thrusting blows. An improved version of the jack was known as a brigantine, in which plates of metal or horn were fastened under the outer covering.

28. APS, ii, 362.

29. APS, ii, 132.

seems reasonable to suppose that design and quality varied very greatly. By the sixteenth century many men would carry a single-handled sword, perhaps with a basket hilt. Poorer men would have a long knife or short sword, similar to a dirk and known as a whinger, which, from the records, would appear to have been part of every-day dress in the borders. References to spears in the APS are confined to orders that they should be of the proper length. In the fifteenth century king and parliament were anxious to ensure that men were armed according to their station in life, and in the sixteenth century this concern was continued, and directed towards securing as large a contingent of hackbutters³⁰ as possible. Acts of 1535³¹ and 1540³² were aimed at encouraging the purchase of hackbuts and 'other small artillery'. The 1535 act was followed by one³³ requiring merchants to buy hackbuts abroad and bring them home to Scotland, an echo of earlier legislation about bow-staves and pike-staves. The 1540 act repeated that of 1535 and then went further by ordering that letters be

30. The hackbut (otherwise called hackenbüchse, harquebus, hakbut, arquebus or archibus) was a shoulder fired weapon using gunpowder as the propellant charge, and firing a ball of lead or iron. The name probably derived from the 'hak', 'haken' or 'harg' which was a spur projecting from the fore end of the weapon which served as a recoil block when hooked over a wall or against the forked support (or crook) which was normally used (W.H.B. and J.E. Smith, The Book of Rifles (New York 1948), 16). In Scotland the favoured lock mechanism after 1525 was the snaphaunce.

31. APS, ii, 20, 345-346.

32. APS, ii, 11, 371-372.

33. APS, ii, 21, 346.

written to every provost, alderman and bailie telling them to look into what hackbuts could be supplied or purchased for each burgh. The king was to be told of each burgh's decision within fifteen days, and those burghs failing to make their own provision were to be taxed to pay for the necessary firearms. Merchants were again ordered to import hackbuts, or the metal for making them.³⁴ The crown and parliament attached so much importance to the procurement of firearms that 'those with land of a value of forty pounds' were ordered 'to have one culverin and those with land worth a hundred merks' were to have two.³⁵

These royal instructions were followed with more or less enthusiasm by the various burghs, the degree of enthusiasm perhaps depending on the wealth of the burgh and of individual burgesses, and perhaps also depending on local preference or prejudice. The Ayr Burgh Accounts reveal a number of entries relating to guns. The burgh paid out £46 towards the cost of guns,³⁶ and later bought an 'irne stang' and two 'cutthrotis' with bullets and powder and 'ane greit pece of artallirie callit ane heidstik'.³⁷ Apart from the cost of purchase, the burgh

34. APS, ii, 12, 372.

35. D.H. Caldwell (ed.), Weapons and Fortifications, 82.

36. Ayr Accts., 96.

37. Ayr Accts., 102. Early guns were given fanciful names, and the same name could be used to describe different weapons. For example, the culverins referred to in the Acts of the Parliaments of Scotland and in the Ayr Burgh Accounts, were likely to be small calibre weapons, probably breech loaded with interchangeable chambers, and designed to be fired from walls, or in extreme cases from the shoulder supported by a forked stand. Ship-borne culverins of the sixteenth century could take a ball of about eighteen pounds in weight and could project it for over one mile. The demi-culverin took a smaller ball, and smaller still were the ship-borne sakers, minions, falconets and robinets, firing shot from five pounds to one pound. (R. Hough, A History of Fighting Ships (London 1975), passim.) Cutthroat and head-stick were other names used to denote different calibres and designs of guns.

that owned artillery had also to find funds for consumable stores, such as rope and pitch (probably for traces and breech-ropes), and of course the inevitable and expensive item of gunpowder. Ayr had to pay £14. 8s. for nine stone of powder,³⁸ and this quantity would have been used quickly if the guns were fired for practice. Gunpowder was difficult to make to a standardised quality, despite royal control of manufacture during the fifteenth century.³⁹ Until the process of 'corning, which bound the three ingredients of charcoal, sulphur and saltpetre together in uniform grains was introduced, charges could not be accurately calculated, leading to accidents, and transport in carts or on pack-horses could lead to separation of the component parts. In addition, storage in anything but the smallest quantities could be dangerous, and would not have been popular in many communities.

As might be expected of the wealthiest community in Scotland, Edinburgh took seriously the provision of guns, deciding in 1514 that a tax be raised to pay for the 'furnessing of artailyerie for the resisting of the auld innemies of Ingland'.⁴⁰ Later Edinburgh realised the importance of having experienced gunners and on 19 April 1548 the council decreed that 'na manner of persouns dwelland within the said burgh that can handill and schute ony maner of artailyerie pas furth of the said burgh without licence of the saidis provest and bailies

38. Ayr Accts., 104.

39. T.C. Smout, A History of the Scottish People 1560-1830 (Glasgow 1969), 44.

40. Edin. Recs., i, 146.

under the payne of escheit of thair moveabill guidis, and nevir to haif regres within the said towne in tyme cuming'.⁴¹ This mention of 'artailyery' can probably be taken to mean hackbuts as well as heavier weapons.

When we turn to the records of border burghs it is much harder to find references to firearms. In the Peebles records the burgh court, meeting on 17 November 1557, ordered James Frank, who for the past year had been keeping watch for danger in the kirk steeple, to raise the alarm by firing a gun.⁴² The Selkirk records make no mention of guns of any kind, and although this apparent lack of firearms may have been due to the relative poverty of the burgh and its inhabitants, a letter reproduced in the Hamilton Papers may provide another reason. On 25 May 1544 the Earl of Hertford and others, writing to Henry VIII about hackbutter, said, 'Wherfore considering what good service they shall do uppon the borders, and supposing they shall nowe com too late by lande to serve your majeste in Fraunce, I the said erle do intend ... (to pick out men who can use hackbuts) ... sothat in myn opynyon, your majeste shalbe better served this way and with somoche the lesse chardge, for the hackabutiers have but fotemenis wages, and be more dred a gret dell of the Scotishe borderers, which love no gones ne will abyde withyn the hearyng of the same'.⁴³

41. Edin. Recs., ii, 133.

42. Peebles Recs., i, 240.

43. Hamilton Papers, ii, 390.

If this prejudice against firearms was genuine, and not something imagined by Hertford and his officers, it is also likely that borderers were influenced by the primitive nature of the early hand-guns. It has been suggested that guns were not popular in the borders, 'because of the cost and difficulty of upkeep'.⁴⁴ It must also be true that such an intensely traditional and conservative society would be extremely reluctant to adopt any form of new technology which would inevitably lead to the need to develop new tactics.

Another common item of equipment was the buckler or targe. An act of 1471 orders men unable to use bows to have a leather targe 'to resist the schot of England', adding, perhaps by way of encouragement, 'which is no cost but the value of a hide'.⁴⁵ Later, every axeman was ordered to have a targe of wood or leather,⁴⁶ and from these statutes it is clear that axes were often of the short-shafted variety, 'capable of being wielded with one hand, as it was expected that targes could be used with them'.⁴⁷ The Edinburgh records contain several references to axes, and in 1529 the council ordered every merchant and craftsman to keep an axe in his booth, together with axes for his servants.⁴⁸

44. D.L.W. Tough, The Last Years of a Frontier (Oxford 1928), 89.

45. APS, ii, 100.

46. APS, ii, 132.

47. D.H. Caldwell (ed.), Weapons and Fortifications, 266.

48. Edin. Recs., ii, 7-8.

The Selkirk records also contain references to axes, and in two inventories (dated 9 February 1516⁴⁹ and 8 November 1534)⁵⁰ axes are listed, together with spears, swords, bucklers and helmets. As with other items of military equipment the axe was to be found in a variety of forms,⁵¹ but it is not clear what pattern was favoured in the borders.

Finally, it is necessary to examine the role of the horse in sixteenth-century warfare in Scotland. In 1540 it was decreed 'that the army of Scotland be unhorsit except greit barones'.⁵² This order may have been motivated by

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49. TSCB, 9 February 1516. Spear, axe, sword and 'quhythalt' (helmet) were included in the inventory of heirship of William Porteus.
50. TSCB, 8 November 1534. Thomas Johnson inherited a considerable amount of property from James Johnson, including boots, spurs, saddle and saddle cloth, bridle, sword, buckler and 'furnist quhenzer'.
51. Short-shafted axes were probably similar to contemporary felling-axes, and there were a number of derivations of long-shafted weapons. 'The long-shafted version of the type M of broad axe was developed by the sixteenth century and may have been known as a Lochaber axe' (D.H. Caldwell, (ed.), Weapons and Fortifications, 276). Gisarmes were probably long-shafted axes, and the Jedburgh (or Jedwart/Jethart) staff was a derivation of the long-shafted weapon, in which a four foot long blade, double-edged at the point and therefore suitable for thrusting as well as cutting blows, was fitted to a stout oak stave. The halberd was another long-shafted weapon with a combination head consisting of axe blade, spear-point and fluke, and was sufficiently well established by 1520 for the Edinburgh council to decide to pay, from the common good fund, for four halbert-men' to protect the provost (Edin. Recs., i, 201). Another form of staff weapon was the brogit staff, a type of long-shafted mace armed with spikes, and similar in pattern to the morgernsterne, or morning stars, used in Europe. (D.H. Caldwell (ed.), Weapons and Fortifications, passim).
52. APS, ii, 362.

the need to protect growing crops, but may have also been influenced by the requirement of contemporary Scottish tactics, which relied heavily on un-mounted men. Theoretically, at any rate, anyone arriving at a muster on a horse could be required to send the horse home with a boy, and not a man of fencible age (sixteen to sixty years). Acts dealing with personal military equipment specify the use of plate-armour by 'great men', suggesting the use of horses at least to transport the more heavily armoured men to the scene of battle. Yet it is clear from the records that there was a great shortage of heavy horses, which would have been essential to the use of heavy cavalry. An act of 1535 reminds all those with good stallions and brood mares to be aware of the country's need for war-horses,⁵³ and from time to time efforts were made to improve the breeding-stock by bringing heavy horses from Europe. Scottish deficiencies in this area were noticed by foreign observers, so that in 1551-52 a French visitor, Estienne Perlin, was able to refer to border horsemen as being 'bold and gallant enough, but not so well armed as the French, for they have very little well-made, clean and polished armour, but use jackets of mail in exercising daily with the French, and have the custom of using little ambling nags and small horses, their lances are small and narrow, and they have scarce any large horses, and few are brought to them except from France'.⁵⁴ Tough⁵⁵ suggests

53. APS, ii, 346.

54. Quoted in P. Hume-Brown, Early Travellers in Scotland (Edinburgh 1891), 74.

55. Tough, Last Years of a Frontier, 89.

that border horses were between thirteen and fourteen hands, which in modern terms would be no more than ponies. The lack of suitable horses was a problem of long-standing, and so was that of badly maintained armour, commented upon by Estienne Perlin. In 1503 it was 'statute and ordainit for the keeping of armour and harnes that it be no spilt nor distroyit in tyme of pece'.⁵⁶

It seems reasonable to regard the normal military role of borderers as being that of light cavalry or skirmishers, ideal for scouting and for sudden raids, but unsuited to the cavalry role in a set-piece battle. Perhaps the Selkirk contingent at Flodden fought on foot, although Home's men at least appear to have remained mounted. One must make allowance for the fact that some men did not have horses, and that is why the burgh court instructed all men 'wythin the burcht to rys and followe the fraye quhan yt hapines to be for the tyme, to pas with the balzeis one fut and hors, as thai best be furneist'.⁵⁷

The Wappynschaw

The wappynschaw, or 'periodical muster or review of the men under arms within a particular lordship or district'⁵⁸ was a well established feature of sixteenth-century military organisation. For much of the fifteenth

56. APS, ii, 251.

57. TSCB, 4 October 1524.

58. C.T. Onions (ed.), The Shorter Oxford English Dictionary (Oxford 1964), 2383.

century wappynschaws had been held four times a year, and by the end of the century parliament was reinforcing orders for regular musters with detailed instructions about equipment. Burgesses and indwellers of burghs were specifically mentioned, and ordered to attend, with penalties fixed for non-attendance.⁵⁹ These 'fixed' wappynschaws were supplemented in times of danger by additional musters, ordered by means of royal letters.⁶⁰ In 1535⁶¹ and 1540⁶² the frequency of 'routine' musters was reduced to twice a year, on 15 June and 20 October. In Selkirk musters took place at various times of the year apart from those times commanded by statute. Two wappynschaws were discussed by the burgh court in 1522, the first being a 'generall wappinschawin' to be held by the bailies 'upone the Anunciation of Our Ladye nixt to cum',⁶³ and the second to take place early in May, with all men and their servants to be armed with 'jak, sper or lanch and fensable wappinnis', with a fine of eight shillings for non-attendance.⁶⁴ On 14 May 1538 a muster was ordered for the Tuesday following Whitsunday, 'efter the tenor of the kyngis lettres',⁶⁵ and the final entry on the subject in

59. APS, ii, 226.

60. TSCB, 2 August 1513. This muster, best described as the Flodden wappynschawin, was held 'efter the tenor of the kingis letteris that was producit the last wapinschawin to geiff thair moustaris and schawin thairoff in the boig (bog) before the balzies one Woddinnes daye Sanct Lorenc day nixt to cum'.

61. APS, ii, 345.

62. APS, ii, 362.

63. TSCB, 11 March 1522.

64. TSCB, 29 April 1522.

65. TSCB, 14 May 1538.

1539 illustrates what may well have been a new development for Selkirk. The burgh court named nine men, three chosen for each part of the burgh, to select ('geif up') 'thair nychtbouris quhilkis may susten the kingis veris'... (with horse and gear)... 'utheris futmen that may susten thair selff and to consider how mony vyll tak the kingis vaigis'.⁶⁶

In this entry we can see that not all Selkirk's fencible men were mounted, and that it was also necessary for at least some men in a community to serve in the army for wages, suggesting the need for periods of service longer than the traditional forty days.

The Watch

The community of the burgh 'protected itself by physical defences and by the watch and ward of its own burgesses. In this respect the Scottish burgess was for long a man-at-arms as well as a merchant or craftsman'.⁶⁷ All burgesses and indwellers were expected to share in the duty of guarding the burgh, and the records provide ample evidence about the watch, and the difficulties faced by all communities in ensuring that watchmen were alert and effective. In Edinburgh, and in some of the other more wealthy burghs, it was possible for the community to pay for the services of watchmen, and apart from the use of the common good

66. TSCB, 28 April 1539.

67. W.C. Dickinson, Scotland from the earliest times to 1603 (revised and edited by A.A.M. Duncan) (Oxford 1977), 290.

fund to pay for a guard for the provost.⁽⁵¹⁾ Men from each quarter of the town were paid to watch the gates in 1548, with the keys being held for safe custody by the bailies for each quarter.⁶⁸ A town as large and as wealthy as Edinburgh could afford to employ watchmen as well as various town officers, but less substantial burghs could not always keep up with the capital. On 14 March 1557 Peebles found that the watch could no longer be paid, and a number of people were told to join together to pay for the two watchmen, 'becaus thair is na commoun gudis fre instantlie'.⁶⁹ Two years later, in 1559, the burgesses of Peebles decided that they could again afford to spend money on the watch, and Patrick Gowane was appointed as captain of the watch, with a fee consisting of a boll of malt, one burgess silver and two unlaws, and the requirement that he should be responsible for finding his own substitute if absent.⁷⁰

Selkirk, as a poor community, could not often afford to pay for the services of watchmen or a watch captain, and had to depend on the sometimes very unwilling services of burgesses and indwellers. On certain occasions Edinburgh would muster all available men, presumably on an un-paid basis, as at the time of Flodden when all those remaining at home after the army had left for the borders were ordered to be available for the watch, with their names to be entered in the watch book.⁷¹ After Flodden

68. Edin. Recs., ii, 132.

69. Peebles Recs., i, 243-244.

70. Peebles Recs., i, 258.

71. Edin. Recs., i, 142.

Edinburgh, faced with rumours of great losses, and uncertain about the movements of the English army, continued to prepare for a mass muster of all the remaining men, who were ordered to have ready their 'fensabill geir and wapponis for weir', and be ready to answer the alarm given by the ringing of the common bell.⁷² At the same time, Selkirk had decided, as the burgh was often to do, that the watch was to be kept by 'the gudman of the hous or one sufficient man be the sycht of the balzeis', and children and boys were specifically excluded.⁷³ The burgh court repeated this latter instruction almost as many times as it gave orders for the watch, indicating that the 'gudman of the hous' might often be inclined to remain in his warm bed if he could find a young substitute. Other communities must have suffered from this problem, and in 1556 Peebles ordered that no-one should stand watch except the 'principale of ilk hous or ellis ane sufficient man in thair place'.⁷⁴

The problems facing Selkirk over the watching of the burgh can best be seen under a number of headings, of which the most significant are location and size, substitutes, and drinking on duty.

The Selkirk watch were supposed to patrol the outer perimeter defences of the burgh, or as one court book entry puts it, 'to wak one the baksyde within thar bundis

72. Edin. Recs., i, 143.

73. TSCB, 2 August 1513.

74. Peebles Recs., i, 234.

of thar wachis'.⁷⁵ Being of a triangular shape, Selkirk was divided up for the purposes of the watch into three areas, each one related to a port, and there are, therefore, many references to the west, east and end or over watches. This arrangement ensured that all parts of a fairly long perimeter could be adequately guarded, or that at least this could be done in theory. It also enabled the bailies to appoint a responsible person in each part of the burgh who could be warned by the appropriate section of the watch in the event of trouble. Another measure that was sometimes used to try and ensure an efficient watch was the appointment of a 'check-watch'. On 4 October 1524 the burgh court 'ordaines ain waich to stand at ylk end of the town iiii men for to waik outhouht (outwith) the town quhill the day sky braik and to be chaikit nychtlie with Thome Portuus thries one the nycht'.⁷⁶ A variation of this arrangement was used in October 1516, when a large watch of twenty-four well-armed men was called for, 'and at ilke wach the balye to deput the nynt man of ilk wach to chak, and that chakar to geiff up the fawter (guilty) to the balzeis one the morn, and that ilk fawter to paie xii d. in unlaw to the balzeis'.⁷⁷ To re-inforce the effect of the check-watch it was also necessary for the bailies to forbid the watch to enter houses, which must have been a great temptation on a cold night. 'Na man rasaiff the wach in his hous in the

75. TSCB, 5 December 1509.

76. TSCB, 4 October 1524.

77. TSCB, 8 October 1516.

nycht the tyme of the waking'.⁷⁸ The penalty for this breach of discipline was for a fine to be taken from the householder to be 'drunkyn at the cross',⁷⁸ which presumably gave the bailies an opportunity for a free drink. The size of the watch varied greatly, and was obviously related to the expectation of trouble. In peaceful times as few as two or three men were found sufficient, with the number rising to twenty-four when danger was felt to be imminent.

The main concern about substitutes was that householders should not give over their duties to boys, and thus we find repeated references to the need for the watch to be kept by men, 'and na laddis', and regular efforts were also made by the burgh court to try and ensure that if a substitute was made it was by a suitable person, 'quhair the gudman is absent hymeselff to see ane veych sufficient'.⁷⁹ Sometimes it was not the question of substitutes that concerned the court, but the matter of suitability, and on 14 February 1531 it was ordained that 'na deff men to vak in our stand waych and specially auld Blair, the coupe^r, in tyme to cum'.⁸⁰ It was rare for the court to name individuals in this way, and there is only one instance

78. TSCB, 24 March 1517.

79. TSCB, 19 November 1527.

80. TSCB, 14 February 1531.

of men being ordered by name to stand watch. This occurred in February 1533 when fourteen men were told to 'waik with our stand waych nychtlie ... and gef thai absent thair selff with fraud thai salbe in our bailzeis amerchiament'.⁸¹ There is nothing to indicate why these men were named in this way, but it is possible that it was intended as a form of punishment for those failing to take their turn on watch.

The last significant problem that can be identified is that of drunkenness on duty, and from time to time it was necessary for the burgh court to remind the watch, under the pain of an unlaw, not to 'ga to potation and drink'.⁸² At a time when ale was brewed in many households, it is easy to see why the court were concerned in this way, and anxious to keep the watch from temptation by keeping them out of houses. As any one who has ever stood guard will testify, a quiet night seems to last for ever, and boredom coupled with lack of sleep and cold and wet conditions would have ensured problems which were largely motivational in nature. Paid watchmen were not necessarily more effective than those forced to stand watch as part of their civic duty, and an incident in Peebles in 1556 perhaps illustrates this point. James Frank, who in 1557 was to raise the alarm by shooting a gun,⁽⁴²⁾ was ordered to stay in the steeple every night so as to be ready to ring the kirk bell in an emergency. The record states that 'the

81. TSCB, 18 February 1533.

82. TSCB, 5 December 1509.

chappell dure at sex houris to be lokkit that he incure na danger in ganging to the stepill',⁸³ an order perhaps made more out of concern to keep him at his post than for his well-being and safety. It was not always the watchmen who were blamed or punished for their lack of diligence because in 1512 it was necessary for the Selkirk burgh court to criticise the bailies for failing to ensure that a good watch was kept, apparently because they would not punish watchmen who failed in their duties.⁸⁴

One can imagine the frustration that must sometimes have been felt by the bailies and burgesses of Selkirk over the problems of the watch. A forum such as the burgh court, depending to a large extent on public consent in its efforts to achieve a degree of social control, was bound to find unpopular orders hard to enforce. Because of this it would be easy to see the watch as having little or no value to the community. One incident in Selkirk shows that, despite its deficiencies, the watch could still act to protect the community. On 3 November 1543 the English commander, Sir Thomas Wharton, reported to the Earl of Suffolk about a raid on Selkirk. The raiding party, said by Wharton to include Scots, entered the town and set fire to property. The watch was 'mo in nombre in arredynes', but despite this, it 'bett the Ynglishmen from the towne and riddid the fyer'. After being expelled from the town the raiding party contented

83. Peebles Recs., vol. no. i, 234.

84. TSCB, 18 May 1512.

themselves with burning some ricks, two mills and a house and Wharton reported that they 'came home without hurtt, albeit they wer veray soor chaissed with Scotemen'.⁸⁵

Apart from the security role of the watch, in which burgesses and indwellers acted as soldiers, there was another function in which the watch took on the role of a burgh police force. This was in the area of public order, and the watch could become involved with lawbreakers during the hours of darkness.

Public Order

There were a number of activities that caused concern to burgh authorities which can be grouped under the general heading of 'public order'. Communities constantly exposed to threat from outside, which was certainly the case in most border burghs in the early sixteenth century, could not necessarily expect peace and harmony to reign within. Burgesses familiar with the need to fight in the local or national cause might well be aggressive and assertive when it came to day to day relationships, and the community had to impose sanctions and limits on aggressive behaviour. Sometimes the anti-social behaviour took the form of curfew-breaking, or nightwalking, which although perhaps linked more to high spirits than any more sinister motives, was often seen as presenting a security threat.

85. Hamilton Papers, ii, 137.

Burgh records contain detailed evidence of what was considered anti-social activity in the field of public order, and we are able to see the extent to which a community could enforce sanctions against offenders. Cities like Edinburgh and Aberdeen were able to develop systems of rules and the machinery to enforce them, whereas smaller places like Selkirk and Peebles depended more on public opinion to secure public order and peaceable behaviour. 'Tension between the order of the law and that of the neighbourhood was a question of scale ... the very complexity of relationships within small communities made it exceedingly difficult to judge the behaviour of an individual without bringing into play a host of personal considerations'.⁸⁶ T.I. Rae is just one of many writers who have commented on the fact that 'borderers as a whole were fearless of the law',⁸⁷ and kinship ties, and the fear of feud and revenge, could 'prevent the population from reporting crime' with the consequence of 'extra-judicial' settlement of disputes.⁸⁸ This may account for the relatively small number of violent acts dealt with by the Selkirk burgh court, although the more serious cases would have been dealt with by the sheriff court. The sheriff court books for the borders in this period have not survived,⁸⁹ although Pitcairn refers to assize cases tried at Jedburgh in November 1502, one involving the slaughter

86. J. Brewer and J. Styles (eds.), An Ungovernable People (London 1980), 25.

87. T.I. Rae, Administration of the Frontier, 4.

88. C.M.F. Ferguson, Law and order on the Anglo-Scottish border (un-published Ph.D. thesis, St Andrews, 1981), Preface 13.

89. C.M.F. Ferguson, Law and order, 221.

of John Furde in Selkirk, and another concerning the raid on Selkirk by Sir John Musgrave.⁹⁰

It is, therefore, difficult to form a complete picture of the control of public order in sixteenth-century Selkirk. The burgh court records tell a story which is almost certainly incomplete, with some cases or incidents going un-recorded, others being dealt with by higher authority, and some falling into the category of kinship matters, and as such unlikely to be brought under public scrutiny.

Firstly, we can dispose of a type of offence probably common enough in all burghs, but not often recorded in the Selkirk records, and that is the matter of assaults and attacks on bailies and burgh officials. Edinburgh took a particularly strong line on such assaults, and when Bailie William Todrig was attacked in October 1500, with 'cruell wawpouns and drawin swordis', his attackers were sentenced by the sheriff court held before provost and bailies to be taken to the Tron, and 'thair hands straken throch'.⁹¹ Peebles was less severe, ordering banishment from the burgh for any man drawing a knife or other weapon on a bailie or officer in the execution of their duty.⁹²

Selkirk no doubt had such problems from time to time, but perhaps in a smaller community leading citizens were held in less awe, and were probably treated with

90. Pitcairn, Trials, passim.

91. Edin. Recs., i, 86.

92. Peebles Recs., i, 260.

less respect. The nearest that the records take us is to reveal an incident in 1523 when Will Turnbull was accused of abusing bailie John Smyth, and laying his hand on his knife.⁹³ This threatening behaviour did not result in any punishment, at least none is recorded, but it was obviously necessary for any community to take some steps for the protection of the positions of provost, bailies and officers. It is likely that in small communities sanctions were imposed by the disapproval of the public at large, and by the imposition of small fines. One cannot imagine the bailies of Selkirk, Jedburgh or Peebles being able to insist on the civic dignity that was enjoyed by their counterparts in Edinburgh or Aberdeen, or in an even greater degree by contemporaries in some of the cities and boroughs of England. It has been said that 'insults to mayor and aldermen in London and lesser towns were often treated with a solemnity which to us verges on the ridiculous. Pomposity may have seemed the more necessary because powers of enforcement were weak and because burgesses, being so much of a rank could rely relatively little on the habitual deference of a stratified society to protect the dignity of their officers'.⁹⁴ This seems to speak to the Scottish condition, and is particularly relevant to the relatively un-stratified society of sixteenth-century Selkirk.

93. TSCB, 16 February 1523.

94. S. Reynolds, An Introduction to the History of English Medieval Towns (Oxford 1977), 180.

As already suggested nightwalking, or being abroad in the burgh during the hours of darkness, was usually regarded as a serious threat to public order. Incidents of nightwalking could be due to the effects of drink or high spirits, but might also be inspired by more sinister motives. Burgh authorities were, therefore, severe on offenders, although allowance was often made for people with lawful reason to be out at night. Edinburgh made this allowance in 1498 when ordering that 'na manner of persons be fund walkand on the gaitt fra x houris furth of the nycht, under the payne of putting in the netherhole incontinent, exceptand folkis of honesty passand thair leifull airands'.⁹⁵ Edinburgh added further safeguards in 1519 when all those having business that kept them out after nine at night were to carry lanterns, as an indication to the watch of their honest intentions. At the same time it was ordered that only the burgh officers were allowed to bear arms on the streets after eight at night.⁹⁶

Nightwalking was regarded particularly seriously in Selkirk, with its proximity to the border, and vulnerability to surprise night attack. Clandestine activities were not only of a military nature, but could also be related to the popular

95. Edin. Recs., i, 75.

96. Edin. Recs., i, 190.

border pastime of theft. 'Contemporaries and modern historians are agreed that in order to survive, the Borderers needed to supplement their incomes, and in the absence of industry or any other means, they turned to stealing'.⁹⁷ Drink must also have played a part in night-time disturbances, and it is clear from the records that ale was an important commodity in Selkirk. An early seventeenth-century commentator noted in 1629, after the influence of the reformed kirk had been a feature of life for a number of years, that 'the inhabitants of Selkirk are a drunken kind of people'.⁹⁸ Perhaps drunkenness was at the root of the burgh court's order of 30 September 1539 when nightwalkers were commanded not to make 'oyes or showtyng', or to do violence to their neighbours, under the pain of lying in the stocks for twenty-four hours. Under Selkirk's sixteenth-century version of a 'totting-up' procedure, third-time offenders were to be banished from the town for a year and a day.⁹⁹ Another sort of nuisance was envisaged in 1531 with 'keykaris or luikaris under vondokis and durris to be put in the stokis one the morn and to mensweir the town yeir and day'.¹⁰⁰ At this time nightwalkers were also enjoined not to cut or damage other men's sledges, which would have been valuable possessions and a more useful form of transport on rough ground than

97. C.M.F. Ferguson, *Law and order*, 22.

98. Quoted by Simpson and Stevenson, *Historic Selkirk*, from the *Selkirk Inventory*, Royal Commission on the Ancient and Historical Monuments and Constructions of Scotland (Edinburgh 1957), 2.

99. TSCB, 30 September 1539.

100. TSCB, 10 October 1531.

wheeled carts. This injunction probably refers to a case heard by the burgh court in 1530 when four named individuals and 'all thair complices', described as nightwalkers, were accused of damaging a sledge belonging to Marion Johnstone. They were ordered to pay eight shillings to the bailies, and two shillings for damage done to the sledge.¹⁰¹ Such an act may have been committed in mischief, but may have been attempted theft of the wood of the sledge. Another incident led to a declaration of lawburrows, which meant that the sword-cutler, Jock Angus, together with Sandy Gledstanes and Tom Hendrie, had to find sureties for their behaviour in the future, in the very substantial sum of forty pounds.¹⁰² Four of the leading burgesses stood surety, and one is left with an impression of a serious breach of the peace. All that the record tells us is that the three men were 'trublyng the gud toun in the nycht'. The threat of the stocks, and banishment from Selkirk for a year and a day, was often repeated by the burgh court in its attempts to prevent nightwalking, and the court also threatened offenders with fines, the sum most commonly mentioned being eight shillings. As in Edinburgh exception was made for lawful movement around the burgh at night, with no-one allowed 'on the gait fra his bedtyme furthe without the veichman word, exceband thaim that ar releffit be the law, under the payne of viii s.'¹⁰³

101. TSCB, 25 October 1530.

102. TSCB, 6 October 1534.

103. TSCB, 23 February 1540.

In the more serious cases where violence might result from the activities of the nightwalkers, the burgh court was prepared to pass the offenders on to higher authority for punishment, by putting them 'in the *kingis rowes* and bide the justice air thair'.¹⁰⁴

Not all the serious cases of disturbance or assault were dealt with in this way, and an incident occurred in 1534 which led the burgh court to order that the offender, 'gef he can be apprehendit within our burgh', to be taken and put in the 'kyngis irnes quhyll he make ane mendis to Villiem Ros for the offens under silens of nycht, and geiff he and his frendis vyll nocht mak ane mendis, we ordand Jhone the Ros to mensweir the toun yeir and day'.¹⁰⁵ The fact that offender and victim shared the same surname may indicate a family dispute, and the implication that the offender had left Selkirk, together with the court's threat of fairly severe punishment, all adds up to the likelihood that a serious offence had been committed.

Other threats to public order were posed by incidents of violence both physical and verbal. Physical violence does not feature prominently in Selkirk's records, although the instances that are recorded cover what might be called a range of assaults, or in modern terms, everything from actual to grievous bodily harm. In theory, at any rate, cases involving

104. TSCB, 18 March 1539.

105. TSCB, 1 December 1534.

bloodwit (bloodwit being the fine or penalty for the violent shedding of blood) were dealt with by the sheriff court, although 'all royal burghs had the powers of a baron court in criminal matters, and some had an equivalent jurisdiction to the sheriff'.¹⁰⁶

The shedding of blood was regarded as a serious matter, and some of the early burgh laws were concerned with this problem. One of these laws deals with the procedure to be followed in the case of quarrels where blood is drawn. 'Gif ony man strykis anothir wher thruch he is mayd blaa and blody, he that is mayd blaa and blody sal fyrst be herde, whethir he cumys fyrst to pleny or nocht. And gif that bathe be blaa and blody he that fyrst plenyris hym sal fyrst be herde'.¹⁰⁷

It is impossible to determine if such a rule was followed in every case, and there is evidence that burgh courts would decide to pass offenders to higher jurisdiction.

In Peebles in 1556 an assault took place on Adam Peebles, and although there is no mention of serious injuries, it was perhaps of an aggravated nature, because the burgh court instructed the bailies to pass the matter to the Queen or to the 'justice and lordis of counsale to seik remeid herfor on the toun expensis'.¹⁰⁸

Selkirk were also prepared to pass offenders on to higher authority, and the threat of referral to the justice ayre has already been mentioned.⁽¹⁰⁴⁾ However, the burgh court records give a picture of what was done at local

106. C.M.F. Ferguson, *Law and order*, 391.

107. Ancient Burgh Laws, i, lxxxii.

108. Peebles Recs., i, 232-233.

level. One case gives us an insight into the significance of kinship ties in disputes, stopping short of outright feud, but nevertheless leading to repeated disturbance. On 21 June 1513 James Mithag was criticised by the court for assaulting Will Person by 'stryking of him with his wand in the faice'. James Mithag and John Mithag were then said to be 'in wrang for the stryking and hurting' of John of Cadzow, who in turn was criticised for 'cumbyn anent James Mithag and hurtand him in Jedwarcht'.¹⁰⁹ The outcome of the case was that bailie Robert Scot took lawburrows of all the parties concerned, under which they would have undertaken not to harm each other. Breaking lawburrows made the offenders or their sureties liable to a fine.

Women were sometimes the targets for assault, and their attackers were condemned as wrong-doers by the burgh court, and fined or 'put in the bailies will', which seems to have been roughly equivalent to an admonition, with the possibility of a fine in the event of further trouble. Several entries in the Selkirk records refer to what can only be described as wife-beating, and an incident in March 1542 gives a vivid picture of trouble between a man and his wife which was witnessed by a large number of

109. TSCB, 21 June 1513.

neighbours. The court appears to have been more concerned about a debt of four crowns than the assault by Thomas Paterson on his wife, Alison. In giving evidence about the debt various witnesses gave graphic accounts of the assault. Robert Cooper told how he saw 'Aleson, Thome wyf, gretand and the nychtbouris said to me that Thome Patersone dang hir becaus scho vauld nocht geif him the key of the counter'. Paterson wanted to unlock his counter in his booth or shop to be able to lend four crowns to Bartholomew Hawe. It seems that his wife was not anxious for the loan to be made, and presumably angered him by delaying to give him the key. 'And syne scho come and gaif hyme the key, and he dang hir quhill scho bled at the neis'.¹¹⁰ Another case causes some doubt because it is not clear if Cuthbert Lydderdaill was complaining of an attack on his wife, or about William Turnbull exercising his right to chase and assault his own spouse. What is clear is that someone's wife was 'chassit' by William Turnbull, who 'pullit of hir curches and hir har'.¹¹¹

Verbal violence could take a number of forms, and, like physical violence, it was an aspect of daily life that burgh authorities sometimes took steps to control. Writing of Edinburgh Dickinson talks of 'acts innumerable' being passed against 'flytting, backbiting, slandering, oaths and opprobrious words'; and the punishments included the pillory, the stocks, the cuck-stool, the branks and whipping'.¹¹²

110. TSCB, 28 March 1542.

111. TSCB, 17 February 1539.

112. W.C. Dickinson, 'Burgh life from burgh records', Aberdeen University Review, xxi (1946), 223.

Peebles was another burgh which took particular action against 'flitaris and scauldis', who were not to be 'hard on the gait fra this day furth in tyme cuming, under the pane of puttin of thame in the cuke-stulis, thair to remain induring the bailies will'.¹¹³ Selkirk adopted similar measures, declaring that 'quhar evill inclimit vomen puttis defamite to thair nychtbouris without, ve ordand siclik vemen to be put upon the kukistullis xxiiii houris'.¹¹⁴ Dickinson suggests that outspoken women came in for particular attention from the authorities, giving as one reason the propensity of market women to indulge in repartee and abuse.⁽¹¹²⁾ This cannot have been the only reason, and one can suppose, from what evidence is available, that the social role of women was normally one of subservience. There is an interesting reference in the Edinburgh records which can be said to illustrate a typical male attitude, in that it refers to women in the same way as another socially inferior group. After the battle of Flodden, when no positive reports had arrived in Edinburgh, but 'greit rumour' abounded, all women and vagabonds were directed to 'pas to thair labouris and be nocht sene upoun the gaitt clamorand and cryand'. Women were ordered to go to the kirk and pray for the king, his army, and their neighbours with the army.¹¹⁵ Although one is bound to conclude that women occupied a subservient role, it is also possible to find evidence which points to the

113. Peebles Recs., i, 256.

114. TSCB, 28 October 1538.

115. Edin. Recs., i, 143.

possibility of a more significant position for a few women, both in terms of burghal life and within the family. It is also true to say that in Selkirk the records reveal more cases of verbal violence attributed to men than to women. Sometimes both parties in an argument were condemned by the court, as in 1517 when William Turnbull said to Ranald Helme, 'wolze se this litill fals car as he follois me of thingis I have payit him off', at which Ranald Helme replied, 'thow art fals thi selff'.¹¹⁶ Both men were fined for this public exchange of abuse. A similar joint finding of guilt is recorded for Peebles in October 1559 when the court found Thomas Dickson 'in the wrang for the calling of Johne Edmond 'common theif' and castin of his flesche stule in the gutter and brekin thairof, and siclike Johne Edmond in the wrang for the casting of his stule fut at him and pulling furth of ane knyfe'.¹¹⁷

There is one example in the Selkirk records of defamation committed by both husband and wife, and in this case the woman avoided the cucking-stool when she and her husband were placed 'in our bailzeis vyll for the enormate done to George Michelhill'.¹¹⁸ The 'enormity' referred to was a public statement made by Thomas Henderson and his wife that Michelhill was a thief.

The whole question of defamation must have presented problems to burgh courts. As the law has developed many matters now come under the general heading of defamation.

116. TSCB, 25 July 1517.

117. Peebles Recs., i, 257.

118. TSCB, 14 July 1534.

'Imputations against a man's moral character are defamatory ... as are allegations of dishonesty, immorality and drunkenness, if seriously made'.¹¹⁹

However, words used in the heat of a quarrel may not nowadays be considered defamatory, provided that no definite charge is made. In the sixteenth century such distinctions would not have been so readily recognised, and other considerations would have been of some importance. These considerations would have included the sex of the offender, social standing, kinship ties, the nature and consequences of the defamation, and the perceived effect on the community at large. The most important consideration would have been the degree to which an incident of verbal violence posed a threat to the stability and security of burgh life, and this above all else seems to have influenced the decisions of burgh courts. As a final example of the nature of the offence of defamation, and its connection with more serious breaches of public order, we can examine two incidents that took place in Selkirk in 1539. James Doungeill complained that Jock Mynto 'sclanderit hyme in presens of all the plane court that he sawe hyme liand with ane woman in to ane midding'.¹²⁰ In the same court it was also claimed that Mynto had physically attacked Doungeill, in company with three other men. The judgement of the court is not recorded, and it is not known if the court expressed condemnation of the men concerned. However,

119. A.M. Johnston and J.A.D. Hope (eds.), Introduction to the Law of Scotland (Edinburgh 1969), 471.

120. TSCB, 18 March 1539.

it is reasonable to assume that the incidents were connected, and that such breaches of public order caused concern to the community.

Urban communities tackled problems of security and public order in ways that were directly related to the wealth and power of the whole community, and in particular of its leading members. Large burghs were able to formulate laws and statutes and to enforce them, but in the smaller communities social control in this area, as in others, was dependent to a large degree on consent. Without a reasonable measure of consent enforcement became impossible, and thus we see in Selkirk that public condemnation or exhortation might be all that provost and bailies could use to deal with anti-social behaviour. The same difficulties were found in the area of security, but here, at least, public self-interest must have led to a considerable degree of solidarity when the burgh's security was under serious threat. When the threat receded we are able to see how difficult the task of the bailies became in maintaining the watch, and keeping the burgh defences in order.

CHAPTER SEVEN

PUBLIC HEALTH

The state of public health was certainly a matter which concerned the Selkirk burgh court from time to time, but in a small community in an insanitary age, it is perhaps not surprising that we have so little documentary evidence with which to work. The following table shows the number of times that the court discussed matters of public or animal health and these few entries give an incomplete picture. In addition, the absence of burial records means that there is no data on mortality rates during epidemics, or amongst young children during the summer months. However, the records do reveal glimpses of the place of health in the daily life of a community, and the slender evidence from Selkirk can be supplemented by similar material from other burghs, and, in the case of a large burgh like Edinburgh, we can see that public health and, in particular, the control of plague was becoming an increasingly important pre-occupation during the sixteenth century. We can also see the emergence, albeit very slowly and imperfectly, of some universally accepted rules for the preservation of public health, and it is reasonable to assume that even small burghs like Selkirk were influenced by the example of larger and more developed communities.

Selkirk Burgh Court 1503 to 1545 - References to public health matters
(source: TSCB)

Subject discussed by the court	Number of references	Judgement or order
Plague in other locations	5	Movement banned between infected places and Selkirk. Town gates to be watched. Suspected persons to be quarantined.
Plague (or typhus) in Selkirk	2	The sick to be quarantined out of the town. Those bringing in the infection to lose the freedom of the burgh.
Animal disease	3	Infected cattle to be kept in the dry loch outside the burgh.
Disposal of waste and rubbish	1	No waste or rubbish to be thrown in the 'east pool'.
Removal of middens	8	Various middens to be removed, under pain of fines.
Street drainage	1	Settlement of argument between neighbours as to course of drainage.
Pigs roaming loose	7	Various orders to prevent pigs from roaming the streets, or damaging land and crops.
Town wells	1	Ladywell and Foulbrig well to be held as common property unless claimed as private wells.

What evidence we have for Selkirk points to some concern for the plague, or other infectious disease, animal infections, the removal of middens and waste, and a passing reference to the water supply. Before looking at the Selkirk evidence in detail it is necessary to try and see the public health problems of sixteenth-century burghs in a broader context, and to understand the effects of lack of knowledge of the causes of disease, and the implications of a degree of indifference to its consequences.

Epidemic Disease

The epidemic disease of the greatest concern to all burgh authorities was bubonic plague. Between 1500 and 1550 there were outbreaks of the plague in Scotland every few years, some remaining fairly localised near the original source of infection, but others taking on the nature of widespread epidemics. Appendix vii gives a picture of the geographical pattern of plague outbreaks during this period, and shows how the documentary evidence for Selkirk can be related to the country as a whole. Despite the devastating effects of plague on human activity and development over the centuries, there is still sufficient controversy surrounding the epidemiology of bubonic plague for there to be areas of doubt about epidemics in sixteenth-century Scotland, and some of these doubts and uncertainties are relevant at a local level when the Selkirk evidence

is examined. One of the more recent publications - 'The Plague Reconsidered - Local Population Studies', refers frequently to continuing disputes over the origin of epidemics.¹ It is not known, for example, if the disease in Britain was able to remain in rodent populations, as it does in some parts of the world, or if all British outbreaks originated abroad. Mortality figures also give rise to heated controversy, much of it still centred around J.F.D. Shrewsbury's A History of Bubonic Plague in the British Isles,² in which he claims that all mortality estimates, from the Black Death onwards, are far too high. Because of these controversies it seems worth pausing for a moment to consider what is now known about what T.C. Smout has called 'the most mortal, the most horrifying, and once the most feared'³ of diseases.

Bubonic plague (usually known as 'the pest' in the sixteenth century) is caused by a bacillus, pasteurella pestis, (later re-labelled as yersinia pestis).⁴ There are three distinct forms of infection, septicaemic (a very rare variety), pneumonic, and the more common bubonic. Pneumonic plague is invariably reported as being very lethal, and in the more recent outbreaks the death rate has been reported to be as high as 99.99%.

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1. P. Slack et al., The Plague Reconsidered - Local Population Studies (1977), 7.
 2. J.F.D. Shrewsbury, A History of Bubonic Plague in the British Isles (Cambridge 1970), passim.
 3. T.C. Smout, 'Coping with plague in 16th and 17th century Scotland', Scotia, ii (1978), 19.
 4. P. Slack et al., Plague Reconsidered, 12.

It has been claimed that there is no conclusive evidence that the pneumonic variety of plague appeared in Britain during the sixteenth century.⁵ Other authorities, including Smout and Bradley, are in agreement with this view; although Bradley⁶ points out that the pneumonic variety of plague can sometimes be seen to have developed from a bubonic outbreak. It seems then that in considering 'the pest' in sixteenth-century Scotland, we are dealing with outbreaks of bubonic plague. However, there is a further complication. Bradley⁷ and Flynn⁸ both refer to the strong possibility that some outbreaks could as likely have been typhus as bubonic plague. Typhus, as a louse or tick borne disease, might be expected to be more prevalent during colder weather, when unchanged layers of dirty clothing would encourage the development of lice, and when the rat flea, vector of the bubonic organism, would be less active. If this is so, we should perhaps look at winter outbreaks of the pest as possibly being typhus, and it is also the case that diagnosis might have been somewhat uncertain, leading to confusion between the two conditions.

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5. M. Flynn (ed.), Scottish Population History (Cambridge 1977), 133.
 6. P. Slack et al., Plague Reconsidered, 13.
 7. P. Slack et al., Plague Reconsidered, 19.
 8. M. Flynn (ed.), Population History, 135.

Unfortunately, uncertainty does not end here. Even if some winter outbreaks were caused by typhus rather than bubonic plague, one cannot automatically make such an assumption without knowing if the winter was mild or severe. Perhaps even more important is the doubt that is raised by the controversy surrounding rat v. human fleas as vectors of bubonic plague. Despite the long co-existence of man and the rat, it was only at the very end of the nineteenth century that it became known that rat fleas were responsible for infecting man with *pasteurella pestis*. Creighton, in History of Epidemics in Britain,⁹ writing as late as 1894, still supported the 'miasmatic' theory of infection that had held good for centuries, and on which sixteenth-century anti-plague regulations were in part based. Creighton mentions reports of heavy mortality amongst rats just before major plague outbreaks in India, but being tied to the 'miasmatic' theory, he explains this by saying that concentrations of poisonous vapour in the ground would drive the rats from their burrows to die on the surface. What is now known is that the bacillus first causes an outbreak amongst a susceptible rodent population, which in the case of medieval Europe would be the black rat (*rattus rattus*). The rat fleas, and particularly a variety known as *xenopsylla cheopsis*, then ingest the bacillus when feeding, becoming 'blocked' and unable to feed further

9. C. Creighton, The History of Epidemics in Britain (2nd ed. London 1965), passim.

when concentrations of the bacillus build up in the digestive tract. It is at this stage that the 'blocked' flea may move to any other warm-blooded animal in an attempt to feed, infecting the new host in the process. Since rat fleas do not remain on humans, the next natural step in the chain of infection is for the flea to attempt to return to a rat. This has now become accepted as the classic description of the way in which bubonic plague is spread.

