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THE EXTENT AND NATURE OF FEUDING IN SCOTLAND,

1573-1625

Volume 1

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Ph.D. Thesis, the department of Scottish History,

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## SUMMARY

Feud is a recurrent theme in Scottish history, but it is a subject which has received scant regard in its own right until fairly recently. Sources for an examination of the Scottish blood-feud are also voluminous and accessible, particularly in the early modern period, a period which coincided with the demise of the feud throughout most of the kingdom. The material evidence and course the feud itself took during the reign of James VI are the principal reasons for concentrating on these years, though in omitting the civil war of 1567-73 one has not entirely covered that long reign.

While the title of this thesis draws attention to the extent and nature of the feud, it is the latter which receives by far the greater emphasis. In the "Introduction" the place of the Scottish feud in the wider debate on the blood-feud is considered, a debate which involves historians of different centuries and societies, and those like anthropologists and sociologists who have approached the subject from the perspective of other disciplines. Here the extent of the feud in late sixteenth century Scotland is discussed, with questions of typology, origins, geographic and social distribution, length and incidence being included. Following this, the first chapter "Ideals, Violence and Peace" examines the nature of the feud in the context of these three themes.

However, the political nature of the Scottish feud necessitated that considerable attention be paid to the relationship between politics and the feud. One chapter, therefore, looks at the many issues which caused feuding both in the rural community and in an urban environment. This is followed by a very detailed analysis of the course of one blood-feud in one relatively small locality throughout the entire period, from royal minority to the implementation of a crown policy which uprooted feuding. After discussing politics and the feud in a local context, the focus of attention then moves to the politics of the court and central government, but without losing sight of the very real connection between events at the centre and in the localities. Again one chapter is devoted to a more general discussion of court politics and the impact of feuding there, before being followed by another in depth analysis of the major political feud of the reign between the earl of Huntly and his rivals in the north of Scotland. The highland nature of much of this feud, and the lowland environment of the Cunningham-Montgomery feud which forms the subject matter of chapter three, made it almost obligatory to also devote some time to a border feud. This is done, therefore, in chapter six, within the context of a discussion of the government of the west march and the international sensitivity of the region.

The remaining two chapters attempt to explain how the feud was uprooted from most of Scotland before the end of James' reign. In chapter seven the Jacobean legislation

against feuding and the violent environment in which it bred is the principal theme. Here the laws, their enforcement and their success in reducing feuding, controlling the use of guns, restricting retinues, punishing outlaws, improving the efficiency of the administration of law and order and other areas of related concern to James and his government are detailed and assessed. Finally, the last chapter turns to the question of who initiated and carried through this crack down on feuding and lawlessness. The king himself, the nobility, crown officials and the church are all evaluated and their individual contribution is analysed. A short conclusion simply suggests some possibilities for future research which might be taken up as a continuation of this thesis.

LIST OF ABBREVIATIONS

<u>A.P.S.</u>	<u>The Acts of the Parliaments of Scotland</u>
Balfour, "Annales"	Balfour, Sir James, "Annales of Scotland"
Birrel, "Diary"	Birrel, Robert, "The Diary of Robert Birrel"
<u>B.U.K.</u>	<u>The Booke of the Universall Kirk of Scotland</u>
Bruce, <u>Sermons</u>	<u>Sermons by the Rev. Robert Bruce</u>
Brunton, <u>Senators</u>	Brunton, G., <u>An Historical Account of the Senators of the College of Justice from its Institution in MDXXXII</u>
Calderwood, <u>History</u>	Calderwood, D., <u>The History of the Kirk of Scotland</u>
<u>C.B.P.</u>	<u>Calendar of Letters and Papers relating to the Affairs of the Borders of England and Scotland</u>
<u>C.S.P., Scot.</u>	<u>Calendar of the State Papers relating to Scotland and Mary, Queen of Scots, 1547-1603</u>
Chambers, <u>Domestic Annals</u>	Chambers, R., <u>Domestic Annals of Scotland</u>
<u>Estimate</u>	<u>Estimate of the Scottish Nobility During the Minority of James the Sixth</u>
Fraser, <u>Annandale</u>	Fraser, W., <u>The Annandale Family Book of the Johnstones</u>
Fraser, <u>Carlaverock</u>	Fraser, W., <u>The Book of Carlaverock</u>
Fraser, <u>Colhoun</u>	Fraser, W., <u>The Chiefs of Colhoun and their Country</u>
Fraser, <u>Douglas</u>	Fraser, W., <u>The Douglas Book: Memoirs of the House of Douglas and Angus</u>
Fraser, <u>Eglinton</u>	Fraser, W., <u>Memorials of the Montgomeries Earls of Eglinton</u>

Fraser, <u>Elphingstone</u>	Fraser, W., <u>The Elphingstone Family Book</u>
Fraser, <u>Grant</u>	Fraser, W., <u>The Chiefs of Grant</u>
Fraser, <u>Pollok</u>	Fraser, W., <u>Memoirs of the Maxwells of Pollok</u>
Gordon, <u>Sutherland</u>	Gordon, Sir Robert, <u>A Geneological History of the Earldom of Sutherland</u>
<u>H.M.C.</u>	<u>Report of the Royal Commission on Historical Manuscripts</u>
<u>H.M.C., Various</u>	<u>Report of the Historical Manuscripts Commission, Various Collections</u>
<u>H.M.C., Mar and Kellie</u>	<u>Report of the Historical Manuscripts Commission on the Earls of Mar and Kellie</u>
<u>H.M.C., Laing</u>	<u>Report of the Historical Manuscripts Commission on the Laing Manuscripts preserved in Edinburgh University</u>
<u>Historie</u>	<u>The Historie and Life of King James the Sext</u>
<u>Melrose</u>	<u>State Papers and Miscellaneous Correspondence of Thomas, Earl of Melrose</u>
Melville, <u>Memoirs</u>	Melville, Sir James of Halhill, <u>Memoirs of His Own Life, 1549-93</u>
McIlwaine, <u>Political Works</u>	<u>The Political Works of James I, (ed.), C.H.McIlwaine</u>
Moysie, <u>Memoirs</u>	Moysie, D., <u>Memoirs of the Affairs of Scotland from 1577 to 1603</u>
Pitcairn, <u>Criminal Trials</u>	<u>Criminal Trials in Scotland from 1488 to 1624, (ed.), R. Pitcairn</u>
Pitcairn, <u>Kennedy</u>	<u>Historical Account of the Principal Families of the Name of Kennedy, (ed.), R. Pitcairn</u>
<u>Reg. Mag. Sig.</u>	<u>Registrum Magni Sigilii Regum Scotorum</u>

<u>R.P.C.</u>	<u>The Register of the Privy Council of Scotland</u>
<u>Reg. Sec. Sig.</u>	<u>Regestrum Secreti Sigilli Regum Scotorum</u>
Scot, <u>Minstrely</u>	Scott, Sir Walter, <u>Minstrely of the Scottish Border</u>
<u>Scots Peerage</u>	Balfour Paul, Sir James, <u>The Scots Peerage</u>
<u>S.H.R.</u>	<u>The Scottish Historical Review</u>
<u>S.H.S.</u>	<u>The Scottish Historical Society</u>
S.R.O., G.D.	Scottish Record Office, General Deposit
S.R.O., R.D.	Scottish Record Office, Register of Deeds
<u>Spalding Miscellany</u>	<u>Miscellany of the Spalding Club</u>
Spottiswoode, <u>History</u>	Spottiswoode, John, <u>History of the Church of Scotland</u>
Teulet, <u>Papiers</u>	<u>Papiers D'Etat Relatifs A L'Histoire De L'Ecosse</u>

## INTRODUCTION

In that famous book on kingcraft, "Basilikon Doron", James VI wrote of his subjects

"and for anie displeasure, that they apprehend to be done unto them by their neighbours, to tak up a plaine feid against him, and (without respect to God, King or commonweale) to bang it out bravely,<sup>1</sup> hee and all his kinne, against him and all his".

Feud was a subject in which James could consider himself something of an expert and his expert definition is as good a place as any to begin an analysis of the Scottish feud in the years of his reign. To-day the word is liberally used to describe rivalries in sport, in politics, in academic competition and in any area of human occupation where confrontation has replaced co-operation. Such a wide application of the word is by no means a modern phenomena and even in the sixteenth century one finds it in contexts not entirely expected. Yet it was not simply a heightened sense of rivalry which King James was bemoaning when he wrote his book. The feud he had in mind was a relationship between men which was deeper and more complex than any of our modern usages of the word.

James further wrote of feud that "... if this Treatise were written in French or Latin, I could not get them named unto you but by circomlocution", because "their barbarous name is unknowen to anie other nation".<sup>2</sup>

1. "Basilikon Doron" in The Political Works of James I (ed.) C.H.McIlwaine (New York, 1965), p 24.

2. *ibid.*, p 25.



For once, however, the king's scholarship had let him down and only a few years before, an Elizabethan Border official had suggested of the etymology of the word that "I knowe not where better to fetch then from Spiegelius in his Lexicon Juris, in verbo "feydam": he saith it is an old Teutch word wherof is derived by Hermanus Niroranus, faydosum, Hostis publicus: "foed" enim, Bellum significat".<sup>3</sup> However, while the word did have an etymological history of some antiquity, there being variants of the spelling in late Latin "faida", old French "faide", old High German "fechida" and Middle English "fede", its survival in the English language is due largely to its Scottish usage.<sup>4</sup>

That "feud" was written and written about in Scotland at a time when feuding was a contemporary issue is of enormous importance. Much of the work which has been done on the feud has been in societies which have not written about their feuds and their ideas about feud or, if they have written about them, such records have not survived in any abundance. The richness of material on the feud in Scotland is probably not unique, B.S.Philpotts certainly unearthed a considerable volume of records about feuding in early modern Denmark and other medieval

3. Calendar of Letters and Papers Relating to the Affairs of the Borders of England and Scotland, (ed.) J.Bain (Edinburgh, 1894-96), vol ii, p 163.

4. For a much fuller etymological history I found A New English Dictionary (ed.) J.A.H. Murray (London, 1901) very comprehensive.

European societies. However, there can be few feuding societies which have allowed the historian such an insight into the extent and nature of feud in the days before anthropologists arrived on the scene.<sup>5</sup>

It is of course for that very reason that the study of feud has to such an extent been dominated by other disciplines like anthropology and sociology and why more is known about the feuds of remote tribes in the Sudan than about feuding in pre-modern Europe. The integration of these disciplines has been demonstrated in such works as "History and Social Anthropology" edited by I.M.Lewis<sup>6</sup> and more specifically by E.E. Evans-Pritchard in an important pamphlet "Anthropology and History"<sup>7</sup> where he argued strongly for anthropologists to turn to history for their study of human behaviour. Conversely historians have, with more enthusiasm one feels, turned to the social sciences for direction and in the feud this has certainly been the case.

A great deal of current thinking about feud has been dominated by the work of Evans-Pritchard and Max Gluckman

5. An excellent survey of the sources available for the Scottish feud throughout the middle ages and early modern period as well as a wider discussion of other works associated with the blood-feud can be found in "Bloodfeud, Kindred and Government In Early Modern Scotland", by Jenny Wormald, Past and Present, no 87 (May 1980).
6. History and Social Anthropology (ed.) I.M. Lewis (A.S.A. Monographs, vii, London 1968).
7. E.E. Evans-Pritchard, Anthropology and History, (Manchester U.P., 1971).

who both studied the Nuer tribe and their neighbours in southern Sudan.<sup>8</sup> The major conclusion of this has been what Gluckman called the "Peace in the feud". In essence what Gluckman and Evans-Pritchard have said is that the feud is a legal sanction, recognised as such by the community, and thus a means of enforcing justice and minimising any violence which might follow the committing of a crime. Customary principles defining who has the right to vengeance and on whom it should be inflicted, clearly recognised procedures for pacifying the parties involved, and the multiplicity of social relationships within the locality inhabited by these parties; all operate in such a way as to bring peace and not war. This is not to say that violence never occurs. As Evans-Pritchard argued, "The larger the segment involved the greater the anarchy that prevails".<sup>9</sup> Thus violent feuds between tribes are more likely than feuds within a tribe. Furthermore, even within fairly intimate corporate groups the acceptance of compensation and the acceptance of a settlement does not put an end to the feud for the dead man's kin never cease "to have war in their hearts".<sup>10</sup> In practice though, peace within the feud had been established and, according

8. M. Gluckman, Custom and Conflict in Africa, (Oxford, 1956) and Politics, Law and Ritual in Tribal Society (Oxford, 1971); E.E. Evans-Pritchard, The Nuer (Oxford, 1979).

9. E.E. Evans-Pritchard, The Nuer, (Oxford, 1979), p 157.

10. *ibid.*, p 154.

to Gluckman, custom had triumphed over conflict.

Questions have, however, already been raised about the application of these findings and as Jacob Black-Michaud has pointed out, not all villages are Nuer villages, an observation which one must take further by stating the equally obvious point that not all feuding societies are village based.<sup>11</sup> Clearly Jacobean Scotland was not the same as twentieth century Sudan, however much one modifies one's models. The same distinction has to be made for the Mediterranean feud which has received even more attention with specific studies of Albania, Greece, the Middle East and the North African bedouin having been conducted.<sup>12</sup> A great deal of this has been brought together by Black-Michaud in "Cohesive Force; Feud in the Mediterranean and the Middle East". In his introduction to the book E.L.Peters basically defines feud as the presence of discrete corporate groups who are unable to compromise.

11. J.Black-Michaud, Cohesive Force; Feud in the Mediterranean and the Middle East (Oxford, 1975), p 63-64.
12. For Albania see M. Hasluck The Unwritten Law in Albania (Cambridge, 1954) and I.Whitaker "Tribal Structure and National Politics in Albania, 1910-1950" in Lewis (ed.), History and Social Anthropology; for Greece J.K. Campbell Honour, Family and Patronage: A Study of Institutions and Moral Values in a Greek Mountain Community, (Oxford, 1979); for the Middle East M.J.L. Hardy, Blood Feuds and the Payment of Blood Money in the Middle East, (E.J. Brill: Leiden, 1963); and for the bedouin see E.L.Peters, "Some structural aspects of feud among the camel-herding Bedouin of Cyrenaica", in Africa, vol xxxvii, no 3 (1967). For an even wider survey of feud in these regions see the bibliography in Black-Michaud, Cohesive Force.

By discrete he means that the corporate group must have recognisable territorial rights, a common name, collective ownership of the natural resources of the territory by the agnates of the group and marriage within the corporate group or within a select and limited number of neighbours. However he does specify that these are the indices required for his own area of study, which is the bedouin. Certainly in the Scottish instance, while the first two would be appropriate, the third would only be relevant to the extent that tenants and dependants had a collective interest in, if not ownership, of natural resources and the last would be irrelevant. Black-Michaud agrees with Peters that feuds are interminable and "by definition eternal",<sup>13</sup> a point which Evans-Pritchard also raised, but which has been glazed over somewhat by the 'peace in the feud' school. In fact Black-Michaud largely demolishes this line of thought which was leading towards an understanding of feud as essentially non-violent; violent feud not being feud at all, but warfare or vendetta or something else. Taking Peter's conclusion that feuds in Cyrenicia were eternal he shows this to be the case for the entire Mediterranean feud and for feud generally.

While this model for feud is certainly much more convincing than that of Gluckman and the 'peace in the feud' school, there remain problems when trying to impose

13. Black-Michaud, Cohesive Force, p.16.

it on the Scottish situation. His stress on "total scarcity" as the economic condition necessary for feud to function and on an egalitarian social structure headed by leaders who spontaneously emerge to shape the corporate group's ambitions, quite obviously do not apply to sixteenth century Scotland.<sup>14</sup> The fault, however, does not lie in his analysis, but in its relevance to cultures and times other than those he has under study. One could quite easily construct a model of feud from among some of those suggested by scholars in the field and find that the Scottish feud was not a feud at all. However, to return to where we began, the people who lived in sixteenth century Scotland knew what they meant by feud and called it by that name and they will remain feuds whatever the latest typology. Such models have a tendency to be either so vague as to be meaningless or, if specific, too exclusive. Therefore a study of feud in early modern Scotland is best conducted within its own time-space dimensions and should not be prejudged by the conclusions made about quite distinct societies in different times.<sup>15</sup>

14. Black-Michaud, Cohesive Force. Not only is the book important in developing Black-Michaud's own ideas, but he devotes a considerable amount of space to discussing the ideas of other scholars of the feud.

15. For example James VI himself would have disagreed with Peter's view that feuds were eternal, arguing that "the mater of feadis is not eternal", The Register of the Privy Council of Scotland, (ed.) J.H. Burton and others (Edinburgh, 1877-98), xiii, p 261.

What is a fairly fundamental basis for the study of feud is that it is a relationship between two corporate groups, occasioned by some grievance or competition between them, and conducted through the exchange of violence, or by mediation, or both together.<sup>16</sup> The corporate group itself must, therefore, be the starting point for an analysis of any feud, including the Scottish one. In the case of the Nuer the village community was the most easily recognisable group, though depending upon the

16. Other feud literature which I have found useful has been Bertha S. Philpotts, Kindred and Clan in the Middle Ages and after, (Cambridge, 1913) which is particularly good on feud settlements and though most of it is concerned with an earlier period there is a considerable amount of material on early modern Denmark, Schleswig-Holstein and parts of north Germany. B.C.Caudill Pioneers of Eastern Kentucky, their Feuds and Settlements, (Cincinnati, 1969) contains no analysis at all and is of limited usefulness, but it contains some interesting material on nineteenth century American feuding. R.R. Davies, "The Survival of the Bloodfeud in Medieval Wales", History, liv (1969) traces the feud in Wales up to early modern Europe. E. Leach, Custom, Law and Terrorist Violence, (Edinburgh, U.P. 1977), makes the debatable point that there is a great deal of similarity between the corporate groups of feuding societies and modern terrorist sects. R. Karsten, "Blood, Revenge and War among the Gíbaro Indians" in P. Bohannan ed., Law and Warfare, (New York, 1967), describes feud in a society with very little concept of peace in the feud at all. J.M. Wallace-Hadrill, "The Bloodfeud of the Franks", in The Long-Haired Kings and Other Studies in Frankish History, (Oxford, 1971), is a valuable contribution to the peace side of the feud argument. For some good narratives of feuds with insight into the attitudes of a feuding society Njal's Saga (Penguin, 1980), is by far the best while Beowulf (Penguin, 1979), and The Nibelungenlied (Penguin, 1979), are also both useful and entertaining.

particular feud, it could be individual families within the village, or the entire tribe, which formed the corporate group. In sixteenth century Scotland the village was less important, but the same factors of kinship and locality were at work to form the basic social organisms capable of sustaining a feud. In addition to this, lordship was the focal point of the group, imposing upon it a political and economic order which clarified the lines of division of each group. The net result was not a single homogeneous unit which acted and thought as one, for fluidity and a multiplicity of interests brought diversity to the group and prevented this. However, there was sufficient loyalty and obedience within these factions of kinsmen, clients, dependants, tenants and servants to give them a recognisable coherence and vitality.

Clearly then, one needs to know something about these social relationships in early modern Scotland as a basis to understanding the feud. This in itself would involve another thesis and fortunately the work has already been done by Dr. Jenny Wormald whose research into the social and political relationships of fifteenth and sixteenth century Scotland has had a revolutionary impact upon our understanding of Scotland during this period. Wormald has by no means answered, or presumed to answer, all the questions about kinship, lordship



and local society, and in comparison with England and France such research is still at a very early stage. However, much of what follows is founded upon what she has to say about these subjects and while differences exist with some of her specific interpretations, and these are outlined below, one is persuaded into accepting her basic analysis of the bonds of society, and for a more complete understanding of kinship, lordship and local society can do no better than refer to her work.<sup>17</sup>

In essence Wormald has found the ideal of kinship in Scotland to have been strong, but its practical use of less value than the rhetoric often suggests. Such demythologising of the kin is consistent with the general findings of English historians like Alan Macfarlane, Wrightson and Laslett who adopt a more extreme position and Stone, James, Watt and Penry Williams who believe, with various degrees of qualification, that the extended family and ties of kinship retained a more significant vitality in the peripheral regions or among the

17. J.M. Brown, "Bonds of Manrent in Scotland before 1603", (University of Glasgow Ph.D. thesis, 1974); "The Exercise of Power", in J.M. Brown (ed.), Scottish Society in the Fifteenth Century, (London, 1977); J.M. Brown, "Scottish Politics 1567-1625", in A.G.R. Smith (ed.), The Reign of James VI and I (London, 1973); J.M. Brown, "Taming the Magnates?", in G. Menzies (ed.), The Scottish Nation (B.B.C., 1972); J.M. Wormald Court, Kirk and Community, (London, 1981); J.M. Wormald, "Bloodfeud, Kindred and Government in Early Modern Scotland".

nobility.<sup>18</sup> However the tendency to look south to England has on other occasions distorted thinking about Scotland and the French historian Jean-Louis Flandrin is very critical of English and Parisian based scholars who have, in his opinion, prematurely dismissed the importance of kinship, and he has demonstrated its continued effectiveness well into the seventeenth century.<sup>19</sup> One suspects that when more detailed analysis of Scottish kinship is available, that Macfarlane's thesis of English Individualism will be true at least in that England will be distinct from Scotland. Certainly "The 'whole kindred' was something of a myth", and had been for some time, but the evidence of the bloodfeud

18. A. Macfarlane, The Origins of English Individualism, (Oxford, 1978) is the most extreme case against the kin; K. Wrightson, English Society, 1580-1680, (London, 1982); P. Laslett (ed.), Household and Family in Past Times, (Cambridge, 1972); L. Stone, The Family, Sex and Marriage, (Pelican, 1979) and The Crisis of the Aristocracy, (Oxford, 1977); M.E. James, Family, Lineage and Civil Society, (Oxford, 1974); S.J. Watts, From Border to Middle Shire: Northumberland, 1586-1625, (Leicester U.P. 1975); P. Williams, The Tudor Regime (Oxford, 1979). See also G. Bossy, "Blood and Baptism: Kinship, Community and Christianity in Western Europe from the Fourteenth to the Seventeenth Centuries" in D. Baker (ed.), Sanctity and Secularity: The Church and The World, The Ecclesiastical History Society, vol 10, (Oxford, 1973), p 136, where he makes the fascinating observation that a man's obligations to kinsmen did not end with death "since the bond of kinship is the most effectual means of securing mutual support in salvation", that is by praying for the souls of those in purgatory.
19. J.L. Flandrin, Families in Former Times; Kinship, Household and Sexuality, (Cambridge, 1979).

suggests that men certainly were doing something more than "invoking an ancient concept"<sup>20</sup> in appealing to their own kinsmen to help them, and in slaughtering the kinsmen of their enemies. There was more than rhetoric at work when Sir James MacDonald said of his lands that "this is certane, I will die befoir I see a Campbell possess it".<sup>21</sup> Sir Robert Gordon had similar concepts in mind when he wrote of the MacDonald-MacLean feud. "This warr, whilk fell furth at this tyme between those two races of people ... was prosecuted to the destruction almost of both their families."<sup>22</sup> However, the extent and effectiveness of the kindred cannot be argued here, and in relation to the feud they are dealt with more fully elsewhere. A little more emphasis should, however, be given to the breadth of kinsmen involved in a feud, and one would want to include at least uncles, nephews and cousins of first degree as fairly regular participants in the feuds of their relatives. Even more doubt has been cast on the importance of the marriage alliance in strengthening the kin. That "Marriage brought two kindreds into juxtaposition; it did not impose mutual obligations of kinship on the husband and the male relatives of the wife" is on the whole true, has largely

20. J.M. Wormald, "Bloodfeud, Kindred and Government in Early Modern Scotland", p 71.

21. Ancient Criminal Trials in Scotland from 1488 to 1624 (ed.) R.Pitcairn, (London, 1833), vol iii, p 21.

22. Sir Robert Gordon, A Geneological History of the Earldom of Sutherland, (Edinburgh, 1813), p 187.

been proven.<sup>23</sup> Certainly marriage in sixteenth century Scotland did not work as it did among the Nuer, where Gluckman observed that the obligations it imposed upon a man to his wife's or mother's kin "strikes into the unity of each vengeance group" and greatly reduced the likelihood of feud in society as a whole.<sup>24</sup> Nor was it at the other extreme as found in Albania where a wife was neglected by her husband's kin and her own father's kinsmen retained the duty of avenging her.<sup>25</sup> As Philpotts has pointed out, "A clan system, however, is impossible where kinship is reckoned through both parents ...".<sup>26</sup> In Scotland the agnatic ties did remain dominant, but one should be careful not to devalue the marriage alliance completely. Thus in 1580 Forster

23. J.M. Wormald, "Bloodfeud, Kindred and Government", p 67.

24. M. Gluckman, Custom and Conflict, p 14 and p 22.

25. Whitaker, "Tribal Solidarity and National Politics", p 270.

26. Philpotts, Kindred and Clan, p 2. For further discussion see comments about the marriage alliance by M. Bloch, Feudal Society (London, 1978), p 134-142 and G. Duby, The Chivalrous Society (London, 1977), p 134-148. Duby has found maternal kinship to be at least as important until the tenth-eleventh century and Bloch has argued that it was because of the weakness of not having an exclusively agnatic kinship that feudal ties became necessary. He does, however, make exceptions which appear to include Scotland. Also K. Leyser, "The Women of the Saxon Aristocracy" in his book "Rule and Conflict in an Early Medieval Society", (Oxford, 1979) and D. Sabeau, "Aspects of kinship behaviour and property in Rural Western Europe before 1800" in J. Goody, J. Thirsk and E.P. Thomson (eds.), Family and Inheritance in Western Europe, 1222-1800, (Cambridge, 1976).

commented that the Kerrs were making themselves strong, citing as evidence that a marriage had been arranged between lord Hume's daughter, "beinge the Larde of Cesford's sister doughter" and the earl Marischal's son.<sup>27</sup> Contemporaries could perceive the marriage alliance to be significant even when it was this far removed from the principal. Marriage may not have brought much military support in a feud, but it did bring other forms of power by way of connections, advice, attendance at trysts etc. and reduce the likelihood of one's in-laws themselves being at feud with their affinal kinsmen.

The complimentary relationship between lordship and kinship has also been well documented by Wormald. The Scottish lords were not simply the "robber barons" of less sophisticated histories, but leaders of their society who were capable of reasonable and just behaviour. They represented law and order in their localities and their networks of alliances were as much designed to stop the spread of feud and violence as to strengthen their own potential for violence in a feud. Thus the bonds between men, bonds of friendship, maintenance and manrent, "show a strong awareness of their responsibility, not to keep their men free from the consequences of their crimes, but to involve themselves personally in, and provide a solution to, disputes between their followers".<sup>28</sup>

27. C.B.P., ii, p 29.

28. Wormald, "Bloodfeud, Kindred and Government", p 72.

One has the evidence of men like the earl of Argyll in 1574 who travelled around his vast domains pacifying feuds, "not omitting to 'sedat' and mitigate the privy grudges and 'particularis' among his own friends in the inner parts of Argyll".<sup>29</sup> Good lordship was what was expected of a nobleman. Hence the privy council's rough handling of the weak earl of Atholl in 1607 for "what the want of suche a man dois, the miserable estate of the cuntrey of Athoill and all the bordouring boundis to it, dois declair".<sup>30</sup> These are two ends of the spectrum, but in the grey area in between most noblemen mixed the good, the bad and the ugly side to lordship. When writing about these Scottish lords Sir Henry Lee asked Burghley, "In what place in the world will kin, friends and servants adventure more for their lords?".<sup>31</sup> Similarly Sir Robert Gordon wrote of the highlanders and islanders that they are "by nature, most bent and prone to adventure themselves, their lyffs, and all they have, for their masters and lords, yea beyond all other people".<sup>32</sup> Such loyalty was not without its exceptions, but such a powerful bond between lord and man had its temptations and even obligations which could, and did, by-pass other obligations to the

29. Calendar of State Papers relating to Scotland and Mary, Queen of Scots, 1547-1603 (ed.) J. Bain and others (Edinburgh, 1898-1969), vol v, p 34.

30. State Papers and Miscellaneous Correspondence of Thomas, Earl of Melrose (Abbotsford Club) vol ix (Edinburgh, 1837), vol i, p 30-31.

31. C.S.P. Scot., iv, p 561.

32. Gordon, Sutherland, p 267.

crown and the law. Control of great numbers of men and a fabric of bonds, formal and informal, which dragged men, for a variety of reasons, into feuds and confrontations which were not their own, was a potentially explosive situation. In the feud such explosions all too often took place. It was certainly not anarchy and it was probably the best that such a society could do, but it was less than order and its effects were often less harmonious than has perhaps been suggested.<sup>33</sup>

The power of the nobility with its centrifugal tendencies was thus another factor on which the feud rested. The picture of over-mighty magnates overawing a weak crown has, one hopes, been buried for ever and in its place one has a powerful crown and a largely co-operative nobility.<sup>34</sup> Comments such as those by M. Lee that "The root of the problem of criminal justice

33. See Brown, "Bonds of Manrent". Just to show that such bonds were not always concerned with plotting and counter-plotting see Erskine-Murray M.S., Report of the Royal Commission on Historical Manuscripts, (London, 1870- ), iv, p 527, for a bond among a number of the Scottish nobility in which they agreed not to wear clothes inlaid with fake gold, silver and jewelry as it is "uncumly and dishonest". Whoever broke the bond was to take the others out to dinner and forfeit the offending clothes to the first fiddler they came across.

34. See especially Brown, "Scottish Politics 1567-1625", in The Reign of James VI and I, p 22-39; Brown, "Taming the Magnates?", p 46-59; Wormald, Court, Kirk and Community, p 12-13, p 151.

lay in the fact that the aristocracy, the holders of the heritable jurisdictions, had a basic contempt for the law",<sup>35</sup> reveal a somewhat black and white understanding of what is a much more complex issue. Contempt is quite obviously too strong a word, were it true then anarchy would have prevailed since the entire policing system of the kingdom would have been on the side of the criminals, but it would be true to say that the nobility, and indeed anyone with a degree of personal influence, had a certain lack of respect for the more formal organs of justice. Not only did this affect crime, but it also had political implications. Thus a crown official who submitted a report on the 1589 rebellion advised that the barons of the north-east be disciplined as they "... fering to offend a Erle of Huntley, hes forget their dewtie to thair naturale Prince ...".<sup>36</sup> Loyalty to lords and the local power of the Scottish nobility never challenged the Stewart dynasty, but it did inhibit its sphere of activity and did prevent Scottish kings from being as independent as they would often have wished. The opinion that the nobles were "too hard for the prince, partly whilst they hold dissensions and feuds among themselves about their lands, honours, jurisdictions, etc. wherein the whole number of their tenants, clients, vassals and

35. M. Lee, John Maitland of Thirlstane and the Foundation of Stewart Despotism in Scotland, (Princeton, 1959), p 123.

36. R.P.C. iv, p 825.



servants go with them without regard of the prince, law or equity, etc., especially among the Highlanders",<sup>37</sup> is one which the evidence of the feud does a great deal to reinforce.

The late sixteenth century Scottish crown may have been more powerful than has often been assumed, but it was certainly less effectively so than James VI and his regents and ministers often wished it to be. Thus, during the 1589 rebellion, the king was restricted in his political options as he had no force of his own to command and even those loyal to him were reluctant to become involved, being "afraid of a feud hereafter if they touch any great man".<sup>38</sup> One of James's councillors, Melville of Halhill, identified this problem in dealing with noblemen and complained that "the way taking of the lyf of a nobleman or barroun, breidis ane hundreth enemys ma or les, according to the gretnes of the clan or surname of the quhilk nomber some will ly at the wait to be revengit, albeit lang efter, when they se ther turn".<sup>39</sup> The full implications of this for

37. C.S.P. Scot. xiii, part 2, p 1118. Though one must equally avoid over-stating the case as the writer of this letter was in fact doing, his analysis being a gross over-simplification.

38. C.S.P. Scot., p 46, and see also C.S.P. Scot. v, p 370 for a similar comment in 1579.

39. Memoirs of His Own Life, Sir James Melville of Halhill (Bannatyne and Maitland Clubs; Edinburgh, 1827), p 385 and see also his more general discussion of the crown, p 383-85.

political life are discussed below, but there is little doubt that it reduced royal power, and as long as the crown remained weakened it was unable to do very much about it. Feud is possible in centralised states,<sup>40</sup> but it is less likely, and the decentralised nature of the Scottish state, and the diffusion of power within it, were contributory to the social structure within which feud thrived.

Strong kinship, lordship, powerful local interests and a severely limited central government were the socio-political framework upon which an understanding of the feud has to be established. To this point any differences with Wormald have largely been ones of degree, particularly in the practical workings of lordship and in the balance of power between crown and nobility, but on the feud itself one has to disagree more fundamentally. Thus she has written,

"Gluckman's concept of the 'Peace in the Feud' has been revolutionary. Condemnation has been stilled, if not entirely silenced. Feud can no longer be regarded as a matter of rival groups slogging it out to the death of themselves and their descendants, until time, exhaustion or a more powerful authority brought it to an end;" and

"Bloodfeud is a misleading word. The point of course, was not that the feud was bloody, but that the escalation of bloodshed was settled by settlement and compensation."<sup>41</sup>

Yet if one can return to where we began, with James VI, one finds that his concept of the feud was "to bang it

40. Black-Michaud, Cohesive Force, p 150.

41. Wormald, "Bloodfeud, Kindred and Government", p 55, and Brown "The Exercise of Power", p 62.

out bravely", by which one assumes he did not mean a form of peaceful settlement? To an English border official "Deadly foed" was "the word of enmitye in the Borders, implacable without the blood and whole family distroied ..."<sup>42</sup> Perhaps a Tudor civil servant is not the best authority for a definition of the feud, and one can detect in his comment a contempt for a regional peculiarity, but as one will later see his description was not entirely based on prejudice. At other times though the Scottish crown wrote less specifically of "the deidlie feidis and contraverseis standing amangis his Hienes subjectis of all degreis, and thairwithall calling to mynd quhat unnaturall slauchtaris, bludeshed, barbarous cruelteis and inconvenientis hes occurrit and is liklie to occur and fall oute, to the forder trouble and inquietatioun ... gif the same feidis sall not be removit".<sup>43</sup> Rhetoric and propaganda one might argue, but if so, why? Somewhere in between the modern historian and these contemporary descriptions in the 1598 "Act Anent Feuding" which is more refined in its definition. Thus "all feidis ar ane of thir thrie natures namelie that thair is ather na slauchter upoun nather syde or flauchter upoun ane syde onlie or ells slauchter upoun bath sydis".<sup>44</sup>

42. C.B.P., ii, p 167.

43. R.P.C., v, p 248.

44. Acts of the Parliaments of Scotland (ed.) T.Thomson and C.Innes, (Edinburgh, 1814-75), iv, p 158.

The great significance of this is that it is including both the violence of the feud and its peace, it is not exclusive to either, but recognises the enormous range and complexity of what feud is. Feud would then appear to be a fairly wide ranging term describing anything from a relationship in which no one was killed to bloody genocide, but if the comments of contemporaries still leave a more exact definition of feud out of reach perhaps the feuds themselves can be more revealing.

The uncertainty of what constitutes a feud has obvious implication when one tries to quantify them. Contemporaries wrote of the feud between the earl of Huntly and the earl of Moray which virtually threw the entire kingdom into a state of unrest and set the north-east alight, and then use the same terminology to caution a William Burnett of the Bairns "tuicheing sic deidlie feidis as he hes interesse in",<sup>45</sup> but of whose feuds one knows nothing. There are, to my knowledge so far, only 139 cases of feuds so defined by contemporaries for the period 1573-1625.<sup>46</sup> These 139 embrace the entire gamut from individual conflicts where no violence took place to local wars, and it is from an initial examination of these that one can draw closer

45. R.P.C. iv, p 704.

46. This period has been chosen because 1573 marks the end of the Civil War during which it would have been difficult to evaluate private feuding while 1625 is the year of James VI's death by which time feuding was largely on the wane.

to knowing what it is that a feud actually was. From there one can then take the characteristics identified and apply them to other conflicts, confrontations and settlements and ask whether they were feuds, even though contemporaries may have left no written record naming them as such.

This can be done largely by analysing the conduct and settlement procedures of the 139 feuds already identified. These two factors are not themselves discussed here, but one can see in what shall be called the "A" Class feuds, those defined as such by contemporaries, an exchange of violence or hostility over a period of time and, or, pacification procedures which contain one, or a number of mediations, assurances, submissions, decrees etc. usually used to settle feuds. By doing this one finds a further 119 "B" Class feuds which display both the sort of conduct found in feuds and which were settled, or attempts were made to settle them, as would be feuds. Another 79 show only the conduct characteristics and are called "C" Class feuds, and 56 "D" Class feuds can only be identified by their settlement procedures. The total number of feuds may then be put at 390, and if one allows for errors then there appear to have been at least 350-400 feuds in early modern Scotland, a number which though large is by no means staggering. Checks on the validity of this method can be made by analysing the "A" Class feuds separately from all the other feuds and comparing

these with the larger sample and, as one shall see, there are no glaring inconsistencies which would suggest that the majority of these unnamed feuds are not genuine. That so many feuds should not be named is not particularly surprising since one is dealing with a phenomena which was so common as not to require overt recognition every time it was reported.

The origins of the feuds are among the most inaccessible aspect of the feud. One may find a killing has taken place, but was the killing the origin of the feud or was it the quarrel which was the cause of the killing? In another instance one finds two families fighting over some march lands, but are the march lands the issue or is there an outstanding feud between them which causes them to take up any issue likely to cause a dispute between them?

Table 1: Origins of Feuds

	<u>"A" Class (contemp.) Feuds</u>		<u>All Feuds</u>
Honour	4	3%	25 6% (13%)
Politics	8	6%	13 3% ( 7%)
Material	27	19%	77 20% (40%)
Jurisdictions	18	13%	33 8% (17%)
Blood	12	9%	43 11% (23%)
Unknown	70	50%	199 51%

47. The figures shown in column five are the percentage of known cases. The value of the statistics shown is somewhat limited by the impressionistic nature of some of the distinctions made and the high percentage of unknowns in most cases. However, I believe that they are of some value in tracing broad trends, especially as other data largely reinforces their findings.

In fact exactly half of these feuds' origins remain unknown. Of the others, 19% were over issues of local material and economic significance, land, teinds, water rights, peats etc., 13% were about jurisdictions from lieutenancies and wardenries to bailiships, sheriffdoms and rights of lordship, while the others, honour, politics and blood debts, account for less than 10% each. A comparison with the total number of feuds shows only minor shifts in these figures. When one excludes the unknown cases the importance of local disputes over material objectives becomes even more emphasised. One has to remain a little sceptical of the blood origins for reasons already explained and it may be of some significance that honour feuds were fairly uncommon, the majority of these being personal affairs which rarely widened to include kinsmen and lords or dependants.

The significance of the feuds, by which one means the extent of their effect, confirms this picture of local relevance.

Table 2: Significance of Feuds

	<u>"A" Class (contemp.) Feuds</u>		<u>All Feuds</u>	
Personal	8	66%	77	20%
Local	113	81%	278	71%
Regional or Court	18	13%	35	9%

81% of "A" Class feuds and 71% of all feuds were only of relevance to their own immediate locality. A figure of one in ten for feuds of greater importance is still,

however, a high percentage when one considers that these were the feuds which were dislocating entire regions and dominating the politics of the court. The personal feuds are a slight problem because one tends not to think of feuds between individuals, but clearly contemporaries did, if even on only eight specific occasions. The figure of 20% for all feuds is probably excessive and may reflect some error in definition, but well over half of them are conducted as feuds by the participants and treated as such by the government, so that one has to recognise personal feuds as an important aspect of feuding.

The geographic distribution of feuding is perhaps more surprising.

Table 3: Geographic Distribution

	<u>"A" Class (contemp.) Feuds</u>		<u>All Feuds</u>	
Highlands	15	11%	59	18%
Borders	29	22%	68	20%
Lowlands S of Tay	46	35%	107	32%
Lowlands N of Tay	42	32%	100	30%
Burghs	22	(16%)	46	(12%)

Feuds in the highlands account for a low number of less than 20%, and the borders, though slightly higher, are of a similar figure. This seems quite contrary to expectations as it is these regions one usually associates with feuding, not the supposedly more peaceful lowlands. One factor which may have caused some distortion here is



the better records for lowland feuds which received more attention from the crown. Furthermore, the feuds of the highlands and borders tended to be more violent and widespread than most lowland feuds and it would be wrong to imagine that the lowlands were less well governed than these regions, but even so, the amount of feuding in the lowlands remains highly significant. The division of the lowlands into the area south of a Forth-Stirling line is fairly arbitrary, but is only intended to show that it was not the northern lowlands which had caused this feuding. In fact the division is about equal, though within these regions one would have to point to Ayrshire and the west being worse for the south, and Angus and Aberdeenshire having more feuding in the north. As one can see from the table, feuds were also found in burghs, between 10-15% of all feuds either involving burghs or participants or being conducted within the precincts of the burgh.<sup>48</sup>

Feud was therefore spread throughout the kingdom, but

48. In making these distinctions I have combined geographic and cultural considerations so that for example the borders extend as far as the Dee river on the west while the highlands does not include the eastern sea board as far as Inverness. Furthermore some difficulty arose in deciding whether to apportion personal feuds to a region and where these were clearly personal feuds confined to the court I have not included them in any reckoning. To some extent this is perhaps the least reliable of the tables but while the margin of error is high, it will not be high enough to affect the picture of feuding being spread throughout Scotland.

was Scotland a feuding society?

Table 4: Status

	<u>"A"Class (contemp.) Feuds</u>		<u>All Feuds</u>	
Noble v Noble	22	16%	50	13%
Noble v Laird	17	12%	81	21%
Laird v Laird/less	95	68%	228	59%
Lesser	3	2%	20	5%
Burgh	2	2%	11	2%
Intra Family	15	(11%)	53	(14%)

Some 16% of "A" Class feuds and 13% of all feuds were between noblemen or groups of noblemen, while another 12% and 21% respectively involved noblemen and those of a lower class. In total one is talking about a third of the feuds involving noblemen which is obviously far in excess of their numbers in society, but still lower than their reputation might have led one to expect. Most of the remaining two-thirds were between men who would be classed as lairds, sons of lairds or gentlemen. Only a fraction of feuds, most of which have no evidence of violence beyond an initial killing, involved lesser men on both sides. A first impression would be that one is not dealing with a feuding society, but with a relationship which was largely the preserve of the privileged classes within that society. However, this

is only true in so far as these men initiated and led their families and men in feuds, for from what is known of lordship and kinship, the level of participation was much higher. To say that feuding was a class privilege is rather like the inane comments sometimes heard that only politicians wage wars while the people only tag along because they have to. The corporate nature of society in the sixteenth century does not really allow for that sort of exclusive analysis. The lords certainly led their men into feuds and bore most of the responsibility for it, but their men understood what feud was and why they were feuding, and it was often they, and not the lords, who began the violence. Feuds, therefore, were an issue of wide social significance, involving the total corporate group, with varying exceptions of lord, kinsmen, dependants and community.

The extent and depth of feuding is not, however, really made by a statistic like 390 feuds in fifty-two years. To make this more meaningful one has to know more about the number of feuds per year and the length of the feuds.

Table 5: Length of Feuds

	<u>"A" Class Feuds</u>	<u>All Feuds</u>
One year and less	34%	54%
2 - 5 years	23%	19%
6 - 10 years	9%	7%
11 - 20 years	14%	8%
20+ years	20%	12%

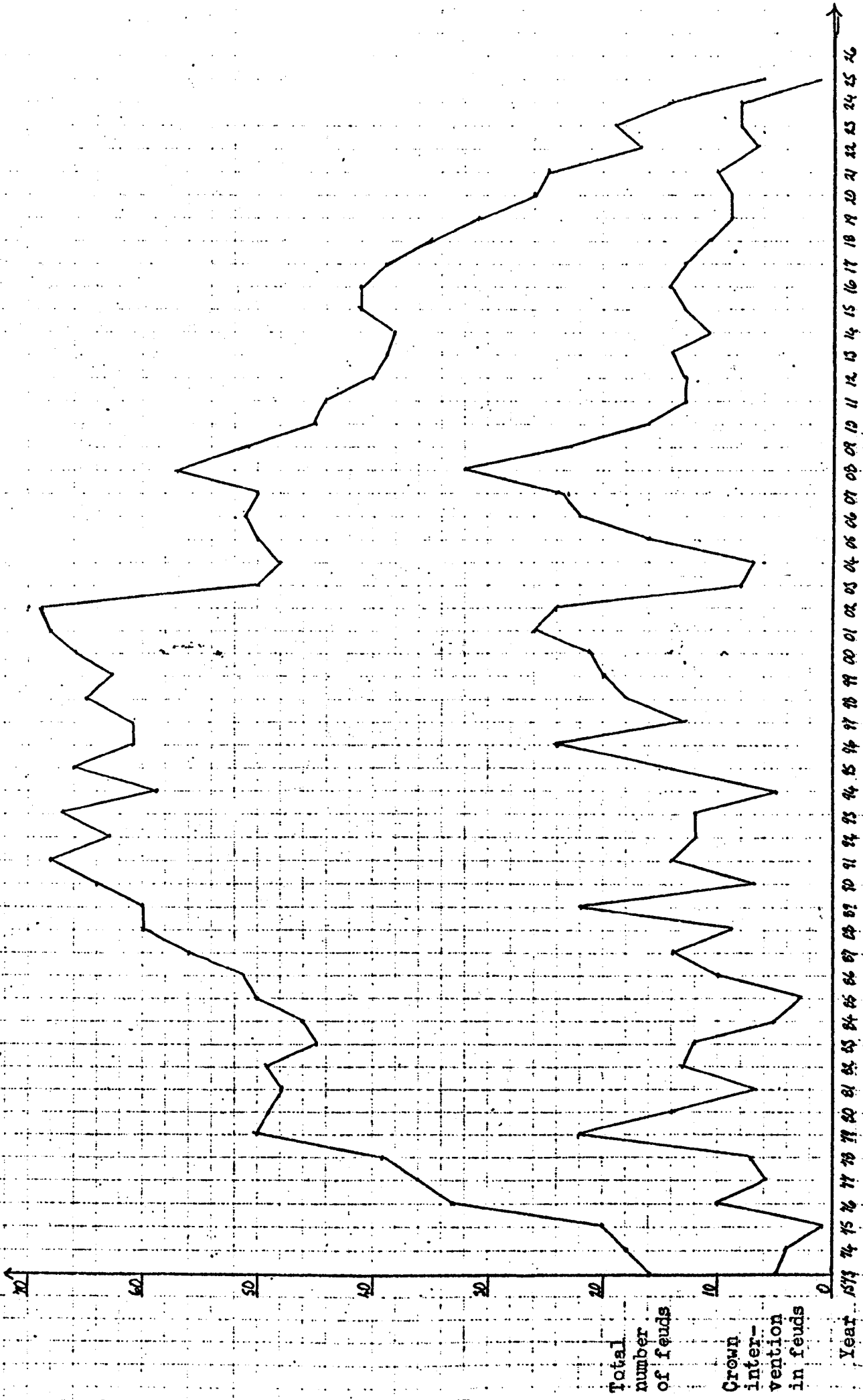
On this latter point some feuds appear, and one must stress the "appear", to have lasted for only a year or less, others can definitely be traced over the decades, and some can be recorded by a number of linked incidents separated by years of silence during which one must assume the feud was in a state of cold war. An average length of feuds would be a meaningless figure, but one is able to reach some rough indication of the duration of most feuds. Feuds of a year or less account for 34% of "A" Class feuds and 54% of all feuds. This is the most serious difference between the two categories so far, and, along with the greater number of personal feuds in the latter group, suggests that the terms for inclusion are not quite exclusive enough. However, one still has at least a third of all feuds being affairs which flair up and disappear from the records at least within one year. Feuds lasting between 2-5 years account for a similar figure of around 20% in both categories, as do those of 6-10 years at just less than 10%. Among the "A" Class feuds there is, however, a greater percentage of long feuds, with 14% for 11-20 year feuds, and 20% for those longer than twenty years as compared to 8% and 12%. Whether one accepts a figure of one in eight or one in five for feuds of longer than two decades, that is long enough to bring in a change of generation, the picture of feuds spanning the centuries looks to be something of a myth. In numbers this represents 44 of the 390 feuds which is still a sizable problem, but not an intolerable one if one remembers that of these 44 all

experienced varying levels of intensity during this period. However, one must allow for some distortion of the picture as one is dealing with a period in which government interference probably resulted in many feuds being settled before they would normally have been had the crown chosen to ignore them.

Until one knows a little more about feuding in an earlier period, one cannot be too dogmatic about the length of feuding. Yet it is probably safe to say that feuds had a very good chance of being snuffed out almost immediately, but that if they lasted any longer they were more likely to be prolonged for more than ten years than be settled within a decade. The implication to be drawn from this evidence is that the feuds' own peace mechanism did stand a fairly high chance of success. Peace in the feud was attainable, and one's disagreement with the "peace in the feud" school is over their tendency to play down the violence that could occur during the duration of even a very short feud.

Turning to the graph which shows the incidence of feuding in each year of the period one again finds one's expectations thwarted. Only 16 feuds are known to have been in existence in 1573, at the end of the war, but just how meaningful this is without figures for the years before the mid-century upheavals remains uncertain.<sup>49</sup> During Morton's dominance

49. Though Hay reported in 1573 that "There are no public troubles" except for two minor feuds, C.S.P. Scot. iv, p 610.



of the government the numbers rose to around fifty a year, a fact which throws some doubt on Hewitt's belief in a period of "greater tranquility" and "Morton's achievement in enforcing law and order".<sup>50</sup> From 1583 there is another upturn which rises to 66 a year in 1591 and remains between the upper 50's and a peak of 67 in 1602 before dropping back to the level of the 1580's and not reaching the 1573 level until 1622. In 1625 there were by then a mere 5 feuds that year. One major problem with such figures is that what one may be measuring is the level of government interest in feuding rather than actual feuding. Thus in 1573 there were far more pressing problems than local feuds to be dealt with and so government records may be reflecting lack of interest in them, not a low level of feuding, and it is from government records that most of the evidence for feuding comes. Similarly, the dip in 1603 may reflect not a drop in feuding, but part of the dislocation in government circles as Scotland became used to an absentee crown. If so then a graph such as this is relatively meaningless.

The second line on the graph therefore records the number of feuds - taking each feud only once per year - handled by the crown, that is the king personally, the privy council, parliament or the justice court, in each year. Comparing the two graphs one can quite clearly see

50. G. Hewitt, Scotland Under Morton, 1572-80, (Edinburgh, 1982), p 141 and 143.

a discernable similarity between them. With some 25% of all feuds never being handled by the government, a further 42% only ever being dealt with in one year (mostly one year feuds), and no more than half the feuds in existence in one year being handled by the crown that year, the trends of the first graph would appear to be real ones rather than artificial ones caused by government activity. There are obvious exceptions to this. Years such as 1579 and 1608 peaked largely because of the crown's interest at that time and the 1603 drop was clearly a case of other matters on hand, but on the whole the rise to the high levels of the late 1570's to the end of the first decade of the seventeenth century reflect deeper issues than government interference and concern.<sup>51</sup>

The explanations must lie in the wider historical context of the last quarter of the sixteenth century. With the big political issues of the 1560's largely settled by the end of the Civil War, men returned to their local, private quarrels and with both Morton and the factions which followed him being unable, or unwilling for political reasons, to act decisively in the localities, they were by 1585 when the king took over genuine personal government, out of control. The factional nature of

51. For a discussion of a similar problem see C. Larner, Enemies of God; The Witch Hunt in Scotland (London, 1981) ch 5 esp. p 64. I have also benefitted greatly from discussing this with Dr. Larner.



political parties at court made it imperative that court politicians had local backing, and that meant letting men in the localities have their own way if they were on one's side or, alternatively, backing their enemies in their feuds against them if they were not. Court and country were thus locked into a multi-faceted struggle for power in which the localities gained ground against the centre and local politics were allowed to develop their own impetus and vitality for the sake of particularist interests at court. On top of this one had a depressed economy; a volatile land market with many questions of land ownership, and in particular the right to teinds, remaining unsettled from the upheavals of the Reformation; the impact of religious tensions in the localities, the almost total neglect of the government of the western isles and the highlands; the effect of Tudor weakness on the borders and intentional laxity about them in Edinburgh; a royal minority with the attendant struggle for power at court; a more refined code of honour; the spread of handguns; and over-population in the highlands being only the more immediate problems which spring to mind and which served further the diffusion of authority and the spread of lawlessness. Why it was the feud which thrived in this context is, however, not just explained by the social background, but also by the ideals and values of that society. Those ideals and the violence and peace of the feud which they upheld were fundamental to the very nature of the bloodfeud.

IDEALS, VIOLENCE AND PEACE IN THE FEUD

John Erskine, earl of Mar, the king's life long friend and servant, was described as a man who in "honour, honesty and wisdom may well be accounted with the first courtiers of all", a man who was "so far interested in honour as he will put all in peril rather than be 'set' with the shame he has gotten".<sup>1</sup> The comments were made in the context of an important feud in which Mar was involved during the later 1590's, a feud which cost him the chancellorship and a good deal of the king's favour. Mar was considered an honourable man, but his was not necessarily the honour of a Brutus; honour means different things to different men and to different societies. It can be highly structured but brutally callous, as in Greece where Campbell thinks it is essentially about "the manliness of the man and the shame of the women", but where its main concern is "strength or prepotency rather than justice".<sup>2</sup> Among the Jibaro Indians and in Black-Michaud's Mediterranean survey there is the same lack of concern for any sense of decency in the conduct of avenging honour, and what appears to be an exaggerated sensitivity to acts which can bring one's own honour into question.<sup>3</sup> On the other hand R.H. Harding has found a close identity between honour and royal service in early

1. C.S.P. Scot. xii, p 92 and C.S.P. Scot., xiii, part 1, p 398.

2. Honour, Family and Patronage, p 193. Campbell has a wide ranging discussion of honour which is one of the main themes of his book.

