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Statehood and lordship in ‘Scotland’ before the mid-twelfth century

ABSTRACT

Discussions of medieval statehood are guided (explicitly or implicitly) by the work of social scientists. The exiguous sources for studying Scotland in the central middle ages offers an opportunity to approach the question of statehood in a new way that depends more on the creative potential of arts and humanities. Social sciences remain crucial for understanding statehood. Instead of being guided by them during the research, however, the medieval material can itself become the basis for a dialogue with formulations of statehood by social scientists, or by historians drawing on social science. The focus is on ‘Scotland’ (the country between the Forth and the Spey), examining the basis of secular authority in local lordship, and how this underpinned the mobilisation of society for the sake of safeguarding its peace and security. This includes a consideration of the power of lordly kindreds, the lands assigned to the offices of *mormaer* and king, and the changing relationship of lords to individual settlements, and how this could underlie the transition from *pett* to *baile* in place names *c.*1100. As a result, a fresh view is taken on the antecedents of earldoms and the nature of shires, and on the role of the *mormaer*.

KEYWORDS

Statehood, kingship, *mormaership*, thane, *cáin/cuit*, lordship, shire, thanage, parish formation, common burdens.

That the only scholars who have published studies of the early Scottish kingdom as a state are medieval Scottish historians and archaeologists is not surprising.¹ The principal reason why historians, in particular, have been wary or unconvinced is not hard to guess. Alexander Grant, who in three articles has promoted a powerful vision of an early Scottish state, referred with gratitude to ‘the remarkable struggles with intractable material’ by generations of scholars, whose work he built on.² However remarkable these struggles may be, they cannot alter the chief problem, which is a chronic lack of sources.³ As far as the historic core of the Scottish kingdom north of the Forth is concerned, the only documents written there that survive for the tenth and eleventh centuries in any form are some property records and a brief chronicle-cum-regnal list: the property-records represent, on the most generous reckoning, 34

¹ A pioneering example of an archaeological approach is Stephen T. Driscoll, ‘The archaeology of state formation in Scotland’, in *Scottish Archaeology: New Perceptions*, ed. W. S. Hanson and E. A. Slater (Aberdeen, 1991), 81–111. Among historians who have not written specifically on medieval Scotland, Wendy Davies has considered the early Scottish kingdom in a comparative context: Wendy Davies, ‘States and non-states in the Celtic world’, in *Der frühmittelalterliche Staat – europäische Perspektiven*, ed. Walter Pohl and Veronika Wieser (Vienna, 2009), 155–70. Not unnaturally, however, she depends on the work of Scottish historians (although she does not refer to Alexander Grant’s work cited in the next note).

² Alexander Grant, ‘The construction of the early Scottish state’, in *The Medieval State: essays presented to James Campbell*, ed. J. R. Maddicott and D. M. Palliser (London, 2000), 47–71, at 47. The other articles are Alexander Grant, ‘Thanes and thanages from the eleventh to the fourteenth centuries’, in *Medieval Scotland: Crown, Lordship and Community. Essays presented to G. W. S. Barrow*, ed. Alexander Grant and Keith J. Stringer (Edinburgh, 1993), 39–81, and Alexander Grant, ‘Franchises north of the border: baronies and regalities in medieval Scotland’, in *Liberties and Identities in the Medieval British Isles*, ed. M. Prestwich (Woodbridge, 2008), 155–99.

³ A point emphasised in a comparative context in Davies, ‘States and non-states’, 158.

transactions (almost all in the eleventh century),⁴ and the chronicle includes (again on the most generous reckoning) a total of 34 contemporary items relating to kings of Scots or people in Scotland in the tenth century.⁵ Irish and English chronicles occasionally include information relating to Scotland; some of this may have originated in the Scottish kingdom.⁶ This can be supplemented a little by texts that are more literary or historiographical in nature.⁷ The sum total of material at historians' disposal within their own discipline is, nonetheless, distressingly meagre. This naturally makes it difficult to say anything that will appeal to anyone used to a steadier diet of sources. The famine of material is also in itself a worrying sign that 'statehood' was effectively non-existent: as Chris Wickham has delicately observed, 'it is hard not to feel that the near-total absence of documentation for it [the Scottish kingdom] betrays a relative evanescence of royal authority'.⁸ In this article I will not claim that the Scottish kingdom is, nonetheless, a precocious example of a medieval state. Instead, I will argue the meagre diet of sources provides an opportunity to explore new ways of thinking about medieval 'statehood'.

I. A NEW APPROACH TO MEDIEVAL STATEHOOD

Medieval historians of 'statehood' are, of course, primarily interested in understanding medieval polities as such in all their variety rather than as preliminaries to 'fully-fledged'

⁴ Katherine Forsyth, Dauvit Broun and Thomas Owen Clancy, 'The property records: text and translation', in *Studies on the Book of Deer*, ed. Katherine Forsyth (Dublin, 2008), 131–44, at 136–9; *Liber Cartarum Prioratus Sancti Andree in Scotia. E registro ipso in archivis baronum de Panmure hodie asservato*, ed. Thomas Thomson (Edinburgh, 1841), 12, 113–18 (the property records of the Céili Dé of St Serf's Isle, Loch Leven). The figure strains the evidence to its limits, however, by assuming that all the transactions involving the sons of Mael Coluim III for St Serf's Isle were before 1101; that none of II.1–14 in the Deer records is twelfth century; that those transactions expressed in the Deer records as joint acts were, in fact, separate; and that each transaction involved only item, even when two or three are presented as a single donation in the property records. An extreme minimal figure is twenty transactions.

⁵ The 'Chronicle of the Kings of Alba': Benjamin T. Hudson, 'The Scottish Chronicle', *SHR* 77 (1998), 129–61; David N. Dumville, 'The Chronicle of the Kings of Alba', in *Kings, Clerics and Chronicles in Scotland, 500–1297*, ed. Simon Taylor (Dublin, 2000), 73–86.

⁶ Dauvit Broun, 'Dunkeld and the origin of Scottish identity', *Innes Review* 48 (1997), 112–24 (reprinted in *Spes Scotorum: Hope of Scots*, ed. Dauvit Broun and Thomas Owen Clancy (Edinburgh, 1999), 95–111); Alex Woolf, 'Reporting Scotland in the Anglo-Saxon Chronicle', in *Rereading the Anglo-Saxon Chronicle: Language, Literature, History*, ed. A. Jorgensen (Turnhout, 2010), 221–39.

⁷ Such as the royal genealogy, king-lists and the Life of Catròe. On the latter, see David N. Dumville, 'St Cathróe of Metz and the hagiography of exoticism', in *Studies in Irish Hagiography: Saints and Scholars*, ed. John Carey, Máire Herbert, and Pádraig Ó Riain (Dublin, 2001), 172–88. On the king-lists and royal genealogy, see Dauvit Broun, *The Irish Identity of the Kingdom of the Scots in the Twelfth and Thirteenth Centuries* (Woodbridge, 1999), 133–64, 174–93, and Dauvit Broun, 'The genealogical 'tractates' associated with *Míniugud Senchusa fher nAlban*', *Northern Scotland*, 26. This volume (nominally for 2006) has yet to be published.

⁸ Chris Wickham, *The Inheritance of Rome. A History of Europe from 400 to 1000* (London, 2009), 495.

states in the modern era.⁹ Nevertheless, whenever they assess the nature and extent of the central control of society, the modern bureaucratic state is an inescapable presence as a (sometimes unspoken) point of reference. This is apparent, for example, in the way the term ‘state’ itself is used with greatest confidence in cases where there is clear evidence of centralisation (as in pre-conquest England), whereas if a polity lacks centralisation, it is at best an ‘embryo state’ ‘on a road to state development’.¹⁰ I intend here to develop a different approach which places the medieval material more firmly centre stage. Instead of pressing the medieval experience into ‘a proper comparative grid’¹¹ (interesting though that would undoubtedly be), the goal is to absorb the full glare of what Susan Reynolds has referred to (in another context) as the ‘otherwise dazzling oddities and varieties of medieval creatures’ that tend to be consigned to our peripheral vision.¹² The modern bureaucratic state will still have its inevitable presence when thinking about statehood. There is the potential, however, for the medieval material to contribute a distinct perspective rather than being viewed through the prism of the modern. This, in turn, could throw its own light on what is distinctive about the modern state itself.

This new approach to the ‘state’ could offer a way towards meeting both Rees Davies’s profound critique of the usefulness of the concept in the context of medieval history, and also Susan Reynolds’ defence of it. Rees Davies warned that ‘The danger of a reified and undifferentiated abstraction such as “the state” is that it blunts our chronological and contextual sensitivities, and for the historian these must be primary’.¹³ As far as he was concerned, ‘we need a tool of analysis which encompasses a unitary kingdom such as England or a polycentric realm such as the German *Reich*, the “city-states” of Italy and the Marcher lordships of Wales’.¹⁴ He proposed ‘lordship’, *dominium*, as the key: ‘if there is a ‘master noun’ in the medieval lexicon of power, it is surely this one’.¹⁵ Susan Reynolds, however, has objected that this would make it more difficult to include medieval structures in

⁹ See, for example, the 39 studies in *Der frühmittelalterliche Staat – europäische Perspektiven*, ed. Walter Pohl and Veronika Wieser, *Forschungen zur Geschichte des Mittelalters*, vol. 16 (Vienna, 2009).

¹⁰ Davies, ‘States and non-states’, 169.

¹¹ Matthew Innes, ‘Property, politics and the problem of the Carolingian state’, in *Der frühmittelalterliche Staat – europäische Perspektiven*, ed. Walter Pohl and Veronika Wieser (Vienna, 2009), 299–313, at 313.

¹² Susan Reynolds, *Fiefs and Vassals. The Medieval Evidence Reinterpreted* (Oxford, 1994), 11.

¹³ Rees Davies, ‘The medieval state: the tyranny of a concept?’, *Journal of Historical Sociology* 16 (2003), 280–300, at 294. At 287–8 he summarises the views of other medievalists (Cheyette, Geary, Bisson, Reuter, and also Thomas Charles-Edwards) who have problematized ‘state’ in a medieval – particularly pre-thirteenth century – context.

¹⁴ *Ibid.*, 295.

¹⁵ For further insights about lordship as a perspective on government see Thomas Bisson, ‘Medieval lordship’, *Speculum* 70 (1995), 743–59. I am grateful to Alice Taylor for suggesting this to me.

the history of statehood. She pointed out not only that lordship is ‘applied peculiarly to the middle ages’, but that it can refer to personal relations as well as governance, which would make it too ambiguous in discussing the medieval antecedents of the modern state.¹⁶ She maintained that the contribution of the Middle Ages to a wider discussion of state formation would only be feasible if medieval historians engaged explicitly with the concept of the ‘state’. A key difference between Davies and Reynolds was whether the concept of the ‘state’ could be deployed in a way that could do justice to the varied interplay between power and society in the Middle Ages. Davies was unconvinced that it could, whereas Reynolds was not.

Could history, as a discipline in which ‘contextual sensitivities’ (to use Davies’s phrase) are paramount, make a distinctive contribution to the wider discussion of statehood? If so, then this might satisfy fundamental elements of both Davies’s critique and Reynolds’ defence of the importance of the ‘state’ as a concept for medieval historians. The key consideration here is the extent to which the thinking underpinning the most significant work on statehood in the Middle Ages has been borrowed from other disciplines. Susan Reynolds herself, for example, took as her guide Weber’s hugely influential definition of the modern state as ‘a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory’.¹⁷ She broadened its applicability by modifying it slightly, defining the state as ‘an organization of human society within a more or less fixed area in which the ruler or governing body more or less successfully controls the legitimate use of physical force’.¹⁸

Recent major studies of medieval statehood

In the last decade a spectrum of dependence on disciplines in social science can be discerned in major studies of medieval statehood. The most fundamental and sophisticated is Chris Wickham’s monumental *Framing of the Middle Ages. Europe and the Mediterranean, 400–800* (published in 2005). Rather than taking Weber’s definition of the modern state as his

¹⁶ Susan Reynolds, ‘There were states in medieval Europe: a response to Rees Davies’, *Journal of Historical Sociology* 16 (2003), 550–5, at 554.

¹⁷ Weber articulated this not in a work devoted to the state as such, but in the preliminary part of a lecture on the sociology of politics as a profession, delivered in 1919. H. H. Gerth (trans.) and C. Wright Mills (ed.), *From Max Weber: Essays in Sociology*, with new preface by Bryan S. Turner (London, 2009), 77–128, at 78. This—the classic translation of the lecture—has been criticised in Jens Borchert, ‘From *Politik als Beruf* to *Politics as a Vocation*: the translation, transformation, and reception of Max Weber’s lecture’, *Contributions to the History of Concepts* 3 (2007), 42–70. He explains (52–4) that the title in English is problematic, and that sociologists give more attention to the second half (48–51).

¹⁸ Reynolds, ‘There were states in medieval Europe’, 551.

starting point, Wickham deployed Weber's 'ideal type' as the engine for his analysis of medieval statehood. Wickham explained that ideal types are 'abstractions from real phenomena in any given society, created solely for the purpose of comparison': the goal is not to establish a definition, but to provide a framework for highlighting key differences that would need to be explained.¹⁹ Wickham also drew on social sciences in identifying which elements to include in his ideal type of 'the form of the state'. He settled on 'five main criteria: (i) the centralization of legitimate enforceable authority ...; (ii) specialization of governmental roles, with[in] an [enduring] official hierarchy ...; (iii) the concept of public power; (iv) independent and stable resources for rulers; and (v) a class-based system of surplus-extraction and stratification'.²⁰ He explained that these were adapted from the work of a political anthropologist (Henri Claessen) and a historical sociologist (W. G. Runciman).²¹ The explanatory force of an ideal type depends on how convincingly its component parts are regarded as essentially interdependent.²² This is crucial if the absence of a particular criterion is to hold our attention as requiring an explanation. Wickham was keen to emphasise, nonetheless, that his interest was not in measuring whether particular polities qualified as 'states', but in articulating a pan-European view of early medieval statehood. He argued that, in the period up to 800, all these criteria were present in the post-Roman West (Francia, Visigothic Spain, Lombard Italy), but that one or more were absent in the North (with the possible exception of Mercia in the late eighth century). For him, in societies which lacked a legacy of Roman imperial power (either because this had vanished, as in Britain, or had never been established), 'fully fledged state structures' depended on 'effective, coercive, predominance by land-owning aristocrats – including kings – over the peasantry, and the subjection of the latter to economic dependence'.²³

Borrowings and adaptations from social sciences are not so obviously centre stage in Sverre Bagge's *From Viking Stronghold to Christian Kingdom. State Formation in Norway, c.900–1350*, published in 2010, another highly significant recent contribution to our understanding of medieval statehood. The influence of concepts originating in sociology is still fundamental, but there is no set of criteria as such. He explained that, for him, state formation is a 'relative concept, implying centralisation, bureaucratisation, development of

¹⁹ Chris Wickham, 'Problems in doing comparative history', in *Challenging the Boundaries of Medieval History: The Legacy of Timothy Reuter*, ed. Patricia Skinner (Leuven, 2009), 5–28, at 13.

²⁰ *Ibid.*, 303.

²¹ Chris Wickham, *Framing of the Middle Ages. Europe and the Mediterranean, 400–800* (Oxford, 2005), 57.

²² Reynolds, *Fiefs and Vassals*, 11.

²³ *Ibid.*, 305.

jurisdiction, monopoly or near monopoly of violence and so forth'. His chief concern was not to show whether medieval Norway can be regarded as a 'state' or not, but 'whether a process is going on in this direction'.²⁴ As a result, although an established understanding of statehood is kept in mind, the parameters of his discussion are more readily responsive to the historical material itself. This allowed him to articulate a distinctive comparative perspective, highlighting the impact of conversion to Christianity and the central role of the Church, and also the 'role of the people in state formation' as opposed to professional warriors. He concluded that Norway was an example of 'fairly advanced, but "soft" state formation' that had less capacity to be coercive: 'once a strong power established itself[,] [Norway] could be kept without too much violence but gave relatively little surplus, which in turn meant that the most profitable way to govern it was with some degree of consent from the population and by making use of its services'.²⁵

A more radical departure in the study of medieval state formation is, however, on the horizon, and brings us back to Scotland: Alice Taylor's *The Shape of the State in Medieval Scotland, 1124–1290*, which is due to appear late this year or early in 2016. The motifs bequeathed by social science – centralisation, bureaucratisation, the development of jurisdiction, the control of violence – are introduced, but are transformed by a penetratingly original analysis of the available material. The result is an understanding of 'statehood' that relates to lordship in a way that Davies could not have anticipated. For example, Alice Taylor shows that 'the development of royal administrative institutions did not transform aristocratic power into some other form of power, which was expressed in different ways from that of the king'; 'aristocratic power in Scotland was a formal part of royal governmental ambitions: the institutions of royal government developed with and alongside the jurisdictional power that kings expected aristocrats to exercise in their own lands'. As a result, '[t]he dynamic between central and local, not that between aristocratic and royal, should accordingly be the basis of any future comparative history of states in Europe during the central Middle Ages.'²⁶ Here we have the emergence of a new approach that is not governed by definitions adapted or subsumed from social science. Like Sverre Bagge's study, it is based on a fresh engagement with the sources, both as text and manuscript. This is crucial for maximising the potential to

²⁴ Sverre Bagge, *From Viking Stronghold to Christian Kingdom. State Formation in Norway, c.900–1350* (Copenhagen, 2010), 12.

²⁵ *Ibid.*, 13.

²⁶ Alice Taylor, *The Shape of the State in Medieval Scotland, 1124–1290* (Oxford, forthcoming), conclusion. I am very grateful to Dr Taylor for giving me access to this before publication.

yield unexpected insights in a way other disciplines cannot: to do otherwise is to risk unknowingly perpetuating the (occasionally unspoken) assumptions of other scholars.²⁷ But Alice Taylor takes this further by using the particularities of the Scottish material to develop a new understanding of medieval statehood itself governed by ‘contextual sensitivities’, as Davies insisted it should be.

The methodological opportunities of medieval Scottish history

A key feature of Alice Taylor’s work is that, time and again, her innovative understanding of statehood hinges on an overlooked word or phrase, or on seeing sense in the untidy arrangement of a text or in an apparent contradiction. It is from these fragments and insights, more than anything else, that she is able to create her innovative vision of how a Scottish state began to emerge between the late twelfth and mid-thirteenth centuries, and how it functioned. It is natural, of course, to base a picture of the past not only on primary sources but on deep-seated expectations of what makes sense. The difference between Taylor’s vision and those of previous historians of medieval Scotland is that it arises more directly from the material itself. For example, it seemed obvious to assume that where there was a sheriff there would also be a sheriffdom.²⁸ Alice Taylor observed, however, that until the 1180s north of the Forth the word used for a sheriff’s domain was *potestas*, ‘power’; from the 1180s it was *ballia*, which signified an area of delegated authority.²⁹ Sheriffdoms as such were therefore a later development north of the Forth. It had also not been suspected previously that royal authority in one part of the kingdom’s inner zone would differ so fundamentally from the other, south of the Forth, where sheriffs exercised a form of regional jurisdiction – sometimes referred to as a *provincia* or *comitatus* – at least a generation earlier.³⁰ She also pointed out that there was a contradiction between a breve-charter which suggested that the king did not

²⁷ Fundamental assumptions can be particularly long lived, flowing unseen from intellectual springs that no-one nowadays would today turn to as a source of inspiration. Studies of this phenomenon in the context of medieval Scottish history are Matthew H. Hammond, ‘Ethnicity and the writing of medieval Scottish history’, *Scottish Historical Review* [hereafter *SHR*] 85 (2006), 1–27; and Dauvit Broun, ‘The property records in the Book of Deer as a source for early Scottish society’, in *Studies in the Book of Deer*, ed. Katherine Forsyth (Dublin, 2008), 313–60, at 315–26.

²⁸ For what follows, see Taylor, *The Shape of the State*, chapter 4.

²⁹ She pointed out that Perth is an exception, being referred to as a *vicecomitatus* by David I. Perth’s particular prominence is not only apparent as the earliest town north of the Forth, but by the fact that Perthshire, when this took shape, was the only sheriffdom between the Forth and the Mounth to include more than a single province: it included Atholl, Strathearn, Gowrie and Stormont. It also included Menteith, but that was arguably a later creation formed out of part of Strathearn: for this, and Stormont as a province, see Broun, ‘The origins of the *mormaer*’.

³⁰ Taylor points out that the variety of terminology for sheriffdoms south of the Forth suggests that they were not uniform in nature.

have royal justices north of the Forth, and two other brieve-charters from the same period (1161 × 1164), one addressed to a justice of Fife and the other to a justice of ‘Scotland’ (north of the Forth).³¹ How could royal justices be both absent and present at the same time? She concluded, therefore, that in these instances, ‘justice of Fife’ and ‘justice of ‘Scotland’ referred not to a justice of the kind attested south of the Forth (and, from the 1170s, north of the Forth), but to a regional or local lawman – the *brithem* (*judex* in Latin) – attested north of the Forth throughout the twelfth century (and beyond) who was not a royal appointee but held office by virtue of a combination of heredity and expertise. As a result, Taylor’s picture of a more limited structure of royal authority north of the Forth compared to south of the Forth comes more tightly into focus.

In general terms it can be said that, when a scholar not only notices inexplicable detail, but can construct a compelling scenario that enables texts to be understood as they stand, without alteration, there is potential to create a fundamentally different portrayal of the past. The power of this new picture lies, above all, in the way it has been generated from material that has hitherto been obscured by how we think about the past. The starting point is a textual puzzle, not an explanatory construct. It is more often discovered by chance than by working on a specific issue of historical controversy. The greatest opportunities for scholars to gain experience of this approach, and appreciate first hand its radical potential, is where textual material is meagre and contradictory. It is possible to grasp all the relevant detail with a critical awareness of how it was produced and survives and – with a dose of courage and imagination – to engage with its puzzles and peculiarities. In these circumstances the source-starved scholar of medieval Scotland is an object of envy rather than pity. It should not be surprising, therefore, that the study of Scottish history before *c.*1150, in particular, has been transformed in the last two decades by the unobtrusive application of this technique.³² Alice

³¹ *Regesta Regum Scottorum*, vol. 1, *The Acts of Malcolm IV, King of Scots, 1153–1165*, ed. G. W. S. Barrow (Edinburgh, 1960) [hereafter *RRS*, 1], nos 214, 223, 233. The context for the absence of a justice north of the Forth is the enforcement of teinds. Alice Taylor points to *ibid.*, no. 258, as clear evidence in this period that, south of the Forth in the diocese of Glasgow, a royal justice (*justicia mea*) was available for this purpose.

³² This is particularly true of Pictish history. A dramatic example is Alex Woolf, ‘Dún Nechtain, Fortriu and the geography of the Picts’, *SHR* 85 (2006), 182–201. Another is Dauvit Broun, ‘Pictish kings 761–839: integration with Dál Riata or separate development?’, in *The St Andrews Sarcophagus: a Pictish Masterpiece and its International Connections*, ed. Sally M. Foster (Dublin, 1998), 71–83. It is not restricted to Scottish history, of course: an example on an impressive scale is Thomas Charles-Edwards, *Early Christian Ireland* (Oxford, 2000); a notable Welsh example is John Reuben Davies, *The Book of Llandaf and the Norman Church in Wales* (Woodbridge, 2003). Two studies of this type in fairly extreme form (with fragments of evidence yielding substantial conjectures) have a direct bearing on lordship in Scotland in the eleventh and early twelfth centuries are Broun, ‘The property records in the Book of Deer’, and Dauvit Broun, ‘Re-examining *cáin* in Scotland in the twelfth and thirteenth centuries’, in *Princes, Prelates and Poets: Essays in Honour of Katharine Simms*, ed. Seán Duffy (Dublin, 2013), 46–62.

Taylor has deployed it consistently on the much larger canvas of twelfth- and thirteenth-century sources, building a full and vivid picture of a medieval state that no-one working on medieval Scottish history or on statehood could have anticipated. If this still betrays the tendency of national history to claim that its past is special, it is a form of being special that rests purely on the ingredients of history without precondition about its results. It is surely no coincidence that Alex Woolf and James Fraser, dealing with Scotland from the end of the Roman empire to the eleventh century, have developed a new ‘transnational’ vision of national history.³³

The intimate approach to sources stripped of preconceptions about the past, as deployed by Alice Taylor and by recent historians of early medieval Scotland, can readily be recognised as Carlo Ginzburg’s ‘conjectural mode’ of knowledge. He argued that all humans, at least from the time when we were hunter-gatherers, have an innate ability to create a picture in our minds of an unseen reality on the basis of the clues left involuntarily by what we seek. He saw essentially the same process at work in the attribution of a painting to an artist on the basis of details in the depiction of ears and hands, in the doctor’s ability to diagnose a disease from a few symptoms, and in the deductive method of Sherlock Holmes. Ginzburg explained that, in all these examples, ‘tiny details provide the key to a deeper reality, inaccessible by other methods’.³⁴ Although the ability to extrapolate a picture of something unseen and unknowable from tiny detail is innate, it is a highly developed skill when practiced by the primeval hunter, the art expert, the doctor and the detective.³⁵ Ginzburg argued that the ‘conjectural mode’ based on an ability to detect clues was the (unspoken) basis for many disciplines in the arts and humanities – including history. In science, the objective is to eliminate chance and the individual; results are only valid if they can be repeated and measured. For Ginzburg, however, history is ‘irremediably based on the concrete’; ‘their strategy of finding things out . . . is basically about particular cases’.³⁶ He argued that the origin of history as a discipline ‘based on the reading of signs . . . cannot be hidden, in spite of the ever-closer bonds linking it to the social sciences’.³⁷

³³ Alex Woolf, *From Pictland to Alba, 789–1070* (Edinburgh, 2007); James E. Fraser, *From Caledonia to Pictland. Scotland to 795* (Edinburgh, 2009).

