

**THE IMPACT OF THE UNION OF 1707 ON EARLY  
EIGHTEENTH-CENTURY FIFE ELECTORAL POLITICS,  
1707-1747**

**Janet V. Deatherage**

**A Thesis Submitted for the Degree of PhD  
at the  
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The Impact of the Union of 1707 on Early Eighteenth-Century  
Fife Electoral Politics – 1707-1747

Janet V. Deatherage

Thesis submitted for the degree of Ph.D.  
University of St. Andrews  
March 2006



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## Acknowledgements

Any pursuit of a doctorate is fraught with challenges; however, deciding to work toward a PhD after reaching middle-age compounds the journey considerably. First, one must deal with the incredulous looks received from friends and family upon announcement of said goal, particularly if the pursuit is to be carried out overseas. Second, convincing yourself that the goal is, indeed, possible offers yet another set of mind-bending obstacles. Therefore, I have been extremely fortunate during the pursuit of my degree to have garnered an amazing amount of encouragement, support, and assistance from a myriad of colleagues, friends, and most importantly, my family.

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## Abstract

In an unprecedented act of peaceful, albeit contentious, statesmanship, the 1707 Treaty of Union joined Scotland and England into one sovereign country. Now governed by the Parliament of Great Britain, Scotland was allowed forty-five parliamentary members divided between the country's counties and burghs. Relinquishing its own Parliament, Scotland was obligated to adapt and to accept a seismic shift in the political management of its government. Not only were Scottish politics affected by this shift at a national level, but local elections were also significantly impacted by this change. Due to its physical size, peculiar demographics, and politically-active gentry, the county of Fife has proven to be an ideal subject for studying this process. By providing a comprehensive examination of the impact of the Union on the local government and electoral politics of one Scottish county, this study shows that while the Union fundamentally altered the manner in which local politics functioned, the localities not only adapted to the new electoral procedures, but party politics in particular were allowed to grow and flourish.

Fife's county records have proven to be a particularly rich and underused resource for this study. The minute books of town council meetings for each of Fife's major royal burghs, covering the years 1707-1747, have been examined, along with a complete set of minutes from the Commissioners of Supply, the county body responsible for the collection of the land tax and, crucially, for determining electoral qualification. Correspondence, in the form of letters and memoranda from Fife's leading politicians, has allowed the reconstruction of several important elections which in turn provide evidence for the argument that party politics in Scotland not only survived after Union but also thrived in an era of unparalleled electoral competition.

Partially owing to the reduction in parliamentary representation at Westminster, the political parties in Scotland experienced tremendous growth. Contrary to recent historiography, however, no significant evidence of corruption was found in the operations of the county franchise from the first Fife elections held in 1708 through to 1747, the end of the present study's span. The burgh electoral structure, conversely, both permitted and experienced gross manipulation by the parties competing for the few parliamentary seats now allocated to the Scottish burghs.

This study demonstrates that political parties thrived in the new era of Scottish partisan politics ushered in by Union. Fife, in particular, adapted creatively to the new order. This suggests that an increasingly vibrant culture of local political competition and argument in the early eighteenth century was actually a likely consequence at the local level of Scotland's national integration into the new state of Great Britain.

## ABBREVIATIONS

<i>APS</i>	<i>Acts of Parliament of Scotland</i>
BL	British Library
Cambridge	Cambridge University Library
Commissioners	1/1/1, Fife Commissioners of Supply Minute Book, Markinch
<i>DNB</i>	<i>Dictionary of National Biography</i>
Dundee	Dundee City Archives
<i>House of Commons</i>	<i>The House of Commons, 1690-1715</i> , ed. David Hayton, Eveline Cruickshanks, Stuart Handley, 5 Volumes (Cambridge, 2002).
Markinch	Fife County Archives, Markinch
NAS	National Archives of Scotland
NLS	National Library of Scotland
Nottingham	Newcastle (Clumber), University of Nottingham Library
Perth Archives	Perth & Kinross Archives, A.K. Bell Library, Perth
TNA	The National Archives (formerly Public Record Office), Kew Gardens, London
<i>Scots Peerage</i>	<i>The Scots Peerage: founded on Wood's edition of Sir Robert Douglas's 'Peerage of Scotland: containing an historical and genealogical account of the nobility of that kingdom</i> , ed. Sir James Balfour (Edinburgh, 1904-14).
Sedgwick	Romney Sedgwick, <i>The House of Commons, 1715-1754</i> (London, 1970).
St. Andrews	University of St. Andrews Library
Whetstone	Ann E. Whetstone, <i>Scottish County Government in the Eighteenth and Nineteenth Centuries</i> (Edinburgh, 1981).

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# Chapter 1

## Introduction

*“...a beggar’s mantle fringed with gold.”<sup>1</sup>*

On 25 April 1707 the Scottish Parliament ceased to exist. The controversial Treaty of Union between Scotland and England, enacted on 1 May, signalled the end of Scotland’s sovereign government. Prior to the dissolution of the Scottish Parliament, the Lowland county of Fife sent seventeen members, more than any other county in Scotland.<sup>2</sup> Thirteen of Fife's royal burghs each sent a commissioner, in addition to four representatives for the shire. Fife's segment of twenty-four hereditary landowners, consisting of both earls and barons, were also warranted a seat in the undivided Scots Parliament. At the dawn of Union on 1 May 1707, Fife's total representation was reduced to five in the reconstituted House of Commons.<sup>3</sup> The impact of the Union on the electorate and electoral process in Fife, the growth and power of political parties, and the Union’s effect on county and burgh government over the ensuing forty years, is the subject of this study.

The 1707 Treaty of Union between Scotland and England, and its aftermath, has received considerable attention in the past fifty years. Patronage, management, and many of the individuals responsible for administering Scotland from Westminster have all been studied, at least at the national level.<sup>4</sup> Yet what was happening in the counties and burghs across Scotland? Did the political parties, which were emerging in Parliament at a national

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<sup>1</sup> *The Fife Book*, ed. Donald Ormand (Edinburgh, 2000), p. 162; quoting James VI’s impression of Fife.

<sup>2</sup> Comparative examples include: Forfarshire, the largest after Fife, with nine members; Dumfries, eight, Lanarkshire, seven, Ayrshire, six; Edinburgh, six; Sunderland, three and Caithness, two.

<sup>3</sup> John M. Leighton, *History of the County of Fife* (Edinburgh, 1840), p. 232.

<sup>4</sup> See Alexander Murdoch, *The People Above: Politics and Administration in Mid-Eighteenth-Century Scotland* (Edinburgh, 1980); Ronald M. Sunter, *Patronage and Politics in Scotland 1707-1832* (Edinburgh, 1986); J.S. Shaw, *The Management of Scottish Society 1707-1764* (Edinburgh, 1983); William Ferguson, *Scotland: 1689 to the Present* (Edinburgh, 1968).



level, continue their growth and influence in the local constituencies? What effect did the Union have on the electoral processes of the county freeholder franchise? Were the burgh councils impacted in their capacity as providers of local administration? In short, what did the Union signify to the politics of the people?

The phrase “politics of the people” is seldom, if ever, used when discussing the Scottish electorate. This is arguably due to the historical perception that an electorate so small had to be inconsequential; that the creation of the Union negated the possibility of politics progressing in a country now devoid of a dedicated Parliament. Indeed, the nature of the electoral franchise in Scotland did not allow for the dynamic atmosphere found in English elections; nor can the number of qualified Scottish voters even begin to compare to that of England. Therefore, a dismissive attitude has developed regarding the significance of the Scottish electorate after the Treaty of Union. This study intends to challenge such a viewpoint. In doing so, this study will show that contrary to the conventional historiographical interpretation, the Scottish electorate not only remained extremely active in the ensuing years after the Union, but in maintaining their electoral involvement, managed to create an aggressively competitive political culture based on ideological and religious principles.

Owing to the unprecedented creation of the Union itself, the state of affairs at a national level has understandably benefited from considerable scholarship. More recently, however, a plea has gone out asking for research to narrow its focus on the political culture of distinct geographic areas. Outlining the eighteenth-century system of local government in his introductory chapter for *The People Above*, Alexander Murdoch notes that, while general trends can be summarized, “the specific local situation could vary widely from absolute inactivity to increasing initiative, but until more work has been done in the local records now

centralized at Edinburgh's Register House, only a sketch of local government can be undertaken."<sup>5</sup> Ian Whyte similarly observes that there has been "no general study of how the main towns and smaller burghs adapted, or failed to adapt, to new conditions after the Union of 1707."<sup>6</sup> In the conclusion to his unpublished dissertation on the county politics of Stirlingshire, R.M. Sunter specifically states that, "Before a true picture of politics can emerge, studies of the political system in operation in other regions, such as Fife or Perthshire, are needed."<sup>7</sup> In arguing for the existence of political parties in early eighteenth-century Scottish elections, David Hayton has recently asked why "with the intense scrutiny to which the 'unreformed electoral system' in England has been subjected, and the lively debate which that scrutiny has engendered, the sum of interest in Scottish elections still rates barely a glance."<sup>8</sup> By responding to these requests, an entirely new perspective incorporating the relationship between Parliamentary government and Scotland's local political communities can be created that will substantially enhance our understanding, which has hitherto been exclusively based on a national level.

It is not the purpose of this study to examine the reasons for, or the emergence of, the Treaty of Union.<sup>9</sup> Rather, it aims to explore the political consequences of its existence on one Scottish county between the Treaty's implementation and the Heritable Jurisdictions Act of 1747. Using the records of the Commission of Supply, town councils, and numerous family estates, this study will explore the inner workings of Fife county and burgh electoral politics and, in particular, those personalities who made up the county and burgh electorate,

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<sup>5</sup> Murdoch, *People Above*, p. 22.

<sup>6</sup> I.D. Whyte, *Scotland Before the Industrial Revolution* (London, 1995), p. 209.

<sup>7</sup> R.M. Sunter, "Stirlingshire Politics, 1707-1832," (unpublished PhD dissertation, University of Edinburgh, 1970), p. 568.

<sup>8</sup> David Hayton, "Traces of Party Politics in Early Eighteenth-Century Scottish Elections," *Parliamentary History* 15 (1996), p. 75.

<sup>9</sup> For the Act of Union from a Scottish perspective, see P.W.J. Riley, *The Union of England and Scotland: A Study in Anglo-Scottish Politics of the Eighteenth Century* (Manchester, 1968); P.W.J. Riley, *The English Ministers and Scotland* (London, 1964); William Ferguson, *Scotland*; T.C. Smout, "The Road to Union" in *Britain After the Glorious Revolution*, ed. Geoffrey Holmes (London, 1969), pp. 176-196.

the process by which members of Parliament were chosen, and the complex political relationship experienced by these entities with the Westminster government and Parliament will be explored.

## **I. Why Use Fife as a Model for the Study of Eighteenth-Century Scottish Local Politics?**

Travelling through Fife in the mid-eighteenth century, Pennant wrote in his travel notes:

Permit me to take a review of the peninsula of Fife, a county so populous, that, excepting the environs of London, scarcely one in South Britain can vie with it: fertile in soil, abundant in cattle, happy in collieries, in ironstone, in lime and freestone; blest in manufactures; the property remarkably well divided; none exceedingly powerful to distress, and often depopulate a county; most of the fortunes of a useful mediocrity. The number of towns is, perhaps, unparalleled in an equal tract of coast; for the whole shore, from Crail to Culross, about forty English miles, is one continued chain of towns and villages.<sup>10</sup>

While it is true that Pennant's travels took place a few years after the period of this study, his observations would still have been an accurate description of Fife during the early part of the eighteenth century. For centuries, Fife has been hailed as one of Scotland's most favoured counties. Speaking of the importance of its sea coast, James VI is credited with stating that Fife is "a beggar's mantle fringed with gold."<sup>11</sup> A centre of agriculture, mining, manufacturing, and fishing, coupled with its significance as an ecclesiastical centre, place of pilgrimage and travellers' destination, Fife provides an ideal model for a detailed exploration of politics in a representative Scottish county in the early eighteenth century.

Fife was originally believed to be one of the Pict kingdoms. Owing to the Ochil Hills range creating a type of geographical barrier to the west, the relative isolation might have

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<sup>10</sup> Pennant, *Tour in Scotland*, 1772, Part II, p. 212, quoted in Leighton, *County of Fife*, p. 234-235.

<sup>11</sup> *The Fife Book*, p. 162.

allowed the area some semblance of independence, unknown to other parts of the country.<sup>12</sup> The source of the name is unknown, though not above continued conjecture. The origins of Fife's early government have been attributed to gradual adoption of Saxon and Norman customs after the reign of Malcolm Canmore, who designated his son, Ethelred, the 1<sup>st</sup> Earl of Fife. Shakespeare offered the term "Thane of Fife" allowing scholars to interpret it as a translation of *Moramaer of Fife*, a term of Saxon origin.<sup>13</sup> Its reference as a "Kingdom" also stirs debate, persuading some writers to speculate that use of the term indicates Fife was, indeed, a Pictish kingdom.<sup>14</sup> More recently, however, the apparent last word on this subject comes from Gordon Donaldson who states that "Fife was never a 'Kingdom'"; there is not even evidence of *moramaers* of Fife or of "MacDuff, Thane (or Earl) of Fife" in mid-eleventh century.<sup>15</sup> No doubt the controversy will continue, as will the use of "Kingdom."

Fife's development as an important centre for commerce and industry began in earnest during the medieval period. Boasting six royal burghs prior to the sixteenth century, Fife achieved another eleven by the seventeenth century, making the total seventeen by the eighteenth century.<sup>16</sup> Fife's prominence as a commercial centre developed throughout the seventeenth and eighteenth centuries. Coal mining has been associated with Dunfermline since 1291.<sup>17</sup> The manufacture of quality linen, also attributed to Dunfermline, dates to the seventeenth century.<sup>18</sup> Limestone was quarried at Inverkeithing, Cults, Ceres and Pittenweem, with Fife sandstone, found in the north, being used to build the Tower of St.

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<sup>12</sup> Easton S. Valentine, *Fifeshire* (Cambridge, 1910), p. 2.

<sup>13</sup> *Ibid.*, p. 148.

<sup>14</sup> Leighton, *History*, p. 225.

<sup>15</sup> Gordon Donaldson and Robert S. Morpeth, *A Dictionary of Scottish History* (Edinburgh, 1977), p. 75.

<sup>16</sup> Earliest were: Crail, Cupar, Dunfermline, Falkland, Inverkeithing and Kinghorn; 16<sup>th</sup> century: Anstruther Easter and Wester, Burntisland, Dysart, Earlsferry, Auchtermuchty, Kilrenny and Pittenweem. 17<sup>th</sup> century: St. Andrews, Newburgh, Kirkcaldy. The country boundaries changed over the centuries. Culross (which is not counted in the total of seventeen) became a royal burgh in 1592 but was not located in Fife at this time. See G.S. Pryde, *The burghs of Scotland: a critical list* (London, 1965), *passim*.

<sup>17</sup> Archibald Campbell, *Notes by the Way: A Descriptive, Historical and Biographical Account of Fife and Kinross* (Ayr, 1888), p. 20.

<sup>18</sup> *Ibid.*, p. 22.

Regulus in St. Andrews during the twelfth century.<sup>19</sup> Due to its obviously perfect geographic location for such an industry, fishing was a mainstay in East Neuk villages of Fife for centuries. Anstruther Wester town council minutes from 1708, for example, note precisely how the burgesses are to monitor the herring catch for the coming season.<sup>20</sup> Insisting on definite measurements for the curing and packing of each barrel, noting the precise type of barrel to use, and even drawing the brand to be burnt into the wooden casks (thus identifying the contents as Anstruther herring), these records reveal the early forms of quality control necessary when dealing with the tons of fish produced each year.

The historical importance of Fife, along with its early development as an industrial and commercial centre clearly makes it significant in the study of nearly any aspect of eighteenth-century Scottish history. Above all, however, what made Fife distinctive, particularly in the late seventeenth and early eighteenth centuries was the pattern of its land distribution and demographic profile. In 1888 Archibald Campbell, when writing of his observations of Fife, noted, "several generations back, the land was owned by a larger proportion of the population than was the case in most other counties of Scotland".<sup>21</sup> His remarks included a passage from a Dr. Thompson concerning Fife's land ownership:

Here we find no overgrown parts of the kingdom, the proportions of which, exalted so far above the rest by their princely fortunes, and perhaps by the splendours also of hereditary honours, think themselves entitled to take the lead in all public business, and, by the influence usually attendant on rank and opulence, seldom fail to procure themselves the full power of directing all the potential affairs of their respective counties. A large number of the estates run between £300 and £3,000 a year; from £3,000 to £6,000 there are only a few; and only one, I believe, amounts to £8,000. From £400 downwards to £30 to £40 there are a great number of proprietors who pay cess and other public burdens, and consequently rank as heritors, and although of inferior fortunes, are generally men of the most respectable character. This extensive distribution of land is attended with the happiest effects. The nobles, in point

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<sup>19</sup> Valentine, *Fifeshire*, pp. 86-87.

<sup>20</sup> St. Andrews, B3/4/1, 17 August 1708, Anstruther Wester Court Book.

<sup>21</sup> Campbell, *Notes by the Way*, p. 15.

of fortune, are equalled, and in some instances excelled, by the commoners; but influence derived from superiority of rank, unsupported by a corresponding superiority of fortune, can never be dangerous.<sup>22</sup>

Although Fife had numerous peers and lairds during this period, no singular family or faction dominated its political affairs. This political fragmentation was in contrast with regions such as Argyll where the Campbells were able to entirely dominate the wealth, politics and industry. In the north, the Mackenzies of Tarbat dominated its political representation for the entire first half of the eighteenth century.<sup>23</sup> The Earl of Hopetoun, as hereditary sheriff of Linlithgowshire, was able to insist on personally endorsing the county's elected commissioners.<sup>24</sup> The Dukes of Atholl, as hereditary sheriffs of Perthshire, made certain that the county consistently supported the Tory government of their choice.<sup>25</sup> When compared to these counties, Fife demonstrated a more even distribution of landed wealth, meaning, therefore, a more even distribution of political control among the landowners. In 1695, when Sir Robert Sibbald produced a list of all the heritors of Fifeshire,<sup>26</sup> his list contained a total of 808 names. In other words, within just 513 square miles of the county, there were 808 separate landowners.<sup>27</sup> A 1733 listing of the Roll of Freeholders shows that Fife has as many as 133 "registered" voters, that is, those landowners who had qualified themselves as freeholders, and therefore eligible to vote in the county MP election.<sup>28</sup> Moreover, Sibbald's list of the Fife peerage includes seven earls, five barons and twenty baronets. Several of these, including the Earls of Rothes, Leven, Kellie, Crawford and Balcarres, along with the wealthy non-peerage families such as the Anstruthers, Bethunes, Sinclairs, Oswalds, and Halketts, figured prominently in Fife politics. At various junctures

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<sup>22</sup> Ibid.

<sup>23</sup> William Ferguson, "Electoral Law and Procedure in Eighteenth and Early Nineteenth-Century Scotland," (unpublished PhD dissertation, University of Glasgow, 1957), p. 281.

<sup>24</sup> Sedgwick, p. 389.

<sup>25</sup> Ibid, p. 391.

<sup>26</sup> Sir Robert Sibbald, *History, Ancient and Modern of Fife* (London, 1803), Appendix II & III.

<sup>27</sup> Valentine, *Fifeshire*, p. 9.

<sup>28</sup> NAS, SC20/79/1, Fife Freeholder Minute Book, 30 October 1733.

some of these families exercised more power than others. The Earls of Rothes and Leven influenced numerous Fife electoral decisions in the early part of our period; while landed gentry families, such as the Oswalds and Sinclairs, made lasting contributions to Fife politics in the later half.

## II. The Framework of Scottish Local Government

This study also requires a closer examination of the historiography of early eighteenth-century Scottish local politics, with particular emphasis on the interpretation of the immediate post-Union situation. In considering this material, it is especially useful to identify existing research on the conduct of the divisions of local government, in addition to county and burgh elections – the main themes featured throughout this study. To begin, descriptions of the various divisions of Scottish county and burgh government will assist in explaining how local constituencies functioned.

Although strictly an overview other than a detailed study, Ann Whetstone has supplied an important account of how Scottish county government functioned, covering both the eighteenth and early nineteenth centuries.<sup>29</sup> Illustrating the role of four of the elements that comprised county government – the sheriffs, the justices of the peace, the Commission of Supply and the militia<sup>30</sup> – Whetstone's study provides the necessary starting point for any

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<sup>29</sup> Whetstone, *passim*.

<sup>30</sup> Regrettably the surviving records for the Fife Justices of the Peace do not begin until 1798, thereby excluding any examination of their activities in the early part of the century. Whetstone also includes a chapter on the lieutenancy and militia. As a completely English institution, they were not an integral part of Scottish county administration until 1757. Prior to this time the Scottish peerage utilized their noblemen as a military force in times of crisis. As such, the militia will be mentioned where necessary, but will not be a focal point in this study.

understanding of how a Scottish county was administered, and how they differed in crucial respects from the English shires.<sup>31</sup>

In Scotland, the sheriff was the chief judicial officer and general executive of the county. Originating in the thirteenth century, the office of sheriff experienced several alterations in its structure up to the eighteenth century, at which time it had evolved into a usually hereditary office of significant importance.<sup>32</sup> According to Whetstone, the sheriffs were the link between the county and the national government. One of their foremost duties – and central to this study – was the receipt of the parliamentary election writs.<sup>33</sup> It was the duty of the sheriff to announce to the freeholders of the shire and the magistrates of the burgh councils of any forthcoming elections for MP. Moreover, it was the sheriff who was responsible for delivering all election results to the House of Commons. In Fife, it was the Leslie family, Earls of Rothes, which held the post of heritable sheriff from 1496 until the reforms enacted in 1747.

After the Sheriff, the Commissioners of Supply were next in influence. In existence since 1667, the Commissioners of Supply were originally formed for the single purpose of collecting the national land tax, or “cess”.<sup>34</sup> The Commissioners consisted of county landowners who, by the later eighteenth century, found themselves not only the tax collectors, but the road and bridge repair commission, the local school board and the county election forum.<sup>35</sup> The growing influence exercised by the Fife Commissioners is clearly demonstrated through the minutes of their meetings. For example, while in 1709 the nature of their business was almost exclusively concerned with tax collection, by the 1730s their

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<sup>31</sup> Whetstone does not include the burghs in her thesis, only the counties.

<sup>32</sup> C.A. Malcolm, “The Office of Sheriff in Scotland: Its Origins and Early Development,” *Scottish Historical Review* XX (1923), *passim*.

<sup>33</sup> Whetstone, p. 25.

<sup>34</sup> Murdoch, *People Above*, p. 23.

<sup>35</sup> *Ibid.*, pp. 24-25.



area of business had expanded to include county road and bridge repair, major building projects, and poor relief.

The impact of the Union on Fife's county and burgh elections is the major focus of this study. In this regard, William Ferguson's unpublished dissertation on Scottish electoral politics prior to 1832 still stands as the seminal treatise on eighteenth-century election procedure. For Ferguson, it is not so much how the Treaty negotiators arrived at their number of forty-five commissioners, but the repercussions of that reduced number on future elections. Ferguson places direct blame on this reduction for the electoral abuses that ultimately transpired after the middle of the eighteenth century.

Ferguson allows that the Treaty was a "work of enlightened statesmanship", but goes on to say that "it could not make provision for every unforeseen, and perhaps, unforeseeable circumstance that might arise".<sup>36</sup> That "unforeseeable circumstance" is the omission of any procedure to administer and control the actual elections of county commissioners. Article XXII of the Treaty simply stated the number allocated, thereby leaving the county election procedure to function as it had previously. Having had the constituencies reduced from 159 to forty-five, however, and allowing only one representative per county, the obvious result was increased competition among candidates and their supporters in acquiring a parliamentary seat.<sup>37</sup> For the county of Fife, a reduction in county representation from four in the last Scots Parliament, to one in the new Parliament of Great Britain resulted in substantial political repercussions. These repercussions will be a major theme of this study.<sup>38</sup>

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<sup>36</sup> Ferguson, "Electoral Law", p. 38.

<sup>37</sup> Ferguson, *Scotland*, p. 134.

<sup>38</sup> The Fife commissioners who served in the last Scottish Parliament consisted of Sir William Anstruther of Anstruther; David Bethune of Balfour; Major Henry Balfour of Dunbog; and, Robert Douglas of Strathendry. See Leighton, *History*, p. 232.

Since 1587,<sup>39</sup> the freeholder vote in Scotland controlled the county elections. To qualify as a freeholder a person's lands had to be held direct of the King and the rent of the land need to be valued at a minimum £400 Scots. From 1681,<sup>40</sup> the freeholder had to prove his land valuation by producing a certificate from the Commissioners of Supply, as well as taking the Test Oath and the Oath of Allegiance to the sovereign. With the dissolution of the Scots Parliament, which heretofore had provided jurisdiction over franchise disputes, it was assumed that the House of Commons would hear election disputes of any variety, but most especially cases of contested election returns. The Scottish Parliament, however, understood Scottish law, particularly Scottish election law. Westminster had virtually no knowledge of Scots law, nor did it care to learn. Before 1707, if the Scottish Parliament were not sitting, the Court of Session, the leading civil court heard election cases. After the Union, it was deemed no longer necessary for the Court of Session to hear franchise cases. Ferguson argues that denying Scotland an internal means for the administration of election disputes was the principal reason for the election abuses that ultimately transpired throughout the early eighteenth century, mainly by the creation of nominal and fictitious votes.<sup>41</sup>

As for the burghs, whereas prior to Union each of the 65 royal burghs had a representative in the Scottish parliament, they were now formed into fourteen quasi-geographical districts.<sup>42</sup> Each of these groupings contained four or five royal burghs and each grouping received one representative. Burgh representatives were chosen by a decision of the local town council. With the burghs now placed in districts, each of the town councils sent their delegate, who was very often also a candidate, to an election meeting whose purpose was to elect the one representative for that particular burgh district. No longer were

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<sup>39</sup> *APS* III, pp. 509-10.

<sup>40</sup> *APS* 87, 17 September 1681, "Act Concerning the Election of Commissioners for the Shires", pp. 353-354.

<sup>41</sup> Ferguson, "Electoral Law", p. 42.

<sup>42</sup> Only the 65 Royal burghs were allowed representation plus one commissioner for the city of Edinburgh, making a total of 66 for the third estate. After Union, Edinburgh retained its one seat, combined with the fourteen burgh seats.

the town councils assured that their chosen representative would serve their individual needs, since the geographical area of the burghal group could be, and most often was, substantial.

This new geographical arrangement considerably affected the burghs of Fife. Prior to the Union, each of Fife's thirteen royal burghs had a dedicated representative in the Scottish Parliament. Under the new scheme, the Fife burghs were divided into four groups encompassing not only those in Fife but burghs located in Stirlingshire and Perthshire as well. For example, the Stirling district consisted of burghs from four separate counties: Culross in Perthshire, Queensferry in Linlithgowshire, Inverkeithing and Dunfermline in Fife, and Stirling in Stirlingshire. The main repercussion of this political regrouping was that the Fife burghs had to share their representation with burghs characteristically different from themselves, and consequently, with different political and socio-economic needs.<sup>43</sup> Pressure from burghs with very diverse interests and requirements put considerable demands on newly elected commissioners. This new arrangement, according to Ferguson, caused considerable apprehension to each individual town council which now found itself in tough competition with other counties for control of the election.<sup>44</sup>

Within this newly created atmosphere of increased electoral competition, party politics flourished. In particular, the *Squadron Volante*, a Scottish country party of its own design, tentatively pro-Union and decidedly anti-Court, held prominence in Fife due to the support of John Leslie, 9<sup>th</sup> Earl of Rothes. Discussion of the *Squadron* by eighteenth-century scholars provides at least one area where everyone seems to agree. The *Squadron* consisted of several landed gentry families, including the Leslies, the Halketts, and the Anstruthers, tied together by blood and matrimony, who had the capability of wielding

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<sup>43</sup> Sedgwick, p. 403.

<sup>44</sup> William Ferguson, "Dingwall Burgh Politics and the Parliamentary Franchise in the Eighteenth Century", *Scottish Historical Review* 126 (October 1959), p. 100.

considerable power, yet never lived up to their full potential. Lacking any type of uniform purpose (although Whiggish by definition), the Squadrone were successful in achieving various political objectives.<sup>45</sup> Although their influence lessened after 1725, they maintained a voice in Westminster until the 1750s.<sup>46</sup>

In addition to the presence of the Squadrone, Scotland experienced the emergence of other political parties prior to the Union. In his essay on Scottish party politics in the early eighteenth century, David Hayton outlines the existence of four distinct divisions: Queensberry's Court Party; the Argyllites (allied to the Campbells of Argyll); the Squadrone; and the Duke of Hamilton's connections that consisted of the renewed Cavalier/Episcopalian/Jacobite interest.<sup>47</sup> Alexander Murdoch cautions that within these divisions it is important to distinguish between the "Squadrone, the Scottish country party in general, and the Scottish Tories".<sup>48</sup> All of these parties, at any one time, could align themselves to Whig, Court, Country or party *du jour*, in order to advance their agendas, whether personal or constituent.

It is whether these parties continued to exist and grow within Scotland after the Union, however, that has generated considerable debate among scholars of this subject. T.C. Smout lamented the demise of Scotland's political existence: "After the Union of 1707, Scottish Parliamentary life...became for a long time so moribund as to be scarcely relevant any longer to a general history of Scottish society."<sup>49</sup> William Ferguson argues that moving the legislature to London "ended virtual representation in Scotland." Taking Ferguson to

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<sup>45</sup> It was the Squadrone who were responsible for the deciding votes to pass the Act of Union and the demise of the Scottish Privy Council.

<sup>46</sup> Murdoch, *People Above*, p. 30; Shaw, *Management*, pp. 53-54.

<sup>47</sup> David Hayton, "Traces of Party Politics in Early Eighteenth-Century Scottish Elections," *Parliamentary History* 15 (1996), p. 86.

<sup>48</sup> Murdoch, *People Above*, p. 28.

<sup>49</sup> T.C. Smout, *A History of the Scottish People* (London, 1969), p. 201.

task, David Hayton counters that instead of the Union ending representation, it provided a medium by which 'embryonic' parties could grow. Scottish representatives were now expected to function in a highly charged atmosphere of political polarity based on a distinctive two-party system. Instead of abandoning any earlier party affiliations as they left Scotland, the party structure of Westminster allowed for further development of their own political allegiance. Hayton continues that while the party process gained momentum in Parliament, its presence can be traced in the localities as well.<sup>50</sup> As we shall see, party affiliation became paramount in the early Fife elections. The driving force of the party system in influencing local constituencies was prevalent not only at the county freeholder elections, but was also very significant with the burgh councils.

From 1721 to 1742, the political management of Scotland reached its zenith. Sir Robert Walpole, serving as (what is now considered) the first British Prime Minister, coupled with the patronage expertise of Archibald Campbell, Scotland's 1<sup>st</sup> Earl of Ilay, formed a remarkable partnership that was to influence Scottish politics for over twenty years.<sup>51</sup> During this time, with the Tories generally out of the picture after their collapse during the election of 1715, the Whig party in Fife consisted of three factions: Whigs allied to Ilay and Walpole, those Whigs in opposition, and the Squadrone.<sup>52</sup> The management exercised by Ilay was formidable, but not insurmountable. Between 1715 and 1747, Fife commissioners included, among others, William Kerr, brother of the Duke of Roxburghe, Thomas Leslie, son of Rothes, Sir John Anstruther, cousin to Rothes, along with noted Argathelians: James Oswald, Peter Halkett, and Henry Cunningham.<sup>53</sup> During the election of April 1722, the Dysart burghs experienced a double return.<sup>54</sup> Thomas Leslie, son of Squadrone member

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<sup>50</sup> Hayton, "Scottish Elections", p. 81.

<sup>51</sup> Walpole left office in 1742, whereas Ilay continued to control Scotland patronage until his death in 1761.

<sup>52</sup> Shaw, *Management*, p. 53.

<sup>53</sup> Sedgwick, *passim*.

<sup>54</sup> Dysart burghs consisted of: Kinghorn, Dysart, Kirkcaldy, and Burntisland.

Rothes, opposed James St. Clair, an Argyll Whig. Each candidate received two votes, with the Commons allowing the election result to default to St. Clair the following October. The two factions opposed each other with the same candidates in the next two elections (1727, 1734), thereby sustaining the rivalry over twelve years and three election campaigns.<sup>55</sup> This is by no means an isolated case. Hardly an election involving Fife between 1708 and 1747 did not include at least one candidate from either party.

### **III. The Historiographical Contribution of this Study**

The fundamental purpose of this study, therefore, is a both a reconsideration of, and an addendum to, the various existing arguments relating to early post-Union Scottish politics found in the current historiography of the period. These arguments can be summarised as follows. Firstly, the political culture of Scotland declined to the point of stagnation. Secondly, the emerging political parties were tightly controlled by landed magnates who expected the electorate to do their bidding. Third, the unreformed Scottish electorate had been abandoned by the political elite at the dawn of the Union. Fourth, the self-perpetuating oligarchies found on the burgh town councils would not allow for any form of autonomous voter participation. And lastly, the failure of the Union to maintain the Scottish court system as the arbitrator of franchise cases created an environment of unprecedented electoral manipulation.

As a counter-argument to the above points, David Allan observes that with their newly acquired seats in the Parliament of Great Britain: “the Scots were granted a small but vital say in London”.<sup>56</sup> This small, but vital, say was of paramount importance to the Fife

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<sup>55</sup> Sedgwick, p. 398.

<sup>56</sup> David Allan, *Scotland in the Eighteenth Century* (Harrow, 2002), p. 11.

politicians who waged aggressive campaigns throughout the county in order to promote their particular party candidate. Party politics may have been nascent in Scotland prior to the Union; however, it took little time for those active in the country's government to realize that in order to promote their party ideology, it was imperative that they adapt to the English model of partisan loyalty. In doing so, the immediate post-Union Fife politicians created a political culture based on fairly strict party lines between Whig and Tory. Due to the sheer number of Fife gentry (and again the reason why Fife is such a compelling model for this type of study) the county was not directly controlled by either party, or by one particular political faction. David Hayton has recently argued that the wide Fife electorate exhibited a degree of independence from aristocratic control not often seen in other Scottish counties:

Rather more successful were the lesser barons of Fife, whose numerical strength and firm episcopalianism was sufficient to complicate the electoral management of the leading magnates...the course of any contest there was rendered unpredictable by the variety of potential candidates; and occasionally, when fired by sectarian enthusiasm, the Fife freeholders exhibited an impressive independence from aristocratic direction.<sup>57</sup>

Subsequent chapters following this Introduction will address each of the above points in turn, and in doing will argue in support of the observations made by Allan and Hayton: that a vigorous, dynamic, and competitive political culture survived in the county of Fife after 1707.

Chapter 2 introduces most politically influential landowners of Fife – the men who dominated the political landscape of the county in the forty years after the Union – the peerage and landowning gentry. The first section offers a comparative analysis of Fife's landowners as a community, making some broad comparisons, where relevant, with their counterparts in the Welsh and English counties of Glamorgan and Warwickshire, which have

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<sup>57</sup> *House of Commons*, Vol. 1, p. 158.

been subject to detailed investigations in important recent studies.<sup>58</sup> The second section will focus on Fife's politically active families. The attempts of the local nobility to exercise control over Fife's political life, particularly in the early years of the eighteenth century, will be sketched in outline, providing at the same time an opportunity to introduce those individuals who featured most prominently in the county and burgh's contemporary politics. Section three of this chapter will examine the political management of the county in the form of the Commissioners of Supply, emphasizing the committed contribution made by the landed gentry in the maintenance and preservation of the county infrastructure.

Chapter 3, conversely, is an examination of the Fifeshire post-Union elections. Beginning with a brief survey of Scottish electoral law governing the return of county members to Parliament, the rest of this chapter will proceed chronologically to examine the Fife county elections during the forty years after the Treaty of Union. In Fife, two opposing factions led by John Leslie, 9<sup>th</sup> Earl of Rothes and David Melville, 3<sup>rd</sup> Earl of Leven, both of them Whig Presbyterians, attempted to dominate the shire elections of 1708, 1710, and 1713. Section two details how their efforts during these elections were very often frustrated by a stubborn and vocal contingent of Episcopalian Tories, spearheaded by Sir Alexander Aerskine, the Lord Lyon. The political organization of the county prior to the Union will also be examined in this section, whereby the local party factions were already starting to show signs of polarizing. Section Three examines the controversial county election of 1715, where Fife's distinctive contribution to the great Whig triumph was the election of Sir John Anstruther. This election, in particular, showcases the ideological battle waged by the Tories who were fighting for their political lives against a Whig party eagerly riding a wave of national change. Additionally, by virtue of the startling manipulation of election law which

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<sup>58</sup> Ann Hughes, *Politics, Society and Civil War in Warwickshire, 1620-1660* (Cambridge, 1987); Philip Jenkins, *The Making of a Ruling Class: The Glamorgan Gentry, 1640-1790* (Cambridge, 1983).



was exercised in the election meeting held at Cupar on 10 February 1715, this particular vote warrants a detailed investigation of the political activities that took place. The fourth section will consider the elections of 1741 and 1747, providing an opportunity to see how both the electorate and the politics of the county were changing as Scotland moved into the middle of the eighteenth century.

Electoral politics in the Scottish town councils is a subject that has received little historical attention. Granted, this is a study primarily focused on how the Union impacted the county and burgh elections, but it is also concerned with the electoral politics of Fife as a whole. In this regard, the elections of the town councils were not directly affected by the Treaty; however, by examining various Fife town council records, an intriguing spirit of independence began to appear. This factor is most interesting, particularly since the Scottish town councils were assumed to be narrow, self-perpetuating oligarchies. Chapter 4, therefore, will argue that the Fife town councils did on occasion attempt to promote electoral independence from both aristocratic and governmental control. The first section provides a general outline of the manner in which the town councils were organized, detailing which citizens were allowed to serve as magistrates, and how the councils conducted the business of electing their members. By providing examples of opposition between various individuals and factions, Section Two argues that although town councils, particularly in Scotland, operated under narrow oligarchies, their political hegemony was not without opposition. When confronted by a fair and reasonable grievance, it was most often the petitioner who won a favourable decision from the Convention of Royal Burghs against the town council. Section Three supports the argument provided by H.T. Dickinson that “too ostentatious a monopoly of privilege and too flagrant an abuse of power provoked hostility and attracted

widespread condemnation.”<sup>59</sup> This section therefore provides detailed examinations of local protests in which the councils of Cupar and Dysart waged considerable opposition to both aristocratic and parliamentary control respectively. From 1720 to 1723, the Cupar magistrate elections were rife with opposition to the aristocratic management of the Leslie family, Earls of Rothes, whose continued domination of the town council met with serious resistance; finally culminating in a full-scale riot. This situation was exacerbated by the presence of distinct political factions whose opposition to each other ran along strict party lines. The subsequent government inquest into the matter in the end afforded a victory for the opposition. In 1725, the Dysart town council rebelled against the strict electoral controls dictated by Westminster; resulting in a three-year administration that managed the burgh without official recognition by Parliament.

Chapter 5 offers a detailed examination of the Union’s impact on Fife burgh parliamentary elections. In doing so, this chapter will argue that the growth and influence of the political parties was one of the most significant political consequences of the Treaty. In an effort to demonstrate the complex situation thrust upon the burgh districts in choosing only one MP to represent such diverse constituencies, section one surveys the political and religious loyalties of the individual burghs immediately prior to the Union, thereby evidencing the presence of party loyalties preceding the Treaty. Continuing with a review of burgh election procedure, Section Two will provide examples of how the burgh politicians adapted to – or most often manipulated – the procedural changes in electing the district MP. This section will highlight the significance of the presiding burgh, the importance of the praeses, and the challenge of dealing with election delegates who were also candidates. Emphasis will be placed on how the presence of the parties was instrumental in controlling each of these scenarios. The remainder of the chapter will examine the electoral

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<sup>59</sup>H.T. Dickinson, *The Politics of the People in Eighteenth-Century Britain* (New York, 1994), p. 115.

characteristics of the burgh districts with particular stress on the extent of campaigning that took place, how Scotland's emerging role as a national player on the British stage influenced elections, and the resistance to aristocratic and governmental control exercised by several local politicians in the later years of this study. Additionally, this section will highlight the role of both the aristocracy and the landed gentry, the contribution of the merchant class, influence from Westminster and the continued impact of the ever-influential political parties.

Contested and petitioned elections results are the subject of Chapter 6. With the increase in electoral competition for the few Westminster seats allotted to Scotland after the Union, the number of contested elections increased considerably. It was also the decision of the Treaty authors to have Scottish franchise cases presented to the House of Commons, whereas prior to 1707 they were heard by either the Scots Parliament or the Court of Session (depending on which was in session at the time). In allowing Scottish election disputes to be handled by a party-controlled House, this chapter will argue that, much like the results of the Fife burgh parliamentary elections, the Fife petitions presented to the House were victim to the power and control of the prevailing majority political party.

The seventh and final chapter brings together the main themes of this study in a way that links the arguments presented throughout in order to enable a larger perspective on eighteenth-century Scottish politics. While Fife was in some ways atypical of Scottish shires, the continued political vibrancy demonstrated throughout this thesis, combined with the procedural difficulties brought about by the realities of the post-1707 electoral landscape, act as an example of the new politics that prevailed in Scotland in the eighteenth century.

## Chapter 2

### The Political Culture of Fife

*“This shire is betwixt Melvin’s and Jacobites...”<sup>60</sup>*

Ownership of land was the principal means by which a political, social, and economic presence was established and expressed in eighteenth-century British society. In his classic study of England’s elite in this period, G.E. Mingay argued that the land provide the population with sustenance and employment; therefore, as a result of its central significance, the owners of the land also gained the right to govern.<sup>61</sup> The same argument also applies to contemporary Scotland. In the recent work of Christopher Whatley, the landowner stood at the 'apex' of Scottish rural society.<sup>62</sup> As an overwhelmingly agrarian society, the Scottish people depended on the land for their very existence, and the country’s landowners derived their considerable authority and legitimacy from their effective control of this fundamental resource.

After the Union of 1707, and owing to the fact that the epicentre of national politics was now in the south of England, Fife landowners, through necessity and adaptation, created a cohesive political culture within the boundaries of the county. The purpose of this chapter is to examine this culture by introducing the most politically influential landowners of Fife – the men who dominated the political landscape of the county in the forty years after the Union of 1707, namely, the peerage and landowning gentry. By examining their economic status, their placement within the society’s hierarchy and their political responsibilities with respect to the management of the county, it will not only be demonstrated how the post-

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<sup>60</sup> NAS, GD220/5/50/2, Earl of Rothes to Duke of Montrose, 25 April 1703. Rothes was lamenting the political state of the county where he was continually confronting his personal nemesis the Earl of Leven, in addition to a number of Jacobite families, when trying to promote his Whig agenda.

<sup>61</sup> G.E. Mingay, *English Landed Society in the Eighteenth-century* (London, 1963), p. 3.

<sup>62</sup> Christopher A. Whatley, *Scottish Society 1707-1830: Beyond Jacobitism, towards Industrialisation* (Manchester, 2000), p. 145.

Union Fife landowners were a diverse, astute, and extremely active political community, but also, and more importantly, how this political community entered an age of unparalleled political rivalry. During the mid to late-seventeenth century, the political allegiance of individual families tended to be rooted in religion and determined as a result of recent religious conflicts, such as the Civil Wars, the Covenanting Years and the controversies surrounding the Glorious Revolution. Political ideology and faith-based devotion were not mutually exclusive, and one's adherence to Presbyterianism or Episcopalianism largely determined one's political beliefs, and *vice versa*, and would continue to do so through the generations.

Firmly based in the principles of the Episcopal Church, the Tories were supporters of the hereditary right of the monarch and, therefore, promoted the sanctity of legitimate succession. Their political ideology was deeply rooted in the belief that the monarch was sacrosanct, making the outcome of the Glorious Revolution particularly difficult to accept. Parliamentary funding for any type of continental land war was anathema to their policy of passive obedience and non-resistance. The Whigs, on the other hand, believed the monarch ruled at the request and goodwill of country and parliament and, therefore, could only continue to rule at the approval of the voting classes. The Presbyterian principles of independence from bishop-based episcopacy formed their religious philosophy. By adding the Jacobites to this intriguing political mix, with their fervent attachment to the restoration of the Stuart monarchy, the Fife landed families offered a compelling assortment of religious and political legacies. These ideological legacies carried over and grew in intensity well into the early eighteenth century, thereby producing an environment of unparalleled party rivalry. Party loyalties already prevalent in England not only began to take hold and become firmly established in Scotland, but also became a defining characteristic of the Scottish political scene.

For the politically active eighteenth-century Fife landowners, there were three main concerns: the promotion and advancement of party ideology; their placement in the party on a national level; and, perhaps most importantly, maintaining their local power base within the county. According to J.H. Plumb “political power meant real things for both parties: jobs, influence, profit, the control of spoils”.<sup>63</sup> As will be shown through the detailed examination of various local and national elections throughout this study, the importance and predominance of party loyalty as demonstrated by Fife landowners is a central theme not only in eighteenth-century county politics, but in national politics as a whole.

This is not to say, however, that this thesis is exclusively concerned with the politics of the landed elite, or rather, the aristocrats and gentlemen who owned land in early eighteenth-century Fife. Subsequent chapters will widen the focus to consider the politics of the burghs and town councils – local institutions with their own characteristics, whose particular sphere of political power was, to some extent distinguishable from that of the county’s landowners and could be, and most often was, formidable. Even so, the elitist nature of Scottish society during the eighteenth century ensured that those who controlled the land were necessarily the principal political players.

## **I. The Economics of Fife: The Landowners**

In the counties of eighteenth-century Britain, the ownership of land secured political control; and this was especially true in Scotland. The large landowner had powers greater than even his English counterpart; he enjoyed the right to conduct regal or baronial courts, as well as to serve as a Justice of the Peace, to hold a seat with the Commissioners of Supply (another

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<sup>63</sup> J.H. Plumb, *The Growth of Political Stability in England 1675-1725* (London, 1967), p. 152.

exclusively Scottish role), and to vote in the county's parliamentary elections. Lesser landowners, as long as their valued rent was at least £400 Scots per annum,<sup>64</sup> had the right to elect an MP. For the smaller landowner, namely those holding land valued in excess of £100 per annum, while they were not permitted to vote for the county's MP, there was still the chance of a place on the Commission of Supply, bringing with it the possibility of active participation in the administration of the county and dealing with such issues as roads, bridges and the like.<sup>65</sup> In addition, the possession of property at most often assured the landowner a recognized place in society, sometimes on a national as well as a local level.

Ian Whyte has estimated that there were approximately 5,000 landowners throughout Scotland as a whole in the later seventeenth and early eighteenth centuries. According to Whyte, out of this total only around one hundred could be called 'great,' and another thousand could be considered 'substantial'. The great and substantial included, though also went beyond, the titled nobility. The remaining heritable landowners were an interesting mix which included some quite substantial, many middling and a lot of small estate owners, the more significant of whom were commonly referred to by contemporaries with the general catch-all title of 'gentry' or, more original to Scotland, 'laird.'<sup>66</sup>

During the late seventeenth and early eighteenth centuries, Fife's landowners included seven earls, five barons, and twenty baronets, in addition to a large contingent of lairds (the landlord of landed property or an estate) and so-called "bonnet lairds" (those owners who farmed their own land).<sup>67</sup> With this number of distinctions in landed society, a

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<sup>64</sup> All monetary valuations throughout this thesis are Scots unless otherwise noted. An Act of Parliament in 1681 determined that Scotland's land valuation was qualified as that land which was held of the king and the valued rents were not more than £400 Scots.

<sup>65</sup> Whetstone, p. 62.

<sup>66</sup> Whyte, *Scotland Before the Industrial Revolution*, p. 155.

<sup>67</sup> The peerage families consisted of: Leslie, Earl of Rothes; Melville, Earl of Leven; Lindsay, Earl of Crawford; Douglas, Earl of Morton; Erskine, Earl of Kellie; Wemyss, Earl of Wemyss; and Lindsay, Earl of

key initial challenge lies in identifying the economic and social profile required for an individual person to be assigned to a particular category. Importantly, the criteria used to determine whether an estate can be deemed 'great' or to establish who qualifies as 'gentry' in practice vary considerably, and will be influenced not only by the economic data available to us, but also by the shifting definitions employed by contemporaries. Before any detailed survey of the Fife political landscape can be offered, an attempt must therefore be made to establish appropriate criteria for the classification and analysis of the country's early eighteenth-century landowners. Mingay, for example, divides the contemporary English landowners into three fairly distinct categories (albeit somewhat fluid at the margins): peers, gentry, and freeholders. The peers were, of course, titled aristocrats usually able to depend on the rental revenue of great estates; the gentry were neither peers nor (usually) great landlords, but relied on sizeable rental incomes; and the freeholders, more numerous than the other two categories, occupied and cultivated the land which they owned.<sup>68</sup>

The criteria used to define a 'great' estate, moreover, vary considerably between country and county. Mingay also states that the number of English peers remained fairly static prior to the administration of Pitt the Younger, at approximately 160.<sup>69</sup> To determine their incomes, Mingay uses an average based on contemporary estimates provided by Gregory King in 1690 and Patrick Colquhan in 1790. It is this method which allows Mingay to claim that, discounting the "really great *grands signeurs*, such as the Dukes of Bedford, Bridgewater and Devonshire who had incomes exceeding £50,000 sterling", the average

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Balcarres. The Barons were: Balfour, Lord Burleigh; Campbell, Lord Polwarth; Sinclair, Lord Sinclair; Elphinstone, Lord Balmerino; Leslie, Lord Lindors. The baronets were: Sir John Anstruther, Sir Robert Anstruther, Sir Alex Anstruther, Sir Philip Anstruther, Sir Alexander Aerskine of Cambo, Sir Michael Balfour of Denmiln, Sir David Carmichael of Balmeady, Sir Robert Douglas of Glenbervie, Sir Robert Douglas of Kirkness, Sir Peter Halkett of Pitfirren, Sir John Henderson of Fordell, Sir Thomas Hope of Craighall, Sir William Hope of Balcomie, Sir James Holbourn of Otterstoun, Sir Thomas Moncrieff of Capelstron, Sir Alexander Murray of Kinninmound, Sir John Preston of Prestonall, Sir Henry Waldlaw of Balmulo and Sir John Wemyss of Bogie.

<sup>68</sup> Mingay, *English Landed Society*, p. 7.

<sup>69</sup> *Ibid.*, p. 6.



income of the great English landlords lay in the range of £6,000 to £10,000 sterling per annum.<sup>70</sup>

While an equivalent analysis of eighteenth-century Scottish landowners has never been attempted, Keith Brown's recent study of the Scottish nobility in the later sixteenth and early seventeenth centuries suggests some interesting comparisons. Brown estimates that the estate incomes for the "higher nobility in the later sixteenth century perhaps averaged £20,000 Scots per annum, or under £3,000 Sterling, rising in the early seventeenth century to around £60,000 per annum or £5,000 Sterling, for the richer members of the expanded peerage."<sup>71</sup> With Mingay's criteria, the great English landowners of the eighteenth century ranked in the £6,000 to £10,000 Sterling category, while the greatest Scottish aristocratic landowners of the eighteenth century were only in the £5,000 range.

This being said, a different set of definitions would produce different results. For example, T.C. Smout, quoting Sir John Sinclair in the 1790s, has defined large Scottish estates in the early eighteenth century as "those with land exceeding £2,000 Scots of the valuation of 1670, middling estates of £500-2,000 Scots valuation, and small estates of under £500 Scots valuation."<sup>72</sup> Sinclair did not use the term 'great,' only 'large,' making strict comparison with Mingay's English model all but impossible.

Using the term 'gentry' for analytical purposes proves an even greater challenge. Felicity Heal and Clive Holmes have provided an excellent description of the English gentry during the two centuries prior to 1700, which rests on the interestingly circular argument

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<sup>70</sup> Ibid., p. 20.

<sup>71</sup> Keith Brown, *Noble Society in Scotland: Wealth, Family and Culture, from Reformation to Revolution* (Edinburgh, 2000), p. 32.

<sup>72</sup> Smout, *History of the Scottish People*, p. 265. The valued rent for each county was set in 1667 with the APS, vii, Act of Convention, 23 January, and was not changed until 1854. See Whetstone, p. 74.

“that the gentry were that body of men and women whose gentility was acknowledged by others.”<sup>73</sup> J.S. Morrill apparently came to the same conclusion in his classic study of Cheshire, lamenting that “Economic indicators for gentility are of no avail; I have styled as ‘gentlemen’ anyone so called at the time.”<sup>74</sup> One of the more lucid explanations of this problem comes from Ann Hughes in her study of Warwickshire:

The notion of gentility involved many complex, contested and intangible matters such as an ancient and honourable lineage, the acknowledged right to bear arms, and a leisured, cultivated and conscientious life style including the exercise of a governing role. The gentry were not an economically defined group: although wealth and status correspond to some extent, the sources of a family's wealth could be as important as the amount, and there were wide variations in the economic positions of the gentry. Grave problems arise in deciding who to include as part of gentry society.<sup>75</sup>

Still, for the purposes of understanding the structure of landed society in Fife, some attempt must clearly be made. Mingay's analysis is useful because it emphasises that the ‘gentry’ were neither peers, nor great landlords, nor were they cultivators of their own estates; rather they were owners of significant hereditary estates who "gained their incomes from rent, mortgages or investments, enabling them to live the life of a gentleman."<sup>76</sup> Once again using the income estimates provided by King and Colquhan, Mingay further divides this category into wealthy gentry and lesser gentry. The wealthy gentry would average an income of £3,000 to £4,000 Sterling per year, while the incomes of the lesser gentry ranged from £3,000 to £1,000 Sterling.<sup>77</sup> Therefore, Mingay's analysis is equivalent to the values needed to define the gentry in Fife.