3. Bohannon, Law and Warfare, p 316; Black-Michaud, Cohesive Force, p 178-184 and see chapter five "Feud and Ritual".

modern France,<sup>4</sup> while in both L.Stone's "Crisis of the Aristocracy" and M.E.James's fascinating essay, "English Politics and the Concept of Honour, 1485-1642", the English noblemen and gentlemen show "a stress on competitive awareness" in which violence is both natural and justifiable, but quite distinct from the cool planning of the Jibaro.<sup>5</sup> To-day in our own society we would probably call men who followed the obligations which such an honour code put upon them thugs or psychopaths. Honour can thus have certain basic principles, but each society's sense of honour has to be looked at in its own light, and while there was to some extent a European sense of honour in the early modern period which pervaded at least the ruling classes, the relationship between feud and honour was very much a Scottish experience.<sup>6</sup>

In 1600 the newly promoted marquis of Huntly turned up at parliament and demanded precedence over the earl of Angus who had previously ranked at the head of the earls

4. J.H. Harding, Anatomy of a Power Elite; The Provincial Governors of Early Modern France, (Yale, 1978), p 68-71.
5. Stone, Crisis of the Aristocracy, p 107-113; M.E.James, "English Politics and the Concept of Honour", 1485-1642", P and P Suppl 3, (1978), ref to p 1.
6. See also F.R.Bryson, The Point of Honour in Sixteenth Century Italy, (New York, 1935); J.Cooper (ed.), The New Cambridge Modern History, vol iii, The Decline of Spain and the Thirty Years War, "Introduction" by J.Cooper, p 23-27; M.E. Wolfgang and F.Ferracuti, The Subculture of Violence, (London, 1967) p 271ff.

in the order of precedence laid down by parliament.<sup>7</sup> Something of a row broke out, but Angus was "in the facillitie of his owne nature, and by the king's authoritie" willing to back down and a way out looked possible. However, his Douglas kinsmen then approached him and "protested never to acknowledge him hereafter, gif he did yeild that honor which was purchased by the blood and burialls of their ancestors",<sup>8</sup> so forcing him to oppose both Huntly and the king. The result was to upset the parliament completely and leave the two noblemen at feud with one another. Angus had been taught a lesson in honour by his kinsmen and dependants and in the end even the king accepted the logic of the situation, holding two parliaments, one in Edinburgh and one at the Douglas stronghold at Dalkeith.

What the issue was here was clearly not manners but power. Angus had to be reminded of the corporate interest he represented, an interest which not only embraced his living kinsmen and dependants, but also his ancestors and those who would inherit the power he bequeathed them. Had he backed down before Huntly and the Gordon interest he would have been signalling to others that the Douglasses

7. Precedence disputes were fairly common even though the whole point of precedence was to avoid them, e.g., Lords Hume and Fleming in the 1587 parliament, C.B.P. i, p 263. In Russia a point system was used to try and avoid such happenings but there too violence often occurred. D.H.Pennington, Seventeenth Century Europe, (Singapore, 1980), p 95, on the Russian "mestnichesto".

8. C.B.P., ii, p 712.

were easy game and that Angus was unable to protect his friends and defend the interests of the family and the earldom. Hence their threat to go and seek another lord who could guarantee to defend them and the honour of the corporate group to which they all belonged. Loss of honour and prestige meant loss of power, and seen at this level such affairs over matters like precedence seem less idiosyncratic than they at first appear.<sup>9</sup>

Francis Stewart, earl of Bothwell, had a more secure grasp of what the issues were on such occasions. After his capture of lord Maxwell in 1587, Sir William Stewart, brother to the deposed chancellor Arran, was very much in the king's favour, which "made the man so swell" that he began to push himself about at court. One day he quarreled with Bothwell before the king and Sir William,

"bad the Earll kis his ...; the Earll heiring that base and despytful ansuer, ther made a voue to God, that he should kis his ... to hes grete pleasour: sua thereafter rancountering the said Sir William in the Black Friar vynde by chance, told he vold now kis his ..., and with that drew his sword; Sir William standing at his defence, and having his back at the wall, the Earll made a thruste at him with his rapier, and strake him in at the back and

9. Stone is thus perhaps showing a degree of anachronistic thinking when he says that such behaviour is "intangible" unless the English situation was completely distinct: Crisis of the Aristocracy, p 107-08. See also Black-Michaud, Cohesive Force, p 178, "a man's prestige ultimately summarizes all those qualities which differentiate him from other members of the same society and together constitute his qualifications for leadership".

out at the belley, and killed him."<sup>10</sup>

Bothwell thus made it very clear that he was not a man to be tampered lightly with and in both the defence of his personal honour, and in the defence of his friends, Bothwell was always a man of action. In fact it was Sir William who was in the wrong since he knew the limits of acceptable behaviour and the touchy response which would follow if he overstepped it. Such anarchic infringements of social order demanded a response which would restore the social harmony and Bothwell gave him it.<sup>11</sup>

At a less complex level honour could also be a simple matter of male bravado and concern for personal reputation. Thus when lord Sanquhar was taunted by Louis XIII about the eye he had lost in a fight, "Vit-il encore? Is the man still alive that did it?", the king is supposed to have asked, and, spurred by this taunt, Sanquhar went home and had the man assassinated.<sup>12</sup> Such behaviour

10. R.Birrel, "The Diary of Robert Birrel", in Fragments of Scottish History, (ed.), J.G.Dalyell, (Edinburgh, 1798), p 24. There were no repercussions for this killing and Bothwell appeared at court within days of it, men having accepted that Sir William had got his just deserts both for his behaviour at court and his treacherous treatment of some of lord Maxwell's men earlier in the year, see The Historie and Life of King James the Sext (ed.) T.Thomson (Bannatyne Club, Edinburgh, 1825), p 237; Calderwood, D., The History of the Kirk of Scotland, (Edinburgh, 1842), vol iv, p 679, Spottiswoode, J., History of the Church of Scotland, (Edinburgh, 1820), iii, p 384.

11. L. Mair, Primitive Government, (Harmondsworth, 1970), p 40.

12. R.P.C., ix, p 371, note.

lacks the same political implications and is not so very different from behaviour common among young males in most societies. Thus a New York gang member boasts, "I'm not going to let anyone steal my 'rep' (reputation)", and in a Glasgow gang young men and boys express the desire to be a "gemmie", someone who will make the maximum response to the minimum of provocation.<sup>13</sup> This is basic male machismo and was on the whole more tied up with duelling than the feud where honour and the response to its infringement is essentially political.

A concept of honour which was pragmatic and amoral had very little in common with the stylised version of honour often portrayed in literature like "Ivanhoe" or "The Three Musketeers". Thus at his trial lord Sanquhar defended himself by saying "I considered not my wrongs upon terms of Christianity ... but being trained up in the courts of princes and in arms, I stood upon the terms of honour."<sup>14</sup> When John Muir of Auchindrain and his son wanted to avoid criminal investigation for murder they thought it would be dishonourable to pass to the horn<sup>15</sup> and so they caused

13. L. Yablonsky, "The Violent Gang", in S. Endleman (ed.) Violence in the Streets, (London, 1969), p 236; J. Patrick, A Glasgow Gang Observed, (London, 1973).

14. Quoted in James, English Politics and the Concept of Honour, p 14.

15. The process by which men were "horned", that is outlawed.



a street fight in Ayr and were then able to become outlaws with their honour intact.<sup>16</sup> Magregor of Glenstray gave himself up to the earl of Argyll in the belief that he would be conveyed into safe exile, but Argyll sent him to Berwick "for he promes to put him out of Scottis grund. Sua he keipit ane Hielandman's promes, in respect he sent the gaird to convoy him out of Scottis grund; bot thai wer not directit to pairt with him bot to fetch him back againe".<sup>17</sup> Magregor was thus brought to Edinburgh and executed and Argyll was able to keep his honour intact by keeping his word. Such thinking seems a perverse interpretation of bishop Leslie's observation that the borderers thought nothing "more heinous than violated fidelity",<sup>18</sup> but when the fifth earl of Huntly wrote to Menzies of that ilk that "mony falsattis and desuitis (are) now usit in this warld"<sup>19</sup> he was idealising the past. Honour was too closely tied up with power for there to be any room for moralising about it. It propelled men into feuds because it was imperative that honour, and hence power, be defended, and it allowed that the feud be contested without restraint

16. Historical Account of the Principal Families of the Name of Kennedy, (ed.) R.Pitcairn, (Edinburgh, 1830), p 125.

17. "Diary", Birrel, p 60. The Earl of Caithness played almost exactly the same trick on his cousin lord Maxwell in 1612, see Gordon, Sutherland, p 287-89.

18. Quoted in G.M.Fraser, The Steel Bonnets (London, 1971), p 30.

19. Menzies, M.S., H.M.S., vi, p 697, no 83.

because the only really recognisable law within it was success.

Closely bound up with honour was the concept of revenge. In 1593 the duke of Lennox and lord Spynie fell out and as a consequence the duke's court position was shaken a little. Lennox wrote to Spynie telling him that he had "so far wronged him that he could not with any honour abide the sight of him without revenge".<sup>20</sup> The response to an attack on one's honour was revenge and failure to attempt it meant further loss of honour and with it supporters, clients and friends. The taking of revenge was, however, a group issue for as Bloch wrote "The primary duty of the kinsmen was vengeance".<sup>21</sup> Here the corporate group of lord, kinsmen, dependants and friends acted as a sort of mutual insurance company, protecting one another and extracting vengeance for any of the group who was attacked by outsiders. It was a response, like that of Bothwell's, which was both expected and necessary.<sup>22</sup>

20. C.S.P. Scot., xi, p 35.

21. Bloch, Feudal Society, p 225. For a specific discussion of which kinsmen have obligations of vengeance see Campbell, Honour, Family and Patronage, p 193ff. Here and elsewhere in the Mediterranean there are clear customs laid down for who should take revenge and on whom.

22. As among the Jibaro Indians where "If one reprehends a Gibaro because he has killed an enemy, his answer is generally: 'He has killed himself'", because he has by his own actions invited revenge. R.Karesten, from Bohannon, Law and Warfare, p 310.

There is no real pattern of revenge in the Scottish feud. Obviously it was better if one could get the man who committed the deed against one in the first place or the leader of the kin, but, unlike the classic vendettas of the Mediterranean, there was no social pressure to do so. Revenge was often indiscriminate in that anyone connected to one's enemy was fair game for vengeance. Of the highlanders it was said that they "wer bent and eager in taking revenge, that neither have they regaird to persone, tyme, aige, nor course: and ar generallie so addicted that way (as lykewise are the most pairt of all the Highlanders) that therein they surpassse all other people whatsoever" and that "they ar sa crewell in taking of revenge".<sup>23</sup> However such revenge was not restricted to the highlands, though, it was more common there. Thus when the earl of Cassillis judiciously murdered the young laird of Stair, Stair's kinsman, Walter Muir of Concaid and his page rode down into Galloway and slaughtered a David Girvan whose only crime was to have been Cassillis' master of works.<sup>24</sup> However revenge could also be specific,

23. Gordon, Sutherland, p 188-89 and Historie, p 217; for a close comparison the comments of some Catholic missionaries who went to Corsica some time during the sixteenth century are of interest. They observed that the natives, "kill one another like Barbarians and are not willing to pardon nor even to discuss any arrangements until they are avenged. And not only do they make war on him who has done the injury, but also, in general, on all his kinsfolk, as far as the third degree of relationship." from Flandrin, Families in Former Times, p 16.

24. Pitcairn, Kennedy, p 64.

and when Kennedy of Culzean was murdered by the Bargany Kennedies, Cassillis agreed a contract with his brother by which he would pay him 1200 merks annually, provide corn for the upkeep of six horses and the maintenance of two servants if he could kill or capture one of the principals of the murder.<sup>25</sup>

As has been seen, feuds were more commonly short affairs, but where they were long it was revenge which was feeding their fury. Thus when in 1621 captain Henry Bruce returned to Scotland he found himself being pursued by the kinsmen of a captain John Hamilton who he had killed in a duel in Flanders in 1604, seventeen years before.<sup>26</sup> In the Douglas-Stewart feud captain James Stewart was slaughtered fifteen years after he had had Morton executed, and his killer was himself cut down in Edinburgh by Stewart's nephew a further twelve years after that.<sup>27</sup> When the council said of the feud between the Kerrs and Turnbulls that it was as "violent and resolut in thair humouris of revenge" as when it began, they were describing something which was common to a great many feuds.<sup>28</sup>

25. Pitcairn, Kennedy, p 59.

26. R.P.C., xii, p 588-89.

27. See below vol i, p 296-97.

28. R.P.C., ix, p 352-53. Though one has to remember that the majority of feuds were short affairs.

Revenge was both a political and social tool and an emotional response. When Spottiswood wrote that Andrew Melville wanted "to be revenged" on Archbishop Adamson he was using revenge in this second sense of gut feeling.<sup>29</sup> Even when the convention of the nobility met in 1587 and expressed a willingness to assist the king in "the revenge of his mother" it was closer to this meaning for the great majority had no obligation to revenge her.<sup>30</sup> Only in the context of feud did revenge take on this deeper meaning and become an almost immovable objective. As such it became a social obligation binding a man and his kin and dependants to enforce blood justice and, depending upon his status, a political ambition of local or national significance.

Why revenge worked this way has a lot to do with attitudes to blood. A frustrated Tudor administrator once exclaimed, "I see none other than revenge for revenge and blood for blood".<sup>31</sup> An eye for an eye is of course a very old concept and the basis of most primitive justice, but while such specific retribution was no longer recognised, the idea of blood paying for blood retained a strong hold in a society which invested in blood all sorts of important properties. Medical thinking was dominated by the idea that life itself was held in a man's blood. Honour and

29. Spottiswoode, History, ii, p 337.

30. *ibid.*, p 371.

31. Quoted in Fraser, The Steel Bonnets, p 167.

nobility were transferred through the blood; thus the king wrote, "it is most certaine that vertue or vice will oftentimes with the heritage, be transferred from the parents to the posteritie; and runne on a blood (as the Proverbe is) the sicknesse of the mind becomming as kindly to some races, as these sicknesses of the body that infect the seede".<sup>32</sup> Hence the king's refusal to reinstate Bothwell's heirs, and in England the more severe law of attainder which was probably not used in Scotland because of its implications for a feuding society. This sharing of a common blood has obvious implications for the feud. Revenge dictates that blood be shed in recompense and ideally the blood of the killer himself was desirable, but if he was out of reach then his blood might still be spilled by killing those who share his blood.<sup>33</sup> The blood itself takes on an almost mystical importance so that when John Gordon of Gight was tried for murder in 1617 his lawyers pled that he was the legitimate "avenger of blood" for a dead kinsman slain by the man he himself had killed.<sup>34</sup>

The belief that "it is certane that sanguis clamat, blood cryeth" was fundamental to the feud.<sup>35</sup> Even the

32. MacIlwaine, Political Works, p 30.

33. In the Albanian blood-feud Whitaker has pointed out that the feud was "not merely vengeance, but an offering to the soul of a dead man". Whitaker "Tribal Structure and National Politics", in Lewis (ed.), History and Social Anthropology, p 266.

34. Pitcairn, Criminal Trials, iii, p 419.

35. Gordon, Sutherland, p 194.

crown gave some recognition to this idea as when it disciplined two Lindsay lairds in 1616 for seeking revenge "notwithstanding the blood is now cold"; the implication being that were it hot, that is recently shed, then their behaviour would be understandable.<sup>36</sup> Blood was even thought capable of itself accusing a murderer. In "Daemonologie" the king wrote "In a secret Murther, iff the dead carkasse be at any time thereafter handled by the Murtherer, it will gush out of blood; as if the blood were crying to heaven for revenge of the Murtherer."<sup>37</sup> So terrified were Muir of Auchindrain and his son at being put to this test that they chose to become outlaws instead.<sup>38</sup> Even when men turned from the feud and looked to the king or God for justice their thinking about blood justice did not actually change, for as Sir Robert Gordon observed, "we sie that the Lord punisheth blood by blood, at such tymes and by such meanes as he thinketh expedient."<sup>39</sup> Others were more fatalistic however, "thai that slayis will be slaine" wrote Birrel.<sup>40</sup>

36. R.P.C., ix, p 639. In March Law this was certainly recognised and was known as 'hot trod'.

37. Pitcairn, Criminal Trials, iii, p 190.

38. *ibid.*, p 182-99 where there is a much fuller discussion of this and some amusing attempts by later writers to rationalise the phenomena. The idea of blood convicting a murderer is of course much older than the sixteenth century and is not exclusively a Scottish affair, see e.g. The Nibelungenlied, p 137, "Now it is a great marvel and frequently happens to-day that whenever a blood-guilty murderer is seen beside the corpse the wounds begin to bleed."

39. Gordon, Sutherland, p 283.

40. Birrel "Diary", p 46.

Blood also had a highly effective visual impact in a society where symbol and ritual were important means of communication. In 1593 some poor women from Nithsdale travelled up to Edinburgh with the bloody shirts of their husbands, sons and servants who had been slain by the Johnstones in a recent raid. Carrying these gory objects they paraded through the burgh exposing the king's inadequacy in protecting them and demanding justice from him.<sup>41</sup> Others could be a little more cynical in their use of such propaganda as in 1588 when some Aberdeen merchants were attacked by members of the local Leslie family with whom they were feuding. The town council wrote to their agents in Edinburgh telling them that "we nicht not haiff the bludie sarks to send to you thair for ye men do the best ye can thairin and furnes sarks and putt bluid thairon".<sup>42</sup> In 1598 the laird of Johnstone was judged to be guilty of breaking an assurance with Douglas of Drumlangrig and was declared a "mansworne man" and "defamed and perjured". To emphasise this "his picture was drawn in blood, to signifie a murtherer and hung with his heels upwards with the name sett under his head, and INFAMY and PERJURY written thwart his leggs".<sup>43</sup> The

41. Historie, p 296-97, Spottiswoode, History, vol iii, p 445-46, Calderwood, History, vol v, p 256. One can see similar thinking at work in C.N.D. marches where coffins are carried and skeletons etc. portrayed.

42. Aberdeen Council Letters, vol I, 1552-1639, (ed.), L.B. Taylor, (O.U.P. 1942), p 31-34.

43. C.B.P., ii, p538 and Birrel, "Diary", p 46.



same mixture of symbol and graffiti was at work when the murdered earl of Moray was drawn with all his wounds graphically displayed so that the picture could be presented to the king as a plea for justice.<sup>44</sup>

Similarly the earl of Mar paraded a picture of a murdered servant of his through the lands of the family who had killed him<sup>45</sup> and at the funeral of the laird of Bargany a "Banner of Rewendge" was carried "quhairin was payntitt. his portratour with all his wondis, with his sone sittand at his kneis, and this deattone writtene betuix his handis, 'JUDGE AND REWENDGE MY CAUS, O LORD'".<sup>46</sup> Media exploitation is by no means a modern concept.

This visual reinforcement of the feud ideology took other forms. The corpses of the slaughtered earl of Moray and lord Maxwell were left unburied for years by their kinsmen as a reminder to them that vengeance must first be sought;<sup>47</sup> the burial of the son of Macdonald of Glengarry at the door of Kintail church so that his enemies and killers might step on his corpse as they went to

44. C.S.P. Scot., x, p 641.

45. ibid., xi, p 631 and p 636, Historie, p 346-47.

46. Pitcairn, Kennedy, p 68.

47. R.P.C., v, p 444-45, Moray was killed in 1592 and Maxwell a year later but both their corpses were still unburied in 1598. See also M.Bloch, Feudal Society, vol i, p 126, where "the very corpse cried out for vengeance" and was left unburied.

worship;<sup>48</sup> the almost ritual dismemberment of corpses of men killed in feuds as though revenge could not be satisfied with death, but must further humiliate the memory of the man;<sup>49</sup> all were part of the ideological environment of feud. The scene at Kintail with the juxtaposition of feud and Christianity is a potent one. Savagery and primitive values existed side by side with ideals in religion and increasingly in political and legal thinking which were diametrically opposed to them. It was a society in which men extolled the merits of law and order and fought private wars to enforce their version of it, where men preached forgiveness and prayed for revenge, where honour could lead to a sense of fair play, but where in honour's name men were brutally done to death in an Edinburgh back street, in which allegiance to the crown was growing, but where allegiance to the dead demanded vengeance and the pursuit of the blood-feud. The feud was deeply entrenched in the minds of this society, a position which was essentially one which rested on the local and national realpolitik of its leaders, but which was reinforced by the militant defence of honour, the obligations of vengeance and a widespread belief in the qualities of blood, all of which were kept alive and nursed by the visual

48. R. Chambers, Domestic Annals of Scotland, (Edinburgh, 1859), p 368-72.

49. Many examples of this will follow, e.g. R.P.C., iv, p 453.

propaganda which called men on to new deeds of violence and bloodshed.

Yet before turning to the violence of the feud one has to put it into a context of a society which was violent anyway, even by its own standards. How one measures violence is of course an enormously difficult problem and given the violence of our own century one has to beware of moralising about the past. However, one can be fairly certain in saying that people had a less sensitive attitude to violence and were much quicker to resort to violent solutions for the smallest of problems. Thus Stone's point that "in the sixteenth and seventeenth centuries tempers were short and weapons to hand"<sup>50</sup> was as relevant to a Scotland where "six heralds (were) sitting drinking, tua of thame fell in words,... The said Johne Gledstanis strikit Johne Purdie at the table; and the said Gledstanis being apprehendit, he was beheadit...".<sup>51</sup> Keith Wrightson has raised some serious questions about our perceptions of violence in early modern society and while agreeing that riots and crime were common he is doubtful of the extent of armed clashes, believing that the licencing of ale houses was a greater police problem in Tudor England.<sup>52</sup> Whether

50. Stone, Crisis of the Aristocracy, p 108.

51. Birrel, "Diary", p 35.

52. Wrightson, English Society, this is one of the general themes discussed throughout by Wrightson, e.g. "violence was to a considerable degree constrained by law", p 162 and also p 55, 62-65. See Stone, chapter v, for a fuller development of his ideas and Williams, The Tudor Regime, p 219-20, 236-43.

the average English yeoman was quite so reasonable must remain debatable, though certainly Scottish peasants shared his unwillingness to become involved in class violence.<sup>53</sup> Elsewhere, however, the picture of violence is largely unchallenged. In France the Wars of Religion ushered in new levels of violence which once again turned France into a battlefield for the private armies of local lords and mercenaries; in Russia Ivan the Terrible ruled with a violence unseen in the west; in Ireland a more aggressive policy by the Tudor government turned the country into an amphitheatre of war; and of the Mediterranean Braudel has written that violence was so endemic that it was ignored. Thus in Naples it was said that "there are robberies and crossed swords (every day) as soon as darkness falls".<sup>54</sup> It is worth while keeping this perspective

53. As Bloch has argued, violence, at least violence which had a military dimension to it, "became a class privilege", but while on the continent and even in medieval England class conflict was occasional and vicious, it was completely unknown in Scotland. Bloch, Feudal Society, p 127.

54. Harding, Anatomy of a Power Elite, p 71-80, discusses the rise of private violence; F.Carr, Ivan the Terrible, (London, 1981), is basically a biographical narrative, but it is fairly graphic on violence in Ivan's reign though only at the political level; R.Berleth, The Twilight Lords, (London, 1979), is a good readable account of the political feuding of Elizabethan Ireland; F.Braudel, The Mediterranean and the Mediterranean World in the Age of Philip II, vol ii, (Glasgow, 1973), p 737. Of course one could also mention the Netherlands and Philip II's other wars. Also for France see J.H.M. Salmon, Society in Crisis: France in the Sixteenth Century, (London, 1979) for a good account of the violence of the religious wars. For a more general discussion of crime, including violence, in Europe during this period, Crime and Punishment in Early Modern Europe, M.R. Weisser, (Brighton, 1982).

of European violence in mind when one turns to Scotland rather than the supposedly more civilised English society of lawyers and jolly decent yeomen.

A complete survey of violent crime in Scotland for this period is unfortunately outside the remit of this thesis and so one must remain fairly ignorant of the levels of violence in local communities, among different classes and of the incidence of different crimes. Statements like that by A.M. Clark that Scotland "must have been one of the most criminous societies in recorded history, particularly in respect of crimes of violence against the person"<sup>55</sup> are quite without foundation and even limited studies of law and order such as that by Hewitt are entirely unsatisfactory.<sup>56</sup> The best that one can do here is to give some indications of the sort of violence found in early modern Scotland and say something about the conditions out of which it arose.

As has been said there was certainly a more casual attitude to violence. Thus, "Robert Cathcart slaine pisching at the wall in Peiblis wynd heid be William Stewart, sone to Sir William Stewart".<sup>57</sup> Or in 1580

55. A.M. Clark, Murder Under Trust; The Topical Macbeth, (Edinburgh, 1981), p 45.

56. Hewitt, Scotland Under Morton, p 140-43.

57. Birrel, "Diary", p 46.

one finds George Auchinleck of Balmano meeting up with a rival as he walked to do his business at Edinburgh tolbooth, killing him with his sword and then continuing on his way, or Lord Oliphant simply stabbing a kinsman for no apparent reason after they had supped together.<sup>58</sup> Spottiswoode's report of "bloods and slaughters daily falling out in every place"<sup>59</sup> may have been no different from the type of panic about law and order one often finds in certain popular newspapers today, but even a cursory glance through the privy council records reveals a massive concern for violent crime among people whom one finds it hard to classify as criminals, but who appeared to regard violence as the natural solution to their problems.<sup>60</sup>

Of course the state itself was remorselessly violent. James VI may on the whole have preferred peaceful solutions where one could be found, but the state machine he sat at

58. Chambers, Domestic Annals, i, p 141.

59. Melrose, i, p 291.

60. Cautions, that is government enforced agreements under which men promise not to harm another under specified pains are a minor indication of the law and order problem. During the 1570's these remained at usually less than twenty a year but by 1588 had risen to 100, by 1590 there were more than 200 and in 1591 more than 300. As in feuding this may reflect greater government interest, but of the 100 in 1588 6% involved lairds and women who were the widows of lords, 11% were between burgesses and other members of the urban community and 71% involved lairds and other lairds or tenants. In other words one is essentially looking at the potential for violence among the non-noble landed and "middle classes", if one can be permitted that loose description. What this represents then is only a slice near the top of the pyramid.

the head of was capable of the most ferocious violence. The "extirpation" of the Magregors, the crushing of the MacDonald and Orkney rebellions and Dunbar's border raids were all episodes of extreme violence by the crown. Criminals were hanged, beheaded, mutilated, strangled and burned and flogged in the enforcement of the law. Such violence was a spectacle of great public interest with an eye once again to visual impact and being perhaps at some level a means of identifying society with the forces of order, as though their presence was a sign of approval. Thus the state could act as brutally as any private man as, for example, in the case of Robert Weir, "broken on ane cart whell with ane coultter of ane pleuche in the hand of the hangman" or George Porteous whose "heid and hand wes straiken aff him at ane stroke".<sup>61</sup> Even the king was capable of a mixture of the petty and the tyrannical when for example he had a hangman executed for nailing his portrait and that of the queen to his gallows for sale.<sup>62</sup> When it came to violence the Jacobean state like any other was capable of exceeding the bloodiest deeds of its citizens.<sup>63</sup>

61. Birrel, "Diary", p 61 and 51.

62. *ibid.*, p 54.

63. L. Martines, A Historical Approach to Violence, in Violence and Civil Disorder in Italian Cities, 1200-1500, (ed.) Martines, (London, 1972), p 17, "No institution is capable of greater, more durable violence than the state in its moments of alarm." See also J. Ruggiero, Violence in Early Renaissance Venice, (Rutgers U.P. 1980) for a good analysis of state violence.

How violent the home was in sixteenth century Scotland one does not really know. One finds instances of men like the earl of Caithness imprisoning his eldest son in the dungeons of Girnigo for ten years where he strangled one of his younger brothers who visited him, and was eventually starved to death.<sup>64</sup> The Sinclair family under both the fifth and sixth earls were perhaps something of a byword for violence, but other examples of family strife are fairly common. What is more difficult to substantiate is how violent normal relations were between husband and wife, parent and child and master and servant. The assumption is usually that violence pervaded all these relationships and that therefore it is hardly surprising that people were even more violent with their neighbours. Again Wrightson has initiated some debate over these assumptions and it may be that they are simply prejudicial, but as usual the Scottish context remains virgin ground.<sup>65</sup>

However, while we are almost equally ignorant of the extent of aristocratic violence one is able to highlight some aspects of it. In "A Historical Approach to Crime" the authors expose a great deal of the mythology surrounding the mafia and the idea of big organised crime in America and one suspects that similar questions might be asked

64. Gordon, Sutherland, p 168.

65. Wrightson, English Society, p 98-100, 116-18. Though Weisser in Crime and Punishment, p 21, disagrees.



about how crime was organised around magnates in early modern Scotland.<sup>66</sup> Men like Argyll with his bands of outlaws or Bothwell with connections throughout the criminal elements of the borders and with an interest in piracy through the exploitation of his office of admiral, might conceivably be seen as bosses of organised crime networks involved in protection, blackmail, raiding, terrorisation and murder, but that would be to put too conscious an interpretation on their activities. Such relationships between magnates and an underworld of banditry and outlaws has certainly been observed elsewhere and in Scotland one can find it in the relationships between Argyll and the Magregors, Caithness, and the Clan Gun, Maxwell and the Armstrongs. Unlike the Mediterranean where the bandit seemed to occupy some sort of place in folk tradition as a social rebel, something which perhaps appears later in the Rob Roy type of character, in Scotland the role of such criminals was much more closely tied to ideas of lordship and maintenance which

66. J.A.Inciardi, A.A.Block, L.A.Hallowell,  
A Historical Approach To Crime, (U.S.A., 1977),  
 see chapter four, "The Godfather Syndrome".

upheld the system.<sup>67</sup>

A great deal of the time maintenance was concerned with peaceful occupations and with enforcing not frustrating justice. Many letters survive from noblemen to their dependants asking them to accompany them to days of law, to the court or on a journey.<sup>68</sup> Men like George Elphingstone, the baillie of Glasgow, were able to write in their wills counselling their sons to serve their lords "as I wes ay reddie during my tyme to serve thame treulie to my lyffis end as become me of my dewtie" and in doing so might never

67. Braudel, The Mediterranean, possibly tends towards an idealisation of banditry, but see his discussion of the relationship between bandits and lords, e.g. the duke of Montemarciano who with his bands of outlaws terrorised Tuscany, p 749-51. With even more emphasis on the social aspect of banditry see E.J. Holesbawen, Bandits, (London, 1969) where among other things he finds that many bandits began their career as the result of a killing in a blood-feud and of feuding between bandits. Weisser, Crime and Punishment, p 83-84 distinguishes outlaws from bandits, the latter being a sixteenth century phenomena who did not exist outside the law in a legal sense, but in areas where as yet the law had failed to catch up with them. Furthermore their social composition was entirely made up of the lower classes. J.P.Cooper in the "Introduction" to vol iii of the Cambridge Modern History, p 26, identifies similar noble-bandit relationships elsewhere. For England see P.Williams's article "The Welsh Borderland Under Queen Elizabeth", Welsh Historical Review, 1 (no 1, 1960), p19-36; Stone, Crisis of the Aristocracy, p 111; James, A Tudor Magnate and the Tudor State, (University of York, Borthwick Papers, no 30, 1966) p 10 and Change and Continuity in the Tudor North: the rise of Thomas, first Lord Wharton, (York, 1965), p 8, "But behind the decorous facade all great lords were bound in a close mafia with the upland thieves, and patronized and protected border lawlessness."

68. For a much fuller discussion of this see J.Brown, "Bonds of Manrent". For a few of these letters see e.g. W.Fraser, Memoirs of the Maxwells of Pollok, (Edinburgh, 1875) p 73 no 54, Lennox to Pollok or H.M.C., iii, p 419, Crawford to Abercairny and also Correspondence of Sir Patrick Waus (ed.) R.Vans Agnew, (Edinburgh, 1887), vol i, p 94, Cassillis to Waus of Barnbarroch.

have been asked to lift a sword in anger.<sup>69</sup> Similarly the influence used by lords for their men could be applied quite scrupulously as when Maxwell of Pollock wrote to an unnamed lord about a servant of his who had been summoned on a murder charge. Pollock wrote asking the lord to "continew guid lord and maister to me and my servandis, according to the euqitie of the caus, as zour Lordschippis honour and conscience will permit".<sup>70</sup> On another occasion, however, when Pollock thought his men had been unfairly treated by a local magistrate he wrote to him "in respect of zour onequitable deling", saying that "The dweill maid sowteris schiptmen, quha cowlde nather steir nor row."<sup>71</sup>

It was this other side of maintenance which was so closely bound up with violence. Buchanan railed against men "so enslaved themselves to other men's desires that they have left themselves no freedom for independent thought or action".<sup>72</sup> Thus they became the armed retainers of lords and magnates who in return overlooked their excesses and as Bowes observed "Many offenders are countenanced by noblemen, with great contempt of law and justice."<sup>73</sup>

69. W. Fraser, The Elphinstone Family Book, (Edinburgh, 1897), vol ii, p 264, Testament of George Elphinstone of Blythwood.

70. Fraser, Pollok, vol ii, p 167, no 171.

71. Fraser, Pollok, vol ii, p 165-66, no 168.

72. Quoted in A.H. Williamson, Scottish National Consciousness, (Edinburgh, 1979), p 114.

73. C.S.P. Scot. x, p 453.

Instances such as the earl of Crawford's men freeing one of their friends from the Dundee burgh authorities, or James Conheith who was unable to get justice in Dumfries after an attack on him because the attacker was a "household man and servand" to lord Herries, the burgh provost, were common.<sup>74</sup>

Thus the king might well complain to the earl of Huntly about the behaviour of his men, but as someone pointedly observed, Huntly "must be a Gordon when it comes to the worst".<sup>75</sup>

The violence which was allowed to breed by these relationships can be demonstrated by the case of Bothwell and the Wauchope family. When Archibald Wauchope of Niddrie and his family took service with Bothwell is not known, but his first act of notoriety was the killing of the laird of Sheriffhall with whom he had a feud of his own and for which he found himself an outlaw and dependant on Bothwell's good will. In 1589, however, he was captured by the king who sent him for trial, charges being pressed against him by Sheriffhall's son, the lairds of Edmonstone and Broxmouth and Bothwell's own enemy lord Hume. The trial attracted a great deal of interest and went on well into the night when the candles were suddenly extinguished, and in the confusion Niddrie and his friends made their escape. The king was furious that he was unable to "minister justice against him that the world abhorred for his vicious and bloody life.",

74. R.P.C., iii, p 572-74, p 349.

75. C.S.P. Scot., xiii, part 2, p 864.

an indication that Niddrie's career of violence was extensive, but while it was widely assumed that Bothwell had arranged the escape nothing could be done about it.<sup>76</sup>

Niddrie then went back to Bothwell's employment and when the earl was given responsibility for much of the government when the king left for Denmark later in the year, Niddrie joined him in Edinburgh. While there he struck one of the king's officers for some small matter and when challenged about it by another gentleman, he killed the man. On the king's return however, he had to slip back into areas more directly under Bothwell's protection. In 1591 he was almost captured at one of the earl's houses where he had arranged a duel with Edmonstone, but was tipped off and escaped. At much the same time he was cited in a divorce case for having committed adultery with the wife of the laird of Craigmillar, but in the middle of the proceedings Bothwell marched in, arrested Craigmillar on some felony charge and had him dragged from the session house. Shortly after this Niddrie, or one of his family, did meet Edmonstone for the postponed duel and killed him.<sup>77</sup>

With Bothwell's fall in 1591 Niddrie found himself being called upon to fulfil his obligations to the earl. He was present at the ill-fated raid on Holyrood in the new year and was seriously wounded there but recovered

76. C.S.P. Scot., x, p 73, p 77; Calderwood, History, v, p 56-57.

77. C.S.P. Scot., p 306, p 453, p 463, p 619, p 716, R.P.C., iv, p 372; Calderwood, History, v, p 71, 169-70; Spottiswoode, History, iii, p 422; Birrel "Diary", p 27-28.

sufficiently to join Bothwell on the even more botched Falkland raid in the summer of 1592. In the scramble to escape he and his men were picked up by lord Hamilton but for reasons of his own Hamilton released them and they fled back to the borders. However, one by one Bothwell's friends and retainers deserted him and somewhere along the line the Wauchopes also parted company with him. It was not the end of their violence though with Edmonstone of Wowmet being killed in 1597 and a royal messenger in 1599, as well as other less notorious crimes being committed by the gang. Justice appears to have caught up with some of them, with one being killed along with Wowmet, Niddrie's brother being brought to trial in 1598, a cousin being executed in 1602, another of his brothers being banished for life and Niddrie himself is said to have met a sorry end.<sup>78</sup>

Niddrie was just one of many such armed men who rendered violent service to powerful lords. There were others, Huntly and the lairds of Gight, both father and son, Argyll and Magregor of Glenstray, Orkney and his bastard son Robert, the younger lord Maxwell and Charlie Maxwell, they and the many nameless men who followed in attendance to their lords were all men of violence. They were not

78. C.S.P. Scot. xiii, part 2, p 620, p 659, p 661, R.P.C., vi, p 1, Pitcairn, Criminal Trials, ii, p 52, 402, 403, p 410. A Robert Wauchope was granted a remission for the Edmonstone killings, S.R.O., Bruce of Earlshall Muniments G.D. 247/182/1.

exactly retainers nor were they mercenaries, but their relationship was based on a mixture of kinship, lordship and interest as the man guarded his lord and did his dirty work for him while the lord provided a living and protection.

Another problem of the age closely related to this and to the ideology discussed above was that of youth. Much more than today young men played an important part in influencing society and many held positions of great responsibility. When the king reached his twenty-first birthday in 1587 the average age of the twenty-four leading noblemen - 22 earls, the duke of Lennox and lord Hamilton - was around twenty-seven. Seven of these were children, two, Orkney and Rothes, were elderly men, being in their late fifties, and Morton and Hamilton were in their forties with Montrose close behind at thirty-nine. The other twelve, three quarters of the adults, were in their thirties and twenties and it was these men, Glencairn, Marischal, Sutherland, Crawford and the more youthful Atholl, Bothwell, Caithness, Erroll, Huntly, Mar and Moray who were to be at the centre of so much of the violence during the next decade.<sup>79</sup> Duby has spoken of youth as "the spearhead of feudal aggression" and though the feudal age may have passed, many of its values, particularly in the military sphere, continued to be the main

79. Angus is the other but he died shortly afterwards.

preoccupation of young men.<sup>80</sup> Thus, for example, one finds in the north-east "The Society and Company of Boys" or "The Knights of the Mortar" as they were sometimes called. This seems to have been a mixture of old-fashioned crusading idealism, male clubbishness and a protection racket organised by John Gordon of Gight and his young friends which impressed the privy council enough with its violence for them to order its suppression.<sup>81</sup>

More commonly young men acted on impulses and with a view to bravado which, in a feuding society, was intensely dangerous for their families. No doubt many fathers winked at their sons adventures as they were thus able to maintain family honour and retain their own respectability with the crown at the same time. Others were the victims of simple inability to control them. The session judge and councillor Sir David Lindsay of Edzell found the last years of a highly successful career ruined by his son, who in 1605 took part in a violent street fight in Edinburgh and then a few years later killed a kinsman, lord Spynie, in an ambush on the earl of Crawford, the family chief.<sup>82</sup>

80. Duby, The Chivalrous Society, p 115; see also D. Herlihy, "Some Psychological and Social Roots of Violence in the Tuscan Cities" in Martines (ed.) A Historical Approach to Violence, p 129-54.

81. Various refs., see e.g. R.P.C., vii, p 509, viii, p 271 and Pitcairn, Criminal Trials, ii, p 532,

82. R.P.C., vii, p 60, and for the Spynie incident, see Pitcairn, Criminal Trials, iii, p 61-65.



Similarly, the laird of Cultmalundy's son killed Toshack of Monivaird in 1618, but was saved from criminal prosecution by his father's skill in agreeing an expensive compensation with the Toshack kin. A few years later the council wrote to the king that

"this ffeade has altogidder undone Auld Cultmalundie; for his estait is exhaustit and wrackit, and he is become verie waik of his judgement and understanding, by the greif that thir troubles hes brought upoun him; whilkis wer the occassioun of his wyffis death, and of the exyle and banishment of goode rank and qualitie hes sones and freindis, now be the space of foure yeiris; in the quhilk time tua of his freindis of goode rank and qualitie hes depairtit this lyffe."<sup>83</sup>

It was a high price to pay for what we might call delinquency today.

Violence was not the prerogative of retainers and young men, but came all too easily in a society which was in many respects still highly military. The castle and tower house remained a functional defensive dwelling and while the crown often complained that men did not always maintain themselves in the arms they were required to, few were unarmed. Swords, pistols and daggers were carried quite commonly, and in the retinues of noblemen and powerful lairds a wider assortment of weapons could be found. The appearance of the rapier with its lethal thrust and the hand-gun which was extremely popular in Scotland, made clashes between armed men much more likely to produce fatalities. By the end of the

83. R.P.C., xi, p 439, xiii, p 769; Pitcairn, Criminal Trials, iii, p 443, p 479, p 480-81, p 542.

sixteenth century there were thirty gun craftsmen in Edinburgh, fifteen more in the Cannongate and another eighteen in Dundee working to supply a ready market.<sup>84</sup> When the laird of Johnstone and the lairds of Cessford and Drumlangrig ran into one another in Edinburgh one day, their parties are said to have exchanged some twenty-five shots and on another occasion when lords Ruthven and Oliphant clashed in 1580 scores of shots were fired and a number of men killed and hurt.<sup>85</sup> Even a man's home was not safe as Aulay Macaulay of Ardincaple discovered when he was shot at through his window or when lord Spynie had his windows blown in by a petard, a small French canon, which was fired at his house by the Ogilvies.<sup>86</sup> In war the gun was a great leveller and in the feud, where the object was to kill without much concern about how it was done, it was especially effective. Even more than the rapier,

84. D. Caldwell, "Royal Patronage of Arms and Armour Making" in D. Caldwell (ed.), Scottish Weapons and Fortifications, 1100-1800, (Edinburgh, 1981), p 82. See the remainder of this article as well as his other one "Some Notes on Scottish Axes and Long Shafted Weapons" and that by G. Boothroyd "The Birth of the Scottish Pistol" in the same volume for more details on Scottish weaponry for this period. Stone says of England that "stockpiling of weapons was of modest proportions before 1550, reached a peak between 1550 and 1660 and thereafter declined." Crisis of the Aristocracy, p 106 and J. Cockburn in "The Nature and Incidence of Crime in England 1559-1625" has also highlighted the significance of fire-arms in violent crime in J. Cockburn (ed.), Crime in England, 1550-1800, (London, 1977).

85. Pitcairn, Criminal Trials, i, part 2, p 89, C.S.P. Scot., xiii, part 1, p 57.

86. R.P.C., vi, p 178 and p 492.

which was so popular in the duel, the gun was a threat to the peace of society. In 1595 a revolt by the schoolboys of Edinburgh Grammar School ended when one of the boys shot a town baillie dead as the burgh magistrates tried to gain entry to the blockaded school.<sup>87</sup> There can be little doubt that such universal carrying of weapons made every confrontation a potential manslaughter.

Of course there were restraints on violence; people did not just run around killing one another when they felt like it. The fear of punishment from the state, the even greater fear of blood-feud from the kin of a dead man or from his lord, the moral restraint of religion with the threat of eternal damnation, and a sufficient degree of consensus that violence bred violence and that, if possible, one ought not to encourage it, acted to prevent anarchy prevailing. Yet it is clear that early modern Scotland had an environment highly likely to instigate and encourage violence in ordinary men. There were the usual murderers and psychopaths found in every society, those who brutalised for its own sake like the "cruel man hangit for setting on ane woman's bare ... on ane girdill quhen it was red hot" and "Johne Stewart beheadit ... for cutting off ane man's private members", or the Drummonds who took Andrew Lawson and cut off his nose and pulled out

87. R.P.C., v, p 236.

his teeth for no apparent reason.<sup>88</sup> Our own society could find its parallels in such behaviour as could any other. What was different was the casual approach to violence, the widespread employment of armed men, the dominant themes of military prowess among men which was so attractive to the young, the spread of weapons throughout society and of course the less effective enforcement of the law and an ideological background which propelled men into acts of violent conduct. This was especially true of the feud itself.

The table below gives some indication of the part played by violence in a feud.

Table 6: Conduct of Feuds

<u>Types of Violence</u>	<u>"A" Class (contemp.) Feuds</u>		<u>All Feuds</u>	
None	1	1%	43	11%
Property Only	2	< 1%	11	3%
Property and other forms	32	(23%)	72	(18%)
Bodily	24	17%	75	18%
Selective Only	26	19%	62	16%
Indiscriminate Only	18	13%	38	10%
Select and Indiscriminate	22	16%	30	8%
Unknown	46	33%	131	34%

By bodily violence one means violence against the person

88. Birrel, "Diary", p 56; R.P.C., iv, p 457.

which is non-fatal, selective violence refers to killings in which the victim was to a degree the specified target of an attack or fight and indiscriminate violence refers to killings and slaughters in a feud which was conducted as open war on all kinsmen, dependants, servants, etc. of a corporate group. At a general level one can see that violence took place in one form or another in at least 66% of all "A" Class feuds and at least 55% of all feuds.. The percentage is increased when one adds those feuds in which a slaughter was the origin of the feud but in which no further violence is known to have taken place so that one has figures of at least 73% and 64%. Furthermore, of the 43 peaceful feuds in the second category a great many of these are on the border line between what is and is not a feud and one can be fairly certain that non-violent feuds did not account for any more than 10% of the feuding in early modern Scotland. Violence was at the very centre of the feud with people being killed in at least 55% and 53% of "A" Class and all feuds. When one takes out the unknown cases from the total number of feuds the picture appears even more violent and whatever way one juggles with the figures one cannot escape the fact that violence was part of the very fabric of the feud.

Evidence for non-violent feuds is the most difficult to interpret. Because no record of violence has survived does not mean that it did not happen; it may not have been

reported at the time and it may not have been recorded. One only really knows about the great violence in the feuds of the Sinclairs and Gordons and among the Kennedies from contemporary histories of these families and a reading of the government records alone would suggest a much more peaceful interpretation. Thus one knows that there was trouble between the earls of Perth and Linlithgow during 1616-17, but one knows nothing of the details of that trouble because no private records survive which throw further light on what happened.<sup>89</sup> Anthropologists may be able to give more convincing evidence of non-violent feuds, but for the historian there remains the constant suspicion that the non-violent feud must remain unproven in most instances.<sup>90</sup>

Looking at the figures for violence against property one finds them to have been fairly low. Only a fraction of the feuds saw attacks on property in the form of destruction or theft as the furthest extent of violence. Apparently violence against property was not the main objective of the feud, and even when such violence did take place to the accompaniment of violence on persons the figure remains at around one in five feuds. Again

89. R.P.C., x, p 608, xi, p 54; Melrose, p 297.

90. Stone, Crisis of the Aristocracy, p 118, believed most English combats outside the rapier duel to have been harmless and Williams, The Tudor Regime, p 220, similarly thought that men "drew back from death blows".

one may be the victim of the reporting and of a tendency on the parts of the records to highlight the worst that happened in a feud rather than recounting everything. There is, however, a tendency for such attacks to be much more common in the north, the highlands and the borders where the feud more closely resembled small wars and where the crown was less able to prevent such widescale devastation.

There was of course a great variety of violence within such a broad category, varying from broken doors and the theft of a few cows to the laying waste of whole communities. In 1602 Walter Curroure of Inchedrour complained about his neighbour, John Gordon of Avarchy, who, he claimed, had committed twenty-three separate attacks on him since 1598. These included a number of crimes against persons: a local government official had been killed by Avarchy, on five occasions Inchedrour's servants had been beaten up, one was forcibly evicted from his house, three were violently robbed and Inchedrour himself was twice attacked. For the duration of three years his mails and duties for certain lands were appropriated by Avarchy, his house was broken into and occupied, another of his houses was broken open and stripped of its timber, his mill was wrecked and all the gear from it stolen, a barn was burned, crops spoiled, horses stolen, grain scattered and his salmon cobbles

broken.<sup>91</sup> As in most such reports some exaggeration must be allowed but it still adds up to a catalogue of economic ruin. How many such incidents took place one does not know, but there must have been some effect on the community.

In areas like the borders and highlands cattle raiding was part of the economic fabric of the community. One man gained and another lost only to make up his losses elsewhere, and while some men may have been forced to give up, for a great many more it was part of their livelihood. Feuding, however, was more destructive and on the whole no-one gained. Thus in 1613 Menzies of Pitfoddels and Forbes of Monymusk destroyed one another's corns with the result that the community lost two harvests.<sup>92</sup> One cannot measure the economic impact this had on the kingdom, but surveys of Kintyre in 1596 and 1605, between which time the MacDonald-MacLean feud ravaged the land, saw an increase in waste land in north Kintyre from 23% to 41%.<sup>93</sup> Few other areas perhaps witnessed such efficient devastation though the earl of Moray was able to file a complaint for damages to the value of over £800,000 for five raids conducted against his lands by Huntly during the years of

91. R.P.C., vi, p 501-05.

92. R.P.C., x, p 172-73; Pitcairn, Criminal Trials, iii, p 258.

93. D.Gregory, History of the Western Highlands and Isles, (Edinburgh, 1975), p 269.



their feud.<sup>94</sup> In 1616 Robert Maxwell, the heir to the forfeited lord Maxwell, executed in 1613, looked back over his father's and brother's feuding and found himself £40,000 in debt with no means to help "my present miserie" and the "distressit hous of Maxwell" and prepared to sell his lands and chieftainship of the family in order to preserve it.<sup>95</sup>

In the lowlands damage to property also took place, but while it was often very intense it rarely ever affected whole communities as these others did. Thus a Thomas Boyd had some of his stock slaughtered, his houses and byres broken up, his gear stolen and his tenants driven off by a neighbour and in 1598 Alexander Lindsay's mill was destroyed by his neighbour.<sup>96</sup> However, as has been said, while the objective of the feud may have initially been economic its tactical objectives rarely were, and most property violence was simply frustration at not being able to get one's hands on the owner himself.

The scale of killing in many of these feuds was often very large indeed. At Glenfruin and Dryfe Sands, battles fought ostensibly as confrontations between crown and rebel, but in reality as private affairs, thousands of men were

94. S.R.O., Moray Muniments, N.R.A. 217/2/4/80.

95. MacDowell, W., History of the Burgh of Dumfries with notices of Nithdale and the Western Border, (Edinburgh, 1872), p 293-94; Fraser, Pollok, ii, 193-94, no 197.

96. R.P.C., v, p 88, p 495.

involved and hundreds were slain. Similarly in the feuds of the MacDonalds and MacLeans, the Sinclairs and Gordons, the MacLeods and Mackenzies, the Magregors and Colhouns, scores of men died on either side. Often such slaughters arose as the result of clashes between large bodies of armed men, as when the earl of Cassillis with two hundred horsemen and twenty musketeers forced the laird of Bargany with his eighty men hastily collected in Ayr into a fight. Bargany was himself slain, Cassillis's men surrounding him and then one of them "haikitt ane lance at him, and straik him throw the craig and throw the thropill", the lance breaking and remaining in his throat. The others then closed in to lance him through again while one cut away his face with the slash of a sword. Another man was lanced through the knee, the point coming out the buttock, one was struck through the chin and another shot in the groin.<sup>97</sup> In the fighting between Sir Rory MacLeod of Harris and Donald Gorm of Sleat the two clans "wer bent headlong in against one another with spoills and cruell slaughters, to the utter ruin and desolation of both ther cuntries, untill all the inhabitants were forced to eat horses, catts, and other filthie beasts."<sup>98</sup> There was nothing Tweedledum and Tweedledee about these confrontations.

97. Pitcairn, Kennedy, p 45-48.

98. Gordon, Sutherland, p 244-45.

Often these armed clashes were not sought out as that between Cassillis and Bargany was, but occurred simply because rival bands of armed men happened to be in the same place at the same time. In one such case Mr. John Graham, a senator of the college of justice, was with his friends walking between Leith and Edinburgh when they noticed coming up behind them the duke of Lennox and Sir James Sandilands, an influential courtier with whom Graham had a feud. Lennox's men were waving weapons in the air at them and so Graham and his friends launched an attack and a running battle broke out in the suburbs. In fact Lennox and Sandilands had been on their way to Leith for a game of golf and the weapons were golf clubs, but the incident left at least two gentlemen dead, including Graham, and many others hurt.<sup>99</sup>

The violence of the feud was not always so unpremeditated though. In 1586 MacDonald of Kintyre captured over forty kinsmen of MacLean of Duart along with Duart himself while they were his guests. After burning two of them alive the rest were "ilk ane beheadit the dayis following, ane for ilk day, till the haill number was endit".<sup>100</sup> In 1593 a number of Gordons went to the house of Abercrombie

99. Historie, p 267; C.S.P. Scot., xi, p 49; Calderwood, History, p 223.

100. Historie, p 217; Gordon, Sutherland, p 187ff. See also Clark, Murder Under Trust, chapter 4, for some unusual comments on this incident.

of Pitmedden from which they dragged him out, shot him to death and "with thair drawin swordis, cuttit him all in peces; and as monsteris in nature, left nocht sax inche of his body, airmis, legis, and heid undevydit, and cut asunder".<sup>101</sup> Equally callous were the Macfarlanes who captured a William Buchanan who had recently won a court case against them, stripped him and tied him to a tree, and over the remainder of the day slashed him some thirty times with a dirk, then cut out his tongue, slit open his belly, took out his entrails, entwined them with those of his dog and then cut his throat. Even the hardened earl of Glencairn who was called out to investigate it was horrified by the scene.<sup>102</sup>

William Buchanan's fate was worse than most, but Glencairn's vivid picture remains with one a long time and it is necessary to imprint the violence of the feud on one's mind from the start. Bravery and heroism, mutual respect and gentlemanly conduct, peaceful sentiments and peaceful settlements, they too were part of the feud, but it was the hundreds of murders, slayings and vicious killings which were its hall-mark. Like the modern day terrorist men did not always see it that way; the violence was not criminal it was honourable, killing was not murder

101. Pitcairn, Criminal Trials, iii, p 78-79.

102. R.P.C., xi, p 635 and also Pitcairn, Criminal Trials, iii, p 547-48.

it was revenge and blood-feud meant exactly what it appears to mean.

Yet it would be equally unbalanced to think that feuding was all about killing and violence. Some feuds, as has been seen, had or appear to have had no violence, while the majority of feuds were of fairly short duration. In most feuds peace entered into them at some point. While the later sixteenth century was to see this being increasingly done because of pressure from the crown, this was by no means the only reason. Nor was it the result of men turning to litigation in any great measure. The courts held no special place outside of the kin-feud network which would necessarily give them any intrinsic right to people's confidence. At the trial of John Ross of Ballivot in 1600 most of the proceedings concerned themselves with the composition of the assize. The defence raised objections against the laird of Duffus because Ballivot was at feud with him, and if that could not be proven then he was at feud with a relative of Duffus. He also claimed that another member of the assize was nephew to another man with whom he was at feud, and that yet another was third or fourth of kin to yet another of his enemies before going on to object to most other members of the assize.<sup>103</sup> Much of this was the wrecking tactics of lawyers, but there

103. Pitcairn, Criminal Trials, ii, p 138-45; see also Weisser, Crime and Punishment, p 51-67, for a good discussion of the private nature of justice in this period, e.g. p 66 "Crime was considered a private affair, closely related to the extreme bonds of friendship, kinship and status that dominated medieval social relations."

was an element of real fear that the courts were less reliable and more open to abuse and corruption than other means of achieving justice and bringing peace to a feud. One also finds complaints like that by Kirkpatrick of Closeburn, the deputy sheriff of Dumfries, that an assize had acquitted a man who he was certain was a thief.<sup>104</sup> Thus whatever its decision, there was likely to be suspicion concerning the relationships between men on the assize and either the accused or the pursuing parties. It was unlikely then that a feud would be settled by legal action, and the most that could be achieved by taking such a course might be the prosecution of one side for crimes committed during the feud. Such an action would itself be considered a hostile act and would, as in the case of one of Ross of Ballivot's feuds, only result in an enhanced desire of revenge.