³⁴ Carlo Ginzburg, trans. Anna Devlin, ‘Morelli, Freud and Sherlock Holmes: clues and scientific method’, *History Workshop* 9 (1980), 5–36, at 11.

³⁵ Ginzburg, however, emphasised the importance of what he referred to as ‘low intuition’: Ginzburg, ‘Morelli, Freud and Sherlock Holmes’, 28–9.

³⁶ *Ibid.*, 16.

³⁷ *Ibid.*, 15.

Seen in this light, medieval Scottish history is particularly suited as a test bed for developing a perspective that is generated independently of social sciences. Not only is it true to the spirit of Ginzburg's approach by taking an individual example (Scotland) as a way of thinking about something larger and unseen (such as an abstraction like 'statehood'), but Scottish history itself is particularly susceptible to being formed from exactly the kind of tiny involuntary clues that Ginzburg highlighted. The discussion of lordship and the exercise of secular authority in a region of Scotland before *c.*1150 that follows is imagined solely from the sources as we find them, in all their awkward detail, and with limited influence from knowledge of better attested societies. It is also deeply indebted to Alice Taylor's work on earls and her editions of legal texts from the second half of the twelfth and first half of the thirteenth centuries.³⁸ Another key source has been the recent survey of the place names of Fife by Simon Taylor with Gilbert Márkus.³⁹ Taylor's pioneering approach to the place-name evidence through its historical context means that this work is rich in easily overlooked detail: the survey of the lands of the earl of Fife in 1294 and the discussion of the place-name elements 'shire', *pett* and *baile* have been crucial for my discussion of lordship which follows below.

My principal objective is to arrive at a picture of the early Scottish polity in the eleventh and early twelfth centuries that is itself consistent with the individual scenarios that are conjectured from the ill-matched fragments which survive from the period. This inevitably involves taking a different view from the current consensus on the early Scottish state and pre-twelfth-century lordship: a consensus based on impressive works of synthesis that focus on what is common across diverse periods and places. What follows, by contrast, is driven by individual detail, placing anything puzzling and perplexing centre stage. It cannot be regarded as the last word on the subject, of course: there are bound to be clues and contradictions that I have overlooked, and which could lead someone else, picking up on them, to develop a different picture of lordship and the exercise of secular authority in Scotland before the mid-twelfth century.

³⁸ Alice Taylor, 'Leges Scocie and the lawcodes of David I, William the Lion, and Alexander II', *SHR* 88 (2009), 207–88; Alice Taylor, 'The Assizes of David I, king of Scots 1124–53', *SHR* 91 (2012), 197–238; Alice Taylor, 'Common burdens in the *regnum Scottorum*: the evidence of charter diplomatic', in *The Reality Behind Charter Diplomatic in Anglo-Norman Britain*, ed. Dauvit Broun (Glasgow, 2011), 166–234; and her chapter on earls and earldoms in a planned volume of essays, *The Earl in Medieval Britain*, ed. David Crouch and Hugh Doherty: I am very grateful to Dr Taylor for giving me access to this before publication. See also Taylor, *The Shape of the State*, chapters 1 and 2.

³⁹ Simon Taylor with Gilbert Márkus, *The Place-Names of Fife*, 5 vols (Donington, 2006–12) (hereafter *PNF*).

A new approach to statehood

My detail-driven approach, however, will be insufficient on its own as a way of addressing a topic like statehood which, by definition, is not unique to a particular polity. Chris Wickham has made a powerful argument that comparison is essential for history as a discipline: his *Framing of the Early Middle Ages* is a tour de force of this kind of work.⁴⁰ It is nevertheless hardly feasible for one scholar to have the kind of intimate awareness of textual material across European history that has been demonstrated by Alice Taylor and others in engaging with medieval Scotland. Indeed, even the most compelling comparative history is necessarily closed, rather than open, in its approach to the past. Wickham's interest (like most historians) is in individual phenomena, but his focus is on those which vary from the ideal type; and the ideal type, in turn, is based not only on elements that are shared, but on how far the criteria are regarded – based on the work of social scientists – as being interdependent. The parameters of the enquiry are therefore constrained at the outset: this is fundamentally different from an approach which is driven by detail that is unpredictable and easily overlooked.⁴¹

On the face of it the solution would be for historians with an intimate knowledge of their country or region to exchange their findings. A collaboration on a particular theme, such as statehood, however, would surely require a comparative framework: all the more so if the intention, as urged by Susan Reynolds, is to share insights with scholars of other periods and disciplines. This would seem to draw us inevitably back to the 'ideal type' as a tried-and-tested approach to comparative studies.

As an experiment, however, I shall attempt an alternative method. One way of maintaining the focus on a common topic while moving away from social science and deeper into arts and humanities would be to think not in terms of criteria but what might be referred to as qualities of statehood, each derived directly from the medieval phenomena themselves and bringing us closer to the lived experience of being part of a polity. It should be stressed, however, that studying lordship and secular authority in a medieval context will not on its own lead us to

⁴⁰ Wickham, 'Problems in doing comparative history', 6.

⁴¹ This, to my mind, works against Wickham's proposition that ideal types can be regarded as examples of Ginzburg's diagnostic clues: Wickham, 'Problems in doing comparative history', 12–13. Wickham points out that the word Ginzburg (who wrote in Italian) used for clue, *spia*, has a wider range of meanings than 'clue', including 'informer' and 'spyhole'. An ideal type may, indeed, be likened to spyhole – man-made for the purpose of peeping revealingly on social activity – but Ginzburg uses *spia* specifically in the context of involuntary clues, which is quite different from a spyhole. The process that Ginzburg identifies as common to the primeval hunter, art expert, doctor, detective – and to history as a discipline – has no intermediary stage of interpretation between the *spia* itself as an independent observed phenomenon and the conjecture of the unseen reality that comes to mind on encountering the *spia*.

‘qualities of statehood’. These will only emerge at the end, once the picture that is formed of a medieval polity interacts in turn with Wickham’s ideal type, Weber’s definition of the modern state, and other formulations by social scientists or by historians drawing explicitly from social science. It is only this dialogue with social science that will enable the medieval material to address the issue of statehood. Instead of taking an ideal type and drawing into its net a range of case studies, therefore, the procedure is inverted so that each case study engages on its own terms with a range of ideal types or abstractions articulated in social science. The end result will be a series of qualities of statehood yielded initially by one case study, with the potential for many more to be articulated through a similar interaction between a medieval polity and social science. It should not be possible, therefore, to provide a convincing summary of qualities of statehood at the outset of a study, because these will only be meaningful once the reader has engaged with the exploration of the medieval material which lies at the heart of the final interaction with social science. It is, as ever, the interaction with social science that will give the individual studies their comparative substance; the engagement with social science, however, will take place at the end of the process, not at the outset. It may be anticipated that this approach will, if replicated in other case studies, result in the recognition of a wider range of medieval forms of political and social organisation as bearing a particular relationship with the modern state, deepening our understanding both of statehood itself, and of what is distinctive about its modern manifestations.

By allowing the flow of interpretation to be governed by the historical phenomena themselves, it will also be easier to give more space to the interplay of power and society that Davies wished to hold in the foreground. In the study of Scotland north of the Forth between c.900 and c.1150, which is the meat of this article, lordship will be given due emphasis as a key element in our understanding of how secular authority was sustained and exercised. The focus is on the material resources and practice of local, regional and regnal power, rather than on ideas of kingship and lordship: it is this that holds the greatest potential for interacting in detail with the explicit formulations of statehood developed by social scientists and by historians drawing on their work. It should be acknowledged, however, especially in the light of Sverre Bagge’s work, that the Church was a crucial dimension of kingship in particular; it should also be added that the idea of a Scottish kingdom was grounded in assumptions about secular authority and geography as well as (or even more so) than in structures of lordship.⁴²

⁴² The importance of geography in shaping ideas about ultimate secular authority in this period is a major theme in Dauvit Broun, *Scottish Independence and the Idea of Britain from the Picts to Alexander III* (Edinburgh,

All of this, too, has potential to interact with social science as well as other disciplines in arts and humanities, not least in thinking more broadly about the nature of public authority and ideas of nationhood.⁴³ This will not be ignored in this article.⁴⁴ In order to explore the potential of an approach to statehood based on qualities rather than criteria, however, the focus will be on the function and structure of local, regional and regnal power in practice.

II. PROVINCIAL POWER IN ‘SCOTLAND’ BEFORE THE MID-TWELFTH CENTURY

My particular focus is the core area of the Scottish kingdom, the region in the east, stretching about 120 miles from the Firth of Forth to the north coast of Aberdeenshire. This was known as ‘Scotland’ – *Scotia* or *Albania* in Latin. In Gaelic its inhabitants were *Albanaig* (which in this context means ‘inhabitants of *Alba*’).⁴⁵ The area had been Pictish, but by the early tenth century it had become predominantly (if not completely) Gaelic.⁴⁶ In crude geographic terms, it was roughly equivalent to Jutland, Normandy or Tuscany. It was from here that kings of Scots expanded their control southwards from c.960.⁴⁷ It is important to emphasise that the country known as ‘Scotland’ at this time was only part of the realm of the king of Scots (*rex Scottorum* in Latin, and *rí Alban* in Gaelic). He ruled at times over Moray in the north, and more regularly over Lothian in the south. The focus of this study, therefore, is not the kingdom as such, but a distinct territory (or ‘country’) that retained its separate identity until the thirteenth century. I will refer to it as ‘Scotland’, the modern English equivalent of Gaelic *Alba* and Latin *Scotia*: the idea that the kingdom as a whole was a single country called Scotland still lay in the future.⁴⁸ Strictly speaking, it is irrelevant for the purposes of this article that ‘Scotland’ in its earlier sense was a key component of what became a sovereign kingdom and a modern country, and it would still be useful as a case study if it did not have that connection with a form of statehood today. A different outcome may indeed be

2007). The potential centrality of the religious dimension of kingship is brought to the fore in Patrick Wormald, ‘The emergence of the *Regnum Scottorum*: a Carolingian hegemony?’, in *Scotland in Dark Age Britain*, ed. B. E. Crawford (St Andrews, 1996), 131–60.

⁴³ Dauvit Broun, ‘Rethinking Scottish origins’, in *Barbour’s Bruce and its Contexts: Politics, Chivalry and Literature in Late Medieval Scotland*, ed. Steve Boardman and Susan Foran (Woodbridge, 2015), forthcoming; Broun, *Scottish Independence and the Idea of Britain*, chapter 10.

⁴⁴ See below, XXX.

⁴⁵ Broun, ‘Rethinking Scottish origins’.

⁴⁶ Thomas Owen Clancy, ‘Gaelic in medieval Scotland: advent and expansion’, *Proceedings of the British Academy* 167 (2010), 349–92, at 362–73, 382–6.

⁴⁷ Hudson, ‘The Scottish Chronicle’, 151 (statement in the *Chronicle of the Kings of Alba* that, during the reign of King Illulb, 966–971, ‘Edinburgh was vacated and left to the Scots up to the present day’, *opidum Eden uacuatam est ac relictum est Scottis usque in hodiernum diem*).

⁴⁸ Broun, ‘Rethinking Scottish origins’.

envisaged if Mael Coluim III (1058–1093) and his second wife, Saint Margaret (d.1093), had had more than one legitimate grandson who had lived beyond infancy; this could readily have resulted in the division of the realm between rival branches of the royal dynasty – for example with one based in ‘Scotland’ and Lothian and the other in the former kingdom of Strathclyde – each looking to the king of England for support as their overlord.⁴⁹

One feature of the governance of ‘Scotland’ catches the eye: the most potent secular figure, aside from the king, was not identified as a lord or subordinate ruler as such, but as a kind of *maer* (‘steward’ or ‘bailiff’): namely, the *mormaer*.⁵⁰ The term was particularly associated with this region, with a correspondence between *mormaír* and provinces.⁵¹ What did it signify? Historians have in the past been guided by the word’s etymology, which could be either ‘sea steward’ or ‘great steward’. I am grateful to Roibeard Ó Maolalaigh for explaining to me that historical phonology is neutral on the matter.⁵² Political history does not offer any decisive help, either: it is possible to construct scenarios to account for either possibility.⁵³ Even if the word’s etymology could be recovered, however, this would (as Alex

⁴⁹ This could have arisen if Alexander I had had a legitimate son who competed successfully for the throne against David, ‘*princeps* of the Cumbrians’. As it was, David faced a serious challenge from Alexander’s illegitimate son: see Alasdair Ross, ‘The identity of the ‘prisoner at Roxburgh’: Malcolm son of Alexander or Malcolm Macheth?’, in *Fil Súil nGlais: a Grey Eye Looks Back. A Festschrift in Honour of Colm Ó Baoill*, ed. Sharon Arbuthnot and Kaarina Hollo (Ceann Drochaid, 2007), 269–82. Both Alexander I and David looked to Henry I for support: Judith A. Green, ‘David I and Henry I’, *SHR* 75 (1996), 1–19. For Alexander I as a client of Henry I, see also Dauvit Broun, *Scottish Independence and the Idea of Britain from the Picts to Alexander III* (Edinburgh, 2007), 105–6.

⁵⁰ For ‘bailiff’, see Katharine Simms, *From Kings to Warlords. The Changing Political Structure of Gaelic Ireland in the Later Middle Ages* (Woodbridge, 1987; pbk edn 2000), 83; Francis John Byrne, ‘Ireland and her neighbours, c.1014–c.1072’, in *A New History of Ireland*, vol. i, *Prehistoric and Early Ireland*, ed. Dáibhí Ó Cróinín (Oxford, 2005), 862–98, at 871.

⁵¹ Dauvit Broun, ‘The origins of the *mormaer*’, in *The Earl in Medieval Britain*, ed. David Crouch and Hugh Doherty, forthcoming, where it is argued that the provinces were (from the north) Buchan, Mar, the Mearns, Angus, Atholl, Gowrie, Stormont, Strathearn and Fife: only Stormont lacks any evidence of having had a *mormaer*. (Menteith, it is argued, was created an earldom out of Strathearn by Mael Coluim IV.) A pivotal text is an assize on the procedure for dealing with accusations of theft enacted originally by David I and expanded by William the Lion: Taylor, ‘*Leges Scocie*’, 223–6, 234–5; 251–5, 274 (text); 280–1, 285 (translation). This was the source for a similar assize in the ‘Assizes of David I’, rather than the other way round: Taylor, ‘The Assizes of David I’, 215 and nn. 74 and 75. It appears that, in the original text of the assize, the word for province was not *provincia* (as elsewhere) but *comitatus* (which in this context means *mormaerdom*): see Broun, ‘The origins of the *mormaer*’. Both *mormaerdom* and *mormaership* would have been *mormaerne* (or *mormaoirne*) in Gaelic (as in the area-name ‘Morvern’ in Lorn: see Broun, ‘The origins of the *mormaer*’, for an explanation of how Morvern became the alternative name for the territory of Cenél mBaetáin, ruling kindred of Cenél Loairn and Dál Riata in the early eighth century, following the Pictish conquest of Dál Riata in 741).

⁵² Personal communications of 6 June 2011 and 8 October 2012, where he explained that the combination of a long vowel, as in *mór*, followed by a heavy non-homorganic consonant cluster (i.e., involving two consonants of a certain type made in different parts of the mouth – /r/ and /v/ in this case), goes against the grain of Gaelic, and could naturally have led to a shortening of the vowel. It is impossible to say, therefore, if *mormaer* originally had a short first vowel (therefore ‘sea steward’) or a long first vowel (therefore ‘great steward’).

⁵³ See Broun, ‘The origins of the *mormaer*’. It also explained there that objections to *mormaer* raised in Richard D. Oram, *Domination and Lordship: Scotland 1070–1230* (Edinburgh, 2011), 219–20, are based on a misapprehension about the sources available for the tenth and eleventh centuries.

Woolf has emphasised) be a misleading guide to the *mormaer*'s role, even at the time when it is first attested in a contemporary source, in an account of a battle in 918.⁵⁴ Is it possible, then, to discover what a *mormaer* was and what he did in the period before c.1150?

King, mormaer and thane as heads of clanna

The meat of this article is an attempt to answer this question of what a *mormaer* was and what he did. In keeping with a desire to be guided by detail that is easily overlooked and awkward, this will be based on a fresh examination of the fragmentary evidence. This means laying aside the vision of an early Scottish state which Alexander Grant developed from an exceptional synthesis of disparate evidence.⁵⁵ It is always dangerous to bring material from markedly different periods and regions together to form a single composite picture. It cannot be assumed, for example, that earldoms created in Lennox and Carrick by William the Lion were the same as *mormaer*doms north of the Forth merely because the earls were Gaels.⁵⁶ The same objection can be raised against Grant's analysis of the thane. This draws on the use of the term 'thanage' which (as Grant acknowledged) is unknown in the sources until c.1190, and which (as Alice Taylor has shown) acquired a new significance in the 1220s as a way of delineating royal estates from others.⁵⁷ This allowed Grant to take the earlier indications that a thane managed an estate on behalf of the king or a *mormaer* and to project this as a general phenomenon. This is not to deny the value of other aspects of Grant's discussion of early Scottish society, such as his emphasis on local mechanisms for resolving disputes, and the regulation of killing and injury through a system of compensation between kindreds.⁵⁸ As far as the thane is concerned, however, the earliest references in a Scottish context suggest that, although there were some who managed estates, he was typically regarded as head of a *clann* – a leading or 'lordly' kindred.⁵⁹ This highlights the fundamental importance of kinship in the way lordship was organised and conceptualised in 'Scotland' in the twelfth century and

⁵⁴ Woolf, *From Pictland to Alba*, 343. The first appearance of the term in a contemporary source is in the Annals of Ulster: AU 918.4: <http://celt.ucc.ie/published/G100001A/index.html> (accessed 3 April 2013).

⁵⁵ Grant, 'The construction of the early Scottish state'; Grant, 'Franchises north of the border', 176–84.

⁵⁶ Broun, 'The origins of the *mormaer*'. See also Grant's use of Keith Stringer's map of earldoms in the thirteenth century as a source for the tenth century (discussed below, XXX).

⁵⁷ Grant, 'Thanes and thanages', especially the impressive appendix at 72–81; Taylor, *The Shape of the State*, chapter 1. In Grant's appendix 34 out of 39 estates explicitly identified as 'thanages' are only attested in or after the 1260s, by which time the term had acquired the meaning of 'lands held by the king since time immemorial'. Grant also regards every *manerium* as a thanage, when in fact a link between *maneria* and thanes is rare: on *maneria*, see below.

⁵⁸ E.g., Grant, 'The construction of the early Scottish state', 55. See now Taylor, *The Shape of the State*, chapter 3.

⁵⁹ Taylor, *The Shape of the State*, chapter 1.

earlier. This is crucial background for our re-examination of provincial power in ‘Scotland’ before the mid-twelfth century.

The *clann* or ‘lordly kindred’ was the basic social unit whose members were recognised as having the capacity to give protection. This is revealed in a system of fines for violating a lord’s peace calibrated according to their rank.⁶⁰ The largest penalty was for breaching the peace of the king, with the *mormaer* next in the scale, and then the thane; the kinsman of the thane stood at the bottom. Both king and *mormaer* would themselves have been heads of their own kindreds.⁶¹ The thane was the head of a lordly kindred pure and simple who was not a *mormaer* or the king; presumably he was typically of only local significance. In Gaelic he was *toísech clainne* (‘leader’ of a *clann*). A lordly kindred could differ in size and the number of generations removed from its eponymous ancestor.⁶² The term ‘thane’ itself is derived by historians from French and Latin texts. It is English in origin, and suggests service for a superior lord.⁶³ The word ‘thane’, therefore, implies that the head of a lordly kindred ‘pure and simple’ was also subordinate in some way. This could be explained by supposing that he was typically an honoured client of a *mormaer* or the king. He might have performed a managerial role, but this need not have been intrinsic to what made a thane a thane. If he was, indeed, ‘thane’ because he was a client, then it may be inferred from the legal material that this was a form of clientship that was normally regarded as only available to heads of lordly kindreds. This, at least, is implied by the equation of thane with *toísech clainne*. If so, it may have been roughly comparable to the loose arrangement enjoyed by free clients that is described in a fragmentary early Irish tract.⁶⁴ Be this as it may, our understanding of the term

⁶⁰ *Leges Scotie* §21(ii): Taylor, ‘*Leges Scotie*’, 278 and n.911 (for a crucial editorial emendation); 287 for translation.

⁶¹ Broun, ‘The property records in the Book of Deer’, 354: note also discussion at 330, 349–52. The case of Donnchad II *mormaer* of Fife (from 1154 to 1204), who (it has been argued) was not head of his kindred until later in his career, is exceptional, and should be seen in the context of an exceptional relationship between king and *mormaer*: see below, XXX.

⁶² The probable leader of Clann Lulach, for example, was only three generations from King Lulach (1057–8) (see below, n. XXX); the leader of Clann Duib in the late twelfth century was probably seven generations from King Dub (966–71), its probable eponymous ancestor (see Bannerman, ‘MacDuff of Fife’ in n.XXX below); and Clann Chinaeda meic Ailpín – the royal kindred itself – was five generations deep when it was named as such in a genealogy datable to the early eleventh century (Broun, ‘The genealogical ‘tractates’ associated with *Míniugud Senchusa fher nAlban*’ (see n.8 for full reference), which also shows how Clann Chinaeda meic Ailpín shared the tendency (noted in Charles-Edwards, *Early Christian Ireland*, 92) of successful ruling kindreds to have deeper genealogies linking them with other ruling kindreds: see also below, XXX).

⁶³ Grant, ‘Thanes and thanages’, 41.

⁶⁴ Fergus Kelly, *A Guide to Early Irish Law* (Dublin, 1988), 32–3.

‘thane’ in twelfth-century Scotland nevertheless ultimately depends on when we think it was borrowed from England, which is something impossible to pin down.⁶⁵

The evidence for the *mormaer* is also challenging to interpret. The exclusion of much of the evidence used by Alexander Grant will not only mean setting aside significant elements of his vision of an early Scottish state; it will also often involve trying to construct a fresh general picture from individual examples – an inherently risky procedure. It is possible to be on the look-out for quirks, such as a reference in 1221 to the earl of Fife as one of the king’s mairs in Fife: if this dated back to before *c.*1150, it would be a unique combination of *mormaer* and *maer*.⁶⁶ There are bound to be other curiosities which can no longer be detected as such. All that can be claimed for this discussion of secular authority and lordship in ‘Scotland’ before *c.*1150, therefore, is that it is a consistent picture derived solely from the material at a historian’s disposal.

King and mormaer as lords over settlements

So far I have argued that the typical *mormaer* was the head of a lordly kindred who may typically have had thanes – the heads of lesser lordly kindreds – as his clients.⁶⁷ In what sense, therefore, was he a kind of *maer* (‘steward’ or ‘bailiff’)? Was he the holder of an office, or was ‘*mormaer*’ a title whose etymology recalled a bygone era? There is no indication that they were appointed by the king. The evidence of succession to *mormaer*doms in the twelfth century suggests that this was determined chiefly by whoever was head of the dominant kindred in a province. At the same time, there are signs that ‘*mormaer*’ was not a mere title, but a position with its own dedicated sources of revenue, much like the kingship itself.

Two texts in particular hold our attention. The first is in the Gaelic property-records of the *clerici* of Deer in Buchan in the far north-east corner of ‘Scotland’; they were entered into their portable gospel book sometime between *c.*1130 and *c.*1150, sometimes a century or more after the transactions themselves.⁶⁸ There, one of the endowments was a *mormaer*’s *cuit* (literally ‘portion’) received from a named settlement; other endowments included a king’s

⁶⁵ G. W. S. Barrow, *The Kingdom of the Scots. Government, Church and Society from the Eleventh to the Fourteenth Century*, 1st edn (London, 1973), 64–5; 2nd edn (Edinburgh, 2003), 53–4, who points out that it was probably adopted at much the same time as Old English *scir*, ‘shire’, on which see below, XXX.