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<sup>73</sup> Felicity Heal and Clive Holmes, *The Gentry in England and Wales, 1500-1700* (London, 1994), p. 19.

<sup>74</sup> J.S. Morrill, *Cheshire 1630-1660: County Government and Society During the English Revolution* (Oxford, 1974), p. 15.

<sup>75</sup> Hughes, *Warwickshire*, p. 27.

<sup>76</sup> Mingay, *English Landed Society*, p. 6.

<sup>77</sup> *Ibid.*, p. 21.

For those minor landowners falling below these income levels, Mingay offers a third group: the freeholders. This category is itself split into the owner-occupiers cultivating their own land, and sometimes additional rental land; and those "smaller absentee owners who let out their land and were in effect petty landlords."<sup>78</sup> Typical incomes across the two freeholder categories ranged from £50 to £200 Sterling. If we compare that definition with the land owning patterns of early eighteenth-century Scotland, it is clear that this socio-economic category would be roughly comparable with the 'bonnet lairds' and farmers in a county such as Fife.

In his examination of the Welsh county of Glamorgan, Philip Jenkins utilised yet another variable, the hearth tax returns for ranking the county landowners.<sup>79</sup> Because Glamorgan had only distant, non-resident landowning peers in the persons of the Dukes of Bedford and Pembroke, Jenkins removed them entirely from his equation. He, therefore, safely concludes that most of the county landowners fell under the category of 'gentry'. Based on the 1670 hearth tax rolls, Jenkins ranked as a 'gentleman' anyone who did not hold a peerage title, but who lived in a house with six or more hearths. Meeting this criterion were 180 households within a total county population of 45,000.<sup>80</sup> Jenkins estimates that the 'gentleman' households ranged in income from £500 to £1000 Sterling.

Ann Hughes uses another set of data, the lay subsidy rolls, in determining who properly qualified as gentry in Warwickshire.<sup>81</sup> Out of a total county population of approximately 80,000, Hughes estimated that the Warwickshire gentry amounted to just 288

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<sup>78</sup> Ibid., p. 7.

<sup>79</sup> Scotland utilized hearth tax return; however, the surviving Fife records do not include the entire county.

<sup>80</sup> Jenkins does not provide a total number of landowners in the county.

<sup>81</sup> Hughes, *Warwickshire*, p. 30. It must be noted that Hughes' time period is the middle of the seventeenth century as opposed to Jenkins and Mingay writing of the later half. Comparable regional studies of the late seventeenth and early eighteenth centuries are scarce. In discussing her use of subsidy rolls, Hughes admits that they provide only a cursory view of gentry stratification, and do not give an exact measure of actual wealth as the landed classes notoriously undervalued their estates for taxation purposes.

families. Within her category of 'gentry', Hughes, unlike Jenkins, does count the major Warwickshire peerage families of the Fieldings, Grevilles, and Comptons and admits that none of these families held a monopoly of political or social power within the county. By using the lay subsidy rolls,<sup>82</sup> Hughes concludes that 7% of the gentry paid £20 or more; 12 % paid £10 9s; 19% paid £5 9s; and 63% paid up to £4 10s. What Hughes does not offer, however, is an income gauge to correspond with the subsidy assessment, thus making a direct comparison of local landed wealth with other counties very difficult. Even so, from her data Hughes is able to claim that 82% of the county's 'gentry' belonged in the middle and smaller landowning categories.<sup>83</sup>

How, then, do Fife's landowning elite fare in relation to analyses of this kind? In the early eighteenth century, Fife had a population of 81,562, making it comparable in size to Warwickshire, but twice the size of Glamorgan.<sup>84</sup> Hearth and poll taxes were also utilised in Scotland in the 1690s to meet the wartime expenses of the army and navy.<sup>85</sup> Regrettably, the hearth tax records that survive for Fife are sketchy and not available for the entire county thus preventing us from employing the mode of analysis used by Jenkins for Glamorgan. What does exist, however, is a similar kind of record, the land valuation of Fife in 1695 compiled by Sir Robert Sibbald.<sup>86</sup> Land valuation in Scotland was based on the valued rent, not on the actual value or market value of the land itself. The rental valuation had been established in 1667 for the purpose of determining land tax due to the county. Until the Union it was possible to adjust these values, but thereafter they were not modified until 1854.

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<sup>82</sup> The lay subsidy was a grant to the Crown authorised by an Act of Parliament to support the expenditure of the Crown. They were not annual taxes, but were imposed as the need arose. The clergy and peers were subject to separate arrangements. The form of tax from the fourteenth to the seventeenth centuries was a fifteenth and tenth, which was based on a valuation of a person's "movable" goods. This included crops, levied at a fifteenth in rural areas, and a tenth in the cities and burghs. See, G. Timmins, *The History of Longparish*, (2001), via [www.longparish.org.uk](http://www.longparish.org.uk).

<sup>83</sup> Hughes, *Warwickshire*, p. 31.

<sup>84</sup> *Scottish Population Statistics, including Webster's Analysis of Population 1755*, ed. James Gray Kyd (Edinburgh, 1975), p. 41.

<sup>85</sup> Whyte, *Scotland Before Industrial Revolution*, p. 112.

<sup>86</sup> Sibbald, *History, Ancient and Modern of Fife*, Appendix II.

The curious result of this is that the formal land values cited in this study were effectively fixed throughout the eighteenth century, even though the land itself could have been sold, forfeited, or inherited.<sup>87</sup>

This makes Sibbald's list a source of great value as a measure of relative incomes and social standing in early eighteenth-century Fife. Sibbald's list records the valuations for as many as 808 landowners, ranging from Margaret Leslie, Countess of Rothes with a valuation of £10,000, to John Adie whose rental income was a mere £7 10s.<sup>88</sup> If the criteria offered by Sir John Sinclair are applied so as to assign Fife's estate owners to distinct categories, then thirty-two Fife landowners can be seen to have estates valued over £2,000 (that is, about 4% of the county's landowning population as listed by Sibbald); 155 had middling estates between £500 and £2000 (or 19% of the total); and, 621 had small estates valued under £500 (the remaining 77% of Sibbald's landowners). That the lesser landowners garnered by far the highest percentage is not surprising, as the same pyramidal socio-economic structure also was found in both Warwickshire and Glamorgan. But clearly quantitative or income-bases analysis still only gives us part of the picture of Fife's landowning elite. Where would the qualitative divisions offered by Mingay fit in? And how might we combine the valuation data familiar to Sinclair with the more flexible notion of gentility or gentlemanly status used by Jenkins and Mingay?

In the first instance, peers can be treated separately from the Fife gentry by virtue of their possession of recognized aristocratic titles.<sup>89</sup> This category, incidentally, does not

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<sup>87</sup> Whetstone, p. 74; Loretta R. Timperley, *A Directory of Landownership in Scotland c. 1770* (Edinburgh, 1976), p. viii. I am particularly grateful to Professor T.C. Smout, University of St. Andrews, for recommending the Timperley source.

<sup>88</sup> It must be noted that in the case of the Countess of Rothes, and certainly other nobles, the land valuations discussed are only for their estates in Fife. Each held additional property in other counties, increasing their total valuation considerably. The Leslies in particular held substantial estate elsewhere in Scotland.

<sup>89</sup> Dukes, earls, viscounts, and barons qualify as peers.

include the baronets who technically were not part of the Scottish peerage, even if they were often considered 'noble' – a word with wider application in Scotland in comparison to England.<sup>90</sup> Not surprisingly, all of Fife's titled peers – numbering eleven – had estates valued over £2,000, putting them immediately into the category of 'large' landowner. Fife's baronets, considered noble though not peers, along with several other knights and substantial lairds then fall neatly into a 'middling' section with estates valued by Sibbald between £500 and £2,000. Most of these landowners also fit well with Mingay's definition of the 'gentry' as those who might have become "members of the Commons, but more typically served as magistrates and holders of numerous local offices".<sup>91</sup> Indeed, the Fife landowners in this middle grouping match Mingay's description perfectly, for the county's MPs, Commissioners of Supply, Justices of the Peace and various Sheriff-deputes during our period all came from this category. Completing the picture of landowning society in Fife are those under the £500 mark as recorded on Sibbald's list – people who were owner-occupiers or 'bonnet lairds' and small farmers.

Overall, at the turn of the eighteenth century, Fife's gentry consisted of a diverse mix of baronets, knights and substantial lairds, owning heritable estates ranging between £500 and £2,000 according to the 1667 valuation. These gentlemen, along with Fife's eleven peers, formed the backbone of the county's political machine. Additionally, since electoral law enfranchised those with a rental value of only £400, there were a number of Fife's smaller lairds who were nevertheless qualified to vote in parliamentary elections. If, according to Sibbald's list, Fife had a total of 808 landowners, and 236 of them owned land with a valued rent of £400 or higher, we can therefore conclude that around 30%, or one-third, of the county's total landowning community were entitled to vote for the shire's MP.

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<sup>90</sup> I am grateful to Professor Keith Brown, University of St. Andrews, Department of Scottish History, for providing this information.

<sup>91</sup> Mingay, *English Landed Society*, p. 8.

In order to understand how this socio-economic structure impacted upon the political life of the county it is useful in the first place to explore the backgrounds of some of these key individuals. In particular, we need to identify the main players on Fife's political stage in order to investigate the basis of their power, and to discover how they interacted with each other within the political structure of the time. Clearly, while most peers and the majority of the gentry had the ability to participate in Fife's politics, some pursued their interests much more actively than others. Fife's most politically-active peers in the early part of the century were John Leslie, the 9<sup>th</sup> Earl of Rothes, and David Melville, 3<sup>rd</sup> Earl of Leven. Both were Presbyterian Whigs wielding considerable influence in Fife; however, their personal similarities stopped there. As we shall see in the following section, for their entire lives the two Earls hated each other with such a vitriolic passion, they created a politically charged environment filled with partisan polemics that featured in nearly every Fife county, burgh, and often, magistrate election in the early years after the Union.

Yet, while Fife's immediate post-Union politics revolved around factions of Rothes and Leven, the two Earls did not control the county's politics exclusively. Indeed, as previously discussed, Fife's appeal as a subject for a political study in this era lies in the sheer number of Whig, Tory, and Jacobite families who not only participated in Fife's electoral politics, but created an extremely active political society. Whig families such as the Anstruthers, from the East Neuk of Fife, figured prominently in the county's social and political life. The Aerskines, Sinclairs, and Balfours adhered to the political ideology of the Tory party, going so far as to rally with the Jacobites during the 1715 and 1745 rebellions.

## II. *Dramatis Personae*: The Families

At the beginning of the eighteenth century, the political muscle of the Fife peerage was strong, but by no means insurmountable to their rivals among the gentry. The sheer numbers of baronets, knights, lairds and other freehold voters allowed Fife a political autonomy not seen in most Scottish counties. Compared with Linlithgowshire, for example, where the 2<sup>nd</sup> Earl of Hopetoun controlled directly or indirectly the votes of just 40 electors, Fife's gentlemen enjoyed relative independence from aristocratic domination in this period. This is not to say, of course, that the peers lacked a substantial power base. In the early parliamentary elections of the eighteenth century, particularly those held in three-year increments immediately following the Union, Fife's peerage were intensively active in their attempts to influence the majority of voters. Their methods of persuasion, however, did not always meet with success.

Until their deaths in 1722 and 1728 respectively, the 9<sup>th</sup> Earl of Rothes and the 3<sup>rd</sup> Earl of Leven, along with their less powerful and less consistent peers, the Earls of Crawford and Balcarres, brought to the county's politics their own intriguing style of politicking. This was no doubt due in part to the fact that Fife provided Westminster with a total of five MPs from its various seats, more, in fact, than any other Scottish county in Parliament, making it a much-prized electorate. The extensive personal connections of Rothes and Leven with other Westminster politicians also helped to keep the Fife interest in the forefront of Scottish politics in this period. Owing to the politics of Fife in the early eighteenth century revolving around these two individuals, even if their electoral efforts were not always successful, it is necessary for us to spend a little time exploring the nature of their power.



The Rothes estates were both very large and widely-spaced throughout Scotland, expanding from Fife to the counties of Forfar, Perth, Inverness, Elgin, Aberdeen and Kincardine.<sup>92</sup> The chief family estate, Leslie House, was located in central Fife, just east of Markinch. The Leslies had held the Fife office of heritable sheriff since the beginning of the fifteenth century. Sir George de Leslie became sheriff on 31 July 1409, and the family would continue to hold this office until Westminster's abolition of Scotland's heritable jurisdictions in 1747 at the end of our period.<sup>93</sup> John Leslie, 6th Earl of Rothes, had succeeded to the title at the death of his grandfather in 1611. By refusing to vote in 1621 for the Five Articles of Perth, James VI's attempt to inflict contentious liturgical practices upon a resistant Presbyterian Kirk, Rothes thereafter maintained a strong opposition to Episcopacy.<sup>94</sup> His son, John, succeeded as the 7th Earl in August 1641 at the age of eleven. It is during the tenure of the 7th Earl that the Leslie family reached the apex of its political power in Scotland. As a young man, Rothes had assigned as his guardians his uncle, Alexander Leslie, Earl of Leven, and Archibald Campbell, Marquis of Argyll.<sup>95</sup> His family connection with Leven would later cause a sizeable schism between the two branches of the family. This rift, discussed later in this section, would ultimately create a political conflict that was to have repercussions in Fife's politics for several decades.

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<sup>92</sup> Sir William Fraser, *Memorials of the Earls of Haddington* (Edinburgh, 1889), p. 235.

<sup>93</sup> The original family seat is thought to be Leslie, a parish in the district of Garloch, Aberdeenshire where the first recorded Leslie land holding is dated 1176. The Leslies had contributed a long, varied and often chequered family history to the public life of early-modern Scotland. George, the 3rd Earl, had been accused of the murder of Cardinal Beaton, for which he was tried and acquitted. Also accused was his son, Norman Leslie, Master of Rothes, who was found guilty of treason and forfeited by Parliament on 14 August 1546. An ancient dagger, preserved for many years in Leslie House, was traditionally understood in the Rothes family as the weapon with which the Master of Rothes had inflicted his mortal wound on the unfortunate cardinal. NAS, GD204, Rothes Cartulary, Introductory Notes.

<sup>94</sup> *Scots Peerage*, pg. 297; Colonel Leslie, K.H., *Historical Records of the Family of Leslie from 1067 to 1868-9* (Edinburgh, 1869), p. 104. Rothes' daughter Margaret made three remarkable marriages: first to Alexander, Earl of Leven, second, to Francis, 2<sup>nd</sup> Earl of Buccleuch, and finally, to David, 2<sup>nd</sup> Earl of Weymss, with issue from all three. Her progeny therefore carried the line of three of Scotland's leading noble families.

<sup>95</sup> *Scots Peerage*, p. 300.

As a loyal supporter of the policies promoted by Charles II, the 7<sup>th</sup> Earl did not follow in his father's Presbyterian footsteps, but instead supported Charles' re-establishment of the Episcopal form of church government in Scotland.<sup>96</sup> Under Charles' orders, Rothes' brutal persecution of Covenanters throughout Scotland formed his reputation as a cruel and obstinate man. Created Duke of Rothes on 16 April 1680, he was not able to enjoy his new title for long, succumbing to jaundice – apparently brought on by his legendary capacity to withstand the immediate effects of liquor – in July 1681.<sup>97</sup> At his death the dukedom became extinct. As Rothes died with no male heirs, the title passed on to his daughter, Margaret, as Countess of Rothes in her own right.<sup>98</sup>

Margaret married Charles Hamilton, 5<sup>th</sup> Earl of Haddington in 1674. Margaret and Charles determined at the time of their marriage, that their eldest son was to succeed to the earldom of Rothes, and the second son to the earldom of Haddington.<sup>99</sup> As such, their first-born son, John, was made 9<sup>th</sup> Earl of Rothes, and Thomas, their second son became the 6<sup>th</sup> Earl of Haddington. According to Fraser, the Earl and Countess of Haddington were not associated with any obvious or well-defined political ideology. Yet many of their political decisions tell a different story.<sup>100</sup> Countess Margaret inherited the heritable sheriffdom of Fife at the death of her father, the 1<sup>st</sup> Duke of Rothes, in 1681. That same year, because of their possession of the sheriffdom of Fife, they, along with all other public office holders,

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<sup>96</sup> Rothes met with Charles II at Breda in 1660 and accompanied him back to England. He was made President of the Privy Council, appointed as an Extraordinary Lord of Session and General of the Forces in Scotland.

<sup>97</sup> *DNB*, p. 103. Rothes' funeral, said to have nearly decimated the family fortune, was a splendid affair. Reports received by those in attendance declared that the length of the cortege was five miles long.

<sup>98</sup> By his wife, Lady Anne Lindsay, daughter of the Earl of Crawford, Rothes had two daughters, Margaret and Christian.

<sup>99</sup> Fraser, *Haddington*, p. 221. If there was only one son he was to assume the title of Leslie, and provisions were made for continuation of the succession through daughters if there were no sons.

<sup>100</sup> Haddington opposed the demands of the Highland Host, Lauderdale's attempt to abate Covenanting activity in 1678. When the county heritors of East Lothian were called together to sign their acceptance of the 'Host', the Earl refused, despite Lauderdale's presence at the meeting. In keeping with this oppositional stance, the Earl was part of a delegation of Scottish nobility, headed by Hamilton, who converged on the Court. They did not manage to obtain an audience with the King, but did gain some important concessions with the government's agreement to convene a meeting of the Estates. Fraser, *Haddington*, p. 235

were required to take the Test Oath, which would allow royal supremacy in church affairs. The Countess and Earl, however, refused to take the oath, in addition to many other members of the Scottish elite.<sup>101</sup> They maintained this position until the Earl's death in May 1685, and the Countess's death 15 years later – at which time their son, John, succeeded as the 9<sup>th</sup> Earl of Rothes.

The Earl and Countess left an interesting political legacy to Fife in the first half of the eighteenth century. They were clearly antagonistic to the agenda of both Charles II and James VII. By refusing to adhere to the governments anti-covenanting policies, they had demonstrated a degree of genuine commitment toward Presbyterianism – or at least showed sympathy for the cause – harking back to the anti-Episcopal stance the family had adopted in the days of the Countess's grandfather, John, the 6<sup>th</sup> Earl. The evidence suggests that the intense persecution of Covenanters during the seventeenth century by her father, the 1<sup>st</sup> Duke of Rothes, had not met with Margaret's approval. The solid Presbyterian convictions of her two eldest sons would seem to substantiate further the Countess' anti-episcopal and anti-royal position. Moreover, the steadfast Whig politics of the latter two almost certainly arose from parents who, while not known for having a particularly partisan agenda, seemed to have passed on something of their own political viewpoint. In due course, both sons, as 9<sup>th</sup> Earl of Rothes and 6<sup>th</sup> Earl of Haddington, emerged as leading members of the opposition Scottish Whig party, the *Squadron Volante*.

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<sup>101</sup> Fraser, *Haddington*, pp. 232-233. While the government certainly did not suspect them of fanaticism, the Countess was still deprived of the sheriffship, which was now awarded to Colin Lindsay, 3<sup>rd</sup> Earl of Balcarres. This apparently was only a temporary measure, as the Countess is listed in her capacity of Sheriff of Fife as approving a 1685 Act of Parliament expanding the land boundary of the county of Kinross: "the disjunction of lands from the said Shyres of fife and Perth and to the Uniting them to the said shires of Kinross and Heritable Jurisdiction thereof". *APS*, Vol. viii, p. 488. By 1682, the Haddingtons were so disenchanted with the current state of Scotland's government that they seriously contemplated relocating to the American colonies, although these plans were never realized.

Given the 9<sup>th</sup> Earl's manifest commitment to Whig Presbyterian politics, his contemporaries inevitably had sharply contrasting opinions of his character. "He was", says Macky, the court spy and Williamite loyalist, "a warm assertor of the liberties of the people and in great esteem, also of vigilant application for the service of his country".<sup>102</sup> George Lockhart of Carnwath, the doyen of Jacobite backwoodsmen, however, saw things differently:

The Earl of Rothes had not, that I know of, one good property to recommend him, being false to a great degree, a contemner of honour and engagements, extremely ambitious, ridiculous, vain and conceited (though of very ordinary parts and accomplishments), extravagantly proud and scandalously mercenary. No man was more forward in the Country party, nor did any profess greater regard to the royal family than his lordship, and that with repeated oaths and asseverations, but alas, he had neither enough of sense nor honesty to resist the first temptations.<sup>103</sup>

That he was ambitious, proud and mercenary cannot be denied. Vain and conceited he most certainly was. But the allegation of ridiculousness is harder to accept. Although one hesitates to contradict a contemporary witness as esteemed as Lockhart, his obvious antagonism to Rothes as a political opponent needs to be fully taken into account.

Fortunately for the historian, Rothes was a prolific correspondent; and even more fortuitously much of his correspondence has survived.<sup>104</sup> His letters show him to be a man of sharp wit, fiercely loyal to his family, and wholly dedicated to Whig politics. The Earl of Rothes' vanity and conceit, so insisted on by Lockhart, is displayed on several occasions, particularly when speaking of his opponents, both at a national and local level. As will be

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<sup>102</sup> *Memoirs of the Secret Services of John Mackay, Esq. During the Reigns of King William, Queen Anne and King George I* (London, 1733), p. 132. Mackay also said of Rothes' brother, Thomas, 6th Earl of Haddington, "[he] hath a Genius whenever he thinks fit to apply himself."

<sup>103</sup> 'Scotland's Ruine,' *Lockhart of Carnwath's Memoirs of the Union*, ed. Daniel Szechi (Aberdeen, 1995), p. 64.

<sup>104</sup> Leslie House burnt to the ground on Christmas Day 1763, to be rebuilt by John Leslie, the 10<sup>th</sup> Earl. The family library, said to be one of the finest in all of Scotland, was completely destroyed. Any correspondence Rothes would have collected during the tenure of his various offices was lost. Many of his letters, however, are available in the Duke of Montrose papers now at the National Archives of Scotland and the Yester Collection, housing the papers of the Marquis of Tweeddale, at the National Library of Scotland.

demonstrated throughout this study, Rothes had little use for several of his fellow Whigs, particularly the Earl of Leven, except when the potential gains of a temporary truce suited him.<sup>105</sup>

Rothes served as Keeper of the Privy Seal in 1704, and, as a strong supporter of the Union, was chosen as one of the sixteen peers from Scotland in 1708, 1715, and 1722. During the 1715 rebellion, Rothes commanded his own government regiment and attempted to seize Perth, but was prevented by the rebels who had already taken possession of the town.<sup>106</sup> Despite this setback, Rothes went on to command the horse volunteers at Sheriffmuir.<sup>107</sup>

His domestic life also tied him into the Whig political nexus. In 1687 Rothes married Lady Jean Hay, daughter of John Hay, 2nd Marquis of Tweeddale and leading member of the *Squadron Volante* who had played a critical role in facilitating the Treaty of Union. They had twelve children, the oldest, John, succeeding his father in 1722, when the Earl died at the age of 43. The 10<sup>th</sup> Earl followed in his father's well-defined political footsteps. He served as the Hereditary Sheriff of Fife, Kinross and Aberdeenshire, participating actively in Fife politics immediately after his father's death. His military duties were to take him to Ireland

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<sup>105</sup> One of Rothes' favourite terms for Leven was "creature." NAS, GD220/5/159/5, Earl of Rothes to Duke of Montrose, 22 May 1708.

<sup>106</sup> NAS, GD220/5/458/43a, Earl of Rothes to John Leslie, 29 September 1715. In this letter to his oldest son, John, then a student at Major Foubert's Academy in London, Rothes writes of his alarm upon hearing that the rebels were planning to inflict considerable damage on Fife, and particularly on Leslie House, in revenge against him. (Rothes had over 500 arms stored at Leslie House, which he had acquired from Edinburgh Castle with the approval of the Duke of Argyll.) As a precaution, Rothes returned home with a squadron of dragoons and "a good many gentlemen of Fife." Enroute to Leslie, passing within three or four miles of Kinross, the party met several country people who informed them that "Sir Thomas Bruce, My Lord Burleigh, Mr. Carstairs and several other gentlemen were come from Perth and were to proclaim the Pretender at Kinross on Monday at 12 o'clock and that there was a considerable party gone to Leslie to seize the arms." Rothes, however, managed to capture Sir Thomas and return him as a prisoner to Stirling Castle. Since Bruce was a prominent Tory in Fife politics, this action only served to widen the rift between the two men in the years ahead. Rothes told his son that "most of the gentlemen in the shire are Jacobites and are actually gone to the rebels so that it was hardly possible to find so many in the shire as to make officers to one regiment or two."

<sup>107</sup> *DNB*, p. 305

for several years at a time, thus denying him the hands-on management exercised by his father.<sup>108</sup>

As has already been mentioned, the chief rivals to the Leslies for the dominant position in Fife's politics were the Melvilles, Earls of Melville and Leven. On 27 July 1681, David Melville had succeeded as 3<sup>rd</sup> Earl of Leven, being heir to his cousin Catherine, Countess of Leven, who was Countess in her own right after the death of her father, Alexander Leslie, 2<sup>nd</sup> Earl of Leven. At the death of his father in 1707, David also gained the title of 2<sup>nd</sup> Earl of Melville, in succession to George, his father, though throughout his life David exclusively used the Leven title. While the Melville earldom had origins of great distinction and was rooted in antiquity, the Leven title was a comparatively modern creation, the origins and legitimacy of which, moreover, were rather dubious in nature. By all accounts, the 1st Earl of Leven, Alexander Leslie, was allegedly the illegitimate son of George Leslie, the Captain of Blair Atholl Castle. As if to add further obscurity to the lineage, the identity of his mother is not known.

Alexander Leven bought the Fife barony of Balgonie in June 1635. His only son, Lord Balgonie, married Margaret Leslie, second daughter of John, 5th Earl of Rothes, hence the connection between the Leslies and Levens. Their grandson, the 2<sup>nd</sup> Earl, died with no male heirs in 1664, leaving the title to his eldest daughter Margaret, now Countess of Leven.<sup>109</sup> The 7<sup>th</sup> Earl of Rothes, Margaret's uncle, was named one of her guardians.<sup>110</sup> Rothes was at this time Chancellor of Scotland, prior to his becoming the 1st Duke and forced Margaret to marry his nephew, Francis Montgomerie of Giffen, a brother to the 8<sup>th</sup>

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<sup>108</sup> *DNB*, p. 104.

<sup>109</sup> Legend has it that they toasted each other by drinking seawater while stopping at Queensberry, after which they drank sack.

<sup>110</sup> Rothes and Margaret Leslie, mother to the 2<sup>nd</sup> Earl of Leven, were brother and sister.

Earl of Eglinton. Margaret, a frail young woman, was unhappy with the match and died within a year of her marriage. Her younger sister and heir, Catherine, died in 1676.<sup>111</sup>

The 2<sup>nd</sup> Earl's will stipulated that, in the event of the death of his daughters, the Leven Earldom should pass to the "*second* son respectively of John, Earl of Rothes, and of his sister Catherine." [Emphasis added]<sup>112</sup> Rothes, already aged 46, had no sons; however, he now claimed that it was entirely possible that he might still produce two sons, the second of whom would be born to the Leven title. This bizarre set of circumstances left the potential inheritance of David Melville, the son of Lady Catherine Melville, who otherwise stood to claim the vacant title of Earl of Leven, in limbo. Rothes and Melville, David's father, fought a bitter case in the Court of Session in February 1677.<sup>113</sup> The court eventually found for Rothes determining that as long as there was a chance he might yet have a second son, David Melville could not serve as heir to his uncle. It was not until the death of Rothes in 1681 that David was finally able to assume the title of 3<sup>rd</sup> Earl of Leven.<sup>114</sup> Certainly it was this event that started the abiding hatred that the 3<sup>rd</sup> Earl of Leven felt for successive Earls of Rothes whom he encountered in his long lifetime.

According to Lockhart, whose testimony was once again coloured by political enmity, the 3<sup>rd</sup> Earl of Leven was "born and bred an enemy to the royal family, and therefore cheerfully embraced, and significantly promoted, everything against its interest." Lockhart

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<sup>111</sup> *Scots Peerage*, pp. 380-381.

<sup>112</sup> Any first son of the Duke of Rothes would serve as his heir; his second son would inherit the Leven title.

<sup>113</sup> Margaret Leslie, mother of David Melville, wrote to the Earl of Balcarres asking his assistance in the court case: "the question which is shortly to be debated in the Lords whither my Lord Chancellor his second son tho not yet existent is to be preferred unto my Lord Melville's second son who is heir apparent...there are not as I am informed any one advocate in the lords who in his private judgement does not think than an apparent heir should be preferred into an heir not yet existent yet such is the influence which the name and authority of the Chancellor has upon all the Lords of Session that we are in very great fears that my Son Melville will lose the case...I humbly beg your Grace to do what you intend speedily for our adversaries are very impatient of delay". NLS, ACC9769/19/2/51, Margaret Leslie, Lady Melville to Earl of Balcarres, 1677.

<sup>114</sup> Sir William Fraser, *The Melvilles, Earls of Melville and The Leslies, Earls of Leven, Volume I, Memoirs* (Edinburgh, 1890), p. 245-246.

continued that Leven was vain and conceited as a young man, though as he matured he became a “man of good parts and sound judgement, but master of no kind of learning.”<sup>115</sup> Raised in a family of passionate Presbyterians, Leven had little regard for the Stuarts. On 7 September 1688 as rumblings from the Jacobite forces increased, Leven accompanied the Prince of Orange to England,<sup>116</sup> and using his military experience gained while serving on the Continent he raised a regiment of 800, joining Mackay's forces against the Jacobite army commanded by Viscount Dundee at Killiecrankie.<sup>117</sup> Leven's battlefield performance was praised by General Mackay, "I had no regiment or troop with me but behaved like the vilest cowards in nature, except Hastings' and my Lord Leven's, whom I must praise to such a degree as I cannot but blame others of whom I expected more".<sup>118</sup>

Solidly pro-Union, Leven took an active part in the negotiations for the Treaty of Union. His politics were in fact closely aligned with those of the Duke of Queensberry,<sup>119</sup> and he was one of the most active members of the Court party as it sought to advance Anne's wishes in Edinburgh toward Union. During the Treaty negotiations, Leven did his level best to undermine the members of the more equivocal Squadrone – which, of course, meant, amongst others, Rothes and his brother Haddington. Leven even argued that the votes of the Squadrone were unimportant, suggesting that their views be ignored. That the court itself fully appreciated the true importance of pro-Union votes from the Squadrone – indeed that their *volte-face* to support the Treaty was the decisive moment in its passage – demonstrates how far from the mark Leven actually was. As Riley argues, Leven's “malice against Rothes, his family's rival in Fife, and all his connections, had bitten so deeply into him that on the

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<sup>115</sup> ‘Scotland's Ruine’, p. 60.

<sup>116</sup> *DNB*, p. 237.

<sup>117</sup> Leven resided on the Continent for several years during which time he became a personal favourite of the Electress Sophia. In 1687 he had also entered the service of the Duke of Brandenburg as a colonel in the Hanoverian army. On 7 September 1688, Leven accompanied the Prince of Orange to England.

<sup>118</sup> *DNB*, p. 238.

<sup>119</sup> James Douglas, 2<sup>nd</sup> Duke of Queensberry; known as the “Union Duke,” Queensberry was instrumental in spearheading the Treaty of Union negotiations on behalf of the Scottish politicians and Queen Anne.



subject of the Squadrone he was quite unbalanced."<sup>120</sup> Moreover, Leven tended to have a somewhat victimized sense of himself, which is no doubt attributable to the treatment he had experienced at the hands of Chancellor Rothes when he had first claimed the earldom, in addition to the fact that his father had been forced to spend years in exile.<sup>121</sup> Certainly Leven's relationship with the 9<sup>th</sup> Earl of Rothes was fraught with jealousy, and it can only be assumed that Rothes did little to discourage such feelings. Rothes, after all, had wit, charm, and a younger brother with similar talents, with whom he was very close, both personally and politically. Together they formed a rather dashing pair. By comparison, Leven often gave the appearance of a man who considered himself an outsider, never having quite made it to the inner circle of political power and influence that others, such as Rothes, seemed to enjoy.

Despite his sense of inferiority, Leven did serve as one of the newly-elected sixteen Scottish representative peers in 1708; most likely as a reward for his support of the Union. On 20 May he succeeded as 2<sup>nd</sup> Earl of Melville on the death of his father; however, perhaps reflecting an emotional attachment to the Leven earldom which resulted from the difficulties he had experienced in first securing it, he never assumed the additional title. In 1712, he was suddenly dismissed from all his offices by the Tory administration.<sup>122</sup> On 4 August 1714 when George I arrived in London, Leven and his son, Lord Balgonie, travelled south to greet the new king personally. By all accounts, George appeared pleased to see them and graciously accepted their welcome. Subsequently, however, Leven found himself the victim of a plot instigated by Simon Fraser, Lord Lovat, who attempted to destroy his reputation by

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<sup>120</sup> Riley, *Union*, p. 297.

<sup>121</sup> Leven's father, George, had reluctantly supported the restoration of Charles II. When paying the King a visit in 1679, Melville himself had been commissioned to join Monmouth's army in its campaign against the Covenanters. A Presbyterian, however, the 1<sup>st</sup> Earl had hoped to avoid a conflict by asking the Covenanters to lay down their arms, arguing that their case would receive a better reception at the negotiating table. Perhaps as a result of these conciliatory gestures orders were given for Melville's arrest in 1683 on suspicion of complicity in the Rye House Plot. In July of that year he escaped Scotland to avoid arrest. David, while in no way implicated in the arrest warrant, accompanied his father in exile.

<sup>122</sup> The one small comfort Leven might have made of this episode was that John, Duke of Marlborough was dismissed at the same time. During the reign of Queen Anne, Leven was given command of Edinburgh Castle in 1704, and made commander-in-chief of the Scottish forces in 1706.

accusing him of being a covert Jacobite sympathizer. As a keen supporter of the Protestant cause and personal friend of the Electress of Hanover, such a wounding accusation, for which there is no credible evidence, was the final straw that nearly destroyed the Earl. In addition to the political accusations levied against him, Leven was also in considerable financial difficulty. He was in sizeable debt due to the non-payment of funds for his many years of service rendered to the crown, and wrote constantly and in vain to Queen Anne and later to George I in the hope of assistance and recompense.<sup>123</sup> In 1717, his financial situation had become so desperate that he was forced to sell several of his estates, and to recall two of his sons from their military service to assist him with his debt problems. While Leven was eventually cleared of the accusations of subversive activity, his debt problems continued to plague him until his death in 1728, when he was succeeded by his grandson, Alexander, the 4<sup>th</sup> Earl of Leven.<sup>124</sup>

The long-standing animosity between the earldoms of Leven and Rothes finally waned during Alexander's later years. The heirs of the elder earls, who had figured so prominently and colourfully in the county's politics during the early part of the century, appear largely to have directed their energies to other pursuits – Rothes in the military, Leven in the law. As a result, while they were both involved in county administration up to a point, yet neither replicated the paternal zeal for the manipulation and management of local politics; although Rothes did to some extent champion the political ambitions of his brothers, Thomas and Charles.

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<sup>123</sup> By 1716 the Earl's debts amounted to nearly £400,000 Scots. He was forced in 1717 to sell Inchleslie, his Fife estate to satisfy the creditors, and in 1725, his other Fife estate, Raith, was sold at public auction. See *Scots Peerage*, p. 112.

<sup>124</sup> Fraser, *Melville*, p. 302.

Due to their considerable political influence in early eighteenth-century Fife, the houses of Rothes and Leven have featured extensively in this section. There were other peers, however, who contributed their resources and support to Fife's post-Union politics, although not quite to the extent as the two rival Earls. While not active in local politics on the scale of Rothes or Leven, John Lindsay, 19<sup>th</sup> Earl of Crawford, a Whig who voted for the Union, participated occasionally in Fife politics. A Colonel (and later Lieutenant-General) in the Horse Guards, it was necessary for Crawford to be absent from St. Andrews, his constituency, for long periods, although he was elected as provost of the burgh from 1708 until 1712. Because of his military obligations, the Earl rarely attended the town council meetings, but instead assigned Robert Orrock, the Dean of Guild, to preside in his place. Crawford did find time to serve as a representative peer in the Lords for the first parliament of Great Britain in 1708, but in 1710 was removed from the Queen's List and did not retain his seat. While serving as provost for St. Andrews, Crawford found himself embroiled in an electoral controversy involving the St. Andrews delegate to the 1710 parliamentary election, meeting for the Perth district of burghs. The Earl subsequently learned that his candidate of choice lost the election, the subject of which will be discussed in Chapter 5.

When, in a letter to the Marquis of Tweeddale, Rothes declares that the "shire is divided betwixt Melvin's and Jacobites" he was not exaggerating.<sup>125</sup> Earls Balcarres and Kellie, were both politically active on the national level with loyal commitments to the Jacobite cause. While their involvement in Fife politics was not as intensive as their dedication to the Stuarts, they still wielded substantial influence in the county. In other words, they did not often concern themselves with the minutiae of day-to-day politicking within the towns and burghs in the style of Rothes or Leven, or even the often-absent

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<sup>125</sup> NLS, ms. 14415, f. 121, Earl of Rothes to Marquis of Tweeddale, 25 March 1706. Another of Rothes' pet words for the Earl of Leven was "Melvin."

Crawford, but rather they preferred to exercise their political loyalties on a national scale, which typically meant during the Jacobite rebellions.

Colin Lindsay, 3<sup>rd</sup> Earl of Balcarres, was fiercely loyal to James VII and a staunch royalist. He was appointed by James to serve as his principal political agent in Scotland after the King's abdication. After returning to Scotland, however, Balcarres was arrested and imprisoned in Edinburgh Castle because of his Jacobite activities. A close friend of Viscount Dundee, the leader of the Jacobite forces in Scotland, Balcarres was released after Dundee's death at the Battle of Killiecrankie in 1689, when he departed for France and spent considerable time at the Court of St. Germain-en Laye.<sup>126</sup> Queen Anne pardoned Balcarres in 1701, at which time he returned to his estates in Fife. Jacobite to the core, Balcarres fought for the rebels at the Battle of Sheriffmuir in 1715 with his son, James, unenthusiastically at his side.<sup>127</sup> The Earl's Episcopalian-Jacobite-Tory politics led him to champion the Fife Tory candidates in the early parliamentary elections immediately after the Union. Although he did not actively campaign, his acknowledged endorsement of the Tory candidates was well known throughout the Fife county electorate. Balcarres died at his Fife estate in 1723, aged seventy-two. Keeping the Fife Jacobite connections closely tied, Balcarres' daughter, Anne, had married Alexander Erskine, the 4<sup>th</sup> Earl of Kellie, in 1699.

The Erskine allegiance to the House of Stuart dates back to 1566, when Thomas Erskine, later the 1<sup>st</sup> Earl of Kellie, grew up as a boyhood friend and companion of James V. Alexander, the 3<sup>rd</sup> Earl, accompanied Charles II to England in 1651, where he was taken prisoner at Worcester and incarcerated in the Tower. Released in 1657, he pledged his

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<sup>126</sup> Legend has it that during the 1708 Battle of Killiecrankie, at the moment of his death, Dundee appeared in a vision to Balcarres still imprisoned at Edinburgh.

<sup>127</sup> Lord Lindsay, *Lives of the Lindsays; A Memoir of the Houses of Crawford and Balcarres* (London, 1849), pp. 157-171. James mentions in his memoirs that he believed the rebels had little chance of victory.

loyalty to Charles II at the Restoration, travelling personally to London to kiss the King's hand. His grandson, Alexander, the 5<sup>th</sup> Earl of Kellie, fought for the rebels at Preston, Falkirk, and Culloden, surrendered himself in July 1746, and was imprisoned at Edinburgh Castle where he remained for three years. Upon his release, Alexander lived quietly at his Fife estate, Kellie Castle, until his death in 1756.

Among the Fife barons, Henry Sinclair, 10<sup>th</sup> Lord Sinclair of Dysart, was certainly the most politically active in local circles. His involvement with, and promotion of, the Tory party is featured throughout this study. Sinclair's grandfather, John, 9<sup>th</sup> Lord Sinclair, whom Henry succeeded, was a devout Covenanter. The 9<sup>th</sup> Lord Sinclair commanded the Covenanting forces in and around Aberdeen from 1638 to 1646. Ultimately, however, he could not agree with the underlying principles behind the Solemn League and Covenant, thereby allying himself to Montrose with a pledge to assist in returning Charles I to the throne. Accompanying the King to England, Sinclair was arrested, held in the Tower, and later in Windsor Castle, until the Restoration parliament set him free in 1660. Although Henry's Tory politics were most assuredly shaped by the legacy of his grandfather, he could not be considered a Jacobite, in the truest sense; however, his eldest son, John, Master of Sinclair, was a Jacobite in every sense of the word. John was chosen as the first Member of Parliament for the Dysart district of burghs in 1708, through the auspices of his father's political influence, but because he was the eldest son of a peer, the election was declared null and void. Lord Sinclair's second son, Colonel James Sinclair, served as MP for the Dysart district of burghs from 1747 to 1754.

The Balfours of Burleigh, a Tory family of significant influence, were keenly active in Fife's political circles.<sup>128</sup> John Balfour, 3<sup>rd</sup> Lord Burleigh had three sons: Robert, 4<sup>th</sup> Lord Burleigh, John of Ferney and Henry of Dunbog. Ferney lost his estates after serving with the rebels during the 1715 Rebellion, while Dunbog served for the Tory party as one of the representatives for Fife in the last Parliament of Scotland. Dunbog participated in Fife politics for many years, serving with the Commissioners of Supply, where he often acted as praeses, or moderator. He also served as praeses during the controversial election meeting for the county MP in 1715, which is examined in Chapter 3.

None the less, while individual peers could wield considerable influence by virtue of their wealth and title status, Fife, like all Scottish counties, was above all a county of baronets and lairds. Much more than the aristocracy, these families kept their allegiances close to home, marrying locally and involving themselves in the business of county and burgh government. The most important of the baronets in this regard were the members of the Anstruther family – not least because there were just so many of them. The Anstruthers boasted five baronets, William, Robert, Philip, Alexander, and William's son, John. Each of these gentlemen also had extended families that permeated all aspects of Fife's politics. The sphere of influence of the Anstruthers was large, and extended outwards from their estates and residences in the East Neuk of Fife, located in the lower south-eastern corner of the county, and encompassed the small fishing villages of Anstruther Easter, Anstruther Wester, Crail, Pittenweem and Kilrenny.

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<sup>128</sup> The Balfours also provided one of the more colourful characters of Fife's lesser nobility. Robert, 5<sup>th</sup> Lord Burleigh, was sent abroad after falling in love with his sister's governess. Before his departure he threatened to kill any man she would marry. Upon his return he immediately asked about the young woman, only to learn that she had married the schoolteacher. Without hesitation Robert rode to the school, called out the teacher, and shot him in the shoulder. Mortally wounded, the young man died twelve days later. Found guilty of murder by the High Court of Justiciary in 1709, and sentenced to death, Robert managed to escape by exchanging clothes with his sister and walked out of the prison. Legend says he hid in a great ash tree on the Burleigh estate. He managed to avoid the authorities for several years, only to make an appearance at Lochmaben on 29 May 1714 and drank to the Pretender's health. He fought with the rebels during the 1715 Rebellion; afterward his estates were forfeited to the crown.

The Anstruther baronets were all sons or grandsons of Sir Philip of that Ilk, who had been knighted by Charles II at Scone in 1651.<sup>129</sup> Sir Philip's allegiance to the King had resulted in the forfeiture of his estates during the Interregnum, these being returned to him only at the Restoration. His eldest son, William, succeeded Philip upon his death in 1702. Philip's other surviving sons were Robert of Balcaskie, Philip of Anstrutherfield and Alexander of Newark. Sir John Anstruther, William's eldest son, succeeded him in 1711.

Sir William Anstruther, known for his overbearing personality and caustic demeanour, had served as a representative of Fife in the Scots Parliament from 1681 until its dissolution. He bitterly opposed the policies of James, Duke of York, when James served as Lord High Commissioner in Scotland, thus establishing himself as an opponent of the future king and, ultimately, a strong Whig. His loyalty to William of Orange would later earn him a seat on the Privy Council. Strongly favouring the Union, and subsequently earning the trust and patronage of Queen Anne, he was granted the baronies of Anstruther and Ardross by royal charter in 1704, in addition to the office of the bailliary of the lordship of Pittenweem.

John, however, proved to be a rather indecisive and vacillating politician, a tendency which rendered him incapable of committing to any firm decision or position.<sup>130</sup> John's

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<sup>129</sup> Philip, while entertaining Charles II during his Royal Progress through Fife, was a victim of the King's sarcasm. When sitting down to dinner at Dreel Tower, Charles remarked to his courtiers, "See what a fine dinner I've gotten in a crow's nest."

<sup>130</sup> *DNB*, pp. 46-47. Sir William's strong personality had a serious influence on the life of his son John. When negotiating the terms for John's marriage, he determined that the dowry of the daughter of Adam Cockburn, The Lord Advocate, was insufficient and reneged on the agreement, then decided to blame John for the decision. The Earl of Haddington met with William Anstruther a few days after the engagement had been called off and reported to Montrose that "he was mad as a buck...he designs to put the blame on Sir John who I swear doth not deserve it." NAS, GD220/5/132/1,3, Earl of Haddington to Duke of Montrose, 19 & 28 July 1707. Sir William also had no qualms about taking the Duke of Montrose to task when waiting for a promised payment: "I have been expecting with impatience these several posts to have heard from your Grace but it seems you are so much taken up in doing nothing that your Grace doth not mind your servants that are so inconsiderable as I am...This is the fourth or fifth I have writ to your Grace and never received but one since you went to court. I am sure the Marquis of Montrose would not have used me so but it seems Grace hath

mother, Lady Helen Hamilton, was also sister to Charles, 5<sup>th</sup> Earl of Haddington, himself the father of John, 9<sup>th</sup> Earl of Rothes. As first cousins, the two men, Sir John Anstruther and Rothes, ultimately forged a political alliance, albeit a somewhat tenuous one, which continually frustrated the more pragmatic and decisive Earl of Rothes. In particular, Sir John's inability to take a firm stance regarding the Union issue caused Rothes untold aggravation. Taking no chances, Rothes ultimately managed to convince him to be absent on the crucial day of the Scots Parliament vote.<sup>131</sup> Sir John served as the Fife county MP from 1715 until 1741, at which time he retired from Parliament, accepting a pension of £400 p.a. in the sinecure appointment of the commission of police.<sup>132</sup>

James, the second son of Sir Philip, the Anstruther patriarch, died young in 1683. However, James' son Philip of Airdrie managed to create an infamous reputation for himself. Philip served as MP from the Anstruther Easter burghs for the better part of the entire forty years of this study.<sup>133</sup> Philip was a military man by profession, rising to the rank of Major-General in the British army. He served as the governor of Minorca in 1747, albeit with much controversy, narrowly avoiding a court-martial for gross mismanagement. As irresolute as was his cousin John, Philip can only be described as nothing less than a hothead. He would duel at a moment's notice, had no qualms about threatening voters with violence to get

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changed you to the worse notwithstanding of our session of dignity." NAS, GD220/5/119/3-4, William Anstruther to Duke of Montrose, 5 & 12 June 1707. It is possible this payment was the £300 Anstruther was said to have negotiated for his pro-Union vote in the Scottish Parliament. See Rev. Walter Wood, *The East Neuk of Fife: Its History, Geology, Botany and Natural History in General* (Edinburgh, 1862), p. 187.

<sup>131</sup> Sir John married Lady Margaret Carmichael, the eldest daughter of the Earl of Hyndford, in 1717, when he was already serving as the MP from Fife, having been elected in the great Whig victory year of 1715. Lady Margaret died quite suddenly after only a few years of marriage, and the birth of one son. Sir John was reputed to have fought with great bravery for the government at the Battle of Sheriffmuir in 1715. In a letter to Montrose he describes the conflict in explicit detail, delivering a harrowing account of his and his regiment's battlefield experience. See NAS, GD220/5/489/4, John Anstruther to Duke of Montrose, 14 November 1715. In the heat of the battle, Sir John's horse collapsed under him, although neither horse nor rider was injured. Sir John remounted and continued to fight.

<sup>132</sup> NLS, ms. 14421, ff. 217, 226, Sir John Anstruther to Marquis of Tweeddale, 29 April & 7 July 1743.

<sup>133</sup> Sir Philip won the Anstruther Easter seat in 1715 when Sir John, who previously held it, won the Fife county seat. Philip continued to serve as MP through 1741 when he was defeated by John Stewart. He regained the seat in 1747, defeating the incumbent, and served until 1754.



elected, and holds the dubious distinction of being the only MP representing a Scottish constituency to vote for Edinburgh's punishment by the government after the Porteous Riots of 1736. Sir Philip's political career as the MP from the Anstruther Easter district of burghs is featured throughout this study, and in particular in Chapter 6, dealing with the controversial 1722 election for the Anstruther Easter burghs.

Sir Philip's remaining three sons, Robert, Philip and Alexander, all made substantial contributions to the politics of Fife.<sup>134</sup> Sir Robert of Balcaskie served in the Scottish parliament as commissioner, or representative, successively for Anstruther Easter, Anstruther Wester and for the county. He also won a by-election to represent Fife at Westminster in 1710, on the death of Patrick Moncreiff who had won the seat at the 1708 election, which is discussed in Chapter 3. Robert supported both the Revolution and the Union, along with his brother Sir William.<sup>135</sup> Neither Sir Philip of Anstrutherfield nor Sir Alexander of Newark actually held high public office, yet each played active roles in the Fife elections, typically helping to form a voting bloc in support of their nephew, Sir John, as the crucial county MP election of 1715 demonstrates.

Additional baronets besides the Anstruthers carved a niche for themselves in the competitive political environment of early eighteenth-century Fife. Sir Alexander Aerskine of Cambo, a prominent, albeit impoverished, Episcopalian Tory, served as MP for the county after electoral victories in 1710 and 1713.<sup>136</sup> Aerskine inherited his baronetcy from his father, Sir Charles Aerskine, 1<sup>st</sup> Baronet of Cambo, in 1677. Unfortunately for Alexander, he

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<sup>134</sup> Apparently, out of respect to their father, or due to a complete lack of creativity, three of the Anstruther brothers named their first-born son Philip, with one of the brothers named Philip as well. The confusion created by having a grandfather, uncle and three cousins with the same name, has caused considerable headaches for many a biographer.

<sup>135</sup> Sir Robert was one of the founders of the Bank of Scotland in 1695.

<sup>136</sup> The common spelling for this surname is Erskine, but, Sir Alex's personal preference was the ancient version of 'Aerskine.'

also inherited the family debt which left him with a small estate and numerous siblings to support. Marriage to his first cousin, Mary, daughter of the 3<sup>rd</sup> Earl of Kellie, while politically and socially beneficial, garnered little in the way of a dowry, but his position as Lord Lyon, the principal Scottish herald, offered some monetary compensation, as did modest rents from the Cambo estates. Faithful to the cavalier politics of his father, Aerskine's strong Episcopalian roots enabled him to become the *de facto* leader of the Fife Tory contingent. Aerskine can also be credited with the distinction of having at one point actually brought about a brief ceasefire between the rival Earls of Rothes and Leven when they had jointly attempted to prevent him from first gaining the county seat in 1710.

Also politically active in various capacities throughout this study include baronets Sir Robert Douglas of Glenbervie and Sir John Wemyss of Bogie, both loyal Tories, along with Squadrone adherent, and Rothes' favourite, Sir Peter Halkett of Pitfirrane. As the century progressed, however, the politics of eighteenth-century Fife began to move away from the influence of the peerage faction toward individuals whose character differed somewhat from the great landed magnates, thereby altering the internal balance in the political community.

Members of the landed gentry who entered the forum of Fife politics included John Drummond of Quarrill, for example, who derived the bulk of his income from commercial interests. Drummond, who represented the Perth district of burghs (which included Cupar and St. Andrews in Fife) from 1727 until his death in 1741, built his commercial interests as a merchant and banker in Amsterdam where he had migrated at the age of fifteen. Coming to the attention of Robert Harley who was greatly impressed by his depth of local knowledge, Drummond served for four years in the Netherlands as an unofficial intelligence officer for

Harley's ministry. In 1725, he purchased property in Scotland and entered politics being returned unopposed for the Perth burghs in 1727.<sup>137</sup>

The family fortune of James Oswald of Dunnikier, who served as MP for both the Dysart burghs (from 1741-47) and Fifeshire (1747-1754), came from his grandfather, a sea captain turned merchant. Oswald the elder, a Tory, served at MP for the Dysart burghs from 1710-1715. Close friends of Oswald, the younger, were Adam Smith and David Hume, both of whom he had known since childhood in Kirkcaldy. His close association with two of the Enlightenment's most prominent intellectuals provided him a new type of political profile. Oswald was not the pawn of a noble, a member of the military, or the younger son of a peer. He was what would be referred to in modern parlance as a Renaissance man. His politics were decidedly Whiggish, his interests wide and varied, and he served for the county of Fife well into the second half of the century.

Oswald and Drummond were both products of the landed elite, but by the middle of the eighteenth century, the backing of a proprietorial patron, such as a Rothes or a Leven, was no longer vital to achieving a successful political career. This does not mean that electoral influence from the local nobility or from Westminster completely evaporated. James Douglas, 14<sup>th</sup> Earl of Morton, for example, carried some authority in Fife during the mid-1720s with his support of John Drummond, MP for the Perth district of burghs; and the Earl of Ilay, Walpole's election manager for Scotland, left his fingerprints on many political decisions throughout the entire country until his death in 1761. The authority exercised by both of these gentlemen is examined in Chapter 5, but, as we shall see, such mighty external influences would have less authority in Fife as the century moved on.

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<sup>137</sup> Sedgwick, p. 623.

