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### Scottish Shire Elections

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## Scottish Shire Elections: Preliminary Findings in Sheriff Court Books\*

### Abstract

*Historians of the Scottish parliament have paid little attention to shire elections because of an apparent lack of local source material. This article explores some of the reasons for this perception and argues that sheriff court records contain considerably more evidence than has been appreciated hitherto. It demonstrates that these records provide details of the electoral process, the regularity of elections, the numbers of electors, external interference in elections and internal divisions within the electorate, local responses to national political events, and attitudes to representation through such things as levying taxes locally to reimburse representatives' expenses. It challenges the once widely-held view that the lesser nobility, who comprised the electorate, were uninterested in parliamentary participation, suggesting instead that the statute of 1587 by which shire representation was established was reasonably successful. Finally, it considers the potential for further research in these and other records which, it is argued, will provide a much deeper understanding of seventeenth-century Scotland's parliamentary history in particular and political history in general.*

Keywords: Scotland, parliament, shires, commissioners, elections, James VI, Charles I, Covenanters, estates, lairds

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In 1587, an abortive act of parliament from the early fifteenth century was resurrected to provide Scotland's shires with representation in parliament.<sup>1</sup> Before its passage, all tenants-in-chief of the crown were theoretically entitled to attend parliament but, with very few exceptions, it had long been the case that the only lay freeholders to attend were the peers (lords, earls and dukes) who received personal letters of summons. The introduction of elected shire representatives may thus have had a role in creating, increasing or cementing the division between the peerage and the lesser nobility (the lairds) by removing the notional requirement of the latter to attend parliament. In its place was put a system whereby the more substantial freeholders in each shire below the rank of peer would elect two of their number, thus relieving, in the words of the act, 'the haill remanent small baronis and freholders ... of thair sutes and presence aucht [owed] in ... parliamentis'. These 'shire commissioners' comprised a new, fourth estate alongside the clergy, the peerage and the burgesses.<sup>2</sup> In spite of the recent revival in Scottish parliamentary historiography, they remain largely neglected, with the exception of a single article exploring the process which brought about their arrival in parliament in 1587.<sup>3</sup> They are conspicuously absent from the most comprehensive recent treatment of Scottish parliamentary history, which devotes a chapter to each of the other three estates.<sup>4</sup> Keith Brown's contribution on the nobility seeks to comprehend the lairds along with the peerage, but the very act of doing so is problematic, given ongoing debates over whether the lairds should be understood merely as a subset of the nobility or as a self-consciously separate group in their own right.<sup>5</sup> Moreover, given its span of five centuries and focus upon high politics, it understandably concentrates on the parliamentary activities of the peerage.

The lack of existing historiography means that anyone attempting an overview of the parliamentary activities of the shire commissioners is faced with a considerable challenge. One explanation for the lack of attention to the shire commissioners might be their late arrival on the scene, the other three estates having been firmly part of the Scottish parliamentary setup since the fourteenth century, in the case of the burghs, or even earlier, in that of the prelates and magnates. A more likely reason is the volume of sources upon which such a study might be based, with nothing to compare to the richness of the surviving English evidence contained in correspondence, election addresses and newsletters.<sup>6</sup> A key problem is the apparent lack of information on elections. Current literature includes little discussion of them before the Restoration and even for the period after 1660 no electoral records *per se* are cited.<sup>7</sup> The sole exception is the sheriff court books of Aberdeenshire.<sup>8</sup> The existence of other sheriff court books is occasionally mentioned but they are implicitly dismissed because of their patchy survival, leaving the Aberdeenshire records to stand as speculatively representative of the wider picture.<sup>9</sup> Yet they are so often cited not because they are more complete, voluminous or informative than any others but simply because, in the early twentieth century, someone took the trouble to publish a calendared edition for the period before 1660. Thus the only evidence for shire elections that is cited from sheriff court records has been refracted through an idiosyncratic editorial prism that reordered the text and summarised much of it quite radically. To be fair to their editor, his intention was to provide an impression of what the record contained and, unlike so many other printed editions, he provided references to where every entry can be found in the manuscripts.<sup>10</sup> Repeated assertions regarding the lack of evidence in sheriff court books seem to have discouraged historians from looking at them for evidence of

parliamentary elections. It would not be the first time that an error gained currency through repetition in secondary literature.

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Sheriff court records are much like those of any other early modern court. They contain criminal and civil cases, including assault, theft, debt, and disputes over property, boundaries and privilege. They also contain records of the ‘service of heirs’ (where juries verified inheritance), appointment of tutors and curators for minors, and registration of contracts. Their administrative and regulatory responsibilities included annually setting the ‘fiars’ prices’ (for cereals) and prices of basic commodities such as bread, ale and candles. Every year there were three ‘head courts’, in January (Yule), April (Pasche) and September/October (Michaelmas). At these meetings of the court, more important cases were heard and all freeholders were required to ‘give suit’, that is to be present to provide the pool of people from which juries might be chosen, including the assize appointed to identify any ‘faultis and wrangis’ in the shire, akin to the grand jury in England.<sup>11</sup> While records survive from only a few sheriff courts in the first few decades after the introduction of shire commissioners, they are virtually complete for five counties (out of 27): Fife, Lanarkshire, Linlithgowshire (West Lothian), Edinburgh principal (Midlothian) and Perthshire. There are also partial records from another four: Aberdeenshire, the constabulary of Haddington (East Lothian), Forfarshire and Roxburghshire.<sup>12</sup> After the Covenanting revolution of 1638, the number and volume of records increases considerably and that trend continues after the Restoration.

Although there is therefore a significant quantity of surviving record, evidence of elections is not easy to find. However, an examination of the surviving volumes between 1588 and 1651 has uncovered the records of 49 elections (22 from Linlithgowshire, eight from Aberdeenshire, two from Berwickshire, two from Forfarshire, five from the constabulary of Haddington, six from Roxburghshire and two from Stirlingshire), 19 of which date from before 1638. So why are there not more? The legislation of 1587 said nothing of record-keeping, except that those elected should be furnished with a written 'commission' which they would present at parliament to prove their credentials (the Scottish equivalent of the English election indenture). In most shires, the view was apparently taken that there was no need to record elections in their court books. They were, after all, not the business of the sheriff courts *per se*, as those entitled to vote comprised only a subset of the freeholders of the shire, which included those with insufficient lands to qualify for a vote as well as peers and prelates who were disqualified because they received a personal summons to parliament.<sup>13</sup> In England, the sheriffs entered no record of elections in their court books, merely ensuring that that the indentures were returned to the centre. The sheriff court books of Linlithgow, although containing records of more elections than any other, provide further support for the idea that recording elections was not deemed to be the business of the sheriff court. The first recorded election, in October 1588, is preceded by entries written in the hand of the sheriff clerk but the election itself was recorded in a different hand and has been separated from the preceding and succeeding entries by lines drawn across the page.<sup>14</sup> Whoever recorded the election was not the sheriff clerk, who appears to have taken the view that, as elections were not the business of the sheriff court, although he would allow them to be recorded, it was not his responsibility to do so. The entry may therefore

have been made by one of the electors themselves or a local notary. This pattern continued throughout the seventeenth century.<sup>15</sup> Uncertainty over the appropriateness of entering minutes of elections in sheriff court books might explain why, even in Aberdeenshire and Linlithgowshire, not all were recorded, and even in the burghs, the clerks did not record every parliamentary election.

