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The Scottish Parliament in the 15th and 16th Centuries

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Errata - There is no reference 14 on Pages 146, 173.
Page 313 is followed by page 316.

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A B S T R A C T

Earlier histories of the Scottish parliament have been somewhat constitutional in emphasis and have been exceedingly critical of what was understood to be parliament's subservience to the crown. Estimates by constitutional historians of the extreme weakness of parliament rested on an assessment of the constitutional system. The argument was that many of its features were not consistent with a reasonably strong parliament. Because the 'constitution' is apparently fragmented, with active roles played by bodies such as the lords of articles, the general council and the convention of estates, each apparently suggesting that parliament was inadequate, historians have sometimes failed to appreciate the positive role played by the estates in the conduct of national affairs. The thesis begins with a discussion of the reliability of the printed text of APS and proceeds to an examination of selected aspects of the work of parliament in a period from c 1424-c 1625. The belief of constitutional historians such as Rait that conditions in Scotland proved unfavourable to the interests and effectiveness of parliament in the fifteenth and sixteenth centuries, is also examined.

Chapter 1 concludes that APS is a less than reliable text, particularly for the reign of James I. Numerous statutes were excluded from the printed text and they are offered below for the first time. These statutes have been a useful addition to our understanding of the reign /

reign of James I. Chapter 2 analyses the motives behind the schemes for shire representation and concludes that neither constitutional theory nor political opportunism explains the support which James I and James VI gave to these measures. Both these monarchs were motivated by the realisation that their particular ambitions were dependent on winning the support of the estates whose ranks should include representatives from the shires. Chapter 3 examines the method of electing the lords of articles, the composition of this committee, and some aspects of its operation. The conclusion is that in the main the estates were *the deciding force in the choice of the lords of articles*. The committee's composition was more a reflection of a desire for a balance between representatives from north and south of the Forth and for the most important burghs and clergy to be selected than an attempt at electing government favourites. The articles did exercise a significant control over the items which came before parliament but this control was not absolute and applied to government as well as private legislation. Chapter 4 questions the traditional view that the general council and convention of estates were the same body. It is argued that they were two different institutions with different powers, but that they nevertheless worked within certain limits and were careful not to usurp the authority of parliament. Chapter 5 concedes that taxation was sometimes decided outside parliament; that the irregularity of taxation certainly weakened the bargaining /

bargaining power of the estates and that the latter did not appear to capitalise on these occasions when taxation was an issue. But the tendency was to ensure that, whether in or out of parliament, the decision to impose taxation was taken by a large number of each estate. . The infrequency of taxation was a direct consequence of an unwillingness among the estates to agree to a regular taxation and their preference to ensure for the crown an alternative source of income. Moreover taxation was one issue, which more than any other, would be subject to contentious opposition by the estates, and could lead to the crown's defeat. Chapter 6 is concerned with ecclesiastical representation after the Reformation and the church's attitudes to the possibility of ministerial representation. Some ministers had doctrinal misgivings but the majority came to believe that the church's absence from parliament had severely reduced the influence of the church. That no agreement was forthcoming on a system of ministerial representation, particularly after 1597, is attributable to the estates' unwillingness to compromise and not to the strength of opposition in the church. Chapter 7 examines the institutions which are sometimes seen as 'rivals' of parliament and concludes that institutions such as the privy council were generally very careful in matters which needed the approval of parliament, and seemed aware of the greater authority of parliament. Chapter 8 which illustrates how parliament had the right to be consulted in all important matters of state, brings together *the main points of the* earlier /

earlier chapters and offers further illustrations of the essential role which parliament played in the conduct of national affairs. Whether or not the system can be regarded as constitutionally sound, the estates in Scotland could observe parliament's day-to-day operation with some satisfaction. All in all, there is little convincing evidence that parliament was as weak as some historians would have us believe.

A B B R E V I A T I O N S

CUL	Cambridge University Library
<u>EHR</u>	<u>English Historical Review</u>
EUL	Edinburgh University Library
HA	Historical Association
LPL	Lambeth Palace Library
NLS	National Library of Scotland
<u>SHR</u>	<u>Scottish Historical Review</u>
SHS	Scottish History Society
STS	Scottish Text Society

N.B. For convenience, all dates between 1 January and 25 March are given in modern form. All references are to pounds sterling unless otherwise stated. In general abbreviations conform to D.E.R. Watt's 'List of Abbreviated Titles of the Printed Sources of Scottish History to 1560', SHR, xlii.

C H A P T E R 1

THE TEXT

'The Parliamentary records of an ancient kingdom cannot be found stitched up in any one cover, or even standing on any one shelf, and that it will not do to order the King's printer to print "the Parliamentary Records", as the King's tailor is ordered to make coats and trousers for the army and navy'. (1)

This was Thomas Thomson's response to pressure by the Record Commission, which was seemingly unaware of the problems inherent in the preparation of a compilation of the proceedings of the Scottish parliament. To be fair, the Commission had been previously told by the keepers of the Records of Scotland that they had in their custody among the National Records 'the Records of Parliament from the year 1210, to the year 1707'. (2) That was wishful thinking. In fact, even within the time scale of this research, where the legacy is relatively rich, the doubts about the completeness of this record are many. For the period before 1466, all that remains is a limited number of collections of statutes both in manuscript, the nature of which has made them often less than comprehensive, and in the earlier printed editions. (3) Although after 1466, the official /

official Register, which Thomas Thomson was able to supplement from other sources, is extant, the paucity of parliaments in the reign of James IV is sometimes attributed to a deficiency in this record and not to political considerations. Notwithstanding the defects in these records, the Record Commission's edition of the Acts of the Parliaments of Scotland ⁽⁴⁾ is almost completely devoid of any critical apparatus. This deficiency was apparent in W.C. Dickinson's article on the parliament at Perth, 6 March 1430, ⁽⁵⁾ where the assumption was made that the six hitherto unprinted statutes, ⁽⁶⁾ which were discovered in the Ayr Burgh Court Book, had not been available to the editors of APS. In fact, in various combinations, altogether five out of six of these statutes appear in three manuscripts noted in that edition. ⁽⁷⁾ Yet, significantly, these are not the only omissions. Statutes of financial, political and military importance, referring in particular to the reign of James I, found no place in APS. The aim of this chapter is to answer some of the questions left unanswered by Thomas Thomson regarding the nature of his sources, the derivation of each particular manuscript, the extent to which the MSS reflect a common antecedent, the evidence of editing both by parliamentary committee and by individual scribes and in short the relationship of these texts to /

to the original record. Once answers are found to these questions and the hitherto unprinted statutes are put in their exact historical context, it should be possible to decide which enactments, and in what form, belong in a collection of the ordinances of the parliaments of Scotland. As an essential part of the apparatus, a comparative table is included for ready reference.⁽⁸⁾

- I -

1424-1471

The manuscripts are as described in volume 1 of APS (Drummond (XI), Cockburn (XIII), Cambridge MS K.1.5. (XII), John Bannatyne (XVIII), Lambeth (XIX), Thomas Bannatyne (XXI), MS A.1.32. (XIV), Colvil (XVI), MS, W.4.Ult. (IX), Malcolm (XXII). ⁽⁹⁾ with these additions: the fifteenth century manuscripts on which Robertson based his printed but unissued Parliamentary Records of Scotland, ⁽¹⁰⁾ herein cited as Robertson 1 and Robertson 2; the Edinburgh University Library MS No. 207; ⁽¹¹⁾ the Ayr Burgh Records, ⁽¹²⁾ an account of which is given in W.C. Dickinson's article on the parliament of 1430 at Perth.⁽¹³⁾ Wherever possible, references to manuscripts will be by name. In the case of the two Advocates Library manuscripts, MS A.1.32. and MS W.4.Ult. this is not possible for their modern classifications (MSS 25.5.7. and 25.4.15) are extremely cumbersome. These will henceforth be called Adv. 1 and Adv. 2 /

Adv. 2 respectively. EUL 207 will be used to denote the Edinburgh University Library manuscript. A list of manuscripts giving old and new classifications, and their present location, ⁽¹⁴⁾ is provided. References to a chapter in a particular manuscript are as denoted in the comparative table. ⁽¹⁵⁾

For earlier parliaments, the only considerable body of statutes now remaining, is that belonging to the 1318 meeting, which exhibits

'the oldest entire system which now remains of the capitulars of the Kings of Scotland'.⁽¹⁶⁾

It is more than chance that several well-authenticated copies of these particular statutes have survived where others such as the ordinances of David II have perished,⁽¹⁷⁾ and that they should date from 1318 when the decision was taken that copies of the statutes and ordinances of 1318 were to be given to the sheriffs for proclamation and for the supply of copies to the prelates and barons. In March 1426, in the full knowledge of the 1318 precedent, the King with consent of the three estates

'ordanit that all statutis and ordinance of this parliament and of the tua parliamentis precedande be registrat in the Kingis Registir ande gevin to the schireffis. Quhilkis statutis and ordinancis ilk schiref sall ger be publist and proclamyt in the chefe place of his schirefdome ande in vthir notable placis. Ande als to geve copiis /

'the copis of thaim bath to prelatis
baronis and borowis of his balzery apoun
the expens of the askaris'.⁽¹⁸⁾

The implication of this statute is that the acts of the parliaments of 1424, 1425 and 1426 had not yet been registered. All that existed was probably a mass of working papers, final drafts, even fair copies. There might have been a couple of quires of four to eight leaves for each parliament. These will be called [P] for papers. These were to be used in the preparation of copies for distribution and in the compilation of a parliamentary register [R].

Not surprisingly, the effect of this statute was much the same as had been the case in 1318. MSS Adv. 1, Adv. 2 and Cockburn (all Advocates Library MSS), which will henceforth be referred to as Group C, all owe their record of the parliaments of 1424, 1425 and 1426 to the decision of 1426 to prepare and distribute copies of the statutes of these parliaments. For the first three parliaments of James I, the evidence of their derivation seems conclusive. Both Adv. 1 and Adv. 2 precede the statutes of the first three parliaments of James I not with the preamble found in many of the other manuscripts and faithfully printed in APS, but with the letter which follows on the left hand column. The preamble of 1318 is also given for comparison.

/

'James be the grace of God
King of Scottis till iustice
schirefais aldirmen and thar
balyses ande til all other
leil liegis and subdittis to
the knowlegis of quham thir
present lettres cumis greting
Wit ye that in our Parliament
at Perth divers tymes haldin
thru the express counsal and
consent of the thre estatiss
of our kingdom thar within
writtin statutis war mad and
formyt of the quhilk forsuth
statutis the tenour folwys in
wlgar tung'.⁽¹⁹⁾

Robertus dei gracia Rex
Scotorum iusticiariis ,
vicecomitibus prepositus
et eorum ballivis ceterisque
fidelibus suis universis ad
quorum noticiam presentes
litere pervenerint salutem
Sciatis quod de consilio et
expresso concensu episcoporum
abbatum priorum comitum et
baronum ac totius communitatis
regni nostro in pleno
parlamento nostro tento apud
Sconam die dominica proxima
post festum sancti Andreæ
apostoli cum continuacione
dierum subsequencium anno regni
nostri xiii auctoritate nostra
regia infrascripta statuta
condita sunt et firmata'.⁽²⁰⁾

The letter continues by listing the ordinances of these
three parliaments in a single unit and not under a
particular parliament. Moreover, both Adv. 1 and
Adv. 2 contain the conclusion of this same letter (on
the left column), although in the case of Adv. 1, it
lacks the phrases before the asterisk:

/

'Quarfor to you we bid and
commandis that the forsaidd
statutis in our next court
within your balyere to be
haldin* and in other placis
quhar oftast hapnis
congregatioun of pepil opinly
ye ger be rede and cryit and
alsua in the court of prelatis
erlis barounis and of al other
hafand courtis the quhilkis we
will that be you the copy be
given of the statutes sa that thai
haf na mater thaim til excus of
the ignorans of thaim comandant
mar attour and straitly muniand
that alswell ye as our other
subiectis and liegismen the
forsaid statutis in al thar
poyntis and articlis vnmoffably
ye and thai kep and obserf vnder
all payn the quhilk aw or ma cum
thairof or folow gevin vnder the
witnes of our gret seill at
Edinburgh the xx day of Aprill the yer
of our Lord mccccxxvi our kinrik
the xxi yer'.(21)

'Quare vobis mandamus
et firmiter precipimus
quatenus dicta statuta
ad curias nostras infra
ballias vestras tenendas
et alibi ubi fuerit
frequens congregacio
populi publice legi et
proclamari faciatis ac
inviolabiliter ab omnibus
observari tam in curiis
prelatorum comitum et
baronum et omnium
aliorum qui curias
habent quam in curiis
nostris propriis quibus
volumus quod per vos
detur copia statutorum
ita quod materiam non
habeant se excusandi de
ignorancia eorundem'.(22)

Comparison of the letters of 1426 and 1318 shows that in 1426 the precedent of 1318 had been carefully followed. Not only was the decision regarding the making of such copies the same, so too was the procedure to be followed in the local courts.

Moreover, in Cockburn which has only the titles of the statutes of James I, it is still possible to detect this letter. Although the title of c 1 'Of the confirmation of these statutes',⁽²³⁾ is general, since its position corresponds exactly to the conclusion of this letter, its application to that item seems reasonable.

Adv. 1, on the other hand, not only lacks the earlier part of the conclusion to this letter, it places it not where it appears in Adv. 2 and Cockburn and where chronologically it might be expected, that is after the statutes of the parliament of 1426, but on the folio following the last item of James I's reign, which was an enactment of the parliament of 6 March 1430. It is followed by and shares the same folio reference as this manuscript's sole identifiable act from the reign of James II, the act 'anent opin reyffis and spoillations' and two hitherto unprinted items on livestock.⁽²⁴⁾ The legislation of 1424-1426 in Adv. 1 ends like the others in Group C with APS c 16. This statute is complete and shares the same folio with the first phrases of APS c 1 of March 1430.⁽²⁵⁾ Unlike /

Unlike the others in Group C, Adv. 1 records as the last item in the parliament of March 1430 APS c 18, thus omitting c 19-21, the four statutes which in the Ayr Burgh Records precede APS c 22.⁽²⁶⁾ Significantly APS c 18 in Adv. 1 is itself incomplete. It is the last item of folio 141v and although the catchword indicates that folio 142 should begin with the phrase 'in seysing', what in fact follows is the letter of 1426 with of course the opening phrases missing. A folio apparently containing the conclusion to APS c 18, and some at least of APS c 19-21, and of the four statutes which in the Ayr Burgh Records, precedes APS c 22, and the first phrases of this letter is missing.

Group C contains more than just the legislation of these three parliaments. All C manuscripts contain the statutes of the meeting of 6 March 1430. Cockburn, which has only the titles of the statutes, is damaged and ends abruptly in the middle of this parliament but Adv. 2 contains the parliaments of May 1432 and January 1450 (second half only).⁽²⁷⁾ In addition to the miscellaneous items noted above (the act 'anent opin reyffis and spoilations' of December 1438 and the items on livestock), Adv. 1 has only the statutes of the parliaments of 1458 and 1471.

The parliament of March 1430, unlike that of March 1426, made no provision for the distribution of copies. But /

But the Ayr Burgh Court Book contains a collection of the statutes of that particular parliament.⁽²⁸⁾ The circumstances of the inclusion of the collection in the Ayr records could be those advanced by W.C. Dickinson, who suggested that an Ayr commissioner had attended this parliament and had brought back its statutes to the burgh.⁽²⁹⁾ The scarcity of parliaments included in Group C makes the use of [R] at the centre a far less likely source of statutes in that Group. Indeed, if there was no systematic preparation of engrossments on which Group C was based and scribes in general were dependent on the official [R], the similarity between these manuscripts and their distinction from many others for the period before 1426 should have become far less marked by the parliament of 1430. As it is, some at least of the six statutes discovered in the Ayr Burgh Records,⁽³⁰⁾ are to be detected in Adv. 1 and Adv. 2 (Cockburn is damaged). Of the remaining manuscripts, the only other one to contain any trace of these is Lambeth.⁽³¹⁾ Although the unique nature of the latter deserves separate treatment, it is essential to emphasise at this point that in many ways its tradition is that of the group under discussion. In addition, it contains a large body of statutes not included in the Ayr Burgh Records, which, if authentic, puts paid to the theory that this collection was the result of the zeal of Ayr's parliamentary commissioner. This parliament was concerned to

'exclude frivolus and fraudulent excepcionis
and opynionis',⁽³²⁾

and many of its statutes were directly relevant to the various courts of the country. Consequently, the most likely explanation for the inclusion of the parliament of March 1430 in Group C is that arrangements were made to ensure the courts' acquaintance with them by distributing copies, and that the Burgh of Ayr was one of the recipients.

Further, the circumstances of the other parliaments included in Group C confirm the view that they had been dependent on the intermittent repetition of the 1426 arrangements to issue engrossments. For instance, Adv. 2 includes the parliament of 1432. This parliament, like that of March 1430, had much to say in matters directly effecting the courts. Its statutes were issued in letter form:

'James be the grace of Gode king of Scottis
til al ande sindry bischoppis abbotis
priours clerkis Erlis baronis lordis of
regaliteis vassalis Justices schireffis
provestis balzeis minsteris and ledaris
of the law within burgh and without and til
all vtheris officiariis oure leigis and
subiectis to quhais knowlege thir oure
lettres sal cum greting',⁽³³⁾

and the legislation is followed with these closing clauses,

/

'Quharfor to all and sindri schireffis
balzeis and ministeris within burgh and
without straytly we bide and command that
the forsaid statutis ye kep and ger be
kepit in all form and effect as is befor
writtyn vnder the payn forsaid Gevin
vnder our prive seil at perth the xxvii
of may and of our regne the xxvii yer'.⁽³⁴⁾

This is reminiscent of, although different and not copied from, the letter which was included with the engrossments of the parliaments of 1424-1426. This letter form is found not only in the Group C MSS but also in all MSS containing the legislation of this parliament (Drummond, Colvil, Robertson 1, Robertson 2, Malcolm).⁽³⁵⁾ It is possible that these latter MSS obtained the statutes from the Register where they had been copied in letter form. But this does not alter the possibility or likelihood that Group C obtained the text from the engrossed letters in some local archives.

After 1437, the parliaments of 1450, 1458 and 1471, and no others, appear in Group C. The parliament of 1450 is printed in two sections, only the second of which appears in Adv. 2. The first half of the parliament of 1450 is preceded by the phrase 'Statuta super quibus consilium avisabitur', and consists only of revisions of earlier statutes of the reign of James I and James II.⁽³⁶⁾ The legislation in the second half does /

does not include any commitment for the issues of copies; it was agreed, however, that a commission be established

'til examyn all actis of parliamentis
and general consall haldyn in our
soverane Iordis tyn and in his faderis
tyn quham Gode assolze Ande thai personis
to shaw thaim that ar gude and accordande
for the tyn'.⁽³⁷⁾

It seems feasible that in these circumstances, the decision was taken to issue engrossments.

The appearance of the parliament of 1458 in Adv. 1 offers a further clue to Group C's dependence on the issue of copies. In this case, the issue of engrossments was expressly provided for. It was enacted that

'the lordis thinkis speidfull that our
soverane lorde commande all his schireffis
ande commissaris of burowis to cum to the
clerk of his Registre and ger copy all
thir articlis actis and statutis abone
writtyn and ger proclame thame opinly
throu out thar schyris and burowis'.⁽³⁸⁾

No equivalent statute was made in 1471. However, in the previous parliament, that is 1469, persons were commissioned to 'avise commone and refer' again to the next parliament or general council on certain matters including

does not include any commitment for the issues of copies; it was agreed, however, that a commission be established

'til examyn all actis of parliamentis
and general consall haldyn in our
soverane lordis tyme and in his faderis
tyme quham Gode assolze Ande thai personis
to shaw thaim that ar gude and accordande
for the tyme'.⁽³⁷⁾

It seems feasible that in these circumstances, the decision was taken to issue engrossments.

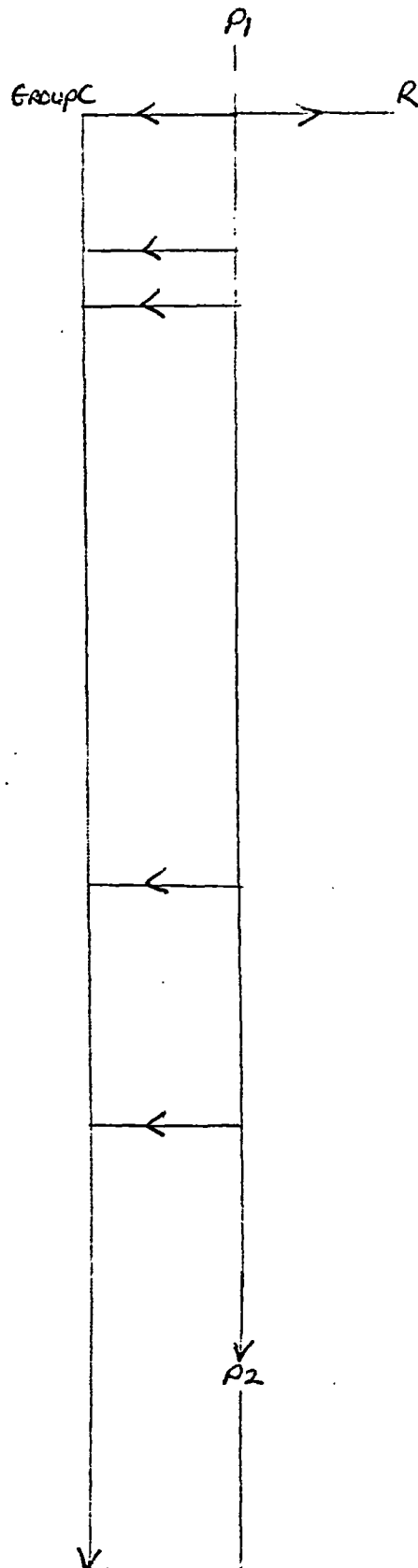
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writtyn and ger proclame thame opinly
throu out thar schyris and burowis'.⁽³⁸⁾

No equivalent statute was made in 1471. However, in the previous parliament, that is 1469, persons were commissioned to 'avise commone and refer' again to the next parliament or general council on certain matters including

TABLE 1

(RR) to be established and engrossments issued)	1424 1426
(Engrossments issued)	1430
(Engrossments issued)	1432
(Committee of Revision established and engrossments issued)	1450
(Engrossments issued)	1458
(Extant of official record begins)	1466
(Committee apptd., P1 1424-1466 possibly destroyed now)	1469
(Engrossments issued)	1471



As for those manuscripts which do not fall into the above category, that is Group D, their source would appear to be [R] . Yet as has already been noted, Lambeth has much more in common with Group C than with Group D, which includes Drummond, Colvil, Malcolm, Robertson 1 and Robertson 2.

In general Group D is to be distinguished by its inclusion of all the parliaments of James 1 ⁽⁴¹⁾ and all but the meeting of the general council of November 1438 in the reign of James 11⁽⁴²⁾. More specifically Group D is characterised by (1) the fact that it records a much greater number of enactments for 1424 than does Group C (2) the order therein (3) the inclusion of the statute on beggars which appears as Drummond xxvii, Colvil xxvii, Malcolm 24, Robertson 1 [29] and Robertson 2 [29]⁽⁴³⁾ and which Thomas Thomson rightly disregarded as a later addition. Indeed the format of this parliament as it appears in EUL 207, which is a late fifteenth century MS,⁽⁴⁴⁾ has much in common with Group D but it excludes this statute. As will be discussed below, this statute is clearly a combination of these statutes: the statute 'of thiggaris' APS 1425c.8, 'The addicioun of the statutes of beggaris' APS 1428c.3 and the provision of a general council of October 1429 'That the Statutis of lipper folk and beggaris be kepit' Lambeth c 91. Evidently, at some point (exactly when will be discussed below), [R] /

[R] on which Group D had based their text of the parliaments of James I, had been subject to the scrutiny of editors, in the process of which this statute on beggars had been included with the legislation of the parliament of 1424. The only other difference between Group D and APS is that the former places APS 22 ii after APS 12⁽⁴⁵⁾. Only APS places APS 22 ii⁽⁴⁶⁾ after APS 22 i. Everyone else places it after APS 12, except Lambeth which omits both (a fact which confirms that 12 goes with 22 ii). Indeed there is some logic about passing from fishtraps (c 12) to herring customs (c 22 ii).

Other features of Group D confirm the fact that its text represented an edited version of the proceedings of the parliaments of James I. Group D is deficient in APS c 14⁽⁴⁷⁾ of the parliament of March 1425, and in the parliament of March 1430, it lacks not only the six statutes discovered among the Ayr Burgh Records, but also APS c 9 and 10.⁽⁴⁸⁾ With the exception of Robertson 2, this group includes under the parliament of March 1430, an English translation of the first act of the parliament of April, 1429⁽⁴⁹⁾. Drummond, Colvil and Robertson 1 also include under the parliament of October 1431, following APS c 2, a statute 'anent the selling of salmond out of the realm'.⁽⁵⁰⁾ In addition Group D misplaces the legislation of May 1432, placing it between /

between the statutes of July 1427 and March 1428.

In almost all these respects Lambeth is to be distinguished from this group.

Group C, on the other hand, whose origins were texts produced not long after the relevant parliaments, offers a distinct tradition to which Lambeth conforms in many ways. Firstly, although Lambeth is divided into parliaments whereas Group C has one code in letter form for 1424-1426 and Lambeth unlike C includes APS c 6, 13 and 25 of the parliament of May 1424, like Group C it excludes APS c 9, 24, 26 and 27,⁽⁵¹⁾ and the statute anent the beggars included in Group D.⁽⁵²⁾ Secondly, the order followed by Lambeth for the parliament of 1424 also corresponds to that Group C, as the table shows.

Table 2.

<u>Group D</u>	<u>Group C</u>	<u>Lambeth</u>
<u>APS</u> 10		
<u>APS</u> 11	<u>APS</u> 11	<u>APS</u> 11
<u>APS</u> 12	<u>APS</u> 12	-
<u>APS</u> 22 ii	<u>APS</u> 22 ii	-
-	<u>APS</u> 23	<u>APS</u> 23
-	<u>APS</u> 22 i	<u>APS</u> 22 i
<u>APS</u> 13	<u>APS</u> 13	<u>APS</u> 13
<u>APS</u> 14	<u>APS</u> 14	<u>APS</u> 14
<u>APS</u> 15	<u>APS</u> 15	<u>APS</u> 15
<u>APS</u> 16	<u>APS</u> 16	<u>APS</u> 16
<u>APS</u> 17	<u>APS</u> 17	-

<u>Group D</u>	<u>Group C</u>	<u>Lambeth</u>
<u>APS</u> 18	<u>APS</u> 18	-
<u>APS</u> 19	<u>APS</u> 19	-
<u>APS</u> 20	<u>APS</u> 20	<u>APS</u> 20
<u>APS</u> 21	<u>APS</u> 21	<u>APS</u> 21
<u>APS</u> 22 i	<u>APS</u> 10	<u>APS</u> 25
<u>APS</u> 24	-	<u>APS</u> 10
<u>APS</u> 25	-	-
<u>APS</u> 26	-	-
<u>APS</u> 27	-	-
Statute on beggars	-	-

Although the existence of the two distinct traditions is recognised by Drummond, Colvil and to some extent Robertson, which have the statutes of the 1424 meeting twice, the second time in a form more akin to that of Group C,⁽⁵³⁾ unlike Lambeth, Group D takes no further account of the tradition preserved in Group C. Like Group C, Lambeth excludes APS c 4, 8, and 18⁽⁵⁴⁾ of March 1425 and APS c 11, 12 and 21 of March 1426.⁽⁵⁵⁾ In Group C altogether four out of the six statutes, which were not included in APS, but which appear in the Ayr Burgh Records are to be discovered.⁽⁵⁶⁾ Whereas Group D has no trace of these six statutes, Lambeth includes two. Lambeth, it appears, was much in the same tradition as those early texts used by Group C.

However, some features which characterise Group C are missing in Lambeth. It does not include the letter included /

included in C and so lists the first three parliaments of James I as separate codes, that is, not as engrossed but as recorded in [P] at the centre. Hence Lambeth does not, unlike Group C, combine in one statute under the parliament of 1425, those two statutes concerning salmon, which appear in APS from Group D, as enactments of the parliament of 1424 APS c 11 and 1425 APS c 12. Lambeth is generally more inclusive than any in Group C. It has matters edited out of the engrossments. Firstly, unlike Group C, Lambeth includes APS c 6, 13 and 25 of the parliament of 1424. It has additional texts, for example, the Border code of March 1430. Lambeth also includes the legislation of more meetings of the three estates. As does Group C, Lambeth includes the parliaments of 1424, 1425, 1426 and of March 1430. But, in addition, Lambeth has meetings of the estates in March 1428, and October 1429 (which are discussed below). All this suggests that the origins of Lambeth for 1424-1430, unlike Group C, were not those engrossments which were prepared for distribution, but the central records themselves.

If Lambeth's reasonably comprehensive record of the proceedings of the estates in the period 1424-1430 leaves little doubt that its text was derived from the [P] of those parliaments. Yet, the difficult question still remains why Lambeth should contain only /

only two other parliaments. Certainly, there is some significance in the fact that these two parliaments should happen to be the meetings of 1450 and 1469. As has already been noted, both these parliaments included the provision for the establishment of a commission to examine and revise the acts of the estates. The most satisfactory explanation for the inclusion of 1450 and 1469 alongside the legislation of James I, is that both these commissions had been appointed. That the commission established in 1450 had indeed scrutinised the [P] of James I and had in the process left a copy of the legislation of 1450 (at whose directive it was working) would explain why it should be found among a text derived from [P] of 1424-1430. There was even more reason to include the legislation of 1469. It seems feasible that the text used by Lambeth was in fact a by-product of the work of the commission of 1469. Certainly, there was very good reason to provide a text, other than the official register, of the parliaments of James I. The terms of reference of this commission are important in one very important respect. Not only was this commission to examine and reduce

'the Kingis lawis, regiam maiestatem,
actis, statutis and vther bukis to be
put in a volum and to be auctorizit',

but /

but it was provided that the
'laif to be destroyit'.⁽⁵⁷⁾

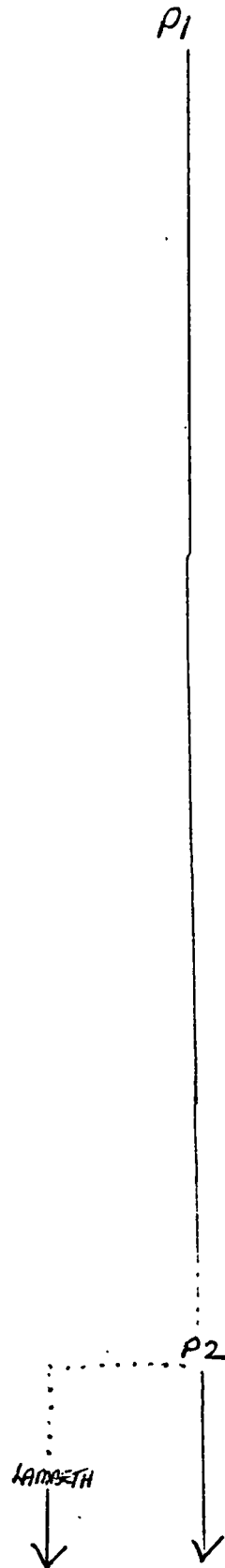
Herein probably lies the reason why in the eighteenth century there was no trace of the original record for parliaments before 1466. It seems conceivable that the text on which Lambeth was based came from a copy of [P] used in 1469 and subsequently destroyed. See Table 3 below.

Therefore, although the nature of Group C was such that its origins were texts prepared not long after the relevant parliaments, all the evidence suggests that even more weight must be given to Lambeth. The scribe responsible for the version Lambeth used had had recourse to the original records. Its value has remained hidden so long, because despite the time taken in compiling APS ii, only scant attention was paid to this particular manuscript.⁽⁵⁸⁾

Instead it was Group D from which APS was taken. Now there are two important factors which have emerged from the discussion above. Firstly, there is clear evidence that Group D represents the labour of later editing. One instance of this was the inclusion of the statute ~~on~~ beggars under the parliament of May 1424. Secondly, it is known that commissions were appointed in 1450⁽⁵⁹⁾ and 1469⁽⁶⁰⁾ to examine and revise the records of parliament. It has already been asserted that both these commissions did some work, the question remains whether in fact a [R1] and [R2] were /

TABLE 3

	1424
([B] to be established and engrossments issued)	1426
(Engrossments issued)	1430
(Engrossments issued)	1432
(Committee of Revision established and engrossments issued)	1450
(Engrossments issued)	1458
(Extant official record begins)	1466
(Committee apptd., P1 1424-1466 possibly destroyed now)	1469
(Engrossments issued)	1471



were produced. There is no conclusive evidence of the work of either of these commissions. Yet it is significant that many of the statutes of the 1458 parliament concern matters already dealt with in the parliaments of James I,⁽⁶¹⁾ and it is hard to avoid the conclusion that this was because those present at the parliament of 1458 had at hand the fruits of the work of the commission which had been established in 1450, and were suitably impressed by the legislative record this [R1] portrayed of James I. Indeed, that the collections in Group D reflect the work of an earlier rather than a later commission is suggested by the fact that, apart from a statute of the parliament of 1455,⁽⁶²⁾ the discrepancies between collections are concentrated in the reign of James I. It seems likely that if Group D reflected the work of later editions, then some statutes of the later periods would also have been considered irrelevant. The conclusion must be that although Drummond, Colvil and Malcolm continue into the sixteenth century, the text prepared by the commission of 1450 was the established record of the reign of James I. Those papers on which Lambeth's text was based had almost certainly been lost by the sixteenth century.⁽⁶³⁾ Probably as a result of the statute of 1469 which had provided for their destruction. See Table 4 below.

Therefore, although neither Lambeth nor Group C has the /

TABLE 4

(R to be established and engrossments issued)	1424
	1426
(Engrossments issued)	1430
(Engrossments issued)	1432
(Committee of revision and engrossments issued)	1450
(Engrossments issued)	1458
(Extant official record begins)	1466
(Committee apptd, P1 1424-1466 possibly destroyed now)	1469
(Engrossments issued)	1471

P1

→ [R1]

P2

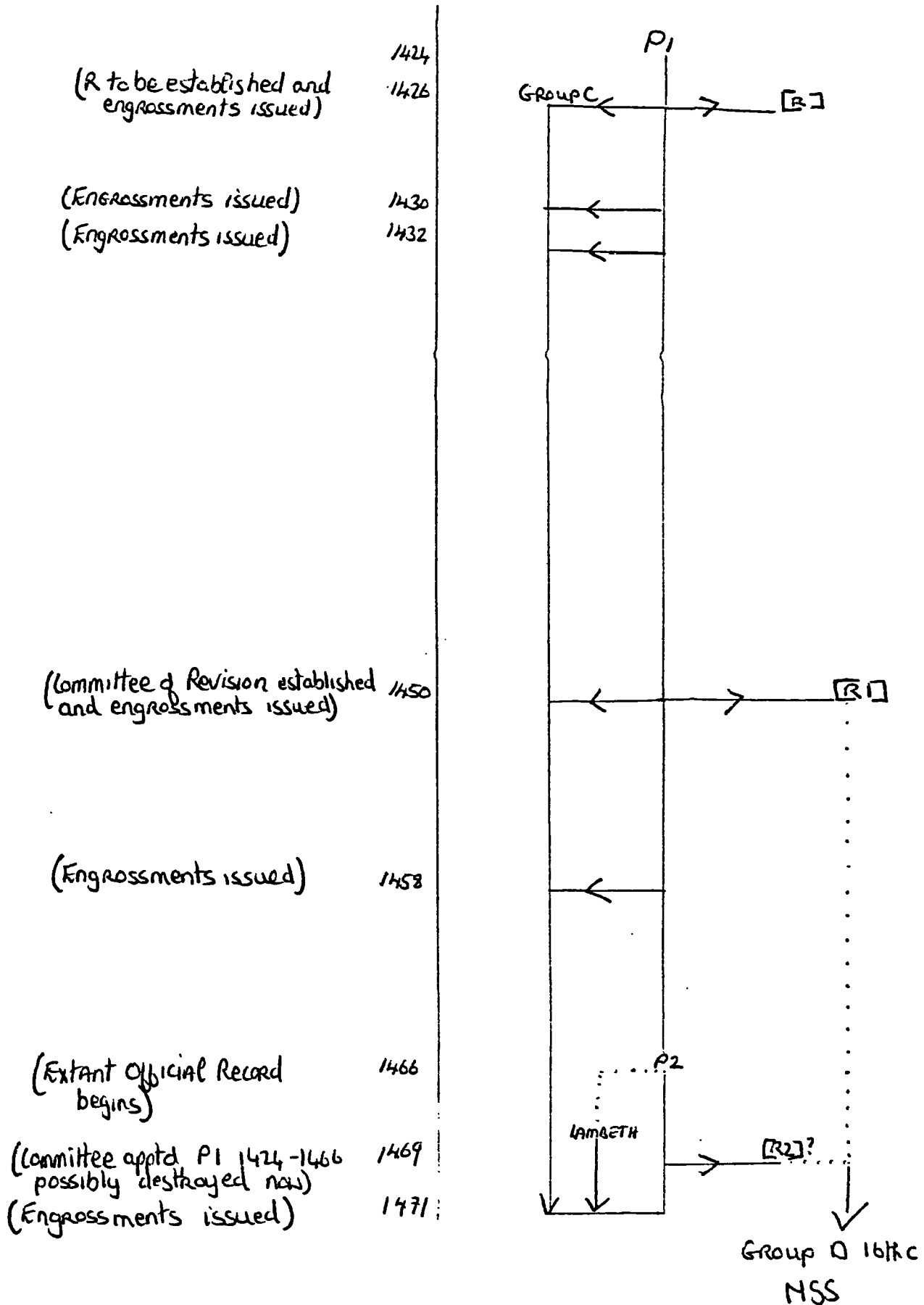
[R2]?

Group D 16th c
MSS

the comprehensiveness of Group D to commend it, nor the advantage of representing an untampered record of the proceedings of a variety of parliaments, the status of both these groups in relation to other collections must still be acknowledged. Group C was derived from texts prepared not long after the relevant meetings of parliament while Lambeth's version relied on a copy of the papers [P] themselves. As such, decisions of the parliaments of 1424-1430, which were considered irrelevant or inappropriate in the text of 1450, were included. See Table 5 below.

It is therefore extremely unfortunate that Lambeth decided to exclude the statute 'Of the sessionis to be haldin' APS 1426, c 19, of which the form given in Adv. 1 and Adv. 2, both Group C manuscripts differs substantially from that given in APS.⁽⁶⁵⁾ Although Cockburn, the third member of Group C, consists only of titles, it has the order of Adv. 1 and Adv. 2, placing the statute anent the sessions between APS c 3 and 5. The suggestion that in 1426 it might have been envisaged that the chamberlain should preside and not the chancellor as it is recorded in APS from Group D, is feasible, in an era when the chamberlain gradually began to lose his financial functions to the new offices of controller and treasurer. It is possible that the reason why these offices were introduced to do the chamberlain's job was that the chamberlain had become increasingly involved in the work of the session. Moreover, we know that Group C was derived from the texts prepared /

TABLE 5



prepared for distribution in April 1426, that is, less than a month after the enactment concerning the sessions was passed in parliament.

While omitting this very important statute, Lambeth does include statutes and meetings of the three estates which do not appear in any other manuscript.⁽⁶⁷⁾ The early origins of Lambeth's source means that these deserve serious consideration. In the parliament of March 1426, Lambeth includes two items on taxation, of which there is no other record.⁽⁶⁷⁾ Indeed in Bower it is recorded that so numerous were the complaints by the populace that they were being impoverished by the imposition of May 1424;

'propter quod rex abstinuit se ab huius
modi impositionibus usque annum Domini
mccccxxiii'.⁽⁶⁸⁾

Nevertheless, in Group D and more significantly in EUL 207, the items on taxation printed in APS c 10 appear in the middle of the enactments. In Group C, the copies prepared in April 1426, these appear at the end. One reason for this could be that those involved in preparing the version in Group C decided that it would be quite in order to remove these statutes from their proper place and after making the modifications which were necessary in the light of the new proposal for taxation in 1426 (Lambeth 1426 c 45 and 46), had added them to the end of the legislation of 1424.

Cockburn /

Cockburn and Adv. 1 offer no help on whether any alteration of the text of c 10 in fact took place. The former consists only of titles, while the latter has been edited further and is completely lacking in the items on taxation. On the other hand, the format of c 10 as it appears in Adv. 2 has much in common with the statute on taxation which appears in Lambeth under 1426. Although Adv. 2 begins in much the same way as does APS c 10,

'Item it is ordanit be the thre estatiss
of the realme that for the payment of the
finans to be maid to the king off Ingland
oure lorde the Kingis costage the
deliverance of his hostagis now beand
in Ingland gar be raisit a general yeld
or ma gif misteris',⁽⁶⁹⁾

from that point onwards (except for the fact that it excludes the phrase 'in maner and forme as the first contribution'),⁽⁶⁹⁾ its form is very much that of the taxation measures of 1426 which appear in Lambeth. Professor A.A.M. Duncan has argued that the statute of taxation in 1424 begins with two distinct statements. The first is a general proposal by the king that a taxation be granted for the payment of his ransom, and the second statement consists of the answer which parliament determined.⁽⁷⁰⁾

This explanation would apply equally to the item in Lambeth 1426 c 45. This statute begins with the king's proposal

'at ilk yeire be taxit and rasit a yelde
generale throw all therealme of all maner
of gudis bath spirituale and temporale',⁽⁷¹⁾

and then proceeds to relate the answer given by the
estates. Therefore what happened with Adv. 2 and
the texts prepared for distribution in 1426 is that
the proposal made by James I in 1424 was retained
under the parliament of 1424, but that the latest
agreement made by the estates in 1426 replaced that
of 1424.

At any rate, no surprise would have been expressed
at James I seeking such an imposition, for:

'These developments cannot be divorced
from James I's financial needs particularly
in 1426, when he must have looked for a third
"yield" '.⁽⁷²⁾

That he should obtain one should not necessarily be
regarded as a great political feat. However substantial
the opposition might have been in the country at large
to the renewal of an imposition which had been viewed
with great discontent among the common people,⁽⁷³⁾
in parliament the prospects were considerably brighter.
Firstly, it is possible that the political climate of
the parliament in 1426 was made much easier by the
great changes in personnel, which

'would differ markedly from the last, so far as the predominant element of the nobles was concerned. Not only were Albany and his sons removed, but eleven others had gone to England as hostages, while as many were now back in Scotland and thus bound to be present for the first time since the king's return'.⁽⁷⁴⁾

Not only could the king carry the burgesses (whose reliability in this matter is indicated by the fact that they had contributed all but 600 of the 9,500 marks which had already gone as payment to England)⁽⁷⁵⁾ but also a large number of the nobility. The support of these men, whose influence in parliament would far outweigh their numbers, would be guaranteed for the same reasons in March 1426, as it had been in 1424, when the nobility who had given their children as hostages must have supported the act for the raising of the taxation.

More caution is needed as regarding Lambeth's inclusion of APS c 5, 6, 7, 8, 9, 17, 18, 20, and 23 for the parliament of March 1426 in an apparently new and distinct parliament dated the 12-13 March 1427. To complicate matters even further whereas in APS the assises on weights and measures and on fire (APS c 22-23) are included under March 1426, in Group D the date attached is March 1427.⁽⁷⁶⁾ There are two very important objections to the suggestion that these belonged /

belonged to a parliament of 1427. Firstly those statutes which according to Lambeth were not passed until March 1427 were included in texts prepared by April 1426 (Group C). Secondly although the dating of the assises (APS c 22 and 23) in Group D also appears to hint at a parliament a year later, the fact that this first part of the assise (that is APS c 22)⁽⁷⁷⁾ appears in Lambeth as an enactment of 1426 seems to indicate that the dating of the assise in Group D is also an error.

Since Lambeth is made up from P, the cause of the confusion might have been that there were two folders [1426 P1] and [1426 P 2] and on two separate pages there were the two assises APS c 22 and APS c 23. The second folder contained APS c 5, 6, 7, 9, 17, 18, 20 and this was misread by the compiler of Lambeth and [1426 P2] along with the assise on fire (APS c 23), as a collection of 1427. Similarly, in the text used by Group D, when it came to including the text of the assise on weights and measures, it might be presumed that somehow the dating was confused.

Nor is it really surprising that Lambeth should become so confused. Although nothing can be said with certainty, it would appear to be more than a coincidence that Lambeth should have the preamble of a parliament which began at Perth on 12 March 1427 and be continued to 13 March in Edinburgh,⁽⁷⁸⁾ when it is already known that the parliament of 11 March 1426, which was held at Perth, /

Perth, was continued until 12 May at Edinburgh, and all that survives of this meeting is the judgement, dated 13 May 1427

'Decretum de secundo decimis terrarum de Rath et de Kynfawes in parlamento predicto continuato apud Edinburgh'.⁽⁷⁹⁾

'March m cccc xxv' [1426 new style] might easily be misread as 'm cccc xxvi' [1427 new style] , and likewise 'marc' for 'maii'.

Lambeth is also unique in its inclusion of a general council of 1 October 1429.⁽⁸⁰⁾ Circumstances suggest that such an occurrence was highly probable. The parliament of 26 April 1429 was continued,

'Itemeodem die dominus rex cum concensu et assensu trium statuum continavit hoc suum parliamentum usque ad festum beati Martini [11 November] in hyeme proxime futurum sub pre m unieue xv dierum ubi et quando placuerit regi'.⁽⁸¹⁾

It would appear that because there was still business needing the attention of the three estates, a relatively speedy reconvening of parliament had been anticipated. Secondly if Professor Duncan is right to suggest that a representative Parliament of the Burghs first met early in October 1426 and occasionally or annually for some years after, then it is understandable that the /

the king to deal with some of the business should take advantage of the presence of the burgesses and convene this council, rather than wait until 11 November as had been envisaged in the April parliament. Indeed that this October 1429 meeting was regarded as a temporary expedient is emphasised by the first statute, which provided for a parliament,

'to be sett about mydsomer'.⁽⁸²⁾

Also the statutes themselves offer cumulative evidence as to the likelihood that Lambeth's record is authentic.

As was noted above, the first statute at this council provided for a meeting of the three estates in the summer of 1430. No such meeting is known to have taken place. However, for the parliament of 6 March 1430, Lambeth contains a large body of statutes concerning the marches. Such was the urgency of Scotland's relations with England in 1430 that it would not have been possible for James to delay parliament until the summer.

The second statute of October 1429⁽⁸³⁾ 'Of thame that kepis not the statutis of the parliament', provided that if

'iuges be negligent in thare execution of
thare office thai salbe punist be the paine
put apone thaim in the second act of
parliament'.⁽⁸³⁾

Of /

Of several earlier statutes which refer to this question, the second of these is that of March 1425.

'Item anentis billis of complayntis the quhilkis may nocht be determyt be the parliament for divers causis belangand the common profyt of the realme it is ordanyt that the billis of complayntis be execut and determyt be the jugis and officiariis of the courtis to quham thai pertene of law... Ande gif the juge refusis to do the law evinly as is befor said the party plenzeand sall haf recours to the king the quhilk sall se rygorusly punyst sic jugis that it be ensampill till all vtheris!'.⁽⁸⁴⁾

The relevance of this third statute of October 1429, 'Of bargis and galayis to be ordanit in the west part of the realme'⁽⁸⁵⁾, is illustrated in the parliament of March 1430, in which a similar ordinance is made, but with two very important distinctions. In the first place, the 1430 statute, is far more detailed. The October 29 statute neither specifies the number of galleys, nor a time limit for acquiring these, and in fact does no more than state the general principle, in 1430,

'al baronis and lordis... that thai haf galayis that is to say of ilk four merkis worthe of lande aneaire,

and that,

/

' the said galayis be maid and
reparalyt be maii cum xii moneth vnder
the payn of half a mark to be raisit to
the kingis vse of ilk aire'.⁽⁸⁶⁾

Yet although this 1430 statute appears so soon after the 1429 one, and in a much more detailed form, this does not weaken the authority to be assigned to Lambeth.

This meeting in October 1429 was convened, almost certainly at short notice, in order to take advantage of the meeting of the burghs. Consequently, matters necessitating detailed preparation are markedly absent. Of the four other statutes of October 1429, numbers two and five refer to matters already discussed in great detail in earlier parliaments.⁽⁸⁷⁾ The first statute emphasises that this council was only a stop-gap measure, that some business needing the attention of the three estates had not been discussed at all and that perhaps some of its statutes might need further clarification.

The second major difference is that whereas the October 1429 statute is

'anent bargeis and galayis to be ordanit
upon the west partis',⁽⁸⁸⁾

by March 1430 this had been extended to

/

'al baronis and lordis hafand landis and
lordschippis ner the see in the west and
on the north partis namely fornent the
ylis'.(89)

Two of the March 1430 statutes discovered at Ayr offer
an explanation for this change. The acts are as
follows. Firstly,

'Item it is ordanyt anent the matear of the
kyngis legis that were warnyt and chargyt to
pas with hyme in the north cuntre aganyis hys
rebellouris and bade at hame withoutyne
the kyngis leife or turnyt agayne be the
way withoutne lefe or tuk payment and held
it that thar awane oyse and made no serwys
thaifor that the Justice sal mak a dyt within
thar Justice and punyst thaim that are fawtise
as the caus requiris the baronys makande
requestis to the kynge for their lywis that
beis conuikkit',(90)

and secondly,

'Item it is ordanit be the three estatys that
Alexandyr of the Isle sal remane wnder sekyr
kepyng with the kynge quhyll he fynde souer
and sekyr borowyss that the kyngis liegis and
the kinrik be and kepyt wnhurt in tyme to come'.(91)

Apparently, /

Apparently, the question of the security in these areas was uppermost in the minds of those attending the parliament of 1430. In October 1429, however, it is these areas which were not expressly included. This was probably as a result of its being passed in the shadow of the king's recent victory over Alexander, Lord of the Isles, and the latter's subsequent submission.⁽⁹²⁾

It is not easy to say why in 1429 it should have been decided that the ancient provision of the Scottish church,

'...that in every baptismal church and in every one where burial take place the church-yard should be a safe sanctuary for everyone to whom the law allows it, to the extent of thirty paces around',⁽⁹³⁾

should no longer apply to those seeking refuge from debt. Perhaps there was no ulterior motive. It is possible that this was an attempt to bring to justice those whose debt was for the payment of taxes, especially those long overdue. It is also significant that this statute was only

'...accordit be the baronis and the burgis befor the king',⁽⁹⁴⁾

and that it excludes all mention of the clerical estate. At any time such a statute which sought to limit the right which Dowden describes as 'one of the most cherished privileges of the parish church',⁽⁹⁵⁾ would /

would probably have aroused the opposition of the clerical estate. At a time when the authority of the church had already been undermined by two earlier statutes of the three estates, namely those of July 1427 and March 1428, King James I and John Cameron, Bishop of Glasgow were involved in a bitter struggle with Rome, and even internal relations between church and state had become exceedingly sensitive.⁽⁹⁶⁾

Of the several earlier statutes enacted concerning beggars and the leper folk, 'the statute maid thairupone' to which this fifth statute⁽⁹⁷⁾ of October refers, is most probably that 'Anent lipper folk' of March 1428. Whereas all the other statutes deal with these groups separately, APS 1428 c.8 alone contains reference to both. It provides that

'the burges ger keip this statute vnder the payn contenit in the statute of beggaris'.⁽⁹⁸⁾

The punishment for those who failed to execute the statute on beggars was prescribed at this same meeting (APS 1428 c 4) when it was enacted that the

'chawmerlane in his air ilke yere sal inquire gif the alderman and balzeis haf kepit the said statut Ande gif thai haf brokyn it thai sal be in xl s to the king Item the schireff failzeande in the keping of the said act salbe punyst in lik wis'.⁽⁹⁹⁾

It is this sum of 40s which in October 1429 was considered inadequate^{and} and it was enacted

/

'gif the aldirmen and balzeis of borowis
be negligent in the keiping of thaim thai
salbe challengit yerly befor the chawm-
berlaine in his ayre and gif thei be fundin
faltwiss thai salbe put ilkane in amerciamento
off fyfty schillingis'.⁽¹⁰⁰⁾

Further, although the statute anent beggars which
appears in Group D and all the earlier printed editions
under May 1424, is clearly a combination of the statute
'Of thiggaris' of March 1425⁽¹⁰¹⁾ and 'The addicioun
of the statute of beggaris' of March 1428⁽¹⁰²⁾, there
is one very significant distinction. Whereas in
1428, as was noted above, it is stated

'and gif thai haf brokin it thai salbe in xl s
to the king',⁽¹⁰³⁾

in that which appears in Group D under 1424, as in
the statute under discussion, those who

'half brokin it thai salbe in ls to the king'.⁽¹⁰⁴⁾

Apparently when the [R] to which Group D had reference,
had undergone the scrutiny of editors, these three
statutes had been combined, and had been included with
the statutes of May 1424.