With an intriguing blend of Whig Presbyterians, Episcopal Tories, and devoted Jacobites, the aristocracy and gentry of Fife created a vigorous, and, more importantly, diverse political culture in the early years after the Union of 1707. The religious and political allegiance exercised by the families featured in this section, created an environment of unparalleled electoral competition in choosing a Member of Parliament for both the county and the burgh seats, now that the number of representatives for Fife had been reduced as a result of the Union. Before examining these elections in detail, however, it is important to recognize the administrative responsibilities of the gentry in maintaining and protecting the county infrastructure.

### III. **Managing the County: The Commissioners of Supply**

Local government in Fife encompassed a number of separate, yet inter-related structures and functions, each of which was the fundamental responsibility of the landowning gentry. Arguably, the paternalistic mentality of the eighteenth-century landed classes accounts for many actions undertaken by the local government. The gentry owned the land, therefore they were responsible for the well-being of the constituency. For the county of Fife, the administration consisted chiefly of the sheriff, the Commission of Supply, and the Justices of the Peace. For their part, the burghs were each under the management of their own town council typically comprising a provost, numerous magistrates (consisting of bailies and treasurer), and a wider community of burgesses and guild members.<sup>138</sup>

As previously mentioned, the sheriff acted as chief judicial officer and general executive of the county. While their judicial role did not include the four pleas of the crown

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<sup>138</sup> The term baillie and magistrate are often interchangeable; traditionally they were the town council members who had administrative and judicial powers; the provost served as a form of mayor. The term burgess was restricted to merchants and craftsmen who were entitled to membership on the town councils.

– arson, murder, rape, and robbery – the sheriffs had principal authority in most criminal cases, particularly over the crimes of theft, assault, and disturbing the peace. As we have seen, in Fife, it was the Leslie family, Earls of Rothes, who had held the post of heritable sheriff from 1496 until the reforms finally enacted at the end of our period. The office of sheriff was in fact little touched by the Union. Certainly in Fife the duties of the sheriff seem not to have changed at all. He was still responsible for the calling of elections, distributing parliamentary news and actions, and presiding at the sheriff's court. The sheriff will therefore feature in this study only in those instances where his duties brought him into contact with the Commissioners of Supply, the town councils, or the administration of county and burgh elections.

Since 1667, the most important duty of the Commissioners of Supply was to collect the land tax.<sup>139</sup> While the collection of the tax was in itself extremely important, it was also their duty to determine the valuation of land holdings. In Scotland, both before and after the Union, the right to vote as a freeholder in parliamentary elections was based on the rental value of heritable property; a landowner qualified as a freeholder with a land valuation of £400 Scots. As a result, the Commissioners were in effect the agency responsible for confirming the eligibility of the county freeholders to participate in parliamentary elections.

All landowners with a rental land value in excess of £100 *per annum* (in other words, many men not qualified to be voters themselves) were allowed a place on the Commission. Additionally, many of the Commissioners also served as Justices of the Peace in the county. It was actually common practice for Fife's Commissioners and JPs to convene in joint meetings, effectively forming a major institution of local government. The minutes of the Commissioners of Supply for Fife are available in their entirety from 1709 to 1747.

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<sup>139</sup> Whetstone, p. 25.

Unfortunately, the surviving JP minutes for the county do not begin until 1798, precluding any close study of their activities.<sup>140</sup> The survival of the commissioner's minutes allows us to see in some detail how the cess was collected, the manner in which the necessary road and bridge improvements were carried out, and how future development projects were managed. In short, they provide a unique record of how local county government in Fife actually functioned in the early eighteenth century.

With the exception of Whetstone's short survey of the Commissioners of Supply, there has been virtually no recent scholarly attention paid to this uniquely Scottish institution of government.<sup>141</sup> Originally similar in function to the English land tax commission, the Scottish Commissioners were, as we have seen, charged with collecting the land tax.<sup>142</sup> As the eighteenth century progressed, however, they surpassed their English counterparts by taking on greater responsibility for the overall maintenance of the county, while at the same time evolving into an active political voice for the local landowning community.

Prior to the Union there had been no qualifications for membership other than owning land. The Scottish Privy Council had simply named the landowners of their choice as the county's Commissioners. After the Union, however, the Commission was restricted to those who held land with the valued rent of £100.<sup>143</sup> Whetstone speculates that this change was

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<sup>140</sup> There are several joint session minutes available in the Commissioner of Supply Minutes. However, they do not distinguish between business conducted solely for the JPs, therefore making it difficult to determine which business was for the Commissioners and which for the JPs.

<sup>141</sup> Legal texts are available that discuss the functions of the Commissioners of Supply. See Robert Boyd, *The Office, Powers, and Jurisdiction, of His Majesty's justices of the Peace, and Commissioners of Supply* (Edinburgh, 1787); Gilbert Hutcheson, *Treatise on the Offices of the Justice of Peace; Constables; Commissioners of Supply...with Occasional Observations upon Other Municipal Jurisdictions* (Edinburgh, 1708). Whetstone offers the only contemporary analysis of the organization.

<sup>142</sup> Whetstone, p. 61.

<sup>143</sup> *APS*, 6 Anne (1707) C. 35, "who is not enfeofft in superiority or Property, or possessed as Proprietor or Liferenter of Lands, valued in the Tax Roll of the County or Stewartry where he acts, to the extent of One Hundred Pounds Scots per annum, excepting the eldest Sons and Heir-apparent of Persons who are so enfeofft of Lands to the Extent of the Valuation aforesaid". See Whetstone, p. 62.

most likely made to coincide with the English land tax commission requirements.<sup>144</sup> As we have seen, at the beginning of the eighteenth century Fife had a total of 808 heritable landowners. Within that total, 528 held land worth at least £100. In reality, however, not all of those so qualified could participate actively in the work of the Commission. Fife was a large county, extending over 513 square miles. It would therefore be difficult, if not impossible, particularly for a very small landowner, to attend the meetings of the Commission that were traditionally held at the Tolbooth in Cupar at least three times a year. This is why the sederunt listing in the commissioners' minutes contains the names only of those landowners with large estates – in other words, the landed gentry. Also of importance, as Whetstone notes, is the fact that the nobility were normally excluded from the Commission.<sup>145</sup> Yet, in Fife, the Earls of Rothes, Balcarres, and Wemyss are all listed among the Commissioners. In the case of the 9<sup>th</sup> Earl of Rothes, he was chosen as praeses of the meeting several times in the early part of the century.<sup>146</sup> Rothes' penchant for maintaining control of most matters concerning the county is a reasonable explanation for his involvement on the Commission, yet his motives were not always self-interested. Much like the numerous landed gentry who served on the Commission, Rothes, Balcarres, and Wemyss all had vested interests in the economic, as well as the general infrastructure, of the county. Consequently, their hands-on participation was, therefore, viewed as a necessary component of landowner responsibility.<sup>147</sup>

In accordance with the law, Commissioners were required to meet at least once each year. The sheriff or his substitute called the meeting according to the date set in the land tax

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<sup>144</sup> Whetstone, p. 62. In addition, with the Scottish Privy Council being dissolved in 1708 there was no longer a specific governing body available to make designated appointments.

<sup>145</sup> Whetstone, p. 64.

<sup>146</sup> The 10<sup>th</sup> Earl of Rothes, who inherited the title in 1722, does not appear on the Commissioners sederunt at all.

<sup>147</sup> There is no indication within the Supply minutes that the Commissioners held any animosity toward the participation of the peers. Such was not the case with the burgh councils that will be discussed in Chapter 4.

act.<sup>148</sup> Whetstone argues that “It was only after 1750 that the Commissions began to assume more duties.”<sup>149</sup> Therefore, beyond what the law required, there was little or no activity by the Commissioners anywhere in Scotland in the early part of the century. Before 1750, for example, the county of Angus showed no activity at all. Some valuation committee meetings were held at Ayr and Kirkcudbright but only two or three landowners attended. Haddington was able to manage two meetings a year on a regular basis; but one of these dealt only with the county accounts.<sup>150</sup> In sharp contrast, however, Fife, a county substantially overlooked in Whetstone’s study, held at least three, and usually four, meetings a year, every year, from 1709 to 1747, with an average of no fewer than twenty-four Commissioners present at each meeting. Indeed, on only one occasion did Fife not hold a scheduled meeting: on 19 May 1741 the minutes show “No meeting for want of a quorum”.<sup>151</sup> Naturally, attendance levels in practice varied over time. In the early post-Union years, between twenty and thirty Commissioners attended each meeting. The most impressive figures were recorded in the years between 1724 and 1732. Whetstone claims that when the election of county officers (that is to say, the clerk and collector of taxes) was on the agenda, attendance figures were usually higher.<sup>152</sup> This was certainly the case in Fife where attendance was always highest during the meeting when the officer elections were held: in fact, the turnout at these meetings averaged from 60 to 90 with the largest meeting held on 1 June 1731 attended by a remarkable 108 Commissioners. The office of county clerk was most often held by a writer (in other words, a lawyer) from the head burgh of the county, and in this case Fife was no exception having a notably long-serving incumbent during this period, Thomas

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<sup>148</sup> Before 1760, the meeting dates varied, but were typically held sometime in May or June.

<sup>149</sup> Whetstone, p. 69.

<sup>150</sup> Ibid.

<sup>151</sup> Markinch, Commissioners, 11 May 1709. It was not until 1766 that the Court of Session determined that at least five Commissioners needed to be present to conduct a meeting. Prior to this date a meeting could be held with less than five so it must be assumed that absolutely no one showed up on this day. See Whetstone, p. 67; *Origin & Constitution of Commissioners of Supply*, Book III, pp. 816-817.

<sup>152</sup> Whetstone, p. 73.



Horsburgh, writer to the signet and Sheriff Clerk in Fife, who held the post from 1715 until 1753, at an annual salary of £30 Sterling.<sup>153</sup>

Since the Commission of Supply existed for the express purpose of collecting the land tax, it was inevitable that one of their most important responsibilities was the choice of a tax collector. While this could be looked upon as a thankless job, it did have its perks. Throughout the forty years under consideration, the Fife collector received an annual salary of £100 Sterling. Compared to the aforementioned clerk's salary of £30, this was substantial. The post also carried some prestige within county society. It was probably the one county office that would help a gentleman of means and ambition to secure and enhance his political influence.<sup>154</sup> Some counties were more judicious in their choice of collector than others.<sup>155</sup> In early eighteenth-century Fife, the men elected as collector came from solid gentry families with long-standing connections throughout the county – not least, this meant that their reputation for ability was already well established. For example, James Magill of Rankeillor, who served as the Fife collector from 1716 to 1733, was married to Jean Anstruther of the powerful Anstruther family. Dynastic marital alliances, such as these, provided a local kin-based structure ensuring an already existing power base.

The collector, needless to say, did not perform the actual collecting of the taxes himself, although he was, of course, ultimately responsible for ensuring that the taxes were delivered to, and recorded by, the General Receiver in Edinburgh.<sup>156</sup> In practice, the taxes were collected by the deputy collectors. If these duties were not carried out and the cess was

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<sup>153</sup> Horsburgh's family was traditionally known for their service to the county by holding various administrative offices.

<sup>154</sup> Whetstone, pp. 72-73.

<sup>155</sup> *Ibid.*, p. 76.

<sup>156</sup> *Ibid.* For an interesting commentary on the office of Receiver General during the eighteenth century see W.R. Ward, 'The Land Tax in Scotland, 1707-98,' *Bulletin of the John Rylands Library*, XXXVII (1954-55), pp. 288-308.

not deposited with the General Receiver when due, the latter had two options at his disposal. One was to order the punitive quartering of troops; the other was to secure payment through law suits. Both Whetstone and Ward point out that these measures were only used in extreme cases, and often the arrears were simply allowed to accumulate.<sup>157</sup> Nevertheless, the threat of quartering or litigation was perceived as being very real and had the potential to embroil a county in a lengthy, and costly, dispute with agents of the national government. Although Fife was not subject to the presence of troops, the county did experience a serious tax arrears situation in 1738. At the June meeting the Commissioners were informed by the Receiver General that the county tax payment was seriously outstanding. Thomas Thompson, the deputy tax collector, for reasons not revealed in the Commission minutes, had failed to pay the Receiver. Not only was the payment overdue, but the funds were also missing. The Commission gave Thompson four months to recoup the funds. Not being able to repay the money, the Commission ordered that Thompson's home and lands were to be put up for public roup in order to satisfy his debt to the county.<sup>158</sup>

In keeping with their duties as tax collectors, the Commissioners were responsible for determining the national rental value of land for tax and electoral purposes. As previously mentioned, the rental valuation had formally been established in 1667. Prior to the Union, land valuations could be adjusted; but, post-Union valuations were fixed until 1854. Therefore the formal rental valuations were virtually unchanged throughout the period under study, irrespective of whether the land was forfeited, sold or inherited.<sup>159</sup> It was the particular duty of the Commissioners, therefore, to verify the valuation of a tract of land when it had been subdivided, parcelled, or purchased. In Fife, the Commissioners convened annual committee meetings to hear these cases, which were traditionally held in May or June.

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<sup>157</sup> Whetstone, pp. 76-77; Ward, p. 295.

<sup>158</sup> Markinch, Commissioners, 1 June 1738.

<sup>159</sup> Whetstone, p. 74; Timperely, p. viii.

The political importance of the land valuation meetings cannot be overstated. By owning heritable property with a rental value of £400 or more, the landowner gained the right to vote in parliamentary elections. As a result, the Commissioners essentially controlled access to the coveted status of freeholder. This authority could have been easily abused. In some Scottish counties, such as Kirkcudbright for example, the necessary confirmation of land valuation could take years. In this instance, Whetstone speculates the delay was due in part to the Commission's reluctance to allow valuation committees any type of "special power" to determine land values. This reluctance could also have been a political ploy designed to deny potential freeholders their right to vote.<sup>160</sup> There is no indication, however, that the Fife Commissioners indulged in such politically-motivated practices during the early decades of the eighteenth century. The importance of this is paramount to the politics of the time. It could have been tempting for the Commissioners to use their control over land valuation as a means to deny freeholder status to a heritable landowner, particularly if he, perhaps, did not share the political inclinations of a particular Commissioner. Now that the Scottish counties were only allowed one representative MP from each shire to the British Parliament, as opposed to the four MPs Fife was granted to the Scottish Parliament, the county freeholder vote assumed even greater importance and became even more desirable.

Road and bridge repair were another major responsibility of the Commissioners of Supply. In 1686 the Road Act had authorized an assessment of ten shillings Scots per £100 valued rent to be paid to the county for general repairs.<sup>161</sup> This assessment remained unchanged after the Union. The procedure for authorizing road and bridge repair in Fife appears to have changed very little in the years before and after the Union. Typically a landowner would present a request to the Commission with a description of the type of repair

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<sup>160</sup> Whetstone, p. 75.

<sup>161</sup> Ibid., p. 81.

needed. In almost all cases a committee would be appointed, consisting of at least three Commissioners, and often as many as five, who would personally visit the site and report to the next general meeting with a cost and labour estimate. The Commissioners usually seem to have reported back with surprising speed, considering the time it must have taken to view the site, gather estimates and arrange for the work to begin. If a repair was proposed during the May meeting, the budget would typically be voted on at the June meeting, with the work carried out as soon as the labour could be contracted.

The Fife Commissioners of Supply also, in co-operation with the Justices of the Peace, took on the responsibility of overseeing major building projects such as the Corrections House in Cupar. Concerned with an influx of “vagabonds and sturdy beggars and other idle vagrant persons which shall be found within their territory”, the Fife Commissioners approved a voluntary contribution of 3s, 4d upon each £100 valued rent to build a Corrections House in order to provide rehabilitation and employment.<sup>162</sup> The building plans were approved in 1726, with the project completed in 1730. Cost overruns plagued the construction progress, obliging the contractors to appeal for additional funds from the Commission on three separate occasions. The Commission approved £50 Sterling toward the completion of the project at each request.<sup>163</sup> In keeping with their desire to maintain control of the vagrancy situation, the Fife Commissioners, by way of announcements from the Mercat Cross in each royal burgh, informed the townspeople that the Constable “was to be fearful and diligent in apprehending all vagabonds and idle persons with their bounds and committing them to the prisons or bringing them before a justice or commissioner”.<sup>164</sup>

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<sup>162</sup> Markinch, Commissioners, 19 December 1723.

<sup>163</sup> Ibid., 7 June 1726, 7 July 1730.

<sup>164</sup> Ibid., 19 December 1723.

The general county administration of Fife was not typically fraught with partisan politics. As demonstrated above, the landowners, including the nobility, were diligent in providing the services expected of the Commissioners of Supply. There is no evidence within the Fife Commission minutes of a Commissioner using party loyalties to promote or obstruct any particular administrative duty, either adversely or advantageously. Nor is there any evidence of abuse being used when determining land valuations whereby a landowner could be denied the right to a freehold vote. This does not mean that party politics did not occur, or were not promoted, within the ranks of the Commissioners while engaging in their civic duty. The reality is quite the contrary. Fortunately, since this is a study concerning elections, the politicking that did take place within the Commissioners of Supply logically appeared during the election of officers. An excellent example of how the political parties within the county attempted to work an election to their advantage is demonstrated in the tax collector and county clerk election of 1723. Not only does this particular election showcase the efforts made by the landowners on behalf of their respective parties, it also features the actions of an ambitious young politician willing to work both sides of the ballot.

John Leslie, 9<sup>th</sup> Earl of Rothes, had died in May 1722. The following April, his son John, the 10<sup>th</sup> Earl, was embroiled in a political fight that would have been very familiar to his father: the young nobleman found himself going head to head with Philip Anstruther. Although, as mentioned earlier in this chapter, the Anstruther and Leslie families were related by blood, and both were broadly Whiggish in their external affiliations, in local politics their views did not always coincide. Former tax collector James Magill had had the support of the 9<sup>th</sup> Earl when first elected in 1716, as indeed did Thomas Horsburgh who was elected county clerk at the same time. Prior to the clerk and collector election of 1723, the new Earl of Rothes wrote a letter to the Marquis of Tweeddale that demonstrates the evident political rivalry within the ranks of the Commissioners:

there is soon to be an election of a collector of the cess in our county, I think it is to be on the second of May next; and the party that has opposed my fathers interest and mine in the county have made it a point to turn out the men my father used his interest to be collector and clerk. The two men are Mr. Makgill of Rankeillor and Mr. Horsburgh the Sheriff Clerk. I have engaged to give them my interest in this election. I have since been applied to by Sir James Holburn of Mensbrie's son who is to be set up in opposition to the others that I am to befriend, tho at the same time he would make me believe that its only by my interest he comes to offer his services. I know it to be other ways. He gives it out to these that he thinks my friends that he has my interest and to the others, that is by the Anstruthers he thinks to carry it, but that he must make the most of me. I leave you to judge whither this be a fair and gentlemanly way of doing, or whither I ought not to oppose him for several reasons; particularly one, that he has always been about Col. [Philip] Anstruther's hand and was one of the principal men employed in the stealing of Mr. Scot's election has been on several occasions an under straper to that pretty gentleman...I own at the same time I believe his father Sir James to be a very honest man and my friend...but the short answer for that is the other folks are employed to be for his son and have made it a point to show their strength upon. I don't know how it may go and should be sworn to be baffled and therefore must trouble you at this time that you would order William Black to go about your friends and any other folks he may have interest with to desire them to be at Cupar and give their votes for Mr. Makgill and William Horsburgh. If he can't prevail with some to go he will at least keep them from going to do hurt...<sup>165</sup>

Evidently young Holburn was attempting to work both sides of the rivalry, approaching Rothes while already having the support of Anstruther. Clearly, though, the endorsement from Rothes was regarded as a political plum. Although Fife was a county in which an unusually numerous gentry largely avoided its domination by individual members of the aristocracy, the personal backing of a substantial noble patron could still provide vital political support for a motivated candidate. By adhering simultaneously to Anstruther, however, Holburn was not doing himself any favours. Anstruther had recently stolen the Anstruther Easter Burgh parliamentary election of 1722 by coercing the burgh delegates and extorting votes for himself, making certain that his opponent David Scott of Scotstarvit was not elected.<sup>166</sup> Anstruther was ultimately returned, but only after the contest had been

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<sup>165</sup> NLS, ms. 14421, f. 92, Earl of Rothes to Marquis of Tweeddale, 11 April 1723.

<sup>166</sup> This election is discussed in complete detail in Chapter 6.

considered by the Whig-heavy House of Commons. It appears that Holburn had been one of the delegation used by Anstruther to ‘influence’ the votes of the burgh delegates.<sup>167</sup>

Tweeddale had also been approached about the Fife collector’s election by Sir Peter Halkett, long-time Squadrone adherent and loyal adherent to the Rothes faction.<sup>168</sup> Halkett concluded that young Holburn’s recent association with Philip Anstruther was not a healthy one. He informed the Marquis that Sir James Holburn, the candidate’s father, “has always been firm to the Constitution.” But young Holburn was dealing with “a party which has other views than doing him or his family service.” Halkett therefore pledged his service to the county by doing what he could to avoid further enhancing the influence of Philip Anstruther. Halkett also assured Tweeddale that the latter’s support against Anstruther would “have great weight and that your recommendations does very much influence”.<sup>169</sup>

Whether through the active assistance of Tweeddale, the campaigning efforts of Rothes and Halkett, or a mixture of both, Magill and Horsburgh were in fact re-elected on 2 May 1723.<sup>170</sup> According to the sederunt, among the 51 Commissioners present were both Philip Anstruther and Sir Peter Halkett. Rothes, however, was absent, and interestingly, neither of the Holburns was present. It is quite possible, however, that by the time of the election young Holburn had realized that his campaign efforts had failed, thereby explaining his, and his father’s, absence. Regrettably the minutes only report the election results and do

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<sup>167</sup> This is not the first time the Holburn’s had offered their services to Fife politics. In 1709, during a conversation with James Erskine, Lord Grange, James Holburn offered his candidacy as the Fifeshire MP after the death of Patrick Moncrieff. Moncrieff was the first MP elected from the shire after the Union in 1708. While apparently an honourable man, Holburn’s offer was not considered. NAS, GD124/15/943/5, Lord Grange to the Earl of Mar, 5 February 1709. Lord Grange was the brother of the Earl of Mar. The 1722 Anstruther Easter burgh contest election is examined in Chapter 6.

<sup>168</sup> Halkett took over the Scottish Parliament seat vacated by his brother-in-law, Sir James Halkett, upon Sir James’ death in 1707.

<sup>169</sup> NLS, ms. 14421, f. 48, Sir Peter Halkett to Marquis of Tweeddale, 15 April 1723.

<sup>170</sup> Markinch, Commissioners, 2 May 1723.

not reveal the discussion that most certainly took place among the Commissioners prior to the vote.

What is important in this instance, however, is the politicking that took place prior to the election. This election demonstrates, in Fife at least, that the county communities were perfectly capable of vigorous political activity, even to the point of forming party factions, enlisting the support of the nobility, and outwardly campaigning for a local administrative office. The 1723 Fife tax collector election provides a fitting example of how competitive political factions could turn, what some might consider, a mundane decision, into a party-driven competition.

Whetstone argues that it was not until after 1750 that the Commission meetings took on a more coherent and pro-active outlook, referring to this process as “the growth of a county consciousness.”<sup>171</sup> Yet the keen interest the Fife Commissioners demonstrated in the election of their officers, as well as in their concern for the county’s welfare, suggests that their awareness of Fife’s interests had certainly existed from the time of the Union, only to expand as the century progressed. This interest demanded of the landowners a responsibility to provide leadership in the maintenance of the county’s infrastructure. Due to the numerous landed gentry, Fife was not under the control of a narrow oligarchy, but was managed by a diversified amalgam of peers, lesser nobility, and large-to-moderate landowners. To their credit, the Fife Commissioners performed the duties intended for the institution of Commissioners of Supply originally set out by the Scottish government in the late seventeenth century and continued to do so in the decades after the Union.

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<sup>171</sup> Whetstone, p. 69.



#### IV. Conclusion

The religious, political, and economic diversity demonstrated within Fife's aristocracy and landed gentry served to create a multifaceted society of electoral significance. Economically, the Fife landowners were similar in profile to their counterparts in England. Numerous middling-size estates produced a gentry population that was not only politically aware, but also exceptionally active in local government. By virtue of their numbers, they were also capable of stopping, or at least of offering a counter-balance, to any attempts at political control generated by the aristocracy. The Treaty of Union directly impacted the political lives of these individuals. With parliamentary seats at such a premium, the landowners were forced onto a political stage of national significance as their small, but vital, say was at stake.

With their political ideology formed from generational legacies of religious belief (and in some cases religious persecution) after the Union, the Fife landowners created a politically charged environment with all major parties and factions represented. Destined to be both demanding and extremely competitive, this new political order would require that party allegiance be central in order to ensure its survival. As the following chapters will attest, the Fife landowners were not only up to the challenge, but involved themselves in the politics of a new nation, on an extraordinarily active scale.

## Chapter 3

### The Fifeshire Parliamentary Elections

*“Pray Mr. Secretary will you tell King George to dissolve this Parliament and put his friends out...else I shall kill myself with ale and brandy punch.”<sup>172</sup>*

Scotland's first Parliamentary election after the Act of Union took place on 20 May 1708. With only one seat available for the entire county, compared with four commissioners returned to the old Edinburgh Parliament, this election marked the beginning of a new era in Fife's partisan politics. Indeed, the entire Scottish representation at Westminster was now comprised of just thirty members from the counties and fifteen members from the newly-designed burgh districts, making a total of only forty-five seats in the Commons. Scotland was also allotted sixteen representatives in the House of Lords, the identity of whom was decided by a separate vote among the Scottish peers at each election. The post-Union order clearly entailed a substantial reduction in the number of parliamentary positions available to Scotland's active politicians. This reduction, a direct result of the Union, impacted upon the entire county election franchise, creating intensely competitive political campaigns during the early post-Union years for the one parliamentary seat now available. This chapter, therefore, seeks to demonstrate not only the previously underestimated extent of politicking that took place in post-Union Scottish county elections, but also examines the magnitude of responsibility practised by local politicians dedicated to capturing that “small, but vital say in London” for their particular party.

When studying elections in the early eighteenth century it is, of course, critical to recognize that Scottish political campaigns and elections even after the Union were

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<sup>172</sup> NAS, GD27/3/14/7/3, Earl of Rothes to Corrie Kennedy (Secretary to the Duke of Montrose), 27 December 1714; referring to the necessary campaign efforts for the Fife county election of 1715.

fundamentally different from those run in England. The major difference stems from the variation in the number of voters in each country. Scotland's total electorate was just 2,882 as late as 1781, whereas England's had probably numbered around 300,000 in 1715.<sup>173</sup> This difference of scale means that any close comparison of the two systems is futile. Moreover, the constant politicking that took place in Scotland often had a surreptitious quality about it. While English elections frequently became public events and involved committees, agents, canvassing, parades, rallies, speeches, and finally polling, Scotland had none of that.<sup>174</sup> Electioneering in Scotland was handled in a much more clandestine manner through correspondence, private meetings, and word-of-mouth communication as attempts were made to determine who was pledged to vote for whom. The election manager in Scotland, at least in the early part of the century, was also most likely to be a locally-based aristocrat. On election day the English voter might well be treated to a large rally involving ribbons, bunting, music, speeches and lots of ale.<sup>175</sup> Scottish voters arrived at the tolbooth at the required time on the day of the election and simply stated their choice of candidate when their name was called. Sometimes the Scottish electorate did expect to be, and on occasion was, entertained by the local magnates who were canvassing for their vote, hence the comments made by the Earl of Rothes featured at the opening of this chapter. Local politicians were more than willing to supply the freeholders "their guts full of drink."<sup>176</sup> But this meeting would invariably take place in a pub or private home, and certainly did not involve anything on the spectacular scale of the electoral entertainment often seen in England. The two countries were similar, however, when it came to some of the key factors

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<sup>173</sup> Frank O'Gorman, *Voters, Patrons and Parties: The Unreformed Electoral System of Hanoverian England 1734-1832* (Oxford, 1989), p. 179; Dickinson, *Politics of the People*, pp. 43-49; *House of Commons*, Vol. I, p. 152.

<sup>174</sup> O'Gorman, *Voters, Patrons and Parties*, *passim*.

<sup>175</sup> Dickinson, *Politics of the People*, p. 47. Over 7,000 cockades were handed out to the Norwich voters in 1784; a constituency with a voter population of approximately 3,000. In 1784, Charles James Fox celebrated his Westminster victory by attending five celebratory dinners when anywhere from 700 to 1,000 supporters attended each.

<sup>176</sup> NAS, GD220/5/440/9, Earl of Rothes to Duke of Montrose, December 1714; "I have been in my time a good deal out of pocket with politics and it is not a very small change...and it is necessary to give folks their guts full of drink."

shaping the outcome of elections. Elections in both Scotland and England were strongly influenced by considerations of party allegiance, religious affiliation, and social connection. And a shire candidate in either country, particularly in the early decades of the eighteenth century, would require the kind of respectability which only landed gentility could provide. All of these issues needed to be weighed carefully before a candidate could even hope to win the support of the wider electorate.

Because Scotland's electoral procedures were so outwardly sedate, they also gave the impression of having more gravitas than elections in England. For the Scots, elections were not a time to party; they were, at least in theory, a time to exercise their rights as landowners and beneficiaries of the franchise. Getting one's name on the Roll of Freeholders, thus allowing one a vote, was itself an arduous process. Voting was accordingly a right to be taken seriously, and was evidently a practice to which most electors were strongly committed. Ronald Sunter asks the question "Was Scotland an abyss of political corruption before the country was rescued by the Whigs in 1832?"<sup>177</sup> The answer, at least for the Fife county voter in the early part of the eighteenth century, appears to be – no. As we shall see, a close examination of the shire elections between 1708 and 1747 yields little evidence of widespread corruption, in the way of faggot votes, bribery, or coercion. Fife's electors did practice some dubious interpretations of electoral law on occasion, but nothing in this period so venal as outright bribery or use of faggot votes which by the 1780s had become one of Scotland's more embarrassing national scandals.

It is unfortunate that the election meeting minutes for the early part of the century have not survived. The earliest available record is a freeholder's list dated 1733, and it is not until 1747 that a full and complete record of the conduct of a county election in Fife is

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<sup>177</sup> Sunter, *Patronage*, p. 3.

available. Before this date therefore, what actually transpired during county elections has necessarily had to be pieced together from a variety of extant letters, lists, and newspaper announcements, as well as from the records of the House of Commons. Fortunately, in the course of research for this study, a previously-unknown set of minutes came to light in the Earl of Rothes' papers, now housed at the Fife County Archives in Markinch. Entitled "Meeting of the Barons and Freeholders of Fife" and dated 10 February 1715, this document consists of extracted minutes taken from the actual freeholder's election meeting. As if to underline their authenticity, both the praeses and the clerk of the meeting have apparently signed the document. These minutes will allow us to shed an entirely new light on what has long been regarded as a particularly important early election.

## **I. Electoral Law and Procedure**

The method for electing Scottish county MPs to the Parliament of Great Britain was broadly the same as that which had been determined in 1681 for return of the commissioners to the Scottish Parliament in Edinburgh.<sup>178</sup> Throughout the four decades after the Union, numerous Acts of Parliament were passed which altered Scottish electoral law in minor ways, but the basic procedure remained the same. In Fife, the Roll of Freeholders enfranchised under the old seventeenth-century qualification was updated and revised annually at the Michaelmas Head Court held in Cupar; the eligible freeholders would then cast their votes at a county election meeting (in the case of Fife, again held at Cupar); and the results of the election would be registered with Parliament in London. Yet what appears as a relatively

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<sup>178</sup> "The representative of shires, in the parliament of Scotland, received commissions directly from the freeholders, and hence they received the name of Commissioners." See, Alexander Wight, *An inquiry into the rise and progress of Parliament, chiefly in Scotland; and a complete system of the law concerning the elections of the representatives from Scotland to the Parliament of Great Britain* (Edinburgh, 1784), p. 318.

straightforward procedure was in practice a complex mixture of legal principle, strategy and persuasion.

The first authoritative work on Scottish electoral law to emerge after the Union was *The Law concerning elections of members for Scotland, to sit and vote in the Parliament of Great Britain* by John Spotiswood, published in 1710.<sup>179</sup> Spotiswood's text offers a basic outline of election procedures, along with a valuable (though sometimes tendentious) comparison between Scottish and English law. In addition to Spotiswood, three other major texts offer a contemporary interpretation of Scottish election procedure. Alexander Wight's *Treatise on the laws concerning the Election of the Different Representatives sent from Scotland to the Parliament of Great Britain* (1733; revised edition 1784) ranks as the premier resource on the subject. As a principal advocate in election cases, Wight had first-hand experience of the operation of Scotland's electoral law and political management.<sup>180</sup> Robert Bell's *Treatise on the Election Laws as they relate to the Representation of Scotland* (1812) and Arthur Connell's *Treatise on the Election Law of Scotland* (1827) both lean heavily on Wight's treatise, but they also provide additional case studies from the late eighteenth and early nineteenth centuries.<sup>181</sup> It is the work of these four authors that provides the basis for understanding how Fife's county elections were conducted.

By the act of Charles II 1681, cap. 21, a roll was created, listing the names of those who had qualified to vote – based, as we have seen, on the 1667 valuation of their land. The roll also carried a notation that the freeholders were obligated to meet annually at the Michaelmas Head Court, usually held in the county town, to review the roll and make adjustments as

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<sup>179</sup> The revised version published in 1722 has been used for this study.

<sup>180</sup> William Ferguson, "The Electoral System in Scottish Counties Before 1832," in *The Stair Society, Miscellany Two*, ed. David Sellar (Edinburgh, 1984), p. 262.

<sup>181</sup> *Ibid.*, p. 261.

necessary.<sup>182</sup> It is this Roll of Freeholders that forms the basis of shire election procedure and so clearly distinguishes the Scottish system from that in England. Its significance cannot be exaggerated. Whereas England's procedure allowed polling to extend over a number of days, putting considerable pressure on the sheriff who was expected to examine and certify land titles on the spot, the roll, revised on an annual basis, allowed Scottish voters and officials to avoid such confusion and conduct the poll at one meeting. Moreover, due to the lack of control exercised in English elections, copyholders were often able to vote as freeholders, when they were not legally allowed to do so.<sup>183</sup> In fact, England did not have an official register of legal electors until the Great Reform Act of 1832,<sup>184</sup> whereas Scotland's roll had existed since 1681.<sup>185</sup> In Scotland, without a listing on the roll, no freeholder was legally allowed a vote.

How did one qualify as a freeholder in a Scottish county? As described by William Ferguson,

“qualification was fixed on lands held of the king whose valued rents were not less than £400 Scots. Whatever the origin of the lands, whether old kirklands or not, and whatever the tenure, those in the words of the statute, ‘publickie infest in property or superiority’ of lands of this value held of the king or of the prince of Scotland should have the right to elect or be elected.”<sup>186</sup>

Proof of land valuation was therefore paramount, requiring potential freeholders to produce a valued rent certificate obtained from the county's Commissioners of Supply, in addition to their charter and sasine to confirm ownership. Furthermore, freeholders were required to be at least 21 years of age and of the Protestant faith.

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<sup>182</sup>Wight, p. 131. Changes to the Roll included the recordings of deaths, qualifications of new voters, etc.

<sup>183</sup> Copyhold in England allowed land to be held by being recorded in the court of the manor; this did not constitute a legal voting right.

<sup>184</sup> In England, the Act of 1696 imposed a maximum of 40 days for polling. The 1784 Westminster election had the polls open from 1 April to 17 May, causing the enactment of a 1785 law reducing the polling days to fifteen. See O’Gorman, *Voters, Patrons, and Parties*, p. 135.

<sup>185</sup> Ferguson, “Electoral System,” p. 270.

<sup>186</sup> *APS*, VIII, 353, in Ferguson, “Electoral System,” p. 269.

The surviving Fife Roll of Freeholders, dated from 1733, bears testimony to the diligence exercised by the Sheriff-Clerk in keeping the roll updated and accurate. At the Michaelmas court held at Cupar each October, the Sheriff-Clerk listed each of the freeholders' names, their place of residence and the rental value of their land. While it was not a requirement for the freeholders to be present at the adjusting of the Rolls, typically a small sederunt of them did attend the Head Court to ensure the accuracy and legality of the roll adjustment. Fife, for example, managed an attendance of between five and ten freeholders at each Michaelmas court session between 1733 and 1747.<sup>187</sup>

Upon the calling of a Parliament by royal proclamation, a warrant was dispatched to the clerk of the crown to issue writs to the sheriffs for the election of Members of Parliament in each county.<sup>188</sup> The Scottish Act of 1681 had made the sheriff of each county responsible for calling the shire's election meeting. Notice of this meeting, which had to be held at least twelve days prior to the convening of Parliament, was to be announced at the main burgh (i.e. county town) on market day, between 10:00 a.m. and noon.<sup>189</sup> Further announcements were also to be made at every parish church in the county on the following Sunday and at least three days before the election meeting.<sup>190</sup>

The freeholders met on the day instructed by the sheriff, the Earl of Rothes in the case of Fifeshire, at the sheriff ordinary courtroom between noon and 2:00 p.m.; in early eighteenth-century Fife this occurred at the Tolbooth in Cupar. Once the opening formalities of the election meeting were concluded, the duties of the sheriff ended, and the sitting MP from the shire took the chair and administered the Oaths of Allegiance and Assurance to the

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<sup>187</sup> NAS, SC20/79/1, Fife Roll of Freeholders.

<sup>188</sup> Wight, p. 302.

<sup>189</sup> Arthur Connell, *Treatise on Election Laws in Scotland* (1827), p. 274.

<sup>190</sup> Wight, p. 304.



freeholders (and the Abjuration Oath if requested by any registered freeholder).<sup>191</sup> The next item of business was the calling of the Roll by the MP, asking for the freeholders to vote for a praeses and a clerk, with the MP again having the deciding vote in the event of a tie.<sup>192</sup> Controversy over whether to administer the oaths before or after the calling of the Roll was a key issue, as we shall see, during the 1715 Fifeshire parliamentary election.

The selection of the praeses was particularly important at this stage; he held the power of the casting vote in the event of an equal number of votes being cast for the rival candidates. In instances where, prior to the meeting, the election was thought likely to be close, candidates were extremely keen to have their own man in the chair. Here again, the importance of the choice of praeses will be seen clearly in the case of the Fife county election of 1715. Once the election was completed, the minutes of the proceedings were signed by both praeses and clerk, and delivered to the sheriff, whose duty it was to return the writ for election to the crown office in Chancery.<sup>193</sup> Although the elections were based in Scottish law, and took place, of course, in Scotland, the electoral offices to which the Sheriff reported were English.

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<sup>191</sup> There is a discrepancy in the interpretation of the law on the point when the freeholders are required to take the oaths of assurance and abjuration. According to Spotiswood, the oaths to the freeholders are delivered after the adjustment of the Rolls. See John Spotiswood, *The Law concerning Election of Members for Scotland, to Sit and Vote in the Parliament of Great Britain* (Edinburgh, 1722), p. 69; Wight states, however, "this is the customary mode of proceeding; but it is not necessary that any of the oaths to government be taken before the election of praeses and clerk, unless it be required". See Wight, p. 306.

<sup>192</sup> In an attempt to prevent election abuses, Act 16 Geo. II, c 11, sect 13, declared that "any commissioner last elected, or, in his absence, the Sheriff-Clerk, shall in the choice of praeses and clerk, receive the vote of anyone who does not stand on the roll, he shall for every offence forfeit £300 Sterling to every candidate for the office of praeses or clerk respectively, for whom such person shall not have given his vote." See, Connell, p. 278.

<sup>193</sup> Wight, p. 317. Interestingly, the law did not require that the minutes of the MP's election be delivered to the sheriff, only the minutes regarding the election of praeses and clerk. According to Wight, "he [the sheriff] has no concern with the minutes of the election of the member; and is bound to annex the return made by the clerk chosen by the majority of the freeholders standing upon the roll last made up, without the privilege of inquiring whether the person so returned to him was properly elected or not." As a result, if the clerk were to present an MP to the sheriff who had not been properly elected by the freeholders, technically the sheriff was powerless to rectify the situation. According to the law, the sheriff's only legitimate concern in this regard was that the election of the clerk should have been properly conducted, and that the clerk presenting the writ to him was, indeed, the person elected by the freeholders to do so.

## II. The Elections of 1708, 1710, and 1713

Because of the anti-Unionist feelings that swept the country following the passage of the Act of Union, the Scottish ministry wisely avoided a general election for the new Westminster Parliament convening in October 1707. Anxious not to risk an election where voters might voice their hostility towards the Union, the Scottish MPs in the very first British Parliament were actually nominated by the last Scottish Parliament itself.<sup>194</sup> It was not until almost a year later, in May 1708, that the first general election for the Westminster Parliament was conducted among Scotland's voters.

In Fife, the Earls of Rothes and Leven each had a severe challenge on their hands if they wished to secure the return of their own nominee for the county seat. Both were committed pro-Union Whigs, with Rothes a member of the Squadrone, whose change of allegiance had made the Treaty possible, and Leven loyal to the Court Party and a solid Queensberry man. Each thus felt a strong responsibility to his respective party to get his candidate returned. Although Rothes and Leven had political adherents located throughout the county, their individual power base was centered around their estates; Leslie House, outside Cupar, for Rothes and Melville House, in the Kirkcaldy district, for Leven. Even with their connections, however, neither of these noblemen could take his local support for granted, since the Fife Episcopal Tories and Jacobites represented a constant threat. The power struggle between all of these factions was not itself the result of the Union; although the Union had certainly exacerbated the situation. Rather, these tensions had existed for several years before the Treaty, and had produced earlier contests during the elections for the last Scottish parliament.

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<sup>194</sup> Riley, *English Ministers*, p. 31; E.A. and A.G. Porritt, *The Unreformed House of Commons: Parliamentary Representation before 1832* (Cambridge, 1909), p. 7.

On the death of William in 1702, Scotland had held its last general parliamentary election as an independent state – although, of course, no one knew this at the time.<sup>195</sup> The Fife county elections had resulted in three of the four representatives for the shire being essentially split along party lines. Sir William Anstruther, allied to Rothes, had taken one seat, with two others going to Tory cavaliers.<sup>196</sup> Major Henry Balfour of Dunbog and David Bethune of Balfour were both supporters of the Tory Country Party and would ultimately vote against the Union.<sup>197</sup> The fourth Fife county member, Sir Patrick Murray of Pitdunnes, died before taking office, causing a by-election to be held in April 1703; Robert Douglas of Strathendrie, allied to Rothes, won this seat by sixty votes, although not without controversy.

Writing of the by-election results to the Marquis of Montrose,<sup>198</sup> Rothes reports that Leven had not appeared at the poll,

...but the Lyon [Sir Alexander Aerskine], that nice politician, gave us a great deal of trouble first by setting up for himself and when he saw that would not do by setting up Sir Philip Anstruther, think[ing] by that means to get all the Anst[ruth]ers to their side, however, with a great deal of pains we have got that affair ordered and Sir Philip persuaded not to set up...the Lyon saw that this would not do...he found it most convenient to make an objection against the meeting saying it could not be legal because there was no warrand from the Queen nor Parliament and also the intimation was to short and so protested against the election and went out together with Sir Alexander Anst[ruth]er, Balfour and 12 or 14 more ...<sup>199</sup>

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<sup>195</sup> The Scottish Parliament only held general elections at the death of the monarch or when the monarch decided to call a new election. The Triennial Bill was law in England. Not until 1708 was Scotland required to hold elections every three years.

<sup>196</sup> Although two seats went to the Country Party, Rothes did manage to hold sway over Leven who had no candidate victories in this election. Never missing a chance to insult the Melvilles, Rothes nicknamed them the "Melvin's" using the term in his correspondence. When writing to the Duke of Montrose he mentions that "the family of Melvin is and has been most plagued and troublesome...they think to regain their honour by perfecting the towns of Cupar and Kirkcaldy with their malicious, groundless processes". NLS, ms 14415 f. 121, Earl of Rothes to Marquis of Tweeddale, 25 March 1706.

<sup>197</sup> *House of Commons*, Vol. 1, p. 851; Riley, *Union*, p. 332.

<sup>198</sup> James Graham, 4<sup>th</sup> Marquis; created 1<sup>st</sup> Duke in 1707. Montrose was Lord President of the Council, and reluctant adherent to the Squadrone, according to Riley. He was thought in a more favourable light by enemies of the Squadrone, although he most often voted in their favour. See Riley, *English Ministers*, p. 31.

<sup>199</sup> NAS, GD220/5/50/1, Earl of Rothes to Duke of Montrose, 18 April 1703.

The following day, Aerskine had delivered a "ridiculous paper" to the election clerk stating the reasons for his case against the election. According to Rothes, this paper contained at least twenty more reasons why the election should be contested, none of which had actually been discussed at the meeting. Rothes also questioned an additional twenty signatures appearing on the document, expressing his doubt that "indeed they had any right whatsoever to vote not being qualified by a 40 shilling land or £400 pound of valued rent holding of the Queen."<sup>200</sup>

A few days later in his typical sarcastic vein, Rothes reported that

my good friend Balcarres and the Lyon are working their utmost in this shire for they think to get our last election contested in Parliament and making all the friends they can have in case...that can come about to have one of their own setting up and the person they design is Sir Philip to set up, but I design to meet with him and be very plain with him. Balcarres his great project is this to make people believe that he has the most interest in this shire and so thinks to get a place...<sup>201</sup>

Apparently, however, if Rothes did meet with Anstruther, it did the trick. Strathendrie's election was upheld, though he died in 1706.<sup>202</sup> Strathendrie was a close friend of Rothes, and at his death Rothes wrote to Montrose of his feeling "a very great loss of him...he was a good honest neighbour." Finding a replacement also caused Rothes to lament how "this shire is betwixt Melvins and Jacobites and if either of these should carry it would be improven very much to my disadvantage".<sup>203</sup> Writing in a very frank letter to Tweeddale, Rothes also expressed his concern with the by-election for Strathendrie's vacant seat and allows us a very telling glimpse into the manoeuvrings that needed to be taken into account when proposing a candidate:

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<sup>200</sup> Ibid.

<sup>201</sup> NAS, GD220/5/50/2, Earl of Rothes to Duke of Montrose, 25 April 1703.

<sup>202</sup> *House of Commons*, Vol. 1, p. 852.

<sup>203</sup> NAS, GD220/5/50/2, Earl of Rothes to Duke of Montrose, 25 April 1703.

But as things stand I think there's a necessity for me to have the reputation of making a member of Parliament else other people will take the praise on to themselves and in that case I may be thought to have lost my interest in this shire. If I could get a moderate man and have him come in by the interest of my friends and myself I think were not improper for me to set up. But withal there's Yester [Lord Yester, son to Marquis of Tweeddale], St. Clair [Henry, 10<sup>th</sup> Lord St. Clair]] and Anster [Sir William Anstruther] must all give there concurrence else things will not go easily. I wrote to Yester but I think he does not incline to meddle at all, but upon second thought I hope he will. I have thought upon many and the ill best I can think of is my Lord Rankeillor [Sir Archibald Hope], his being Lord of the Session with our interest will certainly carry him as any one man and he'll prevent a sores perhaps. I know he did oblige a great many particularly in the western presbytery at the Revolution. But the public interest I dare say will make them yield to any man that shall be thought most fit. It is well that Wemyss and Leven are away, the people I'm most afraid and Balcarres and Balmerino setting up for Sir John Preston or some other of the Jacobites. I shall be glad to hear your Lordships opinion...<sup>204</sup>

Sir Archibald Hope did in fact win the by-election, but once again the seat was left vacant when he too died in October 1706. His son, Mr. Thomas Hope of Rankeillour, succeeded him, managing to stay alive and serve until 1708.<sup>205</sup>

The rancour between Rothes and Leven carried through nearly all of the Fife elections in the era of the Union, whether they were for the county or burgh representation in Parliament, or for the local town magistrates. The possibility of a Parliamentary general election being called in 1704, for example, caused Rothes great concern due to the tactics utilized by Leven in the recent Cupar town council election. In writing to the Marquis of Tweeddale<sup>206</sup> in 1704 Rothes complained

I have been plagued with the Melvilles, who never give it over tho constantly I have the better of them, particularly in the late election of the Magistrates of Cupar, tho I had reason and equity on my side, and likewise a majority of 23 to 11...to my certain knowledge he [Leven] offering to some of the top Jacobites in the shire he'll join with them in chusing whom they please if a new Parliament should be called providing they

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<sup>204</sup> Ibid.

<sup>205</sup> *The Parliaments of Scotland: Burgh and Shire Commissioners*, ed. Margaret D. Young, (Edinburgh, 1993), pp. 360-361.

<sup>206</sup> John Hay, second Marquis of Tweeddale, leader of the Squadrone and Rothes' father-in-law. Rothes had married Jean Hay, youngest daughter of Tweeddale on 29 April 1697.

would oppose my Lord Rothes...this I would say at random, just you, if this is not a fine revolution of a man...<sup>207</sup>

The next general election would not, as we have seen, take place until 1708, at which time Rothes and Leven would find themselves on the same side of the Unionist fence, although certainly not in the same camp. For example, after the abortive Jacobite Rebellion of 1708 the Queensberry faction, represented locally by Leven, encouraged the ministry to conciliate the rebels, pointing out that they would have an even more difficult election on their hands in places like Fife if they persecuted their enemies too strenuously. The Squadrone agreed with this strategy, and that included Rothes.<sup>208</sup> However, this was about as far as their common allegiance to the policies of the Court party in London would go. Within Fife's local politics, Leven and Rothes both continued their separate dynastic agenda.

Rothes' preferred candidate for the 1708 parliamentary election was Sir Peter Halkett, 2<sup>nd</sup> Baronet of Pitfirrane, who had served as MP for the burgh of Dunfermline in the last Scottish Parliament.<sup>209</sup> Allied with Lord Yester, eldest son of the Marquis of Tweeddale, Rothes decided early in the electioneering process to announce his support of Halkett. Writing to his father, Yester informed Tweeddale that "My Lord Rothes and I have in a manner laid down all our measures in relation to the election in this shire, and are resolved if we can to have Sir Peter Halkett either for the shire or some of the districts of the towns."<sup>210</sup>

The strength of the Episcopalian faction in Fife, however, gave serious pause to both Rothes and Leven. The fact that both peers were also pro-Union added to the difficulty.

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<sup>207</sup> NLS, ms. 14415, f. 67, Earl of Rothes to Marquis of Tweeddale, 19 October 1704.

<sup>208</sup> Ferguson, *Scotland*, pp. 56-57.

<sup>209</sup> *House of Commons*, Vol. 2, p. 932. Born with the surname Wedderburn, Halkett came into the estate of Pitfirrane in Fife through his wife, Janet Halkett in 1705, wherein he assumed the name of Halkett. He was a member of the Scottish Parliament in 1707 when he succeeded to the seat held by his late brother-in-law, Sir James Halkett. He was a loyal Squadrone member and closely allied to Rothes.

<sup>210</sup> Quoted in *House of Commons*, Vol. 2, p. 852.

According to Hayton "neither magnate could afford to alienate the Episcopalians, and there was also a strong opposition to the Union in the county on economic grounds, the trade of Fife's small coastal towns being in serious decline and suffering sharply in the immediate aftermath of the Union's passage."<sup>211</sup> In order to persuade the county voters of the advantages of the Union and strengthen his own position, Rothes actually proposed to deliver an "address both in Fife and elsewhere, and to do everything to show our thankfulness to the Queen for the care she has taken of us, and our readiness to stand by her with our lives and fortune against all her enemies."<sup>212</sup> At the county freeholders meeting held in Cupar on 29 March, in a show of misguided solidarity, Rothes decided to brief Leven beforehand of his objective in this regard. As he later wrote, "upon my first design of making an address I told My Lord Leven of it and showed him my draft which he approved".<sup>213</sup> At least Rothes thought that he had secured Leven's approval. Leven, however, had his own ideas. Rothes' account of the meeting explains what had transpired:

There were about 50 present. Sir Robert Anstruther [brother to William Anstruther, former Scottish MP] desired the Union might not be named and was seconded by a number of Lord Leven's people. This you may be sure we would not readily yield to. Then Sir Robert later proposed another draft where there was not a word of the Union but a long ridiculous compliment to Lord Leven for his courage, conduct and good sense. We stuck to having the Union named, and they insisting on their draft, and last we divided and near forty of ours signed our draft and a few signed there's.<sup>214</sup>

Yet, if Rothes did have forty signatures out of the fifty voters present in his favour, there must have been an abrupt about-face by the time the election took place two months later. Not only did Leven's candidate, Col. Patrick Moncreiff of Reidie, eventually win the seat, but

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<sup>211</sup> Ibid.

<sup>212</sup> NAS, GD220/5/159/3, Earl of Rothes to Duke of Montrose, 23 March 1708.

<sup>213</sup> NAS, GD220/5/159/4, Earl of Rothes to Duke of Montrose, 30 March 1708.

<sup>214</sup> Ibid.

Rothes had also apparently dropped his support of Halkett in favour of his cousin, Sir John Anstruther.<sup>215</sup>

The election meeting, held on 20 May, appears to have been a free-for-all, causing Rothes to admit in his letter to Montrose that, "it is impossible to write a tenth of what passed".<sup>216</sup> Reidie had the plurality of votes by sixteen or seventeen but there were twenty-four objections against his electors from the Anstruther camp. A bitter Rothes referred to Reidie's electors as "trash", and swore that at least twenty of the objections against them would "hold good". Yet the successful candidate's majority was large enough for Rothes to declare "I am so far from thinking it a wonder that it has gone so, that I'm surprised it went so near and that we have so reasonable ground to go upon to make it a controverted election." Rothes even claimed that the defeat of his candidate had been brought about by

promises and threatenings by the Duke of Queensberry writing letters, my Lord Glasgow and the President and Register and all the prisoners that had interest in the Shire of Fife except Sinclair, particularly E[arl] Murray and [Viscount] Stormont and Sir Will Bruce also as I'm pretty positively informed, and James Malcolm wrote letters to some of his friends telling them he had assured of my Lord Leven's protection upon condition his friends voted for R[e]idie.<sup>217</sup>

The mention of 'prisoners' in Rothes' letter highlights another interesting development in Fife politics. According to Hayton, after the failed Jacobite invasion of 1708, the Court party used their "coercive powers of government" to elicit support from former non-juror prisoners (including those mentioned in Rothes' letter above) who, in this case, were promised the protection of Leven if they supported his candidate.<sup>218</sup> These strong-arm tactics practised by Leven were also criticized by Montrose when writing to the Duke of Hamilton as he

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<sup>215</sup> *House of Commons*, Vol. 2, p. 852; Rothes and Sir John Anstruther were first cousins. Sir John's mother, Helen, was a sister to Charles, fifth Earl of Haddington, Rothes' father.

