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Stephanie Dropuljic and Adelyn Wilson, "Elections and Local Governance in Early Modern Aberdeen", in A. M. Godfrey (ed.), *Miscellany Eight* [Stair Society vol. 67] (Edinburgh, 2020), pp. 231–263

<http://doi.org/10.36098/stairsoc/misc8.6>

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ELECTIONS AND LOCAL GOVERNANCE IN EARLY MODERN ABERDEEN

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This article examines the framework for burgh council elections in early modern Aberdeen. It first reconstructs the sequence of events which led to two arbitral decrees in 1592 and 1596, which together set down the framework for election in Aberdeen; transcripts and translations of both decrees are provided. The article then explores the extent to which that process of election was interrupted in the subsequent decades, and in particular during the interregnum period (1651 to 1660). The article also considers the election of those commissioners who represented the burgh at meetings of national institutions. Throughout, the article shows the extent to which Aberdeen's local elections were variously informed by and consistent with national trends observed in other Scottish burghs and interregnum governmental policies.

INTRODUCTION

Recent historical scholarship has increasingly focused on the burgh as a lens through which to study Scotland's past. Established by charters, some of which were as early as the twelfth century, the burghs were the most privileged of Scotland's urban centres in the medieval and early modern periods. The privileges granted to them were diverse, including rights over trading both within and beyond the town limits, the holding of markets, the operation of courts, and rights of limited self-governance. The burghs were also represented in the pre-1707 Scottish Parliament as one of the component "three estates", with the clergy and the nobility, so held a critical function in national law-making as well as in the local implementation of national policy. This assortment of privileges and functions meant that the burghs had significant political and economic importance in the historical period.¹

* The authors wish to thank: the Research Institute of Irish and Scottish Studies, which funded some of the research on which this article is based; the Keepers of the University of Aberdeen Special Collections Centre and the Aberdeen City and Aberdeenshire Archive for allowing access to their holdings; and Dr Isla Callander, Dr Tom Green, Dr Alisdair MacPherson and Dr Robert Taylor for reading an earlier draft of this article.

1 See e.g. George S. Pryde, *The Burghs of Scotland: A Critical List* (London, 1965); Michael Lynch, "Introduction: Scottish towns 1500–1700", in Michael Lynch (ed.), *The Early Modern Town in Scotland* (London, 1987), pp. 1–35; and James McGrath, "The medieval and early modern burgh", in T. M. Devine and Gordon Jackson (eds), *Glasgow: Beginnings to 1830* (Manchester, 1995), pp. 17–62, at 20–1.

The burghs therefore provide an opportunity for identifying how governmental power was exercised at a local level, and how this affected the lives of most inhabitants. Yet historical research on the Scottish burghs has not always provided a clear view of established practices of local governance. For example, few scholars have examined the burghs' electoral processes in any detail.² What is clear is that contemporary understanding of what constituted an "election" inevitably differed from modern practices. Alan Macdonald has concluded with respect to the early modern period that "burgh representatives [to the Scottish Parliament] were normally said to have been 'electit', not in an attempt to mislead, merely to describe what had happened".³ He has provided examples from various burghs of different forms of election: where old councils chose new councils; where lists were drafted and voted upon; and even where there was "popular involvement" with the attendance of the "burgesses", the guild of leading merchants and tradesmen who formed the elite social class of the burgh.⁴ However, the continued lack of a detailed study on contemporary elections remains problematic. The identification of who in a burgh was franchised to vote in an election and the mechanisms by which the burghs decided who would lead and represent them, both internally and at national forums, is critical to understanding the exercise of local and governmental power in Scotland.

The elections of Aberdeen are particularly under-researched, and what has been established focuses principally on the disputed elections of the burgh.⁵ A detailed examination of the wider history of Aberdeen's burgh elections has not been carried out since that in 1818 by the advocate and historian, William Kennedy.⁶ Indeed, even the printed extracts of the town's burgh register routinely fail to include entries on electoral affairs within the burgh.⁷

This is a missed opportunity. Aberdeen is one of the oldest burghs in Scotland, with the earliest extant charter of its privileges dating from c.1179.⁸ It was one of the great Scottish towns as well as the economic and legal centre of the north-east of

2 A brief examination of elections within the wider context of burgh administration was given in Laura A. M. Stewart, *Urban Politics and the British Civil Wars: Edinburgh, 1617–1653* (Leiden, 2006), pp. 24–8; McGrath, "The medieval and early modern burgh", pp. 29–33; Alan R. Macdonald, *The Burghs and Parliament in Scotland, c. 1550–1651* (Aldershot, 2007), pp. 31–56. Often the issue of elections is not examined within studies of the burghs' social, economic or political experiences, e.g. John Barrett and Alistair Mitchell, *Elgin's Love Gift: Civil War in Scotland and the Depositions of 1646* (Chichester, 2007), ch. 2; John Barrett and Alistair Mitchell, "Elgin's love gift: civil war and the burgh community", *Scottish Local History* 68 (2006), 46–51; Michael Lynch, "The social and economic structure of the larger towns, 1450–1600", in Michael Lynch, Michael R. Spearman and Geoffrey Stell (eds), *The Scottish Medieval Town* (Edinburgh, 1988), pp. 261–86.

3 Macdonald, *The Burghs and Parliament in Scotland*, p. 31.

4 This article will thus refer to election in a broad sense, accepting the contemporaneous understanding. For a further discussion of these examples, and more on these processes, see Macdonald, *The Burghs and Parliament in Scotland*, pp. 31–4.

5 See e.g. the 1587 election, discussed in Allan White, "The Menzies era: sixteenth-century politics", in E. Patricia Dennison, David Ditchburn and Michael Lynch (eds), *Aberdeen before 1800: A New History* (East Linton, 2002), pp. 224–37, at 235.

6 William Kennedy, *Annals of Aberdeen, from the Reign of King William the Lion to the End of the Year 1818*, 2 vols (London: for A. Brown & Co., 1818).

7 Cf. John Stuart (ed.), *Extracts from the Council Register of the Burgh of Aberdeen*, 3 vols (Aberdeen, 1844–72), vol. 1, p. 374 for the record of the 1398 election; vol. 3, pp. 80–1 for the record of the 1635 election; and vol. 4, pp. 129–30 for the record of the March 1652 election. These latter two elections are discussed below.

8 Aberdeen City and Aberdeenshire Archives, *Charter granted by William I, CA/3/A1/1*.

Scotland, and had the second-largest legal community after Edinburgh in the early modern period.⁹ It is also notable that one of the leading studies on its governance in the early modern period concluded that Aberdeen “in many respects, could not have been more different from Edinburgh”,¹⁰ so it provides an important example of how a major Scottish burgh would have operated, distinct from that of the capital.

Fortunately, Aberdeen is also one of four burghs (with Edinburgh, Dundee and Perth) for which the records are particularly complete.¹¹ This allows a considerable insight into the detail of town affairs throughout its history, as has been shown in a variety of recent studies which have expanded knowledge of the burgh’s cultural, social and legal past.¹²

It is therefore both necessary and timely to reconsider the electoral framework of Aberdeen during the early modern period. This article will show that Aberdeen’s framework for elections was established in the 1590s during a period of significant local political strife. It will transcribe for the first time in print two arbitral decrees. These are presented in modern translation in the article itself and are provided in the original Scots in the appendices.¹³ Translations of other contemporary sources into modern English are provided for ease of understanding throughout; these are found immediately underneath displayed quotations, and in footnotes for shorter sections of text.

This framework appears to have remained stable into the seventeenth century. However, that century witnessed considerable political turbulence at the national level, and this sometimes had significant impact on governance structures. The interregnum in particular was a period during which the traditional institutions of law and governance were disrupted across the country.¹⁴ Those who have examined elections in the interregnum period have suggested that those representing Scotland in the Commonwealth Parliament of the interregnum period “represented little more than the English interest”.¹⁵ James Casada has raised the question as to whether this perceived bias could be attributed to the failings in the electoral process in interregnum

9 John W. Cairns, “Lawyers, law professors, and localities: the universities of Aberdeen, 1680–1750”, *Northern Ireland Legal Quarterly* 46 (1995), 304–31, at 305.

10 Laura A. M. Stewart, “Politics and government in the Scottish burghs, 1603–1638”, in Julian Goodare and Alasdair A. MacDonald (eds), *Sixteenth-Century Scotland: Essays in Honour of Michael Lynch* (Leiden, 2008), pp. 427–50, at 428 n. 9.

11 *Ibid.*, p. 430.

12 A notable recent contribution is the “Law in the Aberdeen Council Registers” project, funded by the Leverhulme Trust, which has transcribed the burgh records from 1398 to 1511 (available at www.abdn.ac.uk/aro). On records and burgh life as revealed therein, see esp. Jackson W. Armstrong and Edda Frankot (eds), *Cultures of Law in Urban Northern Europe* (Abingdon, 2020).

13 The editorial conventions to be applied for these transcriptions and for other quotations from primary sources are, with one exception, the same as set out in Thomas M. Green (ed.), *The Consistorial Decisions of the Commissaries of Edinburgh, 1564 to 1576/7*, Stair Society vol. 61 (Edinburgh, 2014), pp. lxxiv–lxxvi. These are, in short: thorn is rendered “th”; contractions are expanded without recognition where certain, in squared brackets where probable, and kept faithful to the original where uncertain; “qlk” and “qll” are expanded; terminal flourishes are retained if expansion would indicate transition to later spelling conventions; squared brackets are used for presumed or illegible letters; “f” is used to indicate new page; “^” is used either side of interlineal additions; and Latin is italicised. The exception is that yogh is normally rendered “y”.

14 J. D. Ford, *Law and Opinion in Scotland during the Seventeenth Century* (Oxford, 2007); Frances Dow, *Cromwellian Scotland* (Edinburgh, 1979); Adelyn L. M. Wilson, “Practicks in Scotland’s interregnum”, *Juridical Review* 57 (2012), 319–52.

15 Godfrey Davies, *The Restoration of Charles II, 1658–1660* (California, 1955), p. 215.

Scotland.¹⁶ This article will test that thesis within the context of Aberdeen. In doing so, it will examine the elections for membership of both the town council and for commissioners representing the town at national conventions. This article will thus advance our understanding of both local and wider national governmental legal history by testing the conclusions drawn about Aberdeen against research previously undertaken on other Scottish burghs. What has not been possible in the scope of this study is to then compare Aberdeen with the particular arrangements of boroughs in England during the early modern period. Such a future comparative study would, however, provide fascinating insights into local governance across Britain.

THE METHOD OF ELECTION ESTABLISHED IN THE LATE SIXTEENTH CENTURY

(1) Aberdeen's council elections before the 1580s

Aberdeen's election procedures at the beginning of the early modern period were conducted on the basis of local customary practice. It has previously been observed that "[t]he Burgh of Aberdeen is One of the Eighteen [Scottish burghs] whose Charters do not contain any Clause of Election".¹⁷ Aberdeen's election processes were therefore regulated only by a loose statutory framework which applied to all burghs in Scotland. Principal among the sources of this framework was an act of the Scottish Parliament from 1469, which stated that:

nane officiaris na consail be continuit eftir the kingis lawis of burowis forthir than a yeir, and at the chesing of the new officiaris be in this wise: that is to say, that the aulde counsail of the toun sall cheise the new counsail in sic noumyr as accordis to the toun, and the new counsail and the aulde of the yeir before sall cheise all officiaris pertenyng to the toun as alderman, bailyis, dene of gild and uthiris officiaris, and that ilka craft sall cheise a persone of the sammyn craft that sall have voce in the said electioun of the officiaris for that tyme in like wise yeir be yeir.

[Translation: neither officers nor council be continued according to the king's laws of burghs for more than a year, and that the choosing of the new officers occur in this manner: that is to say, that the old town council shall choose the new council in such number as it suits the town, and the new council and the old one of the previous year shall choose all officers pertaining to the town, such as aldermen, bailies, dean of guild and other officers, and that each craft shall choose a person of the same craft who shall have a voice in the said election of officers for that time and similarly year to year.]¹⁸

A supplementary act of the Scottish Parliament passed in 1474 further required:

that thair salbe of the aulde consale of the yer befor four worthy personis chosin yeirly to the new consale at ther entre to syt with thame for that yeir and have power with thame to do justice.

16 James Casada, "The Scottish representatives in Richard Cromwell's parliament", *Scottish Historical Review* 51:152 (1972), 124–47, at 125.