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While considerably more work is required before a comprehensive study of the estate of shire commissioners in the Scottish parliament can be achieved, this article explores how the evidence in sheriff court records can make a significant, and hitherto unrealised, contribution to that goal. The scanty secondary literature on shire commissioners tends to portray the lairds as uninterested in parliament for some time after the 1587 statute, citing a range of factors, including the small number of those involved in elections and the difficulties commissioners are supposed to have experienced in recovering expenses from their peers.<sup>16</sup> The evidence from sheriff court books compels a reconsideration of that view and shows their potential to shed light on a range of other aspects of the history of the shire commissioners.

The suggestion that, even where elections took place, few of those entitled to vote did so is based on the numbers of signatures on parliamentary commissions.<sup>17</sup> The ostensibly reasonable assumption operating here is that everyone who attended the election subscribed the commission. However, evidence from sheriff court records undermines this. The earliest surviving commission for Linlithgowshire dates from 1612 and bears seven electors' signatures, suggesting that no more than nine were

present (the seven signatories and the two who were elected as commissioners). The minute of the election in the sheriff court book, however, records the presence of 14.<sup>18</sup> While there is less of a discrepancy with the next surviving commission from 1638 (eight signatures from 11 electors), the commission still bears fewer signatures than the number who attended the election.<sup>19</sup> Although the true numbers of electors are still not large, it is clearly unsafe to judge their enthusiasm by counting the signatures on surviving commissions. Even the printed versions of Aberdeen sheriff court books, which appear to have been disregarded on this issue, reveal that over 20 were commonly present, with more than 30 on one occasion.<sup>20</sup> Although there are no surviving Aberdeenshire commissions that correspond to the record of an election in its sheriff court books before 1660, Aberdeenshire's commission from 1612 demonstrates that it is always advisable to read the whole document, for it records that 23 attended the election but it bears the signatures of only 16 of them.<sup>21</sup> As the law required a commission to bear only six signatures, there was no need for everyone to sign.<sup>22</sup> It is, however, possible that closer analysis of the names of those who subscribed and those who did not could reveal political alignments within counties, especially later in the seventeenth century, when more contextual information is available in other sources such as correspondence.

To someone familiar with English shire elections, where most electorates numbered over 1,000, these numbers will still seem very small.<sup>23</sup> However, that would be to misunderstand the Scottish electoral system. While in England the franchise lay with a broad social group,<sup>24</sup> in Scotland it was feudal, underpinned by the notion that all lands held directly of the crown (and therefore liable to taxation) had to be represented. The attendance of every tenant-in-chief was neither practicable nor



desirable, albeit they were notionally entitled to attend and a few had done so throughout parliament's history.<sup>25</sup> The system laid down in 1587 was one by which those below the parliamentary peerage lost the hypothetical privilege of attendance.<sup>26</sup> All in possession of freehold lands assessed as having an annual value of 40s. were entitled to vote and to be elected, making it appear to have more in common with the English franchise than it did. In Scotland, however, 'freeholders' were narrowly defined as those who were tenants-in-chief of the crown, in contrast to the English definition which, while uncertain, appears to have included any man with long-term possession of property.<sup>27</sup> Moreover, the valuation upon which the Scottish franchise was based (known as 'old extent') had been carried out in the fourteenth century and was unaffected by price inflation or the relative devaluation of the Scottish currency compared to Sterling, while the English franchise was based on current valuations. Thus, south of the border by c.1600, if your annual income from property amounted only to 40s. you were 'more or less a pauper'.<sup>28</sup> Anyone in Scotland in possession of land worth 40s. of old extent was a 'substantial landed proprietor' with an annual income far in excess of 40s. sterling (£24 Scots).<sup>29</sup> Indeed, by the 1620s the parliamentary expenses of a shire commissioner were more than ten times that amount.<sup>30</sup>

The Scottish shire electorate comprised only the wealthier tenants-in-chief below the peerage, for there were numerous smaller proprietors with lands worth less than 40s. of old extent. The principle behind the system of shire representation in Scotland was very different from that in England. It was more like that in the burghs, where the council, consisting of the wealthier merchants and craftsmen, chose one of their number to represent the corporation. In the shires, the numbers of lairds regularly

participating in elections were not dissimilar to the numbers of magistrates and councillors electing burgh commissioners (indeed, in some instances, the two groups overlapped).<sup>31</sup> It was a system of delegation rather than popular election.<sup>32</sup> The lairds who elected the shire commissioners were also similar in number to those giving suit at the three annual shire head courts, although most attended those by proxy rather than in person.<sup>33</sup> Not all of those qualified to vote took the trouble to turn up for elections but those who did were the ones with an active interest in politics, akin to those who, in England, met behind closed doors to choose the shire MPs before the electorate were invited to endorse their choice.<sup>34</sup> The Scottish shire electorate probably reflected fairly accurately the active political elite, just the sort of people that the crown would have had in mind when it put forward the legislation in 1587 and, indeed, just the sort of people who had been asking for a place in parliament since the 1560s.<sup>35</sup>

Another supposed indicator of the lairds' lack of enthusiasm for parliamentary representation is the difficulty commissioners are said to have had in recovering their expenses from the other freeholders.<sup>36</sup> This apparently contrasts with burgh commissioners who were routinely reimbursed by their councils. One problem in the shires was the relative lack of an institutional framework. Every burgh had its own sources of income and a treasurer to keep its accounts, with parliamentary commissioners being issued with money prior to their departure, vouching for it on their return and either paying back any surplus or being given more because they were 'superexpendit'.<sup>37</sup> No comparable structures existed in the shires although the legislation of 1587 made it clear that expenses were to be paid and, after all, sheriffs were accustomed to overseeing the collection of general taxation.<sup>38</sup> There is

undoubtedly evidence from privy council records that some shire commissioners struggled to prise expenses from the clenched fists of some of their peers. However, the apparent rarity with which such action was taken is more likely to support the opposite view. In 1600, one Renfrewshire laird felt it necessary to enter caution (a sum of money as surety) for payment of his share, while four lairds from Kincardineshire and one from Aberdeenshire did the same.<sup>39</sup> Although it would be rash to argue that every other commissioner from every other shire secured their expenses without a struggle, even for those shires for which there is evidence of non-payment, only a tiny minority had to be pursued by out-of-pocket commissioners.