⁶⁶ Taylor, ‘Common burdens’, 208–9; 228, 231, 233.

⁶⁷ For further evidence of thanes under a *mormaer*, see the *Law of Armies* discussed below, XXX.

⁶⁸ Broun, ‘The property records in the Book of Deer’, 347–9.

cuit and the *cuit* of a *toísech* (the head of a lordly kindred) in other named settlements.⁶⁹ On today's map these settlements are the equivalent of farms: in the era before the reorganisation of the agricultural landscape in the eighteenth and nineteenth centuries they would each have been a cluster of homesteads supporting a few families.⁷⁰ (In what follows 'settlement' refers specifically to these units of homesteads with accompanying land.) We can therefore envisage one cluster of farmsteads rendering a fixed amount of their produce to a *mormaer*, while a neighbouring one might have rendered it to a *toísech*; in Buchan the odd one might have rendered it to the king.⁷¹ There is no need to suppose there was any overlap. A striking example is a settlement that had been divided into two smaller ones, referred to as the 'two Altries'.⁷² It is clear that both *mormaer* and *toísech* each had a 'portion' (*cuit*) in Altrie: this can be explained by supposing that one of the two Altries rendered this to the *mormaer*, and the other to a *toísech*.⁷³

The second indication that *mormaer* was a position with its own dedicated sources of revenue is a charter of Mael Coluim IV for Scone Abbey, datable to 24 May 1163 × 20 September 1164.⁷⁴ This referred to all the *maneria* in Gowrie that Mael Coluim held by virtue of the *comitatus* as well as by royal right (*de omnibus maneriis meis de Gouerin tam de comitatu quam de regali meo*). The pairing with *regalis* suggests that *comitatus* here meant 'mormaership'. Presumably Mael Coluim held the *maneria* that went with the *mormaership* only because it had been decided that there would no longer be a *mormaer* of Gowrie, a

⁶⁹ Broun, 'The property records in the Book of Deer', 330; Katherine Forsyth, Dauvit Broun & Thomas Clancy, 'The property records: text and translation', in *Studies in the Book of Deer*, ed. Forsyth, 131–44, at 136–7 (II.3a, II.3b).

⁷⁰ This can readily be appreciated in the diagrams Robert Dodgshon's introduction to medieval rural settlement in the *Atlas of Scottish History to 1707*, ed. Peter G. B. McNeill and Hector L. MacQueen (Edinburgh, 1996), 286–9.

⁷¹ Forsyth, Broun & Clancy, 'The property records', 138–9 (II.7).

⁷² *Ibid.*, (II.12).

⁷³ Broun, 'The property records in the Book of Deer', 329–30.

⁷⁴ *RRS*, I, no. 245. It is part of what appear to be a series of charters for Scone Abbey witnessed by Ingram the chancellor and Walter the Steward and occasionally Nicholas the chamberlain at Stirling (*RRS*, I, nos 244–51, dated by Barrow to 1162 × 20 September 1164). Some (like this one) are additional to what is contained in Mael Coluim IV's charter (*RRS*, I, no. 243, datable to 24 May 1163 × 23 May 1164) establishing Scone as an abbey, which includes all previous grants and donations and a few new ones by Mael Coluim IV. The simplest explanation for why *RRS*, I, nos 244–51 repeats some items in *RRS*, I, no. 243, but includes additional endowments, is that these charters were produced after *RRS*, I, no. 243 (i.e., later than 24 May 1163), with some items in *RRS*, I, no. 243 given individual charters for the abbey's convenience, making it possible for them to bring to court a document relating to a particular issue rather than referring to the long *RRS*, I, no. 243 on each occasion. *RRS*, I, no. 243 was such a fundamental document for them that they might well have been anxious to keep it safe. In other words, the 'repeat' charters that feature as part of *RRS*, I, nos 244–51 may be considered in the same light as duplicate originals. This re-dating of the *terminus post quem* of *RRS*, I, nos 244–51 to after *RRS*, I, no. 243 is also suggested by the reference in all but one to the abbot as well as the canons of Scone as the beneficiaries (the exception being *RRS*, I, no. 245, which does not mention canons either).

situation that had occurred only once before.⁷⁵ Given this evidence from both the Deer records and Mael Coluim's charter to Scone, it seems likely that a distinction was made in the mid-twelfth century between the position of *mormaer* with its own lands and other resources, and the *mormaer* as head of a kindred exercising lordship over settlements.

It is also possible in the Deer records and this charter to catch a glimpse of the local unit of lordship that supported the king and the *mormaer*. In Mael Coluim IV's charter we are told that he had given to Scone Abbey a tenth ('teind') of the meal and malt, and of the *cáin* in cheese and hides, which he received from *maneria* in Gowrie associated with the *mormaership* or the kingship.⁷⁶ The key term is *cáin*. In this context it refers to a fixed annual payment made by a settlement. It is possible, therefore, to imagine the *manerium* as a central collecting point for the *cáin* paid by other settlements in the vicinity. This calls to mind the medieval phrase for a common local unit of lordship: *manerium cum appendiciis*, 'a *manerium* with appendages'.⁷⁷ It is noticeable that, in this case, the *cáin* is limited to produce from pastoral agriculture. It may be guessed that the other part of the endowment, the meal and malt, came from the *manerium* itself. The king's interest in the *manerium*, therefore, would have been as a source of arable produce. Presumably those who lived in the *cáin*-paying 'appendages' had some arable land, too, but, the king had no interest in it. There is a contrast, therefore, between the central settlement (the *manerium*) on whose arable produce the king depended – which would imply that he expected to control the labour of its inhabitants – and the *cáin*-paying settlements, whose contribution was fixed, which would mean that the king could not regulate the labour of their inhabitants. According to this view, therefore, the *manerium* was the king's demesne within this unit of lordship. This is confirmed by a reference in a charter of Alexander II to settlements – identifiable as two of his *maneria* in Gowrie – as *nostra dominia*.⁷⁸ This is not to deny that a *manerium* would have

⁷⁵ See below, XXX.

⁷⁶ For the sake of greater clarity, I reserve 'teind' for the tenth of annual produce owed by parishioners to their parish church (on which see below, XXX). The tenth of what was received by the king or a *mormaer*, when assigned to a major church, is usually referred to in secondary literature as 'second teinds'.

⁷⁷ Barrow, *The Kingdom of the Scots*, 1st edn, 27; 2nd edn, 22.

⁷⁸ *Regesta Regum Scottorum*, vol. III, *The Acts of Alexander II, King of Scots, 1214–1249*, ed. Keith J. Stringer (Edinburgh, forthcoming) [hereafter *RRS*, III], no. 278. I am very grateful to Professor Stringer for allowing me access to his edition in advance of publication. The charter of Alexander II (datable to 1240 or 1241: possibly July 1241) reveals that Scone Abbey was due a tenth of their revenue from Rait and Kinfauns – which means that Rait and Kinfauns were among the *maneria* of the kingship and *mormaership* involved in Mael Coluim IV's endowment. It is stated that, when Alexander II handed over his demesne land (*dominia nostra*) in Rait and Kinfauns to be held by Scone Abbey for a set amount of produce annually, the payment of the tenth would not be affected. This provides a clear sighting of a *manerium* as the central settlement whose land was directly under the king's management (rather than the unit of lordship as a whole, as unintentionally implied in the treatment of *maneria* as thanages in Grant, 'Thanages and thanages', 78).

rights of pasture.⁷⁹ As far as *cáin* is concerned, although it need not involve arable produce at all, there are many examples where a crop was included along with cheese or livestock. The key contrast remains, however, between the *manerium* whose labour the lord (the king in this instance) would expect to control, and the ‘appendages’ whose relationship with the lord of the *manerium* was limited. The great majority of settlements, of course, would have been ‘appendages’.⁸⁰

The *cáin* from an ‘appendage’ may be equated with the *cuit* in the Deer records that was owed by settlements to the king or the *mormaer* or the head of a lordly kindred ‘pure and simple’ (i.e., the *toísech*).⁸¹ Indeed, *cáin* and *cuit* in this context also share the characteristic that they could be transferred by the lord to a third party (such as a major church), which would thereafter receive it annually from the settlement.⁸² There are no examples of a settlement rendering *cáin* to more than one lord. There is, however, an instance in the mid-eleventh century where *cáin* from part of what had been a single settlement was transferred by the king (Mac Bethad, 1040–1057) to a church (the Céli Dé of St Serf’s Isle, Loch Leven): this was the part of Bogie that was evidently referred to in Mac Bethad’s time as ‘Bogie of the son of Thorfinn’, and which was later known as Wester Bogie.⁸³ This may be compared with Altrie in the Deer records, where a single settlement was divided apparently into two smaller ones that rendered *cuit* to different people.⁸⁴ It may be noted that the ability to transfer the *cáin* / *cuit* paid by a settlement is likely, on the face of it, to have meant reassigning the settlement from one *manerium* as the collection point for its *cáin* / *cuit* to

⁷⁹ *RRS*, I, no. 248, in which Mael Coluim IV gave his permission for the canons of Scone Abbey and their men to use the common pasture of his *maneria* if they were adjacent to Scone’s lands.

⁸⁰ Similar arrangements in England have been described as resulting in a ‘landscape of obligation’ rather than a landscape of ownership: see Rosamond Faith, *The English Peasantry and the Growth of Lordship* (Leicester, 1997), 10.

⁸¹ For a discussion of *cuit* within the parameters of the evidence of the Book of Deer itself, see Broun, ‘The property records in the Book of Deer’, 349–53.

⁸² Broun, ‘Re-examining *cáin*’, 56–60.

⁸³ *Liber Cartarum Prioratus Sancti Andree*, ed. Thomson, 11–14, at 12; Broun, ‘Re-examining *cáin*’, 57–8.

⁸⁴ Broun, ‘The property records in the Book of Deer’, 330. Note also the lost place name ‘Ledyntoschach’ (presumably *Leth in toíseg*, ‘the *toísech*’s half’), held by the bishop of Aberdeen along with Rothmaise in the parish of Rayne in the Garioch: *Registrum Episcopatus Aberdonensis*, ed. Cosmo Innes, 2 vols (Aberdeen & Edinburgh, 1845), I, 38–9. This suggests that it was, like the two Altries and Easter and Wester Bogie, a settlement formed from a division of an earlier one in two. What made it distinctive was either that it was held by a *toísech*, or that it rendered *cáin* to a *toísech*. The other half therefore was held by, or rendered *cáin*, to someone else. For *leth* as a place-name element referring to half a settlement, with a person or persons as the second element, see ‘Ledmacduuegil’ (*Leth mac Dúngail* or *Leth mac Dubgaill*, ‘half of the sons of Dúngal’ or ‘Dubgall’), now Mastertown, near Dunfermline: *PNF*, II, 331 (where half [*dabach*] is among the suggestions for *leth*), and *PNF*, V, 423–4, where *leth* here and in other place names is interpreted as ‘half’, ‘side’, ‘hillside’ and ‘slope’. In the context of a settlement associated in a place name with a person (or persons), however, *leth* in the sense of ‘one of a pair’ seems the most natural explanation.

another.⁸⁵ This implies that the ‘*manerium* with appendages’ was an inherently flexible unit of lordship. Indeed, the appendages themselves could be reconfigured by dividing an existing one to create new settlements. We will consider in due course the forms of relationship between lords and settlements that can be detected in the eleventh century (if not earlier).

The identification of *cuit* with *cáin* allows us to see, even if out of the corner of our eye, the range of lords for whom the arable land of a *manerium* was cultivated and the *cáin* collected. Each term, *cuit* and *cáin*, represented a different perspective on what was rendered by a subsidiary settlement. When ‘*cáin* of X’ appears in charters (as in Mael Coluim IV’s charter to Scone, which refers to *can coriorum et caseorum meorum*, ‘the *cáin* of my hides and cheeses’), ‘X’ is the produce that is being rendered. By contrast, in the phrase ‘*cuit* of Y’ in the Deer records, ‘Y’ is the type of person to whom the *cuit* belonged: a king, a *mormaer*, or a *toísech* (the head of a lordly kindred). The implication is that *cuit* was the portion of a settlement’s produce that was appropriate to the lord depending on his rank. It may be inferred that this differed in quantity. This calls to mind the tariffs for violating the peace of a lord which varied according to their status.⁸⁶ The original idea, therefore, may have been that the inhabitants of a settlement who rendered a king’s *cuit* paid the highest amount of *cáin* because they notionally gained the greatest degree of protection by being under the peace of the highest ranking lord. If so, *cáin* would appear to have become fossilised by the eleventh century, and to have lost this association with the peace of a lord. We may guess that, by then, another form of lordship over a settlement had emerged that offered protection through the lord’s peace. We will return to this in due course.

This explanation of ‘*cuit* of Y’ leads to an important clarification. The phrase ‘*cuit* of a *toísech*’ cannot have been the *cáin* that was collected on behalf of the king or a *mormaer* (as has been supposed), because that would have been referred to as a king’s or a *mormaer*’s *cuit*.⁸⁷ Rather, ‘*cuit* of a *toísech*’ denoted the *cáin* that was owed to a *toísech* in his own right. We may infer, therefore, that the pattern of a central settlement receiving *cáin* from subsidiary settlements was a form of lordship that could be enjoyed by the head of a lordly

⁸⁵ For a place name indicating a single settlement associated with a *mormaer*, see Balmirmer in Angus (East Balmirmer NO581389, and West Balmirmer NO578387), which seems to mean ‘*baile* of the *mormaer*’ (*baile* being a word used in place names from the late eleventh century to denote an individual settlement). I am grateful to Simon Taylor for drawing my attention to this. Balmirmer is not known to have been in lands of the earl of Angus: however, it was presumably named ‘*baile* of the *mormaer*’ because it was an outlier, and was *not* surrounded by settlements which also had the *mormaer* as their lord. See below, XXX, for the significance of place names in *baile*.

⁸⁶ *Leges Scotie* §21(ii): Taylor, ‘*Leges Scotie*’, 278 and n. 911 (for a crucial editorial emendation); 287 for translation.

⁸⁷ Broun, ‘The property records in the Book of Deer’, 316, 323–6.

kindred as much as by the king or *mormaer*. As a result, we can envisage that this pattern of lordship focused on *maneria* was found across the country, and that only some of these central settlements were assigned to the *mormaership* and kingship respectively. It also allows us to recognise that there were two contexts in which the head of a lordly kindred – the *thanus* or ‘thane’ in charters and legal texts – would have been associated with a central settlement. He could have held a *manerium* in his own right, or (as Alexander Grant in particular has shown) he could have managed it for the king or a *mormaer*.⁸⁸ The distinction between these may not always be readily apparent in the available evidence, especially if someone is referred to simply as ‘thane of Kellie’.⁸⁹ The key point, however, is not so much that a head of a lordly kindred ‘pure-and-simple’ could hold a *manerium* in his own right, but that we should expect that both king and *mormaer* held some *maneria* simply as head of their kindred as well as holding others because of their position as king or *mormaer*.

Putting all this together, a picture emerges of a patchwork of local units of lordship, some reserved for the kingship and *mormaership*, some held by the king or a *mormaer* as head of a lordly kindred, and some held by the head of a lordly kindred pure-and-simple in their own right – the person referred to in charters and legal texts as a thane, and in the Deer records as a *toísech clainne*, or simply a *toísech*. Some *maneria* under the authority of the king or a *mormaer* would have been managed for them by a thane – the head of a local lordly kindred. The vernacular term in the twelfth century for a unit of lordship consisting of a central settlement with other subordinate settlements was evidently ‘shire’ in English,⁹⁰ probably borrowed into Gaelic as *scíre*.⁹¹ This is what lies behind the Latin word *schira* that appears in

⁸⁸ Taylor, *The Shape of the State*, chapter 1; Grant, ‘Thanes and thanages’, 40–1, citing in particular the case of Arbuthnott, where by 1206 there had been as many as thirteen thanes within living memory (although, as Alice Taylor has emphasised, this included the lords who held Arbuthnott of the king and those who managed Arbuthnott for them).

⁸⁹ This, at least, could explain why some thanes seem to have had a hereditary association with a *manerium*, whereas others (such as the thirteen thanes of Arbuthnott in the late twelfth century) did not. It will be recalled that they might also have been honoured clients of the king or a *mormaer*, in which case the distinction between the two contexts might be expected to depend on the nature of the services and renders owed by the thane: hospitality suggesting clientship only, whereas cheeses might suggest a client who was also a managerial thane collecting *cáin* at a *manerium* from subsidiary settlements. In the case of Kinalty in Angus, however, a hereditary claim to the ‘thanage’ was made in 1305 (*Memoranda de Parlamento. Records of the Parliament holden at Westminster on the Twenty-Eighth Day of February, AD 1305*, ed. F. W. Maitland (London, 1893), no. 314 (p. 191)), but the render of cheese and fodder to the sheriff of Angus suggests that originally the thane held a ‘managerial’ position. The mere fact of a hereditary claim by that date cannot therefore be taken as evidence that the thane originally held the unit of lordship in his own right.

⁹⁰ Barrow, *The Kingdom of the Scots*, 1st edn, 27, 2nd edn, 22, notes ‘lathe’ and ‘soke’ as comparable terms to shire in medieval English usage.

⁹¹ It should be noted, however, that *scíre* (Modern Gaelic *sgìre*) is not visible until the early modern period, by which time it is a standard Gaelic term for ‘parish’. Barrow, *The Kingdom of the Scots*, 1st edn, 54, 2nd edn, 46, cites ‘Skirdustan’ (the shire of St Drostan in Aberlour) and ‘Skeir-Alloway’ and ‘Skeir Alvie’ (the shire of Alvie

charters. In modern scholarship it is often referred to as a ‘multiple estate’ (where ‘estate’ equates with an individual settlement). The ‘multiple estate’ is a model devised by Glanville Jones based chiefly on Welsh evidence.⁹² It has proved to be a powerful tool for comparative studies, but suffers from the risk inherent in any model of encouraging an impression of continuity and consistency across time and place that makes it difficult to appreciate important differences. This is an immediate issue in dealing with the equivalent unit in ‘Scotland’ (i.e., north of the Forth). Geoffrey Barrow noticed that it tended to be significantly smaller than similar units south of the Forth and in England.⁹³ It could be very small: for example, Kinninmonthshire in Fife, which was in the north-east corner of the parish of Ceres, consisted at the end of the twelfth century of Kinninmonth itself, three small settlements (two are lost), and another settlement that had been divided into three small ones (apparently among individual local landholders).⁹⁴ What term should we use for this? An obvious option would be ‘small shire’; unfortunately this term is used by some scholars of English local territorial organisation when referring to multiple estates in England in order to distinguish ‘shire’ in this context from ‘shire’ in its later, more common, sense of ‘county’. These ‘small shires’ in England, however, are typically on a larger scale than the small unit of lordship known as a shire in ‘Scotland’:⁹⁵ the temptation to refer to the latter as ‘miniature shires’ should probably be resisted. A further problem to beware of is the use of Old English *scir* to denote a local political unit that, in England, was the antecedent of the multiple estate.⁹⁶ All of this makes it especially difficult to find a common term that will work equally well across Britain without compromising an appreciation of regional distinctiveness. In this article,

in Badenoch), but these are rejected as shires (as opposed to parishes) in Alasdair Ross, *The Kings of Alba, c.1000–1130* (Edinburgh, 2011), 32.

⁹² For example, see G. R. J. Jones, ‘The multiple estate as a model framework for tracing early stages in the evolution of rural settlement’, *L’Habitat et les paysages ruraux d’Europe*, ed. F. Dussart (Liège, 1971), 251–67; G. R. J. Jones, ‘Multiple estates and early settlement’, in *English Medieval Settlement*, ed. P. H. Sawyer (London, 1976), 9–34. On Wales specifically, see G. R. J. Jones, ‘The tribal system in Wales: a re-assessment in the light of settlement studies’, *Welsh Historical Review* 1 (1960–3), 111–32, and G. R. J. Jones, ‘The dark ages’, in *Settlement and Society in Wales*, ed. D. Huw Owen (Cardiff, 1989), 177–97.

⁹³ Barrow, *The Kingdom of the Scots*, 1st edn, 39–41, 2nd edn, 32–5.

⁹⁴ Odo, brother of Bishop Matthew of St Aberdeen, was granted Kinninmonth ‘with the whole shire of Kinninmonth’ by William the Lion in 1189 × 1194; when Odo’s son Adam was confirmed in these lands by William the Lion in 1196 × c.1201, they were referred to as ‘the whole land of Kinninmonth’ with the three Magasks, Ladeddie, and two lost places, followed by another lost place name (Taylor and Márkus suggest Ballachton rather than Barrow’s Baldinnie), which is treated implicitly as separate from Kinninmonth: *Regesta Regum Scottorum*, vol. II, *The Acts of William I, King of Scots, 1165–1214*, ed. G. W. S. Barrow with the collaboration of W. W. Scott (Edinburgh, 1971) [hereafter *RRS*, II], nos 330, 411. For this, the individual landholders, and also the varying component parts of Kinninmonthshire, see *PNF*, II, 91–2.

⁹⁵ Brian K. Roberts, *Landscapes, Documents and Maps. Villages in Northern England and Beyond, AD 900–1250* (Oxford, 2008), 152, 161–72.

⁹⁶ Faith, *The English Peasantry*, 9–12.

however, the emphasis is on understanding this unit of lordship in the particular context of ‘Scotland’ – the country between the Forth and the Spey: ‘shire’ on its own, therefore, will suffice. It will be argued in due course that its small size was a facet of a more fundamental feature of the shire in ‘Scotland’ between the tenth and twelfth centuries.

The antecedents of thirteenth-century earldoms

Is it possible to gauge the proportion of shires in a province that would have been under the lordship of a *mormaer*? It has been recognised for a long time that the *mormaer* of the twelfth century was the antecedent of the earl in the thirteenth.⁹⁷ Every earl in ‘Scotland’ had a strong family tie with a previous *mormaer*: his estates would therefore have reflected earlier patterns of lordship. It seems natural, therefore, when considering what a *mormaer*’s lands might have been in each province, to take as a starting point Keith Stringer’s map of the maximum extent of earldoms (meaning the estates of earls) before 1286, derived very largely from thirteenth-century evidence.⁹⁸ This shows considerable variation in how much of a province was under the earl’s lordship. For example, very little of Atholl was not within the earl’s estates, but very little of Angus was. Most of the land not belonging to the earl can be traced back to royal lordship. Alexander Grant explained this variety by supposing that there was originally a ‘two-part territorial structure’ in each province, the *mormaer* holding one part and the king the other.⁹⁹ He suggested that the balance within each province would subsequently have altered over the centuries depending on which side a *mormaer* had backed in the struggles for succession to the kingship from c.970 until 1130 between the descendants of Constantín (d.876) son of Cinaed mac Ailpín, and the descendants of Constantín’s brother, Aed (d.878).¹⁰⁰ A *mormaer* on the losing side would have been vulnerable to having estates taken from him by the victorious king.

⁹⁷ It was not appreciated, however, that the *mormaer* was confined to ‘Scotland’ (north of the Forth and south of Moray), which meant that any earl in a Gaelic-speaking area was regarded either as successor to a long established *mormaerdom* (e.g., Lennox), or was assumed to hold an equivalent position (as in the earldom of Carrick, created in the 1190s). See now Alice Taylor, *The Shape of the State*, chapter 1, and Broun, ‘The origins of the *mormaer*’.

⁹⁸ *Atlas of Scottish History to 1707*, ed. P. G. B. McNeill and Hector L. MacQueen, revised edn (Edinburgh, 1998), 184: at 183 Stringer explained that the map is ‘intended to indicate the maximum territorial extents of earldoms before 1286’, stressing that ‘the whole subject still requires detailed investigation’, so that the map is ‘only a preliminary statement and by no means definitive’. It was first published in Grant, ‘Thanes and thanages’, at 44, and is reproduced in Grant, ‘The construction of the early Scottish state,’ 59 (with addition of thanages) and Grant, ‘Franchises north of the border’, 185 (with addition of Stringer’s map of provincial lordships).

⁹⁹ Grant, ‘The construction of the early Scottish state’, 56–63.

¹⁰⁰ *Ibid.*, 66–70.