The extent to which the records of the parliament of
March 1430 have suffered at the hands of the editors
is suggested by the absence in Group D of APS 9 and 10⁽¹⁰⁵⁾
as well as those six statutes discovered among the Ayr
Burgh Records. Were there still any doubts remaining
about the authenticity of these statutes after the
convincing case offered by W.C. Dickinson,⁽¹⁰⁶⁾ the
knowledge /

knowledge that altogether five out of the six statutes appear in three of the remaining manuscripts must completely dispel such doubts. In these circumstances, Lambeth's inclusion of a large body of statutes which do not appear elsewhere must also be viewed with considerable interest.

The association between this hitherto unprinted group of statutes and the parliament of March 1430 is underlined by the contents of APS c 11 and 12 and partially 13.⁽¹⁰⁷⁾ In Lambeth, these statutes appear as the first statute of this border code, under the collective heading,

'How men sall eftir thare estat be
bodin for were'.⁽¹⁰⁸⁾

And as was noted above, the meeting of the general council of October 1429 had not envisaged a parliament meeting until the summer of 1430. It is quite feasible that the reason for the decision to bring forward this meeting was the deterioration in Scotland's relations with England. Certainly the period immediately preceding this parliament was one of great diplomatic activity. On 24 January, only 41 days before the opening of parliament, and just after its summoning,

'A safe-conduct was granted by the regency
of England, to no fewer than seventeen
Scotch /

Scotch ambassadors and commissioners,
with eight hundred attendants to come to
Hawden-stank, or any other convenient
place ... to treat concerning a perpetual
and final peace, by the means of a marriage
between the royal families'.⁽¹⁰⁹⁾

In the period between the proclamation and the meeting of parliament, any hopes that this diplomatic mission might succeed, and a solution found to the disputes between Scotland and England, must have been dashed. Between 24 January and 6 March, despite the fact that the instructions of the English commission had been drafted on 16 February,⁽¹¹⁰⁾ no such meeting took place. The estates in Scotland certainly had good reason in 1430 to agree to these arrangements for the invasion of England.

Firstly, there was certainly a great deal of worry about the nature of the negotiations of Douglas in England. Perhaps James had several reasons for such disquiet. It may have been that these negotiations involved no more than securing the release of Malise Graham but as one historian has suggested, such negotiations, however innocent, threatened the king's rapprochement with France.⁽¹¹¹⁾ Whatever the reason for his concern, James evidently felt that Douglas' conduct merited his arrest and imprisonment in Lochleven Castle. The only difficulty with this explanation /

explanation is a chronological one. Douglas is known to have been in contact with England some time in 1430. It is possible that by March 1430 Douglas had already become involved in discussions with England.

A second outstanding problem was the number of hostages still retained in England as a result of the failure of the Scots to meet the ransom payments. One indication of the pressure which the matter of these hostages had put on James I is that he decided that he could not afford to wait for the commissioners from both countries to meet, but determined to send Roulle an envoy, to negotiate another exchange of hostages. Significantly, this issue more than any other ^a affected many of the most influential who might have attended this parliament. Indeed one historian saw the timing of Roulle's mission as a result of the king's desire

'to gratify the Scottish nobles, whom he was about to meet in parliament at Perth on March 6th! (112)

James would have been unable, however, to alleviate the worries of the estates in this matter. On 9 March, while parliament was still in session, the answer issued in England was that those ambassadors now in the north had been given instructions on the matter, (113) and these instructions drafted in February 1430 stipulated that the English commissioners were to complain /

complain that the treaty of liberation had been broken:

'whereas the whole ransom ought according to its terms to have been paid by the autumn of 1428, only 9,500 marks had been paid altogether, and that no fresh hostages had been sent to fill the places of those who had died in captivity'.⁽¹¹⁴⁾

In these circumstances, it would hardly have been difficult for the estates to be persuaded that where diplomacy had failed, the threat of an invading army might succeed.

1471-1579

Very little can be said about the period for which the official Register is still extant. All that survives in manuscript collections is Colvil, Drummond and Malcolm, which continue until 1483, 1528 and 1579 respectively. Other than those additions already made, there is no suggestion in any of these collections, even for the reign of James IV, that the official Register might be incomplete. Indeed, throughout this entire period only Drummond includes any items which are not printed in APS,⁽¹¹⁵⁾ and it seems unlikely that these items were in fact Acts of Parliament. It is possible that these collections were /

were derived from the extant Register in the sixteenth century, and that parts of this were already missing when these texts were drawn up. On the other hand, the proposition that the paucity of parliaments in the reign of James IV was due not to the deficiencies in the parliamentary record but to political considerations, is also feasible. Certainly, outside Scotland, the end of the fifteenth and the beginning of the sixteenth century witnessed a decline in the power of the estates in relation to the crown. In England, for example,

'Recourse to Parliament was not frequent under the first two Tudor sovereigns. Henry VII summoned six Parliaments in the first thirteen years of his reign and only one thereafter. Six years elapsed between the end of his last Parliament in 1504 and the meeting of the first of his son's reign in 1510. After a series of annual Parliaments between that date and 1515, an interval of eight years occurred before Parliament was again summoned in 1523, and a further intermission of six years followed its close'.⁽¹¹⁶⁾

In France, from the later stages of the Hundred Years War, Kings of France were able to levy quite sizeable taxation without any form of consent. Royal edicts, were supposed to need registration by the superior law-courts, /

law-courts, the Parliaments (especially that of Paris), before they were effective. Francis I, however, began the subjection of these institutions to the Royal will. Moreover, no Estates General met from 1484 until 1560,⁽¹¹⁷⁾ It is possible that the estates in Scotland were also subject to the same experiences.

R E F E R E N C E S

1. J.T. Gibson Craig and C. Innes, Memoir of Thomas Thomson, Advocate (Edinburgh, 1854), 58-9.
2. J.T. Gibson Craig and C. Innes, Memoir of Thomas Thomson, Advocate, 56.
3. A comparative table of these editions is included in APS, iii, 25-9.
4. The Acts of Parliament of Scotland, edd. T. Thomson and C. Innes (Edinburgh, 1814-75), 12 volumes.
5. W.C. Dickinson, 'The Acts of Parliament at Perth 6 March 1429/30, SHR, xxix, 1-12.
6. Ibid.
7. Lambeth has the second and third of these, fos 204v.-205r. and 206r; Adv. 25.5.7. [Adv. 1] has the second, fo 104v.-141r; Adv. 25.4.14 [Adv. 2] ? for 140v? has the fourth, fifth and sixth, fos 123r.-123v.
8. See Appendix N.
9. APS, i, 177-210.
10. The Parliamentary Records of Scotland in the General Register House, ed. W. Robertson (London, 1804).
11. EUL, MS 207. For description see C.R. ⁰Berland's Catalogue of Manuscripts in Edinburgh University of Library.
12. SRO, B 6/12/1.
13. /

13. W.C. Dickinson, 'The Acts of Parliament at Perth
6 March 1429/30,' SHR, xxix, 1-12.
14. See Appendix M.
15. See Appendix N.
16. APS, i, 23.
17. During the first thirty years of the reign of David II,
many parliaments were held; but very few fragments
remain of the record of their proceedings.
18. APS, ii, 11, c.21.
19. NLS, Adv. MS 25.5.7. [Adv. 1] , fo 34v; Adv. 25.4.15.
[Adv. 2] , fo 113v.
20. APS, i, 106, 466.
21. NLS, Adv. MS 25.4.15. [Adv. 2], fo 120r.
22. APS, i, 106, 466.
23. NLS, Adv. MS 25.5.14., fo 46.
24. See Appendix J.
25. NLS, Adv. MS 25.5.7. [Adv. 1], fo 139v.
26. APS, ii, 19, c.19 'Of the kingis liegis that remainis
in Ingland against the king's will'; APS c.20 'Of
soverte asked by any of the lieges that has doubt
of his life.'; c.21, 'Anent the service of inquestis
and retouris to the kingis chapell'; c. 21, 'Anent
the service of inquestis and retouris to the kingis
chapell; c. 22, 'Anent the service act of fishing
of salmon'.

27. In APS the first section of the parliament of 1450 is preceded by the phrase 'Statuta super quibus consilium avisabitur', which suggests that this section is not legislation at all. This seems to fit in with its exclusion from the engrossments. There is no mention of this phrase in any of the manuscripts.
28. W.C. Dickinson, 'The Acts of the Parliament at Perth 6 March 1429/30', SHR, xxix, 1-12.
29. Ibid.
30. NLS, Adv. 25.5.7. [Adv. 1] had the second of these fos 140v-141r; Adv. 25.4.15. [Adv. 2] has the fourth, fifth and sixth, fos 123r-123v.
31. Lambeth has the second and third of these, fos 204v.-250r.
32. APS, ii, 17.
33. NLS, Adv. 25.4.15. [Adv. 2], fo 123.v.
34. NLS, Adv. 25.4.15. [Adv. 2], fo 123v-126r.
35. These other manuscripts, however, excluded the conclusion to the letter.
36. APS, ii, 33.
37. APS, ii, 36, c.10.
38. APS, ii, 52, c.39.
39. APS, ii, 97, c.19.
40. It does appear in Lambeth and there is some evidence, as will be discussed below, that this body was indeed set up in 1469.
41. /

41. The only exception is the General Council of October 1429 which is included in Lambeth.
42. The first statute comes from the original instrument while the second comes from Adv. 25.5.7. [Adv. 1].
43. See Appendix A.
44. Formulary E. Scottish Letters and Brieves 1286-1424, ed. A.A.M. Duncan (University of Glasgow, Scottish History Department Occasional Papers, 1976), 1.
Here it is noted that this late fifteenth century MS is evidently a copy of an earlier MS, the date of which is indicated by the inclusion of legislation of 1424, and the absence of any later material.
45. APS, ii, 6, c. 22 ii 'Of the custum of herring'; 5, c. 12 'Of crufis and yaris'.
46. APS, ii, 6, c. 22 ii, 'Of the custum of herring'; 22 i, 'Of the custum of hors nolt sheip'.
47. APS, ii, 7, c. 14, 'Of resettouris of theffis and reffaris'.
48. APS, ii, 18, c. 9 and 10, 'Of the array of burgesses and their wives' and 'Of the array of yeomen and commons to landwartis'.
49. APS, ii, 17, c. 1.
50. See Appendix B.
51. /

51. APS, ii, 4, c. 9, 'Anent inquisicione of the king's lands possessions and annual rents'; 6, c. 24, 'Of the amending of the money'; c. 26, 'Anent the complaint of Mr. Nicholl Cumnock'; c. 27, 'Of chevisance made in Flanders for payment of the finance for the king's costage'.
52. See Appendix A.
53. See Appendix N under Drum. 1, Colv. 1 and Rob. 1 a.
54. APS, ii, 7, c.4, 'Anent the keping of the statutis maid in the king's first parliament'; 7, c. 8, 'Anent talch'; 8, c. 18, 'Anent the ordinances of processions and prayers for the king and the queen and their children'.
55. APS, ii, 10, c. 11, 'Anent hostels in burghtowns and thoroughfares'; c. 12, 'Of orisons made for the king, the queen and their children'; 11, c. 21, 'Of the registration and proclamation of the acts of parliament'.
56. W.C. Dickinson, 'The Acts of the Parliament at Perth 6 March 1429/30', SHR, xxix, 1-12.
57. APS, ii, 97, c. 19.
58. See Appendix D.
59. APS, ii, 36, c. 10.
60. APS, ii, 97, c. 19.
61. See Appendix ~~E~~ ?
62. /

62. See Appendix K.
63. Probably all that was available of the earlier tradition was that recorded under Drummond 1, Colvil 1 and Robertson 1a.
64. See Appendix C.
65. APS, ii, 11, c. 19.
66. A.L. Murray, 'The Comptroller, 1425-1488', SHR, iii, 1-29.
67. See Appendix E.
68. Joannis de Fordun, Scotichronicon cum Supplementis et Continuatione Walteri Boweri (Edinburgh, 1759), xvi, 9.
69. See Appendix F.
70. A.A.M. Duncan, James I 1424-1437 (University of Glasgow, Scottish History Department Occasional Papers, 1976), 6.
71. See Appendix E.
72. A.A.M. Duncan, James I 1424-1437, 11.
73. G. Buchanan, The History of Scotland, translated J. Aikman (Glasgow and Edinburgh, 1827-29), ii, 88.
74. E.W.M. Balfour-Melville, James I, King of Scots (London, 1936), 30.
75. The Exchequer Rolls of Scotland, edd. J. Stuart and others (Edinburgh, 1878-1908), iv, pp cxxxiii-cxxxiv.
76. APS, ii 12, c. 22 and 23.
77. See Appendix H.
78. See Appendix G.
79. APS, ii, 26.
80. /

80. See Appendix H.
81. APS, ii, 17.
82. See Appendix H.
83. See Appendix H, c. 2.
84. APS, ii, 8, c. 24.
85. See Appendix H, c. 3.
86. APS, ii, 19, c. 17.
87. Cf. APS, ii, 7, c. 4 and APS, ii, 9, c. 7;
Cf. APS, ii, 8, c.21 and APS, ii, 16, c. 8.
88. See Appendix H, c. 3.
89. APS, ii, 19, c.17.
90. W.C. Dickinson, 'The Acts of Parliament at Perth
6 March 1429/30', SHR, xxix, 1-12.
91. Ibid.
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94. See Appendix H, c.4.
95. J. Dowden, The Medieval Church in Scotland (Glasgow,
1910), 145.
96. R.K. Hannay, 'James I Bishop Cameron and The Papacy',
SHR, xv, 190-200.
97. See Appendix H, c. 5.
98. /

98. APS, ii, 16, c. 8.
99. APS, ii, 15, c.4.
100. See Appendix H, c. 5.
101. APS, ii, 8, c. 21.
102. APS, ii, 16, c. 8.
103. Ibid.
104. See Appendix H, c. 5.
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CHAPTER TWO

SHIRE REPRESENTATION-THE MOTIVES OF THE CROWN

One of the most important factors effecting the development of the Scottish parliamentary system, to which historians have attached great significance, was the irregular attendance of the lesser barons. Thomas Thomson wrote that the essential difference between the Scottish and English parliaments was that in England the shire members came early, formed an alliance with the *burgesses and that the commons*, who emerged as a separate house, gained great influence.⁽¹⁾ Terry commented that the essential point about county representation in Scotland was the 'lateness of its initiation and the tardiness of its completion';⁽²⁾ But if historians have concerned themselves with this matter, the attendance, or absence, of the lesser barons in parliament was an issue which also occupied the attention of crown and estates. By the feudal constitution, so noted Kames,

'every superior had a Jurisdiction within his own Territory: His Vassals were obliged to attend his Courts ... The Parliament is the King's Court for the Kingdom in general, and consequently his whole vassals within the Kingdom were bound to give their Attendance there'.⁽³⁾

Hence as tenants-in-chief of the crown the lesser barons had /

had undoubtedly possessed the right, indeed the obligation, to attend meetings of the three estates. Yet increasingly there is evidence of the reluctance of the lesser barons to fulfil this duty. Such was the burden which they felt at attending parliament that in the reign of James III there ~~were~~ never more than 30 lesser barons present in parliament and after the early years of James IV, when a dozen or so were occasionally present, they all but ceased to appear. It was this problem which successive monarchs attempted to solve. In 1428 an act of general council relieved the small barons and free tenants of the need to come to parliament, and proposed instead the election of commissioners.⁽⁴⁾ In 1458 and 1504 statutory exemption was accorded to those who held land valued below £20 and 100 marks respectively.⁽⁵⁾ A statute of 1567 foresaw the election of representatives of shires by 'barons' below the rank of lords of parliament.⁽⁶⁾ A franchise act of 1587 formed the basis of shire representation in the reign of James VI.⁽⁷⁾ Behind all these statutes lay the search for a systematic and regular form of shire membership at parliament. Nevertheless, the timing and form of these measures, particularly in 1428 and 1587, raise many questions about the motives of the crown and, in consequence, offer insight into the relationship between crown and estates.

E.W.M. Balfour-Melville believed that the act of general council of 1428, which released the small barons and freeholders from their obligation to appear personally /

personally at parliaments and general councils, stemmed from James I's hope of creating a House of Commons such as he had seen at work in Lancastrian England.⁽⁸⁾ James had therefore proposed that

'of ilk schirefdome thare be sende chosyn at the hede court of the schirefdome twa or ma wismen efter the largenes of the schirefdome outane the schirefdomis of clakmannan and of kinros of the quhilkis ane be sende of ilk ane of thaim the quhilk salbe callit commissaris of the schire'.⁽⁹⁾

This desire for constitutional reform was also the reason why this statute included the provision that *these commissioners* of the shires would choose⁽¹⁰⁾

'a wise and ane expert man callit the common speikar of the parliament the quhilk sal propon all and sindry nedis and caus pertening to the commonis in the parliament or generall consal',

and that

'all bischoppis abbotis prioris dukis erlis lordis of parliament and banrentis the quilkis the king will resavit and summonde to consalis and to the parliamentis be his special precep'.⁽¹¹⁾

Yet James I's actions before and after this statute of 1428 suggest that the act was the fulfilment of some short-term policy rather than a long-held belief in the need for constitutional change. This would explain the fact that in March 1426, only two years earlier, the emphasis seemed rather to be on personal attendance, and it was enacted that

'all prelati erlis baronnis and frehaldaris of the king within the realme sen thai ar haldyn to geif thar presens in the kingis parliament ande generale consale fra thin furth be haldyn till apper in propir person'.⁽¹²⁾

This would also solve the problem of why this statute was not repeated. Professor A.A.M. Duncan rightly felt it significant that whereas many other statutes in the earlier part of this reign were repeated in the later parliaments of James I, this particular one was not. His explanation, however, for James I's failure to re-introduce this proposal once more, was that it had been the magnates and not the king who had sponsored it in the first place, and so he believed that James had no personal interest in seeing the statute renewed.⁽¹³⁾ However, it will be argued below that this statute was the result of some immediate requirements. Time, however, made this a less pressing problem and so James had no need to re-introduce its provisions.

Again, the election of a common speaker and the summoning of other individuals by special precept did not derive necessarily from constitutional theory. There were sound practical reasons for both these provisions. It seems more plausible that the proposal for the appointment of a speaker stems from a desire to save valuable parliamentary time by restricting the commissioners of shires to one collective voice in parliament, rather than from any desire by James I to see a common speakership established on the English model. The origin of the English Speaker was the desire for a means of bringing forward grievances. This was the problem which led to the introduction of the speakership; in England it really seems to have /

have been a way of the commons speaking out to complain and refuse.⁽¹⁴⁾ It is hardly likely that James was at all impressed by the advantages which the English system offered for the crown. It is possible that the precedent for this proposal can be traced to developments within the Scottish parliament itself. The description of the murder of James I seems to some to suggest the existence of a speaker for the burghs.⁽¹⁵⁾ But whether or not the burghs had already a speaker, there was good reason for James to want to see one established for the commissioners of shires. The representatives of the burghs had the important distinction of the Court of Four Burghs, later the Convention of Royal Burghs, where they could discuss and prepare items for parliament and thereby come to the meetings of the estates with a common and well-thought out programme. Similarly, the speaker on behalf of the commissioners of shires would have been authorised to present an agreed programme.⁽¹⁶⁾

The latter clause in the act of 1428 indicating that others would be summoned by special precept, underlined that such arrangements applied only to the representatives from the shires. Of particular importance here were undoubtedly the financial clauses. By this statute freeholders were to elect the commissioners of shires and pay their expenses. Earls /

Earls and barons who were individually summoned did not contribute to these costs. But apart from the very important financial implications, this clause also had the added advantage that it confirmed that bishops, earls, barons and freeholders were still obliged to come in person to parliament. There can be little doubt that any such opportunity would be welcome to James I. In 1426, evidently because many were failing in their duty to attend parliament, it was enacted that all prelates earls, barons and freeholders were to appear personally in parliament. In 1428, however, the decision was taken to relieve the small barons and freeholders of their liabilities incurred by the Act of 1426(APS c. 8), and to provide instead alternative arrangements for their representation in parliament. At the end of this statute is to be found the statement excluding other individuals. Indeed had this statute been a proposal for constitutional change, one might expect that it would have constituted a separate statute rather than to have been tagged at the end of the statute for shire commissioners in this fashion. Nor is it at all clear that the procedure for summoning these men by individual summons, was new. Dr. Alexander Grant has no doubt that

'individual parliamentary summonses were sent to important nobles well before 1428',
and/

and the consistency of the lists of witnesses to charters issued by Robert II and III, suggests not only that there was a list of those summoned but also that

'in the early Stewart period, the lists of those to whom summonses were sent had become fixed, as they did in 14th century England'.⁽¹⁷⁾

A more likely motive behind this proposal of 1428 is one which was much more limited in scope. Undoubtedly one of the most immediate problems facing James in these earlier years was the need to raise taxation to pay off the ransom agreed on his release from England. A statute of May 1424 had envisaged this sum being raised within two years.⁽¹⁸⁾ In fact a total of only 9,500 merks had been collected.⁽¹⁹⁾ One historian has suggested, therefore, that in the parliament of 1426 James must have looked for a new grant of taxation and that this was refused almost certainly on the grounds that too few were present in person at the parliament. Hence at this same parliament there was the statute insisting on personal attendance at parliament.⁽²⁰⁾ The difficulty with this explanation is that if, as is argued in Chapter 1, the renewal of the grant of taxation,⁽²¹⁾ which appears in the Lambeth MS as an item of this same parliament, is genuine, then it is not possible to argue that the refusal of the proposal on taxation had been the reason for the inclusion of a statute insisting on personal attendance. But it is not necessary /

necessary to dismiss this argument altogether. Notwithstanding James I's ultimate success in achieving the estates' agreement to the renewal of taxation, it is possible that some had indeed campaigned without success against the king's proposals on the grounds that too few were in attendance. James had therefore taken action in this manner to prevent such difficulties recurring by ensuring that all fulfilled their obligation to take part in such decisions.

However since there is no record that this taxation was ever collected, it appears that those in the country were less amenable to James' pleas than those at the parliament of 1426. Possibly the argument against this taxation was the same in the country as in parliament, that is, since they had not been present when the estates had consented to this taxation, they would not be bound by its provision. This is a problem which the statute of 1428, appointing commissioners of shires, could have solved in three important ways. Firstly, the act was most careful not to deny the small barons the right to come in person if they so desired. T. Thomson suggested that this was because the

'right or obligation to sectum was held to be fundamental and beyond the reach of statute'.⁽²²⁾

Attendance /

Attendance at parliament, however, was rather a duty, which people were always trying to escape. At any rate, James I sought a means of ensuring an indisputable grant of taxation and not a fundamental constitutional change. There was a more practical reason for the permissive nature of the statute in 1428. The small barons had been prepared to deny the taxation granted by the estates in 1426 on the ground of their absence. James, therefore, needed to be very careful that the provisions of the statute of 1428 offered the lairds no further opportunity to refuse a taxation. It is possible that James was intent on avoiding any charges that the lairds had been, as a consequence of 1428, excluded from appearing personally at parliament, and from taking part in all such decisions. At the same time, the provision that the small barons were to elect commissioners of the shires meant that, in theory at any rate, James had no longer a need to depend on the attendance of a large number of patently reluctant freeholders to vote for the necessary taxation. Instead he found an alternative, or so he believed, in a small band of commissioners chosen by the small barons and freeholders who would, and this is the important point,

'hafe ful ande playn powere of al the laif of
the schirefdome'.⁽²⁴⁾

The /

The statute of 1428 had the added advantage in the final clause which, for whatever reason, emphasised the obligation of all bishops, abbots, priors and banrents to come in person. James must have believed that his ambition to pay off the ransom would not again foundet on complaints that the numbers present at the parliament had been inadequate.

The fact that this statute of 1428 was not renewed in the reign of James I makes it unlikely that James had been committed to a programme of constitutional change. It also suggests that James I was not motivated by the thought of the political advantages to be gained, were the small barons persuaded to such regular representation. Indeed neither James I nor his immediate successors sought to re-enact this measure. Instead the action of the crown in parliament before the Reformation suggests that this statute had always been a déad-letter, which the crown evidently had little enthusiams for resurrecting. Instead kings recognised that the small barons were not a great political force but rather a group of men who remained apathetic about their entitlement to come to parliament. Hence in the parliament of 1450, it was enacted that the

'fre haldaris of the said regaliteis sal
compeir at the justice airis and thar
soitouris within the schirefdomes that
thai ar in and to the kingis parliamentis and
general consallis as the fre haldaris of
the rialte dois'.⁽²⁴⁾

In the parliament of 1458, which is distinguished by the amount of legislation it took from James I's parliaments,⁽²⁵⁾ there was no reference to the statute of 1428 proposing the election of commissioners of shires. Instead

'na frehaldar that haldis of the king vnder the soume of xx li be constrenzeit to cum to parliament or generale consale as for presens bot gif he be a barone or ellis specaly of the kingis commandment be warnyt other be officiar or be wryte'.⁽²⁶⁾

In 1490 the freetenants who held of the Prince the Duke of Rothesay were to be

'haldin to compere and ansuer in parliament and justice airis with thare soytis and presens as efferis ay and quhill that our soverane lord hafe a sone that suld be immediate betuix the king and thaim And to ansuer for thaim in the said parliament and justice airis and soyt rollis to be maid'.⁽²⁷⁾

And in 1504 the statutory exemption was granted to any

'baroun frehaldar nor vassale quhilk ar within ane hundreth merkis of this extent that now is compellit to cum personaly to the parliament bet gif it be that our soverane lord write speciale for thaime ... And all that ar abone the extent of ane hundreth merkis to cum to the parliament under the pane of the auld unlaw'.⁽²⁸⁾

These /

These statutes do not suggest that the lesser barons were considered so valuable a political asset that the crown was determined to secure their individual presence or a system of shire representation on the basis of the 1428 proposals.

Indeed the lack of political enthusiasm among the lesser barons makes it unlikely that James I or his successors before the Reformation regarded the small barons as useful political allies, but with the Reformation the lesser barons began to show a greater interest in national politics. Over 100 of them turned up at the Reformation parliament and there convened together and prepared a petition for the restoration of their ancient right to attend parliament on the grounds that

'the causes of true religion and common well of this realm, are, in this present parliament, to be treated, ordered, and established, to the glory of God, and maintenance of the commonwealth, and we being the greatest number, in portion, where the said causes concern, and has been, and yet are, ready to bear the greatest part of the charges there untill, as well in peace as in war, both with our bodies and with our goods, and seeing there is no place where we may do better service now than in general councils and parliaments, in giving our best advice and reason, vote and counsel, for the furtherance thereof, for the maintainance of virtue, /

virtue, and the punishment of vice, as use and custom had been of old, by ancient acts of parliament, observed in this realm, whereby we understand, that we ought to be heard to reason and vote in all cases concerning the commonwealth, as well in councils as in parliaments, otherwise we think, that whatsoever ordinances and statutes be made concerning us, and our estate, we not being required and suffered to reason and vote at the making thereof, that the same should not oblige us thereto'.⁽²⁹⁾

Nevertheless in the main these lairds were not yet very politically active. For example, their enthusiasm for the right to come to parliament did not long outlast the religious fervour of the Reformation. The 1567 statute proposing that

'ane percept of parliament be direct to the schiref of the schire and his deputis chargeing thame to direct thair precept chargeing the baronis of his schire be oppin proclamatioun at the mercat croce of the heid burgh of the samyn to compeir within the tolbuyth',

and there

'cheis ane or tua of the maist qualifiit and wyis baronis within the schire to be commissaris for the haill schyre',⁽³⁰⁾

seems fairly consistent with attempts in 1428, 1450 and 1504 to solve some of the problems caused by the reluctance of /

of many of these lairds to come to parliament. Only a few individual lairds apparently had any enthusiasm for regular political representation. It was men such as these who in 1579 'would have vote in parliament',⁽³¹⁾ and who must have taken part in the negotiations which preceded the statute of 1587 and seemed to feel it worthwhile to agree on behalf of all the lesser barons to pay James VI the considerable sum of £40,000 'for their vote in parliament',⁽³²⁾ and agreed to the proviso that this statute would be conditional on the fact that the

'small baronis observe thair promise and
conditioun maid to his Maiestie'.⁽³³⁾

Many of the others, however, were rather less than eager to execute the provisions of this statute.⁽³⁴⁾ Hence on the 14 November 1587 it was noted that

'albeit his Maiestie, be his effectuus
missive letters directit to a certane
speciall barroun or frehaldare in every
scherifdome of this realme, desirit that
advertizment suld be gevin to the barronis
and frehaldaris within the scherifdome to
convene thame selffis at Michaelmes bipast,
and to elect twa of thair degree quhome thay
thocht meitast to credite thair effairis unto,
to attend upoun his Hienes at Conventiounis and
Parliamentis, and to gif his Majestie knowledge
of their names, to the intent he mycht write
unto /

unto thame as commissioneris of that schire,
and call thame to his Hienes for thair advise
in his effearis, as he suld find occasioun,
nevirtheles mane or verie few reportis ar
returnit to his Majestie of his said directionis,
to the grite hinder of his Hienes service and
commoun weill of his realme; and thairfoir his
Majestie, with advise of the Lords of Secrete
Counsall, ordanis letters to be direct chargeing
the saids barronis in every schyre quhomeunto
his Hienes missives and directionis wer send,
quhais names sall be gevin in bill, to return
the trew reporte of thair proceding thairanent'.⁽³⁵⁾

On the 1 February 1588 it was apparently necessary to make
an order for the execution of the Acts of Parliament
requiring the election of commissioners to represent
the shires in parliament.⁽³⁶⁾ On 24 May 1589 the king
with advice of his council ordained the Director of
the Chancery to direct precepts to specified barons to
convene the freeholders within the

'schire, stewarty or baliary, where they dwell,
for choosing the commissioners to the next parliament,
proclaimed to be held at Edinburgh upon 2nd October
next, and to report their diligence in this
matter to the council before 15th August next
under pain of rebellion'.⁽³⁷⁾

In fact, it was not until the parliament of 1593 that
the commissioners of shires first attended a meeting of
the /

the three estates. Even then, it was not easy to ensure that these commissioners would attend regularly. In the 1617 parliament the statute of 1587 was ratified with this addition

'that the unlaw of the commissioneris of barones throche thair absence frome parliament salbe ane hundereth pundis money. And declairis that no excuis salbe receavit nor admittit heirefter for absence frome parliament except thair licence be grantit be his heighnes'.⁽³⁸⁾

This apparent apathy among these barons seems incompatible with the view of some historians that James seriously considered this group as an effective counterpoise against the authority of the nobility in parliament.⁽³⁹⁾ It is even more difficult to reconcile this view with the apparent apathy of the crown in bringing forward measures which would ensure their attendance and the lack of hostility shown by the nobles. Firstly, the crown seemed less than determined to bring the small barons to parliament. No measures were taken to ensure the execution of the proposals which had been approved in the parliament of December 1567 for the election of one or two barons for each shire.⁽⁴⁰⁾ This is in marked contrast to what happened after the statute of 1587, when, as was noted above, between 1587 and at least 1589 several attempts were made to coerce the lairds into action. Undoubtedly the hostilities between the /

the king's men and the queen's men made the period after 1567 a particularly difficult one. Nevertheless the government's failure to ensure the presence of these barons after 1567 is fairly typical of its reaction since the 1420s. In 1579, despite the attendance of representatives from the shires in the general assembly since 1567, the barons' petition for a vote in parliament, received the reply that the king and council would do nothing in this issue during the king's minority.⁽⁴¹⁾ Moreover, there is some evidence that the fact that these commissioners did not arrive until 1593 was not entirely due to their own apathy. Whereas from 1587 till 1589 or 1590 James and his council worked eagerly to enforce the act, the need to do so soon became less pressing. For in the parliament of 1592 it was the lairds who sought admission, and not James who was pressing them. In a letter to Burghley, dated the 29 May 1592, Bowes noted that in this present parliament the

'barons will challenge to have vote in the parliament'.⁽⁴²⁾

On this issue the attitude of the nobles seems scarcely consistent with any belief that their interests were very seriously threatened. Maurice Lee made much of the fact that the 1587 statute included the Earl of Crawford's protest

'for himself and in name and behalf of the utheris of the nobility'.⁽⁴³⁾

Yet /

Yet the assumption that this arose out of a natural fear among the nobles of the political consequences which such a statute might have for them as a group, rather than the personal objection of individual nobles to the proposals under discussion, seems unwarranted. In the main, the nobles and the estates in general seemed unafraid of the risks to them were the barons induced to regular attendance. Hence in 1560 when the question of whether the small barons and freeholders should have a free voice in parliament was put before the estates,

'This Act was passed without contradiction'.⁽⁴⁴⁾

And when, in 1585, parliament discussed the proposal⁽⁴⁵⁾ which was to be the basis of the 1587 franchise act, the 'haill estatis' had no qualms about leaving this matter to James VI for determination. The attitude of the nobles to the introduction of the lairds is in marked contrast to their attitude when faced with the prospect that ministers of the church should come to parliament. As is discussed in the chapter on ecclesiastical representation, because such a plan would have seriously affected their interests, the nobles had worked determinedly to ensure the exclusion of ministers. The lairds not surprisingly had aroused no such hostility because the ties between the nobles and these lairds was often very close, and it is possible that the nobles could hope to influence the elections.

James was not slow to seek political advantage from the presence of lairds in parliament. We know of one case where James successfully influenced the choice of commissioners to come to parliament. On 8 September 1612, at a meeting of the 'lordis, baronis and remanent freeholders' of the schirefdome of Elgin and Forres', summoned for the election of two commissioners to be directed to the parliament of October 1612:

'Efter lang advisement and consultation tane quha suld be fit and meitest to be electit and chosin commissionaris to be direct to the saidis parliament ... and efter dew and mature deliberation and haiffing weyit and considderit his maiesties letter off reccomendatione of the lairds of Innes and Duffous as maist meit and fit to be direct as commissioneris foirsaid. And haiffing respect to the vnabilite and great diseas of William Suthirland off Duffous Thairfour the saidis baronis freholders and remanent persones foirsaidis ... in ane voce electit and chusit the rycht honorable Robert Innes of that ilk as onlie commissioner to be direct to his Maiesties parliament'.⁽⁴⁶⁾

On this occasion, all James' efforts were to no avail because on 5 October 1612, James Guthrie, minister at Urquhart, wrote a testimonial to the effect that Robert Innes was too ill to attend the meeting of parliament.⁽⁴⁷⁾ Nevertheless the willingness to co-operate with the king's proposals /

proposals is of some significance. Indeed it is quite likely that the reason why no-one was chosen to replace Duffus was their reluctance to select someone whom James might not approve of. What is not known is whether it was usual for the crown to inform the shires of the names of those whose election they favoured. Thirteen commissions⁽⁴⁸⁾ to commissioners of shires, including the one above, for the parliament of 1612, are included in the SRO's collection of commissions to shire and burgh commissioners.⁽⁴⁹⁾ It is quite possible that it is not a coincidence that this is the only case which suggests that the king had offered his recommendations.

There was, nevertheless, a lack of interest in these elections. This lack of enthusiasm is illustrated by the statute in the parliament of 1597 in which it was enacted that

'na barrounes be ressavit as commissioneris
for onie schirefdome within this realme at
onie parliament to be haldin heirefter.
Except the saidis barronis bring and produce
with thame sufficient commissionis granted
to thame in ane full conventioun of the haill
barrounis of the said Schirefdome quhilk
commissioun salbe authoresit with the
subscriptioun of ane greit nomber of the
barrones than present togidder with the clark
of the said conventioun his subscriptioun'.⁽⁵⁰⁾

This /

This must have given James VI further opportunities for influencing those who came to parliament. Terry noted that

'The paucity of county electors bears upon a point of constitutional importance. It could not fail to facilitate the exercise of royal influence upon the constitution in times of crisis!'⁽⁵¹⁾

It is also possible that the decision in 1585⁽⁵²⁾ and 1587⁽⁵³⁾ that precepts of chancery should be directed to a baron and that the commissions should be authorised by the commissioners' seal was the king's determination to control these elections. In 1428⁽⁵⁴⁾ and 1567⁽⁵⁵⁾ it had been provided that these precepts be directed to the sheriff, and the latter's seal should authorise these commissions. However, a more plausible reason for these changes is that in 1428 and more recently in 1567, the sheriffs had completely failed in their appointed task, and in the reign of James VI criticisms of sheriffs' failing to do their duties were many. It was probably considered far better to ensure that this statute was carried out by giving the responsibility to individuals who had shown some interest in such a plan, perhaps in the petition of 1579 and/or the negotiations preceding the 1587 statute, or who in other ways had shown that they could be relied upon to execute the provisions of this statute.

Yet /

Yet whatever the efforts made by James regarding the personnel of these commissioners, there is no evidence that once they came to parliament, they became loyal supporters of royal policy. On the contrary, such was the role played by these commissioners in the convention of 1600 which refused to grant James' request for money that on 29 June James evidently threatened the

'barons and burghs (with words of exception that some of them were honest and loved him) that as their adoes lay in his way he should remember them and be even with them and call a parliament, and displace them of a vote in parliament and convention, saying he gave them vote and made them a 4th state, which he should undo again'.

But significantly the lairds were not intimidated by these strong words for Wemyss answered on their behalf that

'they had bought their place in parliament and convention and paid his Majesty for it and could not with justice want it ... if the king ever essay to take their votes in parliament from them or follow them with needless peturbation, it may well turn into a mischief. For the king is in small taste with them all'. (56)

The nobles for their part seemed fairly confident
of /

of their ability to carry the lairds with them on certain issues. When parliament met in 1612, the nobles were said to be in 'such discontentment for the quantitie of the taxatioun', that they looked to the group of commissioners of shires for their support and

'entered into dealing to draw with thame
all the barones and so many of the burrowes
as they could to dicres the quantitie'.(57)

The nobles were also prepared to use to effect their ties with these lairds. At the parliament of 1621, when Sir John Hamilton, the laird of Preston, voted against the Five Articles of Perth, it was the Marquis, his chief, who dealt with him to recall his vote. On this important ecclesiastical matter, Sir John Hamilton would not be moved, but it is hard not to conclude that on other less fiery topics other nobles must have urged their kinsmen, with more success than the Marquis of Hamilton had in this instance to support their own particular view.(58)

In 1587 King James had much more reason to agree to some form of shire representation than to hope, almost certainly in vain, that the lairds would prove valuable allies in royal policy. As in 1428, the issue of taxation must have been an incentive for the King's support of this measure for shire representation. In 1585 the three estates had referred the matter of shire commissioners to the decision of James himself. It would /

would have been extremely impolitic for James to have rejected the 1585 proposal for election of commissioners of the shires in the next meeting of parliament in 1587 when at that same parliament a commission was set up for setting in order the taxation of all the estates.⁽⁵⁹⁾ James could hardly have denied the lairds the right to come to parliament and yet make these arrangements for the proportion of taxation for which they would be liable. Perhaps even more tempting was the offer, evidently made by those lairds who had been involved in the negotiations, that they would pay James the sum of £40,000. It is perhaps significant that the king's enthusiasm for the execution of the 1587 statute did not last long after arrangements had been made for the payment of the agreed sum. In 1592, when parliament met for the first time after 1587, it was not James who pressed the commissioners to attend at all costs but as was noted above the barons who 'challenge for a vote in parliament'.⁽⁶⁰⁾

If the rejection of this statute would have been somewhat inconsistent with the desire for a new order for taxation, it would have been even less compatible with the large number of statutes in the 1587 parliament whose design was to make the Scottish parliament a much more ordered institution. As a result of the 'decay of the forme honor and maiestie of the supreme court of parliament', measures were taken ^{to} in parliament 'restore the same to the auncient ordour dignity and integrite'.⁽⁵⁸⁾ These included provisions regarding/

regarding the prohibition of any confusion of persons of the three estates; the absence of earls, lords, barons and burghs from parliament; the absence of 'herauldis pursuivants maiseris or trumpettis; that, each estate was to have 'their severall apparell in semelie fassion to confôrme to the patroun thair quhilk the kingis maiestie sall caus mak and command;' the number of each estate to be on the Articles; no advocate or forespeaker to be prevented from appearing defending and reasoning for any person accused of treason; no lawful and orderly forfeiture led in parliament or any decision passed in parliament to be called in question by an inferior judge; quarrelling for priority of place and voting in parliament; the appointment of a commission to settle the priority of placing and voting in parliament.⁽⁶¹⁾ The dubious position of the lairds as regards their right to come to parliament was one of the aspects of the Scottish parliament which needed most attention. Such was the confusion over this question that R.S. Rait noted that although many lairds had voted at the convention of 1572 to elect Morton as regent, they were carefully excluded in the official record from the list of sederunt of the Lords Spiritual and Temporal and the Commissioners of Burghs.⁽⁶²⁾

Nor should the validity of the reason offered by James in the statute itself, that is 'inconsideration of the great decay of the ecclesiastical estate', be lightly dismissed.⁽⁶³⁾ The effect of the Reformation and the inability of the church and state to reach a satisfactory /

satisfactory compromise on how the ecclesiastical estate should be composed meant that the ecclesiastical estate was no longer truly composed of representatives from the church. No longer might parliament, in truth, claim to represent the interests of the kirk.⁽⁶⁴⁾ Here in 1587 James had the opportunity of supplementing the authority of parliament, firstly by those various measures tidying up the whole process, but he also extended the interests that parliament might claim to represent, and was paid £40,000 for granting the privilege. The general assembly might continue to complain about the absence of its representatives but now the lairds could not complain about their lack of representation.

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1. T. Thomson, Memorial of the Old Extent (Stair Society, 1946), 79.
2. C.S. Terry, The Scottish Parliament, Its Constitution and Procedure, 1603-1707 (Glasgow, 1905), 37.
3. H. Home, Lord Kames, Essays on Several Subjects concerning British Antiquities (Edinburgh, 1747), 27.
4. APS, ii, 15, c. 2.
5. APS, ii, 50, c. 21; 244, c. 26.
6. APS, iii, 40, c. 33.
7. APS, iii, 509, c. 120.
8. E.W.M. Balfour-Melville, James I, King of Scots, 155.
9. APS, ii, 15, c. 2.
10. E.W.M. Balfour-Melville, James I, King of Scots, 155-6.
11. APS, ii, 15, c. 2.
12. APS, ii, 9, c. 8.
13. A.A.M. Duncan, James I, 1424-1437, 14.
14. See J.S. Roskell, The Commons and their Speakers in English Parliaments 1376-1523 (Manchester, 1975).
15. W.C. Dickinson, Scotland from the Earliest Times to 1603, revised and edited by A.A.M. Duncan, 220 n. 5.
16. It is perhaps significant that in 1599, seen after the commissioners of shires attending parliament for the first time, among the petitions prepared by the lesser /

16. lesser barons was one observing that 'seing the commissionaris of burois hes power to conven twys in the yeir And that the commissioneris of schires sall expone and declair the grevis of the commons in parliaments and generall counsilis quhilk can nocht be done without conference amangis thameselfis befoir the convention of the parliament or generale consale and that tharefore his maiestie will grant libertie to the commissioneris of schyris quhilk ar bet xxviii in nowmer to convene in sober and gude nowmer as the burous do at set tyme and place as they thoght expedient anys or twys in the yheir'; SRO, Parliamentary Supplementary Papers, i, PA 7/2/48. Although the existence of a common speaker would have suited James I's purposes by preventing the waste of parliamentary time, the provision of a common speaker offered the lesser barons an opportunity, which was something denied them in the statute of 1587, to form themselves into a more cohesive and effective group.
17. S.A. Grant, 'The Higher Nobility in Scotland and their Estates' (Oxford, D. Phil. thesis, 1975), 33.
18. APS, ii, 4-5, c. 10.
19. ER, iv, pp cxxxiii-cxxxiv.
20. APS, ii. 9, c. 8.
21. See Appendix E.
22. T. Thomson, Memorial of the Old Extent, 82.
23. /

23. APS, ii, 15, c. 2.
24. APS, ii, 36, c. 13.
25. APS, ii, 47-52. This includes items on the session; wapinschawing; hospitals; beggars, destroying of rooks, crows and other birds of prey; leasing makers; strife; all of which are discussed in the parliaments of James I.
26. APS, ii, 50, c. 21.
27. APS, ii, 221, c. 17.
28. APS, ii, 252, c. 23. It is perhaps only a coincidence but it is interesting to note that all three statutes reducing the liabilities of the lesser barons in respect of their presence at parliament (that is the acts of 1428, 1458 and 1504 as well as the statute stressing the need for personal attendance in 1426) occur in March parliaments i.e. at a time when the attendance might well have been at its lowest, and when it seemed most vital to make some other arrangements.
29. A. Wight, Rise and Progress of Parliament (Edinburgh 1806), Appendix VIII, Letter from Randolph to Cecil, 423-4.
30. APS, iii, 509, c. 120.
31. Calender of the State Papers relating to Scotland and Mary Queen of Scots 1547-1603, edd. J. Bain and others (Edinburgh, 1898), v, 358. In October 1579 the barons and kirkmen of Scotland asked for a vote in parliament but Robert Bowes noted in a letter to Burghley that the king and council determined to do nothing during the king's minority.

32. The Register of the Privy Council of Scotland, edd.
J.H. Burton and others (Edinburgh, 1877-), iv, 245-6.
Order for the payment of the third part of the
taxation of £40,000 granted by the small barons for
their vote in parliament.
33. APS, iii, 509, c. 120.
34. RPC, iv, 384. Precepts were to be directed from the
Chancery to a baron of each shire first to convene
the free holders within the same shire for choosing
the said commissioners as is contained in the said
act of 1428, which commissioners having been thus
chosen thereafter (1) These commissioners were to
be elected by the freeholder at the first head court
after Michaelmas yearly (2) Names of those elected
were to be notified in writing to the Director of
the Chancery by the commissioners of the preceding
year (3) In future the commissioners were to be
warned by precepts of Chancery like the other estates
(4) The freeholders of the shires were to be taxed
for the expenses of the commissioners (5) The
commissions of those elected
were to be sealed and subscribed by six barons and
freeholders at least (6) Shire members of the
Articles were to equal that of the burghs (7) The
king's missives before general councils were to be
directed to the said commissioners or certain of the
nearest of them as to the commissioners of burghs
(8) The presence of these commissioners in parliament
would relieve the rest of the small barons and
freeholders of the shires of their suit and presence
which they owed in parliament.

35. RPC, iv, 227.
36. RFC, iv, 245.
37. RPC, iv, 384.
38. APS, iv, 535, c. 7.
39. M. Lee, John Maitland of Thirlestane and the Foundation of Stewart Depotism in Scotland (Princeton, 1959), 150.
40. APS, iii, 40, c. 33.
41. CSP, Scot, v, 358.
42. CSP, Scot, x, 679.
43. APS, iii, 509-510, c. 120.
44. A. Wight, Rise and Progress of Parliament, Appendix VIII, 423-4. Letter of Randolph to Cecil, 15 August 1560. Certainly in a letter dated five days earlier, it was noted that when the barons asked for an answer to their request 'some what was said in the contrary'. However there was nothing to suggest that this was as Lee has suggested for 1587 because the nobles were natural opponents of any such proposals. The most likely explanation is that the attendance of these lairds in 1560 was in some legal doubt since the Treaty of Edinburgh provided that a 'Parliament be summoned according to the custom and those shall appear who have wont to appear'.
45. APS, iii, 422, c. 74.
46. SRO, PA 7/25/23. 1/2.
47. SRO, PA 7/25/23. 1/3.
48. /

48. These are for Aberdeen PA 7/25/2, 1; Dumbarton PA 7/25/12;1; Edinburgh PA 7/25/13.1; Fife PA 7/25/14,1; Haddington PA 7/25/16.1; Kincardine PA 7/25/18.1; Stewarty of Kirkcudbright PA 7/25/20.1; Lanark PA 7/25/21.1; Linlithgow PA 7/25/22.1; Elgin and Forres PA 7/25/23.1/1; Peebles PA 7/25/26.1; Perth PA 7/25/27.1; Stirling PA 7/25/32.1;
49. SRO, PA 7/25.
50. APS, iv, 141, c. 43.
51. Terry, The Scottish Parliament 1603-1707. 41.
52. APS, iv, 422, c. 74.
53. APS, iv, 509-510, c. 120.
54. APS, ii, 15, c. 2.
55. APS, iii, 40, c. 33.
56. CSP Scot, xiii, 663. (My italics)
57. SRO, GD 90/2/46. Yule Collection. (My italics)
58. D. Calderwood, History of the Kirk of Scotland, edd. T. Thomson and D. Laing (Wodrow Society, 1842-9), vii, 493.
59. APS, iii, 517, c. 124.
60. CSP Scot, v. 358.
61. APS, iii, 443, c. 16; c. 17; c. 18.
62. R.S. Rait, 'Parliamentary Representation in Scotland', SHR, xiii, 118-9.
63. APS, iii, 509, c. 120.
64. /

64. In the 1560s the Reformed Bishops continued to have a place in parliament. From the agreement at Leith in 1572, the church was prepared to see its ministers sit in parliament as bishops and possessors of the titles of abbacies. By the 1580s, however, the offices and titles of bishops and abbacies had been proscribed by the Assembly.

C H A P T E R 3

THE ROLE OF THE CROWN AND THE THREE ESTATES IN THE
ELECTION OF THE LORDS OF ARTICLES.

In the past, much stress has been placed on the control which the crown exercised over the lords of articles and through them over parliament itself. The articles, it has been suggested, acted not in the interests of the three estates but rather as agents of the government of the day.⁽¹⁾ The easiest and most effective way of attaining this degree of co-operation was for the crown to exercise considerable sway over the selection of this committee. Yet what little evidence there is suggests that on the contrary for much of this period the crown's influence was at a minimum. Only in the early seventeenth century when the selection process began to facilitate royal manipulation is there any evidence of a monarch's influence being brought to bear. Even in this later period there were some members of parliament who appear to have been aware that their traditional independence in this matter was threatened by such innovations and who on occasion successfully challenged the king's nominations.