<sup>216</sup> NAS, GD220/5/159/5, Earl of Rothes to Duke of Montrose, 22 May 1708.

<sup>217</sup> *Ibid.*

<sup>218</sup> *House of Commons*, Vol. 2, p. 852; Riley, *English Ministers*, Chapter 8, *passim*.



complained: "...the Earl of Leven's practices by threats and promises have gained more upon people here than can be imagined".<sup>219</sup> Added to Leven's manoeuvrings had been the apparently ambiguous behaviour of John Anstruther's father and uncles: "I must also add", said a disillusioned Rothes afterwards, "the discreet conduct of my Lord Anst[ruth]er and his Brothers and Sir John's inactivity".<sup>220</sup> Rothes ultimately summed up the loss of the county seat in his typically acerbic style: "to help all this was the love the Squadrone has in the country in our shire particularly where my Lord Leven is believed by the Jacobites to be the finest creature ever was made and the most friend to their interest".<sup>221</sup> Not only in Fife but nationally the 1708 general election was a victory for Queensberry and the Court Party. Across Scotland they managed to secure twenty-seven seats, against just nine for the Squadrone and nine for the Tories.<sup>222</sup>

It was following this disappointing outcome that Rothes determined that the narrow margin of Moncreiff's victory and the great number of objections against his supporters would warrant petitioning for a contested election. At Rothes' insistence, Anstruther submitted his objection to the House of Commons' Committee for Elections where it was subsequently ignored, forcing him to resubmit on 28 November 1709. Moncrieff had already died in January of that year leaving the Fife county seat empty until Sir Robert Anstruther (Sir John's uncle) was chosen in a by-election on 24 March 1710.<sup>223</sup> Hayton speculates that a compromise between Rothes and Leven had resulted in the choice of Sir Robert over Sir John, due to the threat of a third candidate mentioned in a letter from James Erskine, Lord

<sup>219</sup> BL, Add. 9102, 3-4, Duke of Montrose to Duke of Hamilton, 1 June 1708.

<sup>220</sup> NAS, GD220/5/159/5, Earl of Rothes to Duke of Montrose, 22 May 1708. Inactivity of the part of Sir John Anstruther would give Rothes many headaches in the years to come. What is surprising is the lack of intervention on the part of his father, Sir William, who rarely missed a chance to have his family's name in the forefront of Fife politics.

<sup>221</sup> *Ibid.*

<sup>222</sup> Ferguson, *Scotland*, p. 57.

<sup>223</sup> Sir Robert Anstruther served in the Scottish Parliament, representing Anstruther Wester from 1703-07. In 1705 he protested against the early Union negotiations with England, which could not have endeared him to his brother Sir William (father to Sir John) who was strongly pro-Union. Irrespective of his Union opinions, Sir Robert was known to be allied to Leven.

Grange to his brother the Earl of Mar.<sup>224</sup> True as this may be, Sir John had in any case been elected as the MP for the Anstruther Easter district of burghs on 26 May 1708 and so already had a seat in the Commons. Moreover, Sir John's continued lack of ambition most likely caused both Rothes and Leven to conclude, although not in concert, that at this point he was probably not worth putting towards the county vacancy.<sup>225</sup> Indeed, on the day that Moncreiff died, Rothes wrote to Tweeddale with this news pledging to put up Sir Peter Halkett once again for the empty shire seat, and adding that he was quite confident that Halkett would carry the by-election. Rothes also declared that "the worst is Sir John accepting the shire and its better he do so although we don't get in so good a man as Sir Peter [Halkett] then that a friend of Leven's should carry".<sup>226</sup> In the event, Sir Robert Anstruther had little time to serve. The next general election was called for 24 October 1710.

By the early part of 1710, much opinion toward the Godolphin ministry in Scotland was hostile. Promises made during the Union negotiations had not been kept, or at least were terribly slow in being met. The Duke of Queensberry, as Scottish Secretary, was held accountable by the political classes for much of this frustration. Not the least important concern was the situation in the fisheries, vital to Fife's royal burghs in particular. An anonymously-written broadsheet distributed at the time demonstrates the level of frustration felt by the Scottish fishing industry.<sup>227</sup> Aimed at the voters, the message was that the excise duty on salt used to cure the fish was excessive, that the Scots duty was more than the

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<sup>224</sup> *House of Commons*, Vol. 2, p. 853; Grange reports that, "Mensbrie [Sir James Holburn] desired me to tell you that either Leuchat [James Spittel] or he would be content to stand for the shire of Fife if it come to a new election, and wishes you would propose it to Earl Leven". NAS, GD124/15/943/5, Lord Grange to Earl of Mar, 5 February 1709.

<sup>225</sup> The Anstruther's had complete control over the local politics of the East Neuk of Fife, that is, the small fishing villages of Anstruther Easter, Anstruther Wester, Kilrenny, Pittenweem and Crail. Being elected as the MP for this district of burghs required little effort on Sir John's part. Running for the county seat, however, did require a bit of political gravitas, which Sir John seemed to lack.

<sup>226</sup> NLS, ms 14415, f. 172, Earl of Rothes to Marquis of Tweeddale, 20 January 1709. Robert Anstruther was most certainly allied to Leven and the Court party; after reading the loyal address at the election meeting wherein he praised the merits of Leven, Anstruther attempted to organize a counter-address against the Squadrone.

<sup>227</sup> Riley, *English Ministers*, p. 144.

English were required to pay, and that the practice was in breach of Article XIII of the Treaty. Voters were also encouraged to consider their vote carefully when choosing their next Member of Parliament. As the broadsheet's authors advised, "We think it incumbent upon you to choose none for Members but such as will solemnly engage to agree to no Infraction upon any Article of the Treaty, without the Express Consent of their Constituents".<sup>228</sup> As a result, in some quarters the recent emergence of Robert Harley's administration in London was looked upon with hopeful anticipation.

With Queensberry's court party on the wane, the Earl of Mar, upset at losing his office and now hoping for a Secretaryship under the new ministry, put his efforts into organizing the local elections on behalf of Harley.<sup>229</sup> Encouraged by Mar to stand for the county, Sir Alexander Aerskine, the Lord Lyon, decided to run. Writing to his brother, James Erskine, Lord Grange,<sup>230</sup> Mar pledged his support for the Lyon explicitly stating that, "I wish the Lyon may stand for Fife...you may let the Lyon know this is my opinion."<sup>231</sup> Mar also expressed his hope that Leven would come over to their side: "that new concern of Leven's be much talked of here...tell the Lyon that I had his but had wrote before it to Leven in his favour...Leven's greatest pretext of being against him is beside that, as he says of the Lyon using him ill...but I told Leven that I know he had a great honour and respect for him. I wish the Lyon would yet try to reconcile with him".<sup>232</sup>

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<sup>228</sup> BL, 8133.bb.32 (5), *Advice to the Electors of Scotland, About chusing Members for the next Parliament* (Edinburgh, 1710).

<sup>229</sup> Riley, *English Ministers*, p. 154. Mar had lost his office as Keeper of the Signet in 1709.

<sup>230</sup> Grange was the newly appointed Lord Justice Clerk, thanks to the efforts of his brother, replacing Adam Cockburn of Ormiston.

<sup>231</sup> NAS, GD124/15/975/10, Earl of Mar to Lord Grange, 27 July 1710.

<sup>232</sup> NAS, GD124/15/975/11 & 12, Earl of Mar to Lord Grange, 29 July and 5 August 1710.

This time, by riding on a platform aimed at “securing a legal toleration for Episcopalianism”,<sup>233</sup> the Fife Tories rallied around Aerskine, determined to counter any opposition presented by either Rothes or Leven on behalf of the Whigs. In fact, so threatening appeared the Tory contingent to the Whig interest that this time Rothes and Leven did choose to collaborate. This created a strained, but cooperative quasi-Whig front in Fife’s election, combining Leven’s Court party with Rothes’ Squadrone. Viscount Dupplin, reporting to his father-in-law Robert Harley, noted that, “my Lord Leven and my Lord Rothes, who were always before in opposition to one another, have now joined their interests in the shire of Fife, to carry the election there against you; but both of them will be disappointed for the Lyon will carry it”.<sup>234</sup> The Whig candidate whom the two Earls supported, James Spittal of Leuchat, was a Squadrone adherent and former Scottish member for the burgh of Inverkeithing from 1703-1707. However, even this temporary truce between Rothes and Leven did them little good. Supported by local Tories, including William Douglas of Glenbervie, Thomas Hope of Rankeillor and a host of Episcopalian supporters, Aerskine conducted a vigorous campaign. As he reported to Lord Grange, “The Anstruther’s are working might and main in this town...I can hardly say I have 24 hours at home since I saw you and what with riding and drinking with the towns and country I think there shall be an end made of me...I have been at St. Andrews doing all I could there and we have hopes of it”.<sup>235</sup>

His efforts paid off royally. In an impressive showing of Tory solidarity, Aerskine carried the county “by a very great majority”.<sup>236</sup> The freeholders of Fife voted solidly along Episcopalian lines in 1710, thereby defeating the strong Presbyterian interest of the local

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<sup>233</sup> Daniel Szechi, “The Politics of ‘Persecution’: Scots Episcopalian Toleration and the Harley Ministry, 1710-12,” in *Persecution and Toleration*, ed. W.J. Shields (Oxford, 1984), p. 284.

<sup>234</sup> 8 August 1710, Lord Dupplin to Robert Harley, *Portland MSS.*, iv, p. 558.

<sup>235</sup> NAS, GD124/15/1011/1, Lord Lyon to Lord Grange, 17 September 1710.

<sup>236</sup> *Scots Courant*, 25-27 October 1710.

nobility, and securing a major victory for the smaller lairds. The general election was not a complete victory for the Harley supporters, however, since of the forty-five seats, Scotland only returned between twenty-three and twenty-five for the Court. Riley speculates that these most likely were a combination of Jacobite, Tory or 'just Court men'. The remainder comprised die-hard Squadrone members and other avid Whigs who could be counted on to oppose the Tory ascendancy.<sup>237</sup>

Aerskine wasted no time in establishing himself with the new ministry, allying most particularly with committed Tories such as George Lockhart of Carnwath, MP for Midlothian, and John Elphinstone, Lord Balmerino, in the Lords. At the outset, Aerskine was none too impressed with the Ministry's management of Parliament, especially the dealings with the Lords, writing to Mar in December to complain that "The Lords are adjourned until Thursday and have sit very seldom yet until we shape out work for them and I assure you My Lord I think we do it after a very strange manner, as it appears to me very few thinking on it or considering much how it goes."<sup>238</sup> However, he was to make his mark early. Szechi argues that Aerskine was on the 'steering committee' headed by Lockhart, whose purpose was to secure Tory legislation for Scotland.<sup>239</sup> Among their more notable achievements was the passage of the Toleration Act of 1712, permitting the use of the liturgy of the Church of England (and infuriating the Presbyterians who correctly saw the Act as a direct breach of the Act of Union).<sup>240</sup> It was Aerskine who in fact seconded the motion for the bill on 21 January 1712, and he worked diligently on its passage.<sup>241</sup> Due to a successful amendment added by the Whigs, the Act in the event carried a caveat that an Oath of

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<sup>237</sup> Riley, *English Ministers*, p. 157.

<sup>238</sup> NAS, GD124/15/1011/2, Alexander Aerskine to Earl of Mar, 5 December 1710.

<sup>239</sup> Daniel Szechi, *Letters of George Lockhart of Carnwath, 1698-1732* (Edinburgh, 1989), p. xxvi.

<sup>240</sup> NLS, Woodrow Papers, Quarto IV, f. 108, 7 Feb 1712, *Scots Members voting for and against the bill for toleration of episcopacy in Scotland and those absent*. Voting for the bill from Fife was the Lord Lyon (Fifeshire), James Oswald (Dysart) and George Yeaman (Perth); against was Sir John Anstruther (Anstruther Easter). Henry Cunningham (Stirling) is not listed.

<sup>241</sup> *House of Commons*, Vol. 3, p. 50.

Abjuration was to be taken specifically against James Stuart, the Old Pretender. With such a condition it was widely assumed that the non-jurors would effectively be precluded from taking it. Fife's Tories were actually to make their own decisions on whether to take the oath or not as we shall see during the county election of 1715.

Evidence of Aerskine's political ascendancy in Fife between the elections of 1710 and 1713 can also be found. For example, an assemblage of approximately 150 local noblemen and gentry celebrated the early negotiations with France in the summer of 1712 by publicly thanking Queen Anne for her part in securing the peace. Several of the nobility present were known Jacobites; in particular Lord Sinclair and Lord Balmerino. Due to the fact that the Lord Lyon personally presented the resulting address to the Queen, Hayton speculates that it had most likely been written by him.<sup>242</sup> Published in the 2-5 August 1712 edition of the *London Gazette*, the address reads as follows:

The following Address from the Nobility and Gentry of the Shire of Fife, signed by the Earls of Weems, Kincairn, and Mortoun, Lords Sinclair, Colville, Lundores, Balmerino and by above an Hundred and Fifty Gentlemen of the Estates in that County: was presented to Her Majesty by the Lord Lyon, being introduced by the Lord High Treasurer.

To the Queen's most excellent Majesty,

The humble Address of the Noblemen and Gentlemen of the Shire of Fife. May it please your Majesty,  
We beg leave with all Humility and Gratitude to acknowledge the dutiful and deep sense we have of Your Majesty's great Care in promoting and securing the Happiness of your People; by Your Firmness, in giving us the new Views of the Blessing of a Peace, so honourable to Your Self, and advantageous to Your Kingdom; notwithstanding the great Opposition you have met with from Factious and Seditious Practices at Home, and Ingratitude Abroad, which must forever add to our Duty as well as our Reverence.

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<sup>242</sup> *House of Commons*, Vol. 2, p. 853; Hayton, "Scottish Elections," p. 96.

May your Majesty be Blessed in all Your Undertakings, which to all the world must appear intended for the Glory of God, the Support of the ancient Constitution of Your Kingdom, and the immediate recovery of your Subjects from Poverty and Delusion.<sup>243</sup>

Riding on a wave of Tory support, Aerskine also easily won the 1713 election. Such was his momentum that this time neither Rothes nor Leven bothered to present their own candidates. However, with the death of Anne in 1714 and the accession of George I, the Tories, in Fife as elsewhere, were to see their power rapidly eclipsed. Indeed, Aerskine's local Episcopalian support proved no match for the revived Whig Party in the election of 1715.

### III. The Election of 1715

Anne's death marked the beginning of the end for the Tory ministry at Westminster. Harley had already resigned and the Duke of Shrewsbury's short tenure would quickly expire.<sup>244</sup> George I, of course, had no intention of allowing the continuation of a Tory administration, most especially because he believed them all to be Jacobites of one kind or another. When Parliament was prorogued in January 1715, the Scottish Whigs, and in particular the Squadrone, organized themselves for the forthcoming campaign.<sup>245</sup> The royal proclamation also left little doubt as to the desired outcome of the election. In fact, it launched a not very well disguised attack on the Tory ministry, as well as issuing a rallying cry to the freeholders to vote for members "such as showed a firmness to the Protestant succession, when it was in danger."<sup>246</sup> Not surprisingly, the main strategy of the Whig campaign in Scotland was to classify all Tories as Jacobites. The Duke of Montrose had by now replaced Mar as Scottish

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<sup>243</sup> *London Gazette*, 2-5 August 1712; a similar address was also published in the *Scots Courant* (formerly the *Edinburgh Courant*), 8-11 August 1712.

<sup>244</sup> The Duke of Shrewsbury was Anne's choice to replace Harley. He was given the white staff on 30 July 1714. See Riley, *English Ministers*, p. 254.

<sup>245</sup> Riley, *English Ministers*, pp. 254-260.

<sup>246</sup> Basil Williams, *The Whig Supremacy 1714-1760*, 2<sup>nd</sup> Edition, Revised C.H. Stuart (Oxford, 1997), p. 155.

Secretary of State, and although his precise political loyalties have often been debated, it is clear that his Whiggism tended to lean toward the Squadrone faction in particular.<sup>247</sup> With Montrose in place, Whigs of all descriptions were anxious to capitalize on the control they had gained since the accession of King George.

The stakes in the 1715 election were extremely high for both parties; however, due to the reasons discussed above, the Tories found themselves in dire political straits. Hanging onto their power base by a thin thread, they were keenly aware of the magnitude the election outcome would have on their political future, both nationally and locally. This watershed election would, in due course, give the Whigs a virtual lock on British politics for decades to come. This scenario was not lost on the Fife politicians. Therefore, this election battle was a straightforward clash between the two opposing parties with the Tory Aerskine running for re-election against the Squadrone Whig Sir John Anstruther. Although the Fife election meeting itself, as we shall see, turned into a bitter contest of wits between the opposing parties who resorted to a shouting match over election law, there was much more at stake than local dynastic rivalry. For the Fife Tories it was imperative they maintain what little voice they had in the British Parliament; while the local Whigs were determined to finally have their say within the scope of national politics. For this election, there was little risk of internal party divisions between Rothes and Leven, with each putting up their own candidates as they had done in the past. On this occasion Leven was barely an active player in the county election.<sup>248</sup> Although Rothes almost 'killed' himself getting the job done (hence his quote opening this chapter), he managed to secure the Whigs not only the precious county seat but also all four Fife burgh districts.<sup>249</sup>

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<sup>247</sup> Riley, *English Ministers*, p. 260. Montrose took office on 24 September 1714.

<sup>248</sup> Leven started a serious decline in both health and finances after the ascension of George I. Although he was fiercely loyal to the House of Hanover, being a personal favourite of Electress Sophia, he was essentially politically ostracized from national politics after 1714.

<sup>249</sup> NAS, GD27/3/14/7/3, Earl of Rothes to Corrie Kennedy, 27 December 1714.



Unfortunately it is not wholly clear why Anstruther had emerged as the unanimous Whig choice for the shire seat. Several times throughout the campaign Rothes expressed his frustration at Sir John's apparent lack of motivation. As he wrote to Montrose in December 1714:

Do you know Sir John Anstruther would gladly give it over? He's very honest, but very lazy and has his own humours. You know he was never fond of the Union and I had difficulties for to hinder him to lie by, but that's over and we shall brush him up the best way we can...I have great fears for the shire, for its impossible to make Sir John half so diligent as he should be.<sup>250</sup>

Most likely the great local influence of the Anstruther name, particularly in the East Neuk, along with the family's close connection with Whig politics, was thought good enough to persist with Sir John. Another possibility is that Sir John's notoriously languid personality would have seemed likely to continue to bend to Rothes' will – as he had done throughout his career as MP for the Anstruther Easter burghs.<sup>251</sup>

Facing an established opponent in the Lord Lyon, Rothes characteristically worked himself into a frenzy during the weeks before the election. Not only was he contending with the full strength of Aerskine's Episcopalian gentry allies for the shire seat,<sup>252</sup> his local Whig party was also facing heated competition for the four burgh district seats, namely Dysart, Perth, Forfar and Stirling. At the same time the Tories were also working furiously throughout the county, and across Scotland as a whole, for the dissolution of the unloved

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<sup>250</sup> NAS, GD220/5/440/4, Earl of Rothes to Duke of Montrose, 21 December 1714; GD220/5/440/7a-b, Rothes to Montrose, 25 December 1714. Sir John was never completely in favour of the Union, and his voting record on the various articles was mixed. On the crucial day of voting for ratification, Rothes was successful at encouraging him to be absent. See Riley, *Union*, p. 335.

<sup>251</sup> For example, Sir John voted with the Squadrone on 7 December 1711, favoring the 'No Peace without Spain' motion, and against the Toleration Bill on 7 February 1712. See *House of Commons*, Vol. 4, p. 41.

<sup>252</sup> Notable Fife Tories in support of Aerskine included, among others, Henry Balfour of Dunbog, Robert Douglas of Glenbervie, James Oswald of Dunniker and Thomas Hope of Rankeillor.

Union. Episcopalian Tories, their cause seemingly gaining ground through the pulpit efforts of their clergy, were even lobbying local Presbyterians to join their cause, much to Rothes' evident dismay:

Sometimes its [the dissolution] like to be crushed, and breaks out again like a smother flame. These Presbyterians that are wise see the danger, others run rashly into it, then repent it, and a third encourage it, depend upon it, others then protest Jacobites encourage it... You see what sort of folks I have to deal with... The Lyon since he came down has given great life to the Jacobites in short he'll make the Fife lairds believe anything he pleases...<sup>253</sup>

Rothes himself campaigned vigorously throughout the county, currying favours, making promises and trying to say one step ahead of the Tories. As he told Montrose, simultaneously shedding light on the reality of local electoral activity in this period: "I have been in my time a good deal out of pocket with politics and it's not a very small change... and it is necessary to give folks their guts full of drink."<sup>254</sup> Ultimately Rothes' efforts in Fife paid off – but not without controversy.

In what would be a notorious contest between Whig and Tory, the shire election took place on 10 February 1715 with 101 freeholders present in person at the Tolbooth in Cupar.<sup>255</sup> Aerskine, as the last MP elected to Parliament for the county, took the chair in accordance with the law. When he then called for a vote as to who should be praeses to the meeting, Henry Balfour of Dunbog, fellow Tory and closely allied with Aerskine, was duly elected by a clear plurality.<sup>256</sup> Dunbog proceeded to take over the chair from Aerskine and called for the vote to elect the clerk of the meeting. Mr. James Leslie, clerk to the shire, was

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<sup>253</sup> NAS, GD220/5/440/8, Earl of Rothes to Duke of Montrose, 25 December 1714.

<sup>254</sup> NAS, GD220/5/440/9, Earl of Rothes to Duke of Montrose, n.d. December 1714.

<sup>255</sup> The following account is taken from the election meeting minutes found in the Earl of Rothes papers.

<sup>256</sup> Henry Dunbog, a cavalier, had served for the shire in the Scots parliament from 1703-1707. Dunbog had served as praeses at each of the shire election meetings since the Union.

then elected in this capacity.<sup>257</sup> Following this, Leslie himself administered to Dunbog both the Oath of Allegiance and the Oath of Assurance, who in return administered both of the oaths to Leslie.

Once this procedure had been completed, Dunbog began the process of accepting requests from those landowners desiring to be added to the Roll of the Freeholders. Four gentlemen then presented the appropriate paperwork in support of their eligibility. But before the praeses could continue with this process, Sir John Anstruther proposed a motion that the Oaths required by law should be administered to himself and the entire group, “before they should proceed to do anything or to judge in the qualifications of any of the persons contained therein, or to be added thereto, as hath been practiced formerly and particularly in the meeting of 1708.”<sup>258</sup> In response to this motion, Dunbog proceeded to read to the assembly the minutes of the 1708 meeting at which he had also been praeses. At the conclusion of Dunbog’s reading of the past minutes Anstruther again protested and declared that:

if the meeting should proceed not being qualified all and everyone of them who should vote should be liable in the penalties of the Act of Parliament, and that what they do will be illegal and that it should be lawful to him and all who should adhere to him to qualify themselves by taking the Oaths and to proceed to make up the Rolls and choose a Commissioner to the Parliament.<sup>259</sup>

At this point, Mr. Douglas, younger of Glenbervie, also intervened, to allege that Anstruther was mistaken:

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<sup>257</sup> James Leslie was a distant relation to John Leslie, 9<sup>th</sup> Earl of Rothes.

<sup>258</sup> Markinch, 40/53/1/5, *Meeting of the Barons and Freeholders of the Shire of Fife holden within the tollbooth of Cupar head burgh of the said shire upon the 10<sup>th</sup> day of February 1715 according to the style of Scotland for chosing and electing of a commissioner to the ensuring Parliament to be held at Westminster upon the 17<sup>th</sup> day of March next In obedience to the Sheriff precept and His Majesty’s writ direct furth of the chancery to his Lordship for that effect. [Meeting of the Barons and Freeholders...].*

<sup>259</sup> *Meeting of the Barons and Freeholders...*

[speaking] for himself and in the name of all who should adhere to him so that all persons ought and should before they give their vote for electing a Commissioner to Parliament take the oath required by law, but that this meeting should first proceed to the making up of the Rolls conform to the undoubted privilege of His Majesty's freeholders and confirm to the practice of proceedings meeting and particularly by the two last and according to the Act of Parliament 1681, and that no persons withdrawing should stop or prejudge this meeting to proceed and to the making up of the Rolls and thereafter electing their Commissioner in the term of the law and Acts of Parliament and created a vote of the meeting upon it.<sup>260</sup>

In fact it is clear that, owing to considerable contemporary ambiguity in relation to this aspect of the law, both sides had a credible claim to be in the right. On the one hand, Wight states that the oaths were to be administered not only before qualifying the new freeholders to the Roll but also before the praeses and clerk were themselves elected.<sup>261</sup> According to Spotiswood, however, the same oaths did not have to be delivered until after the adjusting of the Roll.<sup>262</sup> The method used by the Fife freeholders in the meeting of 1708, as Anstruther claimed, was having the oaths administered prior to the adjusting of the rolls. For his part, Douglas wanted to continue with the procedure used in the previous two elections, in 1710 and 1713, in which the oaths had been administered after roll qualification. In the event, both parties agreed that a "List of the Adhering to either of their protests be taken after the meeting was over and insert in the blank left [in the minutes] for that effect."<sup>263</sup> Anstruther's

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<sup>260</sup> Ibid.

<sup>261</sup> Wight, p. 306. Wight states that "the commissioner last elected...administers the oaths of allegiance and assurance to the freeholders, and likewise administers the oath of abjuration, if it be required to be put."

<sup>262</sup> Spotiswood, p. 69.

<sup>263</sup> *Meeting of the Barons and Freeholders...*; List of the freeholders who adhered to the protest made by John Anstruther – Alexander Watson of Aitherney, Orrock of that ilk, Imrie of Flass, Barclay of Touch, Gourlay of Kincaig, Lumsdain of Strathvis, James Moyes of Pitteuchar, Lumsdain of Dumrack, Smyth of Giblestone, Major William Arnot, George Lumsdain of Ranniehill, Simpson of Pincarton, Anstruther of Ansterfield, Balianquell of that ilk, Moubray of Cockavinoy, Stanhouse of Fod, Pittfirran, Sir John Wemyss, Newark, Lewhate, Menstrie, Kinglassie, Sir James Campbell, Glaidney, Cotts, Innerdovat, Balicasky, Garvock, Mewtoun, Lascodie, Charlton, Bunzion, Rankeillor Makgill, Carskirdo, Luscar, Cullochill, Ormiston, Blair, Abbotshall, Kinnaldy younger and elder, Pittmillie, St. Ford Waker, Strendrie, Ardie and Balbirmie; The list of those that adhered to Mr. Douglas protestation – Balbeady, Innertiol, Carston, Rankeiller Hope, Balfour, Carslogie, Winthank, Dunnikier, Lawhill, Innternethy, Bandone, Lochore, Randerston, Kinnard, Kilbrackmont, Boghall, Leskiebank, Lyon, Forret, Rascobie, Wormiston, Lathocker, Glenbervie elder, Cash, Pittairthy, Sauchop, Blambleau, Birkhill, Rosend, Balgegje, Sauchop Wood, Dunmuir, Forthar, Parbroath, Kemlock, Woodmilne, Rossie, Tarvit Bethune, Ramornie and Ayton of that ilk.

objective in pushing this issue rested on his hope that the non-jurors would refuse to take the oaths, thereby negating their votes, and essentially crippling Aerskine's chances.

Continuing to assert his authority as both a candidate and a local magistrate, Anstruther, backed by fellow J.P.s (and Whigs) Sir Philip Anstruther and Sir John Wemyss, now demanded that thirteen of the freeholders allied to Aerskine should also take the Oath of Abjuration. He based his demand on the grounds that none of these men had taken any oaths to the "government since the Revolution and that therefore he had just reason to suspect them".<sup>264</sup> Entering the argument in their defence, James Malcolm responded that the "barons and freeholders of this shire met at an election for a member of Parliament are not now under the immediate jurisdiction of the Justices of the Peace, but that they are ready to take the oaths before they shall proceed to elect any Commissioner in the terms of the Act of Parliament and as this meeting should direct."<sup>265</sup> At this point, Anstruther, obviously frustrated at the continued attempts to undermine his intentions, required Patrick Bruce, the sheriff-depute, to remove Dunbog from the chair "that they might have another praeses chosen in regard he refuses to qualify the members of the meeting".<sup>266</sup>

By this time it was becoming increasingly obvious that this contention over a point of electoral law was, in fact, a thinly veiled attempt on either side to take control of the meeting in the name of their respective political party. Dunbog, a Tory allied to Aerskine, was not about to relinquish his position to Anstruther, a Squadrone Whig, without a battle. Coming to Dunbog's defence, Douglas protested against Anstruther's demand, arguing that the removal of the praeses was in fact against the "7<sup>th</sup> statute of Henry IV, the Claim of Right,

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<sup>264</sup> Ibid. Those protested against by Anstruther were: James Malcolm of Grainge, James Bruce of Kinlock, Lathrisk, Parbroath, Sauchop Moncrief, Rossie, Woodmiln, Randerston, Denmuir, Forthar, Balgrieffs, Dunbarney and Balmblea. The minutes do not state exactly what Anstruther suspected them of, but due to their being adhered to Aerskine, it must be surmised that they were suspected Jacobites.

<sup>265</sup> Ibid.

<sup>266</sup> Ibid.

and all other acts holding to the freedom of elections...and [he] further protested that the praeses may not leave his chair until they have chosen a representative to the Parliament.”<sup>267</sup> Anstruther now requested that the sheriff-depute restore order to the meeting by putting out all who refused to take the oaths when required (meaning removal of the non-jurors), and because of this refusal, they (Douglas and his adherents) were the disturbers of the meeting. With no end to the debate in sight Anstruther finally ordered the election clerk, Leslie, to call the rolls in for a new praeses to be chosen. This naturally provoked even greater uproar, with Leslie declaring that he could do no such thing and Dunbog refusing once more to step aside. The desperation on both sides was by now becoming very apparent. With a so much at stake for each party, Anstruther knew he was at a disadvantage as long as Dunbog, allied to Aerskine, was serving as praeses – although Dunbog had been chosen legitimately by the freeholders using correct election law procedure.

According to post-election correspondence from Mungo Graham of Gorthie to Cornelius Kennedy, Anstruther and his Whig allies withdrew themselves to another part of the meeting room in Cupar’s Tolbooth, effectively holding their own election for praeses and clerk in an attempt to render the earlier choice of Dunbog and Leslie null and void.<sup>268</sup> Gorthie maintains that “he [Anstruther] withdrew with his friends to the other end of the room where he with his friends elected him by 59 [this number is actually crossed out in the manuscript and written above it is the number 63] votes. The Lyon on his part ...was chosen by 40.”<sup>269</sup> There is unfortunately a break in the minutes at this point, before they go on to describe how the “persons adhered to Mr. Douglas’ protestation voted to proceed to make up

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<sup>267</sup> Ibid.

<sup>268</sup> NAS, GD27/3/24/4, Mungo Graham to Cornelius Kennedy, 12 February 1715. Kennedy was secretary to the Duke of Montrose and Graham, Montrose’s distant cousin and former MP from Kinross-shire, was closely allied to the Squadrone.

<sup>269</sup> Ibid.

the Rolls.”<sup>270</sup> Douglas duly called for the vote for the county’s next member of Parliament, whereupon the forty freeholders, according to the minutes, did “unanimously vote and elect Sir Alexander Aerskine of Cambo, Lord Lyon to be their Commissioner in the ensuing parliament and ordains him to be returned accordingly.”<sup>271</sup> Yet, as we know, it was actually Sir John Anstruther who was ultimately returned for the shire. So what had happened between the night of the election and the eventual return of the writ?

The issue of the *Scots Courant* for February 11-14 carried a report of the Fife election meeting which only adds to the mystery:

Coupar. Feb. 10. This Day came on the Election for the Shire of Fife, the Candidates were, Sir Alexander Aerskine, Lord Lyon, and Sir John Anstruther; when the meeting was legally constitute, by the choice of a praeses and clerk, a Motion was made to adjust the Roll of Freeholders, in the Terms of Law; but Sir John being afraid to submit the Rights of some of his Party to the judgement of the Meeting, proposed to put the Oaths; This occasioned a Dispute, Whether the law required they [the oaths] should be taken before it were known who were capable of voting by adjusting the Rolls, and by reading the several Acts of Parliament, it appeared plainly the Oaths were not appointed to be taken until they proceeded to elect. After some time spent in the Debate, a Vote was demanded that the Opinion of the Meeting might be known which Sir John and his Friends not caring to submit to, retired, and by a Procedure altogether unprecedented and illegal, took upon them to elect another praeses and clerk, the Gentlemen Freeholders, without regard to this unwarrantable Separation, went on to adjust the Rolls, and after taking the Oaths to His Majesty, unanimously chose my Lord Lyon to represent them in Parliament. Sir John in the meantime was chose by his Friends; but how the Sheriff will make his return is uncertain.<sup>272</sup>

A slightly different and rather more enlightening version of events was, however, relayed in Gorthie’s private letter to Corrie Kennedy, dated 12 February:

The Lyon having endeavoured all the nonjurors, carried the choice of clerk and praeses by 3 votes, and with these troops was resolved to make up the Roll of Election after his own fashion; so as by throwing out as many of Sir John Anstruther’s friends as might produce their number to be less than his own; He might [?] obliged the sheriff by this means to win himself, as being chosen by the majority of this persons enrolled. For obviating this Sir John proposed that none should vote in the making up of the roll, but

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<sup>270</sup> *Meetings of the Barons and Freeholders....*

<sup>271</sup> *Ibid.*

<sup>272</sup> *Scots Courant*, 11-14 February 1715.

such as should first qualify themselves by taking the oaths, and their for pleaded that provisions to the adjusting or revising the roll, they should proceed to the swearing the oaths. The Lyon having no other game to play, but by a majority of nonjurors to disqualify a great number of Sir John's friends by expressing [?] them out of the roll, or wishing to admit others who had not been enrolled, would never depart from his point, alleging that the act of Parliament which directs the manner of procedure in elections says that after the clerk and praeses are chosen they should next adjust or amend the roll and then take the oaths and then elect. Sir John answered that whatever interpretation the Lyon might put on the law, from the order of the words in the act; yet that it had been the usual practice, that none were admitted to vote in making up of the roll but such as now qualified conform to law, and if it should be otherwise then it would be to put the election in the hands of nonjurors contrary to the design of the law. When this reasoning had taken some hours and that Sir John saw that this was the design He required the Clerk and praeses by an instrument to tender the oaths, and upon their refusal he with his friends he withdrew with his friends to the other end of the room where he was" [written over is – he with his friends stayed in their place and elected him by [59 is crossed out and 63 written on top] votes. The Lyon on his part after having disbanded his nonjurors was chosen by 40. My Lord Rothes is not yet come over but no doubt he returns Sir John and I don't believe that the Lyon will lodge a petition...<sup>273</sup>

Based on Mungo Graham's version, it seems likely that the Tories had effectively got to the newspapers first, managing to have their own tendentious report of the meeting made available to the public before that of the Whigs. Graham, an adherent to the Squadrone, could well have received his information from any number of Whig freeholders present at the meeting. Both accounts also contain obvious discrepancies and offer highly loaded interpretations of the events that had occurred in Cupar. It is significant, for example, that the *Courant* accuses Sir John of "being afraid to submit the Rights of some of his Party to the judgement of the Meeting, proposed to put the Oaths". Whether this was really his motive or not, Anstruther had arguably been technically correct in his interpretation of when the oaths were usually administered, even if electoral law was somewhat vague on this point.

The *Courant*'s description of the Anstruther party removing itself from the meeting and proceeding to elect its own praeses and clerk as "unprecedented and illegal" also raises the same problem. No older textbook on electoral law actually mentions such a statute.

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<sup>273</sup> NAS, GD27/3/24/4, Mungo Graham to Corrie Kennedy, 12 February 1715.



Even Spotiswood's text published in 1722 does not even consider such events as had taken place. It was not until 1743, nearly thirty years after the extraordinary controversy in Cupar, that the possibility was finally recognized by the lawyers. The Act 16 George II, cap. 11, §14 accordingly declared that

it shall not be lawful for any number of freeholders to separate from the majority of the persons present who stand upon the roll, and to set up any persons as praeses and clerk other than those chosen by the majority. In order to enforce this rule, it is enacted, that those who separate from the majority, and set up any other as praeses or clerk, shall forfeit £50 to the candidate who shall be chosen by the majority from whom such separation is made; and that any person who presumes to act as praeses or clerk, without being chosen by the majority, shall forfeit £200 to such candidate, to be recovered in the same manner with the penalties already mentioned.<sup>274</sup>

Most of the procedures established in this statute, however, dealt with adding fines or penalties to existing laws. Had the law concerning separation from the majority been in place in 1715, Anstruther could presumably have been found in breach of the law and heavily fined.

Graham's interpretation also begs a number of questions. The Aerskine party certainly did carry the election of praeses and clerk. Dunbog, the praeses, was a well-known Tory. Yet, there is no indication within the minutes that, as Graham alleged, the Lyon had intended to "throw out as many of Sir John Anstruther's friends as might produce their number to be less than his own". Due to the interventions of Robert Douglas, allied to Aerskine, insisting that the oaths shall be administered only after the adjustment of the Roll, however, it is possible that that was ultimately their intention. They would find reason to refuse enrolment to anyone openly associated with Anstruther. Yet the Whig party could, and most likely would, have done exactly the same to Aerskine had they been able. Graham's letter also implies that Aerskine's non-jurors had voted him MP without ever

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<sup>274</sup> Wight, p. 314.

having taken any oaths. But, according to the minutes, after Anstruther and his group separated from the meeting: “Mr. Douglas of Glenbervie moved the Roll might be called for qualifying the meeting to proceed to the election of their Commissioner. The persons aforementioned were qualified by swearing the oath of allegiance to His Majesty King George and subscribing the same with the Assurance.” As a result, the argument made by Hayton, based solely on the interpretation of Mungo Graham, that Aerskine eventually lost the 1715 election simply because his non-jurors had refused to take the oaths, does not convince.<sup>275</sup> If the minutes are to be trusted, they certainly did take the oaths. This leaves two other factors to be considered.

Aerskine, as we know, had received forty votes. The names of those who voted for him are actually preserved in the minutes.<sup>276</sup> According to Graham, Anstruther had received sixty-three votes. A list of Anstruther’s voters has not been found, although it is most likely they are the same freeholders who voted in his favour concerning the election of the praeses.<sup>277</sup> If Anstruther’s removal of his party from the meeting could have been judged to be illegal, his votes would have obviously been invalid. Otherwise they would have won him the seat. There is also the potential role of the Earl of Rothes to be considered. Was he present at the election meeting? His name does not appear in the election minutes. But as sheriff of Fife, and having overseen the county’s campaign for the Whigs, it is difficult to imagine that he would not have attended on election day. Indeed, the law actually stated that

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<sup>275</sup> *House of Commons*, Vol. 2, p. 853.

<sup>276</sup> Those voting for Aerskine were: Michael Malcolm of Balbeady, Sir John Malcolm of Innervill, Christopher Seton of Carston, elder, Thomas Hope of Rankeillor, James Bethune of Balfour, David Clephan of Carlsogie, James Oswald of Dunnikier, John Craigie of Lawhill, John Ross of Innernethie, Sir Alexander Aerskine of Cambo, Michael Balfour of Forret, James Moubray of Rascobie, Colin MacKenzie of Rosend, John Lindsay or Wormiston, John Wemyss of Lathockar, Sir Robert Douglas of Glenbervie, Mr. James Morrison of Cash, Alexander Bruce of Pattairthy, David Bethune of Bandone, Robert Malsolm of Lochore, Sir George St. Clair of Kinnard, Philip Hamilton of Kilbrackmont, William Lyell of Boghill, Maxwell of Lockiebank, Robert Beatson of Kilvie, Mr. William Douglas of Glenbervie, David Dewar of Balgonie, John Wood of Sauchop, William Ayton of that Ilk, Mr. Henry Balfour of Denbog, Walter Boswell of Balbarton, Charles Arnot, Orrock of Cassindonald, David Kinnear of that Ilk, Mungo Law of Pittock, Colquhoun of Corston, David Boswall of Balmuto, David Wemyss of Fonzies, Thomas Bethune of Tarvit, James Moncrief of Sauchop.

<sup>277</sup> See page 93, note 263.

the sheriff should be present so as to “produce the writ, reads it in their [the freeholders’] presence, and likewise produces executions of the publication at the market-cross, and at the several parish churches”.<sup>278</sup> So Rothes almost certainly was present in Cupar in his official capacity.

Perhaps the answer as to how the outcome of this election was really decided is to be found in the *Courant*’s concluding remark: “how the sheriff will make his return is uncertain”. Rothes had spent a great deal of time and money on this election and, as sheriff, he had ultimate control over the return of the writ to London. Attempts by Aerskine and Anstruther to frustrate each other’s election had created opportunities for either side to be found guilty of breaches of election law. In practical terms, therefore, regardless of whom the sheriff decided to return, the defeated candidate would find it difficult to contest the outcome. With such power at his disposal, it becomes less surprising that Rothes eventually returned Anstruther. Moreover, this decision could easily be justified, since even with the controversy over the oaths and whether or not Sir John’s subsequent actions were illegal, there was still a clear majority of Whig voters. This perhaps explains why Rothes’ actions were not even questioned. Indeed, after this election he became the darling of the Squadrone, having successfully delivered the shire and all four Fife burgh districts for the Whigs. Montrose received congratulations on Rothes’ behalf from none other than the King who was, it was said, “very well pleased with the success that has attended you in the election of commoners”.<sup>279</sup> With the Whig victory in Fife complete, a retraction appeared in the *Courant* of February 23-25:

A great part of the Article from Cowper about the Election of the Shire of Fife, in the Scots Courant of Monday, February the 14<sup>th</sup> is false, scandalous and malicious; For in a

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<sup>278</sup> Wight, p. 305.

<sup>279</sup> NAS, GD220/5/505/6, Townsend to Duke of Montrose, 24 February 1715.

numerous Meeting of the Freeholders of the Shire of Fife, upon Thursday the 10<sup>th</sup> of this month, Sir John Anstruther was chose Member of Parliament for that Shire, by a Majority of above 20 votes and is returned by the sheriff.<sup>280</sup>

It may have been Fife's Tories who had gotten to the newspapers first; but, as this makes clear, it was the Whigs who had the last word.

In the event, Sir John Anstruther retained the Fifeshire seat until his eventual retirement in 1741. So effective was his political grip on the county that he ran unopposed in the elections of 1722, 1727, and 1734. For much of his long tenure in the House of Commons, Anstruther voted strictly with the administration, while aligning himself with Stanhope and Sutherland during the Whig party split of 1717. This allegiance won him a sinecure as Master of the Works in Scotland.<sup>281</sup> Anstruther did, however, subsequently abandon the Squadrone and, further enhancing his political influence, sided with the Court managers, Argyll and Ilay.

Much like many Scottish MPs, Sir John was not free of the political pressures imposed by the freeholders of Fife upon whose votes his Westminster career ultimately depended. Indeed, his electors were keen to let Anstruther know their position on various issues, a common eighteenth-century practice that demonstrates yet again how involved the gentry were in voicing their concern regarding legislation of national importance. Such instructions make it abundantly clear that Fife's freeholders were very specific and in earnest about their expectations of their representative. For example, in 1739, they presented him with a list of their legislative expectations, instructing Anstruther to vote in favour of the proposed election laws against bribery and corruption, and to "promote and concur with a law, excluding from the House of Commons all such as enjoy pensions or officer Civil or

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<sup>280</sup> *Scots Courant*, 23-25 February 1715.

<sup>281</sup> Riley, *English Ministers*, p. 266.

military at pleasure, excepting herefrom all officers of state, privy councillors, commissioners of Treasury, Lieutenant Generals of the Army or Admirals of the Fleet.”<sup>282</sup> He was also advised to look into the national debt and other financial considerations that had impacted on the landed community in Fife, including “the management of sinking tiends, with that of those manifold corporations and stock jobbing, which have of late years ruined many eminent freeholders and may be disordered the national commerce.”<sup>283</sup> Anstruther chose not to stand in 1741. At his retirement he was given the sinecure of Commissioner of Police earning a pension of £400 per annum.<sup>284</sup>

#### IV. The Elections of 1741 and 1747

By the time that Sir John Anstruther relinquished his parliamentary seat, a new generation of voters would be found on the Fife Freeholder’s Rolls. Both of the old Earls of Rothes and Leven had died during Anstruther’s tenure in 1722 and 1728 respectively. The image of the Scottish noble patron, so prevalent in the early part of the eighteenth century, now seemed increasingly anachronistic, with the emergence of a new type of county politician. This new politician would, of course, still come from within the ranks of the landed gentry, but he might also derive wealth and influence from his status as a merchant and man of industry. An Enlightenment mentality of economics and moral philosophy would soon appear in Fife’s politics in the person of James Oswald of Dunnikier. Although there remained much influence from Westminster and within the many links of the wider Scottish and British political system, the influence and management by Fife’s leading aristocrats was becoming a thing of the past. A stronger, national authority from Westminster took the place of local

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<sup>282</sup> NLS, ms. 14522, f. 94, *Copy of a letter from the Freeholders and Heritors of the County of Fife to Sir John Anstruther their representative, together with some of the instructions to be adjusted by the Freeholders in the shire, and the town councils of the burghs against the Michaelmas Head Court.* The vote on this measure resulted in the Place Bill of 1740.

<sup>283</sup> *Ibid.*

<sup>284</sup> NLS, ms. 14421, f. 226, Sir John Anstruther to Marquis of Tweeddale, 7 July 1743.

aristocratic involvement. Indeed, the Fife elections of 1741 and 1747 feature hands-on interest from Ilay, Pelham, and Newcastle who all had a vested interest in the choice of the Fife county MP.

The long-awaited economic benefits to Scotland promised by the Union were, by the late 1730s, finally starting to appear.<sup>285</sup> Fife in particular was in a good position to gain by the steady increase in the volume of trade, the progressive improvements in agriculture, and the increasing scale and sophistication in manufacturing. Industries such as textiles, coal-mining, salt-panning, and even the quarrying of limestone began to experience a marked increase in output. Fife's burghs, especially those to the south of the county such as Dunfermline, Kirkcaldy, Dysart, and Markinch, also saw the beginning of a new age of economic prosperity.<sup>286</sup> Although the greatest advances and the proper Industrial Revolution would not be seen until at least the 1760s, positive economic changes on an unprecedented scale had clearly arrived.

In 1741 Fife elected David Scot of Scotstarvit in succession to Sir John Anstruther.<sup>287</sup> Regrettably only the writ of election survives, denying us an insight into the conduct of the election, as well as the identity of any other candidates.<sup>288</sup> David Scot, descended from a well-established Fife gentry family, was bred for the law, and served as an advocate before the Court of Session in Edinburgh. His sister, Elizabeth, had married Colin Lindsay, Earl of

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<sup>285</sup> J.H. Plumb, *The Growth of Political Stability in England, 1675-1725* (London, 1967), pp. 181-182.

<sup>286</sup> *The Fife Book*, Chapter Seventeen, *passim*. During the early years of the eighteenth century, half of Scotland's salt output was from Fife, extending from the western burgh of Kincardin east to Pittenweem. Newburgh and Inverkeithing sandstone was shipped to London for paving stones throughout the eighteenth century; in 1746 the British Linen Company was founded in Dunfermline; and the St. Monans shipyard began production in 1747. See R.H. Campbell, *Scotland since 1707: The Rise of an Industrial Society* (Edinburgh, 1985), p. 53.

<sup>287</sup> Scot had lost the Anstruther Easter burgh district election, in a hugely controversial contest, to Colonel Philip Anstruther in 1722. This election is examined in Chapter 6.

<sup>288</sup> NLS, ms. 14522, f. 95, *To the Sheriff of the County of Fife a Writ of Election to Parliament*.

Balcarres.<sup>289</sup> As previously mentioned, Balcarres had been a constant thorn in the side of Rothes years earlier, as an ally of Aerskine, a Jacobite, and a promoter of Tory politics in Fife. There is no indication that Scot shared his brother-in-law's politics, although he did support the Whig Opposition when he entered Parliament in 1741. At the time of Walpole's downfall, Scot's nephew, William Murray, who later achieved fame as Lord Mansfield, encouraged him to move his allegiance to the Government, which he finally did in 1742, after which he voted unfailingly for the administration.<sup>290</sup>

In the election of 1747, however, James Oswald of Dunnikier defeated Scot by a roll of the dice – literally. Oswald had been MP for the Dysart burghs since 1741, when he had run unopposed.<sup>291</sup> Oswald entered Parliament on the side of the Opposition “being one of a group of members known as the Duke of Argyll's gang.”<sup>292</sup> Due to Oswald's lack of support for the government and the fact that David Scot had now aligned himself with the administration, Henry Pelham and the Earl of Ilay, by now 3<sup>rd</sup> Duke of Argyll, both decided to put their support behind Scot during the Fifeshire election of 1747 which Oswald had indicated he would contest.<sup>293</sup> Ilay appeared confident that Scot would hold the seat when writing to Pelham that “The election for Fife is to be tomorrow. It is thought that Mr. Scot will carry it unless Mr. Oswald and the other candidate Mr. Henderson can bring all their voters to join against Mr. Scot, which I should think they will not be able to do”.<sup>294</sup> Yet, that is exactly what did happen: Henderson effectively sided with his fellow opposition candidate

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<sup>289</sup> Sir Robert Douglas, *The Baronage of Scotland* (Edinburgh, 1798).

<sup>290</sup> NAS, GD150/3485/36, John Drummond to the Earl of Morton, 30 November 1742. Drummond was reporting to Morton on the current state of the opposition saying “Oswald is against us in all points...all the rest with us...Scot particularly now Murray is Solicitor General.” After his defeat for the Fifeshire seat in 1741, Scot ran in a by-election for Aberdeenshire upon the death of the current MP in 1751, where he served with the support of Pelham until his own death in 1766.

<sup>291</sup> Sedgwick, p. 314.

<sup>292</sup> NAS, GD150/3485/40, John Drummond to Earl of Morton, 4 December 1742. The term “Duke of Argyll's gang” was used by John Drummond in a letter to the Earl of Morton when discussing Oswald's stance on the Hanover troops bill in 1742.

<sup>293</sup> To avoid confusion, throughout this study Archibald Campbell will be referred to as the Earl of Ilay, even after he succeeded his brother as the 3<sup>rd</sup> Duke.

<sup>294</sup> Nottingham, NeC1948, Duke of Argyll to Henry Pelham, 30 July 1747.

against the government supporters. As a result and much to the government's dismay, Oswald carried the election, as Ilay reported to Newcastle:

Mr. Oswald has carried the election for Fife by five votes, he and Mr. Henderson [of Fordel] could by no means agree which of them should stand, and the dispute continued till the voters were going into the election room. Henderson's votes were willing in the 2<sup>nd</sup> place to be for Oswald, but some of Oswald's votes would in no event be for Henderson. This inflamed the disagreement between them, Henderson suspecting that the scruples of Oswald's friends were only a colour to carry it for him. At last Mr. Oswald proposed to cast the dice, which Henderson agreed to and Oswald won it.<sup>295</sup>

At the time, however, it was far from clear which of the candidates was actually preferred by Ilay. James Erskine, Lord Grange, reported on the situation to Pelham:

It is said that the Duke of Argyll [Ilay] did indeed use his interest for Mr. Scot in Fife, but others say that he rather was for Mr. Oswald; and I know not any facts from which one might infer which of these conjectures is best founded. Mr. Scot had more votes than anyone of his competitors, Mr. Oswald and Mr. Robert Henderson of Fordel, but not so many as both. And they agreed to join against Scot and by a throw of the dice determined which of them two should be voted for; and Mr. Oswald carried it and so carried the election too.<sup>296</sup>

There were certainly references made in private correspondence by both Oswald and Ilay in relation to Scot's unacceptable 'behaviour'. Oswald, for example, mentioned that despite "threats, promises, and great men's letters", he had been able to defeat the sitting member, although he does not elaborate on the 'great men' to whom he is referring.<sup>297</sup> Ilay, meanwhile, seemed to have his doubts about the government candidate, telling Pelham that "Many of Scot's friends blame his conduct [for the loss of the election], but the election being over its idle to inquire into it."<sup>298</sup> It is difficult, however, to accept that he would have put very much support behind the opposition-minded Oswald. Oswald had been a firm adherent to the 2<sup>nd</sup> Duke of Argyll when the latter – unlike his brother and successor Ilay –

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<sup>295</sup> Nottingham, NeC1949, Duke of Argyll to Henry Pelham, 1 August 1747.

<sup>296</sup> Nottingham, NeC1875/3, James Erskine to Henry Pelham, 8 August 1747.

<sup>297</sup> BL, Add. mss 57820, James Oswald to George Grenville, 1 August 1747; See Sedgwick, p. 412.

<sup>298</sup> Nottingham, NeC1949, Argyll to Pelham, 1 August 1747.



pulled away from the ministry into disgruntled opposition after 1741.<sup>299</sup> Argyll's independent principles certainly seem to have appealed to Oswald who, throughout a lengthy career, made his political decisions based on a good mix of common sense and moral principle. He considered himself "a Real Whig" and stated that his "conduct would never vary."<sup>300</sup> James Oswald had stayed firmly allied with the Opposition even after the 2<sup>nd</sup> Duke's death in 1743. On 28 August 1745, he spoke to the House condemning the Government's treatment of the Jacobite rebels and was opposed to the abolition of heritable jurisdictions voted into law on 14 April 1747.