As in war, the first objective of those who wanted to bring peace to a feud was to achieve a cease fire. In the terminology of the feud this meant to bring both parties to sign mutual assurances.<sup>105</sup> The assurance was a guarantee in the form of a written contract that each side would not harm the other. Thus lord Semple assured that neither he, his kinsmen, his dependants, tenants or

104. R.P.C., v, p 232,33.

105. Philpotts discovered that on the continent it was the practice to "obviate blood-feuds by assurement and similar devices" rather than abolish them. Philpotts, Kindred and Clan, p 254.

servants would molest Sir John Maxwell of Pollok or his brothers, kinsmen, etc. "for quhatsumevir caus, occasioun, or trubles fallin furth and committit betuixt us in ony tymes bygain" and promised to observe this "be my honour lawtie, and fidelitie".<sup>106</sup> Such a contract was a private and voluntary one which the two sides had entered into by mutual consent, or after some pressure from their friends and neighbours. At the worst then a breach of contract could result in little more than a return to feuding so that its enforcement rested largely on the good will of the signatories. In order to give more authority to assurances some men had them registered by the privy council so that the crown became one of the witnesses to it and undertook a responsibility to enforce it.<sup>107</sup> Occasionally the crown would in fact initiate the move to get a feud under assurance, as it did in 1582 when Kennedy of Bargany and Kennedy of Blairquan were ordered to assure one another and in 1586 when the master of Yester was outlawed for failing to assure John Stewart of Tracquair.<sup>108</sup> More formally the crown established some sort of foothold on the assurance when in 1587 parliament made murdering someone under assurance a treasonable crime.<sup>109</sup> Financial penalties were written into the assurance with each side

106. Fraser, Pollok, p 320, no 162.

107. As in Lord Somerville and William Graham in 1584, R.P.C., iii, p 677.

108. R.P.C., iii, p 503-04 and iv, p 67-68.

109. A.P.S., iii, p 451.

promising the other that if they broke the agreement then they would pay a specified sum. Such sums could be fairly large, like the ten thousand pounds demanded in an assurance between the earl of Crawford and the master of Glamis in 1582, but there remained the problem of enforcing such a penalty and really the only effective deterrent to breaking the assurance was the odium of doing so.<sup>110</sup>

The reasons for terminating an assurance were of course varied. In the first place most assurances were only made for a year or less, never any longer. That between lord Livingston and the laird of Carse was registered on the 27th of March 1583 and was to last until the last day of November.<sup>111</sup> Many simply fell into abeyance unless the parties concerned really wanted to prolong the peace or if the same pressure was applied to them by kinsmen, neighbours, or the crown as had been the year before. Even during the period of assurance relations between the two parties remained potentially explosive as lord Hamilton found out when he had difficulty getting together a meeting of the gentlemen of the border marches because of "the sundry quarrells and feades standing amongst them, which they be assured to certain dayes, not yet expired, yet hath no will to cum togedder

110. See above p 48 on the laird of Johnstone.

111. R.P.C., iii, p 561.



suddenly in any place".<sup>112</sup> Others were less careful and incidents, real, imagined or contrived, took place which led to the collapse of assurances. In 1581, in Glasgow, John Pollok of that Ilk broke his assurance with Sir John Maxwell of Nethir Pollok when he "chasit and followit thame on horsebak to have slayne thame with swordis, and dischargit pistolettis at thame". In 1586 lord Hay and Walter Scott of Branhholm were reported to have invaded one another "be oppin weir and hostilitie, committing divers slauchteris, mutilationis, grite heirschips, and depradations, to the wrak of mony trew men ..." while they were under assurance to one another.<sup>113</sup>

This dependence in most feuds on voluntary good will was the weakness of the assurance system. In the two cases above Pollok was called to account for his actions and both Hay and Branhholm were ordered to find caution for future good behaviour, but even where crown action was taken to enforce the assurance it was only underlining the lack of good will between the parties and thus the unlikelihood of there being a peaceful settlement in the future. It was the crown's distrust of the assurance system, and the suspicion that it inferred a legitimacy on feuding, that made it more confident of acts of

112. C.S.P. Scot., x, p 207.

113. For these two cases and one other in which the Scotts charged the Elliots with breaking assurances, see P.C., iii, p 436, p 455, p 503; iii, p 380, p 388, p 404; iv, p 98.

caution as a means of ending the violence of a feud. The essential difference between the caution and the assurance was that they were enforced on the parties (or party as they were not necessarily mutual) by the crown. They were used to cover a multitude of sins in which one party felt threatened in some way and was able to persuade the crown that caution was required, or when the crown itself forced two parties to find caution on the basis of reports it had. In an act of caution the principal found surety for his good behaviour from cautioners who were usually kinsmen, friends or very often burgesses willing to guarantee the cash. In a world where good relations with these people was so important a man would perhaps think twice about bringing financial hardship on his friends by behaviour which caused them to forfeit the surety. Money paid to the crown in such a way was recoverable from the principal if he could be found, but by betraying his friends trust in him and putting them to some loss, even if it was a short term one, a strain was put on relationships and one's circle of reliable friends and kinsmen could be reduced.<sup>114</sup>

The cautioners themselves were thus acceptable on the basis of their relationship with the principal and their ability to pay the fines. Most, therefore, were

114. Duby, The Chivalrous Society, p 53-54, identifies the development of a surety system from the eleventh century when regular courts were declining.

kinsmen, as in the three Hamilton lairds who stood caution for William Hamilton of Sanquhar in 1576, or neighbours, as in the case of the other man in this act of caution. John Wallace of Cragy who persuaded George Crawford of Lefnoreis to back him.<sup>115</sup> However, the crown's concern with being able to effectively have the fines paid if necessary was probably the reason for the fairly large number of burgesses who figure in cautions. Thus when Uthred MacDowell of Garthland had to find surety in 30,000 marks that he would not harm his Gordon neighbours he went to Robert Gourlay, an Edinburgh burgess, for help. Gourlay may have been related, but it is more likely that he was more able to guarantee the cash than any of MacDowell's Galloway relatives. What Gourlay got from it one does not know, but one can assume that he and others like him made their percentage from what was a type of credit facility.<sup>116</sup> Most cautioners were therefore men of some substance, as were the principals, since only landed men and burgesses were put under caution, but they were rarely noblemen. In 1591 the earl of Caithness complained that he had been horned and charged to enter Blackness in spite of having found caution from the earl of Huntly, but the council replied that they would not accept Huntly "or any utheris of his degree and rank", telling Caithness to find some lesser men who would be accountable.<sup>117</sup>

115. R.P.C., ii, p 493-94.

116. R.P.C., iv, p 403.

117. R.P.C., iv, p 689.

Once again the problem with cautions was in the enforcement. Being a crown measure gave them greater legal status, but the pains attached to them were still fairly limited. Apart from the fines which varied with the status of the offender, and the level of importance attached to the feud, there was little real restraint imposed. A man's friends might concur in his feud and be willing to wait for their money: he might decide that the crown probably would not get round to uplifting the caution anyway, or would be unable to, and would thus accept the inevitable outlawry. The dishonour which was attached to breaking an act of caution was less than that in an assurance because it had been imposed and did not really involve a man giving his word in any meaningful sense, though some did specifically state that "reproof, dishonour and infamy" would fall upon whoever broke the terms of the act.<sup>118</sup> Furthermore, as in assurances the cautions were for a limited time, one between lord Oliphant and some Murray lairds ordering the parties to abstain from feud until a fixed date, so that there remained the inference that the feud could be renewed.<sup>119</sup> Like the assurance then the caution amounted to little more than an enforced cooling off period in which a great deal of stress was still being laid upon the good will of the parties themselves.

118. R.P.C., ii, p 397.

119. R.P.C., iii, p 208-09.

During this cooling off the first steps would be taken in mediating between the parties at feud. Some of course would reject this out of hand and either the feud would be renewed in its active form, or it would continue to be put under constraint by assurances and cautions if the parties were scrupulous enough to observe them. The momentum for peace very often began in the locality and did not necessarily come down from the centre. Mostly the men who interfered in feuds in this way were neighbours concerned about the dislocation the feud was having on the community, or friends concerned that their friends were ruining themselves in a feud. Many also had a genuine concern for law and order when it was not their own personal interests which were at issue. Thus in 1595, during the feud between the earl of Montrose and Sir James Sandilands, it was reported that, "the great men of the west have comperit upon it".<sup>120</sup> More specifically one of those great men, lord Loudon, wrote to Maxwell of Pollok telling him that he was going to Stirling to hear what had happened in the slaughter of a man by some of Montrose's men and to decide whether it should be taken up as a quarrel against Montrose or "tane up and freindfullie agreit be the adwys of freindis". He therefore asked Pollok to come with him as "I culd nocht gudlie gif ansuer thairto without the adwys of freindis".<sup>121</sup> Here one finds something

120. C.S.P. Scot., xi, p 632.

121. Fraser, Pollok, ii, p 179-80, no 185.

of the co-operation Gluckman wrote of as the webs of co-operative relationships in a community pulled men into pressure groups with an interest in peace just as they could so easily be sucked into violent conflict.

Where good lordship could be exercised the degree of pressure available was obviously greater. Thus James and Patrick Graham told the laird of Johnstone that after the slaughter of their father they were left "in the protection and favouris of your maisterschippis" and would abide by his will in the matter of their feud with their father's killers. However, if he would not make any agreement for them, then "gif they wald offer unto us all the geir thai haif in the warlde, we wald nocht accept it gif we culd haif your maisterschippis favouris utherwayis".<sup>122</sup> The Grahams would very much have preferred revenge, but if their lord chose otherwise they would abide by his decision as his protection in the future was more important to them. However, they were also expecting him to get them a good settlement should he decide that they ought not to seek vengeance. Similarly a lord might turn a man away from legal action, as when Menzies of that Ilk was advised by Atholl "not to seek the circumstance of the law", but to let the matter between him and Campbell of Glenorchy be decided by their friends, meaning Atholl himself and Argyll,

122. W. Fraser, The Annandale Family Book of the Johnstones, (Edinburgh, 1894), ii, p 274, no. 362.

the overlords of the two men.<sup>123</sup>

The pressure could work in the other direction however. Some time around 1600-02 attempts were made to end a feud between the earls of Erroll and Marischal by Huntly and the earl of Sutherland, but the initiative broke down on account of some rather strong language used by Marischal in a document in which he compiled his grievances against Erroll. Erroll complained that he had "lang and luiginglie" sought to remove the troubles between their houses, "(nocht be law or trublie quhilk is now the commour custome of the cuntrie in maiteris of less wecht) bot be all the freindlie meanis lay in my power or that I culd devyse ...", but that Marischal had so insulted and wronged him that he was breaking off negotiations. However while Huntly washed his hands of the matter, a number of lairds who were dependant upon the two earls continued to work for an agreement. The lairds involved went to great lengths to persuade the earls that they were acting in the interests of them both, and when Erroll proved to be the more obstinate they vaguely threatened to come out more positively on Marischal's side. Just as lesser men needed the protection of their lord, so lords needed the support of their men, and thus the latter had a bargaining lever which might be used in this way to force peace upon a reluctant lord.<sup>124</sup>

123. Menzies M.S., H.M.C., vi, p693 no 37, p 696 no 86, p 707 no 206.

124. "The Erroll Papers", Miscellany of the Spalding Club, (Spalding Club, 1841-52), vol ii, p 285-92.

Whatever the direction of such pressure its effect was to persuade men to accept mediation. In certain cases, of course, the relationship between the two sides was such that the process was much less complex. In 1582 a number of Grahams and Irvines approached the laird of Johnstone about the slaughter of one of his kinsmen and offered "full repentence in our hairttis" and "crawis forgiveness for Godis sake", offering to make substantial compensation for what had happened.<sup>125</sup> In this case the disparate power between the two groups and the dependence of these clans on Johnstone meant that they had very little bargaining power and could do little more than try and make the best of their weak position by themselves initiating the peace moves. Others made their own arrangements, like the earls of Caithness and Sutherland who agreed to appoint Huntly to be their hereditary arbitrator so that whenever trouble erupted between them Huntly could automatically begin making peace moves without the need for preliminaries.<sup>126</sup> In the north Sir Robert Gordon observed that there was the "brieve", "... a kynd of judge amongst the islanders, who hath ane absolute authoritie and censure they willinglie submitt themselves. when he determineth any debatable question betuein partie

125. Fraser, Annandale, ii, p 45-46, no 48.

126. Gordon, Sutherland, p 181ff, p 197-200, p 201-02;  
C.S.P. Scot., xi, p 849.



and partie".<sup>127</sup> In the majority of feuds, however, the complexities involved were much greater and mediation was a long and complicated business with no certainty of success.

Having agreed to mediate the first problem was to agree on the mediators. Usually each side would name a number of mediators in excess of the numbers required and then the other side would chose those most acceptable to them to the number specified. In this way each side was able to express some confidence in the arbitrators of the other side so that one was unlikely to have a case of, for example, four hardened Maxwells sitting down to try and work out a settlement with four equally die-hard, feuding Johnstones. However, the arbitrators were still likely to be kinsmen and friends. In the 1589 decret between the earls of Caithness and Sutherland the arbitrators for Caithness were two Sinclair lairds, both kinsmen and dependants, with Innes of that Ilk and three other Innes lairds all of whom were dependants of Huntly, while Sutherland had four of his Gordon kinsmen and two Dunbar lairds who were also Huntly dependants, Huntly himself being the oversman to whom the final decision was given on any matter which the arbitrators could not agree.<sup>128</sup>

127. Gordon, Sutherland, p 268. For an interesting comparison see the role of the leopard-skinned chief among the Nuer, Evans-Pritchard, The Nuer, p 163-64.

128. S.R.O., Register of Deeds, 1/36/24.

In an agreement between the kin of Andrew Burnet and his murderer, Alexander Spens, mediation was conducted by Burnet's six sons, his brother-in-law and his sister's son, while for Spens, his own brother and two other kinsmen who were Edinburgh burgesses conducted the negotiations. Both sides assumed responsibility for their entire kin, the Burnet's specifying that they did so for the "relict; remainder, bairnis, kin, frendis and four branches of the said umquhile Andro".<sup>129</sup> Apart from kinsmen the most likely people one would find participating in such negotiations would be lords. In a decret in 1585 for the slaughter of John Frost by John Ker, the arbitration was conducted by Frost's two eldest sons while on the other side Ker's employer, the master of Glamis was represented by his wife, and in 1574 the regent Morton and the earl of Angus negotiated with the Hamiltons for compensation for Johnstone of Westraw, a dependant of their's slain by the Hamiltons.<sup>130</sup> Kinsmen, more commonly from the agnatic side of the family, but not exclusively so, and from a fairly wide spread of relatives, friends and lords were thus the most likely men one finds being asked to arbitrate.

129. S.R.O., R.D., 1/41/335b. The place given to cognatic kinsmen here is not unusual, see also S.R.O., R.D., 1/14/306.

130. S.R.O., R.D., 1/25/155, S.R.O., R.D., 1/14/50 and see also Cunningham and Oliphant, S.R.O., R.D. 1/14/31 and Elphinstone and Maxwell, S.R.O., R.D., 1/44/359b.

The terms of reference for the arbitration committee were specific to each case, but some general principles were observed. The Caithness-Sutherland submission, that part of the process by which both sets of principals and arbitrators bound themselves to accept the findings of the arbitration and submitted their complaints against one another, highlights some of these. Both earls were "obleist and sworne to stand, abyde and underly and fulfill the decreit delyvrit" by the arbitrators chosen by them and by Huntly, their oversman. Claims were to be submitted by the 26th of November 1589 at Elgin and the committee was to have eight days to deliberate on them. Should they fail to come to an agreement on the claims then Huntly himself had a further ten days in which to impose his own terms. One question, that of the overlordship of Strathnaver, was deleted from the terms of reference of the committee and was to be submitted directly to the lords of council and session. If any of the arbitrators failed to turn up at Elgin then the party concerned could elect another member, while if one side failed to appear at all then the other could go ahead and deliver a decret which would have the authority of the entire committee. Finally, the decret itself would be registered in the books of council and session and have the authority of an act or decret of that body.<sup>131</sup>

131. S.R.O., R.D., 1/36/24.

The decret itself was as complex as the problem it sought to resolve. That between Colin Mackenzie of Kintail and Robert Munro of Foulis in 1573 runs on for twenty-six pages in the Register of Deeds and while this is the longest I came across, ten pages is not uncommon.<sup>132</sup>

A few decreets can be found in the privy council records and another sixteen are in the Register of Deeds, while a great many more lie buried amidst the as yet uncatalogued Register of Acts and Decreeets of the Lords of Council and Session. Due to the state of these records nothing like an exhaustive search of feud settlements can be made though I have been able to stumble across a few while randomly looking through some volumes. Surprisingly private records have very little to say about feud settlements and one can only assume that with a copy being registered with the crown few thought it worth while keeping one of their own.

Even if one does have the decreets there is of course no evidence of the discussions which went on in the arbitration committees. The nearest one can get to this are the few cases where one has written comments by one side on the other side's submission. Thus in 1589, the master of Forbes and his kinsmen submitted certain demands to Huntly concerning his feud with him

132. S.R.O., R.D., 1/13/459.

and the document has survived with Huntly's own comments written in the margin.<sup>133</sup> While Huntly largely agreed with the terms demanded of him, Morton was less obliging to Sir Thomas Ker of Fernihirst in his submission and made a number of alterations to suit his own interests and requirements. Thus he refused to accept the offer of Fernihirst's eldest son in marriage to whoever he chose, but demanded whichever of his sons he liked best, as well as infeftment for him in lands of Morton's choosing. He accepted Fernihirst's offer of manrent, but on his own terms, and he was critical of Fernihirst's reference to his family's suffering as it was done under the king's authority "and thairfoir aucht to be buryit and not to be spoken of".<sup>134</sup> Some of the major feuds discussed in detail below will establish more clearly the kind of problems which could develop during this phase of a settlement, and indeed many foundered here with irreconcilable aims, wrecking tactics and circumstance, while others dragged on over the years with no apparent gains at all except for the fact that as long as men were talking to one another they were less likely to be killing.

However, many did reach settlements in the form of a decret and assythment usually formed the greater part

133. S.R.O., Forbes Collection, G.D., 52/1089.

134. Fraser, Annandale, i, p 42-44, no 45, 46.

of any decret. Cash payments were a fairly common form of compensation though one has no real idea of how the final amounts were arrived at. One can only assume that factors like age, status, size of family, the nature of the slaughter etc. were taken into account in assything a kin for the death of one of their members. Thus David Fyvie of Drumbillo was to pay 500 merks on behalf of the killers of David Malcolm in Polento, the money being divided between Malcolm's wife and son, while the Spens kin were ordered to pay 800 merks to the six Burnet brothers. John Frost was found to be partly responsible for his own death at the hands of lady Home's men, but she still had to pay 300 merks to be "ane help and support" to his wife and children. John Spalding of the Hill of Kerimuir, however, found himself having to pay £1,000 and make a land transfer to the wife and sons of John Frendraucht in Kerimuir whom he had slain and the Hamiltons paid Johnstone of Westraw's family 2000 merks.<sup>135</sup> Usually payments were made to the wife and sons while payment was made by the principal and it was up to him to try and rally his family around him in contributing to the payment. Unfortunately one does not yet have enough information to be very certain about what kind of deductions, if any, can be made about

135. S.R.O., R.D., 1/30/63b, S.R.O., R.D., 1/41/335b, S.R.O., R.D., 1/25/155, S.R.O., R.D., 1/35/245b, S.R.O., R.D., 1/14/50.

the kindred from such contracts.<sup>136</sup>

Not all assythment was in cash, however, and land was often just as important. In the Johnstone case the money was to be given to Morton to redeem lands Westraw had mortgaged during his lifetime and the remainder was only then to be distributed as cash to any dependant kinsmen. In a more complicated arrangement between John Ross of Craigie and Peter Oliphant of Turingis for the slaughter by the latter's son of another Ross, Turingis was to make over certain lands to Craigie with the consent of his wife and son, and in return Craigie was to pay him 3,500 merks. Turingis was then to invest this money in other lands and infeft his wife, for the duration of her life, and then his son, in them. Turingis had also to pay an annual amount of grain to Craigie.<sup>137</sup> In both these cases land was involved, but the thinking behind it was social as well as economic. The arbitrators in the Johnstone of Westraw case clearly wanted to ensure that the Westraw estate recovered, while in the latter instance Craigie was obviously getting land cheap, but the payment he had to make, and the arrangements for its use, were intended to prevent any feeling of grave

136. In the Spens-Burnet case the 800 merks was raised by Richard Spens of Chirnsyde, brother to the killer, by transferring the life-rent of lands held by his wife from her first husband to another kinsmen George Spens, an Edinburgh burgess, who provided the ready cash. S.R.O., R.D., 1/45/206b.

137. S.R.O., R.D., 1/15/121.

injustice among the Oliphants. Others were less complicated and MacDowell of Garthland had simply to make over three five mark tracts of land and a further ten merk tract to Gordon of Lochinvar and one of his kinsmen.<sup>138</sup>

It was not only for slaughters that such compensation was arranged however. In 1595 lord Forbes accepted an offer from the earl of Argyll for 1800 merks for damages done by his men in a number of raids and he thus dropped all actions against him.<sup>139</sup> Similarly, in 1579 James Wotherspoon of Birghouse was bound to pay £100 to two men "in full contentatioun and assythment for the hurting, mutilatioun, and making thame impotent".<sup>140</sup> At £50 per castration Wotherspoon appears to have got off fairly lightly, but when one considers the problems people have today in claiming for damages to health or body it seems not altogether unreasonable.

There were other aspects to the decret. Bonding was not a very common form of feud settlement since most men realised that a dependancy relationship was only of any real value if both parties wanted it. One does, however, find those like that in the Johnstone-Graham or Morton-Fernihirst cases above, or in surviving bonds, like that given by William Edmonstone of Duntreath

138. S.R.O., R.D., 1/36/302.

139. Argyll M.S., H.M.C., vi, p 630, no 223.

140. R.P.C., iii, p 206.



to James Stewart of Doune for killing his father or by John Kennedy of Blairquhan to Angus in 1578 for having so injured one of his servants that the man could no longer work for him.<sup>141</sup> In another decret in 1572 John Douglas of Erfchemoston was obliged to bond himself to Dalzell of that Ilk whose uncle he had killed.<sup>142</sup>

Homage was more common in a slaughter case with the guilty party being obliged to make public their "gret repentance and humiliatioun" to God and to the offended party.<sup>143</sup> Thus, even the powerful Hamilton brothers had to "do the honoris"<sup>144</sup> to Angus at Holyrood, "comming the whole bounds of the inner court bare headed; and sitting doun on their knees, delivering him the sword for the slaughter of Westraw".<sup>145</sup> With even more lowly submission the above mentioned Grahams and Irvines had offered to go in "our lynning claythis to sit doune upone our kneis and desyre forgivenes for Godis caus, and in tuiken of homage and repentance take our naikid swordis be the poyntis in our handis and offer thame ..." to the laird of Johnstone.<sup>146</sup> Homage here was not about feudal service,

141. Brown, "Bonds of Manrent", Appendix, p 509 no 7, p 375 no 12.

142. S.R.O., R.D., 1/13/322.

143. Wauchope M.S., H.M.C., iv, p 537.

144. S.R.O., R.D., 1/14/50.

145. Calderwood, History, iii, p 346.

146. Fraser, Annandale, i, p45-46 no 48.

and when Alexander Spens had to do "homage and honour" to the six Burnet brothers he had not recognised them as his overlord, but had expressed his humiliation and repentence.<sup>147</sup> Such an act was necessary because it had to be seen that the killers and their kinsmen were not only in the wrong, but in the weaker position, since to have concluded the assythment with a payment only, no matter how high, would have suggested that the killers had committed an act against a kin which was unable to extract vengeance and whose honour could be bought. It was a means of restoring the moral status quo upset by the success one side had had in killing a member of the other kin or clan.<sup>148</sup>

In feuds, however, one was often dealing with a situation in which men from both sides had been killed. In the Caithness-Sutherland settlement the decret dealt with hostilities between the two earls between February 1587 and its submission in 1589 during which time there had been widespread fighting between the two sides. Caithness claimed that Sutherland's men had slain ten of his people and listed extensive material damage while Sutherland claimed for the deaths of six men and similar ravaging of his land. Unlike the Icelandic sagas the

147. S.R.O., R.D., 1/41/335b.

148. How common this was one cannot be certain but one decret referred to it as "the custom of the realm", S.R.O., R.D., 1/13/322.

arbitrators did not set killing against killing so that one death cancelled out another, but decreed that the kinsmen of the dead were to take their claims individually to Caithness or Sutherland, whichever was responsible, and the earls would be bound to satisfy them. Claims for material damage were to be similarly treated.<sup>149</sup>

Such a settlement was obviously of mutual interest, but even in instances of a slaughter only being committed on one side there was a degree of mutuality. In their agreement with the Spens, the Burnets "frelie fra thair hairtis remittis and forgives safar as in thame lyis ..." the murder of their father and received the killer and his kinsmen in kindness as if nothing had happened. All civil criminal actions against him were dropped and he was to be immediately freed from the tolbooth where he was being held and was to receive a letter of slains from the Burnets stating their forgiveness of him. By a mixture of Christian forgiveness, good neighbourliness, justice and self-interest, the relationship of feud was replaced by that of outward friendship and both sides "faithfullie binds and obleiss thame to stand and remane in perpetuall aimitie and freindschip ... as gif the said slaughter had never beene quhitted nor maid".<sup>150</sup> In another such agreement the Humes and one of the Wauchopes

149. S.R.O., R.D., 1/36/24.

150. S.R.O., R.D., 1/41/335b.

of Niddrie agreed to live "in godlie peace in brotherlie societie" with one another.<sup>151</sup> The Gordons promised the MacDowells that "all rancor and malice of the hairtis consaivit and borne" against one another would be removed "sua that the memorie of it (the feud) salbe forgot and extinguisheit in all times heirefter".<sup>152</sup> These sentiments, found in the letters of slains, were more than rhetoric, and while men may have inwardly still found it hard to forgive, in a social sense all grievances were put aside and normal relationships in the community re-established. The letter of slains was thus handed over at the time assythment was paid so that both sides were seen to be gaining something from the agreement and neither was losing face unduly.<sup>153</sup>

The letter of slains was, however, only half, though the more difficult half, of the means by which a man re-established himself in the community. Remissions from the crown also had to be acquired if one was to guard against any future criminal prosecution. In principle remissions were granted in return for a cash payment; in effect a fine, on production of a letter of slains.

151. Wauchope M.S., H.M.C., iv, p 537.

152. S.R.O., R.D., 1/36/302.

153. Thus James VI's habit of having his nobles feast together after they had made their peace with one another. For a letter of slains, see S.R.O. Mackintosh Muniments, G.D., 176/166, 15/Feb/1594 from David Rose in Lyn to John Rose in Ballivat in which the former accepted that the killing of his son had been accidental and accepted assythment in return for the letter of slains.

Thus in 1589, the kin of David Turnbull in Preston were able to bring a case against William Douglas in Bonule for Turnbull's murder in 1569 on the grounds that, while Douglas had a privy remission, he had no letter of slains. However, the case collapsed when Douglas was able to produce both documents. In fact the case underlines the importance of including as many kinsmen as possible in a feud settlement, for what had happened here was that the letter of slains had been subscribed by Turnbull's wife and brother, but not his daughter who had been too young at the time but who, twenty years later, felt that she had not been properly compensated.<sup>154</sup>

However the entire remissions system remained very much at the mercy of the crown and irregularities were common. Thus in 1575 Morton granted a remission to John Smith in Balmaine and his brothers for the murder of Henry Moffet, their father having "satisfied the kinsmen and friends of the said Henry". Six months later he granted Alexander Crawford a nineteen year respite - a limited remission - for his part in the killing of Richard Allan "because my lord Regentis grace has sene ane letter of slanis given to the said Alexander for the said slauchter". However in two other respites granted during this same period, Thomas Gilbert was given his so that "in the menetye he may laboure to satisfie the partie offendit" and a number of Adairs were given their respite that "in the menetye thay may travell for satisfioun and assythment of the

154. R.P.C., iv, p 346.

said umquhile Uthreidis ...".<sup>155</sup> Probably the authorities mixed a degree of common sense with the immediate needs of the king to raise cash so that one found remissions being granted as an official blessing on the termination of a feud and as a means to allow discussion about peace to begin. Either way the crown was paid and often that was the more pressing concern than the principles supposedly adhered to.

This does not mean that the crown had nothing at all to do with pacifying feuds in the days before the legislation of the 1590's. Decrees might be delivered by the crown after parties had made a submission of their feud to it, as Scott of Branxholm and Tweedie of Drummelzier did in 1587.<sup>156</sup> As a decree handed down by the crown and registered by it, then it was also more likely to be enforced by the crown.<sup>157</sup> The royal will could be brought to bear more directly on a feud, as in 1575 when the regent Morton intervened to settle the Elliot-Hoppringle feud or at a convention of the nobility in 1602 when the king was involved in mediating in the feuds between Lennox and Argyll. Ochiltree and Loudon, Huntly and Erroll and others. Here the king was acting as overlord to his noblemen and was using his personal relationships with

155. Registrum Secreti Sigilli Regum Scotorum (ed.) M. Livingston and others, (Edinburgh, 1908- ), vii, p 58 no 379, p 85 no 579, p 56 no 375, p 66 no 439.

156. R.P.C., iv, p 225.

157. For example in 1601 the Council arranged to discuss the interpretation of a decree between Atholl and Stewart of Gairntullie, R.P.C., vi, p 299-300.

them to pacify their disputes.<sup>158</sup> Feuds did on occasion reach the justice court where a defence was likely to ask to be taken into the king's will should it become apparent that the assize would find them guilty. Thus in 1598 the earl of Cassillis charged Mathew Stewart of Dunduff with having attempted to assassinate him and, seeing the drift of the trial, Dunduff asked to come under the king's will to avoid the likely death sentence which would follow the assize finding him guilty. James in fact handed the matter over to Cassillis and his advisors and they satisfied themselves with Dunduff's banishment from Scotland, England or Ireland, and for his part the king asked for a thousand merks.<sup>159</sup> In another case James Gib was in fact found guilty by the assize of attacking and wounding James Boyd of the Kipps in an act of premeditated feud and at first the king refused to accept him into his will, as was often the case, and told the justice to go ahead and execute him, but he then intervened and reduced this to amputation of the right hand and banishment and finally to banishment only.<sup>160</sup>

More direct pressure could also be brought to bear on feuding families. The bloody feud between the border families of Haitlie and Burnfield was brought to the

158. C.S.P., Scot., xiii, part 2, p 940.

159. Pitcairn, Criminal Trials, ii, p 39-40.

160. ibid., i, part 2, p 187-89.

attention of the privy council in 1576 when the former got the backing of the king's advocate, David Borthwick, and the treasurer, lord Ruthven, in presenting their case before it. The Burnfields were ordered to find caution not to harm the Haitlies, but ignored it and carried out a further attack on their neighbours, wounding two of them. The council responded by charging that the surety on the cautions should be paid and Alexander Burnfield, one of the least law abiding members of the king, be warded. A year later Alexander escaped from ward, but found himself isolated from most of his friends when the crown forced an agreement with them under which they were to ostracise him and others at the horn with him, and forego any "quarrell, deidle feid, nor revenge" should any of them be slain at the horn. Six years later, however, Alexander was still at the horn for failing to answer "tuiching the removing of the deidle feid and contraversy standing betuix thame and certane of the surnames of the Haitleis".<sup>161</sup>

The ease with which men like Alexander Haitlie avoided the attempt of the crown to impose peace upon their feuds demonstrates its severe limitations in enforcing its will in the localities. It can be argued that the Scottish crown was very powerful when it came to dealing with political opposition, but effectiveness at the level of local politics

161. R.P.C., ii, p 302, p 534, p 625, p 630; iii, p 35, p 562.



was much more difficult. It could take sides and crush one side of the feud, but that was unlikely to guarantee that the feud would end. Certainly it was this thought which dominated the thinking of many feuding parties and formed one of the principal connections between local politics and the workings of the great court parties and factions and the control of the patronage flow. It was this political background which undermined so much of the bureaucratic attempts to pacify feuds, for as long as outlaws could hide in the protection of powerful noblemen and royal officials then outlawry itself was meaningless. Similarly, in policing the crown had to use someone in the locality and whoever he was, one could be sure that he would have some relationship with the feuding parties which made him appear not as an external policeman imposing law and order, but as a partisan taking sides.

The limitations of the effectiveness of the formal organs of government meant that if there was to be peace in the feud then it would have to come from private initiatives, or at least in the form of private settlements with some pressure having been exercised by the government. However, even these private means of bringing peace to the feud could so easily founder. The table overleaf gives a very rough indication of the settlement of feuds during this period.<sup>162</sup>

162. These figures incorporate the years to 1625 and thus include the effect of the reforms and anti-feud legislation at the end of the century.

Table 7: Settlement of Feuds

<u>Types of Settlement</u>	<u>"A" Class (contemp.) Feuds</u>		<u>All Feuds</u>	
Victory for one side	9	7%	26	7%
Voluntary Private	15	11%	58	15%
Crown Sponsored Private	43	30%	80	20%
Crown Enforced	11	8%	21	5%
Unknown	61	44%	205	53%

From this one can see that some 10-15% of the feuds were settled privately without any interference from the crown, which represents a fairly small percentage. However, to this one can add those private settlements which were the result of crown pressure and one has a figure of nearer 40% of the settlement remaining in largely private hands. Furthermore, one can assume that the majority of 'unknowns' were pacified privately since if it were otherwise one would expect to find evidence of a settlement in government records. However, while stressing the importance of these private means of settlement one must not lose sight of the role of the crown in pressurising people into settlements, a procedure which was intensified by the anti-feud legislation of the 1590's and early 1600's. Thus the "speed and effectiveness"<sup>163</sup> of private agreements which Wormald writes of is basically correct, especially if one remembers

163. Wormald, "Bloodfeud, Kindred and Government", p 73.

the short duration of the majority of feuds, but it was the crown which really ensured both speed, in devising legislation to hurry a settlement along, and effectiveness, in tightening up on its enforcement capabilities. How that was done belongs to a later discussion, but it is a point which ought to be borne in mind even at this stage.

Why the crown's help was necessary can be seen from the many reasons which contributed to the collapse of a private settlement. In "Njal's Saga" the story is told of Lyting of Samstead who killed Hoshuld Njalsson and paid compensation to Hoshuld's father Njal and to his brothers and was thus freed from the threat of blood-feud. However, three years later he was approached by Amendi the Blind, Hoshuld's illegitimate son, and asked for compensation for him as he had been left out of the settlement. Lyting refused and in a fit of God inspired rage Amendi killed him. When Amendi later told Njal about the killing the wise old Icelander said, "No-one can blame you for what you did for such things are foreordained. It is a warning to others in similar circumstances never to rebuff those who are so close of kin."<sup>164</sup> The inclusion of a wide spectrum of kinsmen in a feud settlement was thus fundamental to its success, and in many instances failure followed the neglecting of such people. The murder of lord Torthorwald in the streets of Edinburgh by a nephew of captain James Stewart occurred while the crown was in the middle of

164. Njal's Saga, p 226-27.

pacifying the Douglasses and Stewarts, but had been unable to include William Stewart in the settlement because of his own obstinacy.<sup>165</sup> In 1580 the privy council was making arrangements for settling the quarrel between Colin Campbell of Glenorchy and John Menzies of that Ilk, but on the date laid aside for discussing the feud Glenorchy's son turned up and said that his father was too old to travel in such weather and that he had been sent in his place. The council refused to go any further, saying that a feud was too important a matter to be settled without the principals' presence and set a new date for hearing.<sup>166</sup> When the Ancrum branch of the Kers finally agreed to make their peace with their chief, Cessford, and take him by the hand, they did so, but protested "alwayes that thair dewitie of freindschip might be reservit to the bairnis of the said umquhile William at thei perfyte age, to so in the mater, tuiching the said slauchter as salbe then thocht expedient be freindis."<sup>167</sup> This question of including the rights of minors was an important one and one finds many feuds like those between Glencairn and Eglinton, Crawford and Glamis and Huntly and Moray having to postpone a settlement because the son of a man killed in the feud was too young to put his own name to it. The dangers

165. R.P.C., viii, p 514.

166. R.P.C., iii, p 297.

167. R.P.C., v, p 273.

of assuming that a feud was pacified could be all too brutally exposed when vengeful sons came of age and reopened old wounds, as lord Maxwell did when he murdered the laird of Johnstone in spite of the peace made between Johnstone and other Maxwells.<sup>168</sup>

Even the negotiations themselves did not always work out as planned. People sometimes just did not bother to turn up at mediation meetings for reasons which might be genuine or were more likely excuses.<sup>169</sup> The fact was that no-one wanted to appear too eager for peace as it was taken as a sign of weakness. On other occasions the negotiations started but broke down, as in 1608 when the arbitrators for the earl of Mar and the laird of Colquhoun went home after eight months of trying to reach a settlement, protesting that the failure was not for a want of trying on their part, but that the two principals themselves wanted them to fail.<sup>170</sup> Fear might prevent men from becoming friends, as when the lairds of Culzean and Drummurichie were brought into the same house for a meeting to see if they could resolve their differences. However, their own quarrel was only part of the greater feud between the earl of Cassillis

168. See below vol ii, p 533-36.

169. For example see the Master of Ochiltree's letter to the Laird of Barnbarroch, Correspondence of Sir Patrick Waus, i, p 93.

170. R.P.C., viii, p 73.

and the laird of Bargany and at the last moment Culzean lost his nerve as he reflected on what the earl would have to say should he hear of this and he left the house before he had even met Drummurichie.<sup>171</sup> As one might expect there were other more dangerous problems which might arise when one brought together men who had for long sought to kill one another. Thus, the younger Kennedy of Blairquhan got himself drunk in Edinburgh one night and struck Livingston of Pantoshane in the face with his sword guard after some words had passed between them. The following evening Sir John Kennedy brought the two men together for a reconciliation, but as soon as they came to shake hands Pantoshane attacked his rival, laming one of his hands and striking his head "to his disgrace and that of his convoy".<sup>172</sup> Similarly, when Sir Robert Maxwell of Spotts brought together lord Maxwell and the laird of Johnstone in 1607 all his elaborate precautions proved unable to prevent Maxwell shooting and killing the laird.<sup>173</sup>

Other feuds were settled and then foundered on the failure of one or both parties in fulfilling the agreement. In 1586 the kinsmen and friends of Robert Maxwell of Crusteans complained that the men who had murdered him had lately been given a letter of slains after deceiving the

171. Pitcairn, Kennedy, p 53-55.

172. *ibid.*, p 42.

173. Pitcairn, Criminal Trials, iii, p 43-48.

king into giving them a remission on the grounds that they already had paid assythment.<sup>174</sup> Here one was dealing with deception, but in 1577 the Scott kindred broke off their agreement with the Kerrs, signed in 1564 and ratified in 1574, saying that "the said feid is newlie gevin up, freindschip dischargeit, and deidlie hatrent and grudge proclamit". The Ker chief, the laird of Cessford, complained to Morton that he was shocked since "thair is na place left now to renew that deidlie feid nether for thingis bygane nor to cum", as he had scrupulously observed the terms of the treaty, besides which the settlement had also written into it its own mechanism for dealing with a breakdown of relations between the two families. However, when the case was more fully investigated by the council it was discovered that George Kerr, apparent of Fawdonside, had failed to marry Janet Scott and had therefore incurred a penalty of 1000 marks. The Scott's complaint was thus upheld and the council offered to help mend the broken bridges.<sup>175</sup>

While relating the tale of Finn in "Beowulf" the writer warns of those who would "fetch the feud to mind and by taunting words awaken the bad blood",<sup>176</sup> and

174. R.P.C., iv, p 130-31.

175. Report of the Historical Manuscripts Commission on the Laing Manuscripts preserved in Edinburgh University, (London, 1914 and 1925); i, p 27-28; R.P.C., ii, p 643, p 665.

176. Beowulf, p 85.

even more extremely Evans-Pritchard has, as already seen, argued that a feud goes on forever since "A Nuer is proud and wants a man's body in vengeance and not his cattle."<sup>177</sup> However water-tight a settlement might appear to be, there thus remained this possibility that the feud might be rekindled. In 1598 Mr. John Nicolson and James Bellenden had been brought together by their minister after a long period of deadly hatred between them. While the two men appeared to be reconciled, Bellenden sent his son out to attack Nicolson later that same day.<sup>178</sup> That same year the family of Duncan Buchanan in Glenmocarne had complained that a feud between them and Robert Colquhoun of Camstrodane had been patched up by the latter's chief, but that shortly afterwards Camstrodane and his men had come to their land and killed Duncan, and then "in ane barbarous and eithnik maner, eftir thay knew that he was deid, cuttit and manglit his haill body with durkis and swerdis".<sup>179</sup> This does not mean that every feud was likely to be brought back to life at any moment, for the fact that both these incidents took place within a fairly short time of the settlement is significant and the longer the settlement lasted the less likely it was that the feud would be revived.

When writing of late medieval Germany, F.R.H. Du Boulay

177. Evans-Pritchard, The Nuer, p 154-55.

178. R.P.C., v, p 491-93.

179. ibid., p 381-82.



pointed out that "Without durable institutions, every initiative is an expedient." Thus the organisation of peace was not something for which there were clear legal forms to be observed, but was a "task of persuasion" and much the same can be said of early modern Scotland.<sup>180</sup> Both the crown and the local lord could wave big sticks, but on the whole there were too many ways of avoiding them and, recognising their ineffectiveness, neither king nor lord risked failure too often. The problem with the customary procedures which might bring peace was their voluntary nature. Can one imagine the contestants in the political feuds of Northern Ireland voluntarily sitting down together and sorting out their differences? No-one really had to end a feud and to take the initiative in doing so was considered a sign of weakness, inferring that the kindred or lord was unable to protect its members or dependants. With society structured in such a way as to favour feuding and with an ideology there to justify it, there was no reason to imagine that men necessarily wanted peace. Peace itself held a less ideological attraction than honour or revenge, and while law and order may have had a significant place in men's conception of how society ought to be, the feud was, in their own eyes, on the side of law and order and its violence was an ordering force in society. Only when they looked at other peoples feuds did

180. F.R.H. Du Boulay, "Law Enforcement in Medieval Germany", in History, 63:209 (1978), p 347.

they sometimes see it differently. Thus wherever interests and ambitions clashed, feud was the best means by which a man might seek to have his way, and within feud violence was the tool of persuasion most immediately on hand and most in accord with the values of sixteenth century Scottish society. With this perception of the ideals and mechanics of the feud one can make much more sense of Scottish politics, both local and national, and it is in politics that the issues of the feud come to life.

LOCAL POLITICS AND THE FEUD

### The Countryside

To the sixteenth century Scotsman, the kingdom of Scotland would have been a concept he would have had difficulty identifying closely with. The degree of identity may have varied depending upon status, location or inclination, but men from Orkney to Liddisdale and from Islay to Lothian recognised James VI as their king, both in theory and in practice. Men travelled the length of the country to attend the king's court, to seek a favour or petition there, or to attend to their business before the privy council, the parliament, the justice courts or the session and the other organs of royal administration and justice. The newly established protestant church of Scotland which grafted a more efficient and pervasive infra-structure onto the old episcopal system, added a more widely perceived link to those existing between individual localities and a common political and social heritage. Finally, the law was the same, with minor exceptions, throughout the country, and in Scots law men found a third pillar upon which the Scottish state rested. These three, king, church and law, built upon a collective memory of history and myth formed the basic understanding and recognition of the Scottish kingdom and would have been shared in to some extent by its people.

Yet this was still a society in which the locality even more than the nation shaped one's loyalties and the course of one's life. The locality could mean little more than a ramshackle cottage, or it could mean the vastness of the earl of Argyll's estates, it could mean the hard worked fields of a small independent laird or the bustling streets of the burgh. The locality was, at its most simple, home, and it was around it, along with God, kindred and lord that a man perceived his life. Home, livelihood, family, friends and enemies were, on the whole, to be found there. Men might find the king to be a poor law enforcer, but of much more significance was whether the local lord was; they might find taxation oppressive, but again of more importance was whether one's neighbours were oppressive.

What then was the locality? As has already been suggested the answer was largely an existential one; it depended upon who you were and where you lived. The earl of Huntly's back yard was somewhat larger than that of John Knox of Ranfurly and even his would be great when compared to the average tenant or peasant. However, for many the locality was not as tangible as the ground one tilled, but was closely tied up with lord and kin, or with burgh, so that the bonds of blood and dependence gave life to the skeletal form outlined by geography. Even the humblest of men could thus take pride in the name and lands of a lord Maxwell or earl of Mar. To be Hume's,

Atholl's or Donald Gorm's man said as much about where a man lived as about who he took his orders from. There were exceptions, but if a man's name was Campbell and he lived in Argyll, one had more than his address.

In a structural sense the locality is more visible. It was castle or tower-house, baronial court, church, village, cultivated lands, grazing pasture, water and woods. Within this physical environment the community largely worked, worshipped, entertained itself, gave and took in marriage, was born and died. It was a community with much less need to look outside of itself than localities do today, though they were by no means islands cut off from one another. Except for the few whose horizons were greater or whose occupation took them further afield most men would also find that their frustrations, their conflicts and their enemies were also local, if not from within their own immediate community then from among its neighbours. Leaders of local society, lairds and noblemen, were, because of their positions of predominance, responsible for shaping the politics of the locality, and where their ambitions clashed with one another, feud became the politics of the locality.

Land was of course the greatest source of conflict in pre-industrial society as for all; but a very few it or its

produce was the basis of wealth.<sup>1</sup> James VI himself recognised that the "mairt pairt" of feuds "haith aysen upoun contraversie of marches, teinds, or casting of faill and diwott, or such lyk occasionis, the beginning wherof oftentymes carryed perhaps small schaw of inconvenience howeiver thay haif afterward tryed to bring very hard and troublesome, and dangerous requellis and eventis."<sup>2</sup>

1. For a discussion of this question of territory throughout the animal kingdom see R.Ardrey, The Territorial Imperative, (London, 1970). J.K.Leyser identified inheritance laws as responsible for the fragmentation of land and as the main cause of the "perennial feuds" and rebellions of the ninth century German aristocracy, Leyser, "The German Aristocracy from the Ninth to the early Twelfth Century. A Historial and Cultural Sketch", in Past and Present 41, (1968), p 25-53. J.Larner drew attention to similar problems in fifteenth century Romagna in his article "Order and Disorder in Romagna" in L.Martines (ed.), Violence and Civil Disorder in Italian Cities, 1200-1500, p 64; K. Nicholls shows the similar effect tanistry laws had in leading to feud and instability in Ireland, Nicholls, Gaelic and Gaelicised Ireland in the Middle Ages, (Dublin, 1972), p 25; even in England with its more refined legal structure "technical flaws could nearly always be alleged or found", J.P.Cooper, "Patterns of Inheritance and Settlement by great landowners from the fifteenth to the eighteenth centuries", in Goody, Thirsk and Thomson (eds.), Family and Inheritance, p 210. Also of some use is E.Le Roy Laduerie, "A System of Customary Law: Family Structures and Inheritance Customs in Sixteenth Century France" in R.Forster and O.Ranun (eds.), Family and Society, (Baltimore, 1976). Nor have such conflicts altogether disappeared from our own society as Yablonsky has shown in his study of gangs in New York. Thus a gang member describes a territorial dispute, "You have a certain piece of land, so another club wants to take your land, in order to have more space, and so forth. They'll fight you for it. If you win, you got the land; if you don't win, then they got your land. The person that loses is gonna get up another group, to help out, and then it starts up all over again." Yablonsky, "The Violent Gang" in Endleman (ed.), Violence in the Streets, p 234. Glen makes similar observations for Glasgow, Glen, A Glasgow Gang Observed, p 90.
2. R.P.C., viii, p 621.

Ownership of land was the cause of innumerable law-suits and a great many blood-feuds in a society which had not so developed its legal procedures and bureaucracy that most claims could be substantiated on paper. Nor was there sufficient respect for the written word anyway to ensure that what was upheld in the court would be adhered to on the ground. Forgeries, badly worded charters, redeemable land contracts, enforced sales, forfeitures, escheats and long memories all made the land market a source of continuous claiming and counter-claiming. In sixteenth century Scotland the feuding movement and the transfer of church lands, and in particular of teinds, to secular owners brought a whole new set of people and problems to land ownership. While much of this was settled in court or in peaceful out of court deals, a great many men turned to the feud in pursuit of their interests.

Just how many land disputes there were for this period is not known, but it was very high as even a survey of the number of cautions in which men promise not to molest another man in certain lands could show.<sup>3</sup> In 1587 the earl of Angus and lord Fleming submitted rival claims to the lands of Kilbacho to parliament in the hope that they could end a dispute begun during the years of Morton's regency but others did not agree to mediation so easily.<sup>4</sup>

3. For example R.P.C., iii, p 675, Archibald and Dundas.

4. A.P.S., iii, p 472.



In 1591 a simmering dispute between the earl of Argyll and lord Ogilvy over the seignorie of Coupar abbey blew up when the master of Ogilvy, believing that the dean of the abbey was administering the abbey in Argyll's interests, began to intimidate him. Argyll immediately responded by sending his own men with a contingent of Magregors and other outlaw bands under his control on a series of retaliatory raids against the Ogilvies. During the late summer and early autumn of 1591 the raiding intensified with sixteen of lord Ogilvy's men being killed on one of them. Seeking revenge for this the master of Ogilvy led a party of men into Atholl where four Campbells were living under the protection of the earl of Atholl and slaughtered all four of them. Argyll, or more likely his tutor, John Campbell of Cawdor, unleashed an even more severe raid, this time not with the objective of booty but to inflict punitive destruction. Lord Ogilvy himself was almost captured and the Campbells turned on the country "with sic barbarous crueltie, not sparing wyffis and bairnis, bot murthourit and slew all quome they fund thairin, to the mowmer of xvllll or xx personis" and stole a great amount of livestock.<sup>5</sup> Furthermore, the earl of Atholl was furious that his lands had been invaded and was raising his own forces to use against Ogilvy. Recognising that the matter was getting very quickly out of hand in an area already destabilised

5. This is the more conservative estimate of deaths, another puts it as high as thirty.

by the Huntly-Stewart feud, the crown intervened. Both sides were ordered to assure one another and a committee was sent north on a fact finding mission and with a commission to arrange a private settlement. However, Argyll had been so angered at the murder of the four Campbells that he insisted on taking the matter to court, and when the king blocked this because he wanted it settled out of court for political reasons of his own, Argyll ordered another raid. Annoyed at Argyll's intransigence, the king gave permission to Ogilvy to execute two Magregors he had captured in the raid. This only made Argyll all the more stubborn about a trial and he pushed ahead in spite of the king's wishes and only after weeks of manoeuvring and persuasion did he agree to drop the case if the matter were tried by the privy council. There, Argyll's outlaws, the master of Ogilvy and all those who took part in the murder of the Campbells were denounced, both men were bound over in £20,000 and shortly afterwards the Ogilvies concerned went into banishment in England, Argyll's men being beyond the reach of anyone but himself.<sup>6</sup>

Apart from showing some surprisingly efficient government action at what was a bad time for the crown, and the foolishness of a man like lord Ogilvy feuding with Argyll, the case shows how in a few weeks a feud could erupt from peaceful competition into violent conflict. However this was not just a highland problem. In 1579 the first lord Torpichen died and in his

6. R.P.C., iv, p 682-84, p 687-88; C.S.P. Scot., x, p 566-67, p 569-70, p 572-73, 575, 585.

will made over to his wife the heritable rights to the Halyards in Lothian, which, by a second disposition, he had also granted by feuferm or for rental to the tenants and labourers of the land "... and that fraudfullie to collect in great sowmes of money". His wife later married John Graham, a senator of the college of justice, and she transferred her rights to the lands to him. By exploiting his position Graham was able to have the rights of the tenants nullified by the college, but it was later discovered that one of the notaries working on the case had been bribed into fixing some of the evidence by Graham's brother. When the matter was investigated all sorts of damaging loopholes were found in lord Torpichen's other rents and in those of his tutor, Sir James Sandilands. The notary was hung, but while Graham escaped intact, he had incurred the wrath of the Sandilands family and a feud broke out which eventually lead to his death in 1593 in the golf club incident described above, and to the involvement of the duke of Lennox and his own chief, the earl of Montrose, before it was settled in 1599.<sup>7</sup>

In the highlands there was certainly more opportunity for old fashioned baronial expansion. Since 1518 the Glengarry MacDonalds and the Mackenzies of Kintail had been skirmishing over the rights to Lochalsh, Lochcarron

7. Historie, p 265-67, Spottiswoode, History, p 437; Birrel, "Diary", p 29.

and Lochbroom which had been shared between the chiefs of the two clans. However in 1582 Kintail stepped up the feud when his brother captured Glengarry himself in his home. The unfortunate chief was dragged around the countryside and over thirty of his kinsmen and servants were also taken by the Mackenzies who "... band thair handes with thair awin sarkis, and cruellie and unmercifullie, under promise of sauftie of thair lyffes, caussit murther and slay thame with dirkis, appointing that thay suld not be bureit as Christian men, bot cassin furth and eitten be doiggis and swyne" while one of Glengarry's principal friends was not put to a "simple death", but "to buitt thame in his blude and be a strange exemple to satisfie thair cruell and unnaturall heartis, first cutt of his handis, nixt his feit, and last his heid, and, having cassin the same in a peitpott, exposit and laid out his carage to be a prey for doiggis and reuenus beistis:". Glengarry himself was eventually freed and his own men committed equally cruel deeds over the next twenty years, but the Mackenzies had taken the initiative and were to keep it with the disputed lands eventually being conceded by the much weakened Glengarry clan.<sup>8</sup>

Women landowners were a particularly vulnerable target for such aggression. Many bands of caution concern women

8. R.P.C., iii, p505-06 and others for the rest of the feud. See also Gregory, History of the Western Islands and Highlands, p 218.

who required protection from neighbours or more commonly from sons, if they were a widow, or from former husbands if they were divorcees. In 1588 William Johnstone complained to the privy council that ten years before, his mother had obtained a decreet upholding her rights to the lands of Wamphray which his elder brother had been keeping her from since 1567, but that the decree had never yet been put into effect. Three years later lady Wamphray was still trying to get her lands back and it is not known if she ever did.<sup>9</sup>

Dame Jane Hamilton complained that her estranged husband, the earl of Eglinton, was molesting her tenants and had refused to infeft her in lands promised to her and that "he being a grit man and judge in the cuntrie quhair he duellis, sche can get na remeid nor redress againis him by way of captioun or atherwyise as he war ane privat persoun".<sup>10</sup> Nor were such problems ended with divorce as lady Innermeith discovered when her former husband, James Gray, the younger brother of the master of Gray, gathered his friends and kinsmen and attacked her lands and occupied Reidcastle, her home.<sup>11</sup> Women, particularly powerful ones, were not defenceless however. The countess of Erroll was just one who had to give caution that she would not harm one of her male neighbours and lady Ross similarly agreed to leave Oliver Sinclair in Renfrew in

9. R.P.C., iv, p 273-74, p 654-55.

10. R.P.C., ii, p 303-04.

11. R.P.C., iii, p 125, 155, 171-72, 188-89, 211, 217-18, p 230, 276, 278, 361.

peace.<sup>12</sup> Others went further and in 1616 lady Howpaslot and her friend Jean Scott of Satchellis held "a Course of War" when they discovered that Douglas of Drumlangrig had acquired the property of Howpaslot by Wadset. There they decided on a course of action which led to them hiring some local ruffians who went and slaughtered a great number of Drumlangrig's sheep before they were caught and hung.<sup>13</sup> However few women could hit back in this way and, unless they could find protection in marriage, they often found themselves the victims of territorial ambitions.