Conditions in sixteenth-century Scotland, as in most other parts of Europe, undoubtedly favoured the rapid development of epidemics by these means. The black rat, described as a more 'confiding' animal than the brown rat (rattus norvegicus), which had largely replaced it in Europe by the eighteenth century,¹⁰ was to be found in most human settlements, sometimes in very large numbers. The prevalence of thatch and earthen floors provided ideal living conditions, as did the co-existence of animals and their owners often under the same roof, with the added attraction for rats of animal bedding and fodder. Most authorities describe the spread of plague outbreaks by means of infected rats travelling with loads of hay, straw or grain, with 'blocked' fleas being carried from place to place on people and their goods. There seems to be universal agreement on this, but what is now doubted is the way in which outbreaks

10. T.C. Smout, 'Coping with plague', 21.

first developed in Britain. Shrewsbury believed that major outbreaks followed 'smouldering epizootics',¹¹ and that from certain British foci, infection was transmitted to the human population. The World Health Organisation¹² now suggests that 'plague in Britain has always been part of a great pandemic ... originating in some focus of infection in the Euro-Asian land mass'. The WHO report goes on to point out that 'permanent reservoirs of plague infection can only be established where there is a population of very highly resistant field rodents capable of surviving the most violent epizootics in large numbers, together with susceptible rodents able to start epizootic infection afresh. Temporary foci are regarded as due to less resistant and less sedentary field rodents, and brief historical outbreaks are due to epizootics amongst the susceptible commensal rodents, such as the black rat'. It is now felt by the WHO that there has never been an inveterate plague focus in Britain, and that even massive and widespread epidemics like the Black Death 'cannot be said with certainty to have provided a temporary focus'.¹³ Later outbreaks, although often repeated at brief intervals (and for example, Scottish outbreaks in the sixteenth century), are described by the WHO as 'historical onslaughts'.¹⁴

11. J.F.D. Shrewsbury, A History of Bubonic Plague, *passim*.

12. Quoted in P. Slack et al, Plague Reconsidered, 15.

13. P. Slack, Plague Reconsidered, 15.

14. P. Slack, Plague Reconsidered, 15.

One more new factor in the history of the plague has been provided by Biraben's suggestion,¹⁵ that the human flea (pulex irritans) has played an important part in the transmission of plague in Western Europe from the Middle Ages to the present day. Smout refers to this view, but states his preference for the 'more orthodox' approach of authorities like Shrewsbury.¹⁶ However, Biraben's suggestion is given some support by World Health Organisation research into plague in the Middle East, which revealed outbreaks of plague occurring in areas devoid of rats, but with a very high density of human fleas.¹⁷ The possibility of the human flea as an additional vector of the plague certainly makes it easier to explain some of the limited and fairly localised outbreaks that occurred in the sixteenth century, but it seems prudent to continue to regard the rat flea as the chief villain.

Other minor considerations include the incidence of infection by age and sex, and the wide variation in estimates of mortality. We have no way of knowing how many died of plague in Selkirk during the first half of the sixteenth century, since we lack the documentary evidence normally provided by burial registers. Mortality reports from other towns are available, but these are variable in quality and cannot always be regarded as

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15. Quoted in P. Slack et al., Plague Reconsidered, 14. Biraben's suggestion about the significance of human fleas appeared in an article in Daedalus (Spring 1968), entitled 'Certain demographic characteristics of the plague epidemic in France'.
16. T.C. Smout, 'Coping with plague', 20.
17. Quoted in P. Slack et al., Plague Reconsidered, 14.

reliable since not all communities produced records that were detailed enough to allow proper analysis. Modern estimates of plague mortality vary very greatly, as has already been suggested, with Shrewsbury claiming a figure as low as 5%, and other authorities claiming everything between 25% and 50%. From the evidence of various burgh records it is clear that people did recover from the plague, and it is likely that those employed as cleansers of infected houses or attendants on the sick, were recovered plague victims. As an example of recovery from plague the Rhinegrave, leader of the German mercenaries fighting with the French, was said to be lying sick of the plague at St. Johnston (Perth) in 1548,¹⁸ but he was later reported to have survived. Perhaps our best estimate of an average mortality rate can be based on the evidence from twentieth century outbreaks, where between 60% to 85% of patients die if they are not treated with modern drugs.¹⁹ It is even more difficult to arrive at any conclusions about the incidence of infection by age and sex, although Hirst²⁰ suggests that the majority of cases are likely to be in the age range 10 to 35 years, with the very young and the very old being little affected.

What is now known about the disease only serves to emphasise descriptions of the fear and horror that it caused.²¹

18. CSP Scot., Brende to Somerset, London 18 Nov. 1548, iv, no. 115.

19. P. Slack et al., Plague Reconsidered, 38.

20. Quoted in P. Slack et al., Plague Reconsidered; see also British Encyclopaedia of Medical Practice, ix, 676.

21. T.C. Smout, 'Coping with plague', 19.

It is argued that it was because of this fear and horror that communities 'took steps to avoid' the plague, while accepting fatalistically other epidemics,²² and the undoubtedly high infant mortality rates brought about by the filthy urban environment. We are, therefore, able to trace an increasing amount of social control, exercised through the burgh courts and town councils, aimed at the control of infection by plague. Plague epidemics have been described as 'the most destructive and disruptive occasions in the life of pre-industrial towns', and a 'conspicuous and distinctive feature of urban society'.²³ From the evidence, it would appear that Scottish burghal activity against the plague was of a more vigorous, and perhaps more successful, nature than that to be found in England. English town government developed a corpus of public health regulations imposing quarantine and restricting public assemblies; yet these measures, implemented in all towns by the time of the great epidemics of 1603, were largely ignored in the severest crises. Town councils also issued a succession of bye-laws aimed at improving hygiene in the streets, again with little effect'.²⁴ In Scotland, there was perhaps a somewhat greater degree of success, and although the effectiveness

22. T.C. Smout, 'Coping with plague', 19.

23. P. Clark and P. Slack, English Towns in Transition, 1500-1700 (Oxford 1976), 89.

24. P. Clark and P. Slack, English Towns, 89.

of the anti-plague regulations must have varied considerably from place to place and time to time, the overall effect was perhaps to limit and control the worst of the outbreaks. This can be assessed by a study of the evidence provided by burgh and other records, which show how the experience of a small burgh like Selkirk was related to what was happening in the rest of Scotland.

Quarantine (segregation for 40 days) is said to have been devised by the Venetians in 1403,²⁵ and was adopted by various countries during the fifteenth century. However, Hamilton²⁶ suggests that the first national plague measures to be taken in Scotland were not to do with quarantine, but were related to the burning down of affected houses. The Act of 1452, calling for the burning of infected houses, was followed in 1456 by an attempt by parliament to forbid movement out of a plague infected area. Quarantine regulations at a local level were issued in Peebles in 1468, when the town wall was rebuilt, and the gates closed to keep out unauthorised travellers. This Peebles ordinance is an isolated early example of what was to be done by many communities throughout the plague-ridden years of the sixteenth century. As Lythe and Butt point out,²⁷ 'by the sixteenth century, burgh authorities, the Privy Council, and eventually the Convention of Royal Burghs, were increasingly active in elementary public health'.

25. D. Hamilton, The Healers: A History of Medicine in Scotland (Edinburgh 1981), 13.

26. D. Hamilton, The Healers, 13.

27. S.G.E. Lythe and J. Butt, An Economic History of Scotland (Edinburgh 1975), 9.

Medical opinion, and both national and local decisions relating to public health, was based on a view of health and infection that had not changed in any significant way for some 2000 years. The 'belief in the balance between man and his environment', was derived from the Hippocratic book on Airs, Waters and Places.²⁸ This was one of the first written attempts to set out causal relationships between environment and disease, and would have been familiar to all sixteenth-century physicians. The significance of this approach to the problems of infection and disease cannot be under-estimated, and no fundamental changes in thinking occurred 'until late in the nineteenth century, when the new sciences of bacteriology and immunology made their appearance'.²⁹ We have already seen that Creighton, writing in 1894,³⁰ still adhered to the 'miasmatic' theory of plague infection. Gilbert Skeyne, the Aberdeen doctor, writing in 1568,³¹ described plague as 'the corruption or infectioun of ye air, or ane venemous qualytie and maist hurtfull wapour thairof, quhilk hes strenthe and wikitnes abone al natural putrifactioun'.

Skeyne lists the 'causis of the Pest', and apart from astrological references to the influence of the stars and comets, he included 'standand vatter, dung, stinkand

28. G. Rosen, A History of Public Health (New York 1958), 33.

29. G. Rosen, Public Health, 33.

30. C. Creighton, History of Epidemics, passim.

31. G. Skeyne, Ane Breve Descriptioun of the Pest (Edinburgh 1568), (STC 22626-5), passim.

closettis, deid cariounis unburiet in speciale of man kynd'. Places near the sea, or exposed to the south wind, were held to be particularly dangerous, as were places with an abundance of stagnant water or where many were buried, making the ground 'fat and vaporative'. A similar treatise was published in London in 1603³² in which quarantine and strict municipal control is advocated. These treatises express the medical and municipal opinion of the period, and by looking at detailed records, such as those for Edinburgh, we can see the growing pre-occupation of burgh authorities with the control of plague infection.

In 1498 the provost, bailies and Council of Edinburgh forbade anyone in the burgh to, harbour or receive any traveller 'on foot or horseback, rich or poor', without first receiving leave from the bailies. The following year the town made new regulations against bringing in skins, hides or cloth without leave.³³ There were to be many later regulations concerning skins, hides and cloth, and Creighton notes that the Scots appeared to have been particularly concerned about the spread of infection in these materials, and in cargoes of flax and hemp coming to east coast ports from Baltic countries.³⁴

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32. T. Lodge, A Treatise of the Plague (London 1603), (STC 16676), passim.
 33. J.D. Comrie, History of Scottish Medicine to 1860 (London 1927), 79.
 34. C. Creighton, History of Epidemics, passim.

At regular intervals throughout the sixteenth century the attention of the Edinburgh council was turned towards a wide variety of measures aimed at preventing the spread of plague. In 1500 we read of regulations governing the cleansing of infected clothing and furniture. Use of the water in the town lochs was strictly forbidden, and washing was to be carried out in the Water of Leith.³⁵ Later, large kettles or cauldrons were to be provided for boiling infected clothing. The Ayr Burgh accounts for 1606 - 1607 record the expenditure of £28 for such a kettle,³⁶ perhaps bought in imitation of Edinburgh. In the Peebles accounts³⁷ we can read of the building of a special kiln to bake infected or suspected clothing, and there was clearly a general belief that infection could be carried in clothing, furs, hides and in all forms of fibre. Straying animals were also suspected of carrying infection, and in various burgh records there are references to attempts to control the number of pigs, cats and dogs in the streets. Street cleansing came in for attention - middens constantly causing concern, and in 1509 the Edinburgh council ordered residents of the High Street to cleanse or renew the causeway as necessary. This was to be paid for at the rate of 4 pence per resident, but fleshers and fishmongers were to pay 16 pence, singled out for 'thair inhonestie and filth of the same'.³⁸

35. J.D. COMRIE, SCOTTISH MEDICINE, 80.
 36. Ayr Accts., 232.
 37. Peebles Recs., i, 421.
 38. J.D. Comrie, Scottish Medicine, 81.

The plague outbreak in Edinburgh in 1512 brought about a new set of regulations, with compulsory reporting of cases to 'quartermasters', and confinement of the sick in their houses. On 17 January 1513, James IV issued a proclamation, confirming the regulations passed by Edinburgh, and going into considerable detail about quarantine and street cleansing, with details of the punishments to be imposed on those breaking the law.³⁹ Sanctions adopted during the sixteenth century varied from banishment from the burgh and branding or burning in the cheek, to death by hanging or drowning, and all burghs applied some or all of the specified punishments, depending on the power of individual courts or councils, and also perhaps depending on the severity of the outbreak. The king's proclamation of 17 January 1513, although directed specifically towards the Provost, bailies and council of Edinburgh, was then sent out to all burghs in the form of 'Kyngis Lettres', thus becoming the basis of burghal anti-plague ordinances throughout the country. There is no documentary evidence that such letters were received in Selkirk but there is proof that letters were sent out in January 1513, from an entry in the Accounts of the Lord High Treasurer of Scotland. James Bissate was to ride north of the Forth, and Duncane Riche south of the Forth, 'with the Kyngis lettres to all borrowis, for the gud rewill anent the pestilence'.⁴⁰

39. Edin. Recs., i, 139-141.

40. TA, iv, 403.

Later in the century fairly sophisticated quarantine arrangements were developed for incoming shipping. During plague outbreaks in the Baltic and the Low Countries, and less often for French and English epidemics, ports were watched, and details of vessels, passengers and cargoes reported to the bailies. At Leith vessels from infected ports were sent to the Isle of May, or to Inchcolm or Inchkeith; passengers and crew put ashore for 40 days, cargo unloaded and exposed to the weather, and in certain cases, seacocks opened at low water, and the bilges flooded.

Such precautions did not stop plague entering through east coast ports, but may be said to have played a part in limiting the number of outbreaks. Quarantine regulations, coupled with 'decisive action'⁴¹ by the Privy Council and by some burgh authorities must have been at least partially effective, and given the state of medical knowledge of the time, at least some of the measures taken can now be seen to have been empirically sound.

Plague control in Selkirk

In October 1519 the Selkirk burgh court restricted movement to Edinburgh 'nor to nayn other place that is foull quhill this daye fifteen dayis'.⁴² If townsmen

41. T.C. Smout, 'Coping with plague', passim.

42. TSCB, 25 October 1519.

had special business already arranged, leave to travel could be sought from the bailies. The penalty to be paid for any breach of this order was a fine of 8s. 6d. This is the first entry in the court book relating to plague, but in 1516 the Accounts of the Lord High Treasurer show that the sum of £15 was remitted to the bailies of Selkirk 'to pay thair tax, becaus that thai was hereit be thevis and pestellence'.⁴³ The Selkirk records do not mention this remission of tax, which would appear to be the full amount to be found by the burgh towards the costs of an embassy to France.

Nothing else is recorded until 1530, when on 12 July an inquest of twelve ordered the bailies and 'the communitie' to go to those who have been in Edinburgh, or in any other infected place, and require them to remain by themselves at home for eight days. The epidemic of 1530 was reported as being widespread throughout Edinburgh and the Lothians, and the burgh court was clearly concerned to try and extend and strengthen its control of the situation. Indwellers were forbidden, under pain of expulsion from the town, to visit any fairs, either far or near, and especially in 'Lowdean, quhair the seiknes is opynly knawin'.⁴⁴ Expulsion was to be for at least 40 days, echoing the standardised period of quarantine. Movement into Selkirk was to be controlled by means of four men from

43. TA, v, 70.

44. TSCB, 12 July 1530.

the eastern end of the burgh being present in the street and requiring all to swear that they had not been in contact with infection. On market days the same enquiries were to be made of all attending with goods for sale to 'chak all man be thair greit aythttis quhidder thai var in to infektit partis or nocht'.⁴⁵

Despite the obvious concern of the court about the outbreak, markets were not banned, nor was all movement restricted. On 2 August 1530 the bailies seem to have had second thoughts about the restriction of movement, because all travellers 'that passis quhair the seknes is'⁴⁶ were banned from the burgh, under pain of expulsion for 40 days, and an eight shilling fine.

The measures taken in 1530 were not effective in keeping plague away from Selkirk, and on 4 October we read of infection in the town. Four men; Jhone Scot, Philpe Curroure, Peter Moffat and Thome Hendre; were accused of being 'suspekkit with this violans pestelans'.⁴⁷ They were ordered to leave the town, and to cross the river, which was perhaps seen as a natural barrier against infection, and to go into the alders. There is no mention of plague lodges, such as were provided on the 'foul muir' in Edinburgh, and in other burghs such as Ayr⁴⁸ and Peebles.⁴⁹ The suspected men may have been expected to build their own shelter, and the alder trees

45. TSCB, 12 July 1530.

46. TSCB, 2 August 1530.

47. TSCB, 4 October 1530.

48. Ayr Accts., p.c.

49. Peebles Recs., i, 357.

would have provided suitable material. The court went on to order that the four men should remain in the alders 'ay and quhill thai clengit', which suggests that the diagnosis may have been uncertain, and then to keep away from Selkirk for an unspecified period of time, forfeiting their freedom of the town, for 'inbrynging this vikit pestilens'.

There is no further evidence about the aftermath of this case, and there is no indication of what happened to the four men, or details of any ensuing epidemic. This suggests that an epidemic may not have developed, or perhaps that the sickness was not caused by bubonic plague. However, this is pure conjecture, and the only safe conclusion to draw is that the incident caused considerable alarm in the community. On 4 April 1535, the court found that 'our giltyne breder, Villelmus Curror and Jhone of Bellenden, hes forfuttit thair fredome, for presenting of the infectioun, for ane yer to cum, and viii s. to our bailyeis, and forder enduring the vyll of the communitie to be fortutit'.⁵⁰

This does not seem to be as serious a punishment, as might be merited by the introduction of plague to the town, and does not involve expulsion or quarantine. It is possible that the two men were carriers of another type of infection, or had introduced sick

50. TSCB, 4 April 1535.

animals to the burgh, and Bellenden certainly survived, to be mentioned again in the records.

The following year saw another mention of infection, but this time it was the concern of the Selkirk court to prevent the infection being brought in from another part of the borders. The time of year (February 1536) suggests that typhus may have been involved, rather than bubonic plague, unless the winter had been unusually mild. It also appears that the outbreak was confined to the borders, perhaps originating in England, since there are no records of epidemics elsewhere in Scotland. Once again we can see the desire of the bailies and burgesses of Selkirk to interfere as little as possible with normal trading arrangements, for the court's order, given on 29 February 1536,⁵¹ does not ban all strangers from the town. Instead, the bailies were empowered 'to caus four men to keip our porttis one the mercat day fra all countre men and yoman suspekkit of the pestelens, and specially Jedward and Jedward Forest and Vatter Roull' (The Water of Rule). No further outbreaks are recorded until 1538. In this year a messenger was sent from the king to the warden of the West March 'till charge all borderaris and utheris, that nane mak marcate with Inglismen in thai partis, nor commoun nor

51. TSCB, 29 February 1536.

intermell with thame because of the pestilence now
rissin upoun the bordouris, as the lettres beris'.⁵²

The action taken in Selkirk on 1 October 1538 may
reflect this royal instruction, but had the effect
of making it appear that infection had broken out
in Edinburgh. One of the two orders passed on that
day 'ordines na travelouris to pas to Edinburgh under
the payne of exiling the town xv dais without

fawouris'.⁵³ The other directs that 'passingeris'
be kept out of the town on weekdays and market days
'quhill God provide better'. This order would have
the effect of severely restricting market activities
in the town, and we have already seen that the community
was normally reluctant to take any action that would
interfere with the normal arrangements of trade.

The documentary evidence does not give an impression
of a community perpetually dominated by the fear of
epidemic disease, but from the few cases that are
recorded it would appear that plague, or the fear of
plague, could generate as much concern in Selkirk
as elsewhere.

Other Public Health Problems

Bubonic plague was by no means the only infectious
disease to cause heavy mortality in the sixteenth century,
but it is rare to find documentary evidence of community

52. TA, vi, 430 and 431.

53. TSCB, 1 October 1538.

concern about smallpox, influenza, diphtheria, measles, tuberculosis, or contagious conditions such as scabies and trachoma. It is possible to find references in some records to leprosy, syphilis and the sweating sickness, but as Smout⁵⁴ has suggested, a degree of fatalism must have existed, which would have led to the acceptance of most illness as a normal hazard of life. The evidence shows that the burgh court of Selkirk was active from time to time in areas of public health other than plague control, and this activity can conveniently be divided into the areas of animal health, town cleansing and the water supply.

Animal Health

In a community like Selkirk, dependent on animal husbandry for an important part of its food supply, any incidence of animal disease must have been of concern, but without a body of scientific knowledge, diagnosis and treatment would have been empirically based, and often ineffective. Losses of stock were heavy from natural causes,⁵⁵ such as weather stress and inadequate feeding methods, and the word 'murrain' tended to cover 'every source of loss except theft and deliberate slaughter'.⁵⁶ Animal diseases of the time are likely to have included anthrax, foot and mouth, rinderpest, swine fever and erysipelas, glanders, farcy, brucellosis, and a variety

54. T.C. Smout, 'Coping with plague', 19.

55. R. Trow-Smith, A Short History of British Livestock Husbandry (London 1957), 129.

56. R. Trow-Smith, British Livestock Husbandry, 129.

of sheep diseases, some still to be found in modern times. A number of these diseases are communicable to man, and Billings⁵⁷ lists trichinosis and swine fever in pigs, bovine T.B. and anthrax in cattle and glanders in horses as being the worst offenders. The Selkirk records refer to diseased cattle and horses, but it is unlikely that very much was known about the relationship between these diseases and public health. The treatment of animal disease was based on custom and practice, some of which can be traced back to much earlier times. For example, we can perhaps see in the Selkirk practice of reserving special grazing for barren or infected stock an echo of part of the code of King Edgar of England of 962 - 963,⁵⁸ which required newly purchased stock to be announced by the buyer to the community, and brought to the common pasture with witnesses. This code was mainly aimed at the establishment of ownership, but would also serve as a means of assigning responsibility for the health of the stock.

In Selkirk an area known as the dry loch was used as pasture for infected stock, and on 22 October 1534, the burgh court ordered all infected cattle 'to be put at the dry louch under the pane of viii s. and uther gudis'.⁵⁹ In December of the same year a further order was made to protect healthy stock from infection. Any wandering cattle thought to be infected were to be

57. F.S. Bullings, The Relation of Animal Diseases to the Public Health (New York 1884), passim.

58. R. Trow-Smith, British Livestock Husbandry, 47-8.

59. TSCB, 22 October 1534.

disposed of, and the remainder to be 'put in to ane
 desert by thairself within our coummon under the pane
 of viii s.'⁶⁰ Although the cause of the disease
 was unknown, the benefits of quarantine seem to have
 been understood. The final example of quarantine for
 infected cattle is to be found in the order made on
 30 July 1539 providing for all such animals to be
 kept in the dry loch, and to be looked after there by
 the owners 'quhill thai be clengit'.⁶¹

There are several orders which require barren
 cattle to be kept on specified pastures, and it is
 possible that this barren condition was due to
 brucellosis.

Apart from quarantine, which appears to have been
 the approved method of dealing with infected cattle,
 a number of traditional remedies were in use. Sheep
 were often given a routine annual rub with a mixture
 of butter and Stockholm tar,⁶² which served to ward off both
 the weather and sheep scab caused by the mangemite. It
 is interesting to reflect that in a sheep rearing area more
 butter would be used for this purpose than for human
 consumption, and there was a steady trade in low grade
 butter from places like the Orkneys.

In the borders horses were important, not so much
 for agricultural use, but for riding, and evidence about
 unhealthy horses can sometimes be found in cases involving
 disputes over quality. The ancient art of horse trading

60. TSCB, 15 December 1534.

61. TSCB, 30 July 1539.

62. R. Trow-Smith, British Livestock Husbandry, 153.

has always been associated with attempts by sellers to conceal defects in wind and limb from prospective buyers. Horse trading in the borders would not have been immune from the occasional instance of sharp practice, although sometimes the buyer might be forced to admit to the court that his original suspicions about the health of his purchase were unfounded. Such a case was heard by the Selkirk bailies on 2 February 1517 when James Helme agreed that the horse bought from David Achesone was 'hail and fawtles the tyme he boucht him'.⁶³ On other occasions the court found that horses were not as fit as the buyers believed, or as the vendors had maintained, and on 10 December 1531 it was decided by a bailie court that the horse sold by David Brydin to Thome Ker 'vas infectit with schabe and unabyll'.⁶⁴

Town Cleansing

By the sixteenth century many small burghs were following the example of larger communities like Edinburgh in issuing orders for street cleansing, and in particular for the removal of middens. The primary responsibility for street cleansing and drainage fell on the inhabitants, exhorted from time to time by burgh courts and town councils. The main aim of local ordinances was to prevent 'waste and sewage being deposited in the streets',⁶⁵ and to control troublesome stray animals, particularly pigs. The number of entries in the records dealing with cleansing orders of

63. TSCB, 2 February 1517.

64. TSCB, 10 December 1531.

65. G. Rosen, Public Health, 122 and 123.

various kinds, suggests that very little was ever achieved in the way of improvement, and that the normal condition of the streets made urban life noisy and often hazardous. As has already been remarked, the presence of middens and open sewage channels in all urban communities must have contributed to a high infant mortality rate, particularly in the summer months when flies were present in large numbers. Evidence is now being produced which shows that medieval town dwellers were likely to have suffered heavy infestations of roundworms such as ascaris and trichuris, with children being at the greatest risk because of the danger of picking up roundworm eggs from the faecal matter of domestic animals.⁶⁶ It is believed that 'virtually one hundred per cent of human populations may harbour ascaris worms under conditions of poor sanitation', with infestations leading to an 'interference with protein digestion, thereby aggravating many other health problems'.⁶⁷ Although there have as yet been no attempts to find and examine midden deposits and privy pits in Selkirk, the evidence found in excavations in other places (for example York, Southampton, Winchester and Oslo) makes it clear that parasitic infestations were part of the normal condition of many town dwellers.

The royal proclamation of January 1513, dealing with the prevention of plague, specifically commands the provost and bailies of Edinburgh to 'clenge rewes, windis, closis

66. A.K.G. Jones, 'Parasite remains from Oslogate 7', De Arkeologiske Utgravninger (Oslo 1979), passim.

67. A.K.G. Jones, 'Parasite remains', passim.

and guttaris, bayth on baksyd and foresyd ... and that na personnis lay middingis at portis or entres of oure said burgh'.⁶⁸ Edinburgh continued to take sporadic action against dirty streets, sometimes ordering all inhabitants to 'mak clene befor ther durris and closis, and clenge awa the filth tharfra',⁶⁹ and sometimes making specific reference to 'noisome' trades, as on 10 October 1551 when it was ordained that tallow should not be melted in 'fore buithis' or in common streets or vennels.⁷⁰ Other regulations sought to prevent the obvious nuisance of straying pigs, and in times of plague, pigs as well as other stray animals, were likely to be rounded up and destroyed. The part played by pigs in the creation of an insanitary urban environment can still be seen in parts of the world where these animals are allowed to roam free in the streets.

The cleansing problems faced by the Edinburgh council were formidable, but all communities must have found it necessary to take action from time to time. In 1555 the burgh court of Peebles issued an order against the pollution of Peebles Water by the steeping of hemp and flax,⁷¹ and in 1556 the same court was concerned about the removal of middens. Between 1503 and 1545 the burgh court of Selkirk took similar action on a number of

68. Edin. Recs., i, 139-141.

69. Edin. Recs., ii, 28-9.

70. Edin. Recs., ii, 28-9.

71. Peebles Recs., i, 219.

occasions, and the documentary evidence provides a picture of regular but somewhat ineffective attempts to control an aspect of urban life that was usually tolerated or ignored until conditions became bad enough to make action necessary.

On 23 October 1520 a bailie court ordered middens lying in the Foregate and the Kirkgate to be removed within fifteen days, and that all stray pigs should be confined.⁷³ In 1522 the middens in the Marketgate were causing concern, and the same period of fifteen days was allowed for their removal, with non-compliance to be punished as an 'unlaw'.⁷⁴ Other parts of the town are mentioned in subsequent orders, and the area around the market cross appears to have been worse than most, perhaps because of market waste. We can form a judgement as to the effectiveness of these court orders by noting that orders were sometimes repeated within a very short interval of time, suggesting that enforcement was difficult. There are two entries for October 1536, the first of which records an order that all middens be removed within ten days, and the second, two weeks later, repeating

73. TSCB, 23 October 1520.

74. TSCB, 18 December 1522.

the order and giving a time limit of eight days.⁷⁵
 Occasionally a stronger line was taken by the burgh court, as on 26 October 1540 when the bailies and officers were personally charged with seeing that middens were removed within fifteen days.⁷⁶

Allied to the apparently unsuccessful attempts to keep Selkirk free of middens were occasional orders related to drainage. One such order, issued by the burgh court on 19 March 1532, forbids 'muk' to be shovelled or cast into the 'ester pull' (perhaps Porches Pool), with the aim of giving the water free passage.⁷⁷ Another case shows that there were at least rudimentary sewers or channels in the streets, through which water could be directed to flush away sewage and rubbish. The case also illustrates the role of the court in attempting to settle disputes between neighbours. On 30 October 1526 the court found that the water 'that standis betuex Jhone Jonsone and Jok Scot' should flow in the old gutter as it had previously. At the same time Jhone Jonsone was ordered to ensure that his sewage flowed by his own house, and 'nocht throu Jok Scot'.⁷⁸

The Water Supply

Another sanitary problem of urban life was related to the water supply. The concern of Edinburgh council

75. TSCB, 17 October 1536.

76. TSCB, 26 October 1540.

77. TSCB, 19 March 1532.

78. TSCB, 30 October 1526.

that plague victims' clothing and furniture should be washed in the running water of the Water of Leith, rather than in the town lochs, has already been mentioned, ⁽³⁵⁾ and it has been seen that Peebles acted to try and prevent pollution of the river by the steeping of hemp and flax. ⁽⁷¹⁾ Ordinances aimed at preventing the pollution of water-courses had been passed in some cities by the sixteenth century (Rosen mentions Rome, Douai and Augsburg), ⁷⁹ by which tanners and dyers were forbidden to dispose of their wastes and effluent in any watercourse near the town. In his Treatise on the Plague, Lodge quotes with approval the example of Arles, where the slaughterhouses were situated on the River Rhone, but downstream from the town. Lodge suggested that London's slaughterhouses should be removed from the city, and placed by the Thames so that all waste and rubbish could be washed away by the tides. ⁸⁰ These must be regarded as isolated examples, and the usual urban practice was to allow a considerable degree of freedom in the location of 'noisome' trades, and little trouble was taken to control the effect of trade effluent on town water supply.

Selkirk was no exception to this rule, and as late as 1706 the town council was discussing the

79. G. Rosen, Public Health, 54.

80. T. Lodge, Treatise on the Plague, passim.

scarcity and poor quality of the water supply.⁸¹ It was said that people would not consider living in Selkirk, or sending their children there, because of the water, which was dirty and full of 'red worms'.⁸²

In the sixteenth century there were a number of possible sources of water outside the town, among them being the Haining Loch and the River Ettrick. Of more significance in public health terms were the wells inside the town, two being mentioned in the records as the Ladywell and the Foulbrigg well. Elliot⁸³ states that the Ladywell was privately owned by the Bryden family until the eighteenth century, although in 1538 a bailie court ordained 'Our Lady voll and Fulbrig woll situat within our toune to be haldin our common ay and quhill thai that hes cleme thairto schaw thair chairtouris and evidens deuly'.⁸⁴ There is no further evidence to show if anyone came forward to prove their ownership of these wells, but this cannot be taken to show that both wells then passed into common ownership. It is possible that no one would have wished to claim the Foulbrigg or Fulbrig well, situated as it was by the Foul Bridge Port, so called

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81. A.T. Simpson and S. Stevenson, Historic Selkirk - the Archaeological Implications of Development (Scottish Burgh Survey, 1980), 6.
 82. T. Craig-Brown, The History of Selkirkshire, or Chronicles of the Ettrick Forest, ii, (1886), 82.
 83. J.W. Elliot, Selkirk in 1714 (Selkirk 1981), 20.
 84. TSCB, 15 July 1538.

because the stream by the bridge was used by the fleshers and the tanners for their trade refuse,⁸⁵ (possibly the Porches Pool already referred to). Doubtless there were other wells within the town, but there is no evidence to show where they were located. From the example of extant wells elsewhere in the borders, it is likely that a number of wells would only be of use during the winter months or during a wet season, when the water table was high enough to replenish the supply.

Social Control in the realm of Public Health

At the start of this chapter it was suggested that public health was not a major pre-occupation of sixteenth-century burgh courts and town councils. The picture that emerges tends to confirm this view, and although there is clear evidence of vigorous action in times of plague, other public health problems caused little concern. It is an aspect of life in which the sixteenth century compares unfavourably with ancient Greece and Rome, where in the major cities at least, townsmen were assured of pure water and the efficient disposal of sewage. In the sixteenth century medical knowledge had changed very little for some two thousand years and some of the advances that could have been made possible by

85. J.W. Elliot, Selkirk in 1714, 20.

the work of Arab and Jewish doctors were delayed and diverted by the late-medieval interest in connecting astrological influences with human health and illness. In any event, small urban communities like Selkirk would normally have had no doctor, and perhaps not even an apothecary.

Selkirk, therefore, had to rely on whatever central control and advice was available on public health matters, in the form of royal letters and instructions, and also on the example set by larger burghs, with their more sophisticated resources. The available evidence shows how the burgh court modelled its public health ordinances on what was happening elsewhere, particularly in Edinburgh, and it also took action when ordered to do so by central government. Local attitudes towards matters such as burgh cleansing were largely governed by custom and practice, and expediency played a part in this area of social control, as seen when the records describe attempts to prevent plague entering the community. On several occasions the burgh court took action that was less vigorous than it might have been, because of a desire to protect the economic life of the burgh. Marketing was the mainstay of the community, and in such a small and vulnerable trading centre as Selkirk, it is perhaps understandable that attempts to keep out the plague should be influenced by a concern that business should be as usual.

It is in this area alone that we can make an unfavourable comparison between Selkirk and other burghs. In their somewhat ineffective attempts to cleanse the streets and secure a reasonable water supply Selkirk's bailies and burgesses were probably no better and no worse than their counterparts in other burghs. Nowadays we would see this as municipal apathy and neglect, but sixteenth century urban man was tolerant of dirt and disease to a degree that is difficult for us to comprehend, and communities would not have accepted social control that went beyond the bounds of normal public attitudes and expectations.

CHAPTER EIGHT
CHURCH AND COMMUNITY

This examination of the relationship between church and community in Selkirk is largely concerned with the influence of religion on daily life, and with the part played by the clergy in the affairs of the burgh. From the records it is clear that against a background of criticism of the early sixteenth century church and its many failings, religion continued to have significance for ordinary people, and in the final years of the church, before it was swept away by the Reformation, it is possible to see contradictions which were also apparent elsewhere in Europe. On the one hand there is evidence of what a Catholic writer has called 'a rich devotional life'¹ with the foundation of nearly fifty collegiate churches, but the same writer also stresses the evils that were produced by the mismanagement of the church, with the abuse of lay patronage being but one of the failings that were attacked by the reformers.

If these contradictions were to be seen in the national church a similar picture was apparent at the local level. There is evidence of decay, mismanagement

1. P. Janelle, The Catholic Reformation (Milwaukee 1963), 251.

and outright abuse, but it is still possible to see that this picture was not uniform, and it has been argued that 'the force of catholic piety in the years immediately preceding the Reformation should not be under-estimated.'² Indeed, the same writer suggests that 'the worst corruptions of the church were largely absent in the burghs where supervision of the clergy was close and vigorous' and that the 'deeply conservative and paternalistic ethic of the burgh church stemmed very largely from the shape of traditional civic catholicism'. This chapter will, therefore, look at what was happening in Selkirk against a background of the wider aspects of the religious life of the country as a whole.

Writers on the Scottish Reformation have tended to explain the processes of reform in the light of their understanding, or more often their beliefs in the reasons for reform. All, including Catholic writers, are agreed that reform was sorely needed. Janelle has emphasised this by stating 'that the moral condition of the clergy, and especially of the Roman Curia, had by the end of the fifteenth century become deplorable, is asserted by eminent Catholic writers of the time, whose evidence cannot be gainsaid'.³ Contemporary criticism was aimed

2. M. Lynch, Edinburgh and the Reformation (Edinburgh 1981), 29, 30-31.

3. P. Janelle, Catholic Reformation, 1.

at the moral laxity of both monks and priests, at the neglect of parochial duties, the decay of the fabric of churches, and the lack of learning amongst the clergy. *Abbot* Kennedy, writing in the sixteenth century, said that it was a commonplace occurrence to see 'ane bairne and ane babe, to quhame scarcelie wald thou geve ane fair apill to keip, get perchance fyve thousand soules to gyde: and all for avarice, that thair parentis may get the proffect of the benefice'.⁴ This was a specific complaint about un-qualified clergy, and a condemnation of the lay control of benefices, but there were also more general complaints. In 1540 parliament felt it necessary to call for general reform, saying 'the kingis grace exhortis and prayis oppinly all archibischopis, ordinaris and uthir prelatis, and every kirk man in his awne degre to reforme thare selfis, thair obedienciaris and kirkmen under thame, in habit and maneris to God and man'.⁵ However, parliament was not often openly critical in this way, and it is more common to find acts reflecting royal patronage and protection of the Church. An act of 1509, often re-stated in similar form, stressed the freedoms and immunities of the Church,⁶ and

4. Wodrow Miscellany, i, 151-152.

5. APS, ii, 370-371.

6. APS, ii, 267, 309.

another more specific injunction forbade 'evil disposit' people to take bishops' palaces, abbeys or church houses for their own use, with offenders to be charged with treason.

Apart from charges of corrupt administration and moral laxity, which to some extent were levelled at the Church by both Protestant and Catholic reformers, much of the controversy leading up to the Reformation centred on doctrinal matters. Janelle disputes this view, and argues that the Church's 'state of administrative anarchy'⁷ was the main culprit. Some support may be found for this view of the Reformation, particularly when it is realised how powerless many bishops had become by the sixteenth century, with control of many parishes being in the hands of religious houses, which in turn were often themselves controlled by lay commendators. Protestant reformers were concerned with doctrinal matters such as the worship of the saints, the existence of purgatory and the concept of justification and concern with these issues was a feature of all the reform movements throughout Europe, Scotland being no exception. In Scotland the Counter Reformation came 'too little and too late', and 'as reform had already proceeded so far in other countries, and reforming opinions had become so strong in Scotland itself, it must have been apparent before 1560 that a period of decision had been reached and that affairs could not simply drift'.⁸

7. P. Janelle, Catholic Reformation, 4.

8. G. Donaldson, The Scottish Reformation (Cambridge 1960), 31.

The causes of the Scottish Reformation have to be seen as complex, 'involving vital political, dynastic and religious issues in close interrelation'.⁹ To see at least some of these causes in context is important and one starting point is to review the size and strength of the sixteenth-century church. Cowan estimates that there were some 3,000 clerics, both secular clergy and religious, organised under a hierarchy of two archbishops and eleven bishops, to serve the spiritual needs of a population of between 800,000 and 900,000.¹⁰ The country was divided into parishes, the term coming from parochia, meaning the area of a bishop's authority. Appropriation of a church involved the transference of the income of the church, which came from endowed land and tithes, 'to the corporation to whom the gift was made',¹¹ but did not mean exemption from the bishop's jurisdiction. In fact, parish revenues could also go to an individual, who like the body corporate, fulfilled the role of rector of the parish. According to the decree of the fourth Lateran Council of 1215, the rector, wherever possible, should reside and officiate in the parish, but, failing that, a perpetual vicar was to be 'canonically instituted, who should have a fit portion of the profits

9. New Catholic Encyclopedia, XII (Washington D.C. 1967), 1231.

10. I.B. Cowan, The Scottish Reformation (London 1982), 1.

11. I.B. Cowan, 'Some aspects of the appropriation of parish churches in medieval Scotland', Records of Scottish Church History Society, XIII (1959), iii, 207.

of the church'.¹² In many parishes, therefore, the cure of souls was left to 'mercenary priests', or hired substitutes; and in the final years before the Reformation some parishes were without priests.¹³ Sometimes monks served as parish priests, although this was forbidden by the rules of most monastic orders, and in a few cases parishes were cared for by canons regular. Cowan suggests that 86% of all parishes were appropriated, and although there were 148 'independent' parishes at the Reformation, many of the incumbents were likely to be pluralists, who hired cheap substitutes in the form of curates, to serve their cures.¹⁴

It is widely accepted that the system of appropriations had a most damaging effect on the parish life of Scotland, and was perhaps the most significant of the administrative factors having a bearing on the Reformation. Parish revenues were systematically milked, often leaving such small sums available for supporting substitute clergy that the standard of ministry was bound to suffer. Study of vicarage valuations suggests that 'a vicar, even if he had been so minded, had scarcely sufficient to meet his own needs, far less to help the poor and sick of his flock. The type of vicar attracted by such

12. I.B. Cowan, 'Some aspects of appropriation', 208.

13. I.B. Cowan, 'Some aspects of appropriation', 208.

14. I.B. Cowan, Scottish Reformation, 64-65.

pittances was obviously low'.¹⁵ A pre-occupation with the need to provide himself with the bare necessities of life would have left many a vicar unable or unwilling to give much attention to the spiritual needs of his parishioners, and even where poverty did not impose the same burdens on both priest and flock, the general lack of learning of many of the clergy militated against spiritual guidance being based on theological knowledge and understanding. Most of the higher clergy were university trained, but the majority of parish priests were men who had perhaps gained a certain degree of literacy by attending a cathedral or abbey school. Theology, doctrine, and even Latin, were subjects beyond the understanding of many of these men, whose training, as Cowan comments, 'was more apprenticeship than intellectual'.¹⁶ There was nothing new in this picture of an ill-educated and ignorant priesthood, and reformers within the Church had made repeated efforts to bring about improvements. As early as 1216 the papacy had complained about the problem, and in some parts of the Church a different picture could be seen. The pre-Reformation Church in Scotland still provided 'much of the country's culture and education' ... the humanist interests of some members

15. I.B. Cowan, 'Some aspects of appropriation', 220.

16. I.B. Cowan, Scottish Reformation, 71.

of the clergy reflecting 'the intellectual renaissance taking place throughout the western Church at the time'.¹⁷

Largely because of the system of appropriation, discipline among the parish clergy was hard to enforce. Theoretically, discipline 'stemmed from the bishop through the official, archdeacon, and rural dean or dean of Christianity'.¹⁸ The dean held court at one or various locations in his deanery to hear complaints against the clergy, and to deal with certain minor civil matters. Concern about clerical celibacy was not confined to the sixteenth century - this had often exercised Church leaders whom, it must be said, often provided the worst example. Despite exhortation and edict, the problem remained, and perhaps was tolerated by the laity at parish level, especially if priests were acceptable to their flocks because of qualities other than chastity. In a sixteenth-century protocol book there is an entry about the natural daughter of the vicar of Carriden, one Alexander Hammyltoun,¹⁹ and perhaps the offspring of priests were sufficiently numerous not to excite special comment, although it has to be said that the protocol book was the property of a notary who was also in orders.

17. New Catholic Encyclopedia, 1231.

18. D. McRoberts (ed.), Essays on the Scottish Reformation, 1513-1625, (Glasgow 1962), 98.

19. Prot. Bk. Johnsoune, 188. An inventory from an unpublished manuscript relating to John Bryden, priest and notary in Selkirk (1582), refers to his natural daughter (see appendix xi for a transcript of this inventory).

Whilst the parishes were struggling under the burden of appropriation and clerical shortcomings, monasteries, and to a lesser extent, convents, were also faced with difficulties. Monastic order and discipline were often hard to enforce, and even where the right spirit might have flourished, many monasteries were under the control of commendators, often laymen, who manipulated abbey finances for their own profit. The story of the monks of Melrose trying to get their commendator to carry out essential repairs is well known, and individual abbots made attempts at reform. At least one modern writer points to two factors which illustrate some effort by monastic houses to maintain their standards - 'legitimations of the offspring of monks below the rank of abbot and prior are very hard to find, and right down to the Reformation the monks continued to receive an education which at least taught them to sign their names'.²⁰ Nevertheless, it seems that most religious communities were too pre-occupied with secular considerations to provide much in the way of spiritual leadership. The border abbeys were no exception, and it has been argued that these communities did not attempt to maintain the purity of the monastic rule in isolation of what was happening all around them, but instead

20. G. Donaldson, Scottish Reformation, 7-8.

adapted their values to the values of border society.²¹

Adaptation of this kind was related to the commercial and agricultural interests of the community at large, and it also seems that the abbeys were more concerned about their revenues than the religious life of the parishes. This is illustrated by an appropriation in 1456 by the English abbey of Merevale of a parish church. This appropriation, authorised by the Pope, led to the following division of the spoils:-

£32. 15s. 4d. to the appropriating monks
 £10. 13s. 4d. to the vicar
 £ 2. 2s. 4d. to buy the consent of the bishop
 and 3s. 4d. in alms to the poor.²²

It is against the background of appropriations that parish finances must be seen. The greater part of the teinds (tithes) went to the appropriating corporation with the residue being allocated to the vicar.²³ Offertories normally went to the vicar, as did the much resented corse-presents or mortuary dues. The best animal could also be demanded as a mortuary fee, as well as the 'umest claith' or best garment of the deceased. The manse and the glebe (dwelling house and arable/pasture land) were 'ancient

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21. S.M. Keeling, *The church and religion in the Anglo-Scottish border counties 1534-1572* (un-published Ph.D. thesis, Durham, 1975), 162.
22. G.G. Coulton, *Scottish Abbeys and Social Life* (Cambridge 1933), 85.
23. The traditional method of dividing the teinds was for the vicar (parish priest) to receive the 'small' teinds of hay or flax and offerings from the parishioners, with the 'great' teinds of grain going to the rector or appropriating corporation.

perquisites, which in the Middle Ages had gone not so much 'with the job', as with the benefice'.²⁴ The use of the land might give the priest a major occupation as a farmer, and in this both priest and parishioner shared a common interest and activity. In some cases the glebe might be let out, so as to provide an income, and where priests followed other occupations such as that of notary, this arrangement could prove convenient. After the Reformation, in 1573, parliament fixed the size of the glebe at a minimum of four acres, this being enough to pasture a horse ('the equivalent of travelling expenses').²⁵ This was also regarded as the minimum acreage for a glebe prior to the Reformation.

The upkeep and repair of manses often fell on the underpaid vicars, who might also be regarded as being responsible for certain repairs to the fabric of parish churches. Cowan²⁶ mentions chancels as being under the care of vicars, but the overall cost of church repairs was more likely to fall on the community, in the absence of help from the appropriating corporation or rector. Since the rector, or rectors, were normally

24. M.H.B. Sanderson, 'Manse and glebe in the sixteenth century', Records of Scottish Church History Society, XIX (1975),

25. M.H.B. Sanderson, 'Manse and glebe in the sixteenth century', 85.

26. I.B. Cowan, 'Some aspects of appropriation', 215.

a monastic body, perhaps also suffering from the failure to maintain buildings,²⁷ or the theft of the very fabric,²⁸ it is hardly surprising to find entries in the burgh records about repair and rebuilding. The Ayr Burgh Accounts contain a large number of entries relating to expenditure on the kirk fabric and its furnishings and fittings. 'The special province of the dean of guild as a spending magistrate was the maintenance and repair of the kirk'.²⁹ In 1532 in Edinburgh it was decided to make a grant of land in the burgh muir to the chaplain of 'Sanct Rokis kirk' (a plague chapel). The gift amounted to three acres of land, with another acre of land on which to build a house and yard. In return the chaplain and his successors were to keep the kirk weatherproof, and in repair.³⁰ In Peebles the community paid for a hundred loads of stone and lime to build a steeple for the chapel. This work appears to have started in 1491 and by 1494 another entry records work still to be done, with payment to be made from the common good fund.³¹ Steeple building also exercised the Selkirk burgh court in 1512, when a vote was taken to complete the

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27. Melrose Recs., iii, 218. 'Without the kirk be reparit this instant sommer God service will ceise in winter'.
 28. Melrose Recs., iii, 158. This incident relates to the theft of lead from the cloister roof.
 29. Ayr Accts., lxxxviii.
 30. Edin. Recs., ii, 59.
 31. Peebles Recs., i, 193-194.

work.³² It has been suggested that the fact that border churches often seemed to be in need of repair or re-building was not simply due 'to the poverty of the livings or the recalcitrance of the rectors ... but to the wildness of the borders, and to the frequency of military operations'.³³ This may be true, but the records show that churches were not the only public buildings to suffer neglect, with Peebles expressing concern about its walls, and Selkirk about the misuse and decay of the tolbooth. Selkirk's attitude towards the care of the kirk fabric and furnishings will be examined in detail later in this chapter.