#### IV. Conclusion

Was Fife a political rarity among Scottish counties? Containing several prominent aristocratic families, a host of greater lairds, a vocal contingent of freeholders, and an active body politic, Fife provides a unique insight into Scotland's county electoral management in the early eighteenth century. Unfortunately, direct comparisons are still difficult, as the only other study of a Scottish county's electoral history, encompassing the early part of the century, is Ronald Sunter's unpublished thesis on Stirlingshire. Encapsulated descriptions of Scotland's county elections are provided by the History of Parliament Trust series. As valuable as these are, they are only able to provide general overviews into what is a highly complex and much neglected subject.

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<sup>299</sup> In correspondence to his close friend Henry Home, Lord Kames, Oswald speaks of Argyll as "that great man...the darling of his friends and the terror of his enemies". See *Memorials of the Life and Character of the Right Honorable James Oswald of Dunnikier [Oswald Memorials]* (Edinburgh, 1825), p. 31.

<sup>300</sup> Murdoch, *People Above*, p. 32; *Oswald Memorials*, p. 36. As a "Real" Whig, Oswald adhered to the Commonwealthman political agenda, meaning: belief in natural rights, limited government, parliamentary reform and individual liberty. Oswald was also considered an 'enlightened economist' and philosopher. There are several published letters between David Hume and Oswald discussing Hume's work. In particular is Hume's response to Oswald's criticism of his essay *Of the Balance of Trade* causing Greig to determine that Oswald was "an enlightened economist – a *rara avis* among the politicians of the day". See *The Letters of David Hume*, edited by J.Y.T. Greig (Oxford, 1932), p. 142. Additionally, Oswald's private papers contain several pages of notes in Oswald's handwriting where he reflects on the "Wealth of Nations and the Wealth of the Individual" indicating his possible contribution to Smith's writings. James Oswald of Dunnikier papers are privately held by Mr. David Bruton, Valelands, West Sussex. I am very grateful to Mr. Bruton for allowing me access to this collection.

What conclusions, therefore, can be drawn from this close examination of Fife's county elections? Fife provides an excellent model to strongly support David Hayton's arguments, set out in Chapter 1, and dispute Ferguson's claim that political interest on the part of the populace vanished after 1707. Foremost it becomes clear that the party system not only existed prior to the Union, but flourished after its passage. This party system embodied much more than a local rivalry between opposing peers or local factions. In fact, it personified a national consciousness, an awareness among local politicians that their political ideology of choice within the scope of British politics was perhaps more important now than at any time prior to the Union. The significance of their "small, but vital say" cannot be overestimated. The demise of the Scottish Parliament forced the Fife politicians to promote their political preferences on the national stage, causing a greater division between Whig and Tory, and at the same time solidifying the political ideology within each party.

Prior to the Union, the Fife county elections for Scottish parliamentary seats were already showing definite signs of party divisions. Early elections could not be taken for granted by any party faction, the parties were fairly evenly divided, and although the more powerful peers were Whig (for example, Rothes and Leven) the Tories managed to win numerous elections. These party divisions carried the platform and ideology of both groups through and beyond the Treaty of Union. By 1715 the strength of the parties had grown to such an extent, and the political stakes were so high, that the Fife freeholders resorted to a heated debate over election law procedure as a guise for disrupting the voting process in an attempt to negate each others' candidate. This election provides several points for supporting the argument that party politics flourished after the Union: First, the attendance for the election numbered over 100 freeholders indicating a powerful level of voter awareness. Second, all candidates and parties were required to campaign vigorously (albeit

clandestinely) throughout the county. Third, both parties were almost evenly supported, thereby demonstrating the inability of one party to dominate the electorate. Fourth, the vitriolic debate over election law showcases how critically important elections were for both parties. Fifth, the use of the press in reporting this election evidences a new form of publicity that became a necessary component in future elections. In describing the growth of England's political stability from 1675 to 1725, Sir John Plumb referred to this era as 'the rage of party'.<sup>301</sup> The same can certainly be said for Scotland.

Additionally, the word 'corrupt' is generally used to describe Scotland's elections in the eighteenth century. Ferguson places the blame for this corruption squarely on the Treaty of Union itself, in particular Article XXII, which "failed to provide any effective means of checking the activities of the freeholders".<sup>302</sup> Yet based on the evidence provided by a thorough study of Fife's county elections in the early part of the century, that is from the Union to 1747, no evidence has been found whereby wholesale corruption, by the standards of the day, were used to influence a Fife county election. Granted, the Earl of Rothes returned Sir John Anstruther amidst great controversy in 1715; however, this was an act of party loyalty on behalf of a party patron only doing his duty, particularly when the advancement of the Whig party agenda was at stake. James Oswald and David Scot gambled the outcome of an election on a roll of dice which, while rather unorthodox, was not illegal. Instead, the detailed examination of elections presented here shows no evidence of the use of outright bribery or faggot votes, such as was common in the later part of the century. Replacing the assumption of corruption emerges a picture of fiercely contested elections

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<sup>301</sup> Plumb, *Political Stability in England*, p. 129.

<sup>302</sup> Ferguson, "Electoral System," p. 272. Article XXII of the Treaty designated the 45 seats in the House of Commons for Scotland, divided between 30 for the counties and 15 for the burghs. While the article addressed the number of seats, the method for voting for MP's was not changed from the practices utilized prior the Union.

carried out in an atmosphere largely free from corruption, and even with the close legal oversight of procedure.

Throughout the period studied, Fife presents a county electorate keenly astute in the political intrigues of the time. During the election meetings the freeholders demonstrated a remarkable awareness of electoral law and an intense desire to exercise their voting rights. The Roll of Freeholder's formed the basis of Scotland's electoral procedure providing Scotland with a notable system of electoral privilege and distinguishing the Scottish voter from his English counterpart. In the early eighteenth century the Fife freeholder took his political duty extremely seriously, allying himself to his party of choice, and proudly exercised his civic right as a voter.

## Chapter 4

### Politics in the Town Councils

*“That those Damned Parliament men who had begun the ruin of their Country, should not judge in their election...”<sup>303</sup>*

One integral feature of local politics in eighteenth-century Scotland was the important role of towns and burghs. In many ways related to the county’s administration as a whole, Fife’s towns and burghs were also centres of political activity in their own right. The executive functions of the town councils, and the separate challenges they faced, varied from burgh to burgh. Population, location, and economic diversity contributed to the unique nature and personality of each burgh. Generally speaking, all of Fife’s town councils in this period were concerned with the collective well-being of their citizens, and the general maintenance of their own burgh’s interests. For example, whereas the burghs of the East Neuk, located on the south-eastern corner of Fife, concerned themselves mainly with the plight of the fishing trade, centrally-placed Kirkcaldy and Dunfermline concentrated on their advancement as industrial centres. St. Andrews and its University found itself dealing with the special problems of a dwindling population and loss of prestige. Both Cupar and Dysart, meanwhile, became embroiled in exceptionally-colourful magistrate elections that in each case turned violent, divided their respective populations into political factions, and, in the case of Dysart, even created a self-regulating town council that managed the city illegally for three years.

From the standpoint of election procedure, the Union had little direct impact on the Fife town council elections. The electoral system, established in 1469, for electing town council magistrates was not altered. What did change was the process for electing a

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<sup>303</sup> TNA, Secretary of State for Scotland Papers [SP]54/16/76, James St. Clair to the Duke of Newcastle, 25 August 1735; St. Clair is quoting a statement released by the Dysart town council wherein they protested against the guidelines imposed upon the council by Parliament when electing their town officers in 1735.

parliamentary MP. After the Union, the town councils chose a delegate to represent each royal burgh at the parliamentary election meeting in order to elect the burgh district MP. In this regard the impact of the Union is crucial, with the town councils now carrying considerable influence by way of their choice of delegate to the parliamentary election meeting. Before we begin to understand the significance of this change and the repercussions thereof, a closer examination of the political machinations of towns and burghs must be conducted. Scottish and British politics after the Union cannot be fully understood without understanding the important, and often essential, role of towns and burghs played out at the local level.

According to Professor Dickinson, “all historians interested in the politics of the people must pay particular attention to urban communities”.<sup>304</sup> This chapter, therefore, serves as a contribution to the discussion of eighteenth-century Scottish urban politics; and in particular, how dissident policy developed and often succeeded, in these urban centres within the confines of a parochial magistrate election franchise managed by “self-perpetuating oligarchies”<sup>305</sup> who held considerable political, and therefore electoral, control. The importance of towns and burghs, therefore, is not only a crucial factor in understanding the affects of the Union on county politics, but also and more importantly, on Scottish and British politics as a whole.

## **I. The Burghs and Town Councils**

In 1707, Fife had a total of seventeen royal burghs (out of a nationwide total of 66), more than any other Scottish county. The earliest royal burghs in the county of Fife were Crail,

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<sup>304</sup> Dickinson, *Politics of the People*, p. 93.

<sup>305</sup> *Ibid.*, p. 99.

Cupar, Dunfermline, Falkland, Inverkeithing and Kinghorn. During the sixteenth century Anstruther Easter and Wester, Burntisland, Dysart, Earlsferry, Auchtermuchty, Kilrenny and Pittenweem were given royal burgh status while, St. Andrews, Newburgh, and Kirkcaldy each achieved that distinction in the seventeenth century.<sup>306</sup>

Royal burghs held a privileged place in Scotland's system of government because they were granted the right to conduct local and international trade by authority of the crown. Prior to 1707, each burgh was able to send one representative to the Scottish Parliament in Edinburgh. After the Union, they were grouped into districts of four to five burghs, with one MP elected to represent each district in the House of Commons. At the same time, each royal burgh in Fife also sent a delegate to the annual Convention of Royal Burghs held in Edinburgh. The Convention of Royal Burghs was an extremely influential and important national organization, which had no equal either in England or on the Continent. Throughout the seventeenth and eighteenth centuries, it was to the Convention that Scotland's leading burghs turned when disputes arose, for example, over taxes, over economic issues, and over internal council elections. By the eighteenth century the Convention was also very involved in the promotion and support of industry and trade in Scotland's towns.<sup>307</sup> As a result, because the Scottish Parliament and the Scottish Privy Council had both been dissolved as a result of the Union, the Convention was the only significant national institution remaining in Scotland that provided a forum for political and economic debate, and the means for complaint and resolution.<sup>308</sup>

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<sup>306</sup> Pryde, *The Burghs of Scotland, passim*. This study will only concentrate on the royal burghs, that is, those who had the right of parliamentary representation and a seat at the Convention of Royal Burghs. Burghs of barony and regality are not included. Although St. Andrews was not designated a royal burgh until the seventeenth century, the town had been represented at the Convention since 1533 due to its status as an important ecclesiastical burgh. See Theodora Pagan, *The Convention of the Royal Burghs of Scotland* (Glasgow, 1926), p. 27.

<sup>307</sup> Pagan, *Convention of Royal Burghs*, p. 231.

<sup>308</sup> *Ibid.*, p. 232.

The burghal electoral system had first been established by the Act of 1469, which decreed that the old out-going council should elect the new council, and that together, both the old and new council would elect the magistrates.<sup>309</sup> The town council was comprised exclusively of merchants and craftsmen; citizens who did not fall under these categories were labelled “unfreemen”.<sup>310</sup> Merchants and craftsmen qualified in various ways to become burgesses, thus becoming eligible to serve on the council. The most common method was the payment of a fee after a rigorous and lengthy apprenticeship. For others, eligibility was achieved through familiar connections – either through marriage to the daughter of a burghess, or sons following their fathers into the guild. Whatever the means of eligibility, entry to the burgh class was highly restricted and exclusive, and common journeymen or labourers had little hope of admission.<sup>311</sup>

Within the town council there was a strict hierarchy of power and influence. In nearly every Scottish burgh, and certainly in all of Fife’s burghs, it was written into the burgh “sett” (or constitution) that the merchants were to have more seats than the craftsmen. Kirkcaldy’s burgh sett, for example, even went so far as to stipulate that:

if any craftsman, exercising merchandize, for his good qualities shall be promoted to the office of magistracy, in that case he shall leave his craft, and not occupy the same by himself nor his servants during the time of his office, and shall not return thereto without he obtain speciall license of the provost, bailies, and counsell for that effect.<sup>312</sup>

Such rulings effectively confirmed the merchant guild as the superior class among the burgh’s politically active community.

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<sup>309</sup> Ibid., p. 75. This system did not change until the great Reform Act of 1832. See Theodora Keith, “Municipal Elections in the Royal Burghs of Scotland,” *Scottish Historical Review*, xiii (1915), p. 116.

<sup>310</sup> Smout, *Scottish People*, p. 163.

<sup>311</sup> Ibid., p. 148.

<sup>312</sup> *Miscellany of the Scottish Burgh Records Society* (Edinburgh, 1881), p. 177.



Another feature of significance in town and burgh administration was the role the Convention of Royal Burghs played in arbitrating internal council election disputes. By the early eighteenth century, the contested magistrate elections had become so numerous that the Convention was forced to investigate how each burgh operated. In 1708, the Convention asked each burgh to declare how many councillors constituted the council, the division of magistrates, and the burgh's particular election procedure. Suffice to say, the quality of the responses given by individual burghs to this line of enquiry varied considerably. Collectively, however, the reports do provide us with a great deal of insight as to how the municipal governments of Fife's burghs, in addition to the burghs of Scotland as a whole, were organized and administered.<sup>313</sup>

In Fife, the average town council membership in 1708 was approximately twenty-one. St. Andrews had the most councillors with twenty-nine; Pittenweem and Crail, two of the smaller East Neuk burghs, followed with twenty-four councillors each, while the larger, and faster-growing, industrial burghs of Inverkeithing and Dunfermline in the west of the county had only fifteen and sixteen councillors respectively. Cupar, the county's main administration centre and a major trading burgh had nineteen councillors, while Kirkcaldy and Crail each had twenty-one.<sup>314</sup>

On the whole, the magistrates of a burgh consisted of a provost (that is, a mayor), two to three bailies (in other words – executive administrative officers), a treasurer, and a dean of guild (the official head of the merchant guild).<sup>315</sup> St. Andrews was an exception, utilizing not only a provost, four bailies, a treasurer and dean of guild, but also a deacon convener of

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<sup>313</sup> Pagen, *Convention of Royal Burghs*, p. 75.

<sup>314</sup> *Miscellany*, passim.

<sup>315</sup> The Dean of Guild as official head of the local merchant guild dealt with mercantile issues, weights and measures, disputes over trade and general management of the individual traders.

trades (head of the craftsmen). Of the magistrates, it was the office of provost that some burghs did not employ. Although Pittenweem had one of the larger councils in Fife, it operated without a provost, as did Anstruther Easter, Anstruther Wester, Kilrenny, Dysart, and Crail.<sup>316</sup> At each council meeting for these burghs, a praeses was elected to conduct the agenda. Not surprisingly, given their high status and guaranteed majority, only merchants were elected magistrates, though both merchants and craftsman usually made up the remainder of the council.<sup>317</sup>

Each burgh also tended to have a unique mixture between the merchants and craftsmen who served as councillors on the town council. Kirkcaldy, for example, reported that its council was made up of

ten who are or have been seafairing men, eight who are or have been trafficking merchants, the three craftsmen, who, beside the hail deacons of crafts, shall vote in the yearly electione, which craftsmen are to be elected to the counsell. And out of eight persons promiscuously of seafareing men and merchants, of the said number of twenty one persons, there shall be chosen the provost for the year to come, tuo bailies, dean of gild, and treasurer.<sup>318</sup>

Burrtisland treated each group of burgesses separately:

the sett of the said burgh of Burrtisland consists of twenty one persons, whereof fourteen are termed gild councillors (albeit they never had a gildrie) consisting of merchants, skippers, seamen, maltmen, out of which three are chosen yearly at Michelmass by the old and new council to be bailies and the other seven are trads councillors, being each of ilk trade, to witt, a smith, a wright, a Baxter, a cordiner, a taylor, a flesher, and a weaver, and the three bailies being sua chosen out of the gild council.<sup>319</sup>

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<sup>316</sup> Kirkcaldy operated without a provost until the mid-sixteenth century when the town council determined that creating the office would benefit the burgh. Prior to that decision, two baillies “watched over the liberties of the burgesses, the idea being that the influence of one would counterbalance that of the other and so prevent any sudden tyranny. Other towns had Provosts, but Kirkcaldy, freedom-loving from its earliest memory, refused to trust its liberties into the hands of one autocrat.” See L. Macbean, *The Kirkcaldy Burgh Records* (Kirkcaldy, 1908), p. 17. It is quite possible that the fear of an “autocrat” kept the East Neuk burghs, such as Pittenweem, from utilizing the services of a Provost. The reality, however, is most likely much more pragmatic. The Anstruther family held such powerful influence in the southeast burghs, that a Provost was unnecessary.

<sup>317</sup> Pagan, *Convention of Royal Burghs*, p. 75.

<sup>318</sup> *Miscellany*, p. 177.

<sup>319</sup> *Ibid.*, p. 192.

Burntisland also went on to proclaim that

if the provost be a nobleman he is supernumerary of the sett, being twenty-one; but if the provost be a burger he is inclusive of the said sett, and he is also chosen yearly at Michelmass one of the gild council by the old and new council before they proceed to the election of the bailies...<sup>320</sup>

All but one of the Fife burghs managed to avoid granting high office to a nobleman. The burgh of Cupar had traditionally been under the effective control of the House of Leslie, Earls of Rothes. John Leslie, the 9<sup>th</sup> Earl, was elected provost annually until his death in May 1722, at which time his son, John, the 10<sup>th</sup> Earl, was elected. As we shall see later in this chapter, by the early 1720s both father and son encountered opposition to their holding office; significantly the young earl ran into serious difficulty after his election as Cupar provost in October 1722.

By an order of the Convention of Royal Burghs in 1657, it was also required that Scotland's burghesses, be they merchant or craftsmen, should be residents of the town. Thus, Kinghorn, for example, specified in its sett that they were to be "constant residenters, traders, and traffeurers within the said burgh."<sup>321</sup> As we shall see, the same stipulation would be an extremely important factor in the 1722 Cupar election dispute involving the Earl of Rothes. The Convention had also declared that the councillors should make themselves *de fidei administratione*, taking and swearing an oath that they were God-fearing Protestants, familiar with burgh business, and firm supporters of their burgh's common good.<sup>322</sup> An example of the way in which this affected the installation of councillors can be found in the Anstruther Easter minutes:

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<sup>320</sup> Ibid., pp. 192-193.

<sup>321</sup> Ibid., p. 194.

<sup>322</sup> Pagan, *Convention of Royal Burghs*, p. 33. The common good was the burgh fund consisting of profits of burgh lands, fees paid on admission of burghesses, etc. Before the days of rates it was the main revenue of a burgh. Both Presbyterians and Episcopalians served on the various town councils.

[all councillors] are ratified, approved and confirmed to qualifications of the persons as established by the present platform: that is to say that the commissions testify and declare the Commissioners to be men fearing God, of the true Protestant religion, publicly professed and authorized by the laws of this Kingdom without suspicion in the contrary, export in the common affairs of the burgh, merchants, tradesmen and inhabitants within the burgh, bearing all portable charges with their neighbours. And bears a part of the Public burdens, and come time...in all their affairs, or of the persons elected Commissioners be not merchants, traffiquers, and constant residents as above said that it shall not be a sufficient qualification that their commission testify them to be proprietors of land holding burgage of the burgh to the value of three thousand merks...<sup>323</sup>

It cannot be denied that the Fife, or indeed the entire Scottish, burgh system consisted of exclusive, self-propagating cliques of merchants and craftsmen. Yet, as we shall see, even within such a system, the independent character of many burgesses and citizens often managed to remedy election procedure grievances with a petition made to the Convention of Royal Burghs. In doing so, these burgesses successfully enacted policy changes for the betterment of the community.

## **II. Electoral Disputes Within the Town Councils**

While the review of the burgh setts, ordered by the Convention of Royal Burghs in 1708, might give the impression that each election was conducted with the utmost propriety, with each nominee, councillor, and magistrate diligently fulfilling his electoral duty, this was not always the case. The precariousness of election disputes ran the gamut – anywhere from civil petitions, discussed in this section, to violent, full-scale riots, examined in the later section. There were many reasons for an electoral dispute. The majority of petitions to the Convention dealt with a councillor, or group of councillors, disagreeing with a particular election practice. This could range from the question of who qualified as a magistrate to the duration of a particular office. The majority of disputes were resolved by a committee

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<sup>323</sup> St. Andrews, B3/5/8, Anstruther Easter Town Council Minutes, 17 July 1710.

assigned by the Convention to investigate both the petition and the practice in question. For the most part, the recommendations and resolutions made by the committee were accepted by both the Convention and the parties involved; and in many cases the final ruling was not in favour of the town council. The following examples of “political disputes within and between the urban authorities”<sup>324</sup> demonstrate the often successful efforts on behalf of various burgesses who challenged the town corporations when the integrity of the burgh sett was threatened.

Demonstrating that the efforts of just one individual could produce a positive outcome when disputing the electoral conduct of a town council, James Oswald of Dunnikier, a former MP for the Dysart burghs (1710-1715) and past Dysart provost, brought a petition to the Convention in August 1721, complaining of the election mishandling being practised by the Kirkcaldy town council. Along with a copy of the burgh sett established by John Leslie, Earl of Rothes in 1656, which the burgh had used since that time as the basis for their election procedure, Oswald presented four issues for the Convention’s consideration. These practices were, he claimed, a direct violation of the town’s 1656 sett:

(1) the qualification of guild brethren and councillors (reserving the allegation of the defenders that it had gone into desuetude); (2) the convener being in use to present a leet [list; also spelled leit] of three trades councillors and the council receiving the same; (3) the corporation being in use annually previous to the election of magistrates to choose new deacons, and (4) the custom of choosing the dean of guild out of a leet of three.<sup>325</sup>

On the first issue, the Kirkcaldy council had imposed a financial qualification upon the councillors and magistrates which they were required to prove before they could be elected to the council. Apparently by doing so, the council hoped to lower the number of

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<sup>324</sup> Dickinson, *Politics of the People*, p. 106.

<sup>325</sup> *Miscellany*, p. 276.

individuals eligible to become councillors, thereby keeping tighter control of the membership. It should be said that, as Oswald's complaint implies, no such stipulation is mentioned in the official sett as to the councillors' financial obligation. Thus the Convention ruled that "the qualification of having five hundred merks in shipping is not required of those who are councillors and magistrates in Kirkcaldie..."<sup>326</sup>

The second of Oswald's points was dismissed by the Convention when they found no evidence to support his claim. The third point, however, involved the guild council. In this instance the Convention determined that it would be irregular for the town council to accept a deacon of the tailors, because this particular person had only been presented by the deacon convener, and had not been elected by the corporation of tailors. This demonstrates a rather deliberate attempt by the convener to get his man on the council without the consent of the tailors' guild.

With regard to Oswald's fourth allegation, it is actually stated in the burgh sett that each of the magistrates would be elected from a leit of eight nominees, although the town council had in practice adopted the custom of only nominating three candidates for the dean of guild. This again clearly demonstrates that the council was trying to exercise tighter control over who served on the council. As a result the Convention ruled that

frequent debates has happened in the election of the magistrates, and particularly of the dean of gild, through not observing strictly the said decret or set, and therefore, all in one voice, after mature deliberation, having God and a good conscience before their eyes, they pronounce and give forth their sentence and decret arbitral in manner following, to witt: We hereby ordain that the said town council shall not in time coming receive any deacon but such as are chosen by their respective corporations in manner provided by the said decret, and hereby discharges the convener and his council to choose any deacons in time coming; and further ordain the magistrates and council of Kirkcaldie to have a special regard in the election of magistrates to the rules

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<sup>326</sup> Ibid.

prescribed by their said set, particularly to elect said magistrates and dean of gild out of the number of eight; and lastly, we decern and ordain the election of the magistrates and town council of Kirkcaldie to subsist.<sup>327</sup>

In much the same vein as Oswald's petition, George Hill, a former bailie of Queensferry, complained to the Convention in 1710 of "undue election of magistrates...at Michelmas last".<sup>328</sup> Hill's petition claimed that during the 1709 election in that burgh "four of the old council were not allowed to vote nor were the burgesses who were not of the principal faction".<sup>329</sup> According to the burgh sett, all burgesses were allowed a vote – a fact which, according to Hill, made the recent election null and void. The town council rebutted Hill's petition, but the Convention ruled in his favour, requiring that the original sett of the burgh should be honoured, with all burgesses allowed to vote. The ruling also stated that "the quality of the electors be that the two part thereof be seaman and the third part landed burgesses, inhabitants bearing scotte and lotte".<sup>330</sup> These small, but important victories, on behalf of Oswald and Hill, sent a message to their respective town councils, and most certainly other burghs, that the corporations attempts to dictate and manipulate the methods by which councillors could be elected, would not always stand.

Because the opportunity for electoral abuse was a continual threat, the burgesses and citizens of Burntisland took proactive steps in 1722 to halt potentially problematic election rules. In this instance, the residential qualification of burgesses to serve on the town councils had come into question. Few of the burgh setts in Fife directly specified that members of the town council had to be residents. Since the qualification for burgess status involved being either a valid merchant or craftsman within the town, it was assumed to be implicit. In an

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<sup>327</sup> William Patterson, *Records of the Convention of Royal Burghs of Scotland, with extracts from other records relating to the affairs of the burghs of Scotland* (Edinburgh, 1866-1870), p. 284; *Miscellany*, p. 277.

<sup>328</sup> *Ibid.*, p. 231.

<sup>329</sup> Pagan, *Convention of Royal Burghs*, p. 90.

<sup>330</sup> *Miscellany*, p. 231

apparent attempt to further limit the scope for abuse, Burntisland sent two petitions to the Convention on 7 July to have residency requirements added explicitly to its own sett. One petition came directly from the town's residents, while the other came from members of the council. In a triumph for the petitioners, the Convention ruled that "none shall be capable of the magistracy but merchants and actual traffickers bearing scot and lot within the said burgh." The Convention also required that "no magistrates be continued longer than two years at once; that three of the gild council be annually changed; and that no deacon shall continue above two years together, and that the deacons be annually chosen upon the Thursday preceding the election of magistrates, at ten in the forenoon, at the usual place of their elections".<sup>331</sup> With this ruling in place, the burgesses at least had the expressed objective of the Convention if future questions should arise regarding the residential legitimacy of prospective council members.

In a dispute similar to that of George Hill, Dunfermline's burgesses became embroiled in a disagreement with the council magistrates over a long-standing, and frankly illegal, scheme for the election of officers. In July 1724, the burgesses petitioned the Convention in an effort to stop the practice of continually electing the same persons for the magistracy. In fact, for years the old council had been meeting prior to the combined council a few days before Michelmas in order to pre-determine the electoral outcome. At this particular meeting they had chosen the treasurer and dean of guild. This was actually in clear violation of the burgh sett that stated that both the old and the new councils were together to elect the incoming officers together. After a lengthy and prolonged debate, the old council finally relented and agreed to the decision of the Convention, which amounted to

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<sup>331</sup> *Records of the Convention of Royal Burghs*, p. 317; *Miscellany*, pp. 277-278. Free burgesses paid a scot and lot tax to the burgh in order to maintain their position as a merchant.



a list of twenty regulations the council was now required to honour, and included the following:

5. For preventing of strife and faction, the present magistrates and council, consisting of said sixteen persons, shall on Thursday preceding Michelmas next proceed to the first steps of their next annual election and shall on Monday immediately thereafter finish and conclude the same, confirm to the rules herein laid down, and that all succeeding magistrates and councils hereby established shall annually thereafter on the Thursday preceeding Michelmas proceed in the steps of their annual elections and shall finish and conclude the same on the Munday thereafter according to the directions herein given;

6. That on Thursday preceeding Michaelmas next the present magistrates and council, consisting of said sixteen persons, shall give notice to and appoint the present deacons of the eight incorporations...to assemble their corporations at their respective usuall places of meeting the same day, and there and then each of the said corporations to make and conclude on a leet or list of four of their own number of best character, most expert had labourers in their craft, burgeses and freemen of the burgh, and bearing scot and lot there, and on the same day to deliver these lets or lists to the provost or eldest magistrate in office on the place for the time.<sup>332</sup>

In effect, the Convention mapped out in explicit detail exactly how the elections were to be run in Dunfermline, including specific days for various parts of the process. More importantly the old council was required to adhere to the original burgh sett by allowing both old and new councillors to be present for the election of all officers, in addition to fixing a maximum of two years for any councillor's term as a magistrate.<sup>333</sup>

Although in each case triggered by local circumstances, these petitions clearly demonstrate the central importance of the electoral process in the system of burgh politics. These individual cases also exhibit a critical success rate for the petitioners who voiced their objections to certain council election abuses, both potential and existing, and managed to correct these abuses with the support and endorsement of the Convention of Royal Burghs. Such examples assist in arguing that while the Scottish burghs of the early eighteenth century

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<sup>332</sup> Ibid., pp. 249-250.

<sup>333</sup> Ibid., pp. 240-260; Keith, "Municipal Elections," pp. 267-268.

were often rife with narrow, oligarchic councils, there were instances of legitimate and genuine electoral reform, brought about by concerned burgesses who were willing to challenge the often formidable town councils for the good of their burgh's general welfare.

### III. Struggle for Independence: The Cases of Cupar and Dysart

In Cupar, the seeds of political unrest had been growing for some time. In the weeks prior to the parliamentary elections of 1715, Cupar had become the focus of wide national attention.

The *Scots Courant* reported, for example, on 28 December 1714 that

the Address for the dissolving the Union goes on very successfully not one single person in the neighbouring parishes has refused it excepting the ministers who have taken it to consider on But at the same tyme are very easy, and some of them have allowed it to be signed in their Churches in this town; means were used to obstruct it but to no purpose for some of the magistrates and all the inhabitants have already signed it and this day the Deacons are to convene all the Trades who as one man will sign it.<sup>334</sup>

Naturally this story had created a sensation among the local politicians. Adam Cockburn of Ormiston, the Lord Justice Clerk, wrote to the Duke of Montrose that he and the 9<sup>th</sup> Earl of Rothes had been so shocked by these allegations that he had vowed to find the source of the story. After putting pressure on the newspaper's editors, it came to light that a young man, Charles Hamilton, had compiled the report after hearing about the events in Cupar. Hamilton subsequently admitted that his sources were "a lady under a cover desiring to cause against it...and Mr. Thomas Bruce". He also went on to admit that it was "a mistake and misinformation".<sup>335</sup> The Earl of Rothes expressed his concern, in correspondence with

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<sup>334</sup> St. Andrews, B13/14/3, Cupar Town Council Minutes, 5 January 1715.

<sup>335</sup> NAS, GD220/5/455/1, Adam Cockburn to Duke of Montrose, 1 January 1715. Thomas Bruce, an active Jacobite, would later be captured by the Earl of Rothes during the rebel occupation of Fife on 29 September 1715.

Montrose that the anti-Union movement might grow throughout the county, particularly if the movement was accepted and promoted by the Presbyterian clergy.<sup>336</sup>

On 5 January 1715, in response to the newspaper's coverage, the Cupar town council sent a rebuttal to the *Courant*, calling the article a

gross notorious falsehood for all that tyme there was not one subscriber in this place except one of the bailies and two or three more and albeit most indirect and as an unwarrantable means have most industriously been used by the promoters of this Address In order to delude simple people yet they have procured but verry few subscriptions in this place and these for the most part of the meanness of the inhabitants and some school boys, yea some could not sign themselves have had their names put to by others and the ministers both here and in the whole presbytery do unanimously declare against it.<sup>337</sup>

At this point the furore surrounding the controversy in Cupar seemed to settle down; as we shall see, however, it did not completely disappear.<sup>338</sup>

On 6 October 1715, a recruitment Proclamation in the name of James VIII was read at the Mercat Cross in Cupar, which had been sent by the Earl of Mar in his capacity as leader of the Jacobite army. All able-bodied men between the ages of 16 and 60 were encouraged (that is, requested) to join the rebel army at Perth.<sup>339</sup> The Cupar magistrate elections were scheduled a few days after the Proclamation was read. The day before the 1715 magistrate election,

there came from Perth to Coupar a Party of the Rebel Gentlemen, to manage the Election there; who making Search that Night for the Councillors and Deacons of

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<sup>336</sup> NAS, GD220/5/458/2, Earl of Rothes to Duke of Montrose, 6 January 1715.

<sup>337</sup> St. Andrews, B13/14/3, Cupar Town Council Minutes, 5 January 1715.

<sup>338</sup> The Fife County and burgh MP elections held during the early part of February 1715 resulted in a hard fought Whig victory as discussed in Chapters 3 and 5. The Jacobite element, however, remained strong throughout the county.

<sup>339</sup> Paula Martin, "Cupar, Fife, 1700-c. 1820: a small Scottish Town in an Era of Change", (Unpublished PhD thesis, University of Dundee, 2000), p. 327.

Craft, severals of the Counsellors made their escape, and absconded...Those of them that they met with, were threatened, and frightened into a Compliance to vote next Day for such a Set, as they named to them, for bearing publick Offices in the Burgh.<sup>340</sup>

Cupar had had its share of Jacobites and Jacobite sympathizers for many years, but never enough to be in command of Cupar's burgh administration. Only through the use of coercion and intimidation, was the Jacobite faction able to assume control, with the council led by Dr. James Bethune of Kingask. The bailies elected were James Oliphant and Richard Applin, with George Douglas as treasurer, and James Baxter and James Hepburn serving as councillors.<sup>341</sup> Taxes were to be collected by John Smith explicitly, as the Lord Advocate later reported to the King, "for the Pretender's use".<sup>342</sup>

After experiencing the occupation of Jacobite troops and having their taxes turned over to the Pretender, the Cupar burgesses determined never to allow another Jacobite town council. It was decided in October 1716 "by the old and new council that no person who had any hand directly or indirectly in the late rebellion shall ever be capable of bearing any office within this burgh or having any vote either in the election of the guilds or crafts".<sup>343</sup> This neatly ended the Jacobite administration of Cupar, although the continued threat of their return was constant possibility. For the next three years the town's elections managed to stay free of open hostility. That all would change in 1720.

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<sup>340</sup> St. Andrews, TypBX.D21XZ, *A Vindication of the Action of Declarator concerning Burghal Privileges or An Account of the Occasion of the Division which happened in the Town of Cupar, anent the Election of the Magistrates, at Michelmas 1720, and hath greatly increased since, with several Instances of the said Effects thereof, By a certain gentleman who is a true Lover of Liberty and Property*, np, 1721. [*A Vindication of the Action of Declarator...*]

<sup>341</sup> St. Andrews, B13/14/3, Cupar Town Council Minutes, passim; Martin, p. 328; Richard Applin dismissed himself from the burgh council prior to the 1714 magistrate election because he refused to swear loyalty to King George I.

<sup>342</sup> PRO, SP54/14/10N, Lord Advocate Dundas to the King, 26 February 1723.

<sup>343</sup> St. Andrews, B13/14/3, Cupar Town Council Minutes, 10 October 1716.

The history of the Cupar council election of 1720 and its difficult aftermath is documented in a contemporary pamphlet entitled *A Vindication of the Action of Declarator concerning Burghal Privileges or An Account of the Occasion of the Division which happened in the Town of Cupar, anent the Election of the Magistrates, at Michelmas 1720, and hath greatly increased since, with several Instances of the said Effects thereof, By a certain gentleman who is a true Lover of Liberty and Property*. Published in 1721 by an anonymous author using only the initials L.A., it was commissioned by Patrick Crombie, merchant and late Bailie of Cupar against Mr. Robert Hay of Naughton, current Sheriff-depute of Fife and long-time factor to the 9<sup>th</sup> Earl of Rothes.

The burgh sett of Cupar released to the Convention of Royal Burghs in 1708 stated that magistrates were not allowed to serve on the council for more than two years successively.<sup>344</sup> Due to these restrictions, the current town officers that had served since 1718 were required to step down in October 1720, including David Sibbald, Patrick Crombie, and Walter Christison who were all “native, burgesses, residents and traffickers within the burgh...[and all are known for] their Gravity and Prudence”.<sup>345</sup> This left the elections for the new magistracy wide open. Hay of Naughton, suggested John Clark for one of the bailie offices. While Clark had the support of Rothes, he did not enjoy the support of the council as a whole due to his dubious history as a former magistrate. Clark had served on the council prior to 1711 and, of greater significance, he is one of the signatories on the 1708 sett delivered to the Convention of Royal Burghs as a representative of the town council. His hubris was such that he had announced his intention to occupy the office of either bailie or Dean of Guild successively for as long as he lived, which was in clear violation of the electoral rules and regulations established by the burgh sett he had himself endorsed.

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<sup>344</sup> *Miscellany*, p. 179. “This sett of the burgh of Cupar, has been observed these forty years bygone and upward.”

<sup>345</sup> *A Vindication of the Action of Declarator....*

Needless to say, at the next election the burgesses had promptly voted him off the council. Over the next few years, Clark had managed to ingratiate himself to several councillors resulting in his regaining a seat on the council. Once re-elected, however, Clark again boasted that he would stay on the council for his lifetime, and the council had again been forced to get rid of him. The problem that the council now faced was that Rothes and Hay were simultaneously attempting to nominate him for the magistracy. In an effort to smooth the nomination of Clark, Rothes approached Thomas Greig, an honourable and well-liked burgess, to stand with Clark as a colleague. Greig refused to have anything to do with Clark and turned down Rothes' offer – no doubt due in part to the fact that Greig was feeling the pressure from other magistrates, who were determined that Rothes and Hay would not usurp their authority by electing Clark a Baillie.

On Tuesday, 4 October 1720, Rothes came to Cupar and convened the magistrates and council at Mrs. Bogie's Inn. Expressing his surprise that a division had developed between his supporters and those of Thomas Greig, Rothes questioned the council's motives. He even went so far as to ask: "Came you not from Mr. Applin's to this House? Was not Doctor Bethune with you?" – both of whom were noted Jacobites.<sup>346</sup> The suggestion of a Jacobite conspiracy behind their opposition to Clark touched a sensitive nerve given the events of 1715, and was not lost on the council, who vigorously denied that there was any such connection. Rothes then suggested a slate of candidates that included Hay, Clark and William Rigg. Rigg had also previously served as a bailie, though his conduct had done little to secure him a reputation as an honest man. His expense accounts had attracted considerable suspicion when he had served as the town's representative to the Convention of the Royal Burghs in 1716.

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<sup>346</sup> Ibid.

Once again, the council balked at Rothes' suggestions, declaring that such gentlemen were not fit for office. Hay in particular was a "Gentleman of the Country", – in other words, not a *bona fide* burghess of Cupar and therefore ineligible to serve. As the council departed, Thomas Davidson, one of their members, was physically detained by Rothes' men. The coercive methods employed by Rothes are, unfortunately, not disclosed in the report, though it seems an agreement to support Rigg's candidacy was somehow extorted from Davidson. Strong-arm tactics by Rothes were in fact not uncommon in Cupar elections. During the elections of 1702, for example, when embroiled in a heated contest with the 3<sup>rd</sup> Earl of Melville's chosen candidates, Rothes and his men had resorted to restraining several of the tradesmen from the election, imprisoning others, and playing fast and loose with the burgh sett.<sup>347</sup>

In response to Rothes' nominations in 1720, the council on this occasion put forth their own slate consisting of Thomas Greig, John Bayn, and Thomas Rutherford.<sup>348</sup> Once again Rothes attempted to convince Greig to run in tandem with Rigg (on Rothes' ticket); and once again, Greig refused. With this final rejection by Thomas Greig, a "Proclamation of War in earnest [was declared]...the Earl and his party are reckoned acting against the Interest and privileges of the Burgh; the Magistrates and their Adherents are accounted Enemies to the Earl and his Lordship's Interest".<sup>349</sup> With this "state of war" declared between the two factions, the Rothes party gathered their supporters, while the council assembled a large group of volunteers.

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<sup>347</sup> The Earl of Melville and his adherents certainly would have resorted to the same tactics if they were defending their incumbents. As it was, Melville's party, though powerful, failed to overtake Rothes' stronghold in Cupar.

<sup>348</sup> Bayn was not a wholly popular choice, but as he was already serving as a councillor, the magistrate party determined that since he was firm to their party they would "dispense with his imperfections." See *A Vindication of the Action of Declarator*...p. 17.

<sup>349</sup> *Ibid.* The term "Declaration of War" was an embellishment used by the pamphlet author.

On Saturday, 8 October, the day of the Trades Election, Rothes' party made several visits to the town's tradesmen, in an attempt to 'persuade' them to change their votes. Alexander Webster, tailor, was sent to Balnibreich where he was "kept" until the election was over; Robert Ford, another tailor, was given six half-crowns from John Clark which disbarred him from the election as he had accepted a bribe – even though he did try to return the money the next day. William Hunter, another tradesman, was kidnapped and kept at John Clark's house in Cupar under the guard of William Hay, while Hay's son, George, along with Charles Gregory, professor of mathematics at St. Andrews University, accosted a Mr. Watson on the street as he was en route to the election, causing him to miss the vote. Ultimately, despite these brazen attempts at election-rigging through bribery, coercion and kidnapping, the Trades vote resulted in six deacons being elected for the opposition party, and only two for Rothes.

The subsequent council election was scheduled for eight days later. Rothes had decided it would be best for Hay of Naughton and his associates to remain in town, continue their recruitment efforts, and try to ensure that their own candidates were elected to the magistracy. The Naughton party settled themselves at the home of Thomas Davidson, the councillor who had been the first victim of Rothes' extortion prior to the Trades election. In order to escape any further humiliation, Davidson left Cupar for Newbigging the day before the election, where he apparently hid in a barn under a sack of lint. He managed to remain undetected during a search of the barn by Naughton's men, an achievement which at least denied the Rothes party his vote.

At 10:00 a.m. on 16 October 1720 the opposing parties finally met at the Cupar Tolbooth in order to elect their magistrates for the coming year. It was here that Rothes' tactics finally paid off. Not only were William Horsburgh, William Rigg, and John Bayn



elected magistrates, but Hay of Naughton, Major Archibald Hay of Tarvit, Charles Leslie (Rothes' son), George Oliphant, and John Imrie were all elected to the new council. Rigg, who was held in complete contempt by the council party, was judged unworthy to fulfil the duties of bailie. Bayn had earlier sworn loyalty to the council party, yet had changed his allegiance quickly when approached by Rothes. And Horsburgh had no trade in the town – being a writer by profession. As unacceptable as these new magistrates were in terms of their integrity or personal ethics, what made their election even more dubious was the fact that none of the newly-elected councillors was even a resident of Cupar. Adding insult to injury, Patrick Crombie and Thomas Christianson, two well respected and worthy burgesses, were voted off the council. The only comfort the opposition party could find was the retention of Robert Syme, Robert Millar, and Andrew Rutherford as councillors from their own ranks.

Rothes' opponents in Cupar now found themselves in a quandary as to how to handle this difficult situation. Interestingly, they directed their argument not directly against the Earl himself – after all, he was the town's provost and Fife's sheriff – but against the new magistrates whose elections he had engineered. According to L.A.'s pamphlet, Rothes had no real interest in the town and so would not be readily available to conduct everyday business.<sup>350</sup> The new magistrates also did little to endear themselves to the council or to the town after taking office. In particular they unjustly quartered regimental troops on their opponents shortly after the election. It was therefore in an act of defiance towards the magistrates that the opposition party in Cupar made an application to the Court of Session for an action of declarator,<sup>351</sup> stating:

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<sup>350</sup> Martin, p. 331. The Convention of Royal Burghs declared in 1657 that, whether merchant or craftsman, all burgesses must be resident of the town. However, in Cupar that stipulation was not mentioned in the Cupar burgh sett submitted to the Convention in 1708.

<sup>351</sup> An Act of Declarator was an action brought by an interested party to have some legal right or status declared, but without claim on any person called as defender to do anything.

some in the Magistracy, several country Gentlemen, and some Incomers to the Town, who have no Trading therein, and who in a most arbitrary and masterful Manner, have got themselves made Counsellors; have not Right to such burghal Privileges, wanting suitable Qualifications, viz. residing and trafficking with the burgh, as the Acts of Parliament expressly require: That on getting these Intruders debarred, they may be freed from such Oppressions for the future.<sup>352</sup>

In the hopes of gathering additional support, the opposition approached the Convention of Royal Burghs, who agreed to assist them with both advice and legal expenses in the amount of £25 Sterling. Ultimately, in July 1723, the Court of Session finally ruled in favour of the opposition, declaring that the election of 1720 in Cupar had been illegal.<sup>353</sup>

Due to the burgh sett stating that magistrates were allowed only a two-year term, it was inevitably very difficult for Rothes' opponents to unseat the magistrates elected in 1720. Moreover, with the act of declarator still being considered by the Court of Session, their hopes of regaining control of the town council in the sort-term were slim. Even so, these facts did not prevent them from trying. The 1721 election for magistrates and town council was held at the Tolbooth on 11 October. It was at this point that Andrew Rutherford, a leading member of the opposition party, made a bold declaration against the Rothes' party councillors elected in 1720:

I Andrew Rutherford, late bailie of Coupar and one of the present councillours of the said burgh doe for my self and in the name of the remanent councillors of the said burgh and Deacons of Crafts thereof who shall adhere to me Protest that the Mr. Charles Lesly, Mr. Robert Hay of Naughton, Major Archibald Hay of Tarvit, George Oliphant of Prinlawes, John Imrie, Town Clerk, and procurator fiscall to the Sheriff Court, Robert Wemyss pretended magistrates and councillors of the town of Coupar are incapable to name councillors to succeed you for the ensuring year because you were incapable of being councillors yourself at the last Election of Coupar and still are so and that for the reasons mentioned in a declarator of such incapacity which is depending against you before the lords of session and consequently that no persons

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<sup>352</sup> *A Vindication of the Action of Declarator....*

<sup>353</sup> Martin, p. 334.

named by you neither of you can vote for the election of the magistrates of Coupar for the ensuing years or bear the office of magistrate...<sup>354</sup>

In a further act of open defiance – quite literally since the Earl of Rothes was present at the meeting – Rutherford continued:

that you John, Earl of Rothes, are incapable of being chosen provost or any other office bearer within the said burgh of Coupar because you are a nobleman and thereby in the terms of many excellent laws and acts of parliament are disbarred and that I and my adherents our being present at the meeting is no manner of homologation [ratification] of your nominations at the last on this election and that our only design in coming to this meeting is to name councillors for ourselves and to signify our dissent in a legal way against your unwarrantable proceedings and protest that any election of councillors made by a plurality occasioned by your votes is and may be void and null...<sup>355</sup>

Technically, Rutherford's argument had merit. But the rhetoric of the opposition party was no match for the raw power wielded by the Rothes faction. As a result, and whilst noting Rutherford's protest, the council proceeded with the election. All three bailies in question were re-elected.

Three of the thirteen councillors elected in 1720 had been members of the council party opposed to Rothes, and they now managed to keep their fasthold on the council. Indeed, all three opposition councillors – Robert Millar, Robert Syme, and Andrew Rutherford – nominated anti-Rothes replacements to the new council: James Dott, William Geddie and Walter Christieson. All three opposition nominees were duly elected, which served to deny Rothes a completely loyal council comprised entirely of his own men. When the time came to elect the provost, Rutherford tried, once again, to protest the nomination of

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<sup>354</sup> PRO, SP54/13/95, Cupar Town Council Election Minutes, 11 October 1721. This document clearly lists the newly elected town councilors with an "X" marked next to the Rothes' supporters. A notation in the margin of the minutes confirms the reason for the "X".

<sup>355</sup> Ibid.

Rothés, who had served as provost since 1692. In fact, the opposing party nominated Patrick Crombie for provost, although he was not currently a councillor. That fact notwithstanding, Crombie still managed to garner eleven votes, but it was still not enough to counter the nineteen votes in opposition to Crombie from the Rothés faction. This result is very significant and suggests that some of the councillors were not, in fact, loyal 'Rothés men' in the truest sense of the word – not only did they vote with the opposition party, but in doing so, they were willing to risk what could amount to political suicide by voting against Rothés.

While the Cupar election of 1721 lacked the sheer drama of 1720, there was still enough rancour between the two parties to carry over into 1722, which was also the year of a parliamentary election. Charles Leslie, Rothés' second son, was nominated as the Cupar delegate to attend the district election meeting in Forfar, the presiding burgh, and was also his father's preferred choice as district MP. In Cupar, however, the opposition party had other ideas. Considering themselves the rightful guardians of Cupar's interest, the opposition sent a rival delegate to Forfar: Ensign James Erskine. James' brother, Captain William Erskine, was another candidate for the district seat, even though he was also the St. Andrews delegate. At the parliamentary election meeting, held on 28 April 1722, the praeses, Alexander Binning of Forfar, formally accepted the credentials of both delegates from Cupar. William Erskine even managed to secure a majority of the votes against Charles Leslie, thus winning the district seat. But when the Earl of Rothés, acting as Sheriff, returned the official election writ to the House of Commons, he listed his son as the MP. A petition by William Erskine protesting the illegal actions by Rothés was upheld by the Commons election committee much to the dismay of the Rothés family and the local Whig party. This outcome

stuck a blow to the power of the Rothes' Whig faction, and scored a victory for the Cupar opposition party, particularly since William Erskine was known to be an Argyll Whig.<sup>356</sup>

On the death of the Earl of Rothes in May 1722, the family's political activities were taken over by his son and heir, John, 10<sup>th</sup> Earl of Rothes. In keeping with the long-held tradition of having the Earl serve as Cupar's town provost, along with the advantage of holding a majority of town councillors as Rothes supporters, on 1 October 1722 the town council voted in favour of having young Rothes elected as provost at the forthcoming council election.<sup>357</sup> The council duly met at the Tolbooth on 10 October to conduct the annual election. James Dott, councillor and another of Rothes' opponents, immediately presented a protest against the members of council who did not conduct business in Cupar. Significantly, his petition was delivered in the name of Patrick Crombie, Andrew Rutherford, Thomas Greig, William Geddie, and all of the other members of the opposition party.<sup>358</sup> The protest stated that no one had a "right to sit, act or vote as a member of the old council...you being no heritor of Burgage Lands nor Trader and Trafficker in the same burgh". After considerable debate, with each of the councillors accused of being a "pretend" member speaking in their own defence, Dott and Geddie, unable to prevail, withdrew from the council meeting.<sup>359</sup>

Immediately after the opposition had departed, the remaining councillors voted on a motion that they were each legally entitled to occupy a council seat. Unsurprisingly this was passed. They then proceeded to elect the new magistrates. Rothes was elected provost, with John Clark, Thomas Robertson and John Annan elected bailies, and William Couper as

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<sup>356</sup> PRO, SP54/14/10S, *passim*; Sedgwick, p. 402.

<sup>357</sup> St. Andrews, B13/14/3, Cupar Town Council Minutes, 1 October 1722; Martin, pg. 331.

<sup>358</sup> Walter Christianson, the third opposition member elected to the council in 1721 had died prior to the October meeting.

<sup>359</sup> St. Andrews, B13/14/3, Cupar Town Council Minutes, 10 October 1722.

treasurer.<sup>360</sup> At the conclusion of the election, the results were shouted from the Tolbooth window. When the council adjourned and attempted to descend the Tolbooth stairs, however, they were met by a furious mob enraged by the election results.

The crowd had gathered to protest the continued presence of the Earl of Rothes and his control of the town council. According to depositions taken in the weeks and months after the disturbance, as the Earl exited from the Tolbooth “this Mob so convocated committed the greatest outrages possible, such as throwing of stones, pulling of the said Earl of Rothes by the breast, striking at the sheriff depute [William Hay] with drawn swords”.<sup>361</sup> Alexander Webster, deacon of the tailors, was reported to “grip the Earl of Rothes...and shake him and...John More, wright, who was standing next to Webster, call to him to pull the Earl down by the heels”. Attempting to shout above the crowd, Hay read the Riot Act twice, to no avail. Estimates of the size of the crowd vary, with Rothes’ adherents claiming “the number of some hundreds,” whereas testimonials taken from other residents estimated only around 200.<sup>362</sup> There was little dispute, however, as to who was in the crowd. The opposition council members, many with their sons, were clearly the leading instigators. Many witnesses also reported seeing Dr. James Bethune, the former Jacobite town provost, and his son, along with Lord Edward Murray, father-in-law to Col. Philip Anstruther and brother to the Duke of Athole, along with Lieutenant James White of the Earl of Orkney’s Regiment. Murray and White were also the only members in the crowd to have their swords drawn, while many witnesses stated that it was Dr. Bethune who shouted for the crowd to move forward when Rothes appeared at the Tolbooth door. Unarmed during the election, Rothes sent a servant to the inn where he was staying to gather his pistols and sword. When

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<sup>360</sup> Ibid.

<sup>361</sup> PRO, SP54/14/10T, n.d., *Memorial of John Earl of Rothes In behalf of himself as Provost and in behalf of the other Magistrates of the Burgh of Couper. In Answer to a Petition offered to Your Majesty in the Name of Patrick Crombie and others.*

<sup>362</sup> Ibid; PRO, SP54/14/10K, *Witness statements on the Events in Cupar on 10 October 1722 taken 15 October 1722, passim.*

his servant returned Rothes, now armed, confronted the crowd. Ultimately, tempers settled down, although the crowd did not disperse until much later in the day. Even with the presence of Dr. Bethune, this riot did not appear to be a clear-cut case of Whig versus Jacobite, although the actions of the doctor would not have been lost on Rothes. It was, however, a well-organized protest against the Rothes' hegemony of many years. Based on prior election results, the Cupar opposition knew full well that the final vote would give favour to the Rothes party thereby allowing them ample opportunity to organize the crowd in protest.