Since sheriffs were responsible for collecting taxation on behalf of the crown, this experience could be brought to bear in ensuring that commissioners' expenses were recovered. In 1600, the sheriff depute of Linlithgowshire ordered the officers of the court to collect the expenses of outgoing commissioners according to the value of each freeholder's lands.<sup>40</sup> In 1612, in spite of one elector's objections, those attending the election agreed to levy 10s from every poundland in the shire, following the procedure laid down in the statute of 1587.<sup>41</sup> The decision of 1612 included the stipulation that those failing to pay could be pursued at law, which had also been provided for in the act of 1587, contrary to what one historian appears to have argued.<sup>42</sup> In 1621, the levy was doubled to cover the additional cost of footmantles for the commissioners to wear in the riding of parliament (the opening procession) and it was again stated that those failing to pay would be pursued at law.<sup>43</sup> Between 1629 and 1633 the electors of Aberdeenshire routinely undertook to furnish their commissioners with 400 merks (£266 13s. 4d.) for attending parliament and 300 merks (£200) for attending conventions of the estates, the difference being due to the

lesser prestige of conventions, which lacked ceremonial and therefore did not require the horse-trappings and footmantles needed at parliaments.<sup>44</sup>

At worst, the evidence is ambiguous and it would be hard to make it fit the view that freeholders were any more reluctant to pay for their commissioners than they were to pay any other tax. Moreover, there is no evidence that individuals were unwilling to serve as commissioners for fear that they would be out of pocket. These were substantial landowners whose status could benefit from service in parliament, many of whom may even have regarded payment as demeaning. Indeed, in the 1670s, the freeholders of Linlithgowshire agreed that, whichever of them were elected in future, they would not seek reimbursement from the others. This did not have the desired effect, because the law required the payment of expenses, and they continued to be taxed.<sup>45</sup> The efforts of the freeholders of Linlithgowshire indicate that there is no foundation for the notion that lairds in the later seventeenth century were any more enthusiastic about paying their commissioners' expenses than their predecessors on the supposed basis that parliament was becoming more politically important.<sup>46</sup> Apart from the lack of positive evidence for this assertion, recent work on Scottish parliamentary history has transformed our understanding of the institution and the idea that it acquired unprecedented significance in the later seventeenth century is no longer supported.

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The intention of the legislation of 1587 was that shire commissioners would be elected annually at the Michaelmas head court, although this was not an absolute

requirement, as elections could also occur ‘at ony uther tyme quhen the saidis freholders ... convene to that effect or ... his majestie sall require thame’.<sup>47</sup> The expectation was that commissioners would already have been elected whenever a parliament or convention of the estates was summoned. This made sense because, not only were the estates summoned frequently between 1587 and 1603, unlike burgh councils which met at least weekly and might receive a summons at any time, rural freeholders were required to attend only the three annual head courts. The proposal therefore took advantage of what was, at least theoretically, a pre-existing gathering of the newly-enfranchised electors. The Michaelmas head court was the most important of the three, at which officers of the court were sworn in, making it the obvious occasion for parliamentary elections.<sup>48</sup> Within a few years of the legislation, the crown was taking the view that, when a parliament or convention of the estates was summoned, shire commissioners would be in place, having been elected at the previous Michaelmas head court.<sup>49</sup>

Evidence from sheriff court books is, however, mixed. The first of the recorded Linlithgowshire elections took place at the head court at Michaelmas 1588, which looks like an excellent start, little more than a year after the legislation had been passed.<sup>50</sup> However, Aberdeenshire’s first recorded election, in 1596, occurred after the January head court, although the commissioners were elected to all ‘parliamentis and conventionis for this present yeir’, in accordance with the act of 1587, so they were clearly following the spirit of the act.<sup>51</sup> Two surviving commissions from Fife from the 1590s were dated at Michaelmas and record the election of commissioners to all parliaments and conventions in the ensuing 12 months.<sup>52</sup> Thus in the first ten years or so, the surviving evidence suggests that Michaelmas elections may well have been

the norm. If that was indeed the case, it was not to last. Those elected for Linlithgowshire in 1604 were chosen in March, in an election prompted by the crown's precept of summons for a particular parliament.<sup>53</sup> Yet the 'last commissioneris' were the first to be nominated as candidates. They cannot have been elected in October 1603, as any commission issued then would not have expired, so it is more likely that they had been elected at some other date, perhaps Michaelmas 1602. The next recorded election for Linlithgowshire, in 1612, took place before rather than after the Michaelmas head court and, although it was therefore held at about the right time, it was prompted by precepts of summons issued for a specific parliament, again in accordance with the act of 1587.<sup>54</sup>

A continuing belief in the value of regular Michaelmas elections is apparent in Aberdeenshire in the second decade of the seventeenth century. The commission for that shire issued in 1612 was explicitly to remain valid until Michaelmas 1613 and, although no record of elections in that year or in 1614 survives, in October 1615 the sheriff requested those at the Michaelmas head court to elect commissioners for the following 12 months and he made sure that this was recorded so that he would not be held responsible for their failure to do so. One laird did offer to vote but nobody else was willing to join him.<sup>55</sup> It could be that regular elections had fallen out of use across other shires as well, as a result of the decline in meetings of the estates after 1603. It would not be surprising if the electors had tired of holding meaningless elections: when the parliament of 1612 met, it had been three years since the last session and by October 1615 a further three years had passed and there was still no prospect of a parliament.<sup>56</sup> Twelve months later, in anticipation of a royal visit and meeting of the estates, an election was held in Aberdeenshire.<sup>57</sup> In Linlithgowshire, on the other

hand, there were two separate elections in 1617, the first in February for a convention of the estates, the second in June for parliament.<sup>58</sup> This suggests that, in that shire at least, the principle of commissions remaining valid for 12 months had been abandoned. Or perhaps not, for in the following year, when representatives of the shire were sought to provide evidence to a crown commission for adjusting ministers' stipends, the electors who gathered in response to the privy council's request to the sheriff, agreed that there was no need for a new election because the parliamentary commission issued in June 1617 remained valid until June 1618.<sup>59</sup> No further elections are recorded for Linlithgowshire until 1621, when commissioners were once again elected in response to a summons for a specific parliament.<sup>60</sup> So even within individual shires there was a mixture of Michaelmas elections and elections arising from precepts of summons. Yet there is no reason to link regular elections to enthusiasm for shire representation *per se*, nor a failure to hold them to a lack of interest. If electors were willing to assemble specially for an election, what did it matter that they had not held annual elections for meetings of the estates that might never be called?