Offertories formed part of the income of many vicars and appendix viii shows what was collected in Selkirk's parish kirk. Sometimes the vicar's income might include rents from burghal lands and tenements, (the burgh court books contain a reference to lady land, presumably the property of the kirk, let out under a 'letter of tak')³⁴ but these rents, or annuals 'came to be regarded primarily as suitable endowments for the chaplains who in each burgh church, served the numerous altars dedicated to special cults'.³⁵ The role of the chaplain will be discussed

32. TSCB, 20 April 1512.

33. S.M. Keeling, 'Church and religion in the border counties', 75.

34. TSCB, 20 April 1528.

35. Ayr Accts., xxxi.

in some detail, because altarages, and the priests who served them, were an important part of burgh religious life.

The term chaplain, although sometimes used to describe any priest to be found within a parish, was more frequently applied to clergy 'without parochial cure,' ('private' chaplains, guild and chantry chaplains etc.).³⁶ Burghs might support a considerable number of altarages and the chaplains attached to them, through a mixture of individual or guild patronage and community funding. Ayr had eight chaplains serving the various altars in the burgh's kirk, some of whom had additional duties.³⁷ Ayr also contributed to the Blackfriars and the Greyfriars,³⁸ and paid to the Church an annual average of 41% of its income,³⁹ a considerable share, and one which suggests tangible signs of piety and devotion to religion. The burgesses of Ayr 'continued to found obits at private altars',⁴⁰ as did individuals

36. D. McRoberts (ed.), Essays on the Scottish Reformation, 88.

37. Ayr Accts., lviii. One chaplain was responsible for the vestry and the kirk's account books, another taught in the burgh school, and another sang in the choir, acted as organist, and taught singing.

38. Ayr Accts., lvii-lviii. The burgh's alms to the Blackfriars was usually £11. 5s. Od. each year, and the smaller and newer foundation of the Greyfriars received gifts of money, wine or salt.

39. Ayr Accts., lix.

40. M.H.B. Sanderson, 'Some aspects of the church in Scottish society in the era of the Reformation', Scottish Church History Society, xvii (1970), ii, 92.

in other burghs,⁴¹ but most altars seemed to have been under the direct control of the community, through the council or burgh court. In Edinburgh 'the bulk of the revenue for the upkeep of the church and the numerous shrines within it came not from conspicuous acts of pious generosity ... but from long-established and mostly small rents and annuals ... and from a bewildering ad hoc system of fines, entry fees and weekly contributions'.⁴² The records of other burghs contain a number of references to altars that were administered by the community. Peebles, with a curate and nine chaplains in 1481,⁴³ had a parish kirk and a chapel, with a total of three Lady altars, a Rood altar and altars dedicated to Saint Michael, Saint James, Saint Laurence and Saint John the Baptist. Throughout the Peebles records are recorded

41. TSCB, 28 May 1538. Giving evidence about the patronage and service of the Rood altar in Selkirk Parish kirk, Gilbert Ker, the alderman, set out to prove that his father, Andrew Ker, was the principal patron, giving him (Gilbert) the right to appoint a chaplain. This was disputed by the community, who demanded the right to be consulted about the chaplaincy, since both altar and priest were in some part supported by the Easter offerings.

42. M. Lynch, Edinburgh and the Reformation, 29-30.

43. Peebles Recs., i, 187-188. The clergy listed were:- Schir Jhon of Loch, curat, and the

chaplains

Schir Wylyam of Phellop

Maister Archibald Dickeson

Schir Gylbart Jamson

Schir Wylyam Smalle

Schir Thomas Gybson

Schir Wylyam Thomson

Schir Laurence Jhonson

Schir Andro Folkart

Schir Robert Twanno

('Schir' was the conventional courtesy title for a priest, who might have a bachelor's degree or have been trained at a cathedral or abbey. 'Maister' was used to denote a priest with a master's degree).

decisions on the chaplaincies of the various altars, ranging from the lifelong tenure granted in 1482 to Laurence Johnson,⁴⁴ to the series of entries just before the Reformation indicating the burgh's serious dissatisfaction with the chaplains.⁴⁵ The provost warned all chaplains to serve their altars and fulfil their obligations within 41 days, failing which the altarages were to be declared vacant and 'uther qualifiet men to be electit in thair places'.

Defaulting chaplains were ordered to present details of their rentals, and to deposit vestments, chalices and other furnishings for safe keeping in the common chest. Two years later, (in 1557), the matter was unresolved, and two men were sent to Edinburgh to consult with a Master John Spence⁴⁶ about the problem of enforcing proper attendance and altar service. At the same time a bill of Complaint was drawn up to be sent to the Archbishop of Glasgow. A year later the matter was still under discussion, and it appears that the defaulters were dismissed.

Not all altarages fell into disuse or disrepute in this way, although the gathering momentum of the Reformation probably ensured that vacant altarages were not filled. Some chaplains survived the

44. Peebles Recs., i, 190. Title to the chaplaincy was made on delivering 'buk, chalis, and westment and wther anormentis of the said alter, with all profittis, annuell rentis, landis and possessionis that langis to the said service and alterage'.

45. Peebles Recs., i, 226, 242 and 253.

46. Possibly the advocate John Spens of Condy.

Reformation, or at least the early years of change, in possession of their altars, and of the attached benefits. In 1568 an arrangement was made by John Pollart, chaplain of the Lady altar in the parish kirk of *Torphichen* and of St. Eloi's altar in Linlithgow parish kirk, in which he agreed to make over to a relative, James Pollart, 'all annuals, rents and duties belonging to the said altars, including the mails and duties payable from the tenement belonging to the said Lady altar'. In return, James Pollart agreed to keep him in meat and drink, a chamber, bedding, fire and light, to wash his linen clothes and sheets and to give him twenty merks a year.⁴⁷ It was not unusual for elderly people to make this sort of arrangement with relatives to ensure some provision for their old age; but the Pollart agreement also illustrates that not all altarages were in the gift of individual patrons or the community but could be disposed of by the holder of the benefice. However, many clergy and religious were simply pensioned off after the Reformation, unless they became ministers or readers and exhorters under the new regime, and by 1562 the Privy Council had ordered that 'all annuellis, males and dewiteis within fre burrows or utheris townis of this realme, alsweill pertenng to chapellanreis (chaplaincies), prebendariis as to freris ... be intromettit with and takin up be, sik as hir Grace sall depute thairto,' the money to be used for hospitals, schools 'and utheris godlie usis'.⁴⁸

47. Prot. Bk. Johnsoun, 160.

48. Reg. Privy Council, i, 202.

A common occupation for priests was that of notary public, and since the better educated clergy were generally trained in the law, this was 'one of the major services that the Church⁴⁹ could offer to the community at large', and something that gave priests an opportunity to earn a good living, free from dependence on stipend or altarafe fees. Until the sixteenth century the lay notary was almost unknown, and priestly notaries were closely involved with many aspects of the daily lives of those around them. Cowan argues that the legal duties performed by priests and chaplains for members of the laity, who were often fellow burgesses and possibly even kinsfolk, had the effect of 'cementing bonds between them',⁵⁰ and there is no doubt that their literacy and knowledge gave them an important place in the community. Sometimes the skill and degree of literacy of the notary may have been little better than that of his clients, but 'in the country of the blind, the one-eyed man is king', and any knowledge of the law in a society much addicted to litigation must have been regarded as a marketable commodity. One writer claimed that 'the work of the notary reflects the life of his period in all its phases - in the family, in commerce, in trade, in the country and in the town, in civil, in ecclesiastical and in criminal matters'.⁵¹ The truth of this statement

49. I.B. Cowan, Scottish Reformation, 20.

50. I.B. Cowan, Scottish Reformation, 21-22.

51. D. Murray, Legal Practice in Ayr and the West of Scotland in the 15th and 16th centuries (Glasgow 1910), 2.

is apparent from documentary sources, which show notaries dealing with matters ranging from marriage settlements to apprenticeships, and from sasines to testaments. The importance of the notary to the authentication of documents can be seen in the saying 'no document in Scotland is an instrument that is not under the hand of a notary'.⁵² A notary's licence to practice came from the Pope, the Holy Roman Emperor, or both, or in some cases from the crown. The notary apostolic had 'the greatest field in which to operate',⁵³ not restricted in any way by geographical area, and this was, therefore, the most favoured designation. The financial rewards open to a notary inevitably led to fraudulent use of a notarial designation, or to the more serious offence of falsely pretending to be a notary. This was enough of a problem in 1503 for parliament to discuss complaints against false notaries and to order bishops to call together and examine all those in their dioceses claiming to be notaries, punishing those found to be imposters.⁵⁴

Another priestly occupation in the sixteenth century burgh was that of schoolmaster, a natural activity for men who were likely to be the most literate in the

52. D. Murray, Legal Practice, 17. Notarial instruments are defined (D.O.S.T., iii, 288) as 'formal and duly authenticated records of any proceedings or transactions drawn up by a notary public, and similar records made by the scribe of a court'. The records commonly include the phrases 'he asked an instrument', or 'he took an instrument'.

53. Prot. Bk. Young., v.

54. APS, ii, 250.

community. 'Until the 13th century, the monk, not the parish priest, was the centre of Scottish education. Thereafter the secular clergy began to play a part',⁵⁵ although until the Reformation there were many parishes without schools, and the burgh school was often the creation of the post-Reformation town council. Prior to the Reformation the more prosperous and stable communities ran both grammar and song schools, and there is documentary evidence about the financial and management arrangements made by burghs with their schoolmasters. In Edinburgh in 1531, Master Adam Mwre (Muir), as the master of the High School, undertook to 'mak the bairnys perfyte grammarians within thre yeris'.⁵⁶ He may not have been entirely successful in meeting this somewhat optimistic target, for in 1537 he agreed with the town council that he would renounce all earlier agreements about pay and pension in return for an annual fee of twenty merks, payable until he found a benefice of the same value.⁵⁷ It is also possible that Edinburgh town council were trying to save money by expecting the schoolmaster to support himself by obtaining an altarage. It is interesting to follow the career of a Peebles schoolmaster, Laurence Johnson, first appointed for one year in 1468, presumably giving satisfaction, and in 1475 recorded as asking for the grant of the first vacant chaplaincy

55. J. Scotland, The History of Scottish Education, i (London 1969), 12.

56. Edin. Recs., ii, 48.

57. Edin. Recs., ii, 85.

in the parish kirk. In the same year he was given the duty of looking after the annuals given by 'ald Willyam of Bothwell', burgess, for the support of Saint James's altar, and in 1476 he was given the service of this altar 'for al the dayis of his lyf', the burgh court decreeing that the altar was to be in the charge of the most able chaplain of the town, or the person best qualified to be schoolmaster. Finally, in 1482, Laurence Johnson was granted the Rood altar 'for all the dayis of his lyf'.⁵⁸ Not all Peebles schoolmasters were as highly regarded as Laurence Johnson. In April 1555 William Newdry was accused of binding a pupil's hands as a punishment,⁵⁹ and this may have led to his dismissal, because on the 27 May 1555 a schoolmaster was appointed for one year, with payment to be made by the bailies at half quarterly intervals, and a 'chalmer quhair it may be getting maist convenient togidder with the tolbutth to teche his bairneis in that redis and writting Ynglis.'⁶⁰ By November 1555 it was recorded that the schoolmaster should receive three pounds as agreed, but if he failed to teach 'sufficientlie', or if absent for more than four days without the bailies' permission, to receive a proportion of the fee, and be discharged from his office'.⁶¹ In November 1556 another schoolmaster

58. Peebles Recs., i, 157, 172-173, 175, 180 and 190.

59. Peebles Recs., i, 209.

60. Peebles Recs., i, 213.

61. Peebles Recs., i, 220.

was appointed, who was to have fifty shillings each quarter, a chamber with chimney, closet and 'necessaries', but no furnishings, and the appointment to be made on a trial basis.⁶²

John Lowys was appointed to the same post in January 1557, providing his own chamber; Walter Haldane in March 1558, 'to se gif he be qualifiet, and gif ony uther qualifiet man can be getting the said Walter to be removit'.⁶³ Walter was clearly not satisfactory, and in July 1558 the bailies were preparing to interview a young man, that 'desyris to teiche the scoill'.⁶⁴ The last entry in this sequence of events was made in October 1559, and is worded in such a way as to create a vivid impression of the feelings of the community. 'The inquest admittis the scoilmaister to teiche thair barneis as afore, and that he separat the ynglis redaris ... fra the latinists, and that he mak daily residence with the barnes, and gif he techis thame mair diligentlie, quhairthrou thai consaif mair wisdome nor thai did of before, the toune to haif consideratioun thairof'.⁶⁵

The evidence for the existence of a school in Selkirk comes from an entry in the Burgh Court Book for 30 July 1519. Under the name of Bryden; probably the common clerk of that name, but perhaps the vicar William Bryden, is recorded the following:-

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62. Peebles Recs., i, 233.
 63. Peebles Recs., i, 243.
 64. Peebles Recs., i, 251.
 65. Peebles Recs., i, 257.

'Thre donattis ii s., viii donattis iiiii s., ix graice bukis xx d., ane qwayr of paper vii d., summa viii s. iii d.' The grace books were obviously intended for teaching purposes, and the copies of Donatus, the standard grammar of the period, would be found in any grammar school. (On 15 September 1507 Walter Chepman and Andrew Myllar were given the sole licence for printing, which would have included Donatus - RSS, iii, 129).

Although parishioners rarely had the power to influence the appointment of a vicar, it is clear that the community could exercise some control over chaplains and schoolmasters. The influence was largely dependent on the ability of the community to pay for altar service and for teaching. Another form of service was provided to the parish by the parish clerk, and this post, which has been described as that of 'official assistant minister',⁶⁶ was one that was filled by popular suffrage. The degree to which popular suffrage operated in practice in the election of parish clerks was very much dependent on the 'powers of a patron to nominate the clerk, the force of nepotism ... and the tendency for the clerkship to become hereditary'.⁶⁷ An example of an election by parishioners is mentioned in the protocol book of Sir John Cristisone,⁶⁸ recording the election of one George Elphinstone to be parish clerk to replace the existing clerk on his death. This might have seemed like an

66. D. McKay, 'The election of parish clerks in medieval Scotland', Innes Review xviii, i (1967), 25.

67. D. McKay, 'Parish clerks', 28.

68. Prot. Bk. Cristisone, 2.

example of free popular suffrage were it not for the fact that the protocol book also tells us that the parishioners of Kincardine were electing the brother of their own rector. It also appears that George Elphinstone was not in holy orders, whereas other documentary evidence shows that priests were often appointed to parish clerkships. In June 1523 the post of Edinburgh sacristan and parish clerk was resigned by Archibald Tod in favour of sir Robert Hopper,⁶⁹ and in Peebles in 1555 sir John Allan was appointed as clerk, 'to use the office thair of lelelie and trewlie ay and quhill he be dischargit'.⁷⁰ In this case it is not clear if the post is that of parish clerk, or common clerk, which was also usually held by a priest. The Selkirk records make little mention of a parish clerk, but the common clerk (Ninian Bryden) and his deputy (John Bryden), were both in holy orders. In addition to their duties for the burgh court, both men were notaries, as were other of the burgh's priests (appendix ix).

The Church in Selkirk

The first phase of religious life in Selkirk followed the foundation of Selkirk Abbey by Earl David. Cowan and Easson cite Symeon of Durham (Hist. Regum, ii, 247), who stated that the monks of Tiron arrived in Selkirk in

69. Edin. Recs., i, 216.

70. Peebles Recs., i, 218.

1113 and remained there until their removal to Kelso in 1128.⁷¹ The actual location of Selkirk Abbey is still a matter for conjecture but it is known that the churches of Selkirk Abbatis and Selkirk Regis were separate and distinct c.1300, on the evidence of a rental from around that date.⁷² *Selkirk's church* was granted to Kelso Abbey by Malcolm IV in confirmation of the grant of David I, and William the Lion ordered that if a mother church or chapel should be built in the waste of Selkirk it would become the property of Kelso Abbey.⁷³ Because of the lack of documentary evidence it is difficult to be clear about the earlier history of Selkirk as a parish, and one of the first references to an incumbent was in 1426, when William Middlemas was named as vicar of Selkirk.⁷⁴ For much of the early sixteenth century period covered by the court books, the vicar was William Bryden.⁷⁵ The parish was in the Archdeaconry and Deanery of Teviotdale and the Diocese of Glasgow.

It is also difficult to be clear about the structure, or even the exact location, of the parish church⁷⁶ (and see appendix i). The church may have

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71. Cowan and Easson, Medieval Religious Houses in Scotland (London 1976), 70.
72. I.B. Cowan, The parishes of Medieval Scotland (Edinburgh 1967), 181.
73. Kelso Liber, 16.
74. RMS, ii, 10-12.
75. RMS, iii, 1518. On 12 July 1534 a document was witnessed by 'D. Wil. Bridin vicari^o de Selkirk, D. Niniano Bridin and D. Georgio Andersoun capellanis'.
76. A.T. Simpson and S. Stevenson, Historic Selkirk - the Archaeological Implications of Development, Scottish Burgh Survey (1980), 19.

been in a ruinous state at the beginning of the sixteenth century,⁷⁷ and entries in the court book in February and April 1512 show that considerable effort was being devoted to repair work on the kirk. The parishioners were urged to be honest in ensuring that 'al burges silwer and the commoun guidis of this said town and the bred silwer' (offertory money), be given to Thomas Jhonson to be used as needed for the repair work. People who failed to take their 'bred silver' to the kirkmasters were to give a fine of twelve pence 'to the kyrk wark'.⁷⁸ These measures suggest that a substantial amount of repair work was in hand in 1512, and this is borne out by a further entry in the court book for April 1512, which records a discussion held about the completion of work on the steeple in particular, and the kirk in general. Some burgesses expressed the view that the steeple should be finished, while others argued for the kirk work, 'as it is begoun is moist convenient to be completit'.⁷⁹ This discussion took the form of a series of sworn statements, with each man swearing by his 'great oath',⁸⁰ and giving his

77. T. Craig-Brown, The History of Selkirkshire, or Chronicles of the Ettrick Forest, ii (Edinburgh 1886), 113. Craig-Brown describes how the church was rebuilt about 1511.

78. TSCB, 17 February 1512.

79. TSCB, 20 April 1512.

80. The 'great oath' or 'bodily oath', often used in matters before the burgh court, and in many business deals and transactions would have been considered particularly binding, usually being taken upon the gospels or a mass-book or, in certain cases, on religious relics.

opinion to his fellow burgesses. No final decision is recorded, but the balance of opinion seems to have been in favour of completing the work on the steeple. However, if the steeple was re-built in 1512, by 1534 it seems to have once again fallen into disrepair. On 14 July 1534 the kirkmasters were authorised to use the main timbers of the bell-house to make a cuck-stool (pillory), and to provide a framework for the tron (steelyard or common weighing machine). The value of the timber was to be taken from the common-good fund, and used for kirk repairs.⁸¹ In any community there is a sense of priorities in terms of the use of public funds, and these priorities do not remain constant. In Selkirk, as in other communities, repairs to the kirk and its surroundings had to be seen in the context of the available funds, and the demands made for the upkeep of other public property. The kirkmasters were responsible for collecting, auditing and disbursing kirk funds, and in a poor community a little money would have to go a long way. Repairs to the fabric of kirk property also included boundary dykes and sheds,⁸² and in Selkirk money had to be found for the maintenance of the town clock, which may have been mounted on the kirk. It is somewhat surprising to find a clock in a relatively small and poor community, and its possession

81. TSCB, 14 July 1534.

82. TSCB, 25 May 1534. 'For the reparation and biging of our kyrk penthous and kyrk dik and uther profitabyll varyng and disponing anent the kyrk'.

was likely to have been a matter of civic status and pride, as well as being an additional burden on common funds.

The involvement of the laity in the maintenance and repair of parish churches has already been discussed, and it is clear from the Selkirk records that the community took an active part in controlling kirk funds, and the way in which they were used. The report of the burgh court's decision on 30 July 1539⁸³ gives an impression of a community determined to make its vicar account properly for common property, even to the extent of requiring him to give the steeple keys to the kirkmasters, in accordance with the wishes of the court. The kirkmasters were chosen by the burgh court and appointed for a specific period, which was usually one year. The number of kirkmasters varied from time to time, but, typically, four men were appointed. The court book entry for 15 November 1540 gives a summary of their duties. James Keyne, Thomas Mynto, James Scot and James Helme were to serve for one year, working with the procurators of the lady bred (burgesses charged with the collection of alms and oblations), 'to procur and inbring oblacioun, offeringis to Our Lady bred and erdsilveris', and

83. TSCB, 30 July 1539. The vicar was required to show the kirkmasters part of the accounts dealing with the maintenance of the clock. The workman's travelling expenses were to be paid, and this arrangement was re-stated on 22 May 1541, when 'this inquest (ordines) that the oblacione of Our Lady bred to pay thankfully all costis travel expens for keeping of our knock kirk and polity'.

to make account to the community once a year, with provost and vicar acting as arbiters. Each kirkmaster was given a specific responsibility; one to keep the offertory box with a book of payments; the second to keep the key; the third a book of receipts and the fourth man to act as bailie of the lady bred procurators; all 'moving togedder eftir the tenor of our tabyll, and the vicar to be first pait'.⁸⁴

These duties are somewhat more demanding than those often ascribed to kirkmasters, who were officials of a burgh with responsibility for building work on and around the kirk, and it is particularly interesting to note the precautions that were taken against fraud, or perhaps more against any suspicion of fraud, by the separation of the strong-box from its key.

A similar precaution is recorded in 1538, with a strong box being repaired and fitted with locks so that it could be used for the safe custody of the burgh seal and important documents. The burgh court ordered that the box and keys should be safely kept by four men.⁸⁵

It was obviously important to the community to keep a careful account of kirk money and property,

84. TSCB, 13 April 1534, 25 May 1535, 27 February 1538 and 15 November 1540.

85. TSCB, 22 November 1538. The common clerk, Ninian Bryden, complained that he had not received his fee, and on being promised payment by the community 'quhen thai pait the restis of grettair sowmes' he gave the community a 'shrine' or box, in which to keep the common seal, charter, instruments, precepts, confirmations and the king's letters, old and new. John Mithag was ordered to mend the box, and fit it with locks, when it would be kept, with the keys, by James Bradfoot, James Keyne, John Mithag and the common clerk for the period of one year.

and there are repeated references to the need for audits to be carried out on kirk goods as well as on the more general common goods. One entry records the arranging of a special meeting of alderman, bailies 'with the haill communitie' to receive an account of 'kyrkis guddis and common guddis and put thaim in sour handis for the common profet'.⁸⁶ The process of public audit, that is to say, publicly witnessed and properly recorded statements of account, was also extended to matters such as Sunday collections taken up in the parish kirk. Appendix viii gives a summary of the offertories over a period of more than a year. The account was prepared by David Chapman, described as priest, and verified by the vicar, William Bryden, the common clerk, Ninian Bryden, and the two bailies John Chapman and John Johnson. Against every entry for a Sunday offertory is recorded the name of the person responsible for the collection, and the whole exercise represents a reasonably sophisticated form of accounting.⁸⁷

Sunday offertories could not by themselves support all the clergy and Church activities in Selkirk, and as already discussed, rents and annuals provided additional money, often in the form of altarge endowments. There are references in the court books

86. TSCB, 3 October 1525.

87. TSCB, 17 October 1526. See also appendix viii.

to 'lady land'⁽³⁴⁾ and a tenement of 'our lady service',⁸⁸ both of which are likely to have been church land, let or sold to provide income. Annuals provided much of the income attached to altarages, so that we can read of the Holy Cross altar in the parish kirk, of which John Bryden (later to be depute common clerk) was the chaplain in 1532. Part of the income of the altar came from gifts made by Walter Scot's father and grandfather, which amounted to two shillings annually and two rigs of land lying within the freedom of Selkirk, one occupied by Ninian Bryden the common clerk, and the other in wadset to Robert Thomson.⁸⁹ The gifts were for the 'uphaldin, lychtis and service' of the altar. A more dramatic illustration of the importance of altarages occurs in the records for 1538.⁽⁴¹⁾ Whilst the dispute over the chaplaincy of the Rood altar was in progress, James Keyne and John Brown were appointed procurators, with power to look after the altar's income, and instructions to buy ornaments and make repairs.⁹⁰ At the same time the court made it clear that election to the service of the altar was a matter for the whole community, meaning in effect the burgh court, and

88. TSCB, 20 March 1537.

89. TSCB, 26 February 1532.

90. TSCB, 18 June 1538. 'Our rud altar to stand without seruice for ane yeir for causis and ordines James Keyne and Jhone Brown procuratouris one the perdone dais (the special feast days related to the dedication of the altar) and to by vith the offrandis ornamentis to mak reparation abone the altar'.

noting that 'ouris forbearis gaif it ay to ane toun man, burges or borne man thairin quhilkis is abyll'. Four months later the court told the original claimant to the altarage, Thomas Skune, that he could say mass at any of the altars except the Rood altar, and the procurators were once again instructed to use oblations to carry out repairs and to buy ornaments.⁹¹ The question of this altarage was not resolved until 3 June 1539, when the chaplains, Thomas Skune, Stephen Wilkesone and Adam Ker, were considered as candidates. Thirteen 'veilavysset men deuly sworne upon the Holy Evangell',⁹² eight to be burgesses not holding tack or steading from other men of the parish and five men from the landward parts of the parish,⁹³ were charged with the task of choosing without 'fraud or gill, favor or dredhor' (fear) the most devout and suitable priest to serve the altar. They chose Adam Ker, and gave him the key of the altar. The outcome of this dispute is not altogether surprising, if one assumes some family connection between the successful candidate and the leading family of Ker, who had originally claimed the right to nominate the chaplain to the altar. However, it does illustrate the important of altarages in two ways; firstly in terms of the income likely to be involved, making the position of chaplain something worth

91. TSCB, 15 October 1538.

92. TSCB, 3 June 1539.

93. The burgesses were James Bryden, Simon Fairle, James Helme, Sanders Gledstanes, John Mithag, Thomas Hendrie, John Smail and Thomas Minto, and the landward men were Thomas Frere of the Yair, James Ker of Whitmuir, Walter Scot of the Haining, Master Michael Scot of Oakwood and Thomas Scot of Todrig. The last place is some four miles as the crow flies from the centre of the burgh, giving some indication of the size of the landward part of the parish.

fighting for, and secondly it shows that the community were at least prepared to challenge the right of patronage of leading citizens. What we cannot know is the degree to which factors like civic pride and independence, oligarchical control, and piety, figured in this dispute, but we are left with an impression of a community with an active involvement in at least one aspect of church affairs.

The clergy in Selkirk

Appendix ix lists the clergy referred to as being in Selkirk during the period 1503-1545. From their surnames we can assume that many of them were from local families, and further evidence of local connections is provided by wills and records of land transactions. It has been said that 'the clergy were thoroughly involved in everyday life. Clerics were expected to advance the interests of their kinsmen, take part in their quarrels, occasionally in their crimes, draw up their legal business, become sureties for their debts'.⁹⁴ In fact, they were so closely involved with the ordinary, everyday activities of their communities that their very worldliness was seen by some critics as a major factor in the decline of the pre-Reformation church. The Selkirk records show the clergy in their familiar roles as priests and notaries, carrying out the duties of the literate few in a largely illiterate

94. M.H.B. Sanderson, 'Some aspects of the church', 91.

society.⁹⁵ The records also show us the clergy in some of their other activities. The common clerk, Ninian Bryden, was said in 1532 to be in possession of a rig of land on 'the knowe'.⁽⁸⁹⁾ and while there is no evidence that he farmed this land in person, there was nothing to stop a priest devoting a major part of his time and energy to farming. It has also been suggested that some priests were even engaged in trade,⁽⁹⁴⁾ and although there is no evidence of this occurring in Selkirk there is an interesting reference to a priest carrying out manual work. In giving evidence in a hearing of a dispute over the ownership of a cupboard, John Michelhill, chaplain, gave his priestly word, 'verbis sacerdotis', that he fitted the cupboard with locks and bands at the request of one of the people claiming ownership.⁹⁶ He does not appear again in the role of craftsman, so perhaps this should not be regarded as a normal activity for a priest. Another unusual entry records the appointment of the common clerk as an ale-conner.⁹⁷ Unless Ninian Bryden managed to carry out this duty without the extensive tasting that was expected, it is difficult

95. Those requiring instruments, and unable to write or even sign their own names, would signify that a document was theirs by touching the notary's pen. Thus, 'In wytnes of the quhilk thing I have tweychit the pen with my hande in presens of sir Niniane Brydin and Jhone Chepman, bailye of the burgh for the time, and Jhone Jonsone, sir Vylliem Chapman, chapellane, David Jonsone with utheris divers'. TSCB (date unknown), 275. It is also possible that the notary would sometimes guide the hand of his client to form a signature on a document.

96. TSCB, 3 March 1531.

97. TSCB, 7 December 1529.

to see how he could both do the job, and maintain some measure of priestly dignity. However, these two examples do not represent the normal role for the clergy of Selkirk. They were very much involved in the daily life of the community, but because of their education and social standing, and their unique relationship to the laity in religious matters, they occupied a special position. They were, in a sense, members of a professional class, and as such, were socially different to the mass of the laity, and their special status was even marked by distinctive dress. Chaplains were expected to wear a gown or cassock of a dark coloured cloth, a white linen shirt and a round bonnet (biretta). To further distinguish them from the laity they were expected to be clean-shaven.⁹⁸ However, these distinguishing features of appearance, education (although the education was often to a very basic standard), skills of literacy and, commonly, legal training, would not have brought about much social distancing in a small community. The obvious local family connections of the majority of the Selkirk clergy must have created a sense of identity between them and the burgh, so that their social position, like that of the wealthier

98. D. McRoberts (ed.), Essays on the Scottish Reformation, 90.

members of the community, was always subject to the checks and balances of the wide range of close personal relationships within which they had to work. We can see from the records that the Selkirk priests and chaplains were often called upon to act as procurators, representing litigants before the burgh court. They were also appointed to arbitrate between individuals in disputes,⁹⁹ and to act as oversmen (umpires) in the event of disagreement between arbiters.¹⁰⁰ These duties were not in any way reserved for the clergy, and laymen also acted as procurators, arbiters and oversmen, but neighbours in dispute would tend to look towards the leading men of the burgh for arbitration and advice. It seems clear that members of the clergy were regarded in that light, and this is a further pointer towards their special position in the community, but there is also evidence in the records of the determination of the burgesses to exercise some control over at least some of the activities of their clergy. The question of the control of altarages has already been discussed, and Selkirk was no exception from other burghs in its attempts to exercise patronage over the various benefices attached

99. TSCB, 17 November 1528. 'Ve ordand sir Yilliem Chepman to declair and decerne the mater movit betuex Robert Chepman and Mairyone Almuir one Thirsday next to cum quhidder scho coft the almetry in hir husbandis lyfetye or efter'.

100. TSCB, undated, but lying between the entries for 16 February 1530 and 26 April 1530. The vicar, William Bryden, was appointed as oversman in a dispute between John Hawe and Thomas Minto.

to the parish kirk. We have also seen the concern of the community over kirk funds and their control and use, and in exercising this control burgesses did not seem in any way inhibited by the fact that the kirk was not the property of the burgh, but was at least legally the property of an absentee corporation, namely Kelso Abbey.

The records tell us less about the nature of the spiritual relationship between clergy and laity than about business and personal relationships, but as the final section of this chapter shows, religion played a significant part in everyday life. The spiritual services of the clergy 'were not confined to the saying of the mass',¹⁰¹ although then, as now, the mass was central to Catholic worship. Birth, marriage and death were events which required the mediation of the clergy, and were marked for ordinary people by ritual and sacrament which only the clergy had the knowledge and power to perform.

Religion and everyday life

The effect of religion on human society can be looked at in a very broad sense by looking at religious institutions and their interface with the civil structure of society, and this produces a picture made up of broad brush strokes, much general colour, and, inevitably

101. J.M. Brown (ed.), Scottish Society in the 15th Century (London 1977), 114.

some fairly sweeping generalisations. Or, religion can be looked at in terms of what it meant to individuals, and how it appeared to have affected or influenced their lives. This approach, if there is adequate documentary evidence, can produce a detailed, and sometimes minutely drawn picture, but it carries with it the danger of generalisation from the particular. It has been pointed out that the most fruitful sources of information can be private records, such as notaries' protocol books coupled with the relevant public records.¹⁰² There is a manuscript protocol book for Selkirk, but because the common clerk to the burgh court was also a notary, there are matters recorded in the court book which can be more properly regarded as private records. There is, for example, an entry following the court record for 23 May 1534 which records an instrument drawn up for Thomas Jonsone, giving a rental to the 'curait for the tyme ... and to his successouris, curaitis of

102. I.B. Cowan and D. Shaw (eds.), The Renaissance and Reformation in Scotland - Essays in honour of Gordon Donaldson (Edinburgh 1983), 40. In his essay on the early Scottish notary, John Durkan looks at the value of lawyers' records, which when used in conjunction with public records, 'seldom fail to throw light on the complexities of human relationships within kin groups, between masters and servants, churchmen and laymen, and even between a vicar and his God'.

Selkyrk, for ever mair'.¹⁰³ The wording of the bequest, made with the full consent of Jonsone's heir, 'yong Thomas Jonsone', starts with the phrase, 'in honour of the father, son and holy ghost and the blessed virgin saint Marie and all the saints in heaven'. The annual rent was worth half a merk, and this perpetual gift was made to ensure a memorial mass on the Sunday after the anniversary of Jonsone's death, and the money was to be divided between the vicar or curate (16d.), every priest present (12d.), the clerk (4d.) and 4d. for the bell-ringing and the candle to burn on the grave.

This document, although as routine in its own time as many of our modern legal forms, does serve to illustrate preparation for death as an aspect of daily life as one example of the influence of religion on the community. Another example of what might be called institutionalised religious language can be found in records of wills and heirship, which often refer to the departed as having 'deit vestit and seissit at faycht of haly kirk'.¹⁰⁴

Oaths and promises were taken upon the gospels, or a mass book, and often recorded as being sworn on 'the holy evangell'.¹⁰⁵ Business agreements were often made in the kirk itself, with suitable oaths being

103. TSCB, 415 (referring to f. 180v.).

104. TSCB, 16 January 1526.

105. TSCB, 28 April 1534.

taken to authenticate the proceedings. Sometimes cases of disputed ownership were heard before a religious court, as in the case of William Learmont, who was told by the burgh court that the goods he claimed were 'deid manis gudis and testit gudis' (the subject of a will or testament), and should be verified by the will and the matter pursued before a spiritual judge, possibly the Dean of Melrose.¹⁰⁶

In another case, involving a dispute over the price of a pig, one of the parties took an oath in the consistory court of Jedburgh that he had paid for the animal,¹⁰⁷ Evidence given by a priest was obviously considered as significant, and the verbis sacerdotis has already been mentioned,⁽⁹⁶⁾ and in the case referred to two priests gave evidence. A variation on the more usual 'bodily' oath was to swear on the cross or guard of a whinger or short sword,¹⁰⁸ and while

106. TSCB, 4 May 1529.

107. TSCB, 15 May 1537. The oath referred to would appear to have been taken in the consistory court of Jedburgh Abbey, perhaps before the Dean or Abbot.

108. TSCB, 15 January 1538. The dispute was over the ownership of a white-faced horse, and David Dalgliesh 'swer upone the cros of ane quhenzer, that he out coft nocht the hors'.

this may not have been regarded as having the same force as the normal form, the religious influence is still apparent.

The only religious relic mentioned in the court book is St. *Mahageo's* bell, which became involved in a form of contract under which a girl was to be looked after until the return of an outsider, who may be taken as the girl's lover by the romantically inclined.¹⁰⁹

The evidence of the religious life of the burgh is fragmentary, and must be pieced together by the reader into a composite picture. One part of the picture is made up of the knowledge that saints' days played an important part in the natural rhythm of the year. St. Lawrence's day was set aside for the annual fair, which was proclaimed at the market crosses of Hawick, Jedburgh, Kelso, Melrose, Peebles, Haddington, Lauder, Lanark and Linlithgow.¹¹⁰ It seems likely that St. Ninian's day was also significant, since there was an altar dedicated to him in the parish kirk. The saints were also in evidence in the sacrament of baptism, and a survey of Selkirk Christian names has shown (appendix x) the expected preference for the names of saints, although it might be said that Selkirk parents

109. TSCB, 27 June 1527. The stranger, described as 'this gentillman callit Rolland Hammyltoun' left his sword as a surety with James Tait and his wife, promising to return before Martinmas with a relic 'callit sanct Mahageos bell'. In return they were to keep 'their madan souerlie' against his return. Craig-Brown sees this incident in a romantic light.

110. TSCB, 2 August 1536.

were not particularly adventurous when one sees the overwhelming preference for John, James and Thomas.

Apart from saints' days, there were other festivals or significant days connected with the Church calendar. The ancient pagan festival of Beltane was identified by the Church with the festival of the Invention of the Cross (3 May),¹¹¹ and there were many other festivals.

An aspect of Church activity much criticised by the reformers in the sixteenth century was the practice of 'cursing' as a means of expressing disapproval of an action or mode of behaviour. By the sixteenth century this had become de-valued to the extent that John Knox wrote of the abuse of cursing where a priest would solemnly curse, or issue a letter of cursing, for such trivia as the theft of a spurtle or a horn spoon.¹¹² The procedure was for the *commination*, or curse, to be drawn up, in Latin, in the name of a bishop, directing a priest to denounce offenders for specific offences, for which the penalties might include excommunication. Cursing was not designed by the Church as a means of dealing with minor offences of a lay nature, but we can see that Knox's complaint was not without cause when we read of a letter of cursing being raised by the Selkirk burgh court for the 'speculation and doun casting of our ester barrous' (the heidroomes or boundary dykes - see chapter six).¹¹³ Writing towards the end of the

111. Dictionary of the Older Scottish Tongue.

112. W.C. Dickinson (ed.), John Knox - History of the Reformation in Scotland (Edinburgh 1949), i, 15-16.

113. TSCB, 8 November 1529.

sixteenth century Christopher Marlowe was able to draw on popular ridicule for this practice in a comic scene in Doctor Faustus.¹¹⁴

Although there is no mention of excommunication in the Selkirk records, it is worth noting that this, like cursing, had fallen into disrepute. Excommunication was being used as a sanction by the church at the request of laymen, perhaps as a means of exerting pressure in a commercial situation.¹¹⁵ Despite this obvious abuse of what was intended to be a serious and solemn religious measure, it is likely that many of the laity took it seriously, and were devout enough to fear exclusion from the mass.¹¹⁶

The documentary evidence from Selkirk, supported by records from other burghs, does not suggest a church in total decline at local level, or a laity

114. Christopher Marlowe, The Tragical History of the Life and Death of Doctor Faustus (London 1624), Scene IX, lines 102-112:
 'Cursed be he that stole his Holiness' meat from the table.
Maledicat Dominus!
 Cursed be he that struck his Holiness a blow on the face.
Maledicat Dominus!
 Cursed be he that took Friar Sandels a blow on the pate.
Maledicat Dominus!
 Cursed be he that disturbeth our holy dirge.
Maledicat Dominus!
 Cursed be he that took away his Holiness' wine.
Maledicat Dominus!
Et omnes sancti! Amen.'
115. Prot. Bk. Johnsoun., 9. John Crumme was excommunicated at the request of William Wethirspowne and William Lauder, burgesses of Edinburgh, but Crumme's offence is not recorded.
116. Prot. Bk. Cristisone, 20. William Lesle of Drumblait complained to the Dean of Gariach that his excommunication should be lifted, as the church should be ready to receive true penitents. He agreed to obey 'the mandates of the church', and asked for absolution. The Dean was not able to absolve him, this being a matter for the general Commisaries.

grown away from their traditional faith. Indeed, there are signs that the 'old' religion continued to play its part in daily life right up to, and in some cases beyond, the year 1560. In Inverness in 1557 the town council, with apparently no thought of impending religious change, made an arrangement with a chaplain 'for uphald of dale service into thare kyrk for the glore of God'.¹¹⁷ In some rural areas, as well as in a few burghs, both large and small, support for the reformed faith was slow to become established,¹¹⁸ and the old pattern of life and worship persisted. This would appear to have been the case in Selkirk, where the influence of religion permeated much of everyday life, and helped to mark the passage of time in the way that festivals, fasts and other observances punctuated the calendar. It would probably be incorrect to describe this as a devout or pious society, but it was one in

117. I.B. Cowan, Scottish Reformation, 64.

118. I.B. Cowan, Regional Aspects of the Scottish Reformation (London 1978), 32. Cowan points out that recusancy presented 'an even greater problem in those localities where support for the reformers had been initially weaker. This was indeed the case in the Lothians and south-eastern Scotland ... as late as 1569 the mass was still celebrated in a large number of Berwickshire parish churches'. An unpublished manuscript in the possession of Walter Mason of Selkirk records an inventory of heirship goods taken in November 1580. The items belonging to Elizabeth Turnbull, a servitor in Haining Castle, included 'ane tabillet of gold'. This description identifies the item as a small box for holding a relic, or a container for communion wafers. Although it is possible that by 1580 such an object had simply become a piece of personal jewellery, it is also possible to see some religious significance in the fact that the old name for the object was still being used.

which the teachings of the church had some effect on human behaviour. It was also a society which had developed a certain accepting cynicism towards the more glaring defects of the church, perhaps because in the microcosm of burgh life, human frailty, and the frailty and imperfections of some of the clergy, were close and personal matters more readily understood than the larger picture of corruption and decay depicted by the reformers. The Selkirk clergy were also Selkirk men, and this was a telling point in a society that was so much influenced by the ties of kinship and neighbourliness, but we can also see definite evidence of community control in the daily affairs of the church. This may be seen in the burgh's attitude to patronage, and in its anxiety to maintain control over aspects of church finance.

It was a community that was, perhaps, not always well served by a church with many imperfections, but it was a place in which laity and clergy could co-exist, where the forms and practice of religious faith still had some meaning and purpose.

CHAPTER NINE

INTER-PERSONAL RELATIONSHIPS - LAND TITLE
AND TENANCY, DISPUTES AND ARBITRATION,
SURETIES AND PROCURATORS

Ownership of property, and in particular the ownership or tenancy of land, provided a force for continuity and cohesiveness, while at the same time creating opportunities for tension and disputes. Ownership, or occupation of land, was such an important factor in burgh life that one of the earliest burgh laws 'regards the burgess as essentially a land-holder'.¹ 'Burgage was held in chief or in sub-tenancy, usually for a money rent',² but as royal burghs developed, and became firmly established as viable communities, the definition of burgess status was widened, so that toft-holding was no longer essential, and burgesses could be created by 'admission by existing burgesses',³ (see also chapter three). However, in a small community, like Selkirk, land tenure and the procedures, disputes and settlements over land and its use and transfer, occupied much time in the burgh court. This chapter will look at land title and tenancy; at disputes arising from these areas; and at the use of sureties, procurators and arbitrators in the settlement of these disputes.

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1. G.S. Pryde, Scots burgh finances prior to 1707 (un-published Ph.D. thesis St. Andrews, 1926), 109, referring to Leg. Quart. Burg., APS i, 333.
 2. Stair Society, An Introduction to Scottish Legal History (Edinburgh 1958), 152.
 3. R.L.C. Hunter, 'Corporate personality and the Scottish burgh' in G.W.S. Barrow (ed.), The Scottish Tradition (Edinburgh 1974), 236.

By the early sixteenth century legal custom and practice relating to land was well developed, and urban communities devoted considerable effort to monitoring and controlling the ownership and use of land. Land represented wealth and status which was significant not only to individuals and families but also to the community at large. The orderly ownership, transfer and use of land was essential to both economic and social life, and gave stability and continuity to the community. This helps to explain the importance that was attached to the use of ritual and procedure in transactions involving land, which were matters of public interest, and, as such, openly dealt with.⁴ The public nature of the ceremony of sasine illustrates the part played by the community in witnessing transfers of land, notwithstanding the fact that individual burghage holders in a royal burgh held their lands direct of the crown, and not of the community.⁵

Sasine

The ceremony of sasine was two-fold, in which the land was resigned by the owner, properly through a

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4. Ancient Burgh Laws, 54. 'Gif sesyng be geyffin in burgh befor the nychtburis of the burgh thocht it be ututh the courte na forspokyn thar in, it sall suffice wele inoch'.
 5. J. Burns, Handbook of Conveyancing (Edinburgh 1960), 223.

procurator, and accepted by a bailie. The bailie then gave sasine to the new proprietor, properly through his legal representative. These two acts were then set down in one instrument, known as the instrument of sasine. The bailie's role was that of crown representative, and the common clerk recorded the sasine, and obtained the marks or signatures of the witnesses on each page. The common or town clerk was supposed to have the monopoly of acting as notary in sasines,⁶ but it seems that other notaries could become involved. In 1565 it was necessary for the bailies and council of Peebles to order that notaries should not record infeftments without the presence of the town clerk, who would read sasine from the 'regester of the toun', so that the 'jugis for the tyme may knaw the werritte'.⁷

An important part of the ceremony of sasine was the production of symbols, which were supposed to be handed by the bailie to the new proprietor on the ground in question. Sasine of houses within the burgh was represented by a hasp and staple; annual rent of lands by earth, stone and

6. J. Burns, Conveyancing, 225.

7. Peebles Recs., i, 298 and 299.

a penny piece; and the ownership of lands by earth and stone.⁸ No doubt the ceremony of sasine became a mere formality, since it was performed so often in any urban community, but because it was a public act, public opinion was always likely to be invoked in disputes over land. Sometimes sasine was a completely straightforward matter, amounting to formal confirmation of an heir in his or her land.⁹ Confirmation was usually simple, but occasionally it was necessary for the burgh court to investigate a claim more fully. In Selkirk in 1512 a letter of sasine was produced in court, dated 15 March 1504, and purporting to show that James Haw had resigned all his lands within the burgh to his son. The court looked at the evidence, and was satisfied that sasine had actually been given, and since no other claimant to the land had come forward to raise objections, title to the land was confirmed.¹⁰ Given the importance of land

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8. G. Watson, Bells Dictionary and Digest of the Law of Scotland (Edinburgh 1890), 1060. Other symbols of sasine were a staff and baton, representing resignations of lands by a vassal to a superior; clap and happer (grain hopper and its shaking mechanism) for mills; net and coble for fishings; oar and water for ferry rights; a sheaf of corn for teinds (tithes) and a psalm book and the keys of the church for the patronage of a church living.
9. TSCB, 14 February 1515. The inquest found Elspeth Tait to be the lawful heir of William Tait, and a bailie gave her sasine.
10. TSCB, 16 March 1512.

to both individuals and the community, it is not surprising that the question of title should sometimes be disputed, and not all claims were easily resolved. Land held by women was, perhaps, more vulnerable to dispute than that held by men, since women often acquired the property as widows, or had the land administered by a tutor if they were under age.¹¹ In the case of widows, other relatives of the deceased were likely to make a claim unless very clear evidence of sasine could be shown. Thus, in Selkirk in 1538 a widow and her procurators were unable to produce sufficient evidence in court to show that her husband had left her the terce (life-rent) of land. A procurator, acting for a relative of the husband, was given possession of the land 'ay and quhill sho produce rycht evidensis'.¹² The fact that the dead husband's relative was a priest did not stop him taking this action.