Later that day, at approximately 3:00 p.m. the opposition party's councillors met at Mistress Bogie's Inn to conduct their own elections. The surviving minutes of this meeting demonstrate a great seriousness of purpose in the conduct of the election. Crombie, Geddie, and Dott all considered themselves legitimate old councillors. In order to conduct what they determined was a legal election, ten of the old councillor seats had to be filled to give a total of thirteen. To do so, each of the councillors from the Rothes party was named and disqualified, and a member of the opposition party was named a proxy in their place. This, then, constituted the opposition's old council. Continuing with the procedure stated in the burgh sett, each of the old councillors named new councillors, who were each voted onto the council. The election of the magistrates followed: Crombie was elected provost, Rutherford, Geddie and Greig were elected as bailies, and Dott was elected as Treasurer. Each of the councillors and magistrates then took the appropriate oaths, which were administered by the Justice of the Peace, Robert Lumsdean of Innergellie.<sup>363</sup>

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<sup>363</sup> PRO, SP54/13/120, *At Cupar of Fyfe, the tenth day of October 1722 Being the Anniversary fixed day for the Election of the Provost, Bailies and Treasurer of the said Burgh.*

To further underscore their claim to be the lawful town council, the opposition party proceeded to the Tolbooth where they barricaded several of their own members inside the building and placed armed guards at the door to deter anyone from entering. The following Sunday, when Rothes' councillors attempted to take their place in the church loft reserved for the magistrates, they also found the door to the loft locked by order of Crombie and his party. Such determination and organization from his opponents finally forced Rothes to call for outside help.<sup>364</sup>

As a result of Rothes' plea for assistance, Secretary Roxburgh<sup>365</sup> ordered troops to enter Cupar, and issued instructions for a full investigation into what he called the "disorders and tumultuous proceedings committed lately at Cupar".<sup>366</sup> Roxburgh had already sent a report of the riot to Robert Dundas, Lord Advocate of Scotland.<sup>367</sup> Although initially ready to support Rothes, Dundas, in a letter to the King, advised him that

Your Majesty be graciously pleased to give directions to your commander in chief of the forces in Scotland to march in a sufficient force into the Burgh of Coupar and to dissipate those Persons who are there congregate in arms, and to support those magistrates, and their successors...in the exercise of their authority against Mr. Crombie, and his adherents...<sup>368</sup>

Dundas went on to caution the King:

That if this be the State of the Fact I am humbly of opinion that the Proceedings of Mr. Crombie, Mr. Gregg, and their adherents in taking upon them to put themselves in Possession of the Magistracy by Force of arms and the assistance of a Mob...a high misdemeanour, and of dangerous President to your Majestie's service, more

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<sup>364</sup> PRO, SP54/14/10S, *passim*.

<sup>365</sup> John Ker, 5<sup>th</sup> Earl and 1<sup>st</sup> Duke (1707), of Roxburgh; Secretary of State for Scotland from 1716 to 1725. Consistently loyal to George I, he was made a privy councillor and Keeper of the Privy Seal of Scotland. His opposition to the Malt Tax in 1725 resulted in his dismissal from office.

<sup>366</sup> PRO, SP54/13/124A, *Secretary Roxburgh to the Solicitor General ordering an investigation into the riots at Cupar*, 19 October 1722.

<sup>367</sup> Robert Dundas, Lord Arniston, the elder; served as Solicitor General of Scotland from 1717 to 1720 and Lord Advocate from 1720 to 1725.

<sup>368</sup> PRO, SP54/13/123, Lord Advocate Robert Dundas to the King regarding Cupar Riots, 17 October 1722.



especially at this time when treasonable conspiracies are a carrying on against your Majesty, and that if some effectual method be not taken in Scotland to prevent the using by Force in the Election of Magistrates of Burghs the consequence will be very dangerous in Case of any commotion since Convocations will be made in Burghs that are disaffected where of there are not a few on pretence of placing or maintaining their magistrates in Possession, and those Persons once convocated with arms in their Hand will have an easy opportunity of joining together to support any traitorous designs...<sup>369</sup>

Again, while there is no indication that the political position of the opposition party in Cupar held any genuine Jacobite sympathies, the presence of Dr. James Bethune in the crowd certainly raised some suspicion and caused a stir, leading Dundas to note that “I take it to be my Duty humbly to certify to your Majesty that several of those Persons who appear to have been concerned in those Proceedings at Coupar are not reputed to be well affected to Your Majesty and some of them have given Proof of it by their being zealous, and active in the Rebellion 1715”.<sup>370</sup> Fife’s Jacobites had been soundly persecuted by the 9<sup>th</sup> Earl of Rothes during the rebellion, and therefore any opportunity to defeat a member of the Leslie family, particularly the deceased Earl’s son, would presumably have been appealing to Bethune.

The government continued to investigate the events in Cupar into the early months of 1723. It was becoming progressively more difficult, however, to advance the interests of the Rothes party through legal action. Dundas soon began to waver in his earlier advice that opposition should be prosecuted with all due force. In February 1723, he reported to the King

And whereas the Earl of Rothes in his Memorial is pleased to notice that he and the other Memorialists had desired of Your Majesties Servants in the Law That the petitioners and other persons guilty of those violences might be prosecuted and do Complain that this hath not been done. I must acknowledge that the fact is so, But the remembrance of the bad Success that all Government prosecutions have met with in Scotland for several years, the experience they have already had that no proceedings can be carried on in matters of this kind, but what will be Complained of and

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<sup>369</sup> Ibid.  
<sup>370</sup> Ibid.

misrepresented from one hand to other makes your Majesties Council in Scotland very Cautious as to Commencing such prosecutions...<sup>371</sup>

The Court of Session duly determined that during the Cupar magistrate's election of 1720, some of Rothes' candidates had not been qualified to take office. Possibly wary of inciting more mob action, the government also did not dispatch any additional troops to Cupar to protect Rothes' interest.

As the 1723 elections approached, Rothes had his party in place, and protected them with armed guards positioned at the Tolbooth. Such precautionary measures, however, were unnecessary as no mob action materialized. Regrettably, the Cupar town council minutes are incomplete between the election in October 1723 and 8 August 1725, when the Court of Session found the elections of both 1722 and 1723 null and void. In doing so "their excellencies the Lords Justices in Council, ordered a popular election...made by the burgesses who bear Scot and Lot in the said burgh."<sup>372</sup> The Court ordered a temporary council, consisting of twenty-four men to be named in the interim, all of whom were to be residents of Cupar, and whose duty it was to settle the burgh finances and establish a new list of qualified candidates for the upcoming Michaelmas burgh elections.

This action marked a resounding, long sought-after victory for the Cupar anti-Rothes opposition in their "demand for a wider distribution of power"<sup>373</sup> against the controlling forces of the local aristocracy. From this point onwards, all burgh councillors were required to be legal, tax-paying residents of the town, and any attempt to field an unqualified candidate was deemed illegal.<sup>374</sup> Opposition to aristocratic hegemony, however, was not the

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<sup>371</sup> PRO, SP54/14/10N, Robert Dundas to the King, 26 February 1723.

<sup>372</sup> St. Andrews, B13/14/3, Cupar Town Council Minutes, 3 August 1725.

<sup>373</sup> Dickinson, *Politics of the People*, p. 115.

<sup>374</sup> Martin, p. 335.

only grievance pursued by burgh councils. Resistance to overt interference by Westminster when conducting magistrate elections could also mobilize a burgh council to rebel against the dictates of the national government

In August 1725 the town of Dysart also resorted to extreme measures in defending the outcome of its recent burgh elections from an “exercise of power”<sup>375</sup> waged by the British Parliament. Indeed, throughout that summer the whole country had been unsettled following Parliament's decision to impose the Malt Tax. By order of the Privy Council in London, overseers had been appointed to monitor the local elections. Dysart was assigned twelve overseers; but on the day of the election, 25 August, only eight arrived, due in part to their fear of entering the town. A few days beforehand, Mr. Scot of Logie, MP for Forfarshire, had been attacked and wounded by a hostile crowd in Dundee, which had seemed to hold him responsible, as a parliamentarian, for the tax's introduction. Scot had actually been passing through Dundee after serving as overseer for the Cupar elections. As report of the incident relates,

The Members of Parliament of the House of Commons who had done their duty in Parliament, were publicly reviled in the most abusive manner, and threatened with the Resentment of the Populace, the effects of which have been notoriously known and severely felt...The populace at Dysart had declared that the People of Dundee had treated the said Mr. Scot as he deserved, and that if he came among them, they would also do themselves Justice against him: That those Damned Parliament men who had begun the ruin of their Country, should not judge in their election...<sup>376</sup>

James St. Clair, who wrote this report, was himself the sitting MP for the Dysart burghs. Originally, St. Clair wanted to send troops to Dysart to keep order, but there were none available as they were all in Edinburgh attempting to control the brewers' riots.

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<sup>375</sup> Dickinson, *Politics of the People*, p. 112.

<sup>376</sup> PRO, SP54/16/76, James St. Clair to Duke of Newcastle, 25 August 1725.

With just eight overseers present, Dysart proceeded with its election. Because of this, St. Clair petitioned Lord Ilay and the Duke of Newcastle, and all three agreed that the burgh elections should be declared null and void.<sup>377</sup> In response to this decision, the Dysart magistrates wrote to the Lords of Session in Edinburgh stating that eight overseers were indeed sufficient to the task of validating an election. Claiming that they had each fulfilled their duties as directed, and as it was the Privy Council which had insisted on using overseers in the first place:

it appears somewhat strange that those who contributed so much to render these good intentions ineffectual, should afterwards endeavour to turn what was their own fault so much to the prejudice of the burgh, by depriving it of a magistracy.<sup>378</sup>

They added that "although it has not been signified to us as Your Excellencies pleasure that we should anyways desist from the possession of our offices", the Dysart magistrates would "for the space of a month henceforth to abstain from all acts of jurisdiction". But if the town did not hear anything further from the Lords of Session by the end of the month, they would continue with their administrative duties.<sup>379</sup> The official Dysart council minutes unfortunately cease from this point until 1727, where it is noted on 5 September that a commission was formed to carry out an election to replace the 'pretending' magistrates and councillors.<sup>380</sup> The 'pretend' council members were subsequently asked to surrender their administrative papers, a request which suggests that they had continued to govern the town since 1725. Indeed, it appears likely that the town council members had managed to hold their ground for nearly three years against the interference of national politicians. Their notable show of independence, however, did not meet with approval at all levels. On this occasion, the Convention of Royal Burghs sided with the government by

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<sup>377</sup> PRO, SP54/16/6, Earl of Ilay to Duke of Newcastle, 7 September 1725; SP54/16/10a, James St. Clair to Earl of Ilay, 11 September 1725.

<sup>378</sup> PRO, SP54/16/51, 16 October 1725.

<sup>379</sup> Ibid.

<sup>380</sup> Markinch, 01/02/02, Dysart Town Council Minutes, 5 September 1727.

imposing fines on the magistrates to the amount of £100 Scots each for their initial refusal to return the burgh account books. The 'pretend' magistrates were also excluded from serving on the newly-elected town council for two years.<sup>381</sup> In light of what they had accomplished in their protest against intrusive governmental control, the two year suspension was a comparatively small price to pay.

#### IV. Conclusion

The conduct of these early eighteenth-century municipal elections in Fife illustrates very clearly the extent of local determination to promote, pursue, and advance their own form of self-government as political communities. The town councils were, of course, political strongholds of the merchant class and granted little political opportunity to anyone below the rank of craftsman. Theodora Keith, in one of the very few modern studies to consider these activities, argued that burgh electoral disputes in Scotland were simply the result "of jealousy on the part of those excluded from office than to any ardent desire for reform in general, and any changes that were made were in detail, not in principle."<sup>382</sup> In some instances this may well have been the case. But equally, it is difficult to view the three-year electoral struggles in both Cupar and Dysart, in addition to the individual efforts on behalf of several burgesses pursuing electoral reform, as devoid of political principle. On the contrary, in all cases the burgesses risked prosecution, loss of their livelihoods, and personal safety in their pursuit of that they believed to be the proper course of action. That they invoked these actions against a powerful aristocracy and, more importantly, the British government, speaks volumes for their determination to succeed and preserve their local political autonomy. The Cupar situation, in

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<sup>381</sup>Patterson, *Convention of Royal Burghs*, p. 451.

<sup>382</sup> Keith, "Municipal Elections", p. 267.

particular, presents a classic example of town versus country, or in other words, the town citizens rebelling against the imposition of the country nobility.

As we have seen, Fife was a county with not only a large, prosperous and politically active gentry population, but a county with an equally active burgess political presence. While the interest of the nobility was always recognized, Fife's burgesses continually demonstrated an independent streak throughout the early part of the eighteenth century. For most of them the burgh within the county was the boundary of their political world. As John Morrill has argued in relation to the early-modern English localities, "The overriding political unit was the county community".<sup>383</sup> In this regard, it was crucial to many town burgesses that their local councils were allowed to function and govern independently of the overriding influence pursued by both the aristocracy and the national government.

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<sup>383</sup> J.S. Morrill, *Cheshire 1630-1660: County Government and Society During the English Revolution* (Oxford, 1974), p. 330.

## Chapter 5

### The Burgh Parliamentary Elections – 1707-1747

*“I hoped Leven would serve him with the same sauce that the court served his brother of the Squadron when they left your Grace last...which was to pish on them after they served their turn.”<sup>384</sup>*

The Scottish Parliament of 1705 comprised a total of 232 members. The Scottish royal burghs were represented by sixty-seven members, while the counties were represented by eighty-eight members.<sup>385</sup> The Treaty of Union of 1707 reduced the number of burgh representative in the new British Parliament to fifteen members. As previously stated, Scotland’s sixty-five Royal Burghs were formed into fourteen geographical districts containing four or five burghs, with each group receiving one Westminster representative.<sup>386</sup> With such a drastic reduction in their representation, the party politicians had little choice (just as it was for the Scottish counties) but to launch aggressive political campaigns for each election in order to command their “small, but vital, say in London”.<sup>387</sup>

In Scotland, the town councils had been electing their burgh representatives to Parliament since 1469.<sup>388</sup> After the Union the town councils sent their delegate to an electoral meeting made up of other burgh delegates charged with the task of choosing one representative for the burghal district. Very often the delegate was also the burgh candidate. With such a system, the competition for parliamentary seats created an entirely new political order for burgh elections, particularly since, in post-Union Britain, the wide-ranging and

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<sup>384</sup> NAS, GD406/1/5564, Lord St. Clair to the Duke of Hamilton, 10 November 1709. Henry St. Clair, reporting to the Duke of Hamilton, was furious at the Earl of Rothes’ refusal to endorse Hamilton’s brother, James Abercrombie, in the 1710 Dysart district seat by-election.

<sup>385</sup> Each of the sixty-five Royal Burghs sent a representative. Edinburgh was allowed two members thereby making the total sixty-seven. The remaining seventy-seven members of the Scottish Parliament consisted of invited noblemen, clergy and assorted officers of the state. See Michael Dyer, *Men of Property and Intelligence: The Scottish Electoral System prior to 1884* (Aberdeen 1996), p. 12.

<sup>386</sup> Edinburgh comprised the fifteenth burgh member.

<sup>387</sup> Allan, *Scotland in the Eighteenth Century*, p. 11.

<sup>388</sup> Dyer, *Men of Property*, p. 10.

often diverse political, religious and economic interests of each individual burgh were to be represented collectively, and, it was hoped, adequately by one member of parliament. Traditionally, the Royal Burghs were not eager to share the wealth afforded by their privileged commercial status. Economically, neighbouring royal burghs with comparable markets were considered competitors, not partners. In Fife, the fishing village of Crail fought against the admittance of Anstruther Easter, Anstruther Wester, and Kilrenny into the Convention of Royal Burghs, albeit unsuccessfully, in the sixteenth century.<sup>389</sup> Monopolies were to be protected. With the new system of electing a representative at an election meeting consisting of delegates, the Royal burghs were required not only to share a parliamentary representative, but were expected to elect their representative with the cooperation of competitive burghs. In such a system, the opportunity for increased electoral manipulation on the part of the emergent political parties was rampant.

William Ferguson equates the investigation of eighteenth and nineteenth-century Scottish burgh elections to “a labour of Sisyphus”.<sup>390</sup> Unravelling the levels of influence in burgh elections between magistrates, town councils, aristocratic patrons, and national politicians is a considerable undertaking, particularly with each faction vying for their individual party and, very often, working according to the dictates of their own personal agenda. Whoever held the controlling interest on the town council would be able to send their delegate of choice to the burgh election meeting. Therefore, the choice of delegates and candidates in a burgh parliamentary election was dependent upon the magisterial elections of the individual town councils and, as we have seen in Chapter 4 in the cases of Cupar and Dysart, were not always conducted according to the proper legal processes. Of the four Fife

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<sup>389</sup> Dyer, *Men of Property*, p. 12; Michael Dyer, “Burgh Districts and the Representation of Scotland” *Parliamentary History* 15 (1996), p. 288.

<sup>390</sup> William Ferguson, “Record Sources for the Electoral History of Scotland”, *Scottish Archives* 4 (1998), pp. 21-31.



burghal districts, two of the districts contained burghs located outside of the county. The Anstruther Easter district, along with the Dysart district, consisted of burghs located only in Fife. The Perth and Stirling districts were a combination of burghs from Fife and neighbouring counties. St. Andrews and Cupar were the only burghs from Fife in the Perth group, along with Forfar in Forfarshire, with Dundee and Perth from Perthshire. The Stirling group consisted of burghs from four counties: Culross in Perthshire, Queensferry in Linlithgowshire, Inverkeithing and Dunfermline in Fife, and Stirling in Stirlingshire. From 1708 through 1747, the British Parliament held nine parliamentary elections. This results in thirty-six individual elections for the Fife burghs in the period under consideration, and each involved four or five burghs – a labour of Sisyphus indeed.

This chapter, therefore, is a detailed examination of the burgh elections in Fife from 1707 to 1747. As such, it will not only become evident that these elections were complex and multi-faceted processes, but also and more importantly that, while the Scottish political parties were certainly present and active prior to the Union, it was the creation of the burgh districts that caused the parties to become the driving force behind the management and manipulation of burgh district elections after 1707. Indeed, owing to the unique nature of the Union-inspired burgh electoral system, aggressive politicking for limited parliamentary seats could hardly have been avoided.

The opposing Whig factions of the Earls of Rothes and Leven, along with the presence of the Episcopalian Tories led by Alexander Aerskine, which as we have seen in Chapter 3 were so prevalent in the Fife county elections, were just as active in the burgh election process during the early part of the eighteenth century. As has already been discussed, the Anstruther family carried significant clout in Fife's East Neuk burghs. Due to the newly defined political districts, however, patronal influence was not restricted just to the

Fife aristocracy. In the Perth district, the Jacobite politics of John Murray, 1<sup>st</sup> Duke of Atholl, held sway over the early election decisions after the Union. The Erskine family, Earls of Mar, held considerable authority in the Stirling burghs, as did the Marquis of Tweeddale, a Squadron member, who, beyond his vast landownership in the county, was a hereditary baillie of Dunfermline.<sup>391</sup> Into this mix must be added James Douglas, 4<sup>th</sup> Duke of Hamilton, who promoted the advancement of his illegitimate brother, James Abercromby, for the Dysart seat in 1708. Toward the middle of the century the Earl of Ilay, in cooperation with Robert Walpole, and later Henry Pelham, attempted to exercise substantial influence with each of the Fife burgh districts, although not all their collaborative attempts were successful.

The parliamentary election procedure for Scottish burghs had no contemporary equal within British politics. English borough elections were conducted much like their county elections. The English campaign began at the time the writ of summons was issued announcing the dissolution of the old Parliament and the calling of elections for the new Parliament. At this time prospective candidates formally announced their intention to run for office, officially launching organized campaigns. Speeches, rallies, parades, and entertainment were all part and parcel of an English borough election. Polling could take place over several days. When the Member of Parliament was eventually elected the celebrations could continue for several more days in order to thank all those who participated in attaining the victory.<sup>392</sup>

The Scottish burgh elections were rather austere compared to the English system. The chosen burgh delegates would meet in the presiding burgh at the appointed time, and

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<sup>391</sup> Sunter, *Patronage and Politics*, p. 212.

<sup>392</sup> O'Gorman, *Voters, Patrons and Parties*, pp. 126-144.

would then simply cast their votes. Granted, these meetings could be, and most often were, very heated as we have seen in Chapter 3. With the representation of the burgh at stake, the election delegates were issued specific instructions from their town councils as to whom they should vote to be their burgh MP. The voting did not always go as planned, nor did the delegates always follow the directives of their town councils. While personal connections, social contacts and financial considerations all played an important part when choosing a burgh MP, as the following sections will attest, party loyalties and the promotion of party ideology dominated the burgh MP elections during the forty years after the Union.

### **I. The Electoral Position of the Fife Burghs – 1702-1707**

The delegates from the Fife burghs elected to the Scottish Parliament in 1702, coupled with delegates from the burghs that were destined to be grouped with Fife after 1707, presented an interesting mix of personalities with wide-ranging religious beliefs and political ideologies – not to mention their contrasting positions on the pending Act of Union. Such divisions of opinion were the harbinger of things to come as the loyalties of the politicians most often reflected those of the burgh corporations. Sir John Anstruther and his uncle, Sir Robert Anstruther, representing the Anstruther Easter and Wester burghs in the Scottish parliament, vacillated over their stance on the Union, to the point where Sir John managed to be absent on the pivotal day of voting. Since they were allied to the Earl of Rothes by marriage, they could at least be counted on to support the Whig Presbyterian faction in future electoral contests. Kilrenny, on the other hand, appointed James Bethune of Balfour as its representative in 1702.<sup>393</sup> Balfour, strongly allied to the Jacobite cause, voted in favour of

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<sup>393</sup> Bethune, a member of the Faculty of Advocates since 1701, served as a Commissioner of Supply for Fife and as the Kilrenny representative to the Convention of Royal Burghs in 1706. See Young, *The Parliaments of Scotland*, p. 51.

the Union only on the insistence of his father-in-law, George Hamilton, who was seeking a military promotion for himself.<sup>394</sup>

Alexander Robertson of Craig represented Perth in the last Scots Parliament of 1702. Although an ally of the 1<sup>st</sup> Marquis of Atholl, Robertson dared to defeat the Marquis' son, Lord James Murray, in the 1702 burgh election. Voting against the Union, Perth found itself divided along seriously deep political and religious grounds. Joseph Austin of Kilspindie provided the local opposition to Robertson by supporting the Presbyterian Whig party. The 1702 representative from Dundee, John Scrymgeour of Tealing, cast his vote in favour of the Union, but quickly saw his power base usurped by up and coming Episcopalian Tory, George Yeaman, provost of Dundee. In the staunchly Jacobite town of Forfar, it was not surprising the burgh returned John Lyon, sheriff-clerk of the burgh and a cavalier in the 1702 elections – nor that Lyon voted against the Union. Cupar sent Patrick Bruce of Bunzion to the last Scots Parliament.<sup>395</sup> Supported by the Earl of Rothes, Bruce was initially opposed to the Union.<sup>396</sup> With Rothes as his patron, however, Bruce became a member of the Squadrone, casting his vote in favour of the Treaty of Union. While Perth, Dundee, and Cupar, and to some extent Forfar, were burghs with decent economic growth, St. Andrews, even with the University, had been showing signs of serious economic decline for several years. Their representative, Alexander Watson of Aithernie, provost of St. Andrews, was a sporadic representative for the burgh who voted against the Treaty.<sup>397</sup>

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<sup>394</sup> *House of Commons*, Vol. 2, p. 901.

<sup>395</sup> *Ibid.*

<sup>396</sup> Young, *Parliaments of Scotland*, p. 76. Bruce served on the Cupar town council on alternate years from 1701 to 1718; he had also represented Cupar at the Convention of Royal Burghs in 1706 and acted as sheriff-depute of Fife.

<sup>397</sup> Young, *Parliaments of Scotland*, p. 718. Watson had been admitted a guild brother in 1699 and represented St. Andrews at the Convention of Royal Burghs occasionally from 1705 to 1716.

None of the aforementioned Scots MPs were selected by the Scottish Parliament for the first Parliament of Great Britain in 1707. That honour went to the representatives of what was to become the Stirling district of burghs. Even though all of the Stirling burghs, save Queensferry, had petitioned against the Union, their representatives all voted in favour of the Treaty. In what must be viewed as a bid for political survival, Colonel John Erskine (Stirling), Sir James Stewart (Queensferry), and Sir David Dalrymple (Culross) for the Court party, and Sir Peter Halkett (Dunfermline) for the Squadrone, were all chosen for the new Parliament. Only James Spittal of Leuchat (Inverkeithing) did not merit a nomination, although he too had voted in the affirmative for the Union.<sup>398</sup>

After ratification of the Treaty in 1707, the newly formed burgh districts were organized in preparation for the forthcoming general election of 1708. Whereas before the Treaty the religious and political idiosyncrasies of each burgh were reflected in their choice of MP for the Scots Parliament, in 1708 they were forced to collaborate with burghs that were not necessarily of the same mind. The burghs of Perth and Dundee, both moderately loyal to the Jacobites, along with Forfar, a burgh with strong Jacobite loyalties, were now sharing an election meeting with predominantly Whiggish Cupar and an ambivalent St. Andrews. In Fife's East Neuk, the burghs of Anstruther Easter and Wester, the power centres of the Anstruther family, found themselves having to collaborate with Pittenweem, a burgh with Tory Episcopalian tendencies, particularly since its patron was Sir Alexander Aerskine, the Lord Lyon.

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<sup>398</sup> After the death of his wife in 1698, Leuchat fell in love with his wife's sister. Such a marriage would not be sanctioned by any Protestant Church, so the couple traveled to Rome in the hope of a Papal dispensation. Tragically his fiancé died in Rome before they could be married. Although there is no evidence to support any argument that this episode had bearing on the decision of the Scots Parliament not to choose him, it is quite possible that such a delicate situation would not fare too well when nominating delegates. See Young, *Parliaments of Scotland*, Vol. II, p. 655; Erskine who was married to Catherine, second daughter of Tory, Henry, Lord St. Clair, served with the Jacobites during the '15. Hoping to learn where he had discovered a silver mine, the government later pardoned Erskine's military actions. See, Young, *Parliaments of Scotland*, Vol. I, p. 228.

The Stirling district presented the most diverse of political and social allegiances. Dunfermline, with the Marquis of Tweeddale as a hereditary bailie, leaned toward the Squadron. Tweeddale also had some influence in Queensferry whose town council had petitioned in favour of the Union. Stirling and Inverkeithing, both under the persuasion of Col. John Erskine, stepfather to the Earl of Mar, favoured the Court party. So furious were the magistrates of Culross at the ratifying of the Union, particularly since their MP voted in favour of it against their wishes, they went so far as to refuse pledging the Oath of Abjuration. By doing so they surrendered their right to hold a legal town council meeting. This issue was finally settled with a petition to the Convention of Royal Burghs in July 1709, where the Convention restored the Culross magistracy and council.

The party factionalism, religious diversity, and economic interest of each burgh were considerably different and thereby created a strained and challenging electoral situation. By combining all these interests into one voting body, the burgh electoral system could not help but become extremely competitive. This, then, was the melting pot of political loyalties and party commitment that the Fife burghs found themselves in leading up to their first parliamentary election in 1708.

## **II. Burgh Election Procedure**

Although the method of electing Scottish county representatives to the Parliament of Great Britain remained the same after 1707 as it did before, the burghs were forced to deal with a fundamental change in their system. The town councils still basically controlled the selection process; however, each was now selecting a delegate for a district election meeting instead of directly choosing a representative for Westminster. When a new Parliament was called by

royal proclamation, a writ was delivered to each county sheriff who, in turn, made out a precept to each burgh in his jurisdiction. The precept, delivered to one of the burgh magistrates, contained the date and contents of the election writ commanding that each of the burghs elect a delegate to meet at the presiding burgh of the district in order to elect a representative to the ensuing Parliament. At the time of organizing the burgh districts, it was determined that the senior (i.e. oldest) burgh within each district was designated as the first presiding burgh. Thereafter, the presiding burgh was determined by the order the burghs were called in the rolls of the Scottish Parliament.<sup>399</sup>

With one exception this system worked for the Fife districts during the first 40 years after the Union. Unsurprisingly, the one exception was in the Anstruther Easter district. The burgh of Anstruther Easter correctly served as presiding burgh in the 1708 election for the district; as did Pittenweem in 1710. According to the Scottish parliament rolls, the presiding burgh for the 1713 election should have been Crail, listed as the 36<sup>th</sup> burgh on the roll.<sup>400</sup> Instead, Anstruther Wester, listed at 47<sup>th</sup> on the roll, served as the presiding burgh. The most logical explanation for this change was the political position of Sir John Anstruther. After having lost his burgh seat to George Hamilton in a contested election in 1710, Sir John could not take further chances. As delegate from Anstruther Wester, he could control the election by acting as praeses; a position that would have been much more difficult if Crail acted as presiding burgh. As it was, with a dissenting vote coming from Tory-controlled Pittenweem which Sir John subsequently disqualified, he managed to return himself for the burgh seat. Poignantly, Sir John's return was authorised by the sheriff of Fife – who was none other than the Earl of Rothes.<sup>401</sup>

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<sup>399</sup> The order of the presiding burghs was determined in the *Acts of Scottish Parliament*, xi, p. 426. See *House of Commons*, Vol. 1, p. 161; Wright, p. 361-369.

<sup>400</sup> *House of Commons*, Vol. 1, p. 167.

<sup>401</sup> Alexander Aerskine had persuaded the Pittenweem council to choose a delegate to support Hamilton. Lockhart speculated that Anstruther countered by selecting his own delegate from the Pittenweem council and

Often the selection of the delegate created more controversy and politicking than the actual district representative election, as was demonstrated in the 1710 Perth district when the selection of the St. Andrews delegate became a pivotal issue for the election meeting. According to election law, upon receipt of the election writ from the sheriff, the magistrates had two days to call a meeting of the burgh council. Once the council was assembled a delegate was chosen to represent the burgh at the election meeting. Prior to the Perth district election meeting in 1710, local party organizers realized that the Episcopalian Tory candidate, George Yeaman, carried support in Dundee and Forfar, while Cupar and Perth were supporting John Haldane of Gleneagles, the Squadrone Whig candidate. This left St. Andrews with the casting vote. Alexander Aerskine and the local Tory party determined that their best chance of getting the St. Andrews vote was to elect Alexander Watson of Aithernie to the town provost seat, so that he would be able to secure himself as a delegate in favour of Yeaman. A local politician of some note, Watson had served in the Scots Parliament for St. Andrews, as well as several terms as the town's representative to the Convention of Royal Burghs. Yet his reputation as being "manageable" led Aerskine to believe Aithernie would do as he was told. One obstacle, however, stood in the way of Aerskine's plan: the current St. Andrews provost was the Earl of Crawford who supported Patrick Haldane, son of MP candidate John Haldane, as delegate.

On October 17, Aithernie, and his adherents, met with Patrick Wilson, the town clerk, with the express purpose of choosing Aithernie as the new provost. As reported by Wilson in a letter to the Earl of Northesk, upon the Earl of Crawford's arrival at St. Andrews he met privately with Aithernie, who then agreed not to run in deference to the Earl's family.

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then used his position as prases of the election meeting to disqualify Aerskine's delegate. See *House of Commons*, Vol. 2, p. 903.



Throughout the afternoon a mob gathered in favour of Aithernie. Later that evening Wilson was called to the church where Aithernie and his deacons ordered him to “deliver up the book”. Wilson, who refused to release the town council sederunt book, was met with physical threats. The next day Crawford contacted Aithernie requesting to know his plan of action – specifically, whether he planned to seek the provost seat or not. Aithernie responded that he wanted to adhere to his pledge not to stand for the seat, but his supporters would not allow him to concede. At the council meeting held later that day:

During all this transaction the appearance of a mob continued so that it was thought advisable to send an express to Edinburgh with letters to his Majesty’s advocate, Sir James Stewart, and others for the obtaining of a suspension of Aithernie, his dean of guild, and bailies their election...Upon Thursday morning...the storm having a little blown over...my lord went to church with his bailies and council and went to the magistrates seat, and after sermon was ended his lordship with the bailies and councillors qualified went to the council-house door, and having ordered the tolling of the bell after the usual manner, upon which four bailies who were elected with Aithernie by the persons not qualified in the terms of law came to my lord and protested against his lordship and me which protestations were answered and then they went off. Thereafter the council met and my lord accepted of his office as provost gave his oath de fidele, and took the oath of abjuration. Then Mr. Patrick Haldane and some other guildbrethren who were called to fill up the council...and were qualified in the terms of the law.<sup>402</sup>

In the end, Patrick Haldane was declared the St. Andrews delegate. With two official commissions in his hand (one signed by the provost and baillies and another signed by Wilson as town clerk) Haldane reported to the district election held in Dundee on 27 October. George Yeaman, provost of Dundee, candidate, delegate and praeses of the presiding burgh, refused to acknowledge Haldane’s legally-signed commissions. Yeaman then accepted a written commission sent to the election meeting by Aithernie, who had acted as the *de facto*

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<sup>402</sup> NAS, GD220/5/250, Patrick Wilson to Earl of Northesk, 20 October 1710; *House of Commons*, Vol. 2, p. 929.

provost of St. Andrews. Aithernie's substitute commission cast a vote for Yeaman, which was subsequently accepted, causing Yeaman and the Tories to win the election.<sup>403</sup>

The 1710 Perth election also emphasises how extremely important the delegate from the presiding burgh was to the voting decision; particularly since the position allowed the praeses ample opportunity to advance his own party agenda. The presiding burgh delegate always served as praeses at the election meeting while at the same time he cast the decisive vote in the event of a tie. Districts such as Dysart, where only four burghs were represented, were particularly susceptible to party manipulation; the presiding burgh "only required the addition of a single vote to guarantee a return by right of its casting vote."<sup>404</sup> The Dysart district election of 1708 found the Leven-supported candidate, Sir John Wemyss, locked in an electoral battle with Jacobite candidate, John Sinclair. Dysart, controlled by Henry Sinclair, John Sinclair's father, cast the deciding vote for Sinclair, thereby handing a defeat to Wemyss. Henry Cunningham, praeses of the Stirling district election in 1734 and closely allied to the Earl of Ilay, supported Captain Peter Halkett at the recommendation of Ilay. James Erskine, Lord Grange, also a candidate served as the delegate from Dunfermline. At the district election, Halkett carried the support of Culross and Inverkeithing, while Erskine carried Stirling, Queensferry, and of course, Dunfermline. Cunningham, refused to accept Erskine's commission as a delegate. By discounting Dunfermline, each candidate held two votes. As the praeses, Cunningham cast the deciding vote for Halkett, the Whigs, and Ilay.<sup>405</sup>

According to Scottish election law, the delegate was obligated to present his signed commission to the praeses of the presiding burgh at the election meeting confirming his legality as the respective burgh commissioner. Not all delegates arrived at the election

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<sup>403</sup> *Ibid.*, p. 932.

<sup>404</sup> *Ibid.*, p. 909; Vol. 1, p. 165.

<sup>405</sup> *Commons Journals*, xxii, pp. 335-336; Sunter, *Patronage and Politics*, p. 229.

meeting with *bona fide* burgh commissions; and not all *bona fide* commissions were accepted by the praeses as discussed in the aforementioned elections. At the 1722 Perth district election, praeses Alexander Binning, delegate from presiding Forfar, allowed two delegates from Cupar into the election meeting. The Cupar town council at the time was embroiled in the “pretend” magistrate debate with two opposing factions between the opposition party and that of the Earl of Rothes each sending their own delegate. Charles Leslie, second son of the Earl of Rothes and the Squadrone candidate, acted as the “official” delegate from Cupar. The Cupar opposition party sent James Erskine as its delegate. Conveniently, Erskine’s brother, Henry, was the delegate and candidate from St. Andrews. Binning, as praeses, refused to accept the legitimate commission of Charles Leslie, and allowed that of James Erskine. Binning, James Erskine and Henry Erskine all cast their votes for Henry. The county clerk thus returned Henry Erskine as the representative from the Perth districts to the sheriff.<sup>406</sup>

Very often, as has been demonstrated in the above examples, the delegate was also the candidate – a practice which gave some assurance to the candidate that he would receive at least one vote. This situation also provided an opportunity for a delegate/candidate to broker his vote in order to advance party and personal allegiances. At the 1708 Perth district election, three of the five delegates were also candidates. David Erskine for Forfar, George Yeaman for Dundee, and Joseph Austin for Perth, were locked in a head-to-head battle with front-runner Mungo Graham of Gorthie, a Squadrone Whig and adherent to the Earl of Rothes, who was also interestingly not a delegate. Erskine, a reluctant candidate with familial connections to the Earl of Mar, agreed to give his vote to Austin, thereby tipping the scales in his favour, and defeating Gorthie in the process, much to the dismay of the Squadrone and the delight of Mar.

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<sup>406</sup> *Commons Journals*, xx, 34, 49, 51, 229.

As a result of the Treaty of Union, the unprecedented system of grouping the burghs into districts enabled the various parties to take full advantage of the new electoral procedures. Often, the selection of a delegate became as competitive as the election meeting itself. The praeses was allowed total control over the decision of the election meeting, where he could discount legitimate delegate commissions, compete as a candidate, and in effect manipulate the vote in his, and his party's, favour. With a system so easily abused, the burgh parliamentary elections became, as we shall see, strongholds of party manipulation and control.

### **III. The Post-Union Electoral Politics of the Fife Burgh Districts**

The first set of elections held after the Union were most often contests between the Squadrone and the Scottish Court Party. Rothes, as we have seen, was the undisputed Squadrone leader in Fife, while Leven managed the Court party. By 1710 the Tories, under the direction of Sir Alexander Aerskine, made their presence felt in all burgh districts by managing to win the Dysart and Perth seats for their party, which they also retained in 1713. The great Whig victory of 1715 dealt a severe blow to the Tory party in the Fife burghs; a blow from which they never truly recovered during the early half of the eighteenth century. During the Walpole years, the Fife burgh elections were still very much embroiled in partisanship, politicking, and party loyalties, but, the elections were less often based on clear-cut Whig and Tory lines. Rather, during the period 1722 to 1747, elections could be more accurately described as being contests between Whigs and Whig opposition.<sup>407</sup>

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<sup>407</sup> The total number of MPs elected from the Fife burghs districts from 1708 to 1747 was twenty-three. Included among this total, six gentlemen were directly related to a member of the aristocracy in the form of a son or brother. Occupations or societal status included: two baronets, eleven military, four merchants, three career politicians, one academic, and two (due to lack of any other identifying designation) are classified as gentry. Relatives of the nobility: William Kerr, brother to the Duke of Roxburghe; Thomas Leslie, son of the

In February 1708, with the newly formed voting districts in place, the Fife burghs prepared for their first Westminster election. The Convention of Royal Burghs, in an attempt to keep the district delegates focused on the importance of maintaining the integrity of the burgh franchise, released a recommendation asking that they choose only trading merchants to act as their representatives:

being now by the union of the two kingdoms only 15 persons are to represent the whole burrows of Scotland It will be easier to find 15 trading merchants to represent them in the ensuing Parliament of Great Britain, and considering the great poverty of the burghs occasioned through the great decay of trade, the necessity to have persons to represent them who will be concerned in the advancement and promoting of trade and the interest of burghs arising therefrom without which they will not be able to bear their proportions of cess and other burdens within burgh. They are of opinion that it should be recommended from the said all burghs as also from this convention to the whole burghs of North Britain to make choice of knowing skilful trading merchants, burgesses of any burgh in Scotland to represent them in all the subsequent parliaments of Great Britain as being the fittest persons confirm to the qualifications for said required...<sup>408</sup>

Though the majority of burghs did abide by the Convention recommendations, not everyone complied. Anstruther Easter was the only district that, without fail, ignored the recommendation to elect merchants and burgess. In only two instances over forty years did a member of the Anstruther family not hold the burgh seat.<sup>409</sup>

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Earl of Rothes; James Abercrombie, illegitimate brother of the Duke of Hamilton; James Erskine, Lord Grange, brother to the Earl of Mar, Thomas, Lord Erskine, son of the Earl of Mar; John Stewart, brother to the Earl of Moray. Baronets: Sir John Anstruther; Sir Alexander Aerskine; Military: George Hamilton, Major General Philip Anstruther, James Abercrombie, Captain William Kerr, Thomas Leslie, Lt. General James St. Clair, Captain William Erskine, Col. John Erskine, Capt. Peter Halkett, John Stewart; Merchants: James Oswald, elder, Joseph Austin, George Yeaman, John Drummond; Career Politicians: Henry Cunningham, James Erskine, Lord Grange, James Oswald, younger; Academic: Patrick Haldane, Professor of Ecclesiastical History, University of St. Andrews; Gentry: David Scot and George Haldane. Within these occupations many of the MP's did serve in various capacities as town burgesses, magistrates, or provosts. Serving as municipal officers were: Henry Cunningham, Provost, Inverkeithing; George Yeaman, Baillie and Provost, Dundee; Joseph Austin, Balilie, Perth; John Erskine, Provost, Stirling; James Oswald, elder, Provost, Kirkcaldy; Peter Halkett, Provost, Dunfermline; Patrick Haldane, Provost, St. Andrews; James Oswald, younger, Provost, Burntisland.

<sup>408</sup> Perth Archives, B59/27/13, 1708.

<sup>409</sup> In a bitterly contested election, Sir John Anstruther lost his burgh seat to George Hamilton after a vote in the House; Sir Philip Anstruther lost re-election in 1741 when he voted to punish Edinburgh after the Porteous Riots. These elections are discussed in Chapter 6.

Within the tightly-knit and intricate framework of Scottish burgh politics, powerful family connections and alliances allowed a politician the opportunity to capture a parliamentary seat. The Honourable John St. Clair, Master of St. Clair, eldest son of Henry, 10<sup>th</sup> Lord Sinclair, was nominated and elected for the Tories, through the powerful influence of his father, for the Dysart district in 1708, despite the fact that he had two obvious strikes against him. First, as the eldest son of a Scottish peer, the young St. Clair was ineligible to serve in parliament; and second, he was under a death sentence for a duel that had gone terribly wrong while serving in the military on the Continent. Interestingly, it was his status as an eldest son that took precedence over the murder charge that kept him out of the Commons.<sup>410</sup>

The 1709 Dysart district by-election held to replace St. Clair provides an excellent example of the politicking that took place between Whig and Tory factions immediately after the Union – in addition to the power and influence exercised by the St. Clair family as a whole. It is also of interest to note that in the Dysart by-election, neither of the nominated candidates had any commercial ties to the Dysart district – a fact that seemed of little consequence to anyone involved in the campaign. Upon learning that the by-election would take place, Lord William Hay, younger son of the Marquis of Tweeddale, announced his candidacy.<sup>411</sup> As a Squadrone candidate and a family member, Hay received the backing of Rothes. Confident that he would be able to secure the interest of Lord St. Clair, Rothes advised Hay to “go to Dysart and see my Lord [St. Clair]...or some of St. Clair’s friends that

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<sup>410</sup> John St. Clair would eventually serve at the side of the Earl of Mar during the Rebellion of 1715. He is best known for his memoirs recounting the Fifteen. As a controverted election, St. Clair’s 1708 election will be discussed in Chapter 6.

<sup>411</sup> Hay was Rothes’ brother-in-law.

use to take a bottle with him for you know that can never do harm.”<sup>412</sup> While Hay was preparing his campaign, the Duke of Hamilton proposed his illegitimate brother, Major James Abercromby, for the seat. Since Dysart was effectively under the control of Lord Sinclair, both Rothes and Hamilton knew that St. Clair’s cooperation and support were crucial to their respective candidates. After meeting with Rothes in November, St. Clair reported to Hamilton:

I find he continues obstinate in that affair of Major Abercrombie; he says its your Graces own fault for first when you spoke of this affair to him your Lordship [Rothes] said that he would not you would do it over his body...he said likewise that he will go in to any man I please save Abercrombie...I made use of all arguments I was capable to induce him to going for Your Grace’s measures...I told Your Lordship from the beginning that without Rothes his concurring in this affair it would be almost impracticable for me to do it for I must at least have the assistance of one town to my own town. Kirkcaldy I cannot trust after what they did to my son last year and for Kinghorn I will not meddle nor make with them [n]or with Leven so there is a necessity for me to have Burntisland...and the thing that makes it still the most difficult is that Rothes is not gone for London until after Christmas as soonest and consequently will be here at the election.<sup>413</sup>

Rothes also told St. Clair that just to spite Hamilton he might actually join forces with his nemesis the Earl of Leven against Abercrombie. Doubting that Rothes would actually go so far as to cooperate with Leven, St. Clair informed Rothes that “I hoped Leven would serve him with the same sauce that the court served his brother of the Squadrone when they left your Grace last...which was to pish [*sic*] on them after they served their turn”.<sup>414</sup> John Hamilton, acting as the Duke’s election agent in the burghs, reported on 1 December that he had secured the endorsement of Leven who guaranteed he would deliver Kinghorn in their favour.<sup>415</sup> A few days later Hamilton reported that Burntisland would be difficult as the town

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<sup>412</sup> Hay had run unsuccessfully for the Haddington burghs in 1708. NLS, ms. 14415, f. 165, Earl of Rothes to Marquis of Tweeddale, 4 December 1709; *House of Commons*, Vol. 2, p. 909.

<sup>413</sup> NAS, GD406/1/5564, Lord St. Clair to the Duke of Hamilton, 10 November 1709.

<sup>414</sup> *Ibid.*

<sup>415</sup> The securing of Leven’s support is intriguing, particularly in light of Hamilton’s decision to side with the Squadrone and Junto during the 1708 election. Leven was solid with Queensberry’s Court party who had

is allied to Rothes, but, there was hope because James Oswald was open to supporting them and would secure Kirkcaldy. By the middle of December Rothes was completely frustrated with the situation, complaining to Tweeddale,

I am so hard...in this matter I don't know really what to do for the best way I can turn it...I cannot propose to make any thing of it except Hamilton yield which I'm afraid he will not do so...for joining with Leven I would certainly have done it had I known what would have happened but I'm afraid its too late for...He and D[uke of] Hamilton are certainly joined and he has excellent opportunity both of dividing St. Clair and me and making his compliment to D[uke of] Hamilton... And this means not only came his men in the towns but getting D[uke of] Ham[ilton] interest which he has with several Jacobites in this shire to join with whom he ever sets up for...I have wrote to Yester to cause try Leven but I am even afraid so he were not engaged there would be hazard for perhaps tho I might get Kirkcaldy and Burntisland to join with me yet it might be difficult to get them to join with Leven against St. Clair and Duke Hamilton who's name jingles yet among since the old huzzas that they heard him get...<sup>416</sup>

Granted, Rothes had some influence with the towns, but Hamilton held an advantage when dealing with St. Clair. By no coincidence was St. Clair's younger son, Hon. James St. Clair, a junior officer in the Earl of Orkney's regiment. Orkney, Hamilton's brother, could offer a promotion to young James.<sup>417</sup> St. Clair informed Hamilton that he had written to Orkney about this situation reminding him that "things come in coupping scales and a thing that I had been setting up for my son I would not have neglected...assure yourself every stone is to be turned not to disappoint Your Grace...and me in this affair".<sup>418</sup> In addition, Hamilton had the political clout to pardon St. Clair's oldest son, John, who, as previously mentioned, was under a court-martial for the murder of a fellow officer in a duel.<sup>419</sup>

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arrested Hamilton after the Jacobite threat earlier in the year. It was quite possibly Leven's hatred of Rothes, and not his own party allegiance, that led him to support Hamilton.

<sup>416</sup> NLS, ms. 14415, f. 194, Earl of Rothes to Marquis of Tweeddale, 14 December 1709.

<sup>417</sup> Riley, *English Ministers*, p. 104.

<sup>418</sup> NAS, GD406/1/5562, Lord St. Clair to the Duke of Hamilton, 27 December 1709.

<sup>419</sup> *House of Commons*, Vol. 2, p. 909.



St. Clair then briefed Hamilton on another conversation he had with Rothes. A legitimate question had arisen over whether Dysart would be the presiding burgh for the by-election or not. While Dysart was the presiding burgh for the 1708 contest, did that necessarily mean that the burgh would also preside over the by-election? Since the newly formed burgh districts were a product of the Union, no precedent had yet been established for such a situation. Rothes was toying with the idea of moving the by-election to Kirkcaldy, where he thought he would have more control, since that burgh was next in the electoral rotation. St. Clair pointedly told him that such a move would cause irreparable damage to Rothes' support base throughout the district.<sup>420</sup> In a letter to Tweeddale, Rothes let his true feelings toward St. Clair be known:

I am really much perplexed about the affair of the election of towns. Our friends at London have advised me to make no breach with St. Clair but rather yield to it...I cannot say that I am of the opinion of our friends at London that I should yield...yet because I never desire to make him ask it as a favour and to see if I could off handsomely by causing him [to] own that he owned it to me...But he is I believe entirely in with Leven...And really if this to be not sensible that my yielding to him is a very great favour I can see no reason for my doing it and I can see no harm in making a breach with a man whom I can never trust and who does everyday twenty things that are below a gentleman...<sup>421</sup>

As for the possibility of changing the presiding burgh to Kirkcaldy, Rothes reports:

On the other hand I cannot propose to carry an election in opposition to Kinghorn and Dysart because Dysart pretend to the casting vote for the first three years (Although I'm not so very clear in that after looking at the Act of Parliament but have wrote to take the advice of a lawyer or two). If Kirkcaldy could pretend to the casting vote then I might perhaps be able to carry one of themselves having I think Burntisland and it pretty sure...but these towns are not much to be relied upon...the plain state of the question is this Whether the Sheriff of Fife can appoint the election in any other place then Dysart, the Act of Parliament not being expressly positive and the same Act bearing that the election shall be where her Majesty shall appoint and the writ which is sent me appoints no determined place.<sup>422</sup>

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<sup>420</sup> NAS, GD406/1/5562, Lord St. Clair to the Duke of Hamilton, 27 December 1709

<sup>421</sup> NLS, ms. 14415, f. 196, Earl of Rothes to Marquis of Tweeddale, 30 December 1709.

<sup>422</sup> Ibid.

There was also a question regarding the legality of the election writ announcing the upcoming by-election which Rothes had received in his capacity as Sheriff of Fife. Apparently the writ was delivered to Rothes by way of St. Clair, which was also unprecedented in the election process. Even more disturbing was an obvious alteration made on the writ itself, “the writ for the new election came to my hand sent me by my Lord St. Clair which is a very odd way of transmitting papers to the sheriff, and I must also remark that in the brief it only named the district of towns within the shire, but I found Dysart underlined with different ink and I think a different hand, who did it God knows”.<sup>423</sup> Whether the writ had been altered by St. Clair or one of Hamilton’s agents has never been determined, but ultimately Rothes decided against pursuing the matter, thereby allowing Dysart to serve again as the presiding burgh. The most obvious explanation for Rothes’ decision not to pursue a change in the presiding burgh was the negative impact such a change would have had on his influence within the burgh district. Ultimately, the by-election meeting was anticlimactic compared to the campaign. Abercrombie won unanimously, although he only served for 10 months. By the next countrywide election in 1710, James Oswald, a moderate Tory and prominent merchant with a strong power base had secured the Kirkcaldy provost seat, thereby practically guaranteeing his victory as the MP from the Dysart burghs. Facing such stiff competition, Abercrombie decided not to seek re-election.

The 1709 Dysart by-election offers a rare glimpse at the complex and intricate nature of the family alliances and personal animosities that characterized several Fife burgh elections in the early part of the century. For the most part, however, the election demonstrates the lengths to which the factions would go in order to secure a seat for their party. Due to his family connection and loyalty to the Squadrone party, Rothes was willing to support Lord Hay who had little to offer the burgh, but would increase his party’s presence

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<sup>423</sup> Ibid.

in the Commons.<sup>424</sup> Hamilton, precariously allied to the Squadrone at the time of the election, desired an MP he could influence. Leven, whose hatred of Rothes bordered on the psychotic, would challenge Rothes and his party at just about any cost, even to the point of sponsoring a candidate he could not seriously have trusted. And St. Clair, having failed to secure a seat for his eldest son, would side with whoever would give him the most attractive deal and provide the necessary perks of loyalty. Even with the victory, the Hamilton/St. Clair collaboration only managed to hold the seat for ten months. The winning of the burgh seat by James Oswald in 1710 and 1713 gave the Tories control of the burgh district for the next five years.

The on-going competition between the Squadrone and the Scottish Court party also characterized the 1708 Perth district elections. Acting as agent for the Court Party, George Hay, Viscount Dupplin, arrived in Perth with the express intent of frustrating the election efforts of the Squadrone. Dupplin reported to the Earl of Mar, "I went to Perth Wednesday...to look a little how there elections were like to go, I found everybody was of opinion that Gorthie would carry it".<sup>425</sup> Mungo Graham of Gorthie, a Squadrone favourite, had the support of both the Duke of Montrose and the Earl of Rothes.<sup>426</sup> Prior to the burgh election, Rothes informed Montrose that "I hope I shall be able to give your Grace such an

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<sup>424</sup> In another classic battle between Squadrone and the Scottish Court party, Rothes had attempted to support another Tweeddale son, Lord Yester, who lost the Stirling burgh district in 1708. With all the hubris of youth, Yester predicted a victory to his father by assuming support from Inverkeithing and Dunfermline. Once again using his brother, Lord Grange, as his election agent, the Earl of Mar sent Grange to Dunfermline to head off any support for Yester. The same strategy also worked in Inverkeithing. At the election meeting, Yester did not manage one vote. The district went to Col. John Erskine, a distant cousin of the Earl of Mar. See, NLS, ms. 7021, f. 26; *House of Commons*, Vol. 2, p. 933. The Erskine family certainly rivaled the Anstruthers' for relatives available for public office. Any examination of the Erskines involves a Herculean effort in genealogy.

<sup>425</sup> NAS, GD124/15/859/1, Viscount Dupplin to Earl of Mar, 27 May 1708.