17 "Report respecting the royal burghs of Scotland", in *Journal of the House of Commons*, vol. 48: *From December the 13th, 1792 ... December the 10th, 1793* (London: House of Commons, 1803), pp. 947–92, at p. 948.

18 Original Scots and English translation per *Records of the Parliament of Scotland [RPS]*, 1469/19.

[Translation: four worthy persons from the former council of last year shall be chosen annually for the new council at their entry to sit with them for that year and have power with them to do justice.]¹⁹

The national statutory framework thus required an annual rotation of council members and officers, but the retention of four members for the purposes of continuity and stability.

However, this loose framework was insufficient to ensure a rigorous election process, and Aberdeen's local custom departed from it by at least the sixteenth century. By the 1580s, although annual elections of officers were held,²⁰ the provostship – the chief magistracy of the town – had become the near-exclusive purview of the local Menzies family. A member of that family had been elected to the office in all but eight years between 1501 and 1590, and continuously since 1547.²¹ Additionally, Aberdeen did not practise an annual rotation of the ordinary council members, but rather election to the council was typically for life.²²

Aberdeen's town governance was thus dominated by a small political elite. Yet it was not unusual among the Scottish burghs to have a continuity of personnel on the council which exceeded the statutory framework. Alan Macdonald has found that it was common practice on burgh councils in the sixteenth century for "outgoing magistrates [to become] councillors, while only some ordinary councillors demitted office each year".²³ Thus, James McGrath has found that, of the 240 men (excluding provosts) who were elected to Glasgow's council between 1574 and 1586, twenty-four men continually held office either as "councillors or as senior executive officials".²⁴

(2) Disruption in the 1580s and early 1590s

This stagnation in Aberdeen's provostship and membership of its council became the focus of significant political tension at the end of the sixteenth century. These events have previously been reconstructed by the town's nineteenth-century historians, William Kennedy and Alexander Munro.²⁵ However, it is nonetheless useful to provide a fresh account here, both to correct those and other accounts against the primary evidence, and to provide context to the framework for elections which became established in the 1590s.

In the final decades of the sixteenth century, the incorporated trade guilds began to press the traditional political elite (drawn largely from the merchant classes of the town) for greater political representation.²⁶ The distinction drawn between the two

19 Original Scots and English translation per *RPS*, A1474/5/12.

20 "Report respecting the royal burghs of Scotland", p. 948.

21 On these men, see Alexander M. Munro, *Memorials of the Aldermen, Provosts, and Lord Provosts of Aberdeen, 1272–1896* (Aberdeen, 1897), pp. 73–112; White, "The Menzies era", pp. 224ff. Cf. the suggestion of even greater continuity found in "Report respecting the royal burghs of Scotland", p. 948.

22 Kennedy, *Annals of Aberdeen*, vol. 1, p. 153; Sir John Sinclair, *The Statistical Account of Scotland, drawn up from the communications of the ministers of the different parishes*, vol. 19 (Edinburgh, 1797), p. 165; *The New Statistical Account of Scotland*, vol. 12: *Aberdeen* (Edinburgh, 1845), p. 20.

23 Macdonald, *The Burghs and Parliament in Scotland*, p. 35.

24 McGrath, "The medieval and early modern burgh", p. 31.

25 Kennedy, *Annals of Aberdeen*, vol. 1, pp. 150ff.; Munro, *Memorials of the Aldermen*, pp. 108ff.

26 Kennedy, *Annals of Aberdeen*, vol. 1, pp. 150ff.; Munro, *Memorials of the Aldermen*, pp. 108ff.

competing groups can be overstated: one of the principal advocates of the crafts' cause was the local advocate and council member, John Cheyne of Fortrie, who played a principal role in the events of the 1580s and 1590s.²⁷

The push for greater representation of Aberdeen's craftsmen at this time was in keeping with national trends. For example, James McGrath has shown that, in late sixteenth-century Glasgow, "the caste system of the medieval burgh gave way to a quasi-class structure (albeit still with some caste elements) which differentiated between wealthy guild brethren, less wealthy burgesses and non-burgesses".²⁸ Thus, Michael Lynch has commented that the "consolidated monopoly of political power in the hands of the merchants came into collision with the gradual emergence of the craftsmen as a distinct and increasingly disruptive voice in burgh affairs".²⁹

Wider national contexts also contributed to such tensions materialising at that time. William Kennedy suggested that the more questioning culture of post-Reformation Scotland created a context in which the traditional political customs of the town could be challenged.³⁰ The medieval political structures were also beginning to be replaced or reformed in the late sixteenth century, to allow increasing centralisation and central control over governmental and political affairs.³¹ Specifically, Laura Stewart has noted that the 1580s were when James VI sought to assert greater royal control over the burghs, with eight leading burghs having "experienced interference in their electoral procedures" during that decade.³²

These tensions were not always peaceful. In the case of Perth, in which Mary Verschuur has shown the council was dominated by wealthy merchants, disputes over representation in town elections led to violence, and ultimately the town had to seek the intervention of the Court of Session and Privy Council.³³ Meanwhile, James McGrath has suggested that the tensions over the council elections in Glasgow were resolved only in 1609 by a letter from the king, which ordained that the council members should be drawn equally from the merchants and craftsmen, with twelve men representing each group, and an additional merchant serving as provost.³⁴

The civic tension in Aberdeen first rose to prominence in 1587 but was at that time resolved amicably with a new "Common Indenture" of the town which outlined the privileges of the craftsmen and burgesses.³⁵ Over the following two years, this tension was reignited with the election and then re-election to the provostship of Thomas Menzies of Kirkhill and Durn, the brother and son of the previous two

27 On whom, see John Alexander Henderson (ed.), *History of the Society of Advocates in Aberdeen* (Aberdeen, 1912), p. 121.

28 McGrath, "The medieval and early modern burgh", p. 32.

29 Lynch, "The social and economic structure of the larger towns", p. 264.

30 Kennedy, *Annals of Aberdeen*, vol. 1, pp. 148–50. See also, on this period, White, "The Menzies era", pp. 228–31, at 234.

31 See esp. Julian Goodare, *The Government of Scotland 1560–1625* (Oxford, 2004).

32 Stewart, "Politics and government in the Scottish burghs", p. 434.

33 Mary Verschuur, "Merchants and craftsmen in sixteenth-century Perth", in Michael Lynch (ed.), *The Early Modern Town in Scotland* (London, 1987), pp. 36–54, at 39–41.

34 McGrath, "The medieval and early modern burgh", p. 32.

35 *Council Register*, CA/1/1/32, pp. 233–42; Kennedy, *Annals of Aberdeen*, vol. 1, p. 150; "Report respecting the royal burghs of Scotland", p. 949; White, "The Menzies era", pp. 235–6.

incumbents.³⁶ John Cheyne of Fortrie, the advocate and council member who supported the crafts, lodged a protest at the Convention of the Burghs in June 1590. This meeting of the Convention, which was the assembly body of Scotland's royal burghs, was coincidentally held in Aberdeen. Cheyne claimed that the Convention should not receive Menzies and the other elected commissioner, Alexander Rutherford,³⁷ on the basis that the election was incompetent. Such complaints were not necessarily unusual before the Convention,³⁸ and Menzies and Rutherford were received after what appears to have been a lengthy debate.³⁹ Allan White has nonetheless suggested that “[d]eep factionalism was revealed even in the ranks of the council”, which ultimately led to “the strategic retreat of the merchant oligarchy from its domination of burgh affairs”.⁴⁰

However, White's conclusion might be overstated. A further complaint was thereafter made to the Privy Council on 25 September 1590, noting that, to the detriment of the town:

the free election of magistratis thairof, hes bene thir fourescoir yeiries bigane pervertit and abrogate be the unlauchfull usurpation of the provestrie be the race of Menzeissis[.]⁴¹

[Translation: the free election of magistrates thereof has for the past eighty years been perverted and abrogated by the unlawful usurpation of the provosty by the race of Menzies.]

That complaint was unsuccessful: the king and the Privy Council ordained that the elections should continue “In the like forme and maner as thay have done the twa or three yeiris preceding”,⁴² albeit under the observation of four notable men drawn from beyond the town.⁴³

The provostship passed to Alexander Cullen in the following 1590 election.⁴⁴ He was “a member of the old burgess family of that name, several members of whom had already held the office of provost” in the years when it was not held by a member of the Menzies family.⁴⁵ On the same day, Cheyne was “convict be the prouest bailleis and remanent personis of the counsall was fund and declarit be thame all except tua onl[i]e”⁴⁶ for having acted “dyvers & sundrie tymes agains the power auc[tori]tie

36 On a dispute in 1588 over whether Thomas Menzies of Kirkhill and Durn should also receive the town's clerkship, see *Council Register*, CA/1/1/32, pp. 444, 452–60; Kennedy, *Annals of Aberdeen*, vol. 1, pp. 151–2; Munro, *Memorials of the Aldermen*, pp. 110–11.

37 *Council Register*, CA/1/1/32, p. 543, CA/1/1/33(1), p. 339.

38 J. D. Marwick (ed.), *Records of the Convention of the Royal Burghs of Scotland*, 8 vols (Edinburgh, 1866–1918), vol. 1, p. xiii.

39 The text of the complaint and response is preserved in Kennedy, *Annals of Aberdeen*, vol. 1, pp. 155–8. See also Marwick (ed.), *Records of the Convention*, vol. 1, pp. 312–15.

40 White, “The Menzies era”, p. 236.

41 Munro, *Memorials of the Aldermen*, pp. 307–9; David Mason (ed.), *The Register of the Privy Council of Scotland*, vol. 4 (Edinburgh, 1881), p. 533.

42 Translation: “in like form and manner as they have done the two or three years preceding”.

43 Munro, *Memorials of the Aldermen*, pp. 307–9; Mason (ed.), *Register of the Privy Council of Scotland*, vol. 4, p. 534.

44 *Council Register*, CA/1/1/33(1), pp. 792–7, with quotation at p. 795.

45 Munro, *Memorials of the Aldermen*, p. 112.

46 Translation: “convicted by the provost, bailies and other persons of the council, and was found and declared as such by them all with only two exceptions”.

and dignitie of the [coun]sall & lafulnes theirof”,⁴⁷ and was deprived of his seat.⁴⁸ Further litigation followed, with the council being called before the Court of Session in February 1590/1 and May 1591.⁴⁹

On 20 July 1591, James VI confirmed the town’s current practice. He recognised that:

yat o’ act of parliament made anent ye changing of ye yierlie Counsall hes nevir yit tane effect w’in o’ said burgh, bot ye personnis anes lauchfullie chosin uponn Counsall hes contenuit yairon unto ye tyme of yair deceiss[.]⁵⁰

[Translation: yet our act of parliament made concerning the changing of the yearly council has never yet taken effect within our said burgh, but the persons once lawfully chosen upon council have continued on it until the time of their decease.]

He allowed this derogation of practice from the statutory framework outlined earlier in this article to avoid, among other things,

ye abrogationn of ye auld lawis and statuteis of o’ said burgh, The disturbance of ye common peace yairof, The civil disorder and disention yat nicht follow yairuponn[.]⁵¹

[Translation: the abrogation of the old laws and statutes of our said burgh, the disturbance of the common peace thereof, the civil disorder and dissension that might follow thereupon.]

It is notable that the king therefore explicitly granted the town exemption from adhering to those requirements of the act. This may have been in light of a wider concern to ensure the stability of local governance, even if that local governance was not in conformity with statutory requirements. Stewart has noted that

[b]urgh politics undoubtedly created headaches for the government, but town councils were, on the whole, very good at the day-to-day running of their complex socio-economic units; they had being [*sic*] doing that job for centuries. The crown therefore had little reason to interfere directly in town council business, especially when other means might be found to exercise greater control of their procedures.⁵²

Nonetheless, there appear to have been attempts by the council to appease the dissenters. On 1 October 1591, the council agreed to be freshly chosen, with only four members of the old council retaining their seats.⁵³ On 29 December, the old and new council together passed an act to request the Court of Session’s authorisation to

47 Translation: “diverse and sundry times against the power, authority and dignity of the council and lawfulness thereof”.

48 *Council Register*, CA/1/1/33(1), p. 794. See also the subsequent hearing of the issue on 9 December 1590, *Council Register*, CA/1/1/33(2), pp. 898–901.