Grant's vision of an ancient dual territorial structure and its dynamic for change, however, depends on seeing the antecedents of the earl's estates mapped by Stringer as undifferentiated blocks of lordship. But this was only a recent development. It will be recalled that, in the mid-twelfth century, the lands of a *mormaer* would have come from two sources: those assigned to the *mormaership* and those which he controlled as head of a lordly kindred. The former would presumably have been stable from one generation to the next. The latter, however, depended on which kindred held the *mormaership*. The shires associated with the *mormaership* could be combined with one group of shires when a head of a kindred was *mormaer*, and then a different group when that *mormaer* was replaced by the head of another kindred as the most powerful in the province. It was only in the late twelfth century that an earl's estates came to be regarded as a single entity. Alice Taylor has argued compellingly that it was at this point that *comitatus* began to be used as a term for the earl's lands rather than the *mormaership*.¹⁰¹ This was part of a more general development. Succession to lordship from the mid-twelfth century assumed a lineal and predictable form for both lord and dependent; as a result, land as opposed to kinship emerged as the predominant metaphor for secular authority. When a *mormaership* came to be monopolised by a particular family in the late twelfth and early thirteenth century through primogeniture, therefore, the distinction between *mormaership*-land and kindred-land would have become irrelevant in practice. At that point their kindred-lands and whatever went with the *mormaership* would have become locked together to form the lands of the earldom. Reading back from Stringer's map of earls' estates should therefore reveal, not blocks of territory under a *mormaer* since the tenth century, but a combination of (i) *mormaership*-land and (ii) the lands of the *clann* whose head was *mormaer* when hereditary possession of the *mormaership* was achieved in the late twelfth and early thirteenth century.

The only occasion when *mormaership*-land and kindred-land appear to have been divided was in the unique situation of the first minor to become *mormaer*, when Donnchad II of Clann Duib succeeded his father Donnchad I as *mormaer* of Fife in 1154. John Bannerman argued that a member of another branch of Clann Duib became head of the kindred at that point, and continued in that role for the remainder of the century.¹⁰² It may be surmised that

¹⁰¹ Taylor, *The Shape of the State*, chapter 1. There is also an instance (in text that may have originated in the reign of David I) where *comitatus* rather than *provincia* was used of a *mormaerdom*: see above, XXX.

¹⁰² John Bannerman, 'MacDuff of Fife', in *Medieval Scotland: Crown, Lordship and Community. Essays presented to G. W. S. Barrow*, ed. Alexander Grant and Keith J. Stringer (Edinburgh, 1993), 20–38. See also *PNF*, v, 105–18. On Donnchad II's minority, see G. W. S. Barrow, 'An unpublished brieve of Malcolm IV', *SHR* 84 (2005), 85–7, at 86 n. 4.

Donnchad II held only the *mormaership*-lands. (The lands of Clann Duib, which included Stratha'an in the North-East, may have been more extensive outside Fife than in the province itself.)¹⁰³ It may be guessed that Donnchad II eventually became head of kindred, and that when he died in 1204 he passed on both the headship and the *mormaership* to his son, Mael Coluim. If Donnchad II was not head of his kindred until towards the end of his life, then his position as *mormaer* would presumably have depended on royal support to an unusual extent. A clear sign of this is the gift by King Mael Coluim IV to Donnchad in 20 November 1160 × 13 September 1162 of three shires in Fife, plus the fixed annual rent due from another (Kettle), and also Strathbraan on the fringes of Atholl.¹⁰⁴ The importance of this for Donnchad II's powerbase in Fife can be gauged from the fact that, when we first have a detailed account of the earl of Fife's lands in Fife, in 1294, only one of the five shires under the earl's lordship at that point was not derived ultimately from a royal gift.¹⁰⁵ Another aspect of the donation of the three shires, plus the ferme of another, is that it was made on Donnchad's marriage to Ada, Mael Coluim IV's neice. This again emphasises Donnchad's special links with the king. It is unlikely to be a coincidence that Mael Coluim I of Fife and his father Donnchad II (and less certainly his grandfather Donnchad I) are the only *mormaír* who are known to have acquired a charter from the king granting their earldom.¹⁰⁶ Only Alexander II's charter for Mael Coluim in 1225 survives, however: by that stage, at least, the earldom had become a feu held of the king for unspecified services.¹⁰⁷ Finally, this special association with the kingship could also explain the unusual doubling up of the *mormaership* with the office of the king's third *maer* in Fife.¹⁰⁸

¹⁰³ Alasdair Ross, 'Two surveys of vernacular buildings and tree usage in the lordship of Stratha'an, Banffshire, 1585 × 1612', *Miscellany XIV*, Scottish History Society series 6, vol. IV (Woodbridge, 2013), 1–60, at 29–31; Broun, 'The origins of the *mormaer*'.

¹⁰⁴ *RRS*, I, no. 190.

¹⁰⁵ The shire was Rires. It is likely to be significant that the grand-uncle of the earl of Fife in 1294 had recently claimed Rires and Creich, not one of the shires given by Mael Coluim IV or (in the case of Cupar) handed over to the earl subsequently. In 1294 there is likely to have been at least one dowager countess, and so not all the earl's lands will have been included in the survey (for example, Falkland is missing). For the earl's lands, see *PNF*, v, 126–8 and 637–59.

¹⁰⁶ Alexander II also gave a charter on similar terms for the earl of Lennox in 1238 (*RRS*, III, no. 267). Lennox was not a *mormaerdom*, however: references to its earl and the earl of Carrick as *mormaír* merely reflect the fact that, by that stage, *mormaer* had become a Gaelic word for an earl in Scotland. See Broun, 'The origins of the *mormaer*' (forthcoming).

¹⁰⁷ *RRS*, III, no. 101. I am grateful to Alice Taylor for pointing out to me the mistake of *patri* for *auo* in describing Donnchad I ('father' rather than 'grandfather'). She argues that it cannot be assumed that 'feu and heritage' was in David I's charter for Donnchad I: see Taylor, *The Shape of the State*.

¹⁰⁸ Taylor, 'Common burdens', 208–9; 228, 231, 233.

Earldoms and predominant kindreds

It is impossible to gauge the proportions of an earl's estates in Stringer's map that originated as kindred-lands and *mormaership*-lands without knowing the disposition of lordly kindreds within, and indeed across, provinces. All that can be noted is that the transition to succession by primogeniture shows that some kindreds were already more entrenched than others in the *mormaership*. Strathearn and Atholl, for example, appear to have been dominated by a single family in each case: Mael Ísu, the earliest attested *mormaer* of Strathearn, who fought in David I's army at the Battle of the Standard in 1138,¹⁰⁹ had a name that was characteristic of the comital family of Strathearn.¹¹⁰ Henry, *mormaer*/earl of Atholl c.1200, was the son and grandson of previous *mormair*.¹¹¹ By contrast, in Buchan, a kindred with Fife connections (but presumably with a base in Buchan) came to the fore, rather than one of the kindreds associated with Deer.¹¹² (The thirteenth-century earls seem to have had very few estates in the vicinity of Deer's lands.)¹¹³ In the case of Mar, the protracted dispute over the earldom between c.1205 and c.1225 could have arisen because two lordly kindreds were too evenly matched for one to predominate.¹¹⁴ It is assumed that the eventual winner had to make do

¹⁰⁹ *Chronicles of the Reigns of Stephen, Henry II and Richard I*, ed. R. Howlett, Rolls Series, 4 vols (London, 1889), III, 189–91; PoMS, no. 591 (<http://db.poms.ac.uk/record/person/591/>; accessed 9 February 2015)

¹¹⁰ There was a Mael Ísu in every generation of the family from the generation of Earl Gilbert (1171–1223) until the male line died out with Earl Mael Ísu V, who died 1344 × 1357. The name Mael Ísu is found predominantly in Strathearn: http://db.poms.ac.uk/browse/?filter=medievalgaelicforename_M%C3%A1el%C3%8Dsu&result%20type=people&ordering (accessed 9 February 2015).

¹¹¹ PoMS, no. 425 (<http://db.poms.ac.uk/record/person/425/>; accessed 09 February 2015); PoMS, no. 238 (<http://db.poms.ac.uk/record/person/238/>; accessed 09 February 2015).

¹¹² There is compelling evidence that Marjorie daughter of Fergus, *mormaer* of Buchan (d. × 1211), was superior of Kennoway in Fife through her father: Alan Young, 'The earls and earldom of Buchan in the thirteenth century', in *Medieval Scotland: Crown, Lordship and Community. Essays presented to G. W. S. Barrow*, ed. Alexander Grant and Keith J. Stringer (Edinburgh, 1993), 174–202, at 179–80. It is assumed from this that Colbán, *mormaer* of Buchan in no.VI of the Deer records (towards the end of David I's reign), was from Fife, becoming *mormaer* in right of his wife, Eva, daughter of Gartnait, who was *mormaer* and so presumably head of Clann Chanann (as was his brother, Comgell, in Deer no. V.3). But there is reason to doubt that Colbán himself held land in Fife: the donation of the church of Kennoway and other land to St Andrews priory was recorded simultaneously in charters of his son, Merleswain, and his grandson (another Merleswain) (1165 × 1178), but Colbán was merely a witness: *Liber Cartarum Prioratus Sancti Andree*, ed. Thomson, 258–60; PoMS, H3/49/1 and H3/49/2. The donation was later confirmed by Marjorie. All this could be explained by assuming that Colbán married twice: (i) to a lady through whose father right to Kennoway passed to Merleswain, and (ii) to the daughter of the head of Clann Chanann. Fergus, Marjorie's father, would have been the eldest son or grandson of the first marriage, inheriting Colbán's kinland in Buchan, leaving the family's lands in Fife to a junior branch. Colbán could not have been head of Clann Chanann (*pace* Broun, 'The property records in the Book of Deer', 348), and so was presumably head of another Buchan kindred that was not in the vicinity of Deer. His second marriage could have represented an alliance with Clann Chanann as part of an arrangement which allowed Colbán to become *mormaer*. Another possible case of a major kindred with land in the North East as well as Fife during David I's reign is Clann Duib: see above, XXX.

¹¹³ Young, 'The earls and earldom of Buchan', map at 200–1, shows the earl's lands in three main groups.

¹¹⁴ See Richard D. Oram, 'Continuity, adaptation and integration: the earls and earldom of Mar, c.1150–c.1300', and Matthew H. Hammond, '*Hostiarii Regis Scotie*: the Durward family in the thirteenth century', in *The*

with half the earldom.¹¹⁵ According to the new interpretation of Stringer's map offered here, however, the earl's estates in Mar from c.1225 would originally have been his ancestors' kindred-land as well as *mormaership*-land; the estates held by the losers (as it were) – the other dominant kindred in the province – would have originated as their kindred-land.¹¹⁶ If there was a division, this would only have involved the lands set aside for the *mormaership*. Seen in this light, the alluringly static nature of Stringer's map (a quality inherent in any map) belies an earlier, potentially fluid picture of competition between (and doubtless also within) dominant kindreds, each drawing on a combination of local strength and influential allies within and beyond the province itself. There would, moreover, have been other forms of lordship apart from landholding that would have provided opportunities for a kindred to assert itself as well as to increase its resources. It would appear, for example, that compulsory hospitality (*coinnmed* or 'conveth') was not limited to land under their lordship, but could be a burden on others, perhaps major churches in particular, as a way of demonstrating local dominance while also profiting from the produce of those they visited.¹¹⁷

Exercise of Power in Medieval Scotland, c.1200–1500, ed. Steve Boardman and Alasdair Ross (Dublin, 2003), 46–66 and 118–38.

¹¹⁵ Oram, 'Continuity, adaptation and integration', 55–7. He further argued that the choice of the upland half by the earls reflected a 'Celtic' preference by 'native magnates' for grazing land. This would no longer hold if choice was not involved.

¹¹⁶ It was evidently possible for the family headship to pass through a female (as with Thomas Durward, grandson of Gilla Críst, *mormaer* of Mar (d. 1207 × 1211): note that John of Mar was not an 'excluded' son of Gilla Críst (see Dauvit Broun, 'From Mar to the English midlands: the case of a Scottish couple pursuing claims to land in Warwickshire, 1224–1227', <http://www.breakingofbritain.ac.uk/blogs/feature-of-the-month/april-2012/>). William Comyn became earl of Buchan through his wife, Marjorie: this may, however, have been a case of his family taking control of Marjorie's kin, rather than becoming head of kin as such (in the same way as suggested (see n. XXX, above) for Colbán in relation to Clann Chanann, the only difference being that the Comyns were an exterior family). The kingship itself (and thereby leadership of Clann Chinaeda, presumably, because the royal genealogy continued to trace descent from Cinaed mac Ailpín and his lineal male ancestors) passed in 1034 to Donnchad I through his mother, daughter of Mael Coluim II. For a possible twelfth-century example, the easiest explanation of the title 'genealogy of Clann Lulaig' (the descendants of Lulach, who ruled as king of Alba for only a few months, 1057–8) given to the pedigree of Mael Snechta son of Lulach (d. 1085) in the Book of Leinster (a mid-to-late twelfth-century manuscript) would be to suppose that Oengus (d. 1130) son of Lulach's daughter was head of Lulach's kindred. There is no indication that Clann Lulaig survived Oengus's defeat and death at the battle of Stracathro in 1130. For 'genealogy of Clann Lulaig' (*genelach Clainn Lulaig*, see *Corpus Genealogiarum Hiberniae*, vol. I, ed. M. A. O'Brien with intro. by J. V. Kelleher (Dublin, 1976), 329 (LL 336b56). Presumably this kindred would only recently come into existence as a new subdivision of an established kindred (the hypothetical Clann Ruaidrí, rulers of Moray in the eleventh century: see Broun, 'The origins of the *mormaer*').

¹¹⁷ This would provide a context that could explain the brieve of Mael Coluim IV to six leading men in Fife (including the *mormaer*) instructing them not to take *coinnmed* from Dunfermline Abbey's lands, and his grant to Scone Abbey that no-one should take *coinnmed* from the abbey's men and lands without the abbey's permission (*RRS*, I, nos 181, 248; the leading men of Fife who are addressed in the brieve relating to *coinnmed* taken from Dunfermline's lands are discussed in *PNF*, v, 111–14). The 'extinguishing' of Deer's lands by *mormaer* and *toísech* could also be explained as their renunciation of *coinnmed* and other exactions: see Broun, 'The property records in the Book of Deer', 332–49. *Coinnmed* (or 'waiting') can also be found occasionally as a regular part of lordship over a settlement: for example, when Campsie in Gowrie (in the parish of Cargill) was

All the same, it may be inferred that the king would only have had a say in who was *mormaer* to the extent that he was able to influence the local balance of power. This could reach the extreme of taking a *mormaership* into their own control. The first occasion was when Edgar (1097–1107) seems to have taken the *mormaership* of the Mearns into his hands.¹¹⁸ The other example is Gowrie: the last *mormaer* of Gowrie was probably Aed, a prominent witness in royal charters in the 1120s who appears first in the list of seven *mormaír* who were signatories to Alexander I's charter establishing Scone as an Augustinian priory.¹¹⁹ A mighty king like David I, who at the height of his power took the northern counties of England into his realm and expected his written instructions to be heeded by the earl of Orkney, would in his heyday no doubt have been able to bring his authority to bear on any province.¹²⁰ By contrast, the king is a presence in the Deer records only in the early eleventh century and towards the end of David I's reign.¹²¹ If royal influence in Buchan was normally limited, this is also likely to have been true in Mar and Atholl.

III. THE LANDSCAPE OF LORDSHIP

If we are to search for insights into how the office of *mormaer* was attained and sustained by a kindred, we need to consider the relationship between lordly kindreds and shires. There are problems here, however, that need to be confronted if a coherent picture of 'Scotland' as a polity before the mid-twelfth century is to be attempted.

given as a hunting ground with associated waste by William the Lion to Coupar Angus Abbey, the king freed the place from the obligation to perform 'waiting' for the king: *RRS*, II, no. 154.

¹¹⁸ The only *mormaer* of Mearns that is known of is Mael Pétair son of 'Loren' (either Loarn or possibly Laurence) who killed King Donnchad II at Mondynes in the Mearns in 1094, enabling Domnall III to retake the kingship (for an edition of this part of the king-list, datable to probably 1124, see Dauvit Broun, *The Irish Identity of the Kingdom of the Scots in the Twelfth and Thirteenth Centuries* (Woodbridge, 1999), 158). It is conceivable, therefore, that Mael Petair and his kindred were eclipsed when Edgar ousted Domnall III in 1097.

¹¹⁹ *Liber Ecclesie de Scon* (Edinburgh, 1843), no.1 (PoMS 1/3/4) (signatories because they are each recorded with a *signum*). Aed, who appears as a *comes* in a prominent position in witness-lists in charters of Alexander I and early in David's reign, is the most likely candidate as the last *mormaer* of Gowrie: see PoMS, no.599 (<http://db.poms.ac.uk/record/person/599/>; accessed 3 April 2013), *floruit* 1122 × 1128. The most obvious event that could have led to the suppression of the *mormaership* is the battle of Stracathro in Angus in 1130 when David I's constable, Edward, defeated a force led by Oengus, king of Moray, who was backing the claim of Alexander I's son, Mael Coluim, to the throne. See Ross, 'The identity of the 'prisoner of Roxburgh'', 269–77.

¹²⁰ *The Charters of King David I. The Written Acts of David I King of Scots, 1124–53 and of His Son Henry Earl of Northumberland, 1139–52*, ed. G.W.S. Barrow (Woodbridge, 1999), no. 155 (probably c. 1145 × 1151). For David I's rule over large parts of northern England, see Keith J. Stringer, *The Reign of King Stephen: Kingship, Warfare and Government in Twelfth-Century England* (London, 1993), chapter 3.

¹²¹ Broun, 'The property records in the Book of Deer', 355–6.

Shires and lordly kindreds

On the face of it, kindred and shire seem to be fundamentally different in nature: the former dynamic, and the latter static. Thomas Charles-Edwards has commented on the competitiveness that was inherent in being head of a lordly kindred or a king in early medieval Ireland.¹²² There was usually more than one suitable person, but normally only one of them could succeed at a time.¹²³ The one who succeeded was, in turn, on his guard from being ousted by a rival. This was true of elsewhere in the Gaelic world, including Scotland in the eleventh century.¹²⁴ Thomas Charles-Edwards has explained how this dynamic affected the nature of ruling kindreds.¹²⁵ They were prone to divide into separate branches, with those who lost in the struggle for the highest positions either falling into obscurity or maintaining their status through establishing their own territorial base (either from within the kindred's lands or beyond).

Shires, however, according to the current understanding of pre-twelfth century local society, were ancient areas of lordship that often endured throughout the middle ages, becoming baronies and parishes in the twelfth and thirteenth centuries. Geoffrey Barrow saw them as a system 'that almost certainly went back to the period of Roman occupation, when it was probably general throughout Britain', surviving in the twelfth century in Wales, northern England, and 'the whole of Scotland (except possibly the west highlands and isles)'.¹²⁶ He characterised shires as 'a district or little 'province' in which there might be a considerable number of dependent or satellite villages and hamlets [u]nder the direction of one or more responsible royal officials' who ensured that agricultural produce and services were rendered at the chief place of the shire, which he saw as typically a royal centre.¹²⁷ For Barrow, the smaller shire north of the Forth was best understood as a variant of this general phenomenon

¹²² Charles-Edwards, *Early Christian Ireland*, 92. Fundamental studies of succession to kingship include Thomas Charles-Edwards, *Early Irish and Welsh Kinship* (Oxford, 1993), 89–111, and Donnchadh Ó Corráin, 'Irish regnal succession: a reappraisal', *Studia Hibernica* 11 (1971), 7–39.

¹²³ There are occasional examples of a 'half king' because the position was held by two individuals.

¹²⁴ Examples of violent competition within ruling kindreds include (i) the ousting of Cinaed III grandson of Mael Coluim I from the Scottish kingship by Mael Coluim II grandson of Mael Coluim I in 1005, and the killing by Mael Coluim II of Cinaed III's great grandson in 1033; (ii) the killing of Findlaech, ruler of Moray, by the sons of his brother Mael Brigte in 1020, and the burning of Gilla Comgáin mac Maíl Brigte, almost certainly by Findlaech's son, Mac Bethad, in 1032; (iii) the death of King Donnchad II son of Mael Coluim III at the instigation of Domnall III, Mael Coluim III's brother, in 1094, and the blinding and killing of Domnall III by Mael Coluim III's son, Edgar, a couple of years after capturing Domnall in 1097. The same presumably was typical at a provincial level, too.

¹²⁵ Charles-Edwards, *Early Irish and Welsh Kinship*, 133–4.

¹²⁶ G. W. S. Barrow, *Kingship and Unity. Scotland 1000–1306*, 1st edn (London, 1981), 5; 2nd edn (Edinburgh, 2003), 7.

¹²⁷ Barrow, *Kingship and Unity*, 1st edn, 5; 2nd edn, 7–8.

in ‘a relatively poor and sparsely populated country’.¹²⁸ It is recognised in studies of shires elsewhere in Britain that they could be broken up into smaller units. There is, therefore, at least a tacit acknowledgement that each shire in the twelfth century or later cannot always be regarded as an ancient survival.¹²⁹ Nevertheless, because they have been seen as embodying patterns of behaviour with deep roots in the past, shires can readily be imagined as representing a largely unchanging grid of lordship in the landscape. This is reinforced by a tendency to regard parish boundaries as more ancient than the parishes themselves, recalling not simply the limits of individual settlements but older units similar to shires.¹³⁰ It is difficult, therefore, to think generally of shires altering their shape time and again to reflect changes in local power. This sense of being above the fray of struggles within and between lordly kindreds is heightened by the idea that shires were typically royal.¹³¹ According to this picture of the landscape of lordship north of the Forth, therefore, shires would have been the main building blocks of power – the stage on which the competition inherent in lordly kindreds was played, with rival branches seeking to establish themselves in as many shires as they could. The shires themselves, however, would not have been affected by conflict over who would dominate a province, a kindred or a locality.

This begs the question of how the cohesion of shires was maintained. What was to prevent rival branches of lordly kindreds from creating smaller shires so they might cling to their status as lords, or from consolidating their dominance by amalgamating shires or adding individual settlements to the shires they possessed? It will also be recalled that, in some cases, *cáin* from a settlement could be transferred, which implies that ‘appendages’ could be reassigned from one shire centre to another.¹³² How can this be reconciled with the long continuity of shires and the durability of their boundaries? All in all, our picture of local

¹²⁸ Barrow, *The Kingdom of the Scots*, 1st edn, 39–40; 2nd edn, 32–3.

¹²⁹ Barrow, *The Kingdom of the Scots*, 1st edn, 39, 2nd edn, 32, observed that the smaller shires might be because of a process of subdivision, as evidenced in southern Britain, but that it might also have been due to the ‘usual conservatism of Scotia’ (i.e., ‘Scotland’), taking his cue from a comment of Jolliffe’s (which he quoted) that, looking at Kent, the units ‘grow smaller as we go backward in time’. It appears from this (and his comment about the smaller shires as an adaptation of the general phenomenon for a more sparsely populated country) that Barrow was inclined to regard the individual shires, and not just shires in general, as ancient.

¹³⁰ See below, XXX. This is explicit in John M. Rogers, ‘The formation of parishes in twelfth-century Perthshire’, *Records of the Scottish Church History Society* 27 (1997), 68–97, 90–2. He observed that in England discussion of secular territorial units can ‘proceed on the basis of the evidence provided by parish boundaries’, but that it would be premature to do so in Scotland, although it must be considered. He then, having considered it in his area of study, concluded that the connection between parishes and earlier secular territorial units was shown, for example, by the fact that ‘only three in Gowrie cannot be related to pre-existing settlement units with any certainty’. The evidence relating to Gowrie is discussed below, XXX.

¹³¹ Barrow, *Kingship and Unity*, 1st edn, 5; 2nd edn, 7.

¹³² See above, XXX.

lordship pulls in different directions. This tension, in turn, raises doubts about our ability to understand how ‘Scotland’ functioned as a polity in this period, and therefore the potential of this case study to engage with conceptions of statehood articulated by social scientists or by historians taking their cue from social science.

The crux is our understanding of the shire. So far we have seen the shire as a central settlement with subsidiary settlements: *manerium cum appendiciis*. On the face of it a central place with appendages does not need to be an ancient and largely unchanging unit in the landscape of lordship. The shire could have taken more complex forms. For example, if *manerium* simply denoted a settlement whose arable land was cultivated for the lord’s benefit, then it would be possible to envisage that some shires may have had a few *maneria*, with only one of them functioning as the collecting point for renders. We will see an example of this in due course. If a shire could change its shape, then it would have been readily responsive to reconfigurations of power between and within lordly kindreds. Our picture of lordship would, as a result, be consistent in all its fundamental aspects. Why, then, are shires north of the Forth regarded as essentially static rather than flexible?

Shires and parishes

The generally accepted view of the shire in ‘Scotland’ (north of the Forth) is based chiefly on two pioneering pieces of work: Geoffrey Barrow’s ‘Pre-feudal Scotland: shires and thanes’, first published in 1973, and John Rogers’ unpublished Ph.D. thesis, ‘The Formation of the Parish Unit and Community in Perthshire’, completed in 1992.¹³³ Barrow established the shire’s main features through a study of examples in northern England and southern Scotland, showing that it was possible to trace this back in some cases to the seventh century.¹³⁴ This encouraged him to regard the shire as an ancient form of organisation that was once shared throughout lowland Britain. He was not alone in this view. A similar picture of deep continuity in the landscape of lordship was being developed at much the same time by Glanville Jones through his model of the ‘multiple estate’, based initially on Welsh evidence.¹³⁵ When Jones turned to England, he readily identified shires as multiple estates.¹³⁶ When Barrow examined Scotland north of the Forth, he too found units of lordship that

¹³³ Barrow, *The Kingdom of the Scots*, chapter 1. Rogers’ discussion of the relationship of parishes to earlier units of lordship is only summarised briefly in Rogers, ‘The formation of parishes in twelfth-century Perthshire’. Rogers’ Ph.D. thesis was not only inspired by Barrow’s work, but was supervised by Geoffrey Barrow himself at the University of Edinburgh.