As one might expect, many disputes arose over march land between two landowners, for while the land itself was usually of no economic importance, any infringement of it was seen as a test of a man's willingness to defend more valuable properties. Thus one finds the earl of Perth and lord Livingston feuding over march lands in Mentieth in 1615. Both these men were courtiers but they were both willing to risk the king's disapproval for the sake of marginal lands on the periphery of their estates.<sup>14</sup> Such a matter was as important to them as it was to obscure lairds like Haig and Halyburton who in 1610 were called to account for their feuding over similar marches between

12. R.P.C., iv, p 383, p 315.

13. Pitcairn, Criminal Trials, iii, p 380-89.

14. R.P.C., x, p 362.

their lands.<sup>15</sup>

It was not just among landowners that such problems arose for landowners and tenants might also take to arms to defend their interests. When the earl of Atholl tried to dispossess Campbell of Glenorchy from his land of Drummancrieff in Perthshire which the latter held on a tack of twice nineteen years, Glenorchy resisted. Atholl threw out Glenorchy's tenants and prevented him from drawing rents and when Glenorchy took the matter to Perth sheriff court and was awarded six cows in compensation Atholl's men simply stole them back again.<sup>16</sup> Only a few years previously Atholl had signed a bond with Glenorchy agreeing to help him force Menzies of that Ilk to give him back lands he and his family had previously held from Menzies but from which Menzies had ejected him.<sup>17</sup>

The uncertainty of the ownership of teinds or tithes payable on old church lands was an additional source of conflict in the later sixteenth century. The problem became especially acute in the late summer when the "leading of the teinds", their ingathering, took place,

15. R.P.C., ix, p 8. This is of course a fairly common phenomena, e.g. see Lerner, "Order and Disorder in Romagna" in Martines (ed.), Violence and Civil Disorder, p 40-41, "From time to time private wars over boundary disputes and rights of pasturage would break out between rural communes and even on the plains, boundary disputes at harvest time were likely to lead to killings between communities."

16. R.P.C., iv, p 687.

17. Brown, "Bonds of Manrent", appendix, p 546, no 73.

and both sides turned up armed and ready to prevent the other from collecting that tenth of the harvest under dispute. This happened in 1572 in Perth when lord Ruthven and Bruce of Clackmannan both appeared with their men to collect the teinds "quhairupon grit blude shed, deidlie reid and utheris inconvenientis happynnit ...".<sup>18</sup> Thus in the following year the government pre-empted any such recurrence of the fighting and appointed a neutral man to gather the teinds until their ownership was decided. In a similar feud between lord Oliphant and Montcrieff of that ilk in 1580 the crown appropriated the teinds from lord Oliphant,<sup>19</sup> but when in 1619 two of the king's guard were sent to the parish of Greenlaw to collect a stack of teinds, ownership of which was being disputed by Hume of Coldenknowes and Hume of Manderston, they were only partially successful as Coldenknowes and his friends made up what they considered to be their loss from the threshed victual in Manderston's barns.<sup>20</sup> Nor was the crown able to prevent the treasurer, lord Ruthven, and the master of Oliphant coming to blows over disputed teinds in an incident which left a number of men dead and wounded.<sup>21</sup>

A more detailed look at one teind confrontation shows just how potentially dangerous such situations could be.

18. R.P.C., ii, p 273.

19. R.P.C., iii, p 311.

20. R.P.C., xii, p 81, p 89.

21. R.P.C., iii, p 329; Historie, p 180; Pitcairn, Criminal Trials, i, part 2, p 89-92.



In this case no violence took place and the question was settled on a short term basis by neighbours in the locality; but the brinkmanship involved was highly risky and could very easily have ended otherwise. The earl of Cassillis had been in the practice of employing the laird of Bargany to act as tacksman in the collection of the teinds of the lands of Girvanmains while similarly using the laird of Girvanmains on Bargany's lands. However, he was not satisfied with the procedure, possibly suspecting that the two lairds had come to some arrangement of their own which was reducing his returns and he obtained a decret against them while secretly preparing to go and uplift the teinds himself. Unfortunately the two lairds found out about his plans in advance and convened their own forces, posting them within their enclosures so that the earl could not gain entry without a fight. Frustrated by this, Cassillis went home and obtained a further decret against one of Bargany's tenants which allowed him to intromit with the man's entire standing crop. This time his men did arrive unsuspected but they had only shorn half the crop when Bargany appeared with a larger force and some carts and took the corns away with him. With a fine display of Sabbitarianism both sides let the next day, a Sunday, pass without incident, and on the Monday Cassillis led out a much bigger force to collect the remainder of the crop. Again, though, Bargany beat him

to it and was entrenched within the enclosures and the walls of the yard and houses with six hundred horsemen, two hundred hagbutters and a number of basses (a long light weight canon) where he was joined by lord Ochiltree with another hundred horsemen. Cassillis could easily outnumber this, but seeing Bargany's tactical advantage and the number of guns he had with him, he was reluctant to order an attack. Fortunately, lord Cathcart was either sent for or turned up and he was able to arrange a settlement which saved face all round and prevented what could have been a very bloody incident. Thus, the Kennedy historian tells us, Bargany went home, Cassillis took possession of his lands and John MacAlexander, the tenant, "schoir his cornis in peace". It was a fortunate escape for all involved and any thoughts that it was all a matter of bluff and counter-bluff ought to be dispelled by the fact that Bargany and a number of his men were cut down a few years later when they were overwhelmed by the earl and his forces.<sup>22</sup>

The question of land ownership and the rights to what grew on it were thus a significant factor in deciding the politics of a locality, creating enmity where none had existed and forcing men into friendships to counter their enemies. Yet it was not just the land itself which could divide a locality, it was only one, though the major one, of a number of natural resources. Peters' point that

22. Pitcairn, Kennedy, p 36-38.

"feud is competition for preferential access to natural resources" and that "as long as these natural resources are scarce and competition continues, the pattern of feuding stays" is a simplistic but relevant argument.<sup>23</sup> Though less important than among Peters' Bedoiun, water was one such important natural resource over which men competed. In Scotland water was not scarce and it was not for drinking that men fought over it but as a source of energy and of fish. In 1609 Innes of Innermarcky and Innes of Blackhills were warned not to make convocation of their men in order to pursue their quarrel over the bigging of a mill dam and the bishop of Moray was asked to intervene and mediate.<sup>24</sup> Lundy of Balgony was warned not to build a dam on a part of the Water of Leven as the ownership of it was being contested by lady Bass whose armed men had also been seen at the site.<sup>25</sup> Lord Oliphant complained that the master of Tullibardine had brought his armed men to his mill dam and destroyed it and in 1588 Tait of Adamhill complained that Wallace of Cragy had blocked his passage to a water-gang and a mill dam.<sup>26</sup>

Peats were another natural resource neighbours fell out over. When Weymes of that Ilk and Scott of Balwery set about gathering their men to gather certain "turves"

23. Black-Michaud, Cohesive Force, p xxvii.

24. R.P.C., viii, p 320, p 589.

25. R.P.C., x, p 657-58.

26. R.P.C., ix, p 235; iv, p 328.

or peats and a skirmish looked likely, the privy council heard of it and sent the sheriff of Fife to collect them until their ownership was decided. Thirty years later, in 1615, the earl Marischal and Douglas of Glenbervie had a similar dispute and were also warned off by the crown, but in 1621 events in the locality ran ahead of privy council intelligence. The Douglas lairds of Drumlangrig and Cashogle argued over the rights to the raising of the peats of the Moss of Knockonie which were claimed by the latter, even though they lay on the lands of Drumlangrig's brother. Cashogle had formerly been allowed to raise the peats as a favour but that right had been withdrawn when he and the Drumlangrig Douglasses had fallen out over some small matter. However, his insistence in continuing to raise the peats was more serious. On two occasions his servants were turned away from the Moss, but on the third occasion he went himself with a larger force of armed men. Drumlangrig turned up with his own men to stop him and fighting broke out in the course of which one of Drumlangrig's younger brothers suffered a severe head wound while Cashogle's son lost an ear, one of his men was killed and a number of others suffered lance wounds.<sup>27</sup>

Fixed property could also be the cause of such local feuding. On the borders the Humes and Kerrs contested the

27. Chambers, Domestic Annals, i, p 520-21; Pitcairn, Criminal Trials, iii, p 500-01.

ownership of Spielaw castle and on one day turned up in force and the fight which followed caused "the breaking of many staves and shot of many 'pistollis'".<sup>28</sup> In 1600-01 Bruce of Clackmannan and Bruce of Fingast fought over the ownership of a house and a number of men were hurt and one killed before Fingast, the rightful owner, finally burned the house down.<sup>29</sup> In 1613 the lairds of Largo and Cambo came close to breaking the peace of their locality over some coal fields and the commendator of Cambuskenneth and Murray of Touchadam were at odds over some stones in the mouth of the Doven Water.<sup>30</sup>

Nor was the sacred exempt from being the object of such profane struggles. A common source of tension in a community was the seating in the local kirk which was becoming too small for the number of lairds in a locality who thought that they ought to have the place of honour there. Andrew Wood of Largo and Robert Lundy of Balgony feuded over a seat in Largo kirk for over a decade during which time Largo destroyed the seat installed by his rival, both men defied the local presbytery and the crown and so disrupted church life that it was unable to meet for worship.<sup>31</sup> Similar disputes took place between Kerr of Cessford and Haig of Bemerside in 1599 and between Sir

28. C.B.P., i, p 460.

29. R.P.C., vi, p 167, p 197-98.

30. R.P.C., x, p 5, p 27; viii, p 158.

31. R.P.C., vii, p 424 through to refs in R.P.C., x.

John Wood of Fettercairn and Stratoun of Lauriston from 1612 to at least 1622.<sup>32</sup> In fact as a place of meeting and one of the focal points of the community, the church and its yard was often the place of confrontation on Sabbath mornings. In 1591 John Hoppringle of Muirhouse and his followers went to the churchyard of Stow and killed there a David Taylor with whom they had a quarrel. In 1612 the Lochie and Hair families lined up in the kirkyard for an affray and only the intervention of the deputy sheriff of Dumfries prevented bloodshed.<sup>33</sup> Nor were ministers immune from the dangers of feud. In 1576 the kirk in Ancrum divided when the minister refused to baptise the child of a man whom he said kept images in his house and when the mother died shortly afterwards, supposedly of grief, "the husband conceived a deadly feud against the Minister."<sup>34</sup> Other ministers sought protection in acts of caution and

32. C.S.P. Scot., xiii, part 1, p 373; R.P.C., x, p 208.

33. R.P.C., ix, p 490. This same point is made by C.Haigh, Reformation and Resistance In Tudor Lancashire, (C.U.P., 1975), p 53-54, "The church was the only place where enemies were almost certain to meet, and this is one reason why conflicts between families often revolved around ownership of a pew in a church or chapel." Nor was this a new problem in Scotland as the fifteenth century Scottish church was also frequently 'violated by the effusion of blood'. I.B.Cowan, "Church and Society" in Brown (ed.), Scottish Society in the Sixteenth Century, p 113, is also illuminating.

34. The Booke of the Universall Kirk of Scotland: Acts and Proceedings of the General Assemblies of the Kirk of Scotland from the Year MDLX, ed. T.Thomson, 3 vols., (Maitland Club, Edinburgh, 1839-45), i, p 364.

in 1595 a George Mure was hanged for killing two ministers.<sup>35</sup> However some ministers could strike back and a number of them had to find caution not to harm their neighbours.<sup>36</sup> What one does not really find, in spite of Professor Donaldson's assertion of the contrary, are feuds over religious issues and a common complaint by observers was that "never a nobleman will countenance the ministry, such excepted as has private quarrels to debate that will be contented for some time to receive their assistance for palliation of their proper designs".<sup>37</sup>

Many feuds however were concerned with less rational objectives. In 1579 MacLean of Dowart went to the isle of Giga and there "maist cruellie, barbaruslie, and unmercifullie mordreist and slew nyne of the maist honest men within the said yle ..." and "... not satiat thairwith, tressonabillie rasit fyir and brint and distroyit the houssis and cornis on most of the island". Very often such raids began with cattle as the objective and cattle raiding was common in both the highlands and on the borders, but the aim of cattle raiding or any other form of raid with an economic objective was not destruction on this sort of scale.

35. Balfour, Sir James, "Annales of Scotland", The Historical Works of Sir James Balfour (ed.) J. Haig, (Edinburgh, 1824-25), i, p 397.

36. For example, R.P.C., iv, p 120, pl32.

37. G. Donaldson, Scotland, James V-VII, (Edinburgh, 1971), p 40; C.S.P. Scot., xiii, p 557. The only vaguely religious feud was a duel fought in Edinburgh between two men, one of them argued that there were seven sacraments, the other "but two, or else he would fight". Both men died. Birrel, "Diary", p 42; Chambers, Domestic Annals, vol i, p 285.

Raiding was part of the economy of such a society but very often it got out of hand and was followed by an escalated response, as happened in 1579 between MacLean and the earl of Argyll who seemed to be indulging in mutual destruction for no apparent reason.<sup>38</sup> Of course there might be no more reason for such feuding than oppressive bullying. Thus William Dunbar of Blantyre complained that William Hamilton of Sanquhar "having consavit ane deidlie hettrent and malice causles" against him went to his house one night and broke in intending to harm him, but not finding him there he set about wrecking the house.<sup>39</sup> In this case Sanquhar himself did not even know what the feud was about. Similarly between 1598-1602 George Murray of Broughton suffered a series of attacks from Stewart of Garleis and his friends during which time five attempts were made on his life, one of his servants was mutilated, horses were stolen and property damaged.<sup>40</sup> Again Broughton did not seem to be aware of any reason for such attacks and Garleis's behaviour seems to simply be that of an oppressive neighbour who liked to throw his weight around. There is an obvious problem here in whether such cases are in fact feuds since only one side appears to be actively feuding, but Blantyre described Sanquhar's attacks as feud and so one must accept that they were indeed feuds, however reluctant and passive one side might be.

38. R.P.C., ii, p 94-95, p 135.

39. R.P.C., iii, p 187.

40. R.P.C., vi, p 405-06.



Feuds over jurisdictions were, however, more common and are more identifiable. While lordship was essentially a cohesive force in society, where it was in doubt it could also be destructive. The Kennedy kin in south Ayrshire were throughout this period in a state of almost constant feud over questions of lordship due to a combination of circumstances in the Cassillis earldom of Carrick. In one clash between the young earl and his uncle, the master of Cassillis, the latter slew a dependant of the earl's because he had accepted a grant of land from him in opposition to the master's own nominee. On another occasion the independently minded laird of Bargany broke into the house of another of Cassillis's dependants, infuriating the earl who vowed "to be evin" with Bargany since "my Lord thocht the samin done to him", while the sons of the laird thought the earl "owr reir cumit thair of to craiff thair bluid" and determined to kill him instead.<sup>41</sup> When Cassillis began evicting many of his kindly tenants in Galloway he found his lordship further questioned and the Galloway men agreed that "quhome on that ewer me Lord beganne to dispossess, that thay suld all defend him, with thair horse.", which they did, trapping the earl in one of his castles and forcing him to make a number of concessions.<sup>42</sup> Cassillis's problems were perhaps worse than most, the presence of a powerful cadet branch of the Kennedy kin in the house of

41. Pitcairn, Kennedy, p 28-29, p 21-22.

42. *ibid*, p 30-35.

Bargany and of a number of extremely tough minded characters compounded the strains already being put on lordship by changing economic and social conditions and the usual difficulties which followed a minority situation, but they were not unique to him and the powerful Campbell kin was experiencing similar problems in Argyll. Like Cassillis, the earl of Argyll eventually came out on top and re-established his authority by a mixture of force and persuasion, though in Argyll's case it took most of his life to achieve it, and even then his relations with his dependants remained a little sour.<sup>43</sup>

Other lords' difficulties with dependants brought them into clashes with their neighbours as a dependant sought to free himself from one lord and seek better terms from another. In 1613, Argyll accidentally uncovered some old charters which gave him rights of lordship over Alan MacDonald Duy in Lochaber, and after some discussion with MacDonald the latter agreed to accept the terms of the charters. However, this infuriated Argyll's old enemy, Huntly, who had traditionally exerted control over Lochaber, and he refused to accept MacDonald's excuses that his agreement with Argyll was really only an economic one and that his loyalty to Huntly was never in question. Huntly then sent

43. For a discussion of the Campbell situation see E.J.Cowan, "Clanship, kinship and the Campbell acquisition of Islay", in S.H.R., iviii, 2: No 166: Oct. 1979, p 130ff.

his son, the earl of Enzie, to dispossess MacDonald and put others in his place, but MacDonald called a meeting of these men and others among his kinsmen and told them that he understood the pressure Huntly had put them under, but that everything could be settled if they remained united. However, they insisted that he go and see Huntly himself and sort it out with the marquis. MacDonald went to Edinburgh for legal advice and while he was there these men turned against him and plotted to make their peace with Huntly at his expense. He therefore went home, gathered his most trusted friends and tricked these others into an ambush where around twenty of them were slaughtered. His victory was short-lived though as Huntly unleashed his forces against him, and with Argyll too busy on the west coast, MacDonald was soon reduced to the role of an outlaw. It was the sort of firm handling which was so typical of Huntly and which earned him a reputation for violence, but it was the sort of action which made his lordship so strong and effective.<sup>44</sup>

In 1618 a similar revolt faced the earl of Sutherland and his tutor, Sir Robert Gordon, when the earl of Caithness began to undermine his authority over Macky of Strathnaver. Caithness and Mackay met secretly and agreed to smash the clan Gun who operated as Sutherland's hit men in the feud with Caithness, something Mackay was happy to participate in as he felt that Sutherland had been excluding him from

44. R.P.C., x, p 818-20.

his council. Word of this was soon leaked to Sutherland who let it be known that he would defend the clan Gun and he offered them territory closer to his base at Dunrobin. Mackay responded by committing himself even further to Caithness and promised to carry out a murder for him. Sutherland's problems were exacerbated when John Gordon of Enbo fell out with Sir Robert over the possession of certain teinds and joined with Mackay against his overlord. Both sides began preparing for fighting and a number of instances of probing brinkmanship followed. However, Caithness was virtually impossible to work with and his suspicions of Mackay persuaded the latter that he had probably done enough to persuade Sutherland to accept him back on improved terms, and in fact the earl readily agreed to arbitration, he being in a very unsound financial position and unable to sustain yet another long feud. Enbo, however, was excluded from the agreement, it being thought "ane evill exemple, that the Earle of Southerland his owne vassallis should come under his other vassalls protection and accord", and he was removed from Sutherland along with any others who had joined Mackay.<sup>45</sup>

That there should be feuds over lordship is not really surprising; it was one of the principal sinews of power both in national and in local politics. The more men one had at one's call, the more powerful one was, and

45. Gordon, Sutherland, p 354.

to steal another man's support not only increased one's own status in the locality but reduced that of one's competitors. It was something which dependants like Mackay were as aware of as their lords and it was thus a lever to be used when they became dissatisfied with the kind of lordship they were getting for their support. Mackay had backed Sutherland for years against Caithness, but in return he felt that he had been left on the outside by the Gordons and that his own personal interests were being ignored. Caithness offered the prospect of a change which might bring better returns for his investment or at the least it was a way of putting pressure on Sutherland and his advisors. For Caithness, as for Argyll in the previous case, it was all part of a wider regional struggle in which Mackay could change the balance of power just as the shifting of Lochaber to Argyll could. In neither case did the opposing earls come into conflict, though in other instances such manipulations did bring the principals to blows, but clearly such exploitation of lordship was destabilising and disruptive in their localities.

Yet the feuding which could break out between lord and dependant and between lord and lord over dependants should not persuade one that it was any less stable a means of exerting power in a locality than through the official channels provided by the king and his government. Royal

offices and commissions were as much a source of local pre-dominance as land or men since many of them brought additional authority to the holder, both in giving him the right to command others in the locality and the opportunity to exploit their loyalty to the king for his own purposes, while also ensuring that his actions were largely within the law and that those who opposed him were opposing the king himself. Such commissions could give a man enormous political advantage and alter the power balance in a locality in his direction even if few of them actually gave him any more immediate power in the sense of more land or royal soldiers to command. The fact that the king could not pay his officials and control or govern the localities through men in his employ meant that he had to put his trust in men who were already powerful in a locality and could effectively do the job for him. In effect, the king was forced to take sides in the politics of a locality while local factions had to have their connections at court to ensure that they, and not their enemies or rivals, received the king's favour. The court side of this equation is explored later, but in the localities themselves, the struggle to hold a bailley court or the practice of exploiting the sheriff's office was no different from the more publicised feuds to control the great offices of state and to exploit them.<sup>46</sup>

46. Even in England it has been argued that "the order keeping forces of the state remained largely in private hands", James "Politics and Honour", p 43-44.

Holding court, whether baronial, bailley or whatever, on the land of a man who claimed exemption from its authority was a common cause of friction. Such a situation arose when either the holder of the office sought to extend his influence in a locality or when another man felt that his prestige had now grown sufficiently for him to be slighted by being under the jurisdiction of one who he refused to acknowledge as his social superior by submitting to his court's authority. Thus, in 1612 a quarrel broke out between Angus and Ker of Fernihirst over the holding of a court on the former's lands by Fernihirst who claimed that he did so as heritable bailley to certain of the earl's lands. When Angus turned up to stop him challenges were exchanged and an ugly scene was narrowly avoided.<sup>47</sup> In 1598 the tenants of the lordship of Coupar took the earl of Atholl and lord Ogilvy to court because they were tired of being the object of a feud between them as to who had bailley rights to Coupar.<sup>48</sup> On another occasion it was reported that "some discontents wer lyke to breed a greate deall of mischeiffe" between the marquis of Hamilton and the master of Ogilvy over the holding of bailley courts in the regality of Arbroath.<sup>49</sup> Nor was it just bailley courts which were a source of trouble as even an admiralty court in

47. R.P.C., ix, p 372-74, p 394, p 398-400; x, p 156.

48. S.R.O., Airlie Muniments, G.D. 16/41/108. This feud is first mentioned in 1593 when fighting first took place and it was still unsettled under Atholl's successor in 1606. C.S.P.Scot., xi, p 102; R.P.C., v, p 523, p 552; G.D. 16/41/129, S.R.O., G.D. 16/41/134.

49. Balfour, "Annales", ii, p54.

Galloway could bring men to confrontation as in 1600 when Gordon of Lochinvar's son took command of Lochryane and held court there in his father's name in spite of an order from the crown to desist from doing so until the feud with Kennedy of Bargany over these admiralty rights were settled. . In fact this feud, which is first mentioned in 1580, was still causing rumblings of discontent in 1615.<sup>50</sup>

The manner in which such courts and other commissions and offices were exploited explains why so much effort was put into acquiring them. Men were expected to manipulate such positions in their own interests, and even if they did not, others would claim that they had in order to discredit them. Sheriffs were a prime object of such attacks. Thomas Cuming of Altir was able to present sufficient evidence, real or contrived, to persuade the government that he should be exempted from the authority of James Dunbar of Cumnock, the sheriff of Elgin, because of the deadly feud between them. However, this did not stop Cumnock who arrested one of Altir's servants and executed him for theft and even after being denounced by the privy council he continued to exercise his office and to feud with Altir.<sup>51</sup> In 1596 Kirkpatrick of Closeburn complained that the sheriff of Dumfries, Crichton of Sanquhar,

50. R.P.C., iii, p 317; vi, p 84, p 87-88; x, p 394, p 622.

51. R.P.C., iv, p 283-84. In 1619 Cumnock's successor, James Dunbar of Westfield signed a disposition which referred to the "inimitie and deadly feud standing onreconceillit betuix me and my predecesseuris and James Cuming of Altar.", Cuming M.S., H.M.C. vi, p 688.



had broken off friendship with him and intended to exploit his authority against him. In particular the sheriff had bonded with his enemy, Douglas of Drumlangrig, with whom Sanquhar had agreed to "giff up kyndnes with the said Thomas and prosecute his haitrent and malice aganis him as thair commoun enemy with all extremitie." Since the agreement had been made Sanquhar had already taken one of Closeburn's men prisoner, and when he had sent another to him with a missive, he had executed the man for alleged theft. The council responded more positively this time, or were more able to, arrested Sanquhar and discharged Kirkpatrick from his jurisdiction.<sup>52</sup>

A much greater scandal of this sort took place in Aberdeen in 1616. A feud had broken out between members of the Gordon and Hay kins following the murder of a Gordon by a Francis Hay. Gordon of Gight gathered together a party of armed men on hearing of this and rode off to the home of the Hays of Brunthill who had reset the killer. There the Gordons broke in, badly beat up the three Hay brothers who lived there and captured Francis. He was then dragged off to Aberdeen, to John Gordon of Clubbisgoull,

52. R.P.C., v, p 378-79. Closeburn was in fact Sanquhar's deputy-sheriff. A few years before Closeburn and Drumlangrig quarrelled as the latter had acquired a new commission of justiciary which clashed with Closeburn's, to "cullour and cloik the wicked and mischivous deidis" of his men, and a number of confrontations followed. R.P.C., iv, p 735.

Huntly's deputy-sheriff of Aberdeen, and a trial was staged in which the assize was composed of Gordons and their supporters and Hay's lawyer was warned not to appear. Not surprisingly he was found guilty and was taken out into the nearest backyard and slaughtered in a badly messed up execution, his corpse being left there horribly mangled.<sup>53</sup> What infuriated the earl of Erroll here was not that his man had been executed by the deputy-sheriff of Aberdeen for a crime of which he was in fact guilty, but the manner in which it had been done. The form of law may have been observed, but the killing was considered an act of feud, every bit as much as it would have been had Gight and his men killed Francis Hay where they found him.

It was not only sheriffs who exploited their offices in this way. In 1576 the earl of Cassillis (the fourth earl, of Crossmaguel fame) went with two hundred men to the home of George Cory where they broke in, took him and his brother prisoner and stole most of his movable valuables. For two weeks the Cory brothers were held in various prisons on Cassillis's authority as bailley of Carrick. An order from the council telling him to free them was ignored and only after further lobbying by their friends did the earl agree to bring them before the council for a more impartial ruling on their fate.<sup>54</sup> In 1593 Robert Galbraith of Culcreuch conspired with the laird of Buchanan to get a commission

53. R.P.C., x, p 496.

54. R.P.C., ii, p 486-88.

against the Magregor clan, but which they both exploited to oppress the MacAulay clan with whom they had private quarrels.<sup>55</sup> In 1608 the earl of Crawford's commissions were suspended when it became apparent that he intended to use them to pursue his feud with Sir David Lindsay of Edzell whose son had killed the earl's brother.<sup>56</sup> However, not everyone was successful in overturning or being exempted from the commissions of their neighbours and occasionally the government saw through what was simply an attempt to manipulate evidence to weaken a rival in the locality.<sup>57</sup>

It was all just part of the jostling for power which went on in every locality as men sought to be pre-eminent among their neighbours. It was beneficial to the crown in that it allowed the king to intrude on a locality without having to insist on doing so, and it provided central government with a free intelligence system as men made the trip to Edinburgh to complain about the goings on of their neighbours. On the other hand it tended to mean that the privy council, which dealt with most of this business, was usually at the mercy of whoever was last to submit a complaint and hence the incessant issuing, suspending of and re-issuing of commissions. The king and his officials rarely had what one might call

55. R.P.C., v, p 74-76.

56. R.P.C., viii, p 117-18.

57. R.P.C., vi, p 227-28.

an objective view of a locality but one or a number of partisan ones which they had to try and evaluate, remembering that the councillors were themselves local men with local interests and with political debts to pay. Except on very rare occasions, the locality was thus the preserve of private interests and even royal offices within it became the prey to those interests and subsequently the cause of disorder and violence and not the peace they were intended to enforce.

In looking at feuds over economic objectives, like land and water rights, or the political value of royal commissions and offices, one is dealing with feuds between neighbouring corporate groups which are distinct from one another on the grounds of their allegiance to a specific lord and to a specific kin. However, just as the lord-dependant relationship could fracture and result in feud, so could that between kinsmen. The clan or kindred was one of the major constituent elements of a locality; hence the politics of the kin itself affected the politics of the entire locality. In fact feuds within the kindred accounted for something between 10-15% of all feuds. A kindred, such as the Cunninghams with the earl of Glencairn as their chief, or the Kerrs with the laird of Cessford as theirs, was not a monolithic interest in a locality, blindly following a chief and working in unison, for relations within the kin could break down and often result in feuds every bit as violent and destructive as those between

kindreds. The reasons could be exactly the same as those already described; land, natural resources, prestige, lordship, jurisdictions etc., but in a context where "so far from acting as a protection against discord, community of blood often intensifies the bitterness of family quarrels, and the most violent hatred of which human nature is capable occurs between brothers and sometimes even between father and son".<sup>58</sup> Whether the later sixteenth century was any worse in seeing this kind of feuding one does not know; pressure on the land from younger sons may have been greater in the wake of the Reformation and the ending of the French alliance with the reduction of the prospect of careers in the church and in France, but then the seventeenth century certainly opened up other avenues in Ireland and in the armies of other continental powers. One imagines that it will have to remain another unknown factor until more precise research can be done on the kindred of Scotland and any wider conclusions drawn from these fifty or so cases of the

58. From "les Feudale" by Thomas Craig of Riccarton and quoted in Wormald, "Bloodfeud, Kindred and Government", p 69 and see her comments p 69-70.

sin of Cain must be treated with caution.<sup>59</sup>

Feuds between fathers and sons were certainly rare. In 1590-91 old lord Forbes was drawn into a feud between his sons over their inheritance. The old man had been persuaded by his younger sons to disinherit the master of Forbes and the latter responded by taking his father prisoner and some raiding took place between the brothers.<sup>60</sup> In 1588 Andrew, master of Semple, complained that he was being oppressed by raids and his tenants were being intimidated by his father, lord Semple, who was denounced by the privy council on the strength of the complaint,<sup>61</sup> while in 1616 Sir Thomas Kirkpatrick of Closeburn and his son had to be disciplined by the council for their quarrel over family debts which was threatening the peace of their locality.<sup>62</sup> Lord Somerville, however, was saved

59. See Mair, Primitive Government, p 10, "Conflict and competition begin within the family". She does however point out that among the Nuer such feuds do not result in property violence or violence against women and children, something which also appears to be largely true of the Scottish feuds. Black-Michaud parallels intra family feuds with incest and describes a quite different code of response to such killings, Cohesive Force, p 228-34. B.H. Westman's study of crime among peasant families in the middle ages in England found intra-familial crime to be rare but to be more violent than in other cases when it did occur. Only 0.7% of the murders examined were intra-familial compared to 53% in England today. B.H. Westman, "The Peasant Family and Crime in Fourteenth Century England", in Journal of British Studies, (1974), 13(2), p 1-18. Harding in The Anatomy of a Power Elite, p 165-66, blamed the increasing use of primogeniture in France for the erosion of parental authority, the decline of the kin and hostility among brothers.

60. R.P.C., iv, p 497, p 617-18.

61. *ibid*, p 248-50.

62. R.P.C., x, p 606-07, p 646, p 678-81.

from feuding with his eldest son after the latter accidentally shot and killed his younger brother, when the king told him "he was a madman; that having lost one son by so sudden an accident should needs wilfully destroy another himself" and persuaded him to forgive his surviving son.<sup>63</sup>

As far as one knows there were few killings in such feuds between fathers and sons though the infamous Sir James MacDonald was probably responsible for his father's death and the murderous behaviour of the Caithness Sinclairs has already been alluded to. Even among brothers, while quarrels were both more common and more violent, fatalities were few. In 1592 John Colquhoun was executed for his part in the slaying of his brother the laird of Luss<sup>64</sup> and in 1604 George Meldrum was found guilty of, among other matters, conceiving a feud against his brother, attacking him and taking him prisoner and was sentenced to be beheaded.<sup>65</sup> In 1595 Robert Tinto of Crimcramp complained that his two brothers and his mother had come to his house, broken in, beat up his wife, stolen his documents, silver and gold and shot him in the arm.<sup>66</sup> As one might expect the Kennedies had their share of fraternal animosity and when the earl of Cassillis uncovered a plot by his brother to

63. Chambers, Domestic Annals, i, 191-92.

64. Birrel, "Diary", p 29; Balfour, Annales, i, p 392.

65. Pitcairn, Criminal Trials, ii, p 428-30.

66. R.P.C., v, p 215.

kill him he locked him away in the dungeons of Dunure castle until he had cooled off.<sup>67</sup> In 1613 the MacNeills of Barra fell out among themselves when two sets of sons from different mothers, a MacLean and a MacDonald began warring over their father's favour. Various acts of slaughter and depredations followed with the Clanranald becoming involved as the feud was locked into the greater struggle between the MacLeans and MacDonalds.<sup>68</sup>

This sort of feud was more common among the clans of the western isles because of the less strictly defined inheritance laws.<sup>69</sup> The intensity of such feuding can be grasped from a feud within the MacLeod of Assynt family which spanned the greater part of the century, lasted until 1609 and from its beginning with the death of the chief, Angus Moir, cost the lives of fourteen of his twenty-eight male descendants, or fourteen of twenty-three descendants if one excludes the one branch of the family which stood apart from the fighting. Some time in the first half of the sixteenth century Angus Moir was killed by his own brother John, and was succeeded by his son Donald Caim, but Donald died after an encounter with the MacLeod chief, MacLeod of Lewis, and left no sons to succeed him. His own

67. Pitcairn, Kennedy, p 20-21.

68. R.P.C., x, p 6, p 42, p 817.

69. For example see the feuds of the Tyrone O'Neills in Berloth, The Twilight Lords, p 246-48.



brother, Tormot, thus became laird of Assynt, but he fell out with his younger brother, Angus Beg, who killed him and took his place. Like his elder brother, Tormot left no heirs of his own, but his bastard brother Alexander was determined to have revenge on Angus Beg and eventually managed to slay him before being killed himself by Angus's wife's kinsmen in Ross. Meanwhile the succession had passed to the fourth of Angus Moir's sons, John Reawigh, who was able to rule in relative peace for the next fifteen years.

A second succession feud however followed his death. Probably because his own sons were too young, John Reawigh left the rule of Assynt to his brother Neil, much to the resentment of Hucheon, Angus Moir's other surviving son. Hucheon captured his brother and imposed some sort of settlement on him which provided for a power sharing agreement, but once free Neil renounced it and murdered Hucheon and his younger son, Donald, when they visited him at some later date. The brutal horror of this crime seems to have resulted in a rebellion against Neil and he was taken prisoner by his kinsmen and sent to Edinburgh for trial and subsequent execution. Angus Mack-ean Reawigh now took over as rightful laird of Assynt, but he was lame in one leg and was deposed by the clan when he proved incapable of effective rule. This revolt was led by an alliance of the sons of Hucheon and the bastard sons of the executed Neil, thus leaving out both John Reawigh's other sons and Neil's legitimate sons. Of these, the former

Rory MacLeod of Lewis

Geneology of the MacLeods of Assynt

Tormot MacLeod of Assynt

Angus MacLeod of Assynt    John Reawigh    Tormot Bane

John Moir

Angus Moir    Rorie    Tormot    John

(K by brother  
John)

Neil    John Moir  
(K by Sutherland)

Donald Caim    Tormot    Angus Beg    John Reawigh    Neil    Hucheon    Alexander (bas)  
(K by MacLeod (K by    (K by broth. (died as    (X 1581)    (M by    (K by Macky)  
of Lewis)    broth.Angus) Alexander)    laird)    broth.Neil)

no issue

no issue

no issue

Angus Mac-ean    Reawigh    John    Duncan  
Donald    no issue

Neil  
(K by cous and  
son-in-law Angus)

Angus    Allen    Alexander

Donald  
(M by uncle Neil)

John    Neil

John Reawigh    Donald    Tormot    Angus    Allister  
Bane    (bas)    (bas)    (bas)  
(D while    (K by cous    (K by cous  
Caithness'    Angus)    Neil)  
prisoner)

no issue

Angus Roy  
(K by cous  
John Neil)

John    Rory    Angus  
(K by    (K by    (X by  
Donald    Donald    Donald  
Bane)    Bane)    Bane)

passed from the scene, either because they were too young to act themselves or because Angus Mack-ean's weakness had discredited them, and opposition to the ruling faction came from Neil's legitimate sons. Of these, the eldest, John Reawigh, died while being held prisoner in the earl of Caithness's awful dungeons in Girnigo castle and the younger was in Ross under the tutorship of the laird of Foulis. The Hucheon faction with their allies were thus able to rule without opposition and the land was divided up amongst them with the eldest of Hucheon's sons, Neil, being named as their captain. However, they fell out among themselves and two of the bastards, Tormot and Allister, were killed. At this point Donald Bane returned from Ross with Angus, son of the recently slain Allister, and they killed John Hucheon. A truce was arranged shortly afterwards by the earl of Sutherland to whom all the factions gave their dependence, but his recognition of Neil Hucheon as laird of Assynt left Donald Bane dissatisfied and even a further treaty involving the marriage of Neil's daughter to Angus, son of Allister, failed to settle the feud. Within a year Angus killed his father-in-law, and shortly afterwards Donald Bane slew Neil's brother Rory and captured and executed the last of Hucheon's sons, Angus. Further fighting continued intermittently until 1609 with the only grandsons of Hucheon trying to oust Donald Bane from his position, but in 1609 the senior branch of the family, led by Donald,

son of Angus Mack-ean Reawigh, agreed to accept Donald Bane's effective chieftainship in return for certain lands during his lifetime and resistance from the others ceased.<sup>70</sup>

Only a very few feuds appear to have reached this level of internecine strife and it is presented here not as a typical feud but as a feud of extreme proportions. It was not particularly bloody in terms of the total numbers killed, even allowing for the nameless followers who no doubt died along with their leaders, but no other Scottish family suffered this level of fatalities in a feud during this period. Here the feud most clearly approaches the classic idea of the elimination of an enemy family in vengeance killings. The fact that both sides were from the same family made the total effect even more destructive than usual. Its inclusion here is more on the grounds of its uniqueness, as an example of just how terrible the feud could be and not as a pointer to the shape most feuds took.

In looking at the Assynt feud one is already moving away from conflict within the nuclear family to include feuding uncles and cousins and one is not at all surprised to find that feuding is more common the more tenuous the kin relationship is. One thus finds, for example, cases like Robert Bartilmo in Kirkshaw who murdered his uncle

70. Gordon, Sutherland, p 262-66.

Patrick Bartilmo in 1601; of Robert MacClellan of Bomby who had to give assurance in 1608 that he would not harm his kinsman William MacClellan of Auchlean; and of George Leslie of Crechie who in 1614 had to promise that he would keep the peace with his nephew Leslie of Wardes.<sup>71</sup> In 1605 the strains within the large Lindsay kindred finally snapped when the master of Crawford ambushed Sir Walter Lindsay of Balgays, killed him and hewed him to pieces. Sir David Lindsay of Edzell chose to let the murder of his brother by his overlord and chief's son pass, but his own son was less easily satisfied and in an attempt on the by now earl of Crawford, he accidentally killed lord Spynie, the earl's uncle and his own kinsman.<sup>72</sup> In the north-east the Innes family split over leadership of the kindred and in 1580 Innes of Innermarcky and the weak laird of Innes stabbed Innes of Cromy to death in Aberdeen, each of the murderers having to thrust their weapons into the body to reinforce their solidarity. However, in 1584 Cromy's son came out of his refuge with the Gordons, tracked Innermarcky down and killed him, sending his head to the king, and thus enabling him to succeed in time as chief of the Innes clan.<sup>73</sup> On the borders, the

71. R.P.C., vi, p 203; viii, p 98; x, p 259.

72. R.P.C., vii, p 143, and for Spynie's death R.P.C., vii, p 383.

73. "The Chronicle of Aberdeen", Spalding Miscellany, ii, p 52; Chambers, Domestic Annals, i, p 134-37.

Kerrs, Scotts and Humes all had their own internal feuds while the Turnbells kept up a bloody struggle for over twenty-five years.<sup>74</sup> In 1579 MacLean of Dowart broke into the castle of MacLean of Coil, ejected Coil and his kinsmen from it, held one of his sons prisoner and executed Hector MacLean, Coil's former tutor. Seventeen years later Coil was still complaining about the oppression of his more powerful kinsman.<sup>75</sup>

Such cases can be repeated time and time again. Power within the kindred was there for the taking as in any other area of local influence. Peters was thus wrong, at least insofar as what he said was intended as a general principle, when he wrote that "Feud is excluded from the corporate group ...".<sup>76</sup> That is patently not the case in Scotland where some fifty instances of feud within recognisable corporate groups can be identified. Certainly feud was less likely because the bonds which held the family and the kindred or clan together were stronger than those operating in the locality as a whole, but they were not water-tight and the kindred could erupt in a fury of the worst kind. Like neighbours, kinsmen were just as capable of the same human failings of greed,

74. For the Turnbells, R.P.C., ii, p591; iii, p 302, p 619-20; vi, p 4; Pitcairn, Criminal Trials, ii, p 509-11.

75. R.P.C., iii, p 132-33, p 134-35; v, p 354.

76. Black-Michaud, Cohesive Force, p xiii.

pride and jealousy which were at the root of so many feuds. The strength of kin obligations was, in the last analysis, dependent upon self interest, and where self interest could be pursued more effectively by other means the ground rules could be changed. Some kindreds, like the Gordons under the sixth earl of Huntly escaped any intra-familial feuding in spite of the great size of the Gordon kindred and one cannot argue that the larger the kin the more likely was the breakdown of cohesion within it. Certainly within each kindred relationships were less certain the more distanced men were from one another, but the exercise of good lordship, like Huntly's, could maintain the cohesion whatever the total size of the corporate group.

Like economic objectives and political influence within the locality, control of the kindred or the pursuit of such objectives by men within a kindred could be the material of local politics. In one sense the kin was just another, smaller locality in which competition was restricted to a more select group of men. Here, as elsewhere in the locality, feud was a relationship between men, a relationship of conflict. The landed men who were the leaders of these societies or communities simply headed interest groups of varying sizes, each with local ambitions commensurate with their power. Unlike today when corporate groups can shift wealth, distribute patronage and change officials by elections both within themselves, that is

within the party, or within the community, by competing with other parties, the sixteenth century had no means of doing this except by personal relationships either in the form of co-operation, that is in bonds of one sort or another, favours or deference, or in conflict, in the threat of feud or in actual feud. The killing, burning and stealing which were all a part of it did not mean that local society was breaking down or that they were the works of bad and ruthless men, they were simply the best means of working out competitive politics in a society which had no other means of doing so. One cannot dress feud up and pretend it was something other than violent and disruptive, but neither can one argue that it was wrong morally or that it was avoidable. The local politics of early modern Scotland were conducted through the feud, whether in the violent clash of interests or in the mediated or imposed settlement which ended them. What has been discussed here were the issues which men in their localities felt were of political significance, the things they were willing to incur and to initiate feud for. It is also clear that this was a form of political behaviour common to the entire kingdom, be the locality in the highlands, lowlands or borders. Perhaps more surprisingly it was also a form of political conduct also familiar to the burghs of the country.



The Towns

Urban society has always had a reputation for violence despite its apparent sophistication when contrasted with the rural community. Many explanations have been postulated; crowd psychology, overcrowding, loss of identity, alienation from the natural world and deprivation have all been blamed for the violence that so often stalks the streets of the world's towns and cities. In its most extreme form urban violence takes the form of the riot, whether spontaneous or orchestrated, when the normally peaceful citizen becomes caught up in the wanton destruction of the mob. Urban violence is not however a modern phenomena, a product of the massive growth of cities in the twentieth century. The cities of the ancient world with their violently alternating politics were no strangers to violence; in the middle ages the pogrom, the bread riot and the tax strike saw urban communities engulfed in days of vandalism and terror; and these traditions continued into the modern era with Scotland contributing its part to this history in the Porteous Riots of 1736. In the sixteenth century religious dissent added another factor to the scenario and thus Antwerp in 1566, Paris in 1572 and Edinburgh in 1596 all experienced varying degrees of mob violence.

The important word is "degrees" for the Edinburgh riot was nothing in comparison to the continental experiences.

Class tensions did exist within Scottish towns and Calderwood wrote of "the feud betwixt the merchants and craftsmen"<sup>77</sup> of Edinburgh, but apart from Edinburgh, Scottish towns were simply too small to be a threat to the forces of the landed nobility who effectively controlled most of them. Even during the hungry 1590's the Scottish urban population remained passive, the exception being the 1596 riot which was essentially a stage managed political protest by a jealous court faction. Similarly, the upheavals in Perth in 1559 and Edinburgh in 1592 were manipulated by external political forces. "Carnival in Romans" could never have occurred in a Scottish town, but does this mean as Maurice Lee suggests, that "The townsmen could be counted on, in the interests of law and order ...", as though burghs were havens of peace amidst the violence of the countryside?<sup>78</sup> Alternatively, Michael Lynch has persuasively argued of Edinburgh, that "By 1580 burgh politics had been swallowed up in the factionalism that enmeshed Scottish politics as a whole."<sup>79</sup> However, it was not just national politics which invaded the burgh, for the close interdependence between town and country meant that at a local level the burghs were not different

77. Calderwood, History, iv, p 411.

78. E. Le Roy Ladurie, Carnival in Romans, (Penguin, 1981), a detailed analysis of a religious-political riot in one sixteenth century French town. M. Lee, Government by Pen, (Illinois, 1980), p 5.

79. M. Lynch, Edinburgh and the Reformation, (Edinburgh, 1981), p 156. By far the best discussion of Scottish burgh politics yet published.

worlds from the countryside, but an integral part of Scottish society as a whole.

The pervasive nature of Scottish kinship and lordship did not simply stop at the burgh gates.<sup>80</sup> Hence Stirling was very much under the influence of the earl of Mar, Aberdeen was dependant upon Huntly, Perth looked to the earl of Gowrie for leadership, Dunfries was dominated by lord Maxwell and even Edinburgh could be tied to the tail of a noble faction as it was to the Humes from 1593.<sup>81</sup> Like anything else in the locality which offered wealth and influence, the burgh, its offices, its resources and its manpower were "up for grabs", and noblemen and powerful landowners lost no opportunity to grab as much as they could. The burgh could thus find itself in conflict with these neighbours as it sought to maintain its independence of them, and as in other such competitions feud could follow. Where the burgh was less able to resist it might find itself the bone between two dogs as other rural dependants did. Furthermore, the burgh was the commercial, and in the

80. M.Lynch, Edinburgh and the Reformation, p 208, "in burgh society, as in Scottish society as a whole, the pull of family and kin was usually more potent than that of ideas." Also P.Clark and P.Slack, English Towns in Transition, 1500-1700, (Oxford, 1976), p 14, suggests that kinship between town and country may even have increased during the early modern period.

81. As late as 1621 the earl of Melrose, lord advocate Hamilton wrote that "It kythes that the towne of Drumfrieis cairies their olde respect to the name of Maxuell, and that they affect the towne, and will be ready to protect them." Melrose, iii, p 433.

case of the larger ones, the cultural centres of a locality and attracted men who came to buy, to sell,, to borrow, to consult, to meet friends, and in the case of Edinburgh, to attend court, to celebrate and to seek or obstruct justice. The burgh thus played host to lords and their large companies of dependants, servants and retainers, and in the narrow wynds or crowded market places there was every likelihood that feuding parties would clash. The burgh streets often became the setting for individual combats, brutal assassinations and running battles which had nothing to do with the internal affairs of the burgh itself.<sup>82</sup> Finally, there was conflict within the burgh community itself, conflict which resulted in slaughter, feud and mediation as in the countryside. The Scottish towns may have avoided the worst excesses of the urban riot, but with the feud and the duel in their midst they were less distinct from the countryside than is often assumed.<sup>83</sup>

While most burghs were happy, or at least stoical, to accept the leadership of a local magnate they strongly

82. Stone, Crisis of the Aristocracy, p 111, writes "If the countryside remained liable to civil disorder the same was true of the towns.... In London itself the fields about the city and even the main arterial roads were continual scenes of upper-class violence."

83. This merging of town and country is convincingly argued by Le Roy Ladurie in chapter one of Carnival in Romans, "The Urban and Rural Setting". The case can of course be taken too far and Dr Sanderson has correctly argued that all burgesses did not simply want to become landed men, Margaret B.H. Sanderson, Scottish Rural Society, (Edinburgh, 1982), p 146-47.

resisted any attempt by lesser men to overawe them. In August 1592 Robert Bruce of Clackmannan went to Perth to attend to some business there, but as he prepared to leave he was halted by the burgh authorities and asked to pay custom on some of his goods. He refused, the burgh confiscated his goods and Clackmannan went home mouthing all sorts of threats against the townsmen. Shortly afterwards a party of Perth citizens passed by his house and he attacked them, taking their weapons from them, but instead of frightening the burgh it simply angered it all the more and a number of townsmen went out to Clackmannan's lands and trampled down much of his corns. The laird and his men came out to stop this, fighting broke out and Clackmannan took two of the Perth men, both of whom were friends of the town baillie, prisoner. Again the burgh responded decisively and that night the baillie and town council led an assault on Gaskenhall, Clackmannan's house. The house was surrounded and shot at before being set on fire thus forcing Clackmannan to come out. His prisoners were freed, he was dragged half dressed along the road to Perth and many of his valuables which were saved from the fire were stolen.

Furious and humiliated by this defeat Clackmannan took his case to the king, but the privy council was unsympathetic and warded both sides for their behaviour.

However, pressure was put on both parties and an agreement followed in which the town appears to have paid Clackmannan damages and mutual assurances were exchanged. This did not satisfy Clackmannan and a few months later he attacked another party of citizens on route to St Andrews, singling two of them out for particularly rough treatment, they "being baith hurt and wounded in divers parts of their bodies, to the effusion of their blood in great quantity, the said laird and his accomplices maist shamefullie tirrit them baith naked, and in maist barbarous and shameful manner scourgit them with horse bridles through the town of Abernethy, as gif they had been thieves or heinous malefactors." This time Clackmannan appears to have got away with his attack and nothing more is heard of the feud, though one presumes it was some time before he or his men traded in Perth again.<sup>84</sup>

The scenes described here are fairly familiar ones, but what is so striking is that they took place between townsmen and a relatively powerful local laird. Here the burgh acted no differently from any landed corporate interest, defending itself with the same mixture of collective determination and

84. R.P.C., v, p 6-8, p 80-81; Chambers, Domestic Annals, 1, p 240.

violence.<sup>85</sup> A few years earlier Aberdeen had found itself in a similar position, though the politics involved were compounded by divisions within the burgh community. The shaking of Gordon power in the north-east during the mid century upheavals in church and state created a highly unstable situation in the region which left Aberdeen both less committed to Huntly and open to pressure from other local influences, chief of which was the Leslie kin under the laird of Balquane. When trouble broke out between the burgh and the Leslies in 1587-88 Huntly in fact took very little to do with it, partly because the burgh was reluctant to become too dependant upon the Gordons again, and because Huntly himself was reluctant, both Balquane and Aberdeen being potential supporters who he had no desire to offend, particularly in the political climate of 1587-88.

The quarrel between the two originated over the possession of land and teinds, just as in some of the cases above. A number of town councillors headed by Alexander Cullen and Alexander Rutherford were the heritable feuars and owners of certain salmon fishing rights and teinds at Midchingill in Banff, but their ownership was challenged by another

85. Again cautions give further evidence of the similarity in behaviour between townsmen and members of the rural community. Thus in 1587 a great many people in Kinghorn had to give caution not to harm John Boswell of Balmuto, R.P.C., iv, p 193ff, and in that same year the entire town of Lanark had to give its bend not to harm William Livingston of Gerviswood, R.P.C., iv, p 239. The reverse was however more common as in 1585 when Lord Hay of Yester gave caution for the safety of John Hutchison, a merchant burgess of Edinburgh, R.P.C., iii, p 716.

burgess of Aberdeen, master Thomas Leslie. The dispute developed with Leslie trying to dispossess the others until one day both sides turned up on the lands in question with their armed followers and friends. However, Cullen and Rutherford had been able to enlist the support of their colleagues on the burgh council and using their authority they forced Leslie to back down. Lacking the political clout his rivals had in the burgh, Leslie turned to his chief, John Leslie of Balquane, and to his rural kinsmen. Balquane immediately took up his case and "consevit a deidlie hatreid and malice" against the Aberdeen men, gathered his own men and rode against the burgh only to find the town gates locked and his entry barred. Furious at this, he warned the town council that he would deal with them if they dared come out from behind their walls and sent them a letter in which he "discharges kyndnes and denuncen his evill inimitie to thame". The town did not take the threat lightly and retained a strong guard in arms, all of which it claimed was damaging to its business and trade, and a great insult to the authority of the burgh.<sup>86</sup>

The burgh thus took the matter to the privy council in Edinburgh and complained of Balquane's oppression. The council ordered Balquane to back off and ordered the local sheriffs, of whom Huntly was the most important,

86. Aberdeen Council Letters, vol i, 1552-1639, p 7.



to intervene on the side of Aberdeen if he refused. Having dealt with this external threat, the burgh council turned on Thomas Leslie and his brother John who had endangered the security and peace of the town. The Leslie brothers were charged with having "purchest lordship" against the burgh in contempt of an act of James V and of the oath Thomas had taken when he became a burgess of the town. They were tried by assize, found guilty on both these counts, as well as on failing to act as dutiful citizens, were deprived of their freedom of the burgh and were fined. The ruling faction had thus quashed this threat to their authority both within and without the burgh.<sup>87</sup>

However, the strength of their position was illusory for it was little more than a paper victory. The king may have given his backing to the town, but in the north-east it was not the king's authority which was important at a local level, it was Huntly's. Thomas Leslie went to see the earl who agreed to collect the disputed teinds himself until a settlement had been mediated, and he in fact came north to deal with this and other business. By this manoeuvre Leslie had appeared to be acting reasonably and had put the town in a position where they were resentful of Huntly's intervention and began making moves to block him through their agents in Edinburgh.<sup>88</sup>

87. Aberdeen Council Letters, i, 1552-1639, p 7, p 10, p 11-13.

88. ibid., p 14-15; D.Moysie, Memoirs of the Affairs of Scotland from 1577 to 1603, (Bannatyne and Maitland Clubs, 1830), p 36.