49 *Council Register*, CA/1/1/33(2), pp. 988–9, 1093–4; Walter Thom, *The History of Aberdeen; containing an account of the rise, progress, and extension of the city*, 2 vols (Aberdeen, 1811), vol. 1, pp. 260–2; “Report respecting the royal burghs of Scotland”, p. 950.

50 Text is not found in the burgh records for that date, but is printed in Kennedy, *Annals of Aberdeen*, vol. 1, pp. 153–4; “Report respecting the royal burghs of Scotland”, p. 950. Text is reproduced here as in Kennedy and preserving his editorial conventions.

51 Kennedy, *Annals of Aberdeen*, vol. 1, pp. 153–4; “Report respecting the royal burghs of Scotland”, p. 950.

52 Stewart, “Politics and government in the Scottish burghs”, p. 437.

53 *Council Register*, CA/1/1/34, pp. 1–2; Munro, *Memorials of the Aldermen*, pp. 114–16.

establish a permanent procedure for holding elections in the town.⁵⁴ However, this planned effort did not progress.⁵⁵ Kennedy implied that this might be attributed to the council's vindication in the two ongoing law suits, on 21 January 1591/2 and 20 May 1592.⁵⁶

However, any confidence that the matter had been settled in the council's favour must have been undermined shortly thereafter. At the elections in 1592, Thomas Menzies of Durn and Cults – son of the previous provost of the same name – was made provost.⁵⁷ As Munro observed, “[t]he return of a member of this family might mean that there would be no further election for many years”.⁵⁸ Rioting followed, in which one person was killed and three magistrates along with twelve other persons were injured.⁵⁹

(3) The arbitral decrees of the 1590s

The events outlined in the previous section led to the parties submitting to an arbitration in 1592. This process for dispute resolution

was at once a distinctive alternative procedure but also one which could be readily integrated with process before a variety of courts and which could allow parties a procedure conducive to transferring the determination of a matter between different arenas of dispute resolution, be they courts or simply individuals of status and authority.⁶⁰

The arbitration in the present case was heard by the king with twelve persons drawn equally from the Lords of Session, clergy and Edinburgh burgesses.⁶¹ Mark Godfrey has shown that the participation of the Lords of Session in arbitration was common in sixteenth-century Scotland.⁶² The Lords chosen for the present arbitration were notable and experienced members of the judiciary: Alexander Seton, Lord Urquhart (later Earl of Dunfermline and Lord President of the Court of Session); Alexander Colvil, Commendator of Culross (the writer of practicks); James Elphinstone, Lord Innernoctie (later Lord President Balmerino); and John Lindsay, Parson of Menmure.⁶³

54 *Council Register*, CA/1/1/34, pp. 126–7.

55 Kennedy, *Annals of Aberdeen*, vol. 1, p. 159; Thom, *History of Aberdeen*, vol. 1, p. 263.

56 *Council Register*, CA/1/1/34, pp. 295–8, 510–13; Kennedy, *Annals of Aberdeen*, vol. 1, pp. 159–60; Thom, *History of Aberdeen*, vol. 1, pp. 263–4; “Report respecting the royal burghs of Scotland”, pp. 950–1.

57 *Council Register*, CA/1/1/34(2), p. 520; Munro, *Memorials of the Aldermen*, pp. 116–18.

58 Munro, *Memorials of the Aldermen*, p. 117.

59 *Council Register*, CA/1/1/34(2), p. 518; Kennedy, *Annals of Aberdeen*, vol. 1, pp. 160–1; Ebenezer Bain, *Merchant and Craft Guilds: A History of the Aberdeen Incorporated Trades* (Aberdeen, 1887), p. 86.

60 Mark Godfrey, “Arbitration and dispute resolution in sixteenth-century Scotland”, *Tijdschrift voor Rechtsgeschiedenis* 70 (2002), 109–35, at 111.

61 Kennedy, *Annals of Aberdeen*, vol. 1, p. 161; Thom, *History of Aberdeen*, vol. 1, pp. 265–6.

62 Godfrey, “Arbitration and dispute resolution in sixteenth-century Scotland”, esp. 119; A. M. Godfrey, *Civil Justice in Renaissance Scotland: The Origins of a Central Court* (Leiden, 2009), p. 414.

63 George Brunton and David Haig, *An Historical Account of the Senators of the College of Justice, from its institution in [1532]* (Edinburgh, 1832), pp. 160–2 (Colvil), 177–9 (Menure), 198–202 (Urquhart), 206–12 (Innernoctie).

The arbitral decree in this case was given on 7 December 1592.⁶⁴ This was the first of the two instruments which became synonymous with Aberdeen's reformed procedure. Although the decree only stated who would hold office until the next election, it became the framework by which the numbers and portfolios of council members were perceived (and later were explicitly acknowledged) as having been set. This decree therefore became symbolic of a framework which was maintained into at least the seventeenth century. The decree has not previously been transcribed, so is included here in full in translation, and in Appendix I in the original Scots:⁶⁵

We, James, by the grace of God king of Scots, oversman, [and twelve men as] arbitrators and amicable compositors,⁶⁶ chosen and accepted by virtue of the designation above, subscribed by Thomas Menzies, apparent of Durn, Alexander Rutherford, Master David Rutherford, David Menzies younger, Robert Menzies older and Master Robert Chalmer, burgess of the burgh of Aberdeen, for themselves and taking the burden upon them for the remnant old and new council of the said burgh of Aberdeen, magistrates and office-men of the same on the one part; and by William Gray, Robert Stewart, Alexander Owen, Master John Cheyne, Alexander Steven and John Merser, burgesses and craftsmen of the said burgh of Aberdeen ripely for themselves and taking the burden upon them for the remnant their neighbours of the said burgh of Aberdeen on the other part.

Anent the election of the council, provost, bailies, dean of guild, treasurer and other office-men of the said burgh of Aberdeen for this year and in time coming. And anent all actions and summons of suspension, exemption and letters used or depending before the Lords of Council by either of the said parties against others concerning the same, as the said designation bears.

Having heard, seen and advisedly considered the rights, claims, reasons and allegations of both the said parties and being ripely well and naturally advised themselves. Having God and good conscience before our eyes for quieting and settling of the controversies and debates that is and has been between the said parties concerning the said election.

Finds, pronounces and decerns, all agreeing in one voice, but variance or discrepancy, that: the said Thomas Menzies shall be provost of the said burgh of Aberdeen for this year; William Menzies, Master Patrick Cheyne, George Forbes and William Gray, bailies of the said burgh; Master Richard Irving, dean of guild of the said burgh and David Cargill treasurer; David Fergusson, Alexander Rutherford, John Collison, Alexander Cullen, William Jack, Alexander Owen, James Seton, Andrew Shearer, Thomas Duvye, Robert Menzies, James Robertson, goldsmith and Alexander Steven, [baker], two of the crafts of the same, to be council.

Which persons above specified to be provost, bailies, treasurer, dean of guild and councillors of the said burgh for this year [we have with due consideration elected,

64 Cf. Sinclair, *Statistical Account of Scotland*, vol. 19, p. 166, which wrongly gives the date of the arbitration decree as 9 December.

65 For ease of reading, punctuation has been varied from the original, paragraph breaks have been added where this improves sense, and the spelling and obsolete terms have been modernised (the latter indicated with brackets). The authors are grateful to Dr Tom Green for his suggestions on this transcription; any errors remain their own.

66 On the significance of these terms in the medieval and early modern periods, see Godfrey, "Arbitration and dispute resolution in sixteenth-century Scotland", 116, 119.

nominated and chosen]. And by these parties, elects, nominates and chooses and decerns and ordains [such] one of them to accept in and upon them the said offices ripely for this year and to give their oaths *de fidei administratione* thereanent judicially before the Commissary of Aberdeen, to remain and abide thereon duly as [stated], [until] Wednesday immediately preceding Michaelmas next term in the year of God 1593 years, which is the ordinary day of election.

And all other present magistrates and council to desist and cease from [meddling] therewith in time coming, under the pains of horning *simpliciter*. And that in all times coming, the acts of Parliament anent the election of magistrates, council and office-men within burgh be precisely observed.

And suchlike we find and decern with express consent and assent of both the said parties that all and whatsoever elections is or has been made by either of them this year together with all letters of horning, exemptions, suspensions or charges whatsoever raised used or executed by either of the said parties (or their colleagues or others upon their information) concerning the election of their magistrates, office-men and council, or staying of the same for this year [1592] raised or executed against others preceding the date hereof, and whole executions thereof registered in the sheriff court books of Aberdeen or others whatsoever is, has been and shall be in all times coming null *ab initio simpliciter* discharged and delete furth of the said books with all that has followed or may follow thereupon, and this to stand as one inviolable appointment and law not [abstain] whatsoever letters purchased or to be purchased in the contrary.

And for the more security anent the promise, we with express consent and assent of both the said parties decern their parts to be inserted and registered in the books of council and session to have the strength of a judicial decree thereof, with letters of horning to be directed thereupon upon a simple charge of six days. And to that effect makes and constitutes masters John Russell and John Nicolson, advocates, conjunctly and severally our [very] lawful and irrevocable procurators *in uberrima constitutionis forma*, holding firm and stable.

By those presents subscribed with our hands as also with the hands of the said parties in taking of their homologation and authorisation of the same, and prorogation of the said designation, whereby the filling of these presents with our decree was continued to this day with consent of both the said parties, day year and place foresaid.⁶⁷

This decree arbitral thus elected a new council for the year. Menzies retained the provostship, while the other council members were drawn from both sides of the debate.⁶⁸ The council itself would comprise nineteen members, of whom there would be seventeen from the merchant classes and two from the crafts.⁶⁹ The arbitration was accepted by both sides, and the council members returned at the 1592 election itself were supplanted by those named in the decree.⁷⁰

67 *Council Register*, CA/1/1/34(2), pp. 552–4.

68 *Ibid.*, p. 553; Kennedy, *Annals of Aberdeen*, vol. 1, p. 161; “Report respecting the royal burghs of Scotland”, p. 951.

69 Note that this is wrongly attributed to the 1596 arbitration in Sinclair, *Statistical Account of Scotland*, vol. 19, p. 167. The 1596 arbitration decree is discussed in Bain, *Merchant and Craft Guilds*, pp. 87–8, but without mention of the composition of the council.

70 *Council Register*, CA/1/1/34(2), pp. 557–8.

John Cheyne of Fortrie had not been appointed to the council in the 1592 arbitration.⁷¹ However, he was made provost in the next election in 1593.⁷² Kennedy suggested that the controversy of this appointment with the burgesses was a factor in the loss of men of law from the council thereafter.⁷³ This was prior to the act of the Scottish Parliament in 1609 which ordained that:

na man sall in ony tyme comyng be capable of provestrie or magistracie within ony burgh of this realme, nor to be electit to ony of the saidis offices within a burgh, bot mercheandis and actuall traffikeris inhabiting within the saidis burghis alanerlie and na otheris.

[Translation: no man shall in any time coming be capable of provostry or magistracy within any burgh of this realm, nor to be elected to any of the said offices within a burgh, but merchants and actual traffickers inhabiting within the said burghs only and no others.]⁷⁴

Stewart has suggested that this legislation can be viewed as having been part of a wider legislative programme in that year, which reflected “an ambitious agenda to overhaul the mechanisms of Scottish local government right across the kingdom”.⁷⁵ The reform “suited the merchant oligarchs who dominated both their own burghs and the convention, for it provided them with an unambiguous statement of their own political pre-eminence”.⁷⁶ In this way, Aberdeen differs markedly from another burgh in the North-East, Elgin, in which notaries “consistently held between 18 per cent and 30 per cent of available seats” on the council even after these changes, because “by the seventeenth century notaries were too well established and valued as members of the council to be easily ousted by a strengthening merchant population, and it was the crafts who were gradually eased off the council”.⁷⁷

However, the decree left several questions unanswered. This resulted in renewed complaints from the craftsmen about under-representation in terms of voting rights during the 1595 elections.⁷⁸ The issue was put to arbitration at the Convention of the Burghs in 1596. The Convention issued a decree which outlined the procedure to be followed. Although many records of the Convention have been printed previously, this item was omitted.⁷⁹ It is therefore usefully provided here in translation, and in Appendix II in the original Scots:⁸⁰

71 *Ibid.*, p. 553.

72 *Council Register*, CA/1/1/35, pp. 1–3; Munro, *Memorials of the Aldermen*, pp. 118–19. For a discussion of some examples of men of law on the burgh council in the mid-fifteenth century, see Andrew Simpson, “Men of law in the Aberdeen council register? A preliminary study, circa 1450–1460”, *Juridical Review* (2019), 136–59, at 151–4.