¹³⁴ Barrow, *The Kingdom of the Scots*, 1st edn, 32–5; 2nd edn, 25–9.

¹³⁵ See above, n. [89XXX]

¹³⁶ Jones, ‘Multiple estates and early settlement’, 26–40.

shared similar features to the shires he had delineated further south: indeed, some were referred to as a ‘shire’ in medieval documents. For both Barrow and Jones it was these similarities and continuities that caught their eye and were emphasised.

The most influential aspect of Barrow’s work, however, was not necessarily his discussion and interpretation of the evidence, but his visualisation of shires and multiple estates as blocks of territory with clearly marked boundaries.¹³⁷ Where did these boundaries come from? In Barrow’s case he was impressed by the close relationship between shires and parishes in Britain generally, commenting that ‘parish boundaries constitute one of the longest-lived, most stubbornly enduring monuments of the British countryside’.¹³⁸ There are certainly instances north of the Forth of a shire that coincided with a parish (such as Kingoldrum in Angus).¹³⁹ Not unnaturally, therefore, Barrow portrayed shires, north as well as south of the Forth, as a clearly defined area with a group of settlements within its bounds, much like a parish. As far as Rogers was concerned, ‘[e]ach multiple estate [in lowland Perthshire] was a defined territory with boundaries and internal relationships that would have been clearly understood’.¹⁴⁰ The link between shire and parish has seemed all the more tempting given that the modern Gaelic word for ‘parish’, *sgìre* (or *sgìreachd*), is obviously a borrowing of English ‘shire’. A routine equation of parish with shire north of the Forth was, nonetheless, discouraged by Barrow, who noted instances where they did not match up.¹⁴¹ It was left to John Rogers to develop the idea that the medieval parish in ‘Scotland’ was usually formed on the basis of a shire, a view that has influenced the most significant recent work on the subject.¹⁴² Let us examine this in more detail.

¹³⁷ Barrow, *The Kingdom of the Scots*, maps 6–13. There is no accompanying commentary. There is evidence which points away from the equation of shire with parish in some of these maps: see below, XXX. Similar maps are found in Jones, ‘Multiple estates and early settlement’, 20, 21, 27, 36, 37, but not in Jones, ‘The dark ages’.

¹³⁸ G. W. S. Barrow, ‘Introduction to Part I’, in *Medieval Settlement: Continuity and Change*, ed. P. H. Sawyer (London, 1976), 11–14, at 13. For the question of boundaries of individual settlements, see below, XXX.

¹³⁹ *Atlas of Scottish History*, ed. McNeill and MacQueen, 416.

¹⁴⁰ Rogers, ‘The formation of parishes in twelfth-century Perthshire’, 94.

¹⁴¹ Barrow, *The Kingdom of the Scots*, 1st edn, 54, 2nd edn, 46; he made similar comments in *RRS*, I, 41.

¹⁴² For example, in the summary of the evidence for shires in Fife in *PNF*, v, 493–6, parishes were regarded as probably coextensive with shires if there was no evidence to the contrary (and sometimes if the evidence to the contrary was late): see below, XXX. In Moray, by contrast, Alasdair Ross has argued that the *dabach* (a unit of assessment) was the key building block in the formation of parishes. Alasdair Ross, ‘The Province of Moray, c.1000–1230’, unpublished Ph.D. dissertation, 2 vols (University of Aberdeen), I, chapter 2, esp. 119–22; Alasdair Ross, ‘The dabach in Moray: a new look at an old tub’, in *Landscape and Environment in Dark Age Scotland*, ed. Alex Woolf (St Andrews, 2006), 57–74, at 67–8. Although there is no doubt that the *dabach* as a unit of assessment pre-dated parishes, it may be questioned, in the light of Sarah Jane Gibbon’s compelling argument that the unit of assessment (urisland) in Orkney post-dated parishes, whether the coincidence of parish and *dabach* boundaries (which are not attested until the early modern or modern period) should not be explained by supposing that the *dabach* in its early modern or late medieval form relating to lordship over land post-dated parishes. See Sarah Jane Gibbon, ‘Medieval parish formation in Orkney’, in *West over Sea. Studies in*

Shires and parishes in Gowrie

John Rogers analysed how parishes formed in the twelfth and early thirteenth centuries in Strathearn, Gowrie, and Stormont related to ‘pre-existing secular administrative units’, which he identified through references to shires, thanages and baronies. He concluded that this showed ‘overwhelmingly’ that these earlier units were the ‘determinant influence’ in the formation of parishes.¹⁴³ At one level his conclusion is undeniable: parish churches were often located at shire centres. It does not necessarily follow, however, that the shire was typically a territorial unit which matched the boundaries of a medieval parish.¹⁴⁴ From a lord’s point of view, a parish and a shire were different in nature as sources of agricultural produce. A parish church received a teind (tenth) of the crops, cheese and newborn livestock that was grown, made or raised each year by those within its jurisdiction. It was natural, therefore, that the lord who established the parish church (or whoever possessed the church as a result of his patronage) would come to see the parish in terms of the territory from which the teind of arable and pastoral produce was derived.¹⁴⁵ This would have included not only the arable land of each settlement, but any common pasture that they shared. By contrast, the lord had no direct interest in how much was grown and reared in a shire, except in the central settlement.¹⁴⁶ It may be questioned, indeed, whether a settlement would necessarily have had boundaries with its neighbours (although these were certainly explicit in some cases, including instances where there was no apparent dispute).¹⁴⁷

Scandinavian Sea-Borne Expansion and Settlement Before 1300. A Festschrift in Honour of Dr Barbara E. Crawford, ed. Beverley Ballin Smith, Simon Taylor and Gareth Williams (Leiden, 2007), 235–50, esp. 243, and her unpublished Ph.D. dissertation (see below, n. XXX).

¹⁴³ Rogers, ‘The Formation of the Parish Unit and Community in Perthshire’, 402.

¹⁴⁴ It should be added that Rogers was very aware of the difficulty of recreating twelfth-century structures from later evidence: see, e.g., *ibid.*, 117.

¹⁴⁵ In considering the differences between parish and shire, and the question of boundaries, I have benefitted greatly from Sarah Jane Gibbon, ‘The Origins and Development of the Parochial System in the Orkney Earldom’, unpublished Ph.D. dissertation (Orkney College, University of the Highlands and Islands Millennium Institute, 2006), chapter 7, esp. 202–4, and comments on mapping at 316.

¹⁴⁶ This would also have been true of individual settlements ‘owned’ by lords (see below, XXX–XXX) who received a rent in money or kind from the tenants. This would have been different from his relationship with *cáin* paying settlements because he would in theory have had the opportunity to have short term leases (especially if there was competition for tenancies) and therefore a choice of tenants. In practice, however, tenancies were probably passed down families (as they often were in the later middle ages: see the discussion of ‘kindly’ tenure and the principle of ‘kindness’ in Margaret H. B. Sanderson, *Scottish Rural Society in the Sixteenth Century* (Edinburgh, 1982), 56–63). For an account of peasant conditions and terms of tenure based on late-thirteenth-century evidence relating to the estates of Coldingham Priory and Kelso Abbey, see A. A. M. Duncan, *Scotland, The Making of the Kingdom* (Edinburgh, 1975), 334–48. It is difficult to know how far this would have applied to Scotland north of the Forth in the twelfth and thirteenth centuries.

¹⁴⁷ For example *RRS*, I, no. 236, where the toun of Goselin the cook is said to extend to the bounds of other lands without being more specific, which suggests that the bounds themselves were not in dispute.

John Rogers' research is crucial for showing the relationship between shire and parish in detail across a region. On closer inspection this points to a different conclusion from that reached by Rogers himself. Within Gowrie, he gave examples of parishes that appear to have been created by combining two or three pre-existing units of lordship.¹⁴⁸ He also found parishes that had been formed from a single shire with the addition of a settlement.¹⁴⁹ For others, such as Blairgowrie, the parish was formed by adding a number of settlements to the core shire.¹⁵⁰ Some, such as the parish of Bendochy, were unusually complex;¹⁵¹ others, such as the parish of Errol, were inexplicable (in this case because it included a settlement, Inchmartine, from a neighbouring shire, Longforgan that formed the core of a parish).¹⁵² All in all, John Rogers regarded two-thirds of the 72 parishes in his analysis of lowland Perthshire as shires that became parishes. He admitted, however, that there were only 28 cases in which their 'geographical forms' coincided.¹⁵³ Eight of these 28 were in Gowrie: unfortunately this includes Alyth, Cargill, Errol, Longforgan, Scone and Coupar (which formed part of Bendochy), which do not, in fact, show a coincidence between shire and parish.¹⁵⁴ In Rogers' figure of eight, therefore, only Foulis and Strathardle remain as examples where there was a territorial match. This is not to say that these were the only instances in the twenty parishes that had been formed in Gowrie by the end of the twelfth century where there was an exact correspondence with a shire.¹⁵⁵ There are also a few parishes that lack sufficient evidence to show what their antecedents might have been.

Perambulations could be for arable land within a settlement only: an early example in royal charters is *RRS*, II, no. 28 (p. 137, lines 15–16), where a half ploughgate of land given by Mael Coluim IV to the church of Longforgan is described as endowed *secundum diuisas perambulatas*, 'according to its perambulated bounds' (the gift is recorded in *RRS*, I, no. 122, but without mentioning perambulated bounds). Pasture was often shared: for an example of sharing the pasture of shires or *maneria*, see *RRS*, I, nos. 168 and 248. As far as the country north of the Forth is concerned, it has been commented that '[p]erhaps we should see a landscape of small enclosed units of arable often not marching with each other (and hence not producing boundary disputes and the need to perambulate) but separated by areas of moor and moss (Duncan, Scotland. *The Making of the Kingdom*, 319). This is also suggested by the phrase *etar sliab acus achad*, 'both upland and *achad*', in the Deer records, discussed in Taylor, 'The toponymic landscape', 284, who suggests that *achad* here is enclosed land for arable and pasture (calling to mind the infield and outfield witnessed in early modern records).

¹⁴⁸ For example the parish of Kilspindie, which included Durdie and Pitroddie as well as Kilspindie; the parish of Scone, which united three 'thanages': Scone, Rait and Kinfauns; and the parish of Rattray, which combined Rattray with Glenballoch: Rogers, 'The Formation of the Parish Unit and Community in Perthshire', 128–31, 184, 189–90. For Kilspindie, see also below, XXX.

¹⁴⁹ Such as Alyth, where the feu did not include Foyal, but the parish did; and Cargill, a royal shire which as a parish included Little Keithick belonging to Holy Trinity church, Dunkeld: *ibid.*, 155–6; 163.

¹⁵⁰ *Ibid.*, 157–60.

¹⁵¹ *Ibid.*, 139–46.

¹⁵² *Ibid.*, 151, 170–2.

¹⁵³ *Ibid.*, 403.

¹⁵⁴ As seen above, and also nn. XXX and XXX.

¹⁵⁵ Rogers argued compellingly that Abernyte, Cambusmichael, Megginch, Meigle and St Madoes could be examples of parishes which coincided with shires: *ibid.*, 174–9, 184–7.

Although shires played an important role in determining the shape of parishes, therefore, the detailed picture does not go so far as to show that ‘the network of secular administrative subdivisions within Gowrie is fairly fully recalled by the twelfth century parish “map”’.¹⁵⁶ There were many more shires than parishes. It was also possible for individual settlements to be placed in a different parish from the central settlement of its shire. It would appear, therefore, that the connection between shire and parish, although significant, has been overemphasised.¹⁵⁷

Shires and parishes in Fife

This is consistent with what is revealed in the study of Fife’s settlement names and shires survey by Simon Taylor with Gilbert Márkus.¹⁵⁸ There are nine instances where they had sufficient information to state whether there was a coincidence between parish and shire (not including five in a survey of 1294 which is discussed below).¹⁵⁹ As in Gowrie, there are parishes that consisted of more than one shire, and others where a shire had been combined with one or two other settlements to create a parish. There is also a possible shire that may have become two shire-parishes after being divided between lords. Let us look at this in more detail (with the names of shires in bold).

The shires of **Dunfermline** and **Gellet** together formed the large parish of Dunfermline.¹⁶⁰ In two other cases (**Ardross** and **Kinninmonth**) the shires were part of parishes that contained another shire. A more extreme case may be the medieval parish of Crail, which had three baronies in 1278 (Crail itself, Kippo and Airdrie).¹⁶¹ If these were three shires, then the situation would have been reminiscent of Scone, in which the parish also contained three

¹⁵⁶ *Ibid.*, 403.

¹⁵⁷ Shires as a component in the formation of parishes would, for example, account for the detached portions of parishes that are not infrequently found (as can readily be appreciated from the map of medieval parishes in Fife in *PNF*, v, 78).

¹⁵⁸ *PNF*, v, 493–6.

¹⁵⁹ The others are said to be ‘probably co-extensive’ with the parish, taking their cue from Rogers’ work. On closer examination, however, there is (admittedly late) evidence in some cases which points in the opposite direction. For example, in the rental of Dunfermline Abbey in 1561 Newburnshire does not include Dumbarrie, Cotes and Cathrie (*PNF*, II, 475; see map at 465). The first, at least, because it is a Gaelic name, will be as old as the twelfth century. (Note that, at 485, it is explained that Barrow, *The Charters of David I*, 70, 136, is mistaken in identifying this with ‘Drumbernin’, a settlement given to Dunfermline by Alexander I.)

¹⁶⁰ In Barrow, *Kingdom of the Scots*, 1st edn, map 7 (p. 42; 2nd edn, p. 34) the parish is portrayed as a single shire. See now maps 28 and 29 in *PNF*, II, 281–2.

¹⁶¹ *Liber Sancte Marie de Balmorinach*, ed. William B. D. D. Turnbull (Edinburgh, 1841), no. 43 (PoMS 3/276/23). In Barrow, *Kingdom of the Scots*, 1st edn, map 9 (p. 44; 2nd edn, p. 36), the parish is portrayed as a single shire. See now maps 11 and 21 (Kingsbarns, originally part of the parish of Crail) in *PNF*, III, 180 and 358.

shires (referred to in the period before 1306 as ‘thanages’): Scone itself, Rait and Kinfauns.¹⁶² In two further cases (**Kinneddarshire** and **Kirkcaldy**) a single shire was the predominant part of a parish. The evidence for the shire of Kirkcaldy is notably early. Taylor and Márkus show that, when Mael Coluim III (1058–1093) and St Margaret (d. 1093) gave the ‘whole shire’ of Kirkcaldy to Dunfermline, this did not include two settlements donated by Alexander I (1107–1124) that appear subsequently in the parish.¹⁶³ Plainly the eleventh-century shire of Kirkcaldy was less than the twelfth-century parish. Finally there is **Easter Kinghorn** (or simply Kinghorn) and **Wester Kinghorn** (or Burntisland). Taylor and Márkus noted that when these were referred to as shires, they were both simply the ‘shire of Kinghorn’. They suggested, therefore, that this was once a single shire that had been divided between two lords.¹⁶⁴

Overall, it appears that shires should not, after all, be generally thought of as long standing units of lordship that provided a template for parishes. The relationship of shires and parishes to the agricultural activity of the inhabitants of the settlements within them was fundamentally different. The fact that parishes were formed not only from single shires, but frequently by combining shires, or by adding one or two settlements to a shire (presumably from other shires), shows that those who created parishes thought that these new forms of local jurisdiction could relate to shires in a variety of ways.

The survey of the lands of the earl of Fife in 1294

This is reinforced by the only medieval source that gives the anatomy of a shire in ‘Scotland’.¹⁶⁵ This is a survey of the lands of the earl of Fife in Fife made in 1294 and surviving on its original piece of parchment appended to a Pipe Roll of Edward I. The constituent parts of five shires are listed along with their annual rent (in cash rather than in agricultural produce).¹⁶⁶ There is no mention of *cáin*: it may be assumed, however, that this had been subsumed or commuted into the money rent. This points to a fundamental development in the nature of lordship over settlements which we will turn to in due course.

¹⁶² See below, XXX.

¹⁶³ *PNF*, I, 466.

¹⁶⁴ This is also implied in Barrow, *Kingdom of the Scots*, 1st edn, map 8 (p. 43; 2nd edn, p. 35).

¹⁶⁵ The next in age is the rental of Dunfermline Abbey in 1561, which includes a number of shires broken down into their constituent settlements. *Registrum de Dunfermelyn*, ed. Cosmo Innes (Edinburgh, 1842), 425–30 (for annual rents).

¹⁶⁶ This did not represent all the lands of the earldom in Fife: *PNF*, v, 126–8. . Some would have been in the hands of widows of previous earls. These would have been handed to the widows by shire rather than by settlements within a shire. For example, Elen, widow of Earl Mael Coluim II, appears to have Falkland in 1270 (see Michael Brown, ‘Aristocratic politics and the crisis of Scottish kingship, 1286–96’, *SHR* 90 (2011), 1–26, at 7 n. 26). A thane of Falkland is recorded in the judicial proceedings relating to Kirkness (see below, XXX).

The survey has recently been recovered from relative neglect by Simon Taylor, who has produced a new edition as well as a translation.¹⁶⁷ It would not be too harsh on the only previous attempt to publish the text – particularly in the rendering of settlement names – to say that Simon Taylor’s edition is the first occasion when it has been made intelligible.¹⁶⁸ The shire as revealed in this survey is still in general terms a central settlement with subsidiary settlements – the *manerium cum appendiciis* of medieval documents. Some, however, are more complex, with more than one *manerium*. None correspond with the territory of a medieval parish. There is one shire scattered across four medieval parishes, and another spread across three. There are, on the other hand, two instances where a parish and a shire shared the same central place and name; in each case, however, the parish bounds were significantly different from the shire’s extent. Let us examine this in more detail (see Map).

Thirty-eight settlements were divided unevenly in the survey between five shires.¹⁶⁹ The breakdown per shire is as follows, with the medieval parish of each noted (in italics).¹⁷⁰

Rathilletshire: nine settlements. Five were in the parish of *Kilmany* (including Rathillet itself, which is presented as having two settlements within it); two in the parish of *Monimail*, and one (Creich) in the parish of *Creich*. A settlement whose location is lost was probably also in the parish of *Kilmany*. The settlements in the parish of *Monimail* had evidently been created by dividing an earlier settlement. There was a mill at Rathillet.

Cuparshire: eleven settlements. Four were in the parish of *Cupar*, five in the parish of *Kettle* (including the demesne of Kettle), one (Luthrie) in the parish of *Creich*, and one (Cults) in the parish of *Cults*. One of the settlements in Kettle (Newton) was presumably a division of Kettle itself. There were two old mills and one new mill, all in Cupar itself.

Shire of Strathmiglo: seven settlements. Six were in the parish of *Strathmiglo*, and one (Auchtermuchty) in the parish of *Auchtermuchty*. Three settlements in Strathmiglo had evidently been created by dividing previous settlements.¹⁷¹ There were mills at Strathmiglo and Auchtermuchty.

¹⁶⁷ *PNF*, v, 650–3, trans. 654–6.

¹⁶⁸ *Documents Illustrative of the History of Scotland, 1286–1306*, ed. Joseph Stevenson, 2 vols (Edinburgh, 1870), i, 415–18; *PNF*, v, 650.

¹⁶⁹ Four more settlements are listed at the end whose crops have been farmed out (i.e., assigned to someone who would pay the earl a fixed amount in the expectation of making a profit). Unlike most other settlements in the survey they appear simply as a place name rather than ‘land of X’ or ‘villa of X’.

¹⁷⁰ The identification of settlements with parishes is made in Taylor’s edition.

¹⁷¹ Urquhart and Cash. Easter Cash, however, is not listed as in the shire of Strathmiglo.

Shire of Strathleven: six settlements, including the old hall. Four were in the parish of *Markinch*, plus a lost name (probably also in that parish), and the ‘old hall’ (probably in Markinch itself). One of the settlements (Newton) was presumably a division of Markinch. There was a mill at Balfarg, and another along with the old hall.

Shire of Rires: five settlements. All five were in the parish of *Kilconquhar*. Three appear to be divisions of the original shire centre.¹⁷² There was a mill at Balcarres.

As well as showing how varied shires could be, the survey also allows us to see contrasts in the nature of shire centres. At one extreme there is **Strathleven**, which is named from a topographical feature rather than a settlement. The most likely centre was the old hall. At the other extreme is Cupar and Rathillet. **Cupar** is unusual simply because it was a burgh. **Rathillet** would have been more typical of the centre of an extended shire. Not only was it a *manerium* (rather than a *villa* or *terra*), but it also included demesne, along with a reaper, brewing rights and a smiddy. It is the only settlement in its shire with any of these elements. Some of these features are found in other shire centres. **Rires** also had a reaper, brewhouse and a smiddy. **Strathmiglo** had crofters and *gresmen* rather than a reaper; like Rathillet and Rires, however, it had a brewhouse and smiddy.

A further element of variety is the association of shires with mills. This shows that, in this context, the extended shires may have been more cohesive than the smaller more compact shires. Mills were confined to shire centres in the extended shires of Rathillet and Cupar; in Strathmiglo the only exception is Auchtermuchty. In the two smallest shires, however, Strathleven had two mills, only one of which was at the probable shire centre, and Rires had only one mill, which was located at a subsidiary settlement, not the shire centre itself. It may be assumed that the inhabitants of the shires would have had to take their grain for milling to the earl’s mills. This would have been significantly less convenient for them in the extended shires than in the smaller ones. It would have been ideal, however, for the earl, especially in an earlier era when he had a particular interest in the arable land in the shire centre as a source of food for him and his retinue.

Although there is significant variety between shire centres, there are some common features that are very rare or unknown in other settlements. This makes it possible to identify potential old shire centres among the ‘appendages’. The key elements appear to be the

¹⁷² Wester and Easter Rires, and what appears to be the shire centre itself, with smiddy and brewhouse. For diagnostic features of a shire centre, see below, XXX.

presence of a brewery and smiddy and some indication of cultivation for the earl's benefit at some stage, either because there was a reaper, or because it was described as a *manerium* or as demesne. There are a few other settlements which share one or more of these features, and which may therefore have once been shire centres. **Auchtermuchty** in the shire of Strathmiglo, had crofters and *gresmen* rather than a reaper, and had a brewhouse and smiddy. It was also the site of a medieval parish church and had a mill. Its profile was therefore identical with Strathmiglo itself. Other potential old shire centres are suggested by the designation of two places apart from Rathillet as a *manerium*. These are **Luthrie** and **Cults**. Cults was also the site of a parish church. Luthrie was not, but could conceivably have been the centre of a shire in the parish of Creich.¹⁷³ Creich itself was assigned to Rathilletshire in the survey, but does not appear as a *manerium*.¹⁷⁴ Finally, **Kettle** is the only place in the survey apart from Rathillet to be described as having demesne. This, and the existence of a chapel at Kettle, could suggest that there had once been a shire of Kettle. There were four settlements nearby in the survey.

All in all, a range of different configurations of shires can be discerned in the survey. There are small shires 'pure and simple' (Rires and Strathleven); a small shire (Strathmiglo) that has incorporated what looks like the centre of a previous shire; an extended shire (Cuparshire) that appear to have incorporated three potential old shire centres; and an extended shire (Rathilletshire) that, by contrast, may not have included an old shire centre at all. Different permutations of the process of incorporating a shire into another shire can be suggested. There are those (like Auchtermuchty, Luthrie and Cults) where a shire centre appears to have lost its subsidiary settlements. In the case of the settlements in and around Kettle, it is conceivable that a shire about the size of Rires or Strathleven was incorporated in its entirety.

It may be tempting to interpret the survey of 1294 as indicative of the collapse of a once coherent and ancient shire system in this part of Fife. Looking at the survey as a whole, however, there is no suggestion that shires had lost their vitality as a form of organising lordship. It is notable, for example, that the shires that appear to have been most diffuse had the most centralised arrangements for milling, in contrast to those that were small and

¹⁷³ The place name Luthrie is possibly from Gaelic *lothar*, 'assembly': *PNF*, IV, 255. The short first vowel suggests 'assembly' rather than *lóthar*, 'vat, tub', although Taylor notes that the latter would be appropriate for the site's topography.