Another two cases illustrate how widows could obtain confirmation of their rights to land, provided that strong evidence was available, and that they were able to call upon support from witnesses. The first case deals with the widow of one of the

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11. D.M. Walker, The Oxford Companion to Law (Oxford 1980), 1244. 'Tutors represent, act for and manage the affairs of pupils, i.e. boys under fourteen and girls under twelve'.
12. TSCB, 14 May 1538.

wealthier men of Selkirk, William Ker.¹³ She held house and land in conjunct fee, that is to say jointly with her husband. She was able to produce evidence of sasine, and the court called upon the occupiers of the land to seek relief from other heirs of her late husband. In this case the conjunct nature of the tenure may have been written into the sasine, thereby becoming heritable in nature.

One of the heirs asked the court to ensure that nothing be done to deprive him of his rents from his share of the land, and the widow's second husband asked for confirmation that there were no objections to his wife's sasine or her conjunct fee.¹⁴ The second case was somewhat easier for the burgh court to consider, and a widow was confirmed in her life-rent of land 'as us is of siclyk within the realme'.¹⁵ On

13. William Ker's wealth and social standing in Selkirk cannot be measured by his tax payments, unlike other leading men of the burgh, but other evidence points to his position. He owned a house known as the 'Sclaithous', probably one of the very few buildings in the burgh with a slated roof. With the house, referred to as 'the hall', he had 'uther tenementis and annuellis landis'. By his surname it seems likely that he was related to the Ker family, who provided two aldermen in Selkirk in the period 1503-1541, and who were in turn linked to several of the local landowning families.

14. TSCB, 9 November 1535.

15. TSCB, 19 January 1517.

this occasion the land in question was within the lordship of Ettrick Forest, and the court was held by the bailies on behalf of the depute sheriff.

A case from Peebles illustrates disputed sasine of land left to a female child.¹⁶ Sasine had been given for the land, with the girl's father acting as tutor since she was under age. A procurator, acting for a priest, challenged the sasine, and asked that the Archbishop of St. Andrews be called to adjudicate. This was an unusual step to take, since the burgh lay in Glasgow diocese, and virtually all matters of sasine were dealt with by the burgh courts.

If the position of women, and in particular widowed women, was sometimes vulnerable in relation to the occupation of land, the burgh community was prepared to recognise special arrangements which protected individual widows and their families. These arrangements, however, cannot be looked on as representing any particular regard for the state of widowhood, but should instead be seen as part of the community's concern for stability and continuity in property matters. An example from Selkirk will illustrate this point. A son was found heir to his father, and was also declared a burgess at the same time. As the lawful heir he acquired 'all tenementis, fre landis, annuelis and rentis', but to allow his mother the means to keep herself and the 'smaw barnes' he gave her full use of a tenement

16. Peebles Recs., i, 9 June 1460.

formerly farmed by her husband, subject to proper payment of rent and burgh taxes. She was to have use of this land for the rest of her life, provided that she did not re-marry.¹⁷

In this case the family were wealthy by the standards of Selkirk, and, from the wording of the finding of heirship by the burgh court, they obviously owned a number of pieces of land in and around the burgh. For such a family the temporary transfer of land to a widow provided the means of her support as well as keeping the land under the personal control of the family.

As we have seen, sasine could be held by women in their own right, but married women were expected to involve their husbands in any decisions about their land. In a notarial instrument, dated 26 June 1512, a woman gave sasine of the annual rent of a tenement of land, with the consent of her husband.¹⁸ Another notarial instrument, dated 23 January 1533, in favour of Alexander Scot records the resignation of the ownership of a tenement of land by two sisters.¹⁹ This land was theirs because it had been bequeathed to them, but their family name does not appear on burgess or stent rolls, and it may be reasonable to assume that they were not indwellers. They transferred sasine of their land to one of the

17. TSCB, 20 April 1528.

18. TSCB. The notarial instrument is dated 26 June 1512 but occupies f. 106r of the burgh court book, following an entry for 8 June 1524.

19. TSCB, 24 January 1533.

wealthier burgesses, with no mention of payment by him, and they did this without the consent of any male relatives, by buying two seals and sealing the original documents. This form of ownership and transfer of land is unique in the Selkirk records, but its legality does not seem to have been challenged. The norm, however, was for land ownership or occupation by women to have been a matter for male involvement and consent.

The confirmation of land by the ceremony of sasine was not confined to ownership, but was widely used for agreements of various kinds. In a fairly complex wadset agreement,²⁰ drawn up in 1535, three rigs of land in and around Selkirk were *transferred* against a debt of three pounds. The agreement provided that if repayment of the debt took place before a specified day the wadsetter would pay the debtor three firlots of meal and bere. If the debt was not settled by the due day the three pounds still had to be repaid, but the wadsetter, his heirs or assignees were entitled to remain on the land for four years on payment of a rental of meal and bere. As a final act, the wadsetter was formally given sasine to the land before witnesses.²¹ Wadset

20. To wadset land was to grant away land as a security for debt. The wadsetter held the land until the debtor settled the debt. (Chambers Scots Dictionary (1977), 649).

21. TSCB, 12 October 1535.

agreements were common in the Selkirk of the early sixteenth century, and were no doubt found to be convenient in the way in which they combined a formal and public recognition of a debt with the orderly and profitable use of land. This dual function of the wadset is well illustrated by an agreement for the use of eight rigs of land in and around Selkirk against a debt of £12 Scots, with the wadsetter being given a tack (lease) for five years after the redemption of the debt, at an annual rental of 29s. Scots.²² The tack following a redemption was usually a disguised payment of interest on the loan, with the rent being fixed at a deliberately low level. Sasine is not mentioned in the records, but it is likely that such an arrangement would have included formal delivery of the appropriate symbols, necessary if the wadsetter was to take physical possession. Sasine was combined with wadset in the case of an heir to land who appears to have got into debt. He began by wadsetting three rigs of land in recognition of a debt of 16s., with the wadsetter having the right to use the land for a year after settlement of the debt, on payment of the rent.²³ A month later, and

22. TSCB, 24 May 1535.

23. TSCB, 16 July 1519.

obviously still needing money, he entered into an agreement with a landowner whose property marched with part of Selkirk's common land. The landowner agreed to pay all the 'costis, skathis, traivellis and expens' of installing the unfortunate heir as the new owner of the inherited land, and paying him twenty-four merks for the 'charter and saising' of the land.²⁴ This *transfer* of sasine was to take place within twenty-four hours of the heir taking legal possession or the heir would pay £60 Scots to the landowner, his heirs or assignees. The heir's title to the land was confirmed in the burgh court a few months later,²⁵ but the records do not mention his arrangement to sell his inheritance.²⁶

24. TSCB, 16 August 1519.

25. TSCB, 14 February 1520.

26. The agreement by John Sanderson to sell his heirship land to Robert Ker of Sunderlandhall illustrates an aspect of land ownership and transfer, but it also has other implications. Sunderlandhall lies at the edge of part of Selkirk's North Common (see map of Selkirk's common land). Robert Ker was a member of a leading local family, with connections within the burgh through two of the wealthier men in the community, Andrew and Gilbert Ker, both of whom served as aldermen. The power of the Ker family within the burgh was sometimes resented, and resisted, by the community, as evidenced by the incident of the vacant altarage discussed in Chapter 8 on church and community. Branches of the Ker family outwith the burgh were sometimes at odds with burgh over common land, and the first provost of Selkirk was murdered over a boundary dispute by retainers of the Kers of Greenhead (TSCB, 21 September 1541). In his un-published Ph.D. thesis on Scots Burgh Finances (St. Andrews, 1926), G.S. Pryde refers to Selkirk's common as a sort of 'no-man's land, in which rights were claimed by the burgh, the Earl of Roxburgh and other neighbouring landlords' (p. 132). Struggles between burghs and local landowners were certainly not confined to Selkirk, although the vast extent of its common lands produced much dispute. Michael Lynch has referred to the evidence contained in the records of the Convention of Royal Burghs which on close examination 'reveal rather more references to disputes between royal burghs and local nobles or lairds than to internal disputes between merchants and craftsmen'. (article in vol. 4 (1984) of Scottish Economic and Social History, 17). Disputes over /

The ceremony of sasine on the transfer of land was also associated with 'kindly' tenancy rights, and with the disposal of land through alienation and reversion. 'Kindly tenancy was not how the the tenant held but why he held',²⁷ and was related to the belief in the inherent rightness of possession by inheritance, usually because of close kinship to the previous tenant. A kindly tenancy right was sold in Selkirk on 27 June 1527 when Marion Moyes gave 'our hir kyndnes of hir part of tenement' for the sum of eight merks.²⁸ Payment was to be made in instalments, with 20s. being paid at Lammas and the balance at Beltane (1 August and 1 May), and four ells of good brown cloth immediately or at Yule, and 'ane auld curche (cap or kerchief) and ane collar'.

Alienation occurred when property was disposed of voluntarily, and was supposed to be marked by delivery of sasine to the new owner. Charters of alienation were drawn up, and were regarded as necessary evidence by the burgh court before sasine could be granted.²⁹ Disputes

26. over common land are examined in more detail in Contd. chapter four but it seems reasonable to suppose that disposal of land within the freedom of the burgh to a member of a family whose interests were sometimes at odds with those of the community, may have caused some anxiety.

27. M.H.B. Sanderson, Scottish Rural Society in the Sixteenth Century (Edinburgh 1982), 58.

28. TSCB, 27 June 1527.

29. TSCB, 6 November 1520. The court examined a charter of alienation given by one burgess to another. Since both men were dead, sasine was given to a relative of the recipient, and another relative was named as heir.

over the alienation of land were settled by the production of charters, as well as by the sworn testimony of witnesses.³⁰

Reversion was the right of redemption of a property at the end of a specified term, on payment of an agreed sum. The details of the agreement usually included a date for settlement, and the role of the burgh court in acting for the community was to see that all details of the agreement were complied with. Burgh court involvement may be clearly seen in a case heard in Selkirk in 1529. On 25 May John Turnbull of Minto called on Andrew Davidson, or his representatives, to appear. This call was made three times at the tolbooth door, and Davidson was called on to receive twelve merks in accordance with the reversion agreement made for a tenement of land in the west end of the burgh. Davidson was given fifteen days to appear and receive his money, failing which Turnbull would occupy the land, having already deposited the reversion money with a third party, witnessed by the bailies and neighbours. On 6 June Turnbull declared before the court that he had warned Davidson to appear, in the presence of a bailie, the burgh officer and witnesses. He once again threatened to re-occupy his land if Davidson would not

30. TSCB, 2 June 1523 and 6 October 1523. A burgess was ordered by Selkirk burgh court to produce evidence of ownership of a croft against the claim of another. At the October head court the occupier offered to produce evidence to prove that the claimant's uncle had given possession by a charter of alienation, 'analit to him in his leige poustie', or in full possession of his faculties, and able to take decisions about his property.

receive the money. By the October head court nothing had happened, and the court ordered both men to produce their respective claims, together with any charters and reversions, and to have their evidence ready in twenty days. The final episode took place on 26 October when Davidson's cousin, acting as his procurator, promised to produce proof of Davidson's ownership of the land in fifteen days, or 'ellis schaw his cusing sowmont and cursit' for failing to produce the evidence, and also to deposit the 'emoluments, fruttis pertening to that tenement' in the bailies' hands while more proof be sought. Turnbull did not dispute this suggestion, and there is no further evidence in the court records to show the final outcome.³¹ In this dispute the fullest use was made of the burgh court, which was expected to act as a 'sounding board' for the arguments advanced by both sides, and to make decisions when called on to do so. We may see in this case, as in many others, the role of the court in reflecting public opinion, or the norms of the community, and it also underlines the interest taken by the community in anything to do with the ownership of land. It might seem from much of the evidence that the community preferred to take a passive role; acting, as has already been suggested, as a sounding board. Sometimes, however, a more

31. TSCB, 25 May, 6 June, 5 October and 26 October 1529.

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days notice before leaving the land at the end of the term of rental, and that landlords should do the same to tenants, failing which tenants were entitled to remain in possession providing that the proper rental was paid. The court reinforced this order by citing the act of parliament, commenting that this was standard procedure in all burghs.³⁵ The responsibility of landlords for the behaviour of their tenants was also the subject of acts of parliament,³⁶ and a local variation may be seen in the burgh court order of 1511 extending this responsibility to that of tenants for their sub-tenants.³⁷ There is evidence that the landlord's responsibility was taken seriously in this respect, and a tenant was removed from her tenancy by a Selkirk landlord because she had been found in possession of stolen oxen.³⁸ In this case, the

35. TSCB, 30 May 1524.

36. APS, ii, 286, dealing with theft by tenants and servants and APS, ii, 332, making freeholders answerable for the men dwelling on their land.

37. TSCB, 14 January 1511.

38. TSCB, 23 May 1534. The court book contains a graphic account of the eviction of the tenant because she was 'fundin with oxin reset of Done Hogart, and the theif quhilkis thuiftiuslie tuk beif and uther geiris fra George Hoppringill in Toruodle'. When the landlord heard of this incident he went to his tenant, and in the presence of the common clerk (acting as notary) and witnesses, 'denudit' her from his tenement and tacks. If she failed to leave, she was liable to the 'hiest danger that may occur vithin the burgh' (probably expulsion), and the landlord took care to state that the reset that had taken place on his ground should not be to the detriment of himself or his heirs in time to come.

landlord was careful to try to protect his own position and that of his heirs from the possible stigma of having stolen goods on his land, illustrating a need to placate public opinion in such a serious matter as livestock theft.

Local custom and practice in tenancy matters was often related to the proper use of land and was, therefore, influenced by the type of farming practised in the locality. Tenants were always expected to keep land in good condition, and this might include proper manuring,³⁹ or a restriction on the planting of a 'hungry' crop like flax.⁴⁰

Local custom and practice also governed the way in which tenancy disputes were settled. The aim of the community, as in all matters relating to property, was to provide a forum, (the burgh court), where both parties to a dispute could put their cases, and, when circumstances demanded, to give a decision that would settle the dispute, if both parties were prepared to submit to the decision. Tenancy disputes often arose over failure to pay rent, and the burgh court usually tried to establish the facts by asking to see the tenancy agreements. Written agreements provided strong evidence, but

39. TSCB, 31 January 1537.

40. TSCB, 14 November 1536. Because flax had been sown without the landlord's permission the tenant was ordered to pay the landlord twelve pence. Flax was a 'hungry' crop, needing heavily manured land, and valuable infield land was normally required (T.C. Smout, A History of The Scottish People 1560-1830 (Glasgow 1969), 127.

sometimes the court's decision had to rely on the sworn testimony of witnesses, who would be called upon by both parties to a dispute. In an unusual dispute over a tenancy, in which the annual rent for a tenement was one pound of pepper, the Selkirk court asked to see the title deeds of land owned by the lady of Dalcoif, (modern day Dalcove, a farmtoun lying on the river Tweed between St. Boswells and Kelso).⁴¹ Rent was more normally paid in cash, but cash payments could be commuted into payments in kind. The burgh court had a role here in witnessing and giving tacit approval to suitable 'exchange rates'. Thus, the sum of sixteen pounds Scots was converted into two cows, ten bolls of meal, (valued at half a merk per boll), ten bolls of bere, (at 4s. 8d. per boll and later a half chalder, (approximately eight bolls), of meal and bere payable at Whitsunday and Martinmas. The cows were to be priced by valuers nominated by the court, and the grain was to be 'gud stuff'.⁴²

Non-payment of rent was a frequent cause of dispute between landlord and tenant,⁴³ and when

41. TSCB, 13 April 1534.

42. TSCB, 18 June 1510.

43. TSCB, 29 April 1522. The court book records the examination of witnesses to an attempted eviction of a tenant from his house. The landlady was seen removing his effects from the house and laying them outside. When the tenant agreed to pay the rent, his landlady relented, and on the tenant's promise to pay, the goods were returned to the house.

a sub-sub-tenant failed to pay, the burgh court ordered him to do so, the sub-tenant to prove that he had a valid tack, and the owner to prove his title to the land.⁴⁴ If un-paid rent was impossible to collect, perhaps because the land was barren and not producing any revenue, sasine of the land could be given to the person suffering loss.⁴⁵ When a tenant did not vacate land at the end of the agreed term, he was likely to be made to pay another year's rental,⁴⁶ and if land was thought to be held at too low or high a rental, as might happen if the land was not valued when the original agreement was made, then the burgh court could order a valuation to be made.⁴⁷ The appraisers, or valuers, were appointed by the bailies, or with the approval of the burgh court, and in a small community were almost certainly un-paid, although they no doubt earned the gratitude of those who were satisfied with the outcome of their appraisal. In a larger community the volume of appraisal made it

44. TSCB, 13 June 1535.

45. TSCB, 14 January 1511. The evidence suggests a situation in which the owner of the land had given sasine of rental, but had been unable to recover the annual rent of eight shillings. Because there was nothing on the land which could be sold to defray the lost rent the burgh court returned sasine to the owner. Ancient Burgh Laws contains (p. 168) a reference to the procedure to be followed in the recovery of land for unpaid rent. The pursuer was not required to destroy his own property by showing the court 'dores, windous and timber and suchlike, for nane is bound be lawe to inflict damage on hissself'. Instead the land was visited by the burgh sergeant and witnesses, earth and stone were taken and presented to the bailies at three head courts. At the fourth head court sasine would be given.

46. TSCB, 19 June 1520, Simon Waugh was ordered to pay 'as he did in the yer befor because he sait over the terme and occupyit the ground'.

47. TSCB, 2 June 1523 and 16 June 1523.

desirable for the task to be performed by burgh officers, and in Edinburgh payments were made to the officials who appraised sasines and valued property.⁴⁸

Disputed ownership

An argument has already been advanced to explain the reason for community interest in all matters relating to the ownership and use of land, this interest covering land title and transfer as well as tenancy and sub-tenancy. An analysis of the types of case dealt with by Selkirk burgh court, (see appendix iii), shows an almost equal measure of interest in disputes over the ownership of moveable property. The importance of horses to border society is graphically illustrated by a large number of cases ranging from outright accusations of horse stealing,⁴⁹ to a complaint that a horse was sick when purchased and, therefore, unable to work.⁵⁰ Horses were used for pulling sledges and carts, and as pack animals for the carriage of goods, but were particularly valued for use in warfare, (see chapter six), and perhaps also as a status symbol. Border people were very familiar with horses and the Selkirk court book records details of the colour of individual horses, precise valuations, and copious detail about witnesses and

48. Edin. Recs., ii, 153. In March 1551 it was decided to share payments made for appraising amongst all the burgh officers.

49. TSCB, 19 June 1520.

50. TSCB, 10 December 1531.

their statements in disputes over ownership.⁵¹ The quality of horses was sometimes a matter for dispute before the court, and when an animal was warranted to be able to bear 'sex furlattis of beir to Leytht als veill as ane hors of x merkis pris' this was answered by the assertion that the horse 'tyreit betueix this (Selkirk) and Kelso vith ane boll of quhet and vas twa dais in cuming hayme'.⁵² Horse trading has always been an activity containing many traps for the unwary, and misrepresentation about age,⁵³ quality or value led to conflict which any community, then or now, would wish to resolve. Selkirk tried to curb dishonest practice in horse trading, as it did in other trading activities, but the evidence suggests that social control in this area met with only limited success.

Horses were not the only animals to be the subject of dispute, and as one would expect in any

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51. TSCB, 13 April 1535 and 18 April 1535. A dapple horse, claimed by James Acheson of the Haining, was valued by three men, and witnessed to by sixteen others. In another complex Selkirk case (TSCB, 7 December 1535) the physical characteristics of the disputed horse were described in great detail by a number of witnesses - the 'hors vas crukit one ner ferder knee be ane knot that vas one it'.
52. TSCB, 6 October 1534.
53. TSCB, 30 April 1532. The burgh court agreed to consider what punishment should be imposed on a man who sold a three year old horse, claiming that it was a two year old.

community partly dependent on agriculture for its survival, Selkirk also experienced burgh court cases involving oxen and cows, sheep and geese. Oxen were frequently the subject of disputes about ownership, being the main draught animals and, as such, essential to arable farming. Those without oxen borrowed or hired them from neighbours, thus disputes arose because the hiring fee was not paid, or the animal not returned to the owner.⁵⁴

Apart from animals, other property figures in ownership disputes, including cloth, building timber,⁵⁵ pots and pans, cupboards and chests, a sword and peats.⁵⁶ Despite the social pressure on families to avoid disagreement over property,⁵⁷ such disagreements inevitably arose. The causes of family property disputes were as varied as one may observe in the community at large; ranging from the removal of the main timber frames of a

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54. TSCB, 6 November 1520. The heir to the owner of an ox pursued the hirer of the animal for two years' hire. The hirer denied having the animal.
55. TSCB, 18 April 1536. Timber of suitable dimensions for building purposes was scarce, and therefore valuable. The dispute was over the timber from two barns that had fallen down, and included sills, lintels, doors, wattle panels and various roof timbers.
56. TSCB, 18 July 1536. A dispute over the ownership of peats led to blows, and the burgh court agreed to settle the question of ownership by hearing arguments from both sides, and delegated a decision on the fighting to those who had witnessed it.
57. L. Stone, The Family, Sex and Marriage in England 1500-1800 (London 1979 - Pelican edition), 88. The sixteenth-century family 'was a structure held together not by affective bonds but by mutual economic interests'. Stone's general thesis sees the sixteenth century family as an economic unit characterised by a 'general psychological atmosphere of distance, manipulation and deference' (p.88), which seems to be an unduly cynical view of family life, but he also stresses the great importance of kinship ties and the dependence of the family on 'both aid and direction from the kin and the community' (p.408).

house,⁵⁸ fishing rights⁵⁹ and household furnishings⁶⁰
to a cash debt.⁶¹

Arbitration, Sureties and Procurators

Arbitration was a method frequently employed by burgh courts as a means of settling disputes, and rules existed to ensure that a fairly standardised procedure was followed.⁶² Arbiters were appointed by a court as 'jugis and amycabill compositouris',⁶³ or by the parties to a dispute. To avoid deadlock an odd number of arbiters was considered most suitable,⁶⁴ but, in practice, it appears that 'four arbiters were usually appointed, sometimes with an overman supervising their deliberations and, where necessary giving the casting vote.'⁶⁵ The whole concept of arbitration

58. TSCB, 19 October 1512 and 3 November 1512.

59. TSCB, 15 April 1532 and 30 April 1532. Will and James Turnbull swore that another James Turnbull had made an agreement with Robert Turnbull over fishing rights in 'thre stremes'. The burgh court ordered James Turnbull to pay Robert twelve pence per fish for a total of twelve fish.

60. TSCB, 26 January 1535.

61. TSCB, 18 June 1533 and 9 September 1533. Two brother were in dispute over the sum of twenty merks, said to have been lent to one brother by the father. The burgh court heard evidence from both men, but no decision was recorded.

62. Regiam Maj., 27, 105 to 111.

63. Dunf. Recs., 45.

64. Regiam Maj., 108. 'Submissions should be made to an odd and not an even number of arbiters ... for God delights in odd numbers'.

65. TSCB, 1 March 1530. 'With consent of Jhone Haw and Thomas Mynto, parteis adversar, hes tane thir persones under vryttin, James Brydin and Thomas Mynto in to ane part for the forsaid Thomas, and Thomas Jonsone and Mark Ker for the saidis Jhone Haw in the tother part, and the vicar, schir Villiem Brydin, to be ouerman to decyd this mater vithin viii dais'.

depended on the acceptance of the arbiters' decision by both parties, and this remains the basis of arbitration to the present day. Emphasis was put on the amicable nature of this method of settling disputes,⁶⁶ and it was sometimes known as a 'love-court'.⁶⁷

In some cases of dispute the burgh court limited its involvement to ordering both parties to find arbiters, only returning to the court if agreement could not be reached.⁶⁸ In the same way, arbiters could be told to go to overmen if they could not agree, the overmen being expected to give a binding judgement.⁶⁹

Because arbitration commanded respect as a method of dealing with potentially disruptive breakdowns in interpersonal relationships in a calm and socially acceptable manner, one can appreciate why communities took care to follow established rules and procedures, and why care was taken to select arbiters of good reputation and standing, and, in particular, to appoint suitable overmen. Thus,

66. TSCB, 15 July 1538. 'The bailyeis hes chossyne ... amicabyll arbitouris to aggre George Chepman and James Bard', illustrating the intention to arrive at a friendly settlement, as well as the fact that arbiters could be chosen on behalf of the community on occasion, rather than by the two parties to the dispute.

67. Dunfermline Court Book, 178.

68. TSCB, 24 November 1534.

69. TSCB, 6 October 1534 and 24 November 1534. The named overmen were local lairds.

we find priests and local lairds acting as overmen, and on occasion the arbiters, and sometimes both parties, were solemnly sworn in the local church.⁷⁰ The oath taken on these occasions was the 'great oath', sworn on the gospels or a relic. In a particularly detailed arbitration entry in the Selkirk court book the four arbiters were sworn on the 'Haly Evangell' by 'fath and treuth of thair bodeis', to convene in Selkirk parish kirk, with power to choose an overman 'geif neid beis'.⁷¹ The recorded decision of arbiters might be simply expressed, or in keeping with the solemn and formal nature of some hearings it might be written in great detail.⁷²

If arbitration is seen as a means by which communities could ensure that disputes were settled without disruption, one may also see the use of sureties as a minor instrument of social control. A surety acted as a guarantor under a form of 'accessory contract',⁷³ undertaking to indemnify a third party in the event of the default of the debtor.

70. TSCB, 27 February 1534. Four arbiters in a dispute over quarter of a stead of land, were sworn in Kirkhope chapel, promising to deliver a decision in fifteen days.

71. TSCB, 1 February 1541.

72. TSCB, 8 February 1541. This lengthy statement by the arbiters ends with the injunction that 'all actiones, questiones, quarellis and debaittis to ces fra this day furtht ... and all rankour mailes away put...'

73. D.M. Walker, The Oxford Companion to Law (Oxford 1980), 542.

Liability did not arise unless the debtor was in default, and liability was discharged as soon as the debt was paid. The use of sureties was widespread, and provided a means whereby the community could influence business relationships and ensure that the majority of debts were settled without dispute. This belief in the usefulness of sureties was formalised in 'an old burgh law, recommending burgesses to act as pledge for their neighbours once, twice or three times until they lost by it, when the obligation ceased'.⁷⁴ The fact that debtors were pursued at three courts gave their sureties time to try and persuade them to settle, and the personal liability of the surety was obviously a strong incentive. It was possible for surety obligations to be taken over by others,⁷⁵ although this was unlikely to have happened without some consideration or favour from the original surety. An unusual case in the Selkirk records relates how a surety was pursued over the price of a horse bought by a priest, who then appeared in court and accepted responsibility for the debt, saying that the vendor should pursue him 'as law required'.⁷⁶

Sureties were most commonly used in cases of debt, but it is also possible to find examples of their use in property matters. A surety could undertake to see

74. G.S. Pryde, Scots burgh finances, 93; referring to APS, i, 719.

75. TSCB, 27 July 1512. Two men agreed to take over a surety of £15. 12s., under pain of relief from their own property.

76. TSCB, undated entry for 1510.

that a particular course of action was followed, failing which he accepted personal liability, unless able to share this liability amongst one or more sub-sureties.⁷⁷ It was also usual to name sureties to stand liable for the production of people at sheriff courts or justice ayres,⁷⁸ or to guarantee good behaviour where violence was anticipated.⁷⁹ This guarantee was known as lawburrows, which, if broken, made the surety liable to a fine.

On the basis of the evidence from burgh court records it would be possible to imagine that litigation was the most popular pastime in urban communities of the sixteenth century, and that inter-personal relationships were marked only by disagreement. There is no doubt that the pattern of urban life, based on trade and barter, with the ownership of property being of such importance to the stability and prosperity of both families and the community, was bound to give rise to the need for procedures for dealing with disputes,

77. TSCB, 1 February 1515. One man mandated another to act as surety to a third, that the third person would not dispose of the 'goods and heritage' of a dead relative outside the family. The first person then agreed to indemnify the surety against any claim.

78. TSCB, 28 April 1506. Failure to enter the individual at the sheriff court was to cost the sureties ten pounds, with the loss of twenty pounds for non-appearance at the justice ayre.

79. TSCB, 1 February 1541. A surety was named as guarantor that Robert Hog, or members of his family, would not assault John Smail, who was in 'dreid (of) bodely harme'.

but it is also likely that many business arrangements were settled amicably, without recourse to any form of public discussion or decision-making by a public forum such as a burgh court. It is also apparent from the evidence that many matters brought before burgh courts were not matters in dispute, but were made public to record the details of agreements or to acknowledge indebtedness.

The inhabitants of burghs were very familiar with the traditions and procedures which governed the various aspects of inter-personal relationships, but would sometimes choose to appoint procurators to act on their behalf, rather than appear in person to argue cases. Sometimes the procurator was a priest, who was likely to be literate, and who might also practice as a notary.⁸⁰ Communities might attempt to curb the use of professional lawyers as procurators except in inheritance cases, because of fears about 'outside' influence.⁸¹ More often procurators were

80. TSCB, 31 January 1536. Sir Adam Ker appointed as procurator 'to act in all his causes and especially to follow an annualrent'.

81. Peebles Recs., i, 215. 'No neighbours shall solicit or cause men of law to come to act as procurators one against another for whatsoever action, except briefes of heritage only, under pain of losing their freedom for ever'. W.C. Dickinson, in 'Burgh Life from burgh records', Aberdeen University Review xxi, suggests that burghs saw 'outsider' lawyers in much the same light as local lairds or the nobility - a threat to the established power hierarchy of the burgh.

simply follow burgesses, perhaps with a degree of literacy or verbal ability, or with particular status in the community. Such people could be appointed to deal with one dispute, or on a more general basis.⁸² In some cases both parties to a dispute appointed procurators to argue their cases. It is not clear from the evidence if procurators were paid for their work, but it seems reasonable to assume that some payment was made, perhaps in kind, unless the procurator was a member of the family or wider kinship group.

82. TSCB, 9 October 1537. A priest living in Glasgow appointed his cousin in Selkirk as his procurator in 'all thingis pertaineing to hyme within the said burgh et territorio eiusdem'. A court book entry for 3 September 1543 illustrates another aspect of the use of procurators. The priest Stephen Wilkesone was accused of speaking for James Wilkesone 'without procuratory'.

CHAPTER TEN

INTER-PERSONAL RELATIONSHIPS - MARRIAGE
CONTRACTS, APPRENTICESHIPS, WILLS AND
HEIRSHIPS

Within any community there exists a complex network of inter-personal relationships, without which the community would be unable to function. Such relationships can often be seen more clearly in small communities, or in other forms of social grouping like the family, the tribe or the working group. This is not to say that similar relationships do not exist in larger communities, or in social groupings where the individual member might seem to be swallowed up by the sheer size of the group. In these situations a rich pattern of relationships will usually exist, with individuals seeking to identify with a particular group, but it is sometimes more difficult to establish a clear picture of what is happening to relationships in a larger group because of the very practical problem of observation. In the small urban community of the early sixteenth century the network of inter-personal relationships was likely to be intense and clearly defined, and when we are fortunate enough to possess detailed records of the community it is possible to build up a picture of these relationships, and the social control that existed to regulate them.

This chapter will examine three kinds of formal relationship between individuals, and the way in which the community involved itself in the personal affairs of its members. Marriage contracts and contracts of

apprenticeship provide a number of insights into the nature of personal contracts, and the third area, that of wills and heirships, allows us to see the important matter of inheritance, which helped to give continuity and stability to the community itself.

Marriage contracts

Kinship ties were of great importance to the social and economic life of the borders, and family connections were as significant in the life of a burgh as clan loyalties were to the highlander. The problems caused by cross-border alliances are well recorded, and in chapter six of this thesis attention is drawn to the difficulties that could arise when fencible men from the border burghs were called for service against bands of reivers.

Apart from this aspect of loyalty to a family name or kinship group, which was to some extent matched in the burghs by a wider loyalty to the community and its interests, it is also true to say that family connections were closely bound up with the ownership of land, property and money. Families with land and property saw the marriage contract or marriage settlement as an opportunity for consolidating and increasing family wealth and power. Marriage contracts could include agreements on the amount of tocher (dowry) to be paid by the bride's family.¹ Sometimes the marriage

1. J.B. Paul, 'Social life in Scotland in the sixteenth century', SHR xvii, 296.

contract was settled in principle first, with some form of down-payment, as in the case of an agreement made in Selkirk in 1517 between Michael Scot of Oakwood, tutor of Haining, and William and Robert Ker. It was agreed that George Ormistoun should marry Michael Scot's sister, Isobel, in token of which Michael Scot and his mother, Helen, would pay George Ormistoun the sum of 40 merks. All parties to the contract agreed to keep the conditions on pain of a payment of 100 merks.² The agreement appears to have been recorded by Ninian Bryden, the common clerk, acting in one of his other roles as notary, and using the pages of the burgh court book as his protocol book. Another type of contract specified that the tocher should be paid in instalments, and in an example from Selkirk for 1538 the agreement was drawn up before the burgh court.³ The contract was between James Scot and Simon Fairle, and agreed that Scot's daughter, Janet, should marry Fairle's son and heir, John Fairle the elder. 'For compleiting and treiting of the said marriage' the bride's father agreed to pay the bridegroom the sum of 80 merks, £20 on the wedding day, (arranged for 20 January - six days after the contract was agreed to and witnessed), £10 on the following Whitsunday, £10 at Martinmas, and the balance of 20 merks within a year

2. TSCB, 25 August 1517.

3. TSCB, 14 January 1539.

and a day of the Martinmas payment. To ensure that payment took place as agreed William Scot was named as surety. The bridegroom's father agreed to give the couple a room, (the 'voster chalmer'), and a booth, and he also agreed that if he removed them from the room he would provide comparable accommodation which would find approval 'be seycht of James Scot and his friendis'. In this contract we see the tocher being matched by a contribution from the other family, who by the provision of a booth were enabling the new family to trade. On the evidence of Selkirk's tax records Simon Fairle, the bridegroom's father, was one of the wealthiest men in the burgh, and the bride's father was also among the higher tax payers. The year after the wedding the bridegroom appears on a stent roll as paying 2s., with the highest payment being £1 and the lowest 6d., so we can perhaps assume that he was able to trade successfully.

Marriage contracts were also concerned with land, indeed it has been said that 'half or more of the lands in Scotland were held under marriage contracts at the end of the nineteenth century,'⁴ which suggests that the ownership of land and its significance to family relationships remained as a major factor well into the modern period. The fact that land was transferred in

4. G.C.H. Paton (ed.), An Introduction to Scottish Legal History (Edinburgh 1958), 114.

this way in urban communities reminds us that townsfolk were often farmers as well as craftsmen or merchants. This was particularly true of a small burgh like Selkirk where many of the inhabitants farmed land both inside and outside the confines of the burgh. In 1527 John of Bellenden, a burghess often in dispute with his neighbours, (see appendix ii), was ordered by the burgh court to produce evidence about a piece of ground said to be 'towther gud' (tocher guid) or part of a dowry.⁵ In Selkirk, as in all other burghs, land ownership conferred wealth, and consequently power and status, on its owners and the records provide evidence that land was not necessarily farmed by its owners, but was sometimes let out to provide a cash income. So important was land to the wealth and continuity of families that land transfer as a result of marriage contracts was, perhaps, the most important part of any contract.

Apprenticeships

Apprentice contracts or indentures provide another valuable source of evidence for inter-personal relationships in the burgh. The surviving indentures show us an aspect of burghal life that helped cement relationships, as well as being directly related to the all-important trading activities of the community.

5. TSCB, 28 January 1527.

The system of apprenticeship, consisting of the binding of a boy to a master, either craftsman or merchant, for a specified number of years, seems to have evolved in England by the early thirteenth century,⁶ and may have appeared in the early Scottish burghs during the same period. The term of apprenticeship varied from five to ten years, with the usual term being seven years, and the binding referred to above took the form of a contract entered into by the 'master on the one hand and the apprentice or his father on the other'.⁷ With the emergence of the gild system the concept of apprenticeship became linked with the protection of trades and crafts against dilution and competition by the regulation of entry, and with the passing of the Statute of Artificers in England in 1563, the protectionist aspect of the long apprenticeship had become paramount. It has been said that 'the regulation of apprenticeship' by the Statute 'was one of the important new departures of the act'⁸ and yet the seven year term of apprenticeship was in widespread use in Scotland, without the existence of any comparable legislation.

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6. D. Knoop and G.P. Jones, The Medieval Mason (Manchester 1949), 160.
 7. K. Hall and I. Miller, The Skilled Worker in an Era of Change (London 1975), 29 and 30.
 8. M.G. Davies, The Enforcement of English Apprenticeship - A Study in Applied Mercantilism 1563-1642 (Cambridge, Mass., 1956), 1.

It is difficult to generalise about the content of Scottish apprentice-contracts, since a variety of conditions can be observed, but, in general terms, it can be said that the normal arrangement provided for good and faithful service by the apprentice, in return for which the master agreed to teach 'all points' of the craft or trade, usually providing board and lodging, sometimes clothing, and occasionally pocket money.

The master's responsibility for his apprentice could extend to liability for his behaviour, as illustrated by the custom of Waterford c.1300 which said that 'every citizen ought to answer for his apprentice's wrong-doing or damage, made by day or night and at all times, as he would for his son if he were of age, that is to say, if he can count twelve pence, as is the law of citizens and burgesses'.⁹ It is clear that the relationship between an apprentice and his master, (and the master's family), could be close, and it was not unknown for apprentices to marry daughters or widows of masters, showing that apprentices were able to live as members of the family. Indeed, the sons of prominent families were sometimes placed as apprentices with wealthy merchants, either to serve a full apprenticeship term, or to accompany the master for one trading voyage,¹⁰ or to act as a foreign agent or factor on

9. M. Bateson (ed.), Borough Customs, i (London 1904), 222.

10. Prot. Bk. Grote, 36 and 65. Two contracts are mentioned, one setting out an agreement to accompany the master to Flanders, and the other (perhaps for an experienced supercargo or factor) confirming service for one voyage in return for a fee of £20.

behalf of a merchant. Because apprenticeship agreements were drawn up after open discussion between the parties, witnessed by neighbours and, in some cases, guaranteed by sureties,¹¹ it is clear that the community were prepared to intervene at the start of the relationship between apprentice and master. It is equally clear that the community were prepared to intervene later in the relationship if things were not going well.

On 22 October 1532 Will Carnes agreed to prove before the Selkirk burgh court that his son had not received his proper fee from Jock Hogg. At a later court hearing the boy was ordered to prove, with the help of two neighbours, that he had spent six months with Jock Hogg in Selkirk.¹² Although a fee was involved in this contract, and was not unknown in Scottish apprenticeships,¹³ most indentures did not mention pay. Instead the apprentice might be required to produce certain work

11. TSCB, 7 October 1510. James Scot was ordered to pay John Boyll 2s. for every week of two years because of the non-appearance of Boyll's apprentice. No further details are given, but it appears that Scot had acted as surety for the apprentice agreement which had been broken. In another example (3 July 1519) two men acted as sureties for an apprentice bound for two years to a Selkirk cordiner, agreeing that they would be responsible for his faithful service to his master.

12. TSCB, 3 December 1532.

13. J.B. Paul, 'Social life in Scotland in the sixteenth century', SHR, xvii (1919), 296-309. Paul refers to an indenture binding Simon Watson to John Mytok, an Edinburgh shoemaker, for the term of six years. For the first five years Watson was to receive food and drink, but no wages, and he and his mother were expected to find his clothing. In his final year he was to be paid £6. 10s. Od. Scots.

for his master,¹⁴ or the apprentice's parent might have to pay a premium to the master.¹⁵

Normally an apprentice could expect to serve the full term set out in his contract, unless the contract was discharged by the death of his master. There is, however, an instance of a contract coming to an end before its full term, where the apprentice was discharged from his obligations provided that he worked on the completion of a house, receiving food, drink and bedding. Thereafter, he was to serve his master for two years for eight merks a year, with food, drink and bedding, before progressing to the normal wage for a mason.¹⁶

It is possible to find examples of indentures or contracts of service that were not concerned with apprenticeships, and such a contract was entered into in Linlithgow, between James Atkin, a litster (dyer), and Robert Ross, burgess. Atkin bound himself to

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14. TSCB, 15 December 1516. The apprentice skinner had to work 24 skins for his master in the last four years of his apprenticeship, probably at his own expense or in his own time.
15. Peebles Recs., i, 254 and 255. In a fairly detailed contract covering a seven year apprenticeship to a weaver, the boy's father agreed to pay the master £6, - £3 down and £1. 10s. each Martinmas for two years. An unusual feature of the agreement was that the apprentice could be replaced by his brother and sister if he died within the seven year term. If the boy (or his brother and sister) left the master he was to be 'chastised and subdued', unless witnesses were able to show that the master was at fault. A final point of interest is that the notary's fee for drawing up the indenture was a pound of wax and a pitcher of ale.
16. Prot. Bk. Johnsoun, 866. George Roust was apprenticed to Alexander Roust, perhaps his father, and the agreement also contained a clause ensuring that George would serve his master before any other, suggesting a desire for continuity in a family business.

Ross for three years, promising not to work anywhere else unless he found it impossible to make a living. Ross agreed to provide a workshop, dye vats and other equipment, maintaining everything at his expense unless wilful damage was caused by Atkin. Atkin agreed to pay Ross 16s. for every vat of cloth dyed, and half of all gifts of butter and cheese received from customers.¹⁷

Wills and heirships

Much of the evidence on which this section is based refers to moveable goods, usually the subject of testaments, and appearing in the documentary sources in the form of inventories. Sometimes the records provide examples of heritable property,¹⁸ such as land, and we also find frequent reference to heirship goods, which passed to the heir rather than the executor to ensure that the heir did not inherit an empty house, shop or farm without the means to live and work.¹⁹

This evidence can be looked on as a valuable source of material about domestic property and furnishings, which gives us an insight into domestic life, as well as providing an impression of the relative wealth of individuals. It may also be seen as a source

17. Prot. Bk. Johnsoun, 756.

18. D.M. Walker, The Oxford Companion to Law (Oxford 1980), 564. Heritable property passed undivided to the owner's heir, whereas moveable property passed to the executor for division among the next of kin.

19. M.H.B. Sanderson, Scottish Rural Society in the Sixteenth Century (Edinburgh 1982), 172.

of information about inter-personal relationships in an aspect of daily life which was of great importance to any community. The inheritance of land and goods was a matter of importance to individuals, and as suggested above, continuity and stability could flow outwards from the family to the community itself.

Because the community had an interest in individual inheritance, it tended to involve itself publicly in ways that were both practical and symbolic. Heirs were confirmed in the sight of the community, often before the burgh court.²⁰ Disputes over land and goods were aired publicly, and agreements about the division of property were reached openly, with neighbours acting as witnesses. Inventories of goods were recorded so that all were able to know what was involved, and the heirship interests of children were protected by the community.²¹

This active interest may be seen as evidence for one aspect of social control, in which the community sought to influence individuals to ensure that the community's

20. M. Bateson (ed.), Borough Customs (London 1906), ii, cxxxviii. Although referring to English borough courts, the observation is also valid for Scotland. 'That the will should be made known in the borough court was desirable for the sake of publicity and certainly of record, and, when land was devised, to secure delivery of seisin in court'.

21. TSCB, 5 June 1515. The burgh court found that a 'barne of Robert Gillies that was producit in curt nerest and lauchful ayr to hir fader'. In another example, from 30 April 1533, the court book records that Janet Fairle was found to be the lawful heir of her father, the late John Fairle, the younger, but it was decided to postpone a final decision until 'discretfull men of law' advised whether or not Adam Fairle was heir to his niece, Janet. On 20 May 1533 the judgement was given that Adam Fairle was 'naixt and lauffull air to his broder dochter, Jenot Fairlie, quhilk vas air to Jhone Fairle, yonger'.

norms were observed. External influence on this area of inter-personal relationships was also brought to bear by the Church. Confirmation of testaments was a matter for the Church, 'as was any transaction whether spiritual or secular which had been made binding upon oath'.²² The Dean of Christianity was able to confirm testaments which were worth less than £10, and the Church court of the Official was responsible for appointing executors. 'The choice usually fell on the nearest relations', and they were 'expected to draw up an inventory within nine days of death and to present it to the proper authorities for confirmation'.²³

Having obtained confirmation the executors had one year for settling all the details of the testament, and during this time they remained liable for any debts incurred by the estate. One can imagine that relatives of the deceased might not always be willing to act as executors because of the work and responsibility involved, and this is no different today. However, it may have been easier then for an executor to benefit from the estate under administration, and mis-appropriation must have occurred. It has been suggested that the increasing use of wills dealing with moveable property led the church, in 1420, to re-state the procedures to be used in the

22. J.M. Brown (ed.), Scottish Society in the Fifteenth Century (London 1977), 129.

23. S. Ollivant, The Court of the Official in Pre-Reformation Scotland (Edinburgh 1982), 70 and 71.

control of executorships.²⁴ The 1420 council and synod repeated and reinforced the existing practice which caused the deceased person's property to be divided into three equal parts. After any debts had been settled the wife and children were to be given one third each of the moveable goods. The executors were allowed to dispose of the remaining third to pay for funeral expenses, and for masses to be said for the soul of the departed.²⁵ In some cases money had already been set aside for funeral expenses and masses, often in the form of rentals left by the deceased to endow altarages, or to pay priests for their future services.²⁶

The Selkirk burgh court records contain a significant number of references to heirship matters.²⁷ An examination of these references throws up a variety of headings under which inheritance may be discussed, and the following cases illustrate how the community involved itself with this aspect of family life.

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24. J.M. Brown, Scottish Society in the Fifteenth Century, 149.
25. G.C.H. Paton (ed.), Introduction to Scottish Legal History, 212.
26. It was a common practice, well illustrated in Selkirk's court records, for money, or more usually the rentals from bequeathed land, to be used to endow an altar in the parish kirk. Masses were said for the soul of the departed on the anniversary of death, and specific sums of money were set aside, as in the case of Thomas Johnson, who specified that the vicar or curate was to have 16d., every priest 12d., the clerk 4d. and 4d. for bell-ringing and a candle to burn on the grave. The half merk of rental which was to pay for the funeral and the annual memorial mass came from a croft of land. (TSCB, 415, f. 180v).
27. The Selkirk burgh court records contain 74 references to wills, heirships and matters relating to inheritance.

As pointed out earlier in this chapter, the burgh court often involved itself in public declarations about heirships, and a typical statement reads, 'the inquest found John Scot nearest and lawful heir to the deceased Robert Scot for all lands and annual rents within the burgh, and he is of lawful age'.²⁸ The heir was judged to have reached lawful age when he was able to tell good money from bad, measure cloth and conduct his father's business,²⁹ more demanding than the custom of Waterford mentioned above, which simply required the son to count twelve pence.⁽⁹⁾ It was not unknown for heirship to be disputed, and in such cases the burgh court confirmed the heir 'while (until) another come who has more right'.³⁰ Challengers had to present their case before the court within fifteen days. If the deceased died away from the burgh, the court could use a different formula in confirming the heir, doing so with the rider 'when it is notory knawn that the said ... is deid'.³¹

Cases of disputed heirship could be involved, and could take some time to settle. A graphic illustration of such a case relates to the estate of Sir John Bryden, priest

28. TSCB, 8 December 1513.

29. G.C.H. Paton (ed.), Introduction to Scottish Legal History, 125.

30. TSCB, 2 October 1526. Jock Haw was found to be the son and 'apperand ayr' of the late Tom Haw 'that was slayne with the Armstrangis', indicating that burgesses could be caught up with reiving bands.