73 Kennedy, *Annals of Aberdeen*, vol. 1, p. 163.

74 *RPS*, 1609/4/27.

75 Stewart, “Politics and government in the Scottish burghs”, p. 435.

76 *Ibid.*, p. 442.

77 Jane E. Thomas, “Elgin notaries in burgh society and government, 1540–1660”, *Northern Scotland* 13 (1st series) (1993), 21–30, at 28.

78 Thom, *History of Aberdeen*, vol. 1, pp. 266–7; Bain, *Merchant and Craft Guilds*, p. 87.

79 Marwick (ed.), *Records of the Convention*.

80 Again, for ease of reading, punctuation has been varied from the original, paragraph breaks have been added where this improves sense, and the spelling and obsolete terms have been modernised (the latter indicated with brackets).

At Aberdeen the fifth day of July the year of God [1596], the which day in presence of the commissioners of burghs and subscribed being convened in their general Convention held at the said burgh. Compeared Thomas Menzies of Durne, provost of the said burgh of Aberdeen and Alexander Rutherford, commissioners for the said burgh on that one part; and Matthew Guyld, deacon of the hammermen, John Kempt, deacon of the [bakers], David Watson, deacon of the tailors, David Castle, deacon of the [weavers], John Merser, saddler, Alexander Steven, [baker], procurators, and having power of the remnant deacons and brethren of the crafts of the said burgh for themselves and taking the burden upon them for the remnant brethren of the crafts of the said burgh on that other part.

And submitted themselves to the amicable decision of the said commissioners of burghs anent the difference and question between the said parties concerning the [custom] of the craftsmen of the said burgh, [about] which [of them] should have vote yearly in election of the magistrates of the same at the feast of Michaelmas. And whatsoever the said commissioners of burghs should decern thereinall, promised to hold the same firm and stable but revocation and were content that their decree to be given in the said matter should be insert and registered in the books of counsel or commissary's books of Aberdeen with execution of horning upon ten days warning to pay thereupon.

And the said commissioners of burghs having heard both the said parties, after reasoning and debating of the said matter among themselves, find and deliver and in amicable ways decern and ordain that in all time coming yearly and [such] year the time of the election of the said magistrates there shall be two craftsmen of the old counsel and two of the new counsel with the six deacons of crafts of the said burgh [only] which shall be ten persons in manner for the said crafts and no more to have vote in the yearly choosing at Michaelmas of the provost, bailies, dean of guild and treasurer.

And in case any of the said ten persons shall happen to be absent the day of the election, it shall be [allowed] to the remnant of the said crafts, having vote in the election as said is and being present, to choose and put one qualified person or persons in place of them that shall happen to be absent to have vote as if the persons absent were personally present.

And if it shall happen any of the provost, bailies, dean of guild, treasurer and council of the said burgh old and new (by [i.e. beyond] the said craftsmen) which shall not exceed the manner of thirty persons, by the provost's odd vote which makes thirty-one votes in the whole for the part of the guild brethren, to be absent the said time of election in that case it shall be [allowed] to the said provost, bailies, dean of guild, treasurer and counsel who shall be present, to elect another person or persons according to the manner of them that shall be absent to give vote at the said election in and by all things as if they had been all present that has vote ordinarily. And this decree they decern and ordain to be insert and registered in the books and in manner above specified. [...]⁸¹

This decree was the second of the two defining instruments of the burgh's subsequent electoral framework. It confirmed that the officers should be elected by thirty votes being cast by the merchants and ten being cast by men representing the crafts, namely the two craftsmen from the old and new council along with the six deacons. Where

81 *Council Register*, CA/1/1/36, pp. 565–6.

the vote did not result in a majority, the deciding vote would be cast by the provost.⁸² By 1596, therefore, Aberdeen had acquired in these two arbitral decrees a framework which could be used to conduct its elections, which had the legal and political force of both the king and the Convention of the Burghs.⁸³

(4) The impact of the 1590s decrees in the following decades

There were, of course, interruptions to the schedule and process of elections in the decades thereafter. Often this was caused by the death of an incumbent. Probably the most notable examples of this are the three provosts in a row who died in office. At the elections from 1605 to 1610, Alexander Cullen and Alexander Rutherford were repeatedly elected as provost in turn. Rutherford was installed out of cycle in November 1610 when Cullen died in office, then held the provostship himself continuously until his own death in December 1614. The office of provost lay vacant until the 1615 election, when Thomas Menzies of Cults was installed. He was then returned to the office successively until his own death in office in 1620.⁸⁴

There were also interruptions during the period of increased national political tension and civil war in the 1630s and 1640s. Britain and Ireland witnessed extended fighting from 1637, owing to complex religious and political tensions between and within the different nations, known as the Bishops' Wars and Wars of the Three Kingdoms or British Civil Wars.⁸⁵

The most notable interruption to Aberdeen's burgh elections at this time was that in January 1635, when Charles I wrote to the town to demand that the provost, Sir Patrick Leslie of Iden, be removed from office for his anti-royalist views. In place of Leslie, the king named Paul Menzies of Kinmundy as his desired candidate for provost.⁸⁶ At the Michaelmas election in 1635, the Lord Chancellor wrote to the burgh council demanding that Leslie not be re-elected as provost in defiance of the king's will, and the bishop of Aberdeen attended the meeting to dissolve it personally and continue the previous council in office for an additional year.⁸⁷ Several members of the council objected to this interference, noting that they:

disassentit to any continuaioun of the present dyet of thair electioun, bot that the same sould go on this day, according to the decreit foirsaid given be our said late soverane lord King James of happie memorie, and anniversarie custume continuallie observeit sensyne, sieing they wer heir assemblit in peaceable maner for that effect.⁸⁸

82 It is not clear in the wording of the entry whether the deciding vote would be cast by the old or new provost.

83 The town's later election records, examined in detail below, also refer to the acts of parliament (in the general sense, without citing any particular acts) and an act of the Convention of the Burghs from 1637. That latter act has not been found; the relevant volume of records is lacking, and this item was not indexed: Marwick (ed.), *Records of the Convention*, vol. 3, p. xi, and vol. 4, pp. 540–5.

84 Munro, *Memorials of the Aldermen*, pp. 127–30.

85 Accessible accounts of the conflict include Trevor Royle, *Civil War: The Wars of the Three Kingdoms, 1638–1660* (St Ives, 2004) and R. Scott Spurlock, *Cromwell and Scotland: Conquest and Religion, 1650–1660* (Edinburgh, 2007).

86 Stuart (ed.), *Extracts from the Council Register of the Burgh of Aberdeen*, vol. 3, pp. 70–2.

87 *Ibid.*, p. 80.

88 Scots as printed in *ibid.*, p. 82; translation by the present authors.

[Translation: refused to agree to any continuation of the present diet of their election, but that the same should go on this day, according to the decree foresaid [i.e., the 1592 arbitral agreement] given by our said late sovereign lord King James of happy memory, and anniversary custom continually observed since then, seeing they were here assembled in peaceable manner for that effect.]

A subsequent attempt at the election in October proceeded but was disrupted by Leslie, so was reduced by the Privy Council. Only on the third attempt, in February, was a valid election held.⁸⁹

An election was also held outwith the normal cycle in February 1647, the 1646 election having been reduced by an act of the Scottish Committee of Estates (which functioned as the national executive between parliamentary sittings⁹⁰) owing to it having been “unfree” through pressure from “rebels” in the town.⁹¹ Likewise, the 1648 election was re-held in November by order of the Lord Chancellor, who objected to the support which some council members had offered to Charles I during his bid for power while captured, known as the Engagement.⁹²

However, these appear to have been isolated events which reflected the immediate political realities of the relevant moment, rather than tensions resulting from an uncertainty as to the appropriate administrative regulation of the elections per se. It is submitted, therefore, that the decrees of 1592 and 1596 can be seen as having decisively settled the manner of the burgh’s elections. Notably, the decrees were explicitly called upon by the council in 1635 when the elections were interrupted in the context of the Civil Wars.⁹³

Indeed, Aberdeen is notably absent from the lists of burghs which brought disputes over their elections to the attention of national institutions in the coming decades. Stewart has shown that between 1600 and 1620, irregular elections in fourteen other burghs were examined by the Convention, and complaints were taken to the Privy Council by ten burghs in the five years preceding the 1609 act.⁹⁴ Thus, while Aberdeen may have been in keeping with other Scottish towns in having experienced tensions over its representation of the crafts in burgh elections in the sixteenth century, it appears to have been unusual in having resolved these problems at a comparatively early stage, by embracing the 1590s arbitral decrees as a framework for elections in the town.

89 On these events, see Munro, *Memorials of the Aldermen*, pp. 138–41; Gordon DesBrisay, “The Civill Warrs did Overrun All’: Aberdeen, 1630–1690”, in E. Patricia Dennison, David Ditchburn and Michael Lynch (eds), *Aberdeen before 1800: A New History* (East Linton, 2002), pp. 238–66, at 241.

90 On which, see e.g. John Young, “The committee of estates of the Scottish parliament, 1640–1651: an exercise in provisional government”, in Maria Betlem Castellà i Pujols (ed.), *Poders a l’ombra: les comissions de les institucions parlamentàries i representatives (segles XV–XX)* (Barcelona, 2015), pp. 153–76.

91 Stuart (ed.), *Extracts from the Council Register of the Burgh of Aberdeen*, vol. 4, pp. 73–5; Munro, *Memorials of the Aldermen*, p. 155.

92 Munro, *Memorials of the Aldermen*, p. 157. The burden of accounting for this support appears to have fallen heavily on the town clerk, who had attended the meetings and demitted office later that month: Stuart (ed.), *Extracts from the Council Register of the Burgh of Aberdeen*, vol. 4, pp. 91–3.

93 Stuart (ed.), *Extracts from the Council Register of the Burgh of Aberdeen*, vol. 3, p. 82.

94 Stewart, “Politics and government in the Scottish burghs”, pp. 439, 441.

ELECTIONS AND DISRUPTION DURING THE INTERREGNUM

(1) The interregnum and Aberdeen

The framework for elections established in the 1590s had special significance during the interregnum. The Civil War period culminated in the exile of the king and, in August 1651, the capture of the Scottish Committee of Estates by the army of the English Commonwealth. As has been noted elsewhere, “this is a useful point to date the beginning of the period of the interregnum or republic in Scotland”.⁹⁵ The interregnum period ended nearly a decade later, with the return of the king in 1660.

The interregnum has been shown to have had a significant impact on the operation of national political and legal institutions.⁹⁶ The magnates, who had exercised social and political control across the country, were in the first years of the interregnum subject to mass confiscation of lands and other sanctions for their part in the Civil Wars. Moreover, as Frances Dow has observed, over the span of four months from January 1652, the representatives from the Commonwealth Parliament

restored municipal government; provided for the dispensing of justice at the highest level by seven Commissioners for the Administration of Justice, who thus replaced the old Court of Session; appointed sheriffs and commissaries; established a Court of Admiralty; appointed Commissioners for Visiting and Regulating Universities and Commissioners for confiscated and forfeited lands and estates; and issued orders concerning the laying on of the assessment and the disbursing of the revenue.⁹⁷

Furthermore, after repeated attempts to integrate the laws, eventually the order was given in March 1655 that the Scottish courts should decide cases in accordance with English law.⁹⁸

However, there has been little consideration of the impact of the interregnum on local governance at burgh level, and in particular on election procedures. The following examination will therefore investigate the burgh elections of Aberdeen during the interregnum, specifically: the interruptions to the elections and any impact this had on local governance; the council members who were elected and patterns of appointment; and the language and framework of the elections.

Before embarking on that examination, it is necessary to note that these events took place within a particular political context, one aspect of which is the extent to which there was a present threat from governmental forces. The Commonwealth forces under the leadership of General George Monck had prioritised taking control of the eastern coast of Scotland over the course of six weeks from the end of August 1651. Heading north, his army had captured St Andrews, Dundee and then the small coastal town of Montrose, approximately forty miles to the south of Aberdeen. The capture of Dundee gained quick notoriety, with the forces giving quarter only once

95 Andrew R. C. Simpson and Adelyn L. M. Wilson, *Scottish Legal History: 1000–1707* (Edinburgh, 2017), p. 257.

96 Ford, *Law and Opinion*, ch. 2; Simpson and Wilson, *Scottish Legal History*, ch. 13.

97 Dow, *Cromwellian Scotland*, p. 53. See also e.g. Ford, *Law and Opinion*, ch. 2; Simpson and Wilson, *Scottish Legal History*, ch. 13; Wilson, “Practicks in Scotland’s interregnum”, 321.