¹⁷⁴ It is explained in *PNF*, IV, 251–2, that the temptation to derive Creich from Gaelic *crích* (modern *crìoch*), 'boundary', should be resisted. It is argued convincingly that it is derived from creach, which seems to have denoted a 'bare hill', which could be topographically 'especially apt'.

compact, which had the least. This suggests that the varied nature of shires was not the result of a random pattern of decay, but reflected different forms of shire organisation that would have been understood at the time. It is within this context that we should see shires not only changing their shape but disappearing. Auchtermuchty had no doubt ceased to be a shire centre when it was (presumably) added to the shire of Strathmiglo on being given to Mael Coluim I, *mormaer*/earl of Fife, by William the Lion in 1204 × 1210.¹⁷⁵ Strathmiglo, however, also appears to have lost four settlements when these were given by Earl Mael Coluim II to a local lord probably in the 1240s.¹⁷⁶ Could shires also be created? There is no indication that any in the survey of 1294 were more recent than any of the others. Three of the shires – Rathillet, Strathmiglo and Strathleven – were presumably at least as old as 1160 × 1162 and 1165 × 1171 when they were given to Donnchad II, earl of Fife, by the king.¹⁷⁷ It has been suggested that Cupar(shire) may also have been given by the king to the earl in or shortly before the 1170s.¹⁷⁸ Given that the survey of 1294 shows how shires could change, however, it would be rash to assume that, where a shire had two *maneria*, another shire could not be created around the second one – in other words, that an old shire centre could not be reactivated. The nearest to this in the survey of 1294 is Kettle, which appears with demesne and four nearby settlements. It may be guessed that the demesne had originally been the ferme of Kettle (i.e., King’s Kettle) given by Mael Coluim IV to Earl Donnchad II in 1160 × 1162.¹⁷⁹ If so, then perhaps this served to join an old shire centre with some subsidiary settlements. In the survey, however, all these settlements near King’s Kettle were part of Cuparshire. Finally, it is not clear that a *manerium* or demesne was necessary in order to form the nucleus of a shire. In the case of Strathleven, a shire existed in 1294 without a settlement that had any of the characteristics of a shire centre found elsewhere in the survey. All in all, the snapshot of the landscape of lordship that we are given in 1294 points to the shire as an inherently flexible form of organisation – a flexibility that is likely to have been more apparent before the mid-twelfth century when local society was shaped chiefly by the permutations of power within and between lordly kindreds.

¹⁷⁵ *RRS*, II, no. 490.

¹⁷⁶ *Liber Cartarum Prioratus Sancti Andree*, ed. Thomson, 309–10. I owe this reference and the dating to Simon Taylor. Even with these four additional settlements, the shire would not have been co-extensive with the parish.

¹⁷⁷ *RRS*, I, no. 190 (1160 × 1162); *RRS*, II, no. 472 (and lost charter, no. 559, dated probably 1165 × 1171).

¹⁷⁸ G. W. S. Barrow, *The Anglo-Norman Era in Scottish History* (Oxford, 1980), 85.

¹⁷⁹ *RRS*, I, no. 190. If the shire centre was all that remained to the king, then this could explain why it was fermed, but also why it was given to Earl Donnchad II along with Rathillet, Strathmiglo and Falkland, which were all shires. For Falkland in the 1290s, see n. XXX, above.

The survey should not, however, be read simply as if it were a document of local lordship in the 1160s or earlier. It is also witness to fundamental developments in the nature of a shire's 'appendages'. By 1294 these were no longer *cáin* paying settlements. It is clear that the earl's relationship with them had changed in two ways. The first is that the earl received coin from them rather than produce – a reflection of the rise of a money economy, particularly in the thirteenth century.¹⁸⁰ The second is that the earl was regarded as owning all the settlements in these shires. This is not made explicit in the survey, but is likely to have been already well established when he gave settlements in Strathmiglo to a local lord.¹⁸¹ Let us investigate this further.

Lords owning settlements

In order to understand what a lord 'owning' a settlement meant we can turn to a case brought by the bishop of St Andrews against Donnchad, lord of Arbuthnott.¹⁸² Arbuthnott had initially been given by William the Lion to Osbert Olifard in 1165 × 1178;¹⁸³ Osbert's heir, Walter, had then given Arbuthnott to Donnchad's father, Hugh of Swinton. Before it was given to Osbert, it is clear that Arbuthnott had previously been managed for the king by a thane. The point at issue was whether Donnchad had the right to treat the Kirkton of Arbuthnott as his own land and put it under his plough. What makes this case especially significant is the unique detail that is offered on the relationship of a subsidiary settlement with its lord (the bishop of St Andrew) and with the lord of its shire centre at Arbuthnott (who was originally the king, but by 1206 was Donnchad of Arbuthnott). This is because the extant record is not a charter or agreement drawn up at the end of proceedings but the testimony of fourteen witnesses given during the hearing of the case held at a synod of the diocese of St Andrews at Perth in 1206.¹⁸⁴

¹⁸⁰ Nicholas Mayhew, 'Alexander III – a silver age? An essay in Scottish medieval economic history', in *Scotland in the Reign of Alexander III, 1249–1286*, ed. Norman H. Reid (Edinburgh, 1990), 53–73.

¹⁸¹ See above, XXX.

¹⁸² John Stuart (ed.), 'Decreet of the Synod of Perth, A.D. M CC VI', *The Miscellany of the Spalding Club*, v, ed. John Stuart (Aberdeen, 1852), 209–13; Broun, 'Re-examining *cáin*', 53. Note that in what follows *manerium* and shire are not terms used in the record itself.

¹⁸³ *RRS*, II, no. 569.

¹⁸⁴ As well as those mentioned below the witnesses include priests and stewards who visited the Kirkton on the bishop's business, and men from shires in Angus and the Mearns (Newdosk, Edzell, Fetteresso) and the parson of Newdosk. The forum was obviously chosen by the bishop of St Andrews as being most favourable for his cause. Unfortunately the manuscript which Stuart transcribed in his edition published in 1852 can no longer be traced. He described it as taken from a copy at Panmure taken from the original at Arbuthnott House: Stuart (ed.), 'Decreet of the Synod of Perth', 209 n. a.

The most informative witness was Isaac of Benvie, who had held Arbuthnott at ferme from Osbert Olifard and his heir, Walter, for six years.¹⁸⁵ He had therefore been in a position equivalent to the thane when the shire had been managed for the king up to the 1160s or 1170s. Isaac explained that the Kirkton was regarded as the bishop of St Andrews' 'own land' (*terra propria*), and that the bishop was free to give the land and dwellings in the Kirkton to whoever he pleased. (We learn from another witness that the bishop received two cows annually from the Kirkton.¹⁸⁶) Osbert had been entitled to receive from each house ten full milk cheeses around the end of June and the service of three men at harvest time. The cheeses and labour services can be identified with the *cáin* mentioned by another witness as owed to the thane in the 1160s. The thane or the lord of the shire had no further interest in the Kirkton's agricultural capacity or the labour of its inhabitants. All he received from them otherwise was half of the payments made to the bishop on the marriage of a woman from the Kirkton or when a penalty was paid by one of the inhabitants for shedding blood. It may be guessed that the main difference between the bishop's relationship with the Kirkton and the king's (or the lord of Arbuthnott's) with the shire centre was that the land was not cultivated primarily for the bishop's benefit. It is striking that Donnchad's intention, when he asserted what he felt were his rights as lord over the Kirkton, was to remove the *nativi* and put their land under his plough. It may be surmised that direct cultivation like this is what he was accustomed to expect in the central settlement of the shire.

The bishop's relationship with the Kirkton's inhabitants is particularly striking, and was referred to by many of the witnesses. The Kirkton was not only his own land but its inhabitants his own people (*proprii homines*). Isaac of Benvie recalled that, on one occasion, Osbert had offered the bishop a horse worth five merks if he would allow one of the more strong-willed inhabitants of the Kirkton to be removed, and that the bishop had refused when he learned that the person concerned was a *nativus* (i.e., someone born to the bishop's lordship).¹⁸⁷ Isaac commented that, in Osbert's view, there was little point in challenging the rights of the Kirkton's inhabitants because of the bishop's protection of them.¹⁸⁸ It was also noted by a previous sheriff of the Mearns and royal forester that when anyone from the Kirkton faced prosecution in his court the bishop would obtain a brieve from the king

¹⁸⁵ Stuart (ed.), 'Decreet of the Synod of Perth', 210–11.

¹⁸⁶ *Ibid.*, 213.

¹⁸⁷ Alice Taylor, 'Homo ligius and unfreedom in medieval Scotland', in *New Perspectives on Medieval Scotland, 1093–1286*, ed. Matthew Hammond (Woodbridge, 2013), 85–116.

¹⁸⁸ The verb used when referring to the bishop defending the Kirkton's inhabitants is *tueor*.

instructing the sheriff that the case should be transferred to the bishop's jurisdiction. Isaac and other witnesses also explained that the bishop and those travelling on his business were entitled to receive hospitality from the eight *persone* ('incumbents') who occupied the Kirkton. Presumably the *persone* would have dined with the bishop on food supplied by the labour of the Kirkton's *nativi*.¹⁸⁹

The bishop's ownership of the Kirkton and close relationship with its inhabitants, and the limited relationship they had with the king as lord of the shire or with his representative, is likely to have been centuries old by 1206. The Kirkton was part of a trail of churchlands belonging to the bishop of St Andrews in the lea of royal lordship north of the Tay, an arrangement that reflected the unique association between the king and the bishop:¹⁹⁰ the bishop's titles in the twelfth century and earlier were *episcopus Scottorum* in Latin and *episcop Alban* in Gaelic, mirroring the royal titles of *rex Scottorum* and *rí Alban*.¹⁹¹ Bishops of *Alba* ('Scotland') can be traced back to the tenth century; it seems probable, therefore, that the bishop of St Andrews' ownership of kirktons as stopping-off points dates from this period.¹⁹² If so, this would mean that the situation of a subsidiary settlement paying *cáin* to one lord and being owned by another was at least conceivable long before the twelfth century. How widely was this replicated? There was a special link in this case between bishop and king. It was not the only early example, however, of a subsidiary settlement being owned by one lord and paying *cáin* (*/cuit*) to another. By the time that Mael Coluim II (1005–

¹⁸⁹ This can be extrapolated in particular from the testimony of Felix whose father appears to have been a *persona* in the Kirkton during the 1160s: Stuart (ed.), 'Decreet of the Synod of Perth', 212.

¹⁹⁰ For the property rights of the bishop of St Andrews, see Marinell Ash, 'The lands and churches of the bishop of St Andrews', in *Atlas of Scottish History*, ed. McNeill and MacQueen, 361, supplemented (for Aberdeenshire and Banffshire) by *Liber Sancte Thome de Aberbrothoc*, ed. C. Innes and P. Chalmers, 2 vols (Edinburgh, 1848–1856), I, no. 169, which shows the bishop with rights in churches (similar presumably to those he had in the Kirkton of Arbutnott) that were within royal shires (or 'thanages') at Kintore and Formartine (in Aberdeenshire) and Glendowachy and Mumbrie (in Banffshire). The bishop also was lord of the churchlands at Ellon and Monymusk, which were not royal shires. Ellon, at least, as the caput of Buchan, is likely to have been associated with the *mormaership*. It is notable that witnesses in the Kirkton of Arbutnott case referred to the inhabitants as *persone* (the same word used of the incumbent of a parish church) and *scolóca* (Gaelic for 'scholars'), which seems to have been used as a term for the *native* of the Kirkton. For *scolóca* as the *nativi* of a settlement associated with a prominent local church, see now *PNF*, v, 485–9.

¹⁹¹ Marjorie O. Anderson, 'St Andrews before Alexander I', in *The Scottish Tradition: Essays in Honour of Ronald Gordon Cant*, ed. G. W. S. Barrow (Edinburgh, 1974), 1–13; Marinell Ash and Dauvit Broun, 'The adoption of St Andrew as patron saint of Scotland', in *Medieval Art and Architecture in the Diocese of St Andrews*, ed. John Higgitt, British Archaeological Association Conference Transactions, XIV (Leeds, 1994), 16–24.

¹⁹² A list of bishops from Cellach (who made a joint declaration with King Constantín mac Aeda at Scone in 906: see Woolf, *From Pictland to Alba*, 134–8, for discussion) can be traced to the twelfth century. It survives in Wyntoun's *Original Chronicle* (dispersed through book VI and into book VII: VI. 9, ll.691–3; VI.10, ll.771–85; VI.14, ll.1457–68; VI.20, ll.2505–13; and VII.3, ll.267–74) and Bower's *Scotichronicon* (VI.24). A key witness is the copy made by Bower in the 'Book of Coupar Angus' (Edinburgh, NLS MS Adv. 35.1.7, p. 433 column a.). I hope to discuss this in more detail on a future occasion.

1034) had endowed the *clerici* of Deer with his *cuit* from Biffie and *pett meic Gobroig* near Deer, it is probable that at least the former was already under someone else's lordship.¹⁹³

The changing nature of shires

Not all settlements would have been owned by a lord. In the twelfth and early thirteenth centuries there were peasants (*rustici*) who had no lord, which presumably means that they 'owned' their own land, paying *cáin* to a shire centre.¹⁹⁴ It is not difficult to imagine that this would once have been the norm, and that lords owning settlements was a later development. How might this transition have affected shires? In order to envisage how a shire's 'appendages' could have changed from settlements paying *cáin* to settlements owned by a lord, four scenarios can be suggested:

(a) A settlement whose only link with lordship was through paying *cáin* could subsequently have come to be owned by the lord of the shire. The settlement's affiliation to a shire would have continued as before. If the lord of the shire became owner of their land, it may be assumed that the *cáin* would have continued as part of a rent paid in kind before eventually being commuted to cash.¹⁹⁵ The lord would presumably have had a similar relationship with the settlement's inhabitants as the bishop of St Andrews had with the inhabitants of the Kirkton of Arbuthnott, with the same expectation that he could control who occupied the land.

(b) A variant of the first scenario is that, instead of the *cáin* being subsumed in the rent, it was transferred to a third party (typically a major church).¹⁹⁶ As long as *cáin* had been the only link between a subsidiary settlement and a shire centre, then this transfer would have meant that the settlement was assigned to a different shire (unless there were special circumstances: see (d), below). Now, however, that the subsidiary settlement had come to be owned by the lord of the shire, it would have remained as part of that shire, irrespective of

¹⁹³ Biffie itself was given to Deer by two individuals whose fathers may be identified with King Cuilén (966–71) and the father of Findlaech, ruler of Moray (d. 1020); *pett meic Gobroig* was given to Deer by the *mormaer* of Buchan and his wife in 1131/2 (II.6 & III: Forsyth, Broun and Clancy, 'The property records', 136–9). It is possible that the shire to which *pett meic Gobroig* belonged had been acquired by the *mormaer*'s kindred from the king during the intervening century.

¹⁹⁴ The *gabáil* ('apportioned land', which suggests kin-land: the MS readings seem to go back to 'gauales' or 'caueles') in the *Law of Armies* may be identified as land owned by *rustici*: see Taylor, 'Common burdens', 234 (and 228 n. 267, 231 n. 335 for MS readings), and below, XXX. Note also the contrast in the provisions for the enforcement of teind laid out in a charter of William the Lion in the late 1180s between a *rusticus* under a thane and a *rusticus* who had a lord: *RRS*, II, no. 281.

¹⁹⁵ Broun, 'Re-examining *cáin*', 52–3.

¹⁹⁶ *Ibid.*, 57–9.

who received the *cáin*. In these instances paying the *cáin* appears to have fallen on whoever possessed the settlement.¹⁹⁷

(c) Thirdly, a settlement could have come to be owned by a different lord from the lord of the shire. In this case, it would be expected that the lord who owned the settlement would have treated it as part of one of his own shires. If the *cáin* continued to be paid, it would have been to someone other than the lord of the settlement – either the lord of the original shire, or to someone to whom he had assigned it. This was probably the case with Biffie, for example.

(d) Finally, there is the situation we saw with the Kirkton of Arbuthnott, in which the settlement's affiliation to a shire continued to be determined by where it paid its *cáin*, not by the lord who owned the settlement. This dual lordship, as it were, could explain why both the bishop and the thane (and, after the thane, Osbert and his successors) took a half each of any payment on the marriage of one of the Kirkton's women, and of any penalty for spilling blood. Be this as it may, the Kirkton's situation as a settlement owned by one lord but in the shire of another would, presumably, have been very unusual. It is difficult to see how a settlement would in normal circumstances have come to be owned by a lord such as the bishop of St Andrews who lacked a significant local presence; without such a presence he would have struggled to provide effective protection for the settlement's inhabitants. In the case of the Kirkton of Arbuthnott, the bishop of St Andrews achieved this by piggybacking on the local power of the king's thane. When lordship over Arbuthnott became the property of a knight rather than the king, however, the Kirkton became vulnerable. Initially Osbert abandoned his plan to encroach on the Kirkton. According to the witnesses in 1206, however, it was not long before the Kirkton's inhabitants came pressure, first from Isaac of Benvie, and then from Hugh of Swinton and his son, Donnchad. It is striking that by the time the case was heard at the synod at Perth in 1206 all the *nativi* had been removed – something that had already started to happen in 1197.¹⁹⁸ It would appear that Bishop Roger (1198–1202, and bishop-elect from 1189) had been ineffective in safeguarding his land and his people.

What all these scenarios have in common is an assumption that it was becoming increasingly common for settlements to be owned by lords, leaving a diminishing number whose inhabitants owned their land and only rendered *cáin* to a lord. The transition to

¹⁹⁷ *Ibid.*, 59–60.

¹⁹⁸ One of the witnesses (Master Isaac) reported the testimony he received about Donnchad's incursions from Walter Scot (of Allardyce, a neighbouring local lordship) on his deathbed when Isaac visited the Kirkton on his way to fetch bishops to participate in the consecration of Bishop Roger on 15 February 1198: Stuart (ed.), 'Decreet of the Synod of Perth', 210. Donnchad's encroachments had evidently been going on for some time.

ownership by a lord need not have been made against the inhabitants' will: the evidence relating to the Kirkton of Arbuthnott shows that there could be advantages in having the protection of a major lord who regarded the land and its people as theirs. There may also have been opportunities for more prominent locals to be assigned part of a settlement. This would explain why Wester Bogie first appears as 'Bogie of the son of Thorfinn' when the *cáin* from it was transferred to the Céli Dé of St Serf's Isle, Loch Leven, by Mac Bethad (1040–1057).¹⁹⁹ By the second half of the twelfth century, however, there were certainly lords who received only *cáin* from a settlement and were prepared to use any means at their disposal to convert this into ownership of the land, even when a settlement was already owned by another lord. As well as Donnchad of Arbuthnott, there is the example of an attempt by St Andrews Priory to assume ownership of Balchrystie in the shire of Newburn in Fife. When St Andrews Priory acquired all the property rights and possessions of the Céli Dé of St Serf's, Loch Leven, in 1152 or 1153, this included *cáin* from Balchrystie.²⁰⁰ In a charter of Bishop Richard for St Andrews Priory this was converted into a claim to hold Balchrystie 'by its rightful bounds'.²⁰¹ Unfortunately it was already owned by Dunfermline Abbey as a result of a gift by David I in 1150.²⁰² The dispute was finally resolved by William the Lion in favour of Dunfermline.²⁰³

It may be envisaged, therefore, that the shire had originally been a *manerium* with *cáin* paying 'appendages', but that by the end of the twelfth century it was typically regarded as a grouping of rent paying settlements owned by a lord, as seen in the survey of the earl of Fife's lands in 1294. So far, however, this transition has been conjectured from evidence relating to individual shires and settlements. It would not be feasible to draw conclusions from this about general trends. In order to do so, we must turn to the most prominent Gaelic place-name elements in eastern Scotland – *pett* (a word borrowed from Pictish) and *baile*, seen in numerous farm names today beginning with 'Pit' and 'Bal'.

¹⁹⁹ *Liber Cartarum Prioratus Sancti Andree*, ed. Thomson, 11–14, at 12; Broun, 'Re-examining *cáin*', 57–8.

²⁰⁰ *Scottish Episcopal Acta*, ed. Norman Shead [hereafter *SEA*], vol. 1 (Woodbridge, forthcoming), no. 132; see Broun, 'Re-examining *cáin*', 57–8. I am very grateful to Norman Shead for giving me access to his edition before publication.

²⁰¹ *SEA*, I, no. 198.

²⁰² *Charters of David I*, no. 171 (probably dated to the consecration of Dunfermline Abbey on 11 June 1150).

²⁰³ *RRS*, II, no. 35.

Place names and the development of lordship over settlements

Pett was originally a Pictish word meaning ‘portion’ or ‘share’.²⁰⁴ Three settlements in the Deer records are identified as a *pett* (always as the *pett* of an individual or the sons of an individual, for example *pett meic Gobroig*).²⁰⁵ There are grounds for dating its use in place names to between the ninth and early twelfth centuries.²⁰⁶ Many hundreds were coined: Simon Taylor has identified 82 examples within Fife’s medieval boundaries.²⁰⁷ *Pett*, when applied to a settlement, has been interpreted as referring to the component part of a shire.²⁰⁸ *Baile*, by contrast, seems originally to have referred specifically to a habitation.²⁰⁹ The earliest known example in Scotland is Balchrystie (probably ‘Christ’s *baile*’), whose *cáin* was transferred to the Céli Dé of St Serf’s Isle, Loch Leven, by Mael Coluim III (1058–1093) and St Margaret (d.1093).²¹⁰ Many hundreds of *baile* names were coined in the eastern lowlands during the twelfth and early thirteenth centuries.²¹¹ Around 120 have been identified in Fife.²¹² The limited chronology for the use of *pett* and *baile* in place names is not unusual in itself. It poses an immediate conundrum, however. Every settlement was a

²⁰⁴ It is cognate with Welsh *peth* (‘a bit’, ‘thing’). See *PNF*, v, 215–25; Simon Taylor, ‘Pictish place-names revisited’, in *Pictish Progress. New Studies on Northern Britain in the Early Middle Ages*, ed. Stephen T. Driscoll, Jane Geddes, and Mark A. Hall (Leiden, 2011), 67–118, at 77–80; and Simon Taylor, ‘Generic-element variation, with special reference to eastern Scotland’, *Nomina* 20 (1997), 5–22, at 10.

²⁰⁵ Simon Taylor, ‘The toponymic landscape’, 282–3. This particular name appears twice (as ‘pett mc gobróig’, with suspension stroke over ‘mc’, and ‘petmec cóbrig’), and is a good example of the difficulties in interpreting *pett* names in the Deer records. It can be understood as either *pett meic Gobroig* (with *meic* as genitive singular of *mac*, ‘son of’) or *pett mac Gobroig* (with *mac* as genitive plural ‘sons of’, although this would require that ‘petmec cóbrig’ showed devoicing of /g/ and/or a reanalysis of genitive plural *mac* as *meic*): see Roibeard Ó Maolaláigh, ‘The Scotticisation of Gaelic’, 252–3. Simon Taylor, ‘The toponymic landscape’, 283, also notes that the name could be a back projection from the 1130s. In light of Bogie ‘of the son of Thorfinn’, I am inclined to follow Jackson in favouring singular *meic*, ‘of the son of’ over plural *mac* ‘of the sons of’: Kenneth H. Jackson, *The Gaelic Notes in the Book of Deer* (Cambridge, 1972), 51. On the other hand, note *leth mac Dúngal/Dúngaill* near Dunfermline (see n. XXX, above), where the attested forms suggest *mac* (genitive plural).

²⁰⁶ A striking feature of names in *pett* is that nearly all of them have a Gaelic second element, and must therefore have been coined by Gaelic speakers. The distribution of *pett* names, which extends only a little into Lothian, with one example in Strathclyde, suggests that *pett* ceased to be a productive place name element in the eleventh century (see Taylor, ‘Pictish place-names revisited’, 77–80; see also comments in Thomas Owen Clancy, ‘Gaelic in medieval Scotland: advent and expansion’, *Proceedings of the British Academy* 167 (2010), 349–92, at 372, 386). The existence of a *pett* name with a Pictish second element (Pitpointie in Angus) suggests that they were first coined when the Pictish language was dying out. Simon Taylor has pointed to other indications that *pett* names may still have been coined in the eleventh century, and that they were still predominant in the settlement landscape in the early twelfth century (if not necessarily still being coined then): *PNF*, v, 220–5.

²⁰⁷ *PNF*, v, 217.

²⁰⁸ Barrow, *The Kingdom of the Scots*, 1st edn, 59; 2nd edn, 49.

²⁰⁹ *PNF*, v, 225–6; Taylor, ‘Generic-element variation’, 11.

²¹⁰ *PNF*, II, 478–9.

²¹¹ *PNF*, v, 231–3, gives examples in Fife of *baile* names with a personal name as the second element which can be identified (with varying degrees of confidence) with individuals who lived in the twelfth and early thirteenth centuries. Thomas Clancy has suggested that *baile* names in eastern and central Scotland were ‘a phenomenon of the period 1050–1250’.