By contrast, the fifteenth century leaves no record of the actual machinery for these elections. However, where mention is made of the articles /

articles there is nothing to suggest that the choice belonged other than to the three estates themselves. In May 1424 it was noted that

'convocatis tribus regni statibus et
ibid congregatis electe fuerunt certe
persons ad articulis'.⁽²⁾

The preamble of the parliament of March 1426 recorded that

'the articulis present be the saide lorde
the king ... to be determynit be certane
personis tharto chosyne be the thre estates'.⁽³⁾

That of September 1426 speaks of

'the articulis poyntis and causis tretit
and determynit beoure soverane lorde
James be the grace of Gode king of Scotis
and certane lordis prelati banrentis
baronis frehaldaris and wismen chosyn tharto
of the hail consale of the thre estatis of
the realme'.⁽⁴⁾

No further clue exists for the fifteenth century. It is not until 1523 that the rights of the three estates in this matter can be confirmed. Among the Mar and Kellie muniments there exists an extract act of parliament for September 1523 which does not appear in APS. This act anent the keeping of the king's person in Stirling Castle under the care of Erskine was

'devisit and ordanit be the lords chosin
to the articles by the thre estaittes of
parliament'.⁽⁵⁾

Similarly in the parliament of 1525 it is recorded that the prelates banrentis and commissioners of burghs had chosen the lords of articles.⁽⁶⁾ Yet, at this same meeting the first doubts were raised on the extent to which the three estates acted independently in this election. Here first notice is given of the peculiar procedure which was to become well-documented in the later sixteenth century whereby the temporal lords chose the spiritual representatives on the articles. In 1525 ^{there was} the protest by the Earl of Eglinton that he had desired the election of the Bishop of Ross and the Abbot of Scone, then by the Earl of Arran that he had given his vote to the Abbots of Holyroodhouse and Scone. Most importantly Colin Earl of Argyll protested

'that the mast part of the temporale lordis
had chosin the vi lordis of spiritualitie
befor nemyt to be lordis of articlis and
that tharfor thai suld nocht be changit'.⁽⁷⁾

They all confirm that this procedure had been employed in 1525. Furthermore, in the knowledge that all three estates took part in this election of 1525 and that the temporal lords chose the spiritual it is possible to speculate that the same system was used as in the 'Reformation parliament', particularly when it is recorded that

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'The lords proceeded immediately hereupon to the chusing of the lords of the articles. The order is, that the lords spiritual chuse the temporal, and the temporal the spiritual, and the burgesses their own'.⁽⁸⁾

Less certain is how long the system had been established before 1525. Clearly the number of protests against the election of the articles at this meeting is unique in the parliamentary records. However, none of these protests even vaguely suggests that the reason for the dissatisfaction was a change in the method of election. Indeed although the unexpected nature of the procedure arouses a suspicion that the procedure was a later interpolation, not only is there no clue when this was done, there is nothing to contradict the view that this system, strange as it might appear, was the one used from the beginning.

Whatever the answer to these questions, it was the essence of the procedure whereby all estates had not the right to choose their own representatives which R.S. Rait saw as evidence of attempts by the crown to influence these elections.⁽⁹⁾ In view of the doubts about the origins of this system it is impossible to know whether this was why the procedure was designed as it was, but is almost certainly true that such a system, by its very nature, would have made interference by the government much /

much more feasible. Nevertheless, the grounds for assuming that in this period before the reformation the independence of the three estates had been severely curtailed by the operation of this system, are extremely slender. There is no evidence of such interference in the fifteenth and sixteenth centuries. Only in the early seventeenth century is there any record of a monarch attempting to manipulate the choice of the articles. Although it is clear that James VI had some degree of success, he had his failures too. By the seventeenth century many members of parliament had been deprived of any role in this selection. Yet even then when the whole basis of election was much narrower, a king could not be certain that the choice would accord with his own recommendations. Moreover, as will be discussed below, some of the opposition to James VI apparently arose because the king's interference in this process was considered to be an innovation, which threatened the traditional independence of the three estates in this matter. Considering the difficulties which James VI was to have, in this period before the Reformation when all members of parliament still played their part in the election, and when the crown was not seen to be interfering with their choice, any opportunities offered indirectly by this procedure must have had only marginal effect.

Even after the Reformation the evidence is still /

still fragmentary. Although in the earlier period the articles were described as having been elected by the three estates, in 1593 it is recorded that

'the haill estaitis of the parliament chesit
thir personis underwrittin to be lordis of
the articles'.⁽¹⁰⁾

This was repeated in 1597, 1604, 1607 and 1609.⁽¹¹⁾ It seems too much of a coincidence that this change in format should occur in the parliament of 1593. This was the first parliament where the shire commissioners attended as a result of franchise act of 1587, and it was also the first parliament (apart from the 'Reformation Parliament') in which the shire commissioners were formally represented on the articles. The impression conveyed by the register is that until at least 1609, these elections continued to be conducted on the widest possible basis and just as the spiritual lords, the temporal lords and the commissioners of burghs had traditionally the right to choose this committee, so too had the commissioners of shires from 1593.

Their rights in this matter were short-lived. The first sign that things did not remain as they were comes in the parliamentary register itself. After 1609 it is never again recorded as it was from 1593 to 1609, that the articles were chosen by the 'haill estates'. Where any reference is made to these elections, all that is recorded is the fact that

'Eodem die domini electi ad articulos'.⁽¹²⁾

The 'Memoriall anent the progres and conclusion of parliament of 1612',⁽¹³⁾ which was evidently written by Sir Thomas Hamilton, secretary (1st Earl of Haddington) offers conclusive evidence of a change. From this it is clear that by 1612 the commissioners of burghs and shires had lost the right to take part in this selection. The representatives of the commissioners of burghs and shires were now chosen by the 'prelattis and noblemen meiting together',⁽¹⁴⁾ while the spiritual lords continued to elect the temporal and the temporal the spiritual.

Although the system had not quite reached the position of 1621, it is evident by 1612 that the selection process was beginning to facilitate interference by the government. Not only were the commissioners of burghs and shires excluded but system of royal nomination was introduced. In 1612 the spiritual estate was given a roll of the nobles whom the king recommended, the estate of nobles was likewise informed of the king's wishes regarding the spiritual estate, and both these estates were given a list of commissioners of burghs and shires.⁽¹⁵⁾ There can be no doubt that there were those who would be influenced by the king's views in such a matter. In this same parliament of 1612, for example, on the receipt of the king's roll of /

of nobles, it was said that the prelates 'presentlie obeyed by thar election'.⁽¹⁶⁾ This procedure of royal nomination gave the king or the council in his name, for the first time, the means of directly influencing these elections. This greater degree of control is evident not only in 1612, but also in the parliaments of 1606 and 1621. On 4 July 1606 Dunbar Scone and the Advocate advised the king that

'the lordis of articlis wer chosin according to your maiesties letter send for that effect to the estaites and the roll of the names presented to thame in your maiesties name without change of any ane of the haill number recommended to thame be your maiestie or contrare vote of any of all the estaites'.⁽¹⁷⁾

So influential was the government on the election in the 1621 parliament that Calderwood could note that

'the choise was not made of persons most indifferent, of best judgement, and noe wayes partiallie affected to anie partie, as beseemeth free parliaments and counsels',⁽¹⁸⁾

and secretary Melrose could comment that the articles were chosen

'with such dexterity that no man was elected- only one excepted-but those who by a private roll, were selected as best affected for your majesty's service'.⁽¹⁹⁾

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However, any opportunities offered by this procedure of royal nomination were of recent development. In the 1612 parliament the delivery to the nobles of a list of prelates whose election the government recommended, aroused

'many descourses of the necessitie of the
mentenance of thar privileges and libertie'.⁽²⁰⁾

W. Taylor in his thesis on the Scottish privy council acknowledges that this phrase^{which} suggests royal nomination was an innovation, but he is not at all sure that it is necessarily a recent innovation.⁽²¹⁾ Yet there is nothing to suggest otherwise. The earliest record comes in 1606. In a letter to the three estates the king informed them that he had sent to the commissioners of parliament

'ane roll of thar namis to the intent that
significations being maid be him to yow of
the names conteyned in that catalogue'.⁽²²⁾

The circumstances of this letter are important. Apparently James had learned that some members of parliament were questioning the procedure whereby the lords of articles elected in the beginning of a current parliament were retained for all subsequent sessions. This same matter had been raised in 1604,⁽²³⁾ but on that occasion there is no record of James having provided the estates with
a /

a list of his own recommendations. There can be no doubt that this change in the procedure would have diminished whatever influence James might have had over the articles. As such, it is likely that on realising that the question had not been settled finally in 1604, James while of course hankering in his letter for a solution more suited to his own interests, decided to take no chances and as a safeguard had delivered to parliament a list of his own nominations on the pretext that

'thair ar sum moir perfytlie acquaintit than
vtheris with our favourable designs in materis
greatlie concerning the universall weill of that
our kingdome'.⁽²⁴⁾

In 1606 the estates were quite prepared to acquiesce in this procedure, but in 1612 when the experience of 1606 had been used as a precedent to give the king the 'constitutional right' of nomination, there were those who realising the implications of this change, withstood the attempts of the crown to influence their choice.⁽²⁵⁾

James VI's valiant attempt to support the procedure whereby the lords of articles elected in a current parliament continued until that parliament ended does suggest that this was one means by which the crown was able to influence the committee. Once again, however, this opportunity was of recent development and, as was noted above, the three estates had not allowed its operation to go unchallenged.

It is true that James VI wrote in 1605

'that the changeing of the saidis lordis of the
articlis in question and to motoun ane new
election is ane malice that we cannot bot
marvell that ony man can imagine that any such
forme can aggrie with law reasoun or any
precedent evir hard of befoir'. (26)

Yet the membership of articles in earlier continued
parliaments suggests that on the contrary there was some
precedent for this view. The parliament of October 1479
was first continued to April 1481 and then to March 1482.
The committee of articles in this latter session differs
from that of the first. The Bishop of Moray and Lord
Borthwick had both been lords of articles in the first
session but were excluded in the last. The meeting of
March 1483 was a continuation of December 1482 parliament
and once again the two committees do not correspond.
Similarly the membership of the articles in the
parliaments of November 1524 and 1525 is not the same,
even although the latter was a continuation of the
former. Moreover, the fact that the records of the
February 1525 session of this parliament contain protests
by the Earls of Eglinton, Argyll and Arran as to the
results of these elections confirms that new elections
had taken place. Indeed, the first time that it is at
all possible to suggest that this system had been employed
was /

was the continuation of the parliament in December, 1567 to July 1568. The core of both these committees is the same and unlike those earlier occasions when parliament was thus continued any difference in this latter session can be explained by the absence of some of those who had been elected in 1567 and their replacement by others.(27)

If there are any doubts that this system operated in 1567, these are soon removed on the next occasion when parliament was continued. The meeting in May 1584 was first continued until 3 August and then to 20 August, on which day the secretary asked whether the lords felt that they might deal with matters concerning the king and the commonwealth of the realm given the absence of

'sum of the lords of articles chosen in the last continewit parliament upon the xx of May'.(28)

The procedure whereby the lords of articles elected in a preceding running parliament should continue until the end was well-established by 1584. This did not prevent the three estates from complaining that there should be a new election. In answer to those

'foolishe people, out of thair evill dispositioun'(29)

who later questioned the operation of this system in 1604, James, as was noted above, defended the procedure and /

and insisted that it was his will that the free election which had already taken place at the beginning of this parliament should continue until its very end. The three estates did not allow the matter to rest there. In 1606 once again James VI detected

'different opinionis of sum of your nowmwer
concerning the ordour observit in a proceiding
current parliament',(30)

but this time James himself was forced to concede the point. In the presence of the 'haill estates', the Earl of Montrose produced the king's writ acknowledging the estates 'lauchfull libertie' to choose a new committee of articles.(31)

Other changes in the method of election were also to provide James VII with further opportunities for royal manipulation which had not been available to his predecessors when in 1621 the choice of the commissioners of burghs and shires was made, not as had been the case since 1612 by all the prelates and nobles, but only by those of the first two estates who had secured election themselves. It might very well be observed that this

'new method of choosing this body gave
the king a complete command of the election',(32)

James had a much more effective defence against the long-established independence of the three estates in this matter. He certainly had need of one. In 1594 Bowes informed Cecil that the king and chancellor had been crossed /

crossed in the choice of articles.⁽³³⁾ Despite the successes noted above, in some cases the methods employed by James VI proved to be counter-productive. For example, while the prelates in the 1612 parliament were prepared to acquiesce in the king's nominations, such interference caused so much resentment among the nobles that they

'debaited the mater very preciselie after many descourses of the necessitie of the mentenance of thair privileges and libertie be pluralitie of votes changed so many of the roll of the prelatis as they had men to mak change of'.⁽³⁴⁾

While the crown acknowledged in 1606 the estates 'lauchfull libertye thairin',⁽³⁵⁾ with regard to whether a new election of articles should be made in a running parliament, and while, in general, king and parliament acted in a spirit of co-operation to their mutual benefit, the estates in Scotland remained silent about their rights. But when, as happened in 1612, the crown had so obviously encroached on the rights of the estates, there were those who argued with some effect that the estates should resist this.

Just as royal nomination proved to be a double-edged sword in 1612, so too did the exclusion of the commissioners of burghs and shires from the election process. /

process. With the choice of these commissioners now being the joint decision of the nobility and the prelates, the king's wishes as regards these two groups were also to some extent thwarted, there being

'maid sum change of bath so far as the noblemen could'.⁽³⁶⁾

Nor was James to have unqualified success in 1617. As had been the case in 1612, the prelates were quite prepared to vote in accordance with the king's recommendations. Once again the nobles were not. This time however, evidently because the security of their estates seemed at risk, their sole right to select the spiritual members of the articles, irrespective of the crown's nominations, together with any influence they might bring to bear on the selection of the commissioners of burghs and shires, was insufficient for their needs.⁽³⁷⁾ So vulnerable were the prelates at this time, that they were almost entirely dependent on the king. As such their right to choose the temporal lords of articles had become an important weapon in the hands of the king. Therefore in 1617 the nobles

'were not content that they should be chosen, as the king and the bishops wold have them'.⁽³⁸⁾

and the final choice was

'not altogether to the king and bishops' contentment'.⁽³⁹⁾

Evidently /

Evidently their determination in the face of the traditional rights of the clerical estate and royal authority was not unrewarded.

The Composition of the Lords of Articles

The fact that the crown played only this indirect role in the election of the lords of articles is reflected in the composition of the committee. The composition of the lords of articles does not suggest that the estates were more concerned to make their choice in the light of the needs of the crown. The attention paid to such factors as the geographical distribution and the importance and influence of the membership of this committee⁽⁴⁰⁾, suggests that on the contrary, the three estates took full advantage of the opportunity offered by the system of election and made their election as much with their own interests in mind as those of the government of the day.

Although there is no record of an attempt to regularise by law the composition of the lords of articles until the reign of James VI, there is every reason to believe that a regular and systematic procedure of equal representation of the estates had already been established before the statute of 1587.⁽⁴¹⁾ It is clear that in the reign of James III every attempt was made to ensure that the composition of the lords of articles was evenly shared by each of the three estates. Until 1482 the balance of each of the estates were more or less even in the committee of articles. The last two known committees for the reign of James III, namely those of 1483 and 1485, set the scene for the more irregular composition during the reign of James IV. Until 1504, when once again a balance/

balance was found, the composition of the committee of articles during the reign of James IV, was such that the burgesses were greatly outnumbered by the nobles and to a slightly lesser extent by the clergy.

From 1504 until 1525 the articles became once again a committee which was evenly composed of members of each of the three estates. The position became much less regular during the remainder of James V's reign, with the burghs being again the victim of the uneven distribution of the estates. From the burghs' point of view things became much more satisfactory in the reign of Mary Queen of Scots, when the system of equal representation, with perhaps a few exceptions in 1556 and 1558, became established. When it was enacted in the parliament of 1587 that an equal number of each estate was to be elected to the committee of articles, this was little more than a confirmation of the system already in operation. From 1567 until 1587, the composition of the articles had conformed to this principle. In general after 1587, it continued to do so.

If it is clear that great care was taken in the reign of James III to ensure an equal balance of the estates on the lords of articles, the attempt to ensure some degree of geographical distribution is also most evident during this reign. Thirteen lists of articles survive for that period. Of these 13 as many as eight (that is those of the parliaments of 1467, 1469, 1471, 1475, 1478, 1479, 1482 and 1483) are divided equally between members from the north and south, the dividing line being the River Forth.

In /

In two of the remaining five committees, this geographical pattern is still discernible. In both 1482 and 1485 two of the three estates are made up equally of members from north and south of the Forth.

Yet geography was not the sole determining factor. Equally apparent in this reign is the fact that election to the articles was a privilege confined to a select few. This is not so clear in the case of the estate of the nobility, where as many as 25 out of the 53 who attended parliament at least once, were selected to sit on the articles at one time or another. However, in the case of the clerical estate of the 46 members who attended parliament at least once, only 13 were selected, and of these only seven sat more than once. As for the burghs, of the 34 who had ever attended only 10 had that privilege, and only six of these sat more than once.

In general, it was, as might be expected, the most influential and wealthy who emerged as frequent lords of articles. For example, the bishops made up the bulk of the clerical presentation on the articles, taking up 39 out of the possible 50 places. In fact only in the 1474 and 1475 parliaments do the articles include fewer than three bishops. The bishop of Glasgow was elected at all 12 parliaments which he attended, and on the one occasion when he was absent, the dean of Glasgow was significantly chosen. From the existing sederunts, it appears that the Archbishop of St. Andrews was likewise chosen whenever he was in parliament, while the bishop of Aberdeen was selected on eight consecutive occasions from 1468 till 1482.

As for the burgess element, comparison with the taxation rolls of 1426 is enlightening. The four wealthiest burghs Edinburgh, Aberdeen, Dundee and Linlithgow occupy 29 out of the 43 identifiable burghal places. If Perth, the fifth wealthiest is added, this number rises to 36. Indeed, all the six burghs whose representatives were chosen on more than one occasion - Edinburgh, Aberdeen, Stirling, Perth, Dundee and Haddington were among the nine most wealthy burghs in Scotland. And Edinburgh which was liable to pay the largest proportion of tax had on all but four occasions at least two representatives on the articles and took up at least 20 of the 43 identifiable places. Evidently selection to the articles was a privilege confined to a select few. In the main only the most important clergy and the wealthy burghs were deemed worthy of it.

As for those five committees in this reign which do not conform to the geographical norm, the absence of sederunts of the parliaments of 1468 and 1474 makes it impossible to speculate the reason for their deviation. However, in the case of the parliaments of 1482 and 1485, it is the exclusive nature of the composition of this committee which explains the inequitable geographical distribution. In 1482 both the estate of the nobles and the estate of the ⁷clergy were equally represented by the ⁷north and south. Only in the ⁷clerical estate does the problem arise with the election of three northern representatives but only one for the south.

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south. Throughout this reign, excluding the bishops, the only other clergy to secure a seat on the articles were the abbot of Holyrood, the secretary, the abbots of Dunfermline and provost^d Lincluden and the dean of Glasgow. None of these was present at the parliament of 1482, and in particular the absence of Holyrood, who was selected on five occasions, should be noted. The Bishop of Glasgow was the only bishop from the southern area present at this meeting and he was duly elected.

In 1485 the Problem arises in the estate of the burghs. All three burghs selected at this meeting were from south of the Forth. As was usual, Edinburgh occupied two out of these three places, What is strange is the fact that Perth and Dundee, which were two of the more important burghs, were ignored, and in their stead a place was given to Stirling. However, although Perth and Dundee were present, they were the only burghs from the north represented. Whereas on average the south would outnumber the northern representation by three to one, in 1485 the ratio was 13:2. The southerners included Edinburgh, Stirling, Linlithgow, Haddington and Lanark, all of which were very important in their own right. In effect the composition of the lords of the articles during the reign of James III suggests that the three estates made their selection in the light of their desire that north and south should be equally represented, but only in so far as this was compatible with the inclusion of many of the most important and influential members of parliament.

Those /

Those same factors which had conditioned the choice in the time of James III were still largely in operation in the reign of his successor. Only four lists of articles have survived for this period. Of these the 1490 and 1504 committees are evenly composed of members from the north and south. The importance attached to geography in this process is also confirmed by the change in the burghal pattern of representation. In the previous reign, it had become normal practice for Edinburgh to take up two places on the articles. However, in this period only on the occasion of the 1504 parliament was Edinburgh so privileged. Haddington, on the other hand, although it had a full attendance record at the parliaments of James III, and was without a doubt one of the more important burghs, was only twice given a place on the articles. In the reign of James IV, however, Haddington sat on the articles on three out of the four occasions. Significantly, the one occasion when Haddington was excluded, was the very parliament in which Edinburgh was again given two places. Evidently Haddington's position was important enough to merit inclusion, but it was considered that if both Edinburgh members were also included, too great a geographical imbalance would have been created in favour of the south-eastern burghs.

Similarly, membership of the lords of articles continued to be an exclusive club. For instance of the 19 burghs whose representatives altogether attended parliament, /

parliament, only nine were voted on to the articles, and of these only four were chosen more than once. Edinburgh's election seems again to have been automatic. Aberdeen was chosen on the three occasions when it had sent a representative. Likewise, Lanark was picked whenever its commissioner attended. Haddington was selected on the three occasions out of the four, and its exclusion on the fourth occasion was due, as was noted above, to increased membership by Edinburgh. Once again, these burghs were amongst the wealthiest and most important in the country. The average burghal representation in this reign is just under five. Comparison with the 1535 taxation rolls shows that of the 19 places on the articles given to the burghs, 15 went to those five burghs who paid the highest taxation. Comparison with these rolls also show that of the nine burghs which were selected to the articles, Dumfries alone does not belong to the nine wealthiest burghs.

At first glance, the ecclesiastical estate seems to deviate from this pattern. Firstly, as many as 25 of the clerical estate were selected to sit on the articles on which they had in all 33 places during the reign, and secondly the bishops, who had been so dominant in the previous reign, take up only 12 of the 33 possible places in the reign of James IV. However, while it is true that as many as 25 were selected to sit on the articles, only five/

five were chosen more than once. The Bishop of Dunkeld was selected at each of these four parliaments. The Bishop of Glasgow was chosen on the three occasions he was present and on the one occasion when he was absent, that is 1492, the dean of Glasgow was selected in his stead. The explanation for the large number of others who were chosen, even if only the once, probably lies with the increased number of places given to the clergy. In the reign of James III the clerical membership of this body averaged three or four, whereas in James IV's reign, it was just over eight. It is this increased representation which also explains the apparent weakening of the position of the bishops. In both reigns, the bishops generally occupied at least three places on the articles. Only on two occasions does this not apply in James III's reign and 1492 is the only occasion when there was fewer than three in the reign of James IV. The only bishop present at that parliament, other than the Bishop of Dunkeld, who was duly elected, was the Bishop of Aberdeen, and the latter because he was chancellor, was never on any occasion during this reign thus elected.

Therefore, just as in James III's reign so in the time of James IV, only in the case of the nobility might it be said that the responsibility for manning the articles was evenly shared. Twenty nobles were chosen to sit on the articles, and as many as 12 of these sat on more than one occasion. Evidently those factors which limited the choice in the other estates were less than relevant in respect to the estate of the nobility.

This becomes clear in the reign of James V. In general the tendency for the north and south to be equally represented showed signs of disappearing. Of those nine parliaments for which we have lists of this committee, only 1524, 1526, 1528 and 1531 were thus composed. Geographical distribution still conditioned choice. In many of the other parliaments, as can be seen from the table below, the discrepancy between the numbers from north and south is relatively slight.

Table 6

	North	South	Unidentified
November 1524	6	6	
February 1525	10	7	
July 1525	13	10	
June 1526	11	11	
November 1526	11	9	1
September 1528	6	6	
April 1531	9	8	
May 1532	14	9	
June 1535	20	16	

In most cases the discrepancies between representatives of the south and north, are very slight. However, in the case of the nobility, the importance attached to equitable geographical distribution, remained as strong as ever. In five of the seven parliaments which are on the whole unevenly /

unevenly distributed, the estate of the nobility are alone equally represented from the north and south. Only in the case of the nobility did a large number share this task. Of the 25 nobles who sat on the articles, 15 sat more than once.

For the other estates, it was evidently still felt essential that the strongest and the wealthiest of their members should have a seat. Of the 17 burghs whose commissioners attended parliament at least once, only nine were elected to the articles. Of these only seven sat on more than one committee. Edinburgh was represented on all but one. The exception was in 1528 in which for some reason only Linlithgow is named as the burgh representative. Stirling was elected on six occasions and both Aberdeen and Linlithgow were chosen on five. Those seven burghs (Edinburgh, Stirling, Linlithgow, St. Andrews, Dundee, Perth and Aberdeen) whose members were chosen more than once, were all among the wealthiest burghs in Scotland as can be gauged from the 1535 taxation rolls.

Similarly, the clerical membership of the articles remained mainly confined to its most important office-holders. Although as many as 21 got the opportunity of experiencing this work, nine of these sat only on the one committee. Of the 67 places given to the articles, 46 were occupied by the bishops. The Bishop of Aberdeen was selected on all occasions, the Bishop of Dunkeld on six or seven occasions, and the Bishop of Glasgow on six. Indeed of the six most frequent choices for lords of articles, the Abbot of Arbroath was the only clerical member/

member who was not a bishop.

The picture remains broadly similar during the reign of Mary Queen of Scots. Firstly, the trends as regards geographical distribution are confirmed. Just as was the case in the reign of James V, in the period from 1542, it was thought unnecessary for north and south to be exactly equally represented. However, the composition of five out of the six committees of articles recorded in this reign indicates that there was still some attempt to ensure some sort of fair geographic distribution. Only in ¹⁵⁴³1542 was the discrepancy between north and south significant, as can be gauged from the following table.

Table 7

	North	South
March 1543	19	10
December 1543	12	9
November 1544	12	14
July/August 1546	11	13
November 1558	10	12
April 1567	12	12

And again the stress placed on geographical equality is strongest in the estate of the nobility.

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Table 8

	Prelates		Barons		Burgesses	
	North	South	North	South	North	South
March 1543	9	1	6	4	5	4
December 1543	4	3	5	2	4	3
November 1544	4	5	4	5	4	4
July/August 1546	6	2	4	5	1	6
November 1558	5	1	4	5	1	6
April 1567	5	2	3	5	3	5

That the nobility were thus more evenly represented may be attributed, as before, to the fact that election to the articles was much more open in the estate of the nobility. In fact, the number of nobles represented on the articles corresponds exactly with the figures for the previous reign. Twenty-five were chosen to sit on the articles, of which 15 were selected more than once. Twenty one members of the clerical estate sat on this body, twelve more than once and of the fourteen burghs chosen, only ten were selected on more than one occasion. The same factors which had limited this choice in the fifteenth century were still much in evidence. Of the 47 places given to the clerical estate, 29 went to the bishops. Indeed, in four of the six parliaments all the bishops in attendance became members of the articles. In the remaining two, the bishops were represented by four of /

of their group. Similarly membership continued to be confined to the most important burghs. Edinburgh was given two places on all these committees. Dundee also was always represented, while both Ayr and Glasgow were chosen whenever in attendance. Once again in the main the most frequently chosen burghs (Edinburgh, Dundee, Ayr, Linlithgow, Cupar, Glasgow, Stirling and Aberdeen) were, because of their wealth and influence, in many ways the natural choice as representatives of the burghess interest.

However, historians have put a great deal of stress on the influence which James VI exercised over the selection, particularly when changes in the system of election made royal interference much more feasible, so much so that one might expect a very different pattern to emerge. Indeed examination of the table below indicates that the importance attached to geographical distribution had further declined.

Table 9

	North	South
December 1567	18	12
July 1568	11	13
October 1579	14	13
October 1581	14	12
May 1584	16	8
December 1585	13	9
July 1587	21	9
July 1593	22	18
May 1594	15	14
November 1600	19	12

	North	South
April, 1604	14	18
July, 1606	15	18
March, 1607	21	15
October 1612	18	14
June 1617	22	12
July 1621	18	13

Yet although none of these committees is equally represented from North and South, it is possible to exaggerate the extent to which geographical distribution became less important. The discrepancy between these areas in the parliaments of 1568, 1579, 1581, 1593, 1594, 1600, 1604, 1606 and 1612 is so small that the conclusion that this remained a consideration seems tenable. This is underlined by the composition of the estate of the nobility, the estate of the burgesses and to some extent the commissioners of shires. Reference to the table below will show that in the main the membership of these groups reflects geographical distribution, and only in the estate of the clergy does it seem less than relevant.

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Table 10

	Clergy		Nobles		Burghs		Shires	
	North Sth.		North Sth.		North Sth.		North Sth.	
December 1567	7	3	5	5	6	4		
July 1568	6	2	1	7	4	4		
October 1579	7	2	4	5	3	6		
October 1581	7	2	3	5	4	5		
May 1584	6	1	5	3	4	4		
December 1585	7	1	5	3	5	3		
July 1587	9	1	7	3	5	5		
July 1593	7	1	4	4	4	4	3	5
May 1594	7	1	3	5	3	4	2	4
November 1600	5	3	4	4	5	4	5	1
April 1604	4	4	3	4	4	5	3	5
July 1606	4	4	5	3	5	4	2	6
March 1607	7	3	5	4	5	4	4	4
October 1612	5	3	6	2	4	4	5	3
June 1617	7	1	6	3	5	4	4	4
July 1621	7	1	3	5	5	3	3	4

Nor is there any obvious decline in the geographical balance after 1606, as a result of the king's newly acquired right of nomination.

Some of the other characteristics of these earlier committees are still evident in this reign. In general, it remains the case that the elections of the representatives of /

of the estate of the nobility was much more open than for any of the other estates. As many as 49 nobles were selected on at least one occasion, but apart from the Earl of Mar who was voted on to eleven committees, this responsibility was evenly shared. In the estate of the burgesses, of the 55 burghs represented in parliament, only 15 ever sat on the articles. Among this group there was an obvious distinction between those who were occasional choices and those whose attendance usually guaranteed their selection. Of the fifteen who sat on the articles, seven sat on twelve or more committees and six sat on three or less.

However, without doubt, the onset of the Reformation and the policies of James VI did have some effect on the composition of the clerical representation. Thirty three of this estate were chosen to sit on the articles. Yet here again it is possible to exaggerate the extent to which this period differed from the earlier reigns. For of the 33, twenty sat on three or fewer of the sixteen committees. Whereas in the estate of the nobility only the Earl of Mar seems to have been virtually an automatic choice, in the case of the clergy four of its members were each chosen on ten occasions.

Moreover, those same factors which limited this choice in the years from 1567 till 1625 had been in evidence during previous reigns. Firstly that Edinburgh, Dundee, Perth, Stirling, Aberdeen, St. Andrews, Glasgow and Ayr should /

should be the most frequent choice underlines the fact that these elections continued to be confined in the main to all but the most influential burghs. Secondly, despite the many difficulties surrounding the episcopal office after the Reformation, the men who possessed at least the title of bishop continued to dominate the clerical share on the articles. They took up 71 out of the 119 clerical places. The most frequently elected clergy were all bishops. After the Act restoring the episcopacy in the 1606 parliament their position was considerably strengthened. Of the 43 clerical places on the articles in the parliaments of 1606-1621, 36 were occupied by bishops. Although James VI looked for, and got, considerable help from the bishops in parliament particularly after 1606, the dominance of bishops in these elections was not solely the result of government control. It had long been the custom that the most important office-holders in the church should be given place on the articles.

The Lords of Articles in Operation

Yet although the three estates and not the king selected the lords of articles, and its composition reflected their needs as much as the crown's, historical opinion as to the development of the articles has almost entirely been negative. Mackinnon wrote that that its existence and its manipulation of the main function of parliament rendered the estates very much a formality.⁽⁴²⁾ Innes conceded that the aim might have been administrative, but insisted that as time passed it was used to control the deliberation of parliament.⁽⁴³⁾ Kames suggested that the articles had a negative before debate and that this negative was more important than a king's veto afterwards.⁽⁴⁴⁾ Another historian acknowledged that it first originated with the members of parliament and was more likely to have proved an instrument of oligarchical, than of kingly tyranny; but the impatience of civil drudgery, which the warlike nobles possessed, threw the advantage into the hands of the king.⁽⁴⁵⁾ However, it is far too easy just to dismiss the articles as no more than an agent of the government of the day. The articles survived not because they had proved such an effective tool of royal manipulation, but as a result of the many vital functions they performed in the administration of parliament. And although the articles did exercise a great deal of control over what matters came before the three estates, this applied to government legislation as /

as well as to private. Nor was this control absolute. The tradition that all had the right to speak openly and freely in parliament was in the main upheld, and the three estates remained quite able to debate, alter and refuse matters agreed in articles.

One of the main duties of the articles was the receipt and preparation of items sent for the consideration of the three estates. Here the attitude of the historians noted above tends to obscure the fact that many items coming before the articles were of little or no concern to the king, and as such much of the time in articles was spent in discussion of other than government legislation. For many groups and individuals both within and without parliament took the opportunity of sending petitions and proposals, for example, the Perth Guildry Records contain a complaint to the parliament of 1560, by

'the haill communitie of craftisburges
of the burgh of Perth opon our nychtbouris
merchandis of the said burgh'.⁽⁴⁶⁾

In January 1571 the merchands of Edinburgh requested that the provost, baillies and council give in supplications in all their names before the lords of articles,⁽⁴⁷⁾ while in October 1587, Alexander Scrymgeour and James Haliburton gave in their supplication dyverse times to the lords of articles,

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'For redress and reduction of the decrets
forsaidis geivin be the hail commissionaris
of borrowis agannis tham in favour of Perth'.⁽⁴⁸⁾

In 1574 the general assembly expected a parliament

'whereunto sundry things are to be proponed
be the kirk'.⁽⁴⁹⁾

And in 1571,⁽⁵⁰⁾ 1579⁽⁵¹⁾ and 1592,⁽⁵²⁾ requests for
ecclesiastical representation in parliament were made
in the name of the kirk. In November 1599 the small
barons and freeholders prepared a number of points to
be given

'to the kingis maiestie and the remanent
estaitis to be consultit and provisioun
and reformatioun maid as necessitie
requiris'.⁽⁵³⁾

On 15 March 1543 Lord Maxwell offered a proposal for
the liberty of reading the bible in the vernacular.⁽⁵⁴⁾
Evidently more than the government looked for satisfaction
from the committee of articles.

Moreover because for much of this period, many of these
proposals by private individuals and groups would not
have been delivered until just before or after the opening
of parliament, this involved the articles in two other
vital administrative tasks. Firstly to ensure that
these proposals had been turned from their rather informal
state into a set format more fitting for presentation
to /

to the three estates, and secondly their inclusion in the programme of all the proposals to be put before parliament. These were time-consuming tasks, and so there were various devices to ensure that all petitions and supplications were delivered a period of time before the articles, so that the articles could be relieved of this responsibility. In 1528 letters were sent to some to come four or five days before parliament to advise what was to be proposed at that meeting.⁽⁵⁵⁾

In 1540 letters were sent to Perth and Dundee warning them to come and give in articles before the parliament.⁽⁵⁶⁾

In May 1578 the king proposed that all matters to be discussed in parliament were to be presented beforehand and that the council and some members of parliament should meet on 10 June to discuss what was to be brought before the parliament in July.⁽⁵⁷⁾ In 1594, apparently as a result

'of inconvenience at sindrie parliamentis
throu presenting of a confusit multitude
of doubtfull and informall articles and
supplicationis'.⁽⁵⁸⁾

it was proposed that a committee of four of each estate should meet 20 days before parliament to receive all manner of articles and supplications concerning the general laws or touching particular parties. These were to be given to the Clerk Register and by him presented to the persons of the three estates.⁽⁵⁸⁾

In /

In 1600 all measures to be dealt with in parliament were to be handed in to king and council before a given date.⁽⁵⁹⁾ In 1617 all petitions were to be presented to the Clerk Register 20 days before the meeting of parliament because many things coming before the estates were either unreasonable or so informal were useless.⁽⁶⁰⁾ And in 1621 all complaints and proposals were to be sent to the Clerk Register before the 20 May next so that they might be considered by a committee of the Council before being submitted to the court.⁽⁶¹⁾

For all these various attempts, the articles continued to be faced with the administrative problems of the arrival of petitions just as parliament began. For example, it was only on the 15 March 1543, the fourth day of parliament that Lord Maxwell offered his proposal for the liberty of reading the bible in the vulgar tongue.⁽⁶²⁾ In the 1594 parliament's petitions were accepted up until three days after the articles were chosen.⁽⁶³⁾ Significantly, both the general assembly and the convention of royal burghs continued to make arrangements to meet a few days before parliament in order to prepare their proposals. In 1576 the general assembly arranged to meet 4 days before the next parliament.⁽⁶⁴⁾ On December 1585, the convention of royal burghs likewise proposed to convene 4 days before the meeting of the next parliament.⁽⁶⁵⁾

Not only did the existence of the articles ensure that the three estates received these items in a proper form and as part of a considered, if not a well-ordered, programme, it prevented valuable parliamentary time being wasted on matters which could just as easily and perhaps more profitably be settled elsewhere or on measures which required a great deal of detailed discussion the time for which the three estates could not afford. For example, Alexander Scrimgeour and James Haliburton gave in their supplication to the lords of articles for redress and reduction of the decreets given by the whole commissioners of burghs against them in favour of Perth. Henry Adamson and Dennis Conqueror, commissioners for Perth were there present answering their allegations. The lords of articles

'remittit the decissiou thairoff to the borrowis simpliciter and be act of parliament maid thairupon ordanit the commissionaris of borrowis at their nixt conventioun to discuss and decerne thairunto betuix Perth and Dondy simpliciter and alsua in ranking and placing of the haill remanent borrowis without delay'.⁽⁶⁶⁾

Similarly in 1587 a supplication presented to the king and lords of articles by Jeane Toscheoch was remitted

'to the decisioun and ansuer to be gevin to the said supplicatioun to the lordis of counsall and sessioun'.⁽⁶⁷⁾

And /

And in 1578 the articles made use of the procedure whereby matters necessitating detailed analysis were put to a committee before being presented to the three estates and appointed a committee to deal with the question of the Second Book of Discipline.⁽⁶⁸⁾ In 1587 the articles appointed certain persons to arrange for the provision of the king's house for the next half year, to suggest an improvement in the manner of collecting and expending the king's rents, and to propose a plan for the payment of the king's debts.⁽⁶⁹⁾

Notwithstanding any administrative duties performed by the articles, historians have rightly tended to stress their political and constitutional implications. The traditional view of the development of the articles was that the three estates had allowed the articles complete control over legislation and turned parliament into no more than a court of registration, so that the crown in Scotland was able to gain complete ascendancy over the proceedings in parliament. Indeed the degree to which the three estates were prepared to allow their responsibility in legislation to be taken over by the committee of the articles is indicated by their willingness in 1535 and 1543 to give them 'full power of parliament'

'to devise and mac sic actis statutis
constitutionis for gude reule justice and
polecy to be had within this realme as can be
thoycht expedient and necessar tharto'.⁽⁷⁰⁾

So /

So too does the amount of legislation processed by the three estates in a very short period of time indicate that the three estates were quite ready to accept much of the legislation put before them by the articles, without any debate. Indeed even the articles themselves sometimes gave matters little consideration. In the parliament of 1612 it is noted that

'sum churche actes wer broght in and
hardlie examyned'

and many other matters received little attention from parliament itself. It is also recorded that

'the most part of all uther ratifications
wer wel liked bot the titles being red my
lord commissioner inquired if ony man wald
oppone and all being silent the articles',⁽⁷¹⁾

were passed.

Nevertheless the view that the articles became no more than a tool of the crown is far too narrow. Firstly although the Parliamentary Register is full of legislation originating from and beneficial to the government, for example, the ease with which successive heirs could revoke any grants made in their minority,⁽⁷²⁾ it is also full of many cases where individuals and groups had also worked successfully through the articles. For instance, the assise 'Anent wechtis and mesuris of 1426',⁽⁷³⁾ shows every sign of being burghal in origin. The 1456 statute 'of distresses taken by the schireffis and constablis faris' arose out of a complaint by the universall /

'universall burghs of the realme'.⁽⁷⁴⁾ The parliament of 1487 contains a number of articles which the burghs desired

'to be ratifyit and apprevit in this present parliament and to be put in execucioun of oure soverane lordis hienes his realme and weilfair of merchandis'.⁽⁷⁵⁾

The 1567 parliament includes legislation proposed by the barons freeholders and inhabitants of shires,⁽⁷⁶⁾ as well as a statute proposed by the commissioners of Edinburgh.⁽⁷⁷⁾ The 1578 meeting contained a supplication by David Hume of Fishwick⁽⁷⁸⁾. The list is inexhaustible.

Although it is also true that the articles used their powers of administration to keep their deliberations secret and did greatly influence which private legislation was in the end to be put before the three estates. For example, they tried to keep Lord Maxwell's proposal concerning the reading of the bible in the vulgar tongue a secret from the clerical estate⁽⁷⁹⁾ and in 1584 because the articles had been sworn to secrecy at every session, the clergy were prevented from effectively mobilising their opposition to the 'Black Acts'⁽⁸⁰⁾. So too did the articles refuse the church petitions offered in 1587 for the removal of the prelates.⁽⁸¹⁾ In 1606 the petition presented by the ministry against the erection of Bishoprics was refused by the chancellor in the name of the articles.⁽⁸²⁾ Nevertheless the crown's control over the articles was never so effective that it /

it could veto any measure of which it did not approve. For example James III was not able to veto the statute criticising his sale of remissions.⁽⁸³⁾ In 1612 the secretary took up the article anent the justices of the Peace

'not without contentious opposition as if he had preiuged the libertie of the estates in staying ane act pass in articlis',

because the commission and articles granted by the king and council had been so limited by the articles,

'as in the secretaris iugement distroyed thair power'.⁽⁸⁴⁾

Moreover it has been too readily assumed that the articles only exercised control over private legislation. In fact, the government should never be sure that its proposals would be acceptable to the articles and the estates. In 1592 it is reported that James VI was stirred and grieved by the

'denial of sundry things offered by himself and for his own benefit to the parliament, especially for the revocation of his grants made after the twenty-one years and after the 25th of his age with two or three others which were earnestly followed by him, and yet rejected'.⁽⁸⁵⁾

In 1606 although the king's directions were delivered to the articles by Dumbar 'the samyn wer neither red nor put to the voting'.⁽⁸⁶⁾ In 1606 James recommended that the three /

the three estates might vote a contribution for the aid of Dumbarton but the lords of the articles and the three estates felt it not meet to grant two taxations.⁽⁸⁷⁾ And although in 1607 the king was pleased that the union of England was passed, this pleasure was outweighed by his disappointment that the parliament had refused to grant two of his requests, preferred by the Duke in his name. The first was the headship of the Kirk, the second was the privileges of the peers.⁽⁸⁸⁾ In the 1612 parliament the proposal concerning the taxation to be granted to the king being 'much debaited' by the articles 'was remitted to the next day the estates meeting severally be themselves'. Only after great controversy in the articles it was agreed the next day by a vote of four or five to offer the king four hundred thousand merks. The matter however did not end there. Evidently the noblemen were not happy with the sum agreed and tried to win the support of the burghs and sent for nobles to come to the town and increase their numbers. On the 20 of October the commissioner and the noblemen met together, and the nobles were prepared to send two of their number to the court to debate that matter

'and rather to dissolve the parliament nor
give way to the taxation'.

The following morning the nobles decided rather on a course of mitigation and sent for some prelates and officers of state to propose that motion. A committee of /

of these men met and treated all that day without resort to articles, but once again no compromise was reached. On the next day, that is the 21 October, there still being no agreement two of the nobles offered to ride to court if the secretary (the Bishop of Glasgow) would do likewise. At this point the Marquis of Hamilton indicated his willingness to accept a 'foure and twentie thousand sterling', which being agreed they convened upon the articles 'and all in ane voce voted that sowme'.⁽⁸⁹⁾ Evidently the articles were subject to pressure from individuals and groups and could be forced to think again. Moreover it is apparent that even James VI could not be certain that the articles would carry his proposals through parliament. Nor was the control exercised by the articles absolute. Although James VI in 1607 wrote that no man could speak in parliament without the consent of the chancellor, for most of the period under consideration the right of every man to speak openly and freely in parliament had been upheld. For example, the articles were evidently unable to prevent the various protests as to their own election which appeared in the record of the 1525 parliament and James bishop elect of Ross was able to insist on the fact that

'he dissasentit to the chesing of the saidis lordis of artiklis and till it that war done be thaim in this present parliament.'⁽⁹⁰⁾

No /

No doubt in an effort to avoid any charges that the Reformation Parliament was in any way illegal, the Reformers offered the Bishops of St. Andrews, Dunblane and Dunkeld, the opportunity of pursuing their right to complain as to the way they had been treated.⁽⁹¹⁾

In 1567 the articles were able to refuse Arthur Hamilton permission to present a written protest in his capacity as proxy to the Duke of Chatelherault. They did not prevent his delivering of a spoken protest. Moreover, Arthur Hamilton significantly claimed that

'he mycht hafe place withowt impediment
to spek frelie in the face of the parliament
as the custome and law of the realme hes ay
bene patant and oppine to al men as procurator
for his master',

and that the articles admitted that if the Duke himself came

'and ajoyng him self with ws we sal do for
him as for our salffis in al thingis
lessume gyff he wil nocht lat him luk for
na thyng hir'.⁽⁹²⁾

In March 1572 the answer given by Mary's party to the articles proposing that the whole state of Scotland should submit to the authority of the king and that a parliament should be convened for that purpose, expresses their /

their doubts as to whether such a parliament would thus conform, it confirms that in normal circumstances the three estates

'had liberty to speak freely their minds
(which by the law cannot be denied to them).(93)

In 1578 the articles sent for three people accusing them as authors of novelty and sedition and molestation of the parliament. They wanted these three people to withdraw their protestation, one did so, the others refused and were charged to keep to their lodgings.(94)

Evidently the articles had not the power to veto the presentation of such a protest to the three estates and were forced to try to persuade the three accused to drop their protest and when this failed they had to resort to the drastic action of confining the three to their quarters. Indeed in 1617, James VI himself confessed that it was

'lawfull to any estate or persone of
quhatsomever degrie formallie to protest,
that be no imposed law his auncient
priviledges or liberties be hurt or
diminisched till he be hard speaking
for himself',

and confirmed that

'the nature of a parliament is, that all
estats hes libertie to speake frielie, and
complean wherein they have just cause of
greivance'.(95)

Accordingly, although the three estates were content to accept without discussion much of the legislation which had been debated and approved by the committee of articles, their right to question, alter and refuse such matters or insist on alternative proposals, was retained throughout. In 1525 the committee of the articles were evidently unhappy with some of the legislation of that parliament and joined in the protest by the Bishop elect of Ross that he 'disassentit till al thingis done or to be done in this present parliament that mycht be preiudice to the kingis grace'.⁽⁹⁶⁾ In 1543 the articles agreed to the proposal 'Anent the liberty of reading the bible in the vulgar tongue'; nevertheless a debate arose in full parliament with the Archbishop of Glasgow offering to the three estates his reasons for believing this act was not suitable and the entire estate of the clergy entered a protest as to their opposition.⁽⁹⁷⁾ In the 1604 parliament, although the articles had already been selected, when news was brought that the English were raising difficulties over the union, the whole parliament met again

'and charged the committee to listen to no proposals whatever regarding the union'.⁽⁹⁸⁾

R E F E R E N C E S

1. Innes, Kames, Makin^cnon, Rait and Robertson were all convinced that the crown came to control the lords of articles.
2. APS, ii, 3.
3. APS, ii, 9. (My Italics)
4. APS, ii, 13. (My Italics)
5. SRO, GD 124/10/8. (My Italics)
6. APS, ii, 288.
7. APS, ii, 289.
8. A. Wight, Rise and Progress of Parliament, Appendix VII, 423. Part of a letter from Randolph to Sir W. Cecil.
9. R.S. Rait, The Parliaments of Scotland (Glasgow, 1924), 8.
10. APS, iv, 7.
11. APS, iv, 124;260;365;413.
12. APS, iv, 467.
13. SRO, GD 90/2/46.
14. Ibid.
15. Ibid.
16. Ibid.
17. NLS, Adv. MS 33.1.1. Vol. i. 66, Denmilne MSS.
18. D. Calderwood, History of the Kirk of Scotland, edd. T. Thomson and D. Laing (Wodrow Society, 1842-9), vii, 490.
19. /

19. G. Buchanan, History, iii, 376.
20. SRO, GD 90/2/46.
21. W. Taylor, 'The Scottish Privy Council 1603-1625 - Its Composition and Its Work' (Edinburgh Thesis, 1950), 25.
22. APS, iv, 280; SRO, PA 7/26/5.
23. RPC, vii, 459-60.
24. APS, iv, 280; SRO, PA 7/26/5.
25. RPC, ix, 504-5. This makes it clear that Lord ^{Balfour of} Burley was the agent-provocateur in this parliament. Apparently it was his opposition to the item on taxation which caused him to oppose the king's recommendations regarding the articles. Nevertheless the fact that he won some supporters with the argument that James VI's actions curtailed the liberty of the estates is of some relevance.
26. RPC, vii, 459-60, (My Italics).
27. It is perhaps significant that the parliament of 1568 was also the first occasion when the articles included men who sat in virtue of being officers of state.
28. APS, iii, 333.
29. RPC, vii, 459-60.
30. APS, iv, 280; SRO, PA 7/26/5.
31. Ibid.
32. G. Buchanan, History, iii, 376.
33. CSP Scot, xi, 347.
34. /

34. SRO, GD 90/2/46.
35. APS, iv, 280; SRO. PA 7/26/5. Here the king acknowledged that the decision whether a new election of articles should take place in a running parliament belonged to the three estates themselves.
36. SRO, GD 90/2/46.
37. D. Calderwood, History of the Kirk of Scotland, vii, 250.
38. Ibid.
39. Ibid.
40. I must thank the Keeper of the SRO for the loan of the proofs of the 'Scottish Parliament' which has made the task of identifying many of these members much easier.
41. APS, iii, 443, c. 16. In 1587 it was enacted that the number of the lords of articles be equal in each estate, and the fewest number be six, and the greatest ten.
42. J.A.R. Makin^cnon, The Constitutional History of Scotland from Early Times to the Reformation (London, 1924), 275.
43. C. Innes, Lectures on Scotch Legal Antiquities (Edinburgh, 1872), 146-7.
44. H. Home, Lord Kames, Essays on Several Subjects concerning British Antiquities (Edinburgh, 1872), 49-50.
45. G. Buchanan, History, iii, 159.
46. Perth Art Gallery and Museum, Perth Guildry Records MS 449.
- 47./

47. Records of the Convention of Royal Burghs of Scotland, 1295-1597, ed. J.D. Marwick (Edinburgh 1866-90), 22.
48. Perth Art Gallery and Museum, Perth Guildry Records, MS 450.
49. Acts and Proceedings of the General Assembly of the Kirk of Scotland, (Bannatyne Club, 1839), 329.
50. CSP Scot, iii, 674.
51. Correspondence of Robert Bowes (Surtees Society, 1842), 17.
52. SRO, PA 7/1/41.
53. SRO, PA 7/1/48.
54. A. Wight, Rise and Progress of Parliament, Appendix XXI, Keith's Account of an act of 1543, 447.
55. Acts of the Lords of Council in Public Affairs 1501-1554, ed. R.K. Hannay (Edinburgh, 1932), 280.
56. Accounts of the Lord High Treasurer of Scotland, ed. T. Dickson and Sir James Balfour Paul (Edinburgh, 1877-1916).
57. SRO, GD 52/31.
58. APS, iv, 69, c. 28.
59. APS, iv, 191; CSP Scot, xiii, 725.
60. RPC, xi, 109.
61. RPC, xii, 475.482.
62. A. Wight, Rise and Progress of Parliament, Appendix XXI, 447.
63. APS, iv, 56.
64. BUK, 363.
65. RCRB, 205.
66. /

66. Perth Art Gallery and Museum, Perth Guildry Record,
MSS 449, 450.
67. APS, iii, 495, c. 103.
68. D. Calderwood, History of the Kirk of Scotland, iii, 415.
69. SRO, PA 7/23/1, MS 69, Additional Parliamentary Papers.
70. APS, ii, 340, 423.
71. SRO, GD 90/2/46.
72. This was certainly remarkable, but in the chapter on
taxation it is suggested that this was to ensure the
crown would not need to come for taxation.
73. APS, ii, 12, c.22.
74. APS, ii, 46-7, c.9.
75. APS, ii, 178.
76. APS, iii, 31, C.27.
77. APS, iii, 33, c.36.
78. APS, iii, 111, C.31.
79. A. Wight, Rise and Progress of Parliament, Appendix XXI,
Keith's Account of an act of 1543, 447.
80. D. Calderwood, History of the Kirk of Scotland, iv, 62.
81. G. Buchanan, History, iii, 154.
82. D. Calderwood, History of the Kirk of Scotland, vi, 491.
83. APS, ii, 118, c.2.
84. SRO, GD 90/2/46.
85. /

85. CSP Scot, x. 686.
86. Original Letters relating to the Ecclesiastical Affairs of Scotland, (Edinburgh, 1841), i, 58.
87. Letters and State Papers during the Reign of James VI, ed. J. Maidment (Abbotsford Club, 1836).
88. Calender of State Papers, Venetian (London, 1864 .) xi, 36.
89. SRO, GD 90/2/46.
90. APS, ii, 289.
91. A. Lang, History of Scotland (Edinburgh, 1903-7), ii, 68-79; P. Hume Brown, John Knox (London, 1895), ii, 85-91. Both discuss the legality of the Reformation Parliament.
92. Lennoxlove, Hamilton, MS M1.8. C.148.48.
93. CSP Scot, iv, 142.
94. D. Calderwood, History of the Kirk of Scotland, iii, 416.
95. Original Letters relating to the Ecclesiastical Affairs of Scotland, ii, 531.
96. APS, ii, 289.
97. A. Wight, Rise and Progress of Parliament, Appendix XXI, 417.
98. Calender of State Papers, Venice (ed. R. Brown and Others (London 1864), x, 223.