98 Ford, *Law and Opinion*, p. 109; A. Mark Godfrey, “Parliament and the law”, in Keith M. Brown and Alan R. Macdonald (eds), *The History of the Scottish Parliament. Volume 3: Parliament in Context 1235–1707* (Edinburgh, 2010), pp. 157–85, at 181–3.

in the central marketplace, and contemporaries suggesting that more than 1,000 men were killed and 500 captured.⁹⁹ John Grainger has suggested that “[t]he effect of the capture and sack of Dundee was immediate” in terms of a response from Aberdeen.¹⁰⁰ Its former provost, Alexander Jaffray of Kingswells, led a deputation from the burgh to negotiate for its lenient treatment in exchange for providing quarter to the army.¹⁰¹ Aberdeen was thus already by the beginning of the interregnum period predisposed to peaceful compliance or cooperation with the new Commonwealth Government.

Monck’s forces stayed in the area in order to address the continued rebellion of the Earl of Huntly, one of the most powerful Scottish magnates, whose lands were in Aberdeenshire. Dow has noted that “[i]n late September, the greatest part of the English horse was quartered between Dundee and Aberdeen”, while “Huntly’s threat to plunder Aberdeen merely drove the inhabitants farther into the arms of the English”.¹⁰² Meanwhile, the news of the defeat of the Scottish army at Worcester on 3 September 1651 would have arrived shortly after Aberdeen’s capitulation: “the capture of most of the country’s government, the disappearance of its king, the conquest of all its main cities, all combined to make further resistance seem hopeless”.¹⁰³ Although the army departed from Aberdeen in December, the sustained threat and continued obedience of the town is seen in the speed at which it identified and imprisoned the three men who allegedly murdered three English soldiers nearby, under threat of a fine of £150.¹⁰⁴

Another factor motivating compliance with the new Commonwealth Government would have been the town’s economic situation. Aberdeen had been badly affected by the Civil Wars, having been repeatedly occupied, sacked and pressed for men by the armies of local magnates in the 1640s.¹⁰⁵ As Gordon DesBrisay has noted, “[t]he English army imposed a degree of stability on the north-east in the 1650s which had not been seen in years”.¹⁰⁶

(2) Interruptions to Aberdeen’s election cycles

Aberdeen’s burgh register reveals significant interruptions to the ordinary schedule of elections during the interregnum. These interruptions can be attributed to orders being received from the Commonwealth Government.

The first interruption was the calling of an extraordinary election in March 1652. The elections had proceeded as normal in September 1651.¹⁰⁷ However, in February 1652, the Commonwealth Government proclaimed its Declaration for Scotland’s Incorporation into the Commonwealth of England, disseminated the text to the burghs, and called representatives to a meeting at Dalkeith later in the month.¹⁰⁸

99 John D. Grainger, *Cromwell against the Scots: The Last Anglo–Scottish War, 1650–1652* (East Linton, 1997), pp. 158–60.

100 Grainger, *Cromwell against the Scots*, p. 160.

101 Dow, *Cromwellian Scotland*, pp. 16–20.

102 Dow, *Cromwellian Scotland*, p. 17.

103 Grainger, *Cromwell against the Scots*, p. 161.

104 Dow, *Cromwellian Scotland*, pp. 19–20.

105 DesBrisay, “The Civill Warrs did Overrun All”, generally.

106 *Ibid.*, p. 264.

107 *Council Register*, CA/1/1/53(1), pp. 327–30.

108 C. Sanford Terry (ed.), *The Cromwellian Union: Papers relating to the negotiations for an incorporating union between England and Scotland, 1651–1652* (Edinburgh, 1902), p. xxv.

Aberdeen's burgh council elected two commissioners to attend that meeting on its behalf.¹⁰⁹ George Cullen had rejoined the council at the 1651 elections,¹¹⁰ having served on the council as a bailie and in other capacities previously.¹¹¹ Thomas Mortimer was the other commissioner, but had not served on the council – at least in recent years.¹¹² At the meeting in Dundee, Cullen subscribed the Declaration on behalf of the burgh¹¹³ and received both a statement of the new government's protection and a charter to allow the burgh to continue to hold fresh elections in accordance with its customs.¹¹⁴

Dow has shown that the Commonwealth Government's purpose in this was to restore local government, which (although continued in Aberdeen) had been inconsistent elsewhere, including in Edinburgh, and to ensure that those elected were loyal to the new government.¹¹⁵ Thus, "[t]he elections now authorised by the English in March and April 1652 were certainly designed to hasten a return to normal, but the methods by which they were to be carried out emphasised the overriding objective of securing loyalty to the new regime in the localities".¹¹⁶ The Commonwealth Government thus restored both local executive decision-making and the administration of low-level justice through the burghs' civic courts.¹¹⁷ In Aberdeen, the new election was held on the same day as the report was given, and followed the normal process as established in the 1590s.¹¹⁸

The council elected in September 1652 remained in office until 1655, owing to an extended suspension of elections within the town. It is somewhat ironic, therefore, that the record of this election was never written up into the burgh register, and the identities of the council members and officers who were returned must be reconstructed from subsequent sederunt lists.¹¹⁹ That council's extension of tenure was by the order of the Commonwealth Government. A missive was received in September 1653 from Colonel Lilburne, the head of the occupying army, on behalf of the Council of State (the Commonwealth successor institution to the Privy Council). It ordered "that the civill officeris and In the shires and Incorporatiounes of this natioun that ar now in office suld be continuit untill ther salbe further order from the counsell for macking of new electione".¹²⁰

This disruption to local burgh elections reflects the deterioration of the Commonwealth Government's confidence in the obedience of the Scottish nation,

109 *Council Register*, CA/1/1/53(1), p. 344.

110 *Ibid.*, p. 327.

111 He had previously served as a bailie from 1648 to 1650 and keeper of the secret seal from 1649 to 1650.

112 Elections surveyed from 1648.

113 See his assent, Terry (ed.), *The Cromwellian Union*, pp. 45–6.

114 *Council Register*, CA/1/1/53(1), pp. 345–8; Stuart (ed.), *Extracts from the Council Register of the Burgh of Aberdeen*, vol. 4, pp. 129–30.

115 Dow, *Cromwellian Scotland*, p. 54.

116 *Ibid.*

117 *Ibid.*

118 *Council Register*, CA/1/1/53(1), pp. 345–8; Stuart (ed.), *Extracts from the Council Register of Aberdeen*, vol. 4, pp. 129–30.

119 *Council Register*, CA/1/1/53(1), pp. 361–3.

120 Translation: "that the civil officers in the shires and incorporations of this nation that are now in office should be continued until there shall be further order from the counsel for making of [a] new election". *Ibid.*, p. 398; Stuart (ed.), *Extracts from the Council Register of Aberdeen*, vol. 4, p. 137.

driven by a combination of factors including the resistance which ultimately culminated in the Glencairn rising.¹²¹ This led to a series of orders throughout the summer of 1653 which prohibited men from collecting in groups, of which the suspension of elections in Aberdeen, as well as in the other burghs and the countryside shires, was one example. Dow has also suggested that “[t]he authorities must certainly have feared the possibility of unrest at the time of the elections; but more important, perhaps, was the desire to continue in office men whose loyalty to the Commonwealth had been tried and proven”.¹²²

In December 1653, the Commonwealth Government was replaced by the Protectorate under the leadership of Oliver Cromwell as Lord Protector. This marks the beginning of a new period of widespread constitutional reform, the impact of which became apparent over the coming years.¹²³ In 1654, an initial plan to have the burgh council appointed by the judges sitting on the Commission for the Administration of Justice (the successor institution to the Court of Session) was abandoned, and the prohibition on the holding of local elections was continued.¹²⁴ Thus, in September 1654, Aberdeen’s council was instructed that:

all executioun of our ordour appointing magistrats for the brugh of Aberdein, may be lykways suspendit; and we doe declair that yow ar to exerce your respective offices of magistrats, and counsell, in your said brugh, as formerly, wntile further ordour.¹²⁵

[Translation: all execution of our order appointing magistrates for the burgh of Aberdeen may be likewise suspended; and we do declare that you are to exercise your respective offices of magistrates and counsel in your said burgh as formerly, until further order.]

In light of these two annual instructions, at the normal day of election on 26 September 1655, the council “abst[a]nit to goe on in ane new electioun of provest Baill[i]es and Counsell till further [or]der from authoritie”.¹²⁶ Permission was received shortly thereafter, on 3 October 1655, and the elections were held according to the normal process on 10 October.¹²⁷ From 1655, the council elections returned to the normal schedule with no further disruptions thereafter during the interregnum period.

This re-establishment of the normal election cycle coincides with the “comparative political stability in Scotland [from 1655] until the death of Cromwell in 1658”.¹²⁸

121 On the rising and its impact, see e.g. Dow, *Cromwellian Scotland*, chs 4–7.

122 Dow, *Cromwellian Scotland*, p. 106.

123 See e.g. John Morrill, “Oliver Cromwell (1599–1658)”, in *Oxford Dictionary of National Biography* (Oxford, 2004), online 2015 version (available at <https://doi.org/10.1093/ref:odnb/6765>); Nancy L. Matthews, *William Sheppard, Cromwell’s Law Reformer* (Cambridge, 1984), chs 3–4.

124 Dow, *Cromwellian Scotland*, p. 148.

125 Stuart (ed.), *Extracts from the Council Register of Aberdeen*, vol. 4, p. 144.

126 Translation: “abstained to go on in a new election of provost bailies and council until further order from authority”. *Council Register*, CA/1/1/53(1), p. 458.

127 *Council Register*, CA/1/1/53(1), pp. 459–60; Stuart (ed.), *Extracts from the Council Register of the Burgh of Aberdeen*, vol. 4, pp. 158–60. However, Munro’s suggestion that the 1655 Michaelmas elections took place but that a second election was called on 10 October is not correct: the register reveals that the September elections were suspended until that October date. Munro, *Memorials of the Aldermen*, p. 167; *Council Register*, CA/1/1/53(1), p. 458.

128 Wilson, “Practicks in Scotland’s interregnum”, 319–52, at 322.

The royalist rebellion had been suppressed in 1654, which allowed a period of peace.¹²⁹ The Protectorate's stabilisation of both the political context and governmental structures across Scotland in 1655 can be seen through the creation of the Council of State for Scottish Affairs,¹³⁰ as well as the reopening of the Commission for the Administration of Justice after a suspension in its sittings.¹³¹ As A. R. G. Macmillan previously commented, "an honest attempt was being made to introduce settled government and purity in the administration of justice for the benefit of the general population".¹³²

Although a detailed study of this stabilisation of the Scottish governmental structures within the wider British context is beyond the scope of this study, it is worth noting that the stability of burgh governance in Aberdeen from 1655 onwards is consistent with government policy in England. William Sheppard, Cromwell's legal advisor and law reformer, had a particular interest in burgh charters and led a commission to review and renew these to ensure effective local governance from June 1656. His thoughts on local governance were outlined in his subsequent book, *Of Corporations, Fraternities and Guilds* (London, 1659).¹³³ Nancy Matthews has concluded that

Sheppard developed a strong argument in support of a community's right to self-government and the liberty of the individual subject. While he had stated unambiguously that the only contemporary source of incorporated power was the authority of the lord protector and that the most inviolable rights of corporations were those confirmed by charter, he similarly enlarged upon the counter-theme of communities governing themselves "by mutual consent" according to custom.¹³⁴

(3) The language and form of election

Given what has been shown already, the question arises as to whether there were substantive changes to the language and form of the elections when held. It would seem that this can be answered in the negative: both the language and form of the elections held during the interregnum period largely adhered to the town's previously established formula. A reading of the entries for each of the interregnum elections suggests that the clerk was producing the record in accordance with a preferred style.¹³⁵ Each election record (with the exception of the interim election in March 1652 and the omitted record of September 1652, and subject to standard scribal variation¹³⁶) begins with a declaration that the council had

129 Dow, *Cromwellian Scotland*, pp. 123–42.

130 Dow, *Cromwellian Scotland*, ch. 8.

131 Ford, *Law and Opinion*, p. 111.

132 A. R. G. Macmillan, "The judicial system of the Commonwealth in Scotland", *Juridical Review* (1937), 232–55, at 254.