Between 1628 and 1633 there is clear evidence that there was a revival of annual elections at Michaelmas, with all three counties from which there are surviving records exhibiting a similar pattern. The first Linlithgowshire election took place in August 1628, prompted by a royal letter.<sup>61</sup> With subsequent prorogations of parliament, as Charles I's visit to Scotland was repeatedly postponed, and a convention of the estates sitting in 1630, further elections took place in 1629 and 1630.<sup>62</sup> No elections were recorded for Linlithgowshire in 1631 or 1632 (although that does not necessarily mean that none took place) but early in 1633 one was held in

response to a specific royal summons.<sup>63</sup> The first record of Aberdeenshire's elections at this time is not until 1629 because of a gap in the surviving court books. Thereafter there were elections in Aberdeenshire every October until 1633, while Michaelmas elections are recorded in a surviving fragment from Forfarshire covering 1632 and 1633.<sup>64</sup> Their political implications will be discussed below, but they do seem to demonstrate an enduring awareness of the expectation that elections ought to be held at Michaelmas. The practice was revived from 1638 onwards and appears to have been applied fairly consistently throughout the 1640s. As the estates met in every year between 1639 and 1651, with the sole exception of 1642, it made sense to revive annual elections, as it was always likely that there would be a meeting of some kind in each ensuing year.<sup>65</sup>

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As well as providing evidence for the degree to which the statute of 1587 was fulfilled, the sheriff court records contain evidence for the conduct of elections themselves, opening up some instructive comparisons with elections south of the border. It appears to have been inferred on the basis of the calendared Aberdeenshire court books that unanimity among the electors was the norm, in apparent accordance with what Hirst and Kishlansky have observed in England before the 1620s (or even later according to Kishlansky).<sup>66</sup> Such a comparison is fundamentally problematic because the electoral systems were so different. In England, before open division became more normal, candidates were chosen by shire elites meeting behind closed doors and then presented to the electorate for approval by acclamation. The divisions and rivalries that must have existed within the elites therefore became public only



when they failed to reach a consensus. In Scotland, on the other hand, the electorate and the shire elites were the same people, so these meetings *were* the electoral process. Surviving minutes of elections in sheriff court books are therefore precious evidence of electoral practices.

The evidence for unanimity amongst the electors of Aberdeenshire does not reflect normality in that county, let alone across Scotland. Aberdeenshire's commissioners in 1596 were, to be sure, elected unanimously ('all in ane voce'), while the entry for the next recorded election, in 1616, gives no indication of whether the choice was unanimous or not. Those elected in 1629, on the other hand, were chosen by 'the maist pairt' of those present, indicating a division of opinion, although it is unclear on what basis.<sup>67</sup> The two surviving elections from Forfarshire, from 1632 and 1633, were also made 'all in ane voice'.<sup>68</sup> In Linlithgowshire, however, there is clear evidence of the normality of contests involving multiple candidates. In 1588, five candidates received the electors' votes, including proxy votes cast on behalf of three absentees.<sup>69</sup> Developments are evident in later elections, with no further use of proxies and the drawing up of a leet (shortlist) of candidates becoming established as normal: in 1604, there were six candidates (including the outgoing commissioners) and in 1617 there were four. In both instances, votes were cast only by those who did not stand for election.<sup>70</sup>

It is also clear that there was a single round of voting, rather than a separate election for each place as was the case in England. Each voter cast two votes and the candidates obtaining the two greatest totals were elected. It is, however, possible that the person with the most votes was the senior commissioner, taking precedence in the

written commission and in parliament, although it is equally possible that this was dictated by pre-existing social status.<sup>71</sup> A more thorough and detailed examination of commissions and electoral records would be required to see if such a correlation exists. While the list of candidates is not always recorded, the normality of contests in Linlithgowshire at least is revealed by the fact that commissioners were almost always recorded as having been elected by 'pluralitie of voitis', by a first-(and-second-)past-the-post system, although in 1621 the minute noted that one candidate was elected 'all in ane voice', while the other was elected 'be pluralitie of voitis'.<sup>72</sup>

There is no explicit evidence that contests in the period before the Covenanting revolution were symptomatic of deeper political divisions but there are some possible instances of this. In 1612, for example, the crown sought to nominate commissioners from at least two shires, perhaps more, but the nominees were not accepted without question. Linlithgowshire elected its commissioners by 'pluralitie of voitis', rather than unanimously, indicating that its electors chose to make a point of having a proper election rather than simply accepting the king's nominees. The discrepancies between the numbers of signatures on the commissions and the numbers present at the elections for both Aberdeenshire and Linlithgowshire in that year might also point to divisions, with the possibility that only those supporting the royal nominees were willing to endorse their commissions.<sup>73</sup>

The six-year gestation of the parliament of 1633 and the attempts by Charles I to pack it provided another context in which opposition was likely and have been the subject of detailed study by John Young.<sup>74</sup> There were repeated interventions in elections by the privy council, yet many of those nominated by Charles I in 1627 did not sit when

parliament eventually met, in spite of his intention that they should. Surviving electoral evidence adds some useful details to the picture of a protracted struggle by the crown to secure a compliant parliament. In August 1628, the electors of Linlithgowshire received a letter from Charles I recommending Thomas Dalyell of Binns, the sheriff principal of the shire, and William Drummond of Riccarton as their commissioners.<sup>75</sup> They complied, but only after ‘long ressoning’ and two electors (the lairds of Bathgate and Kincavel) took the risky step of formally protesting ‘that the said electioun ... be na wayes prejudiciall to the libertie grantit ... to ... barrounes and friehalderis [in] choissing of commissionares’.<sup>76</sup> A few months later, Dalyell of Binns surprisingly claimed that was not actually a freeholder and was therefore ineligible to serve in parliament.<sup>77</sup> The privy council concurred and ruled that the king should choose a replacement.<sup>78</sup> Yet when the freeholders gathered for a new election in 1629, there is no evidence that they had received a royal nomination, and they drew up a leet of four candidates. Although the other royal nominee from 1628, Drummond of Riccarton, was included, the very act of drawing up a leet made the point that they need not elect him either. Another candidate was Robert Hamilton of Bathgate, one of those who had protested against the form of election in 1628, and he was subsequently elected along with Riccarton.<sup>79</sup> In 1630, a leet of three included neither of the king’s nominees from 1628. This election is particularly interesting because, unlike that of 1629 which resulted from a precept of summons, it was held ‘conforme to the power grantit to thame be ... James the sext ... for chuissing of commissioneris ... for ... parliamentis and uther conventiounis of estaittis quhilk sould happin [to] occur’.<sup>80</sup> In other words, they had taken it upon themselves to hold an election in accordance with the statute of 1587. Finally, in the spring of 1633, a few months before parliament actually sat, they elected their commissioners from a leet of four.