²¹² *PNF*, v, 227.

habitation. Why should *baile* only have been used in place names from the end of the eleventh century? Similarly, it may be assumed that all settlements, except the minority which were *maneria*, would have belonged to a shire and been a *pett*. Why did *pett* cease to be used in place names after the early twelfth century? A significant social change must lie behind this. Can the place-name evidence point to an explanation of what this might have been?

The chronology of *pett* and *baile* suggest that there was a clear connection between the decline of *pett* and the beginning of *baile* in coining place names. This can most readily be understood as a change in how settlements were *primarily* perceived. Each settlement was both a habitation and part of a shire, of course. Before the twelfth century, however, it was their identity as part of a shire that was emphasised. During the early twelfth century this ceased to be the chief focus, and instead they were identified simply as habitations. This could be explained as a change in how lords typically related to settlements. It might be imagined that, at the outset, the normal lordly experience of a settlement would have been as a payer of *cáin*. As such, settlements would have been seen primarily as the component parts of shires. This is not to deny that an increasing number of settlements may have been owned by lords. That, however, would not yet have been the norm. With *baile*, however, the focus is on the settlement as a habitation rather than as part of a shire. This implies that, for the lord, his relationship with the inhabitants now had priority. He was aware of them and their settlement as his own people and land in a way that was not possible if they only rendered him *cáin* to his shire centre. This would be consistent with the lord's ownership of a settlement. It may be argued, therefore, that *baile* emerged at the point when the ownership of settlements by lords had started to become a typical experience. By the time it superseded *pett*, it had become the norm. This is not to say that all settlements were now owned by lords. According to this line of argument, however, this became the predominant feature of rural society in the decades around 1100.

At the end of the day, our understanding of shires depends on where we take our bearings from as we peer into the dimly lit landscape of lordship in 'Scotland' before the mid-twelfth century. If we are guided first and foremost by the survey of the earl of Fife's lands in 1294, and also by the often complex configuration of shires in relation to parishes in the twelfth and thirteenth centuries, it is not difficult to see the outlines of a topography of local power that would have had the flexibility to respond to the dynamics of the rise and fall of individual lordly kindreds and their segmentation into new kindreds. Instead of seeing shires in the

eleventh and early twelfth centuries as prefiguring parishes, it is likely to be more profitable to think of them as the forebears of baronies. This does not, however, require the rejection of the idea that there may once have been a system of local organisation in Scotland north of the Forth that was characterised by largely unchanging units of royal lordship similar to that envisaged by Geoffrey Barrow and Glanville Jones across Britain. It is conceivable that shires of this kind existed when *pett* was a common Pictish word for a subsidiary settlement. Be this as it may, it must be doubted whether a hypothesised common British pattern of ancient multiple estates or shires, each with a considerable number of satellite settlements attached to a central place, was still a significant feature of the landscape of lordship north of the Forth when parishes were formed in the twelfth century.

Shires of the mormaership and kingship in Gowrie

The final question to pursue in this attempt to portray the landscape of lordship before the mid-twelfth century leads us back towards the *mormaer* and king as offices with dedicated resources. Can any specific shires or *maneria* reserved for the *mormaership* or kingship be identified? The starting point is another charter of Mael Coluim IV's, datable to 24 May 1163 × 23 May 1164, marking the occasion when Scone was raised in status to an abbey, and enumerating all previous donations and grants. There we are told that David I (1124–1153) had given exactly the same render to Scone Abbey from *maneria* as Mael Coluim IV did in 24 May 1163 × 20 September 1164: a tenth of the meal and malt, and of the *cáin* in cheese and hides. Fortunately, on this occasion, the *maneria* were listed: Scone, Coupar, Longforgan and Strathardle.²¹³ It is unclear, however, whether these were *maneria* of the kingship only, or included any *maneria* of the *mormaership*, too. We are told simply that the tenth of David I's revenue was 'from these four manors of mine of Gowrie, namely from Scone, from Coupar, from Longforgan and from Strathardle' (*De hiis quatuor maneriis meis de Gouerin, scilicet de Scon et de Cubert et de Forgrund et de Straerdel*). It is possible, judging by the way this has been expressed, that David had other *maneria* in Gowrie.²¹⁴ Unfortunately his charter of donation (if it ever existed) is lost, so there is no opportunity to see if this list of *maneria* might be from the period before or after there ceased to be a *mormaer* of Gowrie.²¹⁵

²¹³ *RRS*, I, no. 243 (at p.264). All but one were still in royal hands in 1163 (see below).

²¹⁴ I am grateful to Simon Taylor for discussing this sentence with me. Alexander Grant, 'Thanes and thanages', 54 regarded these as the sum total of 'ancient royal demesnes of Gowrie, while the rest of the crown's possessions there were former earldom lands'.

²¹⁵ See below, XXX.

It is possible, however, to identify four more *maneria* in Gowrie that were in Mael Coluim IV's hands. This hinges on whether any other settlements held by Mael Coluim or his successors were burdened with paying a tenth of some of their produce (or cash equivalent) to Scone Abbey. If they were, it could not have been as a consequence of David's gift of the tenth of his meal, malt and *cáin* from Scone, Coupar, Longforgan and Strathardle: it would have to have been as a result of Mael Coluim's gift. Four settlements can be identified this way as *maneria*: Blairgowrie, Rait, Kinfauns and Errol.²¹⁶ A tantalising pattern can be discerned. Of the eight *maneria* of the *mormaership* or kingship that can be identified, five were gifted by kings to churches or laymen: Coupar in 1161,²¹⁷ Longforgan and Errol in 1178 × 1182,²¹⁸ Blairgowrie in 1235,²¹⁹ and Strathardle by 1279.²²⁰ This leaves Scone, Rait and Kinfauns. These are the only *maneria* of the eight which are referred to as 'thanages' (in 1234 and 1305).²²¹ It may be recalled that this term, first attested c.1190, may have been used in the thirteenth century to differentiate long established royal estates from others.²²² It is tempting to take this a stage further. One difference between *maneria* of the kingship and the *mormaership* in Gowrie would have been that, with the abolition of the post of *mormaer*, the kings would have regarded *maneria* of the *mormaership* as acquired lands and therefore disposable. It might be expected, by contrast, that the *maneria* assigned to the kingship would not have been regarded as disposable.²²³ If so, then the pattern of *maneria* that were alienated

²¹⁶ *RRS*, III, nos 223 (Blairgowrie) and 278 (Rait and Kinfauns); for Errol, see the agreement between Scone and David Hay, lord of Errol (PoMS, H4/32/77), in D. E. Easson, 'Miscellaneous monastic charters', *Miscellany of the Scottish History Society* vol. VIII (Edinburgh, 1951), 1–16, at 13–14. For the dating, see PoMS <http://db.poms.ac.uk/record/source/4270/>; accessed 03 February 2015.

²¹⁷ *RRS*, I, no. 226 (foundation of Coupar Angus Abbey).

²¹⁸ *RRS*, II, nos 205 (Longforgan was the next to go when William the Lion included it in the package of estates given to his brother, David, in a charter datable (probably) to 1178) and 204 (gift of Errol to William Hay by William the Lion in 1178 × 1182 for the service of two knights, but without mentioning any payment to Scone of a tenth of some of its revenue).

²¹⁹ *RRS*, III, no. 223: in exchange for rendering to Scone Abbey the tenth of some of the revenue from his lands of Blairgowrie (and some other rights), Alexander II gave Meikle Blair and Little Blair to Scone except for two-and-a-half ploughgates of arable which he had given to Coupar Angus Abbey that same day (the gift to Coupar Angus is *RRS*, III, no. 222).

²²⁰ See Rogers, 'The Formation of the Parish Unit and Community in Perthshire', 131–4 (at 134 for its possession by John of Inchmartine by 1279).

²²¹ *RRS*, III, no. 210 (Scone); *Memoranda de Parlamento*, ed. Maitland, no. 277 (p. 172) (Scone, Rait and Kinfauns). Rait and Kinfauns are absent from the extremely helpful list of thanes and thanages in Grant, 'Thanes and thanages', 72–81. They are identified as thanages in Rogers, 'The Formation of the Parish Unit and Community in Perthshire', 131.

²²² See above, XXX.

²²³ Although once the kingship had come to be identified with the dynasty of Mael Coluim III and St Margaret, it may have been regarded as acceptable to give them to a close member of the royal family (such as the gift of Longforgan to Earl David). Included in Alexander I's endowment for Scone Abbey were lands that may have belonged to these putative royal *maneria* in Gowrie (see next note). Alexander I's endowment also included Banchory (assessed as three ploughgates) on the fringes of the parish of Blairgowrie, but this need not have been

and *maneria* that were retained would suggest that Scone, Rait and Kinfauns were the *maneria* in Gowrie that were assigned to the kingship, and that the rest had originally been assigned to the *mormaership*.²²⁴ If so, then perhaps ‘thanage’ denoted a *manerium* assigned to the kingship. ‘Thanage’ was also used of two estates in the earldom of Atholl.²²⁵ If ‘thanage’ was coined as a term specifically for shires assigned to the kingship or *mormaership*, this would presumably have been in order to distinguish them from shires under the king or a *mormaer* as head of kindred. If so, then this may have arisen because, by c.1190, the two capacities in which the king or a *mormaer* held shires was becoming fused as a consequence of primogeniture.²²⁶ It has to be said, however, that ‘thanage’ must have lost this meaning (if it ever had it) during the reign of Robert I (1306–1329): for example, Alyth in Gowrie is referred to as a thanage in 1319 but as a feu in 1232 when Alexander II gave lands there to his physician.²²⁷ Unfortunately, even if this explanation for the emergence of the term ‘thanage’ is accepted, its practical application for future research is very limited: for example, the term does not appear to have been used consistently in the main source for thanages before 1306 (the so-called ‘Alexander III rental’ of royal estates in the diocese of Aberdeen).²²⁸

A more promising way of diagnosing shires associated with the kingship or *mormaership* might be by tracking where the bishop of St Andrews owned a kirkton within a shire belonging to the king or a *mormaer*. In the diocese of Aberdeen this would suggest that Kintore, Formartine, Glendawochy and Mumbrie were kingship-shires; Ellon and Inverugie

part of the manerium of Blairgowrie, especially as Blairgowrie is not an example of shire and parish coinciding (see above, XXX-XXX; also, on the feu – the successor of the *manerium* – of Blairgowrie, see Rogers, ‘The Formation of the Parish Unit and Community in Perthshire’, 157–9.

²²⁴ There were settlements given to Scone on its foundation as an Augustinian priory by Alexander I that, on the face of it, may have belonged to these shires: Innerbuist with five ploughgates of land (Scone), Fingask with one ploughgate (Rait) and Durdie with three ploughgates (Kinfauns): *Liber Ecclesie de Scon*, no.1. According to the preceding discussion of shires (see XXX–XXX, above), it may be imagined that these were either formed into a shire for Scone Priory (later Abbey), which would have been regarded as royal for eternity, or they were held by Scone in a similar way to the Kirkton of Arbuthnott (i.e., owned by Scone but still within a royal shire). The latter arrangement would provide a context that would explain David I’s grant of *coinnmed* (‘conveth’: see below, XXX) to Scone, itemised in detail, from each of ploughgate of its land: *RRS*, I, no. 243 (p. 264).

²²⁵ Grant, ‘Thanes and thanages’, 79: Findowie and Dalmarnock (1187 × 1203, probably × 1192: see *ibid.*, 40 n. 5). There is a suspicion that Dunning may have been another example, but it is not referred to explicitly as a thanage (despite the impression possibly given in *ibid.*, 80).

²²⁶ See above, XXX.

²²⁷ *RRS*, III, no. 182; Rogers, ‘The Formation of the Parish Unit and Community in Perthshire’, 152–6.

²²⁸ *Registrum Episcopatus Aberdonensis*, ed. Innes, I, 55–6. It is notable that Kintore, for example, is not one of the places referred to as a thanage. For Kintore, see below, and *Regesta Regum Scottorum*, VI, *The Acts of David II, King of Scots 1329–1371*, ed. Bruce Webster (Edinburgh, 1982), no. 397.

might be *mormaership*-shires in Buchan, and Monymusk in Mar.²²⁹ When we turn to Gowrie, however, a significant variant to this pattern comes to light. The bishop of St Andrews had no proprietary rights in the churches and chapels of Scone, Rait and Kinfauns. Rait and Kinfauns, however, extend out from Scone, and between them lies Kilspindie, whose church and land belonged to the bishop of St Andrews.²³⁰ This was adjacent to putative kingship-shires, but unlike Arbuthnott, was not part of one.²³¹ A similar pattern could explain the bishop's ownership of Rescobie next to the major royal centre of Forfar.²³² Another difference with Arbuthnott is that both Kilspindie and Rescobie had their own lord or bishop's representative 'on site': an *ab* ('abbot') in the former, and a *maer* in the latter.²³³ The bishop would not, therefore, have depended on a royal thane to protect his people. At the end of the day, however, it may be questioned whether the proximity of one of the bishop of St Andrews' estates to a royal shire is sufficient on its own to indicate that the royal shire was assigned to the kingship or was held by the king as head of kindred. Perhaps a detailed examination of the property rights of bishops of St Andrews could yield more than one approach to the identification of shires that may anciently have been associated with the king or *moraír*.²³⁴

IV. SECULAR AUTHORITY IN 'SCOTLAND' BEFORE THE MID-TWELFTH CENTURY

At the end of the day, even if a tally of shires assigned to the kingship and *mormaership* in a particular province slips from our grasp, it is likely on the face of it that the position of *mormaer* as well as king brought with it not only enhanced status and higher fines for infringements of their protection but also included significant material rewards, too. Be this as it may, there can be little doubt about the importance of local lordship for both king and

²²⁹ See above, n. XXX. For Ellon and Inverugie, see Broun, 'The property records', 349 (Ellon) and Taylor, 'The toponymic landscape', 278–9. The material relating to Monymusk is collected in William Reeves, *The Culdees of the British Islands* (Dublin, 1864), 135–41. In the early thirteenth century it appears that Gilla Críst, *mormaer* of Mar, was assuming lordship over the Céli Dé of Monymusk, provoking the bishop of St Andrews to assert his lordship (see esp. *Liber Cartarum Prioratus Sancti Andree*, ed. Thomson, 370) – a situation that recalls the Kirkton of Arbuthnott. It can only be guessed, however, that Gilla Críst was in a similar position as Donnchad of Arbuthnott as lord of a putative shire.

²³⁰ Rogers, 'The Formation of the Parish Unit and Community in Perthshire', 183–4.

²³¹ The bishop's estate of Kilspindie became a barony, which could suggest that it constituted a shire (which would have been smaller than the parish: *ibid.*, 184).

²³² Marinell Ash, 'The Administration of the Diocese of St Andrews, 1202–1328', unpublished Ph.D. dissertation (University of Newcastle upon Tyne, 1972), 206–7. Like Kilspindie, Rescobie was also its own unit of lordship, with a *mons* for holding judicial assemblies.

²³³ Rogers, 'The Formation of the Parish Unit and Community in Perthshire', 183; Ash, 'The Administration of the Diocese of St Andrews', 206.

²³⁴ Ash, 'The Administration of the Diocese of St Andrews', 199–220, discussed the management of the estates rather than the estates themselves in detail.

mormaer, particularly in their capacities as head of a kindred with clients who were also heads of lordly kindreds. With this firmly in mind, we can now turn to consider secular authority at the highest levels in this society. This will hinge on our understanding of the role of the *mormaer*.

We can begin by reemphasising that the *mormaer* was not a servant, like a mere *maer*, who depended for his livelihood on ‘obligatory hospitality’ (*coinnmed*) in his master’s lands and a small estate inherited with his office. He was, rather, the head of the predominant kindred in a *provincia*.²³⁵ This would tally with his position of provincial leadership. When all men of arms-bearing status in the province were summoned to serve in the kingdom’s army, they were led by the *mormaer*.²³⁶ He is also likely to have played a key role in the administration of justice. This can be inferred from the procedure for dealing with accusations of theft of livestock in an assize of David I, expanded by William the Lion.²³⁷ It will be recalled that each province had a designated site where the disputed goods and their warrantors would be brought. Presumably these sites were where court cases of this kind were heard under the auspices of the *mormaer*. Despite these pivotal functions, however, it is clear that the *mormaer* was not indispensable. Some provinces could function without a *mormaer* – for example, Gowrie (probably after 1130) and the Mearns (probably after 1097).²³⁸ In both cases it is possible that the king was the predominant local force by virtue of his own kin-based lordship. Another scenario is suggested by the *mormaership* of Mar. When it was vacant for about twenty years the province was led into war by both claimants, presumably as heads of their kindreds.²³⁹ Perhaps this pattern was repeated whenever two kindreds were evenly matched, so that, again, there would be no *mormaer*. On the surface, then, the *mormaer* as *mormaer*, as opposed to head of a lordly kindred, seems a puzzle, and requires more detailed scrutiny.

²³⁵ For provinces/*mormaer*doms, see above, XXX.

²³⁶ This is generally accepted, but needs now to be seen in light of the distinction between earldom (i.e., the earl’s estates) and province shown by Alice Taylor (see above, XXX). For a discussion of the earl’s role in recruiting and leading the army in light of this distinction, see Taylor, *The Shape of the State*, chapter 2; Taylor, ‘Common burdens’, 204–20. For an example of earls leading provincial armies (which she discusses) see the account of the army sent by the king against Gofraid mac Uilleim in 1211 which was led by the earls of Atholl and Buchan and the two claimants to the earldom of Mar, Mael Coluim mac Morgáin and Thomas of Lundie: *Scotichronicon by Walter Bower in Latin and English*, gen. ed. D. E. R. Watt, vol. IV, *Books VII and VIII*, ed. David J. Corner, A. B. Scott, William W. Scott and D. E. R. Watt (Edinburgh, 1994), 264–5. It has been suggested that Bower’s source was a chronicle which incorporated a detailed contemporary account of events 1209–1214: see *ibid.*, xxii–xxiv (and for this section specifically, 631).

²³⁷ See above, XXX.

²³⁸ See above, XXX.

²³⁹ See above, XXX.

A closer investigation of the *mormaer*'s role can best begin with two documents addressed by the king to a *mormaer* (and others) in an official capacity. One is a brieve-charter of David I in the last years of his reign, addressed to the bishop of St Andrews, the *mormaer* and the men of Fife, prohibiting them from hearing cases against the men of the abbot of Dunfermline in the shire of Newburn; the abbot's men were to answer only in his court, supervised by the *brithem* (*judex*) of Fife.²⁴⁰ This suggests that bishop and *mormaer* presided over the judicial assembly of Fife (including Fothrif), with the *brithem* an essential presence in whatever forum the verdict was to be established. This combination of *mormaer* of Fife, bishop of St Andrews and a supreme legal expert is visible in a case early in David I's reign – a dispute between the Céli Dé of St Serf's Isle and Robert the Burgundian – with the bishop represented in his absence by the leaders of his army, and the *mormaer* leading the army of Fife.²⁴¹ No *brithem* of Fife as such is mentioned in this instance; instead, we are told that judgement was entrusted to a panel of three who were agreed upon by those present, and that the verdict was given by the judge who was most learned in law.²⁴² Perhaps the *brithem* was not available on this occasion, and this panel represented a way of establishing who in his absence had the greatest legal expertise. Be this as it may, the pattern of *mormaer* and bishop presiding, and a legal expert giving the verdict, may be envisaged in other assemblies: a *brithem* with a title mirroring a *mormaer*'s is attested in six out of nine provinces.²⁴³ The prominence of the bishop of St Andrews in the assembly of Fife, however, could have simply been because he had so many men of arms-bearing status under his lordship there. If so, it would be a mistake, in the absence of any other evidence, to extrapolate a general pattern

²⁴⁰ *Charters of David I*, ed. Barrow, no. 190. Although this is a mandate rather than a notification, it is addressed to the provincial assembly, as would be any brieve-charter. See Richard Sharpe, 'Address and delivery in Anglo-Norman royal charters', in *Charters and Charter Scholarship in Britain and Ireland*, ed. Marie Therese Flanagan and Judith A. Green (London, 2005), 32–52, at 32–3, 42–3.

²⁴¹ Archibald C. Lawrie, *Early Scottish Charters* (Glasgow, 1905), no. 80. The court assembled by David I's messengers is described as consisting of (i) the *mormaer*, Constantín, with *mair* (*satrapys*) and followers and the army of Fife; (ii) Mac Bethad, thane of Falkland; (iii) the army of the bishop, led by Buadach and Slogadach; and (iv) a *dux* with his *familia* (which could be a literal rendering in Latin of Gaelic *toísech* with his *clann*). Presumably (iii) and (iv) were named because they had a particular interest in the dispute (e.g., as neighbours). Constantín died 1128 × 1136 (<http://db.poms.ac.uk/record/factoid/47114/#>).

²⁴² The way this is phrased in the account, though, suggests that none of the judges on the panel performed their role as of right. The *brithem* was, presumably, essentially the official supervising the proceedings to ensure that all was conducted properly. This would be consistent with his role in the brieve relating to the men of Newburn, and with his function attested in perambulations (on which see Barrow, *The Kingdom of the Scots*, 1st edn, 72; 2nd edn, 59–60).

²⁴³ For an enumeration of the provinces, above, XXX (including Stormont). The formula '*judex* of X', where 'X' is a province, is attested for Angus, Buchan, Fife, Gowrie, the Mearns and Strathearn: Barrow, *The Kingdom of the Scots*, 1st edn, 74–9; 2nd edn, 61–5. There was an expectation that every province would have a *judex* (*brithem*): Taylor, 'The assizes of David I, king of Scots', 223–5, has drawn attention to an assize, probably enacted by David I at Montrose, which set a fine of eight cows for any provincial *judex* who failed to attend the king as long as the king was in their province.

from this. Also, the similarity of a provincial assembly presided over by *mormaer* and bishop with shire courts in late Anglo-Saxon and Norman England is vulnerable to the suggestion that the bishop's role was introduced by David I.²⁴⁴

Levying common burdens in royal lands

The other document addressed by the king to a *mormaer* in an official capacity is a brieve of Mael Coluim IV, datable to 1162 × 20 September 1164, informing the *mormaer* of Angus and sheriffs (*vicecomites*) of Scone and Forfar that aids (*auxilia*) were to be collected from the abbot of Scone's property (*pecunia*) not by them but by the abbot's servants: the brieve closes by forbidding them from entering the abbot's lands for this purpose.²⁴⁵ Alice Taylor has shown that aid, along with military service and building work, was one of three forms of collective action initiated by the king when the need arose.²⁴⁶ This brieve is evidence that the *mormaer*, along with the sheriff, once had a role in levying these common burdens – a role that the king could cancel.

The sheriff was a twelfth-century innovation in Scotland north of the Forth.²⁴⁷ Did he replace an earlier royal official in the administration of common burdens in Angus, or was his role alongside the *mormaer* a recent development? A fuller picture of how common burdens were enforced is revealed in the *Law of Armies*, a *recordatio* (statement of customary law) made at Perth by all the lawmen (*judices*) of *Scotia*, probably in 1221, with the king presiding (*coram rege*). This delineated the penalties for failing to serve in the king's army, and would have applied, at most, to Scotland north of the Forth.²⁴⁸ Military service was the preeminent common burden: the others – aid and building work – can be seen as further manifestations of the same imperative to protect the kingdom (or, rather, 'Scotland').²⁴⁹ It will also be recalled

²⁴⁴ Alice Taylor, 'Leges Scotie', 235–6. For an alternative explanation of *comitatus* in the assize discussed there, see above, n. XXX.

²⁴⁵ *RRS*, I, no. 252. When Alexander I founded Scone he endowed it with three settlements in Angus and four in Gowrie (with another that could have been in either Angus or Gowrie: *Liber Ecclesie de Scon*, no.1). These are the lands referred to in the brieve. Three *vicecomites* of Scone are attested in the twelfth century (the earliest in 1131): Éogan, Mac Bethad and Mael Suthain (http://db.poms.ac.uk/browse/?filter=titles_sheriffofScone&resulttype=people&ordering=). Alice Taylor, in her discussion of this brieve in *The Shape of the State*, chapter 2, argues that *vicecomes* here denotes a thane. See also Taylor, 'Common burdens', 218–19.

²⁴⁶ Taylor, 'Common burdens', 187–202; Taylor, *The Shape of the State*, chapter 2.

²⁴⁷ The brieve is the earliest reference to a sheriff of Forfar; for sheriffs of Scone, see n. XXX, above. Note also Alice Taylor's argument that *vicecomites* here refers to thanes rather than sheriffs: Taylor, *The Shape of the State*, chapter 2; Taylor, 'Common burdens', 218–19.

²⁴⁸ Taylor, 'Common burdens', 204–20; more briefly in Taylor, *The Shape of the State*, chapter 2.