<sup>426</sup> Gorthie had been instrumental in convincing the Squadrone to vote in favour of the Union. His efforts in this regard earned him a seat in the 1707 combined parliament. In 1708 he had hoped for the Perthshire seat, but he could not match the power of John Haldane of Gleneagles who won Perthshire. Gorthie served as factor and personal secretary to the Duke of Montrose for most of his adult life. While he managed to acquire a moderate fortune of his own through holding various government offices and purchasing forfeited Jacobite estates, his only official residence was within the household of the Duke of Montrose. See *House of Commons*, Vol. 4, p. 66.

account of the district of Perth as will please you”.<sup>427</sup> They were subsequently disappointed with the outcome. George Yeaman, from Dundee, David Erskine, sheriff-depute of Forfarshire, and Joseph Austin, a Presbyterian Whig from Perth were all delegates and candidates. With Perth as the presiding burgh, Austin served as praeses. Patrick Bruce of Bunzion, loyal to Rothes, served as delegate from Cupar, while John Craig represented St. Andrews. Erskine had expressed to Lord Grange that he was disappointed with Mar’s decision to deny him a chance at the Aberdeen burghs because “of the progress I’ve made in order to represent those...towns.”<sup>428</sup> He also revealed that “I am not very fond of being a Parliament man, but will be directed in the matter by your brother’s command”.<sup>429</sup> Learning of Erskine’s reluctance to serve in London, Lord Dupplin convinced Erskine to cast his vote for Austin and therefore against Gorthie.

Regrettably the burgh election minutes do not reveal the pattern of voting. They do report that “the said five commissioners by plurality of votes elect and make choice of the said Master Joseph Austin of Kilspindie merchant late baillie in Perth to be burgess and representative for the above named five burghs in the Parliament of Great Britain”.<sup>430</sup> Lord Dupplin, in his letter to Mar, provides some details:

But at last after I got Mr. Erskine when I found by him there was no expectation of his prevailing, I did advise him to go in to any measure to prevent Gorthie’s being chosen, which I found depended upon his giving assurance of his assisting Joseph Austin who was for Perth, if need were, against Yeaman of Dundee – otherwise Austin would have given his vote to Gorthie to prevent Yeaman being chosen, there being some difference and animosity betwixt the town of Perth and Dundee, by which means Gorthie lost the cause and Austin was chosen, who I’m persuaded will do very well and would have been my choice next to Mr. Erskine of all the competitors, so that I hope that matter is very right and I shall leave the rest of the story to Mr. Erskine himself who is here and resolves to see you this night.<sup>431</sup>

<sup>427</sup> NAS, GD220/5/159/5, Earl of Rothes to Duke of Montrose, 22 May 1708.

<sup>428</sup> NAS, GD124/15/862, David Erskine to Lord Grange, 25 March 1708.

<sup>429</sup> Ibid.

<sup>430</sup> Perth Archives, B59/34/22, 26 May 1708.

<sup>431</sup> NAS, GD124/15/859/1, Viscount Dupplin to Earl of Mar, 27 May 1708; *House of Commons*, Vol. 2, p. 927.

Beyond the contest between the prevailing political factions of the day, this election underscores not only the power of the praeses, but also the competition between the individual burghs. By using the casting vote, coupled with a vote from David Erskine of Forfar, and possibly a vote from John Craig of St. Andrews, Joseph Austin declared himself the victor. The mention by Dupplin of “difference and animosity” between Perth and Dundee highlights the delicate balance now being forced upon the newly-aligned burgh districts to agree on one individual representative in Parliament. This situation, of competing burghs collaborating on a single MP, is a direct result of the Treaty of Union. In this case the final decision was due in part to Erskine casting his vote for Austin, thereby stopping Austin from supporting Gorthie in his resolve to keep a Dundee candidate from a possible win. Yeaman was furious with Austin’s victory, though it appears that he was most particularly incensed by the presence of Dupplin acting as an arbitrator between the candidates and parties. A member of the aristocracy infiltrating the burgh district as a type of political consultant did not sit well with the Dundee provost. Later he reported to his town council: “This is to be remembered: that the Viscount of Dupplin was within the town of Perth the time of the election, and had several of the electors with him before the said election, which is judged to be contrary to the constitution of elections to the British Parliament.”<sup>432</sup>

It is safe to surmise that Yeaman was most likely not alone in his stance against noble influence. Cupar would rally against aristocratic control some years later. Although this election was mostly categorized as a contest between two parties, it should also be noted that, for the most part, the candidates involved were legitimate merchants and burgesses of their

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<sup>432</sup> *House of Commons*, Vol. 2, p. 927.

respective burghs. George Yeaman was to have his day in 1710 when he was elected as the MP from the Perth district as the candidate and delegate from Dundee.

The Septennial Act passed in 1716 affected the manner of politicking, just as the Whigs had hoped. Prior to its passing, the country held four elections in the span of seven years following the Union; after which, there were only five elections in thirty-two years. By 1722, the acrimonious divisions between the Whig, Tory, Court, and Country parties in Fife had to some extent diminished. Factions within the parties still existed and had distinct influence on future elections, but as the old guard started to die out, partisan animosities decreased.<sup>433</sup> After the great Whig victory of 1715, through the election of 1747, not one representative from the Fife burghs districts could be classified as a Tory. Even though the Whig oligarchy of the Walpole years found its way into Fife, it should not be assumed that the elections held toward the middle of the century were any less competitive than those held in the earlier years. A major characteristic of the later elections was the antagonism between Squadron Whigs, Ilay Whigs and opposition Whigs, whereby party ideology was compromised for individual allegiance to the government, the opposition party or the individual politician. The 1734 Stirling district election offers a compelling case of rival Whig factions competing for a parliamentary seat and has received notable scholarly attention by Ronald Sunter in his study of the Scottish patronage channels during the eighteenth century.<sup>434</sup> According to Sunter, the importance of this election was not which party ultimately won the contest, but rather, in the national and local issues involved throughout the campaign particularly, as we shall now see, in light of Scotland's emerging position within the wider context of British politics.<sup>435</sup>

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<sup>433</sup> The 9<sup>th</sup> Earl of Rothes died in May 1722; Leven in 1728; the Duke of Hamilton in 1712; the 6<sup>th</sup> Earl of Mar in 1732; Alexander Aerskine in 1727.

<sup>434</sup> Sunter, *Patronage and Politics*, Chapter 12, *passim*.

<sup>435</sup> *Ibid*, p. 230.

Henry Cunningham served as the Stirling district MP for seventeen years. Elected in 1710 with support from both the Earls of Mar and Montrose, Cunningham continued to be re-elected for the Stirling district through 1727, when he opted to forgo the district in favour of taking over the Stirlingshire seat. Losing Mar's support early in his career due to his strong Presbyterian Whig loyalty, he maintained firm allegiance to Walpole and Ilay until his retirement in 1734.<sup>436</sup> Thomas Erskine, son of the Earl of Mar, won the district by-election when Cunningham moved to shire MP in 1727. Erskine had the support of Ilay, and his uncle, Lord Grange.<sup>437</sup> Throughout the early part of the century, Grange remained steadfast to his Presbyterian Whig loyalties – meaning duty to Ilay and Walpole: “During all this time I run their errands and fought their battles in Scotland, and the Squadrone reckoned me one of their chief enemys, and accordingly treated me both here and at court.”<sup>438</sup> This allegiance ended in 1733 when Ilay, after years of promise and continued delays by Walpole, failed to restore the forfeited Mar family estates. In a lengthy letter to his relative, another Thomas Erskine of Pittodry, Grange railed against his, and the treatment of his family at the hands of Ilay:

I had been his friend and humble servant more than thirty years, and believed I had been faithfully so in all changes; and whatever ill offices any had endeavoured to do me with him, he knew I had never insinuated the least against any that he favoured, nor hurt any of his friends...he declared to me strongly, that never had one man behaved more honestly and faithfully to another, than I had done to him and his friends; and that my conduct at all times had been irreproachable...<sup>439</sup>

Walpole, who could never look past the Jacobite connections of the Erskine family, advised Ilay to stonewall on every request made by Grange, to the point that Grange

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<sup>436</sup> So dedicated was Cunningham to Walpole that in 1733, while acting as a body guard to the prime minister, he was wounded when trying to protect Walpole during an anti-excite riot.

<sup>437</sup> Sunter, *Patronage and Politics*, p. 212.

<sup>438</sup> *Miscellany of the Spaulding Club*, Volume III (1845), p. 28.

<sup>439</sup> *Ibid.*, p. 41-42.

determined he had no choice but to join forces with the Squadrone: “The measures I have entered into with Tweeddale, Stair and Aberdeen, in their own names, and taking burden for Roxburgh and Montrose, and their English friends, are mutual assistance in all elections”.<sup>440</sup> Grange was also determined to take his nephew, Thomas, with him. As the MP from the Stirling district, Thomas had agreed to vote in favour of Walpole’s excise bill; in return for which, he expected to see his father’s estate restored. When it became clear that Walpole had reneged on the terms of their agreement, Thomas joined the Squadrone ranks with his uncle. Grange’s fury knew no bounds:

Is not this better for our name and friends, than to be poor precarious slaves to Ilay, and to be dropt by him with contempt, after our following him had rendered us obnoxious and contemptible to others also. And how is it possible even to make Ilay himself have any esteem or regard for us, except that by such procedure we let him see that we will not be abused, and are not insignificant...it is proper to convince him strongly that he played the fool in falling out with us.<sup>441</sup>

Patronage may have greased many a wheel when influencing Scottish elections, but betrayal of trust and failure to deliver on assurances was a risky path to follow and could backfire considerably.

Owing to Walpole’s duplicity, Lord Grange, along with his nephew Lord Erskine, had shifted their long-standing allegiance from the Walpole administration to the Squadrone just months prior to the 1734 national elections, which were to take place in May of that year. At the time, Walpole and Ilay were extremely unpopular in Scotland due to the Excise Bill, and the public outrage over the Bill in both Scotland and England would be used to great advantage by those who were opposed to the current administration. Labelling themselves “the Patriots”, opposition Whigs and some Tories joined forces in an attempt to convert as

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<sup>440</sup> Ibid., p. 50

<sup>441</sup> Ibid.



many seats as possible in opposition to the Walpole government.<sup>442</sup> The Stirling district of burghs was one such popular seat, particularly now that the incumbent MP, Thomas, Lord Erskine, had joined the opposition. The Patriots' determined that Lord Erskine would be a better candidate for the Stirlingshire seat, particularly owing to the influence the Erskine family still held in that burgh. Thus, Lord Grange would serve as the Patriots candidate for the Stirling burghs seat. His opposition came from Captain Peter Halkett, whose family carried considerable influence in Dunfermline.

Adding to the local fury over the Excise Bill, the towns of Stirling and Dunfermline were simultaneously embroiled in an evangelical controversy concerning their local ministers, Ebenezer and Ralph Erskine, distant relatives of Lord Grange. The residents of the said towns were convinced that Ilay was responsible for the suspension of their popular ministers because they had preached against the government's policies from the pulpit. Grange, by showing his support for the Erskines, managed to turn the situation into a political ploy against the government. Halkett lost considerable public appeal when one Sunday after services he made a misguided attempt to engage Ebenezer Erskine in a theological discussion. Convinced the minister was insulting him from the pulpit (which he was), Halkett embarrassed himself by pursuing and losing the argument to the sharp-tongued, intellectually superior minister. News of their exchange moved quickly though the burghs. With this it appeared to the Patriots that Halkett's candidacy was no longer a threat. Grange, however, continued to canvass and campaign through the district. He produced Patriot propaganda to great effect in the form of press releases, pamphlets and broadsheets. By appealing directly to the burgh residents, Grange ran what would be considered today a contemporary populist campaign. Although the people of the towns did not have a direct vote in burgh elections, they did have the power of commerce. It was not difficult for the

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<sup>442</sup> Sunter, *Patronage and Politics*, p. 212.

residents to express their preferred choice of electoral candidate to the town magistrates by determining where they took their business. In a worst-case scenario, the people could let their opinions be known through rallies, demonstrations and riots.<sup>443</sup>

Although it appeared that Peter Halkett was out of the race, Henry Cunningham, acting as Ilay's election manager in the district, could not allow a victory for the Patriot party. As the provost of Inverkeithing, Cunningham secured himself as the burgh delegate to the election meeting.<sup>444</sup> While the campaign progressed, the towns of Stirling, Dunfermline and Queensferry declared Grange as their candidate; Inverkeithing and Culross were casting for Halkett. With a preliminary guarantee of three votes to two, Grange looked to be the victor. Unfortunately for Grange, the rotation for presiding burgh fell to Inverkeithing in 1734, allowing Cunningham to serve as praeses. At the election meeting, Cunningham presented his signed commission from the Inverkeithing town council first, which was approved without objection. Next the delegate from Stirling, Provost Wingate, was approved. When Lord Grange then presented his commission as delegate from Dunfermline the pleasantries of the meeting came to an abrupt halt. Cunningham unleashed a string of objections and accusations against Grange ranging from "gross bribery and corruption, threatenings, acts of violence", to "undue influence of certain Noble Peers of this realm

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<sup>443</sup> Ibid., p. 222. The Patriots managed to extend their influence beyond the burghs of the Stirling district. In an unsigned letter to Ilay, the author expresses his dismay at the potential problems the government could have with the advance of the Patriot platform throughout Fife: "This will be delivered to your Lordship by Lord Leven who is very heartily in your interest, and can give you some account of what is passing here and particularly about the Fife elections where the Lesley's are indefatigable...one thing is absolutely necessary, Sir John Anstruther, Lord Leven and Balcarres, being to be absent from Fife this winter, to prevent Charles Leslie [brother to the 10<sup>th</sup> Earl of Rothes] getting any advantage by their absence.

It is proper he have orders to attend the Regiment, which he has not been these past two years and last time he was ordered he got a sham excuse of having his strained his ankle, accepted of; his London debts if believe are a strong excuse, but as the payment of these depend upon the success of the patriots its an excuse that I hope will last too long to be accepted of besides what hurt he may do in Fife he is one of the bloodiest mouthed patriots; keeps all the meetings in his brothers absence, who has leave to stand off till the word be given all is sure". Cambridge, Chomondeley (Houghton), mss 2107, not signed to Earl of Ilay, 19 December 1733.

<sup>444</sup> So determined was Cunningham to win this election for the administration, he postponed his departure for Jamaica, where he had already been declared governor for several weeks, in order to see through his duty to Ilay and Walpole.

particularly by one possessed of a jurisdiction interfering with the jurisdiction of the burgh of Dunfermline".<sup>445</sup> Because none of the objections could be substantiated, Cunningham was forced to rely on a precarious technicality:

For some reason the precept of the sheriff of Fife had been wrongly dated, for it stated it has been signed by the sheriff on May 13 when it was already in the hands of the burgh magistrates on the 12<sup>th</sup>. There does not appear to have been any political motive behind this error...but Cunningham insisted that it voided the Dunfermline election, even though the delegate had been chosen subsequent to the precept date. On the other hand, if Dunfermline was to be disfranchised by the sheriff's error, the same treatment should have been given to Inverkeithing...for the error was also made on their precept. Unfortunately for Grange, no objection had been made to Cunningham's commission and the Inverkeithing vote was now unchallengeable.<sup>446</sup>

Eventually the meeting moved on to the presentation of commissions from Culross and Queensferry. John Roll, delegate from Culross, was subject to a series of objections by Grange, but to no avail, while Archibald Stewart, the Queensferry delegate, was on the receiving end of Cunningham's protests. Ultimately, Cunningham had only two votes, his own from Inverkeithing and Dunfermline. Using his powers as praeses to control the casting vote, he declared Peter Halkett for the MP seat. Grange attempted to have the election repealed in the House of Commons; but, his petition was shelved by the Whig-controlled election committee. Having to be content in the meantime with the seat from Clackmannanshire, Grange would have his revenge in 1741 when he won unanimously for the Stirling burgh district.

While this election demonstrates how fragmented the Whigs had become by the early 1730s, it also explains how local Scottish interests could be utilized to gain substantial support in a national election. Walpole and Ilay were extremely unpopular at the time. The fury over the Excise Bill, coupled with the local ministerial controversy, allowed the

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<sup>445</sup> Sunter, *Patronage and Politics*, p. 227.

<sup>446</sup> *Ibid.*, p. 228.

populace to voice their opinions through a local campaign. Lord Grange, understanding the power behind such opinions, managed through the press and personal campaigning to harness the hostility toward the government to work in his favour. Although his efforts were defeated at the hands of Cunningham, a deft politician able to manipulate the burgh electoral system to his advantage, this election demonstrates how the local population could exert considerable influence on an election at the national level.<sup>447</sup>

The Stirling district of burghs, still resenting their treatment at the hands of Ilay in the 1734 election, determined that they would not be subject to such manipulation again. The district would have preferred that Lord Grange seek re-election. When it became apparent his re-election was not an option, their only other alternative was to elect the candidate not supported by the administration and, thereby, exercise some level of electoral independence.

Retiring from public life, Grange chose not to seek re-election in 1747. Once again Peter Halkett was the choice of Ilay for the Stirling burgh seat, with the support of Henry Pelham. Patrick Haldane, who had served as the Perth district MP from 1715 to 1722, decided to put up his son George for the seat against Halkett. Patrick Haldane, however, had made many enemies throughout his public career, and as such Pelham knew he could not be trusted – particularly when Peter assured Pelham that his son would be a proponent of the administration.<sup>448</sup> Captain George Haldane of the Scots Guards, on the other hand, had served honourably under the command of the Duke of Cumberland at Roucoux in October 1746, and therefore had the support of Cumberland in this election. Patrick Haldane assured Pelham that Halkett had no chance of victory in the district due mostly to the controversy

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<sup>447</sup> Ibid., p. 230; Allan, *Scotland in the Eighteenth Century*, p. 26.

<sup>448</sup> Haldane served as commissioner for the sale of Jacobite estates that had been forfeited after the '15. Paid an annual salary of £1000, he reportedly shocked both English and Scottish MPs by voting against a proposal to allow the wives and widows of forfeited estate owners in Scotland to keep their jointures; whereas he supported a like measure for widows and wives in England. *House of Commons*, Vol. 4, p. 95.

over his election in 1734 against Lord Grange, coupled with his uninspiring performance in the House:

I beg leave to mention for my further excuse that circumstances which did Sir Peter great hurt in this election and exposed him to be got the better of it by any other of the candidates as well as by my son, he had come in to represent the same burghs at the elections in the year 1734 against the votes of three of the five delegates upon an objection made to the vote of one of the three without so much as having applied or spoke to one of the burghs before the day of the election and not intending it seems to stand candidate again never visited nor kept the least correspondence with any of them until this occasion after the other candidates or their friends for them had made considerable advances in fixing their interests...<sup>449</sup>

Much to Pelham's disappointment, George Haldane was elected without controversy. Ilay, who was in Edinburgh for the elections, reported the election of Captain Haldane to Pelham: "Captain Haldane...returned...As for the Captain you know there were suspicions of a very peculiar attachment he had to a certain person I can now tell you that these suspicion were well founded, for you may depend upon it that he at London had an audience and asked that persons interest".<sup>450</sup> The "certain person" was the Prince of Wales through whom Captain Haldane became a prominent member of the Leicester House set. Although his father had assured Pelham of his son's support, George Haldane remained an opposition Whig throughout his parliamentary career.

The Excise Bill of 1733 also allowed the Whig opposition to gather momentum in the Dysart district, much as it had in the Stirling burghs. Earlier in 1722, and shortly before his death, the 9<sup>th</sup> Earl of Rothes had unlawfully returned his son Thomas for the Dysart district seat, although Thomas had lost the election by a delegate vote of three to two in favour of

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<sup>449</sup> Nottingham, NeC1934, Patrick Haldane to Henry Pelham, 18 August 1747.

<sup>450</sup> Nottingham, NeC1946/2-3, Earl of Argyll to Henry Pelham, 23 July 1747.

Lieutenant General James St. Clair.<sup>451</sup> Although this return was petitioned by St. Clair, he ultimately took the seat when Thomas Leslie failed to offer a counter-petition after he was requested to do so by the committee. St. Clair managed to win re-election for the Dysart district in 1727, most certainly through the assistance of Ilay who had begun his ascent to the pinnacle of Scottish politics around 1725.<sup>452</sup> St. Clair's allegiance to Walpole and Ilay now became a political handicap during the 1734 election, allowing Thomas Leslie finally to win the district seat with suspect, albeit successful, support of the Squadrone and his brother the 10<sup>th</sup> Earl of Rothes. In a letter to his cousin, the Marquis of Tweeddale, Rothes proposed an election scheme on behalf of his younger brother that most certainly would have made his father proud. Rothes reported that he was confident of the support of both Kirkcaldy and Kinghorn. With doubts about their prospects in the town of Dysart, Rothes had spoken with an acquaintance of St. Clair who desired to serve as the election delegate from that burgh:

There is one of St. Clair's friends who does propose to be elector for that town, he says the town does complain that none of them have ever been trusted as elector, and this he thinks may be an argument to persuade St. Clair to let him be elector as it will be agreeable to all in the town. He proposed to give St. Clair all assurances that oaths and promises can give, but he tells us at the same time that the town has been cheated by these folks...If he can persuade them to trust him by any means he will take the town's revenge and cheat the Colonel [St. Clair].<sup>453</sup>

Rothes expressed some concern that this idea might not work, yet held out hope that they had a chance. Support from Burntisland was also crucial since that town was to serve as the presiding burgh for the Dysart district in 1734. In Burntisland, Rothes ran into some opposition from a town resident by the name of Mr. Hog who had informed the town that

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<sup>451</sup> The younger brother of the infamous, John St. Clair, the first elected MP from the Dysart district after the Union who was not allowed to serve, James had been a commissioned soldier since the age of six. While insinuations of his family's Jacobite past continued to plague him throughout his political career, his personal politics were always steadfastly Whig. See *House of Commons*, Vol. 5, p. 402. The 1722 Dysart contested election is examined in Chapter 6.

<sup>452</sup> Geoffrey Holmes and Daniel Szechi, *The Age of Oligarchy: Pre-Industrial Britain 1722-1783* (London, 1993), p. 4.

<sup>453</sup> NLS, ms. 14420, f. 109, Earl of Rothes to Marquis of Tweeddale, 27 April 1734.

either he or one of his sons “to be the member and desired the district for themselves”.<sup>454</sup> Hog had also made promises to the town on several occasions that he would provide them with four thousand merks, “but when they come to insist upon his giving them immediate security, he draws back.”<sup>455</sup> Rothes felt that Hog was just enough of a threat to cause damage to his brother’s election prospects. He proposed to Tweeddale that they enlist the assistance of Alexander Orrock, a close friend and large landowner in the Dysart district, to serve as elector, and therefore praeses, for Burntisland. Rothes threatened that if Hog did not back down he would “be able to pin bribery on him”.<sup>456</sup> The efforts on the part of the Squadrone worked: Thomas Leslie handily defeated James St. Clair and served the Dysart district until 1741 when he decided not to run, allowing Kirkcaldy merchant James Oswald to win the seat unopposed.<sup>457</sup> It is with Oswald’s election that Dysart district finally managed to wrestle itself from the aristocratic control of the Rothes family and the managerial influence of Ilay.

The personality of Fife politics changed with the election of James Oswald. He and James St. Clair were close personal friends. They both had strong political aspirations with plans to take as much control of Fife politics as possible.<sup>458</sup> In this regard they were quite successful. Between the two of them, with the Dysart burghs as their power base, they managed both the Dysart district and the county for nearly thirty years, literally trading the seats between the county and the burgh (see chart below). After his defeat at the hands of Squadrone-supported Thomas Leslie, St. Clair, with the help of the Earl of Sutherland (a

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<sup>454</sup> Ibid.

<sup>455</sup> Ibid.

<sup>456</sup> Ibid.

<sup>457</sup> Leslie would go on to serve as MP from the Perth burghs in 1743 after the death of John Drummond, remaining in that seat until 1761.

<sup>458</sup> Sedgwick, p. 402.

distant relative), took over the Sutherland county seat in a 1736 by-election, serving in that capacity until 1747. For the next twenty years, both men were fixtures in Fife politics.<sup>459</sup>

Burgh and Fifeshire MP seats held by James Oswald and James St. Clair, 1741-1768

	1741-1747	1747-1754	1754-1768
James Oswald	Dysart Burghs	Fifeshire	Dysart Burghs
James St. Clair	Sutherland	Dysart Burghs	Fifeshire (d. 1762)

Frank O’Gorman argues that by 1741, young men entering politics were less inclined to attach their political future to a twenty-year old administration that was falling out of favour with, not only the Parliament, but the general public as a whole. In Scotland, the situation was compounded by lingering anger over the 1736 Porteous Riots, an event that refused to fade in the hearts and minds of the people.<sup>460</sup> It is on this platform that James Oswald entered politics.

A firm supporter of the Whig opposition, Oswald greatly admired the political stance of John Campbell, 2<sup>nd</sup> Duke of Argyll, particularly after Argyll’s split from the administration in 1739. Murdoch argues that “Argyll stood for political independence and Patriot principles during the general election of 1741; his adherence gave the disparate opposition in Scotland enough strength to secure more than half the country’s seats in the House of Commons”.<sup>461</sup> Oswald most certainly won his seat on this wave of ‘political independence’ that swept Scotland during that election year. The Walpole, and for that matter, the Ilay administration was an anathema to Oswald who wrote to Henry Home, Lord Kames, in 1742 after Walpole’s resignation:

<sup>459</sup> In addition to his parliamentary duties, Oswald served as provost of Burntisland from 1739 to 1767; he also held considerable influence in Kirkcaldy where the family estate, Dunnikier, was located. St. Clair had already served an earlier term as MP for the Dysart burghs from 1727 to 1734.

<sup>460</sup> Frank O’Gorman, *The Long Eighteenth Century* (London, 1997), pp. 84-85.

<sup>461</sup> Murdoch, *The People Above*, p. 32.



As to the different plans of administration, though I am a professed sceptic, as to political events, yet, I don't know how, I have become a sort of dogmatist in favour of the broad bottom; it seemed to me to be the only proper plan of settling both the constitution and administration on a solid and formidable foundation. And as to its reverse, I always abhorred it, because I saw it must necessarily have been carried on by a much wider system of corruption than that employed by the last administration...Corruption is, at all times, a powerful engine; but how much more powerful must it prove, when it is to be employed by the ablest, and the scheme for which it is to be employed is, from a strange fatality, to be patronized by the honestest and most disinterested men in the nation?<sup>462</sup>

Oswald maintained his stance against governmental corruption throughout his political career. His voting record reflects his support for the Opposition: “motion to discontinue the Hanoverians in British pay, 6 December 1743; for duty on foreign linens instead of Pelham's proposal for a duty on sugar, 20 February 1744; against the Austrian subsidy, 10 April 1744, and for the amendments made by the Lords to the bill to make it high treason to correspond with the sons of the Pretender, 3 May 1744.”<sup>463</sup> However, like most Scottish MPs, he did not agree with the methods used by the Government in responding to the 1745 Rebellion, nor did he support the Heritable Jurisdictions Bill in 1747.

Prior to the 1747 election, Oswald and St. Clair turned their collective power base toward the goal of stopping Philip Anstruther from regaining the Anstruther Easter district seat. Anstruther lost the seat, which he had held since 1715, to John Stewart in 1741. Appalled by his vote to punish Edinburgh after the Porteous Riots, the Anstruther Easter district voted him out of office – thereby losing the seat his family had held since the Union of 1707. Allied to the Duke of Argyll and supported by Oswald and St. Clair, John Stewart voted consistently with the Opposition during his parliamentary career; his decision not to run for re-election in 1747 paved the way for Philip Anstruther to run again. Anstruther, a

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<sup>462</sup> *Oswald Memorials*, pp. 18-19.

<sup>463</sup> Sedgwick, p. 315.

loyal adherent to the government, had the endorsement of Pelham, much to the consternation of Oswald and St. Clair. With the government firmly behind him, along with the apparent short memories of the Anstruther Easter voting delegates, Anstruther once again managed a unanimous victory. While his return to Parliament was a blow to the opposition, Oswald and St. Clair managed to exact their revenge in the 1754 election. Anstruther endorsed his secretary, Major Moncrieff, for the Fifeshire seat. Determined not to allow any followers of Anstruther to sit for the county, Oswald and St. Clair swapped their MP seats, with Oswald winning Fifeshire and St. Clair taking the Dysart district. Adding further insult to Anstruther, St. Clair successfully put up his nephew, Sir Henry Erskine, for the Anstruther Easter district sending the Anstruther family interest into decline for several years.<sup>464</sup> A member of the Anstruther family did not regain the district seat until Sir John Anstruther, only son of Sir John Anstruther, 1<sup>st</sup> Baronet, and former Fifeshire MP, who won the election in 1766.<sup>465</sup>

Although party politics was the driving force in nearly every district election, in many respects the Fife burgh districts were quite fortunate with several of their MP's. "Honest John" Drummond served the Perth district from 1727 until his death in 1742.<sup>466</sup> Early in his career, Drummond moved to Amsterdam where he became a successful merchant and

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<sup>464</sup> The animosity between Philip Anstruther and Henry Erskine was not only political but very personal. In 1751, Erskine had served as an officer under Anstruther on Minorca, where Anstruther was Lieutenant Governor. Accusing Erskine of conspiring against him, Anstruther had him imprisoned. After Erskine was acquitted of the charges, Anstruther had him court-martialed. Coupling with the personal vendetta involved in this race, the political hostility between the two camps caused a venomous campaign. Pelham insisted on staying with Anstruther, causing St. Clair to inform Oswald: "You say that he was sworn to Mr. Pelham, that he never solicited a single vote against you; yet you and I both know, as well as all the freeholders of Fife, that he had done his utmost against each of us... You tell me likewise, that Mr. Pelham says he will give his interest to General Anstruther because he is in possession: and I am sorry that possession should be thought a sufficient protection for him against me... 'tis from the insolence and neglect he [Anstruther] has shewn on all occasions to his constituents, and from that contempt and cruelty with which you know he treated some of them, on their application a few months ago... fired with his oppressions, haughtiness, and ill-usage, they called loudly for a candidate to oppose him". See *Oswald Memorials*, pp. 333-335.

<sup>465</sup> Years later Anstruther Easter became one of only six Scottish burgh districts in the eighteenth century to elect an Englishman to their district seat. George Damer won for the Anstruther Easter district in 1778.

<sup>466</sup> Harley writes: "Honest John [Drummond]'s coming over was very providential, he has done greater service at home than abroad. It will be hard if he should not reap some little advantage from those services." *The Manuscripts of His Grace the Duke of Portland [HMC Portland]* (London, 1897), Volume IV, p. 186.

banker. So keen was his knowledge of the Netherlands trade that he became an unofficial adviser to Robert Harley and Henry St. John. After the demise of the Harley administration, Drummond returned to Scotland and purchased an estate near his home, Blair Drummond in Perthshire. He became well known in parliamentary circles for his expertise on trade and commerce. A voice for the common man, Drummond spoke before the House in favour of providing seamen a two shilling pay increase:

Mr Drummond gave an instance when he was sent in the Queen's time to see what number of her subjects were in the States' service and there were 3,000 English and 2,000 Scotch, and when he asked if there was no way to get them again was answered: easily, for if you pay, they will never leave you; and he proposed for encouragement 2 months' advance, 1 month in their absence to be paid for the subsistence of their families and the rest the generally take credit for from the purser in slops, etc., but carried for the clause with the additional pay.<sup>467</sup>

The councillors of St. Andrews were so enamoured with John Drummond that they declared their dedication to him in a letter to the Earl of Morton. Yet, despite this obvious support for Drummond, Sir John Bruce had started to stir up the burghs with talk that he would be running against Drummond in the next election:

We are desired by all our Town Councillors to signifie to your Lordship that all of us have a great veneration and respect for Mr. John Drummond our Worthie Representative in Parliament...The great and noble services which he hath done for this poor city and community in general and his particular favours to several of us and other inhabitants here We hope shall never be forgot...When the next election of Parliament happens...he may certainly depend That every one of us will give our votes and interest to Mr. Drummond.<sup>468</sup>

Though he was a close friend of both the Duke of Chandos and the Earl of Morton, Drummond worked his constituency without the backing of a noble patron. After the Hanoverian succession, he put his political support behind the government, yet he largely

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<sup>467</sup> *The Parliamentary Diary of Sir Edward Knatchbull 1722-1730*, ed. A.N. Newman (London, Royal Historical Society, 1963), p. 75.

<sup>468</sup> NAS, GD150/3478/4, Council of St. Andrews to Earl of Morton, 3 August 1732.

operated as an independent MP as much as he was able to do so within the confines of the political structure of the day.

It is important to note that while both George Yeaman and Henry Cunningham operated within the strict parameters of their respective parties and relied on the auspices of their patrons, they did manage their districts admirably. Cunningham served the Stirling burghs from 1710 to 1728, when he left the burghs to take over the Stirlingshire seat. Much has been made earlier in this chapter regarding his allegiance to Ilay and manipulation of the Stirling burgh election in 1734. As Ilay's election manager in the district, Cunningham was technically just doing his job. He was a distant relative of the Earl of Mar who helped his entry into politics. When Cunningham turned his support to the Whig administration, Mar ceased his endorsement. Yet, while Cunningham was a Walpole Whig to his core, he was not above joining with the Scottish campaign to dissolve the Union over the Malt Tax crisis. His constituency, where he was elected for five consecutive terms, considered him,

A man of pleasant manners and great address...the best burghmonger in his time. There was no doubt sound policy, as well as an appearance of goodness of heart, in the attention that he showed to his constituents. He did not, like many of his brethren, make an evident distinction between the first and last year of a Parliament, but was uniformly courteous and kind. And hence, though a professed ministerialist, he was esteemed by a set of neighbours that were either hostile to the family of Hanover or in opposition to Sir Robert Walpole.<sup>469</sup>

A dedicated Tory, George Yeaman also earned the support and confidence of his burgh district. Elected in 1710, the Perth district had high hopes for Yeaman, particularly after their disappointment in Joseph Austin, whose dismal single term put serious pressure on Yeaman – and Yeaman did not disappoint. Receiving a series of instructions from the burgh

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<sup>469</sup> *House of Commons*, Vol. 3, p. 598; *Extracts from Stirling Burghs 1667-1752*, pp. 55, 130, 143.

councils, Yeaman set out to accomplish what he could. His attempts to disband the duties on water-borne coal were praised by the Perth council, who paid his expenses in the matter,

anent the exemption of the coal case, which our council ordered to be duly honoured and appointed us to return to you their hearty thanks for your care and diligence in this matter. As also you are thereby pleased to acquaint us that you are appointed to bring in a bill for the better regulation of the Linen manufacturing of this Kingdom...<sup>470</sup>

The passage of the Linen Bill became the primary focus of Yeaman's first term. Corresponding diligently with the burghs on the progress of the Bill, Yeaman informed the Perth council: "It is a matter of the most consequence and nearest concern to the interest of this shire to have the linen manufacture of it duly regulated; to answer the demands of foreign sale so far as it may become possible or convenient for this country to give ready obedience to such a law and especially that care be taken to have it."<sup>471</sup> After a series of delays and setbacks, Yeaman finally saw his bill become law on 29 March 1712. Not surprisingly, Yeaman joined the other Scottish MPs in their rebellion against the 1713 Malt Tax and was also a strong proponent of Episcopalian toleration.

While Oswald, Drummond, Yeaman, Cunningham, and St. Clair had admirable records of parliamentary achievement, other MPs were not so diligent or successful. Joseph Austin received a thorough dressing down from his burghs for not being in attendance for a critical vote concerning the coal duty.<sup>472</sup> Captain Peter Halkett, elected for the Stirling burghs in 1734, barely registers a mention in the parliamentary rolls, most likely due to his military responsibilities that caused him to be continually absent. Thomas Leslie, who served for both the Dysart and Perth districts, suffered the indignity of being the third, and

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<sup>470</sup> Perth Archives, B59/24/8/4, Corporation of Perth to George Yeaman, 2 April 1711.

<sup>471</sup> Perth Archives, B59/24/8/4, George Yeaman to Perth Council, 2 April 1711.

<sup>472</sup> So angry was the town council with Austin's performance they threatened not to cover his expenses due to his "by being absent when the duty upon the coal was laid on, which so very apparently threatens the ruin of both town and country". Perth Archives, B59/24/2/12.1, *Memorial of the Perth Council*, n.d.

therefore penniless, son of the 9<sup>th</sup> Earl of Rothes. His continued need to run for office was merely to give him an occupation and was not based on any desire to work toward the common good.<sup>473</sup> And the Anstruther Easter burghs were saddled for over thirty years with Philip Anstruther, whose military career often kept him away from Parliament. He did, however, always manage to attend the burgh district election meetings, just to make sure his re-election was guaranteed.

These examples of public approval (and also of condemnation) of the various politicians of Fife offers a telling indication of how politically involved the populace was in their local government. The burgh parliamentary elections were managed by the formidable party machine, by way of assorted aristocrats, government managers, and town councils; yet ultimately it was the community who often let their opinion, and their instructions for action, be known to their respective MP. As such, the Scottish public was not completely out-of-touch with the politics of the day.

#### **IV. Conclusion**

The Act of Union impacted the Scottish burgh election franchise in several ways. The respective burghs no longer had a representative solely dedicated to their individual needs. The “self-electing oligarchies”<sup>474</sup> or burgh councils were required to send a delegate to an election meeting, controlled by a praeses not of their choosing (unless they were fortunate that year to be serving as presiding burgh), thereby putting their choice of MP into the hands of a group over which they had little to no control. By virtue of the presiding burgh rotation

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<sup>473</sup> Money problems plagued him throughout his political career. What little correspondence exists from his public service consists mostly of pleas for financial assistance.

<sup>474</sup> *House of Commons*, Vol. 1, p. 162.

system, the praeses of the election meeting held substantial power and was very often the determining factor over who was ultimately chosen as the district MP.

Party politics thrived in this environment. When the Union allowed only one parliamentary seat for each district, the parties determined to use every means possible to ensure a victory for their candidate. Immediately after the Union, the principal political factions in Fife revolved around the Squadrone Whigs, Scottish Court Party and the Episcopalian Tories. In later years, due to national issues, various divisions of the Whigs eclipsed the Tories who were unable to regain any strength by the middle of the century. At the outset of the Union, each of these parties was organized and active throughout the Fife burghs; however, after the Union, though the auspices of a local patron, they wielded considerable power. The featured elections of this chapter provide us with some compelling examples detailing the extent to which political parties were actually involved in the political process, but also the influence of the aristocratic patrons, who worked feverishly to ensure their party either held or gained the majority of seats.

By the mid-1730s the rancour between the Whigs and Tories had waned significantly; due in no small part to the Tories' strained relationship with the Hanoverian government. The political factions of the Whigs, however, still managed to manipulate electoral decisions. The unpopularity of the Excise Bill prior to the 1734 election, allowed James Erskine, Lord Grange, to wage a populist campaign complete with propaganda, press coverage and canvassing. He garnered considerable local support with the populace, even though the people were not allowed a direct vote. Although Erskine's campaign efforts were admirable, he ultimately met with the harsh reality of the Ilay Whig organization and the power of a praeses dedicated to the latter's party.

Fortunately for the burgh districts, many election decisions managed to produce a respectable MP. The Perth burghs and Stirling districts loosely followed the recommendations of the Convention of Royal Burghs by electing merchants and burgesses as their parliamentary representative. The Stirling district kept Henry Cunningham in office for eighteen years; while John Drummond honourably served the Perth district for fifteen years. On the other hand, simply putting a man of the party in office did not always bode well for other districts – as Thomas Leslie demonstrated by doing virtually nothing his entire parliamentary career.

The Treaty of Union did not create the party manipulation which was so prevalent in the Fife burgh elections – such activity was already a good part of the franchise before 1707. The geographical re-organization of placing burghs into districts, however, did come as a direct result of the Union – and now this new electoral system had wide-ranging effects not only in Fife, but in Scotland as a whole. None of these was more significant, or so immediate in its effect, than essentially handing all the political parties concerned, be they Whig, Scottish Court or Tory, virtual autonomy over election results. By doing so, the Treaty of Union was directly responsible for the management and manipulation that became the hallmarks of Scottish burgh elections in the eighteenth century.



## Chapter 6

### Parliamentary Contested Elections in the Fife Burghs

*“...two of the said Delegates, lodging in Crail, the night before the election...was seized at midnight, as they lay in bed, by the agents of servants of Colonel Philip Anstruther...being armed with sword and pistol...[and] carried into the company of Colonel Anstruther...”<sup>475</sup>*

The increased electoral competition that came as a direct result of the Treaty of Union in 1707 was naturally accompanied by an increased number of contested elections. In this, the burghs of Fife were no exception. As has already been mentioned, thirty-four parliamentary elections were held between 1707 and 1747. Within those years, fourteen, or 41%, of Fife burgh district elections were contested, while the shire of Fife had only one contested election during this time.<sup>476</sup> Ten of the Fife contested burgh elections were petitioned to the House of Commons by the losing party in an effort to reverse the results. Due to a change in procedure as a result of the Union, petitions over disputed Scottish elections were no longer heard by the Scottish Parliament, which was familiar with Scots law, but were instead presented to the House of Commons elections committee where they appeared before “The most corrupt council in Christendom”.<sup>477</sup> With decisions made “on political rather than judicial grounds,”<sup>478</sup> Scottish election petitions presented to the Commons were now heard before the House Committee of Privileges and Elections, which was, in turn, polarized by party factionalism. As a result, depending on which party was in power at the time, the fate of a petition could often be predicted before it was even presented. Suffering a similar fate as English elections, Scotland was subject to the same disregard for the judicial process when

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<sup>475</sup> *Commons Journals*, xx. 1722-1727. Petition made by David Scot to the House of Commons regarding the illegal methods employed by Philip Anstruther during the 1722 Anstruther Easter burgh election.

<sup>476</sup> Only the Fife burghs will be examined in this chapter. From 1708-1747, one Fifeshire election was contested between Sir John Anstruther and Patrick Moncrieff that was previously discussed in Chapter 3.

<sup>477</sup> W.A. Speck, ‘The Most Corrupt Council in Christendom’: decisions on controverted elections, 1702-1742’, in *Party and Management in Parliament*, ed. Clyde Jones (New York, 1984), pp. 106-121. (Quoting from the Diary of Sir Richard Cocks, 25 February 1702: ‘This night was the Norwich petitioned examined by the Committee, which is certainly the most corrupt council in Xtendom, nay in the world’.)

<sup>478</sup> Speck, ‘Corrupt Council’, p. 107.

petitioning parliamentary election results. By examining the Fife petitioned elections in detail, this chapter will support the argument offered by Speck, that the decisions, or in most cases, the lack of decisions made by the House Committee of Privileges and Elections were determined not by the events or circumstances of the particular election in question, but were rather determined by the agenda of the political party in power at the time. Furthermore, this chapter will serve to substantiate one of the central themes of this study – that it was the escalation of party control that determined the results of the Fife burgh elections during the forty years after the Union.

In his *Introductory Survey* for the House of Commons 1690-1715 series, David Hayton offers this rare observation of contested Scottish burgh elections: “....despite the oligarchic system of burgh government, the narrowness of individual burgh electorates, and the prevailing strength of patronal influence, the nature of the [Scottish] electoral system produced a remarkably high proportion of contested elections.”<sup>479</sup> Considering the restrictive parameters within which the burgh electoral franchise had to operate, coupled with the strength of the parties themselves, the number of contested elections was astoundingly frequent. It was obvious to all who were politically active that contested elections were going to be a fact of life in this new political order. Willingness on the part of a candidate to stand for a parliamentary seat often demonstrated a keen sense of party loyalty, along with a desire to promote the interests of the burgh district. For others, however, acquiring a seat meant little more than a means of social status.

According to Professor Speck, elections were petitioned to the House Committee of Privileges and Elections for two reasons: “disputes arising from the franchise, and those

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<sup>479</sup>*House of Commons*, Vol. 1, p. 177.

concerning the conduct of an election.”<sup>480</sup> Of the Fife petitioned elections falling under the category of “election conduct”, two were based on questionable returns by the sheriff (Perth and Dysart in 1722) and three involved accusations of blatant bribery and coercion (Anstruther Easter 1710, 1722, 1741). Accusations of illegal voting practices during the election meeting (Dysart 1708, Perth 1710, Stirling 1734) qualify under the “franchise dispute” category. Two other Fife petitions were dismissed due to clerical errors on the part of the petitioners (Anstruther Easter and Stirling in 1713).

When an election petition was presented to the House, its outcome was largely determined by the manner in which it was heard. Petitions that “were heard at the bar of the House rather than in committee” were decided immediately, thereby giving the majority party a better chance of a decision in their favour. Those petitions determined to be of lesser importance were sent to committee where they languished until they were withdrawn or left to die on the shelf. Since the Tories dominated the House in 1710 and 1713, petitioned decisions were invariably determined in their favour. After 1715 the Whig majority held control, although in Scotland the Whig vote was nearly always subject to the factional split between the Squadrone and the Walpole government.<sup>481</sup>

As we shall see in the following sections, six of the Fife petitions met the same end by being allowed to die in committee. In what had to have been a painful setback for the Tories, two of their petitions presented in 1713 were dismissed due to clerical errors. Only one Fife petition was upheld: the 1722 Anstruther Easter election between Philip Anstruther and David Scot. Even with damning evidence from eyewitnesses lodged against Anstruther for illegal election procedures, the committee still decided the election in his favour. George

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<sup>480</sup> Speck, “Corrupt Council,” p. 107.

<sup>481</sup> *Ibid.*, p. 108.

Hamilton managed to have the only election overturned, when in 1710, he was awarded the Anstruther Easter seat over declared winner Sir John Anstruther. In all of these cases, the outcome of the petition, whether a *bona fide* decision by the election committee or not, the political parties did all that they could to influence the outcome to their own advantage.

As the following table demonstrates, the Fife burghs had three districts with more than one candidate in 1708, although none of these decisions was petitioned. The same number of contests took place in 1710; however, in this year Dysart candidate James Oswald ran unopposed, whereas Sir John Anstruther had competition from George Hamilton. The successful pre-election campaign efforts on behalf of the local Whig patrons resulted in no contests for 1715. The three petitioned contests in 1722 can be directly attributed to illegal election practices on behalf of the 9<sup>th</sup> Earl of Rothes and Philip Anstruther; whereas the Stirling contest petitioned in 1734 was a classic case of party opposition to the government. When the Walpole oligarchy took hold during the early 1720s, elections were less frequently contested and all were unanimous in 1727 and 1747.

Fife Burghs Contested Elections – 1708-1747

Election Year	Burgh District	Candidate(s)	Elected	Petitioned to the Commons	Notes <sup>482</sup>
1708	Anstruther Easter	Sir John Anstruther	Unanimous	No	
	Dysart	John St. Clair Sir John Weymss	John St. Clair	No	St. Clair not allowed seat as oldest son of a peer; James Abercrombie wins seat in 1710 by-election.
	Perth	Joseph Austin Mungo Grahame George Yeaman David Erskine	Joseph Austin	No	Yeaman tempted to petition; decided to wait for a better chance when Dundee would be presiding burgh in 1710.
	Stirling	John Erskine Charles Hay	John Erskine	No	
1710	Anstruther Easter	Sir John Anstruther George Hamilton	Sir John Anstruther	Yes	Hamilton successfully petitioned and had the election overturned
	Dysart	James Oswald, elder	Unanimous	No	
	Perth	George Yeaman Sir John Haldane	George Yeaman	Yes	Haldane allowed petition to default
	Stirling	Henry Cunningham George Preston	Henry Cunningham	No	
1713	Anstruther Easter	Sir John Anstruther George Hamilton	Sir John Anstruther	Yes	Election upheld in favor of Anstruther
	Dysart	James Oswald, elder	Unanimous	No	
	Perth	George Yeaman	Unanimous	No	
	Stirling	Henry Cunningham John Erskine	Henry Cunningham	Yes	Erskine mistakenly forgot to sign the petition
1715	Anstruther Easter	Philip Anstruther	Unanimous	No	
	Dysart	William Kerr	Unanimous	No	
	Perth	Patrick Haldane	Unanimous	No	
	Stirling	Henry Cunningham	Unanimous	No	
1722	Anstruther Easter	Philip Anstruther David Scot	Philip Anstruther	Yes	Scot petitioned; charged Anstruther with coercion and bribery; election awarded to Anstruther
	Dysart	James St. Clair Thomas Leslie	James St. Clair	Yes	Earl of Rothes returned his son Thomas Leslie; St. Clair petitioned, Leslie failed to respond; shelved
	Perth	William Erskine Charles Leslie	William Erskine	Yes	Earl of Rothes returned his son Charles Leslie; Committee allows petition to stall.
	Stirling	Henry Cunningham	Unanimous	No	
1727	Anstruther Easter	Philip Anstruther	Unanimous	No	

	Dysart	James St. Clair	Unanimous	No	
	Perth	John Drummond	Unanimous	No	
	Stirling	Henry Cunningham	Unanimous	No	
1734	Anstruther Easter	Philip Anstruther	Unanimous	No	
	Dysart	James St. Clair Thomas Leslie	Thomas Leslie	No	St. Clair fell out of favour after Excise Crisis and his allegiance to Ilay and Walpole; Squadrone support for Leslie too strong to contest
	Perth	John Drummond	Unanimous	No	
	Stirling	James Erskine Peter Halkett	Peter Halkett	Yes	Erskine petitioned against election abuse alleged against Cunningham who served as praeses
1741	Anstruther Easter	Philip Anstruther John Stewart	John Stewart	Yes	Petition was withdrawn after fall of Walpole.
	Dysart	James Oswald, younger	Unanimous	No	
	Perth	John Drummond	Unanimous	No	
	Stirling	James Erskine	Unanimous	No	
1747	Anstruther Easter	Philip Anstruther	Unanimous	No	
	Dysart	James St. Clair	Unanimous	No	
	Perth	Thomas Leslie	Unanimous	No	
	Stirling	George Haldane	Unanimous	No	

<sup>482</sup> *House of Commons, passim; Sedgwick, passim.*

Making use of Speck's two fundamental reasons for an election to be appealed to the House, this chapter will first examine the Fife burgh elections petitioned due to franchise disputes. The second section will highlight those petitioned elections that involved questionable election conduct. In all of these cases, the fate of the petition – whether voted upon or left to die in committee – was decided by the current party in power, and in most cases, the ruling party's favour.

## I. Franchise Dispute Petitions

Dysart, as a four-burgh district, found itself evenly split in the 1708 election. Lord St. Clair, a loyal Tory who had considerable land holdings in Dysart, intended the seat for his eldest son, John, Master of St. Clair. Sir John Weymss of Bogie, locally supported by the Earl of Leven for the Court party, planned the seat for himself. The vote resulted in a tie with

Kirkcaldy and Kinghorn voting for Weymss; while Dysart and Burntisland voted for St. Clair. Since Dysart presided over the election, and therefore held the deciding vote, St. Clair was declared the MP. The Earl of Rothes made little effort in this election, leading Wilkinson to suspect that beyond being simply neglectful of the district, Rothes was honoring an election agreement between the Squadrone and the Duke of Hamilton.<sup>483</sup> An “anonymous squib” published after the elections, accused the Squadrone of cavorting with Jacobites, particularly since Lord St. Clair had been arrested on suspicion of involvement during the 1708 invasion:

They [Squadrone] solicited the Whigs on the one hand; the Tories on the other; they brought down proxies from both sides: the names of both are no secret here...Under this double mask they went one, the whole nation was immediately divided into Court and Squadrone. If we are to examine how the people were affected by this it is to be stated thus: the Jacobite, popish party generally speaking exposed them: those again set up known and profest Jacobites in several objections and gave their votes for them, struggled earnestly and vigorously for them: It is true, such had taken the oaths and must have done so to be elected; but it is well known here then in the case of the late invasion, none had more reason to be suspect than some whom they have eminently espoused in the late elections. In the explaining of this Article the reader is reflected to the elections of Dysart, Midlothian, Stirlingshire...<sup>484</sup>

It is most likely the case that the Squadrone lent support for St. Clair, irrespective of his Jacobite tendencies, in a bid to stop any candidate endorsed by Leven for the Court party. Indeed, the account continued to praise Leven for his

vigilance in securing Scotland from inbred traitors who stood ready to have joined a popish pretender...That noble person thinks it worthwhile to reply to the slanders of a mercenary continues to do his duty, despises the villain that abuses him; his friends only are concerned to see a person of his Lordship's quality and who has so faithfully preserved Scotland in this time of danger...<sup>485</sup>

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<sup>483</sup> *House of Commons*, Vol. 2, p. 909.

<sup>484</sup> NAS, GD220/6/1778/1-3, *Brief Account of Elections in North Britain 1708*.

<sup>485</sup> *Ibid.*

Wemyss held out hope that the split vote would work to his advantage by claiming that the delegate from Burntisland should be declared ineligible due to his being selected by 'a few of the commonality' instead of being chosen by the legitimate town council.<sup>486</sup> A petition sent by Wemyss to the House elections committee languished for five months. By 3 December 1709, St. Clair's election was declared null and void since he was the eldest son of a Scottish peer. Not knowing whether to issue a new election writ, the local town councils vacillated on what action to take – if any at all. By 17 December a new election writ was finally released; however, by that time the by-election for St. Clair's replacement was already well underway, with the Duke of Hamilton declaring his illegitimate brother, James Abercrombie, for the seat.<sup>487</sup> The ensuing contest between the Hamilton and Rothes factions eclipsed Wemyss who did not even attempt to run in the by-election.

The voiding of St. Clair's election afforded only a small setback for the Tories. With Hamilton's influence and the Tories prevailing in the House, Wemyss, with his Court-party affiliation, had little chance of a hearing on his petition, let alone having the election overturned in his favour. As it was, Hamilton ultimately managed to defeat the Rothes faction by delivering the Dysart seat for his brother and the Tory party.