Although Drummond of Riccarton was re-elected, they also chose the laird of Dundas, who had voted against the controversial five articles of Perth in 1621 and was therefore unlikely to be sympathetic to the religious policies of the crown which were to play a prominent part in the forthcoming parliament.<sup>81</sup>

Given the influence of the earl of Huntly and the reputation of the North East for political as well as religious conservatism, one might expect Aberdeenshire to follow the king's lead at this time. Yet the elections there appear to suggest otherwise.<sup>82</sup> In 1629, Erskine of Balhagardie and Crombie of Kemnay were elected, but only by 'the maist pairt' of the electors, indicating division of opinion rather than the automatic election of royal nominees. In the following year, two different commissioners were elected, while in 1631 they again elected Irvine of Drum but with yet another colleague, and both were elected again in 1632.<sup>83</sup> However loyal to Charles I these men might have been, the king's intention that the same commissioners should be retained from the point at which parliament was first summoned in 1627 until it eventually met in 1633 does not appear to have been realised even in Aberdeenshire.<sup>84</sup> That the electors of Aberdeenshire and Forfarshire gathered again at Michaelmas 1633 to elect commissioners is also striking.<sup>85</sup> Perhaps it indicates a resurgent constitutionalism, with the lairds exercising their right to elect commissioners, and thus demonstrating a commitment to parliamentary government, although it may merely be that annual elections since 1627 had been habit-forming. While Charles I instigated the elections of 1627-8, there is little evidence that those of 1629-33 were held on his initiative and it looks very much like the electors of Linlithgow held an election on their own initiative in 1630. Thus the reversion to annual elections by some shires might itself have been an act of political opposition.<sup>86</sup>

In the Covenanting period, the surviving local records become richer, albeit the number of elections remains small, with 30 from six shires (Aberdeen, Berwick, Haddington, Linlithgow, Roxburgh, and Stirling). As well as being more voluminous compared to the period before 1638, they furnish insights into the course of the Covenanting revolution and the divisions that opened up within the Covenanting movement.

Although the first parliament of the Covenanting era would not meet until 1639, by that point the electors of Linlithgowshire had already held two elections. On 23 November 1637, more than two months before the National Covenant demanded a 'free parliament', setting in train the events that led to full-blown revolution against Charles I, they elected commissioners for the ensuing year. As annual elections appear to have fallen into abeyance after 1633, this revival is noteworthy. Opposition to the crown had already gained considerable momentum and, at a meeting in Edinburgh between representatives of the crown and opposition leaders, the king's treasurer, the earl of Traquair, objected to the lairds and burgesses amongst the petitioners being described as 'commissioners' because it accorded them unwarranted legitimacy and, while those from the burghs may have been elected, those from the shires had not.<sup>87</sup> Sir Thomas Hope of Craighall, the king's advocate but sympathetic to the opposition, helpfully noted that lairds 'might meet in law to choose commissioners to parliament, to conventions of estates or any publick business'.<sup>88</sup> Linlithgowshire's election (and perhaps others) must have been the consequence of this, indicating that the opposition took this cue to bolster its legitimacy. The electors convened again at Michaelmas 1638 to re-elect their commissioners from 1637 and

agreed that ‘the presentt commissioneris ... and all uther[s] ... in tym coming’ would be ‘solemelie ... sworn not to voitt or conclude to anything quhilk may be ... directlie or indirectlie prejudiciall to the kirk and kingdome’.<sup>89</sup> Their adherence to that oath was ensured subsequently by the electors meeting separately to evaluate the performance of outgoing commissioners.<sup>90</sup> This was normal for returning burgh commissioners and is suggestive of a growing sense of collective interest among the lairds of Linlithgowshire at least.<sup>91</sup>

Once full-blown civil war had broken out, concerns arose over the loyalties of those elected. Just as the committee of estates (the executive arm of the Covenanting regime) ensured that burgh commissioners were not associated with the royalist rising of James Graham, marquis of Montrose in 1645, they also interfered with shire elections. The burghs and their parliamentary representation were controlled by purging the magistracy and council (who were the electors) of any whose loyalty was suspect.<sup>92</sup> Because the shire franchise was based upon a property qualification rather than office-holding, direct intervention in the elections themselves was necessary. In November 1645, the electors of Linlithgowshire received a letter from the committee of estates instructing them to elect ‘such ... as hes had no medling with James Grahme nor his armie’. One of those present admitted that he was ‘cited befoir the parliament for malignity’ so declared himself unable to vote.<sup>93</sup> Similarly, the election of 1646 for the constabulary of Haddington, was preceded by the arrival of two local ministers with a warrant from parliament to forbid the election of anyone who had ‘complied with the rebellis’.<sup>94</sup>

By the end of 1647, deeper divisions were appearing in Linlithgowshire: four out of 18 electors protested against the election, alleging that some were debarred from voting by the Act of Classes, passed by parliament in January 1646 to deal with supporters of Montrose's rising.<sup>95</sup> Their opponents insisted that they should have spoken out earlier, since two of them had been on the leet for election, implying that they had protested only because they were not elected.<sup>96</sup> The successful candidates favoured the Engagement, an agreement between moderate Covenanters and Charles I, but by the time of the next election in October 1648, hard-line Covenanters were back in the ascendency. Fewer than half of those who had attended the 1647 election were present and three of the four dissenters from the previous year were put on the leet as candidates.<sup>97</sup> At the same time, the electors of the constabulary of Haddington were asked if they had subscribed a supplication against the Engagement, and six withdrew. The seven remaining electors took the view that there were too few of them to proceed and, declaring that the commission of one of those elected in 1647 remained valid, adjourned.<sup>98</sup> Two weeks later, the right to participate of two of those present was disputed because they had been among the six who had previously withdrawn. One asserted that his support for the Engagement had been only 'in ane generall way as the rest of the countrey', while the other insisted that he had been pressed into service in the Engager army against his will.<sup>99</sup>