However, there too the Leslie's lobby was beginning to make ground and a number of townsmen had to give caution not to harm them.<sup>89</sup> Shortly after this, on the 16th of March 1588, Balquane's son, his friends and the Aberdeen Leslie's, attacked a party of burgesses on the road outside the town and while no-one was killed a number were badly hurt with shot or sword cuts and they were comprehensively robbed. Once again the burgh began to stir up its lobby in Edinburgh, but this time they also directed their energies to persuading Huntly to listen to them.<sup>90</sup>

The result of the attack was a severe set-back for the Leslie's in terms of support in Edinburgh. Thomas Leslie's actions against Cullen and Rutherford were thrown out, his letters against them were suspended and Balquane was ordered to find caution for their safety. It was in this context that the burgh arranged for the fake bloody sarks to be presented before the king to increase the impact of their case.<sup>91</sup> Something of the workings of the burgh's lobby can be gleaned from the events of these weeks. Having received his instructions from the Aberdeen burgh council in a letter from the burgh clerk, their agent in Edinburgh went along to see a junior official or lawyer

89. R.P.C., iv, p 260-61.

90. Aberdeen Council Letters, i, p 18-19, p 20-24, p 34-36.

91. *ibid.*, p 13-14, p 19-20, p 24-28; R.P.C., iv, p 265.

by the name of William MacCartney who furnished him with a bill allowing him access to the justice clerk's office. There he was able to enlist the help of another official who took him to the chancellor's office and introduced him to a friend there. This man finally approached his boss, chancellor Maitland, but was told that when the matter had been put before the privy council, the king had "fund fault that sic billis war past abefoir in favour of the townschipe of Aberdene" and had ordered that Cullen and Rutherford themselves come and answer for their part in the dispute. The burgh's lobbying had thus come to nothing either because the king was trying to be as fair-minded as possible or because the Leslie's had again outflanked them.<sup>92</sup>

In the locality too the Leslie's had retained the initiative. Balquane's son organised another attack, this time on Cullen's country house in Buchan, killed two servants and broke in and smashed up the house. Elsewhere townsmen were intimidated and were warned that "thair wald be folks schortlie in this toun quhe wald rip up our housses and buthis in despyte of us and all that wald assist us ...". Balquane was thus making good his claim that he would make it dangerous for the townsmen to leave the security of their bounds.<sup>93</sup>

92. Aberdeen Council Letters, i, p 31-34, p 37-38.

93. *ibid.*, p 38-39, p 40-41; Spalding Miscellany vol ii, p 58.

In Edinburgh, Balquane further pressed home his advantage by complaining to the council that he was being victimised by the town council, and that the ban on his entry to the burgh was damaging his business interests. The council passed the matter back to Huntly, but the earl chose to ignore it, thus allowing the Leslie's to continue putting pressure on the town.<sup>94</sup> Further measures by the council against the burgh magistrates followed, including an order telling them not to intervene in the Midchingill fishing dispute as it was none of their business, and the Leslie's appeared set for an outright victory.<sup>95</sup>

In fact this was the high point of their campaign and the criminal activities of Balquane's son in the previous months came home to roost. The town council's agents in Edinburgh quickly exploited Balquane's failure to come and answer for the behaviour of his men and the entire situation turned around once again with the Leslie's' letters and commissions being suspended and they in turn being horned. It cost the burgh £12 in lawyer's fees but it was considered money well spent. It did not result in a victory for the burgh, but it did stave off a defeat and something of a stalemate set in.<sup>96</sup> Only the Aberdeen Leslie's appear to

94. R.P.C., iv, p 267-68, p 272-73.

95. Aberdeen Council Letters, i, p 41-42, p 43-44, though the cautions were reciprocated; R.P.C., iv, p 276-77, p 278-79.

96. Aberdeen Council Letters, i, p 44-46, p 47; R.P.C., iv, p 280, p 281, p 304. See also the adultery case involving Thomas Leslie, Aberdeen Council Letters, i, p 16-18; R.P.C. iv, p 279.

have been outright losers in that their position in the burgh had gone, but whether they had more success over the fishing rights and teinds is not known. Factionalism in the burgh was to continue for a number of years with a revolt against the provost, Menzies of Pitfoddels, following two years later and the involvement of the burgh in the dangerous politics of the earl of Huntly in the early 1590's.<sup>97</sup> Like Perth the burgh had thus shown the kind of tough-minded approach to challenges from external threats which guaranteed it some level of independence from the local rural community.

The degree to which the burgh community understood and identified with the values and conduct of the rural community becomes even more explicit in an event which took place in Edinburgh in 1597. While parliament was sitting, Andrew Stalker, an Edinburgh goldsmith, accidentally killed the master stabler of the earl of Angus. Stalker was imprisoned and was to be tried for his life, but some young men of the town who were acting as a town guard for the duration of the parliament went to the king to plead for him. The king gave them a sympathetic hearing, but told them to go and see Angus "... and satisfy and pacify his wrath...". This they did, their captain going to the earl and offering him the manrent of his entire company if he would grant Stalker his life by dropping

97. R.P.C., iv, p 533, and Brown, Bonds of Manrent, appendix, p 469, no 71, 72 for bonds between the provost and Huntly.

the charges against him and Angus agreed.<sup>98</sup> Apart from the comments this invites on the king's attitude to the question of assythment in cases of accidental manslaughter, and on the power of lordship, one has here townsmen turning away from the formal organs of the law to private justice, and as a consequence recognising the lordship of a rural magnate over them. Such episodes raise all sorts of doubts about the role of the burghs as natural allies of the advocates of central criminal justice.

Not all burghs and towns were so successful in either fighting off or coming to terms with the landed nobility and the local lairds. Thus, in 1600 Peebles found itself locked in a quarrel with James Gledstanes of Cokilaw over some lands lying close to the town and were unable to prevent the Gledstanes invading the town and shooting dead their "pundler" James Dickson.<sup>99</sup> In 1598 William Lauder, baillie of Lauder hurt one of the Humes in a fight and shortly afterwards lord Hume and his men rode into the town, set fire to the tolbooth and cut the baillie to pieces when he emerged from it.<sup>100</sup> In 1588 the town of Leith complained of oppressions from the earl of Bothwell who was extorting money from merchant shipping in a protection racket which

98. Chambers, Domestic Annals, i, p 294-95.

99. R.P.C., vi, p 152; R.Renwick, The Burgh of Peebles, 1604-52, (Peebles, 1911), p 9.

100. Chambers, Domestic Annals, i, p 300-01.

he was disguising beneath his duties as lord high admiral of Scotland.<sup>101</sup> In 1578 Ayr complained that the sheriff of Ayr, Campbell of Loudon, was trying to usurp power in the town, and a few years later the town suffered a raid from a party of Kennedies who broke open the tolbooth and freed one of their kinsmen, assaulted and insulted the magistrates and spent two days in the town parading through it and intimidating the citizens.<sup>102</sup> In Glasgow a feud erupted in 1606 between Sir George Elphingstone, the newly elected provost, and Sir Mathew Stewart of Minto, whose influence in the town had been undercut by Elphingstone's arrival on the scene. The rivalry finally broke out into a large-scale riot with vicious street fighting involving scores of men though only causing one death and "sundry hurt with staves".<sup>103</sup> The feud between the town of Jedburgh and the Rutherford family on one side, and the Fernihirst Kerrs on the other, lasted from the civil war until the 1590's when the Kerr chief, Cessford, finally wrested control of the burgh from the other competing factions. Fighting between the two main contestants was fierce with the town itself describing its relationship with the Kerrs as one of "deidlie feid and grite inimitie" shortly after the killing of three townsmen by the Kerrs in 1586.<sup>104</sup>

101. C.S.P.Scot., ix, p 641. Extracts from the Records of the Burgh of Edinburgh, 1573-89, Burgh Record Society, (Edinburgh, 1882), p 150.

102. R.P.C.; iii, p 44-45; D.Murray Lyon, Ayr In Olden Times, (Ayr, 1928).

103. Chambers, Domestic Annals, i, p 395-96.

104. R.P.C., iv, p 63.

More common than these feuds between burghs, lairds and noblemen were those in which the burgh was the unfortunate and unwilling host or arena in which lords, lairds and their retainers played out some of the most violent episodes of their feuds. Aberdeen played host to vicious street battles between the Gordons and Forbes in 1573, and with Inverness was a strategic objective of both sides in the great feud which engulfed the north in the early 1590's.<sup>105</sup> In 1598 there was "a great fray" in the burgh between the follower of the earl of Erroll and earl Marischal.<sup>106</sup> Dumfries was the setting for a fight between Jardine of Applegirth and Kirkpatrick of Closeburn in 1580 in which the town provost was hurt trying to stop it.<sup>107</sup> Ayr narrowly avoided a similar affray in 1578 between two local lairds<sup>108</sup> and in 1590 Dumbarton fair broke out in riot when bands of Buchanans and MacAulays clashed, one man being killed and many others hurt.<sup>109</sup> Incidents like these could be found for many more burghs, but it was above all in Edinburgh that such occurrences were commonplace.

The size of Edinburgh alone distinguished it from all the other Scottish towns. Not only was it bigger in

105. See below vol ii, chapters 5 and 6.

106. C.S.P.Scot., xiii, part 1, p 338.

107. R.P.C., iii, p 263, p 268.

108. R.P.C., iii, p 47.

109. R.P.C., iv, p 535.



size, but its population was the second or third largest in Britain and was rising rapidly.<sup>110</sup> It was the site of the king's court for longer periods than any other of his residences, the centre of his administration, of the law courts and of much of the business of the church, and was a town of considerable commercial activity. More than anywhere else then it drew men, especially men of power and men with large followings. Thus in 1595 the earl of Montrose was attacked outside the tolbooth by Sir James Sandilands and his friends in "a furious onset on the erle, with gunnis and swordis in great number". Some forty shots were fired and a number of men were killed or wounded, Crawford of Kerse being among the slain and Sandilands himself being left for dead with bullet wounds in his head.<sup>111</sup> In 1589 the Scotts and Kerrs had fought out a similar battle which had left three or four Kerrs dead on the streets;<sup>112</sup> James Geddes of Glencoquo and his friends, all "bodin in feir of weir" cut down a Mr David Baillie on the High Street;<sup>113</sup> in 1608 lord Torthorwald was murdered there one evening<sup>114</sup> as was lord Spynie<sup>115</sup> and the young laird of Ancrum who

110. Lynch, Edinburgh and the Reformation, p 2-3.

111. Historie, p 345; C.S.P.Scot., xi, p 527-30; C.B.P., ii, p 12.

112. C.S.P.Scot., x, p 122.

113. R.P.C., iv, p 656.

114. Pitcairn, Criminal Trials, iii, p 65-72.

115. R.P.C. vii, p 383; Pitcairn, Criminal Trials, iii, p 61-65.

was ambushed in an Edinburgh close and stabbed to death by Sir Robert Ker of Cessford and his kinsmen.<sup>116</sup> Nor was the Cannongate any different, Patrick Bryson being slain there by James Stewart of Buchan in a quarrel.<sup>117</sup> The streets of Edinburgh may never again have run with blood as they reputedly did in 1520 when the Hamiltons and Douglasses slaughtered one another, but blood was never far from them.

Efforts were of course made to combat this violence. The government often went to extraordinary lengths to keep apart men who were at feud. When lord Maxwell and his father-in-law, the marquis of Hamilton, with whom he had a deep quarrel, turned up in Edinburgh in 1607 Hamilton was ordered not to leave his lodgings until two o'clock in the afternoon and Maxwell was ordered to return to his before noon. On Sunday, Hamilton was to attend church at St Giles, going there by a specific route, and Maxwell was to attend the the Abbey Kirk. Both were then to go straight home and remain there all day while on the Monday Hamilton was, on account of his rank and seniority, to be allowed out all day and Maxwell had to spend the day in his rooms.<sup>118</sup> However, the density of

116. C.S.P.Scot., x, p 430, p 448, p 562.

117. Birrel, "Diary", p 56. However some perspective on this is given by the claim that in Madrid at the same time one murder was committed every day, Braudel, The Mediterranean, ii, p 713.

118. R.P.C., vii, p 295.

Edinburgh made it easy for a man to slip in unawares as the council reminded the king when he expressed impatience at the master of Crawford's success in avoiding detection in the town for "your maietie knowis that malefactors may be in Edinburgh, without the Counsellis knowlege...".<sup>119</sup>

The towns added their own efforts to those of the government in 1583 when parliament was being held in Edinburgh, the town council was faced with a security headache and decided to arm thirty citizens to augment the burgh guard. Furthermore, it outlined fines ranging from twenty shillings or a three hour stand in the market for slander to £10 for drawing blood in a brawl.<sup>120</sup> Similarly Peebles tried to introduce its own gun control laws.<sup>121</sup> However, with the crown struggling to impose its legislation, burghs were unlikely to be any more successful, and it was only with the more sustained government initiatives against the feud as a whole that this type of urban violence was reduced.

The burgh community could thus be the victim of what it saw as its less civilised neighbours. This, at least, was how Richard Abercromby, a baillie of Edinburgh, viewed matters when he complained to the privy council about the harassment he had suffered for three years

119. Melrose, i, p 32.

120. Extracts from the Records of the Burgh of Edinburgh 1573-89, (Scottish Burgh Record Society, Edinburgh, 1882), p 295.

121. Renwick, The Burgh of Peebles, p 10.

from Ramsay of Dalhousie who resented him moving onto land he had bought near to the town. Abercromby told the council that "in a cuntrie quhilk sould be peciabill, sa neir the seat of justice, and sould rather gif exampill to the far Hielandis and Bordouris, quhair sic forme of unqueist is usit, nor to bring that kynd of evill tred in practize in the inland, in contempt of God and of his Majestie."<sup>122</sup> His voice was that of the God fearing townsman with strong ideas about civic virtue and royal justice, but in 1576 he was at least a generation too soon to speak for the urban community where violence and the feud were every bit as much at home as they were in the countryside.

Other townsmen did not have to go out into the countryside to meet with feud. In 1578 the government established procedures to be used in mediating a feud between the burgh of St Andrews and the university of St Andrews.<sup>123</sup> In 1600 a private combat was fought in Edinburgh between two burgesses in which one was slain and the other was shortly afterwards executed.<sup>124</sup> Acts of caution have many examples of caution being given by one burgess or indweller for another.<sup>125</sup>

122. R.P.C., iii, p 109-12.

123. R.P.C., iv, p 370.

124. R.P.C., vi, p 860; Pitcairn, Criminal Trials, ii, p 112-27.

125. e.g., in 1585 David Bannatyne, burgess of Ayr, gave caution not to harm John Jameson, burgess of Ayr, R.P.C., iv, p 18, p 20; in 1588 the baillies and other inhabitants of Creil gave caution that the burgh clerk, John Ramsey, would be harmless of them, R.P.C., iv, p 244.

On the 12th of March 1610 the Stirling burgh records have the following entry:

"Ordines Johnne, William, and James Donaldsonnes, to be inhibit and dischargit at ony tyme heirefter during the inimitie and feid betuix thame and Duncane Patersoune, deane of gild, ather to croce, pas, or repair throw the said Duncanes clos, or within ony uther the said Duncannes boundis, or yit to contend with him for the gait quhen they salhappin to meitt togidder, bot that they giff him the gaitt as becumes thame to do to ane magistrate, under the pane of ten pundis, toties quoties."<sup>126</sup>

Three years later the affair was again before the town council. Adam Donaldson, burgess of the town, had been unable to control his hatred of Paterson who had by this time risen to the office of provost and he was charged with "dispersoning of him and minting to ane quhinger to have struik him thairwith, als also with ane gold club" which he grabbed from the unsuspecting hand of John Skerär, the astonished dean of the burgh guild. Donaldson was fined thirty pounds for this attack and was held in ward until the day he could be taken to the market cross where he "sall thair oppinlie crave God, the Kingis Maiestie, the said provest and haill magistratis of this burgh, forgiveness of his offence fairsaid." In effect Donaldson was having to offer assythment to the town council and to Paterson in particular for his attack on him. Donaldson was also stripped of his freedom of the town and was banished from it under the threat of a hundred pound fine

126. Burgh of Stirling, Extracts from the Records, 1513-1666.  
(Glasgow, 1887), p 124.

if he ever returned to it or menaced one of the magistrates again.<sup>127</sup>

Donaldson's fate may have been a mixture of the old and the new, a civic imposed punishment for an offence against a magistrate in the form of a private assythment, but other cases were simply straight forward feud settlements by way of assythment. In 1576 lord Livingston came to an agreement with Robert and John Moffet, burgesses of Edinburgh, over the slaughter of their elder brother, Thomas Moffet of Glenkirk, by two of his men. Lord Livingston paid the brothers seven hundred marks to be distributed among Glenkirk's wife and children and he agreed to infeft Robert in certain lands of his own. Finally, the killers were to be brought to Glasgow and there would offer the point of the sword to the Moffet brothers in an act of penitence and homage. This was the opposite of the Stalker case with a lord's retainers doing homage and a lord himself giving assythment to townsmen.<sup>128</sup> In 1585 Christine and Violet Kellie, with the agreement of their brothers and their "haill kinsmen and freindis of the surname of Kellie", made separate agreements with David and Andrew Home, indwellers in Dunbar for the slaughter of their father, Cuthbert Kellie, burgess of Dunbar. As compensation each of them was infeft

127. Burgh of Stirling, Extracts from the Records, 1513-1666.  
p 133.

128. S.R.O., R.D., 1/15/241.

in land worth twenty marks annually.<sup>129</sup> The Arthour kin, including two lairds and a commissioner of Edinburgh, made a similar agreement with a number of St Andrew's men in 1588 for the killing of a James Arthour with six of the latter accepting banishment in return for the Arthours forgiving them and all others implicated in the killing.<sup>130</sup> In 1591 John Cok, baxter burgess of Edinburgh, accepted two hundred marks on behalf of his daughter whose husband had been killed and on behalf of the rest of his son-in-law's kin from John Crombie, maltman burgess of the same burgh.<sup>131</sup> In 1595 John Rollock, burgess of Dundee, and others gave a letter of slains to George Ross of Balnagowan for the slaughter of Patrick Rollock by one of Ross's kinsmen.<sup>132</sup>

In all these cases kinsmen played an important part, assythment was paid in one way or another and forgiveness was granted. The burgh community was thus thoroughly familiar with the procedures and terminology of the feud and was not only a participant in the violence of the feud, whether with outsiders or within itself, but in the peace of the feud too. The town was not just the country with walls around it or markets in the middle of it, it was distinct and different. However, in the context of this

129. S.R.O., R.D., 1/38/231, 1/34/322.

130. S.R.O., R.D., 1/34/38b, 1/34/40.

131. S.R.O., R.D., 1/39/172.

132. Ross M.S. H.M.C., vi, p 717, no 15.

discussion of the feud it would be wrong to think of the burghs as so distinct from the ethos of the countryside that they were natural enemies to feud, both in its violent form and as a means of enforcing private justice. The towns were not ready made constituencies for those who may have wanted to reform or eradicate feuding, though there was probably a degree more sympathy for such ideas there than say in the western isles. The Scottish towns were thus an integral part of Scottish society as a whole, at the political and social level as at others. The politics of the burgh were conducted within the same environment of kin alliances and friendships, respect for lordship, potential for violence and sympathy for private justice, that made the feud the means of competition in the rural community.

The politics of the locality were far removed from the great matters of state which receive so much attention in most histories, but not so far removed from the courtiers and government officials that one cannot see where they merge. This was a world of contested land ownership, disputed marches, of squabbles over water rights and peats, of prestige in the local church, of tensions between lord and tenant and lord and dependant, of jurisdictional quarrels, of strains and fractures within families and kindreds, of town against country, and of factions within towns. For most contemporaries these



issues were far more important than who was chancellor or whether bishop or presbytery steered the course of the church. To the vast majority even these issues were of less importance than the weather and the harvest, but at the level where men's political choices were their own, local issues were the dominant ones in their lives. Even the great men of the kingdom, as we shall later see, sacrificed court ambitions for their local interests. After all, for most noblemen the point of having power at court was not to change government foreign policy or legislate for social change, but to tighten their grip on their localities.

The tensions in local society were ones which would not go away and thus each one was a potential feud. No doubt the majority were settled peacefully, or at least without bloodshed, but most local lairds and almost every nobleman experienced at least one feud in his life. To have escaped the feud would have been almost impossible, and unless one was highly fortunate to have good and reasonable neighbours all one's life it would have meant an abdication of responsibilities to oneself, one's dependants and one's kinsmen, and submission to the greed and bullying of neighbours and other kinsmen. Similarly, the aggressiveness which claimed that which was not one's own was expected. To refuse to compete was to invite disaster, and in the competition lay the dangers of feud.

No man wished a feud on himself but most wanted the prizes which running the risk of feud might bring, be it another field or simply a strip of march land and the honour and prestige which came with the winning of it. The significance of that for the balance of power in a locality has already been discussed; power, that is support, gravitated to men who showed a willingness and a skill in using it, and in this world the feud was the ultimate test of a man's power.

The Scottish localities were not anarchic, torn assunder by bloody feuds all the time, but most of them were disturbed, and on occasion some of them approached civil war. However, the feud was not an aberration in this society, but a condition which existed within it and partly defined it. It bespoke a vitality of local competition for power as much as it did a sad picture of suffering, greed and sheer bloody cruelty. Power was not so structured and apportioned that it was closed off from ambition, but rather it remained fluid and there for the taking. Those who did try to take may have been reaching for no more than the increase in wealth and status which fishing rights or some minor local jurisdiction might give them in the community, or, like the earls of Moray or Caithness, their ambitions may have been regional. Whatever the scale, their actions and the opposition they encountered shows a society where

the power structure was neither so strong and rigid that it could not be changed, or so rotten that newcomers could carve their way into it with ease. Instead it was excitingly volatile and hence potentially explosive. It was a society in which clever and tough men like Mackenzie of Kintail and Johnstone of that Ilk could do well by challenging the political status quo of their localities and in which others like Moray, Kennedy of Bargany or Ker of Ancrum were smashed by the powers they sought to replace or dislodge. In a society in which changes in religion, politics and the economy were creating many uncertainties it is hardly surprising that change and instability should be found at a local level. There men fought for what they knew to be right, be it the ownership of a teind or the possession of a barony. In a world of uncertainties, tangible possessions like these seemed all the more worth fighting for.

LOCAL POLITICS AND THE FEUD:

THE CUNNINGHAM-MONTGOMERY FEUD

The feud between the Cunningham and the Montgomery families of the bailliery of Cunningham in north Ayrshire has the reputation of being one of the longest feuds in Scottish history. The locality itself was formed by a combination of geography and administrative needs. The district is formed by hills and water. In the south it is bounded by the river Irvine with the seaport burgh of Irvine at its mouth, while to the west is the firth of Clyde which sweeps north and then east into the mouth of the Clyde itself. In the north, the Kilbirnie Hills form a natural barrier which even today divide the Ayrshire community from that part of Renfrewshire which forms the south coast of the Clyde estuary, and while the hills on the eastern flank of Cunningham are much less impressive, nevertheless they divide the district from Lanarkshire. Only along the south side of the Kilbirnie Hills, where the road to Paisley and Glasgow ran, is there no natural barrier to communication with a neighbouring locality and while the people of Cunningham did have many contacts with people from without their locality, especially in Kyle to the south, it was with the communities of east Renfrewshire that their interests most overlapped. Within the bailliery much of the land was hill and bog with the Irvine plain and the Garnock valley being the most fertile and populous areas.

It was here that the Cunningham and Montgomery families had for so long been the dominant kindreds. Very briefly,

the chief of the Montgomeries had become bailie of Cunningham in 1366 after a succession of other families had held the office and, except for a brief hiatus in the early fifteenth century, the Montgomeries continued to be bailies of Cunningham thereafter. During the fifteenth centuries both chiefs became lords of parliament as lord Montgomery in 1444 and lord Kilmaurs in 1450, with further promotions to earl of Glencairn for the Cunninghams in 1503, and earl of Eglinton for the Montgomeries in 1507. Competition between the two appears to have been very low key and it was not until 1509 that one first hears of the Montgomery hold on the office of bailey being challenged by the Cunninghams, and not until the 1520's that the blood-feud really began. However, while the Cunninghams seemed to get the better of their rivals during the decade or so of fighting, the earl of Eglinton's great favour with James V in fact saw an increase in their hold of the locality, and in 1536 the feud was ended and the Montgomeries were soon tied up in a quite different feud with lord Boyd and his kindred which lasted until 1563. During these troubled years, troubled for both the locality and the kingdom, the earls of Glencairn found themselves at the fore of the political stage while their territorial expansion elsewhere reduced their sense of frustration in Cunningham itself, and thus a half century of peace

between the two families followed.<sup>1</sup>

While the two families were for a while on opposite sides of the political fence during the upheavals of the fifteen sixties and early seventies, there is no evidence that this brought them into conflict in the way the civil war sparked off the Gordon-Forbes feud in the north-east. Alexander, 4th earl of Glencairn was among the most single-minded protestants of the Reformation, a man of genuine religious convictions and considerable political skill and in the civil war he again emerged as one of the core of king's men who overthrew queen Mary and was the only real threat to Morton in the regency election of 1572. However, the 3rd earl of Eglinton was a catholic and until 1571 a queen's man, but in that year he and the other conservative Ayrshire lords changed sides and were thus able to end up on the winning side in 1573. National politics did not therefore throw the Cunninghams and Motgomeries into conflict again, and it was only with the resumption of peace in 1573 that the opportunities for conflict re-emerged.<sup>2</sup>

1. Further details of these years can be gleaned from Fraser, Memorials of the Montgomeries, Earls of Eglinton, vols i and ii, (Edinburgh, 1859); G. Robertson, A Genealogical Account of the Principal Families in Ayrshire, (Irvine, 1823-25), vols i and ii; The Scots Peerage, (ed.) by Sir James Balfour Paul, (Edinburgh, 1904-14), vol iii, "Eglinton", vol iv, "Glencairn".

2. *ibid.*

The issue over which the two clashed in the 1570's was control of Kilwinning abbey. By this time the Montgomeries' dominance of local patronage was almost complete; only the abbey remained outside of their jurisdiction. Even here they had obtained a toe hold with Eglinton being granted the office of chamberlain, justiciary and bailie of the abbey lands in 1552, and receiving some of the feus of the abbey in 1565. The growth of Montgomery influence in the abbey's affairs had been helped along by the commendator, Gavin Hamilton, a kinsman of Eglinton's first wife, but he died in 1571 and was succeeded, surprisingly, by Alexander Cunningham of Montgreenan, Glencairn's youngest son.<sup>3</sup> The appointment probably reflected Glencairn's greater influence in the government, and possibly part of his reward for services to the king's cause. Whatever the reason it represented a slap in the face for Eglinton's ambitions, but given Glencairn's political influence he made no attempt to challenge him, and it was not until the death of "the good earl" in 1574 that Eglinton dared to test the strength of Cunningham resolve in holding onto their recent acquisition.<sup>4</sup>

The first record of the Montgomeries beginning to apply pressure on Montgreenan was in 1576 when Eglinton's

3. Registrum Magni Sigillii Regum Scotorum, (ed.) J.M.Thomson, (Edinburgh, 1882-1914), vol iv, part 1, p 161, no 724; Scots Peerage, iv, p 241.

4. R.P.C., ii, p 566.



brother, Robert Montgomery of Giffen, went to the home of one of Montgreenan's tenants, broke into his house, stole the family's goods, beat up the man's wife and drove them off the land. Giffen was denounced, but the incident gave Eglinton enough confidence to carry out a more audacious attack on the abbey itself when six months later he and his men took advantage of the commendator being in Stevenston to break into the abbey at Kilwinning and put in a garrison of his own men, believing no doubt that possession was the better part of the law.<sup>5</sup> However, Montgreenan did not escalate the situation any further, but instead took up his case with the privy council where he was given letters ordering Eglinton to vacate the abbey on pain of horning or else come and explain his actions to them.<sup>6</sup> The earl decided on the latter course, hoping to either persuade the council that he ought to have control of the abbey, or else to entangle Montgreenan long enough in a legal tussle for Eglinton's effective control to become recognised. The decision by both sides to try and resolve their difficulties at this level must have been a relief to many local men, but even so a number of powerful neighbours put pressure on Eglinton and Glencairn to join them in a bond agreeing to settle any differences among them by arbitration among themselves.<sup>7</sup> The bond was

5. R.P.C., iii, p 1.

6. ibid., p 1.

7. Brown, "Bonds of Manrent", appendix, p 544, no 65.

essentially intended to prevent any violence in the locality and is a good example of lordship working to maintain community peace at a local level, but it did not prevent Montgreenan lobbying against Eglinton in Edinburgh and only days later, a month after capturing the abbey, Eglinton appeared before the council and was ordered to vacate it, both sides being warned not to utilise its buildings as any kind of fortification.<sup>8</sup> Six weeks later Eglinton was back at the council complaining that the commendator had had him horned in spite of his having vacated the abbey, and after lord Boyd had given surety in £1,000 for his behaviour, the letters against him were suspended and the earl had Montgreenan in his turn horned for fortifying the abbey in contravention of the council's orders. Once again the commendator returned to defend himself and was given twelve days in which to remove the offending defences, following which caution was also given for his conduct.<sup>9</sup>

The restraint shown thus far by both sides, especially the Cunninghams, is important and ought to be borne in mind. Men were violent but they did not necessarily think of violence first. Both Montgreenan and his brother, the earl of Glencairn, were doing all they could to avoid any further trouble, perhaps because they were confident of their legal position or because Glencairn was having

8. R.P.C., iii, p 1.

9. *ibid*, p 11, p 23, p 24.

difficulties with a number of his dependants,<sup>10</sup> it does not really matter why, the point is that they did not immediately reach for their swords. Tactically their decision to keep within the law paid off and Montgreenan did regain possession of the abbey, thus inflicting a rather telling defeat on Eglinton who had chosen to make an issue of the abbey in the first place. Frustrated by this Eglinton sought to regain some prestige by picking a jurisdictional quarrel with the commendator.

Within a year of his defeat over the abbey, in the summer of 1578, Eglinton struck back at the commendator by charging and arresting Hugh Girvan, one of Montgreenan's servants, for some crime of which we remain ignorant. Eglinton did so as bailie principal of the regality of Kilwinning and made it quite clear that Girvan would be tried for his life before an assize which the latter complained would be "ane verray suspect assyis", composed of those "that dar not utherwayis declair except that thay knaw it to be his (Eglinton's) pleasour". This, declared Girvan with unconscious humour, would be unfair because a weighty matter like his life deserved better consideration as "in caise it be taiken fra him be thair weikit moyne and pretences, can nevir be recoverit be na reductioun of thair proceedings." His arrest, he claimed, had followed a slander against him which had subsequently

10. See below vol i, p 229, p 231, p 237.

been withdrawn before the church to the satisfaction of everyone but Eglinton who would already have executed him but for the commendator's intervention. From Girvan's plea one learns a little more about the trial of strength which was developing between Eglinton and Montgreenan for

"... it is notourlie knawin quhat inimitie standis batuix the said Erll and the said Commendatar, the said complineris maister, quha hes the said Erlls pretendit infetment of the said baillierie presentlie under reductioun befor the Lordis of Counsale and Sessioun, lyke as alsua the said Commendator, for sindrie caussis baith of deidlie feid and utheris hes obtenit his haill tennentis and servantis exemit fra the said Erll's jurisdictioun in all civile and criminale caussis."

One can then suggest that following the events of 1578 the commendator had himself and his dependants etc., exempted from Eglinton's jurisdiction and had furthermore challenged the earl's rights to the office of bailie to the abbey regality, an office which he had held since 1552. Whatever the reason, it had sparked off this trial of power over Girvan, a trial which Montgreenan was willing to accept. The commendator let this be known to the privy council through Girvan's complaint, warning them that both he and the earl were likely to raise their men, "quhairby greit inconvenienties may fall to the trubill of the haill cuntrie, specialie betuix sa greit surnames, being a deidlie feid of auld ..." which, he reminded them, had been continued by a proxy feud between Glencairn and Eglinton's dependant, Muir of Caldwell. The commendator

had thus made it very clear to the council that the feud, which was what Girvan was calling it, was on the point of exploding and that he would not be responsible for what followed. It is also very clear that the Cunninghams were evoking old memories of the 1520's and 1530's in preparing themselves for a likely showdown. The privy council took the hint however and assigned the matter to the lords of council and session on the 10th of May.<sup>11</sup>

In fact this was the end of the affair and one does not know what happened to Girvan, though one can assume that he was not executed or more would have been heard of it. On the terms Eglinton had set for himself the affair has to rank as another defeat for the earl in his attempt to keep the Cunninghams out of the administration of the district. Why the two sides cooled down in 1580 after more than three years bickering is unclear, perhaps the wider political context at the end of the decade had some bearing on this, but in November 1580 Montgreenan gave Eglinton infeftment in his heritable offices in the Kilwinning regality.<sup>12</sup> This infeftment in 1580 throws a slightly different light on the feud up until this point for the suggestion so far has been that it was Eglinton who was the aggressor, but if the commendator had been trying to oust him from any influence in the abbey by withholding his infeftment over the last nine years then

11. R.P.C., iii, p 143.

12. S.R.O., Eglinton Muniments, G.D., 3/1/80/739.

his behaviour can be explained as attempts to put pressure on Montgreenan to co-operate. Even after 1580 the commendator remained obstructive, and it was not until 1583 that a more satisfactory settlement was reached with the commendator promising to maintain the tolbooth at the Newhall with the irons at the Bellhouse and a gallows for use wherever the earl required it.<sup>13</sup> Furthermore, he appointed two of Eglinton's servants as directors of the chancellory and chapel of the regality.<sup>14</sup> Further signs of stability between the two men appears in the granting of tacks for teindsheaves to the earl in 1581 and a grant of land which was made out in 1582.<sup>15</sup> It all added up to a compromise in which the two men recognised that for either of them to be able to exercise their offices, they would have to co-operate with one another.

In the decade 1573-83 the earl of Eglinton and Montgreenan had thus brought their families to the brink of feud, but on more than one occasion they had stepped back and allowed themselves to be persuaded to take another course. Peace in the locality had been preserved in spite of some real provocation from Eglinton, and while the relationship between the two sides had been one of feud, a settlement had been relatively easy because no violence of any significance had taken place. In the wider scale of

13. S.R.O., Eglinton Muniments, G.D. 3/1/80/740, 3/1/80/743.

14. G.D., 3/1/80/747.

15. G.D., 3/1/20/205, 3/1/87/834.

relations between the Cunninghams and Montgomeries events were also leading towards a reinforcement of peace. The death of Glencairn in 1580 and the succession of James, the 6th earl, a more aggressive man than his father, did, however, bring a degree of uncertainty back into the situation and his dislike for the Montgomeries persuaded Eglinton that he ought to seek an obligation from Glencairn not to harm him. The assurance which Glencairn gave for himself and all his kin, friends and servants etc., not to pursue Eglinton "in law or besyde the law" for anything which had occurred between them was witnessed by the king, Lennox and Arran and suggests very strong court pressure on him to conform to an agreement.<sup>16</sup> Shortly afterwards both earls were ordered to seek ways to bring a more lasting conclusion to their feud.<sup>17</sup> What in fact was meant by their feud is not clear and one must assume it is simply referring to the Eglinton-Montgreenan dispute. This interference in the affairs of their locality may in fact have angered both earls against the Lennox regime enough for it to be the cause of their uniting with the other Ruthven raiders in bringing it down within weeks of this order being issued.

Neither earl suffered following the collapse of the Ruthven regime itself in 1583, though the settlement

16. Fraser, Memorials of the Montgomeries, ii, p 223-24.

17. R.P.C., iii, p 508.

between Eglinton and Montgreenan in November of that year may have reflected some hesitation on their part about the future which could be better guaranteed if the locality presented a united front to the new Arran government. As it was Arran kept his fingers out of north-Ayrshire, though he was to have them burned elsewhere, and it was another thirteen years before the crown again interfered in the politics of the locality in such a manner. It was during these years that the simmering rivalry between the two families turned to violence.

One contemporary writer tells us that in 1583 "bayth the parties semit fullie to be satisfeit and aggreit in all poyntis ...", but in fact the peace was superficial.<sup>18</sup> The Cunninghams "be the inventioun of a wicked instrument of that surneyne, kindlit up a new rancor in the hartis of the rest of that famelie ..." and one Sunday morning a party of them banded together and rode off to the Montgomeries local kirk and attacked them.<sup>19</sup> Why they did this is not clear, but as one has already seen a feud settlement was at its most vulnerable immediately after it had been agreed and it would have been fairly easy for a malcontent to stir up the others by suggesting that the settlement was unjust or dishonourable. Whatever the motivation, the attack took place and a Montgomery was

18. Historie, p 238.

19. ibid., p 238.



shot and wounded while one of the Cunninghams was killed before they were driven off. The Cunninghams then tried to take the matter to law, claiming that their kinsman had been murdered, but the justice general dismissed the accusation out of hand.<sup>20</sup>

This killing changed the nature of the feud. During the 1570's it had essentially been about property and influence in the locality. With the killing of one of the Cunninghams, their aims at least shifted to a determination to satisfy their honour and extract revenge. Blood and the power struggle it represented, not office or wealth, became the focus of local politics. The peace had thus only lasted from 1583-85 in which year the earl of Eglinton had died and had been succeeded by his son, a relatively young man, for whom Glencairn had his own personal hatred. When his kinsmen then approached him with a plot to "be avenged upon the fattest of the Montgomeries" he agreed.<sup>21</sup>

Details of the plot devised by the Cunninghams have survived in papers which later fell into the hands of the Montgomeries.<sup>22</sup> Both Spottiswoode and the "Historie" relate that a band was drawn up under which "whomsoever wald tak the turne in hand and performe it, he suld not

20. Historie, p 238.

21. *ibid.*, p 238.

22. The documents were copied by a servant of the Cunninghams and passed on to the Montgomeries though at what date one does not know.

onlie be sustenit upoun the common expensis of the rest, bot suld be menteynit and defendit be thayme all from danger and skayth".<sup>23</sup> The bond was in fact signed by Glencairn himself, "... upoun the fayth of ane nobill man ...", Alexander Cunningham of Craigends for himself and his friends, David Cunningham of Robertland, the man suspected of instigating the attack on the Montgomeries, Alexander Cunningham of Aiket, John Cunningham of Ross, the earl's younger brother, Montgreenan and John Cunningham in (or possibly of) Corsewell. In the band Glencairn declared that if any of these men would be

"unhurt, unharmit, unperseit, criminallie or civille, in the law, or by the law, bei ony actioun intendit or to be intendit be me, or ony of my name, and that quhill the settilling of materis succedant upoun the said interpryse, or farther as my saidis freindis pleisis to burding me with: Bot be the contrair, I, the said nobill lord sall assist, fortifie, and mantene the said Laird of Craganis, as utheris my freindis, interprysaris of the said caus, to be hasart of my lyff, landis, and the lyffis of all that will do for me:"<sup>24</sup>

Glencairn was thus giving his followers carte blanche in the prosecution of the feud. The document shows something of the shadier side of lordship and to bonds which have perhaps been painted a little too white recently. The fact that few such bonds have survived should not allow one to think that they were uncommon for they were not the kind of evidence that men would keep any longer than was

23. Historie, p 238.

24. Fraser, Memorials of the Montgomeries, ii, p 226. From the bond it would appear that Craigends was in charge of the operation.

desirable, even this one was not preserved by the signatories.

Glencairn's intentions were made even more clear in a letter he wrote from his estate at Fyndlaston to his kinsmen in Ayrshire.

"Cusingis, I haue ressauvit zour letteris, and persaweis that ze ar reddie with zour commownaris anenttis the lytill particulare pertening to me: and willis me to haue myne reddie, quhilk, I assure zow sall be; for I pray zow put me to sum poynt, and appoint me ane tyme of meitting to that effect. I am glad of our freindis gud mening in that caus, quhilk salbe rememberit be me, incaise he haue to do quhairin I may pleasoure zow."<sup>25</sup>

The more cryptic parts of the letter were explained by the anonymous Cunningham traitor.

"... becaus it is sum thing mistie and generall, this far I will avow and abyde be: to wit, that it was concludit amangis us, that the Erle of Eglintownis slauchter sould be termit, in all our letteris and missiues from ane till ane uther, The lytill particulare; and also it wes concludit that thais that wes suorne and promeissit to be executoris thairof sould be lykawayis stylit in all our missiues Commowneris: swa I will qualefie, be Godis grace, suafar as I am in power, that thir foirsaid wordis contenit on the first missiue, wes menit to be the Erle of Eglintownis slauchter, and thais that sould haue bene the doeris thairof, and thai that wes suorne and participant thairof: and this wes inventit, feiring leist lettres mycht be tane be the way."<sup>26</sup>

These preparations for an attack on Eglinton took part in the late winter of 1585-86 but difficulties in executing it soon developed. The commendator Montgreenan wrote to Glencairn telling him that he had been keeping Eglinton under surveillance but that he had met with his friends

25. Fraser, Memorials of the Montgomeries, ii, p 226.

26. *ibid.*, p 225-26.

in Irvine and they were sure that Eglinton suspected something, having possibly received some information from lord Semple whom he had arranged to meet. He felt that it would be unwise of him to visit Glencairn as his own movements were being watched with some suspicion, and he revealed that a Gavin Naissmith had failed to keep some promise to them and "I sie nothing bot this mater is oppinit up be sum to thame, or ellis thai suspect the saymn; and leist thai suspect me;". Furthermore, the important laird of Glengarnock, John Cunningham, had chosen to disassociate himself from their plans, Montgreenan himself was poorly attended and he finished by repeating the warning about the Montgomeries preparing themselves for trouble and asking for some decision on what was to be done.<sup>27</sup> Other letters informed Glencairn that the laird of Caprington, another of the more powerful Cunningham cadets, had been absent from the last tryst and one from Glencairn's brother, Ross, also suggested that the Montgomeries were suspicious, though he continued to report Eglinton's movements.<sup>28</sup>

Yet in spite of the problems they were having in keeping the plot secret and in getting the full backing of their kinsmen, the Cunninghams were able to carry it out with remarkable ease. In the last week of April 1586, Eglinton set out on a journey to join the court at Stirling. He had with him only a few servants, having chosen to disregard

27. Fraser, Memorials of the Montgomeries, ii, p 226-27

28. *ibid.*, p 227.

the warnings that the Cunninghams were planning something against him. One source suggests that the reason for this was that the laird of Robertland had since the 1583 agreement become quite friendly with the young earl, and had assured him that his kinsmen intended no harm against him in spite of the recent clash between them. On route from Eglinton castle, near Kilwinning, the earl and his small party stopped at the house of Neil Montgomery of Langshaw and dined there. However, Langshaw's wife was a Cunningham, being the aunt of the laird of Aikett - which like the friendship of Robertland and Eglinton suggests that feuding kindreds were not cut off entirely from one another but interacted at various levels<sup>29</sup> - and while the earl was dining she sent word to her kinsmen who lived close to Langshaw house and who were waiting upon such intelligence. Thus, when the earl left Langshaw he was shadowed for a short distance and then ambushed as he crossed a burn. His servants deserted with suspicious haste, and "The horsemen ran all on him, and unmercifullie killit him with shots of gunnis and strokis of swords." John Cunningham of Clonbeith finally finished the messy business, delivering the coup de grace at close quarters with his pistol. A few of the fleeing servants were surrounded by the larger party

29. Thus one also finds for example that in 1585 Langshaw set in wadset in a five mark piece of ground Patrick Cunningham in Bordland. Feud was disruptive but not to the extent that all other social and economic relationships were excluded. S.R.O., R.D., 1/49/63.

of Cunninghams and "hewed to pieces" without mercy.<sup>30</sup>

Glencairn and his kinsmen had had their revenge, but within days of the murder Randolph had written with prophetic insight that "This is likely to stir up some new mischief among those in the west parts, so they are free from no part, if this revenging world continue."<sup>31</sup>

At this point one can turn from the narrative of the feud to take a closer look at what is meant when one writes about "the Cunninghams" and "the Montgomeries". It is too easy to present a picture of two monolithic families bestriding the land, covering it with one another's blood. While it has been argued above that blood-feud was violent one has to be careful not to sensationalise that violence or to over-simplify the degree to which a locality was caught up in a feud. Thus both the pattern of revenge and the anatomy of the corporate interests headed by the earls of Glencairn and Eglinton deserve more careful consideration.

The locality of Cunningham in north-Ayrshire was dominated by the landed nobility. The alternative centres of power in this society were the church and the towns which in Cunningham meant Kilwinning abbey and the royal burgh of Irvine. The abbey, as has been seen, was no

30. Moysie, Memoirs, p 57; Historie, p 240; Robertson Ayrshire Families, i, p 295-96.

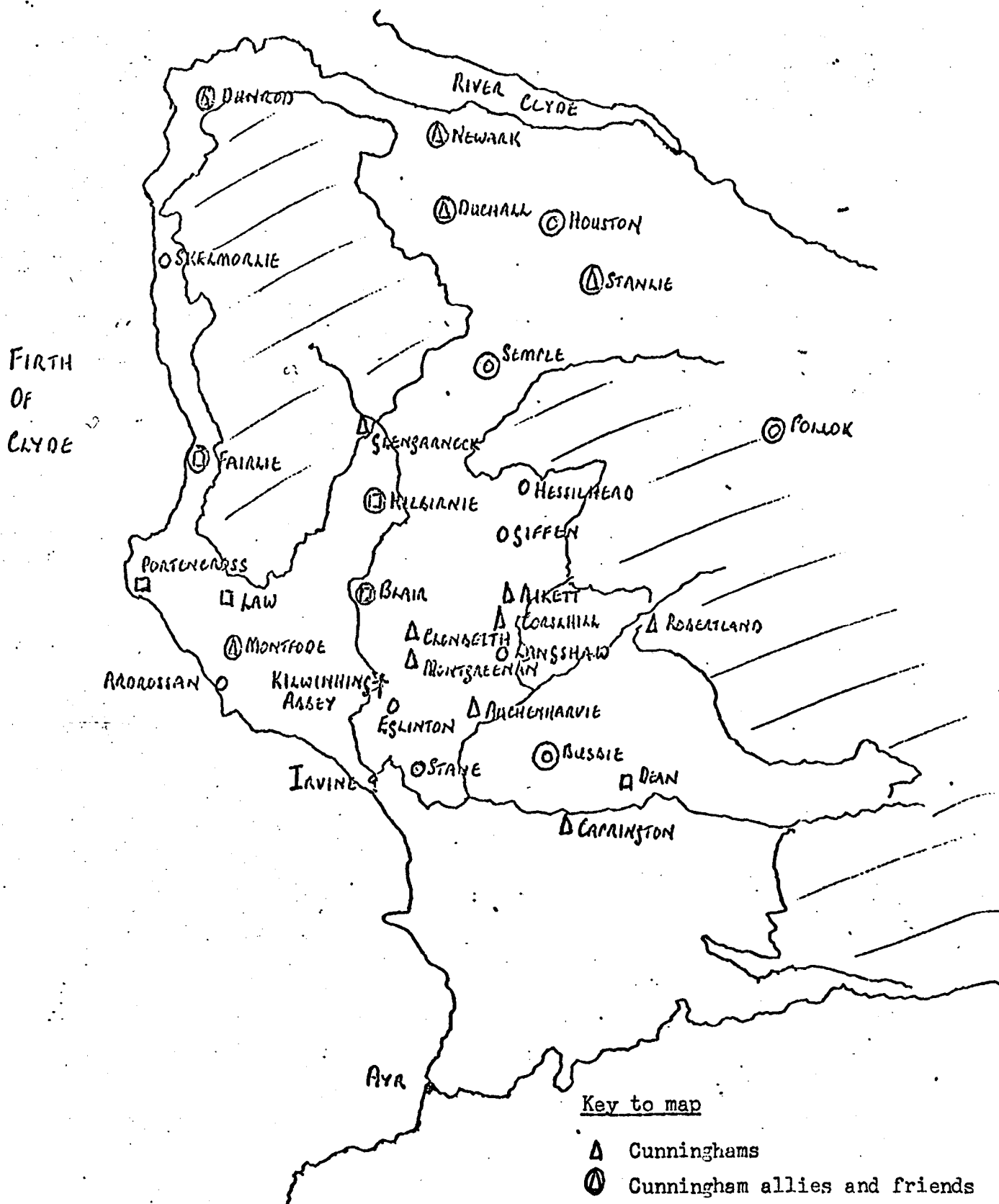
31. C.S.P.Scot., viii, p 329.

longer able to exert any independent authority having been since the 1550's increasingly under the control of the earl of Eglinton. The Reformation further reduced the abbey's religious significance and after the tussle described above, its economic and jurisdictional power was divided between Eglinton and the Cunningham commendator Montgreenan. As for the burgh of Irvine, it was only a modest sized town in which Eglinton held the offices of chamberlain and coroner and in effect dominated it. Other settlements in the locality were no more than villages dependent on the local laird or lord, the nearest large town, Ayr, being more involved in the politics of Kyle and Carrick.<sup>32</sup>

Three noblemen held lands in the locality; Glencairn, Eglinton and lord Boyd. None of them were great territorial magnates like Argyll, Huntly, Cassillis or Maxwell, though the sum total of Glencairn's scattered estates were of a significant size. However, within Cunningham there was no question that they far outstripped any of the other landowners who all in one way or another looked to them for protection and patronage. Of their neighbours in adjacent localities, Lennox and Hamilton had no interest in Ayrshire, and Wallace of Craigie and Campbell of Loudon to their south were not powerful enough to challenge them, besides which they were too concerned with the affairs of their own locality of Kyle.

32. S.R.O., Eglinton Muniments, G.D. 3/1/15/27.

Map of north Ayrshire and west Renfrewshire showing  
castles and tower houses of principal families and allies



Key to map

- Δ Cunninghams
- ⊙ Cunningham allies and friends
- Montgomeries
- ⊙ Montgomery allies and friends
- Boyds
- ⊙ Boyd allies and friends



While the Boyds had fought a bloody feud with the Montgomeries during the mid years of the sixteenth century they had made their peace with them, and as the peace held the two families drew close together. Nor did lord Boyd have any quarrel with Glencairn for while his lands along the western slopes of the Kilbirnie Hills, protected by his castles at Portencross and West Kilbride, and the other block of land around Kilmarnock with his principal seat at Dean castle, lay alongside the estates of both Cunninghams and Montgomeries, he succeeded in remaining at peace with both families. He was not quite neutral as one shall see, but his largely middle of the road position made him an attractive lord for other petty lairds who wished to stay out of the Cunningham-Montgomery dispute. Thus one finds Blair of that Ilk in 1576, and Crawford of Kilbirnie in 1577, giving him their bonds of manrent, while other men like the lairds of Hunter, Fairlie, Boyle and Fraser whose lands were all hemmed in against the sea by him, all looked to lord Boyd for protection and also avoided any participation in the principal political questions of the locality.<sup>33</sup>

This is not to say that all these men were peaceful. In 1577 Blair and Kilbirnie were involved in a shooting incident which reached the ears of the privy council. Some men may simply have wished to get on with their farming and the bringing up of their families in peace and quiet,

33. For the bonds see Brown, "Bonds of Manrent", appendix, p 396-97.

but for some the ties which developed in a small locality could create enormously complex questions about their loyalty. John Blair of that Ilk, for example, found himself in a predicament over the Cunningham-Montgomery feud. His grandmother had been a daughter of the first earl of Eglinton, his mother however was a daughter of one of the Cunningham lairds of Glengarnock, his sister was married to Montgreenan and his own wife was a daughter of lord Semple's, an ally of Eglinton's.<sup>34</sup> Here, then, one certainly finds the community allegiances of which Gluckman wrote about, those which inhibit the spread of feud and create cohesion.<sup>35</sup> It did not always work that way and Blair may have kept out of the feud whatever his kin relationships were, but the complications they made for him, and were possibly intended to create for him by a policy which linked his family to all the powerful families in the locality, reduced the likelihood of him being drawn into a feud within the locality.

The position of the earls of Eglinton in Cunningham was an impressive one. Their principal seat, Eglinton castle, was situated just outside Irvine, they held all the significant offices in the locality and the majority of

34. Pitcairn, Criminal Trials, i, p 71; Accounts of the Lord High Treasurer of Scotland, (eds) T. Dickson and Sir J. Balfour Paul (Edinburgh, 1877-1916), vol xiii, p 116, which suggests that one of the Crawfords was actually killed by the Blairs. For the geneological details of this and other Ayrshire families discussed below, see W. Paterson, History Of The Country Of Ayr, (Paisley, 1847-52), vols ii and iii.

35. Gluckman, Custom and Conflict, p 18.

# THE HOUSE OF BLAIR

John Blair of that Ilk, d. late 1560's

<sup>m</sup>  
Lady Elizabeth Montgomery (1st earl's dtr.)

John Blair of that Ilk, d. c1570

Margaret m John Crawford of Crawfordland

m  
Margaret Cunningham (Glengarnock)

John Blair of that Ilk d. 1609

William

dtr

Jean

m  
Grizel Semple (lord Semple)

m  
Knox of  
Ranfurly

m  
Alexander Cunningham, commendator  
: of Kilwinning

James Cunningham of Montgreenan

John

Bryce of that Ilk

Other children:

m  
Isobel Boyd (Lord Boyd)

Annabell Wallace (Craigie)

i) Alexander m Elizabeth Cochrane (of that ilk)

ii) James

iii) Robert of Bogtoun

iv) Jean m i. Stewart of Bute

ii. Cunningham of Montgreenan?

v) Margaret m Ker of Kersland

vi) Grizel m i. Blair of Adamton

ii. Maxwell of Nethir Polloc

vii) Anna m Brisbane of Bishoptoun

dtrs. i) Grizel m Maxwell  
of Pollock

ii) Isobell

iii) Anna m Porterfield  
of that ilk

iv) Crawford of Kilbirnie

their lands were in Cunningham, the others being at Eaglesham in Renfrewshire. The lands themselves lay north of Irvine, sweeping around to Ardrossan and cutting a wide swathe in a north-easterly direction through the parishes of Stewarton and Beith. Further north, the Montgomery lairds of Skelmorlie held more land between the Kilbirnie Hills and the sea. Apart from Skelmorlie in the north and the Eaglesham estates the Montgomeries held a single cohesive block of Cunningham comprising most of the central portion of the district.