C H A P T E R 4

GENERAL COUNCILS AND CONVENTIONS OF ESTATES

To many historians the committee of the articles was just one example of the manner in which the authority and independence of parliament was undermined. Another example was the existence alongside parliament of general councils and conventions of estates. There, or so it is argued, decisions were taken in matters which in England had long been jealously guarded as being the exclusive concern of parliament. In Scotland, it has been contended, only in certain judicial matters did parliament retain exclusive jurisdiction, namely, in the pronouncement of final sentence in appeals by falsing the doom and in forfeitures for the crime of treason.⁽¹⁾ Particular note is taken of the role which general councils and conventions of estates played in the granting of taxation.⁽²⁾ The view that the need for these other institutions reflected some inherent weaknesses in the parliamentary system might indeed be constitutionally sound. At the same time, the continued existence of general councils and conventions of estates may also have hindered the development of parliament into a more powerful engine of government. It should not be too readily assumed that general councils and conventions were the same body or that either of these institutions seriously challenged the authority of parliament. In reality, the origins of general councils and conventions appear /

appear rather different. Consequently, their powers also differed. In the main, however, the greatest care was taken to ensure that both worked in co-operation with, and not as rivals to parliament. Nor did the fifteenth and sixteenth centuries witness a steady encroachment by other institutions on the powers of parliament. On the contrary, the trend was rather to limit the scope and authority of decisions taken outside parliament. Scotland as elsewhere became aware, perhaps rather slowly, of the greater moral and legal force of decisions made by the three estates in parliament.

The essence of general councils lay in the presence of all three estates. Conventions, however, long retained the character of a meeting which consisted of the council and certain of the nobility but from which the burghs were excluded. That all three estates were expected to attend general councils as they did parliament is evident from the summonses issued for the first such meeting in the reign of James I, that is in March, 1428, and in July, 1428. On both these occasions, summonses were given not only to the bishops, abbots, priors, earls, barons and freeholders but also

'de quolibus burgo certis burgensibus'.⁽³⁾

In the general council of October 1429, for which the only record is the Lambeth MS, the burghal element is clearly defined. There it was noted that by

/

'the deliverance of the kingis last consale
haldyn at Perth the first day of October the
yeir of God etc xxix. And put heir in writ
eftir the intent of the commissaris of
borrowis'.⁽⁴⁾

At the beginning of the reign of James II, the statute
'Of alienacions of landis and movabil gudis in prejudice
of the crown' was enacted by a

'generale consale that is to say, the clergy,
baronis and commissaris of burowis beande in
this generale consale'.⁽⁵⁾

In the many other general councils of the reign of
James II, no direct reference was made to those present.
Nevertheless, the format of many of the statutes confirms
the presence of all three estates. In August 1440, for
example, two out of the three statutes were approved
by 'the hale three estatis', while the third was
concluded by the 'three estatis'.⁽⁶⁾ Similarly, the
first statute of the meeting of 4 November 1443 noted
the support of the three estates.⁽⁷⁾ In the parliament
of January 1450, it was proposed that a general council
would meet on 4 May 1450, and that

'all bischopis abbotis and notably beneficit
men of the realm that aw in generall consaill
and parliament as erllis and lordis of
parliament and gret lordis be haldin to be
thar efter the precept of the kingis lettres
sall cum to thaim and also the commissar of
all burows'.⁽⁸⁾

The first statute of this general council of May 1450 was

'assentit, consentit and ordanit be the king and the three estates'.⁽⁹⁾

A similar reference was made in the second statute of October 1456.⁽¹⁰⁾

The intention that all estates who were liable to appear in parliament were also obliged to come to general councils seems clear. In 1426, it was enacted that all

'prelatis erlis baronnis and frehaldaris of the king within the realme sen thai ar haldyn to geif thar presens in the kingis parliament ande general consale fra thin furth be haldyn till apper in propir person!⁽¹¹⁾

The statute of March 1428 relieved the small barons and freeholders of their liability of attending general councils as well as parliament. The commissioners who were to take their place were to

'propon all and sindry nedis and causis pertening to the commonis in the parliament or generall consal'.⁽¹²⁾

In 1458 it was enacted that

'na frehalder that haldis of the king vnder the soume of xx li. be constrenzeit to cum to parliament or generale consale'.⁽¹³⁾

The /

The evidence becomes, rather conversely, much more scanty after 1466 when the official record is extant. The reason for this apparent contradiction is that this register does not include the minutes of general councils. It is certainly possible that the records of general councils were also excluded from the now lost records of general councils before 1466. It is, however, perhaps significant that Lambeth, which as was discussed in Chapter I derived its text from the papers [P] themselves did include meetings of general councils, namely, of March 1428 and October 1429. And Group D whose text for the parliaments of James I, was a register [R] compiled as early as 1450, also included records of general councils alongside those of parliament. The suggestion that the decision was taken in the reign of James III, to separate the minutes of general council from those of parliament, seems plausible. In the reign of James III, general councils became a much less acceptable alternative to meetings of the three estates in parliament.

Certainly the approximation of personnel in parliament and general council, which was a feature of the reigns of James I and II, became somewhat diminished in the reign of James III. It has already been noted that the statutes of 1426, 1428 and 1458⁽¹⁵⁾ had applied equally to attendance at parliament and general councils. In 1504, however, the statute relieving the small barons and /

and freeholders, who held land valued at less than 100 marks, from the obligation to come to parliament made no mention of general councils.⁽¹⁶⁾ By 1504 the need to come to general councils had become less pressing. It had not however been taken away, by law those obliged to come to parliament remained liable to come to general councils, hence in August 1546 there were complaints that

'divers prelatis of this realm also weill
bischoppis as abbotis that aw personele
comperance at all generale consalis and courtis
of parliament ... haif contemnandlie disobeyit
thair requisittonis and chergis'.⁽¹⁷⁾

However, with the changing attitudes to general council, it was no longer essential to ensure compliance with that law.

Much the same can be said regarding the presence of the three estates at later meetings of general councils. In the parliament of 1504, it was enacted that the

'commissaris and hedismen of burrowis be warnit
quhen taxtis or contributiouns ar gevin to haif
thairintill as ane of the thre estates'.⁽¹⁸⁾

This, concluded Hannay, leads to the supposition that in varying degrees, according to the importance of business, burghs were excluded.⁽¹⁹⁾ It is possible, however, /

however, to view this in a different way. The two statutes of the 1504 parliament should be taken together, namely, the act which insisted that the burghs be warned when the issue of taxation was to be raised and secondly, the statute, noted above, which relieved certain of the lesser barons from the need to come to parliament. The absence of any mention of general councils in this latter statute led to the conclusion that although by law those who were liable to come to parliament were also supposed to attend general councils, in practice this was no longer always insisted upon. It seems possible that the same might be said of the burghs. Although as one of the three estates they had their place in general councils, it had become customary to excuse them. From 1504, however, when such meetings included discussion on taxation, the burghs as had been their right as one of the three estates were to be given the opportunity to take part.

The question of thinning attendance at general councils ought to be considered together with the trend towards less frequent meetings of general councils and parliaments. After 1450, Hannay suggested that it seems likely that general councils had met in 1456, 1473, 1497, 1511, September 1513, November 1513, May-June 1514, September, 1514, 1517 and December 1519. Parliaments also became much less frequent in this period. In the reign of James IV from November 1494 until /

until 1513 there is only record of parliament meeting on three occasions (and this does not include the continuation from March 1504 to June). This trend was not confined to Scotland. In the reigns of Henry VII and Henry VIII in England, and also in France, meetings of parliament became much less frequent. In general the estates lost their position and power in early sixteenth century Europe.

With this failure to insist that all who attended parliament ought also to appear at general councils, the inevitable diminution of general council's numerical strength and the regular non-appearance of one of the estates, general councils began to bear some resemblance to meetings of the council.⁽²⁰⁾ Appearances, however, can be deceptive. In essence general councils remained meetings which all three estates had the right to attend.⁽²¹⁾ Now, however, the duties of general councils no longer appeared to merit any enthusiasm among the estates to exercise their right to attend meetings of general council. Nor did the crown feel it necessary that the letter of the law was complied with. General councils as meetings of the three estates were a dying, but not yet dead tradition. And as will be discussed below, in the latter part of the fifteenth century legislation seems to have become the function of parliament alone.

This is where the confusion arises. At a time when general councils, as a result of infrequent attendance, began /

began to resemble a meeting of the council, there emerged conventions of estates which shared this same characteristic of resembling the council. What made the whole question even more difficult is that as Hannay pointed out there appeared to be no breach of continuity between general councils and conventions.⁽²²⁾ In 1545 conventions were evidently a well-established tradition. In that year mention was made of the General Convention

'now held in Striveling lik as hes bene this long tyme'.⁽²³⁾

Yet in August 1546 reference might still be made to all prelates who owed their presence in general councils and other courts of parliament.⁽²⁴⁾ However, the tradition of these conventions did not lie in the meetings of the three estates in general council. They were rather a development of the informal meetings of the nobility which had become a feature in the fifteenth century and particularly in the disturbances of the latter part of the reign of James II. Therefore, for a long time these conventions remained solely a gathering of the council and certain of the nobility, from which the burghs were excluded. Only belatedly, and then rather spasmodically, did they begin to acquire some of the characteristics of a meeting of the three estates.⁽²⁵⁾ Even then the format used, often betrayed the fact that its origins were not the meetings of the nobility. /

nobility. All the earlier conventions were exclusive gatherings. In June 1545 letters were sent only to prelates, earls, lords and great barons to convene on 23 June 1545

'to trete commune consult and conclude, upoun sik effaris and besynes as concernis the commoun wele of the realme'.(26)

In August 1545 because of the great and weighty matters to be treated, it was deemed necessary to convene the

'principall lordis barronis baith spirituell and temporall of the realme'.(27)

In July 1565 it was recorded that diverse noblemen convened and assembled at the burgh of Edinburgh.(28)

In fact, the first occasion when the burghs were present at a convention of estates as opposed to the general council was in 1566.(29) That was only after it had been decided in the parliament of 1563 that

'all provestis aldermen baillies counsall and communitie and inhabitantis of burrowis of this realme be rather augmentit in thair privilegeis maid be hir grace and hir predecessouris to thame nor diminisit thairintill and so parliament statute and ordanit be the avise of the thre estatiss of this present parliament that fyve or sax of the principallis provestis aldermen and baillies of this realme sall in all tymes to cum be warnit to all conventiounis that sall happin the /

'the quenis grace and hir successouris to
conclude vpone peax or weir with quhatsumever
hir hienes confederatis or inimeis or making or
granting of general taxatiounis of this realme,
And that hir hienes or counsill sall not conclude
nor decerne vpone peax weir nor taxatiounis
foirsaidis without fyve or sax of the saidis
principallis provestis aldirmen and baillies of
burrowis be warnit'.⁽³⁰⁾

Therefore when the issue of a taxation for the king's
baptism was raised ⁽³¹⁾ in the convention of 1566,
this was done, not surprisingly, in the presence of
commissioners from some of the burghs. But the statute
of 1563

'did not amount to a definition of a convention
as an assembly of the Three Estates, for only a
few selected burghs were to be summoned, and the
statute implied that conventions held for other
purposes did not necessarily include burgesses'.⁽³²⁾

It was not until 1567, however, that the burghs as an
estate gained the right to attend conventions. In
that year, it was enacted that

'in all tymes cuming a quhare thair salhappin
ane generale conventioun to be for the wechtie
effaris of the realme that the provestis of
burrowis or thair commissionaris be requirit
thairto /

'thairto and thair consentis had to be the samym, and in speciale for generale taxtis or extentis.'(33)

It was from this point that conventions began to acquire the characteristics of a meeting of the three estates. Their origins were nevertheless not forgotten. In the convention of 1568 despite the presence of the burghs it was noted that

'in presence of my lord regentis grace, the lordis of secreit counsall and utheris of the nobilitie and estaittis abone specifiet', (34)

Master John Wod one of the senators of the College of Justice reported his negotiations with the queen and council of England. Similarly the answer given by the regent to the articles directed by the general assembly were

'with avise of the lordis of secreit counsall and utheris of the nobilitie and estaittis assemblit at the conventioun in Perth, the xxix day of Julii', 1569. (35)

In September 1571 a number of articles were agreed by the Earl of Mar and the

'nobilitie, counsale and estaittis'. (36)

In February 1581 the

'nobilitie, counsale and estaittis presentli convenit'. (37)

appointed /

appointed a commission anent the new cunzie. Conventions were not meetings of the three estates, as had been the general councils, but meetings of an estate or of the estates to which the council had been added.

Hannay made the point that the statute of 1587 proposing the election of commissioners of shires general council and general convention appear to have been convertible terms,⁽³⁸⁾ but he himself was aware that there was some suggestion that the general convention was a convention of lords without shire or burgh representatives. This view does not go far enough, for the terms 'general council' and 'convention' appear together on precisely these occasions when the meetings consisted of representatives from all three estates as was certainly the case in the 1587 statute. For instance, in 1581 the convention of the royal burghs submitted the priority of place of the burghs in parliament, to the other two estates in the next parliament or general council and convention.⁽³⁹⁾ In 1592 when the matter in question was the ecclesiastical estate, it was asked

'quha sall occupie the place of the
ecclesiasticall estait in the kingis
parliament, conventions or counsalle
and how many'.⁽⁴⁰⁾

In essence, general councils had been meetings of the
three /

three estates. Conventions, however, long retained the characteristics of the fifteenth-century meetings of the nobility. Not surprisingly, when conventions too began to be composed of all three estates, the name of general councils came once again to the fore. In October 1531, liberty was granted to a certain constable and his deputies

'to uptak the saidis constable feis be schawin and producit befoir his Majestie his, thre estaites in parliament or generall council'.⁽⁴¹⁾

In 1599 the small barons, by then firmly established as one of the three estates, petitioned for the right to convene together before meetings of the estates because as commissioners of the shires they

'suld expone and declair the grevis of the commonis in parliamentis and generall counsalis quhilk can nocht be done without conference amangis thame selffis befoir the conventioun of the parliament or generall counsale'.⁽⁴²⁾

As a meeting of the three estates in essence general councils were a public meeting. Hence in the reigns of James I and II, general councils were like parliament held in a public place. The general councils of March and July 1428 were with the parliament of April 1429 noted to have been held at Perth.⁽⁴³⁾ The tolbooth at /

at Stirling provided the location for the general councils of March 1439 and August 1440.⁽⁴⁴⁾ Although on 8 May 1450 the lords of the three estates gathered and assembled at the 'frere kirk', this general council had 'begunyn in the tolbutth'⁽⁴⁵⁾ four days earlier. Significantly, this procedure was not confined to meetings of general council. The preamble of the following parliament, in June 1451, also recorded that this meeting had been 'begunnyn in the tolbuyth'.⁽⁴⁶⁾ The fact that general councils were convened in a public place was in line with the spirit of meetings of the three estates in parliament. In 1578, the proposal that the parliament should be held at Stirling Castle led to many complaints that this denied the lieges rightful free access to repair and resort to the king and the lords of articles.⁽⁴⁷⁾

Conventions of the estates for their part, were generally held in one of the palaces or castles. The convention of 1579 was held at Stirling castle while a meeting in 1581 took place at Holyroodhouse.⁽⁴⁸⁾ This difference was of some symbolic importance. General councils and parliaments were public meetings open to all three estates. The origins of these conventions were informal meetings characteristic of a private meeting. Therefore traditionally

'Conventions of estates consisted of any number of the three estates, called off the streets summarly by the King'.⁽⁴⁹⁾

Therefore /

Therefore while in 1558 the principal lords in Scotland had consented to their queen marrying a foreigner, this had not

'been proposed or resolved in public council, but that the mind of the majority had been otherwise ascertained'.⁽⁵⁰⁾

James VI commanded the Master of Forbes to appear at Stirling on 10 June 1578 at a meeting of the council and 'certain selected members of the estates'.⁽⁵¹⁾

In 1581 there was a selected number of the nobility at a convention to discuss what was to be done in parliament.⁽⁵²⁾ It was noted that those burghs and nobility called to the assembly of 1583 'sal be well chosen'.⁽⁵³⁾ Once again in 1592 James held a meeting of the nobility to discuss what was to be discussed in parliament.⁽⁵⁴⁾

Although these meetings with their restricted personnel continued long into the reign of James VI, the view that the three estates must be adequately represented at any meeting where vital decisions were taken was becoming established. The statutes of 1563 and 1567⁽⁵⁵⁾ which gave the burghs the right to take part in decisions on certain matters, have already been noted. As a result of the small assembly in 1581, the meeting had to be adjourned until April next.⁽⁵⁶⁾ In 1582 Bowes noted that the convention which should have begun on 10 October was not likely to enter into any great matter before the

'xviiiith hereof; at which time the rest of the nobility willing to come to this assembly will be present'.⁽⁵⁷⁾

In the convention of 1583 discussion of the king's debt was postponed until the following morning because few or none of the burgesses were there.⁽⁵⁸⁾ In 1587 the Lord Clerk Register expressed the view that no tax might be

'imput upon the liegis without the special advise of the thre estatiss at thir convention in parliament or in publict convention'.⁽⁵⁹⁾

Certainly, as will be discussed below, conventions had the power to impose taxation. Nevertheless, by the reign of James VI there was some awareness in Scotland of the greater moral and legal force of decisions made by the three estates. Consequently, the scope of matters and decisions by any semi-private and exclusive body, as conventions had been in the earlier part of the sixteenth century, considerably narrowed.

Moreover, conventions, with or without the presence of all three estates, were not allowed to encroach further and further on the authority of parliament. Not only did the consent of the three estates become essential, the tendency was to insist that this consent was achieved in the end at meetings of the three estates in parliament. In the fifteenth century, it will be argued, general councils within certain /

certain limitations functioned as an alternative to meetings of the three estates in parliament. From the reign of James III, however, these entered into a period of decline. Instead a new institution derived from the meetings of the nobility grew up. This new body acted more as a supplement than an alternative to parliament. Its duties did not remove the need for parliament but only kept things going between such meetings.

One need not look far for the motives behind three of the four general councils which met in the reign of James I. Balfour-Melville pointed out, firstly, that the general council of July 1428 coincided with the embassy sent by Charles VII to propose that the Franco-Scottish alliance be renewed and strengthened by marriage between his son and James I's daughter. On 19 July James I proclaimed that by

'advice and deliberation of the council general, he promised to give his daughter, Margaret, to be the wife of Louis'.⁽⁶⁰⁾

Secondly, he also mentioned that the general council of October 1436 closely followed James I's disastrous attempt to recapture Roxburgh, and that many of the statutes of this council suggest that a truce had been patched up.⁽⁶¹⁾ Rather than wait until parliament could be summoned at 40 days notice, when the matters needing attention were of a pressing nature, the crown proffered to resort to a meeting of the general council.

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This does not entirely explain the function of general councils, for there were occasions when there were no matters needing an immediate response from the three estates. There is no evidence to suggest that this was the case in October 1429.⁽⁶²⁾ Indeed, the most likely explanation for this meeting is that there were only a few minor matters needing the attention of the three estates. As was noted in Chapter 1, because there were some items left over from the parliament of April 1429, it had been decided to continue that parliament until the feast of St. Martin in November.⁽⁶³⁾

In the meantime, James I took the opportunity offered by the meeting of the Court of Four Burghs which convened annually in October, and instead convened a general council. Only a few matters were dealt with but these were evidently sufficient to remove the need for parliament to be reconvened in November. Instead the general council proposed that parliament 'be sett about mydsomer'.⁽⁶⁴⁾ Hence on this occasion when only a few matters of legislation were outstanding, a general council saved all the trouble of summoning the three estates in parliament.

In the reign of James II, however, general councils were more than an occasional convenience. The estates met almost as often in general councils as they did in parliament. Mrs. Dunlop suggested that there was a sound constitutional /

constitutional reason for this. Her explanation for the frequency of general councils in the reign of James II, was that there was for much of the time no regent technically competent to constitute a parliament.⁽⁶⁵⁾

She paid particular attention to the general council of November 1443.⁽⁶⁶⁾ This council was summoned at considerably more than 40 days' notice and had an undeniably important judicial function when it 'blewe out' on the chancellor.⁽⁶⁷⁾ This, it has been suggested, was a parliament in all name, but in the absence of a regent, a general council had instead been appointed.⁽⁶⁸⁾

This strictly constitutional view ignores one of the most important features of general councils, namely, the minimal nature of the legislative output. Only two statutes emerged from the meeting of March 1439,⁽⁶⁹⁾ three from August 1440,⁽⁷⁰⁾ two from November 1443⁽⁷¹⁾ and two from May 1450.⁽⁷²⁾ Only the general council of October 1456, with its eleven statutes, had a large legislative programme.⁽⁷³⁾ The increased frequency of general councils came at a time when the absence of a legislative programme was marked.

The coincidence of general councils with a limited legislative output does suggest that there were recognised limits to what might be done at such a meeting. The powers of general councils, however, must not be underestimated. In 1587, when it was proposed to print a new edition of the acts of parliament, it was observed that

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'In the actis alwell imprentit thaire is
saidis actis apperande not apperand in parliament
bot in generall counsell'.

Consequently, the Clerk Register was asked whether he
thought

'thame of like validitie as actis of
parliament'.(74)

Indeed , there was nothing to suggest that acts of
general council had any less legal force than those of
parliament, for in the case of conventions, as will be
discussed below, items of legislation were dependent
on ratification by parliament. The statutes of general
council contain no reference to ratification by a future
parliament. Moreover Balfour-Melville cited the
enactments of the general council of 1428 (almost certainly
with the statute proposing the election of shire commissioners
in mind) as evidence that the first-rate importance of
its legislative output of March 1428 indicates that
general council, was not inferior to parliament in this
respect.(75)

The first doubts as to the competence of general
councils comes with the important question of taxation.
Thomas Thomson wrote that the general council was an
institution which *had*

'almost as much power and which could impose
tax'.(76)

A.A.M. Duncan, however, claimed that despite many modern statements to the contrary, general councils could not grant taxation, a function which was limited to parliament.⁽⁷⁷⁾ Indeed, there is no conclusive evidence of a general council having granted any taxation. There is, however, the enactment of the 1504 parliament, which insisted that

'commissaris and hedismen of burrowis be warnyt quhen taxtis or contributions ar gevin to haif thair avise thairintill as ane of the thre estatis of the realme'.⁽⁷⁸⁾

It is possible that this refers to some now lost particular episode in which the burghs were not properly consulted over a taxation and protested. It seems more likely, however, that the point at issue here was whether the burgesses (who by 1504 were no longer necessarily summoned to meetings of general council) ought in future be warned when taxation was due for discussion in general council. Rait for his part was certain that this statute of 1504 referred to the attendance of the representatives of burghs at general councils, because

'burgess members were an integral part of Parliament and were regularly summoned to Parliament in the ordinary way, and the obvious implication of the Act is that the king was summoning General Councils which did not include the burgess estate'.⁽⁷⁹⁾

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It would appear that in 1504 some body other than parliament, was competent to grant taxation. The minutes of the conventions of estates after 1545 leave no doubt that they had that power. Their tradition moreover was well-established by 1545, and their origins are to be found in the fifteenth century. The assumption, however, without any evidence to substantiate the view, that these conventions had, by the end of the fifteenth century, already developed to such a stage that they, unlike the general councils which still existed alongside them, had the power to grant taxation is unwarranted. Moreover, as will be discussed below, in the main general councils appeared to have been more powerful than were conventions of estates. Consequently, it seems unlikely that the latter would be able to impose taxation, where general councils could not. The evidence remains inconclusive. It should be noted however, that on 29 February 1516, it was noted that Leith owed £80 'for thair taxt to the furnesing of the ambassatouris to France'.⁽⁸⁰⁾ Secondly, on 3 March 1516 there was a supplication by Sir Robert Logane of Restalrig to the effect

'that quhar now laitly be the lordis of
consell the said Robertis tenentis and town of
Leitht ar taxt with the burrowis of the haile
realme'.⁽⁸¹⁾

We cannot be sure that the lords of counsell mentioned here were those present at the now much depleted general council. /

council. It is perhaps significant, however, that the decision to send ambassadors to France had been taken by a general council in November 1513, where it was enacted that

'ambaxiatoris suld be send with sufficient power and commissioun', (82)

to the realm of France.

So what was the relationship between general council and parliament? On the one hand, there is evidence that general councils might legislate finally on some very important matters, and yet on the other hand, we are faced with a great deal of evidence that the work of general councils must be equated with a slight legislative output. One clue as to the possible relationship between general council and parliament came in January 1450. This parliament ordered a general council to meet at Perth in May 1450. In certain judicial matters this meeting was to 'haf the form and effect of the parliament now beand', (83) It seems likely that general council fulfilled many of the functions carried out by a commission of parliament. There was certainly some precedent for equating the work, if not the function, of general councils with such a commission. For instance, this would tie in with Hannay's /

Hannay's view that it is a mistake to see in the commissions established by parliament in 1370 the origins of the committee of articles. In essence the committee of articles was a committee of report and not, as was the case in 1370, a commission with power to determine. The most significant fact about the situation in 1370, in Hannay's opinion, was the fact that the whole commission was styled by the clerk 'consilium generalis'.⁽⁸⁴⁾ This denomination of a commission of parliament by name of general council was repeated in 1424,⁽⁸⁵⁾ (probably because of research by James I's clerks into records of David II). Hannay cited the case anent the priory of Coldingham, when the presidents of parliament as the committee on justice gave decret; instructions were given to the rightful prior 'per dominum regem et suum consilium'. The whole finding, decret and instructions, was then incorporated as an act of parliament. However, the extract at Durham has above the tag of the seal 'actum consul generalis'.⁽⁸⁶⁾ This equation of general council and a commission of parliament was underlined in the reign of James III, for this was the period when general councils appeared to be a less acceptable alternative to meetings of the three estates in parliament. It was also the time when it became customary for parliament to appoint representatives of the three estates to a commission which was to have the

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'ful power and strength of the hale thre
estatis of this realme'.⁽⁸⁷⁾

This procedure was followed in the parliaments of 1469, 1471, 1474 and 1478⁽⁸⁸⁾ and the need for meetings of general council, somewhat diminished.⁽⁸⁹⁾ Although general councils had met only when some matter needed immediate attention, or when there was a limited legislative programme, in the reign of James III opinion seemed rather to favour the appointment of such a commission by parliament itself to cover any such eventualities. The idea that the power of legislation lay solely with the three estates in parliament, was becoming established.

Although in the sixteenth century a new rival emerged in the form of the convention of estates, the view of parliament as the supreme legislative assembly survived. In the fifteenth century the statutes of general councils had been equal in force to those of parliament. It was therefore not surprising that in 1587, as has already been noted, the Clerk Register should be asked whether he considered acts of general council to be of the same validity as those of parliament.⁽⁹⁰⁾ Significantly there was no suggestion at this, or at any other, point whether statutes of conventions might be so considered. In many ways the powers of conventions were much more restricted than those of councils. Whereas general councils might in some way function as an alternative to parliaments, conventions might not. What they did do, with some success /

success, was to supplement these meetings. Many of the duties of conventions involved ensuring that statutes of parliament were being effectively executed rather than initiate legislative matters for itself. However, where legislative action seemed necessary, conventions were only a preliminary to a final decision being made by parliament. Its acts, unlike those of general councils, only had temporary force until they were ratified by the three estates in parliament. For instance, an act for the punishment of strange and idle beggars and provision for sustenance of the poor and the weak, which was enacted at a convention of March 1575, was only to endure

'quhill the nixt conventioun or parliament'.⁽⁹¹⁾

The duties of conventions therefore fell into two main categories - executive and legislative. The examples of conventions acting in an executive capacity are numerous. For instance, the convention of March 1575 included an item 'Anent the making of wapinschawing'. This statute began with an observation that in times of peace it was necessary to make preparations for war. To that end various acts of parliament, particularly in the reign of James V, had enacted that there were to be wapinschawsings twice a year. Evidently, these statutes were not being observed because the convention of 1575 urged

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'that the saidis wapinschawingis be kept according to the intent and meaning of the saidis actis of parliament'.⁽⁹²⁾

At the convention of September 1586 it was noted that a great number of respites and remissions had been given contrary to the provisions of an act of parliament of 1584. This convention confirmed that any remissions given contrary to these provisions would be null and void.⁽⁹³⁾

Yet the duties of conventions involved them in more than just seeing acts of parliament were executed. Sometimes they had to take action for themselves. It was a convention and not a parliament which, in 1585, decided to treat with Elizabeth for a league with England. The fact that this action was taken by the convention was justified on the grounds of

'the greate and urgent necessitie of the said league and how the same may na langer be protractit nor without perrel differit to a mair solemne conventioun of the haill estaittis in parliament ... quhais body in this conventioun we represent'.⁽⁹⁴⁾

Particular note should be taken of the role the conventions played in the granting of taxation. In 1566, for example the convention granted a sum for the purpose of the king's baptism.⁽⁹⁵⁾ In 1581 the estates at the convention granted /

granted a tax of £40,000 for the defence of the borders.(95)
In 1583 Angus was evidently annoyed because the convention refused to grant the taxation asked for, because he realised

'that a tax might be granted by a convention without a parliament'.(97)

Nevertheless the distinction between parliament and convention remained very clear. Hence the discharge given to the Earl of Argyll by the convention of March 1575 was to be ratified in the next parliament. The attestation given by a convention of August 1579 of the good service of the Earl of Mar was apparently not sufficient, because he wanted this

'attestatioun declaratioun and discharge to be ratifiit and approvit in his hienes nixt parliament'.(98)

Bowes noted that at the convention appointed to meet on 10 October 1582, it was hoped to establish some order for religion and

'to appointe a parliament to confirme the acts to be concluded at the convention aforesaid'.(99)

An act declaring that the Earls of Angus, Huntly and Argyll were to be admitted to the benefit of the act of abolition was enacted at the convention of January 1594,

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'and to this effect the saidis nobilitie counsale and esteatis adviseis his Maiestie to caus ane parliament to be proclameit and appointit sasone as conveniently may be'.(100)

This same convention nominated certain noblemen and others to be of the privy counsal. However, not only were these nominations merely to last until a meeting of parliament or general council, it was also stressed that any person entitled by an act of parliament to sit on the privy council were not to be excluded. As

'all noblemen and utheris expressit in the said act of parliament ar nawise secludit Bot admittit to have access place and vote'.(101)

Although a convention had the authority to grant a taxation, there were some limitations as to how this could be exercised. At a convention of 1583, there was a long debate because James VI had asked for a sum in taxation so that he might pay off his debts. It was argued that it was a novelty and dangerous precedent to grant a tax for such a purpose.(102) It was eventually concluded that this matter should not be decided in this convention, but rather that a parliament be held at Edinburgh to discuss this entire matter. Finally, in 1605 Bowes noted that diverse things had been motioned to the convention concerning the estate of the country but

'generallie this ground was held by the maist part that a conventioun might not medle with anything that appearit to derogat till ane act of parliament or whereof the establissing requirit the authorite of a parliament'.⁽¹⁰³⁾

Hence all matters of moment were remitted to the next session of parliament.

R E F E R E N C E S

1. R.K. Hannay, 'Parliament and General Council', SHR, xviii, 158-9.
2. R.K. Hannay, 'General Council of Estates', SHR, xx, 266.
3. APS, ii, 15:16.
4. See Appendix H.
5. APS, ii, 32-3.
6. APS, ii, 33, c.1.
7. APS, ii, 39.
8. APS, ii, 39, c.1.
9. APS, ii, 45, c.2.
10. APS, ii, 9, c.8 (My Italics)
11. APS, ii, 15, c.2 (My Italics)
12. APS, ii, 50, c.21. (My Italics)
13. In the period between 1513 and 1545, the records of the general council appear in ADC.
15. APS, ii, 9, c.8;15, c.2;50, c.21.
16. APS, ii, 244, c. 26.
17. ADCP, 557. (My Italics)
18. APS, ii, 252, c.30.
19. R.K. Hannay, 'General Council and Convention of Estates', SHR, xx, 101.
20. /

20. Ibid. Hannay suggested that the gathering of March 1525 could be described as a privy council afforded. The clerk evidently so conceived it; for he named the privy council 'unacum dominis sequentibus'.
21. The provests of Aberdeen and Perth were represented at the general council of 1513.
22. R.K. Hannay, 'General Council and Convention of the Estates', SHR, xx, 103.
23. RPC, i, 6.
24. ADCP, 557.
25. R.S. Rait, The Parliaments of Scotland, 145. It is noted that it was not until after the act of 1567 that we find the emergence of the technical term 'convention of estates'.
26. RPC, i, 3.
27. RPC, i, 14.
28. RPC, i, 342.
29. RPC, i, 485.
30. APS, ii, 543, C.20.
31. RPC, i, 485.
32. R.S. Rait, The Parliaments of Scotland, 144.
33. APS, iii, 42, c.64.
34. RPC, ii, 6.
35. RPC, ii, 6.
36. APS, iii, 66-8.
37. APS, iii, 191.
38. R.K. Hannay, 'General Council and Convention of Estates', xx, 103.
39. /

39. RCRB, 113. (My Italics.)
40. SRO, PA 7/1/41. Supplementary Parliamentary Papers.
'Questions to be resolved by the Assembly out of the word
of God.'
41. RPC, iii, 428. (My Italics).
42. SRO, PA 7/1/48.
43. APS, ii, 15;16;17.
44. APS, ii, 32.
45. APS, ii, 39.
46. APS, ii, 39.
47. APS, iii, 94, c.1; RPC, iii, 7.
48. APS, iii, 115;189.
49. G. MacKenzie, Works (Edinburgh, 1572), 281.
50. Calender of State Papers, Rome 1558-1571, ed. J.M. Rigg
(London, 1916-26) 58.
51. SRO, GD 52/31. Letter to the Marquis of Forbes.
52. CSP Scot. vi, 59.
53. Correspondence of Robert Bowes (Surtees Society), xiv, 396.
54. CSP Scot, x, 679.
55. APS, ii, 543, c.20; iii, 42, c.64.
56. Correspondence of Robert Bowes, 15.
57. Correspondence of Robert Bowes, 208.
58. CSP Scot, vi, 399.
59. SRO, PA 7/1/36. Supplementary Parliamentary Papers.(My Italics)
60. /

60. E.W.M. Balfour-Melville, James I King of Scots, 161-4.
61. E.W.M. Balfour-Melville, James I King of Scots, 230-2.
62. Lambeth Palace Library, Lambeth MS 167. See Appendix H.
63. APS, ii, 17.
64. See Appendix H.
65. A.I. Dunlop, The Life and Times of James Kennedy, Bishop of St. Andrews (Edinburgh, 1950), 306.
66. APS, ii, 33.
67. The Asloan Manuscript (incl. the Auchinlech Chronicle), ed. W.A. Craigie (SHS, 1923). 218.
68. A.I. Dunlop, The Life and Times of James Kennedy, 306.
69. APS, ii, 32.
70. APS, ii, 32-3.
71. APS, ii, 33.
72. APS, ii, 39.
73. APS, ii, 45-7.
74. SRO, PA 7/1/35.
75. E.W.M. Balfour-Melville, James I King of Scots, 155. It is perhaps significant that this statute proposing the election of the commissioners did not take away the right of the small barons and freeholders to appear personally.
76. R.K. Hannay, 'General Council of Estates', SHR, xx, 266.
77. W.C. Dickinson, Scotland from the Earliest Times to 1603, revised and edited by A.A.M. Duncan, 193.
- 78./

78. APS, ii, 252, c.30.
79. R.S. Rait - The Parliaments of Scotland, 139.
80. ADCP, 65.
81. Ibid.
82. APS, ii, 282.
83. APS, ii, 39.
84. R.K.Hannay, 'General Council of Estates', SHR, xx, 276.
85. APS, ii, 25.
86. R.K. Hannay, 'Parliament and General Council', SHR, xviii, 162.
87. APS, ii, 101.
88. APS, ii, 97, c.19; 101; 108, c.18; 119, c.12.
89. Not however that the need for general councils immediately diminished. In the reign of James III the possibility of resorting to general councils was still envisaged. In 1469 for example the three estates committed full power to certain persons 'to refer again... to the next parliament or generale consale. APS, ii, 97, c.19.
90. SRO, PA 7/1/35.
91. APS, iii, 86.
92. Ibid.
93. APS, iii, 426.
94. APS, iii, 423.
95. RPC, i, 485-7.

- 96.. APS, iii, 189.
- 97. CSP Scot, vi, 404.
- 98. APS, iv, 188.
- 99. Correspondence of Robert Bowes, 189.
- 100. APS, iv, 53.
- 101. Correspondence of Robert Bowes, 189.
- 102. Correspondence of Robert Bowes, 415.
- 103. Letters and State Papers during the Reign of James VI, 65.

C H A P T E R 5

PARLIAMENT AND TAXATION

A further explanation customarily offered for the weakness of parliament in Scotland in comparison with England hinges on the prominence given to taxation in the crown's relations with parliament in England. There, because they were prepared to utilise to full effect any advantages offered by the crown's periodic need for taxation, the Commons had been able to strengthen their position. In Scotland, by contrast, taxation was exceedingly irregular; and, more important perhaps, parliament had not the exclusive right to levy its imposition. Consequently, the estates in Scotland did not enjoy the same opportunities enjoyed by their counterparts in England. Certainly, these arguments have much to commend them. Firstly, the prospect of parliament enhancing its status through the crown's need for financial assistance, must surely have been lessened by the existence of alternative institutions to which the crown might resort. Nor is it unimportant that the estates seemed to countenance the practice that taxation might be imposed elsewhere than in parliament. Again, the absence of regular taxation had the effect of weakening the bargaining position of the estates. At the same time, there were occasions in which parliament appeared more than willing to grant to the king, apparently without condition, all that he demanded. Yet there is another side /

side to the story too easily ignored. Parliament, it will be argued, was certainly well-prepared to allow taxation to be taken out of its control. The crown, however, was not permitted, without question, to use alternative institutions namely general councils and conventions of estates in order to bypass the three estates. The tendency was certainly for the estates to insist that a grant of taxation required the agreement of all three estates in or out of parliament. The practice of annexing property to the crown reduced the crown's need, in normal circumstances at any rate, to resort to the estates for grants of taxation.

If there seemed to be occasions when the king only needed to ask for any sum and it was his, there were many others, when taxation became an issue of contention between the estates and the crown. This tendency was all too apparent as late as the reign of James VI. For example, as will be discussed below, the proposals before the parliament of 1612 were subject to great opposition.

Cosmo Innes in the nineteenth century wrote that the right of imposing taxes was the common test, and a most convenient one, of the supreme legislative power vested in parliament.⁽¹⁾ Arguably, the most significant fact about levying taxation in Scotland was that parliament did not have exclusive right on this issue. In the chapter on general councils and conventions of estates it was concluded that it was probable that general councils had power to impose taxation, and that conventions of estates indubitably had that power. The possibility that general /

that general councils could act in this way, was raised in 1516. It was noted that Leith owed £80 for the tax for the furnishing of the ambassadors to France and Sir Robert Logan of Restalrig and his tenants made a supplication because

'now laitly be the lords of consell the said Robert nor his predecessours in ony tymes bygane war taxt with the burrous'.⁽²⁾

To give just one instance of a convention of estates imposing a taxation, in 1581, the estates present at a convention

'willinglie grantit ane taxatioun of fourty thowsand pundis'.⁽³⁾

Then in 1583 the Earl of Angus was apparently annoyed at the refusal of a grant of taxation, because he espied

'that a tax might be granted by a convention without a parliament'.⁽⁴⁾

The conclusion that the position of parliament could only have been strengthened had parliament alone the right to impose taxation seems convincing. In medieval Scotland, so noted A.L. Murray,

'as in other states, taxation had to be justified by some immediate cause or pretext'.⁽⁵⁾

In 1587 the Clerk Register stressed that taxation could only be imposed

'ffor ane maist necessar and publict caus tryit and knawin to the said estaitis'.⁽⁶⁾

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Taxations were therefore granted for such purposes as royal marriages, the expenses of an ambassador, artillery and the organisation of defence.⁽⁷⁾ For instance, the parliament of 1493 voted the required sum for a commissioner to

'end and conclude the said mariage in France'.⁽⁸⁾

In 1597 the estates

'frelie offerit and grantit to his maiestie
ane taxatioun of tua thousand markis'.⁽⁹⁾

to send ambassadors to foreign places. In March 1541 the matter in question was artillery and a taxation was imposed on the burghs for its provision.⁽¹⁰⁾ In February 1522 a tax of £25,000 was granted for the defence of the realm.⁽¹¹⁾ The ambitions of the government in many of these projects necessarily were dependent on the financial co-operation of the estates. In July 1473 the estates not only expressed their displeasure at James III's proposal to journey abroad, they also stressed king's dependence on a financial contribution, which on this occasion would not be forthcoming. It was recorded that the

'Lordis thinkis that his hienes may nocht
in na wis dispone him for his worship to pas
in this sesone Considering that he is vnprovidit
or furnyst of his expensis. And the pupill that
sulde pas with his vnwarnit and vnprovidit to
pas with him as accordis for his worschip'.⁽¹²⁾

In this instance, parliament was evidently willing to make the king's financial dependence a means of influencing the government's actions. It also seems likely that on those occasions when the estates were willing to agree to a taxation, they took the opportunity to influence events for which taxation was needed. In 1493, the estates were not content just to provide the money for the commissioners who were to be appointed for the purpose of arranging a marriage for the king, for the statute approving the necessary finance included the provision that the estates' advice was necessary for the conclusion of this matter. It was enacted that these commissioners were to

'end and conclude the said mariage in France
or in vther realme quhair it salbe thocht
expedient to our soverane lord be the avise of
the estatiss of his realme. And for thair
expensis to have the rest of the taxt that was
first grantit to be inbrocht'.⁽¹³⁾

That the estates would often take the opportunity to influence the policy for which taxation was sought was possibly their objection to a proposal before a convention in 1583, that the estates should grant a tax for the payment of the king's debts.⁽¹⁴⁾ The opportunities offered to the estates by the crown's need to come to them for money, could have been curtailed only by the king acting /

acting first and asking for money later. In Scotland, therefore, on those infrequent occasions when taxation was imposed, the estates were able to exert influence in some very important matters. However because many taxations came not before parliament itself, but before a convention of states and possibly general council, the influence which parliament might exert, was diminished, if not that of the estates.

If the fact that the general councils and convention of estates might impose taxation, is somewhat surprising, even more so is the fact that parliament seemed prepared to tolerate this situation. In England parliament guarded and took full advantage of its exclusive power to grant taxation but, in Scotland grants of taxation by alternative institutions, was not regarded as a serious infringement of the rights and independence of parliament. There was, as will be discussed below, an awareness of the need for the estates to give their consent to any proposal for taxation. Yet there is no record of parliament ever having expressed the view that it alone should be accorded this privilege. On the contrary, the evidence suggests a certain willingness by parliament to see decisions on taxation taken out of its hands. Therefore, there appears to have been no problem in 1467 when a group appointed by the three estates to 'advise and conclude vpon the matters efter folowand' decided to exact the sum of £3,000 for the expenses of an ambassador. In this case it was observed that /

that this was

'nocht be way of taxt na contribucioun bot
of thair avn fre will'.(15)

This distinction between a tax and a contribution was, however, not very clear. A.L. Murray noted Bower's observation that James I did not impose a taxation for his daughter's marriage to the Dauphin, but had asked the estates to contribute towards the expense. Dr. Murray cited this case of 1467 as evidence that

'the distinction must have become uncertain,
for in 1468 the clergy gave their share of
the cost of an embassy to Denmark "nocht be
way of taxt nor contribucioun bot of thair
avn fre will".(16)

The apparent readiness of parliament to allow other bodies to act in this matter, is confirmed in 1535, when the estates committed its powers to the lords of Articles, who

'in name of the hale thre estatiss of thare awine
fre will hes with gude hert and mynde grauntit
to his grace for supportacioun of sik gret
chargis the soun of sex thousand pundis'.(17)

Innes paid particular attention to this case and believed that

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that

'so careless were our forefathers of their parliamentary privileges that the Committee of Articles appointed in 1535 were authorised to make acts with the whole power of parliament and they used that power by even imposing a tax'.⁽¹⁸⁾

Parliament's apparent disregard for asserting any exclusive right to grant taxation was evident even in the later sixteenth century. In 1587 parliament gave and granted to a commission of six of each estates, full power to

'treat, consult, deliberat and conclud vpon
sic taxatioun as salbe thocht expedient to be
levyit of this subiectis'.⁽¹⁹⁾

Without doubt, the existence of other bodies competent to impose taxation, and the degree of tolerance with which parliament viewed this situation, does indicate that parliament did not gain full advantage from the issue of taxation.

This view, nevertheless, can be taken too far. Firstly, it is possible to exaggerate the extent to which general councils used their right to impose a taxation. Indeed, so infrequent was the imposition of taxation by general councils that some historians have expressed doubts /

doubts on whether this institution was competent to act thus.⁽²⁰⁾ As was discussed in the chapter on 'General Councils and Conventions of Estates', the evidence is not conclusive. All there is is the statute of 1504, which is open to differing interpretations, and some very unsatisfactory references in February 1516 to a tax for the furnishing of ambassadors to France and a complaint by Sir Robert Logan

'that quhar now laitly be the lordis of
consell the said Robertis tenentis and town
of Leith ar taxt with the burrowis of the
haile realme'.⁽²¹⁾

Secondly, although conventions on many occasions agreed to taxation⁽²²⁾ and even at a time when conventions sometimes consisted only of the council and some nobles, there was still a recognition of the need for the consent of all three estates. Important schemes concerning burghal and shire representation invariably coincided with proposals on taxation. Balfour-Melville argued that burgesses first came to parliament in 1326 when earls, barons and freeholders and burgesses agreed to pay Robert I one-tenth of their annual revenues to the king to allow him to maintain his royal estate.⁽²³⁾ Again, it has been suggested that initially, burghal representation was confined to occasions of finance:

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'while, in 1326 and 1328 and again in 1340 and 1341, burgesses were called to parliament when the burghs were involved in parliament's financial decisions, there is no evidence that they were called to other parliaments at which no such financial decisions were made. The necessity of finding large sums of money for the payment of David II's ransom not only again brought the burgesses into parliament, but also led to the regular attendance of burgh representatives at all subsequent parliaments where they sat as a community or an "estate" of the realm. That is to say, out of the endeavours to meet David II's ransom the Scottish parliament became a body of "three estates" - prelates, nobles, burgesses'.⁽²⁴⁾

This pattern continued into the fifteenth century. The need for the presence of burgesses at all meetings of the estates in parliament and general council, if taxation was on the agenda, seems to have been the point of the statute in 1504. It was then enacted at this parliament that all

'commissaris and hedismen of burrowis be warnit quhen taxtis or contributiouns ar gevin to haif thair votis as ane of the thre estatiss'.⁽²⁵⁾

Certainly /

Certainly there was a period from at least 1545 to 1563 when conventions, without any commissioners from the burghs, could impose taxation⁽²⁶⁾ but in 1563 the principle that taxation or other important matters should not be discussed without representation from the burghs was once again asserted. It was enacted that

'fyve or sax of the principallis provestis, aldermen and baillies of this realme sall in all tymes to cum be warnit to all conventionis that sall happin the quenis grace and hir successouris to conclude vpone peax or weir with quhatsumever hir hienes confederatis or Inimeis or making or granting of generall taxatiounis of this realme And that hir hienes or counsall sall not conclude nor decernit vpoun peax, weir nor taxationis forsaidis without fyve or sax of the saidis principallis provestis aldermen and baillies of burrowis be warnit thairto lauchfullie as efferis'.⁽²⁷⁾

From 1567

'Quhane thair salhappin ane generale conventioun to be for the wechtie effaris of the realme that the provestis of burrowis or thair commissaris be requirit thairto and thair consentis it salbe lesum to the provestis and baillies of burrowis in all tymes to cum quhane ony taxtis or extentis salbe rasit'.⁽²⁸⁾

Indeed /

Indeed the first recorded occasion of the presence of burgesses at a convention of the estates was in 1566 when it was proposed that a taxation be raised for the king's baptism.⁽²⁹⁾ Similarly, the election of burgesses to the committee of the articles underlines the close relationship between taxation and the presence of burgesses in parliament. In the chapter on the committee of the articles it was concluded that the election of burgesses to this committee and the proportion of taxation paid by individual burghs, were very closely connected.

The tendency towards requiring the consent of all three estates is also confirmed in the attitudes towards shire representation. The need for taxation to pay off the ransom agreed at the release of James I seems the most likely explanation for the proposal of 1428 regarding the election of shire commissioners.⁽³⁰⁾ In 1426 when parliament agreed to the renewal of this imposition of a tax,⁽³¹⁾ the emphasis was on personal attendance.⁽³²⁾ There was no suggestion whatever that James I nurtured any great constitutional theory relating to shire representation. Instead in 1426 it was ordained that all prelates, barons and freeholders who were obliged to appear in parliament and general councils should appear in future in person. However, despite parliament's agreement to a new taxation in 1426, the sum did not materialise. It seems likely that the lesser barons /

barons had taken the view that they could not be liable to pay a taxation agreed, in their absence by the parliament of 1426.

James I's solution was quite simple: he sought to establish a form of shire representation in the expectation of gaining the support of the lesser barons for the taxation which he required. Certainly the argument that the lesser barons should not be asked to pay what they had not in the first place agreed to was the argument put forward in 1560. The petition by the lairds in the Reformation parliament included the observation that because they were the

'greatest number in portion which the said causes concern and has been and yet are ready to bear the greatest part of the charges thereuntill, as well peace and in war, both with our bodies and withour goods ... we not being required and suffered to reason and vote at the making thereof, that the same should not oblige us to stand thereto'.⁽³³⁾

The coincidence is stretched a little further in 1587, when at that parliament there was not only a statute providing once again for a system of shire representation⁽³⁴⁾ but also a commission was established to set in order taxation.⁽³⁵⁾ When it is recalled that in 1579, the government seemed rather less than eager to accept a proposal that the lesser barons should come to parliament but rather /

rather expressed determination to do nothing during the king's minority,⁽³⁶⁾ then the traditional view that the small barons were recognisable as important and traditional allies to the crown seems somewhat incongruous. In 1585 James VI had undertaken to give his answer to a proposal for shire representation,⁽³⁷⁾ but when he came to do this in 1587, he could hardly have made arrangements for the taxation which this group would be required to pay, and yet refuse to grant them a right, once traditionally theirs, to take part in such a decision.