Controversy is also evident in Berwickshire. Its election in 1647 was presided over by the sheriff principal, the earl of Home, and one elector protested that 'noe nobleman sould sitt at the electioun of the small barrones thair comissioneris'. Home retorted that he was not presiding '*eo nomine* as ane noble man but as schireff of the schyre' and a vote to resolve the impasse went in the earl's favour.<sup>100</sup> However, parliament

later ruled that none but those entitled to vote should be present at elections (noblemen being specifically excluded).<sup>101</sup> Perhaps it was the Berwickshire election that gave rise to that legislation, although nobles may have interfered in other elections as well. This incident lends weight to John Young's idea of a 'Scottish Commons', suggest as it does that at least some of the electors had a conception of a fundamental division between lairds and peers as two self-conscious groups.<sup>102</sup> Yet expediency had its part to play, for the earl of Home was a royalist who was stripped of his role as sheriff after the fall of the Engagers, so there was probably more to this and to the legislation excluding peers from elections than divisions between peers and lairds *per se*.<sup>103</sup> At the next election, the issue of who presided was of such importance that a record of votes cast for that role was made, while the choice of commissioners was unanimous.<sup>104</sup>

## **Conclusion**

Although only a few records of elections survive for the period before the Cromwellian conquest of Scotland in 1651, their richness proves that there is considerably more to be learned than was previously realised. The evidence in sheriff court books provides scant support for the notion that there was little enthusiasm for parliamentary participation among the lairds. On the contrary, it demonstrates that, at least in those counties from which evidence survives, elections were held regularly and those involved had a clear understanding of the electoral process. The numbers participating in elections were considerably greater than was once thought and the lairds who made up the electorate could use parliamentary elections to express



opposition, as well as loyalty, to the crown. Given the increase in the volume of electoral information in sheriff court records over time, examination of the period after the Restoration is likely to prove even more fruitful, notably in relation to controverted elections, which became a prominent feature of parliamentary politics after 1660, just as in England. Indeed, one detailed record of such an election has already been identified in Linlithgowshire from 1681.<sup>105</sup> Similar evidence from elsewhere should permit new insights into the local dimension of the growth of political division under Charles II and James VII, with the potential to provide a clearer understanding of the roots of the Scottish revolution of 1689. Alongside the sheriff court records, other sources can be brought to bear, including parliamentary commissions and, for the later period at least, an increasing volume of material in family papers which can provide contextual information on electioneering, especially the developing role of the peerage, and wider evidence of the nature of their relationships with the lairds. It may never prove possible to reconstruct as detailed a picture of Scottish shire elections and their role in national politics as has been established by historians of seventeenth-century England, yet it is clear from the evidence presented here that a much deeper understanding is genuinely attainable.

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<sup>1</sup> *The Records of the Parliaments of Scotland to 1707 [RPS]*, eds K.M. Brown et al. (St Andrews, 2007-2013), 1587/7/143. This and all further *RPS* references accessed September 2013.

<sup>2</sup> J. Goodare, 'The Estates in the Scottish Parliament', in *The Scots and Parliament* ed. C. Jones (Edinburgh, 1996), esp. 19-20.

<sup>3</sup> J. Goodare, 'The Admission of Lairds to the Scottish Parliament', *EHR*, cxvi (2001), 1103-33.

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<sup>4</sup> *The History of the Scottish Parliament Volume III: Parliament in Context 1235-1707*, ed. K.M. Brown and A.R. MacDonald (Edinburgh, 2010).

<sup>5</sup> K.M. Brown, 'The Second Estate: Parliament and the Nobility', in ed. Brown and MacDonald, *Parliament in Context*. For Julian Goodare, an absolutist state sought to make the traditional peerage more dependent upon it, eroding their control of the lairds through creating a new parliamentary estate, while Keith Brown sees Goodare's absolutist state as illusory, arguing that noble power remained virtually unaffected: see Goodare's 'The nobility and the absolutist state in Scotland 1584-1638', *History*, 78 (1993), 161-82; *State and Society in Early Modern Scotland* (Oxford, 1999); and *The Government of Scotland 1560-1625* (Oxford, 2004); and Brown's *Noble Society in Scotland. Wealth, Family and Culture in Scotland from the Reformation to the Revolution* (Edinburgh, 2000) and *Noble Power in Scotland from the Reformation to the Revolution* (Edinburgh, 2011).

<sup>6</sup> R. Cust, 'Politics and the Electorate in the 1620s', in *Conflict in Early Stuart England* ed. R. Cust and A. Hughes (Harlow, 1989), 137-43.

<sup>7</sup> Discussions of shire elections can be found in the following contributions to *The History of the Scottish Parliament Volume II: Parliament and Politics in Scotland 1567-1707*, ed. K.M. Brown and A.J. Mann (Edinburgh, 2005): J.R. Young, 'Charles I and the 1633 Parliament', 103-14; D.J. Patrick, 'Unconventional Procedure: Scottish Electoral Politics after the Revolution', 230-40; K.M. Brown, 'Party Politics and Parliament: Scotland's Last Election and its Aftermath, 1702-3', 254-64; and in G. MacIntosh, *The Scottish Parliament under Charles II 1660-1685* (Edinburgh, 2007), 15-16, 84, 152-4, 157-66, 186-7, 191-2.

<sup>8</sup> Brown, *Noble Power*, 159; K.M. Brown, 'The Second Estate: Parliament and the Nobility', in Brown and MacDonald, *Parliament in Context*, 67-94, at 83; Goodare, 'The Admission of Lairds', 1121; W. Ferguson, 'The electoral system in the Scottish counties before 1832' in *The Stair Society Miscellany Two* ed. D. Sellar (Edinburgh, 1984), 261-94, at 265; R.S. Rait, *The Parliaments of Scotland* (Glasgow, 1924), 228-9.

<sup>9</sup> Ferguson, 'The electoral system', 264; Goodare, 'The Admission of Lairds', 1120.

<sup>10</sup> *Records of the Sheriff Court of Aberdeenshire*, ed. D. Littlejohn (3 vols, New Spalding Club, 1904-7).

<sup>11</sup> For sheriff courts in general, see *The Sheriff Court Book of Fife, 1515-1522*, ed. W.C. Dickinson (Scottish History Society, 1928), xi-cv, 309-46, 389-91; I.A. Milne, 'The Sheriff Court: before the

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sixteenth century’ and C.A. Malcolm ‘The Sheriff Court: sixteenth century and later’, in *Introduction to Scottish Legal History* ed. G. Campbell and H. Paton, (Stair Society, 1958), 350-55, 356-62; Goodare, *Government of Scotland*, 175-81. For English grand juries, see J.S. Cockburn, *A History of English Assizes, 1558-1714* (Cambridge, 1972), index under ‘juries, grand, petitions and presentments by’. I am grateful to Paul Seward for this reference.