Yet the Montgomery kindred was not particularly large. The third earl of Eglinton, Hugh Montgomery, had no children by his first wife, while his second, Margaret Drummond, bore him two sons and two daughters. The daughters will be considered below under affinal relations while of the sons, the eldest, Hugh, the fourth earl, was murdered in 1586, a year after his father's death, leaving only a baby son to succeed him. His brother, Robert Montgomery of Giffen, who on the earl's death became master of Eglinton and tutor to his nephew, was to become the most prominent figure on the Montgomery side during the feud until his own death in 1596. He was married to a daughter of Campbell of Loudon, but he had no sons and left only a daughter whom he married to her cousin, the fifth earl. Of that marriage there was no issue so that with this earl's death in 1612 the Montgomery line of earls of Eglinton strictly ended, though his Seton successor was persuaded to change his name

THE HOUSE OF EGLINTON

Hugh, 3rd earl d. 1585

m

- i) Lady Jean Hamilton - no issue
- ii) Margaret Drummond (Innerpeffry)

⋮

Hugh, 4th earl k. 1586

m

- i) Giles Boyd (lord Boyd)
- ii) Helen Kennedy (Bargany)

⋮

Hugh, 5th earl d. 1612

m

Margaret Montgomery (Giffen)

⋮

no issue

Robert of Giffen d. 1596

m

- i) Jean Campbell (Loudon)

⋮

Margaret m Hugh, 5th earl of Eglinton - no issue  
m Robert, 7th lord Boyd - no issue

⋮

two other daughter died unmarried

i) Margaret m Robert Seton, 1st earl of Wintoun

⋮

3rd son Alexander, 6th earl of  
Eglinton

ii) Agnes m Robert, 4th lord Semple

in order to remain chief of the Montgomeries. After 1586 then, there was only one adult male member of the Eglinton family and by the time the young earl had come of age his uncle had died.<sup>36</sup>

The other Montgomery lairds could all trace their ancestry back to the Eglinton line at some point in their history. The oldest cadet branch was the Skelmorlie family while the other more important lairds were those of Langshaw, Braidstone and Hessilhead. The lairds of Sevenacres, Brigend, Stane, Smistoun and Blackhouse made up a second group of less significant men who did not own their own tower house and whose families were really sub-cadets. One can now look at these men and their families and analyse to what extent each of them participated in the feud alongside their lord and chief.

Hugh Montgomery of Hessilhead first appears in the records of the feud in 1586 when he took part in an attack on the lands of some of Eglinton's killers. In 1591 he twice acted as Giffen's cautioner in matters related to the latter's oppression of various Cunninghams. Twice in 1599 he was charged by the privy council to appear with other Montgomeries and settle the feud with Glencairn and his kinsmen, and in 1606, while Hugh himself was dead, his son Robert was charged to appear on similar grounds. In 1607 Robert was again before the council and caused some stir when it was

36. Scots Peerage, iii, p 440-44.

discovered that he had a separate feud of his own with the Cunningham laird of Glengarnock. However, he reappeared in 1608 and was present at the final reconciliation of the two families in 1609.<sup>37</sup>

Neil Montgomery of Langshaw was of course placed in an intolerable position by the circumstances surrounding Eglinton's slaughter. According to one tradition Langshaw sent his wife to safety in Ireland until his kinsmen had cooled down a little, but he himself was as committed to revenge as they were. Like Hessilhead he was involved in the 1586 raids, during 1587-88 he appeared before the council on charges relating to plots to kill Montgreenan. In 1591 he was one of Giffen's cautioners and in the following year Glencairn brought charges against him for failing to disband his forces and observe the peace as instructed by the king. He was included in the 1599 lists of Montgomery lairds thought to have been involved in the feud, his son being included with him in the first one. Yet Langshaw did not entirely drop his earlier connections with the Cunninghams. In 1593 he stood caution for two men by the name of Mure that they would not harm Jean Blair, the wife of the late commendator of Kilwinning, and in a sense became the protector of the wife of a man he had pursued to his death. Furthermore,

37. R.P.C., iv, p 94-95, p 675, p 709; v, p 539, p 543; vii, p 233, p 324; viii, p 252, p 262-63.

in 1600 he granted lands in the lordship of Stevenston to Alexander Cunningham of Corshill whose father had been slain by the Montgomeries for his part in Eglinton's murder. One does not know whether the transaction was a compensation payment or not, but it points to some easing of relations between Langshaw and the Cunninghams. He was again included in the 1606 summons, refused to submit the feud to arbitration a year later, but was persuaded to change his mind by the earl of Abercorn, appeared on the 1608 list and had his son present for him at the 1609 settlement.<sup>38</sup>

In Sir Robert Montgomery of Skelmorlie one finds a similar level of sustained involvement in the feud, but Sir Robert's politics were complicated by an additional feud with the Maxwells of Newark and Stanelie, friends of Glencairn. In the 1570's the Maxwells had been friends and allies of the Montgomeries, there being a marriage between a previous Montgomery of Giffen and a daughter of Maxwell of Stanelie, and Newark had taken sides with the laird of Houston against Glencairn in another feud. However, when this Giffen laird died, the third earl of Eglinton removed his wife from the estate and put in his own son, Robert Montgomery. A quarrel between the two families soon broke out from the court room and into open feud. Some time in 1582 the laird of Stanelie was killed by the Skelmorlie

38. Robertson, Ayrshire Families, i, p 298-99; R.P.C., if, p 94-95, p 234, p 256, p 704, p 709; v, p 539, p 543, p 584; vii, p 233-34, p 296-97; viii, p 138-39, p 252, p 262-63; S.R.O., Glencairn Muniments, G.D. 39/5/72.



Montgomerys, but within months the Maxwells had their revenge and slew Sir Robert's father, the old laird of Skelmorlie, and his elder brother. Faced with the greater power of the Montgomerys, the Maxwells turned to Glencairn for help and increasingly became his clients, tying their own feud with the Montgomerys in with that of the Cunninghams.

In fact there is evidence to suggest that at least the Cunningham laird of Craigends may have been involved in some way in the Skelmorlie killings. As for Sir Robert, he too was one of Giffen's cautioners in 1591, a few years later his younger brother took part in raids on the lands of Cunningham of Clonbeith, he was named in both the 1599 lists, he submitted his feud with the Cunninghams in 1607, was included in the 1608 list and was present in 1609.

By 1613 the feud with the Maxwells was still not yet concluded and one does not know when it was ended. The Skelmorlie family were thus deeply involved in both the war and the peace of the feud, and according to some traditions, Sir Robert was the most feared of all the Montgomerys, having a reputation for violence and bloodshed.<sup>39</sup>

The last of the more important Montgomery lairds was Adam Montgomery of Braidstone. Unlike the other three, he played

39. S.R.O., Eglinton Muniments, G.D., 3/1/30/303, G.D. 3/1/31/313; Fraser, Memorials of the Montgomerys, i, p 156ff; Robertson, Ayrshire Families, i, p 297; ii, p 329; S.R.O., Craigend Writs, G.D., 148/215, 148/216; Pitcairn, Criminal Trials, i, part 2, p 133; R.P.C., v, p 271, p 539, p 543; vii, p 296-97; viii, p 138-39, p 252, p 262-63; x, p 112.

very little part in the feud and certainly had no part in any of the violence of the feud. He was listed in the second of the 1599 charges and died in 1602 with there having been no other reference to him. His son Hugh was charged to appear along with his kinsmen in 1606 and in 1608, though not as a principal, but "to assist the said agreement". In 1609 he was specifically ordered not to appear which suggests very strongly that he and his family did not have a feud to settle but had only been asked to participate in the mediation procedures in the hope that a moderate voice would exert an influence favourable to peace.<sup>40</sup>

Tracing the activities of lesser men is even more difficult as one is less likely to find them named but included in the broad term "the Montgomeries". Even for these men above one is only recording their minimum involvement and one just does not know whether they or their men performed any of the murders and killings which followed Eglinton's own. Of the others, one finds Eglinton's deputy bailie of Kilwinning regality, Hugh Montgomery of Smistoun, and his son in trouble in 1596 for oppressive acts against a Cunningham neighbour in contravention of an act of caution they had given to Glencairn. Smistoun then appears in the 1599 charges but then no more is heard of him.<sup>41</sup> The remaining lairds

40. R.P.C., v, p 539, p 543; vii, p 233-34; viii, p 138-39, p 252, p 262-63.

41. ibid., v, p 271, p 539, p 543.

thus lord Boyd had no reason to be concerned for the sake of his daughter while his grandson was not his responsibility at all but that of his own Montgomery kinsmen. In other words, one ought not to expect cognatic relations to have any responsibility for one another and even had Giles lived, Boyd's responsibility would have been for her, not for her son.<sup>43</sup>

Another neighbouring lord whose affairs overlapped somewhat into Cunningham was lord Semple whose lands lay along the marshy castle Semple loch in west Renfrewshire. The Semple family and the earls of Glencairn had a history of feud stretching back to the 1530's, and while the two had worked together in an uneasy alliance during the civil war, their's was among the first feuds to be re-opened at its conclusion with a violent exchange taking place between the 3rd lord Semple and the 4th earl of Glencairn in 1573. Not surprisingly lord Semple allied himself to the earl of Eglinton and three marriages took place between the two families. Of lord Semple's daughters, one married Robert Montgomery of Skelmorlie who was slain by the Maxwells, another was married to the elder Hessilhead, and Semple's son, the 4th lord, married the youngest daughter of the 3rd earl of Eglinton so that he was brother-in-law

43. Scots Peerage, v, p 161-63, and Paterson's History of Ayrshire for the geneologies of lesser families; Brown, "Bonds of Manrent", appendix, p 544, no 65; R.P.C., iii, p 11; iv, p 704; vii, p 8.

or substantial tenants of Scottistoun, Auchinhude, Broomlands and Small Acres all make fleeting appearances in the lists while the lairds of Stane, Brigend, Blackhouse and Sevenacres are never mentioned.<sup>42</sup>

One can see then that the term "Montgomeries" is a fairly meaningful one in the context of this feud. The Eglinton family and three of the four principal Montgomery lairds all made the feud an important issue in their lives while a scattering of petty lairds with the name of Montgomery can also be identified at some point in the feud. Remembering that this is a minimum assessment one has to be impressed by the degree of kin responsibility which the feud aroused, both in seeking blood revenge and in participating in the feud settlement. When one realises that the Skelmorlie Montgomeries had been an independent cadet branch since the late fourteenth century then the degree of kin cohesion looks even more strong than one might have expected in the late sixteenth century.

Evaluating the support given by cognatic relations is more difficult and one is never very sure whether it is the marriage relationship which inspires political support or whether it is the reverse which is true. In the case of lord Boyd's relations with the Montgomeries the marriages

42. R.P.C., v, p 539, p 543; vii, p 233-34, p 296-97; viii, p 138-39, p 252, p 262-63.

of his daughters with Montgomeries were part of the settlement of his own feud with them in the pre-Reformation period. One daughter, Helen, married the elder Hesselhead and her younger sister, Giles, was married to the murdered earl of Eglinton and was mother to the young fifth earl. Lord Boyd was thus the grandfather of both the earl and of the younger Hesselhead and one might argue that he had a very clear interest in the affairs of the Montgomeries. In fact his only activities in the feud was to be one of the men responsible for getting the older earls of Glencairn and Eglinton to sign the 1578 bond and to be one of the latter's cautioners during the Kilwinning abbey crisis. He died in 1590 having, as far as one knows, taken no part in the fighting against the Cunninghams. The only other suggestion of Boyd influence being at work between 1586 and 1590 is that one of his dependants, Boyd of Badenheath, may have held the Eglinton tutorship for a while before Giffen got his hands on it. His son, Thomas, sixth lord Boyd, did however participate in the violent episodes of 1591 and was summoned to answer for keeping the peace, while in 1604 he had to give caution that he would not intercommune with some outlawed Montgomeries. Chronic ill health may have been the reason for him playing no further part in the feud, but whatever the reason, the Boyds really made the affairs of their affinal kinsmen a low priority in their list of local political concerns. One possible reason for this may have been that Giles had died before her husband's murder and

to the murdered earl. Like lord Boyd, Semple's first known participation in the feud was in the fighting of 1591 when he too had to find caution for his behaviour. In 1604 he appeared before the council with the young earl of Eglinton to plead for certain concessions related to their feud with Glencairn, and in 1606 he declared his willingness to submit his feud with the earl. However, in the following year it was he who proved obstinate and who held proceedings up. The determination of both sides to procrastinate finally persuaded the crown to treat the two feuds independently as Glencairn had asked, and peace between Semple and Glencairn had to wait a few months longer than that with Eglinton. Semple's involvement thus looks very much like that of a man who was playing for his own stakes, his alliance with the Montgomeries being formed in order to strengthen his hand against Glencairn, and affinal obligations being of little concern in his calculations.<sup>44</sup>

Marriage brought a few other families into the Montgomery orbit. A daughter of Hessilhead's was married to William Muir of Rowallan, a neighbouring Renfrewshire laird, and while

44. Hay wrote of the Semples "They be allyed with th'erles of Eglinton, and have bene sometyme in controversy with the Cunnyhames, and overmatched with that surname; men sufficient hardy, their lyvinge not greate, and of late hurte." Estimate of the Scottish Nobility During the Minority of James the Sixth, (ed.) C. Rodgers, (London, 1873), p 23. Pitcairn, Criminal Trials, i, p 164; R.P.C., ii, p 12, p 155; vii, p 160, p 233-34, p 296-97; viii, p 221-22.

Rowallan himself had no part in the feud, Muir of Caldwell, whose father was slain by the Cunninghams in 1570, was acting as another of Giffen's cautioners in 1591 and was charged with having his men in arms that year. He was regularly included in the peace negotiations. Rowallan himself may have been put off too close an alliance with the Montgomeries because of his own ill feeling towards lord Boyd with whom he had been at feud, and in fact a Muir of Thornton and a brother of either Rowallan or Caldwell are listed as friends of Glencairn.<sup>45</sup> The marriage of the 3rd earl of Eglinton's elder daughter to a younger son of lord Seton brought a closer identity since Alexander Seton became the sole heir to the Eglinton earldom and thus had a large interest in the affairs of his Montgomery kinsmen. In 1606 he and one of his brothers were involved in some fighting in Perth with Glencairn.<sup>46</sup> Giffen married a daughter of Campbell of Loudon and both he and Campbell of Terrinyeane are referred to as being at feud with the Cunninghams in 1588, they were both charged to keep the peace in 1591 along with others in the feud and in 1608 Loudon was asked to assist in the negotiation procedures.<sup>47</sup>

45. R.P.C., iv, p 98, p 704, p 747; v, p 543, vii, p 233-34, p 296-97; viii, p 138-89, p 252, p 262-63; Wormald, "Bloodfeud, Kindred and Government", p 77.

46. R.P.C., viii, p 221-22.

47. S.R.O., Glencairn Muniments, GD 39/5/68; R.P.C., iv, p 704, viii, p 138-89.

In a small locality such as this most men were either one's friends or one's enemies and marriage was thus restricted to a fairly narrow number of socially and politically acceptable people. The only case of marriage between families who were not at peace brought disaster as the kin loyalties of a wife remained fixed with the family of her birth. Generally then, men made safe marriages into the families of their friends and only feud settlements forced them to depart from this pattern; that and perhaps love. Few of the nobility of north Ayrshire were men of the court, most of the time they lived in their locality and married the women who lived there, and the same was true of the lairds. In their determination to pursue suitable marriages within the selective social class of significant landowners in a small locality, the tendency would be to reinforce the kin group; hence the repeated interrelationship of Montgomeries, Boyds and Semples. Thus the political implications of these marriages remained limited to the self-interest which had brought the two families together in the first place and responsibility for another kin was not one of the duties consequent of the marriage.

A few other figures appeared on the Montgomery side during the feud. These were men who were dependants or simple friends of the earls of Eglinton and their kinsmen. Houston of that Ilk, another west Renfrewshire laird, was the most important of these. In 1576 Houston's brother



led a party of men in an attack which left one of Glencairn's servants dead and led to a feud with the Cunninghams. The master of Glencairn, the future 6th earl, responded by gathering three hundred men and ambushing Houston near to his own house, killing two of his servants, wounding another of his brothers and taking a number of prisoners including the laird himself. The incident caused ruptures within Glencairn's own supporters since Cunningham of Glengarnock and Porterfield of that Ilk were both friends of Houston's and took his side throughout the earlier years of the feud. In 1582 the government ordered both sides to make peace, but the feud persisted, and when the Cunningham-Montgomery feud broke out again, Houston was a willing ally of the latter and was consistently involved with the Montgomeries in the pacification procedures.<sup>48</sup> James Mowat of Busbie was a dependant of Eglinton's, took part in raids against the Cunninghams and was included in the latter stages of the settlement.<sup>49</sup> John Pollok of that Ilk, also from west Renfrewshire, may have been Langshaw's son-in-law and was certainly a rival of the Maxwells of Pollok, kinsmen to the Maxwells who supported Glencairn. It was he who murdered Clonbeith, Eglinton's killer, and he was charged in 1591-92 for his part in not keeping the peace of the locality.<sup>50</sup> Robert Cunningham of Whithirst joined Montgomery of Smistoun

48. R.P.C., ii, p 576; iii, p 503; iv, p 248.

49. S.R.O., Eglinton Muniments, G.D. 3/1/54/514; R.P.C., iv, p 94-95; vii, p 233-34, p 296-97; viii, p 252, p 262-63.

50. Robertson, Ayrshire Families, i, p 298, R.P.C., iv, p 747.

on the attack of lady Corsehill's property in 1595, and while this was probably nothing more than opportunism on his part, it does show some crossing of the kin lines of battle.<sup>51</sup> Others who put in fleeting appearances were Ralstoun of that Ilk, Dunlop of that Ilk, Fergushill of Fergusland and Lindsay of Crevock, all small men with a very limited interest in the feud and possibly with axes of their own to grind against Glencairn.<sup>52</sup>

The Montgomery kin alliance was thus a fairly strong one even if it was not large or powerful in the wider political scene. It was not without its problems. Montgomery of Scottistoun was slain by members of the Hessilhead branch of the kindred, but it was cohesive enough to sustain a feud against a potentially much more powerful adversary. The relative smallness of the geographic unity may have been an advantage in creating this cohesion, that and Eglinton's murder which gave the Montogomeries a strong ideological position to rally around. The degree of involvement by affinal kinsmen, the limited number of non-Montgomery dependants and the non-participation of some Montgomery lairds in the feud as anything other than arbitrators shows that one has to be careful when speaking about the Montgomery kindred in general terms, but its cohesion was greater than that of the Cunninghams.

51. R.P.C., v, p 271.

52. R.P.C., v, p 543; vii, p 296-97; viii, p 138-39, p 252, p 262-63. Dunlop had given a bond to the earl of Eglinton in 1559, Brown, "Bonds of Manrent", p 447.

Unlike Eglinton, Glencairn's lands and supporters were dispersed throughout the country. Historically the Cunninghams and Glencairn as their chief, had deep roots in the bailiery of Cunningham and they had been there as long as the Montgomeries, but by the sixteenth century it was only one of three districts in which Glencairn had an interest, the earl having extensive lands in Dumbartonshire, where he had his principal castle at Finlaston, and in Galloway from where he took his title. Thus, while the "Estimate" says of Eglinton, that "his power of himself is not greate", of the Cunninghams the writer reports that they were "men of fayre landes and of greate power of their owne surname ...".<sup>53</sup> The parts played by the third and fourth earls in the politics of the Marian minority, the Reformation and the civil war had further enhanced their influence and power outside of their immediate local environments and put them on a par with the greatest magnates of the kingdom.

In Cunningham itself the lands of the earl of Glencairn and his kinsmen were broken into three tracts. In the north they held lands which stretched from Glengarnock over the Kilbirnie Hills into Renfrewshire and down to the shores of the Clyde as well as cutting eastwards into Renfrewshire. On the very south of the bailiery and in Kyle their lands swept in a north-easterly arc through Kilmaurs and up towards Stewarton. They held five castles or tower houses in the

53. Estimate, p 10, p 12.

Irvine Valley and surrounding district and others at Glengarnock in the north and Caprington in the south. Finally, there was a third area between Ardrossan and Irvine which they owned. With their Renfrewshire allies they thus surrounded the Montgomeries on all sides.

The immediate Glencairn family was also much larger than that of Eglinton. Both Alexander, the famous fourth earl, and the fifth earl, also Alexander, were tough men of action, though the latter certainly appeared to play down the Kilwinning abbey dispute and leave it to his younger brother to handle as best as he could. James, sixth earl of Glencairn was a more tempestuous man who had, even while his father was alive, responded with immediate violence to Houston of that Ilk's challenge. Eglinton's murder may not have been his idea, but he certainly approved it and directed its prosecution from afar. He never attained the political significance of his grandfather, but he was at home with most of the governments and factions of the day and was one of the more regular noblemen at court and to sit on the privy council. Of his two brothers, John of Ross was involved in the plot against Eglinton and was guaranteed protection by Glencairn, being actually present at the murder for which he acquired a remission in 1595-96 and he was

THE HOUSE OF GLENCAIRN

William, 3rd earl, d. 1548

m

- i) Catherine Borthwick (lord Borthwick)
- ii) Elizabeth Campbell (West Loudon)

.....  
:

Alexander, 4th earl, d. 1575

m

- Janet Hamilton (Arran)
  - ii) Janet Cunningham (Caprington)
- ii) Andrew of Corsehill - the house of Corsehill
  - iii) Hugh of Watterstoun - the house of Carlung and Watterstoun
  - iv) Robert of Montgreenan
  - v) William, bishop of Argyll
  - vi) Elizabeth m Sir John Cunningham of Caprington.
  - vii) Jean m Robert Fergusson of Craigdarroch

.....  
:

Alexander, 5th earl, d. c1580

m

- Janet Gordon (Lochinvar)
- also by first marriage
  - ii) Andrew of Syid
  - iii) James, prior of Lesmahagow
  - iv) Margaret m i. John Wallace of Craigie
  - ii. Lord Ochiltree
  - and by second marriage
  - v) Andrew of Montgreenan, commendator of Kilwinning m Jean Blair
  - vi) Janet m Archibald, 5th earl of Argyll
  - ii) Humphrey Colquhoun of Luss

.....  
:

James, 6th earl, d. 1631

m

- daughter of Campbell of Glenorchy
  - ii) Agnes Hay (Kingask)
- ii) John of Ross
  - iii) William, rector of Inchcailleoch
  - iv) Jean m i. Haldane of Gleneagles
  - ii. Kirkpatrick of Closeburn
  - v) Katherine m Fergusson Craigdarroch
  - vi) Margaret m Sir Lachlan More Maclean of Duart
  - vii) Elizabeth m i. Crawford of Auchinames
  - ii. Alexander Cunningham of Craigends .
  - viii) Susanne m Napier of Kilmahew

throughout consistently involved in the feud.<sup>54</sup> The earl's other brother, William, rector of Inchcailleoch, took no part in the feud at all.

Of Glencairn's three uncles, Andrew of Syid and James, prior of Lesmahagow are never heard of in the feud and their families did not live in the locality. Their younger brother, however, was Montgreenan, the commendator of Kilwinning, who was, as one has already seen, at odds with the Montgomeries from the 1570's when he took over at Kilwinning. He was in command of the murder of Eglinton while Glencairn directed it from elsewhere and was himself later to be murdered by the revenging Montgomeries. His son James continued to identify with Glencairn and was prominent in all the negotiations leading up to the settlement in 1609.<sup>55</sup>

Moving another generation back to the brothers of Glencairn's grandfather one finds that of the two families settled in the locality, both gave support to the Cunningham cause. The Cunninghams of Corsehill were involved in the plotting against Eglinton and the laird of Corsehill himself was present at the slaughter. Consequently Corsehill was denounced and he became an outlaw, his lands being

54. Fraser, Memorials of the Montgomeries, ii, p 227-28; Robertson, Ayrshire Families, i, p 295-99; R.P.C., v, p 269; vii, p 296-97, viii, p 138-39, p 252, p 262-63.

55. For James, see R.P.C., v, p 539, p 543; vii, p 296-97.

ravaged in his absence and one of his sons, Patrick Cunningham, was killed by the Montgomeries between 1586-88. He was dead by the time the crown began to push for peace in 1599 but his son Alexander appeared at every stage of the procedures thereafter.<sup>56</sup>

The other family was that of Carlung and Watterstoun. In 1582 a Cunningham of Watterstoun was charged to find assurance that he would not harm the Montgomeries, and the heir to the laird, Archibald Cunningham, was slain by his enemies though the date of this killing is unknown and may have preceded Eglinton's own. Watterstoun appeared on one of the 1599 lists, in 1604 Glencairn was relieved of any responsibility for him, he appeared only as a friend and assister in 1608 and was not present in 1609. One can surmise then that this branch of the Cunninghams were less eager to pursue the feud and possibly made their own peace with the Montgomeries while there may even be some doubt as to whether Archibald Cunningham was killed, the sources being a little lacking on authority on this point.<sup>57</sup>

56. Fraser, Memorials of the Montgomeries, ii, p 227-28, p 266; Robertson, Ayrshire Families, i, p 295, p 298; R.P.C., iv, p 94-95; v, p 543; S.R.O., Glencairn Muniments, G.D. 39/5/68. Note Corsehill or Corsewell.

57. R.P.C., iii, p 503; v, p 539; viii, p 1, p 138-39, p 549.

Glencairn's family, which included all his great-grandfathers decendants, was fairly committed to the feud when one considers the extent of kinship one is dealing with here. Of course the fact that Glencairn was their lord may have brought more influence to bear than kinship alone could, but to find the sons and grandsons of great-uncles joining with Glencairn in the feud is very impressive and suggests that a very wide sense of kinship was still recognised. Of Glencairn's own sons, however, one finds that none of them are ever known to have been active in the feud which perhaps is not surprising as none of them were particularly inspiring men.

Of the older established cadet branches of the Cunningham kindred, the Cunningham lairds of Glengarnock had held their lands since the late thirteenth century. Given that fact one is not surprised to find them following what was essentially independent local politics of their own. Glengarnock was described in 1577 as "a greate man of the Cunngames", and of his children, the eldest son married a daughter of lord Sinclair, his daughters were married into the houses of the lairds of Blair, Kilbirnie, Fullwood and Duchall and his grandson and heir was married to Glencairn's eldest daughter in what looked like an attempt by the earl to pull Glengarnock more closely to his side.<sup>58</sup> As has already been seen he opposed his

58. Estimates, p 22.



chief between 1576-82 in the feud with Houston of that ilk, but something happened to sour their relationship and in 1589 the Houstons killed one of his grandsons and his own bastard son "in feid".<sup>59</sup> This persuaded Glengarnock to move back his lord's protection, but his feud with Houston remained to some extent separate and he was not usually included along with Glencairn and other principals on the Cunningham side during the pacification procedures. In 1595 he was denounced for not appearing before the council along with the others, he gave caution for Houston's safety in 1602, his appearance in 1607 was because of the separate feud with Hessilhead, something he denied, unless Hessilhead "... wald qualifie a feid", he appeared in 1608 as a friend of Glencairn's and he was not there in 1609.<sup>60</sup> To expect the same level of kin obligation from a man whose kinship with Glencairn in the male line had diverged along different paths some four hundred years before as one might expect from Montgreenan would be foolish, and it was as his lord that Glencairn had more influence over Glengarnock.

The laird of Caprington was also one of the older cadets, a man of substantial means, and like Glengarnock he had his lands on the periphery of the area of worst feuding. He had already been mentioned as knowing about

59. Pitcairn, Criminal Trials, i, part 2, p 182-83.

60. R.P.C., v, p 248; vi, p 731; vii, p 324; viii, p 138-39.

the Eglinton plot but as remaining apart from its execution. In 1586 he accompanied Glencairn before the privy council on a matter relating to remissions and in the second of the 1599 charges he was listed. On the whole then the limit of his involvement was that of a distant advisor.<sup>61</sup>

The same cannot be said of Alexander Cunningham of Aiket and his son James. Aiket was a close conspirator in 1586, was one of the murderers and was outlawed for his crime. His family and his lands suffered badly from the ravaging of the Montgomeries and he himself was killed some time around 1602 after he had allegedly received a remission from the king. Both he and his sons, James and Alexander, and from 1607 his grandson, William Cunningham of Aiket, were regularly included in the pacification procedures and there can be little doubt about the extent of his family's commitment to the feud.<sup>62</sup>

David Cunningham of Robertland was something of the hero and the villain of the piece. It was he the "Historie" tells us, who was responsible for lulling Eglinton into a false sense of security while plotting his murder. He too took part in the killing, was outlawed, his lands were raided and his house occupied by Giffen.<sup>63</sup> However,

61. Fraser, Memorials of the Montgomeries, ii, p 227; R.P.C., v, p 269, p 539, p 543.

62. Fraser, Memorials, ii, p 226, p 227-28; Robertson, Ayrshire Families, i, p 295; Historie, p 240; R.P.C. iv, p 94-95; v, p 269, p 543; vii, p 233-34, p 296-97; viii, p 138-39, p 252, p 262-63.

63. As note 2 and Historie, p 239-40.

Robertland fled abroad and ended up in Denmark where he became something of a favourite of Anne of Denmark, returned to Scotland with her, was granted a remission, was knighted and appointed as the queen's master stabler.<sup>64</sup> In 1599 he was objected to as an assessor at the trial of Sir James Edmonstone of Duntreath as the latter was third of kin to Eglinton and as one might expect he was present throughout the pacification stages until his death after which his son continued to appear with Glencairn.<sup>65</sup>

John Cunningham of Clonbeith was not mentioned in any of the plotting and first makes his appearance in the records as the man who delivered the killing blow to Eglinton. Revenge was not slow in catching up with him and a few years later he was brutally done to death at the home of lord Hamilton where he was sheltering in his outlawry. His son James appeared or was summoned twice in 1599, but in 1604 Glencairn asked to be relieved of further responsibility for him and he did not reappear in the Cunningham ranks until 1609. Whether this was because he made his own peace with the Montgomeries or, as seems more likely, that Glencairn was unable to control him, one does not know, but his

64. Historie, p 240.

65. Pitcairn, Criminal Trials, ii, p 3ff; R.P.C., v, p 543; vii, p 233-34, p 296-97; viii, p 138-39, p 252, p 262-63.

family's part in the feud cannot be doubted.<sup>66</sup>

Of the six major Cunningham lairds in the locality three of them then made the feud a matter of principal importance. Of the others, Glengarnock largely pursued his own policies, Caprington was not terribly interested and the sixth man, the laird of Auchinharvie was even less so, being summoned as one of Glencairn's friends in 1608 and not appearing.<sup>67</sup> The reasons for such diversity of loyalty may be as individual as the men concerned, Auchinharvie may simply have been a man of peace and Robertland a young trouble-maker. However, the position of the estates of Aiket, Robertland and Clonbeith in the Irvine Valley, where Cunningham-Montgomery competition was at its strongest, is perhaps some indication of why these lairds were so committed to feuding. Apart from these a further twenty Cunningham lairds make some appearance in the records of the feud, mostly in the peace procedures. Again it is an impressive list even if some of them appear only once while many of them were from other localities and it continues to point to far greater kindred responsibility than one might have initially expected.<sup>68</sup>

Among the families connected to Glencairn by marriage,

66. Robertson, i, p 295-98; Fraser, ii, p 229-30; R.P.C., v, p 539, p 543; vii, p 233-34, p 296-97; viii, p 138-39, p 252, p 262-63.

67. R.P.C., v, p 539, p 543; vii, p 549; viii, p 138-39.

68. References to these other lairds are found throughout the privy council entries concerning this feud between 1599-1609.

by far the most important was that of lord Hamilton. The fifth earl of Glencairn's mother had been a Hamilton, a daughter of the earl of Arran, while one of the sixth earl's daughters married the second marquis of Hamilton, and Hamilton of Libberton was married to another of his daughters.<sup>69</sup> On two occasions lord Hamilton verged on the edge of entering the feud on his cousin's side. The first arose over a quarrel with Giffen about Robertland's escheat, the second and more dangerous occurred when Clonbeith was killed in Hamilton's house by friends of the Montgomeries who exploited his hospitality to get at their enemy. In 1589 the king gave the Montgomeries a licence to excuse them from attending Hamilton on the borders as after this killing he "consauvit and beris ane deidlie haitrent, malice and inimitie" against them and "hes manifested him selff oppin enemey" to them, and in particular to Giffen, having become an "assistair and partaker with the Erll of Glencarne in all his actionis and querrellis aganis thame".<sup>70</sup> However, Hamilton's interests were too diverse for him to sustain an interest in this feud for long, and while he fought Giffen in the courts his support for Glencairn seems to have been largely a morale booster. The other reference to Hamilton

69. Scots Peerage, iv, p 241, p 245-46.

70. Fraser, Memorials of the Montgomeries, ii, p 229-30.

involvement was in 1608 when the earl of Abercorn promised to use his influence with both sides to speed up the negotiations.<sup>71</sup> Other families with marriage alliances to Glencairn were the Gordons of Lochinvar from whom his mother came and the Campbells of Glenorchy from whence his own wife came, but both these marriages had been made with an eye to their influence on the other localities in which Glencairn's family had a stake and were too distant to be of any help in north Ayrshire.<sup>72</sup>

Four other families appeared with Glencairn at some point in the feud. The Maxwells have already been referred to in their feud with Skelmorlie. Apart from what has already been said about them, Maxwell or Newark's brothers took part in the killing of Eglinton and were outlawed for it, and the Maxwells were regularly present throughout the peace negotiations in various capacities.<sup>73</sup> Porterfield of Douchall was another Renfrewshire laird who had been a client of the fourth earl but who quarrelled with Glencairn and his father and in fact Glencairn destroyed Douchall's house some time around 1582.<sup>74</sup> However, the old wounds heeled and Porterfield,

71. R.P.C., viii, p 138-39.

72. Scots Peerage, iv, p 242, p 244.

73. R.P.C., v, p 269; vii, p 296-97, p 324; viii, p 138-39, p 252, p 262-63.

74. S.R.O. Glencairn Muniments, G.D., 39/1/62, 39/1/112, 39/1/118; R.P.C., iii, p 195, p 556.

or his son, drifted back into Glencairn's favour and he appeared as one of his friends in 1609. Boyd of Clerkland and Arnot of Lochrig also appeared as his friends.<sup>75</sup>

The impression one has of the Cunningham kindred and Glencairn's lordship was that it was less tightly knit than that of the Montgomeries. The reasons for this have already been hinted at. Glencairn's kinsmen and friends were less geographically united than his enemies and he himself did not even reside in the locality; at least two of the Cunningham lairds in the locality, Glengarnock and Caprington, were men of substantial standing in their own right and had their own affairs to attend to; the kindred was much larger and thus there was more room for dissent and one even finds Glencairn at feud with the laird of Craigends or at least to have bitterly quarrelled with him in a rift which lasted for over twenty years; and the marriage alliances of the Glencairn family were even less likely to bring support than those made by the Montgomeries.<sup>76</sup> One can perhaps suggest that Glencairn was not a particularly good lord and became involved in quarrels with too many people, including men who would under less strained conditions have been his friends. Even his failure to really protect his kinsmen in the events following 1586 suggest that he

75. R.P.C., vii, p 233-34, p 296-97; viii, p 138-39, p 252, p 262-63.

76. S.R.O., Glencairn Muniments, G.D., 39/1/91; S.R.O., Craigend Writs, G.D., 148/27/205; R.P.C., iv, p 415; v, p 649.

was a man not exactly to be trusted. He was a strange mixture of cold calculation and blustering action and his lordship may have weakened the cohesiveness of his followers. On the other hand to feud with the Montgomeries the Cunninghams did not need to be fully mobilised and their strength was such that they could afford a few malcontents. Even so, one is still talking about a large-sized body of kinsmen and allies taking part in the feud and in no way could one suggest that either the Cunningham kindred or Glencairn's lordship were too seriously in question.

In analysing the anatomy of just two of the many corporate interest groups which formed the opposing sides in each of the feuds of this period one can see that it was a more complex business than a mere reference to Cunninghams, Montgomeries, Campbells or Gordons often suggests. Both contemporaries and historians have too often lumped men together without thought for their individuality. It is a convenience to do so and one will continue to do it, but at least one ought to be more aware of the subtleties involved in the relations between lords and their men and among kinsmen, subtleties which were even greater than the rather coarse analysis which sparse records have permitted in this case study. With these facts and impressions in mind one can follow the feud in the years which followed Eglinton's death with a degree of more critical insight.



One traditional account of what happened after the murder of Eglinton in 1586 runs as follows:

"The horror of the fact struck every-body with amazement and consternation, and all the country ran to arms, either on the one side of the quarrel or the other, so that for sometime there was a scene of bloodshed and murder in the west, that had never been known before ... the friends of the family of Eglinton flocked to the Master of Eglinton, his brother's death, from all quarters; and in the heat of their resentment, killed every Cunninghame, without distinction, they could come by, or even so much as met on the highways, or living peaceably in their own houses."<sup>77</sup>

In trying to assess just how true this interpretation of the feud is one encounters a number of problems already touched on in the above discussion on violence.

Contemporaries would certainly not neglect to tell of the killing of an earl and even a laird was unlikely to be missed, but the slaughter of a servant or tenant could all too easily be covered up with generalisations.

On the other hand accounts which tell us that "the Montgomeries of Eglinton had ridden, like a destroying angel, over the lands of the Cunninghames in North Ayrshire, and in fire and rapine and slaughter, had left the place a blackened desolation;" must be approached with more suspicion than the author of these words approached his evidence.<sup>78</sup> What one can do is try to look at the pattern of revenge both in the violent response and in the attempt to extract formal

77. Robertson, Ayrshire Families, i, p 296-97.

78. From Ayrshire's Story, (Midlothian, 1977).

legal redress. Hopefully one can then analyse more carefully what form the feud took after 1586. Certainly if the above accounts are true then Cunningham must have been a truly terrible place to live at this time, and if other feuds were like it, the kingdom must have been filled with men whose necks were twisted with having to constantly look over their shoulders.

Examples of this sort of indiscriminate violence are in fact quite rare. Widespread trouble throughout the locality did not take place until five years after the murder, in 1591, when it was reported that "... between these two, twenty or thirty persons slain in one day and nothing accounted of".<sup>79</sup> The source which reported this can be shown to have exaggerated its accounts of Huntly's feuding in the north, and as it was written in Berwick one might reasonably assume that the tale had grown in the telling. However there certainly was considerable trouble in the locality throughout the summer and autumn months of 1591 and Giffen, Langshaw, Hessilhead, Skelmorlie, lord Boyd, lord Semple and Mure of Caldwell on one side, and Caprington and Maxwell of Newark on the other, had to give caution that they would keep the peace. Furthermore, Glencairn was warded for a short while. In the following spring Glencairn on one side and Langshaw, Semple, Caldwell and Pollok of that ilk were all in trouble with the council for

79. C.S.P.Scot., x, p 574.

failing to disband the forces which they had kept in arms throughout the winter. The unrest continued during that summer with both Glencairn and the Montgomeries assembling more men in November before matters quietened down in the winter of 1592-93.<sup>80</sup> One probable casualty of this period was Montgreenan who was shot dead at the door of his house and it may in fact have been his murder which sparked off the fury of the following months.<sup>81</sup>

That a number of people were killed during these months seems very likely, indeed, other feuds saw equally large numbers killed in such encounters. A reaction to Montgreenan's death seems the most likely explanation for it, especially when one considers Glencairn's temperament in such matters, and the murder of his uncle would have been especially hard for him to accept lightly. Another factor to be taken into account was that the Montgomeries legal case against the Cunningham lairds who killed Eglinton had collapsed in the spring and in their frustration they may have thus killed Montgreenan.<sup>82</sup> The period was also on the wider political map one of extreme instability with the breaking of the Bothwell scandal, Huntly's war with the Stewarts in the north, trouble in the south-west and economic depression. This may explain why the crown was less

80. R.P.C., iv, p 701, p 704, p 709; C.S.P.Scot., x, p 812, p 819.

81. He was dead by August 1591, see below vol. i, p 243.

82. See below vol. i, p 243.

concerned with north Ayrshire than it might otherwise have been. How many poor men were slain or hurt and how many lost homes and livestock or produce one does not know, the violence of these months remains clouded. What is certain is that it was unusual and that on the whole the revenge of the Montgomeries was much more selective.

An exact list of Eglinton's murderers does not exist but one can be compiled of most of the more important men there. Glencairn himself was not present and in fact managed to avoid any suspicion from the authorities and neutral observers. However, he did this at the expense of some of his friends who received less protection than they had been led to expect in the bond the earl gave them promising that as "it is fallen out that the said Erle of Eglintoun is slane" he would protect them in law and out of it.<sup>83</sup> Those who did take part in the killing were Robertland, Clonbeith, Ross, Aiket and his brother, Corsehill and his son, the Maxwell brothers, Cunningham of Bordland with his son or a servant, one is not sure which, Cunningham of Polquhern and a servant, and John Ryburn of that ilk. Of these, all but Clonbeith and Ryburn are known to have been outlawed.<sup>84</sup> Montgreenan was not implicated in the killing but the Montgomeries were very suspicious of his

83. Fraser, Memorials of the Montgomeries, ii, p 227-28.

84. Moysie, Memoirs, p 57; Robertson, Ayrshire Families, i, p 295; Historie, p 240; Fraser, Memorials of the Montgomeries, ii, p 227-28; R.P.C., iv, p 94; v, p 269.

part in directing it, and as we have already seen their suspicions were well founded. Obviously many more men were at the killing with their masters but their names are not recorded.

Selective revenge was to fall fatally on four of these men. Corsehill's son was killed within two years, possibly by Langshaw as was suggested above or by Giffen.<sup>85</sup> Clonbeith was killed within the same time period, being dragged out of a chimney in Hamilton's house and hewn to pieces by Pollok of that Ilk and his Montgomery friends.<sup>86</sup> As early as 1587 Montgreenan complained that Giffen and his men were pursuing him and a year later he complained that servants belonging to Giffen and Langshaw had been lying in wait near his home to kill him and the commendator seems to have lived under constant fear until he was in fact killed outside his house by the Montgomeries in 1591.<sup>87</sup> Finally, Aiket, whose lands were attacked a number of times during his outlawry, was also shot down close by his house.<sup>88</sup> These are the only men for whom there is

85. S.R.O., Glencairn Muniments, G.D., 39/5/68 and above p 214.

86. Fraser, Memorials of the Montgomeries, ii, p 229-30.

87. Robertson, Ayrshire Families, i, p 297. The commendatorship was granted to the senator of the college of justice, Mr William Melville, who in 1604 resigned it in favour of the fifth earl of Eglinton so that the Montgomeries finally got their hands on it after all. S.R.O., Eglinton Muniments, G.D., 3/1/77/689, 3/1/77/699, 3/1/77/701; Reg. Mag. Sig., vol v, part 2, p 709-10, no 2085.

88. C.S.P.Scot., x, p 812, p 819.

individual evidence that they were slain. As far as one knows Eglinton was the last important Montgomery to die in the feud though some may have been killed in 1591-92.

Violence of course need not be fatal for it to hurt. Most of Eglinton's killers were horned and thus had to flee abroad or take refuge with powerful friends as Clonbeith tried to do. In doing so they left their families and properties defenceless and vulnerable and the Montgomeries were not slow to exploit this weakness. In August of 1586, four months after Eglinton's death, the wives and children of Aiket, Corsehill and Bordland with their tenants and labourers complained that Giffen, Langshaw, Hessilhead, Mowat of Busbie and their friends and accomplices were systematically oppressing them in the name of the commission they had against the murderers of the earl. What they suffered was by no means untypical of the period but it is an insight into the less dramatic incidents of the feud. Many of their houses had been burned including that of Corsehill which had in fact been delivered up to the Montgomeries when the laird of Corsehill was horned. Their goods had been stolen and the corbels, gates and even the stones of their homes had been smashed. These raids had "... alluterlie wrakit and distroyit the pure tennentis and labouraris of the ground ...", taking away all their goods and forcing them to pay their males, fermes

and duties to the Montgomeries for the immediate term and the Martinmas term to come. It was also feared that they intended to cut the standing corns and take them away thus totally ruining them. Now to add to the miseries of these Cunninghams and their tenants the donators of the escheats of their husbands were looking for their cut and were expected to take anything that was left. The privy council ordered Giffen not to destroy any of the houses he had in his possession and ordered him to put a garrison in them to see that they were properly maintained. However, the cost of the garrisons of six men in Robertland and four in Aiket was to be borne by the livings of these estates at a total cost of £60 a month so that the complainers were even worse off after their complaint.<sup>89</sup> In fact in 1592 parliament decided that the council had gone too far in this action, exceeding its legal powers and causing the destruction of the house of Aiket which was lying ruined amidst wasted lands.<sup>90</sup>

Ten years later lady Corsehill was still complaining of raids she suffered between 1593-96. In one of these her daughter had almost been killed and was only saved by Glencairn's timely intervention. However, more houses had been burned and looted and her tenants had been warned not to work for her again or the Montgomeries

89. R.P.C., iv, p 94-95.

90. A.P.S., iii, p 611.

would "mak thameselffis to repent it".<sup>91</sup> This time the crown took a harder line against the Montgomeries, time having made the king less sympathetic to their cause.

How does one measure such violence? Over the period from 1586-1606 when the last act of violence took place some thirty or more men may have died as a result of Eglinton's murder. However, only four are known to have been killed so that the number of deaths could be anything from over thirty to less than five. The intensive raiding on the Cunningham estates in the Irvine Valley did not, as far as one knows, result in any deaths, but the misery and suffering inflicted on the poor labourers who worked for these lairds and even on their wives who had to face these hardships without their support, and with only minimal protection from Glencairn who was too busy trying to keep his own hands clean, made their lives considerably less secure for over ten years. This was a society more able to cope with suffering than our own, where bad weather, bad harvests and the Montgomeries were all of a one to the struggling farmer, but while life went on one cannot underestimate the effect of the feud on the locality, particularly in the economic and climatic conditions of the 1590's.

What one can say with a reasonable degree of certainty is that the Montgomeries did not go around killing everyone

91. R.P.C., v, p 271.



of the name of Cunningham. They never attacked the lands or the families of the Cunninghams of Glengarnock, Caprington or Auchinharvie, but confined their attacks to the murderers and their estates. Even there, while they devastated the property of these men, they did not seek out and kill anyone but the principals themselves, except in the 1591-92 period when a state of civil war appeared to exist in the locality. Furthermore, the Cunninghams made no attempt to take the issue any further and again with the exception of 1591-92, accepted their losses rather stoically. Perhaps the changing political context of the 1590's had something to do with this or Glencairn was just getting older and had lost his old passion for blood-letting. In a sense then the locality and its competing families established their own ground-rules and contained the feud at a level which was acceptable to them both. The local economy and local justice continued to function and the crown was only involved at a very modest level. Feud did not reduce men to anarchy, at least not in this feud. Had Glencairn been more determined to accept his role as protector of the killers, had Eglinton's heir been an adult male, had lord Hamilton decided to lend a hand, all might have been different; such is the uncertainty of human affairs. Yet if an unthinking violent response had always been men's response to their foes then society would never have progressed from the cultivation of a few

fields around a fortified camp protected by a war-lord and his fighting men. There may be analogies for this in the sixteenth century Scottish lord with his attendants, retainers and tower-house, but it can be exaggerated and the evidence of this feud points to a form of conflict which, though still boody, and fatally so for quite a number of people, was nevertheless limited in its destructiveness by unwritten rules of conduct which were themselves the product of an evolved common sense and self interest.<sup>92</sup>

While pursuing this bloody campaign of revenge, the Montgomeries did not neglect to exploit the formal organs of the law. Giffen quickly established himself as the leader of his kinsmen, fended off an attempt by the Boyds to acquire the tutorship of his nephew and paid the two great court brokers, chancellor Maitland and treasurer Glamis, for the ward and non-entry of his brother's lands and offices.<sup>93</sup> He also took the matter to the king who had the killers of Eglinton outlawed, ordered that they be brought for trial before the justice and gave Giffen the right to intromit with Robertland's and Aiket's houses and lands.<sup>94</sup> This led to his first clash with lord Hamilton

92. This tendency to create mythologies from violence has been discussed by J.A.Inciardi, A.A.Block, L.A.Hallowell, A Historical Approach to Crime, p 91-115, where, for example, they have analysed the 1931 Mafia murders and discovered that the evidence points to the killing of four men not sixty as claimed.

93. S.R.O., Eglinton Muniment, G.D., 3/1/20/204.

94. Historie, p 240; R.P.C., iv, p 94-95, p 98; v, p 269.

who claimed that he had the escheat of these lairds, but Giffen was able to beat him off by having his rights confirmed in parliament in July 1587.<sup>95</sup> During 1587-88 Giffen and Montgreenan took their cases before the privy council with the latter asking that Giffen and his friends be made to assure Montgreenan and stop harrowing him and his friends. However, Giffen retorted that he could not be asked to assure Eglinton's killers, the council agreed with him and the commendator finally lost his case.<sup>96</sup> Shortly afterwards Giffen was granted a commission giving him all his brother's offices in the bailiery of Cunningham and the regality of Kilwinning.<sup>97</sup>

In the two years following Eglinton's death Giffen had been able to count on the sympathy of the king, his council and on parliament who had all been angered at the murder of an earl. Glencairn's reluctance to get involved had also prevented any blocking of his moves through a rival court faction. However, March 1588 was the high water mark in his legal campaign for justice and thereafter the Cunninghams began to rally back as the memory of Eglinton's death receded from the minds of all but his kinsmen. In 1589 Hamilton re-opened his case against Giffen and this time won, Giffen being ordered to give up the houses in his possession.<sup>98</sup>

95. R.P.C., iv, p 215; A.P.S., iii, p 479.

96. R.P.C., iv, p 223-24, p 226.

97. S.R.O., Eglinton Muniments, G.D., 3/1/15/129.

98. R.P.C., iv, p 387.

However, Giffen ignored the order and it was not until March 1591 that he was given a discharge for handing over Robertland house. By this time Robertland had also returned with the queen and had been promised the king's protection while that same year Giffen was obliged to give lady Aiket caution for her safety thus bringing to an end the period of oppression which had the tacit approval of the crown.<sup>99</sup>

This set-back in the courts may have been the reason for both sides taking to the fields in 1591; Giffen because of frustration and Glencairn because he could now identify more closely with his Ayrshire kinsmen without suspicion. During 1592 the Montgomeries even found themselves in trouble with the crown when they were slow to respond to the order to de-escalate the conflict in the locality and Giffen was himself horned for having failed to pay his brother's debts.<sup>100</sup> What was happening was that there was after 1591 a gradual shift on the crown's part away from punishing the Cunninghams to bringing about peace in the feud. In June 1592 parliament fully restored Robertland, allowing him to return to his house, and Giffen was discharged from Aiket's house which he was still exploiting. In an exchange between the king and Glencairn in parliament it also became apparent that a number of other murderers had had remissions from the king for when the latter said that

99. R.P.C., iv, p 601, p 675.

100. R.P.C., iv, p 760; S.R.O., Eglinton Muniments, G.D., 3/1/20/207.

he had not granted any other remissions to any of Eglinton's killers, Glencairn immediately protested that this declaration should not prejudice the rights of any of his friends who in fact held any. Clearly the king had given privy remissions.<sup>101</sup>

The next few years in fact revolved around Giffen's attempts to keep his enemies at the horn, thus making them more vulnerable targets for revenge, and Glencairn's efforts to have their hornings suspended. In 1593 Giffen had Aiket and Ryburn summoned to answer concerning alledged remissions they held.<sup>102</sup> In 1596 he and his kinsmen complained to the council that a number of the killers had recently acquired remissions with which they hoped to put an end to the legal case against them. Giffen cited the king's promise that this would not happen and reminded the councillors of the recent legislation on remissions, adding that if they were "... frustrat of justice, it will discourage all men to seik redress be ordour of justice heirefter, bot rather to seik thair privat revenge at their best advantage ...", something which he and his friends had been doing for the last ten years anyway. No decision was given and the matter was remitted to the justice and his deputies.<sup>103</sup> One suspects that Glencairn and his friends were winning the battle by

101. A.P.S., iii, p 610-11.

102. R.P.C., v, p 105.

103. ibid, p 269-70.

this time because of their ability to exploit the king's laxity in the matter of remissions, and because with the shift towards pacification of the feud it became necessary to restore the killers. This was certainly the case by 1599 when many of them were summoned with Glencairn to appear before the council and begin peace talks.

It is difficult to be sure whether in their use of the law Giffen and his kinsmen were only manipulating it so that blood vengeance was made easier or whether they were just making the best of a system that was not really able to bring these men to justice anyway. Certainly not one of the killers ever reached the justice courts and even the privy council has very little to say on the killing when compared to those of a similar nature. The Montgomeries did not even try to pin the blame on Glencairn and thus set up a show-down trial with Glencairn determined to clear his name as happened in other feuds. All Giffen seemed to want was the outlawing of the better known killers so that he could enforce his own brand of local justice. Similarly the Cunninghams did not bring the fact of Montgreenan's murder to the central government but left the matter to be resolved in the locality. On the whole there was a great reluctance to let the feud be handled by the crown and a determination to allow local politics to be fought out and settled in the locality.

Eglinton's murder precipitated the locality into a period of violence and litigation which was longer than would normally be expected. It would be too easy to see this as inevitable but in the 1570's the men involved in the Kilwinning abbey dispute were able to settle their affairs without bloodshed and earlier in the century their forefathers had even settled a very violent blood-feud. However, the tensions between the two families were too intense for any kind of really lasting settlement and once blood was spilled such a likelihood became even more remote. The crown's intervention in the locality in 1582 had produced the 1583 settlement, though not in the way the Lennox faction had expected. Until 1595, thirteen years later, the crown kept its distance and left local men to find their own local solutions to their problems. Why a settlement could be found in the 1530's and not in the 1590's is not a question one can answer; the men in control were different, so were the issues, the politics and even the society in which the feud was taking place. Unlike in 1576, no well meaning neighbours tried to intervene, neither of the leading men on either side wanted peace and nor for a while did their kinsmen. Both sides still had too many scores they wanted settled. Thus in Cunningham, as in so many localities throughout Scotland at this time, James VI's government decided to make it their business to bring peace.