31. TSCB, 4 October 1530.

of Selkirk. In July 1539 James Scot and his wife disputed a tenement of land left by the priest, claiming that it was theirs, and not the property of another John Bryden, a priest of Glasgow. Bryden was represented in his absence by George Tait, and Scot chose as his procurator another Scot. Later in July Scot and his party agreed to accept the common clerk, Ninian Bryden, as clerk in the case, a decision, perhaps, made necessary by the clerk's kinship to Scots's adversary. On 2 December 1539 there was further discussion of the case in the burgh court, with an argument put forward by George Tait that he should be accepted as John Bryden's procurator, and that the common clerk, and other court officers, should take part in the proceedings. James Scot countered this argument by objecting to the presence of the common clerk and the dempster.³² Finally, another Tait, this time Alexander, appearing as procurator for John Bryden, agreed to the decision of the bailies, (John Mithag and John Bryden), that the case should be heard in fifteen days, with all members of the court being chosen by the bailies. When the court met again, within fifteen days, another Bryden, this time sir William, vicar of Selkirk, appeared as procurator for sir John Bryden to answer a complaint from the Scots about Bryden's failure to attend court. Sir

32. The dempster was an officer of a court responsible for pronouncing the 'dooms' or judgements of the court.

William explained to the court that Bryden could not travel from Glasgow because 'all the vatteris are of flud', and the case was continued. The case came before the court again on 20 January 1540, and James Scot agreed to the composition of the court. The matter was finally settled before the burgh court on 27 January 1540, when John Bryden was found to be the nearest and lawful heir to John Bryden of Selkirk, the proof being found in the protocol book of sir William Bryden, who was a notary as well as the vicar of Selkirk.

In this case we see a number of the features of community involvement with heirship, including the use of the burgh court by both parties to the dispute, and the reliance of both sides on the bailies and the whole inquest of the court to arrive at a satisfactory conclusion. In addition, of course, we can see other relationships as having a bearing on the dispute through the ties of kinship, and in this case kinship becomes entwined with yet another aspect of daily life in the form of clerical involvement with heirship through the roles of notary and procurator.

Disputes over heirship could give rise to problems for the community, but it is clear that the goods left by a deceased person had a special status which the community was at pains to protect. Any goods that were found to be the subject of a testament or will were

regarded as inviolate, and, therefore, not to be pursued in the ordinary way in the burgh court.³³ The special nature of heirship goods was recognised in other ways. The Laws of the Four Burghs included a list of 'thyngis pertenand to the burges ayre',³⁴ described as 'the items of domestic life so necessary that they ought not to be separated from a burges's house and land in a will'.³⁵ It was also sometimes accepted that heirship goods should not be sold or otherwise disposed of without the heir's consent, and this is illustrated by an incident in Selkirk in 1531 when an heir, whose father may have been living at the time, was ordered to go with the bailies to recover his heirship goods from others, since 'na man had pouer to sell nor vodset his airschippes nor his landis without his consent'.³⁶ The Selkirk burgh court took a very different view in 1538 when an heir was given liberty to 'pursue and follow' all the heirship goods that he expected to have been left by his father.³⁷

33. TSCB, 4 May 1529. William Learmonth was told by the court that the goods that he was pursuing were 'deid manis gudis and testit gudis', and he was ordered to agree with the findings of the burgh court, or seek his remedy 'befor ane sperituall juge', which in this case probably would be the Dean of Christianity at Jedburgh. 'Na temporall court suld intromit with testit gudis' (TSCB, 13 March 1542).

34. APS, i, 356.

35. I.F. Grant, The Social and Economic Development of Scotland before 1603 (Edinburgh 1930), 147. (See also appendix xi for a list of the items specified in the Leges Burgorum).

36. TSCB, 30 January 1531.

37. TSCB, 1 October 1538.

However, a few weeks later the court declared that they were unable to say that the deceased was in the wrong when he disposed of heirship goods without his son's consent.³⁸ It is hard to understand this change of mind on the part of the burgh court, and one can only speculate as to the reason, except to say that the deceased was described as an indweller rather than a burgess, and was, therefore, perhaps not subject to the usual rules surrounding burgess heirship goods.

Sometimes the heir was given land and goods during the lifetime of a parent or relative, in return for an undertaking to keep the elderly person comfortably until they died.³⁹ An agreement made in Selkirk in 1530 illustrates how a mother made over goods to her son, who then agreed to lend her a cauldron and a mash-tun. The wording of the agreement, made before the burgh court, and witnessed by the vicar, (a relative), another priest, a bailie and various burgesses, stressed the free and voluntary nature of the mother's agreement, and specified the surrender of rentals to her son in the event of her

38. TSCB, 26 November 1538.

39. J.B. Paul, 'Social Life in Scotland', 304.

re-marriage.⁴⁰ Another example of a parent being kept by a child may be seen in the case of John of Lauder. From the evidence of the stent rolls (appendix iv) it appears that he rarely paid any tax, although he was assessed for one pound Scots in 1536, which was an average contribution for that particular taxation. By 1539 he was dead, and a Philip of Venes, or his procurators, appeared before the burgh court claiming some of John of Lauder's goods. His daughter and her son were ordered to swear an oath about the ownership of the disputed goods, and when this was done his daughter claimed that he had no goods, but had in fact been kept by her for the past seven years.⁴¹ An earlier case⁴² suggests that at least some of John of Lauder's goods had been distributed by his heir, William, to his brothers, James and Stephen. Various witnesses described the goods as meat and plate cupboards, a bed, pot chain and hook for the fire and a chair, and it seems likely that John of Lauder handed at least some of his

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40. TSCB, 29 August 1530. The agreement was made between Janet Bryden, widow of Robert Bryden, and her son, William, 'of hir gud fre wyll, nocht nede be na strencht, nor zit be na clame, nor rycht be tytill of airschiipe'. She gave him ten tanned, or partially tanned, hides or skins where they lay in the tan-pit, or the equivalent value in rental or land. She also agreed to give him a load of barley seed to enable him to 'vynne the laif' or provide his bread. His uncle, the vicar of Selkirk, also promised seed, as much as might be sown within the burgh on good land, and also agreed to supervise the transactions arising from the settlement.
41. TSCB, 15 April 1539. 'Philpe of Venes' is named as the pursuer (Venes is probably the town of Venne which lies south of Bremen).
42. TSCB, 29 March 1531.

household effects to his heir before going to live with his daughter.

Evidence for the involvement of executors may be seen in a number of the Selkirk heirship cases. A fairly complex executorship arose from the will of William Hawe, a burghess of Edinburgh. Hawe left the sum of thirty pounds to John Hawe, the younger, and one of the executors was a brother of the deceased, and a burghess in Selkirk. Forty shillings were paid on account, but another Selkirk burghess stood surety to return the money to the executor if the legatee died un-married, which was a term of the will.⁴³ The executor held a meeting with the legatee, his mother and grandfather and witnesses, and the meeting and settlement were recorded by a notary 'at Thome Hendre stair fut anent the crois about ix houris', as public a place as one could find in the burgh. Part-payment was a feature of another executorship, in which executors delivered eight merks out of twelve owed by the deceased, promising to pay the balance before a number of witnesses.⁴⁴ One of the two executors was a chaplain, and the other was a bailie.

Once heirship had been declared before the community the heir was expected to take up his 'property and heritage' as soon as possible, under pain of forfeiting

43. TSCB, 10 March 1539.

44. TSCB, 5 April 1535. The total of twelve merks was owed by the estate of Thomas Johnson to Mungo Johnson, and is described as the 'barnes pairt of ger', or the childrens' share of the goods of the deceased.

freedom of the burgh or burgess status.⁴⁵

Despite the close involvement of the community with every aspect of inheritance, disputes occurred from time to time. Disputed heirship has already been discussed, and arguments also arose over moveable goods. Once again it was the function of the burgh court to mediate in such disputes on behalf of the whole community, and to give judgements where necessary to compel settlement.⁴⁶ In fulfilling this role the court was exercising social control and imposing behaviour on individuals that in a small community, at any rate, would have represented the social norms of the majority.

Finally, we may turn to inventories of heirship goods for further evidence of the place of heirship in the daily life of the community. A detailed summary of a selection of inventories is given in appendix xi, with a commentary on the goods recorded.

45. TSCB, 19 October 1540. The heir was given sasine of his property in the traditional way by the delivery of earth and stone. The ceremony was witnessed, and recorded by a notary, and was performed at the tolbooth door for all to see.

46. TSCB, 9 February 1516 and 14 July 1517. In the first hearing a detailed inventory of heirship goods was recorded, and it was noted that the goods had been taken 'into care' by James Bryden and his wife, to keep as they would their own goods for the benefit of the heir. In the second hearing it became clear that the Brydens were disputing the ownership of the goods, and they were ordered to deliver the goods into the bailies' hands, and to appear with all the claimants so that the matter could be settled 'according to justis'.

CHAPTER ELEVEN

THE BURGH AND ITS EXTERNAL RELATIONSHIPS

The small Scottish burgh in the sixteenth century was largely self-sufficient in foodstuffs and in manufactured basic necessities such as clothing, tools and weapons. Burgh resources, and those of the surrounding hinterland, were generally sufficient to meet local demands, except in times of dearth, and in this respect the small burgh did not differ greatly from the well-developed English village of the same period. This lack of size, and the evidence of a high degree of self-sufficiency should not, however, lead us to imagine that the smaller royal burghs were no more than glorified villages with specific privileges, or that they were isolated to the extent of playing no role in affairs outside their own areas. Burghs like Selkirk were, indeed, small, and perhaps 'inconspicuous in the setting of dispersed rural settlement',¹ but the special relationship between the crown and the royal burghs ensured that external affairs played at least some part in burgh life, albeit a minor one.

The object of this chapter is to examine the relationship between burgh and crown, which existed in a number of ways and at differing levels. Ample

1. G. Donaldson, Scotland, James V to James VII (Edinburgh 1965), 10.

documentary evidence is available on feu-ferme payments and taxation, through which the crown maintained a close interest in the ability of royal burghs to provide funds for the exchequer. Taxation rolls also provide valuable material for the study of the social and power structure of the burghs, and this theme has been pursued in an earlier chapter. Apart from regarding the royal burghs as sources of revenue, the crown was also able to make use of the personal service of burgesses and indwellers through their obligation for military service, already discussed in some detail in chapter six of this thesis. As an example of another aspect of the relationship between burgh and crown, this chapter will examine the evidence for the use of Selkirk as a centre for the collection and storage of wool from the royal flocks in the Ettrick Forest. Royal patronage of the burghs will be illustrated by the example of Selkirk's burghal status, and the final part of the chapter deals with inter-burghal relationships.

Feu-ferme payments

Feu-ferme has been described as a form of land tenure 'in which an annual rent of money and grain'²

2. M.H.B. Sanderson, Scottish Rural Society in the Sixteenth Century (Edinburgh 1982), 251.

is paid in return for the occupation of heritable property. The crown applied this arrangement to the royal burghs as a means of raising annual revenue, and 'by 1437 the majority of burghs had obtained or were about to obtain feu-ferme status, whereby in return for a fixed annual payment, they were free to administer their property and revenue'.³ By granting feu-ferme status, the crown relinquished its right to the burgh revenue from rents, petty tolls and customs and any profits arising from court proceedings, but in the early days of burghal feu-ferme this loss was more than offset by the advantages of regular income. As time went on burgh feu-fermes must have looked less and less attractive to kings who were often chronically short of liquid capital. This can be explained by the gradual effects of depreciation of the value of money, which could not be matched by any form of re-valuation of the annual payments, since these were fixed in perpetuity, so that by the sixteenth century the royal burghs were paying far less than the real value of their feu-ferme status. Despite this, some burghs found it difficult, or perhaps inconvenient, to make regular annual payment to the exchequer, and ran up arrears which were sometimes not cleared for

3. A.L. Murray, *The exchequer and crown revenue of Scotland 1437-1542* (un-published Ph.D. thesis, Edinburgh, 1961), 126.

a number of years. 'Accountants failing to compear on the appointed day incurred the exchequer amercement or unlaw of £10',⁴ as laid down by parliament,⁵ but this procedure may not have been invoked against some of the smaller and poorer burghs. A summary of Selkirk's feu-ferme payments for the first half of the sixteenth century shows how often arrears were allowed to build up. Selkirk's payment, resumed in 1425 after many years of exemption, was based on 'the old burghal assessment of 5d. per rood',⁶ calculated on the frontages of each burghal holding. The total was raised from £2. 11s. 8d. and £3. 6s. 8d. to the final figure of £5. 0s. 0d.

per annum:-

<u>ER</u> , xii.	6 July 1502	Feu ferme	£5. 0s. 0d.
	20 June 1503	" "	£5. 0s. 0d.
	19 July 1504	" "	£5. 0s. 0d.
		Arrears	£5. 0s. 0d.
	? July 1505	Feu-ferme	£5. 0s. 0d.
	17 June 1506	" "	£5. 0s. 0d.

There is then a gap in payments until 1525, with no payment being recorded from Selkirk in ER, xiii and ER, xiv.

<u>ER</u> , xv.	10 July 1525	Feu-ferme	£7. 10s. 0d.
		Arrears	£87. 10s. 0d.

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4. A.L. Murray, Exchequer and crown revenue, 37.
 5. APS, ii, 347.
 6. Ayr Accts., xvii.

A further gap in payments then occurs until 1529.

	15 July 1529	Feu-ferme	£5. 0s. 0d.
		Arrears	£15. 0s. 0d.
<u>ER</u> , xvi.	12 August 1530	Feu-ferme	£5. 0s. 0d.
	29 August 1531	" "	£5. 0s. 0d.
	19 July 1532	" "	£5. 0s. 0d.
	21 August 1533	" "	£5. 0s. 0d.
	29 August 1534	" "	£5. 0s. 0d.
	19 August 1535	" "	£5. 0s. 0d.

<u>ER</u> , xvii.	4 Sept. 1537	Feu-ferme	£5. 0s. 0d.
	14 August 1538	" "	£5. 0s. 0d.
	18 August 1539	" "	£5. 0s. 0d.
	20 July 1540	" "	£5. 0s. 0d.
	8 August 1541	" "	£5. 0s. 0d.
	26 June 1542	" "	£5. 0s. 0d.
	4 July 1543	" "	£5. 0s. 0d.

No payments were made until 1547, and the non-payment in 1536 seems to have remained overlooked.

	6 July 1547	Feu-ferme	£5. 0s. 0d.
		Arrears	£15. 0s. 0d.

Further arrears build up.

<u>ER</u> , xviii.	14 July 1550	Feu-ferme	£5. 0s. 0d.
		Arrears	£10. 0s. 0d.

From this summary we can see that Selkirk's arrears were eventually paid, although James IV may have had cause to regret his judgement when, on 17 September 1506, he granted the burgh ferme to James Murray of Falahill.⁷ Murray made no payment to the exchequer for eighteen years, which explains the large sum paid in arrears in 1525.

7. ER, xv, 81.

Faced with a constantly depreciating revenue in real terms, the crown had to look for other sources of income from the burghs. Because a charter of feu-ferme exempted a burgh from the need to collect the petty customs for the crown, the comptroller (the royal officer dealing with regular income and expenditure) looked to those burghs that were engaged in overseas trade to render account for what was known as the great customs. Only the royal burghs were allowed to trade overseas, and not every royal burgh was in a position geographically or economically to take advantage of this privilege. Those that did were required to appoint two customars to maintain and present account of the great customs, 'although in practice there was often only one', and small burghs sometimes 'combined to share one customar'.⁸ There is no exchequer roll evidence to suggest that Selkirk was involved in overseas trade during the first half of the sixteenth century, although later in the century the burgh contributed to the custom tax (RCRB, i, 253-4 shows an assessment for 1587). John Brown, described as a customar, appears in the Selkirk stent rolls between 1521 and 1539.⁹ To judge from the amount of tax that he paid, he was one of the wealthier members of the community, and it is likely that he farmed the petty customs in return for

8. I. Guy, *The Scottish export trade 1460-1599*, from the exchequer rolls (un-published M.Phil. thesis, St. Andrews, 1982), 11.

9. TSCB, passim.

an annual payment to the burgh common good fund. Such an arrangement is recorded in a court book entry for 1541, when the petty customs were let to James Scot and John Bryden the elder for one year for the sum of 24 merks.¹⁰ From the tax records it seems that Scot and Bryden, like John Brown, were relatively wealthy, and it is clear that the crown had lost much useful revenue from the petty customs when feu-ferme status was granted. The crown had, therefore, to look to taxation for additional revenue, although until the reign of James V this was not seen as part of the regular procedure for raising money. 'In medieval Scotland, as in other states, taxation had to be justified by some immediate cause or pretext',¹¹ but this did not stop kings, and in particular James V, from calling on the burghs for tax money.

Taxation

Until after the middle of the century the royal burghs were divided into two groups for the purpose of accounting for taxation, those north of the Forth being listed on one roll, and those in the south on another.¹² Thus, letters would be sent by royal messenger riding north and south, demanding that the burghs stent themselves to raise

10. TSCB, 31 August 1541.

11. A.L. Murray, Exchequer and crown revenue, 323.

12. Ayr Accts., cvi-cvii, suggests that this division lasted until 1556, but it was still apparent in 1563, and until then the total assessments on burghs north and south of the Forth were equal (RCRB, i, 530f).

the required sum of money.¹³ When a burgh received notice of taxation it was expected to assess all those inhabitants capable of paying tax, taking due account of ability to pay, and doing so in a fair and equitable manner. King and parliament expected burghs to conform to accepted custom and usage in carrying out a stent,¹⁴ and burghs were also ordered to avoid taxing the poor. In March 1533 the Lords of Council in Public Affairs wrote to the burghs to instruct them to submit their tax rolls for inspection to see 'geif thai haif maid thar taxt justly or nocht, and specialy pur cardstaris, spynnaris and sic uthir miserable persouns that aw nocht to be stentit'.¹⁵ Having received a royal order for taxation the town council or burgh court appointed stenters and collectors. Selkirk followed the practice of getting the bailies to choose three stenters in each of the three watch areas of the burgh,¹⁶ sometimes increasing the number of stenters or collectors if more men were needed.¹⁷ In some burghs it was the practice to 'guard against partiality by having the stenters' own quotas fixed by others',¹⁸ and

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13. TA, v, 50. On this occasion the royal letters demanded a tax to defray the expenses of an embassy to France. Selkirk's share of this tax was £40.
14. APS, ii, 343. In ordering a taxation in 1535, parliament decreed that 'the burrowis stent thare selfis after the auld us'. £6000 was raised to pay for an embassy to France.
15. ADCP, 399.
16. TSCB, 20 July 1535.
17. TSCB, 9 April 1538. Twelve men were chosen to collect the king's tax.
18. Ayr Accts., cx.

Selkirk clearly found it necessary to take steps to protect the stenters from abuse, apparent when the burgh court ordered that no-one should blaspheme the stent-gatherers.¹⁹ Those men chosen to assess their neighbours cannot have found their duties either easy or congenial, and the close personal relationships that existed between neighbours in the urban environment may have become strained when stent rolls were being prepared. This would have been particularly true of the smaller burghs, but in one sense close personal relationships could have helped the stenters in their work. In a community like Selkirk most men's business would be known to their neighbours, giving at least the opportunity for accurate and equitable assessment. We have already seen how Selkirk arranged for the stenters to assess their own immediate neighbourhood, and this underlines the way in which stenting relied on personal knowledge of the ability to pay. However, a detailed study of the Selkirk taxation records (see appendix iv) reveals that some men seemed able to avoid paying tax on most of the occasions that stent rolls were prepared. This may simply be related to an individual's fluctuating fortunes, fairly reflected in an equitable stent roll. It may also reflect partiality on the part of the stenters, or the lack, either genuine or contrived, of ready money at the crucial time. In fairness to Selkirk's stenters

19. TSCB, 3 August 1535.

it must be said that what may seem to us to be tax avoidance was not confined to the wealthier members of the community, although it is interesting to see that Gilbert and Andrew Ker, two members of one of the burgh's leading families, and arguably the wealthiest men in Selkirk, were assessed for tax only twice in a total of seven stent rolls.²⁰

The summary of seven stent rolls for Selkirk also gives totals which do not always tally with the amount demanded by the crown. It is possible that some discrepancy can be explained by mistakes in the preparation of the rolls, or in their transcription into the burgh court book. However, it is more likely that the stenters were following an established practice of 'eiking' a crown or parliamentary tax 'to provide a surplus for local purposes',²¹ or were covering themselves against any default or deficiency 'by assessing for more than was required'.²² Default, either partial²³ or total,²⁴ was always a possibility, and recovery of outstanding tax may have been a slow process. The final stage of the procedure was for the burgh's bailies to render account to the exchequer, which could enforce payment 'not only by apprising

20. TSCB, passim.

21. Ayr Accts., cviii.

22. Ayr Accts., cix.

23. TSCB, 29 July 1516. The burgh court ordered that the money outstanding from the last stent should be collected before Sunday next.

24. TSCB, 3 August 1535. 'We ordand the ix men that brak the stent to heir the covmpt of our bailyeis and the clerk'.

the goods of the bailies but by recognascing burgh liberties and privileges.²⁵ The loss of these liberties and privileges would have been too serious a matter for burghs to contemplate and payment of some kind was obviously preferable. Non-payment for a genuine reason might be treated with some sympathy, as in the case of a contribution made by the treasurer in 1516 to enable the bailies of Selkirk to 'pay thair taxt, becaus that thai war hereit be thevis and pestellence'.²⁶

Selkirk taxation rolls

Seven taxation rolls can be constructed from the evidence contained in the burgh court book,²⁷ and these appear in appendix iv. Each stent is listed showing the assessment arrived at for every tax paying burghess and in-dweller, arranged in descending order of tax to be paid. Occupations or descriptions are shown against individuals where these are given in the original records, and all seven assessments are then listed in summary giving the total tax paid in the stents actually recorded between 1521 and 1539. This does not give a complete picture because the burgh court book also refers to two more taxations (3 December 1515 and 25 October 1540) for which no individual names are given, and only in the former example is

25. A.L. Murray, *Exchequer and crown revenue*, 336.

26. *TA*, v, 70. The sum of £15 was paid to the bailies to enable them to pay the burgh tax, but this may have represented a remission of tax due rather than an outright grant.

27. *TSCB*, passim.

a total figure mentioned. An analysis of the details of each stent shows that not all were carried out for the benefit of the crown. 'When local affairs required funds and money was not available from the common good a stent was collected ... taxes too were laid down to defray legal costs,'²⁸ as we shall see in the case of Selkirk and her charters. The common good fund of a burgh, although subjected to fraud and misuse in a number of communities, was regarded as sacrosanct so far as national taxation was concerned, and whilst surpluses from national taxes might well be used for the common good, there was an accepted rule that this community fund should not be used for national purposes so that it should be 'imployit upoun the commoun werkis'.²⁹

It must also be said that the picture of taxation in Selkirk is incomplete because a number of national taxations receive no mention in the burgh court records, and a brief summary of these un-recorded taxations is given after the explanation of the recorded stents.

Analysis of the Selkirk taxations³⁰

January 1521

This un-dated entry appears after an entry for 27 January 1521. Names and assessments are listed in an apparently random way, unlike other stents which

28. Ayr Accts., cvii.

29. RCRB, i, 475.

30. From stent rolls and other evidence contained in the Selkirk burgh court book.

tend to group names according to the amount assessed. It would be pleasant to think that this apparently random listing represented a form of street directory for the burgh, for which the common clerk simply recorded names and assessments house by house. Unfortunately there is no further evidence to support this possibility. The total sum raised (£2. 14s. 5d.) and the absence of any evidence of a national tax at that time suggests that some local requirement was involved.

3 March 1531

On 23 January 1531 it was decided to raise a national tax to pay for a punitive expedition against Donald of the Isles.³¹ Selkirk's share of this tax was £6. 0s. 0d. and the stent was carried out by six men, under the supervision of the bailies James Scot and John Mithag. A total of £7. 1s. 6d. was raised, with the surplus no doubt being added to the common good fund.

22 April 1535

This taxation is of particular interest, since it deals with the outcome of royal machinations over the fixing of the Staple, but also reflects the efforts made by Selkirk to avoid the payment of a share of the tax. This is not the place for a detailed examination of the Scottish staple, but a brief summary of the events leading up to

31. ADC, iii, 347.

the imposition of the tax helps to place Selkirk's contribution in context. The letters of James V provide much of the evidence on which this summary is based.³²

1515 - Middelburg sent a list of 'liberties and advantages' that would accrue to Scotland if the staple were to be fixed there, and also promised to make an annual grant.

1518 - Middelburg wrote to Master Patrick Painter, Secretary, to urge that the staple be placed with them rather than at Vere. Painter was promised 300 gold crowns if Middelburg's claim was successful.

1522 - Two commissioners were given authority to visit Middelburg and settle the staple there for a period of nine years, or the term of Albany's regency. (The commissioners received gifts and in January 1523 Middelburg agreed to pay James V 11,000 guilders fifteen days after the first Scottish ships arrived and discharged their cargoes).³³

1525 - James V and his council were still trying to give Middelburg the impression that the staple was theirs. Middelburg were clearly not impressed with this assurance and sent representatives to Edinburgh to complain.³⁴ On 24 November 1526 parliament

32. R.K. Hannay and D. Hay (eds.), The Letters of James V (Edinburgh 1954), passim.

33. M.P. Rooseboom, The Scottish Staple in the Netherlands (The Hague 1910), 38.

34. M.P. Rooseboom, Staple, 43.

annulled the contract with Middelburg, giving merchants 'full licence fredome and liberte ... to pass with schippes and guidis in merchandice quhare thai think maist proffettable'.³⁵

1528 - By this time James V was under criticism by Margaret of Savoy who pointed out to him that since he had delivered letters patent to Middelburg in return for money, and since his officers had confiscated these letters without returning the money, he should put matters right.

1529 - Still under criticism, James V wrote to Charles V protesting his innocence in the affair, but offering to try and prevent further loss to Middelburg, if his council found this to be in the public interest.

1531 - Perhaps as a result of the Emperor's intervention, parliament finally agreed to repay the money laid out by Middelburg in their fruitless attempts to obtain the Scottish staple.³⁶

The burghs were stented to raise the money for this repayment, and Selkirk's share of a total tax of £450³⁷ was £9. 6s. Od. This time fifteen stenters were appointed, and it appears from the records that after the assessment had been carried out, the burgh decided

35. APS, ii, 314. The burghs were taxed in 1526 to pay for this freedom to trade where they pleased.

36. APS, ii, 333. Parliament 'ordanis the money at was deliverit for the said town of Middleburgh to the kingis grace ... to be pait and deliverit agane to thame be the kingis graice'.

37. RCRB, i, 513.

to try and avoid payment. To this end James Braidfoot was sent to Edinburgh, with daily travelling expenses of four shillings, for 'getting of ane acquittance and discharge of thair part of the stapil of Myddelburcht'.³⁸ He returned without success, and the collection of tax went ahead, raising the sum of £10. 19s. Od. Perhaps Selkirk felt that since the burgh was not involved in foreign trade it was not reasonable to be taxed for the benefit of others, but the burgh's action may also have been prompted by a tax, un-recorded in the court books, which all burghs were called upon to pay in 1527. This tax, of which the share for burghs south and west of the Forth came to £507. 15s. Od, was levied to pay for the freedom to trade where burghs and their merchants pleased.³⁹ After this demand, Selkirk may have regarded the 1535 tax as a double payment for a rather doubtful privilege.

20 July 1535

Parliament approved a tax of £6000 to cover the expenses of an embassy to France which was to negotiate the king's marriage. The burghs were ordered to stent themselves 'after the old use',⁴⁰ and Selkirk having appointed 'thre discretfull men'⁴¹ from each watch area to carry out the stent, raised the sum of £9. 5s. 6d.

38. TSCB, 22 April 1535.

39. ER, xv, lxxi and 377.

40. APS, ii, 342.

41. TSCB, 20 July 1535.

17 March 1536

On 4 March 1536 the king wrote to Selkirk, confirming its charter as a royal burgh⁴² (this event is described in more detail below). The burgh stented itself heavily, raising the sum of £105. 0s. 8d. which was an impressive amount for a small community. Of this total £57. 8s. 4d. had to be paid to one William Chapman for his 'labouris, seilis and vryttingis of thair new infeftment of the said burgh'.⁴³ The balance was handed to two burgesses for safe-keeping, to be used as needed for the legal defence of the burgh's freedoms and privileges. That such a sum of money could be raised by a small community (over £100 in a total of £170 raised in seven recorded transactions) suggests that although perhaps poor, Selkirk was not poverty-stricken, and it also shows the great importance that was placed on a royal burgh's trading privileges.

9 April 1538

Twelve men were chosen as stenters of the 'kingis taxation of £7. 18s. Od.'⁴⁴ The burgh court book records that a total of £11. 4s. 4d. was assessed, but the actual total was £9. 14s. 8d. It is impossible to explain this discrepancy except by pointing to clerical error as the most likely reason.

42. RMS, iii, 1555.

43. TSCB, 17 March 1536.

44. TSCB, 9 April 1538.

6 September 1539

The last of the seven taxations that can be analysed in some detail refers to a local taxation which raised £26. 1s. 4d. This is explained in the burgh court book as 'ane stent cassyne throu all the communitie to purches mony for thair just defenssis',⁴⁵ and this may be taken to represent a form of legal expense fund which could be used to pay for the defence of the burgh's re-stated freedoms and privileges.

It is useful to be able to record seven Selkirk transactions in detail, and to be able to see the burgh's procedure for assessment, but a number of royal taxations levied in the years 1503-1545 receive no mention in the court book. We have no way of knowing the reason for these omissions, which are recorded elsewhere without any suggestion of exemption for Selkirk. The taxations included:-

1524 - £3000- was called for to pay for an embassy to England, and the burghs' share was £500.⁴⁶

1533 - A tax was levied to pay for a force of infantry to be stationed in the borders. Selkirk was ordered to provide three men, each to be paid 2s. a day, or £9 per month.⁴⁷

45. TSCB, 6 September 1539.

46. ADC, iii, 208-9.

47. ADC, iii, 391-2.

1535 - £20,000 was granted to James V to pay for his 'honourable expenses' in France in connection with his marriage. The burghs' share of this tax was 5,000 merks, and Selkirk, like Peebles, was assessed at £22. 10s. Od.⁴⁸ In the same year the burghs were taxed to a total of £2666. 13s. 4d. for 'supplying and sustaining the west and middle borders'.⁴⁹ Selkirk's share was £18.

By way of compensation for the omission of a number of royal or national taxations, the Selkirk records contain a number of more general references to taxation, and some detail about local taxes. As an example of a general reference there is an entry which sets out the conditions to be observed by a newly created burghess, who is to 'payand thankfully all taxation movit be the kyngis graice'.⁵⁰ The new burghess was also required to pay his share of 'utheris expensis' in connection with the confirmation of the burgh's freedoms, which suggests that the community were still conscious of the heavy financial burden entered into when they sought favours from the king. Indeed, four years after the confirmation of Selkirk's charter it seems that the king was still interested in the burgh as a source of revenue. A stent was carried out amongst burghesses and indwellers so that the comptroller could be sent 'ane certane sowm of usuell mony at Sanct Andro day ... for ane chairtour of divers fredomes grantit and gevin be our soveran lord King James the fyft'.⁵¹

48. Edin. Recs., ii, 75.

49. Edin. Recs., ii, 117.

50. TSCB, 18 March 1539.

51. TSCB, 26 October 1540.

Although royal taxations might have been onerous, it also seems clear that burghs had considerable autonomy in arranging their tax affairs, provided that taxes were paid, and that stents were carried out fairly. An example of this autonomy is to be found in the Selkirk records for 17 January 1543,⁵² which state that remission of taxes for one year is to be granted to John of Best in recognition of his offer to look after common land and woods. It is not clear if this remission applied to both national and local taxes, but it does show us that with almost total control of the process of taxation a community would find no difficulty in leaving individuals out of tax assessments.

The royal wool store in Selkirk

Feu-ferme payments and national taxations may be seen as one dimension of the special relationship that existed between the crown and the royal burghs. Another dimension, that of the burgh as a base for royal business interests, may be seen in the well-documented example of the king's wool store in Selkirk. James V was accused by Henry VIII of England of demeaning himself by sheep farming,⁵³

52. TSCB, 17 January 1543. Although 1543 is given as the year this places the court book entry out of sequence, and the correct date is likely to be 17 January 1542. The preface to the two volumes of the Burgh Court Book of Selkirk 1503-45 refers to this sort of problem. 'Some of the apparent irregularities in dating are obviously due to scribal aberrations, but there are also entries which seem to have been inserted into any convenient blank space'.

53. ER, xvii, lii-liv.

and there is ample evidence to show that the royal flocks in the Ettrick Forest provided useful revenue.⁵⁴ Selkirk was the natural collecting centre for the royal wool, and the crown maintained a storage loft in the burgh, and spent money on the clipping of the flocks and the storage, packing and transport of the wool. An examination of the treasurer's accounts for 1535 gives a picture of a business enterprise of some significance.⁵⁵

Fees, food and drink to the shearers, and carriage of the wool to Selkirk	£19. 18s. 0d.
A lock for the storage loft in Selkirk	1s. 6d.
Canvas for making wool packs	£17. 5s. 0d.
Pack thread	8s. 1d.
Carriage of the canvas to Selkirk	2s. 0d.
Weighing wool at the Selkirk tron	2s. 0d.
Packing and portorage in Selkirk	£3. 1s. 8d.
Carriage of 35 packs to Edinburgh	£10. 10s. 0d.
Portorage in Edinburgh	8s. 8d.
Marking fee (possibly related to marking weights on packs and recording them)	£1. 2s. 0d.
Candles	4d.
Portorage at the tron in Edinburgh (probably incurred when the wool was re-weighed prior to being made up into 'sea-packs')	12s. 7d.
Wages and food for the packers	£3. 4s. 8d.
Carriage of wool to Leith for shipment	£1. 18s. 0d.
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Total	£58. 14s. 6d.
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54. ER, xvii, 172, 287, 741.

55. TA, vi, 260-261.

It is impossible to be certain about the total size of the royal clip from the Ettrick Forest, but the above account provides some useful evidence on which to base an estimate. Much hinges on the 35 packs that are known to have been carried from Selkirk to Edinburgh (with a further 4 packs being sent from Peebles). It is likely that the wool was carried by pack-horses, which would not have been able to carry 'sea-packs' of 364 lbs. or 365 lbs.⁵⁶ 35 pack-horse loads would not have been a large consignment of wool, whereas the amount of canvas purchased (230 ells or 236 yards) was the quantity that would be needed to make a number of small horse packs as well as thirty five much larger sea packs. One more piece of evidence points to the use of sea packs for accounting purposes, and that is the fact that re-weighing and re-packing was carried out in Edinburgh, prior to carriage to Leith for shipment. It seems clear, therefore, that Selkirk was used to store between 12,740 and 12,775 lbs. of wool, which using the contemporary English fleece weight of 1.9 lbs,⁵⁷ would have represented the clip from over 6,700 sheep.⁵⁸

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56. P.J. Bowen, The Wool Trade in Tudor and Stuart England (London 1962), 38, which gives the standard weight of a pack as 364 lbs, whereas K.G. Ponting, The Wool Trade Past and Present (Manchester 1961), 29, gives as as 365 lbs.
57. P.J. Bowen, Wool Trade in Tudor and Stuart England, 38.
58. ER, xvii, liii. The preface refers to the 1814 edition of Pitscottie's Historie in which the king was said to have ten thousand sheep in the Ettrick Forest.

Selkirk and the charters

Another way of examining the crown's relationship with the royal burghs is to use the evidence of the charters which brought the burghs into being, and which set out their freedoms and trading privileges. Selkirk appears in the records as a burgh as early as 1328,⁵⁹ and it seems that any early charter documents may have been lost or destroyed, for the confirmation of burghal status made by James V in 1536 refers to a community beset by war, plague and fire.⁶⁰ The king confirmed Selkirk as a royal burgh with tenure in liberum burgum, and apart from the usual burghal privileges, permission was given to hold a fair on St. Laurence's day and for the eight days following. This concession was obviously valuable to the burgh, since it increased trading opportunities and widened the scope of trading contact with other burghs as well as with Selkirk's own landward area. The community lost no time in proclaiming the fair at the 'mercat crossis and als with hand bell to pas throu greit borrow tounes, videlicet in Hawyk, Jedward, Kelso, Melros, Pebillis, Hathamtoun (Haddington), Lauder, Lanark, Lythgo in all gudlie haist'.⁶¹ Elaborate precautions were taken to look after the common seal of the burgh, which was placed with all documents relating to burgh freedoms in the safety of the common chest. As an additional safeguard the burgh

59. G.S. Pryde, The Burghs of Scotland (Glasgow 1965), 21.

60. RMS, iii, 1555.

61. TSCB, 2 August 1536.

court ordered that all the documents should be copied 'fachtfully in tabyll forme and to be put in souer keiping in thre fachtfull menes keiping to the utilitie of our fredome'.⁶² An earlier court book entry suggests that some royal letters about the freedoms of the burgh had been lost,⁶³ and this may have prompted the care taken of the king's letters of 1536.

Later in 1536 the king granted another favour to Selkirk by giving permission for 1000 acres of common land to be put under cultivation.⁶⁴ This action opened the way for the community to raise money from the rental of land newly brought under the plough, and it effectively increased the potential wealth of the burgh.

A further letter written from Kirkcaldy on 2 September 1536 shows the king still expressing fatherly concern for his burgesses of Selkirk. The wording of the letter captures something of this concern, 'understanding that our burgh of Selkirk and inhabitants thair of continualie sen the feild of Flodoun hes bene oppressit, heriit and quhairthrou

62. TSCB, 24 March 1536.

63. TSCB, 20 July 1535. John Bryden, priest, and James Scot swore that they were 'artles and partles of the vay putting of our soverane lordis the kyngis letters anent the fredome of our burgh'.

64. RMS, iii, 1773. The letter, written at Stirling, 20 June 1536, gives permission to 'ryfe, outbreke and till yeirlie 1000 acris of thair commoun landis of oure said burgh in quhat part thair of thai plese'.

the hant of marchandice hes cessit amangis thame of lang tyme by gane'. Self-interest then showed through this paternal concern, for the king went on, 'and we defraudit of oure custumes and dewiteis'. The burgh was granted a second fair day, starting on the Feast of the Conception, and continuing like St. Laurence's fair for eight days. The royal letter ended with a typical James V reminder that all annual customs and duties must be paid.⁶⁵

The last act of favour by James V was to grant permission for the annual election of a provost, and for the appointment of provost and bailies as sheriffs of the burgh and its common land. The king spoke of his affection for the burgh, and reminded the burgesses of the annual feu-ferme payment of £5.⁶⁶ The burgh expressed its appreciation by taxing itself as mentioned above, to pay the comptroller 'ane certane sowm of usuail mony'.

This series of royal letters, and the burgh's response to them, provide an example of the close relationship that could exist between the crown and royal burghs. The king obviously looked for a financial return from his burghs, but in exchange the burghs received trading privileges which were of great importance, even to a small burgh such as Selkirk, with no opportunity to engage in foreign trade. The Selkirk records contain

65. RMS, iii, 1773. The two royal letters of June and September 1536 were confirmed on 8 April 1538, perhaps because the original RMS entry had been lost.

66. RMS, iii, 2207.

many references to trading privileges, and the measures taken to protect them, and there is no doubt that the community were aware of the advantages of the burgh's dependence on royal favour. It is also clear from the records that the king was not regarded as an oppressor, indeed there are many references which indicate that the crown was held in respect, and that the king's relationship to the burgh was seen as something to be taken seriously. The court book often refers to the need to avoid encroaching on the 'king's street',⁶⁷ and efforts were also made from time to time to improve the tolbooth, 'to serff the kingis graice and lordis of his counsaill...'.⁶⁸ There was, perhaps, a certain formality in the words used to refer to the king, as in the case of the burgh court's orders for a muster, recorded on 17 October 1542, which spoke of the 'comon weill of the gud toun and for thankfull service of our soverane lord his luffin tenentis and legeis ...',⁶⁹ but the overall impression is one of a relationship based on respect and an awareness of the benefits of loyalty to the crown.

Inter-burghal relationships

Because of the extent of common interest amongst

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67. TSCB, 22 February 1542. 'This inquest, riplly avyssid, ordines that na man mak properte of the kings cawsay or his streittis.'
68. TSCB, 16 December 1539. Unless the bailies locked the tolbooth and kept the key it was said to be 'detroit and fillit with fylth of men and bestis, quhilk was schaime to sie'.
69. TSCB, 17 October 1542.

the royal burghs it was inevitable that machinery for formal co-operation should be developed, and by the mid-sixteenth century this co-operation had evolved from the earlier Court of the Four Burghs into the Convention of Royal Burghs. The function of the Convention was to represent the 'interests of the royal burghs to the crown and parliament, and to ensure the protection of their trading privileges'.⁷⁰ Pagan points out that despite the common interest that led to the creation of the Convention, and which held it together, there was also rivalry and jealousy between burghs, described as 'self-sufficient and self-centred communities'.⁷¹ Given the nature of burghal freedoms, based as they were on trading privileges, it is not surprising that rivalry and jealousy should exist, and much has been written about the efforts of some of the royal burghs to prevent the erection of burghs of barony within their areas. However, it must also be said that burghs were to some extent dependent on each other so far as trade was concerned, since every burgh was anxious to attract trade, so long as this did not mean serious competition. We have already seen how quickly Selkirk sent the news of the new fair to other burghs, and it is clear that fair days were attended by people from neighbouring communities, as well as by the inhabitants of a burgh's landward areas.

70. T. Pagan, The Convention of the Royal Burghs of Scotland (Glasgow 1926), 9.

71. T. Pagan, Convention, 8.

With two fairs a year Selkirk would have tried to attract people from a wide area, and detailed arrangements were made to arrange the layout of the fair, so that each commodity could be set out in its own part of the burgh. Thus, we find the chapmen allocated the south side of the market cross, the cordiners on the south side of the tolbooth and wool, skins, cheese and butter around the tron, perhaps for ease of weighing. The meal market was fixed 'quhair it vas effoir' and other food items were to be sold to the east of George Lydderdail's house. Livestock were allocated the area around the forges (see the conjectural plan of the burgh in appendix i), and wood was to be sold on Hallawalhill (Holywell Hill).⁷²

The comprehensive nature of these arrangements suggests a fair of some importance, attended by a significant number of people, although there is no evidence to support this assumption. There is also no further evidence of Selkirk's informal dealings with other burghs, but one can imagine that intense rivalry existed between the border burghs, as it does to this day. So far as Selkirk's formal inter-burghal relationships are concerned, we know that a representative was sent to the meeting of the Convention held in 1552,⁷³ and later (in 1586) the burgh was exempted from attendance for three years.⁷⁴

72. TSCB, 2 August 1536.

73. G.S. Pryde, Burghs, 21.

74. RCRB, i, 214.

Exemption was granted because of poverty, or the inconvenience of attending a Convention from a great distance,⁷⁵ and without exemption non-attending burghs faced a relatively heavy fine of £20.

The absence of further evidence of inter-burghal relationships cannot be taken to mean that a small and isolated burgh like Selkirk had virtually no dealings with other communities, and there was certainly a degree of interdependence with other burghs so far as trade was concerned. Apart from this, there were other opportunities for contact with the outside world, perhaps largely concerned with legal and parliamentary affairs that had to be dealt with in Edinburgh. Such contact, like trading relationships, comes under the heading of necessity, but in other aspects of life the basic self-sufficiency of the burgh made further inter-burghal contacts largely unnecessary. In this respect Selkirk, like other small communities, was insular, and, as in other ways, intensely conservative. The community was perfectly conscious of the concept of nationhood, insofar as it was centred on the person and role of the king, but for much of its daily life the burgh looked inward.

75. T. Pagan, Convention, 44.

CHAPTER TWELVE: CONCLUSION

SOCIAL CONTROL IN AN URBAN COMMUNITY

The first chapter of this thesis began with an attempt to place the concept of social control within the context of the sixteenth-century burgh. In the introduction social control is defined as the 'means and forces' which are used to regulate and limit behaviour in a society, and this definition is expanded to cover most aspects and institutions of communal life.¹ The rule of law is only one aspect of control, but it has sometimes been relied on by historians seeking to describe and explain the control of deviant behaviour in a community. This is a partial borrowing from a diverse and diffuse body of sociological theory about social control, and it has been suggested that historians could benefit from an extension of the purely legalistic approach into 'two broad categories', one dealing with coercive controls that use force to bring about conformity, and the other with controls that depend on self-regulation, both by individuals and groups.² Because this thesis

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1. D.M. Walker, The Oxford Companion to Law (Oxford 1980), 1151.
 2. J.A. Mayer, 'Notes towards a working definition of social control in historical analysis' in S. Cohen and A. Scull (eds.), Social Control and the State (Oxford 1983), 22-24. Mayer points out that one of the more recent views of social control concentrates on the self-regulation of behaviour by a social group or a society, in which shared ideals or the attempt to find shared ideals, makes coercion unnecessary. (citing M. Janowitz, 'Sociological theory and social control', American Journal of Sociology, 1 (July 1975), 82-107.)

depends heavily on the evidence contained in burgh court records it may at first glance appear that the legalistic approach to the problems of social control is the most appropriate. However, it is the very nature of the court records, which contain many pointers to social relationships, that suggests that a much broader view is necessary. Community life consisted of a 'whole series of delicate balancing mechanisms', in which multiple influences served to create 'cohesion out of conflict'.³ Social control is a convenient label for the processes by which the community achieved balance and stability, through a range of 'formal and informal mechanisms for creating and enforcing rules'.⁴

Before turning to an examination of the evidence put forward in this study, and before attempting to draw some conclusions about the relevance of the concept of social control to an understanding of sixteenth-century urban life, it is necessary to try

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3. R.E. Pahl, Patterns of Urban Life (London 1970), 103. Pahl describes community as 'common deprivation', in which for good or ill, all are 'obliged to have a stake in the local situation'. He also identifies the intensity of a close-knit social situation which may seem stifling to some members of the community, and in which the mechanisms of social control aid continuity and conservatism, rather than change and radicalism. This analysis of the urban situation is not out of place in the context of the small sixteenth-century burgh.
 4. C. Larner, Enemies of God: the Witchhunt in Scotland (London 1981), 53.

and reach some conclusions about the concept itself. Several definitions have so far been discussed, all of which, if used carefully by the historian, are capable of providing a framework of thought within which urban social relationships can be examined. It is tempting to alight on one of these definitions which may appear to suit what seems to have been happening in the sixteenth-century burgh, and to ignore the continuing controversy about the meaning and importance of the whole concept. As R.F. Meier has pointed out, 'even a cursory examination of the concept of social control will confront an apparently insurmountable problem: no definition of the term is agreed upon by sociologists'.⁵

Some sociologists have used the term 'social control' to describe a basic social process or condition, and this view was put forward by those who tried to explain social organisation in complex groups and societies.⁶ Another group of sociologists have used social control to describe regulatory mechanisms in society which

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5. R.F. Meier, 'Perspectives on the concept of social control', Annual Review of Sociology (1982), 35.
 6. The view of social control as a basic social process or condition was sufficiently vague to be used in various ways by a wide variety of theorists, including Tonnies (gemeinschaft und gesellschaft), Weber (traditional and rational/bureaucratic management) and Marx (capitalism and socialism).

are used to arrive at conformity and stability.⁷ More recent sociological thinking has been based on the concept of social control as the means by which social order can be studied and understood.⁸ This multiplicity of theories has led to the concept of social control being all things, if not to all men, then certainly to successive generations of sociologists. The concept has become 'so elastic that it fits almost every meaning'.⁹

However, a recent writer has suggested that the term social control should be reserved for intentional behaviour,¹⁰ and this may lead back to a much earlier way of looking at the concept in economic terms.