<sup>12</sup> National Records of Scotland [NRS], Sheriff Court Records of: Aberdeen SC1; East Lothian (Haddington), SC40; Fife SC20; Lanark SC37; Linlithgow SC41; Midlothian (Edinburgh principal) SC39; Perth SC49; Roxburgh SC62; Forfar SC47. Edinburgh principal and the constabulary of Haddington were, technically, parts of one shire functioning separately.

<sup>13</sup> See, for example, a Linlithgowshire head court in Jan. 1590 (NRS, SC41/1/4, f. 77v) at which 18 were listed as present or represented by proxies and 12 absent (including 1 earl and 3 lords) and another in Jan. 1597 (NRS, SC41/1/6, f. 36) at which 29 were present and 17 absent.

<sup>14</sup> NRS, SC41/1/4, f. 39.

<sup>15</sup> See, for example, NRS, SC41/1/20, f. 20 (an election in 1678).

<sup>16</sup> Rait, *Parliaments*, 229-31; Ferguson, ‘The electoral system’, 265-6; Brown, *Noble Power*, 159

<sup>17</sup> Brown, *Noble Power*, 160.

<sup>18</sup> NRS, Parliamentary Commissions, PA7/25/22/1; NRS, SC41/1/8, section 2, f. 134v (1612); 14 attended in Feb. 1617 for a convention of estates (SC41/1/10, f. 82), 11 in June 1617 for parliament (SC41/1/10, f. 86v), 10 in 1621 (SC41/1/10, f. 149), 14 in 1628 (SC41/1/12, f.46).

<sup>19</sup> NRS, PA7/25/22/2; NRS, SC41/1/14, f. 18v.

<sup>20</sup> The earliest list of electors for Aberdeenshire (1616) consists of 22 names, that from 1629 has 24, and 34 are recorded in 1633: NRS, SC1/2/6, 1 Oct. 1616; SC1/2/10, 6 Oct. 1629; SC1/2/10, 1 Oct. 1633.

<sup>21</sup> NRS, PA7/25/2/1.

<sup>22</sup> *RPS*, 1587/7/143.

<sup>23</sup> D. Hirst, *The Representative of the People? Voters and voting in England under the Early Stuarts* (Cambridge, 1975), 41.

<sup>24</sup> Hirst, *Representative of the People?*, 23, 41.

<sup>25</sup> Goodare, ‘The Admission of Lairds’, 1103, 1106-14 1128-33; A. Grant, ‘The Development of the Scottish Peerage’, *Scottish Historical Review*, lvii (1978), 1-27.

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- <sup>26</sup> Grant, 'The development of the Scottish peerage', 2-3, 10-14.
- <sup>27</sup> Hirst, *Representative of the People?*, 4-5, 22, 29-38.
- <sup>28</sup> Hirst, *Representative of the People?*, 31.
- <sup>29</sup> Goodare 'The Admission of Lairds', 1118.
- <sup>30</sup> See below for discussion of expenses.
- <sup>31</sup> A.R. MacDonald, *The Burghs and Parliament in Scotland c.1550-1651* (Aldershot, 2007), esp. 31-4.
- <sup>32</sup> For a general discussion of representative theory, see A.H. Birch, *Representation* (London, 1971), esp. chs 1 & 2, although his classification of types of representatives does not distinguish between delegate systems and those which use a broader franchise.
- <sup>33</sup> NRS, SC41/1/4, f. 77v (16 out of 18 suitors were proxies). See also Dickinson, *Sheriff Court Book of Fife*, lxxii-lxxxvi.
- <sup>34</sup> M. Kishlansky, *Parliamentary Selection: Social and political choice in early modern England* (Cambridge, 1986), 25.
- <sup>35</sup> Goodare, 'The Admission of Lairds', 1114-16.
- <sup>36</sup> Brown, *Noble Power*, 159; Ferguson, 'The electoral system in the Scottish counties', 265, 267.
- <sup>37</sup> For burgh commissioners' expenses see MacDonald, *The Burghs and Parliament*, 83-8.
- <sup>38</sup> *RPS*, 1587/7/143; Goodare, *Government of Scotland*, 35.
- <sup>39</sup> *Register of the Privy Council of Scotland [RPC]*, ed. J.H. Burton et al., (37 vols, Edinburgh, 1882-1914), first series, vi, 668, 682, 687-8.
- <sup>40</sup> NRS, SC41/1/8, f. 28.
- <sup>41</sup> NRS, SC41/1/8, f. 134v.
- <sup>42</sup> Ferguson, 'The electoral system in the Scottish counties', 265.
- <sup>43</sup> NRS, SC41/1/11, f. 149v.
- <sup>44</sup> NRS, SC1/2/10, 6 Oct. 1629, 5 Oct. 1630, 4 Oct 1631, 2 Oct 1632, 1 Oct. 1633. A merk was two-thirds of £1, that is 13s. 4d.
- <sup>45</sup> NRS, SC41/1/20, f. 153v.
- <sup>46</sup> Ferguson, 'The electoral system in the Scottish counties', 266-7.
- <sup>47</sup> *RPS*, 1587/7/143.
- <sup>48</sup> Dickinson, *Sheriff Court Book of Fife*, lx.
- <sup>49</sup> See Rait, *Parliaments*, 210.

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<sup>50</sup> NRS, SC41/1/4, f. 39.

<sup>51</sup> NRS, SC1/2/5, 31 Jan. 1595/6.

<sup>52</sup> W. Fraser, *Memorials of the Family of Wemyss of Wemyss*, (3 vols, Edinburgh, 1888), ii, 219, 220-21.

<sup>53</sup> NRS, SC41/1/8, f. 106.

<sup>54</sup> NRS, SC41/1/8 (second section), f. 134v; PA7/25/22/1.

<sup>55</sup> NRS, SC1/2/6, 3 Oct 1615.

<sup>56</sup> For the decline in meetings of the estates after 1603, see A. R. MacDonald, 'Consultation and consent under James VI', in *HJ*, liv (2011), 287-306.

<sup>57</sup> NRS, SC1/2/6, 1 Oct. 1616.

<sup>58</sup> NRS, SC41/1/11, ff. 82-3, 86v.

<sup>59</sup> NRS, SC41/1/11, ff. 105v-106. Because commissioners were elected to all parliaments and conventions of estates in the ensuing year, they were regarded as the shire's general purpose representatives.