Not only do such attitudes towards shire and burghal representation seem consistent with the theory, which was evident under David II that the consent of the three estates must be sought for any proposal for taxation, there is ^a great deal of other evidence ~~that~~ taxation that was an issue requiring the decision of a considerable number of all three estates. Hence in the chapter on shire representation, it was noted that as A.A.M. Duncan has suggested, the reason for the statute passed in 1426 regarding personal attendance at parliament was the king's failure to obtain agreement on taxation because prevailing opinion considered that no decision could be taken without the consent of those who were absent.⁽³⁸⁾ It has already been pointed out that the discovery in the Lambeth MS of a statute in 1426,⁽³⁹⁾ renewing the taxation for the ransom certainly puts a slightly /

slightly new complexion on the statute of 1426,⁽⁴⁰⁾ though not completely so. In the chapter on the lesser barons, it was argued that it seems possible that the view that a greater number needed to be present at parliament before agreement could be given to taxation had indeed some support. We might go a stage further and suggest that this opinion was expressed with some force. The reason for the statute which insisted on personal attendance was that the decision to grant James this taxation, was a close run thing and James decided not to risk any new threats to his proposals because of scant attendance at parliament. Certainly in the period before 1566, there seemed to be little concern about the need to define the basis of consent for the imposition of taxation. By the reign of James VI, however, there was an awareness that taxation was an issue requiring more than the consent of a few. In 1583 when James VI asked for a taxation to pay off his debts the commendation^{of} of Newbattle argued with some success that the number of nobles and burgesses present at this convention was too small to authorise the imposition of a tax on the realm. Newbattle persuaded those present at the Convention that some additional members should be called, whereupon the convention

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'... finding that the chairgis requisit heiranent cravis the presence of greittar nowmer of the Estaittes refers to the final solutuion to nixt parliament or to a new court of the estaittis in greater nowmer'.⁽⁴¹⁾

In 1587 the Clerk Register confirmed that in Scotland taxation required the consent of all three estates. He recorded that

'na taxatioun salbe imput vpon the liegis without the special advise of the thre estatiss at thir conventioun in parliament or in publict convention'.⁽⁴²⁾

Parliament was clearly prepared to recognise the right of other institutions to impose a taxation. At the same time, however, parliament tended to become more aware that representation in conventions needed to be more widely based particularly when it came to action on taxation. Hence the statutes recognising the right of all the estates to be represented. The estates, if not parliament, took a firm grip of the right to impose taxation.

This control was, however, not exerted on any regular basis. A.L. Murray illustrated how taxation did not form part of the ordinary crown revenue even in the reign of James V⁽⁴³⁾ when it was levied regularly. Had the crown needed to resort more frequently and more regularly to the estates for financial aid, then the position of the estates vis-a-vis the crown, might have been considerably /

considerably strengthened. Nevertheless the role which parliament played in ensuring that ordinarily the crown ought not to seek taxation was of some significance. Parliamentary pleas that the king should live of his own which were evident in England and were absent in Scotland in the fifteenth and sixteenth centuries. C. Madden, however, quoted Wolffe's view that demands for the king to live off his own were directed not at the levying of a taxation, but at the detrimental effects of purveyance on the private property. Opinion in the English parliament demanded the exploitation of substantial royal estates in order to make a permanent and effective contribution towards royal government.⁽⁴⁵⁾ In other words, there was a demand that royal property should make a sufficient contribution towards ensuring that the government would be financially self-sufficient. As Madden has illustrated this same pattern was to be found in Scotland.⁽⁴⁶⁾ The various annexations of property perpetually to the crown unless the consent of the estates was achieved seems consistent with this view. In the general council of 1438, for instance, it was

'ordanyt be maner of statute that na landis nor possessionis pertenyng to the king be gevyn nor grantyt till ony man without the avys and consent of the thre estatys of the realme'.⁽⁴⁷⁾

In 1455 it was observed that

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'as the poverté of the crowne is oftymes the caus of the poverté of the realme and mony vther inconvenientis ... Be the avys of the full consale of the parliament it is statute and ordanyt that in ilk part of the realme for the kingis residence quhar it sall happyn him to be thar be certane lordschippis and castellys annext to the crown perpetually to remane ... but avys deliverance and decret of the haill parliament ande for grete seande and resonable causis of the realme'.⁽⁴⁸⁾

In the same category might he put the annexations of 1487,⁽⁴⁹⁾ 1541⁽⁵⁰⁾ and 1587. The last annexation is of particular interest. James VI himself underlined the close relationship between annexed property and taxation. It was recorded that

'his hienes for the grite luif and favour quhilk he beiris to his subjectis being nawayes myndit to greve thame with importable taxationis specialle for his royall [support] '.⁽⁵¹⁾

Despite the absence of pleas in parliament that the king should live of his own, the concern and determination among the estates that the crown should have no need to come for taxation was evident. The estates were certainly aware that the king should be self-sufficient. In 1599 the small barons, whom historians have tended to see as the /

the king's natural allies asked

'how the exorbitant taxationis raised may be
forborne and the kingis ordinar expenss brocht
to be borne vpoun his awin'.⁽⁵²⁾

In the main, however, this was expressed not by constant opposition to taxation, but in taking measures to ensure the crown had another source of regular income by annexations of property to the crown.

While the estates deserve some credit for the infrequency of taxation, they certainly did not always use to full advantage the opportunities offered by those occasions when taxation was an issue. For instance, at first James I got his own way when it came to the imposition of a taxation in order to pay off the ransom agreed on his release from England. Those present at the parliament of May 1424 were evidently more willing to consent to this taxation⁽⁵³⁾ than those in the country at large were prepared to pay. In fact only 9,500 marks⁽⁵⁴⁾ were realised. Perhaps more significant was the apparent willingness of the estates in the parliament of 1426⁽⁵⁵⁾ once again to agree to a taxation for the king's ransom when such was the reluctance of the country at large that only a small sum had been raised after 1424; and after this new imposition in 1426, there is no record of anything whatsoever having been gathered, or of any sum having been forwarded to England, as had happened after the imposition in 1424. With the proviso that in these /

these instances the nobles at parliament had a vested interest in seeing the ransom fully paid, because their sons and relations were held hostage, the occasions of 1424 and 1426 do suggest a willingness in parliament to grant the king the taxation which he sought. A similar conclusion might also be drawn for the reign of James VI. In 1594 when the king succeeded in persuading the estates, apparently without any difficulty, to consent to a taxation. It was recorded that the estates

'freelie and voluntarlie offerit and grantit
vnto his maiestie ane taxatioun of Ane
hundreth thousand pundis'.⁽⁵⁶⁾

Then in 1597 the

'estaittis being willing to help further and
supplie the same and relief his maiestie of ane
pairt thair of hes thairfoir frelie and
volunterlie offerit and grantit to his maiestie
ane taxatioun of tua hundrethe thousand markis'.⁽⁵⁷⁾

Again, in 1606, the estates appeared ready to give James the required sum. It was noted that the estates

'frelie and voluntarilie offerit and grantit
to the kingis maist excellent maiestie
oure soverane lord ... for relief and payment
of his hienes debtis and reparatioun of his
maiesteis hous ane taxatioun'.⁽⁵⁸⁾

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In this case the wording of this statute seems perfectly compatible with its passage through parliament. On 6 July 1606, James VI was informed by Dunbar, Scone and the lord advocate that after they had

'superceidit to direct this packet till this mater of subsidie was past in articles we have not so greit cause to thank God for obteaning the taxation as for the unspeakabill affection uttered at the granting thairof be your maiesties subiectis of all estaitis to your maiesties most sacred persone ... and thairfore have maist willinglie granted nor we can wourthile expres ane taxatioun quhilk is thre lange doubill of the greatest taxatioun that ever wes granted to any prince in this kingdom'.⁽⁵⁹⁾

On 4 September the Earl of Dunfermline explained to the king that although the committee of the articles and the others of the estates did not then feel able to impose two taxations on the country as suggested by the king, they had

'with good will granted the taxation or subsidie the greiter unto your sacred maiestie in hope that your hienes with good consideratioun in your wisdome and wounted clemencie towarts your poor subjects would bestow some portioun thairof for the sauftie and preservatioun of that por town [Dumbarton]'.⁽⁶⁰⁾

Again /

Again in 1621 the willingness of the estates to grant taxation is remarkable. Girolamo Lando, the Venetian Ambassador in England noted that parliament decided to contribute to the king a sum of £40,000, which was

'not a large sum or adequate to the requirements, but a sign of the excellent disposition of the people there to do what they can'. (61)

Yet apart from such success, the crown also had to live with the prospect of the expression of opposition to its proposals on taxation. Therefore while the negative response of the country at large indicates that the consent of the estates to the taxation of 1424, was not unimportant, yet the possibility remains that the estates had brought their influence to bear in drafting terms of this statute. One historian has suggested that, in the composition of this statute, there is some evidence of the work of both crown and estates. Hence A.A.M. Duncan put forward the view that the detailed shape of this statute offers

'an immediate indication that we are not dealing with a simple parliamentary concession or transaction'.

More than that, he suggested that this statute shows every sign of two different voices. Certainly that of James I rings clearly, but then so too does that of the estates. The statute begins with two distinct statements. Firstly,/

Firstly, a general proposition which in the king's interests specifies regalities. Then follows a second statement which is the answer which parliament determined. Hence he was the opinion that James

'must seek but might not receive as much as he wanted'.⁽⁶²⁾

As was discussed in Chapter I, there is every indication that both the taxation of 1424 and its renewal in 1426, were thus composed. Hence the record of the taxation of 1424 in Adv. 2, which was derived from engrossments issued in 1426, was a combination of the king's proposal in 1424 with the estates latest answer, given in 1426. Nor should it be forgotten that the estates might make their consent to taxation part of a bargain. In 1424 the burghs agreed to pay the first instalment of the taxation in return for the enforcement of their monopoly of foreign trade.⁽⁶³⁾ It has already been argued that in 1426 there was some opposition to a grant of taxation on the grounds that this parliament was not well enough attended; and with some effect, for there is every indication that this was the reason behind the statute of the parliament of 1426, which insisted on personal attendance at parliament.⁽⁶⁴⁾ This, however, proved insufficient and James in 1428 found himself unable to get parliament's agreement to a new taxation. He sought a solution in constitutional change and proposed the election of shire commissioners.⁽⁶⁵⁾ That taxation could thus prove to be an important weapon in the hands of the estates was underlined in 1488. When James III proposed/

proposed to journey abroad, the estates used the crown's dependence on financial aid as a weapon in influencing government action. The lords of the estates voiced their opposition to such a proposition and were unwilling to

'gif thar consale to his passage of his realme and his hienes standis vterly determyt ... The lordis thinkis that his hienes may nocht in na wis dispone him for his worschip to pas in this sesone considering that he is vnprovidit or furnyst of his expensis'.⁽⁶⁶⁾

Yet although the policies of James I and James III had been shaped partly by their need for taxation, in some ways the experiences of James I and James III could scarcely compare with those of the earlier part of the reign of James IV when the relationship between parliament and taxation became more closely defined. The parliamentary history of James IV's reign divides into two distinct phases. The earlier part of this reign, is characterised by frequent meetings of parliament. There were meetings beginning on 6 October 1488⁽⁶⁷⁾ (continued on 14 January 1489)⁽⁶⁸⁾; 26 June 1489;⁽⁶⁹⁾ 3 February 1490;⁽⁷⁰⁾ 28 April 1491;⁽⁷¹⁾ 6 February 1492;⁽⁷²⁾ (continued on 7 May 1492);⁽⁷³⁾ 8 May 1493.⁽⁷⁴⁾ Henceforth there was a complete turnabout and a new beginning in the history of parliament. The interest in frequent parliaments came to an end. It was 18 months before /

before parliament met again, and the latter part of the reign is as notable for the irregularity of parliament as the beginning is for the frequent meetings of parliament. Parliament convened only on 27 November 1494;⁽⁷⁵⁾ 13 June 1496;⁽⁷⁶⁾ 11 March 1504;⁽⁷⁷⁾ (continued on 4 June 1504);⁽⁷⁸⁾ 8 May 1509.⁽⁷⁹⁾ Why this change? The short answer is taxation. The most significant point about the period when parliaments met frequently was the regular imposition of taxation. Even a quick glance through the statutes of these earlier parliaments suggests that the issue of taxation took on a new meaning during this reign. Taxation was on the agenda in October 1488,⁽⁸⁰⁾ February 1489,⁽⁸¹⁾ April 1491,⁽⁸²⁾ February 1492,⁽⁸³⁾ and May 1493.⁽⁸⁴⁾ James IV's interest in holding parliaments coincided with this period when as a result of the diplomatic activity particularly in relation to the royal marriage, he required such grants of taxation. When this need was no longer urgent the king's desire for regular meetings of parliament soon disappeared. In the main, James IV used parliament as little more than a source of income. Yet he was not allowed a completely free hand. In 1493, for instance the estates were prepared to provide the necessary revenue. It was recorded that they thought it

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'expedient to our soverane lord be the avise
of the estatiss of his realme and for thair expensis
to have the rest of the taxt that was first grantit
to be inbrocht'.

It was added however that

'na discharge'gevin be the king sall avale or
be admittit sen it was grantit be the estatiss
of the realme for our soverane lordis mariage
and to na vthers'. (85)

The picture which emerges is that taxation was an important issue between crown and estates in Scotland, and not necessarily favourable to the crown. In James I's reign, proposals for constitutional change were the direct result of the difficulties which the king experienced in raising taxation. James III was prevented from pursuing his foreign ambitions by the refusal of the estates to finance them. In the reign of James IV, taxation more than any other issue determined whether parliament met at all. The reign of James V continued the pattern of the latter part of the previous reign, namely grants of taxation were largely absent from the record of parliament. Only the parliaments of 1526 and 1535 included items of taxation. In the reign of Mary Queen of Scots the estates certainly agreed more frequently to the imposition of taxation. We do not know what was the reaction of the estates to the crown's more frequent search for taxation and whether, despite the /

the obvious successes, the estates had offered some degree of opposition. Whatever the case during the reign of Mary Queen of Scots when we come to examine the reign of James VI, taxation was one issue, perhaps the most frequent one, where the crown had to face the possibility of opposition. In 1583 when James put to the convention a proposal for a taxation to pay off his debts, the estates did not immediately fall in with his plans. The argument by Newbattle that it would be a dangerous novelty and precedent for the convention to give its consent, was carried. Instead, the estates agreed to grant a tax for his immediate debt. The majority were persuaded by Newbattle that

'a taxatioun of ane hundreth thowsand pund was intended for discharge of the king's debt; but no farther was granted but tuentie thowsand, unlesse the parliament yielded further'.⁽⁸⁶⁾

The part played by the estates here was confirmed on 28 September 1583 when it was noted that James

'will come to Edinburgh to the parliament for it was now persuaded that the parliament shall hold for the confirmatioun of the tax of money granted to the king'.⁽⁸⁷⁾

As was already noted, there was some suggestion that, however irregular, the imposition of taxation was still felt to be too burdensome. In 1599, the lesser barons asked /

asked

'how the exorbitant taxationis raised may
be forborne and the kingis ordinar expenss
brocht to be borne upoun his awin'.(88)

In November 1604 the expense of the commissioners for
the union provided the pretext for opposition. The
Earl of Angus

'crawe your maiestie pardoun to purge my pairt
of any misbehaviour vsit att that tyme, ather
againis this happie vnion, or any vther your
maiesties subiectis thair convenit bot ane
ernist intentioun in ewery way, vtering their
weill affected hairtes to your maiesties service
in the union: contraversie standing onlie
concerning the taxatioun, quhairin the grittest
number of the nobilitie feiring that the brunt
thairof should breid ane mislyking of the
vnion amanges the commouns'.(90)

Nor did James fare any better at a convention of 1608.
On 21 May, James was informed after

'a lang and fasheous dispute some obiecting
the povertie and present burdynes of the cuntrey
and some other impediments tending to the dity
of the service in end they resolved that they
wald serve your maiestie conforme to the
proclamationis lawis of the cuntry and
altogidder disasentit fra ony contribution
or taxation for that service'.(89)

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At the parliament of 1612, once again it was taxation which caused a furore. Apparently such was the difficulty that the committee of articles experienced with this proposal that it was 'much debaited and remitted to the nixt day the estaites meiting severallie thameselfis'. Even then, the proposal had no easy passage. Once again when the articles convened there was

'very contentious controversie the mater being put to the king be pluralitie of foure or fyve votes it wes maid four hundreth thousand merkis'.

Nor did this remove the opposition. On 19 October some very important ecclesiastical matters were evidently given little consideration because the

'noblemen being in gret discontentment for the quantitie of the taxatioun whâreupon thir entered into dealing to draw with thame all the barrones and so many burrowes as thay could to dicres the quantitie and as wes reported to send for noblemen to cum to the towne to increas the nombers'.

By 20 October such was the opposition which taxation had aroused that the noblemen were

'of the intention to send twa of thair number to court to debait that mater and dissolve the parliament'.

In the end a compromise was reached, and a sum of £24,000 was agreed.⁽⁹¹⁾ The opposition of the nobles and others was sufficient to ensure the alteration of the original proposals on /

on taxation. Similarly, in 1621 although there were in the end only ten votes against the item on taxation, and despite the favourable impression, which was noted above, gained by the Venetian ambassador, the taxation had no easy passage. While the estates were apparently quite prepared to grant the ordinary taxation, there was some reluctance to accept taxation of annual rent, so much so that the Lord Commissioner pressed the estates

'to give ansuer directlie, that they either granted or refused the act of taxation, since it was onlie one, the rest became eschamed to refuse'.(92)

While, in the end, James might have looked with satisfaction at the sums which had been granted, behind such apparently easy successes, there were nonetheless obstacles to be overcome.

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(Edinburgh, 1872) 111.
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3. APS, iii, 192.
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5. A.L. Murray, 'Exchequer and Crown Revenue 1437-1542'
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7. A list of taxations from 1424-1597 is included in
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12. APS, ii, 103, c.2.
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51. /

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63. APS, ii, 6, c.27.
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- 72./

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C H A P T E R 6

ECCLESIASTICAL REPRESENTATION AFTER THE REFORMATION

Whereas the whole question of the introduction of small barons into parliament has long been the subject of some debate, less attention has been paid to the problem of the composition of the ecclesiastical estate after 1560. Yet the Reformation threw up many different opinions on how this estate should develop. Some wished it to continue to be made up of those in possession of the titles of bishop, abbot or prior, even if these offices might not have the full support of the reformed church, while others wanted ministers to be represented. There was even some suggestion that the ecclesiastical estate be abolished altogether. Just as James VI's motives for giving his support to the Franchise Act of 1587 offer some insight into what he looked for from the three estates, his attitude to the entire question of the composition of the ecclesiastical estate sheds further light on this matter. If the small barons were somewhat doubtful in the fifteenth and early sixteenth centuries about the advantages representation in parliament might bring, the attitude of the reformed church was even more ambivalent. Although historians have sometimes tended to see parliament as rather less than an effective body, in reality, despite the doctrinal misgivings of some, the majority attending the general assembly came to see representation in parliament /

parliament as the most reliable way to protect their interests.

John Knox undoubtedly showed his own personal opposition to any scheme for ecclesiastical representation in parliament when in 1559 he gave his advice to England, that

'none that be appointed to labour in Christes vineyearde be entangled with Civil affaires, (and, as ye call them, the affaires of the Realme); except it be when the civil magistrate and ministers of the Worde assemble together, for executioun of discipline, which is a thing easie to be done without, withdrawing any person from his charge, if that is which is before expressed be oserved. For as touching their [i.e. the bishop's] yearly commynge to the Parliament, for matters of religion, it shalbe superfluous and vaine; yf God's true religion be so once established, that after it be never called in controversire'.⁽¹⁾

The ministers did not follow the example of the small barons and petition for the right to attend parliament at the Reformation Parliament. Nor did the general assembly in the decade immediately following the Reformation ever seek representation for the superintendents or ministers in parliament. Nevertheless the view that before 1597 the Assembly had never expressed /

expressed any precise opinion on the subject seems hardly tenable.⁽²⁾ Whenever committees representing the general assembly or important individuals within it had offered any view on this matter before 1597, they had thrown their weight behind the principle of ecclesiastical representation in parliament.⁽³⁾ For example in the parliament of 1571 one of the requests made by the assembly was 'To be of the Parliament'.⁽⁴⁾ While the financial benefits of the Concordat of Leith⁽⁵⁾ alone provided sufficient reason for the church's approval, perhaps another telling factor was that this arrangement of 1572 allowing ministers of the Reformed Church to succeed to the bishoprics, would mean that those so promoted could take their place in parliament. Some might have viewed this as a compensation for the refusal in 1571 to allow the representatives of the church to sit in parliament. Certainly the church had few qualms about the fact that these arrangements involved them in a tacit acceptance of the principle of ecclesiastical representation in parliament. Hence it was agreed in 1572

'that all personis to be admittit to Prelaciis quhairby they ar to have vote in parliament',⁽⁶⁾

and the convention at Leith in 1572 was also concerned to ensure that only those of sufficient learning should be appointed to fill these vacant benefices

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'because the possessours of the same mon
supplie the place of ane ecclesiasticall
estate in parliament'.⁽⁷⁾

In the period after Leith until 1578, the general assembly
had not explicitly criticised the attendance of bishops
and commendators in parliament, but as early as 1576
it had agreed to replace bishops by visitors in
ecclesiastical administration.

It seems more than a coincidence that the claim for
ministers to be present in parliament was not to be
renewed until 1579 when it was noted that

'the barons and kirkmen in Scotland would
have place and vote in the parliament, but
the King and Council determine not to alter
anything therein during the king's minority'.⁽⁸⁾

This was only after the Second Book of Discipline of
1578 had finally pronounced the arrangements of 1572
concerning the succession of ministers to the titles of
abbots, priors and bishops to be unacceptable, and when
the church once again found itself denied the means of
active participation in parliament.

The petition of 1579 for the kirkmen to be
represented in parliament, raises the whole problem
of what attitude the Second Book of Discipline expressed
regarding this question. Here the vague nature of many
of its articles does seem to cause some difficulty.
Those who believe that the church had no desire to be
represented in parliament might cite with approval some
of /

of the many references to the division between the civil and ecclesiastical jurisdictions.⁽⁸⁾ For example, it is noted in the Second Book of Discipline that,

'the exercise of baith these jurisdictionis
can not stand in ane persoun ordinarlie',⁽⁹⁾

and that the assembly

'sould tak heid, that the spirituall
jurisdiction and civile be not confoundit,
to the hurt of the kirk'.⁽¹⁰⁾

Nevertheless in those articles in which the relationship between officers of the church and parliament are specifically mentioned, there is no evidence that the principle of ecclesiastical representation in parliament was explicitly condemned. It was recognised that no

'abusearis of the patrimony of the Kirk of
Christ to have voit in parliament, nor sit
in counsal under the name of the kirk and
kirkmen, to the hurt and prejudice of the
libertie thair of'.⁽¹¹⁾

Yet, at the same time, it was still not denied that

'in the meantyme, bot ministers may and sould
assist thair princes, quhen thay ar requirit,
in all thingis agreable to the woorde quidder
it be in Counsall or Parliament, or utherwyse;
provyding alwayis thay nather neglect thair
awin chargis, nor, throch flatterie of Princes,
hurt the publick estait of the kirk',⁽¹²⁾

and it was added that

'generalie, we say, na personis, under
quatsumever title of the kirk and specialle
the abused titles in papistrie of prelattis
conventis chapteris, aucht to attempt ony
act in the kirkis name, ather in counsall,
parliament, or out of counsall, having na
commissioun of the reformat kirk within
this realme'.⁽¹³⁾

These articles rejected any person who sat in parliament
without the express consent of the kirk, but particularly
those with the titles of bishop, abbot and prior which
had been expressly condemned by the assembly. But a
system whereby the church nominated its own representatives
to form the ecclesiastical estate was not ruled out.
Indeed in 1581 the general assembly appointed

'certain breither ... to consult whow the
parliament suld nocht inleak [want] the
spiritual estate, bischopes being removit',⁽¹⁴⁾

and after their report the assembly determined

'That concerning vot in parliament, and using
of civill and criminall jurisdiction commissioners
sould be directed from tyme to tyme from the
generall assemblies to the parliaments, to
discharge the kirkes dewtie and do for the
samin all hir effeares'.⁽¹⁵⁾

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In 1584, John Howieson, Minister of Cambuslang and a notable Melvillian, left no doubt about the apparent compatibility of presbyterianism and ecclesiastical representation. On being asked how the three estates might judge in the important matters coming before parliament when the ministers would have the spiritual estate put away, Howieson replied that the ministers

'would have them away, and such godlie and true bishops as Sanct Paul appointeth, to be elected by themselves, occupying their place in parliament'.⁽¹⁶⁾

Here Howieson went so far as to support ministers attending parliament. Similarly, in 1585, the church in general confirmed its desire to see an ecclesiastical estate composed of its representatives. Among the objections to the 'Black Acts' of 1584, presented by the commissioners of the kirk to the king, that concerning the third act confirmed their belief that

'the ancient libertie of the said three estats is loveable and ancient',⁽¹⁷⁾

but stressed that the ecclesiastical estate as it was then composed was

'corrupted and appointed to be of suche persons who had no lawfull functioun in the kirk of God',⁽¹⁸⁾

and consequently desired

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'that none sould vote in parliament, in name of the estate of the kirk, but they that have their calling of God, and are constituted in ecclesiastical office and functioun, according to his word'.⁽¹⁹⁾

In 1587 the church had no success with its petition for the removal of the prelates from parliament. On 23 May 1592 in the general assembly when the point was raised concerning who might vote in parliament in the name of the kirk, the question of whether it was lawful that

'the ministrie sould succeid in that part in the prelats place',⁽²⁰⁾

was referred for consultation the next morning. The incomplete records of the proceedings of the assembly leave no clue as to the result of this debate but on the 29 May 1592 in a letter to Burghley, Bowes noted that the assembly of the church intended to present to the convention, which was meeting to discuss matters to come before parliament, the assembly's proposal

'that ministers may have and enjoy their places in parliament as they wonted to do'.⁽²¹⁾

This proposal was presented but without success, for in a second letter on 6 June 1592, Bowes informed Burghley that

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'the request of the Ministry to have vote in parliament is denied, notwithstanding that they pressed the same earnestly in regard that the temporalities of the prelates, having place in parliament for the church were now erected and put in temporal lords and persons, and that there the number of the prelates remaining are few and not sufficient to serve for the church in parliament'.(22)

Once again, however, the church was not easily discouraged. In 1593 the articles formed by the moderator (David Lindsay) to be put before the present parliament underlines once more that it is the existing composition of the ecclesiastical estate which the church opposed. Lindsay desired that something be done in this present parliament concerning the ecclesiastical estate

'in so far as the "auld estait" of bishops, abbots and priors "nather be Godis law nor the lawis of the cuntrie can stand, and of the awin necessitie is cumming to decay".'(23)

In 1597, however, a number of ministers came out against the very principle of ecclesiastical representation in parliament. And it is likely that there had always been a strong and vocal opposition to any proposal that ministers attended parliament. The ill-founded protest by those ministers who opposed ecclesiastical representation /

ecclesiastical representation was that the commission of the assembly which had successfully petitioned the parliament of 1597 on this matter, had acted without the warrant of the kirk as no

'assemblie before the last in Dundie had determined that ministers sould vote in parliament'.⁽²⁴⁾

Even in 1597 men such as John Davidson, minister of Prestonpans, or

'the more consistent and discerning part of the ministers',⁽²⁵⁾

as one writer termed it, found themselves in a distinct minority. Moreover, even the group opposing the proposal in 1597 hardly presented a united front. No other signature was added to Davidson's protest to the assembly over the act of parliament in 1597. When the question was asked of those who believed that it could never:

'stand with the office of a minister to be a lord in parliament',⁽²⁶⁾

who might vote if not ministers, it was answered that elders or deacons might represent the church. Evidently even where ministerial representation had caused misgivings, another form of ecclesiastical representation was still conceded.⁽²⁷⁾

In fact the majority were more concerned with the form rather than the principle of ecclesiastical representation. Between 1597 and 1599, after many debates, the assembly reached agreement on the number of ministers who might sit in parliament and on the form and the frequency of their election. It was decided that the number of ministers /—

ministers to have a vote should equal the number in the pre-reformation church who were bishops, abbots and priors, that is 51. The system of election was to be mixed, partly by the church and partly by the king. The general assembly would nominate 6 for every vacant benefice out of which the king would choose one and there were to be annual elections. Where any great theological divide arose, it was over the titles such ministers in parliament might take. In 1597 parliament had enacted that

'all ministers presented by his Majesty And admitted by that Kirk to Bishoprics and other prelacies shall have vote in parliament'.⁽²⁸⁾

For a church committed to a presbyterian polity, the price demanded for their admission into parliament must have seemed rather high. Indeed the assembly decided that any such ministers should sit as commissioners in parliament and not as prelates. No compromise was reached. In March 1600 the assembly once again refused to yield to bishops and for its part the convention of estates insisted that

'in no case the convention shall agree that any shall have vote with them in council or parliament as a third estate unless they be so indeed named bb [bishops] abbots, etc'.⁽²⁹⁾

The subject was a matter of great controversy in the church and /

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'much reasoning has been with and against the same'.(30)

yet significantly, many felt

'it meeter to take such titles and have place in parliament that thereby they may be good for the kirk than to refuse the title and want that means to do good for the kirk'.(31)

It had become obvious, however, that the choice once again was to accept bishops, abbots and priors or to lose the chance of representation in parliament. Only in the negotiations of the 1597 when the dilemma about accepting bishops became clear, did the church begin to abandon their ambitions in that direction.

Therefore whatever the position in 1560, and notwithstanding all their claims that the civil polity must be separate from the ecclesiastical many evidently believed that the church's exclusion from parliament was a decided disadvantage. One reason for this was that the church did not get much satisfaction from the three estates as it was thus constituted and many of their proposals were rejected. In 1571, for example, some barons were seemingly displeased with the answers given to the petitions offered by commissioners of the kirk⁽³²⁾ to parliament. In 1581 the church presented several petitions to the parliament

'all of which have been in manner refused'.(33)

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And in 1584 the Church was unable to mobilise its opposition to the 'Black Acts' because the articles had been sworn to secrecy at every session. The realisation that representation in parliament offered a valuable weapon in the church's fight to win concessions from the secular authority lay behind much of the support for an acceptable form of ecclesiastical representation:

'For the Kirk haid lyen lang in contempt and poverite, quhill the King and his Commissionaris soar pitied, and this was the way to mend that: To gett of the godliest, wysest, and best of the ministerie, upon the counsall of the realme, Conventiounnes of Esteattes and hichest Court of Parliament, ther they sould reasone and vott in ther awin causses, and bring hame the Kirk leiving, and nocht stand at the durre geiffing in peapers of petitiones; anf skarslie when they haid iaked on manie dayis, gott sa mikle as a fear answer'.⁽³⁴⁾

The Church needed a reliable method of protecting its interests and in sixteenth century Scotland it appears that many believed the most effective means of doing this was for representatives of the church to sit as one of three estates.

Yet if it is possible to detect in the policy of the church some evidence that parliament was not the moribund body /

body some historians have suggested, the attitude of the government reflects a determination to curtail the independent spirit of the ecclesiastical estate. This would explain the government's reluctance to see the bishops, abbots and priors removed from parliament and their place taken by some other representatives of the church over whom the crown might have less influence. Hence the government would not be rushed into accepting the church's petitions of 1571 and 1579 that ministers should be present in parliament and it was decided that nothing could be done in this respect during the king's minority. Instead schemes initiated by the government such as the Leith agreement and the 'Black Acts', which would have guaranteed the continued presence of the prelates in parliament had rendered unnecessary the need for the church to send ministers to constitute the ecclesiastic estate.

Therefore, it is not surprising firstly that in 1587, the year James VI reached his majority, the petition to remove the prelates from parliament then in session was refused.⁽³⁵⁾ Although there seemed little difficulty in welcoming the small barons to parliament, the removal of the obstacle of the presence of prelates which blocked the attendance of the ministry was an entirely different matter. It was not until 1597 that⁽³⁶⁾ parliament for the first time agreed to a proposal allowing ministers of the Reformed Church to sit as the ecclesiastical estate. Not surprisingly, this included the provision that /

that any such representatives would take the titles of bishops, priors and abbots which were then much abhorred by the assembly.

However, while in the main this view about the crown's attempts to keep some influence over parliament by the retention of these offices, can be seen to be valid, it does not tell the whole story. It is possible that James himself became increasingly aware that bishops might indeed be the obvious agent 'for bringing about the subordination of the ministers', by 1597 on account of the extreme hostility of the church towards such titles, but they could no longer be regarded necessarily as the most reliable method of 'ensuring their [the ministers] presence in parliament'.⁽³⁷⁾ So by 1597 James seems to have been prepared to find an alternative scheme which would not only guarantee some form of control over the ecclesiastical estate but also the presence of ministers in parliament.⁽³⁸⁾ Consequently, at the 1597 parliament, James evidently

'seemed willing to have yielded them contentment and so they acknowledge it in pulpit and other ways. But the Council was against them saying if they should have place in Parliament and Council it were meet for the King's honour that they had the title of some degree of prelacy', and when it was clear that the

'Lords would not otherways agree unto their motion'
James /

James

'willed them not to refuse it promising to
fynd a "myd" for them therein'.(39)

Although in the subsequent negotiations, James VI
worked to get the church's agreement to the proposals
of 1597 when this proved unsuccessful, James

'proponed to them then that there might be
commissioners chosen ad vitam aut culpam to
have vote in parliament for the kirk'.(40)

The representatives of the church insisted that any such
commissioners must be elected annually, which did not
at all suit James' purpose, and almost certainly with
full awareness of the answer he would receive, James
proposed to the convention of estates in 1600 the
matter of the commissioners in parliament, the estates
remained insistent that these commissioners must take the
titles of prelates.(41)

But while James wished to ensure that when ministers
came to parliament, he had some means of controlling them,
his line of action was limited by the views of the three
estates. Firstly, among their ranks were men who were
likely to have loudly protested as the abbot of Kinloss
had done in 1587, that having already been deprived of their
function in ecclesiastical matters, some were now intent
on depriving them of their place in parliament.⁽⁴²⁾ The
opposition of those who then constituted the ecclesiastical
estate was also shared by many of the nobles. In 1598,
George /

George Nicolson informed Cecil that the 'nobility will resist for their own particulars' the king's plans for changes in the composition of the ecclesiastical estate. The estate of the nobility had certainly good reason to resist any scheme which would replace those who then constituted the ecclesiastical estate with representatives of the church, that is, that many of the commendatorships and bishoprics were in the possession of kinsmen of members of the estate of the nobility.⁽⁴³⁾ Quite naturally, the nobility would not wish to see the rights of their kinsmen, or indeed the possibility of acquiring future commendatorships, to be so threatened. Whatever the views of James VI at the parliament of 1597 and the convention of 1600, the three estates were still determined to reject any such proposition. And although in the parliaments of 1612 and 1621 the king would have good reason to be grateful to the act of 1606 which had restored the episcopal estate, the decision in 1606 to thus bolster the ecclesiastical estate in parliament had been taken only after James VI proved as unable to persuade the three estates as he was the church to agree to an acceptable compromise.

R E F E R E N C E S

1. The Works of John Knox, ed. D. Laing (Edinburgh, 1846-64), vi, 519.
2. G. Buchanan, History, iii, 245.
3. CSP Scot, iii, 674. Certainly this rests on English diplomatic reports and Calderwood of iii, 137, excludes any mention of this proposal. But there is no reason to doubt the accuracy of the diplomatic report.
4. BUK, 207-36.
5. BUK, 213.
6. BUK, 210.
7. CSP SCOT, v, 358.
8. The question of how the Reformers were able to reconcile this principle of the separation of the two jurisdictions with ecclesiastical representation in parliament, is not an easy one. Perhaps the answer is that in the 1560/s the assembly had supposed that representation in parliament would be unnecessary. The unilateral appointment of bishops by the secular authority in 1571, and the financial difficulties still facing the church, which had been one motive behind the agreement at Leith, are just two examples of the problems for the church when it was without representation in parliament. In 1559 when commenting on the English situation, John Knox had come out strongly against ecclesiastical representation 'yf God's true religion be so once established that after it be never called into contraversie'. It seems possible that a majority in the general assembly came to support some /

some form of ecclesiastical representation not only for the rather negative, but certainly important reason that the secular authority might appoint others, who were not representatives of the assembly to the ecclesiastical estate in parliament but also to further and strengthen the cause of the church so that the principles of the Reformers could indeed become established.

9. BUK, 489.
10. BUK, 500.
11. BUK, 504.
12. BUK, 506.
13. Ibid.
14. The Autobiography and Diary of James Melvill, ed. Robert Pitcairn (Wodrow Society, 1842), 118.
15. The Autobiography and Diary of James Melvill, 119.
16. D. Calderwood, History of the Kirk of Scotland, iv, 146.
17. D. Calderwood, Op cit, iv, 451.
18. Ibid.
19. Ibid.
20. BUK, ii, 787.
21. CSP Scot, x, 679.
22. CSP Scot, x, 685.
23. CSP Scot, xi, 216.
24. D. Calderwood, History of the Kirk of Scotland, v, 752.
25. /

25. G. Buchanan, History, iii, 245.
26. D. Calderwood, History of the Kirk of Scotland, v, 752.
27. D. Calderwood, History of the Kirk of Scotland, v, 752.
28. APS, iv, 130, c.2.
29. CSP Scot, xiii, 630.
30. CSP Scot, xiii, 167.
31. CSP Scot, xiii, 150.
32. D. Calderwood, History of the Kirk of Scotland, iii, 144.
33. CSP Scot, vi, 93.
34. Autobiography and Diary of James Melville, 435.
35. Indeed Lindsay of Balcarres who drafted the Franchise Act of 1587 evidently applied the same principle to the ecclesiastical estate and proposed a scheme whereby presbyteries would choose a sufficient number of ministers to complete the ecclesiastical estate. And when the last prelate died the ecclesiastical estate would be entirely composed of ministers. This was unsuccessful.
36. APS, iv, 130, c.2.
37. G. Donaldson, James V-James VII, 198.
38. Both W.L. Matieson and A. Wight pointed out James VI's reluctance to see parliament revolutionised by the extinction of the ecclesiastical estate. This was the problem. Whereas about 51 were entitled to seats in parliament in the pre-Reformation church, by the time of James/

James VI the average attendance was only 13, many of whom held no official position within the church. This left the ecclesiastical estate in an extremely vulnerable position.

39. CSP Scot, 139, 40.
40. CSP Scot, xiii, 629.
41. CSP Scot, xiii, 629-30.
42. G. Buchanan, History, iii, 154.
43. A short summary of those who constituted the ecclesiastical estate at parliament and conventions 1567-1606 is included. See Appendix P.

C H A P T E R 7.

'RIVALS' OF PARLIAMENT

If one fully accepts the traditional picture of parliament as a weak and submissive institution devoid of any real spirit of independent expression, then the view that there existed alongside parliament other powerful bodies, which seriously rivalled its authority and independence seems to follow almost naturally. Into this category of important institutions falls of course those which have already been discussed, namely, the committee of articles, the general council and convention of estates. In this chapter, attention will be focused on the relationship between parliament and such other important bodies of the fifteenth and sixteenth centuries as the privy council, the convention of royal burghs and the two important ecclesiastical institutions - the provincial council in the pre-Reformation Church and in the period after the Reformation, the general assembly. Those historians who have examined Scottish institutions on a strictly constitutional basis seem almost to have believed that no self-respecting parliament would have allowed the crown to operate the system it did in Scotland. For instance, the birth and healthy existence of the lords of articles has come in for some of the most bitter criticism as almost an affront to the independence and authority of parliament. Similar criticism /

criticism was voiced at the manner in which important decisions were taken not by the estates in parliament but by general councils and convention of estates. The constitutional implications of such developments are clearly important but when one adopts a standpoint other than the purely constitutional, the experiences of the fifteenth and sixteenth centuries, appear in a somewhat different perspective. Hence in the chapter on the committee of articles, the assumption that the articles operated solely or even mainly as the submissive tool of the monarch, and denied the estates any effective voice in decisions and in their name, was questioned, and found to be unsatisfactory and inadequate. Similarly, in the case of general councils and conventions of estates, doubts were expressed on whether these bodies were allowed, or attempted, to encroach on the greater authority of parliament. And much the same conclusion emerges from a study of the relationship of parliament with these other institutions. That the system was open to all sorts of abuses is indubitable. It is also clear that the responsibility for many of the weaknesses lies with the apathy among the estates regarding regular and sustained attendance at parliament. Issue however, must be taken with any suggestion that in the fifteenth and sixteenth centuries parliament showed signs of collapse under the weight of such defects so as to become the essentially /

essentially weak and ineffective institution traditionally depicted by historians. It was this exceedingly negative view of the constitutional system which led Rait to categorise the privy council, the convention of royal burghs and the general assembly under the collective title 'rivals of parliament'. Rait was faced, on the one hand with institutions which, in their own particular sphere, exercised some very important functions, and, on the other, with a parliament which he considered to be very weak and ineffectual, with the result that the privy council, for example, was considered to be a rival to the supreme authority of parliament. And certainly there were occasions when the privy council evidently interfered in matters which were of concern to parliament. It is a mistake, however, to assume that these occasions were necessarily areas of contention between one institution and the other. It would also be misleading to attribute the overlapping jurisdictions due to some inherent weakness in parliament. On the contrary, the most notable feature of the relationship between privy council and parliament were the areas of co-operation rather than competition. They were complementary and not rival institutions. This must be partly the explanation for the equanimity with which parliament viewed such apparent intrusions into its powers. All other institutions remained very aware of the limitations on their power to act in matters involving decisions of parliament. They showed much less confidence about the extent of their own /

own powers and much more respect for the authority retained by parliament than historians such as Rait have suggested. These institutions had to recognise the fact that in Scotland it was parliament, despite its many shortcomings, which was the supreme legislative authority. And many matters coming before them, in the end needed the moral and legal backing of parliament, and the seal of parliamentary approval.

In the ~~introduction~~ introduction to The Register of the Privy Council and in Rait's Parliament of Scotland, great emphasis was placed on the influence exercised by the council in matters which were primarily parliamentary in nature. In the former, it was noted that the council could do what a parliament could do, and undo what a parliament had done.⁽²⁾ Rait did however show some awareness of the limitations surrounding council action, when he recognised that

'the council would have hesitated to assert its own authority to make or alter laws'.

Nevertheless, it was the position of the privy council as a powerful rival to parliament on which he concentrated, which led him to claim for the council that

'the range of duties was so wide its powers were so great and the summons of parliament was so infrequent and its session so short that during considerable periods the Privy Council actually did almost everything which could be done by parliament'.⁽³⁾

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Certainly the pattern which emerged in the relationship between general council and parliament is also evident in the relationship with privy council. That is, the estates in Scotland did not seem to regard unfavourably a situation where decisions were taken out of their hands. Hence when the parliament of 1455 decided that an ambassador should be sent to the pope, it was also agreed that

'anent the personis that sall pass thar
expens and instruccionis is referyt to our
soverane lordis secret consale'.⁽⁴⁾

In the statutes anent manses and glebes enacted by the estates in 1563, it was ordained

'for vphalding and repareling of parochie
kirks and kirk yairdis of the samin for
buriall of the died within this realme that
the lordis of secreit counsal put ordoure
thairto ... quhatsumever ordour beis maid
and set furth ... to of sufficient and of
als greit strenth and effect as and the
samin had bene expreslie contenit in this
present act'.⁽⁵⁾

Parliament was also prepared to see the privy council act in the issue of taxation. In 1587 the estates empowered the privy council to impose a taxation for the repair of the bridge of Dun.⁽⁶⁾ Other institutions also acted /

acted in the realisation of the authority which the privy council exercised in parliamentary affairs. The convention of royal burghs for instance in 1578 in respect of the act of parliament concerning town centres decided to ask that

'at the nixt parliament, or at oure soverane lord and hienes counsall that ane penaltie or payne be maid aganis all thame that occupeis vniustlie, as said is, the libertie and friedome foirsaid'.⁽⁷⁾

In 1580 the general assembly asked that

'the Booke of Policie may be established by act of privy council, till a parliament be had'.⁽⁸⁾

And the privy council itself, felt it within its authority in some circumstances to take action. On 17 July 1565 it was

'menit and exponit to the lordis of secreit counsell that albeit be ane act of the quenis majesteis parliament it be prohibit that ony coillis be transportit furth of the realme, yit it could nocht be aganis the commoun weill althocht smiddy coill wer careit away. The Lordis, eftir ressoning and consideratioun had in this behalf, thinkis that the quenis majestie may dispens with the said act of parliament and give licensis for careing and transporting of smedy coill onlie furth of this realme'.⁽⁹⁾

Certainly /

Certainly it is of some significance that this example of the privy council repealing an act of parliament is unique. The council might, however, modify the provisions of parliament if the necessity arose. The record of the privy council for 1582 includes an order for modifying acts of parliament for coining a new silver piece;

'Notwithstanding, it being understand to his majestie and lordis of secrete counsale that the saidis peces, in respect of the price, is not of sic quantitie as is requisite... For remeid quhairof, his majestie and the saidis lordis... stautis and ordanis that thair salbe peces struccin and cunyeit of ane unce ... according to the tennour and effect of thir presentis; quhilk his majestie and the saidis lordis declaris salbe als sufficient warrand unto thame as gif the same and haill contentis thairof wer expreslie mentionat in the said act of parliament'.⁽¹⁰⁾

Although there is such evidence of a degree of flexibility in the relations between parliament and privy council, any suggestion that this confirms the extreme weakness of parliament or that privy council might indeed be regarded as a rival to parliament, is rather extreme. The privy council was able to act in such matters relating to acts of parliament but such action, however, was always taken with due regard to the /

the supreme authority of parliament. For instance, much the same pattern emerges in the relationship between privy council and parliament, as it did with the convention of estates: that is, like the convention of estates, the privy council might take action in legislative matters if the occasion arose. Such statutes, however, only had temporary force until they had been ratified by parliament: for instance in the example of 1565, mentioned above, when the privy council felt it had sufficient authority to ^{ask} report an act of parliament, the recognition that the final decision lay with parliament was clearly stated. The action of the privy council was only valid:

'unto the tyme of a parliament, at quhilk tyme
it may be avysit with the thre estaittis
quhethir it be neidfull that the said act
of parliament remane unalterit or nocht'.⁽¹¹⁾

In 1572 a decision of the privy council included a promise

'to get this present act and ordinance
ratifiit in the nixt parliament, that it
may have the full effect of a law in tyme
cuming'.⁽¹²⁾

The Act of Revocation of 1581 was

'to be insert and registrat in the buikis of
secrete counsale, to have the strenth of ane
act of thairof quhill his hienes nixt parliament'.⁽¹³⁾

In/

In 1588 a decision of the privy council was held

'to be of sufficient warrant to all concerned,
and his Majesty promising in verbo principis
to get the act ratified by the three estates
in the next parliament or convention'.⁽¹⁴⁾

Not only were such decisions temporary and requiring ratification by parliament for legal force, the rights of those who had operated the promises of the act of parliament effected by the action of the council, had to be protected. In 1583 the council received a supplication from the burghs craving that the customs appointed to be uplifted by the act of parliament might be superseded:

'quhairanent his majestie being willing to
satisfie thame and to lett thame understand... ordanis
his hienes customaris to contineu uptaking of
the custume of the saidis guidis as hes bene
accustomat thir lait yeiris bigane onto the
first day of Marche nixt to cum, without prejudice
alwayis of the executioun of the saidis actis of
parliament and actis of secreit counsale maid
sensyne, comptand for the tyme of the publicatioun
of the said act of parliament to the dat foirsaid
and at all times thaireftir'.⁽¹⁵⁾

Moreover, there were many occasions when the privy council hesitated even to take such limited action, insisting that /

that it was not in their authority and that nothing could be done but by parliament. In 1581 a complaint to the privy council by certain feuars within the regality of Holyroodhouse against the abbot of Holyroodhouse alleged that

'ane taxt of fourty thowsand pundis devisit to be upliftit of the estaitis of this realme, quhair of £20,000 be the spiritualite thair of... the case had been heard; and now the lords remittis the said mater to be decydit be the thre estatiss in the nixt parliament'.⁽¹⁶⁾

Similarly in April, 1579 the attitude of the privy council was not that of a rival institution. Instead once again the privy council showed an awareness of the limits to its powers in matters which required the assent of the estates. The king with advice of his council decided to

'proceid na forder in the said mater, bot to desist and ceis thairfra in tyme cuming, ay and quhill our soverane lord and his thrie estaittis tak ordour in parliament'.⁽¹⁷⁾

In matters of foreign affairs, the privy council also showed some reluctance in taking decisions without the authority of parliament. Although the council agreed to send an ambassador to England, it was provided that the ambassador

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'sall onelie confer and treate, remitting the conclusioun thairfof upoun the report and proceedingis to be returnit to his Majestie and his estaittis'.(18)

Yet even this somewhat limited remit seemed to some rather to usurp the authority of the estates. A protest was presented to the council by those who:

'dissassentit that ony commissioun or instructionis sould be gevin to treate or deale in the said mater of border league and amytie for mutuale defence; and that na thing sould be done thairin bot be the thre estatys first convenit'.(19)

In 1581 the privy council acknowledged that it was parliament who must make the decision regarding the revocation, when it decided that

'in respect that the said revocatioun can not tak full and present effect in all poyntis quhill the samin be ratifiit and apprevit be his hienes thre estatys in parliament, requiring thairfore the saidis lordis of counsaile and sessioun thairfore, to grant and direct lettirs to arreist all and sindre the rentis, mailles, fermes, proffites and deweties or utheris commoditeis falling unto his majestie be virtew of this revocatioun ... ay and quhill the said nixt parliament'.(20)

In /

In 1606 James VI underlined that the privy council remained subject to the decisions of parliament. The king charged the council that

'na lettres or chargis to be directit for
pament of the foure taxatioun salbe grantit be
the lordis of counsell and sessioun bot
dischargis thame simpliciter of granting the
samyn and alwayes as the equitie of the caus
requiris his majestie and the saidis estaittis
hes gevin and grantit power and commissioun'.⁽²¹⁾

If the privy council could not take the opportunity to rival parliament as the most powerful institution in the fifteenth and sixteenth centuries, the convention of royal burghs, for its part, had little such occasion. Certainly those matters which effected only the well-being and interests of the estates of the burghs, were exclusively the concern of the convention of royal burghs. However, in many of these activities there was no conflict between the scope of the convention of royal burghs and the authority of parliament. In fact, parliament was thankful not to have to give its limited time to matters which could just as easily have been decided by the burghs themselves. For instance the difficult question of the priority of burghs in parliament, was an issue which parliament believed could have been decided much more profitably by the burghs themselves. Hence when in the parliament of 1582, Alexander Scrimgeour and James Haliburton, /

Haliburton, provost, gave in their supplication on behalf of Dundee for redress and reduction of the judgement given by the whole commissioners of burghs against them in favour of Perth, the lords of parliament

'remittit the decission thairroff to the borrowis simpliciter and be act of parliament maid thairupon ordanit the commissioneris of borrowis at their nixt conventioun to discuss and decerne thairinto betuix Perth and Dondy simpliciter and alsua in ranking and placing of the haill remanent borrowis without delay'.⁽²²⁾

The problem arises with those matters which were of concern not only to the estate of burghs, but to all the estates. Here the principle is quite clear. In all such matters, it was with parliament and not with the convention of the burghs that the power of legislation lay. This distinction was made quite clear in 1596 when the commissioners of burghs in reply to a question regarding the customs, answered that the

'burrowes beand the meynest of the estaitts can nocht of ressoun nor of dewty tak vpoun thame to sett down or transact in any mater quhairin the haill estaitts of the realme hes speciall and grittest interest, and thairfore desyres that our soverane lord and thair lordships may be movet to be content that the mater of the customes may be continewit quhill ane parliament/

'parliament as thai ar presently payet, and
proponet and decydet in the said parliament'.⁽²³⁾

There is no suggestion whatever that this principle that matters effecting all estates must be decided by parliament, was ever challenged by the convention of royal burghs. On the contrary, the most notable feature about references in this convention to statutes agreed by parliament, is the willingness of the convention to uphold such decisions. In the main, the convention of royal burghs was concerned to co-operate with and to complement parliament by insisting that the burghs must execute the provisions of such statutes. In 1555, for example, the convention of royal burghs recognised that:

'Becaus the act of parliament ordanis all
and sindrie borrowis within this realme just
wechtis, mettis, and mesouris suld be vsite
within burgh, and ane qualifeit persone to be
deput in ilk burch to considder the samin,
Heiroir it is statut, and concludit, that ilk
burch sall haif ane dene of gild yeirlie, to
be chosin as vse is to ordour the samin yeirlie.
And gif the said dene, to be chosin negligencis
the executioun of his office, haveand bene
requirit be the provest and the baillies, ane
or ma, sall incur the panis of borrowis, contenit
in thair actis maid thairupoun of befoir'.⁽²⁴⁾

The /

The convention of 1571 required the commissioners of Edinburgh

'with all diligence possible, to rais letters vpoun the xxiii act of parliamentt haldin at Edinburgh be our soverane lordis mothir, and caus the samyn be execute vpoun al schippis within the boundis of thair iurisdictionis'.(25)

In 1581 the dependence of the convention on statute law is confirmed. The act of 1570 concerning the raising of letters be every free burgh was ratified by the convention

'within thair awin iurisdiction vpoun sic as pakkis and peillis outwith frie burrowis, and in sic caissis to put thair awin actis and statutis foundit vpoun the act of parliament and conforme to thair liberties and privilegis to dew executioun, vnder the payne of twenty poundis'.(26)

In 1574 the convention of royal burghs, seemed content with the decision of parliament, when

'after lang ressoning vpoun the act of parliament maid be King James the fyft, of guid memory, bering that na viages salbe maid nor schippis sail furth of this realme in the cuntrey of Flanderis, bot twyiss im the yeir ... all in ane voice vottis and concludis, that the said act of parliament has been devysit and set furth for the commoun weill of auld burrowis'.(27)

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There were certainly many other matters which the burghs felt to be unsatisfactory. Their answer, however, was not to challenge the existing law or to pass new statutes on their own behalf. The need to seek the authority of parliament in such matters was well-established. Because it was well aware of its own limitations, the convention sought not to challenge the superiority of parliament, but to petition parliament for the necessary changes in the law. When in 1571 the merchants accused of bringing home false money wanted to clear themselves, they

'maist hertlie requeistis the provest, bailies and counsall of Edinburgh to geve in supplicationis in all thair n_amis befor the lordis of articlis of parliament, or lordis of secreitt counsale'.⁽²⁸⁾

The convention of 1578 decided that a

'speciall supplicatioun be directed to the king and lordis of his hienes parliament be the commissioneris of burrowis to be convenit thair in Striveling the day forsaid, for desyring of reformation to be put to the sersouris vpliftand ane extraordinar dewtie of xs of ilk chalder of salt'.⁽²⁹⁾

In /

In 1584 the decision was taken to hand in a petition to parliament 'anentis supportt cravitt for reparing of the dekyitt harberres and brigges of Craill, Renfrow, Kircaldy, Peiblis'.(30)

Similarly when parliament agreed to a statute which the convention felt to be against the interests of the burghs, the convention clearly recognised that it was parliament which must make any changes.