²⁴⁹ Aid could be treated as equivalent to military service. In 1216, when Alexander II led an army to besiege Carlisle, eventually reaching Dover, he took *expensa* rather than military service from the 'Scots': London,

that those attending a provincial assembly could be described as the ‘army of Fife’ and the ‘army of the bishop’.²⁵⁰ It is likely, therefore, that the arrangements for levying military service applied to all common burdens, and included attendance at court. The *Law of Armies* is therefore a pivotal text for understanding how these were administered. Again, we must thank Alice Taylor for making it available through a new edition.²⁵¹

Let us look at it more closely.²⁵² The unstated purpose of the *Law of Armies* was to define what was due to the king from those who failed to perform the obligation of common army service. In lands of bishops, abbots, barons, knights and thanes who held ‘of the king’, the king had the entire forfeiture from thanes, and half the forfeitures of those below a thane: the other half went to the thane or knight who was their lord. In the case of *gabáil* – apparently the lands of *rustici* without a lord²⁵³ – half the forfeiture went to a thane, and the other half was divided between the king and the earl (*comes*). This presumably represents how the king and the *judices* sitting in Perth in 1221 expected military service to be levied, with the forfeitures reflecting the hierarchy of those whose authority had been affronted by the failure to answer the call to arms.

The only other forfeiture that is mentioned was that paid to an earl if an earl’s thane was absent. Thane here presumably refers to the head of a local lordly kindred. It is striking that earls are the only ones in the *Law of Armies* who were liable for an absentee from their lands. This suggests that the earl’s thanes – heads of client kindreds – were called to serve only by the earl’s servants / sergeants (*servientes*).²⁵⁴ The king, through his servants, was not involved. This is crucial for understanding the administration of common burdens. The earl’s

British Library, Cotton MS. Faustina B. IX, fo. 33r lines 14–16 (*The Chronicle of Melrose from the Cottonian Manuscript, Faustina B. IX in the British Museum*, ed. Alan O. and Marjorie O. Anderson, with an index by W. Croft Dickinson (London, 1936), 63), part of Stratum 9 written into the chronicle sometime in 1218 or soon thereafter (*The Chronicle of Melrose Abbey. A Stratigraphic Edition*, vol. 1, *Introduction and Facsimile Edition*, ed. Dauvit Broun and Julian Harrison (Woodbridge, 2007), 134). Alexander II referred to these *expensa* as *auxilium* in a brieve to Arbroath Abbey, acknowledging that the abbey had paid this voluntarily: *RRS*, III, no. 151. This also reinforces the fact that ‘Scots’ in the Chronicle of Melrose referred to the inhabitants of ‘Scotland’ (as elsewhere in the chronicle: see *The Chronicle of Melrose Abbey*, I, 10–11); see also Broun, ‘Rethinking Scottish origins’.

²⁵⁰ See above, XXX.

²⁵¹ Taylor, ‘Common burdens’, 224–33. The text has been referred to by previous scholars, but using the defective edition in the *Acts of the Parliaments of Scotland*, vol. 1, published in 1844. See Taylor, ‘Common burdens’, 206–10.

²⁵² See also Taylor, ‘Common burdens’, 204–20 and Taylor, *The Shape of the State*, chapter 2, where the focus is on arrangements in the late twelfth and early thirteenth centuries, with an emphasis on recruitment by those holding land of the king, and on seeing the earl’s role in that context. What follows looks in more detail at the text as a source for what would have been the *mormaer*’s role in the mid-twelfth century and earlier in the context of the landscape of lordship outlined above.

²⁵³ See above, XXX. For *rustici* without a lord and answering to a thane, see *RRS*, II, no. 281, and the important discussion of this charter in Taylor, *The Shape of the State*, chapter 1.

²⁵⁴ Taylor prefers sergeants in her translation: Taylor, ‘Common burdens’, 233.

liability here was confined to non-royal lands. All other land – of bishops, abbots, barons, knights and royal thanes – was held ultimately of the king. We may note in passing that it can be inferred from this that the lands of earls were not yet normally regarded as being under the king's lordship.²⁵⁵ Equally, we catch a glimpse here of the *mormaer* as lord of all heads of lordly kindreds in his province who were not clients of the king: this would be consistent with the idea that the *mormaer* was the head of the province's dominant kindred.

But the *mormaer*, at one time, had had a particular role in the administration of common burdens in *royal* lands, too. It will be recalled that Mael Coluim IV's brieve for the abbot of Scone in 1162 × 1164 was addressed to the *mormaer* and sheriffs because it was expected that they would collect aids from the abbot's lands. In the *Law of Armies*, earls and their servants (*servientes*) were forbidden from entering the lands of those who held 'of the king' to take forfeitures:²⁵⁶ only royal officials (or their servants) were permitted to do so. This suggests that earls (i.e., *mormaír*) had previously shared this role with a royal official, and matches the evidence of the brieve for the abbot of Scone that the servants of the *mormaer* and the king's sheriffs had once acted together in this context. It is likely that the *mormaer* was involved because he had local muscle: it was doubtless in recognition of this that he had once received a forfeiture along with the king from absentees in royal lands. He was more than merely a royal official collecting forfeitures for his master: that role was performed by the sheriffs whose servants operated alongside the servants of the *mormaer*. The contrast between the *mormaer*'s levying common burdens in his own kindred-land and other non-royal territory, on the one hand, and on the other hand levying them from those ultimately in the king's lordship, is underlined by the fact that, for royal lands, this could be rescinded: the king was in charge; he was the lord. In the case of Mael Coluim IV's brieve for the abbot of Scone, the responsibility for levying aids was passed by Mael Coluim from the *mormaer* and sheriffs to the abbot.²⁵⁷

²⁵⁵ See above, XXX, for the particular circumstances underlying the earls of Fife holding their earldom of the king.

²⁵⁶ This is a key point in the discussion in Taylor, *The Shape of the State*, chapter 2. In the *Law of Armies* (see Taylor, 'Common burdens', 207–10, for discussion) it was explained that the earl of Fife was allowed to do so, but only as the king's 'third *maer* of Fife', so this was not a true exemption to the rule stated in the text. The denial of the division of the half-forfeiture between king and earl in this context would also make sense of the text's statement that, in the case of absentees 'from the lands of the bishops, abbots, barons, knights, thanes who hold of the king, only the king shall have the forfeiture'. This seems to be contradicted almost immediately when we are told that the king is not, in fact, alone in having the forfeiture from an *ógtigern* or *rusticus*: half goes to a thane or knight. 'Only the king' becomes intelligible, however, if it referred to the half of the forfeiture that is not due to the thane or knight. The force of 'only' was to exclude the earl, not the thane or knight.

²⁵⁷ If a privilege of this kind had been given for common army service, then presumably the beneficiary would have been liable to penalties for default in the same way as the earl was in the *Law of Armies*. This would

Reading back to before c.1150 from this evidence, the *mormaer*'s role as *mormaer* in relation to the administration of common burdens, as distinct from his role in levying common burdens as head of a lordly kindred, was confined to the lands of those under royal lordship. Outside the king's lordship, common burdens would have been raised by the heads of lordly kindreds – answering to the *mormaer* himself – from their own men.

Local and central in the early Scottish kingdom

How, then, did the Scottish kingdom function in this period? The evidence relating to the twelfth century and earlier may be exiguous, but it is not incoherent. The *mormaer*'s official role was, in a nutshell, that of provincial manager of the obligations shared across society in response to threats to its peace and security. He led the army levied by the heads of lordly kindreds in his province, and helped to enforce army service and raise aids from those directly under royal lordship; he played an equivalent part in maintaining peace within his province, presiding over its judicial proceedings (possibly with a bishop), and probably applying the same mechanism to compel attendance at assemblies as was used for levying military service and aids. In short: he had a pivotal public function. The authority he wielded, however, was not a counterbalance to local power: local power was its principal force. It depended crucially on the *mormaer*'s position as head of the predominant kindred in his province.

To all intents and purposes central power was the royal kindred itself, using essentially the same resources of kinship and lordship as any other lordly kindred, only on a greater scale, spread throughout 'Scotland' – the country between Moray and the Forth. That, at least, is what is suggested by the pattern of royal lands that emerges from evidence of the twelfth and thirteenth centuries (albeit much more limited in some provinces than others). Being head of the most powerful kindred of all, however, had another dimension. Common burdens were levied at the king's command, not the *mormaer*'s. This included attendance at the provincial assembly: we are told, in the account of the lawsuit between the Céli Dé of St Serf's Isle and Robert the Burgundian early in David I's reign, that the king 'sent his messengers throughout the province of Fife and Fothrif and called together in one place a great crowd of men'.²⁵⁸

explain, for example, how Archibald, abbot of Dunfermline (1178–1198) was able to limit the service in the common army owed from lands near Musselburgh: *Registrum de Dunfermelyn*, ed. Cosmo Innes (Edinburgh, 1842), no. 301, discussed in Taylor, 'Common burdens', 213.

²⁵⁸ *misit nuncios suos per prouinciam de Fyf et Fothrithi et conuocauit hominum multitudinem in unum locum*: Lawrie, *Early Scottish Charters*, no. 80.

There may have been a practical reason for this, however, that brings us back to the king's exercise of local lordship throughout 'Scotland'. Because people on royal lands would, presumably, have participated in common burdens only on the king's say-so as lord of their settlement, the mobilisation of free society as a whole in each province would necessarily have involved the king.

The picture that emerges is of a polity where royal authority was embedded entirely within kin-based power. The call to gather together against internal and external threats to society could only be made, it seems, by the king, but the effectiveness of the response depended on the local lordship wielded by heads of lordly kindreds, whether king, *mormaer* or thane. The prominence of kin-based power is also reflected in the only detailed contemporary portrayal of the polity, datable to the early eleventh century. This is a royal genealogy with branches at various points back as far as brothers of Fergus son of Erc, who was regarded as the first king of Dál Riata.²⁵⁹ This can be read, like similar genealogical material in Ireland, as defining the polity in outline as an extended family of kindreds, in which a province, e.g., *Gabranaig* (probably Gowrie), was signified by its predominant *clann* (which in Gowrie at this time was evidently Clann Fergusa Guill, which is mentioned only in this text). It is, of course, schematic. It is probable that there were leading kindreds with lands in more than one province, as was the case in the twelfth century.²⁶⁰ Not all provinces were represented, moreover. Instead of a complete portrayal of the kingdom, the genealogy appears instead to provide a snapshot of the balance of power within the top tier of lordly kindreds. These were defined as descendants of Erc father of Fergus, with the more powerful placed in a closer relationship to 'the royal line' (*in rígrad*), the kindred of Cinaed mac Ailpín (*Clann Chinaeda meic Ailpín*). The genealogy, moreover, gives only a partial view of the polity's character. It was not shaped solely by the accidents of kin-based power. The drama of the rise and fall of lordly kindreds was played on the stage of provinces and kingship through which society was mobilised for the maintenance of its peace and security. The provinces themselves are likely to have been long established: some (Angus and Gowrie) appear to have been formed in the ninth century; most, however, were probably earlier.²⁶¹

²⁵⁹ Broun, 'The genealogical 'tractates' associated with *Míniugud Senchusa fher nAlban*'. For references to Fergus as first king in king-lists, see his index entry in Broun, *The Irish Identity of the Kingdom of the Scots*, 216.

²⁶⁰ See above, XXX.

²⁶¹ Broun, 'The origins of the mormaer'.

V. RETHINKING STATEHOOD

Is it plausible or useful to regard this polity as a form of statehood? ‘Scotland’ (the country between the Forth, the Spey and Drumalban) before c.1150 would not, I suspect, be recognised readily as a ‘state’ by anyone. It would be decidedly unhelpful, however, to take up Rees Davies’s suggestion and think of it as a ‘lordship’. There was only one context in which lordly kindreds were brought together as provinces under the *mormaír*, or as a polity under the king, and that was in the performance of common obligations. This is quite different from an ongoing relationship of lordship. This is not to deny that lordship was a fundamental force in how society was organised. The nature of that relationship, however, varied significantly within free society, depending on whether you were a tenant in a settlement owned by a lord, a member of a land-owning kindred paying *cáin* to a shire centre, or the head of a lordly kindred who was the client of the king or a *mormaer*.

The polity itself is visible only in the context of the mobilisation of society for its protection and welfare. It is here that traces can be detected of all Chris Wickham’s five criteria of statehood.²⁶² The king as the point of reference in the levying of common burdens touches on Wickham’s centralisation of legitimate enforceable authority. The *mormaership* as an office and the legal expertise of the *brithem* (*judex*) in judicial assemblies resonates with Wickham’s specialisation of governmental roles. A concept of public power might be implied by the mobilisation of society for its peace and security, and the shires set aside for the king and the *mormaer* could be regarded as a stable (if limited) resource for the ruler and his chief official. Finally, Wickham’s ‘class-based system of surplus-extraction and stratification’ may be partially recognised in the ownership of settlements by lords that became the norm in the early twelfth century (according to the proposed explanation of *pett* and *baile* place names). It is a moot point, however, whether this would have amounted to the coercive subjection of peasants to economic dependence which Wickham saw as essential for the development of ‘fully fledged state structures’ in societies which lacked a Roman imperial legacy.²⁶³ Enforced subjection was not the experience of the inhabitants of the Kirkton of Arbuthnott under the bishop. Another aspect of settlements owned by lords is that they were sometimes split in two, with part assigned to a particular individual, such as the son of Thorfinn who was identified with Wester Bogie when this first appears on record as an

²⁶² See above, XXX–XXX.

²⁶³ Wickham, *Framing the Early Middle Ages*, 305.

individual settlement during the reign of Mac Bethad (1040–1057).²⁶⁴ Unfortunately the son of Torfinn – or those like him who have been immortalised in some place names in *pett* and *baile* – are otherwise unknown.²⁶⁵ It is possible, however, to see the movement towards ownership of settlements by the head of a lordly kindred – especially the king – as a manoeuvre by prominent peasants to sanction their control of part of a settlement. All in all, none of the criteria of Wickham’s ideal state are properly in evidence, but none of them are completely absent, either. We appear to have a quality of statehood where the peace and security of society in general, although organised through local power, was identified with being part of a larger body.

But how does this relate to Weber’s definition of the modern state as ‘a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory’?²⁶⁶ ‘Scotland’ in the central Middle Ages was plainly not a state in these terms: for example, killing and injury was not deemed to be an infringement of royal authority but, rather, a conflict between kindreds that was resolved through paying compensation.²⁶⁷ The ‘state’ typically played no part in these procedures. Weber’s emphasis on physical force (*Gewaltsamkeit*), however, was specific to his discipline: he explained that ‘one can define the modern state sociologically only in terms of the specific *means* peculiar to it, as to every political association, namely the use of physical force’.²⁶⁸ And yet it is not necessary to travel far from his definition before arriving at ‘Scotland’ before c.1150. All that is required is to replace Weber’s ‘use of physical force’ with ‘mobilisation of society’. In both cases people who are ‘free’ in terms of the laws and customs of the time are compelled to obey the sole source of legitimate authority over everyone in a given territory (or ‘country’). What is particular to the Scottish situation is that this is limited to those occasions when all of free society in a province, or in ‘Scotland’ as a whole, was called upon to obey. The authority that was wielded over each member of society was only invoked and experienced as a collective event in the name of safeguarding society itself. It is possible to see a faint connection here with the modern state’s claim to the obedience of its citizens in other contexts apart from

²⁶⁴ See above, XXX.

²⁶⁵ In Fife Simon Taylor has shown that a personal name is the second element in 5 of the 64 *pett* names whose second element can be identified, and in 28 of the 112 *baile* names whose second element can be identified: *PNF*, v, 221, 230.

²⁶⁶ See above, XXX.

²⁶⁷ See above, XXX, and Taylor, *The Shape of the State*, chapter 3.

²⁶⁸ Gerth (trans.) and Mills (ed.), *From Max Weber: Essays in Sociology*, 77–8. (The emphasis is in the original translation.)

collective action, and the mirror image of this in the state's obligation to safeguard the rights of its citizens as individuals.

What, then, are the qualities of statehood that are revealed by this case study? Different perspectives have emerged through dialogue with Wickham's model and Weber's dictum. In the former, identification with being part of a larger-than-local body came to the fore; in the latter, it was the experience of collective action. In both cases society's self-preservation – as this would have been understood at the time – was central. These perspectives represent significant departures from Wickham and Weber. If either Wickham's model or Weber's definition had been taken as our starting point for assessing statehood in 'Scotland' before *c.*1150, the conclusion would presumably have been that it was an 'embryo state', a conclusion that would do little more than reinforce current assumptions about the nature of the medieval contribution to our understanding of the modern state. Instead, primacy has been given to constructing a picture of 'Scotland' before *c.*1150 out of a fresh assessment of sparse and intractable sources. On its own this has not yielded a more general perspective on statehood, however. This has come to light through engaging, however briefly, with Wickham and Weber.

What might a view of statehood look like on the basis of this case study without engaging either directly or indirectly with social science? The qualities of statehood exemplified in 'Scotland' before *c.*1150 could, for example, be summed up as an expectation that each member of free society in a 'country' will be committed to its peace and security when this is significantly threatened, and will, in this situation, identify themselves as belonging to a body greater than their locality – and that this was enforceable. This could be expressed in much simpler form: mobilising for peace and security through identifying with country. Alternatively more attention could be given to the probable intimacy of local or provincial society in 'Scotland' before 1150. A quality of statehood might then be the safeguarding of peace and security through identifying with a polity greater than your immediate society. Reformulations of this kind could, doubtless, be pursued again and again, resulting in a range of qualities of statehood. The advantage of engaging directly with other work on statehood, rather than depending solely on a historical example, however, is that it is clear that 'statehood' is being addressed.

This does not need to be confined to 'statehood' as such, however. Although Wickham and Weber represent major approaches to thinking about the state from the perspective of social science, a markedly different view is offered through dialogue with another notable

social scientist: Benedict Anderson. In his *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (1983), Anderson famously defined a nation as an ‘imagined community’ that is ‘limited’ and ‘sovereign’.²⁶⁹ From this vantage point ‘Scotland’ before c.1150 might therefore be conceptualised as a society which, for the sake of its own preservation, functioned as an imagined community (because it was more than local) occupying a distinct territory (‘Scotland’) with its own ultimate source of authority (the king). This would only be recognisable as a ‘quality of nationhood’, however, because of its engagement with Benedict Anderson.

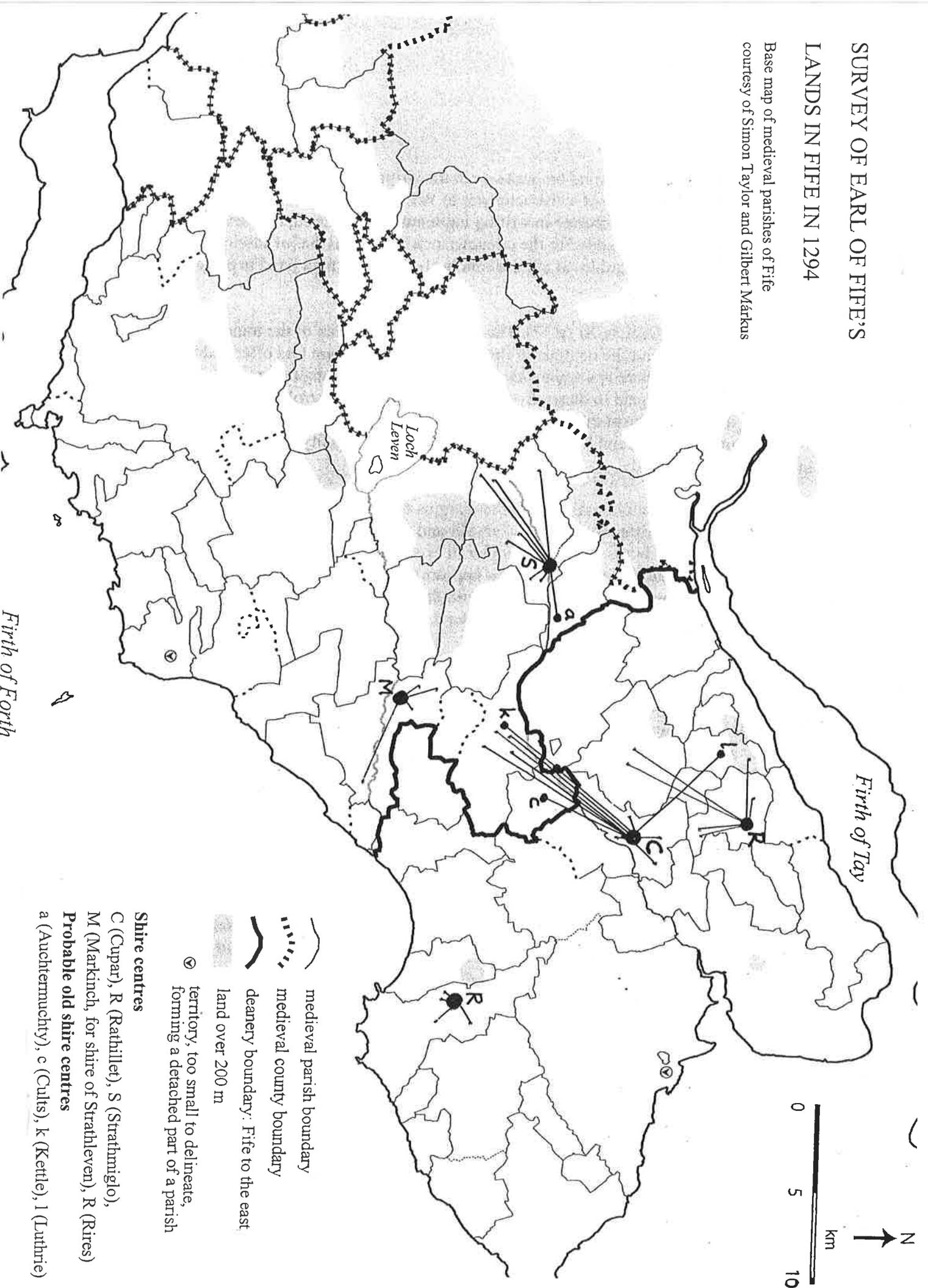
What wider insight might be gained from this exploration of a medieval perspective on statehood? It goes without saying that the way statehood is experienced is shaped by the nature of the society where it is present. The main difference between ‘Scotland’ before c.1150 and the modern state in general terms is that, in the former, statehood was enacted only occasionally and collectively, in particular when society itself was threatened, whereas in the latter it is also encountered routinely and in a variety of contexts. If this is accepted, then it leads to new questions. When and how did this transition begin, not just in Scotland, but more generally? And is there a difference between states where qualities of statehood – of the kind detected through the case study of ‘Scotland before c.1150 – were a later phenomenon, and those where they were more deeply embedded?²⁷⁰

²⁶⁹ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London, 1983; rev. edn 1991), 7–8.

²⁷⁰ This article began life as one of the O’Donnell lectures on early medieval Scotland delivered at the University of Oxford on 10 May 2013. I am very grateful to Professor Thomas Charles-Edwards for the invitation to participate as one of the lecturers. Only section IV and part of the opening of this article survives from the original lecture, however. The chief inspiration behind rethinking this material has been working with Joanna Tucker in various capacities since October 2013, particularly the in-depth discussions arising from teaching an honours course together on Scotland in the twelfth and thirteenth centuries. I am extremely grateful to her for this, and for her comments on drafts of the article. I am also especially grateful to Alice Taylor and Thomas Clancy for comments on drafts, and to Karin Bowie for her comments on the opening section. I am also very grateful to Simon Taylor for discussing aspects of Gowrie and Fife, to Gilbert Márkus for the map of Fife, to Judith Collard for her instant help in sending a copy of an article, and to John Reuben Davies for his editorial help and patience. Any errors or other blemishes that remain are solely my responsibility. I am, as ever, very grateful to Nerys Ann Jones for her constant support. I would like to acknowledge the assistance of the Arts and Humanities Research Council for funding the project (AH/L008041/1 Models of Authority: Scottish Charters and the Emergence of Government 1100–1250) of which this is an outcome, contributing a theoretical approach to the ‘emergence of government’ theme as well as a perspective on the nature of the Scottish polity at the beginning of the period.

SURVEY OF EARL OF FIFE'S
LANDS IN FIFE IN 1294

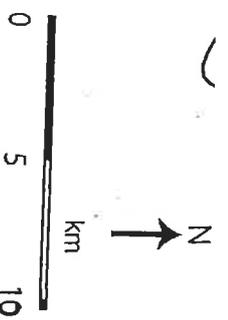
Base map of medieval parishes of Fife
courtesy of Simon Taylor and Gilbert Márkus



Firth of Forth

Firth of Tay

Loch Leven



medieval parish boundary

medieval county boundary

deanery boundary: Fife to the east

land over 200 m

territory, too small to delineate, forming a detached part of a parish

Shire centres

C (Cupar), R (Rathillet), S (Strathniglo),

M (Markinch, for shire of Strathleven), R (Rires)

Probable old shire centres

a (Auchtermuchty), c (Cults), k (Kettle), l (Luthrie)