While the crown had made some minimal effort to intervene in the affairs of north-Ayrshire politics in 1582 and 1591, it was not until 1595, as part of a general assault on the feuds, that the king made a more serious attempt to intervene again. Observers at the time reckoned the Cunningham-Montgomery feud to be one of the three major feuds of the country and one in which the king himself had an interest.<sup>104</sup> Thus on the 23rd of January 1595 charges were sent out to the young earl of Eglinton and Houston of that Ilk on one side to appear with retinues of no more than sixty and twenty-four men respectively on the 15th of January, while Glencairn and Glengarnock had to appear with similar numbers on the 17th. The two sides were ordered to submit their feud in accordance with the 1595 act against feuding which provided for private arbitration within a framework of governmental control.<sup>105</sup>

However, despite the king's very public resolution to have the feud ended, the Montgomeries sent their excuses and failed to appear.<sup>106</sup> Any sign that they were willing to negotiate while Eglinton's killers remained unpunished would, in their eyes and in the eyes of their enemies, be taken as a sign of weakness, and therefore they refused to be compromised. The king, however, "... is very earnest because he thinks, if he pass over this first order and

104. C.S.P.Scot., xii, p 99.

105. R.P.C., v, p 248.

106. C.S.P.Scot., xii, p 102.



suffer himself to be disobeyed, he will find difficulties hereafter in others." Immediately the case had become a test or trial of strength between the crown and the localities. Word was sent to the Montgomeries that they would all be horned if they did not appear within eight days and that the king himself would ride out and take their houses.<sup>107</sup> Glencairn was no more compliant than his enemies and shared the view that the feud was none of the king's business and he did not even bother to send any excuses for failing to turn up on the seventeenth.<sup>108</sup> When one did arrive a week later it merely enraged the king and court rumour expected that James intended to make an example of the two earls.<sup>109</sup> When these impressions filtered through, Glencairn decided to put in an appearance on the 29th and was taken into ward while the Montgomeries went up to the house of their Seton kinsmen near Edinburgh and awaited the king's will.<sup>110</sup> A week later Glencairn was freed having been punished "by the purse" which "is kept quiet", thus suggesting that the king settled for a private deal with the earl. Assurances from both sides were supposed to follow but there is no record of them being made and one has to conclude that the first round was something of a draw.<sup>111</sup>

The collapse of the 1595-96 initiative against the feuds

107. C.S.P.Scot., xii, p 122.

108. R.P.C., v, p 261.

109. C.S.P.Scot., xii, p 134.

110. *ibid.*, p 136.

111. *ibid.*, p 142.

resulted in a retreat by the crown from the problem and it was another two years before it returned to it with the 1598 legislation.<sup>112</sup> On the 6th of February 1599 Glencairn and Eglinton were charged to appear and settle their feud on March the 6th and to assure one another until the following April.<sup>113</sup> Again nothing seems to have come of this and on the 10th of March a more specific charge ordered Eglinton and a comprehensive list of Montgomery kinsmen to appear on the 22nd of March. On that date a second list, composed essentially of the same men were ordered to appear on the 19th of April, suggesting either that the first charge had been ignored again or that on the 22nd the time had simply been used as a preliminary hearing in which the principle of attendance was established. This theory can be borne out by the Cunningham lists for these two dates for in the first one finds that while the list of Cunningham lairds was very extensive, Glencairn, Robertland, Aiket, Corsehill and Bordland were not included. The crown was thus arranging a meeting between the two kindreds to establish some sort of relationship but was trying to ease the proceedings by excluding those most closely associated with the murder of Eglinton. The inclusion of the sons of the dead Glonbeith and Montgreenan adds further authority to this.<sup>114</sup>

112. For the legislation see vol ii, chapter 8.

113. R.P.C., v, p 523.

114. ibid., p 539, p 543.

Yet the crown had not worked out the machinery to take the issue much further, and having brought the two sides together on at least one occasion, one does not know if the second order of 1599 was obeyed, it retreated and left them to follow the procedures of the 1598 act. In fact they went back to their locality and continued the feud. In 1601 Glencairn had the burgh of Irvine confirm his men's exemption from their jurisdiction as he thought that the town was too much in the hands of Eglinton and a year later Aiket was killed.<sup>115</sup> It was not until after the 1604 act on feuding that another attempt was made by the crown to intervene with the privy council taking precognition from both earls within a month of that act being passed. Furthermore, from an order in December 1605 that assurances were to be renewed between Glencairn, Eglinton and Semple one can deduce that they were in operation for at least a year before that date.<sup>116</sup>

Not surprisingly both earls had trouble convincing their men that they should give in to central government pressure. In March 1604 Eglinton and Semple were relieved of responsibility for any of their men who broke assurances if they brought the offenders before the council and in the following months Glencairn freed himself of any responsibility for a number of Cunningham lairds who may

115. R.P.C., vi, p 698.

116. ibid., p 600,; vii, p 153.

have made their own peace with the Montgomeries. However, when he tried to get the same general terms as Eglinton he ran into difficulties. The council debated his request and a number of the nobility present argued that "it wes not reasonable to snaire the nobilitie of Scotland with sik bands as mich draw thame to sik inconvientis", but lord advocate Hamilton was less sympathetic and managed to block Glencairn's request though he agreed to discuss individual applications for exemptions on their own merit.<sup>117</sup>

The sort of incident which worried Glencairn and other noblemen occurred on the 1st of July 1606 in Perth during the sitting of parliament. Glencairn and his friends were walking along the high street when they encountered George, master of Seton and his brother Sir Alexander Seton, Eglinton's heir. The principals passed one another without incident, but then some of the servants began to jostle one another and a fight broke out in which one of Glencairn's servants was killed and a number of men hurt. The Setons received most of the blame for the incident and the lord advocate blamed some "rascall servandis", but it was just the sort of incident which could spark new life into the feud.<sup>118</sup> The king certainly feared that this would revive "that new mortifeit monster of deidlie feud", ordered the

117. R.P.C., vi, p 604, p 818-19; vii, p 549, p 557  
(though this was suspended, p 9), p 160.

118. R.P.C., vii, p 221-23; Spottiswoode, History, iii, p 175-76; Melrose, i, p 17; Balfour, Annales, ii, p 17.

council to be severe in dealing with the culprits and to block any private proceedings Glencairn had opened up against the Setons.<sup>119</sup> The incident was to be treated as a crime against the king and the public peace and was not to be allowed to feed private resentments. The contrast with 1586, twenty years before, are impressive, even if neither side was prosecuted by anyone and mutual assurances was the most that each was asked to observe.<sup>120</sup>

More significantly this spark of life in a feud which some thought might just fade away spurred the privy council to a new determination to end it. The fact that Eglinton was at last no longer a minor removed one of the obstacles to a solution and both sides were again summoned, this time to Stirling, where arrangements were made to keep them apart while they were there, except of course when they were negotiating.<sup>121</sup> Both earls, their kinsmen and friends did turn up, but Glencairn upset the proceedings by refusing to submit his feud with Eglinton on the grounds that there was no feud, he being completely innocent of his father's murder. Eglinton was equally obstructive claiming that as he had only just attained his majority he had not had time to consult with his kinsmen, a lame excuse if ever there was one, and only lord Semple was willing to submit his feud with Glencairn. Faced with this the council

119. R.P.C., vii, p 498, p 247.

120. ibid., p 646, p 288.

121. ibid., p 233-34.

appeared to be at something of a loss, gave Eglinton a month in which to do his consulting and wrote to the king for advice. In effect no one was any nearer to a solution than they had been in 1595.<sup>122</sup>

The intervention of the earl of Dunbar brought a firmer hand to the proceedings and in January 1607 both sides capitulated and submitted their feud. The earl of Abercorn promised to get the submissions of the few malcontents on the Montgomery side who held out, lord Semple, Muir of Caldwell and Langshaw, the Cunningham lairds of Clonbeith, Flatt and Blackstoun were all given a further six weeks to make up their minds, Glengarnock and Hessilhead were ordered to submit their own feud and the Montgomery laird of Braidstone was given sixty days from the receipt of his letters to return home from the continent and also sign the submission. The intention was to be as comprehensive as possible and thus the very wide number of men included in it. No one could be allowed to revive the feud by having avoided the submission.<sup>123</sup>

By the end of February the negotiations at last began, twelve years after the king had first called for them and twenty-four years after the last agreement between the two families in 1583. By that time all but Hessilhead, who had

122. R.P.C., vii, p 249.

123. Balfour, Annales, ii, p 16; R.P.C., vii, p 296.

refused to submit his feud with Glengarnock, had submitted and he was denounced. On the 24th of February the arbitrators also subscribed.<sup>124</sup> For Glencairn they were lord Cathcart, Porterfield of Duchall, Blair of that Ilk, Maxwell of Nether Pollok, Otterburn of Reidhall and Fleming of Berrochane. Of these only Blair was a local man and had kinship with both sides, Porterfield was one of Glencairn's clients and his daughter was married to Corsehill, Nether Pollok represented his Maxwell kinsmen and one can only assume that the others were friends. On Eglinton's side one finds Sir James Douglas of Drumlangrig, a distant cousin and brother-in-law to Skelmorlie, Sir William Grier of Lag whose wife was the sister of Braidstane's wife, and Sir John Bruce of Kincavill, Sir John Wallace of Cornell, and a younger brother to the earl of Lothian, Andrew Kerr. They were thus a mixture of distant kinsmen and friends who had no direct involvement in the feud and would be acceptable to both sides.<sup>125</sup>

Unfortunately the committee broke up within a week of its sitting. A deputation went to the council and told them that an agreement was impossible as Glencairn had instructed that "this submissioun concernit not the Erle of Glencairne allane, bot everie ane of his freindis had thair awne particulair interesse and had gevin thair

124. R.P.C., vii, p 324.

125. These kin connections can be found in The Scots Peerage, iv, p 238; iv, p 413; v, p 498; vii, p 125, p 129.

clames hinc inde ...", and that they could not therefore agree on a general oversman but would have to have one for each interest. Eglinton's side refused this condition, withdrew the submission and broke off discussions.<sup>126</sup>

Whether Glencairn was intent on wrecking the negotiations or not one does not know but that was certainly the immediate effect.

However, the 1598 legislators had anticipated just such manoeuvres and according to the terms of the Act, the king now became sole oversman. Assurances were renewed again and both sides were ordered to come in on the 10th of August 1608 to hear the king's decreet. It was on this occasion that a number of friends were included to "assist the said agreement", it being hoped no doubt that they would help smoothe over any remaining problems.<sup>127</sup> In fact the decision was not made public until March 1609, during which time assurances were again renewed. On the 16th of March, Glencairn appeared with his brother Ross, the lairds of Aiket, Robertland, Montgreenan, Corsehill and Clonbeith, all of whose fathers had been killed or had died since they first plotted with Glencairn twenty-five years before, the Cunningham lairds of Craigends, Cunninghamhead and Tourlands, the Maxwells of Newark and Stanelie, Porterfield, Lochrig and a number of brothers and uncles of these men. Only

126. R.P.C., vii, p 328.

127. R.P.C., viii, p 138-39.



Glencairn, Ross and possibly some of the Maxwell brothers are known to have been principals in the plotting and the murder of 1586. On the other side Eglinton was joined by Skelmorlie, Hessilhead, Langshaw's son, Busbie, Dunlop, Scottistoun and Crevock, but not by Semple whose feud with Glencairn had been separated from his to facilitate an agreement.

The decret itself can not be found in spite of a search of both the Registers of Deeds and Acts and Decreets and the private papers of both families and one is only able to know the form of what happened that day. Having arrived at the council house and a list of those present having been taken, each party was led in turn into the council chambers where they were lectured on the trouble they had caused and on the great lengths the crown had gone to settle their feud. An explanation of the king's right to act as sole oversman was also given to ensure that there was no doubt on this point. Each party was then asked to declare their willingness to forgive the other and to submit to whichever decision the king had reached. When this had been done both sides were then brought into the room together and had to repeat the declaration, the terms of the decret were made known to them and they shook hands, declaring that "thair chopping of handis sould be als sufficient for all those of ather side quho wer absent and were guiltie of the said bloodis as gif thay were present and had choppit handis with thame." Further handshaking took place between Glencairn and the

Setons to ensure that no trouble could follow from the events of 1606 and arrangements were made to conclude the feud with Semple as soon as possible.<sup>128</sup>

When he heard the news the king wrote to the council acknowledging the "very speciall and acceptable service done to us". As usual he went over the top and told them that this feud was "the last that remainit in that whole kingdome of ony consequence".<sup>129</sup> In the lowlands it was, and one has to recognise that while it took a long time, its conclusion was a victory for the crown, its legislation and the working relationship forged amongst the crown officials by the king. It was also a victory for central government over local politics for there was no doubt that the men in the locality did not want a settlement at this time and held out as long as they could to avoid one. Kings had intervened in localities before but only really where the magnates in a particular locality were a threat to the crown or had something the king was jealous of. Never before had Scottish kings made local politics their business in this sort of a manner. A further difference with previous reigns was that here the king and his government were not simply involving themselves in a locality, but as a matter of policy were repeating this process of the extention of royal power throughout the kingdom. As one can see the crown was not

128. R.P.C., viii, p 262.

129. ibid., p 569.

efficient about it and took fourteen years to bring this feud to a settlement, but it was only just learning about the job as it went along and cannot be faulted too much on that point. Given the number of feuds and the number of other pressing problems James VI's government faced, the crown did not do too badly at all in changing the balance of power between central and local government and in making society safer and more just in the process.

This analysis of one local society tempts one to make all sorts of general conclusions, but one ought to point out that it was only one locality and differences might be apparent in others. Having said that one can, however, conclude with three significant points which are derived from this study of north-Ayrshire. Firstly, one has to be careful to recognise the complexity of local society, and in particular local politics. One is not simply dealing with large monolithic power blocks which dominated localities but with a much more fragmentary picture in which lordship and kinship did give enormous cohesion and strength to lords and kindreds, but in which individual men followed their own courses, defined their own politics and set their own ambitions. To identify the mavericks, the obstinate and the indifferent kinsmen and dependants is not to say that lords were weak and ties of kinship equally weak but the opposite, since those who were loyal to these ideals, the majority of men, were so if not always voluntarily, with more free will than one often

gives them credit for. Secondly, local politics were very much the politics of conflict as has already been argued, and the tool of conflict is violence. Whether society was more violent than today is questionable, but political life certainly was and this was as true in the locality as at the court. Because there was violence did not mean that life for everyone became intolerable, for some it almost did, but for most it went on and local society did not dissolve. The violence of the feud in this case was highly selective most of the time and was a far cry from the terror traditional accounts are fond of relating. One cannot argue the violence out of the feud but neither can one allow one's self to be carried along by the mythology which violence so often creates. Finally, it is clear that local society did not have the means or the will to end feuding. On occasion it could find the resources to punctuate feud with peace and even more rarely the peace did hold, but there was an enormous difference between this tinkering with a feud which men had become bored with or had decided was becoming too costly, and the crown's new ideological position of wishing to eliminate the feud entirely and with it the means of conducting politics in a society which had not developed a suitable alternative. Yet it was not only in the localities that the feud was both a medium through which men expressed their power and tried to

attain their objective, but at the highest levels in the court, in the government and in the politics of the kingdom it was the dominant means of expressing those politics.

POLITICS AND THE FEUD

Politics in late sixteenth century Scotland was more commonly about power rather than ideals, about men rather than about principles. The cynical will no doubt argue that there is nothing unusual in that, politicians being what they are. This may be so, but one would probably be underestimating one's fellow men a little too much if one could not recognise their idealism, and in the sixteenth century there were times when certain men, and at times even the majority of men, thought that religion, the legitimacy of government and the rule of law and order were important issues. However, at the court of James VI it was personal advancement and the bettering of one's kin or faction - which had as one has seen a very strong ideology of its own - which so often overrode these other questions. This is not to say that the sixth earl of Huntly was not a deeply committed catholic or the eighth earl of Angus a sincere protestant, that the master of Gray did not sincerely want to see Mary restored to her throne or that Morton was not convinced that Scotland was better off without her, that lord advocate Hamilton did not have an almost absolutist concept of monarchy and that the earl of Caithness did not genuinely believe that the king had no business interfering in his local affairs. The dominant political figures of the age, Morton, the sixth earl of Argyll, Lennox, Arran, Gowrie, Maitland, the master of Glamis, Huntly, Bothwell, Mar and Montrose, all had varying opinions on political issues, but the great majority of the time they spent in political life - and

for most of them that meant all their lives - was taken up with increasing their own wealth, status and power, with advancing the careers of their kinsmen, friends and dependants, and with local politics, the feuds of which they carried on through into the life of the court and the central government. Politics was thus a hotch-potch of interest groups clustered around kin chiefs, lords and patrons all interacting in co-operation or conflict as the needs of the time dictated. Where conflict occurred the political feud was born.

There is nothing novel or unique in this. Writing of a society which existed fifteen hundred years before Jacobean Scotland, Ronald Syme explained

"Roman political factions were welded together, less by unity of principle than by mutual services (officia), either between social equals as an alliance, or from inferior to superior, in a traditional and almost feudal form of clientship: on a favourable estimate the bond was called amicitia, otherwise factio. Such alliances either presupposed or provoked the personal feud - which to a Roman aristocrat, was a sacred duty or an occasion of just pride.

The family was older than the State; and the family was the kernel of a Roman political faction. Loyalty to the ties of kinship in politics was a supreme obligation, often imposing inexorable vendettas."<sup>1</sup>

With the minimum of qualification one could apply this analysis to sixteenth century Scotland and indeed to other European states at this time. Of the Oxford-Knyvett feud in Elizabethan England it has been said that "Thanks to

1. R.Syme, The Roman Revolution, (Oxford, 1974), p 157.



the studied neutrality of the Queen, two great courtiers were allowed to commit murder after murder with complete immunity..." and while the Essex-Cecil feud was less violent, Elizabethan politics should be seen against "this sinister background of rival court factions with their hired killers and "cutters", of sporadic murder and violence in the countryside..."<sup>2</sup> In France, Flandrin has pointed out that "family solidarities formed the thread of those clienteles which, in their struggles for power, formed the structure of political life as do the parties to-day."<sup>3</sup> At the time of the Religious Wars the Venetian ambassador recorded that "these civil wars are born of the Cardinal of Lorraine to have no equal, and the Admiral (Coligny) and the house of Montmorency to have no superior", while even among the religious parties "They openly help each other; the one group holds the lamb and the other cuts its throat."<sup>4</sup> Henry III himself complained of his court "We are nearly always ready to cut each others throats. We carry daggers and wear mail shirts, even breast-plates, under our cloaks..."<sup>5</sup> Elsewhere it was the followers of the duke of Alba and prince of Eboli in Spain, the Gudonovs and Romanovs in Russia, the Butlers and Fitzgeralds in Ireland and in Poland the incessantly feuding nobles of the szlachta whose divisions finally ruined the state. In

2. Stone, The Crisis of the Aristocracy, p 112.

3. Flandrin, Families in Former Times, p 48.

4. Quoted in J.H.Elliot, Europe Divided, (Glasgow, 1977), p 108.

5. Quoted in D.Stewart, The First Bourbon, (London, 1971), p 34.

discussing feud Black-Michaud wrote that "feud, that is the struggle itself, is identical with the social system"<sup>6</sup> and while one might disagree with the full implications of such an analysis, feud in Scotland was identical with the political system.

That great Elizabethan official lord Burghley, once advised his son to "let thy kindred and allies be welcome to thy table, grace them with thy countenance, and even further them in all honest actions", as to do so would "double the bond of nature".<sup>7</sup> Patronage was thus very much at the heart of politics as powerful men sought to increase their power through a system of clientage which they built onto the ties of kinship and lordship existing between them and their dependants. The growth of government in the early modern period increased the amount of patronage available at the courts of kings and great princes and attracted men to them. The bureaucracy of government thus became prey to what Anderson has called "colonization by grandee houses competing for the political privileges and economic profits of office, and commanding parasitic clientages of lesser nobles who were infiltrated into the state apparatus and formed rival patronage networks within it."<sup>8</sup> As each magnate or court broker fought to maintain his credibility to clients and prospective clients,

6. Black-Michaud, Cohesive Force, p 207.

7. Quoted in R.Lockyer, Buckingham, (New York, 1981), p 35.

8. P.Anderson, Lineages of the Absolutist State, (London, 1979), p 48-49.

questions of marriage, ward, tutorship, office and commissions became of vital significance as did their ability to intervene in their clients interests in a locality. Thus the Alba-Eboli feud in Spain "involved every quarrel over a sheep-run in the power politics of the court of Madrid".<sup>9</sup> The same was true of England where what mattered was "a lord's ability to secure or guarantee offices and emoluments for his clients either in his own employment or in that of some greater man, possibly the king himself", and where "the authority of the magnate over the local gentry was now coming to depend less upon his territorial power than upon his influence in London".<sup>10</sup> Lords and officials thus spread out the gravy of central government among their followers and they in turn gave them the support they needed to control both their own localities and the court itself. Office holding was, as Stocker observed for France "the best form of maintenance".<sup>11</sup> This has led Stone to describe the English nobility as "a set of shameless mendicants"<sup>12</sup>, a description which would certainly be far too severe for Scotland where lordship and kinship had a

9. H.G.Koenigsberger, "Western Europe and the Power of Spain", in The New Cambridge Modern History, vol iii, The Counter Reformation and the Price Revolution, 1559-1610 (ed.), R.B. Wernham, (Cambridge, 1971), p 243.

10. R.B.Smith, Land and Politics in the Reign of Henry VIII, (Oxford, 1970), p 153; Stone, Crisis of the Aristocracy, p 124.

11. C.Stocker, "Office as Maintenance in Renaissance France", in Canadian Journal of History, vi, 1971, p 33. Stocker's main argument is that in France the nobility became clients of the state because of the expansion of the royal bureaucracy.

12. Stone, Crisis of the Aristocracy, p 217.

great deal of vitality of their own without the added incentives of the patronage available. At an even more obvious level there just was not the same amount of crown patronage around as there was in France and England, and of what there was local patronage and influence were most sought after. The danger of this was in the long term that men's loyalties were drawn out of their localities to the court and the king, but in Scotland at least that was some time in the future.<sup>13</sup>

While the spoils of the system may not have been so great in Scotland they were sufficient to attract the same sort of competition. The king himself complained that after the first rebellion against him in 1585 he had to "make a great alteration among my servants" which had "made mee long to be troubled there-after with solliciters, recommending servants unto me more for serving in effect their friends that put them in, then their master that admitted them."<sup>14</sup> Perhaps James was being a little idealistic if he thought it could have been otherwise, but one can understand his frustration and every other early modern ruler would have sympathised with

13. Other authorities which I have found useful on this question are Harding's discussion of the brokerage system at the French court in Anatomy of a Power Elite, p 31-37; H.G. Koenigsberger and G.L.Mosse in Europe in the Sixteenth Century, (London, 1979), p 234-37 gives a wider European discussion of it while for the early seventeenth century Flandrin in Families in Former Times, p 20-21, shows that even as great an advocate of royal absolutism as Richelieu continued to practice such a careful distribution of the patronage available to him. See too for a more detailed examination of court brokerage R.Lockyer in Buckingham.

14. Basilikon Doron (ed.) MacIlwaine, Political Works, p 32.

him. In 1609 the privy council, whose own members were embroiled in a network of clientage and patronage, wrote to the king about the farming of the customs by the late comptroller, lord Scone, who had been accused of corrupt practices by his enemies. Having investigated the matter they had indeed discovered that certain unnamed men had approached Scone and "made sute for the last tak of the customes" offering him a thousand crowns "to be thair freind" and buy them a new tack for payment of the old duty. Consequently, with their consent, he had "eiked" the money into the duty of the tack. Furthermore, they offered him a partnership in the deal and agreed to pay him, as "their new undertaker", five thousand marks a year, a similar amount also being payed to the king.<sup>15</sup> Here indeed was the oil of "The New Monarchy".<sup>16</sup> Similar corruption can be identified in a case in 1601 when, after the earl of Cassillis killed Kennedy of Bargany, he sent his wife, the widow of chancellor Maitland and a lady well acquainted with court life, to Edinburgh where she set up a meeting between herself and treasurer Hume, the future Dunbar. Cassillis followed, a meeting took place and shortly afterwards the council was convinced that Bargany was killed while at the horn as a rebel, the earl having a commission for his capture. "Bot yit how evir", declared the writer of the Kennedy history,

15. Melrose, i, p 69.

16. G.Donaldson's phrase, see Scotland: James V to James VII, part 11, for which it is the title.

"the ten thousand markis gewin to the Thesaurare was that quhilk did the turne".<sup>17</sup> Whether in great and lucrative government contracts like the customs farm or in specific needs to bend the course of justice, money, as always, talked.<sup>18</sup>

As important as money was "favour" or mutual backscratching. In 1576 the then treasurer lord Ruthven wrote to one of the session judges, Waus of Barrandaroch, about a servant of his in a case before the session, asking that "ye will gif attendance that I get na wrang, As I salbe redy to acqyte your with plesor quhen your occasioun sall sense", and on a different occasion the earl of Erroll asked him for "Justice with fauvoris".<sup>19</sup> In 1618 Sir Andrew Kerr wrote to the clerk of the privy council about a drunken fight in which some of his men had become involved and for which they were to be tried. After explaining why he thought this unjust he asked for the case to be tried not by the session, but by the border commissioners from which he would himself stand down but in which he clearly had some influence. He asked the clerk to see what he could do to influence the president of the session and promised that if this was done "I will be

17. Pitcairn, Kennedy, p 51-52.

18. Again this was a problem for all European governments and societies. G.Parker, "Corruption and Imperialism in the Spanish Netherlands: the Case of Francisco de Lixalde, 1567-1612" in Spain and the Netherlands, (Glasgow, 1979), p 152-61 throws some light on the issue in Philip II's empire.

19. Correspondence of Sir Patrick Waus (ed.) R.Vans Agnew, 1, p 137, p 140.

myndfull of it in what I can".<sup>20</sup> Men thus sought one another's good favour promising whatever returns they could and on this basis factions evolved as men became bound together by these relationships. Of course favour to one man was injustice to another and from that enmity and in time feud was born.

Unlike the more solid groupings already examined in the localities, factions were an ever changing whirlpool of alliances and rivalries since here the basis of the relationship was less constant. Loyalty was not a question of allegiance or of proximity of blood, though these factors were very important, but also of the magnate's or broker's ability to deliver the goods. Thus if one could get a better deal elsewhere one changed one's investment to another man or faction. With the pie never being big enough to go around there were always those striving to upset the status quo, to get in on the act or increase their slice of it, and hence the ever shifting ground, the distrust, the web of intrigue and corruption. In the midst of this there were the brokers, the magnates, courtiers or officials. The first group claimed a natural right to dominate the court and the localities and with their natural support and power they were at a great advantage, but they too had to strive for their place. The courtiers were those younger brothers and lesser kinsmen who made their way up the greasy pole by syncophantic service to some magnate who they hoped

20. R.P.C. xi, p 630-31.

would get them a job in the royal household. There as, for example, a gentleman of the bedchamber, they preened themselves, extended their contacts and began to do favours themselves while hoping that one day the king would notice them. Thus men like Alexander Lindsay, who became lord Spynie, Sir George Hume, whose career soared until as the earl of Dunbar he dominated Scottish politics, and David Murray of Gospetrie, the lord Scone of whom one has already heard, were all successes of this system. Others like Maitland, lord advocate Hamilton and Alexander Seton, earl of Dunfermline, were crown officials who exploited their office to build up the clientage they needed to hold onto that office and to become rich men in the process. This was the maelstrom of the Scottish court, a jungle of family, faction and feud.<sup>21</sup>

Yet if the Jacobean period was characterised by such an emphasis on men and the ideology of kindred and feud, it began amidst one of a quite different ideological debate. The civil war of 1567-73 was about the great issues of the day, religion, the nature of the monarchy and the subjects right to resist, even about foreign policy. It was also

21. For a discussion of faction in England during the Tudor period see E.W. Ives, Faction in Tudor England, (Historical Association, 1979); D.Starkey, "From Feud To Faction, English Politics circa 1450-1550", History To-Day, vol 32, Nov 1982, p 16-22; S.Adams "Faction, Clientage and Party, English Politics, 1550-1608", History To-Day, vol 32, Dec 1982, p 33-39. On the whole Ives' interpretation of faction appears more convincing than that of Adams who imposes too rigid a definition on what is meant by the term.



about Bothwell or Moray, Hamilton or Morton and Lethington or Buchanan, but to a much greater extent than in the age which followed these men fought for ideals as much as for themselves. That they did fight for themselves cannot, however, be entirely ignored. Thus one finds that the civil war in the north-east was not simply about queen Mary or king James, but also about George Gordon, fifth earl of Huntly and John, seventh lord Forbes and their kinsmen.

There had for long been a history of competition and feud between these two unequally balanced kindreds.<sup>22</sup> In this period the earl of Huntly was one of the principal political figures of the war "An Erle of greate power, and of the most revenue of any Erle in the lande", who was the leader of the queen's cause in the north and a firm Roman catholic.<sup>23</sup> Most of Huntly's operations during the war were concentrated in the north, beyond the Tay, which he largely held for the queen with considerable success. Lord Forbes, however, chose to join the king's party and though his kindred was smaller and more divisive than the Gordons, he continued to represent the focus of local opposition to the Marian forces for as long as the main part of the king's party were tied up

22. Gordon, Sutherland, p 164-65; there had been a decret arbitral between them in 1543, S.R.O., Gordon Castle Muniments, G.D., 44/14/7/4.

23. Estimate, p 7.

in the south.<sup>24</sup> Yet it was not just politics which divided them as both families were, even before the war began, "harbouring deadlie fead, of long rooted betuin them". Earlier quarrels had been patched up with a settlement which included marriage alliances between them but rivalry continued to exist and the war gave them their opportunity to take up arms against one another again.<sup>25</sup>

The feud between the two was in fact re-activated for a mixture of political reasons both national and local. The marriage between the master of Forbes and Huntly's daughter failed and the master was persuaded to put Margaret Gordon aside by one of his more militant kinsmen, Black Arthour Forbes. Apparently there were religious differences between the couple besides which the lady was later to be divorced in 1573 on the grounds of adultery.<sup>26</sup> Whatever the reasons were this treatment of Huntly's daughter was bound to upset him, and given the context of the marriage in the first place could only be interpreted as a breaking of the alliance between the

24. In 1577 Hay wrote of the Forbes that they were "enemyes of th'erles of Huntley, whome they have manfully withstood consideringe his greatnes", Estimate, p 25. They were however a family also troubled with internal divisions, "the Forbesses were at warre with another, daylie impairing ther owne strenth by their owne slaughters, and in the end wrought ther owne confusion by preassing to stryve against the Gordouns", Gordon, Sutherland, p 164; Spottiswoode, History, iii, p 169, confirms this.

25. Gordon, Sutherland, p 164-65. One marriage which can be identified was that between the master of Forbes and Huntly's daughter, Scots Peerage, vol iv, p 59.

26. Scots Peerage, vol iv, p 69; precept of divorce, S.R.O. Forbes Collection, G.D., 52/1087.

two families. At the same time, Huntly had by 1570, finally settled down on the queen's side after some flirting with her enemies and had been appointed her lieutenant for the north. However, the regent Moray was a bitter enemy of Huntly's and had been trying to replace Gordon power in the region with his own, but he and his allies were forced to concentrate on defeating the Hamiltons in the south and it was left to lord Forbes and other lesser men to try and keep Huntly occupied in the north.

Skirmishing between the two escalated in October 1571 when Gordon of Auchindoun, Huntly's brother, led an attack on the Forbes at Tulliangus where they had met with other local men to consider how best to oppose Huntly and the Gordons. In the battle which followed over a hundred men were said to have been slain, including Black Arthour, lord Forbes's brother, and John Gordon of Buckie, but the Forbes were routed and fled.<sup>27</sup> Naturally their enemies followed up this victory and pursued them to their homes burning and slaughtering as they went.<sup>28</sup> Tulliangus was a victory for the queen but more significantly in terms of local politics it was a crushing defeat for those who

27. Gordon, Sutherland, p 165; Spalding Miscellany, ii, p 38; Spottiswoode, History, ii, p 169.

28. From "Chronicle of Fortingill", Chambers, Domestic Annals, i, p 75; Auchindoun followed up his victory by advancing to Black Arthour's house at Towy and demanding its surrender but when his wife refused, he had it fired and burned her, her servants and in all some twenty-seven people to death. "This inhuman and barbarous cruelty made his name odious, and stained all his forfer doings", Spottiswoode, History, ii, p 169-70.

had tried to oppose Huntly as the leading magnate in the north.

The master of Forbes went south to the regent Mar and obtained a commission confirming him as the king's lieutenant in the north, making him chamberlain of the bishopric of Aberdeen and allowing him to levy more men with which to fight Huntly again.<sup>29</sup> Forbes was thus playing for high stakes and before him had the prospect of completely ousting the Gordons and making his own family dominant in the region, a prospect which had been made even more possible by the death of Moray without any male heirs. However, while his powers were impressive on paper, the king's government had no authority in the north. Within two weeks of leaving Mar, the king's lieutenant had again been defeated, this time being ambushed as he marched his forces north. The defeat at Crabstane was even more severe with heavy losses being inflicted on the Forbes themselves while the company of king's soldiers suffered the worst casualties, their captain being among the dead. Furthermore, the master of Forbes was captured and taken prisoner to Strathbogie where he was held until he swore never to take up arms against the queen or Huntly again.<sup>30</sup> As a result of the battle Huntly was able to extend his authority as far south as Angus and the Mearns, and while minor hostilities

29. Gordon, Sutherland, p 166; S.R.O. Forbes Collection, G.D. 52/29, 52/30; Spottiswoode, History, ii, p 70.

30. Gordon, Sutherland, p 166; Spalding Miscellany, ii, p 38-39; Spottiswoode, History, ii, p 170.

continued - one of Huntly's younger brothers was shot in the head by the Forbes - the Gordons remained in control in the north for the remainder of the war. Unfortunately for them it was a war in which they still ended up on the losing side.

The Pacification of Perth in 1573 which concluded the war was the sort of settlement one would expect in a feuding society. It was more than just a recognition that the king had won, contained within it were clauses which bound the signatories to forget about all the blood which had been spilt during the war. In other words no-one was to use the war as an excuse for carrying on private feuds thereafter, and what blood had been shed during these years was in effect to be considered shed for political reasons, not private ones.<sup>31</sup> However, Huntly had no intention of allowing this political defeat to affect his local power, nor did he like being told how to settle his feuds, and thus even as the conference was taking place in Perth, Auchindoun attacked the king's lieutenant in Aberdeen and once again defeated the Forbes, wounding lord Forbes himself in the process.<sup>32</sup> It was clearly meant as a demonstration to the government that Gordon power in the north was not broken whatever may have happened to the Hamiltons in the south. It was also meant to signify to the Forbes and their friends that while they may have been on the winning side in the war, they had still to recognise Huntly's dominance in the region.

31. R.P.C. ii, p 193-200.

32. Historie, p 139.

Yet whatever the balance of power in the north-east, Huntly had still lost and was very much out of favour with the new regent, the earl of Morton. Huntly himself suspected that Morton wanted him murdered,<sup>33</sup> and he sent Auchindoun and Sir George Gordon of Gight to France for safety and to avoid being forced into confrontation with Morton over disciplining them for the Aberdeen raid. There they became guests of Charles IX and attained some degree of favour with him, but while they may have left Morton behind them, one of lord Forbes' younger sons followed them there with some companions. In Paris he hired some contract killers, the "Enfans de la Mat", and ambushed Auchindoun one night in the street. Auchindoun was shot in the leg, but his companions rallied and the assailants fled, Arthour Forbes among them. Unfortunately he dropped his hat in the chase and in it was found a note containing the details of a rendezvous between Forbes and some of his friends. Auchindoun's servants found the note and he took it to John Gordon of Longormes, a gentleman of the French king's bedchamber, who in turn informed the king. The latter gave Auchindoun a company of archers from the guard and with these he stormed Forbes' house, killing Arthour Forbes and capturing his co-plotters who were all later executed, Forbes's own body being broken on the wheel.<sup>34</sup> The incident is a telling

33. Historie, p 150-51.

34. Gordon, Sutherland, p 170-71.

comment on the strength of feeling in the feud which made a man go overseas in pursuit of his enemies and of revenge..

The extent of Morton's power in the north during these years is questionable. Certainly he was able to carry out a successful expedition to Aberdeen in 1574 and the burgh was, among other things, fined for resetting Achindoun.<sup>35</sup> Furthermore, Huntly himself accepted Morton's order that he should ward in Galloway for a short while, and as one has seen, he thought it wise to send Auchindoun and Gight on a continental holiday. However, his own power remained largely unshaken and Morton did not dare to try to reward Forbes for his loyalty during the preceding years.<sup>36</sup> In 1576 Huntly died after over-exerting himself at a game of football and a year later the frustrated Forbes' were again in open feud with their enemies.<sup>37</sup> Six months later the regency was at an end and during the weeks of Morton's temporary eclipse parliament made the first attempt to bring peace to the feud.<sup>38</sup>

The questions to which parliament addressed itself were both local and national. The master of Forbes was in the middle of proceedings against the now young sixth earl of Huntly over the rights of a number of kindly tenants on

35. Hewitt, Scotland Under Morton, p 39-40.

36. R.P.C., ii, p 381.

37. C.S.P.Scot., v, p 253.

38. A.P.S., iii, p 112-14.

the lands of Craig and Monymusk. Huntly had ordered their eviction and had taken them to the session court for refusing to leave, but the tenants, who were Forbes', had argued that this was only being done because of their stance against the Gordons during the war. Furthermore, they pointed out that they had suffered greatly for the king's cause without reward, even after the Leith agreement in 1572. Nor had they been compensated for those losses sustained between that agreement and the one at Perth as was agreed, but instead Huntly had been confirmed in all his rights. The Forbes' were thus raising very difficult problems not only about how one would decide on why Huntly was evicting his tenants and what the crown could do about it anyway, but about the entire revolutionary settlement. A year later Morton and Argyll were to interpret the settlement in such a way as allowed them to initiate an attack on the Hamiltons, but in 1578 the possibility was there for settling old political debts with the Gordons. The context of the July 1578 parliament in Stirling, attended by Morton and his friends while a rebel faction held power in Edinburgh, points to an attempt by Morton to buy lord Forbes backing at a time when he was desperately in need of supporters, but all that could be done at this stage was to set up a commission to investigate the feud.<sup>39</sup> Four months later Morton was in a stronger position and when the commission

39. A.P.S., iii, p 112.



reported back to parliament in November the Gordons were found to be in the wrong and to have brought dishonour on the king by breaking the peace terms which ended the war. A final decision was suspended until the spring, but it was largely expected that Huntly would face at least a heavy fine and compensation for the Forbes.<sup>40</sup>

In the meantime mutual assurances were given, but the peace did not hold. Shortly afterwards Gordon of Gight and a servant of his were slain on the shore near Dundee by the master of Forbes and his friends following an argument between Gight and lord Forbes. Worried that this might escalate what was a politically very embarrassing feud, the privy council was determined to find "sum mid and indifferent way" to prevent "the trubling of the gude and quhiet of the haill cuntrie".<sup>41</sup> However, when a new arbitration committee was announced in April 1580 it reflected anything but indifference. By this time the Hamiltons had emerged as the regime's scape-goats and Huntly, or at least Auchindoun who was in charge of him during his minority, had secured the Gordons position by drawing close to the chancellor, the earl of Argyll, now Morton's uneasy partner in the ruling faction. The Gordons' arbitrators were thus composed of Argyll and his

40. A.P.S., iii, p 164-65.

41. Gordon, Sutherland, p 174-75; R.P.C., iii, p 261, p 262, p 275, p 278. Forbes of Tollie was also killed in this skirmish.

friends while lord Forbes nominated Morton and a number of his political allies. In effect each side was appealing to one of the two major political factions which had emerged during 1578.<sup>42</sup>

Like most arbitrations however, there was no immediate decision on the questions before them and by the time the government again turned to the feud Morton had been executed and the Gordons' friends were in control of the king and the court. In the intervening period more killing had taken place between the two sides and the privy council initiated some investigation into who had started it,<sup>43</sup> but more importantly in November 1581 parliament gave its final decision on the questions raised by the Forbes in 1578. Two acts were passed; an "Act anent the debatable cause between the Gordons and Forbes" and an "Act of compromise between the Gordons and Forbes". Without the backing they had had from Morton, Huntly was able to gain agreement from parliament that the claims of the Forbes family were completely against the tenor of the 1572 agreement, and parliament in fact reversed itself and forbade lord Forbes to ever raise the matter again. Huntly never denied the substance of their claims, but was able to have the attacks by the Gordons on them included within the pacification terms of 1572 and 1573. In other words

42. R.P.C., iii, p 278.

43. ibid., p 401-02.

parliament was rewriting history to suit the Gordons. Furthermore, the session was ordered to proceed with the case against the kindly tenants of Craig and Monymusk, parliament having declared that the 1579 suspension had been a frustration of justice by the parliament of that year. This radical about turn in parliament, which followed within seven months of Morton's death, can only be seen in the context of a change in the balance of power in the court and the government.<sup>44</sup>

The Gordon-Forbes feud was by no means ended in 1581, it was simply de-politicised. A decret followed in 1582, was altered in 1583 and in 1589 the Forbes were still looking for better terms.<sup>45</sup> There was further fighting in 1589 and this continued throughout the years of Huntly's intense political activity until 1597 when peace was again made.<sup>46</sup> Yet parliament's decision in 1581 was an important stage in the feud because it represented a recognition by the political community that whatever the feud had been in the past, from now on it was a local problem. Throughout the 1570's there had been the potential there to use the feud to unseat the Gordons in the north, but Morton had never had the will or the resources to do so and thus his, or the regime's supporters

44. A.P.S., iii, p 230-31.

45. S.R.O., R.D., 1/20/386, R.D. 1/22/49 ; S.R.O., Forbes Collection, G.D., 52/1089.

46. C.S.P.Scot., x, p 186-87; xiii, part 1, p 56.

remained unrewarded and its enemies undefeated. When in 1578 lord Forbes was able to exploit Morton's weakness and get the question aired in parliament, it was already too late, Argyll's splitting of the old king's party having offered the Gordons a way back onto the political stage. The inability to settle the questions raised by the Forbes until 1581 reflected the equal balancing of power between Morton and Argyll, and it was only with the latter's victory, carried through by the intervention of Esme Stewart at the court, that it was resolved in the Gordons' favour.

This interaction of local and personal feuds with the affairs of the state is central to an understanding of Scottish politics in the years after 1573. Morton may have chosen to ignore the Gordons, but he was less willing to forget the other great enemies of the war years, the Hamiltons. This feud has been described elsewhere, but like the Gordon-Forbes case it too was a combination of a clash of political ideals with personal vendettas. In this instance Morton himself was involved, the Douglasses having a long history of feud with the Hamiltons which the war had accentuated. Victory in 1573 allowed Morton and his kinsman, the earl of Angus, to exploit their position. In 1575 the Hamilton brothers, lord John and lord Claud were forced to make a humiliating surrender to Angus by way of assythment, something which could never have happened had Morton not been regent. In the next few

years the regent "continued to persecute the Hamiltons" and in 1579 actually drove them out of the country in a ruthless attack designed to destroy their great political influence forever and to satisfy the Douglasses' desire for revenge on the sworn enemies.<sup>47</sup> This has been described rather crudely as "a somewhat primitive and barbaric way to govern a country", but that is to miss entirely the nature of Scottish politics.<sup>48</sup> It was the way men expected politics to work. The clash between Morton and Argyll was a feud of less significance outside of court politics, but the "deadlie inimitie" between these two men was nevertheless a feud, their rivalry having spanned Morton's entire period of rule. In this instance there were no local issues at stake, at least not initially, and power at the centre was the bone between them. As early as 1574 Argyll was being seen as Morton's successor should he fall and in the following four years the latter did all he could to keep Argyll out in the cold, finally trying to intervene in his locality and thus spurring Argyll to join with Atholl in the coup which toppled him from the regency. After Morton's arrest there was no doubt among English observers that Argyll had been "the chief instrument" in

47. Hewitt, Scotland Under Morton, p 64-71, describes most of the details of this feud. For the 1575 settlement it is described by Calderwood, iii, p 346, and the terms can be found in S.R.O., R.D. 1/14/40; Historie, p 155.

48. Hewitt, Scotland Under Morton, p 69.

his fall, and that his motives had largely been Morton's "hard dealings" with him.<sup>49</sup>

Morton's execution was thus not simply a political act. Argyll died a few years after Morton and his low profile throughout the proceedings spared the Campbells a political feud with the Douglas kindred, but others were less fortunate. The earl of Montrose became the sworn enemy of Morton's nephew Angus because "the sentence of gyltenes was prononcit aganis him be the said Montrose, as Chancellor of that jure".<sup>50</sup> This feud was cleared up in 1587 but another between Montrose and the earl of Atholl continued until 1590 because of the part Montrose played in the execution of the first earl of Gowrie in 1584. Atholl had married Gowrie's daughter, "and with her he entred the fesdes of her father".<sup>51</sup> The spilling of blood in Scottish politics was thus a dangerous matter which on the whole discouraged executions and explains why so many traitors and rebels usually walked free. Following the Brig O'Dee conspiracy it was said that chancellor Maitland "had rather the noblemen of this conspiracy would fly, that they might put them to the horn and banish them, than to try them and shed their blood, whereon will grow everlasting feuds. The example of Arran and others makes them doubt

49. Again most of this is accounted in Hewitt but for these points see C.S.P.Scot. v, 27, p 473, p 623.

50. Historie, p 229.

51. C.S.P. Scot., x, p 271, p 276.

that dealing".<sup>52</sup> Others had made similar observations. Hudson thought that the nobles constantly let the king down when "it came to an extreme point against any of their faction"<sup>53</sup>, and Fowler thought the nobility "so linked by blood or allied one with another" that the king could never get the support he wanted to punish them properly.<sup>54</sup> Assassination and murder were thus more common in Scottish politics than the use of the state machinery to kill one's enemies.

The exception to this was, as Maitland himself pointed out, captain James Stewart, earl of Arran and chancellor of Scotland during 1584-85. It was said by Arran's enemies that he was "a man full of violence, and when he was in place of rule executed it with much cruelty". The king also claimed that "I did never like that man's violence".<sup>55</sup> Some thought that Arran was raised to power to "counteract some of the nobility"<sup>56</sup>, others that he was "by the practise of the nobility and ministers, raised to grate favor with the King".<sup>57</sup> As usual there was truth in both assessments. He was the younger son of lord Ochiltree, was given a good education in Scotland and then left to take up military service in France and Sweden before returning to Scotland

52. C.S.P.Scot., x, p 4.

53. *ibid*, p 77.

54. *ibid.*, p 52.

55. Spottiswoode, History, iii, p 40, p 11, p 333.

56. C.S.P.Scot., ix, p 167.

57. Balfour, Annales, i, p 370.

in 1578 to take up service with the king. He was described as "a young man of a busy brain, a quyet tanter, with mirry conceatis, and had ane aspyring spirit", and as "a man eager to win credit by what means soever".<sup>58</sup> This he did by first attaching himself to the service of the treasurer, lord Ruthven, later earl of Gowrie, and it was probably his influence which allowed Stewart to be appointed to the court as a gentleman of the king's bedchamber and to be gifted former Hamilton lands in Lanarkshire. Ruthven's rift with Morton in 1580 over a feud with lord Oliphant was followed by his alliance with Argyll and Esme Stewart, and James Stewart quickly made himself useful to them by agreeing to take the risk of confronting Morton with the charge of treason in the council chambers.<sup>59</sup> It was an act which propelled Stewart into the political limelight where he was to remain for the next five years until his downfall in 1585.

James Stewart had his own reasons for hating Morton. In 1574 his elder brother, the master of Ochiltree, had been pursued by Morton for making an attack on John Crawford of the Shaw, and after some pressure from the regent he had finally agreed to come into his will in 1576.<sup>60</sup> What punishment Morton inflicted is not known but when the master died a year later Morton continued to harass the family by

58. Melville, Memoirs, p 263.

59. For his relationship with Ruthven see below p for Oliphant's case see e.g. Spottiswoode, History, ii, p 269; the arrest of Morton, Moysie, Memoirs, p 28. Also Scots Peerage, i, p 394ff.

60. A.P.S., iii, p 90; R.P.C., ii, p 531.



persuading his widow to part with her lands in return for a pension. The lands were then gifted to one of Morton's kinsmen, but she never received the promised pension. In 1579 the lady complained to the council that Morton had continued to obstruct her in her rights, and while she temporarily regained her lands, they were seized back from her in December 1580 by Robert Douglas, commendator of Whithorn.<sup>61</sup> Morton's fall within weeks of this altered the Douglasses ability to control the patronage of the court, and with James Stewart's rise to power, it was they who soon found themselves on the receiving end of the feud.

Aside from the political advantages of joining in with the vultures gathering around Morton, Stewart thus had something of a personal feud of his own. Morton's fall was quickly followed with due reward and captain Stewart was able to steal the earldom of Arran from the ousted Hamiltons. Meanwhile the Douglasses were driven out into the political wilderness along with their old enemies. Apart from Morton who was beheaded, Angus was outlawed, as were many others of the former regent's kinsmen, while Arran put two of his servants to the torture and had another executed.<sup>62</sup> Arran was recognised as "Morton's special enemy"

61. R.P.C., iii, p 89-90, p 141, p 206, p 275-76, p 292.

62. ibid., p 348-49, p 351, p 365, p 368, p 369, p 377, p 378-80, p 389-90, p 415, p 425, p 624; Spottiswoode, History, ii, p 280, p 343; Moysie, Memoirs, p 31.

who had made his trial and execution his own personal business<sup>63</sup> and when Morton was told that Arran was to be in charge of his case he was said to have uttered that "I knowe then what I may look for".<sup>64</sup> However, on the day of his death Arran visited Morton and asked to be reconciled to him saying that his execution was a matter of state and not a personal affair. Morton rose to the occasion and replied, "It is no tyme to remember quarrelles. I have no quarrell to you or any other. I forgive you and all others as I will you forgive me."<sup>65</sup>

Forgiveness, however, was many decades in the future. Arran continued to oppress the Douglasses with Angus being driven out of the country along with Morton's bastard sons and others of their kinsmen. A Mr Archibald Douglas, former constable of Edinburgh Castle, was executed in 1584 along with Gowrie, two more Douglasses were put to death before the end of the year and in 1585 Douglas of Mains was sent to the block when colonel Stewart, a man employed as a kind of intelligence chief by Arran, uncovered a plot against the chancellor, an office Arran acquired in 1584.<sup>66</sup> In the meantime Arran also bloodied his hands with his old patron Gowrie. Again there were personal reasons for Gowrie continued to remind Arran of his former position, "and dispyet his insolent pryd, oppression and misbehaviour planly in

63. C.S.P.Scot., vi, p 12.

64. Spottiswoode, History, ii, p 276.

65. *ibid.*, p 278-79; C.S.P. Scot., vi, p 22.

66. Moysie, Memoirs, p 48-50; Spottiswoode, History, ii, p 314; Birrel "Diary, p 23.

consaill, quhilk few utheris durst do."<sup>67</sup> Arran thus hated Gowrie and it was also said that he had an eye on the earl's lands. The two thus drifted apart and Gowrie began plotting with Arran's enemies, seized control of the government himself in the famous Ruthven raid, but spared Arran and lived to regret it when, in another attempted coup in 1584, Arran outmanoeuvred him, had him arrested and brought to trial for treason. Gowrie was in no doubt that personal feud was at the basis of his misfortune, telling the court that he was the victim of those "who thirst for my blood by this warldly revenge". He alluded to Arran as "my malicious adversarie", but asked him to "remember of faren years" when he sensed all was lost.<sup>68</sup> Like Morton he was stoic about his end, praying that "my blood may satiate and estinguish the bloodie rage and ire of the courteours".<sup>69</sup> However, both his execution and that of Morton three years earlier, were to continue to haunt Scottish political life for some years to come.

Arran's own fall came in 1585. Following that he was saved from the block by the king who always retained a liking for him. He fled to the highlands and then returned south, to the home of his nephew lord Ochiltree,

67. Melville "Diary", p 324-25.

68. "The Manner and Form of the Examination and Death of William Earl of Gowrye, May 1584", Bannatyne Miscellany, vol i, Bannatyne Club, 1827-55), p 91, no 92; p 100-01, no 9.

69. Bannatyne Miscellany, i, p 100-01, no 92.

from where he tried unsuccessfully to talk his way back into the confidence of the king.<sup>70</sup> On the second of November 1596, captain Stewart, as he was again known, was met on the road by a nephew of Morton's and two other Douglasses whose fathers he had had executed, and they "killed the same Captain and cut him in pieces for the deaths of the Earls of Morton, Gowrie and others their friends", carried his head on the end of a lance throughout Douglas country and left his body for the dogs.<sup>71</sup> In 1608 Arran's own nephew had his revenge on lord Torthorwald who had carried out this murder, stabbing him to death in an Edinburgh street.<sup>72</sup> Not until 1613 did lord Ochiltree and lord Torthorwald's heir finally lay the feud to rest before the privy council.<sup>73</sup>

While there were suspicions that Arran's murder had been political, Maitland having died and his name having been suggested as a possible chancellor, the feud lost its real political significance in 1585.<sup>74</sup> Yet it was almost thirty years before the kinsmen of Morton and Arran had stopped feuding with one another. Both families and their localities thus continued to be affected by the politics of the 1570's

70. Chambers, Domestic Annals, i, p 274; Melville, Memoirs, p 405. In 1587 he had tried to accuse Angus of treasonable activities, R.P.C., iv, p 157-58, p 169.

71. C.S.P.Scot., xii, p 360; Pitcairn, Criminal Trials, iii, p 66.

72. R.P.C., viii, p 128, p 144, p 543 and many others.

73. R.P.C., x, p 1, p 45; Melrose, i, p 104.

74. Spottiswoode, History, ii, p 40; Moysie, Memoirs, p 98-99; Melville, Memoirs, p 405.

and 1580's and one can see why, on the whole, political executions were not a common occurrence in Scottish politics. Arran was something of an exception, and in a sense was risking all on the gamble that he would never lose power, his survival after 1585 being thought "passing strange that he was left so lang on lywe, in respect of his insolent behaviour when he held the court".<sup>75</sup> An astute politician like Maitland was thus much more careful and any blood-letting that had to be done was distanced as far from him as was possible. Why Arran was so ruthless is impossible to answer, it may have simply been part of his rough soldier's nature, he may have been more insecure because of his own lack of nobility or he may just have lacked any fear as to the consequences of his actions. However, he did not act alone and it was his partner in these dealings who inherited the feud of the Ruthven family for Gowrie's execution.

In 1584 at the time of Gowrie's execution James VI was seventeen and thus no longer a child. Clearly he had agreed with Arran in seeing the need to have Gowrie put to death, at least this was how the earl's sons, John the third earl and Alexander master of Gowrie, saw their father's death. Their plot in 1600 to kill the king was nothing more than an attempt to inflict revenge on their father's killer and really there is nothing

75. Melville, Memoirs, p 405.

mysterious or surprising about it. The "malice and deidlie haitred" they had in their hearts was no different from that held by the Douglasses for Arran.<sup>76</sup> Spottiswood actually suggests that the king tried to compensate the brothers for the loss of their father which though not a formal assythment was a recognition on his part of some responsibility for Gowrie's kin. Unfortunately, "benefits are no benefits to the malicious, and those that are set for revenge", and hence Alexander's cry to the king, that "You remember how used my father and now you must answer for it."<sup>77</sup> Though there is no question of the king reciprocating any feelings of feud in the Ruthven case, his treatment of Bothwell at times borders on feud. The king had an almost pathological hatred of Bothwell, he refused even the most reasonable conditions for his reinstatement, their 1593 agreement was very similar to a feud settlement, the king hunted down Bothwell's followers and kinsmen and Bothwell was reckoned to be the man "best able to doe him hurt".<sup>78</sup> One may not wish to make too much of this, but there is at least enough evidence to speculate on the king having a blood-feud with the earl who was in fact one of his own kinsmen.