133 Matthews, *William Sheppard*, pp. 133–42.

134 Matthews, *William Sheppard*, p. 141.

135 *Council Register*, CA/1/1/53(1), pp. 327–30 (1651), 345–8 (March 1652), 361–3 (omitted record for Michaelmas 1652), 461–4 (1655), 500–3 (1656), 561–5 (1657), 625–9 (1658), CA/1/1/54, pp. 99–103 (1659).

136 On which, see Adelyn L. M. Wilson, "The textual tradition of Stair's *Institutions*, with reference to the title 'Of Liberty and Servitude'", in Hector L. MacQueen (ed.), *Miscellany Seven*, Stair Society vol. 62 (Edinburgh, 2015), pp. 1–124, at 32–43.

convenit w[ith]in the high counsell hous as upone the ordinar day of Electioun of the magistratis counsell and office men fore electing and choosing the new counsell of the s[ai]d brughe for the yeir to cum[.]¹³⁷

[Translation: convened within the high council house upon the ordinary day of election of the magistrates, council and office men for electing and choosing the new council of the said burgh for the year to come.]

The election entries continue with an outline of the regulations which guide the council and those present on the election of the new officials. This formulaic language and structure have allowed for comparisons to be made when words or elements are omitted from the record.

The most notable change which occurs during the interregnum period is in relation to the swearing of “the great oath” to administer the office faithfully. The 1649 election of council members was conducted “eftir Invocatioun of the name of god that his Maj[esty] might be with them in all thair procedingis eve[ri]e ane of them haveing sworn the great aith”.¹³⁸ The 1650 and 1651 election records have the same phrasing, but as “the name of god *and* that his Maj[esty]” (emphasis added).¹³⁹ The record for the March 1652 election is of a markedly different style, owing to the circumstances under which it took place.¹⁴⁰ However, in the next election for which there is a record, held in 1655 by permission of the interregnum government, the register substitutes the reference to God’s majesty with a more general reference.¹⁴¹ The relevant passage reads: “efter Invocatioun of the name of god and that *he* wold be with them in all ther proceiding[is]” (emphasis added);¹⁴² this phrasing is sustained into the 1656 election record.¹⁴³ In 1657, the phrase is revised to omit this short variant phrasing, and reads only “efter Invocatione of the name of god ewrie ane of them haaving sworne the great aith”.¹⁴⁴

It therefore appears that the “and” added into the 1650 and 1651 election records, possibly as a scribal slip, separated God and the reference to His majesty. In 1655

137 *Council Register*, CA/1/1/53(1), pp. 231, 277, 327 (spelling correct to 1649 record). The 1655 election record differs slightly, omitting the phrase “as upon ... office men”: *Council Register*, CA/1/1/53(1), p. 461. The 1656 record omits “the” before “magistrates”, and substitutes “bearers” for “men”: *Council Register*, CA/1/1/53(1), p. 500. The 1657 record omits “high”, and inserts an additional “of the said burgh” before “as upon”, and inserts “of” before “the new council”: *Council Register*, CA/1/1/53(1), p. 561. The 1658 record gives the same text as the 1657 record, but uses “this burgh” rather than “the said burgh” in the second instance of the appearance of this phrase: *Council Register*, CA/1/1/53(1), p. 625. The 1659 record gives the same text as the 1658 record, but omits “of” before “the new council”: *Council Register*, CA/1/1/54, p. 99. Cf. *Council Register*, CA/1/1/53(1), p. 345 for the different wording used in the March 1652 record.

138 Translation: “after invocation of the name of God that His Majesty might be with them in all their proceedings, every one of them having sworn the great oath”. *Council Register*, CA/1/1/53(1), p. 231.

139 *Council Register*, CA/1/1/53(1), pp. 277, 327.

140 *Ibid.*, pp. 345–7.

141 *Ibid.*, p. 461.

142 *Ibid.*, p. 461.

143 *Ibid.*, p. 500.

144 Translation: “after invocation of the name of God, every one of them having sworn the great oath”. Spelling correct to the 1657 record. *Council Register*, CA/1/1/53(1), pp. 561, 625. *Council Register*, CA/1/1/54, p. 99.

and 1656, the reference to God's "majesty" is replaced by "he", presumably to make absolutely clear to the reader that the council was not invoking the name of the king during the swearing of the great oath. In 1657, the entire offending phrase is simply removed – and this is sustained to the end of the period.

It is thus notable that the records of election did continue to refer to the monarchy in connection to the 1592 decree, which was explicitly acknowledged as the basis for the election procedure. The reference to "our soueraine lord king Jamis the sext of blissed memorie [ou]r owersman" (or, later, "as oversman") continued verbatim in relation to the former decree throughout the interregnum period.¹⁴⁵

Plausibly, both the omission of the reference to "His majesty" in relation to the great oath, and the continued reference to the king in relation to the arbitral decrees, was a calculated decision on the part of the council and the town clerk. Swearing the oath of faithful administration in office in a manner which could be misconstrued as being in the name of the king could risk the council being perceived as disloyal to the new government, the ire of which the town would not wish to have risked given the immediate proximity of the armed forces at the beginning of this period. Meanwhile, the continued reference to the king in connection to the arbitral decrees is likely to have been an implicit demonstration of the legal legitimacy of the framework through which the town's elections were held and votes cast, and so through which the council was chosen and gained its executive powers. This reference to a specific king was also historical in nature, so would not have the same implications for the town's perceived loyalty to the new government.

It is notable that the wider language of the records of election does not appear to have changed. The language and form of the election records remain remarkably stable, albeit there is some minor movability in phrasing between years. This would be consistent with the aforementioned intention, during the Protectorate at least, to continue the stability of local governance in Scotland as well as the privileges of the English boroughs. Indeed, far from showing adaptation to new governmental practices, the set phrasing used in Aberdeen's burgh election records is consistent terminologically with the kind of language which Alan Macdonald has identified was used in a slightly earlier period in Scottish elections. For example, throughout the records of Aberdeen's interregnum elections there is phrasing such as "electing and choosing", "elected, nominated and chosen" and "so elected and chosen". Likewise, Edinburgh's 1594 parliamentary election noted that its commissioners were similarly "constituted and ordained", 'chosen named and constituted' [and] 'voted and nominated'.¹⁴⁶

(4) The individuals elected

The 1590s arbitral decrees set down a framework for the town elections which ensured a turnover in council members and officers. However, the reality of there

145 Translation: "our sovereign Lord, King James the Sixth of blessed memory, our oversman". Spelling correct to the 1649 record. See *Council Register*, CA/1/1/53(1), pp. 231, 277, 327. The 1655, 1656, 1657 and 1658 records give "as oversman": *Council Register*, CA/1/1/53(1), pp. 461, 500, 561, 625. The 1659 record omits the phrase "our sovereign lord" but displays the name of the king in bold writing, so this appears to be a scribal slip rather than any understating of the royal connection: *Council Register*, CA/1/1/55, p. 99. Cf. the unusual election record for March 1652, *Council Register*, CA/1/1/53(1), pp. 345–7.

146 Macdonald, *The Burghs and Parliament in Scotland*, p. 32.

having been a political elite continued in the decades thereafter. This is because it was common for men to return to the council after an interlude. The earlier practice of appointments for life was effectively supplanted by a rotation-based system, with some members forming an oligarchy of men who repeatedly served on the burgh council over the course of several years. This can most clearly be seen in the men elected to the provostship. The monopoly of that office by the Menzies family in the sixteenth century was replaced by the rotation of that office on (typically) an annual basis through a select group of powerful local men. Thus, in the years between 1596 and the 1651 election, only fourteen men held the office of provost. Only a few ever held the office for successive years, but most were re-elected to it after an interlude.¹⁴⁷

Returning to the interregnum period specifically, it is notable that this pattern of repeated service was not interrupted, despite the significant political turmoil and the required declarations of loyalty to the new government. Indeed, four of the five men who held Aberdeen's provostship in the 1640s returned to the council at least once during the interregnum.¹⁴⁸ There are two particularly remarkable instances of men serving on the council for an extensive number of years. George Cullen served on the council from 1651 to 1657, having previously served as bailie in two consecutive terms, from 1648 to 1650. He served as provost in his final year on the council, and died in the subsequent year.¹⁴⁹ John Jaffray served as bailie from 1651 to the March 1652 election and again from September 1652 to 1657, after which he was returned in three consecutive elections as provost, and then served a term as elderman in recognition of his long service.¹⁵⁰

The retention of four members of the old council at each election also meant that it was possible for a member of council to serve for several continuous years, albeit this was not common. Nine men were each returned in three or more consecutive elections in the interregnum; two men in three consecutive elections; three in four consecutive elections; three in five consecutive elections; and one man was returned in six consecutive elections.¹⁵¹ The disruption to the normal schedule of elections during this period, however, means that an individual's tenure on the council was occasionally longer than these numbers might otherwise suggest. Thomas Gray, who was returned in six consecutive elections, served for seven years continuously from 1651 to 1658 – having also served on the council earlier in the decade.

147 The most notable exception other than those already mentioned above is the provostship of Sir Paul Menzies of Kinmundy (1623–33), on whom see Munro, *Memorials of the Aldermen*, pp. 132–7.

148 Sir Patrick Leslie of Iden; Alexander Jaffray, 3rd of Kingswells; Sir Robert Farquhar of Mounie; Thomas Gray of Mamewlay: Munro, *Memorials of the Aldermen*, pp. 147–64.

149 Munro, *Memorials of the Aldermen*, pp. 168–9.

150 On whom see Munro, *Memorials of the Aldermen*, pp. 169–71.

151 Robert Farquhar served three consecutive times for three years into the interregnum, from 1649 to the March 1652 election. Patrick Moir served three consecutive terms, from 1652 to 1657. Alexander Jaffray of Kingswells likewise served four consecutive terms coming into the interregnum period, from 1648 to March 1652. Gilbert Gray served four consecutive terms, each of one year, from 1657 to at least 1661. Mr William Moir served four consecutive times coming into the interregnum period, from at least 1648 to 1652. George Cullen was elected at five consecutive elections, for a total tenure from 1651 to 1657. George Morison served five consecutive times for a total of six years, from 1652 to 1658. John Jaffray served at least five consecutive times for a total of five years, from 1656. Thomas Gray served six consecutive times for a total of seven years, from 1651 to 1658.

Most offices nonetheless changed hands at each election during the interregnum period. The only consecutive appointment of the office of treasurer was that of James Farquhar, who was elected to that post in 1651 and then returned again in March 1652, so served one complete year. On only seven occasions was a bailie re-elected to that same office in the next election. It was, however, common for an individual to return to an office he had previously held after an interlude. This likely reflects the advantages of having key offices held by experienced men. Indeed, some support for this suggestion is seen in the provostship having been most notably dominated by experienced council members. Although only George Morison and John Jaffray retained the office in consecutive elections, from March 1652 to 1655 and 1657 to 1660 respectively, none of the men who were elected as provost was given that position in his first year of sitting on the council.