If we adopt this view of the concept of social control, albeit with the caution that is necessary when seeking to gain insights from modern sociological theories in examining sixteenth-century urban life,

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7. The American sociologist Talcott Parsons was one of the leading proponents of this view of social control. He defined it as 'a motivation process ... which tends to counteract a tendency to deviance from the fulfillment of role-expectations It is a re-equilibrating mechanism'. He went on to point out that there was little hope of a formal sanction system operating effectively in most cases unless backed by a system of moral sentiments that favoured the pattern of community life (T. Parsons, The Social System (New York 1951), passim).
 8. The current theories about the meaning and purpose of social control are based on the study of the processes that link individuals together (an area of study labelled as ethnomethodology), and with what is called social exchange theory which examines the connections between individuals and the structures of society.
 9. R.F. Meier, 'Perspectives on the concept of social control', 53.
 10. J.P. Gibbs, Norms, Deviance and Social Control (New York 1981), 53-58.

then these two dimensions of intentional behaviour and economic significance can be seen to have some meaning. The royal burgh was first and foremost an economic entity, dependent for its existence on the trading activities of its inhabitants. Just as the smaller social grouping of the family may be said to have had an economic dimension,¹¹ so the wider society of the burgh community was held together by economic interests. Much of the evidence examined in this thesis also illustrates the 'intentional' nature of social control measures, exercised on behalf of the community, and in most cases within a framework of community consent.

The thesis has pointed out a number of ways in which social control was exercised in the interests of economic stability and continuity. Aspects of inter-personal relationships covered in chapters nine and ten reveal how the community intervened to regulate testaments and heirships, and how the ownership of land and property were matters within the public domain, and, therefore, discussed openly in a public forum. The community sought economic and social stability based on the continuity of families and their holdings of land and property. Social control measures in this area of urban life were designed to preserve the status quo, and were inherently conservative in their effect.¹² The protection of publicly owned

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11. L. Stone, The Family, Sex and Marriage in England: 1500-1800 (London 1979), 88. The sixteenth-century family ... 'was a structure held together not by affective bonds but by mutual economic interests'.
12. R.E. Pahl, Patterns of Urban Life, 104.

property was another area in which social control may be seen to have been functioning within an economic context, and in the case of the burgh of Selkirk this may be seen most clearly in the way in which the community protected common land and regulated its use. Market regulation provides further evidence of the economic imperative, in which the valuable trading privileges of the royal burghs were guarded by complex rules and procedures. The evidence on market regulation also shows how communities sought to preserve social stability by assuring food supplies and controlling prices. The economic factor even emerges from the evidence for social control in the field of public health. The burgh was dependent on trade, and, therefore, markets were of great importance. However, markets could also pose a threat to public health because in times of plague the unrestricted movement of traders between marketing centres was known to be linked to the introduction of infection.¹³ When plague threatened, the economic interest of the community came into conflict with social concerns. The social concerns, as well, of course, as the longer-term interests of the community, were, perhaps, best met by the immediate imposition of quarantine, which implied the suspension of markets. However, the social controls necessary for quarantine leading to the effective economic isolation of the burgh, could be modified by the court's reluctance to damage trade, and the evidence for Selkirk contains an

13. See chapter seven.

example of control measures that were influenced by this apparent conflict of interests.¹⁴ Another example may be seen in Selkirk's attitude towards the sale of food commodities by un-freemen.¹⁵ Market regulation consisted of a large number of social control measures specifically designed to protect the trading privileges of burgesses, but the burgh court had also to recognise the ever-present need to maintain social order and stability. This order and stability could be threatened by food shortages, and from time to time burghs found it necessary to suspend some of their market controls and allow a small amount of un-free trading. On the face of it, this shows how economic considerations could give way to social concerns, but such a view over-simplifies the control choices facing burgh authorities. In times of shortage the normally dominant economic imperatives were temporarily replaced by concerns for social order, but in the longer term the community depended on social stability for its economic survival, and, therefore, economic and social needs were, inevitably, closely linked.

This is not to suggest that the burgh court was a body much given to discussion of the concept of control in the abstract, but it is clear from the evidence that decisions had to be taken with regard to both

14. TSCB, 12 July and 2 August 1530. As chapter seven records, the burgh court hoped to be able to prevent infection being brought in by asking all traders to swear that they had not been in infected places. In August it was decided to ban all travellers from suspected areas, and this second court order must have severely curtailed the weekly market.

15. See chapter five.

short-term and long-term objectives. If the longer term view was not apparent in some of the decisions taken about public health because of the presence of economic considerations, it may be seen functioning more clearly in the way in which the burgh tried to control its common land. Chapter four looks at the evidence which reveals a community facing serious problems of encroachment by neighbouring landowners, leading on occasions to armed hostility and even murder. Selkirk's extensive commons were vital to the burgh's economic survival, and control measures had to take account of day-to-day problems such as the illegal cultivation of land and the building of 'private' dykes, as well as the need to plan for the future security of the commons. Long-term measures included attempts to arrange protective alliances with local lairds, and action to gain the support of the crown.¹⁶

The burgh court took decisions about the common land on behalf of the community as a whole, and these decisions can be described as both formal and coercive in form and

16. Selkirk was not alone in facing encroachments by neighbouring landowners. Peebles had similar problems during the sixteenth century over the common lands of Caidmuir that were claimed by the Gledstones family, as well as having to contend with disputes with other local lairds. The Hays of Yester, as patrons of Peebles, became actively involved in trying to help the burgh deal with encroachments. In this respect Peebles was more fortunate than Selkirk, which lacked such a firm alliance. (R. Renwick, Peebles During the Reign of Queen Mary (Peebles 1903), passim).

effect.¹⁷ However, in this area of decision making, as in many others, the formal mechanism of control was made effective by the informal control system which was based on 'spontaneous reaction by the community' to what was happening.¹⁸

This reaction by the community to social control measures imposed as part of the formal system of control is well illustrated by the response to deviant behaviour shown in the Selkirk records.¹⁹ In the first place it is necessary to define deviant behaviour as it appears in the evidence. Any society has a tendency to establish norms of behaviour, which may be expressed in terms of the nature of relationships between individuals and the groupings of both family and society. These relationships have social, and, as we have seen, economic dimensions, and the innate conservatism of a sixteenth-century urban community, concerned as it was to maintain stability and continuity, ensured that a high value was placed on conformity. The community attempted to 'impose impersonal patterns on individual behaviour',²⁰

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17. J.A. Mayer, 'Social control in historical analysis', 24. Coercive controls use or imply the use of force, which may be legally sanctioned, or be extra-legal.
18. T. Parsons, The Social System, 134.
19. Appendix ii summarises the reaction of the burgh court to the deviant behaviour of John of Bellenden.
20. R.H. Turner (ed.), Robert E. Park on Social Control and Collective Behaviour (Chicago 1967), introduction, xi.

and the way in which this imposition of norms operated varied according to the size and social structure of the community. In larger burghs, with a developed and powerful elite that was socially and economically distanced from the majority of the inhabitants, the control of deviant behaviour was often nothing more than the open exercise of power. In such a situation 'those with more power than others might typically attempt to justify the use of this power in restricting the freedom of others'.²¹ A well established and powerful urban elite was able to impose clearly defined and strict norms of behaviour, and to punish all those who failed to conform.²² However, the urban elites in Scottish burghs in the sixteenth century were seldom powerful enough to wield such complete power, even in the wealthy and well-populated communities of Edinburgh and Aberdeen.²³ In the small, relatively poor and

21. P. Sites, Control: The Basis of Social Order (New York 1973), 207.

22. W.T. MacCaffrey, Exeter 1540-1640 (London 1975), 72. Sixteenth-century Exeter is described as an 'authoritarian society' in which 'tight control was exercised over many aspects of the individual citizen's life'. Economic control was rigorous and there was constant surveillance of all aspects of social life to ensure stability and order.

23. M. Lynch, Edinburgh and the Reformation (Edinburgh 1981), 22. Lynch points out that Edinburgh's town council, like that of other Scottish burghs, could not be described as a 'closed oligarchy', and in practice government was based on a measure of consensus. J.J. Brown has confirmed that the ruling elite in Edinburgh of around sixty individuals was able to exercise considerable political power (J.J. Brown, The social, political and economic influences of the Edinburgh merchant elite (un-published Ph.D. thesis, University of Edinburgh, 1985) passim), but this power did not become complete enough to allow the corruption that 'followed in the wake of untrammelled privilege' that is said to have been a feature of seventeenth-century Scottish burghs (T.C. Smout, A History of the Scottish People: 1560-1830 (London 1969), 150).

socially more homogeneous burgh of Selkirk, deviant behaviour seems to have been regarded with some tolerance. Although such behaviour was clearly viewed with concern by the burgh court, and, perhaps, by the majority of the community, the more formal aspects of social control measures that might have been exercised, such as fining, imprisonment or even banishment, were modified in such a way that suggests the exercise of a degree of tolerance. Selkirk treated John of Bellenden, whose non-conformity often amounted to outright social deviance, in this way, and the community's demands for conformity never amounted to an insistence on total conformity.²⁴ Bellenden's behaviour often placed him at odds with his neighbours, and because his activities usually involved money, land and property, he was an economic as well as a social threat to the community. In most of the control measures taken against him we can see evidence of social pressure but little coercion, and the nature of his relationships with the community provides an example of the way in which the perceived needs for stability and order were balanced against the acceptance of some unusual and non-conformist behaviour in an individual. The reasons behind this tolerant attitude

24. T. Parsons, The Social System, 234. The 'simplest and most obvious' of the mechanisms of social control designed to secure conformity are those which by using a system of rewards and punishments 'aim at tipping the balance in favour of conformity'.

may be related to the economic power of the deviant, as suggested in chapter two, and might also have been influenced by local attitudes that seem to have placed some importance on self-reliance and independence. The prevailing social norms of a community were, therefore, subject to a number of influences which arose from the nature and structure of social life. Formal social control measures had to take account of these influences.

The twin themes of economic and social interest as the dominant factors in the formation of social control measures can also be seen in the way in which the community sought to regulate inter-personal relationships. In this area the typical aims of continuity and stability applied as much as in other aspects of urban life. The interests of the community as a whole were seen as being best served when relationships between individuals were conducted in a way that did not threaten the established social order, but at the same time there appears to have been a degree of unwillingness to interfere too much in personal matters. When disputes between individuals became 'public property' by escalating into verbal or physical violence, the burgh court was often placed in the position of a referee having to keep both sides apart. The community had an interest in preventing violent behaviour, which if un-checked could present a threat to stability and order. This might lead to

specific orders being given to prevent violence,²⁵ or sanctions being taken against offenders. These sanctions could, in extreme cases, include banishment, imprisonment or fining, but as chapter two points out the Selkirk court often chose to impose moral pressure rather than formal sanctions on people who threatened to disrupt the peace and stability of the burgh. The effectiveness of moral pressure depended, to a large extent, on the support of public opinion, and in matters arising out of inter-personal relationships we can see that the formal control mechanisms that were at the disposal of the burgh court were backed up by controls based on public attitudes and values. The function of the court in such cases was to enable both parties to a dispute to air their grievances and to urge settlement upon them within a framework that would command public support. We can, therefore, find references to burgh court decisions that urge the parties to find a way to agree, as shown in the court book entry for 30 April 1538 which 'hummely makis request to the saidis parteis adversairis ... to sit down eisely nychtbourlyk to mak coumpt be gud record als fer as thair memor and conventions can dit thaim'.²⁶

25. Individuals, or the burgh court acting on behalf of the community, could seek a declaration of lawburrows in situations where the threat of violence was felt to be present. This was a form of security given by one person that he would not injure another person or his property.

26. TSCB, 30 April 1538.

In other aspects of inter-personal relationships the social controls were even more informal. Many business transactions were agreed before the burgh court or in a public place so that the details became public knowledge. This is a common theme that runs through the evidence and it illustrates the way in which private and public areas of life were closely interwoven, particularly in the smaller urban communities. Business agreements were arrived at, or perhaps simply rehearsed, before a number of neighbours, either in the formal setting of the burgh court, in the church or some other public place. The parties to such agreements were not normally asking for comment or advice, but were making their arrangements known before some kind of public forum. In a close-knit community this was an effective form of informal social control, intentional in nature, effective without being coercive, and satisfying the conservatism of the community's needs for stability and continuity. It was also a form of control that commanded public support, and in this way was an expression of a need for consensus. The use of a public forum as a sounding board for aspects of inter-personal relationships took advantage of the public nature of private life in a small, crowded and socially interdependent burgh. Personal characteristics were public knowledge, and individuals' strengths and weaknesses were well known and no doubt publicly discussed. Reputations were based on this public knowledge, and it was, therefore,

safer for business transactions to be publicly aired rather than to be wholly private matters, and as such likely to attract gossip and innuendo. In a community that was without marked economic or social divisions one way of combating mutual suspicion and mistrust was to conduct private business beneath the scrutiny of public opinion.²⁷

Throughout this thesis attention has been drawn to the part played by consensus in the operation of social control. If we think of this consensus as meaning that all decisions were reached by a process of discussion and agreement in which all the community were involved we place too modern a meaning on the word. Consensus in the smaller sixteenth-century burgh is perhaps best described as decision making by a few who saw themselves as acting on behalf of the majority in a way that would echo the wishes of the majority. Chapter two describes the role of the burgh court as decision making on behalf of the community without going too obviously against the grain of the public perception of right and wrong. Another way of putting this is to say that the court, as the community's chief instrument of formal and intentional social control, acted within the norms of behaviour prevalent in the burgh, and took account of public opinion in reaching its decisions. In Selkirk, this was, perhaps, the only way in which the court could have operated

27. F.G. Bailey, Gifts and Poison: Politics of Reputation (Oxford 1971), 4. 'A man's reputation is not a quality that he possesses, but rather the opinions which other people have about him.' Bailey says of small communities that 'people know too much about one another for it to be possible to find someone pure enough to remain, respected, outside the competitive arena'. This is an observation that could quite properly be made about sixteenth-century Selkirk.

and, in a very real sense, the burgh was largely ruled by consent. If consent was withheld the threat that this might pose to order and stability was too obvious to ignore.²⁸ However, during the period examined by this thesis it appears that there was no breakdown of the framework of control, and it can be assumed that the functioning of the burgh court was normally in accordance with public opinion. Indeed, there is evidence to show that the court itself felt sufficiently confident of widespread public support, for a dramatic and effective challenge to be mounted to the burgh's most powerful family.²⁹

It is difficult to form a clear understanding about the way in which public opinion was formed in sixteenth-century burghs. The evidence for Selkirk, although detailed, does not provide many direct insights into the nature of family life. It seems likely that opinions and beliefs were formed within the close society of the family, and in the wider context of the kinship group. Custom and precedent would have been passed on within the family circle, as would any prejudices and animosities against other families. Evidence from burgh court records cannot be expected to reveal much about this aspect of community life, but there is a

28. On 3 December 1515 the inquest of thirty at the bailie court threatened to boycott further court hearings unless the bailies performed their duties properly (TSCB).

29. Chapter eight records the incident in 1538 when the burgh court resisted the claim of a Ker to patronage of the Rood altar, and succeeded in banning the use of the altar for a year rather than permit the Ker nominee to be chaplain.

certain amount of unwitting testimony that can be taken from the details of various disputes and disagreements. Testimony from witnesses may simply be seen as factual evidence of incidents like assault and theft, but the answers given provide some insight into the questions that were put, and the nature and content of the questions can sometimes provide clues about opinions and beliefs. Another aspect of daily life was that of religion and its doctrines and rituals.³⁰ We have more factual information about this aspect than we do about the intimate details of family life, and it seems reasonable to suggest that religious beliefs and observances played a part in forming public opinion. Christian teaching and life in an environment that was still influenced by the daily rituals of religious practice must have had some part to play in forming individuals' own sense of right and wrong, and in establishing the norms of behaviour adopted by the community.³¹ In a small community like Selkirk religious belief and practice was a force for conservatism which helped to reinforce ideas about stability and continuity.

Economic interests held the community together, and may, therefore, be expected to have played a part in shaping opinion. Mutual economic aims, like shared religious

30. The place of religion in the daily life of the burgh and its inhabitants is discussed in chapter eight. The evidence suggests that the influence of religion and religious beliefs, although not dominant, was important to both individuals and the community as a whole.

31. T. Parsons, The Social System, 308. Parsons argued that in a broad sense religion was closely related to the integration of the social system, the ultimate aim of social control. He described the ideal type of fully integrated society of a certain kind which was likely to have a completely integrated religious system.

beliefs, would have favoured continuity and the preservation of the status quo, emphasising the innate conservatism of the burgesses, and giving shape to a community view which influenced economic regulation.

A further area of shared interest must also have played a part in forming public opinion, and that is the area of the mutual co-operation that was called for in a variety of communal activities. Chapter four describes the co-operation necessary for the protection of commonly owned property, and chapter six discusses the role of the townsman as soldier and as policeman. These and other activities demanded communal effort, which is likely to have been a factor in the development of common attitudes and beliefs.

Public opinion was a product of all these influences which worked together to create a framework of shared perceptions and attitudes. It was this framework which provided the basis for the community's informal system of social control.

The research on which this thesis is based involved a detailed study of the Selkirk burgh court records. Appendix iii analyses the subject matter brought before the court and the way in which the court reacted. It is clear from this analysis that it was difficult to compel attendance at court, despite the possibility of fining those who failed to appear. In fact, fining was a sanction rarely used, and when it was applied it was usually after the fourth non-appearance, and was likely to take the form

of action against sureties.³² This somewhat casual attitude towards the matter of court appearance could be taken as showing that the burgh court was held in low esteem, and that its role in promoting social order might be limited. However, this would be an over-hasty conclusion, and it is necessary to look at the rest of the analysis. Although it was not always easy for the court to compel attendance by both parties to a dispute until several courts had elapsed, the analysis shows that the court was used and that cases involving debt took up much of the court's time. Many of these cases were brought voluntarily before the court so that the details of transactions might be publicly declared and recorded. In other debt cases the parties sought decisions from the court, which were given openly and publicly, often accompanied by specific instructions for settlement. It is often difficult to find evidence for the subsequent enforcement of court rulings, or for the collection of threatened fines, and although it would be misleading to describe the burgh court as a purely advisory body, its action often seems to have stopped short of enforcement. There is no doubt that it had powers of enforcement, and these were exercised from time to time in cases of a more serious nature, particularly in matters of communal property and the burgh's trading privileges.

32. Amercements for non-appearance are discussed in some detail in chapter two.

However, in many of the cases recorded in the evidence, the court was content to make pronouncements about the rights and wrongs of the matters that were in dispute and to provide a forum for the recording of agreements and the public airing of inter-personal difficulties. Formal regulations were issued to assist in the process of control, particularly in matters of economic concern, but it appears that there was often a reluctance to apply formal control measures to personal matters. Nevertheless, the burgh functioned as a cohesive and moderately successful community, with the burgh court playing the leading role in burgh government in a way that brought influence to bear on both public and private affairs. In the private domain the court's main sanctions were informal but often effective, and these sanctions included public shaming and ridicule and what may be described as moral pressure.

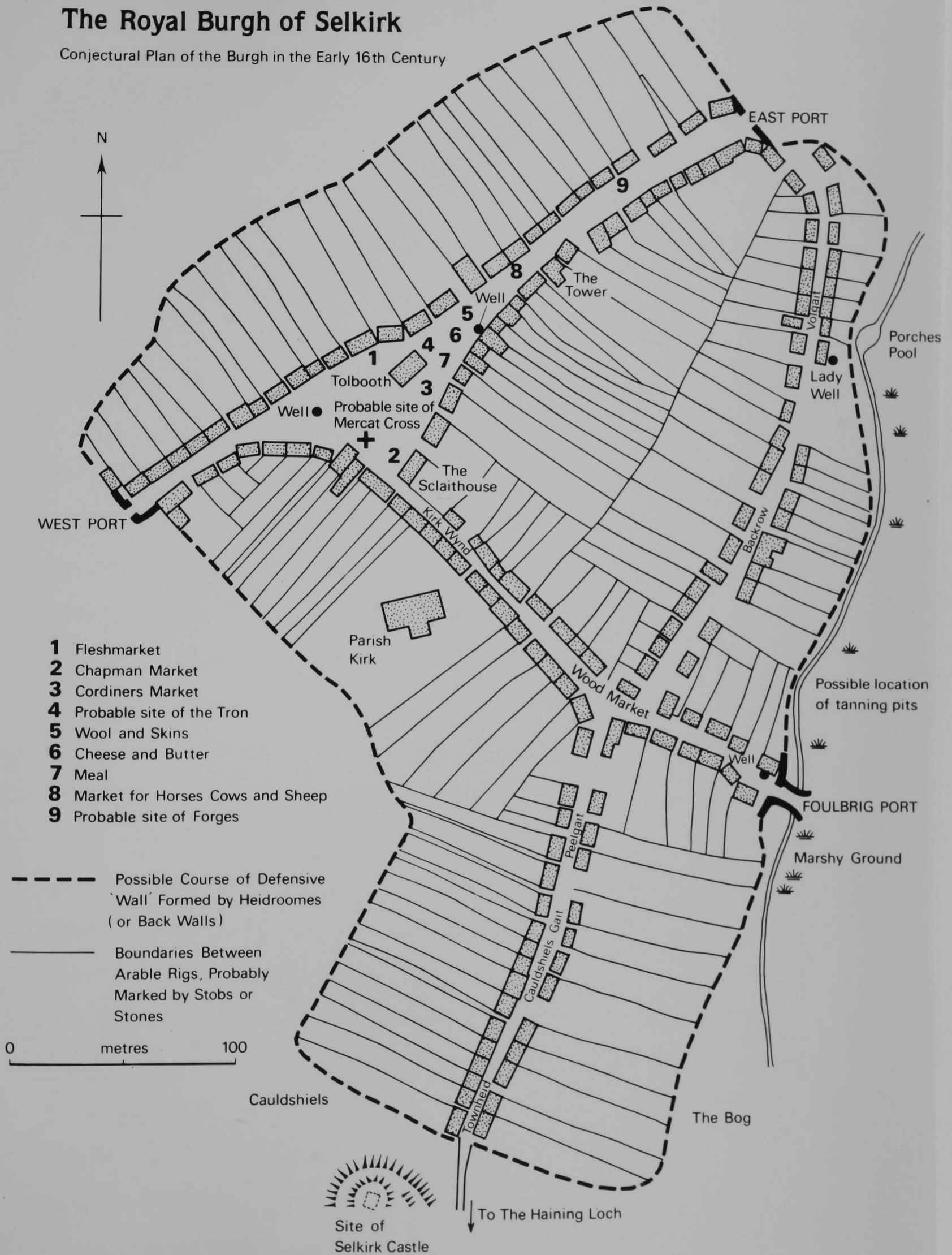
To make such sanctions effective the court had to rely on the public nature of social control in which public opinion or a modified form of consensus played a major part. The use of the court as a public forum, similar in operation to the gatherings of tribal elders still found in some societies, made use of the community's system of values and beliefs to enforce conformity. The court was the public arbiter, the community sounding board and the mirror of collective conscience and attitudes. Because it was able to function in these ways within the bounds of consent it may be seen as an effective instrument of social

control. The burgh court of Selkirk exercised an increasingly important role during the sixteenth century, during which time the power of the court grew and paved the way for the emergence of a more dominant elite in the seventeenth century. Only then did social control begin to function without the checks and balances of public consent, and when that happened the intense, sometimes abrasive but essentially interdependent social order of the sixteenth century had gone for ever.

APPENDICES

The Royal Burgh of Selkirk

Conjectural Plan of the Burgh in the Early 16th Century



APPENDIX iNote on conjectural plan of Selkirk

The purpose of this plan is to give some idea of the shape and size of sixteenth-century Selkirk, as a way of illustrating how the burgh could be defended. In addition, the plan shows the likely location of some of the main features of the burgh, such as the tolbooth, market cross, wells, and the position of market areas for various kinds of merchandise.

It is stressed that the plan can only be regarded as conjectural, because of the absence of enough archive material or archaeological evidence to support more positive conclusions. However, entries in the TSCB make it possible to be reasonably certain about some aspects of burgh layout, and the likely location of certain important features. For example, the records make it clear that there were three ports or gates, and that the perimeter defences consisted of earthen or turf 'heid roomes' (back walls). J. Wood's town plan of 1823, reproduced in Craig-Brown's History of Selkirkshire (1886), shows the position of the three ports, and the distinctive triangular shape of the burgh. In 1981 Walter Elliot of Selkirk produced a town plan for his study of Selkirk in 1714. This plan, giving the names of all householders, was drawn up after research into records of sasine, and it shows a shape and size of burgh that is very little different from that shown in Wood's plan of 1823. With Mr. Elliot's permission the

conjectural plan of the burgh in the early sixteenth century 'works backwards' from the 1714 plan, and is verified wherever possible from the burgh court records.

The three ports and the triangular shape of the burgh are distinctive, and indeed the triangular shape of the original layout can still be traced in modern Selkirk. The chapter in this thesis on security and public order discusses the evidence on burghal defence, and features such as the location of markets are dealt with elsewhere in the thesis. There seems to be a reasonable case for suggesting that the boggy ground known to exist along the south-eastern side of the burgh would be a suitable location for tanning pits, which could be filled from the watercourse. This suggestion is given support by evidence that the Foul Brig crossing this ditch may have derived its name from the practice of tanners and fleshers using the ditch as a dumping ground for their trade refuse.

The plan shows the location of houses, and the divisions between properties. The alignment of dwellings would have followed the line of the streets, but the number of houses must remain a matter of conjecture. The lines shown between properties must also be regarded as arbitrary. Such boundaries would have been marked by stobs or piles of stones, rather than by dykes. The records suggest that it was only the back walls and their associated ditches that received any attention, and then only in times of trouble and

danger. It should also be borne in mind that 'in-filling' was almost certainly a feature on some of the agricultural land within the burgh boundary. The 1714 and 1823 plans show some housing development behind the main streets, as well as stables, kilns, barns and other similar buildings. This must also have been the case in the sixteenth century, but is not suggested on the plan because there is no evidence to point to the location of such structures.

In the absence of any documentary evidence other than that contained in the court records one cannot do more than speculate about the finer details of the sixteenth century burgh layout. As Anne Simpson and Sylvia Stevenson point out in their archaeological survey of Selkirk (Scottish Burgh Survey series, 1980), there is very little archaeological evidence available, and apart from a minor investigation carried out during building work at the site of the South or Foul Brig port, nothing has been done to provide backing for the scanty documentary evidence. We can be certain that ports and defensive earthworks did exist, but that is really all that can be said with certainty.

Finally, it is worth noting that it is possible, by using the available records, to assign tenants' or owners' names to some of the properties shown on the plan. Ownership of the buildings known as the Tower and the Sclaithhouse can be stated with certainty, and the same can be said of several other properties. Unfortunately, the record is incomplete, and further work on this aspect of sixteenth-century Selkirk must await the discovery of fresh evidence.

APPENDIX ii

The deviant behaviour of a burghess of sixteenth-century Selkirk - an analysis of the court
appearances of John of Bellenden

The name, John of Bellenden, first appears in the Selkirk burgh court records (TSCB) in 1523. It appears with a number of other names in a list or roll, although the record does not explain the reason for the list. Later entries describe John of Bellenden as being made a burghess (30 January 1531) and a 'gyltyne breder' (gild brother) (30 April 1538). He last appears on 15 November 1542. He is shown variously as John or Jock of Bellenden, John or Jock Bellenden, and sometimes simply as Bellenden. It is probably safe to assume that he or his forebears came from Bellendean in Roberton parish, Roxburghshire (NT 374146).

There is nothing to tell us how long he lived in Selkirk, or what happened to him before 1523 or after 1542, but what makes him interesting is the large number of times that he appeared in the burgh court as pursuer, defender or witness during this nineteen year period. He was involved in court hearings on almost forty separate occasions, sometimes featuring in several cases in one day. A detailed analysis of these cases is revealing, and allows us to see something of the man as an individual involved in complex relationships with his fellow citizens.

27 November 1526 - He admits owing 4s. to Meg of Lauder, and promises to pay her in fifteen days.

28 January 1527 - The burgh court orders him to prove within fifteen days, together with another person who was involved in buying some ground, whether or not the ground was part of a marriage dowry. A number of people were involved in this case, and payment for the land appeared to be in doubt.

12 February 1527 - Bellenden was ordered by the burgh court to make himself a burgess, or pay rent for his stall in the market.

30 January 1531 - John of Bellenden created burgess.

16 May 1531 - Will Pairman failed to appear in court to answer a charge brought by John of Bellenden, and Tom Elliot was named as surety against further non-appearance.

14 November 1531 - Pairman's surety promises to produce him in court in fifteen days, or settle the debt himself.

10 December 1531 - Will Pairman failed to appear in court so his surety was required to pay John of Bellenden. The nature of the original debt was not disclosed, but the sums involved were 5s. and 3s. On the same day Will Turnbull was declared debtor to John of Bellenden in the sum of 5s., having failed to produce proof that he did not owe the money.

18 June 1532 - The court gave James Skune (perhaps Skeyne) fifteen days in which to produce proof (with Jock of Hislop, Michael Lorimer and his mother acting as witnesses), that Bellenden, as the record curtly calls him, refused to receive some oats in settlement of a debt. As with many such cases recorded in the court book there is no further entry so the final outcome is unknown.

24 March 1534 - John of Bellenden is recorded as having wadset two rigs of the Lady land lying on the Bridgelands, until he paid Thomas Barker the sum of 40s. Scots. Barker was to have tenure of the land for a year after the debt was paid, and the conveyance was witnessed by the common clerk Ninian Bryden, acting in one of his other capacities as notary public, and by George Lydderdale, James Wilkeson, Rob the smith, Cuthbert Lydderdale and William Robson.

14 July 1534 - John of Bellenden, once again referred to curtly as Bellenden, was ordered to appear before the court in fifteen days and prove that certain statements were reasonable or correct. There are no further entries about this case.

10 February 1535 - At this hearing Sandy Scot failed to appear to answer a charge by John of Bellenden, and Marion Cant took an oath that she owed him nothing.

10 March 1535 - Having failed to appear again, Sandy Scot was condemned as debtor to John of Bellenden in the sum of 4s. with 4d. for legal costs.

18 June 1532 - The court gave James Skune (perhaps Skeyne) fifteen days in which to produce proof (with Jock of Hislop, Michael Lorimer and his mother acting as witnesses), that Bellenden, as the record curtly calls him, refused to receive some oats in settlement of a debt. As with many such cases recorded in the court book there is no further entry so the final outcome is unknown.

24 March 1534 - John of Bellenden is recorded as having wadset two rigs of the Lady land lying on the Bridgelands, until he paid Thomas Barker the sum of 40s. Scots. Barker was to have tenure of the land for a year after the debt was paid, and the *conveyance* was witnessed by the common clerk Ninian Bryden, acting in one of his other capacities as notary public, and by George Lydderdale, James Wilkeson, Rob the smith, Cuthbert Lydderdale and William Robson.

14 July 1534 - John of Bellenden, once again referred to curtly as Bellenden, was ordered to appear before the court in fifteen days and prove that certain statements were reasonable or correct. There are no further entries about this case.

10 February 1535 - At this hearing Sandy Scot failed to appear to answer a charge by John of Bellenden, and Marion Cant took an oath that she owed him nothing.

10 March 1535 - Having failed to appear again, Sandy Scot was condemned as debtor to John of Bellenden in the sum of 4s. with 4d. for legal costs.

16 May 1536 - Simon Young of Jedburgh failed to appear in the burgh court to answer a charge made by John of Bellenden, who also took the opportunity to swear that Thomas Cruickshank owed him 5s. 8d. together with legal costs.

? July 1536 - Following a second non-appearance in June Simon Young was once again called to answer Bellenden's charge, but did not appear. John of Coupland was also called, and called again in August without success.

2 August 1536 - John of Bellenden was 'puttis in the bailyes voll (will) for the distemperit langaigis he spak in the fenssit court' (the burgh court properly called and constituted). Unfortunately the language complained of is not recorded.

13 February 1537 - John of Coupland was still being pursued for non-appearance.

8 May 1537 - George Hunter and Jock Easton were amerced for non-appearance, at the instance of John of Bellenden. Hunter then admitted to the court that he had bought a horse from Bellenden, and would produce proof of proper payment in fifteen days, or perhaps in eight.

15 May 1537 - John of Bellenden admitted owing 3s. to James Anderson, together with legal costs. On the same day William Hope promised that he would produce proof,

citing four witnesses, that John of Bellenden bought a pig, valued at 15s. 9d., and did not pay for it.

Bellenden countered this claim by pointing out that he had sworn an oath in the consistory court in Jedburgh that he had paid for the pig.

James Anderson then appeared and gave his oath that he would testify in the dispute between George Hunter and John of Bellenden.

29 May 1537 - Jock Easton was condemned as debtor to John of Bellenden in the sum of 3s. 2d. Bellenden then took an oath that George Hunter owed him 27s. for a horse and a stallion, and he claimed that Hunter's defence to this charge was defective and 'servit hyme nocht'.

At the same hearing John Riddell stated that he would produce proof, calling his laird as witness, that Bellenden bought all the sheep from him. This is the first entry dealing with a case in which Bellenden faced old adversaries, and in which he must have been aware that many people were prepared to testify against him.

12 June 1537 - The case of the sheep continued with James Anderson and George Hunter giving evidence that Bellenden had been involved in a deal for sheep, and had taken delivery of a third of a flock belonging to the Laird of Riddell without making payment. On his own account Hunter then claimed that he had wintered two stallions for John of Bellenden, without receiving payment. He alleged that Bellenden had earlier promised to satisfy witnesses about this debt.

26 June 1537 - John of Bellenden was condemned as debtor to George Hunter, and ordered to pay him 6s. for the wintering of the two stallions. James Anderson then appeared in court again, swearing an oath that he had heard Bellenden say that he owed George Hunter 5s. and two flat cakes of tallow (used for candle making). Hunter then returned to the attack, accusing Bellenden of being involved in dealing for a third part of the flock of sheep, and demanding payment or proof that payment had already been made. Three witnesses were produced to support Hunter's claim, and although nothing more is recorded about the case, it seems likely that John of Bellenden would have decided to pay, faced as he was with so many accusers.

27 November 1537 - Simon Fairlie was ordered to pay for damage done to some corn owned by John of Bellenden, with the value to be fixed by pricers or valuers.

10 December 1537 - At this hearing Simon Fairlie appears to have been in a position to retaliate, and he ordered Bellenden to bring the rose noble (a gold coin) and give it to William Wilson, presumably in settlement of a debt.

15 January 1538 - James Fletcher promised to prove, with witnesses, that John of Bellenden, after giving a penny as an earnest of his good intentions, had driven away seven sheep.

29 January 1538 - John of Bellenden and Robert Smith were ordered to pay 19s. to James Fletcher.

9 April 1538 - The court ordered that Robert Smith should be condemned as a debtor to John of Bellenden if he was not prepared to swear as to how much he owed him. No further details are recorded for this hearing, but an entry for 28 May makes it clear that an old debt was involved.

30 April 1538 - Sanders Gledstanes swore an oath that John of Bellenden owed him 6s. 4d. On this day the burgh decided to try and do something to improve relationships between Bellenden and some of his fellow citizens.

The court's statement reads:- This inquest above written, well advised and having God before us, without prejudice to our brothers' final settlement, and taking account of the evidence presented by George Hunter and James Anderson against John of Bellenden, humbly requests the parties to sit down together as neighbours, and to try and agree the matters between them, having regard for custom and the failings of memory. And the inquest asks that if it appears that anything is owing it should be proved or sworn to in the proper manner.

28 May 1538 - John of Bellenden made a sworn statement to a notary that Robert Smith owed him 13s. 6d. as the balance of an old debt.

15 July 1538 - Thomas Hogg was amerced for non-appearance at the instance of John of Bellenden, with Cuthbert Curror acting as Hogg's surety.

1 October 1538 - Jock Gawe (or Gow) amerced for non-appearance at the instance of John of Bellenden, with Will Fauside acting as surety.

28 October 1538 - The court ordered Bellenden to produce his two heifers in the presence of the bailies and two burgesses, and Jock Gawe was ordered to produce the cow 'that pertenes to Jok of Bellenden'. If the beasts were found to be satisfactory, Bellenden was to take the cow and Gawe the heifers, and the transaction was to be regarded as binding.

5 February 1539 - John of Bellenden admitted owing John Smail 12s. 9d. The record does not say if this debt was paid.

17 February 1539 - On this occasion John of Bellenden took a rest from appearing before the court as a litigant, and appeared instead as a witness to support Cuthbert Lydderdale's accusation of William Turnbull. Turnbull was charged with chasing Lydderdale's wife and pulling her kerchief and her hair.

3 November 1540 - The sheriff depute repledged John of Murray's action against John of Bellenden, ordering it to be heard in the burgh court before the provost and bailies, and adding that both parties should find equal justice in their dispute over a cow.

From this documentary evidence we can see something of John of Bellenden as a member of the community. We do not know his occupation, but it is likely that in common with many of his fellow burgesses he combined several activities in order to make a living. From the evidence we can see that he was interested in land and livestock, and he may have dealt in the latter. From the evidence of the number of cases which involve money it could be deduced that Bellenden was a moneylender, but it seems far more likely that he was some kind of trader, prepared to deal in a variety of goods and property whenever a business opportunity presented itself. Such activity can create enemies, and it is clear that some of his neighbours did not like him. In fact the record shows us a man who was often quarrelsome, and prone to litigation, and the balance of the evidence points to a picture of an individual often at odds with society. In a small community like Selkirk the presence of such a troublesome character was bound to be disturbing, and yet every community, then as now, has to devise ways in which to reach some form of accommodation with non-conformists. John of Bellenden was not the only 'character' in the burgh, but he was certainly one bound to be recognised. Was he just strong-willed and wayward, or was he difficult enough to be classed as a social deviant?

Whatever his social standing in the community, we can see from the records that he was a man of some financial substance. This is what he paid in various taxations

over a period of eight years :-

3 March 1531 - He paid 6d. in the tax levied to pay for the campaign against Donald of the Isles. The total collected in Selkirk was £7. 0s. 6d.

22 April 1535 - He paid 12d. in the taxation towards the payment for the Middleburg staple.

20 July 1535 - 12d. paid. This was probably towards the £6000 raised for an embassy to France.

17 March 1536 - 20s. paid towards the £57. 8s. 4d.

given to William Chepman for his 'laboris, seilis and vryttingis of thair new infetment of the said burgh'.

9 April 1538 - 4d. paid towards the king's taxation of £11. 4s. 4d.

10 December 1538 - One merk (13s. 4d) paid in a general levy on burgesses.

6 September 1539 - 3s. paid in a collection throughout the burgh to raise money for the 'just defenssis' of the community. On this occasion £26. 1s. 4d. was raised, probably for the legal defence of the burgh's right and privileges.

John of Bellenden's total taxes place him in the top 25% of contributors, and this suggests that he was reasonably well-off by the standards of the day, if not one of the wealthiest citizens.

The last entry about John of Bellenden shows him in a different light, and we can perhaps speculate that as he became older he also became more socially acceptable. On 15 November 1542 he acted as a witness to the tack of a house. His fellow witnesses were John Keyne, one of the wealthier burgesses, and Ninian Bryden, priest, notary public, and common clerk of the burgh. We know nothing more about him, and this picture of the man and his character must remain based on the court book records that cover nineteen years of his life as indweller and burgess of Selkirk.

APPENDIX iii. ANALYSIS OF SELKIRK
BURGH COURT HEARINGS (Source: TSCB)

Note: All the information contained in the court book was coded and entered into the memory of an IBM main-frame computer. A simple programme was developed, using the programming language Waterloo Basic, which enabled the computer to manipulate the stored data, and produce summaries and listings to assist with the use of the court records as the main source of primary material. The analysis reproduced below lists all court hearings by type of case or matter discussed, and a second list gives the type of judgement or disposal decided on by the burgh court.