In 1585 the convention found

'thatt be speciall article, it salbe proponit in parliamentt in thair names quhow the act of parliament laitlie maid and publeschitt at the mercatt croce of Edinburgh and vther places neidfull, anent the parking and peilling of herring... quhairby it is expresslie provyditt that all the saidis fisches be brochtt to the portis of Leith and Craill alanerlie, thair to be graithitt and handlitt in maner as is contenit in the said act, is very preiudiciall and hurtfull to the remanent frie burrowis and sea portis on aither sydis of the said watter of Forth, and that thairfoir the said act may be reformit'.(31)

Because it clearly recognised the greater authority of parliament, the convention did not attempt to challenge this authority but rather sought means of ensuring that the burghs were well-represented in parliament. /

parliament. In this period there is every indication that the burghs realised the importance of decisions taken in parliament and began to seek ways of organising themselves effectively. One of the ways in which this was achieved was by ensuring the burghs presented a common and well-thought out programme. This was partly the basis of the procedure whereby the convention of burghs convened immediately preceding the parliament. In 1580 it was enacted that a convention was to be held in April, unless a parliament was proclaimed. In which case Edinburgh was to advertise the meeting of the convention three days before.⁽³²⁾ In 1581 the convention was to be held in the burgh where the next parliament was to meet, to convene at least six days before.⁽³³⁾ Certainly, there was a financial incentive in this system. The burghs were able to use the same representatives for both convention and parliament, and were thus able to make great savings. But the advantages which this gave the burghs in parliament were also considerable. Certainly the commissioners of shires believed themselves to be at a disadvantage because, unlike the burghs, they were not entitled to convene. In 1599, therefore among the petitions of the commissioners of shires was the observation that;

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'Seing the commissionaris of burrowis hes power to convene twys in the yeir And that the commissioneris of schiris sall expone and declair the grevis of the commonis in parliamentis and generall counsallis quhilk can nocht be done without conference amangis thame selffis befor the convention of the parliament or generall counsale and that tharfor your maiestie will grant libertie to the commissioneris in schyris quhilk ar bot xxviii in nowmer to convene in sober and quiet nowmer as the burrois dois'.⁽³⁴⁾

Consequently it is hard to believe the impression often given that the burghs were content just to agree to all that was put before them. On the contrary, there is some suggestion that the burghs had not been afraid to stand alone in parliament. In 1586 the convention of royal burghs decided that

'ane speciall article be proponit in the nixt parliament or generall conventioun of the kingis maiestie and his hienes estaitis be the commissioneris of burrowis to be convenit thairto, to crave redres of the greitt abuse usitt of laitt be the vther twa Estaitis concluding actis thairatt, by the voitt and consentt of the estaitt of burrowis, and they afferming the samyn in the narrative of the saidis actis to be universallie concludit be the thre estatiss consentis /

'consentis thairto, as alsua be the denyall be the clarkis to the saidis burrowis of thair particular protestationis and actis concerning the weilfair of thair said estait'.⁽³⁵⁾

The representatives of the burghs in parliament came there with a programme agreed by the convention. More significantly very often those same people who had formulated the policy in convention only days later were those whose responsibility it was to see the interests of the burghs protected.

The recognition that the burghs' interests could only be protected if their voice became louder in parliament itself is evident from the work of the agent of the burghs. It was noted in 1593 that money was made available to push the interests of the burghs in parliament:

'The quhilk day, the saidis commissioneris of burrowes conventit to this present parliament, grantis and confessis thame to half borrowet and resavet fra James Wynrame, thair agent, vpoun proffeit, the sowme of aucht scoir poundis money, bestowet be thame for the weill of the haill burrowes of this realme for the advancement of thair effaires in this present parliament, quhilk sowme thai faythfullie bind and obleis thame to delyver to the said James'.⁽³⁶⁾

This /

This agent was also given authority to remind the representatives of the burghs at the next parliament

'to forme ane artikill to the estaittis for
ordour to be tane in favouris of the magistrattis
of burrowis'.(37)

The desire of the convention to ensure the representatives of the burghs presented the agreed programme is indicated when on the same day it was decreed that no burgh should

'presume to gif in any maner of artikle to ane parliament or conventioun generall of the estaittis without thai first communicat the [samyn] to the commissioneris of burrowis than convenit and obtene thair special awyse and consent thairto'.(38)

Nor was there any reason for the burghs to depart from this policy of co-operation. The fact is that the burghs found in parliament an institution which was reasonably receptive to their interests. The success of the burghs in 1424 is suggested by the fact that in return for the confirmation of their monopoly, the burghs agreed to pay the first instalment of the taxation.(39) In 1487 the statute providing for an embassy to Rome and included the provision that the

'costis to be made herapoun salbe sustenit
be the hale merchandis of borowis' .

This /

This was followed by a group of enactments under the heading

'Thir ar the actis and statutis that the haill commissioneris of burrowis desyris be ratifyit and appreivit in this present parliament and to be put to execucioun for the honour of our soverane lordis hienes his realme and weilfar of merchandis'.⁽⁴⁰⁾

It is hard not to come to the conclusion that the willingness of the burghs to provide the resources for the above embassy goes a long way to explain the success of the burgh legislation. Such successes for the burghs were not extraordinary. In the reign of James I the assisa on weights and measures seem to have been burgh legislation.⁽⁴¹⁾ It is possible that the statutes of 1458 and 1491,⁽⁴²⁾ which attempted to restrict outside interference in burgh affairs, arose out of complaints from individual burghs. In the fifteenth century the burgh of Aberdeen in particular was at the centre of disputes between local lords.⁽⁴³⁾ The act of 1469 concerning the election of town councils surely came from Edinburgh which alone carried out its provisions.⁽⁴⁴⁾

In 1504, the burghs saw parliament agree to a large body of statutes which confirmed the privileges of the burghs.⁽⁴⁵⁾ Not least of these was the enactment which provided that the burghs must be warned when taxation was to be discussed.⁽⁴⁶⁾ In 1535 the king, with /

with advice and consent of the three estates, ratified and approved earlier legislation granted to the merchants within the burghs.⁽⁴⁷⁾ Once again in 1563 the rights and privileges of the burghs were confirmed by the estates.⁽⁴⁸⁾

Not only were the limitations on the convention of royal burghs in affairs of particular interest to the burghs clearly recognised, but the sixteenth century witnessed a much greater appreciation that the burghs could and must play a role in important matters of state. Rait suggested that the burghs' interest in parliament was confined to administrative detail.⁽⁴⁹⁾ But this view appears somewhat narrow in its conception. Certainly many of the petitions from the convention of burghs were thus concentrated. But this viewpoint takes no account of the implications of the statutes of 1504,⁽⁵⁰⁾ 1563⁽⁵¹⁾ and 1567.⁽⁵²⁾ As has already been discussed in earlier chapters, these enactments at those meetings of the estates established the rights of the burghs to be included in any meeting of the estates where important matters of state were to be decided. This suggests that by the sixteenth century the burghs aspired to influence more than decisions in purely administrative matters. To do this the burghs looked to an arena wider than that offered by the convention of royal burghs. As an institution which administered purely burghal matters, the convention was of some importance. But it on no account might be considered as a serious rival to parliament.

Of the ecclesiastical institutions, the provincial council and the general assembly, the former proved much less a threat to the authority of parliament. Patrick noted that although there was certainly some confusion about the precise relationship of the spiritual court to the civil power,

'The supremacy of parliament seems to have been maintained: some decisions at least given in the Council were liable to be referred to parliament as a court of appeal'.⁽⁵³⁾

Parliament for its part did not hold much respect for the independence of the provincial council in ecclesiastical affairs. As early as the reign of James I, the dominance of the estates over provincial councils was clearly established. In 1425 it was parliament which decided that

'ilk bishop sall ger inquyr be the inquisicione of heresy quhar ony sik beis fundyne ande that thai be punyst/as lawe of halykirk requiris and gif it misteris that secular power be callyt tharto in suppowale and keping of halikirk'.⁽⁵⁴⁾

At the following parliament the clergy were apparently quite willing to promise the estates that each bishop would ensure that every priest said a special prayer for the well-being of the king, queen and their children.

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'Ande at thai sal mak at thare nixt
generale consale of the clergy a general
statute princypaly tharupon'.⁽⁵⁵⁾

By an enactment of the parliament of 1426 bishops
officers and clergy were to inquire diligently into the
visitation of every parish church. In 1535, it was
parliament that provided for a meeting of the general
council at the Black Friars', and

'that the Archbischof of St. Andrews be requirit
be the kingis grace to sett and haldin the said
counsale at the said day. The hale clergy beand
lauchfullie warnit tharto as efferis Ande gif my
Lord of Sanct andrews refusis to sett and haldin
the said counsale or that vther impediment be
that he may nocht do the samin'.⁽⁵⁶⁾

The extent of parliament's initiative in
ecclesiastical affairs was underlined in 1543 when
parliament agreed to a statute permitting the reading
of the bible in the vernacular despite the vociferous
opposition of the clerical estate.⁽⁵⁷⁾

The general assembly seems a much more likely
candidate for the description of 'Rival of Parliament'.
The privy council and the convention of royal burghs
always acted with some caution in its dealings with
matters that ought to go to parliament. The provincial
council had long before the Reformation given up any
pretensions of being the superior authority in
ecclesiastical affairs. The general assembly, however,
proved /

proved much less amenable to the interference and control which parliament had sought to exercise in ecclesiastical affairs. Calvin had insisted on the necessity of an independent ecclesiastical authority and one of the main foundations of the Reformation church in Scotland was the principle that the jurisdiction of the church was separate from that of the state and was derived directly from God and owed nothing to the secular authority. Indeed in 1578 the Second Book of Discipline commented that

'This power and policie ecclesiasticall is different and distinct, in the awin nature, fra that power and policie quhilk is callit the civile power, and appertenit to the civile government of the commoun wealth: albeit they be baith of God, and tend to ane end, gif they be rychtly used, to wit, to advance the glorie of God, and to have godlie and guid subiectis'.⁽⁵⁸⁾

In no uncertain terms the general assembly rejected the principle of the supremacy of parliament.

But in the decades which followed the Reformation there was more than a little confusion about what constituted the ecclesiastical jurisdiction. Hence in 1571 the Regent Mar commenting on the difficult problem of benefices, said that the

'default of the whole standeth in this that the policie of the Kirk of Scotland is not perfyte'.⁽⁵⁹⁾

In /

In the chapter on ecclesiastical representation in parliament, it was suggested that the assembly's attitude on this matter had developed out of an awareness that the church remained still very dependent on a willingness for changes in the statute law before the ideals of the Reformers might come to fruition. Nevertheless, the general assembly's claim to be a rival of parliament rests on more than just its assertion of the principle of exercising an independent and supreme authority in ecclesiastical affairs. The assembly sometimes was able to win concessions for its viewpoint from parliament and even on occasion the assembly proved willing to proceed regardless of what the position of parliament might be. For instance parliament was apparently willing to offer the church a very important concession when an act of the parliament of 1567 recognised the right of patrons in disputed cases to appeal to the synod and the general assembly and not the court of session.⁽⁶⁰⁾ The assembly was prepared to take the initiative when it came to the contentious issue of the appointment of bishops, and was not content to await the necessary changes by the secular authority. For example, those bishops appointed after the Leith agreement were required to acknowledge the supremacy of the general assembly in ecclesiastical affairs. The office of bishop was proscribed in the Second Book of Discipline and after 1578 the church proceeded with some speed to develop a system of presbyteries, notwithstanding/

notwithstanding the fact that this was incompatible with much of statute law. Before 1592 statute law provided that bishops and commissioners of the kirk were alone entitled to receive presentations to benefices if the patron had not presented a qualified candidate within six months. However, such was the confidence of the assembly that they ignored the provisions of parliament and in 1590 declared that presbyteries were to receive presentations in future. This confidence was evidently not unfounded, for by 1592 in 96% presentations by the crown, a presbytery is mentioned, and in at least half of these cases no alternative is named. In this sense the most important feature of the 'Golden Acts' is that they brought statute law into line with the reality of Scottish Church government.

Although the assembly was sometimes able to challenge with success the decisions and laws of parliament, it would be rather misleading to suggest that in the struggle for supremacy in ecclesiastical affairs, it was parliament which proved always to be the loser. The influence by parliament not only lay in that plenitude of power not possessed by the assembly but the fact that parliament retained a great deal of influence over the direction which the church might take. Indeed one of the motives behind the church's willingness to compromise in the agreement at Leith was the failure of the assembly to get parliament to agree to the necessary /

necessary financial concessions. The secular authority showed little sign of accepting come what may that the assembly was the supreme authority in all affairs ecclesiastical. In 1573, for example, the Earl of Morton called into question the authority of the assembly when he asked to see the Acts of the general assembly so that he might decide

'how many of them be perpetuall, and how many temporall'.(61)

The privy council, for its part, was apparently certain that the final authority in ecclesiastical matters was parliament, when it described an act of the assembly as

'bot prevat, na publicatioun being maid thairfor
nor yit authorizit by parliament as it aucht to
be befoir it tak effect; and thairfoir is null'.(62)

In 1584 parliament, despite the vociferous opposition of the church, gave its assent to the 'Black Acts', which were manifestly opposed to the affirmed policy of the assembly.

Consequently, the assembly always had to rely on the willingness of parliament to co-operate with and accede to the assembly's demands. Therefore, not surprisingly, like the convention of royal burghs, the general assembly preferred to ensure its meetings coincided with those of parliament. In 1576 the assembly proposed that it should next meet on 24 October next to come if no parliament /

parliament was summoned but

'in cace of a parliament the kirk ordained the ministers of Edinburgh to make intimatioun thereof to the bishops, superintendents and visitors of countreyis, that the kirk may be conveinit foure dayes befor the said parliament'.⁽⁶³⁾

Similarly it was proposed that an assembly meet on 17 August 1592 but if a parliament intervened

'in the quhilk cace the brethern being advertised thereof be the presbyterie of Edinburgh, sall hold thair assembleie quher the parliament salbe for the tyme, and conveine two dayes befor the same'.⁽⁶⁴⁾

Because the assembly was forced to admit the continuing influence and control parliament had over matters of concern to the assembly, then one of the more important duties of the assembly was to prepare those items which it would put before parliament. In 1560, for example, the general assembly came to the conclusion

'that of the law of God, marriage may be solemnizat betwixt parties beand second, thrid, and ferd degries of affinitie or consanguinitie, and uthers sic as are not prohibited expressly be the word of God'.

Nevertheless the assembly admitted the limits to its jurisdiction in matters referring to questions of marriage and asked that

'the lords and estates to interpone their
authoritie, and approve the samein, and mak
lawes thereupon'.⁽⁶⁵⁾

At the same assembly it was also decided to ask parliament
to take

'order with the confirmatioun of the testaments,
that pupils and orphans be not defrauded and
that lawes be made thereupon in their favours'.⁽⁶⁶⁾

That the assembly remained dependent on and vulnerable
to the decisions of parliament was underlined in 1581
when the assembly presented to parliament several
petitions

'all which have been in manner refused'.⁽⁶⁷⁾

But it is perhaps significant that one of the issues
which came up again and again was the absence of any
form of ministerial representation at parliament. In
the chapter on ecclesiastical representation, it was noted
that representatives of the assembly petitioned parliament
in 1571, 1579 and 1592⁽⁶⁸⁾ for a scheme for ecclesiastical
representation. The preparedness in the church to accept
some form of representation was also apparent in the
Leith agreement: in John Howiesons' (the minister of
Cambuslang) representations against the 'Black Acts'
the assembly's acceptance of the principle of
ecclesiastical representation after the statute agreeing
to this in the parliament of 1597. Even the Second Book
of Discipline was rather less than explicit in its
condemnation of any form of ecclesiastical representation.
The/

The support of the majority in the church for this policy is almost certainly in some senses a reflection of the futility in the sixteenth century of any institution, even one as important as the general assembly, seeking to rival parliament. The desire of the church to have a direct influence over the decisions reached by parliament developed out of a realisation that although the assembly might win some very important concessions from parliament, in the end many of the battles over important ecclesiastical matters needed to be fought in parliament itself. Like the privy council and the convention of royal burghs, the general assembly had been forced, albeit reluctantly, to some appreciation of the need to co-operate with parliament. In the case of the assembly this was reflected in the abandonment of the doctrinal misgivings of some in the assembly, in favour of the advantages participation in parliament would bring.

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27. RCRB, i, 32.
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37. RCRB, 468.
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44. APS, ii, 95, c.5.
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47. APS, ii, 358, c.31.
48. APS, ii, 543, c.20.
49. R.S. Rait, The Parliaments of Scotland, 12-13.
50. APS, ii, 252, c.30.
51. APS, ii, 543, c.20.
52. APS, iii, 424, c.64.
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61. RPC, ii, 560.
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63. BUK, 362-3.
64. /

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C H A P T E R 8

THE INFLUENCE OF PARLIAMENT: THE AUTHORITY AND COMPETENCE
OF THE THREE ESTATES.

In the chapter on general councils and conventions of estates, it was concluded that these institutions were fully aware of the greater authority and supremacy of parliament. It was argued that there appears to be little doubt that decisions by the general council did not require ratification by parliament. In the fifteenth century the statutes of the general councils themselves make no reference to future ratification by parliament. In 1587 there was evidently some confusion over the distinction between statutes of general councils and acts of parliament and inquiry was made of the Clerk Register, whether acts of general council be

'of like validitie as actis of parliament'.⁽¹⁾

Nevertheless, the reason for the peaceful co-existence between parliament and general councils was not the inherent weakness of parliament and the lack of determination among its members to defend the rights of parliament, but rather because the boundary between general councils and parliament always remained distinct. The occasions when a government would summon a general council rather than a parliament seemed clearly defined. Firstly, the government might resort to a general council when the business needing the attention of the estates was /

was of such a pressing nature that the delays arising out of the procedures for calling a parliament might have proved at best extremely inconvenient or at worst very dangerous. Into this category falls the meeting of the general council in October 1436.⁽²⁾ The second and most common motive for the decision to summon a general council were those occasions when there were only a few and often very minor matters which required legislative action. One example of this is the general council in October 1429, which, as has already been noted, included only five statutes,⁽³⁾ none of which was in any way very detailed. Moreover, it is the lack of a substantial legislative programme rather than the absence of any recognised regent, which is the more likely explanation for the frequency of general councils in the reign of James II. If the limitations on the role which might be played by a general council were clearly recognised in the fifteenth century, by the sixteenth the trend was to limit even further the scope of decisions which could be taken outside parliament. From the end of the fifteenth century, general councils became a much less acceptable alternative to meetings of the three estates in parliament, and such meetings became more and more infrequent. The unwillingness to see legislative matters decided elsewhere continued well into the sixteenth century and beyond the existence of general councils so that when the convention of estates developed out of the unofficial meetings of the nobility, these conventions unlike general councils never attained the /

the power to act alone in legislative matters. As was noted in the chapter on conventions of estates, many of their decisions expressly included the provisions that these must be ratified by parliament.

Similarly, doubts were also expressed in the chapter on the lords of articles on the extent to which the traditional view of this committee should be accepted, that is, the extent to which the lords of articles were agents of the government thereby impeding any independent expression of the three estates in parliament. Firstly, until the latter part of the sixteenth century there is every indication that the election of the lords of articles remained firmly in the hands of the estates themselves. These changes in the system of election which had combined to give the crown a much greater say in the personnel elected to the committee of articles, namely, the right of royal nomination, the exclusion of the shire and burgh representatives from the election process and the system whereby the lords of articles who were elected in the first session of a current parliament and continued until the last session of that parliament, were all introduced in all probability some time during the reign of James VI. Consequently the estates in Scotland were perfectly willing to resist such interference by the crown in a matter which had traditionally been the exclusive /

exclusive right of the estates. The parliament of 1612 is a very good example of the ability of the estates to triumph even when the hands of the king had been considerably strengthened. The estate of the nobility, for example, refused to conform to the king's wishes regarding the composition of the spiritual estate on the articles. The nobles were also able to capitalise on the exclusion of the commissioners of shires and burghs and gave their support to members who were not among the king's preferences.⁽⁴⁾

Yet the most important evidence that the balance of power in the election of the articles remained with the estates was the composition of the committee itself. There is no suggestion that the articles were selected with the interests of the crown in mind. Rather two other considerations were uppermost. Firstly the lords or articles must represent a reasonable if not exact balance between members from north and south of the Forth. But only as long as this was compatible with the second consideration, namely, that the most powerful, particularly among the clergy and the burghs, found their rightful place on this extremely important committee. Since the articles were in the main the choice of the estates, and its composition was designed to meet the needs of the estates, it would be rather surprising if the articles turned out to be, as historians have traditionally stressed, solely the agent of the government of the day. There /

There is indeed some evidence to the contrary. While the estates could indeed prove more than willing to accept without question many of the matters which came before them from the articles, the large number of statutes ratified by the whole of parliament in a very short period provides ample evidence that this must have occurred. But this should not obscure other very important aspects of the relationship between the crown the articles and the estates. Firstly the articles performed the very important administrative function of preparing and previewing the large numbers of proposals from both private and government sources. Moreover to the extent that the articles could and did control what items came before parliament, this control applied not just to private legislation but also to proposals favoured by the government. Some of the most cherished policies of government could be thwarted before they ever reached the attention of the full estates in parliament. Even if the king's proposals were to come through the articles unscathed, there was no guarantee that parliament would prove equally amenable. Where parliament felt it advisable, it was prepared to alter or even refuse items which had the backing of the articles, even if on occasion that proposal derived from the king himself. But it would be wrong to present the picture that the decision on whether an item ever came to parliament was solely at the discretion of this committee. Certainly there were occasions when the articles /

articles proved more than a little secretive about what it was up to. The conduct of the articles during the whole affair of the 'Black Acts' in 1584 is a good example of the manner in which the lords of the articles would attempt to keep their proceedings secret from the estates.⁽⁵⁾ Nevertheless, the principle that in Scotland every citizen had the right to be heard by parliament remained relevant if not intact. As late as 1617 James VI himself conceded the principle that this right was inviolate.⁽⁶⁾

The same theme emerges from the institutions which Rait grouped under the collective heading 'Rivals of Parliament', namely the privy council, the convention of royal burghs, the provincial councils of the pre-reformation church and the general assembly of the reformed church. Within their own areas of interest, these gatherings were competent to come to some very far-reaching conclusions. There were, nevertheless, very many occasions when their decisions could only be an expression of intent until fortified and given permanence by the seal of parliamentary approval. Hence the many occasions when a body as influential as the privy council refused to make a decision on a matter which came before it on the grounds that the matter under discussion was without its remit and necessitated a /

a decision by parliament itself. On 20 April, 1579, for example, the king with advice of his council decided to

'proceid na forder in the said mater, bot
to desist and ceis thairfra in tyme cuming,
ay and quhill our soverane lord and his
thrie Estaittis tak ordour in parliament'.⁽⁷⁾

Even when the privy council felt it necessary and acceptable to take some action in a matter which needed the consent of the estates in parliament, the need for such decisions to be ratified by parliament was clearly understood. The Act of Revocation of 1581 was

'to be insert and registrat in the buikis
of secrete counsale, to have the strenth of
ane act thairfof quhill his hienes nixt
parliament'.⁽⁸⁾

For its part, the general assembly proved much less amenable to any suggestion that parliament exercised any supreme authority when it came to ecclesiastical affairs. Nevertheless, as has already been discussed, the decision of the majority in the assembly from 1571-1600 to support the principle of ecclesiastical representation, notwithstanding that some of their colleagues nurtured some deep doctrinal misgivings, must in part have been a response to the realisation that at the end of the sixteenth century, the battle for ecclesiastical changes had to be fought and won in the supreme court of parliament.

Bodies such as the general council, the convention of estates, the lords of articles, the privy council, the general assembly might and did claim a certain latitude within their own particular sphere, perhaps to a degree which would never have been envisaged elsewhere than in Scotland. Yet, by law each of them remained subject to the greater authority and competence of parliament. For all its shortcomings parliament apparently retained sufficient authority to offset whatever challenge any of these institutions might present to its supremacy. Yet among historians its reputation has been, to say the least, rather tarnished. Historians have tended to stress what they see as the intensely negative forces at work in the constitutional system namely, the reluctance of the estates particularly the lesser barons to attend parliament; the consequent absence of a regular form of shire representation; the institution of the lords of articles; the role of general councils and conventions of estates; the existence of powerful 'rivals' which were able to challenge a very weak parliament; the apparently minor role played by taxation. These, it has been argued, all combined to produce an institution which was outstanding only for its weaknesses and the negative influence which it had on Scottish life. Unfavourable comparisons have been made with parliaments elsewhere, particularly in England. In MacKinnon's opinion: (9)

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'When under a strong ruler like James I, James II or James IV, it was the conventional medium of the royal will, and that under the weak rulers and during the frequent royal minorities it was the submissive tool of some magnate or faction who wielded the government for the time being. In such circumstances, it seems to have been little more than the conventional means of making known what the king and his council had done or wished to do'.

R.S. Rait was equally convinced that parliament was an essentially very weak and relatively unimportant institution. He believed that until the Reformation, parliament:(10)

'cannot be said to have exercised any decisive, or even any influential, voice upon the determination of national policy. It existed normally to ratify what had been done or was about to be done, by the sovereign or by those who exercised the power of the sovereign'.

This is a picture which would be more familiar to the twentieth-century reader than to those who lived in the fifteenth and sixteenth centuries. What they experience is an institution which had all the more important matters brought before it; and for more than consultative purposes. MacKenzie suggested that the part played by parliament/

parliament in these very important matters was only incidental. He believed that the estates did no more than give their consent on all these issues: the written law of Scotland was truly enacted by the king alone; the kings in Scotland had the sole right of legislation.⁽¹¹⁾ Erskine, on the other hand, believed that the very admission that the consent of parliament was required towards the passing of laws suggested that the king by the constitution might not act alone.⁽¹²⁾ Indeed the members of parliament had the political power and sometimes the political will to take action independently of the government. One such example was the role played by parliament in the crisis period of 1482-3. Parliament was evidently determined to find a compromise solution and in December 1482 agreed to a proposal that Albany be appointed as Lieutenant-General of the realm.⁽¹³⁾ N. MacDougall has argued that this appointment differed substantially from the earlier appointments of Lieutenant-Generals in 1399 and 1438 in that Albany's activities were to be confined to the defence of the borders against possible invasion, but that nevertheless this office would have made Albany the second person in the realm. What MacDougall is unsure of is whether:⁽¹⁴⁾

'the mention of defence of the borders and protecting the king's person was an excuse suggested by the Estates or a limitation bargained for by the king'.

Either /

Either way parliament had been prepared to give its support for a scheme which could have found very little favour with the king. Moreover the estates were also likely to refuse altogether or alter policies which had been proposed by the government. In 1523 the government was involved in discussions regarding a treaty between England and Scotland. There was, however a great deal of opposition among the estates to any such proposal.⁽¹⁵⁾ The Cardinal was evidently less than confident that he could win the estates' approval for any such arrangements. Hence Louis de Praet, imperial ambassador in England, informed Charles V, that the cardinal was aware of the dissension and, as a result of the

'divers opinions and several difficulties',⁽¹⁵⁾ which had arisen, the parliament had to be postponed.

Again, the estates were not prepared to grant James VI all that he desired of them at the parliament of 1592. The king was:

'stirred and grieved by the denial of sundry things offered by himself and for his own benefit to the parliament, especially for the revocation of his grants made after the twenty one years and after the 25th of his age, with two or three others which were earnestly followed by him, and yet rejected'.⁽¹⁶⁾

James /

James VI also found some difficulties in persuading a majority present at the parliament of 1606 to agree to the statute concerning bishops in exactly the form offered by him. On 4 July 1606 James VI was informed by Dunbar, Scone and the advocate that a majority in the lords of articles allowed the statute 'with verie few verie tolerabill exceptions'.⁽¹⁷⁾ Similarly although in 1606 James VI had pleased

'to reccomend vnto your estaittes, at the last sessioun of the parliament, in this kingdome, the inhabitants of Dounbartane, that some help might be granted to thame of the haill countrie, to make some defence to thair toun'.

The Estates for their part were rather more reluctant to

'lay twa taxatiounes vppon the countrie, onder tua severall naymes, bot with good will granted the taxatioun or subsidie, the greater vnto your sacred maiestie'.⁽¹⁸⁾

The Estates were also prepared to reprimand the king if they felt he was in any way failing in his duties or might insist he took their advice. No more was this apparent than during the reign of James III. The estates, as will be discussed below, constantly exhorted that James III assured the efficient administration of Justice. In /

In addition, in 1469 the estates insisted that the statute 'anent the reduction of the hospitalis of the realme:'

'be put to executione and that the thre estatiss of the realme requere the kingis hienes and the ordinaris to mak the said act be execut, observit and kepit'.⁽¹⁹⁾

In 1484 the issue in question was the absence of some of the estates and lords from parliament, when

'the lordis vnderstandis that thai have faltit and suld be blamyt and referris the blame of thaim to the kingis hienes'.⁽²⁰⁾

But if the estates were always eager to insist that a king perform his duties, they could be no less forceful when it came to defending their rights. As long as other institutions like the general councils, the convention of estates, the lords of articles, the privy council or the general assembly continued to recognise the limits of their authority and their ultimate dependence on parliament, the estates in Scotland had remained very flexible regarding what matters could be taken out of their hands. But when during the reign of James VI, for example, the rights of the estates regarding the election of the articles had been challenged, the estates were much less willing to compromise. As was noted /

noted in the chapter on the lords of articles, the
(21)
estates in 1606 had proved perfectly willing to
acquiesce in the king's nominations for the lords of
articles. When however in 1612, the experience of 1606
had been used as a precedent to give the king the
'constitutional right' of nomination, there were those
who realised the implication of this change and withstood
the attempts of the crown to influence their choice.
Indeed the delivery to the nobles of a list of prelates,
whose election James VI recommended, aroused

'many descourses of the necessitie of the
mentenance of thar privileges and libertie'.(22)

The estates were also rather less than obsequious in
their reaction to the procedure whereby these lords of
articles elected at the beginning of a current parliament
were to continue until that parliament had actually ended.
In 1604⁽²³⁾ and 1606⁽²⁴⁾ James was under some pressure
from the estates to put an end to this procedure. Indeed
it was the realisation in 1606 that the matter had not
been finally settled in 1604, that brought James to seek
a safeguard in the procedure of royal nomination.

The view that the king might choose whether he
consulted the estates or not also appears incorrect.
In fact there was some awareness by both crown and the
estates of the rights of the three estates to play their
part in all decisions of national importance. It was
the /

the need for the three estates to be consulted in all important matters which lay behind the statutes of 1504, 1563 and 1567,⁽²⁵⁾ which reaffirmed the right of the burghs to attend any meeting where vital^{issues}, but particularly taxation, might be on the agenda. Similarly the crown's attitude towards a system of shire representation was conditioned less by an awareness that the lesser lairds would prove valuable royal allies than by the king's realisation that his ambitions, particularly regarding taxation, would be under threat if the representatives of the shires were not duly consulted. Hence as was discussed in the second chapter, it is quite likely that the debate at the parliament of 1426 over the king's demand for a renewal of the grant of taxation, first made in 1424, centred on the question of whether the lesser barons and others absent from the parliament of 1426 would be held to pay any agreed taxation.

Certainly, James I was able to overcome this problem and had won parliament's agreement to a new taxation. But nevertheless the apparent failure for this taxation ever to be collected was most probably the continued resistance among the lesser barons to pay a taxation which they had not agreed to in parliament. It was the existence in Scotland of this principle that the estates, including of course the lesser barons, must be consulted, which lay behind James I's scheme of 1428 and not any great desire for constitutional changes. The lesser barons themselves underlined their right to be consulted along with the estates in any matters of note /

note when they petitioned to be allowed to attend the Reformation Parliament. Similarly it was the realisation in 1587 that James could hardly decide to exclude the lesser barons from a place in parliament when at the same time he sought to make arrangements for determining their proportion of taxation.

There were also very many occasions when the provision that the approval of the estates must be sought was expressly included. For example a statute of the parliament of March 1430 concerning the fishing of salmon was to be observed

'quhil it be revokit be the king and the thre estatys of the parliament'.⁽²⁶⁾

In 1438, it was decided that all alienations of the king's property which had been made without the advice and consent of the three estates were to be revoked, and that

'na landis nor possessionis pertenying to the king be gewyn nor grantyt till ony man without the avys and consent of the thre estatys of the realme'.⁽²⁷⁾

The annexations of certain properties to the crown in 1455,⁽²⁸⁾ 1540⁽²⁹⁾ and 1581,⁽³⁰⁾ also included the provision that these might not be alienated without the express consent of the three estates. In 1450, it was ordained that any man who committed treason against the king's person or aided anyone who had committed treason, or /

or assailed any castle or place where the king was in residence

'without the consent of the thre estatiss
shall be punyst as tratouris'.⁽³¹⁾

All fortresses in Scotland were delivered in 1514 to the keeping of the three estates,⁽³²⁾ from 1524 no remission for slaughter committed on forethought felony was to be given for the space of three years without the advice of the estates.⁽³³⁾ A statute of 1426 provided that no legate or legation be received in Scotland

'bot be advise of our soverane lord and his
thre estatiss'.⁽³⁴⁾

The consent of the three estates was also required before any offices or regalities might be given in heritage. Hence in 1540 it was enacted that all such grants given without this consent were to be revoked.⁽³⁵⁾ It is therefore not surprising that within and without Scotland, there was some recognition that consultation with the estates was a meaningful and necessary procedure in the conduct of the most important matters of state. The estates were therefore not only consulted on such matters, but could and did influence or even determine the course of some of these decisions.

One of the recurring problems of the history of Scotland during the fifteenth century was the frequency of /

of the royal minorities. It is perhaps not surprising that the estates played a very important part when it came to making arrangements for the government during these minorities. The parliament of 1524 included a statute anent the expiry of the office of the tutory and governance of John, Duke of Albany. The said:

'thre estatys has decernit his said office of tutory and governance to be expirit and he secludit thairfra and has statut and ordanit that our said soverane lord sall use and exers his awn auctoritie'.⁽³⁶⁾

James, Earl of Arran was appointed in the parliament of March 1543 as tutor to the queen and governor of the realm.⁽³⁷⁾ The convention of 1571,⁽³⁸⁾ the parliament of 1572⁽³⁹⁾ and the convention of 1578⁽⁴⁰⁾ approved the election of Mar, the election of Morton and the discharge of Morton from the regency, respectively. Furthermore in 1572 it was provided that if the regency again became vacant, the estates (it does not specify whether in parliament or convention) were to appoint a protestant noble as regent.⁽⁴¹⁾ This resort to the estates in the time of a minority meant much more than the mere consultation about who should become regent. There is some evidence to suggest that parliament was much more prominent during the minorities. Hence the estates were often in such circumstances more apt to criticise ^{or} in even reject government policy. In 1515, for example /

example, the archbishop of Glasgow was appointed as chancellor against the queen's wishes.⁽⁴²⁾ The regent Albany suffered very much at the hands of the estates. In November 1516, Clarencieux informed Cardinal Wolsey in England that although Albany had:

'argued with all the estates of the land',
it was to no purpose as they:
'will not consent to his removal until their
king is of full age; unless he can obtain a
prorogation of the truce concluded at London,
and do justice upon all the thieves'.⁽⁴³⁾

Albany was to find himself in further trouble with the estates in 1518, when in that year Albany had recommended his brother as head of the religious house of Whithorn. This was contrary to the privileges granted by the Scottish crown which parliament had decreed should not be contravened.⁽⁴⁴⁾ When his brother had been granted the Augustinian monastery at Scone in commendam the estates again expressed their displeasure and

'warned Albany not to allow such an indignity
to be offered to the kingdom under his
government'.⁽⁴⁵⁾

This bout of activity by the estates during the regency of Albany is in marked contrast to the situation in 1490-1513. During this period of the active rule of James IV, the estates played a much less prominent role and parliament became less and less frequent.

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The estates also took an important share in the determination of foreign policy, royal marriages or questions of peace and war. In 1481 an ambassador was sent from

'our soverane lordis hienes and fra the estatys of the realme to the king of France and to the parliament of Paris'.⁽⁴⁶⁾

Deliberation was given at the parliament of 1489 to the

'renewing of the consideracioun maid betuix our soverane lord and the said king of France'.⁽⁴⁷⁾

The royal marriage was an issue in the meeting of 1468 when it was agreed to send an embassy to Denmark to arrange a marriage for the king.⁽⁴⁸⁾ Regarding the marriage of the king's sister, in 1475

'the lordis of the thre estatys thinkis that his hienes and the lordis of his consale suld in all gudly hast avis her mariage in sum convenient place'.⁽⁴⁹⁾

In 1482, the estates assembled in parliament concluded that

'pece be takin with Ingland gif it can be had with honour'.⁽⁵⁰⁾

The arrangements for the preparation for war with England were brought before the parliament of March 1430.⁽⁵¹⁾

There is every indication that the estates were able to influence /

influence the direction of the government's action in those areas. For example, in chapter I two reasons were offered for the decision in 1430 to prepare an army to invade England. One suggestion was that by March 1430 James I already suspected the Earl of Douglas of engaging in treasonable negotiations with England. But the second explanation is much more interesting in terms of discussion. It was suggested that James himself was under a great deal of pressure from the estates, who wanted to see him pursue a much more positive attempt to secure the release of those hostages still held captive in England. One indication of the kind of pressure this issue had on the king was his decision to send Roulle to negotiate another exchange of hostages, when diplomatic arrangements had already been made on both sides for commissioners to

'treat concerning a perpetual and final
peace'.(52)

As has already been noted, one historian was certainly convinced that the decision to send Roulle was a response to extensive pressure from the estates, and was

'to gratify the Scottish nobles, when he was
about to meet in parliament on March the sixth'.(53)

If this was indeed an attempt to defuse the strong emotions among those who came to the parliament, it certainly backfired. On 9 March 1430, while the Scottish parliament was still in session, the answer given to Roulle's request /

request was that those ambassadors then in the north had already been given instructions on the matter.⁽⁵⁴⁾

Therefore, a perfectly reasonable explanation for the inclusion of the code for the marches in the parliament of 1430 was not that James, aroused by stories of the activities of Douglas, had taken the traditional step of consulting parliament in his plans, but that for some weeks before the 30 March, pressure had been building up among the estates for some more positive action to secure the release of the captives still in England, and it was this pressure, rather than any decision by James, which had precipitated the deterioration of Scotland's relations with England. Indeed it is possible that the whole unfortunate episode of the arrest of the Earl of Douglas (when it seems likely that his negotiations had been a perfectly innocent attempt to bring about the release of Malise) was that Douglas' contact was made at a time when the country was ostensibly in the process of making arrangements to invade England. Similarly in March 1482, parliament was not content just to preside over various statutes, which had been put before them for the defence of the realme, but also was concerned to remind James III of his responsibilities in the imminent war. Parliament enacted that if Edward IV were to lead an invading army in person, he should be:

/

'resistit be oure soverane lord in propir
persoun and with the hale body of the realme
to leyf and dee with his hienes in his defence'.⁽⁵⁵⁾

In 1473 the estates were prepared to take decisive action to thwart what they saw as James III's unreasonable foreign ambitions. In 1473 the advice of the estates anent certain articles proposed by James III included the observation that:

'The lordis can nocht in na wis gif thar consale
to his passage of this realme'.

They backed up their 'advice' with the warning that no financial aid would be forthcoming:

'and gif his hienes standis vterly determyt to
pas and can nocht in na wis be persuadit to remane
within his realme to the execucion of justice the
quiete of his pupill the lordis thinkis that his
hienes may nocht in na wis dispone him for his
worschip to pas in this sesone considering that
he is unprovidit or furnyst of his expens and
the pupill that sulde pas with him vnwarnit and
vnprovidit to pas with him as accordis for his
worship'.⁽⁵⁶⁾

The need for parliament to give its agreement to any proposal to mobilise an army was confirmed in 1533. It appears that the king of Scotland

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'twice assembled the parliament for a large army for the invasion of England, and they will decide on the 1st of this month'.(57)

As far as taxation is concerned, there is certainly some evidence to suggest it perhaps never became the great bargaining power which it was in England. This was because in Scotland parliament did not have the exclusive right to impose taxation. The convention of estates indubitably had that power and it seems likely that the general councils might have had that authority. Parliament itself apparently had little objection to taxation being decided elsewhere. In 1535 parliament had committed powers to the lords of articles, who

'in name of the hale thre estatys of thare awine fre will hes with gude hert and mynde grauntit to his grace for supportacioun of sik gret charges the soun of sex thousand pundis'.(58)

Then, in 1587, parliament granted to a committee of six of each estate full power to

'treat, consult, deliberat, and conclud upone sic taxatioun as salbe thocht expedient to be levyt of his subjectis'.(59)

A second reason for the relatively weak bargaining position of the estates was the absence of regular taxation in Scotland. /

Scotland. Moreover there were certainly occasions when kings of Scotland only needed to ask the estates for a certain sum and they appeared only too willing to grant it. Those who were present at the parliament of 1424, for example, were more willing to grant a taxation than those in the country at large were prepared to pay it. For in 1426 parliament decided action should be taken against non-payers of the tax of 1424.⁽⁶⁰⁾ The ability of James I to persuade the estates to grant a taxation was underlined in the parliament of 1426 when the estates agreed to a renewal of the taxation of 1424 despite the opposition of the country. In the reign of James VI, there were occasions when the estates proved amenable to the king's demands for taxation. In 1606 one writer noted the

'unspeakabill affection vttered of the granting thair of be your maisties subiectis of all estatis be your maiesties subiectis ... and thairfore have maist willingle granted nor we can wourthile expres ane taxation'.⁽⁶¹⁾

Nevertheless, it is important not to under-estimate the degree to which taxation, even in Scotland, had influenced events. Firstly, while there is evidence that taxation was imposed outside parliament, the trend in Scotland was certainly to insist that any such imposition required the agreement of the three estates. As was noted in the chapter on taxation, the introduction of burgesses to parliament in the fourteenth century resulted from the need to get the burghs' approval for taxation. By statutes /

statutes of 1504, 1563 and 1567⁽⁶²⁾ the burghs were given the right to attend meetings of the estates which were discussing important matters, particularly taxation. The attitude of the crown towards shire representation at parliament was also conditioned by the need for the lairds to give their approval for taxation. One excuse for the failure to pay ~~had been able to refuse~~ the grant of taxation made by the parliament of 1426 ^{was} that they had not been present. It was the need for James I to find a way to get round complaints about the absence of the small lairds, when taxation had been agreed by parliament, which was the explanation for the scheme for shire representation in 1428. As has already been noted in chapter 2, even had James VI wanted in 1587 to refuse the petition from some of the lesser barons, his hands were tied because he wanted to make arrangements for taxation.⁽⁶³⁾ Even in a country where taxation was allowed to be imposed outside parliament, it would have been impolitic to say the least for James to deny the lairds a place in parliament and yet make arrangements for the extent of their liabilities for taxation. As for the absence of any regular taxation, this was arguable because the estates were reluctant to see taxation imposed on any regular basis. The reason for the apparent willingness of the estates to agree to the king's proposals for a revocation of grants made during the many minorities was not the desire among the estates to do the crown's will, but rather to ensure that the crown /

crown in Scotland was in possession of a regular income so that the need, in normal circumstances, for the crown to seek taxation was removed. Consequently there were occasions when the crown came to parliament. It was either to find its requests the subject of serious debate or to have them denied. We can use, once again, the example of James I's attempt to find the money to pay off the ransom agreed on his release from England. In the chapter on taxation it was suggested that although James had got less from the estates than he had asked for. In 1426, when the issue was once again raised, it was probably to complaints that no such grant could be made when many were absent from their rightful place in parliament. The important role of taxation in Scottish parliamentary history is no less true in the reign of James IV. The most significant point about the period during the reign of James IV when parliaments met frequently was the regular imposition of taxation. James IV's interest in summoning regular parliaments coincided with a period when he was in need of taxation. When this need was no longer urgent the king's desire for regular meetings of parliament soon disappeared. But some of the most ample evidence that the estates were able to exert their influence in taxation comes in the reign of James VI. Taxation proved to be an issue of contention at the meetings of the estates in 1583, 1608, 1612 and 1621. In 1612 for example, the king's proposals regarding taxation were 'much debaited' by the articles and then remitted until the next day, the estates /

estates meeting separately. After this the articles were convened once again and after very contentious debate

'the mater being put to the king be pluralitie of four or fyve votes it was moved four hundred thousand'.

If James's plans experienced difficulties in the articles, the matter did not end there. On 19 October 1612, some very important ecclesiastical matters were hardly considered because the

'noblemen being in gret miscontment for the quantitie of the taxatioun'.

In the end after a great deal of wheeling and dealing the nobles had successfully reduced the taxation to be given to the crown.⁽⁶⁴⁾

In religious matters loyalty to the established religion was always expressed in parliament. Very often the first statute of parliament was a confirmation of the rights and privileges of the church. Apart from these general affirmations of religious policy, parliament also played a part in matters effecting ecclesiastical organisation. For example it was in parliament that barratry was outlawed in the reign of James I.⁽⁶⁵⁾ The degree to which parliament had taken over the functions of the provincial council in the administration of ecclesiastical matters was underlined in the chapter on 'Rivals /

'Rivals of Parliament'. There it was noted that the initiative in ecclesiastical matters had long before the Reformation passed to parliament. Perhaps the most telling contribution made by parliament to religious affairs, was at the time of the Reformation. The role of the Reformation parliament in the establishment of the reformed faith cannot be overestimated. Historians such as Lang⁽⁶⁶⁾ and Hume Brown⁽⁶⁷⁾ have debated the legality of the proceedings of the parliament of 1560. But the fact is that in the end Mary Queen of Scots had no choice but to recognise the reality of the changes made by this parliament, and all doubt was removed when in the parliament of 1567,⁽⁶⁸⁾ the decisions of 1560 were ratified.

Parliament continued to exert its influence over the direction of ecclesiastical affairs after the Reformation. In the chapter on 'Rivals of Parliament' it was suggested that perhaps the general assembly alone could justify this title because of its claim to exercise full authority in the conduct of ecclesiastical business. In reality, however, the fulfilment of many of the ideals of the Reformers were very dependent on the willingness of parliament to agree to changes in statute law. Yet on some occasions it was the general assembly and not parliament which had seized the initiative. One prime example of the way in which parliament had only followed the lead given by the church was the 'Golden Act.' of 1592.⁽⁶⁹⁾ On this matter parliament only brought statute law /

law into line with the realities of church government. On other occasions, however, parliament was indeed able to influence the direction taken by the church. Whereas in the 1560s the assembly remained optimistic that parliament would make these changes which were necessary in the light of the preferences of the church, in the following decades this optimism had been replaced by a much more realistic appraisal. Hence a majority in the church came to favour some sort of ministerial representation at parliament. But here the estates and not the king proved to be the stumbling point. While James VI came to realise that if the ecclesiastical estate was to once again become the force it had been, then he was prepared, albeit reluctantly, to compromise on the titles such ministers would take. The estates were not prepared to follow his lead. One of the main reasons why nothing came of the enactment of 1597⁽⁷⁰⁾ which had proposed some sort of representation of the church was that the estates, concerned above all to protect their own interests and those of their kinsmen, refused to give the signal which would have brought ministers of the church into parliament. That signal was their willingness to see these ministers hold some title other than abbots and bishops. Had the estates proved less resolute in this regard, it seems probable that ministers of the church in Scotland could have become /

become an integral part of the parliamentary system, and there is no saying what effect that might have had in the future history of parliament and of the country.

Parliament was also involved, although perhaps with less effect, in the economic and commercial development of the realm. For instance parliament was in the forefront of the many attempts to protect the fishing industry in Scotland. One example of this is the statute of the meeting of May 1493 'Anent schippis and buschis for fisching'.⁽⁷¹⁾ The involvement of parliament in the commercial affairs of the nation is reflected in the large number of statutes which had to do with burghal affairs. The parliament of January 1467 was almost exclusively concerned with such problems. Among its statutes was an enactment that 'na schip be frachit furth of oure realme with ony staple gudis fra the fest of Symondis day and Jude on to Candilmes'.⁽⁷²⁾ Another statute of the same parliament insisted that 'na man sale in merchandise without haif a last of gudis'.⁽⁷³⁾

But one of the areas in which parliament was most active was in the field of law and order. At the parliament of May 1424, it was ordained that ministers and officers of the law be appointed throughout the country to ensure that law and order was maintained throughout the country.⁽⁷⁴⁾ But parliament's concern on /

on this issue extended beyond giving its consent to numerous statutes. In the reign of James III parliament showed its willingness to take decisive action, even at the risk of alienating the sovereign, to ensure law and order prevailed throughout the land. Parliament proved more than willing to condemn the practice of granting remissions and the irregularity of justice ayres.