Aberdeen was not unusual in having a council membership typically including a small number of men repeatedly returning to it. Stewart's examination of Edinburgh's council elections between 1616 and 1653 showed that, of the 327 council members, two-thirds held offices four times or more, and twenty did so ten times or more.¹⁵² This pattern of tenure meant that "[t]hese men made up an elite group whose long years of service at the highest levels put them at the heart of the decision-making process".¹⁵³

However, only a small proportion of individuals who served on the council could sustain such extended careers. Individuals holding office for consecutive or multiple terms would need to rely on family, kin or extended networks to facilitate their wider business interests. Stewart has suggested that town business "[taking] merchants away from their principle [*sic*] interest of making money" was a limiting factor in the length of the civic careers of most council members in Scotland.¹⁵⁴ Macdonald has drawn similar conclusions about the tensions between civic service and the pursuit of business interests from his examination of Edinburgh's council members in the sixteenth century, noting that ultimately "the dominance of the wealthy intensified over time".¹⁵⁵

Macdonald has further suggested that sixteenth-century Aberdeen was unusual in the Scottish context, in that the council "was controlled by a dynasty of 'merchant-lairds' who were not its wealthiest merchants" – namely the Menzies family.¹⁵⁶ The example of the Menzies family does, however, support the wider conclusion that independent wealth was a prerequisite for a sustained career in civic service.¹⁵⁷ Aberdeen's interregnum councils likewise included some landed men,¹⁵⁸ although it would seem that a greater proportion were burgesses.¹⁵⁹ A few council members were

152 Stewart, *Urban Politics and the British Civil Wars*, p. 31.

153 Ibid.

154 Ibid., pp. 30–1.

155 Macdonald, *The Burghs and Parliament in Scotland*, p. 35.

156 Ibid.

157 White, "The Menzies era", *passim*.

158 See e.g. Alexander Jaffray of Kingswells, Robert Farquhar of Mounie, Alexander Burnet of Sheddocksley.

159 See e.g. Gilbert Gray, admitted burgess as a pupil in 1635; bailie John Leslie, admitted burgess 1648; Alexander Burnet, younger, admitted burgess 1644: Alexander M. Munro, "Aberdeen Burgess Register, 1631–1700", in *Miscellany of the New Spalding Club*, 2 vols (Aberdeen, 1890–1908), vol. 1, pp. (359)–(482), at (376), (398), (390) respectively.

educated men, most obviously including Mr William Moir, professor of mathematics and principal of Marischal College in the burgh, and his son, Dr William Moir.¹⁶⁰

Beyond their presumed wealth and social status, it is notable that several of those who repeatedly served on the Aberdeen burgh council had close relatives who had likewise held civic office. Mr William Moir's father had been treasurer and dean of guild in the early seventeenth century,¹⁶¹ meaning that at least three generations of that family served on the council over a forty-year period. Likewise, George Cullen was the son of a former dean of guild and the grandson of the aforementioned provost, Alexander Cullen.¹⁶² The Jaffray family had three provosts in two generations: Alexander Jaffray of Kingswells in the 1640s, his oldest son of the same name in the late 1640s and early 1650s, and his second son, John Jaffray, thereafter.¹⁶³ Provost Gilbert Gray was also the son of a former provost, Thomas Gray, and the son-in-law of George Cullen.¹⁶⁴

Thus, while the early- to mid-seventeenth-century council reflects a greater diffusion of power than was the case during the Menzies-dominated years of the sixteenth century, there was still clearly a significant concentration of political power within a few families. The domination of the town council by a small number of networks of interconnected men is in keeping with recent studies of other local institutions. For example, the sheriff court in Aberdeen, as well as the commissary court and King's College in neighbouring Old Aberdeen, were likewise controlled by particular kinship networks over successive generations in the sixteenth and seventeenth centuries.¹⁶⁵

ELECTION OF COMMISSIONERS

This article has revealed how council members were appointed to manage local interests. This raises the question as to how the council ensured that its local interests were appropriately represented at national meetings. Historians of this period have concluded that there was a lack of adequate representation of Scotland, and Scottish interests generally, at meetings with institutions of the Commonwealth and Protectorate Governments.¹⁶⁶ However, the council registers indicate that the local officials in Aberdeen were in frequent contact with central authorities and government throughout the interregnum period.¹⁶⁷ Indeed, there is clear evidence

160 On whom see Alexander L. Moir, *Moir Genealogy and Collateral Lines* (Lowell, MA, 1913), pp. 135–8.

161 *Ibid.*, p. 137.

162 Munro, *Memorials of the Aldermen*, p. 168.

163 *Ibid.*, p. 169.

164 *Ibid.*, p. 172.

165 Adelyn L. M. Wilson, "Men of law and legal networks in Aberdeen, principally in 1600–1650", in Michael Lobban and Ian Williams (eds), *Networks and Connections: Papers of the British Legal History Conference* (Cambridge, 2020), pp. 33–59; *idem*, "Legal practice and legal institutions in seventeenth-century Aberdeen, as witnessed in the lives of Thomas Nicolson of Cockburnspath and his associates", *Journal of Irish and Scottish Studies* 9:3 (2018), 93–128.

166 Casada, "The Scottish representatives in Richard Cromwell's parliament", 125–9; Davies, *The Restoration of Charles II*, pp. 215, 224–5.

167 For example, there were twenty-six entries of representatives elected to attend meetings with parliament, the Convention of the Burghs or military men, plus three entries for an instructed individual to write a letter to an external party or governing body on behalf of the burgh.

that the council took particular care to ensure representation of the burgh's interests before the interregnum parliaments as well as a continued presence at the Convention of the Burghs. This representation largely took the form of elected "commissioners", a broad term denoting those who were tasked with representing the burgh in matters of a public or political nature.

The council registers do not detail the electoral process for commissioners. The election of a commissioner appears to have been less regulated, or at least less formalistic, than that of the council members themselves. However, the records do reveal both the nature of the commissions and the identities of the men elected, and much can be learned of the town's practices from this information.

Twenty men were elected as a commissioner for the burgh of Aberdeen between 1649 and 1660. However, some men served as commissioners on multiple occasions. For example, John Jaffray, then a bailie, was nominated as a commissioner in 1653 to attend the Convention of the Burghs in Cupar.¹⁶⁸ He was again nominated in 1655, and three further times from 1656 to 1658, to attend Conventions held in Edinburgh and Haddington. The council would also sometimes elect two individuals to undertake commissions jointly, as has already been seen in the example of George Cullen and Thomas Mortimer representing the burgh at a meeting of the Commonwealth Parliament in 1652.

The records show that attendance at the Convention of the Burghs and meetings of Parliament were the most common commissions, with approximately two-thirds of the commissions being issued for this purpose. The Convention continued to operate throughout the interregnum period, while the Declaration of Incorporation provided for "thirty commissioners" to represent Scotland in the Commonwealth Parliament.¹⁶⁹ However, commissions were also granted for other purposes, such as to represent the burgh at meetings with military leaders or at cases being heard in the Court of Session.¹⁷⁰ The instructions were sometimes for general representation but could also outline specific interests, most notably to discuss the excise of the town.¹⁷¹

Those elected as commissioners during the interregnum period were typically either current council members or men who had previously served as council members or office-holders in the burgh. This was the case, for example, with Sir Robert Farquhar, who was the sitting provost and a former master of kirk works, when elected as a commissioner to parliament twice in 1651.¹⁷² Where the commissioner had served on the council, he had always done so as a member of the merchant community rather than as a representative of the crafts.

There is a sufficiently high coincidence of members of the council acting in this capacity to suggest that the standard practice was for the nomination process to draw from those sitting thereupon or otherwise formally associated with the council. However, occasionally a commissioner was elected who does not appear to have had that experience. One such man was James Sandilands, the town clerk. He served

168 *Council Register*, CA/1/1/53(1), p. 391.

169 Davies, *The Restoration of Charles II*, p. 215; John Young, *The Scottish Parliament, 1639–61: A Political and Constitutional Analysis* (Edinburgh, 1996), p. 298.

170 *Council Register*, CA/1/1/54, p. 146.

171 *Council Register*, CA/1/1/53(1), p. 460.

172 *Ibid.*, pp. 301, 309.

as a commissioner to Edinburgh to discuss the town's excise in 1655, and served as a commissioner jointly with John Jaffray, at that time a bailie, to attend the 1656 Convention of the Burghs in Haddington.¹⁷³ Similarly, Robert Petrie had yet to serve on the council when elected to represent the town at the Convention of the Burghs in Edinburgh in 1659, albeit he was elected to the council in 1660.

Contextualising these findings within national trends suggests that Aberdeen may have been unusual with respect to those who were elected to represent the town as commissioners during the interregnum. John Young's examination of the representatives to the Cromwellian Parliaments from 1653 to 1659 concluded that there was a high degree of English influence over the thirty seats allocated to Scotland, and that a high proportion of those men "held either military or civil office in Scotland under the regime".¹⁷⁴ Of the representatives who were Scots, there was a degree of relationship between those who had been involved with the negotiations of political incorporation or "enjoyed employment in an office of trust under the regime".¹⁷⁵ In the 1659 elections to Richard Cromwell's parliament, "of the 17 Englishmen elected in their own right, all were either army officers, had connections with the Protectoral interest in England or had connections with the civil administration in Scotland".¹⁷⁶ The Scottish members elected in 1659 had been closely associated with previous Cromwellian parliaments, with "six of the 11 Scots elected [having] served in either or both of the First and Second Protectorate Parliaments".¹⁷⁷ James Casada's detailed study of Richard Cromwell's parliament has likewise illustrated that elected commissioners tended to be army officers or those who had personal or family connections with influential men in either England or Scotland.¹⁷⁸ Aberdeen's reliance on its council and those affiliated with it may indicate that the town perhaps did not suffer from the same issues as Casada has identified with the elected commissioners more generally, namely that they did not adequately represent Scottish interests.¹⁷⁹

Aberdeen's practice of relying on its council members to serve as commissioners to parliament and other bodies does, however, appear to have been consistent with widespread practice before the interregnum. Studies which have examined representatives to the Scottish Parliaments in the pre-interregnum period demonstrate the considerable divergence in elections for commissioners. Margaret Young's historical assessment of the social status of commissioners to the Scottish Parliaments in the seventeenth century has shown that these posts were mostly filled by lairds, followed by burghesses, thereafter merchants, and then lawyers as the fourth most commonly occurring group.¹⁸⁰ John Young has additionally examined those elected before the Scottish Parliaments from 1639 to 1661, outlining the composition of various sessions and the propensity to elect nobles and burghesses.¹⁸¹

173 Ibid., p. 488.

174 Young, *The Scottish Parliament, 1639–61*, p. 299.

175 Ibid.

176 Ibid., p. 300.

177 Ibid.

178 Casada, "The Scottish representatives in Richard Cromwell's parliament", 137.

179 Ibid.

180 Margaret Young (ed.), *The Parliament of Scotland: Burgh and Shire Commissioners*, 2 vols (Edinburgh, 1992–3), p. 816.

181 See also the detailed study in Young, *The Scottish Parliament, 1639–61*.

CONCLUSIONS, AND ELECTIONS INTO THE RESTORATION ERA

This article has established the framework of elections which operated in early modern Aberdeen and the extent to which this was both interrupted and upheld during the turbulent periods of the Civil Wars and interregnum. With the exception of occasional interruptions to the normal cycle of elections as explicitly required by the government, particularly during the interregnum, it is remarkable that Aberdeen appears to have adhered closely to its earlier electoral framework. That framework, established in the 1590s during a period of local political strife, would appear to have quickly become integral to local governance in advance of the interregnum and allowed the burgh to remain largely free of some of the disputes arising over other local elections in the early years of the seventeenth century.

During the interregnum, Aberdeen was predisposed to peaceful implementation of the new government's policy, having been occupied by the Commonwealth army in the final months of 1651. Nonetheless, after the initial turbulence of the beginning of the interregnum period, the 1590s framework continued to be implemented, allowing continuity of representation from within the burgh's political elite and merchant class, even when across Scotland more generally this became at least partially undermined, and a greater reliance on military men has been found in previous research.¹⁸² However, Aberdeen's stability also reflects a wider context of remarkable continuity of practice at the local governmental level during the Protectorate. While the focus of scholarly attention has often been on the replacement of the traditional institutions of national government, including the Scottish Parliament and Court of Session,¹⁸³ local burghs' governing structures and their assembly – the Convention of the Burghs – remained remarkably constant during this period.

Aberdeen's election framework also appears to have remained unchanged in substantive terms at the Restoration. On 30 May 1660, the provost, bailies and council noted the anticipated return of the monarchy "to the great rejoicing of their hearts".¹⁸⁴ The next election, on 26 September 1660, reinforces the impression of the continuity and importance of Aberdeen's electoral framework. That election conformed to the procedure, language and form used previously, with one important addition. The explicit reference to the arbitration agreements of the 1590s and the acts of parliament which set the regulatory framework was supplemented by further reference to an instruction received at the Convention of the Burghs from the Lord Chancellor. It required that, at the next election, only those who had shown "fidelitie and Loyaltie towards his majestie" could be elected.¹⁸⁵ Further, any person who had "contr[ey]ved or subscrivrit the remonstrance" or committed seditious practices towards "his ma[jes]ties peace" could not "be admittit to any place" upon the council

182 See e.g. Casada, "The Scottish representatives in Richard Cromwell's parliament", 137.

183 On this, see Ford, *Law and Opinion*, ch. 2.

184 Translation: "to the great rejoicing of their hearts". *Council Register*, CA/1/1/54, p. 173.

185 Translation: "fidelity and loyalty towards his majesty". *Ibid.*, p. 214.

or hold any office.¹⁸⁶ This was one of the strongest instructions given to the council for the conduct of its elections since the 1590s.