<u>Analysis by type of case/matter discussed</u>	<u>Number of entries</u>
Non-appearance before the court	337
Acknowledgement or proof of debt	326
Use of burgh land and property	143
Security of burgh	80
Creation of burgh officials/officers and burgesses	79
Wills and heirship	74
Disputed ownership	72
Trading rights and privileges	70
Assignment of land and property	68
Quality/price of goods	57
Title to land	55
Non-delivery and non-payment	41
Theft and non-return of goods	38

<u>Analysis by type of case/matter discussed</u>	<u>Number of entries</u>
Appointment of procurator	36
Arbitration	34
Rent	33
General burgh ordinances	26
Assault	23
Taxation	18
Church business	18
Tenancy and sub-tenancy	13
Straying livestock	11
Quarantine	10
Burgh cleansing	10
Family disputes	9
Apprenticeships	7
Witnesses	7
Damage	7
Sureties	7
Business with other burghs	6
Slander and defamation	6
Marriage settlements	6
Restitution	3
Pay and service	3
Teinds	2
Disturbing the peace	1
	<hr/>
Total	1,736 entries

<u>Analysis by type of judgement or disposal</u>	<u>Number of entries</u>
Amercement for non-appearance	357
Proof to be provided	171
Decisions on use of burgh property	140
Order to settle debts	95
Creation of officials/burgesses	91
Decisions about burgh security	81
Acknowledgement of debt by debtor	78
Confirmation of debt by court	76
Trading regulations	72
Decisions on wills and heirships	65
Recording of transfer of title	63
Examination of witnesses	62
Settlement of disputes	53
Arbitration decisions	44
Appointment of procurators	44
Assizes of bread and ale	35
Case carried over to a later court	35
General burgh ordinances	34
Declaration of wrong-doing	33
Naming of sureties	18
Rent orders	16
Taxation orders	15
Tenancy orders	14
Expulsion/threat of expulsion, loss of burghal freedoms/threat of loss of freedoms	13
Replegiation to another court	12
Livestock regulations	12

<u>Analysis by type of judgement or disposal</u>	<u>Number of entries</u>
Fines	11
Cleansing regulations	11
Restitution orders	10
Declaration as to ownership	7
Agreement to witnesses	6
Quarantine regulations	6
Parties to seek remedy themselves	4
Apprentice indentures approved	4
Quality regulations	3
Discharged	3
Representative sent to other burghs	3
Marriage settlements witnessed	3
Lawburrows	3
Forfeiture of goods	2
Servants to be paid	2
Objections to witnesses	1
Forgiveness to be asked	1
Craft regulations	1
Imprisonment	1
	<hr/>
Total	1,811 entries

Stent Roll Jan 1521

			£	s	d
KER	ANDREW	ALDERMAN	0:	13:	0
KER	ROBIN		0:	5:	0
LAUDER	STEPHEN OF		0:	5:	0
BRYDEN	JOHN (ELDER)		0:	1:	0
BRYDEN	JAMES		0:	1:	0
BROWN	DAVID		0:	1:	0
BRYDEN	ROBIN		0:	1:	0
CHAPMAN	JOHN		0:	1:	0
CHAPMAN	RICHARD		0:	1:	0
KER	WILLIAM (SHAW)		0:	1:	0
LAUDER	JOHN		0:	1:	0
MITHAG	JOHN (ELDER)		0:	1:	0
SCOT	ALEXANDER		0:	1:	0
ARROS	JAMES		0:	0:	8
BRAIDFOOT	JAMES		0:	0:	8
BRADFOOT	ANDREW		0:	0:	8
COOPER	JOHN		0:	0:	8
KER	JAMES		0:	0:	8
LORIMER	WILL		0:	0:	8
MOYES	JAMES		0:	0:	8
THOMSON	JOHN		0:	0:	8
WILKINSON	ADAM		0:	0:	8
AITCHISON	CUTHBERT		0:	0:	6
ELLIOT	JAMES		0:	0:	6
HAW	JOHN (EASTER)		0:	0:	6
KEYNE	ALAN		0:	0:	6
ROBSON	JAMES		0:	0:	6
SWEET	PATRICK		0:	0:	6
WALKER	ROBIN		0:	0:	6
BLAIR	GILBERT		0:	0:	4
JOHNSON	THOMAS		0:	0:	4
KER	ROBERT		0:	0:	4
LAUDER	STEPHEN		0:	0:	4
BRYDEN	ROBERT		0:	0:	3
SMYTH	JOHN	MALTMAN	0:	0:	3
SCOT	ALEXANDER		0:	0:	3
BROWNE	DAVID		0:	0:	2
BENNETT	ROBERT		0:	0:	2
BENNETT	WILL		0:	0:	2
BRYDEN	JOHN		0:	0:	2
CHAPMAN	RICHARD		0:	0:	2
CHAPMAN	GEORGE		0:	0:	2
CRAW	JOHN		0:	0:	2
CHAPMAN	ROBERT		0:	0:	2
FRERE	JOHN		0:	0:	2
FARLE	SIMON		0:	0:	2
HAWE	JOHN	MASON	0:	0:	2
HELME	JAMES		0:	0:	2
HESLOP	JOHN		0:	0:	2
JOHNSON	JOHN		0:	0:	2

Stent Roll Jan 1521

			£	s	d
JOHNSON	ANDREW		0:	0:	2
KEYNE	HELEN		0:	0:	2
LORIMER	JOHN		0:	0:	2
LORIMER	STEPHEN		0:	0:	2
LAUDER	JOHN		0:	0:	2
LUMSDEN	JOHN		0:	0:	2
MINTO	THOMAS		0:	0:	2
MITCHELHILL	GEORGE		0:	0:	2
MCMORAN	PETER		0:	0:	2
MELROSE	THOMAS		0:	0:	2
PORTEOUS	ROBERT		0:	0:	2
PORTEOUS	JOHN (ELDER)		0:	0:	2
SCOT	JAMES		0:	0:	2
SMYTH	ROBIN		0:	0:	2
SCOT	THOMAS		0:	0:	2
THOMSON	JOHN	CORDINER	0:	0:	2
WATSON	JAMES		0:	0:	2
YOUNG	JOHN		0:	0:	2
BLAKE	WILLIAM		0:	0:	1
BROWN	JOHN	CUSTOMER	0:	0:	1
BEST	JOCK		0:	0:	1
CADZOW	WILLIAM		0:	0:	1
CHISHOLM	WILLIAM		0:	0:	1
CURLE	JOHN		0:	0:	1
CADZOW	JOHN		0:	0:	1
CHISHOLM	ROBERT		0:	0:	1
CHAPMAN	JAMES		0:	0:	1
CHAPMAN	WILL		0:	0:	1
CANT	JAMES		0:	0:	1
COLLIN	PATRICK		0:	0:	1
DOWN	GEORGE		0:	0:	1
DONALDSON	JOHN		0:	0:	1
DUNHOPE	WAT		0:	0:	1
FORSYTH	ALAN		0:	0:	1
FLETCHER	WILL		0:	0:	1
HENDERSON	NICHOLAS		0:	0:	1
HARPER	JAMES		0:	0:	1
HENDERSON	THOMAS		0:	0:	1
KEYNE	THOMAS		0:	0:	1
KEYNE	JOHN		0:	0:	1
KILPATRICK	DAVID		0:	0:	1
KER	JOHN		0:	0:	1
LAUDERDALE	GEORGE		0:	0:	1
LAING	WILL		0:	0:	1
MOYES	JOHN		0:	0:	1
MINTO	DAVID		0:	0:	1
MAIN	WILLIAM		0:	0:	1
MOSSPATRICK	JOHN		0:	0:	1
MELROSE	JOHN		0:	0:	1
MURRAY	ROGER		0:	0:	1

Stent Roll Jan 1521

			£	s	d
MURRAY	JAMES		0:	0:	1
MURRAY	JOHN		0:	0:	1
MITCHELHILL	KATE		0:	0:	1
MELROSE	ROBERT		0:	0:	1
NOTMAN	MATHEW		0:	0:	1
PARSON	JOHN		0:	0:	1
ROBSON	WILL	WRIGHT	0:	0:	1
SCOT	JOHN (EASTER)		0:	0:	1
SKUNE	JAMES		0:	0:	1
SCOT	JANET		0:	0:	1
STENSTON	WILL		0:	0:	1
SWAN	ANDREW		0:	0:	1
TURNBULL	WILLIAM		0:	0:	1
TAYLOR	THOMAS		0:	0:	1
TODRIK	ROBERT		0:	0:	1
TAIT	JAMES		0:	0:	1
TURNBULL	JOHN		0:	0:	1
TAIT	SANDY		0:	0:	1
TAIT	JOHN		0:	0:	1
WATSON	THOMAS		0:	0:	1
WILKINSON	PATRICK		0:	0:	1
YOUNG	RICHARD		0:	0:	1
		Total Tax Paid	2:	14:	5

Stent Roll 3/3/1531

			£	s	d
BRADFOOT	JAMES		0:	4:	0
BRYDEN	JAMES		0:	4:	0
CHAPMAN	JOHN		0:	4:	0
CURROR	WALTER		0:	4:	0
FARLE	SIMON		0:	4:	0
FORREST	THOMAS		0:	4:	0
HELME	JAMES		0:	4:	0
KER	MARK		0:	4:	0
MITHAG	JOHN (YOUNGER)		0:	4:	0
SMALL	JOHN		0:	4:	0
BRYDEN	WILLIAM		0:	2:	0
BRYDEN	JOHN (ELDER)		0:	2:	0
BARKER	TOM		0:	2:	0
CHISHOLM	ROBERT		0:	2:	0
CHISHOLM	JOCK		0:	2:	0
CHAPMAN	GEORGE		0:	2:	0
CRAWFORD	JAMES		0:	2:	0
CHAPMAN	ROBERT		0:	2:	0
DALGLIESH	DAVID		0:	2:	0
DOWN	JOCK	FLESHER	0:	2:	0
FLETCHER	WILL		0:	2:	0
FORSYTH	WILL		0:	2:	0
GRAHAM	JAMES		0:	2:	0
HENDERSON	THOMAS		0:	2:	0
JOHNSON	THOMAS		0:	2:	0
KEYNE	WILLIAM (ELDER)		0:	2:	0
KEYNE	JAMES (ELDER)		0:	2:	0
KER	JOHN		0:	2:	0
LORIMER	STEPHEN		0:	2:	0
LUMSDEN	JOHN		0:	2:	0
MACDOWALL	ANDREW		0:	2:	0
MITHAG	JOHN (ELDER)		0:	2:	0
MINTO	THOMAS		0:	2:	0
MINTO	THOMAS (ELDER)		0:	2:	0
MITHAG	ALAN		0:	2:	0
SCOT	GEORGE		0:	2:	0
SCOT	JAMES		0:	2:	0
SCOT	JOCK	WEBSTER	0:	2:	0
SCOT	ADAM		0:	2:	0
WILKINSON	ADAM		0:	2:	0
WATSON	JAMES		0:	2:	0
YOUNG	JOHN		0:	2:	0
ANGUS	JOCK		0:	1:	0
BENNETT	WILL		0:	1:	0
BROWN	JOHN	CUSTOMER	0:	1:	0
CRUIKSHANK	THOMAS		0:	1:	0
CRAW	JOHN		0:	1:	0
CHAPMAN	WILL		0:	1:	0
CANT	JAMES		0:	1:	0
CURROR	JOCK (IN HILL)		0:	1:	0

Stent Roll 3/3/1531

			£	s	d
COLLIN	SANDY		0:	1:	0
CURROR	CUTHBERT		0:	1:	0
DOWN	TOM		0:	1:	0
FAIRGRIEVE	THOMAS		0:	1:	0
FAIRGRIEVE	JAMES		0:	1:	0
FRERE	PATRICK		0:	1:	0
HENDERSON	ROB		0:	1:	0
HESLOP	TOM		0:	1:	0
HOG	THOMAS		0:	1:	0
LAUDERDALE	GEORGE		0:	1:	0
MINTO	DAVID		0:	1:	0
MITCHELHILL	GEORGE		0:	1:	0
NOTMAN	WILL		0:	1:	0
PORTEOUS	ROBERT		0:	1:	0
PORTEOUS	JOHN (ELDER)		0:	1:	0
PATE	MARTIN		0:	1:	0
ROBSON	WILL	WRIGHT	0:	1:	0
SMYTH	ROBIN		0:	1:	0
SCOT	WILL		0:	1:	0
TURNBULL	WILLIAM		0:	1:	0
TODRIK	ROBERT		0:	1:	0
THOMSON	ROBERT		0:	1:	0
WILKINSON	JAMES		0:	1:	0
BRYDEN	JOHN		0:	0:	6
BELLENDEN	JOHN OF		0:	0:	6
COOPER	JOHN		0:	0:	6
CURROR	JOCK (PEELGAIT)		0:	0:	6
CHAMPNAY	JAMES		0:	0:	6
DUNHOPE	WAT		0:	0:	6
HENDERSON	NICHOLAS		0:	0:	6
LORIMER	NICHOL		0:	0:	6
LAUDER	JOHN		0:	0:	6
LAUDERDALE	TOM		0:	0:	6
MURRAY	JAMES		0:	0:	6
RAA	JOCK		0:	0:	6
SKUNE	JAMES		0:	0:	6
		Total Tax Paid	7:	1:	6

Stent Roll 22/4/1535

			£	s	d
BRADFOOT	JAMES		0:	8:	0
BRYDEN	JAMES		0:	8:	0
CHAPMAN	JOHN		0:	5:	0
FARLE	SIMON		0:	5:	0
MITHAG	JOHN (YOUNGER)		0:	5:	0
MOFFAT	PETER		0:	5:	0
DOWN	JOHN	MERCHANT	0:	4:	0
GRAHAM	TOM		0:	4:	0
GLEDSTANES	SANDY		0:	4:	0
HENDRIE	TOM		0:	4:	0
SMALL	JOHN		0:	4:	0
BRYDEN	JOHN (ELDER)		0:	3:	0
BARKER	TOM		0:	3:	0
CHAPMAN	GEORGE		0:	3:	0
CRAWFORD	JAMES		0:	3:	0
DUNHOPE	WAT		0:	3:	0
DOWN	HOB		0:	3:	0
DOWN	JOCK	FLESHER	0:	3:	0
HELME	JAMES		0:	3:	0
KEYNE	WILLIAM (ELDER)		0:	3:	0
KEYNE	JAMES (ELDER)		0:	3:	0
LUMSDEN	JOHN		0:	3:	0
MACDOWALL	ANDREW		0:	3:	0
MITHAG	JOHN (ELDER)		0:	3:	0
MINTO	THOMAS		0:	3:	0
NOTMAN	MATHEW		0:	3:	0
THOMSON	JOHN	CORDINER	0:	3:	0
THOMSON	ROBERT		0:	3:	0
THOMSON	PATRICK		0:	3:	0
ADAM	WILL		0:	2:	0
BRYDEN	DAVID	WEAVER	0:	2:	0
BENNETT	WILL		0:	2:	0
BROWN	JOHN	CUSTOMER	0:	2:	0
BRYDEN	JANET		0:	2:	0
CLERK	TOM		0:	2:	0
CHAPMAN	ROBERT		0:	2:	0
FLETCHER	WILL		0:	2:	0
FORREST	THOMAS		0:	2:	0
FORSYTH	WILL		0:	2:	0
HAWE	JAMES		0:	2:	0
HENDERSON	THOMAS		0:	2:	0
KER	NICHOL		0:	2:	0
LAUDERDALE	GEORGE		0:	2:	0
MINTO	DAVID		0:	2:	0
MORELAWE	THOMAS		0:	2:	0
MELROSE	JAMES		0:	2:	0
MINTO	THOMAS (ELDER)		0:	2:	0
SMYTH	JOHN	MALTMAN	0:	2:	0
SCOT	JAMES		0:	2:	0
SCOT	JOHN (EASTER)		0:	2:	0

Stent Roll 22/4/1535

			£	s	d
THOMSON	JOHN		0:	2:	0
WILKINSON	ADAM		0:	2:	0
YOUNG	JOHN		0:	2:	0
CHISHOLM	ROBERT		0:	1:	6
CHAPMAN	JAMES		0:	1:	6
CHAPMAN	WILL		0:	1:	6
COLLIN	PATRICK		0:	1:	6
DOBY	JAMES		0:	1:	6
INGLIS	JOCK	WEBSTER	0:	1:	6
JOHNSON	THOMAS		0:	1:	6
MITCHELHILL	GEORGE		0:	1:	6
MITCHELLHILL	WILL		0:	1:	6
ROBSON	JOHN	WEBSTER	0:	1:	6
SCOT	JOCK	WEBSTER	0:	1:	6
SCOT	WILL		0:	1:	6
WILSON	HOB		0:	1:	6
BELLENDEN	JOHN OF		0:	1:	0
BEST	JOCK		0:	1:	0
COOPER	JOHN		0:	1:	0
CRUIKSHANK	THOMAS		0:	1:	0
CRAW	JOHN		0:	1:	0
CRUICK	JOCK		0:	1:	0
CURROR	JOCK (IN HILL)		0:	1:	0
FAIRGRIEVE	THOMAS		0:	1:	0
FRERE	PATRICK		0:	1:	0
HAWE	JOHN	MASON	0:	1:	0
HENDRIE	ROBERT		0:	1:	0
JOHNSON	JOHN		0:	1:	0
KEYNE	ALAN		0:	1:	0
LAUDER	STEPHEN		0:	1:	0
LORIMER	MICHAEL		0:	1:	0
LUMSDEN	TOM		0:	1:	0
MURRAY	JAMES		0:	1:	0
MELROSE	ROBERT		0:	1:	0
MURRAY	CUTHBERT		0:	1:	0
MATHESON	WILL		0:	1:	0
MITHAG	ALAN		0:	1:	0
PORTEOUS	JOHN (ELDER)		0:	1:	0
PATE	JOCK		0:	1:	0
ROBSON	WILL	WRIGHT	0:	1:	0
SCOT	ADAM		0:	1:	0
TURNBULL	WILLIAM		0:	1:	0
TODRIK	ROBERT		0:	1:	0
TURNBULL	JOHN		0:	1:	0
TAYLOR	JAMES		0:	1:	0
WILKINSON	JAMES		0:	1:	0
YOUNG	HENRY		0:	1:	0
BOWMAKER	ADAM		0:	0:	6
BAYNE	GEORGE		0:	0:	6
CANT	JAMES		0:	0:	6

Stent Roll 22/4/1535

		£	s	d
CLERK	JOHN	0:	0:	6
CHAMPNAY	JAMES	0:	0:	6
CURROR	JAMES	0:	0:	6
DOWN	TOM	0:	0:	6
FARLE	ADAM	0:	0:	6
HENDERSON	NICHOLAS	0:	0:	6
HOG	THOMAS	0:	0:	6
HOG	ROBIN	0:	0:	6
LORIMER	JOHN	0:	0:	6
MACLEAN	ANDREW	0:	0:	6
RICHARDSON	MATHEW	0:	0:	6
SKUNE	JAMES	0:	0:	6
SMYTH	ROBIN	0:	0:	6
SALOMON	WILL	0:	0:	6
SWAN	WILL	0:	0:	6
TAIT	ARCHIE	0:	0:	6
WATSON	THOMAS	0:	0:	6
WOOD	JOCK OF	0:	0:	6

Total Tax Paid 10:19: 0

Stent Roll 20/7/1535

			£	s	d
LUMSDEN	TOM		0	10	0
BRYDEN	JAMES		0	5	0
BRAIDFOOT	JAMES		0	5	0
MITHAG	JOHN (ELDER)		0	5	0
MOFFAT	PETER		0	5	0
CHAPMAN	JOHN		0	4	0
CRAWFORD	JAMES		0	4	0
FARLE	SIMON		0	4	0
MACDOWALL	ANDREW		0	4	0
MINTO	THOMAS		0	4	0
MITHAG	JOHN (YOUNGER)		0	4	0
SMALL	JOHN		0	4	0
RARKER	TOM		0	3	0
DOWN	JOHN	MERCHANT	0	3	0
DUNHOPE	WAT		0	3	0
DOWN	JOCK	FLESHER	0	3	0
FLETCHER	WILL		0	3	0
GRAHAM	TOM		0	3	0
GLESTANES	SANDY		0	3	0
HELME	JAMES		0	3	0
HENDRIE	TOM		0	3	0
KEYNE	WILLIAM (ELDER)		0	3	0
THOMSON	ROBERT		0	3	0
BRYDEN	JOHN (ELDER)		0	2	0
BENNETT	WILL		0	2	0
BROWN	JOHN	CUSTOMER	0	2	0
BRYDEN	JANET		0	2	0
CHAPMAN	GEORGE		0	2	0
CRAW	ROBIN		0	2	0
HENDERSON	THOMAS		0	2	0
LAUDERDALE	GEORGE		0	2	0
MINTO	THOMAS (ELDER)		0	2	0
NOTMAN	MATHEW		0	2	0
SMYTH	JOHN	MALTMAN	0	2	0
SCOT	JAMES		0	2	0
SCOT	WILL		0	2	0
THOMSON	JOHN	CORDINER	0	2	0
WILKINSON	ADAM		0	2	0
YOUNG	JOHN		0	2	0
BRYDEN	WILLIAM		0	1	6
CURROR	JOCK (IN HILL)		0	1	6
DOWN	HOB		0	1	6
FORSYTH	WILL		0	1	6
KER	NICHOL		0	1	6
LUMSDEN	JOHN		0	1	6
MITCHELLHILL	WILL		0	1	6
MELROSE	JAMES		0	1	6
PORTEOUS	JOHN (ELDER)		0	1	6
PORTEOUS	JOHN (YOUNGER)		0	1	6
SCOT	JOCK	WEBSTER	0	1	6

Stent Roll 20/7/1535

			£	s	d
BRYDEN	DAVID	WEAVER	0:	1:	0
BRYDEN	ELIZABETH		0:	1:	0
BRYDEN	MATHEW		0:	1:	0
CHISHOLM	ROBERT		0:	1:	0
CHAPMAN	JAMES		0:	1:	0
CRAW	JOHN		0:	1:	0
CHAPMAN	WILL		0:	1:	0
COLLIN	PATRICK		0:	1:	0
FAIRGRIEVE	THOMAS		0:	1:	0
JOHNSON	THOMAS		0:	1:	0
KEYNE	ALAN		0:	1:	0
KEYNE	JOHN		0:	1:	0
MINTO	DAVID		0:	1:	0
ROBSON	WILL	WRIGHT	0:	1:	0
SCOT	ADAM		0:	1:	0
THOMSON	JOHN		0:	1:	0
WILKINSON	JAMES		0:	1:	0
WILSON	HOB		0:	1:	0
YOUNG	HENRY		0:	1:	0
BLAIR	GILBERT		0:	0:	6
BELLENDEN	JOHN OF		0:	0:	6
BOWMAKER	ADAM		0:	0:	6
BEST	JOCK		0:	0:	6
BAYNE	GEORGE		0:	0:	6
CADZOW	WILLIAM		0:	0:	6
COOPER	JOHN		0:	0:	6
CRUIKSHANK	THOMAS		0:	0:	6
CANT	JAMES		0:	0:	6
CLERK	JOHN		0:	0:	6
CRUICK	JOCK		0:	0:	6
CHAMPNAY	JAMES		0:	0:	6
CURROR	JAMES		0:	0:	6
COLLIN	SANDY		0:	0:	6
DRISTAIR	MATHEW		0:	0:	6
DONALDSON	DAVID		0:	0:	6
DOWN	TOM		0:	0:	6
DONALDSON	JAMES		0:	0:	6
FRERE	JOHN		0:	0:	6
FARLE	ADAM		0:	0:	6
FRERE	PATRICK		0:	0:	6
Hawe	JOHN	MASON	0:	0:	6
HENDERSON	NICHOLAS		0:	0:	6
HAW	JOHN (EASTER)		0:	0:	6
HOG	THOMAS		0:	0:	6
HAW	SANDY		0:	0:	6
INGLIS	JOCK	WEBSTER	0:	0:	6
LORIMER	JOHN		0:	0:	6
LORIMER	STEPHEN		0:	0:	6
LEARMONT	WILLIAM		0:	0:	6
LORIMER	MICHAEL		0:	0:	6

Stent Roll 20/7/1535

			£	s	d
LAUDERDALE	TOM		0:	0:	6
MURRAY	JAMES		0:	0:	6
MELROSE	THOMAS		0:	0:	6
MELROSE	ROBERT		0:	0:	6
MATHESON	WILL		0:	0:	6
MITHAG	ALAN		0:	0:	6
MACLEAN	ANDREW		0:	0:	6
MCWATTIE	JOCK		0:	0:	6
PATE	JOCK		0:	0:	6
ROBSON	JOHN	WEBSTER	0:	0:	6
SCOT	JOHN (EASTER)		0:	0:	6
SKUNE	JAMES		0:	0:	6
SWAN	ANDREW		0:	0:	6
SALOMON	WILL		0:	0:	6
SWAN	WILL		0:	0:	6
SCOT	BESSIE		0:	0:	6
TURNBULL	WILLIAM		0:	0:	6
TODRIK	ROBERT		0:	0:	6
TURNBULL	JOHN		0:	0:	6
TAYLOR	JAMES		0:	0:	6
TAIT	ARCHIE		0:	0:	6
WATSON	THOMAS		0:	0:	6
WOOD	JOCK OF		0:	0:	6
		Total Tax Paid	9:	5:	6

Stent Roll 17/3/1536

			£	s	d
KER	ANDREW	ALDERMAN	3:	6:	8
KER	GILBERT	ALDERMAN	3:	0:	0
PATE	JOCK		2:	8:	0
KER	JOHN		2:	6:	8
CRUICK	JOCK		2:	0:	8
ANDERSON	PATRICK		1:	6:	8
CHAPMAN	JAMES		1:	6:	8
COLLIN	PATRICK		1:	6:	8
CURROR	CUTHBERT		1:	6:	8
DOWN	HOB		1:	6:	8
DOBY	JAMES		1:	6:	8
FAIRGRIEVE	THOMAS		1:	6:	8
INGLIS	JOCK	WEBSTER	1:	6:	8
KEYNE	JOHN		1:	6:	8
LORIMER	MICHAEL		1:	6:	8
MINTO	JAMES		1:	6:	8
MITCHELLHILL	WILL		1:	6:	8
MITHAG	WILLIAM		1:	6:	8
MITHAG	DAVID		1:	6:	8
SCOT	JOHN (EASTER)		1:	6:	8
SCOT	JOHN (ROBERTON)		1:	6:	8
THOMSON	JOHN		1:	6:	8
TAYLOR	JAMES		1:	6:	8
WILSON	HOB		1:	6:	8
WOOD	JOCK OF		1:	6:	8
YOUNG	HENRY		1:	6:	8
BRYDEN	WILLIAM		1:	0:	0
BRYDEN	JOHN (ELDER)		1:	0:	0
BRYDEN	JAMES		1:	0:	0
BRAIDFOOT	JAMES		1:	0:	0
BROWN	JOHN	CUSTOMER	1:	0:	0
BELLENDEN	JOHN OF		1:	0:	0
BOWMAKER	ADAM		1:	0:	0
BARKER	TOM		1:	0:	0
COOPER	JOHN		1:	0:	0
CURLE	JOHN		1:	0:	0
CHAPMAN	JOHN		1:	0:	0
CHAPMAN	GEORGE		1:	0:	0
CRAW	ROBIN		1:	0:	0
CRAWFORD	JAMES		1:	0:	0
CHAMPNAY	JAMES		1:	0:	0
DOWN	JOHN	MERCHANT	1:	0:	0
DONALDSON	DAVID		1:	0:	0
DOWN	JOCK	FLESHER	1:	0:	0
DOWN	TOM		1:	0:	0
FRERE	JOHN		1:	0:	0
FORSYTH	ALAN		1:	0:	0
FARLE	SIMON		1:	0:	0
FORSYTH	WILL		1:	0:	0
GRAHAM	TOM		1:	0:	0

Stent Roll 17/3/1536

			£	s	d
HELME	JAMES		1:	0:	0
KEYNE	JAMES (ELDER)		1:	0:	0
KER	MARK		1:	0:	0
KER	LANCELOT		1:	0:	0
LAUDERDALE	GEORGE		1:	0:	0
LAUDER	JOHN		1:	0:	0
MACDOWALL	ANDREW		1:	0:	0
MITHAG	JOHN (ELDER)		1:	0:	0
MINTO	THOMAS		1:	0:	0
MURRAY	JAMES		1:	0:	0
MITHAG	JOHN (YOUNGER)		1:	0:	0
MOFFAT	PETER		1:	0:	0
MINTO	THOMAS (ELDER)		1:	0:	0
PORTEOUS	WILL		1:	0:	0
ROBSON	WILL	WRIGHT	1:	0:	0
SMYTH	JOHN	MALTMAN	1:	0:	0
SMYTH	ROBIN		1:	0:	0
SWAN	ANDREW		1:	0:	0
SCOT	ALEXANDER		1:	0:	0
SMAIL	JOHN		1:	0:	0
SCOT	WALTER		1:	0:	0
THOMSON	JOHN	CORDINER	1:	0:	0
THOMSON	ROBERT		1:	0:	0
SCOT	JAMES		0:	16:	0
DUNHOPE	WAT		0:	13:	4
FLETCHER	WILL		0:	13:	4
HENDRIE	TOM		0:	13:	4
SCOT	ADAM		0:	13:	4
BRYDEN	DAVID	WEAVER	0:	10:	0
BENNETT	WILL		0:	10:	0
CADZOW	WILLIAM		0:	10:	0
CRUIKSHANK	THOMAS		0:	10:	0
HAWE	JAMES		0:	10:	0
KEYNE	ALAN		0:	10:	0
MINTO	DAVID		0:	10:	0
MITCHELHILL	GEORGE		0:	10:	0
SCOT	JOCK	WEBSTER	0:	10:	0
SCOT	WILL		0:	10:	0
WILKINSON	STEVEN	PRIEST	0:	10:	0
WILSON	WILL		0:	10:	0
YOUNG	JOHN		0:	10:	0
CANT	JAMES		0:	6:	8
CHAPMAN	ROBERT		0:	6:	8
HENDERSON	THOMAS		0:	6:	8
JOHNSON	THOMAS		0:	6:	8
WHITESTONE	ADAM		0:	6:	8
CRAW	JOHN		0:	6:	0
BAYNE	GEORGE		0:	5:	0
BURNE	WILL		0:	5:	0
FARLE	ADAM		0:	5:	0

Stent Roll 17/3/1536

		£	s	d
FRERE	PATRICK	0:	5:	0
GLESTANES	SANDY	0:	5:	0
HAW	JOHN (EASTER)	0:	5:	0
HAW	SANDY	0:	5:	0
KER	NICHOL	0:	5:	0
LORIMER	JOHN	0:	5:	0
LORIMER	STEPHEN	0:	5:	0
MELROSE	THOMAS	0:	5:	0
MITHAG	ALAN	0:	5:	0
PORTEOUS	JOHN (ELDER)	0:	5:	0
SKUNE	JOHN	0:	5:	0
SKUNE	JAMES	0:	5:	0
TURNBULL	WILLIAM	0:	5:	0
TURNBULL	JOHN	0:	5:	0
TODRIK	DAVID	0:	5:	0
WILKINSON	ADAM	0:	5:	0
WILKINSON	JAMES	0:	5:	0

Total Tax Paid 105: 0: 8

Stent Roll 9/4/1538

			f	s	d
BRADFOOT	JAMES		0:	6:	8
BRYDEN	JAMES		0:	6:	8
BURNE	WILL		0:	6:	8
KER	MARK		0:	6:	8
MITHAG	JOHN (YOUNGER)		0:	6:	8
WILSON	WILL		0:	6:	8
CHAPMAN	JOHN		0:	5:	0
GLESTANES	SANDY		0:	5:	0
MOFFAT	PETER		0:	5:	0
DOWN	JOHN	MERCHANT	0:	4:	0
HENDRIE	TOM		0:	4:	0
SMALL	JOHN		0:	4:	0
BRYDEN	JOHN (ELDER)		0:	3:	0
BARKER	TOM		0:	3:	0
BRYDEN	JANET		0:	3:	0
CRAWFORD	JAMES		0:	3:	0
DOWN	JOCK	FLESHER	0:	3:	0
FARLE	SIMON		0:	3:	0
FLETCHER	WILL		0:	3:	0
HAWE	JAMES		0:	3:	0
HELME	JAMES		0:	3:	0
MACDOWALL	ANDREW		0:	3:	0
MITHAG	JOHN (ELDER)		0:	3:	0
MINTO	THOMAS (ELDER)		0:	3:	0
MITHAG	WILLIAM		0:	3:	0
NOTMAN	MATHEW		0:	3:	0
ANDERSON	JOHN		0:	2:	0
CHAPMAN	GEORGE		0:	2:	0
DUNHOPE	WAT		0:	2:	0
DOWN	HOB		0:	2:	0
KEYNE	JOHN		0:	2:	0
KEYNE	JAMES (ELDER)		0:	2:	0
SCOT	WILL		0:	2:	0
THOMSON	ROBERT		0:	2:	0
THOMSON	PATRICK		0:	2:	0
UNNIS	WILL		0:	2:	0
BRYDEN	WILLIAM		0:	1:	6
BRYDEN	DAVID	WEAVER	0:	1:	6
CRAW	ROBIN		0:	1:	6
CHAPMAN	ROBERT		0:	1:	6
ELLIOT	THOMAS		0:	1:	6
GRAHAM	TOM		0:	1:	6
JOHNSON	THOMAS		0:	1:	6
KEYNE	JAMES (YOUNGER)		0:	1:	6
SMYTH	JOHN	MALTMAN	0:	1:	6
SCOT	JAMES		0:	1:	6
SCOT	JOCK	WEBSTER	0:	1:	6
WHITESTONE	ADAM		0:	1:	6
BRYDEN	ELIZABETH		0:	1:	4
COLLIN	PATRICK		0:	1:	4

Stent Roll 9/4/1538

			£	s	d
ROBSON	WILL	WRIGHT	0:	1:	4
THOMSON	JOHN	CORDINER	0:	1:	4
ADAM	WILL		0:	1:	0
CAVERHILL	MEG		0:	1:	0
FORSYTH	WILL		0:	1:	0
HALLIWELL	ANDREW		0:	1:	0
MINTO	JAMES		0:	1:	0
MCWATTIE	JOCK		0:	1:	0
ROBSON	JOHN	WEBSTER	0:	1:	0
SCOT	ADAM		0:	1:	0
SWAN	WILL		0:	1:	0
TURNBULL	JOHN		0:	1:	0
THOMSON	JOHN		0:	1:	0
WATSON	THOMAS		0:	1:	0
ANDERSON	PATRICK		0:	0:	12
CHAPMAN	JAMES		0:	0:	8
CURROR	JOCK (IN HILL)		0:	0:	8
CRUIKSHANK	MUNGO		0:	0:	8
DOBY	JAMES		0:	0:	8
HAWE	JOHN	MASON	0:	0:	8
HENDERSON	THOMAS		0:	0:	8
HUNTER	JOCK		0:	0:	8
INGLIS	JOCK	WEBSTER	0:	0:	8
KELSO	PATRICK		0:	0:	8
KEYNE	BESSIE		0:	0:	8
LUMSDEN	JOHN		0:	0:	8
LORIMER	MICHAEL		0:	0:	8
LUMSDEN	TOM		0:	0:	8
MITCHELHILL	GEORGE		0:	0:	8
MELROSE	THOMAS		0:	0:	8
MITCHELLHILL	WILL		0:	0:	8
MITHAG	DAVID		0:	0:	8
MINTO	MATHEW		0:	0:	8
NEWLANDS	JAMES		0:	0:	8
PORTEOUS	JOHN (ELDER)		0:	0:	8
RODGER	WILL		0:	0:	8
SCOT	JOHN (ROBERTON)		0:	0:	8
TURNBULL	WILLIAM		0:	0:	8
WILKINSON	ADAM		0:	0:	8
WILKINSON	JAMES		0:	0:	8
WILSON	HOB		0:	0:	8
YOUNG	HENRY		0:	0:	8
BROWN	ALEXANDER		0:	0:	4
BEST	JOCK		0:	0:	4
BAYNE	GEORGE		0:	0:	4
BAYNE	MEG		0:	0:	4
BROWN	MATHEW		0:	0:	4
BRADFOOT	JOCK		0:	0:	4
COOPER	JOHN		0:	0:	4
CLERK	JOHN		0:	0:	4

Stent Roll 9/4/1538

		£	s	d
CRUICK	JOCK	0:	0:	4
COLLIN	SANDY	0:	0:	4
CURROR	CUTHBERT	0:	0:	4
CAMPBELL	JAMES	0:	0:	4
CRAWFORD	MATHEW	0:	0:	4
CURROR	MEG	0:	0:	4
CHAPMAN	ALISON	0:	0:	4
DRISTAIR	MATHEW	0:	0:	4
DONALDSON	JAMES	0:	0:	4
EDMONT	THOMAS	0:	0:	4
FLETCHER	TOM	0:	0:	4
HENDERSON	NICHOLAS	0:	0:	4
HAW	SANDY	0:	0:	4
HAWDEN	MEG	0:	0:	4
HAWE	BESSIE	0:	0:	4
JOHNSON	PATRICK	0:	0:	4
LAUDERDALE	TOM	0:	0:	4
MINTO	DAVID	0:	0:	4
MELROSE	ROBERT	0:	0:	4
PATE	JOCK	0:	0:	4
PIPER	JAMES THE	0:	0:	4
ROULL	GEORGE	0:	0:	4
STENSTON	WILL	0:	0:	4
TASKER	SANDY	0:	0:	4
WATSON	JAMES	0:	0:	4
YOUNG	MEG	0:	0:	4

Total Tax Paid

9:14: 8

Stent Roll 6/9/1539

			£	s	d
KER	GILBERT	ALDERMAN	1:	0:	0
BRADFOOT	JAMES		0:	13:	4
BRYDEN	JAMES		0:	13:	4
CHAPMAN	JOHN		0:	13:	4
KER	MARK		0:	13:	4
MITHAG	JOHN (YOUNGER)		0:	13:	4
CRAWFORD	JAMES		0:	10:	0
DOWN	JOCK	FLESHER	0:	10:	0
GLEDSTANES	SANDY		0:	10:	0
MOFFAT	PETER		0:	10:	0
SMALL	JOHN		0:	10:	0
WILSON	WILL		0:	10:	0
FARLE	SIMON		0:	8:	0
GRAHAM	TOM		0:	8:	0
HENDRIE	TOM		0:	8:	0
DUNHOPE	WAT		0:	7:	0
FLETCHER	WILL		0:	7:	0
MACDOWALL	ANDREW		0:	7:	0
BRYDEN	DAVID	WEAVER	0:	6:	8
BRYDEN	JOHN (ELDER)		0:	6:	8
BROWN	JOHN	CUSTOMER	0:	6:	8
BARKER	TOM		0:	6:	8
HAWE	JOHN	MASON	0:	6:	8
HELME	JAMES		0:	6:	8
MINTO	THOMAS		0:	6:	8
KEYNE	JOHN		0:	6:	0
SCOT	JOCK	WEBSTER	0:	6:	0
ANDERSON	JOHN		0:	5:	0
BRYDEN	WILLIAM		0:	5:	0
CHAPMAN	GEORGE		0:	5:	0
DOWN	JOHN	MERCHANT	0:	5:	0
DOWN	HOB		0:	5:	0
HAWE	JAMES		0:	5:	0
HALLIWELL	DAVID		0:	5:	0
KEYNE	JAMES (ELDER)		0:	5:	0
THOMSON	ROBERT		0:	5:	0
WILSON	JOHN		0:	5:	0
WILSON	HOB		0:	5:	0
ANDERSON	PATRICK		0:	4:	0
BENNETT	WILL		0:	4:	0
BRYDEN	JOHN		0:	4:	0
BRYDEN	JANET		0:	4:	0
KEYNE	JAMES (YOUNGER)		0:	4:	0
LAUDERDALE	GEORGE		0:	4:	0
MITHAG	DAVID		0:	4:	0
NOTMAN	MATHEW		0:	4:	0
NEWLANDS	JAMES		0:	4:	0
ROBSON	WILL	WRIGHT	0:	4:	0
SCOT	JAMES		0:	4:	0
SCOT	JOHN (EASTER)		0:	4:	0

Stent Roll 6/9/1539

			£	s	d
SCOT	WILL		0:	4:	0
TURNBULL	WILLIAM		0:	4:	0
THOMSON	JOHN		0:	4:	0
BELLENDEN	JOHN OF		0:	3:	0
COLLIN	PATRICK		0:	3:	0
HENDERSON	THOMAS		0:	3:	0
KELSO	PATRICK		0:	3:	0
LORIMER	MICHAEL		0:	3:	0
MINTO	JAMES		0:	3:	0
MITCHELHILL	GEORGE		0:	3:	0
MCWATTIE	JOCK		0:	3:	0
MURRAY	CHRISTINE		0:	3:	0
NEWTON	HECTOR		0:	3:	0
ROBSON	JOHN	WEBSTER	0:	3:	0
SMYTH	JOHN	MALTMAN	0:	3:	0
SKUNE	JOHN		0:	3:	0
THOMSON	JOHN	CORDINER	0:	3:	0
VAUGHAN	ADAM		0:	3:	0
WATSON	THOMAS		0:	3:	0
WILKINSON	JAMES		0:	3:	0
WOOD	JOCK OF		0:	3:	0
ADAM	WILL		0:	2:	0
BEST	JOCK		0:	2:	0
BROWN	MATHEW		0:	2:	0
BAIRD	JAMES		0:	2:	0
CHAPMAN	JAMES		0:	2:	0
CRAW	ROBIN		0:	2:	0
CHAPMAN	ROBERT		0:	2:	0
CRUICK	JOCK		0:	2:	0
CRUIKSHANK	MUNGO		0:	2:	0
DONALDSON	JAMES		0:	2:	0
ELLWOOD	THOMAS		0:	2:	0
FARLE	JOHN		0:	2:	0
HOG	ROBIN		0:	2:	0
HAW	SANDY		0:	2:	0
HUNTER	JOCK		0:	2:	0
LUMSDEN	JOHN		0:	2:	0
LUMSDEN	TOM		0:	2:	0
MINTO	DAVID		0:	2:	0
MURRAY	JAMES		0:	2:	0
MELROSE	THOMAS		0:	2:	0
MITCHELHILL	WILL		0:	2:	0
PATE	JOCK		0:	2:	0
PATERSON	HOB		0:	2:	0
SCOT	JOHN (ROBERTON)		0:	2:	0
VALLANCH	ARCHIE		0:	2:	0
WATSON	JAMES		0:	2:	0
YOUNG	HENRY		0:	2:	0
COOPER	JOHN		0:	1:	6
KER	NICHOL		0:	1:	6

Stent Roll 6/9/1539

			£	s	d
MINTO	MATHEW		0:	1:	6
PORTEOUS	JOHN (ELDER)		0:	1:	6
SWAN	WILL		0:	1:	6
TODRIK	DAVID		0:	1:	6
WAIT	JOCK		0:	1:	6
BOWMAKER	ADAM		0:	1:	0
BAYNE	GEORGE		0:	1:	0
BRADFOOT	JOCK		0:	1:	0
CLERK	JOHN		0:	1:	0
CURROR	JOCK (IN HILL)		0:	1:	0
CHAMPNAY	JAMES		0:	1:	0
DRISTAIR	MATHEW		0:	1:	0
FORSYTH	WILL		0:	1:	0
INGLIS	JOCK	WEBSTER	0:	1:	0
SKUNE	JAMES		0:	1:	0
SALOMON	WILL		0:	1:	0
STODDART	SIMON		0:	1:	0
TAYLOR	JAMES		0:	1:	0
TASKER	SANDY		0:	1:	0
WILKINSON	ADAM		0:	1:	0
WRIGHT		MILLER	0:	1:	0
YOUNG	JOHN		0:	1:	0
BRADFOOT	ANDREW		0:	0:	8
BURNE	WILL		0:	0:	8
BRYSON	JAMES		0:	0:	8
BULMAN	HOB		0:	0:	8
CADZOW	WILLIAM		0:	0:	8
COLLIN	SANDY		0:	0:	8
CURROR	CUTHBERT		0:	0:	8
CHAPMAN	ALISON		0:	0:	8
DOUNGELL	JOHN		0:	0:	8
DONALDSON	DAVID		0:	0:	8
DOWN	TOM		0:	0:	8
FRERE	JOHN		0:	0:	8
FORSYTH	ALAN		0:	0:	8
FARLE	ADAM		0:	0:	8
FRERE	PATRICK		0:	0:	8
FARLE	BESSIE		0:	0:	8
HAWDEN	MEG		0:	0:	8
Hawe	BESSIE		0:	0:	8
HENDERSON	ALISON		0:	0:	8
LEARMONT	WILLIAM		0:	0:	8
MCMORAN	PETER		0:	0:	8
MELROSE	ROBERT		0:	0:	8
MCMORAN	SIMON		0:	0:	8
PIPER	JAMES THE		0:	0:	8
ROULL	GEORGE		0:	0:	8
SCOT	JANET		0:	0:	8
STENSTON	WILL		0:	0:	8
SWAN	ANDREW		0:	0:	8

Appendix iv

SELKIRK TAXATION RECORDS

Page 7.4

Stent Roll 6/9/1539

		£	s	d
TAIT	ARCHIE	0:	0:	8
YOUNG	MEG	0:	0:	8
WHITESTONE	ADAM	0:	0:	6
	Total Tax Paid	26:	1:	4

			Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total
			£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
KER	GILBERT	ALDERMAN	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	3: 0: 0	0: 0: 0	1: 0: 0	4: 0: 0
KER	ANDREW	ALDERMAN	0:13: 0	0: 0: 0	0: 0: 0	0: 0: 0	3: 6: 8	0: 0: 0	0: 0: 0	3:19: 8
BRYDEN	JAMES		0: 1: 0	0: 4: 0	0: 8: 0	0: 5: 0	1: 0: 0	0: 6: 8	0:13: 4	2:18: 0
MITHAG	JOHN (YOUNGER)		0: 0: 0	0: 4: 0	0: 5: 0	0: 4: 0	1: 0: 0	0: 6: 8	0:13: 4	2:13: 0
CHAPMAN	JOHN		0: 1: 0	0: 4: 0	0: 5: 0	0: 4: 0	1: 0: 0	0: 5: 0	0:13: 4	2:12: 4
PATE	JOCK		0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 6	2: 8: 0	0: 0: 4	0: 2: 0	2:11:10
KER	JOHN		0: 0: 1	0: 2: 0	0: 0: 0	0: 0: 0	2: 6: 8	0: 0: 0	0: 0: 0	2: 8: 9
SMALL	JOHN		0: 0: 0	0: 4: 0	0: 4: 0	0: 4: 0	1: 0: 0	0: 4: 0	0:10: 0	2: 6: 0
MOFFAT	PETER		0: 0: 0	0: 0: 0	0: 5: 0	0: 5: 0	1: 0: 0	0: 5: 0	0:10: 0	2: 5: 0
CRUICK	JOCK		0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 6	2: 0: 8	0: 0: 4	0: 2: 0	2: 4: 6
FARLE	SIMON		0: 0: 2	0: 4: 0	0: 5: 0	0: 4: 0	1: 0: 0	0: 3: 0	0: 8: 0	2: 4: 2
KER	MARK		0: 0: 0	0: 4: 0	0: 0: 0	0: 0: 0	1: 0: 0	0: 6: 8	0:13: 4	2: 4: 0
CRAWFORD	JAMES		0: 0: 0	0: 2: 0	0: 3: 0	0: 4: 0	1: 0: 0	0: 3: 0	0:10: 0	2: 2: 0
DOWN	JOCK	FLESHER	0: 0: 0	0: 2: 0	0: 3: 0	0: 3: 0	1: 0: 0	0: 3: 0	0:10: 0	2: 1: 0
HELME	JAMES		0: 0: 2	0: 4: 0	0: 3: 0	0: 3: 0	1: 0: 0	0: 3: 0	0: 6: 8	1:19:10
MACDOWALL	ANDREW		0: 0: 0	0: 2: 0	0: 3: 0	0: 4: 0	1: 0: 0	0: 3: 0	0: 7: 0	1:19: 0
DOWN	HOB		0: 0: 0	0: 0: 0	0: 3: 0	0: 1: 6	1: 6: 8	0: 2: 0	0: 5: 0	1:18: 2
BARKER	TOM		0: 0: 0	0: 2: 0	0: 3: 0	0: 3: 0	1: 0: 0	0: 3: 0	0: 6: 8	1:17: 8
BRYDEN	JOHN	THE ELDER	0: 1: 0	0: 2: 0	0: 3: 0	0: 2: 0	1: 0: 0	0: 3: 0	0: 6: 8	1:17: 8
GRAHAM	TOM		0: 0: 0	0: 0: 0	0: 4: 0	0: 3: 0	1: 0: 0	0: 1: 6	0: 8: 0	1:16: 6
DOWN	JOHN	MERCHANT	0: 0: 0	0: 0: 0	0: 4: 0	0: 3: 0	1: 0: 0	0: 4: 0	0: 5: 0	1:16: 0
MINTO	THOMAS		0: 0: 2	0: 2: 0	0: 3: 0	0: 4: 0	1: 0: 0	0: 0: 0	0: 6: 8	1:15:10
KEYNE	JOHN		0: 0: 1	0: 0: 0	0: 0: 0	0: 1: 0	1: 6: 8	0: 2: 0	0: 6: 0	1:15: 9
THOMSON	JOHN		0: 0: 8	0: 0: 0	0: 2: 0	0: 1: 0	1: 6: 8	0: 1: 0	0: 4: 0	1:15: 4
WILSON	HOB		0: 0: 0	0: 0: 0	0: 1: 6	0: 1: 0	1: 6: 8	0: 0: 8	0: 5: 0	1:14:10
CHAPMAN	GEORGE		0: 0: 2	0: 2: 0	0: 3: 0	0: 2: 0	1: 0: 0	0: 2: 0	0: 5: 0	1:14: 2
MITHAG	JOHN (ELDER)		0: 1: 0	0: 2: 0	0: 3: 0	0: 5: 0	1: 0: 0	0: 3: 0	0: 0: 0	1:14: 0
THOMSON	ROBERT		0: 0: 0	0: 1: 0	0: 3: 0	0: 3: 0	1: 0: 0	0: 2: 0	0: 5: 0	1:14: 0
COLLIN	PATRICK		0: 0: 1	0: 0: 0	0: 1: 6	0: 1: 0	1: 6: 8	0: 1: 4	0: 3: 0	1:13: 7
SCOT	JOHN (EASTER)		0: 0: 1	0: 0: 0	0: 2: 0	0: 0: 6	1: 6: 8	0: 0: 0	0: 4: 0	1:13: 3

		Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total	
		£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	
HENDRIE	TOM	0: 0: 0	0: 0: 0	0: 4: 0	0: 3: 0	0:13: 4	0: 4: 0	0: 8: 0	1:12: 4	
MITCHELLHILL	WILL	0: 0: 0	0: 0: 0	0: 1: 6	0: 1: 6	1: 6: 8	0: 0: 8	0: 2: 0	1:12: 4	
BRADFOOT	JAMES	0: 0: 0	0: 4: 0	0: 8: 0	0: 0: 0	0: 0: 0	0: 6: 8	0:13: 4	1:12: 0	
KEYNE	JAMES (ELDER)	0: 0: 0	0: 2: 0	0: 3: 0	0: 0: 0	1: 0: 0	0: 2: 0	0: 5: 0	1:12: 0	
CHAPMAN	JAMES	0: 0: 1	0: 0: 0	0: 1: 6	0: 1: 0	1: 6: 8	0: 0: 8	0: 2: 0	1:11:11	
LORIMER	MICHAEL	0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 6	1: 6: 8	0: 0: 8	0: 3: 0	1:11:10	
BROWN	JOHN	CUSTOMER	0: 0: 1	0: 1: 0	0: 2: 0	0: 2: 0	1: 0: 0	0: 0: 0	0: 6: 8	1:11: 9
ANDERSON	PATRICK		0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 6: 8	0: 0:12	0: 4: 0	1:11: 8
MITHAG	DAVID		0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 6: 8	0: 0: 8	0: 4: 0	1:11: 4
YOUNG	HENRY		0: 0: 0	0: 0: 0	0: 1: 0	0: 1: 0	1: 6: 8	0: 0: 8	0: 2: 0	1:11: 4
MINTO	JAMES		0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 6: 8	0: 1: 0	0: 3: 0	1:10: 8
WOOD	JOCK OF		0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	1: 6: 8	0: 0: 0	0: 3: 0	1:10: 8
FLETCHER	WILL		0: 0: 1	0: 2: 0	0: 2: 0	0: 3: 0	0:13: 4	0: 3: 0	0: 7: 0	1:10: 5
INGLIS	JOCK	WEBSTER	0: 0: 0	0: 0: 0	0: 1: 6	0: 0: 6	1: 6: 8	0: 0: 8	0: 1: 0	1:10: 4
BRYDEN	WILLIAM		0: 0: 0	0: 2: 0	0: 0: 0	0: 1: 6	1: 0: 0	0: 1: 6	0: 5: 0	1:10: 0
FAIRGRIEVE	THOMAS		0: 0: 0	0: 1: 0	0: 1: 0	0: 1: 0	1: 6: 8	0: 0: 0	0: 0: 0	1: 9: 8
MITHAG	WILLIAM		0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 6: 8	0: 3: 0	0: 0: 0	1: 9: 8
THOMSON	JOHN	CORDINER	0: 0: 2	0: 0: 0	0: 3: 0	0: 2: 0	1: 0: 0	0: 1: 4	0: 3: 0	1: 9: 6
SCOT	JOHN (ROBERTON)		0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 6: 8	0: 0: 8	0: 2: 0	1: 9: 4
TAYLOR	JAMES		0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 6	1: 6: 8	0: 0: 0	0: 1: 0	1: 9: 2
LAUDERDALE	GEORGE		0: 0: 1	0: 1: 0	0: 2: 0	0: 2: 0	1: 0: 0	0: 0: 0	0: 4: 0	1: 9: 1
MINTO	THOMAS (ELDER)		0: 0: 0	0: 2: 0	0: 2: 0	0: 2: 0	1: 0: 0	0: 3: 0	0: 0: 0	1: 9: 0
DUNHOPE	WAT		0: 0: 1	0: 0: 6	0: 3: 0	0: 3: 0	0:13: 4	0: 2: 0	0: 7: 0	1: 8:11
DOBY	JAMES		0: 0: 0	0: 0: 0	0: 1: 6	0: 0: 0	1: 6: 8	0: 0: 8	0: 0: 0	1: 8:10
SMYTH	JOHN	MALTMAN	0: 0: 3	0: 0: 0	0: 2: 0	0: 2: 0	1: 0: 0	0: 1: 6	0: 3: 0	1: 8: 9
CURROR	CUTHBERT		0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	1: 6: 8	0: 0: 4	0: 0: 8	1: 8: 8
ROBSON	WILL	WRIGHT	0: 0: 1	0: 1: 0	0: 1: 0	0: 1: 0	1: 0: 0	0: 1: 4	0: 4: 0	1: 8: 5
SCOT	JAMES		0: 0: 2	0: 2: 0	0: 2: 0	0: 2: 0	0:16: 0	0: 1: 6	0: 4: 0	1: 7: 8
FORSYTH	WILL		0: 0: 0	0: 2: 0	0: 2: 0	0: 1: 6	1: 0: 0	0: 1: 0	0: 1: 0	1: 7: 6
GLESTANES	SANDY		0: 0: 0	0: 0: 0	0: 4: 0	0: 3: 0	0: 5: 0	0: 5: 0	0:10: 0	1: 7: 0

		Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total
		£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
WILSON	WILL	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0:10: 0	0: 6: 8	0:10: 0	1: 6: 8
BRAIDFOOT	JAMES	0: 0: 8	0: 0: 0	0: 0: 0	0: 5: 0	1: 0: 0	0: 0: 0	0: 0: 0	1: 5: 8
CRAW	ROBIN	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0	1: 0: 0	0: 1: 6	0: 2: 0	1: 5: 6
BELLENDEN	JOHN OF	0: 0: 0	0: 0: 6	0: 1: 0	0: 0: 6	1: 0: 0	0: 0: 0	0: 3: 0	1: 5: 0
COOPER	JOHN	0: 0: 8	0: 0: 6	0: 1: 0	0: 0: 6	1: 0: 0	0: 0: 4	0: 1: 6	1: 4: 6
MURRAY	JAMES	0: 0: 1	0: 0: 6	0: 1: 0	0: 0: 6	1: 0: 0	0: 0: 0	0: 2: 0	1: 4: 1
DOWN	TOM	0: 0: 0	0: 1: 0	0: 0: 6	0: 0: 6	1: 0: 0	0: 0: 0	0: 0: 8	1: 2: 8
CHAMPNAY	JAMES	0: 0: 0	0: 0: 6	0: 0: 6	0: 0: 6	1: 0: 0	0: 0: 0	0: 1: 0	1: 2: 6
SCOT	JOCK	0: 0: 0	0: 2: 0	0: 1: 6	0: 1: 6	0:10: 0	0: 1: 6	0: 6: 0	1: 2: 6
BOWMAKER	ADAM	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	1: 0: 0	0: 0: 0	0: 1: 0	1: 2: 0
SMYTH	ROBIN	0: 0: 2	0: 1: 0	0: 0: 6	0: 0: 0	1: 0: 0	0: 0: 0	0: 0: 0	1: 1: 8
FRERE	JOHN	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 6	1: 0: 0	0: 0: 0	0: 0: 8	1: 1: 4
SWAN	ANDREW	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 6	1: 0: 0	0: 0: 0	0: 0: 8	1: 1: 3
BRYDEN	DAVID	0: 0: 0	0: 0: 0	0: 2: 0	0: 1: 0	0:10: 0	0: 1: 6	0: 6: 8	1: 1: 2
DONALDSON	DAVID	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6	1: 0: 0	0: 0: 0	0: 0: 8	1: 1: 2
LAUDER	JOHN	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0	0: 0: 0	0: 0: 0	1: 1: 0
SCOT	ALEXANDER	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0	0: 0: 0	0: 0: 0	1: 1: 0
FORSYTH	ALAN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0	0: 0: 0	0: 0: 8	1: 0: 9
SCOT	WILL	0: 0: 0	0: 1: 0	0: 1: 6	0: 2: 0	0:10: 0	0: 2: 0	0: 4: 0	1: 0: 6
CURLE	JOHN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0	0: 0: 0	0: 0: 0	1: 0: 1
HAWE	JAMES	0: 0: 0	0: 0: 0	0: 2: 0	0: 0: 0	0:10: 0	0: 3: 0	0: 5: 0	1: 0: 0
KER	LANCELOT	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0
PORTEOUS	WILL	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0
SCOT	WALTER	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0	0: 0: 0	0: 0: 0	1: 0: 0
BENNETT	WILL	0: 0: 2	0: 1: 0	0: 2: 0	0: 2: 0	0:10: 0	0: 0: 0	0: 4: 0	0:19: 2
SCOT	ADAM	0: 0: 0	0: 2: 0	0: 1: 0	0: 1: 0	0:13: 4	0: 1: 0	0: 0: 0	0:18: 4
YOUNG	JOHN	0: 0: 2	0: 2: 0	0: 2: 0	0: 2: 0	0:10: 0	0: 0: 0	0: 1: 0	0:17: 2
HENDERSON	THOMAS	0: 0: 1	0: 2: 0	0: 2: 0	0: 2: 0	0: 6: 8	0: 0: 8	0: 3: 0	0:16: 5
MINTO	DAVID	0: 0: 1	0: 1: 0	0: 2: 0	0: 1: 0	0:10: 0	0: 0: 4	0: 2: 0	0:16: 5
MITCHELHILL	GEORGE	0: 0: 2	0: 1: 0	0: 1: 6	0: 0: 0	0:10: 0	0: 0: 8	0: 3: 0	0:16: 4

		Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total
		£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
CHAPMAN	ROBERT	0: 0: 2	0: 2: 0	0: 2: 0	0: 0: 0	0: 6: 8	0: 1: 6	0: 2: 0	0:14: 4
LUMSDEN	TOM	0: 0: 0	0: 0: 0	0: 1: 0	0:10: 0	0: 0: 0	0: 0: 8	0: 2: 0	0:13: 8
WILKINSON	ADAM	0: 0: 8	0: 2: 0	0: 2: 0	0: 2: 0	0: 5: 0	0: 0: 8	0: 1: 0	0:13: 4
JOHNSON	THOMAS	0: 0: 4	0: 2: 0	0: 1: 6	0: 1: 0	0: 6: 8	0: 1: 6	0: 0: 0	0:13: 0
CRUIKSHANK	THOMAS	0: 0: 0	0: 1: 0	0: 1: 0	0: 0: 6	0:10: 0	0: 0: 0	0: 0: 0	0:12: 6
KEYNE	ALAN	0: 0: 6	0: 0: 0	0: 1: 0	0: 1: 0	0:10: 0	0: 0: 0	0: 0: 0	0:12: 6
BURNE	WILL	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 5: 0	0: 6: 8	0: 0: 8	0:12: 4
TURNBULL	WILLIAM	0: 0: 1	0: 1: 0	0: 1: 0	0: 0: 6	0: 5: 0	0: 0: 8	0: 4: 0	0:12: 3
NOTMAN	MATHEW	0: 0: 1	0: 0: 0	0: 3: 0	0: 2: 0	0: 0: 0	0: 3: 0	0: 4: 0	0:12: 1
WILKINSON	JAMES	0: 0: 0	0: 1: 0	0: 1: 0	0: 1: 0	0: 5: 0	0: 0: 8	0: 3: 0	0:11: 8
CADZOW	WILLIAM	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 6	0:10: 0	0: 0: 0	0: 0: 8	0:11: 3
BRYDEN	JANET	0: 0: 0	0: 0: 0	0: 2: 0	0: 2: 0	0: 0: 0	0: 3: 0	0: 4: 0	0:11: 0
PORTEOUS	JOHN (ELDER)	0: 0: 2	0: 1: 0	0: 1: 0	0: 1: 6	0: 5: 0	0: 0: 8	0: 1: 6	0:10:10
KER	NICHOL	0: 0: 0	0: 0: 0	0: 2: 0	0: 1: 6	0: 5: 0	0: 0: 0	0: 1: 6	0:10: 0
WILKINSON	STEVEN	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0:10: 0	0: 0: 0	0: 0: 0	0:10: 0
LUMSDEN	JOHN	0: 0: 2	0: 2: 0	0: 3: 0	0: 1: 6	0: 0: 0	0: 0: 8	0: 2: 0	0: 9: 4
CRAW	JOHN	0: 0: 2	0: 1: 0	0: 1: 0	0: 1: 0	0: 6: 0	0: 0: 0	0: 0: 0	0: 9: 2
HAWE	JOHN	0: 0: 2	0: 0: 0	0: 1: 0	0: 0: 6	0: 0: 0	0: 0: 8	0: 6: 8	0: 9: 0
CANT	JAMES	0: 0: 1	0: 1: 0	0: 0: 6	0: 0: 6	0: 6: 8	0: 0: 0	0: 0: 0	0: 8: 9
WHITESTONE	ADAM	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 6: 8	0: 1: 6	0: 0: 6	0: 8: 8
MITHAG	ALAN	0: 0: 0	0: 2: 0	0: 1: 0	0: 0: 6	0: 5: 0	0: 0: 0	0: 0: 0	0: 8: 6
MELROSE	THOMAS	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 6	0: 5: 0	0: 0: 8	0: 2: 0	0: 8: 4
FRERE	PATRICK	0: 0: 0	0: 1: 0	0: 1: 0	0: 0: 6	0: 5: 0	0: 0: 0	0: 0: 8	0: 8: 2
KEYNE	WILLIAM (ELDER)	0: 0: 0	0: 2: 0	0: 3: 0	0: 3: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 8: 0
SKUNE	JOHN	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 5: 0	0: 0: 0	0: 3: 0	0: 8: 0
HAW	SANDY	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6	0: 5: 0	0: 0: 4	0: 2: 0	0: 7:10
LORIMER	STEPHEN	0: 0: 2	0: 2: 0	0: 0: 0	0: 0: 6	0: 5: 0	0: 0: 0	0: 0: 0	0: 7: 8
SKUNE	JAMES	0: 0: 1	0: 0: 6	0: 0: 6	0: 0: 6	0: 5: 0	0: 0: 0	0: 1: 0	0: 7: 7
TURNBULL	JOHN	0: 0: 1	0: 0: 0	0: 1: 0	0: 0: 6	0: 5: 0	0: 1: 0	0: 0: 0	0: 7: 7
BAYNE	GEORGE	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	0: 5: 0	0: 0: 4	0: 1: 0	0: 7: 4

		Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total
		£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
ANDERSON	JOHN	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0	0: 5: 0	0: 7: 0
FARLE	ADAM	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	0: 5: 0	0: 0: 0	0: 0: 8	0: 6: 8
TODRIK	DAVID	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 5: 0	0: 0: 0	0: 1: 6	0: 6: 6
LORIMER	JOHN	0: 0: 2	0: 0: 0	0: 0: 6	0: 0: 6	0: 5: 0	0: 0: 0	0: 0: 0	0: 6: 2
FORREST	THOMAS	0: 0: 0	0: 4: 0	0: 2: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 6: 0
HAW	JOHN (EASTER)	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 6	0: 5: 0	0: 0: 0	0: 0: 0	0: 6: 0
ROBSON	JOHN WEBSTER	0: 0: 0	0: 0: 0	0: 1: 6	0: 0: 6	0: 0: 0	0: 1: 0	0: 3: 0	0: 6: 0
KEYNE	JAMES (YOUNGER)	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 6	0: 4: 0	0: 5: 6
CURROR	JOCK (IN HILL)	0: 0: 0	0: 1: 0	0: 1: 0	0: 1: 6	0: 0: 0	0: 0: 8	0: 1: 0	0: 5: 2
WATSON	THOMAS	0: 0: 1	0: 0: 0	0: 0: 6	0: 0: 6	0: 0: 0	0: 1: 0	0: 3: 0	0: 5: 1
ADAM	WILL	0: 0: 0	0: 0: 0	0: 2: 0	0: 0: 0	0: 0: 0	0: 1: 0	0: 2: 0	0: 5: 0
HALLIWELL	DAVID	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 5: 0	0: 5: 0
KER	ROBIN	0: 5: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 5: 0
LAUDER	STEPHEN OF	0: 5: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 5: 0
THOMSON	PATRICK	0: 0: 0	0: 0: 0	0: 3: 0	0: 0: 0	0: 0: 0	0: 2: 0	0: 0: 0	0: 5: 0
WILSON	JOHN	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 5: 0	0: 5: 0
BRYDEN	JOHN	0: 0: 2	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 4: 0	0: 4: 8
NEWLANDS	JAMES	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 4: 0	0: 4: 8
CHISHOLM	ROBERT	0: 0: 1	0: 2: 0	0: 1: 6	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 4: 7
MCWATTIE	JOCK	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 0	0: 1: 0	0: 3: 0	0: 4: 6
WATSON	JAMES	0: 0: 2	0: 2: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 2: 0	0: 4: 6
CURROR	WALTER	0: 0: 0	0: 4: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 4: 0
BEST	JOCK	0: 0: 1	0: 0: 0	0: 1: 0	0: 0: 6	0: 0: 0	0: 0: 4	0: 2: 0	0: 3: 11
KELSO	PATRICK	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 3: 0	0: 3: 8
CHAPMAN	WILL	0: 0: 1	0: 1: 0	0: 1: 6	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 3: 7
MELROSE	JAMES	0: 0: 0	0: 0: 0	0: 2: 0	0: 1: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 3: 6
SWAN	WILL	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	0: 0: 0	0: 1: 0	0: 1: 6	0: 3: 6
MURRAY	CHRISTINE	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 3: 0	0: 3: 0
NEWTON	HECTOR	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 3: 0	0: 3: 0
VAUGHAN	ADAM	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 3: 0	0: 3: 0

		Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total
		£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
DONALDSON	JAMES	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 4	0: 2: 0	0: 2: 10
CRUIKSHANK	MUNGO	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 2: 0	0: 2: 8
HUNTER	JOCK	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 2: 0	0: 2: 8
MELROSE	ROBERT	0: 0: 1	0: 0: 0	0: 1: 0	0: 0: 6	0: 0: 0	0: 0: 4	0: 0: 8	0: 2: 7
TODRIK	ROBERT	0: 0: 1	0: 1: 0	0: 1: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 7
COLLIN	SANDY	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 4	0: 0: 8	0: 2: 6
HOG	ROBIN	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0	0: 2: 6
BROWN	MATHEW	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 2: 0	0: 2: 4
BRYDEN	ELIZABETH	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 0	0: 1: 4	0: 0: 0	0: 2: 4
CLERK	JOHN	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	0: 0: 0	0: 0: 4	0: 1: 0	0: 2: 4
MINTO	MATHEW	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 1: 6	0: 2: 2
BAIRD	JAMES	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0	0: 2: 0
CHISHOLM	JOCK	0: 0: 0	0: 2: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0
CLERK	TOM	0: 0: 0	0: 0: 0	0: 2: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0
DALGLIESH	DAVID	0: 0: 0	0: 2: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0
ELLWOOD	THOMAS	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0	0: 2: 0
FARLE	JOHN	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0	0: 2: 0
GRAHAM	JAMES	0: 0: 0	0: 2: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0
HOG	THOMAS	0: 0: 0	0: 1: 0	0: 0: 6	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0
MORELAW	THOMAS	0: 0: 0	0: 0: 0	0: 2: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0
PATERSON	HOB	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0	0: 2: 0
SALOMON	WILL	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	0: 0: 0	0: 0: 0	0: 1: 0	0: 2: 0
SCOT	GEORGE	0: 0: 0	0: 2: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0
UNNIS	WILL	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0	0: 0: 0	0: 2: 0
VALLANCH	ARCHIE	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 2: 0	0: 2: 0
HENDERSON	NICHOLAS	0: 0: 1	0: 0: 6	0: 0: 6	0: 0: 6	0: 0: 0	0: 0: 4	0: 0: 0	0: 1: 11
DRISTAIR	MATHEW	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 4	0: 1: 0	0: 1: 10
TAIT	ARCHIE	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 8	0: 1: 8
ELLIOT	THOMAS	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 6	0: 0: 0	0: 1: 6
MATHESON	WILL	0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 6

		Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total
		£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
PORTEOUS	JOHN (YOUNGER)	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 6
WAIT	JOCK	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 6	0: 1: 6
BRADFOOT	ANDREW	0: 0: 8	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 1: 4
BRADFOOT	JOCK	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 1: 0	0: 1: 4
LAUDER	STEPHEN	0: 0: 4	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 4
LAUDERDALE	TOM	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 4	0: 0: 0	0: 1: 4
TASKER	SANDY	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 1: 0	0: 1: 4
JOHNSON	JOHN	0: 0: 2	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 2
LEARMONT	WILLIAM	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 8	0: 1: 2
PORTEOUS	ROBERT	0: 0: 2	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 2
STENSTON	WILL	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 8	0: 1: 1
ANGUS	JOCK	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
BROWN	DAVID	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
BRYDEN	MATHEW	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
BRYDEN	ROBIN	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
CAVERHILL	MEG	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 0	0: 1: 0
CHAPMAN	ALISON	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 8	0: 1: 0
CHAPMAN	RICHARD	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
CURROR	JAMES	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
FAIRGRIEVE	JAMES	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
HALLIWELL	ANDREW	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 0	0: 1: 0
HAWDEN	MEG	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 8	0: 1: 0
Hawe	BESSIE	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 8	0: 1: 0
HENDERSON	ROB	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
HENDRIE	ROBERT	0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
HESLOP	TOM	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
KER	WILLIAM (SHAW)	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
MACLEAN	ANDREW	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
MURRAY	CUTHBERT	0: 0: 0	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
NOTMAN	WILL	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0

		Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total
		£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
PATE	MARTIN	0: 0: 0	0: 1: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0
PIPER	JAMES THE	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 8	0: 1: 0
ROULL	GEORGE	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 8	0: 1: 0
STODDART	SIMON	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0	0: 1: 0
WRIGHT	MILLER	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 1: 0	0: 1: 0
YOUNG	MEG	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 8	0: 1: 0
BLAIR	GILBERT	0: 0: 4	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0:10
MCMORAN	PETER	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0:10
SCOT	JANET	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0: 9
ARROS	JAMES	0: 0: 8	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8
BRYSON	JAMES	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0: 8
BULMAN	HOB	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0: 8
DOUNGELL	JOHN	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0: 8
FARLE	BESSIE	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0: 8
HENDERSON	ALISON	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0: 8
KER	JAMES	0: 0: 8	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8
KEYNE	BESSIE	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0: 0	0: 0: 8
LAUDER	JOHN	0: 0: 2	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8
LORIMER	WILL	0: 0: 8	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8
MCMORAN	SIMON	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0: 8
MOYES	JAMES	0: 0: 8	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8
RODGER	WILL	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 8	0: 0: 0	0: 0: 8
AITCHISON	CUTHBERT	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6
CURROR	JOCK	(PEELGAIT)	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6
ELLIOT	JAMES	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6
LORIMER	NICHOL	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6
RAA	JOCK	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6
RICHARDSON	MATHEW	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6
ROBSON	JAMES	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6
SCOT	BESSIE	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6

		Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total
		£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
SWEET	PATRICK	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6
WALKER	ROBIN	0: 0: 6	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 6
BAYNE	MEG	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 0	0: 0: 4
BROWN	ALEXANDER	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 0	0: 0: 4
CAMPBELL	JAMES	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 0	0: 0: 4
CRAWFORD	MATHEW	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 0	0: 0: 4
CURROR	MEG	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 0	0: 0: 4
EDMONT	THOMAS	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 0	0: 0: 4
FLETCHER	TOM	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 0	0: 0: 4
JOHNSON	PATRICK	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4	0: 0: 0	0: 0: 4
KER	ROBERT	0: 0: 4	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 4
BRYDEN	ROBERT	0: 0: 3	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 3
SCOT	ALEXANDER	0: 0: 3	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 3
BENNETT	ROBERT	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 2
BROWNE	DAVID	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 2
CHAPMAN	RICHARD	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 2
HESLOP	JOHN	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 2
JOHNSON	ANDREW	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 2
KEYNE	HELEN	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 2
SCOT	THOMAS	0: 0: 2	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 2
BLAKE	WILLIAM	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
CADZOW	JOHN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
CHISHOLM	WILLIAM	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
DONALDSON	JOHN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
DOWN	GEORGE	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
HARPER	JAMES	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
KEYNE	THOMAS	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
KILPATRICK	DAVID	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
LAING	WILL	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
MAIN	WILLIAM	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1

		Jan 1521	3/3/1531	22/4/1535	20/7/1535	17/3/1536	9/4/1538	6/9/1539	Total
		£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d	£ s d
MELROSE	JOHN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
MITCHELHILL	KATE	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
MOSSPATRICK	JOHN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
MOYES	JOHN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
MURRAY	JOHN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
MURRAY	ROGER	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
PARSON	JOHN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
TAIT	JAMES	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
TAIT	JOHN	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
TAIT	SANDY	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
TAYLOR	THOMAS	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
WILKINSON	PATRICK	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
YOUNG	RICHARD	0: 0: 1	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 0	0: 0: 1
Total Tax Paid		2:14: 5	7: 1: 6	10:19: 0	9: 5: 6	105: 0: 8	9:14: 8	26: 1: 4	170:17: 1

APPENDIX v. THE SELKIRK ELITE 1521-1541 (source: TSCB)

Name	Served as Alderman/ Provost	Served as Bailie	Inquest of 12 Oct. 1535	Inquest of 5 May 1536	Inquest of 3 June 1539	Inquest of 17 Sept. 1541	Quartile position in taxation summary
Gilbert Ker	*						1st
Andrew Ker	*	*	*	*	*		1st
James Bryden		*	*	*	*		1st
John Mithag (younger)	*	*		*	*		1st
John Chapman		*	*	*		*	1st
Peter Moffat			*			*	1st
Simon Farle		*	*	*	*	*	1st
Mark Ker		*		*			1st
James Crawford			*				1st
Jock Down			*				1st
James Helme			*	*	*	*	1st
Andrew Macdowall			*		*		1st
Tom Barker			*				1st
John Bryden (elder)		*	*	*	*	*	1st

Name	Served as Alderman/ Provost	Served as Bailie	Inquest of 12 Oct. 1535	Inquest of 5 May 1536	Inquest of 3 June 1539	Inquest of 17 Sept. 1541	Quartile position in taxation summary
Thomas Minto					*	*	1st
George Chapman			*				1st
John Mithag (elder)			*				1st
James Bradfoot		*	*	*		*	1st
James Keyne (elder)		*	*	*			1st
John Brown			*		*		1st
Will Fletcher			*				1st
William Bryden			*				1st
George Lauderdale			*				1st
Wat Dunhope			*				1st
John Smyth		*					1st
James Scot		*		*			1st
Sandy Gledstanes			*		*	*	1st
David Bryden			*				2nd
Alexander Scot		*					2nd

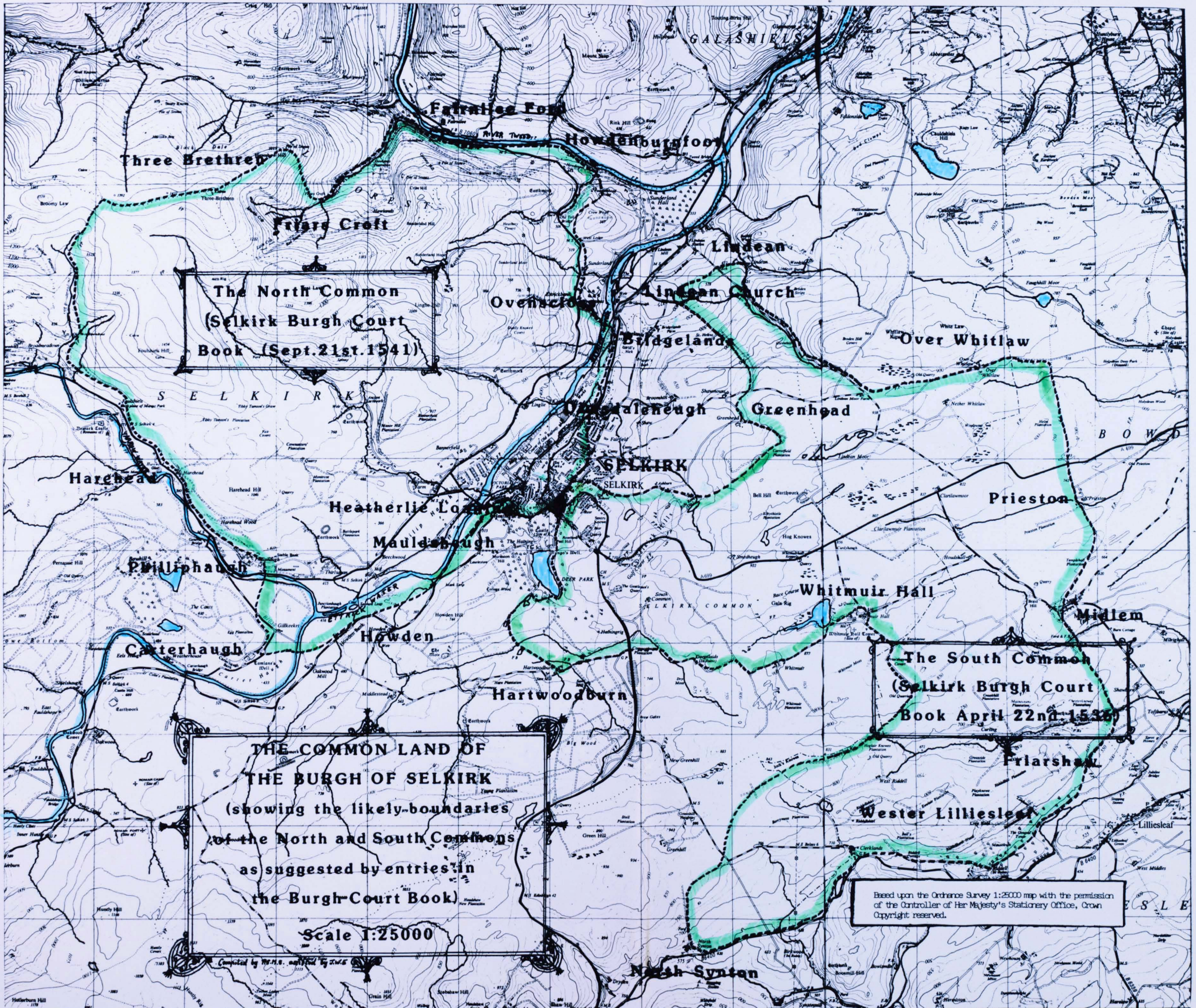
Name	Served as Alderman/ Provost	Served as Bailie	Inquest of 12 Oct. 1535	Inquest of 5 May 1536	Inquest of 3 June 1539	Inquest of 17 Sept. 1541	Quartile position in taxation summary
John Young			*				2nd
Robert Chapman		*	*	*	*		2nd
Thomas Johnson		*	*				2nd
John Lumsden			*				2nd
John Crawe			*				2nd
John Hawe			*		*		2nd
Robin Ker		*					2nd
Stephen of Lauder		*					2nd
George Scot		*					3rd
John Johnson		*					3rd
David Brown		*					3rd
Robin Bryden		*					3rd

NOTE: This appendix should be read in conjunction with appendix iv on burgh taxation.

APPENDIX vii. REFERENCES TO PLAGUE OUTBREAKS IN SCOTLAND
1500 to 1550

<u>Shrewsbury</u> ¹	<u>Creighton</u> ²	<u>Smout</u> ³	<u>Selkirk</u> ⁴
1500 (Peebles, North Berwick, Edinburgh & Aberdeen)	1500 (General outbreak in Scotland)	1498-1505	
1502 (Edinburgh)			
1504 (Dunfermline)			
1509 (Edinburgh)			
1512 (Edinburgh)		1512	
1513 (Edinburgh & Aberdeen)	1514 (Aberdeen)		
	1515		
1519 (Edinburgh & Lothian)		1519	1519 (Edinburgh)
1529 (St. Andrews, Dundee & Cupar)		1529-1531	
1530 (Edinburgh and much of eastern Scotland)	1530		1530 (Edinburgh, Lothian and Selkirk)
			1535 (Selkirk)
			1536 (Jedburgh)
1537 (Perth)			1538 (Edinburgh)
	1539		
1545 (Ayr, Edinburgh & Leith)	1545	1545-1549	
1546 (Edinburgh)	1546		
1548 (Perth)			
1549 (Edinburgh, Stirling, Aberdeen, Haddington & Berwick)			

1. J.F.D. Shrewsbury, A History of Bubonic Plague in the British Isles (Cambridge 1970).
2. C.Creighton, History of Epidemics in Britain (2nd ed. London 1965).
3. T.C.Smout, Coping with Plague in 16th & 17th century Scotland, Scotia ii (1978).
4. TSCB.



Three Brethren

Fraser Croft

The North Common
(Selkirk Burgh Court
Book (Sept. 21st. 1541))

Ovenscloot

Lindean Church

Greenhead

Over Whitlaw

Harehead

Heatherlie Loch

Mauldehaugh

Philliphaugh

Whitmuir Hall

Prieston

Midlem

Carterhaugh

Howden

Hartwoodburn

The South Common
(Selkirk Burgh Court
Book April 22nd 1536)

Priarshall

Wester Lilliesleaf

THE COMMON LAND OF
THE BURGH OF SELKIRK
(showing the likely-boundaries
of the North and South Commons
as suggested by entries in
the Burgh-Court Book)

Scale 1:25000

Based upon the Ordnance Survey 1:25000 map with the permission of the Controller of Her Majesty's Stationery Office, Crown Copyright reserved.

North Synton

APPENDIX viii. OFFERTORIES TAKEN IN SELKIRK PARISH CHURCH

Note: The details are taken from the entry dated 17 October 1526 in the Selkirk Burgh Court Book. Despite the date of entry, the list of offertories taken appears in the Court Book after 14 May 1527, and includes money given over a period of more than one year. The summary below has been re-arranged to cover one church year, although some Sundays and feast-days are not shown in the records.

- - - - -

Conception of the B.V.M. and 2nd Sunday in Advent	12s. 0d.
3rd Sunday in Advent	4s. 9d.
Christmas Day	16s. 6d.
Epiphany	8s. 0d.
1st Sunday after Epiphany	3s. 3½d.
St. Kentigern	3s. 3d.
3rd Sunday after Epiphany	7s. 2d.
Septuagesima	3s. 5d.
Sexagesima	3s. 1d.
Quinquagesima	3s. 8d.
2nd Sunday after Quadragesima	3s. 0d.
3rd Sunday after Quadragesima	3s. 0d.
Annunciation of the B.V.M.	11s. 0d.
Passion Sunday	2s. 3d.
Easter Vigil and Easter Sunday	29s. 0d.
1st Sunday after Easter	3s. 2½d.
4th Sunday after Easter	4s. 9½d.

Ascension Day	6s. 1d.
Pentecost	5s. 4d.
1st Sunday after Trinity	5s. 5d.
2nd Sunday after Trinity	3s. 0d.
Visitation of the B.V.M.	2s. 6d.
7th Sunday after Trinity	2s. 8½d.
Assumption of the B.V.M.	30s. 5d.
8th Sunday after Trinity	4s. 6½d.
11th Sunday after Trinity	3s. 3d.
12th Sunday after Trinity	7s. 0d.
14th Sunday after Trinity	3s. 10d.
15th Sunday after Trinity	4s. 1d.
16th Sunday after Trinity	3s. 1d.
17th Sunday after Trinity	5s. 2d.
18th Sunday after Trinity	3s. 6½d.
20th Sunday after Trinity	3s. 4d.
21st Sunday after Trinity	2s. 8d.
22nd Sunday after Trinity	4s. 7d.
24th Sunday after Trinity	5s. 0d.
	<hr/>
Total	£11. 6s. 11d.
	<hr/>

From these figures it is clear that there was a notable devotion to the Virgin Mary in Selkirk, and it seems likely that the church was dedicated to St. Mary. The documentary evidence for dedication is confusing, but taken together it tends to support the circumstantial evidence of the offertories.

APPENDIX ix. THE CLERGY IN SELKIRK 1503-1545
 (Source: TSCB)

<u>Name</u>	<u>Described as:</u>
George Anderson	
John Bryden	Notary and Depute Clerk
Ninian Bryden	Notary and Common Clerk
William Bryden	Vicar and Notary
David Chapman	
John Chapman	
William Chapman	
James Davidson	
Adam Ker	
Thomas Ker	
Thomas Keyne	Notary
William Lidderdaill	
John Michelhill	Notary
Andrew Murray	
David Scot	
Michael Scot	
Patrick Sanderson	
Thomas Skune	
Stephen Wilkesone	

Note: It is not possible to say how many priests/chaplains were resident in Selkirk at any one time, but it is known that William Bryden was the vicar pensionary in 1534 and for a number of years before and after that year. RMS, iii 1518 (12 July 1534), also refers to Ninian Bryden and

George Anderson, describing them as chaplains.

Ninian Bryden was common clerk to the Burgh for a number of years, and was the person responsible for most of the entries in the court books (Selkirk Court Bk., preface). He, and a number of his fellow priests, acted as notaries public, procurators and arbiters.

APPENDIX x. SAINTS' NAMES AS CHRISTIAN NAMES
IN SELKIRK 1503-1545 (Source: TSCB)

<u>Saint</u>	<u>Number of Holders</u> <u>of Name</u>
John	80 (also as Jock)
James	42
Thomas	34
Andrew	13
George	12
Patrick	11
David	11
Mathew	10
Cuthbert	5
Margaret	5 (as Meg)
Elizabeth	5
Stephen	5
Ninian	3
Nicholas	3 (also as Nichol)
Peter	3
Kentigern	2 (also as Mungo)
Antony	1
Michael	1
Catherine	1 (as Kate)
Martin	1
Giles	1 (as Egedius)

APPENDIX xi. INVENTORIES OF HEIRSHIP GOODS

Detailed inventories appear in a variety of burgh records, and the Selkirk court book contains some particularly interesting examples. The table compares eleven inventories, and also shows those items regarded by the Leges Burgorum as being necessary to domestic life.

Key to table of inventories

- (A) Items specified in the Leges Burgorum. 'Thyngis pertenand to the burges ayre'. (Ancient Laws and Customs of the Burghs of Scotland, 56, and APS, i, 356).
- (B) Abdn. Counc., 451, 24 November 1533.
- (C) Edin. Recs., i, 161, 22 May 1516.
- (D) Edin. Recs., i, 230, 5 March 1527.
- (E) Edin. Recs., ii, 39, 9 September 1530.
- (F) Edin. Recs., ii, 136, 25 July 1548.
- (G) Peebles Recs., i, 119, 13 April 1457.
- (H) TSCB, 9 February 1516.
- (I) TSCB, 13 February 1532.
- (J) TSCB, 24 March 1534.
- (K) TSCB, 8 November 1534.
- (L) TSCB, 24 January 1537.

ITEM	A	B	C	D	E	F	G	H	I	J	K	L
<u>Furniture and furnishings</u>												
Table and trestles	*					*	*			*		*
Bed and sheets	*		*	*	*	*	*	*	*	*	*	
Chest	*					*		*	*	*	*	
Bench (incl. long-saddle or bench with back-rest)	*	*	*		*	*				*	*	
Form	*		*						*		*	
Stool	*											*
Counting table		*	*	*	*				*		*	*
Plate cupboard		*	*		*		*	*	*	*	*	*
Store cupboard		*			*					*	*	
Screen		*										
Meat cupboard			*			*	*	*			*	*
Bed canopy			*			*						
Escritoir (small writing cabinet)					*							
Chair							*			*	*	*
Tablecloth	*	*	*			*						
Towel	*		*			*						

ITEM	A	B	C	D	E	F	G	H	I	J	K	L
Feather bed	*	*		*			*				*	*
Bolster		*		*					*	*	*	*
Pillow		*								*	*	
Sheets		*		*						*	*	*
Blankets		*		*							*	*
Bedspread		*		*								*
Curtains			*					*		*	*	*
Casket			*		*						*	*
Flock bed										*		
Candlestick		*	*	*				*		*	*	*
Tapestry											*	
<u>Clothing and personal items</u>												
Boots and spurs		*									*	
Shoes											*	
Slippers											*	
Hose		*					*				*	

ITEM	A	B	C	D	E	F	G	H	I	J	K	L
Bonnet		*				*	*			*	*	
Hat		*									*	
Gown		*					*				*	
Doublet		*				*					*	
Shirt		*				*					*	
Jacket		*										
Coat		*				*					*	
Cloak						*						
Hood							*					
Books											*	
Coins				*	*							
Jewellery				*		*	*				*	
Silver spoons		*		*	*		*				*	
Rosary											*	
<u>Arms and armour, horses and harness</u>												
Horse		*				*						
Saddle		*				*	*				*	

ITEM	A	B	C	D	E	F	G	H	I	J	K	L
Bridle		*										
Armoured glove		*										
Sword		*					*	*			*	
Jack		*										*
Axe		*						*			*	
Steel bonnet		*						*				
Dagger		*										
Whinger											*	
Spear							*	*				
<u>Cooking and eating utensils</u>												
Basin and ewer	*	*	*				*	*			*	
Cauldron	*						*	*				
Kettle	*											
Gridiron	*											
Skillet	*											
Grate	*		*		*	*					*	
Pitcher	*										*	
Pot-hook and chain	*						*	*	*	*	*	*

ITEM	A	B	C	D	E	F	G	H	I	J	K	L
Pot (usually in brass)	*			*	*	*	*	*	*	*	*	*
Pan	*	*		*	*	*					*	
Spit	*	*					*	*		*	*	*
Girdle	*	*					*				*	
Pestle and Mortar	*	*								*	*	*
Mazer	*	*			*							
Platter	*					*		*	*		*	
Cup	*											
Spoons	*											
Quart, pint and chopin measure		*	*	*	*	*	*	*			*	
Ladle		*										
Flesh hook		*										
Tongs		*						*		*	*	
Meat vat		*				*					*	
Fish vat		*				*						
Kneading board		*					*				*	

ITEM	A	B	C	D	E	F	G	H	I	J	K	L
Pepper mill		*									*	
Pewter plates			*	*	*	*	*	*		*	*	*
Dishes				*		*	*		*	*	*	
Trenchers				*	*	*						
Meat board (or butcher's block)										*	*	
Baking cloth											*	
<u>Brewing equipment</u>												
Brewing leyd (cauldron)	*	*						*			*	
Maskfat (mash tun)	*	*					*	*			*	*
Gylfat (wort tun)	*	*						*			*	*
Barrel	*										*	*
Barrel stand		*										
Bucket		*									*	
<u>Textile equipment</u>												
Spinning wheel		*				*					*	*
Yarn reel							*					
Steeping tub										*		

ITEM	A	B	C	D	E	F	G	H	I	J	K	L
Wool balance		*										
Wool combs		*						*				
Wool cards		*				*			*			
Comb-stock		*										
<u>Trade equipment</u>												
Balance and weights	*	*									*	
Cordiners' tools								*				
<u>Farming equipment and tools</u>												
Shearing hook	*											
Plough/plough irons	*							*			*	
Wain	*											
Cart	*											
Wagon	*											
Sledge						*					*	
Spade	*									*	*	
Sowing sheet											*	*

ITEM	A	B	C	D	E	F	G	H	I	J	K	L
Fork						*	*					
Pack saddle						*						
Firlot measure						*						
Sack and peck measures						*				*	*	*
Shears											*	
Winnowing cloth and basket						*						
Sieve and riddle						*					*	
Horse collar						*						
Cart saddle						*						
Harrow						*						
Hand axe											*	
Wood axe										*	*	
Hammer											*	
Gimlet											*	
Auger											*	
Rake											*	
Shovel											*	
Pick											*	

ITEM	A	B	C	D	E	F	G	H	I	J	K	L
<u>Building materials</u>												
Roof purlin							*					
Pieces of timber							*					

Commentary on inventories

- (A) The heirship goods specified by the Leges Burgorum can be seen in a number of inventories, and most of the items would be found in households of moderate means, with wealthier households containing a much more comprehensive range of equipment.
- (B) This inventory lists the goods of James Vaus. He left the usual furniture and kitchen equipment, including a number of brewing vessels. The inventory is noteworthy for its arms and armour, and for its detailed description of some of the clothing, which included a brown gown lined with black lambskin, a black worsted doublet with velvet sleeves and a coat of 'English red' trimmed with black velvet. Mention of a screen or curtain for the booth suggests occupation as a craftsman or merchant.
- (C) Heirship goods of William Whitehead. Not many items are listed but there are some luxury furnishings such as red and green curtains and a canopy for the bed. Whitehead was well supplied with pewter dishes (seventeen in number) and with candlesticks and four-pint jugs.

- (D) Katherine Thomson left a small number of ordinary domestic items which would barely suffice to furnish one room, but she also left two merks in cash, and three gold rings.
- (E) Apart from a silver-gilt mazer and a silver spoon, the only unusual item in this inventory is the 'chyrater' or escritorio, which suggests that the owner was literate.
- (F) A comprehensive inventory with some detailed descriptions of clothing including a black bonnet lined with taffeta, black hose, a black 'Spanish' cloak, a short coat of 'English green' and a black fustian doublet. For an Edinburgh inventory there are many items of farming equipment.
- (G) The inventory lists the goods of a man called Mowat, and includes luxury items of dress such as a scarlet bonnet and a silver belt. The scarcity and value of building timber is illustrated by mention of a roof purlin and various pieces of timber (possibly sills and beams). In 1478 Mowat's widow found it necessary to sell a number of the heirship goods, because she needed the money to support herself. She sold the meat and plate cupboards, a bed, table and trestles, a cauldron and a pot, the roof purlin, a knapsack and a pot chain and hook.
- (H) The goods left to William Porteous of Selkirk, heir to Will Porteous his grandfather and Will Porteous his father. At the time the inventory was taken the goods were in the possession of James and Janet Bryden, who were later ordered to give the goods to the bailies for delivery to the heir or heirs. The disputed ownership was settled by the burgh court. If young William Porteous ever succeeded in claiming his heirship goods he does not appear to be one of the wealthier members of the community, only paying tax once in the period covered by the burgh court records (£1. 0s. 0d. paid in March 1536).

- (I) The inventory records the heirship goods claimed by John Bryden, and is notable only for mention of cordiner's tools and equipment.
- (J) Elizabeth Chapman, widow of Robert Porteous delivered the goods listed to her son Peter, lawful heir of Robert. The list ends with 'his blak bonnet gef it can be gottin'.
- (K) This comprehensive and lavish inventory consists of the heirship goods of two men, the priest James Johnson and Thomas Johnson, burgess, left to 'young' Thomas Johnson. The number and range of items in the two inventories gives a picture of relative wealth and luxury, which must have been noteworthy in a small community like Selkirk. However, the tax records do not show the Johnsons as major taxpayers.

James Johnson's heirship goods, which included silver spoons and a gold coin as well as rings and silver beads (possibly a rosary), indicate a high degree of material comfort. Apart from the usual bedding Johnson owned a carved bed, probably of Flemish origin, a 'turned' chair or chair with properly turned legs and a four-footed stool. His counting table was of Flemish design or manufacture, and as a notary he had a protocol book, and 'uther divers' books. For a man in holy orders he owned an extensive wardrobe, including a best gown, a velvet coat, a short coat without sleeves, a doublet, a hat and a bonnet and slippers and boots. It is clear that he rode, since he left spurs, saddle and bridle, and he had sword and buckler as well as a whinger or short sword.

Thomas Johnson's heirship goods also indicate a high degree of material comfort, and the ability to acquire a few luxury items. Mention of a 'vair almery' in the

booth suggests trading or craft activity and there are many references to farming equipment, including mention of a plough with all the fittings, the best after the 'kyrk be servit'. Brewing and textile equipment may be seen in some variety, and the kitchen equipment includes a pepper mill, indicating the ability to pay for peppercorns. Luxury items are represented by a candlestick with some form of floral decoration ('ane hyngyng flour') and a tapestry wall-hanging, probably of Flemish manufacture (a 'vairdour' or verdure which was a rich tapestry ornamented with trees or other vegetation).

- (L) The last inventory listed in the table deals with the heirship goods of Alan Keyne, left to his brother John, a priest in Glasgow.

One of the last inventories to be recorded in the Selkirk court book (on 31 January 1543) is of particular interest because it deals with heirship goods left by John Smyth to his two daughters Janet and Bessie. He left them the usual domestic items, including a mare and a cow or ox, and some less common tools like an iron-shod shovel, a peat spade and a muck hook. The daughters inherited his jack or padded coat, a steel bonnet, sword, buckler, lance and a staff, and the effects included a winding-sheet.

Finally, there is an unpublished manuscript in the possession of Walter Mason of Selkirk, which records an inventory of the property of John Bryden, a priest and notary public in Selkirk. A full transcript follows:-

'The inventory of the goods and gear of John Bryden, notary publique in Selkirk made by his own mouth at his own chamber the 28th day of August, the year of God one thousand five hundred four score and two. Before these witnesses, John Mitchelhill burgess of Selkirk, David Fairlie, William Moffat, John Cowan, James Shaw and William Bryden, notary publique.

His goods:

One Horse

The debts owing to him:

John Henry owing to him xx s.

James Turnbull xx s.

John Elliot, Cordiner, Burgess of Edinburgh as cautioner
for Robert Newlands v lib.

John Bryden messenger xiiii merks with xxxx merks received
from James Stewyn

The debts owing by him to others:

Katherine Chapman xxv

Katherine Mitchelhill x

He leaves his whole heirship goods to Robert Bryden his brother's son, thereafter the said Robert has promised to deliver to Margaret Bryden daughter natural to the said Sir John xx merks. He leaves his lectern and the boards and the thing it stands on with the three foremost boards in the booth to the said William Bryden his brother. He leaves the remainder of his goods and gear, the heirship excepted, to Margaret Bryden his daughter natural. He leaves his Court Book of Melrose, Selkirk and the Sheriff Court Book to the said William Bryden. He leaves a fine sark to Kathleen Moffat.

Executors: Robert Bryden
William Bryden

BIBLIOGRAPHY

1. PRIMARY SOURCES (MANUSCRIPTS)

Selkirk

The Burgh Court Book of Selkirk MS. 1503-1545.

The court book is the property of Ettrick and Lauderdale District Council, as successors to the original owners, the Royal Burgh of Selkirk. It is currently (1986) on loan to the Scottish Record Office (it has not been issued with an SRO index number).

Selkirk

The Burgh Court Book of Selkirk MS. 1557-1575 (Scottish Record Office reference B 68/7/1).

Selkirk

Transcript of the Burgh Court Book of Selkirk (TSCB). This transcript was originally made by Dr. Margaret Moore on behalf of the Selkirkshire Antiquarian Society. The final folios of the manuscript have been transcribed by Dr. John Imrie (a copy of the transcript is in the possession of the writer).

Selkirk

Will and testament of John Bryden, priest and notary of Selkirk. This manuscript is dated 1582, and is currently in the possession of Mr. Walter Mason, Selkirk.

Selkirk

Fragments of a notarial protocol book, apparently used by a notary working in Selkirk, and containing entries for May to August 1590. The protocol book is currently in the possession of Mr. Walter Mason, Selkirk.

Selkirk Inventory of heirship goods taken in Selkirk in
November 1580. Manuscript in possession of Mr.
Walter Mason, Selkirk.

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