In 1478 because

'slaughter and vthir trespass as tresoun, refis and comoun thift is and has bene sa comoun throuout the hale realme and is supposit the mast occasioun tharof is the redy graunting of the kingis grace in geving of remissiouns and respettis to the committaris of the samyn oure soverain lord at the gret instant request of the lordis of the thre estatiss of his realme and for the eschewing of the saidis trespass and innormiteis the saufte of his liegis ... grantit to clois his handis and cess the geving of respettis and remissiouns ... in ony tymes tocum for thre yeris'.⁽⁷⁵⁾

In 1485 for the increase of justice and the tranquility in the realm, the estates thought it expedient

'that our soverane lord caus his justice airis to be haldin universaly in al partis of his realme'.⁽⁷⁶⁾

The /

The estates further impressed James III with the need to stop the granting of remissions, for in the parliament of 1487, he

'of his own fre will grantit to his thre estatiss of his realme in this his present parliament that he sall for vii yeiris nixt to cum clois stop and restreinyie geving of remissiounis and respectis for criminall actiounis'.⁽⁷⁷⁾

But one of the more significant features of the history of parliament in the fifteenth and sixteenth centuries was the time spent in parliament on matters of social concern. The role of parliament in beneficial social legislation evidently attracted more than a little attention in the debates which took place in 1834 about the proposed constitutional changes for Scotland. In an often too stout defence of the role played by the Scottish parliament before the union, one writer in particular remarked on the 'admirable system of poor laws' as well as the foundation of a 'complete and universal system of public instruction'.⁽⁷⁸⁾ More recently, Donaldson recalled Lord Cooper's assertion that no fewer than ten separate acts were passed in the second half of the fifteenth century, at brief intervals for the benefit of a class of the community, described as the 'puir tennents' or the 'puir people that labouris the ground ... whose heavy complaintes has oftimes been made'.⁽⁷⁹⁾

For /

For instance in 1469 parliament commented on the

'abusione fundin in the keping of faris
parliament tymes and generale counsallis that
the gret constablis of castellis schireffis or
bailzeis of borowis takis gret extorsions of
the kingis pure liegiis'.⁽⁸⁰⁾

At the same parliament it was enacted that

'fra hyne furth the pure tenandis sal nocht be
distrenzit for the lordis dettis forthir than
his termes mail extendis'.⁽⁸¹⁾

This interest in the welfare of the less well off was
evident outside the limits of the latter part of the
fifteenth century. In 1424 it was enacted that

'gif thar be ony pur creatur that for the defalt
of cunnyng or dispens can nocht or may nocht
folow his caus the king for the lufe of God sall
ordane that the juge befor quham the caus suld
be determyt purvay and get a lele and a wys
advocate to folow sicpur creaturis caus'.⁽⁸²⁾

In 1567 the grants to the burghs by the regent and queen
for the sustenation of the poor were to be ratified by
parliament.⁽⁸³⁾ By a statute of 1579 the losers of
action for debt in burghs were to pay a fine for the
support of the poor.⁽⁸⁴⁾ Historians who have focused
their attention on what they see as the defective
constitution in Scotland have found much to criticise.
But /

But if there is one major defect about the contention that parliament was merely a convenient medium for the communication of royal policy or any suggestion that the interest in parliament stopped at the desire for individuals and groups to protect their own interests, it is that it completely ignores the willingness among members of parliament to support and promote legislation of social welfare. The effect of such concern among the estates, should not be overestimated. Donaldson has suggested that it was the existence of attitudes of social concern which could well be the explanation for the absence of any serious social unrest in Scotland before the Reformation.⁽⁸⁵⁾ The least which can be said of parliament is that its various enactments could only have contributed to a feeling of social harmony.

It is therefore not surprising that both natives of Scotland as well as observers of the Scottish political scene recognised that consultation with the estates was less of a formality than a meaningful and necessary procedure. James IV was unable (possibly because of parliament's need to provide a taxation) to deal with the question of a league with England. He had to summon parliament 'with a view to send deputies'.⁽⁸⁶⁾

In 1515 the Bishop of Aberdeen and the chancellor were unable to deal with a messenger who came to Scotland from France. Instead he was to be

'detained till the 15th May to be answered by parliament'.⁽⁸⁷⁾

The governor and lords of council observed on 30 May 1515 that:

'the gret crimes, trespassis, inormiteis and trublis done in this realme be evill disposit persouns apoun the kingis leigis quhilkis may nocht be reformit without ane parliament'.⁽⁸⁸⁾

It was recorded on 9 August 1516 that Albany had to call a parliament to meet on 2 September so that he might propose sending himself and other lords to treat for peace after which he would go to France.⁽⁸⁹⁾

In September 1537, the matter in question was complaints about fugitives and rebels. James V noted that strict orders had been given to wardens on this and Maxwell was to be forced to make redress for Liddesdale. However while he believed that the debateable ground could be divided in the interests of both realms, James asserted that this could only be guaranteed by parliament and therefore he

'must refer the matter to his parliament'.⁽⁹⁰⁾

The influence which the estates in Scotland exercised in foreign policy was clearly stated in August 1543. It was noted that

'in the great matters betwixt your majesty
[Henry VIII] and this realm, I [Sadler] told her
[Queen Dowager], I could well excuse the governour
for that he used no private counsel therein, but the
whole advice of as many of the nobles of the realm,
as would come to give him their counsel as at the
despatch of the first ambassadors into England,
which were dispatched by the three estates of the
realm in parliament: And likewise at the second
time, the earl of Glencairn and Sir George Douglas
the parliament yet continuing were dispatched by
them all, none absent but the cardinal and the
earl of Huntley. And, third, when Sir George
Douglas returned, he was again dispatched (the
parliament still continuing) by the whole body of
the same'.(91)

Ambassadors from England were to be sent with all
diligence after 12 March 1544, the first day of parliament,
since

'the matter to be treated requires the counsel and
consent of the most part of the noblemen and the
barons, and the convention could not be sooner'.(92)

Similarly, on 20 March 1544 Arran was unable to give any
answer to Henry VIII's letters at this point

'because the matters contained in them were too
weighty to be answered without the convention of
the three estates'.(93)

On 8 December, Suffolk suggested that Henry VIII send a letter to Sadler to be forwarded to the nobles at parliament

'willing them to permit Sadler [Commissioner in Scotland] be forwarded to come to them to declare instructions'.(94)

On 25 January 1545 the Duke of Suffolk and Bishop Tunstall a member of privy council informed the council that they have despatched a herald to the parliament of Scotland to demand prisoners held there, reminding them, however,

'that the parliament does not assemble until 18 Feb., and that the governor told Henry Rye that no answer could be given until then'.(95)

The articles of the treaty and agreement of 1560 included the provision that the soldiers of France or any other nation should not pass into Scotland without the consent of the three estates, except in case of invasion.(96) Nor were the estates felt to have been entirely excluded from Mary's decision to marry Darnley. It was said that

'all the nobles of Scotland approve the proposed match between the queen and the earl, which will receive the sanction of the parliament of all the estates of Scotland, which is to meet on 10 July next, to enable the marriage to be solemnized'.(97)

The /

The Marian party in the 1560s questioned a demission of the crown without the consent and authority of the three estates in a country in which

'the estates of the realme, who have speciall interesse, in respect that without them maters of lease weight cannot be valuable by the lawes of the realme. For how might the queene, without the authoritie of parliament, annaillie the whole realme when by law she may not annaillie the least tenement of land within the realme, annexed to the crowne, without the advice and consent of the parliament'.(98)

In 1587 the Clerk Register clearly spelled out the rights of the estates in respect to taxation. He stated that no tax might be

'imput upon the liegis without the special avise of the thre estatiss at thir conventioun in parliament or in publict convention'.(99)

This recognition that parliament must be allowed its place, does suggest that the authority and respect given to parliament in the fifteenth and sixteenth centuries, must have been somewhat greater than historians such as Rait assigned to it to-day. For instance, as was discussed in the chapter on general councils and conventions of estates, there was always some /

some awareness of the superior authority of parliament. Secondly the moral and legal force of decisions made outside parliament, was in decline. Within Scotland the role played by parliament was regarded as being of considerable importance. James IV was not slow to recognise that his ambition to raise Glasgow to metropolitan status was strengthened by the approval of the estates. In a letter to Pope Innocent VIII, he asked him

'to give no credence therto, nor to the adverse reports of any one, especially as the creation was decreed in my parliament by the three estates of the kingdom after mature deliberation, to which effect my chancellor addressed letters to you in the name of the estates'.(100)

So too did those nobles, sent to the queen by the parliament of 1515, make much of the fact that their authority was that of the three estates in parliament. Therefore on the first occasion the queen asked why they had come, they replied that

'they were commissioned by parliament to demand the delivery of the king and his brother'.

And when five days later the queen expressed her desire to keep her children and her willingness to accept three nobles and a knight, it appears that the Duke

'would not allow this, but demanded their delivery according to the decree of parliament'.(101)

Certainly there is some suggestion in this case that the emphasis on the authority of parliament was no more than a cloak for personal ambition. Dacre noted that the Duke's insistence on the letter of the law was

'but a color to have them himself'.(102)

Yet the fact that in Scotland the argument about the authority of parliament was thus considered an effective weapon is still of some significance. The lords who discharged Arran also realised the importance of their having the backing of parliament. They summoned Arran

'to appear on 28 July in Edinburgh to hear himself degraded of his office, in parliament, as his choice had been ratified in parliament... Arran being discharged and no man having power to use the government until parliament degrades him'.(103)

There was also some awareness of the great moral responsibility shared by members of parliament. In 1570 a treaty to be ratified in parliament with the consent of the three estates included a clause that if any of the subjects of Scotland being a lord of parliament should in an open deed or any counsel break the articles, he was to be charged.(104) On 2 October 1570 Lennox informed Cecil that the

'"twa erllis" [Huntly And Argylle] not only "voittit" in parliament for the establisching of the king's authority, but also "promittit", swore, and subscribed to his obedience'.(105)

The arguments about the rival claims of Mary and James VI indicate some recognition of the inviolible authority /

authority of parliament. Glencairn for example was convinced that parliament had not the authority to give away a kingdom from the true inheritor, however he did believe that this was

'a special case above all other wherein the parliament had none authority'.(106)

The Marian party made much of the point that the dimission of the crown could only have been a

'privat act, done without all solemnitie, speciallie without consent and authoritie of the estats of the realm'.(107)

The most difficult aspect of the whole debate about the relative claims of Mary Queen of Scots and her son appears to have been the respect attached to decisions of parliament. One observer believed that if

'either she (Mary) or her son (James) would only insist upon proximity and lawfulness of blood and not repose the right and dignity of their succession more upon the authority of Scottish Parliament than otherwise, perhaps there might be more holes found in her and her son's Scottish succession'.(108)

While Beale, the English envoy, considered that the fact that James was too long established as king, would mean that the council would not agree to call into question the King's succession, but because he was

'so long a time possessed thereof and
confirmed by sundry courts of parliament'.(109)

The records of privy council also indicate the care
taken not to question the authority of parliament.
On 16 May 1581 there was an order by the king in person
to register his general revocation of all gifts granted
in his minority out of his property. It was, however,
recorded:

'that the said revocation can not take full
and present effect in all poyntiis quhill the
samin be ratefeit and apprevit be his Hienes
Thre estaittis in Parliament'.(110)

Although in 1592 Lennox might promise to give Stirling
Castle to the king, he could not ignore the authority
of parliament in this respect

'For, inasmuch as the keeping of this place
was granted to Sir James Hume, now deceased, by
parliament, therefore it is stayed until the
parliament shall give order to refer it to the
king's gift and disposition'.(111)

In 1592, the point in question was the mercat day.
Evidently this day was

'not a subject of consent to the abolition thereof
unless the mater was moved in presence of the three
estates in parliament'.(112)

In /

In 1616 James VI favoured the restoration and repossession by the Archbishop of St. Andrews, of assignation of the victuall which was dispoed from the thirds of benefices to the castle of Edinburgh. James, however, was informed that there would be some difficulty because

'the Erll of Mar is verye weelee providit to the said assignatioun be warrand and authoritie of Parliament, and ... Because this assignatioun maid to the said castell is not onlie annext thairunto be parliament, as said is; but lykewayes in that same parliament of the sax hundreth and sax yeir of God, whairin the bischopps restoirit to thair levingis and thair digniteis, thair is a speciall and particular preservation and exception of the assignations and reservationis and exceptioun of the assignationis and reservationis being yitt in force, unquarrelit or dischargeit by any subsequent parliament. Thair can be no thing be done preiudiciall thairunto but be a parliament'.

The advice to James was that the authority of parliament must not be violated. The solution proffered to the king was that he would pay the Earl of Mar out of his own pension and rents a sum equal in proportion to the assignation.⁽¹¹³⁾

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Neither at home nor abroad was parliament regarded as a weak and submissive body with little or no authority. It was recognised that the crown needed the backing and authority of parliament. For instance, when in 1517, Albany agreed a treaty with France, the French evidently believed that just as in France, where treaties were confirmed by the states that the approval of the estates in Scotland was also essential, and Albany promised

'to procure the consent of the estates and parliament two months after his return to Scotland'.⁽¹¹⁴⁾

Nor was there much reliance put on the herald who came to Henry VIII

'not from the three estates assembled in full parliament, but from Arreyn and the cardinal'.⁽¹¹⁵⁾

His mission was to require a safe-conduct for ambassadors to treat for a new treaty. Suffolk informed this herald that if those nobles, namely Arran and the Cardinal who sent him joined with the rest of the lords and others of their parliament to perfect the late treaty, the king would perhaps then hear them.⁽¹¹⁶⁾ Arran evidently realised that the authority of the regent without that of parliament was ill-considered by England and so gave reassurances that the new ambassadors:

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'should proceed more directly than the others did, who "privately concluded certain things besides the general consent of their parliament"'. (117)

If historians have tended to suggest parliament in Scotland was very much weaker than elsewhere, contemporaries for their part seemed quite prepared to class it with some of the more powerful European parliaments. In 1561, one writer observed that if in France anything might control the absolute power of the king:

'it is the assembly of the three estates who represent the whole kingdom, like the parliament in England and in Scotland and the Diet in Germany'. (118)

But as far as constitutional historians have been concerned the mere existence of an institution like the lords of articles, or for that matter the general council and the convention of estates (particularly since it is likely that both the general council and the convention could impose taxation), was almost in itself sufficient evidence of the weak and ineffective nature of the Scottish parliament. To the extent that some of the more distinctive features of the constitutional system were in part the result of the unwillingness of the members of parliament to attend long and frequent sessions, historians are right to be critical. The argument that the constitutional system was /

was open to all sorts of abuses is also justified. Very often, however, because so much emphasis has been placed on the constitutional aspects, the fact that the system could still in the fifteenth and sixteenth centuries operate in the interests of the estates was often obscured.

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APPENDIX A

Item on beggars, May 1424. Drummond, fo 4V.
Colvil, fo 260r.

Item of the reule of thiggaris within the realme.

The king has statut be avys of his hale parliament
riply avisyt that na thiggaris be tholit to beg nother
to burgh nor to landwart betuix xiiii and threscor
and x yeris bot thai be seyne be the counsaile of the
towne or of the lande and thai may nocht wyne thar
leving uther wais and that thai salbe tholit to bege
thai sall haif a certane takin apoun thaim to landwart
of the scherif ande in the borowis thai sall have a
takin of the alderman and the bailyeis and all uthir
personis haveand na takinnes nouthir of lande nor of
burghe salbe chargit be oppin proclamatioun to labour
and pass till craftis for wyning of thar levings under
the pain of birnying opon the cheik and banishing of
the cuntre.

Item the king has statut for the haile avys
of his counsaile in the nixt parliament haldin herefter
and has askit to the statut maide of befor of the
beggarris that in every burgh out throuth the realme
that the chawmerlain in his air yerly sall inquer gif
the alderman bailyeis has kepit the act efter the forme
and statut and gif thai have brokin it thai salbe in fyfty s
to the king. Item the scherifais failzeing of the keping
of the said act salbe punyst in lik wis.

APPENDIX B

Item on salmon, October 1431. Drummond, fo 24v.
Colvil, 277v.

Anent the selling of salmonde out of the realme.

The king and the haile parliament has consentit
and ordanit that na salmond be saulde nor bartorit with
na man that has it oute of the realme bot for Inglis
money alanerlie that is to say golde or silver for the
tane half gascone wyne or sic like gude penny worthis
for the tother half.

APPENDIX C

Of the sessions to be held, March 1426, MSS 25.5.7.

Adv. 17, fo 138v. and 25.4.15 Adv. 27, fo 118r.

Item our lorde the king with consent of his parliament ordanit that his chawmerlan and with him certan discret personis of the thre estatys sall sit xiiii days in ilka quarter of the yer quhar the king likis to command thaim the quhilk sal her knaw and examyn and determyn all and syndri complayntis that may be decretyt and determyt befor the kingis consail and that tha personis be chosin be the king and haf thar expens of the party the quhilk is fundyn falty and nane other wais as plesyt the king.

APPENDIX D

Lambeth and APS.

An account of this manuscript is given in APS i, 202-3. Although it includes 'Regiam Majestatem', it does not say in how many books and chapters (as the accounts of the other MSS do). Except for 'Leges Burgorum', the accounts of the other texts do not say how many chapters each has. This is a very cursory account of the MS, even by the standards of APS i.

Secondly, in the 'Table of Authorities' (APS i, 212 ff.), Lambeth is often omitted. Thus Lambeth has 'Leges Burgorum' but is not given in the 'Table for Leges Burgorum' (APS i, 214-9). It is given for 'Assise Willelmi', Alexander II, and partially for Robert I, but not for 'Regiam Majestatem', nor 'Iter Camerarie', both of which are contained in it. Also it seems to be the only MS listed of which no specimen facsimile is given. Apparently Lambeth was very little used for APS i.

Now the first volume of APS to be published was APS ii. Volume i came some thirty years later, that is to say in 1844. It is possible that Lambeth may not have been known when APS ii was published. It should have been examined however when APS i was published, and additional material should have appeared in APS xii. Obviously it was looked at very cursorily and the significance of the James I material was missed.

As /

(cont'd)

As for the manuscript itself, in APS, it was ascribed to the early sixteenth century. In fact there is nothing definitely later than 1469, and the handwriting could reasonably be assigned to the late fifteenth century. It has a strong burgh flavour, items 2, 3, 6, 7, 8, 27, 28, 29, 30 (APS i. 202-3). Yet the owner also has an interest in church courts, item 31; and this leads to Concilia Scoticae Statuta Ecclesie Scoticae, edited by Joseph Robertson. On pp. cxciv-cxcv Robertson gives a very interesting account of how Cosmo Innes discovered this ecclesiastical legislation - which surely means the MS was unknown to Thomas Thomson when he edited APS ii. It also implies that someone else made a transcript which Cosmo Innes, partly collated, while the librarian of Lambeth partly collated it, that is to say Cosmo Innes was not at Lambeth long enough to do the whole collation. This would explain why the James I legislation was not recorded.

APPENDIX E

Items on taxation, March 1426. Lambeth c. [45] and [46]
fos 197v-198r.

1.

Off raising of yheldis

Item it is consentit and ordanit be the hale
parliament at ilk yeire be taxit and rasis a yelde
generale throu all the realme of all maner of gudis
bath spirituale and temporale na lordis demanys, burges
hous, kirklande, and other gudis outtane selfand anerly
utensilis of hous, riddin hors, and drawin oxen in maner
and forme as the first contribucioun ordanit tharfor
was poyntit quhill full payment be maid of our soverane
lordis fynance and that taxaris tax of all gudis and
rentis and cornis begyn ilk yere aucht dais befor Lammas
and that taxaris of the yeldis ger warne parrich kirkis
and the cuntre aucht dais before thare come and that thai
ger the husbandis of ilk sindry towne and of the next
towne tharby gif neid be suere apoun the haly evangelis
and geve lelely up thare nyghtbouris gudis and that tyme
of taxain of his proper gudis he salbe remowit quhen
thai ar gevin up fra his nyghtbouris quhill his gudis
be taxt and quhasa absentis him willfully fra the taxacioun
of his gudis sall pay double yelde of all his gudis and
undirly nevir the less the taxing of nyghtbouris and gif
ony /

(cont'd)

- 333 -

ony lord or gentill man haldis ony landis in thare handis his landis and his gudis salbe taxit befor leill men next about duelland he and thai warnit as is befor writin.

2.

Of the dissobeying to the raising of the kingis taxis

Item as anentis thaim that has disobeyit to the taxing and the raising of the contribucioun for the kingis finance the presidentis of the parliament referris thaim to the act of the parliament befor haldin.

APPENDIX F

Item on taxation, May 1424. Adv. MS 25.4.15. [Adv. 27
fos. 115v - 116r.

Item it is ordanit be the thre estatys of the
realm that for the payment of the finans to be mad to
the king off Ingland oure lorde the kingis costage
as for the deliverance of his hostagis now beand in
Ingland thar be raisyt a general yeld or ma gif
mistaris of all maner of gudis and rentis bath spiritual
and temporal na lordis demaynes, na burges housis,
kirkland, na nane other gudis outan saufand anerly
utensily of housis, ridyn hors, and drawyn oxin and all
taxis of gudis, rentis, and cornes begayn ilky yer viii
days befor lammas and that the taxaris of the kingis
yeld ger warn at the parisch kirkis the cuntramen viii
dais befor thai cum and that thai ger the husbandis of
ilk syndri toun and of the next toun tharby gif mister
suer apoun the haly evangele to gif lely up thar
nychtburis gudis and ay that ilk man the tym of the
taxing of his awn propir gudis to be gevin up salbe
remufit fra his nychtburis quhil his gudis be taxt and
quha sa absentis him wilfully fra the taxatioun of his
gudis he sal pay doubil yelde of all his gudis and
vnderly ner the less the taxatioun of his nichtburis
and gif ony lord or gentil man haldis ony land in thar
awn hand land and his gudis sal be taxt be four leil men.

APPENDIX G

Parliament of March 1427, Lambeth fos. 198v. - 201v.

Heir begynnys the actis of King James fourt parliament.

Thir ar the artikillis tretit and deliverit be
oure soverane lord Jamys be the grace of God king of
Scottis and certane lordis of his parliament baronis
and wisemen tharto chosin be the consent of the thre
estatis of the realme at the parliament beginin and
haldin at perth the xii day of the moneth of March the
yere of grace a thousand and foure hundreth xxvi
[xxvii] yeris with continuacioun of dais and than
incontinent till Edinburgh as in the act of the said
parliament at perth tharupone maid is contenit
begynnand the xiii day of the moneth and yere beforwrittin.

APPENDIX H

General Council, October 1429, Lambeth /c̄87-917
fos 203r.-203v.

Heir begynnys the act of the kingis second generale
consale.

The deliverance of the kingis last consale
haldin at perth the first day of October the yeir of
God etc. xxix and put heir in writ eftir the intent
of the commissaris of borowis thare beande as thai
undirstand was decretit be the thre estatys.

(1)

Off the setting of the parliament

In the first as tuiching the setting of the
parliament it is accordit to be sett about mydsomer the
day and the place as sene mast speidfull to the king
and his consale.

(2)

Of thaim that kepis nocht the statutis of the parliament

Item tuiching thaim that kepis nocht the statutis
of the parliament it is ordanit that the brekaris quhat
evir thai be salbe challengeit be thare ...ande* anseryt
eftir as the act of the parliament contenis and gif the
iuges be negligent in thare execucioun of thare office
thai salbe punist be the payne put apone thaim in the
second act of parliament.

/

* end of line word missing.

(cont'd)

(3)

Of bargis and galayis to be ordanit in the west part of the realme.

Item as anentis bargeis and galayis to be ordanit apoun the west partis it is sene speidfull that ilk lord spirituale and temporale duelland apone thai partis hafe galayis and schapping gret and small eftir thare infetmentis and quhat lord that is nocht infet sall help tharto eftir his powere.

(4)

Of thaim fleande in halikirk for det.

Item tuiching thaim that fleis in haly kirk for det it is accordit be the baronis and burgis befor the king that thai sall hafe na gyrth tharfor in haly kirke.

(5)

That the statutis of lipper folk and beggaris be kept

Item tuiching the lipper folk and beggaris it is ordanit that the statute maid tharupone befor be kept with this addicioun that gif the aldirmen and balyeis of borowis be hegligent in the keping of thaim thai salbe challengeit yerly befor the chawmerlane in his ayre and gif thai be fundin faltwiss thai salbe put ilkane in amerciament off fyfty schillingis.

APPENDIX I

Item on the marchis, the parliament of March 1430.
Lambeth fos 206r.-208v.

Thir ar the statutis ordanit for the marchis

Item it is statute and ordanit for the profit
and the governance of the realme that thir ordanit
undirwrittin salbe kepit undersic peril as folowis.

(1)

How men sall eftir thare estat be bodin for were

In the first it is ordanit be the king and his
consale that ilk man that may dispend yerly xx lib. or
has i^c lib. of movabill gudis salbe weill horsit and
hale anarmit as efferis a gentill man to be ande other
simpillare of x lib. rent and of xl lib. of gudis sall
hafe gorget and pesane with rerebras, wambras, and
glufis of plate, brestplate, pans, and legsplentis at the
lest or better gif he likis and ilk yemen that is of xx
lib. of gudis sall hafe a gud doublate of fens, or a
halybyrgeon, a wyre hat, with bow and schef, suerd
and buklare, and knyfe and all other of ten lib. of
gudis sall hafe suerd, buklare, bow and schef, and
knyfe and he that is no archare and cannot deill with a
bow sall hafe a gud sobir hatt for his hed and a doublate
of fens with suerd buklare and a gud ax or a broggit staf
or quhasa cummis nocht bodin the first day that is
beforwrittin ilk gentillman sall pay ii wedderis ande
ilk /

(cont'd)

ilk yemen ii wedderis and ay doubilland the payn quhill
thai be weill bodin anis and this payne salbe rasit apone
thaim to the wardanis profit.

(2)

Of the ventenoris of ilk parochin within the wardanry

Item it is ordanit at ilk paroching within the
wardainry sall hafe foure ventenouris of the mast worthy
men duelland within the paroching the quhilk the lafe
of the paroching sall obey and that ilk ventenouris sall
soumond thaim to the wapinschawing and alsual to the
ost quhen the wardane and the lufetenand sall ride in
Ingland.

(3)

Of thaim that absentis thaim to ride with the wardane
quhen thai ar warnit.

Item gif ony man absentis him fra the ost quhen
the wardane or his lufetenand sall ride in Ingland and
he be warnit with the ventenouris ilk gentill man sall
pay to the wardanis office a mark and ilk yemen vi wedderis
and gif thai be soumound agane and nocht cummis ilk
gentillman sall pay ii markis and ilk yemen xii wedderis
and thai be soumound agane and nocht cummis thare lifis
and thare gudis salbe in the wardanis will and to be
iustifyit in the wardanis will and to be iustifiet in
the wardanis court.

(4) /

(4)

That ilk man sall obey till his chiftane.

Item gif ony man ridis in Ingland in feir of weir it is ordanit that ilk man sall obey to the chiftane and keip ordinance of him and his consale and quha sa dois the contrare he salbe accusit befor the wardane for distrucioun of the ost and life and gudis salbe in the wardanis will.

(5)

Of thaim that ar sembilit to the ost.

Item gif ony man cummis to the ost fra thai be assembilit and ridis agane he that metis him ridand agane sall arest him gif he be of power and he sall hafe his hors and his ger and hys body salbe put in presoun quhill the wardane hafe said his will and gif he be of na power he sall schaw it to the wardane siand that he may arest him to the next wardane court.

(6)

Quhat men sall pass to the were

Item it is ordanit quhen the wardane or his lifetenand assembillis his power to ride in Ingland that all maner of man within lx and xvi yeris of age he that is passit age and he be of power he sall mak a man for him to cum to the said ost bodin in forme and manere forsaid and fra the ost be assembilit that ilk man keip /

(cont'd)

keip the cria of the wardane or of his lowtenand be
ony maner of way quhasa dois the contrare he sall pay
x lib. to the wardane tyne his hors and ger.

(7) That na man sall intromit with ane other mannis
presonair eftir the tyme that he be arestit.

Item it is ordanit that na man intromit with
ane other mannis presonare fra he be arestit and tane
na mak manasing to sla him bot be fallo as use has bene
of before and gif ony man slais ane othir mannis
presonare fra he be arestit and tane he salbe dettoure
till hym of alsmekill ransom as he mycht haf payd but
fraude and gyle and gif ony askis feloschip of any
preonare fra he be arestit and tane and sayis he will
sla him bot gif he mak him falow and for dout of ded
he makis him falow quhen he cummis hame he sall hafe
na part of the said presonaris ransom and quha that
slais ony manis presonare or makis manasing in forme and
manner beforsaid the quhilk may be knawin befor the
wardane he sall pay x lib. to the wardane.

(8) That ilk man sall brouke the gud that he wynnys
in Inglande.

Item it is ordanit gif ony man ridis in Ingland
in feire of were that ilk man hafe the gudis that
hewynnes and that na man reife gudis ane fra ane other
and /

and quha sa makis ony rewing he sall assith the gudis agane till him that he rest that thaim fra and for his wranguiss refe his life and gudis salbe in the wardanis will for the first falt he sall paye x lib. and for the secund x lib. and for the third to de therefore.

(9)

That na man spek with Inglisemen at trystis within
England withoutin leif of the wardane.

Item it is ordanit that na man na woman pass in Inglande nor speke with Inglisemen without speciale leif of the wardane or of his lowetenande or of thaim hafand powere direct to thaim be lettir to geve leif that has thare lettir of powere to schaw and gif ony pass that thai hafe thare lettir of leif to schaw and quha sa pass without leif in illing of there nyghtbouris ande maner as in forsade he salbe at the wardane court of tressone ande his lif and his gud in the wardanis will.

(10)

That na man support Inglisemen with vittal corn
na fothir

Item it is ordanit that na man furthir na supple Inglisemen with fisch na vitale corne na fothir and quha sa dois the contrare he salbe challengeit tharfore at the wardan court of comoune tresoun and dee tharfore without favoure.

(11)

/

(11)

That na man set assoverit of Inglismen bot quhen
all the cuntre is assoverit.

Item it is ordanit that na man set under governance of Inglismen on hospitalite bot quhen all the cuntre set under soverannte and quha sa dois the contrare salbe at the wardane court challangeit and accusit apoun comon tresoun and de tharefore without any favoure.

(12)

Off wachis to be said ande balis to byrnt at the
cumyng of the Inglis ostis.

Item it is ordanit for the profit of the cuntre that thare be a wach ordanit and it is sene mast speidfull for the gud of the land the quhilk salbe chosin be the scherif and be the worthy man of the lande and be the ventenouris of ilk parochin balis salbe maid gif ony perell appeir of Inglis ost and quharesumever it be he that kepis nocht the wach as is ordanit be his oure man and it be knawin in his defaute willfully he sall tyne his life and his gudis at the wardanis will because he falis of the wach he may ger his nichtbouris be heryit and the cuntre be distroyit in his defaute.

(13)

Of thaim that aw to ga to the weire.

Item it is ordanit that quhen the wardane or his lowtenande assembillis his powere to ride in Ingland that all maner of man of the parochin within the wardanry within /

(cont'd)

within lx and xvi yeris of age pass with him and he that pass age and he be of powere sall mak a man fra him to cum to the ost bodin in forme and manere forsade in prima rubrica ande fra the ost be assembillit that ilk man keip to the crya of the wardane or of his lowtenand be ony maner of way quha sa dois the contrare sall tyne his hors and gere.

(14)

Quhat men sall do quhen thai cum hame with thare praye

Item it is ordanit gif ony ost of Scottis men pass in Inglande and thai at thare hame cumming be assalzeit with thare innimys that all maner of men dryvand gudis nolt scheip or any catall sall leif the praye and pas agane to the chyftane and abide with him to the uttirest and hafe and na ... and to the gudis and tak sic part as he takis and quha sa dryvis catall or fleis fra the ost or lattis the chiftane allane or turnis nocht agane he salbe challengeit as for tresoun and dee tharfor without favoure.

(15)

That all manere of man sall draw thaim to the cria quhen Inglismen cummis in Scotlande.

Item it is ordanit that gif ony comonis of Inglande cum in Scotlande at allmaner of man sall draw to the cria bodin on his best wyse on hors and fute and quha sa cummis nocht to the cria and it may be knawin that /

(cont'd)

that he hafe wit at the innimyis ar in the lande he salbe challangeit befor the wardane in his court and life and gud in his will.

(16)

Quha may geve cundit or soverance to Inglismen

Item it is ordanit that na man geve cundit na sovere na Inglismen salf oure soverane lord the king the wardane or thai that he directis power to be his letteris patent to geve cundite and assure under the payne of thaim quha is assurit of thaim na power haf ande quhare ever thai may be gettin; thai salbe presonaris ande thai that ar assoveraris salbe at the kingis will for thar wrangniss assoverance that had na powere.

(17)

How a takare of a tratoure sall do with him

Item it is ordanit that gif ony man takis tratouris he sall present thaim to the wardane in his castell and quha sa dois nocht he sall ded the samyn deid that the tratoure suld de and hafe the samyn law.

(18)

Quhat he sall have that strikis ane Inglisman doune

Item it is ordanit that he that strikis ane Inglisman doune he sall hafe his ransom ande he that takis his hand sall hafe the thrid till his maister.

/

(cont'd)

(19)

Of thaim that stelis or revis fra Inlande men
that cummis to supple the marchis.

Item it is ordanit that na man steill na ... if
hors na nane otheris gudis fra inwart men that cummis
to supple the marchis under the pane of ded and gudis
and quha sa dois the rigoure of the law salbe execut
apone him and furth with but ony law dais or process of
law and thare masteris sall pay the gudis.

(20)

How gudis wonnyn in Inglande salbe departit.

Item it is ordanit that quhat ost or cumpany pass
in Inglan or the sorray be chosin that thai ches certane
personis to the quhilk personis the hale ost or cumpany
salbe oblist that quhat gudis beis wonnyn of nolt
scheip salbe departit be the ordinance of thai saide
personis.

(21)

Of thaim brekis the cria.

Item it is ordanit that quha sa brekis the cria of
the ost or any faloschip that pass do Inglismen scath that
the first tyme he that it is ordanit to be governit by sall
hafe his hors and his gere and he salbe indited to the
wardane court and pay x lib. and gif he brekis eftir he
tynis his life and his gudis at the wardanis will.
Expliciunt acta parliamentorum et consiliorum generalum
regis Scotorum illustris.

APPENDIX J

25.5.7. /Adv. 17

Off settingis of bestis till hir.

(1) Geyff ony man settis his ox to hym till ony man till ascertaine terme for iii bollis of meyll of for iii s and that ox be pruffit or for ane other certane pryce and he that takis that ox to hym fundis a borgh of the pryce of the ox and of the melle for to ansuar of thaim at ascertaine terme and geyff that upberk that ox may gang our afasteyng the borous sall ansuar for the mell and nocht for the pryce geyff the hind fut of the ox tuichis the sayfteyng the borous sall have the ox wyth thaim selff and thai sall ansuer for the pryce and for the mell at the terme befor sayd and thai sall be borous in all thyng for the ox bot it be in tua thyngis that is to say ferone ded and theyffis stolin and geyff he will nocht agayn that he tuk hyr and haldis it a mony than the borous of the haill settyng till hyn sall ansuar at the forsayd terme for outtyng ony gaynsaying and for the horne of ane ox or of a kow geyff it be llll inch lang he sall pay iiii d. Item for the tayll vi d for ane as vi d Item for the eyr iiii d item geyff the hors behind strykis ony man other sall be tyne the hors or amend the skayth.

(2) Item ane nother mannys best to quha somen' it do skayth to or hurtis the froytt of ony man the master of that. /

that best other sall pay the estimatione off that skayth or ellis he sall geyff the best. Item geyff the ox of ony man wondis the ox of ane nother and the ox that is wondit deys the ox that strayk hym ar to be salde and the pryce of hym together wyth the body of the ded best aucht to be depretit evinly betuix thaim tua bot geyff the master of that ox that was the wonder of the tother ox wyst that his ox was vycious and wald nozt hald hym in yhemsall he sall pay ane ox for ane vther and hald till hym the ded ox. Item geyff ony man strykis ane othermanys best through the of hatrend or slays it he sall tak and till hym the ded best bot geyff it happing that he stryk it or sla it nocht wilfully bot thro sudane cass than the best aw to be pruffit quhat it was worth leyffand and quhat it was worth ded and then the haill best aw to be restorit to the tayn and the remanand of the hayll pryce aw to be delt among thaim and departyt.

APPENDIX K

Parliament of October 1455. 1st item, Malcolm fo 165r.

Item it is statute and ordanit that the actis
maid of befor anent the keping and executioun of iustice
be kepit eftir the tennour of the actis maid of befoir
tyme thaireupon.

APPENDIX L

Parliament of July 1515, Drummond.

Item it is statute and ordanit in this present parliament becaus the process of iustice airis ar sa lang and prolix that in mony yeris parteis that ar hurt gettis na iustice and sua trespassouris and crymes passis unpunist quhilk is occasioun of mony personis to committ crimes trasting na haisty preventioun nor correctioun to follow thairupoun that thairfor in tyme to cum the proces of iustice aris and iustice courtis be peremptour at the secund air or court sa that the fugitivis nocht comperand at the secund air or court suld be and salbe denunciit the kingis rebellis and put to his horne and all thare movable gudis eschetit to his grace and als becaus many personis inducit to iustice airis ar chargit with soverte to iustice courtis usis to absent thame sa that cronnaris can nocht apprehend thame personalie to arrest thame in that cais in all tym to cum it sall suffice the crownaris to cum to thair dwelling place of the personis iudit and thair mak thair warnyng and charge thame that thai compeir to the iustice air or court day and place assignit tharto to ansuer to sic accusationis of crimes as salbe impute to thame and apoun the nixt sonday or festvall day thaireftir that the saidis crownar mak oppin and publict intimatioun and warnyng to the sadis personis be thair names at thair parroche kirk of thair said warnyng maid at thair dwelling places befoir quhilk /

(cont'd)

quhilk charge premunitioun and warnyng sall stand to thaim for sufficient arestement the crownar provand the samyn be his aith and ane witnes as ald consuetude is and in likewyse the kingis officiariis makand warnyng of ony personis for ony crymes to probate iustice courtis nocht defer wand rebellion in caiss of non finding of soverte that thai keip the samyn ordair and process quhilk salbe hald and repute for sufficient soverte under the pane of law the actioun not beand for slauchter nor mutilatioun and ordanis the iustice generall apoun ony maner of crime committit or to be committit to set iustice courtis particular quhen neid is for preventioun of particular faltis and crymes that occuris for stancheing of trespassouris and bringin of the realme to peace and quiett becaus at all tymes generall iustice airis can nocht be reddy and delay of preventioun generis new occasioun of trespasse.

Item it is statute and ordanit that the committaris of crymes of fyre rasing and revisching of women be put under soverte to the law siclyke as the crymes of slauchter or mutilatioun and in cais of nocht fynding tharof to denunce thame the kingis rebells lyke as men slaaris and als becaus byrning of cornis in bernis yardis is grete offens aganis the common weill that thair nevir be respit nor remissioun gevin thairfor in na tyme to cum to any personis that byrnis cornis in stakkis or bernis bot the committars thairfor to be iustifyit to the deid or banist the realme for evir.

APPENDIX M

<u>Manuscript</u>	<u>Present Classification</u>	<u>Old Classification</u>	<u>Location</u>
Drummond	PA 5/3		SRO
Colvil	MS 208	Laing 308	EUL
[Robertson]	PA 6		SRO
Malcolm	Adv. 7.1.9.	Adv. A.3.22.	NLS
Cockburn	Adv. 25.4.14.	MS.W.4.28. or W.W. penult	NLS
[Adv. 1]	Adv. 25.4.15.	Adv. N.4.Ult.	NLS
[Adv. 2]	Adv. 25.5.7.	Adv. A.1.32.	NLS
Lambeth	MS 167	MS 167	LPL
EUL 207	MS 207		EUL
Ayr Burgh Records	B 6/12/1.		SRO
John Bannatyne	Adv. 25.5.9.	Adv. A.7.25.	NLS
Thomas Bannatyne	Adv. 25.5.12.	Adv. Jac.V.f.13.	NLS
Cambridge	KK.1.5 ^D	K.1.5.	CUL

APPENDIX N - JAMES I

APS	Drum.	Drum. 1	Colv.	Colv. 1	Rob. 1	Rob. 1a	Rob. 2	Malc.	FUL 207
1424 May, 26	1424 May, 26		1424 May, 26		1424 May, 26			1424 May, 20	1424 May, 26
1	i	-	i	-	[17]	-	-	1	[11]
2	ii	xxviii	ii	xxviii	[27]	[29]	-	2	[2]
3	iii	xxx	iii	xxx	[37]	[31]	-	3(1)	[3]
4	iiii	xxix	iiii	xxix	[47]	[30]	-	3(ii)	[4]
5	v	xxx	v	xxx	[57]	[32]	-	4	[5]
6	vi	xxxii	vi	xxxii	[67]	[33]	-	5	[6]
7	vii	xxxiii	vii	xxxiii	[77]	[34]	[10]	6	[7]
8	viii	xxxiiii	viii	xxxiiii	[87]	-	-	7	[8]
9	ix	xxxv	ix	xxxv	[97]	-	-	8	[9]
10	x-xi	xlix	x-xi	xlix	[107]	-	[10]	9	[10]
11	xi	xxxvi	xi	xxxvi	[11]	-	-	10	[11]
12	xiii(i)	xxxvii	xiii(i)	xxxvii	[127]	-	-	11	[12]
13	xiii	xl	xiii	xl	[14]	-	-	13	[14]
14	xv	-	xv	-	[15]	-	-	14	[15]
15	xvi	xli	xvi	xli	[16]	-	-		[16]
16	xvii	xlii	xvii	xlii	[17]	-	-	15	[17]
17	xviii	-	xviii	-	[18]	-	-	16	[18]
18	xix	xliiii	xix	xliiii	[19]	-	-	17	[19]

APPENDIX N - JAMES I (cont'd)

AFS	Drum.	Drum. 1	Colv.	Colv. 1	Rob. 1	Rob. 1a	Rob. 2	Male.	EUL 207
19	xx	xliiii	xx	xliiii	[20]	-	-	18	[20]
20	xxi	xlv	xxi	xlv	[21]	-	-	19	[21]
21	xxii	xlvi	xxii	xlvi	[22]	-	-	20	[22]
22(i)	xxiii	-	xxiii	-	[23]	-	-	21(i)	[23]
22(ii)	xiii(ii)	xxxix	xiii(ii)	xxxix	[13]	-	-	12	[13]
23	xxliii	xxxviii	xxliii	xxxviii	[24]	-	-	21(ii)	[24]
24	xxv	xlvii	xxv	xlvii	[25]	-	-	22	[25]
25	xxvi	xlviii	xxvi	xlviii	[26]	-	-	23	[26]
26	0	-	0	-	[27]	-	-	-	[27]
27	0	-	0	-	[28]	-	-	-	[28]
-	xxvii	-	xxvii	-	[29]	-	-	24	-

<u>AFS</u>	<u>Cock.</u>	<u>Adv. 2</u>	<u>Adv. 1</u>	<u>Lamb</u>
1424 May, 26				1424 May, 26
1	i	i	[1]	[1]
2	ii	ii	[2]	[2]
3	iii(i)	iii(i)	[3(i)]	[3]
4	iii(ii)	iii(ii)	[3(ii)]	[4]
5	iiii	iv	[4]	[5]
6	-	-	-	[6]
7	v	v	[5]	[7]
8	-	-	-	[8]
9	-	-	-	-
10	xvii	xvii	-	[19-24]
11	vi	vi	[6]	[9]
12	vii	vii	[7]	-
13	-	-	-	[12]
14	xi(i)	xi(i)	[10]	[13]
15	xi(ii)	xi(ii)	-	[14]
16	xii(i)	xii(i)	[11(i)]	[15]
17	xii(ii)	xii(ii)	[11(ii)]	-
18	xiii	xiii	[12]	-
19	xiiii	xiiii	[13]	-
20	xv	xv	[14]	[16]
21	xvi	xvi	[15]	[17]
22(i)	x	x	[9(ii)]	[11]
22(ii)	viii	viii	[8]	-
23	ix	ix	[9(i)]	[10]
24	-	-	-	-
25	-	-	-	[18]
26	-	-	-	-
27	-	-	-	-
-	-	-	-	-

APS	Drum.	Colv.	Rob. 1	Rob. 2	Malc.	Cock.	Adv. 2	Adv. 1	Lamb.
1425 Mar, 12	1425 Mar, 12		1425 Mar, 13	1425 Mar	1425 Mar, 12				1425 Mar, 12
1	0	-	[1]	[1]	25	-	-	-	[25]
2	0	1	[2]	[2]	26	-	-	-	[26]
3	0	1i	[3]	[3]	27	xviii	xviii	[6]	[27]
4	0	1ii	[4]	[4]	28	-	-	-	-
5	1iii	1iii	[5]	[5]	29	xxix	xix	[17]	[32]
6	-	-	[6]	-	-	xx	xx	[18]	-
7	1iiii	1iiii	[7]	[6]	30	xxi	xxi	[19]	[28]
8	1v	1v	[8]	[7]	31	-	-	-	-
9	-	-	[9]	-	-	xxii	xxii	[20]	[29]
10	1vi	1vi	[10]	[8]	32	xxiii- xxiiii	xxiii- xxiiii	[21]	[30]
11	1vii	1vii	[11]	[9]	33	xxv	xxv	[22]	[31]
12	1viii	1viii	[12]	[10]	34	-	vi(ii)	[6 11]	[33]
13	1ix	1ix	[13]	[11]	35	-	-	-	[34]
14	-	-	-	-	-	xxvi	xxvi	[23 i]	[35]
15	1x	1x	[14]	[12]	36	xxvii	xxvii	[23 ii]	[36]
16	1xi	1xi	[15]	[13]	37	xxviii	xxviii	[24]	[37]
17	1xii	1xii	[16]	[14]	38	xxix	xxix	[25]	[38]

(cont'd)

APS	Drum.	Colv.	Rob. 1	Rob. 2	Malc.	Cock.	Adv. 2	Adv. 1	Lamb.
18	lxiii	lxiii	[17]	[15]	39	-	-	-	-
19	lxiii	lxiii	[18]	[16]	40	....	xxx	[26]	-
20	lxv	lxv	[19]	[17]	41	....	xxxi	[27]	-
21	lxvi	lxvi	[20]	[18]	42	....	xxxi	[28]	[39]
22	lxvii	lxvii	[21]	[19]	43	....	xxxi	[29]	[40]
23	lxviii	lxviii	[22]	[20]	44	xxxxiii	xxxxiii	[30]	[41]
24	lxix	lxix	[23]	[21]	45	xxxv	xxxv	[31]	[42]
25	lxx	lxx	[24]	[22]	46	-	-	-	[43]

APS	Drum.	Colv.	Rob. 1	Rob. 2	Male.	Cock.	Adv. 2	Adv. 1	Lamb.
1426 Mar, 11	1426 Mar, 11		1426 Mar, 11	1426 Mar, 11	1426 Mar, 11				1426 Mar, 11
1	lxii	-	[1]	[1]	47	-	-	-	[44]
-	-	-	-	-	-	-	-	-	[45]
-	-	-	-	-	-	-	-	-	[46]
2	lxiii	lxxi	[2]	[2]	48	xxxvi	xxxvi	[52]	-
3	lxiiii	lxxii	[3]	[3]	49	xxvii	xxxvii	[53]	[47]
4	lxxv	lxxiii	[4]	[4]	50	xxxix	xxxix	-	-
5	lxxvi	lxxiiii	[5]	[5]	51	x1	x1	[55]	[55*]
6	lxxvii	lxxv	[6]	[6]	52	x1i	x1i	[56]	[56*]
7	lxxviii	lxxvi	[7]	[7]	53	x1ii	x1ii	[57]	[57*]
8	lxxviii	lxxvii	[8]	[8]	54	x1iii	x1iii	[58]	[58*]
9	lxxix	lxxviii	[9]	[9]	55	x1iiii	x1iiii	[59]	[59*]
10	lxxx	lxxix	[10]	[10]	56	x1v	x1v	-	-
11	lxxxi	lxxx	[11]	[11]	57	-	-	-	-
12	lxxxii	lxxxii	[12]	[12]	58	-	-	-	-
13	lxxxiii	lxxxiii	[13]	[13]	59	x1vi	x1vi	-	-
14	lxxxiiii	lxxxiiii	[14]	[14]	60	x1vii	x1vii	-	-
15	lxxxv	lxxxv	[15]	[15]	61	x1viii	x1viii	[40]	[48]
16	lxxxv	lxxxv	[16]	[16]	62	xlix	xlix	[41]	[49]

(cont'd)

APS	Drum.	Colv.	Rob. 1	Rob. 2	Male.	Cock.	Adv. 2	Adv. 1	Lamb.
17	lxxxv <i>i</i>	lxxxv <i>i</i>	[17]	[17]	63	-	-	-	[60*] ₁
18	lxxxv <i>i</i> -lxxx	lxxxv <i>i</i> lxxx	[18]	[18]	64-66	-	-	-	[61-65*] ₁
19	lxxx <i>x</i> lxxx <i>i</i>	lxxx <i>x</i> lxxx <i>i</i>	[19]	[19]	-	xxxv <i>i</i>	xxxv <i>i</i>	[34]	-
20	0	lxxxv	[20]	[20]	67	-	-	-	[66*]
21	lxxx <i>i</i>	lxxxv <i>i</i>	[21]	[21]	68	-	-	-	-
22	lxxx <i>i</i> lxxxv <i>i</i>	lxxxv <i>i</i> lxxxv <i>i</i>	[22]	[22]	69-73	-	-	-	[50-54] ₁
23	lxx <i>i</i> lxxxv	lxxx <i>x</i> cv <i>i</i>	[23]	[23]	74-76	-	-	-	[67-76*]

* Lambeth 55-76 given under a parliament of March 1427.