76. Birrel "Diary", p 49.

77. Spottiswoode, History, iii, p 84.

78. C.B.P., i, p 475. There is a great amount of material on Bothwell which cannot be referred to here but is easily accessible in the C.S.P.Scot. and C.B.P.

Whether the king was involved in a feud or not, his servants certainly were as they fought to hold his favour. The demise of the old revolutionary politicians and the fall of Arran had not brought a new peace to the kingdom. Commenting on the way the Scots conducted their politics, Fowler made the exaggerated remark that

"It is, the accustomable fassyon of this contry, (and) specyally amonge the best sort, to styk or sh(oot) with a pece or pistoll such one as the Chaunce(lour) if he give them cawse of offence, and not to r(aise) an army to charge and molest the whole r(ealm), and to bring in forrayn forces to the syde ..."79.

In fact on the 17th of March 1578 the chancellor, lord Glamis, was shot dead in a street battle between his own Lyon kinsmen and the Lindsays led by their chief, the earl of Crawford. The killing was not premeditated and was in fact without political motive at all, there having been a feud over local issues between the two Angus families for some time. What happened was that both men passed one another in a narrow Stirling street and while the chancellor and the earl had studiously avoided an incident "thair servands in pryde strave for the best part therof", and a fight followed in which lord Glamis was shot through the head from an upstairs window.<sup>80</sup>

79. C.S.P.Scot., x, p 68.

80. Calderwood, History, iii, p 397; Melville, Memoirs, p 264; Historie, p 148-49; Spottiswoode, History, ii, p 206; Balfour, Annales, i, p 364; Moysie, Memoirs, p 4; Spalding Miscellany, ii, p 44. Some thought Crawford had done it for "envyenge his felicity", Estimate, p 26. Two weeks later Juan de Escobedo was assassinated in Madrid by agents of Antonia Perez, an indication that Fowler's analysis was not in any way peculiar to Scotland, Lynch, J. Spain Under the Hapsburgs, (Oxford, 1981), vol i, p 323.

The feud between the Lindsays and the Lyons was an old one, the two being unreconciled "for auld bludeeshed betuix thais tua houssis", but this killing blew new life into it.<sup>81</sup> There were no political repercussions, it being widely accepted that unlike the death of the last chancellor, the earl of Atholl, there was nothing suspicious about it: Glamis was the victim of a blood-feud. However, Crawford was arrested on suspicion of having killed Glamis himself, or at least of stage-managing the whole incident, and it was a worried man who wrote to his friends from ward in Stirling castle that this is "the maist vechtie mater that ewer I haif haid or is hable to haif ado syanding upon my honour, leif and heritage".<sup>82</sup> Crawford was a political light-weight though consistently a conservative who had backed Mary to the end, was a catholic and had been quick to flock to Stirling in 1578 to join the provisional government which overthrew Morton. His influence in the government was not great, but he had friends in the Argyll faction, besides which he was a powerful magnate and unlikely to suffer unduly even if evidence could be found against him. Not surprisingly the earl was soon released, and after a brief appearance in court, failed to turn up for the second hearing and was given a licence to go abroad in what would be a voluntary

81. Historie, p 149.

82. S.R.O., Inventory of Scottish Muniments at Haigh, N.R.A. 237/1, box C, Crawford to Ross, 9/May/1578.



exile.<sup>83</sup> It is uncertain whether he actually went, but clearly the affair was being swept under the carpet.

Obviously the Lyon family were far from satisfied with this neglect of their interests. Glamis's son was a minor and thus the leadership of the family fell to his brother, Thomas, master and now also tutor of Glamis. For the rest of his life, the master of Glamis was to make revenge for his brother's death one of the two great objectives of his existence, so much so that it was said that "Crawford all his life was glad to stand in a soldier's posture".<sup>84</sup> Not very long after lord Glamis's death, Crawford was in fact complaining to one of his friends that the master had sent one of his "mest speciall interpryssouris to haiff murderit us in our bed", had opened proceedings against him, and had had him horned.<sup>85</sup> It was now the master's turn to feel threatened and he was able to persuade the privy council to have Crawford assure his safety in £10,000, and this was renewed in 1580 as "na finall resolution nor ordour being yit taikin for removing of the grudgis, variance, and contraverseis, standing amangis thame".<sup>86</sup> Arran attempted to effect some sort of reconciliation between the two in the months which

83. Pitcairn, Criminal Trials, i, part 2, p 79, p 85; S.R.O. Haigh, N.R.A. 237/1, box C, Licence, 5/Nov/1579, Warrant 1580.

84. Chambers, Domestic Annals, i, p 118.

85. Spalding Miscellany, ii, p 62.

86. R.P.C., iii, p 233, p 288.

followed, but nothing came of it and they remained at feud.<sup>87</sup>

In fact while Crawford was a natural ally of Esme Stewart, now duke of Lennox, and of Arran, the master of Glamis was beginning to be recognised as a political dealer of some skill. In 1578 he had achieved some prominence in helping negotiate Morton's resignation of the regency, but had failed to attract the confidence of either Morton when he recovered power of the Argyll-Lennox-Arran faction which replaced him. In fact he himself had no love for a regime which had ignored the claims he felt his family had against Crawford, but which fined him a massive £20,000 for killing one of the earl's dependants in revenge.<sup>88</sup> Therefore, when in 1582 the earl of Gowrie began looking around for allies with which to topple the regime he found Glamis willing to join him, and following the subsequent success of the Ruthven coup, Glamis became a privy councillor.<sup>89</sup> It was now his turn to exploit his political friendships to further the feud with the Lindsays. In April 1583 he complained to the council of "a greit nowmer of gentilmen and utheris slaine" by Crawford

87. Moysie, Memoirs, p 36.

88. C.S.P. Scot., vi, p 477.

89. Scots Peerage, viii, p 284-87. It was during the Ruthven Raid that Glamis mad such a strong impression on the young king and reputedly dismissed the royal tears with the words, "No matter for his tears: better children weep than bearded men". Certainly thereafter he never really quite convinced the king that he ought to have his confidence.

and his kinsmen and friends in local skirmishes between both families.<sup>90</sup> One knows little more of these incidents but it was not as one-sided as Glamis suggested and another source tells us that in 1582 Crawford's power was "tyed shorte by the feade he hath with the master of Glamis and his frendes."<sup>91</sup> However, Glamis went on to complain that while he had made numerous complaints about Crawford's attacks on him and his friends nothing had been done about it, the king had avoided the matter, and his "owersycht and delay usit in justice" had caused him and his kinsmen great hurt. Furthermore, Crawford had another licence to go abroad in order to avoid being brought to court to answer charges against him during which time his Lindsay kindred would come under the king's protection. This reveals the extent of protection Crawford had been getting from the Lennox regime. Not surprisingly Glamis's friends in the new Ruthven government swept it aside and granted him permission to pursue the earl before the ordinary courts.<sup>92</sup>

The Ruthven regime only lasted another few months until June 1583 when the king escaped and rejoined Arran who had the support of a number of noblemen including Crawford. Once again the power of central government was used to good effect in interfering in local political feuds and

90. R.P.C., iii, p 563.

91. Estimate, p 32.

92. R.P.C., iii, p 563.

one heard no more of the case being prepared against Crawford. Yet neither Arran nor the king wanted Glamis completely alienated, and within a month of Arran's return to power efforts were being made to persuade Crawford and Glamis to be reconciled. Blanks were drawn up for both men to sign, but Glamis refused and asked to discuss the matter with the king who in turn refused his request, a sure sign that Arran was handling the affair himself.<sup>93</sup> Throughout the summer Arran continued to put heavy pressure on Glamis to agree with Crawford, an indication that he would have preferred some sort of accommodation with Glamis, but the master consistently refused, presumably because the terms were unacceptable.<sup>94</sup> The chancellor, Argyll, opened up his own negotiations with the two sides, but Arran was suspicious and blocked it so that this initiative also collapsed.<sup>95</sup> However, Glamis was still in league with Gowrie and with the earl of Mar, a personal enemy of Arran's, and in April 1584 the latter two attempted yet another coup at Stirling. The plot failed to gather the expected support and Glamis and Mar were forced to flee the country, leaving Gowrie and one of Glamis's kinsmen to face the block.<sup>96</sup>

93. C.S.P.Scot., vi, p 566.

94. ibid., p 575.

95. ibid., p 686.

96. ibid., p 597; C.B.P., i, p 136.

When Glamis returned with the exiled lords in 1585 he did so as a recognised political weight with debts to collect. Yet as one has seen his opposition to Lennox and Arran was not entirely ideological. There were policy differences between Glamis and these two, but he could have lived with these, and what really drove him into opposition was Crawford's close identification with both Lennox and even moreso with Arran. Crawford's politics were very much in harmony with the ideals of these two men and these were reinforced by the manipulation of patronage and protection in his interests. Faced with this Glamis had no option but to look for an alternative political arrangement which would allow him to pursue his feud more easily. Political lines were being drawn by the needs of local political interests, not by firm convictions on broad questions of policy. Glamis thus returned as one of the principal members of the anti-Arran faction, was re-admitted to the privy council, appointed captain of the king's guard and lord treasurer with a pension of £1,000 a year. In 1587 he became one of the commissioners for considering grants from the crown lands, a position of considerable patronage potential, and in 1588 was appointed an extraordinary lord of session. Next to the chancellor he had become the most powerful member of the royal administration.<sup>97</sup>

97. Scots Peerage, viii, p 285-86.

However, he was to be sorely disappointed if the thought that his position would allow him to wreck Crawford. The earl was temporarily warded, but the 1585 settlement was largely a reconciliation of the political factions of the day, at least in the sense that apart from Arran there were no political victims, and even he was spared his life.<sup>98</sup>

Thus throughout 1586-87 the two men were kept under assurance, and both the king and chancellor Maitland personally participated in negotiating between them.<sup>99</sup>

Much of the time of the June 1587 convention of the nobility was taken up with resolving their feud and finally an accord was reached and Crawford and Glamis signalled the end of their feud by dining together at the chancellor's house.<sup>100</sup>

If 1585 had represented the resolution of a number of political difficulties in reconciliation, or at least in accommodation, new factions were appearing which would soon throw the state back into chaos. Maitland and Glamis were able to work together in an alliance which was largely acceptable to both men, even if Glamis did have his eye on his brother's old office of chancellor, but the rapidly growing influence of two other men smashed the frail stability of their relationship. The earls of Huntly and Bothwell, two of the most powerful magnates in the kingdom, and men of great ambition, political skill and

98. C.B.P., i, p 215.

99. C.B.P., i, p 211; R.P.C., vi, p 128.

100. Historie, p 228; Moysie, Memoirs, p 63.

charisma, were by 1587 challenging Maitland and one another for primacy at the court and in the government. For both Maitland and Glamis there loomed the possibility of going the way of Arran in the face of such powerful noble opposition and both had to carefully cultivate their friends and try to manipulate one another and the two earls to stay in the political arena. Being the great political survivor that he was, Maitland did not allow the potential for mischief in the Crawford-Glamis feud to escape his attention.

In the summer of 1588 the chancellor and treasurer were still working allies with Maitland being forced even more onto a defensive posture by the growth of Huntly's power in the chamber. A plot was uncovered in which Huntly, with the help of Crawford and others, had intended to kill the chancellor and this convinced Maitland of the need to continue his friendship with Glamis.<sup>101</sup> However, Huntly had introduced to the court Alexander Lindsay, Crawford's younger brother, and like his patron, Lindsay was soon dazzling the court and especially the king. By September it was known that Huntly was hoping to acquire the guard for Lindsay, something which would further the earl's grand designs for controlling the king, and would have a particular satisfaction for Lindsay as he would be taking it from his brother's old enemy. Glamis tried to resist the move and even arranged a short truce of

101. C.S.P.Scot., ix, p 601.

sorts between him and Lindsay, but Huntly's influence with the king was irresistible and on returning from a trip into the country, he found that he had lost his office and that Lindsay had already replaced the guards with his own men.<sup>102</sup> Naturally Glamis was "heichlie movit" by the loss and made this point to the convention of the nobility then meeting. Quite rightly he argued that he had done nothing to deserve this disgrace and feelings were soon running high in Edinburgh. Both the master of Crawford had men in the town and the latter was helped even more by the addition of Bothwell to his side. Bothwell became involved in some "braggingis" with Glamis which prompted the king to order the earl to remain in his lodgings that night, but as usual the earl disobeyed and he and the Lindsays took to the streets, marched to the head of Blackfriar Street and awaited the appearance of the Lyons and their friends. Fortunately, the king heard about it before any violence took place, and had the burgh authorities intervene and arrest both Bothwell and Glamis. The two men were brought before the council, Bothwell had an "unseemly" argument with the king and the two were warded for a few days.<sup>103</sup> Shortly afterwards an attempt was made to placate Glamis with a gift in return for recognising Alexander Lindsay's captaincy of the guard, but he continued to be obstinate, saying that Lindsay was his mortal enemy and in the end the king solved the problem

102. C.S.P.Scot., ix, p 621, p 627, p 635, p 638.

103. Moysie, Memoirs, p 71; C.S.P.Scot., ix, p 640.



by handing the guard to Huntly himself.<sup>104</sup> Matters could not have turned out better for the Gordon earl had he planned it this way.

However, Huntly did not enjoy the office for long and within months had lost the king's confidence in the badly staged Brig O'Dee conspiracy in which both Bothwell and Crawford also participated. Crawford was vaguely persuaded by Huntly's Counter-Reformation ideology and the appeal to his conservative noble instincts to defend the nobility from the machinations of low-born councillors like Maitland. More important for him though, was the opportunity to strike at Glamis just as Glamis had done against him and the regimes he had co-operated with in 1582 and 1585. To Crawford's delight the rebels were able to capture Glamis, attacking his house and burning it in the process. Glamis was now in extreme danger because "they will never keep him alive if it were but Crawford's feud with him", and in fact the earl argued fiercely for him to be put to death. However, the real leaders of the rebellion, Huntly and Erroll, were more calculating, having no feud with Glamis themselves. Furthermore, it was already apparent that the rebellion was failing to gather momentum and to leave the treasurer alive might have advantages. Angry at this, and with nothing more to be gained from his participation in the

104. C.S.P.Scot., ix, p 647; Moysie, Memoirs, p 71.

rebellion, Crawford went home in the huff. Within weeks Huntly was the king's prisoner along with Bothwell and Crawford and the rebellion was over.<sup>105</sup>

Among the victors suspicion and division soon set in. Glamis paid his political debts to Huntly and began to defend him and Bothwell before the king, and it was very quickly being whispered that Glamis had even been a party to the rebellion all along. Now Maitland began to worry lest Glamis was able to gather Huntly and Bothwell behind him and wrest the chancellorship away from him. He thus opposed Glamis's demands for Crawford's execution and hoped to get the Lindsays to rally around him in the defence of his position should it be threatened. Thus, while all three earls were found guilty of treason, they were protected by the chancellor and the treasurer and by the king's own reluctance to be too firm anyway, especially with Huntly. All three were freed without any punishment at all except for a few months in open ward.<sup>106</sup>

This suspicion between the two leading government officials, and their desperate need for magnate backing to hold onto their offices continued to be at the basis of much of their political dealing in the next few years. In March 1590 a libel was discovered alleging that there

105. C.S.P.Scot., x, p 36, p 38; Moysie, Memoirs, p 74-75, p 77.

106. C.S.P.Scot., x, p 102.

was a plot by Crawford and a number of other government officials to murder Glamis, but the latter's fear of Maitland grew so great that by 1591 he was willing to talk peace with both Crawford and his younger brother. Not surprisingly "It is much merveilled that Crawford and the Master of Glamis should be thus sodenly agreed". Rumour even had it that Glamis would resign the treasurer-ship to Alexander Lindsay, now lord Spynie.<sup>107</sup> Factionalism was running wild in the government and court and "The Council and State is distracted by these occassions; peace may be looked for in the morning, but the alarm sounded before night."<sup>108</sup> In one clash between the two, Maitland insisted on forcing a matter through the session to help his nephew against Glamis's father-in-law, a number of session judges absenting themselves so that he could get his way. In another dispute between Glamis and Crawford over the town of Forfar, Maitland wrecked the king's attempts to have it settled by the session by assuring Crawford of his backing whatever he did.<sup>109</sup> The chancellor was thus fanning the fires of the feud in a locality in order to maintain his own security at the king's side. Maitland had thus manoeuvred to "awake this sleping dogg to byte Glames", a far cry from what one would expect from the man who supposedly led "the attack on the overblown power of the

107. C.S.P.Scot., x, p 856-57, p 459.

108. ibid., p 469.

109. ibid., p 468; C.B.P., i, p 375-76.

aristocracy in the Scottish state".<sup>110</sup>

By the end of 1591 Bothwell had fallen, Huntly was in alliance with Maitland and Glamis could be safely jettisoned. Again his local difficulties were used against him. He was ordered to appear before the council with his nephew, the young lord Glamis, to assure Crawford, but refused. As a result of this, and the chancellor's further scheming against him he was deprived of his treasurership and place on the session, was put to the horn, arrested and imprisoned in Blackness.<sup>111</sup> The severity of this was completely out of step with the treatment of other feuds at the time and clearly Maitland was exploiting his opportunity to ruin his rival. This open split between two "well affected" politicians at a time when Huntly was back at the fore of the political stage worried the English and attempts were made to bring about a reconciliation. However, Glamis had his own scheme and as in 1590 decided to bury the hatchet with Crawford in order to make a recovery at court. Other noblemen were swift to offer their help in reconciling the two, but the chancellor heard of it, did what he could to sabotage a settlement of the feud and was even more determined to "'priche at' Glamis overthrow for his own safety",<sup>112</sup> ensuring that he remained in ward.<sup>113</sup>

110. C.B.P., i, p 375-76; Lee, John Maitland of Thirlstane, p 118.

111. C.S.P.Scot., x, p 590; C.B.P., i, p 383; Scots Peerage, viii, p 286.

112. C.S.P.Scot., x, p 592.

113. ibid., p 596.

Help for Glamis in fact came from an unexpected quarter in the person of lord Spynie. Spynie had now reached the heights of his popularity with the king, had quarrelled with his brother Crawford, and was himself vying with Maitland who regarded him as yet another threat to his office. Like Glamis, Spynie was willing to forget about local politics for the moment and agree with him. Following this he used his influence in the chamber to bring Glamis back to court before Maitland knew anything about it. He then succeeded in bringing his brother to court and began negotiations between him and Glamis with a view to forming a faction together to oppose the chancellor. However, the hatred between Crawford and Glamis ran too deep for a reconciliation, and with Maitland constantly applying his own pressure to Crawford, Spynie's project collapsed.<sup>114</sup> His failure was not inevitable but there was little likelihood of him being able to persuade his kinsmen to drop their local political interests in order to further his career at court. Time and again court politicians had to learn that local interests predominated and that even the most powerful court factions had local interests which had to be taken into account.

The murder of the earl of Moray by Huntly in another feud in February 1592 changed the entire political alignment of the previous three years. The loss of Huntly and the clamour

114. C.S.P.Scot., x, p 595, p 598, p 600, p 602, p 608, p 627.

against him forced Maitland to come to an accommodation with Glamis while Crawford gravitated towards Huntly. Now Glamis and Spynie had no further need of one another and the old feud was re-opened. Both men remained well guarded wherever they went and it was commented that "Ther was na gud lyking betwen the maister of Glames and my lord Spyny, chiefly for the fead betwen the houses of Crafford and Glames".<sup>115</sup> A few months later Spynie himself had tumbled from grace, being accused of treason by colonel Stewart, and while he was able to clear himself his image remained tarnished and his political influence evaporated. Glamis tried to exploit Spynie's weakness at the height of the treason accusations by offering unacceptable terms but they were refused. Crawford meanwhile was back in Angus drumming up local support against the Lyons should it become necessary to shake Glamis up in his own back yard.<sup>116</sup>

This time Maitland and Glamis's partnership held with the latter winning back all his old offices. In fact the more important time for this feud in its relation to court politics was over, Crawford being unable to again find a court politician who needed his backing. He was thus relegated to the backwoods except for a brief incursion back onto the stage in 1595 when he joined Mar against

115. C.S.P.Scot., x, p 653, p 671, p 650, p 768, p 752; Melville, Memoirs, p 402.

116. C.S.P. Scot., x, p 758, p 768.

Maitland and Glamis in the last real factional struggle of the Jacobean court.<sup>117</sup> Glamis continued in his offices until 1598 when he retired, having already been edged out of the leadership of his kindred by his nephew in 1595. Crawford died in November 1607 and Glamis followed him only three months later, but they died with the old hatreds still unburied.<sup>118</sup> Fighting and killing between the two kindreds continued throughout the 1590's in spite of attempts by the crown to put an end to the feud and there is in fact no record of when they made their peace, lord Glamis even choosing to go abroad in 1602 rather than be reconciled with his family's old enemies.<sup>119</sup>

The exploitation of politics for the sake of the feud and the infiltration of the feud into the life of politics were an integral part of the political life of both Crawford and Glamis. In the particular politics of this feud one can see

117. C.S.P.Scot., xi, p 151, p 159, p 169, p 509.

118. Scots Peerage, viii, p 286; iii, p 31.

119. There was an incident outside the Edinburgh tolbooth in 1595, C.S.P., Scot., xi, p 517, p 519, p 525; struggle for power within the Lyon kindred, C.S.P.Scot., xi, p 588, p 689; during 1596-99 there was further fighting and attempts by the crown to intervene, R.P.C., v, p 248, p 475, p 540, p 551; C.S.P.Scot., xii, p 142, xiii, part 1, p 444, p 497, p 525; S.R.O. Haigh, N.R.A., 237/1, box C, 8/June/1598; in 1600 one of lord Glamis's men tried to kill Sir John Lindsay of Ballinscho on Edinburgh High Street and when Glamis disowned him, the servant turned on his master and had a shot at him. Two weeks later Glamis killed the man, R.P.C., vi, p 69, p 91, p 239; C.S.P.Scot., xiii, part 2, p 884, p 891; Pitcairn, Criminal Trials, ii, p 386; finally the last one hears of the feud is lord Glamis choosing exile in 1602, R.P.C., vi, p 311, p 367.

quite clearly the working of patronage and the creation of faction around the feud. Thus, Crawford, who was no politician of any great skill or significance, was still able to counter Glamis's far more sophisticated understanding of the court and the royal government because as a powerful local magnate he was always, until after 1592, able to find someone at the court who needed his private power. Lennox, Arran, Maitland and even Glamis himself had all at one time bought his support by intervening in his feud with the Lyons family, and even more significant magnates, like Bothwell and Huntly, showed they were always grateful for additional men at their backs. The relationship between the local magnate and the court politician, be they a magnate themselves or simply a government official, was a symbiotic one in which the one helped the other at a local level and the other reciprocated the favour by turning up at court to overawe their partners' political enemies. In all this both Maitland and Glamis were playing the same game as were Arran and Gowrie a decade earlier and there was clearly no divergence from this pattern by chancellor Maitland who has been unconvincingly cast in the role of a scourge of the nobility and of their feuds.

This point is emphasised even more in Maitland's exploitation of the earl of Bothwell's local feud with lord Hume. Maitland's own personal feud with Bothwell is well known and dealt with elsewhere, but basically it



involved a clash over certain lands on the east march and a more serious confrontation for dominance of the court and the king which dated from Bothwell's failure to get the chancellorship for himself in 1585.<sup>120</sup> The earl's feud with the Humes was closely entangled with Maitland from the start, all three having claims to Coldingham priory which was at the time in the hands of the Humes of Manderston.<sup>121</sup> On this specific issue and at the level of regional power, Bothwell and lord Hume and his kindred were thus keen competitors. In 1583 their rivalry broke out into an exchange of insults between Bothwell and Manderston's son, David Hume, and the earl was only restrained from his usual show of violence by the king's personal intervention.<sup>122</sup> A few days later he did give vent to his anger and attacked lord Hume and his company only a short distance from where the king was staying. Both were briefly warded and caution was arranged, but a year later Bothwell caught up with David Hume, the actual possessor of Coldingham, and two of his friends and "killed all three, but hewed Davy Hume, who was the Earl of Arran's man, all to pieces." Arran

120. See Lee, John Maitland of Thirlstane, for a fuller discussion of their rivalry. Bothwell clearly expected to be made chancellor in 1585, C.B.P., i, p 211-12. The first serious breach between them came in 1587 when a plot by Bothwell to murder Maitland was uncovered, C.S.P.Scot., ix, p 507; Gordon, Sutherland, p 213. Thereafter their relationship simply went from bad to worse.

121. See Lee, John Maitland of Thirlstane, p 60-61, and for Bothwell's claim, Donaldson, James V - James VII, p 191.

122. C.S.P.Scot., vi, p 658.

did not allow the matter to offend him unduly, but lord Hume was bent on revenge and in fact it was he who was warded. Arran having his own reasons for wanting to apply pressure to him.<sup>123</sup>

The 1585 coup brought some advancement for Bothwell and Hume who both came out in opposition to Arran. However, the new government confirmed Manderston's rights to Coldingham and another Hume, Sir John Hume of Coldenknowes, was appointed captain of Edinburgh castle in the face of Bothwell's lobbying for that position, the chancellorship and captaincy of the guard having already alluded him or being about to.<sup>124</sup> In 1586 a clash over leading the teinds of Coldingham was narrowly avoided, but then the king intervened and persuaded the Humes to give the property up to the earl, Maitland having already resigned his interest in it. That same year Bothwell married his half-sister off to Sir John Hume and something like peace existed between the two families for the next few years.<sup>125</sup>

However, just as the reconciliation between Glamis and Crawford was followed by an increasing rivalry between Glamis and Maitland, so the same occurred between Bothwell and the chancellor. Bothwell was regarded at the time as

123. C.S.P.Scot., vi, p 666, p 675; vii, p 329-30; Calderwood, History, iv, p 200.

124. A.P.S., iii, p 387; C.S.P.Scot., vii, p 203, p 206; C.B.P., i, p 211.

125. C.S.P.Scot., ix, p 18; C.B.P.i, p 231, p 559-60; S.R.O. R.D., 1/36/27b.

something of "'an udertaking man' as they term it here, but withall fickle, as no party is sure (of) him; feared on both sides, trusted on neither".<sup>126</sup> In fact he threw in his lot with Huntly against Maitland, but as one has seen, the 1589 rebellion collapsed. Bothwell's part in the rebellion was even more of a fiasco than Huntly's as his friends on the borders simply did not bother to join him, thus revealing serious doubts about his mastery of the south-east, and his surrender was all the more humiliating in that it was made to a William Hume, the lieutenant of the guard.<sup>127</sup> Unlike the others in the rebellion Bothwell was never properly pardoned and he came closest to a severe punishment, Hume of Manderston even offering to do the king's business for him and murder the earl in return for getting his lands back.<sup>128</sup> For the moment though, Maitland drew close to Bothwell to ward off the growing alliance between Glamis and Huntly. He in fact tried to bring Bothwell and Hume together to see if they could unite against the other faction, but lord Hume simply took advantage of the opportunity and attacked Bothwell on his way to the chancellor's house, chasing him and beating up one of his servants. Worse was expected "by reason of the youth and furious nature of both these lords, and both being well friended", and both, "especiallie the

126. C.S.P.Scot., ix, p 677.

127. C.S.P.Scot., x, p 70.

128. *ibid.*, p 110.

Earl" having "bloudie bandes and turbulent sprites".<sup>129</sup>

In fact Bothwell's political recovery towards the end of 1589 had him once again thinking about the need to do something about his own local power and he thus arranged an accommodation with Hume. When the king left for Denmark Bothwell was left as one of the chief men in control of the government and he and lord Hume came to an understanding about their zones of influence in the south-east.<sup>130</sup>

This new found harmony continued to grow and by the spring of 1590 it was being said that they were "so well agreed betwixt them-selves as their late and earnest feede is turned into tender and familiar frendship".<sup>131</sup> It was now thought that Maitland would surely suffer from this alliance, and lord Hume in fact told Bothwell that it had been the chancellor who had put him up to his recent attacks against the earl. The two clearly resented Maitland's meddling in their affairs,<sup>132</sup> and shortly after this Bothwell made his peace with Manderston, thus securing one of his localities. On his return, Maitland tried to stop the settlement being recorded, but the arbitration between the two continued, some of Bothwell's cut-throats received remissions and the

129. C.S.P.Scot., x, p 146, p 148.

130. R.P.C., iv, p 423.

131. C.S.P.Scot., x, p 273, p 279; C.B.P., i, p 353. Though not before another clash between them in Leith, C.S.P.Scot., x, p 846.

132. C.S.P.Scot., x, p 285; Melville, Memoirs, p 373.

chancellor was powerless to prevent the feud being pacified.<sup>133</sup>

Thus when Bothwell fell from power in the summer of 1591 there was no rush by the Humes to exploit it. Lord Hume in fact remained so close to Bothwell that he was warded under suspicion of organising the earl's escape from Edinburgh castle. On his release he joined Bothwell on the borders, ignored government orders to prevent the earl from freely passing through the east march and gave up any pretence of friendship with Maitland.<sup>134</sup> Eventually Hume himself was denounced and as other border lairds began to desert the king, Hume gave in to pressure from his own lairds to seek peace with the king.<sup>135</sup> Hume had done all he could, but he was a political realist and as Bothwell was again failing to get the borders to rally around him as Huntly could do in the north, he sought the king's pardon. On the 25th of August Maitland and Hume were reconciled by a bond of friendship at the king's command.<sup>136</sup>

Having converted Hume from being an enemy of the regime to being its friend, the king and his chancellor soon saw the potential of opening the old feud with

133. C.S.P.Scot., x, p 307, p 312, p 365, p 411, p 413, p 494; S.R.O., Bruce of Earlshall Muniments, G.D. 247/180/1.

134. C.S.P.Scot., x, p 536, p 546, p 548, p 550; R.P.C., iv, p 649; C.B.P., i, p 381.

135. C.S.P.Scot., x, p 554-55; R.P.C., iv, p 662, p 668.

136. S.R.O., Lauderdale Muniments, N.R.A. 832/78.

Bothwell as a means to making Hume a tool of the crown.

A spur to this intent was given by one of Bothwell's friends, James Douglas of Spott, who murdered Georg Hume of Spott, the uncle of one of Manderston's younger sons, Sir George Hume, a rising star in the chamber.<sup>137</sup> Shortly afterwards, Bothwell raided Holyrood palace, partly with a view to killing Maitland, "whome he deidlie haittit". The raid failed, many of the earl's men were taken and hung and the Humes were tied even more closely to the king and Maitland when Sir George Hume was gifted Coldingham, recently forfeited from Bothwell. Lord Hume himself later acquired the property and his willingness to lead companies of horse in the chase for Bothwell was utterly secured when he was allowed to intrude himself on the earl's other possessions on the east march.<sup>138</sup>

The successful coup by Bothwell and the other Stewart lords in the summer of 1593 brought a temporary reversal of the Humes fortune. Coldingham and all Bothwell's other lands were returned to him, but he complained that "he could not get presence of his Maiestie, nor speik of him, for the Homes, quho were courtiers with the King, and

137. Spottiswoode, History, ii, p 417-19; R.P.C., iv, p 677; C.S.P.Scot., x, p 572, p 575, p 584; Historie, p 243. There was some suspicion about this killing having been committed by other Humes. See also C.S.P.Scot., xiii, part 2, p 659.

138. Moysie, Memoirs, p 87; Historie, p 243; C.S.P.Scot., x, p 741, p 781, xi, p 19, p 82; C.B.P., i, p 399.

enemies of the said Earle of Bothuell", and that Sir George Hume was still seeking revenge for the killing of his brother even though the feud had been properly settled by him and the Humes.<sup>139</sup> Gradually, the Humes, Maitland and the Hamiltons made their recovery at court, and with the desertion of Lennox and the appointment of Alexander Hume as provost of Edinburgh, Bothwell had to flee the burgh and again take to hiding.<sup>140</sup>

Though not yet finished, Bothwell was now a desperate man. He challenged lord Hume to a duel, but the latter was wise to avoid such a means of settling their feud, Bothwell's reputation for combat being well established.<sup>141</sup> The earl also made another even more direct assault on the king in the spring of 1594 when he led an attack on Edinburgh. The king put lord Hume in command of his forces, having suspended an act of excommunication against him so that he might continue to protect him, and while Bothwell's men actually inflicted a defeat on Hume and the royal vanguard, he had to retire before much larger forces.<sup>142</sup> Lord Hume was then involved in prising the laird of Johnstone away from Bothwell and in plotting to murder Douglas of Spott while being rewarded by even more Bothwell lands.<sup>143</sup> The

139. C.S.P.Scot., xi, p 159-60; C.B.P., i, p 488; Birrel, "Diary", p 30.

140. C.S.P.Scot., xi, p 170, p 188; C.B.P., i, p 498, p 492.

141. C.C.P.Scot., xi, p 188.

142. *ibid.*, p 227, p 304; C.B.P., i, p 524-25, p 525-27; Spottiswoode, History, ii, p 448.

143. C.S.P.Scot., xi, p 284, p 301, p 369; R.P.C., v, p 137.

earl meanwhile tried to capture Sir George Hume, his "capital enemy", and to make Maitland and lord Hume the butt of his propaganda war,<sup>144</sup> but to little effect, and another of the Manderston Humes captured Bothwell's brother and had him brought to Edinburgh for execution, while shortly afterwards this same William Hume killed another of Bothwell's servants in Dunfermline.<sup>145</sup> By 1596 Bothwell himself was "in a miserable plight", was unable to protect his friends who were being ruined and killed by their enemies, and was forced to flee the country, never to return.<sup>146</sup>

In this feud not only chancellor Maitland but the king himself cleverly exploited a local feud for political gain, and in fact revived a feud which had been settled by the principals of both sides. There was, of course, nothing unusual in royal policy being conducted in this way, the same principles were applied to the pacification of the north-west of Scotland at the end of the 1620's, Caithness being used to crush Orkney and Sutherland in turn bringing Caithness to heel. The greatest ruler of Europe, Philip II, similarly defeated the duke of Villaherosa by manipulating

144. C.S.P.Scot., xi, p 439, p 444.

145. ibid., p 536, p 541.

146. Spottiswoode, History, ii, p 461. In 1602 the beginnings of a reconciliation took place between lord Hume and Bothwell's family but this was not completed until 1620-21 when his son was given back Coldingham. By this time Bothwell had died penniless in Naples. C.S.P.Scot., xiii, part 2, p 1029, p 1107; Melrose, i, p 370-72; Spottiswoode, History, ii, p 461; Lee, John Maitland of Thirlstane, p 300.



his feud with the count of Chinchon, the treasurer-general of Aragon.<sup>147</sup> Bothwell's defeat was no different from that of the earl of Douglas in the mid fifteenth century. What of course made it puzzling is that James VI government was at the same time stumbling towards a policy of eradicating feuds and the king himself claimed to hate them vehemently. Where political survival was at risk though, he was willing to let expediency override principle, and, as has already been suggested, there was even a hint of blood-feud between Bothwell and the king. Like other men the king was capable of opposing feuds and conducting them at the same time.

What these feuds do show very closely is the far greater significance of local affairs in the thinking and the organising of court politicians. The locality remained for most men the basis of their power and hence their political friends and enemies were largely determined by local affairs. When the great men of the court clashed it was only to be expected that they would try to hurt one another not only by whispering in the ears of the king, but by trying to strike at their enemy's power base in the localities, far away from the more refined intrigue of the court. This is what happened in the last great political feud of the Scottish royal court.

147. Lynch, Spain Under the Hapsburgs, vol ii, p 359.

In the summer of 1595 the king took the young prince Henry away from the custody of the queen and put him in that of his lifelong friend the earl of Mar. Immediately the queen became Mar's bitter enemy and quickly found a ready ally in the ailing chancellor who had for some time been looking over his shoulder at Mar's growth of influence with the king.<sup>148</sup> The court, which had only just got over the prolonged feuds between Bothwell, Huntly and the chancellor, was thus once again riven into two broad factions for or against the queen and Maitland. So tense did relations become that it was thought that "the feud is likely to be quickened with blood and to the trouble of the country".<sup>149</sup> However, Maitland remained the past-master of court machinations and out-matched Mar in an investigation into financial incompetence and corruption. He then backed the queen in a demand that Mar give up the prince and the captaincy of Edinburgh castle, but this time he angered the king who stepped in and forced the two men to come to what was no more than a superficial reconciliation since both the chancellor and the queen were still determined to bring Mar down.<sup>150</sup>

If Mar could not be damaged at court where the king had so much confidence in him then his enemies thought that

148. For a wider discussion of the origins of this see Lee, John Maitland of Thirlstane, p 284ff. However, Mar had been tipped to succeed Maitland as early as 1592 and a year later he was said to have been negotiating to bring back Arran, C.B.P., i, p 406, p 469.

149. C.S.P.Scot., xi, p 488.

150. ibid., p 545, p 567, p 550.

he might be just as effectively neutralised by entangling him in local political difficulties. A feud between two of Mar's dependants offered them the opportunity they were looking for. Apparently two men, one a Bruce and the other a Forrester, loved the same woman and their rivalry was soon dividing the locality around Stirling "as the ane preassit to prevayle above the uther, the factioun of thir two drew freyndis to parteis and factions".<sup>151</sup> In April 1595 there was a dangerous brawl in Stirling when the sons of Forrester of Garden attacked a company of Bruces and Livingstons leaving a friend of Livingston of Dunipace and a number of townsmen hurt. Mar's own problems at court were probably responsible for his failure to quell this rupture among his followers, but on the 24th of June one of the Forresters was ambushed on the road between Stirling and Edinburgh by Dunipace, Bruce of Airth and "the clannit men" of his kindred. The victim was a baillie of the burgh of Stirling and one of Mar's most trusted servants and almost immediately the entire country round about was thrown into an uproar.<sup>152</sup>

It was not long before the rumours were flying even further afield. It was being said that Dunipace and Bruce had been put up to the murder by the queen, Maitland and Glamis and that the killing had "set all on fire". Even a

151. Spottiswoode's less romantic account says that the Bruces and Livingstons were jealous of one of the Forrester's influence with Mar, History, ii, p 465.

152. Historie, p 346-47; C.S.P.Scot., xi, p 575, p 584, p 624, p 625, p 637.

month before the killing it had been noticed that Dunipace, who had been employed by Mar to work against Maitland, was showing signs of drifting from his side over the earl's failure to help him against the Forresters. Mar himself certainly had no doubt that the chancellor was behind yet another killing, aiming to separate him from the Livingstons and Bruces and thus break up his power base. The court buzzed with excitement at the prospect of a "bloody end" to it all and it was recorded that "all sides are busy packing up all their small feuds for their advantage".<sup>153</sup>

Mar was without doubt one of king James's less violent noblemen but he was determined to have revenge for this killing. He called a meeting of his friends and in all Lennox, Argyll, Morton and some thirty barons attended him and promised to hazard "life, land, and all", though only if Mar sought to have justice by law and not by private revenge. There was an understandable reluctance to escalate a blood-feud with the Livingstons and Bruces and with the Elphingstones who had now joined them since these men were all traditionally dependant on Mar.<sup>154</sup> The latter also made arrangements for the carrying of Forrester's corpse through the lands of his enemies, and while fears were expressed that the procession might be opposed and end in bloodshed, nothing happened and it was a propaganda triumph for Mar

153. C.S.P.Scot., xi, p 584, p 625, p 627.

154. ibid., p 630.

and his friends. Still, it was not the end and men expected "sum certayne revenge sall ensew therupon".<sup>155</sup>

Winning a publicity battle was one thing, getting justice was quite another, and Mar was to find difficulty in bringing the murder to court for judgement. Maitland was, of course, quite satisfied with the disarray into which Mar's followers had fallen and when some neutral men tried to bring him to agreement with the earl, he simply asked "what should need agreement when there is no feud", and failed to appear at the meeting.<sup>156</sup> Meanwhile Dunipace had been charged to appear before the justice on the 24th of August, but powerful court interests were rapidly gathering behind him thus increasing the suspicion that he had been at least partly working in concert with a party there before the slaughter. He and his friends thus found themselves with the protection of his own chief, lord Livingston, and lords Elphingstone, Fleming and Hume as well as the powerful border lairds of Buccleuch and Cessford. Mar was not impressed though and was said to have prepared some two thousand gentlemen to accompany him to Edinburgh on the day of the trial. Furthermore, while the chancellor and the queen might be ranged against him, he had the backing of the burgh of Edinburgh itself, the ministry and the king in a feud in which every one appeared to be taking sides.<sup>157</sup>

155. C.S.P.Scot., xi, p 631, p 636-37; Historie, p 346-47. One rumour had it that Mar had sworn never to change his clothing until he had revenge.

156. C.S.P.Scot., xi, p 641.

157. ibid., p 654.

Mar's enemies' principal tactics were obstruction and they did all they could to prevent the case coming to trial. Some sort of mediation was started up with a view to getting him to settle for less than the lives of Forrester's killers and the whole truth of the killing. In mid August he was being offered the banishment of the killers in return for his assurance of the rest of their kinsmen and there was even talk of a settlement between Mar and the now dying chancellor, but nothing came of the latter.<sup>158</sup> On the local feud Mar was still willing to listen and lords Livingston, Fleming and Elphingstone, with Airth and Dunipace, increased their offer to one of homage or honours to Mar and Forrester of Garden and the payment of a thousand marks to the wife and children of the dead man. The master of Elphingstone visited Mar to discuss the terms, but found the earl suspicious of his part in what he was sure was a plot against him so that he left "sore frome my hairt". Mar had also brought up the killing of another of his servants for which more assythment had been offered. Lord Livingston sent Mar a declaration swearing to his innocence, offering to submit the matter to a decret if the earl remained unsatisfied and even agreed to allow any of his friends or dependants to face trial without trying to protect them if Mar would agree the same principle for his followers. Dunipace also wrote to him declaring his innocence and agreeing to stand

158. C.S.P.Scot., xi, p 579, p 690.

trial as long as Mar himself was not the pursuer and offering to go into ward, exile or make whatever reparation Mar wanted to restore the peace. By October more banishments were being offered and the assythment on offer had doubled to two thousand marks.<sup>159</sup> Thus in spite of their court backers the Bruces and Livingstons felt ill at ease having to face Mar in the locality and were making fairly generous offers to satisfy him. However, Mar was something of a stickler for his word and was determined to have justice in the courts and to know the truth of the murder.

Mar's insistence on a legal prosecution seems unreasonable given what is known about private settlements, but Mar did not want a settlement he wanted revenge, and the justice courts offered the best opportunity for that. A warrant was issued for the arrest of five of the murderers and the trial was set for December.<sup>160</sup> The government was now faced with the prospect of a violent clash in Edinburgh because both sides were determined to appear in force and ensure that justice was done. Both were forbidden from bringing large numbers of attendants with them, the session was given a holiday so that as few people as possible had an excuse for coming to Edinburgh and the burgh prepared for the worst.<sup>161</sup> Maitland had meanwhile died, and it remained for the queen

159. C.S.P.Scot., xii, p 11, p 33; R.P.C., v, p 303; Report of the Historical Manuscripts Commission on the Manuscripts of the Earl of Mar and Kellie, (London, 1904), p 43.

160. H.M.C., Mar and Kellie, p 44.

161. C.S.P.Scot., xii, p 79, p 88; R.P.C., v, p 242.

to champion Dunipace and his friends. She asked Mar to postpone the trial, but he refused as "it touches him so far in honour that he cannot satisfy her request".<sup>162</sup> As one has already seen, honour was a touchy subject with Mar, even moreso than with most of his contemporaries. With the trial set to go ahead both sides turned up with more men than they had been allowed and a show-down in the streets became more and more likely. However, Anne of Denmark had not finished with her lobbying yet and ordered Mar to postpone the trial and submit the feud to her, and when he again refused she went to the king and with remarkable determination threatened to convene her own friends in Dunipace's defence if he did not intervene. Faced with this the king agreed, and on the day of the trial, with the whole town standing in arms, the tolbooth heavily guarded and both sides confined to their cramped lodgings, the king sent for Mar and persuaded him to agree to a postponement of the trial to the next local justice ayre if mediation had not brought about a private settlement by then.<sup>163</sup> That same day the privy council ordered both sides to come in during February 1596 and settle their feud before them, arrangements were taken to de-escalate the situation in Edinburgh and assurances were taken.<sup>164</sup> For the moment the crisis had passed.

162. C.S.P.Scot., xii, p 92.

163. ibid., p 95-96, p 97, p 99-100.

164. ibid.; R.P.C., v, p 248.



In effect Mar had been turned from his initial desire for revenge in the blood-feud to revenge through formal legal justice and was now being persuaded to settle the matter within the context of the feud by assythment. Throughout one can see that attitudes to the courts were not what one would necessarily expect: Mar wanted them to give him revenge, the other side expected them to be unfair and hence their great desire to be there in strength. However, a feud of this proportion was not so easily dismissed and an observer wrote, "still I fear this matter of my Lord Mar (will) work more mischief for though the day of law be continued yet hatred diminishes nothing on eother side, which (being so near neighbours) is fearful".<sup>165</sup> The same commentator, a client of Mar's, also felt that his patron had been outflanked by the queen, and that "The Queen will rule all and I fear Mar go down". The earl certainly went home in a black mood.<sup>166</sup>

Back in his locality Mar's position was still strong. There was further fighting in Stirling when lord Livingston and the earl of Montrose met there to discuss further plans and were opposed by Mar's people who dominated the burgh.<sup>167</sup> Furthermore, Stirling presbytery was angry that the trial had been postponed, "conceiving that justice was by that new puting off of that day illuded at the least", and they

165. C.S.P.Scot., xii, p. 100.

166. *ibid.*

167. *ibid.*, p 101.

began the process of excommunication against Dunipace and Bruce of Airth's son though they were stopped from going the whole way by the king who wished them to consult with their colleagues elsewhere to buy him more time.<sup>168</sup> However, the king himself was now becoming unpopular in the Stirling locality and one of his officers was attacked in the burgh without Mar doing anything to apprehend the culprits.<sup>169</sup> This incident prompted the king to try and take a firmer hand with Mar and he persuaded him, with some effort, to assure lord Livingston, Bruce of Airth and their kinsmen.<sup>170</sup> In spite of this Mar continued to relentlessly hunt the murderers and to make life in the locality difficult for friends of theirs for years to come.<sup>171</sup>

Outside of his locality Mar's position was strengthened when he and the queen were able to sink their differences, but his enemies soon found new protectors in James Elphingstone, appointed as the king's secretary in 1598.<sup>172</sup> More importantly the king himself was becoming increasingly less tolerant of the feuds of his noblemen, and Mar began to feel the pressure which he felt was pushing him into a settlement "against his honour". Mar let his anger be widely known, thus prompting

168. C.S.P.Scot., xii, p 114.

169. ibid., p 123.

170. ibid., p 136, p 163; R.P.C., v, p 288; H.M.C., Mar and Kellie, p 45.

171. R.P.C., v, p 303; H.M.C., Mar and Kellie, p 46-47.

172. C.S.P.Scot., xii, p 240, p 282.

the comment that the king was being "careless" in offending one of his "undoubted best subjects".<sup>173</sup> However, James was determined this time and had set himself the task of putting to rest the feuds of the men he most needed to govern the kingdom, but "albeit he took great pains and used many devius to reconcile them, he could not at this time unless he should have used his authority which he forbears hoping yet to agree them by this device."<sup>174</sup> In fact his authority made no difference, both sides finding reasons for avoiding his orders and even the prospect of being appointed chancellor, an office which had been lying vacant since Maitland's death in 1596, did not tempt Mar to give in.<sup>175</sup> Finally, the king could wait no longer and though Mar had been his first choice for the position, he passed him over and appointed Montrose to the chancellorship, he having concluded his feuds with the Sandilands family as the king wished.<sup>176</sup> A few months later the king was in fact able to end the feud in a settlement which was as far as one knows a lasting one.<sup>177</sup>

173. C.S.P.Scot., xiii, part 1, p 214, p 217, p 220;  
C.B.P., ii, p 538.

174. C.S.P.Scot., xiii, part 1, p 242.

175. *ibid.*, p 278, p 292, p 362, p 369.

176. R.P.C., v, p 516.

177. C.S.P.Scot., xiii, part 1, p 375, p395, p404, p419, p422, p444; part 2, p 726, and for what looks like part of an assythment agreement, S.R.O. Miscellaneous Accessions, G.D. 1/529/53; Duntreath M.S., Report of the Historical Manuscripts Commission, Various Collections, (Hereford, 1909), v, p 114.

This feud is perhaps less obviously political in the sense of court politics than other feuds discussed above, but its relevance to that world was still important. The feud was at one level between Mar, a local magnate of medium power, and a number of men who were normally his friends and dependants, but its prominence in the records shows that contemporaries did not see it simply at that local level. Whether Maitland did forment a feud in Stirlingshire or not, Mar thought that he had, and the feud thus became bound up with the struggle at court between the earl and the chancellor with his ally the queen. At the very least Mar's court enemies saw their opportunity to side-track Mar into local problems, weaken his clientage and strengthen their own at his expense. On the whole it worked, in that while Mar remained in control of his locality, he lost ground at court and was almost certainly deprived of the chancellorship because of his attitude to the feud. In the Crawford-Glamis feud one finds men using court politics to continue their local struggle and here one has the reverse. The point is not so much that one has local feuds intruding on the life of the court, and the government and factionalism at the centre creating fissures in local society, as that the two, the locality and the centre, were so closely interwoven that one cannot really understand the politics of the one without the other, and in particular one can make little sense of court politics without looking at the localities.

With an understanding of local divisions, which were as one has seen, over real issues, the apparent faction for factions sake begins to make sense. Court politicians and magnates who spent a lot of their time at court were not cut off from the localities, they had to know about them and understand them if they were to survive in that intensely competitive environment. They did not stand aloof from what went on in the feuds or look with profound distaste at the disorders of local society, vowing to impose "absolutism" on them. To survive they had to work within the world of the feud, exploiting it for their own well being and that of their kinsmen, local dependants and courtly clients.

This interrelationship between locality and court was also highly important in managing Scottish politics. The Huntly-Stewart feud, which is discussed in the following chapter, is the best example of this, but it was relevant to most of the feuds of the magnates. It was Morton's intervention in the local power bases of Argyll and Atholl which really brought them to the point of rebellion, it was Arran's intervention in the politics of the south-west which precipitated his fall, it was by undermining his local power and exploiting his local feuds that Bothwell was smashed, it was by stirring up trouble in his own backyard that Mar's rivals checked his progress. There were very few men whose power did not rest to some extent on their grip of a locality or a number of them and even great

court brokers and politicians like Arran, Maitland and Glamis became entangled in local issues. Even at the very centre of power - a doubtful concept anyway in this period - alliances and factions were being created around divisions which began in the localities, and men's political careers were being made and broken through the exploitation of their local feuds. It is doubtful if the sixteenth century would have understood our obsession with the centre as the overriding concern of political life. For them the centre was very often nothing more than the source of more power which they would exercise in their localities, and too often one tends to find the politics of this period discussed from the point of view of a court cut off from localities which functioned as nothing more than sources of revenue and breeding grounds of lawlessness and rebellion.

Feud was an integral part of Scottish political life in the sixteenth century. At times the practice of politics and the pursuit of feud were one and the same thing. Whatever may have been thought about religious change, foreign policy or royal legislation, and whatever "parties" may have formed around such nebulous concepts, the reality of kin obligations and the blood-feud was more tangible and more influential in shaping and defining the political relationships of a majority of politically aware men. Political life was charged with the obligations of "kindness"

to friends and blood debts to enemies; that was its dynamic. Within this frame of reference court managers like Arran and Maitland, and great magnates like Huntly and Bothwell could operate, exploiting the enmities of their rivals, encouraging their feuds, cultivating friendships with their enemies and spinning webs of kinship, dependancy and clientage. Those who understood this best succeeded most, and thus chancellor Maitland, the supposed hammer of the nobility, was in fact the most astute manipulator of noble politics of his time, exploiting his enemies' feuds with complete self-interest and cynicism.<sup>178</sup> Below the level of what is all too often considered the politics of this period there was thus an arena of activity which has scarcely been looked at. The collapse of the Morton regency, the Ruthven Raiders, the fall of Arran, the career of Maitland and Bothwell, Huntly's rebellions, and all the major and minor ups and downs of political life during the last years of the Scottish court must be understood within the context of the feud. It would of course be wrong to simply write the politics of the period from the perspective of the feud and fail to take account of other factors, but it is time that these feuds were brought to the centre of the stage where they belong and not left to be considered as side-shows, as the antics of an immature and brutal

178. A point which would have surprised no-one had Lee not attempted to see in Maitland an Eltonian Cromwell, but even the latter's image has been somewhat shaken recently, e.g. Starkey, "From Feud to Faction", p 20.

political class.

Yet if politics could be influenced, determined and even defined as feud it was also true that political competition initiated feuds and political success or failure could shape their course. Thus, in the latter case the power of the state could be used as an instrument to be wielded in private interests. Clearly this was one reason for seeking power at court and in the government. Thus the Hamiltons were victimised by the government because of Morton's own feud with them, and in the Crawford-Glamis feud one could clearly see the fortunes of life on the wider political stage being reflected in their private feud. Similarly, in the Gordon-Forbes feud local politics were continually affected by the goings on in Edinburgh and Stirling. Even the civil war had had its public issues and its private ones. Yet, as Arran discovered, it was not only in war that one could inherit a feud, for while the executions he carried out were in the king's name, the families of his victims exacted their own private revenge on him, and the Ruthvens even tried to take revenge on the king himself. Those who lacked Arran's mettle, or alternatively had more sense, did their best to avoid these excesses, frustrating both foreign observers and at times the king with the practice of knocking a political opponent down but leaving him to crawl home rather than risk a blood-feud. Only when men were already at feud, as Crawford was with Glamis, did one hear the



cries for blood. Killing a man in a feud was one thing, but killing him for the sake of the king and thus incurring the wrath of his kinsmen was quite another and to be shunned. It was a complication Scottish politicians had to live with, making the formal side of their politics less bloody than elsewhere, but concealing an underworld of political violence which was very bloody indeed.

Scottish politics was not simply about feuding and about local issues; politics is rarely so simple that it can be so neatly classified or defined. However it was not simply an endless timetable of the rise and fall of favourites or a catalogue of baronial strife which had no deep significance. Scottish politics were social in nature, that is they were about relationships, relationships of co-operation - alliances and friendships - and conflict - blood-feud. This does not mean that one can dismiss it as a darker age than our own, when intrigue, corruption and violence characterise it in our eyes as somehow less moral and worthy of study than the politics of party and of ideals. The social content of Scottish politics gave it its own ideal, that of the kin and of the blood-feud and on this ideological base the faction evolved. This could be a loose collection of a number of families and lords with the minimum of cohesion and discipline, but they could equally be, especially where one kindred was involved or

where the lord was a very good manager of his affairs, bound together even more tightly than any modern political party. Political life was thus to a considerable extent sustained by the feud giving it its competitiveness and its violence, and also introducing into it its cohesion and co-operation. Nor did the feud lose from the relationship, feeding as it did on the hostile words and deeds men so often employ in their politics.