<sup>60</sup> NRS, SC41/1/11, f. 149.

<sup>61</sup> For details of attempts to control the membership of parliament, see Young, 'Charles I and the 1633 Parliament', in Brown and Mann (eds), *Parliament and Politics in Scotland 1567-1707*, 101-37.

<sup>62</sup> For discussion of the convention and the elections that preceded it see 'Diary of the Convention of Estates, 1630', ed. J. Goodare, in *Miscellany of the Scottish History Society XIV* (Scottish History Society, 2013), 86-110, at 86-9.

<sup>63</sup> NRS, SC41/1/12, ff. 46-7, 65v-66, 90, 132.

<sup>64</sup> NRS, SC1/2/10, 6 Oct. 1629, 5 Oct. 1630, 4 Oct. 1631, 2 Oct. 1632, 1 Oct. 1633.

<sup>65</sup> See, for example, NRS, SC40/7/21-2.

<sup>66</sup> Brown, *Noble Power*, 159 mentions that consensus was normal in England, implying the same was true in Scotland, while Goodare, 'The Admission of Lairds', 1121-22 notes that Aberdeen's electors chose their commissioners unanimously, contrasting that with another issue that was decided by majority vote on the same day; Hirst, *Representative of the People?*, ch. 1; Kishlansky, *Parliamentary Selection*, ch. 1.

<sup>67</sup> NRS, SC1/2/5, 31 Jan. 1595/6; SC1/2/6, 1 Oct. 1616; SC1/2/10, 6 Oct. 1629.

<sup>68</sup> NRS, SC47/1/2, ff. 115v, 269.

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<sup>69</sup> NRS, SC41/1/4, f. 39.

<sup>70</sup> NRS, SC41/1/8, f. 106; SC41/1/10, f. 82.

<sup>71</sup> For parliamentary precedence in Scotland see MacDonald, *The Burghs and Parliament*, ch.7.

<sup>72</sup> NRS, SC41/1/8 (second section), f. 134v; SC41/1/11, f. 149v.

<sup>73</sup> For discussion of the extent of royal nomination of shire commissioners in 1612, see Goodare, 'The Admission of Lairds', 1122; MacDonald, *The Burghs and Parliament*, 42; NRS, SC41/1/8 (2<sup>nd</sup> section), f. 134v. This may explain why five electors did not subscribe the Linlithgowshire commission and nine did not subscribe the Aberdeenshire commission.

<sup>74</sup> Young, 'Charles I and the 1633 Parliament', 104, 107-14.

<sup>75</sup> NRS, SC41/1/12, f. 46.

<sup>76</sup> NRS, SC41/1/12, f. 46v.

<sup>77</sup> NRS, SC41/1/12, f. 53. See Young, 'Charles I and the 1633 Parliament', 112 noting Sir Robert Montgomerie's similarly successful claim that he was ineligible to serve for Bute.

<sup>78</sup> *RPC*, 2<sup>nd</sup> series, ii, 521.

<sup>79</sup> NRS, SC41/1/12, ff. 65v-66.

<sup>80</sup> NRS, SC41/1/12, f. 90.

<sup>81</sup> NRS, SC41/1/12, f. 132. Dalryell of Binns presided as sheriff principal, in spite of claiming not to be a freeholder in the shire.

<sup>82</sup> See Young, 'Charles I and the 1633 Parliament', 105 for discussion of the Huntly influence.

<sup>83</sup> SC1/2/10, 6 Oct. 1629, 5 Oct. 1630, 4 Oct. 1631, 2 Oct. 1632.

<sup>84</sup> Young, 'Charles I and the 1633 Parliament', 106.

<sup>85</sup> NRS, SC1/2/10, 1 Oct. 1633; SC47/1/2, f. 269.

<sup>86</sup> But see Goodare, 'Diary of the Convention of Estates, 1630', 87-8, suggesting that the crown pulled back from direct nomination after 1628, albeit the privy council was urged to ensure the election of compliant commissioners.

<sup>87</sup> D. Stevenson, *The Scottish Revolution 1637-1644* (Newton Abbot, 1973), 64-76.

<sup>88</sup> *The Letters and Journals of Robert Baillie, 1637-1662*, ed. D. Laing (3 vols, Bannatyne Club, 1841-2), i, 40-41.

<sup>89</sup> NRS, SC41/1/14, f. 9v, 18v. The commissioners petitioned the privy council on 18 Oct. 1637 along with at least 7 other Linlithgowshire lairds: see D.H. Fleming, 'Scotland's Supplication and Complaint

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against the Book of Common Prayer [etc], 18<sup>th</sup> October 1637', in *Proceedings of the Society of Antiquaries of Scotland*, lx (1925-6), 314-83, at 371-7.

<sup>90</sup> NRS, SC41/1/14, f. 68.

<sup>91</sup> For the burghs, see MacDonald, *The Burghs and Parliament*, 55-6.

<sup>92</sup> MacDonald, *The Burghs and Parliament*, 41-2.

<sup>93</sup> NRS, SC41/1/14, ff. 92v-93.

<sup>94</sup> NRS, SC40/7/21, f. 98.

<sup>95</sup> NRS, SC41/1/14, f. 114; *RPS*, 1645/11/110.

<sup>96</sup> See *RPS* 1646/11/436: the act debarred those in the first class (the worst offenders) from voting, while the individuals here were in the second.

<sup>97</sup> NRS, SC41/1/14, f. 124v.

<sup>98</sup> NRS, SC40/7/21, ff. 206v-207.

<sup>99</sup> NRS, SC40/7/21, ff 207v-208.

<sup>100</sup> NRS, SC60/1/1, f. 3v. See *RPS* 1648/3/9, showing that one commissioner was rejected as unqualified.

<sup>101</sup> *RPS*, 1648/3/10.

<sup>102</sup> J.R. Young, 'The Scottish Parliament and the Covenanting Revolution: the Emergence of a Scottish Commons', in *Celtic Dimensions of the British Civil Wars*, ed. J.R. Young (Edinburgh, 1997), 164-84.

<sup>103</sup> NRS, SC60/1/1, f. 40 (the appointment of a new sheriff principal by parliament in 1649); J.R. Young, 'Home, James, third earl of Home (1615–1666)', *Oxford Dictionary of National Biography*, Oxford University Press, 2004 [<http://www.oxforddnb.com/view/article/13644>, accessed 25 Sept 2013].

<sup>104</sup> NRS, SC60/1/1, f. 84v.

<sup>105</sup> NRS, SC41/1/25, ff. 16v-18.