Dubious election practices on the part of both the Tories and the Squadrone were the hallmark of the 1710 Perth district elections. David Wilkinson provides a perceptive description of the circumstances: "The...election saw a Whig candidate, enjoying Presbyterian support, confront an Episcopalian Tory challenger assisted by leading figures in

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<sup>486</sup> "This day was the Election of a Burges to serve in Parliament for this District, viz. This place Kirkcaldy, Burntisland and Kinghorn, the Candidates were, the Master of St. Clair, and Sir John Weems of Bogie, the latter pretends he has carried it, an account the Town of Burntisland has no Magistrates, and consequently could not chuse, the Burgers having met amongst themselves, some days before the election, and Polled for one that voted against Sir John." See *Edinburgh Courant*, May 28-31, 1708; *House of Commons*, Vol. 2, p. 909.

<sup>487</sup> *Ibid.*



the Scottish campaign for religious toleration".<sup>488</sup> After a poor parliamentary performance, Joseph Austin, the 1708 Presbyterian Whig candidate decided not to risk a re-election bid.<sup>489</sup> George Yeaman, an ambitious Episcopalian Tory who protested at Austin's election in 1708, was primed and ready for a contest. The Whigs put their support behind John Haldane of Gleneagles, Squadrone adherent and close associate of the Earl of Rothes. Riding on the momentum of Tory support by a contingent of local peers, including Mar, Stormont, Nairne and Kinnoull, Alexander Aerskine was encouraged to do all he could within the Perth district to defeat Haldane. The Perth burgh Tories launched their campaign on two fronts: keeping Joseph Austin's brother, William, provost of Perth, from being chosen as election delegate and discrediting John Haldane for not being a burgh merchant. They were unsuccessful in their strategy – William Austin succeeded in his election as the Perth delegate. Additionally, a petition presented to the Convention of Royal Burghs listing numerous reasons why John Haldane was not qualified to run for the burgh seat failed to garner much support. Perth cast its vote for Haldane at the district election.<sup>490</sup>

The strong Episcopalian Tory support in Dundee met with greater success. Yeaman, as Dundee provost, easily won the Dundee delegacy. Forfar, probably the strongest of the Episcopalian burghs, could be counted on to vote Tory. The Cupar delegate, under the patronage of the Earl of Rothes, naturally would cast for the Squadrone Haldane; thus leaving the deciding vote for St. Andrews. As we have already seen, St. Andrews was embroiled in a contest between the Earl of Crawford and Alexander Aerskine over the choice of a burgh election delegate. Aerkine supported the pliable Alexander Watson of Aithernie, while the Earl of Crawford backed Patrick Haldane, the eldest son of candidate, John

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<sup>488</sup> *House of Commons*, Vol. 2, p. 927.

<sup>489</sup> Austin was on the receiving end of a campaign spearheaded by Tory Alexander Robertson in Perth who endeavoured to discredit his parliamentary record. Their efforts were not particularly difficult. Austin did not contribute to any parliamentary debates, along with being notoriously absent during crucial voting for important Scottish legislation.

<sup>490</sup> *House of Commons*, Vol. 2, p. 927.

Haldane. After a near riot in St. Andrews by a crowd who clearly favoured Aithernie as the delegate, the town council selected Patrick Haldane as the burgh delegate. Haldane set out immediately for Dundee after the St. Andrews election with two signed commissions in his possession. The Whigs were not about to take any chances. The Earl of Crawford signed one commission; the other was from the St. Andrews town clerk, each attesting to his legitimacy as the burgh delegate. Their efforts, however, were in vain.

Dundee served as the presiding burgh in 1710, with Yeaman acting as praeses. At the election meeting Yeaman would not recognise either commission presented by Haldane. Instead, Yeaman honoured a separate commission sent by Aithernie casting the St. Andrews vote for himself, thereby winning the district seat three votes to two.<sup>491</sup> Haldane petitioned the result; however, the elections committee did not acknowledge receipt, nor respond, to his petition.

At the heart of this contested election was the dispute over the magistracy of St. Andrews and, in particular, who was allowed to vote legally for the St. Andrews delegate. This question of voting eligibility was not only cited in Haldane's petition to the Commons, but had also been presented to the Scottish civil court for deliberation. The Earl of Ilay reported to Lord Grange what he had learned from Aerskine:

Lord Lyon in speaking to me about the affair of St. Andrews it seems Lord Crawford's pretensions end in supporting Gleneagles election. Whatever were the consequences of it I shall always be of opinion that we should attempt nothing in the way of jurisdiction but what can be well supported. Lord Lyon tells me that Lord Crawford depends upon this that his antagonists had not qualified themselves according to law when they chose their magistrates. This allegation of incapacity seems to me very extraordinary in the shape of a summar complaint which if true must reach very far.<sup>492</sup>

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<sup>491</sup> *House of Commons*, Vol. 2, p. 929.

<sup>492</sup> NAS, GD124/15/1004/2, Earl of Ilay to Lord Grange, 14 November 1710.

If Aerskine's magistrates in St. Andrews had indeed been elected in dubious circumstances, then Aithernie's commission to the Dundee election meeting could be declared void by John Haldane's contingent. This was in addition to the shaky foundation of Aithernie's commission in the first place, and Yeaman's subsequent decision to accept it over the two signed commissions presented by Patrick Haldane. Lord Royston, the Court of Session judge who was to preside over the case, deferred any hearing until he received word from the House of Commons on the matter. When none was forthcoming both the hearing and the petition were dropped. The reason for Haldane's sudden *volte face* is not officially documented, but the speculation by contemporaries that Haldane decided to let the petition die in committee rather than face the uphill battle he would have to wage in a Tory-controlled House is a credible explanation of events. So, too, is the fear that the Scottish Tories undoubtedly felt over the "legal ramifications in the court of session" concerning the manner in which the Aerskine magistrates cast their delegate vote.<sup>493</sup> In order to avoid a lengthy and potentially damaging legal battle with the Whigs in the courts, the Tories managed to manipulate the system to their advantage by simply doing nothing. The Tories were able to let Haldane's petition fade into obscurity simply because they could – as could any other party when they were the dominant and controlling political force in the House of Commons.

The suspect actions of Henry Cunningham, long-time adherent to Walpole and Ilay, while serving as praeses of the 1734 Stirling election resulted in numerous petitions being submitted to the House by unsuccessful candidate, John Erskine, Lord Grange. As we have seen, this fiercely contested election between Grange, for the Whig opposition, and government Whig Captain Peter Halkett resulted in a victory for Halkett. In his capacity as praeses for the presiding burgh of Inverkeithing, Cunningham refused to recognize Grange as

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<sup>493</sup> *House of Commons*, Vol. 2, p. 929.

the delegate from Dunfermline, giving Halkett a plurality of votes. As the praeses, he was allowed by law to cast the deciding vote for Halkett – which he subsequently did. Grange petitioned repeatedly against the election result, presenting a litany of abuses:

That Henry Cunningham, Esquire, the Commissioner from the burgh of Inverkeithing, in Combination with John Roll, the Commissioner from the Burgh of Culross, did, in a most arbitrary and illegal manner, take upon themselves to judge and determine upon the Validity of the Commissions of the other Three Commissioners, and to reject and admit such of them as they saw fit; and particularly to reject the commission of the Petitioner [Grange], as commissioner from the Burgh of Dunfermline, upon several frivolous and groundless pretences: That the said two Commissioners, having also voted for the said Captain Peter Halkett to be Member to represent the said District of Burghs, and pretending thereby to have created in Equality of Votes in Favour of the said Captain Peter Halkett, the said Henry Cunningham, as Commissioner for the then presiding burgh, did, in a most illegal and arbitrary manner, usurp, and take to himself, a casting Vote in favour of the said Captain Peter Halkett; and in consequence of such illegal and unwarrantable Proceedings, John Cant, Common Clerk of the said burgh of Inverkeithing, hath, in the most arbitrary manner, took upon himself to return the said Captain Peter Halkett as duly elected; in manifest Breach of the Laws, in Violation of the Freedom of elections, and Constitution of Parliaments, and in Prejudice of the Petitioner, who ought to have been returned...<sup>494</sup>

In addition to the petitions presented by Grange, the burghs of Stirling, Dunfermline, and Queensberry sent their own petitions to the House demanding the reversal of the election return. All of these appeals were met with silence, forcing Grange to abandon his efforts. Considering the political situation surrounding this election, the final outcome of these petitions comes as no surprise. In a House controlled by the government Whigs, there was too much at stake for Walpole and Ilay to allow an election to be overturned in favour of the opposition. Scotland was still reeling from the dissension over the Excise crisis, with public opinion of the government extremely low. In such a climate, allowing an opposition candidate even the chance of a hearing was out of the question, whether such actions on the part of the administration were legal or not. Fortunately for Ilay and Walpole, concern over any such legal ramifications was unnecessary.

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<sup>494</sup> *Commons Journals*, xxii, 1732-1737, p. 335.

## II. Election Conduct Petitions

In 1722, the Earl of Rothes, relying on his position as Sheriff of Fife, attempted to secure two seats on behalf of the Squadrone by deliberately ignoring the election returns delivered to him. The Perth district election featured a contest between Charles Leslie, Rothes' third eldest son, and Captain William Erskine, allied to the Argylls. Forfar served as the presiding burgh, with Alexander Binney serving as that burgh's delegate and praeses; Robert Robertson represented Perth and Alexander Ferrier for Dundee. Charles Leslie served as his own delegate from Cupar, as did Captain William Erskine from St. Andrews. On 18 April, the day of the election, both Cupar and St. Andrews were each represented by another delegate in addition to the two candidates. Ensign James Erskine, brother to candidate William Erskine, presented himself as the delegate from Cupar. Likewise, Alexander Bell appeared as delegate from St. Andrews. Praeses Alexander Binney rejected the commissions of Charles Leslie from Cupar and Alexander Bell from St. Andrews, thereby giving the vote to James Erskine and William Erskine respectively. The delegates from Perth and Dundee cast their ballots for Leslie, and both Erskines naturally cast their votes for William Erskine. With the vote evenly divided, Binney returned the election writ to the sheriff naming William Erskine as the new MP. The Earl of Rothes, however, disregarded the writ and submitted his son for the burgh seat.

On 22 October 1722 the elections committee heard the petition of William Erskine protesting against the return made by Rothes. Erskine argued that he had the required majority of votes and

was duly elected and ought to have been returned; and the Common Clerk of Forfar, the then presiding burgh, did make a proper certificate in the Name of the Petitioner, which ought to have been returned by the Sheriff; notwithstanding which, the Sheriff, with several of his Accomplices, by their arbitrary proceedings have against all right, received another certificate, certifying the name of Charles Leslie, Esquire...<sup>495</sup>

The elections committee ruled that the writ of election presented by Rothes and signed by William Horsburgh as Clerk, be removed, and ordered Charles Leslie “be at liberty to petition this house, within fourteen days next, if he thinks fit.”<sup>496</sup> Charles Leslie did, indeed, think it fit. Leslie presented his petition on 2 November arguing that his was the only official delegate commission from Cupar and therefore should not have been dismissed over that of James Erskine, a pretend delegate. James Erskine’s appearance at the election is a direct result of the Cupar opposition party protesting against the Rothes’ faction trying to control the town council.<sup>497</sup> Steadfast in their determination to frustrate the Rothes’ interest at every turn, Ensign Erskine accomplished his mission by managing to have his commission recognized and Leslie’s dismissed. Failure on the part of Alexander Bell to have his commission accepted, over that of William Erskine, was a blow to the St. Andrews Squadrone contingent, who hoped to cast their vote for Leslie.

The ensuing action of the Forfar praeses, Alexander Binney, clearly demonstrates his support of the Argyll faction and their candidate of choice, William Erskine. By dismissing Leslie and Bell, Binney had ensured Erskine’s victory. Because of this, Leslie, still hoping to gain a seat for the Squadrone, submitted a petition to the House contesting the election and Binney’s actions. Leslie’s petition was debated in a Committee controlled by government Whigs on 10 January 1723, after which it was shelved.<sup>498</sup>

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<sup>495</sup> *Commons Journals*, xx, 1722-1727, p. 34.

<sup>496</sup> *Ibid.*, p. 49. William Horsburgh was clerk to the Cupar town council.

<sup>497</sup> See Chapter 3, Section III.

<sup>498</sup> William Erskine did not seek re-election and returned to his military duties in 1727 after an undistinguished parliamentary term.

The result of the 1722 Dysart district was very similar to that of Perth in that it concerned the questionable return of a Leslie on behalf of the Squadrone. The Earl of Rothes, after receiving the election writ from the Dysart clerk, Walter Pittillo, declaring James St. Clair the victor, proceeded to submit the election return declaring his son Thomas as the burgh MP. Supported by the Argylls, St. Clair immediately submitted his petition protesting this action. This election apparently lacked the excitement that took place at Perth where additional delegates appeared with questionable commissions. At Dysart there were no pretend delegates; just straight voting that, according to St. Clair and the petition of Pittillo, awarded the seat to St. Clair on a count of three to two.<sup>499</sup> So incensed at the return made by the Earl of Rothes, the town councils of both Dysart and Kirkcaldy petitioned to the elections committee declaring their support for St. Clair

That the said Sheriff had, notwithstanding, taken upon him, and another Person, who was neither Clerk of the said burgh, no present at the election: The Petitioners apprehend these Practices tend directly to deprive the Royal Burghs of that great privilege they have in choosing Representatives: And praying relief in the Premises.<sup>500</sup>

On 27 October the election committee acknowledged the submitted petitions and informed Thomas Leslie he could petition in his defence within fourteen days. Perhaps realizing the futility of a counter petition, Leslie did not reply to the committee. With no response forthcoming, the petition was shelved.<sup>501</sup> Returning the election writs on behalf of his sons was an act of pure bravado on the part of Rothes. Whether he seriously believed such actions would stand up is difficult to ascertain. Due to the party affiliations on behalf of

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<sup>499</sup> *Commons Journals*, xx, 1722-1727, p. 32-33. The election minutes have not survived. Notes from this election meeting are taken from the petition records and do not list the burgh delegates to the meeting, nor the pattern of voting. See also, NAS, GD164/1584/1, *Unto the Honourable House of Commons of Great Britain posted offensive (The Petition of James St. Clair, Esquire)*, n.d.

<sup>500</sup> *Ibid.*

<sup>501</sup> *Ibid.*, p. 50. St. Clair served the district until 1734 when his allegiance to Ilay and Walpole during the Excise crisis cost him dearly. Thomas Leslie, waging a strong campaign fueled by Squadrone support, defeated St. Clair, only to lose the seat in 1741 to St. Clair's close friend and colleague, James Oswald.

the successful candidates, St. Clair with Walpole and Erskine allied to Argyll (and both in opposition to Rothes); it is evident that his attempts to manipulate the elections went beyond paternalistic inclination. Moreover, by ignoring the Leslie petitions, the committee managed to avoid addressing the problematic delegate situation in Cupar and succeeded in denying two seats to the Squadrone.

The only election result overturned on petition by the House committee during the forty years after the Union was awarded to the Tories after a hard-fought victory in the Anstruther Easter decision of 1710. Sir John Anstruther had won the district seat unanimously in 1708. As the sitting member, with Squadrone support and his family's backing, he looked to win again in 1710. Aerskine, with the momentum of the Scottish Court party (now Tory) on his side, had hoped to unseat Anstruther, but needed a candidate to do so. Taking a suggestion he had received from David Bethune of Balfour at a dinner party, Aerskine put his support behind General George Hamilton, Balfour's father-in-law.<sup>502</sup> In the course of their conversation, Aerskine learned that Balfour had already pledged his support to the Anstruthers. Much to his consternation he reported to Lord Grange,

I write to you that I was earnest to know if General Hamilton would be right. My reason was after I had set all the people that I know had interest with Balfour on him he came from 12 miles from my house to dine with me. Soon as I heard he was come I was in hopes that he had changed his mind as to the Anstruthers, however he told me that he had given his promise to them but with an exception if he was not to stand himself or a very near friend. He proposed to me the General. I told him if the General was upon the right side and satisfied my Lord Mar, I should be very well content with him, but my difficulty was that I might find it hard to persuade the towns I had interest with to go in to him that was a stranger to them... Since I have proposed to some of his friends who have interest with him a sort of medium how he may save his word to Sir John: that this town may vote either for himself or the General, and Pittenweem which hath now the casting vote joined with Crail make 3 votes which will clearly defeat the 2 Anstruthers. Balfour tells

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<sup>502</sup> Balfour, a Jacobite sympathizer, who would in later years join the rebel forces, had represented Kilrenny, one of the Anstruther Easter burghs in the Scottish Parliament. Hamilton had persuaded Balfour to vote in support of the Union, against Balfour's earlier inclinations. Hamilton gained a military promotion for his efforts on behalf of his son-in-law. *House of Commons*, Vol. 2, p. 901.



me the General is very great with the Duke of Argyll so would persuade me for certain he is right if it be so and my Lord your Brother has writ to the General that Balfour should join me and take my advice I think all may be very right.<sup>503</sup>

The presiding burgh rotation fell to Pittenweem in 1710. This was an advantage for Aerskine who had been lobbying for a custom house to be built in the East Neuk village. Lord William Anstruther, Sir John's father, naturally wanted the custom house to be built in Anstruther. Aerskine hoped that his efforts on behalf of Pittenweem would sway the delegate from the burgh in his favour.<sup>504</sup> Also, by acquiring the custom house for Pittenweem, the Jacobite interests of the Earl of Kelly, Aerskine's father-in-law, would be promoted considerably, much to the disadvantage of the Anstruthers. Knowing that the Pittenweem delegate to the election meeting was crucial, Aerskine presided over the town council meeting held on 20 October when the burgh election delegate was elected. The voting did not go as Aerskine had planned. According to the elections committee report, William Bell, a supporter of the Anstruthers, received nine votes, while William Watson, Aerskine's choice, received only eight votes.<sup>505</sup> Aerskine protested fervently against Bell's election, accusing Lord Anstruther of using his influence as a Court of Session judge to threaten a voter on the town council with bribery and coercion.<sup>506</sup> Although William Bell had received the majority of votes, even if only by one, at the burgh district election meeting held on 27 October, both Bell and Watson appeared. The election report states

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<sup>503</sup> NAS, GD124/15/1011/1, Sir Alexander Aerskine to Lord Grange, 17 September 1710.

<sup>504</sup> "I have in a manner promised to the town of Pittenweem now there are more custom houses to be established upon our coast to get the Queen to establish the custom house upon our east district there, tho My Lord Anstruther with what interest he has made among the burghs and other ways has got it resolved that it should be in Anstruther...Pittenweem is truly My Lord the very center of the bounds that is proposed to enter the goods at this custom house and the Pittenweem people tell me yesterday they have deeper water in their harbour than Anstruther and safer then it...Now my Lord this is a mean I have thought upon which will be very obliging to the town and tho we had not the affairs in hand we have now I know your Lordship and your Brother [Mar] would be forward enough to advance my Lord Kelly's interest and his will be a considerable one for him and will let the town see he has friends that are capable to do them kindness which will fix them to your Lordship and your Brothers interes". GD124/15/1011/1, Sir Alexander Aerskine to Lord Grange, 17 September 1710.

<sup>505</sup> BL, *The State of the Controverted Election for the District of Pittenweem* [c.1710].

<sup>506</sup> Two sons of an unnamed voter on the Pittenweem town council were accused of the murder of an alleged witch in Pittenweem; one son was a fugitive, while the other was currently incarcerated for the crime. Aerskine accused Anstruther of threatening the son being held with hanging if the father failed to cast his ballot in favour of the Anstruther delegate. These reports are unsubstantiated; yet, the reputation of the Anstruthers in other such dealings certainly makes them plausible. *House of Commons*, Vol. 2, p. 902.

Both these Commissioners appeared at the place of election, produced their respective Commissions, and claimed each of them to be admitted to Vote as Representing the Town of Pittenweem. Both Qualified themselves by taking the Oaths, were admitted to Vote, and are Marked on the Poll as Voting; the one Mr. Bell for the sitting Member [John Anstruther], and the other, Mr. Watson, for the Petitioner [George Hamilton].<sup>507</sup>

This report begs the question: They were admitted to vote by whom? As presiding burgh, the Pittenweem delegate should also have acted as praeses, but, none of the reports for this election makes any mention of who was presiding over the election meeting. To complicate matters further, the voting split evenly between the two candidates. John Anstruther received the votes of the delegates from Anstruther Easter and Wester. At some point between his conversation with Aerskine and the election meeting, James Bethune of Balfour had a change of heart and cast his vote for Hamilton, as did the delegate from Crail. The two delegates from Pittenweem naturally split their votes, one for each candidate. With the vote evenly divided between the two candidates, the town clerk should have submitted a double return to the sheriff; instead, he submitted a victory for John Anstruther, which naturally was supported by the Earl of Rothes.

Hamilton immediately petitioned the result with little success in the Parliamentary session after the election. His petition reiterated the claims of bribery on the part of the Anstruthers:

My Lord Anstruther, Father to the Sitting Member, did promise to the town of Anstruther Wester, to pay a considerable Part of their Publick Debts, if they would chuse such a Commissioner as would Vote for his Son. And accordingly the Town Council before they proceeded to the Election of their Commissioner, made a Resolve, that he should be tied up to give his Vote for none else by the Sitting Member. And since the Election, the Sitting Member, or his Agents, have, in Discharge of the said Promise, paid off several

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<sup>507</sup> BL, *The State of the Controverted Election for the District of Pittenweem* [c.1710].

sums of Money owing by the said Town of Anstruther Wester. As that intire Corporation of Anstruther Wester was corrupted by bribery...<sup>508</sup>

In December 1711 his petition was reconsidered, this time with a more favourable outcome. The committee of elections reviewed the case on 22 February 1712. Even though Hamilton's claims of bribery on the part of the Anstruthers were deemed valid, the committee rejected the election result. When presented to the House, the decision to return the petition to committee passed by 117 votes to 100. This time the committee paid closer attention to the allegations of bribery against the Anstruther family and their Presbyterian Whig constituents. In correspondence to Lord Grange, Aerskine had made mention of a Presbyterian minister in Pittenweem "who is truly the greatest villain of mankind. The Presbyterians themselves have not the fact to say he is much better". Apparently the minister in question had promised "damnation" to anyone who voted against the Whigs.<sup>509</sup>

The activity on behalf of the local Whig party, coupled with the accusations of bribery and corruption against the Anstruthers, finally caught the attention of the Tories serving on the election committee. Two Tory committee members, Sir Alexander Cumming and Charles Oliphant, served as tellers on Hamilton's behalf. In a victory for Aerskine and the Fife Tories, the House voted according to the recommendations of the committee on 10 April 1712; Anstruther's election was repealed and Hamilton was awarded the seat by 161 to 128 votes.<sup>510</sup> The success of this reversal was a terrific boon to Aerskine's party activities in the House.<sup>511</sup> Aerskine and George Hamilton, who kept the election petition active on behalf of the Tories for nearly two years, and with the aid of a Tory-controlled House, managed to

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<sup>508</sup> *Ibid.*

<sup>509</sup> GD124/15/1011/1, Sir Alexander Aerskine to Lord Grange, 17 September 1710.

<sup>510</sup> *House of Commons*, Vol. 2, pp. 902-903.

<sup>511</sup> Aerskine was elected in 1710 as the MP for Fifeshire.

overturn the Anstruther-Rothes-Whig political machine.<sup>512</sup> Their success in maintaining the Anstruther Easter district seat, however, would not last long.

In 1713 the Scottish Tories could quite possibly have managed a clean sweep of all Fife burgh districts, and the county, thereby taking all five parliamentary seats. Instead, they had to suffer what amounted to the loss of two seats; one to misrepresentation on behalf of Alexander Aerskine, while the other was lost due to a clerical error. Taking advantage of his family's control in the district, John Anstruther apparently moved the presiding burgh to Anstruther Wester for the general election of 1713, although Crail was legally the next burgh in the rotation.<sup>513</sup> Since no protest was made regarding this switch, the district election meeting was held at Anstruther Wester where Sir John had a much better chance of taking control of the proceedings. Once again, the candidates, John Anstruther and George Hamilton, were locked in a battle between the Squadrone and Tory parties. Just as they had in 1710, both Anstruther and Aerskine manipulated a Pittenweem delegate for their own agenda. This time, however, with Anstruther Wester as the presiding burgh, the election meeting praeses, an Anstruther supporter, refused to recognize the Aerskine delegate from Pittenweem, but did accept the commission from the Anstruther delegate representing the same burgh. With this disqualification, John Anstruther received three votes (Anstruther Easter, Wester and Pittenweem), to Hamilton's two votes (Crail and Kilrenny). Unsurprisingly, a petition by Hamilton followed immediately thereafter.

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<sup>512</sup> In 1710 the Tory-controlled House increased their numbers considerably by overturning 24 election petitions in their favour. See Speck, "Corrupt Council", p. 113.

<sup>513</sup> Sir William Anstruther died in 1711, thereby making Sir John the head of the Anstruther political power base. The burgh that had been established the longest according their membership in the Convention of Royal Burghs, was to be the first presiding burgh after the Union. Thereafter the rotation of the presiding burghs was determined by the order the burghs were called in the rolls of the Scottish Parliament. Crail was listed as 36<sup>th</sup>; whereas Anstruther Wester was 47<sup>th</sup>. By law, Crail should have been the presiding burgh for the Anstruther Easter district in 1713.

The Tories had held their own in the 1713 Fife elections. James Oswald and George Yeaman both retained their seats from the Dysart and Perth districts respectively. Alexander Aerskine was running unopposed for re-election from the shire – an election that was held several days after the burgh districts.<sup>514</sup> With only Henry Cunningham returned from the Stirling district, the Whigs were naturally focused on the outcome of the Anstruther Easter petition.<sup>515</sup>

Aerskine spearheaded the petition to the election committee on behalf of the Tories and George Hamilton. A strong Tory presence in the House allowed Aerskine a hearing; but, an expected Tory victory did not materialize due to an uncharacteristic error on the part of Aerskine. According to George Lockhart

This day came on the elections of the town in Fife, which was but a scrub cause on the Lyon's side, and indeed his friends were much out in debate, for he concealed the weakest parts of it from them, so that they were surprised and know not what to say. As for example, he assured us the Sheriffs precept was given to the eldest bailie in Pittenweem at that time in town, and we did not doubt but we might make good his power of calling the council. But alas, it appeared that only the 2<sup>nd</sup> bailie was out of town and the eldest actually in though disposed. However, bad as the cause was we might have carried it, had not the Tories run away to their dinners and the Whigs attended to a man. Now these deserters did not go away because of the badness of the cause, but an English Tory would not over-roast his beef to save the nation from ruin, and so John Anstruther carried it by nine votes.<sup>516</sup>

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<sup>514</sup> The Burgh district elections held their elections on 18 September; the shire elections were held on 28 September 1713.

<sup>515</sup> The 1713 Stirling district was a heated contest between Henry Cunningham and Col. John Erskine. The Earl of Mar determined to rid the district of Cunningham particularly since he had voted consistently with the Squadrone during his term in office. The election details are sketchy; but, there is record of Erskine's petition being made to the Commons where he alleged the delegate commissions, giving a majority vote to Cunningham, were not valid. Due to an error on Erskine's part when he failed to sign the petition prior to it being submitted to the House the Whigs and Henry Cunningham won the seat by default. See *House of Commons*, Vol. 2, p. 936.

<sup>516</sup> *Letters of George Lockhart of Carnwath*, ed. Daniel Szechi (Edinburgh, 1989), pp. 72-73.

Even with Arekine's negligence, Hamilton did retain support from the majority of Tories. Unfortunately for Hamilton, however, support for the petition diminished over time. Wilkinson rightly attributes Anstruther's ultimate victory to the increasing political influence on the part of the Whigs "in the prelude to the Hanoverian succession".<sup>517</sup>

The 1722 Anstruther Easter contest between Philip Anstruther and David Scot provides a textbook case of voter manipulation and is possibly the only contest where family control prevailed over party influence. Philip Anstruther had unanimously won the 1715 burgh district election with the aid of his first cousin, Sir John Anstruther. Although Sir John was allied to the Earl of Rothes and the Squadrone, Philip preferred not to associate himself with any one particular party early in his career. In 1722, Kilrenny served as the presiding burgh for the elections held on 13 April, with Robert Waddell as delegate and praeses. Sir John served as the delegate from Anstruther Easter, with Philip representing Anstruther Wester. John Melville acted as delegate from Pittenweem and David Scot of Scotstarvit, candidate and delegate, represented Crail. The proceedings of this election were so controversial that three separate petitions were presented to the House elections committee in protest at its result.

The first petition, presented by Philip Anstruther, argued that he was dutifully elected by a majority of the votes cast; but, another return claiming victory was presented to the sheriff on behalf of David Scot. Anstruther argued he was duly and legally elected by a majority of votes, stating that Scot was not even present at the election meeting:

the Petitioner was duly elected by an unquestionable Majority of Voices, and ought to have been returned; and the Common Clerk [John Cunningham] of Kilrenny, the then presiding burgh, did make a proper certificate of the Name of the Petitioner, which ought

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<sup>517</sup> *House of Commons*, Vol. 2, p. 903.

only to have been returned by the Sheriff; notwithstanding which, the Sheriff, and his Accomplices, by their illegal Proceedings, have received another Certificate, on behalf of Mr. David Scot, from one who neither was, nor hath any Pretence of being, Clerk of the said presiding burgh, no was so much as present at the Election; contrary to the Laws make for directing Sheriffs in the Execution of that Part of the Office...<sup>518</sup>

A second petition presented to the election committee, from John Cunningham, Clerk of Kilrenny, endeavoured to explain that a second writ of election was presented to the Sheriff-depute on behalf of David Scot:

Colonel Philip Anstruther was legally chosen by the majority of the said Commissioners, and the Petitioner, as Common Clerk of the said burgh, was directed to them to return the said Mr. Anstruther, which the Petitioner did, accordingly, to the Sheriff-Principal of Fife [Earl of Rothes], who refused to accept thereof...yet Robert Hay, Sheriff-Depute of the said County of Fife, has taken upon him to accept of another return from one William Young, in favour of Mr. David Scot, and has likewise annexed the same to his Writ, as well as that Return made by the Petitioner...that the said William Young was not clerk, nor the said Mr. Scot duly elected, so the Petitioner apprehends he is, by Act of Parliament, declared the only Returning Officer; and the Return of the said Mr. Scot is illegal, and in Prejudice of the Right of the Petitioner.<sup>519</sup>

The third petition made by David Scot attempts to tell exactly what transpired prior to the election meeting, thereby offering an explanation for the prior two petitions. It reads that:

James Melville and Robert Waddell, two of the said Delegates, lodging in Crail, the night before the election, under the roof of one of the Magistrates of that burgh, was seized at midnight, as they lay in bed, by the agents and servants of Colonel Philip Anstruther who had broke through a window in the said house; and, being armed with sword and pistol, did carry forthwith to the Town of Kilrenny, into the company of the said Colonel Philip Anstruther...James Melville, discovering a Constancy that was not to be shaken, was dismissed; while the said Robert Waddell, through the impression of Fear, was detained in close restraint, and wrote a letter to the Petitioner, signifying, that for fear of worse consequences, wherewith he was at that time threatened, would oblige him to give his Vote for the said Colonel Anstruther. The Petitioner finding that the said Robert Waddell was governed in his vote by the Fear...did therefore protest against these ill practices, and together with the said James Melville, withdrew from that meeting and constituted a legal one, where in the Petitioner was elected to represent the said District of Burghs.<sup>520</sup>

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<sup>518</sup> *Commons Journals*, xx, 1722-1727.

<sup>519</sup> *Ibid.* By law, any election writ of return made erroneously or illegally by the election clerk carried a fine of £500. Most likely Cunningham was making every effort to protect himself from such a penalty.

<sup>520</sup> *Ibid.*

The House ordered that the petition of David Scot be referred to the elections committee, requesting they examine the matter and report back to the House. Scot, Cunningham, Waddell and Melville were requested to appear in person to provide their testimonies. On 20 December 1722, the elections committee reported its findings and recommendations. All agreed that the five delegates met in Kilrenny on 13 April and proceeded to cast their votes. Three of the five delegates voted for Philip Anstruther. When called upon for his vote, James Melville declared he would not vote in an election where the practice of extortion prevailed; he and David Scot then proceeded to leave the premises. While departing, Melville and Scot requested that William Young join them in order to act as clerk of their own election meeting, to which Young agreed. Holding their own separate election, Melville and Scot instructed Young to submit a writ of election to the Sheriff-depute declaring Scot the MP from the district.

In his testimony, Melville stated that he and Robert Waddell “both before and after he was chose Commissioner for Kilrenny, declared his apprehensions of Force to gain his vote for the sitting member.”<sup>521</sup> On 6 April, seven days prior to the election meeting, Melville and Waddell met at Scot’s home and signed a Petition to the Sheriff asking his protection against the Sitting member, and also declared in writing their votes for Scot. On 12 April, Melville and Waddell travelled to Crail en route to Kilrenny the next day, where they spent the night at a local magistrate’s house. At approximately midnight, several of Philip Anstruther’s “friends” came into a window with “pistols in their hands, and swords by their sides”, forcing the men to travel with them to Kilrenny and appear before Anstruther. Melville dismissed a conflicting report from the Anstruther camp saying that the men were taken from the house for their own protection from Scot. The abduction party arrived at Kilrenny around 2:00 a.m.

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<sup>521</sup> Ibid.



where Anstruther threatened them for several hours. Melville held his ground and was later released. Waddell, however, was placed under terrible duress and was persuaded to sign a petition declaring his support for Anstruther. The next day at the election meeting, Waddell was “hemmed in by the Sitting members friends, who stood all around him.” Thomas Smith, who is otherwise unidentified, corroborated Melville’s testimony and quoted Melville as saying “the taking of such measures was the wrong way to bring them over from the Petitioner.”<sup>522</sup> Anstruther’s council acknowledged that Waddell had promised his vote for Anstruther, but only after finding that his constituents preferred Anstruther to Scot and insisted that Waddell “voted freely, without any force for the sitting member”.

Testimony by Robert Waddell gave a slightly different version of the events than those relayed by Melville. When the petition signed by Waddell and Melville declaring their votes for Scot and begging protection from Anstruther was presented to Waddell, he conveniently had no recollection of signing such a document. He also claimed not to have been in Crail on 6 April, and therefore had no idea how his name could even have appeared on the document. He did admit to signing a letter addressed Scot dated 13 April, the morning of the election, saying he was changing his vote to Anstruther “to prevent evil consequences to his family,” and claimed that he was under no duress when writing the letter. After all the testimonies were heard the committee resolved that:

the petition of David Scot complaining of undue election and return of Philip Anstruther to serve in this present Parliament for the said District of Burghs is groundless, frivolous and vexatious. Order David Scot to make satisfaction to Philip Anstruther for the cost and expenses he hath been put unto by reason of said petition.<sup>523</sup>

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<sup>522</sup> Ibid.

<sup>523</sup> Ibid.

There can be little doubt that the testimony of James Melville was legitimate. Philip Anstruther was well known in political circles as a loose cannon, and the suggestion that he would resort to such practices as abducting innocent men and holding them at gunpoint was not far fetched, nor was it surprising.<sup>524</sup> How the Committee could discount such actions and allow a return decision in favour of Anstruther, however, is more vexing. In a report given to Walpole regarding this case, no mention is made of the abductions. The committee focused solely on the legalities of the returned election writ. Because Scot and Melville removed themselves from the election meeting and returned an election result to the Sheriff-depute via a clerk who was not recognized by the official meeting, the committee found their actions unlawful.<sup>525</sup> Rothes, as sheriff, received the election return from clerk Cunningham naming Anstruther as the winner, but declined to recognize it until he could take it under advice. Rothes did not return the Anstruther writ until 5 May. The ruling given to Walpole rebuked both Rothes and Hay for their actions. It states:

That as it is obvious Col. Anstruther had an in doubtable majority, so it is certain the return made of him is the only legal return but also made by the Clerk of the presiding burgh, who by act of Parliament is declared the only returning officer, and the Sheriff ought to have arrested the return made by such common clerk only, for as the said Mr. Young was not Common Clerk of the presiding burgh, nor Clerk to the said election, nor so much as present so he had no right to make any return, and it was an illegal action the Sheriff to accept any return from him, for the Sheriff ought not to assume to himself as a power of judging of the merits of the election, but ought to pursue the directions of the Act of Parliament to assure the Return of the Common Clerk to his wit he being in this case a ministerial officer

Since then the Sheriff has taken upon himself to act in open violation and defiance of the law, and accepted of a return from a person who had no right to make any returns; Col Anstruther hopes that the pretended election in favour of Mr. Scot shall be taken off from the writ to which it is annexed and his return declared the only legal return.<sup>526</sup>

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<sup>524</sup> During Patrick Haldane's controversial bid for a seat on the Court of Session in 1718, Anstruther confronted him at a coffee-house where the argument came to blows. Some years later he fought a duel with Thomas Kennedy's brother, when "in his cups, late at night". *House of Commons*, Vol. 4, p. 417.

<sup>525</sup> Cambridge, Chomondeley (Houghton) mss 68/4, *Case of Colonel Anstruther's Election for the Burgh of Kilrenny, Anstruther Wester, Easter, Pittenweem and Crail*, n.d.

<sup>526</sup> *Ibid.*

Another question arises as to why Rothes hesitated after receiving the first election writ declaring for Philip Anstruther. Rothes supported John Anstruther, Philip's cousin, and the families were known Presbyterian Whigs. For one thing, Philip Anstruther could not be trusted. With no solid political agenda or declared allegiance to any one party, Philip would undoubtedly cause major headaches to any patron willing to endorse him. On a more personal note, Rothes was very ill the time of this election. He did not live to see the election contested, having died on 19 May 1722, only a few days after receiving the election writ from Cunningham. Philip Anstruther continued to hold the Anstruther Easter seat until 1741, when political circumstances would once again necessitate his preferred campaigning methods of coercion and extortion.<sup>527</sup>

The controversy surrounding the 1741 election started several years earlier when Philip Anstruther cast the only vote from a Scottish MP in favour of punishing Edinburgh after the Porteous Riots in 1736. Legend has it that his character became so reviled for this decision that for years afterward he only passed through Edinburgh in disguise. By the time of the 1741 elections, Anstruther's future as an MP was in serious doubt. Although he was typically a man with little party allegiance, Anstruther had generally voted with the government, thereby finding favour with both Ilay and Walpole.<sup>528</sup> The family of John Stewart, brother of the Earl of Moray, had long-standing connections with Fife. Jean Elphinstone, his mother, was the daughter of Lord Balmerino – a prominent Fife Jacobite, although Stewart favoured the Argathenians.<sup>529</sup> As member of the Duke of Argyll's gang, Stewart stayed with the Duke after Argyll went into opposition to Ilay and Walpole. Stewart

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<sup>527</sup> Anstruther's parliamentary career was fraught with mismanagement and controversy. As a professional soldier, much of his time was spent as governor of Minorca (1733–47), where his administration met with one scandal after another. On several occasions, his own men accused Anstruther of mishandling funds, opening private mail, and unjustified imprisonment.

<sup>528</sup> Sedgwick, p. 417.

<sup>529</sup> *Ibid.*, p. 448.

decided to run for the Anstruther Easter district despite the fact that he was neither a burghess, nor merchant in the district, but rather a burghess merchant in Edinburgh.

The election was held on 28 May in Anstruther Wester which also acted as the presiding burgh. Sir Philip Anstruther of Balcasky, uncle to now Major General Philip and Sir John Anstruther, served as delegate from the presiding burgh; Sir John served from Anstruther Easter, and Philip from Kilrenny. John Cunningham, noted in the petition as “Common clerk to all the said three burghs”, acted as election clerk and in effect controlled the meeting. Although he accepted the commission of Sir Philip for Anstruther Wester, he also accepted another commission from John Wilson of the same burgh. When Sir Philip protested this action, Wilson accused him of engaging in “corrupt and illegal practices” prior to the delegate election meeting for Anstruther Wester held on 22 May. Wilson argued that Sir Philip should not be recognized as the official delegate from that burgh due the nature of his delegate election:

Alexander Rob, Peter Thompson, Thomas Edminston, Thomas Traille, George and Robert Dawson, Alexander Bisset and Thomas Watson, Counsellors being all men who subsist themselves and their family’s by the profits of their daily occupation and labor were abducted from their own dwelling houses with the Town of Anstruther Wester where their wives and families do reside, immediately after the proclamation was issued for summoning a new Parliament and were detained by force in the house of Airdry [home of Major General Philip Anstruther] belonging to one of the candidates or in the houses of his near relations under Guards of armed men for Eighteen or Twenty days at least, they were separated and kept from seeing their families or friends, and all persons having business with them denyed access them and one of them refused liberty to perform his duty at his mother’s funeral.<sup>530</sup>

The abducted councillors were held in captivity until the day of the delegate election when they were transported under guard and “placed into the council room to give their votes for appointing the delegate after having been absent from their wives and familys...for the

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<sup>530</sup> St. Andrews, B3/5/8, Minutes of the Anstruther Easter parliamentary election, 28 May 1747.

space of twenty days.” Counter to Wilson’s accusations, Sir John Anstruther charged Wilson with being

commissioned by the Town of Edinburgh to assure them that if they [the Anstruther burghs] did not come into the measures of that Town, their burghs should be ruined by having their taxations heightened at the next meeting of the Royal Burghs where the Town of Edinburgh has always a great Influence, and that the said town of Edinburgh and the several Traders therein would take every step to ruin and oppress every particular person who...countenanced General Anstruther who had voted in Parliament contrar to the interests of said Town...<sup>531</sup>

In the end, Clerk Cunningham determined that both commissions would be recognized and, thereby, accepted both Sir Philip and John Wilson as voting delegates for Anstruther Wester.

The commissions of Sir John Anstruther, David Scot, and John Stewart were accepted without protest for the burghs of Anstruther Easter, Crail, and Pittenweem respectively. Although Philip Anstruther’s commission for Kilrenny was accepted, John Cowper presented another commission from the same burgh. Cowper supported his commission by insisting that the councillors who voted for General Anstruther at the delegate election meeting had not taken the oath against bribery and, therefore, their votes were null and void. Philip Anstruther argued that the bribery oath was not necessary for a delegate election; but, once again Cunningham determined that both delegate commissions were acceptable. With the recognition of two more commissions, the election meeting now had seven delegates, all of whom were recognized as legally being able to cast a vote. Naturally this situation was unacceptable to General Anstruther as he was bound to lose – no doubt Cunningham’s intention all along. As was to be expected, all Anstruther family members voted for the General, giving him three votes. Wilson, Cowper, Scot, and Stewart all voted for Stewart

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<sup>531</sup> Ibid.

thereby making the final tally four to three. Cunningham returned Stewart as the MP for the district – a return that was accepted by the 10<sup>th</sup> Earl of Rothes, hereditary sheriff of Fife.<sup>532</sup>

The ensuing petition presented by Philip Anstruther in December 1741 met with little interest. Allowed to sit in committee until February of the following year when, according to Horace Walpole, the petitions were withdrawn “after all the Scotch members voted against Anstruther, who was extremely unpopular in Scotland because of his vote on the Porteous affair.”<sup>533</sup> With the backing of Henry Pelham in 1747, Philip Anstruther returned to Parliament as the MP from the Anstruther Easter delegate where he continued to serve until 1754.<sup>534</sup>

## II. Conclusion

It became quite clear early into the post-Union years that the Scottish burgh elections were the preserve of the parties. Although the parties held a visible presence prior to the Union, with the House now in charge of administering petitioned elections, their ability to manipulate an election result by simply ignoring a legitimate petition made their overall power all the more complete. In the exceptional instances when the petition actually received a vote, the final decision was rarely appropriate. By overturning the 1710 Anstruther Easter election, for example, the Committee of Privileges and Elections recognized the manipulation of the electoral process that had taken place on behalf of the Anstruther family – despite the fact that this petition was eventually overturned by a Tory-heavy committee, backed by a Tory-controlled House. Irrespective of this reversal, there can

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<sup>532</sup> Ibid.

<sup>533</sup> Horace Walpole, *Memoirs of the reign of King George III*, ed. Derek Jarrett (London, 2000), p. 432; Wood, *East Neuk of Fife*, p. 403.

<sup>534</sup> His later term was fraught with controversy regarding his tenure as Governor of Minorca.

be little doubt that Aerskine's charges against the Anstruthers were justified in light of the family's notoriety for their blatant disregard for, and underhand practices in, election procedure.

If the Scottish courts had been allowed to continue hearing burgh franchise cases, would the results have been different? The answer is most likely "yes" on account of the fact that the petitions would have at least had a chance of a hearing. By virtue of the Convention of Royal Burghs maintaining its jurisdiction over magistrate elections, the petitioners in any case had an opportunity to present their grievance before a board familiar with the laws appropriate to the petition. By allowing the House of Commons jurisdiction over Scottish parliamentary franchise cases, the entire system turned into little more than a charade.

William Ferguson argued this point on behalf of the Scottish counties in his unpublished dissertation. Referring to the decision on behalf of the Treaty's authors regarding contested elections as "the most important single factor in electioneering in the Scots counties...the failure of the Act of Union to provide adequate supervision...on the question of franchises and election procedure",<sup>535</sup> Ferguson puts the blame squarely on the Scots for allowing such a rule. As a result, the counties became notorious later in the century for their use of nominal and fictitious votes. The decision to allow the House of Commons jurisdiction over disputed election cases, therefore, cannot be underestimated. This decision directly impacted burgh politics by giving the already influential political parties even greater control over election results.

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<sup>535</sup> Ferguson, "Electoral Law," pp. 41-42.

## Chapter 7

### Conclusion

Scotland had changed politically, socially, and economically by 1747. The generation of Scottish politicians who had worked feverishly to advance their own political agenda in 1707, whether that agenda was in favour of, or against, the Union, was being replaced by a populace that had grown up with the reality of Great Britain. By mid-century the economic reforms promised forty years earlier were finally materializing, thereby allowing the post-Union generation to reap the long-awaited financial benefits. Production demands increased in industries such as iron, coal mining and fishing, allowing Scotland to export goods throughout the world. Scottish linen, for example, the majority of which was produced in Fife, had begun its expansion by the middle of the century; in 1770 over thirteen million yards of linen were produced annually. Improvements in agricultural techniques and technologies had begun in earnest with innovations in livestock breeding, better implementation of land management, and the growth of agricultural societies dedicated to exploring scientific advancements in farming. Politically, Robert Walpole's 'Age of Oligarchy' was effectively over by 1742 upon his departure from the House of Commons. Archibald Campbell, as the 3<sup>rd</sup> Duke of Argyll, continued in his capacity as political manager of Scotland until his death in 1761; however, the rage of party that had dominated the political scene in Scotland in the decades immediately following the Union of 1707 had passed. Looking back over the prior forty years, however, the effects of the Union that had the greatest and immediate impact on Scotland, both national and locally were political – and no county serves as a better example of this than Fife.

Several important conclusions can, therefore, be drawn from this detailed study of eighteenth-century local politics. Past historiography has inaccurately claimed that the Union



caused a marked decline in Scottish political culture by alleging that Scottish politicians abandoned their constituencies in their rush to claim the few political seats and vast political rewards now offered in London as the epicentre of British political life. As a result, the conventional historical interpretation regarding local Scottish politics after the Union is that they effectively ceased to exist – both in practice and in importance. Research into the local politics of Fife during this period, however, has shown that, on the contrary, politics at a local level did not vanish, nor did they diminish in importance after 1707 – but rather, as the county of Fife exemplifies, the changes made to Scottish parliamentary representation as a result of the Treaty of Union not only increased the presence of political parties, but also partisan activity at a local level. More importantly, this increase in political involvement created an unparalleled electoral awareness in Fife on the part of the freeholders, town councils and the public at large.

The political effects of Union in Fife were multi-faceted. First, it is important to note that not one single party or faction emerged or maintained a dominant position in the forty years examined in this study. The ideologies of the Fife gentry fell across the entire political, and indeed, religious spectrum – both of which were often extricably linked. Political and religious loyalties were largely defined by, and inherited from, earlier generations – and the large cast of politicians featured in this study of Fife provides a perspective illustration of the wide-ranging and often complex principles that determined one's political ideology and ensuing loyalty to one political party. The protection and advancement of oneself and one's family, in addition to the prospect of attaining and maintaining positions of power and influence at Westminster – is unquestionably a strong motivating factor for political involvement and contributed to, or exacerbated, the increased political competition that came as a direct result of the Union. These legacies produced a noble and gentry population who adhered strongly to their values whether they were Presbyterian, Episcopalian, Whig, Tory,

or Jacobite. Party divisions, as we have seen, were evident in Fife politics before 1707. With four seats available for the county in the Scottish Parliament, the Fife politicians were already experienced in the promotion of their party candidate. In the county elections of 1702, party factions were well apparent with two of the four seats being awarded to Henry Balfour and David Bethune, both Tory cavaliers, and a third going to William Anstruther for the Whigs. The fourth seat, left vacant due to the death of Patrick Murray immediately after the election, became a sought-after prize for both sides. Alexander Aerskine for the Episcopalian Tories and the Earl of Rothes for the Squadrone Whigs campaigned aggressively for their respective parties. Ultimately victorious with his candidate, Robert Douglas, the Earl of Rothes secured the seat for the Whigs. Thus, from 1702 to 1707, the Fife parliamentary representation was evenly split between each party. Religious and political differences were the hallmarks of the Fife royal burghs prior to the Union. Cupar, for example, traditionally voted Whig, while Pittenweem, was predominantly Tory. Although the Anstruther family managed to keep the burghs of Anstruther Easter and Wester under fairly tight Whig control; Kilrenny, another of the East Neuk burghs, was inclined to favour the Tories.

With parliamentary representation at such a premium after the Union, the combination of all these religious and political factors created an atmosphere of unrivalled competition. Each politician had to promote the principles of his particular party in order to maintain his presence on a national, as well as local, level. In doing so, a new political culture formed based on the obligation of increasing party affiliation and maintaining an understanding of the prominent political issues of the day. These obligations were not just the preserve of the noble patron, but those of the landed gentry, the burgesses, and the townspeople.

Owing also to the large contingent of nobility and landed gentry, Fife was not under the political control of one particular patron, party or faction, thus dispelling the argument that all of post-Union Scottish politics was the exclusive domain of a privileged few. It cannot be denied that the political influence exercised by both the Earls of Leven and Rothes, along with the political pressure implemented by various other notable patrons, existed throughout the county. Yet during the early years after the Union, Fife managed to remain politically open; that is, a county with a large freeholder base that was fairly evenly distributed between the two major parties. Certainly none of the local politicians could take the Fife freeholder vote for granted. As demonstrated in the crucial election of 1715, with both Whigs and Tories fighting for their political survival, the final election result could have been decided for either party. As it was, the outcome was indicative of the national party situation at the time; that is, the arrival of the Whig-supported Hanoverians had signalled the end of Tory prominence.

This examination of the Fifeshire elections during the early decades after the Union also found no evidence of corruption, that is, bribery or use of nominal votes, in the management of the county freeholder franchise. Based on specific guiding principles, the Fifeshire elections were conducted according to the rule of electoral law; and, to that end the politicians judiciously maintained the Roll of Freeholders and made every attempt to properly conduct the elections. There can be no denying that the shire elections very often became ideological battlegrounds for the party factions anxious either to maintain their MP seat, or attain one. The appearance of outright corruption, however, was not apparent during the Fife county elections during this period, thereby opposing the argument that all of Scottish politics were an abyss of political corruption after 1707.

The same cannot be said, however, for the burghs. By placing the burghs into electoral districts, the Treaty of Union was directly responsible for the blatant manipulation of election results exercised by the political parties. Because the supervision of the district election meeting was put in the hands of a praeses from the prevailing burgh, the system simply begged for exploitation. Legitimate delegate commissions were ignored, opposing party delegates from the same burgh appeared at election meetings, election results were falsified to the Commons, and the fate of burgh election petitions was determined by the party in power at the time. Fortunately, this abuse of the system on the part of the political parties does not tell the entire story. Many of the Fife burgh politicians elected to Parliament were men of honour who were completely genuine in their mission to work toward the common good of their burgh district. George Yeaman, John Drummond, and James Oswald, the younger, for example, were all principled politicians of the time, who managed to win the trust of their constituents while at the same time promote their political platform.

The electoral and political independence demonstrated by many of the Fife burgesses, particularly in their quest to rebel against continued aristocratic and government intervention, serves to dispel the prevailing historiography that the councils were nothing more than restricted, self-perpetuating oligarchies. Reasonable grievances concerning electoral procedures practised by several councils were acknowledged and rectified by the Convention of Royal Burghs. Attempts by several of the Cupar magistrates to wrestle the town council from aristocratic control ultimately resulted in a victory for their cause. As we have seen, the Dysart council, for example, managed successfully to govern the town independently for three years as a protest against the electoral interference of Westminster. Each of these cases makes evident the lengths to which individuals were willing to pursue in their efforts to protect their local political autonomy. Although the electoral procedures of the town councils were not directly influenced by the Union, the politics within the councils and the

political awareness demonstrated by the burgesses were unquestionably influenced by the Union – and, moreover, were an integral component of the overall political culture of Fife in the eighteenth century. This is a subject area that is deserving of a thesis in its own right; however, constraints of this thesis have prevented a more in-depth study.

In conclusion, the greatest impact provided by the Treaty of Union of 1707 on the electoral politics of early eighteenth-century Fife was allowing for the growth and control of political parties. In doing so, the Union created a political culture that revolved around the promotion and advancement of the individuals' party of choice. Owing to the economic, political, and socially diverse population of aristocrats, gentry and burgesses, this study of the Fife political classes has provided compelling evidence to counter the conventional historiographical arguments that the people fell out of touch with politics after the Union – and more damagingly, that politics ceased to exist on all levels throughout Scotland after 1707. On the contrary, this study has shown that politics were very much alive and thriving at the local level in post-Union Scotland, demonstrating a political vibrancy that was an essential part of the new eighteenth-century political order for Fife, and for Scotland as a whole.

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