The election of the new council proceeded with the requisite framework observed. However, those additional restrictions did not usher in a change in the key political players. Instead, the returning council members followed much the same patterns as previously observed in the burgh. The council elected as provost Gilbert Gray, who had served as bailie the year before. Further, two eldermen are listed on the council, Sir Robert Farquhar and John Jaffray. Both men had served as provost and had frequently been council members during the interregnum. Three of the four bailies elected (William Gray, Alexander Robertson and Alexander Alexander) had served on the interregnum council; the fourth (Robert Petrie) had been a commissioner on its behalf. This evidence suggests that, as with previous elections, the council was concerned to closely adhere to its then-established customs to ensure effective continuity of governance.

Indeed, even into the late seventeenth century, the precise procedural mechanisms used in elections adhered closely, and explicitly, to what was set down in the 1590s arbitral decrees. The description of the town's election process in a source from 1685 shows that a remarkable continuity of process persisted throughout the early modern period:

the Roll of our whole *Brethren of Gild* [i.e. Guild] being first read at every Election of the *Council*, which holds upon the *Wednesday* before *Michaelmess-day*, there being a large Catalogue drawn up of all the *Brethren of Gild* amongst us, every Person (whom any of the *Old-Councill* desires to be lifted among these out of whom the *New-Councill* is to be chosen) is presently set down in that new list, and when the list is compleated, by the reading over the whole *Brethren of Gild* of the *Town*, there is an indefinit number set down upon a large sheet of Paper, with lines drawn after every one of their names, and this is given to the present *Provost, Bailies*, and whole *Old-Councill*, that every one may make choise of thirteen *Brethren of Gild* to be named for the *New-Councill* for the year to come, and most *Votes* or *Marks* make up the number.

Next, they of the *Old-Councill* choose out of their own number four, who are called the *Old-four*, which being added to the former thirteen, make up the number of seventeen *Brethren of Gild*. And lastly, having got the Roll of all the present *Deacons of Trades*, there are two of these *Deacons* chosen which make up the compleit number of nineteen for the *Councill* the year ensuing.

The new chosen *Counsellors* being all sent for, and come in the afternoon, the whole *Old* and *New-Council* [*sic*] with the six *Deacons of Trades*, and the four *Deacons* of the *Old* and *New Council*, which make up ten *Deacons of Trades* and thirty *Brethren of Gild*, making up in all, the number of 40 *Votes*, they al-together choose first the *Provest* [*sic*]: then four *Bailies*, a *Dean of Gild*, a *Thesaurer* [i.e. Treasurer], a *Master of the Kirk-work* and *Bridge work*, a *Master of the Mortified Moneys* [,] a *Master of the Gild Hospital*, a *Master of the Shoar* [i.e. Shore], called *Master of the Impost*, and six single *Counsellors* who bear no Office, but sit and Vote in all Effairs that come before the *Councill* with the two new *Deacons of Trades*. If in this Election

186 Translation: "contrived or subscribed the remonstrance ... be admitted to any place". Ibid., pp. 214–15.

there fall to be one having equall Votes, the *Provest* [*sic*] in this caice [i.e. case] hath the casting Vote.

This way of Election was determined by the *Convention of Burghs*, and ratified and approved by *King James the sixth*, after the difference that fell out at the *Common-Cause* 1593.¹⁸⁷

It is noteworthy that, over the course of a century of significant national political turbulence, including the Civil Wars, interregnum and Restoration, the town's electoral framework as set down in the 1590s remained largely undisturbed.

187 *A Succinct Survey of the Famous City of Aberdeen, with its Situation, Description, Antiquity, Fidelity and Loyalty to their Sovereignes*, in *Memorialls for the Government of the Royall Burghs in Scotland* (Aberdeen: for John Forbes, 1685), pp. 226–8.

APPENDIX I: 1592 ARBITRATION

Council Register, CA/1/1/34(2), pp. 552–4

We James be the grace of god king of Scottis owisman [... and twelve men as ...] arbitrators and amicable compositors chosin and acceptand be vertew of the designatioun abak subscriuit be Thomas mengzeis apperand off durne Alexander Rutherfurd Maister Dauid Rutherfurd Dauid mengzeis younger Robert mengzeis elder and Maister Robert chalmers burges of the burgh off abirdene for thame selffis and tacking the burding upon thame for the remanent auld and new consall off the said burgh off abirdene Magistrattis and officemen oof the samen on the ane pairt And be william gray Robert stewart alexander owin Maister Johne cheyne Alexander stewart and Johne merser burges and craftismen of the said burgh off abirdene r[ipl]ie for thame selffis and tackand the burding upon thame for the remanent thair nighbors of the said burgh off abirdene on the wther pairt Anent the election off the consall prouest Bailleis deane of gild f Thesaurer and wther officemen of the said burgh off abird[een] for this yeir and in tyme c[om]ming And anent all actionis and s[om]moneis of suspensioun exemptioun and l[ette]res usit or depending befor the Lordis of consall be ather of the saidis pairteis aganis wtheris concerning the same as the said designatioun beris having hard sene and aduysitlie considerit the richtis clames ressonis and allegationis of bayth the saidis pairteis and being ryplie weil and naturelie advysit thamsel[ves] haffing god and guid conscience befor or eyis for quieting and setling off the contraversies and debattis that is and hes bene betuix the saidis pairteis concerning the said electioun ffindis pronuncis and decernis all agreing in ane voice but variance or discrepance That the said Thomas Mengzeis Salbe prouest of the said burgh off abirdene for this yeir William mengzeis Maister Patrik cheyne george forbes and willeam gray bailleis off the said burgh Maister Richard Irwyng deane of gild of the said burgh and Dauid cargill thesaurer, Dauid fergissone Alexander Rutherfurd Johne collyson Alexander cullen willeam Jack Alexander ewyn James Settoun Andro Scherar Thomas duve Robert Mengzeis James Robertson goldsmyth and Alexander Stewin baxter tua of the craftis of the samen to be consall, Quhillkis persones aboue specefait to be prouest bailleis thesaurer deane off gild and counsallors off the said burgh for this yeir replie as sadis we hauff electit nominat and chosin and be thir p[ar]tis electis nominattis and choisis and decernis and ordanis ilk ane of thame to accept In and wpon thame the saidis offices replie for this yeir and to gif thair aythis *de fidei administratione* theiranent Judicialle befor the [com]miss[a]r off abirdene to remain and abyd theiron dewlie as afferie quhill wednesday Immediatlie preceding michielmes nixt t[er]mis In the yeir of god [15] fourscore threttene yeris quhill is the ordinar daye off electioun And all wther p[re]sent magistrattis and consall To desist and ceas from all melling theirw[ri]t[h] in tyme c[om]ming under the paynis of horning simp[licite]r, And that in all tymes c[om]ming the ac[t]is¹⁸⁸ of parliament anent the electioun of magistrattis consall and officemen w[ri]t[h]in burgh be preceislie observit, And sicl[i]k[e] we find and decerne with expres consent and assent off bayth the said[is] p[ar]ties That all and quhats[ome]ver electionis Is or hes bene maid be ather of thame this yeir Togidder

188 Smudged, so possibly spelled “acttis”.

with all l[ett]e[rs] of horning ex-emptionis suspensionis or chargis quhats[ome]ver rasit usit or execut be ather of the saidis pairteis or thair collegis or wth[eri]s wpon thair information[is] concerning the electioun of thair magistrattis officemen and consall or staying of the same for this yeir fourscur tuelff rasit or execut agains wtheris preceding the dait heirow and haill executionis theirow reg[iste]rat in the sh[e]ref court¹⁸⁹ buikis of abirdene or wtheris quhats[ome]ver Is hes bene and salbe in all tymes c[om]ming null *ab Initio simp[licite]r* dischargit and deleit furth of the said[is] buikis with all that hes folowit or may folow th[ei]rvpon and this to stand as ane Inviolabill appoyntmen[t] and law not obstant quhats[om]ever l[ett]er[s] purchest or to be purchest in the contrar And for the mair securitie anent the promiss We with expres consent and assent of bayth the sadis pairteis Decerne thir p[ar]tis to be Ins[er]t and registrat in the b[u]ikis of counsall and sessioun To have the strenth of ane Judiciall decret th[ere]off with l[ette]res of horning to be direct th[ere]vpon wpon ane simple charge off Sex dayis And to that effect makis and constitutis Masteris Johne russell and Johne nicolsone aduocattis co[n]junc[t]lie and severallie our werray lafull and Irreuocabill pro[urato]rs *In uberrima constitutionis forma* hauldand ferme and stabill Be thir presentis Subscryvit with our handis as also with the ha[n]dis¹⁹⁰ of the saidis pairteis In takin of thair homol[og]atioun and authorizement of the samen and prorogatioun of the said designatioun quhairby the filling of thir presentis with our decret was continewit to this daye with consent of bayth the said[is] pairteis Day, yeir and place foresaidis.

APPENDIX II: 1596 DECREE

Council Register, CA/1/1/36, pp. 565–6

AT abirdene the fyft day of Julij The yeir of god [15] fourscur and Sextene yeris The Quhilk day In presence of the co[m]missionaris of burrowis under subscryvnd being convenit in thair generall conventioun hauldin at the said burght Comperit Thomas Menzeis of durne prouest of the said burght of abirdene and alexander Rutherford co[m]missionaris for the said burght on that ane pairt, And Mathow guylde dekyn of the hammermen Johne kempt dekyn of the baxteris dauid watsone dekyn of the Taily[ors] dauid Castell dekyn of the wobsteris Johne Mers[er] saidler Alex[ander] stevin baxter Procurators and havand power of the reminent dekyntis and brether[n] of the craftis of the said burgh for thame selffis and tackand the burding upon thame for the remanent bretheren of the craftis of the said burght on that uther pairt, And submittit thame selffis to the amicable decision of the said[is] co[m]missionaris of burrowis anent the difference and questioun betuixt the sadis pairteis concerning the m[an]ner of the craftismen of the said burght quhilk suld have voit yeirlye in electioun of the magistrattis of the samen at the fast of michaelmes And quhats[om]euer the saidis co[m]missionaris of burrowis suld decerne tharinall, Promeist to hauld the samyn ferme and stabill but revocatioun and war content that thair decret to be gevin in the said mater sall be Insert and registrat in the buikis of counsall or co[m]miss[ar]is buikis off abirdene with executioun of horning upon ten dayes

189 Smudged but legible.

190 Smudged.

warning to pae therupon, And the said[is] co[m]missionaris of burrowis having hard bayth the saidis pairteis, Efter reasoning and debating of the said mater amangis thame selffis, ffindis and delyveris and in amicabill wayes decerns and ordanis That in all tyme cu[m]ming yeirlie and ilk yeir the tyme of the electioun of the said[is] magistrattis thair salbe tua craftismen of the auld counsall and tua of the new counsall with the sex dekynis of craftis of the said burght allan[e]rlie quhilk sallbe ten personis in m[a]nner for the said[is] craftis and na ma To have voit in the yeirlie ch[o]sing at michaelmes of the Prouest Bailleis dean of gild and thesaurer, And Incace any of the saidis Ten personis sall happin to be absent the day of the electioun, It salbe lesum to the remanent of the said[is] craftis having voit in the electioun as said is and being present, To ch[o]is and put ane qualefeit persone or persones in place of thame that sall happin to be absent to have voit as gif the p[er]sones absent war personallie present, And gif it sall happin ony of the prouest Bailleis dean of gild thesaurer and counsall of the said burght auld and new (by the said[is] craftismen) quhilkis sall not exceid the maner of Thetie¹⁹¹ persones by the prouostis od voit quhilk mackis thetie¹⁹² ^ ane¹⁹³ ^ voitis in the hail for the pairt of the gild bretheren to be absent the said tyme of electioun In that cace it salbe lesum to th[er] said[is] prouest baill[e]is dean of gild Thesaurer and counsall quha salbe present, To elect ane uther persone ^ or persones¹⁹⁴ ^ acording to the m[a]nner of thame that salbe absent to gif f voit at the said electioun in and be all thingis as gif thay had bene all present that hes voit ordnairlie, And this decreit thay decerne and ordane to be insert and registrat in the buikiss and in maner abuve specefeit. [...]

191 This word corrected from “Tue[n]tie” by a later hand, and the next word (now illegible) deleted.

192 This word corrected from “tue[n]tie” by a later hand.

193 This word inserted interlinearly and the previous word (possibly “aucht”) deleted by a later hand.

194 Inserted in the margin by the same scribe.