APS	Drum.	Colv.	Rob. 1	Rob. 2	Male.	Cock.	Adv. 2	Adv. 1	Lamb.
1426 Sept, 30	1426 Sept, 30	1426 Sept, 30	1426 Sept, 30	1426 Sept, 30	1426 Sept, 30				
1	cv	cv	[1]	[1]	82				
2	cvi	cvi	[2]	[2]	-				
3	cvi	cvi	[3]	[3]	83				
4	-	-	[4]	[4]	84				
5	cvi	cix	[5]	[5]	85				
6	cix	0	[6]	[6]	86				
7	cx	cix	[7]	[7]	87				
1427 Jul, 1	1426 Jul, 1	1426 Jul, 1	1426 Jul, 1	1426 Jul, 1	1426 Jul, 11				
1	cxi	cxi	[1]	[1]	88				
2	cxi	cxi	[2]	[2]	89				
3	cxi	cxi	[3]	[3]	90				
4	0		[4]	[4]					
5	0								
6			[5]	[5]					
7			[6]	[6]					
8	0								

(cont'd)

APS	Drum.	Colv.	Rob.1 1432 May, 27	Rob. 2 1432 May, 27	Malc.	Cock.	Adv. 2	Adv. 1	Lamb.
1432 May, 27									
1	cxiiii	cxiiii	[1]	[1]	91		lxx		
2	cxv	cxv	[2]	[2]	92				
3	cxvi	cxvi	[3]	[3]	93				
4	cxvii	cxvii	[4]	[4]	94				
5	cxviii	cxviii	[5]	[5]	95		lxxi		
6	cxix	cxix	[6]	[6]	96				
7	cxx	cxx	[7]	[7]	97				
8	cxxi	cxxi	[8]	[8]	98				
9	cxii	cxii	[9]	[9]	99				
10	cxiii	cxiii	[10]	[10]	100				
11	0	cxiiii	[11]	[11]	101				
0	-	-	-	-	-		lxxiii		

*Latin

APS	Drum.	Colv.	Rob. 1	Rob. 2	Malc.	Cock.	Adv. 2	Adv. 1	Lamb.
1428 Mar, 1	1427 May, 1	1428 Mar, 1	1428 Mar, 1	1428 Mar, 1	1428 Mar, 1				1428 Mar, 1
1	0	0	[1]	[1]	102				[77]
2	cxkv	cxkv	[2]	[2]	103				[78]
3	cxkvi	cxkvi	[3]	[3]	104				-
4	cxkxvii	cxkxvii	[4]	[4]	105				[79]
5	cxkxviii	cxkxviii	[5]	[5]	106				[80]
6	0	cxkix	[6]	[6]	107				-
7	cxkix	cxkx	[7]	[7]	108				-
8	cxkx	cxkxi	[8]	[8]	109				[81-83]
9	cxkxi	cxkxi	[9]	[9]	110				[84]
10	cxkxi	cxkxi	[10]	[10]	111				[85]
11	cxkxi	cxkxi	[11]	[11]	112				[86]
12	cxkxi	cxkxv	[12]	[12]	113				-
1428 July, 12	1428 July, 2	1428 July, 2	1428 July, 12	1428 July, 12					
0	0	0	[0]	[0]					
1429 Apr, 26	1429 Apr, 26	1429 Apr, 26	1429 Apr, 26	1429 Apr, 26					
1	0	0	[1]	[1]					
2		0	[2]	[2]					

AFS	Drum.	Colv.	Rob.1	Rob. 2	Malc.	Cock.	Adv.2	Adv. 1	Lamb.	Ayr B.R.
1430 Mar,6	1430 Mar,6	1430 Mar,6	1430 Mar,6	1430 Mar,6	1430 Mar,6		1430 Mar,6	1430 Mar,6	1430 Mar,6	
1	cxixv	cxixvi	[1]	[1]	114	li	li	[42]	[92]	[1]
2	cxixvii	cxixvii	[2]	-	115	-	-	-	-	-
3	cxixviii	cxixviii	[3]	[2]	116	lii	lii	[43]	[93]	[2]
4	cxixix	cxixix	[4]	[3]	117	liii	liii	[44]	[94]	[3]
5	cxixxx	cxli	[5]	[4]	118	lv	lv	[46]	[95]	[4]
6	cxli	cxlii	[6]	[5]	119	liiii	liiii	[45]	[96]	[5]
7	cxli	cxliii	[7]	[6]	120	lvi	lvi	[47]	[97]	[6]
8	-	-	[8]	[7]	121	-	-	[48]	[98]	[7]
9	-	-	-	-	-	-	-	-	-	-
10	-	-	-	-	-	-	-	-	-	-
11	cxliiii	cxlv	[9]	[8]	122	lvii	lvii	[49]	[99]	[8]
12	cxliiii	cxliiii	[10]	[9]	123	lviii	lix	[50]	-	[9]
13	cxlv	cxlvii	[11]	[10]	124			[51]	-	[10]
14	cxlvi	cxlviii	[12]	[11]	125			[52]	-	[11]
15	cxlvii	cxlix	[13]	[12]	-			[53]	-	[12]
			[14]	[13]	126	lviiii	lx	[54]	[100]	[13]
										[14]
										[15]
										[16]
										[17]

APS	Drum.	Colv.	Rob. 1	Rob. 2	Male.	Cock.	Adv. 2	Adv. 1	Lamb	Ayr B.R.
16	cxlviii	cl	[15]	[14]	127	lx	lxi	-	[101]	[18]
17	cxlix	cli	[16]	[15]	128	lxi	lxi	[55]	[102]	[19]
18	cl	clii	[17]	[16]	129	lxii	lxiii	-	[103]	[20]
19	cli	cliii	[18]	[17]	131	lxiii		-	[104]	[21]
20	clii	cliiii	[19]	[18]	130	lxiiii		-	[105]	[22]
21	cliii	clv	[20]	[19]	132	lxv		-	[106]	[23]
-	-	-	-	-	-	-	-	-	[107]	[24]
-	-	-	-	-	-	-	lxvi	-	-	[25]
-	-	-	-	-	-	-	lxix	-	-	[26]
-	-	-	-	-	-	-	lxviii	-	-	[27]
22	-	-	-	[20]	134	lxvii		-	[108-129]	-
-	-	-	-	-	-	-		-		
<hr/>										
1431 Jan, 30	1431 Jan, 30	1431 Jan, 30								
0	0	0								
<hr/>										
1431 Oct, 15	1431 Oct, 15	1431 Oct, 15	1431 Oct, 15	1431 Oct, 15						
1	cliiii	clvi	[1]	[1]	133					
2	clv	clvii	[2]	-	-					
-	clvi	clviii	[0]	-	-					
3	-	-	-	-	-					
4	clviii	clix	[3]	T 21						

APS	Drum	Colv.	Rob. 1	Rob. 2	Malc.	Cock.	Adv.2	Adv.1	Lamb.
1434 Mar,1	1434 Mar,1	1434 Mar,1		1434 Mar,1	1434 Mar,1				
1	clviii	clx		[1]	135				
2	clix	clxi		[2]	-				
3	clx	clxii		[3]	-				
1435 Jan,10	Jan,11	1435 Jan,10	1435 Jan,10	1435 Jan,10					
1	clxi	clxiii	[1]	[1]					
2	clxii	clxiiii	[2]	[2]					
1436 Oct,22	1436 Oct,22	1436 Oct,22	1436 Oct,12	1436 Oct,22					
1	clxiii	clxv	[1]	[1]	-				
2	clxiiii	clxvi	[2]	[2]	137				
3	clxv	clxvii	[3]	[3]	138				
4	clxvi	clxviii	[4]	[4]	139				
5	clxvii	clxviii	[5]	[5]	140				
6	clxviii	clxx	[6]	[6(a)]	141				
7	clxix	clxxi	[7]	[•••]	142				
8	clxx	clxxii	[8]	[•••]	-				
9	clxxi	clxxii	[9]	[•••]	143				
10	clxxii	clxxiii	[10]	[•••]	144				

(cont'd)

<u>AFS</u>	<u>Drum</u>	<u>Colv.</u>	<u>Rob.1</u>	<u>Rob. 2</u>	<u>Malc.</u>	<u>Cock.</u>	<u>Adv.2</u>	<u>Adv.1</u>	<u>Lamb.</u>
11	clxiii	clxxv	[11]	[...]	145				
12	-	clxxvi	[12]	[...]	-				
13	-	clxxvii	[13]	[...]	-				

APPENDIX N - JAMES II

APS	Drum.	Colv.	Rob. 1	Rob. 2	Malc.	Cock.	Adv. 2	Adv. 1	Lamb.
	1438 Mar, 20	1438 Mar, 20			1438 Mar, 20				
0	ii	i			1				
		ii							
<hr/>									
1438 Mar, 25			1438 Mar, 20	1438 Mar, 20					
0	i	iii	[0]	[0]					
<hr/>									
1438 Nov, 27									
1									
Dec, 24									
2									
<hr/>									
1439 Mar, 13	1439 Mar, 13	1439 Mar, 13	1439 Mar, 13	1439 Mar, 13	1439 Mar, 13				
1	iii	iii	[1]	[1]	2				
2	iiii	v	[2]	[2]	3				
<hr/>									
1440 Aug, 2	1440 Aug, 2	1440 Aug, 2	1440 Aug, 2	1440 Aug, 2	1440 Aug, 2				
1	-	vi	[1]	[1]	4				
2	v	vii	[2]	[2]	5				
3	-	viii	[3]	[3]	6				
<hr/>									

Dec, 24

[0]

(cont'd)

APS	Drum	Colv.	Rob.1	Rob. 2	Malc.	Cock	Adv.2	Adv.1	Lamb.
1443 Nov,4	1443 Nov,4	1443 Nov,4	1443 Nov,4	1443 Nov,4	1443 Nov,4				
1	vi	ix	[1]	[1]	7				
2									
1445 Jun,14	1445 July,14	1445 July,14	1445 July	1445 June					
0	vii	x	[0]	[0]					
1450 Jan,19	1450 Jan,19	1450 Jan,19	1450 Jan,19	1450	1450 Jan,19				
1	viii	xii	[1]	[1]	8				
2	-	xi	-	[2]	-				
3	ix	xiii		[3]	-				
4	x	xiiii	-	[4]	9				
5	-	xv	-	[5]	-				
6	xi	xvi	-	-	10				
7	xii	xvii	-	-	-				
8	xiii	xviii	[3]	-	11				
0	xiiii	xix	[4]	-	12				

(cont'd)

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.	Cock.	Adv.2	Adv.1	Lamb.
1450 Jan,19	1450 Jan,19	1450 Jan,19	1450 Jan,19	1450 Jan,19	1450 Jan,19				
1	-	xx	[1]	[1]	13		1		[1]
2	xv	xxi	[2]	[2]	14		2		[2]
3	xvi	xxii	[3]	[3]	15		3		[3]
4	xvii	xxiii	[4]	[4]	-		4		[4]
5	xviii	xxiiii	[5]	[5]	16		5		[5]
6	xxix	xxv	[6]	[6]	17		6		[6]
-	xx	xxvi			18		7		
7	xxi	xxvii	[7]	[7]	19		8		[7]
8	xxii	xxviii	[8]	[8]	20		9		[8]
9	xxiii	xxix	[9]	[9]	21		10		-
10	xxiiii	xxx	[10]	[10]	22		11		-
11	xxv	xxxi	[11]	[11]	23		12		[10]
	xxvi	xxxii			24				
12	xxvii	xxxiii	[12]	[12]	25		13		[11]
13	xxviii	xxxiiii	-	[13]	26		14		[12]
14	xxix	xxxv	-	[14]	27		15		[13]
15	xxx	xxxv	-	[15]	28		16		[14]
16		xxxvi	-	[16]	29		17		[15]

(cont'd)

APS	Drum.	Colv.	Rob. 1	Rob. 2	Malc.	Cock.	Adv.2	Adv.1	Lamb.
17	xxxix	xxxviii	-	[17]	30		18		-
18	xxxix	xxxviii	-	[18]	31		19		[16]
1450 May, 4	1450 May, 4	1450 May, 4	1450 May, 4	1450 May, 3	1450 May, 1				
1	xxxix	xxxix	[1]	[1]	32				
2	xxxix	xix	[2]	[2]	33				
1451 Jun, 27			1451 Jun, 28	1451 Jun, 28					
0	xxxv	0	[0]	[0]					
1451 Oct, 25	1450 Oct, 15	1451 Oct, 25	1451 Oct, 15	1451 Oct, 25	1451 Oct, 15				
1	xxxvi	xix	[1]	[1]	34				
2	xxxvi	xix	[2]	[2]	35				
3		xlii	[3]	[3]					
4	xxxviii	xliii	[4]	[4]	36				
5	xxxix	xlv	[5]	[5]	37				
6	xix	xlvi	[6]	[6]	38				
7	xli	xlvii	[7]	[7]					
8		xlviii	[8]	[8]	39				
9	xlii	xlix	[9]	[9]	40				

(cont'd)

<u>AFS</u>	<u>Drum.</u>	<u>Colv.</u>	<u>Rob.1</u>	<u>Rob. 2</u>	<u>Malc.</u>	<u>Cock.</u>	<u>Adv.2</u>	<u>Adv.1</u>	<u>Lamb.</u>
10		-	[10]	[10]	41				
11		1	[11]	[11]					
12	xliii	li	[12]	[12]	42				
13	xliiii	lii	[13]	[13]	43				
14	xlv	liii	[14]	[14]	-				
15	xlvi	liiii	[15]	[15]	-				
16	xlvii	lv	[16]	[16]	44				
17	xlviii	lvi	[17]	[17]	45				
18	xlix	lvii	[18]	[18]	-				
1452 Aug, 26	1452 Aug, 26	1452 Aug, 26	1452 Aug, 26		1452 Aug, 26				
1	1	lviii	[1]		46				
2	li	lix	[2]		47				
3	lii	lx	[3]		48				
4	liii	lxi	[4]		49				
5	liiii	lxii	[5]		50				
1454 July, 16	1454 July, 16	1454 July, 16	1454 July, 16		1454 July, 16				
1	lv	lxiii	[1]		51				
2	lvi	lxiiii	[2]		52				

(cont'd)

AFS	Drum.	Colv.	Rob.1	Rob.2	Malc.	Cock.	Adv.2	Adv.1	Lamb.
1455 June, 9	1455 June, 9	1455 June, 9	1455 June, 9						
0	0	0	[0]						
1455 Oct, 13	1455 Oct, 13	1455 Oct, 13	1455 Oct, 13		1455 Oct, 10				
-	-	-	-		65				
1	1xxix	1xviii	[1]		66				
2	1xxx		[2]		67				
3	1xxxi	1xxix	[3]		68				
4		1xxx	[4]		69				
5	1xxxii	1xxxii	[5]		70				
6	1xxxiii	1xxxiii	[6]						
7	1xxxvi	1xxxiii	[7]						
8	1xxxiiii	1xxxiiii	[8]		71				
9		1xxxv	[9]						
10	1xxv	1xxxvi	[10]		72				
11		1xxxviii	[11]		73				
12	1xxxviii	1xxxviii	[12]		74				
13	1xxxviii	1xxxix	[13]		-				
14	1xxxix	1xxxix	[14]		75				

(cont'd)

APS	Drum.	Colv.	Rob. 1	Rob. 2	Malc.	Cock.	Adv.2	Adv.1	Lamb.
1456 Oct, 19	1456 Oct, 9	1456 Oct, 19	1456 Oct, 19		1456 Oct, 19				
1	1xxxx	1xxxxi	[1]		76				
2	1xxxxi	1xxxxii	[2]		77				
3		1xxxxiii	[3]						
4	1xxxxii		[4]		78				
5	1xxxxiii	1xxxxiiii	[5]		-				
6	1xxxxiiii	1xxxxv	[6]		79				
7	1xxxxv	1xxxxvi	[7]		-				
8	1xxxxvi	1xxxxvii	[8]		-				
9	1xxxxvii	1xxxxviii	[9]		80				
10	1xxxxviii	1xxxxix	[10]		-				
11	1xxxxix		[11]		-				
1458 Mar, 6	1458 Mar, 6	1458 Mar, 6	1458 Mar, 6		1458 May, 6				
1	c	c	[1+2 i]		81				
2	ci	ci	[2 ii]		82				
3		cii	[3]		-				
4	cii	ciii	[4]		-				
5		ciii	[5]		-				
6	ciii	cv	[6]		83				

(cont'd)

APS	Drum.	Colv.	Rob. 1	Rob. 2	Male.	Cock.	Adv.2	Adv.1	Lamb.
7	cilii	cvi	[7]		84				
8	cv	cvil	[8]						
9	-	cviil	[9]		85				
10	cvi	cix	[10]		86				
11	cvid	cx	[11]		-				
12	cviil	cx	[12]		87				
13	cix	cxil	[13]		88				
14									
15	cx	cxiii	[15]		89				
16	cx		[16]		-				
17	cxii	cxliii	[17]		90				
18	cxiii	cxv	[18]		91				
19	cxliii	cxvi	[19]		-				
20	cxv	cxvii	[20]		92				
21	cxvi	cxviii	[21]		93				
22	cxvii	cxix	[22]		94				
23	cxviii	cxix	[23]		95				
24	cxix	cxix	[24]		96				

(cont'd)

APS	Drum.	Colv.	Rob. 1	Rob. 2	Malc.	Cock.	Adv. 2	Adv. 1	Lamb.
25	cxx	cxixi	[25]		97				
26			[26]						
27	cxixi	cxixii	[27]		98				
28	cxixi	cxixiii	[28]		99				
29	cxiii	cxixv	[29]		100			[1]	
30	cxiii	cxixvi	[30]		101			[2]	
31			[31]					[3]	
32	cxixv	cxixvii	[32]		102			[4]	
33	cxixvi	cxixviii	[33]		103			[5]	
34	cxixvii	cxixix	[34]		104			[6]	
35	cxixviii	cxixx	[35]		105			[7]	
36		cxixxi	[36]		106			[8]	
37	cxixix	cxixxii	[37]		107			[9]	
38	cxixx	cxixxiii	[38]		108			[10]	
39	cxixxi	cxixxiiii	[39]		109			[11]	
40	cxixxii	cxixxv	[40]		110			[12]	

APPENDIX N -- JAMES III

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.	Adv.2	Adv.1	Lamb.	Ban.J.
1466 Oct,9	1466 Oct,9	1466 Oct,9	1466 Oct,9	1466 Oct,9	1466 Oct,9				1466 Oct,4
1	i	i	[1]	[1]	1				
2	ii	ii	[2]	[2]	2				
3	iii	iii	[3]	[3]	3				
4	iiii	iiii	[4]	[4]	4				[0]
5		v	[5]	[5]	5				
6	v	vi	[6]	[6]	6				
7	vi	vii	[7]	[7]	7				
8	vii	viii	[8]	[8]	8				
9		ix	[9]	[9]	9				
10	viii	x	[10]	[10]	10				
11	ix	xi	[11]	[11]	11				
12	x	xii	[12]	[12]	12				
13	xi	xiii	[13]	[13]	13				
1467 Jan,31	1467 Jan,30	1467 Jan,31	1467 Jan,31	1467 Jan,31	1467 Jan,31				
1	xii	xiii	[1]	[1]	14				
2	xiii	xv	[2]	[2]	15				
3	xiiii	xvi	[3]	[3]	16				

(cont'd)

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.	Adv.2	Adv.1	Lamb.	Ban.J.
4	xv.	xvii	[4]	[4]	17				
5	xvi	xviii	[5]	[5]	18				
6	xvii	xix	[6]	[6]	-				
7	xviii	xx	[7]	[7]	-				
8	xix	xxi	[8]	[8]	-				
1467 Oct,12	1467 Oct,12	1467 Oct,2	1467 Oct,12	1467 Oct,12	1467 Oct,12				
1	xx	xxii	[1]	-	19				
2	xxi	xxiii	[2]	-	20				
3	xxii	xxiiii	[3]	-	21				
4	xxiii	xxv	[4]	-					
1468 Jan,12	1468 Jan,12	1468 Jan,12	1468 Jan,12	1468 Jan,12	Jan,12				
1	-	-	-	[1]	-				
2	xxiiii	xxvi	[1]	[2]	-				
3	xxv	xxvii	[2]	[3]	-				
4		xxviii	[3]	[4]	-				
5	xxvi	xxix	[4]	[5]	-				
6	xxvii	xxx	[5]	[6]	-				

(cont'd)

APS.	Drum.	Colv.	Rob.1	Rob.2	Malc.	Adv.2	Adv.1	Lamb.	Ban.J.	Camb.
7	xxviii	xxxi	[6]	[7]	-					
8	xxix	xxxii	[7]	[8]	22					
9	xxx	-	[8]	[9]	23					
10	-	-	[9]	[10]	-					
11	-	-	[10]	[11]	-					
1468			1468							
1	xxxi	xxxiii	[1]	[1+2]	24					
2	xxxii	xxxiiii	[2]	[3]	25					
3	xxxiii	xxxv	[3]	[4]	-					
4	xxxiiii	xxxvi	[4]	-	26					
5	xxxv	xxxvii	[5]	-	-					
6	-	-	[6]	-	-					
7	-	-	[7]	-	-					
1469	1470	1470	1469	1469	1470					
Nov, 20	Nov, 20	Nov, 20	Nov, 20	Nov, 20	Oct, 20					
1	xxxvi	xxxviii	[1]	[1]	27					
2	xxxvii	xxxix	[2]	[2]	28					
3	xxxviii	xli	[3]	[3]	29					
4	xxxix	xlii	[4]	[4]	30					
5	xli	xliii	[5]	[5]	31					

(cont'd)

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.	Adv.2	Adv.1	Lamb.	Ban.J	Camb.
6	xli	xliii	[6]	[6]	32			[5]	-	[6]
7	xlii	xliiii	[7]	[7]	33			[6]	-	[7]
8	xliii	xlv	[8]	[8]	34			[7]	-	[8]
9	xliiii	xlvi	[9]	[9]	35			[8]	-	[9]
10	xlv	xlvii	[10]	[10]	36			[9]	-	[10]
11	xlvi	xlviii	[11]	[11]	37			[10]	-	[11]
12	xlvii	xlix	[12]	[12]	38			[11]	-	[12]
13	xlviii	l	[13]	[13]	39+40			[12+13]	-	[13+14]
14	xl ix	li	[14]	[14]	41			[14]	-	[15]
15	l	lii	[15]	[15]	-			[15]	-	[16]
16	li	liii	[16]	[16]	42			[16]	-	[17]
17	lii	liiii	[17]	[17]	43			[17]	-	[18]
18	liii	lv	[18]	[18]	44			-	-	[19]
19	liiii	-	[19]	[19]	-			-	-	-
1471 May,6	1471 May,6	1471 May,6	1471 May,6	1471 May,6	1471 May,6					
1-12	lv	lvi	[0]	[1-12]	45					

(cont'd)

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.	Adv.1
1471 Aug,8			1471 Aug,	1471 Aug,		
0			[0]	[0]	46	
1471 May,6					1471 May,6	
2	-	-		[1]	-	
3	lvi	-	[1]	[2]	47	
4	lvii	lvii	[2]	[3]	48	
5	lviii	lviii	[3]	[4]	-	
6	lix	lix	[4]	[5]	49	
7	lx	lx	[5]	[6]	50	
8	lxi	lxi	[6]	[7]	-	[7]
9	lxii	lxii	[7]	[8]	51	-
10	lxiii	lxiii	[8]	[9]	52	-
11	lxiiii	lxiiii	[9]	[10]	53	-
12	lxv	lxv	[10]	[11]	-	-
1473 Jul,23				1473 Jul,23		
1				[1]		
2				[2]		
3				[3]		
4				[4]		
5				[5]		
6				[6]		
7				[7]		
8				[8]		
9				[9]		
10				[10]		

(cont'd)

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.	Adv.1
11				[11]		
12				[12]		
13				[13]		
14				[14]		
15				[15]		
16				[16]		
17				[17]		
<hr/>						
1474 May,9	1474 May,9	1474 May,9	1474 May,9	1474 May,9	1474 May,9	
1	lxvi	lxvi	[1]	-	54	
2	lxvii	lxvii	[2]	-	-	
3	lxviii	lxviii	[3]	-	-	
4	lxix	lxix	[4]	-	-	
5	lxx	lxx	[5]	-	-	
6	lxxi	lxxi	[6]	-	55	
7	lxxii	lxxii	[7]	-	56	
8	lxxiii	lxxiii	[8]	-	57	
9	lxxiiii	lxxiiii	[9]	-	58	
10	lxxv	lxxv	[10]	-	59	
11	lxxvi	lxxvi	[11]	-	60	
12	lxxvii	lxxvii	[12]	-	61	
13	lxxviii	lxxviii	[13]	-	62	
14	lxxix	lxxix	[14]	-	63	
15	lxxx	lxxx	[15]	-	64	
16	lxxxix	lxxxix	[16]	-	65	
17	lxxxii	lxxxii	[17]	-	66	
18	lxxxiii	lxxxiii	[18]	-	-	

(cont'd)

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.	Adv.1
1474 Nov.20	1475 Nov,22	1475 Nov,22	1475 Nov,22		1475 Nov,22	
1	lxxxiiii	lxxxiiii	[1]		-	
2	lxxxv	lxxxv	[2]		67	
3	lxxxvi	lxxxvi	[3]		69	
4	lxxxvii	lxxxvii	[4]		68	
5	lxxxviii	-	[5]		-	
6	lxxxix	lxxxviii	[6]		70	
7	lxxxx	lxxxix	[7]		71	
8	lxxxxi	lxxxx	[8]		72	
9	lxxxxii	lxxxxi	[9]		-	
10	lxxxxiii	lxxxxii	[10]		-	
11	lxxxxiiii	lxxxxiii	[11]		73	
1476 Jul,1	1476 Jul,4	1476 Jul,4	1476 Jul,1		1476 Jul,4	
0	lxxxxv	lxxxxiiii	[0]		-	
		lxxxxv			-	
0	lxxxxvi	lxxxxvi	[0]		74	
0	lxxxxvii	lxxxxvii	[0]			
1478 Jun,1	1578 Aug,6	1478			1477 Aug,6	
1	lxxxxviii	lxxxxviii	-	-	75	
2	lxxxxix	lxxxxix	-	-	76	
3	c	c	-	-	-	
4	ci	ci	-	-	77	
5	cii	cii	-	-	78	
6	ciii	ciii	-	-	79	
7	ciiii	ciiii	-	-	80	
8	cv	cv	-	-	81	

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.
9	cvi	cvi	-	-	82
10	cvii	cvii	-	-	83
11	cviii	cviii	-	-	84
12	cix	cix	-	-	-
1481 Apr,2	1481 Apr,2	1481 Apr,2	1481 Apr,2		1481 Apr,2
1	cx	cx	[1]		0
2	cxii	cxii	[2]		85
3	-	cxiii	[3]		
4	-	cxiiii	[4]		86
5	-	cxv	[5]		87
6	-	cxvi	[6]		-
7	-	-	[7]		-
1482 Mar,22			1482 Mar,18		
1	cxii	cxvi	[1]	-	-
2	cxiii	cxvii	[2]	-	-
3	cxiiii	cxviii	[3]	-	-
4	cxv	cxix	[4]	-	-
5	cxvi	cxx	[5]	-	89
6	cxvii	cxxi	[6]	-	-
7	cxviii	cxxii	[7]	-	-
8	cxix	cxiii	[8]	-	-
9	cxx	cxiiii	[9]	-	-
10	cxxi	cxxv	[10]	-	-
11	cxii	cxxvi	-	-	-
12	cxxiii	cxxvii	-	-	-
13	cxxiiii	cxxviii	-	-	-
14	-	-	-	-	88

(cont'd)

APS	Drum.	Colv.	Rob.1	Rob.2	Male.
15	cxxv	cxxix	-	-	90
16	cxxvi	cxxx	-	-	91
17	cxxvii	cxxxi	-	-	
18	cxxviii	cxxxi	-	-	-
<hr/>					
1482 Dec,11			1482 Aug,2		
1			[1]		
2			[2]		
3			[3]		
4			[4]		
5			[5]		
6			[6]		
7			[7]		
<hr/>					
1483 Feb,24	1483 Feb,24	1483 Feb,24	1483 Feb,16		1484 Feb,24
1	cxxix	cxixiii	[1]	-	-
2	cxxx	cxixiii	[2]	-	-
3	cxixi	cxixv	[3]	-	-
4	cxixii	cxixvi	[4]	-	-
5	cxixiii	cxixvii	[5]	-	-
6	cxixiiii		[6]	-	-
7	cxixv	cxixviii	[7]	-	-
8	cxixvi	cxixxix	[8]	-	-
9	cxixvii	cxl	[9]	-	92
10	cxixviii	cxli	[10]	-	93
11	-	-	[11]	-	-

(cont'd)

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.
1485 May, 26			1485 May, 9		
1	cxxxix	cxlii	[1]	-	0
2	xxxxx	cxliii	[2]	-	-
3	cxli	cxliiii	[3]	-	94
4	cxlii	cxlv	[4]	-	95
5	cxliii	cxlvi	[5]	-	96(i)
6	cxliiii	cxlvii	[6]	-	-
7			[7]	-	-
8		cxlviii	[8]	-	-
9	cxlv	cxlix	[9]	-	-
10	cxlvi		[10]	-	96 ii
11	cxlvii		[11]	-	-
12	cxlviii		[12]	-	-
13	cxlix		[13]	-	97
14	cl		[14]	-	-
15	cli	cl	[15]	-	98
16	-	-	[16]	-	-
17	-	-	[17]	-	-
<hr/>					
1486					
1	clii	-	-	-	99
2	cliii	-	-	-	100
3	cliiii	-	-	-	101
<hr/>					

(cont'd)

APS	Drum.	Colv.	Rob.1	Rob.2	Malc.
1487 Oct,1	1487 Oct,1		1487 Oct,1		
1	cliiii		-		-
2	clv		[1]		-
3	clvi		[2]		-
4	clvii		[3]		-
5	clviii		[4]		102
6	clix		[5]		-
7	clx		[6]		103
8	clxi		[7]		-
9	clxii		[8]		104
10	clxiii		[9]		105
0	0		[0]		106
11	clxiiii		[11]		107
12	clxv		[12]		108
13	clxvi		[13]		109
14	clxvii		[14]		
15	clxviii		[15]		110
16	clxix		[16]		111
17	clxx		[17]		112
18	clxxi		[18]		113
19	clxxii		[19]		114
0	-		[0]		-
1487 Jan,11			1487 Jan,11		
1-18			[1-18]		

APPENDIX N - JAMES IV

<u>APS</u>	<u>Drum</u>	<u>Rob. 1</u>	<u>Malc.</u>
1488 Oct,6	1488 Oct,6	1488 Oct,6	1488 Oct,6
1	i	[1]	1
2	ii	[2]	-
3	-	[3]	-
4	iii	[4]	2
5	iiii	[5]	3
6	v	[6]	4
7	vi	[7]	5
8	vii	[8]	6
9	viii	[9]	-
10	ix	[10]	7
11	x	[11]	8
12	xi	[12]	9
13	xii	[13]	10
14	xiii	[14]	11
15	xiiii	[15]	12
16	xv	[16]	13
17	-	[17]	-
18	-	[18]	-
19	xvi	[19]	14
20	xvii	[20]	15
<hr/>			
1490 Feb,3	1490 Feb,25	1490 Feb,3	1490 Feb,15
1	xviii	[1]	16
2	xix	[2]	-
3	xx	[3]	-
4	-	[4]	-
5	xxi	[5]	-

<u>APS</u>	<u>Drum</u>	<u>Rob. 1</u>	<u>Malc.</u>
6	-	[6]	-
7	xxii	[7]	17
8	xxiii	[8]	18
9	xxiiii	[9]	-
10	xxv	[10]	-
11	xxvi	[11]	-
12	xxvii	[12]	-
13	xxviii	[13]	18
14	xxix	[14]	19
15	xxx	[15]	20
16	xxxi	[16]	21
17	xxxii	[17]	22
18	xxxiii	[18]	23
19	xxxiiii	[19]	24
20	-	[20]	25
21	xxxv	[21]	26
22	xxxvi	[22]	27
23	xxxvii	[23]	28
24		[24]	0
25	xxxviii	[25]	29
26	xxxix	[26]	30
27	-	[27]	-
<hr/>			
1491 May, 18	1491	1491 Apr, 28.	
1	-	[1]	31
2	xl	[2]	32
3	-	[3]	34
4	-	[4]	33
5	xli	[5]	35

<u>APS</u>	<u>Drum.</u>	<u>Rob. 1.</u>	<u>Malc.</u>
6		[6]	36
7	xlii	[7]	37
8	xliii	[8]	38
9	xliiii	[9]	39
10	xliv	[10]	40
11	xlvi	[11]	41
13	xlvii	[13]	42
14	-	[14]	-
15	xlviiii	[15]	43
16	-	[16]	-
17	xlix	[17]	44
18	1	[18]	45
19	li	[19]	46
20	lii	-	47
<u>12</u>	<u>liii</u>	<u>[12]</u>	<u>48</u>
1493	1493		1493
Jun, 26	Jun, 26		Jun, 26
1	-		49
2	liiii		50
3	lv		51
4	lvi		52
5	lvii		53
6	lviii		54
7	lix		55
8	lx		76
9	lxi		56
10	-		57
11	-		-

<u>APS</u>	<u>Drum.</u>	<u>Rob. 1</u>	<u>Malc.</u>
12	lxii		58
13	lxiii		59
14	-		61
15	lxiiii		60
16	lxv		62
17	lxvi		63
18	lxvii		64
19	lxviii		
20	lxix		65
21	lxx		66
22	lxxi		67
			68
23	-		69
24	-		
<hr/>			
1496 Jun,13	1593 Jun,26		1596 Jun,14
1	lxxii		70
2	lxxiii		71
3	lxxiiii		72
4	lxxv		73
5	lxxvi		74
6	lxxvii		75
<hr/>			
1504 Mar,11	1501 Mar,6	1504 Mar,11	1504 Mar,11
1	lxxviii	[1]	77
2	lxxix	[2]	78
3	lxxx	[3]	79
4	lxxxii	[4]	80
5	lxxxiii	[5]	81

<u>APS</u>	<u>Drum.</u>	<u>Rob.1</u>	<u>Malc.</u>
6	lxxxiii	[6]	82
7	lxxxiiii	[7]	83
8	lxxxv	[8]	84
9	lxxxvi	[9]	85
10	lxxxvii	[10]	86
			87
11	lxxxviii	[11]	88
12	lxxxix	[12]	89
13	xc	[13]	90
14	xc i	[14]	91
15	xc ii	[15]	92
16	xc iii	[16]	93
17	xc iiii	[17]	-
18	xcv	[18]	94
19	-	[19]	-
20	xcvi	[20]	-
21	xcvii	[21]	95+96
22	xcviii	[22]	97
23	xcix	[23]	98
24	c	[24]	-
25	-	[25]	-
26	ci	[26]	99
27	cii	[27]	100
28	ciii	[28]	103
29	ciiii	[29]	111
30	cv	[30]	112
31	cvi	[31]	113
32	cvii	[32]	101
33	cviii	[33]	102

<u>APS</u>	<u>Drum.</u>	<u>Rob.l.</u>	<u>Malc.</u>
34	cix	[34]	114
35	cx	[35]	116
36	cxi	[36]	104
37	cxii	[37]	105
38	cxiii	[38]	-
39	cxiiii	[39]	106
40	cxv	[40]	-
41	cxvi	[41]	107
42	cxvii	[42]	108
43	cxviii	[43]	109
44	cxix	[44]	110
45	cxx	[45]	115
46	cxxi	[46]	117
0	-	[47-51]	118-122

APPENDIX N - JAMES V

<u>APS</u>	<u>Drum.</u>	<u>Rob.l.</u>	<u>Malc.</u>	<u>Ban.T.</u>
1515 Jul,12	1515 July,31			
1	-			
2	-			
	<u>i + ii</u>			
1529 Jan,22	1529 Jan,22			
1	v			
2	iii			
3	iiii			
1532 May,17		1532 May,13		
1		[1]		
2		[2]		
1535 Jun,7		1535 Jun,7	1535 Jun,7	
1		[1]	1	
2		[2]	2	
3		[3]	3	
4		[4]	-	
5		[5]	-	
6		[6]	-	
7		[7]	4	
8		[8]	5	
9		[9]	6	
10		[10]	-	
11		[11]	7	
12		[12]	8	
13		-	9	

<u>APS</u>	<u>Drum.</u>	<u>Rob.1.</u>	<u>Malc.</u>	<u>Ban.T.</u>
14		[13]	10	
15		[14]	-	
16		[15]	11	
17		[16]	12	
18		[17]	13	
19		[18]	-	
20		[19]	-	
21		[20]	-	
22		[21]	-	
23		[22]	14	
24		[23]	15	
25		[24]	16	
26		[25]	17	
27		[26]	-	
28		[27]	-	
29		[28]	18	
30		[29]	19	
31		[30]	20	
32		[31]	21	
33		[32]	22	
34		[33]	28	
35		[34]	23	
36		[35]	24	
37		[36]	-	
38		[37]	29	
39		[38]	30	
40		[39]	-	
41		[40]	25	
42		[41]	26	
43		[42]	27	

<u>APS</u>	<u>Rob.1.</u>	<u>Malc.</u>	<u>Ban.T.</u>
1540 Dec,10	1540 Dec,3.		
1	[1]	32	
2	[2]	33	
3	[4]	31	
4	[3]	34	
5	[5]	-	
-	[0]	-	
	<hr/>	<hr/>	
	1540 Dec,3		
6	[6]	35	
7	[7]	36	
8	[8]	37	
9	[9]	38	
10	[10]	39	
11	[11]	40	
12	[12]	41	
13	[13]	42	
14	[14]	43	
15	[15]	44	
16	[16]	45	
17	[17]	46	
18	[18]	47	
19	[19]	48	
20	[20]	-	
21	[21]	49	[1]
22	[22]	50	-
23	[23]	51	-
24	[24]	52	[2]
25	[25]	53	-

<u>APS</u>	<u>Rob.1</u>	<u>Malc.</u>	<u>Ban.T.</u>
26	[26]	54	[3]
27	[27]	55	[4]
28	[28]	56	
<hr/>	<hr/>	<hr/>	
1541 Mar, 14	1541 Mar, 14	1541 Mar, 14	
1	[1]	57	
2	[2]	58	
3	[3]	59	
4	[4]	60	
5	[5]	61	
6	[6]	62	
7	[7]	63	
8	[8]	64	
9	[9]	65	
10	[10]	66	
11	[11]	67	
12	[12]	68	
13	[13]	69	
14	[14]	70	
15	[15]	71	
16	[16]	72	
17	[17]	73	
18	[18]	74	
19	[19]	75	
20	[20]	76	
21	[21]	77	
22	[22]	78	
23	[23]	79	
24	[24]	80	
25	[25]	81	

<u>APS</u>	<u>Rob.1.</u>	<u>Malc.</u>
26	[26]	82
27	[27]	83
28	[28]	84
29	[29]	85
30	[30]	86
31	[31]	87
32	[32]	88
33	[33]	89
34	[34]	90
35	[35]	91
36	[36]	-
37	[37]	92
38	[38]	93
39	[39]	94
40	[40]	95
41	[41]	96
42	[42]	97
43	[43]	98
44	[44]	99
45	[45]	100
46	[46]	101
<u>47</u>	<u>[47]</u>	<u>102</u>

APPENDIX N - MARY QUEEN OF SCOTS

<u>APS</u>	<u>Rob. 1</u>	<u>Malc.</u>	<u>Ban. T.</u>
1543 Mar,13	1543 Mar,13		
0	[0]		
<hr/>	<hr/>		
1543 Dec,15	1543 Dec,3		
7	[7]		
<hr/>	<hr/>		
1555 Jun,20		1555 June,20	
1		1	[1]
2		2	[3]
3		3	[5]
4		4	-
5		5	-
6		6	-
7		7	-
8		8	-
9		9	-
10		10	[2]
11		11	[4]
12		12	[6]
13		13	-
14		14	-
15		15	-
16		16	-
17		17	-
18		18	-
19		19	-
20		20	-

<u>APS</u>	<u>Rob.1</u>	<u>Malc.</u>	<u>Ban.T.</u>
21-40		21-40	-
41		-	-
<hr/>	<hr/>		
1558 Nov.29	1558 Nov,29		
6	[6]		
0	[0]		
0	[0]		
<hr/>		<hr/>	
1563 Jun,4		1563 Jun,5	
1		41	
2			
3		42	
4		43	
5		44	
6		45	
7		46	
8		47	
9		48	
10		48	
11		49	
12		50	
13		51	
14		52	
15		53	
16		54	
17			
18		55	
19		56	
20		57	

<u>APS</u>	<u>Rob.l.</u>	<u>Malc.</u>	<u>Ban.T.</u>
21		58	
22		59	
23		60	
24		61	
25		62	
26		63	
<u>27</u>		<u>64</u>	

APPENDIX N - JAMES VI

<u>APS</u>	<u>Rob.1</u>	<u>Malc.</u>
1567 Dec,15		
<u>1-40</u>	<u>[1-40]</u>	
1578 Jul,25		1578 Jul,25
1		-
2		-
3		1
4		-
5		-
6		2
7		3
8		-
9		-
10		-
11		4
12		5
13		6
14		-
15		7
<u>16</u>		<u>8</u>
1579 Oct,20		1579 Oct,20
1		-
2		-
3		-
4		-
5		-

(cont'd)

- 402 -

<u>APS</u>	<u>Rob.l.</u>	<u>Malc.</u>
6		9
7		10
8		-
9		-
10		-

APPENDIX O

List of taxations 1424-1597.

- 1424 May General yield for the payment of the king's
costage (AFS, ii, c.10).
- 1426 March Renewal of the general yield of 1424 (Lambeth MS)
- 1431, Taxation for the resistance of the rebels in
the North (AFS, ii, 20, c.1).
-
- 1437, May Sheriffs charged to bring in the
contribution for the passage of the King's
sister to France
(Murray, Appendix 5, No. 3b) granted on her
marriage to the Dauphin (Scotichronicon, Bk
xvi, c.12).
- 1442 x 1443 Contribution for the marriage of Elizabeth
or Isabel, the king's sister, to John, duke
of Brittany (Extracts from Council Register
of Aberdeen, 7-8).
- 1447 x 1448 Contribution for expenses of an embassy to
negotiate the king's marriage (Copiale
Prioratis Sancti-Andree, 354-5).
- 1454 x 1455 Royal Letters sent to certain prelates
'pro quodom financia obtienda' (ER, vi, 70-1).
- 1455 October Tax upon lords, barons and freeholders to
provide spearmen and bowmen for garrisons
on the Borders (AFS, ii, 45).
- 1457 February Tax on burghs, employed for expenses of an
embassy to France and on the purchase of arms
and munitions in Flanders (ER, vi, 35).
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- 1464/1465 Report to be made on failures to pay
(APS, xii, suppl.31).
- 1468 January £3,000 to be raised for expenses of an
embassy to Denmark concerning the king's
marriage (APS, ii, 90).
- 1471 May 3,000 crowns for an embassy to the King
of France and Duke of Burgundy (APS,ii,99).
- 1472 February £5,000 for passage of 6,000 men to France
(APS, ii, 102).
- 1473/1474 Not identified (TA, i, 44-50).
- 1478 June Burghs to pay the expenses of an embassy
to the Duke of Burgundy concerning the
privileges of Scottish merccants (APS, ii,
ii8, cf Miscellany of the Spalding Club,v,26).
- 1479 March 20,000 merks (instalments) for marriage of
Margaret the King's sister to Anthony, Earl
Rivers (APS, ii, 122).
- 1481 April 7,000 merks for victuals Berwick (APS,ii,134)
- 1482 March Estates to furnish and pay 600 men for
garrison on the Borders (APS, ii, 139-140).
- 1483 Tax on Burghs, probably for an embassy to
England (Miscellany of Spalding Club,v,27-8).
- 1485 May £500 for an embassy to England concerning
the marriages of the king and prince(APS,ii,219).
- 1488 January £250 for same purpose (APS, ii, 181-2).
- 1488 October £5,000 for an embassy to France and elsewhere
concerning the king's marriage (APS,ii,219).
- 1490 February £300 for an embassy to Denmark (APS, ii, 219).
- 1491 May 400 merks for an embassy to Denmark(APS,ii,224).

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- 1492 February Embassy to France to have rest of tax last granted with a further £1,000 (APS, ii, 230; Murray Appendix, 85, No.21a).
- 1493 May Embassy to France to have rest of first tax 1000 last granted and a further £1,000 (APS, ii, 233-4).
- 1494 Tax for expedition to the Isles (TA,i,304, 312,313).
- 1496/1497 Tax for the expenses of the Duke of York (ER, xi, 49; RSS i, 405).
- 1497 Tax of Spears (TA, i, 312-3).
- 1501 5,000 merks and 500 crowns for embassy to England concerning the king's marriage (Murray, Appendix 85, No. 21b).
- 1502-1504 £12,000 for sending ships and men to Denmark (TA, iv, 374, 391-6, 401).
- 1513 August Contribution and tax of spears (TA, iv, 410; Extracts from Council Register of Aberdeen, 85).
- 1515 September Taxation of the 'hretty penny' and for furnishing men of war (TA,v,36) Probably equivalent to the 'tax of spears' (see TA,v, 74-5).
- 1522 February £25,000 for defence of realme (Murray, Appendix, 87 No. 21d).

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- 1524 September £30,000 for an embassy to England
(ADC, iii, 208-9).
- 1526 November Taxation granted by burghs for freedom of
trade (APS, ii, 315).
- 1527-1528 Comptroller receives sums from prelates
(ER, xv, 455-6).
- 1529 April 1600 ounces of silver from burghs for
expenses of an ambassador to Flanders
(Recs. of Convention of Royal Burghs, i, 512).
- 1531 January Tax for expedition to the Isles (ADC, iii,
346-8; TA v, 450-8).
- 1531 July Tax of three teines imposed on church by
Pope (Hannay, College of Justice).
- 1531 September 'Great Tax' of £10,000, annually imposed
by Pope (SHR, xxiii, 23).
- 1532 August-September £72,000 from Church in commutation of the
'Great Tax' and £1400 annually for the
College of Justice (SHR, xxiii, 74-5).
- 1533 January Tax to provide footmen for Borders
(ADC, iii, 391-2, 394-5, 402-3).
- 1534 March Tax on Burgh for payment of £450 (Flemish)
to Middleburgh (Recs. of Convention of
Royal Burghs).
- 1535 June £6,000 for an embassy to France (APS, ii, 342)
- 1536 November £20,000 for king's expenses in France
(Murray, Appendix 90-1 No.11).
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- 1538 March Contribution (of £4,800) for sending Ships to France to bring home the Queen(Appendix 90-1)
- 1541 March Tax on burghs for negotiation over French customs (Recs. of Convention of Royal Burghs).
- 1541 Tax on Burghs for negotiations over French customs (Recs. of Convention of Royal Burghs, 554, ADC, iii, 615-6).
- 1542 September Certain Burghs taxed to provide footmen for the Borders (Extracts from Council Register of Aberdeen).
-
- 1543 Tax of £16,000 to be raised for sending horsemen to the help of the Borders. (APS, ii, 424a).
- 1545 October Tax of £26,000 for wages of men in Borders (APS, ii, 461b).
- 1546 £3,000 monthly granted by prelates and clergy for the siege of St. Andrews (APS,ii,472,c10,11)
- 1549 Clergy to pay £16,000 of the whole tax of £35,000 (APS, ii, 600).
- 1566 Tax of £12,000 for the entertainment of ambassadors (APS, ii, 608a).
- 1578 General tax of £10,000 merks for the building of the Bridge at Perth (APS, iii, 108, c 24).
- 1580 Tax of £40,000 to raise forces against foreign invasion and for repression of broken men on the Borders (APS, iii, 189-90).
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- 1581 First term payment of the above not being made £20,000, ordered to be paid at the second term (APS, 192).
- 1583 Application by the king for money to pay his debts and for his marriage, referred by the convention to the next parliament or larger convention; an instalment of £20,000 granted (APS, iii, 328-9).
- 1586 Tax of £15,000 for a force of wages men on the Borders (APS, iii, 424-6).
- 1588 £100,000 voted for the king's marriage (APS, iii, 523-4).
- 1593 £100,000 granted in prospect of the birth of an heir to the king (APS, iv, 50-52).
- 1597 200,000 merks to pay expenses of ambassadors (APS, 142-6, c.48).

APPENDIX P

The Ecclesiastical Estate in parliaments and
conventions of estates from c.1567-c.1600.

Such was the hold that many of the more important families had over the many of the commendatorships and bishoprics that the estates in parliament had a vested interest in opposing any scheme for ecclesiastical representation by ministers of the reformed church. The commendatorship of Arbroath, for example, was held from 1551 to 1600 by James Hamilton, 3rd son of the Earl Arran. John Hay, parson of Monymusk was the commendator of Balmerino from 1561 to 1573 and was followed in turn by father and son, Henry and John Kinneir. In 1580 the commendator of the priory of Blantyre was Walter Stewart son of Sir John Stewart of Minto. The power to appoint the commendator of Cambuskenneth was granted to John Lord Erskine in 1558, and Adam Erskine was selected, and continued until his death in 1608. The possession of the priory of Coldingham had been the cause of a long struggle between the Homes and Douglasses since the early sixteenth century, but in 1592 Alexander Home was the commendator. Quintin Kennedy, nephew of William, brother of the second Earl of Cassillis, was the commendator of Crossraguel from 1547 to 1564. The family of Colville of Easter Wemyss possessed the revenues of the abbey of Culross from 1531 and the abbey was erected into a temporal lordship for James Colville of Easter Wemyss by charters in 1589 and 1609. Robert Keith, /

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Keith, son of William fourth Earl Marischal, was in possession of the commendatorship of Deer From 1552 until the abbey was erected into a temporal Lordship in 1587. The commendatorship of Dryburgh was in the possession of Thomas Erskine from 1541 and it continued in that family until it was erected as part of the temporal lordship of Cardross in favour of John Erskine, Earl of Mar. From 1562 until 1599 John Maxwell of Terregles was the commendator of Dundrennan. The commendatorship of Dunfermline was held by Robert Pitcairne until 1583 and he was followed by Master of Gray and George Earl of Huntly. In 1598 the abbey of Fearn was granted in feu to Patrick Murray of Geanies. The Earl of Cassilis was given possession of the buildings of Glenluce in 1561. A Hay was commendator until 1580 and was followed by Gilbert Moncreif and Lawrence Gordon. From 1539 until 1568 Robert Stewart, son of James V, was the commendator of Holyrood and was succeeded by Adam Bothwell Bishop of Orkney. In 1565 the commendatorship of Inchaffray was conferred upon James Drummond, son of David Lord Drummond. James Stewart assumed the commendatorship of Inchcolm in 1544 and retained it until 1581 when he became Lord Doune, and the commendatorship was confirmed on his second son Henry Stewart. The commendatorship of the abbey of Jedburgh was from the early sixteenth century in the hands of the members of the Home family. The abbey of Kilwinning in 1571 was conferred /

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conferred on Alexander Cunningham, son of the Earl of Glencairn from 1553 to 1583. Walter Reid was the abbot of Kinloss. He was succeeded by Edward Bruce. John Leslie, later bishop of Ross was commendator of Lindores from 1566 until 1568. He was followed by Patrick Leslie, 2nd son of Andrew 5th Earl of Rothes. In 1569 the commendator of Melrose passed to James Douglas (later sixth Earl of Morton), second son of William Douglas of Lochleven. In 1574 Alexander Forbes granted the commendatorship of Monymusk to his kinsman, William Forbes of Monymusk. This commendatorship continued with the Forbes until 1617. The commendatorship of Newbattle was held from 1567 by Mark Ker, second son of Sir Andrew Ker of Cesfurd. The abbey of Newabbey was held by Gilbert Brown from 1565 and William Lesley from 1586. Claud Hamilton, nephew to John Hamilton who was the illegitimate son of James, Earl of Arran held the commendatorship of Paisley from 1553. In 1565 Pluscarden abbey was bestowed Alexander Seton, third son of Lord Seton. James Lidderdale was granted certain lands of St. Mary's Isle in 1587. After the forfeiture of Patrick Hepburn, son to Patrick, first Earl of Bothwell. William Lord Ruthven became the commendator of Scone in 1571 and his son John Ruthven in 1581. John Johnstone who was commendator of Soulseat in 1545 where he remained until 1598. The abbey of Tongland was annexed to the bishopric of Galloway except for the period /

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period 1588-c.1606 when it was held by William Melville. Robert Stewart, brother of Queen Mary, was commendator of Whithorn in 1576.

Bishoprics

The bishopric of Aberdeen from 1545 to 1577, was held by William Gordon, a son of the house of Huntly. He was followed by David Cunningham, son of the laird of Cunninghamhead. From 1553 to 1580 the bishop of Argyl was James Hamilton, natural brother to the Duke of ~~Chatelherault~~ ^{Chatelherault} and was followed by Neil Campbell, parson of Kilmartin. In 1565 John Sinclair, son of the House of Roslin was appointed to Brechin. He was succeeded in 1566 by Alexander Campbell, son of Campbell of Ardkinglass, by recommendation of the Earl of ~~Argyll~~ ^{Argyll}. The bishopric of Caithness was held from 1541-1586 by Robert Stewart brother to the Earl of Lennox. Robert Pont held the title for a short period and he was followed by George Gledstanes, minister at St. Andrews. William Chisholm, a son of the family of Cromlix was Bishop of Dunblane from 1565, and in 1573 he was succeeded by Andrew Grahame, uncle to the Earl of Montrose. Robert Crichton, a nephew of the former bishop George Crichton, was bishop of Dunkeld from 1543 until 1571. From 1571-1596 James Paton, a representative of the family of Ballilisk in the parish of Muckart held this bishopric of Dunkeld. The bishopric of Galloway was held by Alexander Gordon from 1559-1575 and then by his son John Gordon, 1575-1586. George Gordon, the brother of /

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of John Gordon, succeeded in 1586 and continued as the bishop of Glaloway until 1588. James Betoun, son of James Betoun, was the archbishop of Glasgow 1550-1570. He was followed in turn by John Porterfield and James Boyd of Trochrig, second son of Adam Boyd of Pinkhill, brother to Lord Boyd. In 1581 Robert Montgomery was given the archbishopric on the recommendation of the Duke of Lennox, and continued in that office until 1585. William Lennox, commendator of Paisley, was the titular archbishopric from 1585-1587, 1594. James Betoun was again the archbishop of Glasgow 1598-1603. The bishop of Moray from 1538-1573 was Patrick Hepburn, son of Patrick first Earl of Bothwell. He was succeeded by George Douglas, son of Archibald Earl of Angus, from 1573 to 1589. The bishopric of the Isles was in the possession of John Campbell Campbell 1557, 1559-60, 1564. John Carswell, chaplain to the Earl of Argyll, was the bishop from 1565 to 1572. John Campbell succeeded him in 1572 and remained in possession until 1595-1605. Adam Bothwell, son to Mr. Francis Bothwell, one of the senators of the College of Justice in 1532, became bishop of Orkney in 1559 where he remained until 1593. The bishop of Ross from 1558 to 1565 was Henry Sinclair, a son of the House of Roslin; from 1566 to 1592 John Leslie was bishop. The archbishop of St. Andrews from 1546 to 1571 was John Hamilton, a natural son of James Earl of Arran. He was succeeded by Sir John Douglas, of the Douglasses of Pittendreich. In 1575 Patrick Adamson, who had been domestic chaplain to the Earl of Morton, as regent was appointed archbishop by his patron the regent Morton, and held office till